

PLANNING & DEVELOPMENT CONTROL COMMITTEE
12 FEBRUARY 2014

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, 12th February, 2014

PRESENT: David Wisinger (Chairman)

Councillors: Chris Bithell, Derek Butler, David Cox, Ian Dunbar, Carol Ellis, David Evans, Jim Falshaw, Alison Halford, Ron Hampson, Ray Hughes, Christine Jones, Richard Jones, Brian Lloyd, Richard Lloyd, Mike Peers, Neville Phillips, Gareth Roberts, Carolyn Thomas and Owen Thomas

SUBSTITUTION:

Councillor Mike Lowe for Billy Mullin

ALSO PRESENT:

The following Councillor attended as local Member:
Councillor Phil Lightfoot – agenda item 6.1

The following Councillors attended as observers:

Haydn Bateman, Marion Bateman, Amanda Bragg, Veronica Gay and Dennis Hutchinson

IN ATTENDANCE:

Head of Planning, Development Manager, Senior Engineer - Highways Development Control, Team Leader, Senior Planners, Senior Minerals and Waste Officer, Planning Support Officer, Democracy & Governance Manager and Committee Officer

Prior to consideration of the agenda, Councillor Richard Jones referred to the draft conditions that he felt were of use to Members, which were usually placed in Member Services. He queried why they had not been provided since November 2013. The Development Manager indicated that they had been sent to Member Services on the previous Friday and the Democracy & Governance Manager indicated that enquiries would be made as to where they had been placed.

139. **DECLARATIONS OF INTEREST**

Councillor Christine Jones declared a personal interest in the following application as her son-in-law was an Undertaker:-

Agenda item 6.3 – Full application – Change of use of agricultural land to a graveyard on land rear of Crompton Close, Higher Kinnerton (051534)

Councillor Mike Peers declared a personal and prejudicial interest in the following application as his son was an employee of the applicant:-

Agenda item 6.4 – Erection of 16 No. dwellings to include 6 No. 2 bed houses, 6 No. 1 bed apartments and 4 No. 2 bed apartments at Starlights Social Club, Sealand Avenue, Garden City (051518)

140. **LATE OBSERVATIONS**

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

141. **MINUTES**

The draft minutes of the meeting of the Committee held on 15 January 2014 had been circulated to Members with the agenda.

RESOLVED:

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

142. **ITEMS TO BE DEFERRED**

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

143. **FULL APPLICATION - CONVERSION OF REDUNDANT PUBLIC HOUSE INTO 5 NO. ONE BEDROOMED FLATS AT RED LION INN, LIVERPOOL ROAD, BUCKLEY (051403)**

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 would be minimum change to the exterior of the building. The site was in the settlement boundary of Buckley and Policy S11 indicated that the development which would lead to the loss of a public house which performed a social as well as an economic role would only be permitted where similar facilities existed in the neighbourhood or where this was not the case, the property had been advertised at a reasonable price for sale or lease in its existing use for a period of at least one year without success. A petrol station and associated facilities situated across the road from the site performed a social role and whilst there were no public houses in the close proximity, there were several public houses within Buckley and Ewloe. The officer referred to the additional marketing information in the late observations but as it was considered that criteria A of the policy was met it was not necessary for the property to satisfy the marketing test of criteria B or to assess its commercial viability. On the issue of access and parking, the proposed parking area would be sited to the front of the public house and improvements would be carried out to the highway and the existing bus stop. There was minimal change to the exterior of the building which would be retained and there was therefore no reason to refuse the application.

Mrs. S. Smith spoke against the application and indicated that she had been advised that planning permission was a foregone conclusion. She queried whether the land proposed for additional parking belonged to the Red Lion or the Council and raised concern about the access to the site which was on a blind bend. There was no provision for disabled parking and if the building was converted into flats, the proposal would not provide employment that had been available when it was a public house. It was a great loss to the community and even though it had been extremely popular in the past, it had recently been allowed to become run down. Mrs. Smith felt that the building was of historic interest only yards from the Buckley Heritage Trail and the Red Lion public house had been an asset to the community for 200 years.

The Democracy & Governance Manager reminded Members that the issue of land ownership was not a material planning consideration.

Mr. David Williams, the agent for the applicant, spoke in support of the application. He provided a brief history of the application and said that there had been a number of objections to the scheme but that there were 16 public houses within a two mile radius and the public house had been marketed by an agency for over 12 months. The exterior of the building would remain unchanged except for the introduction of three windows and internally the building would comprise of five one bedroomed flats and there would be a communal space at the rear of the building. Highways were satisfied with the proposals and had indicated that the proposed car parking spaces were sufficient. There had been suggestions that the work had already commenced but Mr. Williams said that this was untrue as all that had been done was the removal of the smoking shelter. He felt that the application complied with policy.

