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Chief Officer (Governance)
Prif Swyddog (Llywodraethu)



To: Cllr David Wisinger (Chairman)

CS/NG

Councillors: Bernie Attridge, Marion Bateman,
Chris Bithell, Derek Butler, David Cox,
Adele Davies-Cooke, Ian Dunbar, 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

29 August 2019

Sharon Thomas 01352 702324
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Dear Sir / Madam

A meeting of the **PLANNING COMMITTEE** will be held in the **COUNCIL CHAMBER, COUNTY HALL, MOLD CH7 6NA** on **WEDNESDAY, 4TH SEPTEMBER, 2019** at **1.00 PM** to consider the following items.

Yours sincerely

Robert Robins
Democratic Services Manager

WEBCASTING NOTICE

This meeting will be filmed for live broadcast on the Council's website. The whole of the meeting will be filmed, except where there are confidential or exempt items.

Generally the public seating areas are not filmed. However, by entering the Chamber you are consenting to being filmed and to the possible use of those images and sound recordings for webcasting and / or training purposes.

If you have any queries regarding this, please contact a member of the Democratic Services Team on 01352 702345.

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 24 July 2019.

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 4 SEPTEMBER 2019**

Item No	File Reference	DESCRIPTION
<u>Applications reported for determination (A = reported for approval, R= reported for refusal)</u>		
6.1	060076 - R	Outline Planning Permission for 'Over-55 Retirement Housing' With Detailed Site Access and All Other Matters Reserved at Rhos Road, Penyffordd. (Pages 11 - 30)
<u>Appeal Decision</u>		
6.2	058229	Appeal by Quatrefoil Homes Ltd., Against the Decision of Flintshire County Council to Refuse Planning Permission for the Erection of 14 No. Dwellings and Associated Works at Withen Cottage & Cheshire Lane, Alttami - ALLOWED. (Pages 31 - 36)
6.3	059380	Appeal by Dr. N. Shamas Against the Decision by Flintshire County Council to Refuse Planning Permission for Change of Use to Residential From Commercial at The Nook, 1 Chapel Terrace, High Street, Bagillt - DISMISSED. (Pages 37 - 40)

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PLANNING COMMITTEE **24TH JULY 2019**

Minutes of the meeting of the Planning Committee of Flintshire County Council held at County Hall, Mold on Wednesday, 24th July 2019

PRESENT: Councillor David Wisinger (Chairman)

Councillors: Marion Bateman, Chris Bithell, Derek Butler, David Cox, Ian Dunbar, David Evans, Veronica Gay, Patrick Heesom, Kevin Hughes, Christine Jones, Richard Jones, Richard Lloyd, Billy Mullin, Mike Peers and Neville Phillips.

APOLOGIES: Councillors: Adele Davies-Cooke and Owen Thomas.

ALSO PRESENT: The following attended as local Member:
Councillor Brian Lloyd for agenda item number 6.1 (059421)

IN ATTENDANCE:

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

14. DECLARATIONS OF INTEREST

None were received.

15. 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/s55792/Late%20Observations.pdf?LLL=0>

16. MINUTES

The draft minutes of the meeting on 26th June 2019 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.

17. ITEMS TO BE DEFERRED

None of the items were recommended for deferral.

18. **REPORTS OF THE CHIEF OFFICER (PLANNING, ENVIRONMENT & ECONOMY)**

RESOLVED:

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

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

On commencement of the meeting, there were 18 members of the public and no members of the press in attendance.

(The meeting started at 1.00 p.m. and ended at 3.00 p.m.)

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Chairman

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PLANNING COMMITTEE ON 24TH JULY 2019

ITEM NO	TOWN / COMMUNITY COUNCIL	SITE / PROPOSAL	THIRD PARTY SPEAKERS / ACTION	RESOLUTION
059421	Mold Town Council	Full Application – Erection of 23 No. Apartments and Associated Works at Bryn Awel Hotel, Denbigh Road, Mold	<p>Mr M Bunting spoke against the application.</p> <p>Mr M Blayney, the applicant, spoke in support of the application.</p> <p>Councillor Brian Lloyd spoke against the application as local Member.</p>	That planning permission be granted subject to the applicant entering into a Section 106 Obligation/Unilateral Undertaken as outlined in the report, and subject to the conditions set out in the report, in line with the officer recommendation.
053325	Gwernymynydd Community Council	Outline Application for the Erection of 10 No. Dwellings at Siglen Uchaf, Ruthin Road, Gwernymynydd	<p>Mr M Meadway, on behalf of Gwernymynydd Community Council, spoke against the application.</p> <p>Mr G Scott, the agent, spoke on behalf of the application.</p>	That planning permission be granted subject to the applicant entering either into a Section 106 agreement or providing a unilateral undertaking as outlined in the report, and subject to the conditions set out in the report, in line with officer recommendation.
058561	Caerwys Town Council	Retrospective Planning Application for the Retention of 4 No. Lighting Columns and Associated Luminaires and 1 No. Luminaire on Vehicle Height Barrier at Thomas Plant Hire Depot, Llwybr Hir, Caerwys	Dr Evans spoke against the application.	That planning permission be granted subject to the conditions outlined in the report, in line with officer recommendation. An additional condition to be included to require details of hoods to be submitted and approved in writing by the Local Planning Authority and retained thereafter.

ITEM NO	TOWN / COMMUNITY COUNCIL	SITE / PROPOSAL	THIRD PARTY SPEAKERS / ACTION	RESOLUTION
APPEAL				
059344		Appeal by Mr I Parry Against the Decision of Flintshire County Council to Refuse Planning Permission for Erection of a Two Storey Side/Rear Extension with Extension Over Garage at 16 Springfield Close, Connah's Quay – DISMISSED	NOTED	
058516		Appeal by Mr S Metcalf Against the Decision of Flintshire County Council to Refuse Planning Permission for Conversion of Disused Chapel to 2 No. Dwellings and Erection of 1 No. Detached Dwelling at Roman Catholic Presbytery, Brunswick Road, Buckley – ALLOWED	NOTED	
058212		Appeal by Lingfield Homes and Property Development Limited Against the Failure of Flintshire County Council Being Able to Give Notice Within the Prescribed Period	NOTED	

ITEM NO	TOWN / COMMUNITY COUNCIL	SITE / PROPOSAL	THIRD PARTY SPEAKERS / ACTION	RESOLUTION
		of a Decision for Outline Application for Residential Development, Including Access, Open Space and all Associated Works at Woodside Cottages, Bank Lane, Drury, Buckley – ALLOWED		

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FLINTSHIRE COUNTY COUNCIL

REPORT TO: **PLANNING COMMITTEE**

DATE: **WEDNESDAY, 4 SEPTEMBER 2019**

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

SUBJECT: **OUTLINE PLANNING PERMISSION FOR 'OVER-55 RETIREMENT HOUSING' WITH DETAILED SITE ACCESS AND ALL OTHER MATTERS RESERVED AT RHOS ROAD, PENYFFORDD.**

APPLICATION NUMBER: **060076**

APPLICANT: **MR RICHARD HEATON**

SITE: **LAND SOUTH OF RHOS ROAD, PENYFFORDD**

APPLICATION VALID DATE: **17TH JUNE 2019**

LOCAL MEMBERS: **COUNCILLOR DTM WILLIAMS**
COUNCILLOR C HINDS

TOWN/COMMUNITY COUNCIL: **PENYFFORDD COMMUNITY COUNCIL**

REASON FOR COMMITTEE: **SIZE OF DEVELOPMENT**
DEPARTURE FROM DEVELOPMENT PLAN
LOCAL MEMBER REQUEST

SITE VISIT: **NO**

1.00 SUMMARY

1.01 This is an outline application for the principle of residential development to erect up to 36 residential units of over 55 retirement housing with details of the access provided, on land South of Rhos Road, Penyffordd. All other matters are reserved for future consideration.

