

## **PLANNING & DEVELOPMENT CONTROL COMMITTEE**

**15 MAY 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, 15th May, 2013

### **PRESENT: David Wisinger (Chairman)**

Councillors Chris Bithell, Derek Butler, David Cox, Ian Dunbar (Vice-Chairman), Jim Falshaw, Alison Halford, Ron Hampson, Patrick Heesom, Ray Hughes, Christine Jones, Richard Lloyd, Billy Mullin, Mike Peers, Neville Phillips, Gareth Roberts and Owen Thomas,

### **SUBSTITUTIONS:**

Councillor: Marion Bateman for Carol Ellis, Mike Lowe for David Evans and Haydn Bateman for Rita Johnson

### **APOLOGY:**

Councillor Richard Jones.

### **ALSO PRESENT:**

Councillor David Mackie attended as local Member for agenda item 6.1

The following Councillors attended as observers:-

Councillors: Bernie Attridge, Clive Carver and Adele Davies-Cooke

### **IN ATTENDANCE:**

Head of Planning, Development Manager, Planning Strategy Manager, Senior Engineer - Highways Development Control, Team Leaders, Senior Planner, Planning Support Officers, Principal Solicitor and Committee Officer

## 1. **ANNOUNCEMENT BY PRINCIPAL SOLICITOR**

The Principal Solicitor explained that following the Annual County Council meeting held on 14 May 2013, the membership of the Committee had changed; he read out the list of Members on the Committee. He also explained that Councillor D.E. Wisinger had been re-appointed as Chairman for the Committee but that the appointment of a Vice-Chairman was required.

## 2. **APPOINTMENT OF VICE-CHAIRMAN**

The Chairman sought nominations for the appointment of Vice-Chairman. Councillor R.C. Bithell nominated Councillor A.I. Dunbar and this was duly seconded. Councillor R. Hughes nominated Councillor P.G. Heesom and this was also duly seconded.

On being put to the vote, Councillor Dunbar was appointed Vice-Chairman of the Committee.

### **RESOLVED:**

That Councillor Dunbar be Vice-Chairman for the Planning and Development Control Committee for the ensuing year.

### 3. **DECLARATIONS OF INTEREST**

Councillors A.I. Dunbar, W. Mullin and M.J. Peers declared a personal and prejudicial interest in the following application and Councillors D. Butler, M. Lowe and W.O. Thomas declared a personal interest in the following application:-

**Agenda item 6.3 - Full application – Construction and operation of the Beluga Line Station and associated development (including preparatory earthworks) at British Aerospace Ltd, Chester Road, Broughton (050597)**

Councillor D.E. Wisinger declared a personal interest in the following application:-

**Agenda item 6.6 – Full application – Erection of a car garage with store room above and conversion of existing garage into games room at White House, Sealand Road, Sealand (050339)**

In relation to those Members who had declared interests in relation to the Airbus site in Broughton which was the subject of application number 050597, the Principal Solicitor invited them to consider whether or not it might be appropriate to seek a dispensation from the Standards Committee to enable them to speak and vote on future applications at the site.

### 4. **LATE OBSERVATIONS**

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

### 5. **VARIATION IN ORDER OF BUSINESS**

The Chairman explained that there would be a slight change in the order of business to bring forward agenda items 6.7 to 6.10 (the appeal decisions). As he had declared an interest in agenda item 6.6, he would be vacating the chair and leaving the Chamber for the consideration of the item.

### 6. **MINUTES**

The draft minutes of the meeting of the Committee held on 17 April 2013 had been circulated to Members with the agenda.

Councillor M.J. Peers referred to the fifth line of the third paragraph on minute number 196 and suggested that the words 'vehicular traffic' be added before the words 'movement between'. He also suggested that the word 'specification' be added after the word 'standard' in the third line on the second paragraph on page 11 and that the word 'equivalent' be added before the word 'properties' in the fourth line of the paragraph.

