

# Public Document Pack

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



To: Cllr David Wisinger (Chairman)

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,  
Mike Lowe, Nancy Matthews, Billy Mullin,  
Mike Peers, Neville Phillips, Gareth Roberts,  
David Roney and Owen Thomas

11 January 2017

Sharon Thomas / 01352 702324  
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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, 18TH JANUARY, 2017 at 1.00 PM** to consider the following items.

Yours sincerely

Robert Robins  
Democratic Services Manager

## **WEBCASTING NOTICE**

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## **AGENDA**

1 **APOLOGIES**

2 **DECLARATIONS OF INTEREST**

3 **LATE OBSERVATIONS**

4 **MINUTES** (Pages 5 - 14)

To confirm as a correct record the minutes of the meeting held on 14 December 2016.

5 **ITEMS TO BE DEFERRED**

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

The reports of the Chief Officer (Planning and Environment) are enclosed.

**REPORT OF CHIEF OFFICER (PLANNING AND ENVIRONMENT) TO  
PLANNING & DEVELOPMENT CONTROL COMMITTEE ON 18 JANUARY 2017**

<b>Item No</b>	<b>File Reference</b>	<b>DESCRIPTION</b>
<b>Applications reported for determination (A=reported for approval, R=reported for refusal)</b>		
<b>6.1</b>	055188 - A	055188 - Full Application - Proposed Erection of 10 No. Dwellings for which Planning Permission was previously obtained under 049273 at Royal British Legion (Former), Gadlys Lane, Bagillt (partly retrospective) (Pages 15 - 26)
<b>6.2</b>	056023 - R	056023 - Full Application - Demolition of Existing Dwelling and Provision of Access Junction and Access Plan at 81 Drury Lane, Buckley (Pages 27 - 36)
<b>6.3</b>	052364 - A	052364 - Development of an Integrated Waste Management Facility Comprising a Mixed Waste Treatment Facility, a Construction Waste Materials Recycling Facility and a Contaminated Soils Treatment Facility at Stoneybeach Quarry, Pinfold Lane, Alltami, Flintshire (Pages 37 - 62)
<b>6.4</b>	052922 - A	052922 - Full Application - Erection of 1 No. Wind Turbine (78m to Tip) and Ancillary Infrastructure and Access at Kingspan Ltd., 2-4 Greenfield Business Park 2, Bagillt Road, Holywell (Pages 63 - 88)
<b>6.5</b>	055597 - A	055597 - Full Application - Erection of Detached Bungalow at Rose Farm Livery, Well Street, Buckley. (Pages 89 - 100)
<b>Item No</b>	<b>File Reference</b>	<b>DESCRIPTION</b>
<b>Appeal Decision</b>		
<b>6.6</b>	054322	054322 - Appeal by Mr. J. Pedley Against the Decision of Flintshire County Council to Refuse Planning Permission for the Proposed Individual Vehicular Access Points for Plots 2, 3 & 4 of Previously Consented Gypsy Site at Magazine Lane, Ewloe - ALLOWED (Pages 101 - 106)
<b>6.7</b>	053686 & 053687	053686 & 053687 - Appeal by SEP Wood Farm Ltd Against the Decision of Flintshire County Council to Refuse Planning Permission for the Proposed Development of Solar Photovoltaic Panels and Associated Works Including Inverter Housing, Access Track, Security Fencing and Cameras on land at 2 sites on Deeside Lane, Sealand - DISMISSED (Pages 107 - 118)
<b>6.8</b>	054446	054446 - Appeal by Mr. R. Dennis Against the Decision of Flintshire County Council to Refuse Planning Permission for the Renewal of Planning Permission 049755 to Allow Conversion to Barn to 2 No. Dwellings at Mertyn Abbott Farm, Llwyn Ifor Lane, Whitford - ALLOWED. (Pages 119 - 124)
<b>6.9</b>	055299	055299 - Appeal by Ms P. Hickie-Roberts Against the Decision of Flintshire County Council to Refuse Planning Permission for an Extension to and Change of Use of Outbuilding to Dwelling at Ael y Bryn, Moel y Crio, Holywell - DISMISSED. (Pages 125 - 130)

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**PLANNING AND DEVELOPMENT CONTROL COMMITTEE**  
**14<sup>th</sup> DECEMBER 2016**

Minutes of the meeting of the Planning and Development Control Committee of the Flintshire County Council held at County Hall, Mold on Wednesday, 14<sup>th</sup> December 2016

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

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

**SUBSTITUTION:**

Councillor: Chris Dolphin for Nancy Matthews

**ALSO PRESENT:**

The following Councillor attended as a local Member:

Councillor Nigel Steele-Mortimer for agenda item 6.1 (as acting local Member)

**OTHER MEMBERS IN ATTENDANCE:**

Councillor Tim Newhouse as an observer

**IN ATTENDANCE:**

Chief Officer (Planning and Environment); Service Manager - Strategy; Development Manager; Senior Engineer - Highways Development Control; Senior Planners; Planning Support Officer, Housing & Planning Solicitor and Team Leader – Democratic Services

**107. DECLARATIONS OF INTEREST**

There were no declarations of interest.

**108. LATE OBSERVATIONS**

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

Councillor Dunbar addressed the Committee relating to a comment he made at the meeting on 16<sup>th</sup> November 2016. At that meeting he referred to the non-attendance of Councillor Adele Davies-Cooke at a site visit for an application in her ward. He clarified that he was not questioning her reason for not attending nor her integrity and apologised if it was perceived in that way. The Housing & Planning Solicitor added that he had received an email from Councillor Davies-Cooke attaching a vehicle breakdown report from the morning of the site visit.

## 109. MINUTES

The draft minutes of the meeting held on 16<sup>th</sup> November 2016 were submitted.

Councillor Peers asked if there was an update on the item that was deferred at the meeting on 16<sup>th</sup> November 2016, minute number 99 – Full Application – Erection of 2 No. Class A3 Units with Associated Public Realm Improvements and Car Parking Re-Configuration at Broughton Shopping Park, Broughton (055736). The Chief Officer (Planning and Environment) explained that a meeting was being arranged to take place with the applicant to determine their long term intentions for the site.

### Accuracy

Councillor Gareth Roberts commented on minute number 101 – Full Application – Erection of Two-Storey Extension to Side of Dwelling at 18 Parkfield Road, Broughton (055618). The second line of the 5<sup>th</sup> paragraph should read “recommendation to approve the application .....” not to refuse the application.

### RESOLVED:

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

## 110. ITEMS TO BE DEFERRED

There were no items recommended for deferment.

The Chairman explained that Councillor Nigel Steele-Mortimer was representing the local Member for agenda item number 6.1. Councillor Steele-Mortimer was unable to be present for the start of the meeting due to a prior engagement and the Chairman advised that given the circumstances and the late notice of being required to attend he would consider agenda item number 6.1 at the end of the meeting to allow Councillor Steele-Mortimer to be present.

## 111. FULL APPLICATION – ERECTION OF 4 NO. 1 BEDROOM FLATS, 9 NO. 2 BEDROOM HOUSES AND 6 NO. 3 BEDROOM HOUSES AT YSTAD GOFFA COURT, ALBERT AVENUE, FLINT (055529)

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 application had been submitted by Wales & West Housing Association and proposed the erection of 4 No flats and 15 houses on land at Ystad Goffa Court, Albert Avenue, Flint. The site was vacant, having previously accommodated a block of flats which had been demolished.

On the impact on the existing footpath, the officer explained that consultation on the application had been undertaken with North Wales Police Community Safety to ensure the development was acceptable from a Secure By Design Perspective. The basis for consultation focussed on the means of enclosure of an existing footpath adjacent to the sites north-eastern boundary, which linked Maes Alaw and Albert Avenue to the rear of a number of the proposed dwellings.

Councillor Dunbar proposed the recommendation for approval which was duly seconded. He commented on the Section 106 Obligation for on-site recreation provision and the identified need for social housing in Flintshire. There had been no comment from either the local Member or Flint Town Council. He asked what was proposed to prevent fly tipping and anti-social behaviour which had been the basis of an objection received.

Councillor Bithell queried the treatment of the footpath which he said could result in it becoming a dangerous alley. He also asked if education contributions had been sought.

Councillor Peers welcomed the application on a brownfield site which would provide social housing in the area.

Councillor Lloyd said that street lighting on the footpath could assist with any problems of anti-social behaviour or fly tipping.

On anti-social behaviour the officer explained that there were issues at the present time in the footpath area which was the reason that North Wales Police had been consulted. A number of meetings had been held to address that issue and to ensure that the problem was not exacerbated. A scheme had been developed to satisfactorily address those issues whereby the treatment to the back of the proposed properties would be secured by a 1 metre high mesh fence so occupiers would have the opportunity to see any instances of anti-social behaviour. Realignment of the footpath would have been the preferred option but that was not possible as it was outside of the control of the applicant. By carrying out the means of enclosure, officers felt it was acceptable and would allow a degree of surveillance to take place in the area. Lighting in the area could be looked at as part of the scheme.

Colleagues in Capital Projects had advised that there was no requirement for an education contribution for this application.

The Service Manager – Strategy clarified that although the application was from an Registered Social Landlord there was no policy requirement for the housing to be affordable housing (the recommendation would be the same if the applicant was a private developer) which was why there was no mechanism proposed in the report, by condition or Section 106 obligation, to secure this.

**RESOLVED:**

That Planning permission be granted subject to the following:

1. That subject to the applicant entering into a Section 106 Obligation Unilateral Undertaking or advance payment of £733 per dwelling unit in lieu of on-site recreational provision that planning permission be granted;
2. 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;

And subject to the conditions detailed in the report of the Chief Officer (Planning and Environment) which included an amendment to condition number 19 as detailed in the late observations.

**112. FULL APPLICATION – CHANGE OF USE OF DISUSED QUARRY TO COUNTRY PARK INCORPORATING HERITAGE ATTRACTION, RECREATIONAL USES AND VISITOR CENTRE WITH ASSOCIATED PARKING AT FAGL LANE QUARRY, FAGL LANE, HOPE (054863)**

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. 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.

Full planning permission was sought for the change of use of the former quarry via the creation of a historically themed country park with a scaled reception of a Roman Fort and Iron Age Village, and a visitor centre set within, and straddling the boundaries of a former gravel extraction site in the Alyn Valley. This would entail the restoration of land within the former quarry for purposes including ecological mitigation land, arable and pastoral use.

Mr T. Stevens spoke in support of the application on the following grounds: Park in the Past was a not for profit community Interest Company committed to providing benefits to the local community with profits being reinvested into the business; arson, fly tipping and vandalism had occurred on the site since the quarry had ceased operation; unauthorised fishing and horse riding had also taken place - North Wales Police were aware of these activities and supported this application; allows sustainable investment and employment of staff; recreation and education benefits of the centre; safe wildlife haven; support from the Ramblers' Association; community fishing scheme on the lake supported by National Resources Wales; new visitor centre and café and educational talks; financial support from Barclays Bank and the National Lottery; and it was a signature project for the County and North Wales.

The Housing and Planning Solicitor advised that the corporate make-up of the applicant was not a relevant consideration for the committee.



Councillor Butler proposed the recommendation for approval which was duly seconded. He commented that the application was for an ambitious project which was transformational for the area and inspirational, creating a major visitor attraction to the County. It was an educational benefit for school children and would provide contributions to the leisure profile of Flintshire. Any activities undertaken on the lake would be policed with the site being managed correctly.

Councillor Bithell supported the proposal which would result in current problems on the site ceasing. He also welcomed the application on the basis of educational merit and being a tourist attraction.

Councillor Dunbar also welcomed the application which was supported by the local community. He commented on the protection of wildlife alongside attracting visitors to the site.

Councillor Thomas welcomed the report but raised a concern on the impacts to properties on the North Side of the site from any activities undertaken on the lake. The officer explained that condition number 25 was 'No motorised water craft vehicles to be used upon the lake' which would ensure there was no adverse effect on amenity of noise.

**RESOLVED:**

That planning permission be granted subject to the following:

The applicant entering into a Section 106 Obligation/Unilateral Undertaking to provide the following:

- (a) Payment of £3,000 as a contribution to the costs of the formulation of a Traffic Regulation Order to restrict flows along Pigeon House Lane. Such sum payable before the first use of the development; and
- (b) In addition, a Deed of Variance or replacement S.106 in respect of aftercare arrangements and management for the site will be required.

And subject to the conditions detailed in the report of the Chief Officer (Planning and Environment).

**113. FULL APPLICATION – REMODELLING AND EXTENSION OF DWELLING, ERECTION OF A DETACHED GARAGE AND TEMPORARY SITING OF CARAVAN (AMENDMENT TO PREVIOUSLY APPROVED APPLICATION REF: 055612) AT TOP YR ALLT COTTAGE, BLACKBROOK ROAD, SYCHDYN (056144)**

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 application was for the erection of a side and rear extension along with an improved access and double timber garage at Top yr Allt Cottage,

Blackbrook Lane, Sychdyn. The application also included the temporary siting of a storage container and static caravan for residential use whilst the building work was being undertaken. The application was an amendment to the previous application reference number 055612 with the main issue for consideration being the principle of development, impact on visual amenity and the highway.

Councillor Dunbar proposed the recommendation for approval which was duly seconded. He said the application made a number of minor changes to the previous approval, reduced the massing of the proposed extension and moved the garage.

Councillor Bateman, whilst supporting the application, queried the requirement for the temporary siting of a storage container. The officer explained that a temporary permission was approved when the previous application was considered which was usual for such an application, with the container being removed after 12 months once the work had been undertaken.

Councillor Bithell and Councillor Peers both commented on the lack of content in the report. Councillor Bithell said the building was 186 years old and queried whether or not the application was in keeping with a building of that age. Councillor Peers said the application site was outside the settlement boundary however there was no explanation as to why it was acceptable and recommended for approval. The officer explained that the application followed a previous application considered by the Committee when the main consultations had been undertaken with the conservation section. No objections had been raised at that time. On being outside the settlement boundary and in line with HSG12 on extensions to dwellings, the development was outside the settlement boundary but it was in scale and character with the existing building and was not overdevelopment of the site.

In response to a further question from Councillor Bithell, the officer explained that the increased footprint was less than 50% so was within an acceptable limit when referring to HSG12.

**RESOLVED:**

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

**114. APPEAL BY U & I GROUP AND BLOOR HOMES PLC AGAINST THE NON-DETERMINATION BY FLINTSHIRE COUNTY COUNCIL FOR THE ERECTION OF 36 NO. DWELLINGS AT CHESTER ROAD, BROUGHTON - ALLOWED (054660)**

The Chief Officer (Planning and Environment) commented on the weight the Inspector had given to the appeal on the identified lack of housing supply in Flintshire.

Councillor Butler expressed his disappointment at the decision and commented on the amount of growth that had taken place at Broughton Park, the traffic and noise problems and the lack of support from Welsh Government (WG).

Councillor Bithell supported the comments of Councillor Butler and referred to the report that was submitted to Cabinet the previous day on implications of decisions. He received lots of correspondence from residents raising concerns on the situation in Broughton and said the application should be withdrawn.

Councillor Mullin commented on the previous assurances given to Members that safeguards were in place to prevent this situation. He stressed the importance of a slip road being built and the Feasibility Study undertaken by Carl Sargeant AM which he said had been ignored by the Inspector. He asked why WG was not listening to local businesses and residents and asked if the decision could be appealed.

Councillor Peers said he had requested a copy of the transcript of the appeal and reiterated the views of Councillor Mullin in respect of the results of the WG Feasibility Study and then the decision of the Inspector. He referred to a decision that had recently been called in by the First Minister and said this should also be called in.

A discussion took place on the possibility of the decision being called in. Officers explained that this was not an option based on the order in which the decisions had been taken. The Chief Officer (Planning and Environment) said WG's decision was sound and it had not erred in law, but he agreed with the importance of a slip road to serve the shopping park and the primary employer in North East Wales. The previous week WG had issued a consultation seeking projects to support the National Development Framework. He felt that this could be submitted as part of that Framework and a report could be submitted to Cabinet in the New Year to seek a decision on that.

The Service Manager - Strategy explained that the Feasibility Study also looked at other options for Main Road, Broughton and those options were still available for the road network in that area.

**RESOLVED:**

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

115. **APPEAL BY MR RICHARD BIRD AGAINST THE DECISION OF FLLINTSHIRE COUNTY COUNCIL TO REFUSE PLANNING PERMISSION FOR THE ERECTION OF 5 NO. DWELLINGS AT FLINT CHAPEL, CHESTER ROAD, FLINT - DISMISSED (054681)**

**RESOLVED:**

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

**116. APPEAL BY MRS MARGARET LOVELL AGAINST THE DECISION OF FLINTSHIRE COUNTY COUNCIL TO REFUSE PLANNING PERMISSION FOR THE CHANGE OF USE OF LAND TO USE INCIDENTAL TO THE DWELING HOUSE AT 4 BROAD OAK COTTAGES, MOLD ROAD, NORTHOP - DISMISSED (055558)**

Councillor Richard Jones asked for clarification on what 'use incidental' was and said the garden had always been attached to the property. The officer explained the application was to formally include the land which wasn't legally part of the garden area. Incidental was that buildings should be related to the use of the house.

**RESOLVED:**

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

Officers provided details of appeal decisions that had been received the previous day on the Solar Panels on land east of Deeside Lane. Appeals on both sites were dismissed and there was also no award of costs.

Cllr Christine Jones said she was pleased with the decision of the Inspector. She and some of her residents attended the hearing and she thanked them, the Planning officer and Welsh Government officials who also made representations at the hearing.

**117. FULL APPLICATION – AMENDED DETAILS OF DWELLING ON PLOT 3 AT BRYN LLWYD YARD, NORTH STREET, CAERWYS (055725)**

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. 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 application proposed amendments to the position and detailing of the dwelling proposed on plot 3 of the development at Bryn Llwyd Yard, Caerwys that was previously permitted under planning permission 052760 on 5<sup>th</sup> June 2015. Amended plans had been received during progression of the application on which further consultation and publicity had been undertaken.

Mr P. Roberts spoke against the application on the grounds of: the conditions of the original development being breached; the gap between the development and his property was now 7.5 meters and not 10 meters which was not an acceptable margin of error.

Councillor Owen Thomas proposed refusal of the application, against officer recommendation, which was duly seconded by Councillor Bithell. Councillor Thomas said he did not accept how an error on such a scale could have been made and said the application should be refused for the reasons of

impact on amenity and privacy. At the site visit the dwellings were still at ground level so could be reverted back to being at a distance of 10 metres from the neighbouring property.

Councillor Bithell concurred and said conditions had been put in place on approval of the original application which had not been complied with. The discrepancy between the distances was of a considerable amount.

Councillor Steele-Mortimer, as acting local Member for the Caerwys ward, spoke against the application. He concurred with the comments of Mr Roberts on the distance between the development and his property. He felt this was caused by the developer trying to squeeze a fifth house on the site which was only suitable for four dwellings. He did support the first recommendation in the report on the high level windows.

Councillor Peers commented on a similar situation within his ward where the Planning Authority had ordered demolition and rebuilding of a property that had not complied with conditions on distance and that a precedent had been set. He also felt that there was a recognised problem with the development on overlooking based on the alternative for high level fixed windows being recommended by officers, and suggested this could be a mitigation to overcome the concerns raised.

Councillor Richard Jones asked what advice was given to the developer during the pre-application process.

Councillor Roberts concurred with other Members in that the margin on distance was too significant. Councillor Lloyd asked what the distance was between the windows of both properties.

The officer explained that work on the development had ceased when it became apparent the distance between the properties was different to the conditions outlined in the approval. On the original plans in June 2015, the property had clear glazed windows at first floor level which is why a distance of 10 metres was recommended and approved. This was the distance from Plot 3 of the development which would secure adequate privacy for the users of the rear garden area which ran at 90 degrees to the rear elevation of plot 3. With the proposed changes to the windows the issue of overlooking from plot 3 would be overcome which was a fundamental consideration. The windows could contain clear glazing which would provide for improved habitation of the bedrooms whilst still avoiding any overlooking of the garden area of the adjacent property.

The Development Manager advised that a developer would not be encouraged to build outside of the agreed conditions and referred to TAN 9 and enforcement. Members needed to determine when there had been an unacceptable breach which was determined based on the impact on public amenity. The Service Manager – Strategy advised that Members needed to consider what was the planning harm based on the impact on amenity and privacy.

In summing up Councillor Thomas said the development was still at ground level so there would be minimum impact on the developer to reinstate the boundary to 10 metres. He confirmed the reasons he proposed refusal were impact on amenity and privacy.

On being put to the vote, refusal of the application was carried, against officer recommendation.

**RESOLVED:**

That planning permission be refused on the grounds of amenity and privacy.

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

There were 7 members of the public and 1 member of the press in attendance.

(The meeting started at 1.00pm and ended at 3.05pm)

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**Chairman**

## FLINTSHIRE COUNTY COUNCIL

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

**DATE:** **18<sup>TH</sup> JANUARY 2017**

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

**SUBJECT:** **FULL APPLICATION – PROPOSED ERECTION OF 10 NO. DWELLINGS FOR WHICH PLANNING PERMSSION WAS PREVIOUSLY OBTAINED UNDER 049273 AT ROYAL BRITISH LEGION (FORMER), GADLYS LANE, BAGILLT (PARTLY RETROSPECTIVE)**

**APPLICATION NUMBER:** **055188**

**APPLICANT:** **CHESTER BUILDING SERVICING LTD**

**SITE:** **LAND AT ROYAL BRITISH LEGION (FORMER), GADLYS LANE, BAGILLT**

**APPLICATION VALID DATE:** **17<sup>TH</sup> MARCH 2016**

**LOCAL MEMBERS:** **COUNCILLOR M. REECE**

**TOWN/COMMUNITY COUNCIL:** **BAGILLT COMMUNITY COUNCIL**

**REASON FOR COMMITTEE:** **MEMBER REQUEST IN ORDER TO ASSESS IMPACT OF DEVELOPMENT ON THE PRIVACY/AMENITY OF OCCUPIERS OF ADJACENT PROPERTIES**

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

### **1.00 SUMMARY**

- 1.01 This is a full application which is partly retrospective, and which proposes the erection of 10 No. dwellings with associated ancillary works for which planning permission was recently obtained under 049273 in 2012, on land at the Former British Legion, Gadlys Lane, Bagillt.

1.02 Additional details have been received in progression of the application on which further consultation and publicity has been undertaken.

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

2.01 That subject to the applicant entering into a Section 106 Obligation, Unilateral Undertaking or advance payment of £1,100 per dwelling in lieu of on site play provision, that planning permission be granted subject to the following conditions:-

Conditions

1. In accordance with approved plans.
2. Materials to be submitted and approved.
3. No boundary treatment within 2.5 m of highway to exceed 0.9 m in height.
4. 1.8 m wide footway to be provided along site frontage.
5. Means to prevent the run-off of surface water onto highway.
6. Scheme for integrated drainage of site to be submitted and approved. Development to be carried out in accordance with approved details.
7. Foul and surface water to be drained separately.
8. No surface water to connect into public sewerage system.
9. No land drainage to discharge into public sewerage system.
10. Removal of permitted development rights.
11. Boundary treatment to be installed as approved prior to occupation of any dwellings and retained thereafter in perpetuity.
12. Specimen trees on northern site boundary with existing properties at Beechcroft Close to be retained at a minimum height of 5 m.
13. Obscure glazing to be installed as approved prior to occupation of any of any dwelling to which it relates and retained thereafter in perpetuity.
14. Land contamination report to be submitted and approved with appropriate mitigation where required.

**3.00 CONSULTATIONS**

3.01 Local Member

Councillor M. Reece

Request site visit and planning committee determination in order that the impact of proposed measures to seek to maintain privacy/amenity for existing residents can be fully assessed.

Bagillt Community Council

The Council unanimously voted to reject the application as the proposed introduction of partial obscure glazing is not satisfactory, and will not rectify the issue of privacy, as the new properties kitchen windows look directly into the existing bedrooms, a clear breach of



privacy. Also the new buyers of these properties, in time could replace the obscure glass for normal glass. The new properties are overpowering to existing properties.

As well as the above issues, closeness of properties, drainage and lighting are still a major concern.

Highways Development Control Manager

Recommend that any permission includes conditions in respect of highway boundary treatment, provision of footpath on site frontage and incorporation of means to prevent surface water run-off onto highway.

Welsh Water/Dwr Cymru

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

Head of Pollution Control

Request that a land contamination report be undertaken prior to undertaking any further development with appropriate mitigation where required.

Public Open Spaces Manager

Request the payment of a commuted sum of £1,100 per dwelling in lieu of on-site recreational provision the monies used to entrance existing facilities at Bron y Wern recreational area.

Capital Projects & Planning Manager

As there is a surplus of both primary and secondary school places at Ysgol Merllyn, Bagillt and Flint High School, no educational contribution is requested.

**4.00 PUBLICITY**

4.01 Press Notice, Site Notice, Neighbour Notification

34 letters of objection with accompanying petition signed by 235 signatories received, the main points of which can be summarised as follows:-

- Proposed scale/height of 3 storey dwellings are out of character with the form of existing development in proximity to the site.
- The dwellings that have been built are not in accord with Local Planning Guidance Note 2 – Space About Dwellings, are unauthorised and should be demolished.
- There would be a detrimental impact on privacy/amenity by way of overlooking and do not consider that the introduction of partial obscure glazing and boundary screening will address concerns and can be secured in perpetuity.
- Consider that the comprehensive landscaping on the common

site boundary with properties at Beechcroft Close, will have a detrimental impact on privacy/amenity by virtue of overpowering.

- There are significant drainage flooding and problems from the site.
- Access is not suitable for the proposed increase in vehicular/pedestrian movements.
- Development of land to the rear of properties at Beechcroft Close would compromise safety in the case of emergency evacuation.

5 letters received from Mr. D. Hanson, MP, and Hannah Blythyn AM, on behalf of residents which re-iterate the above concerns.

## **5.00 SITE HISTORY**

### **5.01 042526**

Demolition of existing single storey buildings around two storey dwelling and erection of 6 No. new small dwellings and 1 No. new detached larger dwelling. Granted 20<sup>th</sup> February 2007.

### **044016**

Demolition of existing buildings and erection of 4 No. houses and associated ancillary works (plots 7 – 10 inclusive). Refused February 2008.

Appeal to The Planning Inspectorate – Dismissed 30<sup>th</sup> July 2008.

### **044017**

Demolition of existing buildings and erection of 6 No. houses and associated ancillary works (plots 1 – 6 inclusive). Granted February 2008.

### **044725**

Demolition of existing buildings and erection of 4 No. houses and associated ancillary works (plots 7 – 10 inclusive). Permitted 16<sup>th</sup> September 2009.

### **049723**

Proposed erection of 10 No. dwellings with associated ancillary works (Amendments to scheme previously permitted under Code Nos 044017 & 044725). Permitted 16<sup>th</sup> October 2012.

## **6.00 PLANNING POLICIES**

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

Policy GEN1 – General Requirements for Development.

Policy GEN2 – Development Inside Settlement Boundaries.

Policy D1 – Design Quality, Location & Layout.

Policy D2 – Design.

Policy AC13 – Access & Traffic Impact.

Policy AC18 – Parking Provision & New Development.  
Policy HSG3 – Housing on Unallocated Sites within Settlement Boundaries.  
Policy HSG8 – Density of Development.  
Policy HSG9 – Housing Mix & Type.  
Policy EWP17 – Flood Risk.

Additional Guidance

Local Planning Guidance Note 2 – Space About Dwellings.

**7.00 PLANNING APPRAISAL**

7.01 Introduction

This full application which is partly retrospective proposes the erection of 10 No. dwellings with associated ancillary works on the site of the former Royal British Legion, Gadlys Lane, Bagillt. The site has previously had the benefit of planning permission in February 2007, under 042526 for the demolition of part of the former legion building and erection of 7 No dwellings. In addition subsequent permissions for a total of 10 No. dwellings were permitted by virtue of three separate applications under 044017 and 044725 in 2008/2009 and 049723 in 2012.

7.02 Site Description

The site the subject of this application amounts to approximately 0.24 hectares in area and comprises the site of the former Royal British Legion (which has now been demolished) and associated car parking area at Gadlys Lane, Bagillt. The former British Legion Building was in part 2 storey in height, and was 4m from the rear boundary of the site with existing properties at Beechcroft Close, which are set approximately 2m lower than the application site. The subsequent demolition of this building is a considerable betterment for surrounding residents. It is a site bounded by existing residential development namely Allt Celyn to the north-west, Beechcroft Close to the north-east, a detached property Riverside Cottage to the south-east and four detached properties Belmont, The Croft, Glenalva and Ty Sian which front onto an existing road Tai Newydd to the south-west.