As the site is outside the settlement boundary of Penyffordd/ Penymynydd, the application has been advertised as a departure from the development plan.

2.00 RECOMMENDATION: TO REFUSE PLANNING PERMISSION FOR THE FOLLOWING REASONS

- 2.01
1. It is considered that it would be premature to grant planning permission given the cumulative amount of speculative development already allowed on appeal and as yet undeveloped in this settlement, and also given that the Deposit LDP has been approved by the Council for public consultation beginning on 30th September 2019. Given that the Deposit LDP has allocated the largest of these speculative appeal sites, whereby this settlement makes a significant contribution to the plan's overall housing requirement, any further grant of planning permission would not be in line with the strategy of the plan and would therefore prejudice it, and the consideration of its soundness as part of the deposit consultation and subsequent examination.
 2. It is considered that there is insufficient evidence to identify the need to bring forward this speculative site outside the settlement boundary of Penyffordd/Penymyndd in advance of the deposit of the Local Development Plan. In the absence of the evidence of need, and in light of the satisfactory levels of residential housing completions, commitments and allocations in accordance with planned housing trajectory in the Deposit LDP, the Council does not attach considerable weight to the need to increase housing supply. The proposal therefore conflicts with paragraph 6.2 of TAN 1 and principles set out in section 4.2 of PPW 10 as it would prejudice the most appropriate housing sites from being brought forward as set out in the Deposit LDP.
 3. It is considered the proposal, in outline form, does not demonstrate that the proposed site is genuinely available and free from physical and economic constraint, or that it could be delivered in advance of the adoption timetable for the LDP. In this regard the proposal conflicts with the aims of section 4.2 of PPW10 which seeks to ensure a plan-led approach to deliverable housing without delay. A further reserved matters application would be required to examine a range of fundamental issues which may demonstrate the site is undeliverable.

3.00 CONSULTATIONS

- 3.01 Local Member
Councillor D Williams

* The application is premature with the progress being made on the LDP with the land outside the current settlement boundary.

- * The ward has accepted over and above the required housing allocation under the life of the developing LDP, with three applications approved on appeal for developments outside the settlement boundary. These approvals have already resulted in approximately 30% growth of the village.
- * The current application is for retirement homes that may appear appropriate, but there is no binding assurance that this will actually happen.
- * The road infrastructure of the village is inadequate to accept further development and the proposed site access will add to the dangers in this location.
- * Public transport is insufficient to support more residents in this location.
- * Amenities of the village are currently inadequate and there is a severe shortfall in public open space with no recreation provision for elderly in the ward and no proposals to provide for them.
- * Infrastructure in regards to drainage issues in particular will be unable to adequately support this proposal.
- * The village had no doctors surgery or medical centre, and there are no practical transport links to the nearest ones, and none to the hospitals.

Councillor C Hinds

Cannot agree to this application as it is premature and should come under the LDP.

The village is already overdeveloped and issues with other developments re. drainage is causing real problems within the village.

Penyffordd Community Council

- The application is for development outside the current settlement boundary is contra to extant Flintshire planning policies and should be refused on these grounds alone.
- There is no assurance that Retirement properties will actually be provided if the site is approved, and this could lead to potential other inappropriate development of the site.
- Village amenities are currently severely stretched and development of this site will add even more pressure on them.
- Infrastructure is unable to cope with current demand with serious drainage issues, public transport inadequacies, road safety issues, shortage of leisure amenities, especially for the elderly, and a range of other service requirements that are not currently catered for.
- There is insufficient car parking for visitors within the site. Inevitably it will result in on-road parking on Rhos Road which would be hazardous.
- There is no medical centre and no practical transport links to the nearest doctor surgeries or hospitals.
- Whilst these are proposed to be retirement apartments, there is no affordable provision and any need for additional housing should be

catered for in the substantial number of dwellings currently under construction or approved in the settlement.

- The application has previously been refused and has not been changed prior to re-submission, based on previous application (notably Bank Farm), this should be dismissed. The applicant has a right of appeal through the inspectorate.

Highways Development Control

No objection subject to conditions and the imposition of a planning obligation to cover improved on-road cycle ways and a controlled crossing facility on the A550.

Public Rights of Way

Public Footpath 10 abuts the site but appears unaffected by the development. The path must be protected and free from interference from the construction.

Welsh Water/Dwr Cymru

Advise that the proposed development would hydraulically overload the existing public sewerage system thereby leading to increased risk of pollution of the environment and a risk to public health and safety of existing residents. No improvements are planned within DCWW capital investment programme.

On the previous application the applicant worked closely with DCWW to find a suitable solution of which was identified part of a Hydraulic Modelling Assessment. Should you be minded to grant planning consent then it is requested that a condition is applied to require the submission of a foul water drainage scheme to be submitted to and approved by the LPA prior to development.

Ecology

The key issue on this site is the boundary trees; the tree assessment that accompanies the application references those trees to be retained – primarily the mature oaks – with certain smaller trees to be removed essentially by the new entrance. Tree/root protection would need to be conditioned in line with the agreed layout.

With regards to other ecological issues, the site due to the intensively managed grassland, has limited ecological value. The mature oaks on the western boundary have some potential as bat roosts and are the most valuable trees for nesting birds, but these are to be retained.

There is no suitable terrestrial habitat for Great Crested Newts on this site but since one has turned up within a test hole on the land to the north, (but adjacent to a pocket of unmanaged scrub which represents favourable terrestrial habitat), as such advisory notes are suggested for any planning approval, with regards to protected species.

4.00 PUBLICITY

4.01 Press Notice, Site, Notice, Neighbour Notification

3 Letters of objection received:

- Development outside settlement boundary
- Does not accord with policy
- Design, layout and scale inappropriate and out of character with locality.
- Should be considered through LDP process
- Inadequacy of local services
- Impact of apartments on neighbouring amenity
- Drainage issues

5.00 SITE HISTORY

5.01 057388- Outline application- erection of up to 36 units of over-55 retirement housing, open space and associated infrastructure with details of site access- Refused 11th September 2018

6.00 PLANNING POLICIES

6.01 Flintshire Unitary Development Plan
STR1 - New Development
STR4 - Housing
STR8 - Built Environment
STR10 - Resources
GEN1 - General Requirements for New Development
GEN3 - Development Outside Settlement Boundaries
D1 - Design Quality, Location and Layout
D2 - Design
D3 - Landscaping
TWH1 - Development Affecting Trees and Woodlands
WB1 - Species Protection
AC13 - Access and Traffic Impact
AC18 - Parking Provision and New Development
HSG4 – New Dwellings Outside Settlement Boundaries
HSG8 - Density of Development
HSG9 - Housing Mix and Type
HSG10 - Affordable Housing within Settlement Boundaries
SR5 - Outdoor Play Space and New Residential Development
EWP3 - Renewable Energy in New Development
EWP14 – Derelict and Contaminated Land
EWP16 – Water Resources
Local/Supplementary Planning Guidance Notes
LPGN 2 - Space around dwellings
LPGN 4 - Trees and Development

LPGN 9 - Affordable Housing
LPGN 11 - Parking Standards
LPGN 13 - Open Space Requirements
Planning Policy Wales Edition 10 December 2018
Technical Advice Note 1 : Joint Housing Availability Studies
Technical Advice Noise 11: Noise
Technical Advice Note 12 : Design
Technical Advice Note 18 : Transport

7.00 PLANNING APPRAISAL

7.01 Introduction

This is an outline planning application for up to 36 residential units with details of the access provided, on land south of Rhos Road, Penyffordd. It should be noted that the application relates to the specific provision of an over 55's housing proposal. All other matters are reserved for future consideration.

