

# 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, Sean Bibby,  
Chris Bithell, Derek Butler, David Cox,  
Adele Davies-Cooke, Ian Dunbar, Carol Ellis,  
David Evans, Veronica Gay, Patrick Heesom,  
Dave Hughes, Kevin Hughes, Christine Jones,  
Richard Jones, Richard Lloyd, Billy Mullin,  
Mike Peers, Neville Phillips and Owen Thomas

14 June 2018

Maureen Potter 01352 702322  
maureen.potter@flintshire.gov.uk

Dear Sir / Madam

A meeting of the **PLANNING COMMITTEE** will be held in the **COUNCIL CHAMBER, COUNTY HALL, MOLD CH7 6NA** on **WEDNESDAY, 20TH JUNE, 2018** 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 - 10)

To confirm as a correct record the minutes of the meeting held on 23 May 2018.

5 **ITEMS TO BE DEFERRED**

6 **REPORTS OF CHIEF OFFICER (PLANNING, ENVIRONMENT & ECONOMY)**

The reports of the Chief Officer (Planning, Environment & Economy) are enclosed.

**REPORTS OF CHIEF OFFICER (PLANNING, ENVIRONMENT & ECONOMY)**  
**TO PLANNING COMMITTEE ON 20 JUNE 2018**

<b>Item No</b>	<b>File Reference</b>	<b>DESCRIPTION</b>
<b><u>Applications reported for determination (A = reported for approval, R= reported for refusal)</u></b>		
<b>6.1</b>	057943 - A	Outline Application - For the Erection of Single Storey Dwelling to the Rear of Acrefield at Acrefield, Erw Ffynnon, Queen Street, Treuddyn. (Pages 11 - 20)
<b>6.2</b>	058108 - A	Full Application - Erection of Outdoor Gym Equipment with Associated Tarmac Hardstanding at Main Road, Higher Kinnerton. (Pages 21 - 28)
<b>6.3</b>	057726 - A	Full Application - Erection of Building to Accommodate Offices, Workshops and Storage, Construction of External Storage Areas and Car Parking at Globe Way, Buckley. (Pages 29 - 38)
<b><u>Appeal Decision</u></b>		
<b>6.4</b>	053163	General Matters Report - Appeal in the Court of Appeal brought by Flintshire County Council (The Council) against the decision of the High Court to quash the Council's grant of temporary planning permission in respect of land as residential gypsy site accommodation at Dollar Park, Bagillt Road, Holywell. (Pages 39 - 42)
<b>6.5</b>	056694	Appeal by The Strategic Land Group & Green Gates Homes (NW) Ltd Against the Decision of Flintshire County Council to Refuse Planning Permission for the Construction of 32 No. Dwellings Including New Vehicle Access Point, Public Open Space, Car Parking and Landscaping at Hawarden Road, Penyffordd - ALLOWED. (Pages 43 - 50)
<b>6.6</b>	055590	Appeal by Redrow Homes NW Against the Decision of Flintshire County Council to Refuse Planning Permission for the Erection of 186 Dwellings and Ancillary Development at Chester Road, Penymynydd - ALLOWED. (Pages 51 - 58)

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## **PLANNING COMMITTEE** **23 MAY 2018**

Minutes of the meeting of the Planning Committee of Flintshire County Council held at County Hall, Mold on Wednesday, 23 May 2018

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

Councillors: Marion Bateman, Sean Bibby, Chris Bithell, David Cox, Ian Dunbar, Carol Ellis, David Evans, Patrick Heesom, Kevin Hughes, Christine Jones, Richard Jones, Richard Lloyd, Billy Mullin, Neville Phillips and Owen Thomas

**APOLOGIES:** Councillors: Derek Butler, Adele Davies-Cooke, Veronica Gay, Dave Hughes and Mike Peers

**ALSO PRESENT:** The following attended as local Members:

Councillor Mike Lowe (as adjoining ward Member) - for Agenda Item 6.5 (058024)  
Councillor Carolyn Thomas - for Agenda Items 6.3 and 6.4 (055789) and (057943)

### **IN ATTENDANCE:**

Chief Officer (Planning, Environment & Economy); Service Manager - Strategy; Team Leader - Planning; Senior Planners; Senior Solicitor, Overview & Scrutiny Facilitator and Democratic Services Officer

## **81. DECLARATIONS OF INTEREST**

No declarations of interest were made.

## **82. LATE OBSERVATIONS**

The Chairman allowed Members an opportunity to read the late observations which had been circulated at the meeting and were appended to the agenda on the Flintshire County Council website:

<http://committeemeetings.flintshire.gov.uk/documents/s49062/Late%20observations%20-%2023rd%20May%202018.pdf?LLL=0>

The Chief Officer (Planning, Environment & Economy) advised of an amendment to the late observations. Notification had been received within the timeline from Mrs. L. Murtell who wished to speak as a member of the public for Agenda Item 6.4 - Outline Application for the Erection of Single Storey Dwelling to the Rear of Acrefield at Acrefield, Erw Ffynnon, Queen Street, Treuddyn.

## **83. MINUTES**

The draft minutes of the meeting on 25 April 2018 were submitted and confirmed as a correct record.

## **RESOLVED:**

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

### **84. ITEMS TO BE DEFERRED**

Prior to considering the items recommended for deferment, the Chief Officer (Planning, Environment & Economy) advised on the following matters:-

- Training has recently been provided by the Welsh Planning Inspectorate but only one date had been made available to Members. It had been agreed that the Chief Officer would obtain a copy of the presentation and re-deliver the training to those Members who had been unable to attend. A date for the training had been arranged for 12<sup>th</sup> July at 5.30 p.m. and an e-mail confirmation would be sent to Members in due course;
- Members of the Committee will have received an e-mail from the Senior Solicitor that a previous decision of the Planning Committee on Dollar Park had been considered by the Court of Appeal. There had not been time to add the report to the agenda for this meeting, therefore the decision would be reported to the June meeting. The decision vindicated the Planning Officer for all the work she had done on this application;
- Members of the Committee will have also received an e-mail from the Development Manager explaining the Welsh Government's (WG) recent decision to consult on the dis-application of paragraph 6.2 of Technical Advice Note (TAN) 1 and how much weight is given to the lack of a 5 year land supply for housing when determining applications for residential development. The WG consultation ends on 21<sup>st</sup> June and it was proposed that a report would be submitted to the next Planning Strategy Group meeting on 15<sup>th</sup> June to agree a consultation response on behalf of the Council.

Councillor Richard Jones commented on the recent Court of Appeal decision, as detailed above, and suggested that, whilst Emma Hancock, the Planning Officer who had dealt with the application was no longer with the Authority, a letter should be sent to her thanking her for her work and informing her of the decision, which was important in terms of a professional view point. The Committee agreed that the Chairman send a letter to Emma Hancock from following the meeting.

Councillor Chris Bithell advised of a recent meeting he had attended with the Cabinet Secretary for Energy, Planning and Rural Affairs where it had been announced that Planning Policy TAN 1 would be suspended. He had welcomed this announcement but noted that now WG were merely consulting on the dis-application. He encouraged all Members to respond to the consultation individually.

Councillor Jones asked whether, given the suspension of Planning Policy TAN 1, it was possible to stop and re-examine planning applications where there had been weight given to this Policy and permission had been granted but

certificates had yet to be issued. The Chief Officer advised that all applications were being reviewed in light of the WG consultation. For planning applications where the Committee had previously made a resolution, these had been granted in line with correct information at that time. A letter had been sent to the Inspectorate to highlight the suspension of TAN 1 in view of any appeals being considered. He agreed to circulate a copy of the list of appeals awaiting decision to the Planning Committee following the meeting. The Senior Solicitor confirmed that the consultation on TAN 1 was irrelevant to the planning decisions previously made by the Committee.

#### Items to be deferred

The Chief Officer (Planning, Environment & Economy) advised that, following the earlier discussion, the following item was recommended for deferral, to enable a revised report to be submitted to the next available meeting. The report would take into account the WG decision to potentially dis-apply Paragraph 6.2 of TAN 1:-

#### **Agenda Item 6.1 - Outline Application for Residential Development at Megs Lane, Buckley (057056)**

The Chief Officer also advised that the following item was recommended for deferral, as since the publication of the agenda, the applicant had withdrawn the application:-

#### **Agenda Item 6.2 - Outline Application for the Erection of a Dwelling at Bayonne, Hafod Road, Gwernaffield (058124)**

Councillor Jones moved the deferral of both applications which was seconded and agreed by the Committee.

#### **RESOLVED:**

That agenda item 6.1 be deferred to the next available meeting of the Committee for the reason stated.

#### **85. REPORTS OF THE CHIEF OFFICER (PLANNING AND ENVIRONMENT)**

#### **RESOLVED:**

That decisions be recorded as shown on the Planning Application schedule attached as an appendix.

#### **86. MEMBERS OF THE PUBLIC AND PRESS IN ATTENDANCE**

On commencement of the meeting, there were 48 members of the public and two members of the press in attendance.

(The meeting started at 1.00pm and ended at 2.50pm)

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**Chairman**

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**PLANNING COMMITTEE ON 23 MAY 2018**

<b>ITEM NO</b>	<b>TOWN/ COMMUNITY COUNCIL</b>	<b>SITE/PROPOSAL</b>	<b>THIRD PARTY SPEAKERS / ACTION</b>	<b>RESOLUTION</b>
057056	Buckley Town Council	Outline Application for Residential Development at Megs Lane, Buckley	-	That the item be deferred to enable a revised report to be submitted to the next available meeting.
058124	Gwernaffield Community Council	Outline Application for the Erection of a Dwelling at Bayonne, Hafod Moor, Gwernaffield	-	That the item be deferred following the applicants decision to withdraw the application.
055798	Treuddyn Community Council	Reserved Matters (Access, Appearance, Landscaping, Layout and Scale) Required by Condition No. 2 of Outline Planning Permission Ref: 051831 at Station Yard, Corwen Road, Coed Talon	Councillor Carolyn Thomas, as local Ward Member, spoke against the application.	That planning permission be granted subject to the conditions listed in the report, in accordance with the officer's recommendation.
057943	Treuddyn Community Council	Outline Application for the Erection of Single Storey Dwelling to the Rear of Acrefield at Acrefield, Erw Ffynnon, Queen Street, Treuddyn.	Mrs. L. Murtell, spoke against the application.  Mr. H. Evans, as the Agent, spoke in support of the application.  Councillor Carolyn Thomas, as local Ward Member, spoke against the application.	That the item be deferred to enable a revised report to be submitted to the next available meeting.
058024	Broughton and	Change of Use and Extension	Councillor Mike Lowe, as	That planning permission be refused

ITEM NO	TOWN/ COMMUNITY COUNCIL	SITE/PROPOSAL	THIRD PARTY SPEAKERS / ACTION	RESOLUTION
	Bretton Community Council	to Dwelling to form House in Multiple Occupation at 46 Gladstone Road, Broughton	adjoining local Ward Member, spoke against the application.  Mr. I. Hastie, spoke against the application.	against the officer's recommendation on the following grounds:  <ul style="list-style-type: none"> <li>• The development would have an unacceptable impact of the character and appearance of the area; and</li> <li>• The development would give rise to an unacceptable impact on on-street parking.</li> </ul>
<b>APPEAL</b>			<b>NOTED</b>	
56335 page 10		Appeal by Mold Golf Club Against the Decision of Flintshire County Council to Refuse Planning Permission for the Removal of Condition No. 1 Attached to Planning Permission Ref: 052686 to Allow Permanent Retention of Protective Net Barrier at Mold Golf Club, Cilcain Road, Pantymwyn – <b>ALLOWED</b>	Noted.	