7.03 Planning Policy

The site is located within the settlement boundary of Bagillt as defined in the Flintshire Unitary Development Plan where the principle of residential development is supported subject to the safeguarding of relevant amenity considerations. In addition the site has previously had the benefit of planning permission by virtue of application 042526 and subsequently 044017, 044725 and 049273 for the erection of a total of 10no dwellings, which establishes that the principle of residential development at this location is acceptable.

7.04 Proposed Development

Since the previous grant of permission in 2012, the site has been

acquired by the current applicant (Chester Building Servicing Ltd) who have undertaken construction works on four of the dwelling units previously permitted as part of application 049723.

7.05 As building works have been commenced on four units without full compliance with the planning conditions imposed on this earlier consent, the applicant has been requested to submit this current application in order to seek to regularise the situation.

7.06 The plans submitted as part of this current application propose:-

- The erection of 10 No. detached dwellings 2.5 storeys in height each of which measures approximately 6 m x 9 m x 8.5 m (high). The dwellings are to be constructed having rendered external walls with facing brick detailing and concrete tile roofs.
- Access to serve the dwellings being obtained directly off Tai Newydd with each dwelling served by its own driveway.
- The introduction of a comprehensive landscaping scheme on the site boundary with existing properties at Beechcroft Close with the associated introduction of partial obscure glazing into the windows at first/second floor level within the rear elevations.

7.07 Main Planning Considerations

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

- a) Principle of development having regard to the relevant local and national planning and enforcement policy and the material consideration of the previous planning permission and previous built form on the site.
- b) the scale / character of development and impact on the privacy / amenity of occupiers of existing dwellings
- c) acceptability of access to serve the proposed development
- d) adequacy of drainage
- e) impact of associated lighting

7.08 Principle of Development

The principle of residential development is well established given the site's location within the settlement boundary of Bagillt as defined in the Flintshire Unitary Development Plan, the original building/dwellinghouse on the site and the previous background of planning history referred to in paragraph 5.00 of this report. The approval of previous residential development is a significant material consideration in the planning balance, when weighing up the main issues in this application.

7.09 Scale of Development & Impact on Privacy/Amenity

The concerns/objections to the development in relation to the impact

on privacy/amenity are noted, however it is crucial to note that the site originally accommodated a part single/ part two storey building (Former Legion) which had staff accommodation in the two storey element, and which was located alongside the rear boundary with the properties at Nos 14 -20 Beechcroft Close. This building was located approximately 4m from the common site boundary with a maximum ridge height of 9m. The application 042526 sought to demolish the single storey part of the building in combination with the retention of the 2 storey part of the building for conversion into a dwelling together with the proposed erection of 6 new houses. The 2 storey building which was to be retained as a dwelling unit, provided a separation distance of 14m to the rear of 14/16/18 Beechcroft Close and the new dwellings 19m separation to the rear of 2 – 12 Beechcroft Close. This permission in 2007 established the principle of increased distances to the common boundary in terms of built development which was a significant improvement on the previous arrangement.

- 7.11 The principle of 2.5 storey dwellings at this location was established by planning permission 044017 and 044725. 5 pairs of dwellings were proposed and approved in total by those permissions which were approximately 9 m high to the ridge line with accommodation within the roof space served by dormer windows. This is a ridge height similar to the previously existing British Legion building. The separation distances from the rear elevations of the approved 10 dwellings to the properties at Beechcroft Close ranged from between 19 m – 20.5 m.
- 7.12 The subsequent application under 049723 in 2012 for 10 No. detached properties proposed amendments to the previous permissions. At this time the existing permissions, 044017 and 044725 were still live, and formed a significant material consideration. Officers sought to improve the privacy/amenity of existing residents by increasing the separation distances between properties on a number of plots by 1m - 1.5 m, in combination with a reduction in the floor levels of the dwellings by between 0.10 – 1.05 m. The ridge heights of the proposed dwellings were proposed at 9m, again similar to the ridge height of the original British Legion Building.
- 7.13 The development which has commenced on site relates to the dwellings previously permitted under 049723 (plots 7-10) and the separation distances between these units and existing development, has been reduced from that approved as part of this permission by 1.6m to 20.4m. There would be a reduction of 0.4 m between the proposed units and existing dwellings to the rear plots 3-6, the separation distances being approximately 18.6m.
- 7.14 Whilst the concerns of residents at Beechcroft Close are noted, regarding the proposed and existing separation distances, which given the difference in site levels at this location, are less than the 26m expressed in the Local Planning Guidance Note 2 – Space About

Dwellings by approximately 5.6m – 7.4m, the distances between properties as specified in this document are for guidance purposes only. The principle of the reduced distances between the existing and proposed development relative to this guidance were established and agreed in 2007 due to the overall improvement achieved by the demolition of part of the original building on site which was within 4m of the site boundary, and the introduction of a far greater interface distance between Beechcroft Close and development on the site than had ever previously existed.

7.15 However, in recognising the concerns of the residents as part of this current application, the developer proposes (a) the provision of a 1.8 m wide footpath to the rear of existing development at Beechcroft Close and the dwellings proposed as part of this application (b) the introduction of a comprehensive landscaping scheme on the common site boundary relative to properties at Beechcroft Close in combination with (c) partial obscure glazing within the lower window panes in the rear elevations at first/second floor levels. The landscaping scheme proposes the introduction of a gabion retaining structure with 2m high close boarded fence on the site boundary, with 3m raised hedgerow behind it on the application site together with the introduction of 5m high standard specimens, to frame/ screen the development. These details were not shown on previously approved plans. Further consultation on these proposals has been undertaken and whilst objections remain, given that the distances between properties have been reduced from those previously permitted, this application is accompanied by measures that will provide an improved situation for residents over and above that would have occurred had any of the previous permissions been implemented in full. In order to assist members in their assessment of the acceptability of the proposed boundary screening, the applicants have advised that a section of the boundary treatment will be completed in advance of the committee site visit and Members will be advised of the progress of works at the Planning Committee. I note resident's concerns about long-term security of planning conditions. However the Council has powers to take action if there is a breach of an on-going condition, such as the removal of the obscure glazing.

7.16 Having regard to the above my recommendation is for permission to be granted subject to the imposition of conditions to safeguard the retention of the boundary treatment and partial obscure glazing in perpetuity.

7.17 Access/Highways

The objections to the development on access/highway grounds are noted. Consultation has however been undertaken with the Highway Development Control Manager, who has raised no objections to the development being served as permitted under previous applications from Tai Newydd, subject to conditions requiring the provision of a footway along the site frontage, controls over the height of boundary

enclosure fronting onto the carriageway and incorporation of measures to prevent surface run-off onto the highway.

7.18 Adequacy of Drainage

The concerns in relation to the adequacy of drainage, given the flooding problems that have occurred within the rear gardens of a number of properties at Beechcroft Close, particularly during winter months are noted. The applicant has during this period provided temporary measures to seek to minimise the impact given the difference in site levels, but there are concerns that the problems may be repeated if an adequate drainage system is not installed with some urgency.

7.19 The applicant has advised that they wish to install a suitable surface water system, to manage run off from the site but whilst the current application remains undetermined that this will not be completed at this stage. If Members are mindful to grant permission however, the drainage can be secured through the imposition of a planning condition and subsequently undertaken.

7.20 Lighting

The concerns relating to lighting are noted, but would be domestic in nature associated with a residential development and therefore acceptable in principle. No objections on this aspect of the development have been received from the Head of Pollution Control.

8.00 **CONCLUSION**

In conclusion, it is my view notwithstanding the background of planning history at this location and the volume of objections received, that the proposed scale/form of development for which the principle has already been established by virtue of previous permissions, would be acceptable in relation to the character of the site and its surroundings. This is however subject to improved boundary screening and associated partial obscure glazing within the rear elevations of the proposed dwellings which would offer an improvement to the previously approved development at this location since 2007. Such measures can be secured by the imposition of conditions if members are mindful to grant planning permission.

8.01 Other Considerations

The Council has had due regard to its duty under Section 17 of the Crime and Disorder Act 1998 and considered that there would be no significant or unacceptable increase in crime and disorder as a result of the recommended decision.

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.

The Council has had due regard to its public sector equality duty under the Equality Act 2010.

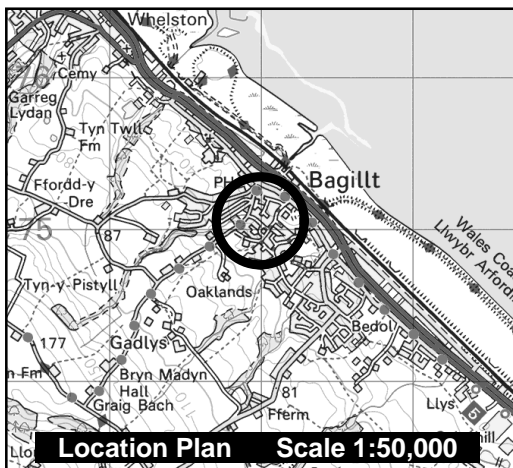
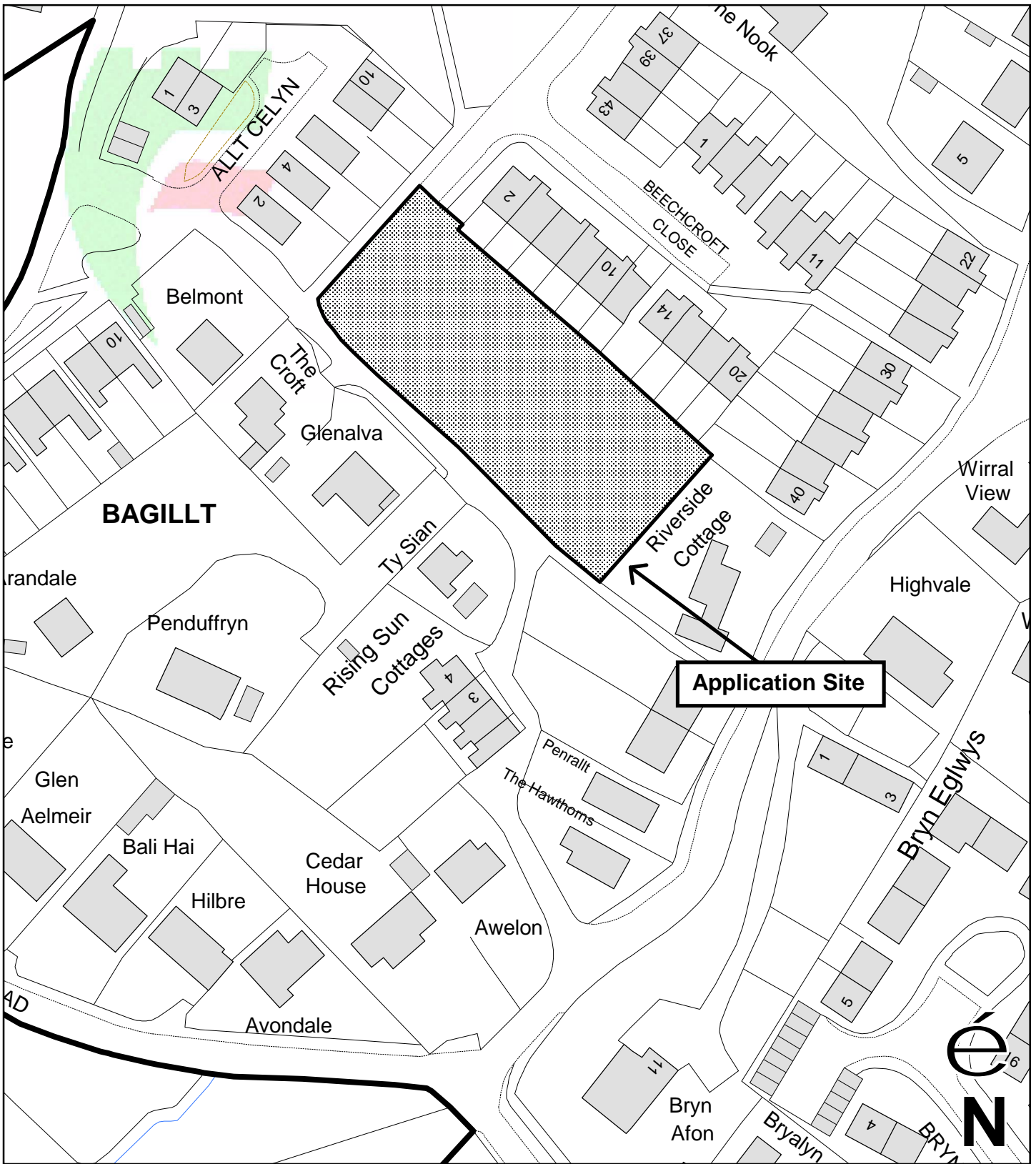
The Council has had due regard to its duty under Section 3 of the Wellbeing of Future Generations (Wales) Act 2015 and considered that there would be no significant or unacceptable impact upon the achievement of wellbeing objectives as a result of the recommended decision.

**LIST OF BACKGROUND DOCUMENTS**

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

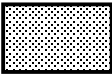

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Planning & Environment,  
 Flintshire County Council, County Hall,  
 Mold, Flintshire, CH7 6NF.  
 Chief Officer: Mr Andrew Farrow

**Legend**

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

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Map Scale 1:1000

OS Map ref SJ 2175

Planning Application **55188**

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## FLINTSHIRE COUNTY COUNCIL

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

**DATE:** **18<sup>TH</sup> JANUARY 2017**

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

**SUBJECT:** **FULL APPLICATION - DEMOLITION OF EXISTING DWELLING AND PROVISION OF ACCESS JUNCTION AND ACCESS ROAD AT 81 DRURY LANE, BUCKLEY**

**APPLICATION NUMBER:** **056023**

**APPLICANT:** **MULLER PROPERTY GROUP**

**SITE:** **81 DRURY LANE, BUCKLEY**

**APPLICATION VALID DATE:** **3<sup>RD</sup> OCTOBER 2016**

**LOCAL MEMBERS:** **COUNCILLOR D HUTCHINSON**  
**COUNCILLOR M J PEERS**

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

**REASON FOR COMMITTEE:** **MEMBER REQUEST AS THE APPLICATION IS CONSIDERED TO BE SPECULATIVE AND RAISES A NUMBER OF COMPLEX PLANNING ISSUES**

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

### **1.00 SUMMARY**

- 1.01 This full application proposes the demolition of an existing property at 81 Drury Lane, Buckley and following its demolition, the formation of an access junction/road. The application includes a detailed plan showing 60 dwellings on land to the rear of the application site which is described as indicative.
- 1.02 The proposal is unusual as it proposes an access alone without any further development. However, as the proposal includes a plan with a detailed housing layout, members are reasonably entitled to consider that the proposal before them is to provide access to a residential

development as shown or similar to that drafted.

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

- 1 The proposed demolition of an existing dwelling and formation of an access in isolation to it serving any associated development, would have a detrimental impact on the character of the street scene at this location. The proposal is therefore considered to be contrary to criteria b & g of Policy STR1, criterion b of Policy STR2, criteria a, e, f & j of Policy GEN1, criteria a, c, and d of Policy D1, criterion b of Policy D2 of the Flintshire Unitary Development Plan
- 2 The proposed geometry of the access would not be acceptable to serve any further development on the scale envisaged given the impact on associated sightlines is not compliant with adoption requirements in respect of drainage and street lighting and would not be adequate to facilitate the accommodation of construction vehicles. The proposal is therefore contrary to criterion c of Policy STR1, criteria d, e and f of Policy GEN1, and criterion b of Policy AC13 of the Flintshire Unitary Development Plan
- 3 The piecemeal consideration of the proposed formation of an access in isolation of the future proposed residential scheme does not accord with the principles of Planning Policy Wales. The proposal would result in the loss of a dwelling from the council's housing stock and does not allow the Local Planning Authority to consider whether the proposed housing on the site to the rear of the access would be sustainable development. The application does not accord with the overall sustainability principles, outcomes and objectives in Chapter 4 of Planning Policy Wales and the guidance set out in Technical Advice Note1 and Planning Policy Wales in relation to the need to consider taking a long term perspective to safeguard the interests of future generations, consider whether the proposed infrastructure would form the physical basis for a sustainable community and whether the proposal would lead to environmentally sound and socially inclusive development.

## **3.00 CONSULTATIONS**

### **3.01 Local Member Councillor D Hutchinson**

Request site visit and planning committee determination. Preliminary views are that:-

- The application as submitted should not be considered in isolation to the residential development advanced as the two issues are inextricably linked

- Limited evidence has been submitted to support the need for further residential development having regard to concerns that there is a lack of a 5year housing land supply
- The proposed demolition of the existing dwelling would be detrimental to the visual appearance of the street scene at this location
- Development would have a detrimental impact on pedestrian / highway safety
- Inadequate infrastructure to serve any further residential development
- Application is premature in advance of any site specific details relating to the acceptability of a development for 60 No dwellings

Councillor M J Peers

Request site visit and planning committee determination. Preliminary views are that:-

- The application does not accord with planning policy and is premature having regard to Planning Policy Wales and Technical Advice Note 1 regarding Housing Land Availability.
- Development would have a detrimental impact on highway/ pedestrian safety.
- The proposal would result in the loss of a dwelling which contributes to the character of the locality.
- The application is speculative and there is no evidence of housing need in the locality.
- Inadequacies of infrastructure to facilitate further residential development in Drury.
- Application is premature in advance of any site specific details relating to the acceptability of a development for 60 No dwellings

Buckley Town Council

The Town Council in making its observations, is aware that the planning application is only for the demolition of an existing dwelling and the provision of access junction and access road. However the literature provided with the planning application makes it clear that the application relates to the opening up of a piece of land for the development of 60 no. houses. The Town Council therefore recommends refusal of this application on the following grounds:

- The application, if approved, will see a significant over development of the area and will not be in keeping with the current street scene
- The road servicing the development is already very heavily used. It is acknowledged that a Traffic Survey is undertaken
- The Town Council endorses comments made in respect of highway objections, noise/ disturbance

- The Town Council endorses comments made by the Local Member regarding concerns over the principle/details of the proposed application

#### Head of Assets and Transportation

The geometry of the proposed access radii is not adequate to serve a future development of any significant scale and is not adequate to accommodate construction vehicles given the impact on the access location and sightlines. As development served by means of the proposal is not the subject of this application, there is currently no purpose to the road. The application forms indicate that the road will be public but is not compliant with adoption requirements in respect of drainage and street lighting. This will therefore become an unnecessary maintenance burden for the Authority.

#### Head of Pollution Control

No adverse comments.

### **4.00 PUBLICITY**

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

190 letters of objection with accompanying petition signed by 332 signatories, the main points of which can be summarised as follows:-

- Demolition of the existing property would have a detrimental impact on the character of the site/surroundings.
- Increased traffic generation would be detrimental to amenity/highway safety.
- No requirement for further speculative residential development on the scale envisaged in Drury.
- Impact on local infrastructure and services.

2 letters received from Mr. M. Tami, MP and Carl Sargeant AM which reiterate the above concerns.

2 letters of support which consider that any impact on traffic movements generated by the development would fluctuate from peak times.

### **5.00 SITE HISTORY**

5.01 None Relevant

### **6.00 PLANNING POLICIES**

#### 6.01 Flintshire Unitary Development Plan

Policy STR1 – New Development

Policy STR2 – Transport and Communications

Policy STR8 – Built Environment

Policy GEN1 – General Requirements for Development

Policy D1 – Design Quality, Location and Layout  
Policy AC13 – Access and Traffic Impact

Additional Guidance

Planning Policy Wales ( PPW )

Technical Advice Note 1 – Joint Housing Land Availability Studies (2015).

Technical Advice Note 13 – Transport

**7.00 PLANNING APPRAISAL**

7.01 Introduction

This full application proposes the demolition of an existing property 81 Drury Lane, Buckley, and formation of an access junction / road. The application site (edged red) relates to the dwelling and curtilage area of 81 Drury Lane, Buckley only. However, the applicant has submitted an indicative plan no.1643-103 which shows the layout of 60 houses, on land to the rear indicating this is a master plan which shows the context of the proposal.

7.02 Furthermore, paragraph 2.5 of the planning statement states that “access road is to serve a proposed future residential development on land to the rear of Drury Lane”. It is therefore appropriate that the application should be determined with consideration of its impact in its own right as well as considering its suitability to serve 60 dwellings.

7.03 Main Planning Considerations

It is considered that the main planning considerations to be taken into account in relation to this application are:-

- a. Impact of loss of existing dwelling on the character of the street scene.
- b. Adequacy of access from a technical perspective.
- c. Acceptability of an access proposal in advance of an associated proposal for residential development and, whether this meets the provisions within Planning Policy Wales and Technical Advice Note 1.

7.04 In commenting in detail in response to the main planning considerations outlined above, I wish to advise as follows:-

7.05 Impact of Loss of Dwelling

As previously indicated the proposed development would involve the demolition of an existing dwelling at 81 Drury Lane, to facilitate the formation of the new vehicular access.

7.06 The property is physically attached to an adjacent dwelling (No. 79 Drury Lane) and although it is not listed or a Building of Local Interest (BLI) it contributes to the character/appearance of the street scene at this location. As the dwelling is linked to the existing property, its

demolition for the sole purpose of forming a new access would result in an incongruous appearance on the character of the locality.

7.07 This would be directly in conflict with Planning Policy Wales (Nov 2016) paragraph 9.3.4 states that “local planning authorities applications for housing development should not damage an areas character or amenity “.

7.08 Adequacy of Access

Consultation on the application has been undertaken with the Highway Development Control Manager. The application as submitted proposes the demolition of an existing dwelling and formation of a new access. The application is supplemented by a Planning Statement and Transport Assessment (TA), which makes specific reference to the access being suitable to accommodate the anticipated level and nature of traffic associated with a residential development of up to 60 No. dwellings.

7.09 Although the application does not include the 60 houses to the rear of the site, the transport statement submitted with the application clearly assesses the access in the context of accommodating 60 dwellings on land to its rear. The Highway Development Control Manager has therefore reasonably responded to the context of the transport assessment and carried out a technical assessment, of the acceptability of proposed access being able to serve the density of development anticipated.

7.10 It is concluded that the access radii required to serve any significant development at the location, would impact on the access location as shown, and associated sightlines to the detriment of highway safety. In addition the geometry of the road is not adequate to accommodate construction vehicles that are likely to use the road as part of any further development, and as there is no formal application for development to which it is intended to serve, there is currently no purpose to the road.

7.11 Planning Policy Wales & Technical Advice Note 1

For Members information paragraphs 5.4 & 5.5 of the applicant’s supporting planning statement reference the current housing position in Flintshire which it is acknowledged is below the 5 year housing land supply. The applicant’s therefore consider that there is a presumption in favour of sustainable development at this location and affords greater weight to planning permissions being granted. However, the application as presented represents a loss of an existing dwelling from the housing stock. If certain appeal decisions have been allowed on the basis that a single new dwelling can add to a housing land supply, then applying the same logic, the proposed demolition represents a loss of a dwelling and a reduction in the housing land supply

7.12 In commenting on this aspect of the development I wish to advise



that:-

- TAN 1 does not support all housing proposals where there is evidence of a less than a 5 year housing supply.
- A proposal has to be compliant with national and local policies and guidance any other material considerations.
- In the absence of firm proposals for residential development, the weight to be attached to increasing housing land supply does not apply to this application.

7.13 It is my view that this application is premature having regard to the policy framework established by Planning Policy Wales and Technical Advice Note 1 as there is no substantial evidence to confirm that the proposal is intended to address any immediate shortfall in housing land supply.

## **8.00 CONCLUSION**

8.01 In conclusion, it is my view that the proposed demolition of the existing property to facilitate the formation of a vehicular access would be unacceptable at this location as it would result in a dwelling being demolished which would have an incongruous appearance on the character of the locality. In addition the geometry of the proposed access to serve up to 60 No dwellings, would be detrimental to highway safety. Specific reference is made in the supporting planning statement to the fact that as Flintshire cannot provide a 5 year housing land supply, the need to increase housing land supply should be given considerable weight. It is my view however that this application is premature in relation to both Planning Policy Wales and Technical Advice Note 1 as there is no substantial evidence to confirm that the access will lead to the bringing forward of development to meet the aims of this policy approach.

## **8.02 Other Considerations**

The Council has had due regard to its duty under Section 17 of the Crime and Disorder Act 1998 and considered that there would be no significant or unacceptable increase in crime and disorder as a result of the recommended decision.

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.

The Council has had due regard to its public sector equality duty under the Equality Act 2010.

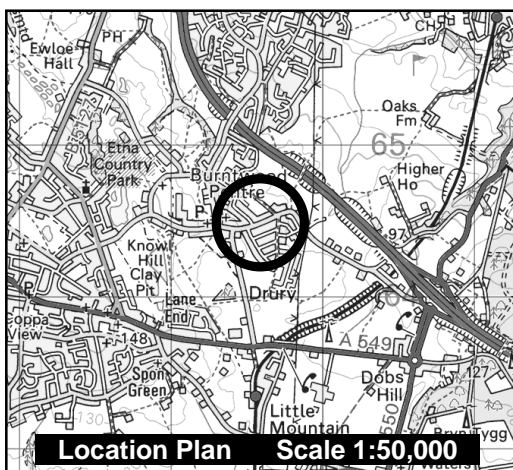
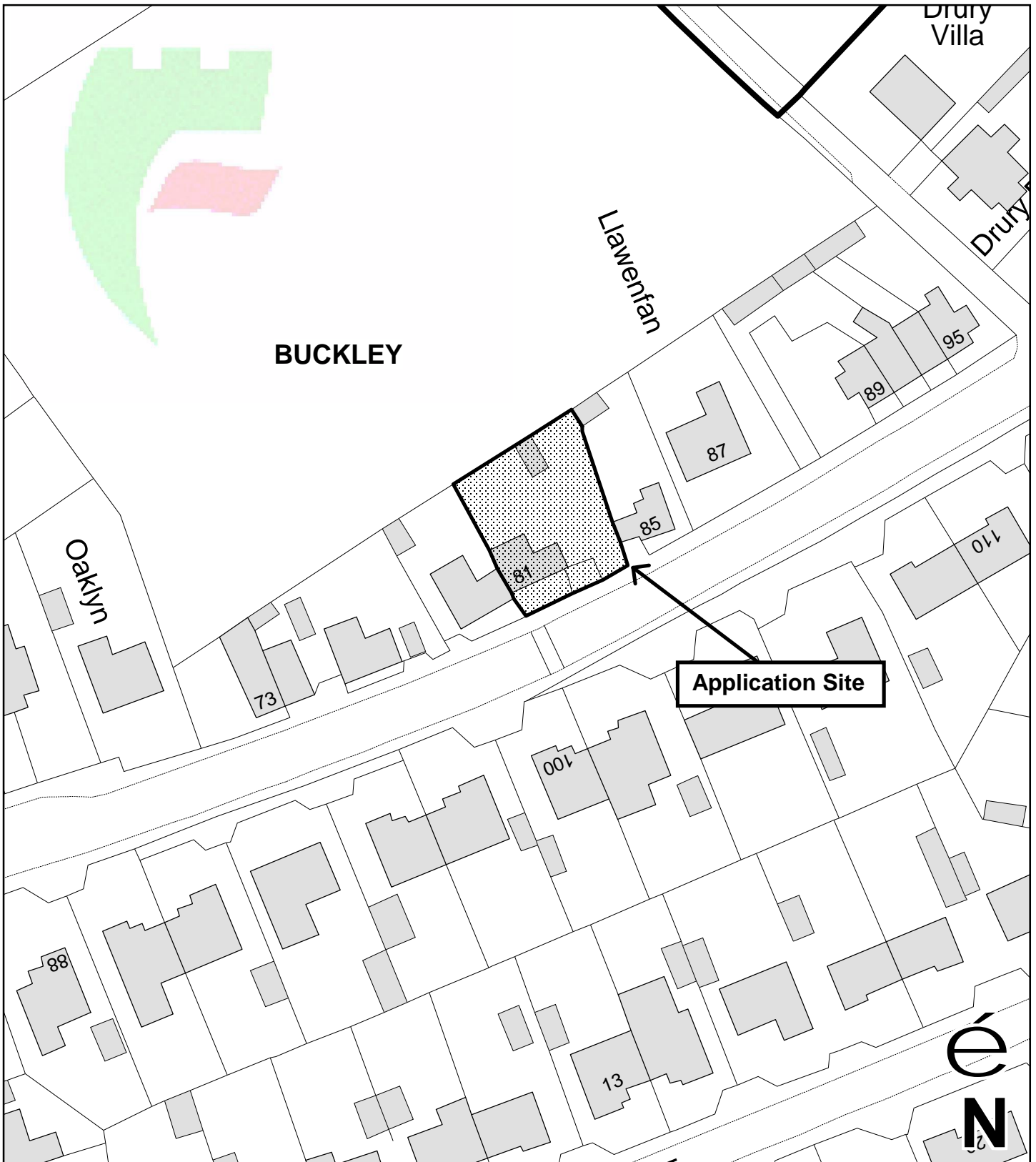
The Council has had due regard to its duty under Section 3 of the Wellbeing of Future Generations (Wales) Act 2015 and considered

that there would be no significant or unacceptable impact upon the achievement of wellbeing objectives as a result of the recommended decision.

