

FLINTSHIRE COUNTY COUNCIL

REPORT TO: **PLANNING COMMITTEE**

DATE: **18TH JULY 2018**

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

SUBJECT: **OUTLINE- RESIDENTIAL DEVELOPMENT , INCLUDING ACCESS, OPEN SPACE AND ALL ASSOCIATED WORKS AT LAND ADJACENT WOODSIDE COTTAGES, BANK LANE, DRURY**

APPLICATION NUMBER: **058212**

APPLICANT: **LINGFIELD HOMES**

SITE: **LAND ADJACENT WOODSIDE COTTAGES**
BANK LANE
DRURY
BUCKLEY
CH7 3EQ

APPLICATION VALID DATE: **15TH MARCH 2018**

LOCAL MEMBERS: **COUNCILLOR M PEERS**
COUNCILLOR D HUTCHINSON

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

REASON FOR COMMITTEE: **SCALE OF DEVELOPMENT RELATIVE TO DELEGATION SCHEME**
PUBLIC INTEREST

SITE VISIT: **YES**
TO ALLOW MEMBERS TO SEE LOCAL ROADS INFRASTRUCTURE AND LOCAL AREA

1.00 SUMMARY

- 1.01 This is an outline planning application for residential development on 0.85 hectares at Woodside Cottages, Bank Lane, Burntwood. All matters are reserved with the exception of access. The main issues to consider are the principle of development as a windfall site, the highway impacts, ecological implications and other site constraints.

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

2.01 The conditional planning permission be granted subject to the applicant either entering into a Section 106 Obligation or Unilateral Undertaking to provide the following:

Payment of £73, 542 to Drury C.P Primary School. Such sums to be paid upon the commencement of development;

Payment of £1,100 per dwelling in lieu of on-site public open space provision. The off-site contribution would be used to enhance existing public open space in the community; namely Mount Pleasant road Play area. The contribution shall be paid upon 50% occupation or sale of the dwellings hereby approved;

And

Payment of £2,500 per dwelling towards mitigating the indirect impacts due to in combination pressures on the Special Area of Conservation (SAC).

Conditions

1. Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development commences and the development shall be carried out as approved.
2. (i) Application for approval of the reserved matters shall be made to the local planning authority before the expiration of three years from the date of this permission
(ii) The development hereby permitted shall be begun either before the expiration of five years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters, whichever is the later.
3. A scheme of disposal of foul sewage and surface water from the site has been submitted to and approved in writing by the local planning authority.
4. Surface water flows from the development shall only communicate with the public sewerage system through an attenuation device that discharges at a rate not exceeding 5 l/s.
5. The submission of reserved matters shall include details of existing and proposed site levels and, where appropriate, proposed finished floor levels of the building(s).
6. Detailed scheme for the re-alignment if kerb-lines associated

with the making of a TRO and provision of a footway on Pen y Coed Road has been submitted to and approved by the LPA. Such works shall become subject of a Section 278 Agreement.

7. The detailed layout, design, means of traffic calming and signing, surface water drainage, street lighting and construction of an internal estate roads.
8. Formation and construction of a means of site access
9. Facilities shall be provided and retained within site for the parking and turning of vehicles
10. The front of any 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.
11. Positive means to prevent the run off of surface water from any part of the site onto the highway
12. Submission of a Construction Traffic Management Plan
13. Submission of a Full Travel Plan and Transport Implementation Strategy
14. Submission of a site investigation. If any contamination is found during the site investigations a remediation report shall be submitted and approved by the LPA.
15. Submission of a scheme of great crested newt avoidance and mitigation measures.
16. Submission of an appropriate Ecological Compliance Audit.
17. Submission of a programme of building recording and analysis equivalent to a Historic England Level 3 building survey for the existing buildings to be demolished.
18. Submission of a scheme for remedial works to treat the identified areas of shallow coal mine workings.