## FLINTSHIRE COUNTY COUNCIL

**REPORT TO:** **PLANNING COMMITTEE**

**DATE:** **20<sup>TH</sup> JUNE 2018**

**REPORT BY:** **CHIEF OFFICER OF PLANNING,  
ENVIRONMENT & ECONOMY**

**SUBJECT:** **OUTLINE - ERECTION OF SINGLE STOREY  
DWELLING TO THE REAR OF ACREFIELD AT LAND  
TO THE REAR OF ACREFIELD, ERW FFYNNON,  
TREUDDYN.**

**APPLICATION  
NUMBER:** **057943**

**APPLICANT:** **MR BRUCE THORTON**

**SITE:** **LAND TO THE REAR OF ACREFIELD, ERW  
FFYNNON, TREUDDYN, CH7 4LW**

**APPLICATION  
VALID DATE:** **15<sup>TH</sup> JANUARY 2018**

**LOCAL MEMBERS:** **CLLR C. THOMAS**

**TOWN/COMMUNITY  
COUNCIL:** **TREUDDYN COMMUNITY COUNCIL**

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

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

### **1.00 SUMMARY**

- 1.01 Members will note that this application was an agenda item at the May Planning Committee meeting. The item was deferred to allow the late observations to be incorporated into the report as set out below.
- 1.02 This is an outline application for the erection of a single storey dwelling to the rear of Acrefield, Erw Ffynnon, Treuddyn. The main issues are considered to be the impact of the development on the character of the area and highways safety.

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

1. Outline – Reserved Matters
2. Outline – Time Limit
3. Siting, layout and design of the means of access to be submitted and approved
4. Foul/surface water discharges to be drained separately
5. No surface water to connect into public sewerage system
6. No land drainage to discharge into public sewerage system

**3.00 CONSULTATIONS**

Local Member: Cllr Carolyn Thomas

Raises a number of concerns regarding the principle of development, potential impact on the character of the area, loss of habitat and being in contravention of a historic legal agreement.

Treuddyn Community Council

The Council recommends refusal on the ground that the amenity of the original house and gardens should be retained

Highways Development Management

Raises no objection to the proposal.

Head of Public Protection

Raises no objection to the proposal.

Welsh Water/Dwr Cymru

Raises no objection to the proposal subject to conditions

**4.00 PUBLICITY**

Site Notice and Neighbour Notification

10 Letters of objection have been received raising the following objections:

- Increased traffic using private access will create more noise and effect pedestrian safety
- Concerns regarding construction traffic
- Visual impact of boundary treatment
- Impact on character
- Concerns regarding drainage and waste management

- Impact on existing planning obligations and agreements

A letter has been received from Mark Tami MP raising concerns with the existing agreement on the site. These concerns are dealt with in paragraph 7.03 and 7.04 of the report.

## **5.00 SITE HISTORY**

**4/9/12806** – Layout of roads and sewers and building plots – Consent 7<sup>th</sup> February 1984

**055980** – Outline application for the erection of 2 No. detached dwellings – Refused 6/2/2017 – Appeal Dismissed 8/8/2017

## **6.00 PLANNING POLICIES**

### Flintshire Unitary Development Plan

Policy STR1 – New Development

Policy STR4 – Housing

Policy GEN1 – General Requirements for Development

Policy GEN2 – Development Inside Settlement Boundaries

Policy D1 – Design Quality, Location and Layout

Policy D2 – Design

Policy AC13 – Access and Traffic Impact

Policy AC18 – Parking Provision and New Development

Policy HSG3 – Housing on Unallocated Sites Within Settlement Boundaries

Policy HSG8 – Density of Development

### Additional Guidance

Local Planning Guidance Note 2 – Space About Dwellings

## **7.00 PLANNING APPRAISAL**

### **7.01 The Proposal**

This application is for outline consent to erect 1no. dwelling on land to the rear of Acrefield, Erw Ffynnon, Queen Street, Treuddyn This site was previously part of the residential curtilage of Acrefield which is a detached bungalow sited within a large plot.

### The Site

**7.02** The application site previously formed part of the residential curtilage of an existing detached bungalow, “Acrefield”, Erw Ffynnon, Queen Street, Treuddyn. The site is located within the settlement boundary of Treuddyn

which is a category B settlement as defined in the Flintshire Unitary Development Plan.

### Site History

7.03

“Acrefield” is one of 13 dwellings permitted under 4/9/12806 in 1984. The development was subject to a legal agreement entered into between Alyn and Deeside District Council and Whelmar (North Wales Ltd), pursuant to Section 52 of the Town and Country Planning Act 1971, which specifies that when the site was initially subdivided into not more than 13 plots, that there would be no more than one private dwelling upon each plot.

7.04

When the agreement was made, the Council clearly considered that further development of the land was unacceptable at that time. However, this was their view at that time, more than 30 years ago, and the Local Planning Authority (LPA) has to consider the application before it today with reference to current local and national planning policy and any other material planning considerations. In this regard I consider that the Council’s historic view, which led to the agreement above being made, is only material to the extent that planning policies that existed at the time are consistent with policies as they are today and so far as other material considerations that existed at the time still exist today. The applicant, should permission be granted, may have to make arrangements to have the agreement varied or discharged prior to commencement of development, but this is immaterial to the consideration of this application. This is because any application to discharge or modify a Section 52 Agreement must be made to the Lands Tribunal under section 84 of the Law of Property Act 1925. The Lands Tribunal is capable of discharging or modifying a Section 52 Agreement without the consent of any signatories to that agreement.

7.05

Within the same site, a planning application for 2no two-storey dwellings was refused by the LPA in February 2017 and subsequently dismissed on appeal. In the appeal summary the Inspector noted that ‘there are some social and economic benefits from the proposal to support local services and to utilise and build on previously developed land. However, the Inspector concluded that there is “distinguishable harm to the character and appearance of the area and the proposal fails to accord with the development plan and national planning policies in this respect’

7.06

Close to the site an application to erect three dwellings, subdividing a plot known as Y Weirglodd, was approved at appeal, prior to the Acrefield appeal. The Inspector in this appeal distinguished Y Weirglodd as a transitional site. Y Weirglodd and the three additional dwellings are accessed off Erw Ffynnon.

7.07 Principle of Development

The site is within the settlement boundary of Treuddyn, a category B settlement as defined in the Flintshire Unitary Development Plan, where the principle of residential development is generally supported by FUDP policy HSG3. This is, however, subject to an assessment of the proposed development taking into account for example, its acceptability having specific regard to its impact on the character of the site / surroundings, adequacy of access, impact on privacy / amenity, drainage and ecology.

Character and Appearance

7.08 It is considered that there are three distinct areas which make up the character of development within this part of Treuddyn, namely:-

- a) higher density of development at Glasdir / Bro Brynog to the east of the site
- b) frontage development onto Queen Street and
- c) the 13 No. dwellings that are set within fairly substantial curtilage areas off Erw Ffynnon and Rhos Helyg.

7.09 The low density of development at Erw Ffynnon was influenced at the time by the limited capacity of the drainage system. The previous application for 2.no two story dwellings with smaller significantly smaller private amenity areas was considered to be out of character with Erw Ffynnon and Rhos Helyg.

7.10 The Inspector for the Acrefield application stated that "Acrefield commands a central position within a large group of houses with substantial gardens which is a definable characteristic of the group'. In paragraph 10 he goes on to state that despite the generous size of the proposed houses the proposal would have resulted in smaller and shallower gardens. He states "the change to the central plot would disrupt the existing spatial arrangement of properties and sizeable gardens that form the definable characteristic."

7.11 Two months prior to the appeal decision at Acrefield appeal decision, an application to erect 3no. detached dwellings at land adjacent to Y Weirglodd, Erw Ffynnon was approved at appeal. Y Weirglodd was one of the larger plots within the group of houses outlined by the Acrefield Inspector, this plot could now be subdivided into 3 smaller plots. In the Y Weirglodd appeal the Inspector found 'that the change within the context of the appeal site and the variety of layouts immediately around it, and elsewhere within the settlement, subdividing the Y Weirglodd plot in the manner proposed would not cause the character and appearance of the plot layouts on Erw Ffynnon and Rhos Helyg to be lost or unacceptably harmed'. The Inspector also noted that the 'garden area is unusually large, and if the appeal scheme were to be developed, Y Weirglodd would

remain a large house set in substantial grounds.’

- 7.12 It is considered that there has been a material change in circumstance since the original application at Acrefield for 2no two storey dwellings in that the proposal now seeks consent for one single story dwelling within the same site. This is a critical change in a proposal which is materially considering the spatial arrangement of houses set in large grounds. It is considered, that like Y Weirglodd the proposal before Members ensures that the original large house, known as Acrefield remains set set in substantial grounds. Furthermore the newly proposed dwelling would be single storey and any reserved matters application could ensure that its scale and massing was such that it also would be a large house on a large plot with substantial gardens. It is considered therefore that this proposal differs from the previous one as it protects the central group of large houses in large plots.
- 7.13 The proposal allows for a significant private amenity space for both the existing and proposed dwellings. The existing dwelling retains approximately 1400m<sup>2</sup> of garden space and the proposed dwelling has approximately 1100m<sup>2</sup>. This is well in excess of the 75m<sup>2</sup> suggested by SPG2 – Space around dwellings for three bedroom properties and gives a clear indication of the overall plot size. The garden sizes are similar in size to those of the dwellings off Rhos Helyg and considerably larger than the properties approved at Y Weirglodd which range from 375-660m<sup>2</sup>. The substantial garden proposed helps differentiate between the transitional area as identified by Y Weirglodd, as smaller plots and the central group of larger plots occupied by Acrefield.
- 7.14 It is therefore considered that as the surrounding dwellings are a mixture of types and architectural styles, with both single storey and two storey dwellings, set within a variety of plot sizes, the proposal subdivision of Acrefield is in keeping for the varied character. The dwelling could achieve adequate separation distances from surrounding properties and there are established natural boundary treatments on three sides.
- 7.15 It is considered that a proposed single storey dwelling, would be in keeping with the character of Erw Ffynnon and Rhos Helyg and this character would be would not be unacceptable harmed by the proposed development. The garden area for Acrefield is substantial and if the proposal was to take place both the existing and proposed development would result in large dwellings set within substantial grounds. A reserved matters application would ensure the Council retained control of the scale and massing of future development to ensure the character and appearance of the area was protected.
- 7.16 Concerns have been raised that the proposal is tandem development and



therefore has a negative impact on the amenity of the existing dwelling. However this was considered at the previous appeal with the Inspector noting that as the proposal would result in a small amount of shared driveway, it would not result in tandem development. The proposed access has remained unchanged from that considered at the previous appeal.

