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Chief Officer (Governance)
Prif Swyddog (Llywodraethu)



CS/NG

8 December 2022

Janet Kelly 01352 702301
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To: Cllr Richard Lloyd (Chair)

Councillors: Mike Allport, Bernie Attridge,
Chris Bithell, Helen Brown, Paul Cunningham,
Adele Davies-Cooke, Rob Davies, Carol Ellis,
Gladys Healey, Dave Hughes, Paul Johnson,
Richard Jones, Hilary McGuill, Ted Palmer,
Mike Peers and Dan Rose

Dear Sir / Madam

NOTICE OF REMOTE MEETING
PLANNING COMMITTEE
WEDNESDAY, 14TH DECEMBER, 2022 am **1.00 PM**

Yours faithfully

Steven Goodrum
Democratic Services Manager

Please note: This will be a remote meeting. Public speakers have been asked if they would like to address the Committee in English or Welsh. The meeting will be live streamed onto the Council's website. The live streaming will stop when any confidential items are considered. 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.

AGENDA

1 **APOLOGIES**

2 **DECLARATIONS OF INTEREST**

3 **LATE OBSERVATIONS**

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

To confirm as a correct record the minutes of the meeting held on 23 November 2022.

5 **ITEMS TO BE DEFERRED**

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

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

REPORTS OF CHIEF OFFICER (PLANNING, ENVIRONMENT & ECONOMY) TO PLANNING COMMITTEE ON 14 DECEMBER 2022

Item No	File Reference	DESCRIPTION
<u>Applications reported for determination (A = reported for approval, R= reported for refusal)</u>		
6.1	FUL/000077/22 - A	Full application - Full application - Erection of 21 dwellings with adoptable highway access. (Re-submission of previously Approved Application 055398) at Rhewl Fawr Road, Penyffordd, Holywell (Pages 11 - 24)
6.2	064397 - A	Full application - Redevelopment of former Care Home site to deliver new specialised supported living (Use Class C3) and care home (Use Class C2) accommodation for adults with disabilities, together with associated new access road, parking, landscaping and amenity space at Bennetts Lane, Hawarden, Deeside (Pages 25 - 38)
6.3	FUL/000143/22 - R	Full application - Continued siting of Portable building for use as ancillary changing facilities at Mill Lane, Buckley (Pages 39 - 52)
6.4	LBC/000351/22 - R	Listed Building Application - Siting of portable building for use as ancillary changing facilities at Mill Lane, Buckley (Pages 53 - 64)
6.5	FUL/000498/22 - A	Full application - change of use from motor vehicle service & parts sales to Class A1 sandwich shop & bakery and Class A3 (cafe/restaurant/hot food takeaway) along with external works to refurbish and extend the existing unit, reconfigured car park, external seating, acoustic barrier and associated works at Chester Road, Mold (Pages 65 - 78)
6.6	FUL/000392/22 - A	- FULL application - change of class from C3 (dwelling house) to Class C2 (care home) at 43 Lower Aston Hall Lane, Hawarden (Pages 79 - 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 **23 NOVEMBER 2022**

Minutes of the meeting of the Planning Committee of Flintshire County Council held remotely on Wednesday, 23 November 2022

PRESENT: Councillor Richard Lloyd (Chair)

Councillors: Mike Allport, Bernie Attridge, Chris Bithell, Helen Brown, Carol Ellis, Dave Hughes, Paul Johnson, Richard Jones, Hilary McGuill, Ted Palmer, Mike Peers, Dan Rose and Antony Wren

APOLOGIES: Councillors Paul Cunningham, Adele Davies-Cooke and Gladys Healey

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

26. DECLARATIONS OF INTEREST

Councillor Ted Palmer declared a personal and prejudicial interest on agenda item 6.2 (062255 – Demolition and erection of new poultry buildings and associated infrastructure) as a family member lived in close proximity to the site.

Councillor Antony Wren declared a personal interest in agenda item 6.4 (FUL/00358/22 - Conversion of former redundant public house to form 11no apartments) as he was a member of Connah's Quay Town Council.

27. 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=5230&Ver=4&LLL=0>

28. MINUTES

The minutes of the meeting held on 26 October 2022 were submitted.

Matters arising

The Chief Officer (Planning, Environment & Economy) gave an update on progress on application FUL/000143/22.

The minutes were confirmed as a correct record, as moved and seconded by Councillors Mike Peers and Hilary McGuill.

RESOLVED:

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

29. ITEMS TO BE DEFERRED

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

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

RESOLVED:

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

31. MEMBERS OF THE PUBLIC AND PRESS IN ATTENDANCE

There was one member of the public present at the start of the meeting.

(The meeting started at 1.00 pm and ended at 3.43 pm)

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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 23 NOVEMBER 2022

ITEM NO	TOWN/ COMMUNITY COUNCIL	SITE/PROPOSAL	THIRD PARTY / LOCAL MEMBER OBSERVATIONS	RESOLUTION
062368	Hawarden Community Council	Full application - change of use of land for stationing of caravans for residential purposes, together with the formation of hardstanding and utility/day room ancillary to that use	Additional conditions were as set out in the late observations. A statement of objection was read out on behalf of the Local Member, Councillor Gillian Brockley. Mr Nat Green (Agent) spoke in support of the application.	That planning permission be refused against the officer's recommendation, for the following reasons: <ul style="list-style-type: none"> • inappropriate development in the open countryside encroaching on the Green Barrier; and • insufficient information relating to potential impacts on drainage
062255	Ysceifiog Town Council	Demolition and erection of new poultry buildings and associated infrastructure	Additional conditions were as set out in the late observations.	That planning permission be granted, in accordance with the officer's recommendation, subject to the conditions set out in the report and with additional conditions 7 and 8 in relation to visibility splays at access and safeguarding of the culvert as a result of access alterations
FUL/00007 7/22	Llanasa Community Council	Erection of 21 dwellings with adoptable highway access application	Comments by a third party objector were set out in the late observations. Mr Brian Napier (Resident) spoke against the application.	That the application be deferred, for the following reasons: <ul style="list-style-type: none"> • To allow the Community Council to revisit their comments due to confusion relating to site under consideration;

ITEM NO	TOWN/ COMMUNITY COUNCIL	SITE/PROPOSAL	THIRD PARTY / LOCAL MEMBER OBSERVATIONS	RESOLUTION
			<p>Mr Chris Ralphs (Agent) spoke in support of the application.</p> <p>Councillor Glyn Banks, Local Member, spoke against the application.</p>	<ul style="list-style-type: none"> • To consider drainage issues raised by third parties; and • For a Committee Site Visit to be arranged
FUL/00035 8/22	Connah's Quay Town Council	Conversion of former redundant public house to form 11no apartments		That planning permission be granted subject to the conditions set out in the report, in accordance with the officer's recommendation.
FUL/00041 2/22	Northop Community Council	Demolition of single storey rear extension and conservatory - Proposed 2 storey extension - similar to the application approved 037216		That planning permission be granted subject to the conditions set out in the report, in accordance with the officer's recommendation.
GENERAL MATTERS				
063500	Northop Community Council	General Matters – Appeal on the grounds of non-determination – outline development of land to provide lodges/chalets including site office	<p>Comments from third parties were set out in the late observations.</p> <p>Councillor Marion Bateman (Local Member) spoke against the application.</p>	<p>Resolved that the Council should take the stance of recommending to PEDW that the application should be refused for the following reasons:</p> <ul style="list-style-type: none"> • The Local Planning Authority considers the proposal comprises an undesirable form of development, which by virtue of its

ITEM NO	TOWN/ COMMUNITY COUNCIL	SITE/PROPOSAL	THIRD PARTY / LOCAL MEMBER OBSERVATIONS	RESOLUTION
			Councillor Linda Thew (Local Member) spoke against the application.	<p>scale and siting, would be at odds with the surrounding rural character, resulting in an absolute change to a currently undeveloped area of land and significant expansion of built form into the countryside contrary to Policies STR7, GEN1 and T4 of the Flintshire UDP; and</p> <ul style="list-style-type: none"> • It is considered that the proposed development would have an adverse impact on the zone of essential setting of the Grade II* Listed Soughton Hall Historic Park and Garden, resulting in an incongruous form of development that negatively impacts on the historical character and setting of the historic park, conflicting with Paragraph 6.1.18 of Planning Policy Wales and contrary to Policy HE5 of the Flintshire UDP.

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FLINTSHIRE COUNTY COUNCIL

REPORT TO: **PLANNING COMMITTEE**

DATE: **14 DECEMBER 2022**

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

SUBJECT: **ERECTION OF 21 DWELLINGS WITH ADOPTABLE HIGHWAY ACCESS**

APPLICATION NUMBER: **FUL/00077/22**

APPLICANT: **BLACK DOVE DEVELOPMENTS LIMITED**

SITE: **LAND AT RHEWL FAWR ROAD, PENYFFORDD, HOLYWELL**

APPLICATION VALID DATE: **25TH MAY 2022**

LOCAL MEMBERS: **COUNCILLOR GLYN BANKS**
COUNCILLOR G MADDISON

TOWN/COMMUNITY COUNCIL: **LLANASA COMMUNITY COUNCIL**

REASON FOR COMMITTEE: **DUE TO THE SCALE OF DEVELOPMENT**

SITE VISIT: **YES**

1.00 SUMMARY

- 1.01 This is a full planning application for the proposed erection of 21 dwellings on land at Rhewl Fawr Road, Pen-y-Ffordd. The application site is located on a parcel of land accessed off Cwrt-y-Glower, within the defined settlement boundary.
- 1.02 Members will be aware that this application was originally scheduled on the 23rd November 2022 Committee meeting but deferred to allow the Community Council to address matters of confusion over their response; consideration of drainage implications and to allow a Members Site Visit to be undertaken.

- 1.03 The main issues to consider in determination of the application are the principle of development, highway safety and impact on amenity.
- 1.04 Planning permission was granted for the development of 23 dwellings on the same land which only very recently expired. The granting of this permission is materially important and affords significant weight. On balance the principle of development is considered acceptable.
- 1.05 Matters including highway safety, drainage and impact on existing residential amenity have been considered at length and are considered acceptable.
- 1.06 I therefore recommend that planning permission is granted subject to condition and the applicant entering into a Section 106 Agreement in relation to Public Open Space.

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

- 2.01 That conditional planning permission be granted subject to the applicant entering into a Section 106 Obligation to provide the following:
- To provide a Public Open Space Contribution of £23,100 in lieu of on-site play provision

Conditions

1. Time limit on commencement
2. Compliance with approved plans
3. Materials
4. Levels
5. Scheme for the parking and turning of vehicles
6. Details of the internal road layout
7. Surface water run-off
8. Construction Management Plan
9. No surface water discharge
10. No tree works unless qualified ecologist present to ensure no adverse impacts upon nesting birds or roosting bats.
11. Tree and hedgerow protection to be submitted, agreed and implemented prior to works commencement.

If the Obligation pursuant to Section 106 of the Town and Country Planning Act 1990 (as outlined above) is not completed within 6 months of the date of the Committee resolution, the Head of Planning be given delegated authority to REFUSE the application.

3.00 CONSULTATIONS

3.01 **Local Member(s) Councillor G Banks & Councillor G Maddison:**
No response received at time of writing report

Town/Community Council: The application was deferred from committee in November to allow the Community Council to review their comments. At time of writing report those comments are outstanding.

Highways: No objections raised but recommends the imposition of conditions

Community and Business Protection: No objections raised

Welsh Water/Dwr Cymru: No objection subject to the inclusion of a condition relating to surface water

Natural Resources Wales: No objections raised

Coal Authority: Standard developer advice applies

Education: Due to existing capacity at the nearest Primary and Secondary schools no education contribution is sought with regards to this development.

Housing Strategy: Based on the most up to date Local Housing Market Assessment and Flintshire Council's housing waiting lists in relation to "affordable" properties demand for rent or purchase is low within this settlement boundary.

4.00 PUBLICITY

4.01 35 Neighbour Notifications were sent to neighbouring properties and a Site Notice was also displayed. 4 letters of objection have been received and are summarised as follows:

1. Drainage implications for existing properties
2. Highway safety including point of access and traffic volumes
3. Lack of amenities in the village
4. Loss of residential amenity
5. Concerns with the integrity of the applicant

5.00 SITE HISTORY

5.01 055398 - Erection of 23 dwellings with adoptable highway access –
Approved 15.12.2016

6.00 PLANNING POLICIES

6.01 Flintshire Unitary Development Plan

- Policy STR1 - New Development
- Policy STR4 - Housing Policy GEN1 - General Requirements for Development
- Policy GEN2 - Development inside settlement boundaries
- Policy HSG3 - Housing on unallocated sites within Settlement boundaries
- Policy HSG8 - Density of Development Policy
- HSG9 - Housing Type and Mix Policy
- HSG10 - Affordable Housing within Settlement Boundaries
- Policy D1 - Design Quality, Location and Layout Policy
- D2 - Design Policy
- D3 - Landscaping Policy
- TWH1 - Development Affecting Trees and Woodlands Policy
- TWH2 - Protection of Hedgerows Policy
- AC13 - Access and Traffic Impacts Policy
- AC18 - Parking Provision and New Development Policy
- SR5 - Outdoor Playing Space and New Residential Development

Supplementary Planning Guidance Notes

- SPGN No 2. Space Around Dwellings
- SPGN No 3. Landscaping
- SPGN No 4. Trees and Development

National Planning Policy

- Planning Policy Wales Edition 11
- Future Wales: The National Plan 2040

7.00 PLANNING APPRAISAL

7.01 Site Description

The site is a 1ha area of land, roughly trapezoidal in shape and occupies a position within the settlement of Pen-y-Ffordd as defined within the FUDP. The site slopes gently downhill from a high point in the northwest to south-eastern boundaries with the newly constructed properties at Cwrt-y-Glowyr. The site is presently vacant, semi improved pastureland with access derived via a field gate from Cwrt-y-Glowyr.

- 7.02 The site is surrounded on 3 sides by existing residential development. The linear form of development to the north follows Ffordd Picton and comprises a mix of single and 2 storey dwellings. The aforementioned dwellings at Cwrt-y-Glowyr abut the application site to the southeast. The dwellings and garden areas at the northern end of Coed Mor, along with a communal garage area, form the southern boundary. Boundaries to the west abut further areas of agricultural land which are within open countryside. Boundaries are formed by hedgerows which have developed into expanses of scrub projecting into the site. A small stream is in evidence within the area of the north-western boundary.
- 7.03 The character of built form in the area varies, comprising mainly detached and semi-detached 2 storey and single storey dwellings to the north and east, whereas terraces and semi-detached properties dominate built form to the south.
- 7.04. Proposed Development
The application is for a proposed development of 21 two storey dwellings which will consist of 2 different sized houses with associated parking, access road and amenity spaces. An area of 600m² adjacent to the western boundary will be left as grassland and scrub to provide a natural habitat resource, including one of the two existing mature trees.
- 7.05 The dwellings will vary in size with 16no. three bedroom dwellings and 5 no. two bedroom detached dwellings. Although an entirely market scheme this mix of property types and values will provide a degree of choice and affordability to a wider range of housing in the area. The properties will have between 51 and 240 square metres of private amenity space. 3 Car parking spaces will be provided for each of the dwellings and are located adjacent or in close proximity to the dwelling entrance.
- 7.06 Principle of Development
The site lies within the settlement boundary of Pen-y-Ffordd in the adopted UDP which is a category C settlement. Policy HSG3 requires that in such settlements any additional dwellings are to meet a proved local need for affordable housing.
- 7.07 Planning permission has previously been granted for housing on the site (reference 055398) which has only expired within the last year and this application is a resubmission of that approved scheme. The previous permission is for market housing rather than affordable housing and the case for this is set out by the case officer in the previous committee report. Extracts from that report are set out below:
- 7.08 *The site is located within the settlement boundary of Pen-y-Ffordd which is defined as a Category C settlement within the adopted*

FUDP. Policy GEN2 identifies a presumption in favour of the development of such sites but identifies that in the case of unallocated 'windfall sites' there are limitations imposed via policy HSG3.

