

**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:** **FULL APPLICATION – ERECTION OF 16 NO. DWELLINGS WITH ASSOCIATED PEDESTRIAN FOOTWAY AND UPGRADE OF EXISTING LANE AT HOLMLEIGH, CHESHIRE LANE, BUCKLEY.**

**APPLICATION NUMBER:** **053141**

**APPLICANT:** **THOMPSON DEVELOPMENTS LTD**

**SITE:** **HOLMLEIGH,  
CHESHIRE LANE, BUCKLEY**

**APPLICATION VALID DATE:** **16<sup>TH</sup> JANUARY 2015**

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

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

**REASON FOR COMMITTEE:** **THE SCALE OF THE PROPOSALS EXCEED THOSE FOR WHICH DETERMINATION POWERS ARE DELEGATED TO THE CHIEF OFFICER**

**SITE VISIT:** **YES. LOCAL MEMBER REQUESTS THAT MEMBERS FAMILIARISE THEMSELVES WITH THE SITE AND SURROUNDINGS IN VIEW OF HER CONCERNS IN RELATION TO ACCESS AND HIGHWAY SAFETY.**

**1.00 SUMMARY**

1.01 This full application seeks approval for the erection of 16No. dwellings, together with access improvements and pedestrian footway provision and other ancillary works on land to the rear of 'Holmleigh', Cheshire Lane, 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 for the following:-

- a) Ensure the payment of a contribution of £28,000 to the Council for ecological mitigation. Such sum to be paid to the Council prior to the occupation of any dwelling.
- b) Ensure the payment of a contribution of £17,600 in lieu of on site play and recreation provisions. Such sum to be paid to the Council prior to the occupation of 50% of dwellings. Such sum to be used in the improvement of existing recreation and play facilities in the community.

### 2.02 Conditions

1. Time limit on commencement.
2. In accord with approved plans.
3. No development to commence until a scheme for the comprehensive drainage surface and land waters approved.
4. Boundary Treatments to be submitted and agreed.
5. Implementation of Boundary Treatments
6. Hedgerow protection.
7. Removal of Permitted Development Rights.
8. Submission of external finish materials, including hard surfaces.
9. Safeguarding of footpath route.
10. Submission of Ecological Mitigation Strategy and Reasonable Avoidance Measures.
11. Implementation of scheme agreed under Condition 10.
12. Foul and surface water to be drained separately from site.
13. Completion of approved drainage scheme prior to occupation of dwellings.
14. Siting, layout and design of the means of site access to be agreed prior to any work commencement.
15. Access to be kerbed and completed to base course up to internal tangent point of entrance radii before any other works commence.
16. Garages to be set back 5.5m from footway.
17. Scheme for interception of site surface water to prevent run off onto highway.
18. Detailed layout, design, means of traffic calming and signing, street lighting and construction of the internal estate roads to be agreed prior to works commencement.
19. No development until a Construction Traffic Management Plan is submitted and agreed.
20. No occupation of any dwelling until a Full Travel Plan is submitted and agreed.

If the Obligation pursuant to Section 106 of the Town & Country Planning

2.03 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 Mrs. C. A. Ellis

Requests that the proposals are considered by Committee members following a site visit. Has concerns in respect of the following issues:

- Concerned in respect of the relationship of the proposed access to existing and recently approved access points along Alltami Road; and
- Considers the proposals may give rise to further traffic on Alltami Road to the detriment of highway safety.

Buckley Town Council

No objection.

Highways (DC)

No objection subject to the imposition of conditions. Footpath 22 abuts the site but is unaffected.

Pollution Control Officer

No adverse comments.

Public Open Spaces Manager

Advises that the requirements of Policy and Local Planning Policy Guidance in relation to open space and recreation are best addressed via contribution in lieu of on site provision of the same. A contribution via S.106 agreement of £1100 per dwelling is sought.

Capital Projects and Planning Unit (CPPU)

Advises that no contributions are sought in respect of educational capacity at the applicable nearest schools.

Dwr Cymru/Welsh Water

No objection subject to the imposition of conditions.

Airbus

No adverse comments.

Natural Resources Wales

No objection subject to the imposition of conditions and the applicant being willing to enter into a S.106 agreements in respect of Special Area of Conservations Impact Offsetting.

Coal Authority

No adverse comments. Standard advice applies.

Wales & West Utilities

No adverse comments.

**4.00 PUBLICITY**

4.01 The application has been publicised by way of the publication of a press notice, display of a site notice and via neighbour notification letters.

