

# Public Document Pack

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Head of Legal and Democratic Services  
Pennaeth Gwasanaethau Cyfreithiol a Democraataidd



To: Cllr David Wisinger (Chairman)

CS/NG

Councillors: Chris Bithell, Derek Butler, David Cox,  
Ian Dunbar, Carol Ellis, David Evans, Jim Falshaw,  
Veronica Gay, Alison Halford, Ron Hampson,  
Patrick Heesom, Ray Hughes, Christine Jones,  
Richard Jones, Richard Lloyd, Billy Mullin,  
Mike Peers, Neville Phillips, Gareth Roberts and  
Owen Thomas

30 August 2012

Tracy Waters 01352 702331  
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Dear Sir / Madam

A meeting of the **PLANNING & DEVELOPMENT CONTROL COMMITTEE** will be held in the **COUNCIL CHAMBER, COUNTY HALL, MOLD CH7 6NA** on **WEDNESDAY, 5TH SEPTEMBER, 2012** at **1.00 PM** to consider the following items.

Yours faithfully

Democracy & Governance Manager

## **AGENDA**

- 1 **APOLOGIES**
- 2 **DECLARATIONS OF INTEREST**
- 3 **LATE OBSERVATIONS**
- 4 **MINUTES** (Pages 1 - 26)

To confirm as a correct record the minutes of the meeting held on 25<sup>th</sup> July 2012.

- 5 **ITEMS TO BE DEFERRED**

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The Council welcomes correspondence in Welsh or English  
Mae'r Cyngor yn croesawau gohebiaeth yn y Cymraeg neu'r Saesneg

6 **REPORTS OF HEAD OF PLANNING**

The report of the Head of Planning is enclosed.

**REPORT OF HEAD OF PLANNING**  
**TO PLANNING AND DEVELOPMENT CONTROL COMMITTEE ON 5<sup>TH</sup> SEPTEMBER**  
**2012**

Item No	File Reference	DESCRIPTION
<b><u>Applications reported for determination (A=reported for approval, R=reported for refusal)</u></b>		
6.1	049425	Variation of Condition No. 15 Attached to Planning Permission Ref. 046595 Croes Atti, Chester Road, Oakenholt (Pages 27 - 36)
6.2	049792 - A	Renewal of Outline Planning Permission 045547 to Allow the Erection of a Dwelling at Land Side of Talossamme, Abbots Lane, Penyffordd (Pages 37 - 48)
6.3	049790 - A	Full Application - Erection of a Dwelling at Land Side of Talossamme, Abbots Lane, Penyffordd (Pages 49 - 60)
6.4	049849 - A	Full Application - Alterations to an existing agricultural access on land at Llinegr Hill, Ffynnongroyw (Pages 61 - 68)
6.5	049812 - A	Full Application - Siting of 18 No. Static Caravans at Pennant Park Golf Club, Saithfynnon, Whitford (Pages 69 - 78)
6.6	049712 - A	Full Application - Substitution of 9 house types at land at Field Farm Lane, Buckley (Pages 79 - 86)
6.7	049821 - A	Full Application - Additional Use Class B1 in Existing Buildings at British Aerospace Airbus Limited, Chester Road, Broughton (Pages 87 - 92)
6.8	048746	Outline application seeking approval of access and scale - erection of detached dwelling at Earlscroft, Aston Hill, Ewloe (Pages 93 - 98)

Item No	File Reference	DESCRIPTION
<b><u>Appeal Decision</u></b>		
6.9	048032 <b>ALLOWED</b>	Appeal by Redrow Homes NW Against the Decision of Flintshire County Council to Refuse Planning Permission for the Development Proposed is the Erection of 45 No. Dwellings and Associated Garages and Parking, Including the Provision of 4 No. Affordable Units and Demolition of Current Out-Buildings at Land at Overlea Drive, Hawarden (Pages 99 - 124)
6.10	049192 <b>ALLOWED</b>	Appeal by Mr. L. Ward for the Refusal of Planning Permission for Variation of Condition No. 2 Attached to Planning Permission Ref. 045753 to Allow for 12 Month Holiday Season at Caerwys Castle Caravan Park, Caerwys Hill, Caerwys. (Pages 125 - 130)
6.11	049211 <b>ALLOWED</b>	Appeal by Mr. C. Ridgway Against the Decision of Flintshire County Council to Refuse Planning Permission for the Retrospective Application for the Retention of a Building for Use as an Office Ancillary to the Main Dwelling at Caledfwlch, Ffordd Pentre Bach, Nercwys - ALLOWED (Pages 131 - 136)



## **PLANNING AND DEVELOPMENT CONTROL COMMITTEE** **25 JULY 2012**

Minutes of the meeting of the Planning and Development Control Committee of the Flintshire County Council held at County Hall, Mold on Wednesday, 25 July 2012

### **PRESENT: Councillor D.E. Wisinger (Chairman)**

Councillors: R.C. Bithell, D. Butler, D. Cox, I. Dunbar, C.A. Ellis, D. Evans, J. Falshaw, V. Gay, A.M. Halford, R.G. Hampson, P.G. Heesom, C.M. Jones, R.B. Jones, R. Lloyd, M.J. Peers, N. Phillips, H.G. Roberts and W.O. Thomas

### **SUBSTITUTIONS:**

Councillor: N.R. Steele-Mortimer for R. Hughes and M. Lowe for W. Mullin

### **ALSO PRESENT:**

The following Councillors attended as local Members:-

Councillor R. Johnson - agenda items 5.1, 5.2 and 5.3. Councillor C.S. Carver - agenda item 5.4. Councillor C. Legg – agenda item 5.8. Councillor D. Hutchinson – agenda item 5.10.

### **IN ATTENDANCE:**

Head of Planning, Development Manager, Interim Team Leader (Policy), Senior Engineer - Highways Development Control, Team Leader Major Developments, Senior Planners, Senior Minerals and Waste Officer, Democracy & Governance Manager and Committee Officer

## **36. DECLARATIONS OF INTEREST**

Councillor A.M. Halford declared a personal and prejudicial interest in the following application as governor of the school referred to:-

### **Agenda item 5.4 – Full application – Erection of 11 no. dwellings at 105 The Highway, Hawarden (049448)**

Councillor R.C. Bithell and C.M. Jones declared a personal interest in the following application in view of their cabinet portfolio:-

### **Agenda item 5.7 – Erection of additional educational/residential facilities to compliment existing school provision for children with autistic spectrum disorder at Kinsale Hall, Llanerch-y-Mor, Holywell (048115)**

## **37. LATE OBSERVATIONS**

The Chairman allowed Members an opportunity to read the late observations which had been circulated at the meeting.

**38. MINUTES**

The draft minutes of the meeting of the Committee held on 20 June, 2012 had been circulated to Members with the agenda.

Councillor P.G. Heesom referred to page 2 and queried whether an inquiry had been undertaken into the decision for 12 Banks Road, Mancot. The Head of Planning responded that he understood that Councillor Heesom was to consider whether to write to the Monitoring Officer and therefore no investigation had been carried out.

Councillor R.C. Bithell referred to the third paragraph on page 15 on Croes Atti and queried whether an investigation had been undertaken. The Head of Planning responded that advice had been sought from Counsel and that applications for Croes Atti were included on the agenda for today's meeting.

The Head of Planning referred to minute number 30 and said that Councillors M.J. Peers and A.M. Halford had raised issues about the hours or opening at the Recycling Facility, Spencer Industrial Estate, Buckley. He confirmed that information had been requested from Steve Jones, the Head of Streetscene on whether there was a need for the longer hours and that discussions would take place prior to the decision notice being issued. Councillor Peers confirmed that he had been contacted by the Head of Streetscene and was pleased that the Authority had noted the concerns of the local Member and that the situation was being reviewed.

**RESOLVED:**

That the minutes be approved as a correct record and signed by the Chairman.

**39. ITEMS TO BE DEFERRED**

The Head of Planning advised that none of the applications were recommended for deferral by officers.

**40. GENERAL MATTERS APPLICATION - VARIATION OF CONDITION NO. 3 ATTACHED TO OUTLINE PLANNING PERMISSION REF: 035575 TO ALLOW 7 YEARS FOR THE SUBMISSION OF RESERVED MATTERS FROM THE DATE OF THE OUTLINE PLANNING PERMISSION RATHER THAN THE 5 YEARS ORIGINALLY GRANTED RELATING TO CROES ATTI, CHESTER ROAD, OAKENHOLT (049426)**

The Committee considered the report of the Head of Planning in respect of this application which had been the subject of a site visit on 23 July 2012. The usual consultations had been undertaken and the responses received detailed in the report.

The officer explained that a public inquiry on a duplicate application was to be heard in August 2012. The report was asking the Committee to determine whether it wanted to maintain its previous stance of deferring determination of the application to await the outcome of the public inquiry or whether in the light of the changed circumstances which were reported the Committee now wished to determine the application.

Councillor P.G. Heesom proposed that option 2 (to continue to defer determination pending the appeal decision on application reference 049154 notwithstanding the changed circumstances) be approved which was duly seconded. He stated that it was reported that if the current application was determined positively then the non determination appeal would be withdrawn and serious consideration would be given to the applicant not applying for an award of costs against the Council for unreasonable behaviour; he felt that inducements were being offered to pass the application. The application for 700 houses which had been allocated in the Unitary Development Plan (UDP) had not been delivered and the reserved matters consent had now expired. Councillor Heesom felt that the affordable housing element of the application should be 30% and not 10% as was indicated in the report and he felt that the BREEAM standards should also be brought up to date. He said that there was no alternative but to let the Inspector take the course he wanted to and proposed that the Committee choose option 2.

The local Member, Councillor R. Johnson addressed the Committee and agreed that option 2 was the most appropriate and concurred with the concerns about the appropriateness of the offer costs not being sought if the application was approved. She felt that it was an attempt to renew approval of the reserved matters and added that the five year consent had expired without any reasonable progress being made on the site. She added that, to ensure proper scrutiny of the application, it be allowed to progress to appeal and be heard in the Public Inquiry.

Councillor R.C. Bithell said that legal advice had been sought and that it should be followed; Councillor D. Butler concurred with the comments. Councillor W.O. Thomas felt that policy should be followed on the application and Councillor D. Cox said that the outline planning permission had been in place for a significant period and that it was now time to move forward and determine the application.

In response to comments made, the officer explained that the outline planning permission was still extant and did not expire until July 2013. The route taken by the applicant was a legitimate request and the officer reminded Members that no objections had been raised to the duplicate application so it was appropriate to deal with this application today.

The Democracy & Governance Manager said that Counsel's advice had been sought and he had drawn to Member's attention the risks associated with not dealing with the application which was next on the agenda; he advised that he shared the view of the barrister.

In summing up, Councillor Heesom said that the site had been allocated for housing and that Members had a duty to ensure that the proposal was brought forward in line with current policy. He raised concern about how the application reference 049154 which was the subject of the appeal had been dealt with. He said that the Inspector was bound to look at the application in line with current planning policy.

Councillor Heesom requested a recorded vote and was supported by the requisite five Members. On being put to the vote, the proposal to accept option 2 (to continue to defer determination pending the appeal decision on application reference 049154 notwithstanding the changed circumstances) was refused by 13 votes to 8 with the voting being as follows:-

**FOR – ACCEPTING OPTION 2**

Councillors: V. Gay, A.M. Halford, R.G. Hampson, P.G. Heesom, R. Lloyd, M.J. Peers, N.R. Steele-Mortimer and W.O. Thomas

**AGAINST – ACCEPTING OPTION 2**

R.C. Bithell, D. Butler, D. Cox, I. Dunbar, C.A. Ellis, D. Evans, J. Falshaw, C.M. Jones, R.B. Jones, M. Lowe, N. Phillips, H.G. Roberts and D.E. Wisinger

As the vote was lost, a vote was taken to accept option 1 and was CARRIED.

**RESOLVED:**

That option 1 be accepted to determine the application (which was next on the agenda) at this Committee meeting.

41. **FULL APPLICATION - VARIATION OF CONDITION NO. 3 ATTACHED TO OUTLINE PLANNING PERMISSION REF. 035575 TO ALLOW 7 YEARS FOR THE SUBMISSION OF RESERVED MATTERS FROM THE DATE OF THE OUTLINE PLANNING PERMISSION BEING GRANTED RATHER THAN THE 5 YEARS PREVIOUSLY PERMITTED AT LAND AT CROES ATTI, CHESTER ROAD, OAKENHOLT (049426)**

The Committee considered the report of the Head of Planning in respect of this application which had been the subject of a site visit on 23 July 2012. The usual consultations had been undertaken and the responses received detailed in the report.

The officer said that following on from the vote on the previous application, this report proposed to vary condition 3 and update the conditions.

Councillor R.C. Bithell proposed the recommendation for approval which was duly seconded. He said that there was still an extant permission on the site and that it was not unusual to ask for additional time.



Mr. J. Yorke spoke against the application saying that outline permission had been granted in July 2004 with the Section 106 agreement being signed in 2006. He said that the reserved matters application should have been submitted within 5 years of the date of the agreement being signed. He referred Members to the previous application where it was reported that the applicant had indicated that if this application was approved, then the non determination appeal would be withdrawn and serious consideration would be given to not applying for an award of costs against the Council for unreasonable behaviour; he felt that this was unacceptable and set a precedent. He referred to condition 2 and said that new information on this had been received earlier this week and he also spoke of the traffic survey which had been undertaken.

Mr. S. Goodwin, the agent for the applicant, confirmed that extant planning permission was in place and that the application was seeking to extend the time for the reserved matters to June 2013. The Committee had considered its stance on the appeal in the June 2012 meeting of the Committee and he reminded Members that this application was identical. He said that he had been authorised by the applicant to say that if the application was granted, there would be no application for costs against the Authority. He added that there was no logic in continuing to defer the application as there were no objections to the original one.

The local Member, Councillor R. Johnson, spoke against the application and said that she did not feel that the application should be approved as the consent was out of date. She said that the site had been allocated for 700 houses but at this time there was no evidence that the developer wanted to proceed with building the houses. She said that the Authority had a duty to deliver the houses up to policy requirements and that currently less than half of the site had been allocated and none of the proposed houses had been built.

Councillor P.G. Heesom highlighted paragraph 1.06 on Section 73 and also referred to circular 35/95 Section 4 which explained that a reserved matters application could not be re-approved. He felt that there had been a significant amount of change in planning guidance since the application had been submitted and highlighted in particular the provision of 10% of dwellings for affordable housing when the policy now required 30% affordable housing. He said that the application complied with policy HSG2 but not with energy standards and proposed that the application be refused.

Councillor M.J. Peers referred to the recommendation and suggested that it should be brought up to date to reflect that guidance indicated that 30% affordable housing should be provided.

Councillor Heesom put forward an amendment to defer the application and await the decision of the Inspector. He added that he wanted the development to occur on this site. The Democracy & Governance Manager advised that this was not a valid amendment as it had been resolved on the previous item that this application would be determined at this committee .

In response to a query from Councillor A.M. Halford, the officer drew Members' attention to the section 106 agreement detailed in the resolution where it was reported that in lieu of an educational contribution, 1.5 hectares was to be set aside and transferred for a school site with an extension to the school site of not less than 1 hectare.

Councillor C.A. Ellis referred to paragraph 1.05 and queried whether the legislation applied in Wales. In response, the Head of Planning said that the Welsh Government (WG) were in the early stages of drawing up a planning bill, so Members should not assume that what happened in England would not apply in Wales. Councillor Ellis also asked why the condition on affordable housing could not be changed from 10% to 30% to bring it in line with current guidance. The officer responded by referring Members to paragraphs 7.05 and 7.06 where it was reported that an agreed Development Brief for the site stipulated that a maximum of 10% affordable housing would be required on the site.

The officer said that this was a duplicate application and the outline planning permission which was granted in 2006 would expire in July 2013 so was extant and live. On the issue of affordable housing, he said that the Committee had resolved not to oppose the application which was subject to appeal and that the Council's stance was to apply the requirement for 10% affordable housing.

Councillor Heesom proposed that the figure for affordable housing in the Section 106 Obligation reported in the recommendation be amended from 10% to 30%, which was duly seconded.

In summing up, Councillor Bithell said that this was an extant permission. He added that policies had changed and had been developed but the conditions which were applied at the outline application stage could not be amended and said that current policies could not be applied retrospectively.

Councillor Heesom requested a recorded vote to approve the application with the affordable housing element being amended to 30% and was supported by the requisite five Members. On being put to the vote, planning permission was granted by 14 votes to 7 with the voting being as follows:-

**FOR – GRANTING PLANNING PERMSSION WITH 30% AFFORDABLE HOUSING BEING REQUIRED**

Councillors: C.A. Ellis, D. Evans, J. Falshaw, V. Gay, A.M. Halford, R.G. Hampson, P.G. Heesom, R.B. Jones, R. Lloyd, M.J. Peers, N. Phillips, H.G. Roberts, N.R. Steele-Mortimer and W.O. Thomas

**AGAINST – GRANTING PLANNING PERMISSION WITH 30% AFFORDABLE HOUSING BEING REQUIRED**

Councillors: R.C. Bithell, D. Butler, D. Cox, I. Dunbar, C.M. Jones, M. Lowe and D.E. Wisinger

**RESOLVED:**

That condition No. 3 attached to the outline planning permission ref. 035575 be varied to allow 7 years for the submission of reserved matters from the date of outline planning permission being granted. That all previous planning conditions attached to the outline planning permission are re-imposed and subject to the conditions detailed in the report of the Head of Planning and subject to the applicant entering into a Section 106 Obligation/Unilateral Undertaking to re-impose all the requirements of the original legal agreement attached to the outline planning permission, with 30% being substituted for 10% for affordable housing:

- Scheme to be in general conformity with the Revised Development Brief,
- Construct or to reimburse the Council for the reasonable cost of a footpath/cycleway linking the site with Leadbrook Drive,
- Phasing/occupation of housing,
- Setting aside of 1.5 hectares of land and its transfer for a school site and an extension to the school site of not less than 1.0 hectare,
- Setting aside of land for a shop site,
- Setting aside of a site of 0.45 hectares for a health centre,
- Setting aside of a site of 0.25 hectares for a community centre and its transfer
- Provision of 4.5 hectares of open space including an enclosed equipped children's play area, a landscape strategy, a management strategy for open space areas including establishment of a management company
- Provide for a maximum of 30% of number of dwellings for affordable use

**42. VARIATION OF CONDITION NO. 15 ATTACHED TO PLANNING PERMISSION REF: 046595 CROES ATTI, CHESTER ROAD, OAKENHOLT (049425)**

The Committee considered the report of the Head of Planning in respect of this application which had been the subject of a site visit on 23 July 2012. The usual consultations had been undertaken and the responses received detailed in the report. Additional comments received since the preparation of the report were circulated at the meeting.

Councillor P.G. Heesom proposed refusal of the application against officer recommendation which was duly seconded.

Mr. J. Yorke indicated that the closing date for consultation which had been reported in the local press was 26 July 2012, the day after this meeting, and queried whether it was possible to determine the application before the consultation period had expired.

The Democracy & Governance Manager advised that the application should not be determined today if the consultation period had not expired and said that the application should be deferred to the next meeting of the Committee. In response to a query from Councillor A.M. Halford about how this had occurred, the Chairman said that he would discuss it with officers after the meeting.

**RESOLVED:**

That the application be deferred until the next meeting to allow the consultation period to expire.

**43. FULL APPLICATION – ERECTION OF 11 NO. DWELLINGS AT FORMER NORTH WALES POLICE STATION, 105 THE HIGHWAY, HAWARDEN (049448)**

The Committee considered the report of the Head of Planning in respect of this application. The usual consultations had been undertaken and the responses received detailed in the report. Additional comments received since the preparation of the report were circulated at the meeting.

The officer detailed the background to the report and explained that following deferment at the previous meeting, the requisite amendments to the planning application form had been made and submitted to the Local Planning Authority and the requisite Notice of Application had been served upon the Council as both landowner and Local Highway Authority.

Councillor A.M. Halford said that she was declaring an interest as a School Governor and that she would not take part in the debate but would not be leaving the meeting. The Democracy & Governance Manager requested a short adjournment to allow him to advise Councillor Halford.

Following a short adjournment, Ms. K. James spoke against the application on behalf of residents. She queried the presumption in favour of development under Policy HSG3 as she felt that other employment uses had not been fully considered. The site was not needed for housing and the scale of the development would have a detrimental impact on residents and the density was too high at 53 dwellings per hectare. The application would overdominate the area and would be detrimental to highway safety and in her opinion was considered to be inappropriate.

Councillor Cheryl Carver on behalf of Hawarden Community Council spoke against the application. She felt that the application should be refused on the grounds of the development being out of character for the location and the density on the site being too high. She said that the development should

mirror the properties in the immediate vicinity and referred to the listed building situated across the road from the site and to the rear of the site was Birch Rise which consisted of Georgian style detached houses. She could not see any resemblance to the layout being reflective of the Queen Mary Cottages which were located to the east of the site, as was indicated in the report. Councillor Carver said that the density of dwellings would add to the parking problems of residents' cars in Hawarden as she felt that some of those living in the development, and any visitors, would not park in the gated courtyard. She asked Members to refuse the application.

Councillor D. Evans proposed refusal of the application against officer recommendation which was duly seconded.

The local Member, Councillor C.S. Carver spoke against the application. His main concern related to the density of the development and explained that six of the dwellings in terrace form would front on to The Highway with a further terrace of three dwellings fronting onto Birch Rise with a pair of semi detached dwellings fronting onto a private road which was accessed off Birch Rise. He felt that the proposal was out of character with the immediate area as even though there were areas in Hawarden which had high density terraced housing abutting the highway, those properties were not in the vicinity of the application site. He also raised concern about the development harming the setting of the Grade II listed building which was located opposite the application site. The development would provide for two parking spaces for each dwelling which would lead to increased on street parking and Councillor Carver felt that the parking courtyard was too small to accommodate the required number of parking spaces and an adequate turning area. He felt that the layout of the parking court could impede access for emergency services and would be detrimental to the free flow of traffic and highway safety. He also raised concerns about drainage issues on the private road behind the application site leading to 101 and 103 The Highway. He had provided Members with copies of photographs showing that the existing soakaway road drainage gulleys, despite being interlinked, did not work. Councillor Carver highlighted paragraph 7.10 where it stated that whilst Welsh Water would allow a foul sewer connection, they would not allow for a surface water connection into the public surface water sewer which implied that a soakaway system was needed; he queried where this would be located. He asked Members to refuse the application.

Councillor R.C. Bithell said that the site was within the settlement boundary, the application met the space around dwellings requirements and there were no highway objections. He said that there were no objections to the mix of properties on the site and there were two parking spaces allocated per dwelling which complied with standards. However, he raised concern about the density on the site as it was 0.21 of a hectare and in line with guidance of 30 dwellings per hectare, there should be six dwellings on the site. He felt that due to overdevelopment of the site, the application should be refused.

Councillor M.J. Peers asked for clarification on Policy HSG8 and highlighted paragraph 7.08 where the issue of density was reported. He also referred to paragraph 7.04 on the provision for growth of 8-15% in the Unitary Development Plan (UDP) for the settlement and asked what the figure would be if these 11 properties were included.

Councillor H.G. Roberts commented on drainage issues which he felt would increase if the development was permitted. He said that there was a need to ensure proper provision for surface water drainage and queried whether a 'Grampian Style' condition would be put in place. Councillor R.B. Jones raised concern about the density and drainage issues and said that to comply with guidance there should be six affordable dwellings on the site. He referred to the wording on the draft conditions (which had been copied to Members prior to the Committee) and suggested that condition 5 should be amended to replace the reference to "first occupation of any of the dwellings" with "prior to commencement".

In response to the comments made, the officer said that the surface water could be dealt with by a soakaway condition and by an appropriate 'Grampian Style' condition and if the applicant could not comply, then the scheme could not be implemented. He said that no issues had been raised by Highways and the application complied with parking standards; he referred Members to paragraph 7.12 of the report. On the issue of density, the officer said that Birch Rise had larger detached properties which was not reflective of all properties in the area and that the density did vary in the locality.

The Interim Team Leader (Policy) referred to Policy EM6 stating that as the site had been marketed for employment use it would be difficult to argue that its loss would be harmful and it was not located within an area identified for commercial or employment uses nor was it a building which would, in itself, merit retention for architectural or historic reasons in a commercial or employment function; it was therefore reasonable to assume that it could be used for residential development.

In response to comments made on the issue of housing supply and the comment that the housing was not needed on the site, he said other sites had not come forward so there was a need for flexibility and that windfall sites were an important part of the supply. On the issue of density, there was a need to make the most efficient use of the land and because of this, density figures could be more or less than the guidance figure. The properties met all of the Council's standards and this development would only cause a slight increase in the growth rate figure for the settlement.

Following a question from Councillor C.A. Ellis on whether the application complied with space around dwellings standards, the officer referred Members to paragraph 7.07 where it was reported that the layout had been the subject of discussion between the applicant and officers and had been amended in response to concerns such as separation distances complying with those required by the Council's standards. He added that

standards had been reduced for private amenity space but overall it was an acceptable scheme.

On the issue of drainage, the Head of Planning said that this would be dealt with by 'Grampian Style' condition prior to commencement of the development.

**RESOLVED:**

That planning permission be granted subject to the conditions detailed in the report of the Head of Planning (with draft condition 5 amended as suggested), the additional condition detailed in the late observations and subject to the applicant entering into a Section 106 Obligation/Unilateral Undertaking to provide the following:-

- a) Payment of an educational contribution of £10,500 towards primary educational provision/improvements to local education facilities at Hawarden Infants School and £7,000 towards similar secondary education level provision at Hawarden High School. The contributions shall be paid prior to occupation of the first dwelling.
- b) Ensure payment of a commuted sum payment in lieu of on site recreation/open space provision of £12,100 with such monies to be used to enhance existing play and recreation facilities within the community. Such sum payable upon sale or occupation of the fifth dwelling.

**44. FULL APPLICATION – CONTINUATION OF AN OUTDOOR RECREATION ACTIVITY KNOWN AS SPHEREING INCLUDING RETENTION OF CABIN PORTALOO AND ALTERATION TO EXISTING ACCESS ON LAND OPPOSITE BRYN COCH ROAD, WHITFORD (049709)**

The Committee considered the report of the Head of Planning in respect of this application. The usual consultations had been undertaken and the responses received detailed in the report. Additional comments received since the preparation of the report were circulated at the meeting.

The officer detailed the background to the report explaining that determination of the application had been deferred at the meeting held on 20 June 2012 to allow officers to look at conditions including one requiring management of the development site to avoid conflict with the use of the bridleway. Conditions had now been looked at and a management plan submitted. He drew Members' attention to the late observations which included additional comments from the British Horse Society and where permission for 12 months was recommended by the Rights of Way Section; two additional highway conditions were also reported. The officer explained that it was recommended that condition four be amended to include "unless otherwise agreed in advance by the Local Planning Authority". Discussions had taken place with the applicant and the hours of operation had been amended and a management plan had been put in place. Monitoring was to be put in place to ensure the operation of the ball ceased when the bridleway

was in use and signage was also to be put up on the bridleway. The officer added that enforcement action could be taken if the conditions were breached.

Mrs. A. Chamberlain spoke against the application and said that she had no objection in principle to the application. She said that the operation of the bridleway had been closed down at weekends and that a material consideration in refusing the application was the bridleway could not be moved but the application site could be relocated elsewhere. Mrs. Chamberlain said that there were no management conditions in place to make the bridleway safe to use. She also felt that the activity would not bring tourism to the area as she did not feel that those who attended the site would stay in the local vicinity.

Mr. R. Wotton, the applicant, spoke in support of the application. He asked that if permission was granted, it be for five years and not three years as was proposed in the report in order to provide greater security for the 10 staff and to allow site improvements. He also asked that the hours of opening on a Friday be either 10am to 4pm or 4pm to 8.30pm. as they never operated within both slots. Detailed meetings had been held with the planning officer to try and alleviate all of the concerns raised by the British Horse Society and he had also spoken with Mrs. Chamberlain. Mr. Wotton felt that horse riders and those undertaking sphereing could co-exist.

Councillor B. Hughes from Whitford Community Council spoke in support of the application and explained that there had been no objection from Whitford Community Council. He said that he felt that there were other bridleways in the area which were located near to schools and were noisier than this one.

Councillor J. Falshaw proposed the recommendation for approval which was duly seconded. He was in agreement with the application and felt that it would be good for the county and would bring in business to the area. Councillor R.C. Bithell concurred that the two activities could co-exist and he felt that this could be accomplished by the plan that had been put in place. Councillor W.O. Thomas welcomed the submission of the management plan and said that he was sure that agreement could be reached. Councillor I. Dunbar concurred with the comments made.

Councillor A.M. Halford raised concern about the size of the sphereing ball and asked for more information on how the activity would be monitored. She also queried how many riders had been put off using the bridleway compared to the 1300 who had used the sphereing activity. In response to concerns raised by Councillor Halford about the request from the applicant to increase permission to five years, the Head of Planning said that the application before Members was to grant permission for three years from the date of the decision notice which officers felt was appropriate.

Councillor D. Evans felt that allowing three years was too long and that to allow further monitoring, permission should be granted for 12 or 18 months



if the application was approved. Councillor R.B. Jones queried whether condition 5 (activity should take place in strict accordance with the submitted and agreed management plan) was enforceable. In response to the comments made, the officer said that the onus was on the developer to implement the activity in accordance with the management plan and conditions and that if they were breached, enforcement action could be taken. He felt that allowing temporary permission of three years would allow for the activity to be monitored.

**RESOLVED:**

That temporary planning permission be granted subject to the additional highway conditions detailed in the late observations sheet, condition four being amended to include “unless otherwise agreed in advance by the Local Planning Authority” and subject to the conditions detailed in the report of the Head of Planning.

**45. FULL APPLICATION – ERECTION OF A DETACHED RESIDENTIAL BLOCK AT KINSALE SCHOOL, LLANERCH Y MOR (048983)**

The Committee considered the report of the Head of Planning in respect of this application which had been the subject of a site visit on 23 July 2012. The usual consultations had been undertaken and the responses received detailed in the report. Additional comments received since the preparation of the report were circulated at the meeting.

By way of introduction the officer explained that this application and the next one on the agenda were both deferred from the Planning & Development Control Committee meeting on 20 June 2012 to allow for a site visit to take place. He said that both applications were linked and were complimentary to each other. Councillor P.G. Heesom felt that the applications should not be discussed together and the Democracy & Governance Manager advised that there would be a debate and a vote on each application but that it was at the discretion of the Chairman as to whether the presentation by the officer could cover both applications. The Chairman agreed that an overview on both applications could be presented together and that the applications would be debated and voted on separately.