Councillor Alison Halford proposed the recommendation for approval which was duly seconded. Councillor Halford said that the Red Lion public house had not been a viable operation due to the number of pubs in the area. She referred to the permission granted to open the Running Hare public house in Ewloe and said that she would prefer that a use be made of the building to prevent deterioration. Councillor Gareth Roberts felt that it was sad when pubs of character closed but he added that there was no reason to refuse the application. A car park was to be provided and the building would be retained and therefore the correct decision was to approve the application. Councillor Chris Bithell said that lifestyles had changed and referred to pubs that had failed due to issues with the breweries and added that if facilities were not used, they would close. He raised concern about the distance of the nearest pub from the site as this would result in people not being able to walk there. The building was not worthy of listing and the proposals suggested would result in minimal changes to the exterior of the building and would provide car park spaces. He queried whether the number of spaces met the Council's guidelines and asked how many spaces would be provided in the additional area.

Councillor Richard Jones felt that Policy S11 needed to be tightened as he felt that it was difficult to prove. He said that there were sufficient one bedroom properties in Buckley, some of which were empty, so queried why this development was needed, but he added that it was difficult to find a reason for refusal. Councillor Carol Ellis said that the pub had been very busy in the past but said that it was alleged that the brewery had increased the price of alcohol

which had not been sustainable for the pub. She referred to planning permission for residential development on a site across the road at Castle Garage and said that no mention had been made of the potential conflict on the highway due to the blind bend which could have significant implications on highway safety. She concurred that there were sufficient one bedroom properties in Buckley and queried whether the building was large enough to provide five one bedroom flats. The social aspect could not be replaced with the garage and shop across the road from the site and Councillor Ellis referred to the interpretation of the policy and that she would vote against the proposal.

Councillor Neville Phillips drew attention to inconsistencies in the report and referred to a similar development in Broughton which had to be advertised for 12 months for residential development because there were no properties on the same side of the road; he queried where the nearest properties on the same side of the road to this site were. Councillor Derek Butler referred to the same development in Broughton and indicated that it was still empty. He queried whether the whole of the additional car parking area was being utilised in the application or whether it would be subject to further development. Councillor Owen Thomas queried whether a change of use application needed to be submitted prior to this application. Councillor Mike Peers queried whether the comment in the late observations about the pub being marketed for 18 months had been verified as the policy indicated that it should be adequately marketed at a reasonable price. He did not accept the argument that the Running Hare in Ewloe had impacted on the Red Lion public house and queried whether criteria A of Policy S11 had been met. In referring to car parking spaces, he asked if six was sufficient for the number of flats and requested that permitted development rights be removed to prevent any further building on the site.

In response to the comments made, the officer confirmed that Policy S11 had been complied with and reiterated that the site was in the settlement boundary of Buckley and that there were other facilities close by and a bus stop outside. On the issue of marketing, as the first criteria had been met, there was no requirement for the second test so verification of the comment in the late observations was not necessary. The parking area was all within the application site and the extra area would also be available. The standards were maximum standards and as there was a bus stop outside the site, this was a sustainable location.

The Senior Engineer - Highways Development Control confirmed that there were no objections from Highways subject to conditions and she confirmed that the access to be used already existed. The maximum standards for parking was 1.5 spaces per unit so it complied with policy and it was a sustainable location due to the provision of the bus stop and the provision in the application for cycling facilities. The Senior Engineer - Highways Development Control confirmed that there was an extant permission on the opposite side of the road to this site but she did not feel that this would create a conflict.

The Development Manager confirmed that there would be opportunity to consider Policy S11 in the context of the LDP but added that the application had been assessed in accordance with how the policy had been written. The site was part of the larger settlement and therefore complied with policy. On the issue of suitability, officers were satisfied that the building was suitable to provide the five

flats and the applicant was aware of the sensitivity of the building and had proposed minimal changes to the exterior of the building. A condition could not be imposed to prevent building on the site proposed for additional parking but any application to build on that area would need to be considered on its own merits. He added that a separate change of use application was not required.

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 Section 106 Obligation/Unilateral Undertaking to provide a commuted sum of £733 per unit to enhance recreation provision in the area in lieu of on-site open space provision.

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

144. **LANDFILL TO RAISE LEVEL BY APPROXIMATELY 1 M AND SUBSEQUENT RAISING OF HEIGHT OF AGRICULTURAL BUILDING AT JUNCTION OF A541/TARMAC QUARRY, DENBIGH ROAD, RHYDYMWYN (050809)**

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 10 February 2014. The usual consultations had been undertaken and the responses received detailed in the report.

