

FLINTSHIRE COUNTY COUNCIL

REPORT TO: **PLANNING COMMITTEE**

DATE: **9TH JANUARY 2019**

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

SUBJECT: **FULL APPLICATION- ERECTION OF 59 DWELLINGS AND ASSOCIATED WORKS**

APPLICATION NUMBER: **059026**

APPLICANT: **MACBRYDE HOMES**

SITE: **LAND AT ISSA FARM, BRYN Y BAAL CH7 6NL**

APPLICATION VALID DATE: **17TH SEPTEMBER 2018**

LOCAL MEMBERS: **COUNCILLOR M EASTWOOD**

TOWN/COMMUNITY COUNCIL: **ARGOED COMMUNITY COUNCIL**

REASON FOR COMMITTEE: **SCALE OF DEVELOPMENT**

SITE VISIT: **YES**

1.00 SUMMARY

1.01 This is a full application for the erection of 59 dwelling and associated works at Land at Issa Farm, Bryn y Baal.

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

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

- Primary School Contributions- Contribution required would be £171,598 towards improvements to Mynydd Isa Primary School.

- A requirement to notify the Council whether LEAP or play area equipment will be maintained by the Council or a management company and, if it is to be the Council the arrangements for the transfer of the LEAP following its provision and the agreement of a LEAP commuted sum to cover the cost of further maintenance.
- The provision of 18 no. affordable homes to be Shared Equity Housing, namely 70% Open Market Value with the balance of 30% held by the Council, or other such tenure to be agreed with the Local Planning Authority, and to remain so in perpetuity.

Conditions

1. Time commencement 2 years
2. Plans
3. Phasing plan
4. Drainage – foul conditions
5. Surface water drainage regulation system to existing greenfield rates
6. Detailed design of access
7. Provision of parking facilities and retention
8. Front of garages set back by a minimum distance of 5.5m behind back of footway or 4.3m from edge of the carriageway
9. Positive means to prevent surface water run off onto the highway
10. Improvement of bus stop facilities
11. No occupation of properties until bus stop improved
12. Construction Traffic Management Plan
13. Travel Plan and Transport Implementation Strategy
14. Detailed layout, design, means of traffic calming and signing, surface water drainage, street lighting and construction of the internal estate roads
15. Landscaping detailing and implementation
16. Tree protection measures – method statement no- dig construction
17. Hedge removal/scrub clearance outside bird nesting season
18. Materials
19. Removal of permitted development rights – extensions
20. Finished floor levels
21. Land contamination assessment
22. No development shall commence unless and until a scheme has been submitted and approved in writing by the Local Planning Authority for reinforcement works to the Welsh Water/Dwr Cymru Park Issa pumping station have been undertaken which shall include the upgrading of the existing pumps or the installation of new pumps which will enable a pumped discharge rate of up to 6 litres/second. The development shall not be occupied until the scheme has been completed in full in accordance with the approved details.

- 23. The foul connection shall be made at Manhole SJ26641801
- 24. Recommendations as set out within the ecological report
- 25. Details of lighting scheme
- 26. Submission of Biosecurity risk assessment

If the Obligation pursuant to Section 106 of the Town and Country Planning Act 1990 (as outlined above) is not completed within six months of the date of the Committee resolution, the Head of Planning be given delegated authority to REFUSE the application.

3.00 CONSULTATIONS

3.01 Local Member Councillor M Eastwood

No response at time of writing

Argoed Community Council

The Council would like to reiterate the same objections as the last time this planning application was put forward under Bloor Homes. And would request that the application should be put before committee.

Highways Development Control

The proposed layout is similar to that included in planning application 053208 which was granted approval following a Public Inquiry, as such the principle behind development and layout have been agreed.

Housing Strategy Manger

The provision of 30% affordable dwellings is acceptable. A mix of 12no. shared equity and 6no. affordable rent on site across 2 and 3 bed properties should be secured.