The officer said that on this application, the applicant operated a school on the existing site for children/young adults aged 8 to 25. The proposal was to provide an additional residential block to encourage independent living for those aged 16 to 25. The next application on the agenda was by a separate applicant and proposed to erect an education facility for adults and it was proposed that the development would take place on the lower part of the site.

Councillor P.G. Heesom proposed the recommendation for approval for this application which was duly seconded. He said that he felt that this application was unrelated to the next application on the agenda.

Councillor R.B. Jones referred to 12 draft conditions and queried why there were only 10 conditions in the report. The officer responded that one of the draft conditions had been duplicated and the Democracy & Governance Manager referred Members to the additional condition in the late observations on the facilities for parking, turning and unloading of vehicles.

Councillor A.M. Halford highlighted paragraph 7.02 where it was reported that the site lay within an open countryside location and queried why the application was reported for approval. The Interim Team Leader (Policy) explained that applications in the open countryside were controlled but that Policy GEN 3 criteria 'g' and 'j' permitted development in the open countryside in certain circumstances which this application complied with. Councillor Halford also asked for further information on paragraph 7.12 and in response the officer said that historically permission had been granted under reference 045395 for additional residential educational blocks but as the site was not in the applicant's ownership at the time, the facility could not be made available.

Councillor Heesom said that the school had previously been a hotel and reiterated his concerns that both applications should be kept separate.

**RESOLVED:**

That planning permission be granted subject to the additional condition detailed in the late observations and the conditions detailed in the report of the Head of Planning.

**46. FULL APPLICATION – ERECTION OF ADDITIONAL EDUCATIONAL/RESIDENTIAL FACILITIES TO COMPLIMENT EXISTING SCHOOL PROVISION FOR CHILDREN/YOUNG ADULTS WITH AUTISTIC SPECTRUM DISORDER AT KINSALE HALL, LLANERCH Y MOR (048115)**

The Committee considered the report of the Head of Planning in respect of this application which had been the subject of a site visit on 23 July 2012. The usual consultations had been undertaken and the responses received detailed in the report. Additional comments received since the preparation of the report were circulated at the meeting.

The officer highlighted paragraphs 7.09 and 7.10 which detailed the proposal and he added that the majority of the development was on the lower part of the Kinsale site.

Ms. A. Dishman, spoke in support of the application and said that there was currently very limited provision for adults with autism. The proposal would develop a facility to allow them to work with a structure appropriate to their needs with the main focus being a tourist facility which people with autism would manage with co-workers. Adults with autism would be placed at the facility and funded by local authorities. The site would employ 100 local people as support workers and to work on the site and she felt that the service was much needed.

The local Member, Councillor P.G. Heesom, proposed refusal of the application against officer recommendation, which was duly seconded.

Councillors C.M. Jones and R.C. Bithell sought advice from the Democracy & Governance Manager about whether, in view of Ms. Dishman's comments, they had to declare an interest in the application and a short adjournment took place for advice to be provided. Following the adjournment, Councillors Bithell and Jones indicated that they were declaring a personal interest in the application. Councillor A.M. Halford queried why she had been advised that she had a personal and prejudicial interest in agenda item 5.4 and the Democracy & Governance Manager advised accordingly.

Councillor Heesom drew Members' attention to the site history on page 89 where it was reported that application 047095 had been withdrawn in October 2010. He felt that the application was unauthorised development in the open countryside and did not comply with policies GEN 3 and GEN 4. Councillor Heesom said that there was no need for this facility in the area and that what was proposed was not in keeping with what was already on the site.

Councillor Halford concurred with the comments about the site being in the open countryside and that it should not be permitted because of this. Councillor M.J. Peers highlighted paragraph 7.10 where it was reported that two of the four accommodation blocks were already consented but were proposed to be re-sited. In response, the officer said that permission had been granted on appeal for a tourist related development including 78 holiday lodges and application 045395 proposed the removal of 30 of the previously approved lodges. He provided details of where the four accommodation blocks would be sited if the application was permitted.

Councillor R.C. Bithell said that certain developments could be permitted in the open countryside and referred Members to paragraph 7.14 where the exclusions were detailed; they included an extension to an existing facility which this application was. However, he asked whether, as the development was in a different ownership, it could legally be deemed to be an existing facility. In response, the Democracy & Governance Manager said that the land ownership was a private legal matter and should not be taken into account by Members when considering the application. The Interim Team Leader (Policy) said that there was a clear link with the existing facility and that this application provided a follow-on facility so it was felt that the proposal was acceptable.

Councillor D. Butler raised concern about the land use and felt that the scale and size of the development would be difficult to control in the future. He also queried whether alternative sites had been considered. Councillor R.B. Jones raised concern about there only being 17 conditions included in the report but there being 19 in the draft conditions.

The officer said that historically there had always been the presumption that the buildings were permanent but could give the appearance of temporary

structures and added that this formed part of the appeal in October 2007. The subsequent application (045395) had been designed in a similar way so that if there was a change of circumstances, the buildings could be removed without the need for significant groundworks. The intention for this development was to put down a concrete base and to construct a metal structure on top. In response to the comments from Councillor Butler, the officer advised that a sequential test had been undertaken by the applicant. The officer referred Members to point iv in paragraph 7.20 where it was reported that alternative sites had been considered but were unacceptable in practical terms and were not economically viable given remedial costs involved.

In summing up, Councillor Heesom said that the facilities were not linked and raised concern on the comments of the officer on temporary nature of the current buildings on the site. He said that this would be a permanent building and that a permanent brownfield site was being created. He added that the application should be refused on the grounds of permanent development in the open countryside which was detrimental to the character of the area.

On being put to the vote, the proposal to refuse the application, against officer recommendation, was CARRIED.

**RESOLVED:**

That the application be refused on the grounds of the application being detrimental to the character of the area and the landscape.

**47. FULL APPLICATION - DEMOLITION OF AN EXISTING STORAGE BUILDING AND STORAGE COMPOUND AND ERECTION OF A SALT STORE AT FULBROOKE BUILDINGS, HALKYN (049796)**

The Committee considered the report of the Head of Planning in respect of this application. The usual consultations had been undertaken and the responses received detailed in the report. Additional comments received since the preparation of the report were circulated at the meeting.

The Development Manager detailed the background to the report and explained that the main issues for consideration included the principle of the development, the appropriateness of the scale and design of the building and the impact on the amenity of adjoining occupiers.

Mr. R. Roberts spoke against the application saying that he understood the need for the store but that the location was a concern as it was next to a conservation area and on the boundary of three listed buildings. He said that the proposed building was 2.5 times higher than the original salt dome and that the entrance to the depot site was substandard. He felt that it was an industrial style building more suited to an industrial area and added that it would be bright orange and would not fit in with other buildings. It was situated above the snow line so depending on where snow fell, vehicles may not be able to access the site.

Mr. R. Daly, the applicant, spoke in support of the application. He spoke of the strategy by Welsh Government (WG) to provide salt to local authorities and the requirement to store the salt until it was needed. He commented on the temporary stores in Queensferry and Blaenau Ffestiniog and that the site at Halkyn had been identified by the authority as a permanent store site. He said that the applicants had met with local residents before the application was submitted and some of the issues which had been identified were addressed. He added that if the application was approved, more screening could be put in place.

The Chairman used his discretion to allow the local Member, Councillor C. Legg to speak on the application. Councillor Legg said that he had initially been in favour of the salt store reserve but that consultation had raised concern. He queried how much it had cost WG and what would happen to the salt if there was an absence of severe weather. He commented on the inadequacy of the approach road to the site and said that the entrance to the site was not ideal. He said that the proposed building was of a significant size and queried whether this was the best site for the development.

Councillor A.M. Halford proposed refusal of the application against officer recommendation which was duly seconded. Councillor M.J. Peers agreed that there was a requirement for the building but said that locating the building on this site would be detrimental to the area. He agreed with Mr. Roberts that it was a large building which would be better suited to another location and queried why there was a need to replace the snowdome which was already in place on the site.

Councillor W.O. Thomas spoke of the difficulties due to access to and egress from the A55 for large vehicles and the need for them to travel along roads in the conservation area to reach the site. He felt that it would be better to be located closer to the A55 and that other sites should be considered. Councillor H.G. Roberts concurred and said that he would like to see the application refused or deferred to allow more appropriate locations to be considered. Councillor R.B. Jones said that the site was outside the settlement boundary and was in the open countryside but had been considered to comply with Policy GEN3 as it allowed for the provision of new appropriate and essential development in the open countryside in special circumstances. He felt that the application did not comply with policies D1, D2 or L1 and that the wording in the report did not allow for approval of the application.

In response, the Development Manager referred Members to the late observations sheet where it was reported that Halkyn Community Council no longer supported the application. He explained that the site had been chosen as the preferred location due to it being an existing Council depot. Officers had worked with the applicant on the design and additional screening would be put in place if the application was permitted.

The Senior Engineer - Highways Development Control confirmed that there were no objections from Highways to the application subject to the

conditions detailed in the report which included the submission and agreement of a traffic management plan.

In summing up, Councillor Halford raised concern about the size of the building and said that she felt that the easy option had been taken by identifying an existing site as the location. She felt that the application should be refused on the grounds of overbearing impact and highway safety and added that it would have a detrimental impact on the local residents.

On being put to the vote, the proposal to refuse the application, against officer, recommendation was CARRIED.

**RESOLVED:**

That the application be refused on the grounds of highway safety and overbearing and detrimental impact of local residents.

**48. APPLICATION FOR OUTLINE PLANNING PERMISSION – FOR ERECTION OF A DWELLING ON LAND REAR OF ISLWYN, TRELOGAN (049665)**

The Committee considered the report of the Head of Planning in respect of this application. The usual consultations had been undertaken and the responses received detailed in the report.

The Development Manager explained that the Committee had deferred this application at the previous meeting to allow the local Member to be present and had been the subject of a site visit on 18 June 2012. The plot was capable of supporting a dwelling but the principle of development did not comply with Policy HSG3. The Unitary Development Plan (UDP) Policy HSG3 only allowed for new build local needs housing in category C settlement where the growth rate had not exceeded 10%; in the case of Trelogan & Berthengam the growth rate was 16.7%.

The local Member, Councillor N.R. Steele-Mortimer, proposed approval of the application against officer recommendation which was duly seconded. He said that he considered the site to be a windfall site and highlighted the consultations and publicity sections of the report where it was reported that no objections had been received. He also referred to paragraphs 7.06, 7.07 and 7.08 where it was reported that the growth rate was 16.7% and said that he felt that this was a retrospective figure. He added that prior to the adoption of the UDP, developments of this nature had been considered on their merits.

Councillor W.O. Thomas said that the site was within the boundary of the village and was an infill site. He referred to the percentage growth calculation and said that, in his opinion, the policy did not appear to be followed for all applications. Councillor R.C. Bithell said that the policy was in place to limit the development in settlements and that for a category C settlement, the growth rate should not exceed 10%. However, he added that it already exceeded this rate because of previous applications which had been completed or committed to since 2000 (which was the base date of the UDP)

when the figures were calculated. He felt that to permit the application would set a precedent and the policy in place should be adhered to and the application be refused. Councillor H.G. Roberts concurred that the application should be refused.

The Interim Team Leader (Policy) said that on the issue of spatial distribution in the county the UDP Inspector had looked at what would be most sustainable and had allowed higher percentage growth rates for larger settlements and had allocated a 10% growth rate for smaller settlements. Where the percentage had been exceeded he advised that new development might be accommodated where there was a clear local need but in this instance there was no evidence presented of any local need, which meant that it did not comply with Policy HSG3.

The Head of Planning said that growth rates continued to be monitored on an annual basis.

In summing up, Councillor Steele-Mortimer said that a current policy was being applied retrospectively to the detriment of the village and that in his opinion, the application should be approved.

On being put to the vote, the proposal to approve the application, against officer recommendation, was CARRIED.

**RESOLVED:**

That planning permission be granted subject to conditions to be determined by the Head of Planning.

**49. FULL APPLICATION – PROPOSED DEMOLITION OF EXISTING SINGLE STOREY REAR EXTENSION AND GARAGE AND REPLACEMENT WITH A NEW SINGLE STOREY REAR EXTENSION TO PROVIDE BEDROOM, BATHROOM AND LIVING SPACE FOR WHEELCHAIR ACCESS AT 15 HAWARDEN DRIVE, BUCKLEY (049623)**

The Committee considered the report of the Head of Planning in respect of this application which had been the subject of a site visit on 23 July 2012. The usual consultations had been undertaken and the responses received detailed in the report. Additional comments received since the preparation of the report were circulated at the meeting.

The Development Manager detailed the background to the report and explained that the applicant had submitted an appeal against non determination of the application. Because of this, the application was not for determination by the Committee at this meeting, but that a steer from the Committee was being sought on how to progress the appeal. He explained that the proposed extension to the bungalow was to be built in an 'L' shape with the extension being three metres on the left hand side and 12 metres on the right hand side and was very close to the side extension of the adjacent property. A previous application had been withdrawn in January 2012 and

this resubmission took the extension away from the boundary even though there was no requirement to do this in planning terms, pointing out that the extension on the adjoining property came up to the boundary. The main issue for consideration was the scale of the development which amounted to an overall percentage increase of 78%. The Council's Local Planning Guidance Note – House Extensions and Alterations made reference to a general guidance figure of 50% for new extensions, however other factors needed to be considered and it was felt that the scale of the proposed development was acceptable in these circumstances.

Councillor M.J. Peers referred to the reason the application had been deferred at the previous meeting as it was reported that this had been for a site visit. He highlighted page 3 of the minutes for that meeting which had been approved earlier as the reason he had proposed deferment at the meeting was due to information being received which was relative to the application which the local Member had not had the opportunity to consider. The Development Manager said that a site visit had also been requested.

Mrs. Edwards spoke against the application and indicated that the extension was 105% of the original floor space, with the guidance being 50%. The physical gap between this and the adjoining property would reduce. There was no means of escape from the rear of the extension and the extension would result in the loss of a large part of the garden. Mrs. Edwards felt that a design could be submitted which would comply with policy and urged the Committee to refuse the application.

The Chairman used his discretion to allow one of the local Members, Councillor D. Hutchinson to speak on the application. Councillor Hutchinson supported refusal of the application due to the extension being overbearing and not in keeping with the streetscene. The extension was more than twice the size of the original dwelling and did not comply with policy. He said that present guidance meant that extensions could be more than 50% in certain circumstances in the open countryside but this was an urban setting and therefore did not comply with policy. He said that small extensions had been permitted on other properties in the area but that the proposal in this application was unacceptable. Councillor Hutchinson said that the minimum guideline distance for space around dwellings in planning guidance was two metres but the amount proposed in this application was 0.5 metres.

Councillor Peers proposed refusal of the application against officer recommendation, which was duly seconded. The Democracy & Governance Manager advised that it was not for the Committee to approve or refuse the application as an appeal had been submitted but that the stance by the Council at appeal needed to be considered. Councillor Peers proposed that the Committee oppose the appeal. The proposal was to demolish the garage and previous extension and build the extension detailed in the application but as identified earlier, this would result in an increase of the original floorspace of 105%. He said that the extension at 17 Hawarden Drive was not comparable to this application.



Councillor H.G. Roberts said that in his opinion there was no reason to refuse the application. Councillor R.C. Bithell concurred with the comments and said that the adjoining property had an extension as was proposed in the application. He said that the gap of 400mm between the two properties was small but not a reason to refuse the application.

In summing up, Councillor Peers reiterated his comments that the extension on 17 Hawarden Drive could not be compared to this proposal. This was a large and overpowering extension with the size being that of adding another bungalow onto the original dwelling. He said that it was out of character with the area, was detrimental to other properties and the design was not sympathetic to policy.

On being put to the vote, the proposal to oppose the appeal was CARRIED.

**RESOLVED:**

That the appeal be opposed due to the detrimental impact on the neighbouring property and the development being out of character with the local area.

**50. CONSTRUCTION OF WASTE TRANSFER BUILDING AND CONTINUATION OF NON-HAZARDOUS WASTE MANAGEMENT OPERATION AT OLD BRIDGE INN, STATION LANE, PADESWOOD (049617)**

The Committee considered the report of the Head of Planning in respect of this application. The usual consultations had been undertaken and the responses received detailed in the report. Additional comments received since the preparation of the report were circulated at the meeting.

The Senior Minerals and Waste Officer explained that this application was to consolidate the existing waste recycling operations and assist with monitoring the site operations and facilitate a greater level of control than existed at present. The aggregate recycling had been operating for over 10 years. It was proposed to relocate an existing screening bund on the eastern boundary to facilitate a larger working area which would assist with improving site management, and as a result, lower stockpile height on the site. The officer highlighted the late observations where concerns from a neighbour were reported about incremental expansion and development of the site in the open countryside.

The report had been written prior to the publication of the Collections, Infrastructure and Markets Sector (CIMS) Plan but the application accorded with the principles of the national waste strategy and the main points of the CIMS Plan had already been taken into account when considering the application. Comments from Councillor R.B. Jones had also been reported in the late observations on the issues of potential noise that would result from the application, use of the word 'household' waste in the report and the

potential for food waste to be stored on the site; responses to the comments made were reported in the late observations.

Councillor R.C. Bithell proposed the recommendation for approval which was duly seconded.

Councillor R.B. Jones said that the application was an attempt to consolidate the existing facility and welcomed the comments made in the late observations. In response to a query from Councillor Jones about noise mitigation, the officer detailed the noise limits which were being proposed. She added that permission was subject to the applicant entering into a Section 106 Agreement and consideration would be given to how the tests would be carried out.

Councillor W.O. Thomas said that there was a similar facility in Ewloe and raised concern about the creation of traffic movements into the area and pollution of the countryside. In response, the officer said that there were no objections from Highways on the proposed number of vehicular movements into the site and that a vehicular restriction would be attached if the application was approved. There was a need for the site which was an existing operation and the application would facilitate control.

In response to a query from Councillor C.A. Ellis about whether, if the application was granted, it would be used as evidence of an additional facility in the appeal on the landfill site, the Head of Planning confirmed that it would be included in the submission.

**RESOLVED:**

That planning permission be granted subject to the applicant entering into a Section 106 Agreement to effectively revoke planning permission 4/0/16514 and to the conditions detailed in the report of the Head of Planning, with:-

- i) imposition of a condition as detailed in the late observations on noise mitigation
- ii) inclusion of the words 'and excluding food waste' on condition 7.

Councillor P.G. Heesom indicated that he wished it to be recorded in the minutes that he voted against the granting of planning permission.

**51. GENERAL MATTERS – RESIDENTIAL DEVELOPMENT CONSISTING OF 51 NO. DWELLINGS, NEW ROAD AND CREATION OF MITIGATION LAND IN RELATION TO ECOLOGY ON LAND BETWEEN AND BEHIND MAISON DE REVES AND CAE EITHIN, VILLAGE ROAD, NORTHOP HALL (048855)**

The Committee considered the report of the Head of Planning in respect of this application. Additional comments received since the preparation of the report were circulated at the meeting.

The Development Manager detailed the background to the report explaining that a consultant had been engaged to prepare a case for the appeal following the four reasons for refusal of the application put forward at the 14 March 2012 Committee. He had concluded that none of the reasons was sustainable at appeal and each of these was addressed in turn in the report. A view was now sought from Members on the stance to be taken by the Council at the appeal

Councillor H.G. Roberts proposed the recommendation not to pursue the four reasons for refusal put forward at the 14 March 2012 meeting which was duly seconded. Councillors R.C. Bithell and M.J. Peers concurred with the recommendation and Councillor Peers highlighted the density of the development in particular as not being a strong reason for refusal.

**RESOLVED:**

That the reasons for refusal proposed within the original resolution on application reference 048855 (relating to ecology, highway safety, density and lack of a geological survey) are not pursued by the Council in the preparation of a case in relation to the appeal against the non determination of the application.

**52. ERECTION OF NON-FOOD RETAIL UNITS UTILISING EXISTING VEHICULAR ACCESS POINTS, SERVICE YARD, CUSTOMER CAR PARK AND PEDESTRIAN LINK AND REMOVAL OF EXISTING PETROL FILLING STATION CANOPY AT SALTNEY RETAIL PARK, RIVER LANE, SALTNEY (049292)**

The Committee considered the report of the Head of Planning in respect of this application. The usual consultations had been undertaken and the responses received detailed in the report. Additional comments received since the preparation of the report were circulated at the meeting.

The Development Manager detailed the background to the report explaining that the application proposed five non food units with the existing car park being reconfigured and landscaped in addition to other landscape/highway works on/adjacent to the site.

Miss C. Dickinson spoke in support of the application on behalf of the applicant. She welcomed the support of officers in their recommendation and said that the proposal would encourage more shoppers to the town. The proposed landscaping works would improve the visual amenity of the area and the development would also provide for the partial rebuilding of an existing footbridge within the site which linked the site into Bridge Street.

The local Member, Councillor R. Lloyd, proposed the recommendation for approval which was duly seconded. He said that the proposal would regenerate the riverside area and would create extra employment and bring new shoppers to the area. He sought confirmation that the existing fuel tanks would be removed and queried whether the voluntary payment of £20,000 for

provision of public art as part of the Section 106 Agreement could be better used to improve the riverside environment, such as benches along the river bank. Councillor Lloyd also referred to paragraph 7.10 and queried whether the proposed units would be open on Saturdays as opening hours for Saturdays were not reported. He welcomed the development which he felt would visually improve the site.

Councillor V. Gay queried condition 7 and the removal of the mezzanine floors. She supported Councillor Lloyd's suggestion on other use of the public art money, asking whether this could help fund a new library. Councillor Gay raised concern about the pedestrian link under the bridge and asked if a rail could be provided under the bridge to keep pedestrians safe. The Senior Engineer - Highways Development Control explained that different surfaces on the road would denote where vehicles and pedestrians should be as it would not be practical to put in a rail. However an assessment could be undertaken to look at the issue and the findings reported back to the local Member. It was proposed that heavy goods vehicles would not be directed along Bridge Street and the Senior Engineer - Highways Development Control said that larger vehicles would access the site from the signal controlled road on the Chester border. Councillor Lloyd asked whether the pavement would be moved out to direct traffic away from pedestrians and the Senior Engineer - Highways Development Control responded that discussions were ongoing on options and that she would discuss these with the local Member if required.

In response to the comments made, the Development Manager said that the pavement would be built out and that condition 22 addressed the issue of redundant fuel tanks. He confirmed that the proposed units would be open on Saturdays. On the issue of mezzanine flooring, he said that there was an element of mezzanine floors in the proposal but that condition 7 referred to the removal of the right to create any more mezzanine floors which would allow the amount of floorspace to be controlled. He added that discussions could take place on the use of the proposed public art provision and the Head of Planning suggested that the recommendation could be amended to read that the Section 106 agreement for the use of the voluntary payment provision be discussed with the applicant and Local Members. Councillor Lloyd proposed the suggested amendment and on being put to the vote, the proposal was CARRIED.

**RESOLVED:**

That planning permission be granted subject to the completion of a Section 106 Agreement, receipt of a Unilateral Undertaking, or issuing an advance voluntary payment of £20,000 with the use to be discussed with the applicant and local Members and subject to the conditions detailed in the report of the Head of Planning.

**53. FULL APPLICATION – FOR THE CONVERSION OF FORMER PUBLIC HOUSE WITH ASSOCIATED LIVING ACCOMMODATION TO FOUR DWELLINGS OF WHICH THREE ARE FOR AFFORDABLE RENTAL HOUSING AT LLYN Y MAWN INN, BRYNFORD (049641)**

The Committee considered the report of the Head of Planning in respect of this application. The usual consultations had been undertaken and the responses received detailed in the report. Additional comments received since the preparation of the report were circulated at the meeting.

Councillor R.C. Bithell proposed the recommendation for approval which was duly seconded.

**RESOLVED:**

That planning permission be granted subject to the conditions detailed in the report of the Head of Planning and subject to the applicant entering into a Section 106 Obligation, unilateral undertaking and/or advance payment of commuted sum, in respect of the following matters:-

1. to ensure the three new properties are retained for local people who require affordable rentable housing, and
2. in lieu of on site play provision a commuted sum of £2199.00.

**54. DURATION OF MEETING**

The meeting commenced at 1.00 p.m. and ended at 6.35 p.m.

**55. MEMBERS OF THE PUBLIC AND PRESS IN ATTENDANCE**

There were 37 members of the public and 2 members of the press in attendance.

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**Chairman**

**SUMMARY OF DECLARATIONS MADE BY MEMBERS  
IN ACCORDANCE WITH FLINTSHIRE COUNTY COUNCIL'S  
CODE OF CONDUCT**

<b>PLANNING AND DEVELOPMENT CONTROL COMMITTEE</b>	<b>DATE: 25 JULY 2012</b>
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<b>MEMBER</b>	<b>ITEM</b>	<b>MIN. NO. REFERS</b>
Councillor A.M. Halford	Erection of 11 no. dwellings at 105 The Highway, Hawarden (049448)	43
Councillor R.C. Bithell and C.M. Jones	Erection of additional educational/residential facilities to compliment existing school provision for children with autistic spectrum disorder at Kinsale Hall, Llanerch-Y-Mor (048115)	46

## FLINTSHIRE COUNTY COUNCIL

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

**DATE:** **WEDNESDAY 5<sup>TH</sup> SEPTEMBER 2012**

**REPORT BY:** **HEAD OF PLANNING**

**SUBJECT:** **VARIATION OF CONDITION NO.15 ATTACHED TO PLANNING PERMISSION REF:046595 "CROES ATTI", CHESTER ROAD, OAKENHOLT, FLINTSHIRE**

**APPLICATION NUMBER:** **049425**

**APPLICANT:** **ANWYL HOMES LTD**

**SITE:** **"CROES ATTI", CHESTER ROAD, OAKENHOLT, FLINTSHIRE**

**APPLICATION VALID DATE:** **06.02.2012**

**LOCAL MEMBERS:** **COUNCILLOR R. JOHNSON**

**TOWN/COMMUNITY COUNCIL:** **FLINT TOWN COUNCIL**

**REASON FOR COMMITTEE:** **Nature of application to delete a Committee imposed planning condition**

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

Members will recall this item was deferred at the request of the Head of Planning from the 25th July Planning committee due to the fact that the press notice relating to the proposed development had not expired. All consultation dates have now expired. The report has been updated to reflect any further correspondence received.

### **1.00 SUMMARY**

- 1.01 The proposed development is for the variation of Condition No.15 on the decision notice attached to reserved matters application Ref: 046595. Condition 15 was imposed by Members at the 11<sup>th</sup> January 2012 Planning Committee. The condition related to the provision of a barrier to vehicles at the end of Prince of Wales Avenue and was imposed due to highway impact on the amenity of existing residents. The applicant does not consider the condition is necessary and is contrary to the outline planning permission previously granted and the development brief that accompanied the outline planning application.

The applicant seeks removal of that condition.

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

2.01 To allow the deletion of Condition 15 attached to reserved matters application Ref: 046595.

**3.00 CONSULTATIONS**

3.01 Local Member Councillor R. Johnson  
No response received at time of writing report

Adjacent Flint Members:  
Councillor Aldridge  
Agrees to determination under delegated powers.

Councillor Howarth  
Agrees to determination under delegated powers

Councillor Cox  
Agrees to determination under delegated powers

Flint Town Council  
No response at time of writing report.

Head of Assets & Transportation  
No objections

Public Protection Manager  
No adverse comments

Welsh Transport Government  
No direction to be issued.

Environment Agency Wales  
No objection.

**4.00 PUBLICITY**

4.01 Press Notice, Site, Notice, Neighbour Notification:-  
The application has been advertised by way of site notices and neighbour letters. 25 letters of objection have been received in addition to petition signed by 97 objecting to the proposal.

- Does not support removal of vehicular restriction onto Prince of Wales Avenue as it would create a rat run and greatly increase traffic along that stretch of road which is already busy.
- Removal of the condition will greatly increase traffic on the Prince of Wales Avenue and the risk of accidents involving



children.

- Does not consider the condition is ultra vires and is in breach of Circular 35/95.
- Roads in the locality were never designed for an increase in traffic if the condition 15 was removed.
- Removal of condition would be detrimental to children and elderly in the locality due to increased traffic use.
- The adopted UDP extols the policy of promoting road safety – how can the proposal assist this aim.

## **5.00 SITE HISTORY**

### **5.01 98/17/1308**

Outline residential development and associated recreational, community and retail was originally reported to committee on 14.12.99 which resolved to approve subject to a Section 106 Agreement -No decision was ever issued due to changed circumstances of the applicants.

#### **035575**

Outline application for a mixed use development including residential, open space, infrastructure, landscaping, education and community facilities was reported to committee on 19.7.2004 which resolved to approve subject to a Section 106 Agreement -the agreement was signed and the permission issued on 11.7.06.

#### **044035**

Highway improvements, street lighting and all associated works, on land at Croes Atti, Chester Road, Oakenholt, in connection with the outline planning permission ( ref. 035575) -Granted permission on 23rd April 2008.

#### **044033**

Reserved matters application -residential development consisting of 189 no. dwellings, public open space, new roundabout and all associated works at Croes Atti, Oakenholt -Granted 11th July 2008.

#### **046562**

Substitution of house types on plots 119, 124, 128-129, 131-132, 136, 138, 139, 142-144, 146-150, 160-163, 165-166, 170-177 and 183 on land at Croes Atti, Oakenholt, granted 11th July 2008.

#### **046595**

Reserved matters application for residential development consisting 132 no. dwellings, new roads, open space and all associated works on land at Croes Atti, Chester Road, Oakenholt, granted on 19th January 2012.

#### **049312**

Application for a Lawful Development Certificate for construction of

vehicular access from Prince of Wales Avenue, Flint to serve residential development at Croes Atti, Oakenholt, permitted by outline planning permission code number 035575 dated 11th July 2006 – granted 5th April 2012.

**049154**

Application for variation of condition no.3 attached to outline planning permission ref: 035575 to allow 7 years for the submission of reserved matters from the date of the outline planning permission being granted rather than the 5 years previously permitted -non determination appeal submitted, (considered by way of a public inquiry on 21<sup>st</sup>/22<sup>nd</sup>. August – decision awaited).

**049426**

Application for variation of condition no.3 attached to outline planning permission ref: 035575 to allow 7 years for the submission of reserved matters from the date of the outline planning permission being granted rather than the 5 years previously permitted – resolved to grant planning permission at Committee on 25<sup>th</sup>. July., subject to completion of S.106 Obligation

**6.00 PLANNING POLICIES**

6.01 Flintshire Unitary Development Plan (FUDP) The FUDP shows the land as a housing commitment and outline planning permission has now been issued. In the context of the development as a whole a large number of the policies of the plan are relevant but the most significant policy is Policy HSG2 -Housing at Croes Atti, Flint, other relevant policies include D1-D4 which refer to design/location/layout/landscaping and Policy GEN1 (General Requirements for Development).

