

## PLANNING COMMITTEE

Minutes of a meeting of the Planning Committee held in the Council Chamber, County Hall, Ruthin on Wednesday, 14 February 2018 at 9.30 am.

### PRESENT

Councillors Ellie Chard, Ann Davies, Meirick Davies, Alan James (Vice Chair), Peter Evans, Brian Jones, Huw Jones, Pat Jones, Tina Jones, Gwyneth Kensler, Christine Marston, Bob Murray, Merfyn Parry, Peter Scott, Tony Thomas, Julian Thompson-Hill, Joe Welch (Chair), Emrys Wynne and Mark Young

**Observers** – Councillors Hugh Evans, Tony Flynn, Rachel Flynn, Richard Mainon, Andrew Thomas and Rhys Thomas

### ALSO PRESENT

Head of Planning and Public Protection (EJ); Head of Legal, HR and Democratic Services (GW); Development Manager (PM); Principal Planning Officer (IW); Senior Engineer – Highways (MP); Planning Officer (PG), and Committee Administrator (KEJ)

#### 1 APOLOGIES

Councillor Pat Jones

#### 2 DECLARATIONS OF INTEREST

Councillor Joe Welch – Personal Interest – Agenda Item 5  
Councillor Emrys Wynne – Personal Interest – Agenda Item 10

#### 3 URGENT MATTERS AS AGREED BY THE CHAIR

No urgent matters had been raised.

#### 4 MINUTES

The minutes of the Planning Committee meeting held on 17 January 2018 were submitted.

**Accuracy** – Page 11, Item 4 Minutes – the date in the resolution should read 13 December 2017.

**RESOLVED** that, subject to the above, the minutes of the meeting held on 17 January 2018 be approved as a correct record.

#### APPLICATIONS FOR PERMISSIONS FOR DEVELOPMENT (ITEMS 5 - 11) -

Applications received requiring determination by the committee were submitted together with associated documentation. Reference was also made to late supplementary

information (blue sheets) received since publication of the agenda which related to particular applications. In order to accommodate public speaking requests it was agreed to vary the agenda order of applications accordingly.

**5 APPLICATION NO. 01/2015/1240/PO - LAND BETWEEN OLD AND NEW RUTHIN ROAD, DENBIGH**

[Councillor Joe Welch declared a personal interest in this item because some of the owners of the field were known to him and his family]

An application was submitted for development of 2.1 ha of land for residential purposes (outline application including details of access) at land between Old and New Ruthin Road, Denbigh.

**Public Speaker –**

Mr. N. Davies (agent) (**For**) – referred to discussions regarding layout to ensure the most suitable submission with notional reference to density, affordable housing, wildlife corridor and specific regard to access design. Additional information had been provided in response to the Design Development Brief. Site owners encouraged developer engagement with the local community at an early stage.

**General Debate –** Councillor Mark Young (Local Member) considered the current Local Development Plan (LDP) to be flawed in terms of housing land allocation. He queried references to the Cae Topyn site within the report given that each application should be considered on its own merits and highlighted local community concerns with particular regard to flooding and drainage issues. Councillor Rhys Thomas (Local Member) also voiced concerns regarding allocation of this particular site for housing by the Planning Inspectorate against the wishes of the community. Whilst some reassurance had been taken from the concessions referred to by the agent in his submissions, residents' lives and the environment would be dramatically changed by the proposed development. Councillor Thomas read out a statement on behalf of local residents and, in the event that the application was granted, sought agreement for them to be consulted at an early stage with regard to the proposed plans put forward by the developer with a view to resolving concerns, particularly in relation to surface water accumulation; effect of the development on the septic tanks; proximity of new housing to existing properties; siting of the wildlife corridor, and siting of entrance/exit points and pavement provision.

