

## **PLANNING COMMITTEE**

Minutes of a meeting of the Planning Committee held in Denbigh Town Hall, Denbigh on Wednesday, 12 April 2017 at 9.30 am.

### **PRESENT**

Councillors Brian Blakeley, Joan Butterfield, Jeanette Chamberlain-Jones, Bill Cowie (Vice-Chair), Meirick Davies, Stuart Davies, Peter Evans, Huw Hilditch-Roberts, Rhys Hughes, Hugh Irving, Alan James, Alice Jones, Barry Mellor, Bob Murray, Dewi Owens, Merfyn Parry, Pete Prendergast, Arwel Roberts, Anton Sampson, Gareth Sandilands, David Simmons, Julian Thompson-Hill, Joe Welch (Chair), Cefyn Williams, Huw Williams and Mark Young

**Observers** – Councillor Gwyneth Kensler and Eryl Williams

### **ALSO PRESENT**

Head of Planning and Public Protection (GB); Team Leader – Places Team (SC); Development Manager (PM); Principal Planning Officer (IW); Senior Engineer – Highways (MP), and Committee Administrator (KEJ)

### **POINT OF NOTICE**

The Chair reminded members that the meeting would not be webcast due to the change of venue as a result of the works to upgrade the facilities in Ruthin Council Chamber.

#### **1 APOLOGIES**

Councillors Bill Tasker, Pat Jones and Cheryl Williams  
Councillor Huw Williams would be arriving late for the meeting.

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

Councillor Rhys Hughes – Personal and Prejudicial Interest – Agenda Item 6

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

No urgent matters had been raised.

#### **4 MINUTES**

The minutes of the Planning Committee meeting held on 15 March 2017 were submitted.

**Page 13, Item 5: Land at Cae Topyn, Off Old Ruthin Road, Ffordd Eglwyswen, Denbigh** – Councillor Huw Hilditch-Roberts noted that the minutes had included reference to concerns that the Site Development Brief (SDB) had not been robustly

complied with. He also asked that reference be made to subsequent assurances provided by officers that the SDB would be more vigorously adhered to in future.

**RESOLVED** that, subject to the above, the minutes of the meeting held on 15 March 2017 be approved as a correct record.

## **APPLICATIONS FOR PERMISSION FOR DEVELOPMENT (ITEMS 5 - 9) -**

Applications received requiring determination by the committee were submitted together with associated documentation. Reference was also made to late supplementary information 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. 11/2016/1258/PO - LAND AT TYN Y CELYN, CLOCAENOG, RUTHIN**

An application was submitted for development of 0.09 hectares of land by the erection of a rural enterprise dwelling, formation of a new vehicular access and installation of a septic tank (outline application including access) (re-submission) at land at Tyn y Celyn, Clocaenog, Ruthin.

#### **Public Speaker –**

Ms. K. Anthony (Agent) (**For**) – argued that granting the application would create a sustainable future, employment opportunities and economic benefits. Provided some background to the business enterprises operated by the applicants and disputed the findings of the Agricultural Consultant highlighting the need to house a manager on site in order to deal with out of hour emergency requirements.

**General Debate –** The Principal Planning Officer elaborated upon the planning policy context and key tests in order to assess rural enterprise dwelling applications which had been set out within the report together with the findings of the Independent Agricultural Consultant. In summary the Independent Consultant believed that the application did not meet the requirements of the relevant tests in order to justify the grant of permission for a rural enterprise dwelling, in particular in respect of functional and financial need and the other dwellings test.

Councillor Eryl Williams (Local Member) spoke in favour of the application and elaborated upon the diverse business ventures operated by the family and subsequent local economic benefits which he believed would be further supported by granting the application. He highlighted the harsh reality of operating a poultry business together with conflicting demands of the other businesses and argued that the family's wellbeing and quality of life would be improved by sharing the responsibility for the poultry business with a resident worker on site. No objections to the application had been received from the local community or community council and he urged members to grant the application.

Members were keen to support local families and businesses and carefully considered the material planning considerations and recommended grounds for

refusal. During deliberations it was considered that the Agricultural Consultant had failed to take into full account the applicants other businesses when assessing the key tests to be applied in this case, particularly given the heavy time demands and pressures arising from those other businesses, and that the business had been operating successfully for a number of years. In addition members considered that the erection of a rural enterprise dwelling could address an affordable housing need and granting the application would benefit the local economy. Questions were raised regarding the possibility of imposing a condition to control occupation of the dwelling and clarification was sought regarding the intention for the outbuildings.