3.00 CONSULTATIONS

3.01 Local Member Councillor M Peers Councillor D Hutchinson

Joint response. Preliminary views are that application should be refused for the following reasons:

- Proposed access is unacceptable given that the traffic to and from the proposed development will need to travel through the existing local road network through narrow roads with parked cars on Pen-y-Coed housing estate.
- Impact of additional traffic generated by development on the residential amenity of existing residents, road safety.
- Local road network under stress. Highways strategy has been asked to carry out capacity v. volume checks in the community.
- Proposal conflicts with Welsh Governments “Prosperity for All: The National Strategy”. Fails the test with regards to adequacy of local infrastructure.
- Contradictory statements regarding ‘developable area’ between supplied documents.

- Housing mix unacceptable under HSG9
- Inefficient use of land contrary to policy HSG8
- No demonstrated housing need. Drury and Burntwood has exceeded the 8%-15% guidance in the UDP
- LDP currently being drafted and housing development land should be approved in line with the facilities and infrastructure, currently lacking in the community.
- Current consultation on TAN1 by Welsh Government Cabinet Secretary for Energy, Planning and Rural Affairs.

Buckley Town Council

- Concerns raised in relation to the impact on the amenity of the area, particularly in respect of traffic flow and the access and egress. Proposed one way system would exacerbate danger to public from traffic.
- Impact upon ecological amenity
- Inadequacy of parking
- Increased traffic flow would have an adverse effect on the roads in the immediate area particularly Mount Pleasant Road and Drury Lane

Head of Assets and Transportation

No objection providing conditions imposed.

Head of Public Protection

No objections in principle. Recommends contaminated land conditions.

Ecology

Recommends that any permission is conditioned with agreed reasonable avoidance measures in relation to GCN.

Mitigation can be either through the provision of land for conservation/recreation or through financial enhancement projects within the Buckley area. Financial contributions would need to be dedicated to the enhancement and creation of new habitat to avoid significant adverse effects (both alone and in combination with other projects) on the conservation features of the Deeside and Buckley Newt SAC.

Capital Projects and Planning Manager

SCHOOLS AFFECTED: PRIMARY

School: Drury C.P. School

Current NOR (@ January 2018) 146 (excluding Nursery)

Capacity (@ January 2018) (excluding Nursery) 124

No. Surplus Places: -22

Percentage of Surplus Places: -17.74%

SCHOOLS AFFECTED SECONDARY

School: Elfed High School

Current NOR (@ January 2018) is 745

Capacity (@ January 2018) is 1037

No. Surplus Places is 292

Percentage of Surplus Places is: 28.15 %

EXCEPTIONS

The exceptions to the provision of school places will be the following type of residential development from which planning authorities will note seek contributions:

Housing specifically designed for occupation by elderly persons (ie restricted by planning condition or agreement to occupation by those over aged 55 years or more).

1 bed dwellings or 1 bed apartments or flats.

Formula

The figures are arrived at from a combination of formula application and practical experience, informed by sufficiency criteria.

The formula reads:

Primary School Pupils

School capacity 124 x 5% = 6.2 (6)

124 – 6 = 118 Trigger point for contributions is 118 pupils

(No. of units) 23 x 0.24 (primary formula multiplier) = 5.52 (6) No. of pupils generated) x £12,257 per pupil (Building Cost multiplier) = £73,542

Actual pupils 146 + 6 (from the multiplier) = 152 meets trigger

Contribution requirement would be £73,542

Secondary School Pupils

School capacity of 1037 x 5% = 51.85 (rounded up or down) 52

Capacity 1037 - 52 = 985 Trigger point for contributions is 985 pupils

(No. of Units 23 x 0.174 (secondary formula multiplier) = 4.02 (4 No. of pupils) generated x £18,469 per pupil (Building Cost multiplier) = £73,876

Actual pupils 736+4=740 does not meet trigger of 985

Contribution requirement would be £0

Primary – Drury C.P. Primary School – it is our intention to seek a Section 106 contribution.

