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Gareth Owens LL.B Barrister/Bargyfreithiwr
Head of Legal and Democratic Services
Pennaeth Gwasanaethau Cyfreithiol a Democraidaidd



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

9 April 2013

Tracy Waters 01352 702331
tracy.waters@flintshire.gov.uk

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, 17TH APRIL, 2013 at 1.00 PM** to consider the following items.

Yours faithfully

Democracy & Governance Manager

A G E N D A

- 1 **APOLOGIES**
- 2 **DECLARATIONS OF INTEREST**
- 3 **LATE OBSERVATIONS**
- 4 **MINUTES** (Pages 1 - 14)

To confirm as a correct record the minutes of the meeting held on 20 March 2013 (copy enclosed).

- 5 **ITEMS TO BE DEFERRED**

County Hall, Mold. CH7 6NA
Tel. 01352 702400 DX 708591 Mold 4
www.flintshire.gov.uk
Neuadd y Sir, Yr Wyddgrug. CH7 6NR
Ffôn 01352 702400 DX 708591 Mold 4
www.siryfflint.gov.uk

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 17 APRIL 2013

Item No	File Reference	DESCRIPTION
<u>Applications reported for determination (A=reported for approval, R=reported for refusal)</u>		
6.1	049857 - A	Full Application - Multiplex cinema, restaurants (5) and associated works at Broughton Shopping Park, Broughton, Chester (049857) (Pages 15 - 42)
6.2	049943 - R	Outline Application - Erection of a Cinema, Hotel (up to 80 Bedrooms) and Class A3 Food and Drink Units, Together with Car Parking (up to 454 Spaces), Landscaping and Ancillary Works on Land to the North of Broughton Shopping Park, Broughton. (049943) (Pages 43 - 66)
6.3	050281	Outline - Residential development consisting of 3no. four bedroom detached houses and 1no. three bedroom detached bungalow at 3 Tram Road, Buckley (050281) (Pages 67 - 74)
6.4	050430 - R	Full Application - Erection of a two storey extension including balcony to existing barn at Deer Lodge, Cymau, Wrexham, Flintshire (050430) (Pages 75 - 82)
6.5	050429 - A	Renewal of planning permission reference: 047979 to allow the change of use from gun site and agricultural land to a paint balling centre and ancillary development at Chester Gun Site, Moor Lane, Lower Kinnerton, Chester (050429) (Pages 83 - 92)
6.6	050333 - A	Full Application - Re-plan to the Northern Parcel off Former Buckley Brickworks with Mix of 2, 3 and 4 Bedroom Detached, Semi-Detached and Terraced Dwellings with Associated Parking and Amenity Spaces on and at Former Lane End Brickworks, Church Road, Buckley (050333) (Pages 93 - 104)
6.7	050435 - A	Full Application - Construction of 5no. bungalows, 2no. with attached garages, all five properties to be accessed off Fron Park Road and the construction of 4no. town houses to be accessed off Halkyn Road with a pedestrian link between the two areas at land formerly known as "Llwyn Onn", Halkyn Road, Holywell (050435) (Pages 105 - 116)
6.8	050469 - A	Full Application - Housetype substitution on plots 18, 19, 20, 30, 31 and 32 of previously approved scheme under planning reference 048892 at associated land and former White Lion Pub, Chester Road, Penymynydd (050469) (Pages 117 - 126)
6.9	050551 - A	Full Application - Construction of a lined earth banked slurry store 25.5m x 20m x 3m adjacent to the existing slurry store at Bryn Celyn Farm, Pen Y Fron Road, Rhydymwyn, Mold (050551) (Pages 127 - 132)
6.10	043948	Full Application - Integrated Waste Management Facility at Pinfold Lane Quarry, Alltami (043948) (Pages 133 - 146)
6.11	050003	General Matters Application - Outline - Erection of 12no. dwellings including demolition of existing outbuildings and creation of a new access at "Bank Farm", Lower Mountain Road, Penyffordd, Flintshire (050003) (Pages 147 - 152)

Item No	File Reference	DESCRIPTION
<u>Appeal Decision</u>		
6.12	049515	Appeal by West Register (Realisations) Ltd against the decision of Flintshire County Council to refuse planning permission for the siting of static caravan for use as residential wardens accommodation at "St. Mary's Caravan Camp", Mostyn Road, Gronant, Prestatyn, Flintshire (049515) (Pages 153 - 158)

6.13	049425	Appeal by Anwyl Homes Ltd against the decision of Flintshire County Council to refuse variation of condition no.15 attached to planning permission at "Croes Atti", Chester Road, Oakenholt, Flintshire (049425) (Pages 159 - 164)
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PLANNING AND DEVELOPMENT CONTROL COMMITTEE
20 MARCH 2013

Minutes of the meeting of the Planning and Development Control Committee of the Flintshire County Council held at County Hall, Mold on Wednesday, 20 March 2013

PRESENT: Councillor D.E. Wisinger (Chairman)

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

SUBSTITUTION:

Councillor: M. Bateman for C.A. Ellis

ALSO PRESENT:

The following Councillors attended as local Members:-
Councillor G.H. Bateman - agenda item 6.3.

IN ATTENDANCE:

Head of Planning, Development Manager, Planning Strategy Manager, Senior Engineer - Highways Development Control, Team Leader, Senior Planners, Planning Support Officer, Principal Solicitor and Committee Officer.

173. DECLARATIONS OF INTEREST

Councillor J. Falshaw declared a personal interest in the following application:-

Agenda item 6.4 – Outline Application – Erection of a detached bungalow at Belmont, South Street, Caerwys (050169)

In line with the Planning Code of Practice:-

Councillor D. Evans declared that he had been contacted on more than three occasions on the following application:-

Agenda item 7 – Reserved Matters – Application for approval of reserved matters for the erection of 312 residential dwellings and associated works at land at (whole site) Croes Atti, Chester Road, Oakenholt, Flint (050300)

174. LATE OBSERVATIONS

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

175. MINUTES

The draft minutes of the meeting of the Committee held on 20 February 2013 had been circulated to Members with the agenda.

RESOLVED:

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

176. ITEMS TO BE DEFERRED

The Head of Planning advised that none of the items on the agenda were recommended for deferral by officers.

177. FULL APPLICATION – ERECTION OF 2 NO. TWO BEDROOM SEMI DETACHED DWELLINGS WITH PARKING TO FRONT AND REAR AT FERN LEIGH, BROOK STREET, BUCKLEY (050291)

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 drew Members' attention to the late observations sheet where two further letters of objection were detailed along with an amendment to the conditions in the recommendation which included the deletion of condition nine and the inclusion of three additional conditions. Clarification was also included that the applicant's agent had not confirmed how the applicant wished to pay the public open space contribution.

Planning permission for a three bedroom dwelling house had been granted on 2 December 2008 and expired on 1 December 2013 which included off road parking for No. 6 Fern Leigh. Due to the economic climate, the site remained undeveloped with the application proposing an additional unit on the site to improve its prospect for development by providing two new affordable homes with parking to both the front and rear of the properties. The officer detailed the distances from the Club building and no. 6 Fern Leigh and explained that, even though the proposals included the siting of a dwelling only a short distance from the rear of no. 6, this property was sited at an angle. It was therefore considered that the proposals would not have a significant detrimental impact upon the amenities of adjoining residents in terms of loss of light or privacy.

Ms. J. Stewart spoke against the application explaining that her concerns were on the grounds of overlooking, loss of privacy and issues of parallel parking with cars having to reverse from the garages onto the road. She also raised concern at the noise from the Workingmen's Club which had been reported to the police.

Councillor R.C. Bithell proposed the recommendation for approval which was duly seconded. He said that the site already had extant permission so the principle of development had been established. He referred to the comments about the Workingmen's Club but said that there were no reports of disturbances and added that purchasers of the properties would be aware of the existence of the club before they bought the dwellings. He felt that there were no legitimate planning reasons to refuse the application.

Councillor R.B. Jones referred to differences between this proposal and the application which had been approved in December 2008 and commented upon the access onto the unadopted road onto which vehicles would have to reverse. He also referred to the difference in height from the original proposal and the noise from the club which he felt would be significant. He referred to the lack of a play area for children who might live in the properties. He felt that the issues of noise, access onto the unadopted road and the differences from the previous proposal were reasons to refuse this application.

Councillor A.M. Halford asked for clarification on the definition of tandem development and queried why the applicant was able to make a payment in lieu of open space provision. In response the officer said that if there were two or more dwellings, the applicant had to provide an amount of open space or a payment in lieu of this, which was in accordance with the Local Planning Guidance note. He added that the sum of £1,100 per dwelling was to maintain existing play areas in the vicinity. The officer and Development Manager provided an explanation of tandem development.

Councillor M.J. Peers felt that this proposal was an overdevelopment of the site. He sought clarification on the distances from the Workingmen's Club and the neighbouring properties and queried whether the application complied with space around dwellings guidance. Councillor P.G. Heesom concurred that the proposal was overdevelopment and over-intensification as he felt that there was only room for one dwelling on the site.

The officer said that the application did not meet separation distances as proposed but that the existing property was at an angle so there would be no significant loss of privacy for either set of occupiers. The Development Manager added that the proposed dwellings were not directly in line with the existing properties so the distances stated in the Guidance Note were not directly applicable.

In summing up, Councillor Bithell disagreed that the plot was too small, pointed out that there had not been any objections from Highways and that one of the parking spaces was for the existing dwelling.

On being put to the vote, the proposal to approve the application was LOST.

RESOLVED:

That planning permission be refused on the grounds of overdevelopment of the site, the access being unsatisfactory and failure to comply with the Council's standards on separation distances and space about dwellings.

178. FULL APPLICATION – DEMOLITION OF EXISTING GARAGE AND THE ERECTION OF A ONE BEDROOM ANNEX AT 18 VAUGHAN WAY, CONNAH'S QUAY (050312)

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 18 March 2013. The usual consultations had been undertaken and the responses received detailed in the report.

The officer detailed the background to the report explaining that three letters of objection had been received and he detailed the main issues of the proposal. A previous application for a two storey annex had been refused in December 2011, but there were no amenity issues in relation to this application as the proposal was for a single storey building.

Mr. C. Minton spoke against the application as he felt that his property which was behind the site would be overlooked and overcrowded and that his privacy would be invaded. He added that the building works would disrupt resident's lives and would impact on the health of his wife and neighbours.

Councillor A.I. Dunbar proposed refusal of the application against officer recommendation, which was duly seconded. He felt that the height of the proposal would be above the height of the garage on the site and would overlook neighbouring properties. He asked whether there was any intention for the applicant to sell it as a separate building if planning permission was granted.

Councillor R. Lloyd concurred that the proposal was higher than the garage currently in place and would be higher than the bungalow to the rear of the site. He sought clarification on the comment in paragraph 7.10 that it was anticipated that the main dwelling would be relied upon for the kitchen facilities which would ensure the proposal remained ancillary to the main dwelling. He supported refusal of the application.

Councillor D. Butler queried why the annex was required as it was reported in paragraph 7.04 that the existing garage could be used for accommodation ancillary to the main dwelling without the need for planning permission. Councillor W. Mullin felt that once the annex was constructed it would be turned into a dwelling and queried what the ramifications of council tax collection would be. Councillor Peers referred to the refusal of the previous application on the basis that it was tantamount to the erection of a new dwelling: he felt that same applied in this case. He asked why the application was to demolish the garage and rebuild an annex when it could

have been built as an extension to the original dwelling. He also supported refusal of the application.

Councillor H.G. Roberts reminded Members that the application before them had to be considered and that annexes were permitted as long as they were not self-contained. He felt that the application was in accordance with planning policy.

In response to a question from Councillor R.B. Jones, the officer said that the previous decision had been delegated and was for a two storey annex with the bedroom windows overlooking adjacent properties. This proposal was four metres in height with no accommodation in the roof space and so would not have the same element of overlooking as the previous application. He referred to recent appeal decisions on annexes where the inspector had reported that because of the level of connection between the new building and the main dwelling, the new building was classed as an annexe. Councillor Jones said that the previous application had been refused as it overlooked neighbouring properties and was a new dwelling. He felt that these reasons still applied on this application and that for consistency it should be refused.

The officer said that the proposal had been designed as annex accommodation and not as a separate dwelling and that conditions would tie it to the original dwelling. The Principal Solicitor said that the proposal was considered ancillary to 18 Vaughan Way and that a requirement to pay council tax would be an indication of a separate dwelling. If that was the case, enforcement action could be taken because of a breach of conditions.

In summing up, Councillor Dunbar said that the proposal was not linked to the dwelling and was tandem development. He reiterated that refusal should be on the grounds of overlooking neighbouring properties, loss of amenity, and the height/size of the proposal.

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

RESOLVED:

That planning permission be refused on the grounds of overlooking neighbouring properties, loss of amenity and the height/scale of the proposal.

179. FULL APPLICATION – ERECTION OF A SINGLE STOREY CONVENIENCE STORE AND ASSOCIATED CAR PARKING FOLLOWING THE DEMOLITION OF EXISTING STORAGE BUILDING ON LAND AT MORRIS’S GARAGE, WREXHAM ROAD, MOLD (050252)

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 officer detailed the background to the report and explained that, at the previous meeting on 20 February 2013, Members had imposed restrictions on the opening hours, but the Licensing Sub-Committee had met on 28 February 2013 in respect of a licence to sell alcohol and had resolved to approve an amended proposal in terms of the opening hours. The hours resolved at the meetings of this Committee on 20 February 2013 and the Licensing Sub-Committee were reported.

Mr. O. Davies, for the applicant, spoke in support of the application and provided detail on the background of the company. He explained that the hours agreed for the licence were required for the proposed store. He spoke of other stores in the area run by the applicant which had lengthy opening hours, and explained that the company intended to employ 24 local people, had achieved accreditation in Investors In People, paid above the minimum wage and had a care package which was second to none in the sector.

Councillor P.G. Heesom proposed that the hours remain as resolved at the meeting held on 20 February 2013, which was duly seconded. He said that the site was in a residential area and the quality of life of the residents would be affected and asked Members to uphold the previous decision.

Councillor M.J. Peers raised concern that the application was back before Committee and took exception to the comments in the report that Members should be mindful that their reasoning, in coming to any decision alternative to that suggested, should be made upon a clear and sound planning basis. He considered that the previous decision was soundly-based. He referred to the hours imposed by the Licensing Sub-Committee and said that if the store was not open for the whole of the time period stated then the hours on the licence could not apply.

The local Member, Councillor G.H. Bateman spoke against the amended hours proposed by the Licensing Sub-Committee. The site was in a quiet residential area and residents were fearful of anti-social behaviour. He referred to policies in the Unitary Development Plan which the application did not comply with as it impacted on the amenity of residents and could cause a nuisance. He felt that the hours of opening should be restricted to 7am to 9pm Monday to Saturday and 9am to 4pm on Sundays and Bank Holidays, as resolved at the previous meeting of this Committee.

Councillor R.C. Bithell referred to the alternative hours proposed by the Licensing Sub-Committee and queried what would happen if the applicant appealed against the decision of this Committee to restrict the hours. The Principal Solicitor clarified what matters the Licensing Sub-Committee had to consider under the Licensing Act 2003 when determining licensing applications, in relation to what were planning considerations. He advised that there was a degree of overlap in these material considerations but that the Planning Committee could impose different restrictions. However, he reminded Members of the need to have a clear and sound planning basis if they intended to impose alternative opening hours to those to permit the sale of alcohol set by the Licensing Sub-Committee.

Councillor R.B. Jones referred to the decision of the Licensing Sub-Committee and raised concern that they did not consider the amenity of residents when making their decision. He supported the hours put forward by the local Member, Councillor Bateman, at the previous meeting but felt that the Inspector would impose the hours set by the Licensing Sub-Committee. The Principal Solicitor said that if the application went to appeal, all of the relevant information would be submitted to the Inspector including the decision of this Committee and the Licensing Sub-Committee.

Councillor C.M. Jones spoke of her experience of living next to a convenience store and the anti-social behaviour problems that were caused at the store which was open until 11pm each day. Councillors N. Phillips and H.G. Roberts concurred that the hours of opening should be as agreed at the 20 February 2013 Committee meeting. In response to a query from Councillor Phillips, the Principal Solicitor said that the applicant could appeal to the Magistrates if they disagreed with the hours imposed for the licence but if they appealed a planning decision, the appeal would be determined by a Planning Inspector.

Councillor A.I. Dunbar said that he had been on the Licensing Sub-Committee that had made the decision of the licensing hours and said that considerations of the local residents and schoolchildren had been taken into account when making their decision. They had agreed to the longer licensing hours but had put a proviso into the decision that, because of the objections received, the application would be referred back to the Licensing Sub-Committee in 12 months, and if there had been any complaints of anti-social behaviour, then the licensing hours could be reviewed. Councillor D. Butler felt that the hours imposed by the Planning Committee should be tested and reviewed if appropriate.

The Planning Strategy Manager queried whether the Committee were being consistent as there was a licensed Italian restaurant and convenience shop close by which had longer opening hours than had been proposed at the last Planning and Development Control Committee meeting. He asked whether Members had considered granting a temporary permission on the basis of the licensing hours to see if there was any evidence of anti-social behaviour.

In summing up, Councillor Heesom said that he felt that the essential test was the location: did the location demonstrate a need? There was no evidence of need for the longer hours and the longer hours would create the need. He felt that the extended opening hours would lead to disamenity in the area and late night opening was not appropriate as the application site was not in the town centre. It would be unfair on the residents in the area if the hours that had been applied for were introduced. The tests to be applied in determining planning applications were different to those of the Licensing Sub-Committee. He asked that Members endorse the decision of the meeting of the Committee held on 20 February 2013.

On being put to the vote the proposal to refuse the extended hours detailed in the report and endorse the hours of 7am to 9pm Monday to Saturday and 9am to 4pm Sundays and Bank Holidays as agreed at the meeting of the Planning and Development Control Committee held on 20 February 2013 was CARRIED.

RESOLVED:

That planning permission be granted subject to the conditions detailed in the report of the Head of Planning with condition 14 being amended to opening hours of 7am to 9pm Monday to Saturday and 7am to 4pm on Sundays and Bank Holidays, and subject to the applicant entering into a Section 106 Obligation, Unilateral Undertaking or the making of an advance payment to provide the payment of £3500 in respect of the cost of a Traffic Regulation Order and the associated parking restriction lining along Wrexham Road, Brook Street and Conway Street.

180. OUTLINE APPLICATION – ERECTION OF A DETACHED BUNGALOW AT BELMONT, SOUTH STREET, CAERWYS (050169)

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 officer detailed the background to the report and explained that the application was reported to Committee in December 2012 when its determination was deferred as the applicant had indicated that an archaeological investigation was to be undertaken. As no further information had been received, the application was presented back to Committee with the original recommendation of refusal.

Councillor R.C. Bithell proposed the recommendation for refusal which was duly seconded. He said that the reasons for refusal were sound and that the nature of the plot would be lost if the application proceeded.

The local Member, Councillor J. Falshaw, spoke in support of the application. He commented on each of the reasons for refusal and said that the site was more than adequate for a two bedroomed bungalow, was not a cramped site and would not harm the character and appearance of the Caerwys conservation area. He said that the site had previously been used as a taxi business and the taxi office still stood on the site. He felt that a bungalow on the site would not be out of keeping with the area. On proposed reason for refusal 2, he said that the dwelling was intended to be occupied by the elderly parents of the applicant to enable them to be cared for and that the application had been submitted as there were no new builds being undertaken in Caerwys. He commented that there had never been any suggestion of the plot being archaeologically important until the submission of the application. He felt that refusal of the application would be overturned at appeal.

Councillor W.O. Thomas said that it was reported that the site was too small for the proposal and quoted from an appeal decision on a similar plot. He referred to space around dwellings guidance from January 2005 and said that the Inspector had indicated that there was no evidence that it had been consulted on and adopted. The plot was not within the Conservation Area, and there had been a number of houses knocked down in Caerwys in recent years.

Councillor A.M. Halford referred to two earlier applications on this agenda which were for similar sized plots but which were both recommended for approval by officers as they complied with space around dwellings guidance. She queried why this application had been recommended for refusal. Councillor P.G. Heesom felt that the site was of sufficient size for the proposal but added that the architectural issues should be considered. He said that the test was whether the plot was capable of having an attractive building on it and on balance he felt that it did and that the application should be approved. Councillor D. Butler drew Members' attention to the comments of Caerwys Town Council who did not feel that the site was adequate and could be contrary to policy on density of development. Councillor H.G. Roberts felt that it would be possible to put a dwelling on the plot which would be in keeping with the streetscene and could be dealt with at reserved matters stage. He supported approval of the application.

In response to the comments made, the Development Manager reminded Members that there were three reasons for refusal and the application had been deferred at an earlier committee to allow the submission of archaeological information, referring to the comments of the Clwyd Powys Archaeological Trust. That information had not been received but he was also aware that the applicant had been in touch with the Council's Housing Officers in relation to the local need issue. The applicant's agent had acknowledged that these matters needed to be addressed but had requested that the application be considered at this meeting. He advised Members that it would be premature to determine the application without resolving these issues. In particular, if the applicant satisfied the local needs requirement, there would be a need for a Section 106 Obligation to ensure that the property remained affordable. He acknowledged that if these two issues were resolved the decision was then down to the acceptability of the development in terms of scale and character. He affirmed that in officers' opinion it was not acceptable in these terms but it would then be a matter of judgement for Members.

Councillor Heesom proposed that the application be deferred, which was duly seconded.

On being put to the vote, the proposal to defer the application to obtain information from the applicant on the archaeological investigation and local need/affordability was CARRIED.

RESOLVED:

That the application be deferred to obtain information from the applicant on the archaeological investigation and local need/affordability.

181. FULL APPLICATION – SUBSTITUTION OF 16 PLOT TYPES ON APPLICATION 048892 FOR THE ERECTION OF 87 DWELLINGS AT WHITE LION PUBLIC HOUSE, CHESTER ROAD, PENYMYNYDD (050400)

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 officer detailed the background to the report and explained that the application was before Committee because of the requirement for a Section 106 Agreement to link to the Section 106 Agreement from the original application. He also highlighted the comments of one of the local Members, Councillor D. Williams, that he considered the proposals to be acceptable provided that they did not impact upon previously agreed provision of affordable dwellings and semi-detached dwellings.

Councillor R.C. Bithell proposed the recommendation for approval which was duly seconded. Councillor R.B. Jones referred to conditions 17 and 26 which he felt had not been adhered to and he commented on the condition of the road due to changes undertaken by the developer on the entrance to the site. Councillor Alison Halford referred to conditions 25 and 26, stating that the development had commenced. Councillor P.G. Heesom concurred with Councillor Jones and asked the officer to raise the issues with the appropriate officer. The Principal Solicitor advised that the Senior Engineer - Highways Development Control would refer the comments to the relevant officer.

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 supplemental Section 106 agreement which links the permission granted under this planning application to the provisions of the Section 106 agreement entered into under Permission Ref: 048892, providing for the following:-

- (a) The provision of 6 no. affordable homes to be presented to the Council as gifted units and allocated in accordance with a local lettings policy to pilot the Council's Rent to Save to Homebuy scheme to applicants on the affordable Homeownership Register
- (b) Ensure the payment of a contribution of £261,560 towards affordable homes provision

- (c) Ensure the transfer of wildlife mitigation land to a suitable body, together with the precise methods and means for the securing of its future management, monitoring and funding
- (d) Payment of £73,500 towards primary level educational provision/improvements at St. John the Baptist VA School and £52,500 towards secondary level educational provision/improvements at Castell Alun High School
- (e) Payment of £2,500 for costs incurred for amending Highway Access Restriction Order.

182. GENERAL MATTERS – DEMOLITION OF EXISTING THREE STOREY OFFICE BUILDING AND ERECTION OF A 4 STOREY APARTMENT BLOCK COMPRISING OF 34 NO. 2 BEDROOM UNITS AND DEDICATED ON-SITE PARKING AT FLINT HOUSE, CHAPEL STREET, FLINT (043097)

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 explained that the application had been deferred from the meeting held on 20 February 2013 to allow for further consultation. This had been undertaken and a letter of objection had been received which was detailed in the late observations sheet. There were no material changes to the planning application, but the nature of the proposed residential scheme to provide for occupation by persons aged over 55 had consequences for the requirements of the Section 106 agreement.

Councillor D. Cox proposed the recommendation for approval which was duly seconded.

Councillor R.C. Bithell queried whether the commuted sum for recreational open space contribution in lieu of on-site provision was still required as occupancy was restricted to over 55s. The officer advised that she had spoken to the Head of Leisure Services who had confirmed that the contribution was still required. Councillor M.J. Peers asked whether the Head of Housing Strategy had been consulted on the suitability of the apartments for affordable housing and whether his comments on the suitability could have been reported.

Councillor P.G. Heesom raised concern about whether the apartments would be subject to the 'bedroom tax' and asked for the details of the Section 106 Agreement to be submitted back to the Committee. The Principal Solicitor advised that the issue of the 'bedroom tax' was not relevant to Members' determination of the application. He added that the precise terms of section 106 Agreements had not been referred back to Committee previously and in his view, if that was to be contemplated, the issue should be referred to Planning Strategy Group for consideration. He explained that the

report detailed the requirements of the Section 106 Agreement. In response to a query from Councillor R.B. Jones about the occupancy by over 55s, he said that any occupancy by under 55s would be in breach of the proposed section 106 Agreement.

RESOLVED:

That planning permission be granted subject to the conditions detailed in the report of the Head of Planning and subject to the addition of an age limit condition restricting occupancy to persons aged over 55 and on completion of a Section 106 Agreement to cover the following matters:-

- Enhancement of public open space in front of Flint House
- Recreational open space contribution in lieu of on-site provision. A commuted sum of £744 per unit shall be paid to the Authority upon 50% sale or occupation of the development.

183. APPEAL BY JD OWEN TRANSPORT SERVICES AGAINST THE DECISION OF FLINTSHIRE COUNTY COUNCIL TO REFUSE PLANNING PERMISSION FOR OUTLINE – SECURE TRUCK PARKING FACILITY WITH ANCILLARY AND COMPLEMENTARY DEVELOPMENT AT LAND AT CROSSWAYS ROAD, PEN Y CEFN, CAERWYS (049042)

RESOLVED:

That the decision of the Inspector to dismiss this appeal be noted.

184. APPEAL BY MR. DELWYN HUGHES AGAINST THE REFUSAL OF PLANNING PERMISSION BY FLINTSHIRE COUNTY COUNCIL FOR OUTLINE – ERECTION OF A DWELLING AT LAND ADJACENT TYDDYN UCHA, SANDY LANE, BAGILLT (049447)

RESOLVED:

That the decision of the Inspector to dismiss this appeal be noted.

185. LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985 – TO CONSIDER THE EXCLUSION OF THE PRESS AND PUBLIC

RESOLVED:

That the press and public be excluded from the meeting for the following agenda item which was considered to be exempt by virtue of paragraph 16 (legal advice) of Schedule 12A of the Local Government Act 1972 (as amended).

186. RESERVED MATTERS – APPLICATION FOR APPROVAL OF RESERVED MATTERS FOR THE ERECTION OF 312 RESIDENTIAL DWELLINGS AND ASSOCIATED WORKS AT LAND AT (WHOLE SITE) CROES ATII, CHESTER ROAD, OAKENHOLT, FLINT (050300)

The Committee considered the report of the Head of Legal and Democratic Services in respect of this application. The application had been determined at the previous meeting of the Committee on 20 February 2013.

The Principal Solicitor detailed the background to the report and the documents which were included with the report. He referred to the appeal decision (which was in the public domain) which had been sent to Members under separate cover regarding the imposition of Condition 15 on reserved matters approval number 049425. The Council had indicated in a letter to the Planning Inspectorate dated 13 December 2013 that it would not oppose the allowing of the appeal and had resolved not to present any evidence at the Inquiry. He highlighted paragraphs 14, 15, 16 and 19 of the appeal decision where it was reported that the imposition of the condition was unreasonable and unnecessary. The Principal Solicitor provided further information on the content of the report.

Councillor R.C. Bithell proposed the recommendation for approval of the reserved matters application, without the imposition of an additional condition constraining/restricting access and egress at Coed Onn Road, which was duly seconded. He said that there was an extant permission in place and that costs in addition to those already awarded against the Council could be imposed if Members voted against the recommendation. Councillor D. Butler concurred, stating that the costs would fall upon the people of Flintshire.

Councillor P.G. Heesom proposed deferment of the application and explained his reasons for the request to defer. The proposal was duly seconded. The Principal Solicitor responded to the issues raised by Councillor Heesom.

The Head of Planning provided a further response to Councillor Heesom, stating that, at the meeting of the Committee held in February 2013, he had been requested to identify an appropriate mechanism for the provision of a restriction of access and egress to the site at Coed Onn Road. Based on the decision of the Inspector on the appeal, the Head of Planning said that any restriction other than traffic calming would be unreasonable..

In response to a question from Councillor H.G. Roberts, the Principal Solicitor detailed the consequences for the Council if determination of the application was deferred at this meeting.

On being put to the vote, the proposal to defer the application was LOST. The Committee then voted on the proposal put forward by Councillor Bithell to approve the reserved matters application number 050300, as per the recommendation to the 20 February 2013 meeting of the Planning and Development Control Committee, without the imposition of an additional condition constraining/restricting access and egress at Coed Onn Road which was CARRIED.

RESOLVED:

That reserved matters approval be granted subject to the additional condition in the late observations sheet from the 20 February 2013 meeting and subject to conditions detailed in the report of the Head of Planning from the 20 February 2013 meeting of the Planning and Development Control Committee.

187. MEMBERS OF THE PUBLIC AND PRESS IN ATTENDANCE

There were 8 members of the public and 3 members of the press in attendance.

(The meeting started at 1.00 p.m. and ended at 3.51 p.m.)

.....
Chairman

FLINTSHIRE COUNTY COUNCIL

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

DATE: **WEDNESDAY 17TH APRIL 2013**

REPORT BY: **HEAD OF PLANNING**

SUBJECT: **FULL APPLICATION - MULTIPLEX CINEMA, RESTAURANTS (5) AND ASSOCIATED WORKS AT BROUGHTON SHOPPING PARK, BROUGHTON, CHESTER**

APPLICATION NUMBER: **049857**

APPLICANT: **HERCULES UNIT TRUST**

SITE: **BROUGHTON SHOPPING PARK, BROUGHTON, CHESTER**

APPLICATION VALID DATE: **18/06/2013**

LOCAL MEMBERS: **COUNCILLOR W. MULLIN**

AJAGENT WARD MEMBERS
COUNCILLOR D. BUTLER
COUNCILLOR M. LOWE

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

REASON FOR COMMITTEE: **MAJOR DEVELOPMENT, LAYOUT, TRAFFIC IMPACTS**

SITE VISIT: **YES**

1.00 SUMMARY

1.01 The proposal is full planning application for a multiplex cinema, 5 associated restaurants and associated works at Broughton Shopping Park. The site is currently used for parking but has had an historical planning permission for retail development. The issues for consideration are the principle of development/planning policy context, impacts on visual amenity, impacts on residential amenities, highways, ecology and drainage.

2.00 RECOMMENDATION: TO GRANT PLANNING PERMISSION,

SUBJECT TO THE FOLLOWING:-

- 2.01
1. Five year permission
 2. Carried out in accordance with submitted details
 3. Samples of external materials to be approved beforehand
 4. Detailed scheme to be submitted and approved for the footway link to adjacent to A5104 and completed to an agreed timeframe.
 5. Facilities to be provided and retained for loading/unloading parking and turning of vehicles in accordance with a submitted and approved scheme
 6. No development to commence until submission and approval of the Construction Traffic Management Plan
 7. Submission and approval of a Full Travel Plan and implementation of the scheme within 6 months of the occupation of the development
 8. Submission and approval of a phasing plan for the infrastructure works
 9. Removal of permitted development rights for the hosting of external events and fairs on existing car park
 10. Submission and approval of a strategy to manage and monitor the provision of staff parking within the development
 11. Watching brief for Great Crested Newts
 12. Surface water drainage details submitted and approved
 13. Submission and approval of details regarding minimising light spillage
 14. BREEAM compliant
 15. Submission for approval of a landscape scheme
 16. Implementation of approved landscape scheme
 17. Position & design of litter bins outside of the building.

3.00 CONSULTATIONS

3.01 Local Member

Councillor W. Mullin

Requests the application be referred to Planning Committee due to concerns about traffic movements and the improvements of bus shelters that will be erected, including lay-bys. Requests a Committee Site Visit to allow the committee a good understanding of the layout and size of the development.

Adjacent Ward Members

Councillor D. Butler

Requests the application be referred to Planning Committee with a Committee Site Visit as it is a major prestigious site and there would be lots of transport impacts.

Councillor M. Lowe

Requests the application be referred to Planning Committee and Committee Site Visit as it is felt committee should discuss the matter

and the implications on traffic.

Broughton & Bretton Community Council

The Council supports the proposed provision of a development such as this which will bolster the existing Shopping Park and provide welcome new facilities for the area. The Council notes the proposal to replace the lost car parking spaces for staff use but questions how this will be enforced. The Council would also note that this is yet another development in this location which highlights the need for a full interchange on to and from the A55.

Head of Assets and Transportation

No objection subject to conditions

Environment (Rights of Way)

No observations

Head of Public Protection

No objections as regards noise

Welsh Government Transport

Does not wish to issue a direction

Welsh Water/Dwr Cymru

No response received at time of writing report.

Environment Agency

No objection subject to condition

Airbus

No aerodrome safeguarding objection, however, condition should be added to reduce light spillage.

SP Powersystems

No objection. Advise applicant of plant/apparatus in area.

Civil Contingencies Manager

No objection

Clwyd-Powys Archaeological Trust

No archaeological implications

Countryside Council for Wales

No objections

4.00 PUBLICITY

4.01 Press Notice, Site Notice, Neighbour Notification

The proposed development has been advertised by way of press and site notices and neighbour letters. 14 letters/emails have been

received , 6 supporting the scheme and 8 objecting which can be summarised as follows,

The letters of support are summarised as follows,

- will bring facilities /activities to the site and Broughton
- is served by good road linkage
- would bring much needed employment and boost local economy
- will enhance the shopping park
- proposed location is under used and therefore shouldn't have major impact on parking and the increased pedestrian walkways compliment what has already been put in place

The letters of objection are summarised with the following general points raised as follows,

- concerned over noise pollution from cinema particularly in evenings/night, in addition to construction noise
- will generate more traffic and create congestion and more danger locally
- non retail use will be detrimental to the area
- would be detrimental to existing cinemas which already serve the area
- there are sufficient restaurants/pubs/cafes in the local area
- car parking is already at capacity on the park
- questions the need for a cinema and restaurant development
- questions the proposed public transport improvements as a result of the development
- increased risk of anti social problems late at night by those attending the site
- Insufficient car parking is a known problem on the retail park as evidenced by a recent refusal (ref. 045911) with the HUT proposal leading to an overall reduction in public parking
- questions the adequacy of proposed levels of car parking and the use of service yards for staff parking (which has not been justified as regards demand), which almost doubles parking from 163 to 312, giving rise to health & safety issues and also in practice is unlikely to be utilised by staff who will continue to park within the main customer car parking area thereby adding to the existing problems of car park congestion and overspill onto the surrounding highways (third contention is supported by an independent Safety Audit of the HUT proposals from Madhavan Design which clarified 13 highway safety problems (9 of which are high risk) including pedestrian facilities in the service areas and limited manoeuvring space for HGV's generated by additional parking. The Safety Audit issues raised need addressing which will have a knock on effect on provision of car parking and adds weight to the refusal of planning permission. There would also be a reduction in public parking spaces (64

spaces)

- questions the robustness of HUT's parking survey taken in May 2010, two years out of date and during a non-peak period
- questions the principle of developing the site especially when an alternative application site for a similar proposal has been submitted to the north of the retail park which would meet need or commercial requirements to sustain the park and the other site complies with planning policy for such uses.
- questions the sustainability and scale of the proposal which would be likely to attract staff/customers via cars from a wide area.
- would lead to overdevelopment of the site with loss of structural planting and new areas of car parking and would not maintain or enhance the character and appearance of the existing landscape for the site contrary to the aims of Policy L1 of the adopted UDP.
- questions accuracy of submitted plans as an existing cycleway from roundabout R2 along the service road at the rear of the proposed cinema does not exist and cannot be relied upon to access the site

Other detailed Objections raised by the applicants proposing the competing scheme (Development Securities) included the following under specific headings,

Policy approach

The proposed development is unacceptable due to the availability of a site to the north of the retail park and which is currently an undetermined application before the council.

