

FLINTSHIRE COUNTY COUNCIL

REPORT TO: **PLANNING COMMITTEE**

DATE: **5TH SEPTEMBER 2018**

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

SUBJECT: **OUTLINE APPLICATION – ERECTION OF UP TO
36 UNITS OF OVER-55 RETIREMENT HOUSING,
OPEN SPACE AND ASSOCIATED
INFRASTRUCTURE WITH DETAILS OF SITE
ACCESS AT RHOS ROAD, PENYFFORDD.**

**APPLICATION
NUMBER:** **057388**

APPLICANT: **MR RICHARD HEATON**

SITE: **LAND SOUTH OF RHOS ROAD, PENYFFORDD**

**APPLICATION
VALID DATE:** **11/08/2017**

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 application for the principle of residential development to erect up to 36 residential units of over 55 retirement housing with details of the access provided, on land South of Rhos Road, Penyffordd. All other matters are reserved for future consideration.

As the site is outside the settlement boundary of Penyffordd/Penymynydd, the application has been advertised as a departure from the development plan.

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

- 2.01 1. Planning Policy Wales (9th 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 proposal amounts to development which individually and cumulatively, in relation to existing undeveloped commitments in this settlement, would prejudice the LDP by predetermining decisions about the scale and location of development both within this settlement and elsewhere, that ought properly to be taken in the context of preparing the Deposit LDP. Accordingly the proposals are considered to be premature, contrary to paragraphs 2.14, 2.14.2 and 2.14.3 of Planning Policy Wales (9th edition – Nov 2016).

3.00 CONSULTATIONS

3.01 Local Member – Councillor D Williams

The idea of such a development in my opinion is an honourable one that can benefit the village and community as a whole. However, given its prematurity with the LDP not yet in place, plus the three other applications for developments that have been approved on appeal, I believe the community needs time for new residents to settle before any further housing is permitted.

I accept that the other appeals may have set a precedence, but I would hope and expect an understanding that any future appeals would recognise the harm that such a degree and speed of growth will have on this community.

I would therefore appreciate a deferment in determining this application until the conclusion of the TAN 1 consultation is released. A change of Tan 1 could be the deciding factor on the decision of this application, and given the excessive amount of developments we have had to accept on appeal for outside the settlement boundary, I think we need and deserve some respite from further developments.

Current grounds for refusal include.

- On current policy, the application for this development does not comply with current policy as the land is outside the settlement boundary.
- Increase of dangers through increased volume of traffic. Approval will significantly impact on the volume of traffic using already congested roads in the village that will increase the issues regarding road safety in the proposed location and

village in general due to increased traffic.

- The proposed access is at an unsafe and inappropriate position and if the scheme is to be progressed, this needs reviewing with local representatives prior to any decision being made. A scheme that takes into account the approved development across the road is needed, together with a review of all issues along Corwen and Rhos road that have been ongoing since 2009 and not addressed. All relevant correspondence on this can be provide on request.
- If a school contribution is not required, a contribution to enhance recreation amenities for the elderly should be made. This contribution could be linked and in addition to the 106 agreement for POS where a specific allocation is ring fenced for provision of elderly. The elderly of the entire village needs to benefit, not just this individual development, and spending of any 106 contribution should be controlled by community representatives.

With regards to the actual application, if the recommendation is for approval, as well as the other things I am seeking as far as 106 agreements are concerned, I am requesting that a condition is attached that commits both developers to ensure that a road improvement scheme that provides optimum road safety is agreed and implemented prior to the commencement of any building.

The condition needs to be something on the lines of: If permission is granted, a full consultation on highway provision will be undertaken and a scheme agreed with the local authority and **local representatives**. Any agreed road improvement scheme will be **completed prior to the start** of any building and be a joint responsibility of both Rhos road North and Rhos road South developers.

I trust this information is helpful and all content reported to Committee who I request determine this application, and I also reserve the right to make additional comments prior to that meeting if the need arises. I also wish to make it known that I request to address committee.

