

PLANNING & DEVELOPMENT CONTROL COMMITTEE
20 JANUARY 2016

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, 20th January, 2016

PRESENT: Councillor David Wisinger (Chairman)

Councillors: Marion Bateman, Chris Bithell, Derek Butler, David Cox, Carol Ellis, Alison Halford, Ray Hughes, Richard Jones, Richard Lloyd, Mike Lowe, Nancy Matthews, Mike Peers, Neville Phillips, Gareth Roberts, David Roney, Jim Falshaw (Reserve) (for Owen Thomas), Mike Reece (Reserve) (for Billy Mullin) and Paul Shotton (Reserve) (for Christine Jones)

ALSO PRESENT:

The following Councillor attended as local Member:-
Councillor Cindy Hinds - agenda item 6.2.

The following Councillor attended as an observer:
Councillor: Haydn Bateman

ALSO PRESENT:

Councillors: Ian Dunbar and David Evans

IN ATTENDANCE:

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

107. **DECLARATIONS OF INTEREST**

Councillor Ray Hughes declared a personal and prejudicial interest in the following application because he was a School Governor at Castell Alun High School:-

Agenda item 6.2 – Outline application for the Erection of up to 40 residential dwellings with associated access and all other matters reserved at Rhos Road, Penyffordd (053656)

108. **LATE OBSERVATIONS**

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

109. **MINUTES**

The draft minutes of the meeting of the Committee held on 16 December 2015 had been circulated to Members with the agenda.

Councillor Mike Peers referred to page 10 and asked for some comments made by members at the last meeting to be added. He said Councillor Derek Butler had stated that there was a strong demand for affordable housing in

Buckley and that Councillor Chris Bithell had referred to a blighted site that was not viable as a retail site. He asked for the comments to be included in the minutes with Councillor Butler's comments being included after the word 'footfall' in the fourth paragraph and Councillor Bithell's comments being included after the word 'Buckley' in the final paragraph on page 10.

Councillor Richard Jones said that Councillor Butler had said there were a lot of historical empty commercial properties, that the Co-op was not trading well and that he had been aware of plans to expand the precinct and requested that these comments be added to the minutes.

In response, Councillor Bithell reminded Members that the minutes were not a verbatim record of the meeting. He also said that he had not used the word 'blighted' as suggested by Councillor Peers. He said he did want the minutes to be added to as requested by Councillor Peers.

The Housing and Planning Solicitor advised that the minutes were a summary of the meeting and main areas of debate and not a verbatim record.

On being put to the vote, the proposal from Councillor Peers, which was duly seconded, to amend the minutes as suggested was lost. The additional comments proposed by Councillor Jones were duly seconded and on being put to the vote, was CARRIED.

RESOLVED:

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

Councillor Jones then referred to matters arising from the minutes which the Chairman had indicated he could come back to. However, he was advised by the Chairman, having been advised by the Housing and Planning Solicitor that this was not a matter on the agenda and could not be considered.

110. **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.

111. **CONTINUATION OF USE OF LAND AS RESIDENTIAL GYPSY SITE ACCOMMODATING 9 FAMILIES ON 7 PITCHES, WITH A TOTAL OF 13 CARAVANS (NO MORE THAN 7 STATIC CARAVANS) AND RETENTION OF 3 NO. AMENITY BLOCKS AND ERECTION OF 1 NO. ADDITIONAL AMENITY BLOCK AT DOLLAR PARK, BAGILLT ROAD, HOLYWELL (053163)**

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 January 2016. 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 a change of use to accommodate nine families on seven pitches on the site which was 0.5 hectares. She spoke of the planning history which was detailed in the report and explained that it was a former coal yard but since 2007 had been occupied by a number of Gypsy families. A planning application on the site was refused in 2008 and an enforcement notice was issued by the Council for unauthorised use but following an appeal on a subsequently submitted application, a temporary permission of five years was granted which was due to expire on 4 February 2016. This application had been submitted to continue the use and to include one extra pitch. The officer referred to a number of late observations and explained that she was proposing that a temporary permission for a further five years be granted for named families with the additional pitch being on the site for the former play area. A key issue in determining this application was the Inspector's previous conclusions which were reported in paragraphs 7.25 to 7.30 and included the impact on the rural character of the area and the impact on the listed building Glyn Abbot. The Inspector also considered the impact on the landscape and the open countryside and it was reported that prior to the occupation of the site, there were no buildings on the site and the natural regeneration of the site meant that it had a greenfield appearance and blended in with the open countryside location. The inspector also noted that, in consideration of his determination of the appeal that the development would have a harmful effect upon the rural character of the locality and it was considered that this harm still existed in terms of this current application. The impact on the setting of the Listed Building was reported in paragraphs 7.38 to 7.46 and concluded that this application which included an increased number of caravans would only add to the harm the location of the site caused to the setting of the Listed Building.

