

**FLINTSHIRE COUNTY COUNCIL**

**REPORT TO:** **PLANNING AND DEVELOPMENT CONTROL COMMITTEE**

**DATE:** **20<sup>TH</sup> APRIL 2016**

**REPORT BY:** **CHIEF OFFICER (PLANNING AND ENVIRONMENT)**

**SUBJECT:** **ERECTION OF 1 NO. DETACHED DWELLING AND A DETACHED GARAGE AT LAND TO THE REAR OF 37 WOOD LANE HAWARDEN**

**APPLICATION NUMBER:** **054899**

**APPLICANT:** **MR & MRS SHAW**

**SITE:** **LAND TO THE REAR OF 37 WOOD LANE HAWARDEN**

**APPLICATION VALID DATE:** **08/02/2016**

**LOCAL MEMBERS:** **COUNCILLOR ALSON HALFORD**  
**COUNCILLOR DAVID MACKIE**

**TOWN/COMMUNITY COUNCIL:** **HAWARDEN**

**REASON FOR COMMITTEE:** **PREVIOUS APPLICATION FOR IDENTICAL FORM OF DEVELOPMENT DETERMINED AT PLANNING COMMITTEE**

**SITE VISIT:** **NO**

**1.00 SUMMARY**

- 1.01 This is a full application for the erection a four bedroom house at the rear of 37 Wood Lane, Hawarden. The main issues to consider are the principle of development, impact on residential amenity, highways and the potential coal mining legacy on the site. It is considered that the proposed dwelling is in accordance with Policy HSG3 and meets the Councils requirements for LPGN 2 Space Around Dwellings. The risks in relation to the coal mining legacy on the site can be dealt with by an appropriate condition.

## **2.00 RECOMMENDATION: TO GRANT PLANNING PERMISSION, SUBJECT TO THE FOLLOWING:-**

2.01 The proposal is recommended for approval subject to the following conditions:

### Conditions

1. Time limit.
2. In accordance with plans.
3. Foul and surface water shall be drained separately.
4. Surface water connection.
5. Land drainage run-off.
6. Landscaping including boundary treatment.
7. Site investigation and remediation if necessary.
8. Visibility splay from access of 2.4m x 43m in both directions, no obstruction above 1.0m
9. Access to the site in accordance with standard detail for single residential access
10. The access shall be a minimum width of 4.5m for a distance of 10m
11. Facilities to be provided and retained within the site for parking and turning of vehicles
12. Removal of permitted development rights
13. Finished floor levels to be approved
14. First Floor Window in the south-east elevation to be obscure glazed and high level opening

## **3.00 CONSULTATIONS**

3.01 Local Member  
Councillor A Halford

Requests committee determination based on the fact that previous application for an identical form of development was determined by planning committee on the basis of Affordable Housing Need

Council David Mackie

Requests committee determination based on the fact that previous application for an identical form of development was determined by planning committee on the basis of Affordable Housing Need

Hawarden Community Council

Objects on the grounds that it constitutes backland development

Head of Assets and Transportation

No objection subject to conditions covering;

- Visibility splay from access of 2.4m x 43m in both directions, no obstruction above 1.0m.
- Access to the site in accordance with standard detail for single residential access.

- The access shall be a minimum width of 4.5m for a distance of 10m.
- Facilities to be provided and retained within the site for parking and turning of vehicles.

#### Head of Public Protection

No adverse comments.

#### Welsh Water/Dwr Cymru

Standard conditions in relation to foul and surface water drainage.

#### Airbus

No aerodrome safeguarding objection.

#### The Coal Authority

The application site falls within the defined development high risk area. Within the application site and surrounding area there are coal mining features and hazards which need to be considered in relation to this application. A Coal Mining Risk Assessment has been submitted with the application. Records indicate that the site is likely to have been subject to historic unrecorded coal mining at shallow depth. Prior to development intrusive investigation works, including gas monitoring, are required in order to establish the exact situation regarding ground conditions and to enable appropriate remedial measures to be identified if necessary. This should be secured by condition.

### **4.00 PUBLICITY**

#### **4.01 Site Notice and Neighbour Notification**

2 letters of objection from the same person on the grounds of;

- Would affect privacy at rear of property and garden
- Light pollution at night from currently dark garden
- Excessive noise from loose surface drive and use of garage
- The proposed development would take up the similar footprint as the proposed dwellings previously refused and would not be for a local housing need.
- Additional house will increase the volume of traffic on Wood Lane and could lead to parking on the road which reduces visibility for other properties exiting their properties
- This area of Hawarden is already overdeveloped and does not have the facilities to support another dwelling.
- Submitted plans do not accurately show the size of 35 Wood Lane, Hawarden.
- Backland Development

#### **4.02 1 letter of support**

- 4.03 1 letter of clarification confirming that the occupants of 37 Wood Lane do not support the application as stated to the contrary within the submitted Design and Access Statement.

