

FLINTSHIRE COUNTY COUNCIL

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

DATE: **24TH JULY 2013**

REPORT BY: **HEAD OF PLANNING**

SUBJECT: **OUTLINE APPLICATION – FOR THE DEMOLITION OF ‘SUNNYSIDE’ & 66A MOLD ROAD AND THE ERECTION OF 58 HOUSES INCLUDING DETAILS OF ACCESS, APPEARANCE, LAYOUT AND SCALE AT LAND AT REAR OF 66A MOLD ROAD, MYNYDD ISA**

APPLICATION NUMBER: **048042**

APPLICANT: **MULLHILL ESTATES LLP**

SITE: **LAND AT REAR OF 66A MOLD ROAD, MYNYDD ISA**

APPLICATION VALID DATE: **18TH NOVEMBER 2010**

LOCAL MEMBERS: **COUNCILLOR HILARY J. MCGUILL**

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

REASON FOR COMMITTEE: **MEMBER REQUEST, SCALE OF PROPOSALS EXCEED THRESHOLDS AND SECTION 106 AGREEMENT**

SITE VISIT: **YES**

1.00 SUMMARY

- 1.01 This is an outline planning application for the erection of 58 dwellings on land to the rear of 66a Mold Road, Mynydd Isa, Near Mold.
- 1.02 The site is allocated for residential development in the Flintshire Unitary Development Plan.
- 1.03 The application provides detail in respect of access, appearance, layout and scale. Matters of landscaping are reserved for future

consideration.

1.04 During the consideration of the application, issues in respect of design, layout, access and highway improvement works, drainage proposals, land contamination, residential amenity, ecology, viability, affordable housing, recreation provision and educational requirements have been negotiated and resolved subject to the imposition of conditions and a Section 106 Agreement.

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

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

- a. Ensure the payment of a contribution of £56,170 to the Council for use in facilitating access to affordable homes. Such sum to be paid upon completion of the first dwelling sale upon site.
- b. Payment of £27,865 towards educational provision/improvements at Mynydd Isa Primary School and payment of £27,865 towards educational provision/improvements at Argoed High School. This contribution shall be paid upon completion of the first dwelling sale upon site.
- c. Payment of £45,000 to equip the proposed play area on the site for a scheme to be agreed by the Local Planning Authority prior to commencement of the development. This contribution shall be paid upon completion of the first dwelling sale upon the site.
- d. Payment of £49,300 to the Building Wildlife Trust for alternative mitigation land for GCN or improvements to existing GCN Habitats within the Buckley & Deeside locality. This contribution shall be paid upon completion of the first dwelling sale upon the site.
- e. Payment of £5,800 to the Local Planning Authority to promote, monitor and evaluate the travel plan. Such sum to be paid prior to the commencement of development.

Conditions

1. Time limit on commencement within 3 years from date of outline or 1 year after Reserved Matters approval.
2. Submission of Reserved Matters – Landscaping.

3. Samples and/or precise details of all external materials to be submitted and approved.
4. In accordance with approved plans.
5. No development until details of a "Design Stage" Assessment submitted/approved.
6. Minimum Code for Sustainable Homes Level 3 and achieve 1 credit under Category Ene1 in accordance with the requirements of Code for Sustainable Homes – Technical Guide April 2009.
7. Code for Sustainable Homes 'Post Construction Stage' Assessment final certificate
8. Scheme for 10% reduction of carbon outputs.
9. Foul and surface water discharges drained separately from the site.
10. No surface water allowed to connect directly or indirectly to the public sewerage system.
11. Land drainage run-off shall not be permitted to discharge directly or indirectly into the public sewerage system.
12. Scheme for comprehensive and integrated drainage.
13. No building within 3 metres either side of the centreline of the public sewer.
14. No beneficial use of buildings earlier than 31 March 2014 unless upgrading of waste water treatment works has been completed.
15. No site clearance or tree/hedgerow works during bird nesting season.
16. Scheme of hours of working to be agreed.
17. Construction traffic management and routing scheme to be agreed.
18. Details regarding the retention and protection of trees to be submitted and agreed.
19. Remediation measures to be undertaken in accordance with scheme agreed.

