

PLANNING & DEVELOPMENT CONTROL COMMITTEE

17 APRIL 2013

Minutes of the meeting of the Planning & Development Control Committee of Flintshire County Council held at Council Chamber, County Hall, Mold CH7 6NA on Wednesday, 17th April, 2013

PRESENT: David Wisinger (Chairman)

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

SUBSTITUTION:

Councillor Mike Lowe for David Cox

ALSO PRESENT:

The following Councillors attended as observers:

Councillors: Marion Bateman. Clive Carver, Adele Davies-Cooke and Hilary Isherwood

IN ATTENDANCE:

Head of Planning, Development Manager, Senior Engineer - Highways Development Control, Interim Team Leader Policy, Team Leader Major Developments, Team Leader Applications and Appeals, Senior Planners, Senior Minerals and Waste Officer, Planning Support Officer, Democracy & Governance Manager and Committee Officer

188. **DECLARATIONS OF INTEREST**

Councillor R.G. Hampson declared that he had been contacted on more than three occasions on the following application:-

Agenda item 6.11 – General Matters Application – Outline – Erection of 12 no. dwellings including demolition of existing outbuildings and creation of new access at Bank Farm, Lower Mountain Road, Penyffordd (050003)

Councillors D. Butler and W. Mullin declared that they had been contacted on more than three occasions on the following applications:-

Agenda item 6.1 – Full application – Multiplex cinema, restaurants(5) and associated works at Broughton Shopping Park, Broughton (049857)

And

Agenda item 6.2 – Outline application – Erection of a cinema, hotel (up to 80 bedrooms) and Class A3 food and drink units, together with car parking (up to 454 spaces), landscaping and ancillary works on land to the north of Broughton Shopping Park, Broughton (049943)

189. **LATE OBSERVATIONS**

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

190. **MINUTES**

The draft minutes of the meeting of the Committee held on 20 March 2013 had been circulated to Members with the agenda.

RESOLVED:

That the minutes be approved as a correct record and signed by the Chairman.

191. **ITEMS TO BE DEFERRED**

The Head of Planning advised that none of the items on the agenda were recommended for deferral by officers.

Prior to the introduction of the first application on the agenda, the Chairman indicated the procedure on how agenda items 6.1 and 6.2 would be determined. The Democracy & Governance Manager explained that he had been contacted by the Solicitor of one of the two applications raising concerns if the Committee's normal practice was followed as the reports referred to the two applications as competing with each other. He then contacted the representative for the other application who was of the same view that these were competing applications. Therefore he had discussed with the Chairman the option to identify a procedure which would allow both officers to introduce the reports, the third party representatives to speak on both applications, a proposer and seconder to speak on each application and then for the Local Members and the Committee to speak on both applications. However, a vote would be taken separately for each application. The Chairman had accepted his advice to follow this procedure.

Councillor P.G. Heesom raised concern about the process identified and felt that the applications should be dealt with in a different way. The Democracy & Governance Manager confirmed that it was not a decision for the Committee to make as the process had been set by the Chairman.

192. FULL APPLICATION - MULTIPLEX CINEMA, RESTAURANTS (5) AND ASSOCIATED WORKS AT BROUGHTON SHOPPING PARK, BROUGHTON, CHESTER (049857)

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 15 April 2013. 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 for the Hercules Unit Trust (HUT) (application 049857) and referred to the late observations where a letter in favour of this application and against the Development Securities (DS) application was reported. A letter against the HUT application had also been

received from a Councillor at Cheshire West and Chester Council. Plans of the site were shown to identify the area of the application site and photo montages were also displayed. The main issues for consideration were detailed in the report and the recommendation was for approval of the HUT application subject to conditions. Both applications were reported as departures from the Unitary Development Plan (UDP) as the shopping park was not in the settlement boundary of Broughton. The officer commented on the material considerations and explained that it had been necessary to apply two key tests to the application which were the need for a cinema and a sequential assessment, both of which were detailed in the report. He commented on the HUT proposal in comparison to the DS proposal and said that the HUT application fitted in well with the current shopping experience but the DS proposal did not as it would be situated behind the superstore and would be away from the shopping park. The views of individual highway consultants had been sought on the HUT proposal which did not raise any issues. The provision of new bus shelters would be an improvement and would serve the overall park which was welcomed. He said that it was a finely balanced application which was contrary to planning policy but was acceptable in other terms.

In line with the process outlined earlier, the officer then introduced application (049943).

