

FLINTSHIRE COUNTY COUNCIL

REPORT TO: PLANNING & DEVELOPMENT CONTROL
COMMITTEE

DATE: WEDNESDAY 23 MAY 2012

REPORT BY: HEAD OF PLANNING

SUBJECT: GENERAL MATTERS - RESIDENTIAL DEVELOPMENT
CONSISTING OF 51 NO. DWELLINGS, NEW ROAD
AND CREATION OF MITIGATION LAND IN RELATION
TO ECOLOGY ON LAND BETWEEN AND BEHIND
MAISON DE REVES AND CAE EITHIN, VILLAGE
ROAD, NORTHOP HALL

1.00 APPLICATION NUMBER

1.01 048855

2.00 APPLICANT

2.01 T ANWYL & SONS LTD

3.00 SITE

3.01 LAND BETWEEN AND BEHIND MAISON DE REVES AND CAE
EITHIN

4.00 APPLICATION VALID DATE

4.01 20/07/2011

5.00 PURPOSE OF REPORT

5.01 Following the resolution at the 14th March 2012 Planning and
Development Control Committee to refuse this application, to seek
guidance regarding the reasons for refusal to be attached to the
decision. The report to that Committee is appended to this report.

6.00 REPORT

6.01 At the 14th March meeting, it was resolved to refuse this application for
the following reasons:

1. Ecological impact of development (newts and badgers).
2. Highway safety issues (capacity/design of existing network).
3. Density of development too high.
4. Lack of geological survey.

- 6.02 Where a decision is taken at Committee against officer recommendation on any particular application, it is the role of officers to draft the precise terms of that decision. In this instance it is the reasons for refusal of planning permission. From discussion at the Committee meeting on 14th March 2012, Members will be aware of the views of officers with regard to the robustness of the refusal having regard to the fact that the site is allocated for residential development in the Flintshire Unitary Development Plan.
- 6.03 Members are therefore asked to consider this further report in advance of the decision being issued. It is the applicant's intention to appeal against the refusal of planning permission and it is vital that each reason put forward can be supported by evidence in order on the one hand to seek to defend the Council's position and on the other hand to minimise any risk of costs against the Council, regardless of the eventual decision on appeal. Each of the reasons for refusal arising from the previous resolution is addressed below. It is recognised that these largely arose from representations made during the application process and it should be noted that it would be open to third parties to introduce these topics at any appeal against the decision.

Ecological Issues

- 6.04 At the March Committee Members were concerned about the need to provide new habitat for the great crested newt, which had been resident in the pond to the east of the application site. The report explained that GCNs had not been found in that pond since 2004, even though there had been regular surveys, and the pond did not provide a suitable breeding ground. This application provides a betterment of the existing situation by the provision of 2 new ponds within the mitigation area to the south of the proposed residential development.
- 6.05 Members were also concerned about the effect of the proposed development on the badgers which inhabit part of the site. The report to the March committee explains that the proposal involves creating a new sett on land immediately to the south of the proposed dwellings, within 100m of the existing sett and fence from public access.
- 6.06 Subject to this mitigation both the Countryside Council for Wales and Flintshire's ecologist are satisfied that there will be no ecologically detrimental aspect of the proposals, subject to the conditions recommended and a legal obligation. On this basis it is strongly recommended that this reason cannot be substantiated and that it is not included on the decision.

Highway Safety Issues

- 6.07 At the March Committee meeting debate focused, in part, upon the issue of the likely highway impacts arising from the additional traffic generated from the proposed development in view of the limited width in places, alignment and lack of footways along Village Road. Members

were concerned that Village Road is currently used as a rat run and the proposed development would add more traffic, making the situation worse.

- 6.08 Members were advised by officers that this issue had been considered by the Head of Assets and Transportation in the formulation of advice to the Committee. The advice concluded that, with traffic calming measures implemented along Village Road and provision of additional footways, the existing highway network had the capacity and is capable of accommodating traffic generated from the proposed dwellings.
- 6.09 Members were advised in the report to the March Committee that this site forms part of an allocated site in the Flintshire Unitary Development Plan. In that Plan the whole allocation is for 93 units and the Flintshire Unitary Development Plan Inspector concluded that a safe access could be achieved and the local highway network had the capacity to deal with the number of trips likely to be generated by 93 units.
- 6.10 Despite this advice it was resolved that this should be a basis for the refusal of the application. Whilst it will be difficult to substantiate this it is suggested that the reason should be worded :
- 6.11 **Reason: The proposed development will lead to additional traffic being generated onto the existing road, Village Road, which is substandard in terms of width and alignment in places, to the detriment of highway safety, pedestrians and local residents, and is therefore contrary to Policy Gen 1 (f) of the UDP.**

Density of Development

- 6.12 The scheme submitted shows a density of development of 22 dwellings per hectare. This falls significantly below the density envisaged by the Inspector in allocating this site in the UDP (30 dwellings per hectare). The original report to the March committee (appended to this report) sets out the circumstances behind this. It is significant that this application covers only part of the allocation, giving an opportunity for the imbalance in terms of density to be addressed to some extent in the consideration of the subsequent application. The density of 22 per ha. also reflects the existing pattern of development and takes account of site constraints.
- 6.13 When the application was discussed previously, it was proposed by some members that the density should be higher, in line with the UDP policy. Whilst the proposed density is lower than that envisaged by the UDP this can be justified for the reasons stated in the preceding paragraph. However, a reason for refusal based upon a density of development which is lower again cannot be justified. On this basis it is strongly recommended that this reason cannot be substantiated and that it is not included on the decision.

Geological Survey

6.14 At the March 14th Committee Members also resolved that the application should be refused on the basis of the lack of a geological survey. This followed some discussion regarding the potential impact of the former mining works on or near the site and was despite the fact that the case officer advised that this matter had been addressed and was covered by Condition 4 of the recommendation (see report appended). In order for this information to be required prior to the application being determined, rather than by condition, evidence would need to be provided that the risks are such that this course was justified. No such evidence has been provided by the relevant consultees and it is again strongly recommended that this reason cannot be substantiated and that it is not included on the decision.

7.00 **RECOMMENDATION**

7.01 That application ref. 48855 be refused for the following reason :

Reason: The proposed development will lead to additional traffic being generated on to the existing road, Village Road, which is substandard in terms of width and alignment in places, to the detriment of highway safety, pedestrians and local residents, and is therefore contrary to Policy Gen 1 (f) of the Flintshire Unitary Development Plan.

7.02 That reasons relating to ecology, density and lack of a geological survey are not included on the refusal notice relating to the application.

7.03 Should Members resolve not to accept the above recommendation, that delegated authority be given to the Head of Planning to draft additional reasons based on these issues.

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