- 7.09 *Policy HSG3 directs that upon unallocated sites within settlement boundaries, new housing development will be permitted in Category C where it is designed to meet proven local needs, where it does not conflict with the planned housing provision for the County, as set out in the FUDP, and does not conflict with Policy GEN1. The bringing forward of such windfall sites is consistent with the strategic aims of the FUDP.*
- 7.10 *Members will recall that the development approved upon that parcel of land to the southwest of the site also formed a parcel of unallocated land within the settlement boundary. Permissions granted in respect of this land provide for 19 No. dwellings and one special needs bungalow. The developer of the site is Tai Clwyd.*
- 7.11 *Accordingly, these dwellings will be affordable via the suite of affordability options available to an RSL. The development of this site has therefore provided for 100% affordable housing.*
- 7.12 *I am mindful of HSG3 in my consideration of this application but I do not attribute overriding weight to it in this case. The land is identified as vacant land but within the settlement boundary within the FUDP.*
- 7.13 *There is therefore a presumption in favour of development as a matter of principle. Policy HSG3, where it refers to local needs housing, must be read in tandem with Policy HSG10 which sets out the context for affordable housing within the settlement boundaries. This policy is predicated on the basis of an identified need.*
- 7.14 *I am of the view that the need within Pen-y-Ffordd is adequately catered for via the affordable units under development at Cwrt-y-Glowyr. I am also mindful of other historic RSL development further to the west along Rhewl Fawr Road and the large areas of Council housing within the settlement as a whole.*
- 7.15 The planning history for this site is materially significant, and although now expired, the fact that this is by a matter of months, the recent planning permission holds weight in the planning balance.
- 7.16 Given the previous grant of permission, the units from this site have been counted as part of the committed provision to be made by the LDP and this is also an important consideration in the re-approval of this very recently lapsed permission, in order to ensure that there is

no immediate shortfall to be found in the plan's housing provision, as the Council approaches adoption of the plan.

7.17 Furthermore, consultation with the Councils Housing Strategy team demonstrates that there is a very low local need for affordable housing in the Pen-y-Ffordd area. The provision within the settlement boundary and surrounding areas for affordable housing appears to be sufficient and it would therefore be unreasonable to require that this site be altered from a market scheme.

7.18 The consistent approach, in the absence of evidenced local need is to allow this site to be developed as market dwellings, in line with the previous planning permission. Accordingly, it is considered that the principle of development is acceptable.

7.20 Design

This application varies slightly from that previously approved in terms the layout and a reduction in the number of dwellings to 21 in total. The surrounding village of Penyffordd is characterised by a mixture of property types, styles and ages with a variety of arrangements of built form but has no overall dominant local vernacular. The proposed development is considered visually acceptable.

7.21 The layout takes full account of the existing dwellings adjacent to the site by maintaining separation distances which are in line with Council standards on space about dwellings and overlooking to secure privacy and amenity as well as respecting the private gardens of adjacent houses. The previous planning permission for this site secured additional boundary treatment details by way of a condition and I consider it important to re-impose that condition to safeguard amenity. The revised layout is such that separation distances and amenity spaces are adequate and therefore there is no need to restrict permitted development rights.

7.22 Notwithstanding representations made by residents, I consider the proposals provide an adequate and appropriate response to the design issues raised in connection with the consideration of this application.

7.23 Highway Safety

Access to the site is derived from the residential cul-de-sac of Cwrt-y-Glower. Three parking spaces per dwelling are provided which is in fact above the levels as set out in policy AC13 of the FUDP. Highways Engineers have assessed the proposal and raise no objections in terms of road layout, access or parking provision.

7.24 Whilst the concerns of local residents with regards to an increase in traffic levels in the village are noted, with no objections on highway safety grounds it is considered that the proposal is compliant with policies AC13 and AC18 of the Flintshire Unitary Development Plan.

- 7.25 Public Open Space
The proposals do not provide for on-site public open space intended for formal recreation and play. Consultation with Aura Leisure has revealed that rather than formal provision within the site for play, and in accordance with the previous planning permission, a commuted sum should be sought to be utilised in connection with projects for play and recreation within the community.
- 7.26 The consultation has established that the sum requested should be used in connection with a project to upgrade existing play facilities at the nearby Coed Mor children's play area to the south of the site.
- 7.27 In accordance with the requirements of the Community Infrastructure Levy Regulations (CIL) 2010, this sum, when pooled would not exceed 5 contributions towards a single project.
- 7.28 Education Contributions
Having regard to SPG23: Developer Contributions to Education, the development would not give rise to any contribution requirement at either Primary or Secondary School level as there is sufficient capacity within the schools in question.
- 7.29 Education colleagues have confirmed that the nearest primary school (Ysgol Bryn Garth C. P). has a surplus of spaces for additional pupils. The proposals would give rise to an additional 6 pupils. Accordingly, no contribution is sought for primary educational purposes as a consequence of this development.
- 7.30 The capacity at the nearest secondary school (Ysgol Treffynnon). Also has a surplus of spaces for additional pupils. The proposals would give rise to an additional 4 pupils. Accordingly, no contribution is sought for secondary educational purposes as a consequence of this development.
- 7.31 Drainage
With regards to drainage Welsh Water confirm that capacity exists within the public sewerage network in order to receive the domestic foul only flows from the proposed development site. Welsh Water advise specifically that the application proposes to utilise permeable paving, and the applicant is advised that a service corridor should be provided around public sewers to allow access to these assets which would be included as a note on the decision notice.
- 7.32 Welsh Water also note that the applicant proposes to discharge surface water to a nearby watercourse and offer no objection to this in principle.
- 7.33 Concerns have been raised by local residents with regards to existing drainage capacity issues in the village and the potential of flooding

from the site. With regards to capacity issues this has been adequately addressed above with Welsh Water confirming that there is capacity.

7.34 The residents claim that flooding has occurred and worsened since the granting of planning permission previously. The site is not in a recognised flood zone and neither NRW or Welsh Water raise flooding as a concern despite complaints made directly to them from local residents. In addition there is no evidence provided that the proposed development will exacerbate problems which appear to exist at times of extreme rainfall. Members will be aware that the application will be subject to SAB approval which will consider the methods of sustainable surface water drainage. The submission and approval of a suitable scheme to deal with surface water from the development will be an improvement to the lack of drainage facilities which exist currently.

7.35 Ecological Matters

The application is supported by a Preliminary Ecological Appraisal which confirms that the site is not subject to any statutory or non-statutory designations. However, the site's western hedgerow boundary is likely to serve a landscape-scale role in connecting the nearby woodland to the wider landscape, and so is ecologically valuable green infrastructure when evaluated in the wider context. The site also has supporting value for protected species.

7.36 The site has the potential to support protected species such as foraging bats, nesting birds, great crested newts, reptiles and hedgehogs. All other protected species are likely absent from the site, due to unsuitable habitats, levels of disturbance, species range, and/or landscape context.

7.37 Although avoidance measures and mitigation measures will likely reduce any impact on protected species it is recommended that for security conditions relating to works to trees and the hedgerow be imposed.

7.38 Other Matters

Representations from a local resident raise concern with the integrity of the applicant and the fact that the previous planning permission lapsed. Neither of these matters are planning related or are material to the consideration of this application.

7.39 In addition Llanasa Community Council requested that the application was deferred from committee in November to allow them to review their comments. At time of writing report those comments are outstanding.

8.00 CONCLUSION

This application seeks planning permission for the proposed development of land at Rhewl Fawr Road, Penyffordd. Planning permission was granted for residential development of 23 dwellings on this land which has only just lapsed. The planning history is significant in determination of this application both in terms of the principle of development and the housing commitment levels as put forward in the draft LDP. In addition, low local housing need evidence is such that market dwellings would be acceptable still in this location. In terms of consistency there are no material changes in circumstances since the granting of planning permission previously.

Matters including highway safety, drainage, ecological implications and public open space contributions have been assessed and are considered acceptable.

Concerns raised by residents in relation to residential amenity have been considered but the proposal complies with both local planning guidance and supplementary planning guidance.

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

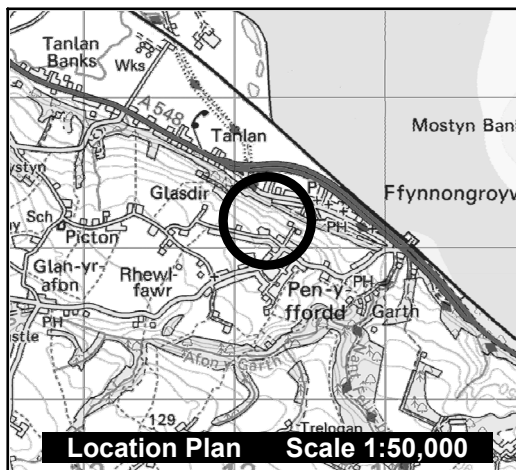
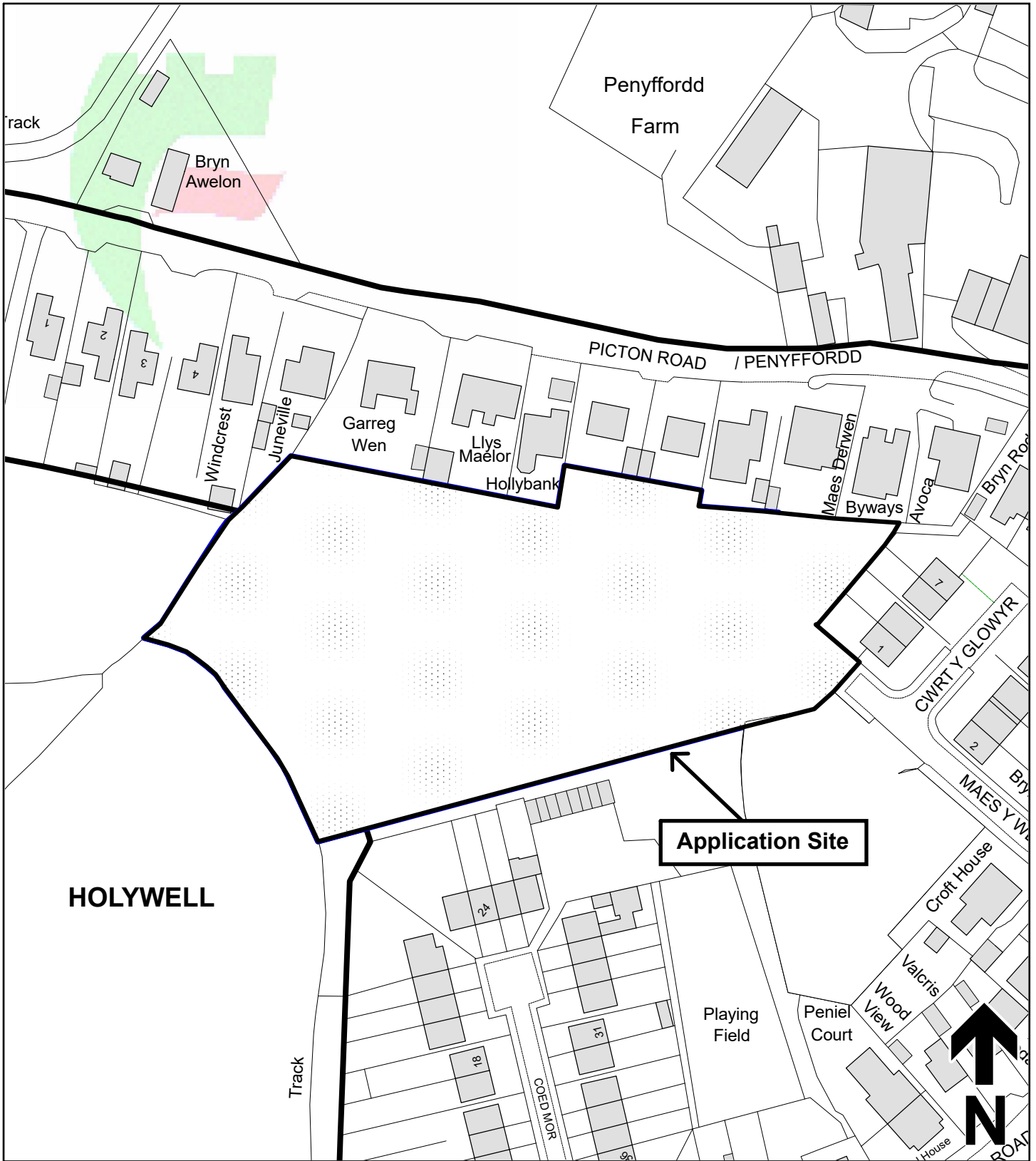
Planning Application & Supporting Documents
National & Local Planning Policy
Responses to Consultation
Responses to Publicity

Contact Officer: Claire Morter

Telephone: 01352 703299

Email: claire.e.morter@flintshire.gov.uk

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Planning, Environment & Economy,
 Flintshire County Council, County Hall,
 Mold, Flintshire, CH7 6NF.

Chief Officer: Mr Andrew Farrow

Legend



Planning Application Site



Adopted Flintshire Unitary
 Development Plan
 Settlement Boundary

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Map Scale 1:1250

OS Map ref SJ 1382

Planning Application FUL/000077/22

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FLINTSHIRE COUNTY COUNCIL

REPORT TO: **PLANNING COMMITTEE**

DATE: **14th DECEMBER 2022**

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

SUBJECT: **FULL APPLICATION- REDEVELOPMENT OF FORMER OAKMERE CARE HOME SITE TO DELIVER NEW SPECIALISED SUPPORTED LIVING (USE CLASS C3) AND CARE HOME (USE CLASS C2) ACCOMMODATION FOR ADULTS WITH DISABILITIES, TOGETHER WITH ASSOCIATED NEW ACCESS ROAD, PARKING, LANDSCAPING AND AMENITY SPACE**

APPLICATION NUMBER: **064397**

APPLICANT: **FOLEY STREET HOMES LTD**

SITE: **OAKMERE NURSING HOME BENNETS LANE HAWARDEN**

APPLICATION VALID DATE: **18TH MAY 2022**

LOCAL MEMBERS: **COUNCILLOR H BROWN**
COUNCILLOR G BROCKLEY

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

REASON FOR COMMITTEE: **SCALE OF DEVELOPMENT**

SITE VISIT: **YES, DUE TO CONCERNS RELATING TO THE HIGHWAY**

1.00 SUMMARY

- 1.01 This is a full application for the redevelopment of a former care home site to deliver new specialised supported living (Use Class C3) and care home (Use Class C2) accommodation for adults with disabilities, together with associated new access road, parking, landscaping and amenity space at Oakmere Nursing Home, Bennets Lane, Hawarden.

