

FLINTSHIRE COUNTY COUNCIL

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

DATE: **25TH FEBRUARY 2015**

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

SUBJECT: **FULL APPLICATION – ERECTION OF 4 NO. DWELLINGS AND ASSOCIATED WORKS AT THE CROFT, ALLTAMI ROAD, BUCKLEY.**

APPLICATION NUMBER: **052936**

APPLICANT: **MR. ROBERTS**

SITE: **THE CROFT,
ALLTAMI ROAD, BUCKLEY.**

APPLICATION VALID DATE: **27TH NOVEMBER 2014**

LOCAL MEMBERS: **COUNCILLOR MRS. C. A. ELLIS**

TOWN/COMMUNITY COUNCIL: **BUCKLEY TOWN COUNCIL**

REASON FOR COMMITTEE: **THE PROPOSALS ARE RECOMMENDED FOR APPROVAL SUBJECT TO A S.106 AGREEMENT, THE SUBSTANCE OF WHICH GO BEYOND THE SCHEME OF DELEGATION**

SITE VISIT: **NO**

1.00 SUMMARY

- 1.01 This full application seeks approval for the erection of 4No. dwellings, together with other access and landscaping works on land to the rear of 'The Croft', Alltami Road, Buckley.

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

2.01 That conditional planning permission be granted subject to the applicant entering into a Section 106 Obligation/Unilateral Undertaking to provide the following:-

- a. Ensure the payment of a contribution of £10,000 to the Council for ecological mitigation. Such sum to be paid to the Council prior to the occupation of the dwelling hereby approved.
- b. Ensure the payment of a contribution of £4400 in lieu of on site play and recreation facilities. Such sum payable upon 50% occupation or sale and to be used to upgrade existing facilities within the community.

2.02 Conditions

1. Time limit on commencement.
2. In accord with approved plans.
3. Window coloured red upon approved plans to be obscure glazed and non opening.
4. No development to commenced until a scheme for the comprehensive drainage of foul, surface and land waters approved.
5. Boundary Treatments to be submitted and agreed.
6. Implementation of Boundary Treatments
7. Hedgerow protection.
8. Removal of Permitted Development Rights.
9. Submission of external finish materials, including hard surfaces.
10. Safeguarding of footpath route.
11. Submission of Ecological Mitigation Strategy and Reasonable Avoidance Measures.
12. Implementation of scheme agreed under Condition 11.
13. Foul and surface water to be drained separately from site.
14. Completion of approved drainage scheme prior to occupation of dwellings.
15. No development within 3 metres of water main.
16. Visibility splays of 2.4m x 43m in both directions.
17. Access to accord with single residential access details. 5m minimum width for first 10m into site.
18. Adequate parking & turning facilities prior to first occupation.
19. Scheme for interception of site surface water to prevent run off onto highway.

2.03 If the Obligation pursuant to Section 106 of the Town & Country Planning Act 1990 is not completed within six months of the date of the committee resolution, the Chief Officer (Planning & Environment) be given delegated authority to REFUSE the application.

3.00 CONSULTATIONS

3.01 Councillor Mrs. C. A. Ellis

No objection to a delegated determination.

Buckley Town Council

No observations to make.

Head of Highways (DC)

No objections. Requests the imposition of conditions.

Pollution Control Officer

Requests that conditions requiring land contamination investigations and the undertaking of any identified remediation works are imposed.

Public Open Spaces Manager

Advises that a sum of £4400 should be sought in lieu of on site play and recreation provision.

Natural Resources Wales

No objection subject to conditions relating to the implementation of ecological mitigation measures.

Buckley Commoners & Graziers

No objections.

Dwr Cymru/Welsh Water

No objection. Requests the imposition of conditions.

AIRBUS

No objection.

4.00 PUBLICITY

- 4.01 The application has been publicised by way of the display of a site notice and via neighbour notification letters. At the time of writing, no responses to this publicity have been received.

5.00 SITE HISTORY

5.01 **03/0/036656**

COU from residential to day care unit for babies under 2 years of age at Unit 2.

Approved 13/09/04

4/0/20442

Self-contained unit for elderly person.

Approved 01/06/091.

4/0/19891

Change of use of existing industrial unit to children's day nursery.
Approved 02/10/98.

4/0/16398

Erection of a two storey extension at side of dwelling.
Approved 03/11/87.

4/0/16300

Outline application for the erection of two dwellings using existing access.
Refused 03/11/87. Appeal Allowed 10/06/88.

4/0/15525

Change of use of building from light industrial to car/body repair and refinishing. Approved 04/11/86.

4/0/8755

Change of use to light industrial use.
Refusal 23/10/80. Appeal Allowed 24/6/81.