Concerns had been raised about the number of vehicles accessing the site but Highways had no objections to the proposed development in terms of the increase in the number of pitches or the number of site occupants. On the issue of need, the officer explained that a Gypsy & Traveller Accommodation Assessment had been published in 2012 and endorsed by Council in 2013 but only covered the period to 2016. This identified that the need arising for Flintshire was for an additional 43 pitches in the study period. The table at paragraph 7.55 showed that consents for 18 pitches had been granted during the study period for a total of 29 caravans and the table at paragraph 7.51 demonstrated that all the pitches, with the exception of the site in Sandycroft, were occupied. The Council had commissioned a Gypsy and Traveller Accommodation needs assessment beyond 2016 but it was evident that some level of quantitative need still existed in Flintshire. The officer explained that the ages of the children and medical conditions of those on the site were reported in the late observations and it was therefore considered that the personal circumstances to grant a temporary permission in line with the decision of the appeal Inspector still existed. There was currently no alternative site for the families to be directed to and therefore the officer was recommending a temporary permission for a further five years as it was realistic that the Local Development Plan (LDP) would have advanced and would have allowed time for other sites to come forward.

Mr. A. Jayes spoke against the application. In referring to the planning history of the site, he said that previous determinations of the site had indicated

that a permanent permission was an inappropriate use of the site. He commented on previous applications that had been refused on appeal and highlighted the specific issue of the suitability of the site which had been addressed by the Inspector in consideration of the appeal. The Inspector had felt that it would create significant harm to the character of the area and to the setting of the nearby listed building Glyn Abbot and gave rise to the degree of harm to the living conditions of nearby properties. The Inspector had concluded that the proposal for the use of the site on a permanent basis would cause significant harm and was therefore inappropriate and did not consider temporary permission. Approval for five years had only been recommended because of the need for Gypsy and Traveller Sites but Mr. Jayes said that there was no indication of why the temporary permission should be for five years.

Councillor Gareth Roberts proposed the recommendation for approval which was duly seconded. He thanked the officer for her comprehensive report but expressed caution at the recommendation of approval as the Inspector had indicated that a permanent use of the site was unsuitable. Five years had initially been suggested by the Inspector as it had been anticipated that the LDP would have been adopted by 2015. He felt that the LDP would progress to adoption within the further five year period of temporary permission recommended by the officer and could allow other sites to come forward during that time. He said that he was not happy to make the recommendation but in expressing his frustration, he felt that in the circumstances this was a realistic approach.

In querying who was responsible for policing the site to ensure that those named in the application were living on the site, Councillor Derek Butler also sought clarification on reviewing the temporary nature of the site. Councillor Chris Bithell referred to the comprehensive report and quoted in detail from the report of the Inspector on previous appeal decisions. He felt that the proposal did not comply with local or national policy but had been triggered by Human Rights legislation for Gypsies and Travellers, which he suggested was unequal for other applicants who had been refused permission on developments in the open countryside. He expressed significant concern that the application was not a renewal of an application or the same as the application that had been permitted by the Inspector on appeal as the number of pitches had increased. The original permission had been for five years and he felt that if this application was also permitted for five years, totalling ten years, then it could result in a permanent site in the open countryside which he felt would grow naturally. Councillor Bithell also raised concerns about how Gypsy and Traveller applications were treated and added that Flintshire had provided a large number of sites compared to other authorities but was still being required to provide more. He felt that if the application was refused, then the applicant would appeal the decision.

In referring to the application, Councillor Richard Jones queried whether the fact that a further five years temporary permission was being recommended meant that the site was more probable to become permanent. He queried whether allowing a further five years, giving a total of ten years, would set a precedent. The Housing and Planning Solicitor advised that the application was requesting permanent permission but a condition was being recommended for a five year temporary permission. He added that there was no legal basis for a temporary permission for a further five years to set a precedent for a permanent permission.

Councillor Mike Peers noticed the reluctance to support approval of the application because of the policies in place and said that if a decision was appealed it may end in the same result as five years ago with the Inspector giving consideration to when the LDP may be adopted. He referred to the growth of the site and suggested that if it was supported, then it could be conditioned that any further growth on the site could not take place and that if the named individuals left, then the pitches were not re-occupied.

Councillor Carol Ellis referred to the request for a permanent permission in place of the temporary permission granted by the Inspector and the condition to permit it for a further five years which would then mean that the site had been in place for ten years. She added that the site was also being extended during the period of permission and felt that the site could grow further. Councillor Ellis said that the decision went against policy as stated by the Inspector and that there were no sites in Denbighshire or other areas. She suggested that the application should be refused to allow the applicant to appeal and for Inspectors to make the decision.