7.17 Highways Impact

Erw Fynnon does not form part of the adopted highway network and as such is a private drive. As such the suitability of the access from Queen Street to accommodate the increase in use of Erw Fynnon resulting from the proposed development is a consideration. A number of concerns have been raised in relation to the ownership of the access and grass verge.

7.18 The grass verge fronting Ty Cerrig does form part of the adopted highway network. The verge's status as highway takes precedence over any perceived Ownership recorded with the Land Registry. Consequently, the highways department are satisfied that an access with adequate visibility from and of emerging vehicles may be provided to serve both the existing and proposed development. The alignment of the access is also sufficient to allow for the 2 way movement of vehicles clear of the adopted highway.

7.19 Ecology

Concerns have been raised regarding the possible effects of the development on bats. This has been considered at the appeal stage for the previous application where Natural Resources Wales confirmed that no protected species are likely to be affected by the proposal. The site is an area of domestic garden with boundary vegetation that, along with the scale and nature of the development proposed, supports NRW's conclusion that protected species are unlikely to be affected by the proposal.

7.20 Drainage

A number of concerns have been raised regarding surface and foul water discharge, however Welsh Water have confirmed that this can be dealt with by a number of prior to commencement conditions.

**8.00 CONCLUSION**

8.01 It is considered that the proposal is acceptable in planning policy terms and, for the reasons outlined above, does not have a significant detrimental impact on the character of the area. It is considered that all other issues in relation to highways impact, ecology and drainage have been adequately addressed. Therefore the application is recommended for approval subject to the conditions outlined above.

## 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.

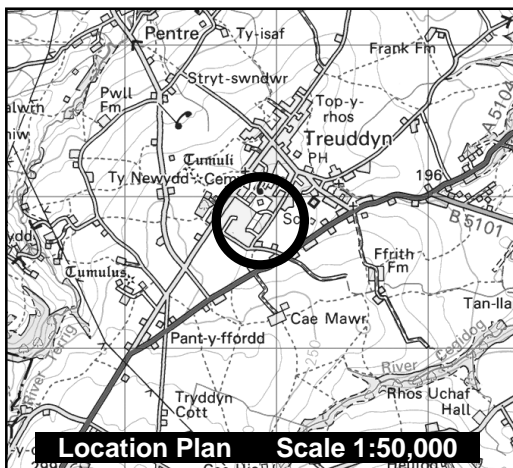
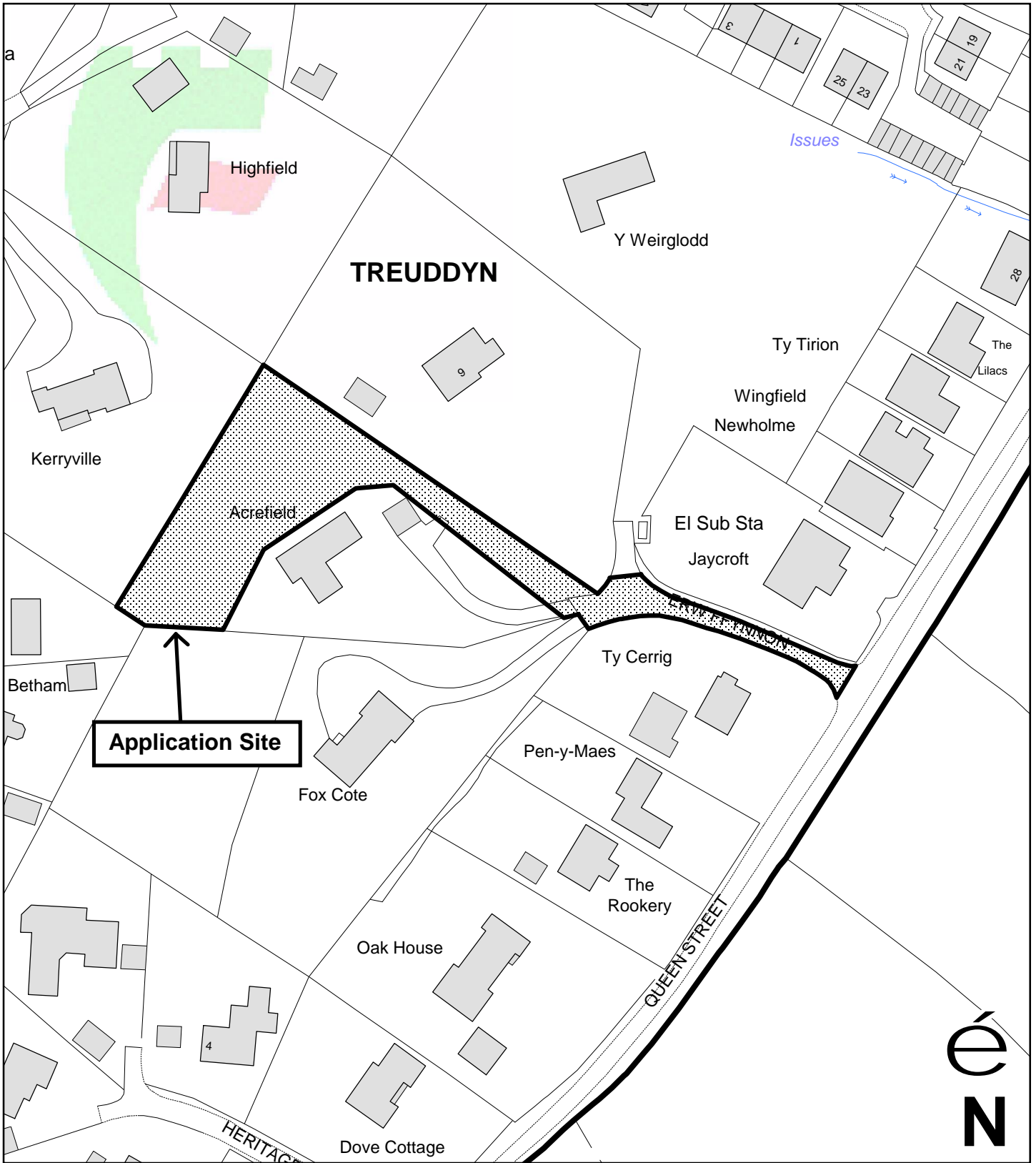
The Council has had due regard to its public sector equality duty under the Equality Act 2010.

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

**Contact Officer:** Mr D McVey  
**Telephone:** 01352 703266  
**Email:** Daniel.McVey@Flintshire.gov.uk



Planning, Environment & Economy,  
 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 2457

Planning Application **57943**

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## FLINTSHIRE COUNTY COUNCIL

**REPORT TO:** **PLANNING COMMITTEE**

**DATE:** **20<sup>TH</sup> JUNE 2018**

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

**SUBJECT:** **FULL APPLICATION- ERECTION OF OUTDOOR GYM EQUIPMENT WITH ASSOCIATED TARMAC HARD STANDING AT RECREATION GROUND, MAIN ROAD, HIGHER KINNERTON CH4 9AJ**

**APPLICATION NUMBER:** **058108**

**APPLICANT:** **HIGHER KINNERTON COMMUNITY COUNCIL**

**SITE:** **RECREATION GROUND, MAIN ROAD, HIGHER KINNERTON CH4 9AJ**

**APPLICATION VALID DATE:** **058108**  
**5<sup>TH</sup> MARCH 2018**

**LOCAL MEMBERS:** **COUNCILLOR MIKE ALLPORT**

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

**REASON FOR COMMITTEE:** **IMPACT ON AMENITY**

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

### **1.00 SUMMARY**

1.01 This is a full application for the erection of outdoor gym equipment, with associated tarmac hard standing, at the Recreation Ground, Main Road, Higher Kinnerton.

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

- 2.01 1. Time limit for commencement
2. In accordance with the approved plans

3. Landscaping scheme to be agreed
4. Landscape scheme implementation

### **3.00 CONSULTATIONS**

#### 3.01 Local Member

Councillor Mike Allport

Requests committee determination as concerns about amenity.

Higher Kinnerton Community Council

The Community Council are the applicants and have not commented on the application

Head of Assets and Transportation

Public Bridleway no. 21 abuts site but is unaffected by development. The path must be protected and free from interference from the construction.

Head of Public Protection

No adverse comments

### **4.00 PUBLICITY**

#### 4.01 Site Notice, Neighbour Notification

2 Letters of Objection received:

- Loss of view
- Noise pollution
- Air quality for users of facility
- Danger of leaf fall
- Loss of privacy
- Surface water run off

### **5.00 SITE HISTORY**

5.01 No relevant history

### **6.00 PLANNING POLICIES**

#### 6.01 Flintshire Unitary Development Plan

STR11 - Sports, Recreation and Leisure

GEN1 - General Requirements for Development

GEN2 - Development Inside Settlement Boundaries

SR1 - Sports, Recreation or Cultural Facilities

SR2 - Outdoor Activities

## **7.00 PLANNING APPRAISAL**

### **7.01 Proposal**

The proposal is for the erection of outdoor gym equipment with associated tarmac hard standing within an area of existing recreation ground.

#### **Site**

The site is a portion of the Recreation ground, Main Road, Higher Kinnerton. The site is located within the settlement boundary for Higher Kinnerton in the Unitary Development Plan.

The tarmac envelope measures approximately 11 metres by 9 metres and will contain five pieces of equipment.

#### **Main Issues**

The main issues are considered to be the principle of development, and the impact of the proposal on the amenity of nearby residents.

#### **Principle of Development**

The County Council will ensure that the sports and recreational needs of residents are met by ensuring that a diverse range of leisure activities are available, where appropriate.

For sports and recreation developments located in villages, it is considered appropriate under policy SR1 for such facilities to be located within the settlement boundary, and to be of a scale appropriate to the location. Outdoor activities will only be permitted under policy SR2 where *“the activity proposed is of a type, scale and intensity that would not unacceptably harm the character and appearance of the site and its surroundings, residential or other amenity, or any landscape, nature conservation or historic interest”*.

It is considered that the scale and location of this sports and recreation facility, within an existing area of public open space and within the settlement boundary is appropriate.

#### **Impact upon neighbouring amenity**

The proposed outdoor gym equipment will be located on the area of the recreation ground adjacent to Main Road. There is an existing hedge on the boundary. There are three two storey residential properties directly facing this site, on the other side of the Main Road. There is a bungalow next to the site adjacent to the public footpath.

Two objections have been received regarding a possible loss of residential amenity arising from the development, in particular from a loss of privacy, and the impact of the use of the equipment onto the enjoyment of the property in particular as a result of noise pollution.

