

FLINTSHIRE COUNTY COUNCIL

REPORT TO: **PLANNING COMMITTEE**

DATE: **19 JULY 2023**

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

SUBJECT: **ERECTION OF 21 DWELLINGS WITH ADOPTABLE HIGHWAY ACCESS**

APPLICATION NUMBER: **FUL/00077/22**

APPLICANT: **BLACK DOVE DEVELOPMENTS LIMITED**

SITE: **LAND AT RHEWL FAWR ROAD, PENYFFORDD, HOLYWELL**

APPLICATION VALID DATE: **25TH MAY 2022**

LOCAL MEMBERS: **COUNCILLOR GLYN BANKS**
COUNCILLOR G MADDISON

TOWN/COMMUNITY COUNCIL: **LLANASA COMMUNITY COUNCIL**

REASON FOR COMMITTEE: **DUE TO THE SCALE OF DEVELOPMENT**

SITE VISIT: **YES (HELD ON 12 DECEMBER 2022)**

1.00 SUMMARY

- 1.01** This is a full planning application for the proposed erection of 21 dwellings on land at Rhewl Fawr Road, Pen-y-Ffordd. The application site is located on a parcel of land accessed off Cwrt-y-Glower, within the defined settlement boundary.
- 1.02** Members will be aware that this application was originally scheduled on the 23rd November 2022 Committee meeting but deferred to allow the Community Council to address matters of confusion over their response; consideration of drainage implications and to allow a Members Site Visit to be undertaken. Following the deferral, the applicant has completed a Pre-Application Consultation and made amendments to the scheme.

- 1.03** The main issues to consider in determination of the application are the principle of development, highway safety and impact on amenity.
- 1.04** Planning permission was granted for a development of 23 dwellings on the same land which expired back in 2021. The granting of this permission is materially important and originally held significant weight. However, during determination of this application the Flintshire Local Development Plan has been adopted and the policy context for this site has now altered. The application site is located within a Tier 4 Defined Village. Accordingly, and in order to comply with Policy STR2 of the LDP, the application has been amended and the scheme now proposes the dwellings will be 100% affordable. The principle of development is considered acceptable.
- 1.05** Matters including highway safety, drainage and impact on existing residential amenity have been considered at length and are considered acceptable.
- 1.06** It is therefore recommended that planning permission is granted subject to condition and the applicant entering into a Section 106 Agreement in relation to Public Open Space and to secure the Housing Mix and tenure of the dwellings.

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

- 2.01** That conditional planning permission be granted subject to the applicant entering into a Section 106 Obligation to provide the following:
- To provide a Public Open Space Contribution of £23,100 in lieu of on-site play provision
 - To secure the housing mix and tenure of the affordable dwellings

Conditions

1. Time limit on commencement
2. Compliance with approved plans
3. Materials
4. Levels
5. Scheme for the parking and turning of vehicles
6. Details of the internal road layout
7. Surface water run-off
8. Construction Management Plan
9. No surface water discharge
10. No tree works unless qualified ecologist present to ensure no adverse impacts upon nesting birds or roosting bats.
11. Tree and hedgerow protection to be submitted, agreed and implemented prior to works commencement.

If the Obligation pursuant to Section 106 of the Town and Country Planning Act 1990 (as outlined above) is not completed within 6 months of the date of the Committee resolution, the Head of Planning be given delegated authority to REFUSE the application.

3.00 CONSULTATIONS

3.01 Local Member(s) Councillor G Banks & Councillor G Maddison: No formal responses received at time of writing report

Town/Community Council: Confirms the concerns from residents that flooding will only increase once the construction of the 21 dwelling commences unless adequate drainage facilities are installed. The Town Council recognizes that the new application will now be subject to providing a SUDS Report, which they do not believe was required when the original application was submitted.

In addition, the note that the proposal for the 21 dwellings provides parking facilities for 3 vehicles per property. This effectively allows 63 vehicles access to the site via an extremely narrow lane, which they consider will cause problems for both vehicles and pedestrians.