**LIST OF BACKGROUND DOCUMENTS**



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

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**Telephone:** (01352) 703269  
**Email:** Robert.m.harris@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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Map Scale	1:750
OS Map ref	SJ 2964
Planning Application	<b>56023</b>

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## FLINTSHIRE COUNTY COUNCIL

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

**DATE:** **18 JANUARY 2017**

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

**SUBJECT:** **DEVELOPMENT OF AN INTEGRATED WASTE MANAGEMENT FACILITY COMPRISING A MIXED WASTE TREATMENT FACILITY, A CONSTRUCTION WASTE MATERIALS RECYCLING FACILITY, AND A CONTAMINATED SOILS TREATMENT FACILITY AT STONEYBEACH QUARRY, PINFOLD LANE, ALLTAMI, FLINTSHIRE**

**APPLICATION NUMBER:** **052364**

**APPLICANT:** **BROCK PLC**

**SITE:** **STONEY BEACH QUARRY, PINFOLD LANE, ALLTAMI**

**APPLICATION VALID DATE:** **27/06/2014**

**LOCAL MEMBERS:** **COUNCILLOR ELLIS**

**TOWN/COMMUNITY COUNCIL:** **BUCKLEY MOUNTAIN WARD**

**REASON FOR COMMITTEE:** **MEMBER REQUEST, SITE AREA AND HEIGHT OF PROPOSED BUILDING EXCEEDS THAT FOR WHICH DELEGATED POWERS TO DETERMINE EXIST. NEED FOR SECTION 106 AGREEMENT.**

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

### **1.00 SUMMARY**

- 1.01 The proposed Integrated Waste Management Facility (IWMF) comprises: a commercial and industrial waste materials recycling facility, a construction waste recycling facility, and a contaminated soils treatment facility.
- 1.02 Members will note that this is a resubmission of an application,

reference number 043948, which was subsequently dismissed on appeal, appeal reference number APP/A6835/A/12/2175345. The application was refused by the local planning authority due to a lack of need for the landfill element of the proposal and was dismissed by the Inspector due to a lack of need for the landfill element of the proposal.

- 1.03 The proposal as originally submitted included a non-hazardous landfill of approximately 1.7 million cubic metres capacity, however, the Applicant has now removed this element of the scheme following the conclusion of legal matters relating to the lawful implementation of an adjacent site with planning consent for landfill.
- 1.04 The Applicant has submitted an addendum to the Environmental Statement to outline any required changes and revised the planning application form and red line boundary. The scale of the proposed development is significantly reduced as a result of the amendment and now extends to 3.8ha instead of 13.6ha.
- 1.05 The main planning considerations are considered to be the impact of the proposal on: sites of nature conservation importance; protected species and biodiversity; public rights of way, local amenity from noise, odour, and dust, highways, and the landscape. Subject to the inclusion of conditions, it is considered that any impacts can be satisfactorily mitigated. The proposal would enable waste to be diverted from landfill and managed further up the waste hierarchy, in line with national and local policy, including policy STR10 (d) of the adopted Flintshire Unitary Development Plan. The proposal is considered to be beneficial and in line with policy.

**2.00 RECOMMENDATION: APPROVE SUBJECT TO THE FOLLOWING CONDITIONS:**

- 2.01 S106 to prevent any further mineral extraction within the application site.
1. Commencement- requiring that the development be commenced within 5 years of the date of the permission.
  2. Require that the development be carried out in accordance with the approved documents and plans.
  3. Secure the submission of a topographical survey showing current levels within the site and a plan showing the final levels.
  4. Restriction on use of fixed plant and machinery, buildings, structures, erections or private roads to that which is approved.
  5. Restriction on throughput to the facility, in accordance with application.

6. Restriction on waste types which can be received at the facility.
7. Prior to commencement of development highway improvements shall be implemented, as previously approved in writing by the LPA.
8. Details of wheelwashing facilities shall be submitted to and approved in writing by the Local Planning Authority and implemented prior to receipt of waste.
9. Scheme to secure facilities for the loading/unloading/parking/turning of vehicles.
10. Scheme to secure details regarding the construction of the site access.
11. Marking out of the route of public footpaths 1&2.
12. Fencing – details of fencing shall be submitted to and approved in writing prior to the commencement of development.
13. Protected species – scheme to secure the implementation of compensation and mitigation including Reasonable Avoidance Measures etc.
14. Submission of a landscape scheme, including measures to protect the adjacent woodland from development and management of the adjacent woodland.
15. Require the submission of a construction noise management plan.
16. Submission and implementation of a noise scheme during the operational phase, including provision for monitoring.
17. Dust scheme, including provision for monitoring.
18. Scheme showing the location, extents and heights of stockpiles of wastes, products and plant and equipment storage.
19. Submission of a detailed drainage scheme prior to commencement of development.
20. Access – restriction to approved access
21. Require all loaded vehicles entering and exiting the site to be sheeted.
22. Retention of adequate visibility splays.
23. Require the submission and implementation of a Biosecurity Risk Assessment.

24. Hours of operation to be restricted to between 0700 and 1900 Mondays to Saturdays with no working on Sundays and public holidays, with identified exceptions. No restriction on operations carried out within the building not likely to give rise to noise nuisance.

25. Lighting – Details of external lighting shall be submitted to and approved in writing by the Local Planning Authority prior to installation and use on site.

26. Lighting – require lighting to be directed away from wooded areas or hedgerow.

27. Restriction on stockpile heights to no greater than 10m.

28. Require the colour of building to be green.

29. Action to be taken in the event of visible dust emissions leaving the site.

30. No surface water shall be allowed to connect, either directly or indirectly, to the public sewerage system unless otherwise approved in writing by the Local Planning Authority.

31. Land drainage run-off shall not be permitted to discharge, either directly or indirectly, into the public sewerage system.

### **3.00 CONSULTATIONS**

**3.01** Further consultations since the removal of the landfill element and to publicise further information which has been received by the Local Planning Authority. In light of the removal of the landfill element, consultation responses made specifically in relation to the landfilling of waste have not been included within this report since they are no longer relevant.

**3.02** **Local Member Councillor Ellis:** Requests that the application be considered by Planning Committee due to potential impact on residential and commercial businesses in nearby locations and due to the highway impact.

**Councillor L A Sharps:** Verbal confirmation received that Cllr Sharps is happy for the proposal to be dealt with under delegated powers.

#### **Town/Community Council:**

##### **Buckley Town Council:**

The Town Council recommends refusal on the grounds that there is no proven need for the facility as there are waste transfer stations at Ewloe Barn and Parry's Quarry, both of which are in close proximity to



the application site. There are also concerns in relation to the increased traffic flow on the A494, particularly with regard to the traffic lights at the Elm cross roads and the environmental impact of the treatment of contaminated soil at the site. Request that Flintshire County Council justify the need for this application when presenting it to Planning Committee.

**Hawarden Community Council:** No objection.

**Northop Community Council:** No objection.

**Northop Hall Community Council:** No objections.

**Head of Assets and Transportation:** Note that the transport assessment confirms that the anticipated quantity of additional development traffic during critical periods as: 4 vehicle movements during the morning peak period; 12 vehicle movements during the mid-day period and 0 vehicle movements during the evening peak period. Traffic generation of this order will not have a significant impact on the operation the County Road network. On this basis raise no highway objection and the recommendations made in the initial response to the application remain valid, including a number of conditions, including the retention of visibility splays at the proposed access, submission of details regarding the construction of site access, provision of facilities for loading/unloading/parking/turning of vehicles, measures to prevent surface water run-off onto the highway, provision of wheel cleaning facilities, marking out of the public right of way (Footpaths 1 &2).

#### **Head of Public Protection**

**Ecology Officer:** An Appropriate Assessment under the Conservation Regulations 2010 has been drafted in liaison with NRW to assess whether the proposal would have a likely effect on the SAC. The initial conclusions are the same as those drawn up for the previous application which concluded that the loss of the quarry for landfill would not have a long term adverse effect providing certain conditions are applied, including measures to ensure great crested newts are excluded from working areas, woodland communities of SAC interest are subject to appropriate safeguards, there is appropriate provision of on and off site mitigation, retention of semi-natural habitat connections to the wider countryside adjacent to the site, and the provision of on-going surveillance. Advise that a licence issued by NRW would be required. A stand-off between Stoneybeach woodland and the proposed development is required.

Reiterate the requirement for conditions to secure matters relating to protected species and to secure tree protection.

**Conservation and Design Officer:** No specific comments to make

regarding the proposal. Recommend that CPAT are consulted due to the presence of brick kilns in the locality which are identified on the Historic Environment Record, outside of the site to the south.

**Public Rights of Way Officer:** Public footpaths 2, 1 and 26 abut the site but appear unaffected by the development. The path must be protected and free from interference from the construction.

**Environmental Health:** Do not object to the proposal but advise that a condition is necessary to secure details of lighting.

**Welsh Water/Dwr Cymru:** request the inclusion of a number of conditions and advisory notes on any consent issued.

**Betsi Cadwaladr University Health Board:** Consider public health impacts from the proposed operation to be low, particularly as the site would be regulated by Natural Resource Wales, and required to demonstrate compliance to Best Available Technology. Note that there continue to be an increase in the number of reported environmental incidents from waste storage sites, it is important that fire prevention plans are robust in order to comply with regulatory guidance.

**Welsh Government:** Initially issued a direction that planning permission be withheld while additional information is sought from the Applicant, including swept path analysis showing vehicles entering and leaving the trunk road and details of all highway works associated with the A494 /Pinfold Lane junction that fall within the trunk road highway boundary.

Following the submission of the information requested above, direct that any permission shall include the following conditions:  
*Prior to the reception of waste planning conditions 7 and 8 of decision notice 054201 shall be discharged by the Local Planning Authority.*

**Business Development:** No issues as long as all requirements have been dealt with satisfactorily.

**Natural Resources Wales:** The site currently benefits from an Environmental Permit which would need to be varied to enable the site to store and treat waste.

#### European Protected Species

The application site is within 250m of the boundaries of Buckley Claypits and Commons SSSI and Deeside and Buckley Newt SAC. The proposal is likely to have a significant effect on the Deeside and Buckley Newt Sites SAC, therefore an Appropriate Assessment should be carried out by the decision maker. Recommend planning conditions or obligations to address impacts in the short and long term. Consider the current status of great crested newt population to

be unfavourable and advise that additional actions to be undertaken that facilitate the restoration of the conservation status of the population of GCNs at this site to favourable levels. Conclude that the applicant has failed to demonstrate that the proposal will not be detrimental to the maintenance of the favourable conservation status of the population of great crested newts affected by the proposals and this should be addressed through the use of condition. Advise operations may only proceed after an appropriate licence has been issued by NRW and any conditions complied with, which would be issued subject to compliance with certain criteria.

#### Biosecurity

Advise that any consent should include a condition to address biosecurity (invasive species and diseases).

#### Ecological Compliance Audit

Recommend an ecological compliance audit scheme to ensure implementation of the project is carried out in accordance with details of submitted plans and method statements.

#### Natural Environment and Rural Communities (NERC) Act (2006)

Advise the LPA consult with their ecologist to ensure our duties are complied with.

Provide comments about the requirement to vary the environmental permit.

**CPAT:** There are no archaeological implications.

**Campaign for the Protection of Rural Wales:** Should it be recommended that planning consent be granted for the development it is requested that conditions are included to limit its impact on the area, including dust mitigation, stockpile height limits, restriction on hours of operation and noise mitigation. Subject to compliance with national and local planning policies, plans and guidance relating to waste management; in addition to environmental issues, the comment contained in the letter dated 25<sup>th</sup> November 2015 remain unchanged and relevant with regard to the proposed development.

**Ramblers Association:** Maintain their objection to the proposal due to the impact on the public right of way and its users. Reiterate higher rights may exist for Footpath 1.

**Wales and West Utilities:** Provide an extract of their mains records of the area together with a comprehensive list of general conditions.

**Manweb:** Provide a plan showing apparatus within the site and current electrical safety awareness and contacts document.

**Airbus:** No aerodrome safeguarding objection to the proposal.

**Civil Aviation Authority:** The proposal doesn't conflict with safeguarding criteria and accordingly have no safeguarding objection to the proposal.

**Fire and Rescue Service:** Advise that the Fire and Rescue Services have attended an increasing number of fires at facilities similar to the proposal. Keen to ensure that such developments have measures in place to prevent, detect, suppress, mitigate and contain fires. Include detailed guidance for the Applicant.

#### **4.00 PUBLICITY**

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

7 objections received regarding:

Impact on amenity including noise and disturbance

Environmental Impact

Impact on SAC and protected species

Pollution of groundwater

Lack of need

Impact on human health

Impact on highways

Concern regarding costs associated with restoration

Impact that the site would have on restoration of other landfills

4.02 It should be noted that the objections were received prior to the removal of the landfill element of the proposal.

#### **5.00 SITE HISTORY**

5.01 Permission reference B49/68 was granted on 6 June 1949 for the continuation of extraction of fireclay and silica on these and other sites in the Buckley area. Permission reference B49/120 was granted on 26 September 1948 for the surface working of minerals.

5.02 Applications reference 97/0/664 and 97/0/665 under the Environment Act 1995 for review of the two old minerals permissions were submitted in 1997 and remain undetermined pending compliance with the EIA Regulations 1999 (as amended).

5.03 Planning permission was refused for planning application 043948 and was later dismissed on appeal; reference APP/A6835/A12/2175345. This application is a resubmission of the scheme refused by Planning Committee and dismissed on appeal with the landfill element of the scheme removed to address the concerns raised by the Inspector.

#### **6.00 PLANNING POLICIES**

6.01 Flintshire Unitary Development Plan  
STR1 - New development

STR7 - Natural environment  
STR10 - Resources  
GEN1 - General requirements for development  
GEN3 - Development outside settlement boundaries  
GEN6 - Environmental Assessment  
D1 - Design quality  
D2 - Location and layout  
D3 – Design  
L1 - Landscape character  
WB1 - Species protection  
WB2 - Sites of international importance  
WB3 - Statutory sites of national importance  
WB4 - Local sites of wildlife and geological importance  
WB5 - Undesignated habitats, flora and fauna  
WB6 - Enhancement of nature conservation interest  
HE7 – Other sites of lesser archaeological significance  
HE8 – Recording of historic features  
AC2 – Pedestrian provision and Public Rights of Way  
AC4 - Major traffic generating developments  
AC12 - Airport safeguarding zone  
AC13 - Access and traffic impact  
EM3 – Development zones and Principal Employment Areas  
EM4 – Location of other employment development  
EM7 - Bad neighbour industry  
MIN8 - Protecting mineral interests  
EWP6 - Areas of search for new waste management facilities  
EWP7 - Managing waste sustainably  
EWP8 - Control of waste development and operations  
EWP12 - Pollution  
EWP13 - Nuisance  
EWP16 - Water resources  
IMP1 - Planning conditions and obligations.

National Policy and Guidance

Planning Policy Wales Edition 7

Towards Zero Waste:

Collections, Infrastructure and Markets Sector Plan

Technical Advice Note 21

Technical Advice Note 5 Nature conservation

Technical Advice Note 11 Noise

Technical Advice Note 12 Design

Technical Advice Note 15 Development and flood risk

Technical Advice Note 18 Transport

Technical Advice Note 23 Economic Development

**7.00 PLANNING APPRAISAL**

**7.01 The Site and the Proposed Development**

7.02 The application site lies between Northop Hall and Buckley in a former

quarry, Stonybeach Quarry, which lies to the north and west of the A494/Pinfold Lane junction and separated from the junction by a small industrial estate which includes the Council's Alltami highways depot and offices. Stoney Beach Quarry, described in the application details as worked out, is accessed by a private road off Pinfold Lane, which also provides access Pinfold Lane Quarry, and also to industrial units south of the road and Tirlasgoch Farm to the west of the Alltami Brook. It is proposed to use the road for access to the IWMF and to install a site control office and weighbridge along the private access road which would serve all elements of the proposed development.

- 7.03 Public Footpath 1 runs along the private access road and Footpath 2 runs around the periphery of Stonybeach Quarry, outside of the proposal site.
- 7.04 Parry's Quarry, operated by Robin Jones and Sons Ltd, which has planning permission to operate a non-hazardous waste landfill, lies on the eastern side of Pinfold Lane.
- 7.05 The western boundary of the application site follows the Alltami Brook. and adjoins the industrial and warehouse development along the private road. Tirlasgoch Farm to the west and Elm Farm, with several other residential properties on the A494 to the south are the closest dwellings.
- 7.06 The application site area is approximately 3.8 hectares and is comprised of 3 distinct elements, all of which would also be controlled by Natural Resources Wales through Environmental Permitting:
- A construction and demolition waste Materials Recovery Facility (MRF);
  - A contaminated soils treatment facility; and
  - A mixed waste treatment facility.
- 7.07 The Applicant already operates a construction waste MRF in Pinfold Lane under planning permission 034726, to the north of the application site. Waste material, typically comprising concrete, reinforced concrete, brick, tile, some wood and excavated soils, would be transported to the site for sorting, crushing and screening prior to exportation for use off site. This operation would be unaffected by the proposal but is essentially the same as that which is proposed in the proposal site.
- 7.08 The proposed contaminated soils facility would manage soils which are lightly contaminated with hydrocarbons and some heavy metals would be remediated at the site by Windrow Bio-remediation, which involves using increased populations of naturally occurring bacteria to speed up the degradation process and a sealed drainage system to collect run-off from the process. Operations would be carried out in open air. The remediated soil would then be transported off-site for use elsewhere. It is proposed to operate the facility between 07:00 to

21:00 7 days per week.

- 7.09 The proposed commercial and industrial mixed waste recovery facility (C&I MRF) would be housed in an enclosed building measuring 80 metres by 50 metres and 17 metres to the ridge. The plant and equipment inside the building comprise conveyors, sorting platforms, a trommel screen and magnetic and eddy current separators. An ancillary two storey building measuring 20.5 metres by 10.4 metres and 8.6 metres to the ridge, would house offices, meeting rooms and mess and amenity facilities.
- 7.10 It is proposed to operate the facility on a 24 hour basis and traffic movements to and from the site restricted to between 0700 and 2200 7 days per week.
- 7.11 The application site lies within 250m of the Buckley Claypits and Commons SSSI and the Maes-y-Grug SSSI. The woodland adjoining the Alltami Brook is designated Ancient Woodland. Tree Preservation Orders have been made in respect of Stonybeach Wood.

7.12 **Principle**

Pinfold Lane Quarry is identified within the UDP as an area of search for waste management under policy EWP 6. Although Stoneybeach Quarry is not specifically named within the policy it is not precluded from such activities by the policy. Furthermore, policy EM4 permits new employment uses and EM7 permits development which is potentially polluting to suitable brownfield sites or derelict, underused or vacant land. The land which lies between Pinfold Lane Quarry and Stoneybeach Quarry is identified as a Principle Employment Area under policy EM3 and is occupied by a number of different employment uses.

- 7.13 The principle of a waste development is therefore considered acceptable in this location, in accordance with policies EM4, EM7 and EWP 6 of the adopted Flintshire Unitary Development Plan.

7.14 **Need**

This proposal is a resubmission of a scheme which has previously been refused by the Local Planning Authority and which was the subject of an appeal, heard at Public Inquiry, and subsequently dismissed due to lack of need for the landfill element of the proposal given the presence of an extant permission for landfill at the adjacent Parry's Quarry. The Applicant has sought to challenge the lawful implementation of Parry's Quarry, however, following conclusion of legal matters and in light of the Inspector's decision in relation to the Inquiry, the Applicant has revised the scheme to remove the landfill element of the proposal. It should be noted that the need for the non-landfill elements of the proposal, i.e. the elements which are now the subject of this revised application, were not identified as contrary to the provisions of the Unitary Development Plan. Furthermore, the

Inspector identified the non-landfill elements as 'benefits' since they move the management of waste up the waste hierarchy.

- 7.15 Policy EWP 7 of the adopted Flintshire Unitary Development Plan seeks to ensure that proposals for waste management facilities are rigorously tested to ensure that the facilities proposed are required to meet an identified need within the Regional Waste Plan. Since the Unitary Development Plan was adopted, the requirement to consider the Regional Waste Plan during consideration of proposals for waste management facilities has been removed through the publication of a revised Technical Advice Note (TAN) 21. The revised TAN 21 instead requires consideration of proposals against national waste policy. Given the change in national policy and guidance and the fact that the data upon which the Regional Waste Plan 1<sup>st</sup> Review is based is over 7 years old it is considered that it is appropriate to look beyond the 1<sup>st</sup> Review when assessing need. This is the view that the Inspector took when considering this proposal previously and is considered to continue to be an appropriate stance in relation to this application.
- 7.16 There are a number of different elements to the proposal, including a mixed waste treatment facility, a construction waste materials recycling facility and a contaminated soils treatment facility. These facilities are intended to recover waste and divert it from landfill, are considered in line with the waste hierarchy and would bring benefit through the recovery of resources which can beneficially be used elsewhere, displacing the need for raw materials.
- 7.17 Existing and projected future demand  
The Applicant provides an assessment of existing and projected future demand within their Waste Planning Assessment and addendum, submitted in support of the application, as required by TAN 21 paragraph 4.2. The assessment of landfill demand is no longer relevant in light of the amendment to the proposal and this is reflected in the addendum.
- 7.18 The current proposal is intended to manage up to 195,000 tonnes per annum, comprising approximately 100,000 throughput at the soils recovery facility and 95,000 throughout at the industrial and commercial MRF and construction and demolition MRF combined. The Applicant advises that the proposal is intended to serve markets within a radius of 30-50km of Alltami, which could include markets within North West England.
- 7.19 Significant capacity has been and is in the process of being developed to help divert waste from landfill and ensure that it is managed in a more sustainable way, in line with the waste hierarchy. Much of the concern has been raised in relation to the landfill element of the proposal which has now been removed, however, the Town Council has raised concern for the proposal in light of planning consents at Parry's Quarry and Ewloe Barns Industrial Estate.



- 7.20 National policy makes it clear that excessive provision of recovery and disposal capacity can be harmful because it can result in waste being managed lower down the waste hierarchy than it otherwise could be. Significantly, this was the key argument put forwards at the Planning Inquiry into this proposal previously and was held by the Inspector to constitute harm. However, the same argument cannot be applied to the current proposal since each element would result in the diversion of waste from landfill.
- 7.21 There are no permitted contaminated soils facilities of the type proposed within North Wales which would enable soils contaminated with hydrocarbons and heavy metals, for example, to be treated to enable them to be returned to the originating or similar sites. The proposal is intended to enable the Applicant to manage wastes generated by his own business to be diverted from landfill, as well as wastes generated by third parties. Given the nature of the facility type and the limited availability of this type of facility elsewhere it is likely that such wastes would be drawn from a wider area, providing an opportunity to divert waste from landfill, in line with the waste hierarchy.
- 7.22 Other facilities which can manage construction and demolition wastes and municipal, commercial and industrial wastes do exist in both Flintshire and North Wales, including sites in close proximity to the proposal site. However, there is no identification of the level of need required at either the local authority level nor at the regional level for these types of waste management facility. The commercial and industrial and Construction & Demolition MRFs would sort wastes, removing recyclable wastes for reuse or recycling. The proposal site is well located in terms of the strategic road network and would provide additional capacity for the Applicant's own business which generates significant quantities of waste.
- 7.23 **Economic Development**  
Since the appeal decision was issued there have been a number of policy changes published by the Welsh Government including Planning Policy Wales Edition 7 and Technical Advice Note 23: Economic Development, which requires Local Planning Authorities to consider the potential economic benefits that a proposal can bring and to balance these with environmental and social considerations.
- 7.24 All elements of the proposal would bring economic benefit through the provision of jobs, both directly and indirectly. The proposal would also help divert waste from landfill across a variety of waste streams, helping to retain resources within the economy and reducing the need for raw materials.
- 7.25 **Highways**  
Policy AC13 of the adopted Flintshire Unitary Development Plan

seeks to ensure that new development does not have a detrimental impact on public safety, health and amenity as a result of additional traffic generation. Access to the site is off the private road that also forms the industrial estate access on to Pinfold Lane, which is subject only to the national speed restriction. There is a traffic light controlled junction where Pinfold Lane meets the A494 Mold Road, which forms part of the trunk road network in Wales and for which Welsh Government is the highway authority. There are a number of industrial uses which use this junction, including but not limited to, the Council Depot and Parry's Quarry. Parry's Quarry secured planning permission on appeal for the construction and operation of a solid waste landfill. As part of the permission highway improvements, which includes widening of Pinfold Lane, are required prior to the receipt of waste. The highway improvements have not been implemented to date.

- 7.26 A Transport Assessment (TA) has been submitted which considers the position without the proposal and projections taking into account the proposed development as well as other authorised development in the vicinity of the junction. The projections were made on the basis that the highway improvements to be secured under the Parry's Quarry permission, referred to above, are implemented. The TA notes that given the site's previous use as a quarry it has accommodated HGVs and highlights that accident data demonstrates no fatalities and no recurring causation factors or trends as a result of adverse highway design or layout. The TA modelled the highways position at the Pinfold Lane/A494 junction without the development and then projected the level of saturation taking into account predicted increases taking into account growth rates as well as the proposed development in 2018 and 2033. It is predicted that under all scenarios the junction would be within saturation levels, nevertheless, in 2033 the junction would experience capacity and queuing problems with or without the proposed development due to the use of background transport rates which the assessment concludes are unlikely to be realised in practice.
- 7.27 The contribution made by the proposed development is concluded to be negligible since HGV movements generated by the development are predicted to be a total of 4 per hour during the am peak period, the period at which saturation levels would be neared. HGV movements would be up to 12 per hour during the inter-peak period, however, during this time period flows are well within saturation levels and capacity of the junction is not identified to be an issue.
- 7.28 The Welsh Government as highway authority for the A494 trunk road raised no objection but directed that any permission should include a condition to ensure that prior to the receipt of waste, highway improvements which are secured by condition in relation to a third party site are discharged. These highway improvements comprise the widening of Pinfold Lane and relate to the implementation of a landfill

permission at Parry's Quarry. The highway improvements have not been secured to date but are to be secured prior to the receipt of waste at Parry's. They also identified a number of points which should be brought to the attention of the Applicant. Since the improvements are to be secured under another permission, beyond the scope of this application, in order to ensure that the improvements proposed are in place, it is recommended that a Grampian style condition is used so that no development can take place until such time as the improvement works are implemented. In addition, it is recommended that a condition is included to limit the overall tonnage of material which can be managed at the facility since the application, including transport modelling was undertaken on this basis. It is also recommended that a condition is included to ensure that the site is only accessed via the private access road as proposed within the application.

- 7.29 The recommendations of the Head of Highways and Transportation include a requirement for approval of means of marking out the route of Footpaths 1 and 2 which run along the private road, as well as a requirement to ensure the provision of suitable visibility splays, the submission of details regarding the site access, provision of facilities for loading/unloading/parking/turning of vehicles, measures to prevent surface water run-off onto the highway and provision of wheel cleaning facilities. Due to the nature of the materials which would be managed by the development, it is also recommended that a condition is included to require vehicles entering and exiting the site to be sheeted.
- 7.30 It must be taken into account that the private road and its junction have been in use for many years by traffic from the industrial estate and until the Pinfold Lane and Stoneybeach quarries were closed the junction was also used by mineral haulage traffic. In the case of Pinfold Lane Quarry, the junction is also used by traffic connected with the construction waste recycling operation located within the Pinfold Lane quarry, both of which would be unaffected by this proposal. Stoneybeach Quarry has no limits set on production or throughput levels by its planning permission and would have been operated on a campaign basis, during which time quarry activity could be intense and HGV movements significant.
- 7.31 Although both quarries are stated by Brock plc to be worked out within the application it is evident that there is mineral reserve remaining in each. There is nothing to prevent their re-activation and the resumption of use of the junction by quarry traffic. The planning permission for the recycling operation extends to 2042 and the operation may be expected to resume whether or not planning permission is granted for the IWMF. If the proposed development were to take place it is understood that there would be no further working of minerals within Stoney Beach Quarry, though this application would not prevent working within Pinfold Lane Quarry. In

order to ensure that no further mineral working takes place within Stoneybeach Quarry it is recommended that the Applicant enters into a legal agreement to prevent any further mineral working.

