

FLINTSHIRE COUNTY COUNCIL

REPORT TO: **PLANNING COMMITTEE**

DATE: **23RD MAY 2018**

REPORT BY: **CHIEF OFFICER OF PLANNING, ENVIRONMENT
& ECONOMY**

SUBJECT: **OUTLINE APPLICATION FOR RESIDENTIAL
DEVELOPMENT AT MEGS LANE, BUCKLEY.**

**APPLICATION
NUMBER:** **057056**

APPLICANT: **MR. HILL**

SITE: **MEGS LANE,
BUCKLEY.**

**APPLICATION
VALID DATE:** **11.08.17**

LOCAL MEMBERS: **COUNCILLOR A WOOLLEY
COUNCILLOR R JONES**

**TOWN/COMMUNITY
COUNCIL:** **BUCKLEY**

**REASON FOR
COMMITTEE:** **SIZE OF DEVELOPMENT
LOCAL MEMBER REQUEST**

SITE VISIT: **YES**

1.00 SUMMARY

1.01 This is an outline application for up to 100 houses with all matters, except for access, reserved on land to the south of Meg's Lane, Buckley.

**2.00 RECOMMENDATION: TO REFUSE PLANNING PERMISSION FOR
THE FOLLOWING REASONS**

2.01 1. The proposal represents inappropriate development that would detrimentally impact upon the designated green barrier, and open countryside, contrary to Unitary development plan policies GEN1, GEN3 and GEN4 and national policy contained within Planning Policy

Wales.

2. The site is located outside the settlement boundary for Buckley and within open countryside as defined by the adopted Flintshire Unitary Development Plan. It is considered that the weight attached to increasing housing land supply is not considered to outweigh the harm that would arise from the detrimental impact of such a scale of development would have upon the cohesiveness of the community and principles of sustainable development as set out in Planning Policy Wales (9th Edition - November 2016) and contrary to paragraph 6.2 of TAN1 and contrary to Policies STR1, GEN3 and HSG4 of the Flintshire Unitary Development Plan.

3. Insufficient information has been submitted to ensure that the proposal has fully taken the ecology of the site into account. As such it is considered that the proposal is contrary to policy WB1 and WB4 of the Flintshire Unitary Development Plan.

4. It has not been sufficiently proven that the development would not overload the (Buckley Ty Gwyn) Waste Water Treatment Works and it would need to be established that the system has the capacity to maintain adequate service and supply the new development. Without this information it is considered that the proposal is contrary to policies STR10 and EWP16 of the Flintshire Unitary Development Plan.

5. In the opinion of the Local Planning Authority the proposal does not adequately provide public open space provision within the site, in accordance with the recommendations of Planning Guidance Note 13- Outdoor Playing Space and New Development. As such the proposal is contrary to policies STR11 and SR5 of the Flintshire Unitary Development Plan.

6. Inadequate information has been provided to demonstrate how the development will meet the required provision of affordable housing within the site, to meet proven local need. As such the proposal is considered to be contrary to policies STR1, STR4 and HSG10 of the Flintshire Unitary Development Plan.

3.00 CONSULTATIONS

3.01 Local Members

Councillor A Woolley

Requests that the application be placed before a full planning committee, with a site visit prior to the committee sitting. My reasons are that the application is in contravention of the following:

1) The Well-being of Future Generations act (Wales) 2015 in that it is unsustainable and both environmentally and ecologically destructive.

2) Policy Wales and particularly TAN 1, in that it is:-

a) Outside of the existing Development Boundary for Buckley.
b) Inappropriate development within an essential Green Barrier, where development would conflict with the UDP Such unwarranted intrusion would inevitably lead to the total destruction of the green barrier to the south of Meg's Lane, between Padeswood Road South and Bannel Lane and carry housing development far too close to the industrial site of the cement works alongside the A5118 at Padeswood. Policy GEN 4-17 would appear to apply to this case.

3) If granted, the application would create an unwarranted loss of agricultural land, contrary to Policy EC1 of the existing Unitary Development Plan.

