

PLANNING COMMITTEE	DATE: 11/04/2022
REPORT OF THE SENIOR PLANNING AND PUBLIC PROTECTION SERVICE MANAGER	

**REPORT TO THE PLANNING COMMITTEE
REFERRED TO A COOLING OFF PERIOD**

**DATE OF THE PLANNING
COMMITTEE: 11.04.22**

**DESCRIPTION AND
LOCATION OF
APPLICATION: C21/0668/43/LL - Construction of affordable
dwelling**

REPORT BY: Assistant Head, Environment Department

RECOMMENDATION: To refuse

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1. PURPOSE

- 1.1 The determination of the application was deferred at the Planning Committee meeting on 21/03/2022 in accordance with the instruction of the Assistant Head, Environment Department, as there was a significant risk to the Council in respect of the Planning Committee's intention to approve the application contrary to officers' recommendation. The matter was referred to a cooling off period in accordance with the Committee's standing orders. The purpose of reporting back to the Committee is to highlight planning policy issues, the possible risks and options for the Committee before it reaches a final decision on the application.

2. DESCRIPTION AND BACKGROUND

- 2.1 This is a full application for planning permission to construct an affordable house (four bedrooms) in the Cluster village of Pistyll adjacent to a house marked red on the Anglesey and Gwynedd Joint Local Development Plan Inset maps.
- 2.2 The application has been before the committee on two occasions, namely 13/12/2021 and 21/03/2022.
- 2.3 The application was deferred at the Committee on 13/12/2021 in order to receive more information regarding the applicant's affordable need, financial information was requested, Red Book evaluation and valuation of the applicant's current house to get an idea of their equity. Three reasons for refusal were recommended in the report to the committee. The financial information was received later on together with an amended plan changing the layout of the house, reducing the size of the plot and changing the boundary treatment, as well as an Ecological Report as the site had been identified as a Wildlife Site.
- 2.4 The application was resubmitted to Committee on 21/03/2022 with a recommendation to refuse. As the amended plans and the Ecological Report had responded to the previous reasons for refusal, there was one reason to refuse before them, namely that the applicant had not proven the affordable need. The application was discussed and it was referred for a Cooling Off period by the Assistant Head, Environment Department on the grounds that the applicant was not eligible for an affordable house.

3. POLICY CONTEXT

3.1 National Planning Guidance

Paragraph 1.22 of Planning Policy Wales (Edition 11, February 2021) states clearly that "Up-to-date development plans are the basis of the planning system and set the context for rational and consistent decision making. Plans at all levels of the development plan hierarchy must be prepared in accordance with national planning policies. Planning applications must be determined in accordance with the adopted plan, unless material considerations indicate otherwise."

It is also noted that the following are relevant:

- Technical Advice Note (TAN) 2 Planning and Affordable Homes (2006)
- Technical Advice Note 6 Planning for Sustainable Rural Communities (July 2010)
- Technical Advice Note 12 Design (2016)

3.2 Local Planning Policies

The adopted Local Plan is the Anglesey and Gwynedd Joint Local Development Plan and the relevant policies in this case are:

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- PS 17 (Settlement Strategy)
- TAI 6 (Housing Clusters)
- TAI 15 (threshold of affordable housing and their distribution).

It is also noted that the following Supplementary Planning Guidance (SPG) is relevant:

- Affordable housing (2019)
- New dwellings in Rural Villages (2010)

3.3 Lack of need proven for a local need affordable house

Criterion 1 Policy TAI 6 requires that the need for an affordable house for local community need (in accordance with the list of terms) has been proven. Furthermore, SPG: Affordable Housing states that when the initial occupiers of intermediate accommodation are known, they need to be registered with Tai Teg and to have been the subject of a Tai Teg Assessment in order to confirm their eligibility for an affordable house.

The applicants have been assessed twice by Tai Teg, prior to the submission of the application and following the first committee. They were re-assessed based on new comprehensive financial information, that included a Red Book Valuation, valuation of their current house and information regarding their mortgage and likely equity. A copy of Tai Teg's response was received from the applicant, confirming that they had assessed the application against their criteria, but as they were in a suitable house for the size of the family, that was affordable and that they had no specific needs, that they were refusing the application. The need for an affordable house has not been fully proven and therefore reason 1 for refusal remains.

It is appreciated that the applicant is experiencing anti-social issues at their existing property and wishes to move, however, Tai Teg have assessed that the applicants' existing house is of an affordable size and price and is fit for purpose. Please note that this is the applicants' wish rather than a need. Also, it has to be emphasised that personal matters between neighbours are not material planning issues and the planning committee should not give weight to this when considering the application.

3.4 The value of the house

Criterion 7 of Policy TAI 6 requires that mechanisms restrict the occupancy of the dwelling both on first occupation and in perpetuity to those who have a need for an affordable dwelling. If the affordable need had been proven then it would be possible to bind the proposed dwelling as an affordable house through a 106 agreement. Policy TAI 6 along with Policies PS 17 and TAI 15 promote affordable housing only within clusters such as Pistyll. This means that the house should not only be affordable to the applicants (first owners), but should continue to be affordable for any future prospective occupiers. The price of the house is therefore material to ensuring that the house will continue to be affordable in the future.

As noted in the committee report on 21 March 2022, a valuation was received for the proposed house and this was prepared by Bob Parry estate agents who gave an open market price for the house at £315,000.

