

**FLINTSHIRE COUNTY COUNCIL**

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

**DATE:** **20<sup>TH</sup> MAY 2015**

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

**SUBJECT:** **OUTLINE APPLICATION – ERECTION OF 6 NO. DWELLINGS AT LAND TO THE REAR OF 31 WELSH ROAD, GARDEN CITY**

**APPLICATION NUMBER:** **052887**

**APPLICANT:** **MR. F. MIAH**

**SITE:** **LAND TO THE REAR OF 31 WELSH ROAD, GARDEN CITY.**

**APPLICATION VALID DATE:** **25.11.15**

**ACTING LOCAL MEMBER:** **COUNCILLOR DAVID WISINGER**

**TOWN/COMMUNITY COUNCIL:** **SEALAND**

**REASON FOR COMMITTEE:** **ACTING LOCAL MEMBER REQUEST DUE TO CONCERNS OVER ACCESS TO THE SITE AND DRAINAGE**

**SITE VISIT:** **YES**

This application was deferred from consideration at Planning and Development Control Committee on 22<sup>nd</sup> April 2015 in order for the applicant/agent to explore a Section 106 Obligation to secure maintenance of the proposed access and confirm whether he holds any access rights over the alternative access route to the site to the east of 37 Welsh Road and to the rear of 35-37 Welsh Road.

The applicants agent has submitted a letter from Blakemore Retail who are the agents representing the landowner of 35 Welsh Road. They are in full agreement for Mr. Miah to carry out road repairs in perpetuity and on an ongoing basis to make good any damage that may occur even though part of the road may fall within their demise. In respect of the transfer it is still their intention to move forward with this and they are

waiting for a response from their solicitor on what needs to be done to complete the transfer. The applicant has instructed a solicitor to draw up a license agreement between himself and the landowner of 35 Welsh Road to set out his responsibilities in terms of maintaining the access way. This will demonstrate the ability of the applicant to be able to maintain the access way on the land he does not have the freehold to.

In terms of alternative access to the site via the road to the east of 37 Welsh Road and to the rear of 35 - 37 Welsh Road the applicant's solicitor is assessing the relevant land registry documents to ascertain what access rights his client has.

## **1.00 SUMMARY**

1.01 This is an outline planning application for the erection of 6 dwellings at land to the rear of 31 Welsh Road, Sealand. A Flood Consequences Assessment has been submitted with the application that demonstrates that the consequences of flood can be effectively managed subject to finished floor levels being set at 5.56AOD. The illustrative layout shows that 6 dwellings can be accommodated on the site to meet with the separation distances in LPGN: Note 2 Space Around Dwellings and provide sufficient easements for the Welsh Water sewers. The access has a historic use for vehicular traffic and therefore there are no objections on highway grounds.

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

2.01 The proposal is recommended for approval subject to the following:-  
Subject to entering into a S106 agreement/unilateral undertaking or earlier payment for the following contributions;

- £1,100 per unit for recreation enhancements in lieu of on-site provision; and
- A S106 agreement/unilateral undertaking to secure resurfacing and future maintenance of the access road to the site

### Conditions

1. Time commencement outline
2. Reserved matters submissions
3. Surface water drainage
4. Foul sewerage drainage
5. No development (including the raising or lowering of ground levels will be permitted within;
  - Each 22mm combined sewer – 3 metres either side of the centreline of the public sewer
  - Each 150mm combined sewer – 3 metres either side of the centreline of the public sewer
  - 250 Public Rising Main – 3 metres either side of the centreline of the public sewer.

6. Finished floor levels at 5.56mAOD
7. Flood Plan
8. Details of site access layout and design
9. Parking and tuning layout
10. Positive means to prevent surface water runoff on the highway
11. Construction Traffic Management Plan.
12. Site investigation
13. Flood management plan condition
14. No development until strengthening works to River Dee flood defences has been completed

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 Local Member**

Councillor David Wisinger

Requests committee determination and a site visit due to concerns over site access and drainage.

#### Sealand Community Council

The Council objections on the grounds that;

- The site is totally inadequate for any residential development due to the restrictive nature of the site
- Loss of privacy to existing properties adjacent to the site
- Inadequate access, un-adopted and poor width
- Poor access onto Welsh Road with restricted visibility
- Poor surface water drainage and it sits within a flood risk area, site suffers from flooding
- Vehicle access would be across a public footpath used by pedestrians
- Noise impacts for surrounding properties
- Site is in flood plain of River Dee

#### Head of Assets and Transportation

The road is of limited width being 3 metres wide with 1.2 metre footways on both sides. A road of this width would generally be considered inadequate to serve a residential development however as the road has previously served a garage court and currently serves an informal parking area the traffic generation for the proposed residential use is likely to be less than the current and previous uses.

