

# Public Document Pack

Gareth Owens LL.B Barrister/Bargyfreithiwr  
Chief Officer (Governance)  
Prif Swyddog (Llywodraethu)



To: Cllr David Wisinger (Chair)

CS/NG

Councillors: Marion Bateman, Chris Bithell,  
Derek Butler, David Cox, Ian Dunbar, Carol Ellis,  
David Evans, Alison Halford, Ray Hughes,  
Christine Jones, Richard Jones, Richard Lloyd,  
Billy Mullin, Mike Peers, Neville Phillips,  
Mike Reece, Gareth Roberts, David Roney,  
Carolyn Thomas and Owen Thomas

9 December 2014

Tracy Waters 01352 702331  
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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, 17TH DECEMBER, 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 - 34)

To confirm as a correct record the minutes of the meeting held on 29<sup>th</sup> October and 12<sup>th</sup> November 2014.

- 5 **ITEMS TO BE DEFERRED**

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

6 **PLANNING APPLICATION 052369 BY ALDI STORES LIMITED FOR FOOD STORE AT BROUGHTON SHOPPING PARK** (Pages 35 - 58)

Report of Chief Officer (Governance) enclosed.

7 **REPORTS OF CHIEF OFFICER (PLANNING AND ENVIRONMENT)**

The report of the Chief Officer (Planning and Environment) is enclosed.

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

The following item is considered to be exempt by virtue of Paragraph 16 of Part 4 of Schedule 12A of the Local Government Act 1972 (as amended).

8 **APPEAL BY ANWYL CONSTRUCTION COMPANY LIMITED IN RESPECT OF LAND AT OLD HALL ROAD/GREEN HILL AVENUE, HAWARDEN**(Pages 159 - 166)

Report of Chief Officer (Governance) and Chief Officer (Planning and Environment).

**REPORT OF CHIEF OFFICER (PLANNING AND ENVIRONMENT)**  
**TO PLANNING AND DEVELOPMENT CONTROL COMMITTEE ON**  
**17 DECEMBER 2014**

Item No	File Reference	DESCRIPTION
<b><u>Applications reported for determination (A=reported for approval, R=reported for refusal)</u></b>		
7.1	052369	052369 - General Matters - Full Application for a Foodstore (Use Class A1) and 5 Three Bedroom Affordable Houses (Use Class C3) with Associated Car Parking, Access, Servicing and Landscaping at Broughton Shopping Park, Broughton (Pages 59 - 64)
7.2	052377 - A	052377 - A - Outline Application - Proposed Re-Development for the Erection of 12 Dwellings Including Deolition of Existing Outbuildings and Creation of Nw Access at Bank Farm, Lower Mountain Road, Penyffordd. (Pages 65 - 84)
7.3	052570 - A	052570 - A - Full Application - Residential Development to Provide 10 No. Two Bedroom Apartments and 4 No. One Bedroom Apartments and Associated Parking at New Inn, Station Road, Sandycroft. (Pages 85 - 96)
7.4	052645 - R	052645 - R - Full Application - Change of Use of the Sundawn Garden Centre to a Plant Hire Depot, Including the Demolition of the Existing Garden Centre Buildings, the Erection of a Workshop Building and the Conversion of the Teapot Cafe for Use as Ancillary Office Accommodation at Teapot Cafe & Sundawn Garden Centre, Llwybr Hir, Caerwys (Pages 97 - 110)
7.5	052803 - A	052803 - A - Full Application - Erection of Office (B1) and Storage (B8) Building with Associated Landscaping and Parking at Vista, St. David's Park, Ewloe. (Pages 111 - 122)
7.6	052599 - A	052599 - A - Renewal of Outline Planning Permission 046362 to Allow Residential Development at Former Laura Ashley Unit, Pontybodkin Hill, Leeswood (Pages 123 - 130)
7.7	052406 - A	052406 - A - Full Application - Erection of 4 Dwellings. (i) Substitution of House Type on Previously Approved Phase 1 Plot 38; (ii) Substitution of Sub-Station with Additional Dwellings; (iii) Erection of 2 Dwellings (Re-Plan of Plots 19 & 20 Phase 2) at Cae Eithin, Village Road, Northop Hall. (Pages 131 - 138)
7.8	052429 - A	052429 - A - Removal of Condition No. 6 Attached to Planning Permission Ref: 048032 as Amended by Planning Permission Ref: 030805 at Overlea Drive, Hawwarden. (Pages 139 - 146)
7.9	045999	045999 - General Matters - Proposed Amendment to Section 106 Agreement - Morrison's Supermarket, High Street, Saltney (Pages 147 - 152)

Item No	File Reference	DESCRIPTION
<b><u>Appeal Decision</u></b>		
7.10	051948	051948 - Appeal by Notemachine Against the Decision of Flintshire County Council to Refuse Planning Permission for the Installation of an ATM at 18 High Street, Mold - DISMISSED. (Pages 153 - 158)

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## **PLANNING AND DEVELOPMENT CONTROL COMMITTEE** **29 OCTOBER 2014**

Minutes of the meeting of the Planning and Development Control Committee of the Flintshire County Council held at County Hall, Mold on Wednesday, 29 October 2014

### **PRESENT: Councillor David Wisinger (Chairman)**

Councillors: Marion Bateman, Chris Bithell, Derek Butler, Ian Dunbar, Carol Ellis, David Evans, Alison Halford, Ray Hughes, Christine Jones, Richard Jones, Mike Peers, Neville Phillips, Mike Reece, Gareth Roberts, David Roney and Carolyn Thomas

### **SUBSTITUTIONS:**

Councillor: Mike Lowe for David Cox, Veronica Gay for Richard Lloyd, Ron Hampson for Billy Mullin, and Jim Falshaw for Owen Thomas

### **ALSO PRESENT:**

The following Councillors attended as observers:

Councillors: Bernie Attridge, Haydn Bateman, Brian Lloyd, Richard Lloyd and Owen Thomas

### **IN ATTENDANCE:**

Chief Officer (Planning and Environment), Development Manager, Planning Strategy Manager, Senior Engineer - Highways Development Control, Senior Planner, Planning Support Officer, Democracy & Governance Manager and Committee Officer

## **74. DECLARATIONS OF INTEREST**

Councillor Christine Jones indicated that she had been granted dispensation by the Standards Committee to speak and vote on the following application. She declared a personal and prejudicial interest because a family member was an undertaker.

In line with the Planning Code of Practice:-

Councillor Marion Bateman declared that she had been contacted on more than four occasions on the application.

## **75. LATE OBSERVATIONS**

The Chief Officer (Planning and Environment) advised those present that in addition to the late observations sheet, amendments to the report and a letter from Welsh Government (WG) had been circulated. He explained that the letter from WG indicated that if the application was approved at this meeting, then a decision notice could not be issued until WG had taken a view on the application. The letter did not prevent either consideration of the application at this meeting or a decision of refusal of the proposal.

Councillor Chris Bithell queried whether this meeting should continue as any decision to approve the application would be taken out of the hands of the Planning Authority. The Democracy and Governance Manager confirmed that the debate and determination of the application should take place and reiterated that a decision notice would only not be issued if the application was approved pending a decision by WG whether to call in the application.

Councillor Richard Jones queried who had contacted WG and why they had done so before the meeting had taken place. Councillor Mike Peers raised concern about the letter and asked if any officers had requested that a decision of approval be called in; he felt that the letter undermined the Committee determination. The Chief Officer (Planning and Environment) advised that the request had not been made by officers and added that he had only received the letter after the Committee had left for the site visit.

In response to a query from Councillor Carol Ellis about whether the application should be deferred, the Democracy and Governance Manager said that there was no legal reason to defer but that this could be considered by the Committee if they felt that there was a planning reason for doing so such as another application for a similar proposal being processed.

Councillor Gareth Roberts raised concern that WG had been contacted prior to the determination of the proposal which he felt was unusual. He felt that the letter was a further move to undermine the democratic process. Councillor Alison Halford concurred and said that it took away the Committee's power to decide. Following further remarks from Councillor Richard Jones about the letter from WG, the Democracy and Governance Manager reiterated his earlier comments that the decision notice could not be issued only if it was resolved to approve the application at this meeting.

**76. FULL APPLICATION – ERECTION OF A CREMATORIUM WITH ASSOCIATED CAR PARKING, NEW ACCESS, LANDSCAPING AND GARDEN OF REST ON LAND EAST OF A5119 AND SOUTH OF TYDDYN STARKEY, STARKEY LANE, NORTHOP (051043)**

The Committee considered the report of the Chief Officer (Planning and Environment) in respect of this application which had been the subject of a site visit earlier that day. 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 site covered approximately 4.1 hectares of existing agricultural land and was within the Green Barrier and open countryside. Paragraph 7.13 reported that independent consultants with experience of dealing with crematoria applications had been commissioned to appraise various aspects of the proposal. It had been identified that the need for a crematorium in Flintshire existed but given that the site was in the Green Barrier, exceptional circumstances would be needed to support approval of the application. The officer referred to paragraphs 7.31 to 7.34 on site selection where it was

reported that there must be sufficient evidence that alternative sites not in the Green Barrier had been considered before the Authority could be reasonably satisfied that very exceptional circumstances existed to justify granting planning permission on a site in the Green Barrier. It was the view of officers that this evidence did not exist and the recommendation was therefore for refusal of the application.

Mr. S. Jones, representing the Northop No Crem Group, spoke against the application. He said that the Planning Authority could not be satisfied that no suitable alternative site existed and he therefore felt that the application should be refused. As an application for a similar development had been submitted, Mr. Jones felt that this proposal was premature. He reminded the Committee that the applicant had been able to appeal on the grounds of non-determination of the application but had chosen not to do so. Mr. Jones referred to an appeal, which had been dismissed, on land in the Vale of Glamorgan which related to development of a crematorium on land within a Green Barrier. In this case the Inspector had not been satisfied that there were no other suitable sites outside the Green Barrier/Green Wedge. Mr. Jones highlighted the comments of the consultants on the approach taken by the applicant to reduce the number of sites from 23 to eight and that the assessment was flawed as it had been undertaken after the application to show that the site selected was the most suitable. He added that the proposal did not accord with any planning exemptions to allow development in the Green Barrier. Mr. Jones concluded by asking Members to refuse the application.

Mr. J. Williams, the agent for the applicant, spoke in support of the application and detailed the background to the proposal. He explained that additional information had been requested by the Planning Authority in December 2013 and it had been confirmed that the alternative sites assessment had been received in February 2014. This needed to be considered along with land quality and any constraints on the site. Mr. Williams said that the application was due to be submitted to the Committee earlier in the year but had been deferred. He referred to issues of highway safety, ecology and drainage. He said that the application was not premature as the alternative site assessment had included, and discounted, the other site referred to in the report at Oakenholt Lane/Kelsterton Lane. Mr. Williams commented on the appeal decisions highlighted in the report which he felt were not relevant to determination of this application. He said that the need for a crematorium had been identified and this was the optimum location for the proposal and, in his view, this was the exceptional circumstance to allow the application to be permitted. In conclusion, he said that information had been provided that the alternative site had been considered and that this site was in the best location and should therefore be approved.

Councillor Marion Bateman proposed the recommendation for refusal which was duly seconded. Councillor Bateman referred to the letter from WG and said that she had been asked by residents to approach WG because of concerns that had been raised. She was not against the principle of a crematorium in her ward and said that the need had been established but the

reason for her proposal of refusal was due to the non-compliance with the Council's Unitary Development Plan (UDP) policies. She said that only 18 areas of Green Barrier existed in Flintshire and these were designed to protect key areas and were intended to survive beyond the plan period. Councillor Bateman referred to, and quoted from, paragraphs 4.13, 4.14 and 4.17 of the UDP on whether proposals in the Green Barrier were justified and necessary and whether essential facilities in relation to built development of crematoriums would cause unacceptable harm to the Green Barrier. She raised concern that the proposed car park for 70 vehicles would be provided on the Green Barrier and commented on the use of grade 3a agricultural land for the proposal when the UDP Policy GEN4 was intended to protect such land. Councillor Bateman highlighted paragraph 7.35 where the comments of the consultant on the site selection were reported.

Councillor Derek Butler said that there was a need for the crematorium but it was important to choose the best site for Flintshire and this application alone did not provide an opportunity for that. He highlighted the comments in paragraph 7.37 that the site analysis undertaken by the applicant had discounted the alternative site in Oakenholt Lane/Kelsterton Lane due to perceived issues with mine shafts, traffic movements and ecological concerns. He felt that the appraisal by the applicant bolstered up the application in retrospect and was subjective and suggested that a sequential site search exercise should have been undertaken beforehand.

In referring to policies GEN3 and GEN4, Councillor Richard Jones concurred that the site selection assessment was subjective. He detailed each of the main issues raised in paragraph 7.12 and, in highlighting paragraphs 7.31 to 7.36 on site selection, said that the consultants had concluded that the proposed site could be considered to be an optimum location due to it being adjacent to the A55. He felt that the site selection had been undertaken correctly and that this had been acknowledged by the consultants, Peter Brett Associates. Councillor Jones said that there was sufficient information to approve the application and he would therefore be voting against refusal of the proposal.

Councillor Mike Peers said that there was no doubt that the site was in the Green Barrier and referred to Planning Policy Wales guidance which highlighted the circumstances in which construction of new buildings in the Green Barrier was considered appropriate. As no reference had been made to crematoria in the guidance, it had been concluded that this proposal would be inappropriate development in the Green Barrier. However, it was also reported that if there were very exceptional circumstances where other considerations outweighed the harm which such development would cause to the Green Barrier, planning permission could be granted. Paragraph 7.30 reported that the need for a crematorium could demonstrate very exceptional circumstances. Councillor Peers felt that there was insufficient evidence that alternative sites not in the Green Barrier had been considered. He commented on the decision of the Inspector on the appeal on land within the Vale of Glamorgan and said that the officer had taken a similar view that he



could not be reasonably satisfied that there were no suitable alternative sites outside the Green Barrier.

Councillor Chris Bithell referred to the sensitive nature of funerals which would render industrial areas/brownfield land inappropriate. It was reported that essential facilities for cemeteries could be considered appropriate development in Green Barriers and he queried the difference between buildings needed for cemeteries and crematoria. He commented on the crematorium at Pentre Bychan in Wrexham which was in an appropriate setting in a countryside location in the Green Barrier. Councillor Bithell stated that the site was adjacent to a major trunk road and interchange, not what would be considered as countryside and drew Members' attention to paragraph 7.28 on the Green Barrier designation. He referred to a recent application for a solar farm on Green Barrier land in the countryside which had been approved on officer recommendation.

In supporting the application, Councillor Jim Falshaw commented on concerns of families about the length of time that they had to wait for a cremation. He referred to the number of cremations that took place at Colwyn Bay, Wrexham and Chester crematoria and highlighted the comments in the report about this site being the optimum location for the proposal.

Councillor Ian Dunbar felt that refusal was the correct decision as the proposal was contrary to policies GEN3 and GEN4 as it was in the open countryside and the Green Barrier. He reiterated earlier comments about there not being any exceptional circumstances to allow the proposal on the site and added that it had not been confirmed whether there were any other suitable sites outside the Green Barrier. He also raised concern about the length of time that families had to wait for a time slot for a cremation and said that he would vote with the officer recommendation for refusal as approval could set a precedent for development in the Green Barrier.

Councillor Gareth Roberts commented that the need for a crematorium had been established for years and he referred to the reason for the designation of this area of the Green Barrier to protect a major junction. He highlighted the comment made by the objector that the applicant could have submitted an appeal on the grounds of non-determination but had chosen not to do so.

Councillor Carol Ellis appreciated the need for a crematorium in Flintshire but referred to the comments of the independent consultants who had been commissioned to appraise various aspects of the proposal. She highlighted the officer recommendation that all suitable sites had to be considered and as this site was contrary to the UDP, it should be refused.

Councillor Carolyn Thomas said that Members had decided not to consider both applications at the same meeting but she now felt that this would have been more appropriate. She highlighted paragraph 7.56 where it was reported that the operational development proposed would only take up a small proportion of the site with the remainder being open but enhanced

through extensive landscaping. She felt that this would add to a peaceful environment and added that it was important to have good access links to the site which this proposal provided.

Councillor Alison Halford queried where else a crematorium could be sited in Flintshire if it was not permitted on this site. She felt that there was a need to take a realistic approach and approve the application.

In response to the comments made, the officer said that one of the key issues was the Green Barrier designation. He commented on the application for a site at Oakenholt Lane/Kelsterton Lane and explained that at the Planning Committee meeting held on 8 October 2014, it had been suggested that both applications be considered together but Members had decided only to consider this application at this meeting. As the Planning Authority was not satisfied that no other suitable sites were available outside the Green Barrier, it was felt that this application was premature and therefore recommended for refusal.

The Planning Strategy Manager referred to the Inspector's comments on the appeal in the Vale of Glamorgan, that there was a need to be reasonably satisfied that all suitable alternative sites had been considered, which he felt was a key test in the determination of this application. He said that references to the site at Oakenholt Lane/Kelsterton Lane should not be taken into account when determining this application as that proposal was not before the Committee today.

Councillor Gareth Roberts requested a recorded vote and was supported by the requisite five other Members. On being put to the vote, planning permission was refused by 12 votes to 9 with the voting being as follows:-

#### **FOR – REFUSAL OF THE APPLICATION**

Councillors: Marion Bateman, Derek Butler, Mike Lowe, Ian Dunbar, Carol Ellis, Ray Hughes, Christine Jones, Ron Hampson, Mike Peers, Mike Reece, Jim Falshaw and David Wisinger

#### **AGAINST – REFUSAL OF THE APPLICATION**

Councillors: Chris Bithell, David Evans, Alison Halford, Richard Jones, Veronica Gay, Neville Phillips, Gareth Roberts, David Roney and Carolyn Thomas

#### **RESOLVED:**

That planning permission be refused for the reason detailed in the report of the Chief Officer (Planning and Environment).

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

There were 83 members of the public and 2 members of the press in attendance.

(The meeting started at 2.30 pm and ended at 3.51 pm)

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**Chairman**

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**PLANNING AND DEVELOPMENT CONTROL COMMITTEE**  
**12 NOVEMBER 2014**

Minutes of the meeting of the Planning and Development Control Committee of the Flintshire County Council held at County Hall, Mold on Wednesday, 12 November 2014

**PRESENT: Councillor David Wisinger (Chairman)**

Councillors: Chris Bithell, Derek Butler, David Cox, Ian Dunbar, Carol Ellis, David Evans, Alison Halford, Ray Hughes, Christine Jones, Richard Jones, Richard Lloyd, Mike Peers, Neville Phillips, Mike Reece, Gareth Roberts, David Roney and Owen Thomas

**SUBSTITUTIONS:**

Councillor: Haydn Bateman for Marion Bateman, Mike Lowe for Billy Mullin and Brian Lloyd for Carolyn Thomas

**ALSO PRESENT:**

The following Councillors attended as local Members:-

Councillor Jim Falshaw - agenda item 6.2. Councillor Tim Newhouse - agenda item 6.9. Councillor Clive Carver - agenda item 6.13.

The Chairman exercised his discretion to allow the following Councillors to speak as local Members:

Councillor Ron Hampson – agenda item 6.6. Councillor Nancy Matthews – agenda item 6.11.

Councillor Glyn Banks attended as an observer for part of the meeting.

**IN ATTENDANCE:**

Chief Officer (Planning and Environment), Development Manager, Planning Strategy Manager, Senior Engineer - Highways Development Control, Team Leaders, Senior Planners, Planning Support Officers, Democracy & Governance Manager and Committee Officer

**78. DECLARATIONS OF INTEREST**

Councillor Richard Jones declared a personal and prejudicial interest in the following application because his wife had a florist shop in Buckley:-

**Agenda item 6.1 – Full application – Demolition of the Potter’s Wheel Public House and Erection of 1 No. Foodstore (Use Class A1), associated car parking, access, servicing and landscaping at The Potter’s Wheel, The Precinct Way, Buckley (052590)**

Councillor Christine Jones declared a personal and prejudicial interest in the following application because a family member was an Undertaker. She explained that she had a dispensation from the Standards Committee to speak and vote on the application:-

**Agenda item 6.16 – General Matters – Construction of a new crematorium, associated car park, access road and ancillary**

**works, landscaping, gardens of remembrance and area for natural burials at land at Kelsterton Lane/Oakenholt Lane, Near Northop (052334)**

Councillor Clive Carver declared a personal interest in the following application as he lived on Overlea Drive:-

**Agenda item 6.13 – Removal of Condition No. 6 attached to planning permission Ref: 048032 as amended by planning permission ref: 050805 at Overlea Drive, Hawarden (052429)**

In line with the Planning Code of Practice, the following Councillors declared that they had been contacted on more than three occasions on agenda items 6.1 and 6.5:-

Councillors: Haydn Bateman, Chris Bithell, Derek Butler, David Cox, Ian Dunbar, Carol Ellis, David Evans, Alison Halford, Ray Hughes, Christine Jones, Richard Jones, Brian Lloyd, Richard Lloyd, Mike Lowe, Mike Peers, Neville Phillips, Mike Reece, Gareth Roberts, Owen Thomas and David Wisinger

**Agenda item 6.1 – Full application – Demolition of The Potter’s Wheel Public House and erection of 1 no. foodstore (Use Class A1), associated car parking, access, servicing and landscaping at The Potter’s Wheel, The Precinct Way, Buckley (052590)**

**Agenda item 6.5 – Full application for a foodstore (Use Class A1) and 5 three bedroom affordable houses (Use Class C3) with associated car parking, access, servicing and landscaping at Broughton Shopping Park, Broughton (052369)**

**79. LATE OBSERVATIONS**

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

**80. MINUTES**

The draft minutes of the meeting of the Committee held on 8 October 2014 had been circulated to Members with the agenda.

**RESOLVED:**

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

**81. ITEMS TO BE DEFERRED**

The Chief Officer (Planning and Environment) advised that none of the items on the agenda were recommended for deferral by officers.

**82. FULL APPLICATION – DEMOLITION OF THE POTTER’S WHEEL PUBLIC HOUSE AND ERECTION OF 1 NO. FOODSTORE (USE CLASS A1), ASSOCIATED CAR PARKING, ACCESS, SERVICING AND LANDSCAPING AT THE POTTER’S WHEEL, THE PRECINCT WAY, BUCKLEY (052590)**

The Committee considered the report of the Chief Officer (Planning and Environment) 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 proposal complied with policy and was acceptable in highways terms. He detailed the Section 106 obligation which included a contribution of £50,000 for use in facilitating the implementation of public realm enhancements upon Precinct Way. He referred Members to paragraph 7.22 where the figure for this had been incorrectly reported as £500,000. He was aware of the information that had been submitted by the applicant to Members which implied that there was a link between this site and the application later on the agenda for a site in Broughton. He reminded Members that the proposals were not linked and should be considered separately.

Mr. G. Brown spoke in support of the application. He said that the proposal would improve and regenerate the area and would complement other retail facilities. He commented on the overwhelming support for the proposal at the public consultation event held earlier in the year which highlighted that the community felt that a new supermarket was needed to allow residents to shop locally. The proposal would create 40 new jobs, which would be full and part time, and if approved would bring £5m of investment into Buckley. Mr. Brown spoke of the apprenticeship and graduate schemes which were undertaken by Aldi. The proposal would include an enclosed delivery area to reduce any noise impact on the area. He referred to the application later on the agenda for the site in Broughton and said that it was also proposed that Aldi would provide a third store in Connah’s Quay.

Councillor Richard Jones indicated that as he had declared a personal and prejudicial interest in the application, he would speak for up to three minutes and then leave the chamber. He welcomed the proposal for a new supermarket in Buckley as he felt that appropriate infrastructure was not currently in place for the more than 15,000 residents of Buckley. He felt that the proposal would allow the residents to have a choice to shop locally rather than having to travel to other towns. Councillor Jones, having earlier declared an interest in the application, left the meeting prior to its discussion.

Councillor Carol Ellis proposed the recommendation for approval which was duly seconded. She welcomed the application and said that the Section 106 obligation would enhance the precinct area. There were no highway

issues and the application complied with national and local policy. She urged the Committee to approve the proposal.

Councillor Chris Bithell was pleased to second the application which was in the core retail area and within the settlement boundary and added that the development was urgently needed in Buckley. Councillor Mike Peers also welcomed the proposal and spoke of a Town and Community Council meeting where concerns about issues of shopping in Buckley had been raised. The proposal complied with policy and would provide competition to other retailers in the area and was fully supported by local residents. He urged the applicant to deliver on the promise to open a store in Buckley. Councillor Owen Thomas sought clarification on whether there would be a time restriction on parking in the Aldi car park as there was at the Mold store. Councillor Derek Butler said that the officer had indicated that this application and the application in Broughton were not linked but the applicant had indicated otherwise. He queried whether Aldi had purchased the site in Buckley.

In response to the comments made and questions raised, the officer said that the parking would be restricted to 1.5 hours at the proposed site. He confirmed that the proposal was not linked to any others on the agenda and that each application should be considered on its own merits. He advised that it had been indicated that Aldi did not own the site. The Democracy & Governance Manager reiterated the comment that the applications were not linked.

#### **RESOLVED:**

That planning permission be granted subject to the conditions detailed in the report of the Chief Officer (Planning and Environment) and subject to the applicant entering into a Section 106 obligation/unilateral undertaking to provide the following:-

1. The payment of a contribution of £50,000 to the Council for use in facilitating the implementation of public realm enhancements upon Precinct Way. Such sum to be paid to the Council upon commencement of the development.
2. The payment of £4000 towards the review of existing Traffic Regulation Orders and the implementation of amended orders.

If the obligation pursuant to Section 106 of the Town and Country Planning Act 1990 is not completed within six months of the date of the committee resolution, the Chief Officer (Planning and Environment) be given delegated authority to REFUSE the application.

After the vote had been taken, Councillor Richard Jones returned to the meeting and the Chairman informed him of the decision.

#### **83. PART CHANGE OF USE TO SMALL SCALE ARTISAN PRODUCTION OF SAUCES AND CONDIMENTS INCLUDING BOTTLING AND**



## **DISTRIBUTION AT PWLL GWYN HOTEL, DENBIGH ROAD, AFONWEN (052414)**

The Committee considered the report of the Chief Officer (Planning and Environment) in respect of this application which had been the subject of a site visit on 10 November 2014. The usual consultations had been undertaken and the responses received detailed in the report.

The officer detailed the background to the report and explained that 31 letters of objection and one representation of support had been received.

Mr. E. Gomer spoke against the application and raised concern at the loss of the Pwll Gwyn Hotel as a community hub. He said that no timescale had been given for the re-opening of the pub which had been bought as a going concern and details had not been provided of how the community centre would be replaced. Mr. Gomer said that 12 month marketing of the pub had not been undertaken and an application for an amendment to the listed building had not been submitted. He also highlighted section 327A of the Town and Country Planning Act and referred to the ownership of the building and an incorrect ownership certificate.

In response, the Democracy and Governance Manager said that ownership issues did not prevent the Committee from determining the application.

The applicant, Mr. J. Adedeji, said that the Pwll Gwyn was purchased as a property and not as a going concern and it was proposed to only use the existing kitchen for the production of the sauces. It was also intended to let out bedrooms and open the restaurant in the future. He spoke about the changes to appliances which had been made since purchasing the property which included the purchase of a new cooker which significantly reduced the omissions and odours. Mr. Adedeji explained that initially he and his wife were to work in the business but it was hoped that the business, which had the support of Flintshire Tourism Association, could be expanded to allow them to employ more staff.

Councillor Alison Halford proposed the recommendation for approval which was duly seconded. She felt that there were no grounds to refuse the application and that the ongoing survival of the pub was not for consideration by the Committee. Councillor Chris Bithell said that the proposals only dealt with the outbuildings and not the pub itself and added that diversification should be encouraged. It was the intention of the owner to reopen the facility in the future and continue to provide a pub/restaurant. He concurred that there was no reason to refuse the application as it complied with policy.

The Local Member, Councillor Jim Falshaw, spoke against the application. He felt that it did not comply with the Unitary Development Plan or Planning Policy Wales guidance and that it had not been marketed for 12 months to establish whether there was a need for the pub. He spoke of the previous pub which had employed 12 to 15 staff and said that businesses in

Afonwen had been affected by the closure of the Pwll Gwyn. The pub was a Grade II listed building and no application to amend this had been submitted. He felt that it was important to establish a facility in the village for residents to meet and sought more information on the plans for letting out some of the rooms and on a timetable of what the applicant intended to do with the property.

Councillor Derek Butler welcomed the application and said that the proposal was a natural progression which could lead to the re-opening of the pub/restaurant and added that this application was only for the re-opening of the kitchen. Councillor Mike Peers queried whether the property had been marketed for 12 months to establish need and said that this would have given sufficient time to prospective tenants/landlords to re-establish the pub. Councillor Owen Thomas felt that the kitchen was an integral part of the public house. He therefore felt that policy S12 should be considered and the application refused. Councillor Richard Jones raised concern at the closure of the Pwll Gwyn but said that this application was only for the use of the kitchen and outbuildings. He concurred that the kitchen was an integral part of the pub and queried whether approval of the application would affect the future re-opening of the pub/hotel.

The officer confirmed that the application only referred to the kitchen area and not a change of use for the pub/hotel, and therefore the 12 month marketing test did not apply. If the pub did re-open, the kitchen could become a dual use area for both the sauce production and the pub. He confirmed that there had been an issue about the appropriate ownership certificate but this had since been resolved. In response to comments made, the Planning Strategy Manager said that as there were no changes to the fabric of the building, a Listed Building consent application was not required.

In summing up, Councillor Halford said that concerns had been raised about the closure of the pub but this application was not for change of use of the pub. She welcomed the application.

**RESOLVED:**

That planning permission be granted subject to the conditions detailed in the report of the Chief Officer (Planning and Environment).

**84. FULL APPLICATION – CHANGE OF USE OF EXISTING PUBLIC HOUSE INTO A SINGLE DWELLING AT BLACK LION INN, VILLAGE ROAD, NORTHOP HALL (052486)**

The Committee considered the report of the Chief Officer (Planning and Environment) in respect of this application which had been the subject of a site visit on 10 November 2014. The usual consultations had been undertaken and the responses received detailed in the report.

The officer detailed the background to the report and explained that 12 objections had been received to the proposal.

Councillor Ian Dunbar proposed the recommendation for approval which was duly seconded. He explained that the loss of the public house had been deemed acceptable as there were two other pubs in the area. There would be no material change to the exterior of the property and the applicant had submitted a revised plan substituting the reference to 'meeting room' for 'store room/hall'.

Councillor Richard Jones raised concern that the retrospective application did not allow for the need for the public house to be proved which included marketing the property for 12 months. The Planning Strategy Manager responded that Policy S11 - Retention of Local Facilities had two criteria and if the first test of whether there were similar facilities in the area was satisfied, which it was in this case, then the second criteria to market the property for 12 months did not apply.

**RESOLVED:**

That planning permission be granted subject to the conditions detailed in the report of the Chief Officer (Planning and Environment).

**85. FULL APPLICATION – ERECTION OF A DWELLING AT LAND ADJACENT TO 21 MARNEL DRIVE, PENTRE (051742)**

The Committee considered the report of the Chief Officer (Planning and Environment) in respect of this application which had been the subject of a site visit on 10 November 2014. The usual consultations had been undertaken and the responses received detailed in the report.

The officer detailed the background to the report which had been deferred from the 8 October 2014 meeting of the Committee to allow a site visit to take place. Concern had been raised by the Local Members and five letters of objection had been received.

Mr. C. Ellis spoke against the development. He raised three main points which included the proposal being tandem development, the scale and height of the building and the overlooking of his garden from the property. He referred to the guidance from Welsh Government and the Local Planning Authority on tandem development and said that the proposed dwelling would be three foot higher than his property. He felt that the proposal would lead to severe overlooking of the property and garden which would breach his human rights.

Councillor Alison Halford proposed the recommendation for approval which was duly seconded. She welcomed the visit to the site and said that the proposal seemed acceptable. Councillor Chris Bithell said that the visit had demonstrated that the application could be accommodated on the site. He felt that the view from the new dwelling would be of the driveway and that it would not overlook the adjacent property.

In response to a query from Councillors Richard Lloyd and Richard Jones about the comments in paragraph 7.07, the officer explained that even though Welsh Water had withdrawn the objection to the proposal, in planning terms properties should be connected to the sewer in sewered areas, hence the proposed condition 4 had been included to allow this aspect to be subject to further approval.

**RESOLVED:**

That planning permission be granted subject to the conditions detailed in the report of the Chief Officer (Planning and Environment).