7.32 Concern regarding the impact of the proposed development on the highway has been raised by a number of consultees, including the Town Council and members of the public. In particular, the concerns relate to structural and environmental damage which may be caused by the increase in traffic. The structural integrity of the road network is a matter for the relevant highway authority and neither the Head of Highways and Transportation or the Welsh Government objected to the proposed development on highways grounds. The imposition of conditions can prevent the deposition of mud, dust, debris and litter onto the public highway. Subject to the inclusion of conditions and a S106 agreement to address the points raised above, the proposed development is considered to be in accordance with policy AC13 of the adopted Flintshire Unitary Development Plan.

7.33 **Public Rights of Way**

Policy AC 2 seeks to protect Public Rights of Way. There are a number of Public Rights of Way within the vicinity of the site, including Footpath 1 which runs along the private access road to the site. The Applicant proposes to install a weighbridge and office facilities along the private road which could impact on the public right of way and may necessitate a temporary closure whilst construction works are being undertaken.

7.34 The Public Rights of Way Officer has not objected to the proposal, however, they have advised that a temporary closure order to facilitate the construction of the weighbridge may be required. It is considered that there is sufficient space to accommodate the footpath, which must be 12ft, and the weighbridge in this location. The Rambler's Association objected to the proposed development due to the potential impact that it would have on the footpath. In particular, they have advised that the footpath may benefit from higher rights as a bridleway. The Public Rights of Way Officer has advised that there is no evidence of a mapping anomaly in this instance and that the rights are as identified on the definitive map and statement. The Rambler's Association have also raised concern regarding the safety and enjoyment of the path by its users. The nature and volume of vehicles already permitted to use the site is such that the proposal is considered to have no greater impact on the footpath. The measures proposed above would help ensure that the safety of users of the ROW is maintained.

7.35 It is considered feasible to retain a suitable width of path along the private access road. If planning permission were to be granted, a diversion order under the Town and Country Planning Act may be required to ensure that the footpath and its users are protected, in accordance with policy AC2 of the UDP.

7.36 **Archaeology**

Policies HE7 and HE8 seek to ensure that local archaeology is adequately considered during determination of planning applications. The Environmental Statement (ES) did not address archaeology and no mitigation is proposed within the document. The Clwyd Powys Archaeological Trust did not object to the proposed development and following removal of the landfill element of the scheme advised that the proposal would not have archaeological implications. No conditions are therefore proposed.

7.37 **Ecology**

Policies WB1, WB2 and WB3 seek to protect important species and their habitats, as well as sites of international and national importance. The Flora and Fauna chapter of the Environmental Statement notes that there are 16 designated Wildlife sites within 3 km of the proposed development and 5 within 1 km. Deeside and Buckley Newt Sites is designated a Special Area of Conservation (SAC) for its population of Great Crested Newts (GCN). The SAC comprises a number of isolated sites including a small area within Parry's Quarry, which lies approximately 360m from the main part of the proposal site. Stoney Beach Quarry. Cobbler's Wood and Stonybeach Wood are semi-natural broad-leaved woodland and follow the valley of the Alltami Brook along the western flank of Stoneybeach Quarry.

7.38 The remaining three sites, Brook Park Farm Wood, The Willows Common, and Warred Wood are designated on the basis of woodland and grassland interest. Cobbler's Wood and Stonybeach Wood are designated Ancient Woodlands and a Tree Preservation Order in respect of the woodland on the eastern flank of the Alltami Brook adjoining the proposal site. Stonybeach Wood is considered to have SAC qualities and whilst not SAC designated is considered worthy of preservation in its own right. The imposition of a stand-off between the Ancient Woodland and the activities within the site would help ensure that there is no adverse impact on the Ancient Woodland from the development. Within that stand-off development would be limited to a perimeter track, security fencing, surface water drainage, and such other minor developments as would not harm the woodland or individual trees.

7.39 **Protected Species and SAC**

Ecological reports have been submitted in respect of great crested newts, badgers and breeding birds, bats, reptiles and water voles. It is not considered that the site offers sufficient habitat of interest to invertebrates to warrant reports at the application stage. Mitigation and avoidance measures for GCN are proposed within the Environmental Statement. The ecological reports rely on surveys carried out in 2012. The County Ecologist recommended that an addendum report should be provided by the Applicant to identify any changes on the site since the surveys were carried out, but to date, no

report has been submitted to the Local Planning Authority. However, the County Ecologist has since confirmed that sufficient information has been provided to enable a decision to be taken with respect to ecology.

7.40 The application site is located within 360m of part of the Deeside and Buckley Newts SAC. An ecological appraisal of the site in 2007 identified two ponds to the south of the main Pinfold Lane Quarry and recorded two or three specimens in one of the ponds and a single female in an adjacent ditch. Since this survey was undertaken drainage works have taken place which resulted in the ponds being filled in and vegetation removal works and removal of part of the bund which forms part of a wildlife corridor identified in application 4/0/25073. As a result of these works it is considered that the favourable conservation status of the population of great crested newt will have been harmed.

7.41 Natural Resources Wales initially issued a holding objection to the proposal in respect of GCN owing to the submission of inadequate information and consequent inability to demonstrate no detriment to the maintenance of the favourable conservation status of the population of great crested newts affected by the proposal. NRW has now advised that they have no objection to the proposal in respect of GCN, subject to conditions. This view is reiterated by the County Ecologist who has carried out an Appropriate Assessment under the Conservation of Habitats and Species Regulations 2010 in liaison with NRW to assess whether the proposal would have a likely effect on the SAC. It was concluded within the Appropriate Assessment that the loss of the site would not have a long term adverse effect on the SAC providing certain conditions are applied. In particular, as the applicant has submitted inadequate information to demonstrate no detriment to the maintenance of Favourable Conservation Status of the great crested newt, any consent will need to be subject to the imposition of conditions concerning the short and long term safeguard and restoration of conservation status.

7.42 Since there is evidence of great crested newts within 250m of the site, which are a protected species, a licence under the Habitats and Species Regulations 2010 would be required from NRW before any work could take place. A licence may only be granted for imperative reasons of overriding public importance and NRW would have to be satisfied that there were no practicable alternatives and that the development would not be detrimental to maintenance of the protected species population of the site at a favourable conservation status.

7.43 Biodiversity

The site itself is a recently worked out quarry and much of the exposed surface is barren with little ecological interest. Stonybeach Quarry would become permanently developed. The Council as LPA is

required under the terms of the Environment Act 2016 to have regard to conservation of biodiversity in the determination of schemes of this nature. On balance, subject to the inclusion of conditions, it is considered that the proposals meet the principles of the Flintshire Biodiversity Action Plan.

- 7.44 Due to the nature of the proposal and the materials which would be managed there is the potential for invasive non-native species (INNS) and diseases to be imported to the site. Given the importance of the area to protected species and the importance of the adjacent woodland NRW have advised that any consent should include a condition to ensure that measures are put in place to prevent INNS being imported to the site
- 7.45 **Amenity:**  
Policies GEN 1 and EWP 8 seek to ensure that proposals do not have an unacceptable impact on residential amenity by way of noise, dust, odour. Concern has been raised by a number of consultees regarding the impact of the proposed development on amenity, including noise and disturbance.
- 7.46 **Noise**  
A noise assessment was undertaken in support of the application and reported in the Environmental Statement. The noise assessment indicates that background noise levels at nearby sensitive receptors are relatively high, dominated by traffic noise, which is consistent with previous assessments for the area. Noise level predictions considered the impact that the proposed development would have at nearby sensitive receptors including Old Farm Cottages, Bungalow, Tirlasgoch Farm, Mold Road, Ewloe Wood House and the Hotel. Some of these receptors are of more relevance to the development of Pinfold Lane Quarry rather than Stoney Beach and since the proposal no longer includes landfill, with Tirlasgoch Farm and Mold Road properties being closest to the proposed operations at Stoneybeach Quarry. Tirlasgoch Farm is the closest residential property, lying approximately 100m from the main area of proposed activity.
- 7.47 Noise levels at Tirlasgoch are predicted for the construction phase and the operational phase. During the construction phase predicted noise levels are 70dbLAeq,1h at Tirlasgoch and 56 dbLAeq,1h at the properties along Mold Road. Background noise levels at Tirlasgoch Farm would be exceeded by >10dB, however, it is proposed that bunds of 2m in height are constructed around the screening areas which would provide a predicted 12dB(A) attenuation. Minerals Technical Advice Note 1:Aggregates, recognises that there may be a need to allow higher noise levels over short periods of time to facilitate the construction of bunds and other noise mitigation. The noise assessment for construction was undertaken between the hours 07:00 – 19:00 Monday to Saturday with no intention to conduct construction work on Sundays or Bank Holidays. The commercial and industrial

waste materials recovery facility would be operated on a 24 hour basis, though HGV delivery of wastes for processing would be limited to 0700-1900 Monday to Sunday. It is recommended that a condition is included which restricts hours of operation.

7.48 The proposals have the potential to cause nuisance through constructional, operational and traffic noise to local residents and other land users, particularly through noise at night and on Sundays and bank and public holidays. It is considered that, if planning permission were to be granted it would be appropriate to impose conditions regarding hours and days of work, including a temporary provision for 24 hour and 7 day week operation of the C&I MRF in order to assess impacts. The period should be long enough for monitoring and valid assessment of those impacts: an appropriate period would be 12 months from the date of completion of commissioning. It is considered that the operational periods for HGV traffic involved in importation of wastes and exportation of residual wastes and product should be restricted in order to prevent nuisance.

7.49 It is recommended that if permission be granted a series of conditions be imposed to deal with noise, including a construction noise management plan, a condition to secure a noise scheme, including monitoring, and restrictions on days and hours of both construction works and operation of the integrated waste management facility. Construction work has the potential to generate particular noise issues, as identified above. Although the proposed facility would be regulated by Natural Resources Wales via an Environmental Permit, at this time it is not known what area the permit would cover. Furthermore, a permit would not be required during the construction stage, it is therefore considered necessary to include the conditions referred to above in order to minimise the impact of the development on the nearest sensitive receptors.

7.50 Dust

The Environmental Statement includes a quantitative air quality assessment of particulates, including PM10. It concludes that the development would meet the Air Quality Standard for Wales and that PM10 emissions are not likely to exceed the national Air Quality objectives. Natural Resources Wales has raised no objection in principle to the development on the grounds of air quality and would regulate the site through the Environmental Permit. However, at this stage it is not known what area the Permit would cover. As such, the imposition of conditions are recommended to control the release of dust and to provide a scheme of monitoring to ensure that the proposal would comply with policies GEN 1 and EWP 8 of the adopted Flintshire Unitary Development Plan.

7.51 Given the nature of the material which would managed at the site there is the potential for the movement of material to generate dust and for material and debris to be deposited onto the highway and into



the atmosphere. To prevent this, it is recommended that a condition is included which requires loaded vehicles accessing and egressing the site to be sheeted.

7.52 Odour

The proposed treatment facility would deal with soils which are lightly contaminated with hydrocarbons or heavy metals. The process would be similar to composting, relying on aerobic bacterial action to eliminate the contamination or reduce it to levels which would allow the materials to be re-used. The materials would be laid out in windrows and bacterial action would be encouraged by the addition of suitable nutrients, ensuring an optimum flow of air and moisture and maintaining an optimum temperature. The windrows would be covered by tarpaulins and air drawn through the deposited material would be discharged through a filter to control emissions of odours, gases, particulates and bioaerosols. Odours may arise from the input materials through hydrocarbon contamination and from the treatment process. It is unlikely that the odours would be of such intensity as to result in a significant and sustained nuisance to local residents or other land users.

7.53 Other potential sources of odour would be from the commercial and industrial MRF, though it is stated that very little putrescible waste would be handled at the facility given the source of the material. The material would be managed within an enclosed building, thereby minimising the potential release of odour. Natural Resources Wales has not objected to the proposed development on the grounds of odour. The site would require an Environmental Permit which would be issued by Natural Resources Wales and which would control odour. Furthermore, the Environmental Health Officer has not objected to the proposal on the grounds of odour.

7.54 Health

Policy EWP 8 (b) seeks to ensure that proposals for new waste management facilities do not detrimentally affect the health of neighbouring users of land. The Applicant has provided an assessment of the potential impacts on human health and has identified pathways, which include airborne and waterborne.

7.55 Measures are proposed to minimise the release of pollutants from the site. The site would require an Environmental Permit to operate, which is concerned with the impact of the proposed development on human health and would impose requirements and conditions to prevent or minimise any resultant risk to human health. The Betsi Cadwaladr University Health Board, on behalf of Public Health Wales and Public Health England, advise that they consider the public health impacts from the proposed operation to be low, and have not objected to the proposed development subject to the inclusion of conditions to address dust, odour, noise, containment of contaminated soils during transport and routing to avoid populated areas. Dust, odour, noise,

and containment of contaminated soils are addressed elsewhere in the report. It is not considered reasonable to include a condition or obligation requiring the routing of vehicles since including a condition which requires vehicles to be sheeted would ensure that material is not released and measures to control odour are already included within the submission. Subject to the inclusion of conditions to address dust, noise and sheeting of vehicles, as discussed elsewhere in this report, the proposal is considered in line with policy EWP 8 (b) of the adopted Flintshire Unitary Development Plan.

**7.56 Pollution of groundwater and surface water**

Policies GEN 1 and EWP 8 seek to ensure that proposals do not have a detrimental impact on water quality. The site lies within the catchment of the River Dee. The Alltami Brook, which is located approximately 30m to the west of the site within a small wooded ravine and joins the Wepre Brook some 600 metres to the north east of the site, which in turn joins the River Dee some 3.5 km to the north east. Pinfold Lane Quarry currently drains into the Alltami Brook via a channel cut through the northern boundary. Stonybeach Quarry is also drained to the Alltami Brook.

7.57 Following the removal of the landfill element of the proposal the principle concerns would be in relation to management of surface water, and management of contaminated run-off. The contaminated soils facility would be regulated by Natural Resources Wales via an Environmental Permit which would require a sealed drainage system and management of any contaminated run-off. This would prevent contamination of surface and groundwater. It is considered that further information in respect of surface water management and management of contaminated run-off can be secured via a suitably worded condition.

**7.58 Landscape**

Policies GEN 1, L1 and EWP 8 of the adopted Flintshire Unitary Development Plan seek to ensure that proposals do not have an unacceptable impact on the landscape. The application site lies within a gently undulating landscape of tree and hedge lined fields and linear tree belts following watercourses, with small pockets of industry centred on former clay pits, brick works and colliery sites. The proposed development site is presently substantially screened by trees as it is located between Stonybeach Wood to the west. The council depot and industrial buildings break up views of the recycling site from the south and east.

7.59 A landscape and visual survey are included in the ES and conclude that the landfill site during operations and once completed would have a small impact on the landscape. The landfill element of the proposal has since been removed and the proposal as is now proposed is considered unlikely to have a significant impact on the landscape/ There are no landscape designations affecting the site although Tree

Preservation Orders protect Stonybeach Wood and the ancient woodland adjoining the proposed landfill site.

7.60 Nevertheless, in order to minimise the impact of the proposal on landscape it would be necessary to include conditions to secure the submission of a detailed landscape plan. In addition, it is considered necessary to secure information regarding the existing and final topographical levels within the site. It is also recommended that a condition to require that the proposed MRF building be green would help the building assimilate into the landscape and reduce the visual impact of the development. A condition to limit stockpile heights is also recommended to reduce the visual impact of externally stored material. In Officer's view, subject to the inclusion of the above suggested conditions, any landscape impacts would be limited and not out of keeping with the locality.

7.61 **Birds, flies, vermin and litter**

The control of vermin and flies at waste sites is a matter for Natural Resources Wales under the Environmental Permitting system.

7.62 **Environmental Impact Assessment**

The planning application was accompanied by the submission of an Environmental Statement and has previously been screened and scoped to be development requiring environmental impact assessment. A substantial body of environmental information has been submitted. In making this determination, the Council has taken all the environmental information available to it into consideration, including the information presented in the application and the Environmental Statement. It has also considered the responses from consultees and to representations received from third parties.

**8.00 CONCLUSION**

8.01 This is significant waste management proposal with a number of different elements including a materials recovery facility, a construction and demolition recycling facility and contaminated soils facility. The environmental impacts of the proposed development have been assessed and the conclusion drawn that impacts can be prevented or minimised through the use of suitably worded conditions.

8.02 The proposal would enable waste to be diverted from landfill and managed further up the waste hierarchy, in line with national and local policy, including policy STR10 (d) of the adopted Flintshire Unitary Development Plan. The proposal is considered to be beneficial and in line with policy, as is the provision of employment. The proposal site is a worked out quarry, directly adjacent to an existing industrial estate.

8.03 **Other Considerations**

The Council has had due regard to its duty under Section 17 of the Crime and Disorder Act 1998 and considered that there would be no

significant or unacceptable increase in crime and disorder as a result of the recommended decision.

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.

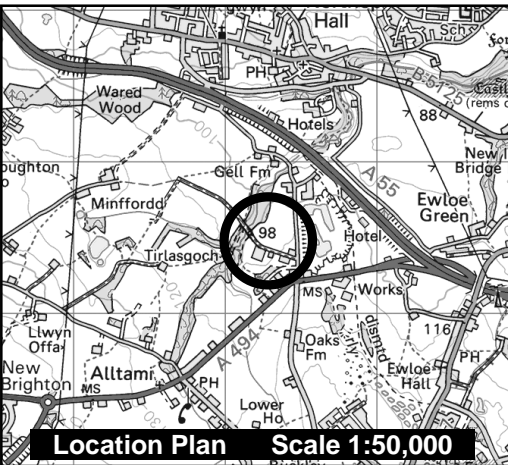
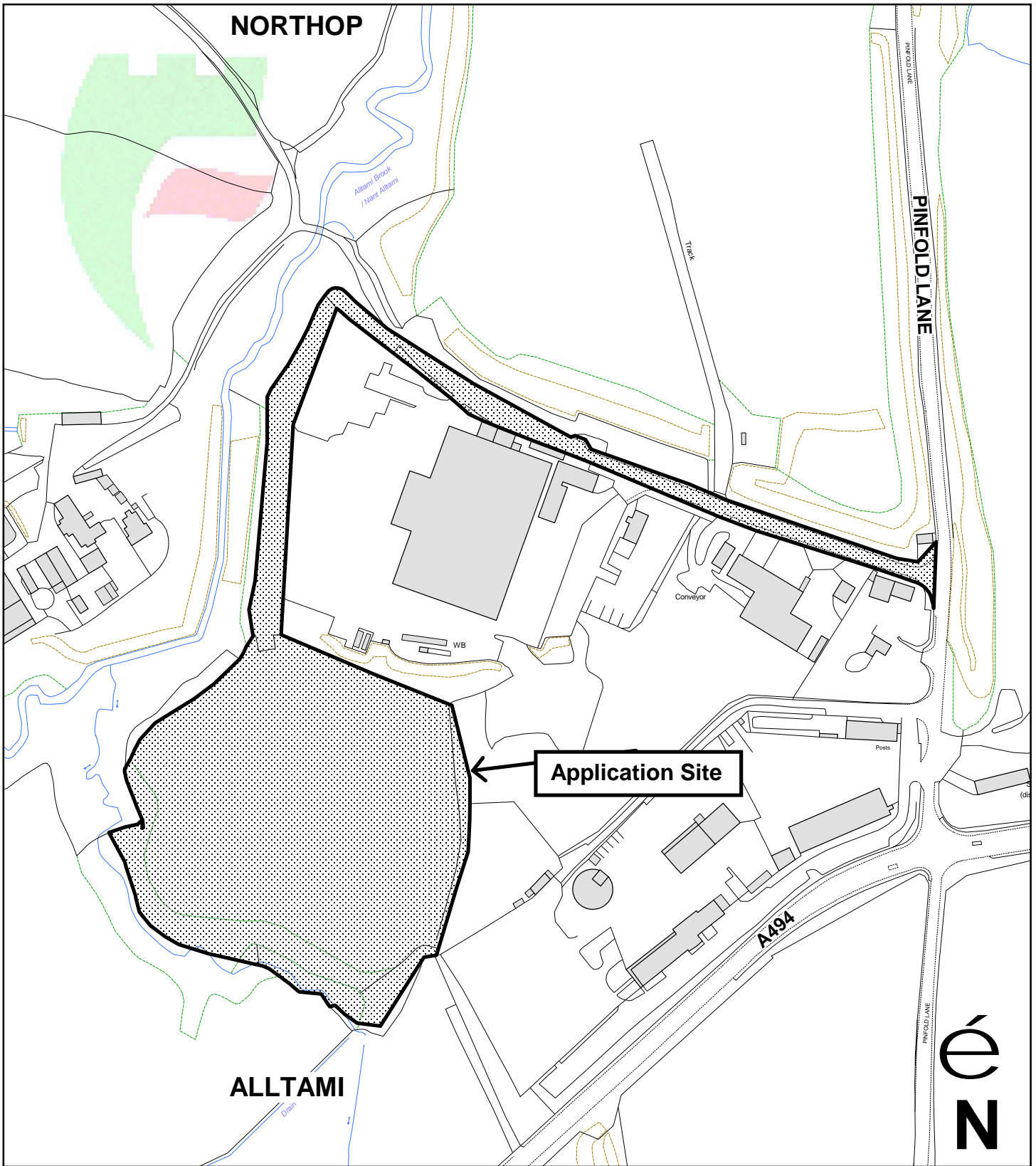
The Council has had due regard to its public sector equality duty under the Equality Act 2010.

The Council has had due regard to its duty under Section 3 of the Wellbeing of Future Generations (Wales) Act 2015 and considered that there would be no significant or unacceptable impact upon the achievement of wellbeing objectives as a result of the recommended decision.

#### **LIST OF BACKGROUND DOCUMENTS**

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

**Contact Officer:** Martha Savage  
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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 1:3000

OS Map ref SJ 2766

Planning Application **52364**



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## FLINTSHIRE COUNTY COUNCIL

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

**DATE:** **WEDNESDAY, 18 JANUARY 2017**

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

**SUBJECT:** **FULL APPLICATION - ERECTION OF 1 NO. WIND TURBINE (78M TO TIP) AND ANCILLARY INFRASTRUCTURE AND ACCESS AT KINGSPAN LTD. 2-4 GREENFIELD BUSINESS PARK 2, BAGILLT ROAD, HOLYWELL**

**APPLICATION NUMBER:** **052922**

**APPLICANT:** **KINGSPAN**

**SITE:** **2-4 GREENFIELD BUSINESS PARK 2, BAGILLT ROAD, HOLYWELL**

**APPLICATION VALID DATE:** **19.11.14**

**LOCAL MEMBERS:** **COUNCILLOR R DOLPHIN**  
**COUNCILLOR J JOHNSON**

**TOWN/COMMUNITY COUNCIL:** **HOLYWELL**

**REASON FOR COMMITTEE:** **HEIGHT OF TURBINE**

**SITE VISIT:** **YES FOR MEMBERS TO SEE THE VISUAL IMPACT**

### **1.00 SUMMARY**

- 1.01 This is a full planning application for the erection of a single 78 metre high turbine, (50m to the hub), access tracks, temporary construction compound, crane hardstanding areas, electrical enclosures and underground cabling within the existing complex at Greenfield Business Park, Bagillt Road, Holywell.
- 1.02 The proposed wind turbine is to provide electricity for an existing business in an established industrial area. This concept is supported in principle. The application has been amended to take account of the issues previously raised and the westerly turbine has been removed from the scheme.

1.03 The landscape impacts of the turbine have been assessed and it is considered although there will be some adverse visual impacts as a result of the siting of a turbine of this scale, it can generally be accommodated within this landscape and any adverse impacts are balanced against the benefits of renewable energy generation and the wider social, environmental and economic benefits.

1.04 It is considered that the other matters set out in policy EWP4 have been addressed. The issues surrounding aviation safeguarding and potential impacts on radar can be dealt with through a suitably worded planning condition as suggested by the aerodrome. Ecological matters can also be dealt with by a suitable condition.

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

- 2.01
1. Commencement within 5 years
  2. Time limit 25 years operation from commencement
  3. Plans
  4. The noise level must not exceed the specified levels (to be included in the condition)
  5. Procedures for shadow flicker impacts if reported
  6. Timing of works and length of construction period to minimise disturbance on wintering birds
  7. Oystercatcher monitoring
  8. Ecological enhancements as set out in supplementary report
  9. Prior to commencement a Radar mitigation scheme to be submitted and agreed in writing
  10. Details of exact model and specifications of the turbine including colour and finish
  11. Micrositing of 5 metres
  12. The siting layout and design and the means of access to be approved prior to commencement of any site works
  13. Construction Traffic Management Plan
  14. Vehicle routing for abnormal indivisible loads to be submitted for approval. This shall identify any removal, replacement, medication and reinstatement of the highway required to accommodate these loads.
  15. Provision for parking and loading unloading of construction vehicles.
  16. Decommissioning scheme and site restoration
  17. Installation of flood proofing measures to equipment
  18. Details of aviation safety lighting
  19. Protocol for dealing with complaints relating to electromagnetic interference including proposed remedial measures

**3.00 CONSULTATIONS**



### 3.01 Local Member

#### Councillor R Dolphin

Requests a site visit and wishes members to visit Greenfield Docks to see the visual impact from the Coastal Path.

Objects to the application on the following grounds;

- The visual impact of the turbine due to its size will impact upon many properties in the area and users of the coastal path
- Impact on tv reception
- Flicker impact , flicker form blades could cause a reaction to people with epilepsy
- Impacts on wildlife in the area especially migrating birds
- Set a precedent for other turbines along the Flintshire Coast

#### Councillor J Johnson

No response received at time of writing.

#### Holywell Town Council

Despite the reduction in the proposal from two turbines to one maintains an objection on the following grounds;

- Impact on residential amenity by over dominance and operational noise
- Impact on the character and appearance of the area through the adverse visual intensity of the proposal
- Impact of construction on highway and general public health and safety linked to flashes/flickers from the large turbine blades and also any damage that may occur to the blades
- Impact on users of the coastal path
- Impact on air traffic using John Lennon airport and on the effective search and rescue and communications functions of emergency services air support units and the RNLI operating in the Dee Estuary

#### Highways Development Control Manager

No objections subject to conditions covering;

- The siting layout and design and the means of access to be approved prior to commencement of any site works
- Construction Traffic Management Plan
- Vehicle routing for abnormal indivisible loads to be submitted for approval. This shall identify any removal, replacement, medication and reinstatement of the highway required to accommodate these loads.
- Provision for parking and loading unloading of construction vehicles.

#### Public Rights of Way

Public Footpath No. 39 abuts the site but no Diversion Order or Temporary Closure Order is required to facilitate the development. Therefore unaffected by the development.

#### Liverpool John Lennon Airport

The airport was provided with a Line of Sight Report prepared by consultants Wind Power Aviation Consultants Ltd on behalf of the applicant in March 2016. The Airports Air Traffic Control Team reviewed the Report and concluded that the positioning and height of the proposed turbine is in a critical area where any degree of clutter from the turbine on the radar return would be unacceptable to ATC.

The Airport was unable to accept the findings of the Applicants report without further work being carried out to verify the Applicant's assessment. This verification was carried out by Osprey Consulting Service in November 2016. This concluded that "the single turbine would not be routinely detected by the LJLA PSR system as there is sufficient intervening terrain between the turbine and the PSR for it to be detectable."

Accepts the findings of the verification report and therefore the airport is in a position to withdraw its objection.

#### Public Protection Manager

I can confirm I have seen copies of the specification for the proposed wind turbine. I have also studied the noise report submitted with the application. The noise report states that the simple ETSU-R-97 level of 35dBA at nearby residential properties will not be reached. The noise report also includes a further background noise assessment of the area as outlined in ETSU-R-97. The further assessment undertaken shows that the application does conform to the ETSU-R-97 criteria.

Therefore, I have no objections to this application. However, I would advise that any permission granted be subject to the following conditions :-

- The noise level must not exceed the specified levels ( to be included in the condition
- Procedures for shadow flicker impacts if reported

#### Welsh Water/Dwr Cymru

The application does not propose to connect to the public sewer.

The site is crossed by a decommissioned water main and Welsh Water as a statutory undertaker has statutory powers to access apparatus at all times. It may be possible for this to be diverted.

#### Natural Resources Wales

The application site is close to protected sites namely the Dee Estuary Special Protection Area (SPA), designated under the EU Birds Directive. The SPA is also a Ramsar Site and Site of Special Scientific Interest (SSSI).