Councillor Paul Shotton commented on paragraph 7.63 which referred to the justified use of temporary permissions for short term buildings or uses because it was expected that the planning circumstances would change in a particular way at the end of that period. He agreed that setting a temporary permission would allow development of the LDP for alternative sites to come forward and be identified. He also noted the Inspector's comments in paragraph 7.29 that cessation of the current use would result in the present occupants returning to a transient roadside or similar existence.

In response to the comments made, on the issue of the policing of the site, the officer said that the Inspector had indicated that the applicant and their resident dependents could live on the site. She said that it was not feasible to take a register of who was on the site each day but assurance was given that those living on the site would be those named in the application. She added that it was difficult to contain household growth but added that if residents moved off the site and others wanted to move onto the site, then a variation of condition to change the names would need to be submitted and consideration would need to be given as to whether they were resident dependents. The applicant had always asked for a permanent permission on the site but the Inspector had felt that a temporary permission was appropriate because of the impact on the character of the area and the listed building. This application was a request to change some of the families on the site and increase the number of pitches, but the proposals were still within the same site area and were using the vacant play area as an additional plot. The request was for a permanent permission but it was being recommended that a temporary permission for five years was more appropriate.

Councillor Bithell asked whether it was possible to include as part of the condition that if alternative sites became available during the five year period, that the permission would then cease and the families would move onto the designated site. He felt that once the LDP was adopted, the need for temporary sites would be eradicated. This proposal was duly seconded. The Development Manager confirmed that, together with the Housing and Planning Solicitor, he

would look at the possibility of wording the condition as suggested by Councillor Bithell but added that the suggestion by Councillor Peers to condition no further growth on the site could not be included. However, he added that any further growth on the site would require submission of another planning application.

In response the Housing and Planning Solicitor provided clarification on the planning tests that needed to be considered when attaching conditions to planning permission but raised concern over the certainty of the condition proposed. . Councillor Bithell commented on the expectation that the residents would move to a site allocated in the LDP when it was available, but said that if the LDP did not move forward within the five year period, then the proposal could stand for the temporary five year period. He suggested that officers could provide wording for consideration by the Committee at its next meeting.

Councillor Jones queried whether Council Tax was levied on temporary permissions and who would pay for the removal of the hardcore once the residents left the site. He was advised by the Chairman that the issue of Council Tax was not a planning consideration. The Development Manager said that on a temporary permission, there was a standard condition that the site should be restored to its original state at the end of the permission and that this would be at the expense of the applicant.

Councillor Marion Bateman sought clarification on whether the applications would be able to stay on the site for longer if the LDP was not ratified within the next five years.

In summing up, Councillor Roberts said that if the application was refused, then he was certain that the applicant would appeal the decision and case history suggested that the Inspector could decide to grant permanent permission. He felt that two issues had to be fulfilled which were that the LDP had to be in place within five years and that there were sufficient authorised pitches available. He felt that approval of a temporary permission was appropriate.

The Chairman reminded the Committee that the proposal was for the officer recommendation of approval with the amendment proposed by Councillor Bithell and that the suggested wording of the condition be submitted to the next meeting of the Committee for consideration.

RESOLVED:

That planning permission be granted subject to the conditions detailed in the report of the Chief Officer (Planning and Environment) and the additional condition requested in the late observations and subject to the Committee considering the wording for the amendment to condition 1 at the next meeting of the Committee.

112. **OUTLINE APPLICATION FOR THE ERECTION OF UP TO 40 RESIDENTIAL DWELLINGS WITH ASSOCIATED ACCESS AND ALL OTHER MATTERS RESERVED AT RHOS ROAD, PENYFFORDD (053656)**

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 January 2016. 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 Ray Hughes, having earlier declared an interest in the application, left the meeting prior to its discussion.

The officer detailed the background to the report and explained that the site was 1.4 hectares in size and was outside the settlement boundary for Penyffordd and Penymynydd. Details of access had been provided but all other matters were reserved. The officer referred to paragraph 7.05 where the comments of the Unitary Development Plan (UDP) Inspector were reported and she explained that the site had been considered by the Inspector as part of the UDP Inquiry as an 'omission site'. However, the Inspector had not allocated this site due to the visual impact and also as no further land was needed at that time to meet the growth of the settlement in terms of the UDP strategy. Paragraph 7.09 provided details of an appeal for a previous application on the adjacent Rhos y Brwyner Farm which included the provision of a new access off Rhos Road. The appeal was dismissed as the Inspector felt that the creation of a new access route could set a precedent for further development.

