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WARD : Llanrhaeadr Yng Nghinmeirch

WARD MEMBER: Councillor Joseph Welch

APPLICATION NO: 23/2017/0256/ PS

PROPOSAL: Variation of condition no's 2 and 3 of outline planning permission code no. 23/2014/0375 to allow an additional 2 years within which to submit an application for approval of reserved matters

LOCATION: Land adjacent to Llys Gwilym Llanrhaeadr Denbigh

APPLICANT: Mr & Mrs WB, ME, EL & EC Davies

CONSTRAINTS: None

PUBLICITY UNDERTAKEN: Site Notice - No
Press Notice - No
Neighbour letters - Yes

REASON(S) APPLICATION REPORTED TO COMMITTEE:

Scheme of Delegation Part 2

- Recommendation to grant / approve – Town / Community Council objection

CONSULTATION RESPONSES:

LLANRHAEADR Y.C. COMMUNITY COUNCIL

“Following a meeting held on Monday evening 27 March 2017 and having discussed and assessed this application the Councillors wish to comment as follows:

Following additional information that has come to the attention of the Community Councillors consideration should be given that the number of houses on this site to be reduced, from 15 down to 10, for the following reason:

1. The local school is near to capacity and taking into consideration a further application that is being considered in the field opposite this land for 36 houses the pressure on the school would be considerable. Councillors in the meeting felt that if this application was granted in its present form, at its current level, those coming to live there would and should expect to be able to send their children to the local village school (Ysgol Bro Cinmeirch). If there were no spaces available in the school, and at present there is only availability for a few more children, families living on this new site would have to send their children to schools outside of Llanrhaeadr. This could have a detrimental impact on the integration of those living on this proposed site into village life. There would be an additional environmental impact due to additional journey time by parents taking their children to schools either in Rhuthun or Denbigh. Therefore, for this reason the number of houses on this site should be reconsidered from 15 down to 10 which is what was proposed in the original LDP plan.
2. The Community Councillors felt that that the original Welsh Language Impact assessment used for this application is outdated especially taking into consideration the difference in the reports finding regarding availability of places in the local school compared to the present reality as indicated in point 1 above.
3. The Community Councillors raised concerns that the original LDP plan only allocated 10 houses for this site and that the current application is 50% above this level which would give Llanrhaeadr an urban feel due to the applications housing density rather than a village appearance.
4. When considering this application Llanrhaeadr Community Council are requesting that Denbighshire County Council take into consideration Llanrhaeadr-yng-Nghinmeirch Community Councils concerns that the flow of traffic onto this stretch of road would increase significantly. It is now accepted that most households have two cars therefore with 15 houses this could

represent at least a further 30 cars accessing the site throughout the day. It has been highlighted to the Community Council previously that there have been a number of accidents on this small stretch of road. These accidents have occurred mainly due to cars either waiting to turn into the lane leading up to Capel y Wern or Pentre Llech or turning down towards Llanynys. The entrance to this proposed site is poorly positioned, near to a blind crescent bend next to Dolwar there is an increased possibility of further accidents occurring on this already busy road.

5. The Councilors noted that this site planning was granted over a number of years ago for 15 houses. Even though this site has been marketed widely since then no apparent buyer has come forwards to purchase and develop the site. Therefore, the Councilors raised concerns in the meeting that there is no commercial demand at present for a site of this size.”

DENBIGHSHIRE COUNTY COUNCIL CONSULTEES –

- Education Officer
Having regard to the demand from a development of this size, advises there are no capacity issues at local schools at primary or secondary level, and no financial contribution is required.

RESPONSE TO PUBLICITY:

None

EXPIRY DATE OF APPLICATION:

11/05/2017 - Extension of time agreed to 16/06/2017

REASONS FOR DELAY IN DECISION (where applicable):

- Awaiting consideration at Committee

PLANNING ASSESSMENT:

1. THE PROPOSAL:

1.1 Summary of proposals

1.1.1 This application relates to 2 conditions attached to an outline planning permission for residential development on 0.53 ha of land at Llys Gwilym, Pentre Llanrhaeadr, granted at Planning Committee in July 2014 under application 23/2014/0375/PO.

1.1.2 The conditions were worded as follows:

2. Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

3. The development hereby permitted shall be begun either before the expiration of five years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.

