

PLANNING & DEVELOPMENT CONTROL COMMITTEE
18 JANUARY 2017

Minutes of the meeting of the Planning & Development Control Committee of Flintshire County Council held at County Hall, Mold on Wednesday, 18 January 2017

PRESENT: Councillor David Wisinger (Chairman)

Councillors: Marion Bateman, Chris Bithell, Derek Butler, Ian Dunbar, Carol Ellis, David Evans, Ray Hughes, Christine Jones, Richard Jones, Richard Lloyd, Mike Lowe, Nancy Matthews, Billy Mullin, Mike Peers, Neville Phillips, Gareth Roberts, David Roney and Owen Thomas

APOLOGIES: Councillors David Cox and Alison Halford

ALSO PRESENT:

The following Councillors attended as local Members:
Councillor Dennis Hutchinson for agenda item 6.2 (minute number 123); and
Councillor Rosetta Dolphin for agenda item 6.4 (minute number 125)

IN ATTENDANCE:

Chief Officer (Planning & Environment); Service Manager - Strategy; Development Manager; Senior Engineer - Highways Development Control; Senior Planners; Senior Minerals and Waste Officer; Planning Support Officer; Senior Solicitor and Committee Officers

119. DECLARATIONS OF INTEREST

In speaking as local Member, Councillor Dennis Hutchinson declared a personal and prejudicial interest on agenda item 6.2 (minute number 123) as he owned land within a mile of the site which had been granted permission for residential development. Councillor Hutchinson had received dispensation from the Standards Committee to speak on the item for five minutes and would leave the room for the debate and vote.

Councillor Richard Jones declared a personal and prejudicial interest on agenda item 6.5 (minute number 126) as he was a neighbour of the property and would leave the room for the item.

120. LATE OBSERVATIONS

The Chairman allowed Members an opportunity to read the late observations which had been circulated at the meeting.

121. MINUTES

The minutes of the meeting held on 14 December 2016 were submitted.

On minute number 117 (055725), Councillor Mike Peers asked that the wording 'and rebuilding' be removed from the seventh paragraph.

RESOLVED:

That, subject to the amendment moved by Councillor Peers, the minutes be approved as a correct record and signed by the Chairman.

122. ITEMS TO BE DEFERRED

None of the agenda items were recommended for deferral by officers, however agenda item 6.1 (055188) would not be considered due to the developer's decision to withdraw the application. In response to comments, the Chief Officer advised that the applicant intended to re-submit the application to respond to the objections which had been raised. The applicant had been told to cease work on site and that failure to do so would be at their own risk. Councillor Richard Jones commented on the need to ensure that work does not continue, to which the Chief Officer reiterated the risk to the applicant.

Councillor Chris Bithell referred to the late observations and questioned whether agenda item 6.2 (minute number 056023) should be deferred. The Chief Officer explained that officers were not recommending this item for deferral.

123. FULL APPLICATION - DEMOLITION OF EXISTING DWELLING AND PROVISION OF ACCESS JUNCTION AND ACCESS PLAN AT 81 DRURY LANE, BUCKLEY (056023)

The Committee considered the report of the Chief Officer (Planning and Environment) in respect of this application which had been the subject of a site visit. The usual consultations had been undertaken and the responses received detailed in the report. Additional comments received since preparation of the report were set out in the late observations.

The officer explained that the application was unusual in that it proposed the demolition of an existing property and the formation of an access without any further development. The accompanying Design and Access Statement and Transport Assessment made reference to the access serving a potential housing development on land to the rear of the property which did not form part of the application. A request for more time to consider the application had been refused by the applicant who had stated their intention to appeal if the application was not considered by the end of the month. Since publication of the report, a revised plan had been submitted by the applicant to address one of the officer's three recommended reasons for refusal which were detailed in the report. An initial response by Highways officers was included in the late observations. The revised plan had not been subject to public consultation due to the late stage at which it had been made available to the Council and the applicant remained unwilling to agree to an extension of time, therefore the Committee was asked to determine the application on the basis of the original plan. As such, the officer recommended refusal of the application for the reasons set out in the report of the Chief Officer (Planning and Environment).

