

PLANNING & DEVELOPMENT CONTROL COMMITTEE
20 JUNE 2012

Minutes of the meeting of the Planning & Development Control Committee of Flintshire County Council held at Alyn & Deeside Room, County Hall, Mold CH7 6NA on Wednesday, 20th June, 2012

PRESENT: Councillor David Wisinger (Chairman)

Councillors: Chris Bithell, Derek Butler, David Cox, Ian Dunbar, Jim Falshaw, Veronica Gay, Alison Halford, Patrick Heesom, Ray Hughes, Christine Jones, Richard Jones, Richard Lloyd, Billy Mullin, Mike Peers, Neville Phillips, Gareth Roberts and Owen Thomas

SUBSTITUTION:

Councillor: Marion Bateman for Carol Ellis

APOLOGIES:

Councillor David Evans and Ron Hampson

ALSO PRESENT:

The following Councillors attended as local Members:-

Councillor C.J. Dolphin - agenda items 5.1 and 5.6. Councillor R. Johnson - agenda item 5.11

IN ATTENDANCE:

Head of Planning, Development Manager, Planning Strategy Manager, Senior Engineer - Highways Development Control, Senior Planners, Manager (Minerals and Waste), Principal Solicitor and Committee Officer

18. **DECLARATIONS OF INTEREST**

Councillor A.M. Halford declared a personal interest in the following application:-

Agenda item 5.2 – Erection of 11 No. dwellings at former North Wales Police Station, 105 The Highway, Hawarden (049448)

Councillors D. Butler and W. Mullin declared a personal interest in the following application:-

Agenda item 5.5 – Erection of up to 24 No. dwellings together with means of access from shopping park link road and removal of part of existing earth bund and change of use of land to domestic gardens at land west of Broughton Shopping Park, Broughton (049488)

19. **LATE OBSERVATIONS**

The Chairman allowed Members an opportunity to read the late observations which had been circulated at the meeting.

20. **MINUTES**

The draft minutes of the meeting of the Committee held on 23 May, 2012 had been circulated to Members with the agenda.

Councillor P.G. Heesom referred to page 10 and said that at the meeting, he had queried whether the previous reserved matters decision on 12 Banks Road, Mancot had been taken by committee or by officers. He had since found out that it was dealt with by delegated decision which he felt was unacceptable. He asked for an inquiry into why it had happened that way and requested that an investigation be undertaken with its results reported back to Committee. In response, the Principal Solicitor said that the issue was not for the Committee to address and that if Councillor Heesom felt that the process had been inappropriately followed then he should raise it with the Head of Planning or the Monitoring Officer. Councillor Heesom responded that he reserved his right to write to the Monitoring Officer. Councillor A.M. Halford said that she intended to write to the Monitoring Officer on the issue.

Councillor R.C. Bithell referred to the resolution on minute number 11 and said that Members had requested that the windows be Georgian to match what was currently in place but this had not been reflected in the resolution. In response, the Principal Solicitor said that the decision notice might have been issued but if it had not, he suggested that the words “noting Members’ request that the new windows be ‘Georgian-style’” be included at the end of the resolution. The Development Manager confirmed that the decision notice had not been issued and could be amended.

Councillor R.B. Jones raised concern about the timing of the issue of the decision notice before the minutes had been amended or confirmed by the Committee at the subsequent meeting. He asked whether the minutes should be agreed before the decision notice was issued. The Head of Planning advised that a report regarding the drafting of reasons for refusal of applications was to be considered at the next meeting of the Planning Protocol Working Group, and the points made by Councillor Jones could be the subject of a broader debate.

RESOLVED:

That subject to the foregoing, the minutes be approved as a correct record and signed by the Chairman.

21. **ITEMS TO BE DEFERRED**

The Principal Solicitor advised that deferment of the following application was recommended:

Agenda item 5.2 – Full application – Erection of 11 No. dwellings at 105 The Highway, Hawarden (049448) – due to the application not being in a form where it could be determined as formal notice of the application needed to be given to Flintshire County Council as the landowner of a strip of land to the front of the site.

Councillor M.J. Peers proposed deferment of the following application:-

Agenda item 5.8 – Demolition of existing single storey rear extension and construction of new single storey extension to provide bedroom, bathroom and living space for wheelchair access at 15 Hawarden Drive, Buckley (049623) - due to information being received which was relative to the application which the local Member had not had the opportunity to consider.

The Principal Solicitor said that in the view of officers, when reports were ready to be submitted they were included in the agenda. Councillor R.C. Bithell reminded Members that they should be mindful that the applicant could appeal because of non-determination.

Councillor P.G. Heesom proposed deferment of the following application and commented upon its complex nature:-

Agenda item 5.4 – Erection of additional educational/residential facilities to compliment existing school provision for children with autistic spectrum disorder at Kinsale Hall, Llanerch y Môr (048115) – to allow a site visit to be undertaken because it was a major application in the open countryside.

