

**FLINTSHIRE COUNTY COUNCIL**

**REPORT TO:** **PLANNING COMMITTEE**

**DATE:** **26<sup>TH</sup> JUNE 2019**

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

**SUBJECT:** **FULL APPLICATION – ERECTION OF TWO DWELLINGS AND DETACHED GARAGE AT LAND OFF ALLTAMI ROAD, BUCKLEY.**

**APPLICATION NUMBER:** **058818**

**APPLICANT:** **MR. BINGHAM**

**SITE:** **LAND OFF ALLTAMI ROAD, BUCKLEY**

**APPLICATION VALID DATE:** **7<sup>TH</sup> AUGUST 2018**

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

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

**REASON FOR COMMITTEE:** **MEMBER REQUEST**

**SITE VISIT:** **YES**

**1.00 SUMMARY**

- 1.01 This application is for the erection of two, two storey detached dwellings on a small field situated in between The Orchard and Ash Cottage on the Northern side of Alltami Road, Buckley.
- 1.02 The main issues to be considered are the principle of the development in planning policy terms, the living conditions of the existing and proposed occupiers, the effects upon the character and appearance of the area, the highway and wildlife implications.
- 1.03 It is considered that whilst the proposals would constitute tandem development in principle, they would not have a significant detrimental impact on the living conditions of the existing or proposed

occupiers, the character and appearance of the area, highway safety or wildlife.

- 1.04 Therefore the recommendation is to grant planning permission subject to conditions and a Section 106 Obligation/Unilateral Undertaking to those listed below.

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

- 2.01 That conditional planning be granted to the applicant entering into a Section 106 Obligation/Unilateral Undertaking to secure the following:-

Payment of £1,100 per dwelling in lieu of on-site POS. The payment would be used to enhance toddlers play provision at Ewloe Heath Play Area.

Payment of £1,750 per dwelling for GCN terrestrial and aquatic habitat enhancements to benefit the Deeside and Buckley Newt Sites SAC.

If the Obligation/Unilateral Undertaking (as outlined above) is not completed within 6 months of the date of the Committee resolution, the Chief Officer (Planning, Environment & Economy) be given delegated authority to **REFUSE** the application.

The proposal is recommended for approval subject to the following conditions:-

**Conditions**

1. Time limit on commencement.
2. In accord with approved details.
3. Samples of all external materials to be submitted and approved in writing prior to commencement.
4. Landscaping scheme to be further submitted and approved.
5. Implementation of landscaping scheme.
6. Access to have a visibility splay of 2.4 m x 43 m in both directions and which no significant obstruction to visibility.
7. Positive means to prevent the run off of surface water from any part of the site onto the highway shall be provided in perpetuity.
8. No surface water and/or land drainage shall be allowed to connect directly or indirectly with the public sewerage network.
9. Submission and implementation of amphibian mitigation and avoidance measures to the satisfaction of the Local Planning Authority.
10. Archaeological watching brief conducted in accordance within an approved written scheme of investigation.

11. Disposal of foul water for Plot 2 to go to existing public sewer.
12. Boundary treatments of proposed dwellings to be further submitted and approved.

### **3.00 CONSULTATIONS**

#### 3.01 Local Member

Councillor Mrs C.A. Ellis

Requests both Committee determination and a site visit due to overlooking and highway visibility.

Buckley Town Council

No observations.

Highways Development Control

The access does satisfy the requirements in terms of ensuring vehicles entering and leaving the adopted highway without causing undue interference with the free flow of traffic along it. Therefore, recommends any permission includes the suggested conditions of the required visibility splays and positive means to prevent the run-off of surface water being provided.

Community and Business Protection

No adverse comments to make regarding this proposal.

Aura

In accordance with LPGN No. 13 POS provision, the Council should be seeking an off-site contribution of £1,100.00 per dwelling, in lieu of on-site POS.

The payment would be used to enhance toddlers play provision at Ewloe Heath Play Area. Working with planning policy considered previous pooled contributions and confirm that the pooled contributions thresholds have not been exceeded with regards to Ewloe Health play area.

Welsh Water/Dwr Cymru

It minded to grant planning consent, advise that the suggested condition and notes are included with the consent to ensure no detriment to existing residents or the environment and to Dwr Cymru Welsh Water's assets. The suggested condition being that no surface water/or land drainage to be allowed into the combined sewer.

