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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,
Alison Halford, Ron Hampson, Ray Hughes,
Christine Jones, Richard Jones, Brian Lloyd,
Richard Lloyd, Billy Mullin, Mike Peers,
Neville Phillips, Gareth Roberts, Carolyn Thomas
and Owen Thomas

7 January 2014

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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, 15TH JANUARY, 2014** 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 - 12)

To confirm as a correct record the minutes of the meeting held on 11th December 2013.

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Mae'r Cyngor yn croesawau gohebiaeth yn y Cymraeg neu'r Saesneg

5 **ITEMS TO BE DEFERRED**

6 **REPORTS OF HEAD OF PLANNING**

The report of the Head of Planning is enclosed.

REPORT OF HEAD OF PLANNING
TO PLANNING AND DEVELOPMENT CONTROL COMMITTEE ON
15th JANUARY 2014

Item No	File Reference	DESCRIPTION
<u>Applications reported for determination (A=reported for approval, R=reported for refusal)</u>		
6.1	050695 - A	Restoration of Cambrian Quarry by the Importation and Recycling of Inert Materials at Cambrian Quarry, Gwernymynydd (050695) (Pages 13 - 60)
6.2	051234 - A	Full Application - Erection of a Four Bedroom Detached Dwelling and Detached Double Garage at 37 Wood Lane, Hawarden (051234) (Pages 61 - 72)
6.3	051378 - A	Change of Use to Smaller A1 Use at Ground Floor and 2 No. One Bedroom Apartments to the Rear of the Existing Building Allowing for New Apertures at Ground Floor at 79 Chester Road West, Shotton (051378) (Pages 73 - 82)
6.4	051449 - A	Reserved Matters Application - Amended Layout to Include Substitution of 15 No. House Types and Addition of 5 No. Dwellings at Adwy Deg, Fagl Lane, Hope (051449) (Pages 83 - 90)
6.5	050463	General Matters - Use of Land for the Stationing of Caravans for the Residential Purpose for 5 No. Gypsy Pitches Together with the Formation of Additional Hard Standings and Utility/Dayrooms Ancillary to that Use Land Adjacent to Ewloe Barn Wood, Magazine Lane, Ewloe (050463) (Pages 91 - 96)

Item No	File Reference	DESCRIPTION
<u>Appeal Decision</u>		
6.6	050243	Appeal by Mr. J.P. Carr Against the Decision of Flintshire County Council to Refuse Planning Permission for the Erection of Four Dwellings at Land Adjacent to No. 1 Papermill Cottages, Papermill Lane, Oakenholt - DISMISSED (050243) (Pages 97 - 102)
6.7	050291	Appeal by Mr. Andrew Croston Against the Decision of Flintshire County Council to Refuse Planning Permission for the Erection of 2, Two Bedroom Semi-Detached Dwellings with Parking to Front and Rear at Land off Fern Leigh, Brook Street, Buckley - ALLOWED (050291) (Pages 103 - 106)
6.8	050531	Appeal by Mr. J. Williams Against the Decision of Flintshire County Council to Refuse Planning Permission for the Erection of 4 No. 2 Bed Apartments and 3 No. 1 Bed Apartments with Associated Parking at 3 Church View, Queensferry - DISMISSED (050531) (Pages 107 - 112)

PLANNING & DEVELOPMENT CONTROL COMMITTEE 11 DECEMBER 2013

Minutes of the meeting of the Planning & Development Control Committee of Flintshire County Council held at Council Chamber, County Hall, Mold CH7 6NA on Wednesday, 11th December, 2013

PRESENT: David Wisinger (Chairman)

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

SUBSTITUTES:

Councillor: Haydn Bateman for Carol Ellis and Richard Lloyd for Gareth Roberts

IN ATTENDANCE:

Head of Planning, Development Manager, Planning Strategy Manager, Senior Engineer - Highways Development Control, Housing Strategy Manager, Team Leader, Senior Planners, Planning Support Officer, Democracy & Governance Manager and Committee Officer

111. **DECLARATIONS OF INTEREST**

Councillor Christine Jones declared a personal interest in the following application due to her husband's employment at the plant:-

Agenda item 6.5 – Full application – Installation of ground mounted solar panels up to 3.804MWp (Peak), power generation capacity and ancillary equipment including two substations and associated cabling at Toyota Motor Manufacturing UK, Tenth Avenue, Deeside Industrial Park, Deeside (051425)

Councillor Mike Peers declared a personal and prejudicial interest in the following application due to his son being employed by the applicant:-

Agenda item 6.7 – General Matters – Demolition of existing vacant properties and redevelopment of site for affordable housing (outline planning permission ref: 046185) at Aston Mead Estate, Hawarden (047780)

112. **LATE OBSERVATIONS**

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

113. **MINUTES**

The draft minutes of the meeting of the Committee held on 6 November 2013 had been circulated to Members with the agenda.

Councillor Owen Thomas referred to page 1 and indicated that he had submitted an apology which had not been recorded.

Councillors Ian Dunbar and Billy Mullin indicated that they had not declared an interest in agenda item 6.2 as was reflected on page 1 of the minutes.

Councillor Veronica Gay referred to the fourth paragraph on page 5 and asked what the insinuation was that the Planning Strategy Manager had expressed his disappointment at. The Planning Strategy Manager advised that it was about the comment of Councillor Gay that the report had been written to fit the recommendation. Following a discussion, it was agreed that the fourth and fifth lines in the paragraph be removed and the words 'The Planning Strategy Manager' be included at the start of the sixth sentence.

Councillor Mike Peers referred to the final paragraph on page 12 and asked that the words 'to the right' be removed from the third line. He also referred to the first line on page 13 and asked that the words 'was nonsense' be removed and the words 'when it was acceptable for several vehicles to park there when it was a post office' be inserted after the words 'highway safety'. He also asked that the words 'high hedge' be removed from the eighth line in the same paragraph and that the words 'an adjacent high hedge in third party ownership adjacent to the property' be inserted after the words 'property which had'.

Councillor Peers also referred to the first sentence in the penultimate paragraph on page 13 and asked that the words 'on the advice of the Principal Solicitor' be inserted after the words 'Following a comment from the Chairman' and that the words 'and apologised for using the remark' be inserted at the end of the first sentence.

RESOLVED:

That subject to the above suggested amendments, the minutes be approved as a correct record and signed by the Chairman.

114. **ITEMS TO BE DEFERRED**

The Head of Planning advised that none of the items on the agenda were recommended for deferral by officers.

Councillor Mike Peers referred to agenda item 6.2 (Application for the siting of a wind turbine at Orsedd Farm, Gorsedd – 051315) and said that the report indicated that some information had been requested from Natural Resources Wales and the County Ecologist but had not been received. The officer advised that the visual impact assessment was still awaited. Councillor Peers proposed that the application should be deferred and this was duly seconded.

RESOLVED:

That agenda item 6.2 (Application for the siting of a wind turbine at Orsedd Farm, Gorsedd – 051315) be deferred.

115. **RESERVED MATTERS - DETAILS OF APPEARANCE, LAYOUT, SCALE, LANDSCAPING AND ACCESS SUBMITTED IN ACCORDANCE WITH CONDITION NO. 1 ATTACHED TO OUTLINE PLANNING PERMISSION REF: 041456 AT RHEWL FAWR ROAD, PENYFFORDD, HOLYWELL (051212)**

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 drew Member's attention to the additional condition in the late observations. He said that the figures reported in paragraph 7.02 were incorrect and that the proposal was for a total of eleven properties as follows:-

- four x two bed
- two x three bed
- a terrace of three
- and two bungalows.

Mr. T. Bignell spoke against the application and said that Cymdeithas Tai Clwyd had not been fair with the residents about how they would be affected by the application. He referred to the design of the properties and said that the dwellings were intended to be used to house independent disabled adults and would be akin to a transit camp. He said that the development would not bring young people into the area and would not bring new life into the village. Mr. Bignell felt that the applicant was not putting the needs of local people first and suggested that part of the site could have been used as a village hall. He felt that the entrance to the site could not cope with the anticipated increase in traffic and that the access road was just wide enough for two vehicles to pass. He felt that the development of the site would restrict deliveries to the local shops and would create problems for emergency vehicles and said that the road was narrow and uphill. He requested that the application be refused and that only a building to benefit all of the village should be approved.

Councillor Chris Bithell proposed the recommendation for approval which was duly seconded. Councillor Bithell said that the application already had outline planning permission from 2006 and 2010. He felt that the decision to allow the application had been well established and that it should be permitted. Councillor Christine Jones welcomed the application and said that there was a need for more supported living facilities in Flintshire.

Councillor Mike Peers queried the density on the site as based on a density of 30 dwellings per hectare, he said that there should be 17 dwellings on the site. He referred to the payment for open space provision and queried whether this should have been included in the Section 106 agreement as Cymdeithas Tai Clwyd were a non-profit making organisation. He also queried why permitted development rights were to be removed.

In response to the comment from Mr. Bignell about the properties not being for local people, the officer said that the development was a 100% affordable housing scheme and if the properties were not needed by disabled

people then they would be made available to local people. On the issue of the removal of permitted development rights, this was intended to protect the amenity of properties from future developments. He explained that for open market developments, the requirement for open space provision was £1100 per dwelling but this was reduced for 100% affordable sites to £733 per dwelling and he confirmed that this policy had been applied consistently on other applications. On the issue of density, he advised Members that there was a wide variety of housing in the area and that the density applied was in accord with the area and complied with the Unitary Development Plan. In response to a further query from Councillor Peers about whether the residents in the properties would be able to have a garden shed if permitted development rights were removed, the Development Manager said that the residents would need to apply for planning permission so that the impact could be assessed.

RESOLVED:

That reserved matters permission be granted subject to the conditions detailed in the report of the Head of Planning, the additional highway condition in the late observations and subject to the applicant entering either into a Section 106 agreement, providing a unilateral undertaking or the making of an advance payment which provides the following:-

- Ensure payment of a commuted sum payment in lieu of on site public open space provision of £8063, such sum to be used to upgrade existing open public open spaces within the locality. This sum shall be paid upon the occupation of the fifth apartment.

116. **FULL APPLICATION - INSTALLATION AND COMMISSIONING OF A SINGLE 10KW WIND TURBINE AT TYN Y COED, STARKEY LANE, NORTHOP (051151)**

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 explaining that the application had been submitted to the Committee for consideration due to the height of the structure exceeding what could be determined under delegated powers. An objection had been received from Northop Community Council and following consultation with the Head of Public Protection, who had indicated that there would be no adverse impact on the area, the application was reported for approval.

Councillor Derek Butler proposed the recommendation for approval which was duly seconded.

RESOLVED:

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

117. **APPLICATION FOR OUTLINE PLANNING PERMISSION - ERECTION OF A DETACHED BUNGALOW AT SUNDOWN NURSERIES, BABELL ROAD, PANTASAPH (051338)**

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 9 December 2013. The usual consultations had been undertaken and the responses received detailed in the report.

Mr. D. Brimble, the applicant, spoke in support of the application, explaining how the family business had been running since the 1950s and then in 1970s production had expanded and a family home had been built on the site. The horticultural market had reduced and in the current economic climate the business had become unviable and had closed. He said that the site was naturally screened and he asked the Committee to agree that the circumstances to build a new dwelling in the countryside were exceptional and permit the application to build a small detached bungalow on the site. Mr. Brimble spoke of other properties in the area which were larger than the proposed bungalow and had been permitted in the countryside. He said that the new dwelling would provide a retirement home for his parents and said that the proposal had the support of Ysceifiog Community Council.

Councillor Jim Falshaw proposed the recommendation for approval against officer recommendation which was duly seconded. He said that the proposal mostly complied with policy HSG5 and that the site should be classed as infill. He spoke of a large property nearby which had been permitted and which was 75% larger than the original footprint. He also referred to policy HSG6 and paragraphs A, B and C of HSG5 and said that the application complied with policy and should therefore be approved.

Councillor Owen Thomas felt that the application was a good opportunity to tidy up the rest of the site and develop part of it. He also referred to other larger executive home properties in the nearby area which had been granted permission. He questioned why the applicant had had to undertake an archaeological survey and the application was still recommended for refusal. He said that a developer should only be asked to undertake the survey via conditions once permission had been granted, not as part of the application stage, as had been requested on this application. The Democracy & Governance Manager reminded the Committee that tidying up the site was not a valid reason to permit planning permission as it would lead to developers deliberately making their sites untidy.

Councillor Chris Bithell said that in planning training, one of the first principles of planning was the presumption against new build in the countryside. He said that it was in local and national policy not to allow new build in the open countryside and that this application should be refused. Councillor Bithell also said that he did not know why the item was on the agenda and why it had a site visit as it was clearly against policy. An application for the same site had been refused in March 2013 due to it being in the open countryside and nothing had changed and Councillor Bithell said that if the applicant had any confidence in the application, they would have appealed the earlier refusal. He asked Members to

refuse the application as approving it would set a precedent and added that the application did not comply with the policies on infill and should be refused.

Councillor Derek Butler concurred that the application did not comply with four fundamental policies. He said that each application had to be treated on its own merits and previous errors of granting permissions for dwellings in the countryside should not be used to make additional errors. He said that the infill policy indicated that there needed to be a continuous frontage of six properties to consider an area as infill and as this was not the case, then the proposal did not comply with the infill policy.

Councillor Mike Peers referred to paragraph 7.08 about any brownfield nature of the site and said that there was little information in the report about this. He also referred to paragraph 7.07 and asked if the issue of an affordable housing scheme to remain in perpetuity had been discussed with the applicant.

In response to the comments made, the officer said that in order to meet the requirement of policy HSG5 on infill, there would need to be a continuous frontage of six houses and as there was not, the application did not comply with policy. The proposal was for a development in the open countryside which was not permitted in local or national policy. On the issue of a brownfield site, he said that Planning Policy Wales guidance advised that brownfield sites should be used where appropriate but excluded land used for agriculture which this land was.

The Planning Strategy Manager said that the applicant had not provided details of exceptional circumstances as to why the application should be permitted and as it was not Unitary Development Plan compliant, it should be refused. The previous permission of a large property in the area which had been referred to should not be taken into account when determining this application and the Planning Strategy Manager reminded Members that in any case two wrongs did not make a right. On the comments made by Councillor Falshaw about the application complying mostly with policy, he said that all criteria had to be met and added that the infill policy had also not been complied with. On the issue of exploring local need, the Planning Strategy Manager said that there was no need to look at this if the first part of the policy had not been met and he added that it was not a material factor that the business had closed down. There was no identifiable group of dwellings to comply with the infill policy and the Planning Strategy Manager said that it had been the applicant's choice to undertake an archaeological survey. He concluded that the application was for a dwelling in the countryside and that it did not meet any exceptional criteria. In response to a question from Councillor Peers about the site being used for a commercial venture, the Planning Strategy Manager said that it was his understanding that horticulture was the same as agricultural use.

In summing up, Councillor Falshaw said that:-

- the application complied with policy HSG5 paragraphs A, B and C;
- there was a small gap between two dwellings so the application therefore complied with the infill policy
- the development did not constitute ribbon development
- the proposal was not obtrusive and was not overdevelopment of the site

Councillor Bithell requested a recorded vote and was supported by the requisite five other Members. On being put to the vote, planning permission was refused by 14 votes to 4, with 2 abstentions. The voting being as follows:-

FOR – GRANTING PLANNING PERMISSION

Councillors: Jim Falshaw, Ray Hughes, Brian Lloyd and Owen Thomas

AGAINST – GRANTING PLANNING PERMISSION

Councillors: Haydn Bateman, Chris Bithell, Derek Butler, David Cox, Ian Dunbar, David Evans, Ron Hampson, Christine Jones, Richard Jones, Richard Lloyd, Billy Mullin, Mike Peers, Neville Phillips and David Wisinger

ABSTENTIONS

Councillors: Veronica Gay and Alison Halford

RESOLVED:

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

118. **FULL APPLICATION - INSTALLATION OF GROUND MOUNTED SOLAR PANELS UP TO 3.804MWP (PEAK), POWER GENERATION CAPACITY AND ANCILLARY EQUIPMENT INCLUDING TWO SUBSTATIONS AND ASSOCIATED CABLING AT TOYOTA MOTOR MANUFACTURING UK, TENTH AVENUE, DEESIDE INDUSTRIAL PARK, DEESIDE (051425)**

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 9 December 2013. 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, explaining that the late observations reported that:-

- amended plans had been received
- a document to address the concerns of Network Rail had been received
- responses had been received from Natural Resources Wales, Welsh Water/Dwr Cymru, Liverpool John Lennon Airport and Airbus
- there were no recorded badger setts on site
- two additional conditions were to be included about drainage and surface water.

Councillor Owen Thomas proposed the recommendation for approval which was duly seconded. Councillor Billy Mullin said that this was an industrial site and it fitted in with renewable energy. Councillor Christine Jones gave thanks to the Planning Officer for responding to all of the queries and questions raised at the site visit earlier in the week. The Chairman concurred and said that the officer had worked hard and should be congratulated.

Councillor Richard Jones felt that the application should be deferred to await a response from Network Rail to the document submitted by the applicant's agent which it was reported addressed their concerns. Councillor Ian Dunbar said that the purpose of the panels was to absorb light not reflect it and he agreed with the recommendation of approval. Councillor Derek Butler suggested that the application could be approved with the proviso that if Network Rail still had concerns, then the application could be referred back to the Committee. The Democracy & Governance Manager explained that if a decision was reached on the application, then it could not be re-submitted to the Committee.

The Development Manager said that the additional report submitted by the applicant's agent detailed the nature of glare from such structures and concluded that there should be no impact on train operators. Officers felt that the information provided did not lead them to think that there would be sufficient impact to refuse the application. He suggested that the Committee could approve the application subject to no objection being received from Network Rail in response to the additional information about glare. It was agreed that Network Rail would be given two weeks to respond.

RESOLVED:

That planning permission be granted if no objection is received from Network Rail within two weeks of this Committee meeting in response to the additional information about glare, subject to the conditions detailed in the report of the Head of Planning and the additional conditions in the late observations.

119. **FULL APPLICATION - ERECTION OF A FOUR BEDROOM DETACHED DWELLING AND DETACHED DOUBLE GARAGE AT 37 WOOD LANE, HAWARDEN (051234)**

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 considered under policy HSG3 as the growth figure for Ewloe had exceeded 15%, the property had to meet local need. The proposal complied with space around dwellings and the access and parking complied with policy. Additional conditions were reported in the late observations which included the removal of permitted development rights. The recommendation included being subject to a section 106 obligation that the property should be occupied by the applicants and that 30% of the value of the property be repaid to the Council upon sale of the property.

Mr. I. Warlow spoke against the application and said that he moved into the property in 2010 and that it had a large garden which was not overlooked. He said that the proposed dwelling would overlook rooms in his property and would affect the privacy of him and his family and light pollution would also be extensive. Mr. Warlow said that the applicant had agreed his request to reduce the hedge height to two metres but if it was reduced, it would create additional

light pollution and his property would be more overlooked. He referred to two previous applications in 2005 for seven starter homes and six starter homes on the site, both of which had been refused. Mr. Warlow raised concern about potential parking on the highway and said that he also felt that the proposal amounted to overdevelopment of the site. He said that the application should be refused on the grounds of loss of privacy, noise and light disturbance, loss of nature and increase in traffic.

Mr. C. Shaw, the applicant, spoke in support of the application, and said that he and his family had lived in the area for 15 years. He said that the application was for an affordable property for himself and his family to live in and would comply with policy HSG3. He felt that the garden was a wasted space and that a great deal of thought had been put into the type of property he would like to build. He said that the proposal complied with GEN 1 and the ground floor ridge line was similar to that of 35 and 37 Wood Lane. Mr. Shaw said that there would be a minimum of 3 parking spaces for number 37 and 4 spaces for the new property so there would be no need for parking on the highway; he referred to policies AC13 and AC18. He added that if the hedge height was reduced, the proposed dwelling would have more of an impact on the neighbouring properties. Mr. Shaw said that the proposal also complied with policies D1 and D2.

Councillor Alison Halford proposed refusal of the application, against officer recommendation, which was duly seconded. She said that new information had come to light and if it was taken at face value, it could affect the information contained within the report as the section 106 obligation may not match what the application might wish for. The Democracy & Governance Manager reminded Members that if the Section 106 obligation was not signed, then the Head of Planning had delegated authority to refuse the application. Councillor Halford queried the information in paragraph 7.07 and asked for clarification on the financial circumstances of the applicant. The Planning Strategy Manager said that it appeared that the criteria for affordable housing need had been applied and complied with and that the application for the affordable housing need had been through the process through a registered social landlord. The applicant would have to sign the Section 106 obligation if the application was approved before being able to commence development and if the applicant was to sell the property, then the Council would receive 30% of the value.

Councillor Halford said that the section 106 obligation did not indicate that the applicant had to sell 37 Wood Lane and raised concern that the applicant could keep the property and still build the new property in his back garden. The Planning Strategy Manager explained that it was difficult for officers to comment on the information that Councillor Halford had received because it had not been shared with officers. Following a discussion, it was decided that the meeting be adjourned to allow Councillor Halford to discuss the information with the officers.

The Housing Strategy Manager provided details of qualification for the Affordable Housing Register which was administered by Cymdeithas Tai Clwyd and said that the income, outgoings and size of mortgage was considered in their calculations so as far as access onto the affordable housing register was concerned, the applicant's finances had been considered. The Planning Strategy

Manager said that the applicant had qualified for inclusion on the register and therefore approval of the application was reported.

Following the adjournment, Councillor Halford thanked the officers for the opportunity to discuss the additional information with them and reiterated her proposal for refusal of the application. She commented on the growth of 18% in Ewloe and her concerns about the applicant being able to continue to live in his current property and still build the new dwelling. She felt that the conditions did not cover the circumstances of the application and added that the size of the new house and garage would reduce the amount of sunlight onto the property and garden of number 35.

Councillor Owen Thomas sought clarification on tandem development and said that he felt that the application did not comply with policy. He said that the property should be for a small affordable home not a four bedroom property and raised concern that it was recommended for approval even though there was growth of over 18% in the area.

Councillor Chris Bithell felt that it was backland development and tandem development and he shared the concerns of previous speakers about the size of the property. He said that the policy for affordable housing was for first time buyers not for applicants who already had their own home and he queried whether the fact that the applicant could not afford the mortgage on his current property necessitated the building of a new property. Councillor Bithell felt that a cheaper property could be purchased by the applicant when his current home was sold without the need to build a new dwelling in his garden. He added that he felt that there was no local need.

Councillor Richard Jones said that there was a need to consider whether the principle of development had been established and whether the applicant met the affordable housing criteria. He said that he had questioned how housing need could be accepted if the applicant had a home already but said that the Committee had no other choice than to approve the application as it did meet the principle of development and the affordable housing criteria.

Councillor Mike Peers agreed and said that it was not for the Committee to judge whether the applicant should be on the affordable housing register and what size property he could build. However he raised concern about backland development and asked for clarification on this and on how the affordable housing criteria had been applied.

Councillor Derek Butler suggested that the application be deferred for the Committee to receive further information on backland or tandem development and on the affordable housing criteria. The proposal to defer the application was duly seconded. Councillor Bithell welcomed the deferment to receive additional information but Councillor Jones felt that the information was already before the Committee.

On being put to the vote, the proposal to defer the application for further information on affordability, housing need and backland/tandem development was CARRIED.

RESOLVED:

That the application be deferred for the Committee to receive additional information on:-

- affordability
- housing need
- backland/tandem development

120. **GENERAL MATTERS - DEMOLITION OF EXISTING VACANT PROPERTIES AND REDEVELOPMENT OF SITE FOR AFFORDABLE HOUSING (OUTLINE PLANNING PERMISSION REF: 046185) AT ASTON MEAD ESTATE, HAWARDEN (047780)**

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 Mike Peers, having earlier declared an interest in the application, left the meeting prior to its discussion and was not called back for the remainder of the meeting (where there was no discussion over the three appeal decisions reported).

Councillor Chris Bithell proposed the recommendation to amend the recommendation of the Planning and Development Control Committee dated 2 November 2011, which was duly seconded.

Councillor Owen Thomas said that the application had been approved some time ago but no houses had been built on the site. He queried whether the applicant was landbanking the land and whether the time limit to commence development was indefinite.

The officer drew Member's attention to paragraph 6.02 where it was reported that the planning decision had not been issued yet as there had been land ownership issues and therefore the developer had been unable to commence building and the timing for completion of the development had not yet started.

RESOLVED:

That the recommendation in paragraph 2.01 of the report to the Planning and Development Control Committee dated 2 November 2011 be amended to read:-

'That conditional planning permission be granted subject to the applicant entering into a Section 106 Agreement, Unilateral Undertaking or the direct payment of a commuted sum of £15,393 in lieu of on-site play space provision'.

121. **APPEAL BY J & T GIZZI BUILDERS LTD AGAINST THE DECISION OF FLINTSHIRE COUNTY COUNCIL FOR THE CREATION/ENHANCEMENT OF EXISTING TRACK/DRIVE. EXCAVATION AND REMOVAL OF SOIL/CLAY AND REPLACE WITH HARDCORE AT SPRINGFIELD, NORTHOP ROAD, NORTHOP - DISMISSED (050002)**

RESOLVED:

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

122. **APPEAL BY MR. STEPHEN DALE AGAINST THE DECISION OF FLINTSHIRE COUNTY COUNCIL TO REFUSE PLANNING PERMISSION FOR A PROPOSED LOFT CONVERSION WITH SIDE DORMER AND EXISTING RIDGE LINE LOCAL TO DORMER TO BE RAISED BY 400 MM AT 50 HIGHLAND AVENUE, QUEENSFERRY - DISMISSED (050542)**

RESOLVED:

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

123. **APPEAL BY MR. K. PARTINGTON AGAINST THE DECISION OF FLINTSHIRE COUNTY COUNCIL TO REFUSE PLANNING PERMISSION FOR THE ERECTION OF A 3 BEDROOM DETACHED DWELLING WITH GARAGE (FOR DISABLED PERSON) AT 45 BROUGHTON HALL ROAD, BROUGHTON - DISMISSED (050545)**

RESOLVED:

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

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

There were 13 members of the public and 1 member of the press in attendance.

