

FLINTSHIRE COUNTY COUNCIL

REPORT TO: **PLANNING COMMITTEE**

DATE: **13th DECEMBER 2023**

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

SUBJECT: **RESERVED MATTERS APPLICATION FOLLOWING OUTLINE APPROVAL 060076 (CONDITIONS 2, 7, & 9) AT LAND SOUTH OF RHOS ROAD, PENYFFORDD, CH4 0JR**

APPLICATION NUMBER: **RES/000628/23**

APPLICANT: **RICHARD HEATON**

SITE: **LAND SOUTH OF RHOS ROAD, PENYFFORDD, CH4 0JR**

APPLICATION VALID DATE: **6TH JULY 2023**

LOCAL MEMBERS: **COUNCILLOR A IBBOTSON**
COUNCILLOR R WAKELAM

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

REASON FOR COMMITTEE: **MEMBER REQUEST**

SITE VISIT: **YES**

1.00 SUMMARY

1.01 This is a Reserved Matters application following outline approval 060076, as well as submissions covering conditions 2,7 and 9 of the outline permission, for over-55s Retirement housing at land south of Rhos Road, Penyffordd,

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

2.01 Conditions

1. The development shall be carried out in accordance with the following approved plans and documents:
 - Application form

- Drawing No: 7000_1713_OFP-LMA-XX-XX-DR-A-7000-P01 - Location Plan and Site Plan as Existing
 - Drawing No: 7001_1713_OFP-LMA-XX-XX-DR-A-7001-P03 - Site Plan as Proposed
 - Drawing No: 7002_1713_OFP-LMA-XX-XX-DR-A-7002-P03 - External Works and Landscaping Plan as Proposed
 - Drawing No: 7100_1713_OFP-LMA-XX-XX-DR-A-7100-P01 - Block A - GA Proposed Plans, Elevations and 3D Views
 - Drawing No: 7101_1713_OFP-LMA-XX-XX-DR-A-7101-P01 - Block B - GA Proposed Plans, Elevations and 3D Views
 - Drawing No: 7102_1713_OFP-LMA-XX-XX-DR-A-7102-P01 - Block C - GA Proposed Plans, Elevations and 3D Views
 - Drawing No: 7103_1713_OFP-LMA-XX-XX-DR-A-7103-P01 - Block D - GA Proposed Plans, Elevations and 3D Views
 - Drawing No: 7104_1713_OFP-LMA-XX-XX-DR-A-7104-P02 - Block E - GA Proposed Plans, Elevations and 3D Views
 - Drawing No: 7105_1713_OFP-LMA-XX-XX-DR-A-7105-P02 - Block F - GA Proposed Plans, Elevations and 3D Views
 - Drawing No: 7106_1713_OFP-LMA-XX-XX-DR-A-7106-P01 - Block G - GA Proposed Plans, Elevations and 3D Views
 - Drawing No: 7107_1713_OFP-LMA-XX-XX-DR-A-7107-P01 - Community Hub - GA Proposed Plans, Elevations and 3D Views
 - Drawing No: 2020.023.LP.01 Rev C - Planting Proposals, The Oaks, Penyffordd
 - Habitat Regulations Assessment Report RML 20230702
 - Arboricultural Method Statement including Tree Survey, Tree Retention and Removal Plan together with Tree Protection Plan [Tree Solutions]
 - Construction Method Statement April 2021 Rev0
2. No development shall take place until full details of the existing ground levels and proposed finished floor levels of the buildings hereby approved and ground levels have been submitted to the Local Planning Authority for written approval. The development shall thereafter be carried out in accordance with the approved details
 3. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings

or the substantial completion of the development, whichever is the sooner and any trees or plants which, within a period of 5 years of the time of planting die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species unless the local planning authority gives written consent to any variation.

4. Prior to the commencement of development a scheme for biodiversity enhancement of the site shall be submitted for approval, and thereafter shall be implemented in accordance with the approved details
5. No development shall take place until samples of the materials to be used in the construction of the external surfaces of the buildings hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

3.00 CONSULTATIONS

3.01 **Cllr R Wakelam (Local Member)** - No response at time of writing

Cllr A Ibbotson (Local Member) Requests that the application be referred to Planning Committee, on account of the following factors:

- The layout and appearance of the site (condition 2) will, on account of the scale of the development, have a lasting and significant impact on the character of the local area;
- The location of the site outside the adopted LDP settlement boundary means that the layout and appearance (condition 2) of this site also defines the layout and appearance of the approach to the settlement, and
- The layout of the site (condition 2) has been an issue of some controversy owing to the impact of previous proposals on neighbouring properties, which led to the rejection of a previous application for discharge of conditions.