In response to members' questions and comments officers –

- drew attention to the planning policies and guidance applicable to applications of this type and the need to apply the key tests to ensure consistent decisions
- confirmed it would be possible to impose a planning condition or S.106 agreement to control occupancy of a rural enterprise dwelling
- advised that three of the outbuildings had been converted into holiday cottages. In terms of available accommodation it was considered that the converted agricultural buildings could be made available for housing a worker.

**Proposal** – Councillor Huw Hilditch-Roberts proposed, seconded by Councillor Arwel Roberts, that the application be granted, contrary to officer recommendation, subject to planning conditions (including occupancy) to be agreed with the Local Member, on the grounds that full account of the applicants' businesses had not been made during the assessment of key tests for Technical Advice Note (TAN) 6 and that the economic benefits to the area generally outweighed particular issues in relation to that TAN.

**VOTE:**

GRANT – 24

REFUSE – 0

ABSTAIN – 0

**RESOLVED** that permission be **GRANTED**, contrary to officer recommendation, subject to planning conditions (including occupancy) to be agreed with the Local Member, on the grounds that full account of the applicants' businesses had not been made during the assessment of key tests for TAN 6 and that the economic benefits to the area generally outweighed particular issues in relation to that TAN.

**6 APPLICATION NO. 30/2016/1252/ PF - LAND ADJACENT CARP LAKE, LLANNERCH PARK, ST. ASAPH**

An application was submitted for change of use of land for the siting of 6 holiday yurts, construction of ancillary building and parking, and new treatment plant at land adjacent Carp Lake, Llannerch Park, St. Asaph.

**Public Speaker –**

Mr. S. Boyd (**Against**) – raised significant concerns regarding the proposed use of Llannerch Crossing Road as an access route for both construction traffic and

ongoing commercial use of the site. Advocated the use of the second access route via Llannerch Park Estate Road as a suitable and safe alternative.

**General Debate** – Councillor Meirick Davies (Local Member) sought comments from the Highways Officer regarding the suitability of the two access routes, particularly given the poor condition of the Llannerch Crossing access road. The Highways Officer acknowledged the concerns raised and advised that the site could be accessed from either Llannerch Crossing or via Llanerch Park Road. The proposal was for 6 yurts and departures would be between 9.30 a.m. – 10.30 a.m. and arrivals between 3.00 p.m. – 5.00 p.m. It was unlikely that all visitors would arrive/depart at the same time and the frequency of visitor journeys would be likely be low and spread throughout the day. Consequently it was not considered that the impact on highway safety as a result of the additional traffic using Llannerch Crossing would be of a level that would merit refusal of permission.

Members familiar with Llannerch Crossing also had reservations regarding the adequacy of the road to accommodate the additional traffic and raised further concerns regarding visibility at the access/egress point, poor condition of the road surface and narrowness of the road. Given the highways safety concerns, and the fact that there was an alternative suitable route into the site, some consideration was given as to whether access to the site could be restricted to one access point without impinging on existing user rights or whether improvements could be made to Llannerch Crossing. In response officers confirmed that (1) it would be possible to impose a condition restricting the use of Llannerch Crossing to the particular site if considered reasonable, and (2) the use of Llannerch Crossing to access the site could be permitted providing improvements were made to the route – however this would likely prove difficult given there were land ownership issues.

Members considered the principle of the development acceptable and it would enhance rural tourism. However in light of the highway concerns it was considered that access arrangements to the site should be controlled via conditions in order to restrict the use of Llannerch Crossing as an access/egress point to the site. Officers confirmed the precise wording of any condition imposed would be agreed with the Local Member.

**Proposal** – Councillor Mark Young proposed, seconded by Councillor Barry Mellor, that the application be granted in accordance with officer recommendation, subject to an additional planning condition that prior to commencement of use details of precise access arrangements for the site be agreed by the Local Planning Authority.

**VOTE:**

GRANT – 23

REFUSE – 1

ABSTAIN – 0

**RESOLVED** that permission be **GRANTED**, in accordance with officer recommendation, subject to an additional planning condition that prior to commencement of use details of the precise access arrangements for the site be agreed by the Local Planning Authority.