(The meeting started at 1.15 pm and ended at 3.32 pm)

.....
Chairman

FLINTSHIRE COUNTY COUNCIL

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

DATE: **15TH JANUARY 2013**

REPORT BY: **HEAD OF PLANNING**

SUBJECT: **RESTORATION OF CAMBRIAN QUARRY BY THE IMPORTATION AND RECYCLING OF INERT MATERIALS AT CAMBRIAN QUARRY, GLYNDWR ROAD, GWERNYMYNYDD, MOLD, FLINTSHIRE, CH7 5LW**

APPLICATION NUMBER: **050695**

APPLICANT: **ASH RESOURCE MANAGEMENT (CAMBRIAN QUARRY) LIMITED, VALEWAY LIMITED AND JENNINGS BUILDING AND CIVIL ENGINEERING LIMITED**

SITE: **CAMBRIAN QUARRY, GLYNDWR ROAD, GWERNYMYNYDD**

APPLICATION VALID DATE: **8 APRIL 2013**

LOCAL MEMBERS: **COUNCILLOR NANCY MATTHEWS**

TOWN/COMMUNITY COUNCIL: **GWERNYMYNYDD COMMUNITY COUNCIL**

REASON FOR COMMITTEE: **THE SITE IS OVER 2 HECTARES IN SIZE, IS EIA DEVELOPMENT AND REQUIRES A SECTION 106 AGREEMENT**

SITE VISIT: **YES - LOCAL MEMBER REQUESTED**

1.00 SUMMARY

- 1.01 The proposal relates to Cambrian Quarry, an inactive limestone quarry in the village of Gwernymynydd, near Mold. This application involves the importation of inert waste materials for use in the restoration of Cambrian Quarry in order to make the quarry faces

stable and safe. The restoration would create a shallow valley landform that would be subsequently used for agriculture and nature conservation once restored. The application also involves the recycling of inert waste materials which would be exported off-site for reuse elsewhere. Access to the site would be facilitated by the construction of a new internal access road, the widening of Glyndŵr Road and the removal and restoration of the existing quarry access. Once the site has been restored, the proposal includes a 15 year extended management period. All previous planning consents would also be relinquished should planning permission be granted.

- 1.02 The main issues relate to the impact on the Clwydian Range and Dee Valley Area of Outstanding Natural Beauty (AONB) and landscape, the impact of the proposals on the Cambrian Quarry Site of Special Scientific Interest (SSSI), which is an important habitat for European Protected Species and other nature conservation issues, the principle and need for the restoration of the quarry by the importation of inert material, the principle and need of recycling operations to be located within the quarry, the impact on residential amenity, and the impact on the highway and access road.

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

- 2.01 The applicant entering into a legal agreement under the terms of the Town & Country Planning Act 1990 (as amended) Section 106 to:-
- surrender the old mineral and waste planning permissions
 - 15 year management post restoration as set out in the outline management plan with periodic review
 - Control of operations within the quarry but outside of the application site in terms of hours of operation and no artificial lighting for activities not related to the application

- 2.02 Conditions to include
1. Commencement
 2. Approved Plans
 3. 10 year time limited permission

Pre-commencement conditions

4. Detailed Access road design
5. Details of the design, materials and construction of the retaining wall along Glyndŵr Road
6. Details of the design, materials and construction of the stone wall
7. A scheme for the widening of Glyndŵr Road and the proposed boundary wall adjacent to Glyndŵr Road which shall be subject of a Section 278 agreement of the Agreement under the 1980 Highways Act
8. A scheme for the details design and construction of the internal access road

9. The existing quarry access to be closed and the highway reinstated once the new access is in use leaving a passing bay which shall be subject of a Section 278 agreement under the 1980 Highway Act.
10. Visibility splays maintained
11. Inward opening gates
12. Surface water drainage
13. Drainage conditions
14. Foul and surface water discharge conditions
15. Prevention of surface water on to the highway
16. Tree survey to establish what vegetation can be retained
17. Scheme for root protection zones and protection
18. Bat mitigation and reasonable avoidance measures
19. Replacement bat habitat
20. Mine entrance protection details
21. Newt mitigation and reasonable avoidance measures
22. Nature conservation mitigation
23. Badger monitoring
24. Pre-fill geodiversity survey to record the features of the RIG
25. Biosecurity risk assessment
26. Liaison committee scheme
27. Amended outline management plan to include Geodiversity and any changes
28. Detailed management plan of retained habitat
29. Ecological/ geological audit
30. Advanced planting/landscaping and detailed scheme
31. Planting aftercare
32. Bund construction
33. Soil profiles

Operational conditions

34. Plans to be kept on site
35. Hours of operation
36. HGV limits no more than 75 vehicles per day
37. HGV speed limit
38. Wheelwash/controls to stop mud/debris on the highway
39. No fixed or mobile artificial lighting
40. Stockpile heights no more than 5 metres
41. Noise limits
42. Noise mitigation
43. Noise monitoring
44. Dust mitigation
45. Vibration monitoring
46. Removal of mobile plant at appropriate time
47. Implementation of biosecurity risk assessment
48. Annual topographical surveys
49. Annual monitoring of restoration and aftercare/management
50. Annual management meeting initially frequency changed as appropriate
51. Final restoration contours to be submitted before phase 5

- Restoration and aftercare conditions
- 52. Final restoration scheme and planting mix
- 53. Detailed Management Plan
- 54. Scheme for access road reduction
- 55. Access road reduced in width on completion of restoration
- 56. Five year aftercare period

If the Section 106 Agreement (as outlined above) is not completed within six months of the date of the Committee resolution, the Head of Planning be given delegated authority to REFUSE the application.

3.00 CONSULTATIONS

3.01 Local Member: - Councillor Nancy Matthews

Councillor Matthews has made a number of observations in relation to the application. Whilst the principle of infill of the quarry void with inert materials is understandable, the proposed recycling operations in the quarry are unacceptable and the proposal raises serious safety concerns in relation to the new access and highways matters.

3.02 Concerns relate to: the new access, wider highways capacity, junction width and junction capacity on both the A494 and Glyndŵr Road, and also the new access point, existing drainage problems on Glyndŵr Road, all which raises serious safety concerns with an increase in HGV movements especially during wintry and icy conditions, the section of the road where the proposed access is located always freezes in icy weather. The amendments to the application regarding the road widening and access improvements do not address the concerns with regards to junction capacity, wider highway network capacity and the capacity of Glyndŵr Road to accommodate the increase in HGVs as proposed. Vehicles turning from the A494 onto Glyndwr Road have to cross the centre line of the carriage way and the proposed widening would not be sufficient to allow two vehicles to pass. This could lead to HGVs queuing on the A494 waiting to turn into Glyndŵr Road which could cause congestion on the A494 which raises safety concerns for other drivers and pedestrians as this could lead to drivers on the A494 dangerously overtaking slow vehicles. A precedent has been made when the Council determined the Eagles and Crawford coach garage depot when conditioning a one-way system to improve traffic flow and avoid congestion

3.03 The proposed recycling operations are unacceptable in this rural location due to the noise and dust that would be generated and there is no need to locate the recycling operations on site. This element of the proposal is considered to be contrary to TAN21 and the proximity principle as policy guides recycling facilities to be located close to the source of waste and at the right place and the right time such as their existing site at the Deeside Industrial Park. Should the recycling

proposals go ahead then this would introduce an industrial process into the countryside.

3.04 Councillor Matthews is concerned in relation to the nature of waste materials that would be processed in the proposed recycling operations and deposited which could cause environmental pollution but acknowledges that the infilling would make the surrounding land safer and more secure.

3.05 Councillor Matthews has also requested that The Planning Committee undertake a site visit before a decision is made and to look at the proposed new access and the junction with Glyndŵr Road and the A494(T).

3.06 Gwernymynydd Town Council

Gwernymynydd Community Council object to the proposal to the proposal for a number of reasons relating to highways safety and junction capacity, the noise, dust, debris/mud on the road and disturbance that would be generated from increased HGV traffic as a result of the proposal. The number of vehicle movements proposed would exacerbate existing traffic problems on A494. The access does not have sufficient visibility splays and presents safety concerns in relation to its proximity with the A494 junction, the accesses of other quarries in the area are wider with better visibility. They believe that the North and Mid Wales Trunk Road Agency need to undertake a transport/traffic assessment of the proposal in relation to the impact on the A494 as the applicant's assessment is inadequate.

3.07 They have raised safety concerns in relation to the new internal access road which would lie at an elevated position. Risks of accident would be heightened especially during icy weather conditions which would increase risk of accident and hazards for users on Glyndŵr Road. The revised alignment and the changes in relation to the proposed new internal access road do not address their concerns. The waste transfer/recycling element of the proposal is not acceptable as recycling would be the primary purpose as opposed to restoration to stabilise the quarry faces.

3.08 Other concerns relate to the adverse effects of the local flora and fauna which has become established since the cessation of quarrying activities, the disturbance of the local protected bat population, the proposed hours of operation, disturbance of hazardous wastes on site, lack of bunding and noise mitigation, pollution from noise, dust and need for flood lighting which would cause a nuisance and impact on residential amenity, the impact on the AONB, drainage problems and existing surface water run-off should be resolved through the planning application, the impact on public rights of way, public access and the devaluation of property value in the Gwernymynydd area by up to 10-20%.

- 3.09 Head of Highways and Transportation
The Head of Highways and Transportation has not objected to the proposal but has advised that any decision notice be issued with conditions and informatives in relation to highways specification, highways safety, visibility, and drainage. A Section 278 Agreement under the 1980 Highway Act would also be required prior to construction of the access road and retaining wall.
- 3.10 Public Rights of way
Public Footpath 34 abuts the site but appears unaffected by the development therefore there are no observations.
- 3.11 Head of Public Protection
No objections in principle to the application but advises on conditions relating to hours of operation, noise, dust and environmental permitting.
- 3.12 North and Mid Wales Trunk Roads Agency
At the time of writing the report no written comments had been received.
- 3.13 Cyfoeth Naturiol Cymru/Natural Resources Wales (NRW)
During pre-application discussions the Countryside Council for Wales (now NRW) agreed that the proposed activity would be acceptable subject to agreeing the fine detail including the requirements for safeguarding bats and their roosts, other European Protected Species such as great crested newts and other biodiversity matters including Section 42 species which has been provided in the planning application and supporting Environmental Statement and additional information.
- 3.14 NRW did not object in principle to the application subject to clarification on a number of matters which have been provided by the applicant during the consideration of this application. Following the initial consultation, NRW raised some concern and suggested a number of changes to the application in relation to the restoration and that the restoration should achieve woodland with open glades and water bodies rather than exclusively to calcareous grassland. The applicant has taken the comments from NRW into account and NRW is now satisfied and raises no objection subject to the imposition of condition to ensure that the proposed mitigation is implemented, final restoration details to be approved subject to condition, conditions relating to aftercare and conditions relating to surface water drainage. They consider that the proposal is likely to have landscape and ecological benefits. NRW have requested that the section 106 agreement include relinquishment of future development rights for the whole site once the site has been restored.

- 3.15 Clwyd Bat Group – objects to the proposal as they have implications with regards to the lesser horseshoe bat roost and their habitat. Until reassurances have been provided in respect of their concerns, the Clwyd Bat Group objects to the proposal.
- 3.16 The Clwydian Range and Dee Valley AONB Joint Advisory Committee (JAC) is supportive in principle of restoring the site and is conscious of the landscape and visual benefits of the scheme following completion of the proposed restoration. However, such support is subject to satisfactory measures to mitigate against the impacts on protected species and the geodiversity interest of the site. The revised restoration concept which would involve woodland and wetland would maximise the biodiversity value of the site in respect to protected species which is supported by the JAC.
- 3.17 The JAC has concerns regarding the potential for disturbance/loss of local tranquillity, particularly as a result of the additional traffic generated and the proposed recycling operations. The access road would also result in the loss of existing trees and woodland which are a significant landscape feature and wildlife habitat. However, the main concerns emphasised by the JAC in relation to the visual/landscape impact of the proposed access road have been addressed in part by the revised access road scheme. The JAC welcomes the intention to extend the management plan area to include all land within the applicant's control, but remains disappointed that the management period has not been extended beyond 15 years and that opportunities to enhance public access by the creation of new permissive paths which connect to the local rights of way network have not been taken forward as part of the restoration and after-use proposals.
- 3.18 North East Wales Regional Important Geodiversity Sites (NEWRIGS)
A trace fossil horizon at the base of the quarry has been identified which is not known to be exposed anywhere else in the North East Wales area. As a result, the site has been designated as a Regionally Important Geodiversity (RIG) Site. Geoconservation/diversity and the understanding of the geology of NE Wales would be significantly reduced by the loss of this RIG site. However, NEWRIGS have acknowledged the mitigation measures proposed within the application which should be required by condition.
- 3.19 North Wales Wildlife Trust opposes the development on the grounds of damage to wildlife habitats. Whilst there are potential stability issues, it should not be used as justification for the destruction of the existing calcareous grassland and scrub habitat. The proposal does not consider the long term management.
- 3.20 Nercwys and District Rural Association (NADRA) accepts that there is a national and local need for landfill sites for inert material that cannot be recycled, and recognises that the proposal offers a

number of benefits to the area and does not object to the proposal in principle. However, NADRA have raised a number of concerns which include:-

- Junction capacity and highway safety issues of the A494 and Glyndŵr Road
- Inadequate Transport Assessment
- The gradient of the proposed internal access road.
- Noise, dust, vibration and disturbance which will cause an unacceptable significant impact on properties along Glyndŵr Road and local wildlife, bats, the SSSI and the AONB.
- The need to locate the recycling plant in this location which would be better located on an industrial estate
- Vibration assessments are required
- Ground water pollution and impact on local water courses
- Requirement for a restoration bond
- Time limited consent
- Financial contributions for local community projects through section 106 should be required.

3.21 Health and Safety Executive (HSE)

The Inspector of Quarries of the HSE has confirmed that there are a number of failure mechanisms apparent at Cambrian Quarry. Infilling would eventually buttress the failing faces. Care would need to be taken in the order of the placement of materials in the infilling process. This would be regulated by the HSE.

3.22 Denbighshire County Council as neighbouring Local Planning Authority have raised no objections to the proposal.

3.23 Dŵr Cymru/Welsh Water have not raised any objections to the proposal but have suggested a number of conditions and advisory notes in relation to drainage and water resources.

3.24 Clwyd and Powys Archaeological Trust confirmed that there are no archaeological implications for the proposed restoration works. Access to the early underground mine workings would be preserved by bat mitigation measures.

3.25 Airbus - No objection on aerodrome safeguarding.

3.26 David Hanson MP has raised concerns on behalf of two constituents in relation to HGV movements, traffic, dust and noise.

3.27 Sandy Mewies AM has raised concerns on behalf of two constituents in relation to HGV movements, traffic, dust, noise, and disturbance, an industrial intrusion into the rural area, the length of time the project would take, risk to ground water quality, and lack of benefits to the community and the amount of material that would be exported once processed, as opposed to being used for restoration on site.

4.00 PUBLICITY

4.01 This application was advertised by way of press notice, site notice and neighbour notification letters were dispatched to nearest residential receptors. The application was advertised in accordance with the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 on 2 May 2013. Since the initial consultation, further information has been submitted and amendments made to the proposal in relation to the alignment of the access road, road widening and details of the restoration. This was also advertised in accordance with Regulation 19 of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations (1999) on 7 November 2013.

4.02 During the consideration of this application, a total of 102 local residents have made representation against the proposed application. A letter from a collective of residents, property and land owners have also made representation. A summary of the planning based representations in objection to the proposal are set out in paragraph 4.04 below.

4.03 The main planning based representations in objection that are material to the determination of this application include issues associated with three main elements of the proposal;

- restoration of the site by importation of inert waste,
- the proposed aggregate recycling operations, and
- the proposed new internal access road.

4.04 Objections to the proposal pertinent to the three main elements of the proposal relate to: -

- The principle and need for the restoration as it has naturally self regenerated and the need for additional landfill capacity in this area
- The need for the recycling operations in this location
- The main focus of the operations would be the waste transfer and recycling rather than the restoration
- The amount of materials that would be recycled and removed off site would be 95% of the waste with only 5% being left for the restoration which would extend the time period required to restore the site or it would increase the vehicle movements
- The calculations of waste to be exported is not correct
- Contrary to National/Local Policy and the Waste Hierarchy
- Contrary to draft TAN21 – there is no exceptional circumstances and phase 5 is not needed
- Requirement for a restoration bond
- Detrimental Impact on the landscape and character of the AONB and visual impact
- Loss of important trees which are protected by a Tree

Preservation Order (TPO)

- Introducing an industrial development in a rural area which should be located on an industrial estate
- An alternative site should be sought
- There has been no assessment of other potentially available brownfield sites
- Ecology and nature conservation issues especially with regards to disturbance of the local bat population
- Impact and destruction of the SSSI wildlife and European Protected species, specifically bats, great crested newts, butterflies and their habitats and contravention of the Conservation of Habitats and Species Regulations 2010
- Impact on badgers,
- Failure to meet the derogation tests in relation to European Protected species – additional surveys are required to ensure that the derogation tests can be met and that potential for tree roosts have been assessed
- The site has already naturally self-restored
- The impact on the highway and road traffic matters in relation to road safety and highways capacity
- Junction and wider highways capacity – other quarries in the area have wider access roads and junction widths
- The new access is not acceptable and is inadequate and in terms of visibility and width which would present an unsafe access road and does not meet the standards of TAN18
- Inadequate junction of Glyndŵr Road and the A494
- Hazardous highway conditions in winter causing black ice
- The new access would result in the removal of important hedgerow and trees
- Unacceptable increase in HGV movements causing noise, dust, mud on the highway and disturbance and safety concerns for all users
- Inadequate transport assessments which have not taken into account seasonality
- Cumulative impact of other quarries in the area
- Residential amenity and the impact from noise, dust, lighting vibration, odour, disturbance, landfill gas, hours of operation, health concerns
- The proposal would attract vermin/odours
- Insufficient noise surveys and dust mitigation proposed
- Artificial illumination and light pollution
- The impact on the water environment, the water table, ground water and the pollution or water courses and drainage
- Increase in surface water run-off
- Concerns over drainage
- Disturbance of previously deposited waste from the construction of the access road and the landfilling activity
- Risk of previously contaminated land/waste being disturbed, risk of landslip of contaminated waste

- Ground stability and vibration from the machinery and HGVs
- Impact on the underground bat caves from vibration
- Disturbance of previously deposited waste from vibration
- Only a few new jobs would be created
- Impact on tourism and local businesses in the area
- Health and Safety
- Mental health concerns
- Contravening the Countryside and Rights of Way Act 2000
- Impact of existing public rights of way
- Monitoring would be required
- Impact on the Regionally Important Geological site
- Impact on the cultural heritage of the area
- Contrary to the proximity principle
- Impact on local businesses and the local economy
- Lack of community benefit offered
- Cumulative impact from other quarry/waste sites in the area
- The revised access does not address previous concerns
- Contrary to the Gwernymynydd Village Development Plan
- Should it be approved other industrial activities would be allowed in the future

Other representations that are not material planning reasons include:-

- Devaluation of property prices in the area by 10-20%
- Lack of enforcement of previous waste activities on the site
- The applicants are not suitable candidates to be allowed to operate the proposed activities
- Precedent set by Denbighshire to refuse a similar proposal
- The credit rating of the company and their ability to fund the restoration project
- Previous operations and poor maintenance and management of the site when it was operated in the past.

5.00 SITE HISTORY

5.01 Cambrian Quarry is an inactive limestone quarry which has also been the subject to historic underground mining operations and above ground quarrying operations. Lead mining started in the area in the early 18th Century and was at its height in the 1800's. There are a number of shafts associated with the underground lead mines located in and around the Quarry. Lever Brothers took over the ownership of the Quarry in 1905 and started mining silica stone for use as an abrasive agent in 'Vim'. The silica stone was extracted using pillar and stall working methods which has resulted in a network of underground mine workings beneath the eastern part of the old quarry area and under the adjoining fields to the east of the application site. The opencast quarrying of limestone and silica stone at Cambrian Quarry started in the 1800's and this was subsequently brought under planning control in 1951.

- 5.02 The Cambrian quarry void is covered by one planning permission for 'Quarrying at Cambrian Quarry', granted in 1951 under Permission Ref. H51/279. This permission was subject to review under the 1995 Environment Act and an Application for the Determination of New Conditions was submitted in January 1997. This review application has not been determined as an Environmental Statement is required to be submitted. The quarry permission was formally 'stalled' in 2011 under the EIA Regulations, and mineral extraction operations cannot recommence until an Environmental Statement has been submitted and the review of conditions approved.
- 5.03 Evidence provided within the submitted application for the Determination of New Conditions stated that there were some reserves remaining in the Quarry. The application indicated that there would be no further lateral extension but there would be potential to go deeper into the quarry void. The application stated that as of November 1996 the remaining reserves of *in situ* mineral within the site were estimated around 200,000 cubic metres. Furthermore there was approximately 25,000 cubic metres of previously processed material on the quarry floor. A suggested condition within the conditions application would permit extraction no deeper than 269m AOD. Existing levels indicate this would involve extraction of between 1 and 9 metres below existing levels should it be possible to extract the mineral. Subject to the submission of an Environmental Statement and the subsequent approval of conditions, there is the potential for the quarry to be reactivated to extract the remaining reserves.
- 5.04 There are three extant planning permissions for the disposal of industrial waste located within Cambrian Quarry. Whilst the planning permissions are extant, the operator surrendered waste management licenses for these waste permissions in 1993 and they would not be permitted to recommence operations until an Environmental Permit was issued by Natural Resources Wales/ Cyfoeth Naturiol Cymru:
- Permission Ref. H62/207, granted in 1962 for '*Tipping of industrial waste including used tyres, inner tubes, glass and incidental waste of rubber tyre nature.*'
 - Permission Ref. H63/264, granted in 1963 for '*Tipping of industrial waste including the tipping of waste multiwall paper bags tightly bundled and baled, the tipping of multiwall bags of scrap insulation material, which will include magnesia block, rock wool, fibreglass filter bags etc.*'
 - Permission Ref. H63/265, granted in 1963 for '*Tipping of industrial waste.*'
- 5.05 Non-minerals/waste development on the application site within the control of the applicant:
- Reference 27/89: Retention of compound for storage and distribution of fencing materials; refused 05.04.1989, allowed

- on appeal 16.11.1989 (temporary for two years)
- Reference 965/91: Renewal of temporary consent ref 27/89; refused 04.06.1993
- Reference 891/92: use of land and buildings as a grounds maintenance depot (retrospective); refused 28.01.1993
- Reference 337/94: use of land and buildings as a grounds maintenance depot (retrospective); refused 24.07.1994

5.06 The reasons provided for refusing application 27/89 refers to the increased use of the existing access which would add unduly to the hazards of other highways users. However, this application was allowed on appeal for a temporary period. Reasons for the subsequently refused applications also included the impact of safety of other highways users from an increased use of the substandard access to the site which is steep and has minimal visibility. Application 337/94 was refused because the County Road gaining access to the site was considered substandard in terms of its width and alignment to provide a safe and satisfactory access to the site.

5.07 Whilst these applications were refused, there is evidence in the files that the use continued without any enforcement intervention from the Council. There are claims within the file that the site has an established use for storage of plant, machinery and heavy goods vehicles and incidental storage purposes in February 1996. There is also evidence in the file that the site was being used for storage and breaking of cars. The Council did not enforce against the unauthorised activities. Based upon that evidence, it is likely that those activities would now be immune from any enforcement action and an application for a Certificate of Lawful use might be successful.

6.00 PLANNING POLICIES

6.01 The main planning policies and guidance relevant to the determination of this planning application are considered to be:

LOCAL PLANNING POLICY

6.02 Flintshire Unitary Development Plan (Adopted September 2011)

- | | |
|--------------|--|
| Policy STR1 | - New Development |
| Policy STR7 | - Natural Environment |
| Policy STR10 | - Resources |
| Policy GEN1 | - General Requirements for Development |
| Policy GEN3 | - Development in the Open Countryside |
| Policy GEN5 | - Environmental Impact Assessment |
| Policy D1 | - Design Quality, Location and Layout |
| Policy D4 | - Outdoor Lighting |
| Policy TWH1 | - Development Affecting Trees and Woodland |
| Policy TWH2 | - Protection of Hedgerows |
| Policy TWH3 | - Woodland Planting and Management |
| Policy L1 | - Landscape Character |

Policy L2	- Areas of Outstanding Natural Beauty
Policy WB1	- Species Protection
Policy WB3	- Statutory Sites of National Importance
Policy WB4	- Local Sites of Wildlife and Geological Importance
Policy WB6	- Enhancement of Nature Conservation Interests
Policy AC13	- Access and Traffic Impact
Policy EM7	- Bad Neighbour Industry
Policy MIN4	- Restoration and Aftercare
Policy MIN5	- Dormant, Inactive and IDO Sites
Policy EWP6	- Areas of Search for Waste Management Facilities
Policy EWP7	- Managing Waste Sustainability
Policy EWP8	- Control of Waste and Operations
Policy EWP11	- Development on landfill sites
Policy EWP12	- Pollution
Policy EWP13	- Nuisance
Policy EWP14	- Derelict and Contaminated Land
Policy EWP15	- Development of Unstable Land
Policy EWP16	- Water Resources
Policy EWP17	- Flood Risk

GOVERNMENT GUIDANCE

6.03 Planning Policy and Guidance

Planning Policy Wales (2011)

Technical Advice Note 5 – Nature Conservation and Planning (2009)

Technical Advice Note 11 – Noise (1997)

Technical Advice Note 18 – Transport (2007)

Technical Advice Note 21 – Waste (2001)

Draft Technical Advice Note 21 – Waste (2013)

Minerals Planning Policy Wales (2000)

Minerals Technical Advice Note 1: Aggregates 2004

Minerals Planning Guidance Note 7: Reclamation of Mineral Workings 1989

Minerals Planning Guidance Note 11: The Control of Noise at Surface Mineral Workings, 1993

Policy Clarification Letter, CL-01-12, Publication of Collections, Infrastructure and Markets Sector Plan and its role relative to Regional Waste Plan First Reviews – Interim Planning Position

6.04 Waste Strategy Policy and Guidance

Towards Zero Waste: The overarching Waste Strategy Document for Wales, June 2010

Collections, Infrastructure and Markets Sector Plan, 2012

Construction and Demolition Sector Plan, November 2012

6.05 The main policies to be considered in the determination of this application are the policies of the Flintshire Unitary Development Plan (FUDP) particularly policies relating to landscape, nature conservation and protected species, landscape, highways, waste and amenity. The policies and guidance contained within TAN21 and the draft TAN21 are also central to the determination of this application.