Head of Public Protection

Requests contaminated land condition

Capital Projects and Planning Manager

Primary School Pupils

School capacity $513 \times 5\% = 25.65$ (26)

$513 - 26 = 487$ Trigger point for contributions is 487 pupils

(No. of units) 59×0.24 (primary formula multiplier) = 14.16 (14) No. of pupils generated) \times £12,257 per pupil (Building Cost Multiplier)=

£171,598

Actual pupils 514+14 (from the multiplier) =528 is in excess of the trigger of 487 therefore a contribution required would be £171,598

Secondary school pupils

School capacity of 580 x 5%=29 (rounded up or down) 29

Capacity 580-29=551 Trigger point for contributions is 551 pupils
(No. of units 59 x 0.174 (secondary formula multiplier) =10.26 (10 No. of pupils) generated x £18,469 per pupil (Building Cost Multiplier) =£184,690

Actual pupils 532+10=542 does not meet trigger of 551 therefore a contribution requirement would be £0.

Primary- Mynydd Isa CP Primary School- A Section 106 contribution will be required of £171,598.00

Secondary- Argoed High School Secondary- A Section 106 contribution will not be required..

Welsh Water/Dwr Cymru

Foul flows can be accommodated by the mains sewer at Llys Gwynant but only on the basis that funds can be secured for the developer to enable an upgrade at this pumping station.

Welsh Water requests conditions and Notes be added to any permission.

Natural Resources Wales

Require the submission of a bat survey.

Requests a condition requiring the submission of an appropriate Biosecurity Risk Assessment.

Airbus

No aerodrome safeguarding issues

4.00 PUBLICITY

4.01 Press Notice, Site, Notice, Neighbour Notification

3 letters of objection received

- Site was specifically excluded from UDP
- Change in TAN1 regarding weight attached to lack of housing supply. Application should be considered in new policy context.

- Narrowness of road
- Drainage issues
- Electrical supply
- Play Area
- Landscaping adjacent to 8 Llys Gwynant

5.00 SITE HISTORY

- 5.01 53208- Erection of 59 dwellings, open space, access and associated Infrastructure- Refused 20-10-2015
Allowed on Appeal 20-6-2016

6.00 PLANNING POLICIES

- 6.01 Flintshire Unitary Development Plan
 GEN1 - General Requirements for New Development
 GEN2 - Development Inside Settlement Boundaries
 GEN3 - Development Outside Settlement Boundaries
 D1 - Design Quality, Location and Layout
 D2 - Design
 D3 - Landscaping
 TWH1 - Development Affecting Trees and Woodlands
 WB1 - Species Protection
 AC13 - Access and Traffic Impact
 AC18 - Parking Provision and New Development
 HSG4 – New Dwellings Outside Settlement Boundaries
 HSG8 - Density of Development
 HSG9 - Housing Mix and Type
 HSG11 - Affordable Housing Outside Settlement Boundaries
 SR5 - Outdoor Play Space and New Residential Development
 EWP3 - Renewable Energy in New Development
 EWP14 – Derelict and Contaminated Land
 EWP16 – Water Resources
 RE1 - Protection of Agricultural Land
- SPGN1- Space Around Dwellings
 SPGN 9- Affordable Housing
 SPGN 11- Parking Standards
 SPGN 13- Outdoor Playing Space and New Development
 SPGN 23- Developer Contributions to Education
- TAN1: Joint Housing Land Availability Studies
 Welsh Government Circular WGC 016/2014: The Use of Planning Conditions for Development Management

PPW 10th Edition

7.00 PLANNING APPRAISAL

7.01 Proposal

This is a full planning application for 59 dwellings and associated works on land at Issa Farm, Mynydd Isa

Members should note that there is an extant permission for the erection of 59 dwellings including affordable, associated open space, access, drainage and infrastructure on the site which was approved following a Public Inquiry in 2016.

