

FLINTSHIRE COUNTY COUNCIL

REPORT TO: **PLANNING COMMITTEE**

DATE: **26th OCTOBER 2022**

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

SUBJECT: **FULL APPLICATION- PART DEMOLITION OF EXISTING DWELLING AND RESIDENTIAL DEVELOPMENT COMPRISING OF 7 DETACHED DWELLINGS AND ASSOCIATED ROADS AND DRAINAGE WORKS**

APPLICATION NUMBER: **063335**

APPLICANT: **GOWER HOMES**

SITE: **LAND AT "FOXFIELD", FAGL LANE, HOPE, WREXHAM, FLINTSHIRE**

APPLICATION VALID DATE: **14th APRIL 2022**

LOCAL MEMBERS: **COUNCILLOR MS G HEALEY**

TOWN/COMMUNITY COUNCIL: **HOPE COMMUNITY COUNCIL**

REASON FOR COMMITTEE: **COUNCILLOR REQUEST- LEVEL OF PUBLIC INTEREST**

SITE VISIT: **NO**

1.00 SUMMARY

1.01 This is a full application for Part demolition of existing dwelling and residential development comprising of 7 detached dwellings and associated roads and drainage works at Land at "Foxfield", Fagl Lane, Hope, Wrexham, Flintshire

2.00 RECOMMENDATION: TO REFUSE PLANNING PERMISSION FOR THE FOLLOWING REASONS

- 2.01 1. In the opinion of the local planning authority it has not been demonstrated that the development would not lead to an increase in phosphate levels in the River Dee and Bala Lake SAC, with a resultant significant impact on the protected site. As such it is considered that the development is contrary to policies WB2 and EWP16 of the Flintshire Unitary Development Plan as well as advice contained within Planning Policy Wales 11 regarding Water Quality and the protection of SACs.

3.00 CONSULTATIONS

- 3.01 **Local Member: Councillor G Healey**: I would like this application to be determined by committee because of the high level of public interest in it.

Hope Community Council: strongly object to the proposal due to:

- Overdevelopment of plot out of character with neighbouring development
- Impact on neighbouring properties including cemetery
- Impact of wildlife on site
- Increased traffic and resulting highways safety issues

Community and Business Protection: No adverse comments to make regarding this proposal.

Highways Development Control: Recommend that any permission shall include suggested conditions

Leisure:. In accordance with Planning Guidance Note No.13 POS provision, the Council should be seeking an off-site contribution of £1,100.00 per dwelling in lieu of onsite POS.

The payment would be used to enhance toddler play facilities at The Willows Play Area. Working with Planning Policy, we have considered previous pooled contributions and we confirm that the pooled contributions thresholds have not been exceeded with regards to The Willows Play Area

Education: It is the intention of Education and Youth to seek Developer contributions:

Primary School: Ysgl Bryn Estyn £12,257.00

Secondary School: Castell Allun High School £18,469.00

Ecology: There are no designated sites adjacent to the site but it is within 300m of the River Alyn with farmland with trees and tall hedgerows in between and just over 300m to GCN ponds in the north.

The presence of trees and open water within the locality increases the chance of a bats roost being present but the buildings to be demolished are single storey, well maintained with low potential. A scheme of Reasonable avoidance measures for bats during demolition would suffice.

The shrubs and trees and particularly the boundary hedge also have potential for nesting birds and the proximity to known GCN sites means there is potential for GCN to be present on site so appropriate reasonable avoidance measures for GCN during site clearance would be required.

Biodiversity enhancements in line with WG policy would need to be incorporated into the new buildings, for example bat and bird boxes.

Further guidance within the Supplementary Planning Guidance on Nature Conservation and Development available online:
<https://www.flintshire.gov.uk/en/PDFFiles/Planning/Adopted-SPGNs/SPGN-No-8.-Nature-Conservation-and-Development.pdf>

Designated Sites and Phosphates

There are no designated sites but the application site is close to the River Alyn a tributary of the River Dee designated as an SSSI and SAC primarily for migratory fish but also otter. While it is not directly affected, all developments now need to consider phosphate pathways and a potential increase in levels within the River Dee Special Areas of Conservation (SAC) to ensure there are no impacts.

To demonstrate that adverse effect on site integrity (River Dee SAC) can be ruled out, the LPA will need to be ensure that the extant environmental permit for the Hope STW meet the updated phosphate compliance.

Regarding the additional information provided: Kingdom Ecology Protected Species report 8th Jan 2022

Phase I habitat survey and recommendations are acceptable.

Bat emergence surveys were undertaken Aug & Sept 2021 – 1 Common Pipistrelle emerged from small gap in SW facing gable of garage both visits. Mitigation proposed is acceptable namely reasonable avoidance measures and bat boxes to be built into new houses. The proposed bat boxes should be incorporated into the design plans to guarantee installation.

Natural Resources Wales: Continue to have concerns with the application as submitted because inadequate information has been provided in support of the proposal. To overcome these concerns, further consideration is required regarding foul drainage.

