

## **PLANNING COMMITTEE**

Minutes of a meeting of the Planning Committee held in the Council Chamber, County Hall, Ruthin on Wednesday, 17 July 2019 at 9.30 am.

### **PRESENT**

Councillors Ellie Chard, Ann Davies, Peter Evans, Alan James (Vice Chair), Brian Jones, Tina Jones, Gwyneth Kensler, Christine Marston, Melvyn Mile, Merfyn Parry, Pete Prendergast, Andrew Thomas, Julian Thompson-Hill, Joe Welch (Chair), Emrys Wynne and Mark Young

**Local Members** – Councillors Martyn Holland and Barry Mellor attended for particular items relating to their wards

**Observer** – Councillor Meirick Davies

### **ALSO PRESENT**

Head of Planning and Public Protection (EJ); Team Leader – Places Team (SC); Development Control Manager (PM); Principal Planning Officer (IW) and Committee Administrator (KEJ)

#### **1 APOLOGIES**

Councillors Huw Jones and Tony Thomas

The Chair conveyed the Planning Committee's best wishes to Councillor Huw Jones and it was agreed to send him a card to that effect.

#### **2 DECLARATIONS OF INTEREST**

No declarations of interest had been raised.

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

No urgent matters had been raised.

#### **4 MINUTES**

The minutes of the Planning Committee held on 22 May 2019 were submitted.

**RESOLVED** that the minutes of the meeting held on 22 May 2019 be approved as a correct record.

#### **APPLICATIONS FOR PERMISSION 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 NOS. 25/2018/1216/PF & 25/2018/1217/LB - BWLCH DU, NANTGLYN, DENBIGH**

The Vice Chair, Councillor Alan James took the Chair for agenda items 8 and 9 relating to Bwlch Du, Nantglyn because the Chair, Councillor Joe Welch was the Local Member. Officers had recommended both agenda items be deferred.

**General Debate** – Officers referred to information in the late supplementary papers (blue sheets) and correspondence sent by the applicant's solicitors on 15 July. Having regard to the detailed contents of the late information, and its significance in relation to the application in front of the committee, officers recommended, in fairness to all parties, that the most appropriate course of action would be to defer consideration of the Bwlch Du items. This would afford officers a reasonable opportunity to review the submissions, to seek legal advice as necessary on the issues arising, and to revise, if necessary, the contents of the officer reports on the items, for future presentation to the committee.

Councillor Joe Welch (Local Member) submitted that requests to defer items were generally due to the receipt of a wealth of new information but most of the information received in this case had been known for some time and therefore he did not support deferral. With specific regard to the listed building item officers had recommended the application be granted and the applicant had advised that he did not want the applications deferred. In response officers advised that some new complex information and case law had been submitted which officers had not had the opportunity to assess and in such circumstances the practice was to seek a deferral to ensure members were provided with all information necessary to make a fully informed decision. In terms of the listed building element some reference had been made in the correspondence in relation to how officers had dealt with the issue and therefore the recommendation had been made to defer both applications, in fairness to both parties, in order to provide further information in that regard.

**Proposal** – Councillor Mark Young agreed that a lot of new information had been submitted for which members had not been given sufficient time to scrutinise and therefore he proposed, seconded by Councillor Ellie Chard, that both applications be deferred in accordance with officer recommendation.

**VOTE:**

FOR DEFERRAL – 11

AGAINST DEFERRAL – 1

ABSTAIN – 1

**RESOLVED** that the applications be **DEFERRED** in accordance with officer recommendation.

Councillor Mark Young also sought clarity around discussions with the applicant relating to the issue of lawful use of the building having seen reference to Certificate

of Lawful Use in the reports. Officers referred to previous information provided and the issue of certifying whether or not a building had lawful status as a dwelling which was taken in the form of an application for a Certificate of Lawful Use. It was confirmed that discussions had taken place with the applicant in that regard but there was a need to deal with the application as submitted.

## **6 APPLICATION NO. 21/2019/0197/PF - TAN Y GRAIG, MAESHAFN, MOLD**

An application was submitted for the erection of a replacement dwelling, detached garage and associated works at Tan y Graig, Maeshafn, Mold.

