

# Public Document Pack

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Head of Legal and Democratic Services  
Pennaeth Gwasanaethau Cyfreithiol a Democraataidd



To: Cllr David Wisinger (Chairman)

CS/NG

Councillors: Chris Bithell, Derek Butler, David Cox,  
Ian Dunbar, Carol Ellis, David Evans, Jim Falshaw,  
Veronica Gay, Alison Halford, Ron Hampson,  
Patrick Heesom, Ray Hughes, Christine Jones,  
Richard Jones, Richard Lloyd, Billy Mullin,  
Mike Peers, Neville Phillips, Gareth Roberts and  
Owen Thomas

10 January 2013

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Dear Sir / Madam

A meeting of the **PLANNING & DEVELOPMENT CONTROL COMMITTEE** will be held in the **COUNCIL CHAMBER, COUNTY HALL, MOLD CH7 6NA** on **WEDNESDAY, 16TH JANUARY, 2013** at **1.00 PM** to consider the following items.

Yours faithfully

Democracy & Governance Manager

## **AGENDA**

- 1 **APOLOGIES**
- 2 **DECLARATIONS OF INTEREST**
- 3 **LATE OBSERVATIONS**
- 4 **MINUTES** (Pages 1 - 22)

To confirm as a correct record the minutes of the meeting held on 12<sup>th</sup> December 2012.

- 5 **ITEMS TO BE DEFERRED**

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The Council welcomes correspondence in Welsh or English  
Mae'r Cyngor yn croesawau gohebiaeth yn y Cymraeg neu'r Saesneg

6 **REPORTS OF HEAD OF PLANNING**

The report of the Head of Planning is enclosed.

A copy of draft Planning conditions is available for Members information in the Members Library

**REPORT OF HEAD OF PLANNING**  
**TO PLANNING AND DEVELOPMENT CONTROL COMMITTEE ON 16 JANUARY 2013**

Item No	File Reference	DESCRIPTION
<b><u>Applications reported for determination (A=reported for approval, R=reported for refusal)</u></b>		
6.1	048610 - A	Full Application - Erection of 20 No. Semi-Detached Dwellings, Part Reconfiguration of Existing (Unadopted) Road and Extending to Form New Road Layout on Land off Fair Oaks Drive, Connah's Quay. (Pages 23 - 42)
6.2	048261 - A	Outline Application - Demolition of 2 Existing Bungalows and Erection of 5 No. Dwellings at 85 - 87 Wepre Lane, Connah's Quay. (Pages 43 - 52)
6.3	048465 - A	Reserved Matters - Details of Appearance, Landscaping, Layout and Scale and Access Thereto, Submitted in Accordance with Condition No. 1 of Outline Planning Permission Ref.: 047769 to Allow Residential Development at Wilcox Coach Works, Afonwen. (Pages 53 - 66)
6.4	045069 - R	Metal Recycling Plant for End of Life Vehicles, Ferrous and Non Ferrous Metals, Redundant and Scrap Caravans and Roof Wall Panels at Point of Ayr, Ffynnongroyw (Pages 67 - 84)
6.5	049289 - A	Renewal of Outline Planning Permission Ref. 041006 for Proposed Residential Development at Holmleigh, Cheshire Lane, Buckley. (Pages 85 - 94)
6.6	050003	General Matters - Outline Application for Erection of 12 Dwellings at Bank Farm, Lower Mountain Road, Penyffordd (Pages 95 - 116)
6.7	045180	General Matters - Demolition of Existing Hotel Buildings and the Erection of 21 No. Apartments at Bryn Awel Hotel, Denbigh Road, Mold. (Pages 117 - 134)
6.8	050246	Variation of Section 106 Agreement to Enable 'Rent to Buy' Scheme on Land at Mansfield, Lixwm, Holywell (Pages 135 - 140)

Item No	File Reference	DESCRIPTION
<b><u>Appeal Decision</u></b>		
6.9	049514	Appeal by Mr. & Mrs P. & C.E. Hewitt Against the Decision of Flintshire County Council to Refuse Planning Permission for the Construction of a Loft Extension by Raising Part of the Existing External Walls and Roof to Accommodate a Bedroom, Dressing Room and En-Suite Bathroom and with New Roof Windows in the Existing Retained Part of the Roof at Stoneleigh, Bagillt Road, Holywell. (Pages 141 - 146)
6.10	049662	Appeal by Mr. Stephen Wilson Against the Imposition of Condition No. 3 of Planning Permission 049662 at Hillcrest, Caerwys Hill, Caerwys, Flintshire (Pages 147 - 150)
6.11	049874	Appeal by Lyons Den Fitness against the decision of Flintshire County Council to refuse planning permission for the placement of 3No. 'A' boards at "Lyons Den Fitness", Boot End, Bagillt, Flintshire (Pages 151 - 154)



## PLANNING AND DEVELOPMENT CONTROL COMMITTEE 12 DECEMBER 2012

Minutes of the meeting of the Planning and Development Control Committee of the Flintshire County Council held at County Hall, Mold on Wednesday, 12 December 2012

### **PRESENT: Councillor D.E. Wisinger (Chairman)**

Councillors: R.C. Bithell, D. Butler, D. Cox, I. Dunbar, C.A. Ellis, D. Evans, J. Falshaw, A.M. Halford, R.G. Hampson, P.G. Heesom, R. Hughes, C.M. Jones, R.B. Jones, M.J. Peers, N. Phillips, H.G. Roberts and W.O. Thomas

### **SUBSTITUTIONS:**

Councillor: D.I. Mackie for V. Gay, D. Hutchinson for R. Lloyd and M. Lowe for W. Mullin

### **ALSO PRESENT:**

The following Councillors attended as local Members:-

Councillors R.P. Macfarlane and P. Shotton - agenda item 6.1. Councillor P. Lightfoot - agenda item 6.3. Councillor N.M. Matthews - agenda item 6.8. Councillor R. Johnson - agenda item 7

### **IN ATTENDANCE:**

Head of Planning, Development Manager, Planning Strategy Manager, Senior Engineer - Highways Development Control, Team Leader Major Developments, Senior Planners, Planning Support Officer, Democracy & Governance Manager, Principal Solicitor (for agenda item 7 only) and Committee Officer

## **108. DECLARATIONS OF INTEREST**

Councillor A.I. Dunbar declared a personal and prejudicial interest in the following application:-

**Agenda item 6.1 – Full application – Erection of 20 no. semi-detached dwellings, part reconfiguration of existing (unadopted) road and extending to form new road layout on land off Fair Oaks Drive, Connah’s Quay (048610)**

Councillors A.M. Halford and D.I. Mackie declared a personal and prejudicial interest in the following application:-

**Agenda item 6.2 – Full application – Car park provision, access road and structures for use in conjunction with proposed allotments facilities at land at Upper Aston Hall Lane, Hawarden (049765)**

Councillor J. Falshaw declared a personal interest in the following application:-

**Agenda item 6.4 - Application for Outline Planning Permission –  
Erection of a detached bungalow at Belmont, South Street,  
Caerwys (050169)**

**109. LATE OBSERVATIONS**

The Chairman allowed Members an opportunity to read the late observations which had been circulated at the meeting.

**110. MINUTES**

The draft minutes of the meeting of the Committee held on 7 November, 2012 had been circulated to Members with the agenda.

**RESOLVED:**

That the minutes be approved as a correct record and signed by the Chairman.

**111. ITEMS TO BE DEFERRED**

The Head of Planning advised that deferment of the following application was recommended:

**Agenda item 6.4 – Application for outline planning permission -  
Erection of a detached bungalow at Belmont, South Street,  
Caerwys (050169) – a request from the applicant to defer the  
application had been received to allow for further work on the  
application to be undertaken**

On being put to the vote, deferment of the application was agreed.

**Agenda Item 7**

Councillor P.G. Heesom requested that agenda item 7 be deferred as he felt that short notice of the agenda item had been given to Members. He also requested that a special meeting be held within the next 10 days to consider the item as the date for the appeal Inquiry was 30 January 2013. In response, the Democracy & Governance Manager said that the normal notice had been given to Members and the local Member had been notified in advance that the report was being submitted. He felt that to defer the application would be a disadvantage to the Council but that if the Committee wanted any further information, he suggested that consideration be given to excluding the Press and Public from the meeting.

Councillor R.C. Bithell felt that the application should be dealt with at this meeting. Councillor A.M. Halford said that as the former Chair of Planning, the issues had given her cause for concern and that Councillor Heesom's request to defer was about protecting the residents of Prince of Wales Avenue. Councillor C.A. Ellis asked why determination of the

application could not be deferred for a month as the Inquiry was not due to be held until 30 January 2013 and the next Planning Committee meeting was scheduled to be held before that date. She said that this would allow a meeting to be held between Councillor Heesom and officers within the next 10 days and for the findings to be reported to the January 2013 Planning & Development Control Committee meeting.

The Democracy & Governance Manager referred to a circular about costs being awarded to either party if the Inspector felt that either party had acted unreasonably. He spoke of costs which had been awarded against Flintshire County Council in the past and reminded Members that costs increased as the appeal drew closer. The report detailed a course of action and the Democracy & Governance Manager said that the longer the delay in deciding on the approach to take, the higher the award of costs against Flintshire County Council could be. His advice was to consider the report today.

Councillor H.G. Roberts said that there was currently no reason to support deferment but that if reasons became apparent during discussion of the item that deferment was required, then this could be considered at that time. Councillor M.J. Peers concurred with these comments. Councillor D. Butler queried why the request to defer the discussion was taking place now as he felt that it could have been requested prior to the meeting and agreed that the report should be considered at this meeting.

In response to the suggestion by Councillor Ellis to defer the discussion to the January 2013 meeting, the Head of Planning said that the evidence for the appeal had to be submitted prior to the next meeting of the Planning & Development Control Committee.

Councillor Heesom was concerned that the evidence before Members was misleading and reiterated his request for a special meeting to be held to consider the report.

On being put to the vote, the proposal to defer consideration of the report was LOST.

#### Agenda item 6.1

The Democracy & Governance Manager commented on application 6.1 (Full application – erection of 20 no. semi-detached dwellings, part reconfiguration of existing (unadopted) road and extending to form new road layout) and the supplementary report which had been sent out to Members in advance of this meeting. He said that it was important that Members had clear written advice before reaching a decision, which he did not feel that Members currently had. At the time of the agenda setting meeting, advice had not been received from the Valuation Office which led to the original report not receiving the normal consideration by others prior to despatch of the agenda. The information had now been received and this led to the supplementary report being issued. He advised that Members needed to

decide whether to deal with the application today or defer it to a subsequent meeting to allow one comprehensive report to be considered by the Committee at the next meeting. The Head of Planning said that it was the first time that the principle of viability had been before the Committee. Councillor M.J. Peers proposed that the application be dealt with at this meeting.

Councillor A.I. Dunbar sought advice on his position in relation to agenda item 6.1. In response, the Democracy & Governance Manager suggested a short adjournment to allow him to advise Councillor Dunbar. Following the adjournment, Councillor Dunbar indicated that he would leave the meeting during the determination of agenda item 6.1 (Full application – erection of 20 no. semi-detached dwellings, part reconfiguration of existing (unadopted) road and extending to form new road layout).

**RESOLVED:**

That agenda item 6.4 – Application for outline planning permission – Erection of a detached bungalow at Belmont, South Street, Caerwys (050169) be deferred.

**112. FULL APPLICATION – ERECTION OF 20 NO. SEMI-DETACHED DWELLINGS, PART RECONFIGURATION OF EXISTING (UNADOPTED) ROAD AND EXTENDING TO FORM NEW ROAD LAYOUT ON LAND OFF FAIR OAKS DRIVE, CONNAH'S QUAY (048610)**

The Committee considered the report of the Head of Planning in respect of this application which had been the subject of a site visit on 10 December 2012. The usual consultations had been undertaken and the responses received detailed in the report. Additional comments received since the preparation of the report were circulated at the meeting. Councillor A.I. Dunbar, having earlier declared an interest in the application, left the meeting prior to its discussion.

The officer detailed the background to the report and drew Members' attention to the late observations which updated the response from the Head of Play Unit and requirements of open space provision, subsequent consultations with the Housing Strategy Manager and Director of Lifelong Learning and their requirements, based on the 20 units proposed in the application. The officer detailed the main issues which included the principle of development, provision of open space and the affordable housing element and the responses received to the consultation which included Welsh Water seeking the imposition of a Grampian style condition to allow for completion of improvement works by 31 March 2013.

The Democracy & Governance Manager reminded the Committee of his earlier comments about consideration of the application at this meeting.

Mr. G. Bell spoke against the application on the type of houses that were proposed but said that residents were not opposed to residential development. He felt that the proposed dwellings would be out of character



with the area and commented on the 130 letters of objection which had been received about the application. He raised concern about the increase in traffic as he felt that the number of properties could result in an additional 40 to 50 vehicles. He also referred to issues with the existing unadopted road, the potential overlooking and overshadowing from the three storey dwellings and potential problems with the sewerage pumps in each plot and the proximity of the overhead lines. He added that the quality and quantity of the proposed dwellings would be out of keeping with the area and the neighbouring executive style homes.

Mr. P. Moren, the applicant's agent, spoke in support of the application referring to the extensive negotiations that had taken place. The site had been allocated for housing in the Unitary Development Plan (UDP) and the Council had not prepared a development brief for the wider housing allocation which would yield 87 dwellings of a mix of three and four bedroom units. Mr. Moren said that the applicant was happy to accept the recommendation in paragraph 2.01 and the identified planning conditions and added that any further conditions could not be justified by national or local policy.

Councillor D. Butler proposed the recommendation for approval which was duly seconded. He said that the site had gone through the UDP process and that the housing types proposed would provide much needed social housing. Councillor R.C. Bithell said that there was no reason to refuse the application and commented on the works to be undertaken to the road and footways which would bring it up to adoptable standard.

One of the local Members, Councillor P. Shotton spoke on behalf of the residents of Fair Oaks Drive. He said that a petition of 130 signatures and 158 letters of objection had been submitted which showed the strength of feeling against the application. He said that if the conditions were strictly adhered to then the application would be acceptable to the residents. He commented on the concern about the three storey properties and the breach of condition no. 7 attached to application 034942 which was being investigated by the Enforcement Section. He felt that a toddler's playing area should be included in the site and also commented on concern about pylons near to the site which he felt should be considered before any development took place.

The other local Member, Councillor R.P. Macfarlane said that the original report had caused confusion but this had been clarified by the supplementary report which had been circulated. He spoke of the issue of viability and said that the applicant was facing significant costs for the diversion of a gas main on the site.

The Democracy & Governance Manager said that he felt that point (b) in the recommendation was better dealt with under condition 1.

Councillor R.B. Jones said that the principle of development was clear but what was not clear was the topography of the area as the three storey properties would create overlooking issues. He referred to paragraph 7.07 and said that if the number of dwellings was now being reduced to 14, then

the figures within the report would have to be reconfigured. He proposed deferment of the application to clarify whether the proposal was for 14 or 20 properties, where the recreation area would be and the topography of the three storey dwellings on the site; the proposal was duly seconded.

The Democracy & Governance Manager reiterated his earlier comments about deferring the application to allow for one comprehensive report to be submitted to a subsequent meeting of the Committee. On being put to the vote, the proposal to defer the application was CARRIED.

**RESOLVED:**

That consideration of the application be deferred to a subsequent meeting of the Planning & Development Control Committee to allow clarity on:-

- (i) whether the proposal was for 14 or 20 dwellings
- (ii) where the recreation area would be
- (iii) the topography of the site

**113. FULL APPLICATION – CAR PARK PROVISION, ACCESS ROAD AND STRUCTURES FOR USE IN CONJUNCTION WITH PROPOSED ALLOTMENTS FACILITIES AT LAND AT UPPER ASTON HALL LANE, HAWARDEN (049765)**

The Committee considered the report of the Head of Planning in respect of this application which had been the subject of a site visit on 10 December 2012. The usual consultations had been undertaken and the responses received detailed in the report. Additional comments received since the preparation of the report were circulated at the meeting. Councillors A.M. Halford and D.I. Mackie, having earlier declared an interest in the application, left the meeting prior to its discussion.

The Head of Planning explained that a complaint had been received about the way the application had been handled but he advised Members that determination of the application could proceed today. If issues were identified during consideration of the complaint, the application could be submitted back to a subsequent meeting of the Committee. Councillor R.C. Bithell queried whether the application should be deferred but was advised by the Democracy & Governance Manager that the application could be determined at this meeting.

The officer detailed the background to the report and drew Members' attention to the late observations. She referred Members to the plan which accompanied the report and said that the settlement boundary had not picked up the extensions to the gardens of numbers 55 to 63 Upper Aston Hall Lane which had been granted previously. Some of the objections to the application referred to the curtailing of a public right of way but the officer explained to Members that there was no public footpath through the site. She detailed the main visual and residential impacts and said that the development did not have any significant impact on the amenity of the area, however the proposal

would be visible from the dwellings on Upper Aston Hall Lane and The Ridgeway. A photograph was displayed for the Committee which showed similar allotments which had been visited by Hawarden Community Council. The proposal complied with UDP policies and was encouraged by national guidance.

Mr. Sharkey spoke against the application on the grounds of highway safety due to visibility and the bend in the road which he felt was hazardous. He said that the description of development was inadequate and that the site was unfit for development as it would require significant earth works. He added that the site had badgers and bats and was in the green barrier, the development being contrary to national and local policy. He referred to works which had been undertaken on the site previously which had damaged his fence and he felt that if site was granted for allotments, the issue of anti-social behaviour would increase.

Mr. N. Barnes, spoke in support of the application on behalf of Hawarden Community Council. He said that the Community Council were legally required to find a suitable site when they believed that there was demand for allotments. The number of requests totalled 57 and in January 2011 the Community Council wrote to Flintshire County Council to advise of their requirement for a site. He referred to the application for properties number 55 to 63 Upper Aston Hall Lane to extend their gardens and stated that this land had previously been used as allotments in the 1980's. He said that the objections to the application were mainly from residents on Upper Aston Hall Lane but two had registered their interest in an allotment. Technical Advice Note (TAN) 16 had been complied with and Mr. Barnes explained that the site would be edged by edible hedging.

Councillor Bithell proposed the recommendation for approval which was duly seconded. He welcomed the proposal and the uniformity in style and colour of the proposed sheds so as not to create an eyesore. He felt that the use as allotments was acceptable and added that it would not cause problems of visual amenity as mentioned in the objections received on the application. He said that those using the allotments would not all arrive at the same time and would therefore not cause the traffic problems suggested by the objections.

Councillor D. Hutchinson raised concern about the ongoing maintenance of the site by the Community Council and sought assurance that this would be undertaken. Councillor W.O. Thomas concurred with the use of the site which he felt would tidy up the overgrown area.

Councillor R.B. Jones proposed the addition of a further condition that the common and unused areas be maintained by Hawarden Community Council. In response, the Planning Strategy Manager said that those tending the allotments would have to sign an agreement and any infringement could mean that they would need to vacate the plot. He did not feel that an additional condition was required for this issue. Councillor Bithell disagreed with the need for the extra condition and would not incorporate it into his

proposal to approve the application. Councillor Jones put forward an amendment to include an additional condition for the common areas to be maintained by Hawarden Community Council which was duly seconded. On being put to the vote, the amendment was CARRIED. This became the substantive motion and on being put to the vote was CARRIED.

**RESOLVED:**

That planning permission be granted subject to the conditions detailed in the report of the Head of Planning and subject to the additional condition for the common and unused areas to be maintained in a tidy condition to the satisfaction of the Local Planning Authority.

**114. APPLICATION FOR OUTLINE PLANNING PERMISSION – ERECTION OF 12 NO. DWELLINGS INCLUDING DEMOLITION OF EXISTING OUTBUILDINGS AND CREATION OF A NEW ACCESS AT BANK FARM, LOWER MOUNTAIN ROAD, PENYFFORDD (050003)**

The Committee considered the report of the Head of Planning in respect of this application which had been the subject of a site visit on 10 December 2012. The usual consultations had been undertaken and the responses received detailed in the report. Additional comments received since the preparation of the report were circulated at the meeting.

The Development Manager referred to the site history highlighting the relevance of certain applications to the determination of this application. He identified that the main planning issues were the principle of development, in relation to previously developed land and sustainability/locational factors which were detailed in the report. He stated that the other considerations, scale/form of development, highways and ecology, only came in to play if the first two tests were passed. The officer then highlighted the basis for previous decisions to resist residential development on this land, referring to extracts from decisions by the relevant Inspectors, the Welsh Assembly's Planning Decisions Committee and from Planning Policy Wales, all of which were presented in the report. He asked Members to base their determination of the current application on whether or not there had been material changes in planning policy and/or in any other material planning considerations since the decisions were taken previously to refuse planning permission for residential development at the site, and not to allocate the site in the Unitary Development Plan (UDP) for use for residential development. The applicant, through his agent, had indicated that there were material changes in circumstances and these were detailed in paragraph 7.15 of the report.

The Development Manager explained that independent legal advice had been sought on the interpretation of previously developed land (PDL) as this was an important factor in the determination of the application. On the basis of the advice, it was the view of officers that the land occupied by the dwellinghouse and its curtilage did constitute PDL as it met the definition contained in Figure 4.3. but that the remainder of the site did not. He agreed with the conclusion of the Assembly in 2005 that land occupied by buildings

previously used for agricultural purposes but which had not been put to any other use since then, should not be regarded as PDL. The officer concluded that whilst the dwellinghouse and its curtilage should be regarded as PDL, the remainder of the application site (and therefore the majority of the site) was not PDL. However, in referring to Paragraph 7.26 of the report he advised that the question of PDL was not critical as the development failed to meet other criteria, particularly that of sustainability.

He commented in detail on the sustainability and locational factors referring to the advice in PPW that not all previously developed land is suitable for development. He mentioned that the lack of sustainability had been a factor in previous decisions relating to the site and that it was considered that the inclusion of bus stops and the creation of a footpath did not make it sustainable. He referred to the fact that the need for new housing in the settlement of Penyffordd/Penymynydd was being met through allocations in the UDP and therefore there was no justification in seeking to provide additional housing in open countryside locations. He touched briefly on the other considerations identified in the report, stating that the design proposed, being urban in nature, was inappropriate. In summing up he said that the planning position had been clearly set by previous decisions in relation to this land and that nothing had materially changed on this application, either in terms of policy or what was now being put forward by the developer to warrant a different decision and therefore the recommendation was one of refusal.

Mr. S. Goodwin, the agent for the applicant, spoke in support of the application and indicated that in his view, the site was a brownfield site. He spoke on the comments made by the Planning Officer on the issues of sustainability and the view by the officer that there had been no material changes since the 2005 application. Mr. Goodwin said that the scale of the site had changed as the number of dwellings proposed had reduced from 20 to 12 and two new bus stops had been provided outside the site and a footpath to Penyffordd was proposed. He felt that the site was sustainable and reminded Members that this was an application for outline permission and issues of design would be dealt with at reserved matters stage. He also referred to another development at Meadowslea Hospital, comparing the circumstances to the current proposal. He requested that the Committee approve the application to remove this visually harmful site.

Councillor M.J. Peers moved approval of the application against officer recommendation which was duly seconded. He referred to paragraph 7.09 of the report and the consideration of the application which was called in and refused by the Welsh Assembly Government's Planning Decision Committee. Councillor Peers spoke about the definition of PDL and said that the opinion of the Inspector was not included in policy guidance at the time and was not included in current policy. He spoke of the growth rate of Penyffordd/Penymynydd and said that the current scheme had been designed to take into account the concerns expressed by the Assembly's Planning Decisions Committee that the previous proposal resembled a 'modern housing estate'. He said that the development would be of a high quality

design and would not be harmful to the countryside. He referred to the application on the Meadowslea site in Penyffordd which was also in the open countryside and commented on the Warren Hall Business Park which was outside the settlement boundary and in the open countryside but which had been permitted due to its high quality design. On the issue of sustainability, he said that the site was in walking distance of Penyffordd and that the application was in accord with the Planning Policy Wales guidance for sustainability.

Councillor R.G. Hampson said that the site was a blot on the landscape and that developments should be allowed to take place where possible. The number of dwellings was being reduced from 20 to 12 which was significant and the site was accessible to Penyffordd due to a footpath being proposed and the two bus stops being put in place outside the site.

Councillor D. Butler referred to the long history on the site and the previous application which had been refused in 2005 after being called in by the Welsh Government. The UDP had gone through a rigorous process and the site had never been included in the UDP as a site for housing allocation. He felt that there were no material changes in this application when compared with the application refused in 2005. He said that map showed that the site was not in Higher Kinnerton but was in Penyffordd, where there was already overprovision of dwellings. A footpath was to be created to Penyffordd which would mean that the site was not sustainable for the area of Higher Kinnerton. Councillor D. Butler requested a recorded vote and was supported by the requisite five other Members.

Councillor R.C. Bithell said that there was a fundamental planning presumption against new build in the open countryside and outside the settlement boundary; this proposal was a flagrant breach of both. He felt that it should be rejected as outlined in the report as it had been refused on two previous occasions and had been rejected by the Inspector and not included within the allocation sites for the UDP. He said that if the application was approved, it would undermine planning policy and would set a precedent and to argue that the site was a mess was not a sufficient reason to allow the application. Councillor Bithell added that there was no need for the development as other applications had been approved on other sites which had not yet been used. He referred to the reduction in the number of dwellings from 20 to 12 and on the issue of the indicative layout, he said that this was not what the site could look like if approval were given. He felt that the application should be refused.

Councillor W.O. Thomas spoke of the Meadowslea site which was in the open countryside and which had been approved and he referred to policy CF11 which he felt should be considered over policy HSG6. He queried whether the housing needs in Flintshire were being provided for and added that this housing development was in a perfect place. Councillor R.B. Jones said that the farm buildings on the site had not been used for 15 years and he commented on the application on the Meadowslea site which he felt set a precedent. He referred to the comments of the Inspector about making the

best use of the site at Meadowslea and said that these comments should also be applied to this site. He said that because of the provision of the footpath and the bus stops, this made the site sustainable and added that this application showed that the applicant had tried to overcome some of the issues which had been raised by the Inspector in 2005.

Councillor A.I. Dunbar spoke on behalf of Councillor C. Hinds who was the adjoining local Member as she was unable to attend this meeting. Her comments included that the site was outside the settlement boundary, went against planning policy, the growth in the area was already nearly 30% and that WG had refused the previous application.

Councillor H.G. Roberts said that there was no reason to go against planning policy and concurred that if this application was approved it would set a precedent. He felt that the application should not be permitted just because the area was an eyesore and on the issue of the buildings being dangerous, he said that the owner was duty bound to make sure that the buildings were secure. If the outline application was approved at this meeting, he felt that it would be difficult to refuse it at the reserved matters stage when it had been approved in principle. Councillor Roberts queried the amount of land which had been allocated for housing in the UDP had been left undeveloped and he felt that the provision of a bus stop outside the site did not mean that a residential development outside the settlement boundary should be permitted.

Councillor C.A. Ellis queried whether independent legal opinion had been sought on what the outcome might be if the application were refused and then appealed by the applicant as she felt that a precedent had been set by the Meadowslea and Dobshill sites. She concurred that the site was now sustainable as a footpath and two bus stops were to be provided by the site.

Councillor P.G. Heesom said that the application had to be dealt with on its merits and said that the main points to consider were that the footprint was already in the countryside and the landscape was already damaged. The site would not encroach into the Penyffordd area and the reasons for refusal put forward were theoretical and draconian. Another material consideration was that the site was PDL and that something had to be done with the site and that this application would enhance the area. He also mentioned the Dobshill and Meadowslea sites which he felt could not be ignored when considering this site and that precedence could not therefore be used as an argument. He said that he could not see any reason to refuse the application.

The Head of Planning said that legal opinion had been sought due to the significant differences in opinion on whether the land was PDL; the advice clarified that the farmhouse and its curtilage was PDL. Advice had also been sought about what would happen if the light industrial permission was implemented. As reported in paragraph 7.24, this would constitute development of the redundant agricultural buildings by way of a material change of use and the land occupied by those buildings would then be PDL, thereby rendering the site in its entirety PDL from that point onwards. The

legal opinion added that the proximity of the site to Penyffordd and the scale of the site were two substantial reasons to refuse the application.

In response the Development Manager expressed concerns over the comments of Members that we should allow developments wherever we can and whether we were providing the need for housing. He stated that the need in Penyffordd/Penymynydd was being met through the allocations in the UDP, both of which were under construction. With regard to the Meadowslea and Dobshill hospital sites he advised that this could not be used as a comparator as there was a specific policy in the UDP which referred to former institutional buildings outside settlement boundaries, based on such distinction in PPW. The Planning Strategy Manager added that policy CF11 of the Alyn & Deeside Local Plan specifically dealt with hospital sites and it was that positive policy presumption that was the main factor in the decisions reached on those two applications. On the issue of land for housing, he said that there currently was an 8 or 9 year supply. The Development Manager, referring to other factors that had been raised, added that there was also a policy in the UDP which supported the extant permission on the site for the conversion of the buildings to light industrial use. He said that if this application was approved, it would set a precedent for a number of similar sites to come forward which would undermine the Council's policies. He reiterated the fact that the majority of the site, with the exception of the dwelling house and curtilage, could not be considered to be PDL at the present time, but regardless of this the development did not meet the sustainability tests. Once the principle of development had been established there would be little safeguard over the form or scale of development. It was the officer recommendation that the application be refused for the reasons given

In summing up, Councillor Peers said that he felt that he did not require a legal opinion to determine whether it was PDL and that the application should be determined on its merits. He believed that the site was sustainable because of the changes since 2005. He spoke of the comments of Councillor Jones on the Meadowslea site and reiterated that he was proposing approval of the application.

On being put to the vote, the proposal to grant planning permission against officer recommendation was carried by 13 votes to 6 with the voting being as follows:-

#### **FOR – GRANTING PLANNING PERMISSION**

Councillors: D. Cox, A.I. Dunbar, C.A. Ellis, J. Falshaw, R.G. Hampson, P.G. Heesom, R. Hughes, D. Hutchinson, R.B. Jones, D.I. Mackie, M.J. Peers, W.O. Thomas and D.E. Wisinger

#### **AGAINST – GRANTING PLANNING PERMISSION**

Councillors: R.C. Bithell, D. Butler, D. Evans, M. Lowe, N. Phillips and H.G. Roberts



The Head of Planning advised the Committee that as the application had been advertised as a departure from policy, he would consider referring the decision to the Welsh Government, who may choose to call it in.

**RESOLVED:**

That planning permission be granted subject to conditions to be determined by the Head of Planning.

**115. FULL APPLICATION – ERECTION OF A NEW SCHOOL AND ASSOCIATED WORKS AT TALIESIN JUNIOR SCHOOL, TALIESIN AVENUE, SHOTTON (049990)**

The Committee considered the report of the Head of Planning in respect of this application. The usual consultations had been undertaken and the responses received detailed in the report. Additional comments received since the preparation of the report were circulated at the meeting which included an additional condition for a landscape scheme to be submitted and approved.

Councillor D. Evans proposed the recommendation for approval which was duly seconded.

Councillor P.G. Heesom referred to paragraph 7.21 and raised concern about possible land contamination on the site and in response, the officer highlighted conditions 11 and 12.

**RESOLVED:**

That planning permission be granted subject to the additional condition in the late observations and subject to the conditions detailed in the report of the Head of Planning.

**116. FULL APPLICATION – RETENTION AND EXPANSION OF FACILITIES AT EXISTING STREETSCENE DEPOT AT LAND AT ALLTAMI DEPOT, MOLD ROAD, ALLTAMI (049845)**

The Committee considered the report of the Head of Planning in respect of this application. The usual consultations had been undertaken and the responses received detailed in the report. Additional comments received since the preparation of the report were circulated at the meeting.

The officer detailed the background to the report and explained that the application had been deferred at the meeting on 7<sup>th</sup> November 2012 pending receipt of further advice in relation to the proposed food recycling activities at the site.

Mr. S. Jones spoke in support of the application explaining that this was part of the reorganisation of facilities and the application had two main purposes which were, to seek consent to continue the functions at Alltami and

to complete the remodelling work on the site. He said that the proposals had been fully costed and work would go ahead subject to the outcome of this application. He provided details on the four departments which would be operating from the site and spoke of the three main elements to the site which included the proposal to re-clad the 'red shed', to demolish the concrete building and replace it with a purpose built building and to house the food waste facility. He explained that no food waste was left on the site in the evening as it was transferred to the current food waste recycling centre in Telford which was a temporary measure until the regional food waste facility at Rhualt became operational, whereupon the wastes would be transferred there at the end of each day.

Councillor W.O. Thomas proposed the recommendation for approval which was duly seconded. He welcomed the decision to house all of the services on the same site.

Councillor M.J. Peers said that he had proposed deferment at the previous meeting due to concerns about possible double handling of the food waste. He explained that a meeting had taken place with the local Member and the Head of Streetscene who had confirmed that double handling did not take place.

The local Member, Councillor C.A. Ellis congratulated the Head of Streetscene for the consultation which had been undertaken with the neighbouring residents and she reminded Members that no letters of objection had been received as the issues had been addressed. She raised concern about the speed of traffic on the A494 and said that she had previously asked for a reduction in the speed limit. She also asked whether the hours of operation could be conditioned to be 7am to 6pm with the exception of gritting work which could be required 24 hours per day in the winter.

Councillor P.G. Heesom raised concern about whether the site had the capacity to house all of the proposed services and said that the traffic problems at the junction with the A494 would increase. Councillor R.B. Jones requested that an additional condition be included that the food waste not be taken to Brookhill or Standard sites. The officer said that the A494 was a trunk road so the authority did not have the jurisdiction to amend the speed limit but advised Members that the traffic volume as a result of the proposal had been considered.

Councillor Ellis asked whether it was possible to ask the Trunk Road Agency to reconsider the traffic impact and a reduction in the speed limit.