### **RESOLVED:**

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

7. **ITEMS TO BE DEFERRED**

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

Councillor W.O. Thomas proposed that the following application be deferred to undertake discussions with the applicant about the roofline:-

**Agenda item 6.2 - Full application – Extension to the first floor above existing single storey flat roofed rear extension at Foel Awel, 2 Ffordd y Llan, Cilcain (050620)**

On being put to the vote, the application was deferred.

**RESOLVED:**

That application 6.2 be deferred.

8. **FULL APPLICATION - CHANGE OF USE/CONVERSION - USE OF LAND FOR THE STATIONING OF CARAVANS FOR THE RESIDENTIAL PURPOSE FOR 5 NO. GYPSY PITCHES TOGETHER WITH THE FORMATION OF ADDITIONAL HARD STANDING AND UTILITY/DAYROOMS ANCILLARY TO THAT USE AND RETAINING EXISTING STABLES ON LAND SIDE OF EWLOE BARN WOOD, MAGAZINE LANE, EWLOE (050463)**

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 13 May 2013. The usual consultations had been undertaken and the responses received detailed in the report. Corrections to two paragraphs of the report were circulated at the meeting.

The officer detailed the background to the report explaining that this was a resubmission of application 049152 which had been dismissed on appeal following a public inquiry. She advised that the main issue to consider was whether this application addressed all of the issues raised by the Inspector, which were summarised on page 32 of the report. The Inspector had considered that the development would constitute inappropriate development in the green barrier and its open character and appearance would be harmed, but as very exceptional circumstances had been demonstrated, that harm was outweighed by the need for gypsy and traveller sites.

However, the Inspector was concerned that, due to the site's location adjacent to the A55, this might give rise to unacceptable living conditions for the site occupants with regard to the effects of noise and air pollution and he had no evidence before him to decide otherwise. The Inspector had therefore concluded that planning permission should not yet be granted due to the unsatisfactory living conditions which the site might provide because of traffic noise and pollution. He had referred to advice in Planning Policy Wales about noise levels and to Technical Advice Note (TAN) 11 Noise which pointed out that the weight to be given to such matters might be affected by other considerations, such as the need for the proposed development.

Turning to the current application, the officer advised that the Head of Public Protection had considered that the noise levels which had been measured in a one day exercise on behalf of the applicants did not provide sufficient data. She added that the barrier which was proposed would not reduce the noise and could move the level into category C or D (shown in the table on page 40 of the report) rather than in level B which had been indicated in the application.

An Air Quality Assessment had been submitted with the application. There was insufficient evidence to demonstrate that any pollutants on the site would not lead to unacceptable living conditions which could adversely affect the health of the site occupants, which would be contrary to Policy EWP12 of the Flintshire Unitary Development Plan. The site was crossed by a 33,000 volt overhead line and Scottish Power were concerned that any structure or bund under the line would reduce the required clearance of 5.8 metres for road and 5.2 metres for other locations and increase the potential for persons to come into contact with, or be close to, the line as this was likely to result in serious injury or death.

Independent advice had been sought about the impact on the green barrier. On the basis of that advice, it was considered that the proposal would have an adverse impact on the landscape, would be contrary to Policy GEN4, L1 and HSG14 c), and would harm the open character and appearance of the green barrier.

In assessing this application, the officer had also considered a recommendation of temporary permission but the unacceptable living conditions by virtue of noise and air pollution would not favour this. In conclusion, the officer said that the evidence that had been put forward indicated that living conditions were unacceptable and could not be addressed by conditions.

Mrs. P. Williams spoke against the application. She considered that the development would have a greater impact upon the green barrier than that proposed by the previous application. She endorsed the views of the independent landscape architect and felt that the screening proposed would be insubstantial from Magazine Lane. There would be a substantial effect upon the landscape character and visual impact arising from the development and that it would lead to the coalescence of settlements. She referred to the overhead power cables which posed the risk identified by Scottish Power, adding that the adjacent land owner had indicated that he would not permit the diversion of the power lines onto his land. She referred to the recent Bangor University study which had been undertaken on the need for gypsy and traveller sites and said that a greater number of pitches had been provided in Flintshire than any other county in North Wales. There was no rationale for any need in Flintshire. Mrs. Williams felt that the noise levels on the site would harm the residents, in particular children, and added that the A55 was one of the noisiest roads in North Wales. The noise report submitted by the applicant did not take into account traffic density. She felt that air pollution would also be a problem and spoke of ongoing research in Munich about the harm to children by air pollution. The proposed screening bund and fence would be inadequate to protect against noise and air pollution.