### **Public Speaker –**

Ms. B. Smith (**For**) – explained her family’s links to the area and reasoning behind the application to meet family needs and stay in the area whilst also providing a self-sufficient dwelling fit for the future which was also economically viable.

**General Debate –** Councillor Martyn Holland (Local Member) spoke in support of the application which would enable a young family to remain in the area and contribute positively, encouraging a thriving community. The new property would meet all environmental challenges and complement its neighbouring properties. In referring to the relevant policies and guidance Councillor Holland argued that the tests had been met in relation to Local Development Plan Policy RD4 given that –

- (i) the building had a legal use right as a dwelling although it had not been lived in recently and the outbuildings had deteriorated
- (ii) the building was not listed and had been subject to various additions which added very little character to the area – Clwyd Powys Archaeological Trust had no objection to the application providing a record of the building was made prior to its demolition, and
- (iii) the dwelling was unsound and inefficient and he reported upon the inadequacies of the existing building and significant works required identified within the structural inspection report making the project financially unviable.

In closing Councillor Holland added that Llanferres Community Council and Maeshafn Community Councillors supported the application and the main concerns of the immediate neighbours related to maintenance of the public footpath which the applicants had agreed to address. [The report noted a consultation response from Llanferres Community Council was still awaited].

During debate members considered the merits of the application and interpretation of the policy tests as put forward by officers, the local member and public speaker. Councillor Emrys Wynne was persuaded that a compelling case had been made to grant the application, particularly given the opportunity to build a new fit for purpose property set back from the road with no strong case in terms of historical importance of the dwelling. Councillors Merfyn Parry and Julian Thompson-Hill also spoke in favour of the application considering there to be no undue loss to the local environment with the building being in keeping with the mixed nature of properties.

Officers referred to the Policy RD4 tests applicable in this case and confirmed that the building had legal use rights as a dwelling in accordance with RD4(i). Having regard to the views of Natural Resources Wales and the AONB Committee officers had considered the existing dwelling made a valuable contribution to the character of the local area and therefore failed to comply with RD4(ii) and only partially complied with the criteria for RD4(iii) given that the building was structurally sound, albeit in poor condition, with the potential to be restored. Whilst respecting the merits of the arguments put forward, given the Council's commitment to retaining buildings of character or merit in the countryside, officers had recommended that the application be refused.

**Proposal** – Councillor Emrys Wynne believed that the policy tests in relation to Policy RD4 had been met and the proposals were acceptable having regard to all relevant policies and guidance. On that basis he proposed, seconded by Councillor Merfyn Parry, that the application be granted and that officers liaise with the local member with regard to planning conditions to be applied to the consent.

**VOTE:**

GRANT – 12

REFUSE – 2

ABSTAIN – 0

**RESOLVED** that permission be **GRANTED**, contrary to officer recommendation, on the grounds that the proposals were acceptable having regard to the relevant policies and guidance, and that officers liaise with the local member with regard to planning conditions to be applied to the consent.

**7 APPLICATION NO. 45/2019/0156/PF - 64 BRIGHTON ROAD, RHYL**

An application was submitted for change of use and alterations to former offices to form a 61 bed, 6 ward bespoke hospital at 64 Brighton Road, Rhyl.

**Public Speaker –**

Mr. J. Horden (agent) (**For**) – argued against grounds for refusal on the basis that there was no requirement or demand in Rhyl for large scale office accommodation with little prospect for sale or let of the site in this case which would be put to good use and generate employment if consent for the hospital was granted.

**General Debate** – Councillor Barry Mellor (Local Member) spoke against the proposal, arguing that that such a facility would not be appropriate for the proposed location, and he highlighted the impact on nearby residents in terms of disturbance and fear of crime and referred to submission of a petition which demonstrated the wealth of public objection to the proposal. Reference was made to the business case and proposed service model with concerns raised regarding the demand for services and viability of the proposal together with the subsequent impact on other local health board facilities and associated services and the North Wales Police who had raised concerns about security arrangements. Finally concerns were raised over the loss of land for employment use should the application be granted.

