

**FLINTSHIRE COUNTY COUNCIL**

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

**DATE:** **22<sup>ND</sup> FEBRUARY 2017**

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

**SUBJECT:** **RENEWAL OF OUTLINE PLANNING PERMISSION REF: 046545 FOR RESIDENTIAL DEVELOPMENT AT HILLCREST, MOUNT PLEASANT ROAD, BUCKLEY**

**APPLICATION NUMBER:** **055936**

**APPLICANT:** **MR D HUTCHINSON & THE ESTATE OF MR W C WILSON**

**SITE:** **HILLCREST, MOUNT PLEASANT ROAD, BUCKLEY**

**APPLICATION VALID DATE:** **19.09.16**

**LOCAL MEMBERS:** **COUNCILLOR D HUTCHINSON**  
**COUNCILLOR M PEERS**

**TOWN/COMMUNITY COUNCIL:** **BUCKLEY**

**REASON FOR COMMITTEE:** **APPLICANT IS A COUNCILLOR**

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

**1.00 SUMMARY**

1.01 This is a renewal of outline planning permission 046545 for residential development at land to the rear of Hillcrest, Mount Pleasant Road/Drury Lane, Buckley. It therefore needs to be established whether there are any new material considerations since the previous grant of permission. The main considerations are the impact of the development on the adjacent Deeside and Buckley Newt Special Area of Conservation and the mining history of the site.

1.02 This is the renewal of an outline planning permission on an allocated site within the Flintshire Unitary Development Plan. In order to try to bring development forward on this site a 2 year outline permission is proposed with a 12 month time limit to submit the reserved matters.

1.03 Issues relating to land contamination can be dealt with by condition. Details of the required bat mitigation needs to be provided at reserved matters stage and this can be secured by condition. The impact on the SAC is being met through the mitigation land secured through the S106 agreement.

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

2.01 Prior completion of a S106 agreement relating to;

- Open space provision - £1,100 per dwelling to enhance toddler play provision at the existing children's play are on Mount Pleasant Road, Buckley
- Education provision - £12,257 per primary school pupil generated towards Mountain Lane Primary School
- Mitigation land to overcome indirect impacts on SAC through provision of informal recreational space and provision of ecological mitigation including long term management for both areas

Conditions

1. Time commencement 2 years
2. 12 months to submit reserved matters
3. Siting layout and design of access
4. Site access to be kerbed and completed to carriageway base course prior to any other site operations
5. Access from Lower Mountain Road to be closed and reinstated
6. Proposed access to have visibility splay of 2.4m x 43m
7. No obstruction in visibility splays
8. Detailed layout, design, means of traffic calming and signing, surface water drainage, street lighting and construction of internal estate roads
9. Gradient of the access from the edge of the existing carriageway for a minimum distance of 10m shall be 1 in 24 and a maximum of 1 in 15 thereafter
10. Construction Traffic Management plan
11. Foul, surface and land drainage
12. Contaminated land assessment
13. Bat mitigation – roost to be provided on site as part of reserved matters
14. Amphibian mitigation
15. Details of demolition of the buildings – method statement

### **3.00 CONSULTATIONS**

3.01 Local Member  
Councillor D Hutchinson  
Is joint applicant.

Councillor M Peers  
No response received.

Buckley Town Council  
No observations.

#### Highways Development Control Manager

The plans previously submitted showed two points of access to the highway network; one from Drury lane and one form Mount pleasant Road. The current indicative layout shows one point of access from Drury Lane. The comments are made on that basis. No objection subject to conditions covering;

- Siting layout and design of access
- Site access to be kerbed and completed to carriageway base course prior to any other site operations
- Access from Lower Mountain Road to be closed and reinstated
- Proposed access to have visibility splay of 2.4m x 43m
- No obstruction in visibility splays
- Detailed layout, design, means of traffic calming and signing, surface water drainage, street lighting and construction of internal estate roads
- Gradient of the access from the edge of the existing carriageway for a minimum distance of 10m shall be 1 in 24 and a maximum of 1 in 15 thereafter
- Construction Traffic Management plan

#### Public Protection Manager

No objections in principle to this application, however, the proposed development is located in an area where there is a long history of coal mining, brick working and also landfill as a result significant elevated levels of contamination may be present around the whole site. As a result of these observations I have consulted the Contaminated Land Officer and the recommendation is that the applicant will require a Contaminated Land condition attached to any approval you may grant.