The proposed development is on a site where neither it or Broughton Shopping Park are allocated in the UDP for development at all and the shopping park is not a designated centre, as opposed to the development Securities application which has approx. 56% of its application site allocated for non-retail/commercial development under Policy S1(6) of the UDP

A material consideration is the history of the site to the north of the retail park. The western half of the development securities site was not allocated for development in the UDP as during the development plan processes it was understood the land was to be used for car parking to facilitate parking related to the shopping park. In allocating the remainder of the land north of the retail park for development it was intended for the land to be developed for non retail commercial development including leisure uses and is considered to meet a clear and demonstrable need for new leisure facilities in the Broughton area. In allocating the UDP allocation for the Dev Sec site the Council accept the principle of leisure development and that it will complement the shopping function of the park and that the two elements remain separate.

The Development securities application is entirely consistent with the allocation and is preferable in policy terms for the proposed uses than an unallocated site within the shopping park and as such there is no UDP basis for considering the HUT application is a better location for the leisure use or it is preferable.

The fact that the HUT application is on Brownfield land is of only marginal significance as the dev Sec land is partly on a site allocated for development and that the other part of the site has had planning permission granted on it for parking.

The HUT application site is not sequentially preferable to the Dev Sec site. The UDP allocated the Dev Sec application site in an out of centre location for commercial uses and the shopping park was not. In sequential terms, an allocated site in an out of centre location must be preferable to an unallocated site in an out of centre location.

Deliverability

The allocation of the land to the north of the retail park confirms there is a need for leisure uses, and whilst HUT have named operator, Dev Sec has confirmation from Vue who have expressed their wish to reach agreement with Dev Sec should planning permission be granted. The Dev Sec proposal has had strong interest for the restaurant floorspace with terms agreed with KFC and for a budget hotel. There is no doubt should planning permission be granted that Dev Sec could deliver the development.

The outline nature of the Dev Sec application cannot be used to doubt its deliverability and this route has been taken to allow greater flexibility over the occupiers' requirements. Also the outline application allows the precise arrangement for accessing the site to be kept open i.e. either from Chester Road or into the retail park itself. Access to the Dev Sec site has been shown to be accessed from Chester Road (although a reserved matter is required for all access details; however the aspiration would be to link into the retail park beside Tesco's subject to point of legal clarification.

The HUT sequential assessment is objected to where it concludes that the Dev Sec site is not available, suitable or viable when it is. The HUT application is flawed in both sequential and landuse policy terms.

The existence of a restrictive covenant on the council owned land known as "Katie Green land" relating to how it can be used is not a planning matter and will not prevent the development of the Dev Sec site as it is accepted by all parties that the land is no longer required for that purpose and the Council must also hold this view otherwise they would not allocated their own land for a use which does not

comply with the covenant.

Integration and Impact on the Shopping Park

It is not accepted the HUT application is better integrated into the shopping park. The Dev Sec site is in very close proximity to the shopping park and visitors to the site would be able to readily walk to the shopping park (or vice versa) – the distance is shorter between the Dev Sec site and Tesco's than the proposed HUT application site and some of the stores on the retail park. In any event pedestrian and potentially vehicular access will be available onto the retail park.

The Dev Sec development will provide 454 car parking spaces in accordance with council's standards, however the HUT application is relying upon the use of the existing shopping park car park together with new parking within service yards. Car parking surveys carried out by Dev Sec suggest very strongly that if the HUT application were to proceed there would be inadequate car parking at peak times resulting in parking on surrounding roads and a situation that could be made even worse if the remainder of the units on the shopping park installed mezzanines leading to traffic and highway safety issues (contrary to UDP policy AC18).

The adequacy of the car parking is a significant material consideration which weighs heavily in favour of approving the Dev Sec proposal and refusing the HUT application. A car park on the Dev Sec site would also benefit the overall shopping park at peak times.

Whilst not accepted as a legitimate planning argument, any weight given to the HUT application by the Council in regards to its need to enhance the viability of the shopping park is equally applicable to the Dev Sec proposal due to the flow of custom.

Granting planning permission for the HUT application removes the option for future retail development on the Broughton site.

The Dev Sec application equally includes for improvements to accessibility for the shopping park with a relocated/upgraded bus stop on Chester Road together with real time information display board outside the proposed HUT cinema and restaurants for local bus services which would integrate the leisure and retail development across the site and is sustainable.

Other Material Issues

The scale of the HUT proposal is more akin to a regional facility than a local facility as it will draw significant custom from over a wide area by car and it is questioned if Broughton is the most appropriate place for its location.

The approval of the HUT application would result in the closure of the only cinema in Chester resulting in increased travel for residents of the city who would have to either travel to Broughton or Cheshire Oaks and the likely redeployment of existing Chester based staff to Broughton, which is unsustainable, creates uncertainty as to whether the local highway network can deal with the increase in traffic, and contrary to national Planning Policy. The Dev Sec proposal is more local in scale as a cinema and would serve a much smaller catchment, more appropriate for the locality, would not result in the closure of existing facilities, would not lead to an increase in incoming traffic from Chester, would be within an allocated site and include a hotel which would help to serve existing businesses including Airbus and is in accordance with the Council's Tourism Strategy.

5.00 SITE HISTORY

5.01 The site has an extensive planning history since opening in 1999. The most recent and relevant planning history is detailed as follows,

037891

Outline - Extension to existing shopping park including 15,859 sq.m (170,000 sq.ft) of new retail floorspace, plus 2,500 sq.m. (27,000 sq.ft.) of mezzanine, additional and reconfigured car parking, on and off-site highway improvements, enhanced bus, cyclist and pedestrian provision, landscape and ecological improvements - Granted 15th February 2007.

040534

Upgrading the existing interchange on the A55 at Broughton to a full grade separated junction - Granted 8th January 2007.

043751

Variation of Condition No. 34 attached to outline planning permission ref. 37891 (relating to controls over the subdivision of units) - Granted 23rd November 2007.

045215

Variation of condition 3 and 4 of planning approval 043751 relating to controls over junction improvements - Permitted 31st December 2008.

045216

Variation of conditions 3, 4 and 5 of planning permission 040534 relating to controls over junction improvements - Permitted 31st December 2008.

045911

Variation of Condition No's 3, 4, 9, 12, 33, 34 of planning permission ref: 045215. Refused 26th November 2009.

045912

Variation of Condition No's 3, 4 and 5 of planning permission ref: 045216.Refused 26th November 2009.

049943

Outline planning application for Outline - Erection of cinema, hotel (up to 80 bedrooms) and Class A3 food and drink units, together with car parking (up to 454 spaces), landscaping and ancillary works currently undetermined and also presented to this committee as an agenda item.

6.00 PLANNING POLICIES

6.01 Flintshire Unitary Development Plan

Policy STR1 New Development

Policy STR5 Shopping Centres and Commercial Development

Policy STR11 Sport Leisure and Recreation

Policy GEN1 General Requirements for Development

Policy D1 Design Quality, Location and Layout

Policy D2 Design

Policy D3 Landscaping

Policy D4 Outdoor Lighting

Policy D5 Crime Prevention

Policy D6 Public Art

Policy AC2 Pedestrian Provision and Public Rights of Way

Policy AC3 Cycling Provision

Policy AC4 Travel Plans for Major Traffic Generating Developments

Policy S3 Integrating New Commercial Development

Policy S6 Hot Food Takeaways, Restaurants and Cafes

Policy SR1 Sports, Recreation or Cultural Facilities

Policy EWP17 Flood Risk

Policy L1 Landscape Character

Planning Policy Wales

7.00 PLANNING APPRAISAL

7.01 The proposal is a full planning application for a multiplex cinema, 5 associated restaurants and associated works at Broughton Shopping Park. The site is currently used for parking but has had an historical planning permission for retail development.

7.02 In summary, the application is further detailed as follows:

- 3,900m² gross eleven screen multiplex cinema including a mezzanine projection floor of 562m²
- 5 restaurants with a total gross floor area of 1,719m²
- Reconfigured customer car parking and relocated/additional staff parking within service yard areas
- Accessibility related improvements, including enhanced

- provision for pedestrians and cyclists in addition to two off road bus shelters with real time service information
 - New off site footpath along Chester Road (south side)
- 7.03 In addition to the submitted drawings, the application is accompanied by a Planning Assessment, A Statement of Community Involvement, Transport Assessment, Design & Access Statement, Ecology Assessment, Landscape Assessment, Sustainability Statement and a Flood Consequences Assessment.
- 7.04 The application site is previously developed land which whilst currently in use as a car park to serve the overall retail park has been subject to a planning permission in the recent past for retail development related to the park. The site is level and is adjacent to the existing parade of shops that form the southern boundary to the site. To the immediate rear of the site is a service road beyond which is the A55, to the west of the site is the existing Tesco's Petrol station.
- 7.05 Within the Unitary Development Plan (adopted September 2011) the site is located outside of any identified town or district centre boundary and also outside of any identified settlement boundary. Whilst the proposed development is outside of a defined settlement it is not considered that this location is open countryside or has any special open or natural characteristics that require protection. The location is a built up area and is recognised in the region as a key driver of economic growth.
- 7.06 **The Principal Development Plan Policies**
The Planning and Compulsory Purchase Act 2004 states at S. 38(6) that, "If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise".
- 7.07 The development plan is therefore the starting point for the consideration of both this application and the competing application (049943) also reported to Members as part of this agenda.
- 7.08 The proposed development has been advertised as a departure to the adopted UDP because the site is not allocated in the UDP for any specified use, and the shopping park is not part of the retail hierarchy, and nor is it within the settlement boundary for Broughton.
- 7.09 Whilst it is accepted that the proposed development is on a site where neither it nor Broughton Shopping Park are allocated in the UDP for development and the shopping park is not a designated centre, and therefore the principle of development on the site would run contrary to the adopted UDP, in the consideration of any planning application there are other material considerations which need to be assessed before concluding whether a proposed development is acceptable or

otherwise.

- 7.10 If it were simply a case of assessing the competing applications on the basis of their degree of compliance with the development plan alone, then given the part allocation of the Development Securities application for commercial uses then it should be considered preferable to the HUT application under consideration in this report. However, it is not as straight forward as that particularly given the directly competing nature of the main elements of each scheme, namely a multiplex cinema, which brings into play the need to compare the two schemes on the basis of other material considerations that define the specific context here for how each of these applications should be compared and judged.

Other Material Considerations

- 7.11 It is understood that the proposed cinema is the anchor without which there would be no proposal. It is therefore the cinema use that I will consider as the principal proposal of the policy assessment with the restaurants uses commented upon later in the report. (paragraph 7.25)
- 7.12 Ordinarily the proposed development is an appropriate town centre related use which benefits the operators and their users from being in highly accessible locations i.e. Town & District Centres. The Unitary Development Plan contains no specific policies with regards "Cinemas" however for the purposes of the UDP it is reasonable to interpret that a Cinema is a type of "Leisure" development and the principle land use policies of relevance are STR11 "Sport, Leisure and Recreation" and SR1 "Sports, Recreation or Cultural Facilities".
- 7.13 Policy STR11 "Sport, Leisure and Recreation" requires in criterion a. that "new facilities are of a scale and type appropriate to the locality, and in the case of major development proposals, adopt a sequential approach to site location whereby town and district centres, then edge of centres, are considered and discounted before consideration is given to other sites." This policy approach is supported in Policy SR1 where-in criterion a. requires that "leisure uses best located in town centres adopt a sequential approach to site selection utilising suitable sites or buildings within town centres, or where this is not practicable, they utilise a site/building within settlement boundaries as close to the town centre as possible." Policy SR1 also states that "In the case of Leisure developments outside the defined town centres, applicants will be required to demonstrate a need for the facility. "The reasoned justification for Policy SR1 in paragraph 15.7 of the adopted UDP states that "It is intended that this policy should cover formal leisure developments such as public halls, libraries, and museums and sports facilities such as stadiums, pitches and pavilions." In this context it is reasonable to consider a Cinema to be a formal Leisure development and as such also reasonable to interpret the Policy SR1 as being applicable to such developments.

- 7.14 Following this and for the purposes of this policy assessment, it is considered that this proposal for an 11 screen multiplex cinema (plus ancillary A3 uses) is a “major leisure redevelopment proposal” which should ideally be located within an identified town / district centre. Given that the proposal is made outside of any identified town or district centre it is necessary to apply two key tests in assessing this proposal. The first is “Need for a Cinema” (Policy SR1), and the second test is the Sequential Test (Policy STR11 and SR1).

The Need for a Cinema

- 7.15 The applicant has considered the need for the cinema in the context of qualitative and quantitative terms.

a. The Qualitative Assessment of Need

- 7.16 The applicant identifies that at present there is only one Cinema in Flintshire, at Theatr Clwyd in Mold. Theatr Clwyd is a nationally renowned publicly owned theatre which stages theatrical performances throughout the year. In association with the theatre there is one cinema screen which generally has between one and three film screenings a day. Theatr Clwyd does show national film releases however the theatre occupies a market niche in showing many “Art House” and small British Film Productions. This is a very different type of Cinema Facility than the commercial Multi-Plex Cinema proposal.
- 7.17 Beyond the Theatr Clwyd there are commercial multiplex Cinemas in Ellesmere Port, Chester, Wrexham, Prestatyn and Rhyl all of which draw film-going audiences from Flintshire. This draw of custom from Flintshire to Cinemas outside of the County is likely to generate unsustainable vehicular trips to the detriment of the environment. Objections to the proposal have referred to the fact that the approval of the HUT application would result in the closure of the only cinema in Chester resulting in increased travel for residents of the city who would have to either travel to Broughton or Cheshire Oaks and the likely redeployment of existing Chester based staff to Broughton, which is unsustainable, creates uncertainty as to whether the local highway network can deal with the increase in traffic, and would be contrary to national Planning Policy.
- 7.18 Objectors have also stated that the Dev Sec proposal is more local in scale as a cinema and would serve a much smaller catchment, more appropriate for the locality, and would not result in the closure of existing facilities. Whilst it is arguable that the closure of the cinema in Chester could result in inward traffic to the County which would not be sustainable, there is an equally compelling case that it could potentially reduce vehicle trips outside the county and thereby assist the principle of sustainability. The potential loss of the cinema site in Chester whilst regrettable should not be a significant material consideration in the determination of this application especially when it

is accepted that there is a qualitative need for a Cinema in Flintshire. Indeed such a facility would have a positive benefit in meeting the viewing needs of Flintshire residents as well as providing local employment and investment opportunities in Flintshire.

b. The Quantitative Assessment of Need

- 7.19 The applicant has undertaken a Quantitative assessment for the Cinema proposal. Having examined National Planning Policy and Technical Advice Notes I am not aware of any standardised or recommended approaches to assessing “Quantitative Demand for a Cinema”. It is evident from the applicant’s Planning Statement that the quantitative assessment utilises data from National Data Sources including Dodone Research. The basis of the quantitative assessment appears to begin with an assumption of 2.78 visits/person in 2015; multiplied by the catchment head of population (in 2015); and average annual admissions per screen of (46,842) again in 2015. Using the above figures the applicant makes the argument that by 2015 there will be net capacity for 12 cinema screens in the County (taking account of the Theatr Clwyd Cinema Screen).
- 7.20 On the basis of my assessment (above) together with the HUT qualitative and quantitative assessment provided with the application, it is accepted that there is a need for a multi-plex cinema in Flintshire at this time.
- 7.21 **The Sequential Assessment**
The applicant was asked by Council Officers to look at 16 different sites from town and district centres across the County. The applicant has formalised this Site Selection Assessment into a report which has been submitted in support of their planning application. In assessing the potential for alternative sequentially preferred town & district centre sites the applicant stated that the site required was 1.9 hectares in size to accommodate a Cinema, several restaurants and car parking. The applicant inferred that this site area requirement assumed the potential for onsite shared parking arrangements such as those at Broughton Retail Park where there are some 2,300 car parking spaces at present. The applicant has stated that the Cinema is required by Cineworld which has an operational requirement to be in new accommodation by 2014 before its existing lease at Greyhound Retail Park expires in early 2015.
- 7.22 In assessing this proposal it is the Council’s view that the applicant has overstated the site size requirements as in relation to town and district centres where there are many existing food and drink uses and also public car parking provision (at present there is free parking in all centres bar Mold & Holywell where there is a 20 pence charge). On this basis it would seem that the Cinema proposal could be accommodated on a site smaller than the required 1.9ha stated by the applicant. However it is accepted that the timeframe for

accommodating the Operator means that any sequentially preferable site should be available either now or in the next 12 months i.e. it is considered reasonable that a 12 month period be applied as the applicant cannot wait indefinitely for the ideal site to come forward, when other sites may be acceptable (subject to material considerations). National Planning advice in Planning Policy Wales refers to the economic imperative for the planning system to promote development, subject to the assessment of all applicable material considerations.

7.23 On the basis of the above the Sequential Assessment submitted by the applicant has been reviewed with a particular focus on sites 1-6 below which the Council considers could have the greatest potential to accommodate a Cinema. The Council's view on these 6 sites is set out below and is based on recent and ongoing discussions with landowners and developers linked to each site.

1. The Former Kwik Save Site in Mold Town Centre. Ongoing discussions with the landowner indicate that this site will be developed for a Food Supermarket and that there will be no space for any other uses even if the site was to be enlarged.
2. The Land Adjacent Buckley Precinct in Buckley Town Centre. The Buckley Masterplan has ear-marked this land for a new Food Supermarket and it is anticipated that there is little potential, given the constraints of the continued need to accommodate public car parking, to facilitate any other development on this site.
3. The Land to the South of Brunswick Road in Buckley Town Centre. This land was earmarked for an unspecified "Leisure" use in the Buckley Masterplan. Whilst the land does not benefit from a road frontage it is very well related to a locally renowned music venue (the Tivoli) and located in a highly accessible location at the heart of Buckley, one of the largest towns in Flintshire. Unfortunately discussions with landowners revealed a reluctance to consider any use other than a Food Supermarket use. Indeed since those discussions a resolution to grant planning permission subject to the signing of a Section 106 agreement has been made, for the expansion of the Co-operative Foodstore which proposes to use the land to the rear of the Tivoli and Co-op for car parking to accommodate the foodstore extension (some 1,200 square meters).
4. The Civic Centre Site and associated uses in Connah's Quay District Centre. This site is earmarked for redevelopment within the Connah's Quay & Shotton Masterplan. The site in its entirety encompasses an operational public and private car park; an operating Police Station; the former FCC Civic Centre Offices (staff in process of being relocated); a former Co-Operative Foodstore and a former Peacocks Clothing Store

(both units now empty); an operating Public Library; and an operating Job Centre Plus. Whilst the process of bringing some of the land owners together to discuss redevelopment options began in 2011 Economic Development Colleagues advise that it continues to prove difficult to secure discussions with the Co-Operative and it may be that this unit is only leased by Co-Operative. It would appear that this site is unlikely to be available in the short to medium term (at least 5 years).

5. The existing/former Maisonettes in Flint Town Centre. The Flint Town Centre Masterplan is driven by a desire to replace the existing public sector accommodation in the “Lea Walks” and “Castle Walks” Maisonettes. Demolition began in September 2012 and it is anticipated that the Maisonettes will be cleared by 2013 however the land is required for residential development as part of the replacement of existing public housing provision.
6. The former Morrisons Site in Saltney (edge of centre site). As part of pre-application discussions with the developer alternative uses were mooted but the developer was keen to move forward with a speculative A1 retail scheme. The site was then the subject of a planning application for some 4,500 square meters of A1 comparison goods floorspace. Planning Committee resolved to grant planning permission for this site subject to a S106 in July 2012.

7.24 In addition to the sites 1-6 above other sites within the applicant’s report have been reviewed in a planning as well as Economic Development context and it is considered that at the present time there are no alternative “Town or District Centre” sites available. Clearly in the event the Local Planning Authority were to choose to refuse this application in favour of a sequentially preferred site it would be necessary that the alternative site be “suitable” and “available” to deliver the proposed scheme within a reasonable timeframe. Unfortunately no such sequentially preferred site currently exists within a defined Town or District Centre in Flintshire.

7.25 As mentioned earlier in this report the proposed development whilst anchored by the cinema, also has complementary development including five restaurants and associated changes to the parking arrangements within the park (this issue is addressed later in this report under the highway implications). Policy S8 of the UDP does not preclude the level of restaurants outside of designated centres so long as the amenity of nearby residents is protected. In these terms that element of the scheme would not necessarily go against the policies of the Development Plan. However, the scheme is considered in its entirety as one entity and therefore is not considered compliant with the Development Plan as detailed at paragraph 7.08 of this report.

- 7.26 **The Land to the North of Broughton Retail Park (S1 (6))**
The lack of a suitable sequentially preferred site within a defined town or district centre means that it is appropriate to consider that the out of town Broughton Retail Park may well be the most appropriate location for the proposed development. Indeed an allocation exists in the adopted UDP to the North of Broughton Retail Park (S1(6)) for commercial development, which is subject to the competing application 049943.
- 7.27 Clearly the non-retail allocation at Broughton has been the subject of a Public Inquiry and subsequent changes recommended by the UDP Inspector. Of relevance is the fact that the Inspector has recommended retention of the Allocation S1(10) (later re-labelled S1(6)) within the UDP for non-retail commercial development. A cinema use on this allocation is a commercial use as defined by the UDP definition of Commercial. It is also clear however that in confirming this allocation on the edge of the Park, the UDP Inspector was aware that opportunities for development within the Park had been exhausted by virtue of the Phase II extension permission, which is in the same location as HUT's present application, and which the Inspector considered to be a "fait accompli".
- 7.28 This raises two further points about where commercial development can and should take place at the Shopping Park. Firstly, in considering the Phase II permission as a "fait accompli" the UDP Inspector accepted that the principle of development (albeit retail) had been established within the confines of the existing Park, and that following on from this development, any future development could only take place on the edge of the Park, hence the allocation of S1(6). However, in the unlikely event that the Phase II extension is to proceed, it is reasonable in planning terms to compare the HUT application which sits on its footprint, with the competing Dev Sec application, part of which is covered by the allocation S1(6). This requires consideration of all material factors over and above the part allocation of one of the sites, a comparison of course that the UDP Inspector was unable to make, notwithstanding the fact that she saw a need for commercial development to support the Park, but was limited in her consideration of where that should be. No such limitations exist now to prevent a fair comparison of sites, and indeed the competing cinema elements of each application require a broader comparison to be made in order to arrive at the best location for the development, rather than one where the UDP was limited in terms of site selection.
- 7.29 Following this therefore, it is considered that if no sequentially preferred sites existed within Flintshire town and district centres; the proposal for a Cinema on the Allocation S1(6) would be acceptable in principle, but on that part of the site **within** the allocation. However not all of the application site is within the allocation, and for this reason the Dev Sec application was also advertised as a departure from the development plan.

7.30 Given all of the above, the HUT proposal needs to be compared against the competing proposal from Dev Sec because despite the Dev Sec application's degree of compliance, there are other material considerations over and above the weight to attach to UDP compliance, that set the two proposals apart. When compared against the Development Securities application it is considered that:

- the HUT proposal is more complementary to the existing retail park given that there is land available and suitable within the confines of the existing shopping park and therefore where the principle of development within the confines of the park has already been established;
- The redevelopment of this brownfield land within the Shopping Park itself allows for direct vehicular and pedestrian linkages which would be of direct benefit to shoppers at the retail park and to existing traders and would boost general trading conditions on the Park;
- From a visual aspect the HUT proposal creates an easily readable sense of visual enclosure to the existing site, where in contrast the Dev Sec proposal is an obvious peripheral extension to the existing Shopping Park, turning its back on the existing Park given the only indicated means of access from Chester Road;
- In sustainability terms whilst objectors have raised the future closure of a facility in Chester as a result of permitting the HUT application, and its impacts in terms of unsustainable traffic movements as staff and customers travel to Broughton, I am of the opinion that whilst regrettable, closure of a named operator elsewhere is a market driven decision and cannot be material to the consideration of the HUT application, nor for that matter the Development Securities application; the commercial decisions of businesses such as cinema operators are outside of the ability of the Local Planning Authority to determine or control and therefore a consideration given very little weight to in planning terms.
- Reference has been made to the unsustainability of such a development on Broughton, however, the sustainability argument can be assessed in a number of ways, for instance whilst people may travel from outside the catchment area to visit a cinema site, conversely others who currently leave the County to go to the cinema i.e. most cinema goers who are Flintshire residents, then on sustainable grounds these journeys will potentially be reduced – the net effect being Quid Pro quo.
- Policy S3 of the UDP entitled “Integrating New Commercial Development” seeks to reduce the need to travel and to promote more sustainable forms of transport. This aim has significant relevance to commercial development. New commercial development should integrate with existing

commercial environments ensuring that the site is within easy walking distance of existing commercial developments and other facilities and link to existing transport interchanges. As regards the proposed development, it is considered that there is a high degree of visual relationship and physical connectivity between the proposed Cinema and the existing Retail Park and existing Public Transport Interchange (near to the Tesco). However in the case of the competing site to the North of the Retail Park it is considered that there would be a degree of physical separation which would not achieve the UDP aims in ensuring that the new development was as integrated as it could be within the Park itself.

- The Phase II development has not been implemented and as such it is sensible, logical and appropriate to develop out the Retail Park before expanding the Park further.

7.31 **Deliverability**

In considering this planning application and in particular the issue of “Availability” as part of the Sequential Assessment, the issue of “Deliverability” has been raised which requires some consideration. First and foremost it is important to state that “Deliverability” is a consideration for the Local Planning Authority in that the LPA must have the confidence in granting planning permission that the permission can and will be implemented. In this regard it is important for the Council to take a “reasonable approach” which is mindful of the ability of the development to be delivered. For example in the Sequential Assessment in such an instance that a sequentially preferable site was identified it would be important for the Council to be reasonable in assessing the suitability and availability of the site to accommodate the proposed development and the development to be delivered within a reasonable timescale.

7.32 Development Securities have confirmed that they are still awaiting legal clarification on the access issue to the rear of Tescos and therefore whilst it may be possible for vehicular access to the site to be achieved from the existing retail park this cannot be confirmed at present. The reality is that in delivery terms whilst nothing is guaranteed, the HUT application would appear to be more deliverable within a reasonable time period to a committed cinema operator (notwithstanding the expressions of interest shown by cinema operators with the Development Securities site).

7.33 In summary and from the above assessment set in the context with the competing proposal it is considered that there are good reasons why the Council should choose to approve only one application at this time. For the reasons set out above in this Policy Assessment it is fair to say that neither of the two application sites are the ideal locations for this proposed development given that neither are within a defined town or district centre. It is reasonable to state that there is a need for a facility of this type and given the need has

been demonstrated it is necessary to accommodate the proposed development in an appropriate location.

- 7.34 Clearly the submission of the two applications have required that the Local Planning Authority take an approach of comparison and contrast between the two applications. The evidence provided in support of the applications identified the need for one new cinema and it is clear from the approach of the two applicants that they view their proposals as competitive and not complementary. Of the two proposed locations for the Multi-Plex Cinema development the British Land site is immediately and physically well related to the existing Retail Park; the land has a context for development (Phase II Scheme); the land is previously developed land; and the site provides very good opportunities to link existing public transport interchanges and pedestrian routes to the direct benefit of the retail park users and traders. The Development Securities site in contrast has been part-allocated in the UDP for a relatively modest non-A1 commercial development. However at this time it is important to reiterate the point that so long as there exists appropriate development opportunity within the boundaries of the existing retail park for a complementary use (i.e., the Cinema) that it is sustainable and logical that this previously developed land should be developed out first before allowing the Retail Park to expand North of the Service Access Road.

Other Policy Based Aspects to the Proposal

- 7.35 As mentioned previously the propose scheme whilst being anchored by the cinema nonetheless will form part of a wider development including 5 restaurants. In consideration of this aspect of the scheme, UDP Policy S8 which relates to Hot Food Takeaways, Restaurants and Cafes, permits such development subject to criteria including impact on residential amenity, disposal of litter/waste and traffic/highway considerations. The subtext to the policy states that outside of designated shopping centres i.e. Broughton Retail Park, restaurants/cafes will be carefully treated to ensure the amenities of residents are protected.

As regards the application of the above policy I would comment as follows,

- **Impact on Residential Amenity**

It is noted that objections received refer to noise nuisance and general activity associated with the proposed use which would be detrimental to residential amenity. The Head of Public Protection has not raised any objections to the proposed development based on noise nuisance. The proposed development would in effect be an extension to the existing built commercial form at Broughton Retail Park which has no restriction of hours of operation, with Tesco's having operated 24 hours with no history of nuisance (check with PP). The proposed

restaurant uses (and for that matter the cinema uses as well) are considered to be located a sufficient distance from residential properties, with intervening development so as not to detrimentally affect the amenities of occupants of those properties.

- **Disposal of Litter/Waste**

The proposed restaurants are of the “sit down” variety and therefore the likelihood of litter/waste being a problem is limited, however, should Members grant planning permission then a planning condition should be attached requiring details for the positioning and type of litter bins to the front of the development to safeguard against litter/waste on the external car park to the overall site.

- **Highway/Traffic Considerations**

Highway aspects of the overall proposed development have been mentioned previously in this report and considered further below in a separate section to the report, where it is concluded that the proposed development (including the restaurants) would not be detrimental to highway/traffic safety.

Therefore when the restaurant element of the proposed development is considered against Policy S8 of the UDP it is considered compliant and acceptable in principle.

Highways

7.36 The proposed development would be located on land currently used as car parking. The highway aspects of the scheme can be summarised as follows,

- bus parking will be provided off the circulation roads servicing two new bus shelters with real time information to facilitate ease of accessibility for other road users and, the applicant maintains, for public safety.
- There will be dedicated timetable for Broughton Shopping Park
- The internal pedestrian infrastructure will be upgraded to include new public realm and dedicated pedestrian walkways.
- A revised staff parking strategy will move staff from parking in front of shop units to the under utilised service yards to enable an increase in turn over of car spaces.
- There will be an increase in the proportion of parent and child parking and disabled spaces from 4% to 10%, in line with FCC’s standards, and an overall increase of car parking provision across the site from 2323 to 2408.
- A new mini roundabout and entrance will be provided to ease access into the site and, the applicant maintains will ease congestion

Objections have been raised to the proposed development in regards

- 7.37 to the adequacy of the proposed parking for the overall retail park should the HUT application be approved. The Head of Assets and Transportation has sought the views of an independent external highway consultant to assess the adequacy of the scheme from a highways and parking perspective. That independent review did not raise any issues over the proposed level of car parking, the arrangements for that car parking, nor any detrimental off site implications on the wider highway network. The methodology used for assessing car parking on the site as independently reviewed was considered acceptable to the Head of Highways and Transportation and meets standards as set out in the Council's adopted LPG11 , which also details guidance in regards to sustainable elements to a proposal i.e. public transport, cycling, walking – which it is considered the proposal meets. The independent review also highlighted that peak car parking requirements for the overall site are unlikely to coincide with peak demands for the proposed development i.e. evenings. Staff car parking strategy as proposed would be subject to planning condition i.e. Full Travel Plan and monitoring/managing staff parking. As regards safety issues as they relate to the location of the staff car parking, this has been subject to a highways "Safety Audit" and found to be compliant.
- 7.38 The Head of Assets and Transportation in reviewing the scheme and assessing the independently sought highways opinion therefore has no objections to the proposal subject to conditions. At present the bus stop serving the site is not considered to be ideally located. The proposed new bus lay-bys with real time bus information are considered an improvement to public transport provision serving the overall site and are to be welcomed. The increase in overall parking for the site is marginal, however, Head of Assets and Transportation has included a planning condition that would require a full travel plan to be submitted and approved.
- 7.39 **Design and Appearance**
The proposed development would be contemporary in design and would include the use of metal cladding, timber veneer and glazed areas. The existing pedestrian accessibility across the site will be enhanced and strengthened with an improved north/south link which further aides integration of the proposal into the existing retail park. The proposed development would integrate into the existing built form and creates a greater sense of enclosure to the existing retail park.
- 7.40 Objections received refer to the proposed development leading to overdevelopment of the site with loss of structural planting and new areas of car parking and would not maintain or enhance the character and appearance of the existing landscape for the site contrary to the aims of Policy L1 of the adopted UDP. Whilst the proposed development would to lead to the loss of existing planting, new landscaping is proposed for the overall site which is to be subject to a condition attached to any grant of planning permission. In visual terms

the existing site is a car park and adds little visually to the locality, whereas the proposed development is a modern bespoke design which enhances the visual appearance of the retail park and the wider area.

7.41 The proposed development is therefore acceptable in design and appearance subject to a condition on the use of external materials and landscaping.

7.42 **Ecology**

The Countryside Council for Wales has not raised any objection to the proposed development and are of the opinion that the proposal is not likely to adversely affect protected sites or species. Due to the proximity of the ponds to the north and west of the shopping park where Great Crested Newts are found it is considered a watching brief for them should be attached to any grant of planning permission.

7.43 **Drainage**

The Environment Agency has not objected to the proposed development subject to appropriately worded planning conditions.

Representations received

7.44 A number of points have been raised by objectors to the scheme and have been addressed in the body of this report, however, I considered that it is important to review for Members final comparison the summary objections received from the applicant for the competing proposal to this scheme (Dev Sec), as well as my final response to those, as this serves to summarise the key differences identified in considering the two applications, that have led me to my respective conclusions and recommendations on each application.