## **7 APPLICATION NO. 43/2016/0600/PF - MINDALE FARM, OFF FFORDD HENDRE AND FFORDD GWILYM, MELIDEN, PRESTATYN**

An application had been submitted for demolition of existing dwelling and outbuildings, erection of 133 dwellings, construction of approach road, internal estate roads, sewers, SUDS drainage and open spaces, strategic and hard/soft landscaping, and ancillary works at Mindale Farm, off Ffordd Hendre and Ffordd Gwilym, Meliden, Prestatyn.

### **Public Speakers –**

Mr. B. Paterson (**Against**) – raised significant concerns regarding the Traffic Assessment and highway matters including poor pedestrian links and walking distances, topography of the access/egress, road safety, adequacy of the road network and links, congestion and overall impact on the highway infrastructure.

Ms. N. Roberts (Penrhyn Homes) (**For**) – highlighted the development would provide quality housing and planning gains. Technical requirements had been complied with and appropriate documentation had been provided in relation to the relevant assessment and strategies, including measures to address concerns.

**General Debate** – Councillor Peter Evans (LM) provided some background history to the controversial site which had been included in the LDP after allocation by the Planning Inspector. The Inspector had also indicated that if the infrastructure was not in place, then planning permission could be refused. Councillor Evans argued that the existing local infrastructure was not adequate to cope with the scale of the development, particularly in terms of highways and drainage/flooding as follows –

- Highway Issues – raised concerns regarding the proposed new access, dispute over land ownership, unauthorised removal of hedgerows and trees on site, poor highway design and layout giving rise to highway safety issues, poor pedestrian links and concerns over safe routes to school, increase in the volume of traffic and subsequent impact on the community. Councillor Evans used the presentation slides at the meeting to highlight particular areas of concern in terms of the road network and proposed layout, pointing out existing problems which would be exacerbated by the development. Particular concerns were raised over the adequacy of approach roads and junctions entering A547 at a steep gradient, likely vehicle conflicts and congestions at junction of A547 The Grove and Ffordd Ty Newydd, together with concerns over the subsequent impact on the wider road network.
- Drainage/Flooding Issues – highlighted problems with the existing infrastructure which would be unable to accommodate additional development and concerns over the adequacy of the proposed drainage system and management of surface water giving rise to further flooding concerns.

Prestatyn Members concurred with the comments made by the Local Member, elaborating further on those issues and their concerns regarding the impact of the development on the village and its infrastructure. The committee generally shared

those concerns with similar concerns also raised by members who had attended the Site Inspection Panel meeting on 6 April. The main concerns referred to –

- Scale of the Development – concerns regarding the scale of the proposed development and impact on the local community, over intensification of the site in the context of the village setting and on rural green space
- Highways – unacceptable negative impact of the development on the existing highway infrastructure, road safety concerns including safe routes to schools and pedestrian safety, concerns over access/egress to the site given the steep gradient and impact on the wider road network. Councillor Rhys Hughes asked whether a S.106 agreement could be used to construct a new access road for the site in line with a recent permission granted in Llangollen
- Drainage/Flooding – highlighting existing problems with drainage/flooding in the area, lack of detail as to how those issues would be effectively managed, concerns the proposed development would further exacerbate those problems
- Education – negative impact on local schools with existing capacity problems
- Ecological Impact – recent unauthorised tree and hedgerow clearance, loss of trees/vegetation, detrimental impact on natural habitat and wildlife species

Officers responded to the concerns raised as follows –

- Drainage/Flooding – the key consultees were Natural Resources Wales and the Council's Flood Risk Manager and their responses had been detailed within the report. Both had been aware of the local conditions but essentially there had been no objection and their view was that (1) information submitted with the application was sufficient to make a determination, and (2) they would seek implementation of conditions at the detail stage. Consequently the development had been considered acceptable in principle and technical issues could be covered by suitable condition and therefore was not a strong ground for refusal.
- Education – the impact on Ysgol Melyd had been considered and the developer had agreed to contribute £192k towards an extension which could accommodate the number of children likely to be generated by the development.
- Ecological Impact – developments involved some removal of hedgerows and there was a need to consider whether the impact was unreasonable given the scale of the development. Natural Resources Wales had raised no objection and had put forward a condition in that regard which suggested that the development itself would not have an unreasonable impact on the area.
- Highways – whilst appreciating the concerns raised locally a Transport Assessment had been undertaken coupled with extensive negotiation with the applicants and agents to ensure enough information was available to properly assess the impact on the highway network. Each of the issues raised had been detailed within the report together with the Highway Officer's response relating to (1) Ffordd Tynewydd, (2) A547/Ffordd Ty Newydd Junction, (3) Ysgol Melyd,