**86. FULL APPLICATION – FULL APPLICATION FOR A FOODSTORE (USE CLASS A1) AND 5 THREE BEDROOM AFFORDABLE HOUSES (USE CLASS C3) WITH ASSOCIATED CAR PARKING, ACCESS, SERVICING AND LANDSCAPING AT BROUGHTON SHOPPING PARK (052369)**

The Committee considered the report of the Chief Officer (Planning and Environment) in respect of this application which had been the subject of a site visit on 10 November 2014. 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 and explained that the full application which included five affordable homes related to a site within the settlement boundary. This was the former compound site and had been allocated in the Unitary Development (UDP) for housing and the adjacent site had an outline planning permission for up to 24 dwellings. It was proposed that the five affordable homes would be operated by a Registered Social Landlord and access to these properties would be through the car park of the supermarket. She spoke of the large number of letters of support and objection to the proposal. A development brief for the site had been adopted and the application on the other part of the site was in accordance with this brief. The officer referred to Technical Advice Note 1: Joint Housing Land Availability Studies and stated that as at April 2013, the Council only had a 4.1 year land supply which was below the required five year supply. She referred to another application for a petrol filling station in Connah's Quay, on land which was allocated for housing in the UDP where the Inspector on appeal had dismissed the proposal because of the Council's lack of land supply. The officer highlighted paragraphs 7.20 to 7.26 of the report in relation to the retail development, which included a Planning Statement and Retail Assessment. Paragraph 7.29 referred to the issue of noise and indicated that a Noise Assessment had been submitted with the application. She reiterated that the main issue for consideration was the principle of the development in view of the fact that it proposed commercial development on land allocated for housing in the UDP.

Mrs. J. Richards spoke against the application. She said that the applicant had made a speculative purchase of land which was allocated for

housing. She felt that the site should remain empty until developed for housing if there was future need in Broughton. The site was surrounded by housing and there was no visual barrier from the deciduous trees and this development would reduce the quality of life of neighbouring residents because of the long opening hours of the store and operation of delivery lorries. Residents had purchased their properties on the understanding that the site would be used for housing and the proposal would therefore have a negative impact on residents. It had been implied on the earlier application in Buckley that Aldi would only build that store if this application was also approved but Mrs. Richards felt that the applications should be considered separately.

Ms. J. Gabrilatsou, the agent for the applicant, spoke in support of the application. She said that the sole reason for refusal of the application was because the land was allocated for housing but the application allowed for the delivery of five affordable houses and she referred to the growth for Broughton of 15%. Ms. Gabrilatsou said that the Aldi store would provide an essential service for local residents and would bring £6m of investment to the area and would provide 40 jobs. She referred to the significant support which the proposal had attracted which indicated that local people wanted the store instead of more housing.

Councillor Mike Lowe proposed approval of the application, against officer recommendation, which was duly seconded by Councillor Richard Lloyd. He referred to the large number of emails that the Committee Members had received with the vast majority being in support of the store, which would provide quality food at affordable prices. It would bring jobs to the area and would be competition for other stores. He said that Broughton did not need any additional housing as this would increase the problems of current residents not being able to access the local doctors' surgeries. The proposal would also mean that residents would not have to travel to Mold or Chester to visit an Aldi store. Councillor Richard Lloyd felt that the Aldi store would not be out of place in the proposed location and he queried whether Broughton needed more housing.

Councillor Chris Bithell felt that the application should be refused as it did not comply with planning policy as the site had been designated for a residential allocation in the UDP. The residents who had purchased properties next to the site were expecting the site to be used for housing and the store being open until 11pm and movement of delivery vehicles would be a disamenity to residents. He could understand the support for the store in Broughton but there were other commercial sites which would be more suitable. He referred to the lack of five year land supply which would mean that any proposals other than housing on the site would be challenged. He also referred to the appeals at the end of the report and the challenge in Hawarden on the same principle. He concluded that the need for Aldi could be accommodated elsewhere.

In referring to the earlier comments, Councillor Derek Butler expressed his disappointment at the emotional blackmail exerted by Aldi in relation to the

implication that the stores in Buckley and Broughton were linked and the comment that the Buckley store may not be delivered if this application was refused. He commented on the large amount that Aldi had paid for the site and three and a half years it had taken the company to come up with a retail impact assessment. He also deplored the number of calls which the Company had made with regard to their proposals. Nevertheless, he believed that the lack of five year housing supply was a myth and he highlighted the 11 years of planning permissions which had been approved but not developed which exceeded the five year land supply that was required. He felt that there was an overprovision of housing in Broughton which had a growth figure of 19.9% and that the application should therefore be approved. Councillor Carol Ellis concurred that there was overdevelopment of housing in Broughton and referred to the difficulties local residents were facing about getting appointments at the doctors. She also agreed with Councillor Butler about the land supply in the county.

Councillor Mike Peers queried whether there was 4.1 or 4.5 years of land supply at April 2013 as both figures were reported. He commented on the allocation for the overall site and the lower than guidance density which resulted in fewer properties being produced on the site. He felt that the loss of dwellings on this site if it was not used for housing could be recovered through windfall schemes which would increase the Council's land supply. He referred to Chapter 11 of the UDP and said that due to the overwhelming demand for a food store in the area, the application should be permitted. Councillor Owen Thomas felt that the application would provide the opportunity for jobs to be created in Flintshire and that the five affordable homes being offered were a bonus.

Councillor Gareth Roberts said that this site went beyond the retail park and that it should be refused to allow commercial projects to remain within the retail park. He felt that if the application was approved, which he did not feel was the correct decision, it would be considered as a major departure from policy by officers. Councillor Alison Halford spoke against the application. She felt that building more houses was not the right solution for Broughton but neither was putting a commercial store so close to residential properties. She commented on the issue of noise, particularly from delivery vehicles, which would be a problem if the proposal was approved and she raised concern at the traffic that would be generated.

The Planning Strategy Manager confirmed that the land supply figure at April 2013 was 4.1 years with 4.5 years being the figure for April 2012 so there was a worsening land supply. The number of properties that would be required to fill the gap between 4.1 years and 5 year land supply was over 800 units. The land supply calculation was the most material factor when considering the application and this was planned through the UDP process, giving certainty to the residents. If Members were now to take a different view this should be reviewed through the LDP process. What Members considered about the accuracy of the five year supply figures was immaterial as the residual method of calculating the 4.1 year supply was the basis for decisions, which was the reason this site needed to be retained for housing. He stated

that we were faced with a number of proposals on greenfield land and Committee had given a strong steer in relation to these as had the Inspector in relation to the Connah's Quay site, which was not even envisaged as coming forward within the five years. He referred to the forthcoming public inquiry in relation to the 45 dwellings in Ewloe, where again Committee had given a clear steer, but if we were not seen as being prepared to defend the UDP allocations he questioned the message that this was giving out to developers who would be targetting greenfield sites to address this 800 dwelling shortfall. .

A recorded vote was requested and was supported by the requisite five other Members. On being put to the vote, planning permission was approved by 15 votes to 6 with the voting being as follows:-

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

Councillors: Haydn Bateman, Derek Butler, Ian Dunbar, Carol Ellis, David Evans, Ray Hughes, Christine Jones, Richard Jones, Richard Lloyd, Mike Lowe, Mike Peers, Neville Phillips, Brian Lloyd, Owen Thomas and David Wisinger

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

Councillors: Chris Bithell, David Cox, Alison Halford, Mike Reece, Gareth Roberts and David Roney

The Chief Officer (Planning and Environment) indicated that the decision would need to be referred back to Committee as there was no detail in the report about conditions and a Section 106 Agreement for educational contributions and affordable housing. He also said that he would be seeking the decision of the Democracy and Governance Manager as to whether approval of this application represented a significant departure from the Council's policies and because of this, permission would not be issued until this had been decided. The Democracy and Governance Manager said that this was following the procedure which had been agreed by Members and that he would invite representations from the proposer and seconder of the motion, and the Chief Officer (Planning and Environment). He added that if he agreed that the decision did represent a significant departure then it would be referred back to Committee in line with the procedure.

#### **RESOLVED:**

That planning permission be granted but that a decision be sought from the Democracy and Governance Manager about whether this represented a significant departure from policy and needed to be referred back to Committee to be reconsidered as well as a report on the required conditions and Section 106 Obligations.

87. **FULL APPLICATION – ERECTION OF 6 NO. 2 STOREY DWELLINGS, NEW ACCESSES BOTH VEHICULAR AND PEDESTRIAN AND**

## **ASSOCIATED WORKS AT RISBORO, NANT MAWR ROAD, BUCKLEY (052513)**

The Committee considered the report of the Chief Officer (Planning and Environment) in respect of this application which had been the subject of a site visit on 10 November 2014. 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 former dwelling on the site had been demolished. There was an extant permission for 10 apartments on the site following an appeal in January 2013. It was reported that adequate space around dwellings had been provided and a condition had been included to remove permitted development rights for extensions and alterations to the roof. All of the concerns relating to highways had been considered and part of the Section 106 agreement would include the safeguarding in perpetuity of pedestrian visibility splays where they crossed third party land.

Mr. M.E. McLaughlin spoke against the application. He quoted from the guidance note on space around dwellings that it should be ensured that space provided would protect privacy and he referred to the minimum distances; he did not feel that these issues had been complied with. He said that due to the site elevation, the distance should be 24 metres and added that dwellings five and six had a shortfall of 6.5 metres separation distance. Mr. McLaughlin considered this to be a case for refusal and said that the application was contrary to local and national policy.

Councillor Neville Phillips, one of the Local Members, proposed refusal of the application, against officer recommendation, which was duly seconded. He was not against development on the site but he did not agree with the current proposal. He concurred that there were insufficient separation distances on the site and said that the access and egress was also a concern as the entrance to the site was near to the junction on Nant Mawr Road. The proposal did not meet with what the local residents wanted and properties five and six looked onto the bungalows on Dawn Close.

Councillor Carol Ellis felt that the space around dwellings policy was not always adhered to and she raised concern about the properties overlooking into Dawn Close. She concurred that the access was a problem and that Nant Mawr Road was busy.

The other Local Member, Council Ron Hampson, said that the site had previously been occupied by one house and added that this proposal would overlook other properties and was an overdevelopment of the small site. He referred to issues with the turning area and the large number of traffic movements in the area. The access to the site had been moved in this application and there were also drainage problems in the area. He concurred



that the application should be refused as it did not comply with policy due to the reduced space around dwellings distances.

In response to the comments made, the officer highlighted policy HSG8 and said that he had applied policy and all other material considerations in his recommendation of the application. He advised that the access was onto Princess Avenue not Nant Mawr Road and that even though it had been moved from the previous application, it did comply with policy and there was no reason to refuse on highway safety grounds. On the issue of space around dwellings, he said that properties five and six were 1.3 to 1.5 metres lower than dwellings in Dawn Close and a separation distance of 18.5 metres from the proposed rear elevation of the dwellings to the bungalows had been applied. This was lower than the 21 metres advised in the guidance note but due to the difference in levels between the sites and hedging which would obscure the properties, it was felt that this mitigated the shortfall. Dwr Cymru/Welsh Water had been consulted on issues of drainage and had not objected subject to the inclusion of a condition for a scheme of surface, foul and land water drainage to be submitted and agreed prior to commencement.

In summing up, Councillor Neville Phillips said that the application should be refused due to overdevelopment and insufficient space around dwellings.

On being put to the vote, the proposal to refuse the application was LOST.

Councillor Chris Bithell proposed the recommendation for approval which was duly seconded and on being put to the vote was CARRIED.

**RESOLVED:**

That planning permission be granted subject to the conditions detailed in the report of the Chief Officer (Planning and Environment) and subject to the applicant entering into a Section 106 Obligation or Unilateral Undertaking, or making advance payment to secure the following:-

- a. Ensure the payment of a contribution of £6,600 in lieu of on-site recreation provision. The contribution shall be paid upon 50% occupation or sale of the dwellings hereby approved.
- b. Ensure that pedestrian visibility splays at the proposed point of access are safeguarded in perpetuity where they cross third party land.

If the obligation pursuant to Section 106 of the Town and Country Planning Act 1990 is not completed within six months of the date of the committee resolution, the Chief Officer (Planning and Environment) be given delegated authority to REFUSE the application.

**88. FULL APPLICATION – REPLACEMENT OF EXISTING BUILDINGS WITH 1 NO. ECO DWELLING AT MARSH FARM, CHESTER ROAD, OAKENHOLT (052504)**

The Committee considered the report of the Chief Officer (Planning and Environment) 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 and explained that the site was outside the settlement boundary and was in open countryside. The proposal did not warrant going against the strong policy presumption against development and was therefore recommended for refusal. It was reported that two letters of objection and 11 letters of support had been received.

Ms. A. Jones, on behalf of the applicant, spoke in support of the application. She understood that the property was not in the settlement boundary but the family was passionate about the proposal and the design of the new building reflected the agricultural buildings and the property was smaller than the buildings it was replacing. She spoke of the support that they had received from neighbours and she added that they wanted to build an appropriate dwelling which it was aimed would be carbon neutral. Ms. Jones felt that there was a gap in the policy and that the proposal was not detrimental to the area and would not set a precedent if the application was approved.

Councillor Chris Bithell proposed the recommendation for refusal which was duly seconded. He said that the site was in the open countryside and he felt that there was no reason to allow the application. He said that the proposal would be welcome in another location but as it did not comply with national and local policy, it should be refused. Councillor Derek Butler concurred and highlighted paragraph 7.03 where reference was made to policies in the Unitary Development Plan (UDP) and Planning Policy Wales (PPW) being out of date when compared with the National Planning Policy Frameworks in England in terms of brownfield sites and facilitating self-build. He said that the UDP and PPW policies should apply and added that the site was not a brownfield site.

Councillor Owen Thomas felt that there were many redundant farm building sites across the county which could be converted to alleviate the housing shortage problem and suggested that policy should be changed to reflect such developments. Councillor Carol Ellis spoke in support of the application and said that the building was not as big as what was currently in place and was only 15 metres from the settlement boundary. She said that other applications had been permitted for new dwellings as original properties were not big enough and added that the two letters of objection were on the grounds of the use of the unofficial layby on the access lane.

Councillor Gareth Roberts said that it was important to adhere to policy and that this application for a new build in the countryside should be refused. He highlighted paragraph 7.07 where it was reported that there was no

existing residential use and therefore the proposed scheme could not be considered as a replacement dwelling. He felt that to approve the scheme would set a precedent and that the correct decision was to refuse the application.

The officer confirmed that the building was not considered worthy of retention in terms of a separate policy and that the property was 100 metres from Chester Road and was therefore not 'just' outside the settlement boundary.

The Planning Strategy Manager said that comments about the view and the applicant being passionate about the proposal were not material planning considerations and approval of the application would set a precedent. There was not a single policy which supported this proposal. National policy was very clear about proposals in an open countryside location and one additional dwelling would not make a difference to the lack of five year land supply as it would have to be repeated 831 times to address the shortfall. He referred to an application in a greenfield location for 120 units and asked how Members would be able to refuse such an application if they permitted this one dwelling in a similar location.

Councillor Halford referred to the earlier comment of Councillor Thomas about the gap in policy for replacement of redundant agricultural buildings with dwellings. The Planning Strategy Manager said that there was not a gap in policy as we could allow the reuse of buildings with architectural merit .

In summing up, Councillor Bithell said that a precedent would be set if the application was approved and that the buildings of architectural merit could be converted. This building was not worthy of retention and whether WG changed their policy to reflect National Planning Policy Frameworks in England was not something which could be considered for this application.

**RESOLVED:**

That planning permission be refused for the reason detailed in the report of the Chief Officer (Planning and Environment).

**89. FULL APPLICATION – RESIDENTIAL DEVELOPMENT TO PROVIDE 10 NO. TWO BEDROOM APARTMENTS AND 4 NO. ONE BEDROOM APARTMENTS AND ASSOCIATED PARKING AT NEW INN, STATION ROAD, SANDYCROFT (052570)**

The Committee considered the report of the Chief Officer (Planning and Environment) 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 said that the application involved the demolition of the public house. The site was in the settlement boundary of Sandycroft in a predominantly residential area. The objections and letters of support were reported in paragraph 4.00. The site which was in the Category B settlement, with growth of 2%, had been on the market for over 12 months. A flood consequences assessment had been undertaken and a minimum finished floor level was proposed, which was detailed in the report. There would be no living accommodation on the ground floor and concerns had been raised about the three storey nature of the buildings and the impact in terms of overlooking on residential amenity. The height of the buildings was similar to the existing properties and the proposal was therefore not considered to be out of keeping with the surrounding area. On the issue of space around dwellings, which had been raised as a concern by residents, the officer was satisfied that it would not have a detrimental impact on the area. She detailed the contributions which would be provided by the Section 106 agreement. The officer confirmed that a letter had been handed to her by the Chair of the Committee about concerns from residents.

Ms. S. Stevens spoke against the application which she felt did not comply with Local Planning Guidance Note 2 on Space Around Dwellings. The guideline of 22 metres had not been complied with between the development and 50 Phillip Street and she added that the guidance did not cover three storey dwellings. The difference in levels would result in the neighbouring properties being overlooked and if the guidance for properties on a slope was applied, then the distance should be 27 metres. Ms. Stevens felt that the living rooms at first and second floor level in the development would have a view into 50 and 46 Phillip Street and would compromise the privacy of the garden in these properties. She raised concern about foul drainage and felt that this issue should be detailed in the report. She said that the issue of overlooking was unacceptable and raised concern about parking issues. In summary she felt that a three storey development was out of keeping and that two storeys would be more acceptable and would reduce the impact on neighbouring properties.

Mr. E. Roberts, the agent for the applicant spoke in support of the application. He commended the officer's report and said that the proposal met all relevant policies and guidance. There had been no objection from statutory consultees and it met the standards set for highways. He said that the Council had not demonstrated a 5 year land supply and there was a specific need for housing in Sandycroft particularly for one and two bedroom apartments. The proposal exceeded space around dwellings guidelines and did not overshadow or overlook other properties.

Councillor Alison Halford proposed refusal of the application against officer recommendation, which was duly seconded. The objector had challenged the content of the report on space around dwellings and policy guidelines and Councillor Halford felt that the application should be deferred or refused. In response, the Democracy & Governance Manager said that it was not unusual for objectors and officers to have a different view but reminded the Committee that the view of the officer was unbiased. He

suggested that the application could be deferred to allow a site visit to take place. Councillor Halford proposed deferral for a site visit which was duly seconded.

**RESOLVED:**

That the application be deferred for a planning site visit.

**90. FULL APPLICATION – RETROSPECTIVE APPLICATION TO RETAIN  
TIMBER STABLES AND STORAGE, ADDITIONAL STOREROOM AND  
HARDSTANDING AT 25 RHYDDYN HILL, CAERGWRLE (052432)**

The Committee considered the report of the Chief Officer (Planning and Environment) 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 and said that five letters of objection had been received which were detailed in the report.

Councillor Alison Halford proposed the recommendation for approval which was duly seconded. She referred to the cancellation of the site visit at short notice. The Development Manager apologised to Councillor Newhouse and the Committee for this. Councillor Owen Thomas said that there was no reason not to approve the application but said that there was a need for a turning area on the site.

The Local Member, Councillor Tim Newhouse, explained that he had met with the applicant in 2011 and had indicated that he had no objection to the application as long as no hardstanding was laid and that natural screening was put in place by the applicant in a straight line back from the boundary between numbers 25 and 27 and that the area be re-grassed. On the strength of the assurances from the speaker for the applicant at the December 2011 Planning Committee meeting that the site would be properly maintained and that screening would be provided, the application had been approved by the Committee. In April 2012 hardcore was dumped on the site which was contrary to the permission that had been granted and since then, the applicant had submitted and withdrawn numerous planning applications to prevent her having to restore the site. A site visit had taken place in May 2014. Councillor Newhouse felt that any hardstanding on the site should be grasscrete and should not extend beyond the boundary between numbers 25 and 27 in a straight line. He felt that any outcome other than refusal of the application would set a precedent to allow applicants to not undertake permissions in line with conditions imposed.

Councillor Ray Hughes concurred with the comments of Councillor Newhouse and said that the hardstanding area had destroyed the field. Councillor Derek Butler raised concern that the applicant could be granted permission and then fail to comply with what had been approved. He felt that the matter should be referred to the Enforcement Team. Councillors Richard

Lloyd and Richard Jones referred to the application which had been submitted and refused in May 2014 which was now the subject of an appeal.

In response, the Development Manager said that the appeal submission was not relevant to this application as what was in place was unauthorised and this application was to seek a solution. It was proposed that the area of hardstanding would be reduced to an area which was deemed to be the minimum required for turning vehicles using the site and this was equivalent to the area referred to by Councillor Newhouse. In order to reduce the visual impact, a condition had been added for a hedge to be planted along the eastern fence line of the hardstanding. A condition for the removal or grassing over of the hardstanding outside the application site was also recommended and if Committee considered that this should involve the removal of the hardcore then the condition could reflect this. The Development Manager added that if the applicant did not comply with the conditions then the issue would be referred to enforcement.

Councillor Richard Jones queried whether the decision was premature as the appeal had not yet been heard and asked why officers were more confident that the conditions could be enforced. The Development Manager said that the permission and conditions recommended to Members provided a firm basis for enforcement if the conditions were not complied with. The amount of hardstanding which would remain was considered by officers to be a reasonable compromise. Councillor Jones also asked whether an area of hardstanding had been included in the approval granted in 2011 and added that if what was agreed in 2011 had not been complied with, then it should be referred to enforcement.

In summing up, Councillor Halford said that this proposal was deemed acceptable by officers and that she was satisfied that the applicant would do what was required of her or face enforcement action. She queried whether condition one needed to be strengthened. The Development Manager suggested that it be worded to allow a period of six months to undertake the works required by the conditions.

**RESOLVED:**

That planning permission be granted subject to the conditions detailed in the report of the Chief Officer (Planning and Environment) with condition 1 amended to require the works to be carried out within 6 months and condition 8 to require the removal of the hardstanding outside the defined area, before grassing the site

91. **FULL APPLICATION – CHANGE OF USE OF AN EXISTING BUILDING TO 16 NO. RESIDENTIAL APARTMENTS WITH ASSOCIATED CAR PARKING AT GROUND FLOOR LEVEL AT EXECUTIVE HOUSE, 1-3 PIERCE STREET, QUEENSFERRY (052122)**

The Committee considered the report of the Chief Officer (Planning and Environment) 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 and explained that the main issues for consideration were the impact of the proposal on the highway and on the adjacent residential amenity. The application would provide five parking spaces but the guidelines for the Council's maximum car parking standards indicated that 24 were required. However as the site was in a town centre location, was near to a public car park, had access to public transport services and there were on street parking facilities on Pierce Street, the proposal for five spaces was deemed acceptable. The officer provided details of the Section 106 obligation. The site was in a C1 flood risk area but Natural Resources Wales were satisfied that as the proposal did not include any living accommodation at ground floor level, this was not an issue and NRW had therefore not raised any objection to the application. The applicant had proposed to reduce the number of windows which currently looked onto and over existing dwellings to six and these would have obscure glazing.

Mrs. S. Barnes spoke in support of the application. She commented on the damage which had taken place on the site and an issue of a water tank which had flooded her family's property next door. She also commented on the mobile phone mast which was on top of the building.

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

In response to a query from Councillor Mike Peers about whether the comment from the Police that the proposals should be Secured by Design should be conditioned, the Development Manager said that it was not appropriate to condition this.

Councillor Richard Jones spoke of the comments that the number of parking spaces had been reduced because the site was near to a public car park which the residents could use and raised concern as he felt that it had been assumed that the spaces would be available. The officer responded that the Parking Management Officer had indicated that there was adequate capacity in the nearby public car park, which was owned by Flintshire County Council. Councillor Richard Lloyd asked whether the mobile phone mast would remain on the building. The officer said that the applicant and the phone operator would need to discuss this issue.

**RESOLVED:**

That planning permission be granted subject to the conditions detailed in the report of the Chief Officer (Planning and Environment) and subject to the applicant entering into a Section 106 Obligation or Unilateral Undertaking, or making advance payment to secure the following:-

- a. Ensure the payment of a contribution of £11,728 in lieu of on-site recreation provision. The contribution shall be paid upon 50% occupation or sale of the apartments hereby approved.
- b. Ensure the payment of a contribution of £3,000 towards the cost of amending existing Traffic Regulation Order to amended existing street parking bays and provide 'H markings' across the site access. Such sum to be paid prior to the commencement of the development hereby approved.

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 Chief Officer (Planning and Environment) be given delegated authority to REFUSE the application.

**92. FULL APPLICATION – ERECTION OF 3 NO. TWO STOREY TERRACED DWELLINGS AND ASSOCIATED WORKS ON LAND ADJ. PENDOWER, FFORDD Y PENTRE, NERCWYS (051954)**

The Committee considered the report of the Chief Officer (Planning and Environment) in respect of this application which had been the subject of a site visit on 10 November 2014. 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 main issues for consideration included housing need, highway implications and the effects on the amenity of adjoining residents.

Mr. R. Jones, the applicant, spoke in support of the application. He spoke of his strong attachment to the village and of the 34 four and five bedroom properties which had been built in the village and which sold for £360,000 to £440,000. The last time a terraced property had been built in Nercwys was in 1918 and the village had no shop or pub. He referred to the Section 106 agreement which he disagreed with as he did not feel that it was his responsibility to provide affordable housing for those on the Council's affordable housing register. He also said that the plot would be sold if the application was refused.

Councillor Owen Thomas proposed approval of the application, against officer recommendation, which was duly seconded. He felt that Nercwys was a growing village and that there was a need for affordable housing. Paragraph 7.14 indicated that the applicant had provided the budget/ costs for the proposal and Councillor Thomas felt that there was a need for affordable properties in Nercwys which the application would provide.

The Local Member, Councillor Nancy Matthews, spoke in support of the application. In referring to paragraphs 11.46 to 11.49 of planning guidance, she queried the interpretation of policy HSG3 and said that the



applicant wanted to provide affordable housing to people who did not want to be on the affordable housing register. She asked that the application be approved without the need for a section 106 agreement.

Councillor Gareth Roberts felt that a precedent would be set if the application was approved. Councillor Derek Butler sought clarification as he felt that paragraphs 2.01 and 7.13 were not providing the same information. In response, the officer said that the housing need had been identified through the Housing Strategy Manager. Councillor Mike Peers felt that there was a need for the houses if there were no suitable properties currently available in Nercwys.

The Planning Strategy Manager advised Members that the application was for refusal due to insufficient evidence that the dwellings would meet the identified affordable housing need in the area. If Members felt that the policy should be reviewed, it should be undertaken as part of a development plan review, not just for one application. He spoke of the mechanisms of the housing need register and the Section 106 agreement which would secure affordability and without which the affordability could not be judged. He referred to the appeal at agenda item 6.18 on this agenda where the Inspector had determined that because the applicant had not signed a Section 106 agreement to confirm that the property could be justified on the grounds of local housing need, the appeal should be dismissed. The Planning Strategy Manager indicated that the appeal upheld Policy HSG3.

In summing up, Councillor Owen Thomas felt that refusal of the application would be a missed opportunity for affordable properties for young families in Nercwys and that there was a need for such properties.

On being put to the vote, the proposal to approve the application was LOST.

**RESOLVED:**

That planning permission be refused for the reason detailed in the report of the Chief Officer (Planning and Environment).

**93. FULL APPLICATION – DEMOLITION OF A DISUSED SUB-STATION AND PROPOSED NEW BUILDING EXTENSION TO THE EXISTING FARMERS BOY FACILITY WHILST RETAINING THE EXISTING SITE ACCESS AT UNITS 105-106 TENTH AVENUE, DEESIDE (052360)**

The Committee considered the report of the Chief Officer (Planning and Environment) in respect of this application which had been the subject of a site visit on 10 November 2014. The usual consultations had been undertaken and the responses received detailed in the report.

The officer detailed the background to the report and explained that the main issue was the potential for the proposed development to further detrimentally impact upon the highway situation which presently existed at the

site. It was reported that the proposals would reduce the total turnaround time by 1 hour and 35 minutes. The applicant had agreed to the condition for a Delivery Vehicle Traffic Management Plan to be submitted. The officer explained that the proposal would not result in an increase in staff numbers and the proposal complied with planning policy.

Councillor Christine Jones proposed the recommendation for approval which was duly seconded. She felt that the application would alleviate the problems which were currently being experienced in the area in relation to highways but raised concern about the fast food van that operated in the area. Councillor Jones asked whether a letter could be sent to Welsh Government about legislation for where this type of facility could be sited. The Chief Officer (Planning and Environment) confirmed that he would send a letter on behalf of the Committee.

**RESOLVED:**

That planning permission be granted subject to the conditions detailed in the report of the Chief Officer (Planning and Environment).

**94. REMOVAL OF CONDITION NO. 6 ATTACHED TO PLANNING PERMISSION REF: 048032 AS AMENDED BY PLANNING PERMISSION REF: 050805 AT OVERLEA DRIVE, HAWARDEN (052429)**

The Committee considered the report of the Chief Officer (Planning and Environment) 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 and explained that it was requested that condition 6 be removed as the developer had agreed to the scheme but Welsh Water had now decided to deliver the works alongside another scheme of works which would be completed by 31 March 2015. Welsh Water had no objections to the scheme as the reason to object no longer existed.

Councillor Alison Halford proposed refusal of the application, against officer recommendation, which was duly seconded. She raised concern at the request to remove the condition and queried whether the problem had now been resolved. Councillor David Evans concurred and said that if the works had not been undertaken, then the condition should remain in place.

The Local Member, Councillor Clive Carver, indicated that he had been in discussions with the Chief Officer (Governance) who had advised that his previous personal and prejudicial interest in the application no longer existed. However, he still felt that he had a personal interest and declared this at the meeting. He referred to the comments of a Civil Engineer with experience of drainage who had spoken at the Public Inquiry on the application and said that he gave particular weight to Condition 6. It stated that no development should commence until a scheme of improvement to the off-site drainage in Mancot Lane had been submitted and approved in writing by the Local Planning

Authority. The applicant had sought to amend the condition 6 in July 2014 and now wanted to remove the condition from the application. He felt that the request to remove the condition was premature and he spoke of a letter from Welsh Water on management of flows and in reiterating his concern, felt that it was inappropriate to remove the condition.

Councillor Derek Butler said Welsh Water was the statutory authority and they had indicated that condition 6 was no longer required. Councillor Richard Jones highlighted the comments in the report that the flood mitigation scheme was to be undertaken by 31 March 2015. He felt that the condition should still apply to prevent flooding. Councillor Gareth Roberts queried whether the works would be completed by that date. Councillor Mike Peers suggested that Welsh Water notify the Council when the work had been completed and that the condition could be lifted at that stage.

In response, the officer explained that it was anticipated that the works would be completed in advance of 31 March 2015 and that Welsh Water had advised that the condition was no longer required as the flows from the development could be managed. If the application was refused and the applicant appealed, there would be no defensible evidence against what had been notified by Welsh Water. The Chief Officer (Planning and Environment) suggested that removal of the condition could be deferred to allow officers to contact Welsh Water about the management of the risks. Councillor Richard Jones proposed deferment of the application and this was duly seconded. The Planning Strategy Manager felt that the letter to Welsh Water should also ask what would happen if the works were not completed by 31 March 2015.

In summing up, Councillor Halford disagreed with the comments in paragraph 7.06 and sought clarification on the proof that the flows could be adequately managed.

On being put to the vote, the proposal to defer the application was CARRIED.

**RESOLVED:**

That removal of the condition be deferred to await a response to a letter to be sent to Welsh Water about how they intended to manage the risks and what would happen if the works were not completed by 31 March 2015.

95. **FULL APPLICATION RE-PLAN TO 3 NO. PLOTS (325-327) WITHIN NORTHERN PARCEL OF FORMER BUCKLEY BRICKWORKS IN CONJUNCTION WITH PREVIOUS PERMISSIONS GRANTED UNDER CODE NOS 050333 & 050874 AT FORMER LANE END BRICKWORKS, DRURY LANE, BUCKLEY (052589)**

The Committee considered the report of the Chief Officer (Planning and Environment) 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. In response to a request for clarification from Councillor Mike Peers, the officer confirmed that the substitution of three house types did not impact on the affordable housing requirement on the site.

Councillor Mike Peers 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 Chief Officer (Planning and Environment) including the amendment to Condition 4 referred to in the late observations, and subject to the applicant entering into a supplemental planning obligation, re-enforcing the provisions of the Section 106 Obligation entered into under Code Nos 050333 and 050874 in respect of highway, ecological, affordable housing and open space requirements.

**96. FULL APPLICATION – PROPOSED SIDE EXTENSION AND REPOSITIONING OF EXISTING CONSERVATORY FROM SIDE OF HOUSE TO REAR AT LLWYN FARM, FFYNNONGROYW (052586)**

The Committee considered the report of the Chief Officer (Planning and Environment) in respect of this application. The usual consultations had been undertaken and the responses received detailed in the report. Councillor Glyn Banks left the Chamber prior to discussion of the application.

The Development Manager detailed the background to the report and explained that it was only before the Committee as the Local Member was the applicant.

Councillor Gareth Roberts 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 Chief Officer (Planning and Environment).

**97. GENERAL MATTERS – CONSTRUCTION OF A NEW CREMATORIUM, ASSOCIATED CAR PARK, ACCESS ROAD AND ANCILLARY WORKS, LANDSCAPING, GARDENS OF REMEMBRANCE AND AREA FOR NATURAL BURIALS AT LAND AT KELSTERTON LANE/OAKENHOLT LANE, NEAR NORTHOP (052334)**

The Committee considered the report of the Chief Officer (Planning and Environment) in respect of this application.

