

## **PLANNING COMMITTEE**

Minutes of a meeting of the Planning Committee held in Council Chamber, County Hall, Ruthin and by video conference on Wednesday, 9 November 2022 at 9.30 am.

### **PRESENT**

Councillors Ellie Chard, Karen Edwards, Gwyneth Ellis, James Elson, Jon Harland, Huw Hilditch-Roberts, Alan James, Delyth Jones, Julie Matthews, Terry Mendies, Raj Metri, Win Mullen-James, Pete Prendergast, Gareth Sandilands, Peter Scott (Vice-Chair), Andrea Tomlin, Elfed Williams and Mark Young (Chair)

Observer – Councillor Pauline Edwards

### **ALSO PRESENT**

Legal Officer (RJ); Development Manager (PM); Principal Planning Officer (PG); Senior Engineer (Development Control) (MP); Planning and Public Protection Manager (AL); Senior Officer (Strategic Planning and Housing) (JA); Planning Officer (LM); Interim Team Leader (Places) (SR); Zoom Hosts (SJ and NPH); Committee Administrator (SLW)

Public Speakers –

Mrs Helga Viswanathan (Item 5)

Mr Stuart Andrew (Item 5)

### **1 APOLOGIES**

Apologies for absence were received from Councillor Merfyn Parry

### **2 DECLARATIONS OF INTEREST**

Councillor Alan James declared a personal interest in item 6 (Roger W Jones Ltd) as he has an active builders account.

Councillor Julie Matthews declared a personal interest in item 6 (Roger W Jones Ltd) as she has family members who live in the properties next to the Yard.

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

None.

### **4 MINUTES**

The minutes of the Planning Committee held on 5 October 2022 were submitted.

**RESOLVED** that the minutes of the meeting held on 5 October 2022 be approved as a correct record.

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 the 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. 01/2022/0690/PF - LAND ADJACENT YSGOL PENDREF, GWAENYNOG ROAD, DENBIGH**

An application was submitted for erection of 110 dwellings, construction of a new vehicular access, landscaping and associated works (resubmission) at land adjacent to Ysgol Pendref, Gwaenynog Road, Denbigh.

**Public Speaker –**

Heidi Riddir on behalf of Helga Vinswanathan (Against) – the original application was rejected on multiple grounds. Loss of BMV land, climate change, road safety and over development. Nothing has changed and there is no material difference to warrant a different response this time. Councillors experienced the road themselves on Monday. Such things are a regular occurrence as local residents know. It is a busy road and a dangerous corner. The traffic report stated that no accident had occurred within 200 metres of the junction within the last five years. This is categorically untrue. There have been three significant accidents in the last year or so alone. Only 10-15% of land in Wales is classified as BMV with the highest agricultural capacity. It is considered a national significant resource and one of special importance because of its nature and strategic value. The conversion of land for development purposes has been a key driver of BMV land loss. In March of this year, Julie James, MS, stated that BMV land should be protected from the development of solar farms even though once removed the land would be as usable as it was before. It is clear, therefore, that it should also be protected from housing developments, as the resource once lost could never be replaced. DCC's Constitution states that all decisions must have regard for tackling climate and ecological change whilst the Corporate Plan includes a focus on preserving the environment and maintaining biodiversity across the county. The Welsh Government have a progressive Environmental Policy and the recent Agriculture Wales Policy aims to support sustainable food production while conserving Welsh countryside, culture and language. To pass this application would be to fail those commitments on all levels. The UK has only around 50% of its biodiversity left, well below the 90% average that experts say is needed to avoid an ecological recession. We are one of the most nature depleted countries in the world. The damage this development would cause through vast loss of habitat would ensure the varied wildlife would be displaced and unlikely to return. Allowing eco systems to be destroyed to build on greenfield sites whilst at the same time declaring a climate crisis is an inconsistency and at odds with the Council's green strategy. Decisions made by DCC are actively contributing to climate change. This is not about denying people homes, it is about building homes in the right place. BMV land that is critical for future food production is not that place. The climate has changed dramatically since the now outdated LDP was implemented and national planning policy has moved on considerably, particular with regards to ecology and biodiversity. We have now been told that the Developer will offer 80 units, 73% of

the total as affordable on completion. Only 20% of these will be included under the Section 106 Agreement, the other 53% will not be legally binding, so how could the council be certain that these houses will actually come to fruition. Without a legal agreement in place, the developers are able to use the loophole of a viability assessment to say that the cost of the building are so high they can no longer afford to supply the rest of the houses. It is highly troubling that it appears this deal has been made in order for the application to be granted and to save the council from the developers previously recorded threat to sue.

