

FLINTSHIRE COUNTY COUNCIL

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

DATE: **22ND MARCH 2017**

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

SUBJECT: **APPEAL BY ELAN HOMES LTD AGAINST THE DECISION OF FLINTSHIRE COUNTY COUNCIL TO REFUSE PLANNING PERMISSION FOR THE ERECTION OF 56 NO. DWELLINGS WITH ASSOCIATED ACCESS, OPEN SPACE AND INFRASTRUCTURE AT KINNERTON LANE, HIGHER KINNERTON – ALLOWED.**

1.00 APPLICATION NUMBER

1.01 054770

2.00 APPLICANT

2.01 ELAN HOMES LTD

3.00 SITE

3.01 Land south of Kinnerton Lane,
Higher Kinnerton,
Flintshire,
CH4 9BG

4.00 APPLICATION VALID DATE

4.01 5th January 2016

5.00 PURPOSE OF REPORT

5.01 To inform Members of a decision in respect of an appeal following the refusal to grant planning permission for the erection of 56No. dwellings, creation of access, open space and provision of associated infrastructure on land south of Kinnerton Lane, Higher Kinnerton, by the Local Planning Authority.

The decision to refuse planning permission was made by Members

at the Planning and Development Control Committee held on 20th July 2016.

The appointed Planning Inspector was Mr. A. Thickett.

The appeal was determined following an exchange of written representations and was **ALLOWED**.

6.00 REPORT

6.01 The Main Issue

The Inspector noted that the application had been refused for a solitary reason alleging that insufficient information had been provided to demonstrate that the proposals would not give rise to increased risk of flooding. Accordingly he highlighted this as the main issue for consideration via the appeal.

6.02 Flood Risk

The Inspector noted that Higher Kinnerton Community Council had raised concerns in relation to the Appellants' FCA and also noted that NRW had raised a few questions in respect of the same. He considered the detailed response from the Appellant provided in respect of these issues was satisfactory. He also noted the views of nearby residents in respect of their perception of the impact of the proposals upon their property.

6.03 The Inspector noted that neither NRW nor Dwr Cymru raised any objection to the proposal and both suggested that conditions be imposed in relation to surface water run off rates and the need to agree and implement an agreed drainage scheme respectively.

6.04 He concluded that there was no technical evidence to substantiate the reason for refusal. He concluded that there was no basis to question either the views or NRW and DWR Cymru nor question the advice of professional officers in this respect.

6.05 He therefore concluded that, subject to a condition relating to surface water drainage schemes being submitted and agreed, the proposal would not give rise to an increased risk of flooding and was therefore compliant with policies STR1 and GEN1 of the Flintshire Unitary Development Plan.

6.06 Other matters

Housing Land Supply

The Inspector noted the lack of a 5 year housing land supply and attributed weight to the advice contained within TAN1 in this regard. He noted that the site is located outside the settlement boundary and was therefore not compliant with the relevant UDP policies in respect of the location of development. However, he agreed that there were other material considerations which outweighed this conflict.

6.07 He noted that Higher Kinnerton has a range of facilities and services,

capable of accommodating further development in a sustainable manner. He also noted that the overall increase in the housing supply would also assist in meeting the identified need for affordable housing. He agreed that the development would assimilate comfortably into the existing settlement.

6.08 He concluded upon this matter that in the absence of any imminent plan led solution to the lack of housing supply, the need to increase supply combined with the lack of harm and sustainable location outweighed the conflict with Policies STR1(a) and GEN3.

6.09 *Highway issues*

The Inspector noted the highway improvements contained within the proposal and the absence of an objection form the Highway Authority. The absence of any technical evidence to the contrary he concluded there was no basis for him to question the Highway Authority's position.

6.10 *Listed Buildings*

The Inspector noted the proximity of 2 Grade II listed buildings within the vicinity of the site (Kinnerton Lodge and Compton Hall Farm). He considered that the fields to the south of the site and the intervening housing estate in each case respectively were such that the impact upon these buildings was negligible and therefore concluded that the setting of each building would be preserved.

6.11 Conditions

The Inspector considered the suggested conditions set out in the committee report and the guidance in Welsh Government Circular 016/2014. A three year commencement condition was deemed necessary because this planning permission is being granted to meet a pressing need and therefore the development should be delivered quickly. Other conditions are imposed requiring an archaeological assessment of part of the site; traffic calming; footway and footpath improvements and other highway improvements; provision of access visibility splays; the agreement of surface water drainage proposals; agreement of materials; provision of parking facilities; provision of tree protection measures; and the implementation of the approved landscaping scheme.

6.12 The Inspector also noted other suggested conditions. In relation to the request for a construction traffic management plan, he concluded that such a condition did not have a planning purpose and therefore failed the requisite tests in relation to the imposition of conditions as the requirements of the same replicate powers held by the Highway Authority.

6.13 He also noted the requests for conditions in relation to the agreement of the proposed foul drainage system and the undertaking of land contamination assessment. He concluded that the suggested foul

drainage condition failed the tests as it replicated provisions within Building Regulations. In respect of the land contamination investigation requested, he concluded that insufficient technical evidence had been provided to counter the conclusions of the submitted ground investigation report in this regard. Accordingly he declined to impose such conditions.

6.14 Unilateral Undertaking

The Inspector noted that the provision of affordable housing and contributions towards public open space and education is addressed via a unilateral undertaking submitted by the appellant with the appeal. The Inspector was content that the provisions of the undertaking were necessary and compliant with the requirements of The Community Infrastructure Levy Regulations 2010.

7.00 **CONCLUSION**

7.01 For the reasons given above, the Inspector concluded that the appeal should be **ALLOWED**.

LIST OF BACKGROUND DOCUMENTS

Planning Application & Supporting Documents
National & Local Planning Policy
Responses to Consultation
Responses to Publicity

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