

**FLINTSHIRE COUNTY COUNCIL**

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

**DATE:** **13 MARCH 2024**

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

**SUBJECT:** **FORMATION OF A TWO WAY VEHICULAR  
ACCESS AND ROAD AT EWLOE GATEWAY,  
EWLOE, FLINTSHIRE**

**APPLICATION  
NUMBER:** **059489**

**APPLICANT:** **DATA PROPERTIES LTD**

**SITE:** **PARRY'S PIT,  
MOLD ROAD,  
EWLOE GREEN,  
FLINTSHIRE,  
CH5 3BQ**

**APPLICATION  
VALID DATE:** **12.2.2019**

**LOCAL MEMBERS:** **COUNCILLOR L. THOMAS  
COUNCILLOR D. MACKIE**

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

**REASON FOR  
COMMITTEE:** **LOCAL MEMBER REQUEST**

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

**1.00 SUMMARY**

1.01 This full application seeks approval for the creation of an access from the Mold Road/ A494 to facilitate 2 way traffic access to the Ewloe Gateway Services.

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

2.01 That conditional planning permission be granted subject to the applicant entering into, a Section 106 Obligation; Unilateral Undertaking; or via the making of an advance payment to secure the following: -

a) The payment of a sum of £6004.87 towards the provisions of Access Only signage at Smithy Lane be provided before the first use of the access and road hereby approved.

2.02 If the Obligation pursuant to Section 106 of the Town and Country Planning Act, 1990 (as outlined above) is not completed within 6 months of the date of the committee resolution, the Chief Officer for Planning Environment & Economy be given delegated powers to REFUSE the application.

2.03 Conditions:

1. The development hereby approved shall be commenced before the expiration of five years from the date of this permission.
2. The development shall be carried out in accordance with the following approved plans and documents:
  - Application Form
  - Transport Assessment
  - Post Submission Transport Assessment Note
  - Location plan
  - Dwg No. CCI-22-0101-C-ALL-SK-00-001 – Access arrangement.
3. The proposed access (and adjoining highway works) shall be completed to the written satisfaction of the Planning Authority in consultation with the Welsh Government (Transport) before the access is brought into use.
4. No development shall take place until a scheme indicating the provision of parking and turning facilities within the site shall be submitted to and approved in writing with the Local Planning Authority. Thereafter the agreed scheme shall be implemented in full prior to the access being brought into use and retained as such thereafter.
5. No development shall take place until a scheme indicating the proposed highway drainage scheme has been submitted to and approved in writing with the Local Planning Authority. No drainage from the development site shall be connected to or allowed to discharge into the trunk road drainage system and

shall ensure that water from the access road does not drain onto the trunk road. The agreed scheme shall thereafter be implemented in full prior to the first use of the access hereby approved.

6. No development shall take place until a scheme to provide wheel-washing facilities or an alternative method, has been submitted to and approved in writing by the Local Planning Authority. Such facilities shall be provided before any development commences and thereafter remain available during the construction stage and be used by all vehicles exiting the site.
7. No development shall take place until a proposal for a Safety Audit of the scheme, (Stages 1 – 4) in accordance with GG119 of the Design Manual for Roads and Bridges, has been submitted to and agreed in writing with the Local Planning Authority. The development shall be undertaken in accordance with the agreed details thereafter.
8. No development shall take place until a scheme of landscaping has been submitted to and approved in writing with the Local Planning Authority. Such scheme shall include details of
  - a) all existing trees, hedgerows and other vegetation on the land, details of any to be retained, and measures for their protection during the course of development;
  - b) proposed new trees, hedgerows, shrubs, or vegetation, including confirmation of species, numbers and location and the proposed timing of the planting;
  - c) proposed earthworks, grading and the mounding of land and changes in levels, final contours, and the relationship of proposed mounding to existing vegetation and surrounding landform; and
  - d) proposed positions, design, materials, and type of boundary treatment to safeguard against noise disturbance to nearby dwellings.
9. All planting, seeding, turfing, fencing, walling or other treatment comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the commencement of the development and any trees or plants which, within a period of five years of the time of planting, die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species.