The access road is not adopted and therefore any improvements or maintenance would be borne by the developers. It is suggested that it may be appropriate consider the applicant enters into a S106 agreement to require the formation of a management company to ensure that access is appropriately managed and maintained.

The development proposals are in outline only with no indication of the size of the houses. It is therefore not possible to comment on the adequacy of the number of parking spaces indicated on the drawing.

There are therefore no highways objections to the principle of development subject to conditions covering; details of site access; parking layout, surface water runoff, and a Construction Traffic Management Plan.

#### Head of Public Protection

The site is situated on a former garage site and as such there is the potential for the land to be contaminated. No objections in principle subject to a condition required a site investigation prior to the commencement of development.

#### Welsh Water/Dwr Cymru

Standard conditions relating to foul and surface water drainage and land drainage.

The proposed development is crossed by a public sewer with the approximate position being marked on the attached Statutory Public Sewer Record. Under the Water industry Act 1991 Dwr Cymru/Welsh Water has rights of access to its apparatus at all times. No development (including the raising or lowering of ground levels will be permitted within;

Each 225mm combined sewer – 3 metres either side of the centreline of the public sewer

Each 150mm combined sewer – 3 metres either side of the centreline of the public sewer

250 Public Rising Main – 3 metres either side of the centreline of the public sewer.

#### Natural Resources Wales

The application site lies entirely within zone C1, as defined by the Development Advice Map referred to under TAN 15 Development and Flood Risk (July 2004). NRW's Flood Map information confirms the site to be within the extreme flood outline.

A condition requiring finished floor levels to be set at 5.56mAOD.

The FCA has been based on the reinforcement of the flood defences therefore suggest a condition that this development does not commence until that work has been completed.

#### Airbus

No aerodrome safeguarding objection.

### Education

As both the nearest Primary (Sealand C.P. School) and Secondary School (John Summers High School) currently has in excess of 5% surplus capacity it is not our intention to seek a Section 106 contribution at the present time.

## **4.00 PUBLICITY**

### 4.01 Site Notice and Neighbour Notification

2 objections on the grounds of

- Access to the site is adjacent to my property which is a single un-adopted access road and is in constant use by users of the Spar shop
- Access is in poor repair
- Access gets blocked by parked cars using shops
- Accidents on the access
- Access to site on Welsh Road is busy and visibility is poor. It is a busy intersection with a pedestrian crossing and a bus stop.
- Main sewers for all of the properties in the area run right through the centre of the site
- Flooding in the area due to blocked sewers
- Pedestrian right of way to the rear of 31 Welsh Road through the site which is used by school children and pensioners and a cut through to the post office and chemist
- Increased traffic
- There have not been two storey building on this site at any point in the past and this will reduce light
- Overdevelopment - 6 is too many 3 or 4 would be better
- Overlooking
- Cars will have to reverse on main road if cars are parked on the access.

## **5.00 SITE HISTORY**

5.01 None.

## **6.00 PLANNING POLICIES**

### 6.01 Flintshire Unitary Development Plan

STR1 - New Development

STR4 - Housing

GEN1 - General Requirements for Development

GEN2 - Development Inside Settlement Boundaries

D1 - Design Quality, Location and Layout

D2 - Design

D3 - Landscaping

AC13 - Access and Traffic Impact

AC18 - Parking Provision and New Development

HSG3 – Housing on Unallocated Sites within Settlement Boundaries

HSG8 - Density of Development  
SR5 - Outdoor Playing Space and New Residential Development  
EWP17 - Flood Risk

The proposal is in accordance with the above development plan policies.

## **7.00 PLANNING APPRAISAL**

### **7.01 Introduction**

This is an outline planning application for the erection of 6 dwellings at land to the rear of 31 Welsh Road, Sealand.

### **7.02 Site Description**

The application site is situated to the north of Welsh Road and is accessed via a shared access between 31 Welsh Road which is a residential property and 35 Welsh Road which is a Spar convenience store. The site was formerly a garage site owned by the Council which has been sold to a third party. The site is surrounded to its north east west and south by residential properties which are all two storey. There is a Welsh Water pumping station located directly to the east of the site.

### **7.03 Proposed development**

This is an outline planning application for the erection of 6 dwellings at land to the rear of 31 Welsh Road, Sealand. All matters are reserved for future consideration, however a block plan has been submitted to show that the site could accommodate 6 dwellings.

