

**FLINTSHIRE COUNTY COUNCIL**

**REPORT TO:** **PLANNING COMMITTEE**

**DATE:** **18<sup>TH</sup> JULY 2018**

**REPORT BY:** **CHIEF OFFICER OF PLANNING, ENVIRONMENT  
& ECONOMY**

**SUBJECT:** **OUTLINE APPLICATION FOR RESIDENTIAL  
DEVELOPMENT AT MEGS LANE, BUCKLEY.**

**APPLICATION  
NUMBER:** **057056**

**APPLICANT:** **MR. HILL**

**SITE:** **MEGS LANE,  
BUCKLEY.**

**APPLICATION  
VALID DATE:** **11.08.17**

**LOCAL MEMBERS:** **COUNCILLOR A WOOLLEY  
COUNCILLOR R JONES**

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

**REASON FOR  
COMMITTEE:** **SIZE OF DEVELOPMENT  
LOCAL MEMBER REQUEST**

**SITE VISIT:** **YES**

**1.00 SUMMARY**

1.01 This is an outline application for up to 100 houses with all matters, except for access, reserved on land to the south of Meg's Lane, Buckley.

**2.00 RECOMMENDATION: TO REFUSE PLANNING PERMISSION FOR  
THE FOLLOWING REASONS**

2.01 1. Planning Policy Wales (9<sup>th</sup> Edition – Nov 2016) identifies that weight can be attached to policies in emerging Local Development Plans. The Flintshire LDP is at Deposit stage. It is considered that the proposals amount to a development which, by virtue of its

scale and location, would prejudice the LDP by predetermining decisions on the scale and location of development. Accordingly, the proposals are considered to be premature, contrary to the Paragraphs 2.14.1, 2.14.2 and 2.14.3 of Planning Policy Wales (9<sup>th</sup> Edition – Nov 2016)

2. The site is located outside the settlement boundary for Buckley and within open countryside as defined by the adopted Flintshire Unitary Development Plan. It is considered that the weight attached to increasing housing land supply is not considered to outweigh the harm that would arise from the detrimental impact of such a scale of development would have upon the principles of sustainable development as set out in Planning Policy Wales (9<sup>th</sup> Edition - November 2016) and contrary to paragraph 6.2 of TAN1 and contrary to Policies STR1, GEN3 and HSG4 of the Flintshire Unitary Development Plan.
3. The proposal represents inappropriate development that would detrimentally impact upon the designated green barrier and the purpose and function of the green barrier in this location, and open countryside, contrary to Unitary development plan policies GEN1, GEN3 and GEN4 and national policy contained within Planning Policy Wales.
4. Insufficient information has been submitted to ensure that the proposal has fully taken the ecology of the site into account. As such it is considered that the proposal is contrary to policy WB1 and WB4 of the Flintshire Unitary Development Plan.
5. In the opinion of the Local Planning Authority the proposal does not adequately provide public open space provision within the site, in accordance with the recommendations of Planning Guidance Note 13- Outdoor Playing Space and New Development. As such the proposal is contrary to policies STR11 and SR5 of the Flintshire Unitary Development Plan.
6. Inadequate information has been provided to demonstrate how the development will meet the required provision of affordable housing within the site, to meet proven local need. As such the proposal is considered to be contrary to policies STR1, STR4 and HSG10 of the Flintshire Unitary Development Plan.
7. Inadequate information has been provided to demonstrate the scope of reinforcements required to overcome the identified biological overload of the Buckley Ty Gwyn Waste Water Treatment Works. In the absence of this information it is not possible to fully assess the impact of the proposal on the available water resources. As such the proposal is considered to be contrary to policies STR10, GEN1 and EWP16 of the Flintshire Unitary Development Plan.

### **3.00 CONSULTATIONS**

#### **3.01 Local Members Councillor A Woolley**

Requests that the application be placed before a full planning committee, with a site visit prior to the committee sitting. My reasons are that the application is in contravention of the following:

1) The Well-being of Future Generations act (Wales) 2015 in that it is unsustainable and both environmentally and ecologically destructive.

2) Policy Wales and particularly TAN 1, in that it is:-

a) Outside of the existing Development Boundary for Buckley.

b) Inappropriate development within an essential Green Barrier, where development would conflict with the UDP Such unwarranted intrusion would inevitably lead to the total destruction of the green barrier to the south of Meg's Lane, between Padeswood Road South and Bannel Lane and carry housing development far too close to the industrial site of the cement works alongside the A5118 at Padeswood. Policy GEN 4-17 would appear to apply to this case.

