

FLINTSHIRE COUNTY COUNCIL

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

DATE: **WEDNESDAY, 12 NOVEMBER 2014**

REPORT BY: **CHIEF OFFICER (PLANNING AND ENVIRONMENT)**

SUBJECT: **052504 - FULL APPLICATION - REPLACEMENT OF EXISTING BUILDINGS WITH 1 NO. ECO DWELLING AT MARSH FARM, CHESTER ROAD, OAKENHOLT**

APPLICATION NUMBER: **052504**

APPLICANT: **MR M JONES**

SITE: **MARSH FARM, CHESTER ROAD, OAKENHOLT**

APPLICATION VALID DATE: **15 AUGUST 2014**

LOCAL MEMBERS: **COUNCILLOR MS R JOHNSON**

TOWN/COMMUNITY COUNCIL: **FLINT TOWN COUNCIL**

REASON FOR COMMITTEE: **MEMBER REQUEST**

SITE VISIT: **NO**

1.00 SUMMARY

- 1.01 This application seeks planning consent for the replacement of existing buildings with the erection of one eco dwelling. The application site is outside the settlement boundary of Flint, in open countryside, where both national and local policies strictly control residential development in the open countryside.
- 1.02 The applicants understand that the development is contrary to policy but suggest that an exception be made on the grounds of a lack of a five year housing land supply and the fact that the dwelling is a Eco friendly innovative design.

1.03 In this context the main issues for consideration of this application are both the national and local plan policies covering residential development in the open countryside and whether these are outweighed by the lack of a 5 year housing land supply and the innovative nature of the proposed dwelling.

2.00 RECOMMENDATION: TO REFUSE PLANNING PERMISSION FOR THE FOLLOWING REASONS

2.01 In the opinion of the Local Planning Authority, the proposed development represents unjustified development in the open countryside. Despite the suggested eco credentials, the quality of design, or the argument that the proposal would contribute to the housing land supply, the proposal is considered to contrary to Policies GEN3 and HSG4 of the Flintshire Unitary Development Plan.

3.00 CONSULTATIONS

3.01 Councillor Ms R. Johnson
Requests committee determination in light of local representations.

Flint Town Council
No response received at time of writing.

Head of Public Protection
Confirms that they have no adverse comments to make regarding this proposal.

Head of Transportation and Assets

If minded to grant consent then recommend a condition with regard to facilities being provided and retained within the site for parking and turning of vehicles , these facilities being completed prior to the proposed development being brought in to use.

Airbus
Have no aerodrome safeguarding objection to the proposal.

Natural Resources Wales
Natural Resources Wales (NRW) do not object to the proposal it is not likely to adversely impact upon any of the designated wildlife interests of the Dee Estuary sites adjacent the application site.
The ecological report confirms that there is no bat activity in the barn to be demolished, with the existing barn owl box on site to be avoided to avoid disturbance to it.
In order to minimise impact it is recommended that the any existing hedgerow are maintained and care should be taken with regard to domestic light spill in to the adjacent fields.

NRW have confirmed the application site lies entirely within zone A as defined by the development advice map (DAM) referred to under TAN15 Development and Flood Risk (July 2004) and the site is not within either the 1 in 1000 or 1 in 100 year flood zones. As such, the flood risk at the site is considered to be minimal and do not require the submission of a Flood Consequences Assessment.

Drainage

No response received at time of writing.

Dwr Cymru /Welsh Water

As the applicant intends using a septic tank facility advise that applicant contacts Natural Resources Wales who may have an input in the regulation of this method of drainage disposal.

4.00 PUBLICITY

4.01 Neighbour Notification

2 letters received objecting on the grounds of the use of the unofficial "layby" on the access lane.

Since these objections have been received the Technical Note, it has now been AMENDED removing the reference to the pull in (Technical Note 1 Rev B).

11 letters of support received on the following grounds:-

- Proposed development will be a visual improvement / enhance the area
- Embrace the design/ contemporary nature of the proposed dwelling
- Self build houses should be encouraged, both for local business, encourage visitors and eco credentials
- Preference to see building inhabited rather than dilapidated

5.00 SITE HISTORY

5.01 **02/34427**

Alterations to existing dwelling and conversion of attached outbuildings to form and extension to the dwelling - Permit 16.9.02.

09/46887

Conversion of existing brick building in to tourist accommodation and rebuilding of existing store /garage - Permit 13.04.10.

6.00 PLANNING POLICIES

6.01 Flintshire Unitary Development Plan

Policy GEN3 - Development in the Open Countryside.

Policy HSG4 - New Dwellings Outside Settlement Boundaries.

Planning Policy Wales (PPW) July 2014, Edition No. 7 paras 4.3, 4.7.8 and 9.2.22.

7.00 PLANNING APPRAISAL

7.01 Policy Context

This application seeks planning permission for the replacement of an existing outbuilding, with the erection of a dwelling. The proposed site is outside the settlement boundary of Flint and as such the proposed development would be in the open countryside.