20. Detailed scheme for the new access road to be submitted / approved, works to become the subject of a Section 278 Agreement.
21. No works shall commence unless and until all the works specified in condition No. 21 have been completed.
22. Siting, layout and design of the means of site access to be submitted/ approved.
23. Access to have visibility splay of 2.4 m x 43m in both directions.
24. Detailed layout, design, means of traffic calming, signing, surface water drainage, street lighting and construction of the internal estate submitted /approved.
25. Site access to be kerbed and completed to carriageway base course layer prior to the commencement of any other site building operations.
26. Visibility splays made available and kept free from all obstructions for duration of site construction works.
27. Gradient of the access to be 1 in 24 and a maximum of 1 in 15 thereafter.
28. Boundary treatment details to be submitted and approved.
29. Scheme of Reasonable Avoidance Measures to mitigate against Great Crested Newts to be submitted/approved.
30. Details of existing and proposed site levels and proposed finished floor levels to be submitted /approved.
31. Removal of permitted development rights.
32. Details of the acoustic fences to be submitted /approved

3.00 CONSULTATIONS

3.01 Local Member

Councillor Mrs Hilary J. McGill

Requests application be referred to Planning Committee and a site visit as: this a controversial development, the land was an old tip and has a pond on it, flooding issues, entrance onto Mold Road is obscured by hedging, exit is narrow for the volume of cars, conservation issues over removal of trees. Committee site visit will allow Members to truly understand the issues.

Argoed Community Council

Objects to the application on the following grounds:-

- Trees with Preservation Orders are going to be destroyed.
- Exit to Mold Road is not sufficient to deal with traffic. An additional exit should be considered.
- No Welsh Water approval has been received. No planning approval should be given unless Welsh Water have considered the additional amount of sewage etc and has confirmed and approved additional throughput to their systems.
- Flooding of the area and the effect on the community new residents.
- Privacy of new houses are compromised as many of the houses have their living rooms on the first floor and will be able to see in.

Head of Assets and Transportation

Recommends that any permission shall include suggested conditions.

Head of Public Protection

In relation to contaminated land asks that if planning permission is granted for the development, conditions are imposed on it to secure the submission of the outstanding information namely a remediation strategy and subsequent verification reports.

In terms of noise, supports the provision of acoustic fences to protect the amenities of the adjacent properties.

Director of Lifelong Learning

Requests Section 106 contributions of £49,000 for Mynydd Isa Primary School and £35,000 for Argoed High School.

Public Open Spaces Manager

Minimum requirement of open space to provide an on site equipped childrens play area is 1,700 m2. Developer is proposing to provide this space on a split location which is not supported. Purpose of seeking the allocation in one area is to provide meaningful play space sufficient in size not to impact on adjacent dwellings through play activities. Consideration be given to removing plots 49, 50 & 51 to achieve this. Authority will need to agree the specification for the level of play equipment to be provided, boundary treatments, landscaping proposed and commuted sum payments should the developer require the authority to adopt the facility.

Housing Strategy Manager

Suggests a commuted sum of £674,526 in lieu of 30% on site affordable housing provision. This commuted sum will be used to

provide a mixed housing tenure range (rental/homeownership opportunities) to local people registered on both the Council list and affordable homeownership register.

Environment Agency Wales (now Natural Resources Wales)

No objection to the proposed development in principle subject to the imposition of certain suggested conditions and notes.

Welsh Water/Dwr Cymru

Requests that if minded to grant consent for the development that suggested conditions and advisory notes are included within the consent. Proposed development would overload the existing waste water treatment works. Improvements are planned for completion by 31st March 2015. Suggests imposition of Grampian condition.

Countryside Council for Wales

No final response received to date.

Clwyd-Powys Archaeological Trust

Although the development lies close to areas of archaeological significance, appears no known features will be affected by the intended work.

SP Energy Networks

Have plant and apparatus within the area of the proposed development. Developer advised of need to have appropriate steps to avoid any potential danger that may arise during their works to the electrical apparatus.

Airbus

Does not conflict with safeguarding criteria. Therefore no aerodrome safeguarding objection to the proposal.

4.00 PUBLICITY

4.01 Press Notice, Site Notice, Neighbour Notification

88 letters of objection received. The grounds of objection are summarised below:-

- Loss of amenity to existing residents in terms of loss of light, privacy, obtrusiveness and noise.
- Loss of existing trees and hedgerows and subsequent impact on wildlife. Some of the trees are covered by Tree Preservation Orders.
- Proposed dwellings should be more sympathetic to the area.

- Overdevelopment of the site.
- Site is contaminated. Should not be built on as it will affect public health.
- Existing facilities e.g., schools, surgeries etc would not be able to cope with more inhabitants.
- Loss of countryside.
- Foul and surface water drainage inadequate and will be exacerbated by proposals and lead to extra flooding.
- Site is important habitat supporting protected species e.g., Great Crested Newts. Environmental legislation has been breached.
- Need for more housing in the area as there are plenty of houses for sale already?
- Site access onto Mold Road is dangerous given the proximity to the bus stop, existing junctions, lay-bys and driveways to existing properties.
- The Transport Assessment should be updated to take account of new developments.
- Discrepancies between the amended plans and the outdated Transport Assessment.
- Has an Environmental Impact Assessment been undertaken, and the relevant habitats legislation been applied?
- Loss of bus stop.
- Loss of existing access to the rear of the properties onto Mold Road.
- No details shown of flood holding tanks.
- Lack of parking within the site and on service roads.
- Existing lay-bys will be used as shortcuts.
- No decisions should be based on builders expected profits.
- Lack of parking within site and on existing service roads.
- Site does not use the UDP accepted access.