#### Welsh Water/Dwr Cymru

No objection subject to standard conditions covering foul, surface and land drainage.

#### Natural Resources Wales

The application site is located close to the boundary of Buckley Claypits and Commons Site of Special Scientific Interest (SSSI). This site supports a nationally important population of great crested newts

and an assemblage of amphibian species. Owing to the proximity of the application site to the SSSI, we therefore advise that any consent is subject to the imposition of a condition requiring the implementation of amphibian mitigation and avoidance measures to the satisfaction of the LPA. The results of the ecological survey confirmed the continued presence of the lesser horseshoe bat. The proposal has the potential to cause disturbance to bats and or loss or damage to their resting places.

No objection subject to the ecological mitigation land being provided and the bat mitigation being implemented.

#### Play Unit

A contribution of £1,100 per unit to enhance toddler play provision at the existing children's play are on Mount Pleasant Road, Buckley.

#### Education

The nearest Primary School is Mountain Lane Primary School which has 1.96% surplus spaces. It is therefore already below the 5% threshold and a contribution of £12,257 per pupil generated is required. This would be towards additional toilet provision at the school.

The nearest Secondary School is the Elfed High School which has 40.21% surplus spaces. A contribution is therefore not required.

### **4.00 PUBLICITY**

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

2 objections on the grounds of;

- The school is oversubscribed and uses temporary accommodation
- The doctors is at capacity. More local facilities are required before more housing.
- Increase traffic flow on a busy road
- Affordable homes should be provided
- Junctions have poor visibility

### **5.00 SITE HISTORY**

#### **5.01 046545**

Renewal of outline planning permission ref: 041634 for residential development. Approved after completing legal agreement 07.10.13

#### **041634**

Outline - residential development. Approved 29.08.06.

#### **041043**

Outline - residential development. Withdrawn 26.05.06

**01/0/00191**

Renewal of planning permission 4/0/25009 to allow the extension of an existing industrial building. Approved 23.04.01

**96/0/00187**

Change of use of part of haulage yard to parking of up to six minibuses and two 53 seater coaches. Approved 09.07.96.

**6.00 PLANNING POLICIES**

6.01 Flintshire Unitary Development Plan

Policy STR1 - New Development

Policy STR4 - Housing

Policy GEN1 - General Requirements for Development

Policy GEN2 - Development inside Settlement Boundaries

Policy HSG1 - New Housing Development Proposals

Policy HSG8 - Density of Development

Policy HSG9 - Housing Type and Mix

Policy D1 - Design Quality, Location and Layout

Policy D2 - Design

Policy D3 - Landscaping

Policy TWH1 - Development Affecting Trees and Woodlands

Policy EWP3 - Renewable Energy in New Development

Policy EWP14 - Contaminated Land

WB1 – Protected Species

WB2 – Sites of International Importance

AC13 – Access and Traffic Impacts

AC18 – Parking Provision and New Development

The proposal is in accordance with the above policies.

**7.00 PLANNING APPRAISAL**

7.01 Introduction

This is an application to renew outline consent for residential development on a 0.8 hectare site. All matters of detail are reserved for future consideration.

7.02 Site Description

The application site is accessed from Mount Pleasant Road between two residential properties, and is bounded by residential properties to the east and south. The site also abuts Drury Lane and includes the vacant residential properties of The Mount and Highfield along with an existing bus depot which includes an industrial building. The site is bounded by existing hedgerows and contains a number of trees. To the north west of the application site is a wooded area which is adjacent to a number of large ponds.