During debate members considered the merits of the application and the policy criteria to be applied with further discussion focusing on the policy tests in respect of Local Development Policy PSE 3 and principle of the development on which officers had based their refusal recommendation. Officers had concluded that the tests had not been met given that there was no real evidence that alternative sites for the development had been explored or that a marketing process had been followed to demonstrate the proposed site was no longer capable of providing employment accommodation and therefore should be permanently relinquished for another use. It was considered that the loss of the use would prejudice the ability of the area to meet a range of local employment needs. Reference was also made to Technical Advice Note 23 relating to economic development and the Council's Economic Development Officers had advised of a shortage of properties that size that could be used for office space – whilst there may not be an identified use at this time it was not to say there would not be one in the future. Councillor Brian Jones also referred to the likely future need for employment land and buildings in connection with projects arising from the North Wales Economic Growth Deal.

Members also considered other potential planning considerations relating to the fear of crime and impact that the proposal could have on the area – officers had not included the fear of crime element as grounds for refusal given that the concerns raised by the Police had not been clearly evidenced and if consent was granted it may be possible to control those concerns through the imposition of conditions. Officers also confirmed the lack of evidence provided with regard to significant impact on community infrastructure and policy requirement in that regard and therefore impact on local infrastructure was not considered an appropriate ground for refusal in this case. Consequently officers had made a clear recommendation to refuse on the basis that the proposal did not comply with Policy PSE 3.

Councillor Mark Young referred to the lack of capacity in the health service and noted that the site had been for sale for over two years. He considered the opportunity of significant job creation and bringing a deteriorating building back into use against the potential that the site would continue to decline and remain unused for years to come if the application was refused. Whilst acknowledging the concerns raised with regard to the development he sought further clarification on the category of provision applied; whether Rhyl Town Council was for or against the development, and how many residents had raised concerns regarding fear of crime.

Officers responded as follows –

- explained the different use categories with the applicant having confirmed a C2 category of use which included care homes and convalescent homes and not category C2A which covered secure residential institutions
- in their subsequent response Rhyl Town Council had clearly raised concerns but had not stated whether or not they wished to object to the application
- pointed to page 183 of the report detailing objections received from residents with eight letters of objection received. A petition containing 128 signatories had also been referenced within the late supplementary papers (blue sheets)
- confirmed members would need to consider what weight to apply to the prospect of a vacant, derelict and underused building being reused and the potential for 150 jobs as had been specified within the report against the other

issues raised in terms of Policy PSE 3 and advice received from the Council's Economic Development Officers.

**Proposal** – Councillor Alan James proposed the officer recommendation to refuse the application, seconded by Councillor Pete Prendergast.

**VOTE:**

GRANT – 1

REFUSE – 15

ABSTAIN – 0

**RESOLVED** that permission be **REFUSED** in accordance with officer recommendations as detailed within the report.

At this point (10.45 a.m.) the meeting adjourned for a refreshment break.

**8 APPLICATION NO. 14/2019/0233/ PO - LAND AT LLYS HEULOG, CYFFYLLIOG, RUTHIN**

An application was submitted for development of 0.48ha of land for residential purposes (outline application including access) at land at Llys Heulog, Cyffylliog, Ruthin.

**General Debate** – The application had been reported to committee because of objections received from Cyffylliog Community Council and officers responded to the five points raised as follows – (1) the application was for outline planning permission and principle of development only at this stage – condition 15 sought details of the range of house sizes and types for approval prior to development; (2) and (3) under current policy affordable housing provision was not required for developments with less than 10 dwellings, instead a financial contribution was required as covered under condition 12; (4) the site was allocated for housing in the Local Development Plan and there was no requirement to prove a need for dwellings for allocated sites; (5) condition 13 covered the arrangements for open space provision/contributions. Officers also clarified that permission for the site had been refused the previous year based solely on acceptable visibility in highway terms which had since been addressed to the satisfaction of Highway Officers.

Councillor Merfyn Parry referred to condition 12 relating to affordable housing and asked that the requirement be extended to the whole development site so that in the event that the remainder of the site allocated for housing was sold, the liability to provide affordable housing was transferred to the new land owner/developer. He also referred to condition 9 and asked that works to the entrance of the site be undertaken at the beginning of the development. Officers agreed to those requests. In response to a questions regarding the estate road officers confirmed that regardless of whether the road was adopted by the Highway Authority it would still need to be built to full highways specification and to the satisfaction of the Highway Authority and its construction would be controlled by condition.