No objection as the proposal in its current form is not likely to adversely affect any Protected Sites or Protected Species.

The site lies wholly within Zone C1 of the Development Advice Maps referred to under TAN 15: Development and Flood Risk. A limited FCA has been submitted with the application. This implies that all principal components of the wind turbine generator will be located approx. 2 metres above ground level with the exception of the turbines transformer. These are likely to experience a greater degree of flood risk, however given the flood resilient nature of the proposed development and that it will predominately supply electricity directly to Kingspan it is considered that this risk is acceptable subject to the installation of flood proofing measures.

#### Airbus

The safeguarding assessment shows that the turbine will still interfere with the radar at Hawarden aerodrome and they require a suitable radar mitigation scheme to be secured by condition. The applicants have agreed to sign the legal agreement with Airbus. Accept a condition to secure the radar mitigation scheme. Until this agreement has been signed and the condition secured they would still maintain an objection.

#### Wales and West Utilities

No objection but have apparatus which may be at risk during construction works.

#### Network Rail

Would like to see the turbine and any equipment sited so that the lateral distance from the railway boundary to the foot of mast is greater than the height of mast and length of propeller blade +3m from the railway boundary. Consultation needs to be undertaken for any abnormal loads which need to cross the railway bridge.

#### CADW

The proposed development is located 600m to the east of the scheduled monument and Cadw guardianship site known as FL001: Basingwerk Abbey. This is an amended scheme of a single turbine development following the removal of a second turbine (T1) to the North West, over which we raised concerns about in December 2014 due to potentially significant visual impacts on the setting of Basingwerk Abbey.

This advice is based upon the LVIA Addendum submitted by the applicant, and photomontage and wireframe drawings taken from viewpoint B2 of that document (Figures A3, A4) and Cadw's own mapping records. The LVIA concludes that there will be 'no change' to views from the Abbey towards the proposed turbine, citing the screening effects of the Abbey buildings and mature tree coverage around the edge of the site. The LVIA should acknowledge that this

assumes the longer term presence of the trees on the boundary of the Greenfield Valley site and that any screening that they provide will be seasonal; it is also possible that there may be still be views of the turbine from different locations within the scheduled area of the Abbey other than the chosen viewpoint. However, in our opinion such views are likely to be greatly reduced by a combination of the intervening topography of the ridge to the south east and seasonal vegetation. We therefore agree with the conclusion of the LVIA that the proposed turbine will have no significant impact on the setting of Basingwerk Abbey.

This proposal also lies within 5km of three historic park and gardens known as C3 Downing, C14 Mostyn Hall and C40 Pantasaph, which are included in the Register of Landscapes, Parks and Gardens of Special Historic Interest in Wales. In our opinion visibility from the registered parks seems unlikely.

Clwyd Powys Archaeological Trust

We note the removal of the northernmost turbine from the scheme and this is welcomed in terms of the visual impact upon the Basingwerk Abbey scheduled monument.

The remaining turbine does not appear to intrude within the views presented for Basingwerk Abbey (B1 wireframe and photomontage) and we would therefore have no objection to this single turbine.

Clwydian Range and Dee Valley AONB Joint Committee

The Joint Committee notes that the amended application is for one turbine in place of the two originally proposed. Although the turbine would be visible in some limited views from and of the AONB, having regard to the reduced height, local topography and the distance from the AONB the committee does not consider there will be a significant impact on the nationally protected landscape of the Clwydian Range and Dee Valley.

Ministry of Defence

No objection.

In the interests of air safety the MOD will request that the development should be fitted with aviation safety lighting. The turbine should be fitted with 25 candela omni-directional red lighting or infrared lighting with an optimised flash pattern of 60 flashes per minute of 200ms to 500ms duration at the highest practicable point.

The principal safeguarding concern of the MOD with respect to the development of wind turbines relates to their potential to create a physical obstruction to air traffic movements and cause interference to Air Traffic Control and Air Defence radar installations.

Defence Infrastructure Organisation Safeguarding wishes to be

consulted and notified of the progression of planning applications and submissions relating to this proposal to verify that it will not adversely affect defence interests.

If planning permission is granted we would like to be advised of the following prior to commencement of construction;

- the date construction starts and ends;
- the maximum height of construction equipment;
- the latitude and longitude of every turbine.

This information is vital as it will be plotted on flying charts to make sure that military aircraft avoid this area.

#### RSPB

The RSPB welcomes measures proposed to reduce disturbance at roost sites and implement post construction monitoring of roost sites as set out in sections 7.5.4 and 7.5.5 of the updated Environmental Statement (ES). However they maintain their objections until the wording of the draft conditions has been seen. Would be willing to withdraw their objection following sight of the draft conditions.

### **4.00 PUBLICITY**

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

6 letters of objection were received to the initial application for two turbines following consultation in November 2014. A re-consultation exercise was undertaken when T1 was removed from the scheme in November 2015. In response to the revised application for 1 turbine 2 objections were received on the grounds of;

- The revised application for 1 turbine still has the same problem as the previous application. It is still very high and is an eyesore as a backdrop to Basingwerk Abbey which is a major visitor attraction and Scheduled Ancient monument
- the wind turbine will be visible from residential properties and the turning blades will never blend into the landscape
- Turbines can lead to health issues in people viewing the turbine
- The green energy requirement could be met by smaller turbines or solar panels on the roof of the building.
- The viewpoints do not show the true impact on Holywell towards Carmel
- Will set a precedent for other turbines in the area and we can already see the off shore ones and ones in Liverpool
- Visual impact – contrary to policies GEN1, L1, EWP4 and STR7
- Proximity to SSSI/SAC/RAMSAR
- Impact on Wales coastal path

Greenfield Valley Trust

An objection was received to the application for two turbines. We would like to reiterate our previous concerns, however if these have been ameliorated by the removal of the western turbine then this is a vast improvement. We do not wish to remove the objection from file.

## **5.00 SITE HISTORY**

5.01 Various, but of most relevance are:-

050941 - 2 No. extensions to existing production building – granted 13<sup>th</sup> August 2013.

049300 – Erection of 2 no wind turbines (110m to the tip) and ancillary infrastructure and access. Refused 07.11.13.

048323 - Retention of 50 m high anemometry mast for a temporary period of 3 years – granted 19<sup>th</sup> May 2011.

048361 - Installation of photovoltaic roof mounted power plant and associated electrical engineering works (retrospective) – granted 14<sup>th</sup> April 2011.

044135 - Erection of a met mast – granted 7<sup>th</sup> February 2008.

044134 - Erection of a wind turbine – withdrawn 21<sup>st</sup> December 2007.

041540 - Erection of a small scale wind turbine to supply electricity to Kingspan offices – granted 11<sup>th</sup> September 2006.

038621- Extension to existing office to form training and visitor centre with associated car parking – granted 2<sup>nd</sup> September 2005.

## **6.00 PLANNING POLICIES**

6.01 Flintshire Unitary Development Plan

Policy STR1 – New Development

Policy STR2 – Transport and Communications

Policy STR3 – Employment

Policy STR7 – Natural Environment

Policy STR8 – Built Environment

Policy STR10 – Resources

Policy GEN1 – General Requirements for Development

Policy GEN3 – Development in the open countryside

Policy GEN5 – Environmental Assessment

Policy EM1 (14) - General Employment Land Allocations

Policy D1 – Design Quality, Location & Layout

Policy D2 – Design

Policy D3 – Landscaping

Policy D4 – Outdoor Lighting

Policy L1 – Landscape Character

Policy L2 – Area of Outstanding Natural Beauty  
 Policy WB1 – Species Protection  
 Policy WB2 – Sites of International Importance  
 Policy WB3 – Statutory Sites of National Importance  
 Policy HE2 – Development Affecting Listed Buildings & Their Settings  
 Policy HE6 – Scheduled Ancient Monuments & Other Nationally  
 Important Archaeological Sites  
 Policy AC12 – Airport Safeguarding Zone.  
 Policy AC13 – Access & Traffic Impact  
 Policy EWP1 – Sustainable Energy Generation  
 Policy EWP4 – Wind Turbine Generation  
 Policy EWP12 – Pollution  
 Policy EWP13 – Nuisance  
 Policy EWP17 – Flood Risk  
 National Policy  
 Planning Policy Wales Edition 8 January 2016  
 Technical Advice Note (TAN) 5: Nature Conservation & Planning  
 (2009).  
 Technical Advice Note (TAN) 6: Planning for Sustainable Rural  
 Communities (2010).  
 Technical Advice Note (TAN) 8: Renewable Energy (2005).  
 Technical Advice Note (TAN) 11: Noise (1997).  
 Technical Advice Note (TAN) 18: Transport (2007).  
 Additional Guidance  
 ETSU-R-97 – The Assessment and Rating of Noise from Wind Farms.  
 Its compliance in association with the above policies is addressed  
 below.  
 Practice Guidance: Planning Implications of Renewable and Low  
 Carbon Energy February 2011

## **7.00 PLANNING APPRAISAL**

### **7.01 Introduction**

This is a full planning application for the erection of a 78 metre high (to the blade tips) wind turbine 0.9MW, access tracks, temporary construction compound, crane hardstanding areas, electrical enclosures and underground cabling within the existing complex at Greenfield Business Park, Bagillt Road, Holywell.

### **7.02 Site Description**

It is proposed to locate the 0.9MW turbine within the existing Kingspan factory site which comprises a number of large industrial buildings, hardstandings storage of materials and internal access roads for the manufacturing and storage of insulated panels. The location proposed within the complex for the turbine is currently used for lorry parking and storage and is located within the south east of the site. The application site itself is 0.39 ha.

7.03 The site is bounded to the north east by open land and then the Dee Estuary adjacent to which runs along the Coastal Path. To the south

of the complex is the railway line. The site is all located within the Greenfield Business Park. Its immediate neighbours are industrial businesses.

7.04 Site History

A previous planning application (049300) was submitted in December 2011 for the erection of two wind turbines and ancillary equipment of 110 metres in height. One of the turbines which was the subject of that planning was in the same location as the current turbine and there was an additional turbine located to the western end of the complex. This was refused by Planning and Development Control Committee on 7<sup>th</sup> November 2013 for the following reasons.

1. Due to the height, size, location and movement of the turbines, it is considered that they would have a significant detrimental visual impact upon the character and appearance of the wider landscape and thereby contrary to Policies GEN1, L1, EWP4, and STR7 of the Flintshire Unitary Development Plan.

2. Due to the height, size, location, movement and views of them, the proposed turbines are considered to adversely affect both the setting of the Scheduled Ancient Monument and Grade 1 Listed Building of Basingwerk Abbey and thereby contrary to Policies HE6, HE2 and EWP4 of the Flintshire Unitary Development Plan.

3. It is considered that due to the height, size, location and movement of the proposed turbines, they would have a detrimental impact upon the safe and efficient operation of both Hawarden and Liverpool John Lennon Airports and thereby contrary to Policy EWP4 (e) of the Flintshire Unitary Development Plan.

7.05 A revised application subject of this report (052922) was then submitted for two turbines in the same locations but at a reduced height of 78 metres to the tip of the blade. Following consultation on this the applicant then decided to remove one of the turbines (T1) as the visual impact on Basingwerk Abbey and from other viewpoints was still an issue and the previous reasons for refusal had not been overcome. The current application is therefore for a 78 metre single turbine sited to the east of the Kingspan complex. (T2)

7.06 Proposed Development

It is proposed to erect a single 78 metre high turbine, (50m to the hub), access tracks, temporary construction compound, crane hardstanding areas, electrical enclosures and underground cabling. The turbine tower would be of tapered tubular steel construction and the blades of fibreglass with lightning protection. The finish of the turbine would be of a low-reflectivity semi-matt white to mid-grey hue.

7.07 Kingspan manufactures insulated panels and directly employs 350 staff on site. The turbine is to generate energy to meet Kingspan's



on-site energy usage and desire to be carbon neutral. Kingspan have a corporate target to make their manufacturing sites net zero energy by 2020 with an interim target of achieving 50%. In April 2011 Kingspan gained planning permission for the installation of a roof mounted photovoltaic power plant and associated engineering works (048361). This development has been implemented and has an output of 0.4MW.

7.08 The application has been accompanied by an Environmental Statement compiled by Wind Direct. This includes;

- Landscape and Visual Assessment by Aspect Landscape Planning
- Ecological Assessment by Avian Ecology
- Aviation Assessments by Aerostat Surveys Ltd
- Noise Assessment by KR Associates
- Basingwerk Abbey Cultural Heritage Assessment by CFA Archaeology Ltd

7.09 It is anticipated that the construction period would be 4 months. The turbine would have a 25 year operating period after which it would be decommissioned. The decommissioning phase will be short term and temporary. The project would be subject to a separate grid connection.

7.10 Issues

National and local policy set out the issues to consider in assessing wind turbines. At a national level Practice Guidance: Planning Implications of Renewable and Low Carbon Energy February 2011 sets out the matters to consider in assessing proposals for wind turbines. At a local level Policy EWP4 of the Adopted Flintshire UDP sets out the criteria for assessing the impacts of wind turbine development. These criteria are;

- a) The development is not sited within, nor would have a significant adverse impact on, a sensitive area of national or regional environmental, landscape or heritage importance,
- b) The development in conjunction with other wind turbine developments will not have a detrimental cumulative impact upon the landscape
- c) The impact of the development upon agriculture, forestry, recreation and other land uses is minimised to permit existing uses to continue unhindered
- d) The turbines will be appropriately designed so as to avoid or mitigate against, unacceptable environmental impacts including noise, light reflection, shadow flicker and impact on wildlife
- e) Sufficient steps are taken to avoid or where possible to mitigate electromagnetic interference to any existing transmitting or receiving systems
- f) Where the development of associated ancillary buildings is required the structures are sensitively designed to enhance the character and quality of the locality and

g) Adequate provision has been made in the scheme for the restoration and aftercare of the site on the cessation of the use.

7.11 These are dealt with below through a discussion of the main issues. The key issues to consider in addition those in the above policy are the impact on; Airport Safeguarding and Policy AC12; the impact on wildlife using the Dee Estuary Special Protection Area, RAMSAR site and Site of Special Scientific Interest and the impact on The Scheduled Ancient Monument and Grade 1 Listed Building.

7.12 Principle of Development – National Policy Context

In terms of national guidance, Planning Policy Wales (PPW) advises that the Assembly Government's aim is to secure an appropriate mix of energy provision for Wales, whilst avoiding, and where possible maintaining environmental, social and economic impacts. This will be achieved through action on energy efficiency and strengthening renewable energy production.

7.13 In considering planning applications for renewable energy schemes, the Welsh Government advises that planning authorities should take account of:-

- The contribution a proposal will play in meeting identified national, UK and European targets.
- The wider environmental, social and economic benefits and opportunities from renewable energy and low carbon development.
- The impact on the national heritage, the coast and the historic environment.
- The need to minimise impacts on local communities, to safeguard quality of life for existing and future generations.
- To avoid, mitigate or compensate identified adverse impacts.
- The impacts of climate change on the location, design, build and operation of renewable and low carbon energy development.
- Grid connection issues where renewable (electricity) energy developments are proposed; and
- The capacity of and effects on the transportation network relating to the construction and operation of the proposal.

7.14 Welsh Government also advise that most areas outside strategic search areas within urban locations should remain free of large wind power schemes. It states 'in these areas there is a balance to be struck between the desirability of renewable energy and landscape protection'. Whilst that balance should not result in severe restriction on the development of wind power capacity, there is a case for avoiding a situation where there is a proliferation of turbines across the whole of a county.

7.15 Welsh Government has clear priorities to reduce carbon emissions with one of the ways of delivering this being through the continued

development of renewable energy generating projects. TAN8 Renewable Energy included a target of 4 TWh per annum of renewable energy production by 2010 and 7 TWh by 2020. In a letter from the then Minister of Environment and Sustainable Development to Heads of Planning in July 2011 it states that the PPW 2000MW onshore wind target would be achieved by 1700MW coming from within Strategic Search Areas and the remaining 300MW anticipated to come from a combination of development under 25MW, brownfield sites as well as community and local schemes and a contribution from micro-generation. As of 2015 756MW of this target has been developed or consented with a further 963MW in the form of undetermined planning applications. This includes both types of schemes.

- 7.16 Within PPW Figure 12.3 identifies renewable and low carbon energy scales for planning purposes;
- Strategic – over 25MW for onshore wind
  - Local Authority wide – between 5MW and 25 MW for onshore wind
  - Sub Local Authority area – between 50kW and 5MW.
- 7.17 Practice Guidance: Planning Implications of Renewable and Low Carbon Energy February 2011 sets out the issues local planning authorities should consider in determining applications for energy generation by wind turbines.
- 7.18 Local Planning Policy  
In terms of Local Planning Policy, the Flintshire Unitary Development Plan (UDP) strategy, identifies that sustainable development is a key theme within the plan, in line with PPW. The vision for the plan is ‘to nurture sustainable development capable of improving the quality of life in Flintshire without causing social, economic, resource or environmental harm to existing or future generations’.
- 7.19 The application site lies outside the defined settlement limits and within the open countryside however it is within an existing employment area covered by Policy EM1 (14) General Employment Land Allocations Greenfield Business Park Phase II. It is therefore within a brownfield site and set in a localised industrial context.
- 7.20 Policy GEN3 sets out the types of development which may be acceptable within the open countryside. Criterion (j) refers to development which is appropriate to the open countryside and where it is essential to have an open countryside location.
- 7.21 Policy STR10 of the UDP provides guidance on the issue of resources and in terms of energy, criterion e advises ‘utilising clean, renewable and sustainable energy generation where environmentally acceptable, in preference to non-renewable energy generation and incorporating energy efficiency and conservation measures in new development.

In addition Policy EWP1 adopts a presumption in favour of renewable energy schemes subject to them meeting the other relevant requirements of the plan.

- 7.22 The detailed guidance on wind turbine development is set out in Policy EWP4 'Wind Turbine Development', which requires proposals to meet a number of criteria as set out above.
- 7.23 It is clear that there is a positive approach taken by Welsh Government to renewable energy having regard to the issue of global warming and climate change. The clear message of both PPW and the Flintshire Unitary Development Plan is that renewable energy proposals should be permitted unless there are unacceptable impacts on landscape, nature conservation and/or residential amenity in relation to noise and shadow flicker contrary to the criteria in Policy EWP4 of the UDP.
- 7.24 There are no planning permissions for large scale wind farms within the county. Permission has been granted for smaller scale turbines 15 – 20Mw in various locations across Flintshire. The only permission for a larger turbine to date is at West Coast Energy's offices in Mold. This is for a 35 metre high turbine of 55kw. This permission has recently been renewed and it is not operational.
- 7.25 In terms of the principle of development, this is therefore supported subject to an assessment of the impact of the siting of the turbine as discussed below.
- 7.26 Impact on Character & Appearance of Landscape  
The proposal was accompanied by a Landscape and Visual Impact Assessment undertaken by Aspect Landscape Planning. This was supplemented by an Addendum following the removal of T1. The Council had this reviewed by an Independent Landscape Architect.
- 7.27 The site lies to the north east of Holywell within an existing industrial area located between the A548 road corridor and the Dee Estuary. The industrial area comprises large scale built form, a sewage treatment works, a recycling centre and extensive area of hardstanding associated with service yards and surface storage. The mainline railway line between Chester and Holyhead defines the southern edge of the site within an area of open ground and scrub separating the Kingspan site from the estuary to the north. The site is set adjacent to the Dee Estuary with the landform rising to the south west. Holywell is located in an elevated position to the south west with the landscape adopting an undulating character. Within the immediate setting of the site the landscape is characterised by industrial brownfield sites. Beyond the industrial area a network of medium scale fields create a degree of separation between the site and main settlement of Holywell.

- 7.28 Despite the rural character of the wider setting there were a number of settlements within the Zone of Theoretical Visibility Models which covered a 15km radius study area. There are also a number of key transport routes and recreational receptors in the form of public rights of way and areas of publicly accessible land within the 15km study area. The site lies outside of the Clwydian Range Area of Outstanding Natural Beauty (AONB) which is located 8 -15 km to the south west. The site is not theoretically visible from the AONB.
- 7.29 The original assessment considers the impact of the turbine from 11 viewpoints to assess the impact from a number of receptors. The addendum following the removal of Turbine 1 included extra viewpoints on the Coastal path at the Council's request. The original LVIA for the two turbines considered that there would be significant visual effects from 5 of the 11 viewpoints and predicted significant visual effects from a sixth viewpoint and at locations along the Wales Coastal Path.
- 7.30 Following the removal of T1, the revised LVIA concluded that only one viewpoint will experience significant visual effects. This viewpoint is one of the two additional viewpoints from the Wales Coastal Path and is located just half a kilometre to the south of the Kingspan site. However the LVIA considers that there is a substantial reduction in visual effects from the amended proposal. The reduction in height of the turbine by over 30 metres results in the proposals being afforded a much greater degree of visual containment by intervening built form and vegetation in particular from viewpoints lower down in the landscape.
- 7.31 In terms of transport routes, the turbine will remain visible from certain viewpoints along the A548, A5026 and B5121 and the railway line. Within the immediate setting of the site, significant effects will still be experienced by road and rail users where the proposed turbine is visible within the Kingspan site. The transient nature of the receptors means that such views are fleeting.
- 7.32 In terms of recreational receptors the highest sensitivity receptors are those walking, cycling or riding through the landscape. These receptors are considered to be of high sensitivity. There are a number of national and regional cycle routes, national and long distance trails, a network of local rights of way, areas of Open Access land within the study area.
- 7.33 With regard to the National Cycle Routes 5 and 56 these both pass through the study area with ZTV illustrating some visibility. The visibility from NCR56 results in a neutral effect. From NCR5 there will be some glimpsed views of the blades resulting in a negligible magnitude of change and an effect of moderate/minor significance. However much of the route passes through urban areas or well-vegetated street scenes and it is considered that the perceived effect

would be highly localised. The LVIA considered that the proposal can be integrated without detriment to the amenity of this route.

- 7.34 Regional Cycle Routes 70 and 89 these are located on the northern side of the estuary and as such views across to the proposals are likely. However they will be seen as a minor component within the views and as such it is considered will result in a slight magnitude of change and therefore be of moderate significance. Again any views would be highly localised as a result of intervening topography.
- 7.35 It is therefore considered that the proposal meets with criteria c of Policy EWP4 in terms of the impacts on recreational users of nearby land uses.
- 7.36 With regard to Holywell Heritage Park located to the south west of the site the removal of T1 has removed any impact on views from this area.
- 7.37 The Council's independent Landscape Architect agrees with the applicant's conclusions however also considers that there would still be a significant adverse effects from Viewpoint 2: View north east from the junction of Wood Lane and Awel y Mor and Viewpoint 7: View north from open access land at Halkyn Mountain. A turbine of this scale is always going to have some adverse landscape impacts in any context. There are no potential mitigation measures that could limit the impacts due to the nature of the proposal. However the Landscape Architect appointed by the Council does not consider that there is a strong enough case to refuse the application on landscape impact grounds.
- 7.38 The cumulative effects of the proposal have also been assessed in relation to other similar proposals. The proposed scheme is well separated from other offshore wind turbine schemes and those at Seaforth and Port of Liverpool. There will therefore be a limited magnitude of change and the turbine can be integrated without detriment or creating significant adverse cumulative effects.
- 7.39 Despite the adverse landscape impacts from some viewpoints It is considered that the turbine does meet with criteria a) and b) of policy EWP4. In terms of criteria a the proposal is not sited within, nor would have a significant adverse impact on a sensitive area of national or regional environmental, landscape or heritage importance and in terms of criteria b the cumulative impacts would be acceptable. Also in terms of any ancillary equipment and criteria f) of policy EWP4, the impact of this will be negligible in the existing industrial context.
- 7.40 Aerodrome safeguarding  
The application site is within the consultation zone for Liverpool John Lennon Airport and Hawarden aerodrome. Both aerodromes raised objections to the previous application which led to a reason for refusal.

Throughout this application process the applicants have been working with the airports and aviation consultants to try to overcome these objections and demonstrate that the turbine would not affect the safe operation of the airports.

- 7.41 The turbine is 23km west-southwest of Liverpool John Lennon Airport (LJLA). A Radar Impact Assessment in respect of John Lennon Airport was undertaken in October 2014 by Aerostat Surveys Ltd and was submitted with the planning application. This assessment concluded that radar equipment at LJLA is highly unlikely to suffer any interference as a result of the proposed turbines. However Liverpool John Lennon Airport undertook their own in house assessment and concluded that there is still some line of sight within the primary surveillance radar creating clutter.
- 7.42 Following these concerns a “A Line of Site Report” by Wind Power Aviation Consultants Ltd” was submitted in March 2016 and was reviewed by LJLA. At the same time Air Traffic Control at LJLA carried out its own internal assessment which concluded that the positioning and height of the proposed turbine is in a critical area where any degree of clutter from the turbine on the radar return would be unacceptable to LJLA Air Traffic control. The Airport suggested that the applicant commission an independent verification exercise of the Line of Sight Report to determine that there will be no unacceptable impact. In the event of impacts, that verification exercise can also then identify the range of mitigation measures available to the applicant to abate the impact to an acceptable level.
- 7.43 A further Briefing Note was prepared by Osprey Consulting Services in November 2016 which undertook an additional Line of Sight Assessment for the turbine to assess if the turbine would be detectable on the Primary Surveillance Radar at LJLA. This concluded that “the single turbine would not be routinely detected by the LJLA PSR system as there is sufficient intervening terrain between the turbine and the PSR for it to be detectable.” LJLA accepts the findings of the verification report and therefore the airport is in a position to withdraw its objection.
- 7.44 The turbine is also within the consultation zone for Hawarden aerodrome. A Radar Mitigation Options Report was submitted as part of the Environmental Statement by Aerostat Surveys. This concludes that a radar mitigation scheme is viable. The applicants have also been in discussions with them regarding the safeguarding concerns raised. A radar mitigation scheme has been proposed similar to the one used at the Frodsham wind farm under operation by Peel Holdings. Airbus will accept a suitable condition to this affect.
- 7.45 It is therefore considered that the proposed development is in accordance with Policy AC12 of the Flintshire Unitary Development Plan.

- 7.46 Setting of Scheduled Ancient Monuments  
CADW have been consulted upon the likely impacts of the developments upon the Scheduled Ancient Monuments or registered historic landscapes, parks and gardens in the area. The application was accompanied by a Cultural Heritage Assessment.
- 7.47 The proposed development is located in the vicinity of the Scheduled Ancient Monuments known as Basingwerk Abbey, Holywell Castle, Wat's Dyke NE of Meadow Mills, St. Winefride's Chapel and Greenfield Valley Mills.
- 7.48 Basingwerk Abbey  
It was considered as part of the previous application that both turbines would be visible as a major feature in the skyline to the east of the Abbey. The turbines were therefore reduced in height and T1 has since been removed from the scheme.
- 7.49 The setting of the Abbey when looking towards the site was one of wooded seclusion with a fall to the coastal plain beyond. This aspect appears in several antiquarian views including those of Moses Griffith and PC Canot (1778). It is considered this setting makes a connection to the understanding and appreciation of the Abbey and the Cistercian ideals that influenced its location. On an arc running from the farm/museum to the south west through to the industrial estate to the north east, this setting has been substantially altered by post-medieval and more recent encroachment.
- 7.50 The proposed development is located 600m to the east of the scheduled monument and Cadw guardianship site known as FL001: Basingwerk Abbey. This additional information presents the scheme as a single turbine development following the removal of a second turbine (T1) to the North West, over which CADW raised concerns in December 2014 due to potentially significant visual impacts on the setting of Basingwerk Abbey.
- 7.51 The LVIA Addendum concludes that there will be 'no change' to views from the Abbey towards the proposed turbine, citing the screening effects of the Abbey buildings and mature tree coverage around the edge of the site. CADW consider that the LVIA should acknowledge that this assumes the longer term presence of the trees on the boundary of the Greenfield Valley site and that any screening that they provide will be seasonal; it is also possible that there may still be views of the turbine from different locations within the scheduled area of the Abbey other than the chosen viewpoint. CADW consider that such views are likely to be greatly reduced by a combination of the intervening topography of the ridge to the south east and seasonal vegetation. CADW therefore agrees with the conclusion of the LVIA that the proposed turbine will have no significant impact on the setting of Basingwerk Abbey.



