

## PLANNING COMMITTEE

Minutes of a meeting of the Planning Committee held by video conference on Wednesday, 10 November 2021 at 9.30 am.

### PRESENT

Councillors Joan Butterfield, Ellie Chard, Ann Davies, Peter Evans, Brian Jones, Tina Jones, Gwyneth Kensler, Christine Marston (Vice Chair), Merfyn Parry, Pete Prendergast, Peter Scott, Tony Thomas, Julian Thompson-Hill, Joe Welch (Chair), Emrys Wynne and Mark Young

**Local Members** – Councillors Jeanette Chamberlain-Jones and Huw Williams attended for particular items relating to their wards

**Observers** – Councillors Meirick Davies and Alan James

### ALSO PRESENT

Team Leader – Places Team (TD); Development Control Manager (PM); Planning Officer (PG); Principal Planning Officer (SS); AONB Planning Officer (TH) and Committee Administrators (KEJ & RTJ [Webcaster])

#### 1 APOLOGIES

Councillors Alan Hughes, Melvyn Mile and Bob Murray

Councillor Tony Thomas had advised that he would need to leave the meeting early to attend another engagement and hoped to return to the meeting later.

#### 2 DECLARATIONS OF INTEREST

Councillor Merfyn Parry declared a personal interest in agenda item 6 – Land adjacent to Hendrerwydd Farm, Hendrerwydd, Denbigh because the Applicant was a customer of the company he worked for.

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

No urgent matters had been raised.

#### 4 MINUTES

The minutes of the Planning Committee held on 6 October 2021 were submitted.

**RESOLVED** that the minutes of the meeting held on 6 October 2021 be approved as a correct record.

#### APPLICATIONS FOR PERMISSIONS FOR DEVELOPMENT (ITEMS 5 - 8) -

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 contained additional information relating to those applications. In order to accommodate public speaking requests it was agreed to vary the agenda order of applications accordingly.

## **5 APPLICATION NO. 22/2020/0735/PF - LAND ADJACENT TO HENDRERWYDD FARM, HENDRERWYDD, DENBIGH**

An application was submitted for the erection of a rural enterprise dwelling, installation of a private treatment plant and associated works at land adjacent to Hendrerwydd Farm, Hendrerwydd, Denbigh.

### **Public Speaker –**

Ian Jones (**For**) – provided some background history in terms of his family's long standing residence at the farm and dairy farming with the business having gained organic status in 2006 offering high standards and sustainability, and highlighted the number of dairy farms had reduced due to the stringent criteria. Planning permission had been sought to provide on-site quality accommodation for a Dairy Herd Manager with the 2 bedroom holiday-let cottage unsuitable for that purpose.

**General Debate** – Councillor Huw Williams (Local Member) had requested the application be referred to the Committee to discuss the principle of the proposal and need for an additional dwelling to support the farm enterprise. He reported upon the success of the business and its importance in terms of future sustainability and the environmental agenda which should be supported, and would also provide a dwelling to meet those needs and benefit the community. Most of the TAN 6 tests had been met and the proposed siting of the dwelling had been explained given the limitations on other areas of the farm complex. He urged members to grant consent.

Councillor Merfyn Parry provided some further context advising that it was a progressive farm which had made necessary changes to become organic, detailing the work involved in operating the business and ensuring animal welfare. Planning tests had justified the need for an additional dwelling for a farm worker. With regard to concerns regarding the distance of the proposed dwelling from the farm complex, the reasoning behind the location had been justified in terms of the constraints of land not being in the Applicant's ownership; location of the gas pipeline and flood risk. Councillor Parry did not consider the size of the proposed dwelling to be excessive and in response to officers' suggestion of possible use of the holiday let, advised of the housing arrangements proposed by the Applicant with a view to attracting a high calibre of applicant for the role who had a requirement to live on-site and formed part of the recruitment package. The 2 bedroom holiday let/cottage would not attract a modern family to the employment and the intention was to use it as a holiday let or temporary workforce if needed – there were no other suitable properties available in the locality. Consequently, he believed the application did pass the criteria for TAN 6 and proposed the application be granted, seconded by Councillor Mark Young. Councillor Young also asked whether it was usual practice in these circumstances, given the welfare needs of the animals could be better met on-site, for a farm worker to reside a mile away as referred to in the report.

