

FLINTSHIRE COUNTY COUNCIL

REPORT TO: **PLANNING & DEVELOPMENT CONTROL COMMITTEE**

DATE: **4TH OCTOBER 2017**

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

SUBJECT: **APPEAL BY A. FRYER & J. PHILLIPS AGAINST THE DECISION OF FLINTSHIRE COUNTY COUNCIL TO REFUSE PLANNING PERMISSION FOR THE OUTLINE APPLICATION FOR RESIDENTIAL DEVELOPMENT AT BRYN Y BAAL ROAD, BRYN Y BAAL, MOLD – DISMISSED.**

1.00 APPLICATION NUMBER

1.01 056672

2.00 APPLICANT

2.01 A FRYER & J PHILLIPS

3.00 SITE

3.01 BRYN Y BAAL ROAD, BRYN Y BAAL, MOLD

4.00 APPLICATION VALID DATE

4.01 11.10.16

5.00 PURPOSE OF REPORT

5.01 To inform Members of the decision following the refusal of outline planning permission under delegated powers for residential development at Bryn y Baal Road, Bryn y Baal Mold. The appeal was dealt with by an Informal Hearing and the Inspector was Clive Nield. The appeal was **DISMISSED**.

6.00 REPORT

6.01 Introduction

The application was for outline permission with all matters reserved.

The application included an indicative block plan showing 5 residential units and a supplementary planning statement defining the parameters of the proposed development, i.e. the upper and lower limits for the height, width and length of each building. The Council's requirements for financial contributions in respect of the provision of public open space and educational facilities were discussed at the hearing and, as the Appellant does not intend to enter into any legal agreement on the latter, it was agreed the proposal should be for no more than 4 residential units. The Inspector considered the proposal on that basis.

- 6.02 The appeal site includes a length of public highway which has been disused by vehicles for many years and is now partially overgrown. It was replaced by a new road but the stopping-up procedures were never completed. The Council advises that these procedures would have to be carried out before any development took place. However, a representative of the Ramblers' Association has raised concerns about this and about the ownership of that land. So far as the current appeal is concerned the Inspector set those concerns aside as something that would have to be resolved before the reserved matters approval stage.

Issues

- 6.03 The main issues in this case are the effects of the proposed development on the green barrier and the surrounding area, the lack of a 5 years supply of housing land in the County, and the weight to be attributed to these in balancing harm and benefits.

- 6.04 The appeal site lies adjoining but just outside the settlement boundary and in an area designated in the adopted Flintshire Unitary Development Plan as a "green barrier". UDP Policy GEN4 says that development will only be permitted within green barriers where it meets certain specified criteria and provided it would not contribute to the coalescence of settlements and unacceptably harm the open character and appearance of the green barrier. It is not disputed that the scheme would not meet any of the specified criteria, and so it would fall outside development plan policy.

- 6.05 Planning Policy Wales (PPW) also provides useful (and more up to date) policy guidance on development in green barriers. It refers to the establishment of Green Belts and to local designation such as green wedges; "green barriers" are taken to be the corresponding designation in Flintshire. PPW advises that "*when considering applications for planning permission in Green Belts or green wedges, a presumption against inappropriate development will apply*" and "*Local Planning Authorities will attach considerable weight to any harmful impact which a development would have on a Green Belt or green wedge*". It is not disputed that the proposed development falls outside the list of purposes for which development is considered to be appropriate. Thus it would be inappropriate development in the

green barrier.

- 6.06 PPW further advises that *“inappropriate development should not be granted planning permission except in very exceptional circumstances where other considerations clearly outweigh the harm which such development would do to the Green Belt or green wedge”*. This is a stringent and demanding test, and the planning balance is different to that applicable for land outside the green barrier.

