

FLINTSHIRE COUNTY COUNCIL

REPORT TO: **PLANNING COMMITTEE**

DATE: **5TH SEPTEMBER 2018**

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

SUBJECT: **APPEAL BY MRS T. JOHNSTON AGAINST THE DECISION OF FLINTSHIRE COUNTY COUNCIL TO REFUSE PLANNING PERMISSION FOR THE ERECTION OF 1 NO. DWELLING AT BROOK COTTAGE, CHESTER ROAD, OAKENHOLT - DISMISSED.**

1.00 APPLICATION NUMBER

1.01 057257

2.00 APPLICANT

2.01 Mrs. T. Johnston

3.00 SITE

3.01 Brook Cottage
Chester Road
Oakenholt
Flintshire
CH6 5SE

4.00 APPLICATION VALID DATE

4.01 9TH July 2017

5.00 PURPOSE OF REPORT

5.01 To inform Members of a decision in respect of an appeal, following the failure of the Local Planning Authority to determine the application within the prescribed 8 week period, for the erection of a single 4 bed semi-detached dwelling at Brook Cottage, Chester Road, Oakenholt, Flintshire.

The appointed Planning Inspector was Mr. I. Lloyd. The appeal was determined via the Written Representations method and was

5.02 **DISMISSED.**

6.00 **REPORT**

6.01 **The Main Issues**

The Inspector noted that the Local Planning Authority issued a refusal under dual jurisdiction rules refusing the application upon grounds of flood risk and archaeological concerns. Accordingly the Inspector considered the main issues to be;

- i) whether the development would be at significant risk of flooding and whether it would satisfy the TAN15 tests for highly vulnerable development if a flood zone C1; and
- ii) whether sufficient information had been provided to enable an appropriate assessment of the impact upon the archaeological significance of the site.

6.02 **Flood Risk**

The Inspector noted the context of the site and its surroundings; its location of the site within a C1 flood zone and identified that residential development within such areas is defined within TAN15 as highly vulnerable development.

6.03 He noted the presumption against unjustified development in such locations, as set out in PPW and the guidance set out in TAN15. In particular he noted the tests set out within 6 and 7 which identifies that development will only be justified where it can be demonstrated that (in the context of the appeal proposal);

- a) the development is necessary to assist, or be part of, a local authority regeneration initiative or a local authority strategy required to sustain an existing settlement; **and**
- b) it concurs with the aims of PPW and meets the definition of PDL (Previously Developed Land); and
- c) the potential consequences of a flooding event have been considered and found to be acceptable.

6.04 In respect of the first test he noted the definition of a regeneration initiative within TAN15 and concluded the appeal proposals was not of a scale to meet this definition.

6.05 He also noted that a local authority strategy includes a development plan. He noted the site was not an allocation within the UDP and the UDP was now beyond its plan period. He had regard to the Council's housing land supply situation as a material consideration and noted that whilst one dwelling would increase the supply of housing, it would be limited and insignificant in terms of the overall shortfall. He concluded that whilst the proposals would assist a local authority

strategy in a small part, he did not regard the location necessary to sustain an existing settlement and therefore considered that the site is not strategic for such purposes.

6.06 Whilst the site is in a sustainable location and amounts to PDL, sustainable development considerations include directing new development to locations at little or no risk from flooding. Therefore, the proposals would fail the second justification test.

6.07 The final test requires the consequences of flooding to have been considered and proven to be acceptable. The Inspector notes that NRW consider the submitted FCA to be inadequate as it fails to address the flood consequences in relation to development over a 100 year lifetime and significantly underestimates the risks from the site from tidal sources. Accordingly he considers that the third test is also not met.

6.08 Notwithstanding the arguments advanced by the appellant in this matter, the Inspector identified that the proposals do not satisfy the tests for highly vulnerable development in a flood zone C1 and would therefore be at significant risk from flooding and concluded therefore that policies GEN1 and EWP17 of the UDP are not satisfied.

6.09 **Archaeological Remains**

The Inspector noted the location of the site within an area of high archaeological sensitivity and noted the advice of CPAT in response to consultation upon the proposals. He also noted the consistent approach within PPW and TAN24 which direct that where archaeology is a material consideration in connection with development proposals, the application should be accompanied by a study. He identifies that the failure to provide adequate information in this regard would be a valid basis for refusing such applications.

6.10 He noted the contention of the appellant that the matter could be conditioned but concluded that without knowledge of the effects of the proposals upon such remains as there may be, applications should not be determined until the impact is identified and the extent of the same understood.

6.11 He concluded that insufficient information in this regard had been provided and therefore considered the proposal to be contrary to policies GEN1 and HE7.

7.00 CONCLUSION

7.01 The Inspector considered the proposals failed to accord with the identified UDP policies and national guidance in respect of both issues. Accordingly, because of this failure to comply with these policies, the weight derived from a lack of housing land supply does not attach as the proposals would not amount to sustainable

development. Accordingly he **DISMISSED** the appeal.

LIST OF BACKGROUND DOCUMENTS

Planning Application & Supporting Documents

National & Local Planning Policy

Responses to Consultation

Responses to Publicity

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