The officer detailed the background to the report and explained that this was a partially retrospective application for proposals that were required to prevent the site from flooding. The building had been in place some time before 1992 and the application had come forward because of Enforcement Team action. The main issues included:-

- the principle of the proposal and flood risk
- Contamination of surrounding water courses
- the impact on the Right of Way
- restoration and aftercare
- ecology, biodiversity and European protected species

On the issue of flooding, the officer said that Natural Resources Wales (NRW) had been consulted and they had undertaken modelling of the area which had identified that the proposal would not result in any third party harm of flooding elsewhere subject to the landraise area being no greater than 650m². The material that was proposed to raise the level of the land would allow water to percolate through it and would therefore alleviate the flooding issue. Photographs had been circulated at the site visit which were taken in 2000 and the officer advised that the Environment Agency had invested £90k on flood defences since then and there had not been any flooding since then so the photographs should be disregarded as they were not a material consideration. The officer explained that NRW were satisfied that the construction material that was to be used would not cause contamination in the area. The public right of

way was not shown on the definitive map but the statement that accompanies the map indicates that the footpath extends through the application site. Therefore, the exact line of the right of way is uncertain. The anomaly on the definitive map would be rectified by the County Council adding a line to the definitive map under a separate statutory process. Should the existing building prove to cause an obstruction of the right of way, this could be rectified by way of a diversion under a separate statutory process outside of the planning process so was also not material to this application. However, what was material was whether the proposal affected the use of the right of way but as this would raise its level the proposals would be beneficial.. The application was retrospective and not finished but would require an additional 130 tonnes of material to be brought in to complete the restoration which would increase the height by approximately 10cm. The applicant had not yet decided whether the finish would be grass or concrete but as no objections had been received from statutory consultees and the two letters of objection related to the impact on the public footpath, there was no evidence or reason to refuse the application.

Mr. H. White spoke against the application as a footpath user and member of the Rambler's Association. The right of way was not shown on the definitive map and therefore there was a degree of doubt about the route of the path. He felt that it had been missed off because of the community boundary and that it was not clear if the proposal would affect the right of way. He felt that there were inconsistencies in the report as one section said that the path was obstructed but it was also reported that the proposal would be of benefit as it would raise the land. He sought clarification as to whether the building affected the line of the path and said that he would work with the applicant on the route of the path to achieve what the applicant wanted and to get it on the map. Mr. White asked that the application be deferred if there was any doubt about the path or that it be delegated to officers to clarify the issue of the right of way.

Mr. J.R. Jones, the applicant, spoke in support of the application, and in referring to the site visit, said that the Committee would have been able to see the issue of the flooding and why there was a need to raise the ground and the floor level of the building. He had owned the land for 20 years and the building, which had now become unusable, had been in place for over 28 years and the area had always been prone to flooding but not at the current levels. Mr. Jones said that he had been granted a licence in 2010 to tip inert rubbish on the site and this had been monitored by the Environment Agency. Meetings with the Environment Agency had been undertaken and a site visit had been carried out by the Council's Enforcement Team and the Environment Agency about the flooding. A site meeting had also been undertaken by DEFRA. Until he received a letter from DEFRA indicating that they felt that he had enough material on site to raise the level, he had not been told to stop the work being undertaken. Mr. Jones felt that the concerns of Cilcain Community Council about contamination had been addressed in the NRW report. On the issue of the footpath he said that it was a straight line to the stile with no obstructions.

Councillor Mrs. Butlin from Cilcain Community Council spoke against the application which she said was a development on a flood plain. She referred to the areas of Hendre and Rhydymwyn which had flooded in 2000 which had increased the residents' insurance premiums. This landfill would prevent floodwater of the land earmarked by NRW as floodplain in this area and

Councillor Mrs. Butlin referred to hydraulic modelling of the brook that had been undertaken was inaccurate as it assumed that all culverts had been cleared but this was rarely the case. In referring to the flooding at Glasdir Estate in Ruthin, she said that if this application was approved it would mean that nothing had been learned about flooding in North Wales. Planning should be in the public interest and not what was convenient for the developer.

Councillor Owen Thomas proposed refusal of the application against officer recommendation, which was duly seconded. He said that the report did not provide details of the history of the site and he detailed letters and emails between the Community Council, enforcement officers and the applicant from 2010 to 2012. He said that the application breached the Council's policies about building on a flood plain and he added that the proposal did not benefit from planning permission and that waste was being brought onto the site which was contrary to the Council's Policies. The footpath had been built upon and there was nothing in the report about whether there was any slurry on the site which was agricultural land. Councillor O Thomas referred to para. 3.09 of the officer's report and the material which had been deposited on site in an area of 820m² to a depth of 0.8m. Councillor O Thomas asked why the application proposed moving more material onto the site when what was there was already adequate. He felt that more consideration should be given to the people who had had their houses flooded in Rhydymwyn in 2013 and said that what was proposed was unacceptable.

Councillor Richard Jones referred to two issues: raising the land level and raising the height of the agricultural building and said that both of these things would have an effect on the modelling undertaken by NRW. He accepted that removal of the building could not be enforced as it was classed as lawful development but as the building was being raised it was effectively being moved and he queried whether this should result in the loss of the lawful development status. He agreed that the application should be refused.

Councillor Alison Halford felt that the report fell short on the issue of the footpath and queried how many lorry loads would equate to 130 tonnes of material to complete the restoration of the site. She referred to the flooding in the area in 2000 and said that she could not support an application that could allow it to happen again. Councillor Chris Bithell queried whether planning permission was needed for the agricultural building and said that the floods were lower down stream. NRW had initially objected to the proposals but had since withdrawn their objection and he queried what would happen in an appeal situation without the support of NRW. He felt that the issue of the footpath could be resolved through conditions and he asked that this be considered if the application was approved. In referring to the footpath, Councillor Derek Butler acknowledged the comments of Mr. White but said that issues of permissive paths could be negotiated outside of the planning process. He also believed that if NRW were satisfied it would be difficult to refuse the proposal. Councillor Richard Lloyd asked what the field would be used for if the application was approved and, referring to paragraph 7.08, how the applicant was to collect the rainwater from the roof. He also asked how raising the land would improve the footpath.