6.02 As regards the status of the Development Brief that relates to the Croes Atti site Members should be aware that at the Planning Committee of 08.02.06 the following was resolved:

"RESOLVED: That planning permission be granted, subject to completion of a satisfactory Section 106 Agreement to ensure development of the site accords with the provisions of the approved Development Brief, including the provision of off- site highway works and the upgrading of existing services, as appropriate, and to the other conditions detailed in the report to the Chief Planning Services Officer. "

6.03 It is the officer's opinion that this must have referred to the revised brief which had been prepared at that time.

6.04 The proposal is considered to accord with the aims of the relevant policies and development brief for the overall site.

## 7.00 PLANNING APPRAISAL

### 7.01 Primary Issue

The primary issue in consideration of the application is whether or not it is acceptable to allow for the deletion of Condition 15 attached to the previously granted reserved matters approval. Condition 15 states:

“Prior to commencement of development, a scheme shall be submitted to the Local Planning Authority for approval for the provision of a barrier to vehicles (except for emergency access) at a point where the main "Boulevard" serving the site meets Prince of Wales Avenue. Any subsequently approved details shall be implemented in full prior to any occupation of dwellings on the site and thereafter retained.

REASON: The highway impacts of the proposed development would be detrimental to the amenity of existing residents in compliance with Policy GEN1 of the adopted Flintshire Unitary Development Plan.”

7.02 The applicant is of the opinion that the condition is “ultra vires” (i.e. not lawful) for the following reasons,

- it contravenes the granted outline which allowed vehicular access onto Prince of Wales Avenue,
- the Council and an independent Highway Engineer have confirmed Prince of Wales Avenue is suitable to accept the additional traffic generated,
- it unreasonably takes away a right of access granted by the outline planning permission and is an onerous requirement on the applicant.
- the Croes Atti Development brief and legal agreement support the vehicular access of the development from Prince of Wales Avenue.

7.03 The received objections to the removal of condition are primarily related to highway safety but also refer to amongst other issues, the detriment to general amenities due to increased noise and pollution.

7.04 Highways The proposed development will have its principal access point into Prince Of Wales Avenue. The proposed new link into Prince Of Wales Avenue which serves the development links into the spine road for the overall site (which will ultimately feed into other points of access at Coed Onn Road and the A548 Chester Road).

7.05 Before discussing the highway issues related to Prince of Wales Avenue, it is worth considering the historical aspect of access for the development onto Prince of Wales Avenue as follows,

- When the outline planning permission was granted in July 2006 for the overall site the submitted Design Statement that

accompanied the application at Page 15 referred to:-

"The spine road which will provide the principle 'through route' for the development signal controlled junction from Chester Road and can link directly (or as a public transport link only) to Prince of Wales Avenue in the north west". This is reiterated again in the Environmental Statement at Volume 1 at 4.3.14.

- At 5.46 of the previously submitted Environmental Statement at Volume 1, "Traffic generated by the proposed residential development off Prince of Wales Avenue (Plots F1 - F5 i.e., the "Thomas Land") can be accommodated by the existing road network without improvement".

- The outline application as permitted in July 2006 referred to condition 19 which stated:-

"No works associated with the proposed development of that part of the site lying immediately to the south of Prince of Wales Avenue shall commence until a detailed scheme for the extension of the existing highway has been submitted to and approved by the County Council. The approved works shall be completed within a timescale agreed with the Local Planning Authority.

REASON: To ensure the formation of a safe and satisfactory means of access to the site in the interests of maintaining highway safety".

- Subsequently on July 2008, under Ref. 044033 the first reserved matters application for the site was permitted. This application in addition to providing for 189 No. dwellings, public open space, games/play areas, also allowed for a new access onto Prince of Wales Avenue.

7.06 The access component of the Croes Atti development has been the subject of extensive negotiations with the applicant. Due to highway concerns raised as part of the public consultation process to the reserved matters application for the "Thomas Land", the applicant was requested to submit an updated Transport Assessment for the proposal. The updated Transport Assessment was based on the original TIA of 2003 but updated with particular reference to the following:-

To assess the proposed detailed design layout which incorporates a roundabout access off the A548, linking to Prince of Wales Avenue and Coed Onn Road via a sinuous alignment spine road

- review trip generation against contemporary TRICS data
- provide an updated assessment of shopping/leisure based trips
- consider revised assessment years

- provide an assessment of routes that would be used by construction period traffic
- general update of previous TIA data relating to the local area (traffic flow/accident data etc)
- the influence that construction of two nearby schools may have had on traffic patterns adjacent to the development site

7.07 The Transport Statement concluded that:-

*The development can be served satisfactorily by the proposed A548 Chester Road roundabout with additional access to Coed Onn Road and Prince of Wales Avenue*

*Traffic generated by the proposed residential development off Prince of Wales Avenue/Coed Onn Road in isolation can be accommodated by the existing road network without improvement.*

*FCC's "traffic calming scheme" which has been implemented along Prince of Wales Avenue, Coed Onn Road and adjoining roads to compliment the traffic management scheme in Flint town centre, has enhanced safety for road users by reducing traffic speeds*

*The presence of traffic calming along Prince of Wales Avenue and Coed Onn Road will also detract usage from the proposed development.*

*Based on the assessment undertaken the development is expected to have minimal impact on the existing highway environment. Modelling analysis has identified that the proposed A548 Chester Road Roundabout has adequate capacity to accommodate the expected traffic flows from the 683 dwellings. Traffic flows on the existing routes (A548, Prince of Wales Avenue, Albert Avenue and Coed Onn Road) are well within theoretical capacities.*

*Public transport links will be extended into the proposed development, subject to reaching agreement with local bus companies.*

*Existing footpaths will be retained/enhanced.*

*The assessment undertaken of the alterations will be marginal and have a minimal impact on the local road network when compared to the current situation.*

7.08 The revised Transport Assessment was independently reviewed on behalf of the Council by the Transport Consultancy Atkins who have concluded that the proposed development is acceptable in highway terms.

7.09 The Council's Head of Assets and Transportation has previously accepted the findings of the independently reviewed Transport

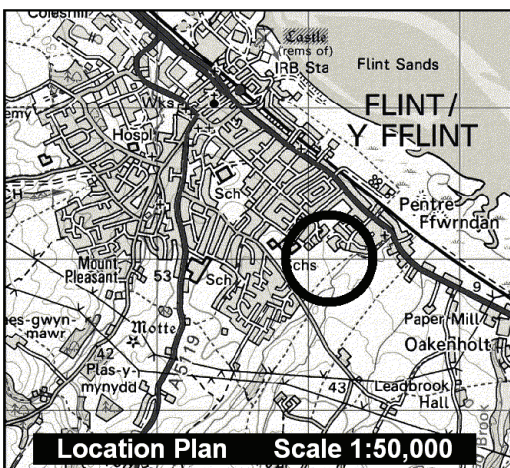
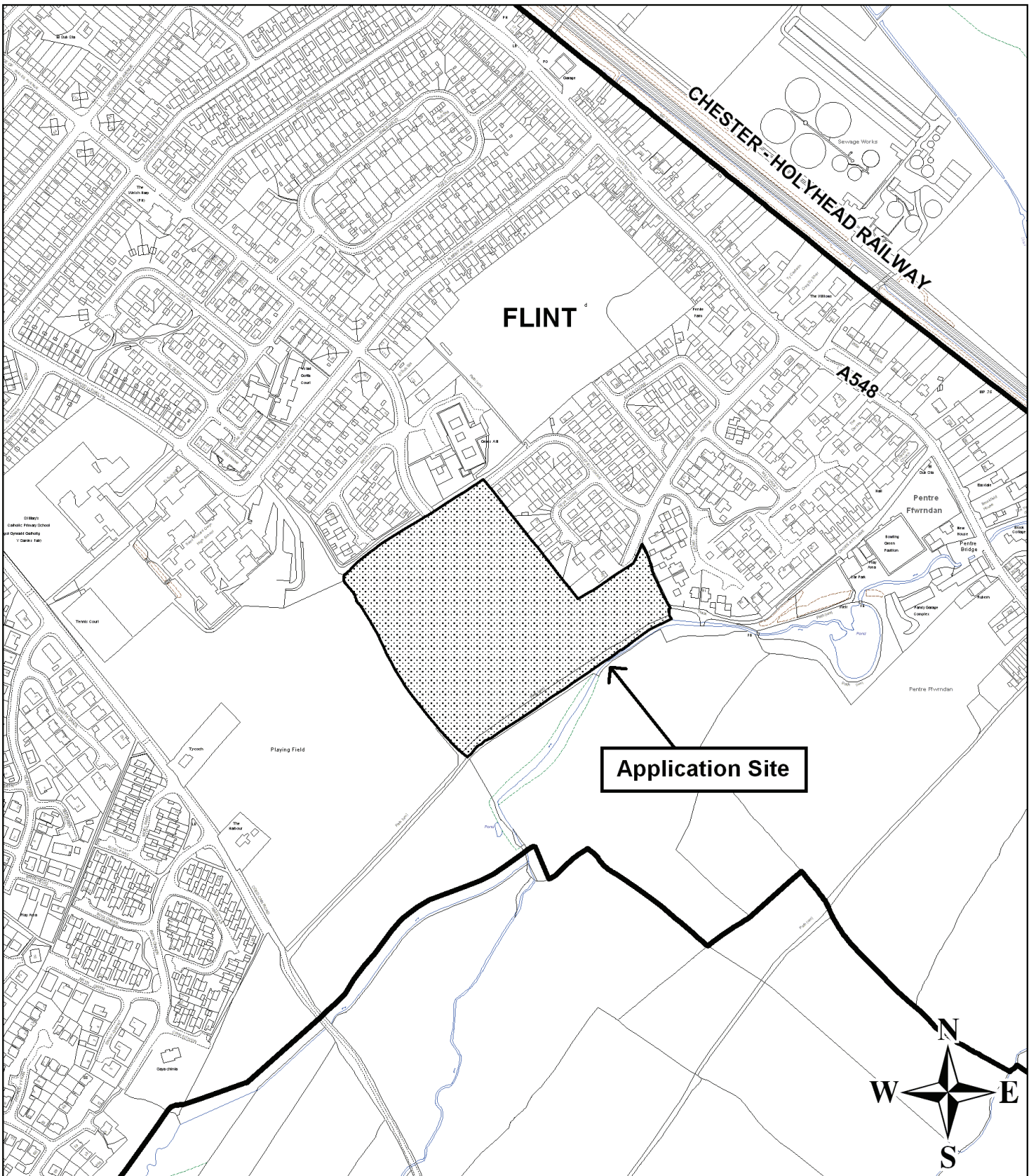
Assessment and therefore offers no highway objections to the deletion of condition 15. Therefore the restriction of vehicular traffic from the Croes Atti development onto Prince of Wales Avenue cannot be judged to be unduly detrimental to highway safety.

- 7.10 As regards highway impacts on the amenity of existing residents, the Councils Head of Public Protection has not objected to the removal of the condition, nor raised any concerns in regards to noise or pollution nuisance. It is considered it would be difficult to maintain a reasonable case for the imposition of a condition restricting vehicular access from the site onto Prince of Wales Avenue, on grounds of detriment to residential amenity due to highway impacts and therefore it is recommended that the condition should be deleted.

## **8.00 RECOMMENDATIONS**

- 8.01 It is considered at officer level there are no reasonable highway nor amenity grounds for the imposition of Condition 15 attached to reserved matters application Ref: 049425 and consequently its removal is supported.
- 8.02 In considering this planning application the Council has acted in accordance with the Human Rights Act 1998 including Article 8 of the Convention and in a manner which is necessary in a democratic society in furtherance of the legitimate aims of the Act and the Convention.

**Contact Officer:** Declan Beggan  
**Telephone:** 01352 703250  
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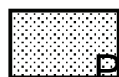


Environment Directorate,  
 Flintshire County Council, County Hall,  
 Mold, Flintshire, CH7 6NF.  
 Director: Mr. Carl Longland

**Legend**



Adopted Flintshire Unitary  
 Development Plan  
 Settlement Boundary



Application Site Extent

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Planning Application **49425**

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## FLINTSHIRE COUNTY COUNCIL

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

**DATE:** **5 SEPTEMBER 2012**

**REPORT BY:** **HEAD OF PLANNING**

**SUBJECT:** **RENEWAL OF OUTLINE PLANNING PERMISSION 045547 TO ALLOW THE ERECTION OF A DWELLING AT LAND SIDE OF TALOSSAMME, ABBOTS LANE, PENYFFORDD**

**APPLICATION NUMBER:** **049792**

**APPLICANT:** **MR. NORMAN PRICE**

**SITE:** **LAND SIDE OF TALOSSAME, ABBOTS LANE, PENYFFORDD, CHESTER.**

**APPLICATION VALID DATE:** **25<sup>TH</sup> MAY 2012**

**LOCAL MEMBERS:** **COUNCILLOR MRS C. HINDS**  
**COUNCILLOR D.T.M. WILLIAMS**

**TOWN/COMMUNITY COUNCIL:** **PENYFFORDD COMMUNITY COUNCIL**

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

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

### **1.00 SUMMARY**

- 1.01 This application is for the renewal of outline planning permission Ref. 045547 for the erection of a dwelling at land side of Talossamme, Abbots Lane, Penyffordd.
- 1.02 Members may recall that planning permission was granted upon appeal on 28<sup>th</sup> July 2009.
- 1.03 The issues for consideration are the principle of the development in Planning Policy terms, the highway implications, drainage of the site, and the effects upon the amenities of adjoining residents and the visual appearance of the area.

1.04 It is considered that circumstances have not significantly altered since the granting of the application originally upon appeal and that outline planning permission should be granted again.

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

**2.01 Conditions**

1. Submission of reserved matters.
2. Outline time limit.
3. Submission of reserved matters to include existing and proposed site levels and finished floor levels of the dwelling.
4. Foul water and surface water discharges shall be drained separately from the site.
5. No surface water be allowed to connect to the public sewerage system unless otherwise approved by the Local Planning Authority.
6. Land drainage run-off not permitted to discharge, into public sewerage system.
7. Dwelling shall be single storey in height.
8. Code for sustainable homes "Interim Certificate" to be submitted before houses are occupied.
9. Code for Sustainable Homes "Final Certificate" before dwelling is occupied.

**3.00 CONSULTATIONS**

**3.01 Local Member  
Councillor Mrs C. Hinds**

Requests both Committee determination and site visit due to concerns over drainage, backland development and access.

• **Drainage**

Problems with the drainage system in Abbots Lane and Alyn Drive. Residents in West View have had their gardens flooded by mainly surface water. Area is prone to raw sewage and surface water flooding. Meetings with Welsh Water have found drains blocked and have suggested another survey. If a dwelling is to be erected its size should be limited and should not be connected to the main sewer. Any hardstanding should be minimal to cut out the amount of surface water and impact upon neighbours.

• **Backland Development**

The Inspector went against WAG's policy on tandem development, consisting of one house immediately behind another and sharing the same access, may cause difficulties of access to the house at the back and disturbance and lack of privacy to the house in front, and should be avoided.

- Access

Is unsuitable and if emergency vehicles had to get through at this moment in time they could not. A fire engine would certainly not be able to access this proposed site.

Councillor D.T.M. Williams

Agrees to the determination of this application under delegated powers. Previous approval for outline ruling this acceptable. Problems with drains and services will need taking account of for full planning but as this application was approved on appeal, it appears this application should be approved.

Penyffordd Community Council

Objects on the grounds that the existing problems of raw sewerage and foul sewerage mixing with surface water will be exacerbated. Furthermore, the proposed dwelling if approved should not impose on existing properties.

Head of Assets & Transportation

Notes that the previous application was determined at appeal by the Planning Inspectorate and also notes their comments in relation to the access serving the proposal. No objection to the proposal and confirms do not intend to make a recommendation on highway grounds.

Head of Public Protection

No adverse comments to make regarding these proposals.

Environment Directorate  
(Rights of Way)

Public footpath abuts the site but appears unaffected by the development. Therefore, no observations to make.

Dwr Cymru /Welsh Water

Requests that if minded to grant planning consent for the development that suggested conditions 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.

Environment Agency Wales

Has assessed the application as having a low environmental risk and as such standard advice applies.

SP Energy Networks

Have plant and apparatus within the area of the proposed development. The developer should therefore be advised of the need to take appropriate steps to avoid potential danger that may arise during their works in relation to the electrical apparatus.

**4.00 PUBLICITY**

4.01 Site Notice, Neighbour Notification

12 letters of objection received. The grounds of objection being:-

- Capacity of drains.
- How the new development will connect to mains services and future of drains especially if they are unable to cope with an additional large family home.
- Tandem development. Two houses in front will have their privacy reduced. Access is limited and the proposal will create more traffic on a very narrow piece of land causing safety issues. Government is against these 'ad hoc' dwellings with no thought for the impact on the surroundings.
- Destruction of wildlife habitats.
- It is a quiet backland site where privacy, existing standards of residential amenities will be greatly diminished in domestic activity, general noise, car movements.
- Driveway narrow for emergency vehicles and large vehicles. Health and safety of children who may be present in the shared driveway whilst vehicles are moving to and from the house behind it.
- Land has always been a garden, not a building plot.
- No certainty that surface water could be successfully drained from the site to a soakaway, and the applicant has yet to carry out any percolation tests.
- No improvements made to the proposal since last refusal.
- Outline proposals could be stretched to a larger building with dormer windows to create more accommodation which is unacceptable in terms of privacy to adjoining occupiers.
- Concern about soakaways and where they would end could be directly to neighbouring properties causing problems.

5.00 SITE HISTORY

5.01 04970 – Erection of a dwelling – Current.

045547 – Outline – Erection of a detached dwelling – Refused 18<sup>th</sup> December 2008 and allowed upon appeal 28<sup>th</sup> July 2009.

044705 – Outline – Erection of a detached dwelling – Withdrawn  
18<sup>th</sup> April 2008.

040029 – Outline – Erection of a 3 bedroom bungalow – Refused  
22<sup>nd</sup> September 2006.

## **6.00 PLANNING POLICIES**

### **6.01 Flintshire Unitary Development Plan**

STR1 – New Development.

STR4 – Housing.

GEN1 – General Requirements for Development.

GEN2 – Development inside Settlement Boundaries.

TWH1 – Development Affecting Trees & Woodlands.

AC13 – Access and Traffic Impact.

HSG3 – Housing on Unallocated Sites within Settlement Boundaries.

EWP12 – Pollution.

EWP13 – Nuisance.

EWP16 – Water Resources.

EWP17 – Flood Risk.

#### National Policy

Planning Policy Wales (Edition 4, February 2011).

Technical Advice Note (TAN) 15: Development & Flood Risk (2004).

Technical Advice Note (TAN) 22: Sustainable Buildings.

Given that the site is located within both the settlement limit for Penyffordd and a Category B Settlement, at the time of submission of this planning application there was a live consent upon the site and in that the existing growth rate has taken account of the consent, the proposal is considered acceptable in principle in planning policy terms.

## **7.00 PLANNING APPRAISAL**

### **7.01 Site Description & Proposal**

The site comprises of approximately 560 sq.m. of a flat garden area, adjacent to the garden of Talossamme, Penyffordd. Access to the site is gained via a long narrow lane which runs past the front of both Graigwen and Talossamme, off Abbotts Lane. It is located to the rear of Nos. 16-22 Alyn Drive and Nos. 5 & 7 Park Lane, Penyffordd.

It is divorced from the semi-detached property of Graigwen by approximately 30 m to the east.

The site is also located within the settlement to Penyffordd situated approximately 800 m from the centre of the village to the south west.

The proposal is for renewal of outline planning permission 045547 to allow the erection of a dwelling. The reserved matter of access is also

being applied for at this stage. An indicative plan has been included with the application showing the proposed scale of the dwelling relative to the plot size. The footprint of the dwelling has been shown to be approximately 30% of the plot area leaving 70% for amenity, garden and parking.

7.02 Issues

The main issues to consider within the determination of this planning application are the principle of the development in planning policy terms, the highway implications, drainage of the site and the effects upon the amenities of adjoining occupiers in terms of loss of light, privacy and the visual appearance of the area.

7.03 Background

Members may recall that the previous application, 045547 was refused planning permission under delegated powers on the grounds that it was considered that the proposal would represent an inappropriate form of tandem development which did not provide for a separate means of vehicular access and would introduce domestic activity into this backland site and would therefore be a diminishment of existing standards of residential amenity to the properties of Talossamme and Graigwen. The application was subsequently allowed on appeal on 28<sup>th</sup> July 2009 subject to various conditions being imposed.

7.04 Principle of Development

The site lies within the settlement boundary for Penyffordd as defined by the Flintshire Unitary Development Plan. Within the Plan, Penyffordd is classed as a Category B settlement. Policy HSG3 allows new housing development where it would cumulatively result in more than 15% growth since 2000 and does not result in tandem development or overdevelopment in relation to the character of the site and surrounding area. As at April 2012, the growth for Penyffordd was 29.3%, thus exceeding the 15% limit. However, given, at the time of submission of this planning application there was a live consent upon the site and that the existing growth rate has taken account of the consent, the proposal is acceptable in this respect.

In terms of the proposal constituting tandem development or overdevelopment of the site, the Inspector considered that the proposals were acceptable in both respects. The Inspector stated:-

“In this case there is an existing access serving both Graigwen and Talossamme and the owners of Graigwen must pass Talossamme to reach its garden where the dwelling is now proposed. I realise that there are ownership issues against the access drive now. The site is also of sufficient size to accommodate a dwelling and enable a vehicle to manoeuvre within it.

Access to the site would mean passing the other two houses and

there are windows and doors facing the access. However, I consider that, in this particular arrangement, the use of the access by one more dwelling would not result in undue disturbance to the occupiers of the existing houses. The appellant has suggested that the dwelling could be single storey and this being the case the privacy of the occupiers of Talossamme and those on Alyn Drive and Park Drive would not be harmed. A single storey dwelling would also be unobtrusive on this site and unlikely to harm the neighbours living condition in any other way”.

Therefore, given the above, it is considered that the proposals are still acceptable in principle in planning policy terms.

#### 7.05 Highways

Access to the site is via the existing long, narrow track to the garden area part 30 m the properties of Graigwen and Talossamme at the front which in turn is off Abbots Lane.

On the previous application, our highways department raised no objections subject to the imposition of certain suggested planning conditions upon any consent granted. It is noted that the Inspector states in the reasoning of allowing the appeal concludes that:-

“There is nothing in the appeal documents before me to suggest that the existing access is not a satisfactory one from a highway safety point of view and given that access is specifically applied for I consider the conditions unnecessary. Parking and manoeuvring within the site would be with a part of the reserved matters, in particular layout”.

Given the above, that the access has not altered since the previous decision and that our highways department raise no objections, to this scheme it is considered that the existing access is acceptable to accommodate a dwelling upon the site.

#### 7.06 Drainage

Concerns regarding both drainage and flooding are noted. However, both Dwr Cymru and Environment Agency Wales have been consulted on the application and raise no objections to the proposal subject to certain suggested conditions and notes placed upon any consent granted. Dwr Cymru suggest that both surface water and foul water discharges be drained separately from the site.

The Inspector in allowing the appeal upon the previous application states:-

“I have considered all other matters raised including those in respect of drainage and flooding but none after my conclusion”.

It is further stated that:-

“A condition relating to the submission and approval of a scheme for the disposal of foul and surface water is reasonable given the concerns raised about drainage in the area”.

Given the above and the imposition of certain suggested planning conditions and notes upon any consent granted, it is considered that the proposal is acceptable in terms of drainage and flooding.

7.07 Amenities of Adjoining Residents

In allowing the previous application on appeal, the Inspector stated:-

“Access to the site would mean passing the other two houses and take are windows and doors facing the access. However, I consider that, in this particular arrangement, the use of the access by one more dwelling would not result in undue disturbance to the occupiers of the existing houses. The appellant has suggested that the dwelling could be single storey and this being the case the privacy of the occupiers of Talossamme and those on Alyn Drive and Park Drive would not be harmed. A single storey dwelling would also be unobtrusive on this site and unlikely to harm the neighbours living conditions in any other way. Whilst I accept that there are sites where tandem development can cause problems with access and have a harmful effect on the living conditions on the frontage property, in this case the existing arrangement is such that I do not consider any harm would arise”.

As this application is again for a single storey dwelling, given the above, it is considered that the proposal would not significantly harm the amenities of adjoining residents.

7.08 Character & Appearance

Although the type of dwelling will have to be limited to single storey, this is considered in keeping with the area, given that there is a mix of both single and two storey dwellings surrounding the site. The actual design and materials used for the dwelling will be the subject of any reserved matters application which would be further submitted.

**8.00 CONCLUSION**

8.01 It is considered that circumstances have not significantly altered since the granting of this application originally upon appeal and that outline planning permission should be granted again.

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

**Contact Officer:** Alan Wells



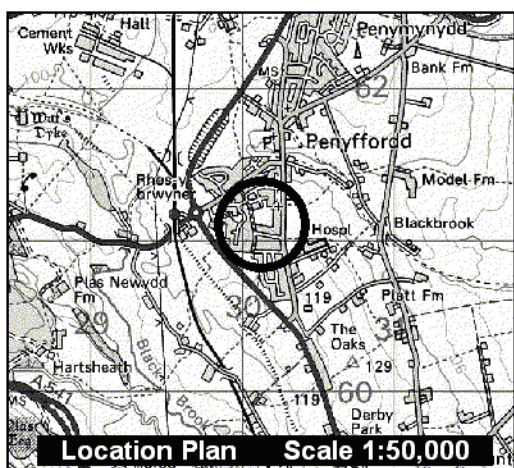
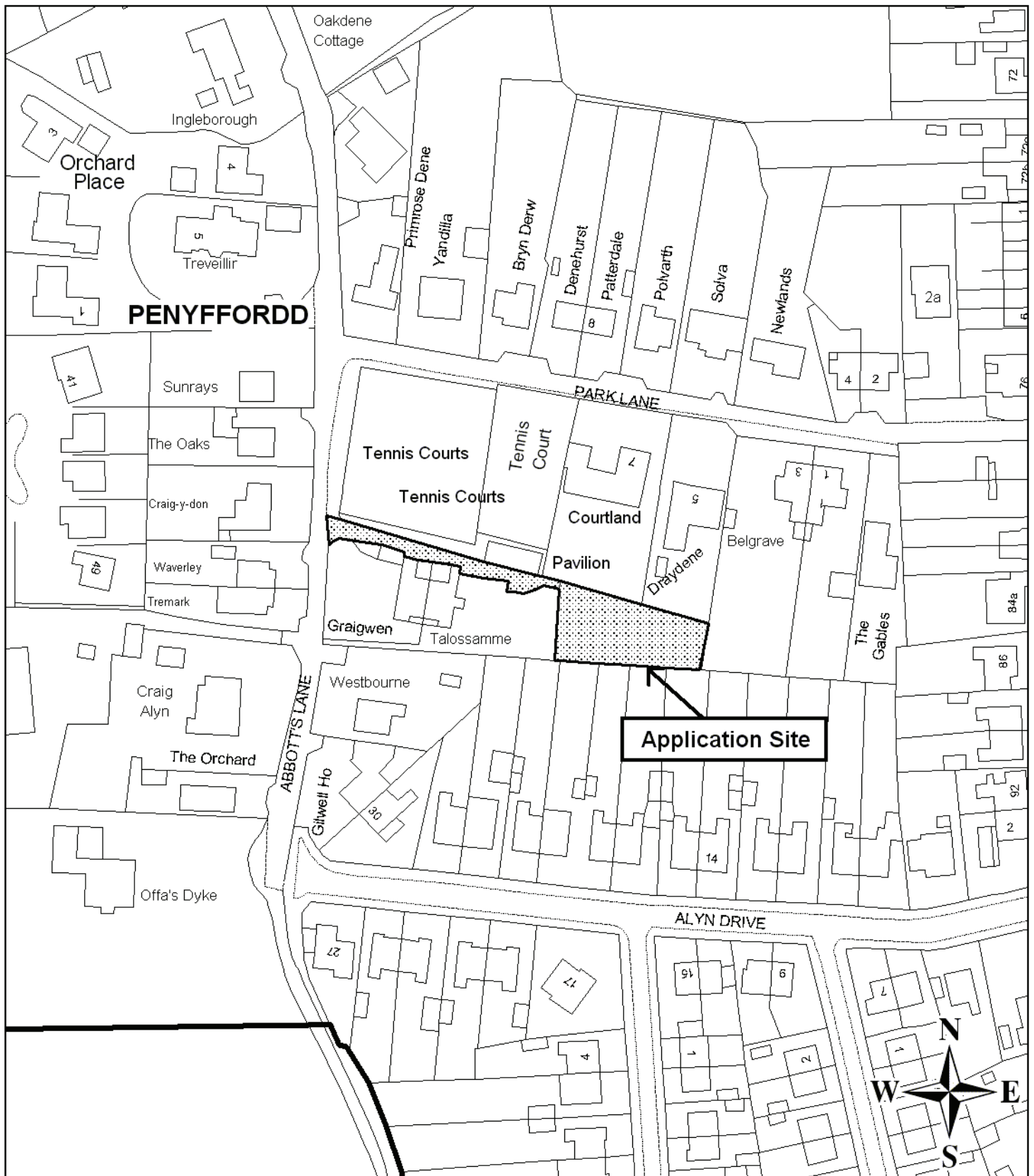
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	Environment Directorate, Flintshire County Council, County Hall, Mold, Flintshire, CH7 6NF. Director: Mr. Carl Longland
	<p><b>Legend</b></p> <p> Adopted Flintshire Unitary Development Plan Settlement Boundary</p> <p> Application Site Extent</p>
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<p>OS Map ref</p>	<p>SJ 3060</p>
<p>Planning Application</p>	<p>49792</p>

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## FLINTSHIRE COUNTY COUNCIL

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

**DATE:** **5 SEPTEMBER 2012**

**REPORT BY:** **HEAD OF PLANNING**

**SUBJECT:** **FULL APPLICATION - ERECTION OF A DWELLING AT LAND SIDE OF TALOSSAMME, ABBOTTS LANE, PENYFFORDD**

**APPLICATION NUMBER:** **049790**

**APPLICANT:** **MR. DAVE EVANS**

**SITE:** **LAND SIDE OF TALOSSAMME, ABBOTTS LANE, PENYFFORDD**

**APPLICATION VALID DATE:** **22 JUNE 2012**

**LOCAL MEMBERS:** **COUNCILLOR MRS C. HINDS**  
**COUNCILLOR D.T.M. WILLIAMS**

**TOWN/COMMUNITY COUNCIL:** **PENYFFORDD COMMUNITY COUNCIL**

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

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

### **1.00 SUMMARY**

- 1.01 This is a full application for the erection of a single storey dwelling on land at the side of Talossamme, Abbots Lane, Penyffordd.
- 1.02 Members may recall that a previous application, 045547 which covers the majority of this site was granted outline planning permission upon appeal on 28<sup>th</sup> July 2009. This application is not submitted for approval reserved matters of 045547 as the size of the plot has been increased to give more garden space and better manoeuvrability to vehicles within the site. An application for renewal of this consent is placed elsewhere on this agenda.
- 1.03 The issues for consideration are the principle of the development in planning policy terms, the highway implications, drainage of the site

and the effects upon the amenities of adjoining residents and the visual appearance of the area.