The site is screened on the road and bridleway frontages by an

existing hedgerow, which should be retained, and a condition shall be imposed to that effect. The site of the equipment is located approximately 20 metres from the adjacent properties to both the north west and north east.

I consider that the location of this sports and recreation facility, within an area of existing sports and recreation use is an entirely appropriate location. The equipment is on an appropriate scale and is screened by existing landscape features. The closest residential properties are located on the opposite side of a public highway and face onto the development. The bungalow to the side of the proposal has a public bridleway between its amenity area and the proposal site. I do not consider that the proposal will give rise to unacceptable impacts upon any of the closest residential properties, and as such I consider that it accords with policy GEN1 of the Flintshire Unitary Development Plan with regard to the impact of the proposal upon amenity.

## **8.00 CONCLUSION**

The application accords with the relevant Unitary Development Plan Policies and I consider it to be acceptable in terms of its impacts upon local amenity. As such I recommend that the application is approved subject to the imposition of conditions.

### **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**

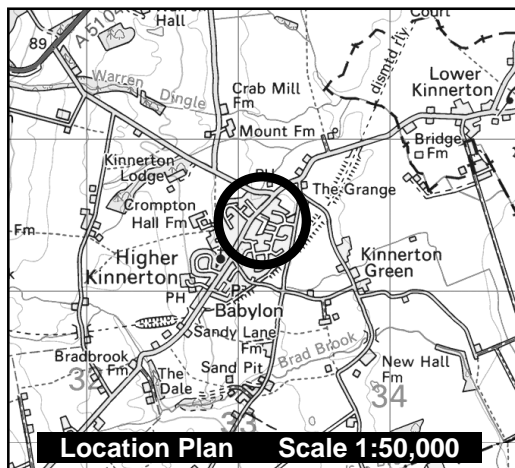
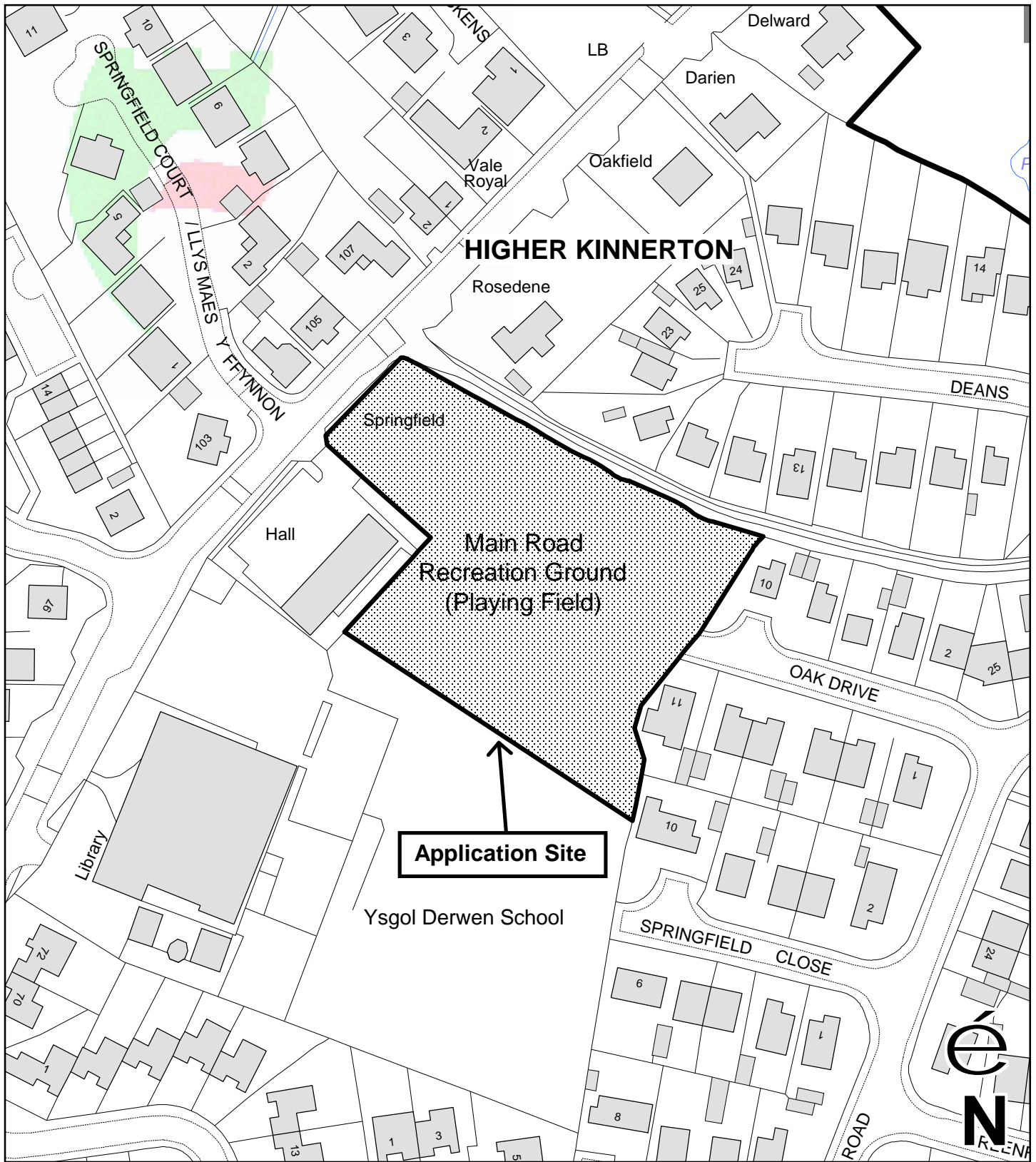
Planning Application & Supporting Documents  
National & Local Planning Policy



Responses to Consultation  
Responses to Publicity

**Contact Officer:** James Beattie  
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**Email:** james.beattie@flintshire.gov.uk

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	Planning, Environment & Economy, Flintshire County Council, County Hall, Mold, Flintshire, CH7 6NF. Chief Officer: Mr Andrew Farrow	
	<p><b>Legend</b></p> <p> Planning Application Site</p> <p> Adopted Flintshire Unitary Development Plan Settlement Boundary</p>	
<p>This plan is based on Ordnance Survey Material with the permission of the Controller of Her Majesty's Stationery Office, © Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings.          Licence number: 100023386.          Flintshire County Council, 2018.</p>		<p>Map Scale 1:1250</p> <p>OS Map ref SJ 3361</p> <p>Planning Application <b>58108</b></p>

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## FLINTSHIRE COUNTY COUNCIL

**REPORT TO:** **PLANNING COMMITTEE**

**DATE:** **20<sup>TH</sup> JUNE 2018**

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

**SUBJECT:** **FULL APPLICATION – ERECTION OF BUILDING TO ACCOMMODATE WORKSHOPS AND STORAGE, CONSTRUCTION OF EXTERNAL STORAGE AREAS AND STAFF CAR PARKING AT GLOBE WAY, BUCKLEY.**

**APPLICATION NUMBER:** **057726**

**APPLICANT:** **LESTER FABRICATIONS & CLADDING CO. LTD.**

**SITE:** **GLOBE WAY, BUCKLEY.**

**APPLICATION VALID DATE:** **3<sup>RD</sup> NOVEMBER 2017**

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

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

**REASON FOR COMMITTEE:** **MEMBER REQUEST GIVEN BACKGROUND OF PLANNING HISTORY AND PUBLIC INTEREST INTO THE PROVISION OF A COMMUNITY CAR PARK AS PART OF THE PROPOSED DEVELOPMENT.**

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

### **1.00 SUMMARY**

- 1.01 This is a full application for the proposed erection of a new industrial building with associated storage areas and staff car parking on land at Globe Way, Buckley.
- 1.02 For Members information there is a relevant planning history to this location which is referred to in paragraph 5.00 of this report.

1.03 Whilst it is acknowledged that permission has previously been obtained for the erection of a new industrial building at this location, the proposed changes to the previously permitted scheme, involving an increase in floorspace and changes to the design, cannot be treated as a non-material amendment and therefore is the subject of this current planning application.

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

- 2.01
1. Time limit on commencement.
  2. In accordance with approved plans.
  3. Details of materials to be submitted and approved.
  4. Access to provide a visibility splay of 2.4 m x 43 m in both directions.
  5. Facilities to be provided for loading/unloading and parking/turning of vehicles.
  6. Positive means to prevent surface water run-off onto highway to be provided.
  7. Land contamination report to be submitted/with remediation where necessary.
  8. Landscaping scheme to be submitted and approved.
  9. Implementation of landscaping scheme.
  10. Scheme for integrated drainage of site to be submitted and approved.
  11. Scheme for Reasonable Avoidance Measures (RAM) to be submitted/approved.

**3.00 CONSULTATIONS**

3.01 Local Members

Councillor M.J. Peers

Councillor D. Hutchinson

Requests site visit and planning committee determination.  
Preliminary views express objections in that:-

- A community car park previously agreed as part of applications 046463 and 049138 has been excluded from this current application.
- Objects to the supporting statement submitted by the applicant which considers that the car park at Mount Pleasant Road is no longer required.
- Application site encroaches onto an area previously set aside for ecological mitigation.
- Height/elevated position of building appears overpowering.

## Buckley Town Council

Recommend refusal on the following grounds:-

1. In 2009 Flintshire County Council applied to itself for outline planning permission for the site. As part of the approval for the outline planning permission, the provision of a community car park off Mount Pleasant Road was required. The Design & Access Statement stated that the car park would make a significant contribution to the health and safety issues on Mount Pleasant Road and would alleviate the problems of any increase in traffic as a result of the development.
2. In 2012, a full application as made for the site by the current applicant and was approved with the provision of a community car park.
3. The current application is for a larger building but with no car park. This cannot be acceptable.
4. The current application indicates an encroachment on to designated mitigation land.
5. The current application is for a three storey building which will have an overbearing aspect on its surroundings.

## Head of Assets and Transportation

No objection subject to the road from which access to the site is derived being offered for adoption. In addition, recommends that any permission be subject to the imposition of conditions in respect of visibility splays, parking/turning and surface water run-off.

## Head of Public Protection

No objection in principle. The area around the site has an extensive industrial history, therefore it is recommended that a contamination land investigation is undertaken, to be secured by condition.

## The Coal Authority

No objection.

## Welsh Water/Dwr Cymru

Request the imposition of a condition to ensure the submission of a satisfactory drainage scheme for the proposed development.

## Natural Resources Wales

The application site is located adjacent to the Deeside and Buckley Newt Special Area of Conservation (SAC). No objection, as the proposed development will not have a direct impact on protected species, although a current Great Crested Newt Licence that has previously been issued will need to be updated if permission is granted.

Council Ecologist

Advises that there is an existing Great Crested Newt licence in place until 2019 following previous permissions for development being obtained. Should permission for this current application be granted the licence will be updated in line with the permission and with regards to supervision of ground works. Also request the imposition of a condition to ensure copies of the licence and Method Statement are provided to the Local Planning Authority.