The reasons for the conditions were:

2. To comply with the provisions of Section 92 of the Town and Country Planning Act 1990.

3. To comply with the provisions of Section 92 of the Town and Country Planning Act 1990.

1.1.3 The application seeks permission to :

- vary condition no. 2 to allow an additional 2 years for the submission of reserved matters details, to 30/07/2019;

- vary condition 3 to extend the date for the commencement of works by a further 2 years until 30/07/2021, or before expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.

1.2 Description of site and surroundings

- 1.2.1 The application site forms part of an open field on the west side of the A525 as it enters Pentre Llanrhaeadr from the south (Ruthin) side.
- 1.2.2 It has a mature hedgerow running along the entire road frontage, and an agricultural access at its northern end near the bungalow at the entrance to Llys Gwilym, which forms its northern boundary.
- 1.2.3 There is a pair of semi detached dwellings (Maeshwylfa) backing onto the application site at its southern end.
- 1.2.4 The site is on relatively flat pastureland which rises up to the west outside the boundary of the site.

1.3 Relevant planning constraints/considerations

- 1.3.1 The site is within the development boundary for Pentre Llanrhaeadr, which is identified as a village for the purposes of the Local Development Plan. It is annotated as a Housing Allocation on the Proposals Map, and under Policy BSC1 of the LDP, is referred to as 'land rear of Maeshwylfa' with an indicative number of 10 dwellings.
- 1.3.2 Pentre Llanrhaeadr is within the Historic landscape of the Vale of Clwyd.

1.4 Relevant planning history

- 1.4.1 Outline permission granted at Planning Committee, July 2014.

1.5 Developments/changes since the original submission

- 1.5.1 None

1.6 Other relevant background information

- 1.6.1 An applicant's right to seek an amendment to an existing permission is set out in Section 73 of the 1990 Planning Act, which allows applications to be made for planning permission without compliance with conditions previously imposed on an extant planning permission. An application to extend the time limit of an existing permission (referred to traditionally as a 'renewal' application) is one of three types of application which can be made under Section 73 (the other two being ones seeking to allow 'minor material amendments' to a permission, and to allow the variation or removal of a condition attached to a permission).
- 1.6.2 Welsh Government guidance on the determination of a Section 73 application is given in the 2016 Development Management Manual. Matters specific to these applications is in Section 13.3.12 – 13.3.14, as quoted in full below:

“ 13.3.12 Sections 73(2) and (4) of the 1990 Act restrict the LPA in their determination of section 73 applications. The effect of the provisions is to limit the LPA to considering the question of whether the conditions identified in the section 73 application should apply as originally stated, would be acceptable if modified or it would be acceptable to remove them. The LPA cannot revisit the original permission and reconsider whether it should have been granted in the first place. However as a section 73 application is a planning application in its own right, it is necessary to assess what material changes there may have been in terms of policy since the original permission was granted in order to ensure that all relevant material considerations have been assessed.

13.3.13 The LPA can grant permission unconditionally or subject to different conditions. They can refuse the application if they decide that the original conditions should continue. The original planning permission will continue whatever decision is taken on the section 73 application.

Attaching fresh conditions

13.3.14 In granting permission under section 73 the LPA may impose new conditions upon the consent – provided the conditions do not materially alter the development that was subject to the original permission and are conditions which could have been imposed on the earlier planning permission.”

1.6.3 For the record, the observations of the Llanrhaeadr Community Council on the outline application in 2014 were as follows -

“The only observation that the Members of Llanrhaeadr Community Council have on the above planning application is that should the application be granted then the current speed restrictions through Pentre Llanrhaeadr should be extended on the A525 towards Pentre Farm, Llanrhaeadr.”

The Community Council's response to reconsultation on the application were:

“Please be informed that the Members of Llanrhaeadr Community Council approve the planning application with no objections and approve the development of 15 number of dwellings at the location site.”

1.6.4 The applicant's agent has provided additional information in response to the comments of the Community Council.

In respect of the School situation:

- Denbighshire County Council's Education Department have confirmed.... that there are 7 surplus places on roll at the local school, Ysgol Bro Cinmeirch Furthermore since the original application was approved the construction of two primary schools within approximately 4.8 Km (2.9 miles) of the site has commenced on the Glasdir site in Ruthin. It is generally accepted that school capacities continually fluctuate and are difficult to predict accurately but the availability of the new modern facilities offering discrete language education is likely to impact upon the natural catchment of the existing Welsh medium Ysgol Bro Cinmeirch and could reduce the demand for places there. Until the new primary schools are opened and operating it would seem difficult and premature to accurately predict the future capacity of Ysgol Bro Cimmerch and justify the application of the Education Contribution policy.