Stuart Andrew (For) – Design and Planning Director for Castle Green Homes (the applicant). The site was previously owned by Denbighshire County Council and sold to Castle Green Homes on the basis that it would be allocated for housing in the Local Development Plan. The Council had previously produced a formal development brief for the site for its use for housing in 2007 which was approved by the Planning Committee and subsequently sold the site to Castle Green Homes on that basis. As explained in the Committee report, this application is a re-submission to Planning Committee of an earlier application which was refused and that application is still awaiting a decision by Planning Appeal. However, as with the previous application, this application remains entirely policy compliant as it stands. It offers double the Council's usual affordable housing and significant financial contributions of over £160,000 for play facilities at the nearby Cae Hywel Park and road and footpath improvements around Ysgol Pendref and the neighbouring highways. In addition to this, as has already been mentioned, we have met on several occasions with council officers to discuss the proposals and the previous application and also met with the Denbigh Member Area Group of local councillors in respect of the scheme and in particular their thoughts on the level of affordable housing that was originally proposed. As explained to the Denbigh Member Area Group and to yourselves now, our intentions regarding the site have changed somewhat in the last few weeks. It was recently agreed with Adra, a local affordable housing provider of a potential alternative scheme which would involve a replan on the site, and still deliver 110 homes but include an additional 58 affordable properties in place of open market ones. This would mean around 73% rather than 20% of the site would be on an affordable tenure. The financial contributions previously mentioned, would not be affected and still be delivered. This alternative scheme, though, first requires approval of this original application to be financially viable as releasing some of the funding involved would require some of the open market to affordable tenure. Therefore, without approval of this original application it may not be financially possible to bring the alternative scheme forward. The previous speaker mentioned the degree of trust necessary for this and I make the point that we have already done this in the county several times before and are delivering affordable homes currently in Prestatyn on this basis. There are no objections to the current proposals by any council officers or any specialist consultees. In terms of the highways, BMV, climate change issue, everything is entirely in accordance with the policies and I also make the point that around 50% of the current LDP is on a higher grade of agricultural land than this site, which had been allocated for housing and sold on that basis.

The Development Manager clarified that there had been a lot of information both in the main report but also within the late representations sheet which had previously been circulated. The planning application was similar to the previously refused

application. It was stated that the fundamental issue outlined by the public speaker and the potential changes to the previous scheme was the level of affordable housing with the potential delivery of 73% affordable housing on this site. The speaker from Castle Green Homes had outlined how to get to the amount of 73% but this needed to be made clear to members. The proposal today was for 110 dwellings controlled through a Section 106 Agreement for 20% affordable housing. However, the relevant background information gave more emphasis to the proposal to submit a Section 73 application post decision today which was a planning application process to amend the scheme if granted planning permission by the Committee.

The applicant had submitted a revision to the original layout and committed to submitting the variation application following the planning committee with 73% affordable housing. It was confirmed that planning officers and housing officers had been involved in discussions with the applicant to deliver 73% affordable housing.

Planning Committee members were reminded that the application before them was for 20% affordable housing within the legal agreement. Discussions were ongoing to amend the scheme, if approved, for 73% affordable housing on the site.

Local Member, Councillor Delyth Jones stated the application had previously been refused as on agricultural land. There were concerns raised regarding the access and the fact that building on agricultural land was contrary to the current climate emergency. Councillor Jones confirmed members had a duty to consider the application in its context. In the application 20% housing for social rent which would answer some of the current need for those on the waiting list. There were a number of other developments which offered 10% affordable housing and a number of much higher in terms of cost on the open market. The original application had been refused for the reasons of access to the site and speed of cars as they turn into Gwaenynog Road, which was an important point of safety for local residents. There were key facts to be considered within the late representations document. Castle Green Homes were in discussion with the Planning Department to increase the affordable housing from 20% to 73%. The data on the current waiting list showed 442 on the SARTH list currently where Denbigh was one of the registered choices. 109 of those applications were either for Band 1 – urgent need, or Band 2 – need a home from people who had their current address in Denbigh itself but were unable to access social housing in the local area. The Tai Teg waiting list showed 59 for affordable rent of 2-3 bed properties and another 39 looking to buy affordable homes in Denbigh itself. People were on the waiting list for affordable social rent on average between 2 ½ and 3 years until an appropriate offer was open to them. There was no doubt that such provision would assist considerably to the need for social and affordable housing in the area and it would offer benefits to the local residents. Adra would be responsible for the houses but they would be secured for applications currently on the SARTH list. This would also ensure the release of capital that would be needed by the Housing Department in Denbigh for this site and for raising the standard of other housing across the county which was essential in the current economic climate.

A site visit had taken place, at which traffic calming measures had been explained. The traffic calming measures would, hopefully, alleviate concerns about safety together with managing the speed and flow of traffic in the area.

