

FLINTSHIRE COUNTY COUNCIL

REPORT TO: **PLANNING COMMITTEE**

DATE: **3RD APRIL 2019**

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

SUBJECT: **FULL APPLICATION – ERECTION OF A DETACHED DWELLING AND GARAGE (RETROSPECTIVE) AT THE SPINNEY, HUXLEYS LANE, HOPE.**

APPLICATION NUMBER: **059428**

SITE: **THE SPINNEY
HUXLEYS LANE
HOPE**

APPLICATION VALID DATE: **29 JANUARY 2019**

LOCAL MEMBERS: **COUNCILLOR MRS. G HEALEY**

TOWN/COMMUNITY COUNCIL: **HOPE COMMUNITY COUNCIL**

REASON FOR COMMITTEE: **LOCAL MEMBER REQUEST DUE TO CONCERNS ABOUT CHARACTER, APPEARANCE AND LIVING CONDITIONS**

SITE VISIT: **YES**

1.00 SUMMARY

- 1.01 This is a full retrospective planning application for the erection of a dwelling and garage on land adjacent to The Spinney, Huxley's Lane, Hope. This application is seeking consent for alterations to the design and appearance of the new dwelling.
- 1.02 Members will recall that the principle of a dwelling on the site has been established by virtue of planning permissions previously granted upon this site. (See Paragraph 5.01) This application essentially seeks retrospective consent for an amended window pattern and the introduction of accommodation within the roof space of the dwelling itself.

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

2.01 That conditional planning permission be granted subject to the following:

Conditions:

1. In accordance with approved plans.
2. Within 3 months of the date of permission, and prior to occupation, details of obscure glazing & non opening to be submitted, agreed and installed to specified windows.

3.00 CONSULTATIONS

3.01 Local Member:

Requested this application to be determined by committee. Considers this a retrospective application for a development that is in breach of the planning permission given.

Hope Community Council:

No response received at time of writing this report.

Highways DC:

Confirms that there is no objection to the proposal and does not wish to make a recommendation on highway grounds. In addition requests the attachment of supplementary notes as part of any planning consent which may be granted.

Public Rights of Way:

Public Footpath 61 abuts the site but is unaffected by the development. The path must be protected and free from interference from the construction.

Clwyd-Powys Archaeological Trust

Confirms that the retrospective development has been built on land to the west of an unscheduled section of Wat's Dyke. The Sub-surface remains of the dyke have not been impacted by the development as they lie immediately to the east in the adjacent plot under the lane.

CADW:

Raises no objections to the impact of the proposed development on the scheduled monuments listed in our assessment of the application.

4.00 PUBLICITY

4.01 Neighbour Notification

3 letters of objection have been received upon the following grounds;

- Whilst the principle of a two storey dwelling has been considered acceptable, current proposals is a three storey dwelling;
- The proposal appears over dominant in relation to existing premises upon of The Beeches;
- The proposal is not reflective of the character of the area; and
- The proposal affords overlooking opportunities which would result in harm to residential amenity of existing adjacent residents.

5.00 SITE HISTORY

5.01 **053479** - Outline application for the erection of a dwelling. Approved 21.05.2015

056859 – Erection of a detached dwelling and garage. Approved 06.10.2017

057792 - Erection of detached dwelling and garage, revised house type. Approved 01.03.2018

6.00 PLANNING POLICIES

6.01 Flintshire Unitary Development Plan

STR1 - New Development

STR4 - Housing

STR10 - Resources

GEN1 - General Requirements for New Development

GEN2 – Development Inside Settlement Boundaries

D1 - Design Quality, Location and Layout

D2 - Design

D3 - Landscaping

AC2 – Pedestrian Provision and Public Rights of Way

AC13 - Access and Traffic Impact

AC18 - Parking Provision and New Development

HSG3 – Housing on Unallocated Sites Within Settlement Boundaries

HSG13 – Annexe Accommodation

Supplementary Planning Guidance Notes

LPGN 2 – Space Around Dwellings

Planning Policy Wales Edition 10

7.00 PLANNING APPRAISAL

7.01 Introduction

This is a full retrospective planning application for the erection of a detached dwelling and detached garage on land adjacent to The Spinney, Huxley's Lane, Hope. The development has been

completed but is not in accordance with the plans previously approved under reference 057792. This issue was raised via the Council's Planning Enforcement Service and following investigation, this retrospective application is submitted seeking to regularise this position.

7.02 Site Description

The application site is located off Huxley's Lane off Hawarden Road, Hope. The application site was part of the garden of the Spinney, which is a bungalow located to the north of the application site. To the west of the site are the dwellings upon the road known as 'The Beeches', which are two storey detached dwellings. To the south of the site is a two storey dwelling known as The Woodlands. To the east of the application site is a single storey cottage Bryn Tudor.