An identical scheme to this development has previously been considered by the Planning Committee under reference 057388. It was refused for the following reason:

1. Planning Policy Wales (9th Edition November 2016) identifies that weight can be attached to policies in emerging Local Development Plans. The Flintshire LDP is at Deposit stage. It is considered that the proposal amounts to development which individually and cumulatively, in relation to existing undeveloped commitments in this settlement, would prejudice the LDP by predetermining decisions about the scale and location of development both within this settlement and elsewhere, that ought properly to be taken in the context of preparing the Deposit LDP. Accordingly the proposals are considered to be premature, contrary to paragraphs 2.14, 2.14.2 and 2.14.3 of Planning Policy Wales (9th edition – Nov 2016.)

The current submission replicates the details previously considered, although more information has been provided with regards to the scale parameters of the proposed built form of the development. The consideration should therefore be whether the planning situation is currently materially different from the time of the previously considered proposal and whether the decision should therefore be different.

Site Description

The application site extends to 1 hectare and is located on the edge of the village of Penyffordd. To the west of the site lies the A550 with links to the A55, separated by a parcel of undeveloped land and the un-adopted road, Rhos Avenue. To the east and south is the existing residential development in Penyffordd on Westfield Drive and the existing dwellings situated along Rhos Avenue. The site is bound by

an established hedgerow to the north and western boundaries, while the southern and south eastern boundaries have an existing mature hawthorn hedge reinforced with additional tree planting.

To the north of the site it is bounded by Rhos Road, beyond which lies land which benefits from planning permission for residential development.

It is proposed that the site would be accessed via a new central access off Rhos Road. This will involve the removal of a hedgerow to achieve the required visibility splays. A 2.0m footway will be provided along the frontage of the site to Rhos Road with crossing points at either end.

The Principle of Development

The site lies outside but immediately adjacent to the settlement boundary of Penyffordd in the adopted UDP. In terms of adopted UDP policies, policy GEN3 sets out those instances where housing development may take place outside of settlement boundaries. The range of housing development includes new rural enterprise dwellings, replacement dwellings, residential conversions, infill development and rural exceptions schemes which are on the edge of settlements where the development is wholly for affordable housing.

Given that the proposal is for up to 36 units and does not fall within the scope of the above policy framework, the proposal is contrary to these policies in the adopted UDP and is a departure from the development plan, and has therefore been advertised as such.

The applicant seeks to justify the proposal on the basis of a lack of a 5 year housing land supply, the fact that the UDP is out of date and that the proposal represents sustainable development.

The Main Issues

The main issues for consideration in relation to this application are:

- The current planning policy context and the weight to give this;
- The principle of development having particular regard to prematurity;
- The merits of the application in relation to over 55s development and housing land supply, and evidence of need;
- The deliverability of the proposal.

The Current Planning Context

Prior to the 18th July 2018 paragraph 6.2 of TAN 1 required “considerable weight” to be given to the lack of housing land supply provided that the proposal was otherwise policy compliant and sustainable.

The disapplication of paragraph 6.2 has significantly altered this test. A lack of a five year land supply still remains a material planning consideration however the Local Planning Authority now considers what weight should be attached to this matter in the overall planning balance rather than the assumption set out in paragraph 6.2 that considerable weight is always attached to this matter. It is also the case that albeit informally, and by the completions method, Flintshire can demonstrate a five year supply.

It is also considered a matter of material significance that within the last two years, decisions have been taken relating to applications and appeals for residential development elsewhere in this settlement. Three significant appeal decisions (the largest of which was ultimately made by the Cabinet Secretary) have, along with existing commitments, imposed a very significant amount of as yet undeveloped growth on this settlement amounting to a total of 261 units. Whilst each appeal case has been dealt with separately and on their individual merits, there has been a failure to note the cumulative effect of the amount of growth each decision has imposed on the settlement of Penyffordd/Penymynydd. It is the view of the LPA that the level of cumulative growth imposed on this settlement is a material factor, in terms of the questionable sustainability of adding to it, and the wider implications for the distribution of growth around the County via the emerging LDP which has now reached deposit stage and where more preferable and suitable sites have been allocated elsewhere in accordance with the spatial strategy of the plan. This was the approach ultimately taken with the last application for this site and I do not consider the situation to be materially different in favour of this application, especially as the larger of the appeal sites has been allocated in the Deposit LDP and is currently under construction and therefore clearly capable of the early delivery of housing.

Also relevant is the fact that the Deposit LDP has been approved by the Council to go out for consultation beginning on 30th September 2019, with the approved plan already in the public domain. The position reached with the LDP is therefore also material to the consideration of this application and in relation to the above context.

Prematurity

There are a number of related factors to consider in relation to the prematurity of this application:

- The position reached with the LDP;
- Penyffordd's position/role within the LDP Preferred Strategy settlement hierarchy;
- The amount of cumulative housing growth already committed to this settlement.

Welsh Government guidance states that where an LDP is in preparation, questions of prematurity may arise. The refusal of planning permission on grounds of prematurity will not usually be justified except in cases where a development proposal goes to the heart of the plan. Where this cannot be demonstrated, applications should continue to be considered in light of policies within the UDP, and in accordance with national policy and guidance. In order to determine whether prematurity is an issue, Welsh Government advises that in order for a proposal for residential development, which is a departure from the development plan, to be considered premature in relation to the emerging LDP, it must be individually or cumulatively so significant that it would go to the heart of the emerging plan. That is, the proposal itself and in addition to other proposals, would together prejudice the LDP by predetermining decisions about the scale, location or phasing of new development which ought properly to be taken as part of developing the LDP.

Whilst on its own this application at 36 units would not meet this requirement, it is the view of the LPA that given the amount of growth recently imposed on this settlement by appeal decisions, the cumulative impact of adding to that with this application would be significant. This is quantified further later in this report.

Whilst account can be taken of policies in emerging LDPs, it is for the decision maker to decide the weight to attach to such policies, depending upon the stage of preparation or review. The Flintshire LDP is at the Deposit Consultation Stage defined by LDP Regulations 17-19. and has been approved by the Council to go out for consultation beginning on 30th September 2019. Whilst not adopted, given that the deposit plan has been approved by the Council and is already in the public domain, the Council considers that weight can be attributed to the LDP at this stage, in considering the conflict between it and this speculative proposal which contributes to the predetermination of the scale, location and distribution of development in this settlement and across the County at this crucial time in developing the Deposit LDP. This must particularly be the case where recent appeal decisions have cumulatively already affected the LPA's ability to not only determine the level of growth appropriate for the settlement, but elsewhere in the County via the LDP preparation process.

Accordingly, the refusal of this application in the above context on the grounds of prematurity is justified. Penyffordd and Penymynydd together are defined as a tier 3 settlement in the approved LDP Preferred Strategy sustainable settlement hierarchy. It is therefore considered to be a sustainable settlement capable of accommodating a reasonable level of growth.