## **5.00 SITE HISTORY**

- 5.01 051234 – Erection of a four bedroom detached dwelling – Refused 12.03.14 – Appeal Dismissed 27.10.2014

039899 – Erection of 6 no starter homes in two blocks of three.  
Refused 12.10.05

038829 – Proposed erection of 7no starter homes in terraced blocks of 3 and 4 together with construction of an access from existing access road. Refused 08.02.05

## **6.00 PLANNING POLICIES**

- 6.01 Flintshire Unitary Development Plan  
STR1 – New Development  
STR4 – Housing  
STR8 – Built Environment  
GEN1 – General Requirements for Development  
GEN2 – Development Inside Settlement Boundaries  
HSG3 – Housing on Unallocated Sites Within Settlement Boundaries  
D1 – Design Quality, Location and Layout  
D2 – Design  
D3 – Landscaping  
AC13 – Access and Traffic impact  
AC18 – Parking Provision and New Development

The proposal is in accordance with the above development plan policies.

## **7.00 PLANNING APPRAISAL**

- 7.01 Introduction  
This is a full application for the erection a four bedroom house at the rear of 37 Wood Lane, Hawarden.

- 7.02 This application is for a similar form of development to application reference no. 051234 which was considered by the Planning and Development Control Committee on the 11<sup>th</sup> December 2013 and the 15<sup>th</sup> of January 2014. The Committee resolved to grant planning permission on the 15<sup>th</sup> January 2014 subject to the applicant completing a S106 agreement requiring that;

- The property shall be occupied by the applicants Mr. & Mrs Shaw in the first instance

- If the property is put up for sale in the future 30% of the property value is repaid to the Council, secured as a charge on the property.

7.03 Following the Committee's resolution the applicants Mr and Mrs Shaw informed the Council they were not willing to sign the S106 agreement as the project was unviable. The application was subsequently refused on 12<sup>th</sup> March 2014 under the Head of Planning's delegated powers on the grounds that;

7.04 "Ewloe is a Category B settlement and the development would lead to cumulatively more than 15% growth since 2000. Any development therefore needs to be justified on the grounds of housing need. The applicant is not willing to sign the legal agreement in order to ensure that the dwelling meets this need therefore the application is contrary to policy HSG3 of the Adopted Flintshire Unitary Development Plan."

7.05 An appeal was held by way of an Informal Hearing and was DISMISSED on the 27<sup>th</sup> October 2014.

7.06 This application is a resubmission of reference no. 051234 on the bases that the sole reason for refusal under HSG3 is considered to be no longer applicable. The plans are identical to the previous submission.

7.07 Site Description

The application site is to the rear garden of 37 Wood Lane Hawarden which is within the settlement boundary of Ewloe. The site is surrounded by the dwelling and remaining rear garden of 37 Wood Lane to the west, an electricity substation to the south west, the community centre to the south east and 35 Wood Lane to the north. An area of land between the application site and the community centre is owned by Scottish Power and is currently leased by the applicant for use as additional garden. The site boundaries are mature garden hedges, fencing and walling of varying heights.

7.08 Proposal

The proposed dwelling is sited to the rear of the existing dwelling and would share an access. The dwelling is a two storey four bedrooms detached property with a separate double garage. The proposed materials are brick and tile to match existing properties in the area. The dwelling would have a private garden space to its rear.

7.09 Issues

The main issues to consider are the principle of development, backland development, and impact on residential amenity, highways and the potential coal mining history of the site.

7.10 Principle of Development

The application site lies within the settlement boundary of Ewloe which is a category B settlement within the Adopted Flintshire Unitary Development Plan. Within such settlements growth was previously controlled by Policy HSG3 'Housing on Unallocated Sites within Settlement Boundaries'. As Ewloe had a growth rate level of 17.5% since 2000 criterion B of HSG3 would have applied. Specifically criterion B states:

7.11 *'On unallocated sites within settlement boundaries, new housing, the change of use of non-residential buildings to dwellings, the renovation or replacement of existing dwellings, and infill development will be permitted provided that:*

*b. in category B settlements it is the renovation or replacement of an existing dwelling or where it would cumulatively result in more than 15% growth since 2000 the development is justified on the grounds of housing need,'*

7.12 However as Members will be aware monitoring and controlling growth over the Unitary Development Plan period in category B and C settlements ended on 1<sup>st</sup> April 2015. This is the operational date where monitoring against growth bands effectively ceased.

7.13 In account of this fact criterion B in Policy HSG3 is no longer applicable and the development does not have to be justified solely on the grounds of local housing need. In category B settlements new proposal' should now be considered on their own merits in terms of whether they represent sustainable development against all relevant policies within the Plan.

7.14 Backland Development

Although the development is a form of backland development, this does not automatically mean such a form of development should be refused. The important issue to consider is the harm this form of development may cause in terms of impacts on residential amenity to the occupiers of 37 Wood Lane, the proposed dwelling and adjoining properties and also the impact on the development on the character and appearance of the area.

7.15 The main impacts in terms of residential amenity would be from increased vehicle movements to the occupiers of 37 Wood Lane when in the existing conservatory. This would be minimised by the introduction of a boundary treatment to reduce any impact on privacy. The new dwelling has been orientated so there is no direct overlooking with 37 Wood Lane or any adjacent properties. The only potential for overlooking is to the rear garden of 35 Wood Lane, however overlooking into gardens is common in urban areas and is not dealt with in Local Planning Guidance Note 2: Space Around Dwellings.