The application site of 3 hectares and is located abutting the settlement boundary of Mynydd Isa, to the north of Bryn Road in an area known as Bryn y Baal. The settlement of Buckley is situated to the east of Bryn- y Baal accessed via Bryn Road. The site is bounded to the north west and east by agricultural land and to the south west and south east by existing residential development. The site is bounded by existing hedgerows with established trees. The topography of the site slopes down from the south to the north of the site. There is a manege located in the south eastern corner of the site and the site is currently used for horse grazing. Current access to the site is via Issa Farm Courtyard.

Principle of development

The site lies outside of, but adjacent to, the settlement boundary of Mynydd Isa, as defined by the Flintshire Unitary Development Plan. Following refusal of the previous proposal, reference 053208, by the Local Planning Authority the appeal was allowed by the Inspector as it was considered that the proposal was in accordance with the principles and objectives of sustainable development. It was considered that the proposal would have a social benefit in providing new housing, particularly affordable housing. The site was considered to have good access to the existing infrastructure in the area whilst not causing harm to the landscape or being of detriment to environmental concerns. As such the proposal was in accordance with the advice contained within TAN1 and PPW and the Inspector allowed the appeal.

The main issues in determining the appeal was the impact of the development on the character of the countryside and lack of 5 year housing land supply.

Planning History

The previous application was refused by Planning Committee on the basis of conflict with UDP Policy GEN 3 and the impact of the development on the countryside setting.

The impact of the development on the character of the countryside

was therefore a main issue in the determination of the appeal alongside meeting the 5 year supply of housing land. These are the primary issues for consideration and are dealt with below.

Impact on character of Countryside setting

This issue was considered in some detail by the Planning Inspector, given the UDP Inspectors comments that the site would poorly relate to the existing pattern of development and was a significant incursion into the rural area.

At the time of the Public Inquiry a Landscape and Visual Impact Assessment was undertaken by the appellant. The conclusion of this document was that proposed development would be less visible or obtrusive than the existing residential development including the apartments at Llys y Craig. The Council employed their own Independent landscape architect to evaluate this document and provide their own view. The view of the independent landscape architect was that subject to mitigation the site could accommodate new development with low landscape and visual impact to the open countryside.

The Inspectors view, which was informed by the views of all parties, was that from all the available public viewpoints the development would be framed by existing residential development, and that, in addition, as the countryside in this area is typified by hedgerows, many including mature trees, the views are filtered and that this would be supplemented by any landscaping scheme. In conclusion, she felt that whilst the proposed development would fundamentally alter the character of the site from greenfield agricultural land to a residential development as a result of its proximity and relationship to existing modern housing; its limited visibility in the area; and its modest extent; she did not feel that it represented a significant extension into the open countryside. As a consequence she concluded that the character of the countryside would not be unacceptably altered.

The layout of the current scheme is fundamentally unaltered from the approved scheme and therefore there is very limited material change to the proposal from the evidence examined by the Inspector. It is therefore considered that the proposal does not harm the character of the countryside and that very little weight should be attached to the impact of the development on the character of the countryside in the overall planning balance.

Provision of 5 year land supply for housing

The Inspector attached considerable weight, as required by TAN 1 at the time, in their determination of the appeal on the provision of land for the supply of housing. The Inspector concluded the proposal for housing in this location formed sustainable development and the

proposal met all other policy tests.

There are two material changes in circumstances which have occurred since the determination of the appeal both of which attract weight as a material planning consideration in the overall planning balance.

Firstly, paragraph 6.2 of TAN 1 has been disapplied. At the time of the determination of the planning application and appeal TAN 1 required “considerable weight” to be given to the lack of housing land supply provided that the proposal was otherwise policy compliant and sustainable. The Appeal Inspector considered the proposal met this test.

The disapplication of paragraph 6.2 since 18th July 2018 has significantly altered this test. A lack of a five year land supply still remains a material planning consideration however the Local Planning Authority now considers what weight should be attached to this matter in the overall planning balance rather than the assumption set out in paragraph 6.2 that considerable weight is always attached to this matter.

