

**FLINTSHIRE COUNTY COUNCIL**

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

**DATE:** **20<sup>TH</sup> JULY 2016**

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

**SUBJECT:** **ERECTION OF TWO DWELLINGS AT LAND AT RHYDDYN FARM, BRIDGE END, CAERGWRLE**

**APPLICATION NUMBER:** **055414**

**APPLICANT:** **WHITEGATE ENTERPRISES LIMITED**

**SITE:** **LAND AT RHYDDYN FARM, BRIDGE END, CAERGWRLE**

**APPLICATION VALID DATE:** **18.04.16**

**LOCAL MEMBERS:** **COUNCILLOR T NEWHOUSE**

**TOWN/COMMUNITY COUNCIL:** **HOPE**

**REASON FOR COMMITTEE:** **LOCAL MEMBER REQUEST AND DEPARTURE FROM THE DEVELOPMENT PLAN**

**SITE VISIT:** **NO**

**1.00 SUMMARY**

- 1.01 This is a full planning application for the erection 2 dwellings with associated parking and private gardens. It is considered that although the site is outside the defined settlement boundary it is adjacent to a Category B settlement and is within a sustainable location. Also there is no demonstrable harm arising from the proposal in respect of the open countryside, amenity or highways considerations. In this case, the contribution of two dwellings, in a sustainable location, to housing land supply is considered to represent a material planning consideration which outweighs the development plan.

**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

or earlier payment to provide the following;-

- a) Contribution of £1,100 per dwelling in lieu of on-site open space provision to enhance toddler play at Queens Way Play area

1. Time commencement – 2 years
2. Plans
3. Removal of permitted development rights
4. Access to the site to be in accordance with the attached standard detail relating to a single residential access by means of a vehicle footway crossing and a minimum width of 5m
5. Positive means to prevent surface water run-off onto the highway from the site
6. Contaminated Land Assessment
7. Materials
8. Landscaping and boundary treatment
9. Details of solar panels
10. Foul, surface water and land drainage

If the Obligation pursuant to Section 106 of the Town and Country Planning Act 1990 (as outlined above) is not completed within six months of the date of the Committee resolution, the Head of Planning be given delegated authority to REFUSE the application.

### **3.00 CONSULTATIONS**

#### **3.01 Local Member**

##### Councillor T Newhouse

Requests committee determination as the site is outside the settlement boundary and a dangerous precedent would be set.

##### Hope Community Council

No response received.

##### Highways Development Control Manager

No objection subject to conditions covering;

- Access to the site to be in accordance with the attached standard detail relating to a single residential access by means of a vehicle footway crossing and a minimum width of 5m
- Positive means to prevent surface water run-off onto the highway from the site

##### Head of Public Protection

The site is close to a former landfill site it is recommended that a site investigation is undertaken this can be secured by condition.

##### Welsh Water/Dwr Cymru

No objections subject to standard conditions requiring details of foul, surface water and land drainage

#### Play Unit

Contribution of £1,100 per dwelling in lieu of on-site open space provision to enhance toddler play at Queens Way Play area.

#### Public Rights of Way

Public Footpath 64 runs to the north of the application site but appears unaffected by the development.

#### CPAT

There are no archaeological implications for the proposed development. It would have no significant impact upon the setting of the scheduled dyke.

### **4.00 PUBLICITY**

#### **4.01 Press Notice, Site Notice and Neighbour Notification**

The application was advertised as a departure from the development plan and affecting a Public Right of Way.

4 objections on the grounds of;

- This land should be kept as a green space and landscaped
- Drainage issues
- Impact of more construction disturbance
- The conifer hedge is not on the application site but on neighbouring land so cannot be removed
- Impact on the character of the area
- Drains to adjacent properties run under this site
- Increased traffic and conflict with existing access points
- Outside the settlement boundary
- In the conservation area
- Creates an additional entrance on an A road
- Near to bus stops which could cause conflict with the access
- It would create an additional access to cross on the way to the Primary School
- Should be a bungalow not houses
- Should have a flatter parking area and entrance on to the main road

### **5.00 SITE HISTORY**

5.01 355/62 Outline application for erection of houses and/or bungalows. Approved

51/64 Proposed erection of houses. Approved.