There had been a number of objections to the application and these were detailed in the report. The officer explained that the settlement had an indicative growth band of 8 to 15% for a Category B settlement but it was reported that as at April 2015 the settlement had a growth rate of 27.1% over the plan period. This figure took account of the commitments for developments in the area but the growth rate for completions was 21%. Consideration had been given to Policy GEN3 in the determination of this application and also to Technical Advice Note 1, which required each local planning authority to maintain a five year supply of housing land. As the Council was currently unable to demonstrate a five year land supply, consideration of TAN1 should be given considerable weight in the determination of the application. Due to the current land supply situation and the timeframe for the UDP housing strategy, the Council had produced a developer guidance note in order to provide some clarity which had been endorsed in June 2015.

The officer explained that an agricultural land classification survey had confirmed that the site was subgrade 3b and not 'best and most versatile' agricultural land. A Transport Statement had accompanied the application and Highways had raised no objection to the proposed development subject to standard highways conditions covering the details of the access and detailed design of estate roads. A Landscape and Visual Impact Assessment (LVIA) had also accompanied the application and this had been assessed by the Council's consultant. Concern had been expressed about the removal of approximately 35m of hedgerow but it was felt that this could be mitigated by strategic landscaping. The officer referred to the issue of foul drainage and advised that there was no capacity in the existing network to accommodate the foul drainage. The applicants had commissioned Welsh Water to under a Hydraulic Modelling exercise to determine the nature of the improvement works required. The site was being advanced on the basis of specific circumstances in respect of housing land supply and it needed to demonstrate that the site was capable of being implemented to address this. The officer explained that as a timescale for the deliverability was not currently known due to the extent and costing of any works

required, it could not be considered as sustainable as there was no capacity in the existing sewerage network to cater for the site. Therefore the application was recommended for refusal as it did not comply with TAN1 and was contrary to policies STR1, GEN3, HSG4 and EWP16 and GEN1 as reported in the late observations.

Councillor Chris Bithell proposed the recommendation for refusal which was duly seconded. He felt that this application was an attempt to pre-empt the Local Development Plan procedure before the Planning Authority had had the opportunity to look at any candidate sites in the area and determine which was the best site. He referred to the issue of the inability of the sewerage network to cope and there were currently no solutions in place to deal with the problem and enhance the network in the area. Councillor David Roney spoke of the comprehensive report and concurred with the reason for refusal reported in paragraph 2.01.

The local Member, Councillor Cindy Hinds, spoke against the application. She suggested that the growth rate for the settlement was 34% and not 27% as reported. Residents had raised significant concern about the proposals and Councillor Hinds also felt that it was a premature application due to the problems with the drainage network and referred to a recent issue in the village where raw sewage could be seen in a flooded area. She indicated that Castell Alun High School did not have any surplus places and the village did not have a doctor's surgery and the new health clinic in Buckley was difficult for residents to access by public transport. Councillor Hinds felt that the infrastructure could not sustain any additional development and she added that previous applications had been refused due to the need to remove some of the hedgerow.

Councillor Derek Butler suggested that developers were submitting applications on any sites because of the Council's non-compliance with Welsh Government legislation to have a five year housing land supply. He felt that account had not been taken of front end delivery of permissions or of the many sites that had been granted permission but had not been progressed. He added that in his ward, the growth rate had reached 21% because of permissions that had been granted by Inspectors in the past even though the growth threshold for the settlement was 8 to 15%.

Councillor Gareth Roberts suggested that developers should be required to complete developments within two years of permissions being granted and said that he did not feel that this application could be achieved within this timescale and would therefore not impact on the lack of housing supply. He said that it was not the responsibility of Welsh Water to make provision for the works required on this unallocated site and queried how long the necessary works would take to complete. He added that the applicants were not house builders and referred to the issue of landbanking. Councillor Paul Shotton felt that the concerns of Welsh Water on capacity issues in the area should be considered and the application refused.

The Interim Team Leader Policy spoke of the concerns raised about the residual method of calculating land supply used by Welsh Government which resulted in the Council not having a five year housing land supply. Considerable weight was given to this in the determination of decisions by appeal Inspectors

and it was a material planning consideration but there was a need to consider whether the site was sustainable or not given that it had been submitted as an application that could assist in meeting the housing land supply. The officer's report demonstrated that in most aspects, it was sustainable but there were issues about the capacity of foul drainage on the network which was not sustainable. Until the outcome of the assessment of the cost of works needed to be undertaken and how quickly this could be achieved, it was not possible to bring this site forward for development. He referred to comments about the prematurity of the application but reminded Members that the application had to be considered now and added that advice in Planning Policy Wales indicated that prematurity could not be sustained as a reason for refusal in the early stages of the Local Development Plan.