In respect of the Welsh language Impact Assessment :

- This has been carefully reviewed but there are no changes in the available basic data that would effect the conclusions of the report.

In respect of other matters raised (number of dwellings and highway concerns), these have been previously considered and addressed in the original application. The statement relating to demand for dwellings is not correct.

2. DETAILS OF PLANNING HISTORY:

2.1 Application 23/2014/0375/PO

Development of 0.53 ha of land by the erection of 15 no. dwellings and construction of a new vehicular access (outline application including access and layout)

Granted at Planning Committee

Decision dated 30/07/2014.

3. RELEVANT POLICIES AND GUIDANCE:

The main planning policies and guidance considered in relation to the original grant of permission, and those now relevant to an application to extend that permission are:

3.1 Denbighshire Local Development Plan (adopted 4th June 2013)

Policy RD1 – Sustainable development and good standard design

Policy RD5 – The Welsh language and the social and cultural fabric of communities

Policy BSC1 – Growth Strategy for Denbighshire
Policy BSC3 – Securing infrastructure contributions from Development
Policy BSC4 – Affordable Housing
Policy BSC11 – Recreation and open space
Policy VOE2 – Area of Outstanding natural Beauty and Area of Outstanding Beauty
Policy VOE5 – Conservation of natural resources
Policy VOE6 – Water management
Policy ASA2 – Provision of Sustainable transport facilities
Policy ASA3 – Parking standards

3.1 Supplementary Planning Guidance

Supplementary Planning Guidance Notes:

- Recreational Public Open Space
- Access for All
- Planning Obligations
- Affordable Housing in New Developments
- Residential Development
- Residential Development Design Guide
- Nature and Protected Species
- Parking requirements in new developments
- Planning for Community Safety

3.3 Government Policy / Guidance

Planning Policy Wales Edition 9, 2016

Technical Advice Notes

TAN 1 Joint Housing Land Availability Studies

TAN 2 Planning and Affordable Housing

TAN 5 Nature Conservation and Planning

TAN 12 Design

TAN 15 Development and Flood Risk

TAN 18 Transport

TAN 20 The Welsh language – Unitary Development Plans and Planning Control

4 MAIN PLANNING CONSIDERATIONS:

General guidance on matters relevant to the consideration of a Section 73 application are set out in Welsh Government's Development Management Manual, 2016. The relevant sections are quoted in paragraph 1.6.2 of the report. The Authority can not revisit the original permission and reconsider whether it should have been granted in the first place. It is necessary to assess whether there have been any material changes in terms of policy and circumstance in order to ensure that all relevant material considerations have been assessed.

4.1 The main planning issue in relation to this particular type of application is considered to be:

4.1.1 What, if any, material changes to planning policy or circumstances have occurred since the original grant of consent

In relation to the main issue, in respect of Condition 2 and 3 – it should be recognised that the application seeks only to allow an additional period for the submission of an application for approval of reserved matters and the time period for commencement of development.

Factually, outline planning permission was granted for the development of the land in July 2014, having regard to the policies and guidance in place at that time. Conditions were

imposed on this consent which required the submission of reserved matters within the standard period of 3 years from the date of the permission, and the commencement no later than 2 years after that date. The application seeks a 2 year extension to those time periods.

Section 1.6 of the report sets out the considerations to be given to an application of this type. As noted, the main issue to be addressed is whether there have been any material changes in policy or circumstances since the grant of the 2014 outline consent to justify refusing to extend the time period for submission of reserved matters details and the commencement of the development.

The planning policies relating to residential development in the County remain the same as were in place when the outline consent was granted in 2014. The Local Development Plan was adopted in 2013 and has not been revised since that time. The site remains within a defined development boundary for the village of Pentre Llanrhaeadr and is a housing allocation in the Plan. There remains a need for the County to make provision for new housing in a range of locations and to address its Housing Land Availability requirement (currently under 2 years against a minimum National requirement of five years. This shortage and the positive contribution which a site of 15 dwellings would make to improving supply are material considerations in respect of determining the application. Welsh Government continue to look to County Councils to assist the delivery of development.

There have been a number of Supplementary Planning Guidance notes approved since July 2014 which require consideration in relation to the application. These include the ones on Planning Obligations, Affordable Housing and Open Space. The level of provision for affordable housing and open space in connection with residential developments of this type has not changed and does not need to be revisited in connection with the application as there are already separate conditions on the planning permission which oblige the submission and approval of the arrangements for compliance with policy and guidance. Clarification has been sought from the Education Section over the capacity at local schools and it has been confirmed that on the basis of capacities and calculated demand from the development, there are no capacity shortfalls and there is no basis for obliging a financial contribution.