**4.00 PUBLICITY**

4.01 Press Notice, Site Notice, Neighbour Notification  
No responses received.

**5.00 SITE HISTORY**

5.01 046463  
Outline – 3,300 sq. m. of (B1, B2, B8) employment development on 1.8 hectares with a further 2.4 hectares as Ecological mitigation and additional car parking off Mount Pleasant Road – Permitted 1<sup>st</sup> February 2010.

049138  
Erection of a building for the use as offices, workshop and storage including external storage and car parking facilities together with the construction of a car park for 20 No. vehicles – Permitted 2<sup>nd</sup> March 2012.

**6.00 PLANNING POLICIES**

6.01 Flintshire Unitary Development Plan  
Policy STR1- New Development.  
Policy STR3 – Employment.  
Policy STR7 - Natural Environment.  
Policy GEN1 - General Development Considerations.  
Policy D2 - Location and Layout.  
Policy TWH1 - Development Affecting Trees and Woodlands.  
Policy TWH2 - Protection of Hedgerows.  
Policy WB1 - Species Protection.  
Policy WB2 Sites of International Importance.  
Policy WB3 - Statutory Sites of National Importance.  
Policy WB6 - Enhancement of Nature Conservation Interest.  
Policy AC2 - Pedestrian Provision and Public Rights of Way.  
Policy AC13 - Access and Traffic Impact.  
Policy AC18 - Parking Provision and New Development.  
Policy EM1 - General Employment Land Allocations.  
Policy EM3 - Development Zones and Principal Employment Areas.  
Policy EM6 - Protection of Employment Land.



Additional Guidance

Planning Policy Wales (PPW)

Technical Advice Note 5 – Nature Conservation & Planning

Technical Advice Note 12 – Design

Technical Advice Note 18 – Transport.

**7.00 PLANNING APPRAISAL**

**7.01 Introduction**

This full application which has been submitted by Lester Fabrications & Cladding Co. Ltd proposes the erection of a new industrial building with associated storage areas and staff car parking on land at Spencer Industrial Estate, Globe Way, Buckley.

7.02 The application site amounts to approximately 0.2 hectares in area. It is situated on the eastern edge of the settlement of Buckley and is bounded to the east by the existing Spencer Industrial Estate, to the north by the existing Household Waste & Recycling site, to the west by Etna Country Park and south by Mount Pleasant Road.

7.03 The site currently comprises three small horse grazed paddocks and two larger fields with a moderately sized pond in the south-east corner of the site. Access to the site within Spencer Industrial Estate is obtained from Globe Way.

7.04 The application site is located within the settlement boundary of Buckley and is allocated for employment use (B1 Business, B2 Industrial and B8 warehousing) within the Flintshire Unitary Development Plan by virtue of Policy EM1 (3).

**7.05 Background**

There is a planning history to this location which is referred to in paragraph 5.00 above.

7.06 In summary, outline planning permission for the erection of industrial units on the site was obtained by Flintshire County Council under 046463 in February 2010. In addition, full planning permission was obtained for an industrial building on the site in March 2012. Both applications included proposals to provide a 20 No. space car park off Mount Pleasant Road.

**7.07 Proposed Development**

The plans submitted as part of this application propose the erection of a contemporary style industrial unit. A workshop/storage area is proposed within a single storey wing, with the office area proposed within a 3 storey element incorporating in part, a mono pitch roof, projecting box at second floor and large expanses of glazing.

7.08 The proposed building measures approximately 90 m x 20 m with the 3 storey element being some 12 m in height. It is proposed to be

constructed having composite cladding external walls and roof.

7.09 Main Planning Issues

It is considered that the main planning issues to be taken into account in the determination of this application are:-

- a) Principle of development
- b) Acceptability of development from a highway perspective.
- c) Scale/form/design.
- d) Impact on ecology.

7.10 Principle of Development

The application site is within a Principal Employment Area and is allocated for general employment by virtue of Policy EM1(3). In addition, the site has previously had the benefit of both outline and full planning permission for the erection of an industrial unit, so the principle of development is well established.

7.11 Acceptability of Development from a Highway Perspective

It is acknowledged that whilst previous applications at this location for employment development were accompanied by proposals for the provision of a community car park at Mount Pleasant Road, this does not form part of this current planning application.

7.12 The initial outline application for employment development was submitted by Flintshire County Council (as then landowners) with the offer being made at that time, to provide the car park at Mount Pleasant Road as part of application 046463 permitted in 2010. The subsequent application under 049138 in 2012 also provided a car park. However on both these occasions there was no planning policy requirement for the car park to be provided. The car park was voluntarily offered as part of those proposals.

7.13 Consultation on the current application has been undertaken with the Highway Development Control Manager who raises no objection on highway safety grounds to the development proposal without the provision of the car park.

7.14 The Council have sold the site to the applicant without any requirement that the owner should provide a car-park. Consequently, the Council would look to try and provide a car park in the future. This matter should not prevent the determination of this application having regard to the consultation response from the Highway Development Control Manager. The applicant is in full ownership of the site and there is no basis in adopted planning policy which can require the owner to provide a public car park.

7.15 Scale/Form/Design

Whilst recognising that the proposed industrial building is larger and

more contemporary in its design, compared to that the subject to previous application (049138) it is located within an existing employment area where there are a range of buildings of differing scale/form/design. It is considered that this building, whilst in part higher than existing buildings within Spencer Industrial Estate, would be sympathetic to and complement this existing character and can be supported.

7.16 Impact on Ecology

The application is not within, but adjacent to, the Deeside and Buckley Newt Special Area of Conservation (SAC) at its northern and western boundaries. It is recognised that there are numerous development pressures on the SAC as a whole in this locality which, in combination with the impact of the proposed development, need to be carefully addressed.

7.17 In determination of previous applications at this location the impact of development on the SAC was the subject of (a) the imposition of conditions to safeguard protected species and their habitats and (b) a licence issued by Natural Resources Wales to ensure there is no detriment to the favourable status of Great Crested Newts (GCN).

7.18 Having regard to the above, consultation on this application has been undertaken with the NRW and the Council's Ecologist with there being no objection to the current proposal on the scale proposed, subject to their being a requirement for the previously issued GCN licence to be updated and imposition of a condition requiring submission of the up to date copy of the NRW GCN Licence and Method Statement.

**8.00 CONCLUSION**

The principle of development on this site is considered acceptable given its allocation for employment development by virtue of UDP Policy EM1(3) and the previous background of planning history.

It is acknowledged that the current proposal does not include plans for a community car park off Mount Pleasant Road but this is not considered to be an essential requirement to facilitate development. There is no objection on highway grounds following consultation with the Highway Development Control Manager.

In addition, it is considered that the scale/form/design of the proposed building is acceptable and sympathetic to existing developments at Spencer Industrial Estate. Consultation the application has also been undertaken with National Resources Wales and the Council's Ecologist given the proximity of the site to the Deeside and Buckley Newt Site Special Area of Conservation. The need to ensure that there is adequate ecological mitigation proposed to secure the protection of species/habitat is a fundamental requirement of the application in accordance with the requirements of Technical Advice

Note 5 and there is no objection subject to the implementation of Reasonable Avoidance Measures. I therefore recommend that permission be granted subject to conditions.

#### 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.

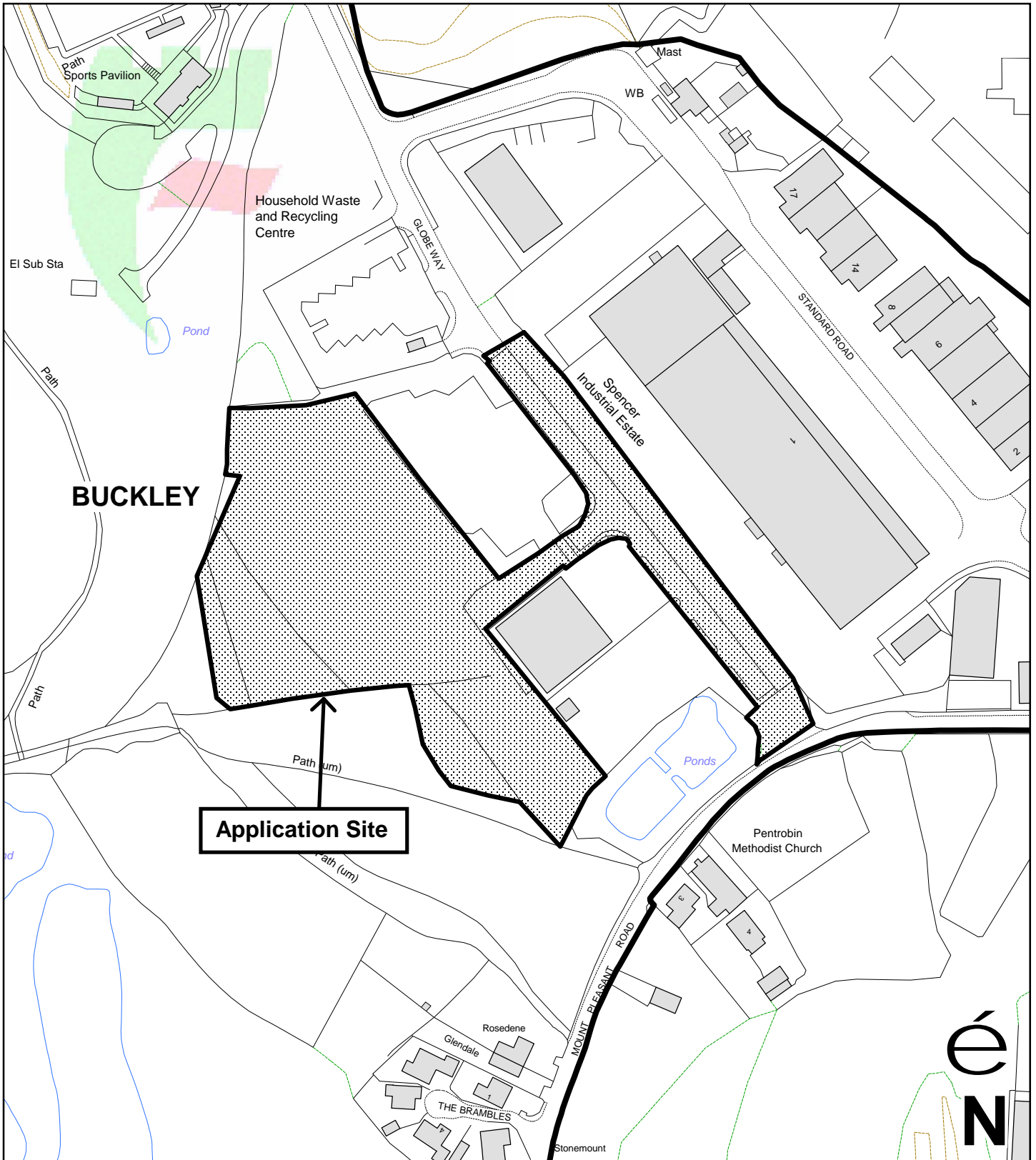
The Council has had due regard to its public sector equality duty under the Equality Act 2010.