It is one of 22 settlements defined in tier 3 of the Deposit LDP sustainable settlement hierarchy. Whilst the LDP deliberately does not set settlement specific growth bands or targets for settlements, the Deposit Plan does set out a broad apportionment of growth by settlement tier, as follows:

Tier 1 47%

Tier 2 36%

Tier 3 14%

Tier 4 2%

Tier 5 1%

Whilst there is no absolute requirement for each settlement in each tier to accommodate some growth, the premise behind the LDP Strategy is that the most sustainable sites will be allocated in line with the sustainable settlement hierarchy. What also has to be factored in is that the need to identify new sites in the LDP (the residual requirement) will be net of housing already completed in the plan period, sites already with permission (commitments), and allowances for small site and windfall site development. The main effect of this is that the LDP has a significant range of site and settlement options from which to select and allocate the most sustainable.

To illustrate the contribution expected from tier 3 settlements overall towards meeting the LDP housing requirement, given the LDP housing requirement is 6,950 (7,995 with 14% flexibility) and the residual requirement is 874, at the percentage contribution from tier 3 settlements (14%), the expected contribution would be 973 and 122 units respectively.

In this context, the level of undeveloped housing commitments imposed by appeal on Penyffordd/Penymynydd is significant comprising 261 units from appeals at Rhos Road (north) 40, Hawarden Road (35), and Chester Road (186).

In opposing each of these appeals, the community has consistently raised concerns about the impact that the proposed development would have on the ability of the community and settlement to successfully integrate such growth, without negatively impacting on the cohesion of the existing community. The community has also consistently felt that consideration of growth for the settlement should properly happen via the LDP process. These concerns are reiterated in the comments section of this report.

Each of the above appeal decisions has been made incrementally and without regard to the cumulative effects of granting one appeal after another. Given where this leaves this settlement, consideration needs to be given as to how the growth of this settlement should be considered holistically, and against the approved Strategy of the LDP and Deposit Plan. Otherwise, it simply cannot be a sustainable proposition to continue to incrementally consider speculative

applications in this settlement, submitted on the basis of a lack of housing land supply and previous appeal 'successes', in compliance with the requirements of TAN1, notwithstanding disapplication of para 6.2.

Equally, the knock on effects and negative impacts of continuing to commit growth in just one LDP tier 3 settlement on the ability of the LPA to implement the agreed LPD Strategy, is potentially also very significant.

To illustrate just how much growth has been committed to Penyffordd/Penymynydd by recent appeal decisions, when the total growth committed (261) is related to the expected contribution to overall growth from tier 3 settlements set out above, the growth committed in this settlement represents 27% of the contribution from all tier 3 settlements to the overall LDP growth.

There are a number of clear implications from this:

- The commitments already imposed on Penyffordd/Penymynydd are significant and potentially already in conflict with the LDP Spatial Strategy;
- Penyffordd/Penymynydd already provides one quarter of the overall tier 3 contribution to the LDP housing requirement, without considering further proposals;
- The decisions taken incrementally in relation to appeals for Penyffordd/Penymynydd have cumulatively impacted on the Council's agreed Preferred Strategy and have directly influenced the Council's considerations in producing the Deposit Plan. The larger of the three appeal sites (186 units) has been allocated in the Deposit LDP to reflect the appeal decision and also to clarify that more than sufficient sustainable provision has been made for housing.

As a consequence, any further incremental grant of planning permission in this settlement will not only impact on the settlement directly and cumulatively, but elsewhere as the Council has agreed the Deposit plan and made more sustainable provision elsewhere.

Further incremental decisions about growth in Penyffordd/Penymynydd would therefore individually and in combination with existing undeveloped commitments, be so significant as to predetermine decisions about the scale, location, distribution and phasing of housing growth which ought properly to be taken in an LDP context and would prejudice the outcome of the LDP now at Deposit. Given the stage reached, the Council has completed the plan making phase of plan production, and are now in the phase of testing and defending the plan's soundness via both the Deposit consultation and subsequent examination. Having set out its position clearly in terms of meeting its housing requirement via sustainable allocations and

maintaining a five year supply, given the outline nature of the application and lack of evidence for the specific need applied for, it would not be appropriate or necessary to attach weight to the need to increase housing supply.

The merits of the application and housing land supply

The application is put forward in outline only and on the basis of a lack of housing land supply. The site is also a candidate site as part of the LDP but has not been allocated in the Deposit plan recently approved by the Council for consultation. The Council has therefore set out the basis on which it will make provision for housing and the maintenance of a 5 year supply, which does not include the application site.

Whilst the applicant proposes that the development will specifically meet the housing needs of over 55s, no further detail, such as draft Heads of Term or a suggested condition, is provided in order to define how this need will be secured in perpetuity, or evidence of the local or wider need for such a private development or its deliverability, other than a general statement of 'compliance' with the LPA's Developer Advice Note. Whilst the comments of the Housing Strategy Manager indicate an emerging need for such accommodation generally, the applicant's "confidence" that market demand exists, coupled with the lack of an identified developer for such a specialist scheme, cast some doubt on the weight that should be given to the specific nature of the proposal.

When submitted, TAN1 directed LPAs to give speculative applications like this "considerable weight" when there was a lack of housing land supply. However, as clarified earlier this position is now different. Following the Cabinet Secretary's disapplication of paragraph 6.2 this direction no longer applies, and it is a matter for the LPA to determine the weight to be attributed to the need to increase housing land supply where an LPA has a shortfall in its housing land. Disapplication took effect from the 18th July 2018 and affects all future applications and those made but not determined at that date, which includes this application and the previously considered scheme. The Cabinet Secretary also considered in her letter that, as an overarching requirement, for sites to contribute to [LDP] housing requirements they must demonstrate deliverability.

Even if this outline proposal for over 55s accommodation could be supported by evidence of need by the applicant, this is still essentially a speculative outline application for residential development as an exception to existing development plan policy, put forward on the basis of a lack of housing land supply. Given the compelling arguments made above relating to prematurity, it is the view of the LPA that there is no over-riding case to consider making a further exception to policy to allow further speculative housing development in this settlement, at this time.

This also includes the consideration of the weight to attach to the inability of the Local Planning Authority to be able to demonstrate a 5 year land supply, which remains despite the disapplication of para. 6.2 of TAN1. Whilst some weight may attach in such circumstances until the LDP is adopted and/or the Council is able to demonstrate a 5 year land supply, the need to increase supply is not sufficiently material to outweigh the concern that the LPA has, not only for the cumulative level of undeveloped growth already imposed on this settlement by appeal decisions, but on the related effect this concentration of growth has had on the LPA's ability to implement its approved LDP strategy and given that it has now approved its Deposit LDP for consultation, this site is not allocated. This raises a number of related considerations in relation to this application:

- There is insufficient evidence to demonstrate the need for or delivery of this site given its outline status and the comments of the Cabinet Secretary about evidence of deliverability;
- Given this is a candidate site and the LDP is at Deposit with the site not allocated, the applicant should consider via the plan process the soundness of the LDP and its allocated sites, say why one or other site is not sound, and say why this site is a preferable alternative;
- Notwithstanding the Council's inability to be able to demonstrate a 5 year land supply, housing completions during the first three years of the plan period are slightly ahead of the LDP's annualised planned provision, and the plan is therefore 'on track' as far as housing delivery is concerned;
- Of the 2 strategic sites and 11 other housing sites allocated in the Deposit LDP, at least 5 sites have the ability to provide the early delivery of housing prior to LDP adoption, maintaining the above rate of delivery, with the largest site in Penyffordd already under construction;
- The housing trajectory drawn up to support the Deposit LDP shows that the plan can deliver housing consistently through the plan period ensuring the maintenance of a 5 year supply.

