

Public Document Pack

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Prif Swyddog (Llywodraethu)



CS/NG

9 June 2022

Maureen Potter 01352 702322
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To: Cllr Richard Lloyd (Chair)

Councillors: Mike Allport, Bernie Attridge,
Glyn Banks, Chris Bithell, Geoff Collett,
Adele Davies-Cooke, Gladys Healey,
Dave Hughes, Paul Johnson, Richard Jones,
Hilary McGuill, Ted Palmer, Mike Peers,
Dan Rose, Linda Thew and Antony Wren

Dear Sir / Madam

NOTICE OF REMOTE MEETING
PLANNING COMMITTEE
WEDNESDAY, 15TH JUNE, 2022 am 1.00 PM

Yours faithfully

Steven Goodrum
Democratic Services Manager

Please note: This will be a remote meeting. The meeting will be live streamed onto the Council's website. A recording of the meeting will also be available shortly after the meeting at <https://flintshire.public-i.tv/core/portal/home>

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

A G E N D A

1 **APPOINTMENT OF VICE-CHAIR**

2 **APOLOGIES**

3 **DECLARATIONS OF INTEREST**

4 **LATE OBSERVATIONS**

5 **MINUTES** (Pages 5 - 10)

To confirm as a correct record the minutes of the meeting held on 30 March 2022.

6 **ITEMS TO BE DEFERRED**

7 **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 15 JUNE 2022

Item No	File Reference	DESCRIPTION
<u>General Matters</u>		
7.1		General Matters - Bretton Hall Solar Farm Development of National Significance: LOCAL IMPACT REPORT - REQUEST FOR DELEGATED AUTHORITY TO RESPOND (Pages 11 - 44)
Item No	File Reference	DESCRIPTION
<u>Applications reported for determination (A = reported for approval, R= reported for refusal)</u>		
7.2	061507	061507 - R - Outline application for approval in principle for residential (upto 94 dwellings), all matters reserved except for access (Pages 45 - 64)
7.3	063458	063458 - A - Full Application - Proposed Extension and partial refurb at Melin Y Wern, Nannerch (Pages 65 - 76)
7.4	063312	063312 - A - Conversion and extension of Industrial Unit to office and warehouse at Northop Country Park, Estate Roads, Northop (Pages 77 - 86)

Please note that there may be a 10 minute adjournment of this meeting if it lasts longer than two hours

Procedural Note on the conduct of meetings

The Chair will open the meeting and introduce themselves.

The meeting will be attended by a number of Councillors. Officers will also be in attendance to present reports, with Democratic Services officers acting as hosts of the meeting.

All attendees are asked to ensure their mobile phones are switched off and that any background noise is kept to a minimum.

All microphones are to be kept muted during the meeting and should only be unmuted when invited to speak by the Chair. When invitees have finished speaking they should go back on mute.

To indicate to speak, Councillors will use the chat facility or use the electronic raise hand function. The chat function may also be used for questions, relevant comments and officer advice and updates.

The Chair will call the speakers, with elected Members addressed as 'Councillor' and officers addressed by their job title e.g. Chief Executive' or name. From time to time, the officer advising the Chair will explain procedural points or suggest alternative wording for proposals, to assist the Committee.

If and when a vote is taken, the Chair will explain that only those who oppose the proposal(s), or who wish to abstain will need to indicate, using the chat function. The officer advising the Chair will indicate whether the proposals are carried.

If a more formal vote is needed, this will be by roll call – where each Councillor will be asked in turn (alphabetically) how s/he wishes to vote.

At County Council and Planning Committee meetings, speakers' times are limited. A bell will be sounded to alert that the speaker has one minute remaining.

The meeting will be live streamed onto the Council's website. A recording of the meeting will also be available, shortly after the meeting at:

<https://flintshire.public-i.tv/core/portal/home>

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PLANNING COMMITTEE **30 MARCH 2022**

Minutes of the meeting of the Planning Committee of Flintshire County Council held remotely on Wednesday, 30 March 2022

PRESENT: Councillor Richard Lloyd (Vice-Chair in the Chair)

Councillors: Mike Allport, Bernie Attridge, Chris Bithell, Derek Butler, Chris Dolphin, Veronica Gay, Gladys Healey, Patrick Heesom, Christine Jones, Richard Jones, Ted Palmer, Mike Peers, Neville Phillips and Owen Thomas

ALSO PRESENT: The following attended as local Members:

Councillor Tudor Jones - Agenda item 6.2 (063458)

Councillor Marion Bateman - Agenda items 6.4 (063312)

Chief Executive attended as an observer

APOLOGIES: Councillors: David Wisinger and Ian Dunbar

IN ATTENDANCE: Chief Officer (Planning, Environment & Economy), Service Manager - Strategy, Service Manager - Development, Senior Engineer - Highways Development Control, Team Leader - Development Management, Senior Planning Officers, Legal Services Manager and Democratic Services Officers

62. DECLARATIONS OF INTEREST

During the debate on item 6.1 (061585), Councillor Christine Jones declared a personal and prejudicial interest and withdrew from the meeting after speaking and did not take part in the vote. She also declared a personal and prejudicial interest on item 6.5 (063591) and left the meeting after speaking, prior to the debate and vote.

Councillor Mike Peers declared a personal and prejudicial interest on item 6.1 (061585) and left the meeting prior to the debate and vote.

63. LATE OBSERVATIONS

The Chairman allowed Members an opportunity to read the late observations which had been circulated prior to the meeting and were appended to the agenda item on the Council's website:

<https://committeemeetings.flintshire.gov.uk/ieListDocuments.aspx?CId=490&MId=4997&LLL=0>

64. MINUTES

The minutes of the meeting held on 2 March 2022 were confirmed as a correct record, as moved and seconded by Councillors Chris Bithell and Gladys Healey.

RESOLVED:

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

65. ITEMS TO BE DEFERRED

The Chief Officer (Planning, Environment & Economy) advised that no items were recommended for deferral.

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

RESOLVED:

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

67. MEMBERS OF THE PUBLIC AND PRESS IN ATTENDANCE

None.

(The meeting started at 1pm and ended at 4.50pm)

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Chairman

Meetings of the Planning Committee are webcast and can be viewed by visiting the webcast library at: <http://flintshire.public-i.tv/core/portal/home>

PLANNING COMMITTEE ON 30 MARCH 2022

ITEM NO	TOWN/ COMMUNITY COUNCIL	SITE/PROPOSAL	THIRD PARTY / LOCAL MEMBER OBSERVATIONS	RESOLUTION
016585	Sealand Community Council	Application for approval of reserved matters following outline approval (059635) for the erection of 100 no. dwellings with associated infrastructure at Corus Garden City Site, Garden City, Deeside	<p>Craig Sparrow, the applicant, spoke in support of the application.</p> <p>Having declared a personal and prejudicial interest, Councillors Christine Jones and Mike Peers withdrew from the meeting prior to the vote.</p>	<p>That planning permission be granted subject to the applicant entering into a Section 106 Obligation to provide the following:</p> <ul style="list-style-type: none"> • To secure 100 no. dwellings to be affordable and retained as such in perpetuity. • Provide that a Management Company is incorporated for the management and future maintenance of the onsite public open space and communal landscaping areas. <p>Also subject to the conditions set out in the report, in accordance with the officer recommendation.</p>
063458	Ysceifiog Community Council	Full Application - Proposed Extension and partial refurb at Melin Y Wern, Nannerch	<p>Simon Stack, local resident, spoke against the application.</p> <p>Councillor Tudor Jones, local ward Member, spoke against the application.</p>	That the application be deferred, pending a site visit.

ITEM NO	TOWN/ COMMUNITY COUNCIL	SITE/PROPOSAL	THIRD PARTY / LOCAL MEMBER OBSERVATIONS	RESOLUTION
063721	Sealand Community Council	Erection of a Paper Processing Mill to produce and manufacture tissue paper (B2, B8 use class) with ancillary B1a office space; associated servicing and infrastructure including car parking, HGV parking and vehicle and pedestrian circulation; noise mitigation features; earthworks to create development platforms; creation of drainage features including a new outfall to the River Dee; water treatment plant; and landscaping at Plot C "The Airfields (Airfields Delta). Welsh Road, Sealand, Deeside	Gavin Winter, agent, spoke in support of the application.	That planning permission be granted subject to the conditions set out in the report, in accordance with the officer recommendation.
063312	Northop Community Council	Conversion and extension of Industrial Unit to office and warehouse at Northop Country Park, Estate Roads, Northop	Huw Evans, the agent, spoke in support of the application. A statement of objection was read out on behalf of a local resident.	That the application be deferred, to include conditions on a construction site management plan, heavy goods vehicle/traffic movement and the retention of trees and hedgerows.

ITEM NO	TOWN/ COMMUNITY COUNCIL	SITE/PROPOSAL	THIRD PARTY / LOCAL MEMBER OBSERVATIONS	RESOLUTION
			Councillor Marion Bateman, local ward Member, spoke against the application.	
063591	Sealand Community Council	Application for approval of reserved matters following outline application (059635) at Corus Garden City Site, Welsh Road, Garden City	<p>Imogen Zulver, agent, spoke in support of the application.</p> <p>Having declared a personal and prejudicial interest, Councillor Christine Jones withdrew from the meeting after speaking, and was not present for the vote.</p>	<p>That planning permission be granted subject to the applicant entering into a Section 106 Obligation to provide:</p> <ul style="list-style-type: none"> • Payment of a financial contribution towards Education of £970,600.00 to Sealand CP School and Hawarden High School; • The establishment of a Management Company for the management and future maintenance of the onsite public open space and communal landscaping areas. <p>Also subject to the conditions set out in the report, in accordance with the officer recommendation.</p>

ITEM NO	TOWN/ COMMUNITY COUNCIL	SITE/PROPOSAL	THIRD PARTY / LOCAL MEMBER OBSERVATIONS	RESOLUTION
063741	Shotton Town Council	Full Application for demolition of existing bungalow and outbuildings. Erection of 3 new bungalows (amended scheme to that refused under reference 060481) at 26 Queensway, Shotton, Deeside	<p>Pete Lloyd, agent, spoke in support of the application.</p> <p>A statement of objection was read out on behalf of a local resident.</p> <p>A statement was read out on behalf of Councillor Sean Bibby, local ward Member, against the application.</p>	<p>That planning permission be granted subject to the applicant entering into a Section 106 Obligation or making an advance payment of £1100 per dwelling in lieu of onsite recreational provision, with the monies being used to improve junior play provision at King George Street Play Area.</p> <p>Also subject to the conditions set out in the report, in accordance with the officer recommendation.</p>
062863	Sealand Community Council	Full application for proposed development of 4 No. Class E(a) and E(b) food and retail units and associated car parking and signage at "Gateway to Wales Hotel", Welsh Road, Garden City	<p>Statements of objection were read out on behalf of local residents.</p> <p>A statement was read out on behalf of Rob Hemsall, agent, in support of the application.</p>	<p>That planning permission be refused against the officer recommendation, on the following grounds:</p> <ul style="list-style-type: none"> • Lack of designated parking and loading/unloading provision for service delivery vehicles. • Impact on designated disabled parking spaces.

FLINTSHIRE COUNTY COUNCIL

REPORT TO: **PLANNING COMMITTEE**

DATE: **WEDNESDAY, 15 JUNE 2022**

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

SUBJECT: **BRETTON HALL SOLAR FARM DEVELOPMENT OF NATIONAL SIGNIFICANCE:
LOCAL IMPACT REPORT – REQUEST FOR DELEGATED AUTHORITY TO RESPOND**

1.00 SUMMARY

- 1.01 The application for the Bretton Hall Solar Farm Development of National Significance (DNS) has been submitted to the Welsh Ministers for examination. The Government's Planning and Environment Decisions Wales (PEDW) has written to the County Council to confirm receipt of the application.
- 1.02 Once the application has been formally accepted by PEDW and registered as a valid DNS application, Flintshire County Council will be required to submit a Local Impact Report, and will be invited to make formal representations on the application within five weeks of the notification of the valid application.
- 1.03 This report seeks delegated authority from the Planning Committee to submit the Council's Local Impact Report, and provide representations at officer level on behalf of Flintshire County Council.
- 1.04 The request for delegated authority is required, so that the representations can be made at an Officer level, in consultation with the local Ward Members, in response to the DNS consultation by PEDW, in the timescales set out within the Regulations, and without the need to return to Planning Committee for a formal resolution to agree the content and representations of the Local Impact Report.

2.00 RECOMMENDATION

- 2.01 That the Council's Local Impact Report, and accompanying recommendations, and suggested conditions for the Bretton Hall Solar Farm Development of National Significance be delegated to officers in consultation with local members (Broughton North East and Saltney Ferry).

3.00 APPLICATION VALID DATE

3.01 The application was submitted to the Welsh Ministers on 27 May 2022 and PEDW have up to 42 days to validate the application. Should the application be considered a valid application, the Council will have 5 weeks to respond to the consultation by PEDW from the application valid date.

4.00 PURPOSE OF REPORT

4.01 The report seeks delegated authority to respond to the anticipated consultation by PEDW on the Bretton Hall Solar Farm Development of National Significance, at an Officer level. To provide the required Local Impact Report, and any necessary relevant representation, and suggested conditions and obligations that may be required.

4.02 Due to the limited timescales prescribed within the Development of National Significance (Wales) Regulations 2016 to make a response to the PEDW consultation, it is considered necessary to raise the matter at Committee to seek a resolution from Planning Committee to permit officers to respond to the consultation on behalf of the Council. Such responses are not considered to be a delegated function as stated within the Council's Scheme of Delegation.

5.00 THE PROPOSAL

5.01 The proposed development is described within the documents as a renewable energy source comprising a 30MW ground mounted solar farm and associated infrastructure on land at Bretton Hall located both in Flintshire and in Cheshire. Therefore this is a cross boundary development, and a separate planning application will be submitted to Cheshire West and Cheshire Council for their consideration for the elements of the development that lies within the jurisdiction of Cheshire West and Cheshire Council.

5.02 The development that lies on land within Wales is considered to be a Development of National Significance (DNS) as the generation capacity of the solar arrays would exceed 10MW. The proposed solar farm that would be situated within Wales would have a generation capacity of 16MW.

5.04 The Proposed Development (including development in Cheshire) comprises:

Solar Array

- On land extending to 50ha (approximately 25ha in Flintshire)
- Solar array comprising photo-voltaic panels covering 8 fields. (4 fields in Flintshire)

Supported by

- 10 x sub-stations for the PV Array and associated concrete bases
- 7 x Battery Storage units
- 2 x battery substations with capacity of c 5MW and 10MWh
- 2 x DSO Buildings and associated concrete base
- Customer Cabin
- Outdoor classroom
- Perimeter and stock fencing
- Maintenance tracks
- Culverts
- CCTV cameras
- Cabling on site and off site, cable ducts, cable ladders
- Supplementary and new vegetation
- Reuse and partial widening of an existing access
- Parking

6.00 THE SITE LOCATION

- 6.01 As stated above, the proposal lies within both Flintshire and Cheshire West and Chester and therefore two separate applications will be submitted to the respective decision making authorities. The total area of both application sites covers approximately 50 hectares of relatively flat, low lying agricultural land with an elevation of approximately 3-6m above ordnance datum (AOD).
- 6.02 The land within the Flintshire application site is divided into four fields of varying size (numbered as F1-4 on Image 2.1: Aerial Context Plan) covering an area of approximately 25 hectares. The Application Site boundary also contains the proposed grid connection cable route to the Saltney substation. The route follows the public highway from the north of Field 1 to the substation.
- 6.03 The Application Site lies within open countryside and within the Broughton - Hawarden Airport - Saltney - Cheshire Border Green Barrier, which is protected by Flintshire Unitary Development Plan Policies GEN3 and GEN4 respectively. The site is also designated as green barrier within the emerging Local Development Plan.
- 6.04 The fields are bound by a combination of hedgerows, trees and drainage ditches. The land within the Application Site boundary is currently used for agricultural purposes with the main use comprising improved pasture for livestock grazing. An Agricultural Land Classification (ALC) has been undertaken to determine the quality of the land within the Application Site, which is mainly limited to subgrade 3b due to a combination of soil wetness and flooding. An area to the north comprises permeable soils with lower flood risk and is of a subgrade 3a and grade 2 agricultural quality.

