

FLINTSHIRE COUNTY COUNCIL

REPORT TO: **PLANNING COMMITTEE**

DATE: **14 DECEMBER 2022**

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

SUBJECT: **ERECTION OF 21 DWELLINGS WITH
ADOPTABLE HIGHWAY ACCESS**

**APPLICATION
NUMBER:** **FUL/00077/22**

APPLICANT: **BLACK DOVE DEVELOPMENTS LIMITED**

SITE: **LAND AT RHEWL FAWR ROAD, PENYFFORDD,
HOLYWELL**

**APPLICATION
VALID DATE:** **25TH MAY 2022**

LOCAL MEMBERS: **COUNCILLOR GLYN BANKS
COUNCILLOR G MADDISON**

**TOWN/COMMUNITY
COUNCIL:** **LLANASA COMMUNITY COUNCIL**

**REASON FOR
COMMITTEE:** **DUE TO THE SCALE OF DEVELOPMENT**

SITE VISIT: **YES**

1.00 SUMMARY

- 1.01 This is a full planning application for the proposed erection of 21 dwellings on land at Rhewl Fawr Road, Pen-y-Ffordd. The application site is located on a parcel of land accessed off Cwrt-y-Glower, within the defined settlement boundary.
- 1.02 Members will be aware that this application was originally scheduled on the 23rd November 2022 Committee meeting but deferred to allow the Community Council to address matters of confusion over their response; consideration of drainage implications and to allow a Members Site Visit to be undertaken.

- 1.03 The main issues to consider in determination of the application are the principle of development, highway safety and impact on amenity.
- 1.04 Planning permission was granted for the development of 23 dwellings on the same land which only very recently expired. The granting of this permission is materially important and affords significant weight. On balance the principle of development is considered acceptable.
- 1.05 Matters including highway safety, drainage and impact on existing residential amenity have been considered at length and are considered acceptable.
- 1.06 I therefore recommend that planning permission is granted subject to condition and the applicant entering into a Section 106 Agreement in relation to Public Open Space.

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

- 2.01 That conditional planning permission be granted subject to the applicant entering into a Section 106 Obligation to provide the following:
- To provide a Public Open Space Contribution of £23,100 in lieu of on-site play provision

Conditions

1. Time limit on commencement
2. Compliance with approved plans
3. Materials
4. Levels
5. Scheme for the parking and turning of vehicles
6. Details of the internal road layout
7. Surface water run-off
8. Construction Management Plan
9. No surface water discharge
10. No tree works unless qualified ecologist present to ensure no adverse impacts upon nesting birds or roosting bats.
11. Tree and hedgerow protection to be submitted, agreed and implemented prior to works commencement.

If the Obligation pursuant to Section 106 of the Town and Country Planning Act 1990 (as outlined above) is not completed within 6 months of the date of the Committee resolution, the Head of Planning be given delegated authority to REFUSE the application.

3.00 CONSULTATIONS

3.01 **Local Member(s) Councillor G Banks & Councillor G Maddison:**
No response received at time of writing report

Town/Community Council: The application was deferred from committee in November to allow the Community Council to review their comments. At time of writing report those comments are outstanding.

Highways: No objections raised but recommends the imposition of conditions

Community and Business Protection: No objections raised

Welsh Water/Dwr Cymru: No objection subject to the inclusion of a condition relating to surface water

Natural Resources Wales: No objections raised

Coal Authority: Standard developer advice applies

Education: Due to existing capacity at the nearest Primary and Secondary schools no education contribution is sought with regards to this development.

Housing Strategy: Based on the most up to date Local Housing Market Assessment and Flintshire Council's housing waiting lists in relation to "affordable" properties demand for rent or purchase is low within this settlement boundary.