Officers confirmed that there was no dispute in terms of the need for a second dwelling for a farm worker and that the issue focused on whether all other options had been explored in terms of alternative accommodation before granting permission to build a new dwelling in the open countryside. Officers considered the existing holiday let structure annexed to the farmhouse to be suitable and available for that purpose – if not in its current form then through conversion. The Council's Consultants had suggested potential suitable dwellings within one mile of the site but members' may take a different view and there were no specific examples which mirrored the current application to point to. Councillor Mark Young responded that it was usual practice for agricultural workers to reside on-site as evidenced on other farms in the county and previous permissions granted which he believed to be better for both animal and staff welfare and the environment.

Members debated the merits of the application and Councillor Parry put forward further arguments regarding the inadequacies of the holiday let accommodation, both in terms of recruitment/attracting staff and its conversion potential. Reference was also made to its separate use as a holiday let and its potential use for temporary staff during busy periods. Councillor Brian Jones referred to the climate change agenda with reference to organic farming and highlighted the need to promote that agenda whilst accepting that there were clear barriers to progressing those ambitions given current planning policies/considerations, and work was needed to ensure a more cohesive approach. Officers responded to the issues raised advising that issues around furthering the organic farming industry and the existing holiday let not being suitable for the calibre of staff to be recruited were not material planning considerations and there must be robust planning reasons to depart from planning policy and withstand legal challenge. The finance from the holiday let was not part of the business proposal or application and if members were minded to grant the application a condition could be imposed to restrict the occupation of the dwelling to a farm worker. The test showed a functional need for two farm workers to be living on-site and consequently there was no justification to keep the holiday-let cottage in reserve for the potential convenience of additional albeit temporary workers for which there was no current permission in place.

There was further debate on the suitability of the holiday-let accommodation with officers confirming their view that the holiday-let accommodation was available and suitable to meet the needs of the farm business and there were plans in place (from a previous permission granted in 2005) which showed the dwelling could be improved to be 100 square metres, 4 bedroom dwelling, and with a revised planning application could be further extended and upgraded. Councillor Parry argued that all TAN 6 tests had been met given that the holiday-let accommodation was not suitable as a second dwelling in its current form and was not suitable for further development given the age of the building and issues around insulation. The Legal Adviser highlighted the potential risk of a decision on that basis and sufficiency of the reasoning to depart from the policy. Whilst there would be no appeal from the Applicant in that case there was potential for judicial review.

**Proposal** – Councillor Merfyn Parry proposed, seconded by Councillor Mark Young that the application be granted, contrary to officer recommendation, on the basis that all the tests for TAN 6 had been met given that the holiday-let accommodation

was not suitable as a second dwelling for an agricultural worker in its current form and was not suitable for further development due to its age and structural condition.

**VOTE:**

FOR – 8

AGAINST – 6

ABSTAIN – 1

***RESOLVED** that permission be **GRANTED**, contrary to officer recommendation, notwithstanding the report, on the grounds that all tests for TAN 6 had actually been met given that the holiday-let accommodation annexed to the existing farmhouse was not suitable as a second dwelling for an agricultural worker in its current form and was not suitable for further development due to its age and structural condition, and that a report on the proposed planning conditions to be attached to the consent be brought back to the Committee for approval.*

**6 APPLICATION NO. 45/2021/0187/PF - LLANDRILLO COLLEGE, CEFNDY ROAD, RHYL**

An application was submitted for change of use of land and erection of a Further Education Engineering Centre building, formation of a new vehicular access, construction of an internal site access road and car park, together with landscaping and associated works at Llandrillo College, Cefndy Road, Rhyl.

**Public Speaker –**

Mr Lawrence Wood (**For**) – reported on the proposal to further develop the Rhyl Campus by transferring Llandrillo College’s engineering provision to a proposed centre of excellence on the site which would provide the latest skills in renewable engineering and energy and advance manufacturing skills, and highlighted wider socio-economic benefits, partnership links with employers and opportunities for learners across all levels. An approved flood evacuation plan had been developed in response to flood risk concerns and resilience measures had been included in the building. Members were asked to balance that concern against the benefits of supporting learners, economic growth and investment, and to grant the application.