Councillor David Evans proposed the recommendation for a Special Planning and Development Control Committee to be convened as soon as possible to determine planning application 052334 which was duly seconded.

**RESOLVED:**

That a Special Planning and Development Control Committee be convened as soon as possible to determine planning application 052334.

98. **APPEAL BY EDWARDS HOMES LTD AGAINST A FAILURE OF FLINTSHIRE COUNTY COUNCIL TO GIVE NOTICE WITHIN THE PRESCRIBED PERIOD OF A DECISION ON AN APPLICATION FOR THE ERECTION OF 13 NO. DWELLINGS ON LAND TO THE REAR OF ROCK BANK, MAIN ROAD, NEW BRIGHTON (051424)**

The Chief Officer (Planning and Environment) said that the Inspector had agreed with the stance of the Council in respect of educational contributions and that the appeal had been allowed subject to conditions and the terms of the Unilateral Undertaking presented at the appeal. Costs had been requested but the Inspector decided that the request was not justified.

**RESOLVED:**

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

99. **APPEAL BY MR. CHARLES & MRS. GAIL SHAW AGAINST THE DECISION OF FLINTSHIRE COUNTY COUNCIL TO REFUSE PLANNING PERMISSION FOR THE ERECTION OF A FOUR BEDROOM DETACHED DWELLING AND DETACHED DOUBLE GARAGE AT 37 WOOD LANE, HAWARDEN (051234)**

The Chief Officer (Planning and Environment) indicated that the appeal had been dismissed as even though the applicant had demonstrated local need, he had not signed a Section 106 agreement.

**RESOLVED:**

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

100. **APPEAL BY ANWYL CONSTRUCTION CO LTD AGAINST THE DECISION OF FLINTSHIRE COUNTY COUNCIL TO REFUSE PLANNING PERMISSION FOR THE REMOVAL OF CONDITION NO. 14 OF PREVIOUSLY APPROVED PLANNING PERMISSION REF: 047624 TO ALLOW FOR THE DEVELOPMENT OF THE WHOLE SITE AT DOVEDALE, ALLTAMI ROAD, BUCKLEY (051481)**

The Chief Officer (Planning and Environment) explained that the appeal had been allowed. The Inspector had indicated that as there was no evidence before her to suggest that the land was unstable within the site, it

was not appropriate to impose condition 14 on the applicant and it was therefore removed.

**RESOLVED:**

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

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

There were 73 members of the public and 3 members of the press in attendance.

(The meeting started at 1.00 pm and ended at 5.50 pm)

.....  
**Chairman**

## FLINTSHIRE COUNTY COUNCIL

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

**DATE:** **WEDNESDAY, 17 DECEMBER 2014**

**REPORT BY:** **CHIEF OFFICER, GOVERNANCE**

**SUBJECT:** **PLANNING APPLICATION 052369 BY ALDI STORES LIMITED FOR FOOD STORE AT BROUGHTON SHOPPING PARK**

### **1.00 PURPOSE OF REPORT**

1.01 For the committee to give further consideration to the above planning application pursuant to paragraph 11.5 of the Flintshire Planning Code.

### **2.00 BACKGROUND**

2.01 At the committee meeting on the 12 November 2014 it considered the report of the Chief Officer (Planning & Environment) on application number 052369 for a food store at Broughton Park submitted by Aldi Stores Limited. A copy of that report is attached as Appendix 1. The late observations relating to this application circulated at the meeting are attached as Appendix 2. The committee decided by 15 votes to 6 to grant permission for the application.

2.02 Following the vote the Chief Officer (Planning & Environment) explained that he believed the decision reached represented a significant departure from planning policy and that he would be asking the Democracy & Governance Manager as legal advisor present to agree with this and thereby refer the application back to the committee for further consideration. This procedure was last used in the Summer of 2010 and is now incorporated into paragraph 11.5 of the Flintshire Planning Code.

2.03 Following the committee meeting the Chief Officer (Planning & Environment) made written representations to the Democracy & Governance Manager as to why he believed the decision represented a significant departure from policy. The Democracy & Governance Manager wrote to the proposer (Councillor Mike Lowe) and the seconder (Councillor Richard Lloyd) giving them the opportunity to make representations in accordance with the practice followed on previous occasions. Both Councillors made written representations which were taken into account in reaching his decision.

### **3.00 CONSIDERATIONS**

3.01 The decision reached by the Democracy & Governance Manager was that the committee's decision amounted to a significant departure from planning policy. The reasons for this were:-

- The application had been advertised as a departure from policy.
- The site being allocated under policy HSG1 (19) for residential development for 54 dwellings.
- The current lack of a 5 year housing land supply.
- The Planning Inspector's comments quoted in paragraphs 7.15 and 7.16 of the committee report.
- The contents of the committee report, particularly paragraphs 2.01, 7.19 and 8.01.

### **4.00 RECOMMENDATIONS**

4.01 The committee is required to give further consideration as to whether planning application 052369 should be granted or refused.

### **5.00 FINANCIAL IMPLICATIONS**

5.01 None as a result of this report.

### **6.00 ANTI POVERTY IMPACT**

6.01 None as a result of this report.

### **7.00 ENVIRONMENTAL IMPACT**

9.01 None as a result of this report.

### **8.00 EQUALITIES IMPACT**

8.01 None as a result of this report.

### **9.00 PERSONNEL IMPLICATIONS**

9.01 None as a result of this report.

### **10.00 CONSULTATION REQUIRED**

10.01 With the Chief Officer, Planning & Environment and with the proposer and seconder of the proposal to grant permission.

### **11.00 CONSULTATION UNDERTAKEN**

11.01 With the Chief Officer, Planning & Environment and with the proposer and seconder of the proposal to grant permission.



## **12.00 APPENDICES**

- 12.01 Appendix 1 – Report to the Planning and Development Control Committee meeting on the 12 November 2014  
Appendix 2 – Late Observations

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

Report to the Planning and Development Control Committee of the 12 November 2014

Written representations from Chief Officer, Planning & Environment, Councillors Lowe and R Lloyd.

**Contact Officer:** Peter Evans  
**Telephone:** 01352 702304  
**Email:** peter.j.evans@flintshire.gov.uk

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## FLINTSHIRE COUNTY COUNCIL

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

**DATE:** **WEDNESDAY, 12 NOVEMBER 2014**

**REPORT BY:** **CHIEF OFFICER (PLANNING AND ENVIRONMENT)**

**SUBJECT:** **FULL APPLICATION FOR A FOODSTORE (USE CLASS A1) AND 5 THREE BEDROOM AFFORDABLE HOUSES (USE CLASS C3) WITH ASSOCIATED CAR PARKING, ACCESS, SERVICING AND LANDSCAPING AT BROUGHTON SHOPPING PARK, BROUGHTON**

**APPLICATION NUMBER:** **052369**

**APPLICANT:** **ALDI STORES LTD**

**SITE:** **BROUGHTON SHOPPING PARK, BROUGHTON.**

**APPLICATION VALID DATE:** **27.07.14**

**LOCAL MEMBERS:** **COUNCILLOR W MULLIN**

**TOWN/COMMUNITY COUNCIL:** **BROUGHTON**

**REASON FOR COMMITTEE:** **SIZE OF DEVELOPMENT AND LOCAL MEMBER REQUEST**

**SITE VISIT:** **YES**

### **1.00 SUMMARY**

- 1.01 It is proposed to erect a Class A1 food store with associated access and car parking and 5 affordable three bedroom dwellings on the former compound site, Broughton Retail Park.
- 1.02 The site was allocated under policy HSG1 (19) for residential development for 54 dwellings by the UDP Inspector. The Council has prepared and adopted a Development Brief for the site to support this residential allocation (SPGN 25). The Council does not have a 5 year

land supply (4.1 years as of April 2013) and therefore does not consider the site can be released for a non-residential use.

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

- 2.01 1. The proposed development for a retail food store would lead to the loss of part of an allocated housing site (HSG1 19). The Council does not have a 5 year land supply (4.1 years as of April 2013) and therefore the site is required for housing development. The proposed development is therefore contrary to policy HSG1, STR4 and TAN1 and Supplementary Planning Guidance Note 25: Development Brief for Housing at the Compound Site, West of Broughton Retail Park.

## **3.00 CONSULTATIONS**

### 3.01 Local Member Councillor W Mullin

Requests Committee determination. Preliminary views are concerns that the land has been zoned for housing by Welsh Government under the UDP. Requests a Committee Site visit due to concerns regarding access to new build housing included in the application.

#### Broughton Community Council

No objection.

#### Highways Development Control Manager

No objections subject to conditions covering;

- A scheme for the construction of the access, provision of pedestrian guardrail and amendments to the footway, verge and street lighting
- Access shall be kerbed and completed to carriageway base course layer prior to the commencement of any other site works
- Access to have a visibility splay of 2.4m x 43m with no obstruction to visibility in excess of 0.6m above the nearside channel
- Visibility splays at the point of access to be kept free from obstructions for the duration of construction works
- Positive means to prevent surface water run-off onto the highway
- Final Travel Plan
- Construction Traffic Management Plan

#### Public Protection Manager

No adverse comments to make subject to conditions relating to;

#### Class A1 Food store

- 2.5 m high acoustic barrier to be constructed around the

- external condenser units
- A 10dB (A) inline silencer should be incorporated into the store's extraction system
- All deliveries to the store must be undertaken in a fully enclosed delivery bay
- 

#### Class C3 Residential properties

The noise report submitted with the application indicates that the site is within Noise Exposure Category C under Technical Advice Note 11: Noise. It is therefore recommended that the following conditions are attached;

- Acoustic fencing is installed at locations identified in the consultants noise report. i.e. A 2m high acoustic barrier along the rear of the properties along the boundary with the proposed food store to a minimum density of 10kg/m<sup>2</sup>.
- Enhanced double glazing should be installed to any bedroom or living room to the specification of 10mm float glass, 12mm cavity, 4mm float glass, with acoustic trickle ventilators (rated at Dn, ew + Ctr 42dB), to provide a sound reduction of a minimum of 29 dB (A)

#### Welsh Water/Dwr Cymru

No response received at time of writing.

#### Natural Resources Wales

In response to the Updated Flood Consequences Assessment (FCA) from Peter Masons via Jones Lang LaSalle Limited (received on 5 September).

The FCA states that the existing ground levels on the site are 'in the region 7.90 - 8.20m AOD'; therefore they will be above the expected in-channel River Dee tidal flood level in the 0.5% AEP tidal event in 2111 of 7.35m AOD (upper band). The site is not within the present-day NRW modelled fluvial flood zones associated with Broughton Brook. On this basis, the FCA comments that the site meets the acceptability criteria of A1.15 of TAN 15.

Given the fluvial Broughton Brook experienced in the area of the proposed residential part of this development in 1964, it would be prudent for your Authority to liaise with emergency planners to ensure you are satisfied that access and egress arrangements during a flood event are adequate.

We welcome the intention as indicated in the updated FCA to investigate ground conditions on site in order to use the most appropriate sustainable drainage system. Dwr Cymru Welsh Water has now confirmed that the culvert beneath the site is not a public sewer. Therefore, should disposal of surface water by means of infiltration be shown not to be feasible, surface water runoff from the site may be discharged to the culvert at greenfield rates. We therefore

have no objection to the proposed development, subject to the following conditions:

- a scheme for the provision and implementation of a surface water regulation system. Prior to the submission of those details, an assessment shall be carried out into the potential for disposing of surface water by means of Sustainable Drainage Systems (SuDS) and the results of the assessment provided to the Local Planning Authority.
- a scheme for the management of overland flow from surcharging of the site's surface water drainage system has been submitted to and approved in writing by the Local Planning Authority.
- The owners/occupiers of the new development are advised to sign up to receive Flood Warnings, which are available for this location.

The presence of a protected species is listed as a material planning consideration under the provisions of Planning Guidance Wales and Technical Advice Note (TAN) Number 5

In this case, great crested newts are considered most likely to be affected by the proposal. The great crested newt could potentially be present within the environs of the boundary of the application site. This species is protected under the provisions of the Wildlife and Countryside Act 1981 (as amended) and the Conservation of Habitats and Species Regulations 2010 (as amended).

The application site has been subject to ecological survey and assessment. We consider this assessment to be satisfactory for the purposes of informing the public decision making process.

In our view, the proposal itself is not likely be detrimental to the maintenance of the favourable conservation status of any populations of European or British protected species that may be present at the application site, provided any scheme includes measures identified above. However, the cumulative impact of developments at Broughton is considered to have caused a decline in the overall population.

The population of great crested newts at Broughton is considered to have been subject to deterioration and consequent decline since the 1990's. As a consequence an indicative strategy has been prepared to facilitate restoration of this population of amphibians. We would therefore welcome the inclusion of planning conditions or obligations that facilitate the implementation of objectives identified within the provisions of this strategy.

#### Airbus

No aerodrome safeguarding objection to the development. A crane operating permit may be required.

#### Community Safety Officer

Comments on community safety issues with the layout and design.

#### Education Officer

A contribution of £12,257 is required towards Primary School provision at Broughton Primary School. No Secondary School contribution would be required.

### **4.00 PUBLICITY**

#### **4.01 Press Notice, Site Notice, Neighbour Notification – Advertised as Departure**

30 standard objection letters on the grounds of;

- Should not be commercial development on this site just because Aldi own the land
- Support for an Aldi store does not mean this is the right location
- Aldi would be better located in the retail park not in a residential area
- Traffic impacts will be worse now residential development is under way
- Should be retained for housing
- If allowed would set a precedent for adjacent land to have a commercial use rather than housing as allocated
- Noise impacts associated with the store and impact on residential amenity would be significant, especially due to proposed opening hours and delivery times with the noise of reversing beepers along with air conditioning units and extractor fans
- Impact of lighting on residential properties
- Landscape barrier is deciduous so effect of barrier is reduced in winter
- Supermarket rubbish would introduce vermin into the area

7 individual objections on the following grounds of;

- The proposed service yard is directly adjacent to the adjacent residential site and would represent a major threat to the amenity of the future occupiers of the residential development. Suitable conditions should be applied if granted to protect the amenity of future occupiers.
- The store is not needed, there are 4 supermarkets within a 4 mile radius
- The houses are a ploy to get the application through
- Infrastructure in the area will not cope, particularly the roads
- The site is not brownfield it was a temporary construction compound
- Potential health hazards to local residents
- Loading bay is very close to our property were our children sleep which will disturb them

- Noise from the general store activity
- Were told land was 'green barrier' when purchased house
- Concerns about impacts on great crested newts of all the development in the Broughton area
- Site should be all residential

227 Letters of support on the grounds of;

- Currently drive to other Aldi's in Mold, Chester, Flint and Wrexham to do shopping, will reduce the need to travel
- Will create more retail choice and competition to Tesco
- Will create jobs
- Affordable housing is needed
- The unused land should be utilised in this way, brownfield site
- There is a need for a discount food store in the area
- Within walking distance of a large population, particularly those who don't have a car
- Would be located with other retail uses for linked trips
- Support affordable housing
- More housing in the area needs more choice of supermarkets
- Don't need more housing that the site is allocated for – too much pressure on services

## **5.00 SITE HISTORY**

### **5.01 Application site**

048764 Construction of a 1473sqm supermarket and 464.5sqm non-food retail unit. Refused. 20.02.12

046818 Erection of a 1347 m2 supermarket and a 467.2 m2 non-food retail unit (Gross internal area) together with car parking and associated works. Withdrawn 17.12.09

046564 Outline - erection of a budget hotel of up to 70 rooms and a separate restaurant/public house together with car parking, landscaping and other associated works. Withdrawn 11.01.10

### **Adjacent site**

049488 Outline - Erection of up to 24no. dwellings together with means of access from shopping park link road and removal of part of existing earth bund and change of use of land to domestic gardens. Approved 13.05.13

## **6.00 PLANNING POLICIES**

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

STR1 - New Development

STR4 – Housing

STR5 – Shopping Centres and Commercial Development



STR10 - Resources  
GEN1 - General Requirements for Development  
GEN2 - Development Inside Settlement Boundaries  
D1 - Design Quality, Location and Layout  
D2 - Design  
D3 - Landscaping  
WB1 - Species Protection  
AC13 - Access and Traffic Impact  
AC18 - Parking Provision and New Development  
S6 – Large Shopping Development  
HSG1 – New Housing Development Proposals  
HSG8 – Density of Development  
HSG10 – Affordable Housing within Settlement Boundaries  
SR5 – Outdoor Playing Space and New Residential Development  
EWP3 – Renewable energy in New Development  
EWP14 – Derelict and Contaminated Land  
EWP17 – Flood Risk

Supplementary Planning Guidance Note 25: Development Brief for Housing at the Compound Site, West of Broughton Retail Park.

Planning Policy Wales Edition 7 (July 2014)  
Technical Advice Note 1: Joint Housing Land Availability Studies  
Technical Advice Note 4: Retailing and Town Centres  
Technical Advice Note 11: Noise  
Technical Advice Note 12: Design  
Technical Advice Note 15: Development and Flood Risk

The proposal is not in accordance with all of the above development plan policies as set out in the reasons for refusal.

## **7.00 PLANNING APPRAISAL**

### **7.01 Introduction**

This is a full planning application for the erection of a Class A1 food store with associated parking and access and 5 affordable dwellings on the 'compound site', Broughton Shopping Park, Broughton.

### **7.02 Site description**

The site is located within the settlement boundary of Broughton to the east of the settlement. To the west of the site is existing residential development and to the east is Broughton Retail Park which is outside the defined settlement boundary. The site is bounded by the Broughton shopping park link road to the east and to part of the northern boundary is Chester Road and further residential development. The Airbus factory is located to the north east of the site. The current application relates to the northern part of the site.

7.03 The site is known as the 'compound site' as it was formally used as the construction compound for the retail park in the 1990's. More

recently the southern part of the site was used as a sales office for the nearby residential development. The southern part of the site' has outline planning permission 049488 for 24 houses approved on 13.05.13.

7.04 The site as a whole has a significant landscape bund around its western and southern boundaries following its use as a construction compound, although the interior of the site is hardstanding.

7.05 Proposed development

It is proposed to erect a 1,805m<sup>2</sup> Class A1 food store with a net sales area of 1,254m<sup>2</sup> to be operated by Aldi stores and car park with 101 car parking spaces and 10 bicycle spaces. The site would be accessed from a new access point in the south east corner of the site from the retail park link road. The proposed food store is a contemporary design with a mixture of brick and render external treatment. Trading hours would be Monday to Saturday 08.00 – 23.00 and Sundays for a six hour period between 10.00 – 18.00.

7.06 An Aldi store typically receives three to four articulated vehicle deliveries a day, and a milk delivery along with two waste collections per week. The proposed enclosed service bay is at the southern end of the store and would be enclosed to minimise any potential noise from deliveries. Proposed delivery times are Mondays to Saturdays 06.00 hours to 23.00 hours and Sundays 07.00 to 23.00 hours. The proposed store would create up to 40 jobs both full and part time.

7.07 In addition it is proposed to erect 5 dwellings in the north eastern corner of the site fronting Chester Road continuing the residential development along this frontage. The 5 three bedroom two storey houses comprise a terrace of three properties and a pair of semi-detached properties to be operated by a Registered Social Landlord. The dwellings are proposed to be a combination of red brick and render with a tiled roof. The proposed houses would be accessed through the car park for the food store with their own dedicated parking area of 9 spaces secured by a gated access which also provides pedestrian access to the rear of the dwellings. The proposed dwellings have private rear gardens which would be separated from the proposed retail development by a 2.4m close boarded fence to the rear and sides of the dwellings. A lower 1.1 m close boarded fence is proposed along the boundary with Chester Road with the provision of pedestrian access to the front of the dwellings. A bin store is also provided.

7.08 The existing landscape buffer along the western and north western boundary would be enhanced with additional trees and shrubs. Some existing trees along the northern boundary will be removed to allow for the proposed five new houses. New landscaping will be planted along the southern boundary to screen the food store from the southern part of the compound site with residential permission along with a 2.4metre

high close boarded fence. Provision will be made for an access to the adjacent site on the southern boundary if required in the future.

- 7.09 The application was accompanied by ;
- Planning Statement including Retail Assessment by JLL
  - Design and Access Statement
  - Ecological Assessment by TEP
  - Flood Consequences Assessment
  - Noise Impact Assessment by Spectrum Acoustic Assessments
  - Transport Assessment by Cameron Rose
  - Interim Travel Plan by Cameron Rose by Peter Mason associates
  - Statement of Community Involvement

7.10 Following the consultation period the applicants have submitted a letter dated 17<sup>th</sup> October 2014 commenting on the issues raised in the objection letters.

7.11 Principle of development  
Housing allocation

The site was allocated under policy HSG1 (19) for residential development for 54 dwellings by the UDP Inspector. As part of the deposit draft UDP the Council had recommended the site remain as “open space” to provide a buffer between the existing residential development and the retail park. The Inspector saw no reason why the development of an appropriately designed housing development would conflict with this purpose. The Inspector stated “It could be designed to minimise visual and noise intrusion from this edge of the retail park and also provide an opportunity for landscaping.” The Inspector therefore recommended that the site be included as a residential allocation.

7.12 The site is the subject of a Development Brief ‘Housing at the Compound Site’ West of Broughton Retail Park, Broughton which was Adopted by the Council as Supplementary Planning Guidance on 27<sup>th</sup> March 2013. The objective of the Brief is to guide residential development of the land to ensure the scheme provides a high quality sustainable residential development with a high standard of landscaping which ensures a high level of amenity for residents.

7.13 Technical Advice Note 1 requires all Local Planning Authorities to undertake annual Joint Housing Land Availability Studies to assess the supply of housing land available. TAN1 requires local planning authorities to have a 5 year housing land supply. The five year land supply comprises sites with planning permission (outline or full) and sites allocated for housing in adopted development plans, categorised as prescribed in TAN 1. The April 2013 Flintshire County Council Joint Housing Land Availability Study shows 4.1 years of supply. The Council therefore does not have a 5 year land supply.

- 7.14 There was a recent Inspectors decision following the refusal of planning permission by Planning and Development Control Committee for the development of part of an allocated housing site HSG1(8) for a commercial use at Neighbourhood Centre, Ffordd Llanarth, Connah's Quay. At the time the Inspector was considering the findings of the 2012 JHLA which showed the land supply at 4.5 years. The Inspector notes that;
- 7.15 *"Whilst the appeal site is identified as a housing site in the JHLAS it is assessed as being within Category 3i indicating that due to major physical or other constraints development is unlikely within five years. At the time of the study therefore and despite its allocations the appeal site did not contribute to the 5 year housing land supply as calculated in the JHLAS. The appeal site is allocated of 20 units but a more realistic number is likely to be in the region of 15.*
- 7.16 *Since the required five year supply is deficient, notwithstanding the site's limitations its potential to meet some of the County's housing need is a compelling reasons to adhere to its allocated purpose and not permit a use other than residential. With regards to the small scale of the provision I note that several of the sites allocated under Policy HSG1 are anticipated to provide a similarly modest number of dwellings. Even so in preparing the UDP the Council clearly considered that such sites would have a useful role in contribution to the overall housing requirement, as did the UDP Inspector."*
- 7.17 The Inspector therefore concluded that the site is required for housing development. It is therefore considered that the same principle should therefore be applied in this instance. The site is comparable in size and could provide approximately 20 – 25 dwellings. The applicant's consultants argue the site is not available for development in the next 5 years, and therefore would be in the 3i Category in terms of the JHLAS as Aldi own the land which was purchased over the market value for residential and therefore a housing development will not come forward. Notwithstanding this the site is free from physical constraints in all other respects.
- 7.18 Since this Inspector's decision in March 2014; the lack of a 5 year land supply has led to a number of applications for greenfield sites outside settlement boundaries for varying scales of residential development which the Council is now having to deal with namely;
- Land at Greenhill Avenue/Springdale 41 units - refused by Committee in May 2014 – subject to an appeal.
  - Land at Tan y Felin, Greenfield – 184 units - under consideration.
  - Land East of Croes Atti, Flint – 120 – under consideration.
- 7.19 The Council's position given the land supply situation and the Ffordd Llanarth Inspector's decision is that this housing allocation should be protected from other forms of development and it would be perverse

for officers to recommend otherwise. The acceptableness of the food store in this location is therefore not a pertinent issue given the Council's stance as set out above, however a synopsis of the submitted information with reference to the relevant policy is set out below.

7.20 Retail

The previous planning application on this site for retail development was refused as a Retail Impact Assessment was not submitted with the application therefore the impact of the development had not been fully considered in accordance with national guidance and UDP policy. The current planning application was accompanied by a Planning Statement which included a Retail Assessment.

7.21 Planning Policy Wales (Edition 7) (PPW) post-dates the Flintshire UDP. With respect to retail development it reinforces the role of centres as the best location for most retail/leisure activities as advocated by the UDP policy S6.

7.22 Paragraph 10.3.3 of PPW states "Where need is a consideration, precedence should be accorded to establishing quantitative need. It will be for the decision-maker to determine and justify the weight to be given to any qualitative assessment, as outlined in paragraph 10.2.10. Regeneration and additional employment benefits are not considered qualitative need factors in retail policy terms, though they may be material considerations in making a decision on a planning application."

7.23 Paragraph 10.3.4 states "Developers should be able to demonstrate that all potential town centre options, and then edge of centre options, have been thoroughly assessed using the sequential approach before out-of-centre sites are considered for key town centre uses. The onus of proof that more central sites have been thoroughly assessed rests with the developer and, in the case of appeal Welsh Ministers will need to be convinced that this assessment has been undertaken. This approach also requires flexibility and realism from local planning authorities, developers and retailers."

7.24 Paragraph 10.3.8 goes on to state "Out-of-centre food supermarkets should not be allowed if their provision is likely to lead to the loss of general food retailing in the centre of smaller towns."

7.25 This guidance is reiterated in Technical Advice Note 4 'Retailing and Town Centres' which sets out the policy framework for considering development proposals for new retail developments. This guidance from earlier editions of PPW and TAN4 is reflected in the UDP policy S6 which advocates a sequential approach to retail development in existing centres first and the requirement for a needs assessment in out of town centre locations. Although the latest version of PPW post-dates the UDP there have been no significant changes to retail policy

and therefore Policy S6 'Large Shopping Developments' of the UDP is still relevant.

7.26 Policy S6 'Large Shopping Developments' states that "*Proposals for large shopping development in excess of 500m<sup>2</sup> should be located within town, district and/or local centres. Where it is satisfactorily demonstrated that the proposal cannot be accommodated within an existing centre and/or is out of scale with the shopping centre, the proposed development should be located on a sequentially preferable edge of centre site. Out of centre developments will only be considered appropriate where there is no sequentially preferable, suitable and available site nearer to a town, district or local centre. In all cases such developments will be permitted only where:*"... development proposals meet the policy criteria. The findings of the submitted Retail Assessment are reported below against the UDP policy criteria.

- a) it is not directly, or when considered together with any other committed schemes, detrimental to the viability, attractiveness and viability of existing town, district, or local centres within the development's catchment area;

The submitted Retail Assessment considers the impact of the development on the catchment area which has been defined to be Zone 8 of the Flintshire Retail Capacity Study 2011. Zone 8 comprises the settlements of Broughton and Saltney. There are no town centres within the catchment area of Zone 8 only the District Centre in Saltney 3.1km to the north east and the Local Centre in Broughton Hall Road, 2km to the west. An assessment of the health of these centres is included in the Retail Assessment, along with an assessment of the health of Mold, Buckley and Queensferry.

- b) the site is within the settlement boundary

The site is within the settlement boundary of Broughton.

- c) the site has been evaluated and found to be appropriate in accordance with the sequential approach where first preference should be given to town centre locations followed by edge of centre sites then by district and local centres and only then out of centre locations;

The sequential approach has been considered within the Retail Assessment with regard to sites in the district centre in Saltney and the Local Centre in Broughton Hall Road. Broughton Shopping Park is not considered within the sequential assessment as it is an out of centre site. No other sites in Broughton are allocated for retail development. Land to the north of Broughton Retail Park is allocated for non-retail commercial use and has been considered by Aldi, however no agreement could be reached with the landowner. In any event this land is also outside of the defined settlement boundary and



is therefore not sequentially preferable to this site.

- d) the site is located conveniently to minimise users dependence on private transport and to maximise the potential for journeys by foot, cycle and public transport;

The site is situated within the settlement boundary of Broughton and in close proximity to the Retail Park, Airbus and Chester Road which are both served by a number of bus services connecting Chester, Buckley and Mold to other smaller settlements. Cycle stands are proposed to facilitate this mode of transport. There is also the potential for linked trips to the Retail Park and a large employer at Airbus.

- e) the development would not, through the generation of traffic, have a significant adverse impact upon the local highway network or the quality of the local environment; and

The application was accompanied by a Transport Assessment by Cameron Rose. Highways have no objection to the proposed development in terms of the traffic impacts of the proposed development.

- f) Outside defined town centres a need for the proposal has been demonstrated

The Retail Assessment assesses the capacity for additional convenience floor space within the defined catchment. Within the catchment the existing food store provision is Tesco Extra at Broughton, Co-op at Broughton Hall Road local centre, Morrison's in Saltney District Centre and two local Co-op Stores in Ewloe. There are no convenience commitments within the defined catchment area. A commitment to expand the retail floor space in Broughton Shopping Park through a Tesco extension and Marks and Spencer's store expired in 2013. It is stated that £16.93m of expenditure is leaking out of the catchment area. The Flintshire Retail Capacity Study 2011 found that of its Zone 8 population 39.5% visited the out of centre Tesco at Broughton Park and 18% to the Asda, Queensferry in Zone 7 with 13.7% to Morrison's in Saltney (although at the time of the study had only recently opened). The proposed store has an estimated turnover of £4.69m. The Assessment states that although a given catchment is not expected to retain 100% of its expenditure, it is realistic to assume that the catchment area assessed here can improve its retention rate above 65%. It is also argued by the applicants that there is a need for a 'discount' retailer in the catchment with the nearest ones in Chester and Queensferry.

#### 7.27 Residential development

While 5 dwellings are proposed on the site these are considered to be ancillary to the main use of the site as a food store. It is proposed to site 5 dwellings on the corner of the site along the Chester Road

frontage which would continue along from the existing dwellings. These are proposed to be affordable although no details of how they would be made affordable are provided other than they would be run by a Registered Social Landlord who has shown an interest in the site.

7.28 The dwellings each have their own private amenity space and parking however the main point of access to the dwellings is through the Aldi car park. The dwellings front the busy Chester road and a scheme of enhance double glazing is recommended. These factors would therefore have an impact on the residential amenity of the occupiers of the proposed dwellings. The proposed dwellings are in a terrace of three and a pair of semi-detached. They are proposed to be of brick and render with a tiled roof. The dwellings would not be out of keeping with the existing properties in the area.

7.29 Noise

The proposed enclosed service bay is located to the south of the store adjacent to the boundary of the adjacent site which has planning permission for residential development. The owners of the adjacent site have raised concerns about the location of the service yard and the relationship with their site and have requested that appropriate conditions are imposed if permission is granted to protect the amenity of further occupiers. The permission for residential development on the adjacent site is in outline therefore the siting of the proposed dwellings is not finalised, however the Council would not wish to grant permission for a use on this site which would prejudice the use of the adjacent site for its allocated purpose. The Development Brief for the site was produced to prevent this situation occurring.

7.30 A Noise Assessment was submitted with the planning application following guidance in Technical Advice Note 11: Noise. This assesses the noise impacts on a new commercial development in this location. The main sources of noise from the proposed food store include continuous noise from mechanical services plant such as air condition and extraction fans and intermittent noise from deliveries to the store. Residents have also raised concerns about general noise from the activities of a food store in proximity to residential development due to the proposed opening hours.

7.31 The noise assessment compares predicted noise levels from both mechanical plant and deliveries with existing background noise levels in accordance with assessment methodology set out in TAN11: Noise. Background noise measurements were taken at residential receptor locations on 4 positions around the site namely; the proposed dwellings on Chester Road as part of this application; the permitted residential development on the adjacent part of the site; the rear of 24 Simonstone Road and the rear of the existing houses on Chester Road. The predicted noise from mechanical plant and deliveries are taken from a noise survey at an existing Aldi food store. The main current source of noise in the area is traffic noise which reduces at



night time, however plant from nearby commercial uses and the Airbus site become more audible during the night time. The dominant source of noise is still however road traffic noise.