The Development Manager provided some background to the site and its allocation in the LDP and clarified that the application site itself had no specific planning history. However, reference had been made to the Cae Topyn site because it had been part of that land allocation for housing and had been through a planning process relatively recently with direction given by the Planning Inspectorate on the acceptability or otherwise of development in that location. The issues raised by local residents had been considered during the planning application process and had been included as appropriate in the main report. In response to calls from local residents for further consultation if the application was approved, the detail of the development would be subject to a public consultation exercise.

During subsequent debate the importance of education provision and ensuring appropriate capacity within local schools to accommodate any new development was highlighted and assurances were sought in that regard. Further reference was also made to issues with the LDP and land banking although it was accepted that the issue would be better dealt with as part of the forthcoming LDP review and the application needed to be considered based on existing policies and plans. The main issue raised related to drainage/flooding with concerns regarding ongoing problems with flooding in the area which needed to be addressed and the subsequent impact of future development. Assurances were sought regarding the implementation of appropriate and robust measures to address those issues and the need for future safeguards in the event of systems failure was also highlighted, particularly given the concerns over the proposed use of soakaways to deal with surface water. It was suggested that a bond may be an appropriate means of safeguarding the Council against future problems.

Officers responded to the matters raised as follows –

- Education – an assessment had identified limited capacity within the nearest schools to accommodate additional pupils. Condition 23 referred to the need to ensure the development was in compliance with the Council's Education Provision policies and guidance and a further assessment and calculation would be undertaken when the final number of dwellings for the site had been approved in order to calculate the precise final contribution to be sought.
- Drainage (including flooding) – members were reminded of the process when allocating land for housing in the LDP and assessments as to whether the land was appropriate for development at that stage. The land would not have been allocated for housing if a significant risk of flooding or drainage issues had been identified. Following examination of the outline application officers considered sufficient information had been submitted to demonstrate that foul and surface water could be acceptably managed subject to appropriate conditions being imposed. It was standard practice to reserve the detailed drainage design and future maintenance proposals for consideration at the detailed plan stage. Condition 14 specified that no development could commence until the Council was satisfied with the scheme to deal with the disposal of foul and surface water which included subsequent management and maintenance arrangements. It was highlighted that Natural Resources Wales and Dwr Cymru had no objection to the proposed means of dealing with surface water drainage. Consequently officers did not consider a bond to be justified at this stage.

Officers reiterated that the application was for outline planning permission with other reserved matters to be submitted for consideration at a later date. If members considered drainage to be a serious concern that particular issue could be brought back before the committee.

Councillor Mark Young had no confidence in the proposed measures to manage and address flooding and drainage issues given that the existing problems in the area had yet to be resolved. Officers explained that the cause of the current highway flooding had been identified as a blocked highway drain and highway officers were working to address that issue but it was unrelated to the current

application. Details were provided of the proposed scheme for the application site which included the use of soakaways and investigations had indicated that the systems would work. The intention was for the Highway Authority to enter into an agreement with the developer to adopt the soakaway and to pay for its future maintenance via a commuted sum payment from the developer. However detail of the plans and agreement would need to be further agreed.

**Proposal** – Councillor Tony Thomas proposed the officer recommendation to grant the application, seconded by Councillor Brian Jones.

**VOTE:**

GRANT – 14

REFUSE – 2

ABSTAIN – 2

**RESOLVED** that permission be **GRANTED** in accordance with officer recommendations as stipulated within the report.

**6 APPLICATION NO. 09/2017/1153/PS - 2 TY CLWYD, CHAPEL LANE, BODFARI, DENBIGH**

An application was submitted for variation of condition 5 of planning permission code no. 09/2017/9887 to allow vehicles to reverse into the parking space and associated signage at 2 Ty Clwyd, Chapel Lane, Bodfari, Denbigh.

**Public Speaker –**

Mr. S. Emery (**For**) – referred to the operation of the business and parking arrangements and proposed measures to ensure vehicles did not reverse onto the road when exiting the site. No objection had been raised by the Highway Officer.