In response to the request to condition for hours of operation, the officer said that there were elements of work at Alltami depot which required 24 hours of operation. He said that hours of operation for the various elements could be identified and conditioned accordingly. On the issue of highways, the Senior Engineer - Highways Development Control confirmed that the Trunk Road Agency had jurisdiction over the A494.

The Democracy & Governance Manager confirmed that the extra conditions requested during the discussion were for hours of operation and that no food waste to be taken to either Standard or Brookhill sites. A request was also made that a letter be sent to the Welsh Government about concerns on the speed limit on the A494. An additional condition regarding surface water drainage was also included in the late observations sheet. Councillor Thomas confirmed that the extra conditions could be incorporated into his proposal to approve the application.

**RESOLVED:**

- (a) That planning permission be granted subject to the conditions detailed in the report of the Head of Planning and to the following additional conditions identified during the determination of the application:-
  - i) Hours of operation in relation to different functions
  - ii) Food waste not to be taken to another handling facility in the County prior to its final disposal
  - iii) drainage conditions from the late observations sheet
- (b) That a letter be sent to the Welsh Government from the Head of Planning on behalf of the Planning Committee to seek a reduction in the speed limit on the A494.

**117. FULL APPLICATION – ERECTION OF A FRAME MOUNTED FUNNEL WHEEL WIND TURBINE AT ALLTAMI DEPOT, MOLD ROAD, ALLTAMI (050145)**

The Committee considered the report of the Head of Planning in respect of this application which had been the subject of a site visit on 10 December 2012. The usual consultations had been undertaken and the responses received detailed in the report.

The officer detailed the background to the report and explained that the height of the turbine would be 12.76m and it was proposed that it would generate electricity in excess of 70,000 kwh of electricity. The main issue was visual impact but a detailed appraisal of this had been carried out and the turbine would be largely screened from public areas.

Councillor H.G. Roberts proposed the recommendation for approval which was duly seconded.

The local Member, Councillor C.A. Ellis, sought clarification on the design of the turbine and asked if a temporary permission could be given to allow for noise problems to be monitored.

Councillor M.J. Peers said that Members on the site visit had been told that the design of the turbine had been changed from what had been presented in the consultation period and queried whether a reconsultation exercise should have taken place because of this. He added that the principle

of the development had been accepted. In response, the Development Manager said that the proposed design was being displayed on the screen at this meeting and that some of the moving parts were now to be enclosed. It had never been stated that the turbine would not create any noise but it was unlikely that it would have a detrimental impact on the nearest properties which were 300 and 310 metres away. He added that the noise would have to be significantly greater than what was already in place and a temporary permission could only be justified if there was evidence of potential noise nuisance which was not the case.

Councillor Ellis proposed an amendment that a temporary permission of 12 months be granted, and this was duly seconded.

Councillor R.C. Bithell said that the Public Protection department had raised no objections to the application. The Planning Strategy Manager concurred and referred Members to paragraph 7.17 where the view of the Head of Public Protection was reported that they were satisfied that the level of noise was not detrimental to the amenity of nearby residents. In response to a query from Councillor W.O. Thomas, the Head of Planning said that a condition could be applied for the noise impact to be reviewed. He suggested that a noise monitoring scheme be put in place and that enforcement action be undertaken if this was not complied with. Councillor Roberts, as the mover of the proposal, confirmed that this condition could be incorporated into his proposal.

**RESOLVED:**

That planning permission be granted subject to an additional condition for a noise monitoring scheme to be approved and implemented and subject to the conditions detailed in the report of the Head of Planning.

**118. FULL APPLICATION – CHANGE OF USE FROM PUBLIC HOUSE TO A SINGLE DWELLING, INCLUDING PART DEMOLITION AND ALTERATIONS, TOGETHER WITH THE CREATION OF A NEW VEHICULAR ACCESS AT WHITE LION INN, FFORDD PEN Y BRYN, NERCYWS (050024)**

The Committee considered the report of the Head of Planning in respect of this application which had been the subject of a site visit on 10 December 2012. The usual consultations had been undertaken and the responses received detailed in the report. Additional comments received since the preparation of the report were circulated at the meeting.

The officer detailed the background to the report highlighting the main issues for consideration which included the principle of development, the highway implications and the effects of the partial demolition, extensions and alterations upon the character and appearance of the building.

Mr. B. Rudham, the agent, spoke in support of the application and provided further information on the various extensions and lean-to elements of

the building. He felt that removal of the lean-to would allow the building to be more in keeping with a dwelling and that the extension proposed would not be excessive as it would only amount to an increase of 42% on the original building after removal of all of the single storey elements. He added that the materials would all match the original building and referred to policies HSG12 and HE1 on extensions and alterations.

Councillor R.C. Bithell proposed the recommendation for refusal which was duly seconded.

The local Member Councillor N.M. Matthews spoke in support of the application. She said that the building was in a conservation area but was not a listed building and the public house had ceased trading four years ago and there had been no interest in the building. She felt that the proposal would return the building to its original use and would enhance the area and said that the residents in the village would like something done to the building. She commented on the problems of flooding in the cellar which occurred regularly and added that the proposals for highways amendments would improve the area. Councillor W.O. Thomas felt that something needed to be done to the building and that a sympathetic use would be beneficial to the area.

The officer said that the extension at the front of the public house which was part of the character of the property and the vernacular, including its close proximity to the road. The Planning Strategy Manager said that the building would not be in the conservation area if it did not make a contribution and negotiations had taken place with the applicant to try to identify a proposal which was agreeable to all parties and he therefore felt that refusal was the correct way forward.

In summing up, Councillor Bithell said that the impact of the building on the conservation area had to be considered and the two storey extension was deemed to be out of character with the area.

**RESOLVED:**

That planning permission be refused for the reasons detailed in the report of the Head of Planning.

**119. FULL APPLICATION – SUBSTITUTION OF 8 NO. HOUSE TYPES ON LAND AT (RESIDENTIAL DEVELOPMENT – ALLTAMI HEATH), FIELD FARM LANE, BUCKLEY (050151)**

The Committee considered the report of the Head of Planning in respect of this application. The usual consultations had been undertaken and the responses received detailed in the report.

The officer detailed the background to the report which was a full application proposing the substitution of house types on 8 no. plots and erection of an additional dwelling. He detailed the consultations which had

been undertaken and explained that no objections had been received from the formal consultees.

Ms. L. Hawley, spoke in support of the application on behalf of the applicant. She said that work on the site had commenced and sales on the site had been encouraging. This application was being submitted as the result of an improved internal layout and did not introduce any previously unused house types on to the site. She detailed the shared equity scheme offered by the applicants and added that the proposal was due to a change in market demands.

Councillor R.C. Bithell proposed the recommendation for approval which was duly seconded.

The local Member Councillor C.A. Ellis said that this was the second change in house types since the original application had been permitted and she concurred with the first point made by Buckley Town Council. She raised concern as she felt that the proposed changes to the site were going away from what had originally been permitted.

In response, the officer said that it was not unusual to receive amendments to schemes which affected a relatively small part of the site and he added that the proposal did meet planning guidance standards.

**RESOLVED:**

That planning permission be granted subject to the conditions detailed in the report of the Head of Planning.

**120. FULL APPLICATION – ERECTION OF A DWELLING REPLACING A DESIGN PREVIOUSLY APPROVED AS PART OF APPLICATION REFERENCE 043470 AT THE CROFT, ALLTAMI ROAD, BUCKLEY (049850)**

The Committee considered the report of the Head of Planning in respect of this application. The usual consultations had been undertaken and the responses received detailed in the report.

Councillor H.G. Roberts proposed the recommendation for approval which was duly seconded.

**RESOLVED:**

That planning permission be granted subject to:-

- i) the applicant entering into a Section 106 Obligation/Unilateral Undertaking to provide the following:-
  - Ensure the payment of a contribution of £2500 to the Council for ecology mitigation. Such sum to be paid to

the Council prior to the occupation of the dwelling hereby approved.

- ii) the conditions detailed in the report of the Head of Planning.

**121. GENERAL MATTERS - ERECTION OF KELSTERTON CONVERTER STATION COMPRISING VALVE HALLS, A CONTROL BUILDING AND A SPARES BUILDING TOGETHER WITH OUTDOOR ELECTRICAL EQUIPMENT AND ASSOCIATED INFRASTRUCTURE, SECURITY FENCING, LANDSCAPED AREAS AND HABITAT CREATION AT CONNAH'S QUAY POWER STATION, KELSTERTON ROAD, CONNAH'S QUAY (049981)**

The Committee considered the report of the Head of Planning in respect of this application. The officer detailed the background to the report and reminded Members that the application had been refused at the Planning and Development Control Committee meeting held on 10<sup>th</sup> October 2012 on the grounds of noise and visual impacts. (The report to that committee was circulated with the late observations) He advised that as an appeal had been lodged the view of an external noise consultant had been sought and the advice given was that the noise issue was not defensible on appeal. The Head of Planning said that if agreed at this Committee, then the appeal would continue with the refusal reason of visual impact and advised Members that an application had now been received for an alternative site on the north side of the river.

Councillor R.B. Jones proposed the recommendation to authorise officers to defend the proposal based on refusal reason 1 minus any specific reference to noise which was duly seconded.

Councillor A.I. Dunbar said that residents would not be happy with the proposal to remove noise as a reason for refusal and asked whether the evidence from the noise study could be provided. Councillor R.C. Bithell reminded the Committee of the gypsy site application at Ewloe which did not include noise in the reason for refusal but when the decision was appealed, the Inspector included noise as one of the reasons to dismiss the appeal. He therefore queried whether the Inspector would think that the issue of noise should have been mentioned in the refusal reasons. In response, the Head of Planning said that the difference on this application was that it had been mentioned but there was no evidence to support the refusal for this reason.

**RESOLVED:**

That officers be authorised to defend the proposal based on refusal reason 1 but without any specific reference to noise.

**122. GENERAL MATTERS – VARIATION OF S.106 AGREEMENT TO CHANGE THE ORIGINAL STATUS OF 1 LLYS DEWI, PENYFFORDD, HOLYWELL FROM BEING SHARED OWNERSHIP TO HOMEBUY TENURE AT 1 LLYS DEWI, PENYFFORDD, HOLYWELL (050222)**

The Committee considered the report of the Head of Planning in respect of this application. The usual consultations had been undertaken and the responses received detailed in the report.

Councillor R.C. Bithell proposed the recommendation to change the terms of the section 106 obligation which was duly seconded.

**RESOLVED:**

That the terms of the Section 106 obligation be changed to allow the change to tenure.

**123. APPEAL BY URBAN VISION (UK) LTD AGAINST THE DECISION OF FLINTSHIRE COUNTY COUNCIL TO REFUSE PLANNING PERMISSION FOR THE ERECTION OF 1 NO. DETACHED DWELLINGHOUSE AND GARAGE WITH PRIVATE DRIVE AT 12 LLYS Y WENNOL, NORTHOP HALL (047127)**

Following a comment from Councillor P.G. Heesom about the refusal of the application by Committee against officer recommendation, the Head of Planning advised that the outcome of the appeal would be considered at a future meeting of the Planning Protocol Working Group.

**RESOLVED:**

That the decision of the Inspector to dismiss this appeal be noted.

**124. APPEAL BY MR. M. ROONEY AGAINST THE DECISION OF FLINTSHIRE COUNTY COUNCIL TO REFUSE PLANNING PERMISSION FOR CHANGE OF USE OF LAND FOR THE STATIONING OF CARAVANS FOR THE RESIDENTIAL PURPOSE FOR 5 NO. GYPSY PITCHES TOGETHER WITH THE FORMATION OF ADDITIONAL HARDSTANDING AND UTILITY/DAYROOMS ANCILLARY TO THAT USE AND RETENTION OF EXISTING STABLES AT EWLOE BARN WOOD, MAGAZINE LANE, EWLOE (049152)**

**RESOLVED:**

That the decision of the Inspector to dismiss this appeal be noted.



**125. LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985 – TO CONSIDER THE EXCLUSION OF THE PRESS AND PUBLIC**

**RESOLVED:**

That the press and public be excluded from the meeting for the following agenda item which was considered to be exempt by virtue of paragraph 16 (legal advice) of Schedule 12A of the Local Government Act 1972 (as amended).

**126. APPEAL AGAINST THE COUNCIL'S REFUSAL TO PERMIT AN APPLICATION TO REMOVE CONDITION 15 IMPOSED ON RESERVED MATTERS APPROVAL NO. 046595 RELATING TO A DEVELOPMENT AT CROES ATTI, CHESTER ROAD, OAKENHOLT – COUNSEL'S ADVICE**

The Committee considered the report of the Head of Planning in respect of this application.

The Principal Solicitor detailed the background to the report and explained the advice which had been received from Counsel.

Councillor R.C. Bithell proposed the recommendation that the Planning Inspectorate be advised that the County Council did not intend to defend the imposition of condition 15 upon reserved matters approval no. 046595 which was duly seconded. He welcomed the report stating that if we continued with the appeal we would not have a leg to stand on. In seconding, Cllr G. Roberts stated that we would be subject to significant costs.

The local Member, Councillor R. Johnson, spoke against the recommendation referring to the fact that the advice obtained used the word 'almost' rather than 'sure' and that there would therefore be a case to be made at the appeal. She had not been told that she could have requested that consideration of this report could be deferred and said that the barriers would not prevent development and that the new residents would not want a 'rat-run'.

Councillor P.G. Heesom also spoke against the advice given and said that the issue of condition 15 was not what was being argued, it was the impact of the increased traffic on the residents on Prince of Wales Avenue. He spoke of the Inquiry scheduled for 30<sup>th</sup> January 2013 and said that in his opinion, the appeal could be defended.

The Principal Solicitor responded to the issues raised by Councillors Johnson and Heesom. The Head of Planning spoke of the two stages of the public inquiry.

In summing up, Councillor Bithell reiterated his view that the advice given by Planning Officers, legal officers and Counsel should be taken.

**RESOLVED:**

That the Planning Inspectorate be advised that the County Council did not intend to defend the imposition of condition 15 upon reserved matters approval no. 046595 at the forthcoming appeal.

**127. DURATION OF MEETING**

The meeting commenced at 1.00 p.m. and ended at 5.46 p.m.

**128. MEMBERS OF THE PUBLIC AND PRESS IN ATTENDANCE**

There were 25 members of the public and 4 members of the press in attendance.

.....  
**Chairman**

## FLINTSHIRE COUNTY COUNCIL

**REPORT TO:** **PLANNING AND DEVELOPMENT CONTROL COMMITTEE**

**DATE:** **WEDNESDAY 16<sup>TH</sup> JANUARY 2013**

**REPORT BY:** **HEAD OF PLANNING**

**SUBJECT:** **FULL APPLICATION – ERECTION OF 20 NO. SEMI-DETACHED DWELLINGS, PART RECONFIGURATION OF EXISTING (UNADOPTED) ROAD AND EXTENDING TO FORM NEW ROAD LAYOUT AT LAND OFF FAIR OAKS DRIVE, CONNAH’S QUAY**

**APPLICATION NUMBER:** **048610**

**APPLICANT:** **M.J. DAVIES LIMITED**

**SITE:** **LAND OFF FAIR OAKS DRIVE, CONNAH’S QUAY, FLINTSHIRE. CH5 4RR**

**APPLICATION VALID DATE:** **12<sup>TH</sup> MAY 2011**

**LOCAL MEMBERS:** **COUNCILLOR P. MACFARLANE**  
**COUNCILLOR P. SHOTTON**

**TOWN/COMMUNITY COUNCIL:** **CONNAHS’ QUAY TOWN COUNCIL**

**REASON FOR COMMITTEE:** **MEMBER REQUEST, SIZE AND SCALE OF DEVELOPMENT AND REQUIREMENT FOR SECTION 106 AGREEMENT**

**SITE VISIT:** **ALREADY UNDERTAKEN ON 10<sup>TH</sup> DECEMBER 2012**

Members will recall that this application was deferred from the meeting on 12<sup>th</sup> December 2012 for clarity as to whether the proposal was for 14 or 20 dwellings, where the recreation area would be and the topography of the site. For clarity, the application is for 20 dwellings, there is no on site public open space or commuted sum in lieu of, for reasons outlined in paragraphs 7.17 – 7.20 and the applicant’s have now submitted sections through the site illustrating the difference in levels and the impact upon neighbouring properties. These issues have been further addressed within the report.

### **1.00 SUMMARY**

- 1.01 This is a full application for the erection of 20 no. semi-detached dwellings, part reconfiguration of existing (unadopted) road and extending to form new road layout at land off Fair Oaks Drive,

Connah's Quay. The site forms part of a much larger area of land allocated for residential development in the Flintshire Unitary Development Plan. During consideration of the application issues in respect of design, layout, access, residential amenity, ecology and viability have been negotiated and resolved subject to the imposition of conditions and the completion of a Section 106 Legal Agreement.

**2.00 RECOMMENDATION: TO GRANT PLANNING PERMISSION, SUBJECT TO THE FOLLOWING:-**

2.01 That conditional planning permission be granted subject to the applicant entering into a Section 106 Obligation / Unilateral Undertaking to provide the following:-

Enhancement and maintenance of the piece of land in close proximity to the site owned by Flintshire County Council for wildlife and informal recreation.

2.02 The proposal is recommended for approval subject to the following conditions:

2.03 Conditions

1. Time limit on commencement.
2. In accord with approved detail.
3. Re-examination of the scheme viability if permission is not implemented within 3 years of the date of this permission.
4. Samples of all external materials to be submitted and approved prior to commencement.
5. Detailed scheme of hard and soft landscaping to be further submitted and approved in writing prior to commencement.
6. Detailed layout, design, means of traffic calming and signing, surface water drainage, street lighting and construction of internal estate roads to be submitted to and approved by the Local Planning Authority prior to commencement of any site works.
7. Siting, layout and design of the means of site access to be in accordance with submitted drawings and further details to be submitted to and approved by the Local Planning Authority prior to commencement of any site works.
8. Section of carriageway and footway (hatched blue) shall be constructed to adoptable standard prior to commencement of any development on site.
9. Proposed amended private drive access, at junction with proposed adopted road shall have visibility splays of 2.4m x 43m measured along nearside kerb line. Visibility splays are to be over land within control of the applicant and/or Highway Authority and within which there shall be no obstruction to visibility in excess of 0.6m above nearside channel level of adjoining highway. All private drives shall have internal

- visibility requirement of 2.4m x 3.3m
10. The front of garages shall be set back a minimum distance of 5.5m behind back of footway line or 7.3m from the edge of carriageway in case where crossing of a grassed service margin is involved.
  11. Facilities shall be provided and retained within the site for the parking, turning, loading and unloading of vehicles associated with the proposal and associated operations.
  12. Positive means to prevent run off of surface water from any part of the site into the highway shall be provided in accordance with details to be submitted to and approved by the Local Planning Authority prior to commencement of any site works.
  13. No development shall take place, including site clearance work until a Construction Traffic Management Plan has been submitted to, and approved in writing by the Local Planning Authority.
  14. Foul water and surface water discharges drained separately from site.
  15. No surface water to connect, directly or indirectly to public sewerage system unless approved by Local Planning Authority.
  16. Land drainage run-off not permitted to discharge, directly or indirectly into public sewerage system.
  17. No development shall commence until the developer has prepared a scheme for the comprehensive and integrated drainage of the site showing how foul water, surface water and land drainage will be dealt with and approved by the Local Planning Authority.
  18. No buildings on the application site shall be brought into beneficial use earlier than 31<sup>st</sup> March 2013, unless the upgrading of the waste water treatment works, into which the development shall drain, has been completed and written confirmation of this has been issued by the Local Planning Authority.
  19. Prior to commencement of development, details of existing and proposed site levels and proposed finished floor levels of the buildings shall be submitted to and approved in writing by the Local Planning Authority.
  20. No development to begin until details of a “Design Stage” Assessment and related certification have been submitted to and approved by the Local Planning Authority. Development carried out entirely in accordance with approved assessment and certification unless otherwise approved in writing by the Local Planning Authority.
  21. Each dwelling hereby permitted shall be constructed to achieve a minimum Code for Sustainable Homes Level 3 and achieve 1 credit under Category Ene 1 in accordance with the requirements of code for sustainable homes – Technical Guide April 2009.
  22. No dwelling shall be occupied until a code for sustainable

homes "Post Construction Stage" assessment has been carried out in relation to it, a final certificate has been issued for it certifying that Code Level 3 and 1 credit under Ene 1 have been achieved in writing by the Local Planning Authority.

23. Prior to commencement of development, details of all boundary treatments to be submitted and approved.
24. Prior to commencement of development, a scheme of reasonable avoidance measures to mitigate against great crested newts to be submitted and approved. Agreed scheme implemented thereafter.
25. Final dwelling not occupied until all roads and pavements completed to adoption standard.

### **3.00 CONSULTATIONS**

#### **3.01 Local Members:**

##### Councillor P. MacFarlane

Requests application be referred to Planning Committee as it is a significant development which will impact on the character of the existing houses. Requests site visit to see how proposals would alter and impact on the existing nature of the properties and likes to make the following observations:

- Since completion of the last phase, the road has yet to be adopted owing to the failure of the developer to complete the necessary work
- No further permissions should be considered on this site until the road is brought upto an adoptable standard.

##### Councillor P. Shotton

Requests that the application be referred to Planning Committee due to strong residents concerns.

##### Connah's Quay Town Council

Requests any further development should be in character and reflect the nature and types of existing development in the area. Therefore, request a site visit with local Members invited.

##### Head of Assets and Transportation

Recommends that any permission shall include suggested conditions.

##### Head of Public Protection

No adverse comments to make regarding the proposals.

##### Director of Lifelong Learning

Impact of pupil numbers that proposed development will have, indicates that Wepre CP and Connah's Quay High Schools will have the greatest need for additional capacity. Therefore the financial contributions requested are £17,500 for Wepre CP and £10,500 for

Connah's Quay High School.

Public Open Spaces Manager

Initial comments were that based on 20 units, an area of land measuring approximately 1,120 sq m was requested. Also requested that the open space would need to be enclosed, or equipped with childrens play equipment and landscaped to the satisfaction of the authority. Following comments from Council's Ecologist advises that unless a 4 m access way can be provided to create pedestrian and maintenance access way through the hedge to link this open space with the proposed open space from adjacent development it is considered that it would be difficult to create a quality play space. Unless an area of open space could be identified adjacent to the 3<sup>rd</sup> phase, authority may wish to consider seeking an off site capital payment in lieu of on site provision.

Housing Strategy Manager

Based on 20 units, 30% provision on site would be 6 units. Preferred options of delivery would be 6 units while mix would be 4 x 2 bed and 2 x 3 bed for affordable rental or 3 units to be sold at 50% market value or 4 commuted sum for £250,000.

Environment Agency Wales

Standard advice applies.

Welsh Water/Dwr Cymru

Requests that if minded to grant planning consent for the above development that suggested conditions and advisory notes are included within the consent. Proposed development would overload the existing waste water treatment works. Improvements are planned for completion by 31<sup>st</sup> March 2013. Suggests imposition of Grampian condition.

Countryside Council for Wales

No objection to the suggested proposals.

Clwyd Badger Group

Setts located in proximity to the site. Badgers not being able to extend their territory. Development site is a foraging area, without it, badgers will not be able to get their food.

SP Energy Networks

Have plant and apparatus within area. Developer be advised of the need to take appropriate steps to avoid any potential danger that may arise during their works in relation to the electrical apparatus.

National Grid

No response received to date.

Wales & West Utilities

The developer is to note the presence of intermediate/high pressure gas main(s) in proximity to the site. No excavations are to take place above or within 10m of the confirmed position of these mains without prior consultation.

Airbus

Do not have any comment on this development as it is below the height required for CAA consultation purposes.

**4.00 PUBLICITY**

**4.01 Press Notice, Site, Notice, Neighbour Notification**

A petition with 130 signatures and 158 letters of objection received on original consultation. 117 letters of objection received upon the reconsultation of the amended plans. The grounds of objection are summarised below:-

- Existing road remains unadopted with no street lighting or pavements upon first phase
- Not in keeping with or considerate of existing homes
- Increase in anti social behaviour arising from proposed development
- Proposed parking likely to cause a problem as no area for visitors, which will lead to overspill causing a hazard to children, cyclists and other motorists
- Proposed development will be to the detriment to all families lives
- Loss of light and privacy upon adjoining occupiers
- Nuisance in terms of dust, noise and pollution whilst homes under construction
- Additional traffic and roadside parking will cause further traffic congestion, create a bottleneck of traffic and lead to safety hazards for pedestrians and motorists
- No play provision or affordable housing shown on the plans
- Exacerbate existing drainage problems
- Shouldn't be any homes built under power lines
- Local schools and other services are already full to capacity
- Detrimental impact on local wildlife
- Is there a need for this number of houses, given vast 650 houses on former RAF Sealand base.
- Already low voltage problems
- Don't want another Badgers Walk estate
- Standard of properties will not be maintained
- Already an abundance of cost effective housing
- Will lead to dogs being allowed to roam freely and leave excrement in area
- Applicant on forms says he has informed people on application but hasn't.
- Discrepancies on plans



- Increased risk of flooding.
- Numerous unoccupied properties in Deeside that would be occupied.
- Hedges are protected by law.

## **5.00 SITE HISTORY**

5.01 None relevant

5.02 Adjoining Site  
**34942**

Erection of 8 No. detached dwellings and estate road – granted 12<sup>th</sup> February 2008

**01/5/391**

Outline erection of 7 No. dwellings – granted 29th November 2001

## **6.00 PLANNING POLICIES**

6.01 Flintshire Unitary Development Plan

Policy STR1 – New Development

Policy STR4 – Housing

Policy STR7 - Natural Environment

Policy GEN1 – General Requirements for Development

Policy GEN2 – Development Inside Settlement Boundaries

Policy D1 – Design Quality, Location and Layout

Policy D2 – Design

Policy D3 – Landscaping

Policy TWH1 – Development Affecting Trees and Woodlands

Policy TWH2 – Protection of Hedgerows

Policy L1 – Landscape Character

Policy WB1 – Species Protection

Policy WB2 – Sites of International Importance

Policy AC13 – Access and Traffic Impact

Policy AC18 – Parking Provision and New Development

Policy HSG17 – New Housing Proposals

Policy EWP12 – Pollution

Policy EWP13 – Nuisance

Policy HSG8 – Density of Development

Policy HSG9 – Housing Mix and Type

Policy HSG10 – Affordable Housing within Settlement Boundaries

Policy SR5 – Outdoor Playing Space and New Residential Development.

Policy IMP1 – Planning Conditions and Planning Obligations.

Local Planning Guidance Note2 – Space Around Dwellings

Local Planning Guidance Note 13 – Open Space Requirements

National

6.02 Planning Policy Wales 2011

TAN2 – 2006 – Planning and Affordable Housing  
TAN5 – 2009 – Nature Conservation and Planning  
TAN11 – 1997 - Noise  
TAN12 - 2009 – Design  
TAN16 – 2009 – Sport, Recreation and Open space  
TAN22 – 2010 – Sustainable Buildings

6.03 The site forms part of a larger area of land allocated for housing in the Flintshire Unitary Development Plan. It is also located within the settlement boundary for Connah's Quay in the Flintshire Unitary Development Plan which is a Category 'A' settlement. In this context there is a clear policy framework supporting the principle of residential development on the site, subject to open space, affordable housing and educational contributions being provided.

## **7.00 PLANNING APPRAISAL**

7.01 The site comprises 0.55ha of land forming part of a larger agricultural field. It is of an irregular shape, with its eastern boundary bordering onto an access road and rear gardens to residential dwellings, its northern, southern and western boundaries lie adjacent to fields and agricultural land bordered by fencing and hedgerows. There are no trees that are present within or on the boundary of the site. Electricity power lines are above the site to the east which run across in a north-south direction. The site is located in a predominantly rural area. To the east, the site is located adjacent to a late 20<sup>th</sup> century housing estate and a small private residential development.

7.02 It is located upon the western limits of the built up area of Connah's Quay, off an unadopted estate road servicing a small residential development of Fair Oaks Drive. This in turn is served off Mold Road.

7.03 The development is for the erection of 20 No. semi-detached dwellings, of which 10 units will be 3 bedroomed with the other 10 units being 4 bedroomed. At present, there is no vehicular access onto the site. To the eastern boundary, an adopted highway, Fair Oaks Drive terminates at the boundary and an existing unadopted road continues from this point northwards to serve the 8 No. existing dwellings. It is proposed to reconfigure the section of the unadopted road that links Fair Oaks Drive to the proposed access road within the site and thus upgrading it to adoptable standards.

### **7.04 Issues**

The main issues to consider within the determination of this application are the principle of the development in planning policy terms, the provision of open space and affordable housing together with educational contributions, whether the site is viable, the highway implications and the effects of the development upon the character and appearance of the area, the amenities of adjoining residents, wildlife and drainage of the area

- 7.05 Background  
This site is part of a wider housing allocation – HSG1(7) land adjacent Fair Oaks Drive, Mold Road, Connah’s Quay within the Flintshire Unitary Development Plan, nominally providing for 87 units at a ratio of 30 units per hectare.
- 7.06 Detailed pre-application discussions have taken place with the applicants that also included the application site and land to the north within the allocation for 44 units in total. The remaining part of the allocation lies to the south of the site and is for 43 units and is in another separate ownership. The requirements in terms of both on site public open space and affordable housing provision together with educational contributions were provided to the applicants. Despite these negotiations, no application was submitted for the larger site.
- 7.07 The current application was validated on 12<sup>th</sup> May 2011 for 20 units and does not include the northern part of the site. Evidence has been provided by the applicants, which has subsequently been checked by the Council, that the applicants have no legal interest in the northern part of the site.
- 7.08 Principle of Development  
The whole site forms part of a larger area of land allocated for housing in the Flintshire Unitary Development Plan (HSH1(7) – adj. Fair Oaks Drive, Mold Road, Connah’s Quay.
- 7.09 It is also located within the settlement boundary for Connah’s Quay in the Flintshire Unitary Development Plan which is a Category ‘A’ settlement with an array of facilities and services as the site’s allocation for residential development reflects both the strategy of the Flintshire Unitary Development Plan and the principles embodied in Planning Policy Wales. In this context therefore, there is a clear policy framework supporting the principle of residential development on the site, subject to the requisite open space, affordable housing and educational contributions as detailed below being provided.
- 7.10 Recreation and Public Open Space Provision  
Initial consultation with the Head of Play Unit indicated, that based on 20 units, an area of land measuring approximately 1,120sqm was requested be provided on site which has to be located to the south of the site adjacent to the proposed open space, being provided by the developers of the southern section of the allocation. The open space would need to be enclosed, equipped with children’s play equipment and landscaped to the satisfaction of the authority.
- 7.11 These requirements are based upon the guidance within the Local Planning Guidance Note 13 Open Space Requirements and Policy SR5 which is calculated upon 56.65 sq m per dwelling given that the open space is required to be provided on site given the lack of open

space nearby.

- 7.12 However, 4m of the southern boundary hedgerow has to be removed for pedestrian and maintenance linkage with the proposed southern part of the allocation. This is deemed unacceptable by the Council's Ecologist upon the loss of part of a wildlife habitat for birds and bats.
- 7.13 The Head of Play Unit subsequently indicates that if this pedestrian and maintenance access way cannot be provided then it would be difficult to create a quality play space for this development at this location. It is also indicated that unless an area of open space could be identified adjacent to the 3<sup>rd</sup> phase of the development site, the Authority may wish to request seeking an off site capital payment in lieu of on site provision for this application.
- 7.14 Affordable Housing  
Based on 20 units and 30% provision on site the Housing Strategy Manager requests 6 units. The preferred options of delivery being 6 units, where the mix would be 4 x 2 bed and 2 x 3 bed for affordable rental or 3 units to be sold at 50% market value or a commuted sum for £250,000.
- 7.15 Where there is a local need for affordable housing, Policy HSG10 requires the provision of affordable housing as part of land allocated for residential developments within settlements, namely those for 25 or more units or occupying one hectare or more. Where this need exists, the Council will negotiate with developers to provide 30% affordable housing in suitable appropriate schemes within defined settlement boundaries. Strictly, if the land subject of this application were considered to be a site in its own right, these provisions do not apply for this planning application as those thresholds stated within Policy HSG10 are not exceeded.
- 7.16 Educational Contributions  
Consultation with the Director of Lifelong Learning indicates that based on a scheme of 20 units, the impact on pupil numbers that this development will have, indicates that Wepre CP and Connah's Quay High Schools will have the greatest need for additional capacity. Therefore the financial contributions requested are £17,500 for Wepre CP and £10,500 for Connah's Quay High Schools. These requirements reflect the approach within Policy IMP1 of the adopted Flintshire Unitary Development Plan and Local Planning Guidance Note 23.
- 7.17 Viability  
The application has been the subject of lengthy and detailed negotiations in relation to the viability of the site in terms of its ability to yield the level of planning gains identified above in accordance with the provisions of the Flintshire Unitary Development Plan. For clarity these relate to public open space, affordable housing and education

provision.

