

FLINTSHIRE COUNTY COUNCIL

REPORT TO: **PLANNING COMMITTEE**

DATE: **WEDNESDAY 26TH OCTOBER 2022**

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

SUBJECT: **062820 - FULL APPLICATION - ERECTION OF 130NO DWELLINGS COMPRISING BUNGALOWS, HOUSES AND TWO STOREY APARTMENTS WITH OWN ACCESS, NEW ACCESS ROAD, ASSOCIATED EXTERNAL WORKS AND LANDSCAPING AT LAND ADJACENT TO 1 LIVERPOOL ROAD, EWLOE**

APPLICATION NUMBER: **062820**

APPLICANT: **LANE END DEVELOPMENTS CONSTRUCTION LTD**

SITE: **LAND ADJACENT TO 1 LIVERPOOL ROAD, EWLOE**

APPLICATION VALID DATE: **13TH APRIL 2021**

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

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

REASON FOR COMMITTEE: **SIZE OF DEVELOPMENT**

SITE VISIT: **YES**

1.00 SUMMARY

- 1.01 This is a full application for the erection of 130 no dwellings comprising bungalows, houses and two storey apartments with own access, new access road, associated external works and landscaping at land adjacent to 1 Liverpool Road, Ewloe

Please note that the Welsh Government as highway authority for the A494 trunk road directs that planning permission is not granted at this time as insufficient information has been submitted with regards to matters raised by through the consultation process. As such should Members be mindful to grant

planning permission then this issue must be satisfactorily addressed before any such permission can be issued.

2.00 RECOMMENDATION: TO REFUSE PLANNING PERMISSION FOR THE FOLLOWING REASONS

2.01

1. The proposal would result in an inappropriate form of development in the open countryside which does not relate well to the existing pattern of development in the area and would result in an uncharacteristic form of development which does not integrate well with the existing built form and vernacular. The applicant is seeking to justify development in an inappropriate location by proposing 100% affordable housing, but this does not make an inappropriate location acceptable. It is considered that the proposal represents an illogical and inappropriate extension to the settlement which would be contrary to Policies STR1, STR7, GEN1, GEN3 and HSG4 of the Flintshire Unitary Development Plan.
2. In the opinion of the Local Planning Authority the proposal represents a significant and unjustified loss of best and most versatile agricultural land contrary to policies GEN1 and RE1 of the Flintshire Unitary Development Plan.
3. In the opinion of the Local Planning Authority the proposal, given the density proposed as well as shortfall in amenity space provision represents overdevelopment of the site and results in a development which fails to reflect the characteristics of the locality and the principles of positive place making contained in Section 2 of Planning Policy Wales (PPW) Edition 11 and contrary to policies GEN1, D1 and HSG8 of the Flintshire Unitary Development Plan.
4. The development proposal is located within easements for Utilities assets and as a result would unacceptably impact upon existing drainage infrastructure. As such the development is contrary to GEN1 and EWP16 of the Flintshire Unitary Development Plan.
5. In the opinion of the Local Planning Authority insufficient information has been provided with regard to detailed drainage proposals for the infiltration basin to demonstrate it does not have the potential to affect the A494 Trunk Road. As such the proposal is contrary to policy GEN1 of the Flintshire Unitary Development Plan.

3.00 CONSULTATIONS

3.01 Local Member(s) Councillor G Brockley Councillor H Brown:

Request a site visit and to refer to planning committee. This site is not within local plan. There is a likelihood of great crested newts on site, there has been no full ecological survey undertaken, the settlement of Ewloe has

already maxed for growth and is 20% above, Acoustic work was undertaken during lockdown so will not give a true reflection.

There would be a detrimental impact on the public footpath on site, there is no capacity at any local high schools and very limited at junior schools. There is no housing need to meet the 130 proposed dwellings

Hawarden Community Council: No response received

Community and Business Protection: No response received

Housing:

Identified Housing Need:

The demand for affordable housing in Flintshire is demonstrated by the Local Housing Market Assessment and Flintshire Council’s housing waiting lists.