On behalf of local residents, Mr. J.L. Keig spoke against the application on the following grounds: the need to retain the property due to its heritage and the fact that it was already habitable; the range of new housing already in the area and inability of the local infrastructure to support further developments; the detrimental impact of increased levels of traffic along this heavily used route and the safety of pedestrians; and concerns about the impact on a nearby elderly resident.

The applicant, Mr. S. Bourne, spoke in support of the application on the following grounds: the Inspector's decision to include this land within the settlement boundary which could make it available for future development; contributing to the shortfall in the Council's five year housing land supply; the Muller Group agreeing to a condition allowing implementation of the access permission only if the housing development was granted approval; the revised plan having been issued within 24 hours of the published report which contained consultation responses; the access complying with Highways standards and relevant guidance; and supporting information to address concerns on safety and traffic.

As a Local Member, Councillor Dennis Hutchinson had been given dispensation to speak for five minutes, having declared a prejudicial interest. He spoke against the application on the following grounds: concerns of local residents that this was an opportunist application with no evidence to support the need for further housing developments in the area; prior rejection of the site by the UDP Inspector in favour of another where new houses had been built; the important heritage of the property to the area; increased traffic volumes and movements which would contribute to the heavy traffic currently recorded; concerns over the safety of pedestrians; and non-compliance with policies GEN1 and AC13. Councillor Hutchinson then left the meeting for the remainder of the item.

The recommendation for refusal was proposed by Councillor Mike Peers and seconded by Councillor Richard Jones. Councillor Peers pointed out that section 5.4 of the applicant's planning statement did not comply with planning policy and Technical Advice Note TAN1 in relation to increasing housing land supply. He said that the application was unjustified, and that the demolishing of the property would result in a detrimental impact on the streetscene and loss of character in the locality. He referred to the UDP Inspector's comments which reflected that the demolition of a property to facilitate a development was outweighed by a development where demolishing a property was not necessary. In addition, the Inspector had spoken against the allocation of land to the rear of the property being used for future housing development. Councillor Peers stated that housing need in the area was satisfied and that this was a speculative application of uncontrolled development which was unsupported by the local infrastructure and did not comply with HSG3.

In supporting refusal of the application, Councillor Richard Jones highlighted the importance of considering the detrimental impact on the character of streetscene and the creation of an unacceptable access which was inadequate to serve any proposed development. He also referred to the lack of detail in the application which conflicted with Planning Policy Wales.

Also speaking against the application was Councillor Derek Butler who was against the demolition of the dwelling and felt that the proposed housing development was a 'red herring'.

Councillor Gareth Roberts agreed, saying that the shortfall in five year housing land supply was not a consideration in this case.

In supporting the proposal for refusal, Chris Bithell felt that the application was an attempt to 'jump the queue' on the UDP process and that there were no detailed plans to assess the potential housing development.

In response, the officer advised that there was no guarantee that the housing development would proceed so the application could only be considered on the basis of the proposed demolition and access.

The Service Manager - Strategy said that the lack of detail on the housing development prevented an assessment of sustainability and community impact, and that the lack of demonstrated housing land supply should not give rise to approval of speculative applications. He added that the applicant's willingness to offer a condition at this stage should have formed part of the application process.

In summing up, Councillor Peers said that Members were entitled to speak on the housing element, as referred to in section 1.02 of the report. His reasons for refusal concurred with those set out in the report. He referred to his earlier comments against demolition of the property and non-allocation of the site. He further added that the application did not accord with policy HSG3 and that uncontrolled developments would result in conflict with principles of the LDP and previous consideration against the demolition of a property to access land at the rear of the property.

On being put to the vote, the proposal to refuse the application was carried.

