

FLINTSHIRE COUNTY COUNCIL

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

DATE: **12TH OCTOBER 2016**

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

SUBJECT: **REMOVAL OF SECTION 106 AGREEMENT AT FIELD HOUSE, PLATT LANE, PENYFFORDD.**

APPLICATION NUMBER: **055364**

APPLICANT: **MRS. J. ADEY**

SITE: **FIELD HOUSE,
PLATT LANE, PENYFFORDD.**

APPLICATION VALID DATE: **18TH MAY 2016**

LOCAL MEMBERS: **COUNCILLOR MRS. C. HINDS
COUNCILLOR D. T. M WILLIAMS**

TOWN/COMMUNITY COUNCIL: **PENYFFORDD COMMUNITY COUNCIL**

REASON FOR COMMITTEE: **THE MODIFICATION OR REMOVAL OF A SECTION 106 AGREEMENT IS NOT A MATTER DELEGATED TO THE CHIEF OFFICER**

SITE VISIT: **NO**

1.00 SUMMARY

1.01 This application seeks permission to remove the Section 106 Legal Agreement associated with the 1992 permission for erection of a bungalow and stable block for the care of horses and ponies at land now known as 'Field House' Platt Lane, Penyffordd. The applicant seeks to remove the restriction upon the occupation of the dwelling approved at that time.

2.00 RECOMMENDATION

2.01 It is recommended that the Section 106 Agreement, dated 27th April 1992, be removed to allow unfettered occupation of the dwelling.

3.00 CONSULTATIONS

3.01 Local Member
Councillor Mrs. C. Hinds
No response at time of writing.

Councillor D.T.M Williams
No objection to the determination of the application under delegated powers.

Penyffordd Community Council
No objection to the proposal.

4.00 PUBLICITY

4.01 This application has been publicised via the posting of a site notice and neighbour notification letters. At the time of writing, no responses to publicity have been received.

5.00 SITE HISTORY

5.01 **017131**
Erection of a dwelling and stables in association with shelter for horses
Permitted 31.7.1991

018998
Erection of a bungalow and stable block
Permitted 1.5.1992

040848
Removal of S.106 Agreement
Withdrawn 6.4.2006

041581
Discharge of S.106 Agreement
File closed 15.8.2006

046101
Erection of ancillary accommodation
Withdrawn 16.3.2009

6.00 PLANNING POLICIES

6.01 Flintshire Unitary Development Plan
Policy GEN1 - General Requirements for Development
Policy GEN3 - Development in the Open Countryside
Policy HSG4 - New Dwellings outside Settlement Boundaries
Policy IMP1 - Planning Conditions & Planning Obligations

7.00 PLANNING APPRAISAL

- 7.01 Planning permission for construction of the application dwelling was permitted, subject to a S.106 agreement that sought to control its future occupancy, in 1992 by the former Alyn and Deeside District Council. The S.106 restriction limited occupancy of the dwelling to persons employed in the care and welfare of horses and ponies in connection with the charitable organisation, the Horse and Ponies Protection Association or other such organisation as may have been agreed in writing with the Local Planning Authority. The application proposal is for the removal of this Section 106 agreement to allow continued use of the dwelling without complying with this S.106 restriction.
- 7.02 The application site is no longer used by the above named charity as a consequence of improvements in equine medicine and improved general welfare conditions. Consequently HAPPA have no need of a specific centre in Flintshire. In addition, the premises has no other associated land other than the dwelling, stable block and garden. Accordingly, the premises are not used by a person employed in connection with the same and therefore the applicant has sought to advertise the premises for sale.
- 7.03 The applicant has provided evidence of marketing carried out over some 14 months preceding the application date and in a variety of media. This marketing exercise has involved the display of the sales particulars for the site at the agents offices in Mold and Llanwrst; display upon the 'Rightmove' website and numerous publications within local press publications. Worthy of note is the fact that the sale particulars specifically cite the restriction imposed by the S.106 Agreement and, in recognisance of this restriction, invite offers rather than advising of an asking price.
- 7.04 In spite of this, I am advised that to date there have been no expressions of interest in the premises for the purposes permitted. In addition, the marketing exercise has not revealed interest from any other charitable institution associated with the care and welfare of horses and ponies.
- 7.05 I consider that the applicant has demonstrated that every reasonable effort has been made, without success, to find an alternative occupier who would comply with the S.106 restriction.

8.00 CONCLUSION

- 8.01 I conclude that the proposal, whilst strictly not in accord with national and local planning policy in terms of residential development in the open countryside, would not undermine these policies as the proposal should be seen as essentially the reuse of a building in the open countryside. In addition, the continued use of the application premises

as a dwelling without occupancy restriction would not harm the character and appearance of the open countryside in which it is sited.

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.

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.

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

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

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