- 1.04 It is considered that the proposal is acceptable in principle in planning policy given the previous outline approval, the existing access can accommodate a further dwelling, the imposition and compliance of planning conditions will not lead to any significant flooding, the dwelling being single storey will not have a significant detrimental impact upon the amenities of the residents and that the area being a mix of single storey and two storey dwellings will not have a significant detrimental impact upon the visual appearance and character of the area.

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

2.01 Conditions

1. Time limit on commencement.
2. In accord with approved detail.
3. Samples of all external materials to be further submitted and agreed prior to commencement.
4. Existing and proposed site levels and finished floor levels of the dwelling to be further submitted and agreed prior to commencement.
5. Foul flows only permitted to discharge to the 150 mm public combined sewer in Abbotts Lane.
6. Foul water and surface water discharges drained separately from the site.
7. No surface water allowed to connect either directly or indirectly to the public sewerage system.
8. Land drainage run-off shall not be permitted to discharge directly or indirectly into the public sewerage system.
9. Removal of permitted development rights on all future openings (windows/dormer windows etc).
10. Removal of permitted development rights on all future extensions, outbuildings, porches etc.
11. Code for Sustainable Homes "Interim Certificate" to be submitted before work commences.
12. Code for Sustainable Homes "Final Certificate" to be submitted before dwelling is occupied.
13. All boundary treatments to be submitted and approved.
14. Retention of all existing hedgerows upon northern and southern boundaries.

**3.00 CONSULTATIONS**

3.01 Local Member

Councillor Mrs C. Hinds

Requests both Committee determination and site visit. The reasons for Committee determination are that the site is not suitable for access

or egress, ongoing serious drainage problems for Abbotts Lane and Alyn Drive, having raw sewage running on these two roads and this property will back onto where the serious problems are. Preliminary views are that does not agree to application as the access and egress is not suitable and also any more properties added to this area will cause extreme concerns to the drainage system as there are already ongoing serious problems with raw sewage going everywhere.

Councillor D.T.M. Williams

Agrees to determination under delegated powers. Preliminary views are that there are two main problems:-

1. The footprint of the building appears too large in proportion to the land within close proximity to one boundary.
2. Any development on this land must compound the problems of sewers in the area that are already overburdened.

Penyffordd Community Council

Objects on the grounds that the existing problems of raw sewerage and foul sewage mixing with surface water will be exacerbated. Furthermore, the proposed dwelling if approved should not impose on existing properties.

Head of Public Protection

No adverse comments to make regarding these proposals.

Head of Assets & Transportation

No observations to make.

Environment Directorate

(Right of Way)

Public footpath 9 abuts the site but appears unaffected by the development therefore, no observations to make.

Dwr Cymru Welsh Water

Requests that if minded to grant planning consent for the development that suggested conditions 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.

Environment Agency Wales

Have assessed the application as having a low environmental risk and as such standard advice applies.

SP Energy Networks

Have plant and apparatus within the area of the proposed development. The developer should therefore be advised of the need to take appropriate steps to avoid potential danger that may arise during their works in relation to the electrical apparatus.

## 4.00 PUBLICITY

### 4.01 Site Notice, Neighbour Notification

12 letters of objection received. The grounds being:-

- Capacity of drains.
- How the new development will connect to mains services and future of drains especially if they are unable to cope with an additional large family home.
- Tandem development. Two houses in front will have their privacy reduced. Access is limited and the proposal will create more traffic on a very narrow piece of land causing safety issues. Government is against these 'Ad Hoc' developments with no thought for the impact on the surroundings.
- Destruction of wildlife habitat.
- It is a quiet backland site where privacy, existing standards of residential amenities will be greatly diminished in domestic activity, general noise, car movements etc.
- Driveway narrow for emerging vehicles and large vehicles. Health and safety of children who may be present in the shared driveway whilst vehicles are moving to and from the house behind it.
- Land has always been a garden, not a building plot.
- No certainty that surface water could be successfully drained from the site to a soakaway, as the applicant has yet to carry out any percolation tests.
- No improvements made to the proposal since last refusal.
- Outline proposals could be stretched to a larger building with dormer windows to create more accommodation which is unacceptable in terms of privacy to adjoining occupiers.
- Concern about soakaways and where they would end. Could be directed to neighbouring properties causing problems.
- Size of the proposed dwelling is far too large given the not insubstantial existing conditions here.
- Massive mistake was made by the Inspector in allowing outline permission on appeal.



- There are 234 houses now being built in the village and a further 87 will start soon. No need for any more.
- Building plans are odd. Two bedroom windows less than 4' from a hedge is strange. Two gable ends overlooking adjacent properties suggests builder has two dormer windows in mind.
- Recall planning permission given for a bungalow and an enormous 4 bedroomed house appeared out of nowhere.
- Inspector recommends a condition relating to site and finished floor levels to ensure the finished dwelling is appropriate in its setting.
- Trees on adjoining land may be affected.
- Much smaller property with fewer occupants and separate independent systems not connected in any way to public sewer would have a much reduced effect on the system.
- Detrimental impact upon the visual appearance of area due to high rooflines.

## **5.00 SITE HISTORY**

5.01 049792 – Renewal of outline planning permission 045547 to allow the erection of a dwelling – Current.

045547 – Outline – Erection of a detached dwelling – Refused 18<sup>th</sup> December 2008 and allowed upon appeal 28<sup>th</sup> July 2009.

044705 – Outline – Erection of a detached dwelling – Withdrawn 18<sup>th</sup> April 2008.

040029 – Outline – Erection of a 3 bedroom bungalow – Refused 22<sup>nd</sup> September 2006.

## **6.00 PLANNING POLICIES**

6.01 Flintshire Unitary Development Plan

STR1 – New Development

STR4 – Housing

GEN1 – General Requirements for Development

GEN2 – Development Inside Settlement Boundaries

D1 – Design Quality, Location and Layout

D2 – Design

D3 – Landscaping

TWH1 – Development Affecting Trees & Woodlands

AC13 – Access and Traffic Impact

HSG3 – Housing on Unallocated Sites within Settlement Boundaries

EWP12 – Pollution  
EWP13 – Nuisance  
EWP16 – Water Resources  
EWP17 – Flood Risk

### National Policy

Planning Policy Wales (Edition 4, February 2011)  
Technical Advice Note (TAN) 15: Development & Flood Risk (2004)  
Technical Advice Note (TAN) 22: Sustainable Buildings.

Given that the site is located within the settlement boundary for Penyffordd, is classed as a category B settlement, that the majority of the site is covered by a live consent at the time of submission of the application and thus the existing growth rate has taken account of the consent, it is considered that the proposal is acceptable in principle in terms of planning policy.

## **7.00 PLANNING APPRAISAL**

### **7.01 Site Description & Proposal**

The site comprises of approximately 660 m<sup>2</sup> of flat land to the side of Talossamme, which is at the end of a private access road leading from Abbotts Lane. It also comprises part of the side garden of Talossamme and a garden area which was granted outline planning permission (Ref. 045547) for a single storey dwelling following an appeal.

The land is located to the rear of Nos 16 – 22 Alyn Drive and Nos 5 & 7 Park Lane, Penyffordd.

The site is also located within the settlement of Penyffordd situated approximately 800 m from the centre of the village to the south west.

The proposal is a full application for the erection of a 4 bedroomed bungalow style property providing a family home. The application is not a reserved matters application following the grant of outline planning permission (Ref. 045547), as the applicant has incorporated additional land from Talossamme increasing the size of the plot.

The proposed dwelling measures approximately 23 m x 10.5 m x 6 m (highest part). It incorporates an attached garage upon its end nearest Talossamme. The footprint of the dwelling is 30% of the plot area, leaving 70% for amenity, garden and parking.

### **7.02 Issues**

The main issues to consider within the determination of this planning application are the principle of the development in planning policy terms, the highway implications, drainage of the site and the effects upon the amenities of adjoining occupiers in terms of loss of light, privacy etc and the visual appearance of the area.

### 7.03 Background

Members may recall that a previous application, 045547 which covered the majority of the site was refused planning permission under delegated powers on the grounds that it was considered that the proposal would represent an inappropriate form of tandem development which did not provide for a separate means of vehicular access and would introduce domestic activity into this backland site and would therefore be a diminishment of existing standards of residential amenity to the properties of Talossamme and Graigwen. The application was subsequently allowed on appeal on 28<sup>th</sup> July 2009 subject to various conditions being imposed.

The renewal application of this consent, Ref. 049792 is to be also considered by members at this meeting and is placed elsewhere on the agenda.

### 7.04 Principle of Development

The site lies within the settlement boundary for Penyffordd as defined by the Flintshire Unitary Development Plan. Within the Plan, Penyffordd is classed as a Category B settlement. Policy HSG3 allows new housing development where it would cumulatively result in more than 15% growth since 2000 and does not result in tandem development or overdevelopment in relation to the character of the site and surrounding area. As at April 2012, the growth for Penyffordd was 29.3%, thus exceeding the 15% limit. However, given, at the time of submission of this planning application there was a live consent upon the site and that the existing growth rate has taken account of the consent, the proposal is acceptable in this respect.

In terms of the proposal constituting tandem development or overdevelopment of the site, the Inspector considered that the proposals were acceptable in both respects. The Inspector stated:-

“In this case there is an existing access serving both Graigwen and Talossamme and the owners of Graigwen must pass Talossamme to reach its garden where the dwelling is now proposed. I realise that there are ownership issues about the access but physically it is possible to access the site from the access drive now. The site is also of sufficient size to accommodate a dwelling and enable a vehicle to manoeuvre within it.

Access to the site would mean passing the other two houses and there are windows and doors facing the access. However, I consider that, in this particular arrangement, the use of the access by one more dwelling would not result in undue disturbance to the occupiers of the existing houses. The appellant has suggested that the dwelling could be single storey and this being the case the privacy of the occupiers of Talossamme and those on Alyn Drive and Park Drive would not be harmed. A single storey dwelling would also be unobtrusive on this

site and unlikely to harm the neighbours living conditions in any other way”.

Therefore, given the above, it is considered that the proposals are acceptable in principle in planning policy terms.

#### 7.05 Highways

Access to the site is via the existing long, narrow track to the garden area past both the properties of Graigwen and Talossamme at the front which in turn is off Abbots Lane.

On the previous application, our highways department raised no objections subject to the imposition of certain suggested planning conditions upon any consent granted. It is noted that the Inspector states in the reasoning of allowing the appeal concluded that:-

“There is nothing in the appeal documents before me to suggest that the existing access is not a satisfactory one from a highway safety point of view and given that access is specifically applied for consider the conditions unnecessary. Parking and manoeuvring within the site would be with as part of the reserved matters, in practical layout”.

Given the above and that the access has not altered since the previous decision it is considered that the existing access is acceptable to accommodate the dwelling upon the site. In addition, increasing the size of the plot has allowed more space for the manoeuvring of vehicles within the site.

#### 7.06 Drainage

Concerns regarding both drainage and flooding are noted. However, both Dwr Cymru and Environment Agency Wales have been consulted on the application and raise no objections to the proposal subject to certain suggested conditions and notes placed upon any consent granted. Dwr Cymru suggest that both surface water and foul water discharges be drained separately from the site and that foul flows shall only be permitted to discharge to the 150 mm public combined sewer located in Abbots Lane. These are condition Nos 5, 6, 7 & 8 as stated in paragraph 2.01 of this report.

The Inspector in allowing the appeal upon the previous application states:-

“I have considered all other matters raised including those in respect of drainage and flooding but none alter my conclusion”.

It is further stated that:-

“A condition relating to the submission and approval of a scheme for the disposal of foul and surface water is reasonable given the concerns raised about drainage in the area”.

Given the above and the imposition of certain suggested planning conditions and notes upon any consent granted, it is considered that the proposal will not have a significant increased detrimental impact in terms of drainage or flooding of the area.

7.07 Amenities of Adjoining Residents

In allowing the previous outline application on appeal, the Inspector stated:-

“Access to the site would mean passing the other two houses and take all windows and doors facing the access. However, I consider that, in this particular arrangement, the use of the access by one more dwelling would not result in undue disturbance to the occupiers of the existing houses. The appellant has suggested that the dwelling could be single storey and this being the case the privacy of the occupiers of Talossamme and those on Alyn Drive and Park Drive would not be harmed. A single storey dwelling would also be unobtrusive on this site and unlikely to harm the neighbours living conditions in any other way. Whilst I accept that there are sites where tandem development can cause problems with access and have a harmful effect on the living conditions of the frontage property, in this case the existing arrangement is such that I do not consider any harm would arise”.

The submitted plans show a single storey dwelling with all windows and doors at ground floor level upon elevations that face onto boundaries which are well covered with hedgerows and trees which will screen any overlooking onto the existing properties rear garden areas. The proposal is also of a height and sufficient distance away from the existing properties themselves so as not to cause any loss of light. Planning conditions, taking away any permitted development rights for extensions, dormers, insertion of any windows etc. means that the Local Planning Authority will have control over any future developments on the property to protect the amenities of the adjoining occupiers in terms of loss of light, privacy etc.

Although the proposal also involves the loss of some of the garden area of Talossamme, this existing dwelling still has the required amount of amenity space so as not to have a detrimental impact upon their amenities.

Given the above therefore it is considered that the proposal will not have significant detrimental impact upon the amenities of adjoining occupiers.

7.08 Visual Appearance & Character

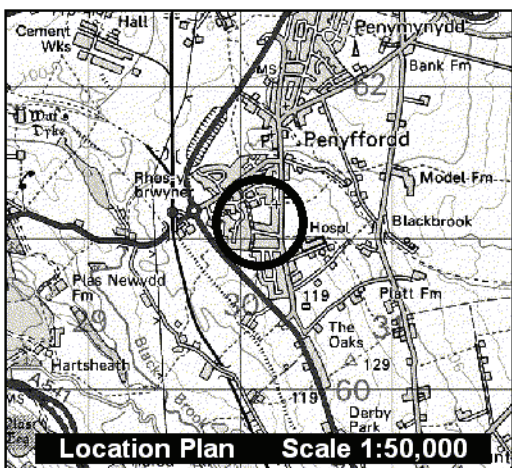
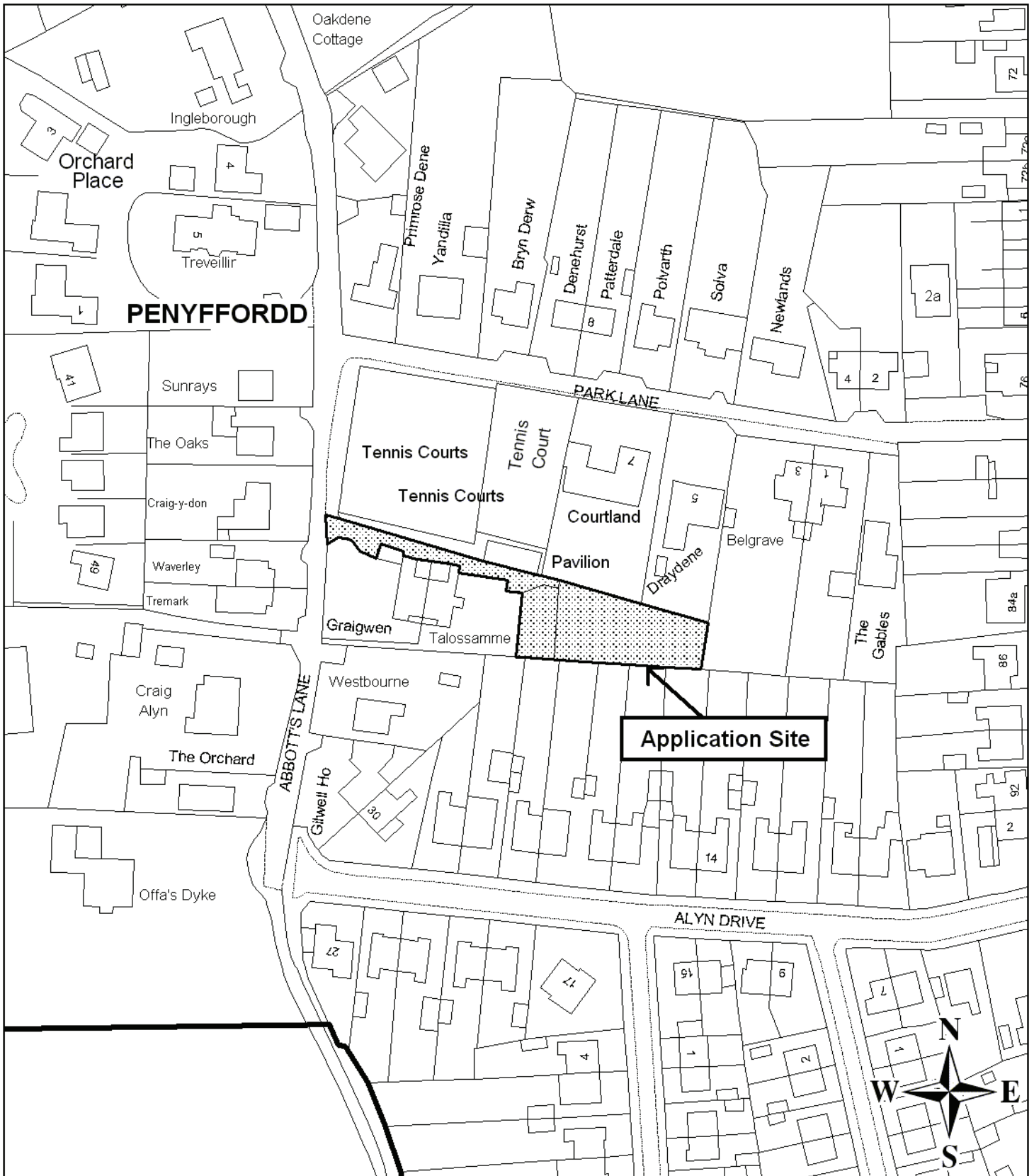
The proposed dwelling is to be a 4 bedroom bungalow. The existing dwellings surrounding the area are a mix of both single storey and two storey. There is also a mix of materials used in their construction. Given the above, it is considered that the proposal will not have a

detrimental impact upon the visual appearance and character of the area.

## **8.00 CONCLUSION**

- 8.01 It is considered that the proposal is acceptable in principle in planning policy given the previous outline approval, the existing access can accommodate a further dwelling, the imposition and compliance of planning conditions will not lead to any significant flooding, the dwelling being single storey will not have a significant detrimental impact upon the amenities of the residents and that the area being a mix of single storey and two storey dwellings means that the proposal will not have a significant detrimental impact upon the visual appearance and character of the area either.
- 8.02 In considering this planning application the Council has acted in accordance with the Human Rights Act 1998 including Article 8 of the Convention and in a manner which is necessary in a democratic society in furtherance of the legitimate aims of the Act and the Convention.

**Contact Officer:** Alan Wells  
**Telephone:** (01352) 703255  
**Email:** alan.wells@flintshire.gov.uk



Environment Directorate,  
 Flintshire County Council, County Hall,  
 Mold, Flintshire, CH7 6NF.  
 Director: Mr. Carl Longland

**Legend**



Adopted Flintshire Unitary  
 Development Plan  
 Settlement Boundary



Application Site Extent

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Planning Application 49790

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## FLINTSHIRE COUNTY COUNCIL

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

**DATE:** **5 SEPTEMBER 2012**

**REPORT BY:** **HEAD OF PLANNING**

**SUBJECT:** **ALTERATION TO EXISTING AGRICULTURAL ACCESS AT LLINEGR HILL, FFYNONNOGROYW, HOLYWELL**

**APPLICATION NUMBER:** **049849**

**APPLICANT:** **MR & MRS S E CROFT**

**SITE:** **LLINEGR HILL, FFYNONNOGROYW, HOLYWELL**

**APPLICATION VALID DATE:** **27 JUNE 2012**

**LOCAL MEMBERS:** **CLLR G BANKS**

**COMMUNITY COUNCIL:** **LLANASA**

**REASON FOR COMMITTEE:** **REQUEST FOR REFERRAL BY CLLR G BANKS**

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

### **1.00 SUMMARY**

- 1.01 This application seeks consent for the alteration to an existing agricultural access off Llinegr Hill. The proposal is to upgrade the existing agricultural access to highway standard agricultural access requirements, thus improving it in terms of highway safety. The scheme is reasonably required in connection with the existing agricultural use.
- The main issues in regard to this proposal are highway safety and impact upon visual / landscape amenity.

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

- 2.01 1. Commencement within five years.

2. Development in accordance with the approved plans.
3. Planting of native hedgerow in accordance with guidelines.
4. Hedge removal outside bird nesting season

### **3.00 CONSULTATIONS**

#### 3.01 Local Member Councillor G. Banks

Requests the application be referred to Committee and committee site visit on the following grounds;

- Unsafe access (close to bend)
- No pavement
- Previous accident

#### Llanasa Community Council

Object, the access is considered to be in a dangerous location and the local residents fear that an accident could be caused.

#### Chief Highways and Transportation Engineer

Existing agricultural access involves agricultural vehicles stopping on highway to open gate, with interruption of traffic flow on Llinegr Hill. Proposal constitutes an improvement allowing a vehicle to park clear of the carriageway whilst the gates are being operated and improved visibility.

### **4.00 PUBLICITY**

#### 4.01 Neighbour Notification as a result of neighbour notification 11 letters of objection have been received, objecting on the following grounds:

- The hill is already busy with traffic, making exiting driveways difficult
- More agricultural traffic will make the hill more difficult
- Concern over the number of applications submitted previously, with a view to gaining permission for low cost homes
- If granted could set a precedent for development in area
- Lack of farming carried out on land, not farmed in constant manner
- Owner not repaired the previous damage to hedgerow
- Opinion that the existing access has been used successfully

- There are no footpaths on the hill, and any improvements, should contain elements of safety for the general public.
- The small area of land, doesn't warrant an extension of the field access, as the access has been used successfully previously
- The application to enlarge the access will involve destruction of ancient hedgerow and this doesn't warrant approval.

## **5.00 SITE HISTORY**

- 5.01 04/37505 Outline residential development Refused 19.07.04  
 05/39396 Erection of 16 energy efficient dwellings Refused 17.06.05  
 APPEAL dismissed 31.01.06  
 05/39922 Creation of new field access to replace existing Refused  
 09.09.05  
 05/40280 Creation of new agricultural access Refused 20.12.05  
 09/46130 Construction of new field access Refused 28.07.09 Appeal  
 dismissed 16.04 .10

## **6.00 PLANNING POLICIES**

- 6.01 Flintshire Unitary Development Plan  
 GEN1 General Requirements for Development  
 L1 Landscape Character  
 TWH2 Protection of Hedgerow

## **7.00 PLANNING APPRAISAL**

- 7.01 Application Site  
 This application seeks consent for the alteration of an existing agricultural access, for use for agricultural purposes. The field the access serves is 0.84 ha and is used for grazing. The access is sited in the north corner of the field, off the highway, with the access being in line with the hedge which offers little visibility. In addition as the land falls sharply from the entrance it makes access and egress difficult for agricultural vehicles.
- 7.02 Prior to submission of this application the applicants discussed the proposals to alter the existing access with officers and the scheme now proposed would be an improvement in terms of highway safety in that it would allow a vehicle to pull off the highway in order to access the field as well as improving visibility at the point of access. In utilizing the existing access any impact upon wildlife and amenity is also limited, but in any case needs to be balanced against the highway improvement.
- 7.03 Highways  
 In view of concerns with regards to the nature of the agricultural traffic

and possible intensification of vehicular movements the Council's Highways engineer considers that the proposed access is an improvement in highway safety terms. Providing that this is constructed in accordance with Flintshire County Council's standard agricultural access detail, no objection to the proposed scheme.

7.04 Hedgerow and Visual Amenity

The proposed alteration to the existing agricultural access does involve the removal of approximately 10m. of hedgerow, however the impact upon wildlife and amenity is considered to be mitigated by the proposed replanting (behind the proposed splays) and the infilling of the existing gaps within the hedgerow further up the road.

7.05 The county ecologist has considered the proposal and considers that as the scheme involves the alteration to an existing access and not the creation of a new access, this is an acceptable solution to the existing substandard agricultural access, as the potential impact upon wildlife and amenity is limited.

7.06 Whilst it is acknowledged that the site is within the open countryside, and the hedgerow is an established landscape feature comprising of native species, the removal of a section approximately 10m in length, to facilitate the required splays, is not considered to significantly impact upon the landscape or the wildlife.

7.07 Any impacts are mitigated by the proposed planting of hedgerow behind the splays, with a native species mix to reflect the existing species mix, (for a length which amounts to approximately 10m), which replaces that length which will be removed in order to facilitate the standard agricultural access, this also lessens the visual impact of the scheme by the proposed infilling of the existing gaps in the hedgerow.

7.08 In addition the proposal mitigates against any potential impact upon wildlife by the timing of the operation of works, (to that outside the bird nesting season) and the requirement by condition that any replanting is undertaken at the earliest available planting season after the works have been carried out. In addition the planting scheme is proposed to be of a species mix reflective of the existing established hedgerow, with the main species being hawthorn and blackthorn.

7.09 Other Matters

A number of concerns have been raised with regards to the planning history of the site, variety and type of applications received previously and the number of previous applications received for the site, and that if allowed that this development could set a precedent for development of the area. This application is, however, presented as an alteration to an existing agricultural access. Both the Highways officer and the Ecologist have raised no objection to the proposal, in relation to highway implications, the visual amenity and the wildlife

implications of the scheme and as such it is considered that the application is compliant with the above policies.

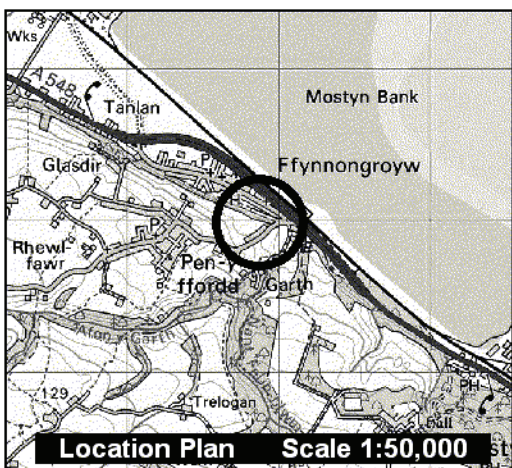
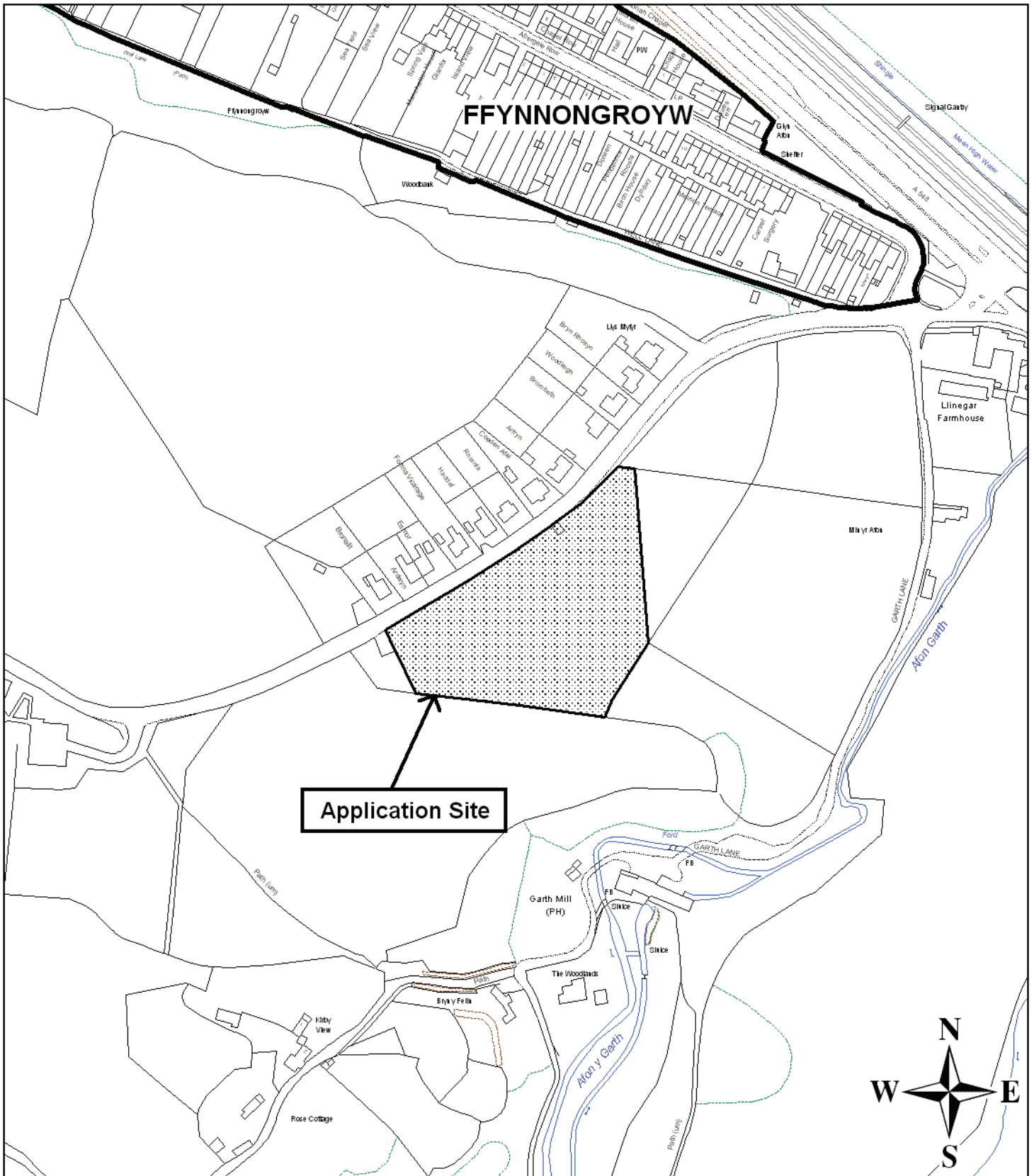
**8.00 CONCLUSION**

8.01 The alteration to the existing agricultural access is reasonably required in relation to the existing agricultural enterprise, its impact upon visual amenity and wildlife have been considered as part of the scheme, and have been mitigated against, and accordingly the scheme is supported in compliance with the suggested conditions.