At the time of writing, 6No. third party letters have been received in response to the publicity exercise. These letters raise the following objections;

1. Concerned about the scale & height of the proposed dwellings;
2. Overdevelopment of the site;
3. Increased traffic will adversely affect highway safety; and
4. Drainage infrastructure inadequate to accommodate the proposals.

**5.00 SITE HISTORY**

5.01 **040672**

Outline – Residential Development  
Withdrawn 3.2.2006.

**041006**

Outline – Residential Development  
Approved 12.5.2009.

**049289**

Renewal of 041006  
Approved 28.8.2013

**6.00 PLANNING POLICIES**

6.01 Flintshire Unitary Development Plan

- |               |  |
|---------------|--|
| Policy STR1 - | New development.   |
| Policy STR4 - | Housing.   |
| Policy GEN1 - | General Requirements for Development                       |
| Policy GEN2 - | Development inside settlement boundaries.                  |
| Policy HSG3 - | Housing on unallocated sites within settlement boundaries. |
| Policy WB1 -  | Species protection.  |
| Policy WB2 -  | Sites of international importance.                         |
| Policy WB3 -  | Statutory Sites of National Importance.                    |
| Policy AC13 - | Access and Traffic Impact                                  |
| Policy AC18 - | Parking Provision and New Development                      |
| Policy D1 -   | Design Quality, Location & Layout                          |
| Policy D2 -   | Design   |

- Policy D3 - Landscaping  
Policy SR5 - Outdoor play space & new residential development.

## **7.00 PLANNING APPRAISAL**

### 7.01 Site Description

The site comprises an area of open land to the rear of bungalows on Alltami Road with access proposed to be derived via Cheshire Lane which is presently a narrow, single width route. All boundaries of the site are formed by mature and well established hedgerows. However, this is supplemented by residential style fencing to the rear boundaries of the properties on Alltami Road. There are 3 cottages at the end of Cheshire Lane, one of which abuts the site along its southerly boundary. A further 5 bungalows fronting Alltami Road also bound the site to the north. A short trackway abuts the western boundary of the site with bungalows beyond. These are set within large curtilage areas. The site abuts an area of playing fields associated with the nearby Elfed High School to the east.

### 7.02 The Proposed Development

The application provides detailed proposals for the development of the site to erect 16No. 2 storey dwellings. The proposals provide 13No. 3 bed dwellings and 3No. 4 bed dwellings with this accommodated provided as 8No. semi-detached and 8No. detached dwellings. Access is proposed to be derived from Cheshire Lane and has been the subject of consideration by the Local Highway Authority under the previous outline applications where it was deemed to be acceptable subject to conditions.

### 7.03 The Main Issues

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

- The principle of the development;
- Ecological impact considerations;
- Access and highway safety considerations;
- Impacts upon drainage infrastructure;
- Design considerations; and
- Amenity impacts.

### 7.04 Principle of development.

The site is located within the settlement boundary of Buckley which is defined as a Category A settlement within the adopted Flintshire Unitary Development Plan. Policy GEN2 identifies a presumption in favour of the development of such sites but identifies that in the case of unallocated 'windfall sites' there are limitations imposed via policy HSG3.

7.05 Policy HSG3 directs that upon unallocated sites within settlement boundaries, new housing development will be permitted in Category A settlements where it does not conflict with the planned housing provision

for the County, as set out in the UDP, and does not conflict with Policy GEN1.

- 7.06 The bringing forward of such windfall sites is consistent with the strategic aims of the UDP and the UDP Inspector's conclusions in relation to housing, in that housing development should be primarily directed towards Category A settlements. This is because there are a greater range of facilities, services and infrastructure, commensurate with the fact that Category A settlements are the largest settlements in the County.
- 7.07 Whilst this application is a separate full application, the principle of development is already established via an extant Outline planning permission.
- 7.08 Ecology  
The site lies in close proximity to the Buckley Claypits and Commons Site of Special Scientific Interest (SSSI) and Deeside and Buckley Newt Sties 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 for projects is likely to have a significant effect on the Deeside and Buckley Newt SAC.
- 7.09 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: "It is clearly essential that planning permission is not granted without the planning authority having satisfied itself that the proposed development....would not impact adversely on any European protected species....."
- 7.10 The effect of the proximity of these designations and the above referenced legislation is such that the need to ensure no adverse impacts upon SAC and SSSI features arising from development proposals is a material planning consideration. Accordingly, it is essential that this matter is properly addressed in the consideration of this application.
- 7.11 The development would not lead to a direct loss of habitat within the SAC or SSSI. However, in this case it is considered that mitigation proposals are required to address indirect impacts on the SAC that may be caused by construction of the development proposal and also through recreational pressures and disturbance/predation of wildlife.
- 7.12 The applicant has submitted both an extended Phase 1 Habitat Survey and a Method Statement which includes Reasonable Avoidance Measures to mitigate against the potential impacts upon the Deeside and Buckley SAC. These reports were produced in connection with the recent renewal of outline planning permission (049289). The ecologist who undertook this work has confirmed that the results remain accurate and the

recommendations are relevant to the consideration of this application.

