

FLINTSHIRE COUNTY COUNCIL

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

DATE: **12TH OCTOBER 2016**

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

SUBJECT: **FULL APPLICATION – ERECTION OF 24NO. DWELLINGS WITH ASSOCIATED GARAGES, PARKING AND OPEN SPACES, TOGETHER WITH THE DEMOLITION OF THE EXISTING FORMER SERVICE STATION AND OUTBUILDINGS AT ARGOED SERVICE STATION, MAIN ROAD, NEW BRIGHTON**

APPLICATION NUMBER: **055310**

APPLICANT: **ELAN HOMES LTD**

SITE: **ARGOED SERVICE STATION, MAIN ROAD, NEW BRIGHTON, MOLD.**

APPLICATION VALID DATE: **20TH APRIL 2016**

LOCAL MEMBERS: **COUNCILLOR S. PARKER**

TOWN/COMMUNITY COUNCIL: **ARGOED COMMUNITY COUNCIL**

REASON FOR COMMITTEE: **SCALE OF THE PROPOSAL EXCEEDS THAT FOR WHICH POWERS TO DETERMINE ARE DELEGATED TO THE CHIEF OFFICER**

SITE VISIT: **NO**

Members will recall considering this application at the 20th July 2016 meeting of the Committee and opting to defer a determination pending clarification of certain matters. Members will also recall the deferment of this application at the Committee of 7th September 2016.

As a consequence of the matters raised, the report is amended and those insertions are evident in bold type. My recommendation that planning permission be granted in the terms set out below is unaltered.

1.00 SUMMARY

1.01 This full planning application seeks approval for the development of this 0.94 hectare site for 24No. dwellings together with associated highway and infrastructure works.

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

2.01 That conditional permission be granted, subject to the applicant entering either into a Section 106 agreement, providing a unilateral undertaking or the making of an advance payment which provides for the following;

1. Ensure the payment of a commuted sum of £26,400 in lieu of on site play and recreation provisions. Such sum to be paid to be used to enhance existing play facilities at Clwyd Crescent Play Area, New Brighton. Such sum to be paid prior to the occupation of 50% of the approved dwellings.
2. Ensure the payment of commuted sums towards the provision of educational facilities at the nearest primary and secondary schools as follows:
 - a) £61,285 which is required at Mynydd Isa. C.P School; and
 - b) £73,876 which is required at Argoed High School.

Such sums to be payable before the commencement of development.

2.02 Conditions

1. Time limit
2. In accord with approved plans
3. Materials to be submitted and agreed
4. Finished floor and site levels to be submitted and agreed
5. Implementation of landscaping scheme
6. Removal of Permitted Development Rights to Plots 14 – 24inc.
7. Tree protection measures to be implemented prior to any other site works.
8. No lopping topping or felling without prior approval by LPA.
9. Drainage scheme to be submitted and agreed
10. Land contamination investigation prior to any development.
11. Remediation scheme to be submitted and agreed prior to any sites works. Implemented prior to occupation of any dwelling approved.
12. Boundary treatments to be submitted and agreed.
13. Siting layout and design of access to be submitted and agreed. No formation until agreed.

14. Visibility splays of 2.4m x 90m in both directions. No obstructions above 0.6m.
15. Parking facilities to be provided as per approved details.
16. Layout, design, traffic calming, signing, surface water drainage, street lighting and construction of internal estate roads to be submitted and agreed.
17. Gradient of access to be a maximum of 1 in 24 for minimum 10m into site and 1 in 15 thereafter.
18. Scheme to prevent run off of surface water onto highway.
19. Construction traffic management plan to be submitted and agreed.

2.03 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 S. Parker
No objection to a delegated determination.

Argoed Community Council
No response at time of writing.

Highways DC
No objections subject to the imposition of conditions.

Advises Footpath 45 abuts the site but is unaffected by the proposals.

Pollution Control Officer
Advises that the recommendations within the acoustic report accompanying the application should form the basis of a condition in respect of enhanced glazing provision, passive acoustic ventilation and acoustic fencing.

Also advises that the site has potential to be contaminated, especially in the area of the former service station. Has raised concerns in respect of the adequacy of the contamination reports but advises the matter can be adequately addressed via a condition requiring the investigation and any remediation proposals to be undertaken, and agreed prior to the commencement of any development.

Education - Capital Projects and Planning Unit (CPPU)
Advises that insufficient capacity exists in the local primary school (Mynydd Isa C.P School) and therefore would be affected by these proposals. Advises that the local Secondary School affected by the proposals would be Argoed High School which is already over capacity.

