

**PLANNING & DEVELOPMENT CONTROL COMMITTEE**  
**20 MAY 2015**

Minutes of the meeting of the Planning & Development Control Committee of Flintshire County Council held at Council Chamber, County Hall, Mold on Wednesday, 20th May, 2015

As the agenda for this meeting was published before the nominations to the Planning and Development Control Committee had been confirmed following the Annual meeting, the Chair read out the names of all the members of the committee.

**PRESENT: Councillor David Wisinger (Chair)**

Councillors: Marion Bateman, Chris Bithell, Derek Butler, David Cox, Ian Dunbar, Carol Ellis, Ray Hughes, Christine Jones, Richard Jones, Richard Lloyd, Mike Lowe, Neville Phillips, Gareth Roberts and David Roney

**SUBSTITUTIONS:**

Councillor: Ron Hampson for Billy Mullin, Veronica Gay for Mike Peers, and Jim Falshaw for Owen Thomas

**ALSO PRESENT:**

The Chairman exercised his discretion to allow local Member Councillor Peter Curtis to speak on agenda item 8.4

**APOLOGY:**

Councillor Alison Halford

**IN ATTENDANCE:**

Chief Officer (Planning and Environment), Development Manager, Planning Strategy Manager, Senior Engineer - Highways Development Control, Team Leaders, Senior Planners, Planning Support Officer, Housing & Planning Solicitor and Committee Officer

1. **APPOINTMENT OF CHAIR**

The Chairman confirmed that his appointment as Chair of the Committee had been agreed at the Annual Meeting of the Council held on 12 May 2015.

**RESOLVED:**

That Councillor David Wisinger be confirmed as Chairman for the Committee.

2. **APPOINTMENT OF VICE-CHAIR**

The Chairman sought nominations for the position of Vice-Chair for the Committee. Councillor Christine Jones nominated Councillor Ian Dunbar and this was duly seconded.

**RESOLVED:**

That Councillor Ian Dunbar be appointed as Vice-Chair for the Committee.

### 3. DECLARATIONS OF INTEREST

Councillor Christine Jones declared a personal and prejudicial interest in the following application because she lived next door to the application site:-

**Agenda item 8.2 – Outline application – Erection of 6 No. dwellings at 31 Welsh Road, Garden City (052887)**

Councillor Jones indicated that she had also declared an interest on this application when it was considered at the meeting on 22 April 2015, and had completed the necessary form and had left the meeting prior to the discussion once she had spoken on the application.

Councillor Christine Jones declared that she had a pre-determined view on the following application because she was the Cabinet Member for Social Services:-

**Agenda item 8.4 – Outline application with all matters reserved for the construction of Over 55's Extra Care accommodation at Car Park, Halkyn Road, Holywell (053048)**

Councillor Gareth Roberts declared a personal interest in the following application because of his involvement with Holywell Football Club:-

**Agenda item 8.4 – Outline application with all matters reserved for the construction of Over 55's Extra Care accommodation at Car Park, Halkyn Road, Holywell (053048)**

### 4. LATE OBSERVATIONS

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

The Chief Officer (Planning and Environment) explained that a briefing note on the implications of the Community Infrastructure Levy (CIL) Regulations 2010 had been emailed to Members; a hard copy of the document had also been circulated to the Committee at this meeting.

The Housing & Planning Solicitor explained that the regulations, which came into effect on 6 April 2015, prescribed that if five or more Section 106 obligations had been agreed for a particular infrastructure project or type of infrastructure between 6 April 2010 and 6 April 2015, further obligations could not be requested for that particular infrastructure project or type of infrastructure. The regulations were of particular relevance for applications 8.5 and 8.9 on the agenda for this meeting and would be discussed at a future meeting of the Planning Strategy Group.

Councillor Chris Bithell expressed significant concern about the document and said that based on the assumption that a new classroom would cost £350,000 to build, he felt that nothing would be accomplished as some of the payments from developers were very small. He added that monies from contributions could not be pooled as the agreements were applicable to particular

planning applications and sites and therefore a level of funding required would rarely be achieved. He felt that CIL would not allow for suitable provision for schools and therefore undermined the whole process. He suggested that urgent discussions with Welsh Government Ministers and the Welsh Local Government Association were required.

The Chief Officer (Planning and Environment) shared the frustration of Members and added that the regulations did not differentiate between the amounts of payments received for Section 106 agreements. The Planning Strategy Manager explained that the payments from developers should be seen as a contribution towards the full costs of provisions of classrooms etc. and were based on the growth in pupil numbers. He reminded Members that any monies collected from Section 106 agreements that had not been used within 10 years of collection would need to be returned to the developer. He added that it was important to identify how to use the payments already received before the 10 year limit was reached.