- 7.52 This proposal also lies within 5km of three historic parks and gardens known as C3 Downing, C14 Mostyn Hall and C40 Pantasaph, which are included in the Register of Landscapes, Parks and Gardens of Special Historic Interest in Wales. CADW consider that visibility from the registered parks seems unlikely.
- 7.53 CADW now raise no objection to the proposed siting of the turbine. It is therefore considered that the proposed development complies with Policy EWP4 a) and HE6 of the Flintshire Unitary Development Plan.
- 7.54 Ecology  
The development site is adjacent to the Dee Estuary Special Protection Area (SPA), designated under the EU Birds Directive. The SPA is also a Ramsar Site and Site of Special Scientific Interest (SSSI), designated and protected under the Wildlife & Country Act 1981 (as amended) and the Conservation of Habitats & Species Regulations as amended. These designations are due to the estuary's importance as a wintering site for significant populations of migratory waders including Oystercatchers, and its importance for breeding seabirds such as Little Terns.
- 7.55 The key issue with regard to this application is the turbines potential disturbance effects on the migratory and wintering waders. The southern turbine (T2) is in close proximity to the designated site: 250 m from the foreshore and foraging sites and 300 m of the designated SPA/Ramsar feature, oyster-catcher high tide roost.
- 7.56 With respect to this supplementary information has been provided by the applicant summarising existing research/monitoring work regarding the likely reaction of roosting oystercatchers to the presence of an operational wind turbine, located approximately 250 m from the roost. This information illustrates the paucity of research work on turbines and wader roosts, but both Natural Resources Wales and the Royal Society for the Protection of Birds accept that from this limited evidence, oystercatchers appear to be one of the less sensitive species of waders to suffer displacement from turbines.
- 7.57 As the proposals may therefore impact on the SPA/SAC, a Habitat Regulation Assessment (HRA) under Regulation 61 (Conservation of Habitats & Species Regulations 2010) has been undertaken. This concludes that taking into account the site's conservation objectives and precautionary principle that oystercatchers are not likely to suffer displacement from wind turbines provided mitigation measures are undertaken to avoid potential in combination effects.
- 7.58 It is accepted that birds roosting (winter) on the salt marsh also suffer from recreational disturbance. Fencing/planting adjacent to the footpath would help protect the roost in the long term and avoid an in combination effect.

- 7.59 The extended Phase 1 habitat survey also assessed the area for otters. There is no potential for otters on the site but the proposed enhancements to reduce recreational pressure on the adjacent saltmarsh would potentially benefit otters as well as roosting oystercatchers.
- 7.60 To conclude, it is considered that any construction effects can be avoided through timing of works and pollution controls. From the supplementary information submitted it is considered that the turbines are unlikely to have a significant effect on features of the Dee Estuary SPA/Ramsar Site, namely migratory and wintering waders and wildfowl, in this case specifically oystercatchers. Monitoring during the construction and operation of the turbines will provide more robust information to demonstrate this and highlight any changes. This will be secured by condition.
- 7.61 The enhancement works referred to within the supplementary information such as fencing the marsh, widening and/or other salt marsh restoration works should be undertaken to protect the roost and avoid a potential in combination effect. This will be secured by condition.
- 7.62 NRW do not object to the proposed siting of the wind turbine. RSPB are satisfied with the submitted revised information however maintain their objection until the detailed wording of the conditions has been drafted. This however would follow the recommendation to grant permission.
- 7.63 It is therefore considered that the proposal complies with policies WB1, WB2 and criteria a and d of Policy ESP4 of the Flintshire Unitary Development Plan.
- 7.64 Highways  
The turbine components would be brought into the UK from mainland Europe via the ports of Southampton, Immingham or Grangemouth and would access the local road network via the M56. From the M56 the components would travel along the A5117, A548 and un-classified road and the site. The local road network is suitable to take the loads subject to some localised minor highway improvements. The Highways Development Control Manager has no objection subject to conditions covering the access, Construction Traffic Management Plan and an Abnormal Loads Assessment.
- 7.65 Flood Risk  
The site lies wholly within Zone C1 of the Development Advice Maps referred to under TAN 15: Development and Flood Risk. A limited FCA has been submitted with the application. This implies that all principal components of the wind turbine generator will be located approx. 2 metres above ground level with the exception of the turbines

transformer. These are likely to experience a greater degree of flood risk, however given the flood resilient nature of the proposed development and that it will predominately supply electricity directly to Kingspan it is considered that this risk is acceptable subject to the installation of flood proofing measures.

7.66 Visual impact from residential properties

The removal of T1 therefore increases the distance to residential properties on Station Road which were the nearest properties to the turbines. The nearest properties to T2 are Derby Terrace on the A548 Bagillt road at approximately 400 metres, with a number of other properties along this road. Two of the viewpoints within the LVIA are taken from this area R1 and R2. The proposals will be seen in the context of the existing industrial estate which forms the setting of these views. T2 is seen within the context of intervening mature vegetation which creates a vertical scale and integrates the turbine.

7.67 While significant visual effects are possible from properties within Holywell within 1km of the site where the proposals will be visible above the existing industrial area. The LVIA concludes that where the proposal is visible it will not give rise to an overwhelming and unavoidable degree of change so as to make the outlook from the properties unsatisfactory.

7.68 Within 1-5km of the site it is indicated that there are possible views from the wider setting of Holywell, Bagillt, Mostyn, Gorsedd and Pentre Halykn. However field assessments have indicated that the proposals will only give rise to a slight magnitude of change within the context of views from Mostyn, Gorsedd and Pentre Halkyn as a result of intervening features and the general orientation of many properties within the various settlements. More properties are likely to experience views within the wider settlement of Holywell and parts of Bagillt, where direct views towards the proposed turbines will give rise to a moderate degree of change. It is considered that some properties will experience a major/moderate effect however this significant change will not be so great as to make the outlook from the properties unsatisfactory.

7.69 Noise

Wind turbines emit two types of noise: aerodynamic noise provided by the movement of the rotating blades through the air; and mechanical noise from gearboxes or generators. New turbines have been designed to reduce noise outputs. UK Government Guidance (ESTU-R-97 The Assessment and Rating of Noise from Wind Farms) sets out that noise from wind turbines should be no more than 5dB above existing background noise levels during the day and night.

7.70 A noise survey has been carried out based on relevant government guidance to assess potential noise impacts on the nearest residential receptors. This concluded that noise from the turbine would remain

within 5dB above the background noise levels during both day and night.

7.71 Public Protection have reviewed the submitted information and have no objection subject to a condition on noise levels to ensure that the turbine does not exceed the predicted levels.

7.72 Shadow flicker

Shadow flicker can occur when the blades of a wind turbine cover the sun for brief moments as they rotate. There is the potential for some limited shadow flicker occurrences resulting from the turbines. Where shadow flicker is identified to be a problem mitigation measures will be implemented. The worst case scenario of shadow flicker hours are 177 hours per year. This is 2.02% of its operating time.

7.73 Public Protection are satisfied with the scheme and that a condition be imposed to mitigate any shadow flicker impacts. The mitigation strategy set out in the Environmental Statement refers to the compilation of a log of shadow flicker events to be made by affected parties following verification by representatives from the operator. If shadow flicker is then recorded as a nuisance, a strategy would then be agreed at the expense of the operator which could include measures such as installing blinds at affected properties or for a device to be fitted to the turbine for it to automatically shut down when the conditions for shadow flicker occur. It is therefore considered that criteria d of Policy EWP4 has been met.

7.74 Television Reception

Wind turbines, including micro turbines, can also interfere with telecommunications (i.e. TV, radio and phone signals) by blocking or deflecting those requiring line of sight or by the scattering of transmission signals. Scattering of signals mainly affects domestic TV (both analogue and to a lesser extent digital TV) and radio broadcasts. Wind turbines can affect domestic television reception up to 5km from the turbines.

7.75 It is often possible to mitigate impacts by careful siting of individual turbines within a site so that turbine blades avoid a buffer zone, typically 100m either side of the signal path. Failing this, it may be necessary for the developer to pay for a signal to be re-routed around the wind turbine(s). Where site investigations reveal a likely impact on domestic radio or TV reception, various solutions are possible including upgrading of domestic aerials or delivery of the signal by other means, for example by cable. Analogue television is now not in use so there unlikely to be an impact on television reception however there could be an impact on analogue radio transmissions.

7.76 The Environmental Statement considers the impact on television reception, radio reception and other sources of electromagnetic interference. Consultation has been undertaken with the relevant

operators. It is considered that a suitably worded condition can deal with the potential for any such impacts from electromagnetic interference to be mitigated. It is therefore considered that criteria e of Policy EWP4 has been met.

7.77 Other Matters

The site is crossed by a decommissioned watermain. This does not affect the siting of the turbine however as it runs to the west of the application site.

7.78 In terms of the comments by Network Rail the distance required is 81 metres from the railway line. The turbine location is 170 metres from the railway line and therefore the scheme meets with Network Rail's requirements for separation.

**8.00 CONCLUSION**

8.01 The proposed wind turbine is to provide electricity for an existing business in an established industrial area. This concept is supported in principle. The application has been amended to take account of the issues previously raised and the westerly turbine has been removed from the scheme.

8.02 The landscape impacts of the turbine have been assessed and it is considered although there will be some adverse visual impacts as a result of the siting of a turbine of this scale, it can generally be accommodated within this landscape and any adverse impacts are balanced against the benefits of renewable energy generation and the wider social, environmental and economic benefits.

8.03 It is considered that the other matters set out in policy EWP4 have been addressed. The issues surrounding aviation safeguarding and potential impacts on radar can be dealt with through a suitably worded planning condition as suggested by the aerodrome. Ecological matters can also be dealt with by a suitable condition.

8.04 Other Considerations

The Council has had due regard to its duty under Section 17 of the Crime and Disorder Act 1998 and considered that there would be no significant or unacceptable increase in crime and disorder as a result of the recommended decision.

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

8.06 The Council has had due regard to its public sector equality duty under the Equality Act 2010.

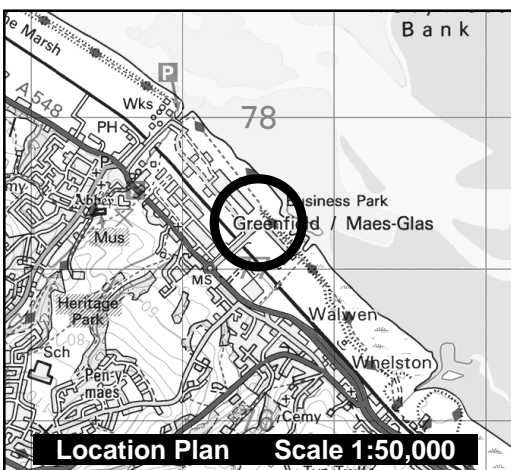
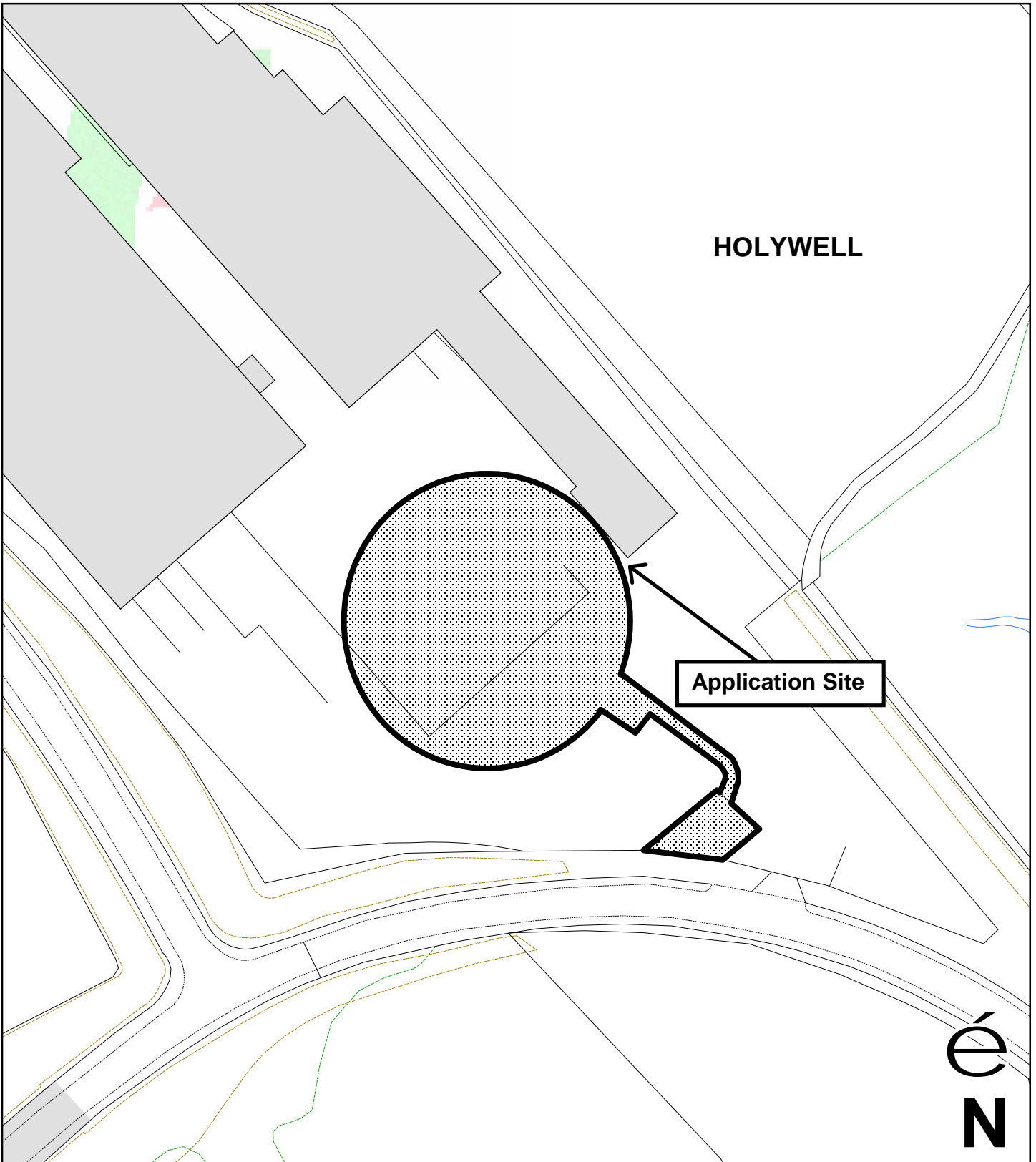
8.07 The Council has had due regard to its duty under Section 3 of the

Wellbeing of Future Generations (Wales) Act 2015 and considered that there would be no significant or unacceptable impact upon the achievement of wellbeing objectives as a result of the recommended decision.

#### **LIST OF BACKGROUND DOCUMENTS**



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

**Contact Officer:** Emma Hancock (Senior Planning Officer)  
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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	1:1250
OS Map ref	SJ 2077
Planning Application	<b>52922</b>

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## FLINTSHIRE COUNTY COUNCIL

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

**DATE:** **18<sup>TH</sup> JANUARY 2017**

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

**SUBJECT:** **FULL APPLICATION – ERECTION OF DETACHED BUNGALOW AT ROSE FARM LIVERY, WELL STREET, BUCKLEY.**

**APPLICATION NUMBER:** **055597**

**APPLICANT:** **MR. ADAM BELLIS**

**SITE:** **ROSE FARM LIVERY, WELL STREET, BUCKLEY.**

**APPLICATION VALID DATE:** **20<sup>TH</sup> JULY 2016**

**LOCAL MEMBERS:** **COUNCILLOR H. MCGUILL**

**TOWN/COMMUNITY COUNCIL:** **ARGOED COMMUNITY COUNCIL**

**REASON FOR COMMITTEE:** **AT THE REQUEST OF THE LOCAL MEMBER AS SHE CONSIDERS THE PROPOSALS TO BE DEVELOPMENT IN THE OPEN COUNTRYSIDE**

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

### **1.00 SUMMARY**

1.01 This full application seeks approval of the erection of a replacement dwelling and partial demolition and change of use of the existing dwelling upon the site.

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

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

- a) The applicant rescinding of the lawful use of the existing dwelling upon the site.

## 2.02 Conditions

1. Time limit.
2. In accordance with approved plans.
3. Materials to be submitted and agreed.
4. Removal of Permitted development rights for future extensions and structures within the curtilage of the dwelling.
5. Removal of rights to insert windows.
6. Landscaping scheme, including boundary treatments to be submitted and agreed.
7. Implementation of landscaping.
8. Land contamination assessment and remediation scheme.
9. Drainage scheme to be submitted and agreed.
10. No occupation of replacement dwelling until demolition of existing dwelling has been undertaken.

## 3.00 **CONSULTATIONS**

### 3.01 Local Member

Councillor H. McGill

Requests that Committee determine the application given that it is development in the open countryside.

Argoed Community Council

No response at time of writing.

Highways DC

No objection. The proposals are to replace an existing dwelling, served via the same access and with adequate land for parking and turning clear of the highway.

Pollution Control

Considers that addressing the contamination risk at the site via the imposition of a condition is appropriate.

CADW

Notes that the proposed siting of the building lies outside of the scheduled area of Wat's Dyke and considers that the proposals will not have any significant impact upon either the monument or its setting.

Dwr Cymru/Welsh Water

No adverse comments. Notes that foul drainage is to be addressed via septic tank facility and therefore no connection to the public system is proposed.

Natural Resources Wales

No objection to the scheme.

#### **4.00 PUBLICITY**

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

4.02 At the time of writing, 3No. letters of objection have been received which raise matters in respect of;

- Proximity to and impact upon a Scheduled Ancient Monument
- Impact upon underground water sources
- Insufficient information
- Proposals are of a different scale to the lawful dwelling
- Access is unsuitable, is of insufficient width and has limited visibility which can only be improved using 3<sup>rd</sup> party land
- Proposals would result in 2 dwellings upon the site
- Adverse impacts upon existing residential amenity

#### **5.00 SITE HISTORY**

##### **5.01 927/89**

Change of use of part of existing agricultural buildings to stables and associated uses, tack room, restroom and security room.  
REFUSED 15th February 1990.

##### **544/90**

Change of use of agricultural building to stables and associated uses.  
WITHDRAWN 13TH July 1990.

##### **602/90**

Change of use to livery stables.  
PERMITTED 8th August 1990.

##### **763/91**

Siting of a caravan.  
REFUSED 17th October 1991.

##### **764/91**

Erection of a barn for feed and bedding storage.  
REFUSED 29th November 1991.  
Appeal DISMISSED 26th March 1992.

##### **6/94**

Outline application – erection of a dwelling.  
REFUSED 17th February 1994.

##### **665/94**

Outline application – erection of a dwelling.  
REFUSED 1st December 1994.  
Appeal DISMISSED 22nd March 1995.

**96/861**

Outline – erection of a farmhouse on existing agricultural holding.  
REFUSED 18th February 1997.

**98/919**

Application for prior approval for an agricultural building.  
Prior Approval deemed required 19th March 1999.  
Appeal CLOSED by PINS on 28th October 1999

**00/379**

Erection of an isolation unit, hay/straw shed and implement storage  
and repairs shed.  
PERMITTED 29th November 2000.

**00/652**

Full application for the erection of a stable block and living  
accommodation.  
REFUSED 29th November 2000.

**053379**

Siting of static caravan and toilet block for temporary period  
REFUSED 16<sup>th</sup> June 2016

Members may recall that this site was the subject of 3 linked  
Enforcement Notice Appeals Refs. **APP/A6835/C/09/2100367,**  
**2100368 & 2100370** held in 2009 and 2010. The outcome of these  
appeals was such that the notices were largely upheld (albeit varied)  
in respect of 368 and 370. The appeal under 367 resulted in the notice  
being withdrawn.

**6.00 PLANNING POLICIES**

6.01 Flintshire Unitary Development Plan

Policy STR1 - New Development

Policy STR4 - Housing

Policy GEN1 - General Requirements for Development

Policy GEN3 - Development in the Open Countryside

Policy D1 - Design Quality, Location & Layout

Policy D2 - Design

Policy L1 - Landscape Impact

Policy HE6 - Scheduled Ancient Monuments

Policy AC18 - Parking Provision & New Development

Policy HSG7 - Replacement Dwellings Outside Settlement Boundaries

Policy EWP14 - Derelict and Contaminated Land

**7.00 PLANNING APPRAISAL**

7.01 The Site and Surroundings

The site is located within an area of open countryside to the south of

the settlement of Buckley. The site of the proposed dwelling comprises a smaller area adjacent to the boundary of the larger livery site with the dwellings 'Ty Gwyn' and 'The Paddocks' to the south of the site. The site of the dwelling is presently occupied by a steel clad portal framed building which is used for the maintenance and repair of vehicles associated with the operation of the livery business. The existing dwelling occupies the central 3 storey portion of the stable building which abuts the eastern boundary of the site.

7.02 The remainder of the site comprises fields, hardstanding areas and a manage all used as part of the livery. Access to the site is presently derived from Well Street to the west. The site is bounded by a mixture of hedgerows interspersed with trees, together with stock proof fencing.

7.03 The Proposals

The application seeks approval for the erection of a detached 4 bedroomed bungalow upon the site of the existing repair and maintenance shed. The proposal is advanced as a replacement of the existing dwelling and the applicant has indicated a willingness to enter into a S.106 agreement to rescind the lawful use rights for the existing dwelling.

7.04 In addition, the existing dwelling is proposed to be demolished in part, with the upper 2 storeys removed, and the remaining ground floor amended to provide an office for the livery use and staff toilet facilities. The roof line of the resultant building will be formed to accord more with the adjacent stables.

7.05 Access arrangements to the site are not proposed to be amended from those which presently exist.

7.06 The Principle of Development

Both national and local planning policy identify a presumption against new residential development outside of settlement boundaries in all but an identified few exceptions. The relevant policies within the Flintshire Unitary Development Plan are GEN3 and HSG7.

7.07 Policy GEN3 identifies the types of development which may be acceptable within open countryside locations such as this. The relevant criterion is d) which identifies that replacement dwellings are, in principle, acceptable in such locations, subject to compliance with Policy HSG7.

7.08 The issue to consider therefore, is the acceptability of the proposals having regard to Policy HSG7. Policy HSG7 sets out the detailed matters to be addressed in considering a proposal for the erection of a replacement dwelling in the open countryside. These will be addressed in turn below;

- 7.09      **a) *The existing building has lawful use rights as a dwelling;***
- The existing dwelling was established as a lawful dwelling during the course of the enforcement notice appeal Inquiry held in 2009 -2010. This Inquiry established that the central portion of the stable building had been used as a single dwelling house for a period in excess of 4 years before the date of the notice and was therefore lawful and immune from enforcement action. Accordingly this criterion is satisfied.
- 7.10      **b) *The existing dwelling is habitable or capable of being made habitable without works tantamount to the construction of a new dwelling;***
- The existing dwelling is habitable in its current condition and no works tantamount to the erection of a new dwelling would be required. Accordingly this criterion is satisfied.
- 7.11      **c) *The existing dwelling does not have significant local historic or architectural interest;***
- The existing dwelling house was formed via the change of use of part of an existing former agricultural building erected at some point in the 1980's. The building has no historical significance and is of no notable architectural interest. Accordingly this criterion is satisfied.
- 7.12      **d) *The new dwelling is of a similar scale to that which it is intended to replace and should reflect the character and appearance of buildings in the locality;***
- The existing dwelling is presently arranged over three floors and amounts to some 163.50m<sup>2</sup> of residential floor space. The proposed dwelling is single storey in nature and amounts to 211.37m<sup>2</sup> of floor space. This amounts to an increase in the proposed over the existing of 47.87m<sup>2</sup> or an increase of some 29% upon the existing dwelling. Members will be aware that consideration of proposed extensions to existing dwellings (policy HSG12 applies) allows for an increase of some 50% (subject to design) of the existing dwelling. In consideration of this proposal, I am mindful of this policy provision and consider therefore that the additional floor space provided above that which presently exists is acceptable.
- 7.13      The locality is not characterised by built form of any particularly distinctive vernacular style, with buildings of both two storey and single story form in a variety of finishes including brick, render and stone evident within view of the site. Accordingly, I do not consider the proposed replacement of a three storey dwelling with a single storey dwelling represents a form of

development which would be incongruous in design and appearance terms in this location.

7.14 I propose to condition the submission and agreement of materials to ensure the use of appropriate materials. I also propose to impose conditions removing the rights for future extensions and alteration without the need for permission. The reasoning for this reflects, in part the issue in relation to the additional dwelling size outlined above, but also to ensure that potential impact upon existing residential amenity can be controlled.

7.15 On balance therefore, I consider the proposals accords with this criterion.

7.16 e) ***The replacement dwelling is located on the site of the existing dwelling. Alternative siting will be considered where impractical conditions exist and an improvement to both proposed and existing sites is provided.***

Whilst the proposed dwelling is clearly not sited either wholly or in part upon the footprint of the existing dwelling, given that the existing dwelling is physically centrally located as a part of adjacent stable blocks, replacing the dwelling in situ would be impractical. Furthermore, I consider the proposed siting would result in a threefold benefit.

7.17 Firstly, the proposed siting results in the removal of a rather unattractive, albeit functional, building which does not sit visually well in relation to the nearby dwellings which abut the site.

7.18 Secondly, whilst this building can legitimately be used for the purpose or repair and maintenance of vehicles and machinery associated with the livery, this use does have an impact upon nearby residential amenity.

7.19 Thirdly, given the impracticalities of replacement in situ, this site represents the most logical point within the site at which to site such a dwelling, relating closely with an existing cluster of residential buildings. Thus the building would not appear as stark or isolated in the landscape, instead appearing as part of an established grouping of dwellings within the countryside, shield on 2 sides by existing vegetation and existing built form.

7.20 I am mindful that concerns have been expressed that the granting of this proposal, given that the proposed dwelling does not sit on the site of the existing, would result in there being 2 dwellings upon the wider livery site. I would advise that this situation will not arise as my recommendation of permission is

subject to the applicant entering into a S.106 agreement to rescind the lawful use of the existing dwelling. Furthermore, it should be noted that the existing dwelling is proposed to be partially demolished such that the upper 2 storeys are removed and the remaining ground floor converted to form livery office and toilets. This proposal, once implemented would render occupation of the building in accordance with the lawfully established use, impossible.

7.21 Accordingly, taking all of the above matters into account I am of the view that the proposals would be acceptable in principle, having regard to the development plan.

7.22 Land Contamination Issues

Concern was initially raised via the Council's Pollution Control Department that the site had historically been subjected to potentially contaminative uses. This concern rests largely upon the fact that the site was (legitimately) used in connection with the repair and maintenance of livery vehicles and equipment, but had also been used in connection with the unauthorised storage and sale of cars. In addition, an abatement notice was served in relation to a diesel spill upon the site.

7.23 The potential for this spill to have contaminated the site to such an extent as to result in the need for a pre-determination assessment of land contamination is therefore the principal issue to consider. The Council's guidance in relation to land contamination matters makes clear that the determinant factor in deciding whether investigation is required pre-determination or not rests on whether;

*'it is suspected that the site may be grossly affected by contamination or that remediation ....of the contamination may not be reasonably achieved.'*

7.24 In addition, the guidance advises that the Council will need to be satisfied that the site is suitable for development and all risks have been identified and can be addressed.

7.25 In this case, the risks relate to ground contamination arising from a historical spill of diesel. The evidence for this does not however quantify the volume released in the spill. Whilst this may be considered a reasonable basis to require the pre-determination investigation of this issue, this rests upon 2 factors. Firstly, whether the site would be 'grossly' affected by contamination and secondly, the extent to which such contamination can be reasonably mitigated. My consideration of these 2 factors is intrinsically linked. Contamination arising from diesel spills is comparatively easily and cheaply addressed via the utilisation of soil treatment techniques. Given this, and notwithstanding the unknown extent of the spill, the comparative ease with which this can be addressed would not amount



to the contamination being such as might amount to be grossly affecting the site.

7.26 In addition, the extent to which it would be reasonable to put the applicant to the time and expense of investigating this issue in advance of determination of the application must also be borne in mind. I consider that the imposition of a condition requiring the investigation of the site before any works are undertaken, and if required, remediation of the site would be the appropriate, reasonable and proportionate manner via which to address this issue and therefore I recommend this course of action.

7.27 Highway and Access Issues

Access to the site is presently derived by means of single track driveway off Well Street. The driveway has severely sub-standard junction visibility to the right. Third parties representations refer to the unsuitability of the access and contend that 3<sup>rd</sup> party land is required to render the access suitable.

7.28 The proposal has been the subject of consultation with the Local Highway Authority who raise no objection. I am advised in response that as the proposals do not result in any increased use of the previously approved access and adequate space is available for the parking and turning of vehicles clear of the highway, there is no further highway observation.

7.29 I am mindful that third party comments raise issues in relation to the extent to which the access is owned by the applicant and therefore raises questions in respect of the extent to which the access is acceptable. It must be remembered however that this application seeks permission for the replacement of an existing dwelling which was served via this access, in addition to the legitimate use of the site as a livery stables. This application proposes no alteration to the means of access to the site. Accordingly, there is no objection to this proposal on highway grounds.

