

FLINTSHIRE COUNTY COUNCIL

REPORT TO: **PLANNING COMMITTEE**

DATE: **WEDNESDAY 20TH JUNE 2018**

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

SUBJECT: **GENERAL MATTERS REPORT - APPEAL IN THE
COURT OF APPEAL BROUGHT BY FLINTSHIRE
COUNTY COUNCIL (THE COUNCIL) AGAINST THE
DECISION OF THE HIGH COURT TO QUASH THE
COUNCIL'S GRANT OF TEMPORARY PLANNING
PERMISSION IN RESPECT OF LAND AS
RESIDENTIAL GYPSY SITE ACCOMMODATION AT
DOLLAR PARK, BAGILLT ROAD, HOLYWELL**

1.00 APPLICATION NUMBER

1.01 053163

2.00 APPLICANT

2.01 MR. L. HAMILTON

3.00 SITE

3.01 DOLLAR PARK, BAGILLT ROAD, HOLYWELL

4.00 APPLICATION VALID DATE

4.01 02.11.15

5.00 PURPOSE OF REPORT

5.01 To advise the committee about the outcome of a legal challenge brought by the Council in the Court of Appeal against the decision of the High Court to quash the Council's grant of temporary planning permission in respect of the above application.

6.00 REPORT

- 6.01 At meetings of the Planning and Development Control Committee (the committee) on the 20th of January 2016 and the 24th February 2016 the committee resolved to grant planning permission for a 5 year period in accordance with the Officer's recommendation and subject to an additional condition that planning permission should cease upon identification of a suitable alternative site should such a site become available before the end of that 5 year period. Planning permission was granted accordingly on the 7 April 2016.
- 6.02 On the 11 May 2016 the grant of planning permission was judicially reviewed and on the 13 April 2017 the High Court quashed the planning permission on the basis that the Council had granted permission without having ascertained and evaluated the best interests of the children who lived on the Site. Essentially the High Court found that the Council had acted irrationally in deciding that it had enough information about the children on Site to reach a conclusion on their best interests and then to grant planning permission.
- 6.03 On the 11 May 2017 the Council appealed against the decision of the High Court to the Court of Appeal who granted the Council leave to appeal on the 19th December 2017 and subsequently heard the Council's appeal at a hearing on the 2 May 2018.
- 6.04 On the 15 May 2018 the Court of Appeal upheld the Council's appeal, restored the planning permission and awarded the Council their legal costs incurred in both the Court of Appeal and the High Court.
- 6.05 The court found that on all of the available evidence, the officer was clearly entitled to conclude that the best interests of the children, together with the other factors in favour of the grant of temporary planning permission, outweighed countervailing considerations including the planning harm the officer had identified and that the committee was entitled to resolve to grant planning permission on the basis of that advice.

7.00 CONCLUSION

- 7.01 The Court of Appeal upheld the Council's appeal and restored planning permission, finding that the Officer was clearly entitled to give the advice in her report regarding the Children's best interests and that the committee was entitled to grant permission accordingly.

LIST OF BACKGROUND DOCUMENTS

The decision of the Court of Appeal of the 15 May 2018

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