### **3.00 CONSULTATIONS**

3.01 **Local Member (Councillor Linda Thomas):** Requests committee determination and site visit in order that Members of the Planning Committee can see the site and the concerns raised below in context . Strongly objects to the proposal for the following reasons:

1. Proposal does not conform to the design standards for roads and bridges (DMRB);
2. Impacts upon the local community;
3. Unclear how cycle route from Ewloe to Mold is incorporated into the proposed plan;
4. Noise and vehicle pollution;
5. Will increase already existing traffic problems in the area due to the nature and narrowness of surrounding roads;
6. Proposals will increase adverse impacts upon the living conditions of nearby residents; and
7. Suggests Smithy Lane be subject of 'ACCESS ONLY' signs at either end.

**Local Member (Councillor David Mackie):** Considers the proposal, being amended to a left turn in and left and right turn out arrangement, is now acceptable.

**Hawarden Community Council:** Objects. Has concerns that proposals will give rise to traffic impacts on Smithy Lane and has the potential to result in traffic accidents.

**Highways Development Control:** Considers there is no direct impact on the county highway network.

Recognises a potential concern related to traffic diverting onto Smithy Lane and notes the requirement for a Traffic Regulation Order is discussed within application submissions, with the applicant willing to investigate the installation of Access Only signage. As such, funding for such a restriction (£6004.87) should be provided via a Section 106 agreement as part of any planning consent.

**Community & Business Protection:** No objections

**Welsh Government - Department for Economy and Infrastructure**  
No objections. Requests the imposition of conditions as set out in Section 2.03 of this report.

### **4.00 PUBLICITY**

4.01 The application was publicised via the display of a site notice and neighbour notification letters. At the time of writing, eight letters of

objection have been received raising objections on the following grounds:

1. Increased traffic will result in detriment to highways safety;
2. Proposals will result in adverse impacts to the living conditions of nearby residents;
3. Visual detriment to the surrounding area from the proposed use;
4. Increased noise and light pollution; and
5. Potential for Smithy Lane to be used as short cut with resultant increased littering.

## **5.00 SITE HISTORY**

5.01 No previous site history

## **6.00 PLANNING POLICIES**

6.01 Flintshire Local Development Plan

STR4 - Principles of Sustainable Development, Design & Placemaking

STR5 - Transport and Accessibility

STR6 - Services, Facilities and Infrastructure

STR7 - Economic Development, Enterprise & Employment

STR10 - Tourism, Culture and Leisure

STR13 - Natural and Built Environment, Green Networks & Infrastructure

STR14 - Climate Change and Environmental Protection

PC1 - The Relationship of Development to Settlement Boundaries

PC2 - General requirements for Development

PC3 - Design

PC5 - Transport and Accessibility

EN4 - Landscape Character

EN7 - Development Affecting Trees, Woodlands & Hedgerow

EN20 - Landfill Buffer Zone

Supplementary Planning Guidance

Supplementary Planning Guidance Note 3 – Landscaping

National Planning Policy

Planning Policy Wales (PPW) Ed. 12 (Feb 2024)

Future Wales- The National Plan 2040

Technical Advice Note 18 - Transport

## **7.00 PLANNING APPRAISAL**

7.01 Site and Surroundings

The site is located within the open countryside and within an agricultural field located to the north of the A494 Mold Road. The

access is proposed to be formed within the southern boundary of this field at a mid-point between the route of the former railway to the west and the existing agricultural access to the east. The land form in this area slopes downhill from the eastern boundary to the west. Boundaries to the field are formed of a mixture of established and mature hedgerows, interspersed with trees.

7.02 Existing residential dwellings are located at Pottery Cottages, some 100m to the west of the site, and Parry's Cottages, 75m to the east. A further dwelling is located 205m to the north of the proposed access point, close to and accessed via the existing services.