3) If granted, the application would create an unwarranted loss of agricultural land, contrary to Policy EC1 of the existing Unitary Development Plan.

4) While it may be argued that the county does not presently have in place a Joint Housing Land Availability Study and may not be able to demonstrate a fully adequate 5-year supply of land designated for housing, there are no pressing, compelling or exceptional circumstances relating to this particular application, which might argue for approval on any of those grounds.

5) That is particularly so given that there is no infrastructure plan attached to the application. Also, that Buckley is strewn with sites available for the construction of new houses, for which planning permission was granted several, even many, years ago, yet upon which sites there has been no sign of even commencement, let alone completion of the number of houses for which permission has been given. That argues irrefutably against any approval of this application on the grounds of urgent need. I believe that only some 74 houses have been built in recent years against a figure of about 669 units granted planning permission.

Councillor R Jones  
No response received.

Buckley Town Council  
Object to the proposal for the following reasons:

- Proposal contrary to Well-Being of Future Generations Act (Wales) 2015 in that it is unsustainable and both environmentally and ecologically destructive
- Contrary to PPW and TAN1: a) outside settlement boundary for Buckley  
b) Inappropriate development within an essential green barrier
- Represents unwarranted loss of agricultural land
- No pressing, compelling or exceptional circumstances to approve this application, even if it is not possible to demonstrate a 5 year housing land supply
- No infrastructure plan. Large number of unimplemented permissions in Buckley, establishes that there is no reason for approval of this application on the grounds of urgent need.

#### Highways Development Control Manager

Spon Green provides the main access route to the application site but capacity of this road is limited by residential on-street parking. The concern has been raised with the applicant who has suggested a scheme of parking restrictions which would assist with the free flow of traffic. On this basis, any consent should be subject to a Section 106 agreement requiring the payment of a sum of £4000 to cover the costs incurred by the Council for undertaking a public consultation exercise and the advertising and making of a Traffic Regulation Order.

Although accompanied by a Travel Plan Framework this document makes no reference to the Active Travel Wales any future application should be accompanied by a full Travel Plan.

No objection subject to conditions covering;

- Siting layout and means of access
- Access to be done prior to other building operations
- access shall have a visibility splay of 2.4m x 43m in both directions measured along the nearside edge of the adjoining carriageway
- No obstruction in visibility splays
- Parking and turning facilities to be provided
- The front of the garage shall be set back a minimum distance of 5.5m behind the back of footway line / or 7.3m from the edge of the carriageway in the case where the crossing of a grass service margin verge is involved
- The detailed layout, design, means of traffic calming and signing, surface water drainage, street lighting and construction of the internal estate roads
- The gradient of the access from the edge of the existing carriageway and for a minimum distance of 10m shall be 1 in 24 and a maximum of 1 in 15 thereafter.
- A 1.8m wide footway shall be provided along the site frontage

- constructed to adoption requirements
- Positive means to prevent the run-off of surface water from any part of the site onto the highway
- Construction Traffic Management Plan
- A Full Travel Plan and Transport Implementation Strategy

#### Public Protection Manager

No adverse comments to make

#### Welsh Water/Dwr Cymru

Welsh Water have received a pre-planning enquiry for this development. In their consultation response they advised that the proposed development would overload the (Buckley Ty Gwyn) Water Treatment Works and that a feasibility study would be required. They also indicated that a hydraulic modelling assessment would have to be undertaken on the clean water supply system to establish if the system has the capacity to maintain adequate service and supply the new development.

#### Natural Resources Wales

- Require an assessment of potential presence of bats in mature trees onsite, and likely use of trees/boundary features by foraging/commuting bats, including appropriate avoidance/mitigation/compensation measures.
- Submission and implementation of a Biosecurity risk assessment to the satisfaction of FCC
- Flood Risk Management are satisfied that the proposed surface water drainage information provided in the submitted Flood Consequence Assessment (D2502-FCA-01 22<sup>nd</sup> May 2017) is sufficient to allow an appropriately worded surface water condition to be imposed for this application.

#### Public Open Spaces Manager

For an application of this scale consideration should be given to POS being provided in accordance with the recommendations provided in Planning Guidance, Note No 13. POS Provision. The proposed open space provision does not meet this requirement and as such we do not support the application. The POS provision required would be an area of some 4500 meters located central to the development, enclosed being free of any overhead utilities. The area to be equipped with children's play equipment, landscaped, to a specification approved by the council. Should the developer require the POS to be adopted by the council a 10 year maintenance commuted sum payment would be required.