7.03 The dwelling to which is application relates is already constructed and occupies a position abutting the northern and westerly boundaries of the site.

7.04 Proposed Development

As mentioned above, the application is retrospective and relates to a dwelling and garage erected upon the site. The dwelling is 2 storey in appearance and scale but provides for accommodation over 2 floors and within the roof space. The proposals also provide for ancillary space above the detached garage.

7.05 Principle of Development

The application site is within the settlement boundary of Hope, Caergwrle, Cefn-y-Bedd and Abermorddu which is a Category B settlement in the adopted Unitary Development Plan. Planning permission was granted in October 2017 and revised house type was approved in March 2018 therefore the principle of development at the site has been accepted.

7.06 The Main Issues

It is considered that the main issues for discussions in this application are:

- The impact of the amended proposal upon the character and appearance of the surrounding area; and
- The impact of the proposal upon the living conditions of the occupiers of existing adjacent dwellings.

7.07 Impact on the character of the area

Concerns have been raised in response to consultation in relation to the impact of the dwelling upon the character and appearance of the area. It is outlined elsewhere in this report, planning permission has been granted previously for the erection of a detached 2 storey dwelling upon this site. It should be noted that the previous approval

provided for a dwelling of some 131m² in area, which measured 8m to the ridgeline of the roof and a roof depth of some 3.3m.

- 7.08 The dwelling as constructed, occupies the same position within the site and in relation to surrounding properties as that which was previously approved. The floor area of this dwelling is exactly the same as the previously approval and there is no variation to the footprint of the same. The dwelling which has been built is 8.2m to the ridgeline, which represents an increase in height above that previously approved of 0.2m. However, the roof depth remains some 3.3m.
- 7.09 Accordingly, whilst there is a difference between that approved and that constructed, the issue to consider is the extent to which this 0.2m increase in height represents a form of development which adversely affects the character of the surrounding area. The surrounding area comprises a mix and variety of sizes and appearance in terms of built form, with no one design being prevalent. As such, the area cannot be defined as having a particular design of dwelling or definite character in terms of appearance.
- 7.10 The dwelling to which this application relates is of the same footprint and floor area, and located in the same position within the plot as that scheme previously considered acceptable. Whilst the ridgeline is marginally higher than that approved, in terms of the overall external appearance, scale and massing of the building as constructed versus that previously approved, the difference and consequent impact is not materially different.
- 7.11 Consequently it is not considered that this proposal, if allowed, would result in a form of development which would result in overdevelopment in relation to the character of the site and surroundings area. The proposal is therefore not consider harmful to the character and appearance of the area and is compliant with FUDP policies.
- 7.12 Impact upon Living Conditions of Neighbouring Occupiers
Concerns have been raised in relation to the introduction of windows within the gables of the dwelling which in turn have facilitated the provision of further accommodation within the roof space. The introduction of these windows has allowed for the creation of a games room space with storage and ancillary utility/W/C facilities. It has been drawn to my attention that marketing details indicate this space to provide further bedroom accommodation/games room. This space is accessed via a stairway integral to the dwelling from the first floor.
- 7.13 It is clear that the insertion of the windows in the gable has to some extent facilitated the creation of additional accommodation. However, it should be noted that the insertion of additional windows within upper floors of dwellings amounts to permitted development, subject to

compliance with a number of conditions. This permitted right provides that if any element of an upper-floor window located in a wall, roof slope or other element of a side elevation of the dwellinghouse would, if projected downwards in a vertical line to ground level, be within 10.5 metres of any boundary of the curtilage of the dwellinghouse opposite the relevant wall or roof slope, then the window must be, in this case:

- (i) obscure-glazed;
- (ii) non-opening; and
- (iii) permanently maintained in compliance with the above

7.14 The condition subject to which this right is conferred requires that obscure glazing be to be a minimum of level 3 and stipulates that obscure glazing does not include one-way glass.

7.15 In assessing the impacts of the insertion of the accommodation within the roof as, were it not for the marginal increase in ridge height, and subject to the above condition, this element of the proposals would not have required planning permission.

7.16 It is recognised the concerns raised in respect of perceptions that a greater degree of overlooking is facilitated, with consequent impacts upon the living conditions of neighbouring occupiers. However, it is considered that the application of a condition requiring these windows to be obscure glazed to a minimum level of 3, non-opening and retained as such in perpetuity addresses these concerns and is consistent with national guidance in respect of such situations which would otherwise represent permitted development.

7.17 Concerns have been raised that this additional space maybe occupied entirely independently of the remainder of the dwelling. As It has been detailed previously, the accommodation can only be accessed via the main dwelling. Accordingly, the accommodation would represent annexe or ancillary accommodation to the main dwelling. Members are reminded that Policy HSG13 of the Flintshire UDP provides support for such proposals.