Local Housing Market Assessment (LHMA) Update 2018 (Final report (addendum) Feb 2020)

The LHMA for Flintshire identifies an annual shortfall of 238 affordable units.

The assessment recommends a need for the following property types:

- 1/2 bedroom (45.6%)
- 3 bedroom (28.3%)
- 4+ bedroom (12%)
- Older persons stock (14.1%)

And this should be split between the following tenures:

- Social rented (30%),
- Intermediate rent (30%)
- Affordable ownership (40%)

General Needs Housing – Ewloe (SARTH 1/6/21)

Social Rent

1 & 2 bed bungalows	1 bed flat	2 bed flat	2 bed house	3 bed house	4 bed house
1 bed- 24 2 bed- 20	224	59	126	35	27

Specialist Housing – Ewloe (Specialist Housing Register 4/5/21)

Social Rent

1 bed bungalow	2 bed bungalow	3 bed bungalow	4 bed bungalow
2	2	5	1

Affordable Housing Register – Tai Teg:

Affordable Rent

Ewloe area

Tai Teg (Demand by Area- Rental)

1 & 2 bed bungalow	1 bed flat	2 bed flat	2 bed house	3 bed house	4+ bed house
Nil	Nil	4	10	13	2

Low Cost

Home

Ownership

Ewloe area

Tai Teg (Demand by Area- Rental)

1 & 2 bed bungalow	1 bed flat	2 bed flat	2 bed house	3 bed house	4+ bed house
Nil	1	Nil	8	12	Nil

*Information as at 10/6/21 Tai Teg waiting list

Housing Strategy Comments:

This planning application is for 130 dwellings and being progressed by Lane End and being proposed as a solely affordable housing development. It is noted the proposed development may not be considered as suitable in planning policy terms. The site is adjacent to the settlement, greenfield and historically agricultural in nature and a development of this size would have a significant impact on the local area.

Highways Development Control: There is no highway objection to this proposed development however the submitted details fail to adequately address inadequacies in the pedestrian and cycle linkages between the site and local community facilities. In addition, the location of the site entrance is likely to compromise use of the existing bus stop; relocation and provision of improved bus stop infra-structure is required. The further consideration and provision of sustainable travel infra-structure should be covered by a condition imposed as part of any planning consent.

Pedestrian/cycle access from the site to Old Aston Hill, Church Lane or onto the facilities adjacent to the A494 have been discussed however there could be some difficulties with delivery. Church Lane carries public footpath

Hawarden 25 but no other higher access rights and gradients from the northern end of the site toward the A494 appear excessive.

Subject to the provision of Active Travel connections, the layout of roads and parking facilities within the development site appear appropriate.

Highways (RoW): Public Footpath No. 25 crosses the site. The applicant must contact the Rights of Way Section before proceeding with any works. The legally defined public right of way must be marked out in strict accordance with the definitive map and with the prior approval of the surveying authority before design implementation. The surface of the rights of way must not be disturbed without lawful permission and development over the line of the public right of way must not commence until any necessary diversion or extinguishment has been lawfully authorized under the appropriate legislation

Natural Resources Wales: We have significant concerns with the proposed development as submitted. We recommend you should only grant planning permission if you attach the suggested conditions to the permission relating to protected species, biosecurity and land contamination and if you include the following documents within the condition identifying approved plans and documents on the decision notice. Otherwise, we would object to this planning application.

Dwr Cymru/Welsh Water: At present we are unable to support the application and therefore object until such time as the assets have been accurately located and the proposed site plan have been amended to reflect the assets crossing and required easements.

