

FLINTSHIRE COUNTY COUNCIL

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

DATE: **26TH JULY 2017**

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

SUBJECT: **APPEAL BY MR & MRS NEIL MCCADDON AGAINST THE DECISION OF FLINTSHIRE COUNTY COUNCIL FOLLOWING THE REFUSAL OF PLANNING PERMISSION FOR THE ERECTION OF 17 DWELLINGS AND ASSOCIATED INFRASTRUCTURE AND ACCESS EAST OF NORTHOP BROOK, CAPEL Y NANT, NORTHOP - DISMISSED**

1.00 APPLICATION NUMBER

1.01 055555

2.00 APPLICANT

2.01 Mr & Mrs Neil & Nicola McCaddon

3.00 SITE

3.01 Land east of Northop Brook, Capel y Nant, Northop, Flintshire

4.00 APPLICATION VALID DATE

4.01 30.03.17

5.00 PURPOSE OF REPORT

5.01 To inform Members of the decision following the refusal of planning permission for the erection of 17 dwellings and associated infrastructure and access at land east of Northop Brook, Capel y Nan, Northop. The application was refused at Planning and Development Control Committee on 16th November 2017 in accordance with the officer's recommendation. The appeal was dealt with by written representations and was DISMISSED.

6.00 REPORT

6.01 The Inspector considered that the main reasons were;

- whether the proposed development conflicts with national and local policies designed to protect the countryside and promote sustainable development
- the impact of the proposal on the supply of the best and most versatile agricultural land
- the effect of the proposed development on the character and appearance of the area and the setting of historic assets

6.02 Countryside

The Inspector noted that the appeal site was 3.9ha but only 0.8ha of the site is proposed to be developed. He noted that the appeal site abuts the settlement boundary only where the woodland adjoins the rear garden of The Spinney and the north east corner of the large marshy field lies opposite houses at The Vicarage. The site lies outside the settlement and in the countryside and the proposed houses would be 85m from the development at The Vicarage and 165m from The Spinney.

6.03 Policy STR1(a) of the Flintshire Unitary Development Plan 2000-2015, adopted 2011 (UDP) states that new development should generally be located within existing settlement boundaries and Policy GEN3 exercises strict control over new housing in the countryside. The development proposed is not of a type permitted by Policy GEN3. Planning Policy Wales (PPW) states that development in the countryside *'should be located within and adjoining those settlements where it can be best be accommodated in terms of infrastructure, access and habitat and landscape conservation'*. The Inspector did not consider that the proposed housing could be described as adjoining the settlement and concluded that the proposed development conflicts with national and local policies designed to protect the countryside.

6.04 Best and most versatile agricultural land

The appellant submitted an agricultural land survey which found that: *'The main limitation to agricultural land quality is gradient and microtopography which limits the site to Subgrade 3b. The uneven microrelief of the site impedes the use of agricultural machinery at this site and therefore limits the agricultural use of this site'*. The appellant's consultant concluded that, as a consequence, the area proposed to be developed comprises land at Grade 3b. The Welsh Government's Land Use Planning Unit sought further information and visited the site. The Land Use Planning Unit concluded that, as the area proposed to be developed could be absorbed into the adjoining field, the majority of the area proposed to be developed is Grade 2.

The adjoining field is in separate ownership. The appellant argues

6.05 that he is not a farmer, has no intention of farming the land or acquiring the adjoining field. Once developed this land would be permanently lost to agricultural production. However, land changes hands and the argument that a particular land owner has no intention of putting best and most versatile land to agricultural use could be repeated many times. As could arguing that only a small amount of best and most versatile land would be lost. Further, and whilst there is no suggestion that this has happened here, it cannot be right to accept that a piece of land can be parcelled off and consequently down-graded because, on its own, its microtopography is such that it could not produce yields to justify a classification of best and most versatile.

6.06 PPW states that the best and most versatile agricultural land (Grades 1, 2 and 3a) should be conserved as a finite resource for the future. It goes on to say that such land should only be developed if there is an overriding need and either previously developed land or land in lower agricultural grades is unavailable or constrained by environmental, wildlife or other designations. The Council cannot demonstrate a 5 year housing land supply but the Inspector saw seen no evidence to support the appellant's contention that meeting the area's housing needs will inevitably result in the loss of best and most versatile agricultural land. Indeed, the Council submitted evidence of a number of recently permitted housing developments on lower grade land. He concluded that the proposed development would result in the loss of best and most versatile agricultural land and that it conflicts with Policy RE1 of the UDP and the advice in PPW.

Character and appearance

6.07 The appellant's Landscape and Visual Impact Assessment concludes that the proposed development '*would have remarkably limited effects beyond its boundaries in landscape and visual terms*' and finds it to be acceptable. However, the report also identifies that '*the proposed development would create a locally significant adverse landscape and visual effect on the surrounding landscape and visual resource when viewed from within the site boundary and from some locations to the north, east and south of the site to a maximum of 200 metres of its boundary*'.