The Planning Strategy Manager said that this and the following application were for the same site, for similar uses with similar impacts. He felt that they should be considered, or deferred, together, and queried why Councillor Heesom was only asking for deferral of one of the two applications. Councillor Heesom then proposed deferring both applications for a site visit on the basis that he felt there was sense in looking at both sites:-

Agenda item 5.3 – Erection of a detached residential block at Kinsale School, Llanerch y Môr, Holywell (048983)
– to allow a site visit to be undertaken.

Councillor R.C. Bithell stated that Members were issued with a notice of the application where they could put forward their comments and request a site visit if required; he found it disturbing that site visits were then being requested at Committee meetings. Councillor Halford agreed that site visits should be kept to a minimum but if something happened after the despatch of the agenda, it might be appropriate for a site visit to be undertaken.

All of the propositions for deferral were duly seconded and, on being put to the vote, agenda items 5.2, 5.3, 5.4 and 5.8 were deferred.

RESOLVED:

That agenda items 5.2 (105 The Highway, Hawarden), 5.3 (Kinsale School, Llanerch y Môr), 5.4 (Kinsale Hall, Llanerch y Môr) and 5.8 (15 Hawarden Drive) be deferred.

22. **FULL APPLICATION - OPERATION OF AN OUTDOOR RECREATION ACTIVITY KNOWN AS SPHEREING INCLUDING RETENTION OF CABIN, PORTALOO AND ALTERATIONS TO EXISTING ACCESS ON LAND OPPOSITE BRYN COCH ROAD, WHITFORD, HOLYWELL (049709)**

The Committee considered the report of the Head of Planning in respect of this application which had been the subject of a site visit on 18 June 2012. The usual consultations had been undertaken and the responses received detailed in the report. Additional comments received since the preparation of the report were circulated at the meeting.

The officer detailed the background to the report and drew Members' attention to the late observations and advised Members that the figure in the final sentence of paragraph 7.26 should read £15.9 M not £15,300. A similar application had been granted temporary permission in April 2011 in order for the impact of the development upon highway, horse and rider safety and usage of the bridleway to be monitored. He detailed some of the responses that had been received following consultation and advised that nine letters of objection had been received; he also detailed the objections put forward by the British Horse Society. One serious accident had been reported to the Flintshire Local Access Forum when a rider had been thrown from a horse which had bolted. The main issues for consideration were detailed at paragraph 1.01 and included the effects upon the users of the bridleway, the impact on the setting of the listed building, and the economic implications. The officer added that, if the application was approved, it would be the equivalent of closing the bridleway when the spherering was taking place and therefore the recommendation was one of refusal.

Mrs. A. Chamberlain spoke against the application, saying that in her opinion the site was in the wrong place. She said that no amount of screening would solve the problem faced by those using the bridleway. She said that she was an experienced rider horse owner and that the earlier reference to a rider being thrown from a horse had been to her. She said that the bridleway could not be used at weekends or in the school holidays because of the activity taking place. The sphereing activity could be relocated, the bridleway could not. The development site had increased the amount of traffic in the area and she felt that the lane was not suitable for extra traffic. The equine database showed that there were 5,300 horses registered in Flintshire and as a result nearly £16m was brought by horse owners into Flintshire's economy every year. She felt that sphereing did not bring tourism to the area as the vast majority of users of the site were day trippers. She asked Members to turn down the application.

Mr. R. Wotton, the applicant, spoke in support of the application and provided details of the company's background explaining that the site was only open for one to two days per week and employed ten local staff. He said that many tourists stayed in the area, purchased local produce and revisited each year. He detailed the gift websites where tickets for the sphereing activity could be purchased, and which showcased Flintshire. He said that he had been a horse rider for 40 years, had spent time in the Household Cavalry and so knew how horses behaved. He said that one or two horses used the bridleway when sphereing was in operation; he was willing to keep the ball away from the bridleway when riders wanted to use it. He spoke of press coverage which he said had reported a problem about the area of the ball launch, of which he was

not aware. Other sites operated next to riding schools without any problems being caused.

Councillor P.G. Heesom proposed approval of the application, against officer recommendation, for a period of five years, which was duly seconded.

Councillor R.C. Bithell said that it would appear that Members were being asked to decide between horse riders and sphereing. It was reported that the Tourism Manager supported the application as it was a scheme which allowed more diverse activities to boost the economy. It was operating successfully and Councillor Bithell referred to the late observations and the comments from Councillor D. Williams who had indicated that in his experience, the operators were very strict on health and safety matters and that the site was very well run. He said that it had also been noticeable that when groups of riders wanted to pass, the event stopped until all horses and riders were clear. Councillor Bithell said that he could see no reason to refuse the application but asked if it was possible to move the area where the ball was used slightly to the left of its current location.