Welsh Government – Land Use Planning Unit: The Department considers that the potential loss of BMV agricultural land is significant and unjustified for the following reasons: -

The Department considers the proposed development to have significant agricultural implications (TAN6, Annex B5). It is not allocated for development under the UDP or the proposed LDP. The allocation, if granted, would raise significant questions regarding the soundness of the proposed Flintshire LDP in terms of BMV agricultural land national planning policy application (PPW 3.58 and 3.59). The recent progress of developing the proposed LDP identifies sufficient land to deliver the required growth. The proposed LDP has considered the losses of BMV agricultural land in allocations for the whole plan, over the plan period (*LDP Background Paper 9 Minimising the Loss of BMV Agricultural Land*). This site has not been considered for allocation and therefore has not been considered as part of that process. In recent years the Authority has permitted housing developments on lower grade land. A number of non-BMV sites have been put forward within the un-adopted LDP. Lower grade agricultural land is available and the planning statement conflicts with PPW.

The Applicant has not applied BMV agricultural land national planning policy (PPW 3.58 and 3.59) in justifying overriding need and application of the sequential test

Welsh Government- Trunk Roads Agency: The Welsh Government as highway authority for the A494 trunk road directs that planning permission is not granted at this time as the applicant has provided insufficient information to determine the application. The applicant must provide the following information to support this application or resubmit the application with the following details;

1) The applicant must provide detailed drainage proposals for the infiltration basin to demonstrate it does not have the potential to affect the A494 Trunk Road.

Clwyd Powys Archaeological Trust: Having consulted all available resources via the Clwyd-Powys Historic Environment Record, I can confirm there are no known archaeological sites within the development plot and no features recorded within the immediate surrounding area to trigger an archaeological interest. Historic mapping, LiDAR data or aerial photography are devoid of any significant features and the construction of the large reservoir and the A494 on the land immediately adjacent to the plot is likely to have already disturbed the ground to a certain extent here. We therefore have no objections to this proposal.

4.00 PUBLICITY

4.01 Press Notice, Site, Notice, Neighbour Notification

36 no. objections received which can be summarised as follows:

- Contrary to policy
- Insufficient local infrastructure
- Rural character of site
- Ecology
- Noise and Pollution from A494
- Local Flooding
- Lack of local transport
- Traffic impact on St David's roundabout
- Proximity to landfill site
- Loss of neighbouring amenity
- Unsustainable nature of development

5.00 SITE HISTORY

5.01 No relevant site history

6.00 PLANNING POLICIES

6.01 Flintshire Unitary Development Plan

GEN1- General Requirements for Development
GEN3- Development in the Open Countryside
AC13- Access and Traffic Impact
AC17- Safeguarded Routes
AC18- Parking Provision and New Development
RE1- Protection of Agricultural Land
SR5- Outdoor Play Space and New Residential Development
MIN8- Protection of Minerals Interests
HSG4- New Dwellings in the Open Countryside
HSG11- Affordable Housing in Rural Areas

Supplementary Guidance Notes

SPGN2- Space Around Dwellings
SPGN3- Landscaping
DPGN4- Trees and Development
SPGN8- Nature Conservation and Development
SPGN9- Affordable Housing
SPGN10- New Housing in the Open Countryside
SPGN11- Parking Standards
Draft SPGN13- Outdoor plan space and New Development
SPGN23- Development Contributions to Education

National Planning Policies:

- Planning Policy Wales – Edition 11 (Feb.2021)
- Future Wales: The National Plan 2040 (FWP 2040)

It is noted and acknowledged that the national planning framework as set out within Planning Policy Wales Edition 11 and Future Wales: The National Plan 2040 sets out the most up to date planning principles against which to consider development proposals. The Development Plan and associated supplementary planning guidance remain broadly consistent with these changes to legislation

7.00 PLANNING APPRAISAL

7.01 Site Description

The site is located outside of the settlement boundary for Ewloe, although it does not form part of the designated Green Barrier. The site is bounded on its southern side by the A494 trunk road, and on its northern boundary by the residential properties on Old Aston Hill/Liverpool Road. It is located

between the two elements of Ewloe settlement boundary bisected by the trunk road.