#### Capital Projects and Planning Manager

## SCHOOLS AFFECTED: PRIMARY

School: Westwood C.P. School

Current NOR (@ January 2017) 200 (excluding Nursery)

Capacity (@ January 2017) 273 (excluding Nursery)

No. Surplus Places: 73

Percentage of Surplus Places: 26.74%

## SCHOOLS AFFECTED SECONDARY

School: Elfed High School

Current NOR (@ January 2017) is 669

Capacity (@ January 2017) is 1037

No. Surplus Places is 368

Percentage of Surplus Places is: 35.49%

## **EXCEPTIONS**

The exceptions to the provision of school places will be the following type of residential development from which planning authorities will note seek contributions:

Housing specifically designed for occupation by elderly persons (ie restricted by planning condition or agreement to occupation by those over aged 55 years or more).

1 bed dwellings or 1 bed apartments or flats.

### **Formula**

The figures are arrived at from a combination of formula application and practical experience, informed by sufficiency criteria.

The formula reads:

#### Primary School Pupils

School capacity 273 x 5% = 13.65(14)

273 – 14= 259 Trigger point for contributions is 259 pupils

(No. of units) 81 x 0.24 (primary formula multiplier) = 19.44 (19) No. of pupils generated) x £12,257 per pupil (Building Cost multiplier) = £232,883

Actual pupils 200 + 19 (from the multiplier) = 219 does not meets trigger of 259

**Contribution requirement would be £0**

Secondary School Pupils

School capacity of  $1037 \times 5\% = 51.85$  (rounded up or down) 52 Capacity  
 $1037 - 52 = 985$  Trigger point for contributions is 985 pupils (No. of Units  
 $81 \times 0.174$  (secondary formula multiplier) = 14.09 (14 No. of pupils)  
generated  $14 \times \text{£}18,469$  per pupil (Building Cost multiplier) =  $\text{£}258,566$

Actual pupils  $669 + 14 = 683$  does not meet trigger of 985

### **Contribution requirement would be £0**

**NOTE** : The Primary and Secondary formula multipliers are used by other Welsh local Authorities, and provide a reliable and demonstrated weighted for education contribution calculations.

### **Conclusion**

**Primary** – Westwood C.P. Primary School – it is not our intention to seek a Section 106 contribution.

**Secondary** – Elfed High Secondary – it is not our intention to seek a Section 106 contribution.

### Housing Strategy Manager

- Requirement for 30% affordable on site-provision
- LHMA for Flintshire identifies an annual shortfall of 246 affordable units
- In the LHMA Buckley sits within the Buckley and Mold sub area which identifies an annual shortfall of affordable dwellings of 165, which is not being met on an annual basis
- The LHMA identifies a need for primarily 1 bed (14%) 2 bed (31.6%) and 3 bed (28.5%), split evenly between Social rented (56.2%) and intermediate (43.8%) tenures.
- The SARTH (Social Housing Register) currently has 1,656 applications- around 500 people have identified Buckley as an area they are seeking social housing with a mix of 1 bed and 2bed flats; and 2 bed, 3 bed and 4 bed houses.
- There is also an identified level of interest in affordable housing (i.e affordable ownership and rent) in Buckley:
  - With 39 applicants currently registered for an affordable ownership (shared equity) property- 2 applicants want 1 bed; 19 applicants want 2 beds; 1 applicants want 3 beds; 2 applicants want 4 beds; and
  - A further 28 applicants are registered for affordable rent with 12 applicants requiring 3 bed; and 16 requiring a 2 bed.

The Coal Authority  
Standing advice applies.

Airbus

No aerodrome safeguarding objections

#### **4.00 PUBLICITY**

##### **4.01 Press Notice, Site Notice and Neighbour Notification**

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

90 Letters of Objection received. Objections were lodged on the following issues:

- Parking issues on surrounding roads
- Loss of local amenity
- Loss of Green Belt
- Traffic issues and road safety
- Lack of local infrastructure and impact of development on local services
- Loss of Privacy/Overlooking
- Ecological Impact
- Proposal does not give adequate regard to “Active Travel” issues (walking and cycling) Transport assessment should fully consider all modes of transport not just cars.

