

FLINTSHIRE COUNTY COUNCIL

REPORT TO: **PLANNING COMMITTEE**

DATE: **28TH OCTOBER 2020**

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

SUBJECT: **OUTLINE APPLICATION WITH ALL MATTERS RESERVED FOR RESIDENTIAL DEVELOPMENT CONSISTING OF 14 NO. UNITS WITH A MIX OF 2 STOREY SEMI DETACHED AND 3 STOREY DETACHED DWELLINGS.**

APPLICATION NUMBER: **061248**

APPLICANT: **MR PAUL WILLIAMS**

SITE: **FORMER SPECTRUM HOME & GARDEN CENTRE, WREXHAM ROAD, CEFN Y BEDD**

APPLICATION VALID DATE: **22ND APRIL 2020**

LOCAL MEMBERS: **COUNCILLOR D HUGHES**

TOWN/COMMUNITY COUNCIL: **LLANFYNYDD COMMUNITY COUNCIL**

REASON FOR COMMITTEE: **DEPARTURE FROM THE DEVELOPMENT PLAN**

SITE VISIT: **NO**

1.00 SUMMARY

1.01 This is an outline application with all matters reserved for subsequent approval. It proposes the erection of 14 No. dwellings on the site of the former Spectrum Home & Garden Centre, Wrexham Road, Cefn y Bedd. As it constitutes a departure from the development plan the application requires Planning Committee determination.

Members will be aware that this site has been before the committee previously. Outline Application ref 055430 proposing the same quantum of development as the current application was reported to

planning committee on the 26th July 2017. The committee resolved to grant permission subject to the completion of a S106 and conditions. However, as explained in the report for ref 055430 the site was identified as being located within a C2 flood zone. As a result and for the reason that the proposed development relates to highly vulnerable development in accordance with TAN15, the application was required to be referred to the Welsh Minsters for determination.

The Welsh Ministers noted that whilst the risk from development could be mitigated in accordance with UDP policies, TAN15 is unambiguous and clearly states that highly vulnerable development in C2 flood area should not be permitted. This was a position expressed to LPA's in the Welsh Government letter of 9th January 2014 and a position which cannot be moderated via mitigation measures. On account of this, Welsh Ministers refused the application, with members advised of this by a general matters report, reported to the committee on the 5th September 2018.

In the interim period prior to the submission of this application in duplication to ref 055430, the applicant together with NRW have reviewed the Development Advice Map, with additional data analysis being undertaken which evidenced that there had been an error in the plotting of the C2 zone. NRW have since accepted the flood challenge and re-classified the site as zone B, ensuring a residential development at the site is now acceptable.

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

2.01 That conditional planning permission be granted subject to the applicant entering into a Section 106 Obligation to provide the following:

1. Secure the payment of an educational contribution of £36,938.00 towards new toilet facilities at Castell Alun High School.
2. Secure payment of £1,100.00 per dwelling towards the enhancement of the children's play area at Wyndham Avenue.
3. Control the provision and occupation of 4no. affordable dwellings as shared equity within the proposed development
4. Provide that a management company is incorporated for the management and future maintenance of the proposed junction visibility splays onto Wrexham Road.

Conditions

- Outline – Reserved Matters.
- Outline – Time Limit.
- Materials to be submitted and approved.
- Contaminated Land Site Investigations
- Siting layout design of means of site access to be submitted and approved.
- Forming and construction of access in accordance with approved details.
- Site to be served by means of a single vehicular access.
- Facilities to be provided within the site for the parking/turning of vehicles in accordance with approved scheme.
- Front of any garage to be set back 5.5 m from back of footway or 7.3 m from edge of carriageway.
- Detailed layout traffic calming, signing surface water drainage, street lighting and construction of internal estate roads to be submitted and approved.
- Gradient of the access from existing carriageway for a minimum of 10 m to be 1 in 24 and a maximum 1 in 15 thereafter.
- A 1.8 m wide footway to be provided along site frontage in accordance with detailed specification.
- Positive means to prevent run-off of surface water onto the highway to be provided in accordance with approved details.
- Finished floor levels of properties to be set at no lower than 65.92 m (AOD).
- No development to commence until a scheme for the disposal of foul drainage has been submitted and approved. Development to be carried out in accordance with approved details.
- No development to commence until a scheme of lighting to be submitted and approved.
- No development to commence until a scheme for the protection/maintenance of the bank of the River Cegidog has been submitted and approved.