The Ramblers Association comment that whilst not having been consulted on the application and there are no public rights of way directly affected – object that access be provided from the A549. This is contrary to safety of pedestrians locally. If consent is granted, access should be via the adjacent estate road, Clwyd Avenue.

5.00 SITE HISTORY

5.01 **44303** – Proposed demolition of existing dwelling and construction of new dwelling – Granted 28th March 2008.

663/89 – Outline residential development – Withdrawn 9th November 1990.

3/MR/347/79 – Outline residential development – Withdrawn 1st May 1980.

3/MR/213/77 – Residential – Withdrawn.

6.00 PLANNING POLICIES

6.01 Flintshire Unitary Development Plan

STR1 – New Development.

STR4 – Housing.

STR7 – Natural Environment.

GEN1 – General Requirements for Development.

GEN2 – Environmental Assessment.

D1 – Design Quality, Location & Layout.

D2 – Design.

D3 – Landscaping.

TWH1 – Development Affecting Trees & Woodlands.

TWH2 – Protection of Hedgerows.

WB1 – Species Protection.

HE7 – Other Sites of Lesser Archaeological Significance.

AC13 – Access & Traffic Impact.

HSG1 (32) – New Housing Development Proposals.

HSG8 – Density of Development.

HSG9 – Housing Mix & Type.

HSG10 – Affordable Housing Within Settlement Boundaries.

SR5 – Outdoor Playing Space & New Residential Dwellings.

EWP12 – Pollution.

EWP13 – Nuisance.

EWP14 – Derelict & Contaminated Land.

EWP17 – Flood Risk.

IMP1 – Planning Conditions & Planning Obligations.

Local Planning Guidance Note 2: Space Around Dwellings.

Local Planning Guidance Note 4: Trees & Development.

Local Planning Guidance note 8: Nature Conservation &

Development.

Local Planning Guidance Note 9: Affordable Housing.

Local Planning Guidance Note 11: Parking Standards.

Local Planning Guidance Note 13: Open Space Requirements.

Local Planning Guidance Note 22: Planning Obligations.

Adopted Supplementary Planning Guidance 23 – Developer Contributions.

National Planning Policy

Planning Policy Wales (November 2012)

Technical Advice Note (TAN) 2: Planning & Affordable Housing (2006)

Technical Advice Note (TAN) 5: Nature Conservation & Planning (2009)

Technical Advice Note (TAN) 10 Tree Preservation Orders (1997)

Technical Advice Note (TAN) 11 Noise (1997)

Technical Advice Note (TAN) 12 Design (2009)

Technical Advice Note (TAN) 16 Sport, Recreation & Open Space.

Technical Advice Note (TAN) 22 Sustainable Buildings (2010)

The application site is located within the settlement boundary of Mynydd Isa as defined within the Flintshire Unitary Development Plan and is allocated as a site for housing development. In this context there is a clear policy framework supporting the principle of residential development on the site, subject to the requisite open space, affordable housing and educational contribution being provided.

7.00 PLANNING APPRAISAL

7.01 Site Description & Proposals

The site comprises of the existing residential properties and gardens of 66a Mold Road and “Sunnyside”, Rose Lane together with five fields. The total area is approximately 2.07 ha. The fields are now unused and fallow with areas of scrub vegetation which are also subdivided by a series of overgrown hedges, some of which incorporate trees. In addition, the site also contains a number of freestanding trees. Several of the existing trees are subject to a Tree Preservation Order. The site is set at an elevation of approximately 147 m AOD and slopes generally from west to east with flatter areas of land located to the south western and eastern boundaries. Open countryside extends to the south of the site.

7.02 The site is located to the south of the properties 58 – 66 Mold Road, west of 1a Wydian, Rose Lane and east of 8 & 15 Clwyd Avenue, all of which are located on the southern side of Mold Road, Mynydd Isa.

7.03 This application seeks outline approval of matters relating to access, appearance, layout and scale for the erection of 58 (originally 60) dwellings, of which 15 will be three bedroomed terraced houses, 2

three bedroomed semi detached houses, 7 three bedroomed detached houses, 33 four bedroomed detached houses and a five bedroomed house.