APPLICATION FOR OUTLINE PLANNING PERMISSION – ERECTION OF A CINEMA, HOTEL (UP TO 80 BEDROOMS) AND CLASS A3 FOOD AND DRINK UNITS, TOGETHER WITH CAR PARKING (UP TO 454 SPACES), LANDSCAPING AND ANCILLARY WORKS ON LAND TO THE NORTH OF BROUGHTON SHOPPING PARK, BROUGHTON (049943)

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 15 April 2013. 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 for the Development Securities application (049943) which was for an application for outline planning permission with all matters reserved. This application had also been advertised as a departure from policy as in the UDP only part of the site was allocated for retail use. The application had been considered in the context of the development and the need and sequential tests had also been taken into account. A comparison with the HUT application was reported and it was felt that the HUT application was more preferential in locational terms. He drew Members' attention to the late observations where an objection from HUT was reported along with the comments of the Head of Public Protection.

Mr. M. Krassowski spoke against the HUT application and said that currently at peak times, the car park at the Shopping Park was full. He referred to an application which was refused three years ago and stated that the HUT proposal would result in the reduction of car parking spaces as the cinema and restaurants would be sited on part of the existing car park. He felt that if the car park was full, customers would park in neighbouring streets and that the improvements to the bus shelters would not make a significant difference. He

stated that the travel plan would not be submitted for six months and also said that service yard parking for staff would be inconvenient and dangerous. Mr. Krassowski raised concern that there would be no control of mezzanine floors which could increase the car parking problems. He stated that to allow the HUT proposal would be inconsistent and lead to highway safety issues. If planning permission was granted he requested the removal of permitted development rights from A3 to A1 and asked for a travel plan on first occupation.

Mr. A. McParland spoke in support of the HUT application. He spoke of the public consultation exercise which had been undertaken and said that 99% of those who had visited were in support of the application. He said that fewer people visited the shopping park than in 2010 but that the retail and leisure experiences were inextricably linked. He felt that the application made best use of the land and complied with Council standards. Mr. McParland commented on the proposed improvements to the bus shelters and said that even at peak times there was spare capacity for car parking. If the application was approved the development would commence in six months and would employ up to 450 staff once completed and an additional 100 at weekends and would create 232 new jobs during construction.

Councillor S. Stevens from Broughton and Bretton Community Council spoke in support of the HUT application. She asked Members to support the application which she said was ready to deliver a cinema and a choice of popular restaurants. It would improve bus services to the shopping park and would increase parent/child and disabled car parking spaces and would complete the third side of the park.

Mr. G. Sutton spoke against the DS application stating that it was a spoiling tactic as no-one was signed up to the development which he said was in a greenfield location with half the site being designated as open countryside in the UDP. He felt that a key consideration was the viability of the proposal which he said was divorced from the rest of the park with no pedestrian or traffic linkage. The DS scheme underprovided car parking by 30% and did not meet Council standards. Mr. Sutton felt that it piggy-backed onto the HUT application. HUT owned the road into the retail park and would not give access rights from the DS site into the park.

Mr. M. Krassowski spoke in support of the DS application stating that officers had not taken account of the fact that part of the site was allocated. He said that it was important to consider the car parking allocation for the site along with the allocation for the rest of the site as the two would be linked. Pedestrian access would also be possible between this site and the rest of the shopping park and the walking distance from the site to the Tesco store would be less than from the HUT site to the retail units on the park. The DS proposal would provide substantially more car parking than the HUT application and would integrate with the shopping park and would provide a hotel. He said that it was a difficult decision but also suggested that Members could approve both applications and allow market forces to determine which would proceed.

Councillor W. Mullin proposed the recommendation for approval for the HUT application which was duly seconded. He said that the proposals for a cinema and restaurants were ready to be delivered and he fully supported the

application. Councillor D. Butler concurred that the HUT scheme was deliverable and 'ticked all the boxes' but the DS application did not. He commented on the objections received. It was reported that there was more than enough car parking and that improvements to bus facilities as part of the HUT application would be provided. He felt that the DS application was premature as there had not been a sequential test for the need for a hotel, there were rooms in the Glynne Arms and he indicated that a hotel in Chester had closed after 18 months trading due to lack of need.

Councillor R.B. Jones proposed approval of the DS application against officer recommendation which was duly seconded. He said that market forces could decide. Councillor W.O. Thomas said that it was sometimes difficult to park during busy times and that the DS application would allow for additional car parking.

Councillor M. Lowe spoke in support of the HUT application and said that the DS application had not taken account of those who visited the park by bus. He said that the whole of the community was in favour of the HUT application. Councillor R.G. Hampson concurred and said that the staff could use the service area for parking so there would be sufficient parking for visitors to the retail park. He felt that there was no need for the hotel in the DS application. Councillor A.M. Halford sought clarification on the access issues to the rear of Tescos as reported in paragraph 7.32 of the DS report and on policy compliance.

