

FLINTSHIRE COUNTY COUNCIL

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

DATE: **16TH JANUARY 2013**

REPORT BY: **HEAD OF PLANNING**

SUBJECT: **RENEWAL OF OUTLINE PLANNING PERMISSION REF: 041006 FOR PROPOSED RESIDENTIAL DEVELOPMENT ON LAND TO THE REAR OF 'HOLMLEIGH', CHESHIRE LANE, BUCKLEY**

APPLICATION NUMBER: **049289**

APPLICANT: **MR & MRS. R. J. KELLY**

SITE: **LAND TO THE REAR OF 'HOLMLEIGH', CHESHIRE LANE, BUCKLEY**

APPLICATION VALID DATE: **28TH FEBRUARY 2012**

LOCAL MEMBERS: **COUNCILLOR MRS. C. A. ELLIS**

TOWN/COMMUNITY COUNCIL: **BUCKLEY TOWN COUNCIL**

REASON FOR COMMITTEE: **NEED FOR A S.106 OBLIGATION FOR ECOLOGICAL MITIGATION PAYMENTS.**

SITE VISIT: **NO**

1.00 SUMMARY

- 1.01 The application seeks approval of the renewal of an existing outline planning permission (Ref: 041006) for the residential development of this area of land to the rear of 'Holmleigh', Cheshire Lane, Buckley and other properties fronting onto Alltami Road.
- 1.02 Details of access were established in the original grant of permission and therefore matters relating to appearance, landscaping, layout, and scale are Reserved for future consideration.
- 1.03 Since the previous grant of permission, there have been several material changes to the applicable policy context at both national and local levels and therefore whilst the application is a renewal, examination of issues arising from the new contexts will be considered

in the appraisal contained within Section 7 of this report, with any conditional requirements arising therefrom summarised within the recommendation set out in Section 2.

2.00 RECOMMENDATION: TO GRANT PLANNING PERMISSION, SUBJECT TO THE FOLLOWING:-

2.01 That conditional planning permission be granted 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 £1750 per dwelling to the Council for ecological mitigation. Such sum to be paid to the Council prior to the occupation of any dwelling subsequently approved under Reserved matters.
 - b) Ensure the payment of a contribution of £1100 per dwelling 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.
1. Time limit on commencement.
 2. Submission of Reserved Matters
 3. Dwellings to be Code for Sustainable Homes Level 3
 4. Code for Sustainable Homes "Interim Certificate" to be submitted before work commences.
 5. Code for Sustainable Homes "Final Certificate" to be submitted before houses occupied.
 6. Details of access to be part of Reserved Matters.
 7. Access works to base course layer before any other works.
 8. Visibility splays of 2.4m x 45m.
 9. Reserved Matters to include layout, design, street lighting, traffic calming & signage and construction details.
 10. Reserved Matters to include proposed finished floor and ground levels.
 11. Reserved Matters to include proposed boundary treatments.
 12. No development to be commenced until a scheme for the comprehensive drainage of foul, surface and land waters approved.
 13. No occupation of dwellings until 1.4.2015 or upgrade of public sewerage system, whichever is earlier.
 14. Implementation of Reasonable Avoidance Measures as per approved reports and implementation of ecological compliance audit scheme to show compliant implementation.
 15. Scheme for additional 10% reduction in predicted carbon outputs.

3.00 CONSULTATIONS

3.01 Local Member
Councillor Mrs. C. A. Ellis
No response at time of writing.

Buckley Town Council
No objection.

Head of Assets and Transportation
No objection subject to the imposition of conditions. Footpath 22 abuts the site but is unaffected.

Head of Public Protection
No adverse comments.

Dwr Cymru/Welsh Water
No objection subject to the imposition of conditions. Members are referred to paragraphs 7.19 -7.23 inc. for fuller details in respect of this issue.

Airbus
No adverse comments.

Countryside Council for Wales
No objection subject to the imposition of conditions and the applicant being willing to enter into a S.106 agreements in respect of Special Area of Conservations Impact Offsetting.

Ramblers Association
No adverse comments. Requests that Footpath 22 be protected.

Coal Authority
No adverse comments. Standard advice applies.

4.00 PUBLICITY

4.01 The application has been publicised by way of the publication of a press notice, display of a site notice and via neighbour notification letters.

4.02 At the time of writing, 3No. third party letters have been received in response to the publicity exercise. These letters raise the following objections;

1. Concerned about the scale and height of the proposed dwellings;
2. Overdevelopment of the site.

5.00 SITE HISTORY

- 5.01 **040672**
Outline – Residential Development
Withdrawn 3.2.2006.