It is the Councillors view that the cumulative impact of these factors creates a clear public interest in ensuring democratic accountability for local residents, through elected representatives on the planning committee, for whatever decision is made. .

Penyfford Community Council – Objects on the following grounds:

- the layout and scale of the development
- The location outside of the adopted LDP settlement boundary
- Impact upon neighbouring dwelling

Public Rights of Way- Public Footpath 10 abuts the site but appears unaffected by the development. The path must be protected and free from interference from the construction

Community and Business Protection (Public Protection) - I can confirm that I have no adverse comments to make regarding this proposal.

Natural Resources Wales- Identifies that site lies within .

Dwr Cymru Welsh Water- Confirm that capacity exists at Hope WWTW and that the WWTW has a valid phosphate permit.

No objection to the application for approval of the reserved matters subject to compliance with the requirements of the drainage conditions imposed on the outline planning permission

Airbus- we have no aerodrome safeguarding objection to the proposal based on the information given

4.00 PUBLICITY

4.01 22 Letters of notification were sent to neighbouring/nearby properties and a Site Notice was displayed at the site

2 letters of objection have been received which are summarised as follows:

1. Out of character with locality
2. Impact upon bungalows on Rhos Avenue
3. Lack of Screening
4. Insufficient sewage system/low water pressure/slow internet/poor infrastructure in Penyffordd

5.00 SITE HISTORY

5.01 062874 - Application for approval of reserved matters following outline approval (Planning Ref: 060076)- Refused 15/7/2022

060076- Outline planning permission for 'over-55 retirement housing' with detailed site access and all other matters reserved- Refused 4/9/2019 Appeal Allowed 29/4/2020

6.00 PLANNING POLICIES

6.01 Flintshire Local Development Plan

- Policy STR2: The Location of Development
- Policy STR4: Principles of Sustainable Development, Design and Placemaking
- Policy STR5: Transport and Accessibility

- Policy STR13: Natural and Built Environment, Green Networks and Infrastructure
- Policy PC1: The Relationship of Development to Settlement Boundaries
- Policy PC2: General Requirements for Development
- Policy PC3: Design
- Policy PC4: Sustainability and Resilience of New Development
- Policy PC5: Transport and Accessibility
- Policy EN1: Sports, Recreation and Cultural Facilities
- Policy EN2: Green Infrastructure
- Policy EN15: Water Resources

7.00 PLANNING APPRAISAL

7.01 Site Description

The application site extends to 1 hectare and is located on the edge of the village of Penyffordd. To the west of the site lies the A550 with links to the A55, separated by a parcel of undeveloped land and the un-adopted road, Rhos Avenue. To the east and south is the existing residential development in Penyffordd on Westfield Drive and the existing dwellings situated along Rhos Avenue. The site is bound by an established hedgerow to the north and western boundaries, while the southern and south eastern boundaries have an existing mature hawthorn hedge reinforced with additional tree planting.

7.02 To the north of the site it is bounded by Rhos Road, beyond which lies land which benefits from planning permission for residential development and where development has taken place. It is proposed that the site would be accessed via a new central access off Rhos Road. This will involve the removal of a hedgerow to achieve the required visibility splays. A 2.0m footway will be provided along the frontage of the site to Rhos Road with crossing points at either end.

7.03 Proposed Development

This is a reserved matters application following Outline approval under planning reference 60076. The Outline planning permission was granted on appeal following initial refusal of the application by the Local Planning Authority.

7.04 This submission follows the refusal of a previous application for reserved matters, planning reference 062874, which was refused on the 15th July 2022 for the following reasons:

1. *In the opinion of the Local Planning Authority the proposal, with particular regard to apartment Block F, would unacceptably impact upon the living conditions of neighbouring dwellings and as such would be contrary to policies GEN1 and D1 of the Flintshire*

Unitary Development Plan as well as the advice contained within Supplementary Planning Guidance Note 2- Space Around Dwellings.

2. *Insufficient information has been submitted with regard to the level of phosphates arising from the development and affecting protected sites. It is therefore not possible for the LPA to conclude that phosphate levels attributable to the proposal would not have a likely significant effect on the River Dee and Bala Lake SAC. As such the proposal is contrary to Policies GEN1 and WB2 of the Flintshire Unitary Development Plan.*

7.05 The application has been resubmitted with amendments to the scheme to overcome the first reason for refusal, and following a material change in circumstances with regards to Phosphates, which overcomes the second reason.