7.45 The concluding points of objection raised by Development Securities are summarised as follows,

1. The development Securities application proposals have the support of the development Plan, whereas the HUT proposals do not. To grant the HUT application would seriously undermine the recently adopted UDP and it should be refused.
2. While the HUT site is previously developed land, the principle of development on the Development Securities site has been established through its allocation in the recently adopted UDP and the grant of planning permission previously for car parking on part of the site.
3. As an allocated out of centre location the Development securities site is sequentially preferable to the HUT site and complies with paragraph 10.2.11 of PPW.
4. The absence of a named cinema operator or the fact that Development Securities application has been submitted in outline are not legitimate reason for doubting the deliverability

- of the application proposal on the Dev sec site.
5. The outline nature of the Dev Sec application provides flexibility to meet the requirements of potential occupiers, while also leaving open the opportunity to relocate the vehicular access to the development depending upon legal clarification.
 6. The presence of the restrictive covenant on part of the development securities site is not a material planning consideration and in any event, is one which is considered will be resolved once planning permission has been granted. The Planning Authority must agree with this interpretation having allocated the covenanted land for non-retail commercial development.
 7. There are no additional benefits to the existing shopping park that could be derived from the HUT proposals that could not be achieved through the development securities proposals. The Dev Sec proposal will benefit the shopping park by providing a source of additional car parking.
 8. The HUT application proposals are of a regional scale, will result in the closure of a multiplex cinema in Chester and will draw trade from a significant geographical area. For a settlement the size of Broughton it is not sustainable
 9. The HUT application proposals are wholly inadequate in terms of car parking provision such that if the application was approved, there would be a significant overspill of car parking on the surrounding roads, raising issue of highway safety.
 10. The dev Sec application provides a comprehensive development solution for all the land located to the north of the shopping park that has either been granted planning permission or allocated for development. The proposal on the Dev Sec site provide a holistic solution with a range of uses consistent with the development plan allocation which will be of benefit to residents and businesses in Broughton and the local area, would complement the retail function of the park, would lead to a scheme of highway improvements and which will not prejudice any future retail development on the shopping park.

7.46 In response to the points raised above, I respond and conclude as follows:

- As regards points 1, 2 & 3 above, the Development Securities application does not have the full support of the Development Plan for the reasoning detailed above, i.e. a significant part of the site is outside of the allocation for such development and having been considered as part of the Plan process was still not allocated in the adopted UDP. Whilst I accept that the HUT application is also contrary to the Development Plan, other significant material considerations detailed earlier in this report, do in my opinion as part of a balanced assessment, favour the

HUT scheme which would not undermine nor go to the heart of the recently adopted UDP, nor advice given in Planning Policy Wales. Without the competing Cinema element, the remaining uses proposed by the Dev Sec application may be considered acceptable in a revised application context;

- As regards point 4 above, both the HUT and Development Securities applications have indicated that their sites can be delivered via named operators. The deliverability of either of the proposed developments as regards the ability to get a named operator “on board” has not been a major material factor to the consideration of the applications, however, the reality is that the HUT application appears as a matter of fact to have a named operator who wants to implement that scheme in the very near future.
- As regards point 5 above, it is accepted that the final position of the access to the Development Securities site has yet to be fixed and is still subject to legal clarification, however, at this moment in time the most likely access, and the only one to which Members can attach any certainty of implementation, does appear to be onto the Chester Road as indicated in their indicative details submitted with the application. In this context the resultant consideration of the Dev Sec application is of a scheme that would be accessed from outside of the current park via a separate entrance and therefore if approved would turn its back on the existing shopping park, thereby not providing for as acceptable a degree of integration with the present arrangement and function of the park, as would the HUT scheme;
- As regards point 6 above, the presence of the restrictive covenant on part of the development securities site has not been a material planning consideration in the assessment to either application for cinema development.
- As regards point 7 above, the benefits to be derived from either application for cinema development on the existing shopping park are finely balanced, as set out in the assessment of material considerations detailed earlier in this report; however, on balance the HUT scheme is considered the more acceptable proposal in planning terms. For the reasoning given in this report, parking for the overall shopping park is considered to be adequate having assessed the evidence submitted with the HUT application and therefore any potential benefit from overspill parking facilities on the Development Securities site was not considered to be sufficiently materially significant to alter the acceptability of the HUT scheme as it was already acceptable from a parking perspective.

- As regards point 8, in scale both applications are for multiplex cinemas with ancillary/complimentary development i.e. they are both large scale developments. Whilst the Dev Sec application suggests a six screen multiplex cinema which they consider 'local' in scale, they do not define the extent of 'local' which could still draw on a very large urban population within a five or ten minute drive time of the site. In addition it is understood from Dev Sec that one cinema operator that has expressed an interest in their scheme subject to planning permission, has suggested a requirement for up to nine screens which would set the Dev Sec proposal at a very similar scale to the HUT application, thereby negating their own objection. The future closure of a facility in Chester whilst regrettable is a market driven decision and cannot be material to the consideration of the HUT application, nor for that matter the Development Securities application. (Refer to paragraph 7.30 point 4 of this report) Reference has made to sustainability of such a development on Broughton, however, the sustainability argument can be assessed in a number of ways, whilst people may travel from outside the catchment area for visit a cinema site, conversely others currently leave the County to go to the cinema i.e. most cinema goers, then on sustainable grounds these journeys will be potentially reduced – the net effect is Quid Pro quo.
- As regards point 9, the parking and highway implications of the HUT application has been considered in detail in this report and are acceptable subject to conditions as detailed at paragraph 2.
- As regards point 10, given the competing elements of each scheme both the HUT application and the Development Securities application in part were contrary to the Development Plan, however significant weight attaches to other material planning considerations as detailed in this report, which has led me to conclude that on balance the HUT application is the more acceptable in planning terms and better than the Development Securities proposal. As far as prejudicing any future retail development on the Shopping Park is concerned, given the out of town location of the Park and its non-designation as part of the retail hierarchy in Flintshire, any future retail development would not necessarily be acceptable when considered against the relevant policies of the adopted UDP and PPW.

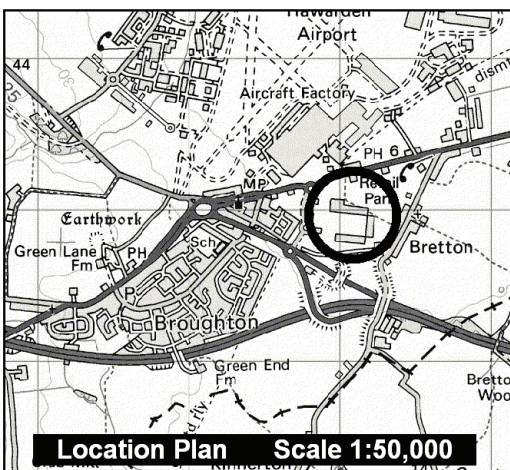
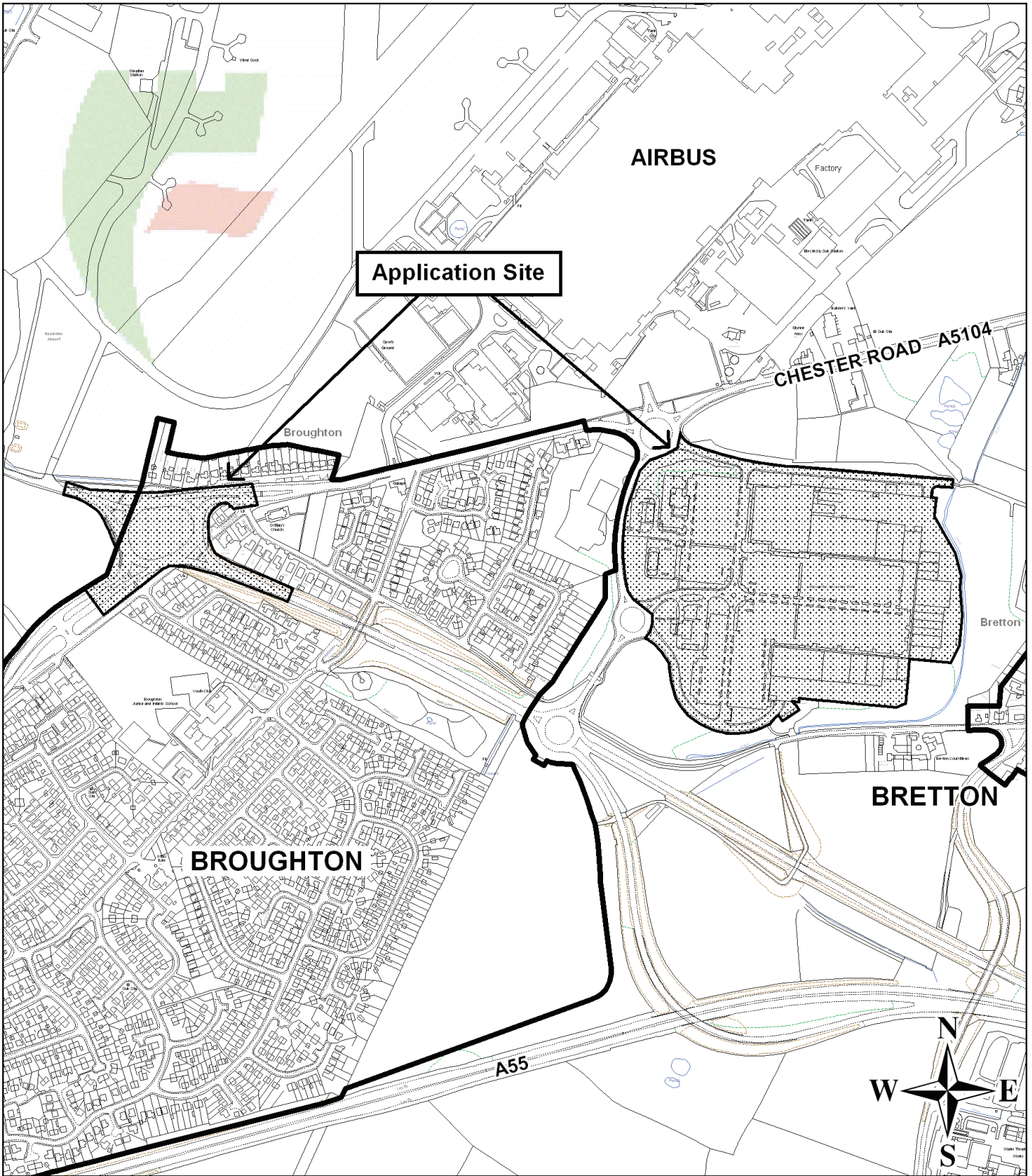
8.00 CONCLUSION

- 8.01 In planning policy terms there is no doubt the proposed development is contrary to the adopted development plan, and s. 38(6) of the 2004 Act states determinations should be made in accordance with the plan unless material considerations indicate otherwise, however the other

material considerations highlighted and detailed above would lead me to conclude in a finely balanced assessment that the proposed development is considered acceptable in principle subject to the conditions stated at paragraph 2 of this report.

- 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
Email: Declan.beggan@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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Map Scale 1:7500

OS Map ref SJ 3563

Planning Application 49857

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FLINTSHIRE COUNTY COUNCIL

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

DATE: **WEDNESDAY, 17TH APRIL 2013**

REPORT BY: **HEAD OF PLANNING**

SUBJECT: **OUTLINE APPLICATION - ERECTION OF A CINEMA, HOTEL (UP TO 80 BEDROOMS) AND CLASS A3 FOOD AND DRINK UNITS, TOGETHER WITH CAR PARKING (UP TO 454 SPACES), LANDSCAPING AND ANCILLARY WORKS ON LAND TO THE NORTH OF BROUGHTON SHOPPING PARK, BROUGHTON**

APPLICATION NUMBER: **049943**

APPLICANT: **DEVELOPMENT SECURITIES**

SITE: **LAND TO THE NORTH OF BROUGHTON SHOPPING PARK, BROUGHTON.**

APPLICATION VALID DATE: **11TH JULY 2012**

LOCAL MEMBER: **COUNCILLOR W. MULLIN**

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

REASON FOR COMMITTEE **SCALE OF DEVELOPMENT RELATIVE TO DELEGATION SCHEME AND MEMBER REQUEST THAT FOR COMMITTEE DETERMINATION.**

SITE VISIT: **YES**

1.00 SUMMARY

- 1.01 This outline planning application submitted by Development Securities (DS) proposes the erection of a cinema, hotel, Class A3 food and drink units, together with car parking, landscaping and other ancillary works on land to the north of Broughton Shopping Park, Broughton. All matters are reserved for subsequent approval. The application is to be considered in conjunction with the previous application on the agenda (049857) which although submitted by a different applicant Hercules Unit Trust (HUT) proposes a competing application for a multi-plex cinema and restaurants at Broughton Shopping Park.

2.00 RECOMMENDATION: TO REFUSE PLANNING PERMISSION FOR THE FOLLOWING REASONS

- 2.01 Whilst it is recognised that there is a qualitative need for the erection of a multiplex cinema at Broughton Park, the proposal has to be considered in conjunction with an alternative and competing proposal for the erection of a multiplex cinema at this location, submitted under Code No. 049857. The Local Planning Authority are of the view that in relation to the most appropriate location for a multiplex cinema, the site the subject of this application whilst part allocated for non-retail development has a significant degree of physical separation from the existing shopping park, which when compared to the alternative proposal for the erection of a multiplex cinema within the shopping park itself, does not provide for an integrated and sustainable form of development. This it is considered is therefore contrary to Policies STR1, S3 and GEN1 of the Flintshire Unitary Development Plan.

3.00 CONSULTATIONS

3.01 Local Member

Councillor W. Mullin

Request site visit and planning committee determination in order to assess the scale/form of the proposed development and acceptability of highways/access to the site.

Adjoining Ward Members

Councillor D. Butler

Request site visit and planning committee determination given that there are 2 similar applications for the erection of a cinema at Broughton Park and there is a need to assess the adequacy of highways to serve the proposed development.

Councillor M. Lowe

Request site visit and planning committee determination in order to assess the adequacy of highways to serve the proposed development.

Broughton & Bretton Community Council

The Council supports the proposed provision of a development such as this which will bolster the existing Shopping Park and provide welcome new facilities for the area. The Council does however have concerns regarding the position of the access on Chester Road. The Council considers that this will exacerbate traffic build up and hamper traffic flows particularly at peak times. The Council would also noted that this is yet another development in this location which highlights the need for a full interchange on to and from the A55.

Countryside Council for Wales

No objection subject to the inclusion of conditions and/or obligations to (i) safeguard the great crested newt during the construction phase of the proposal and (ii) support and facilitate the implementation of great crested newt population restoration proposals for the Broughton population.

Welsh Government

Following the receipt of additional information advise that the Welsh Government as highway authority for the A55 trunk road does not wish to issue a direction in respect of this application.

Head of Public Protection

No response received at time of writing report.

Airbus

The proposed development does not conflict with aerodrome safeguarding criteria or transportation routes in and around the Broughton Retail Park. During construction phase the developer/crane operator shall obtain a crane permit from the occupant authority prior to commencing crane operation.

Clwyd-Powys Archaeological Trust

Confirm that there are no archaeological implications for this development.

Environment Directorate

(Rights of Way)

Public Footpath 69 abuts the site but appears unaffected by the development. The path must be protected and kept free from interference from the construction.

Head of Assets & Transportation

No objection subject to the completion of (i) a Section 106 Obligation to secure the payment of £2,000 in order to update the trip rates associated with this development into the existing Flintshire County Council Transit model and (ii) the imposition of conditions in respect of access, visibility, off-site highway improvements, a travel plan and parking/servicing.

Environment Agency

No response received at time of writing report.

Dwr Cymru/Welsh Water

No response received at time of writing report.

4.00 PUBLICITY

4.01 Press Notice, Site Notice, Neighbour Notification

One letter in support which recommends that improved pedestrian/cyclist access is undertaken as part of the proposed development.

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

- Question need for two cinemas at Broughton Shopping Park.
- Question need for combined level of A3 food outlets at Broughton Shopping Park.
- Development is proposed on Greenfield site which should be retained.
- Increase in traffic generation and inadequacy of existing highway network.
- Impact on existing well-established businesses in the locality.

4 letters of objection received from the applicants proposing the competing scheme (Hercules Unit Trust) included under the following specific headings:-

Policy Context

“45% of the application site is greenfield, falling outside both the non-retail commercial allocation and the defined settlement boundary. Consequently, almost half the application site does not represent previously developed land and, importantly, falls within the open countryside. A major element of the Development Securities proposal therefore relates to land which is clearly less favoured in policy terms than the brownfield application site proposed by HUT. In these circumstances, the principle of permitting a commercial leisure development in the open countryside is questioned when there is a clear and deliverable opportunity to permit another leisure proposal on a favoured brownfield site within the demise of the Broughton Shopping Park. This sequential approach, whereby brownfield land is used/utilised in preference to greenfield land represents a key spatial element of the Flintshire Unitary Development Plan strategy”.

Highway Access/Safety

“Whilst the application submission acknowledges that the location and layout of the proposed access arrangements is a fundamental consideration, it also claimed that an access layout fully compliant with accepted design standards is being promoted. In light of the failure of the Development Securities proposal to attain the requisite "Design Manual for Roads and Bridges" (DMRB) standards, this represents a major failing of their proposal. Secondly, given the strategic importance of the A5104 Chester Road, alterations to the A5104 and impacts on existing access and cyclists, it is considered that this proposal is seriously flawed in highway safety terms. This position cannot be remedied by Development Securities seeking to access their proposal from the south, as the Development Securities proposals do not benefit from the necessary rights to access over

HUT's service road, nor is there any prospect of such rights being granted”.

Integration with Existing Development

“Relevant in the context of the site’s potential suitability is its relationship to and integration with existing development having regard to Unitary Development Plan’s policies S3, AC2 and the Welsh Assembly Government’s objectives for transport as set out in Technical Advice Note 18 which encourage the co-location of commercial developments in order to encourage multi purpose trips. Such co-location, as provided for in HUT's proposal, is appropriately seen in policy terms as being an essential pre-requisite to encouraging linked trips, creating and maintaining complementary developments, and delivering associated economic and sustainability benefits. Assessed in terms of these policies and the rational underpinning them, it is particularly relevant that the leisure facilities proposed by Development Securities are divorced from the Shopping Park’s retail frontages and, as a consequence, any linkage is likely to be limited to car-borne trips given the inability of Development Securities to provide a direct route for pedestrians wishing to walk from the Development Securities site to the Shopping Park over HUT's service road - the necessary consent for any alterations to permit this will **not** be given by HUT, as previously advised”.

Availability

“A major part of the Development Securities application site is covered by a restrictive covenant not to develop (save in respect of limited exceptions which are not comprised within the development proposals), the benefit of which are vested in the HUT land. There is no realistic prospect of that restrictive covenant being released, nor the serious access problems faced by the Development Securities site being resolved. In sharp contrast, there are no such impediments or, indeed, any obstacle preventing the deliverability of HUT's leisure proposal - which has operator support and development funding and which, if consent is granted, will be implemented”.

5.00 SITE HISTORY

- 5.01 The site has an extensive planning history since opening in 1999, it is considered the most recent and relevant planning history is detailed as follows:-

037891

Outline – Extension to existing shopping park including 15,859 sq.m (170,000 sq.ft) of new retail floorspace, plus 2,500 sq.m (27,000 sq.ft) of mezzanine, additional and reconfigured car parking, on and off site highway improvements, enhanced bus, cyclist and pedestrian provision, landscape and ecological improvements – Granted 15th February 2007.

040534

Upgrading the existing interchange on the A55 at Broughton to a full grade separated junction – Granted 8th January 2007.

043751

Variation of Condition No. 34 attached to outline planning permission ref: 37891 (relating to controls over the subdivision of units) – Granted 23rd November 2007.

045215

Variation of Condition 3 & 4 of planning approval 043751 relating to controls over junction improvements – Permitted 31st December 2008.

045216

Variation of Conditions 3, 4 & 5 of planning permission 040534 relating to controls over junction improvements – Permitted 31st December 2008.

045911

Various of Condition Nos 3, 4, 9, 12, 33, 34 of planning permission ref: 045215 – Refused 26th November 2009.

045912

Variation of Condition Nos 3, 4 & 5 of planning permission ref:

045216

Refused 26th November 2009.

6.00 PLANNING POLICIES

6.01 Flintshire Unitary Development Plan

Policy STR1 – New Development.

Policy STR5 – Shopping Centres & Commercial Development.

Policy STR11 – Sport Leisure & Recreation.

Policy GEN1 – General Requirements for Development.

Policy D1 – Design Quality, Location & Layout.

Policy D2 - Design.

Policy D3 – Landscaping.

Policy D4 – Outdoor Lighting.

Policy D5 – Crime Prevention.

Policy D6 – Public Art.

Policy AC2 – Pedestrian Provision & Public Rights of Way.

Policy AC3 – Cycling Provision.

Policy AC4 – Travel Plans for Major Traffic Generating Developments.

Policy S1(6) – Retail & Commercial Allocations (Broughton)

Policy S3 – Integrating New Commercial Development.

Policy SR1 – Sports, Recreation or Cultural Facilities.

Policy EWP17 – Flood Risk.

7.00 PLANNING APPRAISAL

7.01 Introduction

The site the subject of this application amounts to approximately 2.9 hectares in area. It is located to the north-east of Broughton at the junction of Chester Road where it connects with the northern access from a roundabout into the Broughton Retail Park.

7.02 The site is currently unused and comprises a rough grassed area subdivided by lengths of mature hedgerow. The boundaries of the site are clearly defined, the eastern boundary by a mature hedgerow interspersed with trees whilst the southern boundary is defined by a post and rail fence approximately 1.5 m in height and a grass verge approximately 5 m wide. Beyond this is a service road for the adjacent Broughton Shopping Park.

7.03 To the north beyond Chester Road, there is a public house, two residential properties, commercial premises and a veterinary practice. BAE Airbus is located to the north east of the site. To the east of the site is a Great Crested Newt Reserve which was created as mitigation, for the loss of habitat associated with the development of the shopping park.

7.04 Proposed Development

The application is submitted in outline with all matters being reserved for subsequent approval (access, appearance, landscaping layout and scale of development). In summary, the application proposes development of the site for the following uses:-

- Cinema (Class D2)
- Hotel (Class C1)
- Food and drink units, including drive-thru restaurant (Class A3)
- Car parking
- Landscaping

7.05 Although submitted in outline an illustrative site layout plan has been produced as part of the application, together with a Design & Access Statement informing how it is anticipated that the site will be developed.

7.06 For Members information this includes:-

- A cinema of a maximum of 2, 323m² (25,000 sq.ft) comprising up to 6 screens. The cinema is proposed to be located in a central area of the site on the first floor of a part single and 2 storey building.
- A hotel (up to 80 bedroom) with a maximum floor area of 2,685 m²

(28,901 sq. ft). The indicative layout plans shows the hotel located in the south eastern corner of the site. It is proposed to be 3 storeys in height.

- A maximum of 1,635 m² (17,600 sq.ft) of floor spaces for uses falling within Class A3. The illustrative layout shows 4 No. A3 units at ground floor within the cinema building, with a free standing single storey drive thru restaurant of 242 m² (2,600 ft.sq) located in the north eastern corner of the site adjacent to Chester Road.
- Although the means of access to the site is reserved for future approval, the illustrative site layout shows that access to the site is to be provided from the A5104 Chester Road.
- A maximum of 454 car parking spaces to serve the development. This includes 80 spaces to serve the hotel, 15 for the drive thru restaurant and 29 disabled car parking spaces.
- Landscaping within the site and on site boundaries.

7.07 In support of the application, the agents acting on behalf of Development Securities consider that:-

- i) The Development Securities application proposals have the support of the development Plan, whereas the HUT proposals do not. To grant the HUT application would seriously undermine the recently adopted UDP and it should be refused.
- ii) While the HUT site is previously developed land, the principle of development on the Development Securities site has been established through its allocation in the recently adopted UDP and the grant of planning permission previously for car parking on part of the site.
- iii) As an allocated out of centre location the Development Securities site is sequentially preferable to the HUT site and complies with paragraph 10.2.11 of PPW.
- iv) The absence of a confirmed cinema operator or the fact that Development Securities application has been submitted in outline are not legitimate reason for doubting the deliverability of the application proposal on the Development Securities site.
- v) The outline nature of the Development Securities application provides flexibility to meet the requirements of potential occupiers, while also leaving open the opportunity to relocate the vehicular access to the development depending upon legal clarification.
- vi) The presence of the restrictive covenant on part of the Development Securities site is not a material planning consideration and in any event, is one which is considered will be resolved once planning permission

- has been granted. The Planning Authority must agree with this interpretation having allocated the covenanted land for non-retail commercial development.
- vii) There are no additional benefits to the existing shopping park that could be derived from the HUT proposals that could not be achieved through the development securities proposals. The Development Securities proposal will benefit the shopping park by providing a source of additional car parking.
 - viii) The HUT application proposal are of a regional scale, will result in the closure of a multiplex cinema in Chester and will draw trade from a significant geographical area. For a settlement the size of Broughton it is not sustainable
 - ix) The HUT application proposals are wholly inadequate in terms of car parking provision such that if the application was approved, there would be a significant overspill of car parking on the surrounding roads, raising issue of highway safety.
 - x) The Development Securities application provides a comprehensive development solution for all the land located to the north of the shopping park that has either been granted planning permission or allocated for development. The proposal on the Development Securities site provide a holistic solution with a range of uses consistent with the development plan allocation which will be of benefit to residents and businesses in Broughton and the local area, would complement the retail function of the park, would lead to a scheme of highway improvements and which will not prejudice any future retail development on the shopping park.

7.08 **Background**

For Members information there is a very significant and relevant background of planning history at this location which is referred to in paragraph 5.00 of this report. In summary part of the site the subject of this planning application (approximately 1.4 hectares) or 44% of the site adjacent the roundabout) was part of a number of sites granted outline planning permission in 2006, for an expansion of Broughton Retail Park, commonly referred to as Phase II.

- 7.09 The Phase II development comprises some 18,500 sq.m. of A1 retail floorspace which was linked by condition to the requirement for a new A55 interchange which would allow traffic from Broughton Retail Park to join the A55 westbound carriageway. These two planning applications (the retail park and the interchange) were granted permission and linked by phased planning conditions and a legal agreement. The original permissions (037891 & 040534) were later varied on two separate occasions to create new planning permissions, the most recent of which were granted in outline in December 2008

(045215 & 045216). Legal advice has been obtained, confirming that in the subsequent period, it is only the deadline for the submission of reserved matters that has expired and on the basis that the development should be implemented within 5 years of the decision it is possible prior to December 2013 to extend the deadline for the submission of reserved matters.

7.10 **Planning Policy**

The Planning and Compulsory Purchase Act 2004 states at S38(6) that “If regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise”.

7.11 The Development Plan is therefore the starting point for the consideration of both this application and the competing application (049857) also reported to Members as part of this Agenda.

7.12 For Member’s information the site is located outside of any identified town or district centre and settlement boundary as defined in the adopted Flintshire Unitary Development Plan (UDP). Within the 2003 deposit draft of the UDP, a proposal was made for a non-retail commercial allocation to the North of Broughton Retail Park (S1(10)). At the time the UDP was placed on deposit Flintshire County Council were in discussions regarding the Phase II expansion of the park. It was anticipated that the proposed allocation (S1(10)) would make provision for future non-retail needs of the Park beyond the Phase II development.

7.13 The allocation (S1(10)) was the subject of representations of objection including by both British Land and Development Securities and subsequently was the subject of consideration by the Planning Inspector at the UDP Public Inquiry in 2007-08. It was concluded by the Inspector in relation to allocation S1(10) that:-

- i. The allocation for non-retail commercial use represented planned growth and does not conflict with the UDP strategy to the detriment of town and district centres.
- ii. The principle of Phase II retail park expansion is accepted.
- iii. That the allocation S1(10) (later re-numbered to S1(6)) should be amended in light of the Phase II planning permission and amended in light of logical changes to the Greenspace designation (L3(5)) as uses accepted at the Public Inquiry.
- iv. That the UDP should make it clear within its glossary what constituted non-retail commercial development.

7.14 The UDP Inspector also considered whether Broughton Retail Park should be included within the Broughton settlement boundary. It was however concluded by the Inspector that the “Retail Park is a built up

area in its own right and in my opinion it does not necessarily follow that it has to be included within the Broughton settlement boundary". The Inspector's rationale for this approach was that to include the Retail Park within the settlement boundary would in all likelihood encourage further development to the detriment of designated Flintshire Towns and District Centres. As part of this site the subject of this application lies outside the non-retail allocation, the proposed development has been advertised as a departure to the adopted Unitary Development Plan.

7.15 If it were simply a case of assessing the competing applications on the basis of their degree of compliance with the development plan alone, then given the part allocation of the Development Securities application for commercial uses then it should be considered preferable to the HUT application under consideration in this report. However, it is not as straight forward as that particularly given the directly competing nature of the main elements of each scheme, namely a multiplex cinema, which brings into play the need to compare the two schemes on the basis of other material considerations that define the specific context here for how each of these applications should be compared and judged, over and above their status in the development plan.

7.16 **Main Planning Issues**

It is considered that the main planning issues can be summarised as follows:-

- a. The principle of development having regard to the planning policy framework.
- b. Comparison of proposal with competing application for a similar development at this location (see report 049857).
- c. Adequacy of access to serve the development.
- d. Impact on ecology.
- e. Adequacy of drainage system to serve the scale of development.

7.17 **Principle of Development**

The proposed development is anchored by a multi-plex cinema and hotel, my understanding being that without these key elements the proposal would not be a viable proposition. It is therefore these two uses that I will consider as the principal proposals in this policy assessment.

7.18 UDP Policies T2 (Serviced Tourist Accommodation) and STR11 (Sport Leisure & Recreation) are therefore appropriate and relevant to the determination of this application.

7.19 UDP Policy T2 is clear that "Serviced Tourist Accommodation" including Hotel's should be located within defined settlement boundaries unless the proposal is for an extension of an existing Hotel

or as part of the conversion of existing building. In this case the proposal is for a new build hotel outside of any defined settlement boundary and appears to be contrary to the provisions of Policy T2. In considering the advice of the Inspector regarding the location of Broughton Retail Park and its character as a built up locality it is my view that the approach of T2 to resist new hotels in the open countryside where such development can have a detrimental impact on the open character of otherwise undeveloped locations is not applicable in this particular instance. Importantly the allocation of part of this land for a non-A1 commercial use lends itself to a hotel development which would undoubtedly be valuable and complementary to the economic and employment importance of the locality, i.e. the Broughton British Aerospace Facility.

7.20 With regards the cinema, this is an appropriate town centre related use which benefit their operators and their users from being in highly accessible locations i.e. Town & District Centres. The Unitary Development Plan contains no specific policies with regards “Cinemas” however it is reasonable to interpret the intentions of the Plan that a Cinema is a type of “Leisure” development and as such the principle land use policies of relevance are STR11 “Sport, Leisure and Recreation” and SR1 “Sports, Recreation or Cultural Facilities”.

7.21 Policy STR11 “Sport, Leisure and Recreation” requires in criterion a. “.that new facilities are of a scale and type appropriate to the locality, and in the case of major development proposals, adopt a sequential approach to site location whereby town and district centres, then edge of centres, are considered and discounted before consideration is given to other sites.” This policy approach is supported in Policy SR1 where-in criteria a. requires that “leisure uses best located in town centres adopt a sequential approach to site selection utilising suitable sites or buildings within town centres, or where this is not practicable, they utilise a site/building within settlement boundaries as close to the town centre as possible.” Policy SR1 also states that “In the case of Leisure developments outside the defined town centres, applicants will be required to demonstrate a need for the facility.” The reasoned justification for Policy SR1 in paragraph 15.7 of the adopted Unitary Development Plan states that “It is intended that this policy should cover formal leisure developments such as public halls, libraries, and museums and sports facilities such as stadiums, pitches and pavilions.” Given these examples, it must be the case that Cinemas are considered to be a formal Leisure development in the same way, and as such Policy SR1 is therefore applicable to such developments.

7.22 It is my view that this proposal for a 6 screen multiplex cinema is, for the purposes of this policy assessment, a “major leisure development proposal” which should ideally be located within a town or district centre. Given that the proposal is made outside of any identified town or district centre it is necessary to apply two key tests in assessing this proposal the first being the “Need for a Cinema” (Policy SR1), and

the second is the Sequential Test (Policy STR11 and SR1).

7.23 **The Need for a Cinema**

The applicant has not provided any assessment on the need for this facility on the basis that they consider that “given the allocation of part of the application site in an up to date development plan for non-retail uses (including cinema, hotel and restaurants) that it would be inconsistent in these circumstances to establish a demonstration of need”.

7.24 The competing application on the agenda (049857) as submitted by Hercules Unit Trust however has been the subject of an assessment of need and sequentially preferred sites. It is therefore considered appropriate and necessary as part of considering this application to consider some of the relevant points from this parallel exercise, in relation to this proposal by Development Securities.

7.25 **The Qualitative Assessment of Need**

At present there is only one cinema in Flintshire, located at Theatre Clwyd, Mold. Theatre Clwyd however only has one cinema screen and generally has one screening a day. This is recognised as being a very different type of cinema facility than the commercial multi-plex cinema proposal.

7.26 Beyond Theatr Clwyd, there are commercial multi-plex cinemas in Ellesmere Port, Chester, Wrexham, Prestatyn and Rhyl all of which draw film going audiences from Flintshire. This draw of custom from Flintshire to cinemas outside of the County is likely to generate unsustainable vehicular trips to the detriment of the environment. It is therefore accepted that there is a qualitative need for a cinema in Flintshire. Indeed such a facility would have a positive benefit to meeting the viewing needs of Flintshire residents; to providing local employment and investment opportunities in Flintshire; and reducing trip lengths and associated environmental impact. In correspondence Development Securities have made it quite clear that the two applications are considered to be competing proposals confirming my view that there is only need for one new cinema in Flintshire at the present time.

7.27 **The Sequential Assessment**

In considering this application an assessment has been undertaken by Officers of alternative preferred sites within a Town or District Centre which would be large enough to accommodate a cinema proposal (1 hectare) and available either now or within the next 12 months to deliver the proposal.

7.28 On the basis of the above a review has been undertaken of available sites in the County where the greatest potential exists to accommodate a cinema at sites within town or district centres, based on recent and current discussions with landowners and developers.

Six sites with potential to accommodate the proposal were identified and have been considered as follows:

1. The Former Kwik Save Site in Mold Town Centre. Ongoing discussions with the landowner indicate that it is anticipated this site will be developed for a Food Supermarket and that there will be no space for any other uses even if the site was to be enlarged.
2. The Land Adjacent Buckley Precinct in Buckley Town Centre. The Buckley Masterplan has ear-marked this land for a new Food Supermarket and it is anticipated that there is little potential, given the constraints of the continued need to accommodate public car parking, to facilitate any other development on this site. Therefore this site is not available for a Cinema use at the present time.
3. The Land to the South of Brunswick Road in Buckley Town Centre. This land was earmarked for an unspecified "Leisure" use in the Buckley Masterplan. A planning application has recently been approved subject to a S106 agreement for the expansion of the Co-operative food store which proposes to use the land to accommodate the food store extension.
4. The Civic Centre and associated uses in Connah's Quay District Centre. This site is unlikely to be available in the short to medium term (at least 5 years) given the need to secure agreement for its release from relevant multiple landowners.
5. The existing/former Maisonettes in Flint Town Centre. The Flint Town Centre Masterplan is driven by a desire to replace the existing public sector accommodation in the "Lea Walks" and "Castle Walks" Maisonettes. Demolition of the "Lea Walks" began in September 2012 and it is anticipated that the Maisonettes will be cleared by mid 2013. The land is required for new housing development to, in part, re-home decanted residents from the Maisonettes. Therefore the land at the Maisonettes is not available for a Cinema.
6. The former Morrisons Site in Saltney (edge of centre site). The site has been the subject of a planning application for some 4,500 square meters of A1 comparison goods floorspace which was granted planning permission subject to a S106 in July 2012. The permitted retail units are currently being marketed. This site is not available for a Cinema use at the present time.