#### **5.00 SITE HISTORY**

5.01 None

#### **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

GEN4 – Green Barrier

D1 - Design Quality, Location and Layout

D2 - Design

D3 - Landscaping

TWH1 - Development Affecting Trees and Woodlands

TWH2 – Protection of Hedgerows

WB1 - Species Protection

WB4 – Local Wildlife Sites of Wildlife and Geological Importance

WB6 – Enhancement of Nature Conservation Interests

AC2 – Pedestrian Provision and Public Rights of Way

AC3 – Cycling Provision

AC13 - Access and Traffic Impact

AC18 - Parking Provision and New Development

L1 – Landscape Character

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  
EWP16 – Water Resources  
EWP17 – Flood Risk  
RE1 - Protection of Agricultural Land  
SR5 – Outdoor Play Space and New Residential Development  
IMP1 – Planning Conditions and Planning Obligations

Planning Policy Wales Edition 8 January 2016  
TAN 1 Joint Housing Availability Studies 2015

SPGN 2 – Space Around Dwellings  
SPGN 3 – Landscaping  
SPGN 4 – Trees and Development  
SPGN 9 – Affordable Housing  
SPGN 11 – Parking Standards  
SPGN 12 – Access for All  
SPGN 13 – Open Space Requirements  
SPGN 23 – Developer Contributions to Education

## **7.00 PLANNING APPRAISAL**

### **7.01 Proposal**

The proposal is an Outline application for up to 100 dwellings on a site of 3.8 hectares at land off Megs Lane, Buckley. The only reserved matter being put forward for consideration is Access.

### **7.02 Main Issues**

The main issues are considered to be: whether the proposals amount to development which is premature in relation to the emerging Flintshire Local Development Plan, whether the proposal represents appropriate development within the designated green barrier and in an open countryside location, the impact of the proposal upon adjacent ecology sites as well as the ecology and biodiversity of the site itself, whether there is sufficient provision of public open space, affordable housing and water resources, as well as the implication of the 5 year land supply on the acceptability of the proposal in the overall planning balance.

### **7.03 Principle of development**

The site lies adjacent to the settlement of Buckley in the adopted Unitary Development Plan (UDP), within a designated green barrier. Policy GEN4 does not permit new housing development in green barriers except for very specific forms of development. Furthermore the UDP

only permits new development in the open countryside in a limited number of circumstances.

7.04 Therefore the main policy matters in this case are:

- whether the proposals amount to development which is premature in relation to the emerging Flintshire Local Development Plan;
- the effects of the proposed development on the green barrier and the surrounding area;
- the lack of a 5 year supply of housing land in the County; and
- the weight to be attributed to these in balancing harm and benefits.

### **Prematurity**

7.05 It is considered that the refusal of planning permission on grounds of prematurity will not usually be justified except in cases where a development proposal goes to the heart of a plan. Planning applications should continue to be considered in the light of policies within the UDP and in accordance with the guidance set out in Planning Policies Wales and other associated national policy and guidance. The factors to consider in determining whether prematurity is an issue are:

- *Scale*  
In order for a proposal for residential development, which is a departure from the Development Plan, to be considered premature in relation to the emerging LDP, it must be of such a scale, which can be either in isolation or cumulatively with other development proposals as would go to the heart of the forthcoming plan. That is, it must provide such a quantum of development that would prejudice the LDP by predetermining decisions about the scale, location or phasing of new development which ought to be properly addressed via policies within the LDP. It is considered that this proposal would be considered premature due to its impact cumulatively with other proposals in the vicinity.
- *LDP Progress*  
Whilst account can also be taken of policies in emerging LDP's, the weight to be attached to such policies depends upon the stage of preparation or review. The LDP is at the Deposit Consultation Stage as defined by Regulations 17 – 19 within the LDP Regulations. The LDP will reach Deposit Stage in November of 2018. Whilst limited weight can be attributed to the LDP at this stage, a proposal which predetermines the scale and location of development at the same time as the Local Planning Authority is considering the range of candidates sites proposed must have a significant impact upon the decisions to be made in

terms of the allocation of suitable sites across the county. Accordingly, I consider the refusal of such a proposal upon the grounds of prematurity can therefore be justified.

