

FLINTSHIRE COUNTY COUNCIL

REPORT TO: **PLANNING COMMITTEE**

DATE: **18TH JULY 2018**

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

SUBJECT: **FULL APPLICATION – ERECTION OF 14 NO DWELLINGS AND ASSOCIATED WORKS AT WITHIN COTTAGE & CHESHIRE LANE, ALLTAMI ROAD, BUCKLEY**

APPLICATION NUMBER: **058229**

APPLICANT: **QUATREFOIL HOMES**

SITE: **WITHIN COTTAGE & CHESHIRE LANE, ALLTAMI ROAD, BUCKLEY.**

APPLICATION VALID DATE: **16TH MARCH 2018**

LOCAL MEMBERS: **COUNCILLOR MRS C A ELLIS**

TOWN/COMMUNITY COUNCIL: **BUCKLEY TOWN COUNCIL**

REASON FOR COMMITTEE: **SCALE OF DEVELOPMENT RELATIVE TO SCHEME OF DELEGATION IMPACT ON PUBLIC RIGHT OF WAY AND HIGHWAY**

SITE VISIT: **YES**

1.00 SUMMARY

1.01 This is a full application for the proposed erection of 14 no. dwellings and associated works at land adjacent Withen Cottage and Cheshire Lane, Alltami road, Buckley.

2.00 RECOMMENDATION: TO GRANT PLANNING PERMISSION, SUBJECT TO THE FOLLOWING:-

2.01 The conditional planning permission be granted subject to the applicant either entering into a Section 106 Obligation or Unilateral Undertaking to provide the following:

- Payment of £1,100 per dwelling in lieu of on-site provision. The off-site contribution would be used to enhance existing public open space in the community; namely the Skatepark in Buckley. The contribution shall be paid upon 50% occupation or sale of the dwellings hereby approved;

And

- Payment of £2,500 towards mitigating the indirect impacts due to in combination pressures on the Special Area of Conservation (SAC).

Conditions

1. Time commencement
2. In accordance with approved details
3. Material samples
4. Finished floor levels
5. Only foul water shall be allowed to discharge to the public sewerage system
6. Surface water drainage scheme to be submitted
7. Detailed layout, mans of traffic calming and signing, surface water drainage, street lighting and construction of internal estate road to be submitted
8. Footpath 22 improvement scheme including staggered barriers
9. Front of garages set back minimum of 5.5m
10. Positive means provided to prevent surface water runoff onto highway
11. Submission of Construction Management Plan
12. Foundation design of properties either side of mine shaft to be submitted and approved prior to their implementation
13. Reasonable Avoidance measures GCN
14. Biosecurity risk assessment
15. Ecological compliance audit
16. Contaminated land report.
17. Landscaping scheme
18. A scheme of Tree root protection measures to be submitted and implemented prior to development
19. Construction method statement with regards to vegetation clearance and protected species ecological avoidance measures.

3.00 CONSULTATIONS

3.01 Local Member

Councillor C A Ellis

Requests committee determination and a site visit due to the impact of the development on public right of way and on highways

Buckley Town Council

The Council recommends refusal for the following reasons:

- The application indicates the closure of footpath 22 and no alternative route is indicated.
- Without an alternative there are health and safety concerns for pedestrians accessing the School and Health Centre.
- Narrowness of road impinges on the ability of emergency vehicles and refuse collection to access the development.
- Increased traffic Alltami Road, closeness of access to accesses of other recent developments
- Ignores requirements placed on the developments at end of Muirfield road where bollards were required to provide safety for pedestrians. No bollards indicated on development
- Adjacent to SSSI and would affect biodiversity of site.
- Impact upon neighbouring residential amenity- loss of light and privacy
- Impact on the character and appearance of the area.
- Impact upon community facilities

Highways Development Control Manager

This proposal is an extension of an earlier development site which is still under construction; roads within that development have not yet been completed to adoptable standard. Extension of the existing road will require alterations to the existing kerbs and verge.