- 7.18 Studies undertaken by the developer have been the subject of independent assessment by the Valuation Office Agency (VOA). This assessment confirms that the viability assessment is accurate and does indeed indicate that, as a combination of the small size of the site, the current economic situation and the abnormal cost associated with the development of the site (diversion of the high pressure gas main), the profits arising from this scheme would not reasonably allow for the provision of the planning gains identified in paragraph 7.17 and therefore in strict accordance with the requirements of the Flintshire Unitary Development Plan policies.
- 7.19 Consultation with Wales and West Utilities indicates that an intermediate/high pressure gas main runs across the site in an east-west direction to the south of the site. To accommodate the southern part of the development this is having to be diverted, so that it is now located approximately 5 m away from the proposed dwellings to the south of the site. Consultation with Wales and West Utilities indicates that this is now acceptable. The applicants in their viability appraisal estimate the cost of this diversion is £237,500. The VOA has concluded that “this figure is supported by documentation and that this is a significant sum for such a small development and directly impacts on the overall viability”.
- 7.20 Given the exceptional abnormal cost of relocating the gas main on such a small site, it is for this reason that the site would only be viable development by not requiring the normal planning obligations associated with such development. This does not necessarily apply, however, to other parts of the allocated site where the majority of the balance of the allocated number of units (67) are considered to be free from constraint and therefore capable of delivering normal planning obligations.
- 7.21 Highways  
The main access to the site is proposed off the unadopted road serving the existing development of 8 houses off Fair Oaks Drive to the south east of the site. The existing road will be reconfigured to allow access to both the proposed development and the existing residential properties. This will, in part leave a piece of land in front of No. 26 Fair Oaks Drive ‘vacant’ and still in the ownership of the applicant who has indicated that this will be landscaped as part of the development. Internal roads are also proposed within the site serving the proposed houses, with two proposed car parking spaces per unit coming off them.
- 7.22 The Head of Assets & Transportation considers these arrangements to be acceptable subject to appropriately worded conditions. The existing road and footways serving the existing small development is still unadopted. Condition No. 8 attached to planning application

34942 required these roads and footways be brought up to an adoptable standard upon occupation of the final dwelling on the development. This has been clearly breached and as a result, action has been taken by the enforcement section. The developer has now undertaken some works to remedy this breach, with the applicant now stating that all outstanding works will be completed up to the reconfiguration of the new road layout by 15<sup>th</sup> January 2013. Similar conditions are proposed to be attached to this permission to ensure the road and footways are brought up to an adoptable standard. Again, enforcement action will result if these are breached.

7.23 Character and Appearance of Area

The site and the areas to the west, north and south are predominately rural in character. However, to the east lies residential development whereby the prevailing house types are detached and of two storey.

7.24 The development will be a mix of 2-3 storey semi-detached dwellings with pitched roofs and dormers. The external materials of which will be of concrete tiled roofs with facing brick walls and soldier course detailing to window and door openings. This combination of varying 2-3 storey ridge heights, dormer roof details, brick opening details and porch features adds variation and interest to the development.

7.25 The site layout is conventional in style and it is considered reflects the general layout of surrounding roads and properties where the properties directly front onto the main access road.

7.26 The density of development equates to approximately 36 dwellings per hectare. HSG8 of the Flintshire Unitary Development Plan advises that on allocated sites in Category A settlements the general minimum net housing density should aim to achieve 30 dwellings per hectare. This is a minimum figure, with the density of development upon this site being actually lower compared to other developments in the vicinity e.g., Machynlleth Way and Coniston Close where the density is approximately 47 dwellings per hectare.

7.27 A landscaping scheme is proposed which will comprise of grass and shrubbery strips to the sides of the driveways to provide visual interest as well as demarcate the boundaries between public and private spaces and between units. The existing hedgerows located on both the western and southern boundaries will be retained and additional shrubbery and a mixture of trees to front gardens will add to the rural feel of the development.

7.28 Impact Upon Adjoining Residents

Those existing properties most affected by the proposals are Nos 26 & 28 Fair Oaks Drive and Nos 2 & 4 The Highcroft which lie immediately adjacent to the site, to the north-east and east of the development respectively. The site is also at a higher level than those on Fair Oaks Drive. It is approximately 2 m higher from No. 26 Fair

Oaks Drive to Plots 1 & 2.

- 7.29 Due to concerns from residents in terms of the loss of their potential amenities (overlooking, loss of light, obtrusiveness etc), the applicants have revised the proposed layout of the proposed development which now shows that the proposed dwellings of plots 1 – 4 which face No. 26 Fair Oaks Drive and side onto No. 2 The Highcroft are now 2 storey instead of 3 storey, with those 3 storey dwellings being moved further away from the existing properties within the scheme.
- 7.30 The separation distance between the front first floor windows 1 & 2 the proposed plots and the front windows of No. 26 Fair Oaks Drive is approximately 25 m with the distance between the side of proposed plot 1 and No. 2 The Highcroft being approximately 14 m away. The rear of both plots 17 & 18 will be approximately 38 m away from the front of No. 26 with the rear of both plots 19 & 20 being located approximately 32 m away from the side of No. 26.
- 7.31 The above distances meet the minimum distance separation guidelines outlined in Local Planning Guidance Note 2 'Space Around Dwellings' and also take into account the difference in levels as detailed in paragraph 7.28 above.
- 7.32 Condition 19 requires the submission and approval of existing and proposed finished floor levels prior to commencement of the development to ensure that the dwellings are constructed in accordance with the now submitted sectional plans showing the proposed levels and that the required amenity distances are adhered to.
- 7.33 Given the above, it is considered that there will not be a significant detrimental impact upon either the amenities of the existing and proposed occupiers in terms of loss of light, privacy and obtrusiveness etc. In terms of the size of the private amenity spaces of the proposed dwellings these also meet the guidelines as stated within the guidance note.
- 7.34 Ecology  
The Deeside and Buckley Newt Sites Special Area of Conservation (SAC) and Wepre Wood Site of Special Scientific Interest (SSSI) designated for great crested newts (GCN) and known breeding sites occur within 500m to the south of the site.
- 7.35 European Protected Species (EPS) and their breeding sites and resting places are protected under Regulation 41 of the Conservation of Habitats and Species Regulations 2010 (as amended) and under Article 12 of the EC Directive 92/43/EEC in the United Kingdom. Plans or projects that could affect EPS must satisfy the appropriate Article 16 derogation and two mandatory tests. Disturbance to an EPS whilst occupying a place of shelter and/or obstruction of access

to a place of shelter are also prohibited under the Wildlife and Countryside Act 1981 (as amended by the Countryside and Rights of Way Act 2000).

- 7.36 Regulation 9 (1) and 9 (5) of the Conservation of Habitats and Species Regulations 2010 (as amended) requires public bodies in exercise of their functions, to ensure compliance with and to have regard to the provisions of the 1992 'Habitats' Directive (92/43/EEC). Consequently the Local Planning Authority decision making must be undertaken in accordance with the compliance of the Habitats Directive.
- 7.37 The Local Planning Authority must be satisfied that a proposal satisfies the appropriate Article 16 derogation and two mandatory tests as part of the planning decision process. The need is to consider this derogation is specifically identified in TAN5 and Regulation 53 of the Conservation and Habitats and Species Regulations 2010. In consideration of these requirements is it considered that the proposals seek to establish the principle of the use of the site for the purposes of residential development. The site lies within the identified settlement boundary of Connah's Quay and is identified as part of a site specifically allocated for residential development. National Planning Policies seek to direct the majority of new development of this form to existing urban centres upon sites which, by virtue of their location in close proximity to existing infrastructure and services, would also satisfy the sustainability aims of national policy.
- 7.38 The application site comprises an area of land which is part of an allocation in the Flintshire Unitary Development Plan. First allocated in 2003 in the deposit plan, the site has been through the full scrutiny process associated with the plan including public consultation and public inquiry. The site and its circumstances have been judged against a number of sustainability criteria via the strategic environmental assessment carried out on sites in the plan. This noted the potential for EPS, in this case GCN and recognised the need to carry out appropriate surveys prior to development. Having assessed the site in this way, both the development plan process and public inquiry has allowed for alternative local sites to be both considered and evaluated with none having been found to be more suitable than the application site. The site was therefore retained within the plan as an allocated site, identified to meet both local and County wide housing needs.
- 7.39 Due to the proximity of the planned development to both the SAC and SSSI, and records of great crested newts within the site boundary in 2003, both the direct and indirect effects on great crested newts need to be considered. An extended Phase 1 Habitat Survey has been submitted with the application and has identified that no aquatic features will be directly affected by the development and there are no



permanent ponds within 250m of the site. The nearest mapped ponds are 350m to the north-west and 400m to the south. The presence of Mold Road to the south of the site represents a significant barrier to movement of amphibian species. Due to the above, it is considered that there will be no adverse direct impact of the development upon these two designated sites.

7.40 The indirect effects on the great crested newt population in relation to the designated sites and its value as terrestrial habitat, as a link to the wider countryside and the increased recreational pressures especially when considered in conjunction with other developments in the Deeside and Buckley area (“in combination effects”) have also been assessed.

7.41 The applicant intends to implement an amphibian exclusion fence around the boundary of the development, to be kept in place, monitored and maintained throughout the duration of works on site. However, it is anticipated that amphibian trapping will not be necessary as the development site and adjoining land is currently maintained as short grassland, with the grass being regularly cut to a length less than 10cm. The developer also proposes to work together in a long term partnership in the enhancement and maintenance of a piece of land in close proximity to the site owned by Flintshire County Council. Therefore any displacement caused by the development is locally offset by the improvement of this adjacent green space land. In addition, a pedestrian access will be provided into this piece of land.

7.42 Immediately adjacent to the northern boundary of the field – some 80m from the site, is wetland managed by Flintshire County Council as a ‘natural greenspace’. This habitat offers potential terrestrial habitat for newts and other amphibians as well as informal recreation. The development will result in the change of an area of improved agricultural grassland to residential housing and gardens. There will be no negative effect on the hedgerows surrounding the development and no mature trees will be adversely affected as these features are beyond the development site boundary/outside the site.

7.43 Given the above, it is considered that the development will have no significant adverse impact upon the ecological value of the SAC or SSSI directly and that any indirect adverse effects can be adequately mitigated against.

7.44 The above proposals will avoid any significant adverse effects on the features and integrity of the Deeside & Buckley Newt SAC and SSSI.

7.45 In relation to badgers there are no known setts on the development site itself and the development will not result in a significant loss of foraging habitat.

7.46

The hedgerows upon the boundaries of the site will be retained and therefore there will be no detrimental impact upon this habitat for bats or breeding birds.

7.47

Adequacy of Foul/Surface Drainage and Flood Risk

Representations have been made to the effect that the existing drainage infrastructure in the locality is inadequate to serve the proposed scale of the development. The proposals have been the subject of consultation with Dwr Cymru Welsh Water who advise that in relation to foul drainage that a programme of system improvements are planned and are expected to be completed by April 2013. Accordingly, they request that a Grampian Style condition restricting the occupation of the proposed dwellings to a point not earlier than the 1<sup>st</sup> April 2013. This has been imposed as a condition upon the recommendation. Subject to the imposition of other conditions in respect of the submission, agreement and implementation of detailed drainage schemes, there is no objection to the proposal on drainage grounds.

7.48

The site lies outside of any flood zone but consultation has been undertaken with Environment Agency Wales, who accordingly advise that they raise no objection to the development on these grounds.

7.49

Other Matters

Members will note that the recommendation to grant planning permission is subject to a Section 106 Legal Agreement and conditions. Condition 3 in paragraph 2.03 requires the re-examination of the scheme's viability within 3 years if the permission is not implemented. Whilst the VOA recommends that the viability assessment be reviewed within 1 year should there be a significant change in market conditions or a saving in anticipated costs prior to implementation, it is considered that 3 years is a more appropriate and reasonable timeframe for the scheme's viability to be reviewed.

7.50

With regard to the points raised by the residents (within paragraph 4.01) in terms of the applicant stating at question 8 – Neighbour and Community Consultation on the planning application forms that neighbours and the community have been consulted on the application, this has been checked and the applicant had not in fact consulted the community on the application. The application forms have been subsequently amended.

7.51

In addition, the Design and Access Statement has been amended to rectify the discrepancy upon the number of bedrooms stated in the DAS and upon the layout plans for the Type C dwellings. This matter was also raised as a discrepancy by objectors at paragraph 4.01.

**8.00 CONCLUSION**

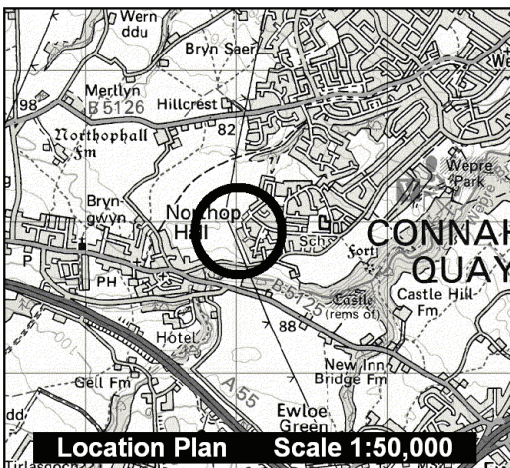
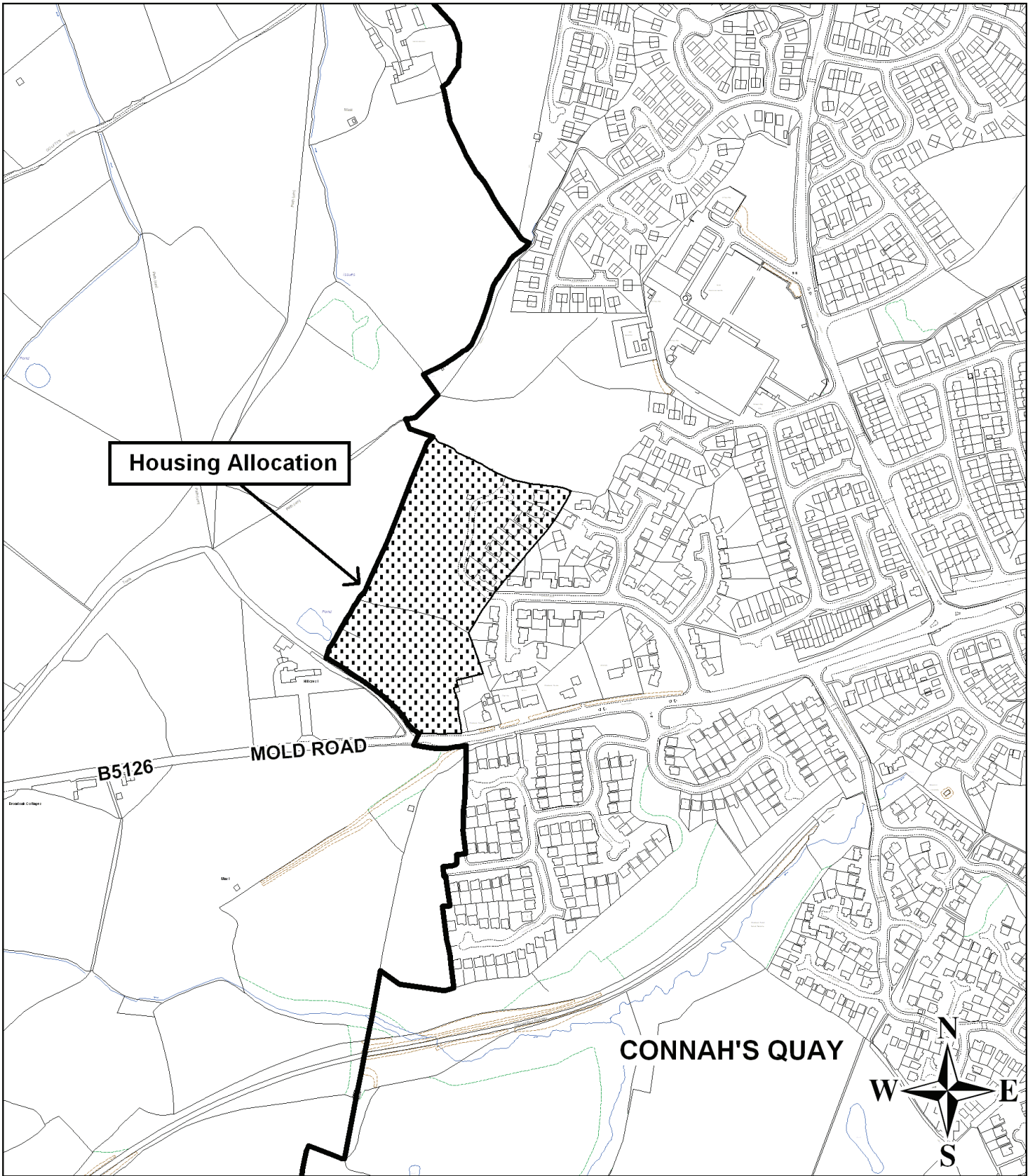
It is considered that the detailed matters of this development are

acceptable on this part of the wider housing allocation. I therefore recommend accordingly.

- 8.01 In considering this planning application the Council has acted in accordance with the Human Rights Act 1998 including Article 8 of the Convention and in a manner which is necessary in a democratic society in furtherance of the legitimate aims of the Act and the Convention.

**Contact Officer:** Alan Wells  
**Telephone:** 01352 703255  
**Email:** alan.wells@flintshire.gov.uk

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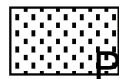


Environment Directorate,  
 Flintshire County Council, County Hall,  
 Mold, Flintshire, CH7 6NF.  
 Director: Mr. Carl Longland

**Legend**



Adopted Flintshire Unitary  
 Development Plan  
 Settlement Boundary



Housing Allocation HSG1(7)

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Map Scale 1:5000

OS Map ref SJ 2868

Planning Application **48610**

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## FLINTSHIRE COUNTY COUNCIL

**REPORT TO:** **PLANNING AND DEVELOPMENT CONTROL COMMITTEE**  
**DATE:** **16<sup>TH</sup> JANUARY 2013**  
**REPORT BY:** **HEAD OF PLANNING**  
**SUBJECT:** **OUTLINE APPLICATION – DEMOLITION OF 2 NO. EXISTING BUNGALOWS AND ERECTION OF 5 NO. DWELLINGS ON LAND AT 85 – 87 WEPRE LANE, CONNAH’S QUAY.**  
**APPLICATION NUMBER:** **048261**  
**APPLICANT:** **MRS K. HUGHES**  
**SITE:** **LAND AT 85/87 WEPRE LANE, CONNAH’S QUAY, DEESIDE.**  
**APPLICATION VALID DATE:** **7<sup>TH</sup> SEPTEMBER 2011**  
**LOCAL MEMBERS:** **COUNCILLOR I. DUNBAR**  
**COUNCILLOR I. SMITH**  
**TOWN/COMMUNITY COUNCIL:** **CONNAH’S QUAY TOWN COUNCIL**  
**REASON FOR COMMITTEE:** **MEMBER REQUEST GIVEN CONCERNS ABOUT OVERDEVELOPMENT AND ADEQUACY OF ACCESS**  
**SITE VISIT:** **YES**

### **1.00 SUMMARY**

1.01 This outline application proposes the demolition of 2 No. existing bungalows at 85/87 Wepre Lane, Connah’s Quay and redevelopment of the site and associated curtilages by the erection of 5 No. dwellings. All matters of detail are reserved for subsequent approval.

### **2.00 RECOMMENDATION: TO GRANT PLANNING PERMISSION, SUBJECT TO THE FOLLOWING:-**

2.01 That subject to the applicant entering into a Section 106 Obligation/Unilateral Undertaking or advance payment of:-

- a. £1,100 per dwelling in lieu of on site play provision and

b. £2,500 per dwelling towards the management of the Deeside and Buckley Newts Special Area of Conservation (SAC) that planning permission be granted subject to the following conditions.

1. Outline – Reserved Matters
2. Outline – Time Limit
3. Materials to be submitted and approved
4. Siting, layout, design of site access to be submitted and approved.
5. Forming of site access not to commence until details have been approved.
6. Access to have a visibility splay of 2.4 m x 43 mm both directions.
7. Visibility splays to be kept free from obstructions during construction works.
8. Facilities to be provided and retained within the site for the parking and turning of vehicles.
9. Gradient of access for a minimum of 10 m to be 1:24 and a maximum of 1:15 thereafter.
10. Positive means to prevent run-off of surface water onto highway to be submitted and approved.
11. Foul and surface water to be drained separately.
12. No surface water to discharge into public sewerage system
13. No land drainage to discharge into public sewerage system.
14. Removal of permitted development rights.
15. Submission for approval of a compensation scheme and ecological mitigation statement prior to the commencement of development.
16. Details of bat roost to be submitted and approved with timescale for its provision.

### **3.00 CONSULTATIONS**

#### **3.01 Local Member**

##### **Councillor I. Dunbar**

Requests site visit and planning committee determination given concerns about adequacy of access and over-development of the site.

##### **Councillor I. Smith**

Requests site visit and planning committee determination given concerns about adequacy of access and overdevelopment of the site.

##### **Connah's Quay Town Council**

The Town Council objects to this proposal on highway safety grounds. The site will generate traffic flows for access/and egress which raises concerns about safety and visibility. There is also some concern as the nearby bus stop could pose an additional traffic hazard due to lack of visibility.



Head of Assets and Transportation

A development of 5 No. dwellings could be adequately served from a shared private driveway accessed from Wepre Lane by a dropped footway crossing. Request that any permission be subject to conditions in respect of access, visibility and parking.

Head of Public Protection

No adverse comments.

Welsh Water/Dwr Cymru

Recommend that any permission includes conditions in respect of foul, surface and land drainage.

Airbus

No aerodrome safeguarding objection.

Countryside Council for Wales

No objection subject to the payment of a financial contribution towards ecological mitigation. The proposal would not have any direct impact upon any protected species in the area.

**4.00 PUBLICITY**

4.01 Site Notice, Neighbour Notification

6 letters of objection received, the main points of which can be summarised as follows:-

- Increased traffic generation and impact on highway safety.
- Impact on existing infrastructure and services.
- Impact on ecology.
- Proposal will lead to further residential development at this location at a later stage.

**5.00 SITE HISTORY**

5.01 045983 – Outline – Demolition of existing dwellings and residential development of land – Refused 2<sup>nd</sup> April 2009.

047081 – Outline – Erection of 10 No. dwellings – Withdrawn 7<sup>th</sup> May 2010.

**6.00 PLANNING POLICIES**

6.01 Flintshire Unitary Development Plan

Policy STR1 – New Development.

Policy STR8 – Built Environment.

Policy GEN1 – General Requirements for Development

Policy GEN2 – Development Inside Settlement Boundaries.

Policy D1 – Design Quality, Location & Layout.

Policy D2 – Design.

Policy WB1 – Species Protection.  
Policy AC13 – Access & Traffic Impact.  
Policy AC18 – Parking Provision & New Development.  
Policy HSG3 – Housing on Unallocated Sites within Settlement Boundaries.  
Policy HSG8 – Density of Development.

## **7.00 PLANNING APPRAISAL**

### **7.01 Introduction**

This outline application proposes the demolition of 2 No. existing detached bungalows at 85/87 Wepre Lane, Connah's Quay and development of the site and associated residential curtilages by the erection of 5 No. dwellings. All matters are reserved for subsequent approval.

### **7.02 Site/Surroundings**

The site the subject of this application amounts to approximately 0.2 hectares in area. It is located on the eastern side of Wepre Lane almost directly opposite its junction with Halkyn View and lies adjacent to the Deeside and Buckley Newt Sites Special Area of Conservation (SAC) and Wepre Wood Site of Special Scientific Interest (SSSI). The character of the site/surroundings is predominantly of detached/semi-detached dwellings fronting onto Wepre Lane.

### **7.03 Background History**

For Members information, there is a recent background of planning history at this location which is referred to in paragraph 5.00 of this report. In summary a previous outline planning application was refused under Code No. 045983 on the grounds that (a) part of the site was outside the settlement boundary of Connah's Quay at this location (b) the proposal would be detrimental to the character of the locality (c) the proposal would be likely to affect the Deeside and Buckley Newt Sites Special Area of Conservation and (d) there was insufficient information submitted to assess the impact of development from a highway perspective.

7.04 A subsequent outline planning application submitted under Code No. 047081 for the erection of 10 No. dwellings was withdrawn on 7<sup>th</sup> May 2010. This was primarily as a result of officer concerns that the erection of 10 No. dwellings would represent overdevelopment at this location.

### **7.05 Proposed Development**

This current application has been re-submitted in order to seek to address the above. Although submitted in outline the application as initially submitted proposed the erection of 8 No. dwellings but has been amended and now proposes the erection of 5 No. dwellings. As a result a further round of publicity and consultation has been undertaken.

7.06 The indicative site layout proposes:-

- The erection of a pair of semi-detached dwellings along the site frontage onto Wepre Lane.
- The erection of 3 No. detached dwellings at the rear of the pair of semi-detached dwellings at 90° to Wepre Lane.
- The formation of a new vehicular access into the site at 90° from Wepre Lane.

7.07 Main Planning Issues

It is considered that the main planning issues in relation to this application are as follows:-

- a. Principle of development have regard to the planning policy framework and background of planning history.
- b. Proposed scale of development and impact on character of site/surroundings.
- c. Adequacy of access to serve the development.
- d. Impact on ecology.

7.08 Planning Policy

The proposed dwellings are located within the settlement boundary of Connah's Quay as defined in the adopted Flintshire Unitary Development Plan. Within the UDP Connah's Quay is defined as a category A settlement where general residential development proposals are considered to be acceptable in principle subject to the safeguarding of relevant amenity considerations.

7.09 Scale of Development

The amended plans submitted as part of this application propose the demolition of 2 No. existing detached bungalows and the redevelopment of the site and associated residential curtilages by the erection of 5 No. dwellings. This is a substantial reduction in the scale of development from that for 10 No. dwellings proposed under Code No. 047081 and the 8 No. dwellings initially proposed as part of this current application.

7.10 It is my view that the scale of development now proposed would help to maintain the form of the existing frontage development at this location and a better balanced to those properties proposed at the rear. This would not in my view represent overdevelopment and would be comparative to the scale of existing development along Wepre Lane.

7.11 Adequacy of Access

Consultation on the application has been undertaken with the Head of Assets & Transportation in order to assess on the basis of the indicative layout submitted, whether satisfactory access arrangements can be secured to serve the scale of development proposed. The

Head of Assets & Transportation has advised that a development of 5 No. dwellings could be adequately served from a shared private driveway off Wepre Lane but access would require a visibility splay of 2.4 x 43 m to be provided in both directions with conditions in respect of access and visibility, which can be addressed at reserved matters stage.

7.12 Ecological Issues

The application site is located within 100 m of the Deeside and Buckley Newt Sites Special Area of Conservation (SAC) and Wepre Wood Site of Special Scientific Interest (SSSI) which is designated as a Great Crested Newt Habitat.

7.13 Whilst the proposal for residential development will have no direct effect on the SAC, there is a need to ensure that there are no long term effects on the Great Crested Newt population through agreed avoidance and mitigation measures. The habitat present within the application site is largely garden which is poor GCN habitat although the effects associated with increased recreation pressure from additional housing, especially when considered in conjunction with other developments in the Deeside and Buckley area could have significant environmental effects.

7.14 The EC Habitats Directive 1992 requires the UK to maintain a system of strict protection for protected species and their habitats. The Directive only allows disturbance, or deterioration or destruction of breeding sites or resting places, in the interests of public health and public safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment and provided that there is no satisfactory alternative and no detriment to the maintenance of the species population at favourable conservation status in their natural range.

7.15 The UK implemented the Directive by introducing The Conservation (Natural Habitats etc) Regulations 1994 which contain two layers of protection a requirement on Local Planning Authorities (“LPAs”) to have regard to the Directive’s requirements above, and a licensing system administered by the Welsh Ministers.

7.16 Planning Policy Wales Edition 5 – November 2012 paragraph 5.5.11 advises Local Planning Authorities that “The presence of a species protected under European or UK legislation is a material consideration when a local planning authority is considering a development proposal which, if carried out, would be likely to result in disturbance or harm to the species or its Habitats”.

7.17 Technical Advice Note 5 - Nature Conservation and Planning (2009) states at paragraph 6.3.6:- “Regulation 3(4) of the Habitats Regulations requires all local planning authorities, in the exercise of

their functions, to have regard to the provisions of the Habitats Directive so far as they might be affected by the exercise of those functions. Consequently, the Directive's provisions are relevant in reaching planning decisions where a European protected species may be affected and it is therefore important that such planning decisions are reached in a manner that takes account of, and is consistent with, the Directive's requirements. Those requirements include a system of strict protection for European protected species, with derogations from this strict protection being allowed only in certain limited circumstances and subject to certain tests being met ..... these requirements are transposed by the provisions of the Habitats Regulations. The issues of whether development could give rise to a breach of the Regulations' requirements, and whether there may be a potential need for a licence to avoid such a breach, are therefore a material consideration in a relevant planning decision, and where a licence may be needed, the three licensing 'tests' required by the Directive should be considered by the local planning authority. Paragraph 6.3.7 then states:- "It is clearly essential that planning permission is not granted without the planning authority having satisfied itself that the proposed development either would not impact adversely on any European protected species on the site or that, in its opinion, all three tests for the eventual grant of a regulation 44 (of the Habitats Regulations) licence are likely to be satisfied".

7.18 In this case it is considered that mitigation measures would compensate for any adverse impacts arising from the increase in human activity from the development of this site in this location. These include:

1. Reasonable avoidance measures being undertaken to include temporary amphibian fencing prior to the commencement of development and provision of amphibian friendly road drains, gutters and kerbs.
2. The creation of a terrestrial habitat buffer between the development and the SAC corridor.
3. A financial mitigation sum in lieu of the provision of mitigation land to be used to alleviate potential indirect effects arising from increased recreational activity as a whole.

7.19 The proposed development and mitigation proposals have been assessed and it is considered that the development is not likely to have a significant effect on protected species or the adjacent SAC. It is considered that this application satisfies the three tests required by the Habitats Directive. It is considered that, in needing to ensure that the requirement to maintain the favourable conservation status of the species, whilst having due regard to the issues of public need and no satisfactory alternative, an appropriately worded condition to address and secure the suggested mitigation is proposed to be imposed. In addition, the issue of financial contribution can be addressed via the

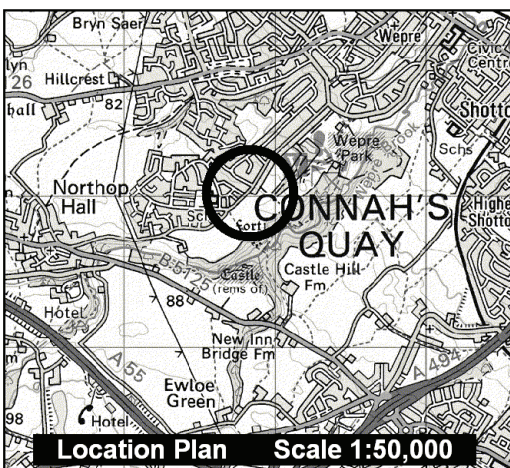
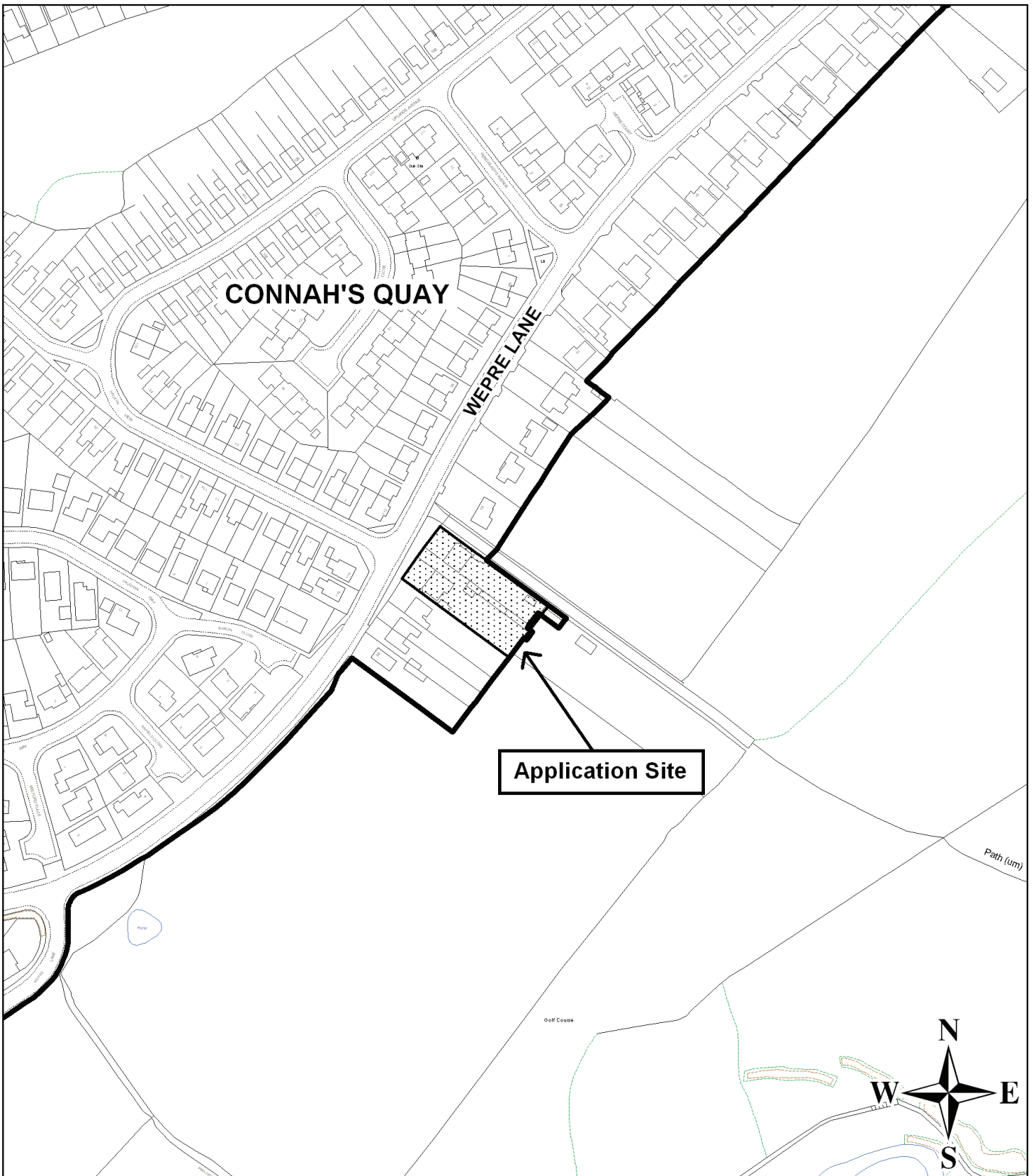
applicant entering into an appropriately formed Section 106 Obligation.