Mr. M. Green, the agent for the applicant, spoke in support of the application. He said that the previous application which had been refused by the Committee had been won on appeal with an award of costs against the Council. He felt that the same would apply if this application was also refused by Members. On the issues of noise and pollution, he referred to comments of the Inspector that the application should be permitted and said that the studies which had been undertaken on behalf of the applicant were to a level required by Government, but had not been accepted by officers. He said that the clearance distances from the power lines would not be an issue as the residents would need to stand on top of a fence to be within these distances. He added that the power lines did not need to be diverted but could be raised.. On the issue of visual amenity he said that what was being requested was an extension of the bund which the Inspector had indicated was visually acceptable. He said that he felt that Members were determined to refuse the application but that if they did so, it would cost the taxpayers money and he suggested that independent legal advice be sought before making a decision.

Councillor D.I. Mackie, one of the local members, spoke against the application. He commented on TAN 11 and said that the site was clearly unsuitable for the purpose proposed in the application. He spoke of studies undertaken which identified health concerns that children exposed to pollutants could develop diabetes; he felt that this was not a place to raise children. Councillor Mackie said that he had been contacted by a significant number of local people who had concerns about the proposals, in particular its adverse effect upon the green barrier. He added that the officer recommendation of refusal was correct. He then left the meeting prior to the debate.

Councillor A.M. Halford, the other local Member, proposed the recommendation for refusal which was duly seconded. She welcomed the strong report which contained compelling reasons for refusal. She referred to the previous application where Mr. Green had also attacked the officer recommendation on that occasion. She said that she had given evidence at the hearing and had informed the Inspector of problems that had been experienced by residents from houses in her ward of the noise from the surface on the A55 and the requirement for an acoustic fence to try to reduce the noise levels. She said that if an acoustic fence was needed for houses, then the problem would be worse for caravans. She said that it was unfair to inflict the noise levels on the children who would be living on the site.

Councillor M.J. Peers said that he was not present to be lectured to by anybody or to be threatened with costs and that he would deal with the application before him. He welcomed the excellent report which he said was based on evidence and said that the main issue was about the location of the site. It was clear from the comment of the Inspector on page 33 that he had considered that the living conditions on the site would be detrimental to the occupiers through the impact of noise from the A55 and possibly because of air quality. It was an inappropriate development in the green barrier the proposed mitigation was inappropriate. Based on what was in the report, he would support refusal of the application.

Councillor D. Butler commented on problems of noise from the A55 in Broughton and the noise abatement fencing which had been erected but which

did not reduce the levels. Trees which were in place had been removed to erect the fence and this created pollution which had previously been absorbed by the trees. He said that this site was below the A55 and was not the place to raise children. He felt that reducing the speed limit on the A55 would be better than any noise abatement.

Councillor W. Mullin said that any fencing would not reduce the pollution from vehicles on the A55 and that it would have a detrimental effect on the people who would live there. Councillor A.I. Dunbar concurred, remarking that, on the site visit, it had been difficult to hear anyone talk. It was a dangerous environment for children, especially having regard to the power cables. He concluded that the application should be refused for the reasons set out in the report.

Councillor W.O. Thomas said that he would make his decision based on the report and the site visit, not on threats from the agent. Councillor H.G. Roberts felt that the applicants had a weak case and he accused Mr. Green of trying to provoke members. He welcomed the comprehensive report and said that the recommendation of refusal was correct due to the potential harm to the children who would live on the site. Councillor R.C. Bithell referred to the noise experienced on the previous site visit and said that it was inappropriate to put caravans on the site even with a bund and screening. He said that to approve the application in the green barrier would set a precedent. In the context of need, and with particular reference to the Riverside Park site at Queensferry, he felt that Flintshire had done more than any authority in North Wales to provide gypsy and traveller sites. He referred to the lack of sites provided by other authorities in North Wales apart from Flintshire and Wrexham, and considered that pressure should be put on those authorities to provide pitches. He said that there was no need for an additional site in Flintshire and that he supported the recommendation of refusal.

