

PLANNING AND DEVELOPMENT CONTROL COMMITTEE
22 JULY 2015

Minutes of the meeting of the Planning and Development Control Committee of the Flintshire County Council held at County Hall, Mold on Wednesday, 22 July 2015

PRESENT: Councillor David Wisinger (Chairman)

Councillors: Marion Bateman, Chris Bithell, Derek Butler, David Cox, Ian Dunbar, Carol Ellis, David Evans, Ray Hughes, Richard Jones, Richard Lloyd, Mike Lowe, Mike Peers, Neville Phillips, Gareth Roberts, David Roney and Owen Thomas

SUBSTITUTIONS:

Councillor: Jim Falshaw for Alison Halford and Ron Hampson for Christine Jones

APOLOGY:

Councillor Billy Mullin

IN ATTENDANCE:

Chief Officer (Planning and Environment), Development Manager, Planning Strategy Manager, Senior Engineer - Highways Development Control, Team Leader, Senior Planner, Planning Support Officer, Housing & Planning Solicitor and Committee Officer

37. DECLARATIONS OF INTEREST

Councillor Mike Peers declared a personal and prejudicial interest in the following application because his son was an employee of the applicant:-

Agenda item 6.3 – Full application – Erection of 21 No. dwellings to include 15 No. two bed apartments, 6 No. one bed apartments at Gateway to Wales Hotel, Welsh Road, Garden City (053012)

Councillor Ray Hughes declared a personal and prejudicial interest in the following application because he was a School Governor at Castell Alun High School:-

Agenda item 6.5 – Residential development at Station Yard, Corwen Road, Coed Talon (051831)

38. LATE OBSERVATIONS

The Chairman allowed Members an opportunity to read the late observations which had been circulated at the meeting.

39. **MINUTES**

The draft minutes of the meetings of the Committee held on 20th May and 22nd May 2015 had been circulated to Members with the agenda.

20th May 2015

Councillor Richard Lloyd referred to the fourth paragraph on page 13 and asked that the word 'not' be added to the second line before the words 'already been built'. He also referred to the fifth line in the paragraph and requested that the words 'the entrance from' be added after the words 'which indicated that'.

On being put to the vote, both of the amendments were agreed.

22nd May 2015

Councillor Mike Peers expressed significant concern that his comments had not been taken into account by the Democracy and Governance Manager when reaching his decision about whether the application was a significant departure from policy.

RESOLVED:

That subject to the suggested amendments, the minutes be approved as a correct record and signed by the Chairman.

40. **ITEMS TO BE DEFERRED**

The Chief Officer (Planning and Environment) advised that deferment of the following application was recommended:

Agenda item 6.1 – Full application – Strategic Flood alleviation scheme for the Town of Mold (052180)
– to await a response from Natural Resources Wales about the capacity of the River Alyn.

Councillor Chris Bithell asked that he be consulted on the application.

On being put to the vote, the application was deferred.

The Chief Officer (Planning and Environment) advised that the following application had been withdrawn since the agenda had been published:

Agenda item 6.3 – Full application – Erection of 21 No. dwellings to include 15 No. two bed apartments, 6 No. one bed apartments at Gateway to Wales Hotel, Welsh Road, Garden City (053012)

RESOLVED:

That agenda item 6.1 be deferred.

41. FULL APPLICATION – CONVERSION OF COMMERCIAL UNITS INTO 4 NO. DWELLINGS AT THE OLD SCHOOL HOUSE, MAIN ROAD, HIGHER KINNERTON (053004)

The Committee considered the report of the Chief Officer (Planning and Environment) in respect of this application. The usual consultations had been undertaken and the responses received detailed in the report. Additional comments received since the preparation of the report were circulated at the meeting.

The officer detailed the background to the report and explained that the proposal was to convert commercial units, which had been vacant for some time due to the operators moving to larger premises, to 4 no. dwellings. It was proposed to brick-up some of the window and door openings along with the existing garage to adapt the building for residential use. Higher Kinnerton was a Category C settlement and therefore any new dwelling needed to be for local need to comply with Policy HSG3. The applicant had not yet decided whether the properties would be available for sale or rent but a Section 106 (S106) obligation or unilateral undertaking could ensure that the units were offered for sale or rent to meet affordable housing needs.