7.03 Proposed Development

It is proposed to develop the site for residential use. The submitted Indicative layout shows 24 dwellings with an access from Drury Lane. The details of the development would be determined at the reserved matters stage. A Ground Stability Report and Ecological Survey were submitted during the course of the planning application.

7.04 Principle of Development

The site is allocated for residential development within the adopted Unitary Development plan for 15 dwellings and is within the settlement boundary of Buckley. The site was first granted outline planning permission in 2006 and subsequently renewed in 2013. There is a concern that allocated sites are gaining planning permission and not being brought forward into completions which is exacerbating the housing land supply situation. The Council is under increasing pressure from speculative developments outside settlement boundaries to meet the present lack of a 5 year land supply. It is therefore considered that the renewal of this application should apply a 12 month condition for the reserved matters to be submitted and the outline shall be for two years only in order to stimulate development of the site.

7.05 Mining

Following concerns raised by the Coal Authority about the mining legacy of the area a Ground Stability report was undertaken by Adams Consulting Engineers. This report indicates that the site does lie in an area of past mine workings with 7 seams worked to varying depths between shallow and 210m. The seams were last worked in 1914. There are no records of any mine entry points on the site or within 20 metres of the boundary. The risk of significant ground movement as a result of past mine workings is limited however it will be necessary to carry out some further site investigation works to establish the most appropriate and cost effective foundation design. This may include some borehole investigation, gas monitoring and ground treatment. A land contamination assessment is therefore required and this can be secured by condition.

7.06 Ecological Issues

The application is not within, but is adjacent to the Deeside and Buckley Newt Special Area of Conservation at its northern (200 metres) and southern boundaries (100 metres). The land to the west of the application site is a Local Wildlife Site known as Etna Road Pools and is an important wildlife corridor linking the SAC compartments.

7.07 Great Crested Newts are the key feature of the SAC so it is important to ensure that there are no long term effects on the population through agreed avoidance and mitigation measures. There are numerous significant development pressures on the SAC as a whole, which in combination with this proposal could have significant environmental effects. An area of land has therefore been set aside for ecological

mitigation and to address the indirect recreation pressures adjacent to the application site within the applicant's landownership to compensate for the loss of land for development.

- 7.08 The application site is a brownfield site comprising existing industrial buildings and hardstanding and two dwelling houses, however part of the site is naturally regenerated and there are a number of trees. A protected species survey of the buildings to be demolished has been undertaken by Clwydian Ecology in December 2016 and was submitted during the course of the application. The bat survey concluded that the buildings support a small roost of lesser horseshoe bats and a small number of brown long eared bats. A purpose built bat roost is therefore required within the site. Details of this would be provided at reserved matters stage and would be secured by condition.
- 7.09 The EC Habitats Directive 1992 requires the UK to maintain a system of strict protection for protected species and their habitats. The Directive only allows disturbance, or deterioration or destruction of breeding sites or resting places, in the interests of public health and public 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 and provided that there is no satisfactory alternative and no detriment to the maintenance of the species population at favourable conservation status in their natural range.
- 7.10 The UK implemented the Directive by introducing The Conservation (Natural Habitats etc) Regulations 1994 which contain two layers of protection a requirement on Local Planning Authorities ("LPAs") to have regard to the Directive's requirements above, and a licensing system administered by the Welsh Ministers.
- 7.11 Planning Policy Wales Edition 9 2016 paragraph 5.5.11 advises Local Planning Authorities that "The presence of a species protected under European or UK legislation is a material consideration when a local planning authority is considering a development proposal which, if carried out, would be likely to result in disturbance or harm to the species or its Habitat."
- 7.12 TAN 5 (2009) states at paragraph 6.3.6:- "Regulation 3(4) of the Habitats Regulations requires all local planning authorities, in the exercise of their functions, to have regard to the provisions of the Habitats Directive so far as they might be affected by the exercise of those functions. Consequently, the Directive's provisions are relevant in reaching planning decisions where a European protected species may be affected and it is therefore important that such planning decisions are reached in a manner that takes account of, and is consistent with, the Directive's requirements. Those requirements include a system of strict protection for European protected species,