4.00 PUBLICITY

4.01 35 Neighbour Notifications were sent to neighbouring properties and a Site Notice was also displayed. 4 letters of objection have been received and are summarised as follows:

1. Drainage implications for existing properties
2. Highway safety including point of access and traffic volumes
3. Lack of amenities in the village
4. Loss of residential amenity
5. Concerns with the integrity of the applicant

5.00 SITE HISTORY

5.01 055398 - Erection of 23 dwellings with adoptable highway access – Approved 15.12.2016

6.00 PLANNING POLICIES

6.01 Flintshire Unitary Development Plan

- Policy STR1 - New Development
- Policy STR4 - Housing Policy GEN1 - General Requirements for Development
- Policy GEN2 - Development inside settlement boundaries
- Policy HSG3 - Housing on unallocated sites within Settlement boundaries
- Policy HSG8 - Density of Development Policy
- HSG9 - Housing Type and Mix Policy
- HSG10 - Affordable Housing within Settlement Boundaries
- Policy D1 - Design Quality, Location and Layout Policy
- D2 - Design Policy
- D3 - Landscaping Policy
- TWH1 - Development Affecting Trees and Woodlands Policy
- TWH2 - Protection of Hedgerows Policy
- AC13 - Access and Traffic Impacts Policy
- AC18 - Parking Provision and New Development Policy
- SR5 - Outdoor Playing Space and New Residential Development

Supplementary Planning Guidance Notes

- SPGN No 2. Space Around Dwellings
- SPGN No 3. Landscaping
- SPGN No 4. Trees and Development

National Planning Policy

- Planning Policy Wales Edition 11
- Future Wales: The National Plan 2040

7.00 PLANNING APPRAISAL

7.01 Site Description

The site is a 1ha area of land, roughly trapezoidal in shape and occupies a position within the settlement of Pen-y-Ffordd as defined within the FUDP. The site slopes gently downhill from a high point in the northwest to south-eastern boundaries with the newly constructed properties at Cwrt-y-Glowyr. The site is presently vacant, semi improved pastureland with access derived via a field gate from Cwrt-y-Glowyr.

- 7.02 The site is surrounded on 3 sides by existing residential development. The linear form of development to the north follows Ffordd Picton and comprises a mix of single and 2 storey dwellings. The aforementioned dwellings at Cwrt-y-Glowyr abut the application site to the southeast. The dwellings and garden areas at the northern end of Coed Mor, along with a communal garage area, form the southern boundary. Boundaries to the west abut further areas of agricultural land which are within open countryside. Boundaries are formed by hedgerows which have developed into expanses of scrub projecting into the site. A small stream is in evidence within the area of the north-western boundary.
- 7.03 The character of built form in the area varies, comprising mainly detached and semi-detached 2 storey and single storey dwellings to the north and east, whereas terraces and semi-detached properties dominate built form to the south.
- 7.04. Proposed Development
The application is for a proposed development of 21 two storey dwellings which will consist of 2 different sized houses with associated parking, access road and amenity spaces. An area of 600m² adjacent to the western boundary will be left as grassland and scrub to provide a natural habitat resource, including one of the two existing mature trees.
- 7.05 The dwellings will vary in size with 16no. three bedroom dwellings and 5 no. two bedroom detached dwellings. Although an entirely market scheme this mix of property types and values will provide a degree of choice and affordability to a wider range of housing in the area. The properties will have between 51 and 240 square metres of private amenity space. 3 Car parking spaces will be provided for each of the dwellings and are located adjacent or in close proximity to the dwelling entrance.
- 7.06 Principle of Development
The site lies within the settlement boundary of Pen-y-Ffordd in the adopted UDP which is a category C settlement. Policy HSG3 requires that in such settlements any additional dwellings are to meet a proved local need for affordable housing.
- 7.07 Planning permission has previously been granted for housing on the site (reference 055398) which has only expired within the last year and this application is a resubmission of that approved scheme. The previous permission is for market housing rather than affordable housing and the case for this is set out by the case officer in the previous committee report. Extracts from that report are set out below:
- 7.08 *The site is located within the settlement boundary of Pen-y-Ffordd which is defined as a Category C settlement within the adopted*

FUDP. Policy GEN2 identifies a presumption in favour of the development of such sites but identifies that in the case of unallocated 'windfall sites' there are limitations imposed via policy HSG3.