The local member, Councillor C. Dolphin, spoke against the application. He said that the Committee had heard from an expert witness about horses and also heard an emotive statement from the applicant. He said that he had spoken to the Tourism Manager to request figures relevant to the issue. He said that the company's website did not advertise any local establishments, particularly in Holywell. The activity was in its third year on the site as it ran for the first year of operation without planning permission. He said that this was an enforcement-generated application which had been granted for one year to look at the impact on the bridleway. He said that the Environment Directorate, planners and British Horse Society had urged that the application be refused. The Tourism Manager's reported comments in support were subject to a proviso. If the original proposal had been the subject of a planning application in advance, it would have been refused as being contrary to policy. Councillor Dolphin felt that the application did not comply with policy GEN1, STR2 and STR7 and was in the wrong location. He highlighted paragraph 7.23 where it was reported that, if planning permission was granted, it would be the equivalent of closing the bridleway at weekends and holidays. He asked the Committee to refuse the application.

Councillor M.J. Peers said that temporary permission had been granted to see how it impacted upon the bridleway and its users. He noted the recommendation of the officer that the application was contrary to policy and the Unitary Development Plan (UDP) and took note of the local Member and the comments in paragraph 7.23. He said that he did not feel that the bridleway should be closed because of this activity and added that he was minded to refuse the application. However, he felt that a further one year of operation could be approved to allow the operators to find an alternative site but if they did not, then the site should be closed at the end of that period. The proposal was duly seconded.

Councillor P.G. Heesom then suggested an amendment to his proposal so that the temporary permission would be for three years.

Councillor D. Butler felt that the bridleway should be safeguarded but pointed out that many bridleways in Cheshire had gates to prevent horses and riders coming into contact with other activities and added that the site could be screened. He said that diversification should be welcomed and that Whitford Community Council had not objected to the application. He also referred to the late observations sheet which reported that an alternative route had been used during the Mostyn Fun Ride which was away from the launch pad area; he felt that this would be a solution to the issues raised.

Councillor W.O. Thomas said that there was a need to encourage tourism into the area but that to put the activity next to the bridleway was not a good mix.

The officer said that the recommendation had been made based on the comments from consultees, particularly the Rights of Way Officer and the British Horse Society. On the comment made by Councillor Bithell about moving the activity to the left, it would still mean that the launch pad was in close proximity to the bridleway. Highways did not have any objections to the application and screening would not be appropriate as it would take a large amount of screening which would take time to become established.

Councillor Heesom said that it was not a planning matter to decide between users but that the management of the site was a material consideration. He questioned whether there was any demonstrable harm to the open countryside. No consultee responses were prejudicial, but he requested that proposed conditions be considered particularly in relation to the management of the site and reiterated his proposal for further temporary consent.

The Principal Solicitor said that it was important to bear in mind that the public bridleway had the status of a highway which walkers, horses and cyclists were entitled to use at all times without interruption, whereas the proposed development related to a private use of land.

Councillor Bithell asked if it was possible to condition that the sphereing stop when a horse and rider were using the bridleway.

The Principal Solicitor suggested that a management scheme could be submitted but added that a condition might be difficult to enforce.

Councillor R.B. Jones proposed deferment of the application to consider conditions about the management of the site; the proposal was duly seconded. The Principal Solicitor detailed the order in which Members would vote on the proposals put forward.

In response to Councillor Peers' proposal, the Head of Planning advised Members that there would be nothing to stop the applicant submitting another application and that it could not be determined now that the application would be refused. On being put to the vote, the proposal was LOST.

The Committee then voted on the amendment by Councillor Jones to defer the application in order to consider conditions on the management of the site to avoid conflict between the application site and the bridleway. On being put to the vote, the proposal was CARRIED.

RESOLVED:

That determination of the application be deferred to allow officers to look at possible conditions including one requiring management of the development site to avoid conflict with the use of the bridleway.

23. **OUTLINE – ERECTION OF UP TO 24 NO. DWELLINGS TOGETHER WITH MEANS OF ACCESS FROM SHOPPING PARK LINK ROAD AND REMOVAL OF PART OF EXISTING EARTH BUND AND CHANGE OF USE OF LAND TO DOMESTIC GARDENS ON LAND WEST OF BROUGHTON SHOPPING PARK, BROUGHTON (049488)**

The Committee considered the report of the Head of Planning in respect of this application which had been the subject of a site visit on 18 June 2012. The usual consultations had been undertaken and the responses received detailed in the report. Additional comments received since the preparation of the report were circulated at the meeting.

The officer detailed the background to the report and drew Members' attention to the late observation sheet which detailed the requested highway conditions. Condition 16 in the report was to be amended to require the submission of a biodiversity protection and conservation scheme instead of a Reasonable Avoidance Measures scheme; this had been agreed with the applicant and the Countryside Council for Wales. All matters except access were reserved for later approval. A development brief for housing at the Compound Site, West of Broughton Retail Park, Broughton had been adopted in March 2012.

Mr. M. Krassowski, the agent for the applicant, spoke in support of the application. The site was allocated for housing in the Unitary Development Plan (UDP) and a development brief had been adopted for the site, with which, following minor amendments, the development fully accorded. He explained that consultation had been undertaken with the owners of the properties which would be affected by the proposed removal of the bund adjoining their properties, and they agreed with the proposals. There were no noise implications as a result of the removal of the bund. The continuation of the green corridor adjacent to the link road would enhance the biodiversity of the site and the area. Included in the proposal were six affordable homes which the applicant had agreed to even though the size of this site itself did not technically require the provision of affordable units.