7.02 Proposed Development

This is a full application for the erection of 130 dwellings comprising bungalows, houses and two storey apartments with own access, new access road, associated external works and landscaping at land adjacent to Liverpool Road, Ewloe.

7.03 Main Issues

The main issues are considered to be the principle of development, the potential loss of agricultural land, the impact of the development upon the trunk road, and upon neighbouring amenity and the character of the area including placemaking.

7.04 Principle of Development

The site is outside a recognised settlement boundary, where the presumption is usually against such a form of development, in accordance with policy HSG4 of the Flintshire Unitary Development Plan. In this case, however, the proposal is for an 100% affordable scheme, and as such can be judged as an affordable housing exception scheme adjoining an existing settlement. As such the policy with the most relevance is HSG11.

7.05 This policy specifies that any such scheme will only be permitted where:

- a. *there is evidence of genuine local need for such provision;*
- b. *there are no suitable alternative sites or properties within settlement boundaries to meet the need;*
- c. *schemes abut settlement boundaries and form logical extensions to settlements, avoiding ribbon and fragmented development and incorporating suitable boundary treatment and landscaping measures;*
- d. *the scale, design, and layout of the proposed development are sympathetic and appropriate to the size and character of the settlement, and reflects the scale of need identified; and*
- e. *houses will remain affordable in perpetuity for those in need, managed by a housing association, the County Council, a bone fide trust or similar organisation.*

7.06 Planning Policy Wales 11 (PPW11) supports the principle of affordable housing exception sites to meet the needs of local people but it goes on to state that such sites must meet all the other criteria against which a housing development would be judged, including the national sustainable placemaking outcomes in section 2 of PPW11.

- 7.07 Returning to the development plan, the main consideration is whether the proposal accords with the requirements of the policy and in particular criteria b and d; that there are no suitable alternative sites or properties within settlement boundaries to meet the need, and that the scale, design and layout of the proposal is sympathetic and appropriate to the size and character of the settlement.
- 7.08 The site subject to this application was a candidate site EWL007 for the LDP. At the time it was considered that this proposal was not a viable or suitable prospect despite the fact that it wasn't in the Green Barrier, but white land outside settlement boundary. When the Local Planning Authority published the Deposit LDP the Council's response to the submission of this site as a candidate site was as follows:
- 7.09 *'Despite the urban context for the site, it has the character and appearance of a swathe of open countryside between existing ribbon development and the A494(T). There are concerns about accessing the whole of the site and uncertainty also exists in terms of the multiple ownerships of the site and possible implications for delivery. Welsh Government has now announced its intention with regards to a new link road to the A55, rather than improvements to the A494(T). Nevertheless, it is unclear whether land will still need to be safeguarded for any future road improvements. In this context it would be prudent to retain the site as a future option, rather than seeking small piecemeal developments'*.
- 7.10 During the consultation on the Plan representations were received whereby Lane End objected to the Plan and sought its allocation for housing. The Council's full response to this representation was as follows:

"Not accepted. The site may not be actively used at present but Welsh Government has provided information which identifies a predicted loss of 0.28ha of grade 2 and 5.85ha of grade 3A. In the absence of a site-specific survey to determine the actual quality of the agricultural and whether it represents BMV it is not considered appropriate to allocate the site.

It is acknowledged that the site lies adjacent to the A494(T) and has arms of built development to the north and west. However, the site has a sense of openness and has the appearance and character of open countryside. The site was promoted for development in the form of an omission site in the UDP and the Inspector commented 'Although the land is separated from open countryside it is open in character' and that 'The settlement boundary in this area reflects the existing built development and forms a strong and defensible boundary. The land is generally open in character and it is not necessary to include this area within the settlement boundary'.

CPAT has identified that the site overlies the line of the former Ewloe Railway and may require prior assessment.

The northern part of the site also lies within a 250m boundary of landfill sites at Sea View Farm.