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

- 2.01
1. Time Limit
 2. In accordance with approved plans
 3. Materials
 4. Landscaping
 5. Landscape Implementation
 6. Site Levels
 7. The siting, layout, and design of the means of site access shall be in accordance with details to be submitted to and approved by the County Council prior to the commencement of any site works.
 8. The forming and construction of the means of site access shall not commence unless and until the detailed design has been submitted
 9. The works associated with forming the means of site access shall be kerbed and completed to carriageway base course layer up to the internal tangent point of the entrance radii prior to the commencement of any other site building operations.
 10. The proposed access shall have visibility splays that are maximised in both directions along the nearside edge of the adjoining carriageway over land within the control of the Applicant and/or Highway Authority in accordance with details to be submitted
 11. The stated visibility splays at the proposed point of access shall be made available and kept free from all obstructions for the duration of site construction works.
 12. Adequate facilities shall be provided and retained within the site for the loading, unloading, parking and turning of vehicles.
 13. The gradient of the access from the edge of the existing carriageway and for a minimum distance of 10m shall be 1 in 24 and a maximum of 1 in 15 thereafter.
 14. Positive means to prevent the run-off of surface water from any part of the site onto the highway shall be provided
 15. No surface water from any increase in the roof area of the building /or impermeable surfaces within its curtilage shall be allowed to drain directly or indirectly to the public sewerage system.
 16. Prior to commencement of development, a scheme of mitigation in line with the submitted Bat Survey report Anser Ecology 2021, which takes into account the needs of the bats shall be submitted to and agreed in writing by the Local Planning Authority. The agreed details for bats shall be

incorporated within the Method Statement for the NRW licence application and implemented thereafter

17. Prior to commencement method statement for the removal of non-native invasive species listed in Penny Anderson Associates Ltd PEA December 2021.
18. Prior to commencement lighting plan.
19. Arboricultural statement
20. Details of footpath. New route to be available immediately upon closure of existing footpath.
21. Submission of Construction Traffic Management Plan

3.00 CONSULTATIONS

3.01 **Local Member(s) Councillor H Brown:** No response received at time of writing

Local Member(s) Councillor G Brockley: No response received at time of writing

Hawarden Community Council: No response received at time of writing

Highways Development Control: The Highway Authority confirm that they have no objection to the proposal subject to conditions

Ecology: No designated sites are present and no Section 7 habitats of Biodiversity Importance (Environment Act 2016) have been identified but a number of invasive non-native species listed as problematic under Schedule 9 Wildlife and Countryside Act 1981 are present. These are associated with the ornamental planting and include various Cotoneaster species, Monbretia and Variegated Archangel. Where development impacts these species appropriate control/removal will need to be undertaken as recommended within the PEA which includes the requirement for a detailed Method Statement. Suggests conditions

Welsh Water/Dwr Cymru: The Drainage Strategy (file ref: 14193-Drainage Strategy-02) proposes to discharge surface water to soakaways and foul water to the public sewer. DCWW raise no object to this strategy and request Conditions & Advisory Notes are included in any permission.

Natural Resources Wales: NRW have reviewed the planning application, and from the information provided do not consider that the proposed development affects a matter within their remit and therefore do not have any comment to make on the proposed development.

The Ramblers: Ramblers wish to maintain a strong objection – they consider that the diversion would be a dog-leg twice as long as the existing footpath with extra height gain which they feel is unacceptable.

4.00 PUBLICITY

4.01 11 Neighbour Notifications were sent to adjoining/nearby properties. A Site Notice was also displayed at the site and the application was publicised by way of a Press Notice in a local newspaper.

6 Letters of objection have been received and those objections are summarised as follows:

1. Traffic impact
2. Massing and scale
3. Noise impact

5.00 SITE HISTORY

5.01 055795- Erection of 2no. single storey extensions and siting of moveable office/shed- Approved 09/11/2016

040963- Construction of galvanised emergency escape stair and walkway over existing flat roof- Approved 05/05/2006

038549- Outline residential development- Approved 08/04/2005

6.00 PLANNING POLICIES

6.01 Flintshire Unitary Development Plan

GEN1- General Requirements for Development

GEN2- Development Inside Settlement Boundaries

D1- Design Quality, Location and Layout

D2- Design

D3- Landscaping

D4- Lighting

AC2- Pedestrian Provision and Public Rights of Way

AC13- Access and Traffic Impact

AC18- Parking Provision and New Development

CF1- Retention of Existing Facilities

CF2- Development of New Facilities

National Planning Policies:

- Planning Policy Wales Edition 11 (February 2021)

- Future Wales 2020 - 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

This proposal is for the redevelopment of an existing care home site for a similar use, providing supported living accommodation comprising of a care home facility providing 16 No resident units, made up of 14 No. resident units and 2 No. resident wheelchair units as well as 14 No. single bedroom supported living apartments (including 2 No wheelchair units) split over 3 blocks of buildings. Each apartment with individual or shared amenity terrace/garden area.

7.02 The proposed care home is a private facility and is not being promoted by Flintshire County Council Adult Social Care. It is intended that this development will provide appropriate facilities for people that currently have to travel out of county to find similar facilities.

7.03 Site

The site is located on Bennetts Lane, Hawarden and lies wholly within the Hawarden settlement boundary as defined in the Flintshire Unitary Development Plan.

7.04 The site previously had the benefit of outline planning permission for 6 no. dwellings, granted in 2005. Although this permission has since lapsed.

7.05 The existing private nursing home is a large two storey brick built property that has been extended over the years and has a large footprint. The existing building is located to the front of the site.

7.06 Principle

The proposal represents the redevelopment of an existing care home site for a new facility

7.07 The existing facility is considered to be a community facility under the definition of Policy CF2 in the Flintshire Unitary Development Plan. In accordance with policies CF1 and CF2 of the Flintshire Unitary

Development Plan the principle of a replacement facility in this location is acceptable.

- 7.08 The apartments are proposed as assisted living units, which would help develop a person's skills in order to enable a greater level of independent living. These are not market housing units and it is considered that from a policy point of view these units are very much part of the whole site care remit and as such the above policies would be relevant to their development as well. It should be noted, however, that as the site is located within the settlement boundary for Hawarden then the proposal would be compliant with the general Housing policies in any case.
- 7.09 Access and Parking
Whilst the existing use of the site would generate a certain level of traffic if the use was reinstated it is importance to be mindful of the possible impact of the development upon the adjacent highway network. Bennetts lane is a narrow and awkward access lane with inherent access issues due to its traditional layout. The submission highlights that typically residents of the site would tend not to drive, and so demand for parking space is very low and mainly only required for occasional visitors, or staff who are unable to use public transport. Staff will work on a 24-hour three shift pattern, with staggered start and finish times to avoid peaks in traffic generation.
- 7.10 The scheme proposes a total of 32 parking spaces including three mobility impaired spaces and this is considered to be in accordance with the advice set out within SPGN11- Parking Standards.
- 7.11 A transport assessment carried out by SCP has been submitted in support of the application. One of the main conclusions that the assessment comes to is that investigations into traffic generation of the site reveal that the development will provide no material change in traffic movements when compared to the previous use of the site as a care home for complex needs. There is an existing baseline position whereby the site could be brought back into this use without the need for planning permission, with no restriction on staff numbers which will depend on the nature of the individuals living at the property. In addition, the proposed development includes a range of state-of-the-art assistive technology and promotes supported independent living alongside the care home, which means there will be less reliance on staff care and therefore potentially lower trips than the extant lawful use. Highways Development Control have considered the submitted information and have raised no objection to the proposal.

Public footpath

- 7.12 There is presently a public footpath that bisects the site. As part of the proposal a new meandering route for this footpath, which follows the site periphery, has been proposed. Whilst the Ramblers Association have expressed concern at this, as it increases the length of the footpath, it is considered that due to the nature of the use of the site it would not be appropriate to allow unfettered access across the site given the vulnerable nature of residents. The proposal incorporates landscaping into the new route of the footpath to create an attractive route around the site.
- 7.13 The granting of planning permission does not constitute permission to close or divert a footpath and there is a separate procedure the developer would have to follow prior to the development affecting a public footpath taking place. Whilst the retention and sympathetic incorporation of a public right of way is the preferred approach Flintshire Unitary Development Plan policy AC2 allows for diverted footpaths where this is considered to be necessary. This is subject to the diversion taking into account the needs of user for direct and safe access. The developer is proposing a new route which whilst adding approximately 60-70 metres of new footpath from its current route, will enhance the environment by providing a well-lit and landscaped route that skirts the site. To ensure that the access currently provided by the public footpath is protected it is proposed that a condition requiring full details of the new footpath route is imposed with any permission and for this to be available immediately after the existing route is closed up.

Visual Impact and Design

- 7.14 The site is large, and well screened with existing vegetation. The existing neighbouring property to the west, Pantile cottage, is a single storey dwelling located close to the shared boundary. At present the existing site entrance runs alongside the dividing fence line between this property and the site. The neighbouring property to the east is also a single storey dwelling, although the dwelling types in the site vicinity vary from bungalows, which are generally large albeit of a single storey construction, to two storey detached dwellings with an assortment of brick and render finishes. There is no single prevailing style of architecture in the locality of the site and the individual nature of the various dwellings and other buildings dictate the local vernacular style.
- 7.15 The current care home building, located close to the front of the site and viewable from the highway, is a converted Victorian house of traditional brick and pitched slate roof construction, with later large extensions to the side and rear.

7.16 The proposed care home building is the largest of the proposed structures and is a three storey building with facing brick and timber clad effect details. It is orientated so that the mass of the building is built into the embankment at the rear of the site, to limit its visual impact and massing as much as possible. The building has been designed to lessen the potential 'institutional' feel of the building and create a more residential feel as a consequence of its design, in order to be more in keeping with the general character of the area. In order to further integrate the design of all elements of the development with local architectural features both the care home and apartment blocks integrate gable details into their elevations.

7.17 The supported living apartment blocks are two storey, utilise the gabled elements as seen on the care home and which pick up design cues from adjacent developments, and utilise height variations to break up the visual impact of the blocks as well as introduce visual interest into the development as a whole. They use the same materials as on the external elevations of the care home, namely facing brick with timber cladding features.

It is considered that the design of the buildings are acceptable and accord with policies D1 and D2 in the Flintshire Unitary Development plan.

7.18 Impact upon neighbouring amenity

The proposed development is laid out with the 16 no. unit care home facility, which is a three storey building, located at the southern end of the site. This ensures that this building, which is of a larger scale than the dwellings immediately surrounding the site, is approximately 40 metres away from the nearest neighbouring property, Oakmere Bungalow.

7.19 The 14 no. supported living apartments are arranged within 3 separate two-storey apartment blocks. The block containing units 1-6 is located at the front of the site occupying some of the footprint of the existing care home building. This unit is close to its neighbour 'Pantile Cottage' although in terms of building mass it represents far less of an impact upon the neighbouring property as the former home buildings, being substantially smaller in mass as well as height.

7.20 The other two blocks are located further to the south of the site close to the care home building. As a result they are as far as practicable from neighbouring residential properties. Whilst the neighbouring properties are largely bungalows and the proposed buildings are 2-storey it is not considered to be unacceptably large in relation to the

local vernacular and given the separation distances between buildings, in excess of 22 metres between the rear of Oakmere bungalow and the gable elevation of the block of units 11-14 and 33 metres between Oakmere bungalow and the unit 7-10 block which includes a screened boundary. It is not considered that the apartment blocks would unacceptably harm neighbouring residential amenity.

- 7.21 Extensive landscaping is proposed, particularly on site boundaries, both utilising existing planting and introducing new native species. In order to secure appropriate landscaping provision for the scheme the imposition of standard landscaping and landscape implementation conditions is recommended.
- 7.22 In order to safeguard neighbouring amenity it is also proposed that full details of an external lighting plan is conditioned. There are also ecological implications that require an appropriate level of lighting is utilised in the scheme and the condition will ensure that this is undertaken.
- 7.23 In general it is considered that the proposal makes the best use of the site in terms of providing the necessary level of accommodation for its needs whilst respecting the character and amenity of the area and adjoining properties.
- 7.24 Ecology
The site consists of a mixture of semi improved grassland, small groups of trees and scrub as well as the abandoned buildings. A Preliminary Ecological Appraisal (PEA) has been submitted in support of the application. The PEA examined the site for evidence of protected, and other, species and make recommendations for further surveys and work required to be undertaken to protect the ecological interests on site.
- 7.25 In general some of the trees were found to have potential for bat roosting. Earlier surveys carried out on the building in 2021 concluded that the main building had high potential for bats and recommended further surveys. No evidence for Badgers or nesting birds were found on site. There is no watercourse or body of water on the site so it is not expected that amphibians or reptile life will be present on site.
- 7.26 Given the findings of the PEA it would be reasonable to condition the recommendations of this appraisal to be carried out as well as require details of Bat mitigation, such as roosts, to be agreed and implemented with the development.

There are no overriding concerns with ecological issues on site and subject to appropriate conditions the proposal is considered to be acceptable with regard to policy WB1 of the FUDP.

7.27 Other Matters

Dwr Cymru Welsh Water have raised no objection to the proposal but have requested that conditions relating to the drainage and surface water and included on any permission The proposed conditions are reasonable and are included in the recommendation.

8.00 **CONCLUSION**

This proposal is for the reuse and redevelopment of an existing, but currently vacant care home site for the same use. It is considered that the principle of redeveloping the site and bringing it back to this use is acceptable and it is also acceptable in terms of its design and impact, as well as with regard to its impact on the highway and the other matters raised. As such the proposals are considered to be acceptable and recommended for approval subject to the conditions listed above.

8.01 Other Considerations

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

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

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

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

LIST OF BACKGROUND DOCUMENTS

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

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FLINTSHIRE COUNTY COUNCIL

REPORT TO: **PLANNING COMMITTEE**

DATE: **14 DECEMBER 2022**

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

SUBJECT: **FULL APPLICATION FOR THE CONTINUED SITING OF PORTABLE BUILDING FOR USE AS ANCILLARY CHANGING FACILITIES , BUCKLEY**

APPLICATION NUMBER: **FUL/000143/22**

APPLICANT: **BUCKLEY THEATRE CLUB**

SITE: **HAWKESBURY LITTLE THEATRE, MILL LANE, BUCKLEY**

APPLICATION VALID DATE: **16-AUG-2022**

LOCAL MEMBERS: **COUNCILLOR C ELLIS**

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

REASON FOR COMMITTEE: **MEMBER REQUEST**

SITE VISIT: **YES, DEFERRED FROM PLANNING COMMITTEE IN OCTOBER FOR A MEMBERS SITE VISIT**

1.00 SUMMARY

- 1.01 The application seeks consent for the continued and permanent siting of a portacabin for use as changing room facilities in connection with the Hawkesbury Little Theatre.
- 1.02 The application was deferred from Planning Committee in October to allow Members to visit the site and a consultation to be sent to the Theatres Trust. The Theatres Trust have provided a response, a summary of which is provided below.

