

**FLINTSHIRE COUNTY COUNCIL**

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

**DATE:** **20<sup>th</sup> JULY 2016**

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

**SUBJECT:** **DISCHARGE OF SECTION 106 AGREEMENT AT THE MILL HOUSE, TYN Y CAEAU, NORTHOP**

**APPLICATION NUMBER:** **055105**

**APPLICANT:** **MR & MRS JOHN & JO MARTIN**

**SITE:** **THE MILL HOUSE, TYN Y CAEAU, NORTHOP ROAD, NORTHOP, CH7 6BE**

**APPLICATION VALID DATE:** **11<sup>TH</sup> MARCH 2016**

**LOCAL MEMBERS:** **CLLR M BATEMAN**

**TOWN/COMMUNITY COUNCIL:** **NORTHOP COMMUNITY COUNCIL**

**REASON FOR COMMITTEE:** **SECTION 106 AGREEMENT**

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

**1.00 SUMMARY**

- 1.01 This is a full application for the removal of a Section 106 Agreement relating to land at The Mill House, Tyn y Caeau, Northop Road, Northop, which sought to establish a newt habitat in mitigation for a residential development at Flint. The main issue to be considered is whether the Section 106 is still achieving what it set out to achieve in 1993.
- 1.02 It is considered that the removal of the Section 106 agreement is acceptable as the site is now protected by current legislation and planning policy.

**2.00 RECOMMENDATION: TO RELEASE THE LEGAL AGREEMENT**

- 2.01 The applicant, the Council and other land owners will be required to sign a deed of release to remove the Section 106 Agreement.

### **3.00    CONSULTATIONS**

- 3.01    Local Member: Cllr M Bateman  
No response at time of writing

Northop Community Council:  
No objection

Head of Public Protection:  
No objection

Natural Resources Wales:  
NRW does not object to the discharge of the Section 106 Agreement for the above site.

### **4.00    PUBLICITY**

- 4.01    Site Notice  
One letter of support received.

### **5.00    SITE HISTORY**

- 5.01    The site subject to this planning application has no other relevant planning history other than the Section 106 Agreement subject to this application.

### **6.00    PLANNING POLICIES**

- 6.01    Flintshire Unitary Development Plan  
STR7 – Natural Environment  
WB1 - Species Protection

### **7.00    PLANNING APPRAISAL**

- 7.01    This application seeks the removal a Section 106 Obligation from the land to the rear and side of Mill House, Tyn Y Caeau, Northop.
- 7.02    The Section 106 Agreement was signed in 1993 following the granting of planning permission at Min Awel, Flint for residential development. The agreement required the developer to translocate the Great Created Newt (GCN) population from Min Awel to this site and create a number of ponds alongside associated newt habitat. This was undertaken in 1993-1995 with ponds being created and an area of woodland preserved. The Section 106 Agreement was one of the first of its kind for Natural Resources Wales and was signed prior to the schemes for mitigation following the current legislative protection of GCN coming into force.

7.03 Since this time ownership of the land has changed and there have been a number of changes to the land. The population of GCN continues to thrive but there is no formal management of the site. This is due to the lack of any long term funding for management of this site within the Section 106 Agreement.

7.04 It has been agreed between the County Ecologist and Natural Resources Wales that whilst there is concern regarding the potential precedent set by the discharge of this Section 106 Agreement, in this case it is acknowledge that the Agreement failed to effectively consider long term funding issues associated with surveillance and wardening. The Section 106 Agreement therefore no longer provides the GCN population with any further protection than the existing legislation can provide.

## **8.00 CONCLUSION**

8.01 It is considered that the Section 106 Agreement has outlived its usefulness with the GCN population now being protected by legislation along with the land use protection by planning policy. Therefore I recommend that the application be approved subject to the applicant and all other land owners signing a deed of release.

### **8.02 Other Considerations**

The Council has had due regard to its duty under Section 17 of the Crime and Disorder Act 1998 and considered that there would be no significant or unacceptable increase in crime and disorder as a result of the recommended decision.

8.03 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.

8.04 The Council has had due regard to its public sector equality duty under the Equality Act 2010.

8.05 The Council has had due regard to its duty under Section 3 of the Wellbeing of Future Generations (Wales) Act 2015 and considered that there would be no significant or unacceptable impact upon the achievement of wellbeing objectives as a result of the recommended decision.

## **LIST OF BACKGROUND DOCUMENTS**

Planning Application & Supporting Documents  
National & Local Planning Policy  
Responses to Consultation  
Responses to Publicity

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