7.02 Both national and local plan policies strictly control residential development in the open countryside, allowing only those that are justified on essential need in terms of farming, forestry or other rural enterprises who must live at or very close to their place of work. This application has not been substantiated on these grounds and as such is considered to be contrary to policies GEN3 and HSG4.

7.03 The agent makes reference to the policies in the Unitary Development Plan and in Planning Policy Wales being out of date when compared with the National Planning Policy Frameworks in England in terms of brown field sites and facilitating self build.

7.04 The agent also has made reference to the intention of Welsh Government in the near future to provide a National Development Framework (NDF) to replace the Wales Spatial Plan. However it remains to be seen what form this will take, as well as its purpose, content and implications. If and when the document is published, it entails a different policy regime, which provides support for single dwellings in the open countryside, then the proposal can be considered in a new policy context at that time.

7.05 Until such time, the application has to be assessed in the context of the current national and local development plan framework comprising Planning Policy Wales and the adopted Flintshire Unitary Development Plan.

7.06 Proposal

The majority of the dwelling is to be located on the footprint of an existing former agricultural building which previously formed part of a working farm. Planning Policy Wales Welsh Government sets out the definition of brown field or previously developed land and this specifically excludes land or buildings currently in use for agriculture or forestry purposes. It is not accepted that agricultural or forestry buildings that are no longer used as such, should also be classed as brownfield, as to do so, would go against the thrust of Welsh Government guidance, which seeks to protect open countryside from inappropriate development. This point was clarified previously by an

Inspector who stated “Although the PPW definition specifically excludes “land and buildings currently in use for agricultural and forestry purposes”, this must also exclude land and buildings last used for agricultural purposes even were they are now redundant“. To conclude otherwise could be likely to have serious implication for the development of rural farmyards throughout the Welsh Countryside. In this context the proposal does not involve brownfield or previously developed land.

7.07 The Existing Building and Proposed Dwelling

The existing building is a prefabricated concrete structure, which is not residential. The existing building is not worthy of retention on grounds of its architectural or historic merits and indeed is proposed to be demolished as part of the proposed scheme. Furthermore, as a result of its modern and utilitarian character, it would not be considered favourably for a residential conversion having regard to Policy HSG7. As there is no existing residential use of this building the proposed scheme can not be considered on the grounds of a replacement dwelling and has to be considered in light of the national and local plan policies applicable to development outside settlement boundaries, in the open countryside.

7.08 The proposed dwelling is to be built to code 6 in the Code for Sustainable Homes (which is in planning terms considered to be obsolete in view of new Building Regulations) and is designed to be eco friendly in its design, construction and materials of its construction. Whilst the eco credentials and quality of the design of the proposed dwelling are acknowledged, these criteria are not sufficient justification to override the policy objections to the erection of a new unjustified dwelling in the open countryside. Whilst the eco credentials are an essential part of this application, it should be noted that the proposed dwelling is not presented as a ‘one planet’ development, as there is no proposal that it would sustain its occupants through any associated business.

7.09 The proposed dwelling is of a contemporary design, single storey in its design, seeking to limit its visual impact in relation to the existing farm house and the open countryside setting, the site being adjacent to the environmentally sensitive Dee Estuary. The dwelling is proposed to be approximately 285m² in its footprint and 5m high, orientated on the site with the main living spaces being south facing to maximise the solar gain for the design. The external materials are proposed to be a combination of metal cladding and traditional brick, with substantial glazing detailing to the garden elevations.

7.10 Policy HSG4

This policy clearly states that dwellings outside settlement boundaries will only be permitted where it is essential to house farm or forestry workers, who must live at or very close to their place of work. This policy must also now be read alongside PPW which includes a broader category on rural enterprise dwellings. In such cases any application on these grounds should be supported by setting out of evidence of the functional need of the enterprise. An agricultural justification appraisal, as proof of the agricultural need of the enterprise for any additional dwelling. This application has not been supported by such documentation, as such it can not be considered on these grounds and there are policy objections as the proposal is considered to constitute unjustified development in the open countryside.

7.11 Policy HSG13

Annex accommodation is generally permitted whereby it is ancillary to the use of the main dwelling and also subsidiary in terms of the scale of the accommodation. The applicant indicates that although the dwelling is intended to be its own independent dwelling unit, an indication is given that the applicant would accept for it to be controlled by condition as "annex" accommodation or for the personal use of the applicants. Members will be aware that such ancillary accommodation needs to be subsidiary in terms of design and scale and would normally be attached to the main dwelling, neither of which are applicable here

7.12 The proposal represents a 4 bedroomed detached single storey dwelling which is clearly in excess of what the policy considers to be an annex. It would be inappropriate to seek to place conditions insisting on its use as annex accommodation, when it would be occupied as a separate new dwelling. Welsh Government advises against the imposition of "personal" planning permissions except in exceptional circumstances.