2.00 RECOMMENDATION: TO REFUSE PLANNING PERMISSION FOR THE FOLLOWING REASONS

1. It is the opinion of the Local Planning Authority that the continued siting of the portacabin in its current position would

be harmful to the character and appearance of the site, contrary to Policies D1 and D2 of the Flintshire Unitary Development Plan.

2. Owing to the proximity of the portacabin to the adjacent dwelling, the impact upon living conditions is considered to be harmful and as such the proposal fails to satisfy criteria d) of Policy GEN 1 of the Flintshire Unitary Development Plan.
3. The Local Planning Authority considers that the continued siting of the portacabin would adversely affect the existing character and appearance of the Hawksbury Little Theatre, which is a curtilage listed building. It is also considered that it will adversely affect the architectural and historical setting of the grade II listed Hawkesbury Hall contrary to planning policy HE2 of the Flintshire Unitary Development Plan

3.00 CONSULTATIONS

3.01 **Local Member:** Councillor Ellis requests committee determination

3.02 **Buckley Town Council:** No observations

3.03 **Highways Development Control:** The Highway Authority confirm that they have no objection to the proposal and do not wish to make a recommendation on highway grounds. Attach Supplementary Notes.

3.04 **Community & Business Protection:** A detailed objection to this application on the grounds of light and noise impact as summarised below:

- The separating distance across the track between the portable building and the nearest residential premises is really quite small. The potential impact and thus harm is potentially detrimental to the private amenity and the use and enjoyment of the residential premises immediately adjacent.
- Artificial light nuisance/pollution is of concern. There is a door, window and lights installed on the exterior of the buildings which are all potential sources of light nuisance. Artificial light from within the building could also be obtrusive and shine out through an open door, window etc and over the short separating gap into the neighbouring residential property. Habitable rooms have been identified facing the portable building in the residential premises adjacent.

- People noise is a further consideration. Noise and activity associated with performers and from actors accessing the changing facilities, would be potentially disruptive and loud for residents living in the property opposite. The duration and timings of the use hours of the changing facilities is likely to vary but could extend quite late into the evenings and even into nighttime hours (classed as after 11pm). Weekend use would not be immune either. Sources of noise could expand to include loud door shutting/door slamming, people talking and loudly on mobile phones, smokers' talking etc. There would also be potentially noise breakout from within the building if it were not adequately sound insulated. Given the adjacency there are further matters around privacy for both the residents and for those using the changing facilities. It is not considered that conditions could overcome these challenges.

3.05 **Conservation Officer:** The Conservation Officer has submitted a detailed objection to the application. The objection is summarised below:-

- The proposed extension differs to the previous traditional built extension in-so-much that it is essentially a portable cabin sited along the building with a new infill structure to connect the two parts.
- The current proposal differs in design and form to the listed and curtilage listed building particularly in terms of materials and the unorthodox flat roof;
- It is considered that the proposed rectangular box extension does not fit comfortably onto the existing gable elevation of the theatre. It appears to be too wide and out of scale for the existing elevation which it virtually conceals.
- The proposal will essentially extend the footprint of the building further back on the site which would have an adverse impact upon the adjacent Hawkesbury Hall, as the new extension would be sited directly in front of part of the hall's rear elevation.
- It is considered that the proposal would adversely affect the existing character and appearance of the Hawksbury Little Theatre, which is a curtilage listed building. It is also considered that it will adversely affect the architectural and historical setting of the grade II listed Hawkesbury Hall, thereby failing to preserve and enhance the historic environment and specifically safeguarding the character of the historic buildings.

3.06 **Theatres Trust:** Summary of points raised follows:

- The structure provides dressing rooms for the theatre and is therefore vital for the theatre to be able to effectively function.
- Whilst accepting that the structure causes some harm to the setting of the neighbouring Grade II listed Hawkesbury Hall, this must be balanced against the wider public benefits for the town of maintaining the theatre and supporting the wellbeing of those associated with it. On that basis in heritage terms they consider there is sufficient mitigation, particularly given that the portable nature of the structure makes harm reversible. Furthermore there has been no alteration to the appearance, scale or function of the structure and the Council through consecutive previous planning decisions has found this acceptable.
- Residential use was not permitted at the Hall until 2012, and it was not occupied until 2015 at the earliest. This was a number of years after the dressing room block became operational, and the theatre itself was already long-established before that. As such the theatre and this block in particular was an existing use and potential source of noise and light, equally impact on visual amenity was already known.
- Impact on living conditions should be disregarded as a reason to potentially refuse permission for this application, and if mitigations are required any burden should not fall with the theatre.
- Should permission for this application be refused, Theatres Trust consider such a decision would conflict with the Well-being of Future Generations (Wales) Act 2015 because harm to the theatre's ongoing operation would be detrimental to social and cultural well-being.

4.00 PUBLICITY

4.01 41 Neighbour Notifications were sent to adjoining or nearby properties. A Site Notice was also displayed at the site and a Press Notice was published in a local newspaper. One objection was received which is summarised as follows:

1. overlooking and loss of privacy
2. loss of light and overshadowing
3. impact on visual amenity
4. poor design and location
5. risk of creating a precedent

6. impact on the setting of a listed building
7. contravention of national and local planning policies
8. over development of the site

41 Representations of support have been received and they are summarised as follows:

1. The Theatre is a much valued and much needed by the community and further afield
2. The Theatre is a community asset
3. Removal of the changing facilities would contravene Well-Being Objectives for Flintshire County Council
4. The changing block has been in-situ for almost 20 years – nothing has changed, increased or deteriorated in its use
5. Previous permissions have established the use of this block
6. Young people involved in the Theatre have a great advantage and learning facility which they may not otherwise have if it were not present (in their hometown)
7. Loss of this facility would have a huge negative impact on the well-being of the community
8. Loss of the changing room block would lead to the loss of the theatre
9. People come from distances to support the theatre
10. Theatre supports the mental health and well-being of its members, patrons, and residents
11. Important facility for children's education

5.00 SITE HISTORY

5.01 **032658** – Partial demolition and extension to form toilets and kitchen - Approved 30/7/01

036374 – Extension to theatre – Approved – 22.10.03

38122 – Siting of portacabin approved 14.9.04

40052 – Variation of condition No.1 attached to planning permission ref: 038122 (Renewal to allow siting of portacabin) - Approved 8.9.05

41899 - Renewal of planning permission ref. 040052 for the siting of a Portacabin - Approved 5.9.06

43779 - Renewal of planning permissions refs. 040052 and 041899 to allow the siting of a portacabin – Approved 24.9.07

45247 - Renewal of planning permission ref. 040052 to allow the siting of a portacabin - Approved 28.8.08

46614 - Renewal of planning permission ref: 040052 to allow siting of portacabin - Approved 28.10.09

47930 - Renewal of planning permission ref: 046614 to retain portacabin to rear of building for a further 12-month period – Approved 8.11.10

049157 - Renewal of planning permission ref: 047930 to retain portacabin to rear of building for a further 12-month period - Approved – 14.12.11

050330 - Renewal of planning permission ref: 049157 for the retention of a Portacabin- Approved 6.2.13

051680 - Renewal of planning permission ref: 050330 for the retention of a portacabin approved – 3.3.14

053243 - Renewal of planning permission ref: 051680 for the retention of a Portacabin – Approved 16.4.15

055164 - Renewal of planning permission ref: 053243 for siting of portacabin- approved 6.2.13

051680 - Renewal of planning permission ref: 050330 for the retention of a portacabin Approved – 3.3.14

6.00 PLANNING POLICIES

6.01 Flintshire Unitary Development Plan
Policy GEN 1 – General Requirements for Development
Policy GEN 2 – Development inside settlement boundaries
Policy D1 - Design Quality, Location and Layout
Policy D2 – Design
Policy HE2 - Development affecting Listed Buildings and their Settings

6.02 Supplementary Planning Guidance (SPGN)
LPG Note 6 – Listed Buildings

6.03 National Planning Policies
Planning Policy Wales – Edition 11 (Feb.2021)
Technical Advice Note 12 – Design
Technical Advice Note 24 – The Historic Environment

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 Site Description

Hawkesbury Little Theatre is located off Mill Lane Buckley and is a long-standing community facility, previously used as a community centre. The building itself is Curtilage Listed within the confines of the Grade II Listed Hawkesbury Hall, although the two premises are in different ownership. Hawkesbury Hall, after a period of restoration is now occupied as a single dwelling house. The theatre building is 'hut' like in appearance, having a brown brick wall which is clad in vertical metal sheeting. Comprising a pitched roof of concrete tile finish, the buildings' curtilage listed association is thought to have originated from its connection to Hawkesbury Hall which was listed for its early C19 origins and important historic associations with Jonathan Catherall.

7.02 Proposal

The application seeks permission for the continued and permanent siting of a flat roof portacabin which is used as changing rooms, ancillary to the theatre use. The portable building is located at the northwest side of the Theatre. It is separated from the listed Hawkesbury Hall, but less than a 4 metre distance. The portacabin extends the full width of the existing theatre, and contains a window and door at either end, together with two high level windows to the side elevation. It is painted cream in colour and provides 4 additional security lights.

7.03 Considerations

The main issues in considering the application are:

- Character and Appearance
- Impact on living conditions
- Impact upon adjacent Listed Building
- Comments of the Theatres Trust

7.04 Character and Appearance

Policy D1 Design Quality, Location and Layout states that all development must incorporate good standards of design. When the proposed development is considered against the criteria in policy D1, it is difficult to identify where it would comply with any of those criteria, given its temporary and utilitarian design, and also set in context of its surroundings and relationship to the listed and curtilage buildings

- 7.05 The portacabin which has been sited on the west side of the existing curtilage listed theatre is of a flat-roof design which is not reflective of the existing pitched roof shape of either the curtilage theatre building, or the adjacent Hall. It contains low quality fenestration, which is not reflective of, nor in keeping with the character of the existing curtilage listed premises or adjacent listed dwelling. The window style is significantly different from those located at the adjacent Hawkesbury Hall.
- 7.06 It is not considered that the location of the proposed structure makes best use of the site or represents positive place making, in that there are potentially preferential locations for its siting elsewhere, for example to the roadside elevation, that would lessen the impact upon the character and appearance of the site and historic assets, but these have not been considered as part of the proposal.
- 7.07 The siting of the structure does not create a positive and attractive building alignment or frontage, creating a conflict with the respective form of the existing theatre building and adjacent listed dwelling. It is noted that a link has been formed between the existing theatre and the changing room facilities which has a breeze block and corrugated metal finish with a sloped roof where it faces Hawkesbury Hall. There is no paint or facing brickwork applied at the plinth of this section which contributes to the poor and disjointed external appearance. The painted exterior of the portacabin is beginning to show signs of a peeling and it is noted that the storage of non-theatre related material takes place underneath the portacabin.
- 7.08 A series of temporary consents have been granted for the siting of the portacabin for use as changing rooms for almost 20 years, and its current positioning is to allow direct access from the dressing room to the rear of the stage. This being said, it is considered that continually renewing temporary permissions for a building which is not acceptable as a permanent addition in this location is not appropriate particularly given the number of times that this has been done. Whilst recognising the use of the main building as a theatre and the community benefits that are associated with this use, the flexibility applied in the planning balance by the LPA in renewing the temporary consent over such a period of time has now been exhausted. The significant change in circumstances is the restoration of the listed Hall and its residential use.
- 7.09 Where temporary consents are issued, the Local Planning Authority can retain a degree of control over the appearance of the building and monitor the situation in terms of visual impact, however if consent is given for the permanent retention of the changing rooms as now applied for, the portacabin will continue to deteriorate in condition and whilst the temporary consents given have enabled the

theatre company to have the changing facility they required until now, ample time has also passed for the Buckley Theatre company to consider and explore the erection of a permanent, well designed and suitably located structure which would have a less harmful visual impact. Paragraph 2.6 of TAN 12 states that design which is inappropriate in its context, as this is, or which fails to grasp opportunities to enhance the character, quality, and function of an area, should not be accepted, as these have detrimental effects on existing communities.

7.10 Impacts upon Living Conditions

The Little Theatre is located within 4m of the adjacent dwelling Hawkesbury Hall. The planning history of the Hall illustrates that it obtained a change of use to residential with the building now used as a theatre being in situ.

7.11 It is noted that as approved, the elevation of the theatre facing Hawkesbury Hall did not contain any windows which offered a degree of protection against overlooking. The siting of the portacabin introduces both a window and door which is located directly outside a window of Hawkesbury Hall. Traditionally, the room which this window serves would have been an entrance hall. However, it is now being used as a living room, which is categorised as a habitable room. The loss of privacy occurring is harmful to the living conditions afforded to the adjacent dwelling and therefore the proposal fails to satisfy the aims of Policy GEN 1 of the Unitary Development Plan.

7.12 Comments from the third-party objector have made reference to the advice contained in Supplementary Planning Guidance note 2 – Space around Dwellings. Fundamentally, this guidance is aimed at establishing separation distances between habitable rooms in dwellings, and as a commercial property does not contain habitable rooms the principles of the SPG cannot therefore be applied. That said, the windows contained within a commercial premises can impact upon the living conditions afforded to adjacent dwellings and the effect is still assessed against the relevant planning policies listed above. Owing to the short distance between the end elevation of the portacabin (4 metres) and the opposing habitable room of Hawkesbury Hall, there is an obvious overbearing impact and detrimental loss of privacy occurring. Having a higher floor level, users of the changing rooms are able to view directly down and into the adjacent window at Hawkesbury Hall, via the glazed window and door of the changing room. The occupiers of the adjacent dwelling have provided photographs of multiple persons congregated outside of the changing room door which can only be viewed as intrusive and harmful to living conditions at the Hall.

7.13 Additionally, a security light has been placed over the door which emits light into Hawkesbury Hall at night-time. This light pollution is

further exacerbated by the addition of three more security lights on the portacabin, having a cumulative and unacceptable effect on the living conditions afforded to the adjacent dwelling. Criteria d) of Policy GEN 1 states that the development should not have a significant adverse impact on the safety and amenity of nearby residents, other users of nearby land/property, or the community in general, through increased activity, disturbance, noise, dust, vibration, hazard, or the adverse effects of pollution. In conjunction with my assessment above, and the detailed objection received from the Community and Business Protection colleagues, it is concluded that the impact of the continued siting of the portacabin in its current position would be detrimental to the living conditions afforded to the occupiers of the adjacent Hawkesbury Hall, contrary to Policy GEN 1

7.14 Impact upon Listed Building

Policy HE2 Development Affecting Listed Buildings and their Settings states that any development affecting listed buildings or their settings, including internal or external alterations or change of use will be permitted only where:

- there is no adverse effect on the building's special architectural or historic character and appearance and the setting of a listed building;
- it can be demonstrated that the loss of, or damage to its historic fabric is unavoidable, has been minimised and that works which would result in the loss of, or which would conceal parts of a listed building, and which contribute to its interest, will be recorded by a photographic or drawn survey; and
- a change of use of a listed building or structure would increase the likelihood of the survival of the building and where alterations do not harm its character or special interest.

