PLANNING & DEVELOPMENT CONTROL COMMITTEE
29 OCTOBER 2014

Minutes of the meeting of the Planning & Development Control Committee of Flintshire County Council held at County Hall, Mold on Wednesday, 29th October, 2014

PRESENT: **David Wisinger (Chairman)**
Councillors: Marion Bateman, Chris Bithell, Derek Butler, Ian Dunbar, Carol Ellis, David Evans, Alison Halford, Ray Hughes, Christine Jones, Richard Jones, Mike Peers, Neville Phillips, Mike Reece, Gareth Roberts, David Roney and Carolyn Thomas

SUBSTITUTIONS:
Councillor: Mike Lowe for David Cox, Veronica Gay for Richard Lloyd, Ron Hampson for Billy Mullin, and Jim Falshaw for Owen Thomas

ALSO PRESENT:
The following Councillors attended as observers:
Councillors: Bernie Attridge, Haydn Bateman, Brian Lloyd, Richard Lloyd and Owen Thomas

IN ATTENDANCE:
Chief Officer (Planning and Environment), Development Manager, Planning Strategy Manager, Senior Engineer - Highways Development Control, Senior Planner, Planning Support Officer, Democracy & Governance Manager and Committee Officer

74. DECLARATIONS OF INTEREST

Councillor Christine Jones indicated that she had been granted dispensation by the Standards Committee to speak and vote on the following application. She declared a personal and prejudicial interest because a family member was an undertaker.

In line with the Planning Code of Practice:-

Councillor Marion Bateman declared that she had been contacted on more than four occasions on the application.

75. LATE OBSERVATIONS

The Chief Officer (Planning and Environment) advised those present that in addition to the late observations sheet, amendments to the report and a letter from Welsh Government (WG) had been circulated. He explained that the letter from WG indicated that if the application was approved at this meeting, then a decision notice could not be issued until WG had taken a view on the application. The letter did not prevent either consideration of the application at this meeting or a decision of refusal of the proposal.

Councillor Chris Bithell queried whether this meeting should continue as any decision to approve the application would be taken out of the hands of the

Planning Authority. The Democracy and Governance Manager confirmed that the debate and determination of the application should take place and reiterated that a decision notice would only not be issued if the application was approved pending a decision by WG whether to call in the application.

Councillor Richard Jones queried who had contacted WG and why they had done so before the meeting had taken place. Councillor Mike Peers raised concern about the letter and asked if any officers had requested that a decision of approval be called in; he felt that the letter undermined the Committee determination. The Chief Officer (Planning and Environment) advised that the request had not been made by officers and added that he had only received the letter after the Committee had left for the site visit.

In response to a query from Councillor Carol Ellis about whether the application should be deferred, the Democracy and Governance Manager said that there was no legal reason to defer but that this could be considered by the Committee if they felt that there was a planning reason for doing so such as another application for a similar proposal being processed.

Councillor Gareth Roberts raised concern that WG had been contacted prior to the determination of the proposal which he felt was unusual. He felt that the letter was a further move to undermine the democratic process. Councillor Alison Halford concurred and said that it took away the Committee's power to decide. Following further remarks from Councillor Richard Jones about the letter from WG, the Democracy and Governance Manager reiterated his earlier comments that the decision notice could not be issued only if it was resolved to approve the application at this meeting.

76. **FULL APPLICATION - ERECTION OF A CREMATORIUM WITH ASSOCIATED CAR PARKING, NEW ACCESS, LANDSCAPING AND GARDEN OF REST ON LAND EAST OF A5119 AND SOUTH OF TYDDYN STARKEY, STARKEY LANE, NORTHOP (051043)**

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 earlier that day. The usual consultations had been undertaken and the responses received detailed in the report. Additional comments received since the preparation of the report were circulated at the meeting.

The officer detailed the background to the report and explained that the site covered approximately 4.1 hectares of existing agricultural land and was within the Green Barrier and open countryside. Paragraph 7.13 reported that independent consultants with experience of dealing with crematoria applications had been commissioned to appraise various aspects of the proposal. It had been identified that the need for a crematorium in Flintshire existed but given that the site was in the Green Barrier, exceptional circumstances would be needed to support approval of the application. The officer referred to paragraphs 7.31 to 7.34 on site selection where it was reported that there must be sufficient evidence that alternative sites not in the Green Barrier had been considered before the Authority could be reasonably satisfied that very exceptional circumstances existed to justify granting planning permission on a site in the Green Barrier. It

was the view of officers that this evidence did not exist and the recommendation was therefore for refusal of the application.