Finally the Council point out that the original planning application, 055398, was approved but subject to 17 separate conditions and they want confirmation that all 17 conditions have been met prior to commencement of the building works on this site.

Highways: No objections raised but recommends the imposition of conditions

Community and Business Protection: No objections raised

Welsh Water/Dwr Cymru: No objection subject to the inclusion of a condition relating to surface water

Natural Resources Wales: No objections raised

Coal Authority: Standard developer advice applies

Education: Due to existing capacity at the nearest Primary and Secondary schools no education contribution is sought with regards to this development.

Housing Strategy: Based on the most up to date Local Housing Market Assessment and Flintshire Council's housing waiting lists in relation to "affordable" properties there is a demonstrable demand for 2 and bedroomed dwellings on the affordable housing register. 1 and 2 bedroomed dwellings are most in demand on the social housing register.

4.00 PUBLICITY

4.01 35 Neighbour Notifications were sent to neighbouring properties and a Site Notice was also displayed. Two re-consultation exercises have been completed following the submission of amendments and additional information.

4.02 11 letters of objection have been received and are summarised as follows:

1. Drainage implications for existing properties
2. Highway safety including point of access and traffic volumes
3. Lack of amenities in the village
4. Loss of residential amenity
5. Concerns with the integrity of the applicant

5.00 SITE HISTORY

5.01 055398 - Erection of 23 dwellings with adoptable highway access – Approved 15.12.2016

6.00 PLANNING POLICIES

6.01 Flintshire Local Development Plan

- STR2 The Location of Development
- STR4 Principles of Sustainable Development, Design and Placemaking
- STR5 Transport and Accessibility
- STR11 Provision of Sustainable Housing Sites
- STR13 Natural and Built Environment, Green Networks and Infrastructure
- STR14 Climate Change and Environmental Protection
- PC1 The Relationship of Development to Settlement Boundaries
- PC2 General Requirements for Development
- PC3 Design
- PC4 Sustainability and Resilience of New Development
- PC5 Transport and Accessibility
- PC6 Active Travel
- HN2 Density and Mix of Development
- HN3 Affordable Housing
- EN1 Sports Recreation and Cultural Facilities
- EN2 Green Infrastructure
- EN4 Landscape Character
- EN6 Sites of Biodiversity and Geodiversity Importance
- EN7 Development Affecting Trees, Woodland and Hedgerows
- EN14 Flood Risk
- EN15 Water Resources

Supplementary Planning Guidance Notes

- SPGN No 2. Space Around Dwellings
- SPGN No 3. Landscaping
- SPGN No 4. Trees and Development

National Planning Policy

- Planning Policy Wales Edition 11
- Future Wales: The National Plan 2040

7.00 PLANNING APPRAISAL

7.01 Site Description

The site is a 1ha area of land, roughly trapezoidal in shape and occupies a position within the settlement of Pen-y-Ffordd as defined within the FUDP. The site slopes gently downhill from a high point in the northwest to south-eastern boundaries with the newly constructed properties at Cwrt-y-Glowyr. The site is presently vacant, semi improved pastureland with access derived via a field gate from Cwrt- y-Glowyr.

7.02 The site is surrounded on 3 sides by existing residential development. The linear form of development to the north follows Ffordd Picton and comprises a mix of single and 2 storey dwellings. The aforementioned dwellings at Cwrt-y-Glowyr abut the application site to the southeast. The dwellings and garden areas at the northern end of Coed Mor, along with a communal garage area, form the southern boundary. Boundaries to the west abut further areas of agricultural land which are within open countryside. Boundaries are formed by hedgerows which have developed into expanses of scrub projecting into the site. A small stream is in evidence within the area of the north- western boundary.

7.03 The character of built form in the area varies, comprising mainly detached and semi-detached 2 storey and single storey dwellings to the north and east, whereas terraces and semi-detached properties dominate built form to the south.

7.04 Proposed Development

The application is for a proposed development of 21 two storey dwellings which will consist of 2 different sized houses with associated parking, access road and amenity spaces. An area of 600m² adjacent to the western boundary will be left as grassland and scrub to provide a natural habitat resource, including one of the two existing mature trees.