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

**Contact Officer: Barbara Kinnear**  
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Environment Directorate,  
Flintshire County Council, County Hall,  
Mold, Flintshire, CH7 6NF.  
Director: Mr. Carl Longland

**Legend**



Adopted Flintshire Unitary  
Development Plan  
Settlement Boundary



Application Site Extent

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Planning Application 49849

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## FLINTSHIRE COUNTY COUNCIL

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

**DATE:** **5 SEPTEMBER 2012**

**REPORT BY:** **HEAD OF PLANNING**

**SUBJECT:** **FULL APPLICATION – SITING OF 18 NO. STATIC CARAVANS ON LAND AT PENNANT PARK GOLF CLUB, SAITHFYNNON, WHITFORD, HOLYWELL**

**APPLICATION NUMBER:** **049812**

**APPLICANT:** **PENNANT PARK GOLF CLUB**

**SITE:** **LAND AT PENNANT PARK GOLF CLUB, SAITHFYNNON, WHITFORD, HOLYWELL**

**APPLICATION VALID DATE:** **31<sup>ST</sup> JULY, 2012**

**LOCAL MEMBERS:** **COUNCILLOR P. HEESOM**

**TOWN/COMMUNITY COUNCIL:** **MOSTYN COMMUNITY COUNCIL**

**REASON FOR COMMITTEE:** **MEMBER REQUEST- RAISES CONCERNS WITH REGARD TO THERE BEING AN UNDERUSED CARAVAN SITE ALREADY IN EXISTENCE, THE VISUAL IMPACT ON THE LANDSCAPE AND ACCESS PROBLEMS**

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

### **1.00 SUMMARY**

1.01 This application seeks planning permission for the siting of 18 no. static caravans on land adjacent to Pennant Park Golf Club, Whitford, Holywell. The main issues for consideration in this application are the principle of development at this location, the potential visual impact on the open countryside, impact on residential amenity and access.

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

#### **2.01 Conditions**

1. Time limit on commencement of development

2. In accordance with plans
3. Development to be restricted to holiday accommodation only and not for permanent residential occupation
4. Prior to siting of any caravans full details of elevations and floor plans to be submitted for LPA approval
5. Prior to siting of any caravans full details of materials of construction to be submitted for LPA approval
6. Permitted development rights removed
7. Scheme of hard and soft landscaping to be agreed
8. Landscape management scheme to be submitted and agreed prior to occupation
9. Parking and turning facilities to be made available within the site prior to commencement of use
10. Footpath and bridleway to be kept free of obstruction during development works

### **3.00 CONSULTATIONS**

#### **3.01 Local Member:**

##### **Councillor P. Heesom:**

Requests Committee determination and site visit on the application. Raises concern regarding there already being an underused facility on the golf course complex, access problems and the possible visual impact on the landscape

##### **Mostyn Community Council:**

The Council are opposed to the proposal as it is an inappropriate development for this location and would have an adverse effect on the highway network.

##### **Chief Highways & Transportation Engineer:**

Advises that improvements have been made to the three approaching junctions to the site together with the installation of passing paces along the connecting lane. Also there is an acceptable standard of visibility which is in line with current day standards. On this basis raises no objection to the proposal but recommends the imposition of a condition requiring that parking and turning facilities are provided and retained within the site.

##### **Chief Environment & Resources Officer:**

No adverse comments to make.

##### **Countryside Council for Wales:**

Does not wish to comment on the proposal

##### **British Horse Society:**

No response received at time of writing report

##### **Environment (Rights of Way):**

Public Bridleway 6 crosses the site but appears unaffected by the

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

Economic Development:

Believes that the caravan development would give the potential to attract more visitors to the area and a large proportion of them would use the golf course and club facilities. From a tourism perspective with an objective of boosting the local economy, wishes to support the application

**4.00 PUBLICITY**

4.01 Press Notice, Site Notice, Neighbour Notification

3 written representations received from local residents objecting on the grounds of:-

1. Holiday accommodation already well catered for within the area;
2. Impact on bridleway / users of the bridleway;
3. Impact on the highway network due to the increased traffic;
4. Increased noise nuisance;

**5.00 SITE HISTORY**

- 5.01 Ref. 99/1013 – Erection of a two storey clubhouse approved 15.11.99  
Ref. 01/1301 – Change of use to stewards accommodation approved 4.2.02  
Ref 035905 – Extension to clubhouse approved 24.7.03  
Ref. 038988 – Siting of 15 No. timber clad caravans and associated roads approved 19.8.05

**6.00 PLANNING POLICIES**

6.01 Flintshire Unitary Development Plan

Policy GEN1 – General Requirements for Development  
Policy GEN3 – Development within the Open Countryside  
Policy T4 – New Static Caravans and Chalet Holiday Sites  
Policy STR6 – Tourism  
Policy AC13 – Access and Traffic Impact

Planning Policy Wales

Technical Advice Note 13: Tourism.

It is considered the proposal generally complies with the above planning policies.

**7.00 PLANNING APPRAISAL**

- 7.01 This application seeks planning permission for the siting of 18 no. static caravans on land at Pennant Park Golf Club, Saithfynnon,

Whitford. The main issues for consideration of this proposal are the principle of development at this location, the potential visual impact on the open countryside, impact on residential amenity and access.

#### 7.02 The application site and its surroundings

Pennant Park Golf Club is located outside the settlements of Whitford and Carmel, within the open countryside. The application site is a parcel of land immediately adjoining Pennant Park Golf Club and is within the same ownership. The application site measures approximately 0.99 hectares (2.45 acres) and comprises of an existing field to the rear of a property known as Cae Coch Farmhouse, which is also in the ownership of the golf club. In order to gain access to the application site it is proposed to create a new access onto the existing private road accessing Cae Coch Farmhouse to link up with the existing highway network at Saithfynnon. The site has the benefit of existing mature hedgerows and trees which will effectively shield the proposed development from distant views.

#### 7.03 Proposed Development

The proposal involves the change of use of the existing field to the rear of Cae Coch Farm for the siting of 18 no. caravans for holiday use. The site measures approximately 0.99 hectares (2.45 acres) and rises upwards from the road. The golf club has an existing caravan facility for 15 units to the east of the application site which was granted consent in 2005. This existing site houses 6 no. twin unit timber clad lodges which have been sold to private individuals with the remaining plots currently for sale for long term private ownership. The applicant now wishes to attract tourists seeking holiday lets to the site and is seeking permission for a second site to be marketed for a separate fleet letting use with the site being managed by a holiday company for short breaks.

The site plan shows the plots to be laid out in two rows of single units, the majority being on the lower part of the field. A new access is to be created to the rear of the existing farmhouse with parking for one vehicle being formed alongside each unit. The boundaries of the site already benefit from existing mature planting and this would be enhanced by significant landscaping to provide additional screening. In view of the land contours the caravans are shown to be laid out at different levels and certain caravans being sited onto level plateaus cut into the slope to assist them in assimilating into the landscape. The excavated material would then be used for screen bunding along the site's western boundary and to the rear of the caravans at a higher level. It is proposed that the caravans will be clad in a sustainable and recyclable cladding material, which has the appearance of solid wood. The colours of the external finishes are to be agreed with the Local Planning Authority prior to any units being sited. The existing lane is proposed to facilitate vehicular access to the entrance to the

site and requires no alteration or improvement.

#### 7.04 Issues for Consideration

The main issues in relation to this application are the principle of development in this location, compliance with the requirements of planning policies, the visual impact on the landscape, impacts on residential amenity and the effects of the development on the local highway network.

#### 7.05 Principle of Development / Policy

The site is located in an area of open countryside in the adopted UDP where policies seek to strictly control new development. It is not governed by any landscape or green barrier designation. Planning Policy Wales is supportive of tourism proposals in principle and this approach is supplemented by UDP Policy STR6 which is generally permissive of schemes which enhance tourism within the county.

Policy GEN3 sets out the types of development which may be acceptable within the open countryside and criterion g) refers to development related to tourism and recreation. In physical terms the proposed development is viewed in connection with the long established golf course and this type of development is in principle acceptable subject to (amongst other things) there being no unacceptable impact on the social, natural and built environment.

Policy T4 New Static Caravans contains further detailed advice which states that outside of Talacre, Gronant and Gwespyr area, static holiday caravan or chalet sites are permissible provided that development satisfactorily accords with criteria (a) to (e) of the policy. This sets out matters relating to scale, landscape, nature conservation and accessibility of development. There are no statutory landscapes or nature conservation designations affecting the site and the acceptability of the proposal on the highway network has been addressed by the Highways Officer.

In conclusion, there is no policy objection in principle to this proposal subject to matters of detail being acceptable

#### 7.06 Scale of Development

The scale of the proposal, together with the number, siting, layout of units and circulation roads are appropriate to the characteristics of the site and locality. The proposals submitted have been the subject of pre-application discussions and the siting, number of units and the associated landscaping have all been suggested by officers during these discussions. It is considered that with careful management of the existing landscape and topography and the agreement of a suitable scheme of supplementary planting, that the scale of the

proposals are acceptable and will not have a detrimental impact on the characteristics of the locality.

#### 7.07 Visual Impact

Although the site is located within the open countryside, it is not governed by any landscape or green barrier designation. The application site is located at a lower level than the existing main highway networks and has the benefit of established screening by way of mature vegetation. The development is not visible from the main highway networks and approaching roads. The details submitted as part of the application show that the siting of the proposed caravans has been carefully considered and by utilising the existing topography of the site and providing additional bunding and landscaping the units will assimilate appropriately into the surrounding landscape. Furthermore, the materials of construction will be controlled via detailed submission to the Local Planning Authority for approval prior to the site coming into use. I am therefore satisfied that subject to a suitable condition requiring a landscape and management plan for the site together with the approval of materials, the proposals can be successfully assimilated into the landscape without causing a detrimental visual impact on the locality.

#### 7.08 Impact on Highway Network

The site benefits from an existing access which has been the subject of improvements following the granting of permission for the existing caravan site under application reference 038988. These included significant improvements to the three approaching junctions together with the installation of four passing places along the connecting lane.

The site is well located in terms of the existing golf course facility and also to a range of tourism attractions in the wider area and as such is considered to amount to a sustainable location for tourism accommodation.

The Head of Highways and Transportation has examined the proposals and is of the view that the existing access arrangements to the site are considered acceptable and therefore offer no objection to the proposal subject to the imposition of a suitable condition requiring that facilities should be provided and retained within the site for the parking and turning of vehicles prior to the development being brought into use.

The site is also crossed by Public footpath number 9 and Bridleway No. 6. The Rights of Way Officer has stated that these appear unaffected by the development and has no objection to the proposals subject to the footpath and bridleway being kept free from obstruction during the course of development works.

## 7.09 Amenity Considerations

The proposal would not have a significant adverse impact on the amenity of nearby residents, other users of nearby land / property or the community in general. The rural location of the site is such that it has very little in terms of shared boundaries with residential properties other than that of the existing Cae Coch Farmhouse which is also in the ownership of the applicants, Pennant Park Golf Club. It is considered that the additional landscaping proposed at the shared boundary with this property will serve to safeguard any impact on amenity of those occupiers.

In terms of the impact in the community in general, residents have raised the issues of traffic impacts and increased noise. As there are no abutting residential properties apart from Cae Coch Farmhouse which is in the applicant's ownership, it is considered that any noise generated from the site would not be detrimental on the local residents. Similarly, the Highways Officer has raised no concerns with regards to the adequacy of the access road which serves the development or the users of the footpath or the bridleway which cross the site.

It is therefore considered that the development will not be detrimental to amenity.

## 7.10 Other Issues Raised

A number of issues have been raised regarding access rights and site ownership. The Local Planning Authority are satisfied that the correct notices have been served as part of the application and therefore this issue is not a material consideration.

There is also an objection on the grounds that there is an existing under utilised caravan park within the site. This has been considered but what is proposed in the current application is a different form of tourist accommodation tenure being long term private ownership rather than short term holiday lettings and the existing caravan site has very little room for expansion given the close proximity to existing golf course greens. It is not therefore unreasonable for a second site to be given consideration as a separate entity and assessed on its own merits and this approach conforms with policy.

## 8.00 CONCLUSION

8.01 It is considered that the proposed development is in an appropriate location close to an existing tourism facility, served by a suitable local highway network. Whilst the site is in open countryside, the sensitive siting of the proposed caravans and additional landscaping would reduce the impact on the landscape. The site is in a sustainable location and gives the potential to attract more visitors to the area with

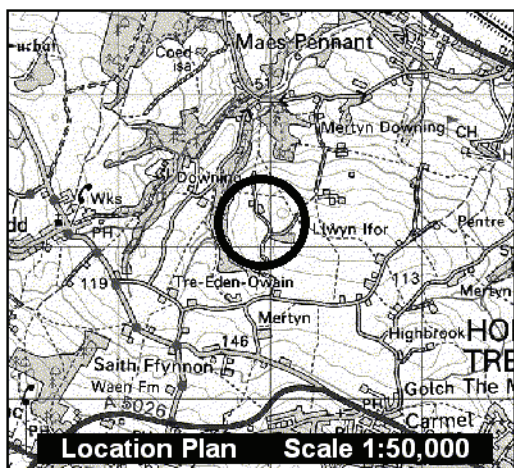
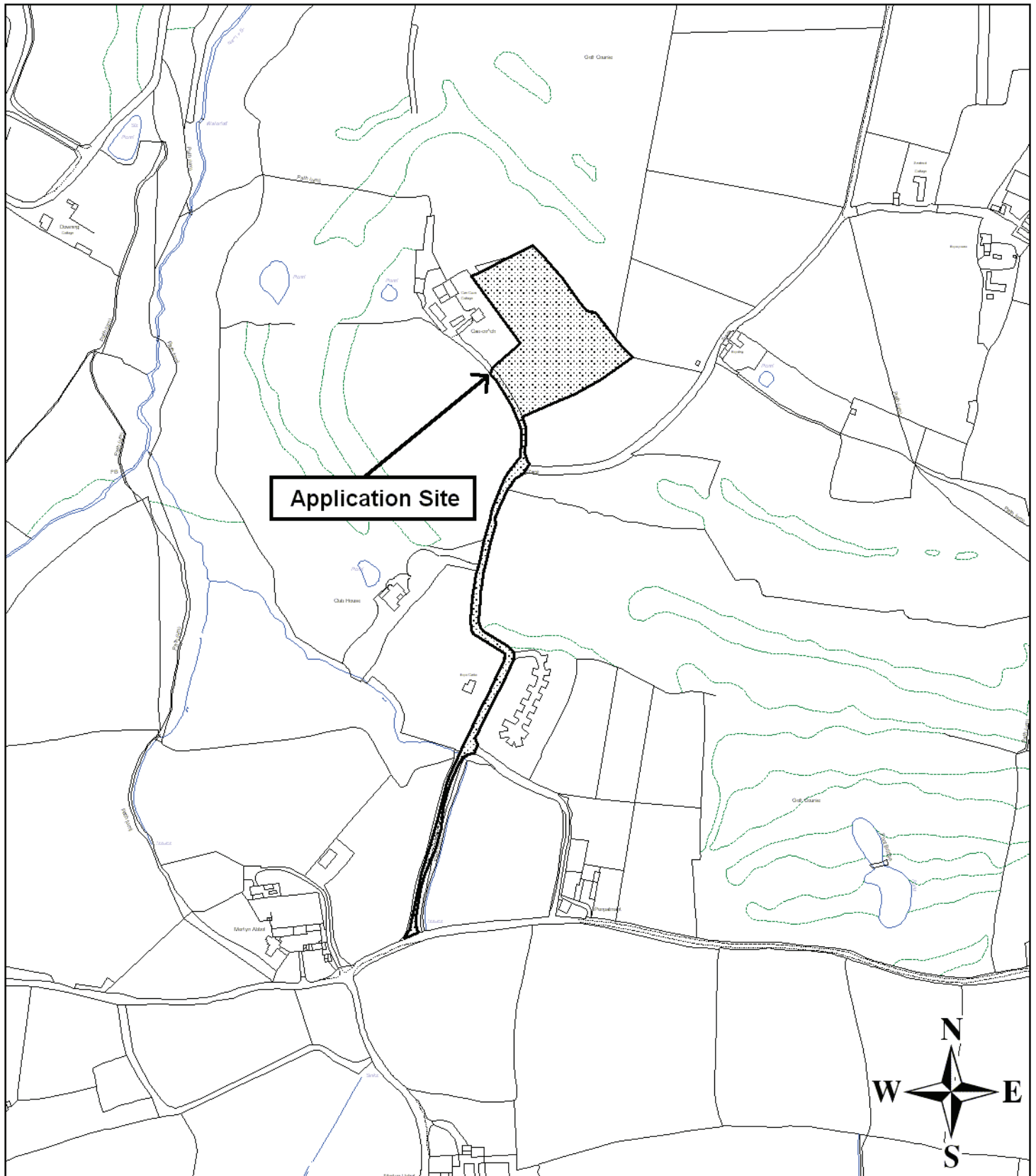
an objective to boosting the local economy. The proposal complies with the development plan policies for this type of development.

- 8.02 In considering this planning application the Council has acted in accordance with the Human Rights Act 1998 including Article 8 of the Convention and in a manner which is necessary in a democratic society in furtherance of the legitimate aims of the Act and the Convention.

**Contact Officer:** Pam Roberts  
**Telephone:** 01352 703239  
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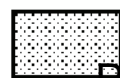


Environment Directorate,  
 Flintshire County Council, County Hall,  
 Mold, Flintshire, CH7 6NF.  
 Director: Mr. Carl Longland

**Legend**



Adopted Flintshire Unitary  
 Development Plan  
 Settlement Boundary



Application Site Extent

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Map Scale 1:5000

OS Map ref SJ 1578

Planning Application 49812

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## FLINTSHIRE COUNTY COUNCIL

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

**DATE:** **5<sup>th</sup> SEPTEMBER 2012**

**REPORT BY:** **HEAD OF PLANNING**

**SUBJECT:** **FULL APPLICATION - SUBSTITUTION OF 9 HOUSE TYPES AT LAND AT FIELD FARM LANE, BUCKLEY**

**APPLICATION NUMBER:** **049712**

**APPLICANT:** **PERSIMMON HOMES NW LTD**

**SITE:** **LAND AT FIELD FARM LANE, BUCKLEY**

**APPLICATION VALID DATE:** **30<sup>TH</sup> APRIL 2012**

**LOCAL MEMBERS:** **COUNCILLOR MS C A ELLIS**

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

**REASON FOR COMMITTEE:** **MEMBER REQUEST TO ASSESS IMPACT ON PRIVACY/AMENITY OF OCCUPIERS OF EXISTING DWELLINGS AND TO ENSURE PREVIOUSLY EXPERIENCED DRAINAGE PROBLEMS AT THIS LOCATION HAVE BEEN ADDRESSED AND RESOLVED**

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

### **1.00 SUMMARY**

1.01 This full application proposes the substitution of house types on 9 No. plots within a recently permitted residential development for a total of 89 No. dwellings on land at Field Farm Lane, Buckley. Amended plans have been received in progression of the application and a further round of consultation undertaken.

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

- 2.01
1. Time limit on commencement
  2. In accordance with approved plans
  3. Details of external materials to be submitted and approved

4. Code for sustainable homes pre-commencement and post construction.
5. Development to remain subject to conditions attached to planning permission ref: 046845.
6. Forming and construction of site access to be submitted and approved.
7. Access to be kerbed and completed to carriageway base course layer.
8. Design, traffic calming surface water drainage, street lighting and construction of internal estate roads to be submitted and approved.

### **3.00 CONSULTATIONS**

#### **3.01 Local Member**

##### Councillor Ms C A Ellis

Requests site visit and planning committee determination. Preliminary concerns relate to ensuring that the privacy/amenity of occupiers of existing dwellings is safeguarded and previously experienced drainage problems have been addressed and resolved.

##### Buckley Town Council

It is noted that the substitution of the 9 house types indicate a move to larger 4 bedrooed properties. Concern is raised that the plans, if approved, will move away from the provision of affordable housing to those types of property that are outside the possibility of purchase by first time buyers.

##### Head of Assets and Transportation

Recommend that any permission includes conditions in respect of the formation of the means of access, traffic calming, surface water drainage, street lighting and means of construction of internal roads.

### **4.00 PUBLICITY**

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

3 letters of objection received the main points of which can be summarised as follows:-

- Amended site layout would result in an increased number of the proposed dwellings backing onto existing dwellings which would lead to increased overlooking and have a detrimental impact on privacy/amenity.
- Revised site layout would change the character of development when viewed from existing properties.
- Increased disturbance during construction phase.
- Impact on easement to safeguard adequate drainage system.

## **5.00 SITE HISTORY**

### **5.01 036776**

Outline – Residential Development. Approved 12<sup>th</sup> May 2004

### **042356**

Reserved Matters – Erection of 139 dwellings, roads, public open space and all associated works. Refused 31<sup>st</sup> May 2007

### **043841**

Reserved Matters – Residential Development of 79 No. dwellings and 24 No. apartments. Withdrawn 8<sup>th</sup> October 2007

### **044085**

Variation of Condition No. 2 attached to planning approval reference 036776 to extend the time for the submission of reserved matters and commencement of development. Approved 6<sup>th</sup> December 2007

### **046845**

Reserved Matters – Residential Development consisting of 89 No. two storey dwellings, open space, roads and associated works. Permitted 5<sup>th</sup> August 2010

## **6.00 PLANNING POLICIES**

### **6.01 Flintshire Unitary Development Plan**

Policy GEN1 – General Requirements for Development

Policy GEN2 – Development Inside Settlement Boundaries

Policy D1 – Design Quality, Location and Layout

Policy D2 – Design

Policy D3 – Landscaping

Policy HSG3 – Housing on Unallocated Sites Within Settlement Boundaries

Policy HSG8 – Density of Development

Policy HSG9 – Housing Type and Mix

Policy AC13 – Access and Traffic Impact

Policy AC18 – Parking Provision and New Development

Policy SR5 – Play Areas and New Housing Development

Policy TWH1 – Development Affecting Trees and Woodlands

Policy TWH2 – Protection of Hedgerows

Policy WB1 – Species Protection

Policy EWP17 – Flood Risk

The proposal generally complies with the above policies.

## **7.00 PLANNING APPRAISAL**

### **7.01 Introduction**

The site, the subject of this application amounts to approximately 0.26

hectares within the wider Persimmon Field Farm site of approximately 4.5 hectares in total, which has the benefit of planning permission for residential development. This site is bounded by Alltami Road to the north and existing residential development to the south off Aberllanarch Drive, Sunningdale and Wentworth Close.

7.02 Background

By way of the background of planning history at this location, the overall site comprising 4.5 hectares in area has the benefit of planning permission for the erection of a total of 89 No. dwellings, this being permitted under Code No. 046845 on 5<sup>th</sup> August 2010. Development has commenced in accordance with this previous permission.

7.03 Proposed Development

The plans submitted as part of this application propose the substitution of house types and modifications to the site layout in respect of 9 No. plots within the development (57-62 and 71-73) although the type and mix of development proposed remains as previously approved under Code No. 046845 i.e. 5 No. detached dwellings and 2 No. pairs of semi-detached properties.

7.04 The applicants have advised that the proposed revisions are in response to market demand for specific house types. The application does not propose larger 4 No. bed properties, but a range of house types from small 3 No. bed starter homes to small/medium sized 4 No. bed family homes.

7.05 Principle of Development

The principle of residential development at this location has been established following the grant of outline planning permission under Code 036776 on 12<sup>th</sup> May 2004. In addition a subsequent reserved matters application for the erection of 89 No. two-storey dwellings was permitted under Code No. 046845 on 5<sup>th</sup> August 2010. The principle of residential development on this site is therefore well-established subject to ensuring that the development would result in a satisfactory well balanced layout and the safeguarding of residential amenity.

7.06 Design/Appearance

The plans submitted propose the substitution of house types with associated modifications to the defined curtilage areas of the proposed dwellings, the pattern and orientation/relationship of dwellings to each other being acceptable to provide for a well-balanced site layout.

7.07 The house types/designs are considered to be reflective of the character of development already permitted and would be sympathetic to the character of the site/surroundings providing for a consistency in terms of design and use of materials.

7.08 Impact on Privacy/Amenity

Of particular importance in consideration of this application, given the extent of the changes to the initially approved layout, is ensuring that the privacy/amenity of the occupiers of existing dwellings in proximity to the application site most notably The Chimneys, Dovecote and Field Farm are safeguarded.

7.09 The concerns/objections received in this respect are duly noted and for Members information the site layout which has been amended since initial submission would allow for back to back distances of 22 m between existing and proposed dwellings to be provided. This is in accord with the Council's Local Planning Guidance Note 2 – Space Around Dwellings. Whilst the revised layout changes the orientation of a number of previously consented dwelling units, so that they now back onto existing development at The Chimneys, Dovecote and Field Farm, the distances referred to above are fundamental to the principle of development being supported. Whilst there are concerns that this changes the character of development adjacent to the boundaries with existing properties, this is an established form of development which in my view is acceptable at this location.

7.10 Adequacy of Drainage

The concerns relating to the adequacy and acceptability of the drainage system to serve development at this location are duly noted, as it is recognised that there have been recorded flooding problems earlier this year at properties adjacent to the site to Wentworth Close and Sunningdale.

7.11 Particular concern was raised at this time that the amount of surface water being discharged into the main drainage system from the Field Farm site was such that it was contributing to the flooding problems at existing properties. As a result of the problems experienced, I have been advised that the Dwr Cymru Welsh Water are satisfied that improvements to the pumping station have been recently completed and they have subsequently addressed the matter by undertaking remedial work to limit surface water entering into the main drainage system. As a result there has been no evidence of surcharging or potential during recent heavy rainfall periods. It is therefore considered that the previously experienced drainage/flooding concerns have been addressed and the easements retained ensuring that there is an adequate system in place to safeguard against the concerns highlighted.

7.12 Adequacy of Highways

Consultation on the application has been undertaken with the Head of Assets & Transportation who has requested modifications to the site layout in conjunction with changes required to safeguard the privacy/amenity of the occupiers of existing properties at this location. The amendments subsequently undertaken are considered satisfactory subject to the imposition of conditions in respect of the formation of the access arrangements, traffic calming, surface water

drainage, street lighting and construction details.

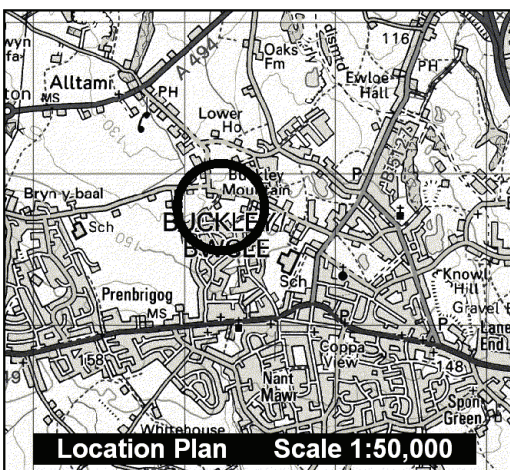
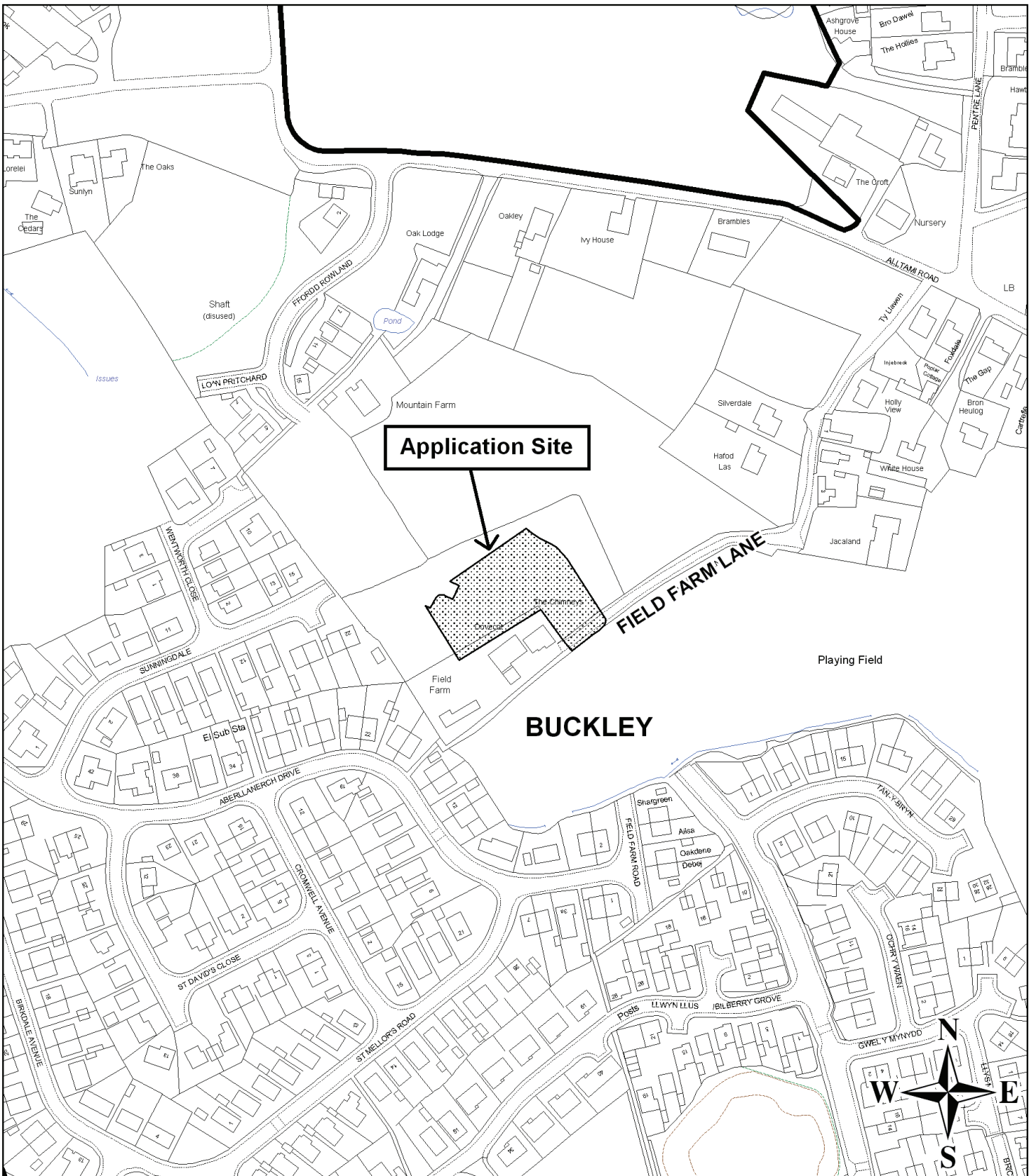
**8.00 CONCLUSION**

8.01 It is considered that the proposed modifications to the site layout and substitution of house types is acceptable at this location having regard to the character of the site and surroundings. The house types proposed provide for a high quality scheme providing a well balanced layout which safeguards the privacy/amenity of the occupiers of existing dwellings and which it is considered can be supported. In addition drainage problems previously experienced have been resolved to the satisfaction of Dwr Cymru Welsh Water and there is no objection from the Heads of Assets & Transportation subject to the imposition of conditions. The application can therefore be supported.

