

**FLINTSHIRE COUNTY COUNCIL**

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

**DATE:** **18<sup>TH</sup> JANUARY 2017**

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

**SUBJECT:** **FULL APPLICATION – ERECTION OF DETACHED BUNGALOW AT ROSE FARM LIVERY, WELL STREET, BUCKLEY.**

**APPLICATION NUMBER:** **055597**

**APPLICANT:** **MR. ADAM BELLIS**

**SITE:** **ROSE FARM LIVERY, WELL STREET, BUCKLEY.**

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

**LOCAL MEMBERS:** **COUNCILLOR H. MCGUILL**

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

**REASON FOR COMMITTEE:** **AT THE REQUEST OF THE LOCAL MEMBER AS SHE CONSIDERS THE PROPOSALS TO BE DEVELOPMENT IN THE OPEN COUNTRYSIDE**

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

**1.00 SUMMARY**

1.01 This full application seeks approval of the erection of a replacement dwelling and partial demolition and change of use of the existing dwelling upon the site.

**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 to provide for the following:

- a) The applicant rescinding of the lawful use of the existing dwelling upon the site.

## 2.02 Conditions

1. Time limit.
2. In accordance with approved plans.
3. Materials to be submitted and agreed.
4. Removal of Permitted development rights for future extensions and structures within the curtilage of the dwelling.
5. Removal of rights to insert windows.
6. Landscaping scheme, including boundary treatments to be submitted and agreed.
7. Implementation of landscaping.
8. Land contamination assessment and remediation scheme.
9. Drainage scheme to be submitted and agreed.
10. No occupation of replacement dwelling until demolition of existing dwelling has been undertaken.

## 3.00 **CONSULTATIONS**

### 3.01 Local Member

Councillor H. McGill

Requests that Committee determine the application given that it is development in the open countryside.

Argoed Community Council

No response at time of writing.

Highways DC

No objection. The proposals are to replace an existing dwelling, served via the same access and with adequate land for parking and turning clear of the highway.

Pollution Control

Considers that addressing the contamination risk at the site via the imposition of a condition is appropriate.

CADW

Notes that the proposed siting of the building lies outside of the scheduled area of Wat's Dyke and considers that the proposals will not have any significant impact upon either the monument or its setting.

Dwr Cymru/Welsh Water

No adverse comments. Notes that foul drainage is to be addressed via septic tank facility and therefore no connection to the public system is proposed.

Natural Resources Wales

No objection to the scheme.

#### **4.00 PUBLICITY**

4.01 The application has been publicised by way of the display of a site notice and neighbour notification letters.

4.02 At the time of writing, 3No. letters of objection have been received which raise matters in respect of;

- Proximity to and impact upon a Scheduled Ancient Monument
- Impact upon underground water sources
- Insufficient information
- Proposals are of a different scale to the lawful dwelling
- Access is unsuitable, is of insufficient width and has limited visibility which can only be improved using 3<sup>rd</sup> party land
- Proposals would result in 2 dwellings upon the site
- Adverse impacts upon existing residential amenity

#### **5.00 SITE HISTORY**

##### **5.01 927/89**

Change of use of part of existing agricultural buildings to stables and associated uses, tack room, restroom and security room.  
REFUSED 15th February 1990.

##### **544/90**

Change of use of agricultural building to stables and associated uses.  
WITHDRAWN 13TH July 1990.

##### **602/90**

Change of use to livery stables.  
PERMITTED 8th August 1990.

##### **763/91**

Siting of a caravan.  
REFUSED 17th October 1991.

##### **764/91**

Erection of a barn for feed and bedding storage.  
REFUSED 29th November 1991.  
Appeal DISMISSED 26th March 1992.

##### **6/94**

Outline application – erection of a dwelling.  
REFUSED 17th February 1994.

##### **665/94**

Outline application – erection of a dwelling.  
REFUSED 1st December 1994.  
Appeal DISMISSED 22nd March 1995.

**96/861**

Outline – erection of a farmhouse on existing agricultural holding.  
REFUSED 18th February 1997.