In response to the comments made, the officer said that assumptions had been made about where the right of way was and how the application affected it

as it was not shown on a definitive map. This would be added to the definitive map by the County Council through the Wildlife and Countryside Act. She said that there were alternative ways to cross the site if it was found that the path went through the building and the diversion of the path could be dealt with through the Highways Act. Flooding in other counties in North Wales was not material to this application but the evidence before Members indicated that NRW had undertaken computer modelling which identified that the proposed material would be permeable and would allow the water to drain through. The applicant had not yet decided what material he would use to complete the restoration of the site if permission was granted but that it would either be covered with soil and seeded or concreted. The history of the site was reported in paragraphs 5.01 to 5.06 even though all of the letters that Councillor O Thomas had referred to had not been included but the investigations had resulted in the application before the Committee. The officer queried which policies Councillor O Thomas felt that the application breached as it was considered that the development would not cause any additional problems and even though the application was retrospective, there was no policy to indicate that it should be refused. On the issue of the material being used, there had been no objections from NRW as it would not cause any contamination and there were no cows on the site, so there would not be any slurry. The officer asked Councillor O Thomas to clarify the figures that he had quoted from Paragraph 3.09 of her report as they did not agree with the information included in the Officer's report.

Councillor O Thomas said that the officer was "not up to scratch". He repeated the figures which were included in the Justification Statement as part of the application that the area was 820 sq metres with a depth of 800mm and the area that had been raised of 620 sq metres and the 100mm to complete the land restoration; he had calculated that this meant that there was already more than enough material on the site.

The officer responded that the Justification Statement was supported by a number of plans and that an area of approximately 27.5metres by 23.75metres equated to a total area of approximately 650 sq metres as detailed in the plan that accompanied the application and that the development needed to be carried out in accordance with this. Modelling had been undertaken on the 650 sq metre area and NRW were satisfied that the works would not cause flooding elsewhere to third parties. The applicant would be asked to peg out the area so that no more material would be brought onto the site than was needed. Between four and seven truckloads of material would be required to get the depth to 100mm and the officer reminded Members that the site had not been finished as the applicant had been asked to stop work which he had done. She confirmed that planning permission was required for an agricultural building and that it was included in this application. The rainwater would be collected in a large water butt and in ditches around the site which would be cleared out.

The Development Manager said that the officer had done admirably. He confirmed that a condition could be imposed about the line of the footpath to allow it to be agreed and safeguarded before any further development took place on the site. The Head of Planning expressed his regret at the comments of Councillor O Thomas and said that it was a professional and thorough report. He said that Flintshire County Council was lucky to be the lead authority in Minerals & Waste planning across North Wales and said that, even though Members may

not agree with the recommendation, there was no need to make accusations against the officer. The Chairman asked that Councillor Thomas withdraw his comment and apologise. Councillor Halford said that she thought that it was unprecedented that a former Chair of Planning had attacked the integrity of an officer; it was not what the Members wanted to hear and she hoped that Councillor O Thomas would offer an apology.

Councillor O Thomas said that he would apologise to the officer but he expressed his frustration that he felt that the report was incomplete.

Councillor Bithell queried whether the applicant was to complete the restoration with concrete, as the officer had indicated earlier. The officer advised that she had mistakenly referred to concrete and the finish would be either soil and grass or 'crusher run' material that would provide a hardstanding surface which would be permeable and that this would be conditioned. She added that the building may not be raised as this would depend on the type of animal that would be housed in it.

In response to a further question from Councillor R Jones about the lawful development status, the officer confirmed that the erection of an agricultural building formed part of the application. The Development Manager said that if Members were minded to refuse the agricultural building they should be mindful that its lawful development status was a material consideration.

In summing up, Councillor O Thomas said that the site was on a flood plain and that in his opinion there was a risk of flooding to Rhydymwyn and Hendre if the application was approved. He referred to a policy which indicated that agricultural buildings should not be built on land of less than two and a half acres and that therefore there should not be a building on the site. He referred to flooding which had occurred in the area in the last 12 months and said that as the Planning Authority was meant to act in the interest of the public, then any works that could be undertaken to prevent further flooding in these areas should be undertaken.

The Democracy & Governance Manager explained that if the proposal to refuse was lost on the vote, then a further vote would be required as there had been mention of what conditions to impose and it was not a straight for or against. There was no evidence in the report to suggest that the proposal would cause additional flooding in the area and this had been confirmed by NRW and therefore the officers did not feel that the proposed reasons for refusal could be defended if the application was refused and the applicant appealed.