**General Debate –** Councillor Ellie Chard (Local Member) proposed, seconded by Councillor Joan Butterfield, that the application be granted advising that she was fully supportive of the proposal which would be an asset to the town providing skills and employment and economic growth. She had been reassured by the measures to address flood risk and noted the existing facilities at the site and surrounding areas. Councillor Jeanette Chamberlain-Jones (Local Member) also urged members to grant the application highlighting the benefits for learners and opportunities for employment. In adding his support Councillor Brian Jones paid tribute to the hard work undertaken in the project’s development, and whilst there was a flood risk, much work was ongoing with partners and stakeholders in order to mitigate flood risk in that particular area. Councillors Pete Prendergast and Joan Butterfield echoed the sentiments of those in favour of the proposal reiterating the skills opportunities for young people and future employment prospects, together with the positive impact on the deprivation index in Rhyl as a result.

The Development Control Manager paid tribute to the hard work of officers, particularly Sarah Stubbs who had worked tirelessly with the College, their agents and Natural Resources Wales (NRW) on the project and to mitigate the flood risk issue. The need to balance the flood risk factor and objection by NRW and clear benefits of allowing the development which would provide significant educational and economic benefits in an area of acknowledged multiple-deprivation was highlighted. On balance officers had concluded that the significant benefits of the proposal outweighed the concerns of the flooding implications (subject to the imposition of conditions) and had recommended that the application be approved.

**Proposal** – Councillor Ellie Chard proposed that the application be granted in accordance with officer recommendations as set out in the report, seconded by Councillor Joan Butterfield.

**VOTE:**

FOR – 14

AGAINST – 0

ABSTAIN – 0

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

[At this point (10.40 am) the meeting adjourned for a short break]

**7 APPLICATION NO. 14/2019/1009/PR - LAND ADJACENT TO LLYS HEULOG, CYFFYLLIOG, RUTHIN**

An application was submitted for details of the appearance, landscaping, layout and scale of 7 no. dwellings submitted in accordance with condition no. 1 of outline permission code no. 14/2019/0233 (Reserved Matters application) at land adjacent to Llys Heulog, Cyffylliog, Ruthin.

**General Debate** – The Chair (Local Member) advised that it was a reserved matters application which had been reported to Committee because of objections received from Cyffylliog Community Council and he asked officers to respond to the points raised. Officers focused on the main objections and responded that the outline planning permission granted allowed for 5 – 7 dwellings to be built on the site and therefore the impact of 7 dwellings on traffic had already been taken into account and assessed as acceptable. Affordable housing provision was not required on site for developments with less than 10 dwellings, instead a financial contribution was made by way of a commuted sum payment towards provision of affordable housing in the community; this commuted sum was currently being calculated and a legal agreement drawn up as part of a separate process. In terms of the mix of housing, initially the reserved matters application was submitted for 4/5 bed dwellings and officers highlighted the need for a better mix within the community based on the local housing market assessment. Consequently the application was amended to provide a more equal mix of properties for the site.

**Proposal** – Councillor Christine Marston proposed the officer recommendation to grant the application as set out in the report, seconded by Councillor Gwyneth Kensler.

**VOTE:**

FOR – 16

AGAINST – 0

ABSTAIN – 0

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

**8 APPLICATION NO. 46/2021/0727/PF - LAND AT (PART GARDEN OF) THE CROFT, UPPER DENBIGH ROAD, ST. ASAPH**

An application was submitted for the erection of 1 no. detached dwelling and associated works at land at (part garden of) The Croft, Upper Denbigh Road, St. Asaph. A correction to condition 4 had been referenced on the blue sheets.

**General Debate** – Councillor Peter Scott referred to the objections received from St. Asaph City Council, particularly relating to over-intensification and overlooking. In response officers confirmed a balance of considerations in this case and acknowledged the concerns of the City Council. Having assessed the application it was found to meet the standards in terms of separation distances and space sufficiency around the site, and it also provided sufficient parking within the site for the unit. Taking into account the character of the area and surrounding buildings it was not considered to be particularly intense of use and would have little impact visually on the wider street scene. For those reasons officers considered it would be difficult to sustain a refusal and recommended the application be granted.