The submission is lacking in terms of detail as to how various constraints including noise, air pollution, vehicular access, ecology and trees would impact on the suitability and capacity of the site for residential development. The submission also lacks an indicative or schematic layout to indicate the broad principle of how 140-180 units would be accommodated on the site.

The Council has accepted that Ewloe is a sustainable location for growth given the allocation of land between Holywell Rd and Green Lane. Nevertheless, the objection site is not considered to be necessary or appropriate to be allocated.

It is unclear why the objector is referencing the potential phasing of development on the site yet elsewhere is claiming the site could be fully built out in just 2 years.

The submission provides no detail as to the proposed access arrangements. The candidate site submission explains that access will be improved at Bali Hai and 1 Ferry Hill off Old Aston Hill at the western extreme of the site and at Holly House and Moorwood off Old Aston Hill at the north eastern edge of the site. The candidate site submission also refers to a new 'A' road alongside the A494(T) which is not considered to be feasible or acceptable.

Highways Development Management Officers consider that i) Church Lane is unsuitable to serve additional development and ii) there is limited opportunity for access onto Old Aston Hill and that will restrict the layout of junctions and ultimately the number of dwellings.

The proposed development appears to involve the acquisition and demolition of up to four existing dwellings as part of access arrangements which will surely have an impact on the viability and deliverability of the site.

7.11 The Council has allocated a site for housing at Ewloe which is considered to be a sound allocation. That allocation has a preferred developer on board, is viable and deliverable and sustainable and will deliver affordable housing. The LPA assessment of the candidate site identified a number of concerns and these will need to be considered as part of the assessment of this application. I note that Housing Strategy colleagues have provided details of need but a significant proportion of this need will be accounted for by the housing allocation in the Deposit Plan in Ewloe.

7.12 The application site is located to the south of Old Liverpool Road in Ewloe, in an area outside the settlement boundary and between existing residential development and the Trunk Road. The area around Old Liverpool Road is somewhat of an anomaly, being a historic development spur set apart from the rest of Ewloe by the intervening trunk road. The area of agricultural land subject to this application creates a buffer between the existing housing and the highway, and I do not consider this to be a logical rounding off of the settlement.

7.13 Due to the scale of the proposal, I do not consider that site falls within the scope of small-scale affordable housing exceptions schemes which is the main thrust of policy HSG11. In addition, given the scale of affordable provision already made in Ewloe and committed to in the LDP, I consider that the stance regarding the unacceptability of the development of this site is unchanged from that given in response to representations received during the LDP process.

7.14 Given that there is a suitable alternative site, in the form of the LDP allocated site, and that this scheme does not represent a logical rounding off of the settlement I do not consider that the proposal meets the requirements of policy HSG11 or represents positive place making. I do not consider that a valid case has been made to justify such a large exception scheme in the face of existing planned provision for affordable housing in this settlement. It is therefore inappropriate development contrary to the policies of the Flintshire Unitary Development Plan.

7.15 Loss of Agricultural Land

The Predictive Agricultural Land Classification (ALC) Map (2019), gives the site as Grade 2 and 3a. Under Planning Policy Wales (paragraph 3.58) this is defined as Best and Most Versatile (BMV) agricultural land.

7.16 The application has been supported by the submission of an ALC Survey Report (Ref: 1861/1 Land off Liverpool Road, Ewloe – 28th July 2021) which Welsh Government have confirmed can be accepted as an accurate reflection of the land quality on the site. This report confirms that the proposed application site, if approved, would **involve the loss of 5ha of Best and Most Versatile (BMV) agricultural land** (1.6ha ALC grade 2, 3.4ha subgrade 3a).