Councillor Richard Jones raised concern that the number of payments was restricted to five and suggested that it should be restricted by amount which he felt was more logical. Councillor Carol Ellis said that when monies were allocated to the nearest school to the development, it was not always in the ward where the application was sited. She highlighted an example where one school was nearest to a development but the obligation was for a different school because it was deemed to be nearer to the site. The Planning Strategy Manager explained that advice was taken from Education Colleagues regarding admission policies for schools and suggested that the formula may need to be reconsidered.

## 5. **MINUTES**

The draft minutes of the meetings of the Committee held on 17 April 2015 and 22 April 2015 had been circulated to Members with the agenda.

### 22 April 2015

Councillor Richard Lloyd referred to the second paragraph on page 19 and requested that the figure in the seventh line be amended from 3.7 metres to 4.1 metres.

On being put to the vote, the amendment was CARRIED.

Councillor Chris Bithell referred to the fourth paragraph on page 21 and suggested that the word 'complaint' should be replaced with the word 'compliant'.

On being put to the vote, the amendment was CARRIED.

### **RESOLVED:**

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

6. **ITEMS TO BE DEFERRED**

The Chief Officer (Planning and Environment) advised that none of the items on the agenda were recommended for deferral by officers.

7. **FULL APPLICATION - ERECTION OF 6 NO. APARTMENTS WITH ASSOCIATED ACCESS AND PARKING AT 1 QUEEN STREET, QUEENSFERRY (053080)**

The Committee considered the report of the Chief Officer (Planning and Environment) 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 had been deferred at the 22 April 2015 meeting to request confirmation from Natural Resources Wales (NRW) as to why this proposal was considered differently to that of a nearby development (reference 051988). The report addressed NRW's response and paragraphs 7.13 and 7.14 detailed the different considerations for the two applications.

Mrs. S. Speechley spoke against the application. She said that the site had previously been used as a garden and added that NRW had indicated that the application failed to comply with A1.14 of TAN15. It had been suggested at the meeting on 22 April 2015 that NRW had been inconsistent in their determination of this proposal and application 051988. Mrs. Speechley said that the plans failed to show the alleyway which measured 4.8 metres and narrowed to 3.6 metres, in which cars would turn into the site opposite the gate to her garden which she felt was dangerous. Scaffolding which had been erected on her house currently obstructed half the alleyway and would therefore prevent any vehicles entering the proposed site whilst the scaffolding was in place if approval was granted. Mrs. Speechley also felt that the proposal was dangerous and impractical for pedestrians as a footway would not be put in place from the site.

Mr. J. Paul, the agent for the applicant, spoke in support of the application. He felt that the concerns raised had been addressed and he provided details of the proposed ridge height compared to properties on Chester Road and Queen Street. He said that invasion of privacy would not be an issue and he raised concern about the suggested inconsistency by NRW which had been highlighted at the previous meeting. He also spoke of the concerns raised about possible flood risk which he felt had been addressed. He added that the proposal would allow for a quality designed solution which would help to address the lack of five year housing land supply.

Councillor Chris Bithell proposed the recommendation for approval which was duly seconded. He spoke of the discussions that had been undertaken at the previous meeting and said that there were no planning reasons to refuse the application. He commented on the objection raised by NRW when they had not objected to a site nearby and queried whether the inconsistency could be raised with NRW. The Development Manager advised that if the application was

approved, NRW could consider whether to ask for the application to be called-in and added that officers were comfortable with the recommendation.

Councillor Christine Jones raised concern at the inconsistency of NRW as both this site and the nearby site that they had not objected to were in the C1 flood zone. She suggested that the site was greenfield rather than brownfield as it had been a garden which was the reason for the objection by NRW. Councillor Richard Jones felt that NRW were being consistent in their opinion which he felt should be followed and the application should therefore be refused. In referring to the comments of NRW in paragraphs 7.13 and 7.14, Councillor Derek Butler indicated that NRW had identified this site as being more vulnerable because it did not benefit from existing planning permission which the nearby site did. He concurred that NRW had been inconsistent in their opinion and suggested that this issue should be raised with NRW.

In response, the Planning Strategy Manager said that the Council was the statutory authority and that advice as part of the consultation exercise had been provided by NRW. He felt that there was no justification for NRW to give differing views on sites that were so close together. He suggested that there was no greater risk on this site than on the nearby site and that appropriate conditions would be applied to mitigate any concerns.