Mr. S. Jones, representing the Northop No Crem Group, spoke against the application. He said that the Planning Authority could not be satisfied that no suitable alternative site existed and he therefore felt that the application should be refused. As an application for a similar development had been submitted, Mr. Jones felt that this proposal was premature. He reminded the Committee that the applicant had been able to appeal on the grounds of non-determination of the application but had chosen not to do so. Mr. Jones referred to an appeal, which had been dismissed, on land in the Vale of Glamorgan which related to development of a crematorium on land within a Green Barrier. In this case the Inspector had not been satisfied that there were no other suitable sites outside the Green Barrier/Green Wedge. Mr. Jones highlighted the comments of the consultants on the approach taken by the applicant to reduce the number of sites from 23 to eight and that the assessment was flawed as it had been undertaken after the application to show that the site selected was the most suitable. He added that the proposal did not accord with any planning exemptions to allow development in the Green Barrier. Mr. Jones concluded by asking Members to refuse the application.

Mr. J. Williams, the agent for the applicant, spoke in support of the application and detailed the background to the proposal. He explained that additional information had been requested by the Planning Authority in December 2013 and it had been confirmed that the alternative sites assessment had been received in February 2014. This needed to be considered along with land quality and any constraints on the site. Mr. Williams said that the application was due to be submitted to the Committee earlier in the year but had been deferred. He referred to issues of highway safety, ecology and drainage. He said that the application was not premature as the alternative site assessment had included, and discounted, the other site referred to in the report at Oakenholt Lane/Kelsterton Lane. Mr. Williams commented on the appeal decisions highlighted in the report which he felt were not relevant to determination of this application. He said that the need for a crematorium had been identified and this was the optimum location for the proposal and, in his view, this was the exceptional circumstance to allow the application to be permitted. In conclusion, he said that information had been provided that the alternative site had been considered and that this site was in the best location and should therefore be approved.

Councillor Marion Bateman proposed the recommendation for refusal which was duly seconded. Councillor Bateman referred to the letter from WG and said that she had been asked by residents to approach WG because of concerns that had been raised. She was not against the principle of a crematorium in her ward and said that the need had been established but the reason for her proposal of refusal was due to the non-compliance with the Council's Unitary Development Plan (UDP) policies. She said that only 18 areas of Green Barrier existed in Flintshire and these were designed to protect key areas and were intended to survive beyond the plan period. Councillor Bateman referred to, and quoted from, paragraphs 4.13, 4.14 and 4.17 of the UDP on whether proposals in the Green Barrier were justified and necessary and whether essential facilities in relation to built development of crematoriums would cause

unacceptable harm to the Green Barrier. She raised concern that the proposed car park for 70 vehicles would be provided on the Green Barrier and commented on the use of grade 3a agricultural land for the proposal when the UDP Policy GEN4 was intended to protect such land. Councillor Bateman highlighted paragraph 7.35 where the comments of the consultant on the site selection were reported.

Councillor Derek Butler said that there was a need for the crematorium but it was important to choose the best site for Flintshire and this application alone did not provide an opportunity for that. He highlighted the comments in paragraph 7.37 that the site analysis undertaken by the applicant had discounted the alternative site in Oakenholt Lane/Kelsterton Lane due to perceived issues with mine shafts, traffic movements and ecological concerns. He felt that the appraisal by the applicant bolstered up the application in retrospect and was subjective and suggested that a sequential site search exercise should have been undertaken beforehand.

In referring to policies GEN3 and GEN4, Councillor Richard Jones concurred that the site selection assessment was subjective. He detailed each of the main issues raised in paragraph 7.12 and, in highlighting paragraphs 7.31 to 7.36 on site selection, said that the consultants had concluded that the proposed site could be considered to be an optimum location due to it being adjacent to the A55. He felt that the site selection had been undertaken correctly and that this had been acknowledged by the consultants, Peter Brett Associates. Councillor Jones said that there was sufficient information to approve the application and he would therefore be voting against refusal of the proposal.

Councillor Mike Peers said that there was no doubt that the site was in the Green Barrier and referred to Planning Policy Wales guidance which highlighted the circumstances in which construction of new buildings in the Green Barrier was considered appropriate. As no reference had been made to crematoria in the guidance, it had been concluded that this proposal would be inappropriate development in the Green Barrier. However, it was also reported that if there were very exceptional circumstances where other considerations outweighed the harm which such development would cause to the Green Barrier, planning permission could be granted. Paragraph 7.30 reported that the need for a crematorium could demonstrate very exceptional circumstances. Councillor Peers felt that there was insufficient evidence that alternative sites not in the Green Barrier had been considered. He commented on the decision of the Inspector on the appeal on land within the Vale of Glamorgan and said that the officer had taken a similar view that he could not be reasonably satisfied that there were no suitable alternative sites outside the Green Barrier.