7.17 The Welsh Government Soil Policy and Agricultural Land Use Policy department have objected to the proposal and consider that the potential loss of BMV agricultural land is significant and unjustified for the following reasons: -

- The Department considers the proposed development to have significant agricultural implications (TAN6, Annex B5). It is not allocated for development under the UDP or the proposed LDP. The allocation, if granted, would raise significant questions regarding the soundness of the proposed Flintshire LDP in terms of BMV agricultural land national planning policy application (PPW 3.58 and 3.59).
- The recent progress of developing the proposed LDP identifies sufficient land to deliver the required growth.
- The proposed LDP has considered the losses of BMV agricultural land in allocations for the whole plan, over the plan period (*LDP Background Paper 9 – Minimising the Loss of BMV Agricultural*

Land). This site has not been considered for allocation and therefore has not been considered as part of that process.

- In recent years the Authority has permitted housing developments on lower grade land. A number of non-BMV sites have been put forward within the un-adopted LDP. Lower grade agricultural land is available and the planning statement conflicts with PPW.
- The Applicant has not applied BMV agricultural land national planning policy (PPW 3.58 and 3.59) in justifying overriding need and application of the sequential test

7.18 It should be noted that this issue has been highlighted on a number of occasions, not least during the LDP process and as a response to the developers Pre-Application Consultation exercise, yet no information has been advanced to support the development in spite of the advice, nor is there any mention of this fundamental issue in the Planning Statement.

7.19 With reference to policy RE1 of the Flintshire Unitary Development Plan, development which would result in the loss of agricultural land of grades 1,2 or 3a will only be permitted where there is an identified overriding need, where the development cannot be accommodated on derelict, non-agricultural or lower grade agricultural land or where available lower grade land has an environmental value or designation that outweighs the agricultural consideration. This policy is in accordance with the relevant advice concerning the best and most versatile agricultural land in Planning Policy Wales 11 (para 3.58-3.59). As such the proposal is contrary to policy RE1 of the Flintshire Unitary Development Plan.

7.20 Design, Layout and Neighbouring amenity

In accordance with the aforementioned criteria d. of policy HSG11, the scale, design, and layout of the proposed development should be sympathetic and appropriate to the size and character of the settlement. It is noticeable that the proposed density is far greater than the surrounding residential properties on Old Aston Hill, adding to the concerns about a lack of positive place making. The Planning Statement identifies the net density on site, taking into account just the developable areas, of 37.79 dwellings per hectare. Policy HSG8 in the Flintshire Unitary Development Plan suggests a density of 30 dwellings per hectare in category A and B settlements, although the policy acknowledges that local character and site location should be taken into account when appraising the suitability of a suggested density. It is acknowledged that higher density developments can represent a far more efficient use of land. The danger is, however, that higher density development can lead to overdevelopment, which would have a detrimental impact on the scheme as a whole. An example of where this appears to have influenced the layout to the detriment of the placemaking objectives of the site is the location of the Public Open Space, which is positioned at the far North Eastern extreme of the site which I would suggest negatively impacts upon its useability as it offers poor surveillance

and supervision for people wanting to allow children to use this facility and should be located centrally on the site.

7.21 The plots across the site generally have a small amount of rear amenity area, and in many cases fail to meet the minimum prescribed garden depths and volumes in SPGN2- Space Around Dwellings, although dwelling to dwelling interface distances are generally complied with. This general shortfall is indicative of the overdeveloped nature of the proposal. Where density is simply increased in order to maximise the amount of development on a site without proper consideration of the adequacy of the design, amenity and space about dwellings, then the principle of positive place making has not been considered. Simply because the proposal is for 100% affordable does not mean that the LPA should consider favourably a development that falls well below the minimum standards of layout and amenity, that would normally be applied to all other forms of residential development.

7.22 Given the high density proposed as well as the shortfall in the provision of amenity areas it is considered that the proposal represents overdevelopment of the site and results in a development which fails to reflect the characteristics of the locality and is therefore contrary to policies GEN1, D1 and HSG8 of the Flintshire Unitary Development Plan.

7.23 Welsh Water have advised that the development site is crossed by trunk watermains and adjoins Aston Service Reservoir. In accordance with the Water Industry Act 1991, we advised that no operational development will be permitted within the easements of these assets when measured 20 metres either side of the centreline of the assets. This affects plots 66-71 as well as a SUDs feature which appear to be located within the easements of the trunk main. As such the layout is considered unacceptable and this area must be left free of development. The impact of this will increase density further elsewhere on the site, further exacerbating impacts of the development onto the character of the locality.

