

FLINTSHIRE COUNTY COUNCIL

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

DATE: **WEDNESDAY, 20 JANUARY 2016**

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

SUBJECT: **OUTLINE APPLICATION FOR THE ERECTION OF UP TO 40 RESIDENTIAL DWELLINGS WITH ASSOCIATED ACCESS AND ALL OTHER MATTERS RESERVED AT RHOS ROAD, PENYFFORDD.**

APPLICATION NUMBER: **053656**

APPLICANT: **WHITE ACRE ESTATES**

SITE: **RHOS ROAD, PENYFFORDD.**

APPLICATION VALID DATE: **06.05.15**

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

TOWN/COMMUNITY COUNCIL: **PENYFFORDD**

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

SITE VISIT: **YES**

1.00 SUMMARY

- 1.01 This is an outline planning application for up to 40 dwellings with details of the access provided, on land at Rhos Road, Penyffordd. All other matters are reserved for future consideration.
- 1.02 Due to the capacity issues in the existing foul drainage network and the lack of a solution to address this issue there is uncertainty in the deliverability of the site in the short term. The site is being promoted on the basis of the current shortfall in housing land supply but it has not been adequately demonstrated that it can come forward in the short term to address that need.

1.03 The sustainability of the site has therefore not been sufficiently justified to comply with Planning Policy Wales Edition 8 paragraph 4.2.2. It is therefore considered that the site is contrary to paragraph 6.2 of TAN1 as the application would not comply with the development plan and other national planning policies. The application is for residential development on a site located in the open countryside outside a defined settlement boundary and is therefore contrary to Policies STR1, GEN3 and HSG4.

2.00 RECOMMENDATION: TO REFUSE PLANNING PERMISSION FOR THE FOLLOWING REASONS

2.01 There is no capacity in the existing foul drainage network to accommodate flows from the development and a solution to this lack of capacity has not been identified. The site is being promoted on the basis of the current shortfall in housing land supply but it has not been adequately demonstrated that it can come forward in the short term to address that need. There is therefore uncertainty in the deliverability of the site and the sustainability of the site has not been adequately justified to comply with Planning Policy Wales Edition 8 paragraph 4.2.2. It is therefore considered that the site is contrary to paragraph 6.2 of TAN1 as the application would not comply with the development plan and other national planning policies. The application is for residential development on a site located in the open countryside outside a defined settlement boundary and is therefore contrary to Policies STR1, GEN3 and HSG4.

3.00 CONSULTATIONS

3.01 Local Member
Councillor D. Williams

Objects to the proposal on the grounds that the land is outside the settlement boundaries and the application is premature with the LDP in its infancy. The ward has supported excessive growth and this is an attempt to add to what is already an overdeveloped area. The development cannot be sustained or be supported by existing infrastructure and amenities including junior and senior schools. No suitable access arrangements are possible that can guarantee the safety of road users and pedestrians to the current level and an increase in the risks for road safety are inevitable. A development in this location would not be conducive to the street scene and have a negative impact on the environment. The development would necessitate the destruction of a valuable nature setting affecting ecological sustainability. Other sites nearby are awaiting the LDP decision and to allow this one could unfairly jeopardise others which are going through the LDP process. Requests a site visit to see the site in the context of the village.

Councillor C Hinds

Requests site visit and committee determination. Development has already been turned down before due to entrance and exit being very dangerous and too near another one. Hedgerows that have been there for years cannot be taken down. There are far too many houses in the village for the site to be sustainable.

Penyffordd Community Council

The Council strongly object to this planning application. This piece of land was discussed at our recent LDP Candidate Site Meeting under Ref: PEN039 with a proposed use of site as 'housing'. It was resolved at that meeting with a majority vote that the Council wish to object. This development would potentially create huge and dangerous problems with the additional traffic coming out onto the Rhos Road so close to the roundabout, there is no infrastructure, medical facilities and the area currently has a severe shortage of school places.

Highways Development Control Manger

The development is directly off Rhos Road a distributor road that is subject to a 30mph speed restriction. The required visibility splays are 2.4m x 43m which appear to be achievable. In order to meet the requirements of Active Travel a 3 metre footway/cycle way is required along the site frontage, which will require setting back the site boundary.

No objection subject to conditions covering;

- Siting, layout and design of the access
- Construction of access to carriageway base course layer prior to the commencement of any other site operations
- Visibility splay of 2.4m x 43m in both directions with no obstruction in excess of 0.6m
- Parking facilities to be provided and retained within the site
- The front of the garages shall be set back a minimum distance of 5.5m behind the back of the footway or 7.3m from the edge of the carriageway
- Detailed layout, design, means of traffic calming and signing, surface water drainage, street lighting and construction of the internal estate road
- 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
- Positive means to prevent surface water run-off on to the highway
- Construction Traffic management Plan
- Full Travel Plan

Public Protection Manager

No objection in principle to the application however, the site is adjacent to the Penyffordd by-pass and roundabout these are included in the Noise Action Plan for Wales which looks at, amongst other things, noise from busy roads. The calculated data for this road indicates that parts of the site will be within Noise Exposure Category (NEC) B/C during the daytime and possibly night under the Welsh Guidance Technical Advice Notes 11. This means that specific measures are likely to be necessary to protect the amenity of the future residents. Such measures may include the provision of enhanced glazing and acoustic barriers to be installed at affected properties.

Therefore, in order to establish the actual sound climate as it affects this site it is recommended that a condition is attached for the applicant to investigate and consider any potential noise issues for this site, especially for those properties and gardens.