In addressing the points raised by the Community Council:

As noted above, the Education section has confirmed that there are no school capacity issues arising from a development of the scale involved in the application.

The question over the Welsh Language Impact assessment submitted with the 2014 application is acknowledged, but it is not considered circumstances have changed in the three years since the preparation of the document to render its conclusions any less relevant to a 15 dwelling development in 2017. These were that development may slightly add to the number of non-Welsh speaking households in the area but this would not be a significant percentage increase, and it suggests the development would provide the opportunity to attract young families into the area and create a more balanced age profile for the community, which will help sustain local services and businesses and contribute to the vitality of the community. It remains Officers' opinion that a residential development on this site would not by virtue of its size, scale, and location cause significant harm to the character and language balance of the community. The site is identified as one suitable for new housing in the development plan in order to meet the County's growth targets, and as part of the allocation process due account would have been taken of the potential for impact on the language and social fabric.

In respecting the Community Council's concerns over a 15 dwelling development being too dense and leading to an 'urban feel', this representation is in contradiction of the comments made in 2014 when the Community Council was supportive of the proposal for 15 dwellings. 15 dwellings on a 0.53ha site represents a density of some 28 units per hectare. Policy RD1 of the Development Plan seeks an average density of 35 units per hectare, so the figure is well below the figure sought in the Plan. In relation to the original application, Officers noted the table in the Local Development Plan referring to 10 dwellings provided purely an indicative number for allocated sites and takes no account of detailed considerations to be applied to individual sites.

In relation to the Community Council's current concerns, it is to be noted that the existing Llys Gwilym and Cae'r Felin site immediately to the north has a density in the order of 21 dwellings to the hectare, and other estates at Gernant, Bodafon, Pont y Bedol and Maes y felin have similar if not higher densities to that proposed on the application site. Consequently, Officers do not believe the proposed density is inappropriate for a site on the edge of the village or that there is conflict with test ii) of policy RD1.

In relation to the Community Council's highway concerns, again these are contrary to their comments made on the 2014 application. There have been no material changes in circumstances since 2014 to justify a highway objection. The Highway Officers had no objections to the grant of the original permission subject to submission of relevant details at reserved matters stage, and the repositioning of the speed limit signs on the entrance to the village from the Ruthin direction. The access into the site is in a position where there is excellent visibility both ways along the A525 at the point of entry onto that road.

Finally, with respect to the Community Council's suggestion that there is no commercial demand for a site of this size, there is no requirement on a developer to provide justification of need for a development on an allocated site within a development boundary.

Other matters

Well – being of Future Generations (Wales) Act 2015

The Well-being of Future Generations (Wales) Act 2015 imposes a duty on the Council not only to carry out sustainable development, but also to take reasonable steps in exercising its functions to meet its sustainable development (or well-being) objectives. The Act sets a requirement to demonstrate in relation to each application determined, how the development complies with the Act.

The report on this application has been drafted with regard to the Council's duty and the "sustainable development principle", as set out in the 2015 Act. The recommendation takes account of the requirement to ensure that present needs are met without compromising the ability of future generations to meet their own needs. It is therefore considered that there would be no significant or unacceptable impact upon the achievement of well-being objectives as a result of the proposed recommendation.

5 SUMMARY AND CONCLUSIONS:

- 5.1 The site has been included as a housing allocation within the development boundary of Pentre Llanrhaeadr as part of the adopted Denbighshire Local Development Plan. An outline consent was granted in July 2014. This is a significant material consideration.
- 5.2 It is not considered there have been any material changes to planning policy or circumstances since the original grant of consent which justify refusing to permit an additional period of time to submit reserved matters details and to commence the development.

None of the consultation responses raise new planning issues which question the case to resist the application. There remains a need to assist the delivery of new housing on allocated sites, to help achieve housing supply figures.

RECOMMENDATION: GRANT- subject to the following conditions:-

1. Approval of the details of the scale and appearance of the building(s), and the landscaping of the site (hereinafter called "the reserved matters") shall be obtained from the Local Planning Authority in writing before the commencement of any development.
2. Application for approval of the reserved matters shall be made to the Local Planning Authority before 30/07/2019.
3. The development hereby permitted shall be begun either before 30/07/2021, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.