Councillor Chris Bithell proposed the recommendation for approval which was duly seconded. He felt that the application complied with all requirements of planning policy and the building had been marketed for further commercial use without success. It was reported that the principle of conversion into residential use was acceptable and the requirement to meet local affordable housing need could be met through a S106 obligation.

In referring to paragraph 7.06, Councillor Mike Peers raised concern that the applicant had not yet decided whether the dwellings would be provided for sale or rent and that the response of the Housing Strategy Unit was also not listed under the consultation section of the report. He asked whether there was any update on whether the properties would be for sale or rent. In response to the comments made, the officer recognised that it would have been beneficial to include the response of the Housing Strategy Unit in the report. He added that discussions had also taken place with the applicant's agent to clarify whether it was intended that the properties would be for sale or rent. The S106 obligation would ensure that the issue of offering the units for sale or rent to meet affordable local housing need was addressed.

Councillor Richard Lloyd sought clarification on whether there were eight parking spaces within the site as reported in paragraph 7.03. The Senior Engineer – Highways Development Control confirmed that the proposal provided eight parking spaces within the curtilage of the site which met the policy requirements. In response to a query from Councillor Owen

Thomas, she added that there was no requirement for a turning space within the site and that it was acceptable for vehicles to reverse out owing to the nature of Park Avenue.

RESOLVED:

That planning permission be granted subject to the conditions detailed in the report of the Chief Officer (Planning and Environment) and subject to the applicant entering into:-

- (a) A Section 106 Obligation/Unilateral Undertaking to ensure that the units are offered for sale or rent to meet affordable local housing needs.
- (b) A Section 106 Obligation/Unilateral Undertaking or advance payment of £733 per unit towards the maintenance and enhancement of open space in the locality.

42. FULL APPLICATION – SITING OF 52 ADDITIONAL STATIC CARAVANS TOGETHER WITH LANDSCAPE PLANTING AT TREETOPS CARAVAN PARK, TANLAN HILL, FFYNNONGROYW (052937)

The Committee considered the report of the Chief Officer (Planning and Environment) in respect of this application which had been the subject of a site visit on 20 July 2015. The usual consultations had been undertaken and the responses received detailed in the report.

The officer detailed the background to the report and explained that the application was for 52 additional pitches on the existing caravan park. The main issues to consider were the principle of development in relation to policy T5 of the Unitary Development Plan and the landscape impact, both of which were covered in the report. Conditions had been included to ensure that the caravans were only used for holiday purposes but the officer added that this would not be an issue as the operator did not permit permanent use of the caravans.

Mr. D. Middleton, the agent for the applicant, spoke in support of the application. He said that the application was to extend the five star award winning holiday park by providing 52 additional units on the southern element of the site. The location was adjacent to the existing park and consisted of a high quality, low density layout which would integrate into the countryside. A landscaping and screening scheme was proposed and Mr. Millington indicated that planting would take place in year one of the scheme. On the issue of the impact of the proposal, no objections had been received from statutory consultees. It was anticipated that the economic benefits would be significant, the direct and indirect tourist spend being approximately £520,000 per annum and was one of the major employers in the area. He added that this would add to the sustainability of the park and the application complied with local and national policy.

Councillor Derek Butler proposed the recommendation for approval which was duly seconded. He felt that the proposal greatly enhanced tourism in Flintshire. It was expected that the site would contribute £520,000 to benefit the local economy. He was mindful of the scale but this had been well addressed by the officer. Additional planting was to be included on the site and any caravans that were to be partially visible would be painted in colours that would make them less prominent in the landscape.

Councillor Chris Bithell said that the applicant had worked closely with planning officers on the scheme and additional landscaping would enhance and screen the site.

RESOLVED:

That planning permission be granted subject to the conditions detailed in the report of the Chief Officer (Planning and Environment).

43. OUTLINE APPLICATION – RESIDENTIAL DEVELOPMENT AT STATION YARD, CORWEN ROAD, COED TALON, FLINTSHIRE (051831)

The Committee considered the report of the Chief Officer (Planning and Environment) in respect of this application. Councillor Ray Hughes, having earlier declared an interest in the application, left the meeting prior to its discussion.