7.18 I turn to consider the relationship between the proposal and the neighbouring dwellings in turn;

- 7.19
- The new dwelling and 'The Spinney'.

The Spinney is a detached bungalow. The dwelling, as constructed, has a window arrangement different to that previously approved. The proposed changes to the window positions are such that the number of windows in the rear elevation of the dwelling which faces the Spinney is increased. At ground floor level, the approved situation of a door with side window, three pane window to the kitchen and French double doors is amended to provide for a doorway with no side window; and 3No. window openings. At first floor, a small secondary

window to Bedroom 3 is introduced. Within the roof, 4No. rooflights are proposed.

7.20 The separation distance between the Spinney and the proposed dwelling is 22 metres. I note that the introduction of windows to habitable rooms at first floor level (bedroom) and within the roofspace may give rise to an increased risk of overlooking. However, I am satisfied that, with regard to the bedroom window at first floor level, the imposition of a condition which requires this window to obscure glazed and non-opening will address this issue. I have had regard to the roof lights within the roof space and whilst the guideline separation of 22m, as set out within LPGN 2 is achieved, I consider it appropriate to also require these windows to be obscure glazed and non-opening to ensure that the potential for adverse overlooking is addressed.

7.21 • The new dwelling and 'Woodlands':

The principle elevation of the new dwelling faces south towards the flank elevation of the 2 storey dwelling, 'Woodlands'. The windows within this flank wall do not serve habitable rooms. The window changes in this elevation are such that the central portion of this elevation is a full height glazed space. However, this does not serve a habitable room and the distance between the elevation and 'Woodlands' remains at 19m, As there is no direct overlooking between habitable windows, the proposal is in accordance with LPGN2 - Space around dwellings.

7.22 • The new dwelling and dwellings on 'The Beeches'.

Dwellings upon this road are 2 storey in height. The new dwelling has French doors serving the kitchen dining room which have been relocated to the side elevation facing 'The Beeches'. A small secondary window to the lounge has also been inserted. Additional bedroom and storage room windows have been inserted at first floor level and a single three pane window inserted within the gable to serve the roof accommodation. The previously approved scheme provided for a window to an en-suite at first floor level in this elevation. These amendments result in the introduction of 6No. windows to habitable rooms.

7.23 However, it must be noted that the side elevation to the new dwelling is located such that overlooks the public spaces of the properties on 'The Beeches', namely the open front garden areas and the road itself. The dwellings upon 'The Beeches' which abut the site are No's 28 and 30. No. 30 is located in a set-back position relative to the side elevation such that there is no direct overlooking between the properties. The separation distance between the nearest points of each dwelling is 19.5m. No.28 The Beeches has a blank wall and is also set further back from the proposed dwelling. The separation

distances between the dwelling to which this application relates and No. 28 is 11.5m where the LPGN would look for 12m. As N0.28 The Beeches presents a blank gable to the windows in the new dwelling there is no significant overlooking created from the new dwelling.

7.24 The guidance of 12m is also to ensure there is sufficient outlook for the occupiers of the new dwelling. It is considered that the shortfall of 0.5m would not unreasonably harm the living conditions of the proposed occupiers of the new dwelling. Concerns in relation to the windows within the roof space have been considered at paragraph 7.16. Therefore it is considered that the relationship between the new dwelling and the properties on The Beeches is acceptable.

- The new dwelling and 'Bryn Tudor'

7.25 Bryn Tudor is a single storey cottage. The side of the approved dwelling facing Bryn Tudor provided for a window at ground floor serving a study and first floor window to an en-suite. The proposals seek approval for amendments which introduce a set of French doors to a sitting room and a small window to the utility at Ground floor level; a further bedroom window at first floor level; and 2no. single pane windows to the W/C Utility space within the roof accommodation

7.26 At ground and first floor levels, overlooking is prevented by the detached garage located between the side elevation and Bryn Tudor which obscures the outlook from the new dwelling. The separation distance amounts to some 19m the LPGN guidance looks to secure 22m however it is considered that the difference in levels between the sites and the physical separation created by the garage ensures there is no harmful overlooking creating from the new dwelling. Concerns in relation to the windows within the roof space have been considered at paragraph 7.16.

Consequently although the arrangement of windows has changed and further windows have been added the distances between the windows in the new dwellings and the windows in the surrounding dwellings accord with our LPGN. It is therefore not considered that this proposal, if allowed, would result in a form of development which would have a significant adverse impact on the living conditions of existing adjacent occupiers.

8.00 CONCLUSION

8.01 The principle of a dwelling on the site has been established via previous grants of planning permission. Whilst this application is retrospective, I consider that measures can be put in place via appropriately worded conditions which address any concerns in respect of harm to amenity or living conditions. There is no discernible harm occasioned to the character or appearance of the area and therefore I conclude that conditional planning permission should be granted in this case.

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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