If the Obligation pursuant to Section 106 of the Town & Country Planning Act (as outlined above) is not completed within six months of the date of the Committee resolution, the Chief Officer (Planning & Environment) be given delegated authority to REFUSE the application.

3.00 CONSULTATIONS

3.01 Local Member
Councillor D Hughes
 No response at the time of writing.

Llanfynydd Community Council
 No objections.

Head of Assets and Transportation

No objections subject to the imposition of conditions and the agreement of the inclusion of a management company to ensure the long term maintenance of the visibility splays from the junction onto Wrexham Road is included within the S106 as agreed with the applicant.

Head of Public Protection

No objection subject to the imposition of a condition requiring the submission of Site Investigations in respect of contaminated land due to the previously development status of the site.

Welsh Water/Dwr Cymru

No objections subject to the imposition of a condition concerning foul drainage disposal.

Natural Resources Wales

No objections subject to the imposition of a condition setting the finished floor levels of the proposed dwellings in accordance with the recommendations within the Flood Consequence Assessment provided. In addition, a condition in respect of lighting is requested in the interests of avoiding disturbance to Bats.

Clwyd-Powys Archaeological Trust (CPAT)

Confirms that there are no recorded archaeological sites on the register within the development area and sites recorded outside it on the other side of the river in the trees will not be affected. We would therefore have no objection to this development.

Education

In response to the consultation of this planning application, Education have confirmed that the proposed development would trigger the need for financial contributions at the nearest and most suitable secondary school, Castell Alun High School. The proposed development would generate the addition of 2 secondary pupils and therefore a total of £36,938.00 (2 x £18,469.00) is requested.

Education have also confirmed that in respect of primary education, the proposed development would not trigger the need for financial contributions at the nearest and most suitable primary school, Abermorddu CP School. No developer contribution is therefore sought.

Public Open Space Officer

Request the payment of £1,100 per dwelling in lieu of on-site open space provision. The monies would be used to enhance the existing children's play area located at Wyndham Avenue.

Housing Strategy

The applicant is proposing the provision of 4 No. 3 bed 70 – 30% shared equity units which is supported.

4.00 PUBLICITY

4.01 Press Notice, Site, Notice, Neighbour Notification

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

2 no. letters of objection received upon the following grounds:

- Negative impact on ecology
- Highway safety
- Impossible to improve visibility splays
- Increase traffic congestion
- Speeding is a problem on Wrexham Road
- Increased flood risk
- Light and noise pollution as a result of the redevelopment
- Reduced foraging and roosting areas for bats

5.00 SITE HISTORY

5.01 055430 Outline application with all matters reserved for residential development of 14 no. units with a mix of 2 storey semi-detached and 3 storey detached dwellings. Refused 13.7.18

053724 Outline application for 15 no. 3 storey detached units. Withdrawn 07.10.15

6.00 PLANNING POLICIES

6.01 Flintshire Unitary Development Plan

Policy STR1 – New Development.

Policy STR4 – Housing.

Policy GEN1 – General Requirements for Development.

Policy GEN3 – Development in the Open Countryside.

Policy D1 – Design Quality, Location & Layout.

Policy D2 – Design.

Policy TWH1 – Development Affecting Trees & Woodlands.

Policy WB1 – Species Protection.

Policy AC13 – Access & Traffic Impact.

Policy AC18 – Parking Provision & New Development.

Policy HSG4 – New Dwellings Outside Settlement Boundaries.

Policy HSG5 – Limited Infill Development Outside Settlement Boundaries.

Policy HSG11 – Affordable Housing in Rural Areas.

Policy EWP14 – Derelict & Contaminated Land.

Policy EWP 17 – Flood Risk.

Planning Policy Wales Edition 10 (December 2018) (PPW10)
TAN15 Development and Flood Risk

7.00 PLANNING APPRAISAL

7.01 Introduction

This is an outline application with all matters reserved for subsequent approval. It proposes the erection of 14 No. dwellings on the site of the former Spectrum Home & Garden Centre, Wrexham Road, Cefn y Bedd. As it constitutes a departure from the development plan the application requires Planning Committee determination.

7.02 Site Description

The application site extends for 0.51 ha and comprises a range of vacant buildings of profile and cement block construction. The site is largely covered in hardstanding with limited areas of vegetation apart from those fringing the rear boundaries of the application site and abutting the adjacent watercourse River Cegidog

7.03 It is located on the western side of the Wrexham – Mold Road (A541) and comprises the site of the Former Spectrum Garden Centre, Mold Road, Cefn-y-Bedd.