The access road linking between the two phases crosses the line of the public footpath no.22, a route that is used to gain access to the school. This crossing is identified on the layout drawing which appears to include provision of a ramped crossing and staggered barriers; the layout as proposed is not appropriate but provision of an acceptable layout could be controlled by condition.

Footpath 22 is unlit and only partially surfaced, the development will lead to increased pedestrian use and consideration should be given to improvements.

I recommend that any planning permission shall include the following conditions:

1. Detailed layout, mans of traffic calming and signing, surface water drainage, street lighting and construction of internal estate road to be submitted
2. Footpath 22 improvement scheme
3. Front of garages set back minimum of 5.5m

4. Positive means provided to prevent surface water runoff onto highway
5. Submission of Construction Management Plan

In addition, please ensure that the standard highway supplementary notes are issued to the applicant as part of any planning consent which may be granted with particular reference to Clauses, 1,2,3,4,5,7 & 9; Public Footpath no.22 crosses the site.

Public Rights of Way

Public Footpath No.22 in the community of Buckley crosses the site where the entrance to the site is proposed from the recent development off Cheshire Lane.

The proposed new entrance crosses a popular public footpath known locally as 'Tucky Lane', which is used for access to Buckley Sports Centre and Elfed High School by pupils.

I am satisfied with the proposals set out for the temporary diversion of the section of Public Footpath No. 22 between Alltami Road and the Elfed High School site.

Quatrefoil Homes will be required to contact us to discuss any dates for a temporary closure to start and general requirements for temporary closures (i.e. appropriate signage, keeping temporary path open at all times).

Furthermore, with regard to the development itself and where Public Footpath No. 22 cross the access road, we would support the installation of staggered barriers (to the approved highways regulations) near the crossing point as part of improvement works to the whole section of the footpath.

Head of Public Protection

A condition for a Phase 1 assessment should be carried out to identify and consider potential risks associated with land contamination either to, or as a result of the development.

Public Open Space Manger

The Council should seek £1,100 per dwelling in lieu of on-site provision, off-site contribution will be used to enhance existing public open space at the Skatepark, Buckley.

Head of Lifelong Learning

SCHOOLS AFFECTED: PRIMARY

School: Mountain Lane C.P. School

Current NOR (@ January 2018) 406 (excluding Nursery)

Capacity (@ January 2018) 409 (excluding Nursery)

No. Surplus Places: 3

Percentage of Surplus Places: 0.73%

SCHOOLS AFFECTED SECONDARY

School: Elfed High School

Current NOR (@ January 2018) is 745

Capacity (@ January 2018) is 1037

No. Surplus Places is 292

Percentage of Surplus Places is: 28.1%

EXCEPTIONS

The exceptions to the provision of school places will be the following type of residential development from which planning authorities will note seek contributions:

Housing specifically designed for occupation by elderly persons (ie restricted by planning condition or agreement to occupation by those over aged 55 years or more).

1 bed dwellings or 1 bed apartments or flats.

Formula

The figures are arrived at from a combination of formula application and practical experience, informed by sufficiency criteria.

The formula reads:

Primary School Pupils

School capacity 409 x 5% = 20.45 (21)

409 – 21 = 388 Trigger point for contributions is 388 pupils

(No. of units) 14 x 0.24 (primary formula multiplier) = 3.36 (3) No. of pupils generated) x £12,257 per pupil (Building Cost multiplier) = £36,771

Actual pupils 406 + 3 (from the multiplier) = 409 meets trigger

Contribution requirement would be £36,771

Secondary School Pupils

School capacity of 1037 x 5% = 51.85 (rounded up or down) 52

Capacity 1037 - 52 = 985 Trigger point for contributions is 985

pupils

(No. of Units 14 x 0.174 (secondary formula multiplier) = 2.43 (2 No. of pupils) generated x £18,469 per pupil (Building Cost multiplier) =

£36,938

Actual pupils 745+2=747 does not trigger of 985

Contribution requirement would be £0

Primary – Mountain Lane C.P. Primary School – it is our intention to seek a Section 106 contribution. The contributions will be spent on Security Adaptations.