Public Open Spaces Manager

Advises that an on-site play facility would not be required. Advises that a commuted sum of £1100 per dwelling should be sought to contribute to the provision of recreational facilities within the locality at Clwyd Crescent Play Area, New Brighton.

Housing Strategy Manager

In terms of evidence of for affordable housing, advises:

- **The Local Housing Market Assessment (LHMA) for Flintshire identifies an annual shortfall of 246 affordable units;**
- **The LHMA identifies a need for primarily 1 bed (14%), 2 bed (31.6%), and 3 bed (28.5%), split relatively evenly between Social rented (56.2%) and intermediate (43.8%) tenures;**
- **The SARTH (Social Housing Register) currently has 932 applications across the county. There are a number of people on SARTH who have expressed an interest in living in New Brighton with the biggest demand for 1 and 2 bed flats (32 on the register) and 2 bed houses (19 on the register). (NB people can express an interest to live in a number of areas so these figures do not represent actual need.)**

There is a minimal level of interest for intermediate products (affordable ownership and rent) in New Brighton:

- **Affordable ownership – 1 person registered for a 2 bed house; and**
- **Affordable rent - 1 person registered for a 3 bed house.**

In view of the above, advises that in view of the minimum demand for intermediate products, affordable housing provision through this scheme would not be required.

Natural Resources Wales

No objections to the proposals. Advises of the need for a bat licence should bats be encountered during works.

Notes that the historic use of part of the site give rise to the potential for the site to be the subject of land contamination. Requests the imposition of investigation and remediation conditions.

Notes the ground conditions in the area do not favour infiltration as a

means of surface water disposal. Requests that a condition be imposed requiring the agreement of the proposed drainage system prior to any site development.

Dwr Cymru/Welsh Water

No adverse comments. Requests the imposition of conditions.

Clwyd Powys Archaeological Trust

Confirms there are no archaeological implications arising from the proposals.

AIRBUS

No adverse comments.

Ramblers Cymru

Observes a footpath runs to the south of the site. Considers layout should seek to link into this footpath. Queries whether improvement to the surface could be achieved.

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 neighbour notification letters. At the time of writing this report, 1No. letter has been received in response raising objections on the following grounds;

- The need for the proposals is not proven;
- Considers the proposed point of access to be dangerous and likely to give rise to vehicular accidents;
- Proposal will increase already high levels of HGV movements in the area to detriment of highway and pedestrian safety; and
- The village does not have the services or infrastructure to accommodate new development.

5.00 SITE HISTORY

5.01 **694/90**

Erection of a forecourt canopy
Permitted 23.8.1990

043678

Outline - Erection of 16 dwellings
Withdrawn 12.11.2007

045048

Erection of 24No. dwellings
Permitted 16.8.2013

6.00 PLANNING POLICIES

6.01 Flintshire Unitary Development Plan

- Policy STR1 - New Development.
- Policy STR4 - Housing.
- Policy STR7 - Natural Environment.
- Policy STR11 - Sport, Leisure & Recreation
- Policy GEN1 - General Requirements for Development.
- Policy GEN2 - Development Inside Settlement Boundaries.
- Policy D1 - Design Quality, Location and Layout.
- Policy WB1 - Species Protection
- Policy TWH1 - Development Affecting Trees and Woodlands
- Policy TWH2 - Protection of Hedgerows
- Policy AC13 - Access and Traffic Impact.
- Policy HSG1(33) - New Housing Development Proposals.
- Policy HSG8 - Density of development.
- Policy EWP14 - Derelict & Contaminated Land.
- Policy SR5 - Play areas and new housing development.

7.00 PLANNING APPRAISAL

7.01 The Site and Surroundings

The site is located within the settlement boundary of New Brighton as defined in the FUDP. It lies on the south side of the Main Road (A5119) on the western edge of the settlement. It comprises an irregular shaped field rising gently and tapering towards its southern end. Access to the site is presently derived via an agricultural gate from the premises of the existing service station. The site has most recently been used for agricultural grazing.

7.02 The site is bounded to the west by a substantial and mature tree lined hedgerow beyond which is agricultural land sloping down to Mold. To the south is residential development on Lindum Close and to the east is residential development along Argoed Avenue. A public right of way runs along the southern edge of the site providing a link between Lindum Close, Argoed Avenue and open countryside to the south west. The northern part of the allocation comprises the dwelling Hilltop and the former petrol station and garage 'Argoed Garage'. The garage is bounded on either side by two individual dwellings, Argoed House and Tristernough, which are set within substantial plots.

7.03 The Proposals

It is proposed to erect 24No. dwellings comprising a mix of 3 and 4 bed accommodation, comprising:

8No. 3 bed dwellings, and
16No. 4 bed dwellings.