**General Debate** – Councillor Merfyn Parry (Local Member) explained that a retrospective application for change of use for a holiday let had been approved by the committee in November 2017 subject to a condition requiring provision of a vehicle turning space within the site in response to highways concerns raised by the Community Council. The Community Council had also objected to the application to vary that condition maintaining their concerns over highway safety with vehicles reversing onto the road. Councillor Parry believed that if the application was granted it would be difficult to enforce compliance within existing resources.

Officers submitted that there was no evidence to suggest there would be an impact on highway safety and no compelling case to insist on the provision of a turning area within the site on those grounds. It was recommended that the variation be granted subject to a condition requiring a sign to be displayed advising drivers to reverse off the highway into the dedicated parking space and officers were satisfied that the condition could be enforced.

**Proposal** – Councillor Ellie Chard proposed the officer recommendation to grant the application, seconded by Councillor Ann Davies.

**VOTE:**

GRANT – 15

REFUSE – 2

ABSTAIN – 1

***RESOLVED** that permission be **GRANTED** in accordance with officer recommendations as stipulated within the report.*

**7 APPLICATION NO. 19/2015/1228/PO - LAND ADJACENT TO BRYN YSGUBORIAU, LLANELIDAN, RUTHIN**

An application was submitted for erection of agricultural dwelling at land adjacent to Bryn Ysguboriau, Llanelidan, Ruthin.

**Public Speaker –**

Mr. Huw Evans (agent) (**For**) – disputed that TAN 6 tests had not been met and suggested sufficient weight could be given to other considerations to grant the application without compromising guidance and policy documents.

**General Debate –** Councillor Hugh Evans (Local Member) spoke in favour of the application which would support a local family and business and impact positively on the community. Technical Advice Note 6 (TAN 6) set out the considerations to be given to applications for agricultural workers dwelling applications, particularly in relation to key tests to be met, and he challenged and clarified the findings of the independent consultant's report as set out within the main report as follows –

- the report stated that the current dwelling was likely to be sold on the open market on retirement of the applicant's father – this was not the policy of Nant Clwyd Estate who had not sold land for over forty years; the land would either be discussed with the existing tenant or let
- functional test – the method of calculating the requirements did not consider all eventualities and realities of farming and did not provide a true reflection of how farmers conducted their business with no account given as to peaks and troughs, the father's reducing input into the business, or the fact that the applicant also undertook contract shearing work to supplement the business
- financial test – no consideration had been given to the applicant's supplementary contract shearing work or his wife's salary which was at odds with general practice; the method for calculating affordability was flawed, particularly when considering that 88% of farmers' income was supplemented from outside income. Assurance as to the viability of the business could also be taken from the supporting statement provided by the family's accountants (included in the late supplementary papers)
- other suitable and available accommodation – reference was made to the lack of new and affordable housing in the area.

Councillor Evans highlighted that TAN 6 provided guidance and was open to interpretation. He argued that insufficient weight had been given to other considerations in the test criteria with flaws identified in calculating affordability and labour requirements. No objection had been received and there was support for the

application from the Community Council and local community. Finally reference was made to the Council's corporate priorities and granting the application would help with the ambition to support young people to live and work in the county.

Members were keen to support local families and businesses and further reference was made to the corporate priorities and the importance of the proposal to the local rural community and way of life which was a key theme of the Wellbeing of Future Generations Act. In terms of the TAN 6 tests members agreed that the calculation methods did not fully take into account all considerations and realities of farming or income available to the applicant when assessing the future viability of the business. Questions were raised regarding the imposition of conditions should the application be granted and the Development Manager confirmed the usual practice of agreeing a set of planning conditions and controls with the Local Member should members go against officer recommendation. Members were reminded that officers were governed by the wording within the documentation and sought the expertise of independent consultants on such cases.

**Proposal** – Councillor Gwyneth Kensler proposed, seconded by Councillor Merfyn Parry, that the application be granted, contrary to officer recommendation, on the grounds that there were interpretations within TAN 6, as the relevant guidance on this particular issue of agricultural workers dwellings, for which weight should be given in the functional, financial and local needs assessment that in this case can be interpreted as accepting a dwelling in this location.