- 7.32 In terms of predicted noise levels a standardised mechanical services plant package is adopted for all new Aldi food stores with externally located condenser units surrounded by an acoustic enclosure. These run continuously 24 hours a day. In addition the ventilation system would operate when staff are in the building. Deliveries typically last between 30 – 80 minutes depending on the amount of stock and stock is unloaded directly into the warehouse in an enclosed bay. Survey results show the noisiest aspects of deliveries are the arrival and departure of the vehicles.
- 7.33 In terms of the noise impacts arising from the new food store, predictions have indicated that with the proposed mitigation measures, the overall noise from services would meet noise limit objectives and consequentially have a low adverse impact. These mitigation measures take the form of surrounding the external equipment with a 2.5m high acoustic screen and incorporating a 10dB(A) in line silencer in the extraction system. In terms of deliveries, predictions indicated that with a fully enclosed delivery bay, noise from deliveries would meet noise limit objectives and have a low adverse impact.
- 7.34 The footprint of the store is approximately 26 metres from the boundary of the site with the adjacent existing residential properties on Simonstone Road to the west. There is an existing landscape buffer between the existing residential properties and the proposed store. It is proposed that this would be enhanced with new planting.
- 7.35 During both day and night time the proposed dwellings would be located in Noise Exposure Category C as defined by TAN 11 due to the ambient noise levels from road traffic noise. For sites in NEC TAN11 states that “Planning permission should not normally be granted. Where it is considered that permission should be given, for example because there are alternative quieter site available, conditions should be imposed to ensure a commensurate level of protect against noise.” The site is allocated for housing and this issue was considered as part of the Development Brief. A scheme of mitigation to reduce internal noise levels through sound insulation for the windows, walls and ventilation has therefore been put forward and to reduce noise levels in private amenity areas.
- 7.36 The Public Protection Manager has reviewed the submitted noise assessment and raises no objections to the siting of the food store subject to imposition of conditions for noise reduction measures as set out in the Noise Assessment. These take the form of requiring acoustic fencing around the condenser unit, a silencer on the extraction fan and ensuring all deliveries are in the enclosed delivery

bay. It is also recommended that conditions are imposed in relation to the proposed houses to ensure that they have appropriate double glazing due to their proximity to the road.

7.37 Highways

The application was accompanied by a Transport Assessment. Residents have raised concerns about the traffic impacts of the development. The application has been amended to remove land which was part of the highway. A 'Servicing Strategy' was submitted during the course of the application following comments from the highways development control manager. This information has been accepted and highways raise no objections to the application subject to a number of conditions.

7.38 Ecology

This site has been extensively surveyed in relation to respective applications in this area and an update to these previous assessments by TEP has been submitted with this application. The site comprises previously developed land that has been unmanaged for some time. The woodland around the perimeter has become more established and the verges have become vegetated but the site remains unchanged from previous reports and is predominately species poor grassland. The site does not support great crested newt habitat as there are no water bodies or watercourses. There is no connectivity between Broughton Country Park and Broughton Newt Reserve were records exist due to the road infrastructure.

7.39 The ecological report recommends conditions requiring the retention of the landscaping along the western boundary, tree planting along the southern boundary to offset the loss of the trees along the northern boundary for the proposed dwellings.

7.40 NRW consider the submitted ecological assessment to be satisfactory for the purposes of informing the public decision making process. NRW have however raised concerns about the decline in great crested newt population in the area since the 1990's following significant developments in the area and if permission be granted suggest the inclusion of conditions or obligations that facilitate the implementation of objectives identified within the provisions of the strategy in place to facilitate the restoration of this population of amphibians.

7.41 Flood Risk

The application was accompanied by a Flood Consequences Assessment undertaken by Peter Mason Associates. The Flood Risk Data provided confirms that the site is not at risk of pluvial or tidal flooding up to at least 1 in 1000 event. However, NRW's Flood Risk Data confirms that part of the site was affected by flooding in 1964 when the channel capacity of Broughton Brook was exceeded. As a consequence of this information the site is classified by NRW as

partially lying within Flood Zone C1 and partially within Zone A in the 1 in 1000 event.

7.42 The site is not within the present-day NRW modelled fluvial flood zones associated with Broughton Brook. On this basis, the FCA comments that the site meets the acceptability criteria of A1.15 of TAN 15. The issues in relation to flooding are mainly in relation to the 5 residential properties which are a more vulnerable use than retail development. NRW advise it would be prudent for the Local Planning Authority to liaise with emergency planners to ensure that we are satisfied that access and egress arrangements during a flood event are adequate and also recommend a condition relating to signing up to the Flood Warning System.

7.43 S106 contributions  
Open Space

In accordance with Planning Guidance Note No13 seeks a contribution of £733 per dwelling as a contribution to enhance play provision in the community.

7.44 Education

The development would be within the catchment of Broughton Primary School which has 455 children on role and a capacity of 455 with a surplus of 0%. The nearest High School is St. David's High School, Saltney which has 514 pupils on role with a capacity of 687, with a surplus of 25.18%. As the Primary School has less than 5% surplus places in line with SPG 23: Developer Contributions to Education a contribution of £12,257 is required.

**8.00 CONCLUSION**

8.01 The proposed development for a retail food store would lead to the loss of part of an allocated housing site (HSG1 19). The Council does not have a 5 year land supply (4.1 years as of April 2013) and therefore the site is required for housing development. The proposed development is therefore contrary to policy HSG1, STR4 and TAN1 and Supplementary Planning Guidance Note 25: Development Brief for Housing at the Compound Site, West of Broughton Retail Park.

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.

**LIST OF BACKGROUND DOCUMENTS**

Planning Application & Supporting Documents  
National & Local Planning Policy  
Responses to Consultation  
Responses to Publicity

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**FLINTSHIRE COUNTY COUNCIL**  
**PLANNING AND DEVELOPMENT CONTROL COMMITTEE**  
**COMMITTEE DATE: 12<sup>TH</sup> NOVEMBER 2014**  
**LATE OBSERVATIONS**

Agenda No.	Application Number	Location	Consultee / Date Received	Observations
6.5	052369	Broughton Shopping Park, Broughton.	10 <sup>th</sup> November 2014.	<p>Officer comments/clarification Aldi newsletter sent to members.</p> <ul style="list-style-type: none"> <li>• Officers would not agree that this is a 'longstanding vacant brown field site', the planning history is outlined in para. 7.11 of the committee report.</li> <li>• Typo in reference to the RSL interested in the site Grwp Cynesin should read 'Grŵp Cynffin'.</li> <li>• The response from Development Securities states that while they do not object they raised comments on the location of the service yard and requested conditions relating to protecting the amenity of future occupiers.</li> <li>• In respect of the community contributions these are the standard requirements related to the housing element of the proposal and not related in anyway to the proposed food store. These contributions would be significantly greater, if the whole site was developed for residential as per the allocation.</li> </ul>
6.5	052369	Broughton Shopping Park, Broughton.	Bloor Homes – Received 6 <sup>th</sup> November 2014.	<p>Bloor Homes is currently providing 130 new houses at land south of the shopping Park.</p> <ul style="list-style-type: none"> <li>• The Aldi would provide an additional service</li> </ul>

Agenda No.	Application Number	Location	Consultee / Date Received	Observations
				<p>and benefit to Broughton's growing community and make it a more attractive place to live and assist in selling houses.</p> <ul style="list-style-type: none"> <li>• Welcome a new supermarket.</li> </ul>
6.5	052369	Broughton Shopping Park, Broughton.	Local Residents – Received 11 <sup>th</sup> November 2014.	A further 40 standard objection letters as referred to under Section 4.0 – Publicity.

## FLINTSHIRE COUNTY COUNCIL

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

**DATE:** **WEDNESDAY, 17 DECEMBER 2014**

**REPORT BY:** **CHIEF OFFICER (PLANNING AND ENVIRONMENT)**

**SUBJECT:** **GENERAL MATTERS - FULL APPLICATION FOR A FOODSTORE (USE CLASS A1) AND 5 THREE BEDROOM AFFORDABLE HOUSES (USE CLASS C3) WITH ASSOCIATED CAR PARKING, ACCESS, SERVICING AND LANDSCAPING AT BROUGHTON SHOPPING PARK, BROUGHTON**

**1.00 APPLICATION NUMBER**

1.01 052369

**2.00 APPLICANT**

2.01 ALDI STORES LTD

**3.00 SITE**

3.01 BROUGHTON SHOPPING PARK,  
BROUGHTON.

**4.00 APPLICATION VALID DATE**

4.01 04.07.14

**5.00 PURPOSE OF REPORT**

5.01 To seek a resolution from Members in respect of the Heads of Terms of the S106 agreement and the scope of the conditions to be applied.

**6.00 REPORT**

6.01 Members resolved to grant planning permission for a foodstore (Class A1) and 5 affordable dwellings, with associated car parking, access, servicing and landscaping. This decision was contrary to officer recommendation and therefore no conditions or heads of terms for a S106 agreement/unilateral undertaking were proposed.

6.02 A resolution from Members is therefore required in respect of the Heads of Terms of the S106 agreement and the scope of the conditions to be applied to the development.

6.03 S106/Unilateral undertaking

It is proposed that the S106 or Unilateral undertaking covers the following contributions and requirements in respect of the 5 affordable dwellings;

1. Contribution of £ 1,100 per dwelling in lieu of on-site open space provision for enhancements to open space provision in the locality
2. Contribution of £12,257 for capacity improvements to Broughton Primary School which has less than 5% surplus spaces
3. Clauses to ensure the dwellings are made affordable in perpetuity and are occupied in accordance with an approved allocations policy, to the immediate locality in the first instance

6.04 Conditions

1. Time commencement – 5 years
2. In accordance with plans
3. Materials – food store and dwellings
4. Foul, surface water and land drainage scheme
5. Construction Traffic Management Plan
6. A detailed scheme for the construction of the access, provision of pedestrian guardrail and amendments to the footway, verge and street lighting
7. Access shall be kerbed and completed to carriageway base course layer before any other site works
8. Access shall have a visibility splay of 2.4m x 43m in both directions measured along the nearside edge of the adjoining carriageway over land within the control of the Applicant and/or Highway Authority and within which there shall be no obstruction to visibility in excess of 0.6m above the nearside channel level of the adjoining highway.
9. Visibility splays free from obstruction during construction
10. Positive means to prevent the run-off of surface water from any part of the site onto the highway
11. Final Travel Plan
12. Opening Hours Monday to Saturday 08.00-20.00, Sundays 10.00 – 18.00 ( 6 hours)
13. Deliveries Mondays to Saturdays 07.00-21.00 hours with no deliveries on Sundays or Bank Holidays. All within the enclosed bay.
14. Removal of permitted development rights for extensions, alterations to the roof and buildings in the garden for the proposed dwellings
15. Scheme of public art on the site
16. No works within bird breeding season



17. Lighting scheme
18. Landscaping scheme including details of planting on bund on western boundary with existing residential properties, acoustic fencing around the store and landscaping to southern boundary of the site with consented housing site
19. Emergency Flood Response Plan
20. Make occupiers of the development aware of and sign up to flood warning service
21. Surface water regulation system – explore use of SuDS
22. Management of overland flow
23. Tree protection measures
24. 2.5 metre high Acoustic barrier around condenser units
25. Installation of a 10dB(A) in-line silencer on the store's extraction system
26. Installation of an enhanced scheme of double glazing on proposed dwellings
27. Invasive species
28. Reasonable Avoidance Measures Amphibians(RAM's)

6.05 Opening hours and deliveries

In terms of the conditions due to the issues raised by objectors it is considered appropriate to restrict the hours deliveries can be made and the opening times of the store. Due to the access to the proposed dwellings being through the Aldi car park it is not appropriate to restrict access by means of a gate or barrier to the car park outside opening hours. This can only therefore be done by a restriction on the operating hours and delivery times.

6.06 Within the application it is proposed that deliveries would take place between Mondays to Saturdays 06.00 - 23.00 and Sundays 07.00 – 23.00. In the interests of residential amenity it is considered that this should be limited to Mondays to Saturdays 07.00-21.00 hours with no deliveries on Sundays or Bank Holidays.

6.07 Within the application Aldi stated the store would trade to the public between Monday to Saturday 08.00 – 23.00 and Sundays 10.00 – 18.00 hours for a six hour period. It is considered that in the interest of residential amenity this should be limited to 08.00-20.00 Monday to Saturday and with the Sunday trading hours as proposed.

6.08 Landscaping

There is an existing landscape bund on the site from the use of the site as a construction compound. This has been formally unmanaged for some time and therefore requires a scheme of management and maintenance along with additional planting to fill in gaps. Insufficient detail in this regard is provided in the submitted landscaping plan so this would be requested in detail by condition. New planting and a fence is also proposed along the southern boundary of the site with the consented residential site. Further landscaping along Chester Road and within the site would also be provided.

6.09 Noise

The Noise Assessment undertaken by Spectrum Acoustic Consultants refers to the need for acoustic barriers around the proposed store to reduce the noise impacts from the stores condenser units and other mechanical equipment. Acoustic fencing is also required around the private amenity areas of the proposed houses as the dwellings are within a NEC Category C as set out in paragraph 7.35 of the Committee report. A scheme of enhanced double glazing is also required to these proposed dwellings. These matters are dealt with by Public Protection Manger in his response and would be conditioned accordingly. Given the noise climate of the area it is therefore considered necessary to remove permitted development rights to provide control over any extensions or alternations to the roof for additional living space.

6.10 Flood risk

As set out in paragraph 7.41 of the Committee report the site is partially within a C1 flood zone as a result of historical flooding. NRW advise that conditions in relation to access and egress routes and awareness of the Flood Warning service are therefore recommended.

6.11 Other matters

Other conditions are taken from responses from NRW and the Highways Development Control Manager. NRW in their initial response refer to the need for Reasonable Avoidance Measures in respect of amphibians. This has been noted and the relevant condition applied. They also refer to conditions relating to the implementation of objectives within a strategy to facilitate the restoration of amphibian population in this area. Given the results of the ecological surveys on this site set out in paragraphs 7.38- 7.40 of the committee report it is not considered reasonable to require this for this site.

6.12 No response has been received from Welsh Water, however standard drainage conditions have been applied with regard to foul drainage and surface water drainage is dealt with by the conditions suggested by NRW with regard to the use of SuDs were appropriate.

6.13 In line with the Council's policy for public buildings a scheme for public art on the site would be conditioned.

**7.00 RECOMMENDATIONS**

7.01 That permission be granted in accordance with the Heads of terms and conditions set out in paragraphs 6.03 and 6.04 above.

**LIST OF BACKGROUND DOCUMENTS**

Planning Application & Supporting Documents

National & Local Planning Policy  
Responses to Consultation  
Responses to Publicity

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## FLINTSHIRE COUNTY COUNCIL

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

**DATE:** **17<sup>TH</sup> DECEMBER 2014**

**REPORT BY:** **CHIEF OFFICER (PLANNING AND ENVIRONMENT)**

**SUBJECT:** **OUTLINE APPLICATION - PROPOSED REDEVELOPMENT FOR THE ERECTION OF 12 DWELLINGS INCLUDING DEMOLITION OF EXISTING OUTBUILDINGS AND CREATION OF NEW ACCESS AT "BANK FARM", LOWER MOUNTAIN ROAD, PENYFFORDD, NEAR CHESTER**

**APPLICATION NUMBER:** **052377**

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

**SITE:** **"BANK FARM", LOWER MOUNTAIN ROAD, PENYFFORDD, NEAR CHESTER**

**APPLICATION VALID DATE:** **8<sup>TH</sup> JULY 2014**

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

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

**REASON FOR COMMITTEE:** **CALLED-IN BY COUNCILLOR D.T.M. WILLIAMS & COUNCILLOR CINDY HINDS AS ADJOINING WARD MEMBERS AS THE SITE LIES OUTSIDE THE DEVELOPMENT BOUNDARY; THE PROPOSAL IS AGAINST POLICY; DOES NOT FALL WITHIN THE DEFINITION OF A BROWNFIELD SITE; WOULD HAVE A NEGATIVE EFFECT ON THE COMMUNITY OF PENYFFORDD; AND, WOULD LEAD TO THE LOSS OF TRADITIONAL BUILDINGS THAT COULD BE CONVERTED & RENOVATED.**

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

## **1.00 SUMMARY**

- 1.01 The application seeks outline planning permission for the erection of 12 dwellings including the demolition of existing buildings and the creation of a new access at Bank Farm, Penyfford.
- 1.02 The application has been submitted in outline with all matters reserved except access. However, the application documents indicate the number of dwellings proposed to be 12 and advises that a condition could be accepted stating that no more than 12 dwellings can be erected under the outline consent. The Design & Access Statement clarifies that the amount of built form on the site would be similar to that of the existing buildings, hence the relatively low density of the scheme.
- 1.03 The main issues to be considered in the determination of this application are:-
- Whether the principle of residential development is acceptable on the site having regard to the planning history and current planning policy in respect of previously developed land;
  - Whether the site is an accessible and sustainable location;
  - Scale and form of the development proposed;
  - Whether there have been any material changes in circumstances since the refusal of previous applications for residential development of the site.

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

- 2.01 Subject to the completion of a Section 106 Obligation to cover the payment of commuted sums in respect of Education Provision (in accordance with the provisions of SPG 23), on site play provision (in accordance with the provisions of LPG 13) and the construction of a footpath link between the site and the village of Penyffordd, that Welsh Government to notified that the Council are minded to grant outline planning permission subject to the following conditions:
1. Outline – Reserved matters.
  2. Outline – Time limit – 2 years
  3. Materials to be submitted and approved.
  4. Siting, layout and design of site access to be in accordance with details to be submitted and approved, prior to the commencement of any site works.
  5. Forming and construction of means of site access shall not commence until detailed design has been approved.
  6. Detailed layout, design, means of traffic calming and signing, surface water drainage, street lighting and construction of internal estate roads to be submitted and approved, prior to the commencement of any site works. Development to be

- undertaken in accordance with approved details.
7. Foul and surface water to be drained separately.
  8. No surface water to connect, either directly or indirectly, to the public sewerage system.
  9. Land drainage run-off shall not be permitted to discharge, either directly or indirectly, into the public sewerage system.
  10. Details of hard/soft landscaping to be submitted and approved.
  11. Timescale for completion of landscaping scheme to be approved.
  12. Details of footpath link from the site to Penyffordd to be submitted and approved.
  13. Footpath link to be provided prior to the occupation of any dwellings.
  14. Removal of permitted development rights.

### **3.00 CONSULTATIONS**

#### **3.01 Local Member: Councillor P. Lightfoot**

Supports the application as it will improve a site which is becoming a blight on the countryside.

#### **Adjacent Ward Member: Councillor D.T.M. Williams**

Requests planning committee determination and objects to the application as the development will have a negative effect on the infrastructure and community of Penyffordd; the land is outside the settlement boundary; the site does not fall within the definition of a brownfield site; the proposal would result in the loss of traditional farm buildings of Local Historic Interest which could be renovated and converted.

#### **Adjacent Ward Member: Councillor C. Hinds**

Requests planning committee determination on the basis that the site is outside the settlement boundary; against planning policy; and, there are enough houses within the settlement boundary for the community needs.

#### **Higher Kinnerton Community Council**

Would support the erection of one dwelling only on the site. In view of the proximity of the site to the adjoining communities of Penyffordd and Penymynydd, consultation has also been undertaken with the local members and Community Council for this area.

#### **Penyffordd Community Council**

Strongly object to the application as the site is outside the settlement boundary of Penyffordd and Kinnerton; the site does not fall within the definition of previously developed land and a previous application for residential was dismissed on appeal; an additional 12 dwellings would place further increased pressure on services in Penyffordd; and, the development would not maintain the character of this open countryside location.

Head of Assets and Transportation

Initially advised that the application warrants a recommendation of refusal as it appears that the applicants intend to provide a roadway that is not to adoptable standard.

The applicants have clarified that the scheme was amended as part of a previous application to show two access points and this still applies to the current proposal. Plots 1 to 11 will be served from one point of access. It has been confirmed that it was intended that plots 1 to 6 would be off an adopted highway with plots 6 to 11 from a private drive. Plot 12 will be served from its own private drive. This is still the case and is consistent with the plans submitted as part of the current application (drawing number A002). The scheme is in outline and this matter can be adequately controlled through the imposition of conditions.

Head of Public Protection (Contaminated Land)

No objection subject to condition requiring site investigation of the nature and extent of contamination and proposed remediation works prior to commencement of development.

Public Open Spaces Manager

In accordance with planning Guidance Note 13 the Council should be seeking £1,100 per dwelling in lieu of on-site Public Open Space.

Welsh Water/Dwr Cymru

No objection.

Natural Resources Wales

No objection.

Clwyd-Powys Archaeological Trust

Request that the applicant is required to carry out a photographic survey (comprising photographs in high resolution digital format showing each existing internal and external elevation and the site's general location) before development commences, in order to preserve a minimal record of these buildings. This can be secured by condition.

Airbus Operations Ltd

No safeguarding objection

Lifelong Learning Directorate

The nearest Secondary school is Castell Alun, and the pupil numbers on roll exceed their capacity by 131, so a contribution towards Secondary school provision would be required. This is currently calculated as £36,938.

As for the Primary schools; Pentrobin V.A. School is the nearest



school being some 0.57 miles from the development site, as this school currently has 15.20% surplus places, then no contribution would be required at primary.

#### **4.00 PUBLICITY**

##### **4.01 Site Notice & Neighbour Notification & Application has been Advertised as a Departure from the Development Plan in the Press**

At the time of preparing this report one letter of objection has been received stating that 12 houses are too many and that 8 dwellings would be more appropriate. They also object to the access arrangements.

A further letter has been received raising concerns about the adequacy of proposed drainage arrangements and to the proposed footpath along Chester Road.

Four letters of support have been received.

#### **5.00 SITE HISTORY**

##### **5.01 051648**

Application for the approval of details reserved by conditions 3 (materials), 4 (access from Barracks Lane), 5 (closure of existing access), 6 (phasing of parking provision), 9 (Drainage), 10 (hard/soft landscaping), 13 (safeguarding of swallows), 15 (hedgerows/tree protection), 16 (replacement doors / windows), and 18 (vents/cowls) attached to planning permission reference 050921 - Approved 24.04.2014

##### **050921**

Variation of condition nos.6,8,9,13,15,16 and 18 imposed on planning permission ref: 048780 to allow for a phased approach for the undertaking of (a) a scheme for facilities for the parking, turning and unloading of vehicles (b) extended lighting (c) a scheme for the comprehensive drainage of the site (d) a scheme of ecological mitigation (e) the provision of tree/hedgerow protection (f) the introduction of replacement windows/doors and (g) ventilation equipment rather than the requirement for all details to be provided before the use of any part of the site commences as currently permitted – approved 26th September 2013

##### **050003**

Outline application - erection of 12no. dwellings including demolition of existing outbuildings and creation of a new access at "Bank Farm", Lower Mountain Road, Penyffordd,. Withdrawn

##### **048780**

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

**040627**

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

**038067**

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

**00/00733**

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

**4/2/14925**

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

**6.00 PLANNING POLICIES**

6.01 Flintshire Unitary Development Plan

Policy STR1 – New Development  
Policy STR 2 – Transport and Communications  
Policy STR 4 – Housing  
Policy STR 7 – Natural Environment  
Policy STR 8 – Built Environment  
Policy GEN1 – General Requirements for Development  
Policy STR10 – Resources  
Policy GEN3 – Development in the Open Countryside  
Policy D1 – Design Quality, Location and Layout  
Policy D2 – Design  
Policy L1 – Landscape Character  
Policy WB1 – Species Protection  
Policy AC13 – Access and Traffic Impact  
Policy AC18 – Parking Provision and New Development  
Policy HSG4 – New Dwellings Outside Settlement Boundaries

National Planning Policy

Planning Policy Wales Edition 7 – November 2014.

**7.00 PLANNING APPRAISAL**

7.01 Introduction

The application seeks outline planning permission for the erection of 12 dwellings including the demolition of existing buildings and the creation of a new access at Bank Farm, Penyffordd.

7.02 The application has been submitted in outline with all matters reserved except access. However, the application documents indicate the number of dwellings proposed to be 12 and advises that a condition could be accepted stating that no more than 12 dwellings can be erected under the outline consent at Bank Farm, Lower

Mountain Road, Penyffordd.

7.03 Site Description

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

7.04 The site accommodates a redundant farm dwelling with associated buildings in various state of repair. These buildings comprise a mix of older brick/timber frame outbuildings and more modern buildings constructed of breeze block and corrugated sheeting external walls. The site is bounded to the north by a mature and well established hedgerow, which also exists in part to the southerly end of the western site boundary with the remainder formed by the flank wall of one of the buildings. Since the granting of planning permission for the change of use of agricultural buildings to a light industrial use an access has been formed to serve part of the site which is now in light industrial use (timber storage and treatment). This access is onto Barracks Lane and is secured and gated when not in use.

7.05 Principle of Development

The principle of residential development of this site has been subject to considerable consideration in the past as indicated in the planning history section of this report. This includes a refusal by the National Assembly for Wales on the 13th October 2005 for an outline application for residential development (ref: 04/2/38067).

7.06 Subsequently an outline application (ref: 50003) for the erection of 12 dwellings on the site was considered by the Local Planning Authority and following a resolution to approve that application Welsh Ministers Called-In the application for their own determination. The application was subsequently withdrawn but a Direction remains in place directing the Council not to grant planning permission in respect of application no. 050003; or “any development of the same kind as that which is the subject of that application on any site which forms part of, or includes the land to which that application relates”. Given that this current application is an outline application for 12 dwellings and is on the same site as application Ref: 50003, this current application is covered by the Direction.

7.07 The Direction therefore relates to the current application. Notwithstanding the Direction the Council must consider whether the principle of development is acceptable. Should the Committee resolve to approve the application it will then have to be referred to Welsh Ministers under the Direction.

7.08 The applicants make the case that there have been significant material changes in circumstances since previous the refusal in June 2005. In summary the applicants point to the following changes:

- In terms of sustainability the site now has bus-stops immediately outside the site;
- A footpath is proposed as part of this proposal to link the site with Penyffordd;
- The site now constitutes previously developed land following the implementation of the light industrial permission;
- The Council are currently unable to demonstrate a 5 year supply of housing land;
- The current proposal will be more sensitive to the character of the locality and will resemble a range of converted farm buildings rather than a “modern housing estate”.

#### 7.09 Main Planning Issues

The main issues to be considered in the determination of this application are:

- Whether the principle of residential development is acceptable on the site having regard to the planning history and current planning policy in respect of previously developed land;
- Whether the site is an accessible and sustainable location and whether the development constitutes sustainable development;
- Whether the scale and form of the development proposed is acceptable;
- Whether there have been any material changes in circumstances since the refusal of the previous application (June 2005) for residential development of the site.

7.10 These issues were reflected in the reasons for the Direction to call-in a previous application (50003) as set out in the call-in letter of the 19th February 2013 as:

- the application raises issues which may be in conflict with national planning policies in respect of development in the countryside;
- the application raises issues of more than local importance; and,
- there are no significant differences in relevant aspects to the previous outline application for 20 dwellings on the site that was called in by Welsh Ministers in 2005.

7.11 On this previous application (50003) for 12 dwellings Members of the Planning and Development Control Committee resolved to approve the application following detailed consideration of the planning policy issues and having regard to material changes in circumstances since the previous call-in decision in 2005 as evidenced by the minutes of the Committee.

7.12 The Local Planning Authority’s resolution to approve the application was based on the assumption that the site was a previously

developed site which had been unused and had become an eyesore in the locality for a significant period; that there was no prospect of its re-use for agriculture; a consent for its re-development for light industrial use had already been granted; and, there were material changes in circumstances since the 2005 refusal, including improvements to the site's accessibility by public transport, combined with further proposed pedestrian accessibility improvements. Furthermore, there had been successful re-development of previously developed sites, such as the Meadowslea Hospital Site on the outskirts of Penyffordd since the previous June 2005 refusal.

7.13 The question as to whether the site fell within the definition of previously developed land was subject to interpretation in considering application ref 50003. The applicants argued that, as the site was not in agricultural use it did not fall within the exclusion covering "land and buildings currently in use for agriculture or forestry" as set out in the previously developed land definition set out within Planning Policy Wales (PPW).

7.14 For clarification the current PPW definition of Previously Developed Land (PDL) is as follows:

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

7.16 Excluded from the definition are;

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

7.17 The situation as to whether the site now falls within the definition of previously developed land is much clearer as the light industrial permission (ref: 048780) has been implemented.

7.18 The committee report relating to the previous application for housing

on this site (50003) noted that “If the light industrial permission were implemented, it is acknowledged that this would constitute ‘development’ of the redundant agricultural buildings by way of a material change of use. The land occupied by those buildings would then be PDL, thereby rendering the site in its entirety PDL from that point onwards”.

- 7.19 There has therefore been a material change in circumstance given that the site must now be considered in its entirety as PDL.
- 7.20 Paragraph 4.9.1 of PPW advises that previously developed (or brownfield) land should, wherever possible, be used in preference to greenfield sites, particularly those of high agricultural or ecological value. However, it also states that the Welsh Government recognises that not all previously developed land is suitable for development. This may be, for example, because of its location, the presence of protected species or valuable habitats or industrial heritage, or because it is highly contaminated.
- 7.21 Despite the preference at paragraph 4.9.1 for the development of PDL there is a need to consider whether or not this location is suitable for residential development of the scale proposed and one of the principal issues must be its location outside the current settlement boundary for Penyffordd as defined in the UDP.
- 7.22 Paragraph 4.2.2 of PPW now advises that the planning system provides for a presumption in favour of sustainable development to ensure that social, economic and environmental issues are balanced and integrated, at the same time, by the decision-taker when:
- preparing a development plan; and
  - in taking decisions on individual planning applications.
- 7.23 Paragraph 4.4.3 of PPW then advises that planning policies, decisions and proposals should:
- Promote resource-efficient and climate change resilient settlement patterns that minimise land-take (and especially extensions to the area of impermeable surfaces) and urban sprawl, especially through preference for the re-use of suitable previously developed land and buildings, wherever possible avoiding development on greenfield sites.
  - Locate developments so as to minimise the demand for travel, especially by private car.
- 7.24 Paragraph 4.9.2 of PPW advises that many previously developed sites in built-up areas may be considered suitable for development because their re-use will promote sustainability objectives. This includes sites

- in and around existing settlements where there is vacant or under-used land, commercial property or housing
  - in suburban areas close to public transport nodes which might support more intensive use for housing or mixed use;
  - which secure land for urban extensions, and;
  - which facilitate the regeneration of existing communities.
- 7.25 In this context the application site could be considered as a site which is “in and around” an existing settlement being within walking distance of the settlement of Penyffordd. The applicants have shown in their submission that the site is within walking distance of Penyffordd and that a new footway will be provided along the northern edge of Chester Road. As a result the site will be located within 1 mile walk from the centre of Penyffordd along a continuous dedicated pedestrian footpath.
- 7.26 With reference to the sustainability of the location, there are a number of material differences which distinguish the current proposal from the called-in application in 2005. Since the determination of that application two bus stops have been established on Chester Road almost immediately adjoining the site. These bus stops provide a number of services throughout the day with the principal service being Service No. 3 which connects to Mold, Buckley, Penyffordd, Broughton, Saltney and Chester. This service operates at a frequency of every 30 minutes during the day in each direction of travel.
- 7.27 The Inspector’s report on the previous call-in application concluded that:  
 “..residents would be forced to rely on the private car...there is insufficient evidence to demonstrate that an adequate bus service is available to meet the general needs of the residents. Consequently the development would be in an unsustainable location...”
- 7.28 The availability of bus stops serving a ½ hourly bus service within 20m of the site is now a significant material change in circumstance since the 2005 decision.
- 7.29 Added to the availability of bus services immediately adjoining the site is the proposed provision of a pedestrian path from the site to link with the existing footpath network some 550 metres to the west in Penyffordd. This ensures that the site is linked safely and conveniently with the centre of Penyffordd at less than 1 mile away from the application site.
- 7.30 A one mile walk to the centre of Penyffordd is a reasonable distance in terms of accessibility. This was re-affirmed in a recent appeal decision issued on the 31st July 2014 (ref: APP/B6855/A/14/2216871) where the Inspector in granting planning consent for a single dwelling

in the open countryside as defined in an adopted UDP concluded that “the site is reasonably well located to the settlements of Pontlliw and Pontardullais, and connected to them by public transport. Moreover, Pontardullais is approximately one mile away and is well provided for in terms of a segregated footway for pedestrians. In my opinion the site has good accessibility that would not place unacceptable demands on the need for private transport or the provision of other services”.

- 7.31 There are clear comparisons between the current application site and the site referred to in the appeal decision of 31st July 2014 in terms of the accessibility of the site.
- 7.32 One of the additional changes in circumstances in terms of the site’s sustainability as a suitable location for housing since the 2005 call-in is the approval in 2008 of a strategic business park at Warren Hall, Broughton, Flintshire. The consent will result in the development of a business park within walking distance of the current application site. One of the key requirements of that business park consent is set out in a Planning Obligation dated 26th February 2008 and requires the agreement and provision of proposed cycle routes to connect the Warren Hall development with Broughton, Penyffordd and Penymynydd. Inevitably the link to Penyffordd will follow the most direct route along the Chester Road and past the current application site.
- 7.33 It is clear from the foregoing that there have been significant changes in circumstances since the 2005 decision in terms of sustainability, in particular the site’s proximity to a choice of means of transport. This combined with the recent appeal decision referred to above point to the fact that the site can be considered to be in a location where there are choices for future residents to travel by means other than the private car.
- 7.34 One of the other factors which point to a change in circumstances is the approval on the 12th December 2005 of an appeal by the National Assembly for Wales relating to a housing proposal on the former Meadowslea Hospital Site on an open countryside location near Penyffordd.
- 7.35 In that case the Inspector concluded that the site was within open countryside but it was “reasonably well related to local services and facilities and within walking distance of bus routes”. He further concluded that the site was a “sustainable location” Since that approval the housing development has been completed.
- 7.36 A comparison of distances from the Meadowslea hospital site to the centre of Penyffordd and to the nearest bus stops will show that the current application site is both closer to the nearest bus-stops and



closer to the centre of Penyffordd than the Meadowslea Hospital site. It follows therefore that, if the Inspector concluded that the Meadowslea Hospital site, despite being a site in the open countryside, was a sustainable location, then the same conclusion could now be applied to the current application site.