- 6.04 Several watercourses flow through the Application Site, the main watercourse being Balderton Brook which drains into the tidal section of the River Dee to the north of the Application Site. There are a number of watercourses which pass through or drain the Application Site, these watercourses all ultimately drain into the Balderton Brook.
- 6.05 A review of the Natural Resources Wales (NRW) Flood Zones indicates that the Application Site is located within Flood Zone 3 and therefore has a 'high probability' of fluvial/tidal flooding. A review of the Environment Agency (EA) Flood Zones indicates that the Application Site is located within Flood Zones 2 and 3 and therefore has a 'medium to high probability' of fluvial/tidal flooding.
- 6.06 There are no Public Rights of Way (PRoW) that cross the Application Site.

7.00 MATERIAL PLANNING CONSIDERATIONS

The Issues

- 7.01 The main issues associated with the proposal include:
- Development in the Open Countryside
 - Development in the Green Barrier
 - Flood risk
 - Best and Most Versatile Agricultural Land
 - Renewable Energy
 - Landscape and visual Impact
 - The Impact on Trees
 - Ecology and Nature Conservation
 - Cultural Heritage and Archaeology
 - Built Conservation
 - Contaminated Land
- 7.02 Further examination of these issues is outlined within the without prejudice Case Officer's response to the developer led pre-application consultation, where all these issues are considered in relation to the proposal (See Appendix 1). This response was made without prejudice on behalf of the Planning Authority following an internal consultation with our own internal specialist consultees.
- 7.03 At the time of writing the pre-application report, a response had not been received by the Built Conservation Officer. However, this has now been received and the Built Conservation Officer stated that the proposal is a good distance from the Grade II listed Well House Farm. As a result would not be considered to adversely affect its historic setting. The proposal could affect the setting of the Bretton Hall Moated Site, which is a Scheduled Ancient Monument. Cadw will be consulted directly by PEDW on this proposal.

- 7.04 The developer directly consulted statutory consultees outside of Flintshire County Council such as Natural Resources Wales (NRW). Appendix 2 provides NRW's response to the developer's pre-application consultation. It is noted that NRW have significant concerns with regards to flood risk and ground water protection, and have advised that the information to address their concerns should be provided within their application. Should the application be a valid application, PEDW will consult NRW and other statutory consultees directly as part of the DNS process.
- 7.05 The application submission includes an addendum to the Environmental Statement. The applicant's agent has advised that this document should address the areas of concern raised which are outlined within Appendix 1 and 2, and other areas of concerns raised during the pre-application consultation.

8.00 RECOMMENDATION

- 8.01 That the Council's Local Impact Report, and accompanying recommendations for the Bretton Hall Solar Farm Development of National Significance be delegated to officers in consultation with local members (Broughton North East and Saltney Ferry).

LIST OF BACKGROUND DOCUMENTS

Draft Planning Application & Supporting Documents found:-
<https://www.brettonhallsolar.co.uk/planning/>

National & Local Planning Policy

Guidance note on DNS applications:-
<https://gov.wales/developments-national-significance-dns-guidance>

Scoping Direction:- <https://www.brettonhallsolar.co.uk/wp-content/uploads/2021/05/2020-12-23-DNS-3251545-Scoping-Direction.pdf>

Appendix 1 – Pre-application Officer response to the Developer led pre-application consultation dated 08/04/2022

Appendix 2 – Consultation response from NRW to the developer led Pre-application consultation regarding flood risk dated 10/03/2022

Contact Officer: Hannah Parish
Telephone: 01352 703253
Email: hannah.parish@flintshire.gov.uk

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**BRETTON HALL SOLAR FARM
DEVELOPMENT OF NATIONAL SIGNIFICANCE**

FLINTSHIRE COUNTY COUNCIL

RESPONSE TO THE PRE-APPLICATION CONSULTATION

Author:	Hannah Parish
Date:	08 April 2022
Local Planning Authority Reference:	064312
Your Reference:	P305572
PEDW Reference:	3251545

PREFACE

The pre-application consultation to the Bretton Hall Solar Farm Development of National Significance (DNS) was received by the Local Planning Authority on 28 January 2022. It is noted that the Local Planning Authority was consulted on the proposal as a Specialist Consultee. However, it is understood that the Local Planning Authority is not listed as a Specialist Consultee within the DNS process and procedures and therefore, there is no statutory duty for the Local Planning Authority to respond to the pre-application consultation. No formal chargeable pre-application advice had been sought from the Local Planning Authority by the applicant.

Notwithstanding this, an internal consultation has taken place to gather views of the proposal by officers of the Council. The following comprises a compiled informal 'without prejudice' response following the consultation on the Bretton Hall Solar Farm proposals for information and consideration prior to the submission of the application to PEDW.

The response incorporates comments/observations received from the Council's Spatial Planning Officer in with respects to the proposal in relation to the existing UDP allocations and emerging LDP allocations, the Council's Ecologist and Arboricultural Officer, Landscape Officer, Public Protection Officer, and the Contaminated Land Officer. The Council's Conservation Officer and Energy Unit have been consulted but at the time of writing no response had been received. Any further responses will be forwarded on to the applicant's agent for their information.

Consultations also took place between the Local Planning Authority and the Clwyd-Powys Archaeological Trust, and the Welsh Government's Landscapes, Nature and Forestry Division with respects to agricultural land and soils. Those responses that have been received have been included for completeness.

Any queries regarding the following comments, should be directed to Hannah Parish:

Tel: 01352 703253/ 07585 992069

Email: hannah.parish@flintshire.gov.uk

The Proposal

The proposed development is described within the pre-application documents as a renewable energy source comprising a 30MW ground mounted solar farm and associated infrastructure on land at Bretton Hall located both in Flintshire and in Cheshire. The development on land within Wales is considered to be a Development of National Significance (DNS) as the generation capacity of the solar arrays would exceed 10MW. The proposed solar farm that would be situated within Wales would have a generation capacity of 16MW. It is understood that a separate planning application would be made under Section 57(1) of the Town and Country Planning Act 1990 for the battery storage required for the proposal as it is understood that this cannot be consented through the DNS Regulations.

The Proposed Development comprises:

Solar Array

- On land extending to 50ha
- Solar array comprising photo-voltaic panels covering 8 fields.

Supported by

- 10 x sub-stations for the PV Array and associated concrete bases
- 2 x DSO Buildings and associated concrete base
- Customer Cabin
- Outdoor classroom
- Perimeter and stock fencing
- Maintenance tracks
- Culverts
- CCTV cameras
- Cabling on site and off site, cable ducts, cable ladders
- Supplementary and new vegetation
- Reuse and partial widening of an existing access
- Parking.

Local Planning Policy Context and Land use Designations

It is noted that this project is a cross boundary project which would affect both England and Wales. Therefore, elements of the proposal that lie in Wales, should also be considered against the Development Plan within Wales.

The site lies in open countryside in planning terms in both the adopted UDP and the Deposit Draft LDP. Despite being time expired the UDP is still the adopted development in terms of decision making but should be read alongside other material planning considerations including more up to date national guidance in PPW11 and Future Wales.

The Environmental Statement will therefore need to have regard for Planning Policy Wales (PPW) (edition 11, 2021) and any relevant legislation and guidance such as relevant Technical Advice Notes that is in force/adopted in Wales. Also the application should have regard to the respective and relevant policies within the Flintshire Unitary Development Plan (UDP). The Flintshire deposit Local Development Plan (LDP) is currently under Examination. However, by the time the DNS application is submitted, the Flintshire LDP could be adopted. Therefore the applicant, and its consultants should be made aware of the LDP policies which may be in place when the application is submitted and determined.

The Wellbeing of Future Generations Act 2015 puts in place seven well-being goals guiding sustainable development. One of which endeavours to achieve ‘A prosperous Wales’ in which *“An innovative, productive and low carbon society which recognises the limits of the global environment and therefore uses resources efficiently and proportionately (including acting on climate change); and which develops a skilled and well-educated population in an economy which generates wealth and provides employment opportunities, allowing people to take advantage of the wealth generated through securing decent work.”*

In the **adopted UDP** the site is located within green barrier GEN4(15) which mirrors the Cheshire green belt along the County boundary. The first part of the UDP sets out strategic policies with Policy STR1 identifying the strategic approach to the location of new development, STR7 identifying the approach in respect of the natural environment and STR10 identifying the approach to safeguarding resources, including a general support to appropriate renewable energy generation. Policy GEN3 sets out the types of development considered acceptable in the open countryside and policy GEN4 sets out policy advice in respect of green barriers (see note below). Policy L1 seeks to protect landscape character but does not identify or designate landscape areas, instead seeking to ensure that the character and features of each individual landscape is considered as part of determining development proposals.

In respect of renewable energy, policy EWP1 sets out a presumption in favour of renewable energy schemes subject to meeting other relevant requirements of the Plan. This is supplemented by policy EWP5 which states:

'Proposals for renewable energy generation by means other than wind turbines will be required to meet the following criteria:

- a. the proposed development, including scale, siting, design and materials, should not have an unacceptable effect on its surroundings in terms of landscape, visual amenity, nature conservation or heritage importance;*
- b. the impact of the development upon agricultural land will be minimised with appropriate installations sited within existing complexes and on existing hard surfacing;*
- c. in sensitive areas where above ground connections have unacceptable adverse effect on the landscape, connection lines and pipes are located underground; and;*
- d. the development will utilise the existing transport network and will not have an adverse impact on the local road network, and traffic will be restricted to operating during appropriate hours of the day'.*

The above is not an exhaustive list of every single policy which is applicable to the proposed development.

The **Deposit LDP** is entering the last stages of the Examination ahead of adoption. The Inspector has agreed Matters Arising Changes (MACs) to the Plan, and also agreed to the Council consulting on the MACs, which will commence following the Local Authority Elections on 5 May 2022. It is anticipated that the Plan could be adopted in Autumn 2022, so may well be an adopted development plan against which this proposal should be considered. The relevant key policies are STR13 Natural and Built Environment, Green Networks and Infrastructure, STR14 Climate Change and Environmental Protection, PC1 Relationship of Development to Settlement Boundaries, PC2 General Requirements for Development, EN4 Landscape Character, EN11 Green Barriers, EN13 Renewable and Low Carbon Energy Development and EN14 Flood Risk.

National policy is set out in PPW11 and Future Wales: National Plan 2040. **PPW11** para 5.9.19 advises that LPA's should take into account the contribution a proposal makes to meeting targets, to cutting greenhouse gases and the wider environmental, social and economic benefit and opportunities from renewable and low carbon energy. Para 5.9.20 advises that LPAs should also identify and require suitable ways to avoid, mitigate or compensate adverse impacts of such development and lists a number of factors that should be taken into account.

Future Wales sets out its approach to renewable energy in Policy 17 and Policy 18. An important consideration related to this proposal is Policy 22 'Green Belts in the North' which requires the Strategic Development Plan (SDP) for North Wales to identify a green belt around Wrexham and Deeside to manage urban form and growth. The policy advises that '*The Strategic Development Plan must consider the relationship of the green belts with the green belt in Cheshire West and Chester. Local Development Plans and development management decisions should not permit major development in the areas shown for consideration for green belts, except in very exceptional circumstances, until the need for green belts and their boundaries has been established by an adopted Strategic Development Plan*'. Given that the application site is adjacent to the national boundary and Cheshire green belt, this is an important announcement in respect of future policy direction by Welsh Government.

There are a number of key Planning Policy issues and considerations associated with this proposal in this location which are set out below including; Flood Risk, Best and Most Versatile (BMV) Agricultural Land, Green Barrier, Renewable Energy.

Flood Risk

In terms of the **present TAN15** in force, the site is located within Zone C1. Although not specified in the TAN, solar energy is generally regarded as a 'less vulnerable development' which can take place in C1 subject to the application of the justification tests and the consequences of flooding are assessed and considered to be acceptable:

- i. Its location in zone C is necessary to assist, or be part of, a local authority regeneration initiative or a local authority strategy required to sustain an existing settlement; or,*
- ii. Its location in zone C is necessary to contribute to key employment objectives supported by the local authority, and other key partners, to sustain an existing settlement or region; and,*
- iii. It concurs with the aims of PPW and meets the definition of previously developed land (PPW fig 2.1); and,*
- iv. The potential consequences of a flooding event for the particular type of development have been considered, and in terms of the criteria contained in sections 5 and 7 and appendix 1 found to be acceptable.'*

The Flood Consequence Assessment (FCA) that accompanies the pre-application documents argues that the proposed solar farm meets Test 1 as the development would provide electricity to residents of those settlements and therefore helps sustain settlements. This is however considered a very loose relationship as a solar farm of this scale could be located much further away, and still serve those settlements. It is unclear why the proposal has to be located in this specific location to serve those settlements.

The FCA also argues that the proposal would meet Test 3 as "*there are no suitable alternative brownfield sites within the locality to accommodate the development*". It is considered that Test 3 has been misinterpreted as it is quite clearly worded as to

establish whether the site meets the definition of previously developed land. This site is greenfield land, and it is considered therefore, that the proposal does not meet Test 3. This was a view that the Inspector held recently on two appeal decisions on the north side of the River Dee – see para 60 and 61 in the enclosed appeal decision.

In terms of the **updated TAN15** which is due to come into effect in June 2023 the site is located within zone 3 (medium / high risk). This states that:

*'Less vulnerable development will **only** be justified if:*

- 1. There are exceptional circumstances that require its location in Zone 3, such as the interests of national security, energy security, public health or to mitigate the impacts of climate change; AND*
- 2. Its location meets the definition of previously developed land; AND*
- 3. The potential consequences of a flooding event for the particular type of development have been considered, and found to be acceptable in accordance with the criteria contained in section 11'.*

Again, it is not considered the proposal can meet Test 2 as the site comprises greenfield land and is therefore not previously developed land. As such it is considered that the proposal would conflict with the current and emerging TAN15.

BMV Agricultural Land

PPW11 seeks to protect best and most versatile agricultural land and sets out the tests in 3.58 and 3.59. The ALC Report claims that the site is limited to no more than 3b due to a variety of constraints to agriculture including soil wetness and flooding. The Summary states *'it is unclear whether any of the land is practically suitable for use as best and most versatile given the overriding constraints to agriculture'*. It is of note that the ALC report includes photos of the site flooded in 2020.

This begs the question whether, if its agricultural use is so constrained by flooding, how and why is it suitable for a solar farm? This has not been addressed within the ES.

On 1 March 2022 the Minister for Climate Change issued a 'Dear Chief Planning Officers' letter on the issue of solar farms and BMV. The letter states *'The purpose of this letter is to clarify that in accordance with Welsh Government policy outlined above, where BMV land is identified within a proposed solar PV array development, considerable weight should be given to protecting such land from development, because of its special importance, and unless other significant material considerations indicate otherwise it will be necessary to refuse permission. I have instructed officials to monitor closely proposals that would involve the loss of BMV land'*.

The letter goes on to state *'Should solar PV array applications on BMV agricultural land come before the Department for Climate Change, the Department will object to the loss of BMV agricultural land unless other significant material considerations outweigh the need to protect such land in accordance with Welsh Government policy and guidance outlined above'*.

In the light of the letter referenced above, the Council consulted the Welsh Government Agricultural Unit who have undertaken a verification of the findings of the ALC Report. Their response is attached and concludes that the Department for Climate Change advises that, it **would not object** to an application for planning permission made in the same or substantially the same terms for the following reasons:

"Given the unique combination of limitations identified at this site, concerning soil properties (wet humic peat sub soil horizons), soil wetness/workability limitation identified and evidence of agricultural flood risk limitation, the Department questions the practicality of farming the identified BMV land area (11.69ha) to its full potential. This concern is also noted and highlighted by the surveyor in section 3.12 of the ALC survey report. The Department would agree with this assessment and justification. In the Department's view, the proposal in its current form would not conflict with PPW regarding the policy for BMV agricultural land (Para 3.58, 3.59) or the 'Dear Chief Planning Officers' letter sent by the Minister for Climate Change on 1st March 2022."

Green Barrier

The site is located within a green barrier in both the adopted UDP and also the Deposit LDP. The UDP provides guidance on green barriers in policy GEN4 but PPW has been updated several times since the UDP was adopted and the most up to date policy on green barriers is in PPW11. Para 3.77 of PPW11 explains that certain other forms of development may be appropriate in a green wedge provided that they preserve its openness and do not conflict with the purposes of including land within it. The list of applicable development includes renewable and low carbon energy generation'. Para 3.74 advises *'Inappropriate development should not be granted planning permission except in very exceptional circumstances where other considerations clearly outweigh the harm which such development would do to the Green Belt or green wedge. Green Belt and green wedge policies in development plans should ensure that any applications for inappropriate development would not be in accord with the plan. These very exceptional cases would therefore be treated as departures from the plan'*.