(4) Nearby planning permissions, (5) A547/The Grove Junction, (6) Maes Meurig and Cefn Y Gwyrch, (7) Ffordd Penrhwyulfa between junctions with Ffordd Talargoch and Penrhwlfa Crossroads, and (8) Parking Requirements. Further assurances were provided in terms of the modelling at the A547/The Grove Junction and Ffordd Penrhwyulfa between junctions which showed that they would operate within capacity and given the gradient at The Grove Junction. The Traffic Assessment had been based on peak am/pm periods and January was one of the highest traffic generated months of the year. Taking all the information into account it was considered that the proposals demonstrated that the development could be accommodated subject to conditions being imposed and therefore it would be difficult to refuse the application on highway grounds. In answer to an earlier question regarding the possible use of a S.106 agreement for an access road to the site, members were advised that there was no proposal for a new access road and access to the site was as proposed within the application using the existing road network.

**Proposal** – Councillor Peter Evans proposed, seconded by Councillor Anton Sampson, that the application be refused, contrary to officer recommendation, on the grounds of the negative impact of the development on the existing highway infrastructure, the scale of the housing development in context to the village, negative impact on the quality of life of existing residents, and concerns over drainage and flood risk. In the event of refusal the precise wording would be agreed with the Local Member. Councillor Peter Evans called for a recorded vote which was supported by the requisite one sixth of members present.

**VOTE:**

GRANT – 1

Councillor Meirick Davies

REFUSE – 23

Councillors Brian Blakeley, Joan Butterfield, Jeanette Chamberlain-Jones, Bill Cowie, Stuart Davies, Peter Evans, Huw Hilditch-Roberts, Hugh Irving, Alan James, Alice Jones, Barry Mellor, Bob Murray, Merfyn Parry, Pete Prendergast, Arwel Roberts, Anton Sampson, Gareth Sandilands, David Simmons, Julian Thompson-Hill, Joe Welch, Cefyn Williams, Huw Williams, Mark Young

ABSTAIN – 1

Councillor Rhys Hughes

**RESOLVED** that permission be **REFUSED**, contrary to officer recommendation, on the grounds of negative impact of the development on the existing highway infrastructure, scale of the housing development in context to the village, negative impact on the quality of life of existing residents and concerns over drainage and flood risk.

At this point (11.30 a.m.) the meeting adjourned for a refreshment break.

[As applicant, Councillor Rhys Hughes declared a personal and prejudicial interest in this item and left the meeting during consideration of the application.]

An application was submitted for details of landscaping submitted in accordance with condition no. 2 of planning permission code no. 27/2012/0009/PF at Tan y Fron Farm, Tan y Fron Lane, Eglwyseg, Llangollen.

**Proposal** – Councillor Stuart Davies proposed the officer recommendations to grant the application, seconded by Councillor Huw Hilditch-Roberts.

**VOTE:**

GRANT – 22

REFUSE – 0

ABSTAIN – 0

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

**9 APPLICATION NO. 45/2017/0048/PC - 1 SOUTH DRIVE, RHYL**

An application was submitted for formation of new vehicular access and erection of new fence/wall (partly retrospective application) for 1 South Drive, Rhyl.

**Proposal** – Councillor Jeanette Chamberlain-Jones proposed the officer recommendations to grant the application, seconded by Councillor Joan Butterfield.

**VOTE:**

GRANT – 24

REFUSE – 0

ABSTAIN – 0

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

**10 OFFICER GUIDANCE ON SUGGESTED REASONS FOR REFUSAL ON PLANNING APPLICATION REF 01/2016/0374/PF - LAND AT CAE TOPYN, OFF OLD RUTHIN ROAD, Ffordd EGLWYSWEN, DENBIGH**

A report was submitted providing officer guidance on suggested reasons for refusal on Planning Application Ref 01/2016/0374/PF – Land at Cae Topyn, off Old Ruthin Road, Ffordd Eglwyswen, Denbigh.

Planning permission for the development had been refused by the Planning Committee on 15 March 2017, contrary to officer recommendation, based on eight planning grounds. The purpose of the report was to provide guidance on the strength of those reasons in order for members to make a fully informed decision as to the most appropriate reasons for refusal having regard to the costs of defending those reasons in the event of an appeal as well as the risks of possible unreasonable behaviour and an award of costs against the council. Members were



further advised that, in the event of an appeal, members of the public or others could put forward their own reasons for refusal and defend those.