- 7.20 In addition to the above and as the proposal involves the demolition of two existing bungalows on the site, a bat survey has been undertaken in order to assess whether any protected species may be present within the roofspace(s) of the building(s). The survey confirms that there is no evidence of the presence of bats within either of the buildings but given the proximity of the site to Wepre Wood, it is proposed that a bat roost is provided within the site curtilage. This can be covered by the imposition of a condition if Members are mindful to grant planning permission for the development.

## **8.00 CONCLUSION**

- 8.01 In conclusion, it is my view that the proposed scale/form of development as currently proposed would be sympathetic to the character of the site and its surroundings. Although submitted in outline form with all matters reserved for subsequent approval, some minor modifications to the indicative site layout submitted would ensure that the requirements of the Head of Assets & Transportation and Countryside Council for Wales, are included by the imposition of conditions and implemented at the detailed planning stage. I therefore recommend accordingly.
- 8.02 In considering this planning application the Council has acted in accordance with the Human Rights Act 1998 including Article 8 of the Convention and in a manner which is necessary in a democratic society in furtherance of the legitimate aims of the Act and the Convention.

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Environment Directorate,  
 Flintshire County Council, County Hall,  
 Mold, Flintshire, CH7 6NF.  
 Director: Mr. Carl Longland

**Legend**

 Adopted Flintshire Unitary  
 Development Plan  
 Settlement Boundary

 Application Site Extent

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Map Scale 1:2500

OS Map ref SJ 2868

Planning Application **48261**

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## FLINTSHIRE COUNTY COUNCIL

**REPORT TO:** **PLANNING AND DEVELOPMENT CONTROL COMMITTEE**

**DATE:** **16<sup>th</sup> JANUARY 2013**

**REPORT BY:** **HEAD OF PLANNING**

**SUBJECT:** **RESERVED MATTERS - DETAILS OF APPEARANCE, LANDSCAPING, LAYOUT AND SCALE AND ACCESS THERETO, SUBMITTED IN ACCORDANCE WITH CONDITION NO. 1 OF OUTLINE PLANNING PERMISSION REF: 047769 TO ALLOW RESIDENTIAL DEVELOPMENT OF 19NO. DWELLINGS AT THE FORMER "WILCOX COACH WORKS", AFONWEN, MOLD**

**APPLICATION NUMBER:** **048465**

**APPLICANT:** **ST JOHNS ESTATES LTD**

**SITE:** **FORMER "WILCOX COACH WORKS",, AFONWEN, MOLD**

**APPLICATION VALID DATE:** **4/ 4/2011**

**LOCAL MEMBERS:** **COUNCILLOR J. E. FALSHAW**

**TOWN COUNCIL:** **CAERWYS TOWN COUNCIL**

**REASON FOR COMMITTEE:** **AT THE REQUEST OF THE LOCAL MEMBER**

**SITE VISIT:** **YES. AT THE REQUEST OF THE LOCAL MEMBER WHO CONSIDERS THAT MEMBERS OF THE COMMITTEE WILL NEED TO SEE THE SITE TO FULLY APPRECIATE HIS COMMENTS.**

### **1.00 SUMMARY**

- 1.01 This Reserved Matters application is submitted following the grant, and subsequent renewal, of Outline Planning Permission for the development of this land at The Former Wilcox Coachworks site, Afonwen, Near Mold, for residential purposes.
- 1.02 Members will recall that access was a matter approved at Outline Permission stage and therefore this submission seeks approval of

matters relating to appearance, landscaping, layout and scale (The Reserved Matters).

- 1.03 This application seeks approval of details to provide 19 dwellings on the land. During the consideration of the application, issues in respect of design, visual impact, landscape, affordable housing and recreation provision have been negotiated and resolved subject to the imposition of conditions and a S106 agreement as detailed elsewhere in this report.

**2.00 RECOMMENDATION: TO GRANT RESERVED MATTERS APPROVAL, SUBJECT TO THE FOLLOWING:-**

- 2.01 That conditional planning permission be granted subject to the applicant entering into a Section 106 Obligation/Unilateral Undertaking to provide the following:-

a. The payment of a contribution of £156,000 towards affordable homes provision in the community. Such sum to be paid upon completion or occupation of the 9<sup>th</sup> dwelling hereby approved.

**Conditions**

1. Time limit on commencement.
2. In accord with approved plans.
3. Samples of all external materials of dwellings, hard surfaces, footpaths and driveways to be submitted and approved.
4. Implementation of approved landscaping scheme.
5. Code for Sustainable Homes "Interim Certificate" to be submitted before work commences.
6. Code for Sustainable Homes "Final Certificate" to be submitted before houses occupied.
7. No site clearance works during bird nesting season
8. Scheme for hours of working to be agreed.
9. Construction traffic management and routing scheme to be agreed. To include facility for wheel wash and measures to keep road free from mud arising from development site.
10. Protective fencing as per Arboricultural report to be provided before works commencement.
11. Arboricultural Method Statement (AMS) to be provided in respect of all works within Construction Exclusion Zones around trees.
12. Notwithstanding the submitted details a scheme for equipping, layout, landscaping, surfacing, maintenance and management of the play area to be submitted and agreed.
13. Remove Permitted Development rights for further extensions, structures and openings.
14. No external lighting without a further grant of planning permission.

**3.00 CONSULTATIONS**

3.01 Local Member

Councillor J. E. Falshaw

Requests a committee determination and Site Visit.

Has concerns in respect of the density of the proposal, its visual impact, drainage matters and affordable housing provision which he considers will be best illustrated for Members via a site visit.

Caerwys Town Council

No objection to the principle of development but raises objections and concerns in respect of the following points;

1. Buildings do not relate well visually to the area,
2. Proposed designs detract from the natural beauty of the AONB,
3. Proposals for 19 dwellings would result in a growth in excess of that planned within the UDP for this settlement,
4. Additional permissions granted in the area will increase growth in the settlement,
5. The indicative detail submitted at the time of the outline planning permission suggested development of 12 dwellings,
6. Proposals do not make provisions to meet local housing need,
7. Raises concerns in relation to the adequacy of existing drainage facilities,
8. Raises concern in respect of location of parking relative to buildings and potential for crime,
9. Considers ecological assessment of the site inadequate,
10. Advises of need to protect route of footpath,
11. Considers route of vehicular access to be inadequate, and
12. Raises concerns relating to flood risk.

Head of Assets and Transportation

No objection to the proposal. Requests informatives.

Rights of Way

Public Footpath 13 abuts the site but will be unaffected by the proposed development. Advises that the path must be protected and kept free from obstruction or interference during the course of construction.

Head of Public Protection

No objection. Considers that details submitted pursuant to the requirements of Condition 11 upon the grant of outline planning permission under Ref:039788 are not adequate to satisfy this condition at this time but does not consider this preclude determination of the Reserved Matters application.

Public Open Spaces Manager

No objections to the proposed location of the play area or the amount of space made available.

Head of Lifelong Learning

Advises that s the local schools have in excess of 30% surplus capacity, no contribution is sought in respect of educational needs.

Head of Housing Strategy

Advises that affordable housing needs arising from this scheme should be addressed via the payment of a commuted sum of £156,000, with this sum to be used to assist in access to affordable housing within the community and surrounding areas.

AONB Joint Consultation Body

Supports the approach adopted in design terms. Has concern in relation to the height, scale and density in this location and its potential impact upon the landscape. Notes that affordable home provision is not addressed directly on site.

Environment Agency Wales

No adverse comments. Requests the imposition of conditions relating to the advance agreement of surface water drainage details and to the dwellings no being inhabited until the Flintshire County Council Flood Alleviation Scheme for Afonwen is completed.

CADW

No objections are there are no remains or designations of any significant historical or architectural importance in the area which would be affected by the proposals.

Dwr Cymru /Welsh Water

Comment awaited.

**4.00 PUBLICITY**

4.01 The application has been publicised by way of a press notice, site notice and neighbour notification letters.

4.02 Following the receipt of amended plans the publicity exercise was repeated in May 2012.

4.03 At the time of writing this report, the publicity exercise has resulted in the receipt of no letters of objection from third parties in respect of the proposals.

**5.00 SITE HISTORY**

5.01 **783/86**

Change of use to commercial vehicle body building and repairs

Permitted 20.2.1987

**039788**

O/L Residential Development  
Permitted 20.12.2007

**047769**

Renewal of 039788  
Permitted 12.11.2010

**050247**

Variation of Condition 10 on O/L permission 047769  
Permitted 12.12.2012

**6.00 PLANNING POLICIES**

6.01 Flintshire Unitary Development Plan

- Policy STR4 – Housing
- Policy STR10 – Resources
- Policy GEN1 – General requirements for development
- Policy GEN3 – Development in the open countryside.
- Policy D1 – Design quality, location and layout
- Policy D2 – Design
- Policy D3 – Landscaping
- Policy D4 – Outdoor lighting
- Policy AC13 – Access and traffic impact
- Policy AC18 – Parking provision & new development
- Policy SR5 – Outdoor playing space & new residential dev't
- Policy HSG4 – New dwellings in the open countryside.
- Policy HSG5 – Limited infill development in the open countryside.
- Policy HSG11 – Affordable housing in rural areas.
- Policy L2 – Area of Outstanding Natural Beauty.
- Policy EWP14 – Derelict and contaminated land
- Policy EWP17 – Flood risk.

6.02 Planning Policy Wales (Feb. 2011) encourages the use of previously developed (brownfield) land and in this context it is considered that the proposal would comply generally with the relevant criteria of the above policies.

**7.00 PLANNING APPRAISAL**

7.01 Introduction

This is a Reserved Matters application for the erection of 19 dwellings on 0.9 hectares of land comprising the now vacant site of the former Wilcox Coach Works, the former buildings, now being largely demolished, together with a private roadway and bridge which also serve the adjacent craft centre and nearby dwellings at Railway Terrace.

7.02 Site Description

The site is located upon the eastern edge of the settlement of Afonwen and is located outside of the defined settlement boundary of the same. The site was lastly used in connection with the operation of

Wilcox Coach Works but has been vacant for a number of years. The buildings which housed the coach works operations have been largely demolished although limited remains can be seen upon the site.

7.03 The site is comparatively flat across each axis although the topography of land to the south is such that it rises steeply, commensurate with the landform in this valley and is heavily vegetated and wooded. Public Right of Way 13 runs along this southern boundary although it lies beyond the limits of the site. The northern limits of the site abut the flat floodplain of the Afon Wheeler which runs along the northerly edge of the area upon which the dwellings are to be erected. The western boundary is formed by walls and buildings associated with the adjacent Craft Centre premises. The eastern edge of the site is marked by an existing line of hedgerows.

7.04 Proposed Development

It is proposed to erect 19, dwellings upon the site. The proposals provide 17No. 2 storey dwellings and 2No. 2.5 storey dwellings. The dwellings are designed such that 9No. dwellings provide 2 bed accommodation, 9No. provide 3 bed accommodation and 1No. dwelling provides 4 bed accommodation. All of the dwellings would achieve Level 3 of the Code for Sustainable Homes. It is proposed to have an equipped area of play and recreation space to the north of the site, within a larger space of open informal space. This space also forms a landscaped buffer to views from the north.

7.05 Principle of Development

Whilst the site is located within an area of open countryside, the principle of the development of this site was established via a grant of outline planning permission in December 2007 recognising this as a brownfield site. This permission was renewed November 2010. It was envisaged that a proportion of the dwellings would be affordable and condition 10 addressed this. Whereas the illustrative plan submitted with the outline application indicated 12No. dwellings, no limit was imposed and the current scheme for 19No. dwellings needs to be considered on its merits. This application seeks approval of Reserved Matters and therefore, the issue of principle is not in question as it is established that the principle of development has been accepted.

7.06 Design Considerations

The proposed design and layout of this scheme has been the subject of length negotiation and discussion over the course of the consideration of the proposals and is now presented in line with comments arising from the consultation process. The scheme has evolved to respond to the site characteristics and delivers a design where the form and dwellings reflect the designs of buildings in an open countryside setting of agricultural barn form or historically located rural industrial buildings, such the adjacent Craft Centre and the former buildings upon the application site itself.

- 7.07 The proposed built form is arranged in 2 courtyard layouts providing 11 and 8 dwelling respectively. The proposed buildings represent a contemporary interpretation of historical barn and mill type buildings. This influence is sought to be portrayed via the scale and proportions of the buildings and their relationship with one another and the existing adjacent built form. The proposals recognise that massing of development of this form historically often incorporated the 'stepping' up or down of roof lines and this has been incorporated into the form of development proposed. The proposal also imaginatively seeks to express what may be interpreted as 'later' alterations to an earlier form of building by expressing these additions in simple design terms and via the utilisation of simple finish materials such as timber boarding.
- 7.08 The visual focus for the development, other than the courtyard layouts proposed, is provided via the single unit in each courtyard which introduces a verticality of form within the overall arrangement. The discussions in respect of design have secured the deletion of a unit which it was considered gave rise to a cramped form of development with poor relationship to both the surrounding landscape and occasioning an overbearing impact upon the proposed footpath link through the site from east to west. Other amendments include alterations to the massing and arrangement of the elevations of the buildings and improvements to landscaping and proposed boundaries to the surrounding countryside.
- 7.09 The wider area is characterised by a mixture of property types, styles and ages with a variety of arrangements of built form representative of key historical periods in the development of the area. The applicant has sought to design a development which does not try to create a pastiche of these buildings but is off it's time whilst being sympathetic to its surroundings in massing, scale, form and finishes.
- 7.10 Accordingly and notwithstanding representations made, I consider the proposals provide an adequate and appropriate response to the design issues raised in connection with the consideration of this application.
- 7.11 Impact upon the AONB  
Concerns have been raised suggesting that the proposals will not relate well in visual terms to the adjacent AONB and will detract from its visual quality. It must be remembered that the site has had built form upon it for a significant period of time and during that time, the uses to which the site has been put have varied, each with their own particular impact upon the landscape and the surroundings.
- 7.12 Members may recall that the buildings upon the site were of extremely poor quality in visual terms, being made upon of a variety of forms and finishes. The buildings were typically brick and asbestos sheeting with other structures upon the site of a pre-fabricated nature comprising

porta-cabins, large van bodies, open sided corrugated sheet sheds and profiled steel sheet clad buildings of industrial shed proportions set amongst extensive areas of hard standing.

- 7.13 Whilst it is clear that the development of the site will have an impact upon the AONB in visual terms, the key point to consider is the extent to which this would represent a detrimental impact. The applicant has sought to create buildings of a form which relate well to each other and their landscape, drawing upon historical influences whilst representing them in a carefully constructed contemporary fashion. The careful choice of finish materials such as locally sourced stone, appropriately coloured render, larch boarding and slate roofs will ensure that the building relates well to the palette of materials in evidence in the locality. The composition also allows for materials to be used to compliment the aim to achieve Code Level 3 upon the Code for Sustainable Homes.
- 7.14 One of the key concerns in respect of visual impact within the AONB has been to potential for the development to introduce excessive amounts of light into the night time landscape in this location. In seeking to address this issue, the amount of rooflights has been significantly reduced and I propose to remove permitted developments by a condition. This will ensure that any future proposals for additional openings within the buildings would require a grant of planning permission, thereby affording control the Local Planning Authority. In addition, I propose to condition that no external lighting other than that shown upon the approved plans will be permitted.
- 7.15 An extensive landscaping scheme has been submitted which it is considered will serve not only to integrate the proposals into the landscape, but will also afford an acceptable level of screening to the north of the site, thereby minimising the visual impact of the proposals from views to the north and east.
- 7.16 Affordable Housing  
Members will recall that the issue of affordable housing was identified that this should be provided on site at outline stage and it was accordingly conditioned. However, the planning condition addressing this issue has been modified via a grant of planning permission under Ref: 050247. The effect of this permission has been to widen the scope of the condition upon the Outline Planning Permission to provide for mechanisms to facilitate affordable housing provisions via off site means in addition to those provisions catering for on site provision on the advice of the Head of Housing Strategy.
- 7.17 UDP Policy HSG10 states that where there is an established local need for affordable housing the Council will seek to provide up to 30% affordable housing in suitable or appropriate schemes. Whilst this site is now located outside of the identified settlement of Afonwen, at the time that the principle of development was established, a large



proportion of the site was within the settlement boundary as had been defined within the now expired Delyn Local Plan. Accordingly the proposals were considered against the provisions of HSG10 and this policy continues to apply in consideration of this detailed matters submission.

- 7.18 The proposed development seeks to meet the requirement to provide affordable housing via the payment of a commuted sum in lieu of on site provision. The sum sought is £156,000 which represents the value of the 30% equity in 4 dwellings. This sum will be payable upon the completion or sale of the 9<sup>th</sup> dwelling and will be used to facilitate access to existing affordable housing options within the community via methods such as the first time buyer deposit.
- 7.19 Whilst this provision does not amount to the provision of numbers equal to 30% of the development, it is a provision which has been carefully negotiated between the applicant and officers and recognises the identified level of housing need within this community area. The Council has no people registered upon its Affordable Home Ownership Register for this area. The Councils social housing register does not record Afonwen as settlement, but identifies 31 applicants indicating Lixwm, 9 people indicating Cilcain and 51 people indicating Caerwys as their preferred locations but it must be remembered that this register does not reflect any local connection to the location sought.
- 7.20 Accordingly, the above means has been addressed as the best method of delivery of affordable housing in this area, given the need identified in the locality and having regard to existing and committed schemes which provide a proportion of affordable housing to meet these identified needs.
- 7.21 Drainage and Flood Risk  
The majority of the site is located outside of the Zone C area of flood risk as categorised by The Environment Agency Wales. However, the access route to the site would lie within this area and Members will recall that concern in respect of safe access and egress during a flood event was raised at the time of the consideration of the outline planning permission. As a consequence, the conditions suggested by the EAW in response to consultation have already been imposed upon the outline planning permission. As the reserved matters is a part of the planning permission, these conditions do not need to be re-imposed as they provisions already exists in respect of the proposed development of this site and duplication would be unnecessary. Accordingly, there is no objection to the proposals upon the grounds of flood risk.
- 7.22 Similarly, the comments of Dwr Cymru/Welsh Water have been previously incorporated into conditions imposed upon the outline permission and I do not therefore intend to replicate these provisions.

7.23 Land Contamination

Phase 1 and 2 investigations have been submitted in connection with this reserved matters approval and in compliance with the requirements of condition 11 of the outline planning permission. These details have been considered by the Head of Public Protection who has concluded that as the investigation data is somewhat dated, updated investigations and reports will be required to ensure that any risk arising from previous contaminative uses is adequately addressed through the development. However, as with other matters in relation to this site, this matter is the subject of an existing condition upon the grant of outline permission and therefore there is no need for the requirement to be replicated. The provisions of the condition remain in force and remain to be discharged prior to the commencement of development.

7.24 Highways

Representations have been made that the proposed access route is inadequate. However, Members will recall that Access was a matter considered at the time of the grant of outline planning permission and following the comments of the Head of Assets and Transportation at that time, was conditioned accordingly.

7.25 It should be noted that Footpath 13 runs adjacent to the site and is not indicated to be adversely affected by development works at all. However, I would propose to add a note to any subsequently granted approval which advises of the need for this footpath to remain open and unobstructed.

7.26 Recreation and Public Open Space Provision

The proposals provide for an area of land to the north of the developed area to be made available for recreation and open space. This area is provided in response to the conditional requirements upon the outline permission. However, the precise details of the recreation provision in connection with the application is proposed to be the subject of a condition requiring the submission a scheme to detail the precise nature, extent and form of equipment to be provided, its layout, associated landscaping and future management and maintenance. The Public Open Spaces Manager advises that such a condition is acceptable and raises no objection to the amount or location of the proposed recreation space.

7.27 Other matters

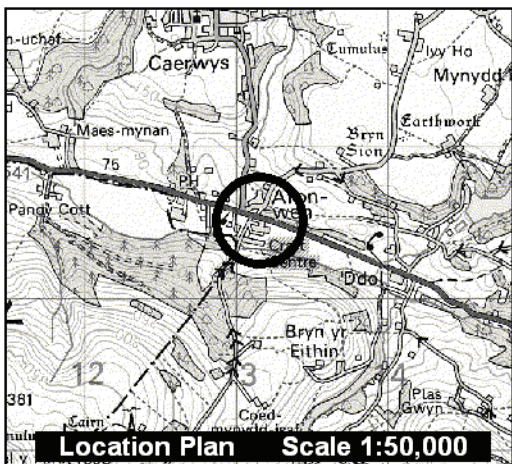
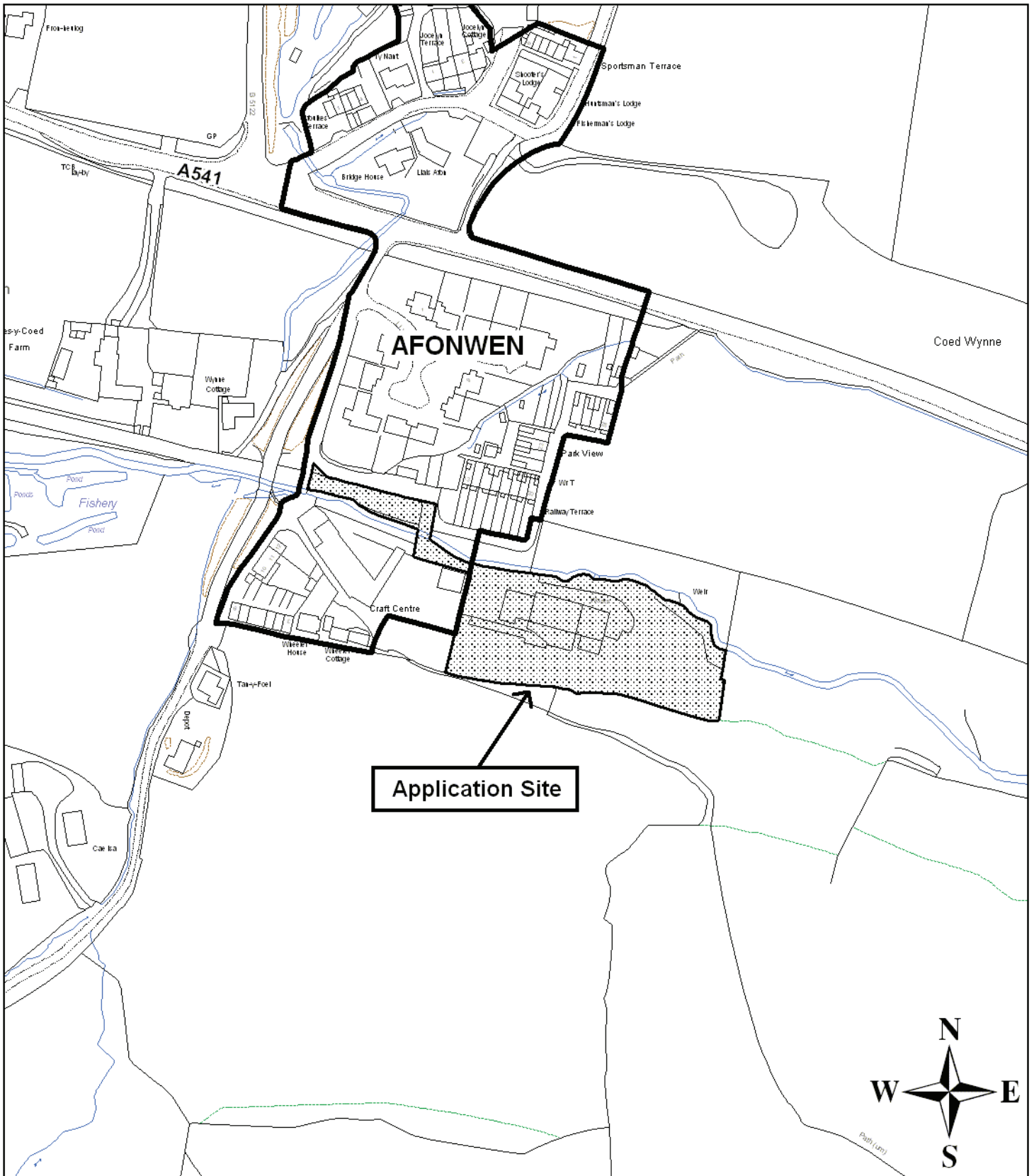
Consultation has been carried out with the Head of Lifelong Learning who advises that as the local school is not over or nearing its capacity, a sum towards educational contributions is not required in connection with this scheme.

**8.00 CONCLUSION**

- 8.01 The development of this site for residential use has been accepted in principle through the granting and subsequent renewal of outline planning permission. The negotiations in relation to the design and layout of the site have resulted in a solution which provides for a much improved scheme. The issues considered in the above appraisal demonstrate that either they are addressed via the scheme or are appropriately addressed via conditions already imposed upon the grant of outline permission or via the suggested conditions to be imposed upon this grant of Reserved Matters approval. Appropriate provisions for play and open space provision have been secured and appropriate contributions associated with affordable housing are proposed to be secured via an appropriately worded legal agreement.
- 8.02 In considering this planning application the Council has acted in accordance with the Human Rights Act 1998 including Article 8 of the Convention and in a manner which is necessary in a democratic society in furtherance of the legitimate aims of the Act and the Convention.

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 Mold, Flintshire, CH7 6NF.  
 Director: Mr. Carl Longland

**Legend**



Adopted Flintshire Unitary  
 Development Plan  
 Settlement Boundary



Application Site Extent

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Map Scale 1:2500

OS Map ref SJ 1371

Planning Application **48465**

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## FLINTSHIRE COUNTY COUNCIL

**REPORT TO:** **PLANNING AND DEVELOPMENT CONTROL COMMITTEE**

**DATE:** **WEDNESDAY, 16 JANUARY 2013**

**REPORT BY:** **HEAD OF PLANNING**

**SUBJECT:** **METAL RECYCLING PLANT FOR END OF LIFE VEHICLES, FERROUS AND NON FERROUS METALS, REDUNDANT AND SCRAP CARAVANS AND ROOF WALL PANELS AT POINT OF AYR, FFYNNONGROYW**

**APPLICATION NUMBER:** **045069**

**APPLICANT:** **DELYN METALS LIMITED**

**SITE:** **FORMER COLLIERY SITE, POINT OF AYR FFYNNONGROYW**

**APPLICATION VALID DATE:** **19/05/2008**

**LOCAL MEMBERS:** **COUNCILLOR G BANKS**

**TOWN/COMMUNITY COUNCIL:** **LLANASA COMMUNITY COUNCIL**

**REASON FOR COMMITTEE:** **RETURNING TO COMMITTEE AS THE APPLICANT HAS FAILED TO ENTER INTO A LEGAL AGREEMENT AS REQUIRED BY PREVIOUS COMMITTEE RESOLUTION**

**SITE VISIT:** **NOT REQUIRED**

### **1.00 SUMMARY**

- 1.01 On 22 July 2009, the Planning and Development Control Committee resolved to grant planning permission for the development described above. This resolution was subject to conditions and also subject to the applicant, Delyn Metals Limited (DML) entering into a legal agreement under the terms of the Wildlife & Countryside Act 1981 (as amended) Section 39 and a legal agreement under the terms of the Town & Country Planning Act 1990 (as amended) Section 106. Details are contained in the appended Committee Report.
- 1.02 A considerable length of time has now passed since Members

endorsed the recommendation to grant permission and the applicant has failed to enter into these legal agreements and obligations which were a prerequisite of granting planning permission.

- 1.03 Since 2009, the Planning Department has been working with DML to try to resolve the outstanding matters to enable the grant of permission. An alternative access route has been proposed by the applicant where vehicles would enter the site from the roundabout on the A548, over the BHP Billiton Petroleum Limited (BHP) railway overpass bridge, and access the application site (the former colliery site) over BHP land in an easterly direction, instead of accessing the site from the A548 and under a low railway bridge, as was originally proposed. However, DML has failed to provide the correct certificates required to validate this proposed change to the application. Therefore, the recommendation within this report is based on the original access route as shown on the attached plan.

**2.00 RECOMMENDATION: TO REFUSE PLANNING PERMISSION FOR THE FOLLOWING REASONS**

- 2.01 Failure to enter into a legal agreement under the terms of the Wildlife & Countryside Act 1981 (as amended) Section 39 and a legal agreement under the terms of the Town & Country Planning Act 1990 (as amended) Section 106 to provide wildlife mitigation, protection and management of European and nationally designated wildlife sites, and protection of a low railway bridge at the site access and to provide access controls.

- 2.02 Without the required legal agreements and the mitigation that they would afford, it is considered that the proposal would have a significant detrimental and negative effect on the adjacent Dee Estuary Site of Special Scientific Interest, Ramsar Site, Special Area of Conservation and Special Protection Area and adjacent Gronant Dunes and Talacre Warren SSSI and as such contrary to Policies STR1f), STR7c), STR7e), GEN1c), SR8, WB2, WB3, EWP8a) and EWP8e) of the Flintshire Unitary Development Plan. Furthermore, without railway protection barriers, the main North Wales Coast railway line, which lies over the access road, cannot be safeguarded from damage.

**3.00 CONSULTATIONS**

- 3.01 Refer to Committee Report of 22 July 2009.

**4.00 PUBLICITY**

- 4.01 Refer to Committee Report of 22 July 2009.

**5.00 SITE HISTORY**



5.01 Refer to Committee Report of 22 July 2009.

## **6.00 PLANNING POLICIES**

### **6.01 Flintshire Unitary Development Plan**

Policy STR1 – Policies for New Development

Policy STR7 – Natural Environment

Policy STR10 – Resources

Policy STR11 – Sport, Leisure and Recreation

Policy GEN1 – General requirements for development

Policy GEN3 – Development in the Open Countryside

Policy GEN5 – Environmental Assessment.

Policy L6 – The Undeveloped Coast.

Policy SR8 – The Dee Estuary Corridor.

Policy WB2 – Site of International Importance.

Policy WB3 – Statutory Sites of National Importance.

Policy AC2 – Pedestrian Provision and Public Rights of Way

Policy AC13 – Access and Traffic Impact

Policy EWP6 – Areas of search for new waste management facilities.

Policy EW 7 – Managing Waste Sustainably.

Policy EWP8 - Control of waste development and operations

Policy EWP12 – Pollution.

Policy EWP13 – Nuisance.

Policy EWP14 – Derelict and Contaminated Land.

Policy EWP16 – Water Resources.

Policy EWP17 – Flood Risk.

### **6.02 National And Regional Policy**

TAN 5 - Nature Conservation and Planning

TAN 15 – Flood Risk.

TAN 21 – Waste

North Wales Regional Waste Plan First Review (2009)

National Waste Strategy; 'Towards Zero Waste' (2010)

The Waste Hierarchy

Dee Estuary Strategy

## **7.00 PLANNING APPRAISAL**

### **Introduction**

7.01 In July 2009, members resolved to grant planning permission subject to the applicants, Delyn Metal Limited (DML), entering into a Section 106 (Town & Country Planning Act 1990) and a Section 39 (Wildlife & Countryside Act 1981) legal agreement.

7.02 However, since then, the applicant has failed to enter into these required legal agreements, and therefore planning permission could not be granted. The applicant has been operating the site with the benefit of an Environmental Permit but with no planning permission.

7.03 Since the Committee resolution in 2009, the planning department has

been trying to resolve the issues associated with the outstanding legal agreements with DML to no avail. An alternative access, as described above was proposed by the applicant to try to provide an improved access solution rather than accessing the site under the low railway bridge which required protection. This alternative access was also consulted upon. However, additional certificates of ownership are required in order to validate the application and despite repeated requests, the applicant has not provided these required documents. As such, the Council cannot make a decision on this application with an alternative access as it is not valid. Therefore, this report is considering the development as originally proposed with access to the site under the low railway bridge.

#### Ecological mitigation through legal agreement

- 7.04 Members resolved to grant planning permission subject to the applicants entering into a Section 39 agreement (Wildlife & Countryside Act 1981) to provide wildlife protection, mitigation and management to protect the adjacent Gronant Dunes and Talacre Warren SSSI, and the Dee Estuary Ramsar, SPA, SAC and SSSI from the proposed development.
- 7.05 The Appropriate Assessment undertaken by the County Council's Ecologist concluded that the proposal would be unlikely to have a significant effect 'alone or in combination' on the adjacent European site, provided the mitigation provisions, as detailed within the environmental statement that accompanied the planning application are undertaken and implemented via a legal agreement.
- 7.06 The Environment Agency Wales' Biodiversity Team has raised concerns with regards to the existing operations on site. The obligations required by the Section 106 agreement have not been carried out in relation to screen planting to mitigate against any wind blown litter on to the SPA, Ramsar Site, SAC and SSSI. Other issues which cause concern relate to disturbance to species on the designated site, wind blown debris which includes metal sheets, insulation boarding, and on one occasion a whole caravan. Burning of material on site is also a concern. Also, insulation material found in caravans is easily wind blown onto the designated sites and could cause harm to wildlife as it contains highly irritant properties.
- 7.07 The implementation of mitigation and protection on land outside of the applicant's control would require the landowner's consent, and the land owner entering into a legal agreement. Much of the land surrounding the site is owned by BHP who has confirmed that they would not be willing to enter into any legal agreements with the applicant. Therefore, should members be minded to grant planning permission, any decision notice would remain incapable of being issued with the grant of planning permission.