The enclosed appeal decisions to the north of the River Dee are relevant as the Inspector considered that the proposed solar parks would harm the green barrier and that there were no very exceptional circumstances, particularly as the appellant had not undertaken an assessment of alternative sites and therefore there is a policy conflict.

LDP and renewable energy

The preparation of the LDP was accompanied by a renewable energy assessment which was undertaken in line with Welsh Government guidance in the document 'Planning for Renewable and Low Carbon Energy - A Toolkit for Planners'. The assessment involved a mapping based approach whereby constraints were 'sieved' out to identify areas which in principle were suitable for and had potential for solar energy. This was supplemented by a follow up landscape assessment which considered the landscape implications for the identified areas of search for solar development. This resulted in an amended schedule of 'Indicative Local Areas of Search' (ILSA) for solar. The application sites did not fall within one of ILSA's as any land which was of flood risk and potential BMV was sieved out as part of the mapping exercise.

Energy Policy

In principle, the project is in line with current national energy policy as it would promote resilience in the supply of energy, and is in line with the policy aims of PPW11 regarding low carbon technology and moving away from the reliance of fossil fuel technology. The project would aid the UK in its target to be net zero carbon by 2050. It would also support in relieving the strain on the national electricity grid.

The relevant energy policy documents include:-

- Overarching National Policy Statement for Energy EN-1 (2011)
- The Energy Act 2013
- UK Low Carbon Transition Plan (2009)
- Climate Change Act (2008) (2050 Target Amendment) Order 2019
- Energy Wales: A Low Carbon Transition (2012)
- Policy Statement: Local ownership of energy generation in Wales – benefitting Wales today and for future generations (2020)

PPW11 identifies the renewable energy generation targets set by the Welsh Government:

- *“for Wales to generate 70% of its electricity consumption from renewable energy by 2030;*
- *for one Gigawatt of renewable electricity capacity in Wales to be locally owned by 2030; and*
- *for new renewable energy projects to have at least an element of local ownership by 2020.”*

Landscape/Visual Impact

Whilst it is recognised in the proposed Landscape and Visual Impact Assessment (LVIA) that the adverse visual effects are considered to be not significant there is the opportunity to further mitigate them by augmenting the Landscape Management Plans (LMPs) with additional planting, and ongoing sympathetic management of existing hedgerows.

The landscaping proposals shown on the Landscape Management Plan (LMP) are limited considering the scale of the development. At this stage, landscaping is restricted to the boundaries directly adjacent to the site and comprises of planting 22 standard trees, less than half a hectare of copse planting and 690m of hedge planting. Planting should be contextual with the wider landscape to maximise layered screening and reaffirm the positive aspects of the landscape's character. Reinforcing the landscape's character will mitigate the visible elements of the development that remain.

Viewpoint 2 of the LVIA benefits from the screening provided by trees along the eastern boundary of the golf driving range. (It is assumed that the golf driving range is not in the applicant's control and the screening is dependent on a third party and a legal agreement may therefore be required). Also to some extent the eastern and northern boundaries of the golf driving range provide screening for receptors travelling west along the Chester Road. Whilst VP2 is the nearest point to the development along Chester Road it is perhaps not entirely representative of receptors using the highway. This is because the screening provided by the golf driving range is soon passed. Further west views, towards the site, are far more open with the roadside boundary comprising of a fence, and screening limited to intensively cut hedgerows distant from the highway. These hedgerows contain intermittent gaps and few hedgerow trees. West of the golf driving range the landscape has a strong rural character increasing susceptibility to change, and the LMPs should consider hedge planting adjacent to the public highway to reduce the potential for views of the development through bare winter hedges.

The LMP proposes a mixture of hedge and copse planting along the site's western boundary, however it is considered that additional planting would improve screening and benefit the landscape quality. Whilst the field boundary adjacent to VP4 has a hedgerow, intervening boundaries comprise of post and wire fencing that do not filter views towards the site which will be expansive from this viewpoint.

It is also suggested that the LMP should consider tree and/or hedge planting in gaps along the eastern boundary which could reduce views from Sandy Lane and in particular VP5, where the view towards the site is consistently rural.

There are other opportunities to carry out tree and hedge planting. The drive to Bretton Hall could be planted to reinforce its setting in the landscape and ensure that the hall does not become subordinate to the proposed development. Another opportunity would be to carry out block woodland planting in a shape that reflects the rectangular field pattern.

The species mix proposed for the hedgerows comprises of 20% *Rosa canina* and 20% *Rosa arvensis* that should only be used in small proportions (5%) because they are non woody species that will not provide structure to a hedge. The guidelines stated on the LMPs for the management of the hedgerows are incompatible for the site. The Habitat Management Plan and the LMP both contain details for tree and hedgerow planting and management, however neither is comprehensive. A minimum as well as a maximum height needs to be specified for existing and new hedgerows.

To maximise landscape as well as biodiversity benefits, hedge planting should be carried out in double staggered rows at least 0.75m apart and with livestock fencing (if required) at least a further 0.75m back from the nearest row (It would be useful if a cross sectional drawing for the hedge planting was included in the drawings to ensure it is fully specified).

Black poplars are proposed on the north and south boundaries of the site and it would benefit biodiversity if the rare native black poplar (*Populus nigra betulifolia*) was specified as the species of choice. It is considered that the LMPs should be augmented to include additional tree and hedge planting, and include more comprehensive details for their establishment. The LMPs should specify how the existing trees and hedgerows will be managed.

Trees

There appears to be no BS5837:2012 tree survey available on the Ynni Newydd website. Trees are a material decision in applications for development and where they are present on or adjacent to a site a British Standard tree survey should be submitted.

The Landscape Management Plan refer to 'retention of the trees, where possible' and protection of retained trees but this is too general. A tree survey should include trees on and adjacent to the 'site' and should make it clear whether or not they are to be retained as part of an Arboricultural Impact Assessment (AIA), and if so how they will protected during the development. The cable route from the site to the substation at Saltney should also be subject to AIA to establish if there would be any impact to trees as a result of excavations to install an underground cable. If impacts are identified an Arboricultural Method Statement (AMS) should be provided. As referenced on the planting plans it is usually necessary to erect protective barrier around retained trees to protect them during development. In this case, it is recognised that due to the nature of development Heras fencing protecting all trees would not be necessary. However the AMS should include details for the safeguarding of the retained trees and hedges by way of demarking the development's boundaries. This might be achieved, in part, by using the perimeter security fencing as a stand-off. Areas of more intensive development (e.g. soil mounding, buildings) will require Heras fencing to the BS specification unless otherwise justified. Section 12 of DNS application form requires a BS5837 tree survey under Essential Supporting Documents.

The tree survey would also inform the changes to screening that would occur as result of ash dieback and elm (including hedgerows with elm) succumbing to Dutch Elm Disease. It is possible that trees on the boundary of the development could reduce the efficiency of the solar panels as a result of shading and be removed or cutback inappropriately. It is therefore important that the effect the trees will have on the development are fully understood by the arboriculturist, and included in the tree survey. The existing trees should be included in the landscape management plan for the site and cover the whole duration of development.

Due to the absence of a BS tree survey, it is not clear to ascertain what impact the development would have on the trees adjacent to the site, and to a lesser extent along the cable route. The LVIA is based on an assessment of the existing landscape and the presumption that existing trees and hedgerows would be retained. However this might not be the case as the LMPs state that 'Existing trees/vegetation to be retained, where possible'. Therefore there appears to be a conflict which would require clarification.

Cultural Heritage and Archaeology

It is understood that Cadw has been consulted by the developer in accordance with the DNS Regulations due to the proximity of the proposed development and the setting of the Scheduled Monument Bretton Hall Moated Site (SM FL185). The Council's Built Heritage Conservation Officer has been consulted due to the proposed development being situated in the setting of Grade II Listed Building Well House Farm to the north. At the time of writing no comments had been received.

Clwyd-Powys Archaeological Trust (CPAT) have been consulted. The Scoping Response from the Council dated 16.12.20 recommended appropriate assessment including a desktop study, walkover survey and geophysical survey. CPAT approved a Written Site Investigation (WSI) for the geophysical survey on 12 May 2021, and advised Heritage Archaeology Ltd that the results may require further pre-determination evaluation if archaeological or undetermined anomalies are discovered. The evaluation results are then used to advise the solar farm design with regard to any areas which would need to be avoided, or where further investigation may be needed. However, despite this advice, it is understood that CPAT were not subsequently contacted and this consultation has provided the first opportunity to review the geophysical results.

It is clear from the geophysics results that features of potential archaeological origin may be present in both the Welsh and English areas of the scheme layout. In the Welsh area there are undetermined features in Areas 2, 3, and 4 including curving ditches (3a and 4), right-angled ditches (3a) and discrete strong magnetic anomalies (2). In England there are substantial curving ditch features in Area 6. In accordance with PPW11,

6.1.26 and TAN 24, 4.7 these anomalies should have been investigated at the pre-determination stage to allow a full understanding of the impact of the proposals on the significance of the remains. As such, it is considered that the archaeological potential of the development site has not been properly investigated in accordance with PPW11, para 6.1.26 and TAN 24, para 4.7. Therefore, further pre-determination evaluation needs to be completed on the geophysical anomalies which have a potential archaeological origin, so that the ES is properly informed of the potential impacts and any proposed additional mitigation.

Ecology/Nature Conservation

It is considered that the Chapter 8 of the ES relating to Biodiversity, and associated reports are acceptable and cover the key issues raised previously when comments were offered at the Scoping stage. The proposed mitigation and enhancement are also considered to be acceptable. The Habitat Management Plan incorporates the landscape management plan proposals for hedge, tree planting and meadow creation. The management plan acknowledges that meadow creation on fertile soils is difficult, and to date such grassland enhancement has not been successful at other Flintshire solar developments. It is therefore suggested that the wildflower seeding is incorporated into the contingency measures as part of the long term management of the site. It is also recommended that the mitigation measures proposed that include appropriate bird and bat boxes, badger gates in security fencing to maintain foraging connectivity, minimal lighting etc should be included within the Habitat Management Plan or as an equivalent Biodiversity Management Plan, so that the long term management of all relevant biodiversity issues are covered in one document.

Within the Atmos Phase 1 Habitat Report it is advised to check an anomaly between Phase 1 habitat plan and landscape management plan with regards to Hedgerow location -H6 on Phase I Habitat Plan. For completeness it is recommended to included the cabling route within the Phase 1 habitat report, although the habitats impacted are minimal and the route can be included in the pre-construction protected species survey.

Noise

The Environmental Protection Officer has confirmed that they have no objection.

Contaminated Land

The PRA land contamination report submitted has been reviewed and the conclusions appear reasonable. However, it is noted that the report refers only to legislation in force in England. Reference should have been made to the Contaminated Land (Wales) Regulations and it is expected that where land is located in Wales, that legislation in force in Wales is referred to and relied upon.

No further information is expected to be submitted in respect of land contamination. However, potential sources of land contamination such as contamination attributable to agriculture have not been considered in particular. Taking into account the potential receptors and PRA presented and that it is unlikely that this would change the outcome, it would be appropriate to impose a precautionary condition on the planning permission (if it is granted) requiring any unexpected/unidentified contamination to be assessed and remediated where necessary and reports explaining the findings and the extent of the works to be submitted.

Conclusion

1. The flood risk is significant with regards to this proposal whether related to the tests in the present TAN or the new TAN, which is yet to be implemented. Both sets of tests consistently refer to previously developed land/ brownfield sites which the application site is not. It is also clear, as the ALC report refers, that the land is prone to regular flooding which, has demonstrated that diminishes the agricultural land quality and ability to work for higher yields. The documents have not however demonstrated that the flooding won't negatively affect the ability for the proposed solar farm to operate. Given this is a relatively large solar farm which may or may not provide power locally, the degree to which the land floods has to question the resilience of a solar farm if located here, and the ability for the key inverter and switch board equipment to remain flood free and the site operational.

2. Whilst the Welsh Government Soil Policy and Agricultural Land Use Planning Unit have stated that the Department for Climate Change would not object to the loss of BMV, there is still the principle that there does not appear to have been an alternative site search carried out, omitting either green barrier, BMV, or flood risk sites, before arriving at this location. There is no evidence presented to demonstrate a sequential test has been carried out to establish sequentially that this is the most suitable site, and/or whether sufficiently exceptional circumstances exist. There is clear guidance in the emerging LDP on solar areas of search that have already filtered these constraints out and significant weight can be attached to the LDP.
3. This is a large solar farm within a green barrier whose key characteristics are its openness – it is flat open agricultural land without significant development within it (except for farms) with clear medium to longer distance vantage points from public roads (Chester Road and A55 Chester Southerly) and a solar farm on this scale would present a prominent new feature in this previously open expanse of agricultural land, materially changing the openness for a significant period of time (40 years). Whilst PPW11 includes renewable energy generation as applicable development within a green wedge, this is clearly prefaced on the preservation of the openness, and that any proposals do not conflict with the purpose of including land within the green wedge. As noted above, this land is also a candidate for consideration for a green barrier as part of the intentions in Future Wales to mirror the Cheshire Green Belt.
4. Trees are a material planning consideration and where they are present on or adjacent to a site therefore a British Standard tree survey should be carried out to BS5837:2012 which should include trees on, and adjacent to the site, and it should state which are to be retained as part of an Arboricultural Impact Assessment, and how the retained trees would be protected during the development. The Assessment should also include the cable route to the substation at Saltney.
5. The Landscape Management plan should take into account the above comments.

6. With regards to archaeology, it is considered that the archaeological potential of the development site has not been properly investigated in accordance with PPW11, para 6.1.26 and TAN 24, para 4.7. Therefore, further pre-determination evaluation needs to be completed on the geophysical anomalies which have a potential archaeological origin, so that the ES is properly informed of the potential impacts and any proposed additional mitigation.
7. With regards to nature conservation and biodiversity, the recommendations set out above should be considered and included in the submission.
8. Whilst the proposal would be in line with current national energy policy and would aid the UK in its target to be net zero carbon by 2050 there is a balance to be made for the need for low carbon energy generation and the potential impacts the solar farm would have particularly in relation to flood risk and the the openness of the green barrier. It is considered that the tests of the existing and forthcoming TAN15 have not been met. With regards to development within the green barrier, very exceptional circumstances have not been provided, and an assessment of alternative sites has not been undertaken.

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10/03/2022

Dear Sir/Madam,

BWRIAD / PROPOSAL: 30MW SOLRAR FARM

LLEOLIAD / LOCATION: BRETTON HALL, CHESTER ROAD, FLINTSHIRE

Thank you for consulting Cyfoeth Naturiol Cymru / Natural Resources Wales about the above, which we received on 28/01/2022.

We have concerns with the application as proposed because inadequate information has been provided. To overcome these concerns, you should provide further information in your planning application regarding flood risk and groundwater protection. If this information is not provided, we may object to the planning application when formally consulted by the planning authority. Further details are provided below.

We also advise that based on the information submitted to date, we would ask the planning authority to include a condition regarding protected sites on any planning permission granted. The document identified below (protected species section) should also be included in the approved plans and documents condition on the decision notice. Without the inclusion of this condition and document by the planning authority we would be likely to object to the planning application.

Flood Risk

The site lies in Zone C1 as defined by the Development Advice Map (DAM) referred to in Technical Advice Note (TAN) 15: Development & Flood Risk (2004), and the Flood Map for Planning (FMfP) identifies the application site to be at risk of flooding and falls partially into the TAN15 Defended Zone, Flood Zone 2 and Flood Zone 3 outlines.

The development proposal is for a solar farm which extends across the border into England. Fields 1, 2, 3 and 4 are located in Wales.