7.04 Proposed Development

The application proposes the demolition of existing buildings on site and redevelopment by the erection of 14 No. dwellings. Although the application is in outline form (with all matters reserved for subsequent approval) an indicative site layout plan has been submitted as part of the application.

7.05 The site layout illustrates the erection of 14 No. dwellings comprising a mix of detached/semi-detached 2/3 storey dwellings focussed around a central access/cul-de-sac head. The proposal also confirms that the scheme will deliver 4 no. 3 bed dwellings at 70 – 30% shared equity, meeting the 30% requirement in line with policy HSG10. The parameters contained within the supporting Design & Access Statement indicate that the ridge height of the dwellings will be approximately 8.3 – 10.5 m in height.

7.06 Principle of Development

It is acknowledged that the site is located outside the settlement boundary of Hope, Caergwrle, Abermorddu and Cefn y Bedd in the Flintshire Unitary Development Plan where new residential development is strictly controlled.

7.07 It is however considered that the site falls within the definition of Previously Developed Land (PDL) also known as 'brownfield land'. Paragraph 3.51 of PPW10 states its preference for the development of brownfield land in PPW which advocates that 'previously development (or brownfield land) should, whenever possible be used

in preference to greenfield sites, particular those of high ecological or agricultural value.' PPW10 also recognises that there are such instances where the development of brownfield land may not always be suitable, such as in the case of sites outside settlement boundaries. This may be, for example, because of its unsustainable location or because it is highly contaminated. For sites like these it is reasonable to look at the feasibility of the site in terms of its sustainability and if appropriate remediation with respect to contamination can be achieved. PPW10 refers to the agent of change principle being a relevant consideration to such proposals.

- 7.07 The 'agent of change principle' encapsulates the position that a person or business introducing a new land use is responsible for managing the impact of that change. As such, with respect to contamination and the consultation response from pollution control, I impose a condition that requires the carrying out and submission for approval site investigation surveys, remediation reports and verification where necessary. The condition will be worded, prior to commencement, and in line with the agent of change principle, the local planning authority takes responsibility in recognising that due to the site's previous use, contamination is likely and therefore control is maintained by condition, compliance is however the responsibility of the applicant.
- 7.08 In addition, the agent of change principle applies to the responsibility of the Local Planning Authority in demonstrating the sustainability of the site given it's out of settlement location.
- 7.09 The site has operated as a garden centre and DIY store for many years as well as accommodating a range of other uses in the associated peripheral buildings. Following its closure, the site has remained vacant and is now in a poor almost derelict condition. The immediate view of the site from Wrexham Road is unsightly and has been referred to as an eyesore. The proposed development would bring an immediate betterment to the site and the wider surroundings, providing a scheme that delivers housing to the area, affordable housing opportunities, removes sources of contamination, and provides for ecological enhancements.
- 7.10 The site is located on a key transport corridor between Flintshire and Wrexham, which is served by the A541, the Wrexham-Bidston railway line including proximity to the station at Cefn y Bedd. To the north are facilities in Cefn y Bedd and Abermorddu, whilst to the south are a range of facilities and services in Gwersyllt. Although the site is located outside a settlement boundary, it is within a semi urban corridor between a loose ribbon of predominantly residential development on the western side of the A541 stretching between the edge of Sydallt within Wrexham County Borough and Cefn y Bedd. The site is also located in close proximity to a number of employment centres that can be accessed by a range of sustainable transport

options other than the sole dependence on the private car. As such it is my view that the site is located within a sustainable location.

7.11 Flood Risk

Since the refusal by Welsh Ministers on grounds of flood risk due to the site's location with C2, the Applicant challenged the Flood Map for this area. NRW have accepted this challenge as it was evidenced that C2 zones were not applicable in this location and had been plotted incorrectly on the map. . The Development Advice Map has been updated to reflect the new Flood Map. The site is now shown to lie in Zone B as defined by the Development Advice Map referred to in TAN15: Development & Flood Risk as an area A known to have been flooded in the past evidenced by sedimentary deposits.

7.12 NRW have reviewed the Flood Consequences Assessment (FCA) (Weetwood Services Limited, FCA 3167/FCA/Final/v.2.0/2020-0-07) which has been prepared in support of the latest planning application.