The applicant should appoint a suitably qualified professional to carry out a survey of current noise levels in accordance with the criteria specified in Annex A of the TAN II Planning Guidance and the applicant should provide a scheme of noise attenuation (if appropriate) for the prior approval of the L.P.A.

Welsh Water/Dwr Cymru

The proposed development would overload the sewerage network. No improvements are planned within Dwr Cymru Welsh Water's Capital Investment Programme. WW/DC consider any development prior to improvements being made to be premature and therefore **OBJECT** to the development. It may be possible for the developer to fund the accelerated provision of replacement infrastructure or to requisition a new sewer under Sections 98 - 101 of the Water Industry Act 1991. In order to progress this development and overcome the objection, it will be necessary for a Hydraulic Modelling Assessment to be undertaken at the developer's expense. The conclusion of this study will determine capacity and/or any improvement works required.

In relation to the surface water flows from the proposed development, these will have to be disposed of separately by other means, such as using soakaways or discharging directly to a watercourse in liaison with the Land Drainage Authority and / or Natural Resources Wales.

Natural Resources Wales

Bats

NRW note that there is an existing hedgerow on the boundary of the proposed development site. Bats utilise trees with certain features for roosting/resting sites as well as using linear features such as hedgerows and forests for foraging and migrating.

NRW recommend that the hedgerow is retained in order to maintain linear features that could be used by bats. All trees that need to be felled should be checked for features that may be used by bats (i.e. cavities, cracks, holes & ivy cover). Where impacts on bats are considered likely, then those trees should be subject to emergence surveys at an appropriate time of year. Should bats be found to be using the trees as roosting sites expect that appropriate mitigation and/or compensation schemes are proposed and delivered, along with Reasonable Avoidance Measures, to ensure the favourable conservation status of the species is maintained.

Great Crested Newts

Note that no Great Crested Newts were recorded during the survey. Although no water bodies are present on the proposed development site, there are water bodies present within 500m of the site. Note that the A550 separates the proposed development site from the features that could be used by Great Crested Newts, therefore it is not considered that these proposals will have a significant impact upon the favourable conservation status of newts in the area.

The applicant should be advised that should great crested newts be discovered at any time, that works must stop immediately and NRW contacted for further advice.

Flood Risk

The site lies entirely within Zone A of Welsh Government's Development Advice Map referred to under TAN15: Development & Flood Risk. Flood Map information confirms that the site lies outside of the extreme flood risk outline from rivers and the sea. Given the scale of the proposed development, welcome the commitment of the Applicant/Developer to produce a Flood Consequences Assessment and Drainage Strategy to support and inform development proposals at this site.

In line with paragraph 13.4.2 of Planning Policy Wales and Section 8.5 of the Welsh Government's Technical Advice Note 15: Development & Flood Risk (TAN15), surface water run-off should be managed through the use of Sustainable Drainage Systems (SuDS).

Approved Document Part H of the Building Regulations 2000 establishes a hierarchy for surface water disposal, which encourages a SUDS approach. Under Approved Document Part H the first option for surface water disposal should be the use of SuDS, which encourage infiltration such as soakaways or infiltration trenches. In all cases, it should be established that these options are feasible, can be adopted and properly maintained and would not lead to any other environmental problems. For example, using soakaways or other infiltration methods on contaminated land carries groundwater pollution risks and may not work in areas with a high water table. Where the intention is to dispose to soakaway, these should be shown

to work through an appropriate assessment carried out under Building Research Establishment (BRE) Digest 365.

Should ground conditions not be conducive to soakaway drainage, and referring to Ordnance Survey Maps, it does not appear that there are any obvious watercourses in vicinity of the site that could be suitable for receiving a direct surface water runoff discharge from the development. In such circumstances, other options will need to be explored to ensure that an appropriate drainage scheme can be delivered at the site. Should there be a need to direct surface water runoff to the public sewer network or a Highway Drain evidence of an agreement in principle with the relevant Authority will need to be submitted as part of any planning application submission.

Airbus

No aerodrome safeguarding objections.

Head of Lifelong Learning

The nearest Primary School to the application site is Penyffordd CP School which has 236 children on role and a capacity of 259. There is therefore currently 23 surplus places which is 8.8% surplus places.

The nearest Secondary School to the development is Castell Alun High School which has 1359 children on role and a capacity of 124. This school is therefore oversubscribed by 119 children which is 9% over its capacity.

This is an outline application therefore the potential impacts on school provision are based on the indicated numbers of 40 dwellings. 40 dwellings would give rise to 13 Primary School which would reduce the capacity to 5% but not below the trigger for a contribution to be requested.

Based on the information provided therefore only a contribution to the Secondary School is required. This would be based on the formula of £18,469 per pupil generated.

Play Unit

The development of 40 dwellings would normally give rise to an onsite public open space requirement of 2240m² however given the proximity of the existing equipped children's play area to the northern boundary of the site it is considered that there is an opportunity to extend this existing play area. This should be equipped and enclosed in accordance with the Council's requirements and the payment of the relevant maintenance sums. It is also considered that a commuted sum of £1,100 per dwelling should also be sought towards the delivery of a project to provide a wheeled sports facility at Mill Stone recreation ground which is approximately 500 metres from the site.

Welsh Government Land Use Planning Unit

The submitted Agricultural Land Classification study has been completed to a high standard and is considered to provide an accurate indication of agricultural land quality. The Agricultural Land Classification for the site is Subgrade 3b and not Best and Most Versatile Agricultural Land.

Housing Strategy Manager

Suggested that given the other developments in this area that the delivery of affordable housing be through the provision of 3 gifted units and a commuted sum of £66,000. This is worked out based on the value of 30 % provision across the site provided at 70% discount market value.