**Proposal** – Councillor Peter Scott proposed the officer recommendation to grant the application as set out in the report, seconded by Councillor Mark Young.

**VOTE:**

FOR – 13

AGAINST – 0

ABSTAIN – 0

**RESOLVED** that permission be **GRANTED** in accordance with officer recommendations as detailed within their report and supplementary papers.

**9 PLANNING CONDITIONS REPORT - APPLICATION REFERENCE NO. 40/2021/0309 - PLOT C7, ST. ASAPH BUSINESS PARK, ST. ASAPH**

A report was submitted seeking approval of planning conditions to be attached to the planning permission granted on 6 October 2021 in relation to the erection of a 198 bed Registered Care Home (Use Class C2), landscaping, parking facilities and associated works on the St. Asaph Business Park. A correction to condition 1 had been referenced on the blue sheets.

The Chair reminded members that planning permission had been granted, contrary to officer recommendation, subject to the planning conditions being brought back to the Committee for approval based on that debate, and the imposition of those conditions on the planning consent represented a continuation of that process.

**General Debate** – Councillor Merfyn Parry expressed some concerns, supported by Councillors Peter Scott and Brian Jones, regarding the proposed imposition of noise condition 9 – “All habitable rooms in the development hereby approved shall be fitted with windows which are non-opening and retained as such at all times, unless for emergency evacuation.” It was submitted that for residents’ wellbeing some restricted opening of the windows should be permitted to allow for the circulation of fresh air. Councillor Scott drew comparisons with the residential area Pant Glas, St. Asaph situated near the A55 which the North and Mid Wales Trunk Road Agency (NMWTRA) had determined did not require a noise reduction scheme and yet would have higher noise levels than the care home site. Councillor Brian Jones deferred to NMWTRA as the experts on noise from the carriageway and also advised that the Council itself housed residents in private care homes without mechanical ventilation and where windows were not sealed. On that basis he proposed, seconded by Councillor Merfyn Parry, that proposed noise condition 9 be removed from the suggested conditions.

Officers reminded members of the background to the application, noting that not all members had been present when planning permission had been granted. The noise assessment report submitted with the application accepted there could be unacceptable noise from the A55 and surrounding industrial uses and officers had recommended the application be refused. The Committee had granted the application on the basis that noise could be mitigated through planning conditions and non-opening windows had been discussed at length as a means of noise reduction. Consequently there was a legal legitimate expectation that such a condition be imposed given what had been agreed previously.

During further debate Councillor Brian Jones considered it would be appropriate, in light of new information on the matter, for the proposed condition with regard to non-opening windows to be revisited and removed, and he also highlighted alternative means of noise mitigation measures including sound proofing/deadening barriers as opposed to non-opening windows. Officers reminded the Committee of the consultation responses to the application, in particular the Welsh Government’s response as highway authority for the A55 trunk road in which it identified an issue with noise and had directed that any permission include adequate noise mitigation measures due to the site’s proximity to the A55. Welsh Government had accepted the Applicant’s suggested noise mitigation for ventilation through mechanical means and therefore had effectively directed that non-opening windows be in place. Consequently to not impose that condition would be contrary to the direction of the Welsh Government who would need to be informed prior to progressing the set of conditions for the consent. Officers reiterated that planning permission had been granted on terms for mitigation of the noise concern by way of conditions, any departure from that determination at this point and removal of that proposed noise condition would lead to a greater risk of judicial review from interested parties which may extend to the Welsh Government. There would also be a risk of legal challenge and financial/reputational risk of harm to the authority.

In considering the way forward officers referred to options open to the Applicant following the imposition of planning conditions. This included the Applicant's right of appeal against any planning conditions imposed or the submission of an application to vary any planning condition – this would provide the opportunity to re-consult with the Welsh Government and others. Councillor Merfyn Parry pointed to a previous case where a condition had been removed by officers but it was clarified that conditions could be varied and removed post decision but not at this stage in the process given that permission had yet to be issued. It was clear from the Welsh Government directive that noise mitigation needed to be in place and whilst there may be other sites with different mitigations at present only the proposed condition appeared to be workable. Officers suggested that permission be issued with condition 9 in place and the Applicant encouraged to submit a variation application at a later stage with an alternative means of noise mitigation which could be appropriately tested and consulted upon. There remained a mix of views from members as to removal of proposed condition 9 and the Chair moved to the vote.