A detailed Flood Consequences Assessment (FCA) has been submitted in support of the application (ECUS, v2.0, October 2021). The primary source of flood risk is fluvial flood risk

from Balderton Brook. The FCA has derived a flood level of 4.70 m for the 'design event' which is the 1% Annual Exceedance Probability (AEP) event with an allowance for climate change. It is not clear how this flood level has been derived as the FCA states that an adjustment for climate change allowances has been added to the 1% AEP flood level. It is not clear how the adjustment value of 0.24 m has been derived and further explanation of the approach taken should be provided within the report. The Balderton Brook modelling study referred to in the FCA contains model runs for the 1% AEP event with an allowance for climate change, and it is these runs that should be used to derive design flood levels. However, in this instance, the design flood level of 4.70 m AOD calculated within the FCA is slightly higher than the flood level from the Balderton Brook study for the 1% AEP event with an allowance for climate change, so the approach taken in the FCA provides a conservative approach. Table 3 of the FCA presents an overview of the maximum expected flood depths at each field (F) location. It is evident that the site is at significant risk of flooding from fluvial sources, with flood depths in excess of a metre (and up to 1.29 m) expected at F1, F2, F3 and F4. For tidal flood risk, we are satisfied that the FCA shows that the site would remain flood free when considering a breach in the River Dee defences for the 0.5% AEP event with an allowance for climate change.

In order to mitigate fluvial flood risk, the FCA proposes to set the edges of all solar panels 300 mm above modelled flood levels (a minimum level of 5.0 m AOD). As flood depths vary across the respective fields, solar panels with different frame designs and installation heights will be used across the site. Table 5 provides an overview of the most onerous frame design clearance that will be needed for each field and demonstrates that at least 300 mm clearance would be provided above the flood levels at each location. Drawing 082-200-R07 provides typical details for the various frame designs and states that all solar panel edges must be set at a minimum of 5.0 m AOD, which is in accordance with the mitigation measures outlined in the FCA. In respect to other water sensitive infrastructure, such as batteries, substations, switch room and classroom, the FCA states that all elements will be set to a level of 5.0 m AOD, providing 300 mm freeboard above the design flood level. The design drawings submitted with the application all show finished floor levels to be set at 5.0 m AOD.

We note that the FCA states that some parking areas would be provided in association with the classroom, but it does not comment on the flood risk posed to the parking areas and whether any mitigation is needed for this element of the proposal. The FCA needs to be updated to include this as we would expect any parking areas to be designed to be flood free in the 1% AEP event with an allowance for climate change.

In respect to flood risk elsewhere, in accordance with the requirements of Section A1.12 of TAN15, it must be demonstrated that the proposal would have no adverse impact on flood risk elsewhere. The FCA states that all solar panels and most of the water sensitive infrastructure would be raised on an open frame structure, which would allow floodwaters to flow freely beneath the structures. Again, this is reflected on the design drawings. However, for the battery storage and switch rooms this is not possible, and these would need to be built on a solid raised platform which would lead to some displacement of floodwaters. The FCA presents some volumetric calculations, stating that approximately 96 m³ of floodwaters would be displaced as a result of these platforms. The FCA states that when comparing this to the volume of floodplain across the wider site, such displacement would have a 'negligible'

impact on flood risk elsewhere. Given the nature and scale of the proposal, it is unlikely that the two platforms would have a significant impact on flood risk elsewhere.

However, we do have some concerns in relation to the topsoil bund proposed in Field 1. Drawing 082-023 indicates the bund would have an area of 1,402 m² and would be 1.5 m high. The bund would be located within the 0.1% AEP event flood extent and given its size could have an impact on flood risk elsewhere. We advise that the topsoil is stored outside of the floodplain to avoid displacement of floodwaters, and that this is clearly shown on the submitted plans. If this cannot be achieved, we would expect the FCA to assess the potential impacts storing material within the floodplain could have on flood risk elsewhere.

The FCA presents the flood risk posed to the site in the 0.1% AEP event in Table 3, both in relation to flood depths and velocities. This shows that flood depths across the site would exceed the tolerable conditions flood depths and velocities as outlined in Table A1.15. As it is for the determining authority to determine whether the risks and consequences of flooding can be managed in accordance with TAN15, we will be recommending that they seek the advice of other professional advisors on matters such as emergency plans, procedures and measures to address structural damage that may result from flooding. Please note, we do not normally comment on or grant the adequacy of flood emergency response plans and procedures accompanying development proposals, as we do not carry out these roles during a flood. Our involvement during a flood emergency would be limited to delivering flood warnings to occupants/users.

To summarise the above, we advise that an updated FCA should be provided, which assesses the flood risk posed to the parking area (and recommends suitable mitigation measures if required) and an assessment of the impacts of the soil bund on flood risk elsewhere needs to be undertaken (unless this bund can be moved outside of the 0.1% AEP event flood outline).

Operational/maintenance comments

Based on the site location plan, it appears that the works have the potential to impact our ability to undertake maintenance (under our permissive powers) of some main rivers. We note there could be a potential cable route alongside the right bank of Mold Junction Drain (a main river) downstream of Saltney Ferry Road, where the cable connects to the substation. We advise further information should be provided for this including design drawings showing the route of the cable, depth of the cable and confirmation that our ability to carry out maintenance using a tracked excavator would not be compromised.

There also appears to be a service crossing just upstream of the site access, which would cross Bretton Drain. Further details should be provided in respect to the nature of the crossing, proposed method of installing the crossing and the proposed depth of the cable, beneath the bed and either side of the banks. There is an exemption that covers installing a service crossing below the bed of a main river, and the associated [technical guidance](#) contains some design conditions for any crossings which should be adhered to if possible.

We note that the solar panels would be close to both Boundary Drain and Smallholdings. We advise that an 8-metre access strip is provided to allow access to the riparian owner to carry out maintenance or remove blockages along the watercourses.

We also note that the proposal involves a number of new access crossings (culverts) but none of these appear to be located on main rivers. For any new structures on ordinary watercourses, we advise that the Lead Local Flood Authority (LLFA) is contacted to advise on design requirements.

We therefore have concerns in respect to potential impacts on our ability to undertake maintenance activities and advise information relating to the proposed cabling adjacent to Mold Junction Drain and the proposed service crossing at Bretton Drain should be provided.

Flood Risk Activity Permit (FRAP)

The works area is within proximity to several main rivers, including Smallholdings, Boundary Drain, Bretton Drain and Mold Junction Drain. A bespoke Flood Risk Activity Permit (FRAP) (Environmental Permitting Regulations England & Wales, 2016) may be required for any works in, over, under or near a main river or within a flood plain. This would include any excavations within 8 m of a main river, any new cable crossings or access crossings.

Surface water drainage

We note the FCA includes a section relating to surface water drainage. We advise that you liaise with the SuDS Approving Body regarding the proposed surface water drainage arrangements. We do not provide advice in this regard.

Groundwater Protection

As stated in our EIA Scoping advice (dated 18/12/2020, our reference CAS-130535-S7V2), the site is within a Source Protection Zone, however the principal aquifer is at depth and is normally covered by a significant thickness of low permeability superficial deposits, till and tidal flat deposits (Secondary undifferentiated aquifer).

However, there are two elements of our EIA Scoping advice that has not been addressed in the submitted ES. Further details should be provided as part of any planning application with respect to the following:

Fluid filled cables

As advised in our EIA Scoping advice, confirmation should be provided as to whether or not the cables will be fluid filled. If they are to be fluid filled, then the ES should state at what depth the cable will be in relation to the shallowest seasonal groundwater depth. This is in line with Environment Agency [groundwater protection statement](#) C5. This is particularly important as we note the Geophysical Survey Report (Magnitude Surveys, June 2021) has identified shallow groundwater in the superficial deposits.

Piling

The Preliminary Contamination Risk Assessment refers to piling however there is no detail of the actual piling proposed. Any planning application should provide details of the piled foundation design and depth in order for the determining authority to determine whether planning conditions are needed to protect the deeper aquifer, which is designated as a SPZ and is therefore considered sensitive. As stated in our EIA Scoping advice, in practice, if the right piling solution is chosen the piles will self-seal as they penetrate the low permeability deposits.

Protected Sites

River Dee and Bala Lake Special Area of Conservation (SAC) / Site of Special Scientific Interest (SSSI)

We consider that the proposal has the potential to have adverse effects on the River Dee and Bala Lake SSSI/SAC. At its closest point, cable installation works would be undertaken within 200m of the SAC/SSSI.

Section 8.9.1 (Chapter 8) of the ES states that a “*detailed Construction Environmental Management Plan (CEMP) will be required to detail the mitigation measures required to protect the watercourses within and adjacent to the site from construction site run-off, siltation and other pollution. The document will also include plans for Pollution Prevention, Drainage and Site Waste Management*”.

We agree that a detailed CEMP should be prepared, and that it should be secured as a condition of any planning consent. We would recommend that a detailed CEMP is submitted as part of any planning application in order to avoid the need to attach a condition.

Based on the application as proposed, we would advise the determining authority that the following condition should be secured in the planning consent to be certain that there will be no adverse effects on the SAC/SSSI.

Condition

No development shall commence until a CEMP has been submitted to and approved in writing by the determining authority. The CEMP should include:

- Construction methods: details of materials, how waste generated will be managed;
- General Site Management: details of the construction programme including timetable, details of site clearance; details of site construction drainage, containments areas, appropriately sized buffer zones between storage areas (of spoil, oils, fuels, concrete mixing and washing areas) and any watercourse or surface drain.
- Biodiversity Management: details of tree and hedgerow protection; invasive species management; species and habitats protection, avoidance and mitigation measures.
- Soil Management: details of topsoil strip, storage and amelioration for re-use.

- CEMP Masterplan: details of the extent and phasing of development; location of landscape and environmental resources; design proposals and objectives for integration and mitigation measures.
- Resource Management: details of fuel and chemical storage and containment; details of waste generation and its management; details of water consumption, wastewater and energy use
- Pollution Prevention: demonstrate how relevant Guidelines for Pollution Prevention (including GPP 1 and GPP5) and best practice will be implemented, including details of emergency spill procedures and incident response plan.
- Details of the persons and bodies responsible for activities associated with the CEMP and emergency contact details
- Ecological clerk of works to ensure construction compliance with approved plans and environmental regulations.

The CEMP shall be implemented as approved during the site preparation and construction phases of the development.

Justification: A CEMP should be submitted to ensure necessary management measures are agreed prior to commencement of development and implemented for the protection of the environment during construction.

The determining authority will need to undertake a Habitats Regulations Assessment under Regulation 63 of the Conservation of Habitats and Species Regulations 2017. Should they conclude that the proposed development is likely to have a significant effect on a European site, we would be able to assist with that assessment in our role as a Statutory Nature Conservation Body under the above Regulations.

Dee Estuary Special Protection Area (SPA) / Ramsar Site / SSSI

Based on the application as submitted, we would advise the determining authority that the proposal is not likely to have a significant effect on the Dee Estuary SPA/SSSI/Ramsar site.

Our advice may change should modifications be made to the proposed development prior to the determination of the application. If there are any changes to the proposed development which may affect the consideration of potential environmental impacts, please consult us again before you determine the application.

Protected Species

In our EIA Scoping advice, we stated that the ES should assess impacts on bats, great crested newts (GCN), otters and water voles. Bats, otters and GCNs are European Protected Species (EPS) protected under the Conservation of Habitats and Species Regulations 2017 (as amended). Water voles are fully protected under the Wildlife and Countryside Act 1981 (as amended).

Although otters, water voles and GCNs were not recorded using the site, as stated in section 8.9.2 of the ES, the presence of these species cannot be ruled out. In relation to bats,

although no bat roosts are likely to be present on site, bats are likely to be using hedgerows and trees along the boundaries of the site for foraging and/or commuting.

The ES specifies appropriate mitigation measures which we advise must be implemented to demonstrate that the proposal would not be likely to be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in its natural range.

We would advise the determining authority that the ES report (ES Volume 1, Mabbett, January 2022) must be included in the 'approved list of plans / documents' condition within the decision notice should consent for the project be granted.

Other Matters

Our comments above only relate specifically to matters included on our checklist, *Development Planning Advisory Service: Consultation Topics* (September 2018), which is published on our [website](#). We have not considered potential effects on other matters and do not rule out the potential for the proposed development to affect other interests.

We advise the applicant that, in addition to planning permission, it is their responsibility to ensure they secure all other permits/consents/licences relevant to their development. Please refer to our [website](#) for further details.

If you have any queries on the above, please do not hesitate to contact us.

Yn gywir / Yours faithfully

Bryn Griffiths

Uwch-gynghorydd - Cynllunio Datblygu / Senior Advisor - Development Planning
Cyfoeth Naturiol Cymru / Natural Resources Wales

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FLINTSHIRE COUNTY COUNCIL

REPORT TO: **PLANNING COMMITTEE**

DATE: **15TH JUNE 2022**

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

SUBJECT: **OUTLINE- RESIDENTIAL DEVELOPMENT OF UP TO 94 DWELLINGS WITH ALL MATTERS RESERVED EXCEPT FOR ACCESS**

APPLICATION NUMBER: **061507**

APPLICANT: **FG WHITLEY & SON**

SITE: **FORMER DIMPLEX SITE, DRURY NEW ROAD, BUCKLEY**

APPLICATION VALID DATE: **15th JULY 2020**

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

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

REASON FOR COMMITTEE: **SCALE OF DEVELOPMENT RELATIVE TO SCHEME OF DELEGATION**

SITE VISIT: **YES**

1.00 SUMMARY

1.01 Outline application for approval in principle for residential development of up to 94 dwellings with all matters reserved except for access at the former Dimplex site, Drury New Road, Buckley.

2.00 RECOMMENDATION: TO REFUSE PLANNING PERMISSION, FOR THE FOLLOWING REASONS:-

2.01 1. The proposal would result in the loss of a general employment land allocation as well as land identified as being within a Principle Employment Area which would be of detriment to the future provision of employment land. As such

it is considered that the proposal would be contrary to policies EM1 and EM3 of the Flintshire Unitary Development Plan.

2. Insufficient information has been submitted with regard to the level of phosphates arising from the development and affecting protected sites. It is therefore not possible for the LPA to conclude that phosphate levels attributable to the appeal scheme would not have a likely significant effect on the River Dee and Bala Lake SAC. As such the proposal is contrary to Policies GEN1 and WB2 of the Flintshire Unitary Development Plan.

3.00 CONSULTATIONS

3.01 Local Member: Councillor M Peers

The site subject to this proposal is land designated under the Flintshire UDP, and the deposit Local Development Plan (LDP) as Employment land (Policy PE1 ref 3) part of the Principal Employment Area PE2.7.

The site is not situated wholly within the settlement boundary and is in close proximity to a designated and protected wildlife area.

Under the call for candidate sites in the Flintshire LDP, this site was put forward for Housing and under candidate site **BUC021** the response from the planning authority was:

“This site is not appropriate for a housing allocation nor is the northern part (of the site) appropriate to be included in the settlement boundary”.

Following the council’s response, rejecting the proposal, the site was **NOT put forward as a resubmitted** site under Policy HN.1 (New or re-submitted site).

During the LDP consultation process a summary of the changes being sought / proposed under I.D. 879 stated “Remove the site of the former Dimplex factory, Drury New Road from the Principal Employment area PE2.7 and from the future employment expansion area under policy PE1.3”

The planning authority responded to I.D 879 under “Council response” (Deposit Local Development Plan Consultation 30th September 2019) that (the proposal is):

“Not Accepted. The site was originally allocated in the UDPM for employment purposes and has been re-allocated under policy PE1 (PE1.3) of the LDP as part of the Principal Employment area PE2.7. It is also allocated for future employment expansion”.

The final response by the planning authority was:

“There is no intention to de-allocate the employment allocation from this site”.

It is clear that the planning authority’s intention is to retain the land as Employment land.

Big name companies have occupied this site, Optec, Airbus and Glen Dimplex, attracted by the location and the semi-rural surroundings with excellent road access close to the A549, and only a short distance from the A550 and the A55 junction 35 at Dobshell. It is a unique employment site in an attractive setting and should be retained.

The applicant claims that the eaves height of the building on the employment site is restrictive at 3.75 metres, but 3 major companies have previously occupied the site successfully. The buildings are suitable for a number of employments uses and could be sub divided into smaller enterprises.

A recent request to the Estates Division Housing and Assets at Flintshire County Council was asked about the number of industrial units available locally that could be used by a small enterprise. This resulted in the following response from the County Council;

“Unfortunately, at this point in time, there are no vacant Units at any of the (Industrial) Estates”

The existing building on the site and the employment area could also be redeveloped and opened up to smaller enterprises and provide job opportunities in the local area.

It has been recorded that because of commitments and allocations as set out in the planned housing trajectory in the deposit LDP *“the Council does not attach considerable weight to the need to increase housing delivery”*. Section 4.2.5 of Planning Policy Wales states:

“Planning authorities must clearly set out the housing requirement in their development plan. These requirements must be based on evidence and clearly express the number of market and affordable homes the planning authority considers will be required in their area over the plan period”.

