

**FLINTSHIRE COUNTY COUNCIL**

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

**DATE:** **5<sup>th</sup> AUGUST 2020**

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

**SUBJECT:** **SECTION 73 APPLICATION- APPLICATION FOR VARIATION OF CONDITION NO. 2 FOLLOWING GRANT OF PLANNING PERMISSION APP/A6835/17/317469 TO ALLOW CHANGES TO SITE LAYOUT**

**APPLICATION NUMBER:** **060247**

**APPLICANT:** **REDROW HOMES NORTH WEST**

**SITE:** **LAND AT CHESTER ROAD PENYMYNYDD**

**APPLICATION VALID DATE:** **24<sup>TH</sup> JULY 2019**

**LOCAL MEMBERS:** **COUNCILLOR C HINDS**  
**COUNCILLOR D M WILLIAMS**

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

**REASON FOR COMMITTEE:** **MEMBER REQUEST – UNRESOLVED CONCERNS REGARDING FLOODING**

**SITE VISIT:** **NO**

**1.00 SUMMARY**

1.01 This is an application for the variation of condition no. 2 following the grant of planning permission APP/A6835/17/317469 to allow changes to the approved site layout, and the inclusion of a pumping station on site, at land at Chester Road, Penymynydd.

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

2.01 Subject to an updated Section 106 Agreement covering the following:

1. Affordable housing- Shared Equity
2. Affordable Housing- Gifted Units
3. Education Contributions
4. Ecology Contributions
5. Highways Contributions
6. Off Site Affordable Housing
7. Greenspaces

The Legal Agreement is to cover the same details as that previously submitted and agreed under planning reference 055590, updated to reflect the new approved details.

Conditions

1. Time Limit
2. Approved Plans
3. Landscape Implementation
4. Removal of Stile

All other conditions imposed by planning permission 055590 have previously been discharged under planning reference 058867.

### **3.00 CONSULTATIONS**

3.01 Local Member

Councillor C Hinds

Requests committee determination – unresolved concerns regarding flooding

Councillor D M Williams

Requests committee determination –

- \* Application description does not include pumping station
- \* Noise pollution from pumping station
- \* The impact of connecting into already overflowing sewers in the village
- \* The request to install drainage systems of this nature is resulting in an increase in site levels that are encroaching on existing neighbours creating the potential for statutory distances between dwellings not being satisfied which is unacceptable for neighbouring residents.
- \* I also have serious concerns about the fact that provision has been made for this scheme with the removal of hedges, and foundations are already in that appear to be taking it for granted that the application will be approved. I therefore request enforcement to be applied until all drainage matters are resolved.

Penyffordd Community Council- No response received at time of writing

#### **4.00 PUBLICITY**

##### **4.01 Site Notice**

No responses received

#### **5.00 SITE HISTORY**

5.01 **060263**- Application for approval of details reserved by condition no. 16 attached to planning permission ref: 055590- Discharged 30<sup>th</sup> August 2019

**059599** – Application for the display of 1 no. V –stack sign, 8 no.leader boards and 6 no.flags –Granted 15<sup>th</sup> April 2019.

**058867** – Application for approval of details reserved by condition no's 3, 4 ,5,7,8,9,10,11,12,13,14,17,18,19,21,22 and 24 attached to planning permission ref 055590 – Approved 2<sup>nd</sup> August 2019.

**058759** – Application for variation of a condition following grant of planning permission 055590 – Granted 22<sup>nd</sup> February 2019.

**058553** – Display of V stack sign – Granted 9<sup>th</sup> August 2018.

**055590** – Erection of 186 Dwellings and ancillary development – Refused 19<sup>th</sup> April 2017 – Allowed on appeal 25<sup>th</sup> April 2018.

#### **6.00 PLANNING POLICIES**

##### **6.01 Flintshire Unitary Development Plan**

STR1 – New Development.

STR2 – Transport & Communications.

STR4 – Housing.

STR7 – Natural Environment.

STR11 – Sport, Leisure & Recreation.