Green Barrier Harm

- 6.07 The site lies within the Mold – Mynydd Isa/Sychdyn/New Brighton green barrier which was designated for the purpose of safeguarding the open countryside around these settlements and preventing the settlements from merging into one another. The development would comprise the construction of some 4 dwellings and associated works on a site that would protrude out into the rural gap between Mynydd Isa and New Brighton. As such it would be harmful to the rural character and appearance of the area and to the openness of the green barrier, and it would erode the gap between the 2 settlements, contrary to UDP Policies GEN3 (in respect of development in the open countryside) and GEN4 (in respect of development in the green barrier).

- 6.08 The site was considered as a potential development site at the UDP preparation stage but the UDP Inspector rejected it as it was considered to have more in common with the countryside than the settlement and to make a contribution towards the green barrier, “albeit it in a small way”. That situation has not changed. Although a relatively small site which is only a small part of the green barrier, the harm due to its development for housing would warrant considerable weight (in accordance with PPW advice).

- 6.09 In reaching this conclusion the Inspector took into account the present nature of the site, which is partially that of previously developed land used in the past in association with the nearby farmhouse and, more recently, unlawfully for the storage of builder’s materials, and partially as public highway, though now largely overgrown.

Benefits for Housing Land Supply

- 6.10 The adopted development plan, the Flintshire Unitary Development Plan, is now time-expired (end of 2015), and it is common ground that the Council cannot demonstrate a 5 years supply of housing land, as required by Welsh Government policy. When last assessed, in the August 2016 Joint Housing Land Availability Study, the supply had fallen to 3.7 years, substantially less than the 5 year requirement. Whilst the emerging Local Development Plan is under preparation and suitable housing sites are being assessed, it will be some years before it is adopted. In the meantime there remains uncertainty about the supply of suitable sites for housing. It is Welsh Government policy that, in the absence of a 5 year supply

6.11 of housing land, the need to increase the housing supply should be given considerable weight provided the development would otherwise comply with development plan and national planning policies. Furthermore, as the UDP is time-expired and there is no 5 year land supply, the weight attributed to relevant UDP housing policies should be reduced.

6.12 The Appellants have listed 5 recent appeal decisions for sites in Flintshire where the Inspectors have concluded that the need to increase the housing supply outweighs any harm caused, and they have drawn my attention, in particular, to the decision for a site at Issa Farm, Mynydd Isa (ref. APP/A6835/A/15/3137719), which they say is particularly relevant. However, although that site is situated just outside the settlement boundary and in the open countryside, it is not in the green barrier. Furthermore, that Inspector did not consider the development would represent a significant encroachment into the surrounding countryside or that it would significantly alter the character of the countryside. Thus, the conclusion drawn in that case on the balance of the arguments provides little help for the current appeal.

6.13 An appeal decision for a site at Shavington, Crewe (ref. APP/R0660/A/16/3157715), has also been referred to, as that site is in the “green gap” between Shavington and Crewe. However, that decision was based on English planning policies, which are different from those of the Welsh Government, and the conclusions drawn by that Inspector do not follow a sequence of logic that has any relevance to inappropriate development in a green barrier in Wales. Thus, that decision is also of little help.

7.00 CONCLUSION

7.01 Conclusions

The Inspectors conclusions are that the development would be harmful to the openness of the green barrier and to the character and appearance of the area and would erode the gap between Mynydd Isa and New Brighton. These harmful effects warrant considerable weight.

7.02 He also concluded that there is a lack of a 5 year supply of housing land, and that the need to increase the supply of housing land warrants considerable weight, provided the development would comply with development plan and national policies. If the site was not located in a green barrier, these arguments would be finely balanced. However, the proposal is for inappropriate development in the green barrier, and PPW advises that such development should not be granted planning permission except in very exceptional circumstances where other considerations clearly outweigh the harm the development would do to the green barrier. That demanding

balance would not be achieved in this case, and he concluded that the development would be contrary to development plan and national policy.

LIST OF BACKGROUND DOCUMENTS

Planning Application & Supporting Documents
National & Local Planning Policy
Responses to Consultation
Responses to Publicity

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