RESOLVED:

That planning permission be refused for the amended reasons detailed on the late observations sheet.

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

113. **ERECTION OF A FOODSTORE, ASSOCIATED CAR PARKING, ACCESS, SERVICING AND LANDSCAPING (PARTLY RETROSPECTIVELY) AT BROUGHTON SHOPPING PARK, BROUGHTON (054589)**

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 January 2016. 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 explaining that planning permission had been granted in March 2015 by Committee against the officer recommendation. During the development of the site, it had become apparent that there were some issues with the location of the store in relation to the surrounding residential properties and the extent of the works that would need to be undertaken on the existing vegetation and bund. This retrospective application had been submitted to regularise the proposal and to reflect the proposed changes which included the removal of the housing element of the application, instead proposing a commuted sum, an extension to the car parking and also the erection of a substation. The officer explained that a number of objections to the proposals had been received and these were set out in the late observations. The main issues in this application were whether the landscaping in this scheme provided adequate screening, whether the extension to opening and delivery hours was acceptable and also the acceptability of a commuted sum in place of the five affordable houses on the site and for public art.

The principle of the site had been established but there was a need to consider the differences between what had been approved and what was built on the site. The previous application stated that the existing landscaping bund, which was on site as part of its former use as the compound for the construction of the retail park, would remain. The bund was covered in unmanaged

vegetation and it was proposed that the mature trees would remain with some removal of low level vegetation as required. However following the marking out of the store on site and the commencement of the construction process, it became evident that the works required to the bund were more substantial than initially envisaged. The stores location was plotted using GPS with the retail park spine road used as the starting point. The site boundaries with Simonstone Road and Chester Road had not been surveyed due to the vegetation on the site. The submitted plans therefore relied upon Ordnance Survey data which in this instance was inaccurate with what was actually built on the ground. The main discrepancies relating to the position of the boundaries and siting of 24 and 26 Simonstone Road with these properties being located closer to the site boundary than indicated on the Ordnance Survey plan. The officer explained that it had therefore been necessary to remove some of the existing bund during the construction process and support it with stone filled gabion baskets with a fence on top. This led to the removal of trees and substantial vegetation on the bund but it was proposed that this be replanted and a comprehensive planting scheme had been submitted. The scheme was a mixture of deciduous and evergreen trees but the mix of planting had been questioned by an adjoining resident. However, officers recommended that what had been proposed was acceptable but a management condition was included in the recommendation to control growth in the future.

The issue of noise from the trolley bay and security on the site had been raised by an adjacent resident. The officer explained that there was a significant boundary in the area referred to and a security gate had also been included which was locked and not used as a staff entrance but was for access for maintenance. A noise report had been submitted with the application and Public Protection officers were satisfied with the outcomes from the report. The opening and delivery times on this application were slightly longer than had been agreed in March 2015 and a noise report had also been submitted for this aspect of the proposal. Public Protection did not have any objection to the proposed opening hours on amenity grounds and therefore it was not considered that shorter hours could reasonably be imposed. As it was not proposed to build the houses on the site, this had increased the number of car parking spaces available; there were no objections from Highways and there was also no requirement for any conditions in relation to parking or access. It was previously proposed that five affordable dwellings be included on the site but this application included a proposal for a commuted sum of £210,000 by way of Section 106 agreement in lieu of the on-site provision; the officer explained how this had been calculated and this was also detailed in paragraph 7.34. It was also felt that a commuted sum of £15,000 to provide public art to be spent on community art projects was more appropriate than the provision of a scheme of public art on the site. This would also be achieved by a Section 106 agreement and paragraph 7.36 to 7.40 detailed how these proposals were compliant with the Community Infrastructure Levy (CIL).

The Chief Officer (Planning and Environment) advised that he would read out a statement prepared by Mrs. J. Richards, as she did not want to appear on the webcast, (summarised as follows): When Aldi started developing the site, they became aware that the residential boundaries had been incorrectly shown on the Ordnance Survey maps and they knew that the measurement taken from the road would mean almost completely removing the bund to the rear and side

of the store. Aldi had continued with the development and the Council had been unable to take enforcement action because they had incorrectly worded the planning consent relating to the bund. Photographs had been displayed that showed the development from Aldi's perspective but Mrs. Richards felt that the view from the residential properties was significantly different and she asked the Committee to reject the application in its current form. Approved plans had included a 10m bund which would have meant the store was hardly visible from residential properties but this was not the case as the bund had been reduced to less than 5m and the retrospective plan did not restore the high level trees and dense shrubbery previously in place nor did it enhance the planting.