**98/919**

Application for prior approval for an agricultural building.  
Prior Approval deemed required 19th March 1999.  
Appeal CLOSED by PINS on 28th October 1999

**00/379**

Erection of an isolation unit, hay/straw shed and implement storage  
and repairs shed.  
PERMITTED 29th November 2000.

**00/652**

Full application for the erection of a stable block and living  
accommodation.  
REFUSED 29th November 2000.

**053379**

Siting of static caravan and toilet block for temporary period  
REFUSED 16<sup>th</sup> June 2016

Members may recall that this site was the subject of 3 linked  
Enforcement Notice Appeals Refs. **APP/A6835/C/09/2100367,**  
**2100368 & 2100370** held in 2009 and 2010. The outcome of these  
appeals was such that the notices were largely upheld (albeit varied)  
in respect of 368 and 370. The appeal under 367 resulted in the notice  
being withdrawn.

**6.00 PLANNING POLICIES**

6.01 Flintshire Unitary Development Plan

Policy STR1 - New Development

Policy STR4 - Housing

Policy GEN1 - General Requirements for Development

Policy GEN3 - Development in the Open Countryside

Policy D1 - Design Quality, Location & Layout

Policy D2 - Design

Policy L1 - Landscape Impact

Policy HE6 - Scheduled Ancient Monuments

Policy AC18 - Parking Provision & New Development

Policy HSG7 - Replacement Dwellings Outside Settlement Boundaries

Policy EWP14 - Derelict and Contaminated Land

**7.00 PLANNING APPRAISAL**

7.01 The Site and Surroundings

The site is located within an area of open countryside to the south of

the settlement of Buckley. The site of the proposed dwelling comprises a smaller area adjacent to the boundary of the larger livery site with the dwellings 'Ty Gwyn' and 'The Paddocks' to the south of the site. The site of the dwelling is presently occupied by a steel clad portal framed building which is used for the maintenance and repair of vehicles associated with the operation of the livery business. The existing dwelling occupies the central 3 storey portion of the stable building which abuts the eastern boundary of the site.

7.02 The remainder of the site comprises fields, hardstanding areas and a manage all used as part of the livery. Access to the site is presently derived from Well Street to the west. The site is bounded by a mixture of hedgerows interspersed with trees, together with stock proof fencing.

7.03 The Proposals

The application seeks approval for the erection of a detached 4 bedroomed bungalow upon the site of the existing repair and maintenance shed. The proposal is advanced as a replacement of the existing dwelling and the applicant has indicated a willingness to enter into a S.106 agreement to rescind the lawful use rights for the existing dwelling.

7.04 In addition, the existing dwelling is proposed to be demolished in part, with the upper 2 storeys removed, and the remaining ground floor amended to provide an office for the livery use and staff toilet facilities. The roof line of the resultant building will be formed to accord more with the adjacent stables.

7.05 Access arrangements to the site are not proposed to be amended from those which presently exist.

7.06 The Principle of Development

Both national and local planning policy identify a presumption against new residential development outside of settlement boundaries in all but an identified few exceptions. The relevant policies within the Flintshire Unitary Development Plan are GEN3 and HSG7.

7.07 Policy GEN3 identifies the types of development which may be acceptable within open countryside locations such as this. The relevant criterion is d) which identifies that replacement dwellings are, in principle, acceptable in such locations, subject to compliance with Policy HSG7.

7.08 The issue to consider therefore, is the acceptability of the proposals having regard to Policy HSG7. Policy HSG7 sets out the detailed matters to be addressed in considering a proposal for the erection of a replacement dwelling in the open countryside. These will be addressed in turn below;

7.09 **a) *The existing building has lawful use rights as a dwelling;***

The existing dwelling was established as a lawful dwelling during the course of the enforcement notice appeal Inquiry held in 2009 -2010. This Inquiry established that the central portion of the stable building had been used as a single dwelling house for a period in excess of 4 years before the date of the notice and was therefore lawful and immune from enforcement action. Accordingly this criterion is satisfied.