Councillor C Hinds

Objects to the proposal upon the following grounds:

- Considers the proposals are premature and the site should be properly considered via the Local Development Plan process;
- Overdevelopment in the village;
- The site is outside the settlement boundary;
- Developers should be made to use allocated sites and brownfields sites first as a matter of priority;
- Considers local infrastructure is already stretched with insufficient capacity in local schools and healthcare centres;
- Reduction in public transport bus services along Rhos Road;
- considers the transport infrastructure is inadequate and poses

- a risk to the highway safety for road users and pedestrians;
and
- The settlement is not a sustainable community, there is no social cohesion.

Penyfford Community Council

The Council strongly objects to this planning application on the grounds of it being outside the settlement boundary. The Council wish for this development to be heard at Planning Committee where a full and detailed response will be provided.

Head of Assets and Transportation

The application is for a private estate with direct access onto Rhos Road with all matters reserved except for access. The layout of the proposed access, visibility splays and fronting footway appear appropriate.

An indicative layout plan has been submitted with the application indicating the provision of 36 no. parking spaces and a further 8 no. garage spaces. This level of parking is considered appropriate considering the nature of the development.

Any permission shall include the following conditions:

- Siting, layout and design of the access
- The forming and construction of the means of access shall not commence unless and until the detailed design thereof has been submitted and approved
- The works associated with forming the means of site access shall be kerbed and completed to carriageway base course layer up to the internal tangent point of the entrance radii prior to the commencement of any other site operations
- The proposed access shall have a visibility splay of 2.4m x 43m in both directions measured along the nearside edge of the adjoining carriageway over land within the control of the Applicant and/or Highway Authority and within which there shall be no significant obstruction to visibility
- The stated visibility splays and the proposed point of access shall be made available and kept free from obstruction for the duration of the site construction works
- Facilities shall be provided and retained within the site for the parking and turning of vehicles. Such facilities shall be completed prior to the proposed development being brought into use
- A 2.0m wide footway shall be provided along the site frontage constructed to adoption standards
- Positive means to prevent surface water run-off on to the highway
- Construction Management Plan
- Full Travel Plan and Transport Implementation Strategy (TIS)

A Section 106 agreement providing funding for improvement to the proposed Active Travel facility and/or improvement to bus stop facility in proximity of the development site will also be required.

Head of Public Protection

No objection in principle to the application provided a condition is imposed to require a noise survey and require any relevant mitigation.

Ecology

A tree/root protection condition required.

There is no suitable terrestrial habitat for Great Crested Newts on this site but as there is some evidence to the North of the site, I would suggest the following note to applicant with regards to protected species:

1. All great crested newts and their resting places are protected under the Conservation of Habitats and Species Regulations 2017, and the Wildlife and Countryside Act 1981 as amended. Please be advised that if great crested newts are discovered all works should stop immediately and the Natural Resources Wales or the Flintshire Ecologist should be contacted for advice on any special precautions before continuing.
2. All British birds, their nests and eggs (with certain limited exceptions) are protected by law under Section 1 of the Wildlife and Countryside Act 1981 (as amended) and the Countryside and Rights of Way Act 2000. Please be advised that no tree or shrub removal should be undertaken while nesting birds are present

Public Rights of Way (PROW)

Public Footpath No.10 abuts the site but does not appear to be affected by the proposed development.

The path must be protected and free from interference from the construction.

Welsh Water/Dwr Cymru

We would request that if you are minded to approve planning permission for the proposed development, the following condition and advisory notes are included within the consent to ensure no detriment to existing residents or the environment and to Dwr Cymru Welsh Water's assets.

Sewerage

The Proposed Drainage Strategy dated May 2017 that was submitted in support of the application is acceptable and its implementation should be secured by planning condition so as to ensure that the

development is carried out in accordance with the content of this strategy.

Sewage Treatment

No problems are envisaged with the Waste Water Treatment works for the treatment of domestic discharges from the site.

Head of Lifelong Learning

The planning application falls with the "Exceptions" area of the SPG23 note 5.1 which states that "housing specifically designed for occupation by elderly persons (ie restricted by planning condition agreement to occupation by those over aged 55 years or more". On that basis I am unable to seek education contributions.