7.13 The FCA demonstrates that the site will remain flood free during key design flood events required by TAN15. In particular, the FCA shows that the site is expected to remain flood free during the 1% annual probability (climate change event) including an 80% blockage of the highway bridge structure located on the south western boundary of the site. The FCA recommends that the Finished Floor Levels of the proposed dwellings should be set at a level no lower than 65.92m above Ordnance Datum (AOD). This would be 600mm above the predicted 1% climate change (inc. 80% blockage) flood level and 170mm above the predicted extreme 0.1% (80% blockage) flood event. This mitigation measure is welcomed, and in order to ensure that this mitigation measure is incorporated into any future reserved matters planning applications, NRW request the imposition of an appropriately worded condition.

7.14 In accordance with TAN15, Zone B is given a precautionary approach to indicate where site levels should be checked against the extreme (0.1%) flood level. As the FCA demonstrates that the proposed finished site levels are greater than the flood levels used to define adjacent extreme flood outline there is no need to consider flood risk further. As such, the proposal accords with TAN15 in so far that it identifies the flood risk to the site as being low.

7.15 Highways

Consultation on the application has been undertaken with the Highway Authority. Having regard to the site's previous use it is considered that development of the site for 14 No. dwellings would potentially reduce vehicular movements into/out of the site although given the site's sustainable location and access to public transport links, pedestrian movements could increase.

It is considered that although the application has been submitted in outline with all matters reserved, the indicative plan illustrates the formation of a single access to serve the development which would require amendment to secure adequate visibility/improvements to the width of the access road. This is proposed to be secured by the incorporation of a management company controlled by S106 as agreed by the applicant. The Highway Authority, therefore confirms that there is no objection to the proposed development subject to the S106 and the imposition of conditions.

7.16 Impact on Ecology

Consultation on the application has been undertaken with both Natural Resources Wales (NRW) and the County Ecologist having regard to the existing buildings on the site which are in a poor state of repair and the River Cegidog corridor which is an important wildlife habitat. No objections to the proposed development have been raised from an ecological perspective, subject to the imposition of conditions to safeguard the River Cegidog during construction, and to avoid direct lighting on this linear feature which is an important foraging and migrating area for bats.

7.17 S106 Contributions and CIL Compliance

The infrastructure and monetary contributions that can be required from the Proposals have to be assessed under the 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.

7.18 While the Authority does not yet have a charging schedule in place, CIL Regulations puts limitations on the use of planning obligations. These limitations restrict the number of obligations for the funding or provision of an infrastructure project/type of infrastructure. From April 2015 if there have been 5 or more S.106 obligations relating to an infrastructure project/type of infrastructure since 2010 then no further obligations for that infrastructure project/type of infrastructure can be considered in determining an application.

7.19 An off-site commuted sum of £1100.00 per unit in lieu of on-site provision to enhance existing children's play area located at Wyndham Avenue. This is in accordance with Local Planning Guidance Note 13: Open Space Requirements which requires off-site open space contributions where on site provision is not possible.

There have not been 5 contributions towards this project to date. It is considered that the contribution required meets the Regulation 122 tests.

- 7.20 With regard to Castell Alun High School more than 5 contributions have already been made to specifically increase capacity. These contributions are largely associated with the new teaching block. I am satisfied that education services have identified a new and distinct infrastructure project, an additional new toilet block which when applying the tests set out above I am satisfied do not breach the CIL regulations and the Council can require the payment of £36,938.00 towards the creation of new toilet facilities at Castell Alun High School.

8.00 CONCLUSION

In conclusion it is considered that the site falls within the definition of Previously Developed Land and is located in a sustainable location, within a semi-urban corridor of existing development, along the A541 Wrexham-Mold Road. The redevelopment of the site will help to improve the visual appearance of this derelict former commercial site that has remained vacant for a number of years. It will also help to make a reasonable contribution to the housing land supply. The principle of residential development is therefore considered to be acceptable.

With respect to the previously developed nature of the application site, site investigations are required with regard to possible land contamination in order to inform any remediation which may be required as part of the development proposal. As explained above, whilst the site remains in zone B for flood risk the FCA has demonstrated that the site will remain flood free during key design flood events required by TAN15. NRW raise no objection and are content of the imposition of a condition for finished floor levels as recommended in the FCA.

It is considered that the proposal complies with planning policy. Accordingly, I recommend that planning permission is granted as set out within paragraph 2.01 of this report.

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

Contact Officer: Katie H Jones
Telephone: (01352) 703257
Email: katie.h.jones@flintshire.gov.uk