Councillor Stuart Davies noted the extra information with regard to education contributions and calculations as detailed in the late supplementary papers but felt that capacity within portakabins/mobile classrooms should not be taken into account when calculating school places. Officers referred to the calculation method and difficulties in predicting pupil numbers/school places and recommendation that, in the event of an appeal, the latest information be used to calculate the education contribution required at that time for the planning inspector to consider. Councillor Huw Hilditch-Roberts also felt that including capacity in portakabins within those calculations was to the detriment of the authority and he asked that officers revisit the formula for calculating school capacity to be applied in future Site Development Briefs and to clarify maintenance contributions around school buildings.

**Proposal** – Having considered the merits of the potential reasons for refusal and the fact that other reasons could be put forward as necessary by others, Councillor Mark Young proposed that the application be refused on the grounds as recommended by officers in paragraph 4 of the report, subject to the addition of Highway Safety (including safe routes to school and pedestrian links) as a further ground for refusal as detailed in paragraph 2.3 of the report. The proposal was seconded by Councillor Merfyn Parry.

**VOTE:**

FOR (THE PROPOSAL) – 24

AGAINST – 0

ABSTAIN – 0

**RESOLVED** that –

(a) *planning permission be refused for application ref 01/2016/0374/PF for the following reasons -*

*(1) it is the opinion of the Local Planning Authority that the proposal would have an unacceptable impact upon the character and amenity of the area by virtue of its density, design, and scale. The proposal is therefore contradictory to the adopted Site Development Brief 'Residential Development – Brookhouse Sites, Denbigh', LDP Policy RD1 'Sustainable Development and a good Standard of Design' criterion i), iii), iv), v), xiii), SPG Residential Development, the Local Market Housing Assessment and Planning Policy Wales 9, and*

*(2) it is the opinion of the Local Planning Authority that the proposal would result in an unacceptable impact upon highway safety as a result of:*

- introducing a significant number of additional vehicular movements to the locality which would exceed the capacity of the existing local transport infrastructure*
- not providing adequate parking facilities for St. Marcellas Church and Brookhouse Chapel*

- *failing to improve pedestrian linkages with Denbigh Town which would result in not creating safe routes to school and*
- *does not propose an adequate means of mitigating the impact*

*The proposal is therefore contrary to the adopted Site Development Brief 'Residential Development – Brookhouse Sites, Denbigh', LDP policy RD 1 'Sustainable Development and Good Design', criteria viii), SPG Residential Development, Technical Advice Note 18 'Transport' and Planning Policy Wales 9*

- (b) *to seek any appropriate and relevant financial contribution (in liaison with relevant Officers at that time) towards education provision at any subsequent appeal should the applicant/appellant fail to unilaterally offer the requisite contribution at such an appeal.*

## **LATE INFORMATION ITEM: JUDICIAL REVIEW IN RELATION TO THE MOUNT, BRYNIAU**

The Development Manager provided a verbal update on the outcome of the Judicial Review proceedings brought against the Council in respect of the Planning Committee's decision not to revoke the original planning consent granted. He was pleased to report that the Judicial Review had been successfully defended by the Council and the Judge had dismissed all four grounds of challenge for the Judicial Review. A formal report would be submitted to the committee in due course.

## **LATE INFORMATION ITEM: PLANNING COMMITTEE COMPOSITION**

The Team Leader – Places Team advised of recent regulations made by the Welsh Government, effective from 5 May 2017, relating to the size and composition of planning committees. The regulations required planning committees in Wales to be structured and operated in accordance with the following requirements – the committee must contain no fewer than 11 members and no more than 21 members; each meeting must have a quorum of 50% to make decisions; the use of substitute members was prohibited, and where wards had more than one elected member, only one may sit on the committee. A formal report would be submitted to Full Council on 23 May 2017 to consider the regulations further and in the interim legal officers would consult with Group Leaders. Officers clarified a number of issues in response to questions but advised that the item had been submitted for information only at this stage and the regulations would be formally considered at the first Full Council meeting in May 2017 following the local government elections.

At the close of the meeting the Head of Planning and Public Protection thanked members, on behalf of officers, for their support and challenge over the last Council term and conveyed his best wishes for the future. The Chair also thanked officers, on behalf of members, for their hard work and time given to members.

The meeting concluded at 12.20 p.m.