Play Unit

In accordance with Planning Guidance Note no.13 POS Provision, the Council should be seeking payment of £1,100 per dwelling in lieu of on-site provision (£733.00 for any affordable housing). It is intended the contribution will be allocated to provide improved teenage provision at Millstone Playarea, Penyffordd

Housing Strategy Manager

Planning Policy Wales (July 2014) states that 'A community's need for affordable housing is a material planning consideration which must be taken into account'. It is considered desirable that new housing development incorporates a reasonable mix of house types and sizes, including affordable housing (i.e. intermediate and social rented).

As set out in Policy HSG10 of the Flintshire UDP 'Where there is demonstrable need for affordable housing to meet local needs, the Council take account of this as a material consideration when assessing the housing proposals.'

The application is to develop 36no retirement dwellings in Penyffordd (Chester) which is a semi-urban settlement and the policy requires a 30% provision of affordable housing on site for development of over 1.0ha or 25 dwellings. The applicant is proposing 36 retirement dwellings for over 55's, and no proposed affordable housing provision.

Evidence of need

In terms of evidence of need:

The Local Housing Market Assessment (LHMA) for Flintshire identifies the 'proportional growth in households aged 65 years and over is significantly higher at 42.7%' compared with the overall growth in population in Flintshire. In addition the LHMA identifies that around 14% of all households in need are older people aged over 65 years.

In terms of need for social rented properties, almost a quarter of the people on the social housing register are aged over 55 years (23%), of which 256 require one bed properties and 134 2bed properties. In relation to Penyffordd (Chester) there are 23 people registered for 1 and 2 bedroom sheltered accommodation, age ranging from 59 – 84 years.

Furthermore, there is a demand in the local area for both affordable rent and shared equity:

- 10 applicants currently registered for a shared equity property looking for 2 bed properties; and
- A further 3 applicants registered for affordable rent all requiring 2 bedrooms.

As stated in the LHMA, in terms of the wider housing market, there is a need for such retirement accommodation to allow people to downsize and release family housing, however this is not only a need within the market housing sector but also within the affordable housing sector. With an increase in the older population and the health needs of older people becoming more complex, the delivery of such accommodation is welcomed where it contributes towards a mixed sustainable community and the development reflects the local housing needs.

The applicant has not provided any evidence of viability or other matters to justify a reduction of on-site provision.

Therefore, a S106 or condition should be imposed for a satisfactory scheme of affordable housing to be delivered.

4.00 PUBLICITY

4.01 Press Notice, Site, Notice, Neighbour Notification

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

4no. letters of objection upon the following grounds;

- The recent development in the village allocated within the UDP have highlighted the lack of infrastructure to support any additional development with the consequent impacts this will have upon community cohesion;
- Surface water problems;
- Lack of school places;
- 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;

- Overdevelopment of the village to the detriment of its character;
- There has been sufficient recent developments in the village, 35% growth;
- The proposed development contradicts the 2000-2015 UDP (Chapter 11 – Housing 11.7);
- Landscape and visual impact of developing the open countryside;
- The site is a greenfield site outside the settlement boundary;
- Wrong location for this type of housing;
- Would lead to additional traffic and Congestion on Rhos Road;
- Impact on the sewage system, water supply and other services;
- Public Transport links are not good from Rhos Road;
- No disabled access to the Penyffordd Station;
- The proposed development is not on a bus route, nearest bus stop reached by foot with a long walk and not a frequent service;
- Dependency on private car as a means of transport;
- Impact on dentists and doctors, current services full to capacity;
- Insufficient parking provision;
- No affordable housing provision proposed;
- There is a need for bungalows and affordable properties, not more unaffordable luxury houses or apartments;
- Noise impacts from the development and to the development from the bypass;
- Potential drainage impacts form surface water on nearby properties;
- Pedestrian safety is poor;
- This site is a green buffer entrance to the village and separates the built area from the bypass;
- The proposed development would be dominant and result in direct overlooking, a loss of privacy and a loss of natural light to adjacent properties.

Penyffordd Community Group

It is accepted that Penyffordd needs more housing provision for elderly residents and this application purports to address that need.

However, the application site is outside the UDP settlement boundary and in Flintshire's Settlement with the highest percentage growth, whose residents have experienced harm caused through recent rapid overdevelopment. Irrespective of the quality or perceived value of an individual development proposal, when considered within the wider context, it is not sustainable.