7.04 The houses are proposed to be externally finished in both brick and render beneath grey slate effect or tile roofs, both with detached and integral garages. The site is served in access terms via a central spine

road running north to south, terminating in a turning head with private drive arrangement at the most southerly part of the site. An area of amenity open space adjacent to be site entrance is indicated.

7.05 The Main Issues

The main issues for consideration are:

- The principle of development;
- Access & highway considerations;
- Land contamination and remediation;
- Design and impact upon amenities;
- Affordable housing issues;
- Ecological Issues;
- P.O.S and play provisions; and
- Infrastructure impacts.

7.06 The Principle of Development

The site is allocated for development in the Flintshire Unitary Development Plan for residential development. The principle of development has therefore been accepted. In addition, a resolution to grant planning permission under reference 045048 for residential development of the same scale on this site was made at Planning Committee on 16th March 2011. The principle of residential development has therefore been reinforced through this grant of planning permission.

7.07 Access & highway considerations

The proposals provide for access to the site to be derived via a newly created access across the land presently occupied by the former service station. The access and proposed internal estate road layout has been the subject of consultation with Highways DC who have advised that subject to the imposition of conditions, no objection is raised to the proposals upon highway safety grounds.

7.08 Land contamination and remediation

The concern in respect of land contamination raised by both NRW and the Pollution Control Officer (PCO) relates to the northern part of the site which is occupied by the former petrol filling station (PFS). The subterranean fuel tanks were foam filled in 2006. Land contamination investigations undertaken in connection with historical applications for this site has identified contamination within the area of the PFS.

7.09 The buildings of the former PFS and the tanks themselves will be removed as part of this proposal. Therefore appropriate conditions in respect of the identification of the precise nature of contamination and a scheme of remediation are requested by both NRA and PCO to be imposed upon any subsequent granted of planning permission. I propose to condition accordingly.

7.10 Design and impact upon amenities

An indicative yield of 33 dwellings from this site was envisioned in allocating the site within the UDP. This accords with the aim of the plan to seek to ensure that all allocated housing sites should achieve a minimum of 30dpha (unless there are particular constraints or issues which indicate a lower density is appropriate). Policy HSG8 - Density of Development, advises that, where appropriate, development should seek to make the most efficient use of land whereby the density of development should be optimised, whilst having regard to the characteristics of the site and surroundings and making provision for a high quality living environment in terms of privacy and space.

- 7.11 **The applicant has provided details which indicate that the development of this site for the proposed 24No. dwellings amounts to a development at a density of at least 30.53 d.p.h. This figure is calculated on the basis of the developable area of the site, discounting areas of amenity space, tree protection areas and the route of a sewer easement adjacent to Plot 1.**
- 7.12 **In addition, clarification has been received from the site owner who confirms that the allocated site included the family home and its garden areas. The letter confirms that in the light of a family bereavement since the allocation of the site, the house and its gardens are not available for development and therefore the full allocated 1.1 hectare site is reduced by 0.16 hectares by this omission. The allocated 1.1 hectare site will not therefore be available for development and the residual 0.94 hectares of land is that to which this application applies. Accordingly, I am satisfied that the proposals are being developed in a manner which meets the requirements of policy HSG8 in terms of the best use of land, being a scheme which delivers development at a density compliant with the 30d.p.h expectation upon allocated sites within the UDP.**
- 7.13 **Additionally, I have had regard to the nature of the density of the built form which directly abuts the site at Argoed Avenue and Clos Lindum, and the most recent residential development undertaken in the vicinity of the site upon land to the north of the adjacent A5119 and the findings are set out below for ease of reference:**
- **Argoed Avenue contains 21No. dwellings on a 1.2ha site, equating to density of 17.5 d.p.h.**
 - **Clos Lindum contains 25No. dwellings on a 0.75ha site, equating to a density of 33d.p.h.**
 - **The development presently underway to the north provides for 13No. dwellings on 0.47ha site, equating to a density of 28d.p.h**
- 7.14 **This comparison exercise indicates that the site is proposed to be**

developed not only at a density in compliance with Policy HSG8, but also at a density reflective of the density of nearby and recently approved developments. In addition, I consider that the specific characteristics of the site, namely its edge of settlement and edge of green barrier location, are such that the density proposed represents the best use of this land.