On being put to the vote, the proposal to refuse the application was CARRIED. Councillor Butler indicated that the reasons for refusal were based on the objection from NRW as detailed in paragraphs 7.13, 7.14 and 7.15 of the report.

Councillor Richard Jones commented on the Section 106 obligation attached to an approval of the application and queried whether five or more contributions had been requested for public open space enhancements in lieu of on-site provision, based on the briefing note discussed earlier. The Housing & Planning Solicitor advised that this was immaterial as the Committee had refused the application.

**RESOLVED:**

That planning permission be refused because of the objection from Natural Resources Wales (as reported in paragraphs 7.13, 7.14 and 7.15).

8. **OUTLINE APPLICATION - ERECTION OF 6 NO. DWELLINGS AT 31 WELSH ROAD, GARDEN CITY (052887)**

The Committee considered the report of the Chief Officer (Planning and Environment) 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 had been deferred from the 22 April 2015 meeting in order for the applicant to explore a Section 106 Obligation to secure maintenance of the proposed access and for the applicant to confirm whether he held any access

rights over the alternative access route to the site to the east of 37 Welsh Road and to the rear of 35-37 Welsh Road. The officer referred Members to the late observations where a letter to the applicant from Spar had indicated that they were in full agreement for the applicant to maintain the roads to the side and rear currently within the title of the Spar premises. A letter from the applicant's Solicitor indicated that the applicant retained ownership of part of the access to the rear of 35-37 Welsh Road and retained a right of passage over it and that a license agreement had been drawn up between the applicant and the owners of Spar that required the applicant to maintain the access in perpetuity to a suitable standard. This would therefore allow the applicant to enter into a Section 106 agreement to secure resurfacing and maintenance of the access road to the site.

Councillor Christine Jones said that the access road to the north, west and east of the site should always be in the ownership of 35 Welsh Road and added that she had a document as proof of this. The land had been purchased in 1952 by the shop owners and the document also indicated that the access should be kept in good order and open at all times. She said that part of the land to the left of the property was not in the ownership of the applicant and suggested that there was no legal agreement between the owners of Spar and the applicant and therefore she did not feel that a Section 106 agreement should be considered. She added that the site had already appeared for sale on an estate agent's website; the Housing & Planning Solicitor advised that this was not a material planning consideration. Councillor Jones, having earlier declared an interest in the application, left the meeting prior to its discussion.

In referring to the work that was being undertaken on the transfer of land and for the applicant to maintain the access in perpetuity to a suitable standard, Councillor Chris Bithell queried whether the application was premature. The Housing & Planning Solicitor advised the access was to be the subject of a Section 106 obligation and if an obligation was not forthcoming within six months of the Committee resolution then the Chief Officer (Planning and Environment) would have delegated authority to refuse the application.

Councillor Richard Jones sought clarification on the Section 106 obligation for recreation enhancements in lieu of on-site provision and queried whether five or more requests had been made in the past. In response, the Development Manager explained that £1,100 per dwelling had consistently been requested for recreation enhancements and that the applicant could challenge the request if the application was approved. He added that all aspects of Section 106 Agreements would be considered following the introduction of the Community Infrastructure Levy (CIL) requirements. Councillor Neville Phillips asked about ownership of the land but was advised by the Housing & Planning Solicitor that this was not an issue that Members needed to consider.

Councillor Ian Dunbar proposed refusal of the application, against officer recommendation, which was duly seconded. He said that the applicant only owned half of the road and queried how the applicant could indicate that he could maintain all of it. He added that the footway and rear of the shops was also not owned by the applicant. Councillor Ray Hughes concurred and Councillor Marion Bateman asked whether ownership of the road was a material consideration; the Housing & Planning Solicitor confirmed that it was not.

In response to a comment from Councillor Derek Butler, the Housing & Planning Solicitor said that the Section 106 agreement had been requested because of the concerns raised by Members. Information received since the previous meeting indicated that such an agreement could be made by the applicant and the owners of Spar. He reminded Members that if the application was approved and the Section 106 agreement was not signed within six months of the date of the Committee resolution, then the application would be refused.

Councillor Bithell queried whether the Section 106 obligation would provide a safeguard and Councillor Richard Jones felt that to include a Section 106 obligation for recreation enhancements was unlawful as it was not known whether five or more had already been requested. Councillor Richard Lloyd sought clarification on whether the road width would be 3.7 metres and Councillor Gareth Roberts commented on the Section 106 agreement. In response to Councillor Lloyd's question, the officer indicated that a condition could be included that the road width be 3.7 metres.