4) While it may be argued that the county does not presently have in place a Joint Housing Land Availability Study and may not be able to demonstrate a fully adequate 5-year supply of land designated for housing, there are no pressing, compelling or exceptional circumstances relating to this particular application, which might argue for approval on any of those grounds.

5) That is particularly so given that there is no infrastructure plan attached to the application. Also, that Buckley is strewn with sites available for the construction of new houses, for which planning permission was granted several, even many, years ago, yet upon which sites there has been no sign of even commencement, let alone completion of the number of houses for which permission has been given. That argues irrefutably against any approval of this application on the grounds of urgent need. I believe that only some 74 houses have been built in recent years against a figure of about 669 units granted planning permission.

Councillor R Jones

No response received.

Buckley Town Council

Object to the proposal for the following reasons:

- Proposal contrary to Well-Being of Future Generations Act (Wales) 2015 in that it is unsustainable and both environmentally and ecologically destructive
- Contrary to PPW and TAN1: a) outside settlement boundary for Buckley
b) Inappropriate development within an essential green barrier
- Represents unwarranted loss of agricultural land
- No pressing, compelling or exceptional circumstances to approve this application, even if it is not possible to demonstrate a 5 year housing land supply

- No infrastructure plan. Large number of unimplemented permissions in Buckley, establishes that there is no reason for approval of this application on the grounds of urgent need.

Highways Development Control Manager

Spon Green provides the main access route to the application site but capacity of this road is limited by residential on-street parking. The concern has been raised with the applicant who has suggested a scheme of parking restrictions which would assist with the free flow of traffic. On this basis, any consent should be subject to a Section 106 agreement requiring the payment of a sum of £4000 to cover the costs incurred by the Council for undertaking a public consultation exercise and the advertising and making of a Traffic Regulation Order.

Although accompanied by a Travel Plan Framework this document makes no reference to the Active Travel Wales any future application should be accompanied by a full Travel Plan.

No objection subject to conditions covering;

- Siting layout and means of access
- Access to be done prior to other building operations
- access shall have a visibility splay of 2.4m x 43m in both directions measured along the nearside edge of the adjoining carriageway
- No obstruction in visibility splays
- Parking and turning facilities to be provided
- The front of the garage shall be set back a minimum distance of 5.5m behind the back of footway line / or 7.3m from the edge of the carriageway in the case where the crossing of a grass service margin verge is involved
- The detailed layout, design, means of traffic calming and signing, surface water drainage, street lighting and construction of the internal estate roads
- The gradient of the access from the edge of the existing carriageway and for a minimum distance of 10m shall be 1 in 24 and a maximum of 1 in 15 thereafter.
- A 1.8m wide footway shall be provided along the site frontage constructed to adoption requirements
- Positive means to prevent the run-off of surface water from any part of the site onto the highway
- Construction Traffic Management Plan
- A Full Travel Plan and Transport Implementation Strategy

Public Protection Manager

No adverse comments to make

Welsh Water/Dwr Cymru

Welsh Water have received a pre-planning enquiry for this development. In their consultation response they advised that the proposed development would overload the (Buckley Ty Gwyn) Water Treatment Works and that a feasibility study would be required. They also indicated that a hydraulic modelling assessment would have to be undertaken on the clean water supply system to establish if the system has the capacity to maintain adequate service and supply the new development.

Natural Resources Wales

- Require an assessment of potential presence of bats in mature trees onsite, and likely use of trees/boundary features by foraging/commuting bats, including appropriate avoidance/mitigation/compensation measures.
- Submission and implementation of a Biosecurity risk assessment to the satisfaction of FCC
- Flood Risk Management are satisfied that the proposed surface water drainage information provided in the submitted Flood Consequence Assessment (D2502-FCA-01 22nd May 2017) is sufficient to allow an appropriately worded surface water condition to be imposed for this application.

Public Open Spaces Manager

For an application of this scale consideration should be given to POS being provided in accordance with the recommendations provided in Planning Guidance, Note No 13. POS Provision. The proposed open space provision does not meet this requirement and as such we do not support the application. The POS provision required would be an area of some 4500 meters located central to the development, enclosed being free of any overhead utilities. The area to be equipped with children's play equipment, landscaped, to a specification approved by the council. Should the developer require the POS to be adopted by the council a 10 year maintenance commuted sum payment would be required.