- Rapid overdevelopment has caused damage to social cohesion;

- Infrastructure has not had time to keep up with recent development; and
- This is one of 4 active large applications in the planning system, totalling nearly 300 more dwellings.

This village needs the LDP process to be completed and the land and proposals for growth to be considered and consulted properly. The time waiting for the LDP to be adopted will benefit the community in allowing it to 'catch-up' from the 35% growth in the last 5 years.

The most recent cases, where TAN1 has been used as a means for developers to speculate outside of the development plan have been refused where there is another good reason for refusal.

We believe that you have that in Penyffordd and that our boundary should be protected ahead of the LDP.

If this development is to be part of the future of our community, the decision needs to be taken properly in the LDP context in order to ensure the right balance of need, scale, affordability and housing mix. It is therefore premature.

In wishing to make no contribution to affordable housing, including the management fees, this development is seeking to create a retirement community exclusively for affluent people. The implication is that those less well-off will have to look elsewhere, outside the village.

These are big issues and we believe that at this time the committee should move for refusal.

In addition, there is detail of the application and we hope that the case officer will assess these details objectively, of particular concern are:

- Surface water and waste solution, and the access road particularly in light of the Rhos Road (North) application;
- Car parking;
- Density of the development;
- Large distance from the village facilities;
- Difficulty getting to medical facilities via public transport;
- Capacity of GP services; and
- Loss of trees.

5.00 SITE HISTORY

5.01 No previous site history.

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

Local/Supplementary Planning Guidance Notes

- LPGN 2 - Space around dwellings
LPGN 4 - Trees and Development
LPGN 9 - Affordable Housing
LPGN 11 - Parking Standards
LPGN 13 - Open Space Requirements

Planning Policy Wales Edition 9 November 2016
Technical Advice Note 1 : Joint Housing Availability Studies
Technical Advice Note 11: Noise
Technical Advice Note 12 : Design
Technical Advice Note 18 : Transport

7.00 PLANNING APPRAISAL

7.01 Introduction

This is an outline planning application for up to 36 residential units with details of the access provided, on land south of Rhos Road, Penyffordd. It should be noted that the application relates to the specific provision of an over 55's housing proposal. All other matters are reserved for future consideration.

Site Description

7.02 The application site extends to 1 hectare and is located on the edge of the village of Penyffordd. To the west of the site lies the A550 with links to the A55, separated by a parcel of undeveloped land and the un-adopted road, Rhos Avenue. To the east and south is the existing residential development in Penyffordd on Westfield Drive and the existing dwellings situated along Rhos Avenue. The site is bound by an established hedgerow to the north and western boundaries, while the southern and south eastern boundaries have an existing mature hawthorn hedge reinforced with additional tree planting.

To the north of the site it is bounded by Rhos Road, beyond which lies land which benefits from planning permission for residential development.

It is proposed that the site would be accessed via a new central access off Rhos Road. This will involve the removal of a hedgerow to achieve the required visibility splays. A 2.0m footway will be provided along the frontage of the site to Rhos Road with crossing points at either end.

7.03 The Principle of Development

The site lies outside but immediately adjacent to the settlement boundary of Penyffordd in the adopted UDP. In terms of adopted UDP policies, 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.

Given that the proposal is for up to 36 units and does not fall within the scope of the above policy framework, the proposal is contrary to these policies in the adopted UDP and is a departure from the development plan, and has therefore been advertised as such.

The applicant seeks to justify the proposal on the basis of a lack of a 5 year housing land supply, the fact that the UDP is out of date and that the proposal represents sustainable development.

7.04 The Main Issues

The main issues for consideration in relation to this application are:

- The current planning policy context and the weight to give this;
- The principle of development having particular regard to Prematurity;
- The merits of the application in relation to over 55s development and housing land supply;

- The sustainability of the proposal.

The Current Planning Context

7.05 In a national policy context, Planning Policy Wales (PPW) Edition 9 November 2016 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.”

At paragraph 4.2.4 PPW also 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. Where;

- *There is no adopted development plan; or*
- *The relevant development plan policies are considered outdated or superseded; or*
- *Where there are no relevant policies*

There is a presumption in favour of proposal in accordance with the key principles and key policy objectives of sustainable development in the planning system. In doing so, proposals should seek to balance and integrate these objectives to maximise sustainable development outcomes.”