Councillor Jones felt that the Committee should be considering the erection of a new building on the site, not just the raising of the existing building and that the application should therefore be refused. The Development Manager advised that the building on the site was immune from enforcement action and that this application involved the re-erection of the building. If the application was refused on the basis that Members did not want a building on the site, they would need to give a reason as to what the difference was compared to what was there before.

On being put to the vote, there was an equality of voting and the Chairman used his casting vote against refusal of the application.

Councillor Bithell then moved approval of the application, which was duly seconded, and requested that a condition be added that the right of way be marked out. Councillor O Thomas proposed an amendment that it also be conditioned that no more material be brought onto the site, that the bund be removed to allow the river to flood and that a condition be included about an assessment of whether there was any slurry on the site.

In response, the Head of Planning said that condition 9 covered the request to have the site marked out and condition 3 indicated that no more waste material was to be imported, however condition 6 referred to the importation of soil or other material to complete the restoration of the site. The removal of the bund did not form part of this planning application and could therefore not be conditioned and the Head of Planning advised that NRW had indicated that the proposal would not have a detrimental impact on the area on the issue of flooding.

Councillor O Thomas queried whether a time limit could be imposed and the officer responded that there was no time limit to implement the development as the application was partly retrospective, however a time could be imposed on the completion of the proposal. The Head of Planning said that a completion limit of 12 months could be supported and conditioned. Councillor O Thomas added that slurry was not allowed to enter the river and that therefore a slurry tank should be put in place. Councillor Bithell confirmed that his proposal could be amended to include the completion of the development within 12 months.

Councillor Carol Ellis referred to the withdrawal of the objection by NRW and queried who would monitor that the landraise area was no greater than 650m² and asked whether it could be conditioned to provide assurance to Members. The officer and Head of Planning confirmed that monitoring would be undertaken by the Council.

On being put to the vote, the proposal to approve the application along with the two extra conditions about marking out the right of way and safeguarding it prior to any further development and completion of the development within 12 months was CARRIED.

RESOLVED:

That planning permission be granted subject to the conditions detailed in the report of the Head of Planning and the additional conditions to mark out the right of way and safeguard it prior to any further development and to complete the development within 12 months.

145. **FULL APPLICATION - CHANGE OF USE OF AGRICULTURAL LAND TO A GRAVEYARD ON LAND REAR OF 10 CROMPTON CLOSE, HIGHER KINNERTON (051534)**

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 10 February 2014.

The usual consultations had been undertaken and the responses received detailed in the report. Amendments to two paragraphs in the the report were circulated at the meeting.

Mr. E.C. James, the applicant, spoke in support of the application. He explained that other sites had been explored before this site was selected and when planning permission had been granted previously there were no dissenting voices. He stated that only five burials had occurred in the last five years so it was not felt that the use of the site would be excessive. A right of way was required to access the land and only hearses and maintenance vehicles would be permitted to use the access as space for parking for vehicles would not be provided on the site. There were only four graves remaining at the churchyard and therefore this site was required.

The local Member, Councillor Phil Lightfoot, spoke against the application. He said that the map included with the report was incorrectly marked as to the location of the playing field. He raised concern about safety of children with hearses and maintenance vehicles using the access through the play area, which would be difficult to police and said that parking would be an issue on Park Avenue. He queried the definition of a maintenance vehicle and in referring to Policy SR4 on play areas, said that all of the concerns had not been addressed.

Councillor Chris Bithell proposed the recommendation for approval which was duly seconded. He felt that there was no reason to refuse the application and reminded Members that funeral processions passed by Bryn Coch School on a daily basis and that the Mold Alun Grammar School had been situated on the road to Mold Cemetery. He felt that the grounds for refusal were groundless and petty and reiterated that there was no sound reason to refuse the application. Councillor Ron Hampson concurred with the comments made.

Councillor Alison Halford raised concern about the proposal which required an uphill walk to get to the site and said that parking would also be an issue as none was to be provided. She felt that there should be a form of boundary hedging or screening to prevent the children in the playground from seeing the funeral processions and queried whether the application included any disabled access. Councillor Halford felt that other sites would be more suitable for a graveyard.

Councillor Carolyn Thomas concurred and said that there was a need to reconsider the scheme for one that did not cross the play area and asked whether the Play Unit had been consulted. She referred to an access for a bowling club through a play area in her ward which caused concern and which was dangerous.

Councillor Mike Peers queried whether the play equipment on the playground was maintained by Flintshire County Council and queried whether it was in the Unitary Development Plan (UDP) and whether it was classed as open space. He asked how the use of the access would be policed and in highlighting the lack of segregation between the site and the play area, said that he was not able to support the application. Councillor Richard Lloyd requested that a screen between the access and play area be provided if the application was approved along with parking for vehicles of those attending funerals or visiting the graves.

Councillor Christine Jones said that it was not an appropriate site for a graveyard and that there were health and safety concerns. Councillor Halford queried whether the Council would be responsible if a child was injured or killed if the application was approved as it was a Council owned play area.