The deliverability of the proposal

Given the outline status of the application and the lack of evidence to support the delivery of this specific need sought as an exception to the adopted UDP and the Deposit LDP, even if this site were granted an outline consent the Council does not consider that it is feasible or realistic for this site to deliver housing in a more timely manner than the sites allocated in the Deposit LDP given the timetable to adoption and the ability of some LDP allocations to delivery early housing. By the time the site could gain an outline permission, discharge any necessary conditions, design a suitable scheme, carry out a PAC and then submit, have considered, and gain a reserve matters consent, identify a developer and then begin work on site, this could easily be 2-3 years from the outline stage. As such there would be no benefit

to considering the merits of this speculative scheme as an exception to policy, over the clear direction of travel and delivery position outlined in the Deposit LDP.

The sustainability of the proposal

Notwithstanding the fundamental conclusions reached above, the site is not necessarily in an unsustainable location, or that the site's development would not be a sustainable proposition. Central to such a consideration is the degree to which the proposal would satisfy the key planning requirements which are for completeness, considered briefly below, as well as their ability to comply or be acceptable:

Highways access, safety and traffic generation

A new access is proposed off Rhos Road which can be designed to meet relevant standards. The Highway Authority do not object subject to conditions and provisions for Active Travel improvements.

Landscape & Visual Impact

The submitted LVIA concludes the impact of the development are low and the development will easily assimilate into the urban context, partly given the site's location between the existing settlement and the A550. It therefore represents infill development.

Drainage Issues

There are no objections from DCWW regarding surface water and foul disposal subject to conditions.

Affordable Housing

The applicant agrees to the imposition of a condition requiring 30% of the development to be offered. In compliance with the LPAs affordable housing requirements.

Open Space

Whilst Aura have not responded to the consultation. They previously indicated that it would be their intention to seek financial contributions for offsite provision. There is open space within the site, although without the consultation response I am unable to say whether this is acceptable. It is not considered that it would be appropriate to require an area of play equipment on the site given the proposed user demographic.

Education

Given the proposal is for over 55s this falls within the 'exceptions' element of the SPG and the development is exempt from education contributions.

CIL Compliance

Members will be aware that where it is recommended that planning permission be granted, I would set out the consideration of this issue in relation to the CIL Regulations and its impact upon any suggested

S.106 Agreement. However, in view of the recommendation that permission be refused, I have in this case refrained from so doing at this stage.

Other Matters

Objections have been raised based on scale, design and layout of residential dwellings. As this is an outline application matters of such detail would be assessed at the reserved matters stage, an outline application can only set out the expected parameters of scale.

Furthermore as the application is in outline form only matters relating to living conditions cannot yet be considered as it would be unclear what interface relationships and other private/public space at this stage. These matters would be explored in a future reserved matters application if this application were to be approved.

8.00 CONCLUSION

A central premise of the Planning Acts is that the basis for making decisions on planning applications should be in accordance with the development plan unless other material considerations dictate otherwise. It is also clearly recognised that in considering applications, each case must be considered on its merits. Whilst both of these principles have been appropriately considered in assessing this application, including the sustainability of the proposal and the weight to apply to a lack of housing land supply, it has also been important to consider the stage reached with the LDP as part of the planning balance, given the significant undeveloped housing commitments imposed on this settlement and the impact of this not only for the settlement, but also for the LPAs ability to implement the approved LDP Preferred Strategy and develop the deposit LDP.

Whilst it is not disputed that considered on its own the scale and location of this proposal in relation to the existing settlement is potentially sustainable, particularly given how a similar scale of development was approved at appeal to the north of Rhos Road opposite this site, in the current planning context this is not sufficient to justify approval of the application.

This is because the current context has changed significantly since the submission of this application and during its consideration. These changes are significant and relate to the large amount of commitments imposed on this settlement by appeal decisions, the disapplication of paragraph 6.2 of TAN1, and the position reached with the LDP.

In relation to the commitments imposed on the settlement by recent appeal decisions, these amount to 261 as yet undeveloped housing units. This is a large scale of growth for an LDP tier 3 settlement which

represents 27% of the expected contribution of all tier 3 settlements to the LDP housing requirement.

This is already disproportionate and results from incremental appeal decisions taken with no regard for cumulative impacts on this settlement or the knock-on effects for the implementation of the LDP spatial strategy.

This is a key point and a failing of the way in which appeals have been dealt with incrementally in this settlement. These decisions have failed to recognise the point at which it becomes potentially unsustainable to keep on incrementally permitted growth in a balanced sense, or the effects on the wider plan making process.

Given the above, it cannot be a sustainable proposition to keep on approving incremental speculative applications, such as this proposal, without regard to the cumulative effect on this settlement, and wider strategic impact on the emerging LDP. This wider consideration cannot be made on the basis of determining an individual application, and notwithstanding the apparent potential sustainability of this proposal in its own right, this is outweighed by the need to properly consider the growth of this settlement and elsewhere in Flintshire, holistically, via the LDP process.

To determine the proposal now is therefore not a sustainable proposition. As such this guides the LPA is determining the weight to attach to a lack of housing land supply, following disapplication of para. 6.2. Given the LPA is currently not required to apply "considerable weight" to this factor, a minimum requirement of the proposal to give weight to a lack of supply, must be that the proposed is sustainable at this time. From the above the LPA has demonstrated that this is not the case and as such the lack of a housing land supply is not sufficient to outweigh the harm that further incremental speculative growth would cause both to this settlement, and to the wider emerging LDP. Furthermore the Deposit LDP has now been approved by the Council for consultation and this site is not allocated; housing completions during the first three years of the plan period are at or slightly ahead of the annualised planned growth; a number of allocated sites in the Deposit LDP are capable of early delivery of housing prior to adoption; there is doubt over the deliverability of this outline proposal in advance of LDP adoption.

Given the above summary of the main issues and having carefully assessed those in the planning balance, it would be premature to approve this application in advance of the LDP process, as to do so would individually and in combination with existing commitments, be so significant as to predetermine decisions about the scale, location or phasing of new development which ought to be properly taken in an LDP context. I therefore recommend accordingly.

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.