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.

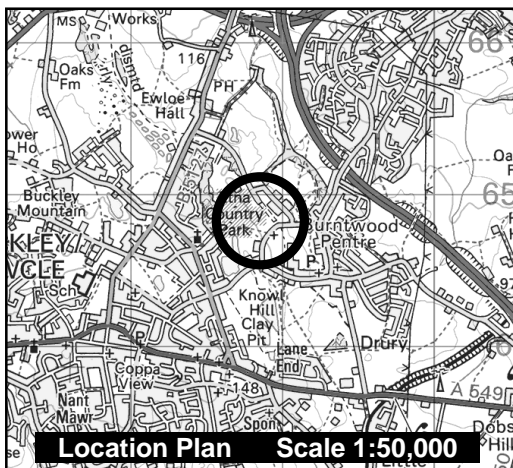
#### **LIST OF BACKGROUND DOCUMENTS**

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

**Contact Officer:** Mark Harris  
**Telephone:** (01352) 703269  
**Email:** Robert.m.harris@flintshire.gov.uk



**Application Site**



**Location Plan Scale 1:50,000**



Planning, Environment & Economy,  
 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 1:2000

OS Map ref SJ 2864

Planning Application **57726**

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## FLINTSHIRE COUNTY COUNCIL

**REPORT TO:** **PLANNING COMMITTEE**

**DATE:** **WEDNESDAY 20<sup>TH</sup> JUNE 2018**

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

**SUBJECT:** **GENERAL MATTERS REPORT - APPEAL IN THE  
COURT OF APPEAL BROUGHT BY FLINTSHIRE  
COUNTY COUNCIL (THE COUNCIL) AGAINST THE  
DECISION OF THE HIGH COURT TO QUASH THE  
COUNCIL'S GRANT OF TEMPORARY PLANNING  
PERMISSION IN RESPECT OF LAND AS  
RESIDENTIAL GYPSY SITE ACCOMMODATION AT  
DOLLAR PARK, BAGILLT ROAD, HOLYWELL**

**1.00 APPLICATION NUMBER**

1.01 053163

**2.00 APPLICANT**

2.01 MR. L. HAMILTON

**3.00 SITE**

3.01 DOLLAR PARK, BAGILLT ROAD, HOLYWELL

**4.00 APPLICATION VALID DATE**

4.01 02.11.15

**5.00 PURPOSE OF REPORT**

5.01 To advise the committee about the outcome of a legal challenge brought by the Council in the Court of Appeal against the decision of the High Court to quash the Council's grant of temporary planning permission in respect of the above application.

**6.00 REPORT**

- 6.01 At meetings of the Planning and Development Control Committee (the committee) on the 20<sup>th</sup> of January 2016 and the 24<sup>th</sup> February 2016 the committee resolved to grant planning permission for a 5 year period in accordance with the Officer's recommendation and subject to an additional condition that planning permission should cease upon identification of a suitable alternative site should such a site become available before the end of that 5 year period. Planning permission was granted accordingly on the 7 April 2016.
- 6.02 On the 11 May 2016 the grant of planning permission was judicially reviewed and on the 13 April 2017 the High Court quashed the planning permission on the basis that the Council had granted permission without having ascertained and evaluated the best interests of the children who lived on the Site. Essentially the High Court found that the Council had acted irrationally in deciding that it had enough information about the children on Site to reach a conclusion on their best interests and then to grant planning permission.
- 6.03 On the 11 May 2017 the Council appealed against the decision of the High Court to the Court of Appeal who granted the Council leave to appeal on the 19<sup>th</sup> December 2017 and subsequently heard the Council's appeal at a hearing on the 2 May 2018.
- 6.04 On the 15 May 2018 the Court of Appeal upheld the Council's appeal, restored the planning permission and awarded the Council their legal costs incurred in both the Court of Appeal and the High Court.
- 6.05 The court found that on all of the available evidence, the officer was clearly entitled to conclude that the best interests of the children, together with the other factors in favour of the grant of temporary planning permission, outweighed countervailing considerations including the planning harm the officer had identified and that the committee was entitled to resolve to grant planning permission on the basis of that advice.

## **7.00 CONCLUSION**

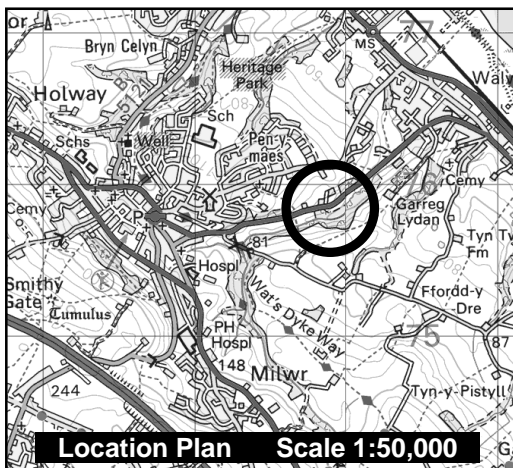
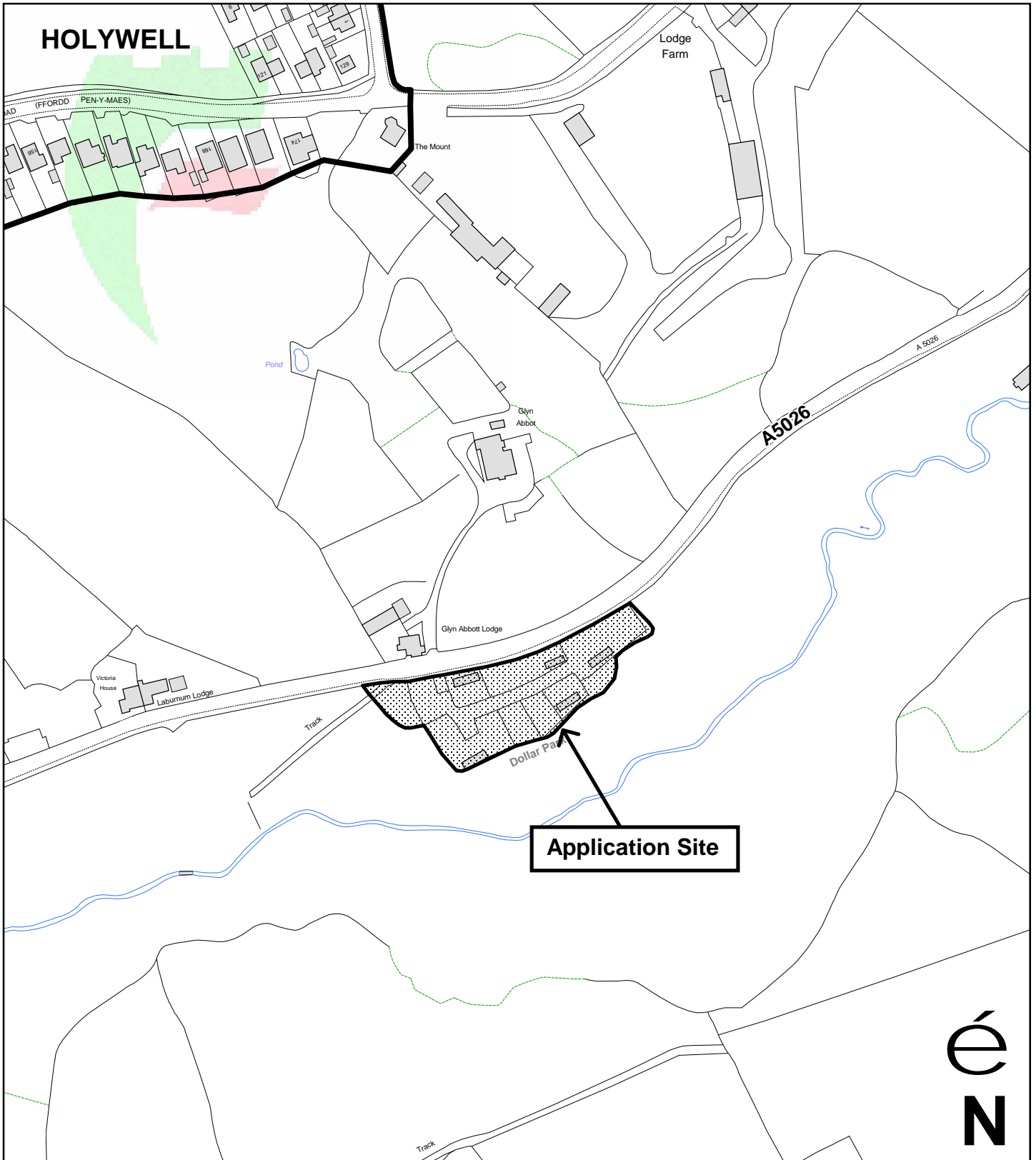
- 7.01 The Court of Appeal upheld the Council's appeal and restored planning permission, finding that the Officer was clearly entitled to give the advice in her report regarding the Children's best interests and that the committee was entitled to grant permission accordingly.

### **LIST OF BACKGROUND DOCUMENTS**

The decision of the Court of Appeal of the 15 May 2018



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

**Legend**

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

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Map Scale	1:2500
OS Map ref	SJ 1975
Planning Application	<b>53163</b>

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## FLINTSHIRE COUNTY COUNCIL

**REPORT TO:** **PLANNING COMMITTEE**

**DATE:** **20<sup>TH</sup> JUNE 2018**

**REPORT BY:** **CHIEF OFFICER OF PLANNING,  
ENVIRONMENT & ECONOMY**

**SUBJECT:** **APPEAL BY THE STRATEGIC LAND GROUP &  
GREEN GATES HOMES (NW) LTD AGAINST THE  
DECISION OF FLINTSHIRE COUNTY COUNCIL TO  
REFUSE PLANNING PERMISSION FOR THE  
CONSTRUCTION OF 32 NO. DWELLINGS  
INCLUDING NEW VEHICLE ACCESS POINT,  
PUBLIC OPEN SPACE, CAR PARKING AND  
LANDSCAPING AT HAWARDEN ROAD,  
PENYFFORDD – ALLOWED.**

**1.00 APPLICATION NUMBER**

1.01 056694

**2.00 APPLICANT**

2.01 THE STRATEGIC LAND GROUP & GREEN GATES HOMES (NW)  
LTD

**3.00 SITE**

3.01 LAND AT HAWARDEN ROAD, PENYFFORDD, FLINTSHIRE.A

**4.00 APPLICATION VALID DATE**

4.01 10<sup>TH</sup> MARCH 2017

**5.00 PURPOSE OF REPORT**

5.01 To inform Members of a decision in respect of an appeal following the refusal to grant planning permission for the erection of 32No. dwellings, including new vehicular access, public open space, car parking and landscaping on land at Hawarden Road, Penyffordd by the Local Planning Authority.

5.02 The decision to refuse planning permission was made by Members at the Planning and Development Control Committee held on 6<sup>th</sup> September 2017.