This has been done and the LDP submitted for examination. This plan led system has brought forward the most appropriate housing sites.

The LDP will deliver the amount of housing it is required to meet.

In addition to the LDP allocations work has commenced on housing developments not far from this site at:

- Hillcrest, Drury Lane.
- The former Glynne Arms public house site.
- Woodside cottages Pen-y-coed Road Burntwood.

Also, an appeal has been lodged to allow housing development to the rear of 81 Drury Lane Drury.

2020 has seen large areas of the country impacted by coronavirus and employment has been impacted in the short term, but it is essential that we retain this employment site for the future, and for future expansion.

There is no justification to remove the designated employment land at this prime employment location (evidence by previous large companies attracted to this site) and it should be retained for employment purposes.

There is no evidenced need for housing on this site given that the allocations in the LDP will meet the housing requirements along with the additional sites outlined above.

Requests site visit for the following reason: To allow the committee to see the setting and surroundings that make this employment location unique.

Councillor D Hutchinson: No response at time of writing

Buckley Town Council: No response received

Head of Assets and Transportation: I refer to your consultation in respect of the above proposal. Although submitted as an outline application with all matters reserved apart from access, the application is supported by a significant amount of detail; there is no highway objection to the proposal.

Highways (ROW): Public Footpaths 28 and 31 abuts the site but appears unaffected by the development. The path must be protected and free from interference from the construction.

Housing Strategy: The demand for affordable housing in Flintshire is demonstrated by the Local Housing Market Assessment and Flintshire Council's housing waiting lists.

Local Housing Market Assessment (LHMA) Update 2018 (Final report (addendum) Feb 2020)

The LHMA for Flintshire identifies an annual shortfall of 238 affordable units.

The assessment recommends a need for the following property types:

- 1/ 2 bedroom (45.6%)
- 3 bedroom (28.3%)
- 4+ bedroom (12%)
- Older persons stock (14.1%)

And this should be split between the following tenures:

- Social rented (30%),
- Intermediate rent (30%)
- Affordable ownership (40%)

General Needs Housing – Buckley area (as at 1/8/20 SARTH waiting list)
Social Rent

1 & 2 bed bungalow	1 bed flat	2 bed flat	2 bed house	3 bed house	4+ bed house
1 bed –43 2bed – 20	272	81	128	27	40

Affordable Housing Register – Tai Teg:

Affordable Rent

Buckley area

Tai Teg (Demand by Area- Rental)

2 bed flat	2 bed house	3 bed house	4+ bed house
5	43	49	3

Low Cost Home Ownership

Buckley area

Tai Teg (Demand by Area- Purchase)

2 bed flat	2 bed house	3 bed house	4+ bed house
1	37	48	1

*Information as at 29/7/20 taken from Tai Teg waiting list

Housing Strategy Comments:

This planning application is for up to 94 dwellings of which 30% is being proposed for affordable housing, equating to 28 dwellings. This is acceptable to housing strategy.

Affordable Housing Partner: To be determined. It is suggested that early discussions are held between housing strategy and either NEW Homes/ or another partner housing association to progress the affordable housing units.

Preferred Mix of units: To be determined, but suggested tenure mix similar to the following:

Social Rented 12
Intermediate rent 8
LCHO 8
Total 28

The Buckley area has significant levels of housing need for all tenures/ property types and particularly for social rented housing. Therefore affordable housing in this location would be supported by housing strategy.

Head of Public Protection: No response at time of writing

CPAT: There are currently no recorded archaeological sites within the main development area with the nearest site (PRN 103684 Little Mountain Colliery) located in the retained woodland to the north of the site and the former railway line retained as a footpath corridor to the west. The overall archaeological potential is low with no other recorded archaeological sites in the immediate vicinity, or present within the development boundary on readily available historic mapping.

We would therefore have no objection to the proposed development from the archaeological point of view.

Dwr Cymru/Welsh Water: If you wish to progress this development then it will be necessary for a Development Impact Assessment to be undertaken on the Wastewater Treatment Works at the developer's expense. The conclusion of this study will determine any improvement works required.

Having assessed the proposal, we note the developer proposes to dispose of foul flows via the public sewerage system and discharge surface water run-off into a sustainable drainage system. However, no detailed drainage plans have been provided.

As of the 7th January 2019 this proposed development is subject to Schedule 3 of the Flood and Water Management Act 2010. The development therefore requires approval of Sustainable Drainage Systems (SuDS) features, in accordance with national standards, and is strongly recommended that the developer engage in pre-application consultation with the Flintshire County Council, as the relevant SuDS Approval Body (SAB). Please note, DCWW is a statutory consultee to this application process and would provide comments on any SAB proposals.

In light of the above and given the omission of a detailed drainage plan/ layout, we would kindly request that if you are minded to grant Planning Consent for the above development that the following **Conditions and Advisory Notes** are included within the consent to ensure no detriment to existing residents or the environment and to Dwr Cymru Welsh Water's assets.

We can advise that Buckley Ty Gwyn WwTW has a phosphate permit. This matter will need to be considered further by the local planning authority.

Natural Resources Wales:

We continue to have concerns with the application as submitted because inadequate information has been provided in support of the proposal. To overcome these concerns, you should seek further information from the applicant regarding foul drainage, protected sites, protected species (Great Crested Newt) and land contamination. If this information is not provided, we would object to this planning application. Further details are provided below.

We also advise that based on the information submitted to date, conditions regarding biosecurity, ecological compliance audit and land contamination should be attached to any planning permission granted. Without the inclusion of these conditions we would object to this planning application.

The Waste Water Treatment Works (WWTW) for the proposal is Ty Gwyn, Buckley. We note the WWTW is within the catchment of the River Dee and Bala Lake Special Area of Conservation (SAC), although the application site is not. As you are aware, on the 21st January 2021, we published an evidence package outlining

phosphorus levels for all river SACs across Wales. As part of this package, we issued a Planning Position Statement, in which we advised that any proposed development that might increase the amount of phosphate (or phosphorus) within a river SAC catchment could lead to damaging effects to the SAC. Therefore, such proposals should be screened through a Habitats Regulations Assessment (HRA), to determine whether they are likely to have a significant effect on the SAC. We have also issued Planning Advice (May 2021) which gives specific advice in respect of foul drainage arrangements for new developments.

This application proposes connection of foul water to the mains sewer. As such, we refer you to our Planning Advice, in particular the bullet point list given in the section titled 'What does this mean for development proposals involving connection to public wastewater treatment works', which specifies the information that should be provided to support applications which propose connections to public wastewater treatment works.

With regards to the third bullet point, we note that Welsh Water have confirmed that Ty Gwyn, Buckley Wastewater Treatment Works does not have capacity to treat additional phosphorus.

Airbus: No response at time of writing

4.00 PUBLICITY

4.01 Press Notice, Site, Notice, Neighbour Notification

2 Letter of Support received

16 Letters of Objection received:

- Buckley already overdeveloped
- Lack of local infrastructure/services
- Traffic/highways safety concerns
- Loss of trees
- Impact of development on local commercial activity

5.00 SITE HISTORY

5.01 017536- Extension to factory (Phase 2)- Approved 8/11/1988

6.00 PLANNING POLICIES

6.01 Flintshire Unitary Development Plan

- STR1 - New Development
- STR 4 – Housing

- STR 8 – Built Environment
- STR 10 - Resources
- GEN1 - General Requirements for Development
- GEN2 - Development Inside Settlement Boundaries
- D1 - Design Quality, Location and Layout
- D2 - Design
- D3 - Landscaping
- WB1 - Species Protection
- AC13 - Access and Traffic Impact
- AC18 - Parking Provision and New Development
- HSG3 - Housing on Unallocated Sites within Settlement Boundaries
- HSG8 - Density of Development
- HSG 9 – Housing Mix and Type
- HSG 10 – Affordable Housing within settlement boundaries
- EM1- General Employment Land Allocations
- EM3- Development Zones and Principal Employment Areas
- EM6- Protection of Existing Concerns
- SR5 - Outdoor Playing Space and New Residential Development

Local/Supplementary Planning Guidance Notes

- SPGN 2 - Space around dwellings
- SPGN 4 - Trees and Development
- SPGN 9 - Affordable Housing
- SPGN 11 - Parking Standards
- SPGN 13 - Open Space Requirements
- SPGN23- Developer Contributions to Education

National Planning Policies:

- Planning Policy Wales – Edition 11 (Feb.2021)
- Future Wales: The National Plan 2040 (FWP 2040)

It is noted and acknowledged that the national planning framework as set out within Planning Policy Wales Edition 11 and Future Wales: The National Plan 2040 sets out the most up to date planning principles against which to consider development proposals. The Development Plan and associated supplementary planning guidance remain broadly consistent with these changes to legislation

7.00 PLANNING APPRAISAL

7.01 Proposal

7.02 This is an Outline application, with all matters reserved except for access, for residential development of up to 94 dwellings at the former Dimplex site, Drury New Road, Buckley.

7.03 Site

7.04 The site, known as the Former Dimplex site, is a commercial site located on the Junction of Chester Road, and Drury New Road, close to Buckley Train Station.

7.05 In the adopted UDP the bulk of the site lies within the settlement boundary of Buckley which is a category A settlement. Looking at the portion of the site within the settlement boundary the northern part is shown as an employment allocation. Both the existing unit and the employment allocation fall within the Little Mountain Principal Employment Area. The northern part of the site lies outside the settlement boundary and Principal Employment Area and is within open countryside. It also forms part of the Deeside and Buckley Newts SAC, as does the line of the former railway which runs along the western edge of the site.

7.06 Principle

7.07 In the UDP policy EM1 allocates part of the site, amounting to 1.4ha, for B1, B2 or B8 uses. Policy EM6 seeks to protect employment land. The policy is set out below along with a commentary alongside each criteria:

7.08 The establishment of non-employment or retail uses on existing or allocated employment land and buildings will be permitted only where:

- no other suitable site is available for the development proposed;
- the site or building is no longer considered to be suitable for employment purposes;
- it would not result in an unacceptable reduction in the supply and range of employment sites in the area; or
- the proposal would bring about the removal or satisfactory relocation of a non - conforming or potentially polluting use from the site or building.

7.09 Policy EM3- Development Zones and Principal Employment Areas identifies those areas within Flintshire that are strategic in nature in terms of their economic importance. As the UDP policy explains: By identifying key areas where new employment development will generally be acceptable, the Plan aims to provide a greater degree of certainty and consistency and avoid the need to identify numerous small allocations or commitments. The policy is applicable to the use of land, new build, conversion, redevelopment and extension or expansion. Within these areas, employment development will generally be acceptable, unless it is allocated for a specific use by virtue of another policy. As such the loss of this land for other uses

could create issues for the medium to long term provision of suitable sites for employment generating development.

- 7.10 In the Emerging LDP the settlement boundary, Principal Employment Area and employment allocation remain the same as in the UDP. The Plan has set out a housing requirement of 6,950 plus a 13.2 % flexibility allowance and identified how it is to be met in terms of housing supply which includes completions, commitments, allowances for small sites and windfalls, strategic sites and 11 housing allocations.
- 7.11 The LDP is on track to deliver its housing in the early part of the Plan period as completions in the first 5 years of the Plan period has a cumulative completion of 2609 units, which is above the Plans annual requirement for this period Whilst a large brownfield windfall site could help ensure completions remain on track until allocated sites start delivering, and it is accepted that a proportion of the Plans housing land supply will come from the allowance for small sites (60 units per annum) and large windfall sites (50 units per annum), this has to be weighed against the consequences of losing land allocated for employment generating uses over the lifetime of the plan. Consideration also needs to be had to the advanced stage that the Examination of the LDP has reached, with the Matters Arising Changes due to be consulted upon in June. Two recent appeal decisions in Higher Kinnerton and Penyffordd have confirmed the stage reached by the LDP, the deliverable housing land supply and the benefits of a Plan led system.
- 7.12 In both cases the respective Inspectors gave significant weight to the stage reached with the LDP and the certainty of likely adoption based on the Plan's ability to deliver its housing requirement with the supply it contains. There was therefore no need to consider speculative housing sites and the two appeals were dismissed. It is also the case that the employment provision is confirmed in the Plan including the continued designation of the application site for employment use. As there are no Matters Arising Changes that relate to this site there is every likelihood that its employment designation will be found sound as part of adopting the LDP.
- 7.13 The site was submitted as a candidate site (BUC021) for housing development. As part of the LDP consultation documents, Background Paper 8 published a summary assessment of each candidate site. For this site the assessment stated '*The site is partially within the settlement boundary and as such that part could be developed for housing although the proximity to the wildlife designation would restrict this. The site is still in employment use and it is not considered suitable for a housing allocation. On the basis that the northern part of the site abuts the SSSI / SAC it would be*

inappropriate for the settlement boundary to be extended to include the site'. The assessment was written on the basis that the site was still in employment use but that there was potential for housing on that part of the site within the settlement boundary'. However, it was not considered that there may be sufficient certainty about availability and deliverability, given the existing employment use, to allocate the site for housing or to remove / amend the employment allocation / Principal Employment Area.

- 7.14 Whilst the development plan policies makes allowances for changes in circumstances for commercial allocations which could support windfall residential development this has to be considered against the merits of retaining the allocation and the overall provision within the LDP for the delivery of housing.
- 7.15 Main Issues
- 7.16 The main issues considered of relevance in considering this outline residential application are the principle of residential development in this location, the loss of the commercial allocation, the impact of the proposal on the adjacent ecological sites, and the acceptability of the access to the site.
- 7.17 UDP Allocation
- 7.18 The site is currently an allocation for commercial development under Policy EM1(5) in the Flintshire Unitary Development Plan, and within a Principal Employment Area (Policy EM3). In general the loss of employment land for other uses reduces the scale and variety of sites available for future business investment.
- 7.19 The application has been supported by a commercial viability assessment from Legat Owen which concludes that this site has seen little business investment interest for some considerable time despite active marketing. In addition it states that alternative employment sites are available in reasonable proximity. The Councils records indicate that the site has been vacant since 2018 which is not considered to be 'considerable'. This is particularly true when the global situation following Covid-19 and other factors is considered.
- 7.20 The development appraisals provided by the applicant provide negative land values for employment development and it is acknowledged that there is some uncertainty and risk in the development of this land for employment use. When an increased level of risk is reflected it is understandable that land values will reduce.
- 7.21 An independent assessment of the commercial viability report, carried out by the Valuation Office, concluded that there is currently little

demand in this location for land for employment use. A significant contributing factor, they state, is the availability of alternatives land in neighbouring areas which benefit from better communications and road networks as well as attractive re-location and development grants. This assessment appears at odds with the LDP, the Strategy of which has been considered sound at the LDP examination, where the Employment allocation has been retained, given that it does not appear within the agreed Matters Arising Changes, having been discussed at a specific Examination Hearing Session. The site is well located close to a main service centre, close to a junction with the trunk road and other transportation nodes and in an attractive landscaped location.

7.22 A significant portion of the period of time in which the site has been marketed coincides with the economic downturn associated with the Covid pandemic. The site and buildings are different in character and appearance from other employment land and buildings and it is important that the LDP retains a range of employment land and buildings by location, type and size. The Examination of the LDP has also resulted in a number of employment allocations being deleted from the Plan and this emphasises the importance of retaining the remaining employment allocations. With an upturn in economic activity post – Covid and a move away from working from home, there is no inherent reason why the existing unit could not be reoccupied, extended or redeveloped, given the flexibility the site offers.

7.23 It is considered that the loss of this large area of land and existing employment premises represents an undesirable loss of land allocated for commercial development, which clearly does not accord with the current policy situation on the land, which crucially has been retained in the emerging LDP. Whilst the assessments may point to a lack of interest in the site presently this does not preclude future commercial developments. The site is considered to offer a high quality option for employment development in a suitable location the loss of which would undermine the ability of the plan to provide suitable locations for this form of development. Furthermore, despite the LDP providing the scope for windfall sites to come forward, there is no overriding need in this case given that the LDP can meet its housing requirement and the proposal would result in the loss of employment land and buildings, contrary to policy.