7.15 Having regard to the detailed objection received from the Conservation Officer, it can only be concluded that the continued and permanent siting of the portacabin would adversely impact upon the special and historic character of the both the Grade II listed dwelling and curtilage listed theatre. The application does not adequately demonstrate how the development minimises damage to the fabric of the theatre building nor is there adequate justification for the concealing of part of the curtilage listed building with such a poorly designed and temporary structure. The proposal would have an unacceptable and harmful impact upon the curtilage listed theatre and adjacent listed building, failing to satisfy the requirements of policy HE 2 of the Unitary Development Plan.

7.16 Comments of the Theatre Trust

In response to consultation, the Theatres Trust have provided a detailed response with the main points being summarised in para 2.6. It should be noted that the response refers to the 'renewal' of planning permission whereas the proposal seeks permanent retention of the changing room facility. The letter indicates that Planning Policy Wales Edition 11 (2021) states the 'agent of change principle' will be a guiding principle for supporting the evening economy. Therefore impact on living conditions should be disregarded as a reason to potentially refuse permission for this application, and if mitigations are required any burden should not fall with the theatre. In response to this, it is worth noting that PPW11 sets out from 4.3.43 onwards a section on 'The importance of Evening and Nighttime Economy'. Whilst there is support for facilitating such development including bars, restaurants, pubs, theatres, music and arts venues, there is also recognition such activities can be characterised by increased levels of noise, large gatherings of people, later operating hours, and greater traffic movements. It also talks about the compatibility of such uses close to residential accommodation and the possible need for mitigation measures. Therefore, as with many forms of development it is necessary to read the guidance as a whole whereby positives are balanced against negatives.

In conclusion, whilst the social benefits associated with the use are acknowledged, it is not considered that these outweigh the harmful impacts upon the Listed Assets and adjacent living conditions for the reasons given within the appraisal.

8.00 **CONCLUSION**

In conclusion, it is recognised that the siting of the portacabin has been deemed acceptable for a number of years by a flexible application of the planning balance. It is considered that ample time has passed to allow the Buckley Theatre Company to consider the erection of a permanent and appropriately designed extension to the existing building to cater for their requirements and this advice has been provided to the Theatre on a number of occasions. The development as proposed is detrimental to the character and appearance of the area, harmful to the living conditions of adjacent occupiers and impacts unacceptably upon the historic and architectural merit afforded to the curtilage listed building and adjacent grade II listed dwelling.

The proposal fails to satisfy the requirements of Policies D1, D2, GEN 1 and HE 2 of the Flintshire Unitary Development Plan and accordingly I recommend that the application is REFUSED and the portacabin be removed.

8.01 Other Considerations

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

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

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

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

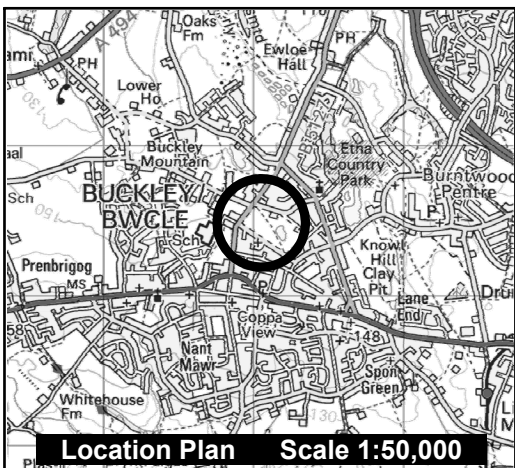
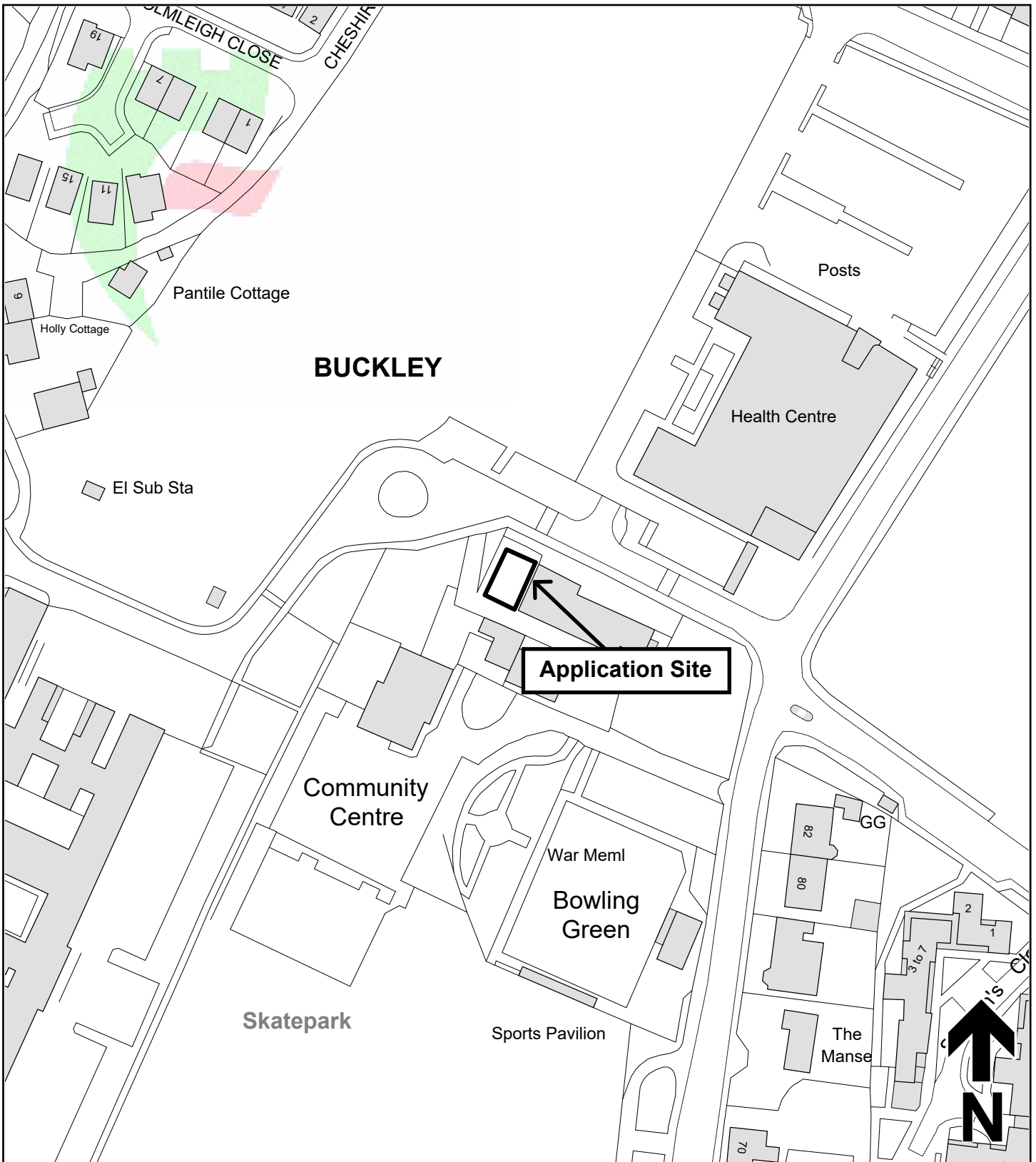
LIST OF BACKGROUND DOCUMENTS

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

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Planning, Environment & Economy,
 Flintshire County Council, County Hall,
 Mold, Flintshire, CH7 6NF.

Chief Officer: Mr Andrew Farrow

Legend



Planning Application Site



Adopted Flintshire Unitary
 Development Plan
 Settlement Boundary

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Planning Application FUL/000143/22

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FLINTSHIRE COUNTY COUNCIL

REPORT TO: **PLANNING COMMITTEE**

DATE: **14 DECEMBER 2022**

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

SUBJECT: **LISTED BUILDING APPLICATION FOR SITNG OF PORTABLE BUILDING FOR USE AS ANCILLARY CHANGING FACILITIES AT HAWKESBURY LITTLE THEATRE, MILL LANE, BUCKLEY**

APPLICATION NUMBER: **LBC/000351/22**

APPLICANT: **BUCKLEY THEATRE COMPANY**

SITE: **HAWKESBURY LITTLE THEATRE, MILL LANE , BUCKLEY**

APPLICATION VALID DATE: **16th AUGUST 2022**

LOCAL MEMBERS: **COUNCILLOR ELLIS**

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

REASON FOR COMMITTEE: **MEMBER REQUEST**

SITE VISIT: **YES, DEFERRED FROM OCTOBER PLANNING COMMITTEE TO ALLOW FOR MEMBERS SITE VISIT**

1.00 SUMMARY

1.01 The application seeks listed building consent for the continued and permanent use of a portacabin for use as ancillary changing rooms, at Hawkesbury Little Theatre, Buckley

2.00 RECOMMENDATION: TO REFUSE LISTED BUILDING CONSENT FOR THE FOLLOWING REASONS

2.01 It is considered that the continued siting of a portacabin in this position would adversely affect the existing character and appearance of the

Hawksbury Little Theatre, which is a curtilage listed building. It is also considered that it will adversely affect the architectural and historical setting of the grade II listed Hawkesbury Hall , contrary to planning policy HE2 of the Flintshire Unitary Development Plan.

- 2.02 It is the opinion of the Local Planning Authority that the proposal fails to preserve and enhance the historic environment and does not ensure that the character of historic buildings is safeguarded from an extension that would compromise a building's special architectural and historic interest, contrary to Policy HE 2 of the Flintshire Unitary Development Plan.

3.00 CONSULTATIONS

- 3.01 **Local Member:** Councillor Ellis requests committee determination

- 3.02 **Buckley Town Council:** No observations

- 3.03 **Highways Development Control:** The Highway Authority confirm that they have no objection to the proposal and do not wish to make a recommendation on highway grounds. Attach Supplementary Notes.

- 3.04 **Community & Business Protection:** A detailed objection to this application on the grounds of light and noise impact as summarised below;

- The separating distance across the track access between the portable building and the nearest residential premises is really quite small. The potential impact and thus harm is potentially detrimental to the private amenity and the use and enjoyment of the residential premises immediately adjacent.
- Artificial light nuisance/pollution is of concern. There is a door, window and lights installed on the exterior of the buildings which are all potential sources of light nuisance. Artificial light from within the building could also be obtrusive and shine out through an open door, window etc and over the short separating gap into the neighbouring residential property. Habitable rooms have been identified facing the portable building in the residential premises adjacent.
- People noise is a further consideration. Noise and activity associated with performers and from actors accessing the changing facilities, would be potentially disruptive and loud for residents living in the property opposite. The duration and timings of the use hours of the changing facilities is likely to

vary but could extend quite late into the evenings and even into night-time hours (classed as after 11pm). Weekend use would not be immune either. Sources of noise could expand to include loud door shutting/door slamming, people talking and loudly on mobile phones, smokers' talking etc. There would also be potentially noise breakout from within the building if it were not adequately sound insulated. Given the adjacency there are further matters around privacy for both the residents and for those using the changing facilities. It is not considered that conditions could overcome these challenges.

3.05 **Conservation Officer:** The Conservation Officer has submitted a detailed objection to the application. The objection is summarised below:-

- The proposed extension differs to the previous traditional built extension in-so-much that it is essentially a portable cabin sited along the building with a new infill structure to connect the two parts.
- The current proposal differs in design and form to the listed and curtilage listed building particularly in terms of materials and the unorthodox flat roof;
- It is considered that the proposed rectangular box extension does not fit comfortably onto the existing gable elevation of the theatre. It appears to be too wide and out of scale for the existing elevation which it virtually conceals.
- The proposal will essentially extend the footprint of the building further back on the site which would have an adverse impact upon the adjacent Hawkesbury Hall, as the new extension would be sited directly in front of part of the hall's rear elevation.
- It is considered that the proposal would adversely affect the existing character and appearance of the Hawksbury Little Theatre, which is a curtilage listed building. It is also considered that it will adversely affect the architectural and historical setting of the grade II listed Hawkesbury Hall, thereby failing to preserve and enhance the historic environment and specifically safeguarding the character of the historic buildings.

3.06 **Society for the Protection of Ancient Buildings:** No response received

3.07 **Ancient Monument Society:** No response received

- 3.08 **The Victorian Society:** No response received
- 3.09 **Clwyd Powys Archaeological Trust:** No response received
- 3.10 **The Royal Commission on the Ancient and Historical Monuments:** No response received
- 3.11 **The Georgian Group:** No response received

4.00 PUBLICITY

4.01 41 Neighbour Notifications were sent to adjoining or nearby properties. A Site Notice was also displayed at the site and a Press Notice was published in a local newspaper. One objection was received which is summarised as follows:

1. overlooking and loss of privacy
2. loss of light and overshadowing
3. impact on visual amenity
4. poor design and location
5. risk of creating a precedent
6. impact on the setting of a listed building
7. contravention of national and local planning policies
8. over development of the site

41 Representations of support have been received and they are summarised as follows:

1. The Theatre is a much valued and much needed by the community and further afield
2. The Theatre is a community asset
3. Removal of the changing facilities would contravene Well-Being Objectives for Flintshire County Council
4. The changing block has been in-situ for almost 20 years – nothing has changed, increased or deteriorated in its use
5. Previous permissions have established the use of this block
6. Young people involved in the Theatre have a great advantage and learning facility which they may not otherwise have if it were not present (in their hometown)
7. Loss of this facility would have a huge negative impact on the well-being of the community
8. Loss of the changing room block would lead to the loss of the theatre
9. People come from distances to support the theatre
10. Theatre supports the mental health and well-being of its members, patrons, and residents
11. Important facility for children's education

5.00 **SITE HISTORY**

5.01 **032658** Partial demolition and extension to form toilets and kitchen - Approved 30/7/01

036374 Extension to theatre – Approved – 22.10.03

38122 Siting of portacabin approved 14.9.04

40052 Variation of condition No.1 attached to planning permission ref: 038122 (Renewal to allow siting of portacabin) - Approved 8.9.05

41899 Renewal of planning permission ref. 040052 for the siting of a Portacabin - Approved 5.9.06

43779 Renewal of planning permissions refs. 040052 and 041899 to allow the siting of a portacabin – Approved 24.9.07

45247 Renewal of planning permission ref. 040052 to allow the siting of a portacabin - Approved 28.8.08

46614 Renewal of planning permission ref: 040052 to allow siting of portacabin - Approved 28.10.09

47930 Renewal of planning permission ref: 046614 to retain portacabin to rear of building for a further 12-month period – Approved 8.11.10

049157 Renewal of planning permission ref: 047930 to retain portacabin to rear of building for a further 12-month period - Approved – 14.12.11

050330 Renewal of planning permission ref: 049157 for the retention of a Portacabin- Approved 6.2.13

051680 Renewal of planning permission ref: 050330 for the retention of a portacabin approved – 3.3.14

053243 Renewal of planning permission ref: 051680 for the retention of a Portacabin – Approved 16.4.15

055164 Renewal of planning permission ref: 053243 for siting of portacabin- approved 6.2.13

051680 Renewal of planning permission ref: 050330 for the retention of portacabin Approved – 3.3.14

6.00 PLANNING POLICIES

6.01 Flintshire Unitary Development Plan

- Policy GEN 1 – General Requirements for Development
- Policy GEN 2 – Development inside settlement boundaries
- Policy D1 - Design Quality, Location and Layout
- Policy D2 – Design
- Policy HE2 - Development affecting Listed Buildings and their Settings

6.02 Supplementary Planning Guidance (SPGN)

- LPG Note 6 – Listed Buildings

6.03 National Planning Policies

- Planning Policy Wales – Edition 11 (Feb.2021)
- Technical Advice Note 12 – Design
- Technical Advice Note 24 – The Historic Environment
- 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 Site Description

Hawkesbury Little Theatre is located off Mill Lane Buckley and is a long-standing community facility, previously used as a community centre. The building itself is Curtilage Listed within the confines of the Grade II Listed Hawkesbury Hall, although the two premises are in different ownership. Hawkesbury Hall, after a period of restoration is now occupied as a single dwelling house. The theatre building is 'hut' like in appearance, having a brown brick wall which is clad in vertical metal sheeting. Comprising a pitched roof of concrete tile finish, the buildings' curtilage listed association is thought to have originated from its connection to Hawkesbury Hall which was listed for its early C19 origins and important historic associations with Jonathan Catherall.