RESOLVED:

That Planning Permission be refused for the reasons outlined in the report of the Chief Officer (Planning and Environment).

124. DEVELOPMENT OF AN INTEGRATED WASTE MANAGEMENT FACILITY COMPRISING A MIXED WASTE TREATMENT FACILITY, A CONSTRUCTION WASTE MATERIALS RECYCLING FACILITY AND A CONTAMINATED SOILS TREATMENT FACILITY AT STONEYBEACH QUARRY, PINFOLD LANE, ALLTAMI, FLINTSHIRE (052364)

The Committee considered the report of the Chief Officer (Planning and Environment) in respect of this application. The usual consultations had been undertaken and the responses received detailed in the report. Additional comments received since the preparation of the report were circulated at the meeting including officer agreement to the removal of Condition 10.

The officer explained that the application comprised three main elements - a construction and demolition waste facility, a commercial/industrial waste facility and a contaminated soil treatment facility, accompanied by an environmental statement. She summarised the responses to the comments and concerns raised, included in the late observations, and clarified the restriction of permitted development rights in Condition 4, noting that there was a risk of this being appealed by the applicant. The officer considered adequate controls to be in place and recommended approval of the application subject to the Conditions set out.

On behalf of the Ramblers' Association, Mr. H. White spoke against the application on the following grounds: that greater consideration be given to path users from the unacceptable impact of lorry traffic on the public path forming access to the site on safety and amenity grounds; no proposed mitigation measures to safeguard path users; questions over whether changes previously made to the access track had received planning permission; and inconsistencies in the report (dealt with in the late observations) such as the possible need for a temporary closure order and no reference to Welsh Government guidance on Public Rights of Way. For these reasons, Mr. White suggested that the report either be refused due to the impact on path users, deferred for a site visit or for further negotiation to provide an adequate route for the public path.

In an attempt to encourage debate, Councillor Gareth Roberts moved the officer recommendation for approval.

Councillor Derek Butler proposed that the item be deferred on the grounds of exploring all available options for the path. This was seconded by Councillor Chris Bithell who supported the suggestion for deferral for a site visit.

Councillor Carol Ellis sought the opportunity to speak on the item and was permitted to do so by the mover and seconder. She supported the objections raised by Mr. White and felt that a further reason for deferral would be to clarify highway implications which were highly dependent on a third party, Parry's Quarry, whose environment permit had been refused.

Councillor Richard Jones felt that the application should demonstrate the need for a commercial and industrial material recovery facility due to similar facilities nearby.

Councillor Richard Lloyd supported deferral, citing the lack of information on operating hours.

In response, the officer explained the purpose of imposing a Grampian style condition which prohibited the start of works on site until the highway improvements were completed and approved, whether by the applicant or Parry's Quarry. Need for the facility had been demonstrated through the waste planning assessment which complied with national guidance, and changes to operating hours were set out in the proposed conditions to protect amenity. As this was a recycling facility, any insufficient waste available would mean a reduction in use of the site.

The Chief Officer clarified Members' reasons for deferral to allow for a site visit to view the impacts on Rights of Way, clarity on the need for the facility and hours of operation together with clarity on highway improvements which would be fully explained in the follow-up report.

In response to comments from Councillor Ellis on the proposed dust and noise schemes within the conditions, the Chief Officer said that full details would be considered when those schemes were submitted at a later stage in the process.

Councillors Butler and Bithell confirmed their agreement with the reasons outlined by the Chief Officer.

On being put to the vote, the proposal to defer the application was carried.

RESOLVED:

That the application be deferred to consider (i) potential issues regarding the Rights of Way; (ii) potential issues with traffic improvement and proposed Grampian conditions; (iii) clarification of need for the facility; and (iv) clarification of the hours of operation.

