

FLINTSHIRE COUNTY COUNCIL

REPORT TO: **PLANNING COMMITTEE**

DATE: **6th MARCH 2019**

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

SUBJECT: **FULL APPLICATION - ERECTION OF 32 NO. DWELLINGS AT LAND AT HAWARDEN ROAD, PENYFFORDD**

APPLICATION NUMBER: **059352**

SITE: **LAND AT HAWARDEN ROAD, PENYFFORDD**

APPLICANT: **MACBRYDE HOMES LIMITED**

APPLICATION VALID DATE: **4TH DECEMBER 2018**

LOCAL MEMBERS: **CLLR DTM WILLIAMS**
CLLR MRS C HINDS

TOWN/COMMUNITY COUNCIL: **PENYFFORDD COMMUNITY COUNCIL**

REASON FOR COMMITTEE: **SCALE OF DEVELOPMENT**

SITE VISIT: **NO**

1.00 SUMMARY

1.01 This is a full application for the erection of 32 no. dwellings at land at Hawarden Road, Penyffordd CH4 0EP

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 £110,814 towards improvements to Castell Alun High 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 10 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 Limit (2 years)
2. Plans
3. Materials
4. Details of Play and open space area
5. Landscaping scheme
6. Landscaping Implementation
7. Detailed scheme to reinforce the public sewerage system
8. Only foul water to be discharged from site
10. Surface Water drainage scheme
11. No surface water/land drainage to be allowed to connect with public sewerage network
12. Accoustic measures in noise assessment to be implemented
13. Tree protection measures
14. Land contamination investigation and remediation
15. Lighting Scheme
16. Siting, Design and Layout of means of access to be agreed
17. Formation and construction of means of access
18. Site access to be kerbed
19. Visibility splay
20. Visibility splay to be made available during site construction phase
21. Parking and tuning facilities to be provided
22. Front of garages shall be set back minimum of 5.5m behind back of footway
23. Detailed layout, design, means of traffic calming and signage, surface water drainage, street lighting and construction of internal estate roads
24. A 1.8m wide footway to be provided on site frontage
25. Positive means to prevent surface water run off onto highway to be provided
26. Construction Traffic Management Plan

3.00 CONSULTATIONS

3.01 Local Member

Councillor DTM Williams

No response at time of writing

Councillor C Hinds
No response at time of writing

Penyffordd Community Council

No response at time of writing

Highways Development Control - The principle of development has been established by earlier consents. No objection to this application. Conditions regarding access, visibility splay, parking and turning and surface water management are required.

Community and Business Protection- I have no objections in principle to this application as long as the noise mitigation scheme is fully implemented as per the noise assessment.

Housing Strategy - The provision meets the policy requirement for 30% provision of affordable housing on site for development.

Ecology- No objection as development to be undertaken in accordance with the Ecology Appraisal Recommendations and the Landscape Plan.

Welsh Water/Dwr Cymru- If planning consent granted then the proposed conditions and advisory notes should be imposed.

Aura leisure- The Council should be seeking payments of £1,100 per dwelling in lieu of on-site provision

Education and Youth-

SCHOOLS AFFECTED: PRIMARY

School: Penyffordd C.P. School

Current NOR (@ September 2016) 253 (excluding Nursery)
Capacity (@ September 2016) 259 (excluding Nursery)
No. Surplus Places: 6
Percentage of Surplus Places: 2.32%

SCHOOLS AFFECTED SECONDARY

School: Castell Alun High School
Current NOR (@ September 2016) is 1354
Capacity (@ September 2016) is 1240
No. Surplus Places is -114
Percentage of Surplus Places is: -9.19%

Primary School Pupils

School capacity $259 \times 5\% = 12.95$ (13)
 $259 - 13 = 246$ Trigger point for contributions is 246 pupils

(No. of units) 32×0.24 (primary formula multiplier) = 7.68 (8 No. of pupils generated) $\times \pounds 12,257$ per pupil (Building Cost multiplier) = $\pounds 98,056$

Actual pupils $253 + 8$ (from the multiplier) = 261 meets trigger

$261 - 246 = 15 \times \pounds 12,257 = \pounds 159,341$ (cannot ask for more contributions that development generates)

Contribution requirement would be $\pounds 98,056$

Secondary School Pupils

School capacity of $1240 \times 5\% = 62$ (rounded up or down) 62
Capacity $1240 - 62 = 1178$ Trigger point for contributions is 1178 pupils.