- 7.16 Any impact in this regard can be dealt with by retention of the existing boundary hedgerow and other suitable boundary treatment which can be dealt with by condition.
- 7.17 In terms of the scale and form of the development, there is an existing garage in rear of 37 Wood Lane which would be demolished. The garden of 37 Wood Lane is large enough to accommodate the proposed dwelling, garage, parking and turning along with providing adequate remaining private amenity space for 37 Wood Lane. Mr & Mrs Shaw lease an additional area of land from the Electricity Company which also provides additional garden space and acts as a buffer between the adjacent residential property of April House which is accessed off Level Road.
- 7.18 There are varying forms of development in this area. While it is a predominately residential area of detached and semi-detached properties, the application site is adjacent to a large electricity substation to the west and the Community Centre to the south. The application site is accessed from Wood Lane, which is a typical residential street, there are also houses to the rear of 31, 33 and 35 these accessed from Level Road. On the opposite side of the Wood Lane there is the development of The Hedgerows which sits directly behind the houses on Wood Lane. It is considered that the introduction of another dwelling would therefore not be at odds with the pattern development in the locality
- 7.19 Impact on residential amenity  
The impacts of the proposed dwelling need to be considered in relation to the impact on the residential amenity of the existing occupiers of 37 Wood Lane along with the impact on neighbouring properties and on the proposed new dwelling.
- 7.20 The existing and proposed dwelling would share the same vehicle access. The existing dwelling would have parking at the front and the proposed dwelling would have a double garage. There is therefore a potential impact on residential amenity to 37 Wood Lane from the vehicle access to the new dwelling. The shared access would pass the existing conservatory on 37 Wood Lane. A condition requiring boundary treatments to be approved will protect residential amenity from vehicle movements from the new dwelling on the occupiers of 37 Wood Lane.
- 7.21 The proposed dwelling is orientated so its principal elevations face south west towards the electricity substation and north east facing the rear garden of 35 Wood Lane. The proposed dwelling is sited 7 metres from the boundary with 35 Wood Lane but is sited adjacent to the rear garden of 35 Wood Lane. There is 18 metres from the corner of the proposed dwelling and the 35 Wood Lane and 20 metres from the rear elevation of 37 Wood Lane and the side elevation of the proposed dwelling. Due to its location and orientation there would be no direct overlooking into the habitable rooms of either 35 or 37 Wood

Lane and there are no habitable rooms at first floor on the side elevation which would face 37 Wood Lane. It is considered that the siting of the dwelling is in accordance with the separation distances set out in Local Planning Guidance Note 2: Space Around Dwellings.

- 7.22 The existing dwelling and proposed dwelling would both have more than 70m<sup>2</sup> private garden space. Both these areas are considered suitable to meet the requirements of private amenity space as set out in Local Planning Guidance Note 2: Space Around Dwellings.

7.23 Access and Parking

The proposal would use the existing access to 37 Wood Lane which would be shared between the existing and proposed properties. An objection has been raised in relation to the increase in traffic movements associated with the new dwelling and the potential to an increase in parking on the highway.

- 7.24 The Head of Assets and Transportation has no objection to the proposed access and parking arrangements subject to conditions relating to the access and visibility splay and parking provision. The addition of one dwelling would not lead to a significant increase in traffic movements and adequate parking provision is provided for the new dwelling.

7.25 Coal Mining

The Coal Authority identified that the site falls within the defined Development high Risk Area. Coal Authority records indicate that within the application site and surrounding area there are coal mining features and hazards which need to be considered in relation to the determination of this planning application. It is a requirement of Planning policy Wales paragraph 13.9 that the applicant demonstrate to the satisfaction of the site is safe, stable and suitable for development.

- 7.26 The applicant has undertaken a Coal Mining Risk Assessment. This concludes that the site is likely to have been subject to historic unrecorded coal mining at shallow depth. The Coal Authority and the Head of Public Protection advise that prior to development intrusive investigation works, including gas monitoring, are required in order to establish the exact situation regarding ground conditions and to enable appropriate remedial measures to be identified if necessary. This can be secured by condition.

## **8.00 CONCLUSION**

- 8.01 It is considered that the proposed dwelling is in accordance with the relevant planning policies. It is considered that the siting of the dwelling meets the Councils requirements for Space Around Dwellings and would not have an adverse impact on the residential amenity of adjoining occupiers. The risks in relation to the coal mining legacy on the site can be dealt with by an appropriate condition.



8.02 In considering this planning application the Council has acted in accordance with the Human Rights Act 1998 including Article 8 of the Convention and in a manner which is necessary in a democratic society in furtherance of the legitimate aims of the Act and the Convention, and has had due regard to its public sector equality duty under the Equality Act 2010.

**LIST OF BACKGROUND DOCUMENTS**

Planning Application & Supporting Documents

National & Local Planning Policy

Responses to Consultation

Responses to Publicity

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