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.”*

Whilst this provides broad guidance and context for considering the sustainability of this speculative proposal, and noting also that development has already been permitted on appeal on a similar sized site to the north of Rhos Road (40 dwellings on land north of Rhos Road (APP/A6835/A/16/3149082), significant changes have taken place to the planning context that require the LPA to go beyond simply considering the sustainability of this application in its own right.

Whilst at the time of the submission of this application national planning guidance via Technical Advice Note 1 (TAN1) required “considerable weight” to be given to a lack of housing land supply (the basis for the submission of this application), as long as a proposal

was otherwise policy compliant and sustainable, this context has recently changed significantly.

This change has resulted from the decision taken by the Cabinet Secretary for Energy, Planning and Rural Affairs to disapply paragraph 6.2 of TAN1 with effect from the 18th July 2018. Whilst this does not mean that a lack of land supply is no longer a material planning consideration to be weighed in the planning balance, it does redress the previous bias emphasised by the use of the term “considerable weight”, and also leaves the weight to be applied to this issue, for the Local Planning Authority (LPA) to determine.

It is also a matter of fact that during the time the application has been under consideration, decisions have been taken relating to applications and appeals for residential development elsewhere in this settlement. Two significant appeal decisions (the largest of which was ultimately made by the Cabinet Secretary) have, along with existing commitments, imposed a very significant amount of as yet undeveloped growth on this settlement amounting to a total of 261 units. Whilst each appeal case has been dealt with separately and on their individual merits, there has been a failure to note the cumulative effect of the amount of growth each decision has imposed on the settlement of Penyffordd/Penymynydd. It is the view of the LPA that the level of cumulative growth imposed on this settlement is a material factor, both in terms of the questionable sustainability of adding to it, the wider implications for the distribution of growth around the County via the emerging LDP.

Finally, the LDP is at the Deposit stage defined by LDP Regulations 17-19, and approaching the point defined in the Delivery Agreement for publication of the Deposit LDP for consultation (November 2018). The position reached with the LDP is therefore also material to the consideration of this application and in relation to the above context.

Prematurity

7.06 There are a number of related factors to consider in relation to the prematurity of this application:

- The position reached with the LDP;
- Penyffordd’s position/role within the LDP Preferred Strategy settlement hierarchy;
- The amount of housing growth already committed to this settlement.

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 the plan. Where this cannot be demonstrated, applications should continue to be considered in light of policies within the UDP, and in accordance with national policy and guidance. In order to determine whether prematurity is an issue, PPW advises that

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 either in isolation **or cumulatively with other development proposals**, that it would go to the heart of the emerging plan. That is, the proposal itself and in addition to other proposals, would together prejudice the LDP by predetermining decisions about the scale, location or phasing of new development which ought properly to be taken as part of developing the LDP.

Whilst on its own this application at 36 units would not meet this requirement, it is the view of the LPA that given the amount of growth recently imposed on this settlement by appeal decisions, the cumulative impact of adding to that with this application would be significant. This is quantified further later in this report.

Whilst account can be taken of policies in emerging LDPs, the weight to attach to such policies depends upon the stage of preparation or review. The Flintshire LDP is at the Deposit Consultation Stage defined by LDP Regulations 17-19. The LDP is scheduled to reach Deposit in November 2018. Whilst limited weight can be attributed to the LDP at this stage, a proposal which contributes to the predetermination of the scale, location and distribution of development across the County at this crucial time in developing the Deposit LDP, has the potential to conflict with the plan making process and the implementation of the approved Spatial Strategy of the LDP. This must particularly be the case where recent appeal decisions have cumulatively already affected the LPA's ability to not only determine the level of growth appropriate for the settlement, but elsewhere in the County via the LDP preparation process. Accordingly, the refusal of this application in the above context on the grounds of prematurity can be justified.

Penyffordd and Penymynydd together are defined as a tier 3 settlement in the approved LDP Preferred Strategy sustainable settlement hierarchy. It is therefore considered to be a sustainable settlement capable of accommodating a reasonable level of growth. It is one of 22 settlements defined in tier 3 of the hierarchy.