Housing Strategy Manager

- Requirement for 30% affordable on site-provision
- LHMA for Flintshire identifies an annual shortfall of 246 affordable units
- In the LHMA Buckley sits within the Buckley and Mold sub area which identifies an annual shortfall of affordable dwellings of 165, which is not being met on an annual basis

The Coal Authority

Standing advice applies.

Airbus

No aerodrome safeguarding objections

4.00 PUBLICITY

4.01 Press Notice, Site Notice and Neighbour Notification

The application was advertised as a departure from the development plan.

90 Letters of Objection received. Objections were lodged on the following issues:

- Parking issues on surrounding roads
- Loss of local amenity
- Loss of Green Belt
- Traffic issues and road safety
- Lack of local infrastructure and impact of development on local services
- Loss of Privacy/Overlooking
- Ecological Impact
- Proposal does not give adequate regard to “Active Travel” issues (walking and cycling) Transport assessment should fully consider all modes of transport not just cars.

5.00 SITE HISTORY

5.01 None

6.00 PLANNING POLICIES

6.01 Flintshire Unitary Development Plan

STR1 - New Development

STR4 - Housing

STR8 - Built Environment

STR10 - Resources

GEN1 - General Requirements for New Development

GEN3 - Development Outside Settlement Boundaries

GEN4 – Green Barrier

D1 - Design Quality, Location and Layout

D2 - Design

D3 - Landscaping

TWH1 - Development Affecting Trees and Woodlands

TWH2 – Protection of Hedgerows

WB1 - Species Protection

WB4 – Local Wildlife Sites of Wildlife and Geological Importance

WB6 – Enhancement of Nature Conservation Interests

AC2 – Pedestrian Provision and Public Rights of Way

AC3 – Cycling Provision

AC13 - Access and Traffic Impact

AC18 - Parking Provision and New Development

L1 – Landscape Character
HSG4 – New Dwellings Outside Settlement Boundaries
HSG8 - Density of Development
HSG9 - Housing Mix and Type
HSG10 - Affordable Housing within Settlement Boundaries
SR5 - Outdoor Play Space and New Residential Development
EWP3 - Renewable Energy in New Development
EWP16 – Water Resources
EWP17 – Flood Risk
RE1 - Protection of Agricultural Land
SR5 – Outdoor Play Space and New Residential Development
IMP1 – Planning Conditions and Planning Obligations

Planning Policy Wales Edition 8 January 2016
Technical Advice Note 1 Joint Housing Availability Studies 2015

7.00 PLANNING APPRAISAL

7.01 Proposal

The proposal is an Outline application for up to 100 dwellings on a site of 3.8 hectares at land off Megs Lane, Buckley. The only reserved matter being put forward for consideration is Access.

7.02 Principle of development

The site lies adjacent to the settlement of Buckley in the adopted Unitary Development Plan (UDP), within a designated green barrier. Policy GEN4 does not permit new housing development in green barriers except for very specific forms of development. Furthermore the UDP only permits new development in the open countryside in a limited number of circumstances.

Planning Policy Wales (PPW) provides guidance on green wedges or barriers and Policy GEN4 of the UDP is generally in conformity with that advice. Housing development, in the form proposed, does not form one of the types of development that can be permitted in a green barrier and therefore, by definition, the development being proposed here must be treated as 'inappropriate development'.

PPW directs that other forms of development are considered inappropriate development unless they maintain the openness of the green barrier or conflict with the purposes of including land within it. Given the amount of built development proposed it is considered that this would not maintain the openness of the green barrier. One of the key purposes of the green barrier in this location is to protect the prominent southern edge of Buckley against encroachment of development into open countryside.

A pre-application submission was made prior to the current application being submitted, albeit for 5 dwellings. Officers advised that whilst in broad terms the site could be considered as being in a sustainable location, the location of the site within the designated green barrier was a significant impediment.

