

FLINTSHIRE COUNTY COUNCIL

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

DATE: **12TH NOVEMBER 2014**

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

SUBJECT: **APPEAL BY EDWARDS HOMES LTD UNDER SECTION 78 OF THE TOWN & COUNTRY PLANNING ACT 1990 AGAINST A FAILURE TO GIVE NOTICE WITHIN THE PRESCRIBED PERIOD OF A DECISION ON AN APPLICATION FOR PLANNING PERMISSION ON LAND TO THE REAR OF ROCK BANK, MAIN ROAD, NEW BRIGHTON, MOLD.**

1.00 APPLICATION NUMBER

1.01 **051424**

2.00 APPLICANT

2.01 **EDWARDS HOMES LTD**

3.00 SITE

3.01 **LAND TO THE REAR OF ROCK BANK, MAIN ROAD, NEW BRIGHTON, MOLD.**

4.00 APPLICATION VALID DATE

4.01 **29TH OCTOBER 2013**

5.00 PURPOSE OF REPORT

5.01 To inform Members of the appeal decision, following the non-determination of an application submitted under Code no. 051424 within the prescribed period, for the proposed erection of 13 No. dwellings on land to the rear of Rock Bank, Main Road, New Brighton.

5.02 It was resolved at the Planning & Development Control Committee on 14th May 2014 to advise the Planning Inspectorate that the Council raise no objection to the development for the purpose of the appeal, subject to conditions and the completion of legal agreements, in

respect of leisure and educational contributions. The appeal was held by way of an informal hearing on the 29th July 2014 and was ALLOWED subject to conditions and a Unilateral Undertaking which was presented at the appeal to address leisure/educational payments.

6.00 REPORT

6.01 The Inspector considers the main issues to be as follows:-

- Whether or not the educational contributions specified by the Council (£36,771 for primary school places and £36,938 for secondary school places) are necessary to meet the prescribed tests.
- Impact on the character and appearance of the area.
- The impact on the amenity of neighbouring residents, particularly in respect of privacy and visual impact.
- The acceptability of surface water drainage proposals.
- The impact on old mine entries.
- Adequacy of access.

6.02 In respect of these issues the Inspector concludes:-

6.03 Educational Contributions

The nearest schools are Mynydd Isa Primary School and Argoed High School with both currently having pupil rolls in excess of their specified capacity. The Inspector acknowledges that the calculation for the commuted sum for educational contributions are not in dispute but the appellant's questioned whether they should be applied in this instance. The appellants evidence at the appeal was based on the fact that the Council's Local Planning Guidance Note 23 – Developer Contributions to Education, does not take into account parental choice as to which school their children attend and that spare capacity is available at other schools not too far away.

6.04 The Inspector recognises that parental choice is a feature of education nowadays but does not consider that the Council's guidance note adopted only 2 years ago is out of date. The Inspector considers that the method used in the Council's guidance note is sensible and generally fair to which considerable weight should be given and that the financial contributions to be made towards both primary and secondary education is required.

6.05 Character & Appearance

The Inspector notes that the development has been designed to reflect the physical constraints of the site and provide a mix of house types and sizes. The Inspector considers that it would relate well to the existing properties closer to the main road which are generally 2 storeys in height. The Inspector went on to say however that it would present an element of conflict with the predominant bungalow style along Argoed View and could have been more sympathetic in that

regard.

- 6.06 The Inspector does not however consider the design of the development to be unacceptably harmful to the character and appearance of the area and that it would generally harmonise with it in accord with the relevant development plan policies.
- 6.07 Residential Amenity
The Inspector makes specific reference to Local Planning Guidance Note 2 Space Around Dwellings which specifies minimum separation distances between buildings and between windows of habitable rooms (e.g., living rooms, dining rooms, bedrooms).
- 6.08 The Inspector acknowledges that the guidance cannot cover every possible inter-relationship and that the houses proposed near to the north east boundary, would be set at an angle to reduce overlooking of the properties in Argoed View. The Inspector concludes that even if that were not the case, the separation distances between the existing and new houses would be between 21 and 29 metres compared with the minimum requirement of 22 metres in the Council's guidance. Thus allowing for the angled siting, the distances (from window to window) would provide for arrangements in excess of the minimum considered acceptable by the Council.
- 6.09 The Inspector considers that this relationship however takes little account of loss of privacy in hitherto private gardens or of the present level of privacy currently enjoyed. The Inspector concludes that the adjoining residents would experience reduced levels of privacy and harm to their residential amenity in this respect but that this warrants only limited weight as the level of privacy retained would still exceed the minimum considered acceptable by the Council's adopted planning guidance.
- 6.10 Surface Water Drainage
The Inspector notes the concerns expressed that the development might exacerbate local problems with surface water. The proposal however to implement a sustainable drainage arrangement comprising a holding tank to minimise peak flow rates advised by Natural Resources Wales and discharge of the residual flow to a local watercourse is considered by the Inspector to be acceptable.
- 6.11 The Inspector also concludes that such a proposal is likely to be achievable given evidence of the landowners agreement and likely adoption by Dwr Cymru Welsh Water.
- 6.12 Old Mine Entries
The Inspector confirms that there are 2 former mine entries within the site one of them being located under proposed plot 1. The Inspector acknowledges that the Coal Authority is satisfied with the proposal provided the remedial measures are undertaken in accordance with

the methodology in the geotechnical report and this could be specified by condition. The Inspector's conclusion is that it would be feasible to deal with the former mine entries to ensure a safe environment for the life of the development.

6.13 Highways

The Inspector notes that the appeal scheme makes provision for a visibility splay of 2.4 metres by 43 metres which is in line with the advice in the Manual for Streets for vehicles travelling at 30 mph. The Inspector also refers to evidence being provided that the appellant has retained ownership of strips of land along the frontage of properties either side of the access, so that the visibility splay could be provided and maintained free of obstacles in the future. In taking this into account the Inspector is satisfied that a much greater visibility distance than 43 metres would be achieved and the Inspector concludes that that the proposed access would be adequate and would not detract from highway safety.

6.14 Costs Application

The appellant's sought an application for costs at the hearing on the basis of the length of time that it took the Council to resolve its position on the application - by which time the appeal has been lodged.

6.15 The Inspector was of the view however having regard to the appellant's own explanation of the chronology of events that the Council had provided the appellant with an opportunity to amend the scheme from that initially submitted and had sought to adequately address issues in respect of surface water drainage and safeguarding of old mine entries on the site, which had been raised following a Planning Committee site visit. The Inspector did not find in these circumstances that unreasonable behaviour had been demonstrated as described in Circular 23/93 and an award of costs is not justified.

7.00 CONCLUSION

7.01 In taking into account the above main issues the Inspector allowed the appeal for the construction of 13 No. dwellings on land to the rear of Rock Bank, Main Road, New Brighton subject to conditions and the terms of the Unilateral Undertaking presented at the appeal.

LIST OF BACKGROUND DOCUMENTS

Planning Application & Supporting Documents
National & Local Planning Policy
Responses to Consultation
Responses to Publicity

Contact Officer: Mark Harris
Telephone: (01352) 703269
Email: Robert_mark_harris@flintshire.gov.uk