041006
Outline – Residential Development
Approved 12.5.2009.

6.00 PLANNING POLICIES

- 6.01 Flintshire Unitary Development Plan
Policy STR1 - New development.
Policy STR4 - Housing.
Policy GEN2 - Development inside settlement Boundaries.
Policy HSG3 - Housing on unallocated sites within settlement boundaries.
Policy WB2 - Sites of international importance.
Policy SR5 - Outdoor play pace & new residential development.
Policy EWP2 - Energy efficiency in new development.
Policy EWP3 - Renewable energy in new development.

PLANNING APPRAISAL

- 7.01 Site Description
The site comprises an area of open land to the rear of bungalows on Alltami Road with access proposed to be derived via Cheshire Lane which is presently a narrow, single width route. All boundaries of the site are formed by mature and well established hedgerows. However, this is supplemented by residential style fencing to the rear boundaries of the properties on Alltami Road. There are 3 cottages at the end of Cheshire Lane, one of which abuts the site along its southerly boundary. A further 5 bungalows fronting Alltami Road also bound the site to the north. A short trackway abuts the western boundary of the site with bungalows beyond. These are set within large curtilage areas. The site abuts an area of playing fields associated with the nearby Elfed High School to the east.
- 7.02 The Proposed Development
The proposals relate to the renewal of an outline planning permission granted for the residential development of this site. Access is proposed to be derived from Cheshire Lane and has been the subject of consideration by the Local Highway Authority previously and deemed to be acceptable subject to conditions. All other matters of detail are Reserved for subsequent consideration in any future Reserved matters application which may arise.
- 7.03 Policy Context
The site is located within the settlement boundary of Buckley which is defined as a Category A settlement within the adopted Flintshire

Unitary Development Plan. Policy GEN2 identifies a presumption in favour of the development of such sites but identifies that in the case of unallocated 'windfall sites' there are limitations imposed via policy HSG3.

- 7.04 Policy HSG3 directs that upon unallocated sites within settlement boundaries, new housing development will be permitted in Category A settlements where it does not conflict with the planned housing provision for the County, as set out in the UDP, and does not conflict with Policy GEN1.
- 7.05 The bringing forward of such windfall sites is consistent with the strategic aims of the UDP and the UDP Inspector's conclusions in relation to housing, in that housing development should be primarily directed towards Category A settlements. This is because there are a greater range of facilities, services and infrastructure, commensurate with the fact that Category A settlements are the largest settlements in the County.
- 7.06 At this stage, compliance with Policy GEN1 cannot be ascertained as this policy concerns itself with the details of the proposals and the application seeks only to renew the principle of residential development upon this site.
- 7.07 However, as the principle of development is already established and this application seeks only to renew this permission, I consider the proposals to comply with the broad thrust of policy.
- 7.08 Main Issues
The main issue for consideration relates to whether any material changes in policy applicable to both the proposals and the application site would be such as to weigh against the renewal of the permission.
- 7.09 Since the previous grant of permission (Ref. 041006, dated 12.5.2009), the changes applicable to this proposal are:
1. The requirement for dwellings to be compliant with the requirements of the Code for Sustainable Homes (CFSH).
 2. The need for potential impacts upon ecologically sensitive sites to be managed and
 3. The current status of the drainage system serving the site.
- 7.10 Code for Sustainable Homes and Energy Efficiency
Planning Policy Wales (Edition 5 – Nov. 2012) [PPW] states in paragraph 4.12.4 that:
- Applications for 5 or more dwellings received on or after 1st September 2009 to meet Code for Sustainable Homes Level 3 and obtain 6 credits under issue *Ene1 – Dwelling Emission Rate*;

- Applications for 1 or more dwellings received on or after 1st September 2010 to meet Code for Sustainable Homes Level 3 and obtain 6 credits under issue *Ene1 – Dwelling Emission Rate*;
- Dwellings registered under the Code for Sustainable Homes (Version 3) will be expected to meet Code for Sustainable Homes Level 3 and obtain 1 credit under issue *Ene1 – Dwelling Emission Rate*.