- 7.09 *Policy HSG3 directs that upon unallocated sites within settlement boundaries, new housing development will be permitted in Category C where it is designed to meet proven local needs, where it does not conflict with the planned housing provision for the County, as set out in the FUDP, and does not conflict with Policy GEN1. The bringing forward of such windfall sites is consistent with the strategic aims of the FUDP.*
- 7.10 *Members will recall that the development approved upon that parcel of land to the southwest of the site also formed a parcel of unallocated land within the settlement boundary. Permissions granted in respect of this land provide for 19 No. dwellings and one special needs bungalow. The developer of the site is Tai Clwyd.*
- 7.11 *Accordingly, these dwellings will be affordable via the suite of affordability options available to an RSL. The development of this site has therefore provided for 100% affordable housing.*
- 7.12 *I am mindful of HSG3 in my consideration of this application but I do not attribute overriding weight to it in this case. The land is identified as vacant land but within the settlement boundary within the FUDP.*
- 7.13 *There is therefore a presumption in favour of development as a matter of principle. Policy HSG3, where it refers to local needs housing, must be read in tandem with Policy HSG10 which sets out the context for affordable housing within the settlement boundaries. This policy is predicated on the basis of an identified need.*
- 7.14 *I am of the view that the need within Pen-y-Ffordd is adequately catered for via the affordable units under development at Cwrt-y-Glowyr. I am also mindful of other historic RSL development further to the west along Rhewl Fawr Road and the large areas of Council housing within the settlement as a whole.*
- 7.15 The planning history for this site is materially significant, and although now expired, the fact that this is by a matter of months, the recent planning permission holds weight in the planning balance.
- 7.16 Given the previous grant of permission, the units from this site have been counted as part of the committed provision to be made by the LDP and this is also an important consideration in the re-approval of this very recently lapsed permission, in order to ensure that there is

no immediate shortfall to be found in the plan's housing provision, as the Council approaches adoption of the plan.

7.17 Furthermore, consultation with the Councils Housing Strategy team demonstrates that there is a very low local need for affordable housing in the Pen-y-Ffordd area. The provision within the settlement boundary and surrounding areas for affordable housing appears to be sufficient and it would therefore be unreasonable to require that this site be altered from a market scheme.

7.18 The consistent approach, in the absence of evidenced local need is to allow this site to be developed as market dwellings, in line with the previous planning permission. Accordingly, it is considered that the principle of development is acceptable.

7.20 Design

This application varies slightly from that previously approved in terms the layout and a reduction in the number of dwellings to 21 in total. The surrounding village of Penyffordd is characterised by a mixture of property types, styles and ages with a variety of arrangements of built form but has no overall dominant local vernacular. The proposed development is considered visually acceptable.

7.21 The layout takes full account of the existing dwellings adjacent to the site by maintaining separation distances which are in line with Council standards on space about dwellings and overlooking to secure privacy and amenity as well as respecting the private gardens of adjacent houses. The previous planning permission for this site secured additional boundary treatment details by way of a condition and I consider it important to re-impose that condition to safeguard amenity. The revised layout is such that separation distances and amenity spaces are adequate and therefore there is no need to restrict permitted development rights.

7.22 Notwithstanding representations made by residents, I consider the proposals provide an adequate and appropriate response to the design issues raised in connection with the consideration of this application.

7.23 Highway Safety

Access to the site is derived from the residential cul-de-sac of Cwrt-y-Glower. Three parking spaces per dwelling are provided which is in fact above the levels as set out in policy AC13 of the FUDP. Highways Engineers have assessed the proposal and raise no objections in terms of road layout, access or parking provision.

7.24 Whilst the concerns of local residents with regards to an increase in traffic levels in the village are noted, with no objections on highway safety grounds it is considered that the proposal is compliant with policies AC13 and AC18 of the Flintshire Unitary Development Plan.

