

FLINTSHIRE COUNTY COUNCIL

REPORT TO: **PLANNING COMMITTEE**

DATE: **25th OCTOBER 2023**

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

SUBJECT: **RESERVED MATTERS- APPLICATION FOR APPROVAL OF RESERVED MATTERS FOLLOWING OUTLINE APPROVAL. (053325)**

APPLICATION NUMBER: **063093**

APPLICANT: **MR BRIAN DAVIES**

SITE: **LAND ADJ SIGLEN UCHAF, RUTHIN ROAD, GWERNYMYNYDD**

APPLICATION VALID DATE: **11TH JUNE 2021**

LOCAL MEMBERS: **COUNCILLOR D COGGINS- COGAN**
COUNCILLOR A DAVIES COOKE

TOWN/COMMUNITY COUNCIL: **GWERNYMYNYDD COMMUNITY COUNCIL**

REASON FOR COMMITTEE: **MEMBER REQUEST**

SITE VISIT: **YES**

1.00 **SUMMARY**

1.01 This is a reserved matters application for the erection of 9 dwellings following outline approval, at land at Siglen Uchaf, Ruthin Road, Gwernymynydd ,Flintshire

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

- 2.01
1. In accordance with approved plans
 2. No development shall take place until samples of the materials to be used in the construction of the external surfaces of the dwellings 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. For the avoidance of doubt the access and visibility splays shall be laid out, constructed and maintained strictly in accordance with the submitted plan (drwg no. 5045-L01 Rev F)
4. Notwithstanding the details hereby approved the minimum visibility distances available for vehicles emerging from the proposed access / junction shall be 120 metres in the northbound direction and 94.5 metres in the southbound direction at a height of 1.05 metres, measured to a point 0.26 metres above the nearer running edge of the trunk road carriageway. These visibility distances shall be available at a point 4.5 metres from the nearer running edge of the trunk road, measured along the centreline of the access road. The visibility splay so formed shall be free of any growth or obstruction, which would interfere with the minimum visibility requirements.
5. No drainage from the development site shall be connected to or allowed to discharge into the trunk road drainage system, and the proposed junction shall be constructed such that the access road does not drain onto the trunk road. The access and visibility requirements shall be substantially complete and available for use prior to the commencement of any other works associated with the development.
6. The access and visibility requirements shall be substantially complete and available for use prior to the commencement of any other works associated with the development.
7. Adequate provision to enable vehicles to turn around within site, so that they may enter and leave the site in a forward gear.
8. Notwithstanding the details hereby approved an external lighting scheme shall be submitted to the Local Planning Authority for written approval prior to the first occupation of any of the dwellings. After written approval any external lighting shall accord with the approved details. Prior to development commencing plans showing topographical levels and longitudinal sections of the site as well as any details of retaining structures required, shall be submitted to the Local Planning Authority for approval. Following this approval the development shall be carried out in accordance with the approved details.

3.00 CONSULTATIONS

3.01 Local Member Councillor D Coggins Cogan: Requests determination by the Planning Committee

Gwernymynydd Community Council: In the opinion of the community council the proposal is not appropriate and it does not agree with what is required or needed in Gwernymynydd. Therefore,

the Council resolved to object to this proposal for the following reasons.

- access/egress to and from the site.
- Surface water.
- Land contamination issues
- Foul water drainage issues
- Ground stability
- Siglen Uchaf is a small holding not brownfield site.
- No Open Space

AONB Joint Advisory Committee: The A494 is a principal gateway into the AONB and the Joint Committee recommend the following:

- Native species hedging on front boundary with A494
- To introduce an element of local distinctiveness suggest that the A494 road boundary could be enclosed with traditionally finished natural local stone boundary wall
- The appearance and local distinctiveness of the site would be enhanced by specifying natural slate roofs in place of concrete tiles and introducing some rendered units i.
- further details of any future lighting is designed and specified to be dark sky friendly to conserve the AONB's dark sky and nocturnal wildlife.

Welsh Government Department for Economy and Infrastructure:
No objection to proposal subject to requested conditions and advisory notes

Highways DC: Notes that highway related conditions imposed on the outline consent be the subject of future applications. Highway adoption standards will require the provision of a footway/verge around the periphery of the adoptable highway but otherwise passes no highway comment in relation to the current application.

