

FLINTSHIRE COUNTY COUNCIL

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

DATE: **WEDNESDAY 5TH SEPTEMBER 2012**

REPORT BY: **HEAD OF PLANNING**

SUBJECT: **VARIATION OF CONDITION NO.15 ATTACHED TO PLANNING PERMISSION REF:046595 "CROES ATTI", CHESTER ROAD, OAKENHOLT, FLINTSHIRE**

APPLICATION NUMBER: **049425**

APPLICANT: **ANWYL HOMES LTD**

SITE: **"CROES ATTI", CHESTER ROAD, OAKENHOLT, FLINTSHIRE**

APPLICATION VALID DATE: **06.02.2012**

LOCAL MEMBERS: **COUNCILLOR R. JOHNSON**

TOWN/COMMUNITY COUNCIL: **FLINT TOWN COUNCIL**

REASON FOR COMMITTEE: **Nature of application to delete a Committee imposed planning condition**

SITE VISIT: **YES**

Members will recall this item was deferred at the request of the Head of Planning from the 25th July Planning committee due to the fact that the press notice relating to the proposed development had not expired. All consultation dates have now expired. The report has been updated to reflect any further correspondence received.

1.00 SUMMARY

1.01 The proposed development is for the variation of Condition No.15 on the decision notice attached to reserved matters application Ref: 046595. Condition 15 was imposed by Members at the 11th January 2012 Planning Committee. The condition related to the provision of a barrier to vehicles at the end of Prince of Wales Avenue and was imposed due to highway impact on the amenity of existing residents. The applicant does not consider the condition is necessary and is contrary to the outline planning permission previously granted and the development brief that accompanied the outline planning application.

The applicant seeks removal of that condition.

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

2.01 To allow the deletion of Condition 15 attached to reserved matters application Ref: 046595.

3.00 CONSULTATIONS

3.01 Local Member Councillor R. Johnson
No response received at time of writing report

Adjacent Flint Members:
Councillor Aldridge
Agrees to determination under delegated powers.

Councillor Howarth
Agrees to determination under delegated powers

Councillor Cox
Agrees to determination under delegated powers

Flint Town Council
No response at time of writing report.

Head of Assets & Transportation
No objections

Public Protection Manager
No adverse comments

Welsh Transport Government
No direction to be issued.

Environment Agency Wales
No objection.

4.00 PUBLICITY

4.01 Press Notice, Site, Notice, Neighbour Notification:-
The application has been advertised by way of site notices and neighbour letters. 25 letters of objection have been received in addition to petition signed by 97 objecting to the proposal.

- Does not support removal of vehicular restriction onto Prince of Wales Avenue as it would create a rat run and greatly increase traffic along that stretch of road which is already busy.
- Removal of the condition will greatly increase traffic on the Prince of Wales Avenue and the risk of accidents involving

children.

- Does not consider the condition is ultra vires and is in breach of Circular 35/95.
- Roads in the locality were never designed for an increase in traffic if the condition 15 was removed.
- Removal of condition would be detrimental to children and elderly in the locality due to increased traffic use.
- The adopted UDP extols the policy of promoting road safety – how can the proposal assist this aim.

5.00 SITE HISTORY

5.01 98/17/1308

Outline residential development and associated recreational, community and retail was originally reported to committee on 14.12.99 which resolved to approve subject to a Section 106 Agreement -No decision was ever issued due to changed circumstances of the applicants.

035575

Outline application for a mixed use development including residential, open space, infrastructure, landscaping, education and community facilities was reported to committee on 19.7.2004 which resolved to approve subject to a Section 106 Agreement -the agreement was signed and the permission issued on 11.7.06.

044035

Highway improvements, street lighting and all associated works, on land at Croes Atti, Chester Road, Oakenholt, in connection with the outline planning permission (ref. 035575) -Granted permission on 23rd April 2008.

044033

Reserved matters application -residential development consisting of 189 no. dwellings, public open space, new roundabout and all associated works at Croes Atti, Oakenholt -Granted 11th July 2008.

046562

Substitution of house types on plots 119, 124, 128-129, 131-132, 136, 138, 139, 142-144, 146-150, 160-163, 165-166, 170-177 and 183 on land at Croes Atti, Oakenholt, granted 11th July 2008.

