

FLINTSHIRE COUNTY COUNCIL

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

DATE: **20TH MAY 2015**

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

SUBJECT: **APPEAL BY MORRIS HOMES LTD AGAINST THE DECISION OF FLINTSHIRE COUNTY COUNCIL TO REFUSE PLANNING PERMISSION FOR ERECTION OF 36 NO. AFFORDABLE DWELLINGS WITH ASSOCIATED PARKING, ACCESS, HABITAT CREATION AND PUBLIC OPEN SPACE AT LLYS BEN, NORTHOP HALL – DISMISSED.**

1.00 APPLICATION NUMBER

1.01 050613

2.00 APPLICANT

2.01 Morris Homes (North) Ltd.

3.00 SITE

3.01 Land off Llys Ben, Northop Hall

4.00 APPLICATION VALID DATE

4.01 15th. March, 2015

5.00 PURPOSE OF REPORT

5.01 To inform Members of the Inspector's decision in relation to an appeal following the refusal of planning permission for the erection of 36 affordable dwellings (under Policy HSG 11 of the UDP), with associated parking, access, habitat creation and public open space at Llys Ben, Northop Hall. The application was refused by Committee in accordance with officer recommendation and the appeal was considered by way of a public Inquiry held over three days in March. The appeal was DISMISSED.

6.00 REPORT

- 6.01 The Inspector considered the main issues in this case to be: whether or not the proposal amounts to inappropriate development in the green barrier; its effects on the openness and purposes of the green barrier; its effects on the character and appearance of the area; its effects on local ecology, particularly on the key features (great crested newts) of the nearby Special Area of Conservation (SAC); and the benefits of the scheme in regard to the provision of affordable housing and other matters. He addresses each of these matters in turn.
- 6.02 With regard to the appropriateness of the development within the green barrier he noted that both Planning Policy Wales (PPW) and the adopted Unitary Development Plan (UDP) policies are consistent in that “Inappropriate development should not be granted planning permission except in very exceptional circumstances where other considerations clearly outweigh the harm which such development would do to the Green Belt or green wedge” (green barrier in this case); and that the construction of new buildings is inappropriate development unless it is for certain specific purposes, which include “affordable housing for local needs under development plan policies”
- 6.03 In respect of UDP Policy GEN4, Green Barriers, development within green barriers will only be permitted where it comprises certain specified types of development, and one of these is “limited housing infill development to meet proven local housing need or affordable housing exception schemes”. Supporting paragraph 4.16 explains that the latter refers to affordable housing exception schemes on the edge of existing settlements (policy HSG11), provided the development would not unacceptably harm the openness of the green barrier. Policy HSG11, Affordable Housing in Rural Areas, sets a number of criteria to be met: there should be evidence of genuine local need for such provision; there are no suitable alternative sites within settlement boundaries to meet the need; schemes should abut settlement boundaries and form logical extensions to settlements; the scale, design and layout should be sympathetic to its location and the scale of need; and the houses should remain affordable in perpetuity.
- 6.04 The Inspector took the view that so far as appropriateness is concerned, the key issues are the local need for the types of houses proposed and the availability of alternative sites within settlement boundaries to meet the need for affordable housing.
- 6.05 He referred to Technical Advice Note 2, Planning and Affordable Housing (TAN2), which defines affordable housing as “housing provided to those whose needs are not met by the open market” and says affordable housing should “meet the needs of eligible households, including availability at low enough cost for them to afford, determined with regard to local incomes and local house prices”.

- 6.06 It was part of the Council's case that the type of affordable housing proposed does not meet this requirement as most of it would not be affordable to the local people identified as being in need. The Council agreed that there is a need for affordable housing in the area, which, based on the appellant's survey in 2011 (updated for the Inquiry) demonstrates a need for 16 affordable homes per year in Northop Hall. However, the survey also shows that some 64% of identified need is for social rented housing and a further 10% is for intermediate rent at 60% of the market rate. Only 10% required some form of shared ownership housing. The proposed development would comprise 28 shared equity units (at up to 70% open market value) and 8 intermediate rented units (at up to 80% of open market rental), which would meet the needs of only a small proportion of those people in need of affordable housing in the area.
- 6.07 The Appellant tried to argue that detailed analysis of the data collected in the survey shows the proposed houses would be sufficiently attractive and affordable for many of those in need. However, the Council disputed that conclusion and the Inspector was persuaded by the Council's arguments. He concluded on this point that: "it is clear that very few of the people in need of affordable housing would be able to afford the houses in the proposed scheme, even the smallest 2 bedroom houses. Lower quartile income households would not be able to afford any of the shared equity properties (on the basis of standard income multipliers), and even average income households would only be able to afford the 2 bedroom units".
- 6.08 The Appellant's assessment assumed that deposits of some 25% would be provided from savings or existing equity, thus making the mortgages smaller and more affordable. However, the survey also indicated that most of the households in question had no or very little by way of savings or equity, and the Inspector considered the "Appellant's assessment to be quite misleading". The Inspector concluded that most of the properties on offer would not be affordable. In particular he considered it likely that it would be very difficult to find eligible people able to afford the larger 4 bedroom shared equity houses, which make up some 50% of the development.
- 6.09 His conclusion was that most of the proposed scheme would not deliver dwellings that would be affordable to more than just a few of the local people in need of affordable housing. Most of the local need is for social rented housing, and the proposed scheme would do nothing towards that need. "Whilst funding for new social rented housing may not be readily available in the current economic climate, it does not justify the promotion of schemes for intermediate affordable housing in areas where they would not meet the local need".
- 6.10 The second matter at issue was whether or not there are alternative

sites within settlement boundaries capable of meeting the need for affordable housing in the area.