Councillor R.C. Bithell said that the HUT application would extend the buildings facing into the retail which was a natural development to the site and would complement it. He said that the DS site did not sit well with the existing development and commented on the issues which had been made about car parking on the HUT site.

Councillor R. Lloyd said that it was a great opportunity for the people of Broughton and Bretton and queried whether the Committee could approve both applications. The Democracy & Governance Manager said that as a lawyer he would say that both could legally be approved but in planning policy terms the applications were competing.

Councillor M.J. Peers raised concern about the reduction in the car parking spaces proposed by the HUT application. He spoke of a car parking survey which had been carried out by DS during November/December 2012 but added that he was not aware of a survey undertaken by HUT. He asked for further information on the departure from policy for both applications.

Councillor C.M. Jones felt that the car parking would be mostly required for the HUT application during the evening so the reduction in parking spaces would not be an issue. She said that there was not a problem when the Christmas market was on site but raised concern about the DS application due to the access and egress.

Councillor P.G. Heesom said that the cinema aspect was a substantial part of both applications and reiterated his concerns at dealing with the two applications together. He felt that to set off one application against the other was a mistake and that permission could be granted to both proposals. He felt that

the applications could be premature and required further work and suggested that he may request a deferment.

The Senior Engineer - Highways Development Control confirmed that there were no objections from Highways subject to conditions. The HUT application was a full application and Highways were satisfied with the methodology of parking provision which looked at existing units and the element of projected mezzanine flooring. The DS application had less detail, which would be forthcoming, but Highways were happy to support both applications subject to conditions.

In response to the comments made, the officer said that both applications could be approved as they were finely balanced but that paragraph 7.30 of the HUT report considered that it was preferred over the DS scheme. On the issue of departure from policy, planning law did allow applications to be approved if there were other material considerations which there were in this case. The HUT scheme was the preferable one and the officer confirmed that the HUT application was submitted first.

The Development Manager said that technically both applications were considered as departure from policy but that there were extenuating circumstances in each case so that both applications could therefore have been recommended for approval. However, granting planning permission on both would not be acceptable in policy terms and it was therefore a matter of determining which was preferable, leading to the recommendation of the HUT proposal.

In summing up on the HUT application, Councillor Mullin felt that an opportunity would have been missed if the HUT application was not approved. He said that it would affect the local economy. He had major concerns about the access to the DS site and referred to the congestion in the area at busy times including shift changes at Airbus. He said that the HUT application was ready to be delivered but the DS application was not. He supported the officer recommendation to approve the HUT application and refuse the DS proposal.

On being put to the vote, the proposal to approve the HUT application was CARRIED.

In summing up on the DS application, Councillor Jones said that deliverability was not a planning consideration. He said that there was a need for the DS application and that both proposals were departures from policy. He felt that a solution would be to approve the two applications and allow market forces to determine which proceeded as in planning policy terms they were equal. The Democracy & Governance Manager reminded Members that if the DS application was approved then conditions would be determined by the Head of Planning.

On being put to the vote, the proposal to refuse the application was CARRIED.

RESOLVED:

HUT application (049857)

That planning permission be granted subject to the conditions detailed in the report of the Head of Planning, with condition 14 amended as set out in the late observations.

DS application (049943)

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

193. OUTLINE APPLICATION - ERECTION OF A CINEMA, HOTEL (UP TO 80 BEDROOMS) AND CLASS A3 FOOD AND DRINK UNITS, TOGETHER WITH CAR PARKING (UP TO 454 SPACES), LANDSCAPING AND ANCILLARY WORKS ON LAND TO THE NORTH OF BROUGHTON SHOPPING PARK, BROUGHTON. (049943)

Please see minute number 192 for further information.

RESOLVED:

DS application (049943)

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

194. OUTLINE - RESIDENTIAL DEVELOPMENT CONSISTING OF 3NO. FOUR BEDROOM DETACHED HOUSES AND 1NO. THREE BEDROOM DETACHED BUNGALOW AT 3 TRAM ROAD, BUCKLEY (050281)

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. Additional comments received since the preparation of the report were circulated at the meeting.

The officer detailed the background to the report and drew attention to the late observations where the response from Councillor M.J. Peers and an additional condition were reported.