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

**Contact Officer: Robert M. Harris**  
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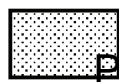


Environment Directorate,  
 Flintshire County Council, County Hall,  
 Mold, Flintshire, CH7 6NF.  
 Director: Mr. Carl Longland

**Legend**



Adopted Flintshire Unitary  
 Development Plan  
 Settlement Boundary



Application Site Extent

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Planning Application 49712

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## FLINTSHIRE COUNTY COUNCIL

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

**DATE:** **5<sup>TH</sup> SEPTEMBER 2012**

**REPORT BY:** **HEAD OF PLANNING**

**SUBJECT:** **ADDITIONAL USE CLASS FOR B1 ON EXISTING SITE AT BRITISH AEROSPACE AIRBUS LTD, CHESTER RD, BROUGHTON**

**APPLICATION NUMBER:** **049821**

**APPLICANT:** **AIRBUS UK**

**SITE:** **BRITISH AEROSPACE AIRBUS LTD, CHESTER RD, BROUGHTON, CHESTER**

**APPLICATION VALID DATE:** **08.06.2012**

**LOCAL MEMBERS:** **COUNCILLOR MULLIN**

**TOWN/COMMUNITY COUNCIL:** **BRETTON & BROUGHTON COMMUNITY COUNCIL**

**REASON FOR COMMITTEE:** **SCALE OF DEVELOPMENT**

**SITE VISIT:** **No**

### **1.00 SUMMARY**

1.01 Permission is sought by Airbus UK to use 3 existing hangers for B1 Light Industrial uses in addition to the existing B8 Storage and Distribution uses which are currently permitted.

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

- 2.01
1. Time limit on commencement.
  2. Compliance with approved plans.
  3. Hours of work to be controlled.
  4. Access only from airfield (not from private lane).

### **3.00 CONSULTATIONS**

#### 3.01 Local Member

Councillor Mullin

Declaration of interest as employed by applicant.

Bretton & Broughton Community Council

No objection.

Head of Assets & Transportation

No objection subject to a condition preventing use of the private lane.

Environment Agency

No objection.

### **4.00 PUBLICITY**

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

No representations have been received as a result of the Site Notice or Neighbour Notifications.

### **5.00 SITE HISTORY**

5.01 043115 – Change of use to B8, installation of 3000 sq ft of modular pre-fabricated ancillary offices and external storage of commercial vehicles. Approved 24.9.2007.

96/11/00559 – erection of a new warehouse and loading canopy. Approved 26.11.96.

4/11/19447 – erection of a building for office, workshop and storage use. Approved 19.4.90.

### **6.00 PLANNING POLICIES**

#### 6.01 Flintshire Unitary Development Plan policies:

STR1 – New development

GEN1- General requirements for development

EM3 – Development Zones and Principal Employment Areas

EWP 17 – Flood Risk

TAN15 Development and Flood Risk

### **7.00 PLANNING APPRAISAL**

#### 7.01 The Proposal

The proposal is connected to the Airbus wing manufacturing and Hawker Beechcraft fuselage manufacturing plant at Broughton. For optimal assembly and maintenance facilities to be provided for Airbus Operations, the 3 hangers to the west of the site have been acquired,

and these have an existing B8 use by virtue of the planning permission granted in 2007 (43115)

Airbus UK occupy the site and operate the airfield with users including Airbus for collection of aircraft wings assembled on site; Hawker Beechcraft for aircraft fuselage manufacture and servicing and Hawarden Airport's operations comprising mainly hangarage to private aviation.

Airbus UK is seeking to use the three hangers which are the subject of this application for B1 use to enable light maintenance and assembly work to be undertaken. This additional B1 use class will enable the viability of wing production and assembly to continue at Broughton.

The application site is immediately adjacent to the airfield and has direct access from the Airbus UK plant without the need to use the public highway network.

The application is for change of use with no increase in footprint. The change of use will enable flexibility in use by Airbus UK in its primary operations which already exist on the site. The hangers are to provide support to existing operations on the site so there will be no increase in traffic.

#### 7.02 The Proposal

The 2007 permission limited the use of the hangars to B8 storage and ancillary works relating to that use and for no other purpose, including B1 and B2 uses. The reason for this was in the interest of the general amenity of the area and highway safety. At that time they were fenced off from the main airfield site and access was derived from a private unsurfaced road off Manor Lane.

In assessing this proposal for B1 uses there would be no increase in traffic on the public highway and no impact on the general amenity of the area. B1 includes office use, research and development, studios, laboratories, high tech and light industry. The idea of B1 uses is that they can take place within residential areas.

Access to the buildings will be from the adjoining Airbus site and not directly from the public highway. This is because of constraints at the junction with the public highway and because there are no security facilities to enable use of the lane.

7.03 The buildings would be used between 06:00 and 19:00 Monday to Friday; 08:30 and 16:00 on Saturdays and 08:30 and 16:00 Sundays and Bank Holidays, to link with Airbus shift times.

#### Policy Background

The application site lies within the Airport Development Zone. Policy

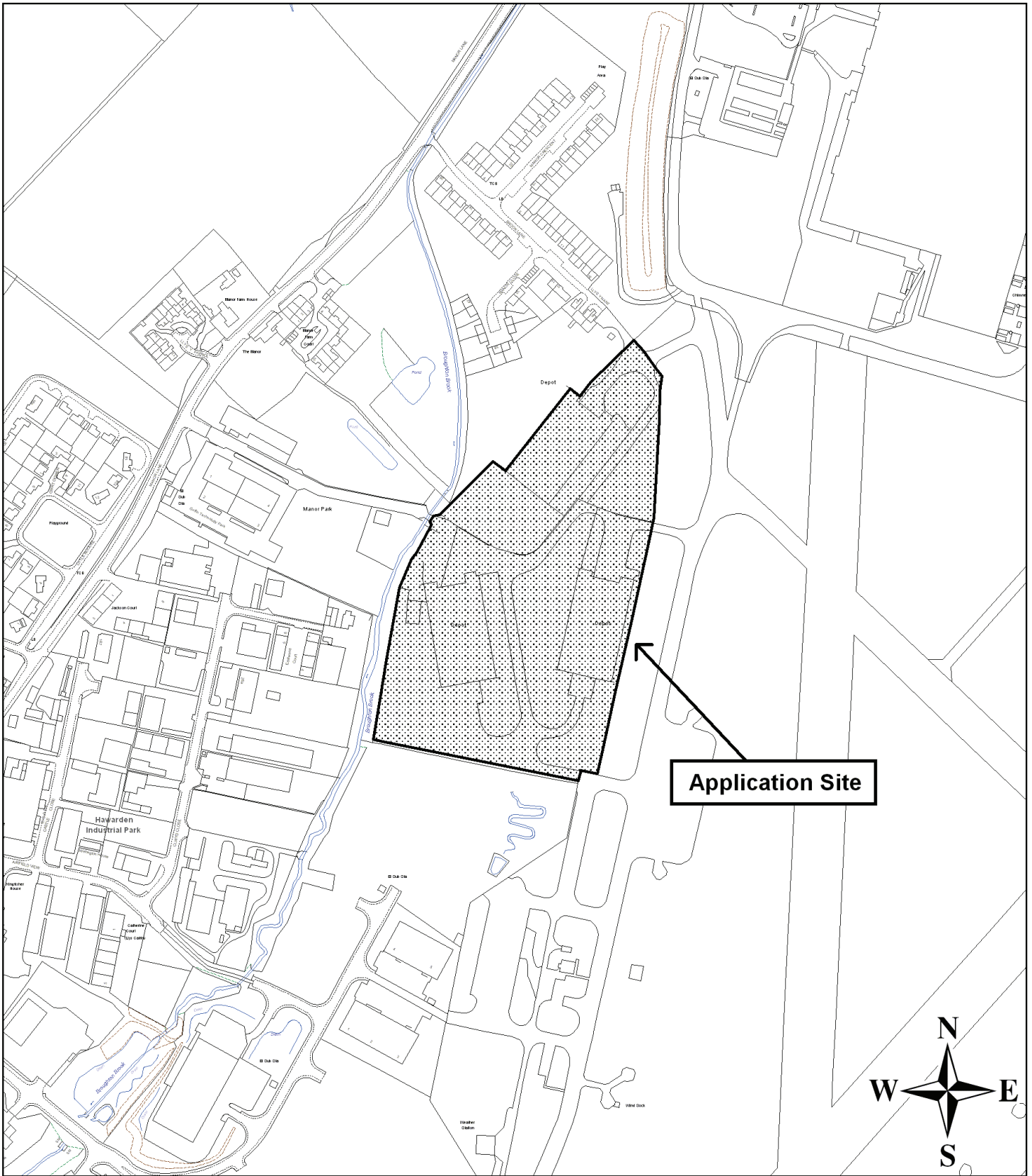
EM3 (Development Zones and Principal Employment Areas) is permissive of such a proposal provided it is of an appropriate type and scale for both the site and its surroundings; the proposal will not have a significant adverse impact on residential or other amenity or unacceptably restrict neighbouring land uses; the proposal provides satisfactory on-site parking, servicing and manoeuvring space and that the highway network (including access and egress) is adequate to safely cater for the type and volume of traffic generated by the proposal and; the proposal has no significant adverse impact on the integrity of nature conservation sites, the landscape and historic features. The proposal complies with policy EM3.

The site lies in a Zone C1 area of flood risk and Policy EWP17 (Flood Risk) is applicable. The Environment Agency has no objection.

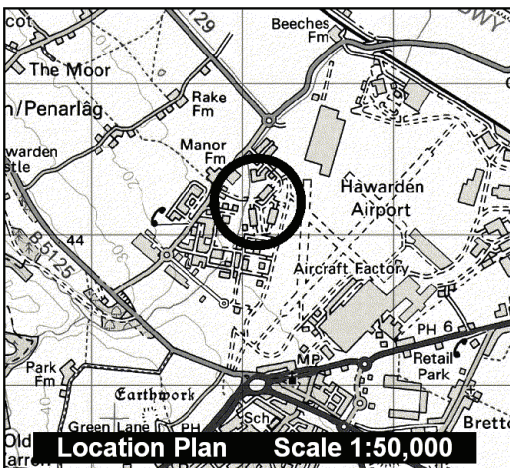
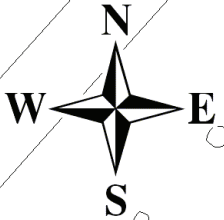
## **8.00 CONCLUSION**

- 8.01 The proposal is acceptable, enabling the hangars to be used for additional purposes without detriment to the residential or visual amenities of the area.
- 8.02 In considering this planning application the Council has acted in accordance with the Human Rights Act 1998 including Article 8 of the Convention and in a manner which is necessary in a democratic society in furtherance of the legitimate aims of the Act and the Convention.

**Contact Officer:** Sally Cunliffe  
**Telephone:** (01352) 703254  
**Email:** [sally.cunliffe@flintshire.gov.uk](mailto:sally.cunliffe@flintshire.gov.uk)



**Application Site**

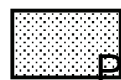


Environment Directorate,  
 Flintshire County Council, County Hall,  
 Mold, Flintshire, CH7 6NF.  
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**Legend**



Adopted Flintshire Unitary  
 Development Plan  
 Settlement Boundary



Application Site Extent

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Planning Application	<b>49821</b>

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## FLINTSHIRE COUNTY COUNCIL

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

**DATE:** **WEDNESDAY, 5 SEPTEMBER 2012**

**REPORT BY:** **HEAD OF PLANNING**

**SUBJECT:** **GENERAL MATTERS - OUTLINE APPLICATION SEEKING APPROVAL OF ACCESS AND SCALE - ERECTION OF DETACHED DWELLING AT "EARLSCROFT", ASTON HILL, EWLOE**

**1.00 APPLICATION NUMBER**

1.01 048746

**2.00 APPLICANT**

2.01 Mr K Ratcliffe

**3.00 SITE**

3.01 "Earlscroft", Aston Hill, Ewloe

**4.00 APPLICATION VALID DATE**

4.01 14/ 7/2011

**5.00 PURPOSE OF REPORT**

5.01 To consider a request by the applicant to vary the requirements of the Section 106 Agreement, subject to which Members resolved at the Planning and development Control Committee of the 8<sup>th</sup> February 2012, to grant planning permission.

5.02 The proposed variation relates to the manner in which the commuted sum is held prior to release to facilitate affordable housing.

**6.00 REPORT**

6.01 Members will recall that the report of the Head of Planning to the committee of the 8<sup>th</sup> February 2012 recommended that planning

permission, in connection with the development proposed under this application reference, be granted subject to the applicant entering into a Section 106 agreement in respect of a commuted sum for affordable housing purposes.

- 6.02 Members will recall that following discussions with the Head of Housing Strategy, the sum required to be paid in lieu of actual on site provision of affordable housing was £31,000.
- 6.03 Further to this resolution, the applicant has been in discussions with the Head of Housing Strategy in respect of the mechanism to deliver the required monies. Members will be aware that the usual approach adopted by the Council in connection with such issues has been for the sum to be paid to the Council and then utilised in whichever way is deemed appropriate.
- 6.04 However, an alternative suggestion has been made by the applicant which involves the applicant either offering a Unilateral Undertaking or entering into a S.106 Agreement to retain the equity in the property, equivalent to the in lieu contribution sought, and such sum being held by the applicant with the intention to release this sum to a nominated person from the Flintshire County Council Affordable Home Ownership Register. This nominated person would have to have an identified local connection to Ewloe and their qualification for access to this sum would be independently verified by Tai Clwyd.
- 6.05 The Head of Housing Strategy is satisfied that this alternative secures the same outcome as that approach normally adopted and is agreeable to this variation to the agreement. The sum sought will be required to be paid prior to the occupation of the dwelling approved under planning permission reference 48746.
- 6.06 In the event that the dwelling approved is made available for occupation before the identification of an appropriate nominated person, the sum of £31,000 shall then be paid to the Council for utilisation in facilitating the access for a nominated person to affordable housing in the locality.

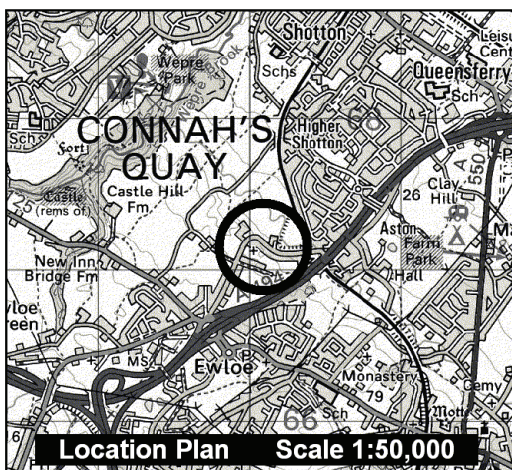
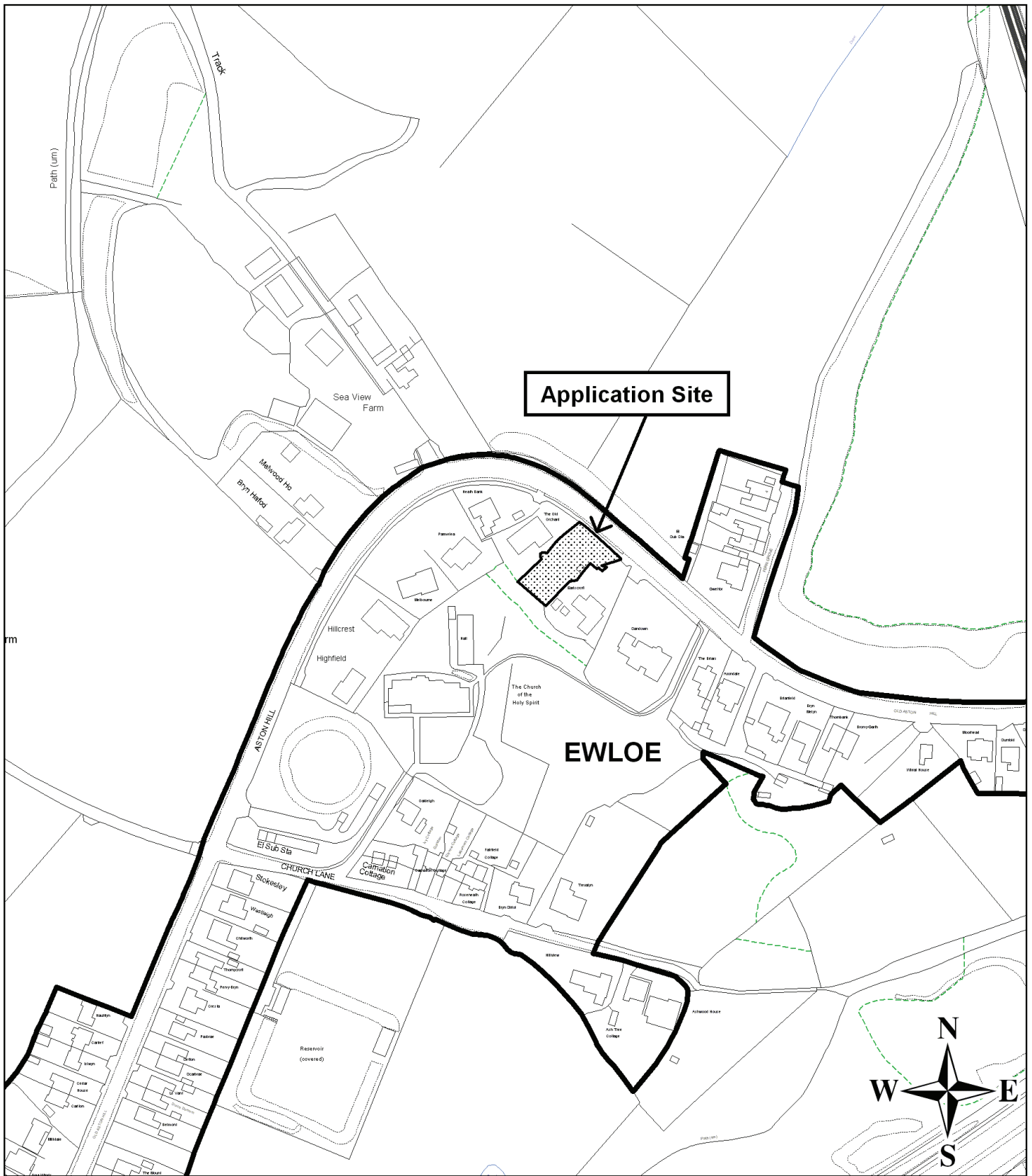
## **7.00 RECOMMENDATIONS**

- 7.01 That the resolution in respect of the provisions of the S.106 agreement relating to the site be amended to allow for the commuted sum in lieu of on site affordable home provision to be delivered in the manner set out above and not paid directly to the Council.

**Contact Officer:** David Glyn Jones  
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Environment Directorate,  
 Flintshire County Council, County Hall,  
 Mold, Flintshire, CH7 6NF.  
 Director: Mr. Carl Longland

**Legend**

-  Adopted Flintshire Unitary Development Plan Settlement Boundary
-  Application Site Extent

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Map Scale 1:2500

Ordnance Survey Sheet SJ 3067

Planning Application **48746**

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## FLINTSHIRE COUNTY COUNCIL

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

**DATE:** **5<sup>TH</sup> SEPTEMBER 2012**

**REPORT BY:** **HEAD OF PLANNING**

**SUBJECT:** **APPEAL BY REDROW HOMES NW AGAINST THE DECISION OF FLINTSHIRE COUNTY COUNCIL TO REFUSE PLANNING PERMISSION FOR THE ERECTION OF 45NO. DWELLINGS AND ASSOCIATED GARAGES AND PARKING INCLUDING THE PROVISION OF 4NO. AFFORDABLE UNITS AND THE DEMOLITION OF EXISTING OUTBUILDINGS ON LAND AT OVERLEA DRIVE, HAWARDEN, FLINTSHIRE.**

### **1.00 APPLICATION NUMBER**

1.01 048032

### **2.00 APPLICANT**

2.01 Redrow Homes NW Ltd & Mr & Mrs Dutton

### **3.00 SITE**

3.01 Land at Overlea Drive, Hawarden, Flintshire.

### **4.00 APPLICATION VALID DATE**

4.01 23/11/2010

### **5.00 PURPOSE OF REPORT**

5.01 To inform Members of the appeal decision against a refusal of planning permission for the erection of 45 No. dwellings and associated garages and parking, including the provision of 4 No. affordable units & demolition of current out-buildings on land at Overlea Drive, Hawarden. The application was refused by Committee contrary to officer recommendation on 23<sup>rd</sup> May 2012 and was the subject of a Local Public Inquiry, held over the course of 3 days

between the 4<sup>th</sup> and 6<sup>th</sup> July 2012.

5.02 The appeal was **ALLOWED** but an application for a partial award of costs against the Council was **DISMISSED** by the Inspector.

## **6.00 REPORT**

6.01 In considering the appeal the Inspector identified the main issues in the case to be:-

1. whether or not adequate and suitable provision would be made for space and facilities for children's play;
2. whether or not adequate and suitable provision would be made for affordable housing;
3. effects on the amenity of neighbouring residents, particularly in respect of overshadowing and visual impact;
4. effects on highway safety of the immediate road network; and
5. whether or not provisions for foul and surface water drainage would be adequate and would avoid harmful effects on the existing drainage systems in the area.

In relation to the above issues the Inspector views are summarised as follows:

6.02 Whether or not adequate and suitable provision would be made for space and facilities for children's play;

The Inspector noted that the scheme made provision for open space but not formal play space. The Inspector noted the provisions of Policy SR5 of the Flintshire Unitary Development Plan (FUDP) and the fact that it identified a need for some 880 m<sup>2</sup> of children's play space upon the site, 275 m<sup>2</sup> of which should be formal play space. The Inspector noted that it was common ground between the Appellant and the Council that the requirement for sports ground provision could be met by a contribution towards larger off-site facilities, and noted that the offered Section 106 Undertaking from the Appellant makes adequate provision for a contribution towards this.

6.03 In respect of the issue of formal play space, The Inspector accepted the invitation to consider a layout plan, Revision M, which was submitted in connection with a subsequently refused application. This plan included an area of equipped play space in the north west of the site. He considered that its position on the periphery of the site afforded limited opportunities for natural surveillance and indicated its positioning was an afterthought, although this was understandable given discussions between officers and the appellant. He concluded that the issue for consideration was whether acceptable provision could be made.

6.04 He considered there to be ample space to accommodate the required play provision and was satisfied the matter could be dealt with by the use of a suitable planning condition and concluded that the proposals



could make adequate and suitable provision for space and facilities for children's play in accordance with UDP Policy SR5.

6.05 Whether adequate and suitable provision would be made for affordable housing;

The Inspector that a need for affordable housing had been identified by The Council across the County and noted the provision made as part of the application amounted to a terrace of 4 dwellings which were proposed to be gifted to the Council. He noted that this provision was made following liaison between officers and the Appellant, in consultation with the Local Member, and in preference to 30% by number, some 13 dwellings.

6.06 He considered the wording of the policy and its strict application as advocated by the Council in its decision. However, whilst accepting this application to be a reasonable interpretation, he considered that the policy has to be examined in a wider context than merely its wording. He noted the reasoned justification to the policy clearly advocates negotiation and variety in type and tenure of provision and concluded the Housing Strategy had rightly taken these provisions into account in offering her advice upon the issue. He noted that the appellant would not benefit financially via the provisions for affordable housing which were proposed as the cost was higher to 'gift' 4No. units than to provide 13No. shared equity units.

6.07 In considering the arguments advanced in respect of how to interpret 'local need', the Inspector concluded that whilst the evidence of need exists in county wide studies, the officers in considering the issue of local need had rightly had regard to other relevant considerations which he considered demonstrated a practical and focussed approach to the assessment of local need. He observed that in so doing, it was inconceivable that officers did not remain aware of the county wide picture.

6.08 The Inspector also examined concerns raised in relation to the positioning of the proposed affordable units. He concluded that whilst the proposed terrace could perhaps have been better integrated, he considered that by virtue of its design, materials and quality, it was not distinguishable from the remainder of the market housing upon the site and was therefore reflective of national planning guidance in this regard. He noted the proposed positioning was good for access and integration to the existing community.

6.09 In conclusion, the Inspector took the view that provision of 4 gifted units in preference to 13 shared equity units was in accord with the requirements of Policy HSG10 as exceptional circumstances to justify the exception had been demonstrated. He also concluded that the location of the units was not so unacceptable as to justify a refusal upon this ground.

- 6.10 Effects on the amenity of neighbouring residents.  
The Inspector noted that concerns related to a perception of the proposals giving rise to an overbearing impact, with consequent loss of amenity and overshadowing of private amenity areas resulting in the same.
- 6.11 Whilst the Inspector noted that the current open aspect and associated levels of privacy it afforded which was currently enjoyed by existing residents would be eroded by the proposals, he reasoned the harm was not so significant as to be unacceptable. He considered that the proposals met, and in many cases, exceeded the Councils Local Planning Guidance Note 2 – Space around Dwellings. He did however consider that the relationship of proposed Plot 1 to 65 Overlea Drive could be considered to have an overbearing visual relationship and, concurred with the appellant that this plot could be deleted by condition, which he duly concluded so to do.
- 6.12 In considering the representations with regard to the issue of overshadowing, the Inspector noted such effect would only be significant in winter months when the sun is low in the sky and consequently shadow effects are less pronounced. He therefore reasoned that this would not materially affect existing amenity levels.
- 6.13 He concluded that the proposals would not unacceptably harm amenity and would not therefore be contrary to the applicable policies.
- 6.14 Effects on highway safety of the immediate road network  
The Inspector noted the current position in respect of the junction of Fieldside with Gladstone Way and the limited visibility currently afforded to vehicles emerging from Fieldside. He noted the concern that the increased use of this junction by an anticipated 10 extra vehicles per hour arising from the proposals would exacerbate risks to highway safety.
- 6.15 The Inspector referred to recent planning permissions granted by the Local Planning Authority in respect of improvements to the Fieldside junction, most notably, improvements to provide increased visibility to the north of the junction. He considered that whilst visibility to the south would remain substandard, the improvements afforded to the north represented a considerable improvement in the safety of the junction as a whole. He considered that this far outweighed the small increase in risk which may be attributable to an increase in use of the junction arising from the proposals.
- 6.16 He therefore concluded that the proposals did not give rise to increased risks to highway safety and were not contrary to the applicable policies.
- 6.17 Adequacy and impacts of foul and surface water drainage proposals.  
The Inspector noted that proposals for foul drainage were not in

dispute. He noted that proposals for surface water drainage were not the subject of objection from any statutory drainage body or the Council. He considered the proposed sustainable drainage system was consistent with the aims of national and local policy upon the issue and also that existing off site pinch points in the surface water drainage regime were to be the subject of improvements agreed between the appellant and Dwr Cymru Welsh Water.

6.18 He acknowledged that surface water drainage was presently problematic in the area but noted that the potential solutions to this problem could only be fully assessed following the draining and demolition of the redundant reservoir. He considered an appropriately worded condition would suffice to ensure that suitable surface water proposals were agreed. He noted that many of the problems currently encountered and attributable to wet and boggy ground would be addressed via the drainage improvements proposed.

6.19 He concluded that the proposed development could be adequately drained without adverse impacts upon the surrounding area.

## **7.00 CONCLUSION**

7.01 For the reasons outlined above, the Inspector concluded that the proposals were acceptable subject to appropriate conditions and the provisions of the S.106 Undertaking provided by the appellant. The wording of the imposed conditions can be found in the copy of the Appeal Decision appended to this report.