Dwr Cymru/Welsh Water: Note the developer proposes to dispose of foul flows via the public sewerage system and discharge surface water run-off into a sustainable drainage system. However, no drainage details have been provided.

As of the 7th January 2019 this proposed development is subject to Schedule 3 of the Flood and Water Management Act 2010. The development therefore requires approval of Sustainable Drainage Systems (SuDS) features, in accordance with national standards, and is strongly recommended that the developer

engage in pre-application consultation with Flintshire County Council, as the relevant SuDS Approval Body

(SAB). Please note, DCWW is a statutory consultee to this application process and would provide comments on any SAB proposals.

DCWW advise that Hope WwTW has a phosphate permit. This matter will need to be considered further by the local planning authority.

In light of the above and given the omission of a detailed drainage plan/ layout, request that if minded to grant Planning Consent for the above development that suggested Condition and Advisory Notes are included within the consent to ensure no detriment to existing residents or the environment and to Dwr Cymru Welsh Water's assets.

4.00 PUBLICITY

4.01 Site Notice, Neighbour Notification

9 Letters of Objection received which can be summarised as follows:

- Traffic Congestion
- Local Flooding issues
- Impact upon Cemetery
- Overdevelopment
- Overbearing upon landscape
- Impact upon local facilities

1 Letter of Support

5.00 SITE HISTORY

5.01 018029- Outline application for residential development- Refused 24/8/89 Appeal Dismissed 27/2/90

6.00 PLANNING POLICIES

6.01 **Flintshire Unitary Development Plan**

- STR1 New Development

- STR4 Housing
- GEN1 General Requirements for Development
- GEN2 Development Inside Settlement Boundaries
- TWH1 Development Affecting Trees and Woodlands
- TWH2 Protection of Hedgerows
- WB2 Sites of International Importance
- AC13 Access and Traffic Impact
- AC18 Parking Provision and New Development
- HSG3 Housing on Unallocated Sites Within Settlement Boundaries
- EWP16 Water Resources

Supplementary Planning Guidance

- SPGN2 Space Around Dwellings
- SPGN11 Parking Standards
- SPGN 13 Public Open Space
- SPGN 23 Developer Contributions to Education
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National Planning Policies:

- Planning Policy Wales – Edition 11 (Feb.2021)
- Future Wales: The National Plan 2040 (FWP 2040)

It is noted and acknowledged that the national planning framework as set out within Planning Policy Wales Edition 11 and Future Wales: The National Plan 2040 sets out the most up to date planning principles against which to consider development proposals. The Development Plan and associated supplementary planning guidance remain broadly consistent with these changes to legislation

7.00 PLANNING APPRAISAL

7.01 Proposed Development

This is a Full application for the Part demolition of existing dwelling and residential development comprising of 7 detached dwellings and associated roads and drainage works at "Foxfield", Fagl Lane, Hope, Wrexham, Flintshire

7.02 Site Description

The application site is Foxfield, Fagl Lane, Hope. This site is within the settlement boundary for Hope in the Flintshire Unitary Development Plan. The site is currently the garden area for the property known as 'Foxfield' which is located centrally on the site. To the east of the site is a Cemetery.

7.03 The Main Issues

The main issues are considered to be:

- The principle of development
- Drainage and phosphates
- Impact of the development on the character and appearance of the area
- Access and highways issues
- Ecological issues

7.04 Principle of Development

The application site lies within the settlement boundary of Hope in the Flintshire Unitary Development Plan. Hope is a category B settlement and there is a presumption in favour of residential development in these areas. In principle this is considered to be an acceptable windfall development on a previously developed site.

7.05 Phosphates and drainage

Following a wastewater pre-development enquiry with Welsh Water carried out by the applicants, they are proposing to discharge into the public foul sewer network in Fagl Lane approximately 200m west of the site boundary. The levels do not allow for a gravity connection from the site so a foul pumping station will be required within the development proposals. This pumping station is located to the front of the site.

7.06 The application site is within the catchment of the River Dee and Bala Lake Special Area of Conservation (SAC). On the 21st January 2021, NRW published an evidence package outlining phosphate levels for all river SACs across Wales. As part of this package, they issued a Planning Position Statement, in which they advised that any proposed development that might increase the amount of phosphate within a river SAC catchment could lead to damaging effects to the SAC. Therefore, such proposals should be screened through a Habitats Regulations Assessment (HRA), to determine whether they are likely to have a significant effect on the SAC. NRW have also issued updated Planning Advice which gives specific advice in respect of foul drainage arrangements for new developments

7.07 The application site is close to the River Alyn, a tributary of the River Dee designated as an SSSI and SAC primarily for migratory fish but also otter. While it is not directly affected, all developments now need to consider phosphate pathways and a potential increase in levels within the River Dee Special Areas of Conservation (SAC) to ensure there are no impacts.

7.08 The developer has put forward the case that given the small number of new dwellings proposed, taken together with a relatively small amount of development in the local area in recent years, the increased phosphate load is negligible and will not have a significant impact upon the riverine SACs.