- 7.06 Members will also be aware that the Local Planning Authority is also considering an outline planning application for the erection of up to 435 dwellings on land at Spon Green Farm, Buckley (058237). This site is located approximately some 230 metres to the east of this application site and lies wholly within the same green barrier.
- 7.07 Having regard to the advice within PPW in relation to prematurity, matters of scale may form the basis for an application to be deemed premature whether in isolation or cumulatively. Notwithstanding that the application to which this report relates is deemed to be premature in its own right, it is entirely proper that it is considered cumulatively with the application at Spon Green Farm given the close proximity of the sites to one another, in the same locational context.
- 7.08 Regard should therefore be had to this application in relation to any assessment in relation to the new housing allocations required via the LDP. Assuming development at the maximum of 435 dwellings, the application proposals in combination with this proposal are inviting the Local Planning Authority to predetermine the location of 37% of total housing growth for the county over this plan period within this green barrier location.
- 7.09 In summary in relation to the question of prematurity, I consider that the granting of planning permission for a proposal of this scale and in this location, when taken cumulatively with other proposed development nearby and within the same green barrier, predetermines issues in respect of scale and location of development in advance of the emergence of the LDP. These issues, especially in relation to the quantum and location of housing development, together with the departure from local and national planning guidance in respect of green barriers, would result in a predetermination in relation to the same which are matters most appropriately addressed via the LDP process.
- Green Barrier**
- 7.10 The site is located within a green barrier (GEN4-17) which wraps around the south and eastern edge of Buckley and Drury. This is a well defined green barrier that is fit for purpose when reviewed against the purposes for designating green barriers in section 4.8.3 of PPW 9, and also an area where there has been considerable pressure for development as part of successive development plans, and presently as part of speculative housing proposals. The principle and extent of the green barrier has been supported by successive Planning Inspectors as part of the Alyn and Deeside Local Plan and Unitary Development Plan.
- 7.11 Planning Policy Wales (PPW) provides guidance on green wedges or barriers and Policy GEN4 of the UDP is generally in conformity with that

advice and is therefore given significant weight in the planning balance. The proposed housing development does not form one of the types of development that can be permitted in a green barrier and therefore, by definition, the development being proposed here must be treated as 'inappropriate development'.

7.12 PPW directs that other forms of development are considered inappropriate development unless they maintain the openness of the green barrier or conflict with the purposes of including land within it. The built development proposed would not maintain the openness of the green barrier. One of the key purposes of the green barrier in this location is to protect the prominent southern edge of Buckley against encroachment of development into open countryside. The development would directly conflict with these purposes.

Policy GEN4 states that:

7.13

*Development within green barriers will only be permitted where it comprises the following:*

- a. justified development in association with*
  - b. essential facilities for outdoor sport and recreation, or cemeteries;*
  - c. limited extension, alteration or replacement of existing dwellings;*
  - d. limited housing infill development to meet proven local housing need or affordable housing exceptions schemes;*
  - e. small scale farm diversification;*
  - f. the re-use of existing buildings; and*
  - g. other appropriate rural uses/development for which a rural location is essential.*
- provided that it would not:*
- i. contribute to the coalescence of settlements; and*
  - ii. unacceptably harm the open character and appearance of the green barrier.*

7.14 The site was submitted as an omission site as part of the UDP for a housing allocation and the Inspector commented '11.96.27. 1996 – *Whilst adjacent to HSG1(2) the site shares only a short boundary with it and is separated from it by a stream and a corridor of trees/vegetation. Although both are greenfield sites, visually there is not a strong relationship between the 2 and development on the objection site would extend further to the south into the rural area. The site is bounded to the north by the backs of properties fronting Megs Lane and lies within the green barrier which seeks to prevent encroachment into an area of open countryside to the south of Buckley where there is pressure to develop. The permission for and start on the construction of a dwelling along the Megs Lane frontage of the site would appear to preclude vehicular access*'.

7.15 In general the Inspector recognised the role of the green barrier in safeguarding the countryside from encroachment and protecting the

setting of this prominent urban edge. The Inspector also recognised potential coalescence with built development at Padeswood.

7.16 PPW states that (para 4.8.12) “The general policies controlling development in the countryside apply in green wedges, but there is, in addition, a general presumption against development which is inappropriate in relation to the purposes of the designation”. In the submitted Green Barrier assessment it has been opined that existing hedgerows within the green barrier give a better natural boundary than what has been described as a “weak” boundary based on the urban edge of boundary. In my opinion, which echoes the Inspectors comments mentioned earlier, is that the current situation gives a clear delineation between the built development of the town and the adjacent countryside. There are hedgerows throughout the green barrier as befits agricultural land. Artificially pushing the limits of the urban area further into this green space can only lead to a weakening of the openness of the designated area and ultimately a coalescence of the surrounding built development to the detriment of the open countryside.

7.17 In a recent appeal decision in Bryn Y Baal ( Planning application ref. 056672 Appeal ref. APP/A6835/A/17/3175048) the Inspector set out the implications of the advice in PPW ‘This is a stringent and demanding test, and the planning balance is different to that applicable for land outside the green barrier’.

