

PLANNING COMMITTEE

Minutes of a meeting of the Planning Committee held in the Council Chamber, County Hall, Ruthin on Wednesday, 13 November 2019 at 9.30 am.

PRESENT

Councillors Ellie Chard, Ann Davies, Peter Evans, Alan James (Vice Chair), Gwyneth Kensler, Christine Marston, Melvyn Mile, Bob Murray, Tony Thomas, Julian Thompson-Hill, Joe Welch (Chair), Emrys Wynne and Mark Young

Local Members – Councillors Huw Hilditch-Roberts, Rhys Thomas and Huw Williams attended for particular items relating to their wards

Observers – Joan Butterfield, Barry Mellor and Peter Scott

ALSO PRESENT

Head of Planning and Public Protection (EJ); Head of Legal, HR and Democratic Services/Monitoring Officer (GW); Team Leader – Places Team (SC); Development Control Manager (PM); Principal Planning Officer (IW); Planning Officer (DS); Senior Engineer – Development Control (MP) and Committee Administrator (KEJ)

1 APOLOGIES

Councillors Brian Jones, Huw Jones, Tina Jones, Merfyn Parry, Pete Prendergast and Andrew Thomas

2 DECLARATIONS OF INTEREST

Councillor Huw Hilditch-Roberts declared a personal interest in Agenda Item 7 – Land at Fron Haul, Llanfwrog, Ruthin because he was a member of the same Rugby Club as the applicant.

3 URGENT MATTERS AS AGREED BY THE CHAIR

No urgent matters had been raised.

4 MINUTES

The minutes of the Planning Committee held on 9 October 2019 were submitted.

RESOLVED that the minutes of the meeting held on 9 October 2019 be approved as a correct record.

APPLICATIONS FOR PERMISSION FOR DEVELOPMENT (ITEMS 5 - 12) -

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. 01/2019/0579/PF - THE AIRFIELD, LLEWENI PARC, DENBIGH

An application was submitted for change of use of land for the siting of a hospitality/office unit, construction of associated parking area and dual use of the existing tracks as airfield and for driving school use; use of existing track for the use of 4x4 training and siting of a cabin for induction/training and associated hard surfacing for skid car tutoring at the Airfield, Lleweni Parc, Denbigh.

Public Speakers –

Ms. M. Green (**Against**) – highlighted local opposition to the proposal and concerns that the current noise pollution experienced from activities at the site would increase if the application was granted. Also referred to concerns regarding water and light pollution and the detrimental impact on achieving Dark Sky Status.

Mr. T. Witham (**For**) – provided some background to the operation of the business and future plans and highlighted the positive impact on the local economy and young people through the provision of quality training. The business had been operating within permitted development limits, no noise complaints had been received and water would not be used to simulate conditions.

General Debate – Additional information had been included in the late supplementary papers (blue sheets) in terms of representations received together with a minor re-wording of condition 4 regarding approved use and a suggested new condition to control surface water use. Councillor Mark Young (Local Member) advised that many of the concerns raised initially had been addressed with the applicant but sought further assurances regarding removal of the buildings if the business ceased together with highway and noise concerns. Councillor Rhys Thomas (Local Member) sought clarification regarding the hours of operation.

Officers responded to the issues raised by members advising that –

- condition 5 relating to removal of the building and associated facilities in the event the businesses ceased operating from the site was legally enforceable
- in the event of any noise complaints officers would investigate and take any action deemed appropriate
- traffic movement was likely to be low and spread throughout the day and given the siting of the office building there was sufficient length of driveway to avoid congestion around the entrance; accordingly there were no highway concerns
- confirmed the hours of operation as applied for and which required determination were between 08.30 and 19.00.

Councillor Christine Marston referred to a complaint regarding racing at the site and officers advised that the application did not contain reference to racing activities or events and condition 4 prevented the tracks from being used for any motor racing

activity. Any evidence based reports of unauthorised activities could be investigated as a separate issue outside of the meeting.

Proposal – Councillor Mark Young was satisfied that all concerns raised had been appropriately addressed and therefore he proposed, seconded by Councillor Peter Evans, that the application be granted in accordance with officer recommendation.

VOTE:

GRANT – 12

REFUSE – 1

ABSTAIN – 0

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

6 APPLICATION NO. 01/2019/0752/PF - 8 LON NANT, DENBIGH

An application was submitted for proposed erection of extension and alterations to dwelling at 8 Lon Nant, Denbigh.

Proposal – Councillor Gwyneth Kensler referred to the late technical information contained within the supplementary papers for which she would like additional time to consider and also suggested a site visit be arranged. On that basis she proposed, seconded by Councillor Bob Murray, that the application be deferred.

