

## **PLANNING COMMITTEE**

Minutes of a meeting of the Planning Committee held in the Council Chamber, County Hall, Ruthin on Wednesday, 11 December 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, Bob Murray, Merfyn Parry, Pete Prendergast, Andrew Thomas, Tony Thomas, Julian Thompson-Hill, Joe Welch (Chair), Emrys Wynne and Mark Young

### **ALSO PRESENT**

Councillor Meirick Lloyd Davies (Cefn Meiriadog), Councillor Huw Hilditch-Roberts, Councillor Peter Scott, Councillor Rhys Thomas and Councillor Eryl Williams  
Team Leader – Places Team (SC); Development Control Manager (PM); Principal Planning Officer (IW); Planning Officer (PDG); Senior Engineer – Development Control (MP) and Committee Administrator (RTJ)

#### **1 APOLOGIES**

Councillor Huw Jones.

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

No declaration of interest had been raised.

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

The chair allowed Councillor Merfyn Parry to ask for an update on the Bwlch Du application which was previously discussed at planning committee.

Officers read out the latest information as presented by the Head of Legal, HR and Democratic Services –

“The current position in respect of this matter was that following the decision made by the Council’s Planning Committee in September of this year, the Council was directed by Welsh Government to take no action to issue a decision in respect of the application as they were considering whether or not to call the matter in for determination by them.

The Welsh Government had since confirmed that they would not be calling the matter in for determination but the direction has contributed to the time taken to deal with this matter.

In addition the Council received correspondence from lawyers acting for the wind farm setting out their clients' intention to mount a legal challenge to the Committee's decision and their barrister's opinion containing their reasons for doing so.

The Council has sought independent external legal advice in respect of the potential legal challenge to be brought by the wind farm's lawyers. The advice received from external Counsel is that some of the legal issues raised by the wind farm's barrister need to be addressed and considered by the Committee. If the Committee is minded to make the same decision again, having taken these matters into account, they will have an opportunity to clarify the reasoning for the decision.

This did not disrespect the decision of the Committee. It merely seeks to ensure that whatever decision the Committee makes was legally compliant and defensible.

The applicants' legal representatives and the wind farm's lawyers have been formally notified of the proposal to take the matter back to Committee."

#### **4 MINUTES**

The minutes of the Planning Committee held on 13 November 2019 were submitted.

Matter Arising –

It was requested that the committee be advised of the wording of the reasons for refusal on Agenda item 9 Application number 43/2018/0750 - land to the north, west and east of Mindale farm, Ffordd Hendre, Meliden, and 10 Application No. 43/2018/0751 - Land South West of Ffordd Ty Newydd, off Ffordd Talargoch (A547). The Planning officer informed the committee that application 43/2018/0750 had been refused for the following reasons –

##### **Reason 1**

It is the opinion of the Local Planning Authority that the scale of the development would have an unacceptable impact on the character of the village and its infrastructure, in particular in relation to the highway network, as in combination with other committed and proposed developments on allocated sites, it would add to unacceptable levels of peak time congestion and dangers to all road users. This would have a negative impact on the wellbeing and quality of life for existing and proposed residents using the highway infrastructure. The development is considered to be in conflict with considerations to be applied to the development in the adopted Site Development Brief 'Residential Development at Ffordd Hendre and Maes Meurig, Meliden, Denbighshire Local Development Plan Policy RD 1 'Sustainable development and good standard design' criteria vii),viii) and ix), Technical Advice Note 18 'Transport', and Planning Policy Wales Edition 10.

##### **Reason 2**

It is the opinion of the Local Planning Authority that the proposals do not adequately demonstrate that surface water run-off from the site and land

above it can be managed without increasing the risk of additional discharge to watercourses leading to the Prestatyn Gutter, and hence increasing the potential for flooding downstream. Accordingly it is considered that the proposal fails to comply with considerations to be applied to the development in the adopted Site Development Brief 'Residential Development at Ffordd Hendre and Maes Meurig, Meliden', Denbighshire Local Development Plan Policy RD1 'Sustainable development and good standard design' criteria xi), Policy VOE 6 'Water Management', Technical Advice Note 15 'Development and Flood Risk', and Planning Policy Wales Edition 10.

Application 43/2018/0751 had been refused for the following reason –

It is the opinion of the Local Planning Authority that the construction of a new road in open countryside outside the development boundary of Meliden would be an unacceptable form of development having an adverse visual impact, and cannot be justified in the absence of a permission for any associated residential development. The proposal is considered to be contrary to tests i) and ii) of Denbighshire Local Development Plan Policy ASA1 'New Transport Infrastructure', considerations to be applied to the impact of new development in the development management manual, paragraph 9.43 and Planning Policy Wales Edition 10.