Secondary – Elfed High Secondary – it is not our intention to seek a Section 106 contribution.

County Ecologist

Requests a scheme of reasonable avoidance measures and mitigation to be conditioned to avoid harm to GCN, also recommends financial mitigation by way of S.106

Welsh Water/Dwr Cymru

Requests conditions and advisory notes attached to any permission.

Natural Resources Wales

Do not object to proposal subject to the imposition of conditions regarding measures to safeguard amphibians and GCNs, a Biosecurity Risk Assessment and Ecological Compliance Audit.

Clwyd Badger Group

Concerned over impact on Badgers, care should be given when clearing scrub.

Coal Authority

Contents and conclusions of the Mining Investigation Report are broadly sufficient for the purposes of the planning system and meet the requirements of PPW in demonstrating that the application site is, or can be made, safe and stable for proposed development.

No objection to the proposed development subject to the imposition of a condition to secure foundation design of the dwellings either side of the identified shaft.

Clwyd Powys Archaeological Trust

No objection to the proposed development.

4.00 PUBLICITY

4.01 Press Notice, Site, Notice, Neighbour Notification

42 Letters of objection

- Safety issues, in particular concerning public footpath 22
- Ecology
- Loss of hedgerows
- Overdevelopment of Alltami road
- Impact upon local infrastructure
- Overlooking onto existing houses, loss of privacy and overshadowing.
- Developers circumventing affordable housing requirement by stealth (two phased development)
- Concern over loss of footpath

5.00 SITE HISTORY

5.01 051567- Outline- Erection of 5 no. dwellings Refused 9th September 2014

6.00 PLANNING POLICIES

6.01 Flintshire Unitary Development Plan

STR1 - New Development

STR 4 – Housing

STR 8 – Built Environment

STR 10 - Resources

GEN1 - General Requirements for Development

GEN2 - Development Inside Settlement Boundaries

D1 - Design Quality, Location and Layout

D2 - Design

D3 - Landscaping

WB1 - Species Protection

AC13 - Access and Traffic Impact

AC18 - Parking Provision and New Development

HSG3 - Housing on Unallocated Sites within Settlement Boundaries

HSG8 - Density of Development

HSG 9 – Housing Mix and Type

HSG 10 – Affordable Housing within settlement boundaries

SR5 - Outdoor Playing Space and New Residential Development

EWP14 - Derelict and Contaminated Lane

EWP17 - Flood Risk

The proposal is in accordance with the above development plan policies.

Local/Supplementary Planning Guidance Notes

LPGN 2 - Space around dwellings

LPGN 4 - Trees and Development

LPGN 9 - Affordable Housing

LPGN 11 - Parking Standards

LPGN 13 - Open Space Requirements

Planning Policy Wales Edition 9 November 2016

Technical Advice Note 1 : Joint Housing Availability Studies
Technical Advice Note 11: Noise
Technical Advice Note 12 : Design
Technical Advice Note 18 : Transport

7.00 PLANNING APPRAISAL

7.01 Proposal

The application, applied for in full, is for the erection of 14 no. dwellings, and associated works at land adjacent to Withen cottage and Cheshire Lane. The proposal includes;

- 4 No 3 bedroom houses and
- 10 No 4 bedroom houses.

The site is within the settlement boundary of Buckley within the Flintshire Unitary Development Plan

Principle of development

The application site lies within the settlement boundary of Buckley, which is a category A settlement in the Flintshire Unitary Development Plan. Policy HSG3 allows for windfall sites within settlement boundaries. This proposal represents a windfall site and I consider that the principle of this form of development accords with the relevant adopted policies.

Main Issues

The main issues relevant to the determination of this application are considered to be issues of access and the public rights of way, ecology, coal mining legacy and the impact of the proposal on the character and appearance of the area and living conditions of neighbouring occupiers.