043470

Relocation of Margden Heating Ltd and erection of 4No. Dwellings.
Approved Subject to S.106 agreement 22.9.2008.

049850

Substitution of house type
Withdrawn 17/7/2013

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 and layout
- Policy D2 - Design
- Policy D4 - Landscaping
- Policy HSG3 - Housing on Unallocated Sites within Settlement Boundaries
- Policy AC13 - Access and Traffic Impact
- Policy AC18 - Parking Provision and New Development
- Policy TWH2 - Development Affecting Trees and Woodlands
- Policy WB1 - Protected Species
- Policy WB2 - Sites of International Importance
- Policy WB3 - Statutory Sites of National Importance.

7.00 PLANNING APPRAISAL**7.01 Site and Surroundings**

The site known as 'The Croft' currently accommodates a detached

premises used as a day nursery and a separate building which provides accommodation for the commercial business, Margden Heating, both of which front Alltami Road to the south.

7.02 The site is bounded to the north and east by residential properties and to the west by the boundaries of the Buckley Claypits and Commons Site of Special Scientific interest (SSSI) and Deeside and Buckley Newt Sites Special Area of Conservation (SAC). The existing uses currently utilise the same access point into the site with no separate footway.

7.03 The Proposed Development

The site lies to the rear of 'The Croft' and is currently a vacant parcel of land, latterly occupied by a former industrial unit. The proposals are to erect 4 detached dwellings, providing 3 types of dwelling, comprising;

- 2 two storey detached units providing four bedrooms and integral garages;
- 1 two storey detached 4 bed unit with a detached double garage; and
- 1 two storey dwelling providing 5 bed accommodation with one of these bedrooms, together with accommodation and storage, provided within the roof space. This property also has an integral garage

It is also proposed to widen the existing access bringing it closer to the Margden office and provide a separate footway for pedestrians.

7.04 The Main Issues

I consider that there are 3 issue for consideration in the determination of this application. These are;

- The principle of the development
- Design considerations
- Amenity impacts
- Ecological considerations

7.05 The Principle of Development

The proposed development site is located within the defined settlement boundary of Buckley as identified within the Flintshire Unitary Development Plan. The site is not allocated for specific development but its location within the settlement boundary affords a presumption in favour of development, subject to the detailed consideration of all material considerations. Policy HSG3 identifies the criteria against which the development of unallocated sites within settlement boundaries for residential purposes will be considered. The proposed residential development of the site is therefore acceptable in principle.

Design/Appearance/Landscaping

7.06 As set out above, the proposed development occupies a position to the rear of 'The Croft' with the proposed houses arranged around a turning head and private access road. The proposed dwellings adjacent to the tree and hedgerow lined northern boundaries are set an appropriate distance from these trees. The proposed dwellings are proposed to be brick with grey roof tiles. However, I propose to condition the submission of materials for agreement.

7.07 The site layout that is in line with Council standards on space about dwellings/overlooking/privacy and is complimentary to the general character of the area which has a mixture of property types and styles. Therefore the proposed development is considered acceptable in design and appearance terms subject to approval of external wall/roof materials. The existing natural features to the site's boundaries are generally retained and protected as part of the development scheme.

7.08 Amenity Impacts

The proposed dwelling would have adequate private amenity space, space around dwellings and car parking provision. The proposed design would be in keeping with the character of the wider area. There would be no significant detrimental amenity issues associated with the proposed dwellings and the relationship with the proposed and existing dwellings.

7.09 I have considered the proposed accommodation within the roof space of Plot 2. The proposals for this level within the dwelling essentially provide a bedroom living space. I am satisfied that there is no overlooking concern from the proposed seating area towards the west as there are no existing dwellings to overlook in this direction. I am mindful that the window to the proposed en-suite could afford an elevated overlooking opportunity towards properties located to the north of the site. I consider that this potential is mitigated to a degree by existing mature vegetation and trees. However, I am mindful of the perception of being overlooked and consequently I propose to condition that this window should be non opening and obscure glazed. Ventilation of the room can be addressed at building regulations stage via the installation of a mechanical system.

7.10 Ecological Considerations

European Protected Species (EPS) and their breeding sites and resting places are protected in the United Kingdom under Regulation 41 of the Conservation of Habitats and Species Regulations 2010 (as amended) and Article 12 of the Habitats Directive 92/43/EEC. The Directive (Article 16) only allows disturbance, or deterioration or destruction of breeding sites or resting places, in the interests of public health and public safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment and provided that there is

- (i) no satisfactory alternative and
- (ii) no detriment to the maintenance of the species population at favourable conservation status in their natural range.

