

FLINTSHIRE COUNTY COUNCIL

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

DATE: **14TH DECEMBER 2016**

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

SUBJECT: **APPEAL BY U & I GROUP & BLOOR HOMES PLC AGAINST THE NON-DETERMINATION BY FLINTSHIRE COUNTY COUNCIL FOR THE ERECTION OF 36 NO. DWELLINGS AT CHESTER ROAD, BROUGHTON – ALLOWED.**

1.00 APPLICATION NUMBER

1.01 054660

2.00 APPLICANT

2.01 U & I Group & Bloor Homes PLC

3.00 SITE

3.01 Land at Chester Road,
Broughton.

4.00 APPLICATION VALID DATE

4.01 27th November 2015

5.00 PURPOSE OF REPORT

5.01 To inform Members of a decision in respect of an appeal following the non-determination of the application for the erection of 36No. dwellings on land at Chester Road, Broughton by the Local Planning Authority. The appeal was heard by way of a Public Inquiry and was **ALLOWED.**

6.00 REPORT

6.01 Background

The Inspector noted that whilst the Council had initially been opposed to the proposal, this opposition had been withdrawn in writing (in line

with the resolution of the Planning and Development Control Committee dated 20th July 2016). Consequently, The Council did not participate formally in the presentation of evidence other than in relation to discussions upon planning conditions and planning obligations.

6.02 The Main Issues

The Inspector considered that the main issues are:

- whether the proposed development conflicts with national and local policies designed to protect the countryside;
- the effect of the proposed development on highway capacity;
- whether future occupiers of the development would enjoy acceptable living conditions in terms of noise; and
- whether any harm in these respects is outweighed by other material considerations in particular the contribution to local housing supply.

6.03 Whether the proposed development conflicts with national and local policies designed to protect the countryside

The Inspector noted that the appeal site is outside the settlement boundary as defined in the Flintshire Unitary Development Plan (UDP). She also noted that Policies GEN3, HSG4 and HSG5 all seek to restrict new residential development in such areas to those which are of a small scale or meet identified exceptions. In this regard she noted the policies reflected the aims of Planning Policy Wales Edition 9.

6.04 The Inspector concluded upon this point that the appeal proposals did not fall within any of the exceptions stated in DUP policies GEN3 HSG4 or HSG5 and did not accord with the restrictive approach of these policies, nor PPW in relation to development in open countryside locations.

6.05 The effect of the proposed development on highway capacity

The Inspector noted that the appeal proposals are supported by a Transport Assessment (TA) which examines the question of the impact upon the existing highway network over a period up to 2025. She noted that the conclusions of the TA were that any impacts would be negligible; that future traffic conditions arising from the development could be accommodated within the local highway network; and no requirement arose for funded highway improvements. These conclusions, evidence submitted and observations during the site visit led the Inspector to conclude that the proposal would not compromise public safety, health or amenity.

6.06 In respect of the strategic highway network, the Inspector noted that

Welsh Government considered it would desirable that planning permission not be granted until such time as the need for future improvements to the A55 at Junction 36A had been fully assessed. However, the Inspector equally noted that proposals for junction improvements are not at an advanced stage; had no certainty in respect of delivery; and such proposals were not safeguarded via policies within either the UDP or the Wales Transport Strategy. Accordingly, the Inspector concluded that there was insufficient justification to warrant withholding planning permission.