7.24 Drainage

7.25 Under the Habitats Regulations, where a plan or project is likely to have a significant effect on a European site, either alone or in combination with other plans or projects, and where it is not directly connected with or necessary to the management of the site previously

(designated pursuant to EU retained law) the competent authority must carry out an appropriate assessment of the implication of the plan or project in view of the site's conservation objectives. Natural Resources Wales has set new phosphate standards for the river SACs in Wales. Any proposed development within the SAC catchments that might increase the amount of phosphate within the catchment could lead to additional damaging effects to the SAC features and therefore such proposals must be screened through a HRA to determine whether they are likely to have a significant effect on the SAC condition.

7.26 Dwr Cymru Welsh Water have confirmed that there is currently capacity issues at the wastewater treatment works, which would require a Development Impact Assessment to be undertaken to assess what reinforcement works would be required to address this lack of capacity.

7.27 In addition, whilst Dwr Cymru Welsh Water have confirmed that the relevant treatment plant has a phosphate license there is concern over the age of the relevant license, in the light of more stringent NRW controls, and the resultant acceptability of the proposal with regard to the likely increase in phosphate levels arising from the development. In order to be able to accept the proposal the Local Planning Authority would need to undertake an appropriate Habitats Regulation Assessment (HRA) and be able to conclude that the development is unlikely to increase phosphate inputs i.e. be nutrient neutral.. It is not considered that there sufficient information to be able to undertake this assessment, although in the absence of any suggested mitigation, and with the current capacity issues in the local system it is likely that this conclusion could not be reached in any case. It should be noted that if an HRA is unable to reach a conclusion then the site would also fail the assessment given the uncertainty over its impacts. It can therefore not be shown that the proposal would not unduly affect the protected site, and the proposal would therefore be contrary to policy WB2 of the Flintshire unitary Development Plan. This stance is in line with a recent appeal decision in Penyffordd where the Inspector concluded 'In this instance, I have not sought the further views of NRW to inform a screening under the Conservation and Habitats and Species Regulations 2017 (as amended) as it is evident that there is insufficient information before me with which to do so in respect of the levels of phosphate produced from the appeal scheme and its effects on the River Dee and Bala Lake SAC.'

7.28 Access

7.29 There was a significant traffic generation associated with the former use of the site indicating that appropriate vehicular access arrangements are in place. The submitted Transport Assessment provides a comparison between previous and proposed traffic

generation rates and whilst assumed pm peak hour generation rates may be slightly lower than anticipated, the impact of additional traffic is not considered significant.

- 7.30 The TA considers pedestrian and cycle isochromes based upon the centre of the site but fails to undertake an assessment of walking and cycling infrastructure in accord with the Active Travel Guidelines. The submitted Travel Plan commits the developer to implementing appropriate measures and it is presumed that improvements to offsite linkages will be required. Existing pedestrian footways along Chester Road, the A549, are potentially adequate to provide pedestrian access to Buckley Town Centre but further consideration, particularly of school access routes is required. Of prime concern is the discontinuous footway alongside Drury New Road and access to Drury Primary School. There is no cycling provision in the vicinity of the site except for local road. The site is adequately served by public transport but increase use of the bus service is likely to require improvements to bus stops and may require construction of an east bound bus layby.
- 7.31 Further consideration and any resultant improvement or financial contribution can be addressed by a suitably worded condition requiring the submission and approval of a Transport Implementation Strategy (TIS). The submitted indicative site layout appears appropriate but all adoptable roads should be bounded by a 2m wide footway, service strip or 600mm grassed/hard paved margin.
- 7.32 As this is an Outline application this further detail can be considered at reserved matters stage to deal with these identified issues, were the development to be approved. Fundamentally the site access is considered to be acceptable in principle and Highways Development Control have raised no objection to the proposal.
- 7.33 Ecology
- 7.34 Deeside and Buckley Newt Sites Special Area of Conservation (SAC) overlays Buckley Claypits and Commons Special Site of Scientific Interest, SSSI (red/green hatching); Deeside and Buckley Newt Site SAC are designated for Great Crested Newts; Buckley Claypits and Commons is designated for Great crested newts and other amphibian species.
- 7.35 The Dimplex site is immediately adjacent to the SAC/SSSI with numerous GCN records within the locality. One pond is 100m to the north and the Lane End Nature Reserve ponds are some 400m to the north west. The latter ponds are monitored annually and represent a very large GCN breeding site, and while the northern pond has not been surveyed recently, GCN have been recorded here in the past. Land adjacent to the designated site is considered to be potential terrestrial habitat.

- 7.36 New residential developments in close proximity to the Deeside and Buckley Newt Sites SAC need to consider both direct and indirect impacts on the SAC features.
- 7.37 Regulation 61 of the Conservation of Habitats and Species Regulations 2017 (as amended) requires that any application likely to significantly affect a European Site is subject to an Appropriate Assessment (AA) of the implications of the proposal on the site's conservation objectives. The planning authority must ascertain that the plan or project does not have a likely significant effect, both alone and in combination with other plans or projects.
- 7.38 The conclusion of the planning authority is that the proposals, if implemented correctly, have the potential to enhance the GCN population through the creation of aquatic and terrestrial habitats, their enhanced management and the management of recreational pressures. However, the creation of the proposed access routes across the SAC would need to be considered in more detail, to ensure that the SAC features are not compromised in the long term. The development needs to demonstrate that there are no direct or indirect (negative) impacts on the SAC and its features, namely GCN.
- 7.39 The detailed strategies/reports as proposed would need to be conditioned and long term security of the mitigation land incorporated within the s106 agreement proposed. The key issue to resolve will be securing the long term management of the mitigation land.
- 7.40 Natural Resources Wales have raised a number of concerns over a perceived lack of information regarding protected sites and protected species (Great Crested Newt). Whilst I acknowledge their concerns I am satisfied that the information submitted with this Outline consent is sufficient to establish the principle of development and any further detail can be conditioned to be submitted prior to development or as part of a legal obligation which will secure the necessary mitigation and site management that they seek.
- 7.41 Planning Obligations
- 7.42 The infrastructure and monetary contributions that can be required from a planning application through a S.106 agreement have to be assessed under Regulation 122 of the Community Infrastructure Levy (CIL) Regulations 2010 and Welsh Office Circular 13/97 'Planning Obligations'.
- 7.43 It is unlawful for a planning obligation to be taken into account when determining a planning application for a development, or any part of a development, if the obligation does not meet all of the following regulation 122 tests;

1. be necessary to make the development acceptable in planning terms;
2. be directly related to the development; and
3. be fairly and reasonably related in scale and kind to the development

7.44 This planning application is for up to 94 dwellings of which 30% is being proposed for affordable housing, equating to 28 dwellings. This is compliant with the relevant policy. The legal agreement would need to secure this affordable housing provision in perpetuity on site, as well as specify the necessary tenures and types of dwellings to be provided to the satisfaction of the Housing Strategy team.

7.45 At the time of writing the report I have not received consultation responses from Leisure or from Education in order to be able to give the relevant commuted sums that would be requested. As the recommendation before you is one of refusal, for the reasons given above, I do not consider that this would be relevant at this stage, although should the Committee be mindful to approve the application contrary to the recommendation then these matters would need to be identified and agreed in order for the Section 106 Agreement to be entered into.

7.46 As mentioned above the long term security of the mitigation land incorporated in the scheme as part of the Ecological enhancement of the site would need to be secured within the s106 agreement proposed. In particular this will cover the long term management of the site. The agreement would need to specify the means to fund that management whether it is a lump sum or via ground rents collected by a management company in conjunction with open space payments. I consider that these required obligations meet the Regulation 122 tests.

7.47 Other Matters

7.48 The site lies within relatively close proximity to commercial and Industrial sites, which are established businesses that should not be disrupted by this development, as well as a railway line. If the proposal was to be approved, and in order to ensure that the amenity of the residents of the proposed development is protected I recommend that a condition is imposed with any permission to require a Noise Impact Assessment as part of the reserved matters submission, to identify noise receptors and if necessary put forward mitigation to ensure no detriment to amenity is caused.

7.49 Given the legacy of historic coal mining within the vicinity Land Contamination reports would be required to be submitted with any reserved matters applications to ensure that this matter has been robustly investigated and any mitigation, or remediation work is

considered fully and appropriately. It is not considered that this matter is one that would be likely to preclude development and therefore the absence of this information is not considered to be a matter material enough to warrant a reason for refusal.

8.00 CONCLUSION

It is considered that there is insufficient reason to lose the commercial allocations of the site as identified in both the UDP and LDP. As such there is a presumption in principle against this proposal.

In addition it has not been demonstrated that the proposal would not have a significant effect on the River Dee and Bala Lake SAC through phosphates arising from this site.

As such I recommend that the application is refused for the reasons shown in paragraph 2.01.

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.

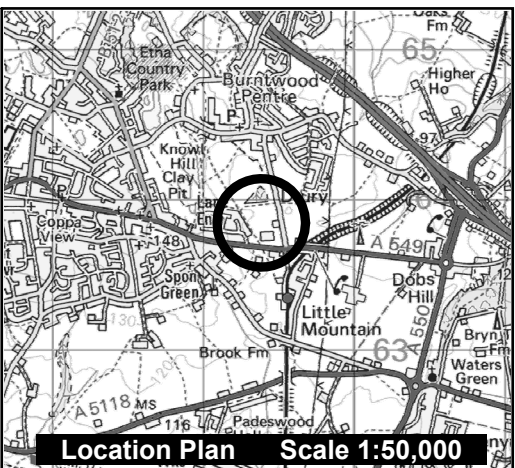
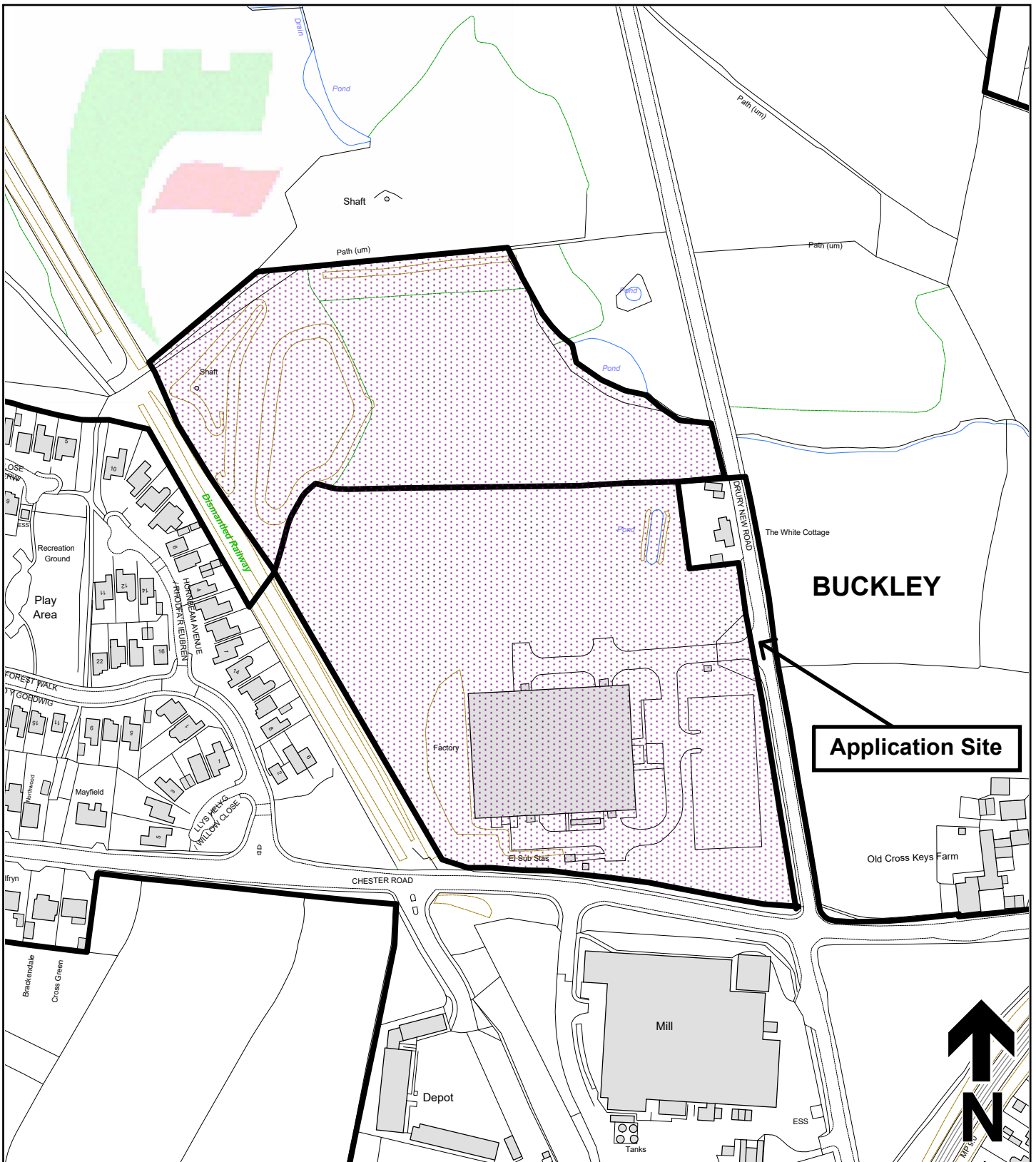
LIST OF BACKGROUND DOCUMENTS

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

Contact Officer:


Telephone:

Email:



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	1:2500
OS Map ref	SJ 2963
Planning Application	61507

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FLINTSHIRE COUNTY COUNCIL

REPORT TO: **PLANNING COMMITTEE**

DATE: **15th JUNE 2022**

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

SUBJECT: **FULL APPLICATION FOR THE ERECTION OF AN EXTENSION AND PARTIAL REFURB AT MELIN Y WERN, NANNERCH**

APPLICATION NUMBER: **063458**

APPLICANT: **MR JAMES SAUNDERS**

SITE: **MELIN Y WERN, NANNERCH, CH7 5RH**

APPLICATION VALID DATE: **24TH AUGUST 2021**

LOCAL MEMBERS: **COUNCILLOR T. JONES**

TOWN/COMMUNITY COUNCIL: **YSCEIFIOG COMMUNITY COUNCIL**

REASON FOR COMMITTEE: **AT THE REQUEST OF THE LOCAL MEMBER DUE TO CONCERNS OVER THE IMPACT OF THE DEVELOPMENT**

SITE VISIT: **NO**

1.00 SUMMARY

- 1.01 This is a full application for the erection of an extension and partial refurbishment works to the property and garden at Melin y Wern, Nannerch.
- 1.02 Members will be aware that this application was originally heard at the 30th March 2022 planning committee meeting but deferred to allow for a site visit to be undertaken.
- 1.03 Melin y Wern is a Grade II Listed former Mill building which was converted into a four bedroomed dwelling with ancillary cottage and private gardens.

- 1.04 The application proposes the erection of an extension to the rear of the dwelling to provide a garden room. The existing living accommodation is proposed to be reorganised although there is no increase in bedrooms. In addition, this application seeks the regularisation of works which were undertaken to remove walls in the garden which were considered unsafe by the applicant.
- 1.05 It is considered that careful consideration has been given to the design and scale of the proposed extension with use of matching materials for walls but with a metal roof as a reflection of the sites previous industrial use. The stone garden wall replacements are also considered reflective of the wider setting.
- 1.06 Members may be aware, and there have been significant concerns raised by third parties with regards to unauthorised works to a Leete and Mill pond. It must be noted that these works have been regularised by the applicant, although they largely fall outside of his land ownership, to the satisfaction of the Local Authority. These works do not form part of this application.
- 1.07 The proposed extension and associated works are considered to be respectful and reflective of the character of the Listed Building and the wider Conservation Area. The development will not give rise to any adverse impact. Historical parking and access issues cannot be resolved through this application as the proposal does not generate any increase in traffic demand.
- 1.08 For the reasons outlined above the application is considered to comply with local and national planning policy, and supplementary planning guidance. Subject to the imposition of conditions this application is recommended for approval.

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

- 2.01
- Time limit for commencement
 - Compliance with the approved plans
 - Approval of materials
 - Photographic survey of the existing building

3.00 CONSULTATIONS

3.01 Local Member

Councillor Tudor Jones – Requests committee determination due to concerns over the impact of the development; parking issues; access issues and the unauthorised works already undertaken on the site.

Ysceifiog Community Council

The plans submitted seek to make significant changes to the building in size and design. The Council requests that all reinstatement work identified by Enforcement Offices are completed prior to any new development taking place.

The Council requests that the decision ensures that the historical and heritage importance of the building is preserved.

