

FLINTSHIRE COUNTY COUNCIL

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

DATE: **25TH FEBRUARY 2015**

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

SUBJECT: **VARIATION OF CONDITION NOS 5 & 15 OF PLANNING PERMISSION REF: 050300 TO ALLOW THE CONSTRUCTION OF PLOTS 175 to 198 WITHOUT COMPLYING WITH CONDITONS 5 & 15 AT CROES ATTI, CHESTER ROAD, OAKENHOLT.**

APPLICATION NUMBER: **053058**

APPLICANT: **ANWYL CONSTRUCTION CO LTD**

SITE: **CROES ATTI, CHESTER ROAD, OAKENHOLT.**

APPLICATION VALID DATE: **17TH DECEMBER 2015**

LOCAL MEMBERS: **COUNCILLOR MS R JOHNSON**

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

REASON FOR COMMITTEE: **MEMBER REQUEST CONDITIONS PUT ON FOR A REASON TO NOW TRY TO DISMISS THEM IS AGAINST POLICY**

SITE VISIT: **NO**

1.00 SUMMARY

- 1.01 This application is for the variation of condition numbers 5 and 15 of planning permission reference 050300 to allow the construction of plots 175 to 198 inclusive only without complying with conditions 5 and 15. The site relates to residential development at Croes Atti, Chester Road, Oakenholt, Flintshire.
- 1.02 The original submission reference 050300 was for the approval of reserved matters for the erection of 312 dwellings. As the result of

discussions the numbers were reduced to 306 dwellings. The site of the original application has an area of approximately 13.01 hectares in area and formed the third reserved matters submission following the granting of the outline planning permission reference 035575 on 11th July 2006, for a mixed use development including residential use, open space, infrastructure, landscaping, education and community facilities on the land.

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

2.01 1. Permission is hereby granted for plots 175 to 198 inclusive only to be constructed without complying with conditions 5 and 15 of planning permission reference 05300.

2. “No works associated with the proposed development of the site shall commence unless and until all the works specified in the aforementioned Agreement have been completed to the satisfaction of the County Council as Highway Authority”.

3.00 CONSULTATIONS

3.01 Local Member Councillor
Councillor Ms R. Johnson

Requests that the application be referred to Planning Committee; comments, conditions are put on for a reason, to now try and dismiss them is against policy.

Flint Town Council

No response at time of writing.

Head of Assets and Transportation

No objection to this variation of condition 5 and confirms that do not intend to make a recommendation on highway grounds.

Head of Public Protection

No adverse comments to make regarding the proposal.

Coal Authority

No objection to the variation of condition 15 as proposed.

4.00 PUBLICITY

4.01 Site Notice.

As the result of consultations undertaken one letter of objection has been received:-

- Application should be decided Member level not at officer level.
- Work already commenced
- 100 dwellings, figure when an alternative access should be

made available.

- Condition 15 imposed to reduce risk from past mining legacy on site. While application is some distance from site who knows the extent of the mine shafts implications.
- Condition 5 must be enforced on basis applicant has shown as not capable to date adhering to expectations imposed.

5.00 SITE HISTORY

5.01 98/17/1308

Outline residential development and associated recreational, community and retail was originally reported to committee on 14.12.99 which resolved to approve subject to a Section 106 Agreement – No decision was ever issued due to changed circumstances of the applicants.

035575

Outline application for a mixed use development including residential, open space, infrastructure, landscaping, education and community facilities was reported to committee on 19.7.2004 which resolved to approve subject to a Section 106 Agreement - the agreement was signed and the permission issued on 11.7.06.

044035

Highway improvements, street lighting and all associated works, on land at Croes Atti, Chester Road, Oakenholt, in connection with the outline planning permission (ref. 035575) - Granted permission on 23rd April 2008.

044033

Reserved matters application - residential development consisting of 189 no. dwellings, public open space, new roundabout and all associated works at Croes Atti, Oakenholt - Granted 11th July 2008.

046562

Substitution of house types on plots 119, 124, 128-129, 131-132, 136, 138, 139, 142-144, 146-150, 160-163, 165-166, 170-177 and 183 on land at Croes Atti, Oakenholt, granted 11th July 2008.

046595

Reserved matters application for residential development consisting 132 no. dwellings, new roads, open space and all associated works on land at Croes Atti, Chester Road, Oakenholt, granted on 19th January 2012.

049312

Application for a Lawful Development Certificate for construction of vehicular access from Prince of Wales Avenue, Flint to serve residential development at Croes Atti, Oakenholt, permitted by outline planning permission code number 035575 dated 11th July 2006 –

granted 5th April 2012.

049154

Application for variation of condition no.3 attached to outline planning permission ref: 035575 to allow 7 years for the submission of reserved matters from the date of the outline planning permission being granted rather than the 5 years previously permitted granted on appeal on 10th October 2012.

049425

Variation of condition no.15 attached to planning permission ref: 046595 at Croes Atti, Chester Road, Oakenholt – granted on appeal on 15th March 2013.

049426

Application for variation of condition no.3 attached to outline planning permission ref: 035575 to allow 7 years for the submission of reserved matters from the date of the outline planning permission being granted rather than the 5 years previously permitted – withdrawn.

050300

Reserved matters application for erection of 312 residential dwellings and associated works at Croes Atti – granted on 3/4/2013.

050258

Amendment of house types of 50 of the previously permitted plots - permitted by Planning Committee on 19th June 2013 subject to the signing of a legal agreement.