VOTE:

FOR DEFERRAL – 13

AGAINST DEFERRAL – 0

ABSTAIN – 0

RESOLVED that the application be **DEFERRED** in light of the additional late supplementary information received and to accommodate a site inspection visit.

7 APPLICATION NO. 22/2019/0544/PC - OLD BARN, HWYLF, LLWYN, GELLIFOR, RUTHIN

An application was submitted for use of agricultural building for the repair and maintenance of applicant's own vehicles, machinery and equipment used in connection with applicant's agricultural contracting and groundworking business and change of use of adjoining agricultural land to ancillary storage in association with the building (retrospective application) at the Old Barn, Hwylfa, Llwyn, Gellifor, Ruthin.

Public Speakers –

Mr. E. Evans (**Against**) – stated the application had only been forthcoming as a result of an enforcement notice, referred to previous permission granted and disputed the use of the building for the agreed purposes stated. Argued against the use of grade 1 agricultural land and the appropriateness of the location, and that relevant criteria had not been met contrary to Planning Policy Wales guidance.

Mr. M. Roberts **(For)** – reported upon plans for the business and how it would contribute to economic feasibility of the rural community. It was a small scale development in an appropriate location which, with conditions, could overcome concerns raised and on that basis the application should be approved.

General Debate – Councillor Huw Williams (Local Member) advised that he had visited the site and had worked with officers with a view to addressing residents' concerns. He found the site to be tidy and well maintained and supported the officer recommendation to grant the application. Councillor Emrys Wynne raised some concern regarding potential noise nuisance arising from activities at the site and hoped that the conditions proposed to address that issue would be sufficient if members were minded to grant the application. He also had some concerns regarding the loss of grade 1 agricultural land which he felt should be protected if there was opportunity to do so. In response to the issues raised officers advised it was accepted that noise was generated from activity on the site but the noise assessment had concluded that noise levels could be mitigated by insulation measures and adequately controlled by condition. It was also agreed that the loss of agricultural land was a factor for members to weigh up together with other considerations such as employment issues and officers had considered on balance that the application should be granted. In response to a question from Councillor Gwyneth Kensler it was confirmed that PSE4 and PSE5 allowed for conversions of buildings to alternative uses and employment uses subject to the tests being met.

Proposal – Councillor Julian Thompson-Hill proposed the officer recommendation to grant the application, seconded by Councillor Melvyn Mile.

VOTE:

GRANT – 10

REFUSE – 1

ABSTAIN – 2

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

8 APPLICATION NO. 02/2019/0159/PF - LAND AT FRON HAUL, LLANFWROG, RUTHIN

An application was submitted for conversion of existing building to chalet, erection of 3 new chalets, with associated construction of roads, creation of pond, installation of drainage and landscape planting at land at Fron Haul, Llanfwrog, Ruthin. The item had been deferred by the committee in September pending the receipt of additional information to clarify the case for the development.

Public Speaker –

Mr. R. Davies (agent) **(For)** – referred to the additional information requested, justification statement, detailed accounts and viability statement. Argued the application complied with Policy PSE5 which allowed for tourism development

outside development boundaries subject to detailed criteria, highlighting a clear shortage of holiday accommodation supply in the area and strong market demand.

General Debate – Councillor Huw Hilditch-Roberts (Local Member) spoke in support of the application and how he believed the policy tests had been met. He considered the design to be in keeping with the character of the area, highlighting a number of properties/facilities in the vicinity to illustrate this point; referred to the study of hotel demand commissioned by Denbighshire which concluded a clear demand for hotel accommodation and reported upon his efforts to arrange group accommodation via Booking.com to demonstrate the lack of availability in Ruthin, and he also highlighted the reduction in visitor accommodation over recent times; the lack of land allocated for business use in Ruthin was also highlighted as a factor to consider. Councillor Hilditch-Roberts advised that the applicant had a proven record in the town, the proposal would meet a need and be of economic benefit to Ruthin and tourism in Denbighshire, and urged members to grant the application.