Paragraph 3.3.7 of the SPG Affordable Housing states that affordable housing provided as intermediate housing must be for an affordable price in the area of the proposal and Councils will use the median income of a household, multiplied by 3.5, along with the 5% or 10% deposit, based on the required level by mortgage providers. The SPG Affordable Housing therefore sets out the formula to calculate the value of the affordable unit. However, when the open market value of a house is available it is better to use that to calculate the value of the affordable unit.

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Based therefore on information from the Supplementary Planning Guidance 'Affordable Housing' (part 3.3.5), the following indicative price is noted for a single affordable dwelling (i.e. the type proposed) in Pistyll (the indicative price is the basis for further discussions regarding the affordability of units):

LSOA	Household Median Income (2020)	3.5 Times household income	10% deposit level for a single house*
Llanaelhaearn	£25,971	£90,899	£30,000

*Zoopla website: Five-year period February 2017 - February 2022 (six sales)

Therefore: The assumed price of a single affordable house in Pistyll: £90,899 + £30,000 = **£120,899**

The Strategic Housing Unit has not responded to confirm in terms of affordability, what the reasonable likely discount percentage would be for a new single intermediate property. It is suggested that a discount of approximately 50% would be needed to make the price affordable to £157,000 which would be affordable for an intermediate property. There is concern about house prices increasing, and the price of the property / land could increase significantly in the future to a level where it could be argued that the property is not affordable whatever the discount, and that an application may be submitted to lift the s106 agreement. We note that the Local Development Plan only supports proposals for affordable units where it can be ensured that they remain affordable in perpetuity. In such an elevated position with coastal views that could influence the price of the house in future, it cannot be certain that the house would continue to be affordable to the future.

3.5 In summary

It is realised that the application does comply with a vast number of the relevant criteria, however, it fails with the elementary principle of policy TAI 6 namely that the applicant has not proven a need of an affordable house.

Members should present firm reasons and evidence to approve and reverse the officers' recommendation on an application for local need affordable housing that are not in compliance with the relevant policies of the Gwynedd Unitary Development Plan as well as the Welsh Government's specified planning policies. In this particular case it is not believed that there are sufficient reasons and evidence to support the reasons to approve given by the Planning Committee on 21 March 2022, which would reverse the officers' recommendation.

4 RISKS TO THE COUNCIL OF APPROVING THE APPLICATION

4.1 As has been outlined above, approving this application would undermine policies on a national and local level. The site is located on the outskirts of the Pistyll cluster, as denoted in the Anglesey and Gwynedd Joint Local Development Plan, where only local need affordable housing can be approved. As the above assessment indicates together with the assessment in the Committee report on 21 March 2022, the proposal would not satisfy the need for local need affordable housing as stated in the SPG - Affordable Housing and there is doubt if the price of the house will continue to be affordable.

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4.2 Approving the application would create inconsistency in terms of implementing the Council's adopted planning policies in reaching decisions on applications regarding affordable housing developments.

4.3 There is a risk that the application may called in by the Welsh Government for determination. As well as the risk of individual applications being called in, the Welsh Government and its officers has powers to intervene formally in the way the Council provides the Planning Service. This would ultimately be the greatest risk to the Council.

5 OPTIONS FOR THE COMMITTEE

5.1 The options available to the Committee in determining the application are noted below with the options increasing in terms of risk to the Council as you proceed down the list:

- a) Refuse the application in accordance with the recommendation - The above assessment assesses the merits of the application against the requirements of relevant policies and guidance and reaches the conclusion that the proposal does not comply with the policies of the Anglesey and Gwynedd Joint Local Development Plan or the guidance in the SPG - Affordable Housing. This is the only possible resolution without any risks to the Council.
- b) Approve the application with a Section 106 Agreement - The only way to make the house affordable is if a high discount such as 50% is given on it. However, historically we are aware that such a high discount causes problems and lenders are not willing to give a loan on this basis. Additionally, there is a risk, if house prices continue to rise, that the property would not continue to be affordable even with a 50% discount and, if that happened, it would not be possible to justify the retention of the 106 Agreement, which could mean that the property could be converted into an open market property in future.
- c) Approving as an open market house outside the boundary - This is the greatest risk to the Council as it would approve an open market house in the countryside without any control in terms of occupancy or price. This would completely undermine local and national policies as well as the Council's credibility. Once more it is noted that Welsh Government has powers to intervene formally in the way the Council provides the Planning Service.

5.2 In order to ensure that the Council avoids the risks outlined above and as the application's merits have been assessed thoroughly by Council officers it is deemed that the proposal does not conform to the requirements of the adopted policies of the Anglesey and Gwynedd Joint Local Development Plan, local and national guidance and national planning policies. Therefore it is recommended that the application is refused as submitted in accordance with the reasons for refusal submitted to Committee on 21 March 2022 and reproduced below to avoid any doubt.

To refuse – reasons

1. The applicants have not proven a need for affordable housing, therefore the proposal is contrary to criteria 1 and 7 of Policy TAI 6, Tai 15 and PS 17 of the Anglesey and Gwynedd Joint Local Development Plan and the requirements of the Supplementary Planning Guidance: Affordable Housing (2019).

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6. APPENDICES

Appendix 1 – A copy of the previous report, plans and records submitted to the Planning Committee dated 21 March 2022.