The materiality of the above policies are discussed in the following planning appraisal.

PLANNING APPRAISAL

7.01 Introduction

The details of the proposed development will be outlined below along with a description of the site and location, site constraints and the issues that will be assessed within the main planning appraisal.

7.02 ***Details of Proposed Development***

The planning application proposes the restoration of Cambrian Quarry by the importation and recycling of inert materials. The restoration of would involve the following:

- The construction of a new internal access road and entrance on to Glyndŵr Road, together with associated road widening to allow two way HGVs to pass and landscape works;
- The importation of approximately 477,000m³ of inert restoration materials to progressively infill the quarry void over a period of 6½-9 years over five phases;
- The recycling of inert restoration materials that would be brought into the site and contain materials such as stone, concrete, brick and soil that would be suitable for re-use;
- The restoration of the quarry void to a shallow valley landform that will be used for agriculture and nature conservation;
- Restoration to woodland with open glades and ephemeral wetland areas
- Advance landscape planting and ongoing management of the land within the site;
- The management of the whole of Cambrian Quarry, including the restored quarry void and the surrounding land, for a period of 15 years from the completion of restoration; and
- The surrender of the existing mineral and waste disposal planning permissions that cover Cambrian Quarry which would be required by a Section 106 legal agreement.

7.03 Only inert waste would be accepted on the site. 'Inert waste' means waste that does not undergo any significant physical, chemical or biological transformations. Inert waste will not dissolve, burn or otherwise physically or chemically react, biodegrade or adversely affect other matter with which it comes into contact in a way likely to give rise to environmental pollution or harm human health. The total leachability and pollutant content of the waste and the ecotoxicity of the leachate must be insignificant, and in particular not endanger the quality of surface water and/or groundwater. Once the inert waste has been accepted at the site it would be sorted using an excavator and screened to separate soils and fine materials from hard materials. Hard materials will then be crushed and screened again to meet a size specification to create a recycled aggregate or soil material. Recovered material that would be suitable for re-use off site

would then be exported off-site. Residues from the recycling process that cannot be re-used, would be deposited within the quarry void and used in the restoration of the quarry. The recycling operation would ensure that all useable aggregate and soil materials brought in to the site are re-processed to create another product and re-used rather than disposed of.

- 7.04 The restoration landform proposed in this application would involve the infilling of a void space of around 477,000m³, which is proposed to take between 6½-9 years to infill at proposed infill rates. The average conversion factor for the materials, once compacted, is 1.9 tonnes per cubic metre. To allow sufficient time for final restoration works, this application proposes a maximum time period of 10 years for the infilling and completion of restoration operations. The quarry void would be infilled progressively in five phases. The first four phases are required to create a stable landform which would stabilise the unstable quarry faces. They have been confirmed by Natural Resources Wales to be recovery operations. Phase five is considered to be disposal operation by landfill at present. However there is a possibility that in the future the final phase may be considered also to be recovery. Also, the final phase of the restoration could be constructed using the CL:AIRE protocol which is a recognised Code of Practice. Should this be the case the final phase would not involve waste disposal however, this would be a matter for NRW to determine and for the purposes of determining this application, the final phase is considered to be a disposal operation.
- 7.05 It is anticipated that the total quantity of material to be transported into Cambrian Quarry will be between 145,000 and 200,000 tonnes/annum. Between 45,000 tonnes and 60,000 tonnes of this material would be recycled and exported. Approximately 30% of imported material would be recycled and exported off site and 70% of the materials imported to be used in the restoration of the site.
- 7.06 Materials would be transported using Heavy Goods Vehicle (HGVs) with an average payload of 20 tonnes. It is understood that the average number of HGV loads transported to the quarry per day would range between 28 and 38, which equates to between 56 and 76 HGV movements per day. There may be some variation in the number of loads/ movements, but these would not exceed 75 loads/150 movements per day.
- 7.07 The proposed operating hours would be during the months of March through until September:-
0700 – 1700 hours Monday to Friday
0700 – 1300 hours Saturdays
With no working on Sundays or public/bank holidays
- 7.08 In order to ensure that there would be no need for artificial lighting which could potentially affect bats emerging during dawn and dusk,

the applicant also proposes that no working would take place during the hours of darkness in the winter months between October to February. The following working hours are proposed during the winter months Monday to Friday:

- 7.09 October (during British Summertime) 0800 to 1700 hours
 Late October (GMT) 0715 to 1630 hours
 November 0800 to 1600 hours
 December 0830 to 1545 hours
 January 0830 to 1600 hours
 February 0800 to 1700 hours
- 7.10 During the above winter months (October until February), works would commence on Saturdays as above in paragraph 7.09 until 1300 hours with no working Sunday or public/bank holiday.
- 7.11 The applicants have submitted an Environmental Statement (ES) as part of the application which contains information regarding the baseline conditions, likely significant impacts arising from the proposal, the probability of effects and proposed mitigation measures. Matters covered within the ES include the background to the proposal, a description of the site and its physical characteristics, the proposed importation, recycling and infilling operations, restoration and subsequent management, the construction of a new access road, consideration of alternative schemes, landscape and visual impact assessment, ecology, transport, noise and vibration, air quality, stability, hydrological and hydrogeological assessment, geodiversity assessment, a tree survey report, employment and rural economy, recreation, cultural heritage, odour, litter, birds and vermin, and lighting. Environmental information and matters that are material to the determination of this application are considered below.
- 7.12 ***Site Description and Location***
 The application sites lies 2.5 km south west of Mold and 300 metres south of Gwernymynydd. The A494(T) Mold to Ruthin road runs 200 metres to the north of the quarry. The current access to the quarry is onto the minor Glyndŵr Road, which runs to the north and east of the quarry. The current access to the quarry is located 200 metres west of the junction where Glyndŵr Road meets the A494(T).
- 7.13 The quarry covers a total area of 7.3 hectares and can be divided into the 'Old Quarry Area' and the 'Cambrian Quarry Void'. The old quarry area is an area of old mineral workings which has been subject to quarrying, underground lead mining and silica mining which has resulted in the area being made up of small quarry faces, with spoil heaps, access roads and disused buildings. The two original entrances to the silica mine are located here. Most of the old quarry area now comprises woodland, scrubland and calcareous grassland. The majority of this area is outside the application site and would not be affected by the proposed development.

- 7.14 To the south of the old quarry area is the Cambrian Quarry void which covers approximately 2.8 hectares and was worked for limestone and silica stone between the 1950's and 2000. The base of the void rises from around 266 metres Above Ordnance Datum (AOD) in the north, to around 280 metres AOD in the south. The quarry floor and the shallower quarry faces have started to naturally re-vegetate, mainly with calcareous grassland.
- 7.15 The northern half of the quarry is surrounded by dense woodland to the north, east and west. The southern half of the quarry is set within agricultural grassland which is used mainly for sheep grazing. Immediately south of Cambrian Quarry is the disused Bryngwyn Quarry, most of which has naturally regenerated although a number of limestone faces are still visible. Aberduna Quarry, a recently restored limestone quarry, lies 1 km to the west.
- 7.16 The closest residential properties to the quarry are located on Glyndŵr Road to the east and on the A494 to the north. The nearest properties to the quarry void, are located on the western side of Glyndŵr Road; 14 properties along this stretch, lying between 80 metres and 125 metres from the eastern quarry boundary. The intervening land slopes steeply upwards from Glyndŵr Road to the Quarry boundary, rising by 20 – 40 metres.
- 7.17 The nearest property to the proposed new internal access road is the Old Chapel, on the northern side of Glyndŵr Road, which lies to the north east of the proposed new entrance to the Site. A second property, Sharma, is set back from Glyndŵr Road and lies 30 metres north east of the proposed new entrance. The Rainbow Garage, which occupies a large compound to the south of the A494, is located immediately west of the proposed new entrance. The compound is used as a depot by the coach company Eagles and Crawford and the associated buildings include one dwelling.
- 7.18 There are no public rights of way crossing or adjacent to the application site. The closest footpath to the site is Footpath No.34 which runs in a north south direction to the west of the site and, at its closest point, is 45 metres from the south western corner of the site.
- 7.19 ***Relevant Planning Constraints/Considerations***
Virtually the whole of the Quarry Void lies within the Clwydian Range and Dee Valley AONB. The site also lies within the Cambrian Quarry Site of Special Scientific Interest (SSSI) which was confirmed as an SSSI in November 2011. The SSSI covers 23 hectares and was designated because of its special biological interest for its large population of hibernating lesser horseshoe bats. The bats use the silica mine workings that run beneath the north eastern part of the old quarry area and beneath the fields to the east. Outside of Cambrian Quarry, the majority of the SSSI is woodland which lies to the east,

north and west of the old quarry area. This woodland is used for foraging by the lesser horseshoe bats. The Alyn Valley Woods Special Area of Conservation (SAC)/SSSI lies at its closest point 600 metres to the west of the site. Part of the woodland is protected by a Tree Preservation Order (TPO) which was made in 1988 for mixed woodland comprising mainly mixed deciduous woodland.

7.20 **Issues**

The main land use planning issues associated with the determination of this planning application are considered to be:-

1. Principle of Development and suitability of location
2. Principle of the Recycling operations in the quarry
3. Spatial Need for the Aggregate Recycling Facility
4. Need and Best Practicable Environmental Option (BPEO)
5. Need for Waste disposal/recovery and capacity
6. Landscape and Visual Impact
7. Nature Conservation, Designated Sites and Protected Species
8. Restoration and Aftercare
9. Geodiversity
10. Vibration
11. Impact of historical tipping and land contamination
12. Highways, Traffic, Transportation and Access
13. Public Rights of Way and public access
14. Hydrology and Hydrogeology
15. Residential Amenity; Noise and dust
16. Community and Employment
17. Odour, Litter, birds and vermin

7.21 ***Principle of Development and suitability of location for the development and need for restoration by infilling***

The planning permission for the extraction of limestone at Cambrian Quarry would expire on 21 February 2042 which represents the default date and time limit given to sites which had no working life limit when originally granted for mineral planning permission. Cambrian Quarry is an inactive quarry where activities have been stalled awaiting the submission of an ES. However, the old mineral planning permission does not include an adequate restoration condition; it would therefore be left to naturally regenerate. This application would ensure that the quarry is restored to an appropriate landform over a finite period of time which would be sooner than the expiry of the planning permission at 2042, and in accordance with modern planning standards and conditions. The proposal would also provide a suitable and safe landform that would enable a practical after-use for grazing, agricultural use and nature conservation restoration which would be considered to be compatible with the surrounding land uses following the 15 year aftercare period.

7.22 The principle of bringing material into a quarry to facilitate restoration is well established in national guidance as set out in Minerals

Planning Guidance Note 7 and latterly by Minerals Technical Advice Note (MTAN) 1: Aggregates.

- 7.23 Should this planning application be unsuccessful, it is likely that the Planning Authority would serve a prohibition order on the quarry as the operator has not actively quarried the site for more than two years. However, the Planning Authority has limited power through any prohibition order to secure restoration. Furthermore, restoration secured through the prohibition process would not enable any importation of material. As will be examined later in this report, the importation of materials would secure a higher quality restoration given the landscape and stability issues at this site. Therefore, it is considered that the proposals would secure a higher quality restoration than if the site was left to regenerate naturally. Furthermore, the proposal would ensure that the quarry faces are stabilised and safe in the long term so that the site could be put to a useful land use in the future in line with Policies MIN4, EWP8 and EWP15 of the FUDP.
- 7.24 The need for importation of inert waste to restore the site needs to be considered. The principle of needlessly landfilling inert waste is not supported by national policy and the act of disposal is located at the bottom of the waste hierarchy. Draft TAN21: Waste (paragraph 4.23) states that the application of the waste hierarchy suggests that landfilling inert waste is not acceptable in most circumstances and without exceptional justification, planning applications for inert landfill should be refused. However, as with TAN21, the draft states that the restoration of quarries using inert waste may be an exception. The National Waste Strategy acknowledges that there would still be need for locations to deposit residual waste that cannot be recycled.
- 7.25 Local residents and consultees have questioned the need for landfilling and the need for restoring the quarry as the site is naturally self restoring and is host to a number of habitats. Local residents have stated that the site is beautiful in its current natural state and supports protected flora and fauna and has geological interest and therefore does not need restoring by landfill and it should be left to continue to naturally regenerate and restore itself.
- 7.26 The applicant has provided evidence to support their justification for requiring the infilling of the quarry void which could be argued to provide exceptional circumstances which would meet the criteria of Draft TAN21. The applicant proposes that the infilling is necessary for the stabilisation of the existing quarry faces and to ensure that the final landform is stable in the long term. The submitted stability report states that it is evident that both the southern and eastern quarry high walls are showing signs of recent and potential slope instability. For the most part, it is considered that failures are likely to be of relatively small volume and associated with weathering. However, there are some locations where there is significant

potential for planar and wedge failures to occur. The risks associated with such failures would generally be acceptable in a working quarry or mine environment but are unacceptable with respect to public access and for the long-term maintenance of secure ownership boundaries. The stability of the eastern high wall is therefore of concern not only for the current land owners, but also for adjacent land owners. Furthermore, it is considered that the act of filling the quarry void above the level of the workings would contribute significant lateral restraint to the underground pillars in close proximity to the quarry void and will therefore aid stability.

- 7.27 The infilling of Cambrian Quarry up to the end of Phase 4 would involve the use of the minimum amount of infill to ensure the long term stability of the quarry faces. NRW have confirmed that the infilling, at least up to the end of Phase 4, would be a 'Waste Recovery Operation' rather than 'landfill'. However, at present, NRW have not accepted Phase 5 as part of the recovery operation and therefore this final phase would be considered to be a disposal operation. In accordance with draft TAN21 this element of the project would not be acceptable, unless in exceptional circumstances.
- 7.28 Whilst phases 1-4 have been argued to be required for stability purposes which is supported by Policy EWP15 of the FUDP, the applicant has argued a strong landscape case for the inclusion of phase 5. The landform to phase 4 would result in a steep sided valley landform with restored slopes as steep as 1:3 which are not considered to be a natural feature in the AONB landscape surrounding Cambrian Quarry the result of which would be an unnatural and incongruous landform in relation to adjacent areas, which would be in conflict with FUDP policy, character and quality. Evidence has been provided to support this conclusion in the planning application. As such, it is considered that the proposed restoration landform, including phase 5 which would use the minimum amount of additional infill materials to produce an acceptable landform and would not impact adversely on the features of the AONB.
- 7.29 NRW have acknowledged the justification that the final landform as proposed, up to and including phase 5, is more in keeping with the AONB. They have agreed that, should the restoration conclude after phase 4, this would create a deep valley feature which is not in keeping with the landscape character of the area and the AONB. Furthermore, the JAC have not objected to the proposals. As such, it is considered that the proposals would be in line with the Draft TAN 21 with regards to 'exceptional circumstances' and the applicant has demonstrated that there is a need to infill the site to phase 4 for stability grounds and phase 5 for landscape reasons. The proposal complies with Policies EWP15, L1, L2 and MIN2 of the FUDP.
- 7.30 The Community Council have raised objections to the proposal as

they consider that the proposal does not accord with the provisions of Environmental Policy E4 of the Gwernymynydd Community Development Plan which states that the Community Council will oppose any use of redundant quarries for landfill. The supporting text refers to the County Council's target for reducing annual waste allowance per person and suggests that recycling targets will reduce the requirement for redundant quarries to be used for landfill purposes. However, whilst recycling targets apply to inert waste arisings, this application is not for a commercial landfill operation, it is to secure the stability and to achieve appropriate restoration of this quarry site. Furthermore, it is argued that phases 1-4 are not landfill operations. It should be also noted that the Gwernymynydd Community Development Plan does not form part of the Statutory Development Plan, however the Community Council have raised issues which are considered to be material in the determination of this application.

7.31 ***Principle of Recycling in the quarry***

With regards to the recycling elements of the proposal, Policy EWP6 of the adopted FUDP provides for areas of search for new waste management facilities, and directs developers to areas where they should ideally be located. Whilst Cambrian Quarry is not listed within this area of search policy, the policy is not site specific and it does not preclude other sites from being considered, as long as the proposal would comply with other relevant plan policies, particularly EWP7 and EWP8 which will be examined subsequently.

7.32 Within the supporting text of Policy EWP6 it recognises that some of the locations identified within the area of search include working and disused mineral excavation sites (i.e. quarry sites). Furthermore, the policy directs developers to brownfield sites which the quarry would be classified as until it has been satisfactorily restored or managed. Planning Policy Wales provides a definition of previously developed land in which land used for mineral extraction, such as Cambrian Quarry has not been restored through development management procedures. As such, without any restoration, or ability for the Local Planning Authority to ensure restoration occurs (in the absence of a restoration condition), this site would be considered to be previously developed land. Subject to compliance with other policies within the FUDP, it is considered that the use of quarries for waste management operations would be in principle acceptable. National guidance, TAN21 Waste, Annex C, and the draft TAN21 also supports locating waste management facilities in quarries. The types of activities that would be involved in aggregate recycling and the waste management activities proposed, and the plant and machinery proposed to be used, are akin to that of an operational quarry.

7.33 ***Spatial Need for the Aggregate Recycling Facility.***

The need for the recycling processing operations to be located within the quarry void have also been questioned by the Local Member, the

Community Council, the local community and other consultees. They feel that this type of industrial development should not be located in the open countryside and an industrial estate would be a more appropriate site for this type and nature of operation. However, not all industrial estates are appropriate for construction and demolition waste recycling, and as the operations involved such as crushing and screening and open air storage of stockpiled materials are akin to the types of activities that are undertaken at quarries, it would be considered acceptable in principle. Furthermore, Policy EWP6 identifies quarries to be acceptable locations to be used for waste management activities such as is proposed in this application.

- 7.34 The applicant intends to recover valuable material from the waste brought to site by processing which is in line with the waste hierarchy. One of the benefits of recycling within the quarry site (as opposed to demolition sites) is that the applicant can secure waste material from a wider range of sites which are not able to process or reuse waste produced on site, which will potentially increase the volume of waste available for use in restoration of the quarry. Some demolition sites would not be suitable for onsite recycling. Concern was raised by the Community Council that the recycling business would extend the use of the site and unreasonably delay its restoration. Local objectors have quoted figures such as 95% of the material processed would be exported off site rather than being used in restoration which would unduly delay restoration. However, the figures proposed in the application are approximately 30% being exported off site. Should planning permission be granted, a time limited condition of 10 years would be imposed in order to address this concerns and to secure timely restoration.
- 7.35 There are a limited number of permitted waste facilities within Flintshire and also Denbighshire which can process inert waste. Information regarding inert waste management is limited as the national waste strategy focuses on priority materials which tend to have a greater ecological footprint than inert wastes. The level of construction and demolition waste has declined nationally since the start of the recession and there is a question over the availability of waste material for the proposal and in the event that the construction sector improves, this may be reversed. The value of recycled aggregates and the cost of transporting the material is considered likely to further limit the availability of waste to the project. However, this uncertainty is not in itself considered sufficient to warrant refusal of the proposal, particularly as the overarching purpose of the proposal is to achieve the restoration of the quarry and to enable a stable and safe final landform for a future after-use. It is considered that the applicant has provided sufficient evidence within the application that would ensure they would be able to source the required material in order to achieve the proposed landform within the proposed timeframes.

- 7.36 The Welsh Government has made clear its commitment to recycling through the national waste strategy, 'Towards Zero Waste' and the Construction and Demolition Sector Plan. This will increase the need for facilities which can reprocess waste, including inert waste, although the precise level of need is unknown. The proposed recycling operation would divert useful resources from being needlessly landfilled which is supported at national, regional and local level. It would also contribute to national landfill diversion targets set by the Welsh Government in the National Waste Strategy. In order to meet the requirements of the Waste Hierarchy it is essential that all materials that are brought into Cambrian Quarry for use in restoration have first been subject to recycling to remove any materials that are suitable for re-use. It is accepted that the recycled materials will have to be transported from the quarry to the wider market area, but this would be the case wherever the recycling plant is located. Policy EWP7 of the adopted FUDP permits new waste management facilities provided that the facilities proposed are required to meet an identified need within the Regional Waste Plan. The Regional Waste Plan is now essentially superseded by the CIMS Plan and the Welsh Government Clarification Letter of 1st November 2012; CL-01-12. The CIMS Plan indicates that the Construction and Demolition Sector plan is of importance but the level of need for these types of waste management facilities is unknown. There is however an identified need to restore the site for both landscape and stability reasons and the minimum amount of material is proposed to ensure a satisfactory and safe landform results from the proposal.
- 7.37 The proposal is considered in line with the waste hierarchy as it seeks to recycle waste where possible and use the remainder for beneficial use. Minerals Planning Policy Wales and Minerals Technical Advice Note 1: Aggregates, further outline support for the recycling of aggregates to reduce the need for primary aggregates.
- 7.38 The level of need for inert waste recycling is currently unknown. However, the applicant has presented evidence within the application that they can provide the predicted amount of material that is likely to be available for recycling using their past records. As such, there is evidence to suggest that the restoration proposed within the application can be achieved within the proposed timescales.
- 7.39 ***Need and Best Practicable Environmental Option (BPEO)***
Policy EWP7 of the FUDP permits proposals provided that they are the Best Practicable Environmental Option (BPEO) and that there is an acknowledged requirement for proposals to accord with the waste hierarchy. The waste management element of the proposal are for the recycling and disposal of inert waste. The proposal is considered in the context of the national waste strategy, Towards Zero Waste, which is supplemented by a number of Sector Plans, including the Collections, Infrastructure and Markets Sector (CIMS) plan (adopted July 2012) and the Construction and Demolition (C&D) Sector plan

(adopted November 2012). On the 1st of November 2012, the Welsh Government issued a clarification letter, CL-01-12, which advises that decisions regarding proposals for waste management should take into account the national waste strategy, of which the Sector Plans form part. Neither the CIMS plan, nor the C&D Sector plan, gives clear guidance as to the spatial requirement for recycling facilities for inert waste, although the lack of recycling facilities in rural areas is cited as an issue which needs to be addressed.

7.40 ***Need for Waste disposal/recovery and capacity***

The CIMS Plan provides guidance on all types of waste and discusses disposal of residual waste, but this does not take into account inert waste which requires disposal. The principles within the CIMS Plan apply to this application with regards to ensuring that there isn't an over provision of facility types. The C&D Sector Plan provides an analysis of waste management in the C&D sector, and concludes that, of the 12.2 million tonnes of waste produced by the sector, approximately 11% was landfilled. The Waste Framework Directive states that *"by 2020 the preparation for reuse and recycling and other material recovery, including backfilling operations using waste to substitute other materials, of non-hazardous C&D waste excluding naturally occurring materials defined in category 17 05 04 on the list of waste shall be increased to a minimum of 70% by weight"*. If approved, the development would have seven years of operations prior to this target taking effect. It is considered that, for the purposes of determining the application, the proposal constitutes a recovery operation because the primary objective of the proposal is to achieve restoration of the quarry for beneficial use rather than a disposal operation and is therefore encouraged at the European and national levels. Furthermore, NRW have confirmed that the Phases 1-4 of the proposals would constitute a recovery operation. For the reasons set out above, phase 5 is justified on landscape grounds.

7.41 The Waste Framework Directive established the Proximity Principle, which has then been incorporated into national policy and guidance. Planning Policy Wales states that *"Waste should be managed (or disposed of) as close to the point of its generation as possible, in line with the proximity principle. This is to ensure, as far as practicable, that waste is not exported to other regions. It also recognises that transportation of wastes can have significant environmental impacts."* The Waste Framework Directive now refers to wastes being recovered in one of the nearest appropriate installations, by means of the most appropriate methods and technologies, in order to ensure a high level of protection for the environment and human health. Policy EWP 7 of the FUDP ensures that new waste management facilities seek to treat and/or dispose of waste as close to the generation source as practically possible.

7.42 The applicant's existing business involves earthworks contracting where materials are excavated and removed from construction sites,

utility trenches, and highway works. Up until 2010 the applicant transported some of these materials to Bryn y Gaer Quarry near Hope in Flintshire where they were used to restore the quarry in a similar operation to that which is being proposed at Cambrian Quarry. Approximately 135,000 tonnes of material were imported to Bryn y Gaer Quarry over a 2 year period and the site is now almost restored back to agriculture, with a limited amount of importation required to complete the restoration. Since 2010 the applicant has had to transport these materials to a number of third party sites for use in restoration, including Gowy landfill site near Chester and Pen y Bont landfill site near Chirk. The requirement for restoration materials at these two sites is finite and an alternative site is needed to be sourced. The applicant proposes that Cambrian Quarry is an ideal replacement site and would be used to take suitable restoration materials that arise from its earthworks contracting business. In addition to materials arising from the earthworks contracting business, inert residues from the proposed on site recycling plant would be used in the restoration of Cambrian Quarry alongside some clean soils from the applicant's waste transfer station at Bretton.

- 7.43 The applicant currently operates a temporary recycling plant on the Deeside Industrial Estate which is permitted as part of a scheme to raise the level of the site so that it can be developed for industrial use. This permission is time limited to 2016, or until the land raising is completed, whichever is the earlier. It is proposed to relocate this plant to Cambrian Quarry. The applicant has stated that there is a clear and urgent need for the void space at Cambrian Quarry which will provide the applicant with certainty that there is an available site over the next 7-10 years. The applicant does not specify exactly where waste will be drawn from; however, they consider the availability of disposal sites within North East Wales and parts of North West England. They have also provided historical data to provide evidence that they would be able to secure the proposed amount of material in the given timescales. Whilst the national waste strategy contains waste reduction targets disposed of to landfill, there is still a recognised need for landfill capacity for disposal of some waste materials such as inert waste.
- 7.44 Whilst Gwernymynydd is a rural area, the proposal site is located less than 2 miles from Mold, and approximately 15 miles from Ruthin and Wrexham, and is therefore within a reasonable distance of potential markets. There are no permitted inert disposal facilities within Flintshire or Denbighshire that are available to the applicant other than the existing site at Deeside which is time limited to 2016, and there is limited inert disposal capacity within the rest of the region in Conwy (Tŷ Mawr Farm, Abergele and Llanddulas) and Wrexham at Hafod Landfill.
- 7.45 The applicant has looked to alternative sites in the region however, other disposal facilities within the region are licensed to take non-

hazardous waste or are restricted user sites. The availability of exempt inert disposal capacity is also reducing following changes to the Environmental Permit Regulations. The distances from the proposal site to local markets are not considered unreasonable and as the number of disposal sites declines, the distances that wastes which require disposal will travel increases. The proposal is therefore considered broadly in line with the proximity principle and therefore would accord with Policy EWP7 of the FUDP. Whilst this application does involve the use of waste to restore the site, the main objective of the proposal is for stabilisation and restoration purposes.

