

FLINTSHIRE COUNTY COUNCIL

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

DATE: **WEDNESDAY 14TH MAY 2014**

REPORT BY: **HEAD OF PLANNING**

SUBJECT: **GENERAL MATTERS – APPEAL AGAINST NON-DETERMINATION OF FULL APPLICATION FOR THE CONSTRUCTION OF 13 NO. DETACHED HOUSES AND ASSOCIATED WORKS AT LAND TO THE REAR OF ROCK BANK, MAIN ROAD, NEW BRIGHTON**

APPLICATION NUMBER: **051424**

APPLICANT: **EDWARDS HOMES LTD**

SITE: **LAND TO THE REAR OF ROCK BANK, MAIN ROAD, NEW BRIGHTON, MOLD**

APPLICATION VALID DATE: **29TH OCTOBER 2013**

LOCAL MEMBERS: **COUNCILLOR A. BRAGG**

TOWN/COMMUNITY COUNCIL: **ARGOED COMMUNITY COUNCIL**

REASON FOR COMMITTEE: **SCALE OF DEVELOPMENT RELATIVE TO DELEGATION SCHEME**

SITE VISIT: **YES (UNDERTAKEN 10TH MARCH 2014)**

Members will recall that consideration of this application was deferred at the Planning & Development Control Committee meeting held on 12th March 2014. The application was deferred in order to confirm surface water drainage proposals to serve the proposed development and the implications for development given the previous mining history on the site. The report has been updated accordingly.

In the intervening period, the applicant has lodged an appeal with the Planning Inspectorate against non-determination of this application. The purpose of the report is to obtain Planning Committee resolution in respect of the approach to the adopted in respect of this appeal (which is to be considered by way of an Informal Hearing).

My recommendation is that the Council raises no objection to the proposal (and adopt that stance for the appeal) subject to (i) payment of a commuted sum of £1,100 per dwelling in lieu of on site recreational provision and the imposition of the conditions referred to in paragraph 2.01.

1.00 SUMMARY

- 1.01 This full application proposes the erection of 13 No. detached houses and associated works on land to the rear of Rock Bank, Main Road, (A5119) New Brighton, Flintshire. Amended plans were received in progression of the application with a further round of consultation undertaken. For Members information, the application has been the subject of a committee site visit, this being undertaken on 10th March 2014.

2.00 RECOMMENDATION: TO ADVISE THE PLANNING INSPECTORATE THAT FLINTSHIRE COUNTY COUNCIL RAISES NO OBJECTION TO THE DEVELOPMENT FOR THE PURPOSE OF THE APPEAL, SUBJECT TO THE FOLLOWING:-

- 2.01 The applicant entering into a Unilateral Undertaking to ensure the payment of £1,100 per dwelling in lieu of on site play provision and imposition of the following conditions.

Conditions

1. Time limit on commencement.
2. In accordance with approved plans.
3. Materials to be submitted and approved.
4. Site and finished floor levels of buildings to be submitted and approved.
5. Site is crossed by a public sewer which must be safeguarded.
6. Surface water scheme to be submitted and approved.
7. No land drainage run-off to discharge into public sewerage system.
8. No surface water to connect into public sewerage system.
9. Foul and surface water shall be drained separately from site.
10. No buildings to be brought into beneficial use earlier than 1st October 2014 unless upgrading of Waste Water Treatment works has been completed.
11. Submission and implementation of ecological mitigation.
12. Siting, layout, design and means of site access to be submitted and approved.
13. No commencement on forming site access until detailed design has been submitted and approved.
14. Access to have visibility splay of 2.4 m x 43 m in both directions.
15. Visibility splays to be kept free from obstruction during site

- works.
16. Facilities to be provided for parking/turning of vehicles.
 17. Front of garages to be set back behind back of footway or edge of carriageway.
 18. Detailed layout, design, traffic calming and signing, surface water drainage, street lighting and construction of internal estate roads to be submitted and approved.
 19. Positive means to prevent run-off of surface water onto highway to be provided in accord area with details to be submitted and approved.
 20. No development to commence until land contamination survey has been undertaken with appropriate mitigation where necessary.
 21. Discharge of surface water to be limited to Greenfield run-off rate off the level of which is to be agreed.
 22. Treatment of recorded mine entry to be in accordance with the geotechnical report submitted.

3.00 CONSULTATIONS

3.01 Local Member Councillor A. Bragg Original Scheme

Request for discussions with case officer prior to formulating a view on progress of application.