Secondary – Elfed High Secondary – it is not our intention to seek a Section 106 contribution.

Welsh Water/Dwr Cymru

No problems are envisaged with the waste water treatment works for the treatment. A water supply can be made available to serve the development. Suggested conditions.

Natural Resources Wales

Do not object to proposal subject to the imposition of conditions relating to protected species.

CPAT

Recommend a condition for a photographic survey of the buildings to be demolished.

Coal Authority

No objection subject to the imposition of a condition for a scheme of remedial works to treat areas of shallow coal mine workings.

4.00 PUBLICITY

4.01 Press Notice, Site, Notice, Neighbour Notification

50 Letters of Objection received, for the following reasons:

- Impact of traffic on local road network
- Flooding
- Request for better pedestrian links to Burntwood Road
- Restricted access for emergency vehicles to development
- Local schools oversubscribed
- Substandard bus routes
- Character of Drury being undermined by overdevelopment
- Infrastructure issues
- Ground stability
- Concern over inaccuracies in SCP transport assessment
- Impact on protected species
- Noise

5.00 SITE HISTORY

5.01 **71/12**

Outline erection of dwellings. Refusal.

4/0/19084

Erection of 23 no semi-detached and terraced starter homes.
Withdrawn 20.02.90

4/0/19139

Erection no of 22 no detached houses, 8 no semi-detached houses
and 6 no link detached. Refused 04.02.92.

05/0/039757

Outline application for residential development. Withdrawn 17.11.05.

05/040708

Proposed erection of 41 dwellings. Withdrawn 16.06.06

041555

Erection of 40 no. residential dwellings, land at Dinghouse Wood,
Buckley. Refused 04.10.06. Appeal Withdrawn 14/03/07.

045405

Outline - Residential Development
Refused 02.08.2010 Appeal Dismissed 17.06.2011

6.00 PLANNING POLICIES

6.01 Flintshire Unitary Development Plan

STR1- New Development

STR4- Housing

GEN1- General Requirement for Development

GEN2- Development Inside Settlement Boundaries

D1- Design Quality, Location and Layout

D2 – Design

D3 - Landscaping

TWH1- Development Affecting Trees and Hedgerows

TWH2- Protection of Hedgerows

WB1- Species Protection

WB2- Sites of International Importance

WB3- Statutory Sites of National Importance

WB6- Enhancement of Nature Conservation Interests

AC2- Pedestrian Provision and Public Rights of Way

AC13- Access and Traffic Impact

AC18- Parking Provision

HSG8 – Density of Development

HSG9 – Housing Mix and Type

HSG10– Affordable Housing within Settlement Boundaries

SR5 – Outdoor Playing Space and New Residential Development

EWP14- Derelict and Contaminated Land

EWP15- Development of Unstable Land

Additional Guidance

Planning Policy Wales 9 (PPW9)

Technical Advice Note 1: Joint Housing Land Availability Studies

Technical Advice Note 5- Nature Conservation and Planning

Technical Advice Note 18- Transport

Local Planning Guidance Note 2 – Space About Dwellings

Local Planning Guidance Note 3- Landscaping

Local Planning Guidance Note 8-Nature Conservation and Development

Local Planning Guidance Note 9 – Affordable Housing

Local Planning Guidance Note 14- Open Space Contributions

Local Planning Guidance Note 23- Developer Contributions to Education

7.00 PLANNING APPRAISAL

7.01 Proposal

This outline application, with all matters reserved apart from Access, is for the residential development of up to 23 units, including open space.

