

FLINTSHIRE COUNTY COUNCIL

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

DATE: **12TH NOVEMBER 2014**

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

SUBJECT: **APPEAL BY MR. CHARLES & MRS GAIL SHAW AGAINST THE DECISION OF FLINTSHIRE COUNTY COUNCIL TO REFUSE PLANNING PERMISSION FOR THE ERECTION OF A FOUR BEDROOM DETACHED DWELLING AND DETACHED DOUBLE GARAGE AT 37 WOOD LANE, HAWARDEN – DISMISSED.**

1.00 APPLICATION NUMBER

1.01 051234

2.00 APPLICANT

2.01 MR & MRS C SHAW

3.00 SITE

3.01 37 WOOD LANE,
HAWARDEN.

4.00 APPLICATION VALID DATE

4.01 09.09.13

5.00 PURPOSE OF REPORT

5.01 To inform members of an appeal decision in respect of the refusal of planning permission for the erection of a four bedroom detached dwelling and a detached double garage at land at 37 Wood Lane Hawarden.

5.02 The application subject to this appeal was considered by Planning and Development Control Committee on 11th December 2013 and 15th January 2014. Planning and Development Control Committee resolved to grant planning permission on 15th January 2014 subject to

the applicant signing a S106 agreement requiring that;

- The property shall be occupied by the applicants Mr and Mrs Shaw in the first instance
- If the property is put up for sale in the future 30% of the property value is repaid to the Council, secured as a charge on the property.

5.03 Following the Committee's resolution the applicants Mr and Mrs Shaw informed the Council they were not willing to sign the S106 agreement as the project was unviable. The application was subsequently refused on 12th March 2014 under the Head of Planning's delegated powers on the grounds that;

5.04 "Ewloe is a Category B settlement and the development would lead to cumulatively more than 15% growth since 2000. Any development therefore needs to be justified on the grounds of housing need. The applicant is not willing to sign the legal agreement in order to ensure that the dwelling meets this need therefore the application is contrary to policy HSG3 of the Adopted Flintshire Unitary Development Plan."

5.05 The appeal was held by way of an Informal Hearing and was DISMISSED. No costs application was made by either party.

6.00 REPORT

6.01 The Inspector considered the main issue is the effect of the proposed development on policies designed to control the provision and location of new housing.

6.02 The Inspector acknowledged that new housing development is distributed on the basis of a settlement hierarchy with Ewloe identified as a Category B Settlement under Policy STR4 of the adopted Flintshire Unitary Development Plan 2011 (UDP). Policy HSG3 clarifies that in Category B Settlements, new housing development which cumulatively results in more than 15% growth since 2000 would need to be justified on the grounds of housing need. The Council relies on its 2013 Settlement Growth Figures comprising of sites with planning permission, units which have been built and land allocated in the UDP. As of April 2013, Ewloe had a combined growth rate of 18.1% over the Plan period. Although the appellants have referred to the growth rates as 'indicative', the Inspector did not have any reason to dispute that Ewloe is likely to meet the levels above those envisaged by the Council's spatial strategy.

6.03 The Inspector noted that in order to control the expansion of settlements where planned growth is already significant, the Council seeks to ensure that any additional new dwellings are for local needs, either by being affordable or as a dwelling for essential workers.

6.04 The Inspector noted that the Council has accepted that the proposal is justified on the grounds of housing need, and that it would therefore

meet with the requirements of Policy HSG3, subject to the signing of a S106 Agreement. This would require the property to be occupied by the appellants in the first instance and, if it is to be put up for sale in the future, 30% of its value is repaid to the Council as a charge. She noted that the appellants considered the latter terms to be onerous. The Inspector heard at the Hearing that the 30% charge has been calculated on the basis of the Council's Local Planning Guidance Note No.9 '*Affordable Housing*'. From the Inspector's reading of the guidance, this percentage relates primarily to housing development of 25 or more units or sites of 1ha or more, where there is a demonstrable need for affordable housing to meet local needs. In this case, therefore, the Inspector was not convinced that the basis upon which the 30% charge has been calculated is appropriate. Nevertheless, as there was no S106 Agreement before her as part of the appeal, she took this matter no further.

- 6.05 The appellants assert that planning permission should be granted with no local needs or affordable housing obligation. To this end, the Inspector's attention is drawn to the lack of a 5 year housing land supply contrary to the requirements of Planning Policy Wales (PPW). The Inspector states that for land to be regarded as genuinely available and contributing to housing land supply, it must be a site included in the Joint Housing Land Availability Study (JHLAS). The Inspector understood that, based on the residual method, there is only a 4.5 year housing land supply in Flintshire. The Council's strategy for dealing with the shortfall is a commitment to work with landowners and developers to bring forward windfall sites to make up the five year housing land supply.
- 6.06 In this context, she accepted that the proposal would make a modest contribution to housing land supply. Nevertheless, it would result in unplanned growth prejudicial to the Council's settlement hierarchy and spatial strategy which seeks to bring about a sustainable amount and distribution of housing. Neither is there any explanation as to why the development needs to take place in a Category B, rather than a Category A settlement, which could provide a justification for the development in line with the amplification to Policy HSG3.
- 6.07 Whilst the Inspector acknowledges that the growth rate in Ewloe already exceeds 15%, she was not convinced that allowing incremental changes in terms of new housing development would align with the provisions of Policy HSG3. Instead, it would be tantamount to encouraging disproportionate growth in a Category B settlement, where new housing development should be based on local need. Whilst local need may have been demonstrated in this instance, the terms of the mechanism for securing its provision under a S106 Agreement are in dispute and, as a consequence, a signed legal agreement is not before me. The proposal must therefore fail in this regard.

- 6.08 For the reasons set out above, the proposal would conflict with UDP Policy HSG3 insofar as it would undermine the spatial strategy for new housing development.
- 6.09 The Inspector had regard to the appellants' contention that Ewloe is capable of meeting housing demand and that there is capacity within the settlement without having an adverse impact on local services. Whilst the appeal site is in a location with adequate infrastructure and access to local services and facilities, the effect on the Council's spatial strategy would result in the development failing to meet with the sustainability aims of local and national planning policy.
- 6.10 In coming to my decision, the Inspector took into account the Ministerial Statement which refers to the need to increase housing supply in order to meet growing housing needs. However, for the reasons stated, she did not find that there is overriding justification for allowing unrestricted housing development in this settlement in this particular case.
- 6.11 She acknowledges that the proposal may meet with the requirements of UDP Policies STR4 and GEN1. Be that as it may, this does not overcome the harm otherwise identified in the balance of acceptability.

7.00 CONCLUSION

- 7.01 For these reasons, and having regard to all matters raised, she concludes that the appeal should be DISMISSED.

LIST OF BACKGROUND DOCUMENTS

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

Contact Officer: Emma Hancock
Telephone: (01352) 703254
Email: emma.hancock@flintshire.gov.uk