Natural Resources Wales

Recommends that permission should only be granted, if the scheme can meet the requirements of a Habitat Regulation Assessment (HRA) and a condition requiring the submission and implementation of amphibian mitigation and avoidance measures be placed upon any planning permission granted.

#### Clwyd-Powys Archaeological Trust

Records indicate that the southern of the two proposed houses is located on the site of the remains of a 18<sup>th</sup> – 19<sup>th</sup> cottage. Site is now likely to be represented by earthworks only and is not visible due to dense tree cover. CPAT have no detailed record of this building which is likely to be at least 120 years old. Due to tree cover, impossible to investigate this site. Therefore require an appropriate level of archaeological monitoring as a condition of consent during the initial ground preparation and foundation cutting works to identify and record any features of the cottage buildings that may be revealed.

#### Airbus

No aerodrome safeguarding objection to the proposal based on the information given.

#### SP Energy Networks

No response received to date.

#### Wales & West Utilities

Have plant and apparatus within the vicinity of the site and the developer be advised of this.

### **4.00 PUBLICITY**

#### 4.01 Neighbour Notification

Two letters of objection received. The grounds of objection being:-

- Infringement of part of Plot 2 onto the neighbouring property.
- Loss of part of the hedgerow and trees upon the boundary.

### **5.00 SITE HISTORY**

5.01 No previous applications have been submitted on the site.

### **6.00 PLANNING POLICIES**

#### 6.01 Flintshire Unitary Development Plan

STR1 – New Development.

STR4 – Housing.

STR7 – Natural Environment.

GEN1 – General Requirements for Development.

GEN2 – Development Inside Settlement Boundaries.

D1 – Design Quality, Location & Layout.

D2 – Design.

D3 – Landscaping.

TWH2 – Protection of Hedgerows.

HE7 – Others Sites of Lesser Archaeological Significance.

WB1 – Species Protection.  
WB2 – Sites of International Importance.  
WB3 – Statutory Sites of National Importance.  
AC13 – Access & Traffic Impact.  
HSG3 – Housing on Unallocated Sites within Settlement Boundaries.  
SR5 – Outdoor Playing Space & New Residential Development.  
EWP12 – Pollution.  
EWP13 – Nuisance.

SPGN No. 2 – Space Around Dwellings.  
SPGN No. 3 – Landscaping.  
SPGN No. 8 – Nature Conservation & Development.  
SPGN No. 11 – Parking Standards.  
LPGN No. 13 – Open Space Requirements.

#### National

Planning Policy Wales Edition 10 December 2018.  
Technical Advice Note (TAN) 1: Joint Housing Land Availability Studies (2015).  
Technical Advice Note 5, Nature Conservation & Planning (2009).  
Technical Advice Note (TAN) 12: Design (2016).  
Technical Advice Note (TAN) 18: Transport (2007).  
Technical Advice Note (TAN) 24: The Historic Environment (2017).

## **7.00 PLANNING APPRAISAL**

### 7.01 Site Description & Proposals

The site comprises of a long narrow rectangular field amounting to approximately 1,306 m<sup>2</sup>. It is situated in between the existing properties of The Orchard, Ash Cottage and Maycroft on its western and eastern sides respectively, on the northern side of Alltami Road, Buckley and within a tight grouping of a mix of single and two storey dwellings.

7.02 The proposals involve the erection of two detached, two storey, four bedroomed houses with a detached single storey double garage for Plot 2. The dwellings will measure approximately 11 m x 10 m x 7 m (height to ridge) and constructed with facing brick and rendered walls with tiled roofs. The existing access to the field will be altered to accommodate the proposed developments.

### 7.03 Main Issues

The main issues to be considered within the determination of this application are the principle of the development in planning policy terms, the effects upon the living conditions of the both the existing and proposed occupiers, the effects upon the appearance and character of the area, highway safety, the wildlife implications and the community infrastructure/Section 106 contributions.

7.04 Principle of Development

The site is located within the settlement boundary of Buckley, with the town being classed as a Category A settlement as defined by the adopted Flintshire Unitary Development Plan. Policy HSG3 applies in this case.

7.05 This policy allows the residential development proposed, provided it does not constitute tandem development. This being defined as consisting of one house immediately behind the other, considered unsatisfactory because of difficulties of access to the house at the back and the disturbance and lack of privacy suffered by the house at the front.