Councillor Dunbar felt that the application should be refused because the applicant did not own the land and because of the Section 106 agreement. The Planning Strategy Manager advised that the safeguards would be in the Section 106 obligation and if the obligation was not provided then the application would be refused. He added that the reasons given were not valid reasons to refuse the application. Councillor David Roney suggested that the application be refused due to the insufficient parking for the number of proposed properties. Councillor Dunbar added that the insufficient width of the access could be a reason to refuse the application. In response, the Senior Engineer – Highways Development Control said that Highways had not raised an objection to the proposal subject to conditions and the maintenance of the access in perpetuity. The developer was to improve the width of the access road and this use was less onerous than the previous use for garages and therefore there was no reason to refuse the application. Councillor Lloyd queried how the applicant could improve the road if he did not own it and the Housing & Planning Solicitor advised that this would be achieved by entering into an agreement with the owner of Spar and by signing the Section 106 agreement.

The Housing & Planning Solicitor asked Members to clarify the reasons for refusal and reminded the Committee about the Costs Circular and reasons for awarding costs in an appeal.

Councillor Roney sought clarification on the footpath provisions if the access road was to be widened. The Senior Engineer – Highways Development Control advised that the Residential Design Guidance indicated that developments of up to 25 properties only required a shared surface for road users and pedestrians and therefore the footpath width was not a material consideration.

On being put to the vote, the proposal for refusal because of an inadequate access, which was against officer recommendation, was LOST.

Councillor Bithell proposed the recommendation for approval with the additional condition from the officer about widening the access and this was duly seconded. On being put to the vote, the proposal was CARRIED.

**RESOLVED:**

That planning permission be granted subject to:-

- the conditions detailed in the report of the Chief Officer (Planning and Environment)
- the additional condition about widening the access
- the applicant entering into a Section 106 agreement/unilateral undertaking or earlier payment for the following contributions:
  - £1,100 per unit for recreation enhancements in lieu of on-site provision; and
  - A section 106 agreement/unilateral undertaking to secure resurfacing and future maintenance of the access road to the site

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

After the vote had been taken, Councillor Jones returned to the meeting and the Chairman advised her of the decision.

9. **FULL APPLICATION - PROPOSED ALTERNATIVE SITE ACCESS OFF YOWLEY ROAD AND ALTERATIONS TO CAR PARKING ARRANGEMENT TO RESIDENTIAL DEVELOPMENT APPROVED UNDER PLANNING PERMISSION 050492 AT 15-23 YOWLEY ROAD, EWLOE (053122)**

The Committee considered the report of the Chief Officer (Planning and Environment) in respect of this application which had been the subject of a site visit on 18 May 2015. 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 the application had been deferred at the meeting held on 22 April 2015 for a site visit to be undertaken and for clarification on the width of the access road. An amended plan had been submitted by the application which clarified that the width of the access with the current kerbs realigned would be 3.9 metres in width.

Councillor Chris Bithell proposed the recommendation for approval which was duly seconded. In referring to the access, Councillor Bithell said that the proposed width could be achieved and therefore there were no reasons to refuse the application.

Councillor Richard Lloyd felt that the recommendation would not be for approval if the dwellings had not already been built or if there was not a ransom strip in place. He also highlighted application 050492 which referred to a fence that would prevent access from Yowley Road and commented on the decision notice for application 044698 which indicated that the entrance from Yowley Road would be closed by bollards in the interest of highway safety; he queried why this no longer applied.

In response to a question from Councillor Richard Jones about the ownership of the land, the Housing & Planning Solicitor said that the applicant had certified when submitting the application that the land was in their ownership.

The officer referred to the previous application for 10 dwellings on the site and explained that this included a detailed layout for the Bon Accord site and added that there had been no Highways objections to that application. However, due to a situation where a covenant on the site made it difficult for the developer to use the access that had been constructed; there were still no objections to the proposal from Highways.

In summing up, Councillor Bithell said that the site was previously used for garages and there were no grounds to refuse the application.

**RESOLVED:**

That planning permission be granted subject to the conditions detailed in the report of the Chief Officer (Planning and Environment).

10. **OUTLINE APPLICATION WITH ALL MATTERS RESERVED FOR THE CONSTRUCTION OF OVER 55'S EXTRA CARE ACCOMMODATION AT CAR PARK, HALKYN ROAD, HOLYWELL (053048)**

The Committee considered the report of the Chief Officer (Planning and Environment) in respect of this application which had been the subject of a site visit on 18 May 2015. 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 principle of the development for residential purposes was acceptable. Objections had been received from Holywell Town Council and the public including two petitions.