Amended Scheme

Request site visit and planning committee determination in order to assess impact of development on character of site/surroundings and impact of development on occupiers of existing development at Argoed View.

Argoed Community Council Original Scheme

The application could create traffic problems to the area and will have a profound effect on the amenities of the area such as schools, community centre and doctors considering that another 23 houses are being built in the area. Councillors have concerns for safety.

Amended Scheme

No responses received at time of preparing report.

Head of Public Protection

The site is located within 250 m of a former landfill site and there is potential for land to be contaminated. Recommend that any permission includes conditions requiring land contamination survey to be undertaken with appropriate remediation where necessary.

National Resources Wales

Advise that Natural Resources Wales have records of Great Crested

Newts (GCN) within approximately 350 m of the site. No objection to the proposal subject to the imposition of a condition requiring Reasonable Avoidance Measures to ensure that the development has no detrimental impact on the GCN population that may cross the site.

County Ecologist

The application is accompanied by an ecological survey which is satisfactory. No objection to the development subject to tree protection/hedgerow enhancement and reasonable avoidance measures in respect of wildlife habitats.

Dwr Cymru/Welsh Water

Recommend that any permission be subject to the imposition of a grampian condition to prevent occupation of any dwelling prior to 1st October 2014, unless upgrading of Waste Water Treatment Works has been completed. In addition request imposition of conditions in respect of surface, land and foul water drainage.

The Coal Authority

Confirm that there is no objection to the development subject to the imposition of condition requiring treatment of the mine entry on site in accordance with the applicant's geo-technical report.

Airbus

No aerodrome safeguarding objection to the proposal.

Public Open Spaces Manager

Request the payment of £1,100 per dwelling in lieu of on site recreational facilities, the payment being used to enhance existing facilities in the community.

4.00 PUBLICITY

**4.01 Press Notice, Site Notice, Neighbour Notification
Original Scheme**

Three letters of objection with accompanying petition signed by 25 residents, the main points of which can be summarised as follows:-

- detrimental impact on the amenities of existing residents by way of overlooking and overshadowing.
- the erection of 2 storey dwellings adjacent to existing bungalows of Argoed View would be out of character with the form of existing development.
- proposal will result in increased vehicular movements onto A5119 and there will be conflict with movements associated with the development of the Argoed Garage Site recently granted permission for 23 houses.
- conflict with vehicular movements associated with Rock Bank which houses people with disabilities.
- adequacy of foul and surface water drainage.

- impact on ecology.

Amended Scheme

Two letters with accompanying petition signed by 27 residents received which re-iterates previous objections and does not consider that re-positioning of dwellings overcome initial objections, as the 2 storey dwellings relative to properties on Argoed View will be overbearing and impact on privacy/amenity.

5.00 SITE HISTORY

5.01 None relevant.

6.00 PLANNING POLICIES

6.01 Flintshire Unitary Development Plan

Policy STR1 – New Development.

Policy GEN1 – General Requirements for Development.

Policy GEN2 – Development Inside Settlement Boundaries.

Policy D1 – Design Quality, Location & Layout.

Policy D2 – Design.

Policy TWH1 – Development Affecting Trees & Woodlands.

Policy WB1 – Species Protection.

Policy AC13 – Access & Traffic Impact.

Policy AC18 – Parking Provision & New Development.

Policy HSG3 – Housing on Unallocated Sites Within Settlement Boundaries.

Policy HSG8 – Density of Development.

Policy HSG9 – Housing Mix & Type.

Additional Guidance

Local Planning Guidance Note 2 – Space About Dwellings.

The proposed development generally complies with the above policies.

7.00 PLANNING APPRAISAL

7.01 Introduction/Site Description

The site, the subject of this application amounts to approximately 0.47 hectares in area. It comprises an irregular shaped area of agricultural land to the rear of existing residential properties fronting onto the Main Road (A5119) and Argoed View, New Brighton. Vehicular access into the site is obtained from the A5119, to the east of an existing property 'Rock Bank' and west of a property Ty Banc Cerrig.

7.02 Planning Policy

Although not an allocated housing site the site is located within the settlement boundary of New Brighton a Category B settlement as defined in the adopted Flintshire Unitary Development Plan, which in

accordance with Policy HSG3 allows for growth of between 8 – 15% over the plan period 2000 – 2015. As at April 2013, completions and commitments have resulted in 8% growth and therefore the principle of residential development at this location is acceptable in accordance with Policy HSG3.