125. FULL APPLICATION - ERECTION OF 1 NO. WIND TURBINE (78M TO TIP) AND ANCILLARY INFRASTRUCTURE AND ACCESS AT KINGSPAN LTD., 2-4 GREENFIELD BUSINESS PARK 2, BAGILLT ROAD, HOLYWELL (052922)

The Committee considered the report of the Chief Officer (Planning and Environment) in respect of this application which had been the subject of a site visit. The usual consultations had been undertaken and the responses received detailed in the report. Additional comments received since the preparation of the report were circulated at the meeting.

The officer outlined the reasons for recommending approval of the application and explained that whilst some degree of visual impact from a wind turbine was inevitable, the application met the criteria of EW4 by the removal of a second turbine. A balanced view had been taken in recognising the wider benefits of renewable energy schemes and aerodrome concerns had either been resolved or were being addressed by a radar mitigation scheme through a Grampian style condition.

For the applicant, Mr. M. Harris, Divisional Building Technology Director of Kingspan Insulated Panels, spoke in support of the application on the following grounds: safeguarding and creation of local jobs and financial benefits to the local economy; the generation of power to local homes and offsetting of carbon emissions; mitigating steps taken to address the concerns raised; the aim of Kingspan in seeking to power all its manufacturing sites by renewable energy by 2020 to facilitate further business growth and protect jobs; and significant investment including local contracting.

Councillor Chris Bithell moved the officer recommendation for approval which was duly seconded by Councillor Gareth Roberts. He commented on the location of the scheme, the benefits in producing renewable energy and the reduced carbon

footprint. He felt that the amended application could be accommodated and whilst there would be some visual impact, there would be no lasting detriment to the landscape. He spoke of his support for renewable energy schemes and noted that all concerns raised had been dealt with.

As adjoining ward Member, Councillor Rosetta Dolphin spoke against the application on the following grounds: concerns about the location, height, size and movement of the wind turbine; the visual and noise impact on the 58 new homes located closer to the site than where noise monitoring had been undertaken; potential impact on users of the coastal path; concerns on the migration flight path; the precedent set if the application was approved; the unknown effect on TV reception; the impact of shadow flicker particularly on the residents of a nearby property for adults with learning disability including epilepsy; and the lack of detail on the radar mitigation scheme. Whilst supportive of renewable energy schemes, she noted that the energy generated would only serve the applicant and not homes.

In support of approving the application, Councillor Derek Butler praised the community benefits of the scheme, adding that surplus energy would benefit local residents. He said that each application should be considered on its own merits and pointed out that all concerns had been addressed. Whilst acknowledging objections to the height of the wind turbine, he could see no further reason for objection.

Also speaking in support, Councillor David Roney said that further renewable energy schemes should be welcomed and promoted.

Councillor Mike Peers welcomed the application which supported local business and promoted green energy. He asked whether the applicant had engaged with Holywell Town Council during the application to discuss its objections and whether the height of the wind turbine was necessary. He also referred to Councillor Dolphin's comments on the noise assessment and sought assurance that sufficient consultation had been undertaken.

Councillor Richard Jones commended the steps taken by the applicant to address the concerns raised. He acknowledged the condition for protocols to deal with any complaints about TV reception interference and shadow flicker but felt that these should be prepared in advance to give assurance to residents.

In response, the officer explained that noise levels had been confirmed as acceptable at a point monitored on Bagillt Road, which was closer to the site than the housing development referred to; furthermore a safeguard had been included to investigate and mitigate any reported noise nuisance issues. Concerns relating to migrating birds would be addressed through consultation with the RSPB on the conditions once these were drafted and the radar mitigation scheme would ensure approval from Airbus prior to commencement of work. The environmental statement dealt with shadow flicker and the reduced height of the wind turbine was considered acceptable and sufficient to achieve operating levels. The applicant had engaged with the Town Council at the start of the process and consultation with the community had been ongoing.

In advising the Committee, the Service Manager - Strategy highlighted the need to recognise the importance of the area to local industry when determining the application.