7.30 Archaeological Issues

The proposed development is located within the vicinity of the Scheduled Ancient Monument known as Wat's Dyke: Section from Bod Offa to Whitehouse Farm. The development would be less than 10 metres from the northern section of this monument. The line of the dyke is interrupted for a length of 80 metres between the scheduled areas where it has been destroyed by the buildings and gardens of Ty Gwyn and The Paddocks. The application site lies outside of the scheduled area and off the line of the Dyke.

7.31 Consultation with CADW has established that the proposal would not have any significant adverse impact upon the monument. It is considered that the replacement of the existing building with a building of lower relief and a footprint shifted away from the dyke upon land

which is already developed would be a slight benefit and would not adversely affect the character of the area adjacent to the dyke.

Other matters

- 7.32 Reference has been made in third party objections to an underground water source within the vicinity of the site and the potential for the proposed development to both affect and be affected by this. The water source referred to is an artesian well located in the rear garden of The Paddocks. This is not a source of potable water and is not advised to be an aquifer from which drinking water is drawn. Whether the development might affect wetness levels within an adjacent property is a matter which would be considered as part of the agreement of site drainage proposals which I have conditioned.

**8.00 CONCLUSION**

- 8.01 I consider that the proposal is acceptable in both principle and detail and the development proposed would be acceptable at this location meeting the Council's requirements. I therefore recommend accordingly.

8.02 Other Considerations

The Council has had due regard to its duty under Section 17 of the Crime and Disorder Act 1998 and considered that there would be no significant or unacceptable increase in crime and disorder as a result of the recommended decision.

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

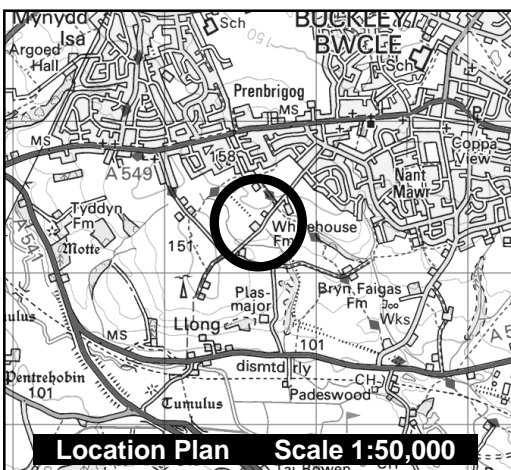
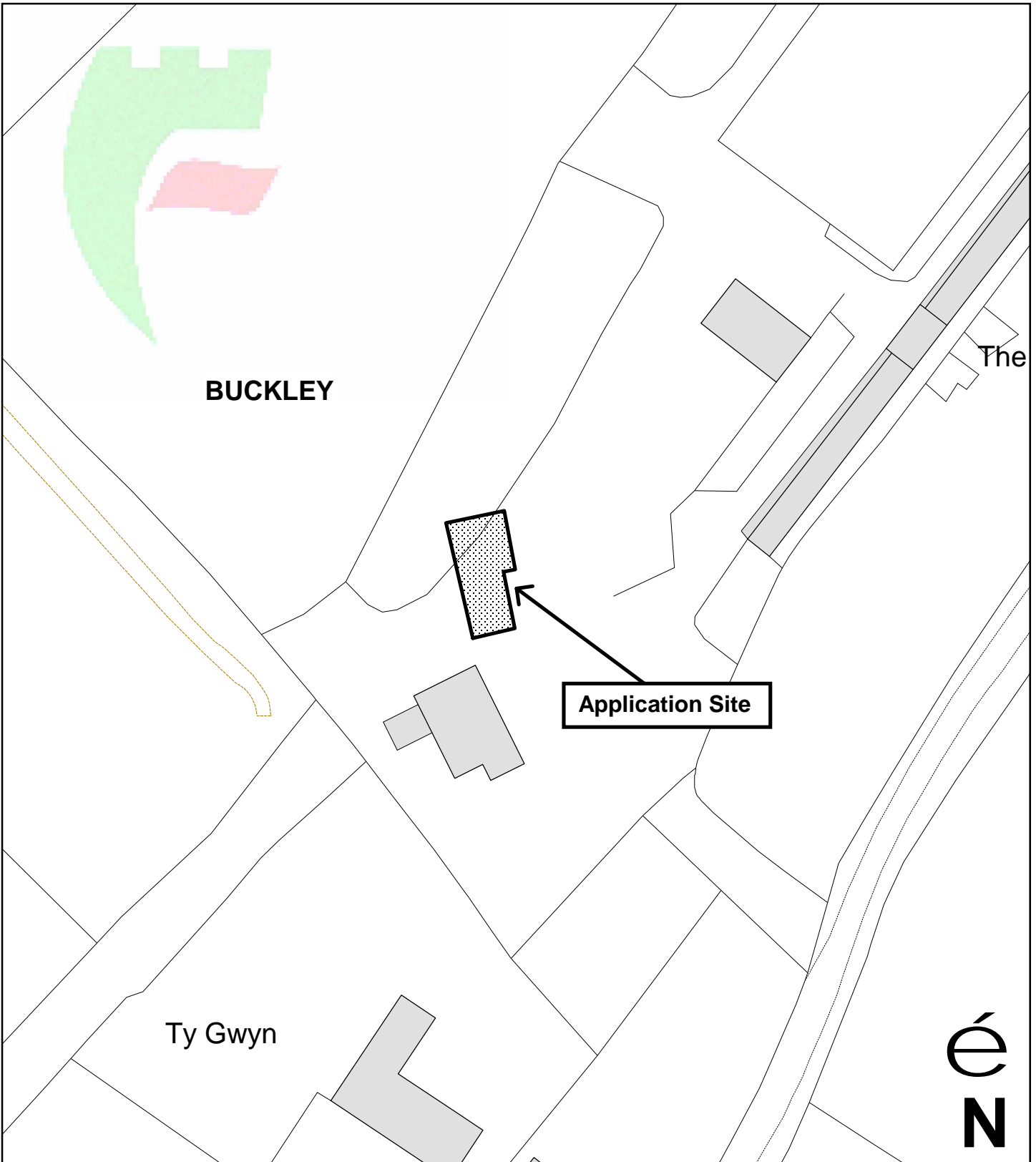
- 8.04 The Council has had due regard to its public sector equality duty under the Equality Act 2010.

- 8.05 The Council has had due regard to its duty under Section 3 of the Wellbeing of Future Generations (Wales) Act 2015 and considered that there would be no significant or unacceptable impact upon the achievement of wellbeing objectives as a result of the recommended decision.

**LIST OF BACKGROUND DOCUMENTS**

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

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Planning & Environment,  
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 Chief Officer: Mr Andrew Farrow

**Legend**



Planning Application Site



Adopted Flintshire Unitary  
 Development Plan  
 Settlement Boundary

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Planning Application **55597**

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## FLINTSHIRE COUNTY COUNCIL

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

**DATE:** **18<sup>TH</sup> JANUARY 2017**

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

**SUBJECT:** **APPEAL BY MR. J. PEDLEY AGAINST THE DECISION OF FLINTSHIRE COUNTY COUNCIL TO REFUSE PLANNING PERMISSION FOR THE PROPOSED INDIVIDUAL VEHICULAR ACCESS POINTS FOR PLOTS 2, 3 & 4 OF PREVIOUSLY CONSENT GYPSY SITE AT MAGAZINE LANE, EWLOE – ALLOWED.**

**1.00 APPLICATION NUMBER**

1.01 054322

**2.00 APPLICANT**

2.01 Mr. J. Pedley

**3.00 SITE**

3.01 Magazine Lane,  
Ewloe.

**4.00 APPLICATION VALID DATE**

4.01 21.09.15

**5.00 PURPOSE OF REPORT**

5.01 To inform members of the Inspectors decision following the refusal of planning permission for individual vehicle access points for plots 1, 2, 3 and 4 for land off Magazine Lane, Ewloe by Planning and Development Control Committee in May 2016 contrary to officer recommendation. The appeal was dealt with by written representations and was ALLOWED subject to conditions.

**6.00 REPORT**

6.01 Planning History

The Inspector noted that planning permission was granted for 5 gypsy caravan pitches with dayrooms on appeal in 2014. That approval included a single access for the site serving the 5 pitches via an internal access road running close to the boundary with the A55 dual carriageway to the south. The planning permission is subject to conditions related to the landscaping of the site and the provision of a bund and fence along the boundary with the A55. Planning permission has been granted for a separate access for plot 5 (which is the end plot furthest from the entrance) on to Magazine Lane.

6.02 As part of the appeal the appellant has included details and amended plans reducing the width of each access to 3m and the overall shared width to 6.5m. This is a reduction of 2.5m from the 9m shared width originally proposed. As the amendment involves a reduction in the width of the accesses, the Inspector considered that there can be no prejudice to any party and therefore considered the proposal on that basis.

6.03 Issues

The Inspector considered that the main issue was the impact of the proposal on the open character of this area of countryside within a Green Barrier as defined in the Flintshire Unitary Development Plan.

6.04 The site lies in the open countryside to the west of Ewloe within a green barrier as defined under Policy GEN4 of the Flintshire Unitary Development Plan.

6.05 The Inspector noted that policies GEN3 and GEN4 control the type of development allowed in the open countryside and green barrier respectively. The 2014 appeal decision determined that the proposed use was inappropriate development in a green barrier under GEN4, but that very exceptional circumstances existed to justify its approval. Therefore the Inspector considered that comments regarding the principle of the use and whether it would constitute inappropriate development are not relevant to this proposal for associated works.

6.06 In defence of the appeal the Council sought to rely on the explanatory text to GEN3 concerning the removal of permitted development rights for extensions and garages of dwellings approved in green barriers to justify refusal of planning permission for this access. They are clearly not the same thing. Policy HSG14 states that gypsy sites may be approved where criteria are met, one of which is that the site has natural screening or can be screened. Policy GEN1 requires development to harmonise with its surroundings.

6.07 Policy GEN4 also requires that development should not unacceptably harm the open character and appearance of a green barrier. The Council's claim that the proposal would cause such harm was based on the loss of trees and the introduction of two 6.5m wide access with

close-boarded gates. Some trees and hedging have been removed already, as advised in the submitted objections. The gates would match the boundary fencing already erected. Conditions could ensure additional planting to screen the fence. As a result of these factors, the Inspector did not consider that the additional two breaks in the hedge proposed as part of this application would unacceptably harm the open character of this area of countryside within a green barrier.

6.08 The Inspector therefore concluded that the proposal would not be in conflict with Policy GEN4 or the above policies of the Unitary Development Plan.

6.09 The Inspector noted that considerable emphasis was placed by the objectors on the importance attached to the existing trees and hedging around the site in the previous appeal decisions. He noted the Inspectors' comments about the screening of the site, but also their remarks about the possibility of additional planting and boundary treatments to aid the existing natural screening. Landscaping is addressed by conditions on the planning permission for the overall site. Additional planting is proposed as part of this proposal. The agent is a landscape architect and states that he has been employed to ensure that the overall landscaping of the site after construction will be to a high standard. It is stated that the appellant is committed to enhancing the appearance of the site and the proposed landscaping will address local residents concerns in this regard.

6.10 The Inspector considered that there is no requirement to demonstrate a need for this access. These additional accesses must be assessed on their own merits. The layout plan includes retention of the internal access road. The stated purpose is to provide a secondary access to each plot in case of emergency or use late at night in order to minimise disturbance to other residents. The conditions on the existing planning permission related to the siting of caravans and noise mitigation remain extant and are for the Council to enforce. There was no objection from the highway authority and as no additional traffic is proposed as part of the application, objections on these grounds cannot be sustained.

6.11 The Inspector imposed conditions relating to; the gates opening inwards; details of the landscaping of the site boundary with Magazine Lane; details of the proposed culvert and the retention of visibility splays. The appellant also suggested a condition controlling the width of each approved access by condition. The Inspector agreed that this is necessary and incorporated this provision into condition 3.

## **7.00 CONCLUSION**

7.01 The Inspector carefully considered all the matters raised, some of which relate to issues addressed under the previous appeals on the site. He conclude that the proposal is not in conflict with the

provisions of the Flintshire Unitary Development Plan and he allowed the appeal.

**LIST OF BACKGROUND DOCUMENTS**

Planning Application & Supporting Documents

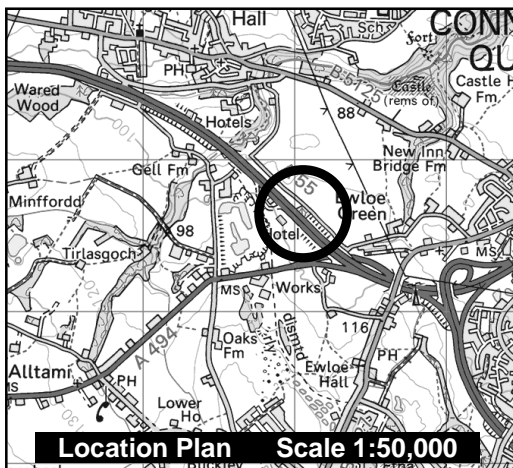
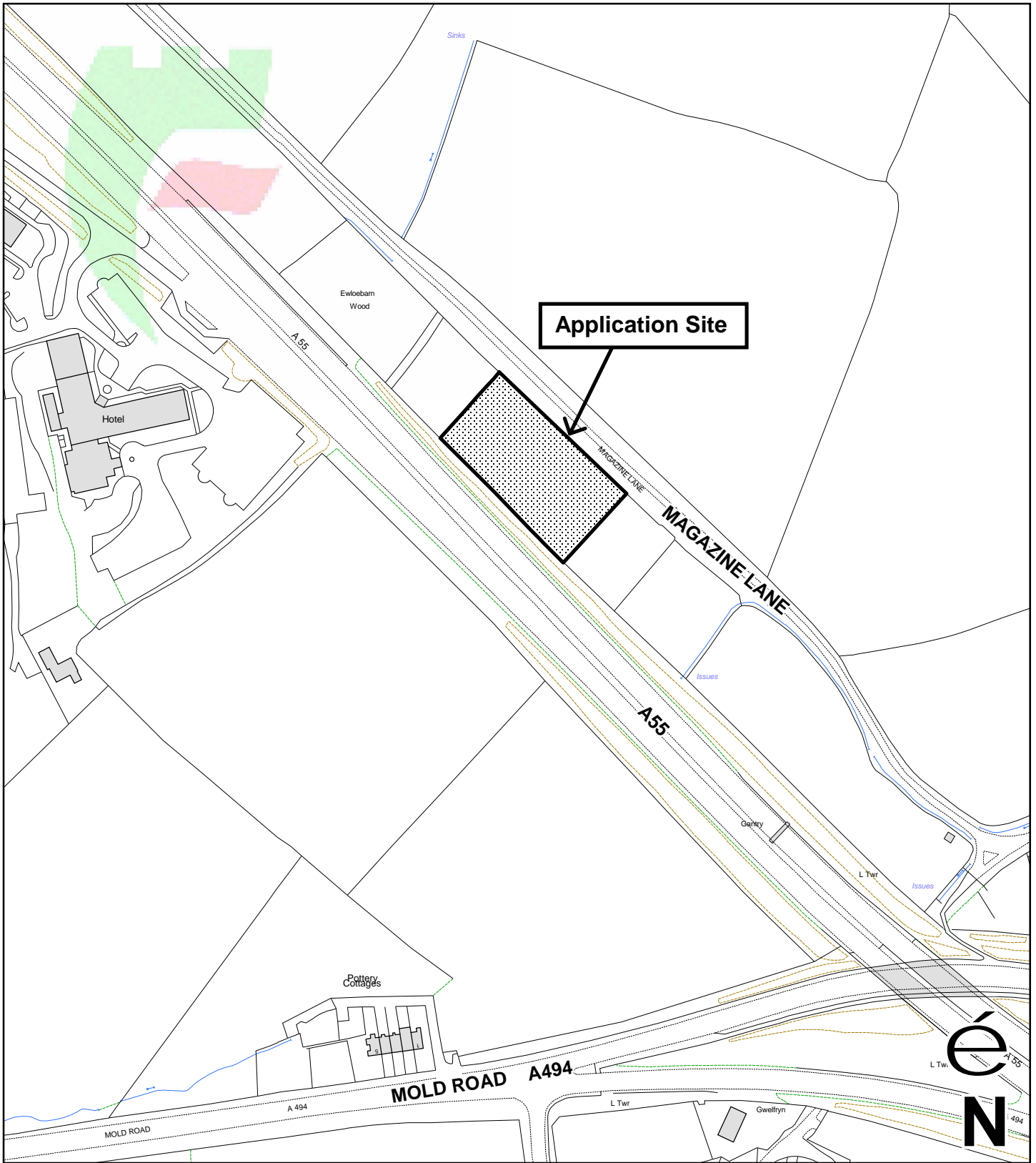
National & Local Planning Policy

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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OS Map ref SJ 2866

Planning Application **54322**

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## FLINTSHIRE COUNTY COUNCIL

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

**DATE:** **18<sup>TH</sup> JANUARY 2016**

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

**SUBJECT:** **APPEAL BY SEP WOOD FARM LTD AGAINST THE DECISION OF FLINTSHIRE COUNTY COUNCIL TO REFUSE PLANNING PERMISSION FOR THE PROPOSED DEVELOPMENT OF SOLAR PHOTOVOLTAIC PANELS AND ASSOCIATED WORKS INCLUDING INVERTER HOUSING, ACCESS TRACK, SECURITY FENCING AND CAMERAS ON LAND AT 2 SITES ON DEESIDE LANE, SEALAND - DISMISSED.**

### **1.00 APPLICATION NUMBER**

1.01 053686 & 053687

### **2.00 APPLICANT**

2.01 SEP Chester Ltd and SEP Wood Farm Ltd

### **3.00 SITE**

3.01 Sites at land West of Deeside Lane and land at Manor Farm, Deeside Lane, Sealand.

### **4.00 APPLICATION VALID DATE**

4.01 8th May 2015

### **5.00 PURPOSE OF REPORT**

5.01 To inform Members of a decision in respect of linked appeals following the decisions of the Local Planning Authority to refuse to grant planning permissions for the development of 2No. solar farms on land at Deeside Lane, Sealand. The appeals were heard by way of a Public Informal Hearing. Both Appeals were DISMISSED

## **6.00 REPORT**

### The Main Issues

- 6.01 The Inspector considered that the main issues in these cases were:
- whether the proposals represent inappropriate development in the green barrier for the purposes of development plan and national policy;
  - the effect of the proposed development on the openness of the green barrier and the purposes of including land within it;
  - whether any harm by reason of inappropriateness and any other harm to the green barrier would be clearly outweighed by other considerations; and if so, do very exceptional circumstances exist to justify the harm to the green barrier;
  - the effect of the proposals on the character and appearance and visual amenity of the area;
  - the effect of the developments on the availability of best and most versatile (BMV) agricultural land; and
  - the effect of the development with regard to other matters raised.

6.02 Whether the proposals represent inappropriate development in the Green Barrier for the purposes of development plan and national policy

6.03 The Inspector noted the presumption within PPW against inappropriate development within Green Barriers. She further noted that development which would otherwise be inappropriate should only be permitted in very exceptional circumstances. The Inspector considered that the proposed development amounted to buildings and structures which would comprise inappropriate development as they did not satisfy any of the exceptions set out in PPW.

6.04 The Inspector noted the Appellants contention that Policy GEN4 supported the proposals as a rural location was essential given the extent of land take required to facilitate the proposal. She did not agree with this argument, observing that they can just as readily be developed upon land in other areas.

6.05 She therefore concluded that the proposals did amount to a form of development which was not supported development plan policies.

### Effect on the Green Barrier

6.06 The Inspector noted the flat, open character of the landscape within which both sites are located and had regard to the purposes of the designation of the Green Barrier in this location to prevent further encroachment and to protect the open character and appearance.

- 6.07 The Inspector took the view of the Council that the proposals would have a significant adverse impact upon the openness of the Green Barrier. The Inspector also made the important distinction that 'openness' is not solely restricted to visibility but to the lack of development within an area. Similarly, the Inspector agreed that, notwithstanding the suggested 25 year lifetime of the developments, both proposals amounted to a clear encroachment into the undeveloped countryside which would materially alter the openness of the green barrier and be harmful.

Very exceptional circumstances

- 6.08 The Inspector noted the wording of PPW in relation to Green barriers, such that if exceptional circumstances can be demonstrated, then development may be permitted. In this regard, she noted the contribution towards the generation of renewable energy and how this related to both national and local policy in this regard. She gave this issue significant weight.
- 6.09 The Inspector noted that there was no dispute between the parties in relation to the Sequential Analysis which had examined the availability of previously developed land and available commercial roof space. Whilst the Inspector noted the appellant's position that few connection points exist with sufficient capacity and most land within a viable connection distance lay within the green barrier, she noted that no wider assessment evidence was presented, nor was an assessment of other available land outside of the Green Barrier but within the 5km study area presented.
- 6.10 The appellant drew the Weighbridge Road solar park to the Inspector's attention as a comparable development which they contended established a precedent for this form of development within the Green Barrier. The Inspector noted the particular circumstances of that case in a very finely balanced decision.
- 6.11 The appellant also tabled the contention that the power arising from the proposal could be supplied to local firms and noted the expression of interest from Praxis to purchase the power to use at The Airfields development site. However, the Inspector noted that no legal obligation was tabled in these regards and furthermore, noted that The Airfields site had yet to obtain Reserved Matters approval and therefore there was no guarantee that that development would be in a position to utilise any energy from this site for some years ahead.
- 6.12 Further support was suggested by the appellants in the form of appeal decisions in respect of golf driving ranges in green barrier and wind turbines upon common land. The Inspector considered each an entirely different form of development in their own context and concluded they did not bear upon her consideration of the appeals.

- 6.13 Accordingly, The Inspector considered that the appeal circumstances are fundamentally different from those at Weighbridge Road and even when taken together with all of the other considerations tabled, concluded that they clearly did not outweigh the harm to the Green Barrier and therefore exceptional circumstances did not exist.

Effect of the proposals upon the character and appearance of the area and upon visual amenity

- 6.14 The Inspector considered the Landscape and Visual Impact Assessments which had been submitted in respect of each site and had regard to the characterisation of the site in the LANDMAP Visual and Sensory classification. She noted particularly that this classification identified the openness of the area as a key quality which should be conserved.
- 6.15 The Inspector considered that both sites retain much of the characteristics identified as being features of the area and noted that, notwithstanding site A being more contained by hedgerows, both sites are clear components of the wider agricultural landscape and make an important contribution to the overall landscape character.
- 6.16 The Inspector concluded that the proposals would introduce an industrial scale and appearance of development to the area which would be incongruous and alien features to the area which would result in the loss of openness, a key quality of the landscape which should be preserved. She further noted that the 'temporary' nature of the proposals did not alter this view.
- 6.17 In considering impacts upon visual amenity, the Inspector had regard to the view expressed by local residents of The Bowery in relation to the impact of the proposals at site A upon their outlook. She concluded that the relationship between the site and the dwellings was oblique, at some distance and screened by mature vegetation. She concluded therefore that there was no unacceptable impact upon The outlook from the dwellings.
- 6.18 The Inspector also considered the impacts of the proposals upon users of the network of footpaths leading to the All Wales Coastal path, and users of the path itself in relation to site A, and users of a bridleway in relation to site B. In respect of Site A, the inspector concluded that the proposals introduced an industrial scale of development which would be a dominating and alien feature in the open rural scene enjoyed by users of the paths. She considered that screening could not mitigate the proposals due to their scale and the elevated nature of surrounding footpaths. In respect of Site B, the Inspector concluded that users of the bridleway did so in the context of adjoining large agricultural buildings and concluded that the proposals at Site B would not give rise to significant visual amenity impact.

- 6.19 In summarising her considerations in respect of impact upon landscape character and visual amenity, the Inspector concluded that both proposals would be harmful to the character and appearance of the area. Whilst Ste B would not give rise to harm to visual amenity, it was nonetheless harmful to the overall integrity and qualities of the landscape character and, in the case of site A, harmful to the amenities enjoyed by users of surroundings rights of way and therefore the proposals were in conflict with the applicable development plan policies.

#### Impact upon Agricultural Land Quality

- 6.20 The Inspector noted that PPW seeks to conserve the BMV agricultural land as a finite resource for the future and noted that considerable weight should be given to protecting such land from development. Land in grades 1, 2 and 3a should only be developed if there is an overriding need for the development, and either previously developed land or land in lower agricultural grades is unavailable or available lower grade land has an environmental value. She noted that the Agricultural Land Classification Map (1983) published by MAFF, indicates that both appeal sites comprise Grade 2 agricultural land (i.e. very good agricultural land with minor limitations which affect crop yield, cultivation or harvesting) and noted the appellants evidence that a combination of the frequency and duration of flooding in the winter results in the land on both sites being Grade 3b.
- 6.21 In responding to the application the Welsh Government's Land Quality Advisory Service (LQAS) commissioned ADAS to carry out a review of the surveys as part of the appeal submissions. ADAS's view was that both sites could be under drained and blocked culverts could be cleaned and any soil water problems relating to shallow compaction could be easily remedied through normal agricultural practices. The report found that the land at both sites would gauge as Grade 1 when applying the standard assessment. However, due to surface capping that can restrict the infiltration of rainwater to about 1mm an hour and potentially affect crop yield both sites are downgraded to Grade 2 to take account of this minor limitation.
- 6.22 The Inspector noted that the main area of dispute in this matter was the extent to which the sites suffer from wetness and how this affects the grading. She noted the evidence from the farmer and third parties in respect of flooding and noted that NRW has informed ADAS in its report that there would be very little risk of flooding from rivers or sea occurring. Nonetheless, she considered that the evidence suggested that the sites are the subject of pooling in some areas but noted that NRW is of the view that groundwater would be controlled to around 2 metres below ground level by deep drainage channels surrounding the site. She considered that the appellants did not provide any convincing evidence that this was not the case. Accordingly, she

concluded that this was a short term limitation that does not affect the agricultural grading.

- 6.23 Whilst noting the farmers evidence that he has not produced a winter crop for the last few seasons, and some of the summer crops have been disturbed by water, she considered that there was no substantive evidence before her that normal agricultural management methods and improved land drainage could not remedy the problems and difficulties that the tenant farmer has been experiencing. Furthermore, it was noted on the site visit that a substantial proportion of the Appeal A site had recently been harvested for potatoes.
- 6.24 The Inspector therefore concluded that she had no reason to believe that the site are not Grade 2 land and thus comprise BMV agricultural land.
- 6.25 The Inspector then considered UDP policy RE1 and noted the conformity of both it and PPW in respect of the tests required. She also noted The Practice Guidance further advises that the use of high quality agricultural land and the reversibility of a development are relevant factors.
- 6.26 Having concluded that the sites are BMV land, the Inspector turned to consider the PPW requirement that such land only be developed where, amongst other things, land in lower agricultural grades is unavailable. She also noted the appellants contention that even if the sites comprise BMV land, the proposals would not result in its loss (temporary or permanent) as the sites would be continued to be grazed for sheep and the developments would be temporary and totally reversible and therefore there is no requirement to carry out any form of sequential test in relation to lesser grade land.
- 6.27 The Inspector noted the LQAS objection on the basis that there was no guarantee that the sites would be returned to their Grade 2 quality post development and as such the conservation of the land quality as a finite resource was not assured. Whilst sheep would be able to graze, the land would be out of crop production for 25 years which would alter its essential components.
- 6.28 The Inspector considered there to be a substantial risk that there would be extensive ground disturbance and importation of aggregates for trenching, access ways and structures which would result in the degradation of the quality of the agricultural land. I consider that this would be very difficult to remove in its entirety at the end of 25 years and note that TAN 6 finds the return of land to BMV grading to be seldom practicable. She gave weight to the fact that BMV land comprises only some 7% of all land and noted the Councils evidence that the area of land by the River Dee is one of the most extensive high value areas of land in Wales with its retention essential for food security.



- 6.29 The Inspector concluded that she had no reason to disagree and considered that there is a likelihood that the proposals would result in the permanent loss of a substantial portion of BMV land and noted that in any event, any agricultural use of the land would not be exploiting its full potential for a period of 25 years.
- 6.30 She also concluded that in the absence of any assessment of other available land of a lesser grade she was unable to reach a view as to whether such land is unavailable. She noted the appellants' reference to other appeal decisions and further noted that in those cases it would appear that an assessment of the availability of lesser grade land was provided. Accordingly she considered these to be materially different to the appeal proposals. She concurred with the Council's concerns that as no consideration was given to available lower grade agricultural land, and in its absence, she was unable to reach a view as to whether it is essential that the proposals take place on the BMV land.
- 6.31 Therefore, there is a likelihood that the proposals would result in the loss of the BMV land and as no evidence had been provided to demonstrate that land in lower agricultural grades is unavailable or other available lower grade land has an environmental value which outweighs the agricultural considerations, the proposals are not in accord with UDP policy RE1 or the relevant national planning policy.