4.00 PUBLICITY

4.01 Press Notice, Site Notice and Neighbour Notification

The application was advertised as a departure from the development plan.

6 letters of objection in relation to;

- The recent development in the village allocated within the UDP have highlighted the lack of infrastructure to support any additional development
- Surface water problems
- Lack of school places
- Siting of access has not changed from previous appeal decision
- Premature in advance of the UDP and should not pre-empt decisions in advance of the LDP
- Other sites in the settlement have been put forward as part of the Candidate site process and this may prejudice them coming forward
- Landscape and visual impact of developing the open countryside
- The site is a greenfield site outside the settlement boundary
- Would lead to additional traffic on Rhos Road
- Would lead to congestion due to proximity to the A5550 roundabout which has a history of accidents
- Impact on the sewage system, water supply and other services
- Impact on dentists and doctors
- Noise impacts from the development and to the development from the bypass
- Potential drainage impacts from surface water on the properties on Ffordd Derwyn
- There has been no comprehensive community consultation as stated in the application
- There has been sufficient recent developments in the village almost 35%

- Impact on the hedgerow and nesting birds
- Pedestrian safety is poor with links to the railway station
- This site is a green buffer entrance to the village and separates the built area from the bypass

5.00 SITE HISTORY

5.01 052163 - Amendments and alterations to planning approval 048243 for the erection of replacement dwelling and conversion, alterations and extension of 2no. detached barns to dwellings and associated works Approved 29.07.14

048243 - Erection of replacement dwelling and conversion, alterations and extension of 2no. detached barns to dwellings 16.06.11

044178 – Outline – Erection of 3 dwellings. Approved 12.02.08

042021 Outline – Erection of five residential units and creation of a new access. Refused 23.01.07. Dismissed on appeal. 23.01.07

6.00 PLANNING POLICIES

6.01 Flintshire Unitary Development Plan

STR1 - New Development

STR4 - Housing

STR8 - Built Environment

STR10 - Resources

GEN1 - General Requirements for New Development

GEN3 - Development Outside Settlement Boundaries

D1 - Design Quality, Location and Layout

D2 - Design

D3 - Landscaping

TWH1 - Development Affecting Trees and Woodlands

WB1 - Species Protection

AC13 - Access and Traffic Impact

AC18 - Parking Provision and New Development

HSG4 – New Dwellings Outside Settlement Boundaries

HSG8 - Density of Development

HSG9 - Housing Mix and Type

HSG10 - Affordable Housing within Settlement Boundaries

SR5 - Outdoor Play Space and New Residential Development

EWP3 - Renewable Energy in New Development

EWP14 – Derelict and Contaminated Land

EWP16 – Water Resources

RE1 - Protection of Agricultural Land

Planning Policy Wales Edition 8 January 2016

TAN 1 Joint Housing Availability Studies 2015

The accordence of the proposal with the relevant polices is set out in

the planning appraisal below.

7.00 PLANNING APPRAISAL

7.01 Introduction

This is an outline planning application for up to 40 dwellings with details of the access provided, on land at Rhos Road, Penyffordd. All other matters are reserved for future consideration.

7.02 Site Description

The application site is 1.4 hectares and is located on the edge of the village of Penyffordd. It is bounded immediately to the west by the A550 which links to the A55 with a mature hedgerow. To the north east and east is the existing residential development in Penyffordd on Ffordd Derwen and the existing dwellings at Rhos y Brunner Farm which are served by an existing access off Rhos Road. To the south of the site it is bounded by Rhos Road. To the north east adjacent to the corner of the development site is an existing equipped children's play area. Opposite the application site to the south is a further area of undeveloped land.

7.03 Proposed Development

This is an outline planning application for up to 40 dwellings with associated access. All other matters are reserved for future consideration. The application was accompanied by;

- Planning Statement by NJL
- Design and Access Statement by DGL Associates Limited
- Illustrative Masterplan
- Ecological Appraisal by Envirotech
- Topographical Survey
- Transport Assessment by SCP
- Landscape and Visual Impact Assessment by TPM Landscape Ltd
- Tree Survey Report by TPM Landscape
- Agricultural Land Classification and Soil Resources Report by Reading Agricultural Consultants Ltd
- Preliminary Services Report by KDL
- Drainage Statement

7.04 It is proposed that the site would be accessed via a new access off Rhos Road. This will involve removal of a hedgerow to achieve the required visibility splays.

7.05 Planning history and the UDP

The site was considered by the UDP Inspector as part of the UDP Inquiry as an 'omission site' therefore promoted by a third party and not the Council.

7.06 It was one of several sites considered by the Inspector alongside the two allocated sites put forward by the Council. The Inspector

commented '5987 – *The farm house, outbuildings and former coal yard are within the settlement boundary. I note that planning permission for 3 dwellings (044178) was granted in February 2008. The presence of brownfield land does not necessarily mean that it will be suitable for development. I do not consider possible difficulties in gaining satisfactory access to that area justifies allocating a much more extensive greenfield site or a substantial amendment to the settlement boundary. The undeveloped land is rural in character and forms part of the attractive setting of this part of the settlement along Corwen Road. Its development would significantly harm the character of this area*'. The Inspector continues '*The proximity of the site to the railway station is a matter of fact. However, that is not the only consideration in establishing the acceptability or sustainability of a site. The submission argues that this site is a more preferable option than HSG1(51). However, for the reasons given in HSG1(51) I support that allocation. I have considered this site on its planning merits and I do not consider the arguments put forward justify its allocation either in addition to, or as a replacement for, the allocations made in the plan*'.