The Council considers that the application appears to be for extensive expansion to the original buildings and provide for significant levels of occupation. The site is restricted by its size, availability for parked vehicles and its hazards access on or off the A541 highway which is shared with its immediate neighbouring property. Given the above concerns consideration should be given as to the number of vehicles permitted to be parked at any given time.

Head of Public Protection

No objections raised with regards to the proposal

Highways

No objections raised with regards to the proposal

Welsh Water/Dwr Cymru

Since the applicant intends to utilise an alternative method to mains drainage then no objections raised to the proposal.

Clwyd Powys Archaeological Trust

Given the historical significance of the building CPAT recommend that if planning permission is granted that a condition be imposed requiring the completion of a photographic survey.

Natural Resources Wales

Raises concern with the lack of a submitted bat survey as part of the application. However, advice from the County Ecologist as outlined below is that with a lack of recorded evidence of bats in the area, that a survey is not necessary and the matter can be resolved through the inclusion of a note to applicant on any consent.

County Ecologist

Whilst the submission of a bat survey prior to determination would have been preferable, given the proposed works and the lack of recorded evidence of bats in the area, it is considered acceptable to include a note to the applicant about the protection of these species on any consent.

AONB Joint Committee

The conservation area at this point of the A541 is an important historical asset, this was recognised by the original designation of the Clwydian Range by including it with the AONB. The committee are

very disappointed and concerned that the applicant under took some work on the above property without the proper consents and this should be deplored.

However it is their understanding that the applicant intends to restore the wall that was damaged within this current planning application which is acceptable. The Committee does not have any further comments on the application providing the design and build is acceptable to Flintshire's Building Conservation Officer.

4.00 PUBLICITY

4.01 Press Notice, Site Notice and Neighbour Notification letters sent. 3 objections received raising the following concerns:

- The proposed extension is not suitable for the Grade II Listed Building
- Impact on amenity
- Impact on the Conservation Area
- Lack of parking
- Access issues to the site
- Works completed at the site without the benefit of planning permission
- Impact on protected species

5.00 SITE HISTORY

5.01 No recent planning history

6.00 PLANNING POLICIES

6.01 Flintshire Unitary Development Plan
GEN 1 General Requirements for Development
GEN3 Development in the Open Countryside
D2 Design
HE1 Development Affecting Conservation Areas
HE2 Development affecting Listed Buildings and their Settings
HE8 Recording of Historic Features
WB1 Species Protection
AC13 Access and Traffic Impact
AC18 Parking Provision and New Development
HSG12 House Extensions and Alterations

Supplementary Planning Guidance Notes
SPGN No1. Extensions and Alterations to Dwellings
SPGN No 2. Space Around Dwellings
SPGN No 6. Listed Buildings
SPGN No 11. Parking Standards

National Policies
Planning Policy Wales Edition 11
Future Wales Plan 2020-2040
TAN 24: The Historic Environment

7.00 PLANNING APPRAISAL

7.01 Introduction

This application seeks planning permission for the proposed erection of an extension to the rear of the dwelling known as Melin y Wern; internal reconfiguration works and the approval of works undertaken to the garden. The property is Grade II Listed, otherwise it is likely that most of these works could have been completed under permitted development.

7.02 Site Description

The application site comprises of a Grade II listed former mill building, which is a substantial three storey stone building with a slate roof and still retains the water wheel on the southern elevation. The site is located within the defined Conservation Area. There is a single storey section attached to the opposite elevation which is set up higher where the land rises up. An associated cottage is located at this level which is used for ancillary accommodation, whereas the former warehouse is set at the same level as the mill. The door on the ground floor of the mill only provides access into this part of the building, with the main part which comprises the existing house, being accessed via a set of stone steps and along the front of the cottage.

7.03 The site is accessed from the main A541 via a small unadopted track which serves both Melin y Wern and the neighbouring property of the Old Mill to the south which is a four storey dwellinghouse. Fronting the A541 and adjacent to the access is a converted barn which is used as holiday cottages.

7.04 To the west of the application site is a detached dwelling although substantial screening exists between the two properties. To the north and east is open countryside.

7.05 The site is located outside of any defined settlement boundary but is central to the small complex of converted and new dwellings which formed for the former Mill.

7.06 Proposed Development

This application proposes the erection of an extension to the rear elevation of Melin y Wern, where historically a drying structure was

located. The extension will provide a staircase and voided storage area on the ground floor with a garden room on the first floor.

- 7.07 Internally some works are proposed to reconfigure the living accommodation of the existing building with the kitchen and living/dining space being relocated to the ground floor and the provision of a bedroom a first floor level. On the second floor level it is proposed to alter a bedroom into an additional bathroom.
- 7.08 Whilst additional living space of approximately 24.5 square metres is proposed the total number of bedrooms is unaltered at four.
- 7.09 Externally the walls of the extension will be constructed in a stone to match the existing building. The roof material is metal which is reflective of the former industrial use of the building.
- 7.10 The application has been submitted with a separate Listed Building Consent application.
- 7.11 Principle of Development
Policy HSG12 of the Flintshire Unitary Development Plan concerns extensions and alterations to dwellings. It confirms that proposals will be permitted provided that they are subsidiary in terms of scale; respectful of the setting of the property and that the development will not give rise to any adverse impact on neighbouring amenity.
- 7.12 As this is a Listed Building greater scrutiny has been placed on the design and scale of the proposed extension and associated works. The increase in footprint is minimal at less than 25 square metres bearing in mind the scale of the existing building. In addition, the location of the proposed extension, to the rear, means that it is not considered to be in a visible location.
- 7.13 Consideration of neighbouring amenity with regards to policy HSG12 and SPGN No2 has been thoroughly examined but it is not felt that the extension will cause any loss of light or privacy to neighbouring dwellings. No windows are proposed on the side elevation facing The Old Mill and the orientation together with separation distances are such that there is considered to be no impact on privacy into the garden.
- 7.14 Works to remedy breaches of planning control in the garden of the application site (i.e. retaining walls) are also considered acceptable in terms of design.
- 7.15 Listed Status
The building of Melin y Wern is a three-storey, three-window former mill built against a steep bank, constructed of rubble stone with larger quoins, and a slate roof. During the 19th century a two-storey wing was added on the uphill side, and a drying kiln was added at the rear.

The current waterwheel dates from the late 19th century. It has been said that the mill was still in use as late as 1953. Any existing machinery was removed after the mills closure and the ground floor of the building was converted into an art gallery.

Melin y Wern was designated as a listed building in 1976.

7.16 Melin y Wern and the adjacent outbuilding have been altered over time and the current timber windows are replacements in earlier openings, except the middle and upper storeys on the left hand side, both of which are converted from former door openings. The lower storey has stone segmental-headed openings with a doorway to the left, while the middle storey openings are under wooden lintels and the upper-storey beneath the eaves, except on the left hand side where the original doorway has been converted to a dormer window.

7.17 Set back against the left hand gable end, where the ground level is higher, is an added single-storey two-window wing level with the middle storey of the mill.. The rear of the mill, where the ground level is higher, is only two storeys.

7.18 The Local Planning Authority and in particular the Conservation Officer have previously outlined support for the principle of the scheme of works but had asked for the submission of details in relation to the adjacent detached cottage which is defined as a curtilage listed building. The applicant has now amended the proposal to omit the works to the curtilage building and is only proposing an extension and alterations to the old mill building. Accordingly the submitted information is sufficient to fully assess the scheme.

7.19 The proposed extension to the rear of the mill will impact the largely demolished remains of the former grain dryer with the walls being either further reduced, or added to, and a new opening created. As some additional features of the mill complex will be altered, removed or concealed they should be recorded in their current form so that the Local Planning Authority and Clwyd Powys Archaeological Trust have an adequate record of their original layout, form and fabric. It is recommended that if planning permission is granted that the applicant commission a photographic survey to be completed prior to works commencing. This can be secured through a suitably worded condition.

7.20 The proposed works to the Listed Building are sympathetic and reflective of the historical significance and character of this building. The proposal is compliant with policy HE2 of the Flintshire Unitary Development Plan.

7.21 Highway Implications

Significant concerns have been raised through third party representations with regards to existing highway safety issues at the

application site. These issues relate to a lack of parking provision; inability to manoeuvre adequately and access onto the A541.

- 7.22 Highways Development Control Officers were consulted on the application and confirms that whilst the proposal will see an increase in living accommodation the number of bedrooms is unaltered and accordingly the provision of three parking spaces would usually be required.
- 7.23 Members should be aware however, realistically the property only currently has provision for two car parking spaces allowing for turning spaces. This appears to have been the case for a significant number of years. With no increase in bedroom numbers the proposal is not considered to give rise to any change in parking demand and accordingly it would be unreasonable to refuse the application based on the historic parking layout. With parking standard contained within SPGN No11 being maximum guidelines it is considered that the current provision is adequate.
- 7.24 Additionally, with no increase in traffic demand the Local Authority cannot require any improvements to the existing access off the A541.
- 7.25 Whilst the potential concerns of issues with deliveries to the site and parking on land outside of the applicants control are noted, these are civil issues and are not material to the consideration of this application.
- 7.26 Enforcement Investigations
Representations from third parties in response to this application relate to enforcement investigations which have taken place at the site. Whilst most of the matters are not material to the determination of this application (with the exception of the garden walls) it is felt useful to provide Members with confirmation of the current position.
- 7.27 Enforcement action was instigated following the infilling of a Leete and Mill Pond which are located to the north and west of the proposed extension. The Local Authority understands that these works were undertaken due to concerns over the long term maintenance of the structures.
- 7.28 The Leete and Mill pond are considered crucial to the setting and historical background of Melin y Wern and accordingly enforcement action was instigated to remove the deposited material. These works have been completed to the satisfaction of the Local Authority. Subsequent clarification has been provided with confirms that the Leete is not within the applicant's control. Any ongoing maintenance will not be the responsibility of the applicant.
- 7.29 As stated above, these matters do not form part of this application, nor are they material considerations. The matter has been resolved

satisfactorily but given the strength of objection it was considered necessary to provide this background information.

7.30 Ecological Matters

Third party representations raise concerns over protected species on or adjacent to the application site. The site is not within or close to any designated Statutory or local wildlife sites where there would be a concern over the importance of flora and fauna.

7.31 However, given the location of the site in the open countryside with mature woodland to the rear there is a potential for the presence of bats to be found. The main structure and roof space of the existing building is not being altered, neither are any demolition works taking place. Whilst the submission of a bat survey prior to determination would have been preferential it is considered, on balance, that a note can be included on any consent which reinforces the legal requirement to report any evidence of bats.

8.00 **CONCLUSION**

The proposed erection of an extension and internal remodelling of this Grade II Listed Building is considered to be acceptable in terms of scale; form and design. Careful thought has been given to reflect the existing building but with a nod to the sites previous industrial use.

Many of the concerns raised by third parties relate to previous enforcement investigations rather than the detail of the application currently under consideration.

The proposed development is compliant with national and local policy and therefore I recommend that planning permission be granted as set out in paragraph 2.0 of this report.

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.

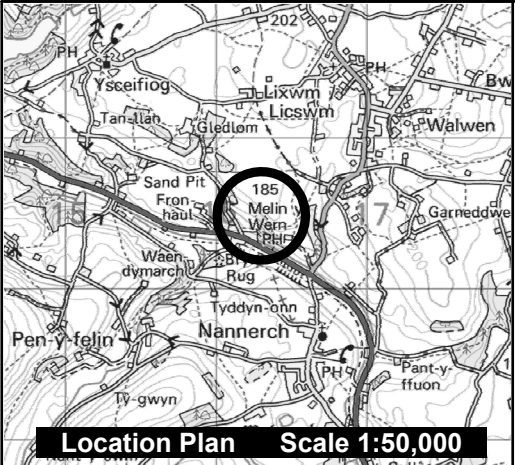
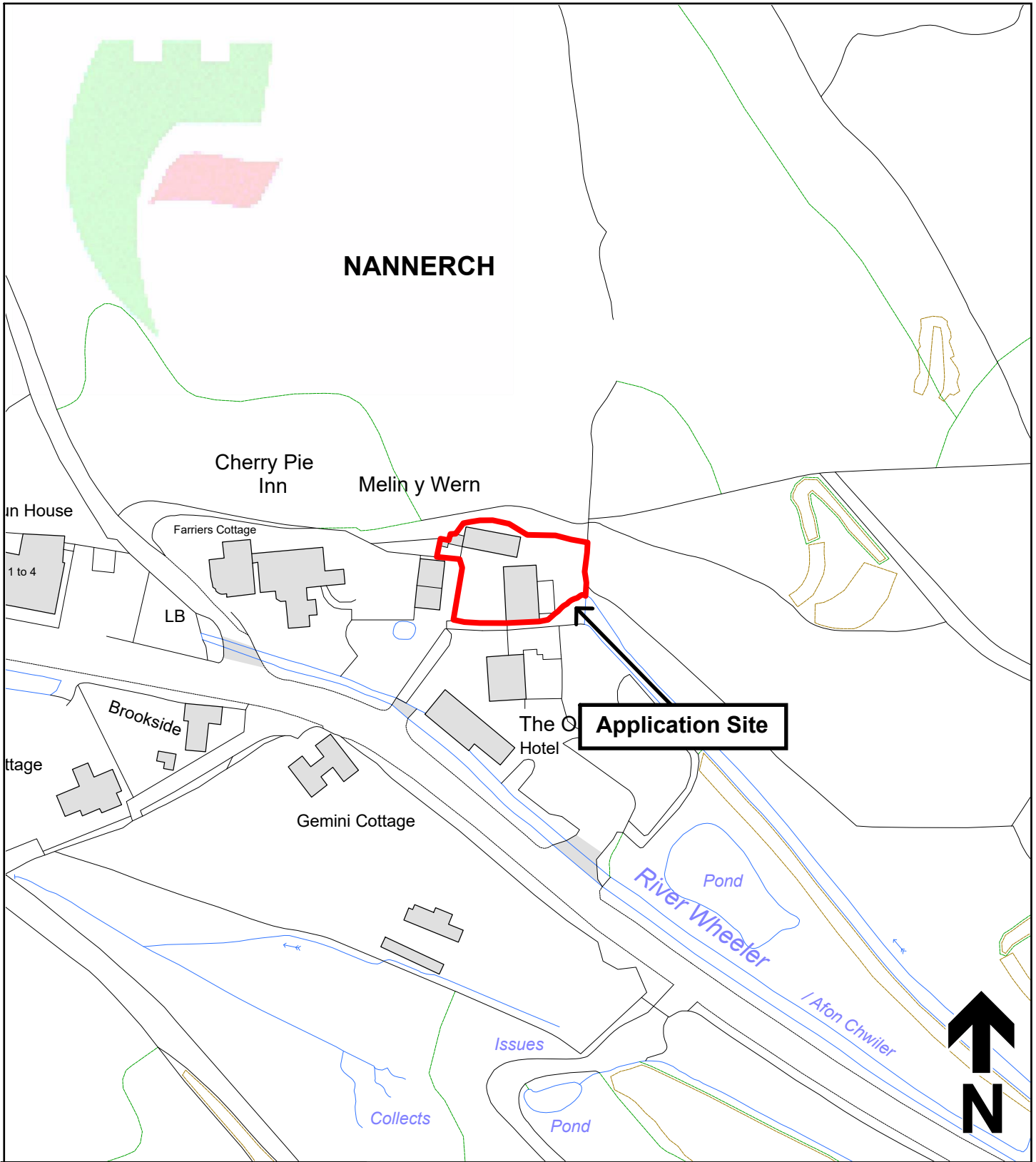
The Council has had due regard to its duty under Section 3 of the Wellbeing of Future Generations (Wales) Act 2015 and considered

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: Claire Morter
Telephone: 01352 703299
Email: claire.e.morter@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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OS Map ref SJ 1670

Planning Application **63458**

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FLINTSHIRE COUNTY COUNCIL

REPORT TO: **PLANNING COMMITTEE**

DATE: **15th JUNE 2022**

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

SUBJECT: **FULL APPLICATION – CONVERSION AND EXTENSION OF INDUSTRIAL UNIT TO OFFICE AND WAREHOUSE**

APPLICATION NUMBER: **063312**

APPLICANT: **ZEBRA PRODUCTS LTD**

SITE: **BALING WIRE PRODUCTS NORTHOP COUNTRY PARK**

APPLICATION VALID DATE: **30/7/21**

LOCAL MEMBERS: **COUNCILLOR M BATEMAN**

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

REASON FOR COMMITTEE: **MEMBER REQUEST GIVEN CONCERNS ABOUT OVERDEVELOPMENT ,ADEQUACY OF HIGHWAYS AND IMPACT ON RESIDENTS.**

SITE VISIT: **NO**

Consideration of this application was deferred at the 30th March 2022 Planning Committee, to allow further assessment in relation to the imposition of conditions to secure i) the undertaking of an arboricultural survey to secure the retention of key trees/hedgerows on the site, ii) the undertaking of an ecological survey to secure and safeguard the presence of any protected species and their habitats iii) the submission of a Construction Traffic Management Plan (CTMP) and iv) a scheme for the provision and securing on site staff parking. The report has been updated accordingly.