Mr. K. Shone, the agent for the applicant, spoke in support of the application. He said that the site had previously had two dwellings on it which had been converted into one property. It was a brownfield site and he said that policy STR of the Unitary Development Plan (UDP) promoted development of this type. The proposal was for three detached houses and one bungalow and all would be built to a high standard. The development was in accordance with policies HSG8 and HSG9 and was not overdevelopment of the site and would comply with space around dwellings guidance. The dwellings would not overlook existing properties so would not have a detrimental impact on neighbouring residents. Access to the dwellings would be from a private driveway.

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

Councillor Peers highlighted paragraph 7.07 and the main planning issues which had been considered. He said that an identical scheme for four dwellings had been refused in 2001 on highways grounds and that the concerns were still apparent. On the adequacy of the access to the site, he said that the surface of Tram Road was in poor condition as reported in paragraph 7.11. He said that a number of concerns had been raised by Buckley Town Council on the potential for overdevelopment, the potential for traffic problems in respect of access and egress and the increased traffic as a result of the development. He said that nothing had changed from the application submitted in 2001 and that he could not support approval of the application.

Councillor C.A. Ellis asked whether the access road was adopted and raised concern about the number of applications which were being submitted on unadopted roads. The Senior Engineer - Highways Development Control advised that the section of Tram Road was maintainable by the Authority. In response to the comments from Councillor Peers, she said that the visibility standards had changed for TAN 18 and were less onerous than in 2001. Tram Road served 23 units and having considered accident data, she advised that there was no evidence to support refusal on highway grounds.

The officer said that the proposal equated to 20 dwellings per hectare and this density showed that the privacy and amenity could be safeguarded. The layout was less dense than it could be and did not amount to overdevelopment of the site.

RESOLVED:

That planning permission be granted subject to the additional condition referred to in the late observations, the conditions detailed in the report of the Head of Planning and subject to the applicant entering in to a Section 106 Obligation, Unilateral Undertaking or advance payment of £1,100 per dwelling in lieu of on site play provision.

195. FULL APPLICATION - ERECTION OF A TWO STOREY EXTENSION INCLUDING BALACONY TO EXISTING BARN AT DEER LODGE, CYMAU, WREXHAM, FLINTSHIRE (050430)

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 15 April 2013. The usual consultations had been undertaken and the responses received detailed in the report.

The officer detailed the background to the report for the erection of a two storey extension. One letter of objection had been received and the recommendation was for refusal due to the scale, design and impact.

Mr. M. Price spoke in support of the application and explained that the extension was required to the family home following the arrival of his baby

daughter. The two other properties in the area had been extended following approval of planning applications. He said that the application complied with policy HSG12 and that he would be happy to reduce the length of the extension to eight metres from ten metres which would amount to an increase in 60% floorspace instead of the 96% increase currently proposed. He did not feel that the additional impact justified refusal of the application and said that to refuse this application when others had been approved would not be consistent.

Councillor A.M. Halford proposed approval against officer recommendation which was duly seconded. She could not understand the reason for refusal of the application and asked for further information on the definition of agricultural character. She felt that the proposal would not have a detrimental impact on the area.

Councillor D. Evans said that the applicant had agreed to reduce the length by two metres which he felt was a compromise. He also felt that the proposal would not impact on the character of the building and said that he would support approval of the application.

Councillor R.C. Bithell raised concern at the proposed 96% increase in the floorspace compared to policy guidance of 50% increases and he felt that the increase would destroy the character of the dwelling. He said that reference had been made to other dwellings in the area but these had been changed without major extensions to them. He said that many applications had been refused on this basis and that this should also be refused as it did not comply with policy. Councillor P.G. Heesom commented on policies HSG5 and HSG12 stating that the scheme could be made acceptable but added that family matters were irrelevant.

The Head of Planning was mindful of the reduction in scale suggested by the applicant, but reminded Members that they needed to consider the application before them. However, Members could propose deferment to allow discussions to take place with the applicant about the proposal.

Councillor A.M. Halford proposed deferment of the application which was duly seconded.

On being put to the vote, the proposal to defer the application was CARRIED.

RESOLVED:

That planning permission be deferred to allow discussions to take place with the applicant to negotiate an amended scheme.

196. RENEWAL OF PLANNING PERMISSION REFERENCE: 047979 TO ALLOW THE CHANGE OF USE FROM GUN SITE AND AGRICULTURAL LAND TO A PAINT BALLING CENTRE AND ANCILLARY DEVELOPMENT AT CHESTER GUN SITE, MOOR LANE, LOWER KINNERTON, CHESTER (050429)

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. Additional comments received since the preparation of the report were circulated at the meeting.

The officer detailed the background to the report and explained that the application was a renewal of planning permission 047979 to allow the continuation of the use of the land as a paintballing centre and retention of ancillary development. He highlighted the additional condition referred to in the late observations.