7.37 Given that the site is in a sustainable location, the presumption in favour of sustainable development set out at Paragraph 4.2.2 is a significant material consideration. However, PPW also advises a planned approach is the most effective way to secure sustainable development through the planning system and it is important that plans are adopted and kept regularly under review. Legislation secures a presumption in favour of development in accordance with the development plan for the area unless material considerations indicate otherwise. Where, for example;

- there is no adopted development *plan*; or,
- relevant development plan *policies* are considered outdated or superseded; or,
- where there are no relevant *policies*.

7.38 Paragraph 2.7.1 of PPW advises that where development plan policies are outdated or superseded local planning authorities should give them decreasing weight in favour of other material considerations, such as *national planning policy*, in the determination of individual applications. This will ensure that decisions are based on policies which have been written with the objective of contributing to the achievement of sustainable development.

7.39 Paragraph 2.7.2 of PPW advises that it is for the decision-maker, in the first instance, to determine through review of the development plan whether policies in an adopted development plan are out of date or have been superseded by other material considerations for the purposes of making a decision on an individual planning application. This should be done in light of the presumption in favour of sustainable development.

7.40 The site lies outside the settlement boundary of both Penyffordd and Kinnerton in the Flintshire UDP. However, there are other material considerations in this case that should be afforded greater weight in making a decision on the application. Those other material considerations include the fact that PPW has now introduced a presumption in favour of sustainable development; the site is in a sustainable and accessible location; the site is previously developed land and PPW sets out a clear preference for the development of PDL in advance of greenfield sites.

7.41 The foregoing must also be considered in the context that the Council cannot currently provide a 5 year supply of housing land in

accordance with national planning policy. Paragraph 9.2.3 of PPW advises that local planning authorities must ensure that sufficient land is genuinely available or will become available to provide a 5-year supply of land for housing judged against the general objectives and the scale and location of development provided for in the development plan. This means that sites must be free, or readily freed, from planning, physical and ownership constraints, and economically feasible for development, so as to create and support sustainable communities where people want to live.

- 7.42 PPW and TAN1 requires each local planning authority to maintain a 5 year supply of housing land. The most recent published housing land supply figure is contained in the Joint Housing Land Availability Study 2013 published in June 2014. This identifies a housing land supply of 4.1 years calculated using the residual method with a base date of April 2013. This falls below the 5 year requirement.
- 7.43 The Council has previously argued in its submissions to PINS that the residual method of calculation does not give a true picture of the actual amount of land available in the County and that the past completions method of calculation provides a more accurate measurement of land supply as it is measured against what the house building industry is actually delivering on the ground, rather than merely against what the Plan originally set out to provide. Using the past completions method over the last 5 year period this gives a supply of 14.2 years. WG however use the residual method and where in such circumstances the Council does not have a 5 year land supply the Council is required to demonstrate, in accordance with PPW and TAN1 to set out the measures by which it will seek to make good the shortfall in housing land supply.

The 2013 JHLAS Report states that to maintain a 5 year supply 'the Council will continue to work with landowners and developers in bringing forward appropriate and sustainable windfall housing sites'. With reference to sites outside settlement boundaries the Report states that 'Applications on sites outside of existing settlements will be assessed on their individual merits in terms of whether they represent logical and sustainable development having regard to material planning considerations and will not be approved merely because they would increase housing land supply. They must also be capable of demonstrating that they can positively increase supply in the short term (perhaps by granting a short term permission) otherwise they would not be capable of meeting the requirements of TAN1.'

If this site is to make a contribution towards the 5 year housing supply it is therefore considered that any planning consent should be time limited to commencement within 2 years of the date of the permission with a phasing and delivery plan to ensure that any development on the site meets the current land supply shortfall. This would reflect the

fact consent would be granted only as a result of exceptional circumstances at the time of the application and the need to ensure that the site is not 'land banked' for delivery at some unspecified time in the future.

7.44 In addition to the consideration of the foregoing matters, the applicants were also asked to address the question of the viability of the site to continue as an employment site. Evidence has been produced to show that there is no market demand for the light industrial units as approved and, it has been clarified that the applicant's company no longer require the units for their own occupation, having invested in alternative, larger premises in Mold.

7.45 The evidence relating to the lack of need for commercial uses in this locality is re-enforced by the granting of planning permission for a change of use of the Old Warren Hall building from commercial/office use back to a residential use. The decision to approve that change referred to the fact that the demand for office accommodation was likely to be diverted to the larger, modern, purpose built offices which will be delivered on the new proposed Warren Hall Business Park. I have therefore have no evidence to question the applicant's agent's view on the viability of the proposed site in future for light industrial or commercial use.

7.46 Scale and Form of the Development

Although submitted in outline form an indicative site layout / elevation details have been submitted as part of the application to illustrate the proposed development of 12 No. dwellings at this location.

7.47 The applicant's agent has advised that the scheme has been designed taking into account the concerns expressed by the Assembly's Planning Decisions Committee that the previous proposal resembled a 'modern housing estate'.

7.48 The Design & Access Statement submitted as part of the application describes the scale and design of the proposed group of 12 dwellings as being similar to a group of farm houses and farm courtyards. The main concern with this approach however is that the character of traditional farm houses and outbuildings is based on a clear visual and functional primacy of a single farmhouse in relation to its ancillary buildings and land. Part of the development does reflect the form and function of a former group of traditional farm buildings. However, the house designs for plots 4 and 12 in particular show a great deal of complexity in terms of varying sizes and height, roof pitches and intersecting gables to break up their massing. It is considered that farm buildings usually display more simplistic linear vernacular forms of development.

7.49 Notwithstanding the concerns relating to the indicative scheme, given

that all matters are reserved save for access it should be possible at reserved matters submission to resolve the concerns relating to the form and design of the development whilst maintaining the acceptable points of access onto Lower Mountain Road and Barracks Lane.

7.50 Highways and Access

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

7.51 Clarification was sought to address concerns initially raised regarding the precise means of access into the site. It has been confirmed by the applicant's agent that the main access to serve the development is proposed from Lower Mountain Road with the internal road layout serving units 1–6 being made up to adoptable standards and units 7-11 being served by a private drive arrangement.

7.52 It is also proposed that unit 12 be served off its own private driveway onto Barracks Lane. There is no objection to the position of the proposed access points from a highway perspective subject to the imposition of conditions relating to their construction to serve residential development and the internal estate roads. In addition it is recommended that the proposed footpath link between the site and Penyffordd is completed prior to the commencement of any other site works.

7.53 Ecology

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

7.54 Drainage

Concerns have been raised by a local resident about the adequacy of the proposed drainage arrangements. The foul sewage connection is proposed to be to the public main sewer. Welsh Water have been consulted in this respect and have raised no objection or concerns relating to the capacity of the existing system.

7.55 Surface water will be disposed of by means of a soakaway system. No objections have been raised to this aspect of the proposal by Natural Resources Wales or by any of the other consultees. It should also be noted that much of the site is already hard-surfaced or covered by existing buildings.

## **8.00 CONCLUSION**

- 8.01 The application seeks outline planning permission for the erection of 12 dwellings including the demolition of existing buildings and the creation of a new access at Bank Farm, Penyffordd.
- 8.02 The site has an extensive planning history, including the refusal of a housing application following a call-in by Welsh Ministers in 2005
- 8.03 The applicants have argued that there have been significant changes in circumstances since that time which would now warrant approval of this application.
- 8.04 The material changes in circumstances have been assessed in detail in this report and can be summarised as follows:
- The site can be considered to be in an accessible and sustainable location given the fact that bus stops have been developed near the site and that the site is within walking distance of Penyffordd, using a dedicated pedestrian path
  - Other appeal decisions point to the fact that the site can be considered as accessible and sustainable
  - The site is now classed as previously developed land in its entirety
  - The Council currently has a shortfall of 5 year supply of land for housing when calculated using the residual method
  - There have been significant changes to National Planning Policy including the introduction of a presumption in favour of sustainable development
  - It has also been shown that the site is not viable, in the future, as a commercial/light industrial site.
- 8.05 On the basis of the foregoing I consider that the site is a suitable site for up to 12 houses and therefore recommend that the Committee should advise Welsh Government that they are minded to approve the application on the proviso that any consent is time limited to commencement within 2 years of the date of the permission. Should the Committee agree with the resolution the Welsh Government will have to be notified under the terms of the Direction served on the 15<sup>th</sup> January 2013 in respect of application ref 50003 or “any development of the same kind”.
- 8.06 In considering this planning application the Council has acted in accordance with the Human Rights Act 1998 including Article 8 of the Convention and in a manner which is necessary in a democratic society in furtherance of the legitimate aims of the Act and the Convention.

### **LIST OF BACKGROUND DOCUMENTS**

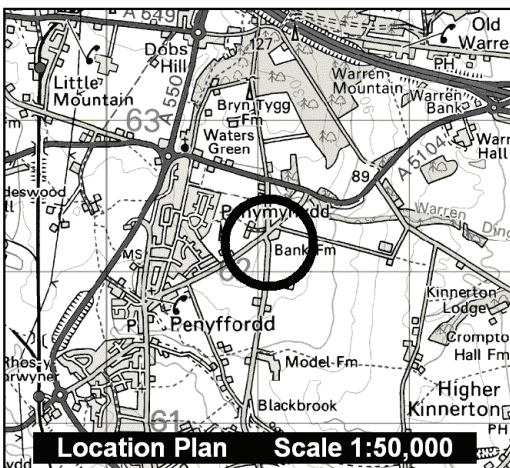
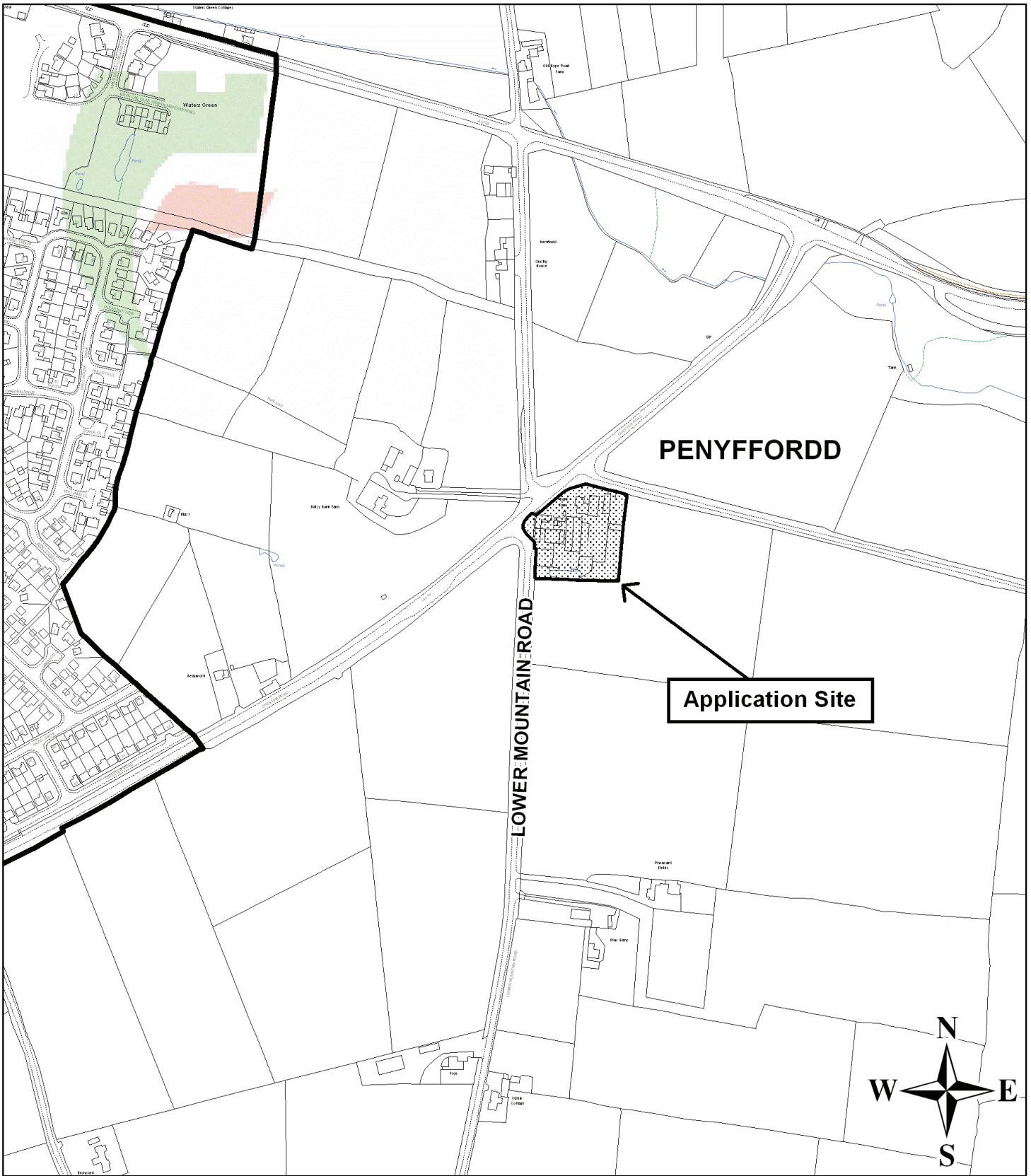
Planning Application & Supporting Documents

National & Local Planning Policy  
Responses to Consultation  
Responses to Publicity

**Contact Officer:** Rhys Davies

**Telephone:**

**Email:** [rhys.davies@cadnantplanning.co.uk](mailto:rhys.davies@cadnantplanning.co.uk)



Planning & Environment,  
 Flintshire County Council, County Hall,  
 Mold, Flintshire, CH7 6NF.  
 Chief Officer: Mr Andrew Farrow

**Legend**



Planning Application Site



Adopted Flintshire Unitary  
 Development Plan  
 Settlement Boundary

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Map Scale 1:5000

OS Map ref SJ 3162

Planning Application **52377**

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## FLINTSHIRE COUNTY COUNCIL

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

**DATE:** **17<sup>TH</sup> DECEMBER 2014**

**REPORT BY:** **CHIEF OFFICER (PLANNING AND ENVIRONMENT)**

**SUBJECT:** **FULL APPLICATION – RESIDENTIAL DEVELOPMENT TO PROVIDE 10 NO. TWO BEDROOM APARTMENTS AND 4 NO. ONE BEDROOM APARTMENTS AND ASSOCIATED PARKING AT NEW INN, STATION ROAD, SANDYCROFT.**

**APPLICATION NUMBER:** **052570**

**APPLICANT:** **JWG DEVELOPMENTS**

**SITE:** **NEW INN, STATION ROAD, SANDYCROFT.**

**APPLICATION VALID DATE:** **26.08.14**

**LOCAL MEMBERS:** **COUNCILLOR D E WISINGER**

**TOWN/COMMUNITY COUNCIL:** **QUEENSFERRY**

**REASON FOR COMMITTEE:** **S106 CONTRIBUTIONS**

**SITE VISIT:** **YES**

This application was deferred from consideration at 12<sup>th</sup> November Committee in order for a site visit to be undertaken and to obtain the comments from Welsh Water. The report has been updated below to reflect consultation responses received since the previous Committee.

### **1.00 SUMMARY**

1.01 This is a full planning application for the erection of two blocks housing a total 10 two bedroom apartments and 4 one bedroom apartments and associated parking. The main issues are the impact of the form of the development on the surrounding area, impact on residential amenity of adjacent properties, the loss of the public house

and development in a flood risk area.

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

- 2.01 The proposal is recommended for approval subject to the following:-  
Subject to entering into a S106 agreement for the following contributions;
- £733 per unit for recreation enhancements in lieu of on-site Provision
  - contribution of £24,514 to Sandycroft Primary School

**Conditions**

1. Time commencement
2. Plans
3. Materials
4. Ground floor parking only
5. Finished floor levels to be agree at 8.0AOd plus freeboard
6. Developers to produce an Emergency Flood response plan for occupiers
7. Occupiers to sign up to flood warning service
8. Tree protection measures
9. Surface water drainage
10. Foul drainage

If the Obligation pursuant to Section 106 of the Town & 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 D E Wisinger  
Agrees to the determination of the application under delegated powers.

Queensferry Community Council  
No response received at time of writing.

Highways Development Control Manager  
No objections.

Public Protection Manager  
No adverse comments.

Welsh Water/Dwr Cymru  
No objection subject to the imposition of standard conditions relating to surface and foul water drainage.

### Natural Resources Wales

The site lies entirely within Zone C1 (Areas of the floodplain which are developed and served by significant infrastructure, including flood defences) as defined in TAN 15 Development and Flood Risk and shown on the Welsh government's Development Advice Map (DAM). The site also lies entirely within NRW's 0.5% AEP tidal flood outline and also partially within NRW's 1% AEP fluvial flood outline. There are no flood defences associated with Sandycroft North drain and therefore the DAM designation C1 may not accurately reflect the flood risks to the site.

The submitted drawings appear to indicate that the ground floor of the development would be used solely for vehicle parking. We would accept that during a breach event the first floor level of the proposed development would be above the maximum in-channel tidal Dee flood level during the 0.5% AEP plus climate change event. However, Chapter 7.2 of TAN15 advises that it would not be sensible for people to live in areas subject to flooding (even in two storey buildings) where timely flood warnings cannot be provided and where safe access/egress cannot be achieved. Your Authority should note that it may not be possible to provide flood warnings in the event of a breach of defences.

We would recommend that an additional freeboard should be included in a proposed minimum finished floor level (FFL).

Also recommend conditions covering;

- Occupiers to sign up to Flood Warning Service
- Developers to produce a flood plan
- To ensure only parking on the ground floor

### Airbus

No aerodrome safeguarding objection.

### Public Open Spaces Manager

In accordance with Planning Guidance Note No13 seeks a contribution of £733 per dwelling as a contribution to enhance play provision in the community.

### Chief Officer (Education and Youth)

Sandycroft Primary has less than 5% surplus places, therefore an education contribution of £24,514 is required.

## **4.00 PUBLICITY**

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

7 objections on the grounds of

- three storey buildings are out of character with the surrounding area
- overdevelopment of site

- overlooking, detrimental impact on residential amenity, invasion of privacy, loss of light
- the public house is still open and not vacant as stated in the application documents
- flood risk, the public house has recently flooded, submitted FCA does not address concerns
- the plans show the properties further away than they actually are
- increase in traffic on a narrow residential road
- loss of a public house
- concern about flooding of stream to rear of properties with more development
- no access to mains foul sewer on Station Road
- there is a significant tree in the pub car park which is not shown on the plans and could be affected by the development

5 letters of support on the grounds of;

- Support the proposal as long as the flats don't go further back than my house. Don't want to see a brick wall when sitting in my garden.
- Pub has always been a problem with noise and antisocial behaviour
- Would consider buying one
- Would improve the area
- There would still be a pub in the area down the road

## **5.00 SITE HISTORY**

### **5.01 98/798**

Single Storey Extension to rear/ side of lounge bar. Approved 13.10.98

### **552/90**

Erection of a ground floor extension to house cellar and bottle store. 04.12.90

### **55/19250**

Outline planning application for residential. 03.04.90

## **6.00 PLANNING POLICIES**

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

STR1 - New Development

STR4 - Housing

GEN1 - General Requirements for Development

GEN2 - Development Inside Settlement Boundaries

D1 - Design Quality, Location and Layout

D2 - Design

D3 - Landscaping

WB1 - Species Protection  
AC13 - Access and Traffic Impact  
AC18 - Parking Provision and New Development  
S11 – Retention of Local Facilities  
HSG3 – Housing on Unallocated Sites within Settlement Boundaries  
HSG8 - Density of Development  
SR5 - Outdoor Playing Space and New Residential Development  
EWP3 - Renewable energy in New Development  
EWP14 - Derelict and Contaminated Lane  
EWP17 - Flood Risk

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

## **7.00 PLANNING APPRAISAL**

### **7.01 Introduction**

This is a full planning application for the erection of two blocks housing a total 10 two bedroom apartments and 4 one bedroom apartments and associated parking.

### **7.02 Site Description**

The site is currently occupied by the New Inn public house and associated curtilage and parking areas. The existing public house is a two storey building located to the south east of the site with a parking area to the north. To the north east of the site is a terrace of four residential properties. To the south west of the public house is a pair of terraced properties and to the north west of the site are a number of detached residential properties. Broughton brook runs along the north west boundary of the site and there are a number of trees along this boundary on the banks of the brook. To the north west beyond the brook are further residential properties.

7.03 The site is on the edge of the settlement of Sandycroft and is bounded to the east by Station Road. The area is predominately residential in nature. The A548 runs parallel to Station Road, beyond which is agricultural land. The site therefore is highly visible from the road network.

### **7.04 Proposal**

This is a full planning application for the erection of two blocks housing a total 10 two bedroom apartments and 4 one bedroom apartments and associated parking underneath the building and to the rear of the building. The form of the buildings are two and three storey in height, with all living accommodation at first and second floor and only parking at ground floor. 26 parking spaces are proposed, with 20 undercroft spaces and 6 spaces to the rear behind the proposed building. The proposed apartment buildings would be brick and render with a tiled roof.

- 7.05 Principle of development  
The site is situated within the Settlement boundary of Sandycroft which is a Category B settlement within the Adopted Flintshire Unitary Development Plan. The growth rate of Sandycroft as of April 2014 is 2.2%. The principle of residential development is therefore acceptable.
- 7.06 The proposal would lead to the demolition of the existing public house and the loss of this community facility. While the public house is still trading contrary to statements in the planning application, there is another public house; The Bridge Inn situated 130m from the application site within the settlement boundary of Sandycroft. The public house has also been on the market for over 12 months with no interest in it for the continuation of that use. It is therefore considered the loss of the public house would not be contrary to policy S11 as other facilities exist within the locality.
- 7.07 Flood risk  
The application is accompanied by a Flood Consequences Assessment undertaken by JWG Developments Ltd, along with reference Flood Consequences Assessments carried out for other sites in the locality.
- 7.08 The site lies entirely within Zone C1 (Areas of the floodplain which are developed and served by significant infrastructure, including flood defences) as defined in TAN 15 Development and Flood Risk and shown on the Welsh government's Development Advice Map (DAM).
- 7.09 The site also lies entirely within NRW's 0.5% AEP tidal flood outline and also partially within NRW's 1% AEP fluvial flood outline. There are no flood defences associated with Sandycroft North drain and therefore the DAM designation C1 may not accurately reflect the flood risks to the site.
- 7.10 New development should only be permitted within zones C1 and C2 if determined by the planning authority to be justified in that location. Section 6.2 of TAN15 states that development will only be justified if it can be demonstrated that;
- i. its location in zone C is necessary to assist, or be part of, a local authority regeneration initiative or a local authority strategy required to sustain an existing settlement; or
  - ii. its location in zone C is necessary to contribute to key employment objectives supported by the local authority, and other key partners, to sustain an existing settlement or region;
- and,
- iii. it concurs with the aims of Planning Policy Wales (PPW) and meets the definition of previously developed land (PPW fig4.3);and
  - iv. the potential consequence of a flooding event for the particular type of development have been considered and in terms of the criteria

contained in sections 5 (vulnerability of development) and 7 and Appendix 1 (Assessing the consequences of flooding) of the TAN are found to be acceptable.

- 7.11 In terms of justifying the development, the site is located within the settlement boundary of Sandycroft in the Flintshire Unitary Development Plan. Sandycroft is a Category B settlement as defined in the UDP strategy. As outlined above the growth rate of Sandycroft as of April 2014 is 2.2% and policy HSG3 allows up to 15% growth with any additional growth required to meet a housing need. It is therefore considered this development would assist in sustaining the existing settlement in accordance with criteria (i) above.
- 7.12 In terms of meeting with the aims of PPW, the site is brownfield land. It is considered that the site does fall within the definition of previously developed land, as the site is occupied by a building and car parking area. This therefore meets with criteria (iii). The development proposals put forward involves the use of the ground floor as domestic garages, with all habitable accommodation set at first floor level and above. This proposes a "less vulnerable" use of the site at the ground floor level.
- 7.13 The peak flood level expected in the locality during a 0.5% AEP plus climate change overtopping scenario are 5.29AOD and for the breach scenario are 5.92 AOD. These levels are taken from the FCA for the Lifeboat Inn, which is in proximity to this site and the models have not been run specifically for this site. The proposed finished floor levels for garages are at 5.35 AOD with living accommodation at first floor at 8.0m AOD. NRW recommend that an additional freeboard of at least 300mm should be included in a proposed minimum finished floor level (FFL).
- 7.14 The submitted drawings appear to indicate that the ground floor of the development would be used solely for vehicle parking. NRW accept that during a breach event the first floor level of the proposed development would be above the maximum in-channel tidal Dee flood level during the 0.5% AEP plus climate change event. It is therefore possible that during such an event, residents could be trapped on the upper floors of the building with limited or no access to power or sanitation. Consultation has been undertaken with Emergency Planning who recommend that occupiers of the properties are made aware of the risks of flooding through an emergency flood response plan drawn up by the developers, to make occupiers aware of what to do in the event of a flood through a breach event. This can be the subject of a condition. NRW also request a condition to ensure that the ground floor of the building is used for parking only.
- 7.15 Impact on residential amenity  
The site is bounded by residential properties to the north, west and south. The surrounding residential properties vary in type but are all

two storey in nature. Residents are concerned about the three storey nature of the buildings and the impact in terms of overlooking on residential amenity.

- 7.16 The proposed development is two and three storey with the parts of the building nearest to the existing properties at two storey. The applicants have produced a street scene which shows the building in the context of the surrounding development. The two storey elements are 8 metres in height which is a similar height to the existing residential properties adjacent to the site. The three storey elements are 10.5 metres in height, however it is not considered that due to the varying roof heights in the area it would be out of character with the overall street scene. There is an existing building on the site which has a smaller footprint than the proposed development, but is marginally greater in height than the adjacent two storey properties.
- 7.17 In terms of overlooking, 50 Phillip Street overlooks the site, however there is a minimum of approximately 15 metres at the nearest point due to the nature of the site boundary. The proposed buildings are set back 8 metres from the boundary, therefore there is a separation distance of 23 metres. An objection in terms of overlooking has also been received from 46 Phillip Street. This property does not directly overlook the site but the distance from the dwelling to the boundary of the site is approximately 24 metres. The proposed building is 8 metres from the site boundary giving a separation distance of 32 metres. These are both in accordance with the separation distances set out in Local Planning Guidance Note 2: Space Around Dwellings. The adjacent houses to the north east and south west have side elevations with no windows overlooking the site. The proposed buildings are set back from the footway and extend into the site at a similar depth to the adjacent properties.
- 7.18 There is also a concern the plans show the surrounding properties to be further away than they actually are. From assessing the submitted information the plans are at a recognised scale and are on an Ordnance Survey base.
- 7.19 Concern has been raised about the impact of the tree on the site boundary. It is intended that the tree would remain in situ with light pruning on the development side of the site. Conditions for tree protection measures can be imposed to ensure the tree is not adversely affected by the development.
- 7.20 Parking  
The site provides for 26 parking spaces. The proposed buildings would house 14 apartments therefore there are more than 1.5 spaces per unit as advocated by the Council's parking standards.
- 7.21 S106 contributions  
Open Space



In accordance with Planning Guidance Note No13 seeks a contribution of £733 per dwelling as a contribution to enhance play provision in the community.

7.22 Education

As the development exceeds the threshold of 5 two bedroom units an assessment as to whether an Education contribution is required has been undertaken. The development would be within the catchment of Sandycroft Primary School which has 329 children on role and a capacity of 337 with a surplus of 2.37%. The nearest High School is John Summers which has 374 pupils on role with a capacity of 565, with a surplus of 33.81%. As the Primary School has less than 5% surplus places in line with SPG 23: Developer Contributions to Education a contribution of £24,514 is required.

8.00 CONCLUSION

8.01 The principle of residential development in this location and the loss of the public house is acceptable due to the proximity of other facilities in the area. It is considered that the form and scale of the buildings would not have an adverse impact on the street scene and or have a significant adverse impact on the residential amenity of adjoining properties.

8.02 Issues relating to flood risk have been addressed in the design of the building ensuring the living accommodation would be dry in the event of an extreme flood event. Conditions would be imposed with respect to the requirement for a flood evacuation plan.

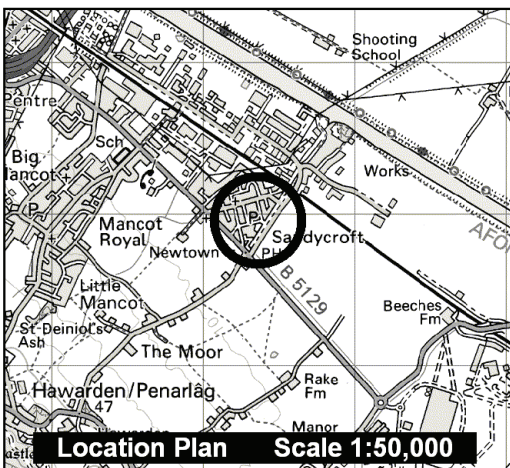
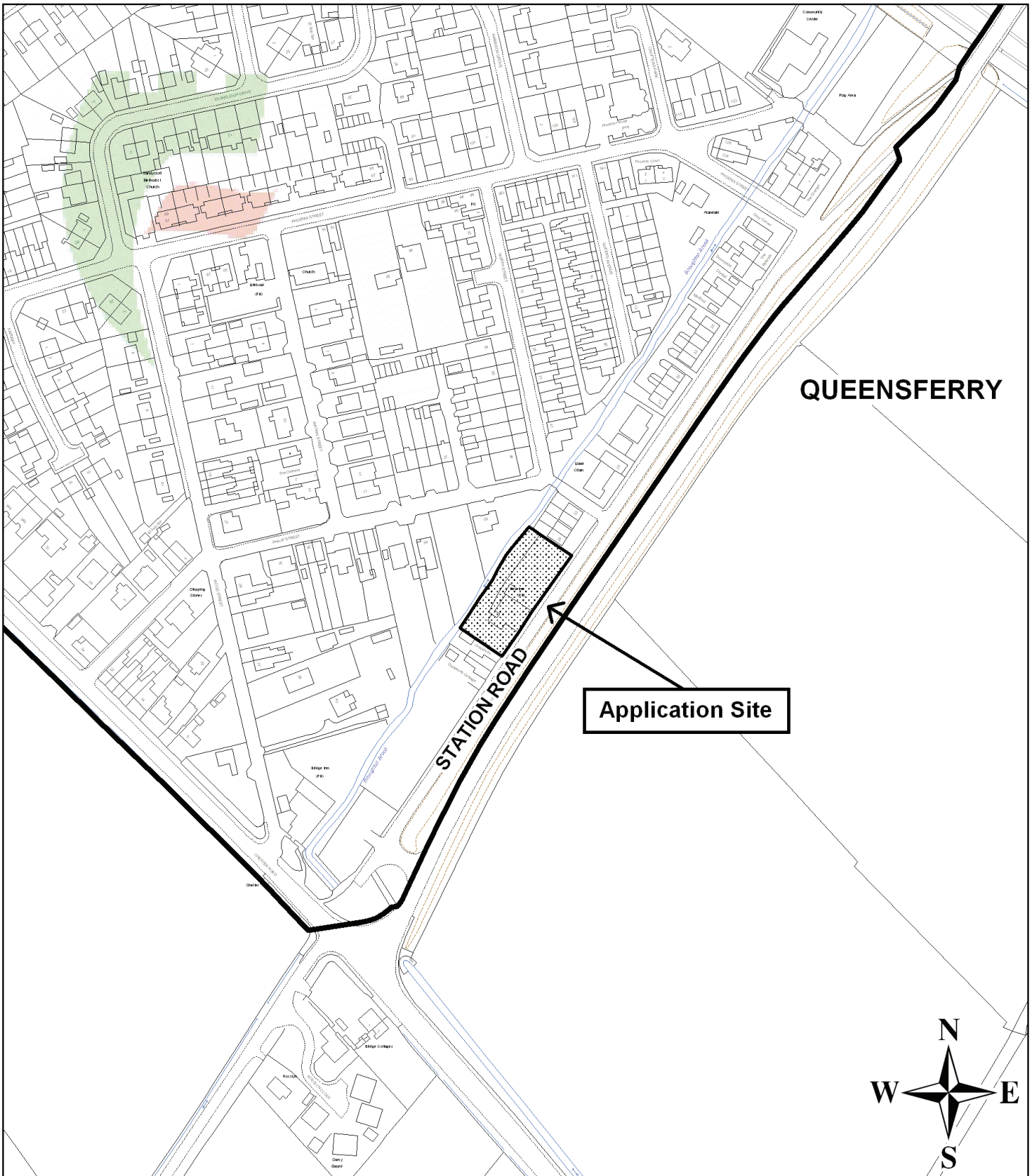
8.03 In considering this planning application the Council has acted in accordance with the Human Rights Act 1998 including Article 8 of the Convention and in a manner which is necessary in a democratic society in furtherance of the legitimate aims of the Act and the Convention.