Whilst the LDP deliberately does not set settlement specific growth bands or targets, the Preferred Strategy does set out a broad apportionment of growth by settlement tier, as follows:

Tier 1	40-45%
Tier 2	35-40%
Tier 3	15-20%
Tier 4	1-2%
Tier 5	0-1%

Whilst there is no absolute requirement for each settlement in each tier to accommodate some growth, the premise behind the LDP Strategy is that the most sustainable sites will be allocated in line with the sustainable settlement hierarchy. What also has to be factored in is that the need to identify new sites in the LDP (the residual requirement) will be net of housing already completed in the plan period, sites already with permission (commitments), and allowances for small site and windfall site development. The main effect of this is that the LDP has a significant range of site and settlement options from which to select and allocate the most sustainable.

To illustrate the contribution expected from tier 3 settlements overall towards meeting the LDP housing requirement, given the LDP housing requirement is 6,950 (7,645 with 10% flexibility) and the residual requirement is 1,452, at the upper percentage contribution from tier 3 settlements (20%), the expected contribution would be 1,390 (1,529) and 291 units respectively.

In this context, the level of undeveloped housing commitments imposed by appeal on Penyffordd/Penymynydd is significant comprising 261 units from appeals at Rhos Road (north) 40, Hawarden Road (35), and Chester Road (186).

In opposing each of these appeals, the community has consistently raised concerns about the impact that the proposed development would have on the ability of the community and settlement to successfully integrate such growth, without negatively impacting on the cohesion of the existing community. The community has also consistently felt that consideration of growth for the settlement should happen via the LDP process. These concerns are reiterated in the comments section of this report.

Each of the above appeal decisions has been made incrementally and without regard to the cumulative effects of granting one appeal after another. Given where this leaves this settlement, consideration needs to be given as to how the growth of this settlement should be considered holistically, and against the approved Strategy of the LDP and emerging Deposit Plan. Otherwise, it simply cannot be a sustainable proposition to continue to incrementally consider speculative applications in this settlement, submitted on the basis of a lack of housing land supply and previous appeal 'successes', in compliance with the requirements of TAN1 (notwithstanding disapplication of para 6.2).

Equally, the knock on effects and negative impacts of continuing to commit growth in just one LDP tier 3 settlement on the ability of the LPA to implement the agreed LDP Strategy, is potentially also very significant.

To illustrate just how much growth has been committed to

Penyffordd/Penymynydd by recent appeal decisions, when the total growth committed (261) is related to the expected contribution to overall growth from tier 3 settlements set out above, the growth committed in this settlement represents 17-18% of the contribution from all tier 3 settlements to the overall LDP growth, and 90% of the expected contribution of all tier 3 settlements to the residual growth. There are a number of clear implications from this:

- The commitments already imposed on Penyffordd/Penymynydd are significant and potentially already in conflict with the LDP Spatial Strategy;
- Penyffordd/Penymynydd already provides almost one fifth of the overall tier 3 contribution to the LDP housing requirement, without considering further proposals;
- Penyffordd/Penymynydd already provides 90% of the overall tier 3 contribution to the LDP residual housing requirement, without considering further proposals;
- The decisions taken incrementally in relation to appeals for Penyffordd/Penymynydd have cumulatively impacted on the Council's agreed Preferred Strategy and its ability to translate this into the Deposit Plan.

As a consequence, any further incremental grant of planning permission in this settlement will not only impact on the settlement directly and cumulatively, but elsewhere in the County in terms of the Council's ability to implement its LDP Preferred Strategy.

Further incremental decisions about growth in Penyffordd/Penymynydd would therefore individually and in combination with existing undeveloped commitments, be so significant as to predetermine decisions about the scale, location, distribution and phasing of housing growth which ought properly to be taken in an LDP context.

From this, the grant of any further permissions would be premature in advance of considering and finalising what growth to be allocated, whether in this settlement or elsewhere in Flintshire, in the Deposit LDP.