Officers responded to the issues raised as follows –

- reiterated that it was a greenfield site in open countryside some 2km away from the town centre in Ruthin where the applicant's other businesses were located and there was no planning mechanism to tie the development to the existing pub business
- clarified on the slideshow of photographs provided the building proposed to be converted which was in officers' view a new build given that only one partial elevation was being retained – the farmhouse on the opposite side of the track had been granted as a replacement dwelling and had been demolished and was a completely separate scheme
- the Denbighshire Study of Hotel Demand & Potential 2018 had considered hotel accommodation and the application referred to a self-contained holiday let. A separate assessment had been carried out which identified a general shortfall of all forms of visitor accommodation county wide but it was not specific to Ruthin
- the application had been referred to as holiday accommodation and chalets/cabins but they were essentially very large two story properties that well exceeded space standards for four bedroom units. Development in open countryside was strictly controlled and required overriding justification which officers did not consider had been made in this case
- it was considered that no efforts had been made to find any suitable available buildings or land within 2km of the existing businesses and that the site had been selected on the basis that it was in the applicant's ownership.

There was some further debate as to the relevance of the Denbighshire Study of Hotel Demand & Potential to the planning application and what weight to attach to it given that it related solely to hotel accommodation albeit suggesting some diversification of visitor accommodation within a particular context. However it was suggested that there was a general shortfall in visitor accommodation in the county.

Councillor Mark Young reported that tourism and visitor numbers to the county continued to grow and he was keen to see investment in this area and had been reassured that conditions could be imposed to restrict the proposed dwellings for holiday use only. Councillor Emrys Wynne added his support to the application

given that it was a local development by a local business which would improve the economy and provide a high standard of holiday accommodation that would enhance the surrounding area. He concurred with the views of fellow Local Member Councillor Huw Hilditch-Roberts and elaborated upon how he considered the relevant policy tests had been met which could be included in the final reasons for the decision if the application was granted. He also highlighted that there had been no representations raising concerns and believed there was local support for such a development. If members were minded to grant the application he referred to a number of conditions to be imposed in order to address issues raised by Natural Resources Wales regarding flood risk and the need for an ecological assessment, and in terms of appropriate screening and protection of the footpath amongst others. Officers advised that if members wished to move against officer recommendation the usual practice was to agree a set of conditions with the Local Member to apply to the consent, but there was also the option of bringing the conditions back to the committee for approval.

Proposal – Councillor Mark Young proposed, seconded by Councillor Emrys Wynne, that the application be granted on the grounds that conversion of the building into a holiday unit met Policy PSE4 in relation to the conversion of rural buildings, and that tests in relation to Policy PSE5 had effectively been met in that the development was considered appropriate in scale and design to its location; evidence demonstrated that there were no other buildings in the locality suitable for conversion for that use, and a viable business case had been demonstrated.

VOTE:

GRANT – 9

REFUSE – 4

ABSTAIN – 0

RESOLVED that permission be **GRANTED**, contrary to officer recommendations, on the grounds that the application complied with the criteria of Policy PSE4 and that the tests in relation to Policy PSE5 had effectively been met.

9 APPLICATION NO. 43/2018/0750 - LAND TO THE NORTH, WEST AND EAST OF MINDALE FARM, Ffordd Hendre, Meliden

An application for the demolition of existing dwelling and outbuildings, erection of 133 dwellings, construction of internal estate roads, sewers, SUDS drainage and open spaces, strategic and hard/soft landscaping and ancillary works, in association with application 43/2018/0751 for new link road to Ffordd Talargoch (A547) at land to the north, west and east of Mindale Farm, Ffordd Hendre, Meliden, Prestatyn had been submitted for reconsideration. [Application 43/2018/0751 had been submitted for reconsideration as a separate agenda item.]

Both applications had been refused by Planning Committee on 4 September 2019, contrary to officer recommendation. Following deliberations by the Head of Planning and Public Protection in consultation with the Monitoring Officer, and in accordance with the current Scheme of Delegation, it was considered that the grounds for refusal put forward on both applications gave rise to a significant risk of costs being awarded against the Council at any subsequent appeal or legal

challenge. Consequently both applications had been re-submitted for consideration at the Planning Committee on 9 October when it had been resolved to defer both items pending receipt of further information. The supplementary reports provided members with the additional information requested and clarification of the reasons for requesting reconsideration of the applications together with all the relevant background information relating to the case.

Public Speakers –

Mr. B. Paterson (**Against**) – referred to the Planning Committee’s decision to refuse the application in September with no planning changes since then; compared financial risks to the Council and the reduction in property values and cost to local householders of properties directly involved; argued greenbelt land outside of a development boundary should not be used to facilitate the development.

Mr. M. Gilbert (**For**) – advised site had been allocated for residential development in Local Development Plan (LDP) and applications should be consented in accordance with the LDP unless material considerations indicated otherwise; highlighted lack of available housing land supply and type of housing needed which the application would help address; referred to clear evidence and advice that concerns raised could be appropriately mitigated by conditions with no justifiable reasons for refusal.