In summing up, Councillor Halford thanked Members for their contributions particularly about problems experienced with acoustic fencing. She said that the report was evidence based and added that there was no reason to put a site so close to one of the noisiest roads in North Wales, accusing Mr. Green of taking risks with the lives of children to protect his own reputation.

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

**RESOLVED:**

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

9. **FULL APPLICATION - CONSTRUCTION AND OPERATION OF THE BELUGA LINE STATION AND ASSOCIATED DEVELOPMENT (INCLUDING PREPARATORY EARTHWORKS) AT BRITISH AEROSPACE LTD., CHESTER ROAD, BROUGHTON. (050597)**

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. Councillors A.I. Dunbar, W. Mullin, M.J. Peers and W.O. Thomas, having earlier declared an interest in the application, left the meeting prior to its discussion.

Councillor A.M. Halford 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.

10. **GENERAL MATTERS - PHASE 1 - ERECTION OF PRIMARY SCHOOL, CONSTRUCTION OF ACCESS ROAD, CAR PARK AND HARD AND SOFT PLAY AREAS AT CUSTOM HOUSE SCHOOL, MOLD ROAD, CONNAH'S QUAY. (047415)**

The Committee considered the report of the Head of Planning in respect of this application.

The Development Manager detailed the background to the report and explained that the Committee had considered a feasibility study on 23 May 2012 (not 18 April 2012 as reported) to justify the demolition of the Custom House Lane Junior CP School, including the historic former Northop Board School building. Members had then resolved not to accept the development brief believing that further consideration needed to be given to socio-economic factors in relation to future uses of the historic part of the school building. A further feasibility study had since been submitted, where nine alternative uses had been considered but none of these were found to be viable. Paragraph 6.04 of the report stated that the building had suffered from water ingress and the ongoing security and maintenance costs amounted to £14,000 per annum.

The Development Manager advised that the condition on the original planning permission for the new school had been satisfied through the submission of the feasibility study and any decision as to the retention or otherwise of the former Northop Board School building lay outside any planning control. Nevertheless, he added that the information in the feasibility study strengthened the case for demolition of the building.

Councillor A.I. Dunbar proposed the recommendation to note the submission, content and conclusions of the feasibility study regarding the intended demolition of the Custom House Lane CP school. He said that every effort had been made to find an alternative use for the building but this had not been forthcoming. Councillor R.C. Bithell said that it had been the intention of the Committee to explore further uses for the building and as the feasibility study had not identified viable uses, demolition was the correct decision.

Councillor P.G. Heesom said that it was a fact that an alternative use could not be found and that the funds to maintain the building were not available but asked if work could be undertaken to catalogue old buildings such as this and protect or retain some part of them.

**RESOLVED:**

- (a) That the submission, content and conclusions of the feasibility study regarding the intended demolition of the Custom House Lane CP school be noted; and
- (b) That a photographic record/ catalogue of the historic part of the building be undertaken prior to its demolition.

11. **GENERAL MATTERS - OUTLINE APPLICATION - RAF SEALAND SOUTH CAMP, WELSH ROAD, SEALAND (050125)**

The Committee considered the report of the Head of Planning in respect of this application.

The officer explained that the report was to seek authority for the holding of a special Planning & Development Control Committee to determine planning application 050125 which was the redevelopment of a strategic brownfield site for an employment-led mixed-use development (the second part of the Northern Gateway site).

Councillor R.C. Bithell proposed the recommendation to convene a Special Planning and Development Control Committee meeting to determine the application, which was duly seconded.

Councillor M.J. Peers queried whether there would be a need to convene a further special meeting to consider the reserved matters as this application was for outline permission. In response to a further question from Councillor Peers, the officer explained that the application had been accompanied by a Masterplan which gave an indication of different uses for the site.

