

**FLINTSHIRE COUNTY COUNCIL**

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

**DATE:** **22<sup>ND</sup> JULY 2015**

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

**SUBJECT:** **APPEAL BY ANWYL CONSTRUCTION CO LTD  
AGAINST THE DECISION OF FLINTSHIRE COUNTY  
COUNCIL TO REFUSE PLANNING PERMISSION FOR  
THE ERECTION OF 35 NO. CLASS C3 DWELLINGS  
INCLUDING ASSOCIATED LANDSCAPING AND  
FORMATION OF NEW ACCESS FROM CYMAU LANE  
AT ABERMORDDU CP SCHOOL, CYMAU LANE,  
CAERGWRLE – ALLOWED.**

**1.00 APPLICATION NUMBER**

1.01 051482

**2.00 APPLICANT**

2.01 ANWYL CONSTRUCTION CO LTD

**3.00 SITE**

3.01 LAND ADJACENT TO ABERMORDDU CP SCHOOL,  
CYMAU LANE,  
CAERGWRLE

**4.00 APPLICATION VALID DATE**

4.01 10.12.2013

**5.00 PURPOSE OF REPORT**

5.01 To inform Members of the Inspectors decision in relation to an appeal into the decision of the Local Planning Authority to refuse to grant planning permission for the proposed erection of 35No. dwellings together with associated infrastructure and new point of access on land adjacent to Abermorddu C.P. School, Cymau Lane, Caergwrle, Flintshire. The appeal was held by way of an exchange of Written Representations and was ALLOWED.

## **6.00 REPORT**

- 6.01 The Inspector considered there to be a single main issue for examination in the determination of this appeal, this being whether suitable financial provision had been made to offset the impacts of the proposed development on local education infrastructure.
- 6.02 The Inspector noted that the sole reason for the refusal of planning permission had related to the failure of the appellant to make provision for a commuted financial contribution towards the provision and improvement of local education facilities. He equally noted this to be the sole matter between the parties in the appeal.
- 6.03 He noted that in the period between the Council making its decision and his consideration of the appeal, Regulation 123 of the Community Infrastructure Levy Regulations (CIL) took effect. He noted the fact that this regulation prohibits any Local Planning Authority from using a planning obligation as a reason to grant planning permission where 5 or more obligations have been entered into between 6<sup>th</sup> April 2010 and 6<sup>th</sup> April 2015 for the same type of Infrastructure or project.
- 6.04 The Inspector acknowledged that between these relevant dates, the Council had secured Obligations in respect of financial contributions towards educational infrastructure at Castell Alun High School on 6 occasions. Accordingly he noted that Regulation 123 of CIL therefore prohibited the Council from seeking any further contribution to this school.
- 6.05 However, the Inspector acknowledged the common ground between the Council and the Appellant in relation to other contributions and considered a Unilateral Undertaking offered by the appellant to satisfy the tests for such an obligation. This undertaking provides the following:
1. £36,771 towards primary education at Ysgol Abermorddu;
  2. £3,500 towards highway works, and
  3. The gifting of 3No. affordable housing units to the Council.
- 6.06 The Inspector concluded in relation to his consideration of the main issue that the proposals did provide suitable financial provision to offset the impacts of the proposals upon local education infrastructure and accordingly did not conflict with Policy IMP1 of the Flintshire UDP.
- 6.07 In considering other issues raised by local residents at the time of the Council's consideration of the application, the Inspector concluded there was no basis upon which to have concerns in relation to highway safety as a consequence of increased traffic. He considered that the site is sustainably located in close proximity to local facilities.

## **7.00 CONCLUSION**

- 7.01 Consequently, and for the reasons given above, the Inspector considered the appeal should be ALLOWED.

### **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