7.06 The submission also addresses a number of the conditions imposed on the outline planning permission, namely conditions 2, 7 and 9. These conditions required the submission of a Construction Traffic Management Plan (condition 7) and the protection of trees and hedges on site (condition 9). Condition 2 is the approved principle of development and access details which this application is in accordance with.

7.07 The Main Issues

The principle of development was considered acceptable by the Planning Inspector when considering the outline planning application. Furthermore the highways and drainage provision was considered to be acceptable at the time of the appeal. As such it is considered the main issues for this application to be the design and layout of the scheme and its impact upon local character, as well as the impact of the development on neighbouring amenity.

7.08 Design and Layout

The site has been designed with 7 residential blocks grouped into 5 collections of buildings and arranged around a central parking area and community hub building. These are Blocks A+B consist of 10 no. total apartments, blocks C+D of 8 no. apartments, block E of 6 no. apartments, block F of 4 no. apartments and block G of 8 no. apartments. This equates to a total of 36 no. apartments across the site.

7.09 The buildings are two storey in height, with a hipped roof at a maximum height of approximately 8.25 metres. External materials are facing brick and render, with a slate roof. These are appropriate materials for the locality and reflect surrounding development.

- 7.10 Existing residential development close to the site is varied in style and scale. To the rear of the site, on Rhos Avenue, there are a number of detached single storey dwellings. On the Eastern boundary of the site are some large detached two storey dwellings. The new development to the north of the site has a mix of detached and semi detached two storey dwellings but the dwellings located on the site frontage to Rhos road, facing the application site, are larger detached two storey dwellings of a similar scale to the existing dwellings on the side of the application site.
- 7.11 Whilst the proposal is for apartments blocks these blocks are not excessively large and in terms of height and general scale these blocks are compatible with surrounding development, having a similar height and roof profile both to the new development across Rhos Road from the application site and the existing dwellings that neighbour the site to the east, and are not considered to be out of character with the locality.
- 7.12 Landscaping comprises of amenity lawn with a mixture of specimen trees and shrubs and ornamental planting which will create an attractive environment for residents of the site with elements of interest amongst the recreation and relaxation space and is considered to be appropriate for the development.
- 7.13 The Community Council are of the view that the development does not provide enough open space and that contributions to adult play space should be made.
- 7.14 Contrary to this view, it is considered that the layout allows for a good amount of recreational communal open space for residents of the development and will allow for a spacious and attractive campus type feel to the development, and that the open space provided is entirely suitable for this form of development. The open space provision of this proposal is in accordance with the advice contained within SPGN2: Space Around Dwellings which allows for developments where outdoor amenity space is provided on a communal basis, and notes how these forms of development will be considered on their individual merits.
- 7.15 It is considered that the proposal accords with policies PC2 and PC3 in the Flintshire Local development Plan in that it not only does the development harmonise with the character, local distinctiveness and appearance of the site, and surrounding landscape, but that it creates distinctive development which enables a sense of place, quality of life and well-being.
- 7.16 Impact upon neighbouring living conditions
- Block F, which houses 4 apartments, is designed in a similar style to its neighbouring blocks. It is located, however, close to the south

easterly boundary of the site. The dwellings located to the south of the application site are, unlike those to the east of the site, single storey dwellings although like those others they face onto the green area that is central to this proposal.

7.17 On the previously submitted scheme it was considered that there was the potential for direct overlooking arising from the application site, and in particular Block F. A number of concerns have been raised, both by the Local Member and the Community Council as well as third party objectors regarding Block F and whether or not the amendment is sufficient to overcome the previous reason for refusal.

7.18 It has also been noted that the existing screening has been coppiced this year which has reduced the thickness of the tree line on the boundary between the site and dwellings to the south. It should be noted that coppicing can extend the lifespan of a natural hedgerow as well as encourage new species that may otherwise be stifled by existing growth, and therefore has benefits to the biodiversity of the hedgeline as well as stimulate further growth which will ultimately improve the screening effect of the hedge. The existence of appropriate and sufficient screening on this boundary is important as it provides a measure of mitigation against potential overlooking and potential impact upon amenity and privacy of neighbouring dwellings.

7.19 In order to overcome this issue the current submission amends block F to remove the part of the block that had a direct relationship with a dwelling to the rear, with this block now presenting at an oblique angle to the site boundary. The reduction of the size of the block and the removal of the element which directly faced the neighbour to the south will reduce the impact of the proposal on this property. This amendment to the scheme removes the offending element and it is considered that due to the re-design of the proposal, its new relationship to existing neighbouring properties and the existing screening on the site boundary at this location, the proposal is now acceptable.