Councillor Richard Jones repeated his earlier comments regarding early preparation of the protocols and suggested local Member involvement. The Development Manager referred to section 7.73 of the report and explained that protocols could not be determined at this stage but that officers could engage with the local Member at that time.

In summing up, Councillor Bithell spoke of his support for the amended application before the Committee and for renewable energy schemes in general, citing an example where permission had previously been granted.

On being put to the vote, the proposal to grant permission was carried.

RESOLVED:

That the application be granted subject to the conditions detailed in the report of the Chief Officer (Planning and Environment).

126. FULL APPLICATION - ERECTION OF DETACHED BUNGALOW AT ROSE FARM LIVERY, WELL STREET, BUCKLEY (055597)

The Committee considered the report of the Chief Officer (Planning and Environment) in respect of this application. The usual consultations had been undertaken and the responses received detailed in the report.

The officer explained the proposal for the erection of a replacement dwelling and partial demolition and change of use of the existing dwelling. He outlined the reasons for recommending approval, subject to the applicant rescinding the lawful use of the existing dwelling via a Section 106 Agreement. An additional comment from Natural Resources Wales relating to land contamination was included in the late observations.

In agreement with the officer recommendation, Councillor Ian Dunbar welcomed the reduced height of the replacement building which he felt would enhance the area. This was seconded by Councillor David Roney.

Councillor Derek Butler expressed reservations about the application and questioned how the existing building had received permission as a dwelling. In response, the officer referred to paragraph 7.09 of the report which clarified this point.

Whilst accepting this explanation, Councillor Chris Bithell queried the circumstances which had led to this. Following similar questioning by Councillor Neville Phillips, the officer gave a brief overview of the planning history of the site, involving a change of use to livery stables in 1990. Subsequently during the inquiry, it had been found that the management accommodation in the central part of the building was instead being used as a single dwelling house.

Councillor Mike Peers raised concerns that the application was a way of seeking conversion of local use via a new build and questioned the need for replacement as the existing building was habitable. He also questioned how no objections had been raised by Natural Resources Wales (NRW) when they were unaware of the historic contamination issues. In essence, he felt that the scheme was an attempt to seek approval for the entire site by rescinding the habitable use and creating a new build outside the settlement boundary, not on the original footprint, thus resulting in additional capacity on the site.

Concerns were also raised by Councillor Owen Thomas on the circumstances which allowed lawful use rights as a dwelling.

In response to a question from Councillor Nancy Matthews, the officer provided clarification on the proposed changes to the building.

Councillor Phillips recalled a site visit around 1997 where the building had been used as livery stables.

Councillor Richard Lloyd called for a site visit to help determine the application. Councillor Carol Ellis agreed, saying that this would enable a view from the road. Members were then shown relevant photographs of this view, together with drawings of the current building and the proposed changes.

In response, the officer stated that this was a replacement dwelling in open countryside and that although criterion (e) of EWP4 had not been fully met, there were other planning benefits to the proposed location. On the points raised by Councillor Peers, he said that the property had a lawful use as a dwelling house and that the UDP policy catered for replacement dwellings. The applicant voluntarily rescinding their lawful use rights would safeguard against any use of the lower floor as a single dwelling. It was clarified that in planning terms, a dwelling which was lawful was no different to one granted planning permission. It was also stated that the scheme would remove the workshop from the site, leaving the dwelling and stables. On land contamination, NRW had made no objection to the scheme and the response given by NRW to Councillor Peers' own enquiry was due to them not recording the type of issues involved in this case. The Council's Environmental Health section did hold records of potential lower-level contamination cases, however circumstances had led to a decision to seek the views of an independent third party whose findings were detailed in the report. Consultation with colleagues in Pollution Control had resulted in agreement on the officer assessment of the planning merits of the scheme with a condition imposed to address any risk of ground contamination.