- 5.03 The appointed Planning Inspector was Mr. C. Nield.
- 5.04 The appeal was determined following a Public Inquiry which sat over 2 days on 16<sup>th</sup> & 17<sup>th</sup> January 2018 and was **ALLOWED**.

## **6.00 REPORT**

### **6.01 The Main Issues**

The Inspector noted the basis for the refusal of the application by the Local planning Authority. He also noted matters referenced by interested parties and concluded that the main issues for consideration in this case were:

1. What impact there would be upon character and appearance of the area;
2. What impacts there would be upon social cohesion;
3. What need and benefits there was for housing, taking account of the lack of a 5 year housing land supply; and
4. Whether the proposal amounted to sustainable development.

#### **Character and appearance**

The Inspector noted the wording of policies within the Flintshire Unitary Development Plan aimed at protecting areas of open countryside from non-essential and unjustified development. He noted that none of the exceptions identified within policies STR1, GEN3 and HSG4 applied in this case. He noted however that the weight to be attributed to the policies, in the light of the Council's position in respect of the lack of a 5year supply of land for housing, was reduced and therefore it was the effect of the proposals upon the site and its surroundings that needed to be considered.

The Inspector considered the views expressed by residents in terms of the buffering effect of the site between existing built form and the A550 bypass. He weighed this against the categorisation of the site in LANDMAP terms and the findings of the Landscape and Visual Impact Assessment produced by the appellant, together with his own assessment of the site in visual terms.

The Inspector concluded the proposals would result in little harm to the landscape of the character and appearance of the area and whilst the proposals were nonetheless in contravention of the identified policies, he concluded there would be little harm to the aims of those policies.

#### **Social Cohesion**

The Inspector has had regard to the genuine concerns voiced by interested parties in respect of the impact of the volume of development permitted and undertaken within the community over recent years and the impact which this is considered to have upon social and community cohesion. The Inspector notes that this

proposal in isolation would have a negligible effect upon such cohesion upon its own but notes that the concern relates to the cumulative impact. He noted the growth across the community over the plan period of the UDP, and since, and notes that this is the basis for the voiced concern.

The Inspector considered that the concerns could be described as 'social and community cohesion', and although a difficult concept to attribute to the planning framework, did fall within the concept of 'well-being' and noted the weight attached to this matter by Welsh Government.

He concluded that the proposal, when read in conjunction with other development carried out or permitted, would be harmful to social and community cohesion.

### **Need and benefits of providing housing**

The Inspector noted the common ground between parties in respect of the lack of a 5 year supply of housing land and identifies that this provides strong support for the proposals. He concluded that the proposal would make a useful contribution to meeting this shortfall in housing and also noted that the scheme made provision for 10 affordable housing units and therefore concluded that these were matter which attracted considerable weight in making a contribution to meeting well-being aims.

### **Sustainability**

The Inspector noted that, in the absence of a 5 year housing land supply, the appeal fell to be determined in the context of the provision in favour of sustainable development. He concluded that the facilities and services within Penyffordd were such that it can be considered a sustainable settlement suitable for accommodating a significant amount of development. He noted that interested parties concerns in respect of community infrastructure and traffic were not supported by the responses of the Council in respect of these matters. The Inspector had already concluded that landscape and visual impact was very limited.

He noted that there would be a loss of a limited area Best and Most Versatile Agricultural Land (BMV). However, he noted the potential of the site to fulfil its potential as BMV was limited by size and location within an isolated field. Accordingly he attributed very little weight to this issue.

He concluded that the proposal resulted in much needed housing in a sustainable location upon a sustainable site.

### **Other matters**

The Inspector also considered matters in relation drainage and contributions towards existing school infrastructure. In respect of

drainage matters, he considered that the proposals addressed concerns in relation to both foul and surface water concerns and concluded the same could be safeguarded via appropriate conditions.

In respect of school infrastructure, he noted that the Council's position was such that ample capacity would be available at primary school level (via proposals for a new school) to accommodate the number of pupils anticipated to be generated via this development. He also noted that the Council already had 5 contributions towards secondary capacity and therefore a further contribution via this proposals would not be in accord with the CIL Regulations 2010.

### **Planning Obligation**

The Inspector noted that mechanisms for the provision of affordable housing were addressed via a unilateral undertaking submitted by the appellant with the appeal. The Inspector was content that the provisions of the undertaking were necessary and compliant with the requirements of The Community Infrastructure Levy Regulations 2010.

### **Planning Conditions**

The Inspector considered the conditions suggested by the Council, the guidance in Welsh Government Circular 016/2014. A two year commencement condition was deemed appropriate to reflect the fact that scheme was seeking to address housing shortfalls across the county. Other conditions are imposed requiring agreement of materials; provision, equipping and landscaping of the play area; site landscaping, off site drainage improvements; acoustic attenuation measures; tree protection measures; land contamination investigations; scheme for external lighting; site access details; vehicle parking and turning facilities; details of the estate road and its gradient; provision of access visibility splays; provision of parking facilities; and the submission of a construction traffic management plan.

## **7.00 CONCLUSION**

- 7.01 The Inspector concluded that the proposal would cause little harm to character, appearance or landscape. He considered the proposals made a valuable contribution towards much need housing. He noted that whilst he was of the view that the proposals gave rise to a detrimental cumulative impact upon social and community Housing, he considered this was substantially outweighed by the needs for and benefits arising from the development.
- 7.02 Accordingly, or the reasons given above, the Inspector concluded that the appeal should be **ALLOWED**.

**LIST OF BACKGROUND DOCUMENTS**

Planning Application & Supporting Documents

National & Local Planning Policy

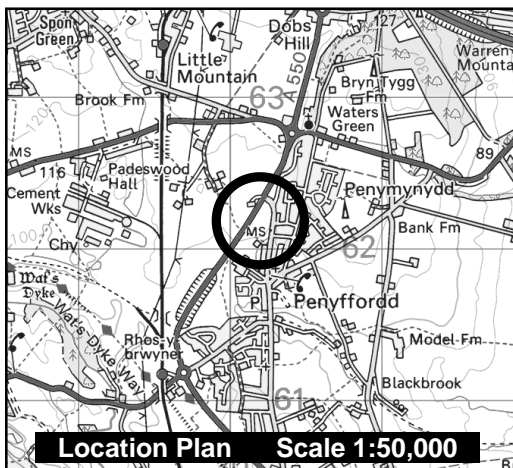
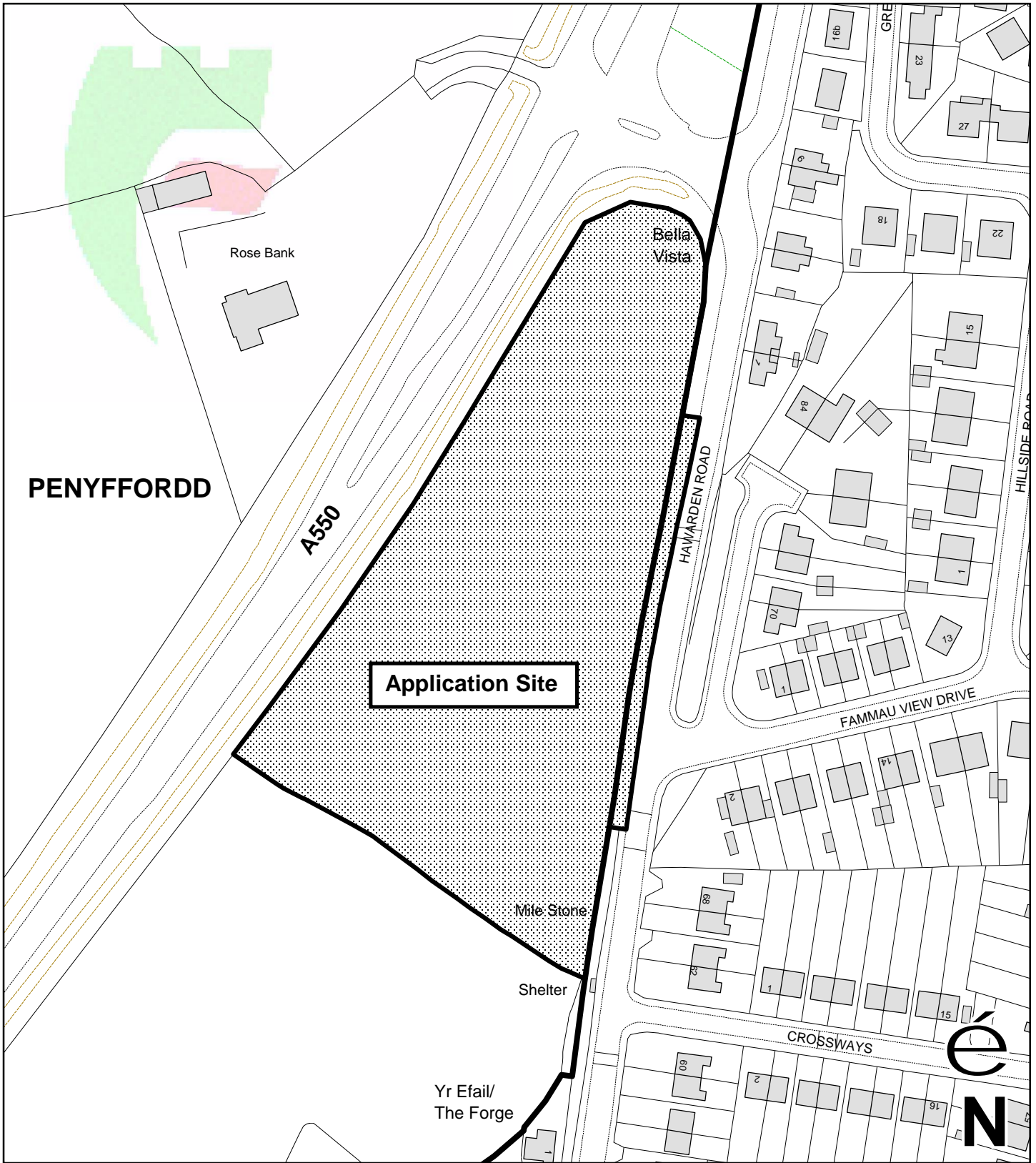
Responses to Consultation

Responses to Publicity

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Planning, Environment & Economy,  
 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 1:1500

OS Map ref SJ 3062

Planning Application **56694**

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## FLINTSHIRE COUNTY COUNCIL

**REPORT TO:** **PLANNING COMMITTEE**

**DATE:** **20<sup>th</sup> JUNE 2018**

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

**SUBJECT:** **APPEAL BY REDROW HOMES NW AGAINST THE DECISION OF FLINTSHIRE COUNTY COUNCIL TO REFUSE PLANNING PERMISSION FOR THE ERECTION OF 186 DWELLINGS AND ANCILLARY DEVELOPMENT AT CHESTER ROAD, PENYMYNYDD – ALLOWED.**

**1.00 APPLICATION NUMBER**

1.01 055590

**2.00 APPLICANT**

2.01 Redrow Homes NW

**3.00 SITE**

3.01 Chester Road, Pen-y-ffordd

**4.00 APPLICATION VALID DATE**

4.01 30<sup>th</sup> June 2016

**5.00 PURPOSE OF REPORT**

5.01 To inform Members of a decision in respect of an appeal following the refusal to grant planning permission.

5.02 The decision to refuse planning permission was made by Members at the Planning and Development Control Committee held on 12<sup>th</sup> April 2017.