7.24 Highways and Access

Highways Development Control have assessed the proposal and raise no objections in principle to the scheme from a highways perspective, however they note that submitted details fail to adequately address inadequacies in the pedestrian and cycle linkages between the site and local community facilities. In addition, the location of the site entrance is likely to compromise use of the existing bus stop; relocation and provision of improved bus stop infra-structure is required. These amendments to the scheme are required in order for the proposal to improve Active travel arrangements and improve the sustainable travel credentials of the location. Highways Development Control have opined that these inadequacies could be overcome by the imposition of a condition on any planning consent. In addition, given the scale of this proposal the impact of this development and other planned development, such as the LDP allocations in this area, should be considered with regard to traffic impact upon Ewloe roundabout.

7.25 Given the site proximity to the A494 Trunk road Welsh Government have been consulted on the application. They consider that the submission is inadequate for the following reasons.

- 1) The Welsh Government believe traffic flows on the A494 are returning to pre-covid baselines. The applicant should carry out traffic counts on the A494/St David's roundabout to verify the figures provided in the Transport Assessment taking account for seasonal and AM/PM peak variances.
- 2) The applicant must consider a direct surfaced link from the development onto the A494 shared use path in accordance with the Active Travel (Wales) Design Guidance.

7.26 Furthermore, they have advised that more information is required with regards to detailed drainage proposals for the infiltration basin to demonstrate it does not have the potential to affect the A494 Trunk Road.

7.27 In the absence of this requested information the Welsh Government as highway authority for the A494 trunk road directs that planning permission is not granted at this time as the applicant has provided insufficient information to determine the application.

7.28 As this information has not been provided, I consider that this issue forms another reason for refusal.

7.29 Ecology and Trees

The application has been supported by a preliminary ecological appraisal. This appraisal demonstrates that the site has relatively high ecological value for several species and mitigation will be required to compensate for any lost habitat should development be allowed.

7.30 The native hedges, scattered trees and woodland all have some potential for foraging and emigration corridors for amphibians/reptiles, bats and hedgehogs. These areas support a range of invertebrates, which provides a good food-source for birds and for foraging bats. The rubble pile, soil banks, fallen trunks and stumps in the woodland provides some potential for amphibians/reptiles as resting places/hibernacula. The trees, hedges and scrub provide potential for nesting birds. The semi-improved grassland has potential for foraging badgers, but little potential for foraging and emigrating amphibians/reptiles, as the grass has been grazed to a short swathe by the horses, which would leave these species vulnerable to predators.

7.31 The survey found that the dried-out pond has little potential for GCN and other amphibians, as there is no water remaining and the encroaching sedge and grass vegetation has developed across a significant area of the pond. None of the hedges on site qualify as 'important' with regards to the

Hedgerow Regulations 1997, made under Section 97 of the Environment Act 1995 which came into effect 1 June 1997.