The officer detailed the background to the report and explained that the application had been permitted in February 2015 subject to the applicant entering into a Section 106 (S106) obligation which included an education contribution for Castell Alun High School. Following the introduction of the Community Infrastructure Levy (CIL) Regulations from April 2015, it was no longer possible to request a S106 obligation if there had been five or more obligations for an infrastructure project or type of infrastructure since April 2010. As there were five such S106 obligations for educational contributions for Castell Alun High School, a revised recommendation to remove this element from the S106 was sought. The officer had considered refusing the application but it was considered that the development would not have a significant impact on the affected infrastructure.

Councillor Gareth Roberts proposed the recommendation for approval which was duly seconded. He felt that the report highlighted a problem with the policy for S106 agreements/CIL but that as the application complied with policy it could not be refused. Councillor Chris Bithell concurred and said that the nine pupils that the development of the site was anticipated to give rise to would be added to the figure of 125 over-capacity at the school, which would bring the total to 134 pupils. The amount of contributions that were shown in the table at paragraph 6.05 totalled £269,107 but Councillor Bithell maintained that this was not a sufficient amount to build a classroom. He commented on the cumulative effect but in agreeing that the application could not be refused said that approval could result in children not being able to attend the school in the future.

It was suggested by Councillor Richard Jones that the application should be refused because of the effect on local schools as the S106 monies could not be obtained. Councillor Owen Thomas concurred that the amount of contributions already requested was insufficient to build a new classroom and suggested that a change to the policy was required. Councillor Derek Butler felt that policies were being imposed on local authorities and that representations should be made to Welsh Government to express the concerns that had been raised.

Councillor Carol Ellis felt that the Education Service and children would suffer as a result of the CIL regulations and the inability to request further monies through a S106 agreement. She spoke of a similar example in Buckley and raised concern that some developers had to make contributions and others did not. Councillor Ellis suggested that a system should be in place to allow the monies to be pooled for projects for the benefit of children in Flintshire and added that a challenge should be made through the Planning Strategy Group and the Leadership of the Council for the policy and regulations to be changed.

In response to a query from Councillor Bithell, the Housing & Planning Solicitor advised that the CIL Regulations applied to the whole of the UK. The Planning Strategy Manager said that Education was devolved to Welsh Government but this was a planning matter for the infrastructure of schools and was a law that was UK wide. The policy that would allow pooling of monies for educational contributions could be delivered once there was a CIL charging schedule in place. However, a Local Development Plan needed to be in place before a CIL charging schedule could be delivered. He explained that the CIL regulations came into effect in April 2015 for S106 agreements backdated to April 2010. He understood Councillor Jones' request to refuse the application but approval of the proposal would not have a significant enough impact to justify refusal. The Planning Strategy Manager spoke of the work that was being undertaken on S106 obligations to ensure that requests for contributions related to a specific project.

Councillor Jones felt that consistency was not being applied when comparing this application to the site at Babylon Fields where a contribution had been requested from the developer. He felt that changes to policy would only be considered if local authorities started to refuse applications where S106 monies could not be requested. In response, the Planning Strategy Manager said that resources other than new classrooms needed to be considered along with a smarter way of working to identify specific projects within schools to ensure that monies could be requested through a S106 Obligation. In referring to the contributions that had already been requested, the Chief Officer (Planning and Environment) reminded Members that the introduction of the regulations from April 2015 prevented further requests for obligations for provision of an infrastructure project/type of infrastructure if five or more had already been sought and added that some of the S106 obligations listed in the report may not have been possible if the applications had been submitted after April 2015.

The officer reminded Members that the site was allocated for residential development in the Unitary Development Plan (UDP) and therefore planning for increases in school numbers as a result of such developments should have been identified at an earlier stage.

Councillor Bithell reiterated his earlier comments that approaches needed to be made to Westminster about reviewing restrictions to S106 obligations because of the introduction of the CIL regulations and to ask WG to amend the proposals as soon as possible. The Planning Strategy Manager added that the means to address the restrictions was to have a CIL charging schedule in place but this could not be undertaken until the LDP had been adopted.

In summing up, Councillor Roberts commented on the frustrations that Members had expressed and on the need to be 'smarter' in identifying provision of specific infrastructure projects that required funding from S106 agreements. He spoke about developers paying set amounts regardless of the size or location of a development and added that he felt that significant costs would be awarded against the Council if the applicant was to appeal a decision of refusal.

RESOLVED:

That planning permission be granted subject to the conditions detailed in the report of the Chief Officer (Planning and Environment) presented at the Planning and Development Control Committee meeting held on 25th February 2015.