046595

Reserved matters application for residential development consisting 132 no. dwellings, new roads, open space and all associated works on land at Croes Atti, Chester Road, Oakenholt, granted on 19th January 2012.

049312

Application for a Lawful Development Certificate for construction of

vehicular access from Prince of Wales Avenue, Flint to serve residential development at Croes Atti, Oakenholt, permitted by outline planning permission code number 035575 dated 11th July 2006 – granted 5th April 2012.

049154

Application for variation of condition no.3 attached to outline planning permission ref: 035575 to allow 7 years for the submission of reserved matters from the date of the outline planning permission being granted rather than the 5 years previously permitted -non determination appeal submitted, (considered by way of a public inquiry on 21st/22nd. August – decision awaited).

049426

Application for variation of condition no.3 attached to outline planning permission ref: 035575 to allow 7 years for the submission of reserved matters from the date of the outline planning permission being granted rather than the 5 years previously permitted – resolved to grant planning permission at Committee on 25th. July., subject to completion of S.106 Obligation

6.00 PLANNING POLICIES

6.01 Flintshire Unitary Development Plan (FUDP) The FUDP shows the land as a housing commitment and outline planning permission has now been issued. In the context of the development as a whole a large number of the policies of the plan are relevant but the most significant policy is Policy HSG2 -Housing at Croes Atti, Flint, other relevant policies include D1-D4 which refer to design/location/layout/landscaping and Policy GEN1 (General Requirements for Development).

6.02 As regards the status of the Development Brief that relates to the Croes Atti site Members should be aware that at the Planning Committee of 08.02.06 the following was resolved:

"RESOLVED: That planning permission be granted, subject to completion of a satisfactory Section 106 Agreement to ensure development of the site accords with the provisions of the approved Development Brief, including the provision of off- site highway works and the upgrading of existing services, as appropriate, and to the other conditions detailed in the report to the Chief Planning Services Officer. "

6.03 It is the officer's opinion that this must have referred to the revised brief which had been prepared at that time.

6.04 The proposal is considered to accord with the aims of the relevant policies and development brief for the overall site.

7.00 PLANNING APPRAISAL

7.01 Primary Issue

The primary issue in consideration of the application is whether or not it is acceptable to allow for the deletion of Condition 15 attached to the previously granted reserved matters approval. Condition 15 states:

“Prior to commencement of development, a scheme shall be submitted to the Local Planning Authority for approval for the provision of a barrier to vehicles (except for emergency access) at a point where the main "Boulevard" serving the site meets Prince of Wales Avenue. Any subsequently approved details shall be implemented in full prior to any occupation of dwellings on the site and thereafter retained.

REASON: The highway impacts of the proposed development would be detrimental to the amenity of existing residents in compliance with Policy GEN1 of the adopted Flintshire Unitary Development Plan.”

7.02 The applicant is of the opinion that the condition is “ultra vires” (i.e. not lawful) for the following reasons,

- it contravenes the granted outline which allowed vehicular access onto Prince of Wales Avenue,
- the Council and an independent Highway Engineer have confirmed Prince of Wales Avenue is suitable to accept the additional traffic generated,
- it unreasonably takes away a right of access granted by the outline planning permission and is an onerous requirement on the applicant.
- the Croes Atti Development brief and legal agreement support the vehicular access of the development from Prince of Wales Avenue.

7.03 The received objections to the removal of condition are primarily related to highway safety but also refer to amongst other issues, the detriment to general amenities due to increased noise and pollution.

7.04 Highways The proposed development will have its principal access point into Prince Of Wales Avenue. The proposed new link into Prince Of Wales Avenue which serves the development links into the spine road for the overall site (which will ultimately feed into other points of access at Coed Onn Road and the A548 Chester Road).

7.05 Before discussing the highway issues related to Prince of Wales Avenue, it is worth considering the historical aspect of access for the development onto Prince of Wales Avenue as follows,

- When the outline planning permission was granted in July 2006 for the overall site the submitted Design Statement that

accompanied the application at Page 15 referred to:-

"The spine road which will provide the principle 'through route' for the development signal controlled junction from Chester Road and can link directly (or as a public transport link only) to Prince of Wales Avenue in the north west". This is reiterated again in the Environmental Statement at Volume 1 at 4.3.14.