- 7.32 The survey concludes that by using mitigation to compensate for loss of habitat, implementing Reasonable Avoidance Methods (RAM) and providing biodiversity enhancements, the proposed development should have no detrimental effect on the favourable conservation status of bats, great crested newts and other amphibians, reptiles, badgers or other mammal species. I consider this assessment to be sound and were planning permission to be granted for development of this site then conditions would be required to safeguard suitable mitigation and reasonable avoidance measures. This would ensure compliance of the proposal with Flintshire unitary development plan policies WB1 and WB6.
- 7.33 The arboricultural report demonstrates that some hawthorne specimens are to be removed from a Category A group of trees, although the Oaks in this group are to be retained. This appears to be a reasonable compromise. In general, the provision for ecological and arboricultural assets on site is acceptable.
- 7.34 Noise
- Given the application site location close to the A494 Trunk Road a Noise Impact assessment has been prepared and submitted in support of the application.
- 7.35 The potential effects of noise were assessed with reference to current guidance, namely the Planning Policy Wales (Ed. 11), TAN11, and British Standard BS8233:2014. A sound level survey was conducted at the site, including measurements of road traffic noise from the A494 which was used to calibrate the noise propagation model.
- 7.36 The results of the sound propagation modelling indicate that the proposed site falls predominantly within Noise Exposure Categories B or C for daytime periods and night-time periods. As such, a detailed Acoustic Design Statement (ADS) has been provided to demonstrate how adverse impacts of noise will be mitigated and minimised and which clearly demonstrates that a significant adverse noise impact will be avoided.
- 7.37 Mitigation measures proposed, in particular the use of acoustic screening to the site as well as a glazing and ventilation strategy, resulted in suitable internal sound level levels being achieved in all plots across the site.
- 7.38 It should be noted that with regards to outdoor amenity, the assessment indicates that the majority of external amenity spaces would be below the upper guideline value of 55 dB LAeq,16h. However, the assessment identified 34 plots in which at least 50% of the allocated private garden space would exceed the upper guideline value.

7.39 In my view this demonstrates that the location of the site has less than ideal properties and the road noise would be a significant detrimental factor to the amenity of residents at least in some of the plots across the site. I do not recommend that this is taken forward as a reason for refusal, but it is indicative of the general unsuitability of the site.

7.40 The prevailing air quality of the application site has also been assessed and it has been found that the site does not present any concerns in terms of air quality, although it is noted that there are air quality concerns locally as a result of traffic on the Trunk Road.

7.41 Planning Obligations

The infrastructure and monetary contributions that can be required from a planning application through a S.106 agreement have to be assessed under Regulation 122 of the Community Infrastructure Levy (CIL) Regulations 2010 and Welsh Office Circular 13/97 'Planning Obligations'.

7.42 It is unlawful for a planning obligation to be taken into account when determining a planning application for a development, or any part of a development, if the obligation does not meet all of the following regulation 122 tests;

1. be necessary to make the development acceptable in planning terms;
2. be directly related to the development; and
3. Be fairly and reasonably related in scale and kind to the development.

7.43 As part of any planning permission the LPA would require a legal agreement to be attached to the permission to include developer contributions to education, public open space requirements, future maintenance of private shared surface areas, as well as potential contributions for maintenance and management of wildlife areas, if required. It would also be necessary for the legal agreement to secure the tenure of the units as affordable, in perpetuity. From examining the local planning history the pooled contributions thresholds have not been exceeded with regards to relevant play areas and applicable local schools. As such and in accordance with the CIL regulations it appears that the LPA can request these contributions through a legal agreement if required.

7.44 At the time of writing the report I have not received consultation responses from Leisure or from Education in order to be able to give the relevant commuted sums that would be requested. As the recommendation before you is one of refusal, I do not consider that this would be relevant at this stage, although should the Committee be mindful to approve the application contrary to the recommendation then these matters would need to be identified and agreed in order for the Section 106 Agreement to be entered into.

8.00 CONCLUSION

8.01 Whilst the application has been advanced on the grounds of its affordable housing credentials linked to local need, the lack of a housing land supply and the broadly sustainable nature of the location on the edge of a settlement of Category B in the Flintshire Unitary Development Plan, there are fundamental matters of principle that the proposal fails to comply with. Principally this is the unjustified loss of high-quality agricultural land as a result of the development, as well as the loss of an area of open countryside, with resultant detrimental impacts upon the character and appearance of the area, contrary to the general development principles of the development plan. There are also concerns over a number of smaller technical issues.

8.02 Given the above I consider that the proposal represents inappropriate development in an open countryside location that would unacceptably harm the character and appearance of the area as well as result in the loss of high-quality agricultural land, contrary to the relevant policies in the Flintshire Unitary Development Plan, and I recommend accordingly.

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.

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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