7.29 Given the above the lack of a suitable sequentially preferred site within a defined town or district centre means that it is appropriate to consider that the out of town Broughton Retail Park may be the most appropriate location for the proposed development.

- 7.30 Clearly the non-retail allocation at Broughton has been the subject of a Public Inquiry and subsequent changes recommended by the Inspector. Of relevance is the fact that the Inspector has recommended retention of the Allocation S1(10) (later re-labelled S1(6)) within the UDP for non-retail commercial development. It is also clear however that in confirming this allocation on the edge of the Park, the UDP Inspector was aware that opportunities for development within the Park had been exhausted by virtue of the Phase II extension permission, which is in the same location as HUT's present application, and which the Inspector considered to be a "fait accompli".
- 7.31 This raises two further points about where commercial development can and should take place at the Shopping Park. Firstly, in considering the Phase II permission as a "fait accompli" the UDP Inspector accepted that the principle of development (albeit retail) had been established within the confines of the existing Park, and that following on from this development, any future development could only take place on the edge of the Park, hence the allocation of S1(6). However, in the unlikely event that the Phase II extension is to proceed it is reasonable in planning terms to compare the HUT application which sits on its footprint, with the competing Dev Sec application, part of which is covered by the allocation S1(6). This requires consideration of all material factors over and above the part allocation of one of the sites, a comparison of course that the UDP Inspector was unable to make, notwithstanding the fact that she saw a need for commercial development to support the Park, but was limited in her consideration of where that should be. No such limitations exist now to prevent a fair comparison of sites, and indeed the competing cinema elements of each application require a broader comparison to be made in order to arrive at the best location for the development, rather than one where the UDP was limited in terms of site selection.
- 7.32 Following this therefore it is considered that if no sequentially preferred sites existed within Flintshire town and district centres, that the proposal for a cinema on the allocation S1(6) would be acceptable in principle on that part of the site within the allocation. However not all of the site is within this allocation and for this reason this application has been advertised as a departure from the Development Plan and needs to be compared on the basis of other material factors with the competing application submitted by HUT.
- 7.33 **Comparison of Proposal with Competing Application (049857)**
Given all of the above, the Development Securities proposal has been compared against the competing proposal from HUT because despite the Development Securities application's degree of plan compliance, there are other material considerations over and above the weight to attach to UDP compliance, which set the two proposals apart. When compared to the HUT proposal it is considered that:

- the HUT proposal is more complementary to the existing retail park given that there is land available and suitable within the confines of the existing shopping park and therefore where the principle of development within the confines of the park has already been established;
- The redevelopment of this brownfield land within the Shopping Park itself allows for direct vehicular and pedestrian linkages which would be of direct benefit to shoppers at the retail park and to existing traders and would boost general trading conditions on the Park;
- From a visual aspect the HUT proposal creates an easily readable sense of visual enclosure to the existing site, where in contrast the Dev Sec proposal is an obvious peripheral extension to the existing Shopping Park, turning its back on the existing Park given the only indicated means of access from Chester Road;
- In sustainability terms whilst objectors have raised the future closure of a facility in Chester as a result of permitting the HUT application, and its impacts in terms of unsustainable traffic movements as staff and customers travel to Broughton, I am of the opinion that whilst regrettable, closure of a named operator elsewhere is a market driven decision and cannot be material to the consideration of the HUT application, nor for that matter the Development Securities application; The commercial decisions of business such as cinema operators are outside the ability of the Local Planning Authority to determine or control and therefore in planning terms can be given little weight.
- Reference has been made to the unsustainability of such a development on Broughton, however, the sustainability argument can be assessed in a number of ways, for instance whilst people may travel from outside the catchment area to visit a cinema site, conversely others currently leave the County to go to the cinema i.e. most cinema goers who are Flintshire residents; then on sustainable grounds these journeys will potentially be reduced – the net effect being Quid Pro quo.
- Policy S3 of the UDP entitled “Integrating New Commercial Development” seeks to reduce the need to travel and to promote more sustainable forms of transport. This aim has significant relevance to commercial development. New commercial development should integrate with existing commercial environments ensuring that the site is within easy walking distance of existing commercial developments and other facilities and link to existing transport interchanges. As regards the proposed developments, when compared on this basis it is considered that there is a high degree of visual relationship and physical connectivity between the proposed Cinema in the HUT scheme and the existing Retail Park as well as the existing Public Transport Interchange within the Park

(near to the Tesco). However in the case of the competing proposal by Dev Sec to the North of the Retail Park, it is considered that there would be a degree of physical separation which would not achieve the UDP aims in ensuring that the new development was as integrated as it could be within the Park itself.

- The Phase II development has not been and is unlikely to be implemented and as such it is sensible, logical and appropriate to develop out the Retail Park before expanding the Park further. Indeed that is the sequence of land use considered by the UDP Inspector.

7.34 It is acknowledged that in the event that Phase II had been implemented; and if no sequentially preferred sites existed within Flintshire town and district centres; that the proposal for a Cinema on the Allocation S1(6) could have been acceptable in principle. However given that Phase II has not been implemented and given that there is previously developed land available as well as suitable capacity within the confines of the retail park it appears in my view that the development of S1(6) to the North of Broughton Retail Park is premature, in that the present needs of the park can be met through the redevelopment of existing operational land. Indeed the redevelopment of this land within the Shopping Park itself allows for direct vehicular and pedestrian linkages which would be of direct benefit to shoppers at the retail park and to existing traders and would boost general trading conditions on the Park. Clearly the UDP defines Broughton Retail Park as an Out of Town Retail Park and the Shopping Centre Hierarchy of the County and quite rightly affords no protection to the Retail Park. However, in a situation where a complementary development to the retail park should be either incorporated actually within the Retail Park or on a separate site, I believe the wider principles of reducing the need to travel, promoting accessibility and accommodating complementary development set out in Policies STR1 “New Development” and S3 “Integrating New Commercial Development”, are of key sustainability importance.

7.35 In summary it is considered that in the case of the Hercules Unit Trust application (049587) that this is previously developed land, that this has a high degree of visual relationship and connectivity between the proposed cinema and the existing Retail Park, and existing Public Transport Interchange (near the Tesco store). However in the case of the site to the North of the Retail Park it is considered that there would be a significant degree of physical separation which would not achieve the UDP aims and objectives in ensuring that the new development was as integrated as it could be within the Park itself. The Phase II development has not been and is unlikely to be implemented and as such it is logical and sustainable to locate the competing principal land use, i.e. the cinema, within the confines of the Retail Park, before expanding the Park onto undeveloped and only part allocated greenfield land.

- 7.36 **Deliverability**
In considering this planning application and in particular the issue of “Availability” as part of the Sequential Assessment, the issue of “Deliverability” has been raised which requires some consideration. First and foremost it is important to state that “Deliverability” is a consideration for the Local Planning Authority in that the Local Planning Authority must have the confidence in granting planning permission that the permission can and will be implemented. In this regard it is important for the Council to take a “reasonable approach” which is mindful of the ability of the development to be delivered. For example in the Sequential Assessment in such an instance that a sequentially preferably site was identified it would be important for the Council to be reasonable in assessing the suitability and availability of the site to accommodate the proposed development and the development to be delivered within a reasonable timescale.
- 7.37 Supporting information from the applicant’s agent recognize that whilst Hercules Unit Trust have a named cinema operator as part of their proposals, three main cinema operations have expressed a strong desire to open in Broughton. I have been advised that Development Securities had previously been in discussion with the cinema operator named as part of the HUT submission but following pressure from the competitor applicant in relation to other commercial deals have indicated that they no longer support the Development Securities proposals. It has been confirmed however that this situation could change were this application (049943) to be successful.
- 7.38 In addition the applicant’s agent has advised that “there is strong interest in the restaurant floorspace proposed, including for the drive thru restaurant where terms have been agreed and for the budget hotel which has always been supported by Airbus”. I therefore consider that should planning permission be granted for this application, from an end user interest perspective Development Securities could deliver the development.
- 7.39 **Adequacy of Access**
Although submitted in outline, the indicative site layout plan shows access to the site being obtained from the A5104 Chester Road. Discussions have however taken place with the applicant’s agent to clarify whether it would be possible to serve the site from the existing service road which is located to the rear of the existing Tesco Store. It is understood however, that there are a number of legal issues over the interpretation of certain access rights from the service road, which would not allow this option to be confirmed at this stage.
- 7.40 Notwithstanding the above a full and detailed Transport Assessment has been submitted by the applicant’s highway consultants. For Members information, this has been reviewed and assessed by both

the Head of Assets & Transportation and independent highway consultants. As a result it has been concluded that the proposed development would not lead to any adverse impact on the existing transport network and that the principle of development is acceptable subject to the completion of a Section 106 Obligation and imposition of planning considerations.

7.41 **Ecology**

Consultation on the application has been undertaken with the Countryside Council for Wales given the proximity of the site to the Great Crested Newt Reserve, created as mitigation, for the loss of habitat associated with the development of the shopping park. For Members information, there is no objection to the principle of development subject to conditions/obligations to safeguard the habitat during the construction phase of any development.

7.42 **Representations Received**

A number of points have been raised by objectors to the scheme and have been addressed in the body of this report, however, I considered that it is important to review for Members final comparison the summary objections received from the applicant for the competing proposal to this scheme (HUT) as set out earlier in section 4.01, as well as my final response to those, as this serves to summarise the key differences identified in considering the two applications, that have led me to my respective conclusions and recommendations on each application.

7.43 In response to the points raised, I respond and conclude as follows:

- The Development Securities application does not have the full support of the Development Plan for the reasoning detailed above, i.e. a significant part of the site is outside of the allocation for such development and having been considered as part of the Plan process was still not allocated in the adopted UDP. Whilst I accept that the HUT application is also contrary to the Development Plan, other significant material considerations detailed earlier in this report, do in my opinion as part of a balanced assessment, favour the HUT scheme which would not undermine nor go to the heart of the recently adopted UDP, nor advice given in Planning Policy Wales. Without the competing Cinema element, the remaining uses proposed by the Dev Sec application may be considered acceptable in a revised application context;
- Both the HUT and Development Securities applications have indicated that their sites can be delivered via named operators. The deliverability of either of the proposed developments as regards the ability to get a named operator “on board” has not been a major material factor to the consideration of the applications, however, the reality is that the HUT application

appears as a matter of fact to have a named operator who wants to implement that scheme in the very near future.

- It is accepted that the final position of the access to the Development Securities site has yet to be fixed and is still subject to legal clarification, however, at this moment in time the most likely access, and the only one to which Members can attach any certainty of implementation, does appear to be onto the Chester Road as indicated in their indicative details submitted with the application. In this context the resultant consideration of the Development Securities application is of a scheme that would be accessed from outside of the current park via a separate entrance and therefore if approved would turn its back on the existing shopping park, thereby not providing for as acceptable a degree of integration with the present arrangement and function of the park, as would the HUT scheme;
- The presence of the restrictive covenant on part of the Development Securities site has not been a material planning consideration in the assessment to either application for cinema development.
- The benefits to be derived from either application for cinema development on the existing shopping park are finely balanced, as set out in the assessment of material considerations detailed earlier in this report; however, on balance the HUT scheme is considered the more acceptable proposal in planning terms. For the reasoning given in this report, parking for the overall shopping park is considered to be adequate having assessed the evidence submitted with the HUT application and therefore any potential benefit from overspill parking facilities on the Development Securities site is not considered to be sufficiently materially significant to alter the acceptability of the HUT scheme, as it is already acceptable from a parking perspective.
- In scale both applications are for multiplex cinemas with ancillary/complimentary development i.e. they are both large scale developments. Whilst the Dev Sec application suggests a six screen multiplex cinema which the applicant considers 'local' in scale, they do not define the extent of 'local' which could still draw on a very large urban population within a five or ten minute drive time of the site. In addition it is understood from Dev Sec that one cinema operator that has expressed an interest in their scheme subject to planning permission, has suggested a requirement for up to nine screens which would set the Dev Sec proposal at a very similar scale to the HUT application, thereby negating their own objection. The future closure of a facility in Chester whilst regrettable is a market driven decision and cannot be material to the consideration of

the HUT application, nor for that matter the Development Securities application. (As per point 4 at paragraph 7.33 of this report.) Reference has made to sustainability of such a development on Broughton, however, the sustainability argument can be assessed in a number of ways, whilst people may travel from outside the catchment area to visit a cinema site, conversely others currently leave the County to go to the cinema i.e. most cinema goers, then on sustainable grounds these journeys will be potentially reduced – the net effect is Quid Pro quo.

- Given the competing elements of each scheme both the HUT application and the Development Securities application in part were contrary to the Development Plan, however significant weight attaches to other material planning considerations as detailed in this report, which has led me to conclude that on balance the HUT application is the more acceptable in planning terms and better than the Development Securities proposal. As far as prejudicing any future retail development on the Shopping Park is concerned, given the out of town location of the Park and its non-designation as part of the retail hierarchy in Flintshire, any future retail development would not necessarily be acceptable when considered against the relevant policies of the adopted UDP and PPW.

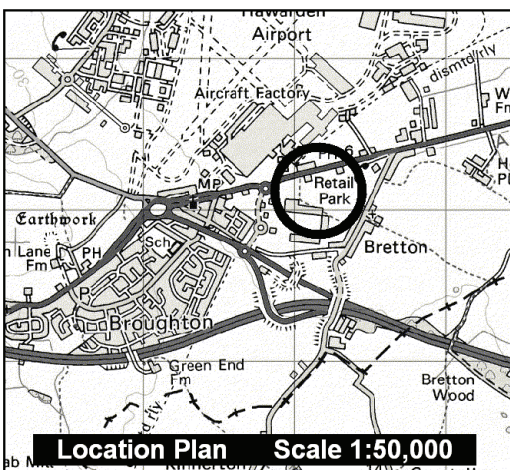
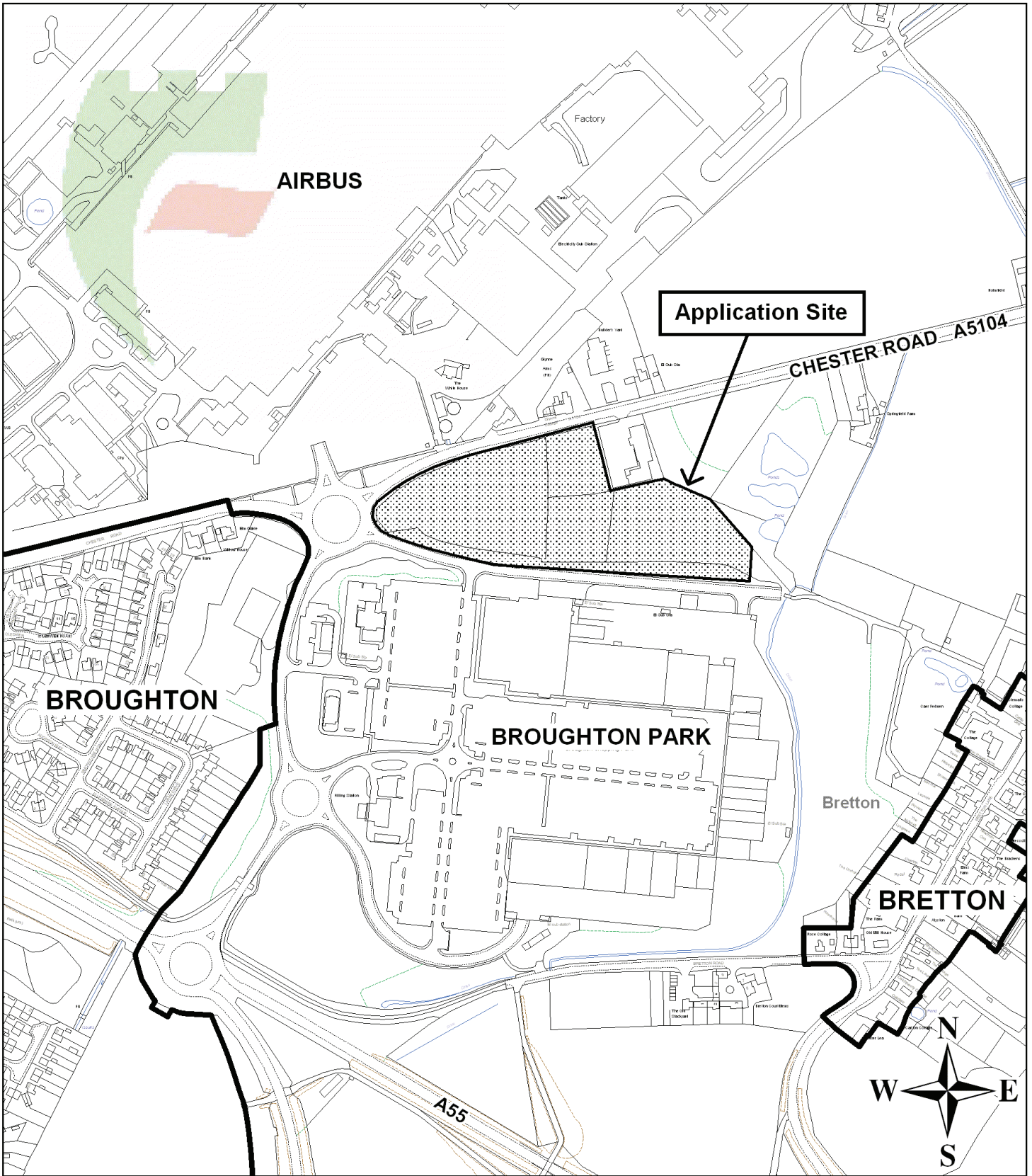
8.00 CONCLUSION

- 8.01 In conclusion it is my view that following assessment of the Hercules Unit Trust and the Development Security Proposals “there are good reasons why Flintshire County Council should choose to approve only one application at this time. For the reasons set out above in this Policy Assessment it is fair to say that neither of the two application sites are the ideal locations for this proposed development given that neither are within a defined town or district centres. However at this time it is reasonable to conclude that there is a need for this facility and given the need has been demonstrated it is necessary to accommodate the proposed development in most appropriate location on a site that is capable of delivering the proposed scheme within the appropriate timeframe.
- 8.02 Of the two proposed locations for the Cinema the Hercules Units Trust site is well related to the existing Retail Park and provides good opportunities to link existing public transport interchanges and pedestrian routes to the direct benefit of the retail park users and traders. The Development Securities site in contrast has been part-allocated in the UDP for non-A1 commercial development which will in all likelihood be developed at a suitably appropriate future point to meet future complementary retail park needs. However at this time it is important to reiterate that as there exists appropriate capacity for

complementary development opportunities within the boundaries of the existing retail park, and that it is logical and sustainable that this land should be developed out first before allowing the Retail Park to expand North of the service access road. As such this follows the same sequence of development in and around the Park as that considered by the UDP Inspector.

- 8.03 For the reasoning given above and on balance having regard to the Cinema element of the Development Securities proposal, is not considered to be acceptable given a) the likely capacity and need for only one multi-plex cinema in Broughton; and b) the existence of a competing application on the agenda (049857) which achieves a greater degree of integration with Broughton Retail Park and has greater associated complimentary benefit for the existing retail park. I therefore recommend accordingly.
- 8.04 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: Mark Harris
Telephone: (01352) 703269
Email: mark.harris@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

Page 65

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Map Scale 1:5000

OS Map ref SJ 3564

Planning Application 49943

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FLINTSHIRE COUNTY COUNCIL

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

DATE: **WEDNESDAY 17TH APRIL 2013**

REPORT BY: **HEAD OF PLANNING**

SUBJECT: **OUTLINE APPLICATION – RESIDENTIAL DEVELOPMENT CONSISTING OF 3 NO. 4 BEDROOM DETACHED HOUSES AND 1 NO. 3 BEDROOM DETACHED BUNGALOW ON LAND ADJACENT 1 TRAM ROAD, BUCKLEY.**

APPLICATION NUMBER: **050281**

APPLICANT: **MR L. MIAH**

SITE: **LAND ADJACENT 1 TRAM ROAD, BUCKLEY, CH7 3NH**

APPLICATION VALID DATE: **23RD DECEMBER 2012**

LOCAL MEMBERS: **COUNCILLOR M. J. PEERS**
COUNCILLOR D. HUTCHINSON

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

REASON FOR COMMITTEE: **MEMBER REQUEST GIVEN CONCERNS ABOUT OVER-DEVELOPMENT AND ADEQUACY OF ACCESS.**

SITE VISIT: **NO**

1.00 SUMMARY

- 1.01 This outline application proposes the erection of 3 No. detached houses and 1 No. bungalow on land adjacent to 1 Tram Road, Buckley. The proposed access, site layout and scale of development form part of this application. Matters relating to appearance and landscaping are reserved for subsequent approval.

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

2.01 That subject to the applicant entering into a Section 106 Obligation, Unilateral Undertaking or advance payment of £1,100 per dwelling in lieu of on site play provision that planning permission be granted subject to the following conditions:-

1. Outline – Reserved Matters.
2. Outline – Time Limit.
3. Materials to be submitted and approved.
4. Landscaping scheme to be submitted and approved.
5. Timescale for implementation of approved landscaping.
6. Siting, layout and design of means of site access to be in accordance with details submitted and approved prior to the commencement of any site work.
7. Forming and construction of means of site access not to commence until detailed design has been submitted and approved.
8. Code 3 requirement – pre and post construction.

3.00 CONSULTATIONS

3.01 Local Member

Councillor D. Hutchinson

Request planning committee determination, given concerns about overdevelopment and adequacy of access.

Councillor M. J. Peers

No response received at time of preparing report.

Buckley Town Council

Requests that Flintshire County Council reviews and considers the scale of the development in relation to the potential for a case of over development, the potential for traffic problems in respect of the access and egress to Tram Road from Liverpool Road and Higher Common Road with the increased traffic as the result of the development,

Head of Assets and Transportation

Recommend that any permission be subject to conditions in respect of the formation of the means of site access.

Public Open Spaces Manager

Request the payment of a commuted sum of £1100 per dwelling in lieu of on site open space provision.

Head of Public Protection

No response received at time of preparing report.

4.00 PUBLICITY

4.01 Site Notice, Neighbour Notification

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

- Inadequacy of access into / from Tram Road to serve the scale of development proposed.
- Tram Road is in a poor condition which is not suitable to accommodate additional vehicular movements.
- Proposed scale of development would represent overdevelopment and cul-de-sac arrangement would be out of character with existing frontage development along Tram Road.
- Detrimental impact on the privacy / amenity of the occupiers of existing properties.

5.00 SITE HISTORY

5.01 01/00317

Outline – Proposed demolition of existing dwelling and erection of 4 No. dwellings. Refused 11.07.2001

035169

Outline – Demolition of existing dwellinghouse and replacement with a dwelling and double garage. Permitted 14.07.03

6.00 PLANNING POLICIES

6.01 Flintshire Unitary Development Plan

Policy STR4 – Housing

Policy GEN1 – General Requirements for Development

Policy GEN2 – Development Inside Settlement Boundaries

Policy D! – Design Quality, Location and Layout

Policy D2 – Design

Policy AC13 – Access and Traffic Impact

Policy AC18 – Parking Provision and New Development

Policy HSG3 – Housing on Unallocated Sites within Settlement Boundaries

Policy HSG8 – Density of Development

Policy HSG9 – Housing Mix and Type

Policy IMP1 – Planning Conditions and Planning Obligations

Technical Advice Note 18 – Transport (2007)

Local Planning Guidance Note 2 – Space Around Dwellings

7.00 PLANNING APPRAISAL

7.01 Introduction

This outline application proposes the erection of 3No. 4 bedroom detached houses and 1No. 3 bed bungalow on land adjacent to 1 Tram Road, Buckley. The proposed access, site layout and scale of development form part of this application with matters relating to appearance and landscaping being reserved for subsequent approval.

7.02 Site / Surroundings

The site, the subject of this application is currently vacant and amounts to approximately 0.2 hectares in area. It previously accommodated a dwelling 3 Tram Road which was formed by the conversion of a pair of semi-detached dwellings which was demolished approximately 5 years ago by the current owner. It is located on the northern side of Tram Road some 60m from its junction with Liverpool Road. The character of site / surroundings along Tram Road, is mixed with semi-detached properties opposite the site and detached properties to the south and south west opposite where there is a cul de sac development at The Hollies.

7.03 To the south-east, adjacent to but outside the application site are a number of trees covered by a Tree Preservation Order.

7.04 Background History

The background of planning history at this location is referred to in paragraph 5.00 of this report. In summary an outline planning application for the erection of 4No. dwellings on the site was refused under Code No. 01/00317 on 11th July 2001. The application was refused on highway grounds given concerns about the adequacy of the visibility at the Liverpool Road / Tram Road junction and the Higher Common / Tram Road junction which does not provide adequate visibility in a south westerly direction.

7.05 Proposed Development

Although submitted in outline, details of the proposed access, scale of development and site layout have been submitted as part of this application. The site layout indicates the erection of 1No. 3 bedroom bungalow to the rear of an existing bungalow (1 Tram Road) and 3No. 4 bedroom houses all of which front onto a private drive and turning head arrangement.

7.06 The parameters contained within the accompanying Design and Access Statement indicate that the ridge height of the houses would be approximately 7.9m and that of the bungalow 4.2m

7.07 Main Planning Issues

It is considered that the main planning issues in relation to this application are as follows:-

- a) Principle of development having regard to the planning policy framework and background of planning history.
- b) Proposed scale of development and impact on character of

site/ surroundings.

- c) Adequacy of access to serve the development.
- d) Impact on privacy/amenity of occupiers of existing and proposed dwellings

7.08 Planning Policy

The site is located within the settlement boundary of Buckley as defined in the adopted Flintshire Unitary Development Plan. Within the UDP, Buckley is classified as a category A settlement and the proposed development does not exceed the thresholds either in terms of site area and / or number of dwelling units requiring the provision of affordable housing. The principle of development is therefore acceptable subject to the safeguarding of relevant amenity considerations.

7.09 Scale of Development / Impact on Character

The character of existing development along Tram Road is defined by a mix of detached, semi-detached and a cul de sac development at The Hollies.

- 7.10 It is considered that the scale of development proposed i.e. 4 No. dwellings on a site area of approximately 0.2 hectares would not result in overdevelopment at this location. In addition the proposed house types would be sympathetic to and reflective of the mix of house types/forms of existing development along Tram Road which is not restricted to frontage development given that there is an existing cul-de-sac arrangement at The Hollies.

7.11 Adequacy of Access

For Members information, Tram Road is a highway maintainable at public expense and serves as access to 23 dwelling units. It is acknowledged that the surface of Tram Road is in poor condition and has been such for a number of years. Consultation on the application has been undertaken with the Head of Assets and Transportation, who considers that given the combination of:- (a) the previous history of the site in that it accommodated a dwelling/s (b) the net increase in the scale of development being proposed and (c) whilst a previous application on the site was refused in 2001 on highway grounds assessment of the development has been undertaken in accordance with current standards in particular Technical Advice Note 18 – Transport; that in these circumstances although it is recognised that there will be a marginal increase in the usage of Tram Road, it will not be significant enough to be detrimental to highway safety. Development is therefore supported subject to the imposition of conditions relating to the formation of the means of site access.

7.12 Impact on Privacy/Amenity for Existing/Proposed Residents

The concerns relating to the impact of development on privacy/amenity are duly noted. For Members information the site is set at a lower level than existing properties opposite and adjacent to

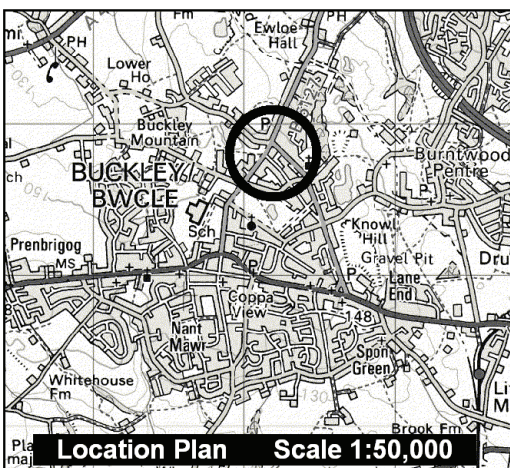
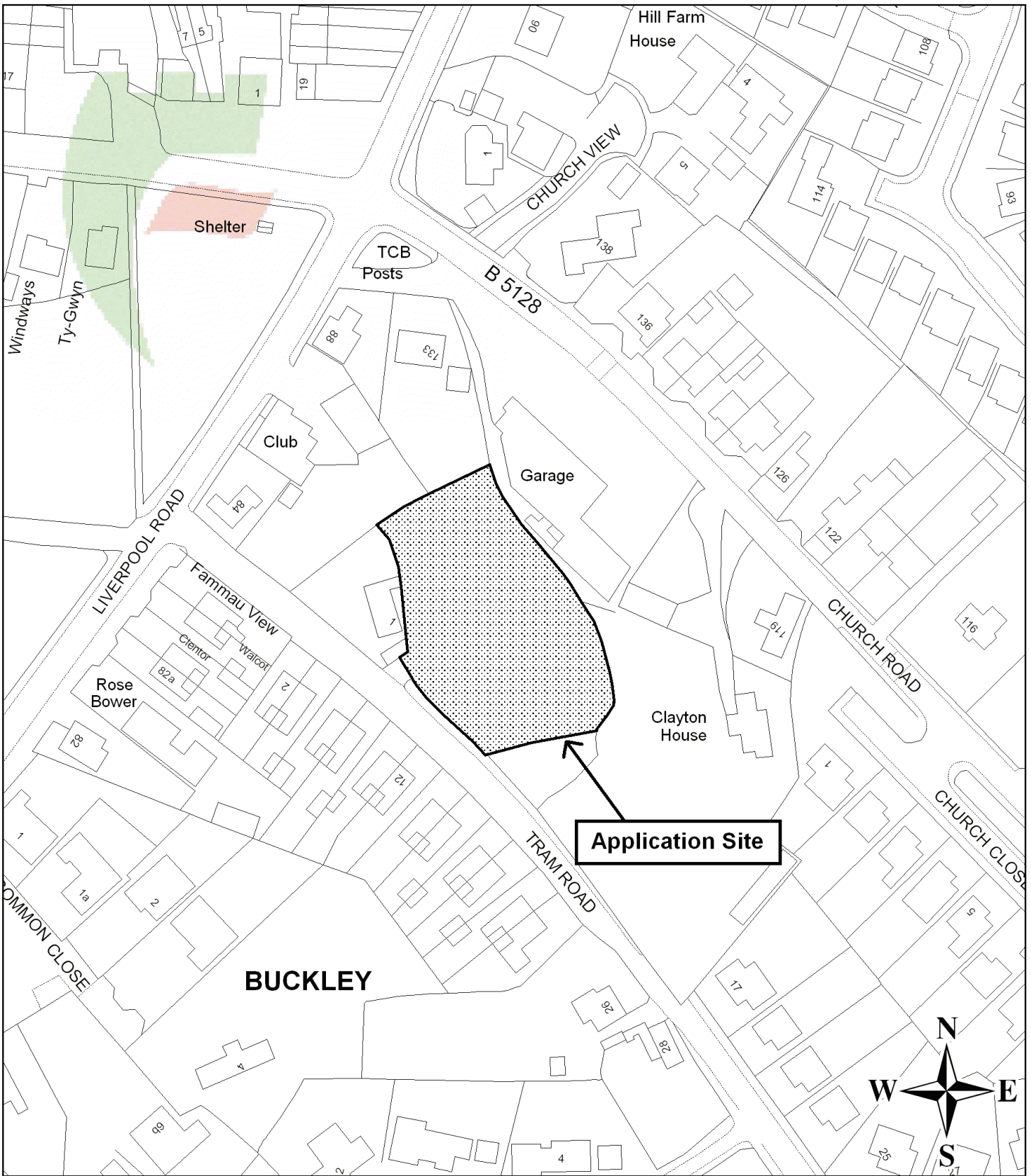
the application site in particular the existing bungalow 1 Tram Road. The orientation of the proposed properties is such that they would have their gable elevations relative to Tram Road and the distances between existing/proposed dwellings would be in accord with the Council's Space Around Dwellings guidance ensuring that privacy/amenity are safeguarded as part of the proposed development.

8.00 CONCLUSION

- 8.01 In conclusion, it is my view that the proposed scale/form of development would be sympathetic to the character of the site and surroundings. There is no objection to the development from the Head of Assets and Transportation subject to the imposition of conditions and I therefore recommend accordingly.

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: Mark Harris
Telephone: 01352 703269
Email: robert.m.harris@flintshire.gov.uk

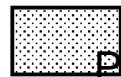


Environment Directorate,
 Flintshire County Council, County Hall,
 Mold, Flintshire, CH7 6NF.
 Director: Mr. Carl Longland

Legend



Adopted Flintshire Unitary
 Development Plan
 Settlement Boundary



Application Site Extent

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Planning Application **50281**

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FLINTSHIRE COUNTY COUNCIL

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

DATE: **WEDNESDAY, 17 APRIL 2013**

REPORT BY: **HEAD OF PLANNING**

SUBJECT: **050430 - FULL APPLICATION - ERECTION OF A TWO STOREY EXTENSION INCLUDING BALACONY TO EXISTING BARN AT DEER LODGE, CYMAU, WREXHAM, FLINTSHIRE**

APPLICATION NUMBER: **050430**

APPLICANT: **MR M PRICE**

SITE: **DEER LODGE, FFYNNON FARM, THE CYMAU, FLINTSHIRE LL11 5EY**

APPLICATION VALID DATE: **18TH JANUARY 2013**

LOCAL MEMBERS: **COUNCILLOR HILARY ISHERWOOD**

TOWN/COMMUNITY COUNCIL: **LLANFYNYDD COMMUNITY COUNCIL**

REASON FOR COMMITTEE: **MEMBERS WILL BE ABLE TO SEE THE LAY OUT OF THE SITE AND NEIGHBOURING PROPERTIES.**

SITE VISIT: **YES**

1.00 SUMMARY

1.01 This householder application seeks planning permission for the erection of a two storey extension with balcony to the rear of Deer Lodge, The Cymau, Flintshire. The main issue in regard to this application is the scale, design and form of the proposed extension in relation to the existing dwelling, which is a converted barn.

2.00 RECOMMENDATION: TO REFUSE PLANNING PERMISSION FOR THE FOLLOWING REASONS

2.01 In the opinion of the Local Planning Authority the proposed development by virtue of its form, design and scale, particularly the proposed glazing and balcony to the rear elevation, would have a

detrimental impact on the agricultural character of the building and would detract from the rural character of the area. As such the proposal is contrary to Policies GEN 1, D2 and HSG12 of the Flintshire Unitary Development Plan and Local Planning Guidance Note 1: Alterations and Extensions

3.00 CONSULTATIONS

3.01 Local Member

Councillor Hilary Isherwood

Requests the application be referred to Committee with site visit so that members can see the character of the site and existing building.

Town/Community Council

Llanfynydd Community Council

Members felt that a pre-planning discussion needed to be undertaken as there is insufficient information with reference to parking facilities and whether the proposed development is in keeping with its surroundings and other properties.

Head of Assets and Transportation

No objection and no recommendations on highway grounds. Highway Supplementary Notes to be attached to any planning permission.