Ms. L. Burnell Jones said that there were no objections to the project but where it was to be sited was a concern. The proposal would take away the only long stay car park in Holywell, which was used by those who attended the hospital and it was felt that this would have a profound effect on the community. She commented on the significant problems that would occur for emergency vehicles as the proposed road width and turning circle would make it difficult for those vehicles to manoeuvre. The unadopted road was very narrow and Ms. Burnell Jones suggested that there was also a water course in the area and that land contamination from previous uses was also a cause for concern. She commented on the limited number of parking spaces for the size of the proposal and said that current and future traffic generation would be an issue.

Councillor Gareth Roberts proposed refusal of the application, against officer recommendation, which was duly seconded. He commented on the advice that he had received about the need to declare a personal interest in the application but added that he did not feel that he had an interest. He said that an extra care facility would be welcomed in Holywell but not on this site as it was

currently used for long stay car parking provision and was an essential ancillary car park for the hospital. He commented on the survey which had been undertaken about the car park usage over a 24 hour period and suggested that the mitigation parking areas would be insufficient. Councillor Roberts detailed the number of patients that were treated in various departments and clinics in the hospital and said that lives would be put at risk if the application was approved.

Councillor David Roney said that the project was welcomed in Flintshire but indicated that when Tesco opened in Holywell, money was given to provide an alternative parking area, which was on this site. He added that it was already difficult to park at the hospital and doctor's surgery.

The Local Member, Councillor Peter Curtis, thanked the Chairman for allowing him to speak. He agreed that the Extra Care Facility would be welcomed but felt that it would be more appropriate on an alternative site. He commented on the survey which had been undertaken over a 24 hour period and spoke of the current problem of finding a car park space which he suggested would worsen if the application was approved. He felt that if those visiting the town could not find a parking space, they would shop elsewhere and suggested that it was important to maintain the site for long stay parking.

Councillor Chris Bithell said that the facility would be welcomed but the site visit had showed the problems that would be experienced if the car park was lost. He queried the number of spaces that were to be provided as part of the proposal and suggested that the total figure was inadequate. Councillor Derek Butler referred to the late observations where it was reported that Betsi Cadwaladr University Health Board supported the proposal. Councillor Richard Jones felt that the loss of ancillary parking would cause highway issues and that the survey that had been undertaken was inadequate; he suggested that the application should be refused because of lack of mitigation parking that was to be provided as part of the scheme.

Councillor Christine Jones said that the car park was not designed for use by those attending the hospital or the doctor's surgery and suggested that it was used as an informal park and ride scheme. She commented on the other Extra Care facilities in Flintshire and explained that residents did not experience problems with parking at those sites. She added that other locations for the project had been explored but were unsuitable.

In response to the comments made, the officer said that the survey had not been undertaken over a 24 hour period but was carried out in two 12 hour sections, one in the week and one at a weekend. The issues of road widening and possible land contamination as raised by Ms. L. Burnell Jones were covered by conditions 7 and 16 respectively. The amount of parking included in the proposals for the Extra Care facility took account of staff and visitors and were in accordance with the Local Planning Guidance. He advised that other sites had been examined but had been ruled out as unacceptable.

Councillor Richard Jones sought clarification on the parking survey figures and the Senior Engineer – Highways Development Control provided details of the survey results and how these had been used to calculate the parking provision for the proposal and the mitigation parking areas. It had been suggested that the

current car park was used as an informal park and ride service and therefore was not used in connection with parking for visitors to the town. Councillor Carol Ellis suggested that the application should be refused or deferred until information about the car park usage was known.

The Planning Strategy Manager said that the ancillary use of the car park for those visiting the hospital or doctor's surgery was not what the long stay provision was intended for. He suggested that the hospital should provide adequate spaces for those visiting the hospital and added that 55 spaces would be provided for long stay use in addition to those proposed for the Extra Care Facility. He added that the funding for the project was time limited and refusal of the application would mean that the proposal would not take place.

In summing up, Councillor Gareth Roberts commented on the impact of losing the car park site and spoke of the large number of undeveloped application sites in the area which would create extra demand on the hospital and therefore the car parking area. He said that the Extra Care Facility would be welcomed and commented on the prospect of losing the funding for the project. He added that the application should be refused because of the loss of car park that had become vital for the ancillary use of the hospital.

Councillor Ellis proposed deferment of the application to await further information, which was duly seconded. On being put to the vote, the proposal to defer the application was LOST.

Councillor Roberts requested a recorded vote but was not supported by the requisite number of Members.

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

**RESOLVED:**

That planning permission be refused due to the highway safety implications of the loss of the car park for ancillary use for the hospital.