Community & Business Protection: The site has a significant history of potentially contaminative land use, including features associated with an historical lead mine, with workings running within the site. Whilst it is noted that the mine shaft within the site has been capped, this will not be sufficient to address land contamination present within the ground, particularly the superficial soils and there is reasonable ground to suspect that the site may be affected by significantly elevated levels of lead and other metals attributable to the lead mine and workings.

Welsh Water/Dwr Cymru: No objection to connection. Confirm that the relevant Wastewater treatment works has sufficient capacity to cater for this development and has phosphate stripping capabilities.

The proposed development site is crossed by a 150mm diameter foul gravity public sewer with its approximate position being marked on the attached Statutory Public Sewer Record. Under Section 159 of the Water Industry Act 1991, Dwr Cymru Welsh Water has rights of access to its apparatus at all times, and as such has a protection zone of 3 metres either side of the centreline of the sewer.

Natural Resources Wales: No objection to the proposed development as submitted. Natural Resources Wales considers that the controlled waters at this site are not of the highest environmental sensitivity. The lie of the land and rising topography mean the site and the proposal to develop it for residential housing would not be inter-visible with the AONB or seen by recreational users from the AONB. In this respect the proposal would have no adverse effect upon the designated landscape.

4.00 PUBLICITY

4.01 25 Neighbour Notifications were sent to adjoining/nearby properties. A Site Notice was also posted. 7 letters of objection have been received and they are summarised as follows:

1. Historic lead mining/land contamination issues
2. Drainage issues
3. Traffic issues
4. Design of dwelling out of keeping of area
5. No properties suitable for first time buyers
6. Topography unsuitable for number of dwellings

5.00 SITE HISTORY

5.01 053325 – Outline application for the erection of 10No. dwellings – Approved (after completing S106 Legal Agreement) 20/12/2019

048850 – Erection of 18 No. dwellings with associated roads, sewers and open spaces – Refused 22/02/2013 Appeal dismissed 01/05/2014

6.00 PLANNING POLICIES

6.01 Flintshire Local Development Plan
Policy STR2: The Location of Development
Policy PC1: The Relationship of Development to Settlement Boundaries
Policy PC2: General Requirements for Development
Policy PC3: Design
Policy PC5: Transport and Accessibility
Policy HN2: Density and Mix of Development
Policy EN4: Landscape Character

Policy EN15: Water Resources
Policy EN16: Development on or near Landfill Sites or Derelict and Contaminated Land
Policy EN17: Development of Unstable Land

7.00 PLANNING APPRAISAL

7.01 Proposal

This is a reserved matters application following outline approval under reference 053325 for the erection of 10 no. detached dwellings, with all matters reserved. The current submission is for all outstanding reserved matters and the erection of 9 no. detached dwellings on the site.

7.02 Site

The site comprises approximately 0.9 hectares of land to the east of Siglen Uchaf. The site at its southern edge is below the level of the A494 (T) and then rises up to the hedgerow denoting the settlement boundary at the rear of the site. The site is bounded to the west by Ty Newydd and to the east by a haulage yard adjacent to Fernleigh, above which is a freestanding bungalow 'Rockland'. Mature trees which are the subject of Tree Preservation Orders are located to the north western end of the site.

7.03 The Main Issues

It is considered the main issues for consideration in the determination of this application to be;

- The principle of development;
- Access and highway safety;
- Site layout and appearance.

7.04 The Principle of Development

The site is located within the settlement boundary of Gwernymynydd. The principle of development was accepted at the time of the outline permission.

7.05

The outline consent was accompanied by an indicative layout plan. A third party objection has queried whether or not this reserved matters application has been submitted within the approved parameters of this outline consent. It should be noted that layout is being sought as a reserved matter and whilst the layout plan does deviate from the plan previously approved the previously approved plan was indicative and Layout was a reserved matter. The submitted layout submitted as part of the submission being considered by the committee takes precedent over any previous approved indicative plan. It is considered that the reserved matters application is still in accordance with the approved outline details.