The S.106 Undertaking provides for the following;

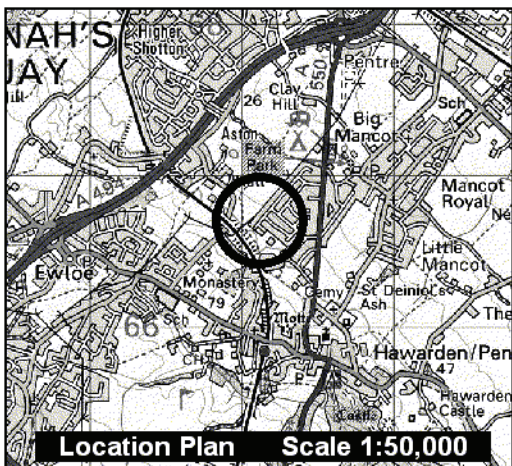
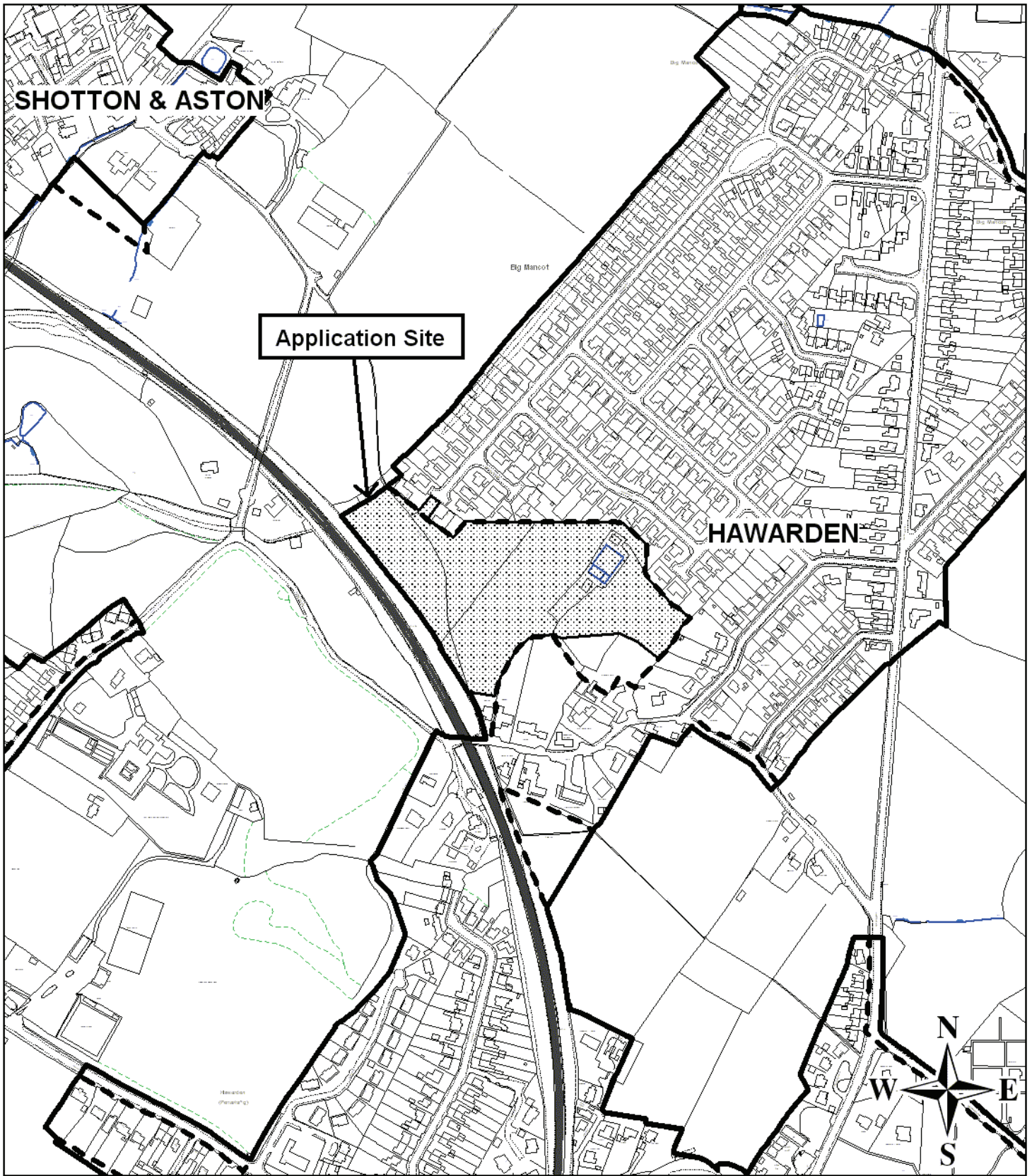
1. 4 No. affordable dwellings to be constructed and gifted to the Council at the nominal cost of £1.
2. A sum of £66,500 towards educational requirements to be apportioned as £38,500 towards Primary School education needs and £28,000 towards Secondary School needs in the locality. Such sum to be payable in 2 equal payments upon occupation of the 23<sup>rd</sup> and 35<sup>th</sup> dwelling respectively.
3. A sum of £25,000 for utilisation in providing or upgrading recreational facilities within 3 miles of the development site. Such sum payable on occupation of the 10<sup>th</sup> dwelling.
4. Provisions for the establishment of a Management Company to manage and maintain the public open space and play area.

## **8.00 COSTS**

8.01 The appellant sought a partial award of costs on the basis that they had been put to unreasonable and unnecessary expense in preparing evidence in response to the Council's reason for refusal relating to overbearing impacts upon amenity. The appellant considered that the Council's decision, following the legal and professional advice in respect of its reason for refusal, to withdraw the reason for refusal amounted to unreasonable behaviour.

- 8.02 The Council advised of the relevant considerations in respect of applications for costs and highlighted the specific provisions set out in Paragraphs 12, 13 and 15 of Annex 2 to Circular 23/93 – Awards of costs incurred in Planning and Other Proceedings, which relate to the withdrawal of a reason for refusal. The Council advised of the reasonableness of taking the course of action it did and contended that its actions were in full accord with the advice of the circular.
- 8.03 The Council also noted that whilst the appellants had produced evidence in relation to the issue, notwithstanding the Council's actions, this evidence would have been required in any event to defend the case presented by other Rule 6 parties and third parties in attendance. Furthermore, the contention was made to the Inspector that this evidence had not been produced specifically in connection with this appeal but had been produced in support of a further application submitted subsequent to that which was the subject of this appeal.
- 8.04 **CONCLUSION**  
The Inspector commented that irrespective of the outcome of an appeal, costs would only be awarded where a party was considered to have acted unreasonably such that the offended party has incurred unnecessary expense, accepting the assertion of the Council that costs do not necessarily follow the event.
- 8.05 He considered that the Council's actions in not defending the reason for refusal were responsible, as the appellant had been advised well in advance of the Inquiry, thereby minimising its risk to an award of costs.
- 8.06 The Inspector concurred that the evidence to which the costs claim related, was produced for the most part, in support of the 2<sup>nd</sup> application and concluded that expense incurred by the appellant in its preparation was associated with that application and not this appeal. Moreover, he agreed that such evidence was still required to be produced to address the case pursued by other Rule 6 and third parties.
- 8.07 He concluded that whilst he considered that the Council had acted irresponsibly in adopting the reason for refusal in the first instance, no additional or unnecessary expense had been incurred by the appellant as a result for the reasons given above and therefore unreasonable behaviour, as described within Circular 23/93, could not be demonstrated and therefore the costs claim was **DISMISSED**.

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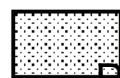


Environment Directorate,  
 Flintshire County Council, County Hall,  
 Mold, Flintshire, CH7 6NF.  
 Director: Mr. Carl Longland

**Legend**



Adopted Flintshire Unitary  
 Development Plan  
 Settlement Boundary



Application Site Extent

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Map Scale 1:5000

Ordnance Survey Sheet SJ 3166

Planning Application 48032

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## Penderfyniad ar yr Apêl

Ymchwiliad a agorwyd ar 04/07/12  
Ymweliad â safle a wnaed ar 06/07/12

gan **Clive Nield BSc (Hons) CEng MICE  
MCIWEM C.WEM**

**Arolygydd a benodir gan Weinidogion Cymru**  
**Dyddiad: 17/08/12**

## Appeal Decision

Inquiry opened on 04/07/12  
Site visit made on 06/07/12

by **Clive Nield BSc (Hons) CEng MICE  
MCIWEM C.WEM**

**an Inspector appointed by the Welsh Ministers**  
**Date: 17/08/12**

**Appeal Ref: APP/A6835/A/11/2166719**

**Site address: Land at Overlea Drive, Hawarden**

**The Welsh Ministers have transferred the authority to decide this appeal to me as the appointed Inspector.**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Redrow Homes NW against the decision of Flintshire County Council.
- The application Ref 048032, dated 26 October 2010, was refused by notice dated 28 November 2011.
- The development proposed is the erection of 45 No. dwellings and associated garages and parking, including the provision of 4 No. affordable units & demolition of current out-buildings.
- The inquiry sat for 3 days on 4-6 July 2012.

### Decision

1. The appeal is allowed and planning permission is granted for the erection of 45 No. dwellings and associated garages and parking, including the provision of 4 No. affordable units & demolition of current out-buildings on land at Overlea Drive, Hawarden in accordance with the terms of the application, Ref 048032, dated 26 October 2010, and the plans submitted with it and subsequently amended, subject to the conditions detailed in the attached Annex.

### Procedural and Background Matters

2. The appeal site is a large field, some 3.11 hectares in size, situated to the south of Overlea Drive, Overlea Crescent and Penlan Drive in the Upperdale area of Hawarden. It is bounded to the north and east by existing residential properties, and a railway embankment runs along its south-western boundary. The site slopes steadily downwards from south to north, and there are the remains of a redundant waterworks close to the rear of some of the properties on Penlan Drive. These comprise 2 brick built plant buildings and an open rectangular shaped reservoir. There is evidence of water flow across the site towards these works, and the site is waterlogged in that area.
3. The site lies within the settlement boundary of Hawarden and is designated for residential development in the adopted Flintshire Unitary Development Plan.
4. The proposed scheme comprises 45 dwellings and associated open space, mainly in the mid-eastern part of the site, where a wetland area would be formed. The redundant waterworks and reservoir would be removed and would be replaced by a

balancing pond as part of the sustainable drainage system. Access would be from the southern end of Overlea Drive.

5. The scheme layout considered by the Council was Revision H of plan 1480-02-02-001, which was part of an amended application submitted in June 2011 for the development described as above. This did not include provision of a children's play area within the public open space. After the appeal application had been refused a second application was made (in December 2011, Ref 049293) with provision for a children's play area near the north-western corner of the site (Revision J of the same plan), and this was amended to show the play area near the southern corner of the site (plan Revision M). The second application was also refused.
6. The Appellant has asked me to consider the Revision M layout as the basis for the appeal, and the Council raises no objection. As that layout was seen and commented on by interested third parties at the time of the second application, I do not consider anyone would be prejudiced by my consideration of that layout. I shall consider the appeal on that basis.
7. A Section 106 Undertaking has been submitted by the Appellant. It makes provision for affordable dwellings, for long-term maintenance of the public open space and play equipment and for financial contributions towards education and leisure facilities. 4 No affordable dwellings would be provided and transferred to the Council for the sum of £1. The Education and Leisure Contributions would be £66,500 and £25,000 respectively, and a Management Company would be set up to own and maintain the open space and play areas.
8. At the Inquiry an application for costs was made by Redrow Homes NW against Flintshire County Council. This application is the subject of a separate Decision.

### **Main Issues**

9. The Council refused the application on 3 grounds: visual impact on the amenity of neighbouring residents; lack of provision of space or facilities for children's play within the site; and failure to make adequate and suitable provision for affordable housing. It has since withdrawn the first reason for refusal. However, local residents maintain their objections on that ground, as well as in respect of highway safety and drainage provisions, and these are important considerations.
10. I consider the main issues in this case to be: whether or not adequate and suitable provision would be made for space and facilities for children's play; whether or not adequate and suitable provision would be made for affordable housing; effects on the amenity of neighbouring residents, particularly in respect of overshadowing and visual impact; effects on highway safety of the immediate road network; and whether or not provisions for foul and surface water drainage would be adequate and would avoid harmful effects on the existing drainage systems in the area.

### **Reasons**

#### ***Children's Play Space***

11. Although the original scheme included several areas of public open space, including a sizeable strip of land near the eastern end of the site containing a balancing pond and wetland area, it made no provision for outdoor play space. It is reported that negotiations with Council officers had led to these provisions being dealt with by



means of contributions towards off-site facilities, as this was the preference expressed by those officers.

12. UDP Policy SR5 aims for the provision of a minimum of 2.4 hectares of outdoor playing space to be provided per 1,000 population for new residential development, made up of 0.8 ha of children's playing space and 1.6 ha of sports grounds for use by all. The children's playing space should comprise a mixture of formal equipped playing space (0.25 ha) and informal playing space (0.55 ha). For the appeal proposal this amounts to some 880 m<sup>2</sup> of children's play space, 275 m<sup>2</sup> of which should be formal play space.
13. It is not in dispute that the requirement for sports ground provision could be met by a contribution towards larger off-site facilities, and the Appellant's Section 106 Undertaking makes adequate provision for a contribution towards this. However, the provision of on-site children's play space is in dispute. The Appellant's 2<sup>nd</sup> application, in December 2011, included an area of formal play space near the north-western corner of the site but this changed to the southern corner (as on Revision M of the Site Layout plan). It is this proposal that is now before me, though the Appellant also submits that some alternative arrangement could be provided if considered more appropriate.
14. The Council argues that the children's formal play area in this revised layout is too small (only 215 m<sup>2</sup>), poorly positioned on the periphery of the site where surveillance would be quite limited, and that it has been added as an afterthought rather than being an integral part of an holistic design for the development as a whole. There can be little doubt of the latter, which was an inevitable consequence of the arrangements agreed between the Appellant and the Council's officers being overturned by the planning committee. Nevertheless, the key point is whether or not suitable provisions could be made.
15. I agree with the Council that the southern corner of the site is not the ideal location to serve the development as a whole, or the wider area. The previous proposal to site it near the affordable housing would be better suited to serve part of the development. It has also been suggested that more than one equipped play area might be preferable. However, given that sports ground provision would be made off the site, I have no doubt there is ample public open space within the scheme to accommodate a suitable area (or areas) for formal and informal children's play space. This is a matter of detail that could be dealt with by the use of a suitable planning condition.
16. I conclude that the proposed development could make adequate and suitable provision for space and facilities for children's play in accordance with UDP Policy SR5.

### **Affordable Housing**

17. The scheme makes provision for 4 affordable houses to be provided at the Appellant's cost. Ownership would be transferred to the Council for the nominal sum of £1. However, the Council refused the scheme as it considered 13 units (30% of 45 No.) should be provided to meet the requirements of UDP Policy HSG10. This policy reads: *"Where there is a demonstrable need for affordable housing to meet local needs, the Council will take account of this as a material consideration when assessing housing proposals. Where this need exists the Council will negotiate with developers to provide 30% affordable housing in suitable or appropriate schemes within settlement boundaries."* There is no dispute that the appeal scheme is a *"suitable and appropriate scheme"* and falls to be considered against this policy.

18. The Council has carried out several assessments of housing needs in recent years, including the Fordhams Housing Need Assessment in 2005, which identified the need for 808 affordable houses per year for a period of 5 years (depending on the continued strength of the housing market), and the North East Wales Market Housing Assessment in 2008, which identified the need for 480 new homes per year in Flintshire and recommended that 38% should be dedicated affordable homes. There is no dispute that more affordable housing is needed in Flintshire
19. The decision to include only 4 affordable houses in the appeal scheme was reached after liaison with Council officers, in particular the Housing Strategy Officer and the Planning Officer. They recommended that 4 units be provided and gifted to the Council (for use as rented property) rather than 13 units be provided for shared equity sale, as they considered this approach would be the most appropriate for local affordable housing needs. The Housing Strategy Officer referred to the lack of Council owned rental units in the Hawarden area, the existence of 57 shared equity properties already on 2 new housing developments within 3 miles of the site, the limited number of people on the Council's Affordable Housing register, and their unsuitability for more shared equity housing. Both she and the Ward Councillor were of the view that the provision of 4 gifted units that could be used as rental properties would be more beneficial to those people in need of affordable housing than 13 shared equity units. Shared equity units are no use to anyone if potential suitably qualified owners cannot raise mortgages to buy them.
20. It is pertinent that they maintained that view and made the same recommendation in respect of the 2<sup>nd</sup> application in December 2011, that the Councillor confirmed at the inquiry he is still of that view, and that no evidence was put forward from the Housing Strategy Officer, which suggests that her view is also unchanged. It is also reasonable to assume that both were familiar with the relevant development plan policies, particularly by the time the 2<sup>nd</sup> application was considered.
21. The Council maintains that the proposal conflicts with Policy HSG10 as it fails to provide 30% affordable housing and that the burden lies with the Appellant to demonstrate why an exception should be made to the policy. It has described the background to the adoption of the policy, the need for affordable housing, the conclusion of the 2008 Assessment that 38% of all new housing should be affordable units, and the decision to use 30% as the requirement in Policy HSG10. It also criticises the Appellant's reliance on the Housing Strategy Officer's advice and the apparent failure of that officer to take into account the County-wide picture as well as other indicators of local need. It maintains that "local need" should be considered to mean County-wide need.
22. This is all eminently reasonable, and I am in no doubt that the proposal does not comply with the strict wording of the policy. However, one has to look at the wider aims of the policy rather than read it in isolation. Supporting paragraph 11.73 says the Council will enter into negotiations with the developer to secure appropriate mixes of affordable housing types and tenures, and paragraph 11.74 also recommends greater variation in the types and tenures of homes supplied. These indicate that rental properties as well as shared equity properties should be provided, a matter clearly taken into account by the Housing Strategy Officer.
23. Paragraph 11.78 is worth reproducing in full: "*Where schemes do not make provision for 30% affordable housing it will be required that developers ensure the proposal is sufficiently justified to the satisfaction of the Council as to why an exception to the policy should be made. The precise nature and scale of affordable housing provision*

*will be the subject of early negotiations between the Council and the Applicant*". It is not disputed that early negotiations took place or that the scheme put forward reflected the advice of the Council's officers. Certainly, they considered the exception to policy was justified; indeed they considered it to be preferable. They were also aware that the provision of 4 gifted units was likely to cost the Appellant slightly more than the provision of 13 shared equity units, so that the policy exception was unlikely to be of significant benefit to the Appellant.

24. Arguments were put forward about the meaning of "local" in the context of the development plan policy. However, even though the Council's housing needs assessments have been carried out on a County-wide basis, there is clearly an element of judgement needed in interpreting the weight to be given to need in the immediate locality and that in the wider area.
25. Notwithstanding the evidence of general need put forward by the Council, I find the officer's assessment of local need to be practical and focused on meeting the aims of the policy. The preference for 4 gifted units was based on assessment of several relevant considerations and, although not specifically mentioned in the succinct emails put forward as evidence, one would expect the Housing Strategy Officer to be well aware of the County-wide situation on affordable housing need. It is inconceivable she was not aware of the wider picture and did not take it into account.
26. My conclusion is that the reasons described for preferring 4 gifted affordable units to 13 shared equity units (or other types of similar cost) amount to exceptional circumstances sufficient to justify making an exception to Policy HSG10 and that the proposal would still support the aims of that policy.
27. The Council also disputes the proposal to provide the affordable units as a single terrace located close to the entrance to the development rather than distributed throughout the site. Having reached the conclusion that 4 units would be acceptable and given that the size of the affordable housing units is not in dispute, they could reasonably be provided either as a terrace of 4 or as 2 pairs of semi-detached houses. The Council is not averse to a terrace but argues it should be better integrated with the other houses on the site.
28. As a terrace or as 2 semi-detached pairs the affordable housing would inevitably be different in appearance from the detached market houses. TAN2, Planning and Affordable Housing, advises that affordable housing should be indistinguishable from market housing on the same site in terms of design quality and materials, and the proposal would be consistent with this. Whilst the terrace could be better integrated with the rest of the development if it were located more centrally within the site, its proposed location would be good for access and for integration with existing properties and close to an area of open space. I do not consider the location to be so unacceptable as to warrant refusal on this matter alone.

### ***Amenity of Neighbouring Residents***

29. I turn now to the matters raised by third parties. The first concerns the effects of the proposed new houses on the amenity of neighbouring residents, and it is submitted that several existing properties would suffer due to loss of privacy, overbearing visual impact and overshadowing. Particular concerns have been raised about 3 bungalows at the end of Overlea Drive, 3 at the end of Overlea Crescent and 5 along Penlan Drive. Some of these are sited close to the rear of their plots and to the appeal site

boundary, and all are bungalows on land at a lower level than that on which the new houses would be built.

30. The most striking conflict is between proposed Plot 1 and the bungalow at 65 Overlea Drive, which is at a considerably lower level and very close to the site boundary. I consider the interrelationship between these to be unacceptable as the 2 storey new house would have an overbearing visual impact on No. 65 in comparison with its present open aspect. The Appellant has offered to remove Plot 1 from the scheme, and my conclusion is that that would be necessary. It could be dealt with by an appropriate planning condition.
31. The Council's Local Planning Guidance Note No.2, Space around Dwellings, provides guidance on minimum acceptable separation distances between dwellings whilst making the most efficient use of land. The guidance distances take into account differences in ground levels and floor levels. Even allowing for their higher floor levels, the proposed new houses would meet these guideline standards and in many cases considerably exceed them.
32. At present the existing bungalows alongside the site boundary enjoy an open aspect across the site and a high level of privacy from that direction. These would be eroded by the proposed development, and the amenity of the occupants would be harmed. However, I do not consider this harm to be so significant as to be unacceptable (apart from Plot 1). Distances and orientation between the existing and other new houses would provide acceptable levels of privacy and visual impact.
33. Concern has also been expressed about overshadowing, and the Appellant has carried out work to model shadowing at different times of the day and year. Whilst this indicates the new houses would cast shadows over parts of the gardens of some of the existing properties, this would only be significant in winter months when the sun is low in the sky and shadow effects are less pronounced. I do not consider this would materially affect the amenity of the existing neighbouring properties.
34. With regards to amenity as a whole, I conclude that the proposed development would not unacceptably harm the privacy, outlook or sunlight enjoyed by neighbouring properties and would not conflict with the relevant development plan policies, including UDP Policies GEN1, D1 and D21.

### **Highway Safety**

35. There is concern that use of the Fieldside/Gladstone Way junction by increased traffic generated by the proposed development would exacerbate risks to highway safety caused by the substandard nature of that junction. Gladstone Way is the A550 main road, and the junction is on the route most likely to be used by traffic from the appeal site wanting to travel to the south. It is estimated that at peak times the development would generate an additional 10 vehicles per hour using this junction.
36. At present the junction has quite limited visibility for vehicles coming out of Fieldside. Various distances have been quoted over the past few years but at my site visit I estimated the distances along the main road from a position 2.4 metres back from the carriageway edge to be approximately: 10 metres along the nearside kerb to the left; 29 metres along the centre line to the left; and 17 metres along the nearside kerb to the right (the direction of on-coming traffic). These distances fall well below the stopping sight distances recommended in the Welsh Government guidance document, TAN18: Transport, and in Manual for Streets.

37. It is also submitted that visibility is affected by a telegraph pole, and that safety at the junction is also influenced by the close proximity of another road junction on the other side of the main road and a bus stop a little further along. No doubt all of these contribute towards highway safety in the area. Mention has been made of an appeal decision in 2004 (Ref. APP/A6835/A/03/1125022) for development on the same appeal site where the Inspector concluded that traffic using this and the nearby Blackbrook Avenue junction would prejudice highway safety due to the restricted visibility at both junctions.
38. The situation is the same today, except that the Appellant now offers to carry out improvements to the Fieldside junction, which would benefit all traffic using it. In April 2012 planning permission was granted for works to realign the front boundaries of Nos. 89 and 91 Gladstone Way which would improve visibility to the north of the junction to about 70 metres, considerably in excess of the distances recommended in TAN 18 and Manual for Street (whether one uses the 30 mph speed limit or Cllr Carver's 85 percentile speeds). These improvement works could be the subject of a planning condition and would make a considerable improvement to the safety of the junction. Vehicles would be able to look towards the oncoming traffic to the right before edging out slightly to improve the view of traffic approaching from the left.
39. Although visibility to the left would still be substandard, the safety of the junction as a whole would be much improved for all traffic using it. These benefits would far outweigh the small increase in risk associated with the extra traffic from the appeal site. The Council reached the same conclusion on this issue.
40. A number of additional matters have been raised about interpretation of the guidance in TAN18 but these are outweighed by the balance of the main elements of this issue. My conclusion is that the additional traffic generated by the proposed development would not cause increased risks to highway safety on the local road network, and there would be no conflict with UDP Policy GEN1.

### ***Foul and Surface Water Drainage***

41. Finally I turn to drainage. Initial proposals for foul drainage included some of the new houses draining into existing sewers in Overlea Drive. However, it is reported that those sewers have been subject to problems, and objections to this arrangement were raised by local residents. Foul drainage for the site has now been redesigned, and it is proposed that all houses will be drained into the public sewerage network in front of No. 13 Penlan Drive. That has overcome the objections and is supported by Dŵr Cymru Welsh Water, the statutory undertaker. There is now no dispute so far as foul drainage is concerned.
42. Surface water drainage in the area is problematic at present, and there remain some uncertainties about water inflow to the site and about how the existing open reservoir operates. These can only be resolved when further work is carried out on the site, including the demolition of the existing reservoir. However, even though some uncertainties remain, the proposed regime for surface water (and other non-foul water) drainage can still be adequately assessed.
43. The appeal proposal would provide a sustainable drainage system, based on a balancing pond, and would achieve a discharge from the site equivalent to the greenfield discharge. The balancing pond would eliminate peak flows, and discharge to the existing public sewerage system would be no more than at present and probably considerably less. The Council, Dŵr Cymru Welsh Water and Environment Agency

Wales have raised no objections to this, and it would be in line with national policy for sustainable drainage, in particular TAN15, Development and Flood Risk. In order to further reduce risks of adverse impacts on the public sewerage system the Appellant would also pay for improvements to be carried out to a length of the combined sewer in Mancot Lane further to the north where there is a pinch point at present.

44. It is known that at present the open reservoir on the site discharges into a sewer at 23 Penlan Drive and thence to Braeside Avenue to the north. It is not known how that discharge from the reservoir is controlled. The proposed scheme would either discharge via the same route as the present reservoir or into a public surface water sewer in front of 11 Penlan Drive. The connection details would be agreed with Dŵr Cymru Welsh Water at a later date; they are not critical now. A suitable condition would ensure an appropriate and acceptable drainage scheme was designed and was subject to approval by the Council.
45. Concerns have also been raised about the boggy nature of parts of the site. However, this would be much improved if proper drainage arrangements were introduced to deal with whatever is causing it. Overall, my conclusion is that the development could be adequately drained without adversely affecting the existing public sewerage systems and would meet the requirements of UDP Policy GEN1.

### **Overall Conclusion**

46. I have taken into account all matters raised but nothing outweighs my conclusions that adequate and suitable provision could be made for children's play space, that there are exceptional circumstances sufficient to justify the provision of 4 No. gifted affordable houses rather than 13 No. required by development plan policy and that these are acceptably located on the site, that effects on the amenity of neighbouring residents would not be unacceptably harmful, that traffic generated would not cause increased risk to highway safety on the local road network, and that the development could be suitably drained without causing adverse effects on the public sewerage network. On balance I conclude it would be in accord with the aims of development plan and national policy.

### **Conditions**

47. A number of conditions would be necessary to ensure the development would be acceptable, and these were discussed in detail at the public inquiry. Conditions are needed to ensure the new houses meet the sustainability standards required by Welsh Government policy and, as discussed above, to ensure suitable foul and surface water drainage arrangements are provided, including the improvements at Mancot Lane, to ensure the Fieldside/Gladstone Way junction improvements are carried out, to ensure children's play space is provided, and to delete development of Plot 1 from the scheme.
48. Conditions are also needed to ensure a landscaping scheme is carried out to the approval of the Council, that measures are taken to protect retained trees during construction, and for a construction management plan to minimise inconvenience to nearby residents during demolition, construction and building works. If the land is contaminated it needs to be safely dealt with, and conditions are necessary to investigate this and carry out any remediation work. Some of the new dwellings will be fairly close to existing properties and, to safeguard their amenity, conditions are needed to control permitted development rights for future changes that might erode the amenity of the neighbouring properties.

49. In the interests of visual and residential amenity, conditions are also needed to control the external materials used for the new houses and to make provision for enhanced double glazing to new houses built alongside the railway embankment. Construction details for the internal access roads also need to be subject to Council approval to ensure they are built to a suitable standard for adoption. Finally, as particular attention needs to be paid to avoiding harmful impact on neighbouring residents of adjoining bungalows on lower level land, the floor levels of the new houses are critical. These are specified in detail on Plan 1480-ENG/100, and I consider it necessary to make this the subject of a condition.
50. Cllr Carver suggested several other conditions, particularly those recommended by Dŵr Cymru Welsh Water. However, these are adequately covered by a more general condition requiring the submission and approval of drainage details by the Council. The conditions above and several amendments and improvements to the drafts put forward at the inquiry were discussed and substantially agreed by the main parties.

*Clive Nield*

Inspector

## APPEARANCES

### FOR THE LOCAL PLANNING AUTHORITY:

Mr Giles Cannock of Counsel                      Instructed by Matthew Georgiou, Council's  
Solicitor

He called:

Mr Rhys Davies,                                      Director, Cadnant Planning Limited (formerly  
BA(Hon), MRTPI                                      cdn Planning)

### FOR THE APPELLANT:

Stephen Sauvain QC                                Instructed by Paul Wakefield, Marrons.

He called:

Mr Ian Wickett, MCIHT                          Associate Director, SCP, Transportation Planners.

Mr Paul Sinclair,                                  Technical Director, Redrow Homes Limited (NW  
BEng(Hon)    Division).

Mr Alasdair Jones,                                Director of Planning, Marrons (Agent)  
BA(Hon), MRTPI

### INTERESTED PERSONS:

Cllr Clive Carver                                  Ward Councillor, Flintshire County Council.

Mr Len Rowlands                                 Local Resident.

Mrs Michele Rowlands                         Local Resident (not related).

Mr Haydn Sweet                                  Local Resident.

## DOCUMENTS SUBMITTED AT INQUIRY

- 1.1-1.2        Letters of Notification and details of parties and people notified.
- 2                Signed Statement of Common Ground.
- 3                Opening Statement on behalf of Appellant.
- 4                Appearance List on behalf of Appellant.
- 5                Personal Background note provided by Mr Davies.



- 6 Extract from Unitary Development Plan, Glossary of Terms, on definition of "local housing need", submitted by Council.
- 7 Extract from Manual for Streets, submitted by Cllr Carver.
- 8.1-8.5 Hard copies of certain appeal documents (listed in Marrons' letter to PINS dated 22 December 2011), as requested by Inspector: 19 - Ecological Assessment, dated February 2010; 21 - Amphibian and Bat Survey, dated September 2010; 23 - Revised Application Form; 25 - plans of Revised House Types; and 27 - plan LV 10404-003, Site Investigation Locations.
- 9 Design and Access Statement, dated 19 December 2011, for 2<sup>nd</sup> Planning Application, submitted by Appellant.
- 10 Section 106 Undertaking submitted by Appellant.
- 11.1-11.3 Draft Conditions put forward by Council; as amended by Appellants; and additional Conditions put forward by Cllr Carver.
- 12 Closing Statement by Cllr Carver.
- 13 Closing Statement on behalf of Council.
- 14 Closing Statement on behalf of Appellant.

## **PLANS**

- A1-A10 Plans submitted with Application in October 2010, as listed in Marrons' letter to PINS dated 22 December 2011.
- B1-B5 Amended plans submitted to Council later, as listed ditto.