11. **FULL APPLICATION - ERECTION OF 16 NO. DWELLINGS WITH ASSOCIATED PEDESTRIAN FOOTWAY AND UPGRADE OF EXISTING LANE AT HOLMLEIGH, CHESHIRE LANE, BUCKLEY (053141)**

The Committee considered the report of the Chief Officer (Planning and Environment) in respect of this application which had been the subject of a site visit on 18 May 2015. 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 the site benefited from an extant outline permission and that this application dealt with access to the site. He highlighted two amendments to paragraph 7.17 as it was incorrectly reported that Dwr Cymru/Welsh Water had objections to the proposal. He also explained that the word 'not' should be included in the last line of that paragraph and that the sentence should read 'Dwr Cymru/Welsh Water

raise no objection to this proposal but have requested conditions to ensure that combined flows are not discharged to this system’.

Councillor Chris Bithell proposed the recommendation for approval which was duly seconded. He said that the concerns that had been raised had been addressed in the report and there was no reason to refuse the application.

In referring to her significant concerns about highway safety, the Local Member, Councillor Carol Ellis, spoke of the entrance to the Health Centre which had not been in place when the outline permission was granted for this site. She commented on another entrance for a site with 20 dwellings which was not far away from this site and said that no Section 106 monies had been spent on improving the road or providing a 30 mph warning sign. She added that she felt that the road was ‘an accident waiting to happen’ and was very dangerous. Councillor Ellis asked whether Cheshire Lane would be brought up to an adoptable standard and queried whether it would be widened as she felt that there would be problems with vehicles accessing the estate road. In highlighting the responses to the public consultation, Councillor Ellis said that Buckley Town Council had objected to the proposal as it conflicted with Policy IMP1 of the Unitary Development Plan. She commented on the figure of £17,600 that the developer would be required to pay in lieu of on-site play provision and raised concern that it was not possible to request a contribution for educational provision for Mountain Lane School. Councillor Ellis also raised concern about drainage and spoke of the route that children took to access Elfed High School and reiterated her concerns about highways.

Councillor Richard Jones referred to the Section 106 agreement which could not be requested for educational contributions and said that the application should be refused because of the effect on the local schools which could not be mitigated. He concurred with Councillor Ellis that Buckley Town Council had objected to the application and suggested that the application could be deferred so that the objection could be considered. Councillor Neville Phillips spoke of the Elfed High School and the number of pupils that would be able to attend the school in the future, based on guidelines outlined by Welsh Government and suggested that the status of the school be considered.

In response to the comments made, the officer explained that the response had been received from Buckley Town Council which had included objections to the proposal. However, the concerns had also been raised by Councillor Ellis at this meeting and therefore there was no requirement to defer the decision to consider the objections. On the issues raised about access and the issues on Alltami Road, the officer explained that an access design layout had been agreed and the road up to the site entrance would be upgraded but Cheshire Lane would not be upgraded to an adoptable standard. Paragraphs 7.24 to 7.31 provided full details of the consideration of contributions based on the Community Infrastructure Levy requirements and explained why a contribution could not be requested for Mountain Lane School. He added that there were no capacity issues at Elfed High School as it had 48% surplus places. Paragraph 7.29 explained that the impact of the development on Mountain Lane School had been considered and the formula in Local Planning Guidance Note 23 gave an indication that four pupils would be expected to be generated from the development which would increase the pupils on roll to 401; the school had

an actual capacity of 409. He agreed that the proposal did conflict with policy IMP1 but said that there was no justifiable basis to refuse the application.

The Planning Strategy Manager concurred that there was no reason to refuse the proposal and explained that there were alternative schools which had capacity and added that the Section 106 policy did not allow the transfer of monies to other schools.

In summing up, Councillor Bithell said that the areas of concern raised by Councillor Ellis had been addressed and no adverse comments had been received from Highways. He said that the lack of educational contributions did concern him and that but that the application should be approved.

**RESOLVED:**

That planning permission be granted subject to the conditions detailed in the report of the Chief Officer (Planning and Environment) subject to the applicant entering into a Section 106 Obligation/Unilateral Undertaking to provide for the following:-

- (a) Ensure the payment of a contribution of £28,000 to the Council for ecological mitigation. Such sum to be paid to the Council prior to the occupation of any dwelling.
- (b) Ensure the payment of a contribution of £17,600 in lieu of on site play and recreation provisions. Such sum to be paid to the Council prior to the occupation of 50% of dwellings. Such sum to be used in the improvement of existing recreation and play facilities in the community.