7.03 **Main Issues**

The main issues are considered to be whether the proposal represents appropriate development within the designated green barrier and in an open countryside location, the impact of the proposal upon adjacent ecology sites, the water supply infrastructure, sufficient provision of public open space and affordable housing as well as the implication of the 5 year land supply on the acceptability of the proposal in the overall planning balance.

7.04 **Green Barrier**

The site is located within a green barrier (GEN4-17) which wraps around the south and eastern edge of Buckley and Drury. This is a well defined green barrier that is fit for purpose when reviewed against the purposes for designating green barriers in section 4.8.3 of PPW 9, and also an area where there has been considerable pressure for development as part of successive development plans, and presently as part of speculative housing proposals. The principle and extent of the green barrier has been supported by successive Planning Inspectors as part of the Alyn and Deeside Local Plan and Unitary Development Plan.

Policy GEN4 states that:

Development within green barriers will only be permitted where it comprises the following:

- a. justified development in association with*
- b. essential facilities for outdoor sport and recreation, or cemeteries;*
- c. limited extension, alteration or replacement of existing dwellings;*
- d. limited housing infill development to meet proven local housing need or affordable housing exceptions schemes;*
- e. small scale farm diversification;*
- f. the re-use of existing buildings; and*
- g. other appropriate rural uses/development for which a rural location is essential.*

provided that it would not:

- i. contribute to the coalescence of settlements; and*
- ii. unacceptably harm the open character and appearance of the green barrier.*

The site was submitted as an omission site as part of the UDP for a housing allocation and the Inspector commented '11.96.27. 1996 – *Whilst adjacent to HSG1(2) the site shares only a short boundary with*

it and is separated from it by a stream and a corridor of trees/vegetation. Although both are greenfield sites, visually there is not a strong relationship between the 2 and development on the objection site would extend further to the south into the rural area. The site is bounded to the north by the backs of properties fronting Megs Lane and lies within the green barrier which seeks to prevent encroachment into an area of open countryside to the south of Buckley where there is pressure to develop. The permission for and start on the construction of a dwelling along the Megs Lane frontage of the site would appear to preclude vehicular access'.

In general the Inspector recognised the role of the green barrier in safeguarding the countryside from encroachment and protecting the setting of this prominent urban edge. The Inspector also recognised potential coalescence with built development at Padeswood.

PPW states that (para 4.8.12) “The general policies controlling development in the countryside apply in green wedges, but there is, in addition, a general presumption against development which is inappropriate in relation to the purposes of the designation”. In the submitted Green Barrier asses

sment it has been opined that existing hedgerows within the green barrier give a better natural boundary than what has been described as a “weak” boundary based on the urban edge of boundary. In my opinion, with echos the Inspectors comments mentioned earlier, is that the current situation gives a clear delineation between the built development of the town and the adjacent countryside. There are hedgerows throughout the green barrier as befits agricultural land. Artificially pushing the limits of the urban area further into this area can only lead to a weakening of the openness of the designated area and ultimately a coalescence of the surrounding built development to the detriment of the open countryside.

This area of open countryside, located at the south eastern area of Buckley has an existing and well defined southern extent to the settlement, from which the countryside then gently drops away. It is the openness of this context setting band of open countryside that is remarkably unaltered due to the green barrier designation, and in spite of long standing pressure for development, is important to maintain and not permit its reduction or erosion.

I do not consider that the proposal complies with either relevant development plan policies, or national planning guidance in respect of its impact upon the character and openness of the designated green barrier.

7.05 Sustainability

Buckley is a category A settlement in the UDP and several allocations were made in the settlement in the UDP. In the UDP Buckley is in the top tier of the 5 tier hierarchy and is a main service centre and this reflects its level of sustainability. In broad terms it is a sustainable settlement to accommodate development. However the Welsh Governments principles and objectives for sustainable development encompasses far more than just providing for growth and development, with matters such as environmental protection also being important. The provision of green wedges and barriers is an important part of Chapter 4, 'Planning for Sustainability', of PPW. It is an integral part of how sustainability is to be achieved. If the proposed development is inappropriate development in a green barrier then it cannot represent sustainable development unless there are exceptional circumstances to justify the harm caused. There was a recent appeal decision at Rhosrobin, Wrexham where the Inspector considered a green barrier site, and was of the opinion that the lack of a 5 year housing land supply did not outweigh the conflict with the development plan and national planning policy. The Inspector concluded '*I conclude that the development is inappropriate development in the green barrier and very exceptional circumstances do not exist to clearly outweigh this harm....*' As such I do not consider the proposal to represent sustainable development, given the detrimental impact upon the green barrier.