Access

The proposed development intends to gain access from an earlier development at Cheshire Lane, extending the road across an existing public footpath. The road within the earlier development is currently not finished to adoptable standard, although this is the intention.

The existing footpath 22 which the access would cross is a route to schools and consideration must be given both to an alternative route for the duration of the construction, of the layout of the crossing point, and the improvement of the footpath, which is currently unlit and poorly surfaced. I consider that conditions can be imposed to achieve all of these aims. Alterations to the kerbs and verge of the existing road will also be required to provide the link. Negotiations have been undertaken between the developer, the Rights of Way and other

Council departments and it is considered that an acceptable temporary alternative can be provided. Details of this shall be approved by way of condition and thereafter implemented prior to the commencement of any work. As part of the scheme it is proposed that footpath 22 will be upgraded. Once the temporary footpath is no longer required the land will be reinstated to its original condition, including the replanting of any hedges affected.

It is therefore considered that the proposed access to the development is acceptable, subject to the imposition of conditions to ensure that the required standard is achieved, this will include the submission and approval of a Construction Management Plan.

Impact upon the character and appearance of the locality

The site lies to the south of Alltami road, with residential areas to the north, east and west and an all-weather football pitch, part of the Elfed High School complex, to the south. The site is currently used as grazing land. Residential properties to the north and west are typically large detached properties set within generous plots. The new development to the east, to which this proposal links, is of a higher density, with a mix of detached and semi-detached two storey dwellings, this site is clearly distinct and delineated from the application site by the existing hedgerows and line of footpath 22.

The proposed dwellings are of a style that is appropriate to the locality. Materials are shown as a mixture of brick and brick and render. This is considered to be suitable in principle and the materials to be used in the external surfaces of the dwellings proposed shall be conditioned to be submitted for approval prior to their use.

The site area is 0.74 Ha and as 14 dwellings are being proposed the density can therefore be calculated as being 17.6 dph. The linear nature of the site at its access point, which excludes some areas from development to allow for an adequate internal road system to serve the development, should be taken into account when considering this proposal. Whilst policy HSG8 would usually seek a density of 30 dwellings per hectare on unallocated sites within Category A settlements the policy also requires development to reflect the characteristics of the site and surrounding area, and to make adequate provision for privacy and space around dwellings. Concerns have been raised regarding impacts of the proposed dwellings on the amenity and privacy of existing neighbouring properties. If the density of the site was increased it is my opinion that the development would not be characteristic of the prevailing density of existing development abutting the site, and there would be concerns over interface distances and adequate amenity provision being inadequate, which would unacceptably harm neighbouring amenity.

I consider that the 14 proposed dwellings represent an acceptable

density in this location, providing ample amenity space and interface distances between the proposed dwellings and the existing neighbouring dwellings, whilst retaining the reasonably open character of the locality.

When taking into account constraints on the site, including the need to protect existing ecological interests and due to the mining legacy on the site, the proposal represents an efficient use of the land which also integrates into the prevailing pattern of development in the immediate locality.

Impact on living conditions of neighbouring occupiers and future occupiers

Supplementary Planning Guidance Note 2: Space Around Dwellings provides guidance to achieving adequate levels of residential amenity and to ensure that no adverse impacts upon existing amenity arise from proposals for new dwellings.

Due to the slightly lower density of development on site, to reflect the character of the surrounding area, the proposed dwellings are able to achieve the minimum standards prescribed by the supplementary guidance. A general amenity space of 80m² is achieved for all proposed dwellings. This exceeds the minimum for 3 bedroom dwellings and higher by 10m². Garden depths, particularly where close to boundaries with existing dwellings adjacent to the site, comply with the prescribed distances within the guidance.

Ecology

The site lies in close proximity to the Deeside and Buckley Newt Sites Special Area of Conservation (SAC) and is directly adjacent to the Buckley Claypits and Commons Site of Special Scientific Interest (SSSI). The SAC supports a nationally important population of great crested newts. It is therefore important that the Local Planning Authority are sure, beyond reasonable scientific doubt, that the proposed development will not adversely affect the integrity of the SAC.