#### **8.00 CONCLUSION**

- 8.01 For the proposal to be acceptable in terms of mitigation to ensure that there would be no significant effects on the ecological sites of importance, and to facilitate the construction of railway protection barriers, the applicant would be required to enter into a legal agreement under the terms of the Wildlife & Countryside Act 1981 (as amended) Section 39 and a Legal Agreement under the terms of the Town & Country Planning Act 1990 (as amended) Section 106 with the land owners BHP, Network Rail and the Environment Agency Wales (EAW).
- 8.02 Whilst EAW are happy to enter into a legal agreement, BHP has confirmed that they would not be willing to do so. As such, should Members resolve to grant planning permission, as proposed, the decision would not be capable of being issued, as the prerequisite legal agreements would be incapable of being completed.
- 8.03 Sufficient time has been provided to the applicant by the Planning Authority to resolve these outstanding and essential matters and reach agreement with third parties to enter into the required legal agreements. Without the required legal agreements and the mitigation that they would afford, it is considered that the proposal would have a significant detrimental and negative effect on the adjacent Dee Estuary Site of Special Scientific Interest, Ramsar Site, Special Area of Conservation and Special Protection Area and adjacent Gronant Dunes and Talacre Warren SSSI and as such contrary to Policies STR1f), STR7c), STR7e), GEN1c), SR8, WB2, WB3, EWP8a) and EWP8e) of the Flintshire Unitary Development Plan. Furthermore, without railway protection barriers, the main North Wales Coast railway line, which lies over the access road, cannot be safeguarded from damage. This is a very low bridge and it has been reported that bridge strike has already occurred with the use of large vehicles.
- 8.04 Without mitigation, protection and management that the required legal agreements would afford, it is considered that the development would be unacceptable and it is therefore recommended that planning permission should be refused.
- 8.05 In considering this planning application the Council has acted in accordance with the Human Rights Act 1998 including Article 8 of the Convention and in a manner which is necessary in a democratic society in furtherance of the legitimate aims of the Act and the Convention.

**Contact Officer:** Hannah Parish  
**Telephone:** 01352 703253  
**Email:** [hannah.parish@flintshire.gov.uk](mailto:hannah.parish@flintshire.gov.uk)

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## FLINTSHIRE COUNTY COUNCIL

AGENDA ITEM NUMBER: 4

**REPORT TO:** PLANNING & DEVELOPMENT CONTROL COMMITTEE  
**DATE :** 22 JULY 2009  
**REPORT BY:** HEAD OF PLANNING  
**SUBJECT :** METAL RECYCLING AND RECOVERY PLANT FOR END OF LIFE VEHICLES, FERROUS AND NON FERROUS METALS, REDUNDANT AND SCRAP CARAVANS AND ROOF WALL PANELS AT POINT OF AYR, FFYNNONGROYW

### **1.00 APPLICATION NUMBER**

1.01 045069

### **2.00 APPLICANT**

2.01 Delyn Metals Ltd

### **3.00 SITE**

3.01 Delyn Metals Ltd,  
Point Of Ayr,  
Ffynnongroyw,  
Holywell,  
CH8 9JJ

### **4.00 APPLICATION VALID DATE**

4.01 19/05/2008

### **5.00 INTRODUCTION**

5.01 This application is for a metal recycling operation on land which had been used as a waste oil processing facility, of which some of the infrastructure remains. Prior to that, the site was the location of an experimental oil coal project as a part of the former Point of Ayr colliery.

5.02 The site lies at a point midway between the settlements of Talacre, Gwespyr and Ffynnongryw adjacent to the Dee Estuary. The Gronant Dunes and Talacre Warren SSSI lies to the north west of the site, the Dee Estuary is itself a RAMSAR site, that is an area of international importance for wading birds, a Special Protection Area (SPA) and Special Area of Conservation (SAC). Given the sensitive location of the site the application includes a full Environmental Assessment.

- 5.03 The application is partially retrospective, the applicant had started to recycle caravans and some metal products but this is in abeyance until this application has been processed although stored material remains on site.

## **6.00 CONSULTATIONS**

### 6.01 Local Member

#### Councillor E.G. Cooke

Agrees to matter being dealt with under delegated powers. Would like to see any extant planning permissions for the site removed.

#### Llanasa Community Council

No objection.

#### Head of Highways and Transportation

Has no objection to the proposal and makes no recommendations on highway grounds.

#### Chief Public Protection Officer

No adverse comments.

#### County Council Ecologist

Has carried out an Appropriate Assessment under the terms of The Conservation (Natural Habitats, &c) Regulations 1994 (as amended) and has concluded that the proposal is unlikely to have a significant effect 'alone or in combination' on a European site providing mitigation provisions as agreed by the applicant are undertaken through conditions and/or an appropriate legal agreement.

#### Welsh Water

If granted a planning permission should include conditions to cover surface water discharge from the site.

#### RSPB

Objects to the proposal as the development risks harming the internationally important and protected teal and redshank populations in the vicinity, lack of suitable bird surveys and inadequate mitigation proposals.

#### Environment Agency

Planning permission should only be granted if conditions are included to cover the risks associated with contamination, including a remediation strategy. No objection in terms of flood risk.

#### Countryside Council for Wales

Expresses concern about the suitability of the access road, about the control of use of the access road and any work that may be necessary by virtue of the adjacent SSSI.

Concerned about the failure of the environmental impact assessment to address the issue of alternatives both in terms of sites and waste treatment.

Suggests that the habitat survey could be extended.

Concerned about cumulative impact as a result of air pollution.

Concerned about the suitability of the site given its exposed coastal location.

Has no objection in principle to the proposal on a temporary basis.

#### Network Rail

Objects to the proposal on the basis of the low bridge on the access road and the safety implications of potential strikes unless conditions are imposed and complied with; the provision of barriers on the approach to the bridge to prevent vehicles of excessive height passing under the bridge and appropriate signage to warn vehicles of the height restriction.

#### BHP Billiton Petroleum

Does not object in principle providing the integrity of the Dee Estuary SSSI is not compromised and that concerns over the use of the access road can be resolved. It confirms that it is prepared to allow the passage of vehicles across land within the terminal curtilage for emergency use only and defines what constitutes an emergency vehicle.

### **7.00 PUBLICITY**

#### **7.01 Site Notice**

Placed on site on 9th June 2008, notice was placed in "The Chronicle" on 13th June 2008.

### **8.00 SITE HISTORY**

8.01 The site is a part of the former Point of Ayr colliery which, in 1980, was given permission for the development of an experimental coal liquefaction plant, this development was carried out and continued to operate until the late 1980's when, in anticipation of the closure of the colliery, the site was passed to Evergreen and a temporary planning permission was granted to convert the existing plant to a facility for the reprocessing of waste oil, the planning permission was varied in 2003 to allow the use to continue until 2016. The waste oil process ceased in December 2003, between 2000 and 2006 some of the plant was removed although the site was not completely restored and much of the infrastructure remains some of which will be used by this development such as the hard standing, bunded bays and surface water drainage system and interceptors. The site was acquired by the current applicant in May 2004 with the intention of utilizing the site for metal recycling and recovery, this application seeks to regularize that use. Access to the site

would utilize the former colliery access road from the A548 at a point midway between Ffynnongroyw and Gwespyr.

## **9.00 PLANNING POLICIES**

### **9.01 Clwyd Structure Plan First Alteration**

Policy H3 – Protection of the Countryside.

Policy H9 – Nature Conservation.

Policy H11 - Control of Pollution.

Policy H12 – Quality of Water.

Policy H19 – Flooding and Ground Stability.

### **Structure Plan Second Alteration: Flintshire Edition**

Policy GEN 1 – New Development.

Policy GEN 2 – New Development.

Policy CONS 5 – Open Countryside.

Policy CONS 8 – Ramsar Sites, Special Protection Areas and Sites of Special Scientific Interest.

Policy CONS 9 – Sites of Special Scientific Interest.

Policy CONS 14 – Control of Pollution.

Policy CONS 16 – Waste Disposal.

Policy CONS 17 – Development in Flood Risk Areas.

### **Delyn Local Plan**

Policy 15 – Development Control. Coastal Management.

Policy 1 – Landscape. Sites of Special Scientific Interest.

Policy 9 – Landscape. Management Agreements.

Policy 3 – Community Facilities. Waste Disposal Sites.

### **Emerging Flintshire Unitary Development Plan**

Policy STR 1 – New Development.

Policy STR 7 – Natural Environment.

Policy STR 10 – Resources.

Policy GEN 1 – General requirements for development.

Policy GEN 3 – Development outside Settlement Boundaries.

Policy GEN 6 – Environmental Assessment.

Policy L6 – The Coast.

Policy WB2 – Site of International Importance.

Policy WB 3 – Statutory Sites of National Importance.

Policy EWP 6 – Areas of search for new waste management facilities.

Policy EWP 7 – Managing Waste Sustainably.

Policy EWP 8 - Control of waste management sites.

Policy EWP 12 – Pollution.

Policy EWP 13 – Nuisance.

Policy EWP 14 – Derelict and Contaminated Land.

Policy EWP 16 – Water Resources.

Policy EWP 17 – Flood Risk.



National And Regional Policy

TAN15 – Flood Risk.

TAN21 – Waste.

North Wales Regional Waste Plan 2003.

North Wales Regional Waste Plan 2008.

Wise About Waste; National waste Strategy.

**10.00 PLANNING APPRAISAL**

- 10.01 This proposal is for a metal recycling and recovery plant which will consist of the following four operations;(i) receipt, de-polluting, dismantling, segregation and storage of end of life vehicles and associated wastes prior to further treatment on site or removal off site; (ii) receipt, segregation and bulking of ferrous and non-ferrous metals for treatment on site or for dispatching; (iii) dismantling of redundant and scrap caravans and sorting into recyclable and non-recyclable material; (iv) recycling of roof and wall panels into recyclable and non recyclable materials. In this regard the proposal meets with the relevant waste management policies, particularly those contained in the EFUDP namely STR 10 and EWP 7. The proposal is also in accordance with the aims of national policy and the objectives of the regional waste plan as a sustainable waste management operation.
- 10.02 The development will use the existing site infrastructure such as concrete hard standing, contained bays, drainage system and oil interceptors. The access will be the road which served the former Point of Ayr colliery. Given the nature of the operation and its location relative to residential properties and other businesses it is considered that there will be no significant loss of amenity as a result of this proposal. No objection has been received from the Public Protection department nor has the local community council objected. No objection has been received from the Highways department regarding the access and the applicant has agreed to undertake the appropriate protection works required by Network Rail, to safeguard the bridge carrying the main London to Holyhead railway line over the access road. The EAW does not object provided condition are include to address any possible contamination of the site and does not object to the proposal in terms of flood risk. The EAW also confirms that the site already has the benefit of a Waste Management Licence . It is considered, therefore that the proposal meets with the relevant policies most notably those contained in EFUDP, namely STR 1, GEN2, EWP8, EWP12, EWP13, EWP 14, EWP16 and EWP17.
- 10.03 The site lies adjacent to the Dee Estuary which is of major importance as an environmental site requiring protection as is recognized by its designation as a Ramsar site under the Convention on Wetlands of International Importance, a Site of Special Scientific Interest, Special Protection Area and possible Special Area of Conservation. The access road also runs adjacent to a SSSI which is designated for its importance for wintering wader populations. The area immediately adjacent to the site to the north known as the flushing lagoons is particularly important and supports important wildfowl

bird populations including redshank and teal as well as inter-tidal habitats of international importance. In recognition of the extremely sensitive nature of the site, the response by CCW expresses concern about the proposal but does not object in principle to the proposal on a temporary basis provided that the site will be eventually restored as a green open space consonant with its location adjacent to the Dee Estuary. The RSPB has objected to the proposal but in response the applicant has agreed to enter into an appropriate legal agreement to protect the designated sites and to offer mitigation measures it would also wish to see a time limited permission with restoration to appropriate coastal habitats rather than other land uses. Given the sensitive location of the site the County Council as the relevant body is required to carry out an Appropriate Assessment of the proposal under the terms of The Conservation (Natural Habitats, &c) Regulations 1994 (as amended), this process is, essentially, a means of deciding whether the development can be carried out without an unacceptable adverse impact on features of environmental importance or if not, can there be mitigation measures that would make the proposal acceptable; the County Council's ecologist has completed the Appropriate Assessment and has concluded that the proposal is unlikely to have a significant impact providing that all the mitigation proposals are implemented prior to the development recommencing.

10.04 It is concluded that the proposal is not in accordance with those policies seeking to protect both international and national designated sites contained in the relevant plans, most significantly those in the EFUDP. However, this must be balanced against a number of factors; the applicant has agreed to enter into a Legal Agreement covering, inter alia, mitigation measures to protect the designated sites, the application is partly retrospective and the site contains buildings and structures that can remain on site until 2016 by virtue of the existing planning permission, the site will need restoring and it is unlikely that this will be achieved without further investment and it would appear that, although the current and previous activities may have had an impact on the local bird population, this has not resulted in the total loss of the habitat. The site itself is not allocated in any Plan and given the Council's long term aim for the adjacent colliery site as resolved by the Planning Committee on the 25 May 1999 that it be restored to open coastal land it would seem appropriate to allow this "industrial" use to continue until 2016 by which time more definite proposals for the restoration of the entire area of Point of Ayr south of Talacre will have emerged. Finally the site already has the benefit of a Waste Management Licence issued by EAW and, although this is not in itself a planning consideration does give an indication that such a use has to date been considered acceptable.

10.05 Although the proposal for a metal recycling facility is in waste management terms an acceptable proposal both in terms of local and national policy it does present difficulties when judged against those policies designed to protect environmentally sensitive sites, in this case those associated with birds reliant on the Dee Estuary. There is no doubt that were this application to have been for a new development in this location the recommendation

would have been for refusal. However, this is not a new development, rather the variation and continuation of an existing use as a waste management facility and, although reservations have been expressed by the expert bodies about this development in this location, all are satisfied that if a permission is time limited to that already allowed by the existing permission and conditions to bring about an appropriate restoration, together with a Legal Agreement, are applied then the development would be acceptable but only until 2016 when a strategy for the future of the entire former colliery area will have evolved. It is therefore considered that the proposal is acceptable providing Legal Agreement under the terms of Wildlife and Countryside Act 1981(as amended) Section 39 to protect the wildlife and the Town and Country Planning Act 1990 (as amended) Section 106 to secure protection of the railway line bridge over the access road.

- 10.06 In considering this planning application the Council has acted in accordance with the Human Rights Act 1998 including Article 8 of the Convention and in a manner which is necessary in a democratic society in furtherance of the legitimate aims of the Act and the Convention

#### **11.00 RECOMMENDATION**

- 11.01 Conditional Permission subject to the completion of a Legal Agreement under the terms of the Wildlife & Countryside Act 1981 (as amended) Section 39, to deal with the issues of wildlife protection and management and a Legal Agreement under the terms of the Town & Country Planning Act 1990 (as amended) Section 106 to deal with the control of the access road, protection of the railway bridge and protection of the designated wildlife sites.

##### Conditions

1. Commencement.
2. In accordance with submitted plans.
3. Completion date.
4. Access road controls.
5. Railway bridge protection.
6. Restriction of waste types.
7. Scheme of restoration and after care.
8. Aftercare management scheme.
9. Hours of delivery and of operation.
10. No debris on highway and cleaning.
11. Dust control.
12. Site drainage and control of surface water run-off.
13. Environmental protection to minimise disturbance to birdlife.

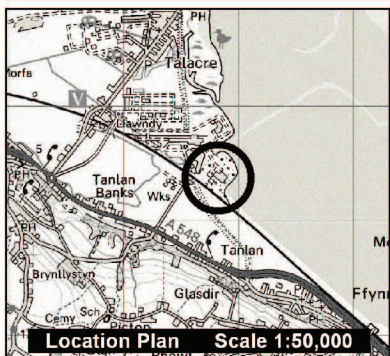
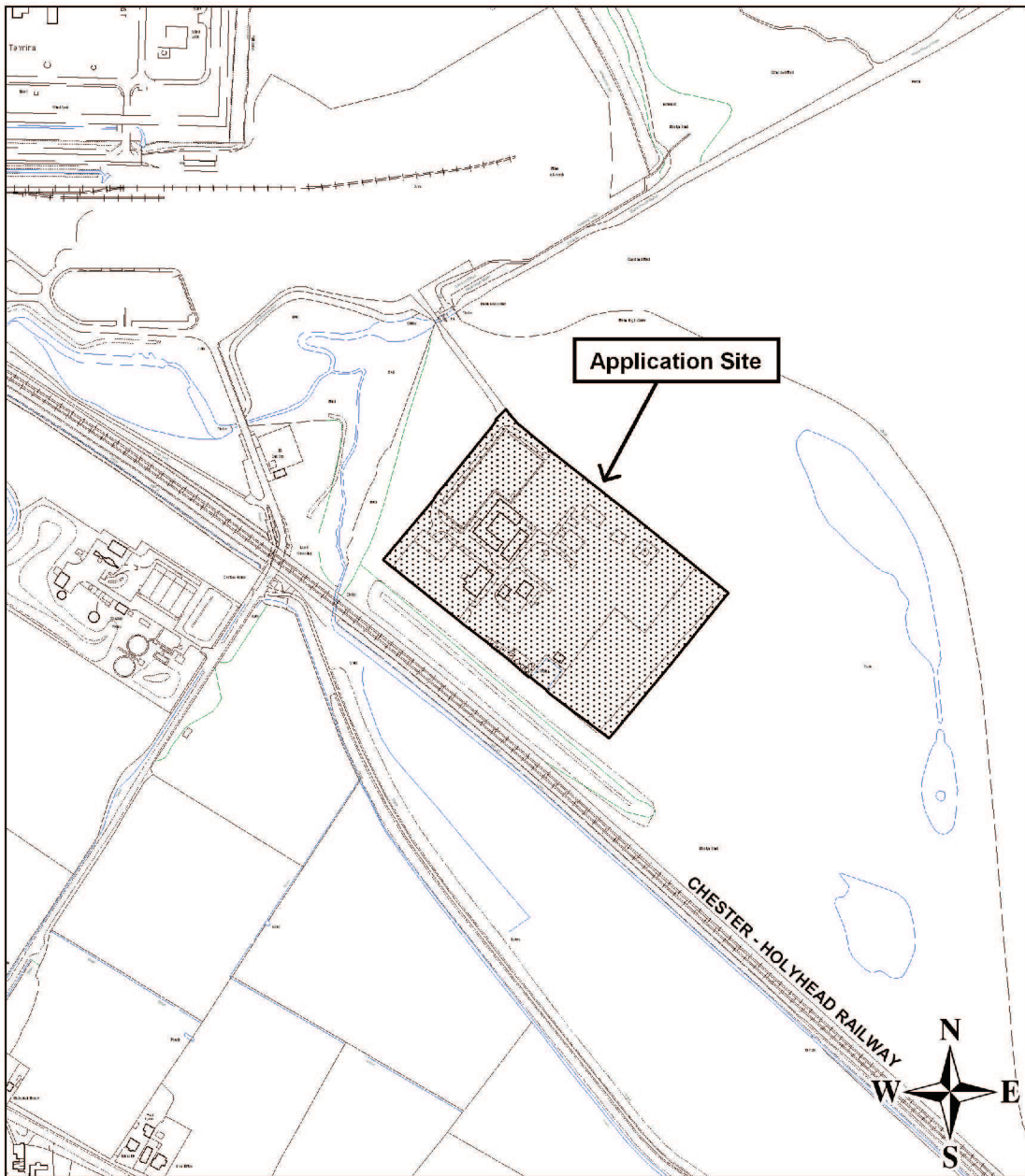
#### **12.00 APPENDICES**

- 12.01

**LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985**  
**BACKGROUND DOCUMENTS**

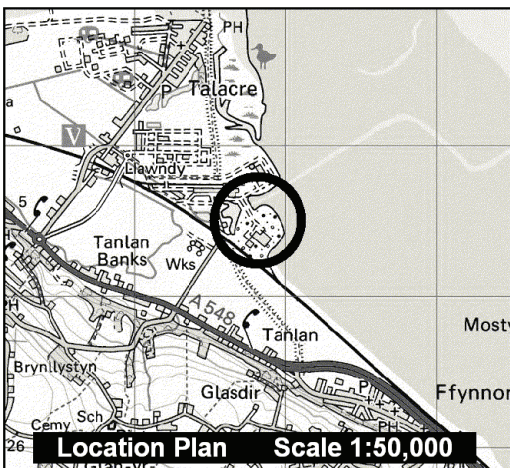
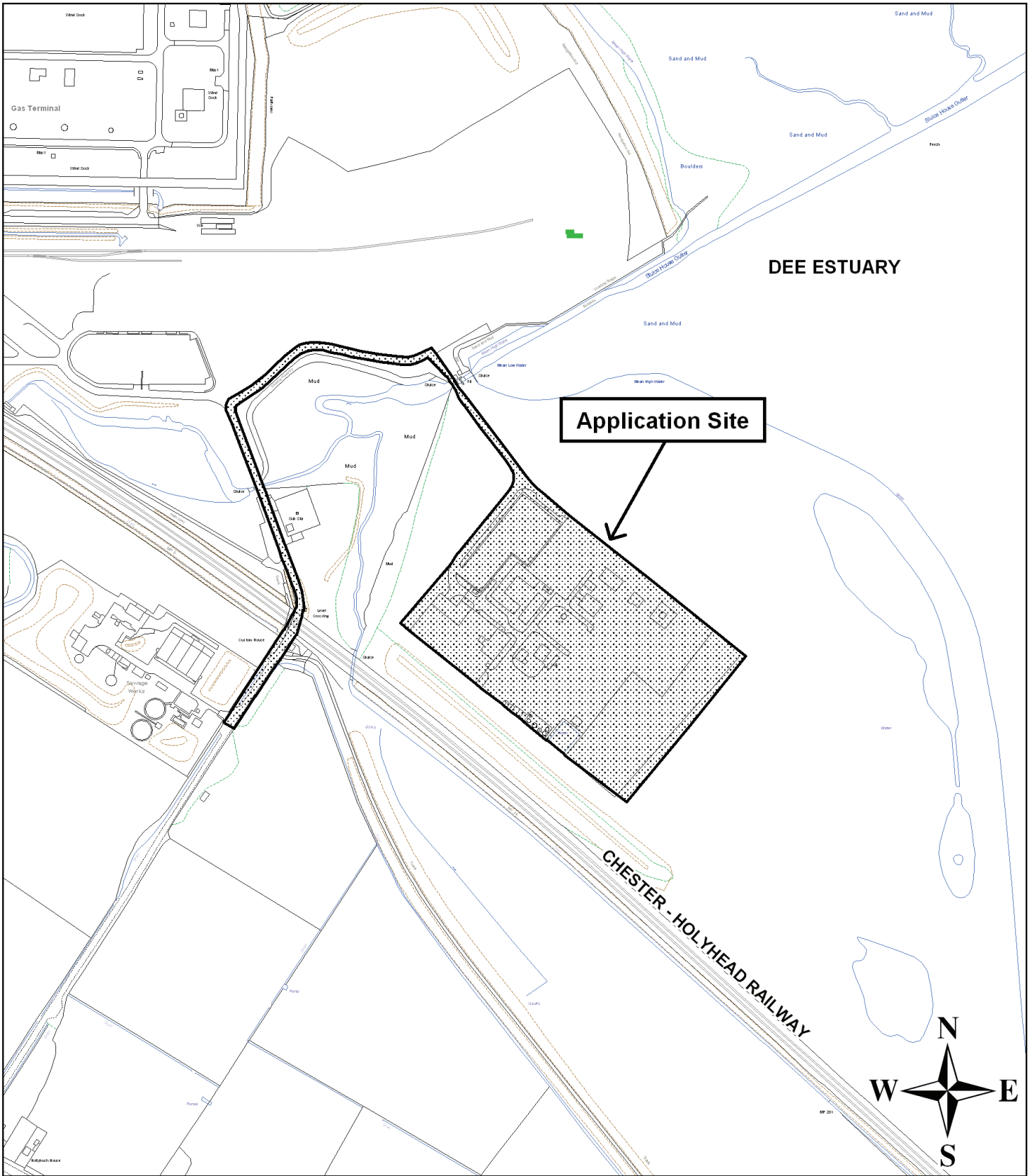
Planning application  
Consultation replies  
Representations

Contact Officer: Roger Bennion  
Telephone: 01352 703253  
E-Mail: roger\_bennion@flintshire.gov.uk



	Environment Directorate, Flintshire County Council, County Hall, Mold, Flintshire, CH7 6NF. Director: Mr. Carl Longland
	<p><b>Key to Settlement Boundaries</b></p> <ul style="list-style-type: none"> <li> Alyn &amp; Deeside Local Plan Settlement Boundary</li> <li> North Flintshire Local Plan Settlement Boundary</li> <li> Emerging Flintshire Unitary Development Plan Settlement Boundary</li> </ul>
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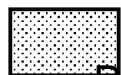


Environment Directorate,  
 Flintshire County Council, County Hall,  
 Mold, Flintshire, CH7 6NF.  
 Director: Mr. Carl Longland

**Legend**



Adopted Flintshire Unitary  
 Development Plan  
 Settlement Boundary



Application Site Extent

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## FLINTSHIRE COUNTY COUNCIL

**REPORT TO:** **PLANNING AND DEVELOPMENT CONTROL COMMITTEE**

**DATE:** **16<sup>TH</sup> JANUARY 2013**

**REPORT BY:** **HEAD OF PLANNING**

**SUBJECT:** **RENEWAL OF OUTLINE PLANNING PERMISSION REF: 041006 FOR PROPOSED RESIDENTIAL DEVELOPMENT ON LAND TO THE REAR OF 'HOLMLEIGH', CHESHIRE LANE, BUCKLEY**

**APPLICATION NUMBER:** **049289**

**APPLICANT:** **MR & MRS. R. J. KELLY**

**SITE:** **LAND TO THE REAR OF 'HOLMLEIGH', CHESHIRE LANE, BUCKLEY**

**APPLICATION VALID DATE:** **28<sup>TH</sup> FEBRUARY 2012**

**LOCAL MEMBERS:** **COUNCILLOR MRS. C. A. ELLIS**

**TOWN/COMMUNITY COUNCIL:** **BUCKLEY TOWN COUNCIL**

**REASON FOR COMMITTEE:** **NEED FOR A S.106 OBLIGATION FOR ECOLOGICAL MITIGATION PAYMENTS.**

**SITE VISIT:** **NO**

### **1.00 SUMMARY**

- 1.01 The application seeks approval of the renewal of an existing outline planning permission (Ref: 041006) for the residential development of this area of land to the rear of 'Holmleigh', Cheshire Lane, Buckley and other properties fronting onto Alltami Road.
- 1.02 Details of access were established in the original grant of permission and therefore matters relating to appearance, landscaping, layout, and scale are Reserved for future consideration.
- 1.03 Since the previous grant of permission, there have been several material changes to the applicable policy context at both national and local levels and therefore whilst the application is a renewal, examination of issues arising from the new contexts will be considered

in the appraisal contained within Section 7 of this report, with any conditional requirements arising therefrom summarised within the recommendation set out in Section 2.

**2.00 RECOMMENDATION: TO GRANT PLANNING PERMISSION, SUBJECT TO THE FOLLOWING:-**

2.01 That conditional planning permission be granted subject to the applicant entering into a Section 106 Obligation/Unilateral Undertaking to provide for the following:-

- a) Ensure the payment of a contribution of £1750 per dwelling to the Council for ecological mitigation. Such sum to be paid to the Council prior to the occupation of any dwelling subsequently approved under Reserved matters.
  - b) Ensure the payment of a contribution of £1100 per dwelling in lieu of on site play and recreation provisions. Such sum to be paid to the Council prior to the occupation of 50% of dwellings. Such sum to be used in the improvement of existing recreation and play facilities in the community.
1. Time limit on commencement.
  2. Submission of Reserved Matters
  3. Dwellings to be Code for Sustainable Homes Level 3
  4. Code for Sustainable Homes "Interim Certificate" to be submitted before work commences.
  5. Code for Sustainable Homes "Final Certificate" to be submitted before houses occupied.
  6. Details of access to be part of Reserved Matters.
  7. Access works to base course layer before any other works.
  8. Visibility splays of 2.4m x 45m.
  9. Reserved Matters to include layout, design, street lighting, traffic calming & signage and construction details.
  10. Reserved Matters to include proposed finished floor and ground levels.
  11. Reserved Matters to include proposed boundary treatments.
  12. No development to be commenced until a scheme for the comprehensive drainage of foul, surface and land waters approved.
  13. No occupation of dwellings until 1.4.2015 or upgrade of public sewerage system, whichever is earlier.
  14. Implementation of Reasonable Avoidance Measures as per approved reports and implementation of ecological compliance audit scheme to show compliant implementation.
  15. Scheme for additional 10% reduction in predicted carbon outputs.

**3.00 CONSULTATIONS**

3.01 Local Member  
Councillor Mrs. C. A. Ellis  
No response at time of writing.

Buckley Town Council  
No objection.

Head of Assets and Transportation  
No objection subject to the imposition of conditions. Footpath 22 abuts the site but is unaffected.

Head of Public Protection  
No adverse comments.

Dwr Cymru/Welsh Water  
No objection subject to the imposition of conditions. Members are referred to paragraphs 7.19 -7.23 inc. for fuller details in respect of this issue.

Airbus  
No adverse comments.

Countryside Council for Wales  
No objection subject to the imposition of conditions and the applicant being willing to enter into a S.106 agreements in respect of Special Area of Conservations Impact Offsetting.

Ramblers Association  
No adverse comments. Requests that Footpath 22 be protected.

Coal Authority  
No adverse comments. Standard advice applies.

#### **4.00 PUBLICITY**

4.01 The application has been publicised by way of the publication of a press notice, display of a site notice and via neighbour notification letters.

4.02 At the time of writing, 3No. third party letters have been received in response to the publicity exercise. These letters raise the following objections;

1. Concerned about the scale and height of the proposed dwellings;
2. Overdevelopment of the site.

#### **5.00 SITE HISTORY**

- 5.01 **040672**  
Outline – Residential Development  
Withdrawn 3.2.2006.

**041006**  
Outline – Residential Development  
Approved 12.5.2009.

## 6.00 **PLANNING POLICIES**

- 6.01 Flintshire Unitary Development Plan  
Policy STR1 - New development.  
Policy STR4 - Housing.  
Policy GEN2 - Development inside settlement Boundaries.  
Policy HSG3 - Housing on unallocated sites within settlement boundaries.  
Policy WB2 - Sites of international importance.  
Policy SR5 - Outdoor play pace & new residential development.  
Policy EWP2 - Energy efficiency in new development.  
Policy EWP3 - Renewable energy in new development.

## **PLANNING APPRAISAL**

- 7.01 Site Description  
The site comprises an area of open land to the rear of bungalows on Alltami Road with access proposed to be derived via Cheshire Lane which is presently a narrow, single width route. All boundaries of the site are formed by mature and well established hedgerows. However, this is supplemented by residential style fencing to the rear boundaries of the properties on Alltami Road. There are 3 cottages at the end of Cheshire Lane, one of which abuts the site along its southerly boundary. A further 5 bungalows fronting Alltami Road also bound the site to the north. A short trackway abuts the western boundary of the site with bungalows beyond. These are set within large curtilage areas. The site abuts an area of playing fields associated with the nearby Elfed High School to the east.
- 7.02 The Proposed Development  
The proposals relate to the renewal of an outline planning permission granted for the residential development of this site. Access is proposed to be derived from Cheshire Lane and has been the subject of consideration by the Local Highway Authority previously and deemed to be acceptable subject to conditions. All other matters of detail are Reserved for subsequent consideration in any future Reserved matters application which may arise.
- 7.03 Policy Context  
The site is located within the settlement boundary of Buckley which is defined as a Category A settlement within the adopted Flintshire

Unitary Development Plan. Policy GEN2 identifies a presumption in favour of the development of such sites but identifies that in the case of unallocated 'windfall sites' there are limitations imposed via policy HSG3.

- 7.04 Policy HSG3 directs that upon unallocated sites within settlement boundaries, new housing development will be permitted in Category A settlements where it does not conflict with the planned housing provision for the County, as set out in the UDP, and does not conflict with Policy GEN1.
- 7.05 The bringing forward of such windfall sites is consistent with the strategic aims of the UDP and the UDP Inspector's conclusions in relation to housing, in that housing development should be primarily directed towards Category A settlements. This is because there are a greater range of facilities, services and infrastructure, commensurate with the fact that Category A settlements are the largest settlements in the County.
- 7.06 At this stage, compliance with Policy GEN1 cannot be ascertained as this policy concerns itself with the details of the proposals and the application seeks only to renew the principle of residential development upon this site.
- 7.07 However, as the principle of development is already established and this application seeks only to renew this permission, I consider the proposals to comply with the broad thrust of policy.
- 7.08 Main Issues  
The main issue for consideration relates to whether any material changes in policy applicable to both the proposals and the application site would be such as to weigh against the renewal of the permission.
- 7.09 Since the previous grant of permission (Ref. 041006, dated 12.5.2009), the changes applicable to this proposal are:
1. The requirement for dwellings to be compliant with the requirements of the Code for Sustainable Homes (CFSH).
  2. The need for potential impacts upon ecologically sensitive sites to be managed and
  3. The current status of the drainage system serving the site.
- 7.10 Code for Sustainable Homes and Energy Efficiency  
Planning Policy Wales (Edition 5 – Nov. 2012) [PPW] states in paragraph 4.12.4 that:
- Applications for 5 or more dwellings received on or after 1<sup>st</sup> September 2009 to meet Code for Sustainable Homes Level 3 and obtain 6 credits under issue *Ene1 – Dwelling Emission Rate*;

- Applications for 1 or more dwellings received on or after 1<sup>st</sup> September 2010 to meet Code for Sustainable Homes Level 3 and obtain 6 credits under issue *Ene1 – Dwelling Emission Rate*;
  - Dwellings registered under the Code for Sustainable Homes (Version 3) will be expected to meet Code for Sustainable Homes Level 3 and obtain 1 credit under issue *Ene1 – Dwelling Emission Rate*.
- 7.11 The above clearly demonstrates that the previous grant of planning permission pre-dated the introduction of the requirements of the CFSH. It also demonstrates that as of 1<sup>st</sup> September 2010, all new dwellings in Wales have been required to meet the specified level of compliance with the CFSH and therefore satisfy the requirements of national Planning Policy Guidance as set out in PPW and expanded upon in greater detail within both Technical Advice Note 22: Planning for Sustainable Buildings (2010), as updated by Policy Clarification Letter CL-04-10.
- 7.12 This national thrust of policy is reflected in the requirements of policies EWP2 and EWP3 of the UDP which require new developments to demonstrate energy efficiency through design and construction and seeks to secure further reductions in the predicted carbon emissions from major developments such as this proposal.
- 7.13 Accordingly, I propose to impose conditions requiring that all dwellings constructed as a consequence of this permission to be CFSH (Version 3) compliant. I will also condition to submission of both design and completion stage certificates to verify the same. In accordance with Policy EWP3, and in recognisance of the fact that detailed proposals pursuant to this outline permission will amount to 'major development' I also propose to condition the submission of schemes to secure the reduced carbon emissions stipulated within this policy.
- 7.14 Ecology  
The site lies in close proximity to the Buckley Claypits and Commons Site of Special Scientific Interest (SSSI) and Deeside and Buckley Newt Sties Special Area of Conservation (SAC). These sites support a nationally important population of great crested newts and, in the case of the SSSI, a variety of more widespread amphibian species and semi-natural grassland. Under Regulation 48 of the Conservation (Natural Habitats) Regulations 1994, the Council must consider whether a development proposal in combination with other plans for projects is likely to have a significant effect on the Deeside and Buckley Newt SAC.
- 7.15 Guidance to Local Planning Authorities is given in TAN 5: Nature and Conservation Planning (particularly paragraphs 6.3.6 and 6.3.7). In particular, at paragraph 6.3.7 it is stated:

“It is clearly essential that planning permission is not granted without the planning authority having satisfied itself that the proposed development ..... would not impact adversely on any European protected species .....