7.46 ***Landscape and Visual Impact***

The quarry void is located within the boundary of the Clwydian Range and Dee Valley AONB. Parts of the proposed development at the northern end of the site, including the proposed access road are situated outside this designated site. The quarry is located in a ridge landform, and the existing contours provide effective screening from local viewpoints including residential properties on Glyndŵr Road. The main visual effects would be as a result of the access road.

7.47 The Landscape and Visual Impact Assessment (LVIA), supplied within the provisions of the application, is considered to be comprehensive. This assessment identifies the scale and significance of the impacts of the void restoration and the new access road.

7.48 The quarry void is contained within the surrounding landform and does not exert adverse visual impacts within the AONB from distant views. The northern parts of the site consist of mature woodland areas and scrub, parts of the woodland are subject to a TPO. The existing vegetation at the north of the site screens views experienced from the north which reduces its impact significantly. From longer distance views, it is considered that the site is inconspicuous and blends into the wider landscape. The proposals would ensure the recycling plant and associated activity occurs out of sight as it would be located within the void for the majority of the restoration. Initially the plant would be located at the south of the quarry void. As the restoration progressed, the plant would be relocated to the north of the site. It would remain in this location until it would have to be removed to enable infilling to be completed in this area. Retaining the recycling plant at this level would ensure that it would be located at least 14 metres below the level of the eastern rim of the quarry, in order to minimise noise and visual impact. The maximum height of the crusher and screens would be 5 metres and all stockpiles of materials associated with the recycling operation would be no more than 5 metres high, this would be conditioned.

7.49 It is considered that the proposed new access road has the greatest potential to generate adverse landscape and visual impacts. Following the initial consultation, the applicant took into account

comments from NRW, the JAC and local residents and modified the location of the access road. The internal access road is proposed to be located in a deeper cutting and further away from Glyndŵr Road to reduce the visual impact from the adjacent property 'The Old Chapel'. The realigned location would allow the retention of the existing bank and vegetation along the western half of the access road adjacent to Glyndŵr Road. Instead of a fence being erected on the northern boundary of the site a stone wall would be constructed along the length of the boundary of the site to provide a consistent landscape feature along Glyndŵr Road which would be in keeping with the local area. Additional planting is proposed to provide additional screening of the site when viewed from the north. The existing quarry access road would be removed and planted to screen views into the site where the existing quarry access gate is located.

7.50 Approximately 0.27 hectares of woodland including some of the mature trees and scrub vegetation, which are subject to a TPO, would be removed to create the access road, currently provide effective screening of the site. Whilst the new location of the access road aims to retain the boundary trees concern is expressed as the physical construction of the access and visibility splays may actually result in the loss of more trees than envisaged due to root and wind damage. This could result in a negative visual impact in the short term during the construction of the access road. The associated vehicle movements and weighbridge may also have negative impacts, particularly on tranquillity of the local area. However, as this northern part of the site is outside the AONB, it is not considered that these impacts would be significant from a landscape point of view. Furthermore, the quality of the existing woodland is considered to be poor and is not subject to management. Should planning permission be granted, additional woodland planting would be carried out along the western perimeter of the site, and replacement planting and gapping up along the access road would be carried out. This planting would be subject to aftercare that would be secured by condition and the extended management would be secured by section 106 agreement. It is considered that, in the long term due to the proposed management, the quality of the woodland would be improved.

7.51 A detailed survey would be required prior to the construction of the access road to establish what vegetation can be reasonably retained along with a scheme detailing root protection zones and a tree protection plan. Advanced planting and gapping up of trees is proposed, the details of which would be required by condition. Furthermore, the western boundary of the site would be planted in phase 1 to mitigate views from Public Footpath 34 to the west of the site. Whilst it is considered there would be a negative visual impact in the short term as a result of vegetation removal to construct the access road and associated operational vehicle movements, it is considered that with proposed management and aftercare and additional tree planting as part of the final restoration there would be

a positive impact in the medium and long term from a visual impact perspective. Operations from the proposed development would not punctuate the sky line and there would be an overall increase in woodland planted as part of the restoration scheme with a formalised management regime that would be monitored annually throughout the operational phase of the restoration and the proposed 15 year aftercare period.

- 7.52 The loss of an area of woodland to for the construction of the access road and visibility splays is a concern. However it is apparent that the woodland is of a poor quality and lacking in age structure and species diversity. The proposal therefore represents a good opportunity to manage the existing woodland habitat to make it more varied and robust. The woodland edge habitat would also be increased with the formation of the road. The proposed woodland planting within the quarry would form an attractive mosaic of habitat and takes into account the presence of bats. The species mixes for the planting would need to be agreed required by condition. A detailed landscaping would be required giving species, sizes, numbers, method of protection, location of trees/shrubs to be planted along with phasing.
- 7.53 The JAC are supportive of the principle of restoring this inactive quarry and subject to satisfactory measures to mitigate for the impacts on protected species and the geodiversity interest of the site which will be examined subsequently.
- 7.54 NRW have acknowledged the justification that the final landform as proposed is more in keeping with the AONB to include phase 5 of the proposal rather than requiring the restoration to conclude after phase 4 as this would create a deep valley feature which is not in keeping with the landscape character of the area. Whilst trees would be lost as a result of the proposal, the proposals include replacement tree planting as part of both initial planting and restoration planting. No artificial lighting is proposed which would be conditioned.
- 7.55 As such, having considered the LVIA, additional information, additional tree planting and realigned road location, it is considered that the proposal would not have an adverse impact on the landscape character of the surrounding area. Whilst the construction of the access road is likely to have a negative impact on views from the north of the site in the short term, there will be a positive impact in the medium and long term once the road has been constructed and planting established. A woodland designation TPO dating from 1988 affects the site. The TPO covers the majority but not all of the woodland and also includes areas devoid of trees. Therefore the TPO designation, on its own, has not been relied upon to determine the most valuable areas of woodland on the site and any potential effect the proposals will have on it. As such the proposal complies with Policies STR7, GEN1, L1, L2, TWH1, TWH2, TWH3, EWP8,

EWP13 and MIN2 of the FUDP.

- 7.56 ***Nature Conservation, Designated Sites and Protected Species***
The proposal is located entirely within the boundary of the Cambrian Quarry SSSI. The SSSI was designated in 2011 because of its special biological interest for its large population of hibernating lesser horseshoe bats. The bats use the silica mine workings that run beneath the north eastern part of the old quarry area and beneath the fields to the east of the site.
- 7.57 The application site and surrounds have been extensively surveyed since 2007 for bats, great crested newts, breeding birds, badgers, butterflies, reptiles and dormice. The survey confirmed the presence of 5 species of bat namely lesser horseshoe bat, Daubenton's bat, whiskered/Brandt's bat, common pipistrelle bat and soprano pipistrelle bats (and there are historic records of long eared bat) and great crested newt. Additional surveys have been undertaken in respect of reptiles, nesting birds, butterflies and badgers. It is considered that these surveys and assessments are satisfactory for the purposes of informing the determination of the proposal.
- 7.58 The proposal would result in the impact on both habitats and fauna. There would be a temporary loss of calcareous grassland, two ephemeral and one permanent pond where great crested newts and other amphibians have been recorded in the void, the new access road would result in the loss of woodland habitat and this would also have an impact on an entrance to older underground workings which are a known hibernation site for lesser horseshoe bats and other bat species. The site also has the potential to support badgers and works would occur within 30 metres of known setts. Therefore, the proposal will have an impact on European protected species and their habitats and nature conservation, other protected species and habitats.
- 7.59 The following mitigation measures are proposed:
- The creation and management of ponds in the north of the site, to provide habitats for Great Crested Newts and other amphibians.
 - A prohibition on the use of vehicles on land above the old silica mine workings.
 - The preservation and protection of mine entrances used by bats.
 - One mine entrance may be temporarily disturbed during the construction of the new internal access road but mitigation measures have been proposed which would be conditioned
 - Reasonable avoidance measures during tree felling
 - No artificial lighting will be used on the site
 - Working hours are to be restricted to daylight hours and to include control of other activities carried out within the site and the use of no artificial lighting secured by section 106 agreement
 - Speed limit on the access road
 - Vibration monitoring
 - Monitoring for potential badger activity

- Creation of a new potential maternity roost in an old building in the north of the site in the first year of the development
- Comprehensive habitat management proposals for the whole site
- Restoration of the quarry to woodland with open glades and wetland areas with some calcareous grassland to optimise habitat connectivity for bats and newts.
- A 15 year Management Plan for the whole site
- Submission of an ecological and geological compliance audit
- Implementation of bio-security risk assessment

7.60 It is considered that, with all mitigation measures in place, the development would not have an adverse impact on European protected species, the SSSI or other nature conservation interests. The restoration and management proposals have the potential to have a positive impact on the biodiversity of the area and would be managed for 15 years which would be secured by a section 106 agreement and the above mitigation measures would be conditioned.

7.61 Concerns have been expressed with regards to the protection of bats and flood risk in relation to a mine entrance which is located at the north east of the quarry void. The landform has been designed to ensure that surface water would drain away from the mine entrance. Only a small amount of water would drain towards the mine entrance and there would be a drainage sump installed to ensure that there would be no flooding of the underground mine. The final restoration landform was designed to take account of the recommendations of the Flood Consequences Assessment (FCA) which is examined in more detail in a subsequent section of this report.

7.62 The proposal has the potential to cause disturbance to bats and great crested newts and is considered likely to cause the loss or damage to their breeding sites or resting places. However, it is considered that the proposal will not be detrimental to the maintenance of the favourable conservation status of those populations of European Protected Species present at this site provided any consent is subject to a number of planning condition/obligations in respect of Bats and the great crested newt. An Article 16 Derogation test, in line with the requirements of TAN5 and Regulation 53 of the Conservation of Habitats and Species Regulations 2010 has been carried out. The conclusion is that the proposal would meet the relevant tests, subject to the mitigation proposed and that there is sufficient information submitted in the application to allow a decision to be made. If all the conditions and obligations are implemented as recommended, it is considered that there would be no impact on the Favourable Conservation Status of bats or great crested newts. NRW have not objected to the proposal subject to a number of conditions. The applicant would have to apply to NRW for EPS licence and a badger licence before works commenced and further information would be required in relation to reasonable avoidance measures and surveys.

- 7.63 The main objective of the restoration proposals, aftercare and subsequent management are to ensure the long term management and functionality of the site for its population of bats, newts and other nature conservation interests. The site is proposed to be restored to woodland with glades and wetlands. A final detailed restoration scheme and planting mix would be agreed prior to the completion of the final phase. It is considered that the restoration scheme would benefit the lesser horseshoe bats in the long term and would ultimately mitigate for the loss of tree cover to the new road. The new internal access would also be reduced once the restoration has been completed. A detailed scheme would also be required by condition.
- 7.64 The applicant is offering to manage the site for a total period of 15 years after completion of restoration which would ensure that the aspirations of the restoration are successful and it would be secured by a section 106 agreement. The initial five years would be the statutory aftercare requirements. Subsequently, the habitats would be then managed for a further 10 years thus providing a total of 15 post restoration management.
- 7.65 Whilst NRW have requested that the applicant enter into a legal agreement to manage the site in perpetuity, it is considered that it would be unreasonable to request such an undertaking and should the landowner wish to change the use of the site in the future, the appropriateness of this would be determined on its own merits through a subsequent planning process. As a compromise, NRW have requested a 20 year post restoration management period. However, it is considered that a period of 15 years extended management would ensure that the restored habitats would be properly established to maximize their biodiversity potential.
- 7.66 The applicant has provided an Outline Management Plan (OMP) which provides for the long term management of both the existing habitats within the quarry site which are to be retained and the restored habitats. Management of the retained habitats, that would not be affected by the infilling, would start at the commencement of development and continue through the operational phase and the 15 years post restoration. The OMP has been extended to cover all the land within the Cambrian Quarry area which is within the control of the applicant which includes the new internal access road and much of the woodland in the north of the quarry void.
- 7.67 The detail within the OMP would therefore need to be amended to ensure it reflects the variations proposed following the consultation and extends to the entire site. A detailed management plan of retained habitats would be required prior to commencement of development and a detailed management plan of restored areas would be required by condition prior to the completion of restoration

- 7.68 Minerals Planning Policy Wales suggests that to address the uncertainty of local communities about the completion of restoration proposals, wherever it is reasonable to do so, authorities may require financial guarantees as a means of ensuring that the site will be restored properly and in a reasonable time period. However, Minerals Planning Policy Wales also states that properly worded and relevant planning conditions should be able to secure the restoration, aftercare, and after-use of mineral sites. Restoration bonds would normally be considered for extraction applications where progressive restoration is proposed. This application is to facilitate the restoration of the quarry and the aftercare and management proposed would not be financially resource intensive. As such it is considered that the proposed conditions and section 106 agreement in relation to restoration, aftercare and management would ensure that the site is restored and properly managed post restoration and a financial guarantee would not be required.
- 7.69 The restoration offers the potential for a positive impact on biodiversity as at present the site is not being managed and stronger scrub species are dominating the calcareous grassland. In summary, the mitigation and management measures proposed and extended 15 year management post restoration is considered to enhance the biodiversity, including protected species, in the long term. A management plan is proposed to develop and maintain habitats for protected species. It is considered that whilst there would be a loss of existing habitat to facilitate the restoration, in the long term, there would be a positive impact on biodiversity as existing habitats are being lost and overgrown due to lack of management. Any habitats that would be lost as a result of the proposal would be replaced and managed for 15 years. Some habitats will be managed from the commencement of development. As such it is considered, on balance, the temporary loss and disturbance of nature conservation interests would be outweighed by the long term benefits that would be afforded by the proposed extended management. On balance, the proposal accords with the provisions of TAN 5 and Policies STR7, GEN5, WB1, WB3, WB6, EMP8 and EWP17 of the FUDP.
- 7.70 **Geodiversity**
Cambrian Quarry is designated as a Regionally Important Geodiversity (RIG) Site for its palaeontology and stratigraphy. The main feature of interest is an exposure of ancient soil and trace fossils towards the base of the quarry void along the eastern face which is not known to be exposed anywhere else in North East Wales. Should planning permission be granted, this would be hidden and it is uncertain whether this geological feature is exposed elsewhere within the quarry as no extensive surveys have been undertaken as part of the application.
- 7.71 The applicant has proposed a number of mitigation measures which include: A pre-fill study, detailed geological and palaeontological

mapping, collection, and recording and collation of samples which would be required by condition to record the important horizon. Whilst the trace fossil would be hidden as a result of the restoration, it is considered that the scope of the proposed study is satisfactory.

7.72 NEWRIGS do not object to the proposal. Whilst the loss of the important horizon is unavoidable, the trace fossils would be hidden and preserved in the restoration. The pre-fill study would record the important features, and it is considered that the need to restore the site to stabilise the quarry faces and create a stable and sustainable landform for future after use would outweigh the need to be able to physically see the RIG. The loss of the RIG alone would not warrant a reason for refusal as the need to stabilise the quarry would outweigh the need for the restoration of the site. On balance, the proposal is not contrary to Policy WB4 of the FUDP.

7.73 ***Vibration***

A number of responses to the application have queried whether vibration from the operations could adversely affect the stability of the quarry faces and the old mine workings or the structure and amenity of residential properties in the vicinity of the quarry. The vibration assessment that has been carried out demonstrates that vibration from the proposed operations at Cambrian Quarry would not have an adverse impact on the stability of the quarry faces or the stability of the underground mine workings or cause damage to nearby properties. Consequently, there would be no adverse impact on the lesser horseshoe bat colony within the old mine workings. The predicted levels of the vibration from the recycling plant and associated mobile plant would be within the limits of typical day to day background vibration levels. This already low level of vibration decays rapidly with distance from the source and therefore would not adversely affect the stability of residential properties in the vicinity of the quarry or their amenity.

7.74 Vibration measurements have confirmed minimal disturbance by mine entrances. Should planning permission be granted, a condition would require vibration monitoring to be carried out when recycling operations commence in the northern part of the quarry to ensure that there would be no impact of the operations on mine entrance 3. Subject to vibration monitoring there are no reasons on grounds of vibration impacts to refuse this application and there is no conflict with Policies EWP8, EWP13 and GEN1 of the FUDP. Furthermore, the main objective of the proposal is to ensure the long term safety of the site in compliance with Policy EWP15 of the FUDP.

7.75 ***Impact of historical tipping and land contamination***

Concerns have been made with regards to the impact on the historical tipping of industrial and hazardous wastes on site associated with the extant planning permissions which could cause pollution if the former tips are to be disturbed.

- 7.76 Evidence has been provided within the application which states that no records have been found to confirm the nature of the materials that have been tipped at Cambrian Quarry or the exact location of the tipped materials. The locations of the planning permission areas are however known and it is understood, from discussions with the landowner, that most of the tipped materials are located immediately north of the northern rim of the quarry void. This area is now vegetated with grass, scrub and trees and no tipped materials are visible. The landowner is not aware of any tipping having taken place in the 1962 tipping permission area. Consequently, the proposed development has been designed to avoid the need for any excavation in the area to the north of the quarry void. The proposed new access road would not be constructed within any area which has been previously tipped.
- 7.77 The vibration assessment demonstrates that vibration from the proposed operations at Cambrian Quarry will not have an adverse impact on the stability of the quarry faces or the stability of the underground mine workings. Therefore, it is considered that the same conclusion would apply to the previously tipped areas which would not be physically disturbed and which have been made stable by natural regeneration and root systems.
- 7.78 The proposed development has been designed to avoid former tipped areas and therefore the previously tipped materials would not be disturbed as a result of the proposed development. Furthermore, NRW and the Council's Head of Public Protection who advise on matters associated with land contamination and potential source pathways for pollution have not objected to the proposal. There are no reasons associated with impact on the previously tipped land to refuse this application and it is considered that there is no conflict with Policies EWP11, EWP12 and EWP 14 of the FUDP.
- 7.79 ***Highways, Traffic, Transportation and Access***
Objections to the proposal have been raised by local residents in relation to the increase in HGVs, highway and junction capacity constraints, the new access road and associated safety concerns.
- 7.80 The context for consideration of highways impacts of development in open countryside is set out in Planning Policy Wales, which refers to what may be regarded as material considerations and that these can include the number, size, layout, design and appearance of buildings, the means of access, landscaping, service availability and the impact on the neighbourhood and on the environment. The acceptability of means of access is therefore a standard test on planning applications. Flintshire's UDP Policy AC13 states that development will be only permitted if approach roads to the site are of an adequate standard to accommodate the traffic likely to be generated by the development without compromising public safety, health and

amenity; and safe vehicular access can be provided any the developer both to and from the main highway network.

- 7.81 Calculations within the Transport Assessment (TA) have been undertaken on the worst case scenario. The maximum number of loads per day would be 75 vehicles, 150 movements per day. Evidence presented in the application concluded that the A494 (T) is operating well below its theoretical capacity limits, has an excellent safety record, and can accommodate this number of vehicles. The TA shows that the generated traffic would represent only a very small increase in existing background traffic movements using the local road network, and consequently the proposals would not be predicted to result in any detriment to the performance of the public road network or to have any negative impact on residential amenity and pedestrian safety.
- 7.82 Based on the proposed importation rates there would be on average between 28-38 loads (56-76 movements) per day; or 3-4 loads (6-8 movements) per hour. It is considered that the wider road network has sufficient capacity to accommodate this minor increase in HGV movements.
- 7.83 The existing quarry access off Glyndŵr Road is considered unacceptable to accommodate HGVs for the proposed development as it is very steep (1 in 4) and visibility is very poor. As a result, a new access is proposed to serve the site and this would result in access being to a much higher standard than would be attained by continuing to use the existing access arrangements. The proposal includes a new junction to the site which is closer to the A494 than the existing one and widening of part of Glyndŵr Road between the proposed access and the A494. The future access arrangements would thereby result in associated site traffic using a much shorter length of Glyndŵr Road when compared with the existing arrangements. The proposal aims to significantly improve the standard of access afforded whilst minimising alteration to Glyndŵr Road so as to retain its existing rural character.
- 7.84 However, whilst the new access would offer significant improvements compared to that of the existing, this new access road has raised a number of concerns in relation to the safety of users of Glyndŵr Road in relation to the width of the access road, its steepness, the proximity to the junction with the A494 and the visibility.
- 7.85 Concerns have been raised with regards to the suitability and capacity of the A494 and Glyndŵr Road Junction. Objectors have stated that the proposal will have an impact on the free flow of traffic on the A494 and the potential for slow moving HGVs and queuing HGVs on the public highway waiting for HGVs to access the site. However, improvements including road widening of Glyndŵr Road would allow two HGVs entering and exiting Glyndŵr Road and the

site without crossing the centreline of Glyndŵr Road. It is considered that the proposed new junction arrangement would provide an improved situation for all road users. It allows the coincident two way use of the A494 junction by HGVs and improves the visibility to the right for vehicles exiting the Eagles and Crawford coach depot. There would be no need to use the existing access further up Glyndŵr Road and this would be blocked up but a proportion of the space retained to provide a passing space on Glyndŵr Road. Furthermore, the new internal access road has been designed to accommodate up to 4 HGVs queuing to get into the site which would remove queuing HGVs off the public highway.

- 7.86 The revised design of the new internal access provides for a steady gradient along the access road of approximately 1:10 with the first 20 metres of the access road being shallower at 7% (1:14). All of these gradients are substantially less than the existing quarry access onto Glyndŵr Road (which is approximately 1:4) and are considered to be safe and adequate for a private access road to be used by road HGVs. The proposed gradient of the new internal access road is in line with the Health and Safety Executive guidance.
- 7.87 Concerns have been raised in relation to the internal access and safety of users of Glyndŵr Road. The majority of the access road would be set in a cutting and the road design provides for a physical separation between the access road and Glyndŵr Road along its full length. HGVs travelling downhill around the hairpin would be travelling in a cutting with a retaining gabion wall between them and Glyndŵr Road. Current safety breaking systems on HGVs mean that a runaway HGV is almost impossible but this design would provide a substantial safety barrier for HGVs travelling around the hairpin. A more detailed scheme providing the specifications would be required prior to its construction for approval.
- 7.88 HGVs entering the site and travelling uphill would have priority over HGVs leaving the site. HGVs travelling downhill would be controlled by traffic lights so would have very little momentum when approaching the hairpin. In addition, a site speed limit of 10 miles per hour would be imposed on all vehicles.
- 7.89 The internal access road is designed with a camber to the inside so that water would shed into a drainage ditch which runs along its full length to a soakaway. This would prevent standing water which could otherwise freeze on the road during freezing conditions. The access road would be gritted during icy conditions prior to use by any HGVs and can, therefore, be maintained in a safe condition during icy periods. The Council is responsible for gritting the public highway and Glyndŵr Road is a Priority 2 route and it is hand gritted initially after reports are received if the road is icy. The proposal would not increase the risk of icy road conditions in the winter.

- 7.90 Concerns have been raised with regards to the 70 metre visibility splay provided to the east of the proposed access onto Glyndŵr Road and its adequacy. It is considered that, the proposed access would provide significantly improved visibility when compared with that afforded from the existing access which is less than 20m. Whilst Glyndŵr Road is signed as being to the National speed limit (60 mph) from a point 30m away from the A494, observation would however suggest that in reality the alignment and width of the road result in drivers generally traveling at much lower speeds than the theoretical legal limit. Whilst 60 mph is the speed limit this isn't a target speed and due to the steepness of the road, the road alignment and the proximity to the T-junction with the A494, drivers approach the T-junction with caution. Vehicle speeds along Glyndŵr Road are low as they are constrained by the road alignment. The quarry access proposals aim to provide a balance between retaining the existing character of Glyndŵr Road and also to avoid the counterproductive scenario whereby greatly increased visibility (along Glyndŵr Road) could lead to increased speeds. With this in mind it was considered that the provision of splays to the National speed limit would not be appropriate and hence the proposed design indicates a suggested minimum visibility splay of 70 metres, which is the desirable minimum stopping sight distance for 30mph outlined in TD9 of the 'Design Manual for Roads and Bridges'.
- 7.91 Furthermore, TAN 18 recommends that over-engineered access standards should be avoided where possible. The design and standard of such access roads should have regard to the local surroundings, and to fitness of purpose. The location of the site is rural and in the open countryside and the provision of visibility splays and the application of the standard set in national policy should be considered in the context of landscape/visual impact. As such, it is considered that the visibility proposed at the new access is acceptable and would not harm the rural character of Glyndŵr Road whilst providing the suggested minimum visibility splay of 70 metres.
- 7.92 Objectors have suggested that the junction width and visibility between Glyndŵr Road and the A494 are not adequate and have compared them with other quarry access roads in the locality which are accessed from the A494. TAN18 confirms that visibility at junctions on 40 mph roads should be provided for 120m along the main road from a point 2.4m back into the mouth of the side road. Visibility in each direction along the A494 from 2.4m back within the side road is in excess of these requirements. Submitted swept path analysis demonstrates that with the proposed road widening, the mouth of Glyndŵr Road where it meets the A494 would be of sufficient width to accommodate two way use of the A494 junction by HGV. Furthermore, accident records confirm that there have been no reported accidents at this junction in the past five years
- 7.93 Local objectors have illustrated that Glyndŵr Road is not wide

enough to accommodate coincident two way HGV traffic. Should planning permission be granted, Glyndŵr Road would be widened to a width of between 8 and 10 metres for the first 35 metres from the A494 up to the new access road and HGVs associated with this proposal would not be required to use the narrow section of Glyndŵr Road as the old access would be closed and no longer in use. Furthermore, local traffic using Glyndŵr Road would benefit from the proposed highway improvements of road widening and a passing bay which would not be provided should the planning application fail.