Mrs. Richards felt that the plant machinery was sited much closer to the housing than had been originally proposed. This could be relocated to a different area at the rear of the store which was a significant distance from residents and where the bund remained intact. It was also suggested that the plant machinery could be completely encased by acoustic screening. Mrs. Richards was able to view the trolley bay and bike racks from her property as the bund and planting in this area had been reduced significantly and the constant noise of trolleys was causing a significant disturbance every day. She felt that the area could be enclosed or a taller acoustic fence installed and linked to the garden fences to prevent any form of public access onto the bund. She also suggested that the proposed planting to the rear of the store be enhanced. The reduced opening hours had been granted due to the proximity of the store to the residential properties but as the store was now situated more closely to the existing dwellings and the extensive planted bund no longer existed, Mrs. Richards felt that the application to extend the opening hours should be refused.

Ms. J. Gabrilatou, the agent for the applicant, spoke in support of the application. She welcomed the officer recommendation to approve the application but explained that the retrospective application was an unusual step for Aldi but due to complexities with the development meant that amendments were necessary. As recommended on the previous application, it was not anticipated that any major works to the bund at the rear of the site would be necessary but due to constraints on site, this was necessary and Council officers had been informed immediately. Aldi maintained that the bund and landscaping would be replaced and this had been achieved and agreed with officers. It became clear during the development that two properties were located nearer to the store and at this point a GPS survey took place which showed that Mrs. Richards' property was located 0.7 metres closer to the store than was shown on the Ordnance Survey plan. Ms. Gabrilatou advised that the store was in the exact location shown on the submitted drawings and showed that it did not harm the amenity of residents. The Landscaping Officer was satisfied with the proposed landscaping which would provide a screen on the bund between the store and the neighbouring properties. The noise assessment had been updated and showed no change in impact and no concerns had been raised by the Pollution Officer. The houses on Chester Road were closer to the store entrance, car park and trolley bay which were the busiest areas of the site but none of these residents had made any complaints. The area where Mrs. Richards lived, which was to the rear of the store, was the least active part of the site. It was also felt that the site was secure and did not propose any risk to Mrs. Richards' property and the reinstated bund and fencing provided more security than when the site was vacant. During the development of the store, it became clear that

providing the five affordable homes, which would require access through the car park of the store, would not provide a suitable place to live and it was therefore proposed that a commuted sum of £210,000 be provided instead. It was not Aldi's intention to circumvent the planning process and no other adjoining residents had objected to the proposals and Aldi was therefore seeking approval of the application in line with the officer's recommendation.

Councillor Derek Butler proposed refusal of the application, against officer recommendation, which was duly seconded. He felt that the application should be refused as it did not comply with planning legislation. He referred to the decision of the Welsh Government Inspector to change the designation of the site to housing and the residents were unhappy with this as it was felt that it should have remained as landscaping but with housing being more preferable to any other designation. He commented on the applications referred to in Section 5 of the report on the planning history. Councillor Butler indicated that when the previous application had been considered he had requested that the bund and the landscaping be retained. He suggested that the store had moved twice and an early survey which took place on the bund before development commenced on site resulting in work being stopped following enforcement action as too much vegetation was being removed.

In referring to the comments in Mrs. Richards' statement, Councillor Butler felt that if an anomaly in the measurements that had been taken had been identified, then checks should have been made with officers and residents prior to continuing work on the site to destroy one of the elements of the conditions imposed on the site by the Committee. He spoke of barristers' opinions and disagreement between the Council's barrister and Aldi's which delayed the process whilst development was still taking place on the site. He felt that CCTV could be installed at the rear of the store that would assist with the issue of security that had been raised by Mrs. Richards and he added that other residents had also submitted objections to the proposals. Councillor Butler referred to the element of the affordable housing and the statement in the late observations that the Council proposed a commuted sum of £240,000. Aldi had undertaken their own assessment of final values and had proposed £174,000 but Housing Strategy colleagues considered this assessment to be too low and the figure was recalculated at £210,000. Councillor Butler felt that Aldi should provide the £240,000 requested by the Council.

Councillor Alison Halford felt that there had been a hard fought battle over the site and said that 50 house places had been given up because the site had been used for commercial development. She commented on the issues of noise and lights which were referred to during consideration of the previous application but the Committee had been assured that the issues would be overcome. She expressed significant concern that the five affordable dwellings had been removed from the proposal and suggested that the application should not be allowed to proceed. She felt that a solution to the noise of the trolleys, which was not referred to in the report, should be identified.