- 7.16 The effect of the proximity of these designations and the above referenced legislation is such that the need to ensure no adverse impacts upon SAC and SSSI features arising from development proposals is a material planning consideration. Accordingly, it is essential that this matter is properly addressed in the consideration of this application.
- 7.17 The development would not lead to a direct loss of habitat within the SAC or SSSI. However, in this case it is considered that mitigation proposals are required to address indirect impacts on the SAC that may be caused by construction of the development proposal and also through recreational pressures and disturbance/predation of wildlife.
- 7.18 The applicants have submitted both an extended Phase 1 Habitat Survey and a Method Statement which includes Reasonable Avoidance Measures to mitigate against the potential impacts upon the Deeside and Buckley SAC. These proposed Reasonable Avoidance Measures have been the subject of examination by both the County Ecologist as the Countryside Council for Wales, both of whom consider them to be acceptable and recommend a condition requiring their implementation. However, as replacement land cannot be provided within the development site or surrounding area, a financial contribution towards mitigation projects in the area is proposed. This approach has been agreed with Countryside Council for Wales and accordingly, it is considered that the ecological issues have now been satisfactorily resolved and planning permission can be granted subject to a Section 106 agreement requiring the payment of £1,750 per dwelling to be secured towards ecological mitigation.
- 7.19 Drainage Issues  
In response to consultation, Dwr Cymru/Welsh Water have advised that the development of the site would overload the existing public sewerage system. However, I am advised that the system is to be the subject of a scheme of improvements which are anticipated to be completed by the 1<sup>st</sup> April 2015.
- 7.20 Accordingly, rather than object to the proposals and in acknowledgement of the fact that an extant outline planning permission exists at this site, it is requested that a Grampian style condition be imposed prohibiting the occupation of any dwellings until either the improvement works are completed or the 1<sup>st</sup> April 2015, whichever is the sooner.
- 7.21 I recommend the imposition of this condition, together with another broader condition requiring the submission and agreement of the

proposed foul and surface water drainage arrangements for the site. In coming to this view I have had regard to Criteria h) and i) of Policy GEN1 of the UDP which require proposals to have regard to the adequacy of existing public utility services and ensure that the proposed development would not give rise to problems associated with (amongst other items) drainage.

7.22 I consider that both the planned scheme of drainage improvements by Dwr Cymru and the requirements of Policy GEN1 are such that amount to a material consideration different to that in existence at the time of the original grant of planning permission. Therefore, the imposition of such conditions, notwithstanding that this application seeks a renewal, is warranted and justified.

7.23 Other Matters

The application has been the subject of the identified consultations and the responses reported in Section 3 of this report are already addressed via the conditions imposed upon the original grant of outline planning permission and are proposed to be re-imposed as set out in Section 2 of this report.

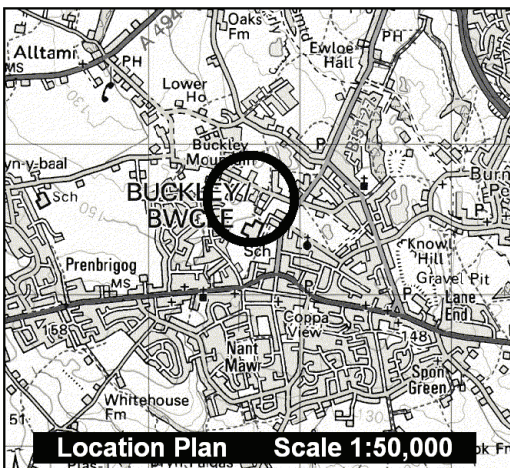
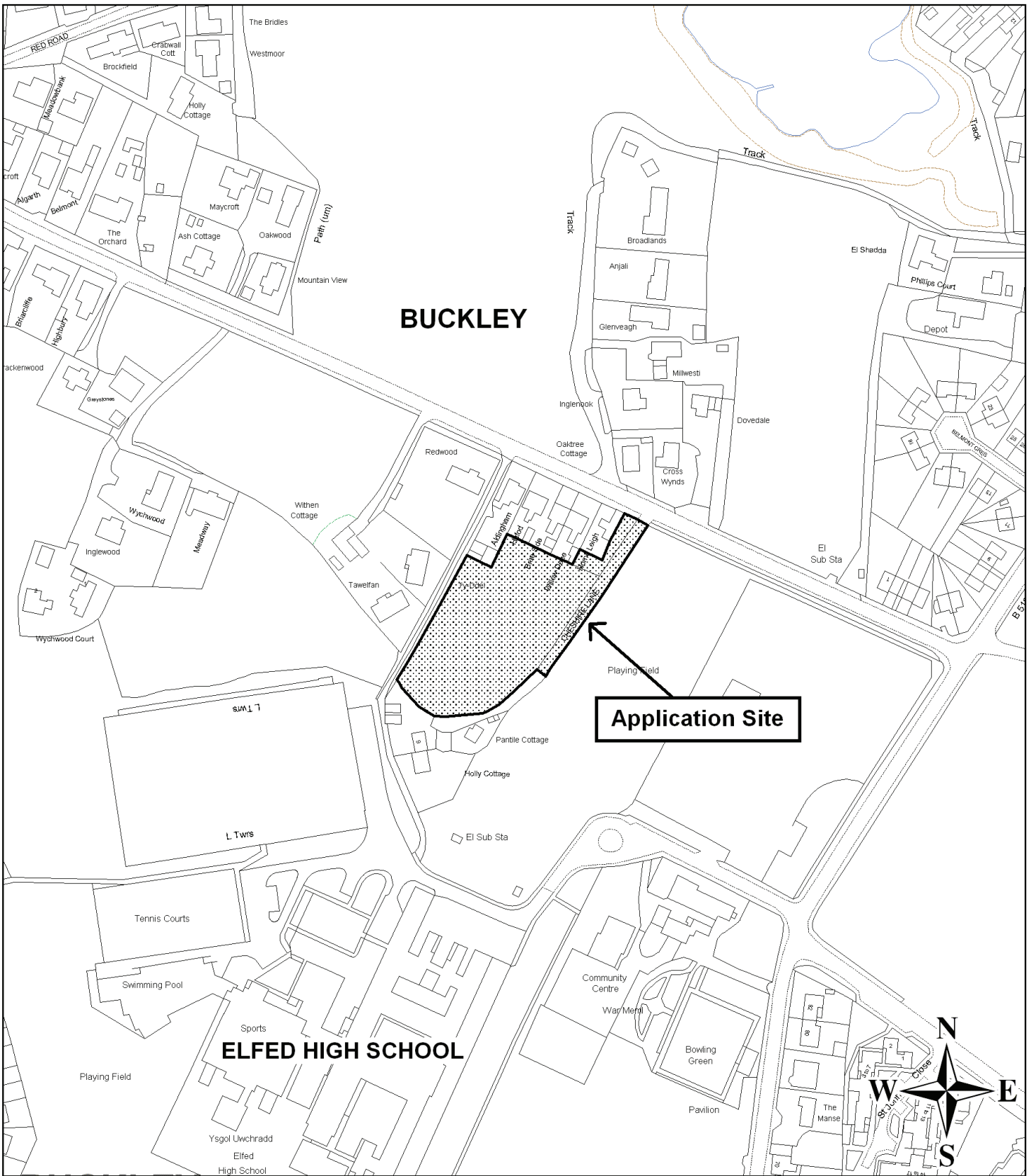
**8.00 CONCLUSION**

8.01 The development of this site for residential use has been accepted in principle via the previous extant outline planning permission. The issues arising from the identified material changes in policy context and site related issues have been considered in the above appraisal and are demonstrated to be addressed via those conditions proposed, in addition to those conditions already imposed upon the grant of outline permission. Appropriate provisions for play and open space provision have been secured and appropriate contributions associated with both this issue and the issue of Ecological Offsetting are proposed to be secured via an appropriately worded legal agreement.

8.02 In considering this planning application the Council has acted in accordance with the Human Rights Act 1998 including Article 8 of the Convention and in a manner which is necessary in a democratic society in furtherance of the legitimate aims of the Act and the Convention.

**Contact Officer:** David Glyn Jones  
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Environment Directorate,  
 Flintshire County Council, County Hall,  
 Mold, Flintshire, CH7 6NF.  
 Director: Mr. Carl Longland

**Legend**



Adopted Flintshire Unitary  
 Development Plan  
 Settlement Boundary



Application Site Extent

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Map Scale 1:2500

OS Map ref SJ 2764

Planning Application 49289

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## FLINTSHIRE COUNTY COUNCIL

**REPORT TO:** PLANNING & DEVELOPMENT CONTROL  
COMMITTEE

**DATE:** WEDNESDAY, 16 JANUARY 2013

**REPORT BY:** HEAD OF PLANNING

**SUBJECT:** 050003 - GENERAL MATTERS - OUTLINE  
APPLICATION FOR ERECTION OF 12 DWELLINGS  
AT BANK FARM, LOWER MOUNTAIN ROAD,  
PENYFFORDD

**1.00 APPLICATION NUMBER**

1.01 050003

**2.00 APPLICANT**

2.01 HOLTS CONSERVATORIES LTD

**3.00 SITE**

3.01 BANK FARM, LOWER MOUNTAIN ROAD, PENYFFORDD.

**4.00 APPLICATION VALID DATE**

4.01 30<sup>TH</sup> JULY 2012

**5.00 PURPOSE OF REPORT**

5.01 To update members with regard to the processing of the above application following the resolution to grant outline planning permission at the committee meeting on 12<sup>th</sup> December, 2012. (My report to that committee is appended). Also to seek authorisation for a Section 106 Obligation to cover the commuted sum payments in respect of educational and leisure provision and the carrying out of off site highway works.

**6.00 REPORT**

6.01 Members will note from the minutes of the 12<sup>th</sup>. December committee meeting (Item 4 on this Agenda) that it was resolved to grant outline

planning permission for the erection of 12 dwellings at the former Bank Farm, subject to conditions to be determined by the Head of Planning. The minute also refers to the fact that as the application had been advertised as a departure from policy, consideration would be given to referring the decision to the Welsh Government, who might choose to call it in.

- 6.02 Members will have noted from my earlier report that a previous application for residential development on this site had been ‘called-in’ on the basis that it was a “departure which would materially conflict with, and prejudice, the implementation of policies and proposals contained within the approved Development Plan”. (That application was subsequently refused). Advice with regard to referrals of this nature has recently been revised and is now contained in The Town and Country Planning (Notification) (Wales) Direction 2012 (operative in respect of any application registered as valid on or after 30<sup>th</sup> July, 2012). This new Direction deletes the clause quoted above and replaces it with more clearly defined criteria covering the need for referral.
- 6.03 The advice from Welsh Government regarding the operation of the 2012 Direction makes it clear that it is still open to individuals to request that an application be ‘called-in’, but there is no longer a need to ‘refer’ an application for residential development which constitutes a departure from policy, unless it is for 150 dwellings or more, or involves more than 6 hectares of land. (There are other factors relating to flood risk areas which can apply to fewer dwellings, but these are not applicable in the circumstances of this application). In light of the revised notification direction above, it is therefore not appropriate to refer this application to Welsh Government.
- 6.04 It is therefore open to the Authority to continue to determine the application (unless Welsh Government directs that it be ‘called-in’ following a request from another party) and Members now need to consider the matters referred to in paragraph 5.01 above, which will be covered by a Section 106 Obligation. These are dealt with in turn. (It should be noted that the development falls below the threshold for providing an element of affordable housing, so unless this was to be offered voluntarily it does not constitute one of the requirements).
- 6.05 **Educational Contribution** Members will be aware that, where new residential development is proposed we now require the payment of a sum of money to enhance the educational provision in the locality which will result from the additional demand for school places. The Council’s Supplementary Planning Guidance Note No. 23 – Developer Contributions to Education, sets out the formulae for assessing the relevant sums of money, based on the advice received from the Head of Lifelong Learning. In this instance the advice is as follows :  
“Of the three Primary Schools in the Penymynydd / Penyffordd area, St. John the Baptist V.A. is already in deficit by 13 pupils, and

the small number of surplus places at Penyffordd Juniors and Abbots Lane Infants, are expected to be eliminated by the Wood Lane Farm, and White Lion, developments. (A total of 74 additional Primary pupils are anticipated from these two). At the nearest High School, Castell Alun, the number of pupils already exceeds its official capacity by 133”.

- 6.06 Consequently, this development will require Section 106 Contributions, as per the following calculations :-

Primary12 dwellings x 0.24 = 3 pupils x £12,257 (Building Costs Multiplier) = **£36,771**

Secondary12 dwellings x 0.174 = 2 pupils x £18,469 (Building Costs Multiplier) = **£36,938**

**Total Contribution £73,729**

- 6.07 **Play Provision**

This is covered by Local Planning Guidance Note No. 13 – Open Space Requirements. In this instance, considering the small number of dwellings proposed along with the rural location and the potential for reasonably spacious rear private gardens the provision of on site public open space and formal play provision would not be warranted. The current commuted sum requirement in lieu of on site provision is £1,100 per dwelling, giving a total of **£13,200**

- 6.08 **Footpath to Penyffordd**

The proposal presented to Committee on 12<sup>th</sup> December, 2012 included the construction of a footpath linking the site to the village of Penyffordd. Although there were no design details of this (being an outline application) it was presented as an enhancement to the sustainability of the development. Whereas such a footpath was not requested by Highway officers in their response to consultation, there would be a benefit to the future residents of the development from its construction and it is therefore recommended that this is also covered by the Section 106 Obligation.

- 6.09 One of the clauses of the Section 106 Obligation entered into in granting planning permission for the proposed Warren Hall Business Park in February 2008 required the construction of a cycleway from Warren Hall to Penyffordd, being the nearest train station, (and other settlements). As the route would pass Bank Farm it is recommended that the footpath to be constructed in connection with this residential development should be of sufficient width (3metres) to incorporate a cycleway. This will benefit the future residents in that it will provide an alternative means of transport both to places of work (via the railway station) and a route to the schools within the village.

- 6.10 Although the application site edged in red (shown on the accompanying plan) includes a strip of land between Bank Farm and

Penyffordd the provision of the proposed footpath needs to be covered by the Section 106 Obligation rather than a planning condition, as it may require works outside this area. It is believed that there is sufficient width within the highway verge to accommodate the construction of the footway up to the point where the speed restriction starts at the eastern end of the village but the detailed design will establish this.

## **7.00 RECOMMENDATION**

- 7.01 Subject to the completion of a Section 106 Obligation to cover the payment of commuted sums in respect of Education Provision (in accordance with the provisions of SPG 23), on site play provision (in accordance with the provisions of LPG 13) and the construction of a footpath link between the site and the village of Penyffordd, that outline planning permission be granted subject to the following conditions :
1. Outline – Reserved matters.
  2. Outline – Time limit.
  3. Materials to be submitted and approved.
  4. Siting, layout and design of site access to be in accordance with details to be submitted and approved, prior to the commencement of any site works.
  5. Forming and construction of means of site access shall not commence until detailed design has been approved.
  6. Detailed layout, design, means of traffic calming and signing, surface water drainage, street lighting and construction of internal estate roads to be submitted and approved, prior to the commencement of any site works. Development to be undertaken in accordance with approved details.
  7. Foul and surface water to be drained separately.
  8. No surface water to connect, either directly or indirectly, to the public sewerage system.
  9. Land drainage run-off shall not be permitted to discharge, either directly or indirectly, into the public sewerage system.
  10. Code for sustainable homes pre-commencement.
  11. Code for sustainable homes post construction.
  12. Details of hard/soft landscaping to be submitted and approved.
  13. Timescale for completion of landscaping scheme to be approved.
  14. Details of 3 m wide footpath/cycleway link from the site to Penyffordd to be submitted and approved.
  15. Footpath/cycleway link to be provided prior to the occupation of any dwellings.
  16. Removal of permitted development rights.
- 7.02 That the planning application not be referred to Welsh Government for the reasons set out in paragraphs 6.02 and 6.03 above.

**Contact Officer:** Glyn P. Jones  
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**FLINTSHIRE COUNTY COUNCIL**

**REPORT TO:** **PLANNING AND DEVELOPMENT CONTROL COMMITTEE**

**DATE:** **WEDNESDAY 12<sup>TH</sup> DECEMBER 2012**

**REPORT BY:** **HEAD OF PLANNING**

**SUBJECT:** **OUTLINE APPLICATION - ERECTION OF 12NO. DWELLINGS INCLUDING DEMOLITION OF EXISTING OUTBUILDINGS AND CREATION OF A NEW ACCESS AT "BANK FARM", LOWER MOUNTAIN ROAD, PENYFFORDD, NR. CHESTER, FLINTSHIRE**

**APPLICATION NUMBER:** **050003**

**APPLICANT:** **HOLTS CONSERVATORIES LTD**

**SITE:** **"BANK FARM", LOWER MOUNTAIN ROAD, PENYFFORDD, NR. CHESTER, FLINTSHIRE**

**APPLICATION VALID DATE:** **30.07.2012**

**LOCAL MEMBERS:** **COUNCILLOR P. LIGHTFOOT**

**TOWN/COMMUNITY COUNCIL:** **HIGHER KINNERTON COMMUNITY COUNCIL**

**REASON FOR COMMITTEE:** **SCALE OF DEVELOPMENT RELATIVE TO DELEGATION SCHEME**

**SITE VISIT:** **YES (AT REQUEST OF CHAIRMAN OF PLANNING AND DEVELOPMENT CONTROL COMMITTEE)**

**1.00 SUMMARY**

1.01 This outline application proposes the demolition of existing buildings and redevelopment by the erection of 12 No. dwellings on land off Bank Farm, Lower Mountain Road, Penyffordd. The proposed access forms part of this application with matters relating to appearance, landscaping, layout and scale reserved for subsequent approval.

**2.00 RECOMMENDATION: TO REFUSE PLANNING PERMISSION FOR THE FOLLOWING REASONS**

2.01 1. The proposed development is located in the open countryside outside the settlement boundary of Penyffordd as defined in the

adopted Flintshire Unitary Development Plan. In such locations new residential development will only be permitted if it can be established by the Local Planning Authority that the dwelling(s) is/are essential to house farm/forestry workers or other key business workers who must live on the site rather than in a nearby settlement. No special circumstances have been advanced in this instance and the development would therefore be contrary to Policies STR1, GEN1, GEN3 and HSG4 of the adopted Flintshire Unitary Development Plan.

2. The majority of the site does not fall properly within the definition of 'previously developed land' as contained within Planning Policy Wales Edition 5 – November 2012, and the proposal would not result in a sustainable pattern of development relative to the village of Penyffordd. Accordingly, the development would be contrary to Planning Policy Wales Edition 5 November 2012 and Policies GEN1, GEN3 and HSG4 of the adopted Flintshire Unitary Development Plan.
3. The proposed scale, form and layout of the development would represent an inappropriate modern urban development within the open countryside which would be detrimental to the sites existing rural character. This would be contrary to Policies STR4, GEN1, GEN3, D1 and D2 of the adopted Flintshire Unitary Development Plan.

### **3.00 CONSULTATIONS**

3.01 Local Member:  
Councillor P. Lightfoot  
No response at time of preparing report.

Higher Kinnerton Community Council  
No response at time of preparing report.

In view of the proximity of the site to the adjoining communities of Penyffordd and Penymynydd, consultation has also been undertaken with the local members and Community Council for this area.

Councillor Mrs C. Hinds  
Requests planning committee determination. Preliminary view is that because there is already a commitment for approximately 320 dwellings within Penyffordd, proposal will lead to overdevelopment within the community. Residential development on the site has also previously been refused by residents, community council, local Members, Flintshire County Council and the Welsh Assembly Government.

Councillor D. T. Williams

Requests planning committee determination given concerns that:

- the site is outside the settlement boundary of both Kinnerton and Penyffordd
- the site does not fall within the definition of a 'brownfield site' and a previous application for a residential development was dismissed on appeal
- additional residential development would place increased pressure on services within Penyffordd which has been the subject of a 35% increase in growth since publication of the UDP
- the development would not maintain the character of this open countryside location
- the proposal would result in the loss of traditional farm buildings where there is potential for conversion to residential use.

Penyffordd Community Council

The Council opposes the application as it constitutes development in the countryside, contrary to Flintshire County Council Policy as it is outside of the Unitary Development Plan.

Head of Assets and Transportation

Following the receipt of amended plans there is no objection to the proposed access points to serve the development off Lower Mountain Road and Barracks Lane. Requests that any permission be subject to the imposition of conditions relating to the formation of satisfactory accesses, detailed design of internal estate roads and that the proposed footpath link between the site and Penyffordd is completed prior to the commencement of any other site works.

Countryside Council for Wales

No objection

Dwr Cymru/Welsh Water

Recommend that any permission be subject to conditions in respect of foul, surface and land drainage.

Environment Agency

No response received at time of preparing report.

Airbus

No aerodrome safeguarding objection to the proposal.

Public Open Spaces Manager

Recommends that any permission be subject to a commuted sum payment of £1100 per dwelling in lieu of on-site public open space.

### Head of Public Protection

No objection in principle subject to the imposition of a condition requiring land contamination survey given sites usage as former farm complex.

## **4.00 PUBLICITY**

### **4.01 Press Notice, Site Notice, Neighbour Notification**

6 letters of support the main points of which are that the proposal will:

- Improve the visual appearance of the site which is in a poor physical condition.
- Provide new houses which will meet a growing need and be beneficial to the community.

1 letter received which, whilst not objecting to the principle of improving the visual appearance of the site states that:-

- The site should be used for light commercial use and there has been no attempt to implement a previous consent for this use since permission was previously granted.
- If permission were to be granted then the number of dwellings should be reduced from 12 to 8.

## **5.00 SITE HISTORY**

### **5.01 048780**

Change of use of agricultural buildings to light industrial use.  
Permitted 06.01.2012

### **040627**

Certificate of lawfulness – residential, retail and associated storage.  
Refused 14.02.06

### **038067**

Outline, Demolition of existing buildings and erection of new dwellings.  
Application called in by Welsh Government and refused 13.10.05

### **00/00733**

Outline, Erection of 12 No. detached dwellings. Refused 05.09.00

### **4/2/14925**

Change of use of piggery to boarding kennels and cattery. Withdrawn  
06.02.90

## **6.00 PLANNING POLICIES**

### **6.01 Flintshire Unitary Development Plan Policy STR1 – New Development**

Policy STR 2 – Transport and Communications  
Policy STR 4 - Housing  
Policy STR 7 – Natural Environment  
Policy STR 8 – Built Environment  
Policy GEN1 – General Requirements for Development  
Policy STR10 – Resources  
Policy GEN3 – Development in the Open Countryside  
Policy D1 – Design Quality, Location and Layout  
Policy D2 – Design  
Policy L1 – Landscape Character  
Policy WB1 – Species Protection  
Policy AC13 – Access and Traffic Impact  
Policy AC18 – Parking Provision and New Development  
Policy HSG4 – New Dwellings Outside Settlement Boundaries

#### ADDITIONAL GUIDANCE

Planning Policy Wales Edition 5 – November 2012

### **7.00 PLANNING APPRAISAL**

#### **7.01 Introduction**

This outline application proposes the demolition of all the existing buildings and the redevelopment of the site by the erection of 12No. dwellings on land at Bank Farm, Lower Mountain Road, Penyffordd.

#### **7.02 Site Description**

The site which is approximately 0.9 hectares in area, is located on the south eastern side of Chester Road, at its junction with Barracks Lane and Lower Mountain Road, approximately 0.5km to the east of Penyffordd.

7.03 The site accommodates a redundant farm dwelling with associated buildings in various sates of repair. These buildings comprise a mix of older brick/timber frame outbuildings and more modern buildings constructed of breeze block and corrugated sheeting external walls.

7.04 The site is bounded to the north by a mature and well established hedgerow, which also exists in part to the southerly end of the western site boundary with the remainder formed by the flank wall of one of the buildings. The demarcation of boundaries to the south and east is by way of a 1.2m high post and wire fence. The area surrounding the site is predominantly agricultural, although there are a number of scattered residential properties.

#### **7.05 Proposed Development**

The plans submitted as part of this application propose the demolition of all the existing buildings on site and redevelopment by the erection of a total of 12 No. dwellings.

7.06 Although submitted in outline form, an indicative site layout with

accompanying elevational details has been provided illustrating the erection of 4 different two-storey house types some 8.6 - 9.4 metres in height, a number of which are proposed to be sited around a central courtyard.

7.07 **Background History**

For Members information there is a very significant planning history relating to residential development at this location, which is referred to in paragraph 5.00 of this report.

7.08 In summary an outline planning application for the erection of 12 No. dwellings was refused in September 2000 (Code No. 00/00733). This application was refused for the following reasons:-

1. In the opinion of the Local Planning Authority the proposal is contrary to Policy H6 of the Alyn and Deeside Local Plan, Policies B5, B8 of the Clwyd County Structure Plan First Alteration and Policies HSG5, HSG7 of the Structure Plan Second Alteration: Flintshire edition. The site lies outside the settlement boundary in an area where there is a general presumption against allowing new dwellings. The applicant has provided insufficient justification as to why the application should be approved contrary to these policies.
2. The proposal represents non-essential development in the open countryside which will be detrimental to the character and appearance of the locality. As such the development is contrary to Policy H3 of the Clwyd County Structure Plan First alteration and Policy CONS5 of the Structure Plan Second Alteration: Flintshire edition.
3. The proposal if allowed could set an undesirable precedent for similar development in the open countryside which the Local Planning Authority would find difficult to resist. The result of this would adversely affect the character and amenities of the area and undermine the settlement and landscape policies of the Alyn and Deeside Local Plan, the Clwyd County Structure Plan First Alteration and the Structure Plan Second Alteration: Flintshire edition.

7.09 A subsequent outline application for the demolition of existing buildings and the erection of new dwellings at this location was called in for determination by the Welsh Assembly Government (Code No. 038067). Following its consideration by the Inspector, permission was refused on 13<sup>th</sup> October 2005 by the Assembly's Planning Decision Committee. The Committee agreed with the Inspector that there was no policy basis on which to support residential development at the site. This was addressed in paragraph 32 of the Inspectors report as follows:

32

“Although part of the site might have been used for farm sales in the past, it remains agricultural in its past function and its current appearance. As defined in Figure 2.1 of PPW, previously developed land “is that which is or was occupied by a permanent structure (excluding agricultural or forestry buildings) and associated fixed surface infrastructure”. Although the PPW definition specifically excludes “land and buildings currently in use for agricultural or forestry purposes” (my underlining), this must also exclude land and buildings last used for agricultural purposes, even where they are now redundant. To conclude otherwise would be likely to have serious implications for the development of rural farmyards throughout the Welsh countryside”.

- 7.10 The Inspector went on to address the credentials of the proposals in relation to sustainability and the open countryside location in paragraphs 33 and 34.

33

“The application site is well outside recognised settlement boundaries and the development would not have good access to jobs or public and other services. Consequently, the proposed development would not meet PPW priorities for rural areas, which aim to secure sustainable rural communities with access to high quality public services. The occupants of the proposed dwellings would be largely dependant on the private car, rather than other transport modes, for access to normal daily activities and accordingly, the development of this site would fail to promote a sustainable pattern of development.”

34

“The thrust of all these policies of the approved and emerging development plan is in line with government guidance in PPW intended to protect and conserve the open countryside and to ensure that new housing is compatible with sustainability objectives. The site does not meet the definition of brownfield land, and as there are no other special circumstances advanced in support of the proposed residential development, it would therefore be contrary to the force of the relevant policies in the development plan for this locality”.

- 7.11 The Assembly’s Planning Decision Committee agreed with this analysis in its decision letter.

6. The Planning Decision Committee agree with the Inspector that there are no other special circumstances advanced in favour of the development which would outweigh the national and local policy objections to the proposal. They also agree with him that the proposal would have a detrimental impact on the landscape and be unsustainable in environmental terms”.

7.12 In addition to the above, a representation was submitted during the Unitary Development Plan Deposit Consultation Stage objecting to the content of the plan. The representation sought a change to the plan whereby land at Bank Farm was allocated for residential development under Policy HSG1. The representation was pursued through to public inquiry and was considered by the Inspector by way of written representation. The Inspector concluded in her report dated May 2009 that:

“The site is some distance away from the settlement boundary and is set in open countryside. Not all brownfield sites will necessarily be suitable for development. Development on this site would appear as an isolated group of dwellings in the countryside, poorly related to the existing settlement pattern. Furthermore, since this site is well outside the settlement it would not accord with the sequential search for the allocation of sites. Having considered all the submissions made I conclude the site should not be allocated”.

7.13 The most recent history at this location relates to a proposal for the retention of the existing farmhouse in residential use and the change of use of 8 buildings on site to light industrial use. This was permitted on 6<sup>th</sup> January 2012, subject to a number of conditions one of which required the identification of a residential curtilage for the dwelling. No development has commenced in accordance with the permission obtained.

7.14 **Relevance of Site History**

A central issue in determining the current application is whether there has been a material change in planning policy and/or in any other material planning considerations since the decisions were taken previously to refuse planning permission for residential development at the site, and not to allocate the site in the UDP for use for residential development.

7.15 The applicants case through its agent is that there are material changes in circumstances as set out below:-

- Structure and Local Plans previously referred to by the Assembly’s Planning Decisions Committee are no longer Development Plan documents
- As the UDP is now adopted, the weight to be given to the policies has increased
- A revised version of Planning Policy Wales has been published since the decision by the Assembly which places considerable emphasis on the redevelopment of brownfield sites and reducing the length of car journeys
- The site has an extant permission for light industrial use and should be treated as brownfield land



- The Council's 5 years of housing land supply relies on greenfield land contrary to the aims of PPW
- The current scheme proposes 12 dwellings as compared to the previous proposal for 20 dwellings submitted under Code No. 038067
- The scheme has been designed to resemble a range of converted farm buildings to address concerns that the previously submitted scheme resembled a 'modern housing estate'.
- The site is now sustainable following the creation of bus stops outside the site and the intention is to create a footpath link to Penyffordd.

In support of this stance the applicant's agent has submitted additional information re-iterating the view that the site should be treated as previously developed land and drawing attention to a case in an adjoining authority where a site located some distance outside a settlement boundary had been granted permission for residential development. Having looked at this in detail, I do not consider that the circumstances are comparable in terms of its location and previous use and therefore I do not find the comparison helpful when considering this application.

#### 7.16 **Main Planning Issues**

It is considered that the main planning issues can be summarised as follows:-

- (a) Principle of development having regard to the planning history and the current policy in respect of previously developed land (PDL) (also referred to as 'brownfield' land)**
- (b) Sustainability of development given the site's location outside any recognised settlement boundary.**
- (c) Scale/form of development proposed**
- (d) Acceptability of highways and access to serve the development**
- (e) Impact on ecology**

#### 7.17 **Principle of Development**

The definition of previously developed land (PDL) also known as 'brownfield land', is contained within Fig 4.3 of Planning Policy Wales (PPW) Edition 5 – November 2012 where it states:-

*"Previously developed land is that which is or was occupied by a permanent structure (excluding agricultural or forestry buildings) and associated fixed surface infrastructure. The curtilage of the development is included, as are defence buildings, and land used for mineral extraction and waste disposal where provision for restoration has not been made through development control procedures".*

*Excluded from the definition are:*

- *Land and buildings currently in use for agricultural or forestry purposes.*
- *Land in built up areas which has not been developed previously, for example parks, recreation grounds and allotments, even though these areas may contain certain urban features such as paths, pavilions and other buildings;*
- *Land where the remains of any structure or activity have blended into the landscape over time so that they can reasonably be considered part of the natural surroundings;*
- *Previously developed land the nature conservation value of which could outweigh the re-use of the site; and*
- *Previously developed land subsequently put to an amenity use.*

### Notes

1. *The curtilage is defined as the area of land attached to a building. All of the land within the curtilage of the site will also be defined as previously-developed. However this does not mean that the whole area of the curtilage should therefore be redeveloped. For example, where the footprint of a building only occupies a proportion of a site of which the remainder is open land (such as a hospital) the whole site should not normally be developed to the boundary of the curtilage. The Local Planning Authority should make a judgement about site layout in this context, bearing in mind other planning considerations such as policies for the protection of open space, playing fields or development in the countryside. They should consider such factors as how the site relates to the surrounding area and requirements for on-site open space, buffer strips and landscaped areas.*
2. *This relates to minerals and waste sites which would otherwise remain unrestored after use because the planning permission allowing them did not include a restoration condition. All other such sites will be restored to Greenfield status, by virtue of the planning condition.*

7.18 In addressing this first issue, i.e. - the principle of development, Members will note that there is an apparent tension between the first sentence of the definition in Figure 4.3 which makes no reference to agricultural buildings having to be 'currently in use' for that purpose and the first bullet point in the list of specific exclusions which suggests to the contrary. It will be noted that the Inspector in his report to the Assembly's Planning Decision Committee in 2005, sought to resolve this tension by giving greater weight to the absence of any reference to the need for a current agricultural use in the first sentence of the definition.

