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Pennaeth Gwasanaethau Cyfreithiol a Democraataidd



To: Cllr David Wisinger (Chairman)

CS/NG

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

4 February 2014

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Dear Sir / Madam

A meeting of the **PLANNING & DEVELOPMENT CONTROL COMMITTEE** will be held in the **COUNCIL CHAMBER, COUNTY HALL, MOLD CH7 6NA** on **WEDNESDAY, 12TH FEBRUARY, 2014** at **1.00 PM** to consider the following items.

Yours faithfully

Democracy & Governance Manager

AGENDA

- 1 **APOLOGIES**
- 2 **DECLARATIONS OF INTEREST**
- 3 **LATE OBSERVATIONS**
- 4 **MINUTES** (Pages 1 - 20)

To confirm as a correct record the minutes of the meeting held on 15 January 2014.

- 5 **ITEMS TO BE DEFERRED**

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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
12TH FEBRUARY 2014

Item No	File Reference	DESCRIPTION
<u>Applications reported for determination (A=reported for approval, R=reported for refusal)</u>		
6.1	051403 - A	Full Application - Conversion of Redundant Public House into 5 No. One Bedroomed Flats at Red Lion Inn, Liverpool Road, Buckley (051403) (Pages 21 - 30)
6.2	050809 - A	Landfill to Raise Level by Approximately 1 m and Subsequent Raising of Height of Agricultural Building at Junction of A541/Tarmac Quarry, Denbigh Road, Rhydymwyn (050809) (Pages 31 - 42)
6.3	051534 - A	Full Application - Change of Use of Agricultural Land to a Graveyard on Land Rear of 10 Crompton Close, Higher Kinnerton (051534) (Pages 43 - 50)
6.4	051518 - A	Full Application - Erection of 16 No. Dwellings to Include 6 No. 2 Bed Houses, 6 No. 1 Bed Apartments and 4 No. 2 Bed Apartments at Starlights Social Club, Sealand Avenue, Garden City (051518) (Pages 51 - 60)
6.5	051066 - A	Full Application - Re-plan to Plots 124-127, 136-139 and Addition of Plots 172-180 as Amendments to Layout Previously Permitted under Application 049605 at Former Lane End Brickworks, Church Road, Buckley (051066) (Pages 61 - 70)
6.6	050874 - A	Full Application - Substitution of House Types on Plots 295 - 302 & 337 - 339 of Northern Parcel of Former Buckley Brickworks as Previously Approved under Application 050333 (050874) (Pages 71 - 78)
6.7	051493 - A	Full Application - Installation of a Small Scale Wind Turbine on an 18 mtr Self Supporting Tower (25 mtrs to Blade Tip) to Supply Power to the Farm at Midlist Farm, Pant y Gof, Halkyn (051493) (Pages 79 - 86)

Item No	File Reference	DESCRIPTION
<u>Appeal Decision</u>		
6.8	047951	