(No. of Units 32×0.174 (secondary formula multiplier) = 5.56 (6 No. of pupils) generated $6 \times \pounds 18,469$ per pupil (Building Cost multiplier) = $\pounds 110,814$

Actual pupils $1360 + 6 = 1366$ meets trigger of 1178

$1360 - 1178 = 182 \times \pounds 18,469 = \pounds 3,361,358$ (cannot ask for more contributions that development generates)

Contribution requirement would be $\pounds 110,814$

Primary – Penyffordd Primary School

- Although the development would ordinarily generate a contribution, a new school is being constructed with sufficient pupil places therefore it is **not** our intention to seek a Section 106 contribution.

Secondary – Castell Alun High School

- It is our intention to seek a Section 106 contribution.
- Contribution will be spent on remodelling of specialist areas.

Clwyd Powys Archaeological Trust- No archaeological implications for the proposed development

Coal Authority- It will be necessary to include The Coal Authority's Standing Advice within the Decision Notice

Natural Resources Wales- No objection

Airbus- No objection

4.00 PUBLICITY

4.01 Press Notice, Site, Notice, Neighbour Notification

1 Letters of objection received

- Impact upon residential amenity
- Impact upon character and appearance of the area
- Impact upon highways safety
- Impact upon community facilities
- National and Local Planning Policy

5.00 SITE HISTORY

5.01 056694- Erection of 32. Dwellings. Refused 14.09.17 Appeal Allowed 14.02.18

6.00 PLANNING POLICIES

6.01 Flintshire Unitary Development Plan
STR1 - New Development
STR4 - Housing
STR8 - Built Environment
STR10 - Resources
GEN1 - General Requirements for New Development
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
HSG10 - Affordable Housing within 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

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
SPG 23 - Developer Contributions to Education
National Planning Policy
Planning Policy Wales Edition 10 December 2018
Technical Advice Note 1 : Joint Housing Availability Studies
Technical Advice Note 11: Noise
Technical Advice Note 12 : Design

7.00 PLANNING APPRAISAL

7.01 Introduction

This is a full application for the erection of 32 No. dwellings, creation of a new vehicular access and associated infrastructure on land at Hawarden Road, Penyffordd.

7.02 The Site & Surroundings

The site comprises some 1.30ha of land outside the settlement of Penyffordd. The site is currently a single field, lastly in use for the purpose of grazing. The land falls from its high point in the north west towards the south and is typical of the surrounding landform.

The site is bounded by a combination of post and wire fences with mature and well established hedgerows on all sides. The A550 lies beyond the western boundary, with Hawarden Road abutting to the north and east. These boundaries, in addition to the hedgerow, have a small bund associated with them. The southern boundary is hedgerow interspersed with mature trees, with a further small field parcel beyond.

7.03 The Proposed Development

Planning permission was granted, on appeal, on the 14th February 2018 for the erection of 32 no. dwellings, the creation of a new point of vehicular access from the site onto Hawarden Road and the creation of footpath and cycle links from the site. The proposals included the provision of some 0.16 hectares of Public Open Space.

The site was granted planning permission before the base date of the April 2018 Housing Land Monitoring Study and therefore features as part of the housing land supply for the Local Development Plan in the form of a planning commitment. The plans housing requirements will be met through supply comprising completions, commitments,

allowances for small sites and windfalls and strategic and local allocations. If the site were to be removed from the supply in the form of a commitment, then it would have to be replaced elsewhere, most likely through a further new housing allocation.

The current proposal differs from the extant permission in the houstypes proposed and with minor amendments to the layout and highways arrangement, as the proposal is now being put forward by a different developer. The development proposes 32 no. dwellings, including 10 no. affordable dwellings and is in principle the same development as that previously approved. The developers have carried out the requisite public consultation and have engaged with the local members and town council to discuss the scheme prior to its submission.

7.04 **The Main Issues**

Members should be aware that this site is subject to an extant permission for a development of a form and scale consistent with the current proposal. I consider that because of this the main issues of principle have already been accepted on this site, for the reasons discussed in the decision of the Planning Inspector. I will briefly discuss these in the report below.

I consider the main issues for consideration in the determination of this application to be the principle of this proposal when taking into account the extant permission and the impact of the revised layout and design of houses on the character and appearance of the area.

7.05 **Planning History**

The decision to refuse planning permission 056994 was made by Members at the Planning and Development Control Committee held on 6th September 2017.

The reasons for refusal were:

1. *The site lies outside the UDP settlement boundary and granting permission would be contrary to policies STR1, GEN3, HSG4, and HSG5 of the Adopted Flintshire Unitary Development Plan.*
2. *Permission would result in the loss of grade 3a agricultural land contrary to policies GEN1 (k) and RE1 of the Adopted Flintshire Unitary Development Plan.*
3. *It was considered that the proposal represented significant harm, undermining local and national policies designed to*

safeguard open countryside and communities with rural aspects. As such the proposals would be contrary to Policies GEN3 and L1.