LIST OF BACKGROUND DOCUMENTS

Planning Application & Supporting Documents  
National & Local Planning Policy  
Responses to Consultation  
Responses to Publicity

**Contact Officer:** Emma Hancock  
**Telephone:** (01352) 703254  
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Planning & Environment,  
 Flintshire County Council, County Hall,  
 Mold, Flintshire, CH7 6NF.  
 Chief Officer: Mr Andrew Farrow

**Legend**



Planning Application Site



Adopted Flintshire Unitary  
 Development Plan  
 Settlement Boundary

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Map Scale 1:2500

OS Map ref SJ 3366

Planning Application **52570**

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## FLINTSHIRE COUNTY COUNCIL

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

**DATE:** **WEDNESDAY, 17 DECEMBER 2014**

**REPORT BY:** **CHIEF OFFICER (PLANNING AND ENVIRONMENT)**

**SUBJECT:** **FULL APPLICATION - CHANGE OF USE OF THE SUNDAWN GARDEN CENTRE TO A PLANT HIRE DEPOT, INCLUDING THE DEMOLITION OF THE EXISTING GARDEN CENTRE BUILDINGS, THE ERECTION OF A WORKSHOP BUILDING AND THE CONVERSION OF THE TEAPOT CAFE FOR USE AS ANCILLARY OFFICE ACCOMMODATION AT TEAPOT CAFÉ & SUNDAWN GARDEN CENTRE, LLWYBR HIR, CAERWYS**

**APPLICATION NUMBER:** **052645**

**APPLICANT:** **MR W THOMAS**

**SITE:** **TEAPOT CAFÉ & SUNDAWN GARDEN CENTRE, LLWYBR HIR, CAERWYS**

**APPLICATION VALID DATE:** **16<sup>TH</sup> SEPTEMBER 2014**

**LOCAL MEMBERS:** **COUNCILLOR J FALSHAW**

**TOWN/COMMUNITY COUNCIL:** **CAERWYS TOWN COUNCIL**

**REASON FOR COMMITTEE:** **LOCAL MEMBER REQUEST**

**SITE VISIT:** **YES**

### **1.00 SUMMARY**

- 1.01 This application seeks full planning permission for the change of use of the land from a café and garden centre to a plant hire depot including the demolition of the existing garden centre buildings, the erection of a workshop building, and the change of use of the existing café to ancillary offices associated with the plant hire business.

1.02 It is considered that in principle the proposed development would be an inappropriate use in the open countryside setting and therefore would be contrary to the relevant planning policies.

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

2.01 The proposed plant hire depot would result in a form of development that would not be appropriate to the open countryside location and would therefore cause unacceptable harm to the character of the area, contrary to policies GEN1, GEN3 and EM4 of the adopted Flintshire Unitary Development Plan.

2.02 The application site is located within Zone 1 of the Ffynnon Asaph Source Protection Zone. The applicant has failed to demonstrate that the proposal will not pose a risk to the quality of the potable groundwater, contrary to policies GEN1 and EWP16 of the adopted Flintshire Unitary Development Plan.

**3.00 CONSULTATIONS**

3.01 Local Member

Councillor J Falshaw

Requests that the application is referred to the planning committee as the character of the site is different than the surrounding land, it is suitably screened against adverse visual impact. Existing site is commercial development and as such the site is eligible for redevelopment and would not constitute development of Greenfield land.

Caerwys Town Council

Object to the proposal on the following grounds:

- The workshop will not harmonise with the open countryside setting
- Artificial lighting will adversely affect the character of the area
- It is not a small scale rural enterprise or small scale farm diversification
- It is not within an allocated commercial area. Sporadic unnecessary development in the open countryside, particularly along the A55 corridor
- Contrary to policy EM4 of the FUDP
- Detrimental impact on highway safety
- Potential harm to Ffynnon Asaph aquifer
- The site can be seen from views from the AONB and would therefore have a detrimental impact upon its character
- Noise, dust and air pollution
- Detrimental impact on amenities of neighbouring properties

- Impact on the local ecology

#### Head of Assets and Transportation

Rights of Way – No objection

Development Control – No objection subject to the following conditions:

- a) No part of the proposed gates shall obstruct the adopted highway indicated on the attached plan.
- b) Facilities shall be provided and retained within the site for the loading, unloading, parking and turning of vehicles. Such facilities being completed prior to the proposed development being brought into use.
- c) No works associated with the development of the site shall commence unless and until an Operational Traffic Management Plan is submitted to and approved in writing by the County Council.

#### Welsh Government (Transport)

Directs that any permission granted by your authority shall include the following conditions:

1. Adequate provision shall be made within the development to enable vehicles to turn around, so they may enter and leave the site in a forward gear. In addition, provision shall be provided for servicing the site and adequate parking which must be in accordance with the local parking standards.
2. The applicant must ensure the formation of a safe and satisfactory means of access to the site in the interests of maintaining highway safety and the free and safe movements of traffic on the adjoining highway.
3. The applicant shall provide wheel-washing facilities at the site exit. Such facilities shall thereafter remain available and be used by all vehicles exiting the site.
4. No signs/posters etc. associated with the business, either temporary or permanent, shall be located on the public highway.

The above conditions are included to maintain the safety and free flow of trunk road traffic.

#### Head of Public Protection

No adverse comments

#### Welsh Water/Dwr Cymru

No objection

#### Natural Resources Wales

The site is located within Zone 1 of the Ffynnon Asaph Source Protection Zone (SPZ). Source Protection Zones are designated by Natural Resources Wales to identify the catchment areas of sources of potable water (that is high quality water supplies usable for human consumption) and show where they may be at particular risk from polluting activities on or below the land surface. Source Protection Zone 1 (SPZ1) areas are designated closest to the source of potable water supplies and indicate the area of highest risk for abstracted water quality. In this instance, the proposed development could threaten potable water supplies from the Ffynnon Asaph Source Protection Zone. The current septic tank is not discharging to an engineered soakaway designed to British Standards. Position statement G2 of GP3 states that *“Inside SPZ1 we will require all sewage effluent discharges (new or existing) to hold a permit. All permit applications will be considered on the basis of risk assessment and the appropriateness of the discharge with respect to the local environmental setting. Where necessary we will use a notice to stop any unacceptable discharge.”* Without an engineered soakaway the current system would be refused a permit. We will maintain our objection until we receive a satisfactory application that shows an improvement to the current soakaway.

### **4.00 PUBLICITY**

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

A letter of support has been received from David Hanson MP

Five representations have been received from local residents objecting the proposal on the following grounds:

- Impact on residential amenity
- Impact on the character of the area and the AONB
- Noise pollution from very large vehicles
- Impact on the aquifer from site pollution
- The use should be located on an industrial park
- Impact on highway safety
- Impact on the amenities of neighbouring properties

A letter has been received from the British Driving Society North East Wales objecting on the following grounds:

- The traffic generated would make the local highway network hazardous for riders, carriage drivers and walkers alike.



## **5.00 SITE HISTORY**

5.01 LA Ref: 051622  
Applicant: Mr W Thomas  
Proposal: Erection of building for servicing and storage of plant and change of use of garden centre to plant hire depot.  
Location: Garden Centre, Pen Y Cefn, Caerwys, Mold, CH7 5BL  
Decision: Withdrawn  
Decision Date: 25 March 2014

LA Ref: 9400818  
Applicant: L Brimble And Son  
Proposal: EXTENSION TO EXISTING GARDEN CENTRE GREENHOUSES  
Location: The Garden Centre, St Asaph Road, Penycefn  
Decision: Approved  
Decision Date: 26 January 1995

LA Ref: 9200786  
Applicant: L. Brimble & Son  
Proposal: DISPLAY OF AN ILLUMINATED ADVERTISEMENT SIGN  
Location: Sundawn Nursery Garden Centre, And Teapot Cafe, A.55 Caerwys  
Decision: Approved  
Decision Date: 1 February 1993

LA Ref: 9001322  
Applicant: L. Brimble & Son  
Proposal: EXTENSION TO CAFE AND PROVISION OF TOILETS  
Location: Teapot Cafe, St Asaph Road, Caerwys  
Decision: Approved  
Decision Date: 16 April 1991

LA Ref: 8800244  
Applicant: L. Brimble & Son  
Proposal: ERECTION OF TWO TIMBER BOARD SIGNS  
Location: Sundawn Garden Centre, Pen Y Cefn, Caerwys  
Decision: Approved  
Decision Date: 18 May 1988

LA Ref: 8700542  
Applicant: L Brimble & Son  
Proposal: DEVELOPMENT AS GARDEN CENTRE, NEW VEHICULAR ACCESS, CAR PARK AND CAFE EXTENSION  
Location: The Tea Pot Cafe, & Nursery Garden, Pen-Y-Cefn, Caerwys  
Decision: Approved  
Decision Date: 14 September 1987

LA Ref: 8600601

Applicant: L. Brimble & Son Ltd  
Proposal: FILL AND LEVEL SITE FOR USE IN CONNECTION WITH NURSERY  
Location: Land Adjoining Teapot Cafe, Caerwys  
Decision: Approved  
Decision Date: 25 November 1986

LA Ref: 8600281  
Applicant: L. Brimble & Son  
Proposal: OUTLINE - CHANGE OF USE TO GARDEN CENTRE AND EXTENSION TO EXISTING CAFE  
Location: The Teapot Cafe And Adjoining, Pen Y Cefn, Caerwys  
Decision: Refused  
Decision Date: 13 October 1986

LA Ref: 8500423  
Applicant: L. Brimble And Son  
Proposal: RETENTION OF EXISTING CAFE BUSINESS WITH DEVELOPMENT OF LAND AS NURSERY WITH SOME SALES  
Location: Teapot Cafe, Penycefn, Caerwys  
Decision: Refused  
Decision Date: 10 January 1986

## **6.00 PLANNING POLICIES**

- 6.01 Flintshire Unitary Development Plan  
STR1 – New Development  
STR3 - Employment  
GEN1 – General Requirements for Development  
GEN3 – Development in the Open Countryside  
D1 – Design Quality, Location & Layout.  
D2 – Design  
D4 – Outdoor Lighting  
EM4 – Location of Other Employment Development  
AC13 – Access and Traffic Impact  
L1 – Landscape Character  
EWP16 – Water Resources

## **7.00 PLANNING APPRAISAL**

- 7.01 Introduction  
The application site amounts to approximately 1.16 hectares in area. It is located within the open countryside as defined in the adopted Flintshire Unitary Development Plan (FUDP).
- 7.02 The existing use of the site is for a garden centre which comprises a number of greenhouses/buildings and a café. The site has a large car park to the front and is accessed via Llwybr Hir which is accessed from the westbound A55 carriageway.

- 7.03 There are a small number of residential properties to the west of the site, which are all served by a single lane which is also accessed via Llwybr Hir.
- 7.04 The site is surrounding by open fields to the east, south and west. Directly to the north of the site is the A55, from which the site is readily visible.
- 7.05 Proposed Development  
The application comprises the change of use of the site to a plant hire depot, including the demolition of the existing garden centre buildings, the erection of a new workshop building and the change of use of the café to ancillary offices associated with the plant hire business. The proposal also includes for landscaping to the front of the site, the reconfiguration of the car park and access road, the erection of a 2m high mesh palisade fence with a 6m wide access gate.
- 7.06 The proposed new building will be sited along the southern boundary of the site. The building will measure approximately 20m deep x 40m wide and will have a height of 6m to the eaves and 7.3m to the ridge. There will be six roller shutter doors to the front of the building. The exterior will be clad in dark grey metal cladding.
- 7.07 The proposed use will involve the lease, rental, repair and maintenance of plant and equipment ranging from pavement rollers, JCB's, forward tipping dumpers, tele handling vehicles and excavators. Given the nature of the business, much of this plant and equipment will be off the site the majority of the time. The opening hours will be 6am till 6pm, Monday to Saturday.
- 7.08 Main Planning Issues  
It is considered that the main planning issues can be summarised as follows:-
- a. The principle of development having regard to current planning policy framework
  - b. Impact on the highway network and highway safety
  - c. Potential impact on the Fynnon Asaph aquifer
  - d. Impact on the visual amenity of the area
  - e. Impact on the amenities of nearby residential properties
- 7.09 In commenting in detail in response to the above issues, I wish to advise as follows:-
- 7.10 Principal of Development  
The Planning and Compulsory Purchase Act 2004 states at S38(6) that "if regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise".

- 7.11 The Development Plan is therefore the starting point for the consideration of this application.
- 7.12 The most relevant policy applicable to this proposal is policy EM4 of the FUDP. EM4 allows for new industrial, office and warehousing outside either allocated sites, Development Zones or Principal Employment Areas will be permitted through the redevelopment of suitable brownfield, underused or vacant land. The application site has an established existing lawful use as a garden centre and therefore the land can be consider brownfield land.
- 7.13 However, EM4 goes on to state that this is subject to the following requirements:
- i. the scale and design of the development is in keeping with its immediate surroundings;
  - ii. the proposed use is appropriate to the location and causes no detriment to residential amenity or areas and features of landscape, nature conservation and historic importance;
  - iii. the proposal provides satisfactory on site parking, servicing and manoeuvring space and that the highway network (including access and egress) is adequate to safely cater for the type and volume of traffic generated by the proposal; and
  - iv. outside storage areas are screened from public view.
- 7.14 Whilst criterion iii and iv can be satisfied by means of site layout and conditions, criterion i and ii and more difficult to comply with.
- 7.15 The scale of the proposed development is within the confines of the existing site; however, the proposed new building is typically industrious in its design. The vernacular of the area is characterised by open fields and sporadic residential properties and farmsteads, and whilst the A55 is within very close proximity, the area remains very rural in its appearance and nature. Attempts have been made to reduce the visual impact of the development by means of positioning the new building to the rear of the site and providing soft landscaping; however, it is consider that the overall appearance of the site will be industrious and incongruous to the area, contrary to criterion ii of EM4.
- 7.16 Although the existing site is a garden centre that has a number of buildings and structures, such a use is not uncommon in the open countryside, often evolving from a previous horticultural use. The proposed use as a plant hire depot is very much typical of a use found on an industrial estate and not in the open countryside. Therefore it is considered to be an inappropriate use for this location and contrary to criterion ii of EM4.
- 7.17 Impact on Highway Network and Safety  
The site is within very close proximity of and access/egress point of

the westbound carriageway of the A55. Notwithstanding the A55, the other roads leading to the site in the locality are narrow and inappropriate for large heavy goods vehicles, which would be used for the delivery of plant to/from the site.

7.18 The application site will provide adequate parking and turning facilities within the site and an Operational Traffic Management Plan (OTMP) can ensure that such heavy traffic only uses the adjoining A55 and not the nearby lanes leading to Caerwys Junction. This should negate any potential negative impact on highway safety along these lanes.

7.19 By reason that the site already benefits from a commercial use, there is already potential for significant traffic movements, including HGV's delivering goods. Furthermore, the existing use has customers visiting the site, whilst the proposed use is unlikely to have any as the business involves delivering plant to the customers.

7.20 Given the above, it is considered that the proposal will not have an adverse impact on highway safety.

7.21 Impact on Ground Water Resources

The site is located within Zone 1 of the Ffynnon Asaph Source Protection Zone (SPZ). Source Protection Zones are designated by Natural Resources Wales to identify the catchment areas of sources of potable water (that is high quality water supplies usable for human consumption) and show where they may be at particular risk from polluting activities on or below the land surface. Source Protection Zone 1 (SPZ1) areas are designated closest to the source of potable water supplies and indicate the area of highest risk for abstracted water quality.

7.22 In this instance, the proposed development could threaten potable water supplies from the Ffynnon Asaph Source Protection Zone. The current septic tank is not discharging to an engineered soakaway designed to British Standards.

7.23 Given the above, the proposed development as submitted is unacceptable because it involves the use of a non-mains foul drainage system, which poses an unacceptable risk of pollution to groundwater and the applicant has not supplied adequate information to demonstrate that the risks posed to groundwater can be safely managed.

7.24 Impact on Visual Amenity

The existing site comprises a number of low level buildings/structures through the southern half of the site. These comprise mainly of greenhouses and planting structures, which can be seen various vantage points in the locality.

The proposal will involve the demolition of all of the existing garden

- 7.25 centre buildings and structures and the erection of a single building, which would result in an overall reduction the floor area of buildings on the site. Whilst this can be seen as reducing the overall visual impact, the height of the proposed building is significantly greater than that of any existing building/structure on the site, and therefore would potentially be even more visible. Notwithstanding this, given that the proposed new building will be positioned to the rear of the site, on a lowers ground level than the front of the site, in reality the new building will only appear to be marginally taller than the existing main building.
- 7.26 Notwithstanding the building itself, the proposed site will no doubt have a large number of plant and vehicles stored outside at any one time, which themselves would have a detrimental impact on the visual amenity of the area. Although the existing use has goods stored outside, by their very nature they are generally plants which have a minimal impact on visual amenity.
- 7.27 Landscaping is provided at the front section of the development to aid in reducing the visual impact on the overall site, particularly when viewed from the A55, and existing trees and hedging will be utilised to help screen the site from views elsewhere.
- 7.28 Given the above, although the site will be screened by means of vegetation, by reason of the very nature of the proposed use with the industrial type building and plant machinery and large vehicles, it is considered that the resultant visual impact will unacceptably harm the character of the open countryside.
- 7.29 Impact on Residential Amenities  
There are a small number dwellings within approximately 150m distance from the site.
- 7.30 Although the proposed use will generate some noise through the repairing and maintenance of the plant machinery and the movement of vehicles to and from the site, it is consider that this will not have an unacceptable impact on the amenities enjoyed by the occupants of these properties.
- 7.31 Other Considerations  
Whilst not included in the application submission, objections have been raised regarding external lighting, which could potentially have a detrimental impact on the visual amenity of the area. To mitigate this, a condition could ensure that any lighting is to be agreed prior to it being installed.
- 7.32 Furthermore, the site does have an existing commercial use as a garden centre and a café and therefore is considered to be developable brownfield land; however, the proposed use is considered to be inappropriate for the open countryside setting.

## **8.00 CONCLUSION**

- 8.01 In conclusion, the proposed use is considered to be contrary to policy EM4 by reason that it is an inappropriate use for this open countryside setting and would therefore result in unacceptable harm to the character of the area. Furthermore, the scale and design of the proposal would have an unacceptable impact on the visual amenities of the area.
- 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.

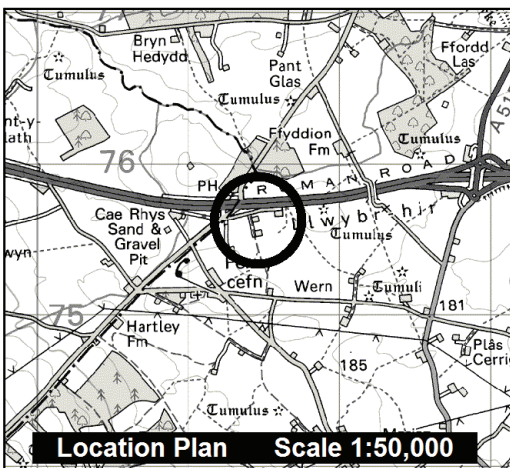
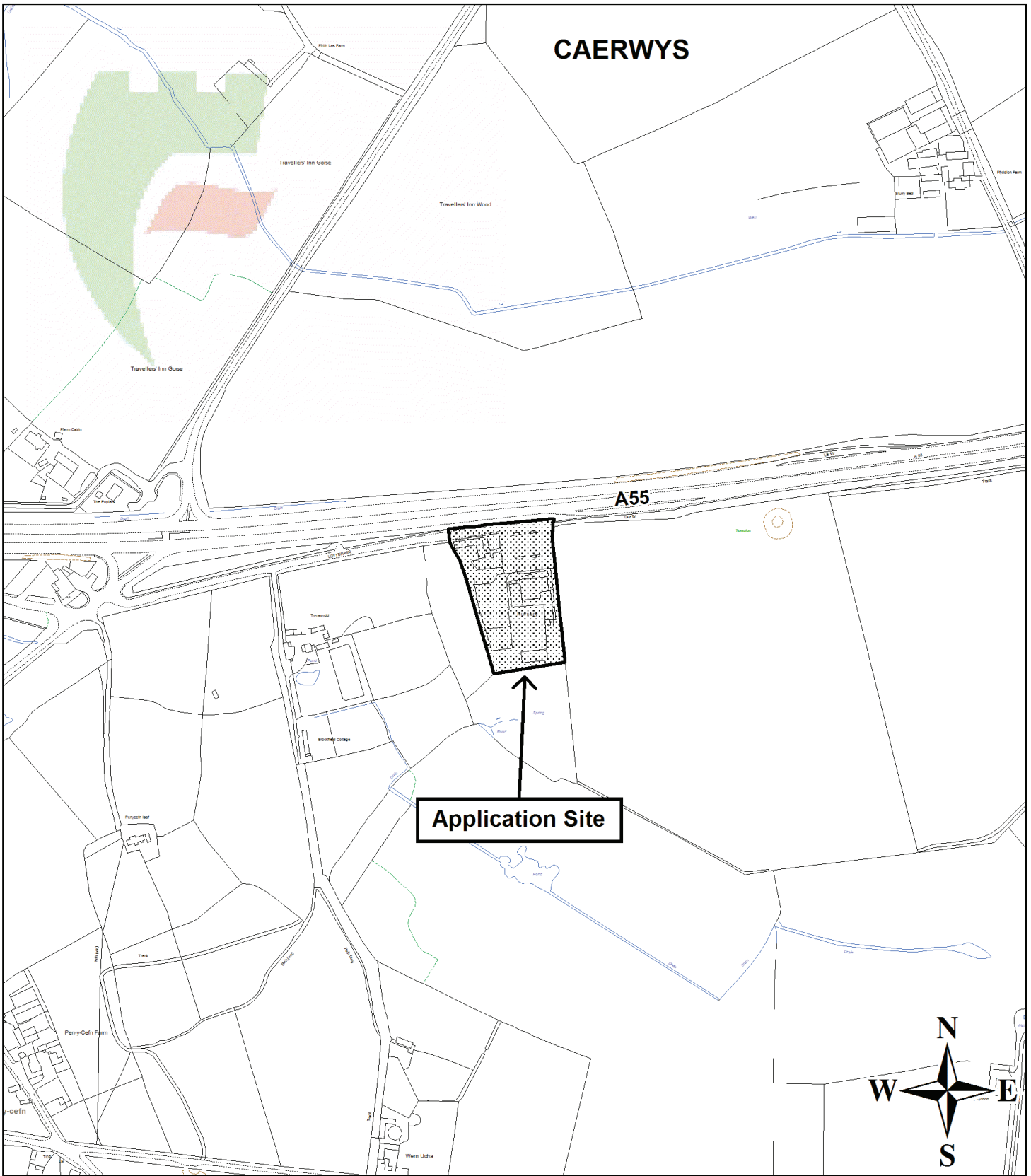
### **LIST OF BACKGROUND DOCUMENTS**

Planning Application & Supporting Documents  
National & Local Planning Policy  
Responses to Consultation  
Responses to Publicity

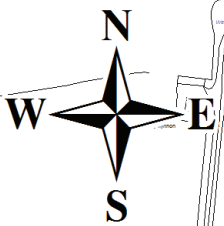
**Contact Officer:** ALEX WALKER  
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**Application Site**



Planning & Environment,  
 Flintshire County Council, County Hall,  
 Mold, Flintshire, CH7 6NF.  
 Chief Officer: Mr Andrew Farrow

**Legend**



Planning Application Site



Adopted Flintshire Unitary  
 Development Plan  
 Settlement Boundary

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Planning Application **52645**

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## FLINTSHIRE COUNTY COUNCIL

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

**DATE:** **17<sup>TH</sup> DECEMBER 2014**

**REPORT BY:** **CHIEF OFFICER (PLANNING AND ENVIRONMENT)**

**SUBJECT:** **FULL APPLICATION – ERECTION OF OFFICE (B1) AND STORAGE (B8) BUILDING WITH ASSOCIATED LANDSCAPING AND PARKING AT VISTA, ST. DAVID’S PARK, EWLOE.**

**APPLICATION NUMBER:** **052803**

**APPLICANT:** **ENFYS DEVELOPMENT**

**SITE:** **VISTA,  
ST. DAVID’S PARK, EWLOE.**

**APPLICATION VALID DATE:** **15<sup>TH</sup> OCTOBER 2014**

**LOCAL MEMBERS:** **COUNCILLOR MS A.M. HALFORD  
COUNCILLOR D.I. MACKIE**

**TOWN/COMMUNITY COUNCIL:** **HAWARDEN COMMUNITY COUNCIL**

**REASON FOR COMMITTEE:** **MEMBER REQUEST & REQUIREMENT FOR LEGAL AGREEMENTS**

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

### **1.00 SUMMARY**

1.01 This application is for the erection of an office and storage building with associated landscaping and parking at Vista, St. David’s Park, Ewloe. The main issues to consider are the principle of the development in planning policy terms, the highway and wildlife implications, the effects upon the character and appearance of the area and the stability of the land to construct the development from previous coal mining workings.

1.02 As the site is located within the settlement boundary for Ewloe and is

allocated for high quality office development, the proposal is considered acceptable in planning policy terms. In highway terms, the proposed two access points are considered acceptable and the car parking provision accords with the maximum standards in the Local Planning Guidance. However, there is a shortfall in the number per employee. This is not too excessive (9) and a travel plan has been requested as a condition upon the recommendation to grant planning permission which will force the operators to consider other means of transport than the car with a subsequent reduction in the demand for car parking spaces. The building will be high quality in terms of design and materials and thus be in keeping with the area and the Coal Authority confirms the stability of the land is acceptable for the building.

**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 or Unilateral Undertaking to secure the following:-

- a. Ensure the payment of £4,000 towards the Authority's costs of consultation and making of a traffic regulation order to restrict on-street parking.

**Conditions**

1. Five year time limit on commencement of development.
2. In accordance with approved plans.
3. All external materials to be further submitted and approved.
4. No land drainage into the public sewerage system.
5. Surface water to discharge to the public surface water sewerage system.
6. Foul water and surface water, discharges drained separately from the site.
7. Siting, layout and design of site accesses to be in accordance with details to be further submitted and approved.
8. Development not be brought into use unless and until all the works involved in construction of turning head at western accesses are completed.
9. Forming and construction of site access not commenced unless and until detailed design further submitted and approved.
10. Proposed access onto Cefn y Ddol shall have a visibility splay of 2.4 m x 43 m in both directions measured along nearside edge of adjoining carriageway and no significant obstruction to visibility.
11. Visibility splays at proposed point of access made available and kept free from all obstructions for duration of site construction works.
12. Proposed access barriers designed to open vertically only and

positioned a minimum distance of 5 m from edge of existing carriageway.

13. Gradient of access from edge of carriageway and for minimum distance of 10 m shall be 1 in 24.
14. Positive means to prevent run-off of surface water onto highway to be further submitted and approved.
15. Construction traffic management plan submitted and approved in writing by the Local Planning Authority.
16. Full Travel Plan and Transport Implementation Strategy shall be further submitted and approved in writing prior to first use.
17. Site investigation of nature and extent of contamination carried out in accordance with methodology further submitted and approved. Any contamination found, report specifying measures to be taken to remediate the site to be further submitted and approved.

### **3.00 CONSULTATIONS**

#### **3.01 Local Member**

##### **Councillor Ms A.M. Halford**

No response received to date.

##### **Councillor D.I. Mackie**

Requests that the application be referred to Planning Committee. Similar to the other application from same Agent on adjacent land.

Concerns as before. Disproportionate number of parking spaces per staff. Situation slightly worse as number of staff may be more and some parking spaces on road will be lost when entrance to the building is created.

Must be negotiations from start about number of additional parking spaces and travel plan decided before committee report prepared. Same condition imposed as previous application, namely all users must park inside the site.

##### **Hawarden Community Council**

No objection subject to there being sufficient car parking provided for all staff.

##### **Highways Development Control Manager**

Two proposed access points to the site. Cefn y Ddol and from cul de sac at rear of Running Hare. Cefn y Ddol never been adopted and is subject to on street parking and obstruction issues, parking restrictions will be required in order to address this. Access from rear of Running Hare provided from a turning head that has previously been granted but not constructed. This turning head will need to be constructed prior to occupation of the development.

Development includes car parking for 56 vehicles, commensurate with

maximum standards in LPGN11 as well as cycle and motorcycle storage. Design and Access Statement notes that the company will promote greener methods of travel (including car share). This requires a strengthened commitment and a Travel Plan will be required.

No dedicated pedestrian route linking between roadside footway and building entrance. Ample opportunity to address this.

Section 106 Agreement of £4,000 required to cover Authority's cost of consultation and making of a Traffic Regulation Order to restrict on-street parking.

Recommends any permission include suggested conditions.

#### Head of Environmental Protection

No objections in principle to application. Site is in an area with mining history and as such there is a potential for land to be contaminated.

Recommends site investigation report be submitted as a condition upon any grant of planning permission.

#### Economic Development Manager

Site has potential to create 65 new sustainable jobs within an area of strategic importance near to Deeside Industrial Park. Proposal is in keeping with the immediate business environment and development of this provides the potential to grow Wales GDP and drive the economy.

Site will be developed to suit a range of commercial users and can equally meet the demands of local businesses that wish to expand or a new investment moving to the area.

Therefore Business Development supports the application.

#### Natural Resources Wales

Proposals approximately 1 km from protected areas. Given nature and scale of development, consider development is unlikely to have a significant adverse effect upon these protected sites.

Great Crested Newts likely to be present due to habitats and features nearby. Applicant should be conditioned to propose and deliver amphibian mitigation proposals to the satisfaction of the Local Planning Authority.

Recommends liaison with Authority's Ecologist regarding whether a bat survey is required and effects on all species and habitats listed in Section 42 of NERC Act 2006.

#### Dwr Cymru Welsh Water

No response received to date.

The Coal Authority

Considers that the content and conclusions of Phase II Geo Environmental Investigation Report (August 2014) and Geo Technical Report ( October 2001) are sufficient in demonstrating that the application site is, or can be made safe and stable for the proposed development withdraws its objections. Further more detailed considerations of ground conditions and/or foundation design may be required as part of any subsequent building regulations application.

SP Energy Networks

Have plant and apparatus in area. Advised to contact them before any development takes place.

Wales & West Utilities

No objections. However, apparatus may be at risk during construction works and should the development be approved requires the promoter of the works to contact them to discuss their requirements.

Airbus

Does not conflict with safeguarding criteria. Therefore no aerodrome safeguarding objections to the proposals.

**4.00 PUBLICITY**

4.01 Press Notice, Site Notice, Neighbour Notification

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

- Why more office accommodation being built when units lie empty across the road?
- More traffic especially with the parking all along side of road will be more of a hazard.

**5.00 SITE HISTORY**

5.01 **4/1/17483**

Outline application for business park, hotel, residential development, local centre, school, roads, open space and associated development – Granted 9<sup>th</sup> December 1988.

**Adjoining Site – North**

**052507**

Erection of 2 storey office with associated landscaping and parking – Granted.

## **6.00 PLANNING POLICIES**

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

STR1 – New Development.  
STR2 – Transport & Communications.  
STR3 – Employment.  
STR8 - Built Environment.  
GEN1 – General Requirements for Development.  
GEN2 – Development Inside Settlement Boundaries.  
D1 – Design Quality, Location & Layout.  
D2 – Design.  
D3 – Landscaping.  
WB1 – Species Protection.  
WB2 – Sites of International Importance.  
WB3 – Statutory Sites of National Importance.  
AC4 – Travel Plans for Major Traffic Generating Developments.  
AC13 – Access & Traffic Impact.  
AC18 – Parking Provisions & New Development.  
EM2(3) – High Quality Site Allocations – St. David’s Park, Ewloe.  
EWP12 – Pollution.  
EWP13 – Nuisance.  
EWP14 – Derelict & Contaminated Land.  
EWP15 – Development & Unstable Land.  
EWP16 – Water Resources.

Local Planning Guidance Note 8 - ‘Nature Conservation & Development’.

Local Planning Guidance Note 11 – ‘Parking Standards’.

#### National Planning Policy

Planning Policy Wales (Edition 6, February 2014).

Technical Advice Notes, Nature Conservation & Planning (2009).

Technical Advice Note (TAN) 23: Economic Development (2014).

As the development is for a high quality office building and the site is allocated as such by virtue of Policy EMP2(3), the proposal is considered acceptable in principle in planning policy terms.

## **7.00 PLANNING APPRAISAL**

### **7.01 Site Description & Proposals**

The site comprises of approximately 6,754 sq.m. of an open, flat, mown, irregular shared piece of land located on St. David’s Park, Ewloe.