Similarly the SSSI contains a nationally important population of great crested newts and an assemblage of other amphibian species. Various amphibians have been found on land contiguous with the boundary of the application site. It would therefore be necessary to impose a condition requiring the implementation of amphibian mitigation and reasonable avoidance measures to the satisfaction of the Local Planning Authority.

It is considered by the Natural Resources Wales that the site will be

used by the relevant species for foraging, dispersal and or sheltering purposes but that the proposal is not likely to be detrimental to the maintenance of the favourable conservation status of the great crested newt populations provided that suitable conditions are imposed.

Suitable and appropriate mitigation will entail the implementation of Reasonable Avoidance Measures (RAMs) such as the erection of a 1-way amphibian fence, together with the clearance of individual working areas.

It is considered that relevant to the proposal is the biosecurity of the site particularly concerning invasive non-native species (INNS). As such I consider that it would be appropriate to impose a condition requiring the submission and implementation of a Biosecurity Risk Assessment, which will include appropriate measures to control INNS on site as well as measures to prevent INNS being introduced on site for the duration of the construction and implementation of the proposal.

It is also considered, given the ecological sensitivity of the site, that it would be appropriate to impose a condition requiring the submission of an Ecological Compliance Audit, to provide evidence demonstrating that the implementation of the proposal will accord with the provisions of planning and other statutory consents.

Apart from the potential of the site for GCN, there is also some potential for Badgers within the dense scrub and vegetation clearance will therefore need to be undertaken with this in mind as recommended within submitted Ecological report. A Construction method statement is recommended within the Ecological report and should be conditioned.

The mature trees on the site have the potential as bat roosts and the hedgerows and field will provide foraging habitats. The submitted tree report recommends the retention of the majority of trees on site. A condition will be imposed for root protection measures to be agreed and put in place prior to development starting.

Coal mining legacy

The application site falls within the Coal Authority's defined Development High Risk area as there are coal mining features and hazards within the site due to historic mining activity.

A Mining Investigation Report accompanied the application. This report outlines the intrusive site investigation works that have taken place over the site, and concludes that shallow mine workings do not affect the proposed development. Furthermore the report states that the recorded mine entry within the site was fully treated to NCB

specifications in 1975. This mine entry is not to be built upon. This approach follows the general precautionary principle adopted by the Coal Authority.

The Coal Authority are satisfied with the findings of the Mining Investigation Report and that this report meets the requirements of Planning Policy Wales in demonstrating that the application is, or can be made, safe and stable for the proposed development.

I recommend that conditions are imposed regarding foundation design to mitigate against any residual ground movement associated with the treated mine shaft. In principle, however, I consider that it has been demonstrated that the mining legacy of the site causes no significant impediment to the proposed development.

Given the history of historic mining it is also considered appropriate to impose a condition requiring a Phase 1 desk study to be carried out to identify any possible contaminants on the land. If any are subsequently found it would be necessary for further investigation to be carried out and appropriate mitigation implemented. It is considered that this can be controlled by condition.

Public Open Space

The infrastructure and monetary contributions that can be required from a planning application through a S.106 agreement have to be assessed under Regulation 122 of the Community Infrastructure Levy (CIL) Regulations 2010 and Welsh Office Circular 13/97 'Planning Obligations'.

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.

No Public Open Space (POS) provision is provided on site by the development. In accordance with Planning Guidance Note 13- Public Open Space provision, it is considered that the Council should seek commuted sum payment in lieu of on site provision, which would enhance existing POS in the community. Specifically money would be payable for the enhancement of the Skatepark in Buckley. Thresholds from previous contributions have not been exceeded with regard to the Skatepark and it is considered that a fee of £1,100 per dwelling is appropriate.

Education

In terms of a requirement for contributions towards education infrastructure and provisions within the county, I am advised that the application of the above guidance would indicate a need for contributions towards the nearest primary school, Mountain Lane C.P School as this school has a sub 5% surplus capacity. However, the Council has already secured 5 contributions towards the capacity at this school, as set out in the table below.