Head of Public Protection

No adverse comments

4.00 PUBLICITY

4.01 Site, Notice, Neighbour Notification

1 letter of objection has been received on the following grounds:

- Proposed materials do not match existing development
- Impact of proposed parking on existing courtyard
- Lack of detail in relation to car parking levels; retaining walls; groundworks and trees
- Parking provision and Groundwork

Other issues have been raised which are not material planning considerations

5.00 SITE HISTORY

5.01 01/01337

Single storey side extension. Planning permission granted 14/02/2002

4/4/23726

Conversion of large barn into a dwelling house and conversion of small barn into 2 cottages for holiday let. Planning permission granted 01/11/1994

4/4/14354

Change of use and alterations to agricultural building to form one dwelling. Planning permission granted 05/11/1985

4/4/13780

Outline application for erection of one dwelling house in connection with fruit farm. Planning permission refused 5/3/1985

6.00 PLANNING POLICIES

6.01 Flintshire Unitary Development Plan

Policy GEN1 – General requirements for Development

Policy D2 – Design

Policy AC18 – Parking provision and new development

Policy HSG7 – Change of use to residential outside settlement boundaries

Policy HSG12 – House extensions and alterations

7.00 PLANNING APPRAISAL

7.01 Introduction

The householder application seeks planning permission for the erection of a two storey extension, including balcony to the rear of Deer Lodge, The Cymau, Flintshire.

7.02 Site Description

The site is located outside any defined settlement boundary and set within a rural landscape. The property, a converted barn, originally formed part of a farm unit and comprises of the former farm house with garage which is a converted outbuilding; a further barn conversion with garage and the converted barn which is the subject of this application. Access to the site is via a private road off Ffordd Las.

7.03 The building is a single storey barn conversion with a three storey element to the north west elevation. The building is of stone construction under a tile roof, with render to the three storey element.

7.04 The main issues in relation to this application are the scale, form and design of the proposed extension and the impact the parking provision may have on the site.

Principle of Development

Planning permission for the conversion of the barn into a residential dwelling was granted in November 1994. Conversion of existing rural buildings provide an exception to National and Local planning policy where there is a presumption against new residential dwellings in the open countryside. In order to meet policy criteria which allow such conversions, the building must be structurally sound and capable of conversion without significant extension and have traditional architectural and historic features which merit retention.

- 7.05 Policy HSG12 allows the extension and alteration to a dwelling provided it is subsidiary in scale and form to the existing dwelling and respects the design and setting of the existing dwelling.

Policy AC18 requires appropriate parking provision in line with the Council's parking standards. A two bedroomed property requires 2 car parking spaces with a four bedroom dwelling requiring 3 car parking spaces.

- 7.06 A small single storey extension to the property, approximately 5.5 metres long and 6 metres wide, was granted planning permission under reference 01/4/1337 in December 2001. This was not implemented, probably because of the topography and the potential impact on the trees and hedgerows to the site boundary.

7.07 **Issues**

The main issue is seen as the impact that the proposed extension will have in view of its scale, design and form in relation to the existing converted barn.

- 7.08 The proposed extension is sited to the centre of the rear elevation and again would require significant groundwork due to the gradient of the land to the rear. No details in relation to ground levels; retaining walls or impact on any trees and their root system have been submitted within the application.

- 7.09 The proposed two storey extension is some 10 metres in length and 6 metres wide and represents an increase of 96% in floorspace. This scheme is on a much larger scale than the one previously approved in 2001. As such the proposed extension is not considered to be subsidiary in scale and form to the existing dwelling. The large amount of glazing and balcony to the rear gable is urban in nature and does not respect the simple agricultural character of the converted barn. Therefore the proposed extension does not comply with the relevant criteria of policies, GEN1 or HSG12.

- 7.10 Parking provision is shown to the south of the site; however no details of the works, including retaining walls, have been provided within the application. Due to the topography of the site, without such detail, the Local Planning Authority (LPA) are unable to make an assessment as

to whether sufficient parking can be provided, in line with the Council's parking standards or if the development would have an adverse impact on the landscape. Under Condition 5 of planning permission 4/4/23726 for the conversion of the barn to a dwelling house, car parking spaces should have been laid out within the site prior to commencement. However, as the development was undertaken over 4 years ago, no enforcement action can now be taken.

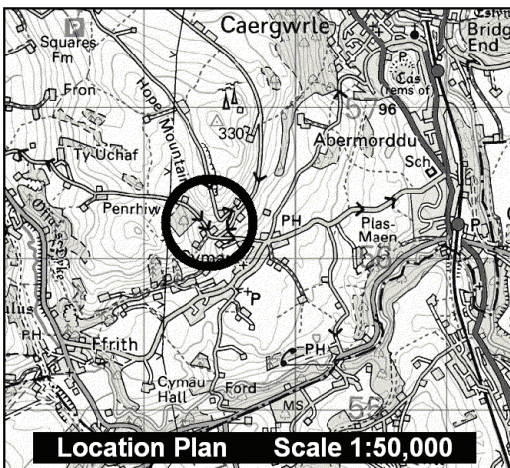
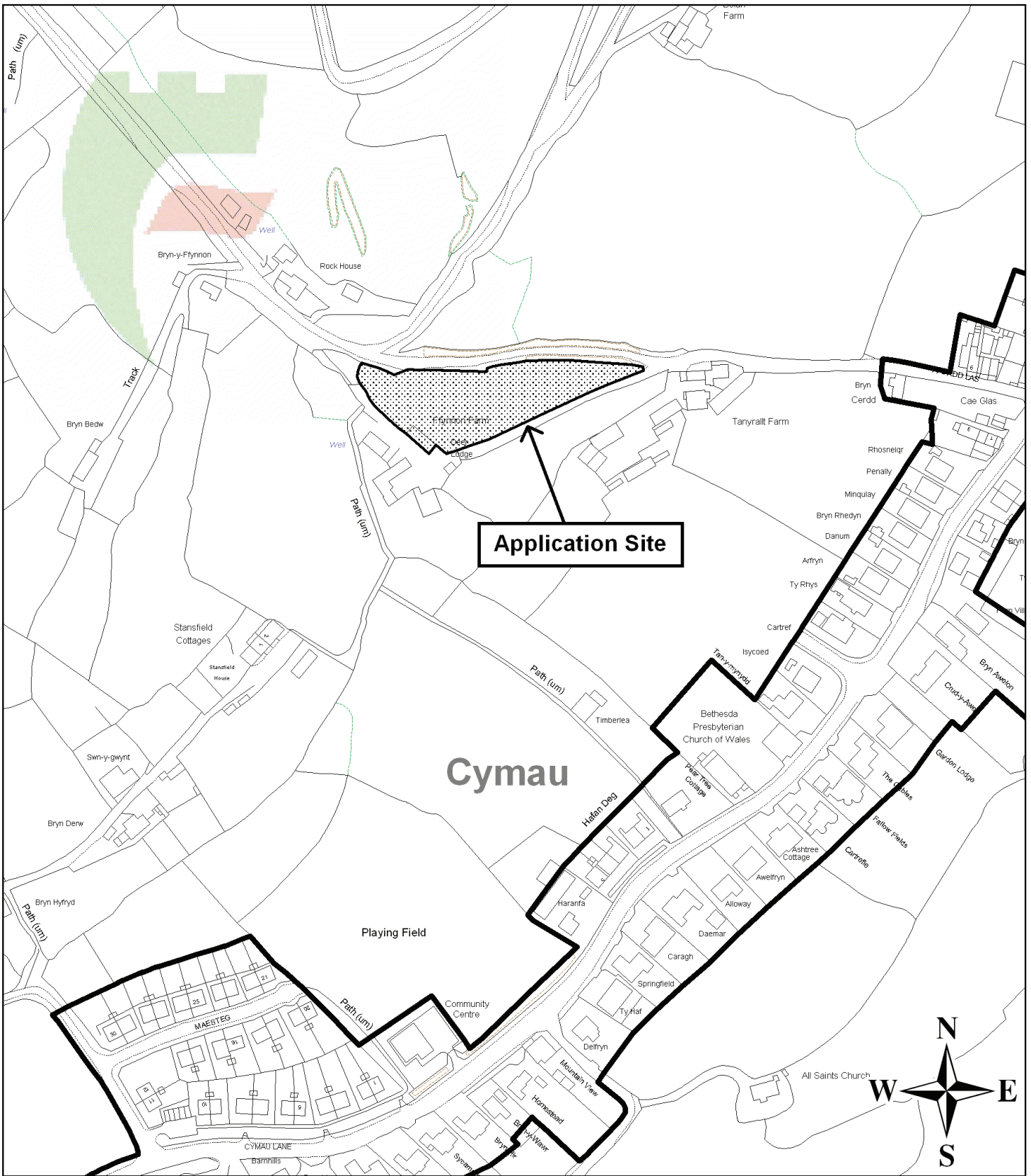
- 7.11 Negotiations have been held with the applicant in order to see if the LPA's concerns can be overcome. In view of the previously approved single storey extension the LPA advised that the resiting of a smaller single storey extension would be acceptable due to the constraints within the site. However, the applicant was advised that the scale of the proposed extension was not acceptable in terms of scale, form and design. Although the applicant is willing to make some compromise, on materials for example, an agreement on the scale of the extension could not be reached.
- 7.12 The comments within a statement submitted by the applicant have been noted. Whilst the conversions, alterations and extensions which have been carried out to the neighbouring properties are not as sympathetic to the original buildings as they should be, for example, the use of tiles as opposed to slate, this is not justification for the granting of planning permission for the proposed extension. Each application is considered on its own merits.
- 7.13 One letter of objection has been received on the grounds given above in section 4.01 of this report. Consideration of these matters has been given within this report.


8.00 CONCLUSION

- 8.01 In view of the above matters I am of the opinion that the proposed extension due to the scale, form and design would have a detrimental impact on the simple agricultural form of the existing building and would not comply with planning policy. As such I recommend the application be refused for the reason given in this report.
- 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: Celeste Ringrose
Telephone: 01352 703235


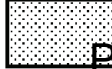
Email: celeste_ringrose@flintshire.gov.uk





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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OS Map ref	SJ 2956
Planning Application	50430

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FLINTSHIRE COUNTY COUNCIL

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

DATE: **17TH APRIL 2013**

REPORT BY: **HEAD OF PLANNING**

SUBJECT: **RENEWAL OF PLANNING PERMISSION REFERENCE 047979 TO ALLOW THE CHANGE OF USE FROM GUN SITE AND AGRICULTURAL LAND TO A PAINTBALLING CENTRE AND ANCILLARY DEVELOPMENT CHESTER GUN SITE, MOOR LANE, LOWER KINNERTON, CHESTER**

APPLICATION NUMBER: **050429**

APPLICANT: **MR. D. BRADSHAW**

SITE: **CHESTER GUN SITE MOOR LANE, LOWER KINNERTON, CHESTER**

APPLICATION VALID DATE: **31ST JANUARY 2013**

LOCAL MEMBERS: **COUNCILLOR P. LIGHTFOOT**

TOWN/COMMUNITY COUNCIL: **HIGHER KINNERTON COMMUNITY COUNCIL**

REASON FOR COMMITTEE: **SCALE OF DEVELOPMENT EXCEEDS DELEGATION LIMITS**

SITE VISIT: **NO**

1.00 SUMMARY

- 1.01 This application is a renewal of planning permission 047979 to allow the continuation of the use of the land as a paintballing centre and retention of ancillary development. It was granted temporary retrospective permission on 25th July 2011 in order to monitor the impact of the use upon nearby residential amenity in terms of any noise disturbance and upon users of the adjacent bridleway. No complaints have been received regarding the above and therefore the recommendation is to grant a permanent permission for the use and buildings/structures upon the site.

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

2.01 Conditions

1. In accordance with approved plans.
2. Archaeological observation.
3. Blue inflatables to be let down at the end of each day.
4. Water based bullets used only.
5. Hours of use 10.00am – 6.30pm.

3.00 CONSULTATIONS

3.01 Local Member:
Councillor P. Lightfoot
No response received to date.

Higher Kinnerton Community Council
No objections to this application.

Head of Assets and Transportation
On the basis that Public Rights of Way have been consulted separately, no objection to the proposal and do not intend to make a recommendation on highway grounds.

Head of Assets and Transportation (Rights of Way)
Footpath 22A abuts the site but appears unaffected by the development. Therefore no observations to make.

Head of Public Protection
No response received to date.

Environment Agency
Agency's letter 03/05/11 remains valid. This was no objection.

Ramblers Association
No response received to date.

British Horse Society
No response received to date.

Flintshire Local Access Forum
No response received to date.

Clwyd-Powys Archaeological Trust
If Condition Nos. 2, 9, 10 on application No. 047979 can be carried across, then no objection.

Cheshire West & Chester Council

No response received to date.

4.00 PUBLICITY

4.01 Neighbour Notification

1 letter of objection received. The grounds of objection being:

- Question 13 has been filled in incorrectly regarding watercourses
- Owners need to provide signage to slow down traffic
- Operating times being exceeded
- Site needs more screening
- Lane is like a speed trap which is also a bridlepath

5.00 SITE HISTORY

5.01 **047979**

Change of use from former gun site and agricultural land to paintballing centre and ancillary development including siting of 6 No. shipping containers for storage, office store, toilets and changing rooms. Improvement of hardstanding access for parking of vehicles and congregation of players (partly in retrospect). Temporary planning permission granted 25th July 2011.

82/73

OUTLINE – Motor Repairs Shop – REFUSED 28th June 1973

131/61

Proposed Housing Development – REFUSED 9th May 1961

6.00 PLANNING POLICIES

6.01 Flintshire Unitary Development Plan

Policy STR11 – Sport, Leisure and Recreation

Policy GEN1 – General Requirements for Development

Policy GEN3 – Development in Open Countryside

Policy D1 – Design Quality

Policy D2 – Design

Policy D3 – Landscaping

Policy AC13 – Access and Traffic Impact

Policy AC2 – Pedestrian Provision and Public Rights of Way

Policy EWP12 – Pollution

Policy EWP13 – Nuisance

Policy EWP17 – Flood Risk

Policy HE7 – Other Sites of Lesser Archaeological Significance

Policy SR1 – Sport, Recreation or Cultural Facilities

Policy SR2 – Outdoor Activities

As it is considered that the type, scale and intensity of the proposal is

appropriate and unlikely to harm the character and appearance of the area, it accords with the above policies.

7.00 PLANNING APPRAISAL

7.01 Site Description and Proposals

Comprises of the existing 'Outpost' paintballing centre which was both a former military gun site camp and part of an adjoining field to it. Both sites enjoy a rural setting and although somewhat isolated are well screened from the highway network by hedges and mature landscaping.

7.02 The application is for renewal of 047979. The portakabin at the site entrance has been removed and a more permanent structure has replaced it. This is the only change since the granting of temporary consent in July 2011.

7.03 Background

Planning permission No. 047979 was given a temporary permission on 25th July 2011 for this use and ancillary development including the siting of 6 storage containers, improvement of hardstandings etc. At the time it was granted temporary consent to monitor the impact of the use upon nearby residential amenity (noise) and upon ramblers and horses/horseriders using the adjacent bridleway. As far as the Local Planning Authority are aware no complaints have been received regarding the above.

7.04 Issues

The issues to consider within the determination of this planning application are the principle of the development in planning policy terms, the effects of the developments upon the character and appearance of the countryside, the highway implications, the effects upon nearby residential amenity, the impact on users of the adjacent bridleway together with the flood risk and archaeological implications of the development.

7.05 The application sites are situated within open countryside to the east of Higher Kinnerton. Policy GEN3 of the emerging Flintshire Unitary Development Plan (FUDP) is permissive of development related to tourism, leisure and recreation, whilst relying on other more specific policies in the FUDP for detailed guidance.

7.06 For instance, FUDP Policy SR2 is permissive of outdoor activities, like paintballing, where it is of a type, scale and intensity that would not unacceptably harm the character and appearance of the site and its surroundings, amenity of others, or any landscape, nature conservation or historic interest; and the site is accessible by a choice of modes of travel other than private car.

7.07 In addition, FUDP Policy SR1 is permissive of small scale buildings

and/or ancillary development necessary to support recreation facilities.

- 7.08 Given the above, it is therefore considered that in principle, the use is acceptable in planning policy terms. What needs to be considered are the details and their effects upon the countryside, amenity and others etc.
- 7.09 Character and Appearance of the Countryside
The site lies within open countryside and is somewhat isolated. However, it is well screened from the highway network by hedges and mature landscaping. Given this landscaping, that existing structures are present on the site and the ancillary structures associated with the paintballing use are located in proximity to these and are thus assimilated well into the existing built development and that amendments have now been made to the colour of the containers etc then it is considered that the developments do not have a significant increased detrimental impact upon the countryside landscape.
- 7.10 Highway Implications
Both sites are accessed via a long single width track from Moor Lane which is also single width for part of its length nearest the site access.
- 7.11 The traffic generated by the use is not considered significant, approximately 7-10 cars per session, with only two sessions each day. In addition, these additional traffic movements are outside of peak hours given the hours of use on the site, namely 10.00am - 6.30pm each day and that it is only possible to have two sessions a day.
- 7.12 Although the access track and part of Moor Lane is single width, the site does not generate a significant increase in the number of simultaneous passing of opposing vehicles. This is due to the timing of the sessions, with vehicles entering the site and leaving at the end of the session well before the next session participants are due to arrive. In addition, the existing passing places at the various accesses are considered adequate. The applicants do not want and discourage casual callers at the site, as all bookings are taken via the internet or telephone.
- 7.13 The use only generates light private vehicles with the occasional minibus, whereas the various agricultural, equestrian and turkey farm uses also use the land with heavy goods and large agricultural vehicles. The lane is presently in a reasonable condition as far as the access to the site and the additional wear and tear from the uses has been minimal so far.
- 7.14 Given the above, the use has so far been safely accommodated on the existing highway network and considered to continue to do so.

- 7.15 Amenities of Adjoining Residents
Both sites enjoy a rural setting, are isolated, set within open countryside, are well screened from the highway network by hedges and mature landscaping and are located approximately 380m away from the nearest residential property. Given the above together with the times of operation of the activity and that the equipment of the use is not particularly noisy, that the activity has not generated any complaints since being granted retrospective planning permission, it does not have a significant detrimental effect on the amenities of adjoining residents from noise disturbance.
- 7.16 Impact Upon Bridleway
Public Bridleway 22A runs along Moor Lane which is approximately 300m to the east of the site and is therefore not physically affected by the development. The previous concerns of the British Horse Society are noted upon the safety of the horses and their riders. However, given the low generation of traffic from the use and type of vehicles used and that lane is used by much larger vehicles e.g. heavy goods and large agricultural vehicles from other users on the land i.e. Turkey farm, agricultural and equestrian, it is considered that there is no significant increased detrimental impact upon the safety of horses and their riders. No complaints have been received by the Authority from either walkers or horse riders concerning any incidents affecting the enjoyment of this part of the bridleway. It is considered therefore that continued use of the activity will not have a significant detrimental impact upon either of these two users.
- 7.17 Flood Risk
The application site lies partially within Zone C2, as defined by the development advice map referred to under TAN15 Development and Flood Risk (July 2004). The Flood Map information confirms the eastern part of the site to be within the extreme flood outline for the Burton Meadows Catchwater / New Moor Drain.
- 7.18 The original development placed the new toilets, stores and changing rooms at the south-eastern corner of the site within the predicted flood zone and within 7m of a main river.
- 7.19 Members may recall that on the previous application amended plans had been received that places these structures away from the flood risk zone in the south eastern corner to the south of the site i.e. further westwards. Therefore, flood risk and bye-law consents are not a consideration
- 7.20 With regard to the discrepancy on the application form in relation to Question 13 regarding proximity to any watercourses, this has been amended since there is a drain or watercourse which runs along the eastern boundary of the site.

7.21 Archaeology

The Chester gun site is recorded in some detail on the Historic Environment in terms of surface features and overall the site is considered to be of local and regional importance. These 20th Century and war gun sites are fast becoming nationally rare, but Cadw feel that they could not protect this site with scheduled monument status despite the fact that this is the only recorded example in the area.

7.21 At the moment the history and function of the site can be adequately read through the surviving buildings and their layout. The developments do not involve any demolition or alterations taking place to the structures presently preserved in situ.

7.22 Therefore a condition has been attached which allows an archaeologist to be contacted prior to any further site works progressing.

7.23 Water based bullets are currently used and the inside of the buildings have been cordoned off so as not to be damaged. Conditions have been placed upon the recommendation to ensure that these requirements are retained.

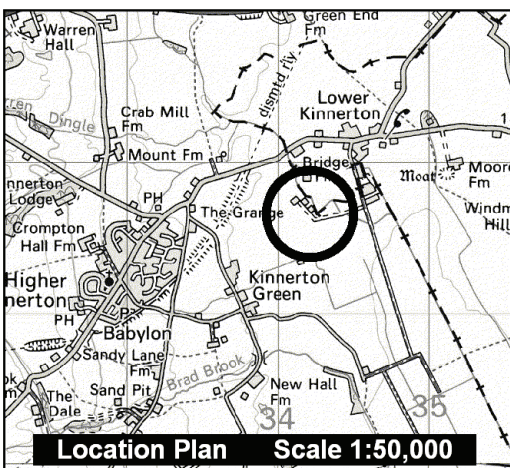
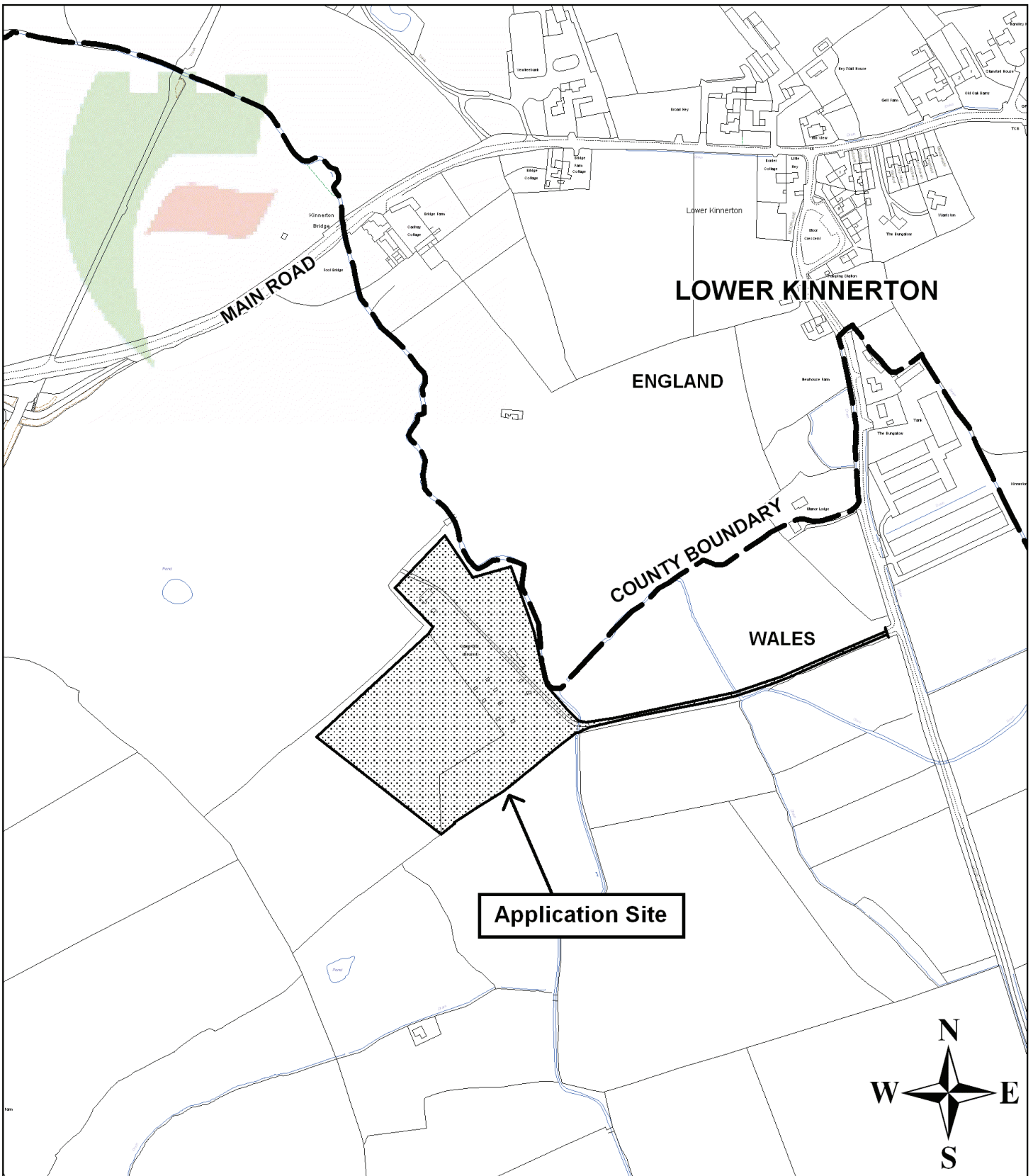
8.00 CONCLUSION

8.01 Due to the above, it is considered that the developments are considered acceptable and that permission should now be granted on a permanent basis.

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

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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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OS Map ref SJ 3461

Planning Application 50429

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FLINTSHIRE COUNTY COUNCIL

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

DATE: **WEDNESDAY 17TH APRIL 2013**

REPORT BY: **HEAD OF PLANNING**

SUBJECT: **FULL APPLICATION – RE-PLAN TO THE NORTHERN PARCEL OF FORMER BUCKLEY BRICKWORKS WITH MIX OF 2, 3 AND 4 BEDROOM DETACHED, SEMI-DETACHED AND TERRACED DWELLINGS WITH ASSOCIATED PARKING AND AMENITY SPACES ON LAND AT FORMER LANE END BRICKWORKS, CHURCH ROAD, BUCKLEY.**

APPLICATION NUMBER: **050333**

APPLICANT: **REDROW HOMES NW**

SITE: **FORMER LANE END BRICKWORKS, CHURCH ROAD, BUCKLEY**

APPLICATION VALID DATE: **05/12/2012**

LOCAL MEMBERS: **COUNCILLOR M.J. PEERS**
COUNCILLOR D. HUTCHINSON

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

REASON FOR COMMITTEE: **REQUIREMENT FOR IMPOSITION OF TERMS OF PREVIOUSLY COMPLETED SECTION 106 OBLIGATION(S) IN RESPECT OF HIGHWAY, ECOLOGICAL, AFFORDABLE HOUSING AND OPEN SPACE ISSUES.**

SITE VISIT: **NO**

1.00 SUMMARY

- 1.01 This full application proposes amendments to the northern parcel of a previously approved layout for residential development on land at the former Lane End Brickworks, Church Road, Buckley. The changes primarily incorporate the substitution of house types with associated modifications to curtilage areas. Amended plans have been received

in progression of the application with a further round of consultation undertaken.

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

2.01 That subject to the imposition of the terms of previously completed Section 106 Obligation(s) in respect of highway, ecological, affordable housing and open space in respect of this current full application that permission be granted subject to the following:-

1. Time limit on commencement.
2. In accordance with approved plans.
3. Details of external materials to be submitted and approved.
4. No dwelling to be occupied until off site highway works have been completed.
5. Access to be kerbed and completed to carriageway base course layer prior to the commencement of any other site building operations.
6. Access to have visibility splay of 4.5 m x 90 m.
7. No dwelling to be occupied until detailed layout, design, means of traffic calming and signing, surface water drainage, street lighting and construction of internal estate roads have been submitted and approved.
8. Delivery/construction traffic management programme to be submitted and approved.
9. Construction work site clearance and deliveries to be carried out between 0700 – 1830 Mondays – Fridays and 0800 – 1300 Saturdays and not on Sundays or Bank Holidays.
10. Equipped childrens play area to be provided within approved timescale.
11. Code for sustainable homes pre-commencement and part construction.
12. Land contamination survey to be submitted and approved.
13. Land drainage run-off shall not discharge into the public sewerage system.
14. No surface water to connect into the public sewerage system unless further approved in writing.
15. Foul and surface water discharges to be drained separately.
16. Scheme for comprehensive and integrated drainage of the site to be submitted and approved.

3.00 CONSULTATIONS

3.01 Local Member
Councillor M.J. Peers
Original Scheme
No response received.

Amended Scheme

Awaiting response at time of preparing report.

Councillor D. Hutchinson

Original Scheme

No response received.

Amended Scheme

Awaiting response at time of preparing report.

Buckley Town Council

Original Scheme

The Town Council recommends that any amendments made with regard to the re-plan of the northern parcel of the former Buckley Brickworks, should these amendments result in alterations to or additional roads, should amendments not render those roads as unadopted.

Amended Scheme

No observations

Countryside Council for Wales

Do not object to the proposal as it is not likely to adversely affect

- i. The Deeside & Buckley Newt Sites Special Area of Conservation.
- ii. The Buckley Claypits & Commons Site of Special Scientific Interest.
- iii. The features and integrity of the Great Crested Newt habitat.

Head of Public Protection

No objection in principle but recommend that given the site's past industrial history any permission includes conditions relating to the need to undertake a land contamination survey.

Welsh Water/Dwr Cymru

Recommend that any permission includes conditions in respect of foul, surface and land drainage.

Airbus

No aerodrome safeguarding objection.

4.00 PUBLICITY

4.01 Site Notice, Neighbour Notification

No responses received.

5.00 SITE HISTORY

5.01 **037558**

Outline – Restoration of former brickworks and quarry, development of up to 300 dwellings, creation of open space, woodland area of habitat creation and landscaping and formation of new and improved vehicular and pedestrian access.

An appeal to the Planning Inspectorate by way of a Public Inquiry in respect of application Code No. 037558 was allowed on 9th October 2006.

039052

Outline – Restoration of former brickworks and quarry, development of up to 300 dwellings, creation of open space, woodland and area of habitat creation and landscaping and construction of new and improved vehicular and pedestrian access – Withdrawn – 29th March 2007.

044109

Reserved Matters – Erection of 296 dwellings, creation of open space, woodland and area of habitat creation and landscaping – Permitted 8th December 2008.

046665

Reserved Matters – Re-plan to Plots 1-11, 131-136, 137-139 and 147-169 (33 plots in total) – Permitted 1st April 2010.

046778

Reserved Matters – Amendment to previously approved site layout to allow for a re-plan of plots 12-19, 22-29, 140-146, 154-162, 170-175 of the southern parcel and plots 176-178, 189-236, 249-256, 258-297 of the southern parcel to provide a total of 224 plots – Permitted 11th February 2011.

048632

Full Application – Substitution of house types on plots 112-116 – Permitted 12th July 2011.

049064

Full Application – Substitution of house types on plots 83, 90, 95 – 103 and 170-171 approved at reserved matters stage under ref: 046778 – Permitted 28th October 2011.

049605

Full Application – Re-plan to plots 33-36, 41-78, 121-130, 136-145 and 172 on Reserved Matters approval 046778, using house types used elsewhere on said appeal – Permitted 28th June 2012.

6.00 PLANNING POLICIES

6.01 Flintshire Unitary Development Plan

- Policy STR1 – New Development.
- Policy STR2 – Transport & Communications.
- Policy STR4 – Housing.
- Policy STR7 – Natural Environment.
- Policy STR8 – Built Environment.
- Policy STR10 – Resources.
- Policy GEN1 – General Requirements for Development.
- Policy GEN2 – Development Inside Settlement Boundaries.
- Policy GEN3 – Development Outside Settlement Boundaries.
- Policy GEN6 – Environmental Assessment.
- Policy D1 – Design Quality.
- Policy D2 – Location & Layout.
- Policy TWH1 – Trees & Woodland Protection.
- Policy TWH2 – Development Affecting Trees & Woodlands.
- Policy WB1 – Protected Species.
- Policy WB2 – Sites of International Importance.
- Policy WB3 – Sites of National Importance.
- Policy WB4 – Local Sites of Wildlife & Geological Importance.
- Policy HE6 – Scheduled Ancient Monuments.
- Policy HE7 – Other Sites of Lesser Archaeological Significance.
- Policy AC2 – Pedestrian Provision & Public Rights of Way.
- Policy AC3 – Cycling Provision.
- Policy AC4 – Major Traffic Generating Developments.
- Policy AC13 – Access & Traffic Impact
- Policy AC14 – Traffic Calming.
- Policy AC15 – Traffic Management.
- Policy AC18 – Parking Provision & New Development.
- Policy HSG3 – Housing on Unallocated Sites within Settlement Boundaries.
- Policy HSG8 – Density on Development.
- Policy HSG9 – Housing Mix & Type.
- Policy HSG10 – Affordable Housing Within Settlement Boundaries.
- Policy SR5 – Play Areas & New Housing Development.
- Policy MIN4 – Mineral Restoration & Aftercare.
- Policy EWP2 – Energy Efficiency in New Development.
- Policy EWP11 – Pollution.
- Policy EWP12 – Nuisance.
- Policy EWP13 – Derelict & Contaminated Land.
- Policy EWP14 – Development & Unstable Land.
- Policy EWP15 – Water Resources.
- Policy EWP16 – Flood Risk.

Local Planning Guidance Note 2 – Space Around Dwellings.

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

7.00 PLANNING APPRAISAL

7.01 Introduction

The site the subject of this application forms part of the former Lane End Brickworks and associated quarry located on the north eastern periphery of Buckley, the northern boundary defined by Drury Lane and the western boundary by Church Road. The area of land to the east of the development site comprises an area of former mining/quarrying activity which has subsequently colonized over time with vegetation and scrub ground cover and is now of high ecological value. This area of land is designated as a Site of Special Scientific Interest (SSSI) and Special Area of Conservation (SAC) which is a European designation primarily due to its importance as a Great Crested Newt habitat.

7.02 Background

By way of the background of planning history at this location the National Assembly for Wales allowed an appeal following a Public Inquiry under Code No. 037558 on 9th October 2006, for outline permission (subject to conditions and a Section 106 Obligation in respect of highway works, ecological requirements, affordable housing and open space provision) for the restoration of the former brickworks and quarry development of up to 300 dwellings, creation of open space, woodland and area of habitat creation and landscaping and the construction of new and improved vehicular and pedestrian accesses.

7.03 A subsequent full application for earth moving operations, site restoration and habitat creation in order to enable a commencement of preparatory ground engineering ground works, given the significant differences in site levels characterised by two steeply sided lagoons was permitted under Code No. 041630 on 11th June 2007.

7.04 A reserved matters application for the erection of a total of 296 No. dwellings comprising 264 No. dwellings and 32 No. apartments together with the creation of open space, woodland area of habitat creation and landscaping was permitted under Code No. 044109 on 8th December 2009.

7.05 This originally approved site layout has been the subject of recent applications for the substitution of house types within the development permitted under Code Nos 046778, 048632, 049064 and 049605 as referred to in paragraph 5.00 of this report.

7.06 For Members information a significant proportion of the development permitted on the southern parcel of the site which is accessed off Church Road has been undertaken, in accordance with the above permissions.

7.07 Proposed Development

This application which has been amended since initial submission

proposes revisions to the house types and curtilage areas of the plots within the northern parcel of the previously approved development. For Members information the northern parcel amounts to approximately 6 hectares with a wider site area of 19.9 hectares and is located to the east of properties on the eastern side of Church Road near to its junction with Drury Lane. Vehicular access to serve the development is proposed off Drury Lane, although there are no significant changes proposed to the internal road layout, open space and habitat creation areas.

- 7.08 The applicants have advised that the proposed revisions are partly in response to market demand and the desire to incorporate a new housing range within the scheme. Amended plans received in progression of the application propose the omission of 2 No. apartment blocks previously granted to the rear of properties at Church Road in favour of more traditional family housing units. Consequently this application proposes 140 dwelling units within the northern parcel and with 158 dwelling units within the southern parcel provides for a total of 298 dwellings within the development.