Councillor W. Mullin, the local Member, thanked Members for attending the site visit and thanked the Planning Strategy Manager for the development brief for the site which he felt was vitally important. He indicated that because he was a school governor for Broughton Primary School, which and it was proposed would receive a financial contribution if the application was permitted, both he and Councillor D. Butler had been advised that they were able to speak for three minutes and then should leave the chamber during the debate. He said that he was minded to support the recommendation but still had some concerns about the bund, even though he said that most residents were happy about its removal. He said that the development brief indicated that some of the properties would be 2.5 storeys requiring the provision of dormer windows and roof lights. He

disagreed with three storey units but felt that roof lights and dormer windows might be acceptable.

Councillor D. Butler said that he had been opposed to the site being in the UDP but now recognised that that the Inspector had designated the whole site for residential use. He concurred that one of the issues which needed addressing was the 2.5 storey buildings and said that there were no three storey buildings in Broughton. He also felt that three bedroom apartments would need three parking spaces. He had been involved in the preparation of the development brief, which needed to be followed. He did not understand why he was not permitted to take part in the debate on the application.

Councillors D. Butler and W. Mullin, having earlier declared an interest in the application, left the meeting after they had spoken for three minutes but prior to the debate.

Councillor M.J. Peers proposed the recommendation for approval which was duly seconded. He referred to the recommendation in paragraph 2.01 and felt that it should be conditioned that the shared equity scheme should be on a 70%/30% basis. He asked how many bedrooms would be in the affordable properties and said that the provision needed to be linked to local need. He sought assurance that buyers would not be disadvantaged by the affordable properties being of a lower specification than comparable properties.

The officer said that as this was an outline application, details on the number of bedrooms were reserved for the reserved matters application.

The Planning Strategy Manager commented that the value of having the development brief was that it gave guidance on what could be included in scheme. Councillor N. Phillips asked if it was appropriate to invite Councillor Butler back into the meeting to hear what was being said in answer to the points he had raised. In response, the Principal Solicitor said that both of the Members had been given the same advice, and it was ultimately a matter for them whether or not to accept the advice and act upon it. As Councillor Butler had acted upon that advice and had declared an interest, it would be inappropriate to invite him back part way through the debate.

RESOLVED:

That planning permission be granted subject to the conditions detailed in the report of the Head of Planning and subject to the completion of a Section 106 agreement requiring the following:-

- a) affordable housing – the provision of 6 units to be sold on a shared equity basis
- b) education provision - £21,000 financial contribution for improvements to local education facilities at Broughton Primary School
- c) public open space - £1,100 per dwelling to enhance existing recreation facilities in the community in lieu of on site provision
- d) public footpath link – the provision of a footpath link between roundabouts R2 and R3 linking the existing footway along the Shopping Park Link Road with the pedestrian link to Church Road to the north west of R3.

24. **PROPOSED EXTENSIONS AND ALTERATIONS AT GELLI FARM, GELLI ROAD, PEN Y ALLT, TRELOGAN (049629)**

The Committee considered the report of the Head of Planning in respect of this application which had been the subject of a site visit on 18 June 2012. The usual consultations had been undertaken and the responses received detailed in the report. Additional comments received since the preparation of the report were circulated at the meeting.

The Development Manager detailed the background to the application and said that the application was the first of two relating to this former farmhouse, which was designated as a building of local interest (BLI). He referred to Policy HE4 which contained a strong presumption against the demolition of BLIs and that any alterations needed to be done sensitively so that the character of the building was retained. He also highlighted policy HSG12 which covered extensions to dwellings. He referred to the history of proposals and negotiations and said that the application before committee proposed to raise the ridge height of the existing building by 300mm. with two storey and single storey extensions to the rear. The percentage increase in floorspace amounted to 115% over the existing dwelling. If the outbuildings were retained and were taken into account in the calculation, it would still result in an increase of approx.80%. He reminded Members that the indicator referred to in policy HSG12 for increases in footprints was 50%. He added that officers were prepared to allow an increase in the region of 80% if other issues with the application were addressed. However, the current recommendation was for refusal as the application compromised the character of the BLI. He was confident that an acceptable scheme could be achieved and added that officers were prepared to continue to negotiate with the applicant to seek an agreement.

Mr. J. Paul, the agent for the applicant, spoke in support of the application. He said that the property had been vacant for four years and the applicant had engaged in negotiation about a scheme. He raised concern at the designation of the BLI which had come as a surprise and which had been contested by the applicant. He had also put forward an amended scheme. His client wished to put a replacement dwelling on the site and the extension application was only because of the BLI designation. He disagreed with the reported percentage increase figures and said that the increased footprint was only 15%. Pre-application guidance had indicated that the caravan and outbuildings could be included in the calculation and that it would still comply with policy. He felt that the increase in the ridge height of the roof by 300mm would not have an impact. The property was currently empty and the proposal would be more practical for the family. There was visually no difference to what was there now but the proposal would be an enhancement and he felt that it was a scheme that Members could support.