Councillor Mike Peers said that the previous application had been approved for the store and five affordable homes on the site. In section 7 of the November 2014 report, it was reported that 'the houses were a ploy to get the application through'. He queried how the situation had occurred or how it had

ended up that a car park was included on the site where five affordable houses should have been situated and queried whether officers were aware that the car park was being created. He quoted from the report on the approved application which included details of the affordable dwellings that would be run by a Registered Social Landlord and the dwellings would not be out of keeping with the area. The officer had indicated at that meeting that the retail store would result in the loss of a site allocated for housing but it had been agreed that five affordable dwellings on the site was appropriate. In referring to this application, Councillor Peers said that the dwellings that had the benefit of planning permission were no longer included. At the meeting in November 2014, Ms. Gabrilatou had spoken in support of the application which would allow the development of five affordable dwellings and she had also referred to the growth of Broughton. However, at this meeting, she had indicated that the houses were not suitable to access through the car park of the retail store and that the Council would benefit from the receipt of the commuted sum. Councillor Peers agreed that the sum should be £240,000 and not the £210,000 suggested by Aldi and proposed that either paragraph 2.01 be amended to reflect this or that the five dwellings agreed in November 2014 be provided.

The Housing and Planning Solicitor reminded Members that the fact that the application was retrospective was not a material consideration but the previous decision of the Local Planning Authority to grant permission for a foodstore on this site was a material consideration.

Councillor Paul Shotton said that the Aldi store was welcomed but the impact of the development on the neighbouring residents should be considered, particularly as it was felt that the visible and acoustic provisions were inadequate. Therefore he felt that high screening was required and that the plant machinery should be repositioned away from the residential properties. He also concurred that £240,000 for the commuted sum for affordable housing was more appropriate.

Councillor Richard Jones had considered the changes from the previous application to this proposal which included the store being located closer to homes. He added that the bund was now inadequate and commented that the five affordable houses were no longer included in the proposal. The hours of operation and delivery were also being changed in this application. The original opening hours were conditioned on the previous application to reduce the impact on the neighbouring residents and there was a certain amount of bunding which would reduce the impact of noise. He felt that the affordable housing should be included on the site and the issue of access to the dwellings through the retail car park had not been raised when planning permission was granted in November 2014. He felt that the issues of noise, bunding and acoustic fencing should be as the original application to reduce the impact on residents.

Councillor Bithell said that the siting of this store did not comply with the previously approved application and had eroded the bund and landscaping aspect. He felt that the commuted sum of £210,000 and the newly proposed opening hours were unacceptable and that the Committee had a duty to ensure the applicant provided what was being requested by the residents on the issue of opening hours and the acoustic problems. He referred to paragraph 7.19 where it was reported that the site was in an urban area with residential properties

adjacent to a foodstore but Councillor Bithell said that when the occupiers had purchased their properties, the site was designated for housing. He added that the officer recommendation on the November 2014 was of refusal on those grounds. He raised concern at the maps used and suggested that the proposed £15,000 for public art in the community was inadequate. He felt that the application should be refused.

Councillor Gareth Roberts felt that refusal of the application would be difficult to defend on appeal and expressed significant concern at the situation that the Committee now found itself in because of the decision to vote in favour of the previous application against officer recommendation. Councillor Mike Lowe agreed that consultation should have been undertaken when the developers started to build into the bund as one of the main considerations was that the bund should remain in place. He also raised concern at the issue of security between the back of the store and the neighbouring properties which he felt had not been addressed. Councillor Richard Lloyd said that he had supported approval of the previous application with the inclusion of the five houses and the conditions relating to the bund, landscaping and the noise issues. He was disappointed with Aldi for ignoring these conditions but added that the majority of the Committee had voted in favour of the application at the time. Councillor Carol Ellis said that what had been approved was not what was before the Committee today and that approval had been granted including the proposal for the five houses, the bund and the landscaping measures.

The Chief Officer (Planning and Environment) concurred that this application was not what had been approved in November 2014. Officers had been transparent in the calculation for the commuted sum in lieu of affordable housing and the Aldi representatives had heard the concerns raised by the Committee on that issue and the impact on residential amenity. The Chief Officer felt that the impact on the residents could be mitigated if all of the aspects conditioned were included and reminded the Committee that reasons for refusal would need to be stated if the application was to be refused, against officer recommendation. Councillor Shotton had also raised the issue of site security but officers were comfortable that the measures in place were appropriate. The Chief Officer felt that the recommendation before the Committee was sustainable but he said that Members had the option to defer the application to ask officers to further discuss the concerns raised by members during the debate with Aldi. He sensed the frustrations of Members but he did not feel that there was sufficient evidence to refuse the application.

Councillor Derek Butler proposed deferment for further discussions to take place with Aldi but reiterated his concerns that WG had allowed the site to be removed from the housing designation which had made an impact on the Council's five year housing land supply. He suggested that the application would not have been granted planning permission if the five affordable dwellings had not been included and he felt that the store should be knocked down and the retailer located within the neighbouring retail park. Deferment of the application was duly seconded.