7.02 It is situated in between a smaller piece of open, flat, mown grassed area to the north adjacent to the existing pub and restaurant of the Running Hare and the existing building and car park of Money Supermarket to the south. It is bound to the east by Cefn y Ddol Road



and to the west by the existing building and car park of HSBC.

- 7.03 The proposals involve the erection of a 3 storey office building for Wales & West Housing Association, together with office and storage accommodation for their sister company Cambria Maintenance, with associated parking, landscaping and external lighting.
- 7.04 The building will measure approximately 46 m x 12.5 m x 10 m and will be constructed within materials common to the area including facing brick, cladding, curtain wall glazing and timber. The building will be located to the north of the site.
- 7.05 The parking to be provided will be for 56 vehicles, 6 bicycles and 3 motorcycles which will be located to North-East of the site.
- 7.06 A new site access will be formed from Cefn y Ddol to allow vehicular and pedestrian access to the main entrance facing this road. A further site entrance will be created upon the southern side of the existing turning head to the west by The Running Hare. This will allow access for Cambria Maintenance operatives and refuse services.
- 7.07 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 and wildlife implications, the effects upon the character and appearance of the area and the stability of the land to construct the development from previous coal mining workings.
- 7.08 Background  
Members may recall that a similar application was reported to the Planning & Development Control Committee on 8<sup>th</sup> October 2014 on land immediately north of this site under 052507 whereby it was granted planning permission subject to conditions. The main issue was whether or not there were a sufficient number of parking spaces on site for the development so as not to lead to on street parking to the detriment of highway safety.
- 7.09 It was considered that although the number of car parking spaces accorded with the Local Planning Guidance Note 11 maximum standards in terms of floorspace of the building, in relation to the number of employees only 50% were being provided. However, a condition was placed upon the planning permission, regarding the submission and approval of a travel plan which forces the operator of the development to consider all modes of transport to the site which will result in a reduction of the number of vehicles arriving on site and the subsequent demand for parking spaces.
- 7.10 Principle of Development  
The site is located within the settlement boundary for Ewloe and allocated for high quality B1 (Office) uses by virtue of Policy EM2(3)

within the adopted Flintshire Unitary Development Plan. Therefore the principle of this prestige office development is considered acceptable in principle in planning policy terms.

7.11 Highway Implications

There are to be two proposed access points to the site, one from Cefn y Ddol and the other from the cul-de-sac at the rear of The Running Hare. Parking within the site will be for 56 vehicles, 6 bicycles and 3 motorcycles.

7.12 The Highways Development Control Manager advises that on the access points, that Cefn y Ddol has never been adopted as publicly maintainable highway and is subject to on-street parking and obstruction issues. Therefore it is proposed to have a traffic regulation order to restrict on-street parking either side to address these issues. A Section 106 Agreement to the value of £4,000 is required to cover the authority's cost of consultation and making of this Traffic Regulation Order. In terms of the proposed access from the cul-de-sac at the rear of the Running Hare, this turning head has been previously granted planning consent but has not been constructed. It will be needed to be constructed prior to the occupation of this development and has been conditioned as such on the recommendation to grant planning permission.

7.13 In terms of the car parking provision, cycle and motorcycle storage this accords with the maximum standard imposed by Local Planning Guidance Note 11 – Parking Standards as these are based on the gross floor area of the development. However, there will be a shortfall in the parking provision for the number of employees by 9.

7.14 This shortfall is not considered too excessive. However, the Highways Development Control Manager has recommended the submission and approval as a condition on any planning permission granted, a Travel Plan which will force the operator of the development to consider all modes of transport to the site which will result in a reduction of the number of vehicles arriving on site and the subsequent demand for parking spaces. The inclusion of a Transport Implementation Strategy will cover the requirements to undertake any additional work required to implement the Travel Plan whether this be the provision of additional pedestrian/cycle routes, improved public transport, additional on-road parking restrictions or whatever means is required.

7.15 Wildlife Implications

The proposed development lies approximately 1 km from the protected areas of the Deeside and Buckley Newt Sites Special Area of Conservation (SAC), Connah's Quay ponds and woodland site of Special Scientific Interest (SSSI), Buckley Claypit and Commons Site of Special Scientific Interest (SSI). Given the nature and scale of the development, it is considered that the development is unlikely to have

a significant adverse effect upon these protected sites.

- 7.16 As regards protected species, there are no great crested newts records new or old within 500 m of the site. Whilst the map does show ponds within the area these are formally managed landscape features with low potential for great crested newts. Since the nearest great crested newt records are either r800 m to the north or over 1.2 km to the south west, there is a minimal chance of their presence on the site.
- 7.17 As no trees or hedgerows are to be removed, then a bat survey is not required.
- 7.18 Character & Appearance of Area  
The site is located in a visually prominent open area on an existing Business Park amongst other 2-3 storey, high quality, contemporary designed office buildings.
- 7.19 The building will be 3 storeys in height and be of a contemporary design and of materials common to the area including facing brick, cladding, curtain wall glazing and timber.
- 7.20 Give the existing buildings and that which was recently granted planning permission immediately adjacent to the development are 2-3 storeys in height, of a contemporary design and are/will be constructed in similar materials to the proposed, it is considered that the proposals will be in keeping with area.
- 7.21 Stability of Land – Coal Mining  
Within the site and surrounding area there are coal mining features and hazards which need to be considered in the determination of the application.
- 7.22 The Coal Authority previously objected to this planning application as the Applicant had failed to submit the required Coal Mining Risk Assessment in support of their application.
- 7.23 The site is located to the east of the fault on the site and the Phase II Report concludes that shallow mine workings do not pose a risk to the proposed development. Therefore, no specific remedial measures are recommended to address coal mining legacy. The Coal Authority now therefore withdraw their objection.

## **8.00 CONCLUSION**

- 8.01 For the above reasons, it is considered that the proposals are acceptable in planning terms.
- 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.

**LIST OF BACKGROUND DOCUMENTS**

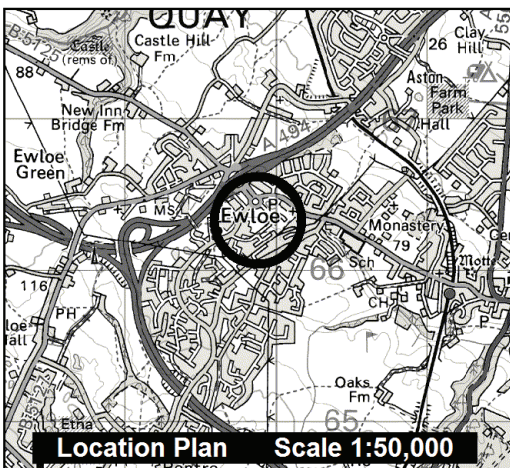
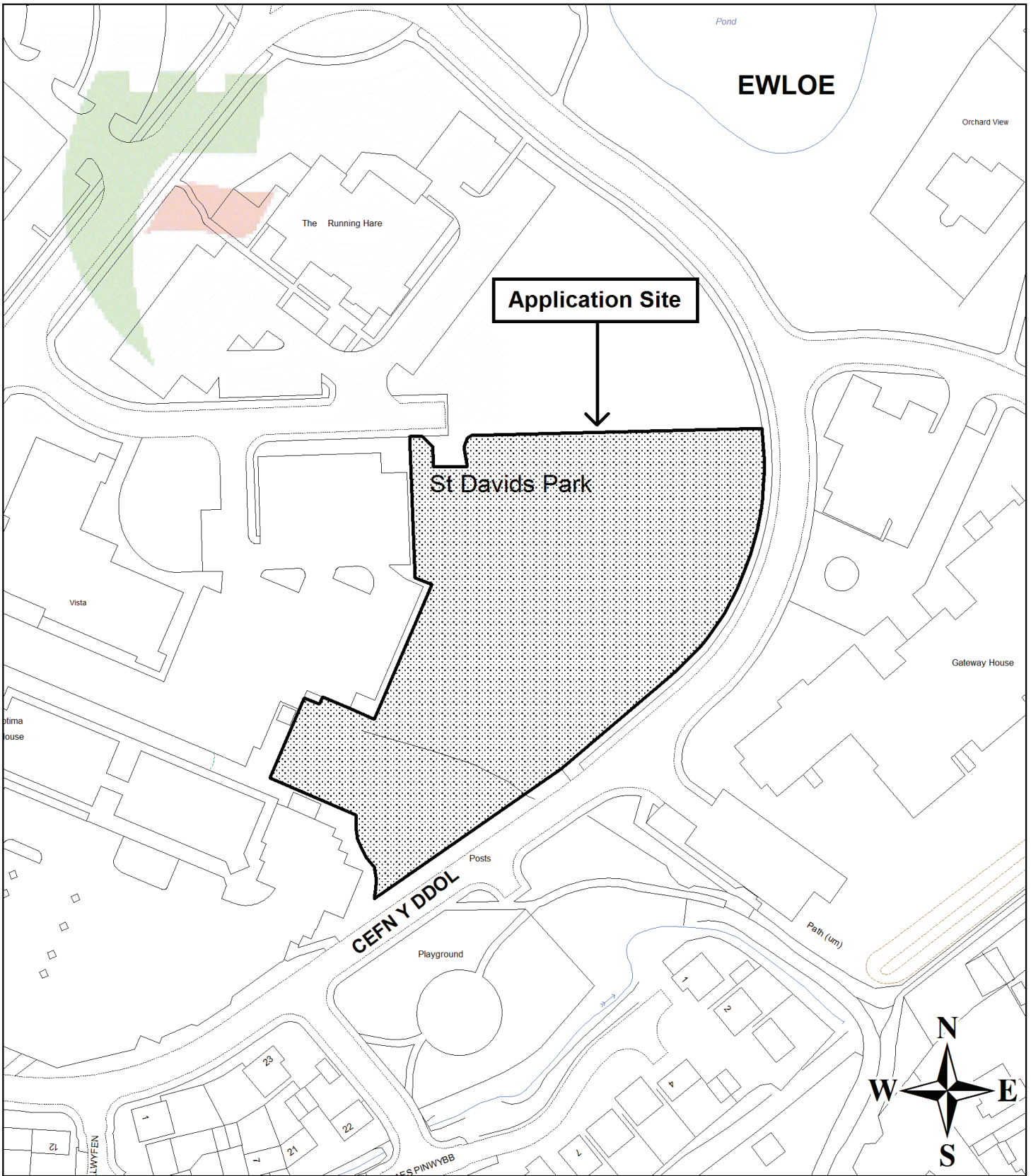
Planning Application & Supporting Documents

National & Local Planning Policy

Responses to Consultation

Responses to Publicity

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



Planning & Environment,  
 Flintshire County Council, County Hall,  
 Mold, Flintshire, CH7 6NF.  
 Chief Officer: Mr Andrew Farrow

**Legend**



Planning Application Site



Adopted Flintshire Unitary  
 Development Plan  
 Settlement Boundary

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OS Map ref SJ 2966

Planning Application **52803**

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## FLINTSHIRE COUNTY COUNCIL

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

**DATE:** **17<sup>TH</sup> DECEMBER 2014**

**REPORT BY:** **CHIEF OFFICER (PLANNING AND ENVIRONMENT)**

**SUBJECT:** **RENEWAL OF OUTLINE PLANNING PERMISSION 046362 TO ALLOW RESIDENTIAL DEVELOPMENT AT FORMER LAURA ASHLEY UNIT, PONTYBODKIN HILL, LEESWOOD.**

**APPLICATION NUMBER:** **052599**

**APPLICANT:** **FOXBURY DEVELOPMENTS**

**SITE:** **FORMER LAURA ASHLEY UNIT, PONTYBODKIN HILL, LEESWOOD, MOLD.**

**APPLICATION VALID DATE:** **1<sup>ST</sup> SEPTEMBER 2014**

**LOCAL MEMBERS:** **COUNCILLOR R. HUGHES**

**TOWN/COMMUNITY COUNCIL:** **LEESWOOD COMMUNITY COUNCIL**

**REASON FOR COMMITTEE:** **REQUIREMENT FOR LEGAL AGREEMENT IN RESPECT OF LEISURE AND EDUCATIONAL CONTRIBUTIONS.**

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

### **1.00 SUMMARY**

- 1.01 This application, proposes a renewal of a previous outline application 046352 for residential development on the site of the former Laura Ashley Unit, Pontybodkin Hill, Leeswood. The application is being reported to committee as any permission will be subject to the implementation of a new legal agreement in respect of leisure and educational contributions.

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

2.01 That subject to the completion of a Section 106 Obligation, Unilateral Undertaking or advance payment of £55,407 towards additional secondary school places/improvements of Castell Alun High School, Hope and a commuted sum of £16,500 towards the enhancement of an existing recreational area within Leeswood that conditional permission be issued.

Conditions

1. Outline - Submission of reserved matters.
2. Outline - Time limit.
3. No development to commence until details of remedial works to existing highway submitted and approved.
4. Siting/design of access to be submitted and approved.
5. No development to commence until layout, design, means of traffic calming and signing, surface water drainage, street lighting and construction of internal estate roads submitted and approved.
6. Gradient of proposed access to be 1:24 for a minimum distance of 10m and 1:15 thereafter.
7. Positive means to prevent run-off of surface water onto highway to be submitted and approved.
8. Footpath No. 60 which traverses the site to be retained.
7. Development to include for the provision of an equipped on site play area.
9. Foul water and surface water to be discharged separately.
10. No surface water to discharge into the public sewerage system.
11. No land drainage to discharge with public sewerage system.
12. Contaminated land survey to be undertaken.

**3.00 CONSULTATIONS**

3.01 Local Member

Councillor R. Hughes

No response received at time of preparing report.

Leeswood Community Council

No response at time of preparing report.

Highways Development Control Manager

No objection. Recommend that any permission be subject to conditions previously imposed on application 046361 in respect of access, gradient and layout, design, means of traffic calming, surface water drainage, street lighting and construction of internal estate roads.

Environment Directorate (Rights of Way)

Public Footpath 60 crosses the site. The legally defined public right of



way must be marked out in strict accordance with the definitive map and with the prior approval of the surveying authority. The surface of the right of way must not be disturbed without lawful permission and the applicant may be required to apply for a Temporary Closure Order to protect the public during construction.

Public Open Spaces Manager

No objection subject to the payment of a commuted sum of £16,500 towards the enhancement of an existing recreational area in lieu of on site provision.

Capital Projects & Planning Unit

Request a commuted sum payment of £55,407 towards secondary school places at Castell Alun High School, Hope.

**4.00 PUBLICITY**

4.01 Press Notice, Site Notice, Neighbour Notification

No responses received at time of preparing report.

**5.00 SITE HISTORY**

5.01 **035532**

Demolition of factory unit and change of use for residential development – Permitted 31<sup>st</sup> July 2003.

**041446**

Renewal of outline planning permission ref. 035552 to allow demolition of redundant factory unit and change of use of site for residential development – Permitted 2<sup>nd</sup> August 2006.

**046361**

Renewal of outline planning permission ref. 041446 to allow residential development – Permitted 26<sup>th</sup> September 2011.

**6.00 PLANNING POLICIES**

6.01 Flintshire Unitary Development Plan

Policy GEN1 – General Requirements for Development.

Policy GEN2 – Development Inside Settlement Boundaries.

Policy D2 – Location & Layout.

Policy TWH2 – Development Affecting Trees & Woodlands.

Policy AC13 – Access & Traffic Impact.

Policy AC18 – Policy Provision & New Development.

Policy HSG1 – New Housing Development Proposals.

Policy HSG8 – Density of Development.

Policy HSG9 – Housing Mix & Type.

It is considered that the proposal generally complies with the above policies.

## **7.00 PLANNING APPRAISAL**

### **7.01 Introduction**

This renewal outline application proposes residential development on the site of the former Laura Ashley Unit, Pontybodkin Hill, Leeswood. The initial outline permission for residential development at this location was permitted under Code No. 035532 on 31<sup>st</sup> July 2003 and this has subsequently been renewed under Code Nos 041446 and 046361 on 3<sup>rd</sup> August 2006 and 26<sup>th</sup> September 2011 respectively.

### **7.02 Site Description**

The site which amounts to approximately 0.57 hectares in area is located on the western side of Pontybodkin Hill and comprises the site of the former Laura Ashley Unit which has subsequently been demolished and the site cleared.

7.03 The site is located to the rear of an existing residential property named 'Anhegraig' and to the north of an existing industrial unit 'Nu Image Packaging'. Vehicular access to serve the development is proposed from an existing roadway off Pontybodkin Hill which initially served both Laura Ashley and Nu Image Packaging.

### **7.04 Principle of Development**

For Members' information, the site is located within the settlement boundary of Leeswood and forms part of a larger housing allocation of 1 hectare in the adopted Flintshire Unitary Development Plan under Policy HSG1 (42).

7.05 Whilst the principle of residential development at this location, is well established and there have been no material changes in policy since the site initially obtained consent for development in 2003, this is the third renewal application that has been submitted in the intervening period.

7.06 The Council now finds itself in the position of having a sub-5 year housing land supply which is regularly being challenged by developers. Whilst the applicant's agent has advised that the site has been actively marketed since 2007, it is increasingly difficult to justify the inclusion of sites within the 5 year supply, when they are renewed continuously, even when they are allocated sites in an adopted plan.

7.07 For Members' information several candidate sites submissions have come forward within Leeswood and Coed Talon as part of the Local Development Plan process. These may following assessment make more suitable allocations in the emerging LDP, and therefore it is considered that if Members are mindful to renew the existing permission that the time period be reduced to the end of 2015 (i.e., approximately 12 months) as this will:-

(a) provide an adequate timeframe for the site to come forward for development through the submission of a reserved matters application and (b) correspond to the end of the Unitary Development Plan period in 2015.

7.08 Scale of Development

Policy HSG8 of the UDP proposes that the average density on allocated housing sites be a minimum of 30 dwellings per hectare. In this respect the density of development on this site which amounts to approximately 0.57 hectares, would be in the region of 15 No. dwellings. Although submitted as an outline application it is considered that this scale of development could be satisfactorily accommodated on the site and acceptable at this location, the detailed site layout and design of the proposed dwellings being addressed at reserved matters stage.

7.09 Access/Highways

Consultation on the application has been undertaken with the Highways Development Control Manager with there being no objections to the development subject to the imposition of conditions in line with those previously imposed on application code Nos 035552 and 041446 and most recently 046362. These relate to access, gradient, layout, design, means of traffic calming, surface water drainage, street lighting and construction of internal estate roads.

7.10 Impact on Existing Landscape Features

There are a number of existing trees/hedgerows forming the site boundaries which it is considered contribute to the visual amenity of the site and surroundings. It is considered that these can be retained and satisfactorily incorporated into the site layout at reserved matters stage.

7.11 Education Contributions

Consultation on the application has been undertaken with the Capital Projects & Planning Unit in order to assess the impact of development on both primary and secondary school capacity. Whilst £14,000 was previously requested as part of application 046361 in 2011, to fund additional school places at Leeswood Primary School, this in the intervening period now has a surplus capacity of 5% and therefore a contribution is not now requested for primary school provision. However, since 2011, the secondary school at Castell Alun High School, Hope has less than 5% surplus capacity and therefore in applying the secondary school formula, an education contribution figure of £55,407 has been identified, which would allow the Local Authority to make provision for a further 3 pupils.

7.12 Open Space

For Members' information previous outline planning permission(s) issued under Code Nos 035552 and 041446 include a condition requiring the provision of an equipped on site play area. Having

regard to the relationship of the site to an existing adjacent recreational area and in consideration of application 046362, it is considered that it would be more appropriate for the payment of a commuted sum towards the enhancement of the existing area rather than duplicate provision on this proposed development. Consultation has therefore been undertaken with the Council's Public Open Space Manager who has confirmed that there is no objection to this revised arrangement subject to the payment of a commuted sum of £1,100 per dwelling towards the enhancement of the existing recreational area.

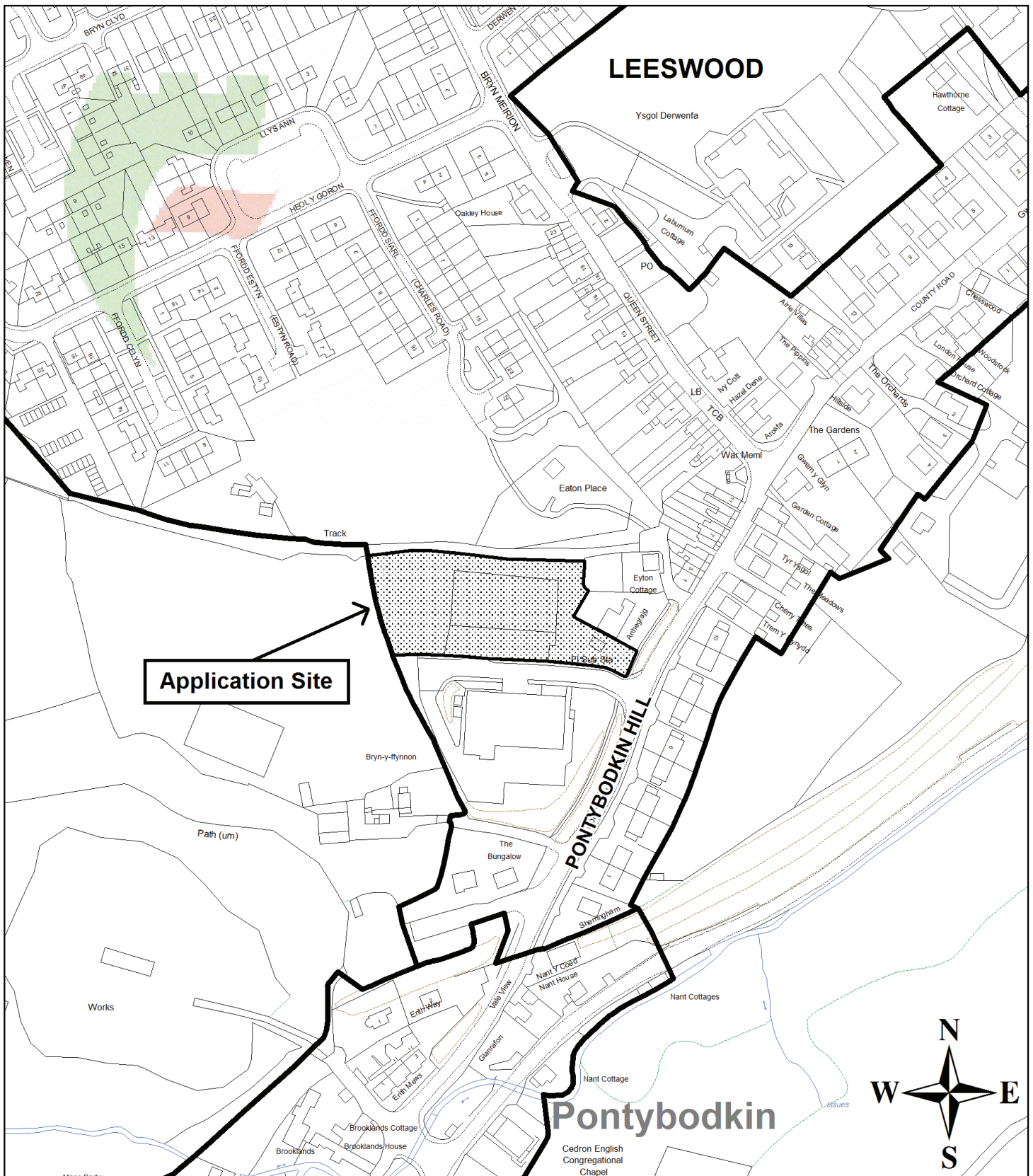
## **8.00 CONCLUSION**

- 8.01 In conclusion, it is considered that there has been no material change in the planning policy framework since previous outline planning permission(s) have been granted for the development of the site in 2003, 2006 and 2011. The recommendation to renew the outline permission for development of this allocated site is however subject to:- (i) a financial contribution being made as part of the development to fund additional secondary school places/improvements at Castell Alun High School, Hope; (ii) a commuted sum payment being made towards the enhancement of an existing adjacent recreational area and (iii) the time limit for the submission of reserved matters being reduced from a 3 year period until the end of 2015.
- 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.

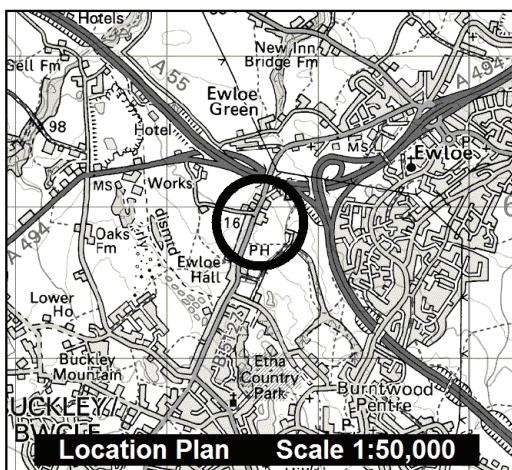
### **LIST OF BACKGROUND DOCUMENTS**

Planning Application & Supporting Documents  
National & Local Planning Policy  
Responses to Consultation  
Responses to Publicity

**Contact Officer:** Mark Harris  
**Telephone:** (01352) 703269  
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**Application Site**



Planning & Environment,  
 Flintshire County Council, County Hall,  
 Mold, Flintshire, CH7 6NF.  
 Chief Officer: Mr Andrew Farrow

**Legend**



Planning Application Site



Adopted Flintshire Unitary  
 Development Plan  
 Settlement Boundary

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Map Scale	1:2500
OS Map ref	SJ 2759
Planning Application	<b>52599</b>

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## FLINTSHIRE COUNTY COUNCIL

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

**DATE:** **17<sup>TH</sup> DECEMBER 2014**

**REPORT BY:** **CHIEF OFFICER (PLANNING AND ENVIRONMENT)**

**SUBJECT:** **FULL APPLICATION – ERECTION OF 4 DWELLINGS. (I) SUBSTITUTION OF HOUSE TYPE ON PREVIOUSLY APPROVED PHASE 1 PLOT 38; (II) SUBSTITUTION OF SUB-STATION WITH ADDITIONAL DWELLINGS; (III) ERECTION OF 2 DWELLINGS (RE-PLAN OF PLOTS 19 & 20 PHASE 2) AT CAE EITHIN, VILLAGE ROAD, NORTHOP HALL.**

**APPLICATION NUMBER:** **052406**

**APPLICANT:** **MR T ANWYL & CO LTD**

**SITE:** **CAE EITHIN, VILLAGE ROAD, NORTHOP HALL.**

**APPLICATION VALID DATE:** **26.09.14**

**LOCAL MEMBERS:** **CLLR L A SHARPS**

**TOWN/COMMUNITY COUNCIL:** **NORTHOP**

**REASON FOR COMMITTEE:** **S106 REQUIREMENT**

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

### **1.00 SUMMARY**

- 1.01 This is an application for the erection of 4 dwellings which involves amendments to the previously consented Phase 1 and Phase 2 of residential development at land at Cae Eithin, Village Road, Northop Hall. The 4 plots cross both parts of the site.

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

2.01 Subject to entering into a supplementary S106 agreement or unilateral undertaking to link this development with the requirement for the affordable housing provision and the open space and education contributions as required by 048855 and 052388.

1. Time commencement
2. In accordance with plans
3. Other conditions relevant on 048855 and 052388

If the Obligation pursuant to Section 106 of the Town & 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 L A Sharps  
No response received at time of writing.

Northop Community Council  
No response received at time of writing.

Highways Development Control  
No objections.

Environmental Protection Manager  
No response received at time of writing.

**4.00 PUBLICITY**

4.01 Site Notice and Neighbour Notification  
None.

**5.00 SITE HISTORY**

5.01 052388 Erection of 20 dwellings. Committee resolution 08.10.14 to grant permission subject to the signing of a S106 agreement.

048855 Residential development consisting of 51no. dwellings, new road and creation of mitigation land in relation to ecology. Appeal against non-determination. Allowed on appeal 31.01.13

048373 Residential development consisting of 72no. dwellings, new road and creation of mitigation land in relation to ecology. Withdrawn 28.07.11



043413 Outline residential development 15.10.07

036558 Outline residential development 30.01.04

035046 Residential development 01.05.03. Dismissed on appeal  
22.09.03

## **6.00 PLANNING POLICIES**

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

STR1 - New Development

STR 4 - Housing

GEN1 - General Requirements for Development

GEN2 - Development Inside Settlement Boundaries

D1 - Design Quality, Location and Layout

D2 - Design

D3 - Landscaping

WB1 - Species Protection

AC13 - Access and Traffic Impact

AC18 - Parking Provision and New Development

HSG1 – New Housing Development Proposals

HSG8 - Density of Development

SR5 - Outdoor Playing Space and New Residential Development

EWP14 - Derelict and Contaminated Lane

EWP17 - Flood Risk

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

## **7.00 PLANNING APPRAISAL**

### **7.01 Introduction**

This is an application for the erection of 4 dwellings which involves amendments to the previously consented Phase 1 and Phase 2 of residential development at land at Cae Eithin, Village Road, Northop Hall. The 4 plots cross both parts of the site and involves;

- (i) Substitution of house type on previously approved Phase 1 plot  
38
- (ii) Substation of sub-station with additional dwelling
- (iii) Erection of 2 dwellings (re-plan of plots 19 and 20 Phase 2).

### **7.02 Site description**

The plots involved are in the north of the development site. They are bounded by existing residential properties of 1-3 Britannia Cottages to the north with Village Road beyond. The plots are bounded by the residential spine road to the south and other plots in the development to the west and east.

### **7.03 Proposal**

The 4 plots cross both parts of the site and involves;

- (i) Substitution of house type on previously approved Phase 1 plot 38 from a Nefyn to a Betws
- (ii) Substitution of a sub-station with additional dwelling in the form of a Hope
- (iii) Erection of 2 dwellings which is a re-plan of plots 19 and 20 on Phase 2 from 2 Chester's to a Chester and a Hope.

7.04 The proposed house types are all four bedroom two storey dwellings. The previously proposed sub-station is no longer required. The plots are accessed from the main site access from Village road via the main spine road for the development to the south of the plots.

7.05 Issues

The application site is allocated for residential development within the Adopted Unitary Development plan for 93 dwellings. Planning permission was granted for 51 dwellings as part of phase 1 of the development on appeal in January 2013. Progress is underway to discharge the relevant conditions and the ecological mitigation has commenced to facilitate a start on site. Phase 2 of the development provides 20 dwellings. This proposal affects both phases of the development and leads to 1 additional dwelling.

7.06 Impact on residential amenity

The 4 plots bound 1-3 Britannia Cottages which have their principal elevation facing the development site. Britannia Cottages is in use as one dwelling. The proposed house types which face this elevation the 'Hope' are designed to minimise any overlooking. The separation distances would be 21 metres from the principal elevation of Britannia Cottages to the elevation of the Hope on Plot 72, however there are no windows in this part of Britannia Cottage at ground level as there is an external door and a porch to a further door. At first floor there are windows to habitable rooms however the proposed Hope house type only has one window at first floor which overlooks Britannia Cottage. It is therefore considered that the proposed separation distances are acceptable and in accordance with Local Planning Guidance Note 2: Space Around Dwellings.

7.07 In terms of Plot 71, the dwelling on this plot is set further back and is only partially in direct line with Britannia Cottages. The dwelling is 22 metres from the principal elevation and in accordance with Local Planning Guidance Note 2: Space Around Dwellings. In any event the proposed Hope house type does not have any windows at first floor overlooking the site. At ground floor habitable rooms of Britannia cottage overlook the site, however this is 22 metres away and can be mitigated by boundary treatment.

7.08 The other plots 38 and 70 do not have any direct overlooking to existing dwellings. The proposed dwellings all have the relevant parking and private amenity space.

7.09 Education and open space contributions and affordable housing provision

A supplementary S106 agreement or unilateral undertaking is required to link this development with the requirement for the affordable housing provision and the open space and education contributions.