**Proposal** – Councillor Brian Jones proposed, seconded by Councillor Merfyn Parry that proposed noise condition 9 be removed from the suggested conditions contrary to officer recommendation.

**VOTE:**

FOR REMOVAL – 6  
AGAINST REMOVAL – 7  
ABSTAIN – 0

The proposal to remove proposed noise condition 9 from the suggested conditions was *LOST*. The Chair looked to a vote on the full set of proposed conditions.

**Proposal** – Councillor Peter Scott proposed, seconded by Councillor Christine Marston that the proposed conditions as set out in the report, in accordance with officer recommendations, be approved in full including with regard to proposed condition 9.

**VOTE:**

FOR – 13  
AGAINST – 0  
ABSTAIN – 0

**RESOLVED** that the proposed full conditions to be imposed on the planning consent as detailed within the report and correction in the supplementary papers be approved as planning conditions.

**10 'PLANNING FOR DARK NIGHT SKIES' - SUPPLEMENTARY PLANNING GUIDANCE FOR LIGHTING IN THE CLWYDIAN RANGE AND DEE VALLEY AONB - REPORT ON PUBLIC CONSULTATIONS**

A report was submitted detailing the results of the public consultations in relation to the draft Supplementary Planning Guidance (SPG) for lighting in the Clwydian

Range and Dee Valley Area of Outstanding Natural Beauty (AONB) together with recommended changes to the draft SPG and its formal adoption.

Lead Members Councillors Mark Young and Tony Thomas (Chair of the AONB Joint Committee) both paid tribute to the excellent work undertaken including the hard work of officers and the Strategic Planning Group, and also thanked those who had responded to the consultation in this regard. Councillor Thomas also referred to the forthcoming retirement of AONB Planning Officer Tony Hughes and formally thanked him for his dedicated service and wished him well for the future.

The AONB Planning Officer highlighted the positive reception of the project with much support across all areas, and the consultation carried out earlier in the year had demonstrated substantial support for the conservation and enhancement of dark skies which the SPG was seeking to achieve. Members' attention was drawn to the proposed changes to the SPG in response to the consultation together with officers' comments thereon. The project required approval by the three local authorities covering the AONB and it was noted that Wrexham County Borough Council and Flintshire County Council would be considering the matter in December and January respectively which was within the timescales for application to the International Dark Skies Association for Dark Sky Community Status.

**Proposal** – Councillor Mark Young proposed that the officer recommendations as set out in the report be agreed and formally adopt the Planning for Dark Night Skies – Supplementary Planning Guidance for lighting in the Clwydian Range and Dee Valley AONB, seconded by Councillor Ellie Chard.

**RESOLVED** that the proposed changes to the SPG be agreed and the 'Planning for Dark Night Skies – Supplementary Planning Guidance for lighting in the Clwydian Range and Dee Valley AONB' be adopted.

## **UPDATE ON APPLICATION NO. 43/2020/0521 - LAND ADJACENT TO ALEXANDRA DRIVE, PRESTATYN**

The Chair referred to a late update which had been included in the supplementary documentation (blue sheets) for members' information regarding the application for erection of 102 affordable dwellings, associated roads, open space, landscaping and infrastructure (re-submission of planning application 44/2019/0629) at land adjacent to Alexandra Drive, Prestatyn.

The Committee had granted planning permission for the above proposal on 16 June 2021 following which the Welsh Government put a 'Holding Direction' in place to prevent the Council from issuing the decision until such time as it had considered whether the application should be called in for a decision by Ministers.

Members were advised that the Welsh Government had decided not to call-in the planning application for determination by Welsh Ministers and the Local Planning Authority could now continue to process the application with a view to issuing the planning decision once a Section 106 legal agreement had been signed. A previous requirement for monies towards highway improvements was no longer required as part of that agreement as the works had already been carried out – all other terms of the agreement

were still required. Upon completion of the Section 106 legal agreement the Certificate of Decision would be released.

Members noted the situation.

The meeting concluded at 11.50 a.m.