7.06 **Housing Land Supply**

It is accepted that the Council does not have a 5 year housing land supply, particularly as the Welsh Government/PINS will not be progressing the 2015 JHLAS. In terms of TAN1 the Council 'will be considered not to have a 5-year supply' as it does not have an adopted UDP /LDP and cannot formally carry out a JHLAS. The commentary in the 2014 JHLAS Report explains how the Council will seek to increase supply and part of this is considering 'speculative' sites which represent sustainable development. A guidance note on speculative development was subsequently issued to assist in the submission of speculative development proposals.

In such circumstances, advice contained in para 6.2 of TAN1 is that 'The housing land supply figure should also be treated as a material consideration in determining planning applications for housing. Where the current study shows a land supply below the 5-year requirement or where the local planning authority has been unable to undertake a study (see 8.2 below), the need to increase supply should be given considerable weight when dealing with planning applications provided that the development would otherwise comply with development plan and national planning policies'.

When looking at the context of the site in Buckley there is a site to the west of it which has detailed planning permission for housing and a

short distance away is the Well Street site (which is being progressed as part of the SHARP programme) and Rose lane allocated site which has been allowed on appeal. Elsewhere in Buckley there are other sites being developed by different developers. It is not clear what the need is for an additional site in this location.

As has been discussed, it is not considered that the development would otherwise comply with development plan policies and national planning policies. As such the weight to be given to the lack of the 5-year requirement is not sufficient to outweigh other material factors in determining this application.

7.07 Ecology and Biodiversity

The site is primarily improved grassland with potential habitats, including watercourses and hedgerows within the site. The site lies within 2 Kilometres of the Buckley Claypits and Commons SSSI and Deeside and Buckley Newt Sites SAC, although the site lies outside the buffer zones for these designated areas. The development would result in the loss of approximately 3ha of improved grassland habitat and 0.1ha of scrub.

The site has potential to support common amphibian species, bats and nesting birds during the breeding season. There are likely impacts upon these species and their habitats as a result of the development. Mitigation measures have been proposed, should the development be allowed. These measures should be imposed by condition and when complied with the development will be in accordance with the relevant Development Plan Policies, namely Policy WB1 of the Flintshire Unitary Development Plan, which seeks to protect species in conjunction with existing species protection through relevant Acts of Parliament and European Law and policy WB6, which requires that development incorporates measures to improve the nature conservation of a site and mitigates against the loss of natural habitats by development. Numerous field signs of Badger activity is evident on site although no Badger Setts have been recorded on the site

There is a wildlife site, Bistre Wood, to the south west of the site which is ancient woodland which requires a 15m buffer zone between this area and development.

There is a requirement for further surveys to be undertaken on site in order to demonstrate that the development has taken the ecology of the site into account. An updated Ecological Impact Assessment was submitted following comments received from the Ecology officer, but no further surveys have been undertaken.

Given the nature and the location of the proposal it is considered that

biosecurity is a material consideration, with specific regard to invasive non-native species and diseases. Conditions would need to be imposed to require a Biosecurity risk assessment for the site should the proposal be considered acceptable.

7.08 **Highways and access considerations**

Spon Green provides the main access route to the application site but capacity of this road is limited by residential on-street parking. The concern has been raised with the applicant who has suggested a scheme of parking restrictions which would assist with the free flow of traffic. On this basis, any consent would need to be subject to a Section 106 agreement requiring the payment of a fee to cover the costs incurred by the Council for undertaking a public consultation exercise and the advertising and making of a Traffic Regulation Order. Commuted sums would also be required for a street lighting system that is to be powered and maintained at public expense.