7.02 Site

The application site is 0.85 hectares, with 1 and 2 Woodside Cottages in the centre of the site and a parcel of agricultural land to the southern portion of the site. Due to existing site constraints the developable area of the site is approximately 0.581 Hectares. The application site is surrounded by residential development. To the southern boundary are semi-detached properties off Pen y Coed Road and Hillside Cottages, to the east a terrace of properties know as Hawarden View, to the north and north east residential development at Dinghouse Wood and Burntwood house and west the Burntwood public house and further residential properties off Burntwood Road. A public footpath runs adjacent to the northern and eastern boundary of the site. There are a number of trees and hedgerows around the perimeter of the site and a hedgerow along the driveway to Woodside Cottages in the centre of the site. The site is located within the settlement of Drury & Burntwood in the Flintshire Unitary Development Plan.

7.03 **Main Issues**

The main issues are considered to be the principle of development as an unallocated windfall development within a settlement boundary, highways and access issues, the impact of the proposal on wildlife sites and local ecology, and issues of contamination and ground stability as a result of nearby landfill sites and historic coal mining.

7.04 **Principle of Development**

The site is located within the settlement boundary of Drury and Burntwood which was identified within the adopted Flintshire Unitary Development Plan as a Category B settlement. Policy GEN2 identified a presumption in favour of the development of such sites but noted that in the case of unallocated 'windfall sites' there are limitations imposed via policy HSG3.

Policy HSG3 directs that upon unallocated sites within settlement boundaries, new housing development would be permitted in Category B settlements where it did not conflict with the planned housing provision for the County, as set out in the UDP, and does not conflict with Policy GEN1. It also identified that development which would result in growth over 15% during the plan period would be required to meet a recognised local need. However, as the plan period has now passed, so too has the period for monitoring in respect of Policy HSG3.

I am mindful that previous applications have been refused at this location, the most recent of which (reference 045405) was refused solely upon the basis of the proposal resulting in a form of development which exceeded the growth thresholds under HSG3. However, the situation in respect of HSG3, as set out above, amounts to a significant material change of circumstances in relation to the policy context for this site.

Accordingly, the scheme should be viewed on its own merits as a market scheme and is essentially a 'windfall site'. The bringing forward of such windfall sites is consistent with the strategic aims of the UDP and the UDP Inspector's conclusions in relation to housing in that housing development should be primarily directed towards such settlements. Members will also be aware that the granting of windfall sites such as this will assist the council in maintaining a supply of housing land as it moves towards the completion of its Local Development Plan.

Members are reminded that as this site is located within the settlement boundary, albeit not allocated for residential development, the requirements of developers as set out in the Council's Developer Guidance Note : Speculative Housing Development Proposals, do not apply to this site.

Access

7.05

Access to the site is achieved through the use of an existing field access that links onto Pen-y-Coed Road, which has two accesses onto Burntwood road. The proposal was subject to a Schedule 1C consultation with the Highways department prior to the submission of the planning application. An assessment of the likely traffic impacts of the development has been submitted with the application. This assessment shows that given the proposed level of development the impact arising from traffic generated by the proposal would be negligible, as such it is not considered that any sort of mitigation measures would be required. Highways Development Control have accepted the findings of this assessment and consider that the proposed access arrangements meet any previous concerns regarding the impact of the proposal on the existing highway network.

Concern has been raised regarding on-street parking on the adjacent Pen y Coed Road. In order to investigate a possible solution to ease any problems that may arise from this it is proposed that a public consultation exercise into the implementation of a Traffic Regulation Order (TRO), to provide a one-way system, would be funded by the development. If there was public support for such an order this would subsequently be applied and any minor amendments to kerb lines etc undertaken to facilitate this order. Should this TRO not garner sufficient public support it is the opinion of Highways Development Control that nevertheless the proposed access is acceptable.

Two new footpath links are shown on the illustrative layout, within the site, to provide pedestrian connectivity to the adjacent public footpath network. More details will be required in any subsequent reserved matters detailing the layout of the development proposal. The Public Rights of Way service would be a consulted on any such proposal and it would be the intention to maintain these paths at the public's expense. Concerns have been raised about the impact upon existing residential amenity due to the location of one of the proposed links and this would need to be given serious consideration at reserved matters stage. Whilst the principle of creating greater accessibility to the existing footpath network is acceptable this should not be detrimental to existing amenity. However, this is an outline planning application which is only considering the principle of development and therefore these matters can be considered at reserved matters stage and rejected if a suitable scheme which protects amenity cannot be designed.