5.03 The appointed Planning Inspector was Ms Joanne Burston.

5.04 The appeal was determined following a Public Inquiry which sat over 4 days on 15<sup>th</sup>, 16<sup>th</sup> and 17<sup>th</sup> November and 18<sup>th</sup> December with visit on 19<sup>th</sup> December 2017. The appeal was **ALLOWED**.

## **6.00 Report**

### 6.01 Main issues

The main issues are;

- whether the proposal is sustainable development with particular landscape character and visual amenity and community cohesion and
- Absence of a five year supply of housing land.

### 6.02 Landscape Value

The Inspector considers the appeal site has no greater landscape value than the surrounding farmland bordering the village. She noted that the site does not comprise any national or local designation but forms an attractive area of farmland with a local landscape value.

6.03 The Inspector considered the proposal would retain many landscape features and the development would not represent a substantial intrusion into the landscape. She noted that in this edge of settlement location close to housing the features of the proposal, namely housing are not uncharacteristic.

6.04 The Inspector noted the vast majority of the hedgerow would be maintained and that the hedgerows were not unique to this landscape.

6.05 Although the Inspector agrees that there would be substantial visual impact for users of the footpath but this would be transient. Also views from traffic along Chester Road would see the development as part of the continuation of the existing settlement.

6.06 Overall the Inspector concludes that although landscape harm is limited and localised the proposal still conflicts with adopted UDP policy. Therefore landscape weighs against the proposal in the planning balance

### 6.07 Community Cohesion

The Inspector notes Penyffordd is a vibrant and healthy community and notes the content of Penyffordd Place Plan. In particular the Inspector highlights paragraph 3.06 of the Penyffordd Place Plan which states the will of the village is that there is no more growth but if any more developments are permitted they can't be larger than 25 homes.

- 6.08 The Inspector identifies that the emerging Local Plan proposes to accommodate 15-20% growth in Penyffordd and that the development proposed 11% growth which doesn't undermine the future planned growth.
- 6.09 Inspector notes the site is in a sustainable location, adjacent to the eastern boundary of Penyffordd, close to public transport, services and facilities. She was satisfied the development would be served by regular bus routes and within walking distance to a train station. A new footpath and bus stop would be facilitated by the development.
- 6.10 The Inspectors refers to the fact that no evidence was produced to show the range of local services and facilities could not accommodate future occupiers. Furthermore the Inspector notes the education services did not object to the development subject to the S106. Also neither the local health centres or NHS have formally made any representations to the Council providing evidence of any capacity issues.
- 6.11 Five Year Supply of Housing
- The Inspector notes a deficit in the 5 year supply of housing and increasing the available housing would be a clear benefit, providing choice and affordable housing. The Inspector has confirmed that the appellant does not have to identify a local need for housing. Furthermore, no compelling evidence has been provided to demonstrate the proposal would not be accessible to or accommodated by existing facilities in Penyffordd in terms of rendering the proposal incompatible with the Future Generations Act with regard to cohesion.
- 6.12 The Inspector concludes the proposed development would not cause significant harm to the community or undermine the principle of the creation of cohesive communities which forms the basis of Welsh Government planning policy.
- 6.13 Other Matters  
Public Rights of Way and Open Spaces  
The Inspector considered there was no evidence the proposal would prejudice implementation of the Active Travel Act Wales or the Active Travel Map for Penyffordd.
- 6.14 There were no objections from the Public Rights of Way officer and a condition is imposed to ensure protection of the Right of Way during construction. No objections were received from Highways Authority and the Council's Public Open Space Manager is satisfied the proposed multi-use games area., together with 1.7ha of recreation space accords with the Council's LPGN 13.
- 6.15 Flooding, drainage and biodiversity issues

There are no objections from the relevant statutory undertakers and relevant planning conditions have been imposed.

#### 6.16 Obligations

The appellant provided a Unilateral Undertaking for seven areas;

- Affordable Housing – shared equity units;
- Affordable Housing – gifted units;
- Educations Contributions – Penyffordd Primary School and Castell Alun High School;
- Ecology Contributions;
- Highway Contributions;
- Off-site affordable housing contribution and
- Greenspace areas.

The appellant had disagreed with the contributioin for Castell Alun High School stating that there was capacity at other nearby schools. The Inspector that the required contribution for Castell Alun was in accordance with the SPGN 23 Developer Contribution to Education. The remaining contributions were not in dispute and the Inspector agreed were necessary.

#### 6.17 Condition

The Inspector considered the conditions suggested by the Council, against the guidance in Welsh Government Circular 016/2014. A two year commencement condition was imposed. Other conditions are imposed requiring agreement of materials; site landscaping, off site drainage improvements; details of levels; footpath and bus shelter details; public footpath protection; drainage details; acoustic glazing; ecological details; arboricultural impact assessment and provision of open space requirements.

### 7.00 CONCLUSION

7.01 The Inspector considers the proposal is sited in a sustainable location

with services, facilities and public transport in close proximity. The scheme would provide much needed market and affordable housing in Flintshire which should be given considerable weight. The proposal would provide some modest economic benefits in terms of employment and support for local shops and services. In combination these benefits carry substantial weight in favour of the scheme.

- 7.02 The proposal fails to accord with the adopted development plan as the proposal would constitute a housing development outside the defined settlement boundaries. The proposal would have a moderate impact on the local landscape character and visual amenity of the appeal site and would conflict with policies which seek to protect the landscape.
- 7.03 The Inspector finds the contribution to the supply of housing, including affordable housing, in a sustainable location to be material considerations which outweigh the conflict with the development plan and the localised landscape harm.
- 7.04 The Inspector has taken account of all the information submitted to the Inquiry and has taken account of the UU, according to its significant weight. The Inspector concludes the appeal should be allowed and planning permission

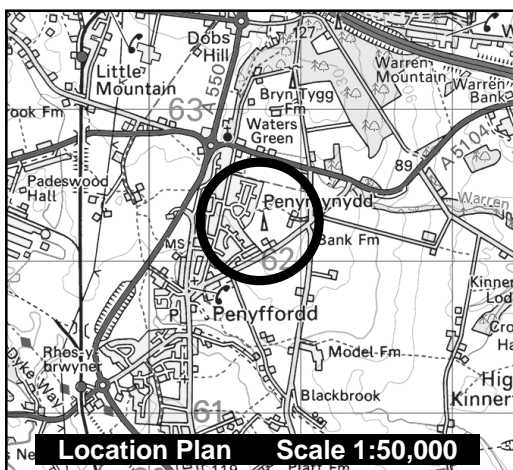
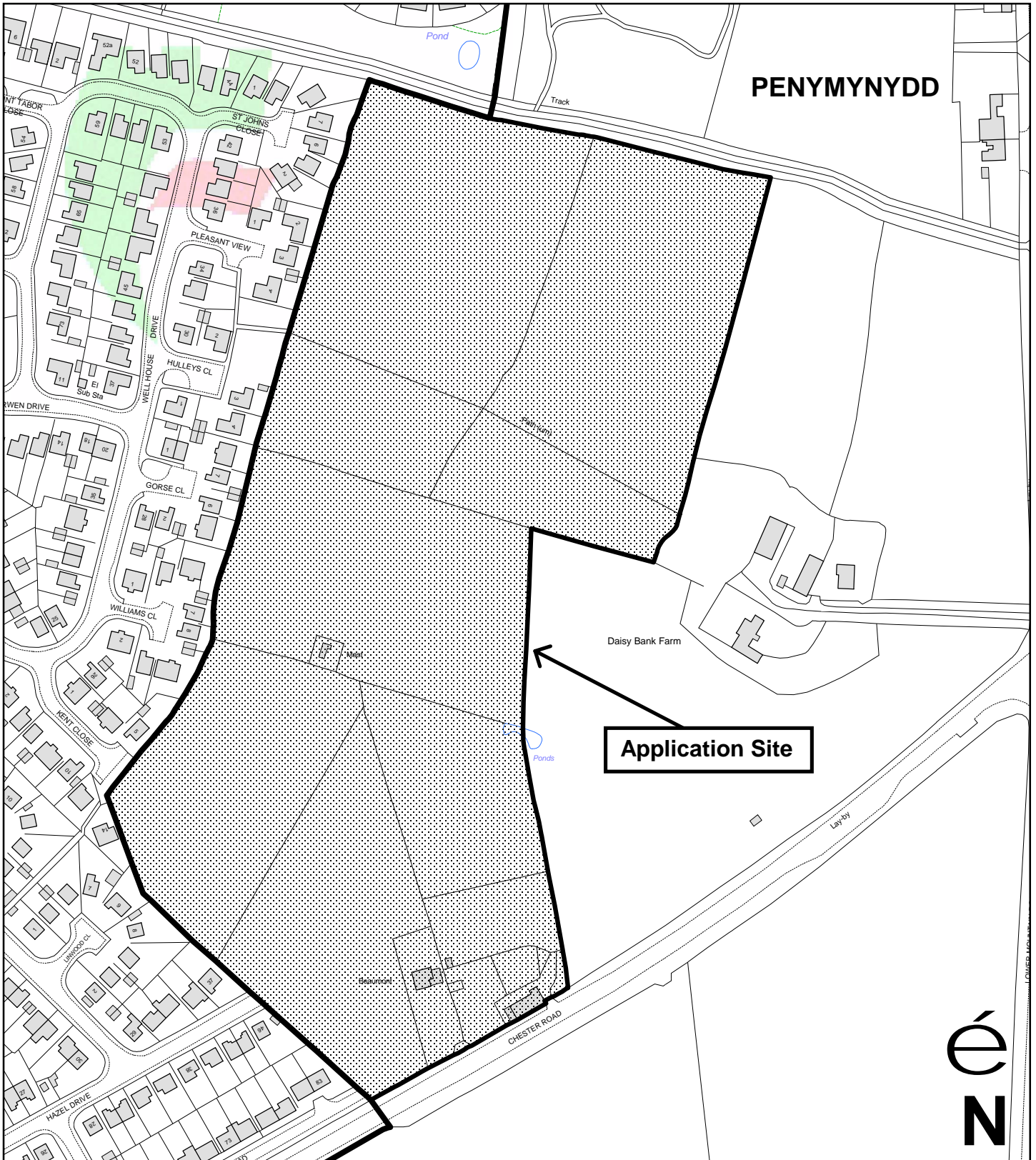
#### **LIST OF BACKGROUND DOCUMENTS**

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

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Planning & Environment,  
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 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>55590</b>

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