- 7.94 A number of concerns have been raised in relation to the proposal with regards to access and the use of Glyndŵr Road in comparison to the traffic management which was alleged to be required by condition at neighbouring Eagles and Crawford coach company when planning permission was granted. As part of planning permission 041585 for Eagles and Crawford, conditions required a scheme to be submitted to include the erection of signage and installation of traffic flaps to direct traffic to egress the site onto Glyndŵr Road to prevent egress onto A494. However, as stated within the Planning and Development Control Committee report dated 14 February 2007, *“these access provisions cannot be enforced by planning condition as the highway land is not within the control of the applicant. Neither would a planning obligation be appropriate in these circumstances. Therefore the implementation of the proposed access provisions would have to rely in part on the stated intention of the applicant be taken on trust with the applicant.”* As such, the one way system is operating on a purely voluntary basis. Signage has been erected at the access points but no traffic flaps have been installed. The requirements of one planning permission would not be material to the determination of another as each application has to be determined on its own merits. The proposed works would also increase the amount of visibility afforded along Glyndŵr Road for drivers using the exit from the nearby Eagles and Crawford coach depot and thus would improve safety.
- 7.95 The Council's Head of Highways and Transportation have not objected to the proposal. Subject to the North and Mid Wales Trunk Roads Agency, and for the reasons set out above it, is considered that the proposal accords with the provisions of Policy AC13 of the Flintshire UDP and TAN18.
- 7.96 **Public Rights of Way and public access**
Public footpath 34 abuts the site but appears unaffected by the development; FCC PRow officer has made no observations in relation to the application. The proposal does not include any public access.
- 7.97 **Hydrology, Hydrogeology and drainage**
The site lies within the catchment of the River Alyn, with the nearest surface watercourse potentially receiving drainage from the site

being approximately 1 km southeast of the site and the prevailing surface water drainage direction being eastwards. Geology comprises sandstones of the Cefn-y-Fedw Formation underlain by limestones of the Minera Formation, which are in turn underlain by limestone of the Cefn Mawr Formation. The quarry has removed a significant thickness of the Minera Formation. The region contains significant metalliferous mineralisation which was extensively mined underground in the 19th century. The Minera Formation is classified as a Secondary 'A' aquifer.

- 7.98 The underlying Cefn Mawr Limestone is a Principal Aquifer. The groundwater regime is anticipated to be heavily controlled by drainage through old underground mine workings, the nearby Milwr Tunnel and fractures from the Minera Formation down into the underlying Cefn Mawr Formation. This is a potential route for contamination to reach an Aquifer. There is no visible groundwater present in the quarry void. There are no groundwater level or groundwater quality records for the site or the surrounding area. It is expected that the Minera Formation will continue to be drained by former mine workings and that the quarry void will not contain significant groundwater in the short or long-term following infilling.
- 7.99 The submitted Flood Consequence Assessment (FCA) concluded that the overall risk to groundwater and surface water flooding as a result of the proposed development is low to negligible. NRW are satisfied that the content of the FCA has addressed all sources of flooding and it identifies measures required to ensure that the restoration works would not increase risk elsewhere for now and future generations.
- 7.100 Measures relating to surface water drainage have been submitted as part of the proposal and should planning permission be granted NRW have recommended a condition be attached in relation to the requirement of a scheme for the provision and implementation of a surface water regulation system. The FCA demonstrates that the landform has been designed so that water would drain away from the mine entrance within the quarry void and it concluded there would be no risk of flooding and therefore the bats should not be affected.
- 7.101 Local residents have expressed concerns with regards to the nature of the material proposed to be imported which may give rise to pollution of the water environment and that the EIA should have addressed ground water protection. Some objectors have also questioned why the applicant hasn't been required to include details of landfill engineering that would be required to protect the ground water environment.
- 7.102 Only inert waste material would be imported, processed and deposited in the quarry void. As discussed previously NRW have accepted that Phases 1-4 would be considered to be recovery

operations. Should planning permission be granted, and should NRW not accept the final phase to be a recovery operation then phase 5 would need to meet different permitting requirements. A liner would be required. The precise details of the geological barrier are a matter for NRW and would be a condition of the environmental permit. As the proposal is for an inert infill, no additional infrastructure such as leachate capture or landfill gas infrastructure would be required.

- 7.103 Should planning permission be granted, the applicant will be required to secure an Environmental Permit under the Environmental Permitting Regulations (2010) from NRW which will provide an additional layer of regulation. When NRW assess the application for a permit, they will set conditions within the permit to ensure any emissions and discharges are at a level that would not result in significant impact on people and the environment. If the applicant cannot demonstrate this then the application will be refused. As the proposed facility is within a SSSI, and within 250 metres of other potentially sensitive receptors, the application will need to submit a site specific risk assessment within their permit application and provide details for their proposed measures to control impacts on the SSSI and local amenity.
- 7.104 Should planning permission be granted, before the site can accept and process waste, the applicant would be required to produce an Outline of Management Systems, Waste Recovery Plan and Written Management System, which would be submitted as part of the permitting process. This would provide a range of procedures and documentation to ensure that waste is only accepted for disposal if it is within inert specification and a number of other measures to ensure that the environment is protected.
- 7.105 It is considered that issues relating to water quality will be addressed via the environmental permit and measures to ensure surface water is regulated would be secured by condition. It is considered that the proposal is compliant with Policies GEN1, STR1, STR7, STR10, EWP8, EWP11, EWP16 and EWP17 of the FUDP which provide the guiding policy in relation to water quality, drainage and flood risk.
- 7.106 **Noise**
A noise assessment has been carried out by independent noise consultants and takes account of current guidance in MTAN1 (2004) and Mineral Planning Guidance Note 11. TAN11 (1997): Noise does provide advice on how the planning system can be used to minimise the adverse impact of noise, and it also provides advice on noise from landfill waste disposal sites. However, whilst the proposal is not a mineral extraction operation, the proposed engineering operations are akin to that of the activities that take place within quarry sites and MTAN1 provides advice on noise limits from the proposed types of activities which is relevant to this application.

- 7.107 Monitoring of existing recycling plant has been used to predict noise output, suggested mitigation and limits associated with the proposal. Mitigation measures includes locating the recycling plant within the quarry void initially during phase 1 at the most southerly location and then subsequently moved to the north of the site but no higher than 282m AOD within the quarry void (below the quarry rim) and also extending the existing screen mound which runs along the southern half of the eastern edge of the quarry void as far north as possible. Other mitigation measures have been proposed and these all would be conditioned.
- 7.108 With these mitigation measures in place, the assessment demonstrates that noise from the proposed development would be within the noise limits suggested by MTAN1. Noise limits have been proposed in accordance with the guidance contained in MTAN1, based upon a limit 10 dB(A) above the typical background noise levels and would be set at 45 dB LAeq, 1 hour Freefield at noise sensitive properties along Glyndŵr Road to the east of the quarry, and 55 dB LAeq, 1 hour Freefield as measured at The Old Chapel or Sharma. During periods of noisier activities, for all temporary operations, an assessment criterion of 67 dB LAeq, 1hour freefield, has been adopted for the assessment as per the requirements of the MTAN 1 guidance.
- 7.109 Noise limits would be conditioned accordingly in line with national policy and ongoing noise monitoring during the development would be required by condition to ensure that noise is maintained at the lowest possible level.
- 7.110 Concerns have been raised in relation to noise and the noise reflection from the western faces of the quarry should be considered. The western faces of the quarry are not at a steep angle, unlike the eastern face closer to the dwellings on Glyndŵr Road. Whilst there is the potential for some noise reflection off the western slopes, the relatively shallow angle of the slopes will ensure that any reflected noise is directed more vertically and will not be directed towards the properties on Glyndŵr Road. Furthermore, any sound reflected would need to travel approximately double the distance to the closest properties compared to the direct sound path and this additional distance would reduce noise levels by up to 6dB(A). Consequently, any reflection from the western slopes would have minimal influence on the calculated noise levels which take account of the closest items of plant operating on the eastern boundary of the site.
- 7.111 Concerns have also been raised with regards to the noise calculations presented in the assessment at the Old Chapel in relation to noise generated from traffic. Now the internal access road is proposed to be located further into the site, within a cutting and a boundary wall constructed, this would provide more noise attenuation

than originally proposed and would be within acceptable limits.

7.112 In summary, the noise assessment demonstrates that noise from activities associated with the application would be within acceptable limits, and conditions would seek to minimise potential disturbance to the occupants of surrounding properties. The County Council's Head of Public Protection and NRW have not objected to the proposal subject to the imposition of planning conditions controlling noise with regards to limits, monitoring, mitigation measures and hours of operation. As such, it is considered that the proposal is in compliance with the provisions set out in MTAN1 and Policies GEN1, EWP6, EWP12 and EWP13 of the FUDP.

7.113 ***Dust and Air Quality***

Concerns have been raised in relation to dust. The dust impact assessment identifies potential sources of dust arising from the proposed recycling operations and infilling/restoration and also haulage of materials within the site. The potential impact of dust from these operations at nearby sensitive receptors, which comprise residential properties and the vegetation within the SSSI was assessed by evaluating the magnitude of a potential impact and the probability of the impact occurring.

7.114 A range of operational and site management mitigation measures are proposed to minimise the risk of dust emissions beyond the site boundary. The assessment concludes that with the implementation of mitigation measures there would be no significant impacts from deposited dust at any sensitive receptor. It also concludes that PM10 emissions are very unlikely to cause any exceedance of National Air Quality Objectives.

7.115 The County Council's Head of Public Protection and NRW have not objected to the proposal subject to the imposition of planning conditions ensuring the proposed dust mitigation measures are implemented as proposed so that adequate steps are taken to prevent dust causing a nuisance beyond the site boundary. As part of the Environmental Permitting application the applicant will need to demonstrate how pollution to the environment or harm to human health will be prevented. Any crushers used on site would be permitted under a separate licence. As such, subject to conditions to ensure that dust is minimised, it is considered that the proposal is in compliance with the provisions set out in MTAN1 and Policies GEN1, EWP6, EWP12 and EWP13 of the FUDP.

7.116 ***Residential Amenity***

As identified previously, there are a number of properties in relatively close proximity to the quarry void and the proposed new quarry access road. Local residents, the Local Member and the Community Council have raised concerns in relation to the proposal as they feel both the restoration and the recycling operation would have a

detrimental impact on the residential amenities of the surrounding area from excessive and unacceptable noise and dust of the operations and traffic generated.

7.117 As there is limited activity occurring at present on the site, should planning permission be granted it is likely that any increase in activity on site would be noticeable by local residents surrounding the site. Therefore, it is likely that there would be some degree of impact on the residential amenity as a result of increased activity at the site both onsite from operational and restoration activities and offsite from an increase in HGV traffic.

7.118 TAN21 advises that where a proposal would cause adverse impacts on amenity, and the problems cannot be mitigated to an acceptable standard by conditions, planning permission should be refused. As discussed above, it is considered that dust and noise can be controlled adequately by mitigation, management and control limits, and that the highway network has sufficient capacity to accommodate the proposed movements. As such, it is considered that there would not be an adverse impact on amenity as the predicted impacts could be adequately controlled by condition. Therefore, the proposal would accord with the provisions of TAN21, and Policies GEN1, EWP6, EWP12 and EWP13 of the FUDP

7.119 ***Odour, Litter and Vermin***

All materials brought into the site for restoration and recycling would be inert in nature and would be solid, dry, non-hazardous soils, subsoils, clays, stone, concrete, brick, tiles and rubble. These materials would present a very low risk of producing odour, creating litter or attracting birds and vermin. Comprehensive management systems would form part of the requirements of the Environmental Permit for the site and would be set out in detail in the Waste Management System that will be required under the Permit should planning permission be granted. It is considered that there would be no conflict with Policies GEN1, EWP8, EWP12 and EWP13.

7.120 ***Community and Employment***

The proposed development would employ up to 7 staff at the site. Two or three of these are likely to be existing staff currently operating from other sites in the area and four or five are expected to be new posts which would provide new jobs in the local area.

7.121 The applicant is supportive of forming a Liaison Committee for Cambrian Quarry, which would provide a formal forum for liaison with the local community. The applicant would also ensure that the Community Council and local residents are able to make direct contact with the site manager as and when required, so that more informal, day to day contact is possible for the local community. Should planning permission be granted, a condition would require a scheme setting out the terms of reference of a liaison committee.

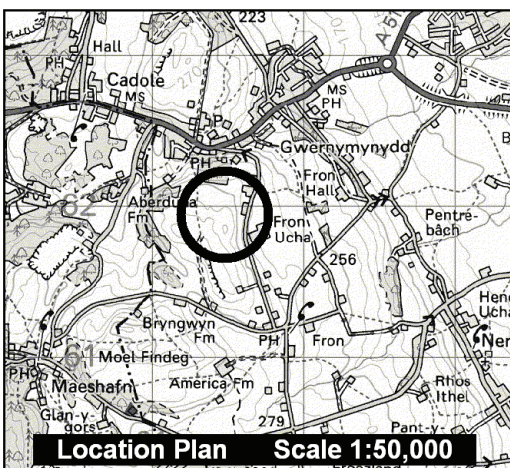
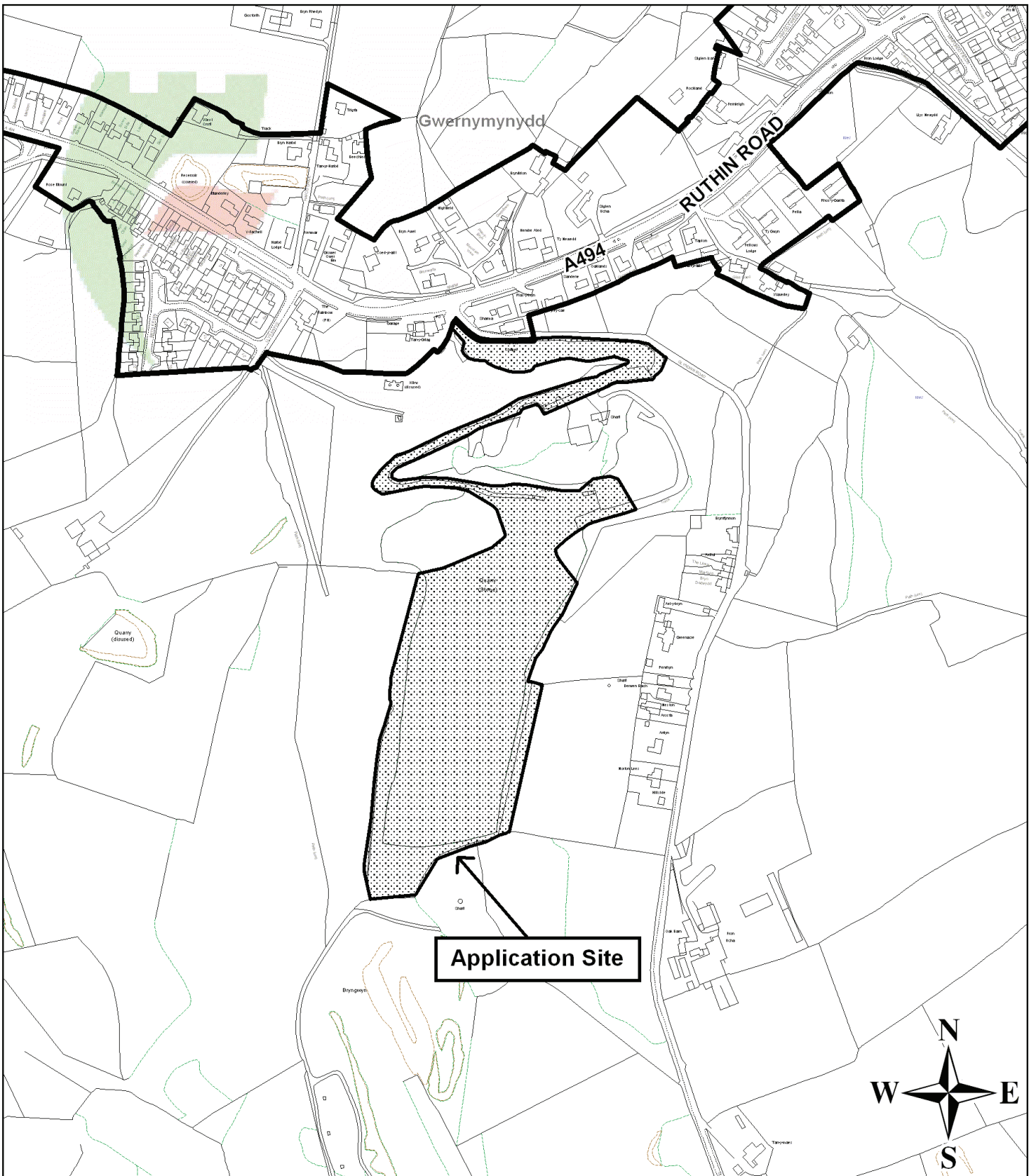
8.00 CONCLUSION

- 8.01 The proposal involves the importation of inert waste material to be used in the restoration of Cambrian Quarry to ensure that the quarry faces are safe and a stable landform is created. The applicant has demonstrated that the site needs to be restored to for stabilisation and for landscape reasons with the minimum amount of material necessary for an acceptable landform which is in line with national policy. The restoration would be ensuring a beneficial use of waste material that cannot be recycled and reused elsewhere. Re-usable inert material that could be used offsite would be exported to be used as a resource elsewhere. This is supported by the waste hierarchy, the national waste strategy and national landfill diversion targets. Whilst landfilling of inert waste material is generally unacceptable, the applicant has demonstrated exceptional circumstances and it is considered to be acceptable at this site to ensure that the quarry faces are stabilised and that an acceptable landform is achieved with the minimum amount of material. Furthermore, national policy recognises that there will still be some need for landfill capacity for inert construction and demolition waste in which the region is currently lacking. As the Welsh Government targets to require more recycling increase, suitable sites will be required. It is accepted that quarry sites are appropriate locations for waste management activities and subject to compliance with the other policies in the development plan should be approved.
- 8.02 It is considered that the highway network could accommodate the proposed vehicle movements and the new access improvements, road widening and access road would facilitate safe access and egress into and out of the site.
- 8.03 Whilst the proposal would result in loss of woodland and other habitat, the proposed mitigation, restoration and extended management would have long term benefits in terms of nature conservation and landscape and would not adversely impact on the AONB. Whilst there would be a loss of existing habitat to facilitate the restoration, it is considered that, in the long term, there would be a positive impact on biodiversity as existing habitats are being lost and overgrown due to lack of management. Any habitats that would be lost as a result of the proposal would be replaced and managed for 15 years. Some habitats will be managed from the commencement of development. As such it is considered, on balance, the temporary loss and disturbance of nature conservation interests would be outweighed by the long term benefits that would be afforded by the proposed extended management.
- 8.04 The Council has had regard to the derogation tests applicable to the European designated sites, European protected species and habitats, and is satisfied that there would be no significant adverse impacts, which would be capable of negatively affecting the features

of interest, range, population, or favourable conservation status.

- 8.05 This is a significant proposal with complex issues which must be carefully weighed, and determination should as ever be in accordance with the development plan, unless material considerations justify a different conclusion. There is potential for impact on residential amenity as a result of the proposal, however, measures to mitigate them have been proposed and would be conditioned to ensure acceptable levels which would not cause unacceptable harm or nuisance.
- 8.06 In considering this application the Council has taken into account all the environmental information and matters that are material to the determination of this application, as set out in the Application, Supporting Statement, Environmental Statement, and the additional information requested by the Council under Regulation 19 of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999. The ES has considered and assessed the impacts of the recycling and infilling operations, restoration and management, the construction of an access road, with regards to landscape and visual impacts, ecology, transport, noise and vibration, air quality, stability, hydrology, trees, employment and rural economy, recreation, cultural heritage, odour, litter, birds and vermin, and lighting.
- 8.07 In considering this 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.
- 8.08 In determining this application, the Council has had regard to the Policies of the Development Plan, and regional and national policy, legislation and guidance. Subject to the imposition of conditions as listed above and to the applicant entering into a Section 106 legal agreement to provide 15 years post restoration management of habitats; effectively to revoke existing minerals and waste consents; and to ensure current operations on site which are not within the application site adhere to proposed hours of operation and provide no external artificial illumination; there is no sustainable planning reason why planning permission should be refused. Accordingly, it is recommended that planning permission should be granted.
- 8.09 If the Section 106 Obligation (as outlined above) is not completed within 6 months of the date of the committee resolution, the Head of Planning be given delegated authority to REFUSE the application

Contact Officer: Hannah Parish
Telephone: (01352) 703253
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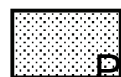


Environment Directorate,
 Flintshire County Council, County Hall,
 Mold, Flintshire, CH7 6NF.
 Director: Mr. Carl Longland

Legend



Adopted Flintshire Unitary
 Development Plan
 Settlement Boundary



Application Site Extent

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Map Scale 1:5000

OS Map ref SJ 2162

Planning Application **50695**

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FLINTSHIRE COUNTY COUNCIL

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

DATE: **15TH JANUARY 2014**

REPORT BY: **HEAD OF PLANNING**

SUBJECT: **ERECTION OF A FOUR BEDROOM DETACHED DWELLING AT 37 WOOD LANE, HAWARDEN.**

APPLICATION NUMBER: **051234**

APPLICANT: **MR AND MRS SHAW**

SITE: **LAND TO THE REAR OF 37 WOOD LANE, HAWARDEN**

APPLICATION VALID DATE: **11/09/13**

LOCAL MEMBERS: **COUNCILLOR ALISON HALFORD**
COUNCILLOR DAVID MACKIE

TOWN/COMMUNITY COUNCIL: **HAWARDEN**

REASON FOR COMMITTEE: **S106 AGREEMENT FOR LOCAL NEED**

SITE VISIT: **NO**

This application was deferred from Planning and Development Control Committee on 11th December 2013 in order for additional information to be provided to Members with regard to affordability, housing need and backland/tandem development. Additional paragraphs have been inserted into the body of the report below to address these issues.

1.00 SUMMARY

1.01 This is a full application for the erection a four bedroom house at the rear of 37 Wood Lane, Hawarden. The main issues to consider are the principle of development, impact on residential amenity, highways and the potential coal mining legacy on the site. It is considered that the proposed dwelling is in accordance with Policy HSG3 and meets the Councils requirements for Space Around Dwellings. The risks in relation to the coal mining legacy on the site can be dealt with by an appropriate condition.

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:-

- The property shall be occupied by the applicants Mr and Mrs Shaw in the first instance;
- If the property is put up for sale in the future 30% of the property value is repaid to the Council, secured as a charge on the property

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

Conditions

1. Time limit.
2. In accordance with plans.
3. Foul and surface water shall be drained separately.
4. Surface water connection.
5. Land drainage run-off.
6. Code Level 3 for Sustainable Homes compliant.
7. Landscaping including boundary treatment.
8. Site investigation and remediation if necessary.
9. Obscure glazing to conservatory of 37 Wood Lane.
10. Visibility splay from access of 2.4m x 43m in both directions, no obstruction above 1.0m
11. Access to the site in accordance with standard detail for single residential access
12. The access shall be a minimum width of 4.5m for a distance of 10m
13. Facilities to be provided and retained within the site for parking and turning of vehicles
14. Removal of permitted development rights

If the Obligation pursuant to Section 106 of the Town and Country Planning Act 1990 (as outlined above) is not completed within six months of the date of the Committee resolution, the Head of Planning be given delegated authority to REFUSE the application.

3.00 CONSULTATIONS

3.01 Local Member

Councillor A Halford

Requests Committee determination base on the concerns of the objector.

Councillor D Mackie

No formal response received at time of writing.

Hawarden Community Council

Objects on the grounds that it constitutes backland development.

Head of Assets and Transportation

No objection subject to conditions covering;

- Visibility splay from access of 2.4m x 43m in both directions, no obstruction above 1.0m
- Access to the site in accordance with standard detail for single residential access
- The access shall be a minimum width of 4.5m for a distance of 10m
- Facilities to be provided and retained within the site for parking and turning of vehicles

Head of Public Protection

A condition should be imposed requiring a site investigation prior to commencement of development and appropriate remediation undertaken.

Welsh Water/Dwr Cymru

Standard conditions in relation to foul and surface water drainage.

Natural Resources Wales

No objections, subject to limited thinning of trees on the site. If any of the trees are to be felled these should be subject to emergence surveys for bats prior to their felling.

Airbus

No aerodrome safeguarding objection.

The Coal Authority

The application site falls within the defined development high risk area. Within the application site and surrounding area there are coal mining features and hazards which need to be considered in relation to this application. A Coal Mining Risk Assessment has been submitted with the application. Records indicate that the site is likely to have been subject to historic unrecorded coal mining at shallow depth. Prior to development intrusive investigation works, including gas monitoring, are required in order to establish the exact situation regarding ground conditions and to enable appropriate remedial measures to be identified if necessary. This should be secured by condition.

Housing Strategy Manager

The applicants meet the affordable housing criteria under policy HSG3 in terms of their local connection and affordable housing need. Any permission requires a S106 agreement stating that if the property is sold in the future 30% of the property value is repaid to the Council and this is secured by the way of a charge on the property.

4.00 PUBLICITY

4.01 Site Notice, Neighbour Notification

1 objection on the grounds of;

- Would affect privacy at rear of property and garden
- Light pollution at night from currently dark garden
- If current 5 metre hedge is reduced in height to 2 metres, while the garden would be lighter the impact of the new house would be emphasised further
- The proposed development would take up the similar footprint as the proposed dwellings previously refused
- Additional house will increase the volume of traffic on Wood Lane and could lead to parking on the road which reduces visibility for other properties exiting their properties
- This area of Hawarden is already overdeveloped

5.00 SITE HISTORY

5.01 039899 – Erection of 6 no starter homes in two blocks of three. Refused 12.10.05

038829 – Proposed erection of 7no starter homes in terraced blocks of 3 and 4 together with construction of an access from existing access road. Refused 08.02.05

16919 Kitchen, dining room and dormer bedroom extension. Approved 07.06.88

6.00 PLANNING POLICIES

6.01 Flintshire Unitary Development Plan

STR1 – New Development

STR4 – Housing

STR8 – Built Environment

GEN1 – General Requirements for Development

GEN2 – Development Inside Settlement Boundaries

HSG3 – Housing on Unallocated Sites Within Settlement Boundaries

D1 – Design Quality, Location and Layout

D2 – Design

D3 – Landscaping

AC13 – Access and Traffic impact

AC18 – Parking Provision and New Development

The proposal is in accordance with the above development plan policies.

7.00 PLANNING APPRAISAL

Introduction

7.01 This is a full application for the erection a four bedroom house at the

rear of 37 Wood Lane, Hawarden.

Site Description

- 7.02 The application site is the rear garden of 37 Wood Lane Hawarden. The site is bounded by the dwelling and remaining rear garden of 37 Wood Lane to the west, an electricity substation to the south west, the community centre to the south east and 35 Wood Lane to the north. An area of land between the application site and the community centre is owned by Scottish Power and is currently leased by the applicant for use as additional garden. The site boundaries are mature garden hedges, fencing and walling of varying heights. The site is within a residential area in the settlement boundary of Ewloe.