General Debate – The Monitoring Officer provided some general context to decision making at Planning Committee together with the reasoning for resubmission of the applications in this case. Officers were of the view that the decision taken at the September meeting and reasons given for it carried a high risk of significant costs being awarded against the Council on appeal. Details of the process for costs awarded were provided based on the reasonableness of decisions and conduct of the matter and had been set out within the report. A cost estimate had been provided by the applicant’s legal representative and any subsequent cost award would need to be vigorously scrutinised but it was wrong to suggest that a costs application was unlikely to succeed in this case, and reference was made to a previous case referred back to committee which had resulted in the Council being ordered to pay significant costs on appeal. The decision was for Planning Committee to take and should be reached objectively having regard to officers’ advice and judged on the material considerations presented; where decisions were taken contrary to officer advice clear reasons for doing so should be given. The advice in the report was clear and officers had a professional obligation to provide it. In making their decision members were asked to take into account the risks that had been set out and carefully consider the advice of planning officers.

During debate Councillor Bob Murray expressed his view that the Planning Committee had democratically voted against granting the application in September and he supported that decision and the reasons given for refusal based on highway/infrastructure and drainage/flooding grounds. He proposed, seconded by Councillor Melvyn Mile, that the application be refused on that basis. Councillor Murray advised that Prestatyn was prone to flooding and he elaborated upon his particular concerns in that regard, highlighting problems already experienced in the area, and also raised concerns relating to highways and the local infrastructure.

Councillor Julian Thompson-Hill concurred with the views of fellow Prestatyn Members and did not support granting the application – he did however suggest that the reasons for refusal be focused on fewer, stronger grounds rather than a greater number which might prove more difficult to defend. Councillor Peter Evans (Local Member) reiterated his objections to the development and asked that the democratic and conclusive decision taken by the committee in September to refuse permission be upheld. He considered the reasons for refusal as drafted and set out within the report following the September meeting to be an appropriate basis to defend an appeal, with any amendments to the final wording of the reasons to be agreed with him as Local Member outside of the meeting in accordance with usual practice. Whilst appreciating local opinion on the proposed development, Councillor Tony Thomas highlighted the need for solid planning reasons in order to defend any appeal which he believed had not been forthcoming, particularly given that the technical responses and evidence provided suggested that any concerns could be mitigated through conditions, and the recommendations of the Planning Inspector following the last appeal had since been addressed. He also highlighted the need for housing in Denbighshire, and of a particular type, and the proposed development would provide 13 affordable housing units and 44 two bedroom housing units.

Officers clarified a number of issues raised and responded to questions as follows –

- decisions should be based on planning considerations and the issue of costs only arose if there were inadequate planning reasons for the decision reached
- any costs award would have to be met by the Council
- the application site had been allocated as land for housing in the current Local Development Plan (LDP) and the second application submitted in respect of the link road to service the development was on land outside the LDP boundary
- clarified the two reasons for refusal drafted by officers on highway/infrastructure and drainage/flooding grounds based on the resolution of the Planning Committee in September – the risks associated with those two reasons had been clearly set out within the report and communicated to members
- if members were minded to refuse permission they should provide detailed wording of the reasons for refusal.

Councillor Peter Evans (Local Member) reiterated his view that the application should be refused on the planning grounds put forward by the Planning Committee in September and as set out within the report.

Proposal – Councillor Bob Murray proposed, seconded by Councillor Melvyn Mile, that permission be refused on the basis of the planning reasons put forward by the Planning Committee in September relating to highway/infrastructure and drainage/flooding grounds and as set out within the report, subject to the final wording being agreed with the Local Member.

VOTE:

GRANT – 3

REFUSE – 9

ABSTAIN – 1

RESOLVED that permission be **REFUSED**, contrary to officer recommendation, on grounds relating to highway/infrastructure and drainage/flooding as put forward by the Planning Committee in September and as drafted within the report, subject to the final wording being agreed with the Local Member.

10 APPLICATION NO. 43/2018/0751 - LAND SOUTH WEST OF FFORDD TY NEWYDD, OFF FFORDD TALARGOCH (A547), MELIDEN

An application for construction of new road (approximately 400m in length) from Ffordd Talargoch (A547) to land at Mindale Farm, in association with application 43/2018/0750 for residential development on housing land allocation at land south west of Ffordd Ty Newydd, off Ffordd Talargoch (A547), Meliden had been submitted for reconsideration. [Application 43/2018/0750 had been submitted under the preceding minute item and had been refused planning permission.]

Public Speaker –

Mr. B. Paterson (**Against**) – explained the road was to serve the housing development which had been refused and therefore served no purpose; there was local opposition to the development and it was outside the development boundary on land which was unstable due to historic mining in the area.