- 7.25 Public Open Space
The proposals do not provide for on-site public open space intended for formal recreation and play. Consultation with Aura Leisure has revealed that rather than formal provision within the site for play, and in accordance with the previous planning permission, a commuted sum should be sought to be utilised in connection with projects for play and recreation within the community.
- 7.26 The consultation has established that the sum requested should be used in connection with a project to upgrade existing play facilities at the nearby Coed Mor children's play area to the south of the site.
- 7.27 In accordance with the requirements of the Community Infrastructure Levy Regulations (CIL) 2010, this sum, when pooled would not exceed 5 contributions towards a single project.
- 7.28 Education Contributions
Having regard to SPG23: Developer Contributions to Education, the development would not give rise to any contribution requirement at either Primary or Secondary School level as there is sufficient capacity within the schools in question.
- 7.29 Education colleagues have confirmed that the nearest primary school (Ysgol Bryn Garth C. P). has a surplus of spaces for additional pupils. The proposals would give rise to an additional 6 pupils. Accordingly, no contribution is sought for primary educational purposes as a consequence of this development.
- 7.30 The capacity at the nearest secondary school (Ysgol Treffynnon). Also has a surplus of spaces for additional pupils. The proposals would give rise to an additional 4 pupils. Accordingly, no contribution is sought for secondary educational purposes as a consequence of this development.
- 7.31 Drainage
With regards to drainage Welsh Water confirm that capacity exists within the public sewerage network in order to receive the domestic foul only flows from the proposed development site. Welsh Water advise specifically that the application proposes to utilise permeable paving, and the applicant is advised that a service corridor should be provided around public sewers to allow access to these assets which would be included as a note on the decision notice.
- 7.32 Welsh Water also note that the applicant proposes to discharge surface water to a nearby watercourse and offer no objection to this in principle.
- 7.33 Concerns have been raised by local residents with regards to existing drainage capacity issues in the village and the potential of flooding

from the site. With regards to capacity issues this has been adequately addressed above with Welsh Water confirming that there is capacity.

7.34 The residents claim that flooding has occurred and worsened since the granting of planning permission previously. The site is not in a recognised flood zone and neither NRW or Welsh Water raise flooding as a concern despite complaints made directly to them from local residents. In addition there is no evidence provided that the proposed development will exacerbate problems which appear to exist at times of extreme rainfall. Members will be aware that the application will be subject to SAB approval which will consider the methods of sustainable surface water drainage. The submission and approval of a suitable scheme to deal with surface water from the development will be an improvement to the lack of drainage facilities which exist currently.

7.35 Ecological Matters

The application is supported by a Preliminary Ecological Appraisal which confirms that the site is not subject to any statutory or non-statutory designations. However, the site's western hedgerow boundary is likely to serve a landscape-scale role in connecting the nearby woodland to the wider landscape, and so is ecologically valuable green infrastructure when evaluated in the wider context. The site also has supporting value for protected species.

7.36 The site has the potential to support protected species such as foraging bats, nesting birds, great crested newts, reptiles and hedgehogs. All other protected species are likely absent from the site, due to unsuitable habitats, levels of disturbance, species range, and/or landscape context.

7.37 Although avoidance measures and mitigation measures will likely reduce any impact on protected species it is recommended that for security conditions relating to works to trees and the hedgerow be imposed.

7.38 Other Matters

Representations from a local resident raise concern with the integrity of the applicant and the fact that the previous planning permission lapsed. Neither of these matters are planning related or are material to the consideration of this application.

7.39 In addition Llanasa Community Council requested that the application was deferred from committee in November to allow them to review their comments. At time of writing report those comments are outstanding.

8.00 CONCLUSION

This application seeks planning permission for the proposed development of land at Rhewl Fawr Road, Penyffordd. Planning permission was granted for residential development of 23 dwellings on this land which has only just lapsed. The planning history is significant in determination of this application both in terms of the principle of development and the housing commitment levels as put forward in the draft LDP. In addition, low local housing need evidence is such that market dwellings would be acceptable still in this location. In terms of consistency there are no material changes in circumstances since the granting of planning permission previously.

Matters including highway safety, drainage, ecological implications and public open space contributions have been assessed and are considered acceptable.

Concerns raised by residents in relation to residential amenity have been considered but the proposal complies with both local planning guidance and supplementary planning guidance.

8.01 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.

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.

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

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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