Proposal

- 7.03 The proposed dwelling is sited to the rear of the existing dwelling and would share an access. The dwelling is two storey with four bedrooms and a separate double garage. The proposed materials are brick with a tile roof to match existing properties in the locality. The dwelling would have a private garden space to its rear.

Issues

- 7.04 The main issues to consider are the principle of development, local needs housing, impact on residential amenity, backland development, highways and the potential coal mining legacy on the site.

Principle of Development

- 7.05 The application site is within the settlement boundary of Ewloe, although the postal address is Hawarden. Ewloe is a Category B settlement within the Adopted Flintshire Unitary Development Plan. Within such settlements growth is controlled by Policy HSG3 'Housing on Unallocated Sites Within Settlement Boundaries'. Specifically criteria b states;

'On unallocated sites within settlement boundaries, new housing, the change of use of non-residential buildings to dwellings, the renovation or replacement of existing dwellings, and infill development will be permitted provided that:

b. in category B settlements it is the renovation or replacement of an existing dwelling or where it would cumulatively result in more than 15% growth since 2000 the development is justified on the grounds of housing need,'

- 7.06 The purpose of policy HSG3 is to control the expansion of settlements where there is already a high level of growth and to ensure new dwellings are for local needs. In terms of growth of the settlement, at April 2013 Ewloe had sufficient sites with planning permission, units which have been built and land allocated in the UDP, which when added together take its growth within the plan period (2000-2015) to 18.1%. Since the cumulative growth is already above 15%, any new dwellings in Ewloe will need to be for local housing needs.

- 7.07 Local Need
Policy HSG3 states that if the growth is above 15% any additional housing needs to be justified on the grounds of local housing need. This does not preclude new housing growth as long as the case is made in terms of local housing need.
- 7.08 The applicant's house 37 Wood Lane is currently on the market as the current mortgage along with other debts mean it is unaffordable to them. The applicant is on the affordable housing register and Cymdeithas Tai Clwyd have stated that Mr and Mrs Shaw qualify for affordable housing assistance. The applicant is proposing a self-build project to reduce the size of their mortgage and therefore making it an affordable option compared to their current situation, enabling them to stay in the locality. In assessing their case the Housing Association have received details of Mr & Mrs Shaw's financial situation including, recent payslips, mortgage statements, loan statements, full expenditure details, information on dependants, expected build costs of new property, potential sales value and expected selling costs of existing home. Mr and Mrs Shaw have also demonstrated to the Housing Association their local connections. They have lived in the area for 16 years and their 3 youngest children attend local schools. Mrs Shaw is undertaking a midwifery course and is based at Connah's Quay clinic. Mr Shaw also works for a North Wales building company. They have 4 older children
- 7.09 Any permission would restrict the first occupation to Mr & Mrs Shaw and would require a S106 agreement which would put a charge on the house so that if it is sold in the future 30% of the money would be paid back to the Council. The Housing Strategy Officer considers that the applicants meet the affordable housing criteria under policy HSG3 in terms of their local connection and affordable housing need. The size of the dwelling is required to accommodate their family.
- 7.10 Members questioned the need for a four bedroom house and double garage. Mr. Shaw explained to the Committee that he and his wife have an extended family of 7 children and a grandchild, 3 of which live at home and are of school age. Mr. Shaw therefore requires a four bedroom house to accommodate his family and to meet his housing need. The house also has a double garage, which provides necessary storage capacity for family life, along with space for parking of two cars.
- 7.11 It is therefore considered that the application is justified on the grounds of housing need and planning permission is granted subject to a S106 agreement stating that if the property is sold in the future 30% of the property value is repaid to the Council and this is secured by the way of a charge on the property.
- 7.12 Impact on residential amenity

The impacts of the proposed dwelling need to be considered in relation to the impact on the residential amenity of the existing occupiers of 37 Wood Lane along with the impact on neighbouring properties and on the proposed new dwelling.

- 7.13 The existing and proposed dwelling would share the same vehicle access. The existing dwelling would have parking at the front and the proposed dwelling would have a double garage. There is therefore a potential impact on residential amenity to 37 Wood Lane from the vehicle access to the new dwelling. The shared access would pass the existing conservatory on 37 Wood Lane. It is proposed to obscure glaze the side window on the conservatory on 37 Wood Lane to reduce any potential impact on residential amenity from vehicle movements from the new dwelling on the occupiers of 37 Wood Lane.
- 7.14 The proposed dwelling is orientated so its principle elevations face south west towards the electricity substation and north east facing the rear garden of 35 Wood Lane. The proposed dwelling is sited 7 metres from the boundary with 35 Wood Lane but is sited adjacent to the rear garden of 35 Wood Lane. There is 20 metres from the corner of the proposed dwelling and the 35 Wood Lane and 20 metres from the rear elevation of 37 Wood Lane and the side elevation of the proposed dwelling. Due to its location and orientation there would be no direct overlooking into the habitable rooms of either 35 or 37 Wood Lane and there are no habitable rooms at first floor on the side elevation which would face 37 Wood Lane. It is considered that the siting of the dwelling is in accordance with the separation distances set out in Local Planning Guidance Note 2: Space Around Dwellings.
- 7.15 The existing dwelling and proposed dwelling would both have more than 70m² private garden space. Both these areas are considered suitable to meet the requirements of private amenity space as set out in Local Planning Guidance Note 2: Space Around Dwellings.
- 7.16 Backland Development
Although the development is a form of backland development, this does not automatically mean such a form of development should be refused outright. The important issue to consider is the harm this form of development may cause in terms of impacts on residential amenity to the occupiers of 37 Wood Lane, the proposed dwelling and adjoining properties and also the impact on the development on the character and appearance of the area.
- 7.17 The main impacts in terms of residential amenity would be from increased vehicle movements to the occupiers of 37 Wood Lane when in the existing conservatory. This would be minimised by the introduction of obscure glazing to reduce any impact on privacy. The new dwelling has been orientated so there is no direct overlooking with 37 Wood Lane or any adjacent properties. The only potential for overlooking is to the rear garden of 35 Wood Lane, however

overlooking into gardens is common in urban areas and is not dealt with in Local Planning Guidance Note 2: Space Around Dwellings. Any impact in this regard can be dealt with by retention of the existing boundary hedgerow and other suitable boundary treatment which can be dealt with by condition.

7.18 In terms of the scale and form of the development, there is an existing garage in rear of 37 Wood Lane which would be demolished. The garden of 37 Wood Lane is large enough to accommodate the proposed dwelling, garage, parking and turning along with providing adequate remaining private amenity space for 37 Wood Lane. Mr & Mrs Shaw lease an additional area of land from the Electricity Company which also provides additional garden space and acts as a buffer between the adjacent residential property of April House which is accessed off Level Road.

7.19 There are varying forms of development in this area. While it is a predominately residential area of detached and semi-detached properties, the application site is adjacent to a large electricity substation to the west and the Community Centre to the south. The application site is accessed from Wood Lane, which is a typical residential street, there are also houses to the rear of 31, 33 and 35 these accessed from Level Road. On the opposite side of the Wood Lane there is the development of The Hedgerows which sits directly behind the houses on Wood Lane. The introduction of a further dwelling to the rear of 37 would therefore not be at odds with the pattern and form of development in the area.

7.20 Access and Parking

The proposal would use the existing access to 37 Wood Lane which would be shared between the existing and proposed properties. An objection has been raised in relation to the increase in traffic movements associated with the new dwelling and the potential to an increase in parking on the highway.

7.21 The Head of Assets and Transportation has no objection to the proposed access and parking arrangements subject to conditions relating to the access and visibility splay and parking provision. The addition of one dwelling would not lead to a significant increase in traffic movements and adequate parking provision is provided for the new dwelling.

7.22 Coal Mining

The Coal Authority identified that the site falls within the defined Development high Risk Area. Coal Authority records indicate that within the application site and surrounding area there are coal mining features and hazards which need to be considered in relation to the determination of this planning application. It is a requirement of Planning policy Wales paragraph 13.9 that the applicant demonstrate to the satisfaction of the site is safe, stable and suitable for

development.

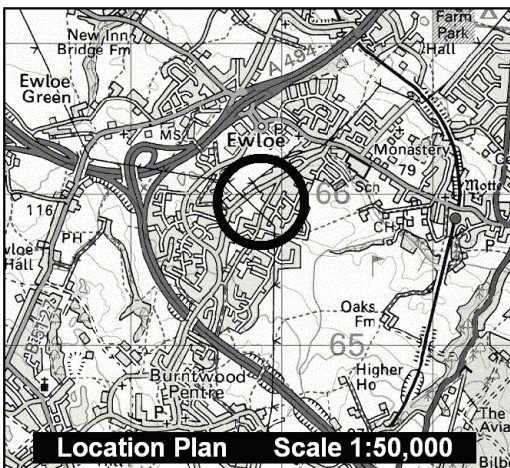
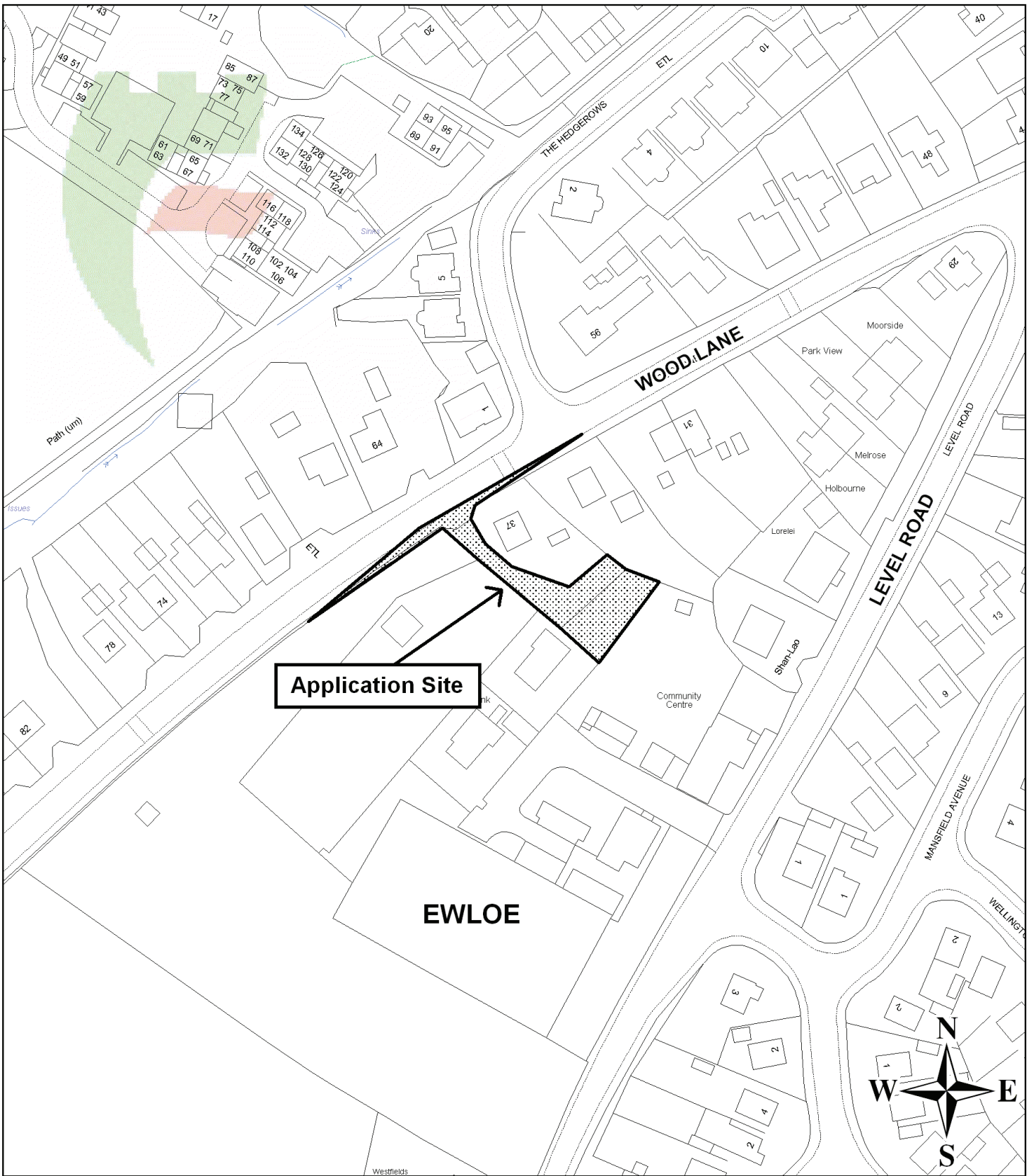
- 7.23 The applicant has undertaken a Coal Mining Risk Assessment. This concludes that the site is likely to have been subject to historic unrecorded coal mining at shallow depth. The Coal Authority and the Head of Public Protection advise that prior to development intrusive investigation works, including gas monitoring, are required in order to establish the exact situation regarding ground conditions and to enable appropriate remedial measures to be identified if necessary. This can be secured by condition.

CONCLUSION

- 8.01 It is considered that the proposed dwelling is in accordance with Policy HSG3 of the Emerging Unitary Development and provides a dwelling which meets an identified local housing need. It is considered that the siting of the dwelling meets the Councils requirements for Space Around Dwellings and would not have an adverse impact on the residential amenity of adjoining occupiers. The risks in relation to the coal mining legacy on the site can be dealt with by an appropriate condition.

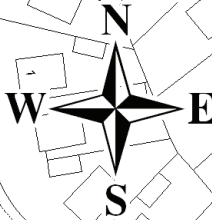
Contact Officer: Emma Hancock
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EWLOE

Application Site



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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OS Map ref SJ 2966

Planning Application **51234**

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FLINTSHIRE COUNTY COUNCIL

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

DATE: **15TH JANUARY 2014**

REPORT BY: **HEAD OF PLANNING**

SUBJECT: **CHANGE OF USE TO SMALLER A1 USE AT GROUND FLOOR AND 2 NO. ONE BEDROOM APARTMENTS TO THE REAR OF THE EXISTING BUILDING ALLOWING FOR NEW APARTMENTS AT GROUND FLOOR AT 79 CHESTER ROAD WEST, SHOTTON.**

APPLICATION NUMBER: **051378**

APPLICANT: **MR & MRS MUGGLETON**

SITE: **79 CHESTER ROAD WEST, SHOTTON.**

APPLICATION VALID DATE: **18TH OCTOBER 2013**

LOCAL MEMBERS: **COUNCILLOR MRS A MINSHULL**

TOWN/COMMUNITY COUNCIL: **SHOTTON TOWN COUNCIL**

REASON FOR COMMITTEE: **MEMBER REQUEST**

SITE VISIT: **NO.**

1.00 SUMMARY

- 1.01 This application is for change of use of part of the ground floor shop to form two, one bedroom apartments at 79 Chester Road West, Shotton, Deeside.
- 1.02 The main issues for consideration are the principle of the development in planning policy terms, the highway implications, the effects upon the character and appearance of the area, the provision of public open space and the effects upon the amenities of adjoining residents and wildlife.

1.03 The premises is located outside of the core retail area and only involves partial loss of the retail area, is located in a sustainable location and does not require any off street parking, with the external alterations matching those of the existing, and will not have a significant detrimental impact upon the amenities of the adjoining residents.

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 or making direct payment to provide the following:-

- a. Payment of £733.00 per residential units in lieu of on site public open space. The payment would be used to enhance existing recreation facilities in the community and to be provided upon 50% sale or occupation of the development.

If the Obligation/Unilateral Undertaking or direct payment is not completed/made within 6 months of the date of the committee resolution, the Head of Planning be given delegated authority to **REFUSE** the application.

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

Conditions

1. Time limit on commencement.
2. In accordance with approved plans.
3. Land drainage run-off not to discharge into public sewerage system.
4. No surface water to connect, to the public sewerage system unless otherwise approved by Local Planning Authority.
5. Foul water and surface water discharges to be drained separately from the site.

3.00 CONSULTATIONS

3.01 Local Member

Councillor Mrs A. Minshull

Requests that the application be referred to Planning Committee. The reasons being she is against the application, losing retail space, turning into residential properties by stealth and parking is a problem with the new enforcement laws.

Shotton Town Council

Object to this application due to concern of losing a High Street shop frontage and parking problems.

Head of Assets and Transportation

No objection to the proposal and confirms do not intend to make a recommendation on highway grounds.

Head of Public Protection

No adverse comments.

Head of Economic Development

Carefully managed transition of outlying areas of town centres to alternative uses should be supported. A mixture of uses should be considered that will generate footfall and support the retail provision, commercial, service provision and residential.

Site is located in the main retail area of Deeside and is not in the outskirts of the town. Application needs to be carefully considered to prevent a gradual weakening of the linkage between Shotton and Connah's Quay – reducing the likelihood of linked trips between the two centres through the removal of footfall generating uses.

Further consideration is design of the conversion to ensure does not detract from the streetscene. As does the remaining commercial unit to ensure it creates a viable business location.

Public Open Spaces Manager

Council should be seeking payment of £733 per residential unit in lieu of on site P.O.S. The payment would be used to enhance existing recreation facilities in the community.

Welsh Water/Dwr Cymru

Advise that suggested conditions and notes are placed upon any planning permission granted.

Natural Resources Wales

Advise to consult with your internal ecologist with regards to the potential impact of the proposed development on the favourable conservation of population of bats.

4.00 PUBLICITY

4.01 Site Notice, Neighbour Notification

One letter of objection received. The grounds of objection being:-

- Parking is already a major issue on Rowden Street and will be more of an issue with additional properties needing parking facilities. Street is at junction of the main road and is used by commercial vehicles for the delivery of goods to these premises. Customers visiting commercial premises on main street also use

Rowden Street for parking and this is throughout the day and night which further decreases the parking available for residents.

- Noise – Currently people from the current flats congregate near to the adjoining resident's front room window. Location of new entrance would lead to people congregating outside the front and side of the property.

5.00 SITE HISTORY

5.01 **47993** – Conversion of first floor to form 4 No. self contained apartments and erection of pitched roof over unsatisfactory flat roof – Granted 15th March 2011.

96/10/00307 – Replacement of display windows and door – Granted 29th July 1996.

4/1/9620 – Extension to premises for stores and sales area – Granted 2nd June 1981.

4/1/4964 – Extension to form covered store room – Granted 1st June 1978.

6.00 PLANNING POLICIES

6.01 Flintshire Unitary Development Plan

STR1 – New Development.

STR4 – Housing.

STR5 – Shopping Centres & Commercial Development.

GEN1 – General Requirements for Development.

GEN2 – Development Inside Settlement Boundaries.

D1 – Design Quality, Location & Layout.

D2 – Design.

WB1 – Species Protection.

AC13 – Access & Traffic Impact.

HSG3 – Housing on Unallocated Sites within Settlement Boundaries.

EWP13 – Nuisance.

The premises lies outside of the town centre core retail area, therefore in planning policy terms, there is no need to retain this part of the retail unit. The remaining part of the retail unit is to be retained for such a use. It is also located within the settlement boundary of Shotton which is classed as a 'Category A' settlement and therefore, the part change of to residential units are also considered acceptable in relation to HSG3 of the Flintshire Unitary Development Plan.

7.00 PLANNING APPRAISAL

7.01 Site Description & Proposals

The site comprises of the rear part of the existing ground floor

premises of Quay Carpets which is located on Chester Road West, Shotton.

7.02 The building is two storey, of a modern design, constructed of red/brown wire cut brick walls with a flat roof. At first floor level are four flats with car parking of 3 spaces at the rear.

7.03 It is located on the corner of Chester Road West with Rowden Street, Shotton. It forms the eastern end of a row of existing buildings which are used for non-retail purposes on the southern side of Chester Road West. To the south, lie existing residential properties.

7.04 The proposal is to change the use of the existing rear ground floor from retail to form two separate apartments. An additional entrance door and windows are to be created at ground floor to the side and rear elevations of the building to form these two residential units.

7.05 Issues

The main issues to be considered within the determination of this planning application are the principle of the development in planning policy terms, the highway implications, the effects upon the visual appearance and character of the area, and the provision of public open space, the effects upon the amenities of adjoining occupiers and wildlife.

7.06 Principle of Development

The site lies approximately 12 m from the western edge of the town centre core retail area of Shotton as defined within the Flintshire Unitary Development Plan and therefore in planning policy terms, there is no need to retain this part of the unit for retail purposes. The premises immediately to the west is a non-retail unit as are the other buildings within this row to the west on the southern side of Chester Road West.

7.07 Whilst the town centres in Flintshire have to some extent fared better than their comparators in the UK with lower vacancy rates, there is a national decline in retailing in lower order town centres. Changing consumer behaviour in favour of supermarkets, out of town retail parks and the internet is dramatically changing the face of town centres.

7.08 The challenge for each town is that they are left with a far larger stock of retail properties than can be sustainably supported in the future. Whilst it is essential that the core retail areas in the towns are safeguarded to maintain their viability through a critical mass of footfall – generating uses, the conversion of outlying areas to non-retail uses is inevitable.

7.09 Notwithstanding the above, it must be remembered that it is only the rear part of this existing retail unit that is to be changed with the front

part on to the main street remaining as retail. Although reduced in size for retail purposes, the existing operator considers that this is sufficient for the needs of the business.

7.10 The site is also located within the settlement boundary of Shotton, which is classed as a 'Category A' settlement and therefore the change of use to two residential units is also considered acceptable in relation to HSG3 of the Flintshire Unitary Development Plan.

7.11 Highway Implications

It is proposed not to provide any on site off street car parking spaces with this development. It is considered not necessary to provide any given its sustainable location close to existing employment, and retail uses, bus services and car parks. As a result the Head of Assets & Transportation has no objections.

7.12 Character & Appearance of Area

It is proposed not to make any external alterations to the front of the building onto Chester Road West. An additional entrance door and windows are to be positioned, however, at ground floor upon the side (Rowden Street) and rear elevations. Given that both the entrance door and windows will match those of the existing, it is considered that the proposals will not have a significant detrimental impact upon the character and appearance of the area.

7.13 Public Open Space

In accordance with both Policy SR5 and Local Planning Guidance Note No.13 Open Space Requirements, the Public Open Spaces Manager requires payment of £733 per residential unit in lieu of on site P.O.S. The payment will be used to enhance existing recreation facilities within the community.

7.14 Impact upon Amenities of Adjoining Residents

Given both the position and distance away of the new windows from the existing nearby residents, it is considered that there will be no significant loss of privacy to both the existing and proposed occupiers.

7.15 In terms of existing and proposed noise nuisance, public protection have received no existing complaints from residents regarding the existing flats at first floor level and raise no objections to these proposals. Any public order offences would be dealt with by the Police.

7.16 Wildlife

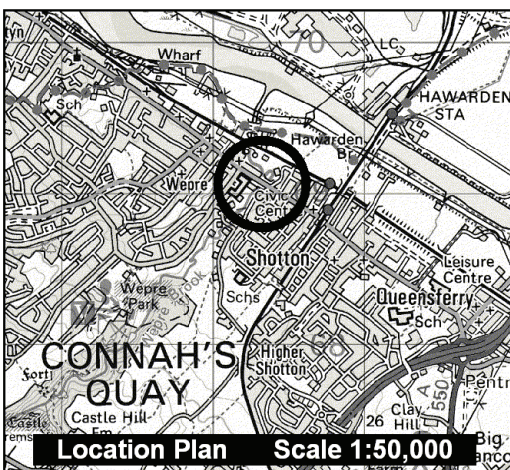
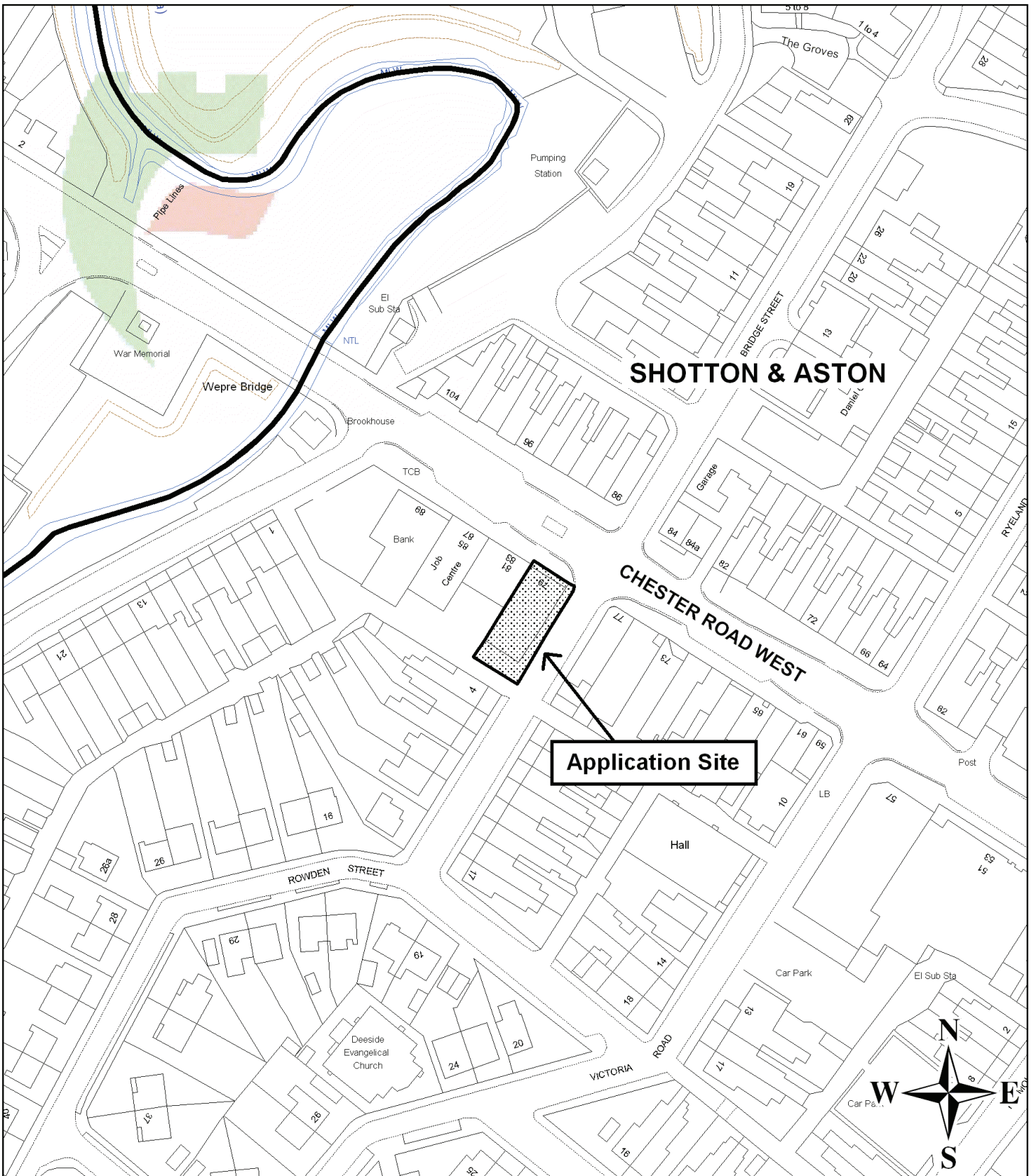
As the site is located in an urban area and involves change of use of part of the existing ground floor only it is unlikely that any protected species e.g., bats and breeding birds are to be detrimentally affected.