**RESOLVED** that the minutes of the meeting held on 13 November 2019 be approved as a correct record.

## **5 APPLICATION NO. 01/2019/0752 - 8 LON NANT, DENBIGH**

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

### **Public Speakers –**

Mr Dyfrig Berry (**Against**) – Understood why the neighbours have submitted the application, however the only reason he objected to the application is due to the overbearing effect the application would have on the privacy in the garden of his property. The properties were unusual as his house was placed in a triangle between two other properties, which were further back than his home, and therefore the back garden was the only area of privacy, a hedge would not mitigate any privacy concerns. It was stated that the applicant has claimed that there have been similar applications granted previously, however no other similar applications have been submitted. There were three planning issues of concern, however planning officers stated that the only ground for refusal was the overbearing nature of the proposed development.

Mr Richard Jones (**For**) – stated that he lived at 8 Lon Nant with his family, two children who attended local schools and they had a strong link with the local community. The property had not been improved upon for 30 years, and the proposed development would bring the house to modern standards. The majority of the objections had been answered in the report as being non applicable to the

application. The only outstanding issue, was the perception of being overbearing on the neighbouring property. Within the supplementary planning guidance notes it stated that overbearing impact on a neighbouring property should be prevented particularly if there was a window to the side elevation to the adjacent property that the extension projects towards. Whilst it was not always achievable a one metre gap should be considered between the proposed extension and the boundary. Members were informed that the proposed extension did not increase the footprint of the existing building, and there were no windows to the south elevation, which directed towards 10 Lon Nant. Members were informed that 10 and 12 Lon Nant had previous planning permission approved which reduced the size of the rear of the garden which added to the perception of being hemmed in. It was stated that it would be unfair if the application was refused when other applications had been previously granted, and wished for the application to be granted to allow his family to continue to be a part of the local community.

### **General Debate –**

Councillor Christine Marston who attended the site visit highlighted the complex nature of the site layout which was more apparent than the detailing within the report, however the previously granted applications had made the garden to the rear of 10 Lon Nant smaller. It was also noted that the windows to the rear of number 10 were obscure glass, which was noted as it was apparent overlooking was an issue.

Councillor Mark Young (Local member) praised the public speakers on speaking on such a difficult application, and sought clarity on whether judgement on the issue of overbearing was a matter of policy or opinion, and whether there could be any conditions included on any windows on the extension if the application was approved, which would assist in alleviating any concerns.

Members stated that the report should note town council and not community council. It was also queried whether there had been an assessment on the impact on light for adjacent property. Historic applications with overbearing impact which had not been discussed in Planning Committee was raised and how consistency with the term was required for any future applications.

Planning officers clarified that judgement on the matter of overbearing was a matter of opinion based on application of guidance which assisted with assessing applications. There was no universal rule and that each case would need to be assessed individually. The rear bedroom window at 8 Lon Nant could cause issues with overlooking however it was again a matter of opinion as to how much of an impact the window would have. Conditions could be included to require submission of further details. It was suggested there would be no adverse loss of light due to the application.

Councillor Mark Young (Local Member) stated that Denbigh Town Council had raised no concern to the application, the corporate plan outlined that the council should encourage young families to adapt their homes to ensure they can stay within Denbighshire. The extension would not increase the footprint of the existing

building, and no window would be on the side of the extension and the house was 6 meters away from 10 Lon Nant.

**Proposed** – Councillor Mark Young proposed the application be granted contrary to officer recommendation as the extension did not have an overbearing impact on the neighbours' amenities, and it was proposed that a condition be placed on the detailing of the bedroom window to alleviate any concerns raised by residents. Seconded by Councillor Alan James.

Councillor Rhys Thomas (Local Member) stated that overbearing impact would occur in relation to the small garden of the neighbouring property. The historic applications were not directly relevant, and planning applications should be determined on their merits. The main issue with the development was due to the nature of the layout of the houses.

**VOTE:**

GRANT – 14

REFUSE – 4

ABSTAIN – 0

**RESOLVED** that permission be **GRANTED**, contrary to officer recommendation, on the grounds that the property would not be overbearing on neighbouring properties.

**6 APPLICATION NO. 01/2019/0757 - GRAIG QUARRY, GRAIG ROAD, DENBIGH**

An application was submitted for the variation of condition 1 of planning permission 01/2009/1424/PS to allow continuation of extraction of permitted reserves at Graig Quarry, Graig Road, Denbigh, LL16 5US (also known as Denbigh Quarry).