The second change in material planning circumstances since the determination of the appeal is the progression of the Local Development Plan process. As part of that process this application site, due to the extant planning permission will be considered as a committed site for housing development. It will therefore form part of the housing balance sheet which sets out the various components in meeting the Plan’s housing requirement through, completions, commitments, strategic sites, allowances for small sites, windfalls and new allocations.

The status of the application site as a housing commitment in the Local Development Plan is significant when the Council is considering what weight should be attached to the lack of housing land as now required by the disapplication of paragraph 6.2. If the site was to be discounted from the Plans housing supply then it would need to be met through other means, possibly by a further allocation.

The Council must consider that the site is in a sustainable location and forms sustainable development. It meets all other Policy requirements and it will, if development be identified as a housing commitment in the Local Development Plan. It is therefore considered that the lack of a 5 year supply of land for housing in regard to this application should attract considerable weight in favour of approving the development in the overall planning balance.

Deliverability and Developer’s Guidance Note

As referred to above the status of the application site has altered as

it will form a housing commitment within the Local Development Plan due to its extant consent. It is considered that the weight of the fall-back position of the extant permission is greater than the weight of the requirements of the Developer's Guidance Note in the overall planning balance. However, it is important to reflect that the Appeal Inspector considered deliverability as part of the appeal and imposed a two year time limit on the decision. This is in accordance with the Developer's Guidance Note. 18 months have elapsed since the appeal was allowed and the site has not yet come forward. The developer has expressed in their planning statement that the previous applicant has not progressed the site as the size of the development no longer accorded with their business model. There is no evidence to counter this statement and there is significant weight to be attached to the fall-back position of the approved scheme. As part of ongoing work on the 2018 Housing Land Monitoring Study, the new developer has been approached to establish the timescale for delivering the site and has advised that the site will be completed by April 2021. Given the relatively modest scale of development and the strong housing market area such a development timescale is realistic. It is therefore concluded that there are no overriding matters of deliverability which would outweigh the sustainable nature of the proposal, the fall-back position of the extant planning application, the contribution of the site to meeting the housing requirement in the Local Development Plan and the continuing lack of a 5 year supply of land for housing.

Affordable Housing

The provision of affordable housing is a material planning consideration which again attracts significant weight in the overall planning balance. The proposal provides 30% affordable housing units across the development, in the form of 18 no. affordable dwellings. The Section 106 agreement will ensure that these units are retained as affordable in their lifetime, and that their specific terms of tenure meet the requirements of the local need.

The Local Housing Market Assessment (LHMA) for Flintshire identifies an annual shortfall of 246 affordable units. The LHMA identifies a need for primarily 1 bed (14%), 2 bed (31.6%), and 3 bed (28.5%), split relatively evenly between Social rented (56.2%) and intermediate (43.8%) tenures.

There is demand for affordable housing in the area of Mold, Mynydd Isa and Bryn y Baal with a minimum of 10 households requiring affordable rented and 24 for shared equity.

There is a high demand for social rented properties in Mold and Mynydd Isa with 80 households registered on the Housing Register

(SARTH) requiring 1, 2 or 3 bedrooms.

Concerns have been raised over the lack of 'pepper-potting' of the units throughout the development. As previously mentioned the proposed layout replicates the approved scheme. The affordable house types are terraced properties and by necessity are located next to each other. They are proposed in two areas of the development and it is considered that these dwellings are acceptably integrated into the development.

It is considered that the proposal meets with the policy requirements to provide affordable housing, which helps to meet the local identified need.

Neighbouring residential living conditions

The proposed layout is largely unchanged from the approved scheme. The main difference in the current proposal and the approved scheme being in the specific house design. The altered house types do not give rise to any particular overlooking issues, and the proposed dwelling locations broadly meet the minimum standards as established in Supplementary Planning Guidance Note 2: Space Around Dwellings.

Adequate private amenity space is provided by the plots with both front and rear garden areas provided to the majority of the dwellings. The terraced properties have their car parking to the front but are provided with generous rear gardens.