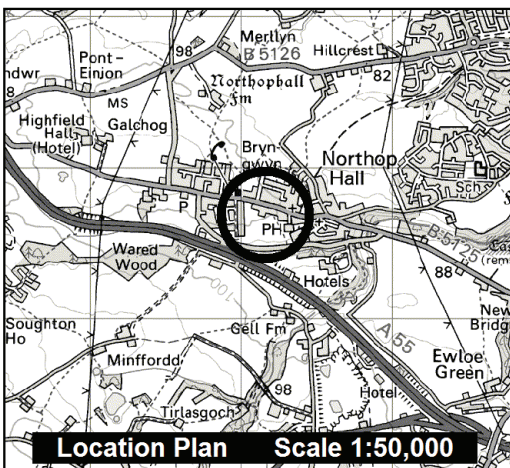
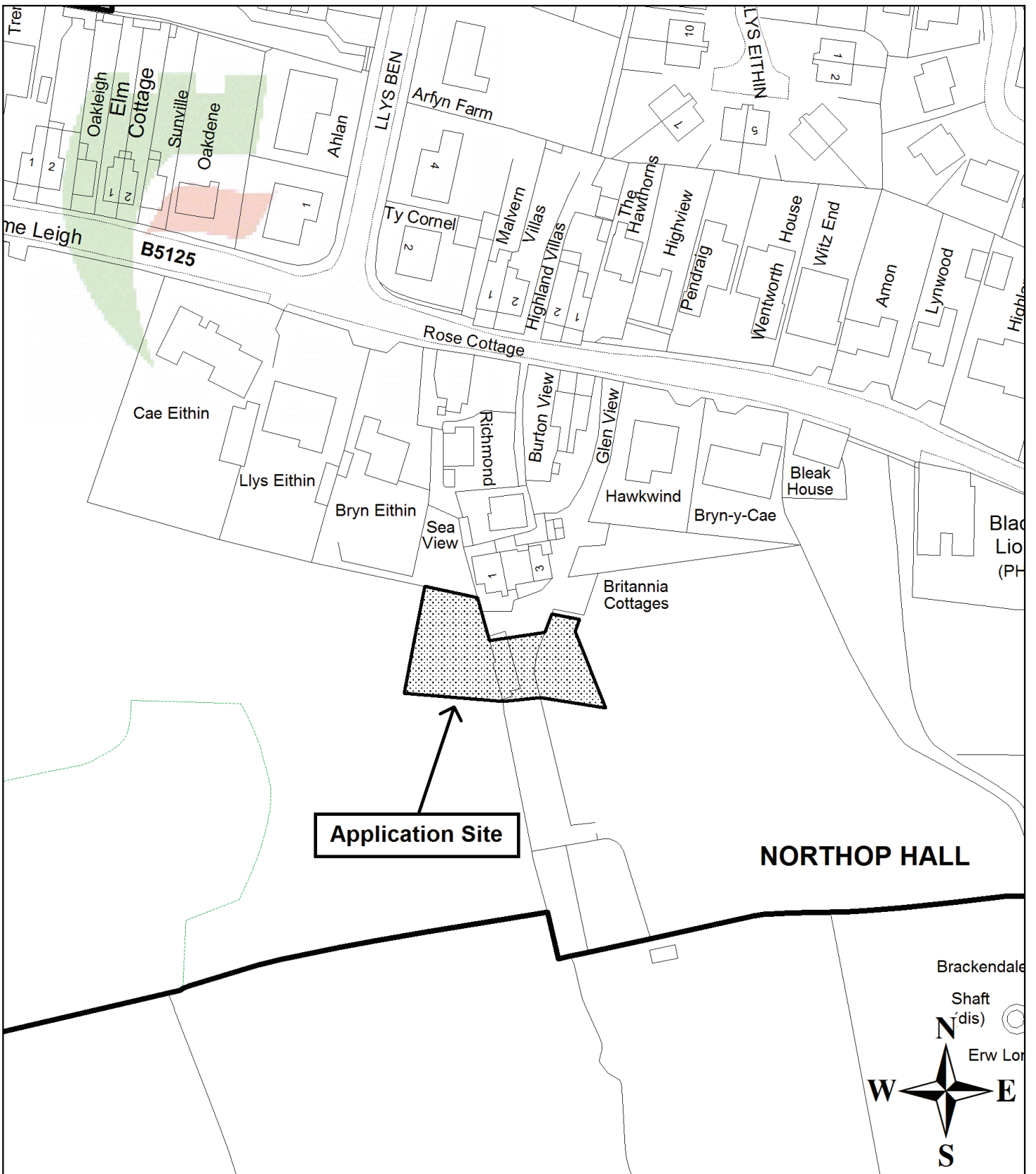
**8.00 CONCLUSION**

8.01 It is considered that the proposed change in house types does not give rise to any adverse impacts on residential amenity. It is therefore considered that permission be granted subject to the applicant entering into a supplementary S106 agreement or unilateral undertaking to link this development with the requirement for the affordable housing provision and the open space and education contributions and relevant conditions as required by 048855 and 052388.

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:** Emma Hancock  
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**Email:** emma.hancock@flinthshire.gov.uk

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Planning & Environment,  
 Flintshire County Council, County Hall,  
 Mold, Flintshire, CH7 6NF.  
 Chief Officer: Mr Andrew Farrow

**Legend**

-  Planning Application Site
-  Adopted Flintshire Unitary Development Plan Settlement Boundary

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OS Map ref	SJ 2767
Planning Application	<b>52406</b>

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## FLINTSHIRE COUNTY COUNCIL

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

**DATE:** **17<sup>TH</sup> DECEMBER 2014**

**REPORT BY:** **CHIEF OFFICER (PLANNING AND ENVIRONMENT)**

**SUBJECT:** **REMOVAL OF CONDITION NO. 6 ATTACHED TO PLANNING PERMISSION REF: 048032 AS AMENDED BY PLANNING PERMISSION REF: 050805 AT OVERLEA DRIVE, HAWARDEN.**

**APPLICATION NUMBER:** **052429**

**APPLICANT:** **REDROW HOMES NORTH WEST**

**SITE:** **OVERLEA DRIVE, HAWARDEN**

**APPLICATION VALID DATE:** **6<sup>th</sup> AUGUST 2014**

**LOCAL MEMBERS:** **COUNCILLOR C. S. CARVER**

**TOWN/COMMUNITY COUNCIL:** **HAWARDEN COMMUNITY COUNCIL**

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

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

### **1.00 SUMMARY**

- 1.01 **Members will recall debating this proposal at the meeting of the Committee held on the 12<sup>th</sup> November 2014. At this meeting, members resolved to defer making any determination until such time as advice had been provided by Dwr Cymru/Welsh Water in relation to the precise means by which waters arising from this development would be managed during the course of the system upgrade works presently being undertaken by Dwr Cymru/Welsh Water.**
- 1.02 **This information has been sought and is summarised within Paragraph 7.08 of the planning appraisal within this report.**

**Taking into account this advice, my recommendation remains unaltered.**

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

2.01 That planning permission 048032, as amended by permission 050805 be amended by the deletion of Condition 6 in its entirety.

In all other respects, the permission remains unaltered.

**3.00 CONSULTATIONS**

3.01 Local Member  
Councillor C. S. Carver  
Objects and requests Committee Determination.

Considers the proposed deletion of the condition is based upon commercial factors and not in the interests of sound drainage of the site.

Hawarden Community Council  
Objects to the removal of the condition. Considers the condition essential to prevent further drainage problems in Mancot and Pentre.

Welsh Water/Dwr Cymru  
No Objection. Advises that a flood mitigation scheme is to be undertaken in the area, including the works originally intended to be secured via this condition. This scheme will be complete by end March 2015 and it's advised that the flows from this development can be managed as part of these works during the course of the same.

**4.00 PUBLICITY**

4.01 The application has been publicised by way of the display of a site notices and via neighbour notification letters.

4.02 At the time of writing, no letters have been received in connection with this matter.

**5.00 SITE HISTORY**

5.01 **4/1/20795**  
Outline - Residential Development.  
Refused 3.12.1991

**02/1/00549**  
Outline - Residential Development.  
Refused 19.2.2003. Dismissed on Appeal 22.4.2004.



**048032**

Full application – Erection of 45 dwellings.  
Refused 28.11.2011. Allowed on Appeal 17.08.2012.

**050805**

Re-Plan of 16 No. dwellings  
Permitted 11.06.2014

**6.00 PLANNING POLICIES**

- 6.01 Flintshire Unitary Development Plan  
Policy GEN1 - General Requirements for Development  
Policy HSG1(51) - New Housing Development Proposals  
Policy EWP16 – Water Resources

**7.00 PLANNING APPRAISAL**

7.01 Introduction

This Section 73 application seeks permission to remove condition 6 attached to planning permission reference 048032 (as amended by permission reference 050805) and thereby remove the restriction upon the occupation of dwellings in advance of the completion of off site drainage improvements. The proposal would not result in any alteration to the appearance of the development as approved.

7.02 The Proposal

The proposal seeks to remove condition 6 from the permission such that it permits the occupation of the approved dwellings entirely independently of off site drainage improvement works. (such works being the subject of Condition 6 as imposed).

7.03 Drainage Context and Implications

Members will recall that permission for the development of this site was granted by a Planning Inspector following an appeal by way of a Public Inquiry. At this inquiry, amongst other matters, evidence was heard in relation to the drainage system serving the site. The Inspector heard how a hydraulic modelling exercise had been undertaken which revealed the need for off site drainage infrastructure improvement works. The Inspector noted that the statutory drainage body, Dwr Cymru had no objection to the proposals but requested that a Grampian style condition be imposed in relation to these off site works. The Inspector acceded to that request and, in granting planning permission, imposed the following condition;

*No development shall commence until a scheme of improvement to the off-site drainage in Mancot Lane has been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details prior to occupation of the first dwelling unless otherwise approved in writing by the local planning authority.*

- 7.04 Since the appeal decision, a scheme of works pursuant to this condition had been agreed between the developer and Dwr Cymru and the applicant had paid a sum of money to have the necessary improvement works undertaken. The scheme of works required would result in improvements being carried out to a length of the combined sewer in Mancot Lane further to the north where there is a pinch point at present.
- 7.05 Despite previous agreements between the developer and Dwr Cymru for this work to be done in advance of the commencement of the development of the site, Dwr Cymru have programmed this part of the upgrade scheme to be undertaken alongside another, unrelated, piece of system upgrade works which is planned to be complete by March 31<sup>st</sup> 2015. However, I am advised that the outstanding upgrade works which are the subject of the condition are intended to be the first part of that larger scheme of works and are therefore anticipated to be completed earlier.
- 7.06 Consultation has been undertaken with Dwr Cymru/Welsh Water who advise that there is no objection to the removal of this condition as the need for the condition which had presently existed is now longer in existence. They have advised that they are satisfied that flows arising from the site can be adequately managed within the current system and as part of the system upgrade works which are being undertaken.
- 7.07 Whilst Dwr Cymru would normally request no further occupations during the course of such a scheme, they are satisfied that their management of the scheme and existing flows is such that there is no risk to existing residents. Accordingly, they advised in response to consultation, that the initially submitted application to vary the condition be amended to one seeking removal of the condition as the need for the same no longer exists.
- 7.08 Members will recall deferring a decision in respect of this application pending further clarification from Dwr Cymru/Welsh Water (DCWW). This has been received and I can advise members as follows;
- a) DCWW have committed £1.4m to ensure that a scheme of flood alleviation works downstream of the development site is completed before March 2015. The works commenced in September 2014 and are anticipated to be complete by February 2015.
  - b) The flood alleviation works include the drainage reinforcement works to which Condition 6 relates.
  - c) DCWW have confirmed that they are satisfied that they can manage flows during the course of the works which may arise from the development site. These will be managed in 2 ways;

i) DCWW Operations Team will be undertaking increased surveillance during time of potential flooding with instructions to prioritise visits to locations at greater risk;

and

ii) During the constructions works, over pumping of flows will be undertaken to regulate flows within the system.

d) DCWW advise that as a consequence of works commencement in connection with the flood alleviation scheme, the capacity within the system has already increased. The specific element in respect to which Condition 6 relates is planned to be complete by January 2015.

e) DCWW have advised that concern that the works may not be carried out are unfounded. The funding is committed, works have commenced on site and will be complete by early February 2015.

7.09 Accordingly, for the reasons set out above and in the light of the further information received from DCWW, I recommend the deletion of condition 6.

## **8.00 CONCLUSION**

8.01 Notwithstanding the representations made raising concerns, I consider the views of the statutory drainage undertaker to be the view to which the greatest weight must be attached in the determination of this application. Accordingly, I consider the proposed deletion of the condition to be acceptable.

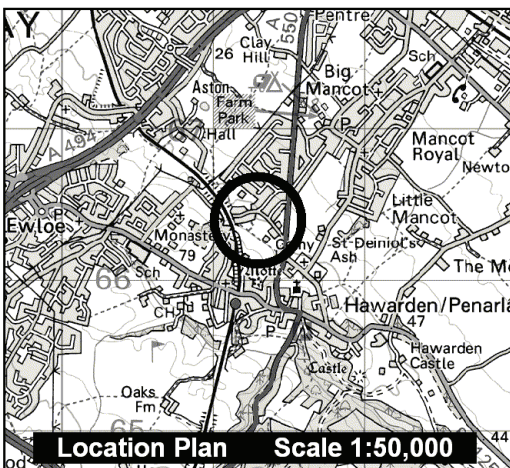
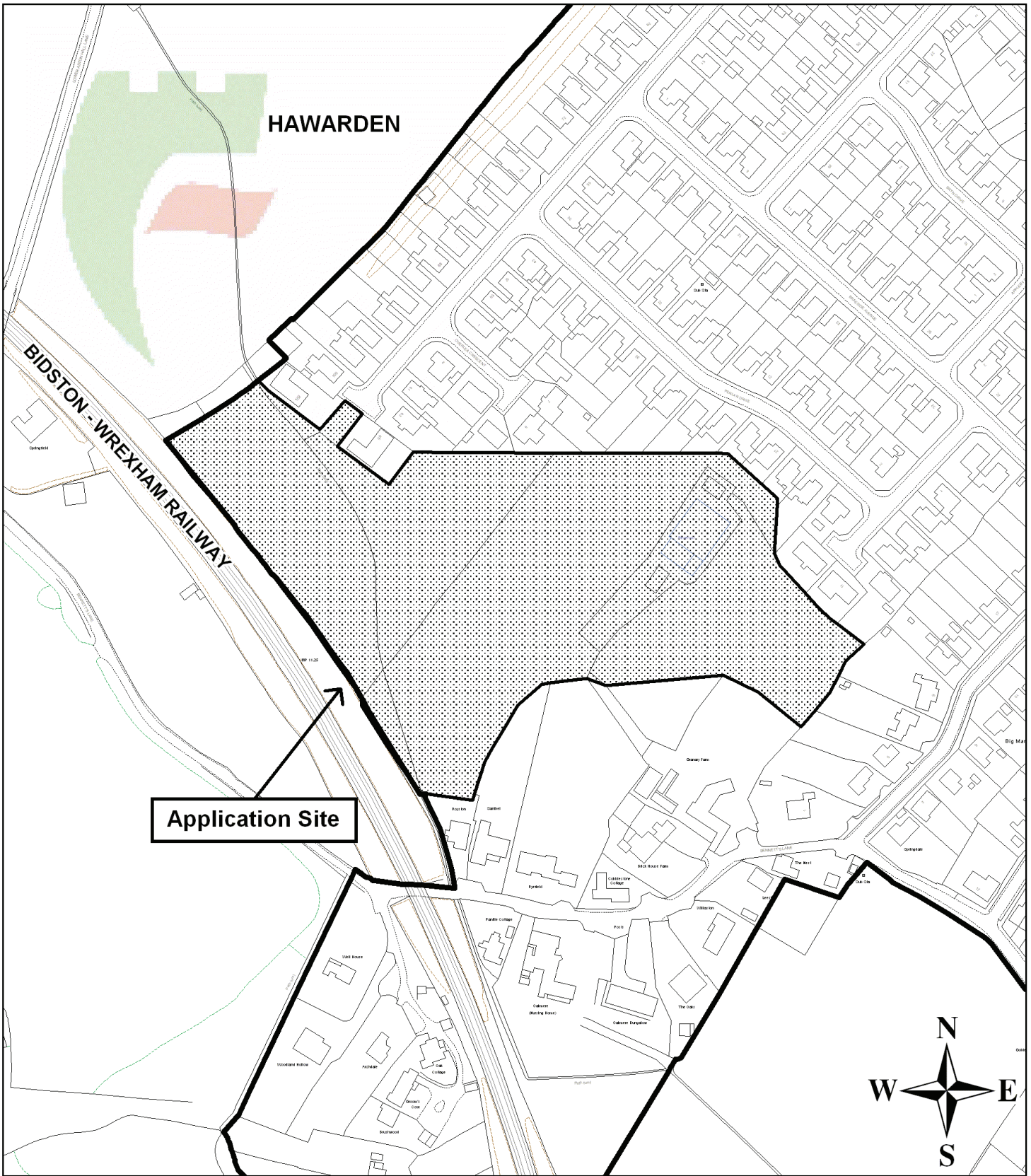
8.02 In considering this planning application the Council has acted in accordance with the Human Rights Act 1998 including Article 8 of the Convention and in a manner which is necessary in a democratic society in furtherance of the legitimate aims of the Act and the Convention.

### **LIST OF BACKGROUND DOCUMENTS**

Planning Application & Supporting Documents  
National & Local Planning Policy  
Responses to Consultation  
Responses to Publicity  
DCWW Letter dated 01.12.2014

**Contact Officer:** David Glyn Jones  
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**Email:** david.glyn.jones@flintshire.gov.uk

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Planning & Environment,  
Flintshire County Council, County Hall,  
Mold, Flintshire, CH7 6NF.  
Chief Officer: Mr Andrew Farrow

**Legend**



Planning Application Site



Adopted Flintshire Unitary  
Development Plan  
Settlement Boundary

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Planning Application **52429**

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## FLINTSHIRE COUNTY COUNCIL

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

**DATE:** **WEDNESDAY, 17 DECEMBER 2014**

**REPORT BY:** **CHIEF OFFICER (PLANNING AND ENVIRONMENT)**

**SUBJECT:** **GENERAL MATTERS - PROPOSED AMENDMENT TO SECTION 106 AGREEMENT - MORRISON'S SUPERMARKET, HIGH STREET, SALTNEY**

### **1.00 APPLICATION NUMBER**

1.01 045999

### **2.00 APPLICANT**

2.01 Wm. Morrison Supermarkets Plc

### **3.00 SITE**

3.01 Chester Road, Saltney

### **4.00 APPLICATION VALID DATE**

4.01 Not applicable.

### **5.00 PURPOSE OF REPORT**

5.01 To seek authority to amend a Section 106 Agreement entered into by the Council with Morrisons in connection with the planning permission for the erection of the store at Chester Road, Saltney in 2009.

### **6.00 REPORT**

6.01 Planning permission was granted in August, 2009 for the erection of a retail superstore with associated external works including car parking, trolley storage shelters, landscaping and enclosed service yard with separate vehicular access and ancillary works at the former G.T.Owens site. The planning permission was subject to a Section 106 Agreement which, amongst other matters, required of Morrisons the transfer of a plot of land to the Council for the erection of a new

library building to serve Saltney. The land concerned covers approximately 0.3 acres and is located at the eastern end of the site, to the east of the supermarket access road.

- 6.02 The Agreement requires that the land be transferred back to Morrisons (or any subsequent owner of the retail store) if the library building has not been built within seven years of the date of the permission. There is no requirement for Morrisons to construct the library building and it would also be the responsibility of the Council to obtain planning permission for it. In the current financial position there is no finance available for this project and no foreseeable prospect of this coming forward, certainly not before August 2016, when the land would be reclaimed by Morrisons. A further factor is the existing high voltage electricity cable which is buried within the site and constrains the position and design of any built development.
- 6.03 This report seeks authority to renegotiate the S.106 Agreement with Morrisons to allow the land to be retained by the Council beyond the August, 2016 cut-off, providing it is used for some benefit to the community.
- 6.04 Clearly, as the land is being handed to the Council by Morrisons free of charge, it cannot be used for any commercial, profit making purpose, which would breach the standards covering legal agreements under S.106. Initial meetings have been held with representatives of Morrisons and the Saltney Town Council to consider potential alternative uses which might include a memorial garden or similar low key development, which Morrisons should not have cause to take issue with. If the land was seen to have a commercial value, Morrisons would be unlikely to allow the Council to benefit from this without some recompense.
- 6.05 The terms of any revised Agreement would need to be settled but it is important that sufficient time is available before August, 2016 to allow negotiations to take place, hence the timing of this report to Committee.

## **7.00 RECOMMENDATIONS**

- 7.01 That the Chief Officer (Planning and Environment) be given delegated authority to re-negotiate the clause within the existing Section 106 Agreement entered into in connection with planning permission ref. 045999, to allow the land to be developed for community use (subject to the relevant planning permission being obtained).

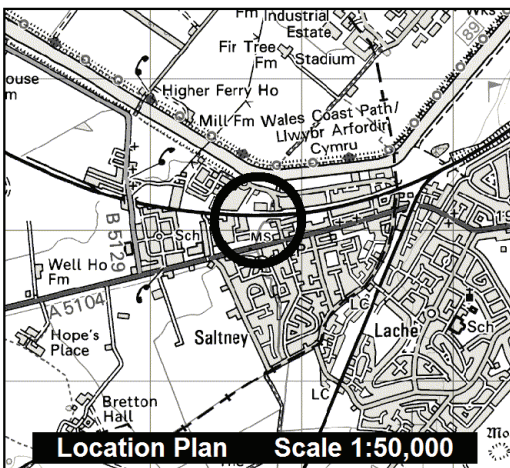
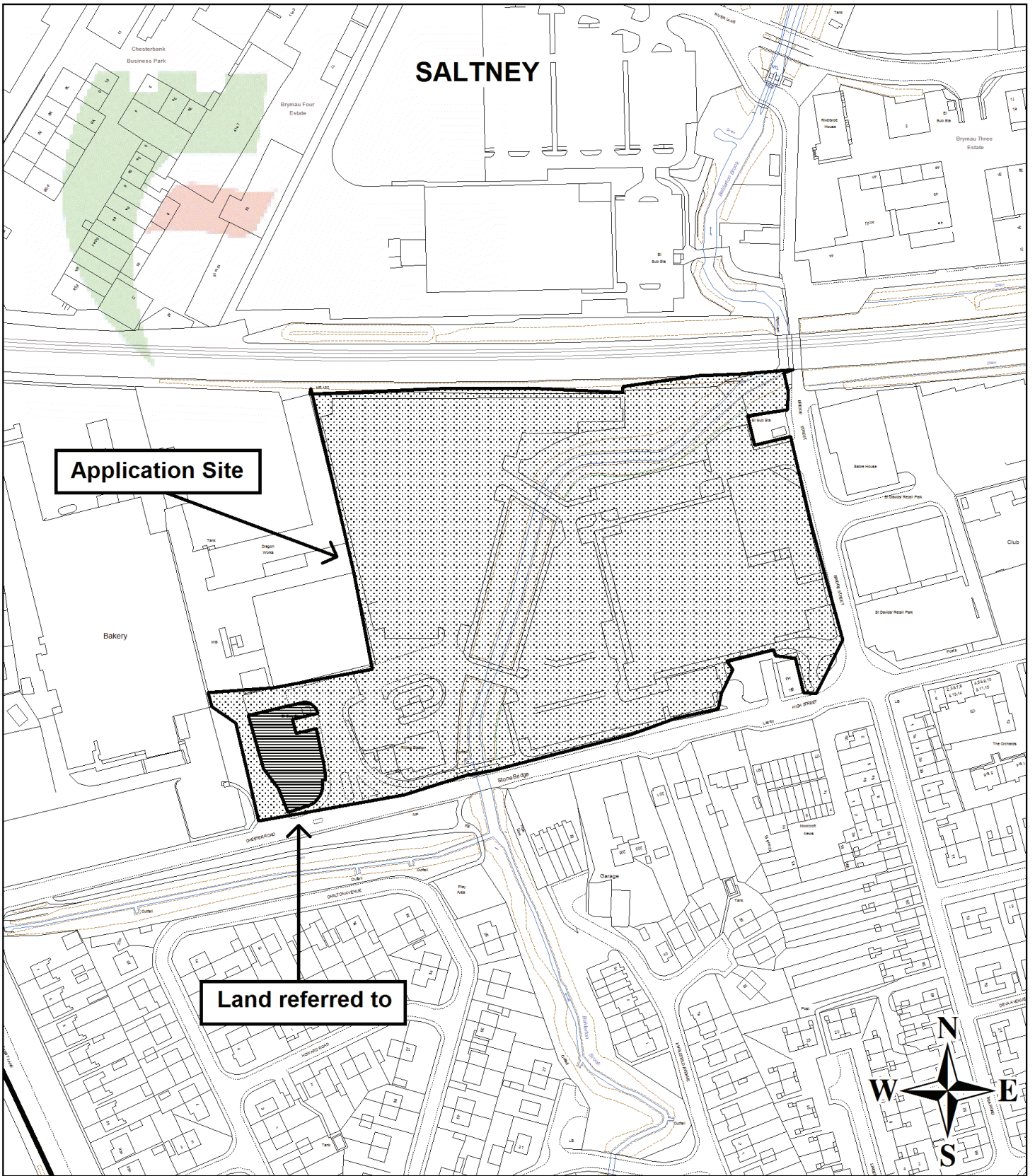
### **LIST OF BACKGROUND DOCUMENTS**

Planning Application, Section 106 Agreement & Supporting Documents.



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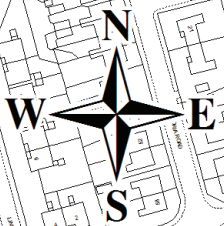
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**SALTNEY**




**Application Site**

**Land referred to**



Planning & Environment,  
 Flintshire County Council, County Hall,  
 Mold, Flintshire, CH7 6NF.  
 Chief Officer: Mr Andrew Farrow

**Legend**

-  Planning Application Site
-  Land Referred To
-  Adopted Flintshire Unitary Development Plan Settlement Boundary

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Planning Application **45999**

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## FLINTSHIRE COUNTY COUNCIL

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

**DATE:** **17<sup>TH</sup> DECEMBER 2014**

**REPORT BY:** **CHIEF OFFICER (PLANNING AND ENVIRONMENT)**

**SUBJECT:** **APPEAL BY NOTEMACHINE AGAINST THE DECISION OF FLINTSHIRE COUNTY COUNCIL TO REFUSE PLANNING PERMISSION FOR THE INSTALLATION OF AN ATM AT 18 HIGH STREET, MOLD – DISMISSED.**

### **1.00 APPLICATION NUMBERS**

1.01 051948 and 051961

### **2.00 APPLICANT**

2.01 Mr Roy Lanning

### **3.00 SITE**

3.01 18 High Street,  
Mold

### **4.00 APPLICATION VALID DATE**

4.01 28/03/2014

### **5.00 PURPOSE OF REPORT**

5.01 To inform Members of the Inspectors decision in relation to appeals into the delegated decisions of the Local Planning Authority to refuse to grant planning permission and advertisement consent at 18 High Street, Mold. The appeals were dealt with by way of an exchange of written representations and were DISMISSED.

### **6.00 REPORT**

#### **6.01 Introduction**

This is a joint appeal that considered planning application ref. 051948 which proposed the installation of an ATM and advertisement consent

ref. 051961 for the installation of surrounding ATM advertisements. The two cases are inextricably linked and have therefore been dealt with jointly.

6.02 Main Issues

When dealing with the installation of the ATM the Inspector considered the main issue to be the effect of the proposal on the character or appearance of Mold Conservation Area. With regards to the associated signage the main issue for consideration is the effect of the proposal on visual amenity.

6.03 Character and Appearance

The appeal premises is a small retail unit on the High Street within Mold Conservation Area. It has a relatively short frontage and is situated under a glazed metalwork portico that frames an entrance into the Daniel Owen shopping precinct.

The shop frontage in this case is in a very prominent position and has a relatively small amount window space associated with it. The Inspector considered the installation of an ATM to take up a disproportionate amount of the shop window which detracts from the character of the shop front as a whole and dominates the appeal building. Furthermore, he considered the materials, colour and form of the ATM to be an incongruous addition to this relatively simple shop front and this detracts from the understated appearance of the shop fronts in the Conservation Area as a whole. The Inspector quoted Policy HE1 of the Flintshire Unitary Development Plan, which states that development in Conservation Areas will only be permitted if it preserves or enhances the character or appearance of the designated area.

The Inspector continued to explain that the combination of the bright coloured advertising together with its height and position would also result in advertising that dominates the appeal property and the adjacent area.

The Inspector considered other nearby ATMs but commented that the relative scale of this proposal together with the colours and prominence make it stand out and the illumination provides further emphasis. Such illumination is not present in other similar ATMs and the development as a whole has a jarring quality, with the illumination meaning that this harm persists into the hours of darkness.

7.00 CONCLUSION

7.01 The Inspector concluded that the development in this case is an incongruous and overly dominant feature that undermines the character and appearance of the appeal building and of the Conservation Area as a whole. It is therefore contrary to Policy HE1 of the Flintshire Unitary Development Plan. He also concluded that the

associated advertising would be detrimental to the interests of amenity.

- 7.02 For the reasons given above and having considered all other matters raised, the Inspector concluded that the appeals should be DISMISSED.

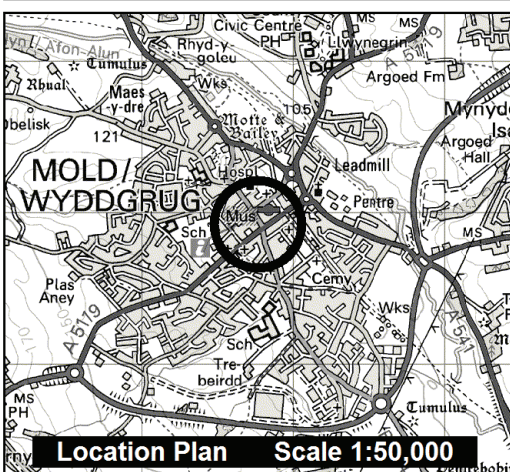
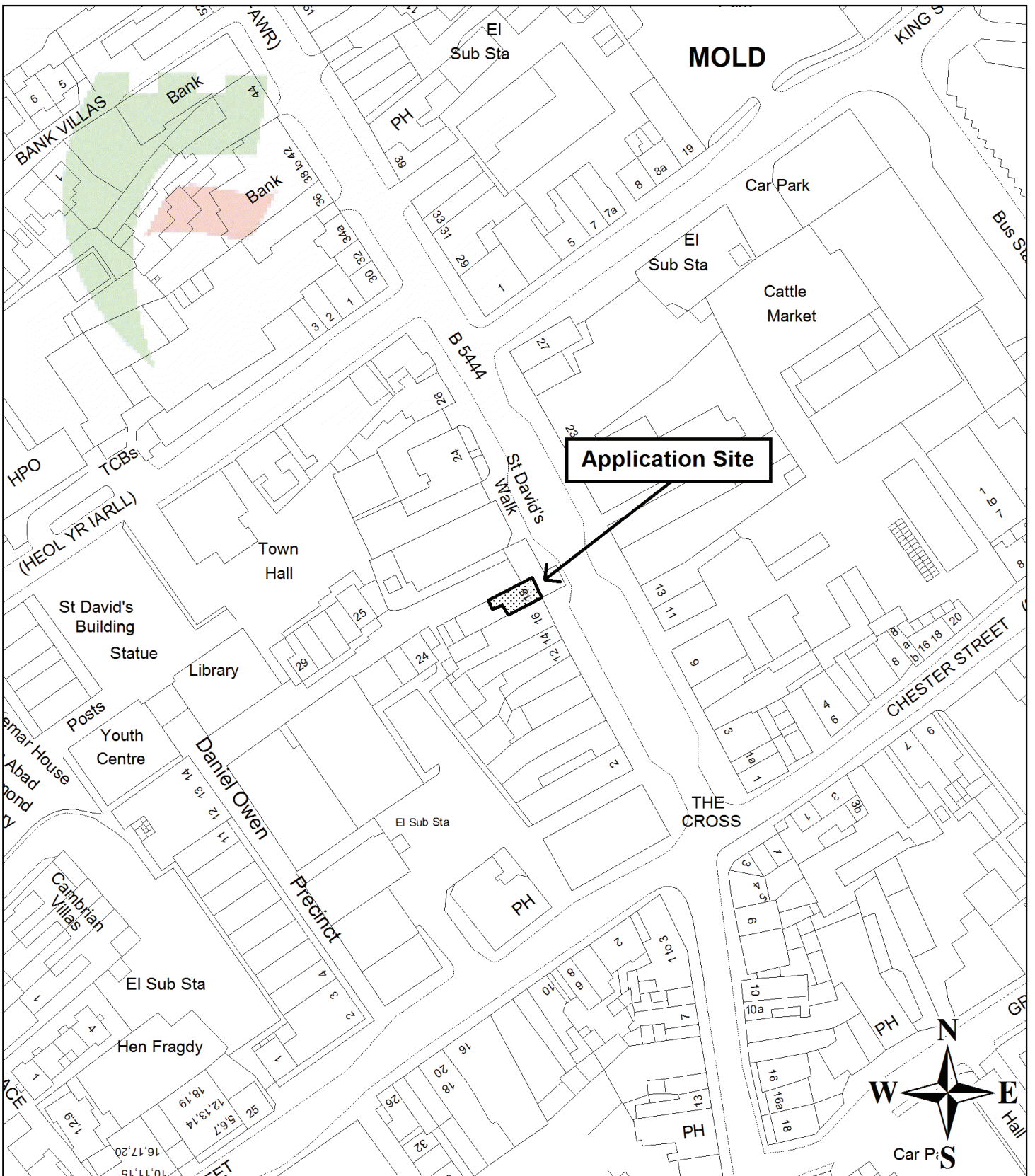
**LIST OF BACKGROUND DOCUMENTS**

Planning Application & Supporting Documents  
National & Local Planning Policy  
Responses to Consultation  
Responses to Publicity

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Planning & Environment,  
 Flintshire County Council, County Hall,  
 Mold, Flintshire, CH7 6NF.  
 Chief Officer: Mr Andrew Farrow

**Legend**



Planning Application Site



Adopted Flintshire Unitary  
 Development Plan  
 Settlement Boundary

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Planning Application 51948 & 51961

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