- At 5.46 of the previously submitted Environmental Statement at Volume 1, "Traffic generated by the proposed residential development off Prince of Wales Avenue (Plots F1 - F5 i.e., the "Thomas Land") can be accommodated by the existing road network without improvement".

- The outline application as permitted in July 2006 referred to condition 19 which stated:-

"No works associated with the proposed development of that part of the site lying immediately to the south of Prince of Wales Avenue shall commence until a detailed scheme for the extension of the existing highway has been submitted to and approved by the County Council. The approved works shall be completed within a timescale agreed with the Local Planning Authority.

REASON: To ensure the formation of a safe and satisfactory means of access to the site in the interests of maintaining highway safety".

- Subsequently on July 2008, under Ref. 044033 the first reserved matters application for the site was permitted. This application in addition to providing for 189 No. dwellings, public open space, games/play areas, also allowed for a new access onto Prince of Wales Avenue.

7.06 The access component of the Croes Atti development has been the subject of extensive negotiations with the applicant. Due to highway concerns raised as part of the public consultation process to the reserved matters application for the "Thomas Land", the applicant was requested to submit an updated Transport Assessment for the proposal. The updated Transport Assessment was based on the original TIA of 2003 but updated with particular reference to the following:-

To assess the proposed detailed design layout which incorporates a roundabout access off the A548, linking to Prince of Wales Avenue and Coed Onn Road via a sinuous alignment spine road

- review trip generation against contemporary TRICS data
- provide an updated assessment of shopping/leisure based trips
- consider revised assessment years

- provide an assessment of routes that would be used by construction period traffic
- general update of previous TIA data relating to the local area (traffic flow/accident data etc)
- the influence that construction of two nearby schools may have had on traffic patterns adjacent to the development site

7.07 The Transport Statement concluded that:-

The development can be served satisfactorily by the proposed A548 Chester Road roundabout with additional access to Coed Onn Road and Prince of Wales Avenue

Traffic generated by the proposed residential development off Prince of Wales Avenue/Coed Onn Road in isolation can be accommodated by the existing road network without improvement.

FCC's "traffic calming scheme" which has been implemented along Prince of Wales Avenue, Coed Onn Road and adjoining roads to compliment the traffic management scheme in Flint town centre, has enhanced safety for road users by reducing traffic speeds

The presence of traffic calming along Prince of Wales Avenue and Coed Onn Road will also detract usage from the proposed development.

Based on the assessment undertaken the development is expected to have minimal impact on the existing highway environment. Modelling analysis has identified that the proposed A548 Chester Road Roundabout has adequate capacity to accommodate the expected traffic flows from the 683 dwellings. Traffic flows on the existing routes (A548, Prince of Wales Avenue, Albert Avenue and Coed Onn Road) are well within theoretical capacities.

Public transport links will be extended into the proposed development, subject to reaching agreement with local bus companies.

Existing footpaths will be retained/enhanced.

The assessment undertaken of the alterations will be marginal and have a minimal impact on the local road network when compared to the current situation.

7.08 The revised Transport Assessment was independently reviewed on behalf of the Council by the Transport Consultancy Atkins who have concluded that the proposed development is acceptable in highway terms.

7.09 The Council's Head of Assets and Transportation has previously accepted the findings of the independently reviewed Transport

Assessment and therefore offers no highway objections to the deletion of condition 15. Therefore the restriction of vehicular traffic from the Croes Atti development onto Prince of Wales Avenue cannot be judged to be unduly detrimental to highway safety.

- 7.10 As regards highway impacts on the amenity of existing residents, the Councils Head of Public Protection has not objected to the removal of the condition, nor raised any concerns in regards to noise or pollution nuisance. It is considered it would be difficult to maintain a reasonable case for the imposition of a condition restricting vehicular access from the site onto Prince of Wales Avenue, on grounds of detriment to residential amenity due to highway impacts and therefore it is recommended that the condition should be deleted.

8.00 RECOMMENDATIONS

- 8.01 It is considered at officer level there are no reasonable highway nor amenity grounds for the imposition of Condition 15 attached to reserved matters application Ref: 049425 and consequently its removal is supported.
- 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.

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