7.04 The proposals also include the creation of a new vehicular and pedestrian access onto Mold Road which involves the demolition of 66a Mold Road, the relocation of the bus stop, replacement of the western junction of the southern service road with its new location fronting 64 Mold Road and alterations to the footway upon both sides of Mold Road to the west of the new access.

7.05 The dwelling 'Sunnyside' will be demolished and replaced by a five bedroomed dwelling. Vehicular and pedestrian access to this property will be served as existing from Rose Lane.

7.06 Vehicular access to No. 66 Mold Road will be retained as will the rear access track behind the properties on Mold Road.

7.07 Background

Members may recall that in the Deposit Flintshire Unitary Development Plan, the site was located outside the settlement boundary for Mynydd Isa. Following the consideration of representations seeking its allocation for housing, the Council considered that it was appropriate to include the site within the settlement boundary and this was implemented by proposed change 42. At that time the Council were content with the broader principle of housing on the site but on the basis of concerns and uncertainty about vehicular access and the retention of ecological and landscape features on the site, did not consider that a housing allocation could be justified. In the run up to the Public Inquiry further evidence was produced by the promoter of the site which allayed officers concerns and a position statement was issued to the Inspector to the effect that there was no longer any constraints that would prevent the site from being allocated. Following consideration of evidence produced by both the promoters and objectors to the site the Inspector recommended that the site be allocated for housing and his recommendation was subsequently accepted by Members.

7.08 Issues

The main issues to consider within the determination of this application are the principle of the development in planning policy terms, whether the site is viable, the provision of open space and affordable housing together with educational contributions, the highway implications, the effects upon the character and appearance of the area, land contamination, the effects upon the trees and ecology of the area, drainage and the effects upon nearby residential amenity.

7.09 Principle of Development

The site is allocated for housing development in the Flintshire Unitary

Development Plan HSG1 (32) – Rose Lane, Mynydd Isa.

7.10 It is also located within the settlement boundary for Mynydd Isa in the Flintshire Unitary Development Plan which is a Category 'B' settlement with an array of facilities and services and the sites allocation for residential development reflects both the strategy of the Flintshire Unitary Development Plan and the principles embodied in Planning Policy Wales. In this context therefore, there is a clear policy framework supporting the principle of residential development on the site, subject to the requisite open space, affordable housing and educational contributions as detailed within this report being provided.

7.11 Viability

The application has been the subject of lengthy and detailed negotiations in relation to the viability of the site in terms of its ability to yield the level of planning gains identified in accordance with the provisions of the UDP. These matters relate to affordable housing, educational contributions and recreation provision.

7.12 Studies undertaken by the developer have been the subject of independent assessment by the District Valuer (DV). This assessment concludes that the viability assessments are accurate and do indeed indicate that, as a combination of the currently depressed economic situation and the abnormalities associated with the development of this site (land contamination assessments, land drainage), the profits arising from this scheme would not reasonably allow for the provisions of the identified benefits in strict accordance with the requirements of UDP policies in this respect.

7.13 The evidence considered by the DV suggests that the development would not be viable were the usual payments under a Section 106 agreement to be strictly required. The Council is entitled to take into account, in such circumstances, the likelihood of the proposed development being carried out. In doing so, the Council must consider what would be the planning consequences if the scheme did not proceed because it was not viable.

7.14 In this particular case, the consequences relate to the fact that the site is an allocated site for the purposes of residential development within the Flintshire Unitary Development Plan (UDP). As such, the anticipated yield of dwellings arising from the development of this site forms a part of the strategic overall housing figure planned to be delivered through the UDP. If this site is not delivered, there would be a consequent impact upon the levels of housing identified to be required to be delivered through the plan.

7.15 This assessment identifies that a sum below that which would be considered acceptable would be likely to result. In the view of the DV, the sum offered of £212,000 was reasonable. The applicant offers this sum for planning contributions.

- 7.16 However, in recognising that the assessment outcomes arise as a consequence of current economic circumstances, it is considered that provision ought to be made to allow for the reassessment of the viability of the proposed development if the site were not be commenced swiftly following approval of Reserved Matters.
- 7.17 It is considered that the most appropriate and pragmatic means via which this provision for reassessment can be secured would be for this outline permission to be granted with a time limit upon commencement of 3 years, instead of the normal 5 years, of the date of the outline planning permission or within one year of the date of the last approval of Reserved Matters. Taking into account the fact that this would be an Outline planning permission, with the need for Reserved Matters to be agreed, this would also necessitate a variation to the normal period for the submission of Reserved Matters from 3 years to 2 years.
- 7.18 It is considered that this exception to the normally imposed conditions will ensure that, in the event that development has not commenced within that time, an opportunity to reassess the viability of the development will be afforded if and when an application to renew the permission is made.
- 7.19 The contributions requested with the actual ones being provided are detailed elsewhere within this report, but are summarised in the table below.