4. The Committee report acknowledged (in 7.41) the impact of this proposal on the approach to the settlement. As such the proposals would be contrary to Policies GEN1 and L1 of the Adopted Flintshire Unitary Development Plan.

5. Policies referenced in the UDP were considered consistent with Planning Policy Wales and that accordingly it was considered that this proposal would erode the rural character and appearance of the site and the locality with the resulting harm to the character and appearance of this part of the settlement. As such the proposals would be contrary to Policies GEN1 and L1 of the Adopted Flintshire Unitary Development Plan.

Following an appeal by the applicants a Public Inquiry was convened which sat over 2 days on 16th & 17th January 2018.

The Inspector noted the basis for the refusal of the application by the Local planning Authority. He also noted matters referenced by interested parties and concluded that the main issues for consideration in this case were:

1. What impact there would be upon character and appearance of the area;
2. What impacts there would be upon social cohesion;
3. What need and benefits there was for housing, taking account of the lack of a 5 year housing land supply; and
4. Whether the proposal amounted to sustainable development.

The appeal was allowed, and planning permission was granted for the erection of 32No. dwellings, including new vehicular access, public open space, car parking and landscaping.

7.06 **Character and appearance**

The Inspector noted the wording of policies within the Flintshire Unitary Development Plan aimed at protecting areas of open countryside from non-essential and unjustified development. He noted that none of the exceptions identified within policies STR1, GEN3 and HSG4 applied in this case. He noted however that the weight to be attributed to the policies, in the light of the Council's position in respect of the lack of a 5year supply of land for housing, was reduced and therefore it was the effect of the proposals upon the site and its surroundings that needed to be considered.

The Inspector considered the views expressed by residents in terms of the buffering effect of the site between existing built form and the A550 bypass. He weighed this against the categorisation of the site in LANDMAP terms and the findings of the Landscape and Visual Impact Assessment produced by the appellant, together with his own assessment of the site in visual terms.

The Inspector concluded the proposals would result in little harm to the landscape of the character and appearance of the area and whilst the proposals were nonetheless in contravention of the identified policies, he concluded there would be little harm to the aims of those policies.

Similarly to the development considered by the Inspector the housetypes proposed in this application are a mix of semi-detached and, predominantly, detached, dwellings. These dwellings have facing brickwork and roof tiles and are considered to be appropriate for the location. They do not represent a departure from the approved housetypes in terms of style and material.

The proposal does not increase or decrease the numbers of dwellings and overall the proposed density is acceptable. Similarly to the previous approval in terms of space around dwellings, interface distances between proposed and existing dwellings and proposed garden spaces are acceptable.

The impact of the current proposal, despite the altered design of the proposed dwellings, is no different to that of the extant permission. When appraising the impact of the application on the character and appearance of the locality I reach the same conclusions as the Inspector on the previous scheme.

7.07 Social Cohesion

At the Public Inquiry representatives of local residents argued that the proposed development would be detrimental to social and community cohesion on account of the rapid growth of the village as a result of the amount of housing development in the village over the past few years, considerably more than recommended and allowed for in the adopted Unitary Development Plan. They were also concerned about the large number of recent planning applications for even more housing developments and submitted that such rapid expansion is damaging social and community cohesion, as evidenced by increased antisocial behaviour and reduced participation in community activities.

These genuine concerns were cited by the Council as one of the reasons for refusal of a much larger housing development proposal

elsewhere in the settlement. The Inspector considered that the proposal on the appeal site is much smaller and would have negligible effect on such cohesion on its own. However, the cumulative effects of several developments over a short period of time have the potential to affect community cohesion.

The Inspectors conclusion on the current issue is that the cumulative effect of the appeal proposal, taken together with other development carried out or granted planning permission in recent years, would be harmful to social and community cohesion. In conclusion, however, this issue was considered to be substantially outweighed by the need for and the benefits of the development.

7.08 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 has been a material change in circumstances which has 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 Council must consider that the site is in a sustainable location and forms sustainable development. It meets all other Policy requirements and it is already 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 and it’s commitment in the Local Development Plan in regard to this application should attract considerable weight in favour of approving the development in the overall planning balance.

7.09 **Sustainability**

The Inspector noted that, in the absence of a 5 year housing land supply, the appeal fell to be determined in the context of the provision in favour of sustainable development. He concluded that the facilities and services within Penyffordd were such that it can be considered a sustainable settlement suitable for accommodating a significant amount of development. He noted that interested parties concerns in respect of community infrastructure and traffic were not supported by the responses of the Council in respect of these matters. The Inspector had already concluded that landscape and visual impact was very limited. He noted that there would be a loss of a limited area Best and Most Versatile Agricultural Land (BMV). However, he noted the potential of the site to fulfil its potential as BMV was limited by size and location within an isolated field. Accordingly he attributed very little weight to this issue.