**VOTE:**

GRANT – 17

REFUSE – 1

ABSTAIN – 0

**RESOLVED** that permission be **GRANTED**, contrary to officer recommendation, on the grounds that there were interpretations within TAN 6, as the relevant guidance on this particular issue of agricultural workers dwellings, for which weight should be given in the functional, financial and local needs assessment that in this case can be interpreted as accepting a dwelling in this location.

**8 APPLICATION NO. 43/2017/1100/PR - LAND ADJACENT TO MAGISTRATES COURT, VICTORIA ROAD, PRESTATYN**

[Councillor Emrys Wynne declared a personal interest in this item because he was a Justice of the Peace]

An application was submitted for details of access, appearance, landscaping, layout and scale of 20 no. residential units submitted in accordance with condition 1 on outline planning permission ref 43/2015/1241/PO (Phase 1 reserved matters application); details of the range of house sizes and types submitted in accordance with condition 10 and details of finished floor levels of 20 no. dwellings submitted partly in accordance with condition 11 at land adjacent to Magistrates Court, Victoria Road, Prestatyn.

**Public Speaker –**

Mr. W. Gill (**For**) – explained a condition imposed on the outline permission on site density equated to twenty residential units and details of the type and size of those units were provided. The apartments' height had since been lowered to two storey. The developer had made a significant financial contribution in lieu of providing on-site open space. Highlighted additional technical requirements due to the site being in a flood zone.

**General Debate** – Councillor Tony Flynn (Local Member) highlighted two areas of concern (1) flats out of keeping with area, and (2) loss of green open space. Whilst appreciating the desire to maximise the value of the site for residential development Councillor Flynn stressed the value of the existing green open space for children to play and he appealed for steps to be taken to retain that provision. Councillor Rachel Flynn (Local Member) raised concerns regarding infrastructure and impact on local schools and doctors surgeries. She also queried whether the commuted sum payment provided in lieu of open space could be used for children's facilities and sought assurances that the wellbeing of residents would be safeguarded against the disruption caused by the development.

In response to the issues raised the Development Manager –

- advised that the outline permission established the acceptability of the development, including the residential density element, and the current application involved details of access, appearance, landscaping, layout and scale
- emphasised that the green open space referred to had not been designated as such in the Local Development Plan and a financial contribution to public open space in the area would be forthcoming and ring fenced to benefit local facilities
- explained that the issue of infrastructure had already been examined when assessing the principle of the development
- advised that a construction and environmental management plan was required, to be agreed with the Local Member, which would enable the development to be undertaken with minimum disruption and disturbance to residents
- referred to the type of housing and layout, vehicular access and parking, and the scale of the development which had been lowered to two storey, which was in keeping with other two storey properties in the area.

Councillor Bob Murray queried whether the commuted sum payment in lieu of open space could be used to purchase part of the site for that purpose which had previously been identified for retail use. Concerns were also raised regarding the ridge heights of the development in comparison with other properties in the area and assurances were sought regarding ensuring compliance with quality standards and design specifications. In response members were advised that –

- there would be another reserved matters application coming forward in terms of the retail units element approved as part of the original outline consent
- it would not be possible to use the commuted sum payment to purchase land as there was strict criteria in terms of how that payment could be spent. It was suggested that discussions between members and Property Services could be held outside of the meeting in terms of land acquisition but it would not be part

of this planning process and it would be unrealistic to expect land with outline consent for retail development to be an affordable acquisition for open space

- it was not possible to confirm the precise pitches on the roofs of the dwellings but revisions had been made and the height had been reduced in response to concerns raised – a measurement in terms of the actual ground floor to the ridge height had been provided which officers considered acceptable given the surrounding design of properties in the locality and the delivery of housing in a potential flood risk area
- assurances were provided that the design quality standards in terms of the size of the units would be strictly controlled to ensure they would be met.