Councillor R.C. Bithell proposed the recommendation for refusal which was duly seconded.

Councillor W.O. Thomas said that the officer had indicated that they were nearly in agreement about a scheme and proposed that the application be deferred to allow for further discussion. The officer referred to sketch plans he had prepared which showed how the scheme might be amended to be

acceptable. He disputed the figures which Mr. Paul had put forward but said that they were prepared to continue negotiation on the basis of the amendments which had been identified. Councillor Thomas then withdrew his proposal for deferment.

The local Member, Councillor C. Dolphin, spoke in support of the application which he felt would be a lovely family home. He said that the BLI designation had come as a surprise to the applicant. The raising of the ridge height by 300mm would be insignificant, there would not be any noticeable difference and objections had not been made by neighbours. He felt that there was not much of the original building left, and the current structure was completely out of character. The property was a small two bedroomed dwelling which was unsuitable for a family and so needed a significant extension scheme. He said that the proposal did conform to policy including HSG4, and on the issue of the calculation of the increase in the floorspace of 115%, he said that this depended on how the figures were calculated. He asked the Committee to support the application.

In response to the comments made, the officer said that the building, which was an early 19th century farm house, had been designated as a BLI and this was the basis upon which officers were prepared to discuss and negotiate with the applicant to see if a proposal which was acceptable in policy terms could be agreed. He said that officers' calculation of the increase of 115% in the floorspace was correct and was a significant extension, which in terms of scale and design was damaging to the BLI. It was the applicant who was pressing for a decision and he asked Members to refuse the application to allow further discussion with the applicant to take place.

In response to a comment from Councillor R.B. Jones on the BLI designation, the Planning Strategy Manager said that he did not have the details to hand but that the issue had been to court as the applicant had disputed the designation, and the court had accepted that due process had been followed.

Councillor D. Butler said that he felt that officers had been very generous in allowing over 50% increase in the footprint. He felt that the outbuildings could not be seen from the front and that fact would help it to be developed into a family home. However, he was concerned about the increase in the roof height. He felt that a scheme could be negotiated between officers and the applicant and his agent but the roof height should be retained.

Councillor R.C. Bithell referred to the challenge of renovating a property of this age but felt that agreement could be reached through negotiation and that refusal at this time was correct.

RESOLVED:

That planning permission be refused for the reasons detailed in the report of the Head of Planning.

25. **PROPOSED ERECTION OF A REPLACEMENT DWELLING AT GELLI FARM, GELLI ROAD, TRELOGAN (049630)**

The Committee considered the report of the Head of Planning in respect of this application which had been the subject of a site visit on 18 June 2012. The usual consultations had been undertaken and the responses received detailed in the report. Additional comments received since the preparation of the report were circulated at the meeting. The Development Manager introduced the item, stating that there was a clear presumption against the demolition of Buildings of Local Interest (BLIs) in Policy HE4 of the UDP.

Mr. J. Paul, the agent for the applicant, spoke in support of the application. He expressed his disappointment at the decision of the Committee to refuse the previous application for the same site. In referring to that application, he said that he had documentary evidence to prove that the outbuildings and the caravan could be included when calculating the overall percentage increase in the footprint. He also said that he had requested an appointment with officers but this had been declined. He said that a BLI could not be demolished. He referred to policy HE4 and said that a structural survey had shown that the building was deficient. Mr. Paul said that to insist the building remained did not comply with policy. He said that the proposal would provide greater energy efficiency and there was no greater impact than the previous scheme. He added that the size was only slightly higher than the extension scheme, was DDA accessibility compliant, and complied with policy.

Councillor R.C. Bithell proposed the recommendation for refusal which was duly seconded. He said that he found it difficult to believe that the building was deficient and said that on the site visit, the building appeared to be structurally sound. He felt that it could be restored rather than demolished.

Councillor D. Butler referred to the fact that it was a BLI and said that officers had explained that a court had confirmed this. Councillor Bithell quoted from policy HE4 making particular reference to demolition only being permitted if the building was structurally unsound and could not be made safe without extensive alteration or rebuild, which officers did not feel was the case. The officer said that there was no evidence that the building was structurally unsound so as to warrant the demolition of the building. The Planning Strategy Manager reminded Members that even if the building was proved to be unsound then the proposal would not be compliant with Policy HSG6 which required that any dwelling to be replaced was habitable. He added that officers were being flexible in their negotiations.

RESOLVED:

That planning permission be refused for the reasons detailed in the report of the Head of Planning.

26. **OUTLINE APPLICATION FOR ERECTION OF A DWELING ON LAND REAR OF ISLWYN, TRELOGAN, HOLYWELL (049665)**

The Chairman indicated that he had been asked by the local Member, Councillor N.R. Steele-Mortimer to defer the item as he was unable to attend the meeting. This was proposed by Councillor H.G. Roberts and was duly seconded.

RESOLVED:

That consideration of the application be deferred.