The Development Manager suggested that if the application was deferred, a report would be submitted to the next meeting of the Committee with additional information on the impact on amenity and the five affordable dwellings or

commuted sum. Councillor Peers sought clarification that the issues that had been raised at this meeting would be considered when the report was submitted to the next Committee meeting. The Development Manager indicated that Councillor Peers had stated that he had looked at the report from November 2014 and had asked why officers had allowed the car park, that officers had agreed five houses that had been promoted by Aldi and that if the application was approved, the commuted sum be for £240,000; a response to these issues along with those raised by other Members would form part of the report to the next meeting.

RESOLVED:

That the application be deferred with a report being submitted to the next meeting of the Committee with additional information on the issues raised.

114. **FULL APPLICATION - CHANGE OF USE OF LAND TO 42 NO. UNIT HOLIDAY LODGE PARK AT ST. MARYS CARAVAN CAMP, MOSTYN ROAD, PRESTATYN (054477)**

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 advised that the late observations included an amendment to the report at paragraph 2.03 and also comments from Economic Regeneration. Paragraph 6.01 referred to Policy T4 but the officer advised that this should read T5. The main issues in relation to this application were the principle of development in this location having regard to the requirements of policy T5 of the Flintshire Unitary Development Plan and the impact of the proposals upon the highway; the report provided details of both issues considered in the determination of the application. The officer advised that the proposal was acceptable to Highways subject to the imposition of a condition requiring the completion of parking and turning facilities in accordance with details to be submitted and agreed.

Councillor Chris Bithell proposed the recommendation for approval which was duly seconded. He commented on the comprehensive report and said that the proposals which would improve the site overall were worthy of support.

RESOLVED:

That planning permission be granted subject to the applicant entering into a Section 106 Agreement or offering a unilateral undertaking to rescind the existing extant consents relating to the site, and subject to the conditions detailed in the report of the Chief Officer (Planning and Environment).

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

115. **FULL APPLICATION - CONVERSION OF OUTBUILDINGS TO 1 NO. ANNEX TO MAIN DWELLING AND HAIRDRESSER AT LLWYN FARM, FFYNNONGROYW (054078)**

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 Development Manager detailed the background to the report and explained that the site was outside the settlement boundary and was in the open countryside. The proposal was compliant with policies HSG7 and HSG13 and the Development Manager referred Members to the late observations where it was reported that the proposed development had also been assessed against, and was compliant with, Policy RE4 on Small Scale Rural Enterprises. The proposal would make use of a redundant building and was ancillary to the dwelling itself. It was suggested in the late observations that an additional condition be included that the hairdressing business (or any subsequent business) should be operated only by persons resident at Llwyn Farm and/or the annex and their employees.

Councillor David Roney proposed the recommendation for approval which was duly seconded. He referred to the comprehensive report and welcomed the proposals for the former agricultural building next to the main farmhouse. Councillor Derek Butler felt that the small scale business was in keeping with the area. Councillor Richard Jones asked whether permitted development rights should be removed to allow more control of the site. In response, the Development Manager indicated that it was not appropriate on this application as there would not be any permitted development rights for the hairdressing business. The Housing & Planning Solicitor advised that in light of the comments from the Development Manager there would be no planning purpose for such a condition and advised against imposing the proposed condition.

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 additional condition in the late observations.

116. **APPEAL BY MR. D. LAWLOR AGAINST THE DECISION OF FLINTSHIRE COUNTY COUNCIL TO REFUSE PLANNING PERMISSION FOR THE CHANGE OF USE FROM PAPER MILL CAR PARK TO HEAVY GOOD VEHICLE PARKING FACILITY AT 419 CHESTER ROAD, OAKENHOLT (052930)**

The Chief Officer (Planning and Environment) queried the interpretation of policy by the Inspector and suggested that this and the next appeal decision on the agenda be considered in detail by the Planning Strategy Group.

RESOLVED:

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

117. **APPEAL BY LEASON HOMES AGAINST THE DECISION OF FLINTSHIRE COUNTY COUNCIL TO REFUSE PLANNING PERMISSION FOR THE OUTLINE APPLICATION FOR THE ERECTION OF 1 NO. DWELLING AT MAES Y GORON, LIXWM (053275)**

The Chief Officer (Planning and Environment) said that it had been expected that if the appeal was allowed, it would be restricted to local housing need but this had not been suggested by the Inspector. He again queried the interpretation of policy by the Inspector.

RESOLVED:

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

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

There were 12 members of the press and 2 members of the public in attendance.

(The meeting started at 1.00 pm and ended at 3.43 pm)

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Chairman