7.09 Principle of Development

The principle of residential development at this location has been established following the appeal decision in respect of outline application 037558 which was allowed on 9th October 2006. Subsequent reserved matters applications and proposals for the substitution of house types have been allowed as part of the development as referred to in paragraph 5.00 of this report. The principle of residential development on this site is therefore well established subject to ensuring a satisfactory well balanced layout and the safeguarding of residential amenity.

7.10 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.

- 7.11 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.

7.12 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 the proposed dwellings and those on the periphery of the application site are safeguarded. For Member's information the distances, orientation and fenestration details between dwellings would be in accord with the Council's Space

Around Dwellings and privacy/amenity safeguarded as part of the proposed development.

7.13 Affordable Housing Provision

In allowing the appeal for the development of up to 300 dwellings at this location under Code No 037558 on 9th October 2006, provision was made for 15% affordable housing within the site given abnormal site restoration costs. This was addressed by way of a planning condition and Section 106 obligation. As part of the subsequent reserved matters application for 296 dwellings within the sites, this required 43 plots to be provided as affordable dwellings, the terms of the initial and subsequent occupancy being controlled by the terms of the legal obligation.

7.14 The plans submitted as part of this application propose 23 No. affordable units within this northern parcel, dispersed within the site layout to provide for a mix of housing types/styles. This in combination with the 21No affordable units currently being developed/proposed within the southern parcel will provide for a level of provision of 15% (44 units) given that the total number of units within the site has been increased from 296 – 298.

7.15 Impact on Protected Wildlife Habitats

As previously highlighted the proposed development at this former Lane End Brickworks encompasses an area that is adjacent to and within the Buckley Claypits and Commons Site of Special Scientific Interest (SSSI) and the Buckley and Newts Special Area of Conservation (SAC). As part of the outline planning permission for the development of the site allowed on appeal under Code No. 037558 a Section 106 Obligation and planning conditions have been imposed to provide mitigation measures and appointment of a warden to secure the long term management of the Great Crested Newt habitat.

7.16 It has been confirmed by the Countryside Council for Wales that the proposed development the subject of this application would not have any direct impact on those features of ecological interest. It is my view that provided the terms of the initial Section 106 Obligation relating to the wardening of the site are included as part of this full application that this aspect of the development can be adequately safeguarded.

7.17 Adequacy of Highways

For Members information the principle of the development on the scale proposed has been established on appeal to the Planning Inspectorate. There are no significant changes to the road layout for the site which was previously permitted under Code No. 044109 and as the roads are to be offered for adoption by the Council, the Head of Highways therefore has no objection to the proposed development. Minor modifications are however required to some of the private drive

arrangements to serve a number of the dwelling units. At the time of preparing this report amended plans were being prepared and Members will be advised of their receipt and acceptability at the Planning and Development Control Committee.

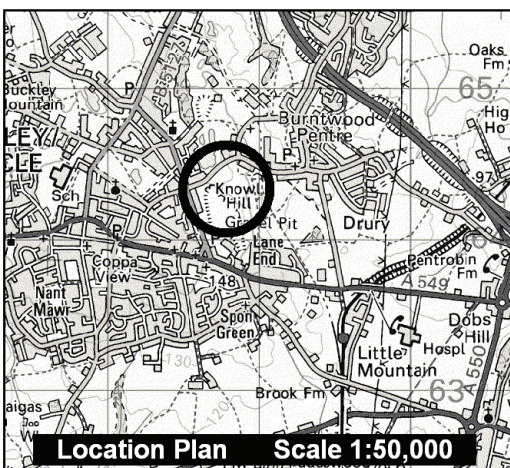
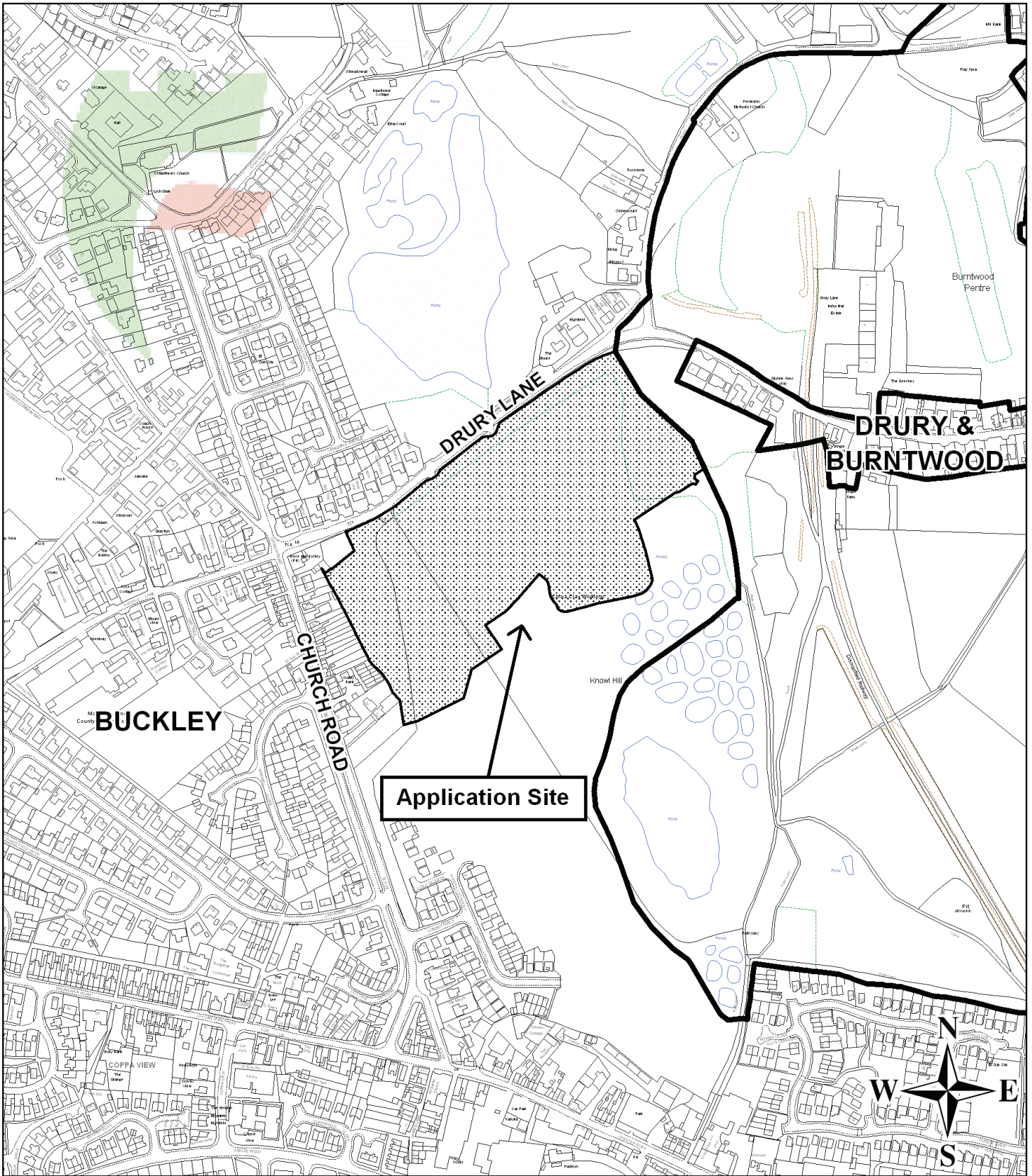
- 7.18 The site layout also proposes an alternative area of car parking to the rear properties on Church Road to compensate for the future loss of existing on-street parking at this location. This car parking area would provide for 15 No. vehicle spaces accessed off a 4.5m wide road which it is proposed be brought up to adoptable standards incorporating street lighting.

8.00 CONCLUSION

- 8.01 It is considered that the proposed modifications to the northern parcel of the site layout including an increase in the overall total number of dwellings from 296–298 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, subject to the imposition of a Section 106 Obligation to address highway, ecological affordable housing and open space issues can 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: Mark Harris
Telephone: mark.harris@flintshire.gov.uk
Email: (01352) 703269

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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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OS Map ref SJ 2864

Planning Application 50333

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FLINTSHIRE COUNTY COUNCIL

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

DATE: **17th APRIL 2013**

REPORT BY: **HEAD OF PLANNING**

SUBJECT: **FULL APPLICATION - ERECTION OF 5NO. BUNGALOWS AND 4NO. TOWNHOUSES, TOGETHER WITH 2NO. SEPARATE POINTS OF VEHICULAR ACCESS ON LAND FORMERLY "LLWYN ONN", HALKYN ROAD, HOLYWELL, FLINTSHIRE.**

APPLICATION NUMBER: **050435**

APPLICANT: **CAMWAY PROPERTIES LTD**

SITE: **LAND AT "LLWYN ONN", HALKYN ROAD, HOLYWELL, FLINTSHIRE.**

APPLICATION VALID DATE: **22ND FEBRUARY 2013**

LOCAL MEMBERS: **COUNCILLOR P. J. CURTIS**

TOWN/COMMUNITY COUNCIL: **HOLYWELL TOWN COUNCIL**

REASON FOR COMMITTEE: **THE PROPOSALS REQUIRE THE APPLICANT TO ENTER INTO A S.106 AGREEMENT IN RELATION TO EDUCATIONAL CONTRIBUTION, POWERS FOR WHICH ARE NOT DELEGATED.**

SITE VISIT: **NO**

1.00 SUMMARY

- 1.01 This full application seeks permission for the re-development of this site to provide 5No. bungalows via a private drive access from Fron Park Road and 4No. townhouses via a private drive access off Halkyn Road, Holywell. The proposals provide for a pedestrian link between the 2 proposed sets of dwellings but no through vehicular route is provided.
- 1.02 During the consideration of the application, issues in respect of design, layout, access, drainage proposals, recreation provision and educational requirements have been negotiated and resolved subject to the imposition of conditions and a S106 agreement.

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

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

- a. Payment of £24,514 towards educational provision/improvements at Perth Y Terfyn Infants School. This contribution shall be paid prior to the commencement of development upon the site.
- b. Payment of £9900 towards the upgrade of existing recreational facilities within the locality. This contribution shall be paid upon completion of the sale of the 2nd dwelling upon the site.

Conditions

1. Time limit.
2. In accordance with approved plans.
3. Drainage scheme to be submitted, agreed and implemented.
4. Materials to be submitted and agreed.
5. Landscaping to be submitted, agreed and implemented.
6. Implementation of landscaping.
7. Tree protection as per approved scheme prior to commencement of development. Works to accord with tree report.
8. Dwellings to be CFSH compliant.
9. Code for Sustainable Homes "Interim Certificate" to be submitted before work commences.
10. Code for Sustainable Homes "Final Certificate" to be submitted before houses occupied.
11. No site clearance works during bird nesting season
12. Scheme for hours of working to be agreed.
13. Construction traffic management and routing scheme to be agreed. To include facility for wheel wash and measures to keep road free from mud arising from development site.
14. No lopping topping or felling of trees or hedgerows.
15. Remove Permitted Development rights for further extensions, structures and openings.
16. Such highway conditions as may be required.

3.00 CONSULTATIONS

3.01 Local Member

Councillor P. J. Curtis

No objection to a delegated determination.

Holywell Town Council

No objection provided appropriate boundaries are provided between

the site and the adjacent school.

Head of Assets and Transportation

No response at time of writing.

Head of Public Protection

No objection subject to the imposition of a condition in relation to noise attenuation glazing.

Public Open Spaces Manager

Requests a commuted sum in lieu of on site play provision of not less than £1100 per unit. Such sum to be used to enhance existing provisions in the community.

Director of Lifelong Learning

Advises that a commuted sum towards the provision of educational facilities at Perth Y Terfyn Infants School is required address the demands arising from the anticipated 2 additional pupils. Advises this sum should be £24,514.

Dwr Cymru Welsh Water

No response at time of writing.

4.00 PUBLICITY

4.01 The proposal has been advertised by way of a site notice and neighbour notification letters.

4.02 No responses have been received at time of writing.

5.00 SITE HISTORY

5.01 **08-045522**

Outline erection of 2/3 storey apartments with associated car parking.
Permission 23.3.2009

12-049804

Erection of 5No. bungalows and 4No. townhouses and creation of access.

Withdrawn 3.1.2013

6.00 PLANNING POLICIES

6.01 Flintshire Unitary Development Plan

Policy STR1 - New Development

Policy GEN1 - General requirements for development

Policy GEN2 - Development inside Settlement Boundaries

Policy D1 - Design Quality, Location and Layout

Policy AC13 - Access and Traffic Impact

- Policy AC18 - Parking Provision and New Development
- Policy HSG3 - Housing on unallocated sites within settlement boundaries
- Policy IMP1 - Planning Conditions and Obligations

6.02 The above policies generally relate to the principle of residential development upon sites within settlement boundaries and the design and access considerations associated with such proposals. The proposals would generally comply with the requirements of policy in this regard.

7.00 PLANNING APPRAISAL

7.01 Site Description

The site was lastly occupied by a detached property known as Llwyn Onn. This building has been demolished and the site is now an open area comprising the grassed former garden area and overgrown footprint of the former building. The site contains a number of mature trees upon its boundaries to the north and east in particular. Established hedgerows are a feature of both eastern and southern boundaries of the site. Stone walls form a hard boundary to the eastern and western site boundaries.

7.02 The site slopes downhill from its boundary with Fron Park Road to the west towards its eastern boundary with Halkyn Road to the north. The site is generally flat across its north and south axis and is generally reflective of the topography of the surrounding area.

7.03 The site is bounded to the south by two residential properties, one of which is a bungalow and the other a 2 storey dwelling. Ysgol Perth-y-Terfyn and its grounds abut the site to the north. The highway known as Fron Park Road abuts the western edge of the site with further residential properties beyond. Halkyn Road abuts the eastern boundary with Holywell Community Hospital and Bodowen doctors surgery located upon the land beyond.

7.04 The Proposal

It is proposed to erect a total of 9 dwellings upon the site. The proposals provide 5No. detached bungalows upon the southernmost part of the site and 4No. 2 storey townhouses in a terrace fronting the southern boundary of the site.

7.05 The bungalows provide for 3 bed accommodation with 2No. providing an attached single garage. The townhouses provide for 2 bed accommodation. Car parking for the remaining 7 dwellings is provided via driveway or parking court provision. 2 storey dwellings and 2No. 2 storey dwellings. The dwellings are arranged such that 9No. dwellings provide 2 bed accommodation. All of the dwellings would achieve Level 3 of the Code for Sustainable Homes.

- 7.06 Vehicular access is proposed to the site in 2 locations, both of which are independent of the other. Existing access points into the site from Fron Park Road to the north and Halkyn Road to the south are proposed to be improved to facilitate access. The southerly access is proposed to serve the townhouses whilst the northernmost access will serve the bungalows. A pedestrian link through the site is provided but no provision is made for through traffic.
- 7.07 Main Planning Issues
It is considered that the main planning issues can be summarised as;
- a. Principle of development having regard to the planning policies and other material considerations,
 - b. Layout, design and amenity impacts.
 - c. Highways and access.
 - d. Public open space and recreation provision.
 - e. Education contributions.
- 7.08 Principle of Development
The site is located within the settlement boundary of Holywell as set out in the Delyn Local Plan and the Flintshire Unitary Development Plan (FUDP) where the principle of residential development is acceptable subject to meeting identified criteria relating to access and visual and residential amenity.
- 7.09 The proposals for 9 dwellings would amount to a density of development of 21 dwellings per hectare. Whilst upon the face of it, this would appear to be below the yields expected to be achieved in developing an unallocated site within a category A settlement, Regard must also be had to the provisions of other policies within the Plan. In this regard, the provisions of Policies HSG8 and HSG9 bear upon this consideration.
- 7.10 Policy HSG9 concerns itself with the need for proposals to provide a mix of dwellings with the aim to create mixed and socially inclusive communities. In This regard, the provision of single and 2 storey dwellings accords with this policy aim. Furthermore, the satisfaction of this policy also accords with the requirements of criterion c. of Policy HSH8 which requires that the density of a proposed development should allow for the provision of a range of house types. In addition, this policy requires that densities should be appropriate to the quality of the living environment to be provided whilst satisfying the requirements in respect of safeguarding amenity.
- 7.11 As this appraisal demonstrates, the proposals achieve the required levels of space about dwellings and respect the relationship of existing abutting dwellings and uses to the proposed dwellings. Given this, I am satisfied that the proposals represent a form of development at a

density which is acceptable in principle.

7.12 Layout, Design and Amenity Impacts

The proposed design and layout of this scheme has evolved to respond to the constraints of the site. As stated above, the site slopes steeply downhill from south to north, and this gradient is such that an access to adoptable standard cannot be engineered such that would not adversely impact upon the amenity of future occupiers of the dwellings. Accordingly, the scheme proposes a site developed via 2 points of private access. This enables the gradients of each respective half of the site to be sympathetically engineered to ensure that both existing and future residential amenities are protected.

7.13 The site is bounded by many mature trees and hedges and has a number of trees of varying species, sizes and quality within its boundaries. The scheme has evolved to ensure that the maximum possible number of trees are retained. This has necessitated the survey of the condition of the trees. These survey works have identified that a number of the trees within the interior of the site are either young self seeded specimens, domestic fruit trees which are either dead or of poor quality and larger specimens, such as the Monterey Cypress, which, due to their species and in this case, size and condition, are not considered appropriate to be retained in connection with a residential development scheme.

7.14 The hedgerows to the north and eastern boundaries of the site are proposed to be retained. The improvement works required at the point of access on Halkyn Road are not such that requires the removal of any hedgerow as the current access splay is formed by a low stone wall which extends along Halkyn Road, over which the frontage hedge grows. Points of 'garden gate' pedestrian access are proposed to be created through the wall and hedge and some localised removal will be required to facilitate this. I am agreeable to this proposals as this will serve to enhance the feeling of the townhouses having a street presence and frontage behind this mature and well established boundary, to the advantage of the street scene overall.

7.15 I consider that the layout of the proposed development, whilst not reflective of the significantly spacious character of existing residential form in the immediate surroundings, is nonetheless appropriate bearing in mind the location of the site within the settlement boundary of Holywell as a category A settlement. The proposals provide for acceptable levels of space around dwellings and provide adequate separation from existing built development and I consider that the proposals will not adversely affect either residential or visual amenity to a degree which would be considered unacceptable. I do propose, in the interests of maintaining the safeguards to amenity, to remove permitted development rights for residential ancillary development via an appropriately worded condition.

- 7.16 The dwellings are situated to the eastern part of the site in order that the significant tree belt which abuts the neighbouring Pert y Terfym Infants school and its grounds is not significantly compromised as a result of the proposals. The arboricultural survey indicates areas abutting this belt of trees will require the private drives to be provided utilising a 'no-dig' construction. However, as these requirements are clearly set out within the application particulars, I see no need to replicate the need for the same through a specific condition.
- 7.17 Accordingly and notwithstanding representations made, I consider the proposals provide an adequate and appropriate response to the design issues raised in connection with the consideration of this application.
- 7.18 Highways and Access
There are presently 2 vehicular access points to the site but only the access from Halkyn Road has been used in connection with the last use of the site. Another access point from Fron Park Road exists and this is proposed to be used in connection with the proposed scheme.
- 7.19 Access and highways considerations in respect of this site have resulted in this amended application being submitted and differs from the previously withdrawn scheme in that the site is proposed to be served by 2 access, each independent of one another and unconnected internally within the site. Each of the internal highways from these access points are proposed to be provided as private drives and are not proposed to be not adoptable highways. The proposals seek to ensure the site remains permeable from north to south and vice versa via the provision of a footpath link through the site between the 2 private drives.
- 7.20 The Head of Assets and Transportation has considered the proposals and the supporting information and concludes the proposals would not give rise to any issues which would detrimentally affect highway safety and therefore has no objections subject to the specified conditions.
- 7.21 Recreation and Public Open Space Provision
In response to consultation, the Head of the Play Unit has advised that there is no requirement for the on site provision of play and recreation facilities. He advises however, that a commuted sum towards other provision, off site, but within the locality should be sought in line with Local Planning Guidance Note 13.
- 7.22 To this end, a sum of not less than £1100 per dwelling is sought (total £9900) to be paid to the Council for use in upgrading existing facilities within Holywell community.
- 7.23 Educational Contributions
Consultation with the Director of Lifelong Learning in respect of the likely impact of the proposed development upon educational facilities

within the locality has identified that the 2 primary aged pupils likely to arise from the development would result in an adverse impact upon the educational facilities at the nearby Perth y Terfyn Infants School. No adverse impact at secondary school level is anticipated and therefore the request for contributions towards satisfying the educational needs at the school to provide for the additional pupils is restricted to primary school level only. It should be noted that calculations in respect of anticipated pupil numbers and the resultant level of contribution accord with the provisions of Supplementary Planning Guidance Document No. 23 – Developer Contributions to Education (SPG). This document was adopted by the Council on 17th July 2012.

7.24 I am advised that Perth y Terfyn Infants School presently has 125 pupils on the roll and a capacity of 110 pupils. Consequently the school capacity is exceeded by 15 pupils. Therefore the formula identified within the SPG, applying the anticipated pupil numbers of 2, would indicate that a sum of £24,514 would be required under this guidance.

7.25 For the avoidance of doubt, there is no secondary school contribution sought as the secondary school serving the catchment area is Holywell High School, which presently has 50% surplus places and therefore the capacity triggers of the SPG are not triggered.

7.26 Other Matters

Dwr Cymru have advised that there is no objection to the proposals upon drainage grounds and have requested that conditions relating to the prohibition of surface and land water drainage being discharged into the public system. I propose to impose a condition requiring the site drainage system to be submitted, agreed and subsequently implemented. This single condition will encompass the issues suggested by Dwr Cymru.

8.00 CONCLUSION

8.01 I am satisfied, having had regard to the provisions of the applicable policies and all other material considerations, that this proposal would accord with the provisions of the same and would, through the suggested agreement and conditions, represent an appropriate and acceptable form of development in this location.

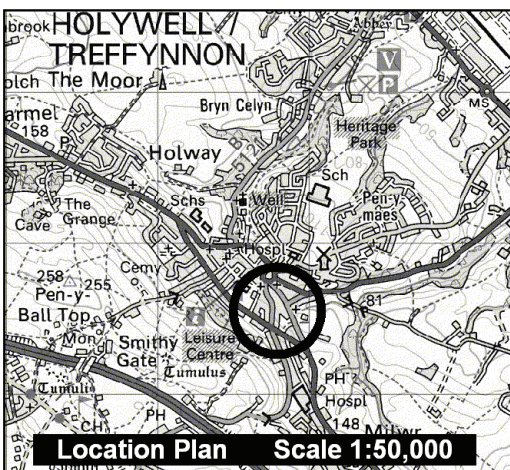
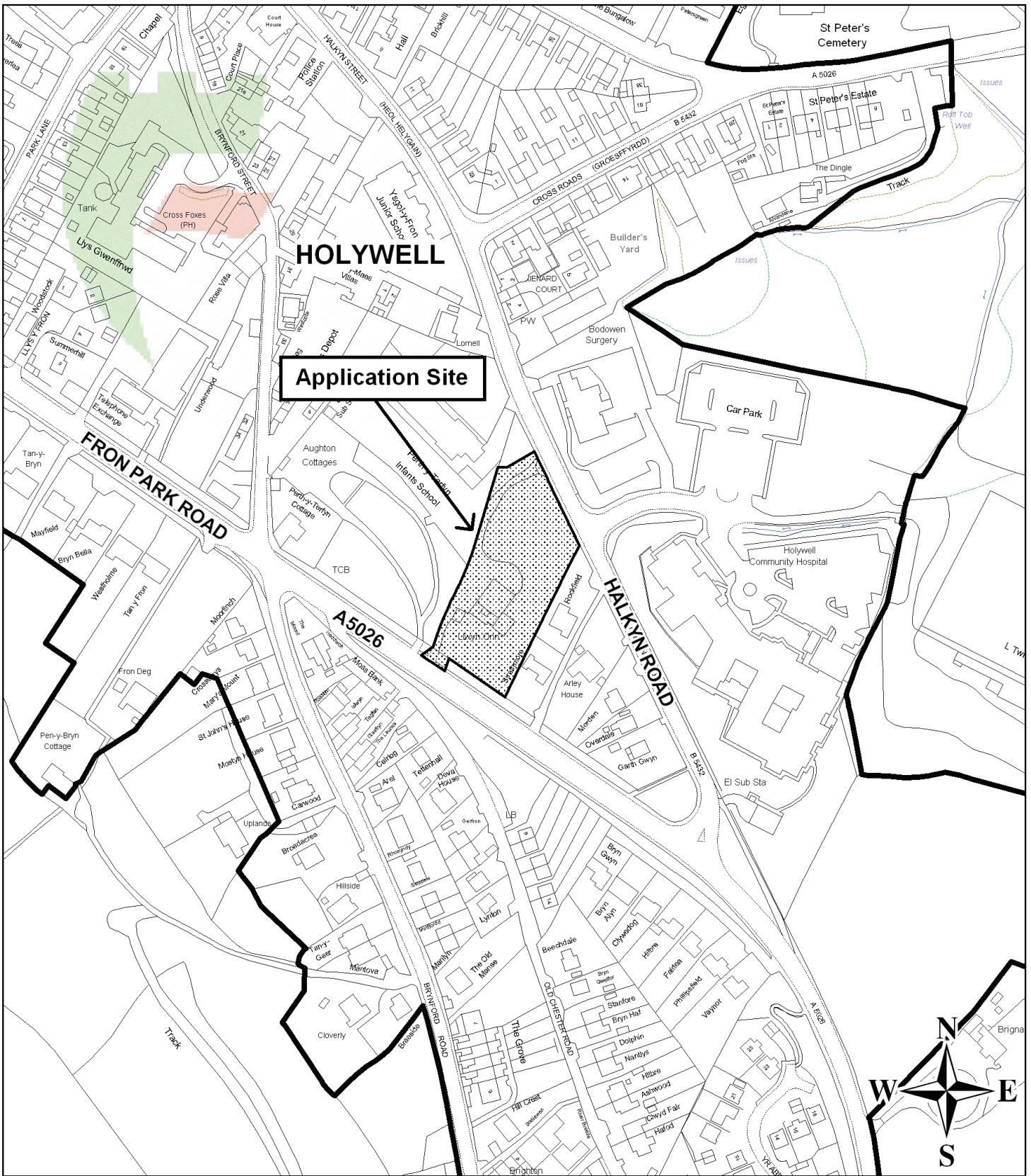
8.02 In considering this planning application the Council has acted in accordance with the Human Rights Act 1998 including Article 8 of the Convention and in a manner which is necessary in a democratic society in furtherance of the legitimate aims of the Act and the Convention.

Contact Officer: David Glyn Jones

Telephone:
Email:

01352 703281
glyn_d_jones@flintshire.gov.uk

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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

OS Map ref SJ 1875

Planning Application 50435

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FLINTSHIRE COUNTY COUNCIL

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

DATE: **17TH APRIL 2013**

REPORT BY: **HEAD OF PLANNING**

SUBJECT: **FULL APPLICATION – SUBSTITUTION OF HOUSETYPES ON PLOTS 18, 19, 20, 30, 31 AND 32 APPROVED UNDER APPLICATION 048892 FOR THE ERECTION OF 87 DWELLINGS AT WHITE LION PUBLIC HOUSE, CHESTER ROAD, PENYMYNYDD.**

APPLICATION NUMBER: **050469**

APPLICANT: **ELAN HOMES LTD**

SITE: **LAND AT FORMER WHITE LION PUB, CHESTER ROAD, PENYMYNYDD, FLINTSHIRE**

APPLICATION VALID DATE: **13th FEBRUARY 2013**

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

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

REASON FOR COMMITTEE: **THE APPLICATION REQUIRES LINKING TO THE S.106 AGREEMENT PREVIOUSLY AGREED IN RELATION TO THE DEVELOPMENT OF THIS SITE**

SITE VISIT: **NO**

1.00 SUMMARY

1.01 This Section 73 application seeks permission to amend the approved house types upon 6 of the previously approved plots. The amendments do not result in any difference in the numbers of dwellings to be erected at this site.

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

2.01 That conditional planning permission be granted, subject to the applicant entering into a supplemental S.106 agreement which links the permission granted under this planning application to the

provisions of the S.106 agreement entered into under Permission Ref: 048892, providing for the following;

- a. The provision of 6No. affordable homes to be presented to the Council as gifted units and allocated in accordance with a local lettings policy to pilot the Council's Rent to Save to Homebuy scheme to applicants on the affordable Homeownership Register.
- b. Ensure the payment of a contribution of £261,560 towards affordable homes provision.
- c. Ensure the transfer of wildlife mitigation land to a suitable body, together with the precise methods and means for the securing of its future management, monitoring and funding.
- d. Payment of £73,500 towards primary level educational provision/improvements at St. John the Baptist V.A school and £52,500 towards secondary level educational provision/improvements at Castell Alun High School.
- e. Payment of £2,500 for costs incurred for amending Highway Access Restriction Order.

Conditions

1. Time limit on commencement.
2. In accord with approved plans.
3. Samples and/or precise details of all external materials of dwellings, hard surfaces, footpaths and driveways to be submitted and approved.
4. Landscaping scheme to be submitted and agreed prior to occupation of any dwellings hereby approved. Such scheme to include supplementary planting/hedgerow between on site ecological mitigation space and Footpath 9.
5. Implementation of landscaping proposals.
6. Code for Sustainable Homes "Interim Certificate" to be submitted before work commences.
7. Code for Sustainable Homes "Final Certificate" to be submitted before houses occupied.
8. Scheme for 10% reduction of carbon outputs.
9. No development to commenced until developer has proposed a scheme for the comprehensive drainage of foul, surface and land waters from site had been approved in writing by the Local Planning Authority.
10. The foul drainage point of connection shall be agreed in writing and in accordance with a hydraulic modelling exercise, prior to the commencement of development.
11. None of the dwellings approved shall be occupied until the off site foul drainage infrastructure works have been completed.
12. Photographic study of building to be undertaken prior to works commencement.

13. No site clearance works during bird nesting season
14. No dwellings shall be occupied until the approved mitigation scheme is implemented.
15. Scheme of Reasonable Avoidance Measures to be submitted and agreed prior to works commencement. Such scheme to include measures for reduction of potential amphibian capture during and post construction.
16. Scheme for hours of working to be agreed.
17. Construction traffic management and routing scheme to be agreed. To include facility for wheel wash and measures to keep road free from mud arising from development site.
18. Protective fencing as per Arboricultural report to be provided before works commencement.
19. Remediation measures to be undertaken in accordance with scheme agreed and prior to occupation of dwellings. Validation and verification reports to be provided prior to occupation of the dwellings.
20. Submission and agreement of scheme for equipping, layout, landscaping, management and maintenance of the play area and surrounding space prior to works commencement.
21. Notwithstanding the submitted details, prior to commencement a scheme for entrances walls to be submitted and agreed.
22. Archaeological watching brief for area of public house.
23. Accoustic measures to be submitted and agreed.
24. Detailed design, layout, signage, lighting and construction details of highway to be submitted and agreed.
25. No development until A5104 improvements submitted and agreed.
26. No development until timings, phases and duration of A5104 works submitted and agreed.
27. Access details onto A5104 to be agreed before work commences.
28. Visibility splays of 2.4m x 43m.
29. Access formation completed to base course before other site works.
30. Parking and turning facilities.
31. Scheme for surface run-off prevention to be submitted and agreed.
32. Scheme for protecting Footpath 9.

3.00 CONSULTATIONS

3.01 Local Members

Councillor Mrs. C. Hinds

No response at time of writing.

Councillor D. T. M. Williams

No response at time of writing.

Penyffordd Community Council
No response at time of writing.

Head of Assets and Transportation
No objection.

Head of Public Protection
No adverse comments.

Welsh Water/Dwr Cymru
No response at time of writing.

Environment Agency
No adverse comments.

Countryside Council for Wales
No objections.

Clwyd Powys Archaeological Trust
No response at time of writing.

Airbus
No response at time of writing.

The Coal Authority
No response at time of writing.

The Ramblers Association
No objection.

4.00 PUBLICITY

4.01 The application has been publicised by way of a press notice, site notice and neighbour notification letters.

4.02 At the time of writing, No responses have been received as a result of the above publicity of this application.

5.00 SITE HISTORY

5.01 **445/64**
Outline - residential development
Refused.

72/501
Outline - residential development
Withdrawn.

4/12/18113

Outline - residential development
Withdrawn 21.7.1992

04/038605

Erection of 115 dwellings and ancillary works
Refused 18.4.2005

11/048892

Erection of 88 dwellings and ancillary works
Permitted subject to S.106 Agreement 26.10.2012

13/050400

Substitution of 16 housetypes.
?????

6.00 PLANNING POLICIES

6.01 Flintshire Unitary Development Plan

Policy STR1 - New Development
Policy GEN1 - General Requirements for Development
Policy GEN2 - Development inside settlement boundaries
Policy HSG1(51) - New Housing Development Proposals
Policy HSG8 - Density of Development
Policy HSG9 - Housing Type and Mix
Policy HSG10 - Affordable Housing within Settlement Boundaries
Policy D1 - Design Quality, Location and Layout
Policy D2 - Design
Policy D3 - Landscaping
Policy AC2 - Pedestrian Provision and Public Rights of Way
Policy AC13 - Access and Traffic Impacts
Policy AC18 - Parking Provision and New Development
Policy SR5 - Outdoor Playing Space and New Residential Development
Policy EPW2 - Energy Efficiency in New Development
Policy EWP3 - Renewable Energy in New Development
Policy TWH1 - Development affecting Trees and Woodlands
Policy TWH2 - Protection of Hedgerows
Policy WB1 - Species Protection

7.00 PLANNING APPRAISAL

7.01 Introduction

This application is submitted under S.73 of the Act and seeks permission for the variation of the approved scheme via the substitution of house types upon 6No. plots upon the site. No other modifications are sought via this application.

7.02 The Proposed Development

The proposals seek to substitute the house types approved upon 6 of the plots upon this site. The plots in question, Nos 18, 19, 20, 30, 31

and 32 all presently provide for detached 5 bedroom dwellings. 3 of the dwellings proposed to be substituted are also detached 5 bedroom dwellings. The other 3 dwellings propose 4 bed accommodation in substitution.

7.03 Principle of Development

The principle of the development of this site is established via the recent grant of planning permission under Reference 048892. This application proposes no other modifications to the proposed development in any other regard and therefore there is no objection in principle to the proposals.

7.04 Design, Layout, Housing Mix & Affordability

The proposed dwellings to be introduced into this site are consistent with the design and appearance of the dwellings previously approved upon the identified plots. There are differences in the composition of the dwellings and some elevational differences but their design and appearance is consistent with the scheme as a whole. The proposals involve no alteration to the layout of the development site as a whole.

7.05 A query has been raised as to whether these proposals would impact upon the mix of dwellings offered via this scheme. I would advise that whilst 3 of the proposed substitution dwellings provide for 4 bed accommodation as opposed to the approved 5 bed accommodation, these proposed changes do not amount to a variation which adversely affects the composition and mix of dwellings offered through this scheme. The proposals do not relate to any of the dwellings previously agreed to be affordable dwellings and the substitutions do not result in the loss of any semi-detached dwellings.