**Proposal** – Councillor Gwyneth Kensler proposed the officer recommendation to grant the application, seconded by Councillor Merfyn Parry.

**VOTE:**

GRANT – 16

REFUSE – 0

ABSTAIN – 0

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

**9 APPLICATION NO. 22/2014/0626/PO - LAND SOUTH WEST OF PENIARTH, GELLIFOR, RUTHIN**

An application for development of 0.55ha of land for residential purposes and provision of school car parking area (outline application with all matters reserved) at land south west of Peniarth, Gellifor, Ruthin.

**General Debate** – Officers reported that the delay in bringing the application before members had been due to the Community Council's request for some land to be set aside for a small car park to help with car parking problems in the area which the applicants had since offered as part of the development. In response to a question from Councillor Mark Young regarding safeguarding future provision of the car park officers confirmed that the consent included a car park and land had been dedicated for that purpose on the plan which was also covered by planning condition. It was a matter for the Education Department and landowner as to how the car park was to be progressed which could be covered by licence agreement.

**Proposal** – Councillor Julian Thompson-Hill proposed the officer recommendation to grant the application, seconded by Councillor Mark Young.

**VOTE:**

GRANT – 16

REFUSE – 0

ABSTAIN – 0

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

**10 APPLICATION NO. 45/2019/0415/OB - LAND AT BROOKDALE ROAD, RHYL**

An application was submitted for Deed of Variation to remove Plot 5 from Section 196 Obligation relating to affordable housing provision in connection with planning permission 45/2006/0816/PF at land at Brookdale Road, Rhyl.

As a point of order Councillor Mark Young queried why a previous application had been considered under part 2 of the agenda and officers advised that commercially sensitive information had been considered as part of that particular application which did not apply in this case.

**General Debate** – Whilst acknowledging the reasoning behind the application Councillor Pete Prendergast (Local Member) expressed his disappointment over

the potential loss of an affordable dwelling in this case, particularly given the length of time taken to complete the development for which it was now argued was no longer financially viable. He felt that the affordable housing element of developments should be kept under close review to ensure planning obligations were met, particularly given the desperate need for low cost housing in the area.

During the ensuing debate members expressed their concern over the potential loss of affordable housing, particular given that a previous viability case had been accepted for the development which had already reduced the amount of affordable housing provision. Despite the financial viability appraisal there was still a need for affordable housing and there was some debate as to whether there would be merit in further testing of the financial information. Members were keen to ensure affordable housing provision was protected and that developers kept to their obligations in that regard. Officers confirmed it was a regrettable case, highlighting the long development process and extenuating circumstances, but given the change in financial circumstances and assessment of the financial viability appraisal by the Council's Valuation and Estates Manager, it was considered unreasonable to insist on compliance with the planning obligation in this instance. In reaching their recommendation officers had also considered the prospects of the planning obligation being met and any legal process which would need to be applied to pursue it and/or in responding in the event of an appeal. Officers had considered the financial assessment to be sufficient given the level of expertise required in this case and it was noted that any further independent scrutiny of the financial information would likely incur further cost to the Planning Department.

At the close of the debate Councillor Pete Prendergast advised that the developer in this case was considered to be a long established and successful builder, whether or not a loss was made on this particular development. Planning permission had been granted on the basis of affordable housing provision and given that the planning obligation was for one affordable dwelling, he did not consider it unreasonable to seek that provision.

**Proposal** – Councillor Merfyn Parry proposed, seconded by Councillor Emrys Wynne, that the application be refused on the basis that the planning obligation still served a useful purpose notwithstanding the financial appraisal submitted.

**VOTE:**

GRANT – 3

REFUSE – 13

ABSTAIN – 0

**RESOLVED** that permission be **REFUSED**, contrary to officer recommendation, on the basis that the planning obligation still serviced a useful purpose in the provision of affordable housing notwithstanding the financial appraisal submitted by the applicant.

The meeting concluded at 11.50 a.m.