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

12. **FULL APPLICATION - CONSTRUCTION OF 4 NO. 2 BEDROOMED HOUSES WITH ADJACENT CAR PARKING AT 245 HIGH STREET, CONNAH'S QUAY (051926)**

The Committee considered the report of the Chief Officer (Planning and Environment) 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 highlighted the late observations where it was reported that the Local Member, Councillor Bernie Attridge, did not have any objections to the application. A number of objections had been received in relation to highways during the public consultation exercise. He added that an application for six flats had been approved in 2009.

Councillor Ian Dunbar proposed the recommendation for approval which was duly seconded. He said that the site, which had previously been granted

planning permission for six apartments, was within the settlement boundary and therefore the principle of development was acceptable and this application was for four apartments. In summing up, he added that neither of the Local Members had any objections to the proposal.

**RESOLVED:**

That planning permission be granted subject to the conditions detailed in the report of the Chief Officer (Planning and Environment) and subject to the applicant entering into a Section 106 Obligation/Unilateral Undertaking or making an upfront payment to provide the following:-

- Payment of £4,400 in lieu of on-site public open space

If the payment is not made or 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 Chief Officer (Planning and Environment) be given delegated authority to REFUSE the application.

13. **FULL APPLICATION - PROPOSED CHANGE OF HOUSE TYPES ON PLOTS 19, 26 & 27 AND RE-POSITION ON PLOTS 20, 21 & 22 FROM PREVIOUSLY APPROVED RESIDENTIAL DEVELOPMENT 048855 AT CAE EITHIN, VILLAGE ROAD, NORTHOP HALL (053420)**

The Committee considered the report of the Chief Officer (Planning and Environment) 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 for the submission of house types and re-positioning on some plots because of work that had been undertaken due to mine shafts on the site. Once the badger sett had been relocated, a detailed assessment was undertaken and as a result a request had been received from the applicant to change the house types and layout of the site.

Councillor Chris Bithell proposed the recommendation for approval which was duly seconded. In response to a question from Councillor Bithell, the officer explained that the application would not impact on the Section 106 obligation as the number of dwellings was not being amended.

**RESOLVED:**

That planning permission be granted subject to the conditions detailed in the report of the Chief Officer (Planning and Environment) and subject to the applicant entering into a supplementary Section 106 agreement or unilateral undertaking to link this development with the requirement for the affordable housing provision and the open space and education contributions as required by 048855.

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 Chief Officer (Planning and Environment) be given delegated authority to REFUSE the application.

14. **FULL APPLICATION - PROPOSED CHANGE OF HOUSE TYPE POSITION ON PLOTS 40 TO 46 INCLUSIVE AT CAE EITHIN, VILLAGE ROAD, NORTHOP HALL (053496)**

The Committee considered the report of the Chief Officer (Planning and Environment) 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 dwellings on plots 40 to 46 had been built 950mm further south than had previously been approved and were further away from the existing properties on Village Road. This would have implications for the parking and footway in front of properties on plots 40 to 43 from 1.8 metres to 1.3 metres and to 1 metre along the frontage of plots 44 to 45. It was also proposed to change the house types to allow for roller doors on the garages. There had been no objections from Highways on the proposals.

Councillor Chris Bithell proposed the recommendation for approval which was duly seconded. He raised concern that this was not the first application for amendments to layouts or house types that had been submitted due to errors by the company. Councillor Derek Butler queried whether the dwellings being sited in the wrong place should have been raised by the Council's Building Regulations Department. Councillor Marion Bateman concurred and highlighted a similar problem that had occurred on a site in her ward. In response, the Chief Officer (Planning and Environment) explained that not all developers used the Council's Building Control Service and therefore the error may not have been brought to the Council's attention. Councillor Richard Jones suggested that the dwellings would need to be demolished if they had been built one metre closer to the properties on Village Road rather than further away from them. He asked that a letter be sent to the applicants to advise that the Committee may not be minded to approve such applications easily in the future.

The Development Manager explained that it was the owner's responsibility to build dwellings in the correct place to comply with planning permissions. This was not the Building Regulations function and their officers did not have the resources to check that all developments were built in accordance with the planning permission granted. If the properties had been built one metre closer to the dwellings on Village Road, the impact of the error would have needed to be considered and may have warranted refusal of the application. He added that developers needed to take their responsibility seriously.

**RESOLVED:**

That planning permission be granted subject to the conditions detailed in the report of the Chief Officer (Planning and Environment) and subject to the

applicant entering into a supplementary Section 106 agreement or unilateral undertaking to link this development with the requirement for the affordable housing provision and the open space and education contributions as required by 048855.

