

**FLINTSHIRE COUNTY COUNCIL**

**REPORT TO:** **PLANNING & DEVELOPMENT CONTROL COMMITTEE**

**DATE:** **7<sup>TH</sup> NOVEMBER 2012**

**REPORT BY:** **HEAD OF PLANNING**

**SUBJECT:** **APPEAL BY ANWYL HOMES LTD AGAINST THE NON DETERMINATION OF PLANNING APPLICATION REF: 049154 TO ALLOW CONDITION 3 (I) OF THE OUTLINE PLANNING PERMISSION TO BE EXTENDED IN TIME AT CROES ATTI, CHESTER ROAD, OAKENHOLT - ALLOWED**

**1.00 APPLICATION NUMBER**

1.01 49154

**2.00 APPLICANT**

2.01 ANWYL HOMES LTD

**3.00 SITE**

3.01 CROES ATTI, CHESTER ROAD, OAKENHOLT

**4.00 APPLICATION VALID DATE**

4.01 21 OCTOBER 2011

**5.00 PURPOSE OF REPORT**

5.01 To inform Members of the appeal decision in regards to an appeal against the non determination of planning Ref. 049154 which sought to vary condition 3 (i) of the original outline planning permission to allow for the extension in time for the submission of those reserved matters from 5 years to 7 years. The Inspector allowed the appeal, which was considered by way of public Inquiry, and granted planning permission to vary condition 3 (i).

**6.00 REPORT**

- 6.01 The Inspector considered the main issue to be whether it would be reasonable to vary condition 3(i) having regard to whether or not there has been a material change in planning circumstances since the original outline planning permission which would instead merit a refusal of permission.
- 6.02 The Inspector concluded there had not been any material changes in planning circumstances since the original outline planning permission was granted which would merit a refusal to vary condition 3(i) as proposed. The variation of the condition was deemed reasonable and compliant with Planning Policy Wales and relevant UDP policies.
- 6.03 As regards other matters, the Inspector considered the objections raised in relation to traffic congestion/highway/pedestrian safety and referred to the appellant's updated traffic assessment which had been independently reviewed on behalf of the Council and was found to be unacceptable. The Inspector stated there were no technical highway objections to the proposal.
- 6.04 Costs Claim  
In deciding to award costs in favour of the Appellant, the Inspector considered that the Local Planning Authority had acted unreasonably in failing to determine an application within the statutory period. She referred to the lack of a proper explanation as to why the application would not be determined or why the Head of Education and Resource could not respond within the statutory time limit. As Members are aware, the site is the largest single allocation in the UDP and the planning application provided the Council with the opportunity to reappraise its stance in certain areas. This process of reappraisal dealt with complicated issues, which took longer than the 8 week determination period would allow, so therefore, it is disappointing that the Inspector concluded that the Local Planning Authority had not shown specific and adequate reasons for not reaching a decision within the time limit.
- 6.05 The Inspector referred to the duplicate application for the same development and its relevance to the appeal insofar as the application was submitted to the Council which the applicant stated, if approved, would obviate the need for the appeal.
- 6.06 The Inspector also concluded that a condition imposed by the Planning Committee which related to the play area be to an adoptable standard and be offered to Flintshire County Council for adoption with a 10 year maintenance sum was unreasonable and resulted in the applicant incurring unnecessary expense later. The Inspector also concluded that an additional education contribution which was later reconsidered and found not to be justified was unreasonable.

## **7.00 CONCLUSION**

7.01 The Inspector concluded that there had been no material changes in planning circumstances since the original outline planning permission was granted which would merit a refusal. The appeal was allowed to extend the time for the submission of the reserved matters sought subject to conditions and a unilateral undertaking submitted by the appellant which made provision for the following:-

- Affordable housing up to a maximum of 10% of the number of dwellings proposed where the need has been demonstrated.
- Open space provision within the site and an equipped children's play area.
- Setting aside of land for a primary school, health centre, community centre, and retail.

The legal agreement reflected the Section 106 Agreement between the parties when planning permission was granted.

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