- 7.15 It is the southern field within the site is proposed to be developed for the purposes of the erection of 24No. dwellings. The layout indicates houses arranged around an adoptable road, turning head and private drive. The dwellings adjacent to the tree and hedgerow lined western boundary are set an appropriate distance from these natural features. The dwellings are of a form and scale reflective of the general vernacular in the area and therefore conclude that the form and layout indicated would be acceptable in design terms. The dwellings are of 2 storey form to be constructed of brick and render beneath slate or tile roofs, all of which is consistent with the local vernacular.
- 7.16 The site layout is in line with Council guidance 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. I am satisfied that the proposal makes adequate provision for space about dwellings and I consider that the design and layout of the proposals are such that the potential for adverse residential amenity impacts, such as overlooking, have been suitably addressed. In the interests of ensuring that these standards of residential amenity and separation are maintained and controlled, I propose to impose a planning condition which removes certain of the permitted development rights which residential properties can normally expect to enjoy.
- 7.17 **Concerns have been raised that a direct footpath link between the site and the footpath which runs to the south of the site is not provided for within this scheme. I have considered this option, having regard to the opportunity it would afford to allow access to the children's play area to the south of the site. I have noted that access to the footpath and the play area beyond can also be obtained via the link from the southern end of Argoed Avenue to the east of the site. This link is within easy walking distance of the site and does not involve any need to cross any major roads.**
- 7.18 **In view of the need to maximise the yield from the development of this site, I consider the introduction of a footpath link in the southern part of the site, taking account of the land which would need to be provided in order to provide a properly overlooked and safe route, would result in a further reduction of the dwellings which this site can realistically yield. For both reasons, I do not consider the provision of a footpath link in this position to be essential and have not therefore secured such provision.**

7.19 **Affordable Housing**

7.20 **The Council's Housing Strategy Manager has advised that the demand for intermediate affordable housing is minimal in New Brighton, affordable housing provision should not be sought via this scheme.**

7.21 **Taking account of the above, I have turned then to consider whether the application site constitutes a 'suitable site' within the context of Policy HSG10. I have noted that the site does not meet either the area or quantum threshold identified as being the point at which sites would be expected to provide affordable housing and attribute significant weight to this fact, in addition to the specialist advice provided by the Housing Strategy manager, in concluding that affordable housing should not sought via this application.**

7.22 **Ecological Issues**

I am mindful that the position of the site adjacent to a Green Barrier area. The mature and established trees which exist predominantly along the southern and western boundaries of the site serve to screen the site to views from the Green Barrier and will also contribute to soften the appearance of built form upon the site. Whilst the proposals provide for the retention of these hedgerows and trees, in view of the importance of the function which they serve in landscaping terms, I propose to condition the protection of these important natural features during the course of development and thereafter via the imposition of suitable conditions to this effect. I consider that these conditions will serve to address the concerns raised in respect of these issues. Furthermore, the imposition of a condition requiring the implementation of the submitted landscaping scheme will reinforce the softening of this development and ensure that it relates well to its surroundings term of both hard and soft landscaping.

7.23 I am equally mindful of the potential for the trees to offer nesting and roosting sites for bats and birds. An ecological survey has been provided to accompany the application which establishes that the buildings are not acting as roost sites for bats nor nesting sites for birds. NRW have considered this information and advise that they have no objection upon ecology grounds.

7.24 Development with the potential to affect bats are required to be licenced under the Conservation of habitats and Species Regulations 2010 (as amended). A licence can only be authorised if:

- i. There is no satisfactory alternative; and
- ii. The action authorised will not be detrimental to the maintenance

of the population of the species concerned at a favourable conservation status in its natural range; and

- iii. The development works to be authorised must be for the purposes of preserving public health or safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment.

7.25 In consideration of these requirements I note that the site lies within the identified settlement boundaries of Mynydd Isa and is an allocated housing site within the FUDP. National Planning Policies seek to direct the majority of new development of this form to existing urban centres upon sites which, by virtue of their location in close proximity to existing infrastructure and services, would also satisfy the sustainability aims of national policy.

7.26 Therefore, the context of this land within the settlement and, therefore subject to presumption in favour of development, has existed for in excess of 15 years. Therefore the development of this site would help to satisfy the demand for housing in an area where the need for more housing has already been identified.

7.27 The application is accompanied by survey data to indicate that the proposals would not adversely affect European Protected Species (EPS). In considering this data, together with Mitigation Measures to be required through the imposition of an appropriately worded condition, the Local Planning Authority are satisfied that there are no adverse effects upon the EPS. It is considered that this proposal will ensure that the species and habitats are brought into favourable conservation status, where, without the development, this would not be the case.

7.28 In view of the above, I propose to condition that no works to any trees or hedgerows are undertaken without first a qualified ecologist having investigated those trees upon which works are to be undertaken to establish that neither nesting birds nor bats are present. No work shall be undertaken until a report confirming the absence of either is submitted and agreed.