The development has existing dwellings on the south and west boundaries of the site. The layout has been designed to orientate new gardens adjacent to existing gardens, to ensure that adequate separation distances exist between the proposal and existing dwellings.

Ecology

An ecological report has been provided which addresses the habitat features and potential protected species issues.

The site is approximately 1km from the Deeside and Buckley Newt Sites SAC and over 500m from the nearest pond. NRW have not raised any issues relating to Great crested newts or the SAC previously.

The application site is horse grazed pasture which is poor semi-improved grassland of limited ecological value with hedgerows and trees on 3 boundaries. The hedges are considered to be species rich and generally unmanaged and wide, although the western boundary

next to residential properties is thinner than elsewhere. The hedges are dominated by hawthorn with holly, blackthorn, hazel and oak trees. The hedgerows also offer foraging for bats and previously (2015 survey rather than this 2018 assessment) mature trees at the southern end of the western boundary were identified as having bat roosting potential. The layout provides for the retention of these trees but may require management for H&S reasons. If this is the case, a more detailed survey of the relevant trees will be required as recommended within the ecological report: *“If any mature trees are subsequently proposed to be remove or de-limbed, then they should first be surveyed from the ground by a suitably experienced ecologist, ideally when they are not in leaf. If this is not possible, the trees may have to be climbed to check for potential roost features”*

It is important to retain hedgerows as dark corridors so any lighting scheme particularly where there are roads adjacent to hedgerows/trees needs to take this into account. A low level lighting scheme is recommended within the ecological report during construction and post development.

The landscape scheme submitted as part of the application appears to be acceptable but needs to take into account how the site will be managed in the future, including how it will be funded. The management of the proposed attenuation pond also needs to be considered as part of this, and it is therefore proposed that a condition is imposed requiring full landscaping details to be provided including details of the future management of the scheme. There is potential for the creation of marshy grassland using an appropriate wildflower mix with native pond vegetation depending on how often it fills with water and this can be considered as part of the landscaping scheme submitted prior to development.

Education

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.

The Capital Projects and Planning manager has calculated the impact of the proposed development upon the local Primary and Secondary Schools. Whilst the capacity threshold has been reached for Mynydd Isa CP Primary School, there is sufficient capacity within the Argoed High School Secondary School. In accordance with Supplementary Planning Guidance Note 23- Developer Contributions to Education contributions will therefore be sought through a Section 106 agreement towards Primary School provision. There have not been five or more obligations for the same provision and therefore the proposal complies with regulation 123(3) No contributions will be sought with regard to the Secondary school.

Access

The proposed layout is similar to that included in planning application 053208 which was granted approval following a public inquiry; as such the principles behind development and layout have been agreed.

Proposed parking provision generally meets or exceeds the recommendations of SPGN11.

Other matters

No response has been received from Leisure services with regard to public open space. On the previous scheme provision of play equipment was provided for within the legal agreement. In accordance with Planning Guidance Note 13- Public Open Space provision.

The original permission allowed for a scheme for a LEAP (Local Equipped Area for Play) the precise details of which to be agreed with the Council during the construction phase of the development and to be provided thereafter. This came from the advice from the Play Unit at the time of the original application. It is considered that the situation remains unaltered from the time that this original advice was received. I consider it reasonable and appropriate to replicate this on the Section 106 agreement to accompany any planning permission.

Concerns have been raised regarding the landscaping along Llys Gwynant. Planning conditions have been imposed to ensure the careful consideration of appropriately landscaping.

Issues have also been raised regarding the supply of electricity. It is unclear what this matter relates to. However, there is no evidence that there are issues with any services and such matters would be controlled outside of the planning process.

8.00 CONCLUSION

I consider the proposal to be acceptable, and in accordance with the principles of sustainable development. Development of this site would assist in the provision of housing commitments within the Local Development Plan. For these reasons I recommend that the proposal be approved in accordance with the conditions listed 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

Contact Officer: James Beattie
Telephone: 01352 703262
Email: james.beattie@flintshire.gov.uk