GEN1 – General Requirements for Development.

GEN3 – Development in the Open Countryside.

GEN5 – Environmental Assessment.

D1 – Design Quality, Location & Layout.

D2 – Design.

D3 – Landscaping.

D4 – Outdoor Lighting.

TWH1 – Development Affecting Trees & Woodlands.  
TWH2 – Protection of Hedgerows.  
L1 – Landscape Character.  
WB1 – Species Protection.  
AC2 – Pedestrian Provision & Basic Rights of Way.  
AC13 – Access & Traffic Impact.  
HSG4 – New Dwellings Outside Settlement Boundaries.  
HSG8 – Density of Development.  
HSG9 – Housing Mix & Type.  
SR5 – Outdoor Playing Space<sup>4</sup> & New Residential Development.  
EWP12 – Pollution.  
EWP13 – Nuisance.  
EWP16 – Water Resources.  
EWP17 – Flood Risk.  
IMP1 – Planning Conditions & Planning Obligations.  
Local Supplementary Planning Guidance Notes  
Local Planning Guidance Note 2 – Space Around Dwellings.  
Local Planning Guidance Note 3 – Landscaping.  
Local Planning Guidance Note 4 – Trees & Development.  
Local Planning Guidance Note 8 – Nature Conservation & Development.  
Local Planning Guidance Note 9 – Affordable Housing.  
Local Planning Guidance Note 10 – New Housing in the Open Countryside.  
Local Planning Guidance Note 11 – Parking Standards.  
Local Planning Guidance Note 13 – Open Space Requirements.  
Local Planning Guidance Note 22 – Planning Obligations.  
Adopted Supplementary Guidance – Developer Contributions to Education.  
Developer Guidance Note – Speculative Housing Development Proposals.  
National Planning Policy  
Planning Policy Wales (10<sup>th</sup> Edition – December 2018).  
Technical Advice Note (TAN) 1: Joint Housing Land Availability Studies (2015).  
Technical Advice Note (TAN) 2: Planning & Affordable Housing (2006).  
Technical Advice Note (TAN) 5: Nature Conservation & Planning (2006).  
Technical Advice Note (TAN) 12: Design (2014)  
Technical Advice Note 16: Sport, Recreation & Open Space (2009).  
Technical Advice Note (TAN) 18: Transport (2007).

## **7.00 PLANNING APPRAISAL**

### **7.01 Proposal**

- 7.02 Planning permission was granted on appeal on the 25<sup>th</sup> May 2018 for the erection of 186 dwellings and ancillary development at Chester Road, Penyffordd.
- 7.03 The current submission is for the variation of condition no. 2 of the approval, with various minor amendments throughout the site, including the re-planning of certain plots within the site and the substitutions of various house types, as well as the introduction of a pumping station to the site. These amendments reflect changes to the scheme which have come about through the development process and due to negotiations with Welsh Water since the original approval, and are required to ensure that the planning approval reflects the as built and agreed position.
- 7.04 All pre-commencement conditions attached to the original permission have been discharged.
- 7.05 It should be noted that this proposal has a narrow focus on the matters to be amended only and does not give an opportunity to revisit issues previously agreed by the Planning Inspector. The principle of development has already been accepted.

7.06 **Proposal amendments to permission**

Development is underway on site. Where areas have been re-planned this has arisen due to site constraints over TPOs and ongoing issues with foul water drainage issues which has necessitated on site changes.

- 7.07 The changes proposed by this amendment are as follows:
- Plots 7-10, 32-33 and 43-44 have been amended in order to avoid interaction with an existing hedge on the south eastern boundary of the site. Whilst the general form of these plots is as per the approved details, the distance to the site boundary from the dwellings has been increased.
  - Plots 45-48 and 99-105 has been substituted for an alternative, but already approved, affordable units. Plots 99-101 have also been moved slightly further away from the site boundary to gain a greater clearance from the existing trees/hedgerow.
  - Plots 132-133 have been substituted for a semi detached unit which further allows for plot 135 to move slightly, away from the root protection area of a TPO
  - Plots 151-167 has been replanned as a result of TPOs and failed negotiations regarding foul water treatment. The new arrangement allows all TPOs to remain, and allows for a potential pumping station, which may be required as part of the ongoing drainage negotiations.