Department	Requested Amount	Actual
<u>Affordable Housing</u>	£674,526	£56,170
<u>Education</u>		
a. Mynydd Isa Primary School	£49,000	£27,865
b. Argoed High School	£35,000	£27,865
<u>Ecology</u>	£49,300	£49,300
<u>Recreation & Open Space</u>		
a. On site land	3,285 m ²	1,010 m ²
b. Equipment	£45,000	£45,000
<u>Or</u>		
Commuted sum	£63,800	£63,800
<u>Highways</u>		
Travel Plan	£5,800	£5,800

- 7.20 Recreation & Public Open Space Provision
The developer is providing an amenity space of 430 m² towards the

south west corner of the site and a play area of 1010 m² within the middle of the site towards the eastern boundary.

- 7.21 Applying the standards within Local Planning Guidance Note 13 – Open Space Requirements, the developer would normally have to provide 3, 285 m². This would have to be also fully equipped with a specification to be agreed by Leisure Services.
- 7.22 For the reasons given in paragraphs 7.10 – 7.14 inclusive, the scheme can only provide the areas referred to in paragraph 7.19 above and not for the larger area to be equipped by the developer. It has been identified that to equip the play area would cost approximately £45,000. This sum being provided out of the developer's total contribution of £212,000.
- 7.23 Affordable Housing
The Head of Housing Strategy advises that there are currently 364 applicants registered on the Council's waiting list of which 34 have indicated Mynydd Isa as their first choice area and have full local connection points and 36 applicants (registered for Mold and surrounding area) on the Affordable Home Ownership Register.
- 7.24 Having regard to the housing need identified, it is advised that a commuted sum of £674,526 in lieu of 30% on site affordable provision be provided.
- 7.25 For the reasons given in paragraphs 7.10 – 7.14 inclusive, the scheme does not have sufficient residual value to allow for contributions to this extent.
- 7.26 Mynydd Isa, as a Category B settlement provides for a mix of housing of a variety of types, size and tenure. Members may be also aware that house prices are generally affordable in Mynydd Isa compared to other areas of Flintshire.
- 7.27 Given this and there is insufficient residual value, it has been identified that the sum of £56,170 can be provided. This sum is required to be paid in full on completion of the first dwelling sale.
- 7.28 Education Contributions
Consultation with the Director of Lifelong Learning in respect of the likely impact of the proposed development upon educational facilities within the locality has identified that the 14 primary age pupils and 10 secondary age pupils likely to arise from the development would result in an adverse impact upon the educational facilities at the nearby Mynydd Isa Primary and Argoed High Schools respectively.
- 7.29 Accordingly, the sums of £49,000 for Mynydd Isa Primary and £35,000 for Argoed High Schools are sought for use in providing for the additional capacity.

- 7.30 Members will note that whilst these sums are not being provided, the contribution requested (£27,865 for each school) is considered to be fair and reflective taking into account the viability of the scheme and the other financial contributions required at this site.
- 7.31 Highways
Vehicular and pedestrian access will be gained to the site by the formation of a new priority junction onto Mold Road. This will be created by the demolition of 66A Mold Road. It will also involve the relocation of the westbound bus stop, a new access to the west of the southern service road, increasing the footway width from 1.2 m to 2 m to the west of the new junction and to the east by only a marginal amount, marginal narrowing of the existing footway on the opposite northern side of Mold Road between Nos 83-93 and a new kerb arrangement opposite the new site access between Nos 79 – 81 Mold Road on its northern side. Access to No. 66 will be retained as the driveway for the property is east facing and therefore directly accesses on to the priority junction.
- 7.32 The existing access for the proposed replacement dwelling at 'Sunnyside' will be retained off Rose Lane as will the existing access track behind the properties of Nos 58 – 64 Mold Road.
- 7.33 Internal access roads will be formed within the site, with driveways and access to parking courts located off them. Car parking within the site will total 116 spaces.
- 7.34 Members maybe aware that in 2011, the Council commissioned Capita Symonds to review the highway/traffic evidence relating to this application. The four site access options of a Mold Road priority junction, a Mold Road roundabout, a Clwyd Avenue priority junction and a Rose Lane priority junction were considered. These options were assessed against a number of criteria including safety, operational performance and impact on residential amenity.
- 7.35 This assessment concluded that direct access onto the local distributor road (Mold Road), resulting in decreased traffic through residential streets and the difficulties and cost associated with providing DDA compliant infrastructure for the Clwyd Avenue Option (due to the significant difficulties in levels) meant that the Mold Road priority junction was the preferred option. However, this was not without issues in relation to the relocation of the bus infrastructure and changing the existing residential access arrangements.
- 7.36 The bus pole is to be moved slightly eastwards from the new site access and junction of Mercia Drive. This it is considered will reduce buses obstructing visibility along A549 Mold Road from side roads and avoid disrupting the operation of the junctions. The bus stop will fall within the eastern visibility sightline of the proposed access to the