27. **OUTLINE ERECTION OF A TWO BEDROOMED SINGLE STOREY BUNGALOW AT OAKSWOOD, BERTH DDU, RHOSMOR, MOLD. (049452)**

The Committee considered the report of the Head of Planning in respect of this application. The usual consultations had been undertaken and the responses received detailed in the report.

The Development Manager explained that this application followed an appeal against the refusal of a similar application in 2011 which was dismissed by the Inspectorate. The site was outside the settlement boundary but was considered to comply with the infill policy HSG5 requirements as it was set within a row of dwellings where there was a clearly identifiable group of houses within a continuously developed frontage. The application was considered primarily as an infill plot with the additional context of close care accommodation provision for the applicant's daughter. Policy HSG5 provision was made for limited infill, subject to the criterion that it was for a proven local housing need. At the appeal, the Inspector had suggested that if the applicant entered into a Section 106 legal obligation to offer the property back to the Council or a Registered Social Landlord if the property should come up for sale, on a first refusal basis, he would have allowed the appeal. On this application, the applicant had agreed to enter into the Section 106 obligation to provide for the property to be offered back to the Council for full market value, which recognised the cost to the applicant of providing the dwelling.

Councillor R.C. Bithell proposed the recommendation for approval which was duly seconded. He said that he was intrigued as to why the applicant was so vehemently opposed to the condition that it should be offered to a Registered Social Landlord or the Council for someone in a similar situation. He highlighted paragraph 7.05 which reported that this would only occur if there was at the time an identifiable need for such a specialised or adapted property. If this was not the case, the applicant could sell the property on the open market. Councillor H.G. Roberts raised concern at the application and said that he felt that it was finely balanced between approval and refusal.

The Planning Strategy Manager said that policy HSG5 within the UDP was not just about infill as the Inspector had stated that, within the policy, provision was made for limited infill, subject to the criterion that it was for a proven local need. The Committee had resolved to grant planning permission in October 2010 subject to the conditions in the report and to the completion of a Section 106 Agreement. The applicant had not signed the agreement as he thought that the property had to be offered at a reduced rate. He was not happy to do this

due to the cost of the adaptations but he had now agreed to sign the Agreement as the property would be offered at full market value.

RESOLVED:

That planning permission be granted subject to the applicant entering into a Section 106 Obligation, requiring that before the property is offered for sale on the open market, the Council or a Registered Social Landlord (RSL) shall be given the option to purchase it at full market value, should the Council or RSL have identified a need for such a specialised or adapted property. (In the case of any dispute the full market value at the time of sale shall be established by the District Valuer), and subject to the conditions detailed in the report of the Head of Planning.

Councillor P.G. Heesom indicated that he wished it to be recorded in the minutes that he had voted against the granting of permission.

28. **GENERAL MATTERS - 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 AT CROES ATTI, CHESTER ROAD, OAKENHOLT. (049154)**

The Committee considered the report of the Head of Planning in respect of this application. The usual consultations had been undertaken and the responses received detailed in the report.

In introducing the item, the Development Manger reminded Members that at the meeting of the Committee held on 14 March 2012 they resolved had that the County Council's stance in respect of the appeal was to request that the Inspector allow the appeal subject to a Section 106 Agreement and conditions listed in the officer's report for that Committee. However, in addition to endorsing the conditions and legal agreement recommended by officers, the Committee had also stipulated a further condition requiring that the play area be up to adoptable standard, that it be offered to the County Council for adoption and that a 10 year maintenance sum be requested if the play area was adopted. Following the resolution, Counsel had been instructed in respect of the appeal and the advice given was that the condition requested by Members could not be reasonably advanced.

The officer also reminded Members that when the stance for the appealed application was presented to Committee, the Council was still in the process of clarifying whether or not an additional financial contribution would be required in addition to the land "gifted" over to the Council to provide for a school, as set out in the existing Section 106 Agreement relating to the site. The Committee endorsed the stance that, if deemed necessary, an education contribution be sought for schools served by the development. At the Committee on 18 April 2012, when duplicate application 044426 was considered, late observations received from the Head of Education and Resources confirmed that in addition to the "gifted" land to provide for a new school, an educational contribution of

£290,500 would be required. Members had resolved to defer that application, so the decision had not been issued.

Officers progressed the Council's appeal stance on the understanding that a financial contribution would be required. During the progression of the Council's appeal statement, the Head of Education and Resources had reviewed the background data on justifying the need for an educational contribution and was now of the opinion that it would be unreasonable to require such a contribution. Therefore, it was recommended to Members that the clause that the play area be brought up to adoptable standard and offered to the Council for adoption be dropped and that, as the request for the commuted sum educational contribution could not be sustained, this should not be pursued.

Councillor R.C. Bithell proposed the officer recommendation as detailed in the report which was duly seconded.