7.13 The proposed Reasonable Avoidance Measures have been the subject of examination by both the County Ecologist as the Natural Resources Wales, both of whom consider them to be acceptable and recommend a condition requiring their implementation. However, as replacement land cannot be provided within the development site or surrounding area, a financial contribution towards mitigation projects in the area is proposed. This approach has been agreed with Natural Resources Wales and accordingly, it is considered that the ecological issues have now been satisfactorily resolved and planning permission can be granted subject to a Section 106 agreement requiring the payment of £1,750 per dwelling to be secured towards ecological mitigation. Accordingly, the sum of £28,000 is sought via the proposed S.106 Agreement.

7.14 Access and Highway safety

The principle of access derived from Alltami Road, via Cheshire Lane has been considered previously by Members in their determination of the outline planning applications relating to this site. The detailed proposals in terms of access and estate highways and footways have been the subject of consultations with colleagues in Highways DC who raise no objection to the proposals, subject to conditions.

7.15 I am mindful of the representations made by the Local Member and local residents in relation to access and highway safety concerns. However, the proposed point of access is as that previously approved and there are no material considerations or changes of circumstance which would warrant a different conclusion in respect of access and highway safety. The access point is sufficiently distant from both existing and future access points (taking account of planning permissions yet to be commenced) to satisfy me that highway safety will not be compromised.

7.16 Drainage Implications

Concerns have been raised in relation to the proposed future drainage of this site and my attention has been drawn to the fact that it has been waterlogged in the past. The application has been the subject of comprehensive consultation in relation to site drainage and no objection has been raised in relation to this matter.

7.17 Foul waters arising from the developed site are proposed to be drained via an existing adopted sewer which runs on a north south axis along the unmade lane to the west of the site. Dwr Cymru/Welsh Water raise objection to this proposal but have requested conditions to ensure that combined flows are discharged to this system. I propose to condition accordingly.

7.18 In respect of surface water, it is proposed that both surface water from the development and surface water from the proposed highways are discharge via an existing Local Authority maintained drain running east west to the south of the site. In view of the fact that connection to this drain is proposed

to occur outside of the site and consent to discharge is yet to be agreed, I propose to condition a scheme for surface water drainage to be agreed prior to the commencement of development.

7.19 The historic waterlogging of the site comes as no surprise given the heavy clay nature of soils in the wider Buckley area. I consider the drainage proposals proposed, subject to satisfaction of the required conditions, will bring about an improvement to the drainage of this site in the longer term.

7.20 Design Considerations

The proposed development occupies a site located to the rear of dwellings fronting Alltami Road with the proposed houses arranged around an adoptable road, 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.

7.21 The proposed dwellings are of a form and scale reflective of the general vernacular in the area although I appreciate that the dwellings fronting Alltami Road are single storey in scale. The dwellings are proposed to be constructed of brick with concrete roofing tiles. Whilst the proposed brick has been specified a part of the application, I propose to condition the submission of materials for agreement to allow for the roofing material to be agreed and also allow for any potential changes to the brick.

7.22 The site layout 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 boundaries are generally retained and protected as part of the development scheme.

7.23 Amenity Impacts

The proposed dwellings would have adequate private amenity space, space around dwellings and car parking provision. I do not consider that there would be significant detrimental amenity issues associated with the proposed dwellings and their relationship with the existing dwellings to the north of the site. I have considered the representations made to this effect but have had regard to the separation standards provided; the fact that the most rearward projections of the existing dwellings do not have windows facing out onto the proposed development; and have taken account of the fact the development site is on land which slopes downhill from north to south. I consider that these issues, in combination, are such that on balance there is no significant amenity impact as a consequence of overlooking likely to occur. I am equally satisfied that there is no adverse amenity impact between those properties to the west and south arising from overlooking.

7.24 Other Matters

The proposals have been considered in the light of the guidance set out in

LPGN23 - Developer Contributions to Education; and LPGN13 - Open Space Requirements. Members are aware of the advice contained within these guidance. Following consultations with the Council's CPPU I am advised as follows:

- In terms of a requirement for contributions towards education infrastructure and provisions within the county, I am advised that the application of the above guidance would indicate a need for contributions towards the nearest primary school, Mountain Lane C.P School as this school has a sub 5% surplus capacity. However, the Council has already secured 6 contributions towards the capacity at this school, as set out in the table below.