7.05 The dwellings will vary in size with 16 No. 3-bedroom dwellings and 5 No. 2-bedroom detached dwellings. The properties will have between 51 and 240 square metres of private amenity space. 3 Car parking spaces will be provided for each of the dwellings and are located adjacent or in close proximity to the dwelling entrance.

7.06 Following the adoption of the Local Development Plan, which is detailed further below, the applicant has amended the application and the scheme is now proposed as entirely affordable which will be secured through the Section 106 Agreement.

7.06 Principle of Development

Policy STR2 of the Flintshire Local Development Plan identifies settlement hierarchies within the County. Penyffordd is listed as a Tier 4 Defined Village which benefit from some services and facilities with which to sustain local needs. The Policy goes on to states that:

7.07 In Tier 4 Defined Villages housing development will only be permitted within settlement boundaries related to the scale, character and role of the settlement and which delivers local needs affordable housing. Provision will include:

- i. Windfall market housing (only permitted when essential to delivering affordable housing).
- ii. Exceptions Schemes for Affordable Housing adjoining settlement boundaries

7.08 The Councils Housing Strategy Manager has provided an up to date position with regards to Affordable Housing Need in the sub-market area. It is confirmed that there is demonstrable demand for most property types, with 2 and 3 bedroomed houses being most in demand for those registered on the Affordable housing register. There is a slight difference with regards to social rent where the greatest demand is for 1 and 2 bedroomed properties. There is also demand for larger 4 bed General needs homes.

7.09 With regards to tenure mix as the scheme is entirely affordable with no market dwellings the tenure mix will be determined on a site specific basis taking into account housing need, size of development, local area, and overall scheme viability. This can be secured through the Section 106 Agreement.

7.10 The application as amended is now fully compliant with both local policy and will help to achieve the target number of affordable dwellings across the County as set out in the Plan. The principle of development is acceptable.

7.11 Design

This application varies slightly from that previously approved in terms of the layout and a reduction in the number of dwellings to 21 in total. The surrounding village of Penyffordd is characterised by a mixture of property types, styles and ages with a variety of arrangements of built form but has no overall dominant local vernacular. The proposed development is considered visually acceptable.

7.12 The layout takes full account of the existing dwellings adjacent to the site by maintaining separation distances which are in line with Council standards on space about dwellings and overlooking to secure privacy and amenity as well as respecting the private gardens of adjacent houses. The previous planning permission for this site secured additional boundary treatment details by way of a condition and I consider it important to re-impose that condition to safeguard amenity. The revised layout is such that separation distances and amenity spaces are adequate and therefore there is no need to restrict permitted development rights.

7.13 Notwithstanding representations made by residents, I consider the proposals provide an adequate and appropriate response to the design issues raised in connection with the consideration of this application.

7.14 Highway Safety

Access to the site is derived from the residential cul-de-sac of Cwrt-y-Glower. Three parking spaces per dwelling are provided which is in fact above the levels as set out in policy PC5 of the FLDP. Highways Engineers have assessed the proposal and raise no objections in terms of road layout, access or parking provision.

7.15 Whilst the concerns of local residents with regards to an increase in traffic levels in the village are noted, with no objections on highway safety grounds it is considered that the proposal is compliant with policies STR5 and PC5 of the Flintshire Local Development Plan.