The local Member, Councillor R. Johnson, said that she had been advised that neither she nor Councillor J. Yorke from Flint Town Council had been permitted to speak at the Committee meeting on 14 March 2012. She said that the Monitoring Officer had recently confirmed that this decision was incorrect. She said that the appeal had been validated as a Section 73 application and she questioned whether this was correct as development had already started on the site. She highlighted paragraphs 6.06 and 6.07 of the report and referred to Councillor J.B. Attridge's question about the development brief and the response that this had been adopted in 2005; she believed this to be untrue and said that she felt that the 1999 development brief was the only formally approved brief. She asked that the County Council position be reviewed and further talks open with the developer so that the Council was not faced with further punitive costs.

Councillor Bithell said that he had read the report in detail and said that the legal advice which had been sought needed to be followed. He asked for an investigation of how the authority had arrived at this situation.

Councillor P.G. Heesom said that not much debate was needed on the recommendation and concurred that even though it had come in as a Section 73 application, it could not be granted under that process as the section stated that planning permission could not be granted to extend an outline planning permission. He said that the crux of Counsel's opinion was that non-determination raised a number of serious questions and said that there were grounds when an authority could decline to determine an application. He felt that there had to be another application for outline consent and that Members should support the officer recommendation.

In response to the comments made regarding the process of Section 73 applications, the Principal Solicitor said that he suspected that any misunderstanding regarding the process might have arisen from the fact that amendments made to the Section by the Planning and Compulsory Purchase Act 2004 only applied to England, not Wales. Notwithstanding the comments made, the Head of Planning said that the issues of validity could be raised with counsel.

RESOLVED:

That the Council's case to the appeal be amended in accordance with the recommendation in the report to the Planning & Development Control Committee meeting on 14 March 2012, and as set out in the Head of Planning's report.

29. **GENERAL MATTERS - ERECTION OF 10 NO. TWO BEDROOM APARTMENTS AT RISBORO, NANT MAWR ROAD, BUCKLEY (049451)**

The Committee considered the report of the Head of Planning in respect of this application. The usual consultations had been undertaken and the responses received detailed in the report.

The officer explained that Members had resolved to refuse the application at the meeting held on 23 May 2012 on the grounds of overdevelopment/overlooking; setting a precedent for redevelopment and additional traffic generation. Members were today being asked to reconsider their reasons for refusing the application and to consider refusal upon grounds other than that of highway impact; paragraphs 6.03 to 6.06 detailed why this was being requested.

Councillor H.G. Roberts said that he would vote against the reason for refusal on overdevelopment due to the existence of Llys y Nant.

Councillor R.C. Bithell proposed refusal on all grounds and referred Members to the minutes of the last meeting where he had voted against refusal of the application on all grounds. The Principal Solicitor said that the application was not for re-determination at this meeting and said that the advice which had been provided was that the reason for refusal on highway grounds was not sustainable. The Head of Planning reminded Members that they had taken the decision at the last meeting to refuse on three grounds but that it was now officers' recommendations that the highways reason was indefensible. The appeal could be advanced on the other two reasons for refusal.

Councillor N. Phillips proposed the recommendation in the report to remove the highways reason for refusal from the resolution which was duly seconded.

Councillor R.B. Jones queried why the suggested reasons for refusal shown on pages 143 and 144 were not specific in relation to policy and in response the officer advised that if the decision was appealed, then more specific details would need to be provided.

RESOLVED:

That the reason for refusal on the grounds of highways be not included in the decision notice and that the reasons for refusal be shown as being on the grounds of overdevelopment/overlooking and setting a precedent for redevelopment, as set out in the Head of Planning's report.

Councillor R.C. Bithell indicated that he wished it to be recorded in the minutes that he had voted against the resolution.

30. **CONSTRUCTION OF AN EDUCATION CENTRE WITH CONTINUATION OF ACTIVITIES AT ADJOINING MATERIALS RECYCLING FACILITY, IMPROVEMENTS TO EXISTING OFFICE/STAFF FACILITIES BUILDING AND RETENTION OF CAR PARK COMPOUND REF. 049740 AT SPENCER INDUSTRIAL ESTATE, BUCKLEY (049740)**

The Committee considered the report of the Head of Planning in respect of this application. The usual consultations had been undertaken and the responses received detailed in the report.

The officer detailed the background to the report. There had been no objections to the application but Countryside Council for Wales (CCW) had requested that a condition be included on any permission to ensure the implementation of the Ecological Method Statement prior to the commencement of works. He explained that no objections had been received through the public consultation process. The site had been in existence for a number of years and was a response to the reorganisation of Streetscene. He commented on the hours of operation which were detailed in the report and advised Members that the current five day working pattern was changing to a six day pattern with the hours of operation being 7am to 8pm Monday to Saturday with no working on Sundays or bank holidays. He identified the range of waste streams which would be dealt with at the site and in highlighting page 152 of the report said that some of the land would be turned into a car park. He highlighted the section on ecology and on the issue of highways. It was proposed that the 11 collection vehicles would leave the materials recycling facility (MRF) at 7am and would return at 5pm. During the day, the vehicles would make two or three trips to the site, resulting in approximately 88 collection vehicle movements per day assuming that three trips were made to the MRF by each vehicle during the working day. The road was currently unadopted, might be adopted in the future, but was currently adequate. As the adjacent West Penning Recycling centre and the landfill site had now closed, this had reduced the potential for conflict between vehicles operating from either site.