218/64 Outline application for erection of houses and bungalows Refused

## **6.00 PLANNING POLICIES**

### **6.01 Flintshire Unitary Development Plan**

STR1 - New Development  
STR4 - Housing  
STR8 - Built Environment  
STR10 - Resources  
GEN1 - General Requirements for New Development  
GEN3 - Development Outside Settlement Boundaries  
D1 - Design Quality, Location and Layout  
D2 - Design  
D3 – Landscaping  
HE1 – Development Affecting Conservation Areas  
TWH1 - Development Affecting Trees and Woodlands  
WB1 - Species Protection  
AC13 - Access and Traffic Impact  
AC18 - Parking Provision and New Development  
HSG4 – New Dwellings Outside Settlement Boundaries  
HSG5 – Limited Infill Development Outside Settlement Boundaries  
HSG8 - Density of Development  
HSG9 - Housing Mix and Type  
SR5 - Outdoor Play Space and New Residential Development  
EWP3 - Renewable Energy in New Development  
EWP14 – Derelict and Contaminated Land  
EWP16 – Water Resources

Planning Policy Wales Edition 8 January 2016  
TAN 1 Joint Housing Availability Studies 2015

The compliance of the proposal with the relevant policies is set out in the planning appraisal below.

## **7.00 PLANNING APPRAISAL**

### **7.01 Introduction**

This is a full planning application for the erection of two detached dwellings with associated parking and turning and private gardens on a 0.1 hectare site on land adjacent to Rhyddyn Farm, Caergwrle.

### **7.02 Site Description**

The site is located off the A550 to the north of the settlement of Hope. The site is bounded to the north by the newly constructed medical centre. To the south is an existing residential dwelling 'Wistonia' and to the east is Rhyddyn Farm house and to the north east the property of Badgers Bank. There is an access road to these properties which runs along the southern boundary of the site adjacent to 'Wistonia'.

7.03 The site currently has no vehicular access points. The site is elevated above the A550 and there is a wooden post and rail fence before the land slopes down to the footway by means of a grass verge. Its

eastern boundary comprises a mature conifer hedge. Along the southern boundary is a stone wall with a hedge along the site boundary. The boundary with the medical centre to the north is demarcated with a wooden post and rail fence.

- 7.04 The site is located inside the Caergwrle Conservation Area and outside the settlement boundary within the adopted Flintshire Unitary Development Plan.

7.05 Proposed development

This is a full planning application for the erection of 2 detached four bedroom two storey dwellings. The proposed dwellings would be accessed via a single point of access off the A550 with parking for four cars and a turning area to serve both properties. The conifer hedge on the northern boundary is located on the adjacent land but significantly overhangs the application site. It is proposed to cut back the hedge on the development side in line with the existing chain link fence. The proposed dwellings are render with wooden cladding with a tiled roofed and solar panels.

7.06 Principle of development

The site is located outside the settlement boundary for Hope, Caergwrle, Abermorddu and Cefn y Bedd in the adopted UDP. Hope Caergwrle, Abermorddu and Cefn y Bedd is a category B settlement with a growth threshold of 15% (beyond which any additional development would have to be justified on the grounds of housing need). As at April 2015 the settlement had a growth rate of 10% over the Plan period (which is within the indicative growth band of 8-15% for a category B settlement, which informed the Plan). The monitoring of growth over a 15 year period as required by HSG3 ended on 1<sup>st</sup> April 2015.

- 7.07 In terms of the policies in the adopted UDP, policy GEN3 sets out those instances where housing development may take place outside of settlement boundaries. The range of housing development includes new rural enterprise dwellings, replacement dwellings, residential conversions, infill development and rural exceptions schemes which are on the edge of settlements where the development is wholly for affordable housing. Policy GEN3 is then supplemented by detailed policies in the Housing Chapter on each type.

- 7.08 Policy HSG5 allows for infill residential development in the open countryside however this has to meet an identified local need. The proposal does not therefore comply with the housing policies of the UDP.