General Debate – A general overview and background to both applications had been provided under the previous minute item and the report also contained specific information relating to the access road application. The Monitoring Officer reiterated his comments with regard to officers' advice and ensuring careful consideration of the circumstances and planning considerations together with the risks of making a decision based on reasons which may be difficult to defend.

Councillor Peter Evans (Local Member) proposed, seconded by Councillor Bob Murray, that the application be refused in line with the decision of the Planning Committee in September and for the reason as set out within the report that the new road would be developed in open countryside outside the development boundary and would not lead to any development. He considered that the final wording could be agreed outside of the meeting between himself as Local Member and officers in accordance with usual practice.

Officers reiterated that the decision as it stood would prove difficult to defend and sought more specific reasons in terms of identifying why the development was unacceptable and the harm that development would cause, illustrating some examples of material planning considerations for developments outside the development boundary, and issues previously raised by the committee when considering the specific development subject of the application. Councillor Tony Thomas also voiced his concern regarding the robustness of the reason put forward and sought a stronger reason for refusal which would enable any subsequent appeal to be successfully defended, and he drew attention to the previous appeal and conclusions of the Planning Inspector in this regard. In terms of the reference to the development effectively being a 'road to nowhere' and that it would serve no purpose given refusal of the associated residential development, officers clarified that the use of planning conditions to control development was a key issue.

Officers had advised that the imposition of planning conditions could ensure that construction of the road could be prevented unless there was a residential development for it to serve and therefore it would be a risk to include a reference to it effectively being a 'road to nowhere' as a valid planning reason.

Members considered a number of potential reasons to put forward to strengthen the reason as set out in the report arising from the Planning Committee in September including visual landscape impact; adequacy of drainage arrangements; land stability in light of historic mining, and the possibility of land contamination. With regard to those reasons officers cautioned against bringing forward a number of reasons without an evidence base to support them. Given that other reasons could legitimately be raised at an appeal in addition to the Council's reason for refusal, members agreed to include reference to the harm the development would have on the visual character of the area.

Proposal – Councillor Peter Evans proposed, seconded by Councillor Bob Murray that the application be refused, contrary to officer recommendation, on the basis that its development was within open countryside outside the development boundary and would have a negative visual impact.

VOTE:

GRANT – 1

REFUSE – 12

ABSTAIN – 0

RESOLVED that permission be **REFUSED**, contrary to officer recommendation, on the basis that its development was within open countryside outside the development boundary and would have a negative visual impact.

At this point (11.35 a.m.) the meeting adjourned for a refreshment break.

11 APPLICATION NO. 43/2019/0697/PF - 27 PLAS AVENUE, PRESTATYN

An application was submitted for erection of extension and alterations to dwelling at 27 Plas Avenue, Prestatyn.

General Debate – Councillor Julian Thompson-Hill (Local Member) explained that the application had been deferred at the last meeting. The property had been subject to a site inspection visit just prior to the last meeting following which revised plans had been submitted reducing the amount of glazing that would have been overlooking the neighbouring property in response to concerns raised. Consequently he was happy to move the officer recommendation to grant.

Proposal – Councillor Julian Thompson-Hill proposed the officer recommendation to grant the application, seconded by Councillor Alan James.

VOTE:

GRANT – 11

REFUSE – 0

ABSTAIN – 0

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

12 APPLICATION NO. 47/2019/0766/PF - LAND FORMERLY KNOWN AS BURNS COTTAGE, CWM, RHYL

An application was submitted for erection of dwelling and garage (amended scheme) at land formerly known as Burns Cottage, Cwm, Rhyl.

General Debate – Councillor Christine Marston (Local Member) advised that the application had been brought before committee following concerns raised by Tremeirchion, Cwm and Waen Community Council regarding the roof which was considered not in keeping with area and they had suggested it should be either cedar as originally submitted or slate. However Councillor Marston considered that slate would be unsuitable for the fall of the roof and believed it was in keeping in colour with no concerns raised by the AONB Joint Committee in that regard. Consequently she had no objection to the application. In response to her request that mature trees be used as part of the compensation tree planting scheme, officers agreed to raise the issue with the developer with a view to including that provision within the landscaping scheme, which would be done pre occupation of the dwelling.

Proposal – Councillor Christine Marston proposed the officer recommendation to grant the application, seconded by Councillor Gwyneth Kensler.

VOTE:

GRANT – 11

REFUSE – 1

ABSTAIN – 0

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

The meeting concluded at 12.02 p.m.