Conditions have been proposed to ensure that the proposed estate road would be constructed to adoptable standard, that sufficient parking is available within the site, that no surface water run off onto the highway shall arise from the development and that a full travel plan and transport implementation strategy is submitted and

approved prior to the first use of the development, in order to ensure that the development encourages more sustainable forms of travel in close proximity to bus stops.

Ecology

7.06

The site lies within 150m of the Deeside and Buckley Newt Site SAC, which was designated in December 2004 for its great crested newts (GCN) and Oak woodland. The SAC is further designated as Buckley Clay Pits and Commons SSSI, for its great crested newts, assemblage of other amphibians and the mosaic of acid, neutral and marshy grassland, wet heath, tall herb and scrub.

It is not considered that a development of the application site at the scale proposed would have a direct impact on the SAC, but it is acknowledged that there could be indirect effects for the following reasons.

Whilst there is developed land between the site and the known location of the GCN population, one of the breeding ponds is within 500m of the site. Limited links do exist to the SAC through woodland and hedgerow corridors. As such there is a potential for GCNs to be present upon the site, although it is considered that this could be overcome by undertaking reasonable avoidance measures to prevent harm to newts during the construction phase.

The field that forms the southern section of the site is semi improved grassland, in addition to the established and overgrown garden for the cottages this represents terrestrial habitat for GCNs and an area of mitigation would be required to maintain the favourable conservation status of the species. The field contains species of flora such as Bulbous buttercup and Ribwort plantain, which is typical of grasslands with limited agricultural improvement. Whilst not outstanding in its own right when combined with other features present on site it is indicative of the sites potential to provide nesting habitats for birds and potentially feeding and foraging habitats for other species.

When considered with other developments in the wider Drury and Buckley areas the combination effects arising from increased recreational pressures could be potentially significant without appropriate mitigation and compliance with conditions and obligations.

It is proposed that any permission would include conditions relating to a scheme of reasonable avoidance measures, and an ecological compliance audit scheme to be submitted and approved in writing by the Local Planning Authority prior to any work commencing on site. This would include protection for GCNs during the construction phase.

Contamination

- 7.07 The site is within 200 metres of 2 former landfill sites, Standard landfill and a site between Mount Peasant Road and Drury Lane. There is also a legacy of coal mining on the site. Given the possibility of land contamination on site is considered appropriate to condition the submission of a Phase 1 Contaminated land site assessment, prior to the commencement of any development.

A letter was submitted with the application from NKC Geotech Ltd who have undertaken site investigations with regard to the historic coal mining on site, which includes 3 recorded mine entries within, or within 20 metres of the site boundary. The letter confirms that physical investigation has discounted any risks posed by the mine entries but identified that shallow mine workings will require consolidation to provide a stable building platform.

Given the above, the Coal Authority have responded to the consultation to request the imposition of a condition requiring the submission of a scheme of remedial works and their subsequent implementation.

It is considered that subject to the identified conditions being imposed the proposal is acceptable with regards to land contamination and ground stability.

Education

- 7.08 Primary and Secondary formula multipliers have been applied to assess the potential impact of the proposal on the capacity of both Drury CP School and Elfed High School. Due to capacity having been reached at Drury CP School a section 106 contribution would be sought for £73, 542. This is based on a calculation of 23 units. The trigger points for Elfed High School have not been met and a contribution will not be sought.

The infrastructure and monetary contributions that can be required from a planning application through a S.106 agreement have to be assessed under 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.

It is considered that the education contributions would meet the regulation 122 tests. Drury CP School is oversubscribed and due to the added pressure on the school the development would require contributions to mitigate against this impact. Drury CP School does not appear to have received more than 5 contributions and therefore the limitations of regulation 123 does not apply.