- 7.06 Access and Highway Safety
Access to the site is derived from the busy A494 and objections have been received over potential dangers as a result of the additional point of access/egress for this development. A significant amount of discussion was undertaken at the time of the outline permission to agree a position with Welsh Government, as Highways Authority for the trunk road, for a departure from standards in relation to an access onto a trunk road. The current proposal accords with the approved position of the access. Further discussions have been held between the applicant and Welsh Government over the details of the access and its available visibility splays. Welsh Government have confirmed that subject to the minimum visibility distances available for vehicles emerging from the proposed access / junction being 120 metres in the northbound direction and 94.5 metres in the southbound direction at a height of 1.05 metres, measured to a point 0.26 metres above the nearer running edge of the trunk road carriageway, then they would have no objection to the proposal. These minimum distances will be secured by condition and are achievable on the ground.
- 7.07 It has been confirmed that subject to the imposition of suggested conditions in respect of the available minimum visibility splays, and to prevent surface water entering the highway. The outline permission has conditions relating to the construction details of the access, the minimum width of the carriageway, visibility splays as set out above, provision of offroad parking and turning facilities (construction compound) and the use of a wheel wash during construction, the proposals are considered acceptable and would not be detrimental to highway safety. Accordingly, there are no objections raised on the grounds of highway safety and the proposal complies with Policy PC5
- 7.08 Site Layout and appearance
The dwellings are arranged around a central spine road, with four of the dwellings located at the southern end of the site adjacent to the trunk road, and five occupying the northern plateau. A central exclusion zone surrounds a mains drain which bisects the site. A protected Sycamore Tree is also located in this area. This ensures that the central area of the site is free from development, other than the access road.
- 7.09 The A494 is a principal gateway into the AONB and the Joint Committee was initially concerned that the rural character and appearance of the locality when viewed from the road would be undermined by the inadequate landscaping treatment of the road frontage. In particular they were concerned that the removal of an existing hedge and new 1.8m high close boarded fences behind the visibility splay will serve to 'urbanise' the area.
- 7.10 The applicant has amended the scheme in line with the JAC recommendations which includes the replanting of a native species hedge on the roadside frontage to the site, clear of the visibility splay,

and the use of a mix of render and brick elevational details in place of the entire brick elevations initially shown. Whilst the JAC requested stone details and traditional slate roofs it is considered that this would be an onerous requirement not consistent with other development in the nearby vicinity. It is, however, considered that the reason for this request- to increase local distinctiveness- is a sound consideration. It is considered that the amended house designs, along with sensitive use of materials secured by condition, will ensure that the development retains a measure of distinctiveness and placemaking in this location at the gateway to the designated AONB area.

- 7.11 There are existing dwellings to the south of the A494, but these are largely unaffected by the proposal given the distances between the dwellings and the application site, and proposed boundary screening. Planning permission has been granted for three new dwellings on the adjacent former Haulier yard site to the south of the dwelling 'Rockland'. The 'Rockland' site upon which the approved dwellings are to be built occupy a plateau that is located at a lower level than this application site and has led to concern over the impact of this development onto those new dwellings. It should be noted that the boundary hedge between the sites is at the higher level, with the former Haulage site located in a prominent dip in the landscape. Interface distances between plot 5 and plot 1 of the approved dwellings on the Rockland site exceed the minimums established in SPGN2- Space Around Dwellings, even accounting for the difference in nominal floor plan levels, which is 216.650AOD for plot 5, dropping down to 211.75AOD, a height of just under 5 metres. In accordance with SPGN this should be taken account of with an increase of 2 metres per metre difference in heights. The back to back interface is approximately 35 metres, an increase of 11 metres from the standard required interface distance of 24 metres. Plot 2 on the Rockland site is at an oblique angle to plot 5 and has a rear to gable arrangement. Offering at its nearest point 26 metres in separation, which again satisfies the required 14 metres interface in SPGN2 (adjusted to 26 metres with regard to level distances).
- 7.12 A condition will require final longitudinal section details including any retaining structures required on site to take account of the level differences in order to be able to assess any additional impacts any groundworks may have and ensure that any structural solution is appropriate.
- 7.13 The arrangement between plot 7 and the northernmost plot of the neighbouring approved site is at an oblique angle and it is not considered that the proposed dwelling will unacceptably impact upon that dwelling. Plot 7 has a garden depth of 12 metres at its narrowest point to the boundary. Boundaries between the two sites are well screened with existing native species hedging. It is considered that this is acceptable and accords with the guidance set out in SPGN2: Space Around Dwellings.