Planning reference	Site address	Date of Agreement	Amount
047722	Knowle Lane	22/01/2013	£17,500
046545	Hillcrest Drury Lane	01/10/2013	£10,500
047624	Alltami Road	29/10/2013	£21,000
047900	Ewloe Hall Motors	19/03/2013	Outline Application
050804	Brunswick Road	19/07/2013	£24,514

- Accordingly, any further requests towards the same end would not be in compliance with the Community Infrastructure Regulations 2010 and therefore, by virtue of Reg.123, The Local Planning Authority may not make any further requests for S.106 contributions for the same purpose at this school.
- I have not been informed of any projects at the School which it would be reasonable in terms of scale and kind to the development to seek an obligation.
- There is no requirement for a contribution towards secondary school capacity as the nearest secondary school, Elfed School, has 28.1% surplus spaces.

The LPA cannot therefore consider a Section 106 agreement in respect of education capacity at Mountain Lane C.P School.

Having regard to the principles in relation to S.106 Agreements set out within Welsh Office Circular 13/97 'Planning Obligations', that such obligations should only be sought where without the same the Local Planning Authority would not grant planning permission, it falls to be considered whether the proposals ought therefore to be refused in the light of the implications of CIL.

Clearly, in relation to educational contributions towards primary school places at Mountain Lane C.P School, the development proposals bring about an adverse impact which cannot now be mitigated by a further Section 106 contribution. I have therefore considered whether or not, weighing all matters into the balance and exercising my planning judgement, I should recommend that this application should be refused given that there is an adverse impact at Mountain Lane C.P School which cannot be mitigated by way of a Section 106 contribution.

I am mindful that, save the issue in relation to primary education contributions, all other matters are acceptable on the assessment of their planning merits in all other respects. Nonetheless, there is an impact arising from the proposals which cannot be mitigated by a Section 106 obligation and this will adversely impact upon the capacity of Mountain Lane C.P School. The impact therefore needs to be weighed against the matters set out above, and in light of CIL. The proposals, upon the application of the formula within LPG23 indicate that 3 pupils are expected to be generated from the development to attend this school which presently has 406 pupils on the roll. The proposals would therefore increase the pupils on roll to 409. The school has an actual capacity of 409. The school currently has a capacity of only 0.73% and the extra pupils generated by this proposal would result in the school being at maximum capacity. Therefore, in planning policy terms, the proposed development is in conflict with Policy IMP1 of the UDP.

Having considered all the other matters set out in this report, I am of the view that, whilst finely balanced, and when taking into account the lack of housing land supply, the particular impact that would arise as a result of this proposed development is not so great as to warrant refusal of planning permission in this instance.

Other Matters

The site has previously been investigated for archaeology relating to the nearby former Charles Pryce Pottery. The evaluation trenches did not reveal any structures relating to the pottery and it is clear from the archaeological investigations that the pottery buildings did not extend onto the development site.

The site lies completely within Zone A on the Development advice maps accompanying TAN15: Development and Flood Risk. Zone A is considered to represent little or no flood risk. Insufficient detail has been provided regarding the disposal of surface water and I consider that it would be appropriate to impose a condition requiring the submission of a surface water drainage design to be approved prior to the commencement of work and thereafter implemented.

Objections have been received alleging that this site has been developed by stealth in order to avoid making a contribution to the any local affordable housing need. There is no evidence to support the allegation and the application submitted has to be considered on its own merits.

Further objections have been made that community facilities do not exist which can support the development. No evidence has been submitted to support this view and therefore very little may be attributed to it in the overall planning balance.

8.00 CONCLUSION

In conclusion it is my view that the proposal complies with policy. Satisfactory provision can be made for the public footpath for the duration of the construction of the development. Ecological impacts can be mitigated and protected on site. There are no objections from any of the statutory consultees.

Accordingly, I recommend that planning permission be granted subject to the imposition of conditions within paragraph 2.01 of this report, and the completion of a legal agreement.

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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