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 Chief Officer (Planning and Environment) be given delegated authority to REFUSE the application.

15. **GENERAL MATTERS - FULL APPLICATION - ERECTION OF 20 NO. DWELLINGS (PHASE 2) AT VILLAGE ROAD, NORTHOP HALL (052388)**

The Committee considered the report of the Chief Officer (Planning and Environment) in respect of this application. The usual consultations had been undertaken and the responses received detailed in the report.

The officer detailed the background to the report and explained that planning permission had been granted in October 2014 subject to conditions and the applicant entering into a Section 106 agreement for gifted units, a payment in lieu of on-site open space provision and an educational contribution for Hawarden High School. However, since the approval had been granted, further applications with S106 obligations had been granted and Community Infrastructure Levy regulations had come into place. From April 2015, the regulations prevented further obligations being requested for an infrastructure project/type of infrastructure if five or more S106 obligations had already been agreed. To date, five obligations had been entered into for educational contributions towards Hawarden High School and therefore a further request as part of this permission could not proceed. The report was therefore seeking a revised recommendation that permission be granted subject to conditions and a Section 106 obligation for gifted dwellings and a payment in lieu of on-site open space provision only.

Councillor Chris Bithell proposed the recommendation to amend the recommendation for approval which was duly seconded.

**RESOLVED:**

That planning permission be granted subject to the conditions detailed in the report of the Chief Officer (Planning and Environment) and subject to the applicant entering into a Section 106 agreement for the following:-

- To gift 2 three bed dwellings to North East Wales Homes to be used as affordable housing
- To provide a commuted sum of £1,100 per dwelling in lieu of on-site open space provision

16. **APPEAL BY MORRIS HOMES LTD AGAINST THE DECISION OF FLINTSHIRE COUNTY COUNCIL TO REFUSE PLANNING PERMISSION FOR THE ERECTION OF 36 NO. AFFORDABLE DWELLINGS WITH ASSOCIATED PARKING, ACCESS, HABITAT CREATION AND PUBLIC OPEN SPACE AT LLYS BEN, NORTHOP HALL (050613)**

The Chief Officer (Planning and Environment) explained that this appeal had not been permitted even though the Council had a below five year housing land supply and was therefore an indication that not all planning applications would be permitted despite the insufficient land supply.

The Inspector had concluded that the proposed scheme would not deliver dwellings that would be affordable to more than just a few of the local people in need of affordable housing.

**RESOLVED:**

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

17. **APPEAL BY MR. B. THOMAS AGAINST THE DECISION OF FLINTSHIRE COUNTY COUNCIL TO REFUSE PLANNING PERMISSION FOR REGULARISATION OF EXISTING EQUIPMENT STORE AT MOUNTAIN PARK HOTEL, NORTHOP ROAD, FLINT MOUNTAIN (050965)**

The Chief Officer (Planning and Environment) indicated that enforcement action was now being considered on this application.

**RESOLVED:**

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

18. **APPEAL BY MCDONALD'S RESTAURANT LIMITED AGAINST THE DECISION OF FLINTSHIRE COUNTY COUNCIL TO REFUSE PLANNING PERMISSION FOR ALTERATIONS TO THE DRIVE THRU LANE AND THE RECONFIGURATION/EXTENSION TO THE CAR PARK TO PROVIDE A SIDE BY SIDE ORDER POINT AT MCDONALD'S RESTAURANT, ST. ASAPH ROAD, LLOC (052233)**

**RESOLVED:**

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

19. **APPEAL BY MR. IAN BRAMHAM AGAINST THE DECISION OF FLINTSHIRE COUNTY COUNCIL TO REFUSE PLANNING PERMISSION FOR REPLACEMENT OF A STATIC CARAVAN WITH CHALET FOR HOLIDAY USE AND ASSOCIATED WORKS AT LAND ADJACENT CHAPEL HOUSE, BRYN GOLEU, NANNERCH (052639)**

**RESOLVED:**

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

20. **APPEAL BY MR. J. BEDFORD AGAINST THE DECISION OF FLINTSHIRE COUNTY COUNCIL TO REFUSE THE PLANNING PERMISSION FOR CONSTRUCTION OF NEW ROOF OVER GARAGE, POND SHELTER AND INSTALLATION OF HOT TUB AT 28 WINDSOR DRIVE, FLINT (052702)**

The Chief Officer (Planning and Environment) explained that enforcement action was now being considered.

**RESOLVED:**

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

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

There were 5 members of the public and 2 members of the press in attendance.

(The meeting started at 1.00 pm and ended at 3.35 pm)

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**Chair**