development. Consultation with the Council's Transportation Section indicates that they have no objection to this. The responsibility lies with the person joining the major road to ensure the manoeuvre they are undertaking is safe. Due to the limited time it takes to alight or disembark from the bus, if a driver does not feel that it is safe to manoeuvre they would wait for a short period of time for the bus to move off. Once the bus moves off the visibility sightline in this direction is far in excess of the required standards.

- 7.37 The assessment found that the proposed junction arrangements may lead to confusion with vehicle "signalling" intentions due to the proximity of the junctions to the proposed site access. There were low levels of traffic obscured using the various service road accesses along Mold Road. Therefore the proximity of the site access to the existing/revised service road accesses was perceived to be a minor operational issue.
- 7.38 Car parking within the site will total 116 spaces. This level of car parking is below the Council's maximum car parking standards (totalling 150 spaces). To address this shortfall, the Applicant's Transport Consultants have produced a Travel Plan in order to encourage sustainable travel to and from the site by residents via the use of walking, cycling, public transport and car sharing. The measures set out in the Travel Plan will therefore help to reduce the parking demand generated by the development and support the proposed level of parking. To promote, monitor and evaluate this Plan, the applicants will make a payment of £100 per dwelling to the Highway Authority. This payment will be taken out of the total £212,000 commuted sum payment.
- 7.39 Character & Appearance of Area
The site and the area to the south is predominantly rural in character. However to the north, east & west lies residential development which has a mix of the more traditional turn of the century housing with post war semi-detached, terraces and bungalows built from brick or render with slate or concrete interlocking tiles. They are of various styles typical of the periods when they were built.
- 7.40 Both the layout and design of the dwellings of this scheme has been the subject of extensive negotiation and discussion over the course of the consideration of the application and has been amended in line with comments arising from the consultation process.
- 7.41 The development will be a mix of 2 storey, three, four and five bedroomed detached, semi-detached and terraced houses. The external materials of which will be of predominantly taking brick walls with artificial slate roofs. The houses will be detailed with string courses, artificial stone lintels and soldier courses around the windows etc.

- 7.42 The layout of this scheme has evolved through the constraints and opportunities of the site together with the character of the built form within the locality. The main access point being determined by visibility and highway safety with the street pattern generated from the perimeter of the site and the access not allowing any frontage properties together with the existing bank running north to south through the site. To avoid substantial re-grading, the properties are sited running north to south, along the top and bottom of the slope thereby restricting the properties running up the gradient to as few as possible. The layout was also informed by the need to retain as many of the trees (particularly those covered by a TPO) as well as to provide some public open space.
- 7.43 The density of development equates to approximately 28 dwellings per hectare. HSG8 of the Flintshire Unitary Development Plan advises that on allocated sites in Category 'B' settlements such as this, the general minimum net housing density should aim to achieve 30 dwellings per hectare. Therefore the density of this site generally complies with the policy.
- 7.44 Both the design and materials of the proposed dwellings are generally reflective of the older housing in the locality within the layout, where they provide end stops, they have been designed as focal buildings. Also where gable ends of the buildings are prominent from the road, they have been designed so as to include features and detailing such as windows with detailed surrounds.
- 7.45 Given the above, it is considered that the proposals provide an adequate response to the design issues raised in connection with the consideration of this application.
- 7.46 Land Contamination
Assessments carried out to date have found that the site is affected by contamination as a result of unacceptable levels of gases and other substances within soils present at the site. To reduce unacceptable risks to the development and those who will occupy it in future, remedial measures are required to be constructed within the buildings (to address gas contamination) and in the garden and soft landscaped areas of the site.
- 7.47 The developer will need to provide and verify the appropriate level of gas protection measures in the building and associated structures such as drainage and service conditions and channels and will need to construct a cover system of an appropriate depth and constructed using suitable materials in garden and soft landscaped areas. A remediation strategy to explain exactly how this will be achieved is required before commencement of the development. Reports to prove that the work has been carried out will be required to be approved by the Local Planning Authority prior to the occupation of any and each dwelling. Reports will be required to be provided on a

plot by plot basis. A condition has been placed upon the recommendation to grant planning permission to this effect.