- 7.14 It is noted that the proposed density of the site, which amounts to 9 dwellings per hectare, is relatively small in plan terms when an efficient use of land is considered, however this can be explained when the topography and resultant developable areas on site are taken into account, as well as the existing constraint of the drainage easement. A previous scheme, which proposed 18 dwellings, was found to require too great an alteration to landform and retaining structures as to be inappropriate in design terms. The Outline consent established the site as being suitable for a development of ten dwellings. One of these plots has had to be taken out to enable the drainage easement to be left clear, otherwise the density is in accordance with the Outline consent.
- 7.15 The site is characterised by its elevational changes across its entirety, with the site levels being markedly different to the rear of the site from the road frontage, indeed this is characteristic of the wider locality and much of the existing development around the site is situated at much higher or lower levels to its neighbours. It is considered that the development utilises the existing topography of the site in a way that is appropriate and ensures that the layout of the development sympathetic to the character and context of the site, in accordance with policies PC2 and PC3 of the Flintshire Local Development Plan.
- 7.16 Phosphates
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 phosphorus 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 (or phosphorus) within a river SAC catchment could lead to damaging effects to the SAC.
- 7.17 Each development should be considered on a case by case basis. Developments should first be screened to determine whether they are likely to have a significant effect. With no pathway for impacts, the development can be screened out as not likely to have a significant effect on the SAC in relation to phosphate inputs.
- 7.18 The site will drain to Mold Wastewater Treatment plant. This WWTW has recently undergone a process of re-permitting and has been shown to have sufficient headroom to accommodate this development as result of Phosphate stripping capabilities and performance without harm to the SAC. Dwr Cymru have confirmed that they have no objection to this connection. In accordance with NRW's phosphate advice the development can therefore be screened out as not likely to have a significant effect on the SAC in relation to

phosphate inputs, and the proposal would therefore comply with policy EN15 of the Flintshire Local Development Plan.

7.19 Land Contamination

Concern has been raised in respect of the historical mining and contamination legacy upon the site. Following Pollution Control Officer advice at the time of the granting of the Outline planning permission a condition was imposed requiring a site investigation being undertaken to identify any potential contaminants from this use and indeed all previous uses and if found identify how these can be remediated against. This condition will have to be discharged prior to development commencing. As this condition is already in effect on the site there is no need to replicate it again.

7.20 Other matters

There are 4 No. Tree Preservation Orders on the site, two on the rear boundary, one centrally located within the site and one on the left-hand side of 'Siglen Uchaf'. This was a significant matter at the time of the outline permission and it is noted that the proposed site layout takes account of the TPO trees, showing the trees retained and with protective fencing in place. A condition was imposed on the outline that requires details of tree and hedge protection prior to the commencement of development.

7.21 The existing Section 106 agreement linked with Outline planning approval 053325 requires a planning contribution equivalent to £1100 per dwelling in line with the emerging SGPN 13: Open Space Requirements, and these contributions shall be used in connection with a project to enhance the existing play and recreation offer at the nearby Llys Enfys Play Area. As such there is no need to require a further legal agreement.

7.22 Education have confirmed that it is not their intention to require developer contributions as there is capacity at both the nearest primary and secondary schools. There are no other matters that would need to be addressed through planning contributions and there is therefore no requirement for a further legal agreement.

7.23 The Community Council raise issues of ground stability and state that the Coal Authority (TCA) have objected to the proposal. The site is in an area covered by TCAs standard advice and not a high risk area. No objection to the proposal has been received by the LPA. Standard Coal Authority advice will be appended to any decision.

7.24 Existing conditions imposed at the time of the Outline permission control matters of site levels, materials, land contamination, drainage, internal highways matters, provision of a wheel wash facility. Whilst some comments have been received which touch upon these issues it is considered that as these matters are covered by pre-

commencement planning conditions they do not prejudice the determination of this reserved matters application.

8.00 CONCLUSION

The proposed dwellings are acceptable in terms of their design and impact upon the character and appearance of the area as well as with regard to the amenity of neighbouring properties. The development accords with the outline permission and in general is in accordance with planning policy, subject to the imposition of additional conditions, and the compliance of the development with the conditions previously imposed on the outline planning permission.

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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