050975

Plot substitution of house types on four plots, granted 26th October 2013

051136

Erection of 2no. V-Boards for housing advertisement, granted temporary permission

051716

Approval of details reserved by condition no.11 (landscape management (plan) attached to planning permission ref: 35575 approved 15th October 2014

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 HSG3 – Housing upon Unallocated Sites within Settlement

Boundaries.

Policy HSG2 – Housing at Croes Atti, Flint.

Policy HSG8 – Density of Development.

Policy HSG9 – Housing Type and Mix.

Policy D1 – Design Quality, Location and Layout.

Policy D2 – Design.

Policy AC13 – Access and Traffic Impacts.

Policy AC18 – Parking Provision and New Development.

Policy SR5 – Outdoor Playing Space and New Residential Development

PLANNING APPRAISAL

7.01 Introduction

This application is for the variation of condition numbers 5 and 15 of planning permission reference 050300 to allow the construction of plots 175 to 198 inclusive without complying with conditions 5 and 15 of the original reserved matters application. The site relates to residential development at Croes Atti, Chester Road, Oakenholt, Flintshire.

- 7.02 The original submission reference 050300 was for the approval of reserved matters for the erection of 312 dwellings. As the result of discussions the numbers were reduced to 306 dwellings. The site of the original application has an area of approximately 13.01 hectares in area and formed the third reserved matters submission following the granting of the outline planning permission reference 035575 on 11th July 2006, for a mixed use development including residential use, open space, infrastructure, landscaping, education and community facilities on the land.

7.03 Condition 5 of Planning Application 050300

Condition 5 of planning permission reference 050300 required the following:-

“No works associated with the proposed development of the site shall commence unless and until all the works specified in the aforementioned Agreement have been completed to the satisfaction of the County Council has Highway Authority.

REASON: To ensure the formation of a safe and satisfactory means of access to the site in the interests of maintaining highway safety.”

7.04 Condition 4 of Planning Application 050300

Condition 4 of planning permission reference 050300 required the following:-

“No works associated with the proposed development of the site shall commence unless and until a detailed scheme for the construction of a roundabout junction on the A548 and a scheme for the improvement of Coed Onn Road, as agreed by planning consent 044035 has been

submitted to and approved by the County Council. Such works shall become the subject of a Section 278 Agreement under the 1980 Highways Act prior to their implementation.

REASON: To ensure the formation of a safe and satisfactory means of access to the site in the interests of maintaining highway safety and the free flow and safe movement of traffic on the adjoining highway”.

7.05 The application site relates to an area of land adjacent to phase one of the site which is currently under construction. The application itself does not propose any changes to the layout as originally granted but to allow the building of this area of development consisting of 27 units before undertaking the requirements of condition 5 of the original approval. The condition required that no works associated with the proposed development of the site should commence unless a detailed scheme for the construction of a roundabout junction on the A548 and a scheme for the improvement of Coed Onn Road, as agreed by planning consent 044035 has been submitted to and approved by the County Council. Such works shall become the subject of a Section 278 Agreement under the 1980 Highways Act prior to their implementation. The roundabout junction onto the A548 has already been constructed and is in use as part of the phase one development however, the condition requires that once any part of phase three of the development is undertaken the improvements to the Coed Onn Road junction be undertaken.

7.06 The reason for this application is to allow the 27 units which form part of phase three, to be built before completing the requirements of the original condition and its requirement to undertake the improvements on the Coed Onn junction. The Highways Development Control Manager has been consulted and has no objection for this part of the development being undertaken while not complying with the condition.

7.07 **Condition 15 of Planning Application 050300**

Condition 15 of planning permission reference 050300 required the following:-

“Prior to the works commencing on this phase of the development an intrusive site investigation works shall be undertaken to establish the location and condition of the recorded mine entry within the application site. In the event that the site investigation confirms the need for remedial works to treat the minor entry and/or any other mitigation measures to ensure the safety and stability of the development these works should be undertaken prior to commencement of development.

REASON: In order to reduce the risk from the past mining legacy on the site.”

- 7.08 As with condition 5 this condition was imposed at the request of the Coal Authority given that on part of phase three past mine workings had been undertaken. In the original permission the condition requires that intrusive site investigation works are to be carried out in order to establish the location and condition of the recorded mine entry and the implementation of any required remedial works.
- 7.09 As with condition 5 above the current application seeks to vary Condition 15 of the issued consent in order to allow construction of Plots 175 to 198 on the site without the intrusive investigation for mine entry and any remedial works being undertaken.
- 7.10 The coal authority have been consulted on the application and having considered the location of the plots in question in relation to the wider site and the constraints the Coal Authority have no objection to the variation of Condition 15 as proposed.

8.00 CONCLUSION

- 8.01 The two conditions relate to the third phase of the development one to access issues the other in relation to past mine workings on the top part of the site. The application submitted is not to remove the conditions but to vary them to allow plots 175 to 198 which are located adjacent the development already under construction to be built without having to comply with their requirements.
- 8.02 Condition 5 relates to access and based on this the Highway Engineer has been consulted and raises no objections to the application. Given condition 15 relates to past mining on the site the Coal authority who originally requested the condition have been consulted. Having considered the location of the plots in relation to the wider context and identified constraints they have no objection to the application.
- 8.03 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.

LIST OF BACKGROUND DOCUMENTS

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

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