7.19 This approach is acknowledged but in order to determine this current

application it is considered that it is necessary to consider this issue in more detail. For this reason, independent legal advice has been sought on the interpretation of PDL, particularly in relation to the circumstances of this application.

- 7.20 On the basis of this advice, it is my firm view that the land occupied by the dwellinghouse and its curtilage does constitute PDL as it meets the definition contained in Figure 4.3. I therefore consider that the Assembly erred in failing to make this distinction between the residential part of the site and that in former agricultural use.
- 7.21 It is also considered that it is important to approach the definition of PDL in its proper context. It would be illogical if land occupied by agricultural buildings, never used for any purpose other than agriculture, would suddenly become 'previously developed land' when the building became redundant, even though it would not have been viewed as 'previously developed' up to that point. On this basis I agree with the Assembly's conclusion in 2005, that land occupied by buildings previously used for agricultural purposes but which have not been put to any other use since then, should not be regarded as PDL. Accordingly, I conclude that the proper analysis is that whilst the dwellinghouse and its curtilage is to be regarded as PDL, the remainder of the application site (and therefore the majority of the site) is not PDL.
- 7.22 The applicant's agent considers that the site in its entirety should be classified as PDL, given that it currently has an extant permission issued under Code No. 048780 on 6<sup>th</sup> January 2012 for light industrial use.
- 7.23 Whilst the case advanced is duly noted, I wish to advise members that:-
- i) the permission obtained under Code No. 048780 relates to the conversion of existing buildings on site for light industrial purposes which is consistent with PPW and in accordance with Policy RE4 of the Unitary Development Plan.
  - ii) the permission obtained under Code No. 048780 has not been implemented. It is considered that this permission for light industrial purposes does not in itself render any part of the site to be PDL that did not have the status before then. I consider that what is relevant is what has happened on the site in the past – whether the land has been 'previously developed' – not whether it is developable in accordance with an extant permission.
- 7.24 If the light industrial permission were implemented, it is acknowledged that this would constitute 'development' of the redundant agricultural buildings by way of a material change of use. The land occupied by those buildings would then be PDL, thereby rendering the site in its entirety PDL from that point onwards.

7.25 The applicant's agent questions the need for having to 'artificially' implement the permission issued under Code No. 048780 before the whole site can be considered PDL. However, irrespective of any planning permission granted, a site has either been developed or it has not and the established policy is that new housing should be directed wherever possible towards PDL. (PPW paragraph 4.9.1). It remains therefore that there is a distinction in PPW between PDL and 'developable sites'.

7.26 However, even if any part of my analysis of whether the site is PDL or not is incorrect, I do not consider that the assessment of the planning merits ultimately turns on this as I consider that the proposal is also unacceptable for other reasons, any of which would be sufficient, in my judgement, to warrant the refusal of permission.

7.27 **Sustainability / Locational Factors**

Even if the site were to be considered to represent PDL the Welsh Government advises in paragraph 4.8.1 of PPW as follows:-

'The Welsh Government recognises that not all previously developed land is suitable for development. This may be for example because of its location, the presence of protected species, valuable habitat, industrial heritage or because it is highly contaminated.'

7.28 When considering the application submitted under Code No. 038067, the Assembly's Planning Decisions Committee said:

"In environmental terms, the residents would be forced to rely on the private car for access to the nearest locations of employment, education, retail, medical and other facilities. Consequently, the development would be in an unsustainable location, it would make further demands on the utilities and rural services, and the travel patterns of the residents would be unacceptable in terms of increased car borne travel.

7.29 The UDP Inspector also considered the sustainability of the site, and was of the view that it was unacceptable in locational terms for the reasons referred to in paragraph 7.10 of this report.

7.30 Whilst the applicant's agent considers that circumstances have changed in the intervening period with the creation of new bus stops outside the application site and the proposal as part of this application to create a footpath link to Penyffordd, these must be assessed in the context of paragraph 9.3.1 of PPW which advises that:

"New housing developments should be well integrated and connected to the existing pattern of settlements. The expansion of towns and villages should avoid creating ribbon development, coalescence of settlements or a fragmented development pattern."

- 7.31 I remain of the view that granting planning permission for residential development at this location would result in built development in the open countryside in a manner poorly related to the form and pattern of existing development. Notwithstanding the creation of the bus stops, it is considered to be an unsustainable location as highlighted in part by the need to construct a footpath to link the development to the village of Penyffordd.
- 7.32 Letters of support for the application make reference to the provision of new houses which will meet a growing need and be beneficial to the community. In adopting the UDP the Council has embraced the Welsh Governments preference for a 'plan-led' approach whereby new housing development is identified by way of a clear spatial strategy which directs growth to sustainable settlements in line with PPW. The settlement of Penyffordd/Penymynydd has a combined growth rate of 29.3%, largely accounted for by the housing allocations at the White Lion site and Wood lane Farm, the latter of which is under construction. The settlement is therefore meeting a local need for housing and in this broader spatial context, there is no justification for seeking to provide additional housing in open countryside locations.
- 7.33 **Scale / Form of Development**  
Although submitted in outline form an indicative site layout / elevational details have been submitted as part of the application to illustrate the proposed development of 12 No. dwellings at this location.
- 7.34 The applicant's agent has advised that the scheme has been designed taking into account the concerns expressed by the Assembly's Planning Decisions Committee that the previous proposal resembled a 'modern housing estate'.
- 7.35 The Design and Access Statement submitted as part of the application describes the scale and design of the proposed group of 12 dwellings as being similar to a group of farm houses and farm courtyards. The main concern with this approach however is that the character of traditional farm houses and outbuildings is based on a clear visual and functional primacy of a single farmhouse in relation to its ancillary buildings and land.
- 7.36 The house designs show a great deal of complexity in terms of varying sizes and height, roof pitches and intersecting gables to break up their massing. It is considered that farm buildings usually display more simplistic linear vernacular forms of development.
- 7.37 Accordingly, it is considered that the scale/form/design and layout of the residential development proposed would still have the character of a modern housing layout which would be detrimental to its

surrounding rural character. In this context, it is important to distinguish between this proposal and the extant light industrial permission which involved the change of use of the existing buildings. This is covered in Reason for Refusal No. 3 in my recommendation.

7.38 **Highways and Access**

Consultation on the application has been undertaken with the Head of Assets and Transportation in order to assess the suitability of the highway network, site access and layout to serve the scale of the development proposed.

7.39 Amended plans have been submitted to seek to address concerns initially raised regarding the precise means of access into the site. It has been confirmed by the applicant's agent that the main access to serve the development is proposed from Lower Mountain Road with the internal road layout serving units 1–6 being made up to adoptable standards and units 7-11 being served by a private drive arrangement. It is also proposed that unit 12 be served off its own private driveway onto Barracks Lane. There is no objection to the position of the proposed access points from a highway perspective subject to the imposition of conditions relating to their construction to serve residential development and the internal estate roads. In addition it is recommended that the proposed footpath link between the site and Penyffordd is completed prior to the commencement of any other site works.

7.40 **Ecology**

The application site has been the subject of an ecological survey to assess the impact of development on any protected species which may be present. The Countryside Council for Wales have confirmed that the survey has been undertaken to a satisfactory standard and it is considered that the proposal would not have a detrimental impact on any protected species which may be present.

**8.00 CONCLUSION**

8.01 In conclusion, it is my view that there has been no material change in circumstances or Welsh Government Policy since both the previous application for residential development and the request for the land to be released for residential development as part of the Unitary Development Plan were considered by the Welsh Government. The definition of previously developed land, as contained within Planning Policy Wales (PPW) has remained unchanged in the intervening period. I also consider that irrespective of whether the site in question is classified as a previously developed site, and if so to what extent, the proposal does not meet the requirements of planning policy in locational terms as it is not in a sustainable location and would lead to a fragmented form of development relative to the village of Penyffordd. My recommendation is therefore for permission to be refused for the

reasons advanced.

In considering this planning application the Council has acted in accordance with the Human Rights Act 1998 including Article 8 of the Convention and in a manner which is necessary in a democratic society in furtherance of the legitimate aims of the Act and the Convention.

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## FLINTSHIRE COUNTY COUNCIL

**REPORT TO:** PLANNING & DEVELOPMENT CONTROL  
COMMITTEE

**DATE:** WEDNESDAY, 16 JANUARY 2013

**REPORT BY:** HEAD OF PLANNING

**SUBJECT:** GENERAL MATTERS - DEMOLITION OF EXISTING  
HOTEL BUILDINGS AND THE ERECTION OF 21 NO.  
APARTMENTS AT BRYN AWEL HOTEL, DENBIGH  
ROAD, MOLD.

### **1.00 APPLICATION NUMBER**

1.01 045180

### **2.00 APPLICANT**

2.01 Richmond Investment Properties

### **3.00 SITE**

3.01 Bryn Awel Hotel, Denbigh Road, Mold

### **4.00 APPLICATION VALID DATE**

4.01 19/06/2008

### **5.00 PURPOSE OF REPORT**

5.01 The purpose of this report is to update Members on the progress of the application bearing in mind it currently remains undetermined and to obtain a revised resolution from Members to allow the issuing of the decision notice.

### **6.00 REPORT**

6.01 Members may recall that the application to which the report relates was considered by Members of the Planning & Development Control Committee at the meeting held on the 26th November 2008. It was resolved at that time that conditional planning permission be granted subject to the applicant entering into a Section 106 Agreement or

offering a unilateral undertaking or making advance payment in respect of the following issues:

1. In lieu of on site open space provision, payment of £733 per dwelling towards the upgrading of existing open space provision within the locality.
- 6.02 A copy of the report to the Planning & Development Control Committee held on 26<sup>th</sup> November 2008 is attached as Appendix A, where Members will note that the officer recommendation was to refuse planning permission, however, Members resolved to grant planning permission in the terms set out above.
- 6.03 Due to financial difficulties the original applicant was not able to conclude the S.106 Agreement. The site has now changed ownership and the new owners wish to sign the S.106 Agreement to allow the planning permission to be issued. In these circumstances due to the lapse in time since the application was last considered by the Planning Committee it is considered prudent to reassess the proposal and clarify whether or not there has been any material change in the planning circumstances that would influence the original resolution taken at the 26<sup>th</sup> November 2008 Planning Committee.
- 6.04 Since the Planning Committee's last resolution the Council have adopted a new supplementary planning guidance - SPG Note 23, which relates to developer contributions to education. Head of Education & Resources has assessed that a contribution of £49,028 would be required to cater for the impact on primary education resources.
- 6.05 The report therefore seeks a resolution from Members to allow for the amendment of the previous Committee's resolution i.e. to grant planning permission subject to conditions, but with the legal agreement amended to reflect the financial contribution now required. Therefore the new applicant shall enter into a Section 106 Agreement or offer a unilateral undertaking in respect of the following issues:
1. In lieu of on site open space provision, payment of £733 per dwelling towards the upgrading of existing open space provision within the locality.
  2. An educational contribution of £49,028 to cater for the impact on primary education resources in Mold

## **7.00 RECOMMENDATIONS**

- 7.01 That conditional planning permission be issued subject to the new owner of the site entering into a Section 106 Agreement or offering a unilateral undertaking in respect of points 1& 2 detailed at paragraph 6.05 above.

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## FLINTSHIRE COUNTY COUNCIL

AGENDA ITEM NUMBER: 24

**REPORT TO:** PLANNING & DEVELOPMENT CONTROL COMMITTEE  
**DATE :** 26 NOVEMBER 2008  
**REPORT BY:** ACTING HEAD OF PLANNING SERVICES  
**SUBJECT :** FULL APPLICATION - DEMOLITION OF EXISTING HOTEL BUILDINGS AND THE ERECTION OF 21NO. APARTMENTS AT "BRYN AWEL HOTEL", DENBIGH ROAD, MOLD, FLINTSHIRE

This application was deferred at Planning Committee on 29th October 2008 for a Members site visit.

### **1.00 APPLICATION NUMBER**

1.01 045180

### **2.00 APPLICANT**

2.01 Graham Fender

### **3.00 SITE**

3.01 Bryn Awel Hotel,  
Denbigh Road,  
Mold,  
CH7 1BL

### **4.00 APPLICATION VALID DATE**

4.01 19/06/2008

### **5.00 INTRODUCTION**

5.01 This is a full planning application for the erection of 21 apartments on the site of the Bryn Awel Hotel, High Street Mold. Since submission of the application officers have been involved in detailed discussions with the applicant and the scheme has undergone amendments which reduced the number of apartments from 24 to 22 and more recently to 21 apartments. However, due to the late submission of the changes to the scheme and the nature of the changes these have not undergone public consultation, therefore the comments on the scheme for 24 apartments are reported and are still considered relevant. The scheme for consideration in this report is the latest amendment for 21 apartments.

### **6.00 CONSULTATIONS**

6.01 Local Member

Councillor C Cattermoul

Original comments withdrawn - Further observations awaited at time of writing.

Mold Town Council

No objections in principle to this proposal provided that sympathetic consideration is given to the buildings proximity to the conservation area and the historical site of Bailey Hill. The Council has concerns about drainage arrangements due to the existing problems faced by residents of Henffordd adjoining the application site. Concerns were also raised about the effect on the neighbouring property (sharing a party wall) need to ensure privacy.

Chief Highways and Transportation Engineer

No response at the time of writing.

Chief Environment and Resources Officer

No adverse comments to make.

Welsh Water

No objections subject to standard conditions.

Countryside Council for Wales

No objection in principle to the proposal, however the application does not provide sufficient information to inform the decision making process. Advise that the application should not be determined until a satisfactory ecological survey of the buildings for bat and breeding birds has been carried out and submitted.

The Clwyd-Powys Archaeological Trust

Although the development lies close to areas of archaeological significance it appears that no known features would be affected by the works.

Ancient Monuments Society

This is a very prominent site and it is essential that the new build is worthy of it. The proposed design does try to marry with the townscape in borrowing from the language of Victorian design and in the variety of fenestration and roofscape, although it is certainly larger and stodgier as a composition than its predecessor which (even if butchered) still reads in essence as a Victorian villa in its own grounds. We can appreciate its virtues compared with many similar redevelopments and raise no formal concerns.

**7.00 PUBLICITY**

7.01 Press Notice, Site Notice, Neighbour Notification.

The application was advertised as development affecting the setting of a Conservation Area.

5 representations were received. These comments were on the original scheme for 24 apartments. Objections were made on the following grounds;

- proposed building would dominate surrounding bungalows due to height
- loss of privacy and intrusion into private gardens
- overlooking
- loss of light
- would be sandwiched between two construction sites
- the height and siting of the building would have an adverse impact on Bailey Hill and the Mount
- impact on surface water drainage
- impact on foul sewage drainage
- increase in traffic

## **8.00 SITE HISTORY**

### **8.01 3/MO/275/78**

Alterations and extensions. Approved 07/07/78

### **03/35467**

Illuminated hanging sign. Approved 21/05/03

### **04/26/38267**

Change of use from 10 bed hotel block to 4 apartments, construction of pitched roof to existing flat roof. Refused 31/01/06

### **06/42746**

Change of use from 10 bed hotel block to 4 apartments, construction of pitched roof to existing flat roof. Approved 30/08/07.

## **9.00 PLANNING POLICIES**

### **9.01 Clwyd Structure Plan First Alteration**

Policy B2 - Location Housing Development

Policy B3 - Scale of Housing Development in Main Settlements

Policy B5 - Allocation of Land for Housing Development

Policy C3 - Safeguarding Service Accommodation

Policy G4 - Conservation Policies

### **Structure Plan Second Alteration: Flintshire Edition**

Policy GEN1 - General Development Policies

Policy GEN2 - General Development Policies

Policy GEN3 - General Development Policies

Policy CONS21 - Conservation Areas and their Settings  
Policy CONS24 - Scheduled Ancient Monuments and their Settings  
Policy HSG2 - Location of Housing Development  
Policy HSG3 - Scale of Housing Development in Main Settlements  
Policy HSG5 - Allocation of Land for Housing Development

Delyn Local Plan

Housing Policy 1 - Housing Density  
Housing Policy 2 - Residential development in main settlements and main villages  
Development Control Policy 2 - Design and Layout of Residential Estate Development  
Transportation Policy 7 - Car parking Standards  
Conservation Policy 2 - New Development and Alterations to Existing Buildings in or Adjacent to Conservation Areas  
Tourism and Leisure Policy 2

Draft North Flintshire Local Plan

Policy d1 - design quality  
Policy d2 - design guidance  
Policy d3 - location and layout  
Policy ac12 - parking provision  
Policy ac14 - access and traffic impact  
Policy w1 - protected species  
Policy he1 - development affecting conservation areas  
Policy h3 - housing on unallocated sites  
Policy h7 - housing density

Emerging Flintshire Unitary Development Plan

Policy STR1 - New Development  
Policy STR4 - Housing  
Policy STR8 - Built Environment  
Policy GEN1 - General Development Considerations  
Policy GEN2 - Development Inside Settlement Boundaries  
Policy D1 - Design Quality  
Policy D2 - Location and Layout  
Policy D3 - Design  
Policy D4 - Landscaping  
Policy TWH2 - Protection of Hedgerows  
Policy HE1 - Development Affecting Conservation Areas  
Policy HE6 - Scheduled Ancient Monuments and other Nationally Important Sites  
Policy HSG3 - Housing on Unallocated Sites Within Settlement Boundaries  
Policy HSG8 - Density of Development  
Policy HSG9 - Housing Type and Mix  
Policy HSG10 - Affordable Housing within Settlement Boundaries  
Policy SR5 - Public Open Space and New Residential Development  
Policy EWP2 - Energy Efficiency in New Development



Policy AC13 - Access and Traffic Impact  
Policy AC18 - Parking Provision and New Development  
Policy WB1 - Species Protection

The site is within the settlement boundary of Mold and opposite the Conservation Area boundary for Mold within the adopted and emerging development plans. Policies require developments in such locations to have a high standard of design and to protect and enhance the character of the Conservation Area respecting its surroundings. It is not considered that the proposal is in accordance with development plan policies in this regard.

## **10.00 PLANNING APPRAISAL**

### 10.01 Proposal

This is a full planning application for the demolition of the existing Bryn Awel hotel and the erection of 21 apartments (as amended). The proposed scheme includes 2 one bedroom, 18 two bedroom and 1 three bedroom units. The scheme makes provision for 34 car parking spaces, 4 in underground garaging and 30 in the grounds of the site. The development takes the form of two to three storey development, varying across the site due to the changing levels, with living accommodation in the roof using dormers and rooflights. Amendments to the scheme have separated the apartments into 2 blocks, namely Block A with 14 apartments and Block B with 7 apartments.

10.02 As a result of this application the hotel use would close but the existing restaurant which operates within the hotel is to be relocated to the town centre subject to planning approval (045443) which is currently under consideration by the Council.

10.03 Planning permission was granted for alterations to the existing flat roofed block to add a pitched roof and to convert the serviced accommodation into apartments which has not been implemented.

### Site Description

10.04 The site is in a prominent location on the edge of Mold Conservation Area in proximity to Bailey Hill, a scheduled ancient monument and is seen from a number of significant viewpoints. The current buildings on the site are of poor architectural quality due to previous adaptations and extensions onto the former 19<sup>th</sup> century house, with no thought to the impact on the character of the area. The current buildings vary in height from single to two storey. The re-development of the site is generally supported and presents an opportunity to improve and enhance this area of the town.

10.05 The site is in a predominantly residential area, outside the defined town centre boundary. It is bounded to the eastern boundary partly by low density residential development in the form of bungalows and partly by Denbigh Road. To the north the current buildings share a party wall with the two

storey traditional stone residential dwelling house 'Ffynnonfa' and to the south it adjoins the residential development of Shire View which is characterised by two storey dwelling houses. The site is bounded by High Street to the west, with the Conservation area boundary and residential property of the The Mount and the Scheduled Ancient Monument of Bailey Hill on the opposite side of the High Street. The topography of the site is varying with a significant difference in levels between High Street on the western boundary of the site and Denbigh Road on the eastern boundary.

Principle of Development

- 10.06 The proposed scheme would lead to the loss of hotel accommodation within Mold town centre where there is a limited range of such accommodation. Policies in the Clwyd Structure Plan First Alteration and the Delyn Local Plan aim to safeguard serviced accommodation where this would lead to a reduction in the range of tourist accommodation available in an area. These policies were in place particularly to safeguard rural hotel accommodation in certain areas as stated in the reasoned justification. These policies have not been carried through in more upto date development plans, as it is difficult to sustain such uses if they are not commercially viable. While the loss of town centre tourist accommodation is regrettable there is no development plan policy specific to town centres to retain the use. The principle of residential use on the site is therefore acceptable in policy terms.

Overdevelopment

- 10.07 The proposal is for 21 apartments on a 0.248 hectare site. The indicative density threshold in the emerging Flintshire Unitary Development Plan for a category A settlement within which Mold is categorised is 30 dwellings per hectare. Applying this density to this site equates to 7-8 dwellings. While it is expected that developments of brownfield sites in settlement boundaries should make an efficient use of the land, to achieve a higher density layout or type of development, there is a concern that the proposed scheme is driven by the desire to achieve a high density rather than a sensitive development proposal. The density of the proposal is not considered reflective of the surrounding residential area and is detrimental to the visual amenities of the area.

Scale and massing

- 10.08 The site is in a predominantly residential area, outside the defined town centre boundary. A street scene and computer modelling of the proposal was requested and provided in order for an assessment to be made of the impact of the proposed development on the local environment and in particular the adjacent residential properties. Only a street scene has been provided for the current amended design.
- 10.09 It is considered that the street is characterised by buildings at regular intervals, some of which are close to the footway, with intervening spaces. The majority of the buildings in the area are a mixture of low rise development with two storey houses and dormer bungalows.

- 10.10 The proposed scheme has a variation in roof height, which in the central section is greater in height than the existing building. The proposal did have a connecting block containing two apartments to allow vehicle access through to the rear. Following discussions with the applicant this block was removed to reduce the massing of the building. This addition in the built form created the visual impression of a continuous wall across the frontage of the site from important viewpoints. The applicants recently amended design lowers the roof height of block A which fronts the High Street, by removing the accommodation from the roof, but still allows for some variation in the roof line.
- 10.11 As well as local setting of the scheme due to the prominent position of the site and the long range views, the proposal also needs to be considered from the Denbigh Road/northern viewpoints and the impact of the proposal on the setting of the Scheduled Ancient Monument of Bailey Hill. However, even with the removal of the link element, it is not considered that the current siting and form of development follows the existing street pattern and therefore would be detrimental to the visual amenities of the area.
- 10.12 The applicants have indicated the scheme under consideration is one with the removal of the link element, a reduction in the roof height as outlined above and a change in the overall design. The revised option without the link block does have some merits. The two storey 'annex' is more appropriate as a stand alone building in terms of its scale, however this does accentuate the difference between the bulk and height of the main block. The reduction in height of Block A on the High Street elevation by removing does reduce this impact somewhat, but the height and massing of the building from the Denbigh Road elevation remains the same. It is therefore considered that the massing of the main block in this location remains overbearing due to the elevated sloping nature of the site above the Mold Ring Road. Although the current buildings are far from attractive they do not possess the height and massing of the proposed buildings. The impact of the proposed buildings would appear undesirably striking when viewed from the High Street and the Ring Road. The proposed main block projects forward closer to the Ring Road in physical built form, introducing an urban feel which adversely affects the character of the area. This area is currently characterised by a scattering of buildings ranging in scale from bungalows to the current hotel buildings on the site. While the current form of buildings has been extended incrementally, the nature of the form of the buildings retains a domestic rather than commercial feel. The long distance views of the site are therefore dominated by a concentration of trees which forms the surroundings of Bailey Hill. The proposed building even without the link and the slight reduction in height introduces a form of development which is significantly visually dominant.
- 10.13 It is considered that the height of the proposed building when viewed in the context of the existing bungalows and the adjacent buildings is over

dominant and out of scale with its immediate surroundings and does not relate well to adjoining buildings or enhance the character of the street scene. It is also considered that the submitted scheme by virtue of its height and massing would have a detrimental impact not only on the local street scene and the surrounding residential properties but also the wider townscape, adjacent Conservation Area and the Scheduled Ancient Monument of Bailey Hill.

- 10.14 While it is appreciated that there are other forms of apartment buildings within the vicinity of the site, it is considered that these locations do not have the same site characteristics or constraints as the application site. The application site requires a sensitive scheme to reflect the site topography, surrounding development and Bailey Hill.

#### Design

- 10.15 The design statement submitted with the application fails to provide a detailed contextual analysis for the chosen architectural style. The previous Victorian style with gables, decorative barge boards and turrets were not considered characteristic of the area. This has been replaced with a more modern, plainer external appearance. While some elements such as the use of glazing would reduce the impact of some elements by breaking up the building, overall it is not considered that the amended design is acceptable. The elevations from Denbigh Road and the north have a proliferation of gables, roof dormers and roof lights which have no obvious pattern or rhythm. The number and style of the windows are monotonous and the overall design lacks any interest or character. The site is very prominent from a number of viewpoints and is also viewed in the context of the Scheduled Ancient Monument. It is not considered that the design of the scheme is compatible in relation to the properties in the immediate vicinity and the character of the wider Conservation Area, furthermore it does not contribute to, or enhance the local distinctiveness of the area.

#### Parking, affordable housing and open space

- 10.16 The proposed provision of 34 spaces is in excess of the Council's Standards for parking provision which require 1.5 spaces per apartment for 21 units. The views of the Council's Highway Engineer will be reported on the day of planning committee. The size of the site and the number of units does not meet the Council's threshold for affordable housing requirement. The proposal would require a contribution to off site open space provision.

#### Ecological issues

- 10.17 CCW advise that as the application involves the demolition of existing buildings a bat and breeding bird survey should be submitted prior to the determination of the application. This information has not been included with the planning application.

#### Conclusion

- 10.18 While the re-development of this key site is welcomed as an opportunity to improve the current built form and the townscape of Mold, it is not considered that the proposals in their current form are acceptable in the context of the surrounding area. It is considered that the bulk, massing and height of the main block are incompatible with the neighbouring properties and its wider surroundings. While attempts have been made to revised and maned the current scheme, it is not considered that the proposed amendments address the key issues. A revised scheme would therefore need a significant reduction in scale across all dimensions to achieve a successful scheme, which would inevitable lead to a further reduction in the number of units.

In considering this planning application the Council has acted in accordance with the Human Rights Act 1998 including Article 8 of the Convention and in a manner which is necessary in a democratic society in furtherance of the legitimate aims of the Act and the Convention

## **11.00 RECOMMENDATION**

### 11.01 Refusal

#### Reasons

1. The proposed development is in the opinion of the Local Planning Authority overdevelopment of the site. It is considered by virtue of its scale, siting, massing, height and design the proposed development does not harmonise with the site and its surroundings and would have a detrimental impact on the townscape and the surrounding landscape. The proposal does not protect the character and amenity of the locality nor does it add to the quality and distinctiveness of the local area. The proposed development is therefore contrary to policy B5 of the Clwyd Structure Plan First Alteration, policies GEN1, GEN2 and Policy HSG5 of the Structure Plan Second Alteration: Flintshire Edition, Development control policy 2, Housing Policy 1 and Housing Policy 2 of the Delyn Local Plan, policies d1, d2, d3 and h7 of the Draft North Flintshire Local Plan and policies GEN1, D1, D2, D3, HSG3 and HSG8 of the emerging Flintshire Unitary Development Plan.
2. The proposed development would have an adverse impact by virtue of its scale, siting, massing, height and design on the setting and integrity of the historic environment. The scheme does not constitute good design and in particular it would not preserve or enhance the setting of Mold Conservation Area and the Scheduled Ancient Monument of Bailey Hill. The proposed development is therefore contrary to policy G4 of the Clwyd Structure Plan First Alteration, policies CONS21 and CONS24 of the Structure Plan Second Alteration: Flintshire Edition, Conservation Policy 2 of the Delyn Local Plan, policy he1 of the Draft North Flintshire Local Plan and policies

STR8, GEN1 and HE1 of the emerging Flintshire Unitary Development Plan.

3. Insufficient information has been provided to demonstrate that the proposed development would not effect European Protected Species. In the absence of suitable details the proposed development is therefore contrary to policy w1 of the Draft North Flintshire Local Plan and policy WB1 of the emerging Flintshire Unitary Development Plan.

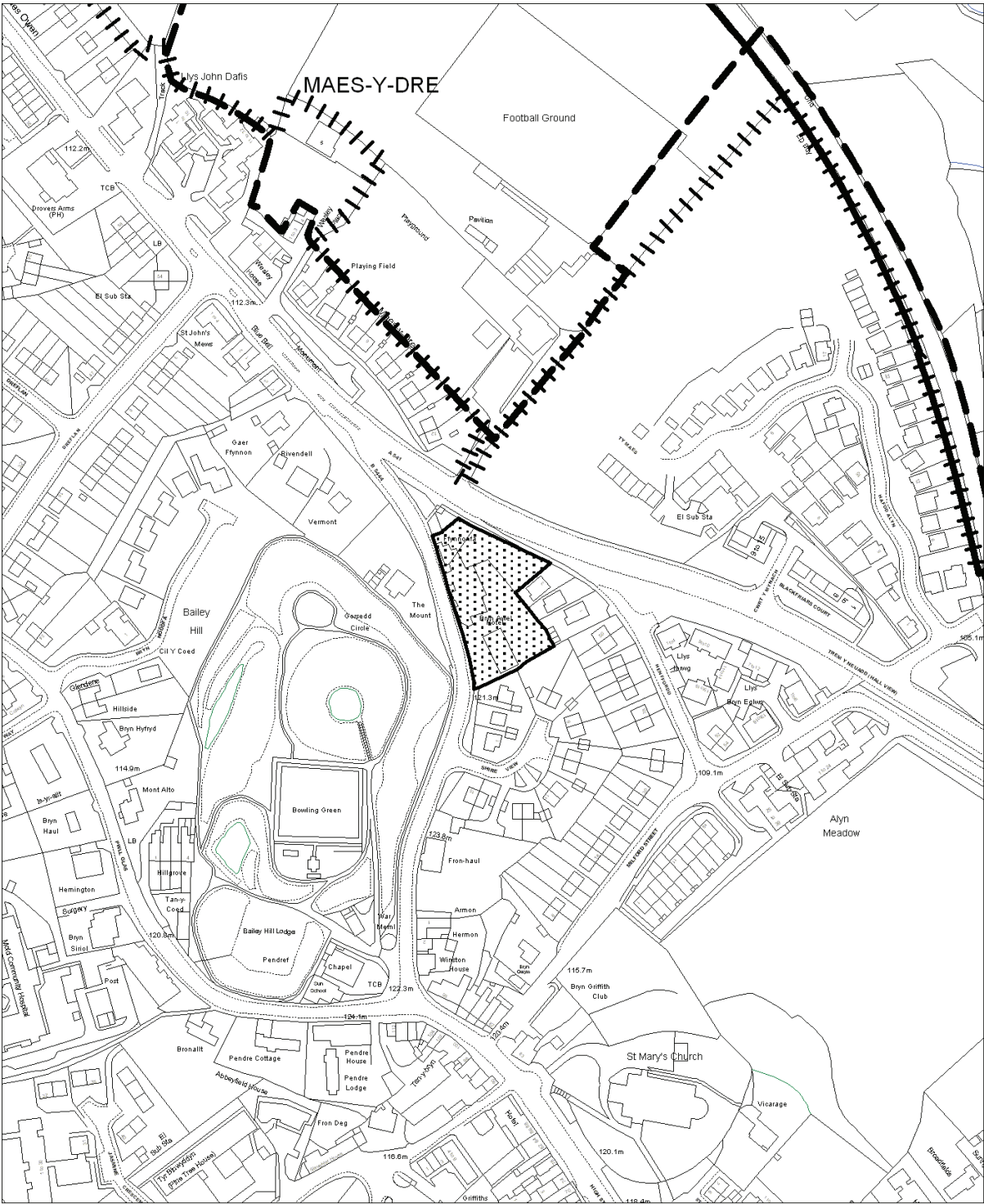
## **12.00 APPENDICES**

12.01

### **LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985** **BACKGROUND DOCUMENTS**

Planning application  
Consultation replies  
Representations

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**FULL APPLICATION – DEMOLITION OF EXISTING HOTEL BUILDINGS AND THE ERECTION OF 21 NO. APARTMENTS AT BRYN AWEL HOTEL, DENBIGH ROAD, MOLD (045180)**

The Committee considered the report of the Acting Head of Planning Services in respect of this application which was the subject of a site visit on 24 November 2008. The usual consultations had been undertaken and the responses received detailed in the report. Additional comments received since the preparation of the report were circulated at the meeting.

The Acting Head of Development Control said the application was for the erection of 21 apartments on the site of the Bryn Awel Hotel in Mold. Since submission of the application and discussions with the applicant, the scheme had undergone amendments which reduced the number of apartments from 24 to 22 and finally to 21.

Whilst the re-development of this key site was welcomed as an opportunity to improve the current built form and the townscape of Mold, it was not considered that the proposals in their current form were acceptable in the context of the surrounding area. Whilst attempts had been made to revise the current scheme, it was not considered that the proposed amendments addressed the key issues.