- 7.11 The above clearly demonstrates that the previous grant of planning permission pre-dated the introduction of the requirements of the CFSH. It also demonstrates that as of 1st September 2010, all new dwellings in Wales have been required to meet the specified level of compliance with the CFSH and therefore satisfy the requirements of national Planning Policy Guidance as set out in PPW and expanded upon in greater detail within both Technical Advice Note 22: Planning for Sustainable Buildings (2010), as updated by Policy Clarification Letter CL-04-10.
- 7.12 This national thrust of policy is reflected in the requirements of policies EWP2 and EWP3 of the UDP which require new developments to demonstrate energy efficiency through design and construction and seeks to secure further reductions in the predicted carbon emissions from major developments such as this proposal.
- 7.13 Accordingly, I propose to impose conditions requiring that all dwellings constructed as a consequence of this permission to be CFSH (Version 3) compliant. I will also condition to submission of both design and completion stage certificates to verify the same. In accordance with Policy EWP3, and in recognisance of the fact that detailed proposals pursuant to this outline permission will amount to 'major development' I also propose to condition the submission of schemes to secure the reduced carbon emissions stipulated within this policy.
- 7.14 Ecology
The site lies in close proximity to the Buckley Claypits and Commons Site of Special Scientific Interest (SSSI) and Deeside and Buckley Newt Sties Special Area of Conservation (SAC). These sites support a nationally important population of great crested newts and, in the case of the SSSI, a variety of more widespread amphibian species and semi-natural grassland. Under Regulation 48 of the Conservation (Natural Habitats) Regulations 1994, the Council must consider whether a development proposal in combination with other plans for projects is likely to have a significant effect on the Deeside and Buckley Newt SAC.
- 7.15 Guidance to Local Planning Authorities is given in TAN 5: Nature and Conservation Planning (particularly paragraphs 6.3.6 and 6.3.7). In particular, at paragraph 6.3.7 it is stated:

“It is clearly essential that planning permission is not granted without the planning authority having satisfied itself that the proposed development would not impact adversely on any European protected species

- 7.16 The effect of the proximity of these designations and the above referenced legislation is such that the need to ensure no adverse impacts upon SAC and SSSI features arising from development proposals is a material planning consideration. Accordingly, it is essential that this matter is properly addressed in the consideration of this application.
- 7.17 The development would not lead to a direct loss of habitat within the SAC or SSSI. However, in this case it is considered that mitigation proposals are required to address indirect impacts on the SAC that may be caused by construction of the development proposal and also through recreational pressures and disturbance/predation of wildlife.
- 7.18 The applicants have submitted both an extended Phase 1 Habitat Survey and a Method Statement which includes Reasonable Avoidance Measures to mitigate against the potential impacts upon the Deeside and Buckley SAC. These proposed Reasonable Avoidance Measures have been the subject of examination by both the County Ecologist as the Countryside Council for Wales, both of whom consider them to be acceptable and recommend a condition requiring their implementation. However, as replacement land cannot be provided within the development site or surrounding area, a financial contribution towards mitigation projects in the area is proposed. This approach has been agreed with Countryside Council for Wales and accordingly, it is considered that the ecological issues have now been satisfactorily resolved and planning permission can be granted subject to a Section 106 agreement requiring the payment of £1,750 per dwelling to be secured towards ecological mitigation.
- 7.19 Drainage Issues
In response to consultation, Dwr Cymru/Welsh Water have advised that the development of the site would overload the existing public sewerage system. However, I am advised that the system is to be the subject of a scheme of improvements which are anticipated to be completed by the 1st April 2015.
- 7.20 Accordingly, rather than object to the proposals and in acknowledgement of the fact that an extant outline planning permission exists at this site, it is requested that a Grampian style condition be imposed prohibiting the occupation of any dwellings until either the improvement works are completed or the 1st April 2015, whichever is the sooner.
- 7.21 I recommend the imposition of this condition, together with another broader condition requiring the submission and agreement of the

proposed foul and surface water drainage arrangements for the site. In coming to this view I have had regard to Criteria h) and i) of Policy GEN1 of the UDP which require proposals to have regard to the adequacy of existing public utility services and ensure that the proposed development would not give rise to problems associated with (amongst other items) drainage.

7.22 I consider that both the planned scheme of drainage improvements by Dwr Cymru and the requirements of Policy GEN1 are such that amount to a material consideration different to that in existence at the time of the original grant of planning permission. Therefore, the imposition of such conditions, notwithstanding that this application seeks a renewal, is warranted and justified.

7.23 Other Matters

The application has been the subject of the identified consultations and the responses reported in Section 3 of this report are already addressed via the conditions imposed upon the original grant of outline planning permission and are proposed to be re-imposed as set out in Section 2 of this report.

8.00 CONCLUSION

8.01 The development of this site for residential use has been accepted in principle via the previous extant outline planning permission. The issues arising from the identified material changes in policy context and site related issues have been considered in the above appraisal and are demonstrated to be addressed via those conditions proposed, in addition to those conditions already imposed upon the grant of outline permission. Appropriate provisions for play and open space provision have been secured and appropriate contributions associated with both this issue and the issue of Ecological Offsetting are proposed to be secured via an appropriately worded legal agreement.

8.02 In considering this planning application the Council has acted in accordance with the Human Rights Act 1998 including Article 8 of the Convention and in a manner which is necessary in a democratic society in furtherance of the legitimate aims of the Act and the Convention.

Contact Officer: David Glyn Jones
Telephone: (01352) 703281
Email: glyn_d_jones@flintshire.gov.uk