In response to the comments made, the officer advised that Highways had not submitted any objections to the scheme about traffic generation. The site was outside the UDP and was outside the village envelope. Planning permission had been granted for an identical scheme in 2008 with the only difference being the request for access in this proposal. At that time the Environment Agency had no objections to the scheme and Natural Resources Wales had not submitted any objections subject to conditions for this proposal. The officer confirmed that the Play Unit had not been consulted. The Democracy & Governance Manager advised that liability of the Council was not a relevant planning consideration.

The Development Manager referred to Policy SR4 and said that this proposal would not result in the loss of the play area or any interference with the play equipment on the site and therefore was not in conflict with Policy SR4. Negotiations with Flintshire County Council had taken place about the access and as the Play Unit looked after the play area, they would have been aware of the proposals. In land use terms, the scheme was acceptable and consideration could be given to planting a hedge to screen the play area from the access.

Councillor Ray Hughes raised significant concern about the parking situation saying that the church was four or five hundred metres away and disabled people would not be able to walk to the graves. He queried the access to the allotments and said that the safety of the children was paramount.

In summing up, Councillor Bithell moved approval of the application with an additional condition about the provision of a hedge to screen the play area from the access. In response to the suggestion that a fence should be provided, the Development Manager said that a hedge was more suitable to the open environment of the area and that a fence would look intrusive. He suggested that the detail of the screening be delegated to officers, which Councillor Bithell agreed with.

RESOLVED:

That planning permission be refused and a report be brought back to the next meeting with draft reasons.

146. **FULL APPLICATION - ERECTION OF 16 NO. DWELLINGS TO INCLUDE 6 NO. 2 BED HOUSES, 6 NO. 1 BED APARTMENTS AND 4 NO. 2 BED APARTMENTS AT STARLIGHTS SOCIAL CLUB, SEALAND AVENUE, GARDEN CITY (051518)**

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. Councillor Mike Peers, having earlier declared an interest in the application, left the meeting whilst it was considered.

The officer detailed the background to the report and explained that extant permission was in place for 38 apartments on the site. He referred Members to the late observations and the concerns about flood risk under TAN15 where it was reported that what was proposed represented a betterment to the permitted situation in terms of flood risk. A 'Grampian' style condition had also been requested if the application was approved to prevent commencement of the development until such time as the Welsh Government's River Dee Northern Embankment improvement works were completed. The site was owned by Pennaf Housing Group and the proposal was for 100% affordable housing on the site but as there was potential that the site could be sold on, the officer suggested that a scheme of affordability be submitted and agreed prior to commencement.

Councillor Christine Jones proposed the recommendation for approval which was duly seconded. She welcomed the affordable housing element of the scheme and said that the local residents were also looking forward to development of the site. A 'Grampian' style condition was required to prevent any work being undertaken on the site until the works had been completed and Councillor Jones said that there was a need to ensure that there was adequate parking in place on the site.

Councillor Chris Bithell felt that the scheme fitted in with the area and that the area would be enhanced by the development. In response to a question from Councillor Bithell about parking spaces, the officer confirmed that there would be 28 spaces and that this was above the required standard of 27. Cllr G. Roberts expressed his opposition to the application of maximum parking standards.

In summing up, Councillor Jones welcomed the regeneration of the area and the request for a 'Grampian' style condition for flooding and drainage and said that she would like to see work commence as soon as possible.

RESOLVED:

That planning permission be granted subject to:-

- the conditions detailed in the report of the Head of Planning;
- a 'Grampian' style condition for flooding and drainage;
- an additional condition requiring a scheme of affordability; and
- subject to the applicant entering either into a Section 106 agreement, providing a unilateral undertaking or the making of an advance payment which provides for the following:-
 - ensure the payment of a commuted sum payment, in lieu of on site public open space provision, of £11728 with such sum being used to upgrade existing open space and recreation facilities within the locality. This sum shall be paid upon the occupation of the 10th unit of accommodation.

147. **FULL APPLICATION - RE-PLAN TO PLOTS 124-127, 136-139 AND ADDITION OF PLOTS 172-180 AS AMENDMENTS TO LAYOUT PREVIOUSLY PERMITTED UNDER APPLICATION 049605 AT FORMER LANE END BRICKWORKS, CHURCH ROAD, BUCKLEY (051066)**

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 10 February 2014. 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 said that the application proposed amending some of the dwellings to terraced or semi-detached units. These types of properties had already been completed on the site and were for the general market and affordable housing. There were no objections about overdevelopment on the site or in terms of the relationship to the existing properties and the application was therefore reported for approval.

Mr. S. Stanford spoke against the application on behalf of some of the residents on the site whose properties backed onto the northern edge of the plot. He felt that the proposals would result in significant overdevelopment of the site due to 16 properties being suggested to replace the eight originally proposed and that this would result in the density being over 50 per hectare. The variation to the layout would create excess traffic and would result in an increase in parking problems. Mr. Stanford explained that his property backed onto the northern edge of the plot and would originally have been facing 3 detached houses whereas this proposal would result in his property and those of his neighbours facing a solid façade of eight semi detached or terraced properties with no space between them. This would significantly reduce light to Mr. Stanford's property and would reduce his privacy and light into his garden and would add to the noise in the area. He did not feel that the proposals were in keeping with the rest of the site and that previously the affordable housing properties were spread across both parts of the site but was now proposed to be located in the southern parcel of the site.