Mr. D. Fitzsimon spoke in support of the application. He said that Members had been satisfied that the previous application was appropriate but had been granted temporary permission. The site had been operated in accordance with the conditions and no complaints had been received about noise from the site. Highways had not objected to the application and Mr. Fitzsimon said that the traffic movements were negligible. He requested that the application be approved.

Councillor P.G. Heesom proposed the recommendation for approval which was duly seconded. He added that the local Member was satisfied with the application. Councillor W.O. Thomas said that no complaints had been received during the period of temporary permission.

RESOLVED:

That planning permission be granted subject to the conditions detailed in the report of the Head of Planning and the additional condition in the late observations.

197. FULL APPLICATION – RE-PLAN TO THE NORTHERN PARCEL OFF FORMER BUCKLEY BRICKWORKS WITH MIX OF 2, 3 AND 4 BEDROOM DETACHED, SEMI-DETACHED AND TERRACED DWELLINGS WITH ASSOCIATED PARKING AND AMENITY SPACES ON AND AT FORMER LANE END BRICKWORKS, CHURCH ROAD, BUCKLEY (050333)

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. Additional comments received since the preparation of the report were circulated at the meeting.

The officer detailed the background to the report and drew attention to the late observations where additional conditions were requested if the application was approved. Approval was also subject to the imposition of the terms of previously completed Section 106 Obligations.

Councillor M.J. Peers proposed the recommendation for approval which was duly seconded. He referred to paragraph 7.07 on vehicular access and raised concern about vehicular access between the northern and southern parcels of the site. The officer explained that bollards would be put in place to prevent vehicular traffic movement between the two parts of the site. Councillor Peers commented on parking on Church Road which made this a single

carriageway for other vehicles and referred to paragraph 7.18 where it was reported that the proposals included an alternative area of car parking to the rear of properties on Church Road to compensate for the future loss of existing on-street parking at this location. He requested that this be conditioned to start at the earliest opportunity. He raised concern at the affordable housing provision of 15% which was against policy but was agreed at the appeal stage. Councillor Peers also asked for assurance that the standard of the affordable and market value homes were identical as evidence that this was not always the case had been provided during discussions at a meeting of the Planning Strategy Group. He felt that all roads in the site should be offered for adoption and asked for clarification on this issue. The Senior Engineer – Highways Development Control responded that the main infrastructure would be highway maintained but she spoke of the policy to allow the provision of five dwellings off a private driveway without being adopted.

Councillor P.G. Heesom raised concern at the 15% affordable housing provision on the site and felt that it was not sufficient.

In response to the comments from Councillor Peers, the officer said that a condition could be included for the early completion of the parking area to the rear of the existing properties. He explained that 15% affordable housing was less than normal but the inspector took account of the clay holes on the site and the groundwork required, concluding that only 15% was required.

In summing up, Councillor Peers said that he was proposing approval of the application but was requesting additional conditions that the car parking area be completed at the earliest opportunity and that the standard specification for the affordable homes be the same as for the equivalent properties for sale at market value. The Development Manager said that the wording of the conditions could be discussed with the local Members and if no agreement reached the application could be brought back to Committee.

RESOLVED:

That planning permission be granted subject to the conditions detailed in the late observations, the additional conditions proposed by Councillor M.J. Peers, the conditions detailed in the report of the Head of Planning and subject to the imposition of the terms of previously completed Section 106 Obligation(s) in respect of highway, ecological, affordable housing and open space in respect of this current application.

198. FULL APPLICATION – CONSTRUCTION OF 5NO. BUNGALOWS, 2NO. WITH ATTACHED GARAGES, ALL FIVE PROPERTIES TO BE ACCESSED OFF FRON PARK ROAD AND THE CONSTRUCTION OF 4NO. TOWN HOUSES TO BE ACCESSED OFF HALKYN ROAD WITH A PEDESTRIAN LINK BETWEEN THE TWO AREAS AT LAND FORMERLY KNOWN AS “LLWYN ONN”, HALKYN ROAD, HOLYWELL (050435)

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. Additional comments received since the preparation of the report were circulated at the meeting.

The officer detailed the background to the report and explained that the site would be served by two points of vehicular access and that there would be no internal connection in the two access points. He highlighted the additional conditions referred to in the late observations from the Head of Assets and Transportation which would be included if the application was approved.