- 7.07 It is clear that the Inspector was concerned about built development, on the setting of this part of the settlement, significantly harming the character of the area. Further explanation of these concerns is given in the Inspector's comments on an omission site on the south side of Rhos Road which is located opposite the application site. She stated '*The proximity of this site to the railway station is a matter fact and is in favour of the site. However, other considerations are also relevant. As I have already indicated the plan makes provision for growth of 23% together with another 2% at the Meadowslea Hospital site. There is no need for a further site which would result in additional unnecessary growth. The site forms part of the attractive open landscape at the entrance to the settlement along Corwen Road and its development would significantly harm the open character of the area. I find there is a well-defined edge to the built up area in this part of the settlement and to allocate this land would unacceptably weaken that edge. Its location between the village and the bypass is also a fact, but I place little emphasis on this factor and it does not justify allocating this land. Having considered all the submissions made I do not support this objection*'.
- 7.08 The Inspector therefore did not allocated either of the sites on Rhos Road for the visual impact reasons and also as no further land was needed at that time to meet the growth of the settlement in terms of the UDP strategy.
- 7.09 Appeal decision 042021
There was a previous application 042021 which was for the outline erection of 5 dwellings on the adjacent Rhos y Brwyner Farm, however this included the provision of a new access off Rhos Road. The access road to serve these 5 dwellings was in a similar position to

the current outline application under consideration at this time and therefore the conclusions of the Inspector are relevant in this regard.

- 7.10 This application was refused on the basis that the new access would have led to the significant loss of hedgerow required for the visibility splays which would have had an adverse effect on the character and appearance of the local area. While the farm house and associated building lie within the settlement boundary the access and associated road were outside.
- 7.11 The Inspector was also concerned that the creation of a new access to serve 5 dwellings would result in a significant break in the existing hedgerow and would have the appearance of urban development extending outside the settlement and into the rural setting of Penyffordd. The Inspector considered that this would be harmful to the village setting. He also had concerns that such an access route could set a precedent for further development of the paddock land between the access and the dwellings on Ffordd Derwyn. The appeal was dismissed for these reasons.
- 7.12 This appeal decision was in July 2007 prior to the publication of the UDP Inspector's report and therefore he felt that this application could prejudice the development of the application site which forms part of this application for 40 dwellings and was premature until the sites had been formally considered through the UDP process.
- 7.13 We are now however in a different policy situation with regard to the lack of a 5 year land supply which is now a material consideration to be given significant weight in terms of the impact of the access. This application also related to the development of the land directly adjacent to the access rather than the land at Rhos y Bwyner Farm which was more remotely related to the access.
- 7.14 Principle of development
The site is located outside the settlement boundary for Penyffordd and Penymynydd in the adopted UDP. Penyffordd and Penymynydd is a category B settlement with a growth threshold of 15% (beyond which any additional development would have to be justified on the grounds of housing need). As at April 2015 the settlement had a growth rate of 27.1% over the Plan period (which is above the indicative growth band of 8-15% for a category B settlement, which informed the Plan). The monitoring of growth over a 15 year period as required by HSG3 ended on 1st April 2015.
- 7.15 In terms of the policies in the adopted UDP, policy GEN3 sets out those instances where housing development may take place outside of settlement boundaries. The range of housing development includes new rural enterprise dwellings, replacement dwellings, residential conversions, infill development and rural exceptions schemes which are on the edge of settlements where the development is wholly for

affordable housing. Policy GEN3 is then supplemented by detailed policies in the Housing Chapter on each type.

7.16 Given that the proposal is for an anticipated 40 dwellings and does not fall within the scope of above policy framework, then the proposal is contrary to these policies in the adopted UDP and is a departure from the development plan and has been advertised as such.

7.17 The applicant seeks to justify the development in terms of a broader policy context, having regard to the following points:

- Contribution towards new homes which are needed in Flintshire
- Provision of affordable housing for those who are unable to buy or rent on the open market
- Contribution towards public open space for existing future residents
- Contribution towards a healthy and vibrant economy
- Boost for the local economy, creating construction jobs and also attracting new skilled workers as residents
- Introduction of more working families in Penyffordd supporting vital local services
- Enhancement of biodiversity through new planting

7.18 Housing Land Supply
PPW and TAN1 requires each local planning authority to maintain a 5 year supply of housing land. The latest published Joint Housing Land Availability Study for Flintshire 2014 shows a 3.7 year land supply using the residual method with a base date of April 2014. The Council is unlikely to be able to demonstrate a 5 year land supply until the LDP is adopted. This falls below the 5 year requirement.

7.19 The Council has previously argued in its submissions to PINS and Welsh Government that the residual method of calculation does not give a true picture of the actual amount of land available in the County and that the past completions method of calculation provides a more accurate measurement of land supply as it is measured against what the house building industry is actually delivering on the ground, rather than merely against what the Plan originally set out to provide.

7.20 The publication of the revised TAN1, which completely removes the use of the past completions method of calculation means the Council can no longer reasonably argue that it does not have a housing land shortfall. Furthermore, given that the TAN1 prevents the Council from undertaking a formal JHLAS once the UDP has expired, we will be unable to demonstrate a 5 year supply until such time as the LDP is adopted. In this context it is not possible to challenge the proposal in terms of housing land supply as the Authority did try in its defence of the refusal of planning permission for (051613) Old Hall Road/Greenhill Avenue, Ewloe application.