7.02 Proposal

The application seeks permission for the continued and permanent siting of a flat roof portacabin which is used as changing rooms, ancillary to the theatre use. The portable building is located at the northwest side of the Theatre. It is separated from the listed

Hawkesbury Hall, but less than a 4 metre distance. The portacabin extends the full width of the existing theatre, and contains a window and door at either end, together with two high level windows to the side elevation. It is painted cream in colour and provides 4 additional security lights

7.03 Considerations

The main issue in considering this application is:

- Impact upon Character and Appearance of the curtilage listed Theatre and adjacent Listed Building

7.04 Character and Appearance

Policy D1 Design Quality, Location and Layout states that all development must incorporate good standards of design. When the proposed development is considered against the criteria in policy D1, it is difficult to identify where it would comply with any of those criteria, given its temporary and utilitarian design, and also set in context of its surroundings and relationship to the listed and curtilage buildings

7.05 The portacabin which has been sited on the west side of the existing curtilage listed theatre is of a flat-roof design which is not reflective of the existing pitched roof shape of either the curtilage theatre building, or the adjacent Hall. It contains low quality fenestration, which is not reflective of, nor in keeping with the character of the existing curtilage listed premises or adjacent listed dwelling. The window style is significantly different from those located at the adjacent Hawkesbury Hall.

7.06 It is not considered that the location of the proposed structure makes best use of the site or represents positive place making, in that there are potentially preferential locations for its siting elsewhere, for example to the roadside elevation, that would lessen the impact upon the character and appearance of the site and historic assets, but these have not been considered as part of the proposal.

7.07 The siting of the structure does not create a positive and attractive building alignment or frontage, creating a conflict with the respective form of the existing theatre building and adjacent listed dwelling. It is noted that a link has been formed between the existing theatre and the changing room facilities which has a breeze block and corrugated metal finish with a sloped roof where it faces Hawkesbury Hall. There is no paint or facing brickwork applied at the plinth of this section which contributes to the poor and disjointed external appearance. The painted exterior of the portacabin is beginning to show signs of a peeling and it is noted the storage of non-theatre related material underneath the portacabin.

7.08 A series of temporary consents have been granted for the siting of the portacabin for use as changing rooms for almost 20 years, its

current positioning is to allow direct access from the dressing room to the rear of the stage. This being said, it is considered that continually renewing temporary permissions for a building which is not acceptable as a permanent addition in this location is not appropriate particularly given the number of times that this has been done. Whilst recognising the use of the main building as a theatre and the community benefits that are associated with this use, the flexibility applied in the planning balance by the LPA in renewing the temporary consent over such a period of time has now been exhausted. The significant change in circumstances is the restoration of the listed Hall and its residential use.

7.09 Where temporary consents are issued, the Local Planning Authority can retain a degree of control over the appearance of the building and monitor the situation in terms of visual impact, however if consent is given to for the permanent retention of the changing rooms as now applied for, the portacabin will continue to deteriorate in condition and whilst the temporary consents given have enabled the theatre company to have the changing facility they required until now, ample time has also passed for the Buckley Theatre company to consider and explore the erection of a permanent, well designed and suitably located structure which would have a less harmful visual impact. Paragraph 2.6 of TAN 12 states that design which is inappropriate in its context, as this is, or which fails to grasp opportunities to enhance the character, quality, and function of an area, should not be accepted, as these have detrimental effects on existing communities.

7.10 Impact upon Listed Building

Policy HE2 Development Affecting Listed Buildings and their Settings states that any development affecting listed buildings or their settings, including internal or external alterations or change of use will be permitted only where there is no adverse effect on the building's special architectural or historic character and appearance and the setting of a listed building;

- it can be demonstrated that the loss of, or damage to its historic fabric is unavoidable, has been minimised and that works which would result in the loss of, or which would conceal parts of a listed building, and which contribute to its interest, will be recorded by a photographic or drawn survey; and
- a change of use of a listed building or structure would increase the likelihood of the survival of the building and where alterations do not harm its character or special interest.

7.11 Having regard to the detailed objection received from the Conservation Officer, it can only be concluded that the continued and permanent siting of the portacabin would adversely impact upon the special and historic character of the both the Grade II listed dwelling and curtilage listed theatre. The application does not adequately demonstrate how the development minimises damage to the fabric of

the theatre building nor is there adequate justification for the concealing of part of the curtilage listed building with such a poorly designed and temporary structure. The proposal would have an unacceptable and harmful impact upon the curtilage listed theatre and adjacent listed building, failing to satisfy the requirements of policy HE 2 of the Unitary Development Plan with limited detail accompanying the application as to how the fabric of the building will be preserved in the long term. The proposal therefore fails to satisfy the requirements of Policy HE 2 of the Unitary Development Plan

7.12 Paragraph 1.29 of Technical Advice Note 24 states that the local planning authority will need to make its own assessment of the impact within the setting of a historic asset, having considered the responses received from consultees as part of this process. A judgement has to be made by the consenting authority, on a case-by-case basis, over whether a proposed development may be damaging to the setting of the historic asset or may enhance or have a neutral impact on the setting by the removal of existing inappropriate development or land use. In this case, the Conservation Officer has given detailed comments which clearly identifies why the development is not suitable in its current position and how the proposal fails to preserve and enhance the historic environment. The development does not ensure that the character of historic buildings is safeguarded from an extension that would compromise a building's special architectural and historic interest. Subsequently, the proposal is contrary to Welsh Government Planning Policy Wales objectives for the conservation and improvement of the historic environment.

8.00 **CONCLUSION**

In conclusion, it is recognised that the siting of the portacabin has been deemed acceptable for a number of years by a flexible application of the planning balance. It is considered however that ample time has passed to allow the Buckley Theatre Company to consider the erection of a permanent and appropriately designed extension to the existing building to cater for their requirements. The development as proposed is detrimental to the character and appearance of the area, harmful to the living conditions of adjacent occupiers and impacts unacceptably upon the historic and architectural merit afforded to the curtilage listed building and adjacent grade II listed dwelling.

The proposal fails to satisfy the requirements of Policies D1, D2, GEN 1 and HE 2 of the Flintshire Unitary Development Plan and accordingly I recommend that the application is REFUSED and the portacabin be removed.

NOTE – Should Members be minded to approve this application, a report will be required to be sent to CADW detailing why the proposal is acceptable in relation to the impacts of the proposed development on the heritage assets.

8.01 Other Considerations

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

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

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

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

LIST OF BACKGROUND DOCUMENTS

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

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Email: jenni.perkins@flintshire.gov.uk

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FLINTSHIRE COUNTY COUNCIL

REPORT TO: **PLANNING COMMITTEE**

DATE: **14 DECEMBER 2022**

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

SUBJECT: **CHANGE OF USE FROM MOTOR VEHICLE SERVICE AND PARTS SALES TO CLASS A1 SANDWICH SHOP & BAKERY AND CLASS A3 (CAFE / RESTAURANT/ HOT FOOD TAKEAWAY) ALONG WITH EXTERNAL WORKS TO REFURBISH AND EXTEND THE EXISTING UNIT, RECONFIGURED CAR PARK, EXTERNAL SEATING, ACOUSTIC BARRIER AND ASSOCIATED WORKS**

APPLICATION NUMBER: **FUL/000498/22**

APPLICANT: **C/O AGENT, TJ MORRIS LIMITED**

APPLICATION VALID DATE: **26 SEPTEMBER 2022**

LOCAL MEMBERS: **COUNCILLOR C BITHELL**

TOWN/COMMUNITY COUNCIL: **MOLD TOWN COUNCIL**

REASON FOR COMMITTEE: **MEMBER REQUEST**

SITE VISIT: **NOT REQUESTED**

1.00 SUMMARY

1.01 The application seeks consent for Change of use from motor vehicle service and parts sales to Class A1 sandwich shop & bakery and Class A3 (cafe / restaurant/ hot food takeaway) along with associated external works.

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

1. Time Limit on commencement
2. In accordance with approved plans
3. Adequate facilities shall be provided and retained within the retail park for the loading, unloading, parking and turning of vehicles.
4. Details of grease trap to be submitted and approved.
5. No surface water from any increase in the roof area of the building /or impermeable shall be allowed to drain directly or indirectly to the public sewerage system.
6. Details of any proposed flood defence controls and measures shall be prepared, submitted to and approved in writing by the Local Planning Authority.
7. A Scheme of external lighting shall be prepared, submitted to and approved in writing by the Local Planning Authority.
8. A suitable system for the extraction, filtration and ventilation of any process odours and fumes, should be installed in accordance with a scheme to be first submitted to and agreed in writing by the Local Planning Authority
9. Details of the proposed 3m high acoustic fence to the east of the site shall be submitted to and approved in writing by the Local Planning Authority.
10. The opening hours of the uses hereby approved shall be limited to 08:00 hours and 22:00 hours.

3.00 CONSULTATIONS

- 3.01 **Local Member – Councillor Chris Bithell** - Welcomes investment to the area but has concerns that the proposal would attract more trade, thus increasing traffic generation to the detriment of users of Chester Road. Concern is also raised as to the safety of the junction from Chester Road to the site. Request Committee determination.
- 3.02 **Town/Community Council** – Supports the re-use of the site however express concerns over increase in traffic generation and the safety of the junction. Parking provision does not appear to be adequate and the late night closure of one unit would lead to increase traffic near a residential area late at night and anti-social behaviour.
- 3.03 **Highways Development Control** – No objection in principle subject to the imposition of a condition (para. 2.03 above)
- 3.04 **Community and Business Protection** – The accompanying assessment indicates that the proposal will have a low adverse impact upon any nearby residential properties as long as certain remedial measures are implemented as per the report's recommendations. Recommends conditions relating to 3m acoustic fence and odour extraction. (paras 2.08 and 2.09.)

- 3.05 **Welsh Water/Dwr Cymru** – Request that if you are minded to grant Planning Consent for the above development that 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. (paras 2.04 and 2.05 above)
- 3.06 **Natural Resources Wales** – Based on the scale and nature of the proposal, do not object on flood risk grounds and welcome the proposed mitigation measures suggested in the accompanying Flood Consequences Assessment.
- 3.07 **Airbus** – No objection

4.00 PUBLICITY

- 4.01 36 Neighbour Notifications were sent to adjoining/nearby properties. A Site Notice was also displayed.

There has been one representation of support highlighting that the proposal would be a great asset to Mold.

Five objections have been received and they are summarised as follows:

1. Increase traffic generation
2. Safety of junction
3. Excess waste and litter
4. Noise pollution
5. Light pollution
6. Odour emissions
7. Opening hours
8. Anti-social behaviour
9. Risk to the viability of existing businesses within the Town Centre

5.00 SITE HISTORY

- 5.01 None of relevance

6.00 PLANNING POLICIES

- 6.01 Flintshire Unitary Development Plan Policies

- GEN 1 General Requirements for Development
- GEN 2 Development Inside Settlement Boundaries
- STR 1 New Development
- D1 Design Quality, Location and Layout
- D2 Design

- D4 Outdoor Lighting
- D5 Crime Prevention
- S2 Shop-front Design
- S3 Integrating New Commercial Development
- S8 Hot Food Takeaways, Restaurants and Cafes
- AC1 Facilities for the Disabled
- AC2 Pedestrian Provision and Public Rights of Way
- AC3 Cycling Provision
- AC18 Parking Provision and New Development
- EWP12 Pollution
- EWP 13 Nuisance
- EWP 16 Water Resources
- EWP17 Flood Risk

6.02 Supplementary Planning Guidance

- SPGN No 11. Parking Standards
- SPGN No 12. Access For All

6.03 National Planning Policies:

- Planning Policy Wales – Edition 11 (Feb.2021)
- Technical Advice Note 11 – Noise
- Technical Advice Note 12 – Design
- Technical Advice Note 15 – Flood risk
- 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 Site Description

The Site comprises an existing motor vehicle service / repair unit, off Chester Road, Mold. The existing unit extends to 347 square metres (gross internal area) and is located on a shared retail site, currently occupied by Checkpoint Service Centre. The Site currently has onsite parking provision for 15no. cars with a wider parking provision associated with the Home Bargains and Food Warehouse comprising a total of 218 spaces. The surrounding area is generally commercial in nature. The Site is bound to the northwest by existing retail uses, with nearby retailers including Iceland, Home Bargains and B&M. Mold Cricket Club and Mold Rugby Club sit directly northeast of the Site. The closest residential dwellings are located southeast of the

Site on the opposite side of Chester Road. Existing vehicular and pedestrian access to the Site is gained from Chester Road (A541). Pedestrian infrastructure within the surrounding area is sufficient with dedicated footpaths, street lighting and a formal crossing point located directly in front of the Site.

7.02 Proposal

Full planning permission is sought for the “Change of use from motor vehicle service and ‘parts’ sales to Class A1 sandwich shop and bakery and Class A3 (café / restaurant/ hot food takeaway) along with external works to refurbish and extend the existing unit, reconfigured car park, external seating, acoustic barrier and associated works.