### **7.04 Principle of development**

Garden City is a Category B settlement with a growth rate of 9.4% as of April 2013. The UDP strategy through policy STR4 and HSG3 allows housing development up to 15% in Category B settlements. The site also meets the PPW definition of a brownfield site as it was a former garage site. The application is therefore considered acceptable in principle subject to meeting the other requirements of Policy HSG3 in relation to impact on the character of the site the surrounding area and Policy GEN1.

7.05 The main issues in relation to this application are flood risk, access and impact on residential amenity.

### **7.06 Flood Risk**

The application site lies entirely within zone C1, as defined by the Development Advice Map referred to under TAN 15 Development and Flood Risk (July 2004). NRW's Flood Map information confirms the site to be within the extreme flood outline.

7.07 New development should only be permitted within zones C1 and C2 if determined by the planning authority to be justified in that location.

Section 6.2 of TAN15 states that development will only be justified if it can be demonstrated that;

- i. its location in zone C is necessary to assist, or be part of, a local authority regeneration initiative or a local authority strategy required to sustain an existing settlement; or
- ii. its location in zone C is necessary to contribute to key employment objectives supported by the local authority, and other key partners, to sustain an existing settlement or region; and,
- iii. it concurs with the aims of Planning Policy Wales (PPW) and meets the definition of previously developed land (PPW fig 4.3);and
- iv. the potential consequence of a flooding event for the particular type of development have been considered and in terms of the criteria contained in sections 5 (vulnerability of development) and 7 and Appendix 1 (Assessing the consequences of flooding) of the TAN are found to be acceptable.

7.08 In terms of justifying the development, the site is located within the settlement boundary of Garden City in the Flintshire Unitary Development Plan. Garden City is a Category B settlement for development as defined in the UDP strategy and the site is brownfield. It is therefore considered this development would assist in sustaining the existing settlement in accordance with criteria (i) above.

7.09 In terms of meeting with the aims of PPW, the site is adjacent to a Spar convenience store post office and chemist. There is a dedicated cycle way along Welsh Road and a bus stop opposite the application site. There is a Primary school and other facilities on Welsh Road. The site is therefore sustainably located.

7.10 It is considered that the site does fall within the definition of previously developed land, as the site was formerly occupied by garages. This therefore meets with criteria (iii).

7.11 In terms of criteria (iv) the application was accompanied by a Flood Consequences Assessment undertaken by Weetwood. The site is located in the defended 1 in 100 fluvial /1 in 200 tidal annual probability flood outline. The River Dee is approximately 557 metres to the south west of the site. Flood defence reinforcement work are currently being undertaken along a section of the River Dee northern embankment as part of delivering the Northern Gateway development sites. These works will ensure that the embankment height is set to a minimum of 7.20mAOD.

7.12 In agreement with NRW Weetwood have modelled the 0.1% AEP climate change event which shows that the site would remain dry during this event with finished floor levels at 5.56mAOD. NRW have stated finished floor levels should be set at 5.56mAOD in accordance

with the findings of the Flood Consequences Assessment. A topographical survey has been undertaken and the current site levels are 4.45AOD – 4.74 AOD.

7.13 Emergency Planning have been consulted on the proposed access and egress routes for evacuation in the event of a flood and similarly to the application at 6 Welsh Road which was approved at Planning and Development Control Committee on 25<sup>th</sup> March 2015, they suggest a condition requiring a Flood management plan to be imposed.

7.14 Drainage  
Residents have raised issues relating to drainage. Welsh Water have not raised any concerns with regards to the capacity of the network or treatment facilities' it would serve. The only matter raised is the location of two sewers which cross the site. While this is an outline application with all matters reserved the applicant needs to be able to demonstrate that 6 dwellings can be accommodated on the site. During the course of the application the indicative layout has been amended to show that 6 dwellings can be accommodated on the site maintaining the required easements for Welsh Water.

7.15 Access  
Vehicular access to the site is via an un-adopted access from Welsh Road which runs between 31 and 35 Welsh Road. Residents and the Community Council have raised concerns regarding the proposed access to the site.

7.16 The road is of limited width being 3 metres wide with 1.2 metre footways on both sides. A road of this width would generally be considered inadequate to serve a residential development, however as the road has previously served a garage court and currently serves an informal parking area, the traffic generation for the proposed residential use is likely to be less than the current and previous uses.