7.21 The Inspector in his appeal consideration of

APP/A6835/A/14/2220730 land off Old Hall Road/Greenhill Avenue, Ewloe in March 2015 stated that *“The Welsh Government’s letter to Chief Planning Officers of 19 January 2015 states that the residual methodology based on the housing requirements in an adopted LDP (or adopted UDP) will be the only methodology allowed for calculating housing land supply and the use of the past build rates methodology, which was based on the past performance of the building industry, will not be accepted. As a result, I give no weight to the Council’s initial arguments in respect of past completions.”*

- 7.22 Welsh Government Technical Advice Note 1 states that *“The housing land supply figure should also be treated as a material planning consideration in determining planning applications for housing. Where the current land supply shows a land supply below the 5 year requirement or where the local planning authority has been unable to undertake a study..... The need to increase supply should be given considerable weight when dealing with planning applications provided that the development would otherwise comply with the development plan and national planning policies.”*
- 7.23 In these circumstance, advice contained in para 6.2 of TAN1 is that *‘The housing land supply figure should also be treated as a material consideration in determining planning applications for housing. Where the current study shows a land supply below the 5-year requirement or where the local planning authority has been unable to undertake a study (see 8.2 below), the need to increase supply should be given considerable weight when dealing with planning applications provided that the development would otherwise comply with development plan and national planning policies’.*
- 7.24 Further guidance is contained in para 9.2.3 of PPW that *‘Local planning authorities must ensure that sufficient land is genuinely available or will become available to provide a 5-year supply of land for housing judged against the general objectives and the scale and location of development provided for in the development plan’.* This paragraph then goes on to explain what constitutes *‘genuinely available’* and this is defined as *‘...sites must be free, or readily freed, from planning, physical and ownership constraints, and economically feasible for development, so as to create and support sustainable communities where people want to live’.*
- 7.25 It is clear from national planning guidance that considerable weight should be attached to the lack of a 5 year housing land as a material planning consideration. Furthermore, decisions must also be made in the context of the Welsh Governments *‘presumption in favour of sustainable development’.*

- 7.26 Welsh Government Advice and National Planning Policy
 Planning Policy Wales Edition 8 January 2015 paragraph 4.2.2 states
“The planning system provides for a presumption in favour of sustainable development to ensure that social, economic and environmental issues are balanced and integrated, at the same time,”
 when taking decision on planning applications.”
- 7.27 Planning Policy Wales Edition 8 January 2015 paragraph 4.2.4 states
“A plan led approach is the most effective way to secure sustainable development through the planning system and it is important that plans are adopted and kept regularly under review. Legislation secures a presumption in favour of development in accordance with the development plan for the area unless material considerations indicate otherwise (see 3.1.2) Where;
- *There is no adopted development plan (see 2.6) or*
 - *The relevant development plan policies are considered outdated or superseded (see 2.7) or*
 - *Where there are no relevant policies (see 2.7)*
- there is a presumption in favour of proposal in accordance with the key principles (see 4.3) and key policy objectives (see 4.4) of sustainable development in the planning system. In doing so, proposals should seek to balance and integrate these objectives to maximise sustainable development outcomes.”*
- 7.28 Paragraph 4.2.5 states *“In taking decisions on individual planning applications it is the responsibility of the decision-maker to judge whether this is the case using all available evidence, taking into account the key principles (see 4.3) and policy objectives (see 4.4) of planning for sustainable development. In such case the local planning authority must clearly state the reasons for the decision.”*
- 7.29 The Inspector in his appeal consideration of APP/A6835/A/14/2220730 land off Old Hall Road/Greenhill Avenue, Ewloe in March 2015 stated that *“There is a danger that the need to increase supply and lack of a 5-year housing land supply could be used to justify development in inappropriate locations.”*
- 7.30 It is therefore key in making the planning balance therefore to consider the sustainable development ‘key principles’ (see 4.3) and ‘key policy objectives’ (see 4.4) set out in PPW.
- 7.31 Developer Guidance Note
 Due to the current land supply situation and the timeframe for the UDP housing strategy, in order to provide some clarity the Council has produced a Developer Guidance Note which was endorsed by the Council’s Planning Strategy Group and Cabinet in June 2015. This

application was submitted prior to the publication of this guidance, however evidence was requested from the applicants to demonstrate how this application meets with the Councils information requirements. In brief it is set out below how the application has attempted to address these requirements.

- 7.32 1. Need for the development proposals
This application has been submitted in the context of the lack of a 5 year land supply.
- 7.33 The applicants state *“that there is no policy requirement for a sequential site assessment to be undertaken for a planning application of this nature and the Council must determine the application on its own merits. Fundamentally, this is a modest proposal in a sustainable location which can be developed quickly to assist in meeting the existing housing shortage, and should therefore be granted planning permission. The fact that we have demonstrated that the site is the most sustainable within the settlement should not have been necessary in these circumstances, however this exercise has been undertaken to further highlight the suitability of the site for housing development. Whether or not other sites are available within other settlements is not relevant to the consideration of this planning application.”*
- 7.34 The applicants have undertaken an analysis of the candidate sites on the register for the settlement of Penyffordd and Penymynydd in terms of their sustainability against standard criteria. The applicants consider that this table demonstrates that the application site at Rhos Road, Site PEN014, scores the highest. The site is located in close proximity to a range of services and transport nodes, is visually and physically contained due to existing hedgerows and roads, and is capable of accommodating a safe new access point. It is contended by the applicants that development of the site for housing would constitute a sustainable extension to the settlement of Penyffordd, adjoining roads at two of its boundaries which restricts any encroachment onto open countryside, and existing housing development at the third. The planning application should be considered in this context.
- 7.35 2. Full application
The application is in outline and has been submitted by White Acre Estates who are not a house builder. Justification has been submitted with the aim to demonstrate that an outline application does not affect the deliverability of the site following issues raised by officers. A Gant chart has been submitted showing the time lines of the consideration and implementation of a full and outline permission to justify this approach.
- 7.36 The applicants argue that this gives the house builder who takes the site on full flexibility allowing the detail of the scheme to reflect the

preferred style of housing and layout. In terms of developer interest, they have submitted letters of interest from a number of house builders to FCC on a confidential basis. They are fully confident that there is sufficient market demand for housing within this location and that the site can be disposed of to a house builder as soon as possible following the granting of planning permission.