7.03 Proposed Development

The plans the subject of this application propose the erection of a total of 13 No. 2 storey detached dwellings, to be constructed having facing brick/render external walls and concrete tile roofs. Vehicular access to serve the development is proposed from an access off the A5119, to the east of a property Rock Bank with 4 No. properties proposed to be served from a private drive at the head of the cul-de-sac.

7.04 Main Planning Issues

It is considered that the main planning issues can be summarised as follows:-

- a. Principle of development having regard to the planning policy framework.
- b. Scale of development.
- c. Impact on character of the site and surroundings.
- d. Impact on privacy/amenity.
- e. Adequacy of access.
- f. Adequacy of foul and surface water drainage.
- g. Acceptability of site layout having regard to previous mining activities at this location.
- h. Potential land contamination.
- i. Impact of development on protected species/wildlife habitats.
- j. Open and play space.

7.05 Principle of Development

Although not an allocated housing site, it is located within the settlement boundary of New Brighton as defined in the adopted Flintshire Unitary Development Plan. The principle of residential development to meet general housing demand is therefore acceptable subject to ensuring a well balanced layout and the safeguarding of residential amenity.

7.06 Scale of Development

It is considered that the scale of development proposed i.e., 13 No. dwellings on approximately 0.47 hectares would not represent overdevelopment at this location. For Members information the scale/density of development proposed is approximately 28 dwellings per hectare which is at a slightly lower level than the 30 dwellings per hectare which is specified as a minimum density in Policy HSG8 of the adopted Flintshire Unitary Development Plan. The scale of development is established having regard to the site constraints in particular the need to safeguard a number of existing trees/hedgerows

on the site's north western boundary with the density also being reflective of the scale of development on the periphery of the application site.

7.07 Impact on Character of Site/Surroundings

The character of existing development at this location is principally defined by bungalows at Argoed View, a number of which have been adapted to provide accommodation within the roof space, two storey dwellings fronting onto the Main Road and Ty Banc Cerrig a property with a fairly steep roof pitch incorporating dormer windows adjacent to the proposed site access. Whilst the objections raised requesting the introduction of bungalows on plots 1-4 along the common site boundary with properties at Argoed View are duly noted when viewed in the wider site context, it is considered that the principle of two storey dwellings along this boundary would not be out of character given the existing mix of house types with differing ridge heights at this location.

7.08 Impact on Privacy/Amenity of Occupiers of Existing/Proposed Dwellings

Individual consultation on the application has been undertaken with the occupiers of existing residential properties which are adjacent to the application site, with one of the main areas of concern as previously highlighted being the introduction of 2 storey dwellings along the common site boundary with bungalows at Argoed View.

7.09 On the basis of the initially submitted plans, particular concerns were expressed at officer level regarding the position of the proposed dwellings on plots 1-4 relative to this site boundary with a number of these proposed dwellings having shallow garden depths. Having regard to the relationship to the garden areas of existing properties this would have resulted in significant overlooking and the recommendation would have been for permission to be refused.

7.10 Having regard to the objections received, the applicants/agent gave further consideration to amending the house types along this boundary by reducing the ridge heights accordingly. The amended plans however principally propose that the dwellings on plots 1 & 2 be moved forward by approximately 1.8 m with a slight orientation in their position. Although third party objections consider this change to be minimal to alleviating the impact on the amenity of the occupiers of these existing dwelling, the increased distances between properties with no overlooking between main habitable windows would in my view be acceptable to maintain privacy/amenity. There is not in this instance (as there is no direct overlooking involved), a need to apply the guidance contained in Local Planning Guidance Note 2 – Space Around Dwellings.

7.11 In addition to the above an assessment of the relationship of the dwellings proposed to the rear of existing properties Sholden, Bryn

Awel and The Poplars which have access onto the Main Road (A5119) has been undertaken. Notwithstanding that there is a difference in site levels of approximately 1 m at this location the gable elevation of Plot 13 relative to existing properties Sholden and Bryn Awel would be 22 m with the rear elevation distances between the dwelling on Plot 11 to The Poplars being approximately 30 m. This is in excess of the 12 m and 22 separation distances as specified in Local Planning Guidance Note 2 and is acceptable accounting for the difference in site levels at this location.