7.09 Housing Land Supply

PPW and TAN1 requires each local planning authority to maintain a 5 year supply of housing land. The latest published Joint Housing Land Availability Study for Flintshire 2014 shows a 3.7 year land supply

using the residual method with a base date of April 2014. Welsh Government have taken the decision not to pass the Statement of Common Ground for the 2015 JHLAS onto the Planning Inspectorate and the 2015 study will therefore be recorded as uncompleted. In line with the advice in TAN1, Flintshire is considered to not have a 5 year land supply and the Council is unlikely to be able to demonstrate a 5 year land supply until the LDP is adopted. The lack of a 5 year land supply is therefore a material consideration to be given weight.

- 7.10 It is therefore key to consider if the proposal complies with the requirements of TAN1 and PPW to consider the whether the lack of a 5 year land supply can be given significant weight in this instance. National Planning Policy Planning Policy Wales Welsh Government Advice and National Planning Policy Planning Policy Wales Edition 8 January 2016 paragraph 4.2.2 states *“The planning system provides for a presumption in favour of sustainable development to ensure that social, economic and environmental issues are balanced and integrated, at the same time,”* when taking decision on planning applications.” Planning Policy Wales Edition 8 January 2016 paragraph 4.2.4 states

*“A plan led approach is the most effective way to secure sustainable development through the planning system and it is important that plans are adopted and kept regularly under review. Legislation secures a presumption in favour of development in accordance with the development plan for the area unless material considerations indicate otherwise (see 3.1.2) Where;*

- *There is no adopted development plan (see 2.6) or*
- *The relevant development plan policies are considered outdated or superseded (see 2.7) or*
- *Where there are no relevant policies (see 2.7)*

*there is a presumption in favour of proposal in accordance with the key principles (see 4.3) and key policy objectives (see 4.4) of sustainable development in the planning system. In doing so, proposals should seek to balance and integrate these objectives to maximise sustainable development outcomes.”*

- 7.11 Paragraph 4.2.5 states *“In taking decisions on individual planning applications it is the responsibility of the decision-maker to judge whether this is the case using all available evidence, taking into account the key principles (see 4.3) and policy objectives (see 4.4) of planning for sustainable development. In such case the local planning authority must clearly state the reasons for the decision.”*

- 7.12 The Inspector in his appeal consideration of APP/A6835/A/14/2220730 land off Old Hall Road/Greenhill Avenue, Ewloe in March 2015 stated that *“There is a danger that the need to increase supply and lack of a 5-year housing land supply could be used to justify development in inappropriate locations.”* It is therefore key in making the planning balance therefore to consider the

sustainable development 'key principles' (see 4.3) and 'key policy objectives' (see 4.4) set out in PPW.

- 7.13 In the commentary on the Council's 2014 HLA Study Report the Council sets out ways in which we would work with landowners and developers to bring forward appropriate and suitable windfall housing sites. It was stated that "*applications on sites outside of existing settlements will be assessed on their individual merits in terms of whether they represent logical and sustainable development having regard to material planning considerations and will not be approved merely because they would increase housing land supply.*" Such sites must also be capable of demonstrating that they can positively increase supply in the short term (perhaps by granting a short term permission) otherwise they would not be capable of meeting the requirements of TAN1.
- 7.14 TAN1 sets out in paragraph 6.2 how the housing land supply figure should be realised as a material consideration in determining planning applications for housing. This guidance states 'where the current study shows a land supply below the 5 year requirement or where the local planning authority has been unable to undertake a study ....the need to increase supply should be given considerable weight when dealing with planning applications provided that the development would otherwise comply with the development plan and national planning policies.
- 7.15 Sustainable development  
The site lies adjacent to but outside a category B settlement which is a number of smaller settlements linked together which hosts a variety of facilities and services including two primary schools and a Secondary School, doctors surgeries, public houses, play areas and convenience stores. The villages are also on the Wrexham to Bidston railway line. The site itself is located on the edge of the settlement adjacent to the health centre and opposite the Willows play area. It is in close proximity to bus services, a train station, schools and other village facilities and services within walking distance. The settlement and particularly this site is well connected in terms of road links and public transport links to bus routes and the railway station which is in walking distance. It is therefore considered that this is a highly suitable location for additional residential development and accords with the requirements of PPW.
- 7.16 In terms of the capacity of the settlement the growth rate as of April 2015 for Hope, Caergwrle, Abermorddu and Cefn y Bedd was 10% within the UDP plan period. This development is outside the plan period and will in effect contribute to achieving completions in the LDP period in this context. It is considered that the settlement, in view of and its facilities could accommodate 2 additional dwellings as proposed. A time limited 2 year permission would also ensure that the development comes forward to meet the supply situation.