7.06 Whilst the proposals may constitute tandem development in principle, they are considered acceptable as their arrangement does not give rise to a significant adverse impact on the living conditions of either further or existing for either future or existing occupiers, for the reasons detailed in paragraph 7.08 below.

7.07 This is a similar situation to the site at Talossamme which is at agenda item 6.4. This was considered also as tandem development but was subsequently granted on appeal under 045547, as it was considered there was sufficient interface distance between the properties and vehicular movements which did not have a significant adverse impact upon the living conditions of either the existing or proposed occupiers of the dwelling.

7.08 Living Conditions

The proposals involve the erection of two, two storey detached dwellings set behind one another which share the same driveway adjacent to the existing and proposed occupiers of The Orchard and Plot 1 respectively. Therefore, the proposals could be classed as being tandem or backland development.

7.09 However, both proposed dwellings meet the separation distances between one another and provide the required amount of private amenity space within the SPGN No. 2 – Space Around Dwellings. The separation distance between the rear of Plot 1 and the front of Plot 2 being 22m with the required minimum distance being 22m.

7.10 In addition, Plot 1, that will share the driveway with Plot 2, will have no windows to habitable rooms upon this side elevation and the rear amenity area will be protected by close boarded fencing. Also along this side boundary with the existing occupier is a close boarded wooden fence and thick hedgerow. The Orchard also has no windows upon this side elevation.

7.11 Given the above it is considered that the proposals would not have a significant detrimental impact upon the living conditions of the proposed occupiers of the dwellings, not lead to excessive

disturbance upon the existing occupiers of The Orchard and therefore would not constitute as being tandem or backland development.

- 7.12 The site is surrounded on three sides by other residential properties (one and two storeys).
- 7.13 Proposed Plot 1, which fronts the road and is situated in between the existing bungalows of The Orchard and Ash Cottage, broadly meets the separation distances, side to side and front to side respectively. These being side to side with The Orchard being 15 m (minimum standard within the SPGN being 12m), and side to front with Ash Cottage being 12.3m (minimum 12m).
- 7.14 Proposed Plot 2, which is to the rear of the site, backs onto the bungalow of Holly Cottage, sides onto the two storey dwelling of Maycroft and fronts onto the bungalow of The Orchard. The separation distances being approximately 19m, 16m and 25m respectively (minimum standards being 22m, 12m and 22m). Whilst the full minimum standard is not being met from the back of the proposed dwelling to the existing dwelling of Holly Cottage, given the proposed and existing heights of the dwellings together with their positions (at right angles) to each other, it is considered the proposal will not have a significant detrimental impact upon the living conditions upon this proposed dwelling as it is considered it will not give rise to direct overlooking or the scale of the dwelling proposed would be overbearing.
- 7.15 Appearance & Character  
Both dwellings will be of two storey in a contemporary design and constructed within a mix of facing brick and rendered walls with tiled roofs. They are to be situated amongst an existing grouping of other dwellings upon this northern side of Alltami Road, which are a mix of types, styles and materials used in their construction. The neighbouring close provides for similar arrangement of dwellings behind one another.
- 7.16 Given the above it is considered that the proposals will not have a significant detrimental impact upon the character and appearance of the area.
- 7.17 Highway Implications  
The proposals involve alterations to the existing agricultural access, the provision of three car parking spaces per dwelling and manoeuvring space within the site.
- 7.18 Amended plans have been received which show that the access it satisfies the requirements of the Head of Highways Development Control in terms of the adequate provision of car parking and manoeuvrability within the site and ensuring vehicles may enter and

leave the adopted highway without causing undue interference with the free flow of traffic along it.

7.19 Given the above, it is considered that the proposals will not have a significant detrimental impact upon highway safety.

7.20 Wildlife Implications

The site is located within 150 m of the Buckley and Deeside Special Area of Conservation, 300 m of Great Crested Newt ponds and opposite an area of the Buckley Commons and Claypits SSSI designated for the mosaic of arid, neutral and marshy grassland, wet heath and scrub on common land as well as amphibian populations.

7.21 The terrestrial habitat to be lost for the housing development is grassland with hedgerows which provides potential terrestrial habitat and wildlife corridors/local dispersal route for Great Crested Newts.

