

**FLINTSHIRE COUNTY COUNCIL**

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

**DATE:** **4th SEPTEMBER 2019**

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

**SUBJECT:** **APPEAL BY QUATREFOIL HOMES LTD AGAINST THE DECISION OF FLINTSHIRE COUNTY COUNCIL TO REFUSE PLANNING PERMISSION FOR THE ERECTION OF 14 NO. DWELLINGS AND ASSOCIATED WORKS AT WITHEN COTTAGE & CHESHIRE LANE, ALLTAMI – ALLOWED.**

**1.00 APPLICATION NUMBER**

1.01 058229

**2.00 SITE**

2.01 Withen Cottage & Cheshire Lane,  
Alltami Road,  
Buckley.

**3.00 APPLICATION VALID DATE**

3.01 16<sup>th</sup> March 2018

**4.00 PURPOSE OF REPORT**

4.01 To inform members of the outcome of an appeal against the decision of the Local Planning Authority to refuse planning permission for the Erection of 14 no dwellings and associated works at Withen Cottage and Cheshire Lane, Alltami Road, Buckley . The Inspector was Mr. A L McCooley BA MSc MRTPI and the appeal was considered by written representations.  
The appeal was Allowed.

**5.00 REPORT**

5.01 A full planning application, reference 058229, for the erection of 14 dwellings was refused at the Planning Committee of the 7<sup>th</sup> November 2018 for the following reason:

1. The proposed development is unacceptable as the proposed access would introduce vehicular crossing and manoeuvring across the Public Footpath 22 which is a recognised Safe Route to School. It is not considered that the traffic calming proposed could overcome the concern for the safety of pedestrians using Public Footpath 22. The proposal is therefore in conflict with Policies, AC2, AC13 (a) and AC14 of the Flintshire Unitary Development Plan.

An appeal against the decision was subsequently lodged on the 29<sup>th</sup> March 2019 under the written representations procedure.

The Inspector considered the main issue to be the impact of the proposal on highway safety and on the users of a public right of way

The Inspector noted that the Council's Highway and public rights of way officers had no objection to the proposed development; subject to the submission of details of the crossing itself. The PROW Officer was content with the proposed temporary diversion route for FP 22. There will also be a benefit in that the proposal includes proper surfacing and lighting of the footpath from its junction with Alltami Road to the school pitch. Planning committee members visited the site prior to refusing planning permission. The concerns raised by the Council were that the proposed access road in crossing FP 22 would adversely affect the users of the footpath. Members were concerned about the volume of traffic crossing FP22, which is a safe route to school, and claimed that the consequent danger could not be mitigated. The Inspector considered that the proposal is for a modest number of dwellings and traffic volumes would be low. The potential for pedestrian and vehicle conflict would also be low even at the peak hour, given the traffic figures in the appellant's evidence. The Inspector considered that a properly designed scheme such as those shown in the appellant's submitted options would provide a safe crossing of FP 22. These matters are to be secured by conditions.

Members were also concerned about the effect of the proposed crossing on the use of a private drive nearby. The swept path analysis demonstrates that it would be possible to enter and exit the nearby driveway safely. It is common for vehicles to have to reverse onto estate roads with traffic calming features. The highways officers did not raise any safety issues in this regard. Contrary to the concerns raised, there is no convincing evidence of any effect on highway safety or the safe use of FP22 as a result of these manoeuvres. There was no convincing evidence of how the proposed crossing could affect the privacy of existing dwellings. It is considered that there would be little effect on privacy because there would be few pedestrians waiting to use the crossing given the predicted traffic flows.

The layout and design of the proposed development was considered to be acceptable. The Inspector considered the Council's report on the effect on living conditions and agreed that there would be no significant adverse effects subject to a condition restricting the formation of windows in the elevation of a proposed dwelling close to the boundary with an existing property.

The Council, in its Appeal submission, referred to rigorous checks of the proposed highway layout and of the existing highway layout at Holmleigh Close by the highway authority. The Council after completing these checks was satisfied with the proposal and the use of Holmleigh Close to access the site. The Local Planning Authority confirm that it is of an appropriate standard to accommodate the proposal and is intended to be adopted. The claim that the proposed access would encroach on third party land was investigated and found not to be the case. The Inspector noted that this is a private matter in any event. Any future use of Holmleigh Close by school traffic would be a matter for the Council. There is no evidence that this would be a particular problem.

There is a history of mining in the area and the appellant's mining report recommended conditions requiring details of foundations of proposed dwellings that would be sited close to a treated mine shaft. The possibility of contamination associated with mining means that conditions requiring investigation and remediation (as necessary) should be attached. The report records a low risk, and this influences the choice of conditions to be used. NRW and the Council highlight potential issues with surface water drainage on the site and the consequent need for the approval of drainage details. Whilst the new mandatory requirement for sustainable drainage does not apply to this proposal, the relevant guidance states that it would be advantageous for both developers and the Council (as a SuDS Approval Body) to consider voluntary agreements in all cases. As there is no statutory approval process for this development then a condition needs to be attached requiring the approval of drainage details.

The Inspector was satisfied that local residents have had an opportunity to submit representations on the appeal and had also taken account of the representations made at the application stage. Objections raised issues regarding archaeology, flooding, affordable housing, education and other services in the area, as well as the loss of the site to housing. The Inspector considered the relevant sections of the Committee report and agreed that there was no convincing evidence to justify the refusal of planning permission on the basis of any of those matters.

Costs were awarded against the Local Planning Authority and a settlement of £4,500 to cover the appellant's costs has now been reached.

## **6.00 CONCLUSION**

- 6.01 The evidence in this case led the Inspector to conclude that the proposed crossing of FP22 can be achieved in a safe manner. The proposal would not cause harm to users of the footpath, including school children, or users of the existing and proposed highways. The proposal would therefore comply Policies AC2, AC13 (a) and AC14 of the UDP. I note that the Council's professional highways officers concluded that there was no highway safety reason to refuse planning permission based on the evidence. The Inspector considered the other matters raised and conclude that they do not represent sufficient reason to reuse planning permission and can be addressed by suitable conditions in some cases. The proposed development would comply with the UDP. Having considered all the matters raised including the content of the Committee reports, the Inspector conclude that the appeal should be allowed.

### **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