**Proposal** - Councillor Merfyn Parry proposed that the application be deferred to consider local concerns including the frequency of the blasting, and to clarify the issue of a community benefit fund. It was suggested that these matters could be discussed during a site visit to the quarry. Seconded by Councillor Melvyn Mile.

**VOTE:**

FOR DEFERRAL – 17

AGAINST DEFERRAL – 0

ABSTAIN – 1

**RESOLVED** that the application be **DEFERRED** to allow a site visit to be carried out.

**7 APPLICATION NO. 11/2019/0472 - TYN Y CELYN, CLOCAENOG, RUTHIN**

An application was submitted for the erection of a manure storage building for use in connection with existing poultry unit, formation of a new vehicular access to serve the building and associated works at Tyn Y Celyn, Clocaenog, Ruthin.

**Public Speakers –**

Bill Seymour (**Against**) – Informed members that there were multiple outstanding objections to the proposed development. There was a manure shed which was already being used, it was stated that cumulative impact assessment had not been carried out. The odour test was office based and did not realise the full impact of the odour, as on some occasions the smell was unbearable for the surrounding residents. The road which was used to transport the manure was highlighted as not being fit for purpose, the committee were also informed that an alternative entrance was being used for the site which had not been approved.

Catrin Jones (**For**) – made the committee aware that the proposed development was to conform to Welsh Government regulations which would be coming into effect. The new shed would allow the manure to be stored under a roof and in dry conditions, the shed would be located closer to the farm which would be beneficial to the farm as a local business. The current shed was being rented, the new proposed storage would allow further control for the farm over the storage of manure. The proposed storage shed would also be located further from residents than the shed which was being currently used.

### **General Debate –**

Concerns were raised following the site visit, in regards to the road which was used by HGVs to transport the manure, as it was a narrow rural lane and the vehicles caused damage to the road. It was also highlighted that there were no trees planted at the bottom of the lane which was agreed as a condition in a previous application.

Councillor Eryl Williams (Local Member) informed the committee the matter was divisive in the local community. Confirmation of the store was sought, along with what the farm produced. It was agreed that the road which was currently being used was not ideal. It was reiterated that the shed was proposed to conform to Welsh Government legislation which was being implemented, which required manure to be stored in a roofed shed.

Officers responded to members concerns. It was clarified that the amount which was going to be stored was 5 months of manure. The exact capacity was not known. The proposed building had been moved further from residents to lessen the impact. The dust from the activities would have little to no impact on the surrounding residents. The odour was also assessed to have no adverse impact on residents. Members were assured that compliance with conditions imposed on previous applications would be investigated.

The road which was being used by HGV's was narrow, but no restrictions were in place on the roads and drivers were within their rights to use the road. The usage was also deemed as being light as it would be used roughly 3 to 4 times a week.

**Proposal** – Councillor Ann Davies proposed the application be refused due to the adverse impact on local amenities, seconded by Councillor Andrew Thomas.

**Proposal** – Councillor Alan James proposed the application be granted in accordance with officer recommendations seconded by Councillor Merfyn Parry.

Councillor Eryl Williams suggested that a condition be included to ensure the use of the building was limited to storage of manure from the applicant's poultry unit. Councillor Alan James agreed the condition be included in the proposal.

**VOTE:**

GRANT – 13

REFUSE – 4

ABSTAIN – 0

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

**8 APPLICATION NO. 46/2019/0748 - APRIL COTTAGE, GLASCOED ROAD, ST ASAPH**

An application was submitted for the Erection of a 1.75m high hand woven hazel wood screening with concrete support post clad in timber with square timber cappings (partly retrospective) at April Cottage, Glascoed Road, St Asaph.

**Public Speakers –**

Tim Donovan (**Against**) – stated how he objected to the application as it was on the boundary of his property. He advised the boundary was not a fence but a hedge, and should have an easement area. The hedge was well maintained and in good condition. A retrospective build was already in place which impacted on amenities and the easement to the hedge and did not allow maintenance to be carried out on the hedge. It was stated that the hedge was dead as the applicants building work had killed it. The hedge needed care and maintenance as the boundary between both properties. A new hedge and wooden fence would be in place in January, and relevant legal notices would be issued. Legal matters were ongoing in relation to the boundary. The application was considered void as the old coach house was not in the application. It was also stated that the committee had a duty to protect natural resources in the area.