7.29 P.O.S and play provisions

The proposals do not provide for on-site public open space intended for formal recreation and play. Consultation with the Public Open Spaces Manager has revealed that rather than formal provision within the site for play, a commuted sum should be sought to be utilised in connection with projects for play and recreation within the community.

7.30 The consultation has established that the sum requested should be used in connection with a project to upgrade existing play facilities at

the nearby Clwyd Crescent Garreg children's play area. In accordance with the requirements of the Community Infrastructure Levy Regulations (CIL) 2010, this sum, when pooled would not exceed 5 contributions towards a single project.

7.31 Accordingly and in line with LGPN 13: Open Space Requirements, I recommend that a contribution of £26,400 is sought via a S.106 agreement to satisfy this requirement.

7.32 Infrastructure impacts

Consultation has highlighted a lack of capacity within the existing educational infrastructure to accommodate the pupils arising from the proposed development of a further 24No. dwellings.

7.33 Members will be aware that applications of this type are the subject of consultation with the Capital Projects and Planning Unit within the Local Education Authority. This consultation has established, having regard to SPG23 : Developer Contributions to Education, the development would give rise to the need for contribution requirements at both Primary and Secondary School level as there is sufficient capacity within the school nearest schools both currently and following this development (if approved).

7.34 The nearest primary school is Mynydd Isa C. P School. The current capacity of the school stands at 513. There are presently 486 pupils attending the school. Accordingly the school has a 5.26% surplus of spaces for additional pupils. The proposals would give rise to an additional 6 pupils. This would erode capacity further below the 5% margin which is sought to be protected as set out in SPG23 guidance. Accordingly, upon the application of the guidance, a sum of £61,285 is sought for educational purposes as a consequence of this development.

7.35 The nearest secondary school is Argoed High School. The current capacity of the school stands at 580. There are presently 589 pupils attending the school. Accordingly the school is already oversubscribed with no surplus of spaces for additional pupils. The proposals would give rise to an additional 4 pupils. Accordingly, upon the application of the guidance, a sum of £73,876 is sought for educational purposes as a consequence of this development.

7.36 Members will recall from recent discussions in respect of this school and the implications of the effects of the CIL Regulations upon the ability of the Local Planning Authority to seek contributions via S.106 Agreements in respect of educational infrastructure in respect of this school.

7.37 The infrastructure and monetary contributions that can be required from the a planning application through a S.106 agreement have to be assessed under Regulation 122 of the Community Infrastructure Levy

(CIL) Regulations 2010 and Welsh Office Circular 13/97 'Planning Obligations'.

7.38 It is unlawful for a planning obligation to be taken into account when determining a planning application for a development, or any part of a development, if the obligation does not meet all of the following Regulation 122 tests;

1. be necessary to make the development acceptable in planning terms;
2. be directly related to the development; and
3. be fairly and reasonably related in scale and kind to the development.

7.39 While the Authority does not yet have a charging schedule in place, the CIL Regulations puts limitations on the use of planning obligations. These limitations restrict the number of obligations for the funding or provision of an infrastructure project/type of infrastructure. From April 2015 if there have been 5 or more S.106 obligations relating to an infrastructure project/type of infrastructure since 2010 then no further obligations for that infrastructure project/type of infrastructure can be considered in determining an application.

7.40 The Planning Authority has secured 2 obligations towards Mynydd Isa C. P School since April 2010, namely;

Reference No.	Site Address	Contribution Amount
051424	Land to the rear of 'Rock Bank', Main Road, New Brighton	£36,771
053208	Land at 'Issa Farm' Mynydd Isa	£171,598

7.41 The Planning Authority has also secured 2 obligations towards Argoed High School since April 2010, namely;

Reference No.	Site Address	Contribution Amount
051424	Land to the rear of 'Rock Bank', Main Road, New Brighton	£36,938

053208	Land at 'Issa Farm' Mynydd Isa	£184,690

- 7.42 In view of that fact that not more than 5 obligations in respect of each school have been entered into to date, I am advised that the sums sought will be used as a contribution towards providing additional resources to accommodate the additional pupils generated from the development.
- 7.43 I am satisfied, on the application of the tests set out in S.122 of the CIL Regulations and as detailed above, that such a contribution would satisfy these requirements. I am also satisfied that the sum is sought for a specific identified project and as such, would not be caught by the S.123 prohibition with the CIL Regulations.

8.00 CONCLUSION

- 8.01 Having regard to the proposals and the above consideration of all relevant matters, I consider that these proposals represent a scheme, the detail of which is acceptable. I recommend that planning permission be granted subject to approximately worded planning conditions and the suggested legal agreement.
- 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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