**Proposal** – Councillor Tony Thomas proposed the officer recommendation to grant the application, seconded by Councillor Peter Scott.

**VOTE:**

GRANT – 16

REFUSE – 1

ABSTAIN – 0

***RESOLVED** that permission be **GRANTED** in accordance with officer recommendations as stipulated within the report.*

At this juncture (11.20 a.m.) the meeting adjourned for a refreshment break.

**9 APPLICATION NO. 18/2017/1000/PC - LAND AT SUNNYCROFT, LLANDYRNOG, DENBIGH**

The application submitted for change of use of land and the erection of a building for the purpose of facilitating the construction of vehicular trailers (retrospective application) at land at Sunnycroft, Llandyrnog, Denbigh had been withdrawn by the applicant's agent.

**10 APPLICATION NO. 40/2017/1133/PF - REAL PETFOOD COMPANY, UNIT 2, ROYAL WELCH AVENUE, BODELWYDDAN**

An application was submitted for erection of extension to existing factory to provide additional office accommodation at Real Petfood Company, Unit 2, Royal Welch Avenue, Bodelwyddan.

Councillor Richard Mainon (Local Member) spoke in favour of deferral of the application pending the resolution of the odour nuisance associated with the use, which it was understood would be the subject of a future planning application.

**Proposal** – Councillor Brian Jones proposed, seconded by Councillor Peter Evans that the application be deferred pending resolution of the odour nuisance.

**VOTE:**

FOR DEFERRAL – 17

AGAINST DEFERRAL – 0

ABSTAIN – 0



**RESOLVED** that the application be **DEFERRED** pending resolution of the odour nuisance.

**11 APPLICATION NO. 45/2017/1087/PF - 90 HIGH STREET, RHYL**

An application was submitted for change of use of existing retail shop to coffee lounge with ancillary takeaway facility at 90 High Street, Rhyl.

**General Debate** – Councillor Alan James (Local Member) explained Rhyl Town Council's objection to the application was based on the desire to retain A1 retail in the town as referenced within their local town plan. However, trading in the High Street had changed significantly since production of the town plan and it was necessary to balance the desire to retain the shop for retail use against another empty premises and the opportunity to increase footfall within the town. On that basis and given that the premises could revert back to A1 retail if the coffee lounge business was unsuccessful, Councillor James supported the application.

There was general support for the change of use given that the premises were currently unoccupied but questions were raised regarding the future potential for conversion into a hot food takeaway premises if the coffee lounge proved unsuccessful and whether a mixed use of the premises would better suit. Officers referred to the nature of A3 use and advised there was no indication from the floor plans and information submitted that the applicant was looking to undertake retail sales which would warrant mixed use. If the application was granted there would be future potential for the premises to operate as a hot food takeaway but there must be valid planning reasons if members were minded to impose restrictions on that basis. Hot food takeaway premises were also subject to a separate licensing process and other controls around its operation and opening hours.

**Proposal** – Councillor Alan James proposed the officer recommendations to grant the application, seconded by Councillor Bob Murray.

**VOTE:**

GRANT – 17

REFUSE – 0

ABSTAIN – 0

**RESOLVED** that permission be **GRANTED** in accordance with officer recommendations as stipulated within the report.

**12 INFORMATION REPORT: PLANNING APPEAL DECISION - PANT Y MAEN WINDFARM, LLYN BRAN, BYLCHAU, DENBIGH**

An information report was submitted on the planning appeal decision received from Welsh Government on a proposed windfarm development on land south west of Nantglyn. The Cabinet Secretary for Energy, Planning and Rural Affairs had disagreed with the recommendations of the Appeal Inspector and had allowed the appeal and granted planning permission for the proposed windfarm development.

The Chair (Local Member) expressed his disappointment and concern over the outcome in this case which he considered contrary to the democratic process. The report had been submitted to the committee for information only and it was agreed to discuss the matter further with officers outside of the meeting.

***RESOLVED*** that the information report be received.

The meeting concluded at 11.56 a.m.