Tim McSweeney (**For**) – highlighted the reasons why the fence had been erected, namely for security, privacy and safety. The existing fence had a gate in it which the neighbour could use at any time, which would impact on the privacy and security of the owners of April Cottage as anyone could use the gate and have access to the gardens there. The gate also posed a safety concern as the owners of April Cottage had grandchildren and the open gate posed an opportunity to leave the property. The owners of April Cottage were custodians to the property due to its age. Officers had recommended that the fence be permitted with a hazel woven fence and the cladding and capping of the concrete posts. The owners had complied with the suggestions. The reasons for killing the hedge were not substantiated at the time of the meeting. It was therefore requested that the committee grant the application subject to the conditions included in the officer recommendation.

**General Debate** – Planning officers drew the committee's attention to the kind of fence which would be built. The application was being discussed as the fence was within the curtilage of a listed building and only required planning permission for this

reason. The proposal was to replace the existing fence with a hazel woven fence. Officers had assessed the application, and the conservation officer had also reviewed the application. Officers recommended the application be granted.

Councillor Peter Scott (Local Member) stated that originally the city council did have reservations with the application, however following the revisions they had no objections to the application. A site visit had been organised but had been cancelled, and it was asked why this had happened. Officers informed the committee that access to land had been denied, but it was nonetheless felt that the application could be assessed on its merits with the information and images supplied.

**Proposal** – Councillor Merfyn Parry proposed the application be granted in accordance with officer recommendations, seconded by Councillor Julian Thompson-Hill.

**VOTE:**

GRANT – 18

REFUSE – 0

ABSTAIN – 0

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

At this point (11.00 a.m.) the meeting adjourned for a refreshment break.

**9 APPLICATION NO. 28/2019/0808 - THE RIGGERY, HENLLAN, DENBIGH**

An application was submitted for the erection of a detached garage (amended details to those previously approved) at The Riggery, Henllan, Denbigh.

Planning officers informed the committee that the application concerned the detailing of a garage which had been previously approved, the application being to increase the size of the garage, involving it being sited next to the frontage wall of the plot. The concerns which were raised by the community council were over the amendments to the garage causing visibility issues. Officers believed the garage would not cause issues with visibility.

**Proposed** – Councillor Gwyneth Kensler proposed the application be granted in accordance with officer recommendations, seconded by Councillor Emrys Wynne.

**VOTE:**

GRANT – 17

REFUSE – 0

ABSTAIN – 0

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

**10 APPLICATION NO. 45/2019/0537 - 9 BODFOR STREET, RHYL**



An application was submitted for Conversion of first and second floors to form 3 no. self-contained flats and the formation of a separate access at front of existing retail unit at 9 Bodfor Street Rhyl.

### **General Debate –**

**Proposal –** Councillor Ellie Chard proposed the application be refused and the application be resubmitted with two appropriately sized flats. Seconded by Councillor Bob Murray.

Members requested clarity of the internal floor space and relevant guidance, as the matter has been discussed in relation to numerous planning applications recently. Members also queried what provisions were in place for bins and amenities for drying clothes.

Concerns were raised in regards to one of the flats which would be below the recommended size for a flat, as historically similar flats had not been consented in the area due to over-intensification of low quality accommodation. Another concern was, if the application was to be approved that a similar situation could reoccur. Other members of the committee supported the application as it would redevelop unused properties and bring them back into use as good quality accommodation, which could be a catalyst for further developments in the Rhyl area. Members also pointed out that Denbighshire's housing size was above the Welsh average

Officers advised that the floorspace of flats was in planning guidance and referred to a minimum floor space of 50m<sup>2</sup>. It was suggested the application should be assessed on a balanced basis, as two of the flats would exceed 50m<sup>2</sup> in area, and the two bed flat was over 70 square metres. The third flat would be 3m<sup>2</sup> smaller than recommended in the guidance. The application obliged assessment of the minor deficiency in floorspace below the guidance, against the benefits of the application in bringing unused space back into use. The officers clarified that there was space behind the unit for bin storage and amenities for drying clothes.

**Proposal –** Councillor Brian Jones proposed the application be granted in accordance with officer recommendations, seconded by Councillor Tony Thomas.

Members questioned whether consenting to the application would set a precedent obliging approval of future flats below 50m<sup>2</sup>. Officers responded that the application in front of members had to be assessed as a whole and that there were clear benefits to be gained from the grant of permission. If future applications were brought to committee in the future with multiple flats under the 50m<sup>2</sup> guidance, it was likely officers would recommend refusal.

The chair requested that clarity be sought with the reasons for refusal before proceeding to the vote.

Councillor Bob Murray clarified that the reason for refusal was due to over-intensification in the area, and that a precedent would be set for small flats to be built in the area.

**VOTE:**

GRANT – 12

REFUSE – 5

ABSTAIN – 0

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