8.00 CONCLUSION

- 8.01 For the reasons above, it is considered that the proposals are acceptable in terms of the principle of the development in planning policy terms, the highway implications, the effects upon the character and appearance of the area and the effects upon the amenities of adjoining occupiers and wildlife.
- 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: Alan Wells
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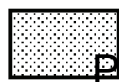


Environment Directorate,
 Flintshire County Council, County Hall,
 Mold, Flintshire, CH7 6NF.
 Director: Mr. Carl Longland

Legend



Adopted Flintshire Unitary
 Development Plan
 Settlement Boundary



Application Site Extent

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Map Scale 1:1250

OS Map ref SJ 3069

Planning Application 51378

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FLINTSHIRE COUNTY COUNCIL

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

DATE: **15TH JANUARY 2014**

REPORT BY: **HEAD OF PLANNING**

SUBJECT: **RESERVED MATTERS APPLICATION : AMENDED LAYOUT TO INCLUDE SUBSTITUTION OF 15 No. HOUSETYPES AND THE ADDITION OF A FURTHER 5 No. DWELLINGS ON LAND TO THE REAR OF 'ADWY DEG', FAGL LANE, HOPE, FLINTSHIRE.**

APPLICATION NUMBER: **051449**

APPLICANT: **TAYLOR WIMPEY HOMES NORTH WEST**

SITE: **LAND TO THE REAR OF 'ADWY DEG', FAGL LANE, HOPE, FLINTSHIRE.**

APPLICATION VALID DATE: **12TH NOVEMBER 2013**

LOCAL MEMBERS: **COUNCILLOR T. NEWHOUSE**

TOWN/COMMUNITY COUNCIL: **HOPE COMMUNITY COUNCIL**

REASON FOR COMMITTEE: **SCALE OF PROPOSALS EXCEEDS THAT FOR WHICH DELEGATED POWERS TO DETERMINE EXISTS**

SITE VISIT: **NO**

1.00 SUMMARY

- 1.01 This Reserved Matters application seeks approval of details to amend the approved development as follows;
- i) Substitution of 15 house types upon 15 of the previously approved plots.
 - ii) Provision of 5 additional dwellings.

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

2.01 That conditional Reserved Matters Approval be granted, subject to the applicant entering into a supplemental S.106 agreement which links the approval granted under this application to the provisions of the S.106 agreement entered into under Reserved Matters Approval Ref: 048186, providing for the following;

- a) The provision of 16 No. affordable homes, to be made available at 70% of market value with the Council retaining the 30% equity and nomination rights for occupiers being retained by the Council having regard to people registered upon its Affordable Home Ownership Register.
- b) Ensure the payment of an educational contribution of £31,500 towards educational provision/improvements to local education facilities. The contribution shall be paid prior to occupation of the first dwelling.
- c) Ensure payment of a sum of £45,000 towards the maintenance of the play area upon adoption.
- d) Ensure payment of £29,150 in lieu of 50% on site provision of recreation/open space.
- e) Ensure the transfer of wildlife mitigation land to a suitable body in order to secure its future management and funding.

In addition, the Supplemental Agreement shall provide for the additional payment of a £5500 recreation contribution in lieu of further on site provision arising from the additional 5No. new dwellings. Such payment shall be made upon sale or occupation of 50% of the total dwellings approved.

Conditions

1. In accordance with approved plans
2. Approval of external materials to roofs and walls
3. Implementation of landscaping scheme
4. Root protection area for trees and hedging to site boundaries during construction works
5. Submission and approval of details for equipping of public open space including boundary treatment and hard/soft landscaping
6. Play area land not to be used as a compound for construction works or general site storage during construction works
7. Details of a scheme for amphibian mitigation including one way newt/reptile exclusion fence, reptile refugia to boundaries, further ecological surveying of the site prior to construction works.
8. Boundary treatments to be agreed.

9. No culverting of watercourse.

3.00 CONSULTATIONS

3.01 Local Member:

Councillor T. Newhouse

Objects as the proposals result in 58 houses when the site is allocated for 57 dwellings.

Hope Community Council

No response at time of writing.

Head of Assets and Transportation

No objection subject to the imposition of conditions as per the previous grant of Reserved Matters approval.

Head of Public Protection

No response at time of writing.

Dwr Cymru/Welsh Water

No response at time of writing.

Natural Resources Wales

No response at time of writing.

Head of Lifelong Learning

No additional contribution to educational facilities are required as a sum has already been received.

Public Open Spaces Manager

Advises that a further sum of £1100 per dwelling for the additional 5 dwellings will be sought in lieu of on-site recreation provisions.

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 this report, 2No. letters of objection have been received from third parties in response to the consultation exercise in respect of the proposals. These responses raises objection upon the following grounds;

1. Concerns in relation to the adequacy of the drainage system;
2. Increased traffic, noise and disturbance for existing residents which will affect amenity.
3. Overbearing impact upon amenity.
4. Inappropriate and out of character development.

5.00 SITE HISTORY

- 5.01 **13962**
Outline – Residential Development. Refused 6.1.1987
Appeal dismissed 17.9.1987
- 15695**
Residential Development. Withdrawn 12.1.1987
- 16893**
Outline – Residential Development. Refused 5.7.1988
Appeal withdrawn Jan 1989.
- 18582**
Outline – Residential Development. Refused 5.12.1989
- 18961**
Outline - Residential Development. Permitted 2.12.2010.
- 48186**
Reserved Matters – Erection of 53 dwellings. Permitted 19.12.2011.

6.00 PLANNING POLICIES

- 6.01 Flintshire Unitary Development Plan
Policy STR1 - New Development
Policy STR2 - Transport and communications.
Policy STR4 - Housing.
Policy STR7 - Natural environment.
Policy GEN1 - General Requirements for Development
Policy GEN2 - Development inside settlement boundaries
Policy HSG1(28) - New housing development proposals.
Policy HSG8 - Density of development.
Policy HSG9 - Housing mix and type.
Policy HSG10 - Affordable housing within settlement boundaries.
Policy D1 - Design Quality, Location and Layout
Policy D2 - Design
Policy D3 - Landscaping
Policy AC2 - Pedestrian Provision and Public Rights of Way
Policy AC13 - Access and Traffic Impacts
Policy AC18 - Parking Provision and New Development
Policy SR5 - Outdoor Playing Space and New Residential
Development
Policy EPW2 - Energy Efficiency in New Development
Policy EWP3 - Renewable Energy in New Development
Policy WB1 - Species Protection

The site is within the settlement boundary of Hope (a Category B settlement) and is allocated for residential development within the Unitary Development Plan under policy HSG1(28).

7.00 PLANNING APPRAISAL

7.01 Introduction

This application is submitted following the previous grant of Reserved Matters approval under reference 048186. This application seeks variation of the layout by the substitution of 15No. previously approved house types and the introduction of a further 5No. dwellings. No other modifications are sought via this application.

7.02 The Proposed Development

The proposals seek to substitute the house types approved upon 15 of the plots upon this site. The plots in question are No's 27 – 32 inclusive, 34 – 41 inclusive and plots 49 – 50. These presently provide the following accommodation;

3 x 2 bed terraced dwellings,
8 x 4 bed detached dwellings, and
5 x 5 bed detached dwellings.

7.03 The proposals are such that the provision is amended to provide the following mix of housing. This includes the proposed additional 5No. dwellings;

4 x 2 bed terraced dwellings,
6 x 3 bed semi-detached dwellings, and
11 x 4 bed detached dwellings.

7.04 Principle of Development

The principle of the development of this site is established via the previous grant of both outline planning permission under Reference 018961 and subsequent Reserved Matters approval under 048186. This application proposes no other modifications to the proposed development in any other regard and therefore there is no objection in principle to the proposals.

7.05 Design, Layout, Housing Mix & Affordability

The proposed dwellings to be both substituted and newly introduced onto this site are consistent with the design and appearance of the dwellings previously approved upon the identified plots. There are differences in the composition of the dwellings and some elevational differences but their design and appearance is consistent with the scheme as a whole.

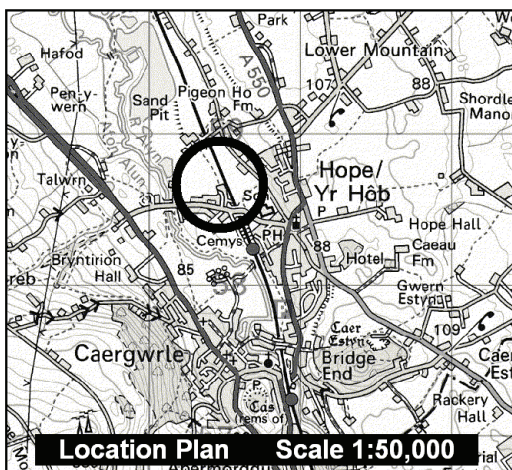
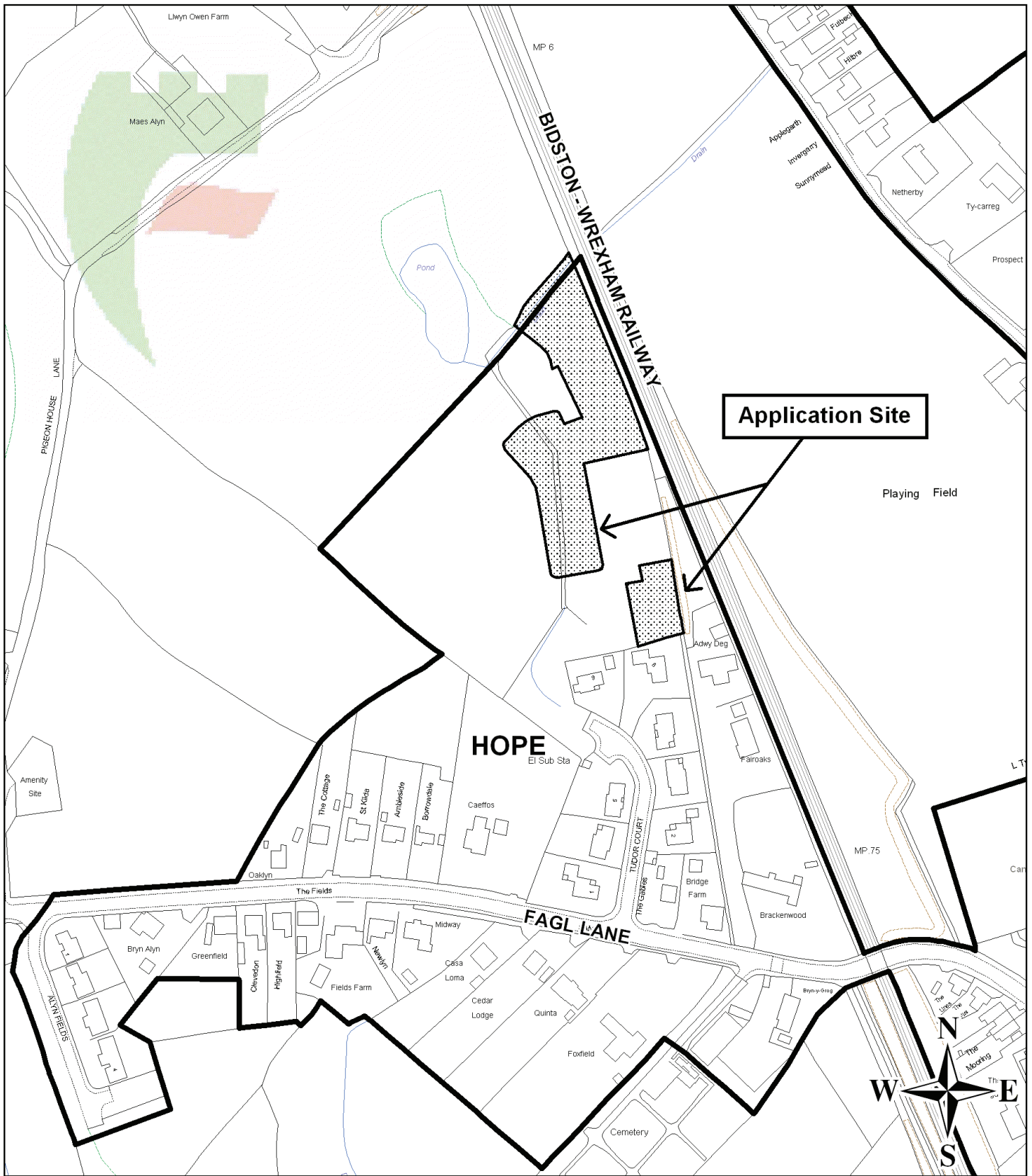
7.06 The proposed amendments actually result in a greater on site offer in terms of housing mix at the site such that there are now options for 2, 3, 4 and 5 bed units. The proposals would therefore accord with the applicable policies of the FUDP in this regard.

- 7.07 S.106 Matters
Members are advised that this application brings about no changes to the provisions secured via the S.106 agreement under reference 048892.
- 7.08 However, Members will appreciate that an approval granted under this application would have the effect, upon implementation, of rendering this Reserved Matters approval (and the previous outline planning permission) the operative permission for the site. In those circumstances, unless a supplementary S.106 agreement is secured in the terms set out in Section 2 of this report, the requirements of the original S.106 agreement are no longer linked to the operative permission and therefore the Authority would have no basis to compel compliance with such an agreement as the site is being developed pursuant to a different permission and approval not linked to that agreement.
- 7.09 Members should be reassured that the proposed supplemental S.106 agreement will ensure that such a situation will not arise.
- 7.10 As advised, in the light of the increased numbers of dwellings, and in accord with the advice of the Public Open Spaces Manager, I am proposing that the supplemental agreement make provision for the payment of a further £5500 in lieu of on-site recreation facility provisions.

8.00 CONCLUSION

- 8.01 The proposals are in line with the applicable policy context and accord with the aims of the earlier granted permission and approval for this site. I consider that, subject to the imposition of the previously agreed suite of conditions and the applicant entering into a supplemental S.106 agreement, the scheme is acceptable.
- 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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OS Map ref SJ 3058

Planning Application **51449**

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FLINTSHIRE COUNTY COUNCIL

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

DATE: **WEDNESDAY, 15 JANUARY 2014**

REPORT BY: **HEAD OF PLANNING**

SUBJECT: **050463 - GENERAL MATTERS - USE OF LAND FOR THE STATIONING OF CARAVANS FOR THE RESIDENTIAL PURPOSE FOR 5 NO. GYPSY PITCHES TOGETHER WITH THE FORMATION OF ADDITIONAL HARD STANDINGS AND UTILITY/DAYROOMS ANCILLARY TO THAT USE LAND ADJACENT TO EWLOE BARN**

1.00 APPLICATION NUMBER

1.01 050463

2.00 APPLICANT

2.01 MR M ROONEY

3.00 SITE

3.01 LAND ADJACENT TO EWLOE BARN WOOD, MAGAZINE LANE, EWLOE

4.00 APPLICATION VALID DATE

4.01 01.02.13

5.00 PURPOSE OF REPORT

5.01 To seek Members approval to withdraw the reason for refusal relating to air pollution and the impacts of road traffic pollutants on the health of the site occupants and not to pursue this reason at the forthcoming appeal against the refusal of planning permission.

6.00 REPORT

6.01 Background

Planning application (050463) "Use of land for the stationing of caravans for the residential purpose for 5No. gypsy pitches together with the formation of additional hard standing and utility/dayrooms ancillary to that use and retaining existing stables" at land side of Ewloe Barn Wood, Magazine Lane, Ewloe was considered at Planning and Development Control Committee on 15th May 2013.

6.02 The Committee resolved to refuse the planning application on the following grounds;

1. There is insufficient evidence to demonstrate that the levels of noise generated from the A55 would not lead to unacceptable living conditions for residents on the proposed gypsy/traveller site which would be contrary to Policy EWP13 of the Flintshire Unitary Development Plan and TAN 11 Noise.

2. Road traffic is a source of pollution and the proposed location of the development adjacent to the A55 poses a risk to the health of the site residents. There is insufficient evidence to demonstrate that this would not lead to unacceptable living conditions which could adversely affect the health of the site occupants which would be contrary to Policy EWP12 of the Flintshire Unitary Development Plan.

3. The proposed development is directly underneath an overhead electricity line. The location of the bund and fence would reduce the clearance distance and adversely affect the safe operation of overhead line by the statutory undertaker contrary to Policy STR1 C) of the Flintshire Unitary Development Plan and The Electricity Safety, Quality and Continuity Regulations 2002 and Health and Safety Executive Avoiding Danger from Overhead Power Lines Guidance Note GS6. The construction of the development, in particular the bund and fence would endanger the lives of the construction workers contrary to the Health and Safety at Work Act.

4. The proposed development of a gypsy/traveller site would harm the openness of the green barrier and have an adverse impact on the landscape in this green barrier location contrary to Policy GEN4, L1 and HSG14 c).

6.03 The decision was issued on 16th May and the appellants submitted an appeal to the Welsh Assembly on 11th October 2013. The appeal is to be dealt with by Public Inquiry to be held on 26th February 2014 for 3 days.

6.04 Additional Information

Following the submission of the appeal the appellants have submitted an Addendum Report to the Air Quality Assessment undertaken by Ricardo-AEA. The Addendum Report considers the matters raised by the Head of Public Protection which were set out in the report to committee.

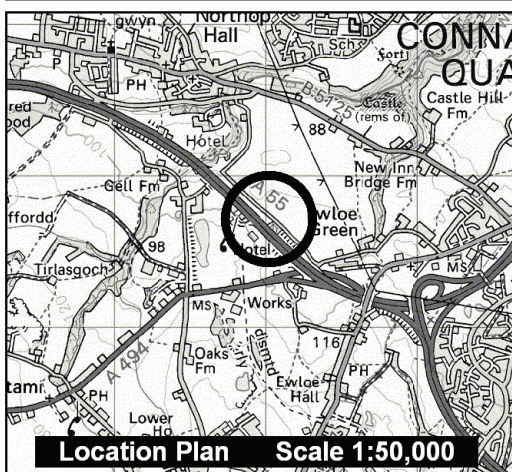
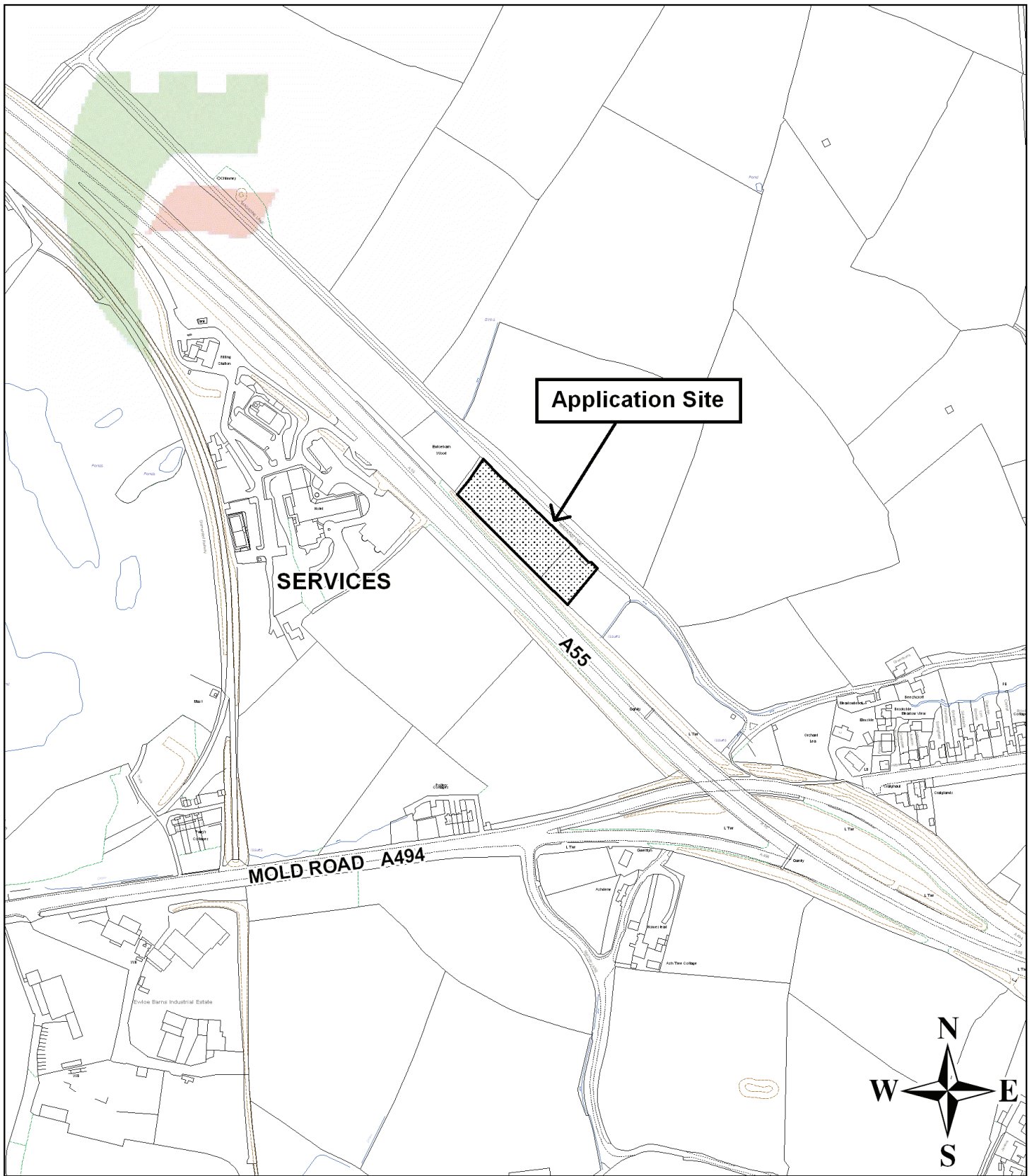
- 6.05 The Head of Public Protections main concerns in respect of air pollution were;
- i. The submitted air quality report shows that there is a likelihood that the air quality with regard to nitrogen dioxide and particulates PM10 will be within the current standards. However, there is additional evidence in the form of a new report from The World Health Organization "Review of evidence on health aspects of air pollution – REVIHAAP" 2013 which questions the levels permitted within the current standards.
 - ii. The applicant's Air Quality Assessment does not take account of particulates PM2.5 and other pollutants such as PAH's, ozone etc. These pollutants have been increasingly studied because of serious concerns they may be having on the health of people living close to such sources. It is not known if these pollutants have been assessed at this location and that the potential risks associated with them have been fully investigated with reference to the proposed residential use.
- 6.06 With regard to the first matter the Addendum Report Ricardo-AEA understands that the review of the Air Quality Daughter Directive has started but no firm proposals have been made to amend the requirements of the current Air Quality Daughter Directive. The World Health Organisation report referred to in the planning report is part of the review process.
- 6.07 With regard to the second matter the Addendum Report considers National Air Quality objectives with regard to ozone, Pm2.5's, black smoke and PAH and the likely levels and implications for residents on the application site.
- 6.08 The report also refers to other residential developments within a similar proximity to the A55 in other areas of Flintshire and refers to the fact that none of these areas have been declared air quality management areas under current guidance.
- 6.09 The report also makes reference to that there is at present no obligation on local authorities to assess or manage any of the additional pollutants referred to by the planning authority in the response by Public Protection. Consequently, there is normally not a requirement on a developer to carry out an assessment of these substances in relation to a proposed residential development.
- 6.10 Conclusions
The applicant has assessed the issues raised by the planning authority. The assessment shows that none of the additional pollutants identified are likely to cause harm to the residents of the application site and any pollutants present are within current guidelines.

6.11 The Head of Public Protection has reviewed the Air Quality Assessment Addendum Report and concedes that pollutants at the site are within current air quality standards and that whilst there is a review of the standards under way there are no proposals at present to alter these standards in the immediate future. The addendum report has also assessed the other matters raised previously by the Head of Public Protection. It is therefore considered that the additional information submitted overcomes the Council's concerns on both matters.

7.00 RECOMMENDATIONS

7.01 To withdraw reason for refusal (2) relating to air pollution and the impacts of road traffic pollutants on the health of the site occupants and not to pursue this reason at the forthcoming appeal against the refusal of planning permission.

Contact Officer: Emma Hancock
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Email: emma.hancock@flintshire.gov.uk

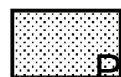


Environment Directorate,
Flintshire County Council, County Hall,
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Director: Mr. Carl Longland

Legend



Adopted Flintshire Unitary
Development Plan
Settlement Boundary



Application Site Extent

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Map Scale 1:5000

OS Map ref SJ 2866

Planning Application **50463**

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FLINTSHIRE COUNTY COUNCIL

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

DATE: **15TH JANUARY 2014**

REPORT BY: **HEAD OF PLANNING**

SUBJECT: **APPEAL BY MR. J.P. CARR AGAINST THE DECISION OF FLINTSHIRE COUNTY COUNCIL TO REFUSE PLANNING PERMISSION FOR THE ERECTION OF FOUR DWELLINGS AT LAND ADJACENT TO NO. 1 PAPERMILL COTTAGES, PAPERMILL LANE, OAKENHOLT, FLINT.**

1.00 APPLICATION NUMBER

1.01 **050243**

2.00 APPLICANT

2.01 **MR. J.P. CARR**

3.00 SITE

3.01 **LAND ADJACENT TO NO. 1 PAPERMILL COTTAGES, PAPERMILL LANE, OAKENHOLT, FLINT.**

4.00 APPLICATION VALID DATE

4.01 **29TH NOVEMBER 2012**

5.00 PURPOSE OF REPORT

5.01 To inform Members of the Inspector's decision in relation to an appeal against the refusal of planning permission for the erection of four dwellings on land adjacent to 1 Papermill Cottages, Papermill Lane, Oakenholt, Flint. The application was refused under delegated powers on 23rd January 2013. The appeal was held by way of an informal hearing and a site visit. The appeal was DISMISSED.