Councillor R.C. Bithell proposed the recommendation for approval which was duly seconded.

The local Member, Councillor M.J. Peers, said that in principle he supported the recommendation, particularly the introduction of the educational centre. However he had concerns about the extended operating hours which would result in an additional 18 hours working per week. He commented on the area which had been planned for public parking for the Standard Landfill Site and said that he had enquired about this but had not received a response. He felt that efficiency savings could be found to relieve the pressure on residents. He suggested an amendment that the extended hours not be accepted until further work had been done, supported by evidence, to justify why the extended hours were required; the amendment was duly seconded. In response, the Head of Planning said that extended hours had been requested but this was on an industrial estate so queried what impact it would have on the area. Councillor Peers felt that the impact was because of the time of the returning vehicles and that there was no justification set out in the report for the extended hours.

On the issue of public parking for the Standard Landfill Site, the Manager (Minerals and Waste) said that Streetscene were looking at parking at the other end of the industrial estate for that facility to keep them separate. He added that the waste collection rounds had been prepared making use of the fleet which the Council already had. The hours of operation for recycling had been extended from 7pm to 8pm with the vehicles returning at 5pm; he did not feel that this would have a detrimental impact on the area.

Councillor R.B. Jones referred to the conditions reported on page 148 and highlighted conditions 4, 12, 14 and 20 which he felt did not contain enough detail; he added that conditions were needed to protect amenity. In response, the Head of Planning said that the report contained summary conditions and the Development Manager reminded Members that the full text of the conditions had been placed in the Members' Library as had been requested by Members.

In supporting Councillor Peers, Councillor A.M. Halford said that residents in her ward had been dogged by large wagons going to and from the site. The proposed extra hours were not fair to residents, and she asked for evidence to show that they were required.

Councillor W. Mullin said that he understood the comments of Councillor Peers but he could not see any reasoning in refusing the extra hours as there was a need for them. Councillor Bithell said that industrial estates worked shift systems and that vehicles going in and out 24 hours per day was a fact of modern living.

The Manager (Minerals and Waste) said that the application was a significant improvement as black bag waste would not be dealt with at this site, only the recycling from the kerbside collection vehicles.

Councillor Peers said that his amendment was that he agreed with the proposal for the parking facility and education centre but that there was no evidence to extend the working day. His amendment was to accept the report with normal working days with the addition of Saturday working. There was nothing in the report to justify why there was a need to extend the hours.

On being put to the vote, the amendment suggested by Councillor Peers was lost. The Principal Solicitor advised that Members now needed to vote on the substantive motion which was the officer recommendation in the report. On being put to the vote, the proposal was CARRIED.

RESOLVED:

That planning permission be granted subject to the conditions detailed in the report of the Head of Planning.

Councillors M.J. Peers and A.M. Halford indicated that they wished it to be recorded in the minutes that they had voted against the granting of permission.

31. **APPEAL BY MR. N. JONES AGAINST FLINTSHIRE COUNTY COUNCIL AGAINST FAILURE TO GIVE NOTICE, WITHIN THE PRESCRIBED PERIOD OF A DECISION ON AN APPLICATION TO GRANT CONSENT, AGREEMENT OR APPROVAL TO DETAILS REQUIRED BY A CONDITION OF A PLANNING PERMISSION AT AEL Y BRYN, CARMEL ROAD, CARMEL (048347)**

RESOLVED:

That the decision of the Inspector to allow this appeal be noted.

32. **APPEAL BY MR. R. BROUGHTON AGAINST THE DECISION OF FLINTSHIRE COUNTY COUNCIL FOR A FIRST FLOOR EXTENSION TO DWELLING, TOGETHER WITH SINGLE STOREY EXTENSIONS TO NORTH-WEST AND SOUTH-WEST ELEVATIONS, DEMOLITION OF EXISTING GARAGE AND VARIOUS OUTBUILDINGS AND ERECTION OF A NEW DETACHED DOUBLE GARAGE AT DELFRYN, AXTON, HOLYWELL. (048431)**

RESOLVED:

That the decision of the Inspector to dismiss this appeal be noted.

33. **APPEAL BY MR. JONATHAN OWEN AGAINST THE DECISION OF FLINTSHIRE COUNTY COUNCIL TO REFUSE PLANNING PERMISSION FOR THE ERECTION OF A FIRST FLOOR EXTENSION AND A TWO STOREY EXTENSION TO DWELLING AT GILFACH, WALWEN LANE, AXTON, HOLYWELL (048831)**

RESOLVED:

That the decision of the Inspector to dismiss this appeal be noted.

34. **DURATION OF MEETING**

The meeting commenced at 1.00 p.m. and ended at 4.20 p.m.

35. **MEMBERS OF THE PUBLIC AND PRESS IN ATTENDANCE**

There were 20 members of the public and 2 members of the press in attendance.

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Chairman