- 7.07 The merits of the application and housing land supply
The application is put forward in outline only and on the basis of a lack of housing land supply. The site is also a candidate site as part of the LDP and is therefore currently under consideration by the LPA, relative to the merits of many other sites and in relation to the approved Preferred Strategy of the emerging Plan. A key component of the Preferred Strategy is the sustainable settlement hierarchy and the approach being taken to the sustainable distribution of growth amongst the settlement hierarchy.

The applicant also proposes that the development will specifically

meet the housing needs of over 55s, although no further detail is provided about what this means in reality, or evidence of the local or wider need for such a private development or its deliverability, other than a general statement of 'compliance' with the LPA's Developer Advice Note. Whilst the comments of the Housing Strategy Manager indicate an emerging need for such accommodation generally, the applicant's "confidence" that market demand exists, coupled with the lack of an identified developer for such a specialist scheme, cast some doubt on the weight that should be given to the specific nature of the proposal.

When submitted, TAN1 directed LPAs to give speculative applications like this "considerable weight" when there was a lack of housing land supply. However, as clarified earlier this position is now different. Following the Cabinet Secretary's disapplication of paragraph 6.2 this direction no longer applies, and it is a matter for the LPA to determine the weight to be attributed to the need to increase housing land supply where an LPA has a shortfall in its housing land. Disapplication took effect from the 18th July 2018 and effects all future applications and those made but not determined at that date, which includes this application.

Even if this outline proposal for over 55s accommodation could be supported by evidence of need by the applicant, this is still essentially a speculative outline application for residential development as an exception to existing development plan policy, put forward on the basis of a lack of housing land supply. Given the compelling arguments made above relating to prematurity, it is the view of the LPA that there is no over-riding case to consider making a further exception to policy to allow further speculative housing development in this settlement, at this time.

This also includes the consideration of the weight to attach to the inability of the Local Planning Authority to be able to demonstrate a 5 year land supply, which remains despite the disapplication of para. 6.2 of TAN1. Whilst some weight must always attach in such circumstances until the LDP is adopted and/or the Council is able to demonstrate a 5 year land supply, the need to increase supply is not sufficiently material to outweigh the concern that the LPA has not only for the cumulative level of undeveloped growth already imposed on this settlement by appeal decisions, but on the related effect this concentration of growth has had on the LPA's ability to implement its approved LDP strategy and translate it into a Deposit Plan. Any decision about if, how much, and where any further growth is committed to this settlement, or elsewhere, must be taken as part of the LDP process, and not by simply continuing to incrementally consider speculative applications such as this.

The sustainability of the proposal

Notwithstanding the fundamental conclusions reached above, it is not

7.08 necessarily the case that this site is not in a potentially sustainable location, or that the site's development would not be a sustainable proposition. Central to such a consideration is the degree to which the proposal would satisfy the key planning requirements which are for completeness, considered briefly below, as well as their ability to comply or be acceptable:

Highways access, safety and traffic generation	A new access is proposed off Rhos Road which can be designed to meet relevant standards. The Highway Authority do not object subject to conditions and provisions for Active Travel improvements.
Landscape & Visual Impact	The submitted LVIA concludes the impact of the development are low and the development will easily assimilate into the urban context, partly given the site's location between the existing settlement and the A550. It therefore represents infill development.
Drainage Issues	There are no objections from DCWW regarding surface water and foul disposal subject to conditions.
Affordable Housing	Whilst not originally proposed, the applicant agrees to the imposition of a condition requiring 30% of the development to be offered.
Open Space	Following consultation with leisure services, given the proposal is for over 55s it is proposed that a commuted sum is secured to improve existing facilities.
Education	Given the proposal is for over 55s this falls within the 'exceptions' element of the SPG and the development is exempt from education contributions.
Other Matters	Objections have been raised based on the type and mix of housing, factor of prioritising and the impact on privacy, light and living conditions of existing residents. As this is an outline application matters of such detail would be assessed at the reserved matters stage.

Clearly this is to some extent an academic exercise given the very strong conclusions regarding prematurity above. Equally though having assessed the application on its merits and weighed those issues in the planning balance, it is the LPA's view that this is a potentially sustainable location for development. However, the main issue relates to the timing of such development given commitments imposed on this settlement, prematurity and the proper mechanism

to use to determine further growth, namely the LDP.