- 6.07 Impacts upon amenity of future occupiers in terms of noise
The Inspector noted that the proximity of the site to A55 and J36A of the same gave rise to concerns in relation to the impacts upon the amenity of future occupiers as a consequence of environmental noise. In considering the matter, the Inspector had regard to the advice set out in PPW, TAN11 – Noise and noted the advice set out in BS8233:2014 – Control, of Noise around Buildings.
- 6.08 The Inspector examined the conclusions of the Environmental Noise Study (ENS) submitted in support of the proposals and came to the view that the ENS addressed the matters of concern raised by Welsh Government. She concluded that mitigation proposals could be provided which would address the impact of traffic noise upon future occupiers. She noted that noise mitigation should be provided insofar as is practicable in relation to gardens adjoin strategic transportation networks, and whilst achieving a guideline value of 55dB LAeq was desirable, if it was not achieved following the implementation of all practicable measures, this should not inhibit the granting of permission.
- 6.09 Impact of other material considerations, in particular the contribution to local housing supply
PPW requires that local planning authorities ensure that sufficient land is genuinely available or will become available to provide a 5 year supply of land for housing. This requirement is supported by guidance contained in Technical Advice Note 1- Joint Housing Land Availability Studies (TAN 1) (2015).
- 6.10 The Council accepts that its latest Joint Housing Land Availability Study (JHLAS) (2015), which has a base date of April 2014, shows that it has a 3.7 year supply of housing land and that, because the UDP has passed its plan period, it will not be able to demonstrate that it has a 5 year supply of housing land until it has an adopted local development plan (LDP) in place. The Inspector noted that the anticipated date of adoption of the LDP is October 2019, and that, in order to address the deficiency in the short term, section 3 of the JHLAS (2015) makes clear that the Council will, amongst other things, take a flexible approach towards development opportunities outside settlement boundaries where they represent logical and sustainable development and are capable of increasing the supply of housing in

the short term. This approach is consistent with paragraph 6.2 of TAN 1 which advises that where a local planning authority is unable to demonstrate a 5 year housing land supply the need to increase the supply of land will be given considerable weight.

6.11 In the case of the appeal site, the Inspector considered that the position of the appeal site, contained on all sides by built development, together with its close proximity to public transport, community and commercial facilities, would mean that the proposal would be a logical and sustainable extension to the settlement which would not be harmful to the character and appearance of the countryside. Furthermore, she considered that the location of the appeal site, adjacent to a residential estate that is currently being developed by the appellants, coupled with their willingness to accept the imposition of a condition requiring development to take place within 3 years of the date of the planning permission, would ensure that the proposed development would be capable of increasing the supply of housing in the County in the short term.

6.12 It was noted that, in addition to providing much needed new market housing, the proposal would also assist in meeting the high level of need at both locally and nationally for affordable homes, fund off-site public open space improvements, create jobs in the construction and service sectors and support local community and commercial services.

6.13 Accordingly, the Inspector considered that the benefits associated with the proposal would significantly and demonstrably outweigh the modest harm that would arise, in this instance, from the incursion into the countryside.

6.14 Other Matters

A third party participant at the inquiry highlighted that the submitted plans incorrectly included land in his ownership within the application site. The applicant accepted that the application site had been incorrectly delineated. The Inspector considered the imposition of a condition requiring a plan be provided indicating the required boundary amendment would satisfactorily resolve this issue.

6.15 Conditions

The Inspector considered the suggested conditions and the appellant's comments thereon in the light of the guidance in Welsh Government Circular 16/20145. A three year commencement condition was deemed necessary because this planning permission is being granted to meet a pressing need and therefore the development should be delivered quickly. Other conditions are imposed requiring the agreement of full drainage proposals; full highway design, construction, signage and calming details; agreement of materials; landscaping and full acoustic mitigation measures.

6.16 Unilateral Undertaking

The Inspector noted that the provision of an element of affordable housing and open space/play area in appropriate residential developments is required by the Unitary Development Plan. To that end a signed obligation under Section 106 of the Act securing the provision of and contributions towards affordable housing and open space/ play areas was submitted with the appeal.

6.17 The Inspector was content that the provisions of the Undertaking in relation to contributions for and provision of affordable housing and open space/play areas accord with the UDP policies and supporting Local Planning Guidance Notes. She was satisfied that the obligation meets the 3 statutory tests set out in The Community Infrastructure Levy Regulations 2010.

7.00 CONCLUSION

7.01 For the reasons given above, the Inspector concluded that the appeal should be **ALLOWED**.

LIST OF BACKGROUND DOCUMENTS

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

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