7.48 Trees

The site and along its boundaries, contain a number of trees, some of which are mature and covered by Tree Preservation Orders.

7.49 The Council's Forestry Officer has been consulted throughout the application process and confirms that the amended layout will satisfactorily incorporate the majority of the mature trees within the residential development.

7.50 The two mature trees that will be felled comprise of a sycamore (T3), which is regarded as a less significant specimen and an oak (T5) which has greater decay than when first examined. Both trees will be replaced which are proposed to be planted upon the proposed play area of the development.

7.51 During construction works of the development, the remaining trees will be protected from their loss or damage by measures to be further submitted to and agreed in writing by the Local Planning Authority.

7.52 Ecology

The site consists of small fields with overgrown thick species rich hedgerows together with some mature trees. Where the hedgerows are particularly overgrown, wooded species such as Broad Buckler and male ferns have developed. The fields slope down to the east, ditches follow the hedges across the site, flowing into wetland which has developed along the low lying eastern boundary. Much of wetland is considered to be due to blocked drains but the marsh just outside the southern boundary and extending into the site consists of a variety of typical marshland species – Kingcup, Brooklime, Hard Rush and Great Willowherb has been present for some time. The grassed appears not to be species rich although there are a few remnant "meadow" species such as Lady's Smock, Meadow Woodrush and Black Knapweed. The site has been managed un-intensively by horse grazing and hence the overgrown hedges and rough grassland.

7.53 The site is not located within or adjacent to the boundaries of any statutory sites of ecological, geological and/or geomorphologic interest. However, it is located within 1.5 kms of the Buckley Claypits and Commons Site of Special Scientific Interest (SSI) and Deeside and Buckley Newt Sites Special Area of Conservation (SAC). The proposal is not likely to directly affect either of these sites. However, Great Crested Newts (GCN) have been recorded within 500 m of the site and the site itself represents good terrestrial habitat. It is therefore normal for large developments such as this to set aside or purchase additional land in compensation to create an alternative habitat for GCN. The applicant did initially propose to create

approximately 0.4 ha of habitat for GCN off site to the south. However, due to the protracted nature in the determination of the application, the landowner has withdrawn the offer to sell the land to the developer. Instead, a commuted sum has been offered by the developer (out of the total £212,000 sum) of £850 per dwelling to go to the Building Wildlife Trust who will allocate money towards finding alternative GCN compensatory land or improvements to existing GCN habitats within the Buckley and Deeside locality. This is to offset for the absence of actual mitigation land not provided as part of the development.

- 7.54 The EC Habitats Directive 1992 requires the UK to maintain a system of strict protection for protected species and their habitats. The Directive only allows disturbance, or deterioration or destruction of breeding sites or resting places, in the interests of public health safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment and provided that there is no satisfactory alternative and no detriment to the maintenance of the species population at favourable conservation status in their natural range.
- 7.55 The UK implemented the Directive by introducing The Conservation (Natural Habitats etc) Regulations 1994 which contain two layers of protection a requirement on Local Planning Authorities (“LPAs”) to have regard to the Directive’s requirements above, and a licensing system administered by the Welsh Ministers. Planning Policy Wales (2002) paragraph 5.5.11 advises local planning authorities the “The presence of a species protected under European or UK legislation is a material consideration when a local planning authority is considering a development proposal which, if carried out, would be likely to result in disturbance or harm to the species or its habitat”.
- 7.56 TAN5 (2009) states at paragraph 6.2.6:- “Regulation 3(4) of the Habitats Regulations requires all local planning authorities, in the exercise of their functions, to have regard to the provisions of the Habitats Directive so far as they might be affected by the exercise of those functions. Consequently, the Directive’s provisions are relevant in reaching planning decisions where a European protected species may be affected and it is therefore important that such planning decisions are reached in a manner that takes account of and is consistent with, the Directive’s requirements. Those requirements include a system of strict protection for European protected species, with derogations from this strict protection being allowed only in certain limited circumstances and subject to certain tests being met these requirements are transposed by the provisions of the Habitats Regulations. The issues of whether development could give rise to a breach of the Regulations’ requirements, and whether there may be a potential need for a licence to avoid such a breach, are therefore a material consideration in a relevant planning decision, and

where a licence may be needed, the three licensing 'tests' required by the Directive should be considered by the local planning authority. Paragraph 6.3.7 then states:- "It is clearly essential that planning permission is not granted without the planning authority having satisfied itself that the proposed development either would not impact adversely on any European protected species on the site or that, in its opinion, all three tests for the eventual grant of a regulation 44 (of the Habitats Regulations) licence are likely to be satisfied".