- 6.11 The Council drew his attention to 2 such sites: Cae Eithin in Northop Hall; and Ffordd Newydd in Connahs Quay. The former includes provision for 7 units which are to be gifted to the Council and are likely to be used for social rented housing, where most of the need for affordable housing exists. The Connahs Quay development is a much larger development and includes provision for 41 affordable units. Both developments are within the settlement boundaries and, although one is not in Northop Hall itself, it lies on the closest edge of Connahs Quay less than one kilometre from the current appeal site.
- 6.12 The Appellant drew attention to the principle that rural exception sites are aimed at meeting demand in the community where it exists so that it supports the rural community and is sustainable in that respect, and that consideration should only be given to possible alternative sites in Northop Hall itself.
- 6.13 However, the Inspector states that “Whilst that principle is undoubtedly correct, Northop Hall is not in an isolated location and is situated very close to Connahs Quay, the largest settlement in Flintshire. As such, I consider it eminently reasonable to take into account the affordable housing provisions on the Ffordd Newydd site. Thus, the Cae Eithin and Ffordd Newydd sites may reasonably be considered to be alternative sites capable of meeting the affordable housing need in Northop Hall”.
- 6.14 The Inspector referred to the Council’s current position in having provision for only some 4.1 years of housing land supply and to its inability to achieve its UDP aim of 30% affordable housing (which itself was short of its 38% identified need at the time). Thus, he accepted that the need for affordable housing is not being met over the County as a whole and the backlog is getting worse. However, even taking these factors into account, his conclusion was still that the proposed scheme would not match the identified need in Northop Hall and that alternative sites exist within settlement boundaries to meet local need.
- 6.15 The Inspector therefore concluded that the proposal conflicts with two of the criteria specified in Policy HSG11 and should not be permitted under that policy. As the proposal did not satisfy Policy HSG 11 it also follows that it would not meet the requirements of Policy GEN4 (as it was not one of the exceptions) and would amount to inappropriate development in the green barrier. He referred to the fact that PPW provides a presumption against inappropriate development in a green barrier and says that substantial weight should be attributed to any harmful impact on the green barrier and that planning permission should not be granted for inappropriate development except in very exceptional circumstances where other considerations clearly outweigh the harm to the green barrier.

- 6.16 In addressing this issue, the Inspector considered it “vitaly important to maintain the narrow green gap between Northop Hall and Connahs Quay in order to avoid coalescence of the two settlements. However, he did not consider that the proposed development would significantly affect the gap or be detrimental to the aim of avoiding coalescence between the settlements. Significantly though, he considered that it would encroach into the countryside outside the settlement boundary and be detrimental to that green barrier purpose. It would also harm the openness of this part of the green barrier, which is its main attribute. Although the loss of openness and the encroachment into the countryside would only be quite small in this case, he considered that “it warrants substantial weight (as directed by PPW) in respect of any harmful impact on the green barrier”.
- 6.17 The Inspector recognised the role of the site as an important local amenity and concluded on this point that the proposed scheme would be detrimental to the rural character and appearance of the area, including the amenity of nearby residents, and thus conflicts with the aims of UDP Policies GEN1, GEN3 and L1.
- 6.18 The other main issue identified by the Inspector referred to the effects of the development on Ecology, particularly Great Crested Newts, for which the Deeside and Buckley Newt sites SAC was created. The appeal site lies within range of ponds known to be frequented by newts and that it currently provides much suitable terrestrial habitat, although survey work had not actually confirmed their presence on the site it was accepted that great crested newts are likely to be present.
- 6.19 The proposed development would effectively use some 60% of the site area and, although 40% would be retained as natural habitat or open space, the Inspector considered it likely to be subject to more disturbance than at present and so become a less attractive habitat for newts. He concluded that the proposed development would degrade the terrestrial habitat for newts.
- 6.20 However, he considered its possible effect on the nearby SAC to be of far greater importance. The Council’s first reason for refusal was that the scheme would have a detrimental effect on the key features of the SAC, and it argues that much of the recreational use of the appeal site (particularly the walkers) would be likely to be displaced to walk in the SAC instead and that this would lead to increased disturbance of that natural environment to the detriment of the protected newt species. He noted that Natural Resources Wales (NRW) advised that it considers the proposed scheme (when considered in combination with other plans or projects) would be likely to have a significant effect on the SAC and that, before deciding to approve the proposal, an appropriate assessment under Regulation 61(1) of the Conservation of Habitats and Species Regulations 2010 (as amended) would need to be carried out.

6.21 On this point and having regard to the various legal precedents referred to at the Inquiry, the Inspector concluded that as the possibility of detrimental effects on the conservation objectives of the SAC could not be confidently ruled out, that appropriate assessment would be required before approval could be granted for the scheme. However, in light of the mitigation being offered by the developer, he considered that this carried only limited weight in his decision.

7.00 CONCLUSION

7.01 In his overall conclusion the Inspector states that: “the proposed development would amount to inappropriate development in the green barrier and so substantial weight should be attributed to any harm to the green barrier. The proposal would be detrimental to the openness of the green barrier, which is its most important attribute, and would encroach into the countryside outside the settlement boundary, contrary to one of the purposes of the green barrier. In accordance with national policy, I attribute substantial weight to these matters.”

7.02 He goes on to state: “Furthermore, even if I had reached the conclusion that the proposal would not be inappropriate development, I consider the harm to the green barrier and to the character and appearance of the area to be sufficient to outweigh the limited benefits of the scheme. On balance, the proposal would conflict with the aims of development plan and national policy”.

7.03 Having taken all matters into account, including sustainability arguments, he concluded that the appeal should be DISMISSED

LIST OF BACKGROUND DOCUMENTS

Planning Application & Supporting Documents
Appeal decision letter

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