Councillor Peers pointed out a discrepancy between the response of Pollution Control in the report compared with the planning file. On land contamination, he explained his decision to check with NRW on whether they had been consulted, as advised by Pollution Control, and that their response (included in the late observations) stated that no notice of contamination had been received. Councillor Peers questioned how it had been concluded that NRW had no objection

when Pollution Control officers had raised concerns and advised consultation with NRW.

Officers clarified that the initial response of Pollution Control outlining their concerns had been followed by a later response from NRW indicating no objection and that in view of this, Pollution Control had indicated agreement with the proposed conditions. Communications between the case officer, the independent third party and Pollution Control colleagues were clearly set out on file. It was felt that NRW may have been unaware of the notice of contamination as this was only of local significance and therefore not included in their records.

In summing up, Councillor Dunbar praised the answers given to Members' questions and supported the officer recommendation.

On being put to the vote, the proposal to grant the planning permission in accordance with the officer's recommendation was carried.

Councillor Richard Jones, who had declared a personal and prejudicial interest on this item, left the meeting prior to discussion on the item. After the vote had been taken, he returned to the meeting and was advised by the Chairman of the decision.

RESOLVED:

That Planning Permission be granted subject to the conditions detailed in the report of the Chief Officer (Planning and Environment) and the applicant entering into a Section 106 Obligation/Unilateral Undertaking to provide for the following:

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

127. **APPEAL BY MR. J. PEDLEY AGAINST THE DECISION OF FLINTSHIRE COUNTY COUNCIL TO REFUSE PLANNING PERMISSION FOR THE PROPOSED INDIVIDUAL VEHICULAR ACCESS POINTS FOR PLOTS 2, 3 & 4 OF PREVIOUSLY CONSENTED GYPSY SITE AT MAGAZINE LANE, EWLOE (054322)**

RESOLVED:

That the decision of the Inspector to allow this appeal be noted.

128. **APPEAL BY SEP WOOD FARM LTD AGAINST THE DECISION OF FLINTSHIRE COUNTY COUNCIL TO REFUSE PLANNING PERMISSION FOR THE PROPOSED DEVELOPMENT OF SOLAR PHOTOVOLTAIC PANELS AND ASSOCIATED WORKS INCLUDING INVERTER HOUSING, ACCESS TRACK, SECURITY FENCING AND CAMERAS ON LAND AT 2 SITES ON DEESIDE LANE, SEALAND (053686 & 053687)**

Councillor Chris Bithell commended the case officer on his handling of the application at the inquiry. He also requested that all future appeals reports indicate

whether the decision was made by the Committee or the officer, and that the name of the relevant Inspector be included for information.

RESOLVED:

That the decision of the Inspector to dismiss this appeal be noted.

129. **APPEAL BY MR. R. DENNIS AGAINST THE DECISION OF FLINTSHIRE COUNTY COUNCIL TO REFUSE PLANNING PERMISSION FOR THE RENEWAL OF PLANNING PERMISSION 049755 TO ALLOW CONVERSION TO BARN TO 2 NO. DWELLINGS AT MERTYN ABBOTT FARM, LLWYN IFOR LANE, WHITFORD (054446)**

The Development Manager expressed her frustrations over the outcome due to the Inspectorate being able to consider supporting information at a late stage.

RESOLVED:

That the decision of the Inspector to allow this appeal be noted.

130. **APPEAL BY MS P. HICKIE-ROBERTS AGAINST THE DECISION OF FLINTSHIRE COUNTY COUNCIL TO REFUSE PLANNING PERMISSION FOR AN EXTENSION TO AND CHANGE OF USE OF OUTBUILDING TO DWELLING AT AEL Y BRYN, MOEL Y CRIO, HOLYWELL (055299)**

RESOLVED:

That the decision of the Inspector to dismiss this appeal be noted.

131. **ATTENDANCE BY MEMBERS OF THE PRESS AND PUBLIC**

There were 27 members of the public and one member of the press in attendance.

(The meeting started at 1pm and ended at 3.45pm)

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Chairman