7.03 It is proposed that the existing unit will be subdivided and extended to form two units (Unit A and Unit B). Unit A will comprise 198 square metres (gross internal area) and Unit B will extend to 194 square metres (gross internal area). The 2no. units, will collectively extend to 392 square metres (gross internal area). This represents an increase of 45 square metres over and above the existing building (347 square metres). The proposed extension would follow the same line and levels as the existing building. The appearance of the proposed units have strong brand identity, in keeping with the wider retail location. The current building on the site has a pitched roof. The proposal would see new cladding, windows, entrance, openings infilled to match existing brickwork, exits and doors. Provision for 13no. car parking spaces is to be provided, which will include dedicated disabled car parking bays. In addition, 4no. Sheffield stands are proposed to accommodate cycle parking spaces. Staff and customer access will remain as existing via a shared access point off Chester Road (A541). Level access is to be provided to the building, suitable for wheelchair users and ambulant disabled people. The new entrances to the units will have manually opening doors compliant with the Building Regulations. Serving / delivery access will be retained via the existing road network, along the A541 and using the retail access road. Dedicated refuse storage/recycling area will be located to the side elevation of each unit and collected along with allocated plant enclosure.

7.04 Considerations

The main issues in considering the application are:

- Principle of Development
- Impact upon Character and Appearance
- Highway safety
- Drainage and Flood risk
- Nuisance

Principle of Development

7.05 Policy STR1 of the Flintshire Unitary Development Plan {UDP} states that new development will be permitted where this is generally

located within existing settlement boundaries, allocations, development zones, principal employment areas and suitable brownfield sites and will only be permitted outside these areas where it is essential to have an open countryside location. Policy STR5, Shopping Centres and Commercial Development seeks to maintain and enhance the vitality, attractiveness and viability of existing town centres.

7.06 The site is located within the Town Centre Boundary of Mold and therefore the site selection complies with the above aims. The principle of development in this location is also supported by policy S3 Integrating New Commercial Development, in so far as the proposed development is within easy walking distance of existing commercial developments and other facilities; provides building entrances in locations which relate best to existing commercial developments, other facilities and pedestrian routes; and provides car parking to the rear of the development. It is also adjacent to a fairly recently redeveloped retail offer on the site of the former Kwik Save Supermarket site, which now comprises several retail units and operators.

7.07 The proposals bring about improved retail 'offer' within the wider site and Mold in general. PPW11 recognises the benefits of having a wide variety of uses in town centres. The site is accessible by a variety of means of transport. Turning to the Class A3 element of the proposal, the principle of such use is acceptable in accordance with policy S8 Hot Food Takeaways. The application demonstrates that the amenity of local residents would not be unduly harmed; that on-site provision will be made for the disposal of casual litter and wastes; and the use will not result in traffic hazards or disturbance arising from street parking. These matters are explored in further detail below.

7.08 It is considered that the proposal is of appropriate scale to the locality, representing a small increase in floor area to what is currently on site. The development would provide diversity to the retail area and enhance the shopping centre as a whole. The matter of residential living conditions is discussed further below.

7.09 Character and Appearance

The proposed extension is proportionate in scale and modest in form, reflecting that of the existing building. The finishes of the two units would be modern in appearance which would upgrade and enhance the aesthetics of the existing site, whilst contributing to the vibrancy of the retail area it is adjacent to. The design of the finished units is practical, of quality and are a sympathetic solution which will bring a positive and contemporary addition to the local community and beyond. The broad width of the A541 Chester Road offers a significant degree of separation from residential properties on the other side of Chester Street, and also demarcates a distinct change in land uses on the application side of the road, given the existing

retail development that this proposal will service, as well as the presence of the Rugby Club all weather pitch adjacent to the site, which is also flood lit. I am satisfied that the aims of Policies D1, Design Quality, Layout and Location and D2 - Design are met, subject to the successful approval of a subsequent advertisement scheme.

7.10 Highway Safety

Concern has been expressed by third parties via the consultation exercise over the potential increase in traffic generation a result of the proposal and to the adequacy of the junction from Chester Road onto the site in terms of safety.

7.11 The application is supported by a Transport Statement (TS) prepared by Rappor. The Statement assesses the Site and local highway network; Site Accessibility & Opportunities for Sustainable Travel; Trip Attraction & Traffic Impact Assessment and Parking Provision.

7.12 The TS confirms that the access to the site is considered safe and suitable to serve all users of the future development and there are no inherent / apparent local highways safety issues. In addition, the forecast trip attraction and net trip impact indicates an immaterial increase in new traffic movements, with no anticipated material impact on the local network. The report concludes the development proposal will not have a material impact upon safety or operation of the surrounding local highway network.

7.13 Highways Development Control raise no concerns over Highways Safety subject to the inclusion of adequate facilities within the retail park for the loading, unloading, parking and turning of vehicles. The imposition of a condition requesting the submission, approval and implementation of such a scheme is suggested (para 2.03). I have sought further clarification from the Highways Engineer on their position in respect of the increase in traffic generation and safety of the junction. It is confirmed that this is an existing road junction with an existing traffic generation. It has not been found or observed that there is any technical deficiency in the design of the junction. On this basis, the starting point for assessing the adequacy of the road junction is accident statistics which have been referenced in the submitted Transport Statement under paras 2.10 – 2.18.

7.14 Whilst the TS only considers 3 years of accidents, searching the same source (crash map) for all 23 years of the records held it is concluded that there is no evidence of a particular problem with the movement of vehicles through the junction. If there was, we would expect to see a greater number of accidents clustered around the junction.

7.15 Additionally, the TS, though the submission of Trip Rate Information Computer System (TRICS) data, demonstrates that the development

will **not** result in a significant increase in vehicles entering and leaving the highway network through the road junction serving the retail park. The statement indicates at table 5.2 that the proposed café / sandwich shop may be associated with a total of 87, 41, and 105 two-way trips during the typical weekday AM and PM peak periods, and Saturday peak period, respectively. The proposed restaurant/ takeaway may be associated with no trips during the typical AM peak period, and 40 and 68 two-way trips during the typical weekday PM peak period and Saturday peak period, respectively.

7.16 Therefore, it is concluded that there is no empirical evidence available to justify a recommendation of refusal.

7.17 It is considered that both the supporting Transport Statement, and comments of Highways Development Control demonstrate that the proposal would not cause detriment to the highway network owing to the approach roads to the site being of an adequate standard to accommodate the traffic likely to be generated by the development without compromising public safety, health and amenity and that safe vehicular access can be provided by the developer both to and from the main highway network. The proposal is therefore compliant with Policies AC 13 and AC18 of the Unitary Development Plan.

7.18 Drainage and Flood Risk

The site is located within a C1 Flood zone as designated within the Natural Resources Wales Development Advice Maps, indicating that the site is at risk of flooding in a storm event between a 1 in 100 and 1 in 1000 year return period, but is defended up to the 1 in 100 year event. The site is in proximity to the River Alyn, approximately 300m west and the area has undergone extensive flood repair schemes. Generally, new development should be directed to the A or B categories unless the Local Planning Authority can be satisfied that the tests set out in section 6 of TAN 15 are met, these being that:

i) Its location in zone C is necessary to assist, or be part of, a local authority regeneration initiative or a local authority strategy required to sustain an existing settlement; or,

ii Its location in zone C is necessary to contribute to key employment objectives supported by the local authority, and other key partners, to sustain an existing settlement or region; and,

iii It concurs with the aims of 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.

- 7.19 The Flood Consequences Assessment report which accompanies the application confirms that given the nature of the proposed development, it is classed as less vulnerable, and flooding of the property will not pose a significant risk to people as there are no permanent residents. Mitigation measures in the form of flood gates to doors and windows at ground floor are suggested given that it is impractical to raise the floor levels. NRW have expressed that they are satisfied with the proposed measures. In this regard, it is considered pertinent that an Emergency Plan be prepared, submitted and approved by the Local Planning Authority prior to the commencement of use. The plan should cover such provisions of flood prevention measures and evacuation plans and procedures in the event of a flood. Liaison can then take place with the Emergency Planning Department. It is my recommendation that this be added as a condition of any consent (para. 2.06).
- 7.20 It is concluded that the selected site satisfies the above tests, in that it is a formerly developed site which occupies a Town Centre location and is supported by the strategic aims of the Unitary Development Plan and the emerging Local Development Plan, and their objectives of supporting employment and sustainable communities. The level of risk arising from the nature of the uses can be deemed as less vulnerable and in combination with the proposed drainage strategy and flood mitigation controls, the application demonstrates compliance with tests set out in sections 6 and 7 of TAN 15 and satisfies policy EWP17 of the Unitary Development Plan.
- 7.21 With regards to foul water discharge, Dwr Cymru/Welsh Water advise that any existing drainage shall be utilised where possible to avoid the need to make any new connections to the public sewer. The application demonstrates that it is proposed to connect the foul drainage from the development into the existing foul drainage that serves the site. Surface Water runoff is also to be directed to an existing system. Owing to the small increase in footprint presented by the proposed extension to the unit, SAB approval is not required nor is there a requirement for implementation of SUD's. It is considered that the drainage proposals are satisfactory and compliant with Policy EWP 16 of the Unitary Development Plan.
- 7.22 Nuisance
Several representations received detail concerns over noise pollution resultant from the proposed uses of the site. A supporting Noise Assessment prepared by Tetra Tech accompanies the application. The Assessment states that operation noise levels are predicted to meet guideline noise intrusion criteria at nearby properties during the daytime and night-time period, with mitigation.

- 7.23 With mitigation, the results indicate a low risk of adverse impacts. A change in noise level assessment has also been undertaken inclusive of mitigation which shows noise levels to fall within the No Observed Adverse Effect Level. Furthermore, building service plant noise levels are predicted below existing measured background noise levels at the existing noise sensitive receptor locations.
- 7.24 The prospective occupiers may require trading 24 hours a day. The noise assessment has tested and allows for this through mitigation in the form of a 3.0 metre high barrier to the east of the site. With mitigation, the results indicate a low risk of adverse impacts.
- 7.25 The Noise Assessment concludes that the proposed development is predicted to have a low impact and noise levels fall within the Lowest Observed Adverse Effect Level (LOAEL).
- 7.26 Concerns have been raised over potential light pollution arising from the proposed uses. The application documents do not appear to show any external lighting either to facades of the building or to the surrounding car park. To ensure compliance with policy D5 Crime Prevention, and to D4 – Outdoor lighting a suitable lighting scheme should be designed and implemented to minimise potential pollution from glare and light spillage. It is recommended that the inclusion of a condition on any subsequent permission that requires the design, approval and implementation of such a scheme, prior to the development being brought into use (para 2.07) is imposed.
- 7.27 Owing to the nature of an A3 use, odour emissions can be expected. Concerns in this regard have been raised. It would be difficult to eliminate all smells arising from uses such as proposed, however to ensure compliance with policy EWP 13, the application should demonstrate how the impact of odour emission can be mitigated, particularly in respect of nearby residents. The application would appear devoid of such information, and therefore, it is recommended the inclusion of a condition requiring the preparation, submission and approval of an odour mitigation scheme prior to the uses coming into effect (para 2.8).
- 7.28 Business and Community Safety raises no objection to the proposal and recommends the inclusion of the conditions which are referenced in paras 2.08 and 2.09, relating to the requirement for an acoustic fence and odour ventilation systems.
- 7.29 The opening hours of the class A1 unit proposed are indicated to be 00.00 – 23.59 including weekends and bank holidays. The class A3 unit proposes opening hours between 8.00 and 22.00, also including weekends and bank holidays. These hours have been considered by the Business and Community Asset team who recommend the hours be limited across both units to 8.00 – 22.00. It is considered that these hours would be appropriate in this location subject to the installation

of the noise and odour mitigation measures which are to be approved by the Local Planning Authority. Para 2.10 above recommends a condition to this effect.

- 7.30 Having regard to the above assessment, and subject to the inclusion of the suggested conditions, it is considered that potential pollution and nuisance issues can be mitigated against so as not to harm adjacent living conditions and as such the proposal complies with the requirements of Policies GEN 1, EWP 13, and EWP 14 of the Unitary Development plan.

8.00 CONCLUSION

In conclusion, the principle of the development is acceptable and the character and appearance, potential nuisance issues and highway safety are all considered to be satisfactory and/or can be mitigated against. For the reasons outlined above, it is concluded that the proposals are compliant with relevant planning policies and are therefore recommended for approval.

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.

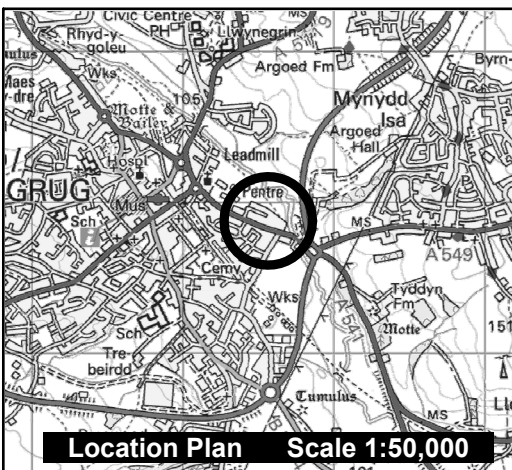
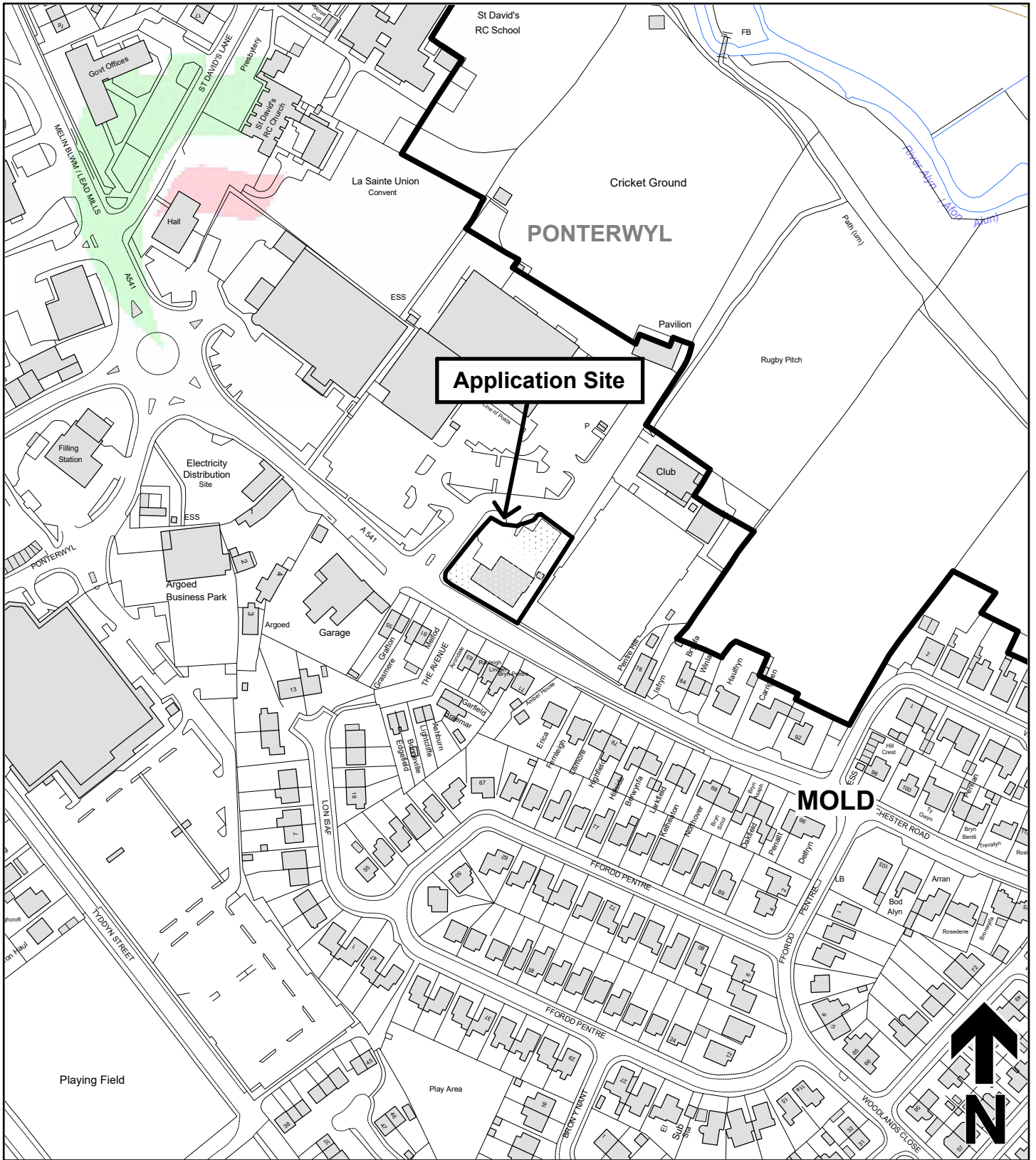
The Council has had due regard to its duty under Section 3 of the Wellbeing of Future Generations (Wales) Act 2015 and considered that there would be no significant or unacceptable impact upon the achievement of wellbeing objectives as a result of the recommended decision.