7.18 The Inspector concludes that the lack of 5 year supply does not outweigh the harm to the green barrier ‘My conclusions are that the development would be harmful to the openness of the green barrier and to the character and appearance of the area and would erode the gap between Mynydd Isa and New Brighton. These harmful effects warrant considerable weight. I also conclude that there is a lack of a 5 year supply of housing land, and that the need to increase the supply of housing land warrants considerable weight, provided the development would comply with development plan and national policies. If the site was not located in a green barrier, these arguments would be finely balanced. However, the proposal is for inappropriate development in the green barrier, and PPW advises that such development should not be granted planning permission except in very exceptional circumstances where other considerations clearly outweigh the harm the development would do to the green barrier. That demanding balance would not be achieved in this case, and I conclude that the development would be contrary to development plan and national policy’.

7.19 This area of open countryside, located at the south eastern area of Buckley has an existing and well defined southern extent to the settlement, from which the countryside then gently drops away. It is the openness of this context setting band of open countryside that is remarkably unaltered due to the green barrier designation, and in spite of long standing pressure for development, is important to maintain and

not permit its reduction or erosion.

- 7.20 I do not consider that the proposal complies with either relevant development plan policies, or national planning guidance in respect of its impact upon the character and openness of the designated green barrier.

### **Sustainability**

- 7.21 Buckley is a category A settlement in the UDP and several allocations were made in the settlement in the UDP. In the UDP Buckley is in the top tier of the 5 tier hierarchy and is a main service centre and this reflects its level of sustainability. In broad terms it is a sustainable settlement to accommodate development. However the Welsh Governments principles and objectives for sustainable development encompasses far more than just providing for growth and development, with matters such as environmental protection also being important. The provision of green wedges and barriers is an important part of Chapter 4, 'Planning for Sustainability', of PPW. It is an integral part of how sustainability is to be achieved. If the proposed development is inappropriate development in a green barrier then it cannot represent sustainable development unless there are exceptional circumstances to justify the harm caused. There was a recent appeal decision at Rhosrobin, Wrexham (Appeal ref: APP/H6955/A/14/2229480) where the Inspector considered a green barrier site, and was of the opinion that the lack of a 5 year housing land supply did not outweigh the conflict with the development plan and national planning policy. The Inspector concluded '*I conclude that the development is inappropriate development in the green barrier and very exceptional circumstances do not exist to clearly outweigh this harm....*'. Although it may be considered that Buckley as a settlement could be described as sustainable due to the presence of services and public transport, this differs from the consideration of the sustainable credentials of the development proposed. As such I do not consider the proposal to represent sustainable development, given the detrimental impact upon the green barrier.

### **Housing Land Supply**

- 7.22 It is accepted that the Council does not have a 5 year housing land supply, particularly as the Welsh Government/PINS will not be progressing the 2015 JHLAS. In terms of TAN1 the Council 'will be considered not to have a 5-year supply' as it does not have an adopted UDP /LDP and cannot formally carry out a JHLAS. The commentary in the 2014 JHLAS Report explains how the Council will seek to increase supply and part of this is considering 'speculative' sites which represent sustainable development. A guidance note on speculative development was subsequently issued to assist in the submission of speculative development proposals.

- 7.23 In such circumstances, 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 In May 2018 it was acknowledged in a letter from Lesley Griffiths AM, Cabinet Secretary for Energy, Planning and Rural Affairs, that “absolute adherence to the 5 year land methodology in some cases is working against the achievement of good sustainable outcomes”. It is the ministers intention to dis-apply paragraph 6.2 of TAN1, that the absence of a 5 year supply should be given considerable weight, and a consultation has been undertaken to this effect. Whilst the outcome of this consultation is not yet known

7.25 When looking at the context of the site in Buckley there is a site to the west of it which has detailed planning permission for housing and a short distance away is the Well Street site (which is being progressed as part of the SHARP programme) and Rose Lane allocated site which has been allowed on appeal. Elsewhere in Buckley there are other sites being developed by different developers. It is not clear what the need is for an additional site in this location.

7.26 It is not considered that the development would otherwise comply with development plan policies and national planning policies. As such the weight to be given to the lack of the 5-year requirement is not sufficient to outweigh other material factors in determining this application.

### **Ecology and Biodiversity**

7.27 The site is primarily improved grassland with potential habitats, including watercourses and hedgerows within the site. The site lies within 2 Kilometres of the Buckley Claypits and Commons SSSI and Deeside and Buckley Newt Sites SAC, although the site lies outside the buffer zones for these designated areas. The development would result in the loss of approximately 3ha of improved grassland habitat and 0.1ha of scrub.