Mr. R. Jones, the agent for the applicant, said that the application had been ongoing for a number of years and asked that the application be deferred so that the applicant could consider the options for the Section 106 obligations. The applicant felt that the amounts proposed were excessive particularly in relation to the educational contribution as the site was being designed for people over the age of 55. He said that the site was challenging and the cost of the development would be high. He was willing to make a payment to the Section 106 Obligation but wanted to consider his options first.

Councillor H.G. Roberts proposed the recommendation for approval which was duly seconded. Councillor D. Evans proposed deferral of the application, as requested by the agent for the applicant, which was also duly seconded. Councillor H.G. Roberts felt that there was no reason to defer the application as it would not achieve anything as deferral would not make Councillors change or compromise the policies. Councillor R.C. Bithell concurred and said that well established policies were in place and the sums calculated were what was required and should be applied. He added that deferment would not alter this.

The Head of Planning said that said that the applicant did not have to sign the Section 106 Agreement and if he did not do so, the application would be referred back to Committee. Deferring the application would not reduce the amounts requested.

On being put to the vote, the proposal to defer the application was LOST. Councillor Roberts then proposed the recommendation for approval which was duly seconded. He said that he would have liked to see both accesses off Fron Park Road but added that this was not possible. Perth Y Terfyn infants school adjoined the site and he sought assurance that there was satisfactory boundary treatments between the two sites. The officer explained that a scheme had been designed so the tree boundary would be retained and the existing boundary would be protected which was conditioned in the report. Councillor W.O. Thomas welcomed the application which included bungalows.

RESOLVED:

That planning permission be granted subject to the conditions detailed in the report of the Head of Planning, the conditions from the Head of Assets and Transportation as detailed in the late observations and subject to the applicant entering into either a Section 106 Obligation, Unilateral Undertaking or the making of an advance payment to provide the following:-

- a. Payment of £24,514 towards educational provision/improvements at Perth Y Terfyn Infants School. This contribution shall be paid prior to the commencement of development upon the site.

- b. Payments of £9,900 towards the upgrade of existing recreational facilities within the locality. This contribution shall be paid upon completion of the sale of the second dwelling upon the site.

199. FULL APPLICATION – HOUSETYPE SUBSTITUTION ON PLOTS 18, 19, 20, 30, 31 AND 32 OF PREVIOUSLY APPROVED SCHEME UNDER PLANNING REFERENCE 048892 AT ASSOCIATED LAND AND FORMER WHITE LION PUB, CHESTER ROAD, PENYMYNYDD (050469)

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. Additional comments received since the preparation of the report were circulated at the meeting.

The Officer detailed the background to the report and explained that there were no proposed alterations to the layout of the site as a result of this application. .

Councillor D. Butler proposed the recommendation for approval which was duly seconded.

Councillor W.O. Thomas raised concern that building on the site was going ahead before the highway was completed. The officer responded that this was not a planning consideration and that the works on the road had been finalised.

RESOLVED:

That planning permission be granted subject to the conditions detailed in the report of the Head of Planning and subject to the applicant entering into a supplemental Section 106 Agreement which links the permission granted under this planning application to the provisions of the Section 106 Agreement entered into under Permission Ref: 048892 providing the following:-

- a. the provision of 6 no. affordable homes to be presented to the Council as gifted units and allocated in accordance with a local lettings policy to pilot the Council's Rent to Save to Homebuy scheme to applicants on the affordable Homeownership Register.
- b. Ensure the payment of a contribution of £261,560 towards affordable homes provision.
- c. Ensure the transfer of wildlife mitigation land to a suitable body, together with the precise methods and means for the securing of its future management, monitoring and funding.
- d. Payment of £73,500 towards primary level educational provision/improvements at St. John the Baptist VA school and £52,500 towards secondary level educational provision/improvements at Castell Alun High School.
- e. Payment of £2,500 for costs incurred for amending Highway Access Restriction Order.

200. FULL APPLICATION – CONSTRUCTION OF A LINED EARTH BANKED SLURRY STORE 25.5M X 20M X 3M ADJACENT TO THE EXISTING SLURRY STORE AT BRYN CELYN FARM, PEN Y FRON ROAD, RHYDYMWYN, MOLD (050551)

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 the Environment Agency had been consulted and they had no objections as the proposed new store complied with Nitrate Vulnerable Zone Regulations.

Councillor J. Falshaw proposed the recommendation for approval which was duly seconded.

RESOLVED:

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

201. FULL APPLICATION – INTEGRATED WASTE MANAGEMENT FACILITY AT PINFOLD LANE QUARRY, ALLTAMI (043948)

The Committee considered the report of the Head of Planning in respect of this application. Additional comments received since the preparation of the report were circulated at the meeting.