1.00 SUMMARY

1.01 This full application proposes the conversion and extension of an existing industrial building located within Northop Country Park, into an office and warehouse.

1.02 The building currently has the benefit of planning permission for an extension to it and its use for warehousing and offices, this being permitted under 057593 in 2018. This current application proposes a revised scheme subsequent to the earlier permission.

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 Materials to be submitted and approved
 - 4 Site / Finished Floor Levels to be submitted and approved
 - 5 Operating times 0900-17.30 hrs Monday – Friday. No working on Saturdays / Sundays or Bank and Public Holidays
 - 6 Staff Numbers limited to 20
 - 6 Foul /surface water drainage scheme to be submitted and approved
 - 7 Details of security lighting to be submitted and approved
 - 8 Scheme for Giant Hogweed Management to be submitted and approved
 - 9 No manufacturing to be undertaken at the site
 - 10 Scheme of landscaping to be submitted with accompanying arboricultural survey to secure the retention of trees/ hedgerows on site boundaries
 - 11 Construction Traffic Management Plan to be submitted and approved.
 - 12 Scheme for on –site staff parking to be submitted and approved.
 - 13 Ecological survey to be undertaken with appropriate mitigation where required

3.00 CONSULTATIONS

- 3.01 Local Member
Councillor M Bateman
Request Planning Committee determination. Preliminary concerns relate to overdevelopment, access constraints, and impact on living conditions of residents.

Northop Community Council

Object for the following reasons:

- Intensification of heavy vehicular movements
- Impact on the historical parks and garden setting
- Impact on landscape

- Impact on occupiers of nearby residential properties

Highway Development Control Manager

Raises no objection - subject to a restriction controlling maximum staff numbers and recognising that visibility at the junction of the country park with the highway network is safeguarded by a management company . Support the imposition of conditions to secure the submission of a CTMP and on site staff car parking.

Community And Business Protection

No adverse comments

Welsh Water/Dwr Cymru

Request that any permission includes the imposition of a condition requiring the submission and approval of a foul drainage scheme.

Welsh Historic Gardens Trust

No objection

Council Ecologist

Acknowledge the need for Giant Hogweed Management on the site and support the undertaking of an ecological survey.. Request these issues be secured by the imposition of conditions.

4.00 PUBLICITY

4.01 Site, Notice, Neighbour Notification

31 letters of objection received from members of Northop Country Park Residents Association, the main points of which without satisfactory controls or conditions being imposed relate to:

- a drainage condition imposed on a previous application 057593 remains outstanding
- increased vehicular movements would impact on highway safety
- impact on living conditions of existing residents through increased vehicular movements / security lighting.
- presence of Giant Hogweed within the site

5.00 SITE HISTORY

5.01 051664 – Sub-division of existing workshop to provide 2 No units to serve golf course and 4 No small starter business units. Approved 6/3/2014

057593 – Conversion and extension of industrial unit to offices and warehouse. Permitted 8/2/2018

6.00 PLANNING POLICIES

6.01 Flintshire Unitary Development Plan

STR1 – New Development

STR3 – Employment

GEN1 – General Requirements for Development

GEN3 – Development in the Open Countryside

D1 – Design Quality, Location and Layout

D2 – Design

L1 – Landscape Character

HE5 – Protection of Landscapes, Parks and Gardens of Special Historic Importance

AC13 – Access and Traffic Impact

AC18 – Parking Provision and New Development

EM4 – Location of Other Employment Development

EM5 – Expansion of Existing Concerns

EWP13 – Nuisance

Policy IMP1 – Planning Conditions and Planning Obligations

Supplementary Planning Guidance (SPGN)

SPGN2 – Landscaping

SPGN11 – Parking Standards

National Planning Policies and Guidance

Planning Policy Wales PPW – Edition 11

Future Wales : The National Plan 2020-2040

Technical Advice Note 11- Noise

Technical Advice Note 12 – Design

Technical Advice Note 18 – Transport

Technical Advice Note 23 – Economic Development

7.00 PLANNING APPRAISAL

7.01 Introduction / Site Description

The building /site the subject of this application is located within Northop Country Park, to the south of the A55 North Wales Expressway, and north west of Rhos y Chellis Cottages. The site lies adjacent to the first hole on Northop Hall Golf Course and is just within the setting of Soughton Hall Historic Park and Garden.

7.02 The existing building is of a modern design, constructed with facing brick elevations a profiled clad roof, with large door openings and 2 No open storage bays on its north western elevation. The existing building measures approximately 37.5 m x 14.7 m x 6.1m (high) and is screened by an embankment and mature conifer trees There is a large level tarmac area to the front and side of the existing building and open store bays. It has a combined ground /first floor space of approximately 647m²

- 7.03 Background of Planning History
It is important to note that the site currently has an extant planning permission for conversion and extension of the building into offices and a warehouse. This was permitted under 057593 in February 2018, for a building measuring approximately 40.7m x 14.7m x 6.1m (high) with ground /first floor use comprising a total of 860m².
- 7.04 Proposed Development
The plans submitted as part of this application propose an L-shaped extension to the southern gable and rear elevations of the building to facilitate increased office / warehouse space above that previously permitted under 057593. This would result in the building measuring approximately 44.6m x 19.2m x 6.1m (high) and an increase in the combined ground /first floor space to 1344m². The building is intended to accommodate 20 employees as per that proposed under 057593.
- 7.05 Main Planning Considerations
i) Principle of development
ii) Scale / design and impact on character of the site and surroundings
iii) Adequacy of access
iv) impact on living conditions of occupiers of existing properties
v) Giant Hogweed Management.
- 7.06 Principle of Development
The principle of the use of the building the subject of this application as a warehouse/ office, has been established by virtue of 057593, although development has not commenced in accordance with this permission.
- 7.07 The acceptability of the current application which primarily involves the further enlargement of the building subsequent to 057593, has to be undertaken having regard to this background history and Policies EM4 /EM5 of the Flintshire Unitary Development Plan. This involves an assessment of the appropriateness of the scale /design of the building relative to the site and its surroundings, together with the adequacy of highways, impact on the living conditions of occupiers of nearby residential properties and ecology. These issues are addressed in further detail below
- 7.08 Scale / Design
The proposal would result in an approximate 57% increase in both the footprint and usable floor space of the building from that previously permitted under 057593. The maximum height of the building at approximately 6.1m remains unaltered, and consistent with its initial construction and the earlier scheme referenced.

7.09 It is considered in visual terms the position of the proposed extensions to the side /rear of the existing building maintain the design ethos and form of the building both in its original form and as previously permitted under 057593. This in combination with improvements to its design elements including fenestration/ repositioned openings, use of materials and existing screening on the site boundaries would help to assimilate the development into the site and wider surroundings in particular the Historic Parks and Gardens

Adequacy of Access

7.10 The concerns / objections received in relation to the adequacy of the access to serve the development are duly noted. Consultation on the application has been undertaken with the Highway Development Control Manager who advises that the roads within the country park are not adopted by the Highway Authority being the subject of separate private ownership / management. The proposal has however been assessed having regard to i) the context of the background planning history (ii) concerns relating to the potential increase in the size of vehicles required to serve a larger on site warehouse building and (iii) the adequacy of the access at its junction with the adopted highway where there are concerns that an established hedgerow is impacting on the ability to secure and safeguard adequate visibility.

7.11 Having regard to the above, it is considered by the Highway Development Control Manager that there is no objection to the development from both highway capacity and safety perspectives as a) the road network is capable of accommodating an increase in vehicle size and b) maintenance of the hedgerow within the visibility splay is secured by the applicant through a management company with the fall - back position being the council's street scene department in the event of urgent maintenance being required to secure highway safety.

7.12 In addition, and in further consideration of the proposal subsequent to its deferral at the 30/3/22 Planning Committee the Highway Development Control Manager has no objection to the imposition of additional planning conditions to secure (i) the submission of a Construction Traffic Management Plan and (ii) a scheme for marking /identification of staff parking facilities within the site.

Impact on Living Conditions

7.13 Of particular importance in consideration of this application is to ensure that the living conditions of occupiers of existing residential properties located in proximity to the site are safeguarded. The nearest residential properties to the site are Rhos y Chellis Cottages located approximately 46.5m to the south west, the properties being screened from the development by a substantial high leylandi hedge around the southern/eastern site boundaries. It is also considered that the existing landscaping can be

supplemented with further landscaping on the western site boundary to help soften the visual impact of the development and assimilate it into the site and wider surroundings. This can be secured by condition.

7.14 Consultation on the application has been undertaken with the Pollution Control Officer who has raised no objection to the development, this being consistent with the response previously received in relation to application 057593.

7.15 It is however considered necessary to recognise the relationship of the site to existing residential development and secure control over the retention of the afore -mentioned hedgerow which acts as a visual screen. In addition the previously permitted hours of operation of the site were conditioned to between 0800-1800hrs Monday – Friday and 0800-1200hrs on Saturdays. There was to be no site operations on Sundays or Bank and Public Holidays. This current application however proposes a reduction in site operations to between 0900-1730hrs from Monday – Friday with no weekend workings or operations during Bank or Public Holidays. This offers a significant improvement over the situation that currently exists, as the previous permission remains extant. The reduction in hours as proposed with additional controls over security lighting can be secured by condition as referenced in paragraph 2.01 of this report.

Giant Hogweed / Ecology

7.16 The Council's Ecologist supports the undertaking of an ecological survey of the site given that it has remained vacant for some time, and is aware of issues and concerns relating to the presence and increased growth of Giant Hogweed within the Country Park Measures are currently in place to seek to address this matter both on the application site and wider area.

7.17 It is considered that there is a need for a blanket approach to seek to control its spread, but care is required when securing its removal in the interest of health and safety this being undertaken in a managed environment. It is considered that this should be the subject of the imposition of a condition consistent with other developments within the locality where this approach has been adopted.

8.00 CONCLUSION

8.01 The proposed increase in the size and associated amendment to the design of the building subsequent to planning permission 057593, is acceptable in the context of the site and wider landscape. It is a scheme that would be supported on its own merits at officer level notwithstanding the previous permission issued under 057593. It is important to note that there are no objections to the development from highway / pollution control perspectives or from the Welsh Historic Gardens Trust.

8.02 Whilst the previous permission for development of the site remains extant, the opportunity is afforded as part of this application to secure an improvement in the design of the building and impose additional conditions pursuant to 057593. These relate to reduced working hours, security lighting, the retention / supplementation of existing landscaping, and submission of a Construction Traffic Management Plan, with a scheme for staff parking within the site. The combination of these additional controls will it is considered help to secure the living conditions of occupiers of nearby residential properties. There is also the opportunity to undertake a further ecological survey of the site and control the management of Giant Hogweed on the site.

8.03 Having regard to the above, it is considered that the application as submitted offers an improvement to that previously permitted under 057593, and it is recommended that permission be granted subject to the conditions referenced in paragraph 2.01 of this report.

9.01 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.

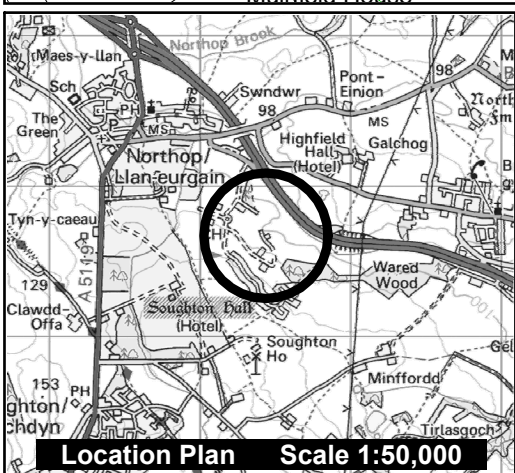
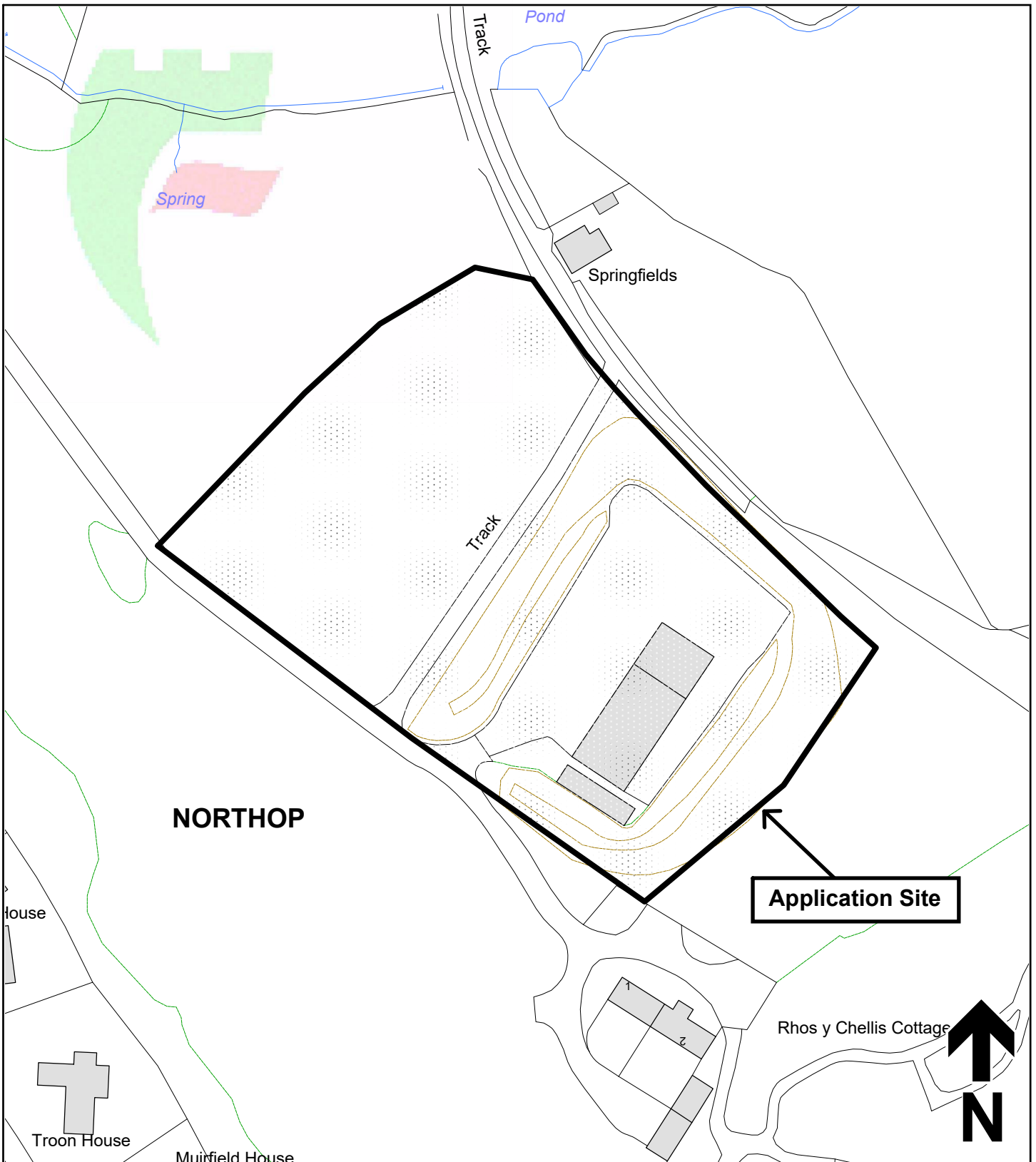
The Council has had due regard to its public sector equality duty under the Equality Act 2010.

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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CYNGOR Sir y Fflint Flintshire COUNTY COUNCIL

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 2567
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