7.28 The application site also contains field hedges as well as overgrown historic hedgerows that cross the centre of the site. These hedges are shown on the 1<sup>st</sup> Edition OS maps and are well established and species rich. These hedgerows are a Priority Biodiversity Habitat under the Environment (Wales) Act 2016. The hedgerows are considered to be good wildlife corridors with connectivity to the wider landscape.

7.29 The site has potential to support common amphibian species, bats and nesting birds during the breeding season. There are likely impacts upon these species and their habitats as a result of the development.

Numerous field signs of Badger activity is evident on site although no Badger Setts have been recorded on the site.

7.30 There is a wildlife site, Bistre Wood, to the south west of the site which is ancient woodland which requires a minimum 15m buffer zone between this area and development. In addition the trees, shrubs and woodland flora adjacent to the brook on the western boundary are a remnant of this woodland, which forms an important wildlife corridor and similar requires protection.

7.31 Natural Resources Wales have required further surveys to be undertaken on site in order to demonstrate that the development has taken the ecology of the site into account, with particular reference to nesting birds and bats. Although an updated Ecological Impact Assessment was submitted no further surveys have been undertaken and therefore information in relation to a protected species is missing.

7.32 Whilst this is an outline application with all matters reserved except for access it is considered that due to the potential presence of protected species and habitat that supports protected species that this is a fundamental matter which is required to be addressed at this stage of the planning process.

7.33 As there is insufficient information to show with any confidence how the loss of hedgerows and trees likely to be removed will be sufficiently mitigated against, or how the proposal will impact certain protected species, in particular bats and wild birds the proposal conflicts with Policy TWH1, TWH2, WB1, WB4 and WB6 of the Flintshire UDP.

### **Public Open Space**

7.34 Opportunities for both formal and informal recreation are essential to the health and happiness of people of all ages. Recreational open space areas are a vital element of the community, allowing free movement, free expression and social interaction. In accordance with the recommendations provided in Planning Guidance Note 13 the provision of public open space will be an important consideration within proposals for new residential developments. In addition to aiding the general well-being of the community by providing for sport and recreation, public open space can also contribute to biodiversity, the conservation of nature and landscape, air quality, the protection of ground water, and can enhance the appearance of a locality.

7.35 The required public open space provision for a development of this scale would be an area of some 4500 metres located centrally to the development. The proposed provision proposed by the development does not meet these requirements. The proposal is therefore in conflict with Policy SR5 and SPGN 13 as it does not propose any onsite open space provision.

### **Affordable Housing**

7.36 Paragraph 9.2.14 of PPW 9 states that “A *community’s need for affordable housing is a material planning consideration which must be taken into account in formulating development plan policies*”. Whilst the Planning Statement for the development states that the development proposal will be in full compliance with the relevant unitary development plan policies governing affordable housing provision, no details have been provided to demonstrate how the required provision shall be provided.

7.37 Policy HSG11 of Flintshire UDP for Affordable housing in the Open Countryside is considered to be the policy given the edge of settlement location of the proposal. In this policy, where there is a demonstrable need for affordable housing to meet an evidenced and genuine local need, and where there are no suitable alternative sites within the settlement boundary.

7.38 In terms of the evidence of need, the Local Housing Market Assessment (LHMA) for Flintshire identifies an annual shortfall of 246 affordable units and in 2015/2016 124 affordable units were delivered- a combination of supported housing, social and intermediate rent as well as shared equity. In the LHMA Buckley sits within the Mold and Buckley sub area which identifies an annual shortfall of affordable dwellings of 165, which is not being met on an annual basis. The LHMA overall identifies a need for primarily 1 bed (14%) 2 bed (31.6%) and 3 bed (28.5%) split relatively evenly between social rented (56.2%) and intermediate (43.8%) tenures.

7.39 The Social Housing Register currently has 1,656 applications with around 500 people identifying Buckley as an area where they are seeking social housing with a mix of 1 bed and 2 bed flats, and 2 bed, 3 bed and 4 bed houses.

7.40 There is also an identified level of interest of affordable housing (i.e affordable ownership and rent) in Buckley with 39 applicants currently registered for an affordable ownership (shared equity) property, with a further 28 applicants with a registered interest for affordable rent.

7.41 Given the above it is clear that there is an identifiable need within the area for affordable housing options. As such it is considered that it would be appropriate to seek a 30% provision of affordable housing on site. Without details being provided of how this will be achieved there is a lack of clarity concerning the compliance of the proposal with the relevant development plan policies and national policy.