7.20 Drainage

An existing condition, Condition number 8 on the Outline permission, requires full details of the foul drainage system to be submitted and approved prior to development commencing. As such there is no need to replicate this provision. Dwr Cymru Welsh Water have previously accepted the principle of the foul water drainage connection. They have raised no objection to the proposal.

7.21 The application site is within the catchment of the River Dee and Bala Lake Special Area of Conservation (SAC). On the 21st January 2021, NRW published an evidence package outlining phosphate levels for all river SACs across Wales. As part of this package, they issued a Planning Position Statement, in which they advised that any proposed

development that might increase the amount of phosphate within a river SAC catchment could lead to damaging effects to the SAC. Therefore, such proposals should be screened through a Habitats Regulations Assessment (HRA), to determine whether they are likely to have a significant effect on the SAC. NRW have also issued Planning Advice (August 2023) which gives specific advice in respect of foul drainage arrangements for new developments

7.22 Welsh Water have confirmed that there are no capacity issues and that the waste water treatment works has a valid phosphate permit. The foulwater flows deriving from this development would be capable of being treated within the phosphate permit conditions. In accordance with the NRW advice a Test of Likely Significance has been undertaken on this site.

7.23 It is considered that No Likely Significant Effects on the SAC are anticipated as a result of these development proposals as there is unlikely to be a source of additional phosphorus or pathway for impacts. The development is therefore screened out as not likely to have a significant effect on a river SAC in relation to phosphorus inputs as it falls within the following criterion in the NRW advice: (points 1 and 3 apply) :

- there is capacity to treat additional wastewater from the proposed development within revised environmental permit limits, or
- the necessary treatment capacity to remain within revised environmental permit limits will be delivered within the agreed Asset Management Plan (AMP) and that when implemented the treatment capacity will ensure that additional wastewater generated in consequence of the proposed development will remain within the revised permit limits and
- that the sewer network and associated WwTW has the hydraulic capacity to accommodate additional wastewater without contributing to an increase in frequency or duration of storm overflows.

7.24 As such, it is considered that the proposal is in accordance with policy EN15 in the Flintshire Local Development Plan, and the previously stated reason for refusal has been overcome and no longer applies.

7.25 Other matters

The Community Council have queried the affordable housing provision of the development. It should be noted that Condition 10 of the Outline consent required that:

“No development shall take place until a scheme for the provision of affordable housing as part of the development has been submitted to and approved in writing by the local planning authority. The affordable housing shall be provided in accordance with the approved scheme

and shall meet the definition of affordable housing in Annex B of TAN 2 or any future guidance that replaces it.”

The condition went on to clarify the requirements further.

7.26 The Section 106 agreement dated 8th March 22 has a clause, para 3.4 to ensure that any resident will be 55 or over. This legal agreement was submitted and agreed following the appeal decision. It is considered that in concert with the requirements of the condition that this element of the proposal is acceptable, and is not part of the consideration of the current application.

7.27 As part of the Outline consent a Section 106 agreement was signed which requires occupancy of the dwellings to be restricted to Over 55s as well as their spouses, civil partners or dependants. Furthermore the legal agreement provided for a payment for Active Travel requirements, namely the provision of a sum of £70,000 towards the cost of controlled crossing facilities of the A550 trunk road between the site and Penyffordd Train Station, as well as commuted sums towards the development of teenage play provision at Millstone Play Area at the standard payment as set out in the relevant SPGN. The active travel contribution is to be paid prior to the commencement of development, and the recreation contribution is to be paid on or before 50% of the residential units are occupied.

7.28 Penyffordd Community Council has opined that a financial contribution towards a doctors surgery to serve the wider community should be required of the developers. Matters of principle should be considered at the time of the Outline planning submission and not at the reserved matters stage. In any case it is considered that this would not be a proportional request, and would fail to meet the requirements of the CIL regulations.

7.29 The submitted details to discharge conditions 7 and 9, namely the Construction Traffic Management Plan and Tree protection measures, are considered to be acceptable.

8.00 CONCLUSION

The principle of development, and its access, has previously been considered to be acceptable. The current proposal overcomes the issues of the previous reserved matters application, with regard to impact upon neighbouring development and the impact of the development upon the SAC as a result of phosphates, and represents an appropriate development that accords with the relevant development plan policies in the Flintshire Local Development Plan. As such it is considered to be acceptable and recommended 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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