Mr. N. Arkwright, the agent for the applicant, spoke in support of the application and said that the changes were proposed due to market demand. There was a much higher demand for smaller affordable homes on the development and the proposed house types were already being built on the development. Mr. Arkwright said that there had been objections about the tenure but the applicant was willing to negotiate the tenure via a Section 106 agreement. The agent had worked very closely with the authority to ensure that the application complied with the standards set for space around dwellings and separation distances and it was felt that the proposal did comply and should therefore be approved.

Councillor Mike Peers proposed refusal of the application against officer recommendation, which was duly seconded. He drew attention to the late observations where six additional comments were reported and provided a response to each of the comments. A breakdown in communication had been highlighted as the reason for the works being commenced prior to formal approval being obtained but Councillor Peers felt that it was the responsibility of

the applicant to ensure that the works had stopped and that it should not have started without permission. Councillor Peers did not feel that the replacement properties appropriately replaced the dwellings originally proposed for this part of the site and that consideration had not been given to the residents already living in the development. He felt that tenure of the units was not an issue. He said that the applicant had permission to build eight detached dwellings on this area of the site but these proposals were to replace them with 16 affordable properties with parking for 32 cars, 26 of these together in one large parking area. He highlighted paragraph 7.04 where it was reported that the proposed relocation of the affordable units was based on them being more visually related to the existing development within the southern part of the site given the intention to develop a new 'Abode' housing range within the northern parcel. Councillor Peers said that in his opinion, the developers did not want affordable homes being mixed with the 'Abode' dwellings. It was reported that the development now required 46 affordable homes but Councillor Peers felt that 47 was the correct amount that should be sought. In referring to paragraph 7.12, he said that 80% of the affordable dwellings were proposed to be sited on this parcel of the land and the higher density on this part of the site was overdevelopment and was not compliant with policy HSG8. He also felt that the proposals would create an unsightly communal car park in the area.

Councillor Ron Hampson concurred that the proposal was an overdevelopment of the site and that the affordable dwellings should be spread across both parcels of the land, not just in this area. He felt that the developer was arrogant to continue building without planning permission and that the application should be refused. Councillor Owen Thomas agreed with the comments and queried why enforcement action had not been taken to stop the development progressing without planning permission. Councillor Chris Bithell agreed that affordable housing should be spread across the whole site and that it was inappropriate to concentrate all of the affordable dwellings in one area. He referred to owners who had purchased their properties based on the plans that they had seen and referred to the difficulties that they could experience if this application was permitted. He expressed his surprise and concern at the cavalier attitude of the developer on the issue of the planning process to continue to build without permission.

In response to the queries made, the Democracy & Governance Manager advised that the developer continuing building without planning permission was neither a reason to refuse or grant permission. He added that the developer had taken a risk by building the properties as refusal of the application could result in the dwellings being demolished. He added that the plans that existing buyers had seen when purchasing their properties was not a relevant planning consideration and reminded Members of the need to concentrate on whether they felt the application was satisfactory or not.

Councillor Derek Butler agreed that it was overdevelopment of the southern parcel of the land. He drew Members' attention to the fifth additional comment in the late observations where it was reported that the applicant was agreeable to providing a lower level of affordable housing provision on this part of the site and queried the earlier comment of the agent that the proposed change of house types was as a result of market demand. Councillor Carol Ellis concurred that the proposals for a density of 50 dwellings per hectare on this part

of the site was overdevelopment and to not distribute the affordable housing across the site was discrimination. She queried why a stop notice had not been put in place and said that more needed to be done to ensure that developers built properties based on the permission that they had in place.

Councillor Alison Halford felt that the developer had been greedy and that they had provided a lack of protection to the existing residents on the site. She also felt that the proposals resulted in a breach of contractual obligations with the owners of the dwellings. She said that the affordable housing was to be dumped in an overdeveloped part of the site with fewer parking spaces and queried whether anything was to be built on the site which was to be vacated by the re-siting of the affordable dwellings from the northern parcel of the site. The Democracy & Governance Manager reminded Members that any breach of contract was not relevant in their consideration of the application. Councillor Ian Dunbar queried whether the extra dwellings complied with space about dwellings guidelines and he asked whether any conditions were to be proposed for the site layout because of access and parking.

In response to the comments made and questions raised, the officer confirmed that the development was being undertaken on a part of the site that was already substantially occupied. The developer had discussed numerous layouts before submitting this application and the officer provided details of the plans to show the comparative built form of development. It was acknowledged that the proposals were different but that in terms of the overall development, the changes were not so substantial to refuse the application on the grounds of overdevelopment. On the issue of the affordable housing, he explained that these were primarily in three built developments of terraced/detached/apartment block but that market properties across the site were also in this form of development. The officer said that the density on the site ranged from 15 to 70 dwellings per hectare so this part of the site was in the mid range in terms of density. In referring to the comments about enforcement, he said that despite officer's best efforts the developer had continued to build on the site but that work had now ceased.