7.12 Adequacy of Access

Vehicular access to serve the development is proposed off the A5119 Main Road, New Brighton to the north of an existing dwelling Rock Bank and south of Ty Banc Cerrig. The objections received relating to the adequacy of the access onto the A5119 and generation of increased vehicular movements at this location given the relationship of the site to the former Argoed Service Station which has permission for the erection of 23 No. dwellings are duly noted. Consultation on the application has been undertaken with the Head of Assets & Transportation in order to assess the acceptability of the access arrangements and detailing of internal site layout. Whilst the Head of Assets & Transportation confirms that there is no objection to the principle of development as the road/footpaths width and dimensions of the turning head are all acceptable subject to the imposition of conditions, clarification on the surface water drainage proposals for the site has been requested and is addressed in paragraph 7.15 of this report.

7.13 Adequacy of Foul/Surface Water Drainage

Consideration of the application was deferred at the Planning & Development Control Committee held on 12th March 2014 in order to ensure the acceptability of the drainage infrastructure to serve the proposed scale of development from both a foul and surface water perspective. This has been the subject of consultation with Dwr Cymru/Welsh Water and Natural Resources Wales (NRW) and is a particular area of concern to interested third parties.

7.14 For Members information Dwr Cymru/Welsh Water have confirmed in respect of foul drainage from the site that they have no objection to the proposal subject to the imposition of a Grampian condition to control occupation of any dwelling until after 1st October 2014 given current proposals to improve the capacity of the Mold Waste Water Treatment Works by this date. In addition it is requested that foul surface and land drainage is separated at this location to avoid overloading the capacity of the foul sewer system.

7.15 Given concerns about ensuring adequate surface water drainage proposals at this location, particularly given the recent history of development at the former Argoed Service Station and capacity of the foul sewer to accommodate surface water discharges, it is proposed

that a new sewer be constructed with surface water being discharged into a watercourse on farmland approximately 350 m to the south of the application site. This arrangement will require an easement to be agreed with the existing landowner. Consultation on the surface water drainage scheme has been undertaken with Dwr Cymru/Welsh Water, Natural Resources Wales and the Council's Technical Services Drainage Department all of whom have confirmed that this arrangement is acceptable to serve the development subject to the imposition of conditions to control run-off and discharge rates. This is an aspect of development that could be controlled by condition.

7.16 Previous Mining Activities/Impact on Site Layout

The Coal Authority have advised that Plot 1 of the proposed site layout is located directly over the recorded position of one of the two mine entries within the site. The applicant's agent has submitted additional information from Geotechnical Consultants providing details on how it is intended to treat the mine entry to ensure ground stability at this location. This information has subsequently been assessed by the Coal Authority who confirm that they have no objection to the proposal subject to a condition to ensure that work is undertaken in accordance with the methodology contained in this report.

7.17 Land Contamination

The Council's Head of Public Protection has advised that the application site is located within 250 m of a former landfill site and there is potential for the land to be contaminated. To this effect it is considered that if Members are agreeable to supporting the principle of development at this location, then this can be covered by way of the imposition of a condition requiring a land contamination survey be undertaken prior to the commencement of development with appropriate mitigation where required, if evidence of contamination is found.

7.18 Ecological Impacts

Although not a protected ecological site, consultation on the application has been undertaken with Natural Resources Wales and the Council's Ecologist. It has been confirmed by NRW that there are records of the presence of Great Crested Newts (GCN) within 350 m of the site and the Council's Ecologist advises that the trees/hedges on the site boundaries provide a bird nesting habitat and potential for bat roosts. It is recommended that any permission be subject to the imposition of appropriate conditions to provide mitigation/enhancement of trees and hedgerows to protect species and habitats accordingly.

7.19 Open & Play Space

The Public Open Spaces Manager considers that the provision of on-site recreational facilities is not required, given the relationship of the site to existing provision. Accordingly it is requested that the development is subject to a commuted sum payment of £1,100 per

dwelling towards the improvement/enhancement of existing facilities within the community.

8.00 CONCLUSION

- 8.01 In conclusion, it is my view that the scale/form of the development proposed would be sympathetic to the character of the site and surroundings. Whilst the objections received from the occupiers of existing bungalows at Argoed View requesting the introduction of bungalows along this common site boundary are duly noted, it is considered that:- i. the orientation and distances would be acceptable and would not require consideration in accord with the Council's Space Around Dwellings Guidance; and ii. the character of existing development is of a mix of house types including bungalows a number of which have been adapted to provide accommodation within the roofspace. It is considered that issues in respect of surface water land contamination, capping of mine shafts and protection of wildlife habitat can be covered by the imposition of conditions. I therefore recommend that Members raise no objection to the appeal.
- 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.

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