4. Prior to the commencement of any works on the tree overhanging the site, details of a bat survey and any associated Reasonable Avoidance measures and mitigation considered necessary to address conflicts with the species including the details of how the measures will be secured shall be submitted to and approved in writing by the Local Planning Authority. The development shall proceed strictly in accordance with such approved details.
5. **PRE-COMMENCEMENT CONDITION**
No development shall take place until a scheme of foul drainage, surface water drainage and land drainage has been submitted to, and approved by, the Local Planning Authority. The surface water drainage scheme should be based on sustainable drainage principles and an assessment of hydrological and hydrogeological context of the development. The drainage strategy should demonstrate the surface water run-off will not exceed the run-off from the undeveloped site. The approved scheme shall be completed before the development is completed.
6. **PRE-COMMENCEMENT CONDITION**
The development shall not begin until arrangements for the delivery of affordable housing, in accordance with the Council's Policies and guidance, has been submitted to and approved in writing by the Local Planning Authority. The development shall only proceed in accordance with the approved arrangements.
7. **PRE-COMMENCEMENT CONDITION**
The development shall not begin until arrangements for the provision of open space, in accordance with the Council's Policies and guidance, has been submitted to and approved in writing by the Local Planning Authority. The development shall only proceed in accordance with the approved arrangements.
8. All trees and hedges to be retained as part of the development hereby permitted shall be protected during site clearance and construction work by 1 metre high fencing erected 1 metre outside the outermost limits of the branch spread, or in accordance with an alternative scheme agreed in writing by the Local Planning Authority; no construction materials or articles of any description shall be burnt or placed on the ground that lies between a tree trunk or hedgerow and such fencing, nor within these areas shall the existing ground level be raised or lowered, or any trenches or pipe runs excavated, without prior written consent of the Local Planning Authority.
9. Full details of the vehicular access, internal estate road and associated highway works including the detailed design, layout, construction, drainage, relocation of the speed limit signs and street lighting shall be submitted to and approved in writing by the Local Planning Authority before the commencement of any site works and the access shall be completed in accordance with the approved plans before any dwelling is occupied.
10. In relation to the carrying out of the works, no site works shall be permitted to take place until the written approval of the Local Planning Authority has been obtained in relation to the site compound location, traffic management scheme, vehicle wheel washing facilities, hours and days of operation, the management and operation of construction vehicles and the construction vehicle routes, the works shall be carried out strictly in accordance with the approved details.
11. Facilities shall be provided and retained within the site for the loading, unloading, parking and turning of vehicles in accordance with the approved plan, and shall be completed prior to the proposed development being brought into use.
12. The visibility splays shown on the approved plan shall at all times be kept free of any planting, tree or shrub growth, or any other obstruction in excess of 1.05 m in height above the level of the adjoining carriageway.

The reasons for the conditions are:-

1. The application is for outline permission with details of means of access and layout only.
2. To comply with the provisions of Section 92 of the Town and Country Planning Act 1990.
3. To comply with the provisions of Section 92 of the Town and Country Planning Act 1990.
4. In the interests of nature conservation.
5. To prevent the increased risk of flooding, both on and off site.
6. In order to ensure suitable arrangements for affordable housing in accordance with planning policies.
7. In order to ensure suitable arrangements for open space in accordance with planning policies.

8. In order to ensure that trees and hedges to be retained are not damaged by building or Engineering works.
9. In the interest of the free and safe movement and traffic on the adjacent highway and to ensure the formation of a safe and satisfactory access.
10. In the interest of the free and safe movement of traffic on the adjacent highway and in the interests of highway safety.
11. To provide for the parking of vehicles clear of the highway and to ensure that reversing by vehicles into or from the highway is rendered unnecessary in the interest of traffic safety.
12. To ensure that adequate visibility is provided at the proposed point of access to the highway.

NOTES TO APPLICANT:

You are advised that suitable legal agreements will be required in relation to the highway works and you should contact the Highway Authority to discuss the requirements of the highway improvements at an early stage. Please contact Mike Parker 01824 706977.

The following matters are drawn to the applicant's attention :

- (i) Highway Supplementary Notes Nos. 1,3,4,5 & 10.
- (ii) New Roads and Street Works Act 1991-Part N Form.
- (iii) Denbighshire County Council Specification for Road Construction.
- (iv) Denbighshire County Council General Notes for Highway Lighting Installations.
- (v) Denbighshire County Council General Requirement for Traffic Signs and Road Markings.