7.11 Regulation 9 (1) and 9 (5) of the 2010 Regulations requires public bodies in the exercise of their functions, to ensure compliance with and to have regard to the provisions of the Habitats Directive. Consequently, in determining planning applications which may affect EPS, the Local Planning Authority must take account of the provisions of the Habitats Directive.

Guidance to Local Planning Authorities is given in TAN 5: Nature and Conservation Planning (particularly paragraphs 6.3.6 and 6.3.7). In particular, at paragraph 6.3.7 it is stated:

7.12 “It is clearly essential that planning permission is not granted without the planning authority having satisfied itself that the proposed development either would not impact adversely on any European protected species on the site or that, in its opinion, all three tests for the eventual grant of a regulation 44 (of the Habitats Regulations) [now regulation 53 of the 2010 Regulations] licence are likely to be satisfied.”

7.13 If and when planning permission is granted, it will be necessary for the applicant to seek a licence from Welsh Government under regulation 53 of the 2010 Regulations to authorise the disturbance of the EPS.

7.14 Recent court decisions have made it clear that a Local Planning Authority may properly grant planning permission unless it concludes that:

- (a) the proposed development would be likely to offend Article 12 of the Habitats Directive and
- (b) be unlikely to be licensed pursuant to the derogation powers.

7.15 In other words, if the Local Planning Authority concludes that a EPS licence is likely to be granted under regulation 53 of the 2010 Regulations or if it is unsure of the Welsh Government’s (as the licensing body) likely response, then that should not, on its own, prevent planning permission being granted.

7.16 In coming to its view, the Local Planning Authority should give considerable weight to the advice received from NRW as the relevant statutory consultee.

7.17 The site is adjacent to the Buckley Claypits and Commons Site of Special Scientific Interest (SSSI) and Deeside and Buckley Newt Sites Special Area of Conservation (SAC). These sites support a nationally

important population of great crested newts and in the case of the SSSI a variety of more widespread amphibian species and semi-natural grassland. Under Regulation 48 of the Conservation (Natural Habitats) Regulations 1994, the Council must consider whether a development proposal in combination with other plans or projects is likely to have a significant effect on the Deeside and Buckley Newt SAC.

- 7.18 In consideration of Article 16, the Council has identified its requirements in terms of housing land supply and in order to ensure that the needs of local people are met in terms of housing, has allocated a variety of sites across the County for the purposes of residential development. In addition to these identified sites, the Council has accepted that a proportion of the overall housing land supply for the county will be delivered through the development of non-allocated windfall sites, such as the application site.
- 7.19 Buckley is one of the principal Category A settlements within the county, benefiting from a range of services and facilities and therefore represents a sustainable location for further housing development. Whilst this site is not allocated for housing development within the Flintshire Unitary Development Plan, the development of this site would have overriding economic and social benefits in terms of bringing forward a site for housing development which has been considered suitable and acceptance in planning terms in the recent past and would contribute to meeting the County's needs to provide an adequate supply of housing over the plan period. The consideration of satisfactory alternative sites to meet the demand for housing sites in the locality has been assessed through the development plan process.
- 7.20 The proposed development has been assessed by both the Local Planning Authority's Ecologist and Officers at NRW and it is considered that the development is not likely to have a significant effect on the protected species. In this case it is considered that, having had regard to mitigation proposals suggested at the time of the previous grant of planning permission, mitigation can be secured through a condition which would ensure that there are no significant adverse effects caused by the loss of the development land upon the EPS. On the contrary, it is considered that the proposals would serve to ensure that the species and its habitat are brought into favourable conservation status, where, without the development, this would not be the case.
- 7.21 It is considered that this application satisfies the requirements of Article 16 of the Habitats Directive. The development of the site would bring about environmental benefits in the form of the contribution towards the existing mitigation projects in the locality. The alternative of doing nothing is not an option for the reasons as set out above and because it would result in the development of the site without environmental gain.

- 7.22 Accordingly, I am proposing to impose a condition requiring the submission of a Mitigation Strategy for the potential impacts upon Deeside and Buckley SAC. The strategy will be required to include Reasonable Avoidance Measures such as protective fencing and also, as replacement land cannot be provided within the ownership of the applicant or as part of the site, a financial contribution towards mitigation projects in the area. This approach was that agreed with Natural Resources Wales in consideration of the same proposals under Ref: 43470 and 49850. Consequently, I am satisfied that the ecological issues can be satisfactorily addressed via this condition and planning permission can be granted subject to a S.106 agreement in respect of £2500 per dwelling (a total of £10,000) to be secured towards ecological mitigation.

8.00 CONCLUSION

- 8.01 It is considered there are no material considerations which would prevent the application being approved. Subject to conditions and the suggested S.106 contribution, I am satisfied that there would be no adverse impacts on the SAC.
- 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.

LIST OF BACKGROUND DOCUMENTS

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

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