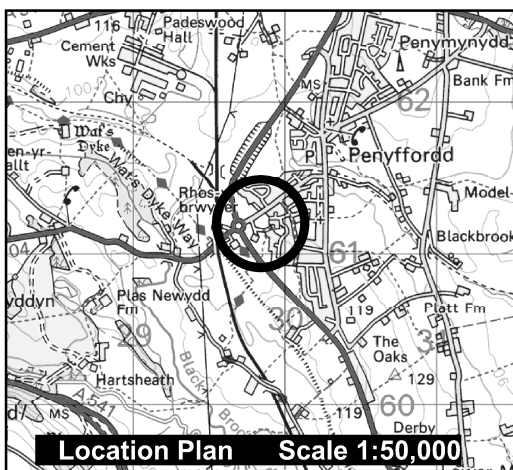
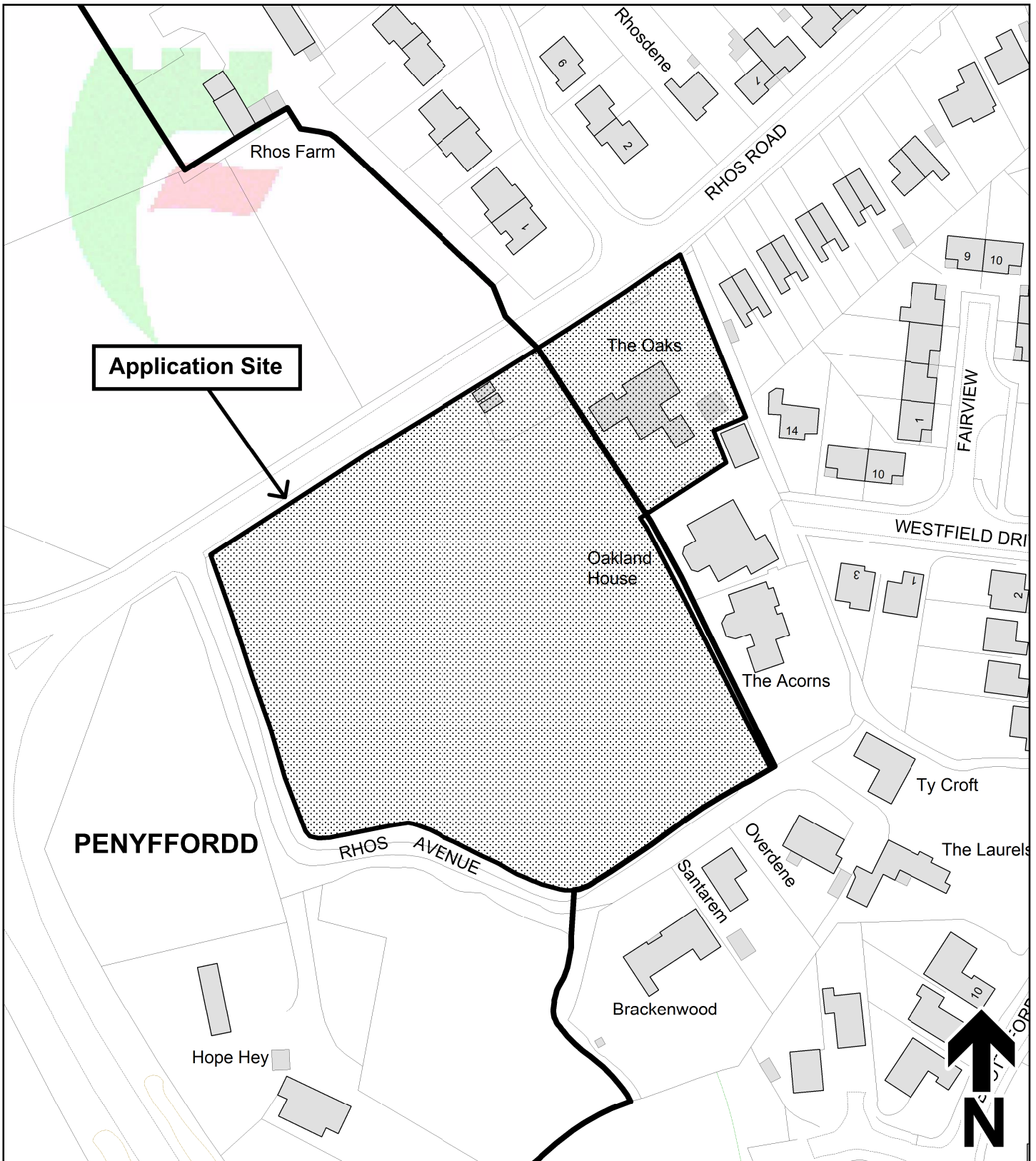
The Council has had due regard to its duty under Section 3 of the Wellbeing of Future Generations (Wales) Act 2015 and considered that there would be no significant or unacceptable impact upon the achievement of wellbeing objectives as a result of the recommended decision.

LIST OF BACKGROUND DOCUMENTS

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

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Planning, Environment & 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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OS Map ref SJ 2961

Planning Application **060076**

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FLINTSHIRE COUNTY COUNCIL

REPORT TO: **PLANNING COMMITTEE**

DATE: **4th SEPTEMBER 2019**

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

SUBJECT: **APPEAL BY QUATREFOIL HOMES LTD AGAINST THE DECISION OF FLINTSHIRE COUNTY COUNCIL TO REFUSE PLANNING PERMISSION FOR THE ERECTION OF 14 NO. DWELLINGS AND ASSOCIATED WORKS AT WITHEN COTTAGE & CHESHIRE LANE, ALLTAMI – ALLOWED.**

1.00 APPLICATION NUMBER

1.01 058229

2.00 SITE

2.01 Withen Cottage & Cheshire Lane,
Alltami Road,
Buckley.

3.00 APPLICATION VALID DATE

3.01 16th March 2018

4.00 PURPOSE OF REPORT

4.01 To inform members of the outcome of an appeal against the decision of the Local Planning Authority to refuse planning permission for the Erection of 14 no dwellings and associated works at Withen Cottage and Cheshire Lane, Alltami Road, Buckley . The Inspector was Mr. A L McCooley BA MSc MRTPI and the appeal was considered by written representations.
The appeal was Allowed.

5.00 REPORT

5.01 A full planning application, reference 058229, for the erection of 14 dwellings was refused at the Planning Committee of the 7th November 2018 for the following reason:

1. The proposed development is unacceptable as the proposed access would introduce vehicular crossing and manoeuvring across the Public Footpath 22 which is a recognised Safe Route to School. It is not considered that the traffic calming proposed could overcome the concern for the safety of pedestrians using Public Footpath 22. The proposal is therefore in conflict with Policies, AC2, AC13 (a) and AC14 of the Flintshire Unitary Development Plan.

An appeal against the decision was subsequently lodged on the 29th March 2019 under the written representations procedure.

The Inspector considered the main issue to be the impact of the proposal on highway safety and on the users of a public right of way

The Inspector noted that the Council's Highway and public rights of way officers had no objection to the proposed development; subject to the submission of details of the crossing itself. The PROW Officer was content with the proposed temporary diversion route for FP 22. There will also be a benefit in that the proposal includes proper surfacing and lighting of the footpath from its junction with Alltami Road to the school pitch. Planning committee members visited the site prior to refusing planning permission. The concerns raised by the Council were that the proposed access road in crossing FP 22 would adversely affect the users of the footpath. Members were concerned about the volume of traffic crossing FP22, which is a safe route to school, and claimed that the consequent danger could not be mitigated. The Inspector considered that the proposal is for a modest number of dwellings and traffic volumes would be low. The potential for pedestrian and vehicle conflict would also be low even at the peak hour, given the traffic figures in the appellant's evidence. The Inspector considered that a properly designed scheme such as those shown in the appellant's submitted options would provide a safe crossing of FP 22. These matters are to be secured by conditions.

Members were also concerned about the effect of the proposed crossing on the use of a private drive nearby. The swept path analysis demonstrates that it would be possible to enter and exit the nearby driveway safely. It is common for vehicles to have to reverse onto estate roads with traffic calming features. The highways officers did not raise any safety issues in this regard. Contrary to the concerns raised, there is no convincing evidence of any effect on highway safety or the safe use of FP22 as a result of these manoeuvres. There was no convincing evidence of how the proposed crossing could affect the privacy of existing dwellings. It is considered that there would be little effect on privacy because there would be few pedestrians waiting to use the crossing given the predicted traffic flows.

The layout and design of the proposed development was considered to be acceptable. The Inspector considered the Council's report on the effect on living conditions and agreed that there would be no significant adverse effects subject to a condition restricting the formation of windows in the elevation of a proposed dwelling close to the boundary with an existing property.