#### Other matters

- 6.32 In addition to the ian issues, the Inspector considered matters in relation to;
- Flooding;
  - Ecology; and
  - Access

#### Flooding

- 6.33 The Inspector noted the comments of the appellant in respect of flooding as contributor to soil quality. She also noted that NRW had advised soil wetness was not a result of tidal or fluvial inundation at this point. She noted the site is located within Flood zone C1 and noted the exceptional circumstances within TAN15 for development in such locations. Highly vulnerable development should not be located there but concurred with both parties that the proposals did not amount to such development. However, she noted that as the land was not previously developed land it failed to be land which met the criteria in this regard. In addition, she noted that a Flood Consequence Assessment had not be submitted and therefore there was no evidence that flood risk could be properly managed.

## Ecology

- 6.34 The Inspector had regard to the proximity of the Water Bird Assemblage as a feature of the Dee Estuary Special Protection Area (SPA) and Ramsar Site but noted neither site was within either designation. Having regard to the ecological appraisals submitted with each application and the Council's assessment of likely significance, the Inspector concluded that there was no evidence that either sites was used by any species which are a feature of either designation. As such, she concluded there was no requirement for a planning obligation to make financial contribution to mitigate against any impact. Accordingly this did not impact upon the Inspectors determination.

## Access

- 6.35 The Inspector heard concerns raised by residents in relation to the condition of approach roads to the sites but noted the roads were private. She noted the construction management plans and the fact that the Local Highway Authority did not object to either proposal upon highway safety or access grounds. This matter did not impact upon her deliberations.

## **7.00 CONCLUSION**

- 7.01 The Inspector weighed all of the above matters into the planning balance in coming to her determination. She noted that the energy contributions would make significant contributions to renewable energy targets and gave this significant weight. However, she did not conclude that very exceptional circumstances sufficient to outweigh harm to the Green barrier. Therefore, the proposals fail in relation to the presumption against inappropriate development.
- 7.02 In addition, she considered the harm to the character and appearance of the area, the loss of BMV, lack of adherence to policy upon flood risk, compelling grounds to dismiss both appeals. She concluded that the temporary nature of the development would not mitigate against the effects which would be evident for a considerable period and, in respect of BMV, would result in the likely loss of a finite resource. She did not consider any mitigation would outweigh this harm in either case.
- 7.03 Accordingly, and for the reasons given above, the Inspector concluded that both of the appeals should be DISMISSED

## **8.00 COSTS DECISION**

- 8.01 The appellants made an application for costs against the Council during the course of the hearing. This application was based upon the

appellant's view that the Council, in coming to its decisions, had not had sufficient regard to the latest national policy and Ministerial guidance in relation to renewable energy generation proposals. In addition, the appellant alleged that the Council was applying policy inconsistently, especially when regard was had to recent similar proposals elsewhere in the county.

- 8.02 The Council's rebuttal of this claim highlighted that the decisions were made having regard to all applicable policies and material considerations. The Council's case pointed out that just because weight was applied differently in the planning balance by the Council in coming to its decisions, to that which the appellant considered was appropriate did not amount to unreasonable behaviour. Furthermore, The Council's case pointed out that each application had to be considered upon its own merits.
- 8.03 The Inspector considered the application in the light of advice in Circular 23/93: "Awards of Costs Incurred in Planning and Other (Including Compulsory Purchase Order) Proceedings". This advises that costs may only be awarded against a party who has behaved unreasonably and thereby caused another party to incur or waste expense unnecessarily. The Inspector had regard to the need for the LPA to evidence its stance and noted that the Council's decisions were based on two main reasons for refusal.
- 8.04 The Inspector considered that the officer reports to committee clearly set out the policy framework at both a local and national level. The reports weigh up the support at national and local levels for renewable energy generation against the issues relating to the BMV land and development in the countryside/green barrier. She considered they explain how the proposals fail to accord with national and local policy and how the significant weight to be afforded to renewable energy proposals is outweighed by other considerations. Accordingly she concluded that the Council had not behaved unreasonably in applying relative weight to the adopted plan and national planning policy as a material consideration.
- 8.05 In respect of the reason for refusal relating to BMV, the Inspector considered the Council had set out in its officer reports and evidence why it considered the sites to comprise the BMV land based on specialist advice and set out why it considered that the proposals would not comply with the applicable policies relating to the BMV land. Its reasons for recommending refusal were specified to its committee and are clearly set out in its decision notices. The Council made its case based on specialist advice and with regard to local and national policies. The Inspector considered that in order to address the concerns relating to the significant impact on the soil resource and given there was no confidence that the sites would be returned to their BMV status, the appellants would have been required to provide evidence at the appeals on this matter irrespective of the Council's

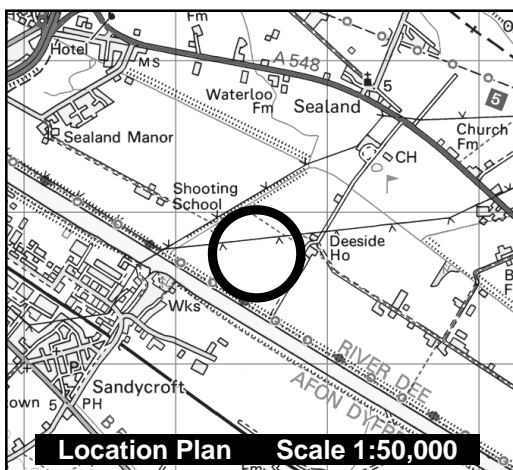
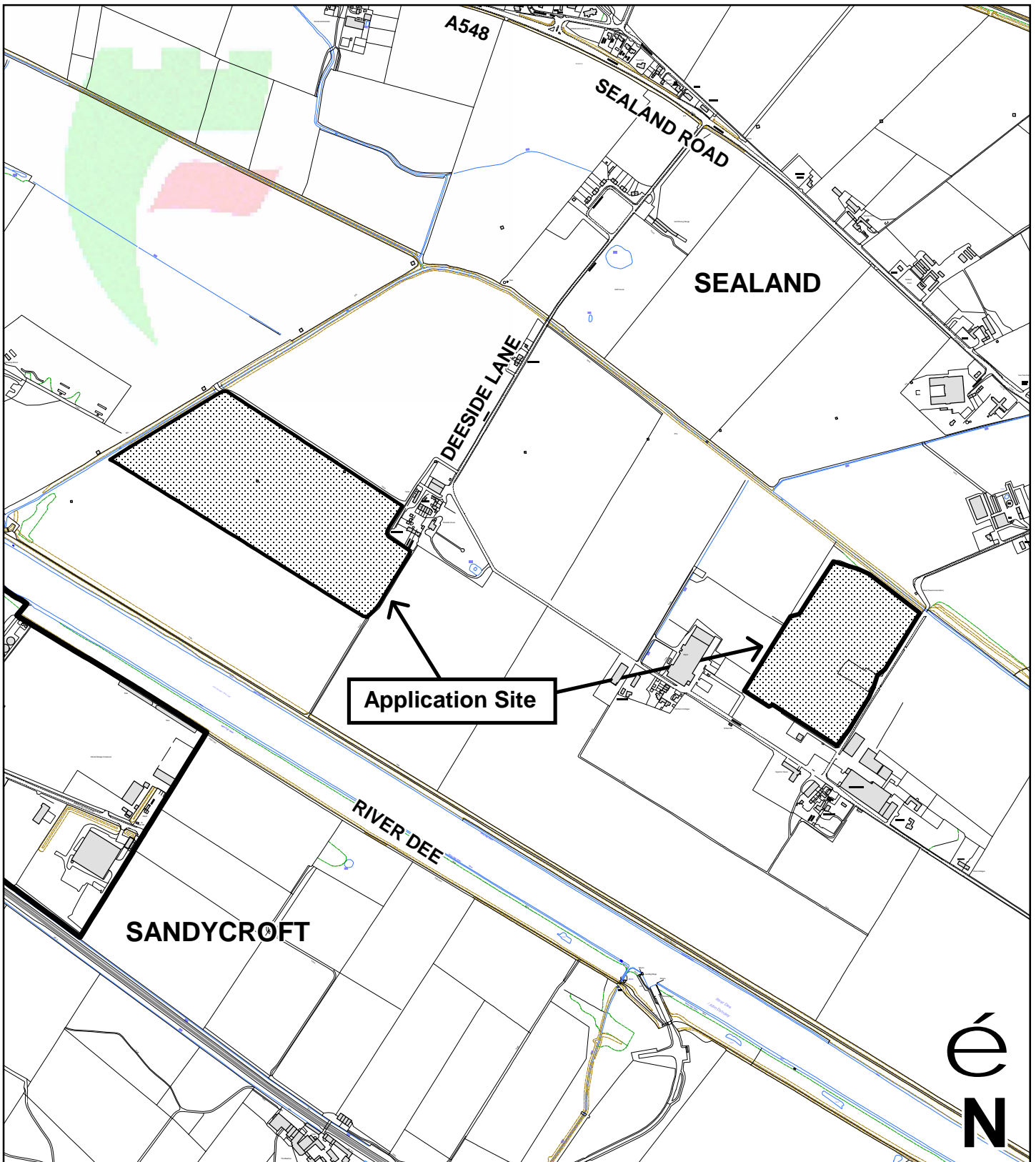
position in this regard. As such no unnecessary or wasted expense by the appellants was incurred on this matter.

- 8.06 In respect of the second reason for refusal, the Inspector concluded that the Council had clearly set out in its officer reports and evidence how it found the proposals to impact on the countryside, the green barrier designation and the character and appearance of the area. The fact that the Council found, and has since found, similar developments elsewhere in the green barrier to be acceptable does not mean that all developments in the green barrier should also be approved. She did not find that the Council has behaved inconsistently in allowing a different case on its own merits.
- 8.07 The Inspector therefore concluded that no unreasonable behaviour resulting in unnecessary or wasted expense, as described in Circular 23/93, had been demonstrated and refused to grant costs in this matter.

#### **LIST OF BACKGROUND DOCUMENTS**

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

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Chief Officer: Mr Andrew Farrow

**Legend**



Planning Application Site



Adopted Flintshire Unitary  
Development Plan  
Settlement Boundary

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Planning Application **53686**  
& **53687**

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## FLINTSHIRE COUNTY COUNCIL

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

**DATE:** **18<sup>TH</sup> JANUARY 2016**

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

**SUBJECT:** **APPEAL BY MR. R. DENNIS AGAINST THE DECISION OF FLINTSHIRE COUNTY COUNCIL TO REFUSE PLANNING PERMISSION FOR THE RENEWAL OF PLANNING PERMISSION 049755 TO ALLOW CONVERSION TO BARN TO 2 NO. DWELLINGS AT MERTYN ABBOTT FARM, LLWYN IFOR LANE, WHITFORD – ALLOWED.**

**1.00 APPLICATION NUMBER**

1.01 054446 and 054447

**2.00 APPLICANT**

2.01 Mr. R. Dennis

**3.00 SITE**

3.01 Mertyn Abbott Farm,  
Llwyn Ifor Lane, Whitford.

**4.00 APPLICATION VALID DATE**

4.01 12<sup>th</sup> October 2015 and 9<sup>th</sup> October 2015.

**5.00 PURPOSE OF REPORT**

5.01 To inform Members of a decision in respect of an appeal following refusal to grant planning permission for the conversion of barns to 2 dwellings at Mertyn Abbot Farm, Whitford. The appeal was via the written representations procedure

**6.00 REPORT**

6.01 The Inspector considered the main issue in this appeal to be the effect of the proposed development upon a protected species and with

regard to the appeal regarding the Listed Building Consent whether the works would preserve the Listed Buildings or any features of special architectural or historic interest.

- 6.02 The buildings at Mertyn Abbot consist of a farm house with a long ranges of barns and outbuildings forming three sides of a courtyard. The house itself, dates from the 16<sup>th</sup> C and is grade 11 listed, the adjoining range is grade 11 both the farmhouse and the cruck framed barn are outside the appeal site and would not be affected by the development.
- 6.03 Planning permission and listed building consent for the conversion of the remaining barns and outbuildings to 2 dwellings was renewed in October 2012, they subsequently lapsed in 2015, and this resulted in this appeal. The scheme had not altered and there has been no alternative development plan policies put in place. The thrust of national planning policy on heritage assets and other relevant matters remain as in 2012. The Inspector noted that the Council had not raised concerns with regard to the effect of the proposal on the listed buildings, and neither has Cadw made any adverse comments as such the Inspector considered that the scheme would preserve the listed buildings and any features of special architectural or historic interests, in line with the statutory requirements.
- 6.04 The finding of the bat and breeding bird survey carried out at the property in 2012 for the earlier applications confirmed that there was no sign of bat presence or breeding birds being found during the day time search of the buildings, that the building had potential for future bat habitation, but no signs of bat activity were found. No bats were recorded entering or leaving the buildings during dawn/dusk surveys. Common Pipestrelle Bats were noted passing but not foraging or returning, in light of these findings no mitigation or compensation measures were considered to be necessary.
- 6.05 Importantly it was recommended that if the renovation of the buildings was substantially delayed, as they have been, new bat surveys may be required. No new surveys accompanied the application which is the subject of the appeal and was consequently the sole reason for refusal.
- 6.06 Since the application was determined a new ecological survey was carried out in May 2016, the findings of which were similar to the original survey and the recommendation of the survey remained the same as for the earlier survey in that no litigation or compensations were considered necessary. The updated survey demonstrated that the proposed developments would not have a significant adverse effect on important species or their habitat and therefore complies with policy WB1 of the Flintshire Unitary Development Plan.
- 6.07 In line with Circular 14/16 the Use of Planning Conditions for



Development Management, the Inspector imposed conditions as suggested by the Council namely a three year commencement, to enable review species data within a reasonable period, method statement, ground floor construction details, ventilation system details, sample of materials and paint finish and other treatments to protect the listed buildings and their special features. In addition the photographic survey is necessary to retain a record of the buildings, the restriction of outdoor lighting will prevent light pollution and the enclosure specification will preserve the setting of the Listed Building and the appearance of the surrounding use.

## **7.00 CONCLUSION**

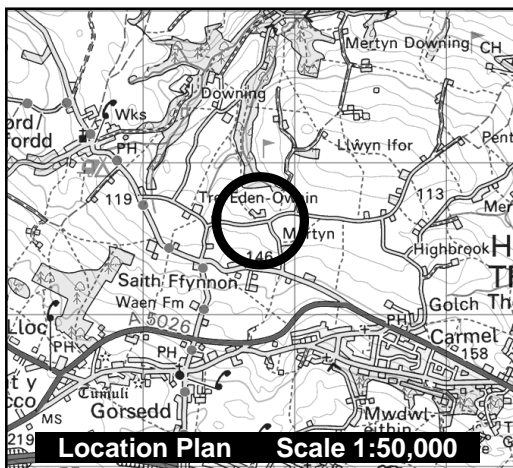
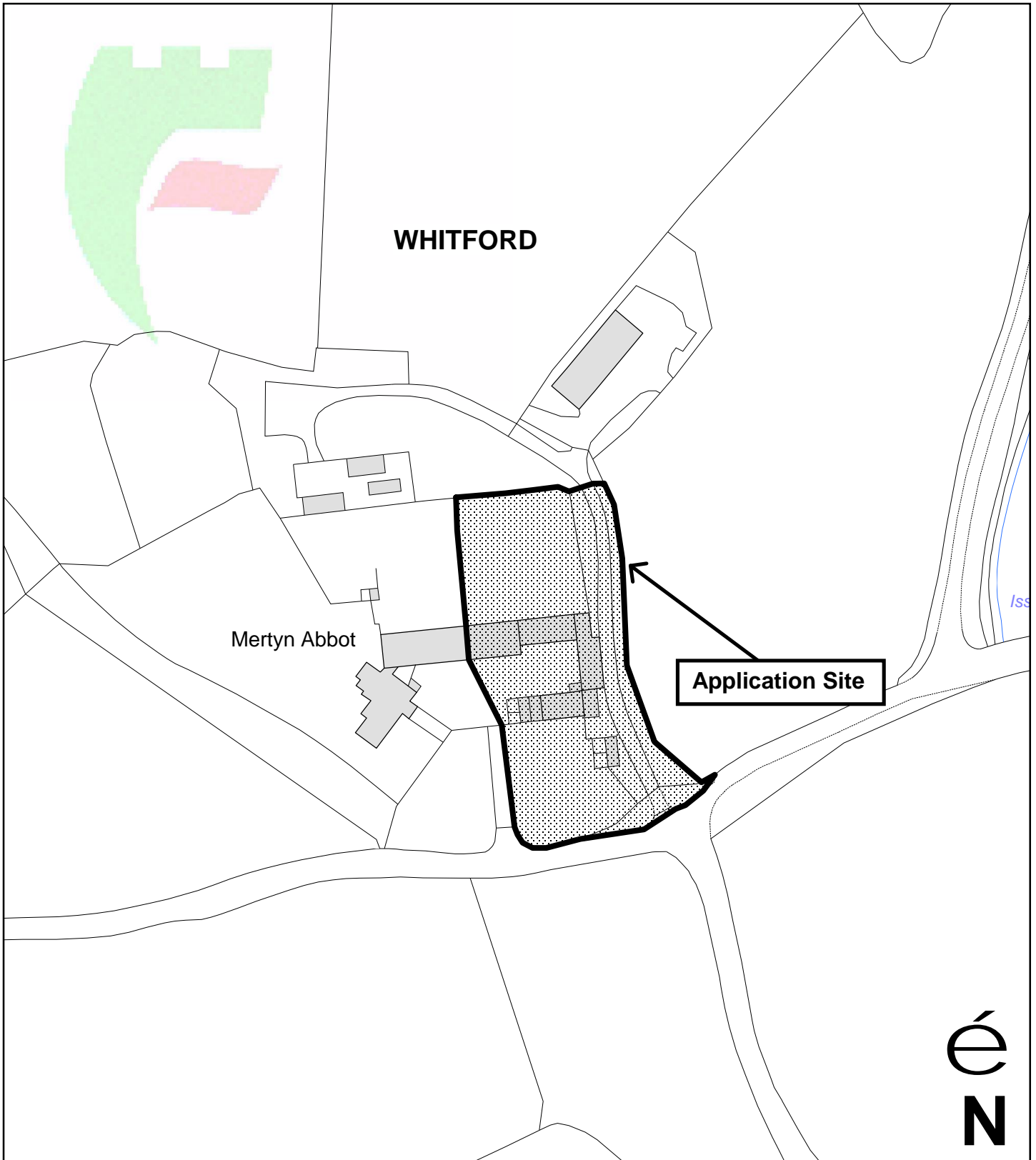
- 7.01 The Inspector concluded that for the reasons given above, that the development would preserve the listed buildings and their features of special architectural or historic interest and would not harm any important species or their habitat, and concluded that the appeal be allowed.

### **LIST OF BACKGROUND DOCUMENTS**

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

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 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	<b>54446 &amp; 54447</b>

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## FLINTSHIRE COUNTY COUNCIL

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

**DATE:** **18<sup>TH</sup> JANUARY 2017**

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

**SUBJECT:** **APPEAL BY MS P. HICKIE-ROBERTS AGAINST THE DECISION OF FLINTSHIRE COUNTY COUNCIL TO REFUSE PLANNING PERMISSION FOR AN EXTENSION TO AND CHANGE OF USE OF OUTBUILDING TO DWELLING AT AEL Y BRYN, MOEL Y CRIO, HOLYWELL – DISMISSED**

**1.00 APPLICATION NUMBER**

1.01 055299

**2.00 APPLICANT**

2.01 Ms P. Hickie-Roberts

**3.00 SITE**

3.01 Ael y Bryn,  
Moel y Crio, Holywell.

**4.00 APPLICATION VALID DATE**

4.01 18<sup>th</sup> April 2016

**5.00 PURPOSE OF REPORT**

5.01 To inform Members of the Inspector's decision in relation to the refusal to grant planning permission for the change of use of an outbuilding to a dwelling at Ael Y Bryn, Moel y Crio, Holywell. The appeal was dealt with by way of an informal hearing and was DISMISSED.

**6.00 REPORT**

6.01 Background

The application was determined under officer delegated powers and

was refused on the 8<sup>th</sup> June 2016.

6.02 Issues

The Inspector considered the main issues to be the effect of the proposal on the character and appearance of the building and the area, having regard to the development plan and national planning policies and whether there are other material considerations sufficient to outweigh any conflict with local and national policies.

6.03 The appeal site is a former agricultural building located in the open countryside off an unmade track. The building comprises of a small red brick structure, with a dual pitch asbestos cement roof and a small later lean to addition. The proposal was to convert and extend the existing building to form a single bedroom dwelling house. The field associated with the present building would comprise the domestic garden.

6.04 The Inspector noted the Flintshire Unitary Development Plan policy GEN 3 which sets out the exceptions to development in the open countryside, one of these is the conversion, extension and adaptation and reuse under policy HSG7, and whilst the policy would be supportive, this would only be if the resultant dwelling was compliant with the provisions of criteria a, b or c, in this case criterion c in that the resultant housing would contribute to an identified need for an affordable housing to meet local needs. The policy is not entirely consistent with para 3.2.2 of TAN 23 because it qualifies that buildings that possess traditional architectural and historic features are only suitable for conversion, whereas TAN 23 indicates that conversion proposals should be assessed on their impact on the fabric and character of historic buildings. It is not a requirement that buildings possess architectural and historic character for them to be considered suitable for conversion under TAN 23 guidance.

6.05 The Inspector noted the appellant's case that the proposed conversion would provide an affordable home to meet her and her partner's local housing needs in the locality. At the hearing the appellant confirmed that no evidence was offered in relation to potential employment use, other than the building would not be suitable for such a use in a cluster of residential properties having regard to issues of noise, disturbance and overall character of the area. As a result no marketing exercise was undertaken as part of the policy.

6.06 At the hearing the appellant confirmed her connections to the area as her father was brought up in Ael Y Bryn, this was demolished in 1972 and was situated to the opposite side of the appeal building. The family then moved to Terfyn Farm a mile away from the site, with the appellant living in the area and attending school locally. The appellant acquired and inherited the appeal site in 2015. The appellant and her partner are seeking to reside in the area through the conversion of

the appeal building to secure their close ties to the area and community. At the hearing the appellant confirmed their ability to afford an open market property in the area and this is compounded by the limited number of one to three bedroom houses to purchase or rent in Halkyn. The Inspector noted on the evidence provided at submission and during the hearing considered that the appellant would qualify as persona in local need for an affordable housing and that in part would contribute to that identified need. Despite the Inspectors conclusion the appellant did not consider that mechanism should be required to secure a property so that it requires the occupation and subsequent occupants to meet the identified need for affordable housing. The appellant argued that the open market value of the proposed development would self-regulate the re sale value ensuring that it would remain affordable and therefore did not require Section 106 to ensure that the property would remain as an affordable housing provision in the locality. The possibility of the use of planning conditions to secure the local need housing provision was also explored at the hearing, but was dismissed as it was considered that a planning obligation would be the only means of securing the local need affordable housing in the long term. The Inspector considered that the proposal would not deliver a local need affordable housing unit due to the lack of planning obligation to secure this. The absence of a planning obligation is a weighty reason against the development, because the resultant housing would not secure its contribution to an identified local need for affordable housing in conflict with policy HSG7.

6.07 The Inspector considered that the development is acceptable in relation to the character and appearance of the area and the building.

## **7.00 CONCLUSION**

7.01 The Inspector concluded that whilst the principle of the conversion and extension of the former agricultural building to form a dwelling was acceptable in principle, the proposal would not deliver a local need affordable housing unit due to the lack of a planning obligation to secure this obligation in perpetuity for the local community.

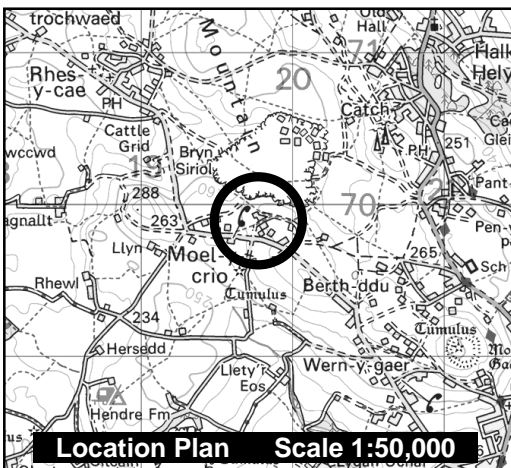
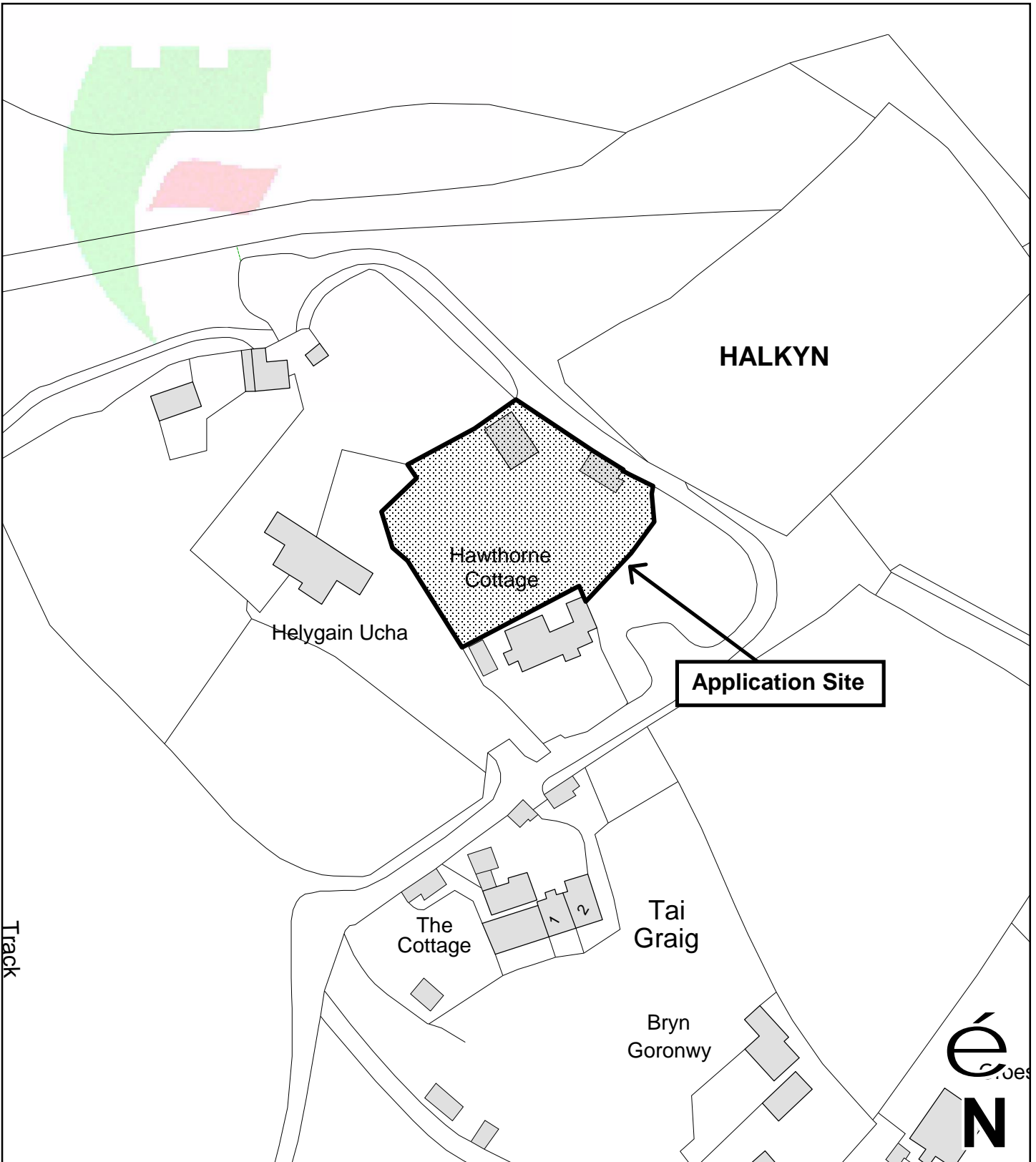
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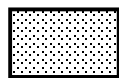
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Chief Officer: Mr Andrew Farrow

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Planning Application Site



Adopted Flintshire Unitary  
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Planning Application **55299**

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