7.37 They state that an outline planning application provides confidence to developers who are then able to invest in undertaking detailed design and investigative work at the same time as the reserved matters applications are worked up. Conversely, as detailed applications require a higher initial investment which is at risk, the additional detailed design and intrusive work is unlikely to be undertaken until detailed planning permission has been secured. There are also no physical or ownership constraints and we are confident that all 40 dwellings will be delivered within a 5 year period if the planning application is approved.

7.38 3. Sustainability Appraisal

A Candidate Sites Comparison Table was also assembled which compared the application site to the other sites within Penyffordd/Penymynydd on FCC's Candidate Site Register against a standard set of sustainability criteria. The table shows that the Rhos Road site is the most sustainable and thus suitable for housing development. Further arguments in relation to the sustainability of the site were advanced in the Planning Statement in terms of its proximity to the train station, bus stops and distance to other settlements within cycling distance.

7.39 4. Viability Assessment

A confidential viability appraisal was prepared by White Acre Estates which shows that, with the inclusion of the s106 contributions that were initially requested the development is viable. White Acre Estates has significant experience in delivering housing schemes and is therefore in a strong position to accurately prepare development appraisals. There is no dispute over the requested S106 contributions which are;

7.40 Affordable housing - Provision of 3 x 3 bedroom gifted units to North East Wales Homes (council owned company), which would be used for the intermediate rental market and £66K commuted sum.

7.41 Open Space - An extension to the existing play area located adjacent to the site, alongside a contribution of £1,100 per plot to fund a wheeled sports area at Mill Stone recreation ground.

7.42 Education - £129,283 for Castell Alun High School.

7.43 5. Housing Delivery Statement

White Acre Estates has significant experience in delivering housing

schemes and has the ability should it wish to do so to either develop the site itself using a mixture of equity and external funding or it may choose to involve a partner. There are also no physical or ownership constraints and we are confident that all 40 dwellings will be delivered within a 5 year period if the planning application is approved.

7.44 Agricultural Land Classification

An Agricultural Land Classification Survey was requested following the submission of the planning application as from the data available it was not clear if the development site was subgrade Grade 3a or subgrade Grade 3b agricultural land. Subgrade 3a land is classed as Best and Most Versatile agricultural land and is protected by planning policy. Although surveys had been done for adjacent agricultural land for the bypass in 1989 by ADAS, the application site had not been included.

7.45 This was undertaken by Ascalon Properties in August 2015. This conformed that the site was Subgrade 3b. Welsh Government's Land Use Planning Unit have clarified that the submitted Agricultural Land Classification study has been completed to a high standard and is considered to provide an accurate indication of agricultural land quality. The Agricultural Land Classification for the site is Subgrade 3b and not Best and Most Versatile Agricultural Land.

7.46 Highways

The proposed vehicular access into the site is from a proposed new access off Rhos Road. The principle of this and the loss of hedgerow was previously considered in respect of application 042021. However, this was in association with the proposed erection of 5 houses at Rhos y Brwyner Farm and not the current application site. The proposed impact of the access in visual terms needs to be considered in terms of the overall impact of the development of the site and the land directly adjacent to the road. There are no highways objections to the position of the access.

7.47 Highways issues such as the increase in traffic and proximity to the roundabout have been raised by objectors to the scheme. The application was supported by a Transport Statement undertaken by SCP. This report demonstrates that safe vehicular access to the proposed development can be made from Rhos Road. It also assessed the impacts of the additional traffic on the operation of the junctions within the vicinity of the site and demonstrated that they had sufficient capacity to deal with the additional flows.

7.48 Highways have no objection to the proposed development subject to standard highways conditions covering the details of the access and detailed design of estate roads etc. They also would require a Construction Traffic Management Plan and a full residential travel plan. It is also requested that to meet the requirements of Active Travel Wales a 3 metre footway and cycle way is provided along the

site frontage set back within the site boundary. This would require the removal of all the roadside hedgerow and not just that required to provide the visibility splay. This has visual impact implications and would also not link with any existing footway nor would have the potential to do so due to third party land. It therefore not considered on the balance of the impact and the benefit of it a planning requirement in this instance.

7.49 Landscape and Visual Impacts

In light of the UDP Inspector's comments on the site the application was accompanied by a Landscape and Visual Impact Assessment (LVIA) undertaken by TPM Landscape in April 2015. THE LVIA has considered the baseline landscape and visual environment through a desk top review of published documents and reports supplemented and verified by field work. This included the identification of a range of landscape receptors and visual receptors at fixed locations within the study area to create a series of viewpoints.

7.50 In summary the LVIA concludes that public receptors and people travelling along local roads will experience low visual impacts due to existing flat topography, built form and vegetation screening limiting views. The greatest visual effects will be experienced by a small number of properties with existing views over or towards the site whose location is generally either immediately adjacent to or very close to the boundaries. The change, although noticeable following mitigation is anticipated to become a neutral element in the view as the proposals become assimilated into the existing urban form of the village over time.