7.06 S.106 Matters

Members are advised that this application brings about no changes to the provisions secured via the S.106 agreement under reference 048892.

7.07 However, Members will appreciate that a permission granted under a S.73 application has the effect, upon implementation, of rendering the application the operative permission for the site. In those circumstances, unless a supplementary S.106 agreement is secured in the terms set out in Section 2 of this report, the requirements of the original S.106 agreement are no longer linked to the operative permission and therefore the Authority would have no basis to compel compliance with such an agreement as the site is being developed pursuant to a different permission not linked to that agreement.

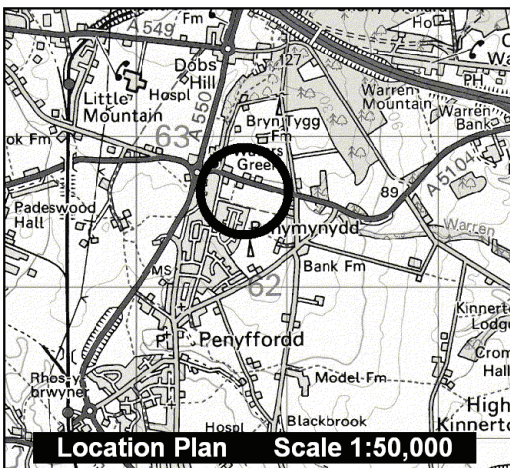
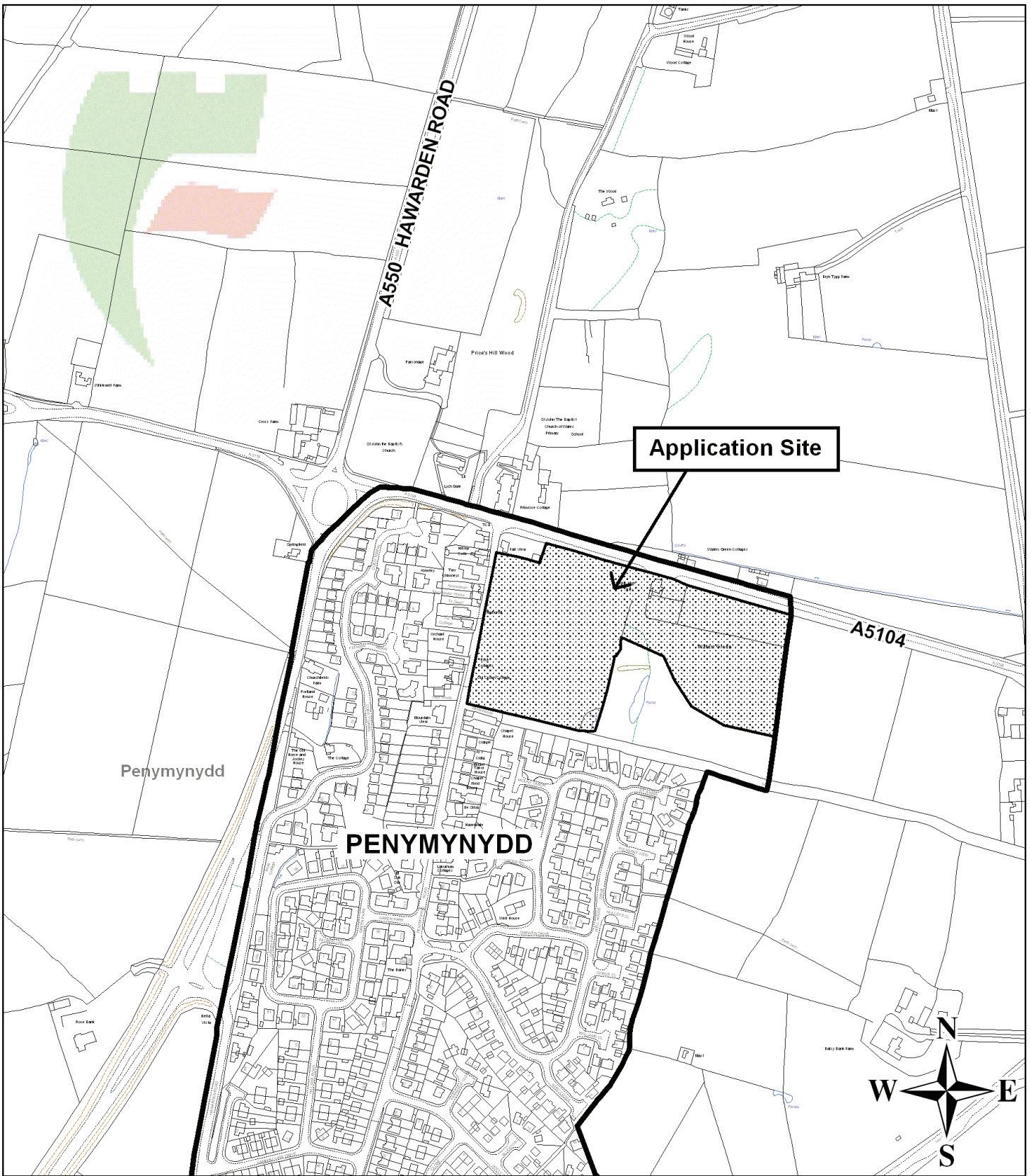
7.08 Members should be reassured that the proposed supplemental S.106 agreement will ensure that such a situation will not arise.

8.00 CONCLUSION

- 8.01 The proposals are in line with the applicable policy context and accord with the aims of the earlier granted planning permission for this site. I consider that, subject to the imposition of the previously agreed suite of conditions and the applicant entering into a supplemental S.106 agreement, the scheme is acceptable.
- 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: David Glyn Jones
Telephone: 01352 703281
Email: glyn_d_jones@flintshire.gov.uk

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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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OS Map ref	SJ 3062
Planning Application	50469

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FLINTSHIRE COUNTY COUNCIL

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

DATE: **WEDNESDAY 17TH APRIL 2013**

REPORT BY: **HEAD OF PLANNING**

SUBJECT: **FULL APPLICATION - CONSTRUCTION OF A LINED EARTH BANKED SLURRY STORE 25.5M X 20M X 3M ADJACENT TO THE EXISTING SLURRY STORE AT BRYN CELYN FARM, PEN Y FRON ROAD, RHYDYMWYN, MOLD**

APPLICATION NUMBER: **050551**

APPLICANT: **MR & MRS PAUL DAVIES-COOKE**

SITE: **BRYN CELYN FARM, PEN Y FRON ROAD, RHYDYMWYN, MOLD**

APPLICATION VALID DATE: **27/02/2013**

LOCAL MEMBERS: **MS. A. DAVIES-COOKE**

GWERNAFIELD COMMUNITY COUNCIL: **GWERNAFIELD COMMUNITY COUNCIL:**

REASON FOR COMMITTEE: **APPLICANT IS RELATED TO AN ELECTED MEMBER.**

SITE VISIT: **NO**

1.00 SUMMARY

1.01 This application seeks planning permission for the construction of a lined earth banked slurry store adjoining an existing slurry store at Bryn Celyn Farm, Pen y Fron Road, Rhydymwyn, Mold, CH7 5HT.

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

2.01 The application is recommended for approval subject to the following conditions:-

1. Time limit on commencement
2. In accordance with the approved plan
3. Survey of nature and extent of mining activities to be undertaken
4. Details of stock proof fence to be submitted and agreed

3.00 CONSULTATIONS

3.01 Local Member:- Has declared an interest.

Gwernafield Community Council:

No response at time of writing.

Head of Public Protection

No objection in principle, however, the proposed slurry pit is in an area with lead mining history and our records indicate that there appear to be mine shafts in close proximity. Recommend that a condition is attached to any approval. The condition relates to no development shall take place until a survey of the nature and extent of mining activities of the site has been carried out, in order to ascertain the grounds stability for the construction of the slurry pit. If any ground mining activities are found during the site survey a report specifying the measures to be taken to remediate the site to render it suitable for the development shall be submitted and approved. If during the course of development contamination is found which has not been identified in the site investigation, additional measures for the remediation of this contamination.

Environment Agency

Have no objections to the proposed development in principle. The development must however fully comply with the terms of the water resources (Control of Pollution)(Silage, Slurry and Agricultural Fuel Oils)(Wales) Regulations 2010.

4.00 PUBLICITY

4.01 Site Notice, no response at time of writing.

5.00 SITE HISTORY

5.01 **049077**

Construction of a reinforced mass concrete slurry store.- Permit 21st November 2011

6.00 PLANNING POLICIES

6.01 Flintshire Unitary Development Plan

Policy GEN1 - General Requirements for Development

Policy GEN 3 - Development in the Open Countryside

Policy D2 - Design

Policy L1 - Landscape Character

7.00 PLANNING APPRAISAL

7.01 Introduction

The application which forms a full planning application is for the construction of a lined earth banked slurry store adjoining the existing slurry store at Bryn Celyn Farm, Pen y Fron Road, Rhydymwyn, Mold, CH7 5HT.

7.02 Proposed Development.

The proposal which forms a full planning application is for the construction of a lined earth banked slurry store adjacent to the existing farm complex at Bryn Farm. An existing 9.1 metre by 27.5 metre slurry store is located on the site and the proposed additional store will be located to the north east of the farm complex and to the north western side of the existing store on the site. The new store is required under to comply with the Nitrate Vulnerable Zone (NVZ) Regulations which aim to stop the pollution of the water courses.

7.03

The proposed slurry store will measure 25.5 metres by 20 metres with a depth of 2.5 metres with an additional 0.5 metre freeboard which will give a total depth of 3 metres. The land in question presently forms part of a field with the land sloping in from west to east, thus the area of land excavated will be used to form the bund area with the side facing down the slope having a height of 2 metres with a 30 degree slope. At the top of the embankments the plans show the provision of a stock proof fence. Given details have not been supplied a condition has been included to request details of the fence. The Environment Agency have been consulted on the application and raise no objections to the proposal. They have noted that the development must however fully comply with the terms of the water resources (Control of Pollution)(Silage, Slurry and Agricultural Fuel Oils)(Wales) Regulations 2010.

7.04

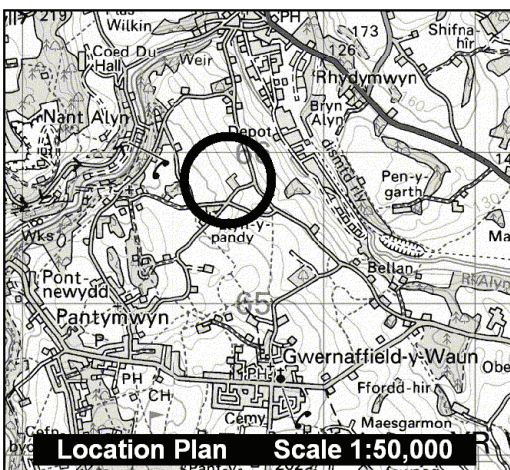
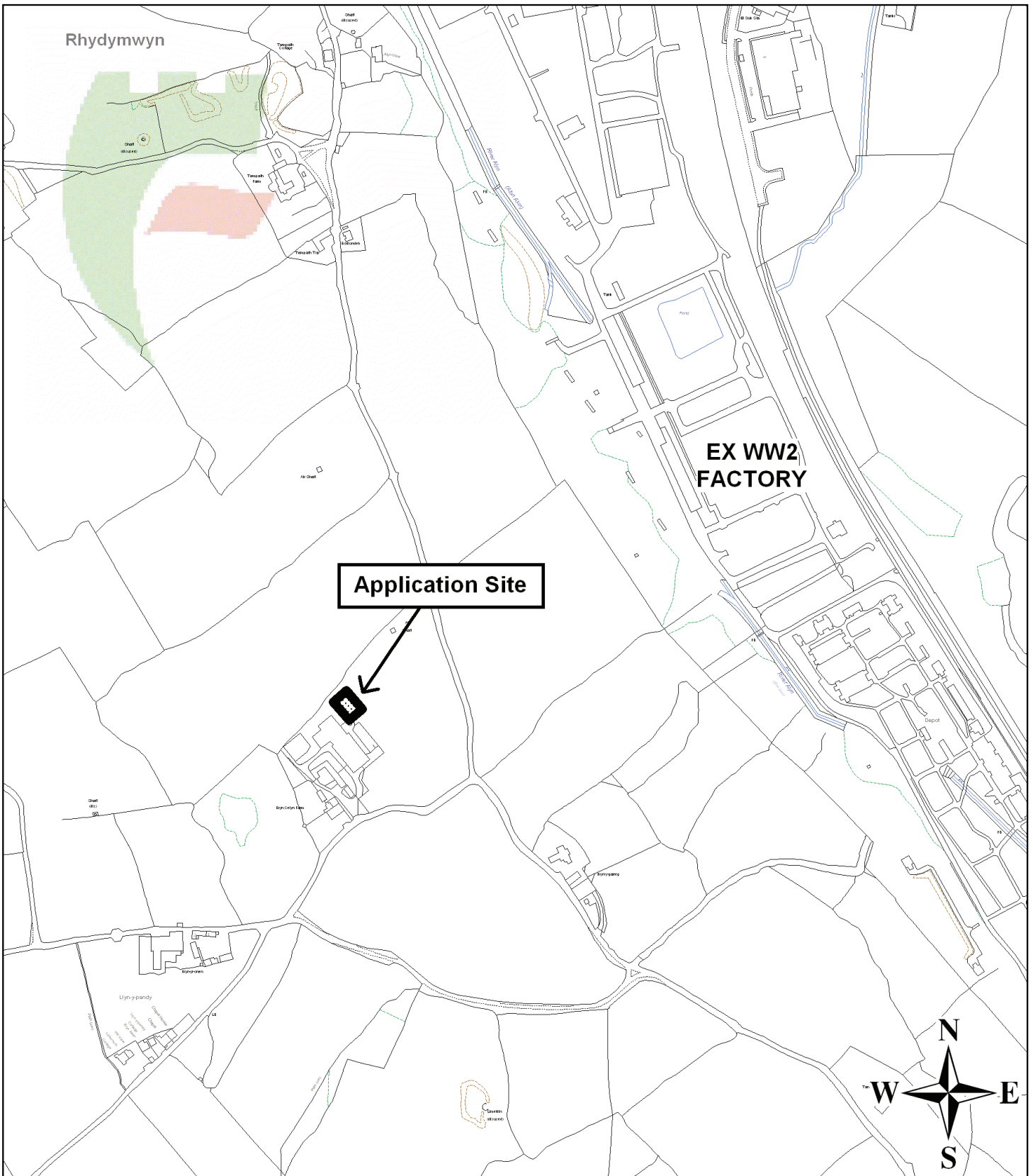
In 2011 under planning reference 049077 planning permission was granted for the construction of a reinforced mass concrete slurry store, in a position similar to that now proposed. The new store is an alternative to that proposed and the principle of the development is acceptable given the site is located on an existing farm complex and the proposal is for the provision of an improved and larger slurry storage area. Such provision is to conform with the Environment Agency requirements for NVZ Regulation.

8.00 CONCLUSION

- 8.01 It is considered that the proposal is acceptable in terms of visual impact and given the Head of Public Protection raises no objection subject to appropriate condition the application be recommended for approval.

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: Mr. K. Slater
Telephone: 01352 703259
Email: karl.slater@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 50551

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FLINTSHIRE COUNTY COUNCIL

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

DATE: **WEDNESDAY, 17 APRIL 2013**

REPORT BY: **HEAD OF PLANNING**

SUBJECT: **GENERAL MATTERS REPORT - INTEGRATED WASTE MANAGEMENT FACILITY AT PINFOLD LANE QUARRY, ALLTAMI.**

APPLICATION NUMBER: **043948**

APPLICANT: **APPEAL REFERENCE APP/A6835/A/08/2068136/WF BROCK PLC**

SITE: **PINFOLD LANE AND STONY BEACH QUARRIES, ALLTAMI, FLINTSHIRE**

APPLICATION VALID DATE: **DATE OF THE APPLICATION: 11/09/2007**
DATE OF THE LPAS DECISION NOTICE:
03/11/2011

LOCAL MEMBERS: **COUNCILLOR ELLIS**

TOWN/COMMUNITY COUNCIL: **BUCKLEY**

REASON FOR COMMITTEE: **TO PROVIDE MEMBERS WITH AN UPDATE IN LIGHT OF CHANGES TO NATIONAL POLICY AND GUIDANCE ; AND TO REVIEW THE COUNCIL'S STANCE AT THE FORTHCOMING PLANNING INQUIRY**

SITE VISIT: **NO**

1.00 SUMMARY

- 1.01 A very long period of time has elapsed since this matter was first considered by Members, since when other factors have arisen which may be material to the Council's consideration of this matter and therefore its stance at the forthcoming inquiry. The purpose of this report is therefore to provide Members with an update in relation to the above site, including policy changes, so that Members can review and if necessary, reconsider their recommendation in light of these changes.
- 1.02 The proposal, which was refused and is the subject of an appeal, is for an integrated waste management facility comprising: a commercial

and industrial waste materials recycling facility, a construction waste recycling facility, a contaminated soils treatment facility and a non-hazardous landfill of approximately 1.6 million cubic metres capacity.

1.03 The proposal site comprises two quarries, Pinfold Lane Quarry and Stoneybeach Quarry which are linked by a private access road. The application site area is approximately 16.3 hectares. The quarries were both exploited for clay, shale and sandstone, which have now been worked out. Access is via Pinfold Lane, which has a traffic controlled access on to the major highway network. The site is located close to the interchange between the A494 (T) and the A55 (T) North Wales Expressway. To the east of the site is Parry's Quarry, an existing operational clay quarry with planning permission for the construction of a solid waste landfill site.

1.04 Since Members considered the application there have been a number of important considerations which have occurred which include the following:

- An appeal has been lodged with the Planning Inspectorate by Brock PLC against the refusal of planning permission.
- The Welsh Government has now published its Collections, Infrastructure and Markets Sector Plan (July 2012) which provides a detailed regional breakdown of waste management needs until 2024/25;
- The Welsh Government has published a Policy Clarification Letter, CL-01-12 Planning and Waste Interim Position;
- The Welsh Government is in the process of reviewing Technical Advice Note 21: Waste and Planning Policy Wales and published a draft revised TAN on the 20th of March 2013.
- Data is available for a further 2 years which demonstrates that landfill deposits have continued to decline whilst diversion at the front end (i.e. preparation for reuse, reuse, recycling and composting) have continued to increase.

1.05 Members will be aware that a report was taken to a Special Meeting of the Planning and Development Control Committee on the 12th of October 2011 for an Integrated Waste Management Facility at Pinfold Lane and Stoneybeach Quarries, Pinfold Lane, Alltami, Flintshire. Members resolved to refuse the application on the grounds that:

"There is no clearly identified need for the landfill element of the proposed development as the emerging Collections, Infrastructure and Markets Sector Plan calls into question the weight that should be given to the projections given in the North Wales Regional Waste Plan 1st Review, and so that element is contrary to Emerging Unitary Development Plan Policy EWP7."

1.06 Members will note that the decision was contrary to officer recommendation, which was for approval subject to conditions and S106 agreements. The conclusion drawn by officers was that *"In relation to the landfill element of the proposal, the issue of need is*

finely balanced. There is currently an urgent need for operational landfill within the County; however, the planning permission for landfill at the adjacent Parry's Quarry, once implemented would help address this urgent need."

1.07 Officers have therefore reconsidered their recommendation in light of the changes to national policy and guidance and consider that, were the application to be considered again today, the application should be refused due to a lack of need for the landfill element of the proposal, contrary to both national and local policy.

2.00 RECOMMENDATION: THAT WERE MEMBERS STILL SEIZED OF THE APPLICATION THAT THEY SHOULD RESOLVE THAT THEY WOULD HAVE REFUSED PLANNING PERMISSION FOR THE FOLLOWING REASONS

2.01 There is no clearly identified need for the landfill element of the proposed development and so that element is contrary to adopted Flintshire Unitary Development Plan Policy EWP7.

2.02 The development of the proposal site would result in the loss of a strategically located site which could otherwise be utilised for more sustainable methods of waste management, contrary to the requirements of the revised draft Technical Advice Note 21: Waste.

3.00 CONSULTATIONS

3.01 See report taken to Planning Committee on the 12th October 2011

4.00 PUBLICITY

4.01 See report taken to Planning Committee on the 12th October 2011

5.00 SITE HISTORY

5.01 Planning permission was refused for an Integrated Waste Management Facility on the site in 2011. The applicant appealed the decision and an inquiry is scheduled for June 2013.

6.00 PLANNING POLICIES

6.01 Collections, Infrastructure and Markets Sector Plan (2012)
Planning Policy Wales: draft Edition 6 (2013)
Draft Technical Advice Note 21 (2013)

Flintshire Unitary Development Plan
STR1 - New development
STR7 - Natural environment

STR10 - Resources
 GEN1 - General requirements for development
 GEN3 - Development outside settlement boundaries
 GEN6 - Environmental Assessment
 D1 - Design quality
 D2 - Location and layout
 D3 - Design
 WB1 - Species protection
 WB2 - Sites of international importance
 WB3 - Statutory sites of national importance
 WB4 - Local sites of wildlife and geological importance
 WB5 - Undesignated habitats, flora and fauna
 WB6 - Enhancement of nature conservation interest
 L1 - Landscape character
 AC4 - Major traffic generating developments
 AC12 - Airport safeguarding zone
 AC13 - Access and traffic impact
 EM4 – Location of other employment development
 EM7 - Bad neighbour industry
 MIN8 - Protecting mineral interests
 EWP6 - Areas of search for new waste management facilities
 EWP7 - Managing waste sustainably
 EWP8 - Control of waste development and operations
 EWP12 - Pollution
 EWP13 - Nuisance
 EWP16 - Water resources
 IMP1 - Planning conditions and obligations.

7.00 APPRAISAL

- 7.01 The main purpose of this report is to provide Members with an update regarding national policy and its implications for the proposed Integrated Waste Management Facility at Pinfold Lane, in particular the issue of need, which was central to the reason for refusal. Other elements of the proposal are not revisited within this report as they have been fully considered by Members and no objection raised and no other material considerations have arisen since that time.
- 7.02 Since Members considered the application the following has occurred:
- An appeal has been lodged with the Planning Inspectorate by Brock PLC against the refusal of planning permission.
 - The Welsh Government has now published its Collections, Infrastructure and Markets Sector Plan (July 2012) which provides a detailed regional breakdown of waste management needs until 2024/25;
 - The Welsh Government has published a Policy Clarification Letter, CL-01-12 Planning and Waste Interim Position;
 - The Welsh Government has published a revised Technical Advice Note 21: Waste and Planning Policy Wales which have been published for consultation.

- The requirement for landfill is continuing to decline to such an extent that over the past few years landfill life (in years) has actually increased without any new permitted facilities.

7.03 Collections, Infrastructure and Markets Sector Plan

At the time of making the decision on the Pinfold Lane application, the draft Collections, Infrastructure and Markets Sector Plan (CIMSP) had been consulted upon. The draft CIMSP provided information at the national level and did not break infrastructure requirements down to the regional or local authority level. The document advises (page 167, first paragraph) that with most modelled scenarios (suggesting) that there will still be void space available in Wales until at least 2025. Officers did not consider there was sufficient evidence within the document to demonstrate evidence of a clear lack of need sufficient to withhold consent. However, Members took a more cautious approach and felt that this document introduced enough uncertainty with regards to the need for landfill that the application should be refused.

7.04 In response to the consultation on the draft CIMSP, the North Wales Minerals and Waste Planning Service recommended strongly that information on need should be provided below the all-Wales level (regional, sub-regional or local authority) to support decisions on waste planning applications such as the Pinfold Lane application. The Welsh Government took on board those comments within the final published CIMSP.

7.05 The Collections, Infrastructure and Markets Sector Plan was published in July 2012, and provides an updated picture of infrastructure requirements, in relation to technology choices and the best overall environmental option for specific waste materials. The Welsh Government published a Policy Clarification letter, CL-01-12 in November 2012, which provides an interim planning position whilst Planning Policy Wales (PPW) and Technical Advice Note 21: Waste are undergoing review. The Clarification letter makes it clear that the *'updated information contained in the CIMS Plan should be taken into account when making decisions on planning applications'*. This comprises an important change in circumstances.

7.06 The CIMSP provides an analysis of landfill availability in Wales, including North Wales. Landfill requirements were modelled based upon a number of different scenarios which estimated that worst case scenario landfill void runs out in 2016/17, best case scenario landfill void will last indefinitely (assuming all targets are met for all waste streams and all Incinerator Bottom Ash (IBA) is recycled). The document concluded that close attention needs to be paid to the landfill capacity situation in North Wales, although the planning permission for a new site (Parry's Quarry, which is adjacent to the Pinfold Lane site) will help this situation if the landfill is constructed and used.

- 7.07 The modelling assumed that waste arising in Wales is dealt with in Wales and is based upon surveys undertaken in 2007 (for commercial and industrial waste) and 2010 (in terms of landfill void). Updating the modelling with the 2011 landfill void lengthens the time that void will remain available for all scenarios. The document also considered the spatial distribution of landfills and concluded that North West Wales has limited capacity at two sites.
- 7.08 Officers have re-run the modelling undertaken by Welsh Government for the CIMSP using more up-to-date information on landfill void and taking into account void with planning permission at Parry's Quarry. Without Parry's Quarry, under a worst case scenario, landfill void is expected to run out in 2017/18 although if recycling and prevention targets are met and EfW is developed for municipal waste only (it is expected that some capacity will be made available to the private sector from the municipal projects, so in reality it will be somewhere between the two) void runs out in 2023/24 (not taking into account void at Parry's). With Parry's Quarry, this is extended further so that in the worst case scenario, landfill runs out in 2019, but for all other scenarios landfill remains until 2020. If recycling and prevention targets are met and EfW is developed for municipal waste, a void of over 1 million remains past 2025.
- 7.09 The implication of the reliance on 2007 data (for C&I waste) is potentially significant in relation to volumes of C&I waste requiring landfill. The Welsh Government modelling assumes that in 2011 370,000 tonnes of C&I waste arising in North Wales required landfilling, however, given the declining trend in landfill across Wales it is considered likely that this is an overestimate. Since October 2007 there has been a requirement in place to treat waste prior to sending it to landfill. There are other instruments which are aimed at reducing the volume of C&I waste to landfill, including schemes requiring producers to take responsibility for the waste they produce through requirements contained within regulations, such as the packaging waste regulations and Waste Electronic and Electrical Equipment (WEEE) regulations and voluntary agreements such as the Courtauld Commitment which includes the major supermarkets as signatories, along with a large number of other major retailers, brands and suppliers.
- 7.10 Revised Draft Technical Advice Note 21: Waste
Technical Advice Note 21 (2001) advised that *"each region should aim, as far as is practicable, to provide facilities with sufficient capacity to manage the predicted quantity and nature of arisings from that area for at least a ten year period and preferably longer"*. No guidance is given with regards to the overprovision of facilities. However, since the report was taken to Committee in October 2011 a revised Technical Advice Note 21 has been issued. The draft revised TAN 21 takes a much more cautious approach, advising that there is a need to *"avoid the prospect of overprovision of disposal capacity so as not to*

undermine the longer term aspirations of higher reuse and recycling and tie up land which could otherwise be used to support other sustainable uses” (Paragraph 3.7.).

- 7.11 Overprovision of landfill could discourage alternative, more sustainable methods of waste management from being employed, contrary to the aims of national policy and also sterilises the site from being brought forward for alternative uses. The consented Pinfold Lane Quarry is a strategically located site which could be suitable for a range of different uses, including non-landfill waste management uses. The topography of the land is such that the impact of waste uses within the site would minimise the visual impact of any development. The use of the site for non-hazardous landfill would effectively sterilise this site for other sustainable uses, contrary to paragraph 3.7 of the draft revised TAN 21.
- 7.12 In order to avoid overprovision of disposal facilities the draft revised TAN identifies the level at which the void is considered sufficient and should be maintained. Paragraphs 3.16 and 3.17 both suggest a figure of 8 years, although options being considered include 6, 8 or 10 years. The precise method of calculating landfill void remains to be determined and itself is to be subject to consultation. Nevertheless, the change in policy is clear; local planning authorities should not be allowing disposal capacity where there is not clear evidence of need. Indeed, paragraph 5.5 states that *“At present, there is no identifiable need for further landfill capacity and the likelihood of such a need arising should reduce over time as the new waste prevention, recycling and other recovery activities develop in accordance with waste policy targets and actions. However, should a need for further landfill capacity arise in the future, concern can be dispelled through transparency of the planning process....”*
- 7.13 The Welsh Government, through their revision of TAN 21, is providing a mechanism by which landfill sites can be brought forward in the future should they be needed, so should the appeal be dismissed and planning permission ultimately refused, any future needs for landfill can still be addressed through the planning system.
- 7.14 Increased diversion of waste from landfill
The report taken to Members was based upon 2009 data. Since then we have access to data for 2010 and 2011 which shows diversion rates from landfill are continuing to increase across Wales. Many Welsh local authorities are already meeting targets set by Welsh Government and the industrial and commercial sector are increasingly diverting waste in response to drivers such as the requirement to pre-treat waste.
- 7.15 The assumption that landfill requirements may remain relatively static (paragraph 7.25.24 of the Planning Committee report dated 06/10/2011) until residual waste treatment has been procured has

been demonstrated to be inaccurate. Levels of diversion at the front end from increased recycling have helped both in terms of the level of municipal waste landfilled and industrial and commercial wastes landfilled. Table 1 below shows the trend in Flintshire for a reduction in landfilling since 2008, with the difference between municipal and total HIC landfilled indicating the reduction in non-municipal wastes being landfilled.

Table 1: Tonnes of waste landfilled which arose in Flintshire: Source EA Waste data interrogator

	2008	2009	2010	2011
Total HIC ¹ disposed of in landfill	131,255	101,339	98,356	88,417
Municipal landfilled ²	50,623	49,790	46,759	44,903
Difference	80,632	51,549	51,597	43,514

- 7.16 Volumes of municipal waste being produced are continuing to decline, though due to the sporadic nature of waste management surveys in relation to non municipal waste streams it is not possible to identify whether this trend is the same for non-municipal waste. However, it anticipated that there has been a reduction in the volume of non-municipal waste arising since 2007.
- 7.17 Operational landfills in North Wales:
The availability of non-hazardous landfill in North Wales hasn't markedly changed since the report was taken to Committee in 2011. Llwyn Isaf in Gwynedd has now closed, however, in spite of this; landfill life in years has increased over the last 3 years as a result of reduced inputs, as shown in table 2.
- 7.18 The draft revised TAN 21 is currently consulting on a trigger at which landfill void is considered sufficient and should be maintained. The Welsh Government is currently consulting on different options as part of their revision to Technical Advice Note 21, including 6 years, 8 years and 10 years. However, what is clear is that the 10 year requirement identified within TAN 21 is no longer a minimum, but rather is likely to be a maximum, as above this level of provision there is the risk that overprovision may compromise the aims and objectives of Towards Zero Waste (TZW). It is clear from table 2 below that with Parry's, there is sufficient void with planning permission in North Wales to exceed even the maximum requirement of 10 years. Indeed, without Parry's, and with no further decrease in volumes of waste being sent to landfill there is sufficient landfill void to meet the 8 year requirement.

¹ Household, Industrial and Commercial (HIC)

² Note: municipal data is provided over the financial year, whilst the Total HIC data is provided over a calendar year.

7.19 The draft revised TAN does not identify how the trigger will be calculated as this may be done in different ways. For example, table 2 below calculates landfill life based upon existing inputs, which are already out of date and likely to be too high. The Welsh Government forecast requirements based upon decreasing landfill requirements for non-hazardous wastes, however, the baseline data for C&I waste is taken from a survey undertaken in 2007 and assumes all waste arising in the region is managed in the region, which is not the case. This data is out of date and likely to overestimate the volumes of waste requiring management, for the reasons set out in paragraph 07:09 above, particularly in landfill. Indeed, in relation to commercial waste, the Welsh Government predicted a 1% increase per annum for their 'no additional prevention option'. The baseline position within the Collections, Infrastructure and Markets Sector Plan is therefore not representative of what is happening 'on the ground' in North Wales and incorrectly suggests that landfill will run out in 2016/17 if no alternative treatment capacity is developed. For landfill void to be used up within 3-4 years, deposition rates would have to be 792,240³ tonnes per annum (including 2012). Given that we know the volume of municipal waste being landfilled in 2012 continued to decline, there is no reason to think that the trend for a reduction in waste going to landfill has not continued in 2012, and will not continue thereafter.