7.09 As per the Planning Advice of NRW, a Habitat Regulations Assessment was carried out to ascertain whether this development is likely to increase phosphorus inputs to a SAC. The outcome of this assessment is that the impact of the development is uncertain and a significant impact on the SAC cannot be ruled out. Without this certainty the proposal does not accord with policies WB2 and EWP16 of the Flintshire Unitary Development Plan.

7.10 Impact upon the character and appearance of the area

The development is arranged in a fairly linear patterns, with 7 additional dwellings, and the existing dwelling 'Foxfield' arranged around a central access road which culminates in a hammer head at its southwestern end. Two dwellings are located facing the access road at this southwestern end of the site, one dwelling is located to the north of the access road, and the remaining 5 (Including the existing dwelling) are located to the south of the access road. Due to this orientation the majority of the new dwellings are located away from existing housing.

7.11 Further to discussions held with the Case Officer following the initial submission of the scheme the proposal has been redesigned with the deletion of one of the proposed dwellings and a site redesign to ensure that the new dwellings have sufficient garden depths and are sensitive to perceived overlooking of the adjacent Cemetery site. The dwellings that back onto this facility are located at a slightly lower level to the Cemetery and as a result of the 11 metre garden depths and retention of the existing boundary screening I do not consider that they will unacceptably impact users of the Cemetery by being overly intrusive. There is no direct overlooking from any of the proposed dwellings onto existing neighbouring properties.

7.12 The proposed house types are detached, and of brick and tile construction. The existing housing in the locality is mixed although whilst there are some other house types including single storey dwellings the types of housing that is typically found in close proximity to the application site tends to be detached and either of a brick or rendered finish. The proposed dwellings is similar in style to those constructed on Tudor Close, across Fagl Lane from the application site. I consider them to be appropriate for use in this location.

7.13 Access and Highways

The site is located on Fagl Lane, a classified highway. As such it is a road designed to carry volumes of traffic. It is not considered that a development of this scale will unacceptably impact upon highways safety. Highways development control have raised no objection to the proposal and requested conditions should planning permission be agreed to ensure that the internal road and access point are constructed to appropriate standards.

7.14 Ecology

The site consists of modern, well maintained buildings and garden, predominantly mown grass with shrubs and occasional trees and a mature hedgerow next to the Cemetery. There are no designated sites adjacent to the site but it is within 300m of the River Alyn with farmland with trees and tall hedgerows in between and just over 300m to GCN ponds in the north.

7.15 The presence of trees and open water within the locality increases the chance of a bats roost being present but the buildings to be demolished are single storey, well maintained with low potential for roosting bats. Bat emergence surveys were undertaken in Aug & Sept 2021 and show that 1 Common Pipistrelle emerged from small gap in SW facing gable of garage on both visits. Mitigation proposed is acceptable, namely reasonable avoidance measures and bat boxes to be built into new houses. The proposed bat boxes should be incorporated into the design plans to guarantee installation.

7.16 The shrubs and trees and particularly the boundary hedge also have potential for nesting birds and the proximity to known GCN sites means there is potential for GCN to be present on site so appropriate reasonable avoidance measures for GCN during site clearance would be required.

7.17 Biodiversity enhancements in line with WG policy would need to be incorporated into the new buildings, for example bat and bird boxes. Other details such as species proposed for hedges and ornamental shrubs can be included on the landscape plan and can be conditioned.

7.18 It is considered that from an ecological point of view the proposal is acceptable, although some design changes to incorporate the bird and bat boxes into the building designs are suggested, but this could be secured by condition.

7.19 Planning Obligations

The infrastructure and monetary contributions that can be required from a planning application through a S106 agreement have to be assessed under Regulation 122 of the Community Infrastructure Levy (CIL) Regulations 2010 and Welsh Office Circular 13/97 'Planning Obligations'.

7.20 It is unlawful for a planning obligation to be taken into account when determining a planning application for a development, or any part of a development, if the obligation does not meet all of the following regulation 122 tests;

1. be necessary to make the development acceptable in planning terms;
2. be directly related to the development; and
3. be fairly and reasonably related in scale and kind to the development.

7.21 Leisure services have advised that in accordance with Planning Guidance Note No.13 POS provision, the Council should be seeking an off-site contribution of £1,100.00 per dwelling in lieu of onsite Public Open Space.

7.22 The payment would be used to enhance toddler play facilities at The Willows Play Area. Working with Planning Policy, they have confirm that the pooled contributions thresholds have not been exceeded with regards to The Willows Play Area.

7.23 Education and Youth Services have confirmed that it would be their intention to seek developer contributions to relevant schools as set out in their response in section 3.0 of the report. Castell Allun High School has reached their threshold for pooling contributions but the request would be in relation to a specific project. It is considered accordance with the CIL regulations the LPA can request the above contributions through a legal agreement.

8.00 CONCLUSION

In principle the proposal represents an acceptable windfall development within a settlement boundary. There are no unacceptable impacts upon local amenity, ecology, or as a result of highways issues. Notwithstanding this, it has not been demonstrated, that the development would not have a significant impact upon local River SACs as a result of phosphates. As such I recommend that the proposal is refused for the reason outlined in paragraph 2.01.

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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