The Inspector concluded that the proposal resulted in much needed housing in a sustainable location upon a sustainable site.

7.10 **Highways**

It has been noted by the Head of Assets and Transportation that the principle of the development has been established by previous consents and they raise no objection to the proposal.

The current proposal broadly follows the arrangement and layouts approved in the previous consent. It is noted that where minor alterations to the approved scheme have been proposed these are considered to be an improvement to the approved details.

A number of conditions are proposed to ensure that the highway layout is acceptable and in accordance with the policies of Flintshire County Council Streetscene.

7.11 **Planning Obligations**

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.

7.12

Education

The Capital Projects and Planning manager has calculated the impact of the proposed development upon the local Primary and Secondary Schools. The capacity of Penyffordd primary school is 259, excluding the Nursery, with 6 surplus places, the capacity of Castell Alun High School is already exceeded. 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).

Following the calculations it was concluded that both primary and secondary schools would hit the triggers and therefore the development would generate a contribution for both schools. With regard to the primary school, however, a new school is to be constructed to replace the existing Primary school. As such no contributions are to be sought.

As the trigger for the Secondary school has been exceeded contributions will be sought through a Section 106 agreement. This contribution has been calculated on the number of pupils that the development generates. The authority has previously secured 5 contributions towards this school.

I am advised that since the advent of the provisions of the CIL Regulations, The Director of Lifelong Learning has identified separate projects in respect of educational needs at Castell Alun High School which are distinct and separate to the project to which the previous obligations relate. I am advised that the sum sought will be used as a contribution towards a project to remodel specialist teaching areas at the school.

I am satisfied, on the application of the tests set out in S.122 of the CIL Regulations and as detailed above, that such contributions would satisfy these requirements. I am also satisfied that the sum sought in relation to Castell Alun High School is for a specific identified project and as such, would not be caught by the S.123 prohibition with the CIL Regulations.

7.13 **POS**

The extant permission identified an area on the site to be set aside for public open space to be used for leisure and recreation uses. A condition was imposed that required further details regarding the

landscaping of this area, boundary fencing, play and ancillary equipment was to be submitted for approval. The Section 106 agreement required a LEAP commuted sum to be provided to cover the cost of the maintenance of the equipment, and an agreement regarding the future management of the open space.

The grass in this area is to be a hard wearing grass mix. I propose that the further details regarding the specific equipment to be provided is conditioned with the management of the area to be secured through the legal agreement, as per the extant situation. I consider that with the imposition of these measures the proposal accords with the relevant policies regarding the provision of public open space.

7.14 **Affordable housing**

The proposal provides that of the 32 no. dwellings proposed there is 10 no. affordable dwellings. The mix will be 6 no. 3 bed and 4 no. 2 bed dwellings. The applicant has proposed that all 10 would be of a shared equity or such tenure as agreed with the Council. In terms of Evidence of need, the Local Housing Market Assessment (LHMA) for Flintshire identifies an annual shortfall of 246 affordable units. The LHMA overall 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.

The demand on the affordable housing register for shared equity and affordable rented properties in Penyffordd is:

	2 bed	3 bed
Shared equity	3	6
Affordable Rent	2	3

The Housing strategy officer supports a tenure mix of 6 no. shared equity, made up of 2 no. 2-bed and 4 no. 3-bed dwellings, and 4 no. affordable rent, made up of 2 no. of both the 2-bed and 3-bed dwellings.

I consider that the provision put forward within the proposal meets the 30% policy requirement in accordance with Policy HSG10 of the Flintshire Unitary Development Plan and represents an acceptable level of affordable housing provision that meets the demonstrable need in the local area and is an asset to the local community.

7.15 **Other Matters**

The Hepworth Acoustic noise assessment undertaken in August 2018 outlines noise mitigation measures to be undertaken to the development to protect future residents from adverse levels of noise. The report recommends achieving this by constructing acoustic barriers of various heights and also installing acoustic glazing of various thicknesses for the various properties. Public protection have no objections in principle to the proposal as long as the identified noise mitigation scheme is fully implemented. A condition to this effect is included within the proposed schedule of conditions in paragraph 2.01.

A hydraulic modelling assessment has previously been submitted on the site which identified that detriment to the local sewer network would be caused as a result of the new development discharging to the local sewers. A number of options for sewer network reinforcement have been provided to Welsh Water, the implementation of which would enable the development to connect into the public sewer network without causing detriment to the local community or environment. As a result it is considered that subject to conditions and advisory notes suggested by Welsh Water being imposed then the development is acceptable.

7.16 **Conclusion**

I consider the proposal to be acceptable, and in accordance with the principles of sustainable development. I do not consider that there has been a material change in the planning situation since the Inspectors decision. 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.

8.00 CONCLUSION

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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