6.00 REPORT

6.01 **Background**

Members will recall that a similar application – 047797 was refused on 27th June 2011 and appeal dismissed on 6th January 2012.

6.02 Issues

The Inspector considered that the main issues were the principle of the development in planning policy terms, the effects of the proposal upon the openness of the green barrier, the effects upon the character and appearance of the site and surrounding area and whether or not there were any exceptional circumstances which would outweigh the harm such development would have upon the green barrier.

6.03 Principle of Development

The development site lies outside of any recognised settlements and within green barrier as detailed within the Flintshire Unitary Development Plan. As such, development proposals outside settlement boundaries will be permitted if it is one of a limited number of exceptions. The only exception that the appellant relied upon was for affordable housing exception schemes adjoining existing villages in accordance with Policy HSG11. Similarly, development within the green barrier will only be permitted if it is an affordable housing exception scheme with Policy HSG11.

6.04 Policy HSG11 explains that outside settlement boundaries, proposals to develop affordable housing in rural areas will be permitted where, amongst other things, there is evidence of a genuine local need. It was agreed that it was likely that there were such a need. However, affordable housing schemes must abut settlement boundaries. The appellant agreed that the scheme did not abut a settlement boundary. However, the appellant referred to paragraph 11.78 of the UDP.

“For the purposes of this policy, “villages” are those Category B & C settlements that lie within Flintshire’s rural area as defined by Flintshire’ Cadwyn Leader+ area and/or the area defined under the Article 33 Rural Areas Initiative maintained by the Welsh Government”.

6.04 The appellant considered that the site fell within an area that was formerly an Article 33 Rural Areas Initiative.

6.05 The Inspector considered that those villages which are Category B or C settlements within the area specified could benefit from affordable housing exception schemes. Oakenholt is not one of these settlements – it is a group of dwellings within the open countryside.

6.06 Due to the reasons above, the Inspector considered that the proposal did not comply with Policy HSG11.

6.07 Planning Policy Wales (PPW) explains that there is a general presumption against inappropriate development in the green barrier. The construction of new buildings in the green barrier is inappropriate development unless it is for one of a number of specified purposes. One of the purposes is affordable housing for local needs. For the

reasons above, the proposal does not accord with the UDP's policies for affordable housing.

6.08 The Inspector considered that the proposals did not amount to sensitive infilling. It would extend built development in the open countryside. Further, it was considered, it would not in visual terms look like the filling in of a small gap. Further still, the Inspector considered that it would not amount to a minor extension to Papermill Cottages – it would amount to a 40% increase in the group.

6.09 Openness of Green Barrier

There is a semi-derelict building on the site that would be removed as part of the proposal. However, the appellant agreed with the Inspector that it was inevitable that the proposal would impact on the openness of the green barrier. There would be a loss of open undeveloped land.

6.10 Character and Appearance of Site and Area

The Inspector was of the view that the proposal would completely change the character and appearance of the site. Not only would the new buildings dominate the site but it would be inevitable that other activities including the parking of cars and the placing of ancillary domestic paraphernalia on the site would occur. The proposal would result in encroachment into the countryside. It was concluded that the proposal would materially harm the existing character and appearance of the site and surrounding area.

6.11 Exceptional Circumstances

The appellant put forward the following considerations which were considered amounted to exceptional circumstances.

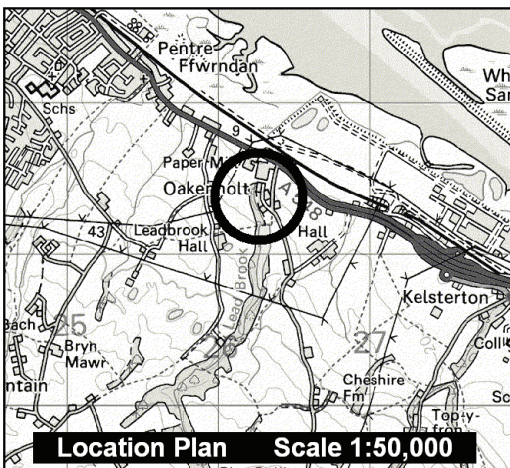
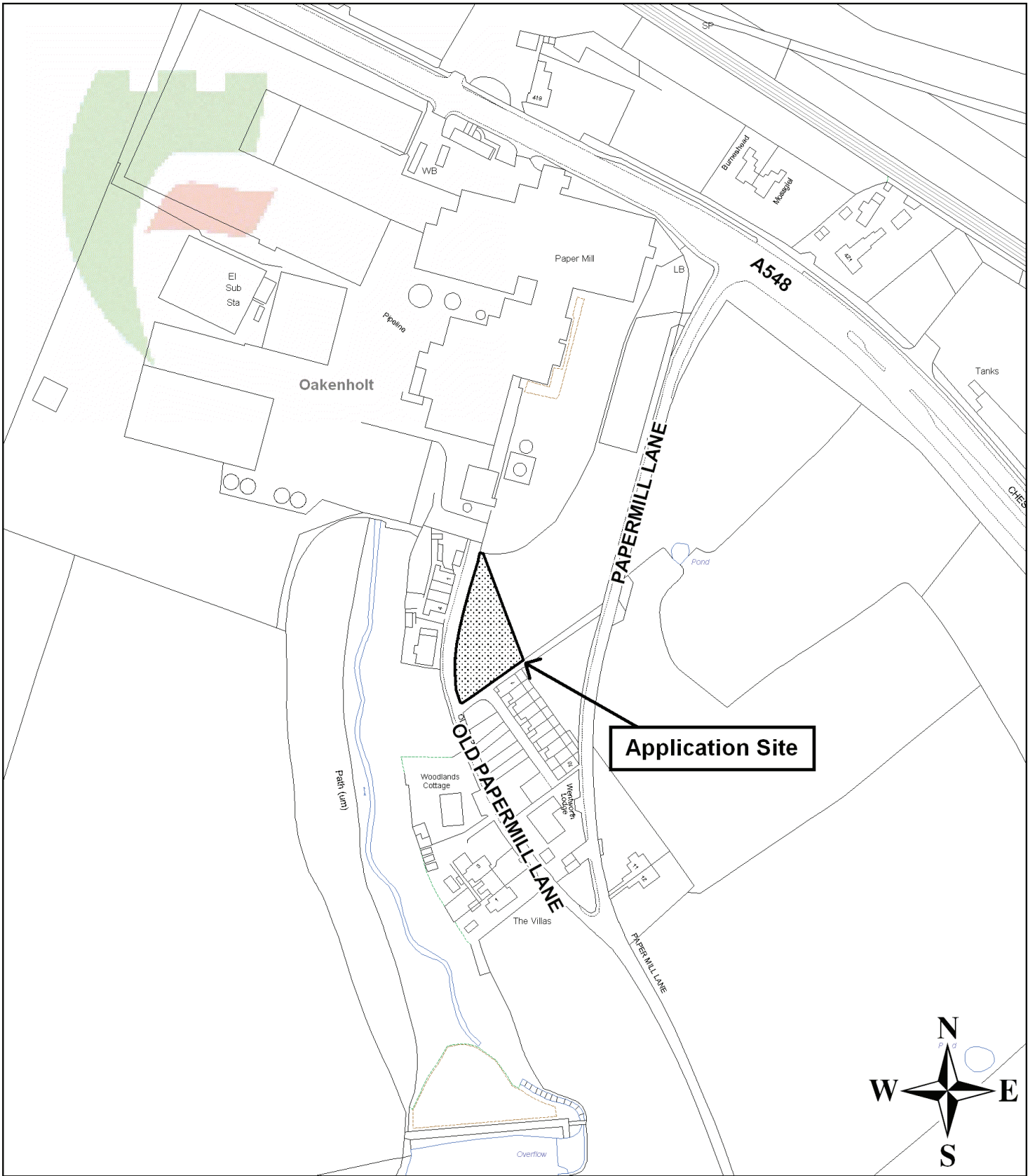
1. Need for affordable housing.
2. Oakenholt is in the top 10% in the whole of Wales for housing deprivation.
3. Affordable housing would be implemented at an early date following planning permission.
4. Amount of people on the Council's waiting list for affordable housing have increased over recent years and the proposal would to a limited extent reduce that demand.
5. The proposal is supported by the Council's Housing Strategy Team.

The Inspector, however, did not consider that the matters above did not amount to very exceptional circumstances which outweighed the harm caused to the green barrier.

7.00 CONCLUSION

7.01 For the above reasons, the Inspector DISMISSED the appeal.

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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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OS Map ref SJ 2671

Planning Application **50243**

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FLINTSHIRE COUNTY COUNCIL

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

DATE: **15TH JANUARY 2014**

REPORT BY: **HEAD OF PLANNING**

SUBJECT: **APPEAL BY MR. ANDREW CROSTON AGAINST THE DECISION OF FLINTSHIRE COUNTY COUNCIL TO REFUSE PLANNING PERMISSION FOR THE ERECTION OF 2, TWO BEDROOMED SEMI-DETACHED DWELLINGS WITH PARKING TO FRONT AND REAR AT LAND OFF FERN LEIGH, BROOK STREET, BUCKLEY.**

1.00 APPLICATION NUMBER

1.01 **050291**

2.00 APPLICANT

2.01 **MR. ANDREW CROSTON**

3.00 SITE

3.01 **LAND OFF FERN LEIGH,
BROOK STREET,
BUCKLEY.**

4.00 APPLICATION VALID DATE

4.01 **19TH DECEMBER 2012**

5.00 PURPOSE OF REPORT

5.01 To inform Members of the Inspector's decision in relation to an appeal into the refusal of planning permission for the erection of 2 No. two bedroom semi-detached dwellings with parking to front and rear at land off Fern Leigh, Brook Street, Buckley. The application was reported to the Planning & Development Committee on 20th March 2013 whereby it was refused contrary to officer recommendation. The appeal was determined by way of written representations and a site visit. The appeal was ALLOWED with conditions.

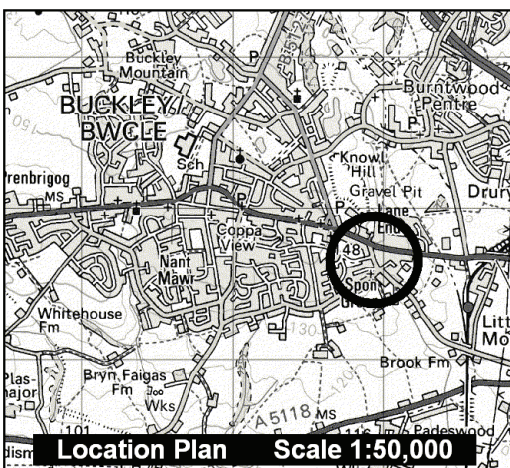
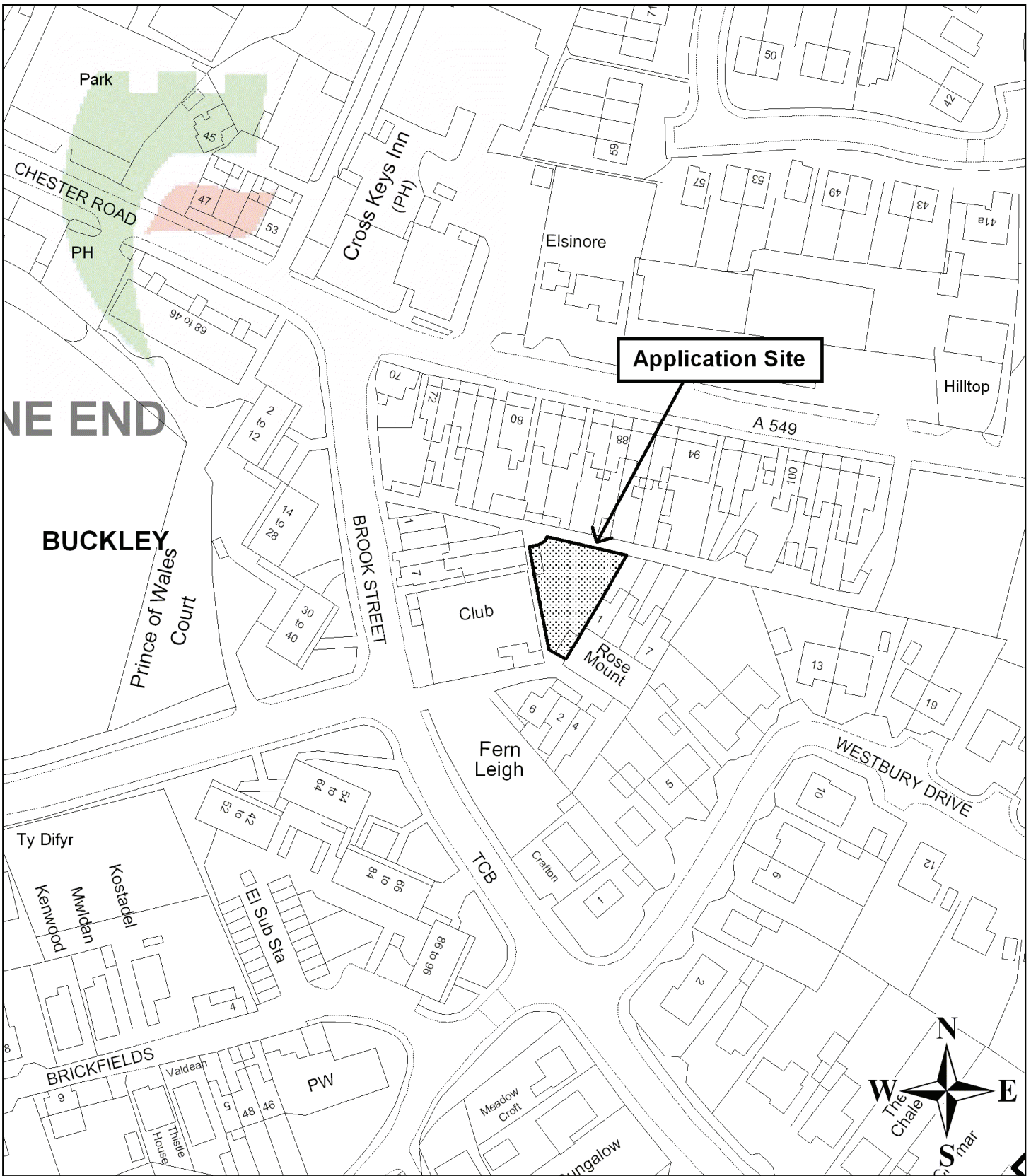
6.00 REPORT

- 6.01 Issues
The Inspector considered that the main issues were the effects upon the character and appearance of the area, the living conditions of the occupiers of the neighbouring properties and the proposed dwellings with particular regard to privacy and on highway and pedestrian safety arising from the proposed access arrangements.
- 6.02 Character and Appearance of Area
As the appeal site is within a densely developed part of Buckley, the Inspector considered that the scheme would not harm the character and appearance of the area.
- 6.03 Effects Upon Existing and Proposed Occupiers
The Council argue that the proposals failed to meet the separation distances between the dwellings in the Local Planning Guidance 'Space Around Dwellings'.
- 6.04 The Inspector noted that this guidance note has not been adopted by the Council, it predates the UDP and there is no indication that it has been the subject of public consultation. In such circumstances it carries limited weight. Nevertheless, the Inspector did not consider that the proposals failed to provide adequate separation distances. It was therefore concluded they would not result in an unacceptable loss of privacy to the existing and proposed occupiers.
- 6.05 Highways
The scheme would provide a parking space at the front and rear of each dwelling with an additional space for No. 6 Fern Leigh. The Inspector considered that the small increase in traffic movements would not be detrimental to highway safety. Drivers would have a clear view of any pedestrians using the access and did not consider pedestrian safety would be compromised.

7.00 CONCLUSION

- 7.01 It was considered by the Inspector that for the reasons above the proposal would not harm the character and appearance of the surrounding area, the living conditions of the occupiers of the proposed and existing dwellings and, highway and pedestrian safety. Therefore, the appeal as ALLOWED subject to conditions.

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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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OS Map ref SJ 2863

Planning Application 50291

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FLINTSHIRE COUNTY COUNCIL

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

DATE: **15TH JANUARY 2014**

REPORT BY: **HEAD OF PLANNING**

SUBJECT: **APPEAL BY MR. J WILLIAMS AGAINST THE DECISION OF FLINTSHIRE COUNTY COUNCIL TO REFUSE PLANNING PERMISSION FOR THE ERECTION FOR A RESIDENTIAL DEVELOPMENT OF 4NO 2 BEDROOM APARTMENTS AND 3 NO 1 BEDROOM APARTMENTS AND ASSOCIATED COVERED PARKING AT LAND OFF RECTORS LANE, PENTRE MANCOT**

1.00 APPLICATION NUMBER

1.01 050531

2.00 APPLICANT

2.01 MR J WILLIAMS

3.00 SITE

3.01 LAND OFF RECTORS LANE, PENTRE, SANDYCROFT

4.00 APPLICATION VALID DATE

4.01 20.02.13

5.00 PURPOSE OF REPORT

5.01 To inform Members of the Inspectors decision in relation to an appeal into the refusal of planning permission for the erection of 4no 2 bedroom apartments and 3no 1 bedroom apartments at land off Rectors Lane, Mancot, Sandycroft. The application was refused by Planning and Development Control Committee on 24th July 2013 contrary to officer recommendation. The appeal was dealt with by an Informal Hearing held on 19th November 2013 and was DISMISSED.

6.00 REPORT

6.01 Issues

The Inspector considered that the main issue was the effect the

proposal would have on the amenity of occupiers of nearby dwellings with particular regard to overlooking and, on the street scene.

Principle of development

- 6.02 The Inspector noted that the appeal site is within the Pentre settlement boundary as defined in the Flintshire Unitary Development Plan [UDP]. As a category B settlement, as defined in UDP Policy HSG3, growth of 15% is permitted in the settlement. To date the growth over the relevant period has been some 0.5% and the principle of residential development on this unallocated site would be in keeping with this policy.
- 6.03 The Inspector also noted that the appeal site is within a Zone C1 area and it is common ground that the proposal satisfies the justification tests and the criteria relating to flooding consequences set out in Technical Advice Note 15 "Development and Flood Risk".
- 6.04 Living Conditions
The Inspector observed that the appeal site is adjacent to a pair of semi-detached houses to the south which front onto Church View. A terrace of two storey houses with long rear gardens is to the east of these houses. The rear garden of 7 Church View extends along the length of the south eastern boundary of the appeal site. In order to provide a flood free living environment and a safe refuge all living accommodation would be located on the first and second floors. The rear elevation would include windows serving nine bedrooms at first and second floor levels. The rear elevation of the apartments would be only some 6 metres from the common boundary with the rear garden of 7 Church View. Although there would be no direct overlooking from those windows into the habitable rooms of the existing dwellings along Church View they would have a clear view over the rear garden of No 7 and other gardens beyond.
- 6.05 The Inspector referred to the Council's Local Planning Guidance Note No. 2 'Space Around Dwellings' which sets out minimum separation distances between buildings. He noted that the distance between the windowless flank wall of the proposed two storey element relative to the rear elevation of 3 and 5 Church View would satisfy these guidelines.
- 6.06 The Inspector considered that the appellant is correct to argue that the proposal would comply with the Council's guidelines. However, the guidelines only relate to dwellings up to two storeys and are silent on separation distances between any building and adjoining private gardens. The guidelines state that proposals for taller buildings will be considered on their merits.
- 6.07 In considering the relationship between the proposal and the rear gardens the Inspector acknowledged that the Officer Report indicates that it is not an unusual situation to have views into private gardens in

urban areas. However, he considered that the enjoyment of the users of the rear gardens, particularly No 7 Church View, would be unacceptably compromised as a result of the proximity of these first and second floor windows. The overlooking would extend along virtually the whole length of the rear garden and the users of that garden and others beyond would have no privacy.

6.08 Since the proposed habitable rooms would be at first and second floor level the Inspector did not consider reasonable screening could be provided along the site boundary to safeguard the privacy of the users of the adjoining rear gardens. It would take many years for any planting to take effect and he did not consider this would provide an acceptable solution.

6.09 For the above reasons the Inspector concluded that that the proposal would have an unacceptable impact on the living conditions of the occupiers of nearby dwellings and the unacceptable layout would be contrary to UDP Policy GEN1.

6.10 Street Scene

The Inspector noted that the character of the street scene along Rectors Lane is dominated by the industrial units of various sizes to the north and west of the appeal site. He stated that with the exception of a large plant further along Rectors Lane these industrial units have a generally low profile. The proposed two storey element nearest to the two storey dwellings along Church View would be in keeping with the scale of the neighbouring dwellings. He did not consider the scale of the three storey element would cause unacceptable harm in the street scene.

6.11 Costs Application

The appellant sought a full award of costs as the appellant considered the Council acted unreasonably in refusing the planning application. As the Inspector found that the proposal would be unacceptable due to the overlooking of adjoining garden areas, in these circumstances he did not consider the Council behaved unreasonably in refusing the application. Whilst the Inspector found in favour of the appellant with regard to the impact on the street scene he was satisfied that the Council produced appropriate evidence to substantiate those grounds of refusal. He therefore concluded that an award of costs was not justified.

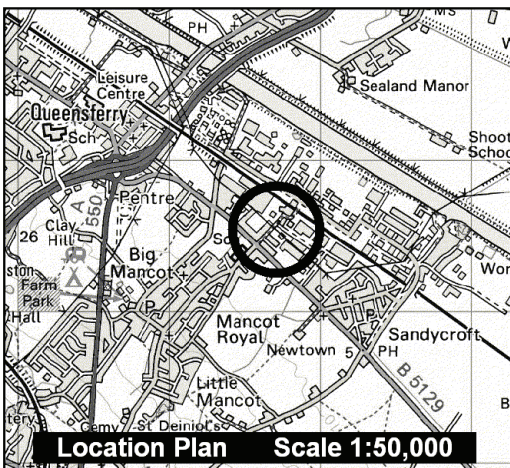
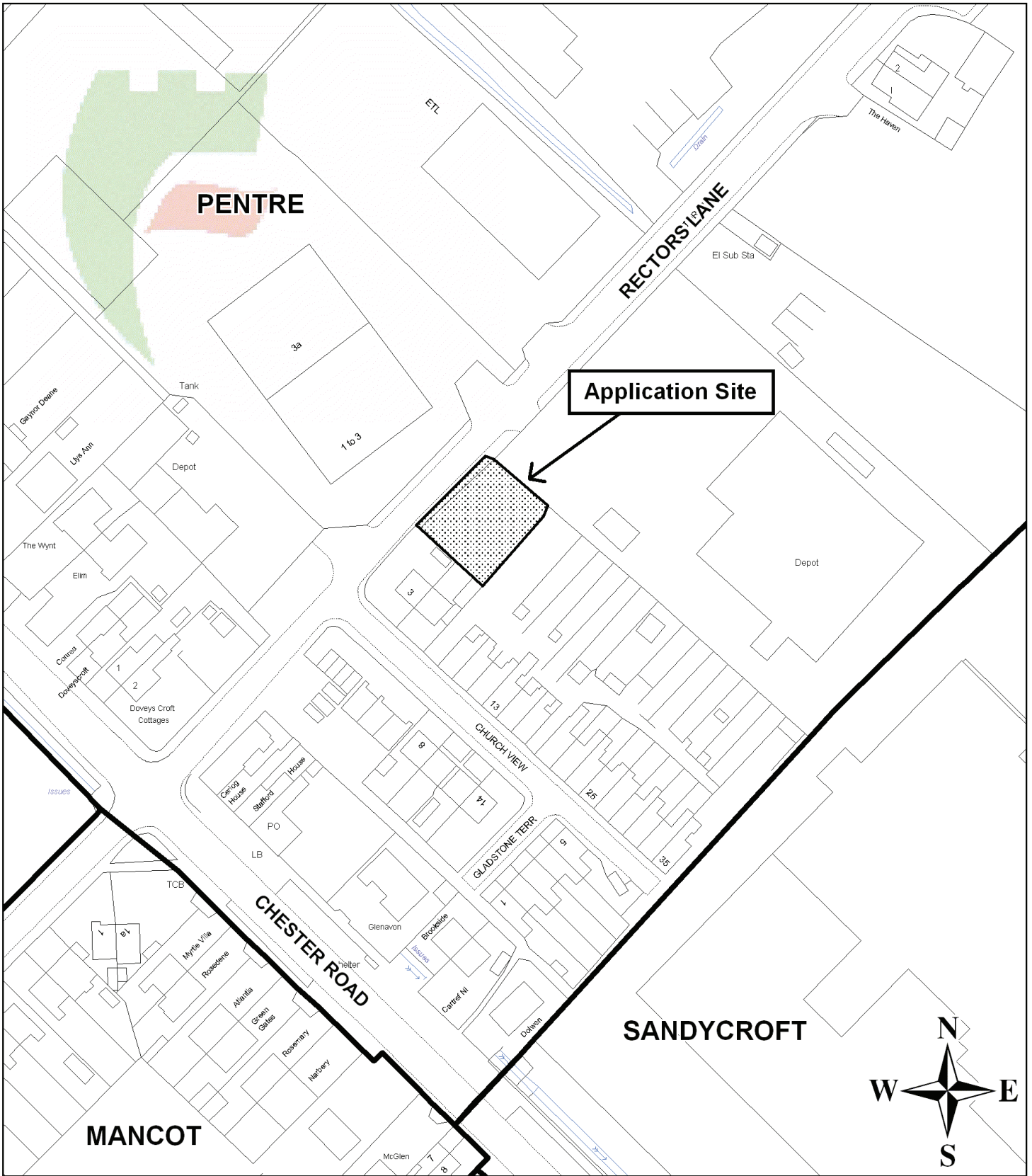
7.00 CONCLUSION

7.01 For the above reasons the Inspector concluded that although he found in favour of the appellant on the matter of the impact on the street scene issue, it does not outweigh the unacceptable harm to living conditions identified above and DISMISSED the appeal.

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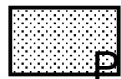


Environment Directorate,
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Application Site Extent

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Planning Application **50531**

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