7.10 **b) *The existing dwelling is habitable or capable of being made habitable without works tantamount to the construction of a new dwelling;***

The existing dwelling is habitable in its current condition and no works tantamount to the erection of a new dwelling would be required. Accordingly this criterion is satisfied.

7.11 **c) *The existing dwelling does not have significant local historic or architectural interest;***

The existing dwelling house was formed via the change of use of part of an existing former agricultural building erected at some point in the 1980's. The building has no historical significance and is of no notable architectural interest. Accordingly this criterion is satisfied.

7.12 **d) *The new dwelling is of a similar scale to that which it is intended to replace and should reflect the character and appearance of buildings in the locality;***

The existing dwelling is presently arranged over three floors and amounts to some 163.50m<sup>2</sup> of residential floor space. The proposed dwelling is single storey in nature and amounts to 211.37m<sup>2</sup> of floor space. This amounts to an increase in the proposed over the existing of 47.87m<sup>2</sup> or an increase of some 29% upon the existing dwelling. Members will be aware that consideration of proposed extensions to existing dwellings (policy HSG12 applies) allows for an increase of some 50% (subject to design) of the existing dwelling. In consideration of this proposal, I am mindful of this policy provision and consider therefore that the additional floor space provided above that which presently exists is acceptable.

7.13 **The locality is not characterised by built form of any particularly distinctive vernacular style, with buildings of both two storey and single story form in a variety of finishes including brick, render and stone evident within view of the site. Accordingly, I do not consider the proposed replacement of a three storey dwelling with a single storey dwelling represents a form of**

development which would be incongruous in design and appearance terms in this location.

7.14 I propose to condition the submission and agreement of materials to ensure the use of appropriate materials. I also propose to impose conditions removing the rights for future extensions and alteration without the need for permission. The reasoning for this reflects, in part the issue in relation to the additional dwelling size outlined above, but also to ensure that potential impact upon existing residential amenity can be controlled.

7.15 On balance therefore, I consider the proposals accords with this criterion.

7.16 e) ***The replacement dwelling is located on the site of the existing dwelling. Alternative siting will be considered where impractical conditions exist and an improvement to both proposed and existing sites is provided.***

Whilst the proposed dwelling is clearly not sited either wholly or in part upon the footprint of the existing dwelling, given that the existing dwelling is physically centrally located as a part of adjacent stable blocks, replacing the dwelling in situ would be impractical. Furthermore, I consider the proposed siting would result in a threefold benefit.

7.17 Firstly, the proposed siting results in the removal of a rather unattractive, albeit functional, building which does not sit visually well in relation to the nearby dwellings which abut the site.

7.18 Secondly, whilst this building can legitimately be used for the purpose or repair and maintenance of vehicles and machinery associated with the livery, this use does have an impact upon nearby residential amenity.

7.19 Thirdly, given the impracticalities of replacement in situ, this site represents the most logical point within the site at which to site such a dwelling, relating closely with an existing cluster of residential buildings. Thus the building would not appear as stark or isolated in the landscape, instead appearing as part of an established grouping of dwellings within the countryside, shield on 2 sides by existing vegetation and existing built form.

7.20 I am mindful that concerns have been expressed that the granting of this proposal, given that the proposed dwelling does not sit on the site of the existing, would result in there being 2 dwellings upon the wider livery site. I would advise that this situation will not arise as my recommendation of permission is

subject to the applicant entering into a S.106 agreement to rescind the lawful use of the existing dwelling. Furthermore, it should be noted that the existing dwelling is proposed to be partially demolished such that the upper 2 storeys are removed and the remaining ground floor converted to form livery office and toilets. This proposal, once implemented would render occupation of the building in accordance with the lawfully established use, impossible.

7.21 Accordingly, taking all of the above matters into account I am of the view that the proposals would be acceptable in principle, having regard to the development plan.

7.22 Land Contamination Issues

Concern was initially raised via the Council's Pollution Control Department that the site had historically been subjected to potentially contaminative uses. This concern rests largely upon the fact that the site was (legitimately) used in connection with the repair and maintenance of livery vehicles and equipment, but had also been used in connection with the unauthorised storage and sale of cars. In addition, an abatement notice was served in relation to a diesel spill upon the site.