7.13 Policies GEN3 & HSG4

In the supporting documentation accompanying the application, the applicant seeks to justify the proposal having regard to the current lack of a 5 year housing land supply and to the restrictive nature of policies HSG 3, HSG 5 and HSG7 which have led to a housing shortfall.

7.14 The County presently has a 4.5 year housing land supply (Joint Housing Land Availability Study 2013) which falls below the 5 year supply required in Planning Policy Wales and Technical Advice Note 1 (TAN 1). Despite the council strategy being of the view that there is in reality a greater supply of housing land (14.2 yr and 11.9 yr based on a 5 year and 10 year post completion calculations) the council

accepts that it does not presently have a 5yr supply based on the residual method calculation.

- 7.15 In such circumstances the Council is required to set out what steps it is taking or proposing to take to increase supply. The commentary in the 2013 JHAS Report states “the Council will continue to work with landlords and developers in bringing forward appropriate and sustainable windfall housing sites. Applications on sites outside of existing settlement will be assessed on their individual merits in terms of whether they represent logical and sustainable development having regard to material planning considerations and will not be approved merely because they would increase housing land supply”.
- 7.16 In the context of this application there is a well established policy framework, set out in both national guidance and the adopted UDP which seeks to strictly control new development outside settlement boundaries. To grant consent for a single dwelling in open countryside, in planning terms, would represent a fundamental shift in policy and is not considered to be justified on the basis of a lack of a 5yr housing land supply. It is not considered that a single dwelling would make any noticeable difference to the housing land supply figures. To argue otherwise, would imply that the 1000 or so dwellings needed to bring the land supply back up to 5yrs, could potentially be in open countryside locations, which would set a dangerous precedent and result in significant harm to open countryside.
- 7.17 In the broader context of this Flint site, the site is in close proximity to a category A settlement which is identified in the UDP as being a sustainable location; as reflected in two housing allocations and the Croes Atti site. The Croes Atti site has permission for 636 dwellings and two house builders are presently on site. With a combined growth rate for the settlement of 19% over the Plan period, there is clearly no shortage of housing land in the context of Flint. There is considered to be no justification for granting permission for a single dwelling when it is within 1km or easy walking distance of a large housing site, as to do otherwise would severely compromise well established planning principles.
- 7.18 The lack of delivery of housing in the County and further afield has been due to the effect of the economic down turn, rather than the lack of supply. The UDP made adequate provision for development and there is no evidence to substantiate the argument that the locational and housing policies operate in a restricted manner as advocated by the agent.
- 7.19 Consequently, no real weight can be given to the argument that this application would contribute to the housing land shortfall, to enable the local planning authority to override policies of GEN3 and HSG4 of the adopted Unitary Development Plan and national guidance which

exists in Planning Policy Wales, Edition 7, July 2014, in relation to unjustified development in the open countryside.

7.20 Site and Adjacent Protected Sites

The application site is located 600m from the Dee Estuary, which has the following protection, Special Area of Conservation (SAC), Site of Special Scientific Interest (SSSI), Special Protection Area (SPA), and RAMSAR site. Features of these sites include Spring and Autumn migrating bird populations, overwintering wader and wildfowl; as such I have consulted with Natural Resources (NRW) and county ecologist.

7.21 NRW have raised no objections to the proposal, and in their opinion the proposal is not likely to adversely affect any of the designated wildlife interests. The submitted ecological report states that there are no evidence of bats using the building proposed to be demolished. The submitted ecological survey noted the historic barn owl nesting box on site and the measures should be taken to avoid disturbance to this in any works.

7.22 However to minimise any adverse effect it is recommended that the existing hedgerows are maintained and care should be taken with regard to any external lighting so that there is no light spill in to the adjacent fields.

7.23 Access

The proposed dwelling is to be served by the existing single track unmade lane, which serve the existing farm house, Seafield and the potential extant one bedroomed tourist accommodation, which has been granted on the site.

7.24 The application has been accompanied by a Transport report, which has subsequently been amended; highways have been consulted on the application. They have raised no objection to the proposal and recommend that any permission is conditioned to provide parking and turning facilities within the site prior to the proposed use being brought in to use.

7.25 As part of the consultation process 2 letters of objection have been received with regard to the use of the "pull in "on the access lane, reference to this has now been omitted from the Technical highway report. The use of the pull in is not a material planning consideration and is a civil matter for both parties to consider themselves. Highways have been consulted on the amended technical report and have confirmed that they raise no objection to the proposal.

CONCLUSION

- 8.01 Whilst the merits of the application for the provision of an eco dwelling are noted and indeed welcomed. As the dwelling is not for the provision of an essential worker, it is considered to amount to unjustified development in the open countryside, contrary to the provision of both national, Planning Policy Wales and local plan policies, which seek to resist non essential development in the open countryside, to prevent sporadic development, which would undermine the rural open countryside character.
- 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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