After the vote had been taken, Councillor Hughes returned to the meeting and the Chairman advised him of the decision.

44. FULL APPLICATION – INSTALLATION OF A TEMPORARY 24M HIGH MOVEABLE MAST (ON A TRAILER WITH A CABIN) ACCOMMODATING 3 NO. ANTENNAS AND 1 NO. 0.3M DIAMETER DISH AND A GENERATOR AT GROUND LEVEL ALL WITHIN A HERAS FENCE COMPOUND (RETROSPECTIVE APPLICATION) AT AIRBUS, CHESTER ROAD, BROUGHTON (053680)

The Committee considered the report of the Chief Officer (Planning and Environment) in respect of this application. The usual consultations had been undertaken and the responses received detailed in the report.

The officer detailed the background to the report and explained that this was a retrospective application for the temporary installation of a mast to provide continuity of telecommunications links at the Airbus site. He added that this application was linked to the next agenda item which was for a permanent mast to replace the mast in this application.

Councillor David Evans proposed the recommendation for approval which was duly seconded.

Councillor Chris Bithell queried whether it was possible for operators to share masts and asked whether this had been considered as part of this application. He commented on the cumulative effect of such applications.

In referring to the height of the telecommunications mast, Councillor Owen Thomas queried why a response had not been received from Airbus. Councillor Mike Peers concurred and proposed that approval of the application be subject to acceptability of the proposal by Airbus. He felt that this was needed to ensure the safeguarding of the airspace. The proposal by Councillor Peers was duly seconded.

The officer advised that national policy requested that telecommunications masts be shared but this had not been possible on this application, and neither had the siting of the mast on the corner of the building. The safety of the airspace was paramount and the officer referred Members to agenda item 6.7 for a permanent mast to replace this proposal where it was reported that Airbus had not objected to the proposal. He suggested that discussions would have taken place with the operator and Airbus to site the mast in this location but advised that he could contact Airbus to clarify their position on the proposal. He agreed that approval of the application could be subject to no adverse comments being received from Airbus on this application.

RESOLVED:

That planning permission be granted for a limited period expiring on 31st December 2015 subject to the conditions detailed in the report of the Chief Officer (Planning and Environment) and subject to no adverse comments being received from Airbus.

45. FULL APPLICATION – INSTALLATION OF A 25M LATTICE TOWER ACCOMMODATING 4 NO. ANTENNAS AND 2 NO. TRANSMISSION DISHES, INSTALLATION OF 3 NO. EQUIPMENT CABINETS AT GROUND LEVEL, ALL WITHIN A 1.8M HIGH CHAINLINK FENCE COMPOUND AT CHESTER ROAD, BROUGHTON (053321)

The Committee considered the report of the Chief Officer (Planning and Environment) in respect of this application. The usual consultations had been undertaken and the responses received detailed in the report.

The officer detailed the background to the report and explained that it was proposed that the mast referred to in this application would replace the temporary mast currently in place. The Committee were required to determine the application as the height of the proposal could not be dealt with under delegated powers. He explained that Airbus had not objected to the proposal and that the recommendation was for approval.

The Housing and Planning Solicitor referred to paragraph 7.01 of the report and advised that the word 'temporary' was an error in the report and

should be disregarded and confirmed that this proposal was for a permanent telecommunications mast.

Councillor Derek Butler proposed the recommendation for approval which was duly seconded. He said that the Civil Aviation Authority was responsible for activity around airspace and suggested that they would have objected if they were not in agreement with the proposal or if it was not safe for aircraft. Airbus Operations had not raised any objection to the proposal.

On the issue of sharing masts, Councillor Chris Bithell asked whether there were other masts in the area that the telecommunication equipment could be attached to rather than erecting this mast. He raised concerns that nearby residents would be able to see the mast.

The officer advised that a request had been submitted to the applicant to site the antenna on the corner of the building but this had not been possible. He said that there were no other masts in the area that could provide the coverage that was required and added that operators were obliged to share masts where possible. The mast would have little visual impact when compared to the A380 building.

In summing up, Councillor Butler said that there were no neighbouring properties in the vicinity of the mast and that siting it in this location could prevent additional masts needing to be positioned in the village of Broughton.

On the issue raised by Councillor Bithell about operators sharing masts, the Development Manager advised that sharing telecommunications masts would normally be considered but it was not possible to do so on this application.