The Senior Minerals and Waste Officer detailed the background to the report and explained that a number of factors had arisen since the application was refused by Committee in 2011. She added that it was the subject of an appeal. The purpose of the report was to provide Members with an update in relation to the site, including policy changes, so that Members could review, and if necessary, reconsider their recommendation in light of these changes. The officer recommendation on the application in 2011 was for approval but the Committee refused the application as there was no identified need for the landfill element of the proposed development. In light of the changes to national policy and guidance, officers had reconsidered their recommendation and considered that, were the application to be considered again today, it should be refused due to a lack of need for the landfill element of the proposal, as it was contrary to both national and local policy.

Councillor P.G. Heesom proposed the officer recommendation for refusal which was duly seconded.

The local Member, Councillor C.A. Ellis, welcomed the report and said that what was said in 2011 by the Committee was correct. The Committee had been told at that meeting that there was a need for additional landfill site but the site was still not operating. She paid tribute to the members of the public who had expressed their concern about the proposal. She raised concern about what the land could be used for instead of landfill as she felt that this decision should be made by the owner of the land.

Councillor P.G. Heesom paid tribute to Councillor Ellis and expressed his thanks to the Senior Minerals and Waste Officer for her work which confirmed the wish of the Committee in line with policies. He welcomed the recommendation in the report and the officer's persistence with the statement of case. Councillor R.C. Bithell welcomed the report and the recommendation before the Committee. Councillor A.M. Halford echoed the thanks of Councillors Ellis and Heesom and the excellent report of the officer, who had agreed to meet with Members to discuss the proposals.

Councillor R.B. Jones queried whether the new guidance would be taken into account by the Inspector for the appeal which was scheduled for June 2013. He also commented on the targets set by Welsh Government for levels of landfill for Flintshire. The Officer responded that the Inspector would consider policy at the time of the appeal. The statement of case which had been sent to the Inspector outlined the Council's case and provided evidence in light of the changes in policy.

RESOLVED:

That the recommendation in the report to support refusal of the application for the reasons given be agreed.

202. GENERAL MATTERS APPLICATION – OUTLINE – ERECTION OF 12NO. DWELLINGS INCLUDING DEMOLITION OF EXISTING OUTBUILDINGS AND CREATION OF A NEW ACCESS AT “BANK FARM”, LOWER MOUNTAIN ROAD, PENYFFORDD, FLINTSHIRE (050003)

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. Additional comments received since the preparation of the report were circulated at the meeting.

The Head of Planning detailed the background to the report and explained that outline planning permission had been granted by Committee in December 2012. The terms of the permission were established at the subsequent committee in January 2013 when Members were advised that on 15 January 2013 Welsh Government (WG) had issued a direction on the Authority not to grant planning permission for the development proposed in the application. Members were advised at the meeting on 20 February 2013 that WG had called-in the application for determination. The Inspectorate had written to the Authority to ask for the Authority's comments on the procedure for dealing with the application (namely written representations, informal hearing or local public inquiry). The applicant would also be given these options but the ultimate decision will be down to the Inspectorate. The reasons for calling in the application were reported. A decision was also required on how to progress the application and the options (shown as (a) to (d) in paragraph 6.07) for representation in the event of a Hearing or an Inquiry were reported. The Head of Planning explained that the two decisions to be made by the Committee today were for the process and representations going forward.

Councillor P.G. Heesom suggested that an Informal Hearing was the way forward and proposed option © (nominate Members of the Committee to

represent the Authority's stance), which was duly seconded. Councillor R.C. Bithell moved an amendment that the application be dealt with by written representations which was also duly seconded.

Councillor M.J. Peers noted that the report failed to identify the local Member for this application and reminded Members that it was Councillor P. Lightfoot and not Councillor C. Hinds or D. Williams as shown in the late observations. He referred to paragraph 6.06 which reported that consultants were normally engaged for appeals which followed a refusal of planning permission contrary to officer recommendation and felt that this should be the case for this application. He also highlighted paragraph 6.04 which he felt showed that the Minister had pre-determined some aspects of the application. He said that an Informal Hearing was needed to hear out the anomalies of the application. Councillor R.G. Hampson also supported an Informal Hearing.

On being put to the vote the proposal to request an Informal Hearing was CARRIED.

On the issue of who would represent the Authority, Councillor Heesom reiterated his earlier comment that option (c) was appropriate as it would allow for the benefit of independent Counsel advice; the proposal was duly seconded. Following a comment from the Head of Planning, Councillor Heesom clarified that he meant a consultant and nominated himself and Councillor Peers to attend the hearing along with assistance from consultants. Councillor R.C. Bithell felt that it was correct to have consultants to assist as the Committee had approved the application against officer recommendation and in appeal situations the Planning Officers did not normally put forward the case for the Council.