Although accompanied by a Travel Plan Framework this document makes no reference to the Active Travel Wales and if the current proposal were to be successful then any future reserved matters application should be accompanied by a full Travel Plan.

7.09 **Waste Water provision**

Pre-application enquiries by the applicant to Welsh Water identified that the proposal would overload the (Buckley Ty Gwyn) Waste Water Treatment Plant. A Clean Water Hydraulic Modelling Assessment and a Feasibility study were undertaken by Welsh Water.

The conclusion of the Clean Water Hydraulic Modelling assessment indicates that under current network conditions the development of 100 dwellings within land off Megs land is viable, and flows, velocities, pressures and head losses are all above DCWW serviceability levels.

Feedback on the feasibility study has not yet been received from Welsh Water.

Public Open Space

7.10 Opportunities for both formal and informal recreation are essential to the health and happiness of people of all ages. Recreational open space areas are a vital element of the community, allowing free movement, free expression and social interaction. In accordance with the recommendations provided in Planning Guidance Note 13 the provision of public open space will be an important consideration within proposals for new residential developments. In addition to aiding the general well-being of the community by providing for sport and recreation, public open space can also contribute to biodiversity, the conservation of nature and landscape, air quality, the protection

of ground water, and can enhance the appearance of a locality.

The required public open space provision for a development of this scale would be an area of some 4500 metres located centrally to the development. The proposed provision proposed by the development does not meet these requirements.

Affordable Housing

- 7.11 Paragraph 9.2.14 of PPW 9 states that *“A community’s need for affordable housing is a material planning consideration which must be taken into account in formulating development plan policies”*. Whilst the Planning Statement for the development states that the development proposal will be in full compliance with the relevant unitary development plan policies governing affordable housing provision, no details have been provided to demonstrate how the required provision shall be provided.

Policy HSG10- Affordable housing within settlement boundaries, is considered to be the relevant unitary development plan policy given the edge of settlement location of the proposal. In this policy, where there is a demonstrable need for affordable housing to meet local needs, the Council will take account of this as a material consideration when assessing housing proposals. Where this need exists the Council will negotiate with developers to provide 30% affordable housing in suitable or appropriate schemes within settlement boundaries.

In terms of the evidence of need, the Local Housing Market Assessment (LHMA) for Flintshire identifies an annual shortfall of 246 affordable units and in 2015/2016 124 affordable units were delivered- a combination of supported housing, social and intermediate rent as well as shared equity. In the LHMA Buckley sits within the Mold and Buckley sub area which identifies an annual shortfall of affordable dwellings of 165, which is not being met on an annual basis. The LHMA overall identifies a need for primarily 1 bed (14%) 2 bed (31.6%) and 3 bed (28.5%) split relatively evenly between social rented (56.2%) and intermediate (43.8%) tenures.

The Social Housing Register currently has 1,656 applications with around 500 people identifying Buckley as an area where they are seeking social housing with a mix of 1 bed and 2 bed flats, and 2 bed, 3 bed and 4 bed houses.

There is also an identified level of interest of affordable housing (i.e affordable ownership and rent) in Buckley with 39 applicants currently registered for an affordable ownership (shared equity) property, with a further 28 applicants with a registered interest for affordable rent.

Given the above it is clear that there is an identifiable need within the area for affordable housing options. As such it is considered that it

would be appropriate to seek a 30% provision of affordable housing on site. Without details being provided of how this will be achieved there is a lack of clarity concerning the compliance of the proposal with the relevant development plan policies and national policy.

8.00 CONCLUSION

The proposal represents inappropriate development within the Green barrier and is in clear conflict with the provisions of the policies of the unitary development plan as well as national guidance. The proposal would cause undue harm to the open countryside and green barrier. Whilst it is accepted that TAN1 gives considerable weight to increasing housing land supply I do not consider that this outweighs the above considerations and recommend accordingly.

Inadequate details have been provided with regards to safeguarding the ecology of the site, the provision of public open space and affordable housing provision and to ensure that the capacity of the local water resources meet the need of the development.

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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