RESOLVED:

That planning permission be granted subject to the conditions detailed in the report of the Chief Officer (Planning and Environment).

46. APPEAL BY ANWYL CONSTRUCTION CO LTD AGAINST THE DECISION OF FLINTSHIRE COUNTY COUNCIL TO REFUSE PLANNING PERMISSION FOR THE ERECTION OF 35 NO. CLASS C3 DWELLINGS INCLUDING ASSOCIATED LANDSCAPING AND FORMATION OF NEW ACCESS FROM CYMAU LANE AT ABERMODDU CP SCHOOL, CYMAU LANE, CAERGWRLE (051482)

The Chief Officer (Planning and Environment) explained that approval of the application had been granted subject to conditions and the completion of a Section 106 (S106) obligation, but the applicant had refused to sign the agreement as the applicant had questioned the requirement for monies for Castell Alun High School. The application was subsequently refused as a S106 agreement had not been signed. As financial contributions towards Castell Alun High School had been sought on six occasions between 6th April 2010 and 6th April 2015, the Community Infrastructure Levy Regulations

prevented any further obligations being requested. The Inspector therefore granted the appeal to permit the application which included an undertaking for primary education requirements at Ysgol Abermoddu, highway works and the gifting of 3 No. affordable housing units to the Council but without the need for contributions for Castell Alun High School.

In response to a query from Councillor Chris Bithell, the Chief Officer (Planning and Environment) said that he would provide details of the amount that had been sought for secondary education requirements in the S106 obligation. Following a question from Councillor Owen Thomas, the Chief Officer (Planning and Environment) confirmed that costs had not been awarded against the Council.

RESOLVED:

That the decision of the Inspector to allow this appeal be noted.

47. **APPEAL BY STIRLING INVESTMENTS AGAINST THE DECISION OF FLINTSHIRE COUNTY COUNCIL TO REFUSE OUTLINE PLANNING PERMISSION WITH ALL MATTERS RESERVED FOR THE ERECTION OF ONE RESIDENTIAL DWELLING AT BROMFIELD LANE, MOLD (052409)**

RESOLVED:

That the decision of the Inspector to dismiss this appeal be noted.

48. **APPEAL BY MR. W. THOMAS AGAINST THE DECISION OF FLINTSHIRE COUNTY COUNCIL TO REFUSE PLANNING PERMISSION FOR THE CHANGE OF USE OF THE SUNDOWN GARDEN CENTRE TO A PLANT HIRE DEPOT, INCLUDING THE DEMOLITION OF THE EXISTING GARDEN CENTRE BUILDINGS, THE ERECTION OF A WORKSHOP BUILDING AND THE CONVERSION OF THE TEA POT CAFÉ FOR USE AS ANCILLARY OFFICE ACCOMMODATION AT TEA POT CAFÉ & SUNDOWN GARDEN CENTRE, LLWYBR HIR, CAERWYS (052645)**

The Chief Officer (Planning and Environment) referred to paragraph 6.04 where it was reported that a suggested condition regarding a Traffic Management Plan to ensure that large commercial vehicles would not use the narrow rural roads linking the site to the A55 Caerwys junction had not been considered necessary by the Inspector. Therefore the Council were challenging the decision made by the Inspector to allow the appeal. The Chief Officer (Planning and Environment) advised that an update would be provided to Members in due course.

In response to a query from Councillor David Roney about whether the decision would be reviewed, the Housing & Planning Solicitor said that the Council would be seeking to quash the decision which would require the Inspectorate to reconsider the appeal.

RESOLVED:

That the decision of the Inspector to allow this appeal, which was the subject of legal challenge, be noted.

49. **APPEAL BY MR. C. MAGGS AGAINST THE DECISION OF FLINTSHIRE COUNTY COUNCIL TO REFUSE PLANNING PERMISSION FOR A PROPOSED DETACHED BUNGALOW ON LAND TO THE REAR OF BELMONT, SOUTH STREET, CAERWYS (052705)**

RESOLVED:

That the decision of the Inspector to dismiss this appeal be noted.

50. **MEMBERS OF THE PUBLIC AND PRESS IN ATTENDANCE**

There were 3 members of the public and 2 members of the press in attendance.

(The meeting started at 1.00 pm and ended at 2.09 pm)

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Chairman