

FLINTSHIRE COUNTY COUNCIL

REPORT TO: **PLANNING COMMITTEE**

DATE: **6TH SEPTEMBER 2017**

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

SUBJECT: **APPLICATION FOR DISCHARGE OF SECTION 106 CONDITION FOLLOWING GRANT OF PLANNING PERMISSION - P/12/24844 AT BANNEL HOUSE, CHESTER ROAD, PENYMYNYDD**

APPLICATION NUMBER: **056692**

APPLICANT: **MR AND MRS POVEY**

SITE: **BANNEL HOUSE, CHESTER ROAD, PENYMYNYDD**

APPLICATION VALID DATE: **22ND MARCH 2017**

LOCAL MEMBERS: **CLLR WILLIAMS AND CLLR HINDS**

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

REASON FOR COMMITTEE: **REMOVAL OF SECTION 106 REQUIRES A COMMITTEE DETERMINATION**

SITE VISIT: **NO**

1.00 SUMMARY

1.01 This is a full application for the discharge a Section 106 Agreement relating to a dwelling house at Bannel House, Chester Road, Penymynydd, which sought to restrict the use of the property to occupation by a worker in relation to the golf driving range.

1.02 The main issue to be considered is whether there have been any material change in circumstances since the section 106 was signed in 1996.

It is considered that the discharge of the Section 106 agreement is

1.03 acceptable as the dwelling is no longer reasonably required for the daily running of the golf driving range.

2.00 RECOMMENDATION: TO GRANT PLANNING PERMISSION, SUBJECT TO A LEGAL AGREEMENT

3.00 CONSULTATIONS

Local Member

Cllr D Williams

No Response at time of writing

Cllr C Hinds

No Response at time of writing

Penyffordd Community Council

No Response at time of writing

4.00 PUBLICITY

4.01 Site Notice and Neighbour Notification

No Response at time of writing

5.00 SITE HISTORY

5.01 Ref No: P/4/12/19921 The erection of a bungalow and double garage and formation of a new vehicular access on land adjacent to Bannel House, Chester Road, Penymynydd – Approved in 1990

Ref No: P/12/24844 Removal of the above occupancy condition [Condition 6 to planning permission Ref No P/4/12/19921] from the property known as Wentworth and transferring the occupancy condition to Bannel House. Approved in 1996

6.00 PLANNING POLICIES

6.01 Flintshire Unitary Development Plan

GEN1 - General Requirements for Development

GEN 3 – Development in the Open Countryside

HSG4 – New Dwellings Outside Settlement Boundaries

Pre-Adoption Draft Supplementary Planning Guidance No 10: New Housing in the Open Countryside

Local Planning Guidance Note 22: Planning Obligations

7.00 PLANNING APPRAISAL

- 7.01 This is a full application for the discharge of a Section 106 Agreement relating to a dwelling house at Bannel House, Chester Road, Penymynydd. Bannel House and the associated Bannel Golf Driving Range both located in the open countryside, between Chester Road to the south and Bannel Lane to the north. It is identified as being outside of any settlement boundary as defined by the Flintshire Unitary Development Plan.
- 7.02 The applicants, Mr L Povey and Mrs J Povey live in Bannel House, Chester Road, Penymynydd. Mr and Mrs Povey operated the adjacent Golf Driving Range for several years. The erection of a bungalow, known as Wentworth was granted planning permission in 1990 subject to an occupancy condition limiting occupancy to persons solely or mainly employed or last employed at the existing Bannel Golf Driving Range. In 1996, two further Golf Driving Ranges opened in the local area resulting in a severe drop in income. This meant that the property known as Wentworth had to be sold. Consequently, planning permission was granted for the removal of Condition No 6 to the 1990 decision. However, this decision was subject to a Section 106 Agreement again requiring that the occupants be restricted to those person(s) engaged in the operation of the Golf Driving Range or dependants of those persons, although in this instance, to Bannel House. Wentworth was subsequently sold in May, 1998.
- 7.03 In relation to the discharge of the restrictive occupancy requirement, Supplementary Guidance Note No. 10 states that the applicant: -
- must show what changes have occurred since the granting of the original permission (at least 5 years previously);
 - prove there is no longer a need for an essential worker's dwelling on the enterprise or in the area; and
 - provide documentary evidence that reasonable efforts have been made to let or sell the property at a realistic price (i.e. below full market value) for at least a year with the occupancy condition in place.
- 7.04 It is considered that the applicants have reasonably shown that the dwelling is no longer needed for the running of the golf driving range. The essential need case submitted with the original application in 1990 would not meet the current requirements of HSG4 and it is therefore difficult to envisage how this dwelling is essential for the running of a golf driving range on the edge of a major settlement. As the property is linked to the golf driving range it cannot be sold or let to any other essential worker.

8.00 CONCLUSION

It is considered that the discharge of the Section 106 agreement is

acceptable as the dwelling is no longer reasonably required for the daily running of the golf driving range.

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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