The Council, in its Appeal submission, referred to rigorous checks of the proposed highway layout and of the existing highway layout at Holmleigh Close by the highway authority. The Council after completing these checks was satisfied with the proposal and the use of Holmleigh Close to access the site. The Local Planning Authority confirm that it is of an appropriate standard to accommodate the proposal and is intended to be adopted. The claim that the proposed access would encroach on third party land was investigated and found not to be the case. The Inspector noted that this is a private matter in any event. Any future use of Holmleigh Close by school traffic would be a matter for the Council. There is no evidence that this would be a particular problem.

There is a history of mining in the area and the appellant's mining report recommended conditions requiring details of foundations of proposed dwellings that would be sited close to a treated mine shaft. The possibility of contamination associated with mining means that conditions requiring investigation and remediation (as necessary) should be attached. The report records a low risk, and this influences the choice of conditions to be used. NRW and the Council highlight potential issues with surface water drainage on the site and the consequent need for the approval of drainage details. Whilst the new mandatory requirement for sustainable drainage does not apply to this proposal, the relevant guidance states that it would be advantageous for both developers and the Council (as a SuDS Approval Body) to consider voluntary agreements in all cases. As there is no statutory approval process for this development then a condition needs to be attached requiring the approval of drainage details.

The Inspector was satisfied that local residents have had an opportunity to submit representations on the appeal and had also taken account of the representations made at the application stage. Objections raised issues regarding archaeology, flooding, affordable housing, education and other services in the area, as well as the loss of the site to housing. The Inspector considered the relevant sections of the Committee report and agreed that there was no convincing evidence to justify the refusal of planning permission on the basis of any of those matters.

Costs were awarded against the Local Planning Authority and a settlement of £4,500 to cover the appellant's costs has now been reached.

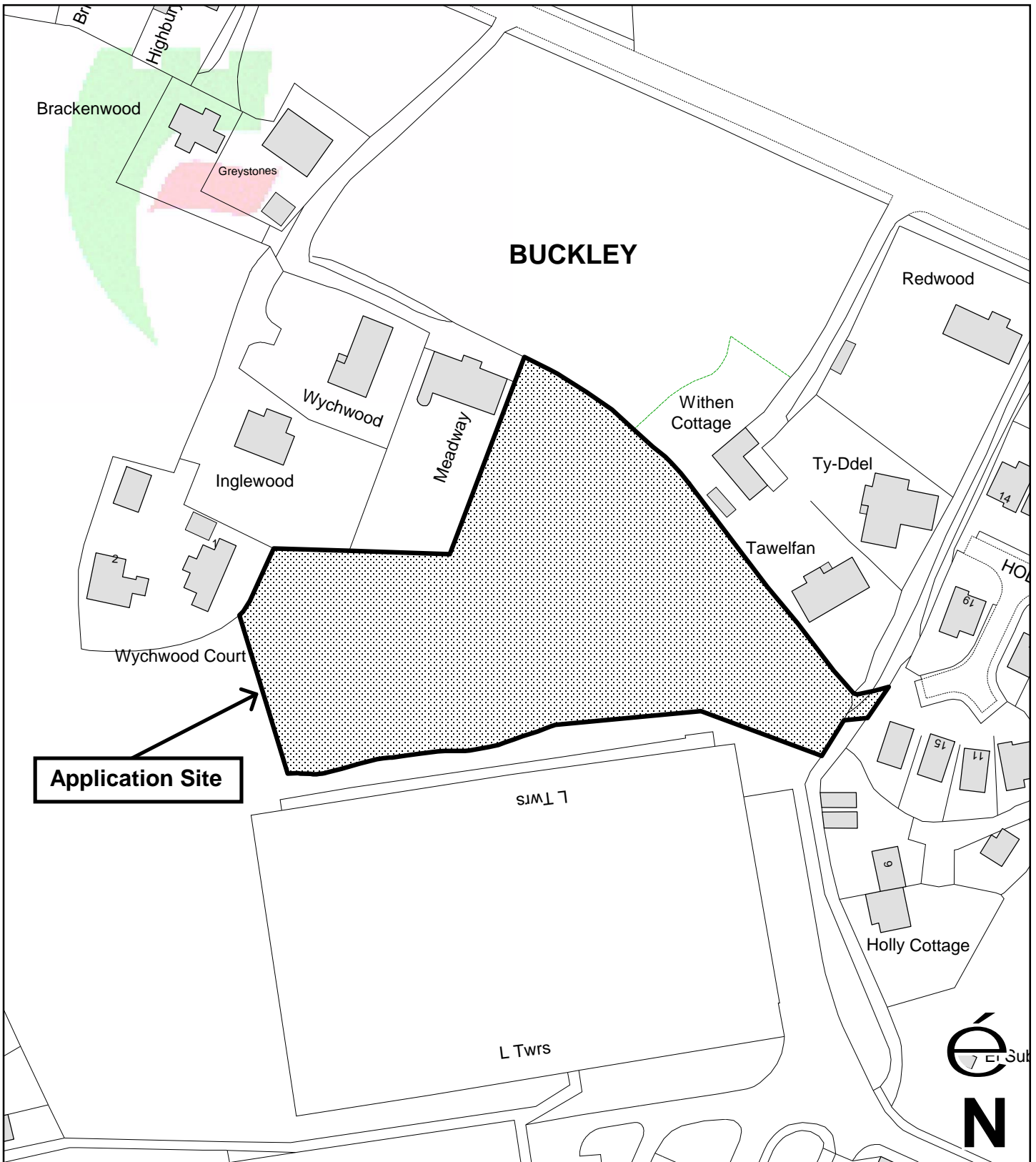
6.00 CONCLUSION

- 6.01 The evidence in this case led the Inspector to conclude that the proposed crossing of FP22 can be achieved in a safe manner. The proposal would not cause harm to users of the footpath, including school children, or users of the existing and proposed highways. The proposal would therefore comply Policies AC2, AC13 (a) and AC14 of the UDP. I note that the Council's professional highways officers concluded that there was no highway safety reason to refuse planning permission based on the evidence. The Inspector considered the other matters raised and conclude that they do not represent sufficient reason to reuse planning permission and can be addressed by suitable conditions in some cases. The proposed development would comply with the UDP. Having considered all the matters raised including the content of the Committee reports, the Inspector conclude that the appeal should be allowed.

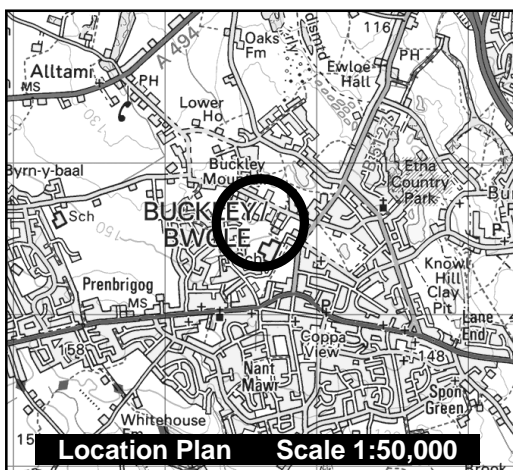
LIST OF BACKGROUND DOCUMENTS

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

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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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OS Map ref SJ 2764

Planning Application **58229**

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FLINTSHIRE COUNTY COUNCIL

REPORT TO: **PLANNING COMMITTEE**

DATE: **4th SEPTEMBER 2019**

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

SUBJECT: **APPEAL BY DR. N. SHAMAS AGAINST THE DECISION BY FLINTSHIRE COUNTY COUNCIL TO REFUSE PLANNING PERMISSION FOR CHANGE OF USE TO RESIDENTIAL FROM COMMERCIAL AT THE NOOK, 1 CHAPEL TERRACE, HIGH STREET, BAGILLT – DISMISSED.**

1.00 **APPLICATION NUMBER**

1.01 59380

2.00 **SITE**

2.01 The Nook
1 Chapel Terrace
High Street
Bagillt
CH6 6ED

3.00 **APPLICATION VALID DATE**

3.01 5th February 2019

4.00 **PURPOSE OF REPORT**

4.01 To inform Members of a decision in respect of an appeal, following the decision of the Local Planning Authority, under delegated powers, to refuse to grant planning permission for the change of use to residential from commercial at The Nook, 1 Chapel Terrace, High Street, Bagillt.