The Senior Highways Engineer clarified the traffic calming measures proposed. A transport assessment had been carried out which showed that the development would have minimum impact on the existing highway network. The proposal would involve a new access to Ffordd Ysgubor with substantial alterations to the Gwaenynog road junction including relocation of the 30 mph speed restriction further west along the A534, a new footway along the A534 linking into the existing public footpath network. A new cycle footway path inside the site linking into Ffordd Ysgubor by Ysgol Pendref. As part of the design an independent stage 1 safety audit had been carried out and further audits would be undertaken as the design was finalised. The access arrangements complied with visibility standards set out in Technical Advice Note 18. There would be a £25,000 contribution which would go towards safer routes and active travel in the area and the parking provision on site met the requirements set out in SPG21. The works to be carried out would improve the safety of the area for residents.

### **General Debate –**

During discussions the following points were raised :

- Concerns were raised that there was no legal agreement in place for the proposed 73% affordable housing and the current application was for 20% affordable housing which was still above the required 10%. Officers stated that discussions were ongoing regarding the 73% affordable housing but reiterated the current application would be for 20%.
- Members who attended the site visit confirmed the traffic calming measures which would be in force and apart from that no major changes to the original application.
- The building on brownfield sites was a concern for members. It was confirmed that the site was a greenfield site and the development would aid the pressures on the current housing lists.
- It was clarified to members that if planning permission were not to be granted then Adra would not be able to access funding for the project. If the application was refused and went to appeal, and the appeal was granted, there would be significant costs to the council.

Councillor Delyth Jones expressed her agreement that this was an extremely difficult decision but in light of all the discussions which had taken place she was in agreement with the proposed application which had been put forward.

**Proposal** - Councillor Delyth Jones proposed the application be granted in accordance with officer recommendation, seconded by Councillor Alan James.

### **VOTE –**

For – 15

Abstain – 1

Refuse – 2

**RESOLVED** that permission be **GRANTED** in accordance with officer recommendation.

**6 APPLICATION NO. 45/2022/0533/PS - ROGER W JONES LTD, CEFNDY ROAD, RHYL**

An application was submitted for erection of additional external yard racking (retrospective application) at Roger W. Jones Ltd., Cefndy Road, Rhyl

At this juncture, Councillor Alan James declared a personal interest as he has an active builders account.

Councillor Julie Matthews declared a personal interest as she has family members who live in the properties next to the Yard.

Local Member, Councillor Pete Prendergast gave a brief background into the builders merchants, Roger W. Jones Ltd. The company had always had a good relationship with the neighbouring properties. Latterly Roger W. Jones had been taken over by Jewsons and earlier this year the new racking had been installed without planning permission. A planning application had been submitted following the visit of an Enforcement Officer to the site. The issue was the height of the racking and six neighbouring properties were affected and objections had been received from three residents of those six properties. Councillor Prendergast and Councillor Diane King had met recently with the Manager of the site. During discussions with the Manager of the site, it had been offered to remove three arms off the top layer of the racking next to the gardens of the neighbouring properties.

A site visit had recently taken place and those members who had attended confirmed the height of the racking together with the wood which was stored on top and raised concerns of the danger of the height of such a structure.

**General Debate –**

During discussions the following points were raised –

- Concerns were raised on the height of the whole structure and also that the wood appeared to be stacked in a dangerous manner.
- The racking was next to the fence which appeared to be overbearing for the properties which were adjacent to the racking and wood stacked on top.
- The racking was a great deal higher than the fence together with the wood which was stacked on the racking which was the main objection for the residents.
- It was confirmed that at the site visit the consensus of opinion was if the racking would be lowered to three levels up then the members would be looking to accept the retrospective planning application, but this work had not been carried out.

**Proposal –** Councillor Pete Prendergast proposed to refuse the application, contrary to the officers recommendation, for the reasons on the impact of residential amenity and visual amenity, seconded by Councillor Ellie Chard.

At this juncture, officers confirmed that if members voted to refuse the retrospective planning application, an Enforcement Notice would be served for all the racking to be removed. It was stated that on receipt of the Enforcement Notice, the owners may reduce the height of the racking but officers would liaise with local members.

**VOTE –**

For – 0

Abstain – 0

Against – 17

**RESOLVED** that permission be **REFUSED** contrary to officer recommendation.

**7 INFORMATION REPORT - AMENDMENT TO THE TOWN AND COUNTRY PLANNING (USE CLASSES) ORDER 1987 (THE UCO) AND THE TOWN AND COUNTRY PLANNING (GENERAL PERMITTED DEVELOPMENT) ORDER 1995 (THE GPDO)**

Information report advising members of the Planning Committee of changes to national planning legislation.

The report highlighted the recent legislative changes within Wales to Planning Use categories. Welsh Government had recently introduced new use categories for second homes and short term lets in an attempt to manage the impacts that these uses were having in certain parts of Wales.

During discussions it was agreed a briefing could take place with members to clarify the changes.

**RESOLVED** that Planning Committee agree to note the changes.

**THE MEETING CONCLUDED AT 11.40 A.M.**