CIL Compliance

- 7.09 Members will be aware that where it is recommended that planning permission be granted, I would set out the consideration of this issue in relation to the CIL Regulations and its impact upon any suggested S.106 Agreement. However, in view of the recommendation that permission be refused, I have in this case refrained from so doing at this stage.

Other Matters

- 7.10 Third party objections have raised a number of matters such as lack of public transport access links and disabled access to Penyffordd railway station. These matters were most recently examined by the Inspector in the Chester Road Public Inquiry and the Inspector concluded that there was no evidence that Penyffordd could not be considered as a sustainable location in relation to public transport and access to Penyffordd station. It is therefore considered that very little weight can be attached to these matters in the overall planning balance. Further objections have been received relating to lack of health infrastructure, excessive noise and issues relating to privacy, loss of light and overlooking. No evidence has been submitted to substantiate the claims regarding noise and lack of health infrastructure and therefore very little weight can be attached to these matters in the overall planning balance. Furthermore as the application is in outline form only matters relating to living conditions cannot yet be considered. These matters would be explored in a future reserved matters application if this application were to be approved.

8.00 CONCLUSION

A central premise of the Planning Acts is that the basis for making decisions on planning applications should be in accordance with the development plan unless other material considerations dictate otherwise. It is also clearly recognised that in considering applications, each case must be considered on its merits. Whilst both of these principles have been appropriately considered in assessing this application, including the sustainability of the proposal and the weight to apply to a lack of housing land supply, it has also been important to consider the stage reached with the LDP as part of the planning balance, given the significant undeveloped housing commitments imposed on this settlement and the impact of this not only for the settlement, but also for the LPAs ability to implement the approved LDP Preferred Strategy and develop the deposit LDP.

Whilst it is not disputed that considered on its own the scale and location of this proposal in relation to the existing settlement is potentially sustainable, particularly given how a similar scale of development was approved at appeal to the north of Rhos Road opposite this site, in the current planning context this is not sufficient

to justify approval of the application.

This is because the current context has changed significantly since the submission of this application and during its consideration. These changes are significant and relate to the large amount of commitments imposed on this settlement by appeal decisions, the disapplication of paragraph 6.2 of TAN1, and the position reached with the LDP.

In relation to the commitments imposed on the settlement by recent appeal decisions, these amount to 261 as yet undeveloped housing units. This is a large scale of growth for an LDP tier 3 settlement which represents 90% of the expected contribution of all tier 3 settlements to the LDP residual housing requirements for new sites. This is already disproportionate and results from incremental appeal decisions taken with no regard for cumulative impacts on this settlement or the knock-on effects for the implementation of the LDP spatial strategy.

This is a key point and a failing of the way in which appeals have been dealt with incrementally in this settlement. These decisions have failed to recognise the point at which it becomes potentially unsustainable to keep on incrementally permitted growth in a balanced sense, or the effects on the wider plan making process.

Given the above, it cannot be a sustainable proposition to keep on approving incremental speculative applications, such as this proposal, without regard to the cumulative effect on this settlement, and wider strategic impact on the emerging LDP. This wider consideration cannot be made on the basis of determining an individual application, and notwithstanding the apparent potential sustainability of this proposal in its own right, this is outweighed by the need to properly consider the growth of this settlement and elsewhere in Flintshire, holistically, via the LDP process.

To determine the proposal now is therefore not a sustainable proposition. As such this guides the LPA in determining the weight to attach to a lack of housing land supply, following disapplication of para. 6.2. Given the LPA is currently not required to apply "considerable weight" to this factor, a minimum requirement of the proposal to give weight to a lack of supply, must be that the proposed is sustainable at this time. From the above the LPA has demonstrated that this is not the case and as such the lack of a housing land supply is not sufficient to outweigh the harm that further incremental speculative growth would cause both to this settlement, and to the wider emerging LDP.

Given the above summary of the main issues and having carefully assessed those in the planning balance, it would be premature to approve this application in advance of the LDP process, as to do so

would individually and in combination with existing commitments, be so significant as to predetermine decisions about the scale, location or phasing of new development which ought to be properly taken in an LDP context. I therefore recommend accordingly.

8.01 Other Considerations

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

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

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

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

LIST OF BACKGROUND DOCUMENTS

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

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