Councillor P. G. Heesom moved approval of the application on a conditional basis which was duly seconded. He felt the principle of the development could be approved in terms of the footprint and the massing but a condition should be imposed for the applicant to satisfy the authority on the grounds of design and detailed matters.

Councillor Wright spoke in support of the officer's recommendation and said he was concerned with the tight bend below the hotel and also the number of vehicles any apartments would generate.

The local Member, Councillor J. C. Cattermoul said the building was untidy and she also felt that elements of the report were misleading; 24 policies were outlined but she felt not one of them was absolute and that they were all open to interpretation. She said the site was not near the High Street as was referred to in the report and questioned if Bryn Awel Hotel was doing well, then why was it before Members today. She referred to two sites in the nearby vicinity which had 36 and 37 dwellings on them.

A number of Members spoke in support of approval of the application and concurred with Councillor J. C. Cattermoul's comments about the current untidiness of the building. Councillor R. Jones said the application met all but one of the policies and he thought the applicant should be supported.

The Acting Head of Development Control said the design and appearance was fundamental on this site which could not be solved by way of a condition. Some suggestions from the planning officers had been taken on board but the scheme had not been revised in line with further advice.

The Acting Head of Planning Services said policies were not optional; each one needed to be met. Clear guidelines had been given to the applicant who had the remit to make the application economical. The authority wanted a design that would do justice to the town of Mold and he said there were still fundamental issues regarding massing and over development. He said the decision of the Committee would be respected but it would place constraints on the authority.

The Assistant Director (Democratic Services) said it was not advisable to grant permission based on the current untidy state of the application site; Members needed to determine if the scheme was satisfactory or not. On being put to the vote, approval of the application was CARRIED with a condition that the detail and design of the building was to be to the satisfaction of the authority.

**RESOLVED:**

That planning permission be granted with a condition that the detail and design of the building be to the satisfaction of the authority and any other such conditions as determined by the Acting Head of Planning Services.

## FLINTSHIRE COUNTY COUNCIL

**REPORT TO:** **PLANNING AND DEVELOPMENT CONTROL COMMITTEE**  
**DATE:** **16<sup>TH</sup> JANUARY 2012**  
**REPORT BY:** **HEAD OF PLANNING**  
**SUBJECT:** **VARIATION OF SECTION 106 AGREEMENT TO ENABLE 'RENT TO BUY' SCHEME ON LAND AT MANSFIELD, LIXWM, HOLYWELL**  
**APPLICATION NUMBER:** **050246**  
**APPLICANT:** **LEASON HOMES LTD**  
**SITE:** **LAND AT MANSFIELD, LIXWM, HOLYWELL**  
**APPLICATION VALID DATE:** **30<sup>TH</sup> OCTOBER 2012**  
**LOCAL MEMBERS:** **COUNCILLOR J.E. FALSHAW**  
**TOWN/COMMUNITY COUNCIL:** **YSCEIFIOG COMMUNITY COUNCIL**  
**REASON FOR COMMITTEE:** **DELEGATED POWERS DO NOT EXIST FOR THE VARIATION OF THE SECTION 106 AGREEMENT**  
**SITE VISIT:** **NO**

### **1.00 SUMMARY**

1.01 This report relates to a request seeking the modification of the means by which the affordable housing at the site is to be provided and safeguarded. This new request seeks to make the 3 remaining units upon site available for occupation by qualifying persons via a 'rent to buy' scheme. The proposals do not seek to alter any other provisions of the existing agreement.

### **2.00 RECOMMENDATION: TO GRANT PLANNING PERMISSION, SUBJECT TO THE FOLLOWING:-**

2.01 That the terms and relevant clauses of the Section 106 Agreement entered into in connection with planning permission ref. 41741, dated 17th December 2007, be amended to allow for the occupation of the 3 No. dwellings via a Rent to Buy scheme.

### **3.00 CONSULTATIONS**

#### **3.01 Local Member**

**Councillor J. E. Falshaw**

No objection to a delegated determination.

**Ysceifiog Community Council**

No response at time of writing.

**Head of Housing Strategy**

Supports the additional delivery mechanism and considers it will allow some flexibility to prospective applicants for these affordable homes.

### **4.00 PUBLICITY**

4.01 The application has been publicised by way of a press notice, site notice and neighbour notification letters. At the time of writing, no third party letters have been received in response to the publicity exercise.

### **5.00 SITE HISTORY**

#### **5.01 041822**

Amended access.

Permitted 31/10/2006

#### **041741**

Erection of 25 affordable dwellings.

Permitted, subject to S.106 agreement 17.12.2007

### **6.00 PLANNING POLICIES**

#### **6.01 Flintshire Unitary Development Plan**

Policy STR1 - New Development

Policy STR4 - Housing

Policy HSG9 - Housing Mix & Type

Policy HSG11 - Affordable Housing in Rural Areas

Policy IMP1 - Planning Conditions & Obligations

### **7.00 PLANNING APPRAISAL**

7.01 Planning permission was granted on application ref. 41741, for the erection of 25 dwelling units, on 17th December, 2007. The land concerned lies outside the recognised settlement boundary for Lixwm and the development was presented at the time of its determination, as a scheme of affordable housing within rural areas, under Policy HSG 11 of the Flintshire UDP. This followed extensive research and consultation with the Council and the local community culminating in the planning application which was considered by Committee on 11th April, 2007. All of the dwellings approved have been constructed, 22 of which are occupied, and 3No. are currently remain vacant.

- 7.02 Members may recall that this site was the subject of a General Matters report for their consideration at the Committee held on the 21st May 2008 which sought approval to vary aspects of the Section 106 Agreement which binds the terms of the disposal of the properties. This General Matters item was approved by Members.
- 7.03 Both the applicant and Cymdeithas Tai Clwyd have been actively marketing the site since July 2006. Despite a high level of take up, with 22 properties occupied, there has been no sustained interest in respect of the remaining 3 properties to be occupied in accordance with the Shared Ownership scheme outlined in the current S.106 agreement. It is clear that the major obstacle to the occupation of these properties is mortgage affordability for qualifying persons.
- 7.04 Therefore, this application seeks permission to vary the existing agreement to allow the 3 remaining properties to be made available on a rent to buy scheme and for the local connection criteria to be amended to be consistent with the range of other affordable homes schemes within the County. The proposed amendment would allow a qualifying person the opportunity to occupy the property upon a rental basis whilst assisting them in saving the deposit to enable them to purchase the property via the shared ownership provisions of the agreement in the future.
- 7.05 The scheme is intended to be targeted towards those qualifying persons who are in a financial position to sustain home ownership but do not have enough of a deposit for the required mortgage. This scheme is intended to assist them in having the time to save the required monies.
- 7.06 Members should be advised that the scheme, even in its proposed amended form, would be compliant not only with the nationally applicable planning policies relating to the provision of affordable housing, but is also with the provisions of the Flintshire Unitary Development Plan and the adopted Local Planning Guidance Note 9 - Affordable Housing.
- 7.07 The proposed scheme will operate in the following fashion;
- Applicants will be required to be registered on the Affordable Homeownership Register and meet the qualifying criteria within the agreement in respect of affordability and the local connection. Rental values are proposed to be set at the market value. However, the applicant will set aside 20% of the monthly rent into a tenant deposit account on behalf of the prospective tenant which they can access after 5 years to assist them in gaining a deposit to buy the property.
  - It is proposed that any tenant would be required to pay one month's rent in advance and one month's rent as a security

deposit. The deposit will be returned at the end of the tenancy agreement, together with the savings accrued towards a deposit.

- Rental figures will be subject to an annual review every April to keep in line with the true market value. However, 20% of this sum will always be retained as savings towards the deposit.
- The monies to be saved will be paid into a Tenant Deposit Account which will be opened jointly in the names of the tenant and the landlord. This proposal ensures that should the landlord cease to trade or be declared financially insolvent, these funds are protected for the tenant and cannot be considered as an asset of the landlord.
- At the end of the 5 year rental period (dependant upon the individual financial circumstances of the tenant) the tenant will be expected to buy the property, if this has not occurred earlier in the period. The tenant will be supported by Cymdeithas Tai Clwyd to ensure that they update their financial assessment (as required by the agreement) to ensure that they are on track to purchase the property.
- In the event that the tenant does not wish to purchase the property after the 5 year period, or vacates the property during this time, the tenancy agreement will be terminated and another tenant identified in accordance with the agreement provisions to either purchase the property via the shared ownership provisions or occupy the property under the rent to buy scheme.

7.08 I have consulted with the Council's Housing Strategy Manager within the Directorate of Community Services who advises that he is fully supportive of the requested amendment.

## **8.00 CONCLUSION**

8.01 It is clear that the developers have made a substantial commitment to this development and I am sensitive to the genuine difficulties that are a result of the current economic climate. However, one of the main principles of Policy HSG 11 is that " houses will remain affordable in perpetuity for those in need..... " and it is important that the aims of this policy are not compromised. There is therefore a need for a balanced approach which allows certain changes in the interests of protecting the scheme and ensuring its success in the long term. In this context I support the greater range of means by which the affordability of the scheme can be delivered as a result of this proposal.

8.02 In considering this planning application the Council has acted in accordance with the Human Rights Act 1998 including Article 8 of the Convention and in a manner which is necessary in a democratic society in furtherance of the legitimate aims of the Act and the Convention.

**Contact Officer:** David Glyn Jones  
**Telephone:** 01352 703281  
**Email:** [glyn\\_d\\_jones@flintshire.gov.uk](mailto:glyn_d_jones@flintshire.gov.uk)

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## FLINTSHIRE COUNTY COUNCIL

**REPORT TO:** **PLANNING & DEVELOPMENT CONTROL COMMITTEE**

**DATE:** **16<sup>TH</sup> JANUARY 2013**

**REPORT BY:** **HEAD OF PLANNING**

**SUBJECT:** **APPEAL BY MR. & MRS P. & C.E. HEWITT AGAINST THE DECISION OF FLINTSHIRE COUNTY COUNCIL TO REFUSE PLANNING PERMISSION FOR THE CONSTRUCTION OF A LOFT EXTENSION BY RAISING PART OF THE EXISTING EXTERNAL WALLS AND ROOF TO ACCOMMODATE A BEDROOM, DRESSING ROOM AND EN-SUITE BATHROOM AND WITH NEW ROOF WINDOWS IN THE EXISTING RETAINED PART OF THE ROOF AT STONELEIGH, BAGILLT ROAD, HOLYWELL.**

### **1.00 APPLICATION NUMBER**

1.01 049514

### **2.00 APPLICANT**

2.01 Mr. & Mrs P. & C.E. Hewitt

### **3.00 SITE**

3.01 Stoneleigh, Bagillt Road, Holywell

### **4.00 APPLICATION VALID DATE**

4.01 29th February 2012

### **5.00 PURPOSE OF REPORT**

5.01 To inform Members of the appeal decision against refusal of planning permission for the construction of a loft extension by raising part of the existing external walls and roof at Stoneleigh, Bagillt Road, Holywell. This application was refused under delegated powers on 23<sup>rd</sup> April 2012. Subsequently a written representations Householder Appeal was made on 22<sup>nd</sup> October 2012 and the Inspector reported back on

17<sup>th</sup> December 2012.

## **6.00 REPORT**

- 6.01 The Inspector considered the main issues to be the effect of the proposal on the character and appearance of the dwelling and the surrounding area.
- 6.02 The Inspector noted that the dwelling was symmetrical in appearance. He noted that the dwelling had been extended with a conservatory and the other rear recess had a first floor balcony. He also noted that there was a garage to one side linked to the house by a wall, but that overall the identity of the house was clearly discernable. He commented that there was balance and proportionality to the appearance of the dwelling.
- 6.03 The proposal would raise the roof at the rear by one storey extending by similar extent the rear wing to form a gable. The side elevations would be raised so that the result would be a gable end instead of a hipped roof. The front roof slope would also be raised, but to a lesser extent than the rear, and new roof lights would be installed on this slope. The resultant effect would be to form an asymmetrical roof shape with higher eaves to the rear than the front. This change the inspector considered would appear incongruous and disproportionate because the balance and symmetry of the property would be lost by this addition. At the rear end of the property the proposed roof slope would be much shorter than the front, and the ridge point would as a consequence be moved towards the rear. The rear elevation would change from a two to a three storey and the identity of the dwelling would be entirely lost from this perspective, and when seen from a distance across the wooded valley from Old Bagillt Road. From the footpath in front of the property this change would also be noticeable when walking up the slope. The inspector noted that the property as it appears is quite imposing on higher ground and despite the landscaping in the front garden its profile is evident, and would be significantly altered by the proposed development
- 6.04 The Inspector therefore considered the proposal would cause a significant visual imbalance and fundamentally alter its symmetry, which would conflict with Flintshire Unitary Development Plan (UDP) Policy HSG12. This requires extensions to dwellings to be subsidiary in scale, and respect the design and setting of the existing dwelling and the surrounding area. He also found the proposal conflicts with UDP Policies GEN1 and D2, which considers design, scale and form and seeks to ensure that the development harmonises and protects the character of the locality.

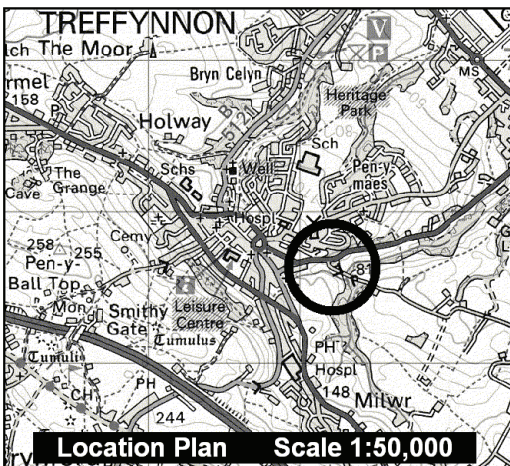
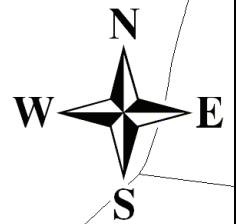
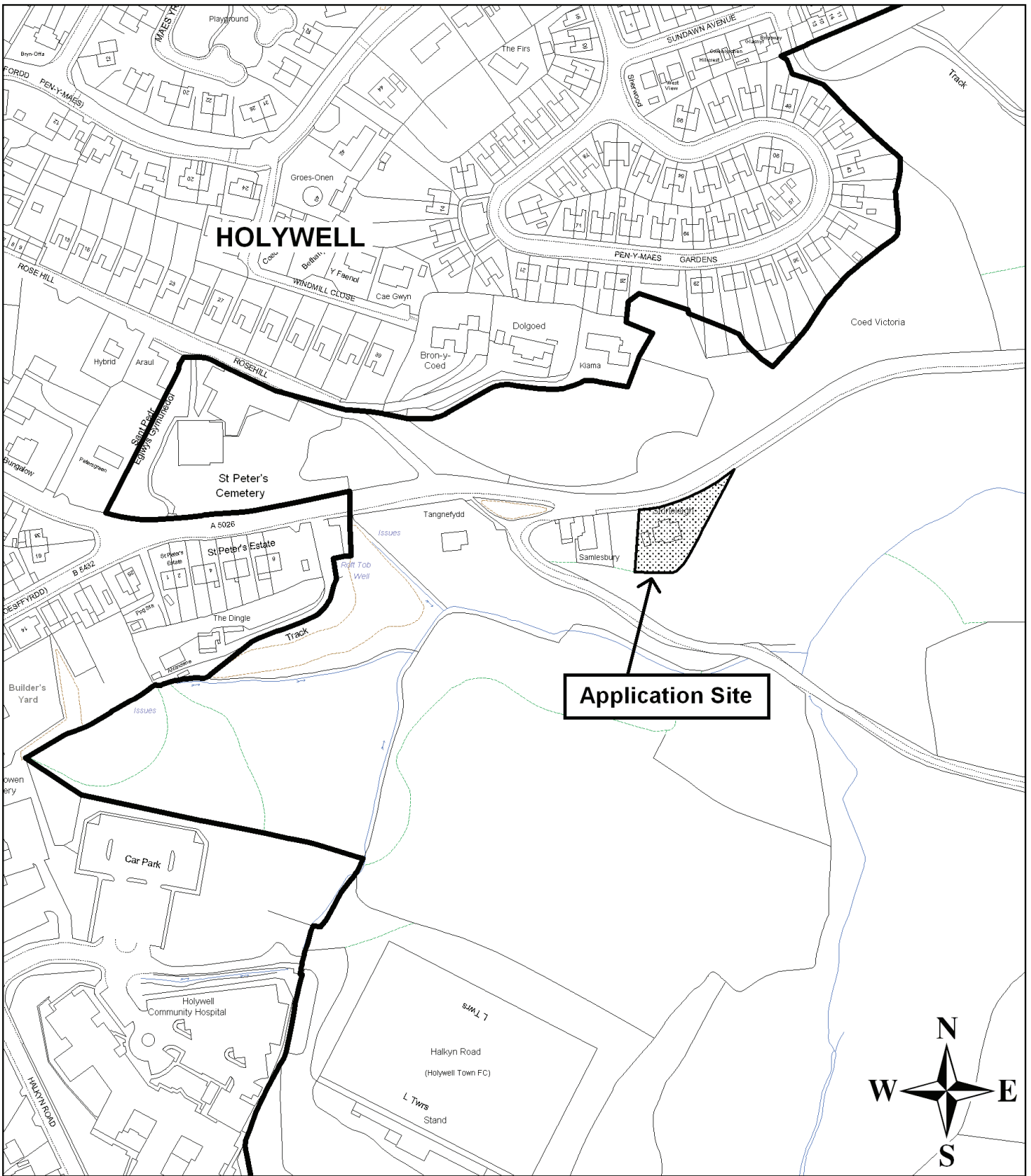
## **7.00 CONCLUSION**

- 7.01 The Inspector concluded that the proposal would harm the character

and appearance of the dwelling and the surrounding area and concluded that the appeal should be dismissed.

**Contact Officer:** Victoria Weale  
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Environment Directorate,  
 Flintshire County Council, County Hall,  
 Mold, Flintshire, CH7 6NF.  
 Director: Mr. Carl Longland

**Legend**

 Adopted Flintshire Unitary  
 Development Plan  
 Settlement Boundary

 Application Site Extent

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Planning Application 49514

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## FLINTSHIRE COUNTY COUNCIL

**REPORT TO:** **PLANNING & DEVELOPMENT CONTROL COMMITTEE**

**DATE:** **16<sup>TH</sup> JANUARY 2012**

**REPORT BY:** **HEAD OF PLANNING**

**SUBJECT:** **APPEAL BY MR & MRS WILSON AGAINST THE IMPOSITION OF CONDITION NO 3 (REQUIRING THE OMISSION OF ROOF LIGHTS) ON PLANNING PERMISSION 049662 AT HILLCREST, CAERWYS.**

### **1.00 APPLICATION NUMBER**

1.01 049662

### **2.00 APPLICANT**

2.01 Mr & Mrs Wilson

### **3.00 SITE**

3.01 Hillcrest, Caerwys Hill, Caerwys, Mold , CH7 5AD

### **4.00 APPLICATION VALID DATE**

4.01 16 April 2012

### **5.00 PURPOSE OF REPORT**

5.01 To inform Members of the Inspectors decision on the above appeal following the grant of permission under delegated powers for the erection of a single storey extension to the rear of Hillcrest, Caerwys Hill, Caerwys. Condition no. 3 required the rooflights shown as part of the scheme to be deleted. The Inspector ALLOWED the appeal, with condition No 3 imposed on planning permission 049662 being deleted.

### **6.00 REPORT**

#### **6.01 Main Issue**

The Inspector considered the main issue in this case to be the effect of the proposal on the setting of the Caerwys Conservation Area (CA), and the effect of the proposal on the character and appearance of the surrounding countryside.

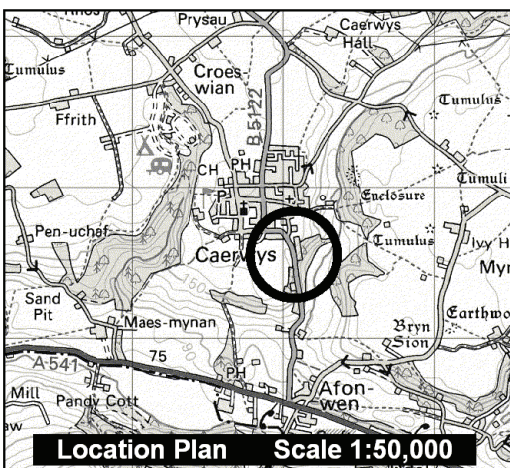
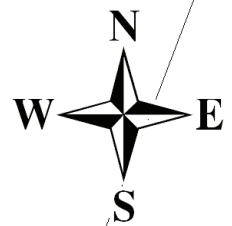
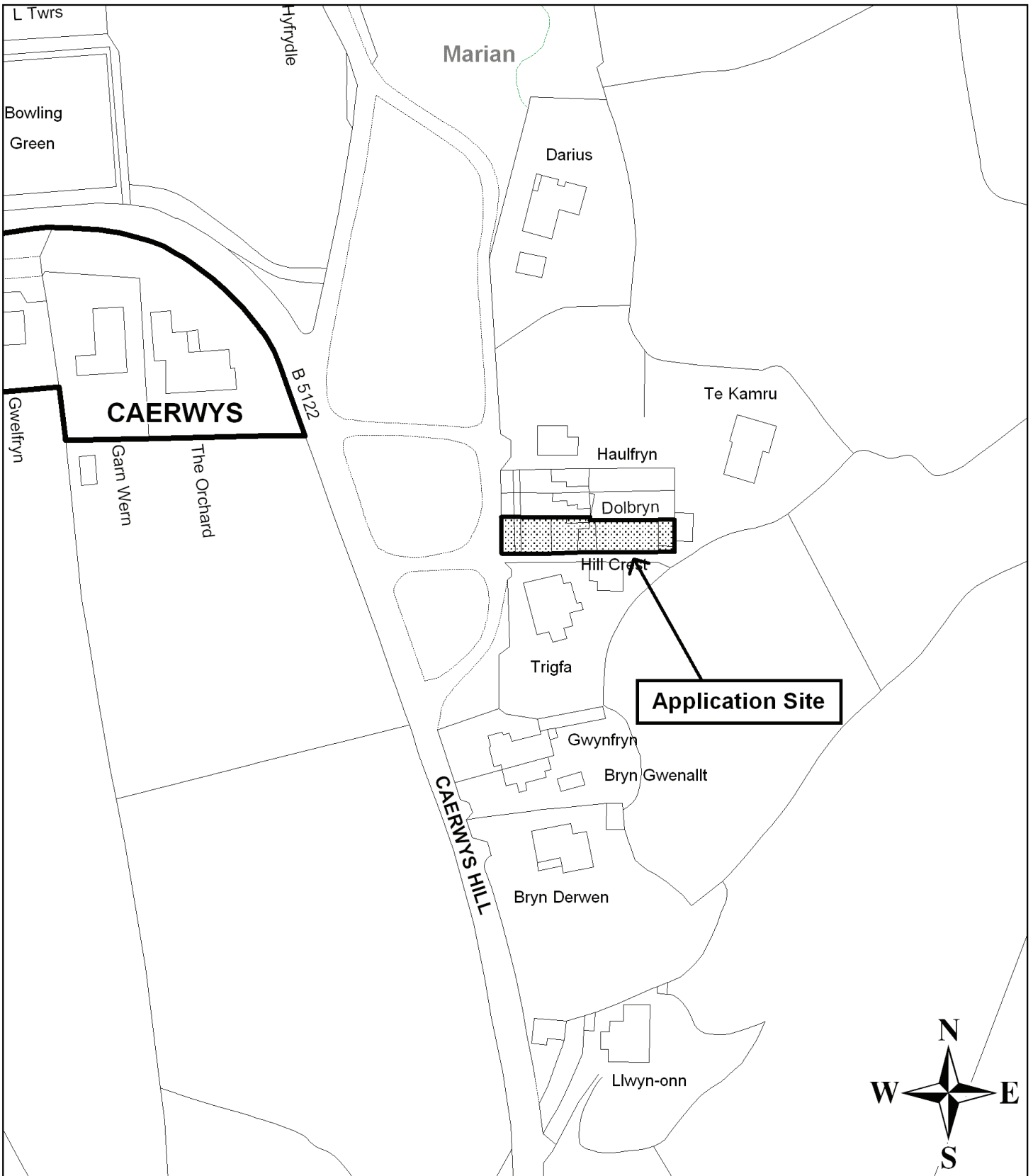
- 6.02 Whilst the Inspector noted the location of the property in relation to the town of Caerwys, he noted that the property lies adjacent to the conservation area. It was considered that as the permitted extension is to be to the rear of the property, and the conservation area boundary runs to the front of the property that there would be very limited views of the site from the Conservation area, consequently it was considered that the extension and the roof lights are physically remote from the built elements of the conservation area. From this the Inspector considered that it was extremely unlikely that the roof lights would have a harmful impact on the characteristics of the conservation area or undermine its setting. It was also considered that the roof lights are screened from the surrounding countryside by the appeal building, the surrounding existing buildings and an extensive belt of mature trees.
- 6.03 The Inspector noted that the only view of the roof lights would be from the rear of Trigfa, any light pollution emanating from them would be very limited and would be subsumed within the general light pollution from the adjacent built up area. The Inspector considered that the roof lights would not be visible from the wider countryside, as such he did not consider that the Area of Outstanding Natural Beauty would be harmed by the resultant light pollution.
- 6.04 The Inspector considered that the proposal does not therefore conflict with national planning guidance and whilst the Local Planning Authority referred to the desire to minimise light pollution, he considered however there are no specific policies to support this.

## **7.00 CONCLUSION**

- 7.01 The Inspector considered that the proposal does not conflict with the general thrust of the Unitary Development Plan, for the reasons given above and considering the limited views of the proposed development, its separation from the Conservation area. He considered that the proposal will have minimal impact on the character and appearance of the area and saw no justification for further control over such a minor aspect and concluded that the appeal should be ALLOWED.

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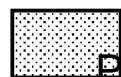


Environment Directorate,  
 Flintshire County Council, County Hall,  
 Mold, Flintshire, CH7 6NF.  
 Director: Mr. Carl Longland

**Legend**



Adopted Flintshire Unitary  
 Development Plan  
 Settlement Boundary



Application Site Extent

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Planning Application 49662

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## FLINTSHIRE COUNTY COUNCIL

**REPORT TO:** **PLANNING & DEVELOPMENT CONTROL COMMITTEE**

**DATE:** **WEDNESDAY 16<sup>TH</sup> JANUARY 2013**

**REPORT BY:** **HEAD OF PLANNING**

**SUBJECT:** **APPEAL BY LYONS DEN LTD AGAINST THE REFUSAL OF CONSENT FOR THE DISPLAY OF ADVERTISEMENTS AT LYONS DEN FITNESS, BOOT END, BAGILLT CH6 6HD**

**1.00 APPLICATION NUMBER**

1.01 **049874**

**2.00 APPLICANT**

2.01 Lyons Den Ltd

**3.00 SITE**

3.01 Lyons Den Fitness, Boot End , Bagillt. Holywell

**4.00 APPLICATION VALID DATE**

4.01 8 June 2012

**5.00 PURPOSE OF REPORT**

5.01 To inform Members of the advertisement appeal decision, against the refusal under delegated powers of advertisement consent for the placement of 3 A boards at Lyons Den Fitness, Bagillt, Holywell.

**6.00 REPORT**

6.01 The Inspector considered the main issues, to be the effect of the signs on visual amenity, and whether the signs would prejudice highway safety.

6.02 The Inspector noted the size and construction of the A board signs and the messages they display in association with the fitness centre

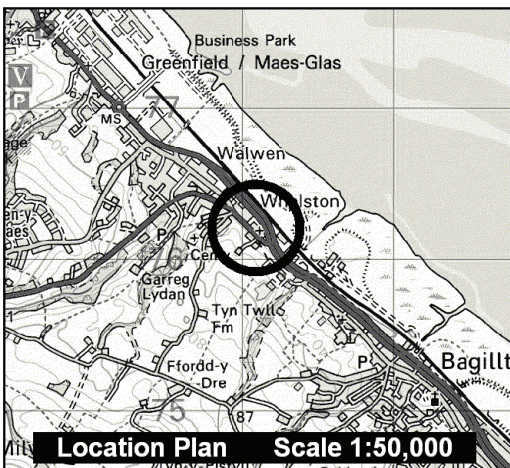
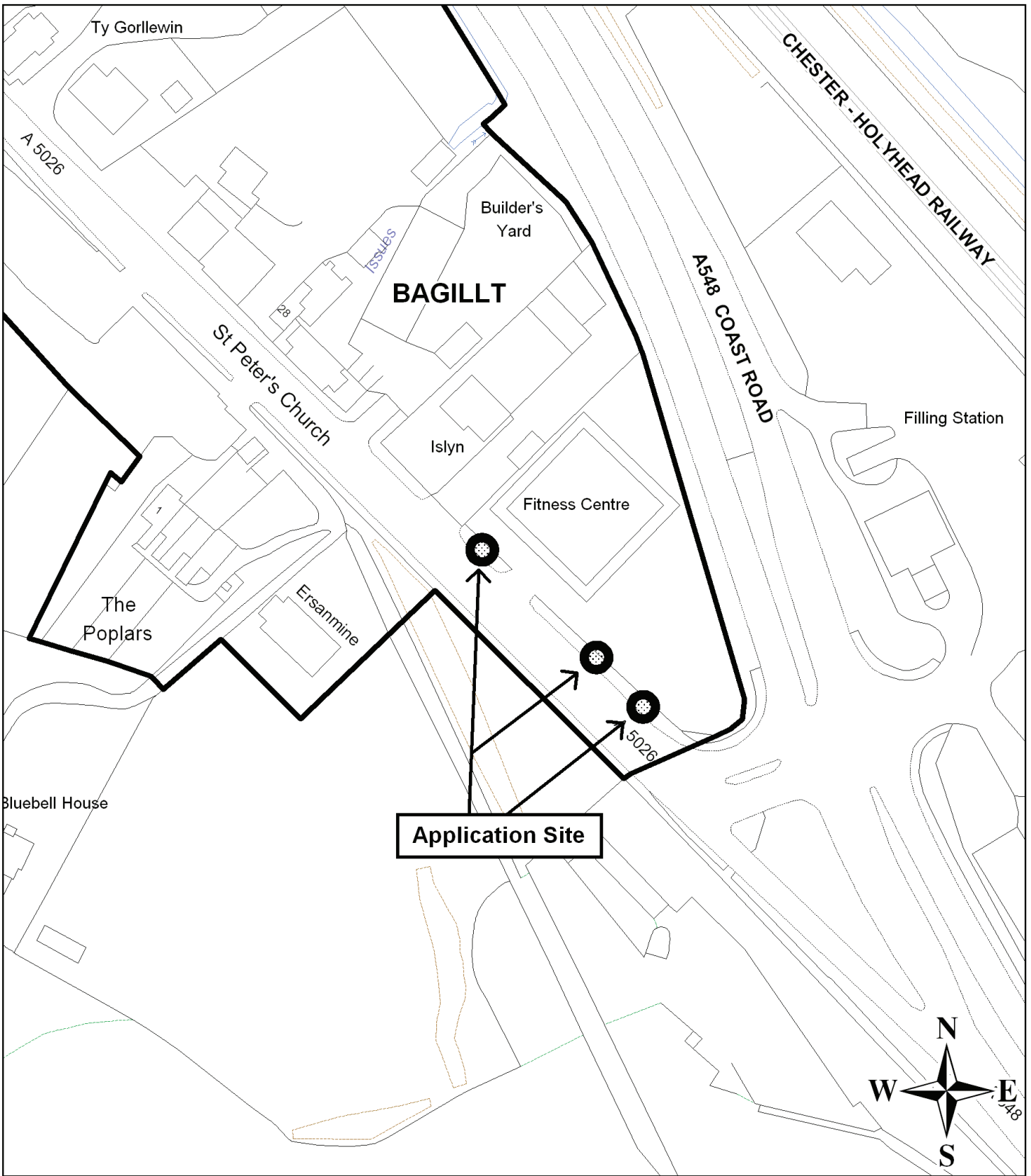
and uses operating with in the large modern fitness building. He noted that the signs are placed on the A5026 footway owned by the Council and also detailed the site context being a mix of residential and commercial enterprises.

- 6.03 The Inspector noted that the A boards were placed out on the pavement in the morning and are taken in at night and in this regard the adverts in connection with the fitness centre spill out on to the public pavement and blurs the clear distinction between public space and private commercial activity. The highway signage and furniture are quite separate features of the area and have a distinct function. He noted that whilst the signs were small in scale they in combination add visual clutter to the street scene and thus harm the visual amenity of the area. As such the adverts extend the commercial character on to the public realm, and the Inspector concluded the signs would harm the visual amenity of the area.
- 6.04 Regarding highway safety, the Inspector concluded that as the signs are on the pavement the Council could legitimately have the signs removed if they are deemed to create an obstruction. In the Inspectors view there is sufficient space to walk around the signs without causing problems to pedestrians and should a partially sighted or blind person have to walk this pavement then they would likely to be aware of the signage and existing street furniture, and would be likely to be taking great care in this location, therefore he did not consider that the signs would prejudice highway safety. He also noted the appellants concern to the present difficult economic climate and the effect the down turn is having upon the business. Notwithstanding the above he found the signs to be unacceptable in terms of visual amenity

## **7.00 CONCLUSION**

- 7.01 The Inspector, whilst not considering the signs to constitute detriment to highway safety, did consider that the signs harmed the visual amenity of the area and therefore for the reason outlined above DISMISSED the appeal.

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 Flintshire County Council, County Hall,  
 Mold, Flintshire, CH7 6NF.  
 Director: Mr. Carl Longland

**Legend**



Adopted Flintshire Unitary  
 Development Plan  
 Settlement Boundary



Application Site Extent

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Map Scale 1:1250

OS Map ref SJ 2176

Planning Application **49874**

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