In summing up, Councillor Peers referred to the 26 parking spaces that were to be provided on a hardstanding area and said that there were other blocks of apartments on the site but none with 26 car parking spaces that would resemble a car park. On the issue of density he said that some parts of the site were undeveloped but that the proposals for this area would result in overdevelopment. He said that if the application was refused, the applicant could re-look at the proposals for the benefit of the residents, reduce overdevelopment and remove the car park area. He said that the proposals were against policy and urged Members to support refusal of the application.

In response to Councillor Halford's earlier query, the officer said that the original proposals were for 15% affordable housing and that the intention was to distribute the dwellings across the whole of the site. He said that tenure was not the issue and that 44 affordable units would still be achieved even though it was proposed that the majority would be sited on the southern parcel of the land.

On being put to the vote, the proposal to refuse the application on the grounds of overdevelopment and the provision of a car parking area for 26 cars,

being out of character with this part of the development and the effect on the amenity was CARRIED.

RESOLVED:

That planning permission be refused on the grounds of:--

- overdevelopment;
- the provision of a car parking area for 26 cars being out of character with this part of the development
- the effect on the amenity

148. **FULL APPLICATION - SUBSTITUTION OF HOUSE TYPES ON PLOTS 295 - 302 & 337 - 339 OF NORTHERN PARCEL OF FORMER BUCKLEY BRICKWORKS AS PREVIOUSLY APPROVED UNDER APPLICATION 050333 (PARTLY RETROSPECTIVE) AT LANE END BRICKWORKS, BUCKLEY (050874)**

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 would be no detrimental impact on the streetscene or neighbouring properties. He referred Members to the list of conditions and amendment to the description reported in the late observations.

Councillor Mike Peers proposed the recommendation for approval which was duly seconded. He said that the number of affordable houses should be 47, 37 of which were on this southern part of the site but added that the tenure of the units and whether they were affordable or not was not an issue. They were only affordable because of the way that they had been equipped by the developer in terms of a lower specification such as in the kitchens of the properties. He supported the application.

RESOLVED:

That planning permission be granted subject to the conditions detailed in the report of the Head of Planning and late observations and subject to the applicant entering into a supplemental planning obligation reinforcing the provisions of the Section 106 Obligation entered into under Code No. 050333 in respect of highway, ecological, affordable housing and open space requirements.

149. **FULL APPLICATION - INSTALLATION OF A SMALL SCALE WIND TURBINE ON AN 18 MTR SELF SUPPORTING TOWER (25 MTRS TO BLADE TIP) TO SUPPLY POWER TO THE FARM AT MIDLIST FARM, PANT Y GOF, HALKYN (051493)**

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 referred Members to the extra condition requested in the late observations sheet.

Councillor Owen Thomas proposed the recommendation for approval which was duly seconded. He said that the site was not in the Area of Outstanding Natural Beauty and that there was a need to find alternative means to provide electricity.

RESOLVED:

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

150. **APPEAL BY MULLHILL ESTATES LLP AGAINST THE DECISION OF FLINTSHIRE COUNTY COUNCIL TO REFUSE PLANNING PERMISSION FOR OUTLINE - ERECTION OF 73 NO. HOUSES INCLUDING DETAILS OF ACCESS, APPEARANCE, LAYOUT AND SCALE (LANDSCAPING RESERVED FOR FUTURE APPROVAL) AT BYCHTON HALL FARM, MAES PENNANT ROAD, MOSTYN - ALLOWED (047951)**

RESOLVED:

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

151. **APPEAL BY MR. R. JONES AGAINST THE DECISION OF FLINTSHIRE COUNTY COUNCIL TO REFUSE PLANNING PERMISSION FOR THE SITING OF 18 NO. STATIC CARAVANS AT PENNANT PARK GOLF CLUB, MERTYN DOWNING LANE, MOSTYN - ALLOWED (049812)**

The Head of Planning indicated that this appeal would be considered in more detail at a future meeting of the Planning Strategy Group.

RESOLVED:

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

152. **APPEAL BY MR. JOHN BURGESS AGAINST THE DECISION OF FLINTSHIRE COUNTY COUNCIL TO REFUSE PLANNING PERMISSION FOR CHANGE OF USE FROM SHOP INTO A3 FAST FOOD AT 18 CHESTER ROAD WEST, SHOTTON - ALLOWED (050383)**

The Head of Planning indicated that this appeal would be considered in more detail at a future meeting of the Planning Strategy Group. Councillor Gareth Roberts welcomed the suggestion as he raised concern about the consistency of decisions by the Planning Inspectorate and suggested that a mechanism should be put in place for Members to discuss issues with the Inspector. Councillor Richard Jones referred to Policy S7 and in querying the decision of the Inspector to allow the appeal, said that rules were made to protect

the town centres and that the decision to refuse the application had provided protection.

RESOLVED:

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

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

There were 17 members of the public and 3 members of the press in attendance.

.....

Chairman