7.57 In this case it is considered that both the proposed commuted sum payment for off site mitigation land and the reasonable avoidance measures of fencing and trapping etc of any GCN whilst before development takes place on the site will compensate for any adverse effects caused by the loss of the development land. The proposed development and mitigation proposals have been assessed and it is considered that the development is not likely to have a significant effect on protected species. It is proposed to condition the implementation of a suitable scheme of reasonable avoidance measures. It is considered therefore that this application satisfies the three tests required by the habitats directive. The development of the site would bring about environmental benefits in the form of secured long term monies to be used for the management of land elsewhere for ecological purposes. The site is allocated for housing in the Flintshire Unitary Development Plan, therefore development of this site would have overriding economic and social benefits in terms of bringing forward a site for housing development which has been identified through the development plan process to meet the County's need to provide an adequate supply of housing over the plan period. The consideration of satisfactory alternative sites to meet the demand for housing sites in the locality has been assessed through the development plan process. It is considered that the proposed commuted sum for compensatory land or the improvement to existing habitats compensates for the loss of habitat and there would be no detriment to the maintenance of the GCN population and their conservation status

7.58 Flood Risk & Adequacy of Foul/Surface Drainage
Representations have been made that the land is liable to flooding and that the existing drainage infrastructure in the locality is inadequate to serve the proposed scale of development.

7.59 The site lies outside of any flood zone and consultation has been undertaken with Environment Agency Wales, who accordingly advise that they raise no objection to the development on these grounds.

7.60 The proposals have also been the subject of consultation with Dwr Cymru Welsh Water who advise that in relation to foul drainage that a programme of system improvements are planned and are expected to be completed by April 2014. This has been imposed as a condition upon the recommendation subject to the imposition of other conditions

in respect of the submission, agreement and implementation of detailed drainage schemes. There are no objections to the proposal therefore on drainage grounds.

7.61 Impact upon Existing & Proposed Occupiers

The majority of the properties will back onto the rear of the existing dwellings on Mold Road, Overdale Avenue and Rose Lane along the northern, eastern and western boundaries of the site respectively. On the relatively flat land of the site (which is the majority of the case) between the proposed and existing properties, the minimum separation distance of 22 m is met. On the sloping ground between Nos. 27 – 37 Overdale Avenue and plots 37 – 44 the separation distance is 24.6 m. This distance, it is considered will not have a significant impact upon the amenities of these plots in terms of overlooking.

7.62 Also within the site itself the properties generally meet the minimum separation distances between them and the minimum size of private amenity areas within the Local Planning Guidance – Space Around Dwellings.

7.63 The new access onto Mold Road and the internal road into the site will be located in between Nos 64 & 66A Mold Road. Due to concerns of potential noise disturbance from traffic using both the access and internal road upon the amenities of these residents, the developer submitted a Noise Impact Assessment. It found that due to the existing noise from the traffic on Mold Road, any additional impact at the front of the site upon the amenities of these residents would be unlikely. However, as the access route enters the development site, the influence of Mold Road traffic becomes less. Here the potential for possible impact from individual passing vehicles increases for these properties either side i.e., the rear of Nos 64 & 66.

7.64 To assist with the concerns of the residents, the potential noise impact at the rear of these properties a 2 m acoustic fence will be erected which will have the benefit of visually 'screening' vehicles entering and improving noise reduction.

7.65 It is considered that this fence alongside No. 66 will not have a significant detrimental impact upon the amenities of these residents in terms of loss of light and obtrusiveness due to the separation distance between the property and the proposed fence, the drop in levels and the presence upon the site of this property only a window to a non-habitable room. In terms of the impact upon No. 64 this fence will be located closer to a habitable room window but given that No. 66a (which is to be demolished) already blocks light and has a degree of obtrusiveness to this part of the room, it is considered that there will be no significant increased detrimental impact upon the amenities of this resident. The proposed fence where it adjoins the front of the property has been reduced in height to 1 m so as not to significantly

detrimentally affect this same room in terms of loss of light or obtrusiveness but will screen the entrance to the site from the resident.

8.00 CONCLUSION

- 8.01 The principle of the development of this site for residential use has been established through its allocation in the Flintshire Unitary Development Plan. The negotiations in relation to issues surrounding highways, design and layout of the site, trees, ecology and the impact upon the amenities of adjoining residents have been lengthy but have now resulted in a solution which provides for a scheme which is considered to be acceptable. The issues of land contamination and site drainage can be dealt with by the imposition of appropriate conditions.
- 8.02 Appropriate levels of affordable housing, education contributions and open space provision have been identified having regard to the proven viability issues presented with the development of this site and contributions associated with these matters are proposed to be secured via an appropriately worded legal agreement and the application is therefore recommended for approval.
- 8.03 In considering this planning application 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.

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