Councillor Peers referred to paragraphs 6.07 and 6.08 which detailed the options available and said that following Councillor Heesom's nomination, he was under no obligation to attend a hearing run by the Planning Inspector. He added that there was a Planning Authority to deal with Planning appeals and he felt that the request to decide representation was unprecedented. Councillor Peers said that paragraph 6.06 reported that this situation was different in that the Council's stance was one of supporting the development and reiterated his earlier comment that the Planning Authority should take part in the determination process. He proposed option (b) (engage consultants/legal representatives (as appropriate) to represent the Authority (as was the current practice on appeals); this was duly seconded.

Councillor W.O. Thomas reiterated the earlier comments of Councillor Peers that Councillor Lightfoot was the local Member and not as reported in the late observations. He queried the process of the call-in by WG and added that the approval of the application by the Committee should stand.

Councillor H.G. Roberts referred to previous experiences of Members representing the Authority in an appeal situation when the Committee had voted against officer recommendation. He felt that if Members had supported the application, then they had a moral responsibility and should represent the Authority at an Inquiry. Councillor D. Butler said that that this was a quasi judicial committee and that if Members went against officer recommendation, they had to undertake the consequences. Councillor R.B. Jones concurred that option (b)

would give local Members the opportunity to work with consultants. Councillor RG. Hampson said that the application had been decided by the Committee but that expertise from independent consultants was needed.

Councillor Heesom withdrew his proposal for option (c).

Councillor A.M. Halford sought clarification on who had started the mechanism to call in the application. Councillor C.A. Ellis said that if Members made a decision against officer recommendation they had to face the consequences. She added that there was no point in being on the Committee if Members always went with the officer recommendation.

Councillor Heesom proposed that the vote be taken, which was duly seconded. The Democracy & Governance Manager advised that if the Chairman felt that there had been an adequate debate then a vote could be taken. The procedural proposition was carried.

In summing up, Councillor Peers said that he proposed the use of consultants to work with Members but added that the Planning Authority normally represented the Council at Planning appeals.

On being put to the vote, the proposal for option (b) (to engage consultants/legal representatives (as appropriate) to represent the Authority) was CARRIED.

RESOLVED:

- (a) That the Inspectorate be advised that the Local Planning Authority requests an informal hearing; and
- (b) That representation proceed on the basis of option (b) (to engage consultants/legal representatives (as appropriate) to represent the Authority).

203. APPEAL BY WEST REGISTER (REALISATIONS) LTD AGAINST THE DECISION OF FLINTSHIRE COUNTY COUNCIL TO REFUSE PLANNING PERMISSION FOR THE SITING OF STATIC CARAVAN FOR USE AS RESIDENTIAL WARDENS ACCOMMODATION AT "ST. MARY'S CARAVAN CAMP", MOSTYN ROAD, GRONANT, PRESTATYN, FLINTSHIRE (049515)

Councillor P.G. Heesom said that this site was in a volatile traffic area and that there had been many deaths and tragedies on this road. He said that developers needed to take account of highway implications.

RESOLVED:

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

204. APPEAL BY ANWYL HOMES LTD AGAINST THE DECISION OF FLINTSHIRE COUNTY COUNCIL TO REFUSE VARIATION OF CONDITION NO.15 ATTACHED TO PLANNING PERMISSION AT "CROES ATTI", CHESTER ROAD, OAKENHOLT, FLINTSHIRE (049425)

Councillor P.G. Heesom indicated that a complaint was to be submitted to the Ombudsman about how the applications for Croes Atti had been processed.

Councillor A.I. Dunbar asked for details of the total cost to Flintshire County Council of the development when all applications and appeals had been finalised. The Head of Planning responded that there were three elements to costs which were:-

- 1) costs which had been awarded against the Council for unreasonable behaviour – this information could be provided by the Head of Planning
- 2) costs of legal representatives and consultants at appeals – this information could be provided by the Head of Planning
- 3) officer and committee time – it was not possible to put a figure on this

The Head of Planning confirmed that he would provide the information requested when it was available.

RESOLVED:

- (a) That the decision of the Inspector to allow this appeal be noted; and
- (b) That the Head of Planning provide the requested information on costs when it was available.

205. MEMBERS OF THE PRESS AND PUBLIC IN ATTENDANCE

There were 21 members of the public and 3 members of the press in attendance.

(The meeting started at 1.00 pm and ended at 4.37 pm)

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Chairman