7.03 Parry's Quarry Landfill site is located to the east and the site falls within the designated landfill buffer zone.

7.04 The Proposal

The proposal seeks permission for the creation of a vehicular access to Mold Road/A494 and the provision of a circa.230m two way access road to the Ewloe Gateway Services. The reason for this link is to both facilitate an additional means of accessing the services from the easterly direction, reducing the present pressure upon Pinfold Lane from return traffic and to negate the need to travel up to the Connah's Quay Road, some 2 mile to the west, and then drive back. In addition, the access will serve to try and mitigate an existing issue and risk of pedestrians from the hotel at the services crossing the A55 to get taxi's into the local town

7.05 The Main Issues

The main issues to consider are:

1. The principle of development, having regard to the development plan;
2. Access and highway impacts;
3. Impacts upon living conditions; and
4. Impacts upon the character and appearance of the area.

7.06 The Principle of Development

Policies STR2 and PC1 indicate that development proposals should primarily be directed toward allocated sites and settlement boundaries, being the most suitable and sustainable locations to accommodate development. However, exceptions are identified to this presumption and are set out in Policy PC1. Of particular relevance to this proposal is criterion c) which advises that, inter alia, development reacted to tourism, leisure and recreation may be acceptable in open countryside locations, subject to compliance with other plan policies.

7.07 The proposal, being for the purposes of facilitating easier access to and from the Ewloe Gateway Services on the A55, would satisfy this exception.

- 7.08 The site is located within the designated Landfill Buffer Zone for the landfill at Parry's Quarry, the closest point of which is some 50m from the access road element of this proposal. This policy advises that where development proposals would amount to sensitive, such development is not to be permitted. Sensitive development comprises development which would be sensitive to the effects of noise dust, odour, pests and the effects of the potential migration of landfill gases. This proposal does not represent sensitive development and therefore this policy would be satisfied.
- 7.09 As a matter of principle therefore, the proposal is acceptable, subject to the consideration of detailed matters the relevant policies in those regards.
- 7.10 Access and Highway Impact  
The proposal provides for the creation of a splayed access off the A494 to provide a left turn in from approaches from the east and a left and right turn out from the access onto the A494. The access then links into a two lane six metre wide access road which runs directly north to link in with the services at the Ewloe Gateway Services.
- 7.11 As the access is to be formed from a Trunk Road, consultation has been undertaken with Welsh Government Highways department who have advised that it is acceptable to them for the Council to issue planning permission of the works subject to the conditions set out in paragraph 2.03 of this report. The proposal has been the subject of lengthy discussion and numerous amendments to reach a point whereby Welsh Government are satisfied that the access meets the standards for road design and bridge building (DMRB).
- 7.12 Furthermore, the access and off site highway improvements make provision for pedestrians and cyclists in the form of a three metre Active Travel route across the site frontage, to link into the countywide network of cycle and pedestrian routes. It should be noted however, that this proposal is not seeking to provide pedestrian access to the services.
- 7.13 Concerns raised in relation to Smithy Lane being potentially used a short cut route from areas of Buckley to the services have been considered by the applicant. Notwithstanding that the Transport Assessment concludes that it is unlikely that the proposals will result in increased trips from the Mold area (due to the presence of similar dining offers within Mold), it is noted that the applicant is willing to seek to address this concern via the provision of a contribution towards a Traffic Regulation Order to provide for 'Access Only' signage at the junction of Smithy Lane with the A494. To this end, this recommendation includes a requirement for a Section 106 agreement to require the financial contribution to enable this provisions to be made.