7.23 The potential for this spill to have contaminated the site to such an extent as to result in the need for a pre-determination assessment of land contamination is therefore the principal issue to consider. The Council's guidance in relation to land contamination matters makes clear that the determinant factor in deciding whether investigation is required pre-determination or not rests on whether;

*'it is suspected that the site may be grossly affected by contamination or that remediation ....of the contamination may not be reasonably achieved.'*

7.24 In addition, the guidance advises that the Council will need to be satisfied that the site is suitable for development and all risks have been identified and can be addressed.

7.25 In this case, the risks relate to ground contamination arising from a historical spill of diesel. The evidence for this does not however quantify the volume released in the spill. Whilst this may be considered a reasonable basis to require the pre-determination investigation of this issue, this rests upon 2 factors. Firstly, whether the site would be 'grossly' affected by contamination and secondly, the extent to which such contamination can be reasonably mitigated. My consideration of these 2 factors is intrinsically linked. Contamination arising from diesel spills is comparatively easily and cheaply addressed via the utilisation of soil treatment techniques. Given this, and notwithstanding the unknown extent of the spill, the comparative ease with which this can be addressed would not amount



to the contamination being such as might amount to be grossly affecting the site.

7.26 In addition, the extent to which it would be reasonable to put the applicant to the time and expense of investigating this issue in advance of determination of the application must also be borne in mind. I consider that the imposition of a condition requiring the investigation of the site before any works are undertaken, and if required, remediation of the site would be the appropriate, reasonable and proportionate manner via which to address this issue and therefore I recommend this course of action.

7.27 Highway and Access Issues

Access to the site is presently derived by means of single track driveway off Well Street. The driveway has severely sub-standard junction visibility to the right. Third parties representations refer to the unsuitability of the access and contend that 3<sup>rd</sup> party land is required to render the access suitable.

7.28 The proposal has been the subject of consultation with the Local Highway Authority who raise no objection. I am advised in response that as the proposals do not result in any increased use of the previously approved access and adequate space is available for the parking and turning of vehicles clear of the highway, there is no further highway observation.

7.29 I am mindful that third party comments raise issues in relation to the extent to which the access is owned by the applicant and therefore raises questions in respect of the extent to which the access is acceptable. It must be remembered however that this application seeks permission for the replacement of an existing dwelling which was served via this access, in addition to the legitimate use of the site as a livery stables. This application proposes no alteration to the means of access to the site. Accordingly, there is no objection to this proposal on highway grounds.

7.30 Archaeological Issues

The proposed development is located within the vicinity of the Scheduled Ancient Monument known as Wat's Dyke: Section from Bod Offa to Whitehouse Farm. The development would be less than 10 metres from the northern section of this monument. The line of the dyke is interrupted for a length of 80 metres between the scheduled areas where it has been destroyed by the buildings and gardens of Ty Gwyn and The Paddocks. The application site lies outside of the scheduled area and off the line of the Dyke.

7.31 Consultation with CADW has established that the proposal would not have any significant adverse impact upon the monument. It is considered that the replacement of the existing building with a building of lower relief and a footprint shifted away from the dyke upon land

which is already developed would be a slight benefit and would not adversely affect the character of the area adjacent to the dyke.

Other matters

- 7.32 Reference has been made in third party objections to an underground water source within the vicinity of the site and the potential for the proposed development to both affect and be affected by this. The water source referred to is an artesian well located in the rear garden of The Paddocks. This is not a source of potable water and is not advised to be an aquifer from which drinking water is drawn. Whether the development might affect wetness levels within an adjacent property is a matter which would be considered as part of the agreement of site drainage proposals which I have conditioned.

**8.00 CONCLUSION**

- 8.01 I consider that the proposal is acceptable in both principle and detail and the development proposed would be acceptable at this location meeting the Council's requirements. I therefore recommend accordingly.

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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