with derogations from this strict protection being allowed only in certain limited circumstances and subject to certain tests being met. These requirements are transposed by the provisions of the Habitats Regulations. The issues of whether development could give rise to a breach of the Regulations' requirements, and whether there may be a potential need for a licence to avoid such a breach, are therefore a material consideration in a relevant planning decision, and where a licence may be needed, the three licensing 'tests' required by the Directive should be considered by the local planning authority. Paragraph 6.3.7 then states:- "*It is clearly essential that planning permission is not granted without the planning authority having satisfied itself that the proposed development either would not impact adversely on any European protected species on the site or that, in its opinion, all three tests for the eventual grant of a regulation 44 (of the Habitats Regulations) licence are likely to be satisfied.*"

- 7.13 Mitigation is provided in the form of an area of semi-natural woodland to the west of the application site. This will improve the connectivity between SAC components. The long term management of this needs to be secured through legal agreement. In this case it is considered that the mitigation put forward will compensate for any adverse effects caused by the loss of the development land and also assists in enhancing the ecological value of the SAC by providing a linkage for European protected species.
- 7.14 The proposed development and mitigation proposals have been assessed and it is considered that the development is not likely to have a significant effect on protected species or the adjacent SAC and SSSI. It is considered that this application satisfies the three tests required by the Habitats Directive. The site is allocated for residential development in the emerging Flintshire Unitary Development Plan, therefore development of this site would bring economic and social benefits in terms of bringing forward a site for residential development which has been identified through the development plan process to meet the County's needs for housing growth. The development of the site would bring about environmental benefits in the form of the secured long term management and mitigation of the adjacent land for ecological purposes which is adjacent to the SAC and SSSI. The consideration of satisfactory alternative sites to meet the demand for residential use in the locality has been assessed through the development plan process. It is considered that proposed mitigation areas compensate for the loss of habitat and there would be no detriment to the maintenance of the great crested newt population and their conservation status.
- 7.15 Other Matters  
In terms of the concerns in relation to the TPO trees on the site, overdevelopment and impact on residential amenity from noise, these issues would be dealt with at the design stage when a detailed layout is submitted as part of the reserved matters. It is not considered that

these issues prohibit the residential development of the site.

7.16 Affordable Housing

The Housing Strategy manager has indicated that there is a need for affordable housing in the Buckley Area identified by both the local Housing Market Assessment and the Social Housing Register. There is an identified level of interest for affordable housing (i.e. affordable ownership and rent) in Buckley:

- with 67 applicants currently registered for an affordable ownership / shared equity property – 2 applicants want 1 bed; 25 applicants want 2 beds; 40 applicants want 3 beds; and
- a further 20 applicants are registered for affordable (intermediate) rent with 4 applicants requiring 3 bed; 14 requiring a 2bed; and 2 applicants requiring a 1 bed.

7.17 This is an outline application on a 0.8 hectare site and the indicative layout shows 24 dwellings, the original allocation was for 15. Therefore this site is below the threshold in policy HSG10 to require a minimum 30% affordable housing within the scheme.

7.18 S106 Contributions and CILG compliance

In accordance with the responses from Leisure Services and Lifelong Learning relevant contributions in accordance with current practice in relation to open space and education provision would be secured through Section 106 agreement. A S106 agreement was in place for the previous permission however a further agreement is required. This needs to reflect the change in sums now requested for education and the previous requirements for open space monies and ecology. As an education contribution to Mountain Lane Primary School was already previously requested and the opens space monies these are already counted within the 5 projects for the purposes of complying with the CIL regulations.

**8.00 CONCLUSION**

This is the renewal of an outline planning permission on an allocated site within the Flintshire Unitary Development Plan. In order to try to bring development forward on this a 2 year outline permission is proposed with a 12 month time limit to submit the reserved matters. Issues relating to land contamination can be dealt with by condition.

Details of the required bat mitigation needs to be provided at reserved matters stage and this can be secured by condition. The impact on the SAC is being met through the mitigation land secured through the S106 agreement.

8.01 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

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