7.17 The access road is not adopted and therefore any improvements or maintenance would be borne by the developers. Highways suggested that it may be appropriate to consider the applicant enters into a S106 agreement to require the formation of a management company to ensure that access is appropriately managed and maintained. However from the land registry documentation the applicant only owns half of the access way, although holds a right of passage by car and vehicle over all of it. The applicant has instructed a solicitor to draw up a licence agreement between the applicant and the landowner of 35 Welsh Road to allow him to undertake works to maintain the access. The applicant and the landowner of 35 Welsh Road have confirmed that they are in negotiations to transfer the other half of the access road to the applicant. However in the meantime following the signing of the licence agreement this give us more comfort that the applicant would be able to enter into a S106 agreement with the landowner of



35 Welsh Road.

- 7.18 There is an alternative access to the development to the rear of Spar which links to a section of adopted highway between 37 and 39 Welsh Road but this crosses third party land. The applicant's solicitor is assessing the land registry documents to see what rights of access the applicant has over this land.
- 7.19 Highways raise no objections to the principle of the development and would need further details on the size of the houses in any reserved matters application to ascertain how the parking and turning required could be achieved. There are therefore no highways objections subject to conditions covering; details of site access; parking layout, surface water runoff, and a Construction Traffic Management Plan.
- 7.20 The access is between a residential property and a Spar Shop/post office and chemist. Concerns have been raised by local residents due to users of the shops parking on the pavement adjacent to the Spar shop which can lead to vehicles blocking the access. The pavement on the Spar side is wider in parts and does have the width to allow cars to park off the road without blocking the flow of traffic, however as there are no dropped curbs this is not a formal parking area. There are car parking spaces adjacent to the chemist shop and a number of spaces to the east of the chemist which are available for users of the shops.
- 7.21 Residents have raised the issue of the current pedestrian access obtained through Sealand Avenue through the site as a short cut to the shops and the bus stop on Welsh Road. This is not a definitive public right of way but is a legacy from when the majority of the area was owned by the Council and was Local Authority housing with associated garages. This access path has been retained by the Council for pedestrian use only and has bollards at its entrance onto Sealand Avenue. The 'short cut' does now cross private land although the Council retains a right of access by foot and vehicles along the access way between 31 Welsh Road and 35 Welsh Road. Details of whether this access route will remain would be provided at reserved matters stage.
- 7.22 Impact on residential amenity and neighbouring properties  
The application is in outline for 6 dwellings. Therefore at this stage the applicant needs to demonstrate that 6 dwellings can be accommodated on the site with adequate separation distances and private amenity areas, along with space for parking and turning.
- 7.23 Following the response from Welsh Water, it was brought to the applicant's attention that there are two sewers which cross the site and an easement of 3 metres either side of the centreline is required. The initial indicative layout showed the dwellings infringing on this easement and an amended layout was submitted. This shows a

terrace of 6 dwellings running from north to south in the middle of the site with private garden areas to the west and a shared parking and turning area to the south.

- 7.24 The submitted indicative layout does demonstrate that 6 houses could be accommodated on the site in accordance with the separation distances set out in Local Planning Guidance Note 2: Space Around Dwellings. There are 22 metres between habitable rooms and 12 meters between blank gables and habitable rooms. It also illustrates private garden areas and a parking and turning area, although the exact details would be subject to a reserved matters application.
- 7.25 The finished floor levels of the dwellings are recommended to be set at 5.56m AOD following the recommendations in the FCA and the comments from NRW. The topographical survey shows the actual existing site levels to be 4.45AOD – 4.74 AOD. The applicant has indicated that required finished floor levels would not be met by raising the site but by increasing the finished floor levels of the living accommodation within the dwellings by having internal steps. The details of the dwellings and ridge heights would be clarified in any reserved matters application to ensure that the proposed dwellings were in keeping with the other properties in the area.
- 7.26 S106 Contributions  
Both the nearest Primary School and Secondary School currently has in excess of 5% surplus capacity therefore we cannot seek a Section 106 contribution as the threshold is not met.

A contribution to off-site open space is required in lieu of on-site provision at £1,100 per dwelling.

## **8.00 CONCLUSION**

- 8.01 A Flood Consequences Assessment has been submitted with the application that demonstrates that the consequences of flood can be effectively managed subject to finished floor levels being set at 5.56AOD. The illustrative layout shows that 6 dwellings can be accommodated on the site to meet with the separation distances in LPGN: Note 2 Space Around Dwellings and provide sufficient easements for the Welsh Water sewers. The access has a historic use for vehicular traffic and therefore there are no objections on highway grounds.
- 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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