Councillor Chris Bithell referred to the sensitive nature of funerals which would render industrial areas/brownfield land inappropriate. It was reported that essential facilities for cemeteries could be considered appropriate development in Green Barriers and he queried the difference between buildings needed for cemeteries and crematoria. He commented on the crematorium at Pentre Bychan in Wrexham which was in an appropriate setting in a countryside location in the Green Barrier. Councillor Bithell stated that the site was adjacent to a major trunk road and interchange, not what would be considered as countryside and drew Members' attention to paragraph 7.28 on the Green Barrier

designation. He referred to a recent application for a solar farm on Green Barrier land in the countryside which had been approved on officer recommendation.

In supporting the application, Councillor Jim Falshaw commented on concerns of families about the length of time that they had to wait for a cremation. He referred to the number of cremations that took place at Colwyn Bay, Wrexham and Chester crematoria and highlighted the comments in the report about this site being the optimum location for the proposal.

Councillor Ian Dunbar felt that refusal was the correct decision as the proposal was contrary to policies GEN3 and GEN4 as it was in the open countryside and the Green Barrier. He reiterated earlier comments about there not being any exceptional circumstances to allow the proposal on the site and added that it had not been confirmed whether there were any other suitable sites outside the Green Barrier. He also raised concern about the length of time that families had to wait for a time slot for a cremation and said that he would vote with the officer recommendation for refusal as approval could set a precedent for development in the Green Barrier.

Councillor Gareth Roberts commented that the need for a crematorium had been established for years and he referred to the reason for the designation of this area of the Green Barrier to protect a major junction. He highlighted the comment made by the objector that the applicant could have submitted an appeal on the grounds of non-determination but had chosen not to do so.

Councillor Carol Ellis appreciated the need for a crematorium in Flintshire but referred to the comments of the independent consultants who had been commissioned to appraise various aspects of the proposal. She highlighted the officer recommendation that all suitable sites had to be considered and as this site was contrary to the UDP, it should be refused.

Councillor Carolyn Thomas said that Members had decided not to consider both applications at the same meeting but she now felt that this would have been more appropriate. She highlighted paragraph 7.56 where it was reported that the operational development proposed would only take up a small proportion of the site with the remainder being open but enhanced through extensive landscaping. She felt that this would add to a peaceful environment and added that it was important to have good access links to the site which this proposal provided.

Councillor Alison Halford queried where else a crematorium could be sited in Flintshire if it was not permitted on this site. She felt that there was a need to take a realistic approach and approve the application.

In response to the comments made, the officer said that one of the key issues was the Green Barrier designation. He commented on the application for a site at Oakenholt Lane/Kelsterton Lane and explained that at the Planning Committee meeting held on 8 October 2014, it had been suggested that both applications be considered together but Members had decided only to consider this application at this meeting. As the Planning Authority was not satisfied that no other suitable sites were available outside the Green Barrier, it was felt that this application was premature and therefore recommended for refusal.

The Planning Strategy Manager referred to the Inspector's comments on the appeal in the Vale of Glamorgan, that there was a need to be reasonably satisfied that all suitable alternative sites had been considered, which he felt was a key test in the determination of this application. He said that references to the site at Oakenholt Lane/Kelsterton Lane should not be taken into account when determining this application as that proposal was not before the Committee today.

Councillor Gareth Roberts requested a recorded vote and was supported by the requisite five other Members. On being put to the vote, planning permission was refused by 12 votes to 9 with the voting being as follows:-

FOR – REFUSAL OF THE APPLICATION

Councillors: Marion Bateman, Derek Butler, Mike Lowe, Ian Dunbar, Carol Ellis, Ray Hughes, Christine Jones, Ron Hampson, Mike Peers, Mike Reece, Jim Falshaw and David Wisinger

AGAINST – REFUSAL OF THE APPLICATION

Councillors: Chris Bithell, David Evans, Alison Halford, Richard Jones, Veronica Gay, Neville Phillips, Gareth Roberts, David Roney and Carolyn Thomas

RESOLVED:

That planning permission be refused for the reason detailed in the report of the Chief Officer (Planning and Environment).

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

There were 83 members of the public and 2 members of the press in attendance.

(The meeting started at 2.30 pm and ended at 3.51 pm)

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Chairman