7.08 Other aspects of the approved development are unchanged, particularly:

- Areas of Public Open Space on site
- Access into the development from Chester Road
- Public footpath route through site
- Root protection areas have been protected and the changes allow for all trees to remain (other than those affected and with removal accepted by the approval)
- No approved distances between proposed and existing dwellings are reduced.
- Plot floor levels are unchanged by this amendment. The proposed levels have previously been approved and the relevant condition discharged. The built site levels have been checked by Planning Enforcement officers and they are consistent with the approved details.

7.09 **Amendment to house types**

The new house types proposed are acceptable as they are replacements of one house type with ones already approved for use within the development. As such they have already been considered appropriate for use in this location.

7.10 As proposed interface distances between dwellings are not being reduced from the previously approved position, then I do not consider that the re-planning represents any material change in living conditions for existing or future residents.

7.11 **Pumping station**

The principle of the use of a pumping station on the site was already agreed in principle in the original decision (055590) by the Inspector who imposed a condition which was supportive of the use of a pumping station if necessary. The location of the pumping station has already been approved under planning reference 060263 in relation to the discharge of condition no. 16 of planning permission 55590. This condition relates to the site drainage and an approach has been agreed with Welsh Water of the implementation of one of two strategies one of which required a pumping station.

7.12 The case officer for 060263 noted that:

*“The proposed pumping station is located in close proximity to existing and proposed dwellings. However, given the type of equipment that is to be used and that it is to be located underground, it is considered that there will be no significant detrimental impact upon the living conditions of the existing and*

*proposed occupiers of the dwellings from excessive noise disturbance.”*

7.13 The pumping station is required as part of the agreed drainage solution for the site. This is a significant issue which is fundamental to the development of the site and was considered by the Planning Inspector at the Public Inquiry. As you can see from the officer comments on the conditions discharge application, the installation of this facility is not considered to give rise to any excessive impact upon neighbouring living conditions and the location is already approved..

7.14 The Local Member has raised a point about the adequacy of the local drainage system as a reason for referring this matter to Planning Committee. These fundamental issues were raised and considered by the Planning Inspector at the Public Inquiry, and consent was given. The pumping station is to be installed specifically to address these concerns, and with the agreement of Welsh Water, the statutory drainage body. It would not be appropriate to revisit this matter of principle in considering the current section 73 application.

7.15 **Other amendments**

The other amendments are minor and all required for acceptable reasons linked to the building out of the site and in the interests of protecting natural assets, which are considered to be important features that strengthen the character of the site.

7.16 The Local Member has raised issues regarding the loss of hedgerows and the change in levels across the site. This application has been made in conjunction with a conditions discharge application, which has been approved under planning reference 058867, and which considered the details as amended. As such these issues have already been considered and give tacit approval .

7.17 **Section 106 Agreement**

The planning permission was subject to a legal agreement covering the following:

1. Affordable housing- Shared Equity
2. Affordable Housing- Gifted Units
3. Education Contributions
4. Ecology Contributions
5. Highways Contributions
6. Off Site Affordable Housing
7. Greenspaces

7.18 As an application under s.73 gives rise to a new permission, it is therefore necessary to enter a supplemental s.106 agreement that ties the existing agreement to the proposed permission. This

agreement will be on the terms already accepted and which formed the basis for the previously signed agreement.

## **8.00 CONCLUSION**

Having considered the proposed amendments in light of the appeal decision and approved details. I consider the amended layout to be acceptable. The amendments do not affect the impact of the development or any other factor already considered acceptable by the Planning Inspector, and indeed would actually help to protect the amenity of existing dwellings that neighbour the site and as such the amended layout can be considered to be an improvement to the approved scheme. I do not consider that there are any valid planning grounds to refuse this application, and I recommend accordingly.

### **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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