- 7.16 Public Open Space
The proposals do not provide for on-site public open space intended for formal recreation and play. Consultation with Aura Leisure has revealed that rather than formal provision within the site for play, and in accordance with the previous planning permission, a commuted sum should be sought to be utilised in connection with projects for play and recreation within the community.
- 7.17 The consultation has established that the sum requested should be used in connection with a project to upgrade existing play facilities at the nearby Coed Mor children's play area to the south of the site.
- 7.18 In accordance with the requirements of the Community Infrastructure Levy Regulations (CIL) 2010, this sum, when pooled would not exceed 5 contributions towards a single project.
- 7.19 Education Contributions
Having regard to SPG23: Developer Contributions to Education, the development would not give rise to any contribution requirement at either Primary or Secondary School level as there is sufficient capacity within the schools in question.
- 7.20 Education colleagues have confirmed that the nearest primary school (Ysgol Bryn Garth C. P). has a surplus of spaces for additional pupils. The proposals would give rise to an additional 6 pupils. Accordingly, no contribution is sought for primary educational purposes as a consequence of this development.
- 7.21 The capacity at the nearest secondary school (Ysgol Treffynnon). Also has a surplus of spaces for additional pupils. The proposals would give rise to an additional 4 pupils. Accordingly, no contribution is sought for secondary educational purposes as a consequence of this development.
- 7.22 Drainage
With regards to drainage Welsh Water confirm that capacity exists within the public sewerage network in order to receive the domestic foul only flows from the proposed development site. Welsh Water advise specifically that the application proposes to utilise permeable paving, and the applicant is advised that a service corridor should be provided around public sewers to allow access to these assets which would be included as a note on the decision notice.
- 7.23 Welsh Water also note that the applicant proposes to discharge surface water to a nearby watercourse and offer no objection to this in principle.
- 7.24 Concerns have been raised by local residents with regards to existing drainage capacity issues in the village and the potential of flooding

from the site. With regards to capacity issues this has been adequately addressed above with Welsh Water confirming that there is capacity.

7.25 The residents claim that flooding has occurred and worsened since the granting of planning permission previously. The site is not in a recognised flood zone and neither NRW or Welsh Water raise flooding as a concern despite complaints made directly to them from local residents. In addition there is no evidence provided that the proposed development will exacerbate problems which appear to exist at times of extreme rainfall. Members will be aware that the application will be subject to SAB approval which will consider the methods of sustainable surface water drainage. The submission and approval of a suitable scheme to deal with surface water from the development will be an improvement to the lack of drainage facilities which exist currently.

7.26 Ecological Matters

The application is supported by a Preliminary Ecological Appraisal which confirms that the site is not subject to any statutory or non-statutory designations. However, the site's western hedgerow boundary is likely to serve a landscape-scale role in connecting the nearby woodland to the wider landscape, and so is ecologically valuable green infrastructure when evaluated in the wider context. The site also has supporting value for protected species.

7.27 The site has the potential to support protected species such as foraging bats, nesting birds, great crested newts, reptiles and hedgehogs. All other protected species are likely absent from the site, due to unsuitable habitats, levels of disturbance, species range, and/or landscape context.

7.28 Although avoidance measures and mitigation measures will likely reduce any impact on protected species it is recommended that for security conditions relating to works to trees and the hedgerow be imposed.

7.29 CIL Compliance

The infrastructure and monetary contributions that can be required from the 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.

As triggered by the proposed scale of the development, there is a developer requirement towards enhancing public open space in the

vicinity of the development. The developer has agreed to make a total payment of £23,100 towards the Coed Mor children's play area which has not received more than 5 contributions towards this project to date.

7.30 It is considered that the contribution required meets the Regulation 122 tests

7.31 Other Matters

Representations from a local resident raise concern with the integrity of the applicant and the fact that the previous planning permission lapsed. Neither of these matters are planning related or are material to the consideration of this application.

8.00 CONCLUSION

This application seeks planning permission for the proposed development of land at Rhewl Fawr Road, Penyffordd. Planning permission was granted for residential development of 23 dwellings on this land which lapsed in 2021. During determination of this application the Flintshire Local Development Plan has been adopted which changes the policy context for this site. The application site is located within a Tier 4 Defined Village and as such the policy requires that the windfall site provide local needs housing. The applicant has addressed this change and has amended the application to be entirely affordable housing. The principle of development complies with Policy STR2 and PPW11 and will help contribute towards providing the affordable housing target as set out in the Plan.

Matters including highway safety, drainage, ecological implications and public open space contributions have been assessed and are considered acceptable.

Concerns raised by residents in relation to residential amenity have been considered but the proposal complies with both local planning guidance and supplementary planning guidance.

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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