### **Education Provision**

Consultation has been undertaken with the Capital Projects and Planning manager with regard to capacity at local schools and the impact of this development. There is existing capacity at both Westwood

- 7.42 CP Primary School and Elfed High school and after applying the standard formulas the triggers for requiring contributions were not met. As such, should the application be approved, it would not be the intention of the Education department to require financial contributions.

### **Waste Water provision**

- 7.43 Pre-application enquiries by the applicant to Welsh Water identified that the proposal would overload the (Buckley Ty Gwyn) Waste Water Treatment Plant. A Clean Water Hydraulic Modelling Assessment and a Feasibility study were undertaken by Welsh Water.

- 7.44 The conclusion of the Clean Water Hydraulic Modelling assessment indicates that under current network conditions the development of 100 dwellings within land off Megs land is viable, and flows, velocities, pressures and head losses are all above DCWW serviceability levels.

- 7.55 The assessment of the impact of the proposal on the DCWW Buckley Ty Gwyn wastewater treatment plant concluded that whilst the increase in flows is small and the Primary settlement tanks and Humus settlement tanks have capacity to accept the additional flow.

- 7.56 However, with the increase in the organic load there is an increased risk of overloading the biological process at a site which has a restricted consent, particularly relating to levels of ammonia. As such the recommendation of the assessment is to upgrade the biological process to allow the proposed development to connect. Welsh Water consider that whilst there is no scheme for improvements at this facility in their current asset management plan, and the determination of the business plan for the new asset management plan isn't expected until 2020 it may be possible for developers funding to accelerate reinforcement to accommodate new development. Welsh Water consider that it would be possible to maintain suitable control with an appropriate worded condition, should the Local Planning Authority feel it was reasonable and appropriate to impose a condition requiring further impact assessments to identify the scope of the reinforcements required, and then if necessary a scheme of upgrading to accommodate the increased foul water discharge into the existing waste water treatment facility.

- 7.57 I consider that without the establishment of the scope of the required upgrades such a condition would be premature and I such I consider that at present insufficient information has been received to give a firm assurance that the current water resources are sufficient to be able to accept the new capacity a development of the size of the proposal would entail.

### **Highways and access considerations**

Spon Green provides the main access route to the application site but capacity of this road is limited by residential on-street parking. The concern has been raised with the applicant who has suggested a

- 7.58 scheme of parking restrictions which would assist with the free flow of traffic. On this basis, any consent would need to be subject to a Section 106 agreement requiring the payment of a fee to cover the costs incurred by the Council for undertaking a public consultation exercise and the advertising and making of a Traffic Regulation Order. Commuted sums would also be required for a street lighting system that is to be powered and maintained at public expense.

- Although accompanied by a Travel Plan Framework this document makes no reference to the Active Travel Wales and if the current proposal were to be successful then any future reserved matters application should be accompanied by a full Travel Plan.
- 7.59

### **Other Matters**

- Objections have also been advanced in respect of the perceived impact of the proposal upon existing local health care facilities. Members will be aware that responsibility for planning services to meet the needs of the community in this regard rests with the Local Health Board.
- 7.60

- In addition, concerns have been raised over the impact of any new dwellings on existing neighbouring amenity. As this application has been made in outline with all matters reserved it is not possible to address these issues as the details surrounding the positions of the proposed dwellings relative to existing dwellings, or their various design merits as these details are not available at outline stage.
- 7.61

## **8.00 CONCLUSION**

- 8.01 The proposal represents inappropriate development within the Green barrier and is in clear conflict with the provisions of the policies of the unitary development plan as well as national guidance. The proposal would cause undue harm to the open countryside and green barrier. Whilst it is accepted that TAN1 gives considerable weight to increasing housing land supply I do not consider that this outweighs the above considerations and recommend accordingly.

- 8.02 Inadequate details have been provided with regards to safeguarding the ecology of the site, the provision of public open space and affordable housing provision and to ensure that the capacity of the local water resources meet the need of the development.

### **8.03 Other Considerations**

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

- 8.04 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.

- 8.05 The Council has had due regard to its public sector equality duty under the Equality Act 2010.
- 8.06 The Council has had due regard to its duty under Section 3 of the Wellbeing of Future Generations (Wales) Act 2015 and considered that there would be no significant or unacceptable impact upon the achievement of wellbeing objectives as a result of the recommended decision.

**LIST OF BACKGROUND DOCUMENTS**

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

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