- 7.14 Concerns have also been raised to the effect that the proposal will result in an increase in traffic and a consequent detrimental impact upon highway safety. It should be noted that the proposal has been the subject of consultation with both Welsh Government Highways and Highways Development Control at Flintshire County Council, neither of whom raise any objection and advise that the proposals will not result in an adverse impact upon the wider local highway network.
- 7.15 Accordingly the proposals would satisfy the requirements of policies STR5, PC2 and PC5 of the Plan.
- 7.16 The commuted sum payment as requested can be secured through the completion of a legal obligation requiring payment toward the required Traffic Regulation Order before any development upon the site is commenced.
- 7.17 The infrastructure and monetary contributions that can be required from a planning application through a S.106 agreement must be assessed under Regulation 122 of the Community Infrastructure Levy (CIL) Regulations 2010 and Welsh Office Circular 13/97 "Planning Obligations".
- 7.18 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.
- 7.19 While the Authority does not yet have a charging schedule in place, with CIL Regulations puts limitations on the use of planning obligations. These limitations restrict the number of obligations for the funding or provision of an infrastructure project/type of infrastructure.
- 7.20 From April 2015 if there have been 5 or more S.106 obligations relating to an infrastructure project/type of infrastructure since 2010 then no further obligations for that infrastructure project/type of infrastructure can be considered in determining an application.
- 7.21 Members are advised that since the advent of the CIL Regulations, no more than 5 obligations have been entered into in respect of the contribution requested, and that on application of the tests set out above the contributions would satisfy these requirements.

7.22 Impacts upon living conditions

As noted previously, the site is located in varying proximities to existing dwellings. The terraced properties at Pottery and Parry's Cottages, by virtue of their location in relation to the existing industrial and commercial sites in the local area, experience a certain degree of noise and disturbance associated with traffic using these businesses and traffic using the adjacent A494 Trunk Road. Consultation with Community and Business protection colleagues has not generated any adverse comments or objection in this regard. Indeed, in the case of Pottery Cottages, it can be suggested that vehicles which presently utilise the A494 to access the traffic interchanges at Ewloe as a means of accessing the services would be reduced by virtue of the ability to access the services without the need to pass these properties.

7.23 The location of the access being located at a point of some distance to the nearest point of each terrace of dwellings is such that this is not envisaged to result in any adverse impact upon the living conditions presently enjoyed by the occupiers of these dwellings.

7.24 The existing dwelling to the north of the site is presently located adjacent to, and accessed via, the Services access roads. As such, this dwelling experiences a certain degree of disturbance associated with the same. It is noted however, that the proposed road would pass within some 8m of the dwelling at its closest point before linking into the existing access road which serves the dwelling. As such, it is considered that there is a need for a scheme of boundary treatments and landscape planting to serve as both a visual buffer and sound mitigation to ensure that the living conditions of the occupiers of the dwelling are not unacceptably impacted.

7.25 Subject to this condition, it is not considered that the proposals would give rise to significant impacts upon the living conditions of the occupiers of the identified dwellings and therefore would satisfy the requirements of the Policy PC2 in this regard.

7.26 Impacts upon Character & Appearance

The area within which the site is located comprises a wide range of differing land uses set within an otherwise open countryside location. Whilst commercial, waste, industrial and tourism service uses are all prevalent in the area, they are all largely the subject of significant screening from wider landscape views.

7.27 The proposal has the potential, particularly as it would be viewed in the landscape against the woodland backdrop of the former railway line and landfill buffer to Parry's Quarry, of seeming potentially intrusive in the landscape, especially to views from the west and particularly in the autumn and winter. To mitigate this impact, a condition is suggested for the submission and agreement of a scheme of structural landscaping.

- 7.28 Visual impacts from the east and north are not considered to be significant in character and appearance terms as ample screening exists and is retained to ensure that the proposal does not detract from wider views from these directions. Similarly, the view of the proposed access point itself from the south is seen in the context of a busy trunk road and, whilst pedestrian and cycle provision is made within the access formation works, these will be seen against the backdrop of retained hedgerow boundaries and the additional planting required at the back edge of the newly formed access itself will compliment this existing vegetation to soften impacts in the longer term.
- 7.29 As such, the proposals are not considered to be detrimentally impacting to the character and appearance of the area and as such are compliant with the aims of policies STR13, PC2, PC3, EN4 and EN7 in this regard.

## **8.00 CONCLUSION**

The proposal is in accord with the relevant development plan policies within the Flintshire Local Development Plan, there being no objection from either a Trunk Road or local Highway network perspective, subject to the completion of the S.106 agreement (or similar) and imposition of planning conditions, as referenced in Paragraphs 2.01 to 2.03 of this report. It is therefore recommended that planning permission be granted.

### **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.

8.02 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.

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

8.04 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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