The Planning Strategy Manager explained that the application for the other part of the Northern Gateway had been dealt with in a similar way so a special meeting had been requested for consistency. If the application was approved, a reserved matters application would then be submitted.

Councillor W.O. Thomas asked whether the site was part of the Deeside Enterprise Zone. Councillor P.G. Heesom raised issues which had taken place recently which included the establishment of the Enterprise Zone and the Deeside Partnership. He raised concern about the infrastructure, highlighting the A55 in particular. He asked that the evidence of these issues be provided when the report was submitted to Committee.

Councillor A.M. Halford said that the other part of the site was discussed at a special meeting of the Committee and it was appropriate that a special meeting also be held for this application.

The local Member, Councillor C.M. Jones, said that Members had asked to be included in the applications and this was a way of doing so. She concurred that a special meeting was the way forward.



The Head of Planning said that the impact on the infrastructure was not ready to bring to Committee yet but would be presented when it was available.

**RESOLVED:**

That a Special Planning & Development Control Committee be convened to determine application 050125.

12. **APPEAL BY T. ANWYL & SONS LTD AGAINST THE NON-DETERMINATION BY FLINTSHIRE COUNTY COUNCIL FOR RESIDENTIAL DEVELOPMENT CONSISTING OF 51 NO. DWELLINGS, NEW ROAD AND CREATION OF MITIGATION LAND IN RELATION TO ECOLOGY AT CAE EITHIN, VILLAGE ROAD, NORTHOP HALL. (048855)**

**RESOLVED:**

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

13. **APPEAL BY MR. S. CANTY AGAINST THE DECISION OF FLINTSHIRE COUNTY COUNCIL TO REFUSE PLANNING PERMISSION FOR THE RETENTION OF A 7 M HIGH CCTV CAMERA POLE AT WILLOW FARM, SEALAND ROAD, SEALAND - DISMISSED (049311)**

**RESOLVED:**

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

14. **APPEAL BY MR B. SIMON AGAINST FLINTSHIRE COUNTY COUNCIL FOR THE REFUSAL OF A RETROSPECTIVE APPLICATION FOR THE ERECTION OF AN ANCILLARY BUILDING AT "AEL Y BRYN", BABELL, HOLYWELL. (049899)**

**RESOLVED:**

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

15. **APPEAL BY MR. JOHN HENRY AGAINST THE DECISION OF FLINTSHIRE COUNTY COUNCIL TO REFUSE PLANNING PERMISSION FOR APPLICATION FOR REMOVAL OR VARIATION OF CONDITION NO. 3 OF PLANNING PERMISSION REF: 048059 TO VARY MATERIALS TO BE USED IN THE DEVELOPMENT AT CHERRY TREE COTTAGE, HAFOD ROAD, GWERNAFFIELD - DISMISSED (050053)**

**RESOLVED:**

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

The Chairman, Councillor D.E. Wisinger, having earlier declared an interest in the following application, left the meeting prior to its discussion. The Vice-Chairman chaired the remainder of the meeting.

16. **FULL APPLICATION - ERECTION OF A CAR GARAGE WITH STORE ROOM ABOVE AND CONVERSION OF EXISTING GARAGE INTO GAMES ROOM AT WHITE HOUSE, SEALAND ROAD, SEALAND (050339)**

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 explained that the application had been deferred from the meeting on 20 February 2013 to allow reconsultation on amended plans to be carried out and the neighbour objection had now been withdrawn. The report had been updated accordingly. He also referred to the late observations where the comments of Dŵ Cymru/Welsh Water were reported.

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

In response to a question from Councillor W.O. Thomas, the Development Manager said that any use of the site not ancillary to the existing dwelling would be monitored. Councillor R. Lloyd pointed out that paragraph 7.02 of the report mistakenly referred to 'east' in place of 'west'

The local Member, Councillor C.M. Jones, thanked the case officer for her work in resolving the issues and welcomed the monitoring of the site for business use.

**RESOLVED:**

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

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

There were 28 members of the public and 4 members of the press in attendance.

(The meeting started at 1.00 pm and ended at 2.26 pm)

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**Chairman**