- 7.17 The development would continue the line of development of detached bungalows along the A550. To the rear of the site is Rhyddyn Farm and Badgers Bank both two storey dwellings and to the west is the medical centre which is now completed. The site is therefore a small plot with readily identifiable boundaries. It is therefore considered the development of this site would have limited harm to the open countryside.
- 7.18 The remaining issue is whether it is reasonable to apply the local need housing requirements of HSG5 which sets out the relevant policy guidance on in-fill development. A key principle in making this judgement is that such a proposal must be considered on its individual merits. The application does not have a 'rural' context in terms of the character or appearance. It related much more closely to the built form and pattern of development in the settlement than it does to open countryside given that it has an 'urban' context provided by the health centre and existing residential development. It is not therefore an infill plot within a group of dwellings in a rural open countryside site setting. It is an infill plot within the existing built form of the settlement.
- 7.19 A further consideration is the fact that following the cessation of monitoring growth levels in respect of the 15% threshold in policy HSG3 the local need requirements for additional dwellings is no longer capable of being implemented in a Category B settlement. Balancing the sustainable location, the urban context of the site and the housing land supply considerations, it is therefore not considered reasonable to seek to apply the local need requirements in this instance.
- 7.20 Impact on the Conservation Area and the character of the area  
The proposal is for 2 two storey dwellings within the Conservation Area. The site is a parcel of land and is viewed in the context of the Medical centre which is a large render building and the adjacent bungalow which is brick with a concrete tiled roof. The medical centre is higher than a domestic two storey building. Rhyddyn Farm is screened from the A550 by the existing conifer hedge which is proposed to be retained. Badgers Bank is visible however this is in an elevated position from the road.
- 7.21 The Conservation area has the castle at its core and the surrounding pattern of red brick terraced housing which is also evident across the road from the development site. The site however is viewed in the context of the Medical Centre therefore it is considered the two storey nature of the dwellings and the choice of render finish is appropriate in this location. The roof covering should be similar in colour and profile to the adjacent Medical Centre and a similar tile is proposed. It is therefore considered that the proposed development would enhance the character of the Conservation Area. The site as an open space is not an area of open space which makes any significant positive



contribution to the character of the Conservation Area.

7.22 Impact on residential amenity

The site is bounded to the south by the dwelling of Wistonia which is a bungalow. There is the existing access to Rhyddyn Farm and Badgers Bank between this dwelling and the application site. There is a blank elevation on the gable end of the dwelling which faces this dwelling, therefore there is no potential for overlooking. The existing boundary treatment of the fence and hedge would remain along this boundary.

7.23 Rhyddyn Farm house lies to the north of the proposed dwellings however this is screened by the existing conifer hedge which is on the adjacent boundary and outside the application site. This would be trimmed back and therefore would still remain to provide screening between the existing and proposed dwellings.

7.24 It is therefore considered that the proposed dwellings would comply with Local Planning Guidance Note 2: Space Around Dwellings in relation to separation distances and private amenity areas.

**8.00 CONCLUSION**

8.01 In terms of the test in TAN1 the proposal does not comply with the development plan but is considered to comply with the general principles embodied in national planning policy regarding sustainable development. Also there is no demonstrable harm arising from the proposal in respect of the open countryside, amenity or highways considerations. In this case, the contribution of two dwellings, in a sustainable location, to housing land supply is considered to represent a material planning consideration which outweighs the development plan.

8.02 Other Considerations

The Council has had due regard to its duty under Section 17 of the Crime and Disorder Act 1998 and considered that there would be no significant or unacceptable increase in crime and disorder as a result of the recommended decision.

8.03 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.

8.04 The Council has had due regard to its public sector equality duty under the Equality Act 2010.

8.05 The Council has had due regard to its duty under Section 3 of the Wellbeing of Future Generations (Wales) Act 2015 and considered that there would be no significant or unacceptable impact upon the

achievement of wellbeing objectives as a result of the recommended decision.

**LIST OF BACKGROUND DOCUMENTS**

Planning Application & Supporting Documents

National & Local Planning Policy

Responses to Consultation

Responses to Publicity

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