## **Annex of Conditions**

- 1) The development hereby permitted shall begin not later than five years from the date of this decision.
- 2) Each dwelling hereby permitted shall be constructed to achieve a minimum Code for Sustainable Homes Level 3 and achieve 1 credit under category Ene1 in accordance with the requirements of Code for Sustainable Homes: Technical Guide April 2009.
- 3) No development shall begin until details of a "Design Stage" assessment and related certification have been submitted to and approved by the Local Planning Authority. The development shall be carried out entirely in accordance with the approved assessment and certification unless otherwise approved in writing by the local planning authority.
- 4) No dwelling shall be occupied until a Code for Sustainable Homes "Post Construction Stage" assessment has been carried out in relation to it, a Final Certificate has been issued for it certifying that Code Level 3 and 1 credit under Ene1 have been achieved and the Certificate has been submitted to and approved in writing by the local planning authority.
- 5) No development shall commence until a scheme for the comprehensive and integrated drainage of the site (showing how foul water, surface water and land drainage will be disposed of) has been submitted to and approved in writing by the local planning authority. Before these details are submitted an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system in accordance with the principles set out in Appendix 4 of TAN15 (or any subsequent version), and the results of the assessment provided to the local planning authority. Where a sustainable drainage scheme is to be provided, the submitted details shall:
  - i) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
  - ii) include a timetable for its implementation; and
  - iii) provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.Development shall be carried out in accordance with the approved details and timetable.
- 6) No development shall commence until a scheme of improvement to the off-site drainage in Mancot Lane has been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details prior to occupation of the first dwelling unless otherwise approved in writing by the local planning authority.
- 7) No development shall take place until there has been submitted to and approved in writing by the local planning authority a scheme of hard and soft landscaping, which shall include indications of all existing trees and hedgerows on the land

- and details of any to be retained, together with measures for their protection in the course of development and a timetable for the scheme.
- 8) All planting, seeding or turfing comprised in the approved scheme of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written approval to any variation.
  - 9) No development shall take place on site until protective fences have been erected around the retained trees and boundary hedges. The developer shall give the local planning authority no less than 2 weeks prior written notice of the commencement of works on the site in order that the Council can verify that the approved protective measures are in place before the work commences. The approved fences shall be in place before any equipment, machinery or materials are brought on to the site for the purposes of the development and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Within the fenced areas there shall be no scaffolding, no stockpiling of any materials or soil, no machinery or other equipment parked or operated, no traffic over the root system, no changes to the soil level, no excavation of trenches, no site huts, no fires lit, no dumping of toxic chemicals, and no retained trees shall be used for winching purposes. If any retained tree is removed, uprooted or destroyed or dies, another tree shall be planted at the same place and that tree shall be of such size and species, and shall be planted at such time, as may be specified in writing by the local planning authority.
  - 10) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
    - the parking of vehicles of site operatives and visitors;
    - routes for construction traffic;
    - hours of operation;
    - method of prevention of mud being carried on to the highway;
    - protection of public footpath, pedestrians and cyclists; and
    - any temporary traffic restrictions.
  - 11) No development shall take place until an investigation and risk assessment to identify the nature and extent of any contamination on the site has been completed and the results and recommendations submitted to and approved in writing by the local planning authority.
  - 12) In the event that contamination is found, no development, other than that required to be carried out as part of an approved scheme of remediation, shall take place until the approved remediation scheme has been carried out in full. Following the completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out shall be submitted to and approved in writing by the local planning authority.

- 13) No development shall take place until samples of the materials to be used in the construction of the external walls and roofs of the dwellings hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 14) No development shall be commenced until a revised layout plan omitting Plot 1 has been submitted to and approved in writing by the local planning authority. The development shall be constructed in accordance with that approved plan.
- 15) Finished floor levels of the dwellings hereby permitted shall be strictly in accordance with Plan 1480-ENG/100 unless otherwise approved by the local planning authority.
- 16) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no windows, roof lights or openings, other than those expressly authorised by this permission, shall at any time be formed in the external walls and roofs of the dwellings on plots 5-12 and 16-21 inclusive without the prior written approval of the local planning authority.
- 17) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no extension or enlargement (including additions or alterations to the roofs) of the dwellings on plots 5-12 and 16-21 inclusive shall be carried out without the prior written approval of the local planning authority.
- 18) No development shall commence until a scheme of enhanced double glazing or secondary glazing for Plots 37-41 inclusive have been submitted to and approved in writing by the local planning authority. The development shall be carried out and retained in accordance with the approved details unless otherwise approved in writing by the local planning authority.
- 19) No development shall take place until construction details of the internal access roads, including layout, design, means of traffic calming, signing, street lighting, timetable and construction to achieve an adoptable standard, have been submitted to and approved in writing by the local planning authority. The dwellings hereby permitted shall not be occupied or use commenced until the roads are constructed in accordance with the approved plans, details and timetable.
- 20) No development shall commence until offsite highway and visibility improvement works associated with planning application Nos. 048146 and 048147 have been completed fully in accordance with those permissions.
- 21) No development shall commence until a scheme for the provision of on-site children's playing space in accordance with Policy SR5 of the Unitary Development Plan (including timetable) has been submitted to and approved in writing by the local planning authority. These areas of children's playing space shall be provided in accordance with the approved scheme.



## Penderfyniad ar gostau

Ymchwiliad a agorwyd ar 04/07/12  
Ymweliad â safle a wnaed ar 06/07/12

gan **Clive Nield BSc (Hons) CEng MICE  
MCIWEM C.WEM**

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 17/08/12

## Costs Decision

Inquiry opened on 04/07/12  
Site visit made on 06/07/12

by **Clive Nield BSc (Hons) CEng MICE  
MCIWEM C.WEM**

an Inspector appointed by the Welsh Ministers

Date: 17/08/12

**Costs application in relation to Appeal Ref: APP/A6835/A/11/2166719**  
**Site address: Land at Overlea Drive, Hawarden**

**The Welsh Ministers have transferred the authority to decide this application for costs to me as the appointed Inspector.**

- The application is made under the Town and Country Planning Act 1990, sections 78, 320 and Schedule 6, and the Local Government Act 1972, section 250(5).
- The application is made by Redrow Homes NW for a partial award of costs against Flintshire County Council.
- The inquiry was in connection with an appeal against the refusal of planning permission for the erection of 45 No. dwellings and associated garages and parking, including the provision of 4 No. affordable units & demolition of current out-building.
- The inquiry sat for 3 days on 4-6 July 2012.

## Decision

1. The application for an award of costs is refused.

### Submissions for Redrow Homes NW

2. The planning application was refused on 28 November 2011, and one of the 3 reasons for refusal was that the development would result in an overbearing impact to the detriment of the levels of residential amenity currently enjoyed by the occupants of dwellings on Penlan Drive and Overlea Crescent. However, after taking professional advice in connection with the appeal, the Council resolved not to defend this reason for refusal. This decision was taken at a meeting on 23 May 2012, and the Appellant incurred unnecessary and wasted expense during that 6 months period preparing evidence for the appeal.
3. The Council's committee report for the May 2012 meeting included clear admission that this reason for refusal was unreasonable, could not be supported by evidence and could not be defended at appeal. The report referred to compliance with the Council's own guidance on minimum distances between neighbouring properties, Local Planning Guidance Note 2 – Space about Dwellings, to the overshadowing assessment carried out by the Appellant, and to the allocation of the site for housing development in the Unitary Development Plan.
4. Once its external professional adviser had advised against it, the Council was clearly unable to continue to pursue this reason for refusal. Furthermore, if the reason was unreasonable in May 2012 it was also unreasonable in November 2011 when the application was determined. Over that 6 months period the Appellant incurred

considerable expense in deciding how to deal with this element of the appeal. Whilst the matter continued to be pursued by third party objectors, including the Rule 6 party, less detailed information would have been sufficient to defend these objections.

5. Some of the information provided on this issue was also put forward as part of the 2<sup>nd</sup> planning application in December 2011. However, it was produced partly for that and partly in connection with this appeal. Considerable unnecessary expense was incurred as a result of the Council's unreasonable behaviour, and an application for a partial award of costs is made in respect of this additional cost.

### **Response by Flintshire County Council**

6. The relevant requirements for an award of costs are set out in (Welsh Office) Circular 23/93, Awards of Costs incurred in Planning and Other (including Compulsory Purchase Order) Proceedings. The general principles are explained in Annex 1, in particular that: awards of costs do not necessarily "follow the event" (paragraph 2); the aim of the costs regime is to introduce a greater sense of discipline to all parties involved in the proceedings (paragraph 4); and that several conditions normally need to be met before an award of costs is made, particularly a party has to have behaved unreasonably and that unreasonable conduct has to have caused the party seeking costs to incur or waste expense unnecessarily (paragraph 6).
7. It is accepted that the Council's use of the reason for refusal in question was not appropriate but it does not amount to unreasonable behaviour. Paragraph 12 of Annex 2 of the Circular gives particular advice on the withdrawal of a reason for refusal, and paragraph 13 deals with withdrawal as a result of a material change in circumstances. Furthermore, paragraph 15 advises that the planning authority can minimise the risk of an award of costs by notifying the Appellant immediately if they conclude that their case cannot be supported by substantial evidence.
8. The Council acted entirely reasonably in reviewing its position, and the Appellant was aware the matter was being put back to committee well before the date of the committee meeting itself. The Council acted in a responsible manner by not defending the reason for refusal just to avoid risk of a costs application. It showed good discipline and its behaviour should not attract an award of costs against it.
9. It is also pertinent that the technical evidence relied on at appeal stage (in particular the assessment against the Council's minimum separation distances and the overshadowing assessment) was prepared and submitted as part of the second planning application in December 2011. It was not prepared solely for this appeal. In addition, the evidence was still needed to deal with the same objections pursued by the Rule 6 party. The second application was refused on 14 March 2012, and it is maintained that the Appellant incurred the costs of preparing the technical evidence to support that application. It is not clear what further costs were incurred before the Council informed the Appellant a few weeks later it was not defending this reason for refusal. The Appellant did not incur additional or wasted costs as a result of the Council's refusal on this ground.

### **Reasons**

10. Circular 23/93 advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.

11. In this case, although the Council failed to defend the reason for refusal in question and so accepted it should not have applied it in the first place, it acted responsibly in deciding not to defend it and in informing the Appellant well in advance of the appeal inquiry, thus minimising the risk of an award of costs and minimising the amount of costs should an award be made. Nevertheless, I consider its behaviour was unreasonable in adopting this reason for refusal in the first place when it could not defend it.
12. However, after the refusal the Appellant submitted a 2<sup>nd</sup> planning application and in support of that application put forward much of the technical evidence used for the appeal. Thus a proportion of the costs is attributable to that 2<sup>nd</sup> application and was not incurred as part of the current appeal proceedings. It may be argued that those costs were incurred as a result of an unreasonable reason for refusal of the 1<sup>st</sup> application. However, they were incurred as part of the 2<sup>nd</sup> planning application rather than in connection with this appeal.
13. In addition, the reason for refusal still had to be defended at appeal as it was pursued by third parties, particularly the Rule 6 party. The Appellant says less detailed information would have been sufficient to defend the objections raised by third parties. However, that is not necessarily so. Indeed, I found partially in favour of those third party objections in connection with the proposed new dwelling on Plot 1, which I have deleted from the scheme whilst allowing the rest. The third party case was well argued on this matter, and the technical evidence put forward by the Appellant was necessary in order to defend against it. Thus, I do not consider additional or unnecessary expense has been incurred as a result of the Council's unreasonable behaviour.
14. Overall, I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in Circular 23/93, has not been demonstrated.

*Clive Nield*

Inspector

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## FLINTSHIRE COUNTY COUNCIL

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

**DATE:** **5<sup>TH</sup> SEPTEMBER 2012**

**REPORT BY:** **HEAD OF PLANNING**

**SUBJECT:** **APPEAL BY MR. L. WARD AGAINST THE DECISION OF FLINTSHIRE COUNTY COUNCIL TO REFUSE PLANNING PERMISSION FOR THE VARIATION OF CONDITION 2 UPON PLANNING PERMISSION 045753 AT CAERWYS CASTLE CARAVAN PARK, CAERWYS HILL, CAERWYS, FLINTSHIRE.**

### **1.00 APPLICATION NUMBER**

1.01 049192

### **2.00 APPLICANT**

2.01 Premier Caravans Ltd  
White Tower  
Caernarfon  
Gwynedd  
LL54 5UH

### **3.00 SITE**

3.01 Caerwys Castle Caravan Park  
Caerwys Hill  
Caerwys  
Flintshire.

### **4.00 APPLICATION VALID DATE**

4.01 3<sup>rd</sup> November 2011

### **5.00 PURPOSE OF REPORT**

5.01 To inform Members of the appeal decision, following the refusal of planning permission under delegated powers on 3<sup>rd</sup> January 2012 for the variation of condition 2 attached to planning permission Ref: 045753 to allow for 12 month holiday season at Caerwys Castle

Caravan Park, Caerwys Hill, Caerwys. The appeal was considered by way of an informal hearing held on the 24<sup>th</sup> May 2012 and was ALLOWED.

- 5.02 During the course of the hearing, the appellant submitted an application for costs, which the Inspector ALLOWED in favour of the applicant.

## **6.00 REPORT**

- 6.01 The Inspector considered the main issue to be the effect of the proposals on policies designed to control the provision of housing and to protect the character and appearance of the countryside and the Area of Outstanding Natural Beauty (AONB).

- 6.02 The appeal site lies within an area of open countryside between the settlements of Caerwys and Afonwen and in close proximity to the Clwydian Range AONB. The application had sought to allow a 12 month holiday season from the current 10.5 month per annum allowed. It was the Council's case that the additional period of occupation would make it difficult to distinguish between this and a residential use and that the additional activity during the winter months would be detrimental to the character of the area and would erode the openness and character of the area between the two settlements of Afonwen and Caerwys

- 6.03 In arriving at his decision the Inspector considered that this additional activity would be unlikely to contribute in any significant degree to an impression of coalescence of the identified settlements. The Inspector noted that the site is visible from the adjacent AONB and that vegetation had been removed from the southern extremes of the site which reduced the effectiveness of the vegetation screen in this area. He did appreciate that the screening of the site afforded by vegetation would be at the minimum during the period for which the extension of operating season was sought.

- 6.04 However, he considered that the park itself was only one of a number of elements within the landscape which were visible from the AONB. He concluded that any increase in activity would be negligible and indistinguishable at the distances involved, notwithstanding the reduced level of screening. He considered that any increased impact of the site upon the landscape would only arise from the permanence of structures or introduction of further structures and not from the increase in activity of existing structures.

- 6.05 He therefore concluded that year round holiday usage would not alter the relationship with the landscape nor contribute to an impression of coalescence.

6.06 In arriving at this conclusion, the Inspector considered that the condition presently in place, which restricted operation of the park to a 10.5 month season, was unduly restrictive. He considered an amended form of wording suggested by the Local Planning Authority, which sought to establish enforceable control over the operation of the park for holiday purposes, but concluded that this was unduly onerous and intrusive.

6.07 The condition suggested by the Local Planning Authority read as follows;

**“The units shall be occupied for holiday purposes only and not as a person’s sole or main place of residence. The owner of each unit and the site operator shall maintain an up to date register of the names of owners and occupiers of caravans on the site, their main home addresses, the dates each caravan has been occupied and by whom. The information shall be made available for inspection at all reasonable times on request from the local planning authority.”**

Alternatively, the Inspector substituted Condition 2 of planning permission Ref: 045753 to read as follows;

**“The units within the site shall be occupied for holiday purposes only and not as a person’s sole or main place of residence.”**

6.08 It is disappointing that the Inspector did not accept the form of wording suggested by the Local Planning Authority as the condition imposed is far less precise and consequently, I am concerned that the form of wording utilised by the Inspector will cause great practical difficulties in enforcing against any residential use of the caravans.

6.09 **Costs**

In deciding to award costs in favour of the Appellant, the Inspector considered that the Local Planning Authority had acted unreasonably in refusing planning permission. He referred to the case that the revised operating times would be akin to a residential use as a misinterpretation of the application and considered that there was insufficient evidence to support the reasons for refusal.

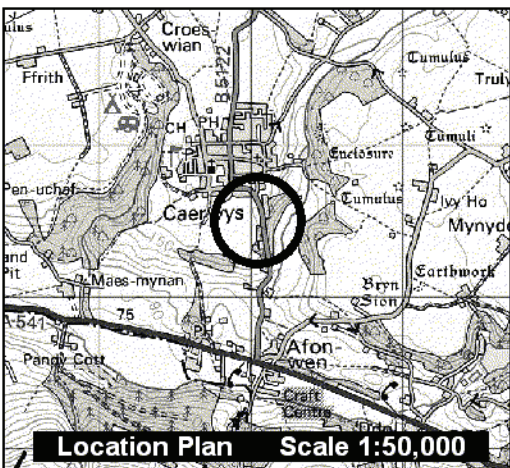
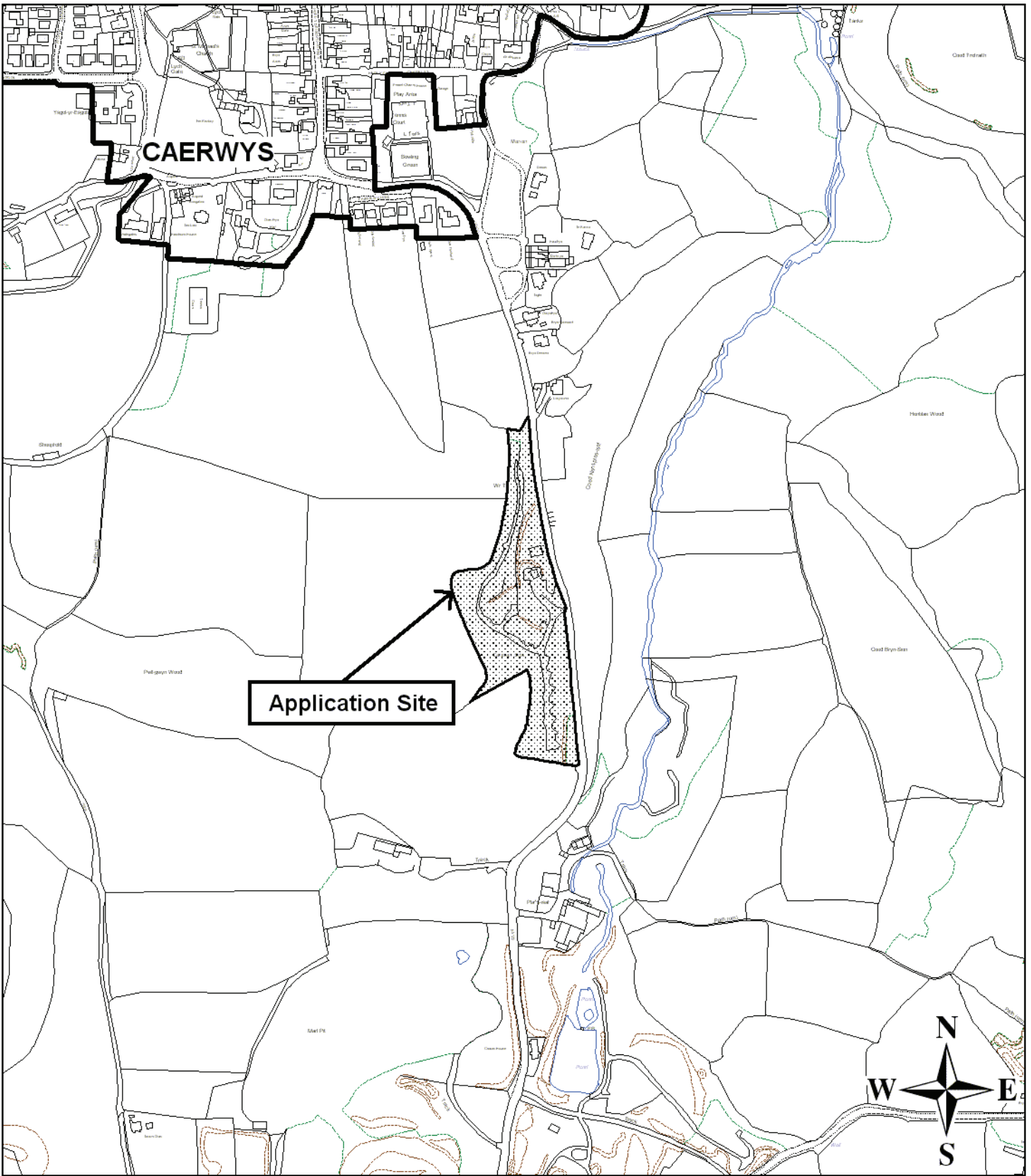
6.10 It is disappointing that the Inspector concluded that the Local Planning Authority did not provide sufficient evidence to support its concerns in relation to landscape impact and impacts upon the AONB. Members will appreciate that the issue of visual impact was considered at a hearing and subsequent site visit at a time of the year when vegetation growth in the area was at its fullest. The Inspector was invited to bear this in mind, together with the deciduous nature of the existing landscape screening which was highlighted both in the hearing and upon the site visit.

6.11 It was therefore for the Inspector to weigh these considerations in his mind when considering the appeal and examining the visual impact of the site in the landscape itself. It is not clear what 'evidence' as such could have been presented to place before the Inspector in respect of this issue given the time of year. It was a matter upon which the Inspector would have to exercise planning judgement, as he did. However, it is unclear how an issue requiring an exercise of judgement can be viewed in an evidential context and then referred to as a reason behind allowing an award of costs.

## **7.00 CONCLUSION**

7.01 The Inspector concluded that the proposal was not unacceptable in the terms presented and would not give rise to unacceptable impacts upon either landscape or settlement and was not therefore contrary to the applicable policies and therefore the appeal was ALLOWED.

**Contact Officer:** David Glyn Jones  
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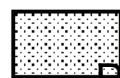


Environment Directorate,  
 Flintshire County Council, County Hall,  
 Mold, Flintshire, CH7 6NF.  
 Director: Mr. Carl Longland

**Legend**



Adopted Flintshire Unitary  
 Development Plan  
 Settlement Boundary



Application Site Extent

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Map Scale 1:5000

OS Map ref SJ 1372

Planning Application 49192

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## FLINTSHIRE COUNTY COUNCIL

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

**DATE:** **5<sup>TH</sup> SEPTEMBER 2012**

**REPORT BY:** **HEAD OF PLANNING**

**SUBJECT:** **APPEAL BY MR. C. RIDGWAY AGAINST THE DECISION OF FLINTSHIRE COUNTY COUNCIL TO REFUSE PLANNING PERMISSION FOLLOWING THE RETROSPECTIVE APPLICATION FOR THE RETENTION OF A BUILDING FOR USE AS AN OFFICE ANCILLARY TO THE MAIN DWELLING AT CALEDFWLCH, Ffordd Pentre Bach, NERCWYS, FLINTSHIRE.**

**1.00 APPLICATION NUMBER**

1.01 049211

**2.00 APPLICANT**

2.01 Mr Christian Ridgway  
Caledfwlch  
Ffordd Pentre Bach  
Nerwys  
Mold  
Flintshire  
CH7 4EG

**3.00 SITE**

3.01 Caledfwlch  
Ffordd Pentre Bach  
Nerwys  
Mold  
Flintshire  
CH7 4EG

**4.00 APPLICATION VALID DATE**

4.01 25<sup>th</sup> October 2011

**5.00 PURPOSE OF REPORT**

5.01 To inform Members of the appeal decision, following the refusal of planning permission under delegated powers on 28<sup>th</sup> February 2012 for the retrospective application for the retention of a building for use as an office ancillary to the main dwelling at Caledfwlch, Ffordd Pentre Bach, Nercwys, Flintshire. The appeal was considered by way of the written representations process and was ALLOWED.

## **6.00 REPORT**

6.01 The appeal involves the bungalow, Caledfwlch, built in the 1990's and since extended. In 2010 the Authority was asked to confirm that the erection of a single storey double garage at the property was permitted development. When the building was erected it was brought to our attention that it was not being constructed in accordance with the details submitted in that it was significantly higher than shown and on inspection was found to have been laid out to provide a suite of offices/storage, etc, at ground floor level with a large space at first floor, served by a gable window, which was capable of providing further office space. Although the garage doors were retained on the front elevation the building was not capable of being used as a garage because of the internal walls which served the office layout.

6.02 The applicant was advised to stop work and there followed discussion over the nature of the development involved. It was claimed that the building was to be used in connection with the applicant's accountancy business, which in itself could fall under an 'ancillary' definition and would not require planning permission. Officers took the view, however, that the design of the building took it beyond a domestic scale and that in its prominent position forward of the single storey dwelling, that it was visually detrimental to the character of the area and it was refused on this basis.

6.03 On appeal, the Inspector considered the main issue to be the effect the development would have on the character and appearance of the surrounding area and on the character and appearance of the adjacent dwelling. He referred to Caledfwlch as a large single storey dwelling located within a cluster of dwellings alongside the Ffordd Pentre Bach and considered the new building as being intended to provide office accommodation for the residents, as ancillary space to the main house.

6.04 He referred to the appeal building as having the appearance of a large double garage in a prominent position close to the road. He acknowledged that it was a large building with, on the face of it, a higher ridge height and steeper pitch than the adjacent dwelling. However, the Inspector was of the opinion that the perspective view of the building from the road gave it a subservient appearance and a broadly consistent height with that of the dwelling. Again he acknowledged that the building was in a prominent position but he felt



that it was seen in the context of the existing dwelling and the surrounding cluster of buildings. Consequently, he did not consider it to be overly conspicuous, overbearing or incongruous.

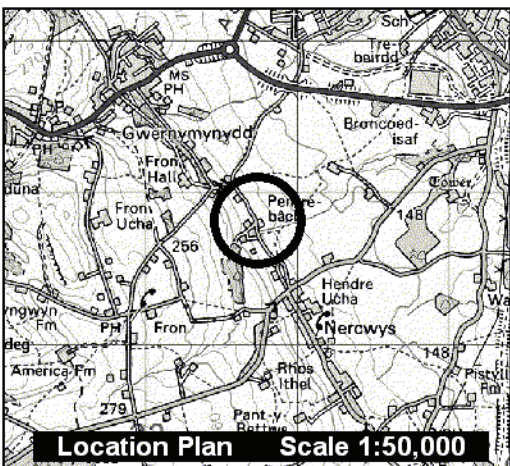
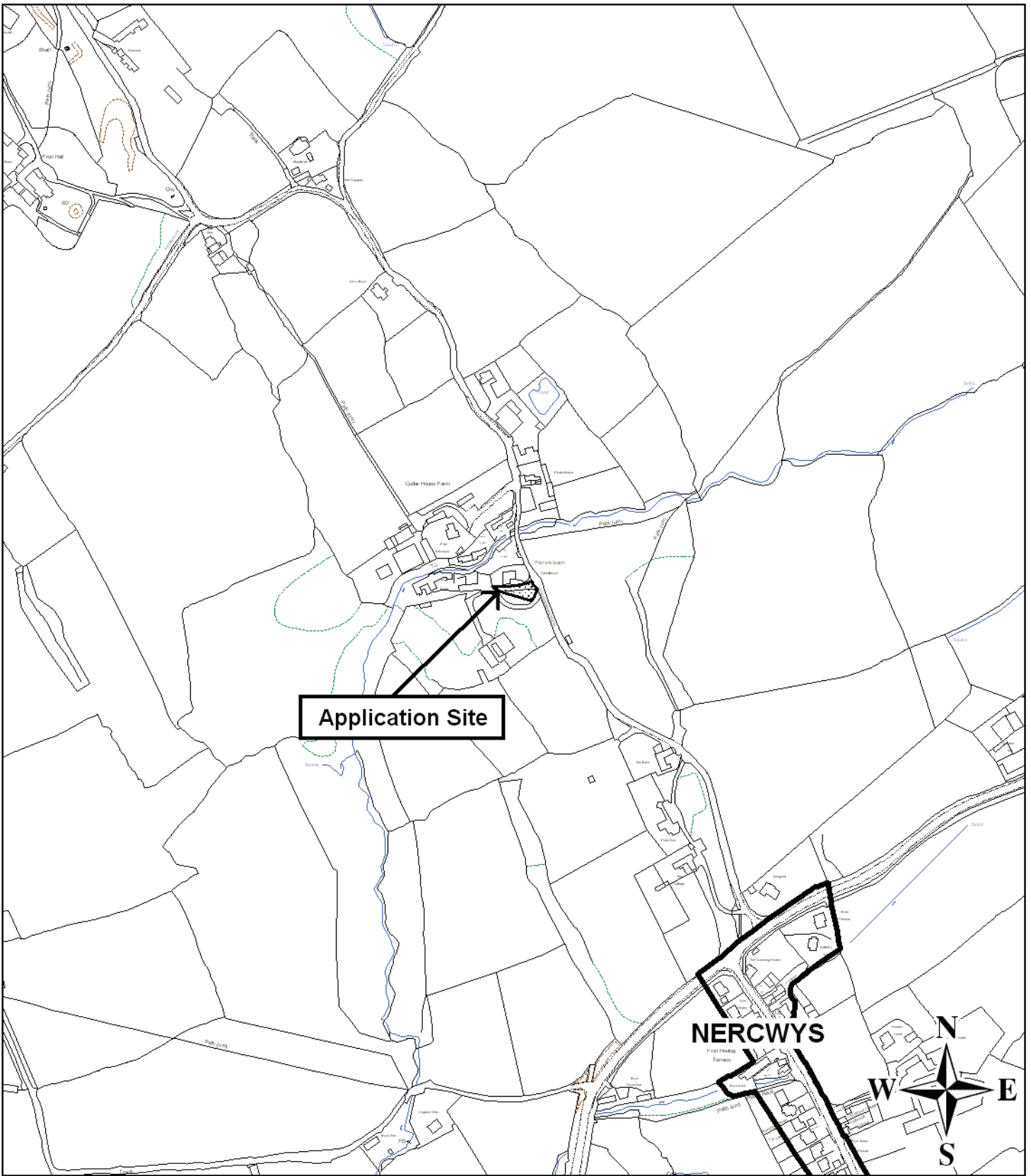
- 6.05 Whilst determining that the scale and design of the building was acceptable he conditioned that it should not be occupied other than for purposes ancillary to the residential use of the dwelling Caledfwlch.
- 6.06 The Inspector's failure to address the business use in greater detail causes some difficulty as it is quite clear that the building is capable of being used at a level which would go way beyond what might be considered "ancillary", consequently we are left in a position where we will need to monitor to ensure no change of use has taken place. Whereas we have an UDP policy (RE4) which supports the establishment of small scale rural enterprises, this business is not one which requires a rural location and the policy is based on the premise that it involves the conversion of an existing rural building. The situation here is that a building designed specifically for the business use is effectively being allowed on appeal and conditioned so that it should be used for this purpose only in an ancillary manner, it is then left to the local planning authority to decide if this condition is being breached, as is very likely to happen.

## **7.00 CONCLUSION**

- 7.01 However, the Inspector considered that the building was of a reasonable size and height, in relation to its domestic context and did not detract from the character and appearance of the surrounding area as a result, subject, as stated above, to its use remaining ancillary to the residential use. Consequently for the reasons given above, and having considered all other matters raised, he ALLOWED the appeal.

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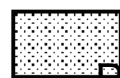


Environment Directorate,  
 Flintshire County Council, County Hall,  
 Mold, Flintshire, CH7 6NF.  
 Director: Mr. Carl Longland

**Legend**



Adopted Flintshire Unitary  
 Development Plan  
 Settlement Boundary



Application Site Extent

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Planning Application 49211

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