LIST OF BACKGROUND DOCUMENTS

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

Contact Officer: Jenni Perkins
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	Planning, Environment & Economy, Flintshire County Council, County Hall, Mold, Flintshire, CH7 6NF. Chief Officer: Mr Andrew Farrow	
	<p>Legend</p> <p> Planning Application Site</p> <p> Adopted Flintshire Unitary Development Plan Settlement Boundary</p>	
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FLINTSHIRE COUNTY COUNCIL

REPORT TO: **PLANNING COMMITTEE**

DATE: **14 DECEMBER 2022**

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

SUBJECT: **CHANGE OF USE FROM CLASS C3 (DWELLING HOUSE) TO CLASS C2 (CARE HOME)**

APPLICATION NUMBER: **FUL/000392/22**

APPLICANT: **F JOHNSON, SAFE HANDS HOMES LTD**

SITE: **43 LOWER ASTON HALL LANE, HAWARDEN, DEESIDE, CH5 3EX**

APPLICATION VALID DATE: **6 OCTOBER 2022**

LOCAL MEMBERS: **COUNCILLOR H BROWN AND COUNCILLOR G BROCKLEY**

TOWN/COMMUNITY COUNCIL: **Hawarden Community Council**

REASON FOR COMMITTEE: **MEMBER REQUEST**

SITE VISIT: **REQUESTED**

1.00 SUMMARY

1.01 The application seeks a change of use of an existing Class C3 residential dwelling into a Class C2 care home providing facilities for four children with one to one care.

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

- 2.01
1. Time limit in commencement
 2. In accordance with approved plans
 3. Facilities shall be provided and retained within the site for the parking and turning of vehicles.

3.00 CONSULTATIONS

- 3.01 **Local Members** - Councillor H Brown requested officer meeting & Councillor G Brockley requests Committee determination and site visit
- 3.02 **Town/Community Council** – no response received
- 3.03 **Highways DC** – no objection subject to condition (para 2.03)
- 3.04 **Community & Business Protection** – no objection
- 3.05 **Welsh Water/Dwr Cymru** – no objection
- 3.06 **Natural Resources Wales** – no objection
- 3.07 **Airbus** – no objection

4.00 PUBLICITY

- 4.01 Neighbour Notification
2 identical emails received. Comments relating to ownership of driveway, surrounding land and to a covenant. No planning issues raised.

5.00 SITE HISTORY

- 5.01 030185 - Single storey extension – approved -July 1999
- 5.02 026727 Double garage – approved – February 1997
- 5.03 021601 Self-contained granny flat – approved – July 1993

6.00 PLANNING POLICIES

- 6.01 Flintshire Unitary Development Plan
- GEN 1 – General Requirements for Development
 - GEN 3 – Development in the Open Countryside
 - GEN 4 – Green Barriers
 - AC13 - Access and Traffic Impact
 - AC18 - Parking Provision and New Development
 - CF 2 – New Community Facilities
- 6.02 Supplementary Planning Guidance
- SPGN No 11. Parking Standards

6.03 National Planning Policy

- Planning Policy Wales Edition 11
- Future Wales Plan (2020-2040)

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 Site Description

The application site comprises an existing, detached residential dwelling at the end of an unadopted track formed from Old Aston Hall Lane which also serves several other properties. The property is a large 5 bed detached house, having two reception rooms plus large kitchen/diner, family bathroom, 2 ensuites and downstairs WC. In addition, there is a detached 1-bed annexe, and a large detached double garage/ workshop. A combination of walls and railings enclose the garden which is laid to hardstanding on all sides. The property is a traditional family residential property with an existing vehicular access and ample on-site parking. The site is approx. 0.8 miles from Hawarden Station, 1.1 miles from Shotton Station and 1.5 miles from Hawarden Bridge Station. The site is situated off a private lane that is interspersed with a variety of house types, sizes, finishes, and styles. The closest immediate neighbouring properties are located down the long lane that serves the property. The area surrounding the site is open and rural in nature. The property is situated within the village of Aston, located on the edge of nearby Hawarden where a comprehensive range of shopping, educational, commercial, and recreational facilities are available, as well as other amenities and public transport services.

7.02 Proposal

The application seeks permission to use the site for Class C2 purposes, namely, use for the provision of residential accommodation and care for up to 4 young persons. It has been confirmed that ratio of carers to residents is 1 to 1. There are no physical external changes to the site proposed within the application.

7.03 Main Considerations

The main issues in considering the application are :-

- Principle of development and use
- Character and Appearance

- Impact upon Green Barrier
- Adjacent living conditions
- Parking / Highway Safety

7.04 Principle

The site is located within the open countryside and within a Green Barrier designation as defined in the Unitary Development Plan (UDP) Criteria c of Policy GEN 3 of the UDP supports the re-use of buildings within the open countryside such as is proposed. Similarly, in accordance with criteria f of policy GEN 4, the reuse of the building is encouraged. Policy CF2 - Development of New Facilities re-iterates that the development of new education, health and community facilities will be permitted on suitable sites outside settlement boundaries through the conversion of existing buildings; or by extension to an existing facility; or on land with a previous built use. Compliance is achieved by the proposed intention to use an existing building. Subject to the assessment of other matters below, the principle of development is acceptable.

7.05 Character and Appearance

The existing class C3 dwelling is large and could easily accommodate a large household, having 5 bedrooms and a 1-bedroom annex. I do not consider that the proposed use, owing to the small number of occupants and carers would alter the functionality significantly as to affect the character and appearance of the site and wider area. In terms of activity levels, the proposed use will be low key and will involve only up to four residents. Under the current lawful planning position, it would be possible to have more than this number of residents at the site through occupation by a large family or from a care home operating within Class C3. It is concluded that the proposed change of use would not be detrimental to the character and appearance of the site and wider area in accordance with policy GEN 1 and D1 of the Unitary Development Plan.

7.06 Impact upon Green Barrier

It is not considered that the proposed change of use would contribute to the coalescence of settlements nor would it unacceptably harm the open character and appearance of the green barrier. The change of use is contained within an existing site which has an established residential use and there is no change or extension to the scale or appearance of the existing building. The deviation to a Class C2 residential use at the small scale proposed would not significantly alter the nature of the site. The proposal satisfies the aims of Policy GEN 4 of Unitary Development Plan.

7.07 Adjacent Living Conditions

The site occupies a detached and relatively isolated position, off a private track with the nearest property being some 70m away. Given that there is no significant increase in the intensity of use, in that it is

feasible for the current dwelling to be occupied by more people than proposed within the application. It is concluded that there would be no harm to adjacent living conditions. The proposal therefore complies with the provisions of Policy GEN 1 of the Unitary Development Plan.

7.08 Parking / Highway Safety

Having regard to SPG 11 – Parking Standards, the suggested 1 car space per 3 bed spaces + 1 car space per member of staff would suggest that a total of 6no. parking spaces should be retained within the site. It is proven that there is ample space to accommodate this within the site and subject to the turning and parking area being formed prior to the commencement of operation of the approved use, there are no concerns in this regard. The site is located off an unadopted highway and is so far distanced from the adopted highway, it unlikely that vehicles would take to parking on it. There is no evidence which would suggest that the proposal would lead to an increase in traffic generation, given that the property could currently and lawfully be occupied by more adults than what is proposed. In considering that four 4 of the occupants are to be children, that proposed. In considering that four 4 of the occupants are to be children, there is every likelihood of a reduction in traffic movements. This being said, Lower Aston Hall Lane is a private lane, which is not maintainable at public expense and not within the control of the Highway Authority. The comments of Highways Development control have been taken into account and it is concluded that the proposal satisfies Policies AC 13 and AC 18 of the Unitary Development Plan.

7.09 Other Matters

Two third party emails have been received which details the owners of the shared access lane. It is stated within the email that there is covenant between landowners restricting the use of the lane to residential purposes. It is also stated that the lane is used by farm vehicles to farm the land surrounding the site. The third party covenant is not a material planning consideration and forms no part of my considerations.

7.10 It has been brought to my attention that there is a **proposed** Active Travel Route adjacent to the site. At present, the footpath does not exist however it is considered the proposal would not impact upon the safety of future users of the route. As the proposal seeks to change the use of an existing residential unit, and there are no physical alterations proposed, I conclude that the development proposed would not compromise the safety of pedestrians.

8.00 **CONCLUSION**

In conclusion, the proposal satisfies the aims of the relevant planning policy for the reasons given above and the application is therefore recommended for approval.

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.

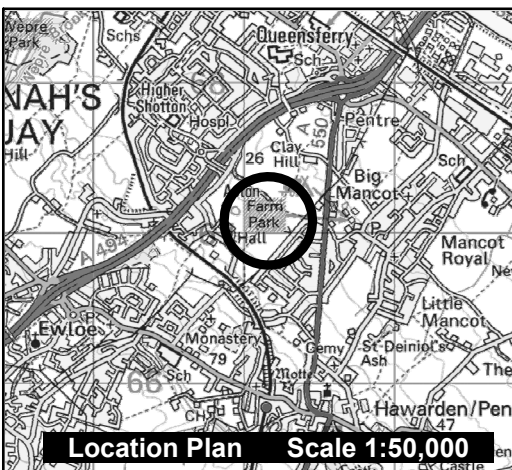
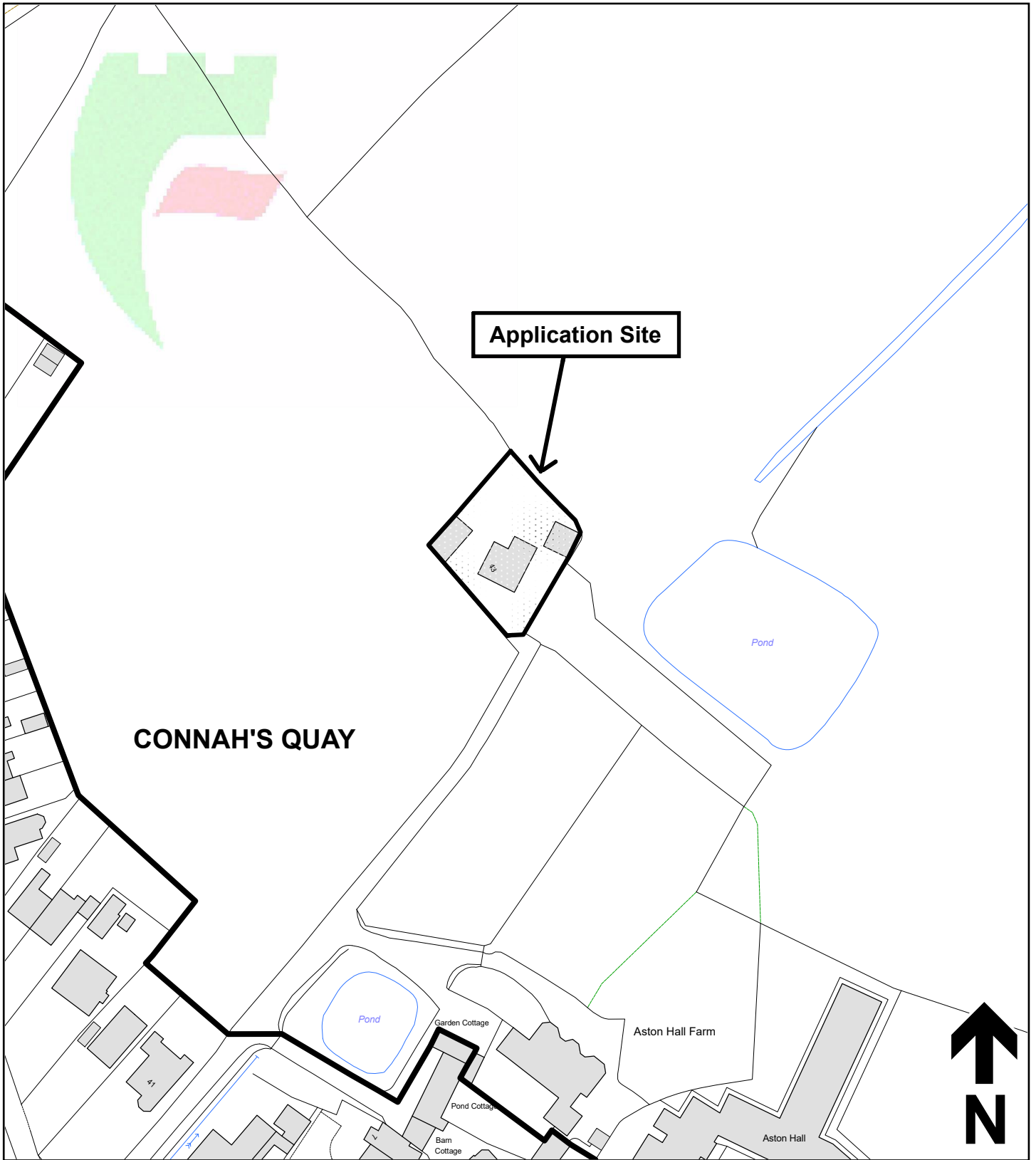
The Council has had due regard to its public sector equality duty under the Equality Act 2010.

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.

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Email: jenni.perkins@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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Planning Application FUL/000392/22

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