7.51 The proposed site forms only a small part of a wider local and regional character area. No landscape receptors were assessed as experiencing significant effects post mitigation. In most part trees and hedgerows of merit will be retained and enhanced as part of the landscape planting proposals which will also help to soften the built form and assimilate the development into the wider landscape context.

7.52 The proposed development will sit between the existing settlement, the road and the A550 and will be an infill development that will have only very limited landscape and visual effects over a small area of influence. The impacts that remain following, mitigation will remain local in nature and become neutral in tone as the proposal assimilates into the existing settlement form.

7.53 The submitted LVIA has been reviewed for the Council by an independent Landscape Architect who considered that the approach taken is acceptable and follows current guidance. An immediate study area of 1km was assessed in detail which is considered adequate for this particular site due to the fairly flat topography in the immediate vicinity and screening by vegetation, particularly along the

A550. A range of viewpoints were identified from publically accessible locations and the views from residential properties, roads and footpaths were also considered. Potential longer distant views were also taken into account. The LVIA was carried out in Spring 2015 when the hedgerows were partly in leaf and trimmed with the trees without any leaves and therefore represents almost the worst case.

7.54 The Council's consultant was broadly in agreement with the assessment and conclusions of the LVIA. Although mitigation measures are proposed residual harm would still result to the character of the site and Rhos Road due to the proposed access and the removal of approximately 35m of hedgerow. There was also a concern about the hedgerow along the A550 and the susceptibility of this over time from being trimmed if included as part of garden areas. It is considered that the residual visual effects from Rhos Road and the properties overlooking the site at Ffordd Derwyn are likely to remain as moderate adverse rather than neutral as concluded by the LVIA.

7.55 In response to this it is proposed that the A550 boundary would remain as strategic landscaping with a fence and then further additional boundary planting. This would be dealt with in the landscaping scheme submitted as part of any detailed scheme. Further landscaping can also be considered along the Rhos Road boundary as part of the details of the scheme. While the development of the site will have some impact on the approach to the settlement it is not considered that this harm is so great that it would weigh against granting planting permission.

7.56 Trees

The application was accompanied by a Tree Survey Report undertaken by TPM Landscape in April 2015. The majority of the trees on the site are within the boundary hedgerows apart from an oak in the centre of the site. The majority of the trees can therefore be retained within the scheme. The oak in the centre of the site was deemed to be in a poor condition. There are therefore no tree constraints on the site.

7.57 Foul Drainage

Planning Policy Wales Edition 8 January 2016 in section 12.4 'Development management and water' deals with water supply and sewage infrastructure. Paragraph 12.4.1 states that the adequacy of sewage infrastructure is material in considering planning applications. Paragraph 12.4.2 states that "*Development proposals in sewered areas must connect to the main sewer, and it will be necessary for developers to demonstrate to local planning authorities that their proposal site can connect to the nearest mains sewer.*"

7.58 A private treatment plant was suggested at one stage during the application process but this is not considered acceptable in light of the

above guidance as the site is within a sewerage area. It is therefore proposed to connect to the mains sewerage system. A Drainage Statement has been submitted by the applicants setting out their position prepared by White Acre Estates and their drainage engineers Lees Roxburgh Drainage. They argue that the increase in flows on the network is not of a magnitude that would justify major infrastructure projects such as new treatment plants or other large scale improvements which might take timescales into uncertainty.

- 7.59 Welsh Water object to the development as the development would overload the sewerage network. No improvements are planned within Dwr Cymru's Welsh Water's Capital Investment Programme as this is not an allocated site which has been planned for. Therefore they consider that allowing any new development prior to improvements being made is premature and therefore object to the development.
- 7.60 The applicants have referred to other examples of development where *"it was recognised that a proposed development with planning permission has the right to connect into the existing sewerage system, but that the use of planning conditions is appropriate to control the timing of the connection to ensure that any necessary improvements or upgrades to the network are put in place in advance of this"*.
- 7.61 They have suggested the use of a prior to commencement condition to require a scheme for the "comprehensive and integrated drainage of the site showing how foul water, surface water and land drainage to be agreed". It is considered by the Council that the imposition of such a condition is only appropriate when the nature of the infrastructure improvement is known, evidenced and an agreed timeline and costing is in place i.e. that there is certainty that it can and will happen. In this case the applicants have commissioned Welsh Water to undertake the Hydraulic Modelling exercise to determine the nature of the improvement works required but this has not yet been completed. The applicants do not wish to wait for the results of this exercise which would be expected in March 2016 and wish to proceed with a decision on the application.
- 7.62 This is a site being advanced on the basis of specific circumstances in respect of housing land supply and it needs to be demonstrated that the site is capable of being implemented to address this. The present position in respect of waste water could affect the site's deliverability as the extent of the works are not known, no costings are available and no timescale can be provided. It is therefore considered that the site cannot be considered as sustainable given there is no capacity in the existing sewerage network to cater for the site.

7.63 Surface Water

It is proposed to dispose of surface water to the existing Welsh Water drain located adjacent to the northern site boundary. The 150mm diameter public drain outfalls to the tributary watercourse 200m northwest of the site. Proposed surface water flows would be limited to greenfield run off rates. This would require on-site storage in order to control flow rates. Details of this can be secured by condition.

7.64 Affordable Housing

Following discussions with Housing Strategy and the type of affordable housing required in the area given the other recent development it is proposed that based on the provision of 40 dwellings the site would provide three 3 bedroom gifted units to North East Wales Homes which would be used for the intermediate rental market and £66K commuted sum. The applicants are willing to provide this.