Other Matters

7.09 The proposed development includes the demolition of the existing domestic residential buildings on site. These dwellings appear on the earliest Ordnance Survey maps and are potentially mid-19th century workers dwellings. It is considered that the buildings are of local and archaeological interest and worthy of recording in their current form before they are demolished. It is therefore intended to impose the requirement for a level 3 archaeological building survey as a condition, to allow an adequate analytical record of the buildings prior to demolition.

As the application site was part of a site subject to a previous planning application, the trees on the site were previously assessed in terms of whether they merit a Tree Preservation Order. Following this assessment a group of sycamores situated on the western boundary of the site adjacent to 30 Burntwood Road were protected by a Tree Preservation Order. Any site layout could accommodate these the protection of these trees. It was considered at the time that no other trees on the site merit a Tree Preservation Order.

Concerns have been raised over the indicative housing mix and density of development shown in the proposal. Whilst this application is in outline with all matters except access reserved an indicative layout has been provided and a maximum number of residential units shown. A more detailed scheme will be required for the reserved matters submission, to include up to 24 plots. The housing mix and type can be more properly considered at this point. Policy HSG8 advises that a density of 30 dwellings per hectare is appropriate in category B settlements, subject to the site location and character of the area, and the proposal represents a density per hectare of 28, which increases to 41 dph when the excluded areas are taken into account. While the details put forward by the developer in terms of site constraints have been queries, it is clear that there are clearly existing site constraints, in particular the excluded areas of site due to the coal mining legacy, and these limit the developable land on site and the proposed unit number of 24 is considered to represent

efficient use of land in policy terms, and complies with policy HSG8. In my opinion even if you exclude the undevelopable areas from the equation the proposed density of development would represent an efficient use of land that reflects the characteristics of the site and the surrounding areas.

Members will be aware of the appeal decision relating to Argoed Service Station, New Brighton (planning ref. 55310 Appeal ref. APP/A6835/A/16/3161711), where a similar argument was put forward with regards to density and efficient land use. On that occasion the Planning Inspector considered that the proposal was compliant with the relevant Policy. The site scale and characteristics bear similarities to this proposal.

The site is under the threshold for requiring affordable housing provision under policy HSG10.

An area of public open space is shown on the site. There is also an existing play area a short distance away from the site on Mount Pleasant road. Commuted sums required for public open space provision, calculated as £1,100 per dwelling, shall be sought in order to upgrade the existing facility on Mount Pleasant Road.

Objections have been received in relation to flood risk and increased pressure on community infrastructure. There is no evidence to support that there are any ground or surface water flooding issues so this objection would attract very little weight in the overall planning balance. Furthermore no evidence has been submitted to demonstrate that local community facilities would not be able to accommodate future residents so this would attract very little weight in the overall planning balance.

It is acknowledged that Welsh Government have consulted Local Planning Authorities on whether it is appropriate to have a consultation period about paragraph 6.2 of TAN 1. It was indicated that 6.2 of TAN 1 would be disapplied during the consultation period. At present there is no confirmation about whether the consultation will commence and whether paragraph 6.2 of TAN 1 would be disapplied. The Local Planning Authority are therefore still required to attach weight to the whole of TAN 1 and cannot reasonably delay the determination of planning applications on the basis of a potential consultation period.

With regard to the Council's Developers Guidance Note. As this proposal is not predicated on the lack of a 5 year supply of housing land alone and in principle is acceptable as a windfall site within a residential area within a settlement boundary the requirements of the at note do not apply.

8.00 CONCLUSION

I consider that the principle of development is acceptable for this outline residential development and, subject to the imposition of suitable conditions, that the proposal accords with the relevant guidance within National and Flintshire Unitary Development Plan policies. As such I recommend that the application is approved with the schedule of conditions given above.

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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