6.08 As stated above the proposed housing would be divorced from Northop by large fields and woodland. It would be 85m from the closest built development at The Vicarage and 165m from The Spinney. The Inspector considered the appellant's proposed landscape mitigation measures. Nonetheless, even with those in place, he agreed with the Council that; '*Rather than the site relating well to the built form and pattern of the settlement, it would appear as an 'island' or 'outlier' of built development, poorly related to the existing pattern and form of built development comprising the settlement*'. He concluded, therefore, that the proposed development would have an adverse impact on the character and appearance of

the area and that it conflicts with Policies STR7, GEN1 and L1 of the UDP.

Historic assets

6.09 The Conservation Area boundary runs along the northern side of Connah's Quay Road and does not include the houses at The Vicarage or Parkgate Farm (Grade II*). The countryside to the south of Northop contributes to the setting of the Conservation Area and Parkgate Farm. However, Parkgate Farm and the houses at The Vicarage adjoin the southern boundary of the Conservation Area, limiting views in and out from Connah's Quay Road. As stated above the proposed houses would be some distance to the south and he did not consider that the proposed housing would have a noticeable impact on the setting of the Conservation Area or, with the exception of Parkgate Farm, the listed buildings in the village.

6.10 Parkgate Farm is a mid-Victorian estate farm. The appellant's historic heritage consultant notes that the building *'is relatively complete which is unusual for a farm complex as often the outbuildings in particularly⁵ are structurally altered to accommodate modern machinery and have various extensions'*. The consultant concludes that the proposed development would have an 'intermediate/minor' adverse impact on the setting of Parkgate Farm. PPW reminds decision makers that in assessing proposals affecting a listed building or its setting, the primary material consideration is the statutory requirement to have special regard to the desirability of preserving the building, its setting or any features of special architectural or historic interest. Any harm to the setting of a listed building must be given considerable weight.

6.11 The Inspector agreed with the appellant's historic heritage consultant that the immediate setting of Parkgate Farm has been diminished by modern buildings and landscaping. However, the land to the south of the farm, which includes the appeal site remains open. In his view, the fields to the south of the farm are important to the understanding and appreciation of why the buildings at Parkgate Farm are there and are a link to its purpose and history. The introduction of the proposed small housing estate would detract from the historic relationship between the farm and surrounding countryside and have a detrimental impact on the setting of Parkgate Farm.

6.12 The Inspector was aware that Cadw has not raised any objections to the proposed development and he agreed with Cadw's assessment of the impact of the development on Soughton Hall and Garden. Nevertheless, for the reasons give above, he concluded that the proposal would have an adverse impact on the setting of Parkgate Farm and concluded that it conflicts with Policy HE2 of the UDP.

Sustainable development

6.13 PPW states that *'The planning system provides for a presumption in*

favour of sustainable development to ensure that social, economic and environmental issues are balanced and integrated'. The UDP is time expired and the Council cannot demonstrate a 5 year supply of housing land. The proposal would increase the supply of housing in the County and the Inspector had no reason to doubt the appellant's assertion that developers are interested in the site.

6.14 Meeting a need for housing and affordable housing contributes to the 'social' element of sustainable development described above. However, one affordable dwelling is offered and given that all but 3 of the houses would be 4 bed he did not consider, as alleged by the appellant, that the proposal would include a mix of dwelling types which *'will contribute to the creation of a vibrant community with residents at all stages of life'*. Nor did he see any evidence to demonstrate that the woodland and marshy grassland field is in pressing need of a management regime to ensure its future.

6.15 The Council accepts that Northop is a sustainable location for development and that the site is close to the facilities on offer in the village and adjacent to bus services and acknowledges that local services may benefit from additional custom. However, reducing the need to travel is only one element of sustainability. His findings regarding the adverse environmental impacts of the proposal on the loss of the best and most versatile agricultural land, the character and appearance of the area and the setting of Parkgate Farm lead him to the conclusion that the proposal cannot be described as sustainable development.

Other matters

6.16 The appellant drew the Inspector's attention to the refusal of planning permission for housing on this site in 1990 and contends that the Council's reasons for refusal then are not consistent with its objections in this case. The Inspector based his decision on the site on the specific circumstances and policies material today and cannot comment on a decision made 27 years ago under a different policy climate. The appellant also urges the Inspector to take heed of his own conclusions in allowing an appeal for housing in Higher Kinnerton. In that case he found that the need to increase supply combined with the lack of harm and sustainable location outweighed the conflict with the UDP. The same conditions are not in place here.

7.00 CONCLUSION

7.01 The Inspector concluded that where a 5 year housing land supply cannot be demonstrated Technical Advice Note 1: Joint Housing Availability Studies (TAN1) states that; *'The need to increase supply should be given considerable weight when dealing with planning applications provided that the development would otherwise comply with the development plan and national planning policies.'* The Inspector concluded that the conflict with national and local policies

and cannot be described as sustainable development. It is considered that this conflict and the site specific harm identified above outweighs the need to increase the supply of housing in this case.

- 7.02 In reaching his decision, the Inspector took into account the requirements of sections 3 and 5 of the Well Being of Future Generations (Wales) Act 2015. He considered that this decision is in accordance with the Act's sustainable development principle through its contribution towards the Welsh Ministers' well-being objective of supporting safe, cohesive and resilient communities.
- 7.03 For the reasons given above and having regard to all matters raised, he concluded that the appeal should be dismissed.

LIST OF BACKGROUND DOCUMENTS

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

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