7.65 Open Space

There is an existing equipped children play area adjacent to the north east corner of the application site. Following discussions with leisure services it is proposed that the provision should be in the form of an extension to the existing play area and associated equipment together with a contribution of £1,100 per plot to fund a wheeled sports area at Mill Stone recreation ground. The applicants are willing to provide this.

Ecology

7.66 An Ecological Appraisal of the site was submitted with the application undertaken by Envirotech dated May 2014. The site has no built structures to offer roosting potential for bats and foraging potential is also low. There is an existing hedgerow on the boundary of the development site which could be utilised by bats. It is proposed to retain and enhance the hedgerow boundaries.

7.67 Although no water bodies are present on the proposed development site, there are water bodies present within 500m of the site. The A550 separates the proposed development site from the features that could be used by Great Crested Newts, therefore it is not considered that these proposals will have a significant impact upon the favourable conservation status of newts in the area. No great crested newts were recorded during the site survey.

7.68 Site appraisal settlement capacity

The Inspector in his appeal consideration of APP/A6835/A/14/2220730 land off Old Hall Road/Greenhill Avenue, Ewloe in March 2015 stated that *“The Council suggest that sequentially preferable sites should have been considered first, but housing provision in Flintshire is largely dependent on greenfield sustainable urban extensions and I see no evidence that this will change beyond 2015. Even if additional sites could be made available*

adjacent to Category A settlements or on poorer quality land adjacent to category B settlements, the reality of the situation is that they would be unlikely to come forward for some time or be included in the next JHLAS. Furthermore, the extent of the deficit is so great that even if 3i sites in Category A settlements, such as the appellants' development at Croes Atti, could be accelerated, by themselves they would not be sufficient to address the problem'.

7.69 The site lies on the edge of one of the largest category B settlements. Although the growth rate is well in excess of the 15% upper limit for a category B settlement, the Inspector considered this was acceptable on account of its size, facilities and services and accessibility to nearby settlements. The growth rate as of April 2015 for Penyffordd/ and Penymynydd was 27.1%. The site is located on the edge of the settlement, in close proximity to bus services, a train station and other village facilities and services. Although the Inspector did not consider the need for further (even modest) allocations over the Plan period, she did not go so far as to say that they would be unsustainable. Provided that the capacity existed in local schools (or that spare capacity can be provided) then it would be difficult to argue that an additional 40 dwellings is unsustainable or harmful to the character and function of the settlement.

7.70 In her consideration of the level of growth that the settlement could take and the proposed allocations the inspector stated that *"Penyffordd and Penymynydd is a Category B settlement with an indicative growth rate of 8-15%. It is one of the larger settlements in this category and it is appropriate that it makes provision for a portion of the housing needs. In my view it would not be reasonable to ignore migration with other authorities given Flintshire's attractive border location and relative economic prosperity. Completions, commitments and the allocations result in growth of some 23%. Planning permission has been granted on appeal for housing development at the former Meadowlea Hospital site. This development would increase growth to 25%. Whilst it is above the indicative growth band bearing in mind the location and accessibility to facilities and services in the settlement and nearby, I do not consider this level is unreasonable. Some objections assert that the village facilities are inadequate to serve the additional population. However, during my visit I saw a reasonable range of shops and community facilities. Whilst I have no doubt many would like to see more facilities and services in towns and villages I do not find the settlement is poorly provided with facilities in the Flintshire context.*

7.71 It is considered that the village and its facilities could accommodate another 40 dwellings. The settlement and particularly this site is well connected in terms of road links and public transport links to bus routes and the railway station which is in walking distance.

7.72 Deliverability

The next consideration is whether the site is deliverable in terms of viability and certainty. The fact that the application is submitted in outline with all matters reserved for subsequent approval except for access does not give confidence despite the applicants assertions that the site will be deliverable within 5 years or that they would be able to commence within a short time constrained permission i.e. 12 months to submit the reserved matters and 2 years to commence development on site.

7.73 It is also noted that the applicant is a land acquisition and development company and the application is not submitted with any identified house builder, other than reference to a pro-active approach of liaising with various house builders and receiving expressions of interest from a number of major active operators who are already delivering houses in the area.

7.74 Penyffordd / Penymynydd has seen and is seeing substantial growth with the development of two allocated sites, amounting to 350 units, as well as other development in and around the settlement. The White Lion site is being developed by Redrow and Elan and the Wood Lane site by Taylor Wimpey, with the latter still progressing on site. In this context, it needs to be considered whether there is 'room' in the market for another house builder to commence a development in the near future. However this is a desirable location with good transport links close to the A55.

8.00 CONCLUSION

8.01 In summary due to the capacity issues in the existing foul drainage network and the lack of a solution to address this issue there is uncertainty in the deliverability of the site in the short term. The site is being promoted on the basis of the current shortfall in housing land supply but it has not been adequately demonstrated that it can come forward in the short term to address that need.

8.02 The sustainability of the site has therefore not been sufficiently justified to comply with Planning Policy Wales Edition 8 paragraph 4.2.2. It is therefore considered that the site is contrary to paragraph 6.2 of TAN1 as the application would not comply with the development plan and other national planning policies. The application is for residential development on a site located in the open countryside outside a defined settlement boundary and is therefore contrary to Policies STR1, GEN3 and HSG4.

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

LIST OF BACKGROUND DOCUMENTS

Planning Application & Supporting Documents

National & Local Planning Policy

Responses to Consultation

Responses to Publicity

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