7.22 There will be no direct impact on the SAC or the SSSI but there is potential for impacts on the Great Crested Newt population through the loss of terrestrial habitat and indirect effects due to the potential increase in recreational pressures within the SAC, especially when considered in conjunction with other developments (in combination effects).

7.23 As Great Crested Newts are a feature of the SAC, it is important to ensure that there are no long term effects on the population through agreed avoidance and mitigation measures.

7.24 European Protected Species (EPS) and their breeding sites and resting places are protected under Regulation 41 of the Conservation of Habitats & Species Regulations 2010 (As Amended) and under Article 12 of the EC Directive 92/43/EEC in the United Kingdom. Plans or projects that could affect EPS must satisfy the appropriate Article 16 derogation and two mandatory tests. Disturbance to an EPS whilst occupying a place of shelter and/or obstruction of access to a place of shelter are also prohibited under the Wildlife & Countryside Act 1981 (as amended by the Countryside & Rights of Way Act 2000).

7.25 The submitted ecological assessment advises that work on site will be undertaken using Reasonable Avoidance Measures. A Mitigation Licence will be required from NRW prior to works commencing. Regulation 9(1) and 9(5) of the Conservation of Habitats & Species Regulations 2010 (As Amended) requires public bodies in exercise of their functions (to ensure compliance with and to have regard to the provisions of the 1992 'Habitats Directive' (92/43/EEC)). Consequently the local planning authority decision making must be taken in accordance with the compliance

of the Habitats Directive. The local authority must be satisfied that a proposal satisfies the appropriate Article 16 derogation and two mandatory tests as part of the planning decision process. The need to consider this derogation is specifically identified in TAN5.

- 7.26 In consideration of “public need”, it is considered that the proposals seek to establish the use of the site for the purposes of residential development. The site lies within the identified settlement boundary of Buckley within the Adopted Flintshire Unitary Development Plan. Both national and local planning policies seek to direct the majority of new development of this form to within settlement boundaries.
- 7.27 Similarly, in consideration of “satisfactory alternatives”, the application site comprises an area of land which is not allocated for residential development but is located within the settlement boundary for Buckley as defined by the Adopted Flintshire Unitary Development Plan.
- 7.28 With regard to the test relating to the favourable conservation status of the GCN population, NRW advise that the proposals will not be detrimental to this species, provided that any planning permission granted is subject to a condition requiring the submission and implementation of agreed mitigation and avoidance measures.
- 7.29 In considering the proposed mitigation measures, scheme of reasonable avoidance measures and by a combination of conditions and a legal agreement securing a financial contribution for GCN terrestrial and aquatic habitat enhancements to benefit the Deeside and Newts SAC, NRW and the Local Planning Authority are satisfied that there will be no adverse effects upon the GCN population. It is considered that these proposals will ensure that the favourable conservation status of the species providing the habitat is secured and protected.
- 7.30 Section 106 Contributions & CIL Compliance  
The infrastructure and monetary contributions that can be required from proposals have to be assessed under the 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.

- 7.31 An off-site commuted sum of £1,100 per dwelling in lieu of on-site provision to enhance toddlers play provision at Ewloe Heath Play Area is required. This is in accordance with Local Planning Guidance Note 13: Open Space Requirements which requires off-site open space contributions where on site provision is not possible. There have not been 5 contributions towards this project to date.
- 7.32 A payment of £1,750 per dwelling for Great Crested Newt terrestrial and aquatic habitat enhancements to benefit the Deeside & Buckley Newt Site SAC is required.
- 7.33 It is considered that the contributions required meet the Regulations 122 tests.
- 7.34 Other Matters  
Concerns have been raised regarding infringement of part of Plot 2 onto the neighbouring property and loss of the hedgerow and trees upon the boundary with Ash Cottage.
- 7.35 The plans indicate that Plot 2 will be built entirely on the application site and the only part of the hedgerow to be lost will be to improve highway visibility and is minimal.

## **8.00 CONCLUSION**

- 8.01 It is considered that whilst in principle the proposals would constitute tandem development they will not have a significant detrimental impact upon the amenities of the existing and proposed occupiers of the dwellings, highway safety, wildlife or the character or appearance of the area.
- 8.02 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.
- 8.03 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.
- 8.04 The Council has had due regard to its public sector equality duty under the Equality Act 2010.
- 8.05 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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