Planning reference	Site address	Date of Agreement	Amount
047722	Knowle Lane	22/01/2013	£17,500
046545	Hillcrest, Drury Lane	01/10/2013	£10,500
047624	Alltami Road	29/10/2013	£21,000
047900	Ewloe Hall Motors, Liverpool Road	19/03/2013	Outline application
050804	Brunswick Road	19/07/2013	£24,514
052285	Williams Car Sales, Church Road	N/A	£12.257

- Accordingly, any further requests towards the same end would not be in compliance with the Community Infrastructure Regulations 2010 and therefore, by virtue of Reg.123, The Local Planning Authority may not make any further requests for S.106 contributions for the same purpose at this school.
- There is no requirement for a contribution towards secondary school capacity as the nearest secondary school, Elfed School, has 48% surplus spaces.

7.25 The LPA cannot therefore consider a Section 106 agreement in respect of education capacity at Mountain Lane C.P School.

7.26 Having regard to the principles in relation to S.106 Agreements set out within Welsh Office Circular 13/97 'Planning Obligations', that such obligations should only be sought where without the same the Local Planning Authority would not grant planning permission, it falls to be considered whether the proposals ought therefore to be refused in the light of the implications of CIL.

7.27 Clearly, in relation to educational contributions towards primary school places at Mountain Lane C.P School, the development proposals bring about an adverse impact which cannot now be mitigated by a further Section 106 contribution. I have therefore considered whether or not, weighing all matters into the balance and exercising my planning judgement, I should recommend that this application should be refused given that there is an adverse impact at Mountain Lane C.P School which cannot be mitigated by way of a Section 106 contribution.

- 7.28 I am mindful of the fact that the proposals provide for the residential development of a site which benefits from an extant Outline planning permission. I am also mindful that the Council has not met the requirement to maintain a 5 year housing land supply, having presently a 4.1 year supply of housing land.
- 7.29 I am mindful that, save the issue in relation to primary education contributions, all other matters are acceptable on the assessment of their planning merits in all other respects. Nonetheless, there is an impact arising from the proposals which cannot be mitigated by a Section 106 obligation and this will adversely impact upon the capacity of Mountain Lane C.P School. The impact therefore needs to be weighed against the matters set out above, and in light of CIL. The proposals, upon the application of the formula within LPG23 indicate that 4 pupils are expected to be generated from the development to attend this school which presently has 397 pupils on the roll. The proposals would therefore increase the pupils on roll to 401. The school has an actual capacity of 409. The proposals would result in a further encroachment into the surplus places at the school below the 5% threshold. Therefore, in planning policy terms, the proposed development is in conflict with Policy IMP1 of the UDP.
- 7.30 If the development gave rise to a higher number of pupils and the school did not have any spare capacity at all, the impact may be such that the application should be refused, given that mitigation of the impact cannot now be taken into account as a result of CIL. However, having considered all the other matters set out in this report, I am of the view that, whilst finely balanced, the particular impact that would arise as a result of this proposed development is not so great as to warrant refusal of planning permission in this instance.
- 7.31 Following consultation with the Council's POSM in respect of open space and recreation requirements arising from the proposed development, I am advised as follows:
- On site provision of play and recreation facilities is not the most appropriate way to address the requirements of Policy SR5 in this case. A contribution in lieu of the same is therefore sought with this sum to be used to upgrade existing play and recreation facilities within the locality.
  - Accordingly and in line with LGPN 13: Open Space Requirements, I recommend that a contribution equivalent to £1100 per dwelling is sought via a S.106 agreement to satisfy this requirement. This will secure a contribution of £17,600 towards play and recreation facilities for use by future residents.

## **8.00 CONCLUSION**

- 8.01 The development of this site for residential use is acceptable in principle, as evidenced by the previous extant outline permission. This detailed full application satisfies the Council's policies in relation to those detailed matters.
- 8.02 Taking the starting position advocated within Section 38(6) of the Planning and Compulsory Purchase Act 2004, I have concluded that the proposals are compliant with the policies of the UDP apart from policy IMP1. Weighing all other material considerations into the balance as set out above, I am of the view that the proposals are on balance acceptable as they outweigh the conflict with Policy IMP1 of the UDP in the particular circumstances of this application.
- 8.03 Appropriate provisions for play and open space provision have been considered and appropriate contributions associated with both this issue and Ecological Offsetting are proposed to be secured via an appropriately worded legal agreement.
- 8.04 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

**Contact Officer:** David Glyn Jones  
**Telephone:** 01352 703281  
**Email:** david.glyn.jones@flintshire.gov.uk