4.02 The appointed Planning Inspector was Claire MacFarlane. The appeal was determined via written representations and was **DISMISSED**.

5.00 **REPORT**

5.01 The appeal site is an end-terrace property set within an area of residential, commercial and retail premises. It is close to the River Dee estuary and falls within Zone C2 flood area, as defined by the Development Advice

Maps (DAMs) referred to in Welsh Government Technical Advice Note 15 'Development and Flood Risk' (TAN 15). Flood zone C2 is defined as areas of the floodplain without significant flood defence infrastructure.

- 5.02 Planning Policy Wales, Edition 10 (PPW), aims to minimise and manage environmental risks and pollution and contains relevant policies on flood risk. Paragraph 6.6.22 states that "Flooding as a hazard involves the consideration of the potential consequences of flooding, as well as the likelihood of an event occurring. Planning authorities should adopt a precautionary approach of positive avoidance of development in areas of flooding from the sea or from rivers." TAN 15 categorises residential uses as 'highly vulnerable development' and paragraph 6.2 of the TAN is clear that such development should not be permitted within Zone C2. Paragraph goes on to state that all other types of development within Zone C1 and C2 will be subject to meeting the justification and consequences tests set out therein, and the Council's Officer Report provided an assessment of the proposed development against these tests.
- 5.03 The appellant's argued that the property had previously been in residential use and is now surplus to requirements as a doctor's surgery. However, the inspector found that there is no tangible evidence that the proposal would meet the tests of TAN 15, and in particular there is no assessment or evidence to demonstrate that the consequences of a flooding event have been considered and found to be acceptable. Similarly, the proposal would make a very limited contribution to housing supply which would not outweigh the risk of flooding and its consequences for life and property.

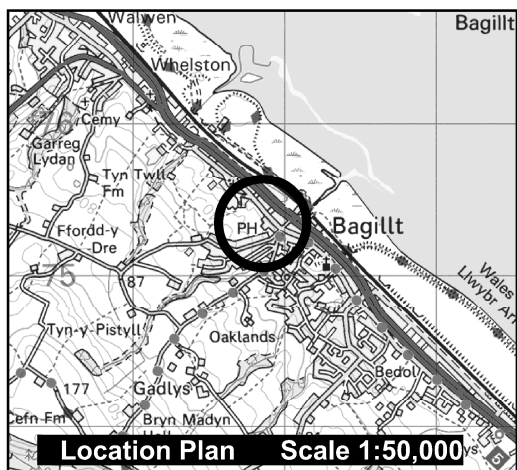
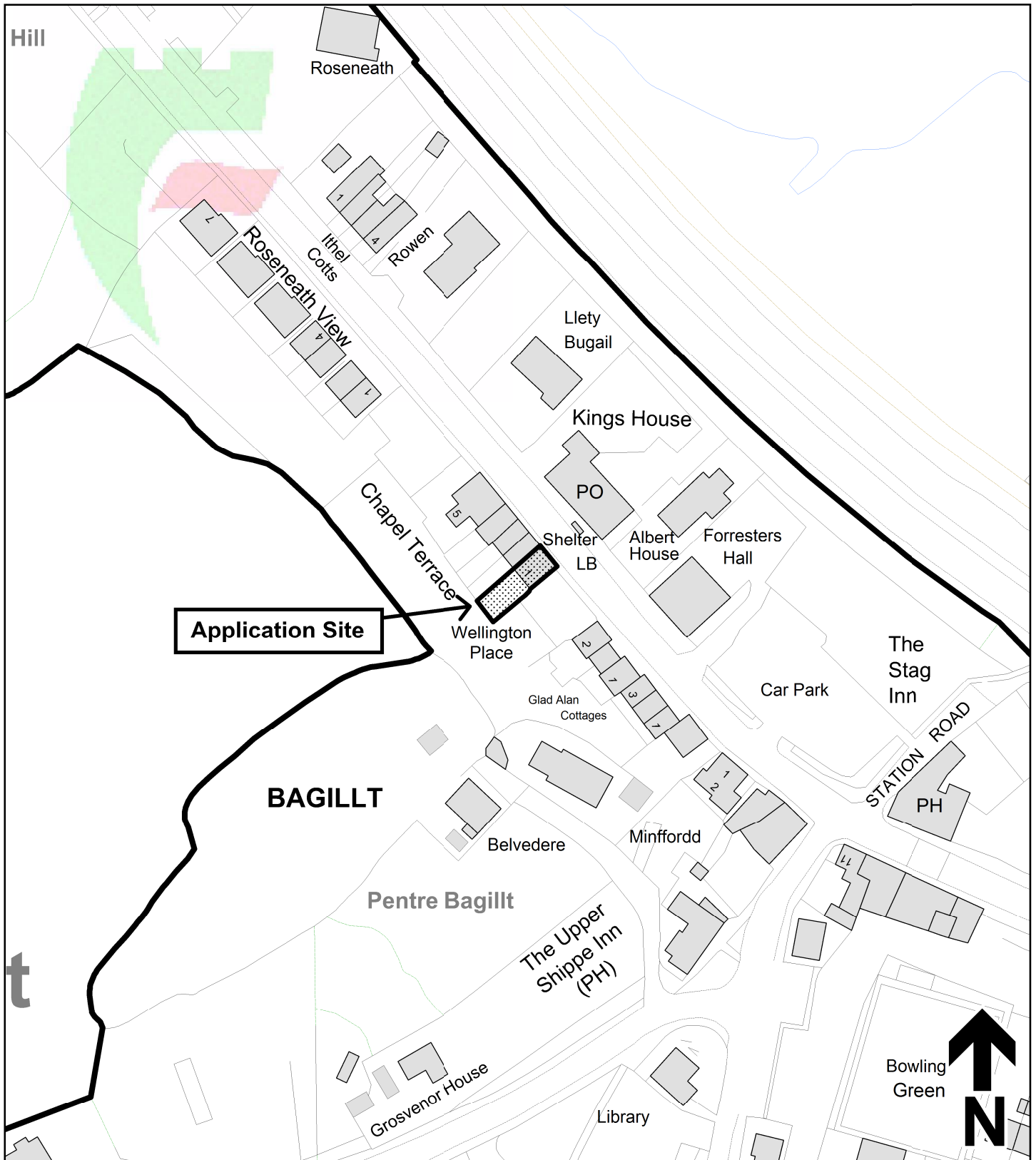
6.00 CONCLUSION

- 6.01 The Inspector concluded that the proposed development would conflict with national planning policy regarding flood risk, and with Policy EWP17 of the Flintshire Unitary Development Plan which seeks to restrict development within areas of flood risk. The appeal was **DISMISSED**.

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



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Planning Application **59380**

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