Table 2: North Wales landfill deposits and landfill life (Source Environment Agency Wales)

000 tonnes	2007	2008	2009	2010	2011	2011 +Parry's
Volume of waste deposited in non-hazardous landfills in North Wales	739	690	522	487	413	As 2011
Volume of waste adjusted for density (1.2 non-haz, 1 inert)	866	813	609	562	482	As 2011
Non-hazardous void in North Wales (open gate)	6,976	5,926	5,760	5,517	5,282	5,282 + 2,200
Void	5,232	4,444	4,320	4,138	3,961	5,611

³ Void available at the end of 2011 divided by 5 years gives an annual figure of 792,240 per annum

accounting for engineering and cover						
Remaining life (years)	6	5.46	7.1	7.37	8.24	11.64

8.00 CONCLUSION

- 8.01 Since the officer recommendation was taken to Committee on the 12th of October 2011 in relation to the Pinfold Lane application policy changes have occurred and more up to date data is available. Although the drive to divert landfill has long since been established in EU, UK and Welsh policy, there has been a degree of uncertainty as to what this means in terms of need for landfill in North Wales. Since the publication of the CIMSP and the draft revised TAN 21, it has become clear that there is a need to avoid overprovision whilst we establish what our long term needs really are likely to be. Landfill provision should be carefully considered at the regional level and only made if there is a clear evidence of need, in line with the principles of proximity and self sufficiency.
- 8.02 Landfill life (i.e. the period of time it takes to fill a void) within North Wales has increased over the past few years, not as a result of the provision of new voids, but as a result of declining landfill deposition rates. It is considered likely that this trend has continued into 2012, calling into question the need for any further landfill within the region, even without the void at Parry's Quarry being developed. As paragraph 5.5 of the draft revised TAN 21 states "*At present, there is no identifiable need for further landfill capacity.* To grant planning permission for new landfill void in North East Wales now would be contrary to national policy and guidance, resulting in the loss of a strategically located site which could be used for more sustainable waste management uses such as facilities for recycling and reprocessing. The site would also be potentially suitable for use as an 'urban quarry', the use of which the Welsh Government are promoting in paragraph 3.27 of the draft revised TAN 21 in order to divert inert waste from landfill.
- 8.03 In officer's view, were the application to be decided again today, the recommendation would be for refusal due to a lack of need for the landfill element of the proposal.
- 8.04 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

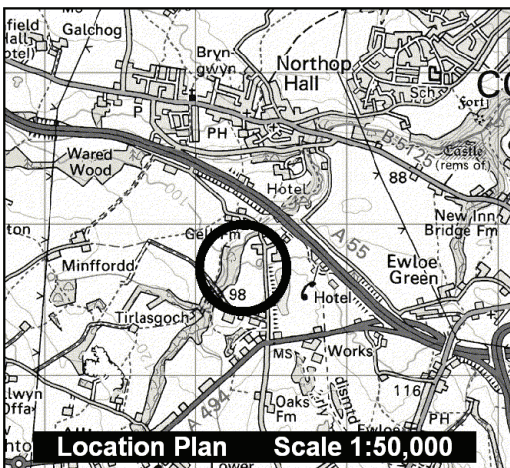
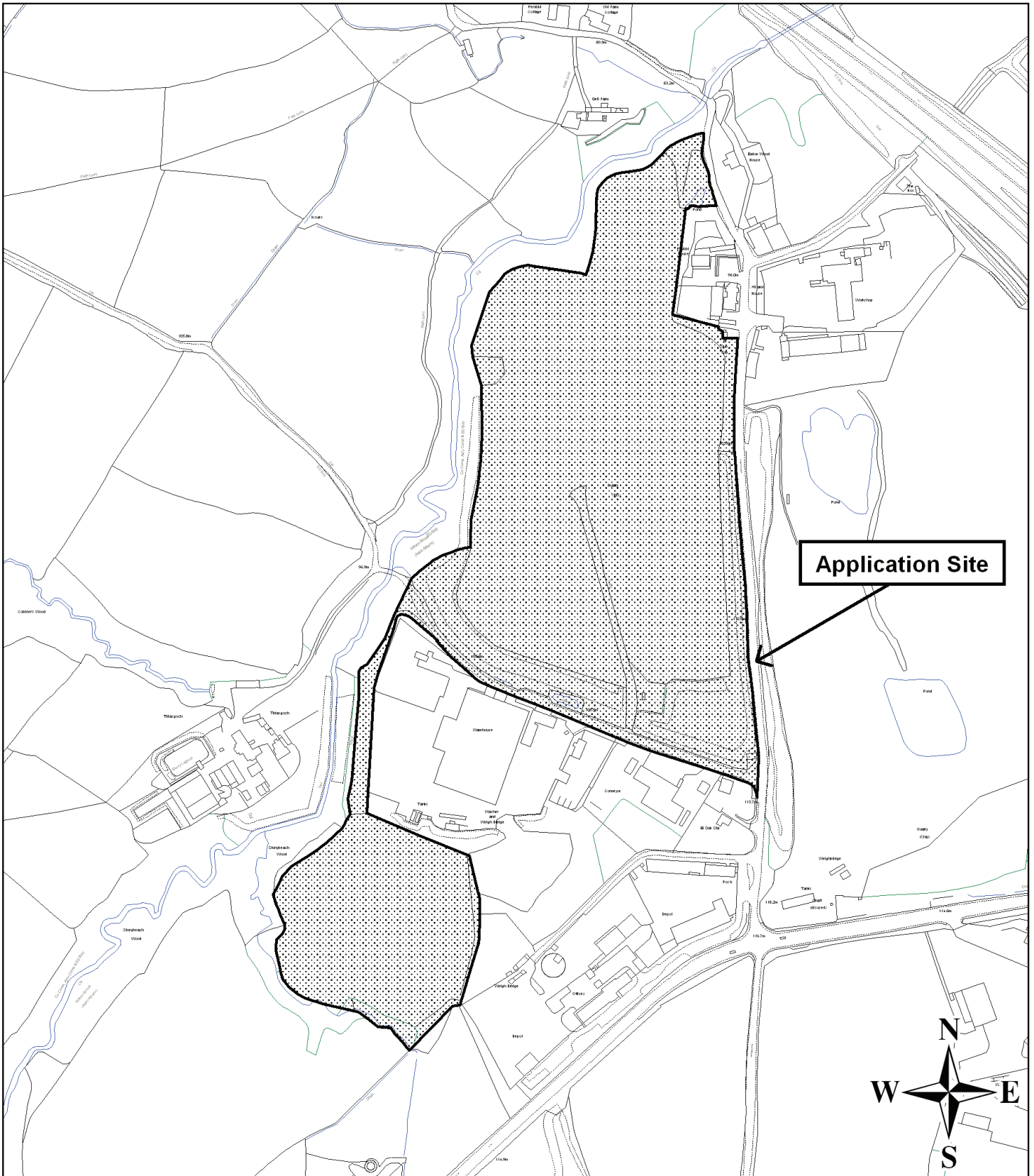
Convention.

Contact Officer: Martha Savage

Telephone: 01352 703298

Email: Martha_savage@flintshire.gov.uk

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

Key to Settlement Boundaries

-  Alyn & Deeside Local Plan Settlement Boundary
-  North Flintshire Local Plan Settlement Boundary
-  Emerging Flintshire Unitary Development Plan Settlement Boundary

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Map Scale 1:5000

Ordnance Survey Sheet SJ 2766

Planning Application **43948**

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FLINTSHIRE COUNTY COUNCIL

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

DATE: **WEDNESDAY, 17 APRIL 2013**

REPORT BY: **HEAD OF PLANNING**

SUBJECT: **050003 - GENERAL MATTERS REPORT - OUTLINE APPLICATION - ERECTION OF 12 NO. DWELLINGS INCLUDING DEMOLITION OF EXISTING OUTBUILDINGS AND CREATION OF A NEW ACCESS AT "BANK FARM", LOWER MOUNTAIN ROAD, PENYFFORDD, FLINTSHIRE**

1.00 APPLICATION NUMBER

1.01 050003

2.00 APPLICANT

2.01 HOLTS CONSERVATORIES LTD

3.00 SITE

3.01 **"BANK FARM", LOWER MOUNTAIN ROAD, PENYFFORDD, FLINTSHIRE**

4.00 APPLICATION VALID DATE

4.01 **30/07/2012**

5.00 PURPOSE OF REPORT

5.01 To update Members regarding the progress of the application following call-in by Welsh Government, to seek a view as to the preferred method of determination by the Planning Inspectorate and with regard to how the Authority wishes to be represented or make representations to the Inspectorate (depending on the agreed method of determination).

6.00 REPORT

6.01 Members will recall that this application was first reported to Planning

and Development Control Committee on 12th. December, 2012, when it was resolved that outline planning permission be granted. The terms of the permission were established at the subsequent committee on 16th. Jan, 2013, when it was resolved that prior to issuing the decision a Section 106 Obligation was required to cover various aspects of the development. At that meeting Members were advised that on 15th. Jan. Welsh Government had issued a direction on the Authority not to grant planning permission for the development proposed in the application. At the Committee meeting on 20th. Feb. Members were advised that Welsh Government had, by letter dated 19th. Feb. 2013, called-in the application for determination.

- 6.02 In accordance with the Welsh Government's procedure on call-ins the application has now been passed to the Planning Inspectorate for processing. Such applications are processed under the relevant Appeals Procedure Rules and the Inspectorate has written to the Authority on 27th. March, and in requesting further information in relation to the application has also asked for the Authority's comments on the procedure for dealing with the application (i.e. written representations, informal hearing or local public inquiry). The applicant will also be given these options but the ultimate decision will be down to the Inspectorate. In the case of appeals our procedure is to consult with the local member(s) over the means of determining the appeal and whereas the three local members have been contacted it is considered that Committee should also come to a view in this instance.
- 6.03 Members will recall that an earlier application for the development of this site through the erection of 20 dwellings (App ref. 38067) was also called-in by the then Welsh Office in 2005. On that occasion the application went on to be determined under the written representation procedure (and was subsequently refused).
- 6.04 The reason given by Welsh Government in its letter of 19th. Feb for calling in the current application is :
"The Minister takes the view that the application raises planning issues which may be in conflict with national planning policies in respect of development in the countryside, and has concluded that the application appears to raise issues of more than local importance. In the Minister's view the application represents a major development in the open countryside with no significant differences in relevant aspects to the previous outline application on the site for 20 dwellings that was called in by the Welsh Ministers in 2005. Consequently, to ensure consistency with the previous call in decision and in view of the policy issues raised by the application, the Minister hereby directs that the applicationshall be determined by the Welsh Ministers. "
- 6.05 As stated above, the options now open to the Authority are to request that the current application be determined by means of written representations, an Informal Hearing or a Public Inquiry. On the basis

of the reasoning for calling in the application and the means of determining the earlier application it would seem that the same written representation procedure would be appropriate, in which case there would be a need for little or no further input from the Local Authority, beyond the submission to the Planning Inspectorate of the planning application documents, the various reports to Committee and the Minutes of those meetings (which have already been sent). However, regardless of Committee's view on this, the ultimate decision as to procedure lies with the Planning Inspectorate. If it is decided that the application should be considered by way of Informal Hearing or Public Inquiry a decision needs to be taken as to the level and type of representation to be made on behalf of the Authority.

6.06 On appeals (other than written representations) which follow a refusal of planning permission contrary to officer recommendation consultants are normally engaged to represent the Authority, with legal representation in the case of a Public Inquiry. The situation here is different in that the Council's stance is one of supporting the development. On the basis that the applicant will presumably assemble a team (proportionate to the means of determination) to present his case, the Authority would be doing likewise, expanding on the resolution to grant planning permission.

6.07 In determining the application the appointed Inspector (who will report to the Minister) will consider the merits of the proposed development and whilst he will be mindful of the Council's stance in support and will presumably attach some weight to this, his eventual decision will be based on his own interpretation of the relevant policies and guidance and any other material considerations. Certainly the Authority will not be required to defend its resolution as the process will be concerned purely with determining the application. These, therefore are the options for representation in the event of a Hearing or, more likely, an Inquiry :

a). Allow officers to appear on behalf of the Authority (despite the fact that the resolution to grant planning permission was taken contrary to officer recommendation).

b). Engage consultants/legal representatives (as appropriate) to represent the Authority (as is the current practice on appeals).

c). Nominate Members of Committee (possibly the Proposer and Secunder on the resolution) to represent the Authority's stance. (in which case officers would assist those nominated in the preparation of their evidence).

d). Adopt a passive role whereby a statement is provided to confirm the Council's position but that no evidence is offered, leaving the main party (i.e. the applicant) to present the merits of his case.

6.08 In considering these options further Members are advised that; although officers could represent the case on behalf of the Authority without compromise, Members have previously indicated on appeals that where there is a conflict of opinion, the Authority should be

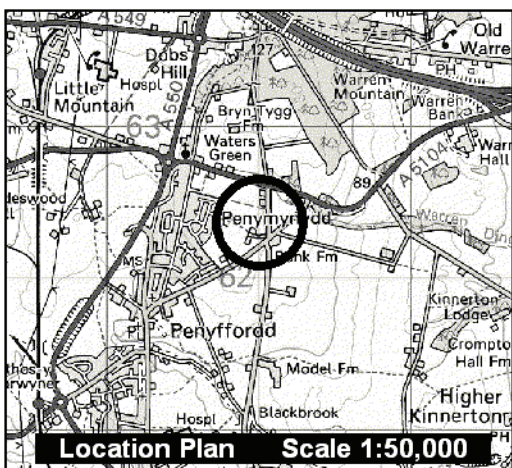
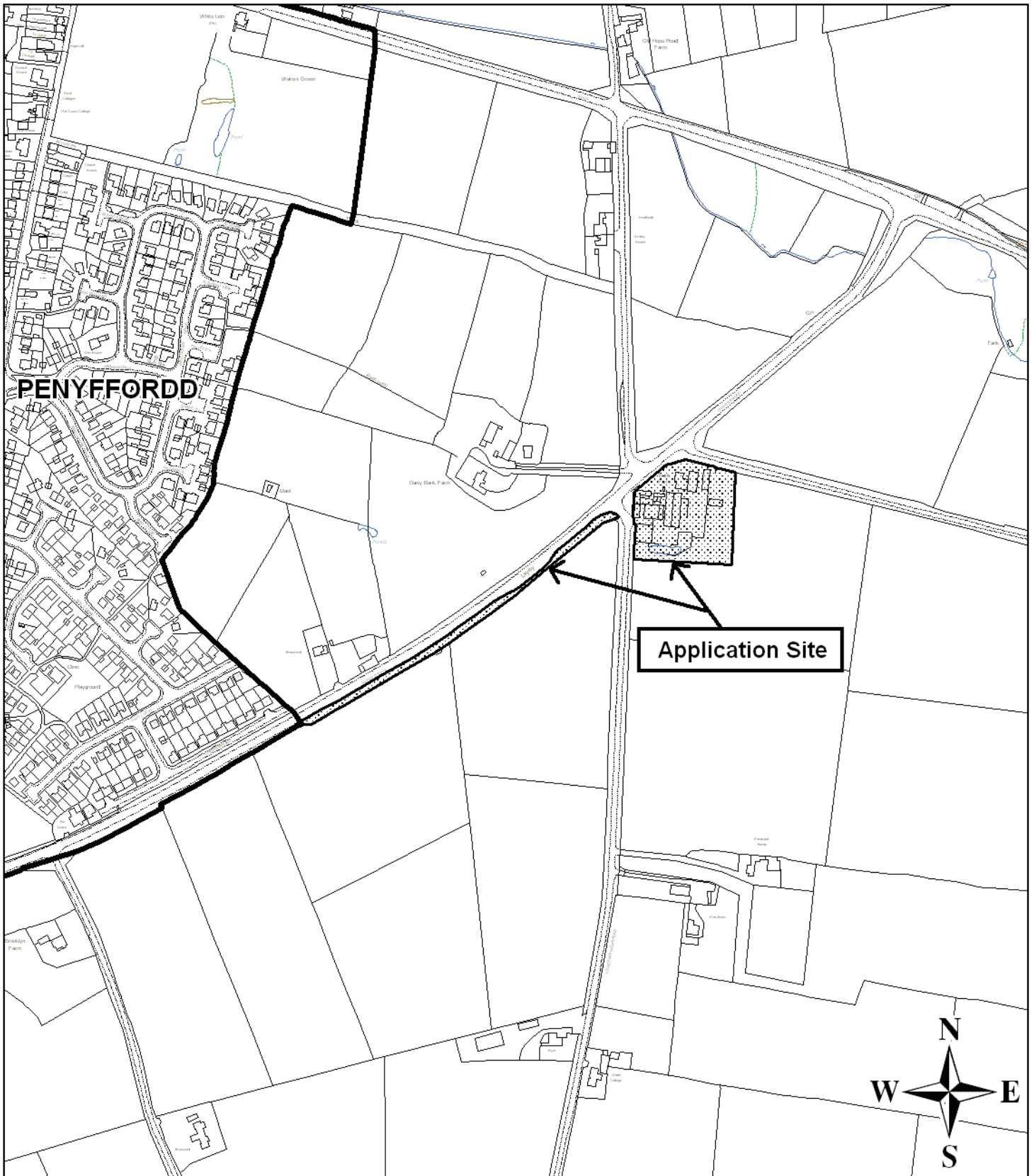
represented by consultants. On this basis it is likely that Option a. will not be favoured over Option b. Option c. supposes that individual Members may consider that they are best placed in presenting the Committee's stance in supporting the application. If this option is chosen then a Committee resolution would give those nominated members the necessary authority to appear on behalf of the Council. As stated above, the situation here is different to an appeal in that the applicant and the Authority are of the same opinion in promoting//supporting the development and in these circumstances Members may consider that it would be unnecessary to duplicate the evidence which will be brought forward by the witnesses and legal representatives on behalf of the applicant. My recommendation is that of the above options that Option C would best represent the Council's position and allow those Members who sought to support the application the opportunity to expand on the reasons for their stance. As mentioned above officers, or indeed consultants if that were felt to be more appropriate, would assist the nominated Members in preparing their submissions.

- 6.09 On any of the above options, as in the case of a planning appeal, it will be open to individuals, including individual Members, to make written representations on their own behalf or to appear in the case of a Hearing or Inquiry, but they would not be representing the Authority unless they have been nominated to do so (under Option c. above).

7.00 RECOMMENDATIONS

- 7.01 That the Planning Inspectorate be advised that the Authority recommend that the application be determined by way of Written Representations, consistent with the approach adopted on the previous application for the residential development of this site. In this case relevant documentation will be provided to the Inspector as requested, to enable him (and the Minister) to determine the application.
- 7.02 It is recommended that, whatever the means of determining the application, that the Authority is represented by nominated Members as outlined above in para. 6.08.

Contact Officer: G.P. Jones
Telephone: 01352703248
Email: glyn.p.jones@flintshire.gov.uk

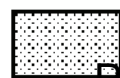


Environment Directorate,
Flintshire County Council, County Hall,
Mold, Flintshire, CH7 6NF.
Director: Mr. Carl Longland

Legend



Adopted Flintshire Unitary
Development Plan
Settlement Boundary



Application Site Extent

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OS Map ref SJ 3162

Planning Application **50003**

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FLINTSHIRE COUNTY COUNCIL

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

DATE: **WEDNESDAY 17TH APRIL 2013**

REPORT BY: **HEAD OF PLANNING**

SUBJECT: **APPEAL BY WEST REGISTER (REALISATIONS) LTD AGAINST THE DECISION OF FLINTSHIRE COUNTY COUNCIL TO REFUSE PLANNING PERMISSION FOR THE SITING OF STATIC CARAVAN FOR USE AS RESIDENTIAL WARDENS ACCOMMODATION AT "ST. MARYS CARAVAN CAMP", MOSTYN ROAD, GRONANT, PRESTATYN, FLINTSHIRE**

1.00 APPLICATION NUMBER

1.01 **049515**

2.00 APPLICANT

2.01 **WEST REGISTER (REALISATIONS) LTD**

3.00 SITE

3.01 **"ST. MARYS CARAVAN CAMP", MOSTYN ROAD, GRONANT, PRESTATYN, FLINTSHIRE**

4.00 APPLICATION VALID DATE

4.01 **19/03/2012**

5.00 PURPOSE OF REPORT

5.01 To inform Members of the appeal decision, following refusal of planning permission under powers delegated to the Head of Planning for the siting of a static caravan for use as a residential wardens accommodation at St. Mary's Caravan Camp, Gronant, Flintshire. The appeal was heard by way of an exchange of written representations and was **DISMISSED**.

6.00 REPORT

6.01 The Inspector considered the main issues to be whether the development represented inappropriate development in the Green

Barrier and if so, would there be any other harm to the Green Barrier. He also considered whether the benefits of the development would outweigh any harm to the Green Barrier, therefore justifying the development on that basis. He also had regard to the risks of flooding upon the proposal.

6.02 Green Barrier

The Inspector noted that the site lies within an area designated as Green Barrier (GB) and noted the requirements of both national and local planning guidance to ensure that new development in such locations is appropriate and not harmful to the GB.

6.03 In considering this issue, the Inspector noted the openness of the site and the fact that it is consistent with the character and appearance of the local landscape in this respect. He noted that the site is not open all year around and considered the proposals to site a static caravan for warden accommodation would amount to the introduction of a built form which have a visually detrimental impact upon views from the surrounding countryside, detrimental to its character and consequently considered it would undermine the openness of the GB.

6.04 Exceptional Circumstances

The Inspector was mindful that, notwithstanding the strict application of GB policies, national planning guidance in Technical Advice Note 6 – *Planning for Sustainable Rural Communities* (TAN 6) allows for consideration of new accommodation proposals in such locations where it can be established that there is a clearly established functional need for a full time worker to reside on site to support an established rural enterprise.

6.05 The Inspector considered the appellants arguments in relation to the operational benefits of a warden presence upon the site and the security offered. However, he concluded that these functions were not essential to the operation of the site and considered that this need could be adequately addressed by staff accommodated by other means within the area.

6.06 The Inspector considered the criteria in TAN6 is assessing exceptional circumstances, namely; that the enterprise has been established for at least three years, profitable for at least one of them and both the enterprise and the business need for the job is currently financially sound, and has a clear prospect of remaining so. He considered there to be little evidence that any functional need that could be established could not be met by other means. He also concluded that the appellants had not provided any real assessment of what accommodation could be provided by a reorganisation or re-development of the existing building.

6.07 He concluded that there was no clear evidence as required by TAN6 He also considered that the absence of evidence to support any

functional need precluded him from granting a temporary permission to test the argument of functionality, since such an argument had not be satisfactorily advanced.

6.08 This, combined with the availability of other accommodation options, led the Inspector to conclude that no exceptional circumstances existed to support a deviation from the strict application of GB policies.

6.09 Flood Risk

The Inspector acknowledged that the site lies within a C1 flood zone and a flood consequences assessment had been assessed by The Environment Agency (Wales) which concluded that the siting of additional accommodation would represent additional vulnerable development and would not meet the criteria, or could be acceptably managed in accordance with guidance, contained within Technical Advice Note 15 – *Development and Flood Risk* (TAN15).

6.10 He agreed with this view whilst having regard to the role a warden could play in flood warning and evacuation measures. He considered this did not outweigh the risks nor did it add further weight to the warden's duties in support of any functional need argument.

6.11 Other Matters

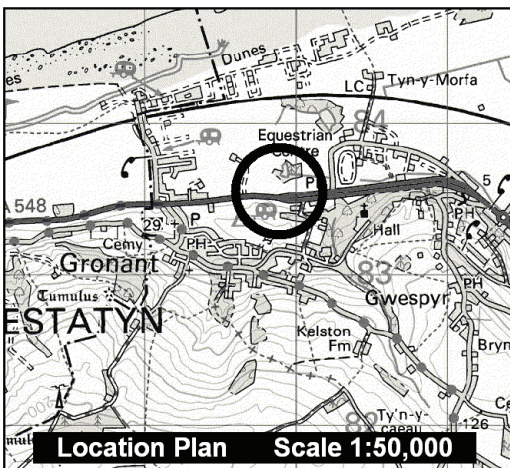
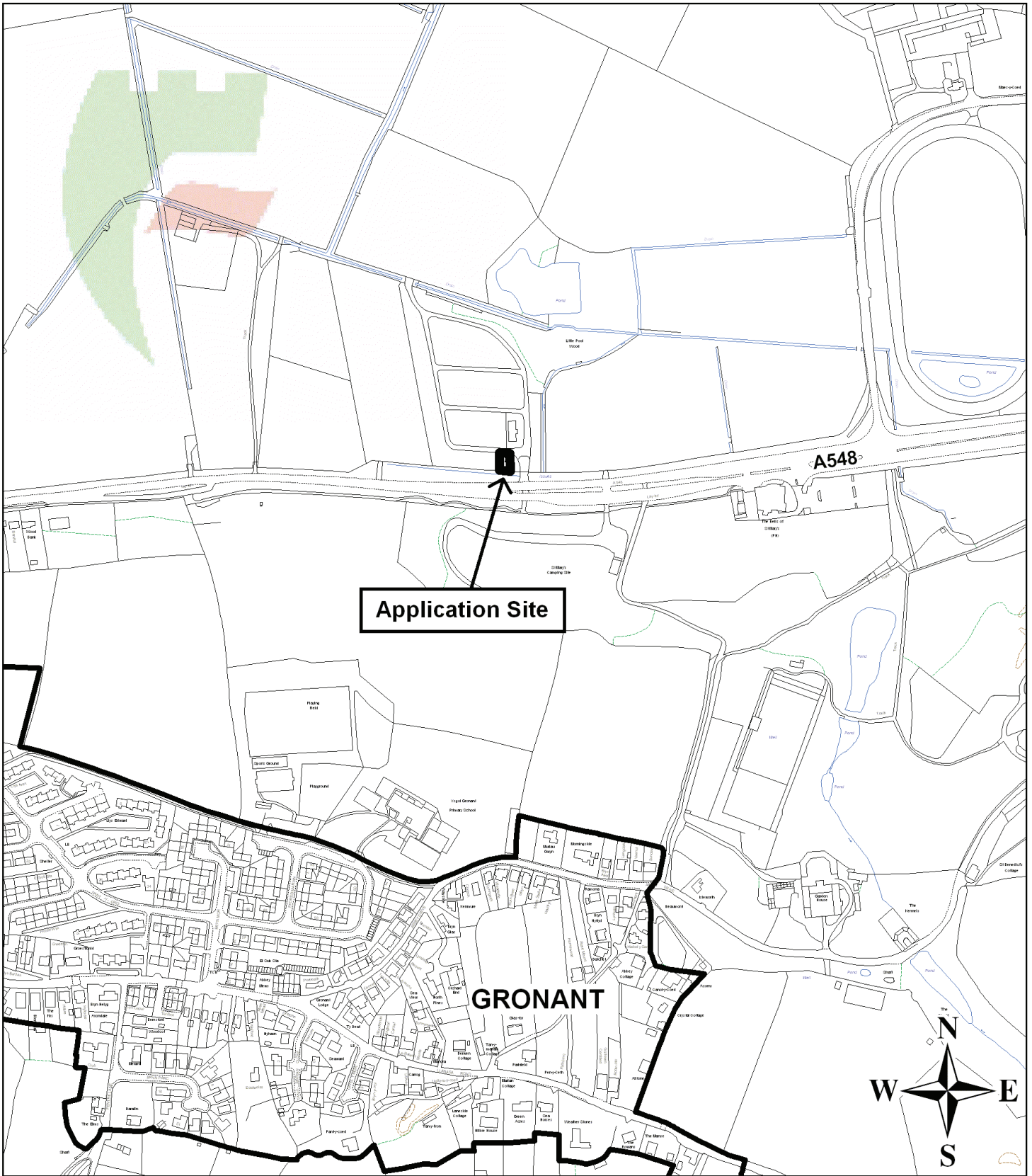
In considering any other material issues, the Inspector noted that the appellant advanced examples of other appeals dealing with warden's accommodation on other sites. He considered that the examples differed in both siting and circumstances to the appeal in this case and therefore he determined the appeal proposals upon its own merits.

7.00 CONCLUSION

7.01 The Inspector concluded that the proposal amounted to a form of development which was contrary to both national guidance and local planning policies. He considered no exceptional circumstances could be demonstrated to outweigh these considerations and therefore the appeal was DISMISSED.

Contact Officer: David Glyn Jones
Telephone: 01352 703281
Email: glyn_d_jones@flintshire.gov.uk

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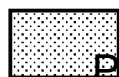


Environment Directorate,
 Flintshire County Council, County Hall,
 Mold, Flintshire, CH7 6NF.
 Director: Mr. Carl Longland

Legend



Adopted Flintshire Unitary
 Development Plan
 Settlement Boundary



Application Site Extent

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Planning Application **49515**

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FLINTSHIRE COUNTY COUNCIL

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

DATE: **17th April 2013**

REPORT BY: **HEAD OF PLANNING**

SUBJECT: **APPEAL BY ANWYL HOMES LTD AGAINST REFUSAL TO GRANT A RESERVED MATTERS PERMISSION FOR DEVELOPMENT OF LAND WITHOUT COMPLYING WITH A CONDITION SUBJECT TO WHICH A PREVIOUS RESERVED MATTERS PERMISSION WAS GRANTED.**

1.00 APPLICATION NUMBER

1.01 049425

2.00 APPLICANT

2.01 ANWYL HOMES LTD

3.00 SITE

3.01 CROES ATTI, CHESTER ROAD, OAKENHOLT

4.00 APPLICATION VALID DATE

4.01 2/4/2012

5.00 PURPOSE OF REPORT

5.01 To inform members of the decision in regards to an appeal against a condition subject to which a previous reserved matters permission was granted. The condition in dispute was condition 15 of ref. 046595, imposed by the Planning Committee, which stated, "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".

The reason given for the condition was, "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".

- 5.02 The Inspector allowed the appeal, which was considered by way of a public inquiry, allowing the development to proceed without compliance with Condition 15.

6.00 REPORT

- 6.01 The Inspector considered the main issue to be whether the condition in dispute was reasonable and necessary, and if so, the implication of removing it would have on the living conditions of nearby residents.

- 6.02 The Inspector was of the opinion that the removal of the condition was justified on the grounds that it was unreasonably imposed in the first instance, having regard to the established planning history and that the condition derogated from the 2006 outline planning permission. The Inspector was of the opinion that the condition attached to the outline planning permission which required an extension of the existing highway to the Prince of Wales Avenue had no expressed limitation in the condition to the type of vehicles which could pass through from the site onto Prince of Wales Avenue and there was no stipulation directing that the access must be regulated by barrier or bollards. The Inspector was of the view that this condition alone was clear and unambiguous and that the stated intention was to link the appeal development without limitation to Prince of Wales Avenue.

- 6.03 The Inspector also stated the matter was conclusively presumed by the grant of a certificate of lawful use of development in 2011, which stated the proposed operation of construction of vehicular access from Prince of Wales Avenue to serve the residential development at Croes Atti permitted by the outline planning permission would be lawful.

- 6.04 The Inspector also noted that the appealed condition was also unreasonable when viewed against a new planning permission granted on appeal in 2012 which re-imposed an extension of the existing highway at Prince of Wales Avenue into the appeal site and which was further reinforced by a master plan showing an access point to the development through Prince of Wales Avenue.

- 6.05 The Inspector referred to the revised development brief for the site which indicated a point of vehicular access from Prince of Wales and an obligation requiring the development to conform to the revised development brief and to condition 1 of the outline planning permission.

- 6.06 The Inspector concluded for the reasoning given above that condition 15 was unreasonable and unnecessary and should be deleted and

that it was unreasonable and failed the “Circular Tests” on conditions and there was no need to go onto consider the impact of the link on living conditions.

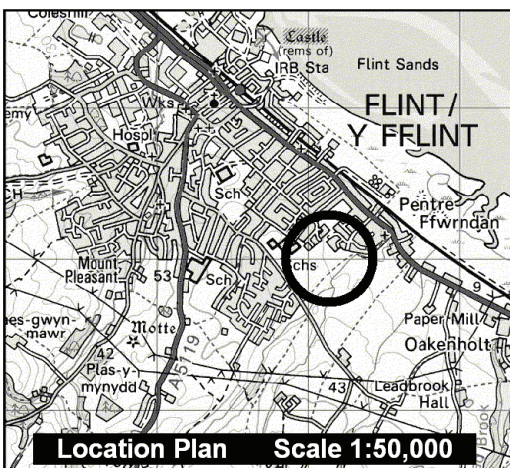
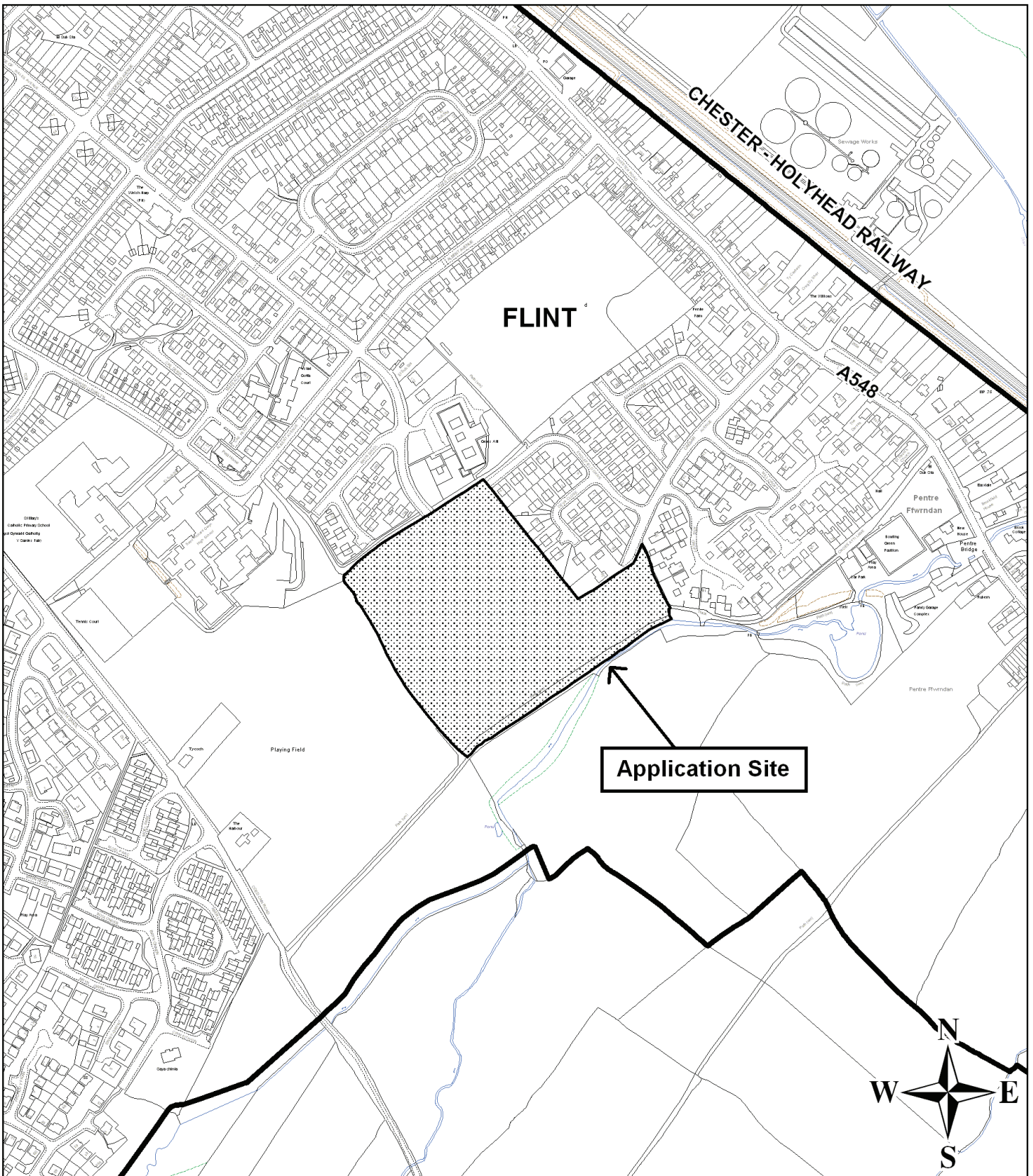
Costs Claim

- 6.07 In deciding to award full costs in favour of the Appellant, the Inspector considered that the Council’s conduct amounted to unreasonable behaviour and that the Appellant had incurred wasted expense, since it should not have been necessary for the matter to go to appeal.
- 6.08 By way of background information to the cost decision, Counsel had been instructed to appear at the inquiry on behalf of the Council. As part of the appeal process, he had been asked to advise on the conduct of the case, in particular, upon the evidence proposed to be submitted to the inquiry. At the December 2012 Planning Committee Members were informed of the Counsel’s advice. Counsel concluded that the Council should reconsider its position and not seek to defend the imposition of condition 15 in an attempt to limit the extent of costs being awarded against the Authority. Counsel advised that not only was the decision to impose condition 15 contrary to government policy and guidance, but it was also inconsistent with case law. Members subsequently resolved to inform the Planning Inspectorate that the Council did not intend to defend the imposition of condition 15. The Planning Inspectorate was so informed the next day.
- 6.09 The Inspector concluded that the Appellant was entitled to pursue the appeal to Inquiry, given the late retraction of the Council’s case and the preparation time needed to consider the interested parties viewpoint, which could have been re-considered in light of the council’s withdrawal in the proceedings. The Inspector was of the opinion that the interested parties’ stance would have only been established on the day of the Inquiry, so the Appellant’s claim for costs for appearing and giving evidence was legitimate and unavoidable.

7.00 CONCLUSION

- 7.01 The Inspector considered all other matters raised but none outweighed his conclusion on the main issue that the appeal should be allowed. As regards the costs claim he found that unreasonable behaviour resulting in unnecessary expense had been demonstrated and that a full award of costs was justified.

Contact Officer: Declan Beggan
Telephone: 3250
Email: declan.beggan@flintshire.gov.uk

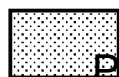


Environment Directorate,
 Flintshire County Council, County Hall,
 Mold, Flintshire, CH7 6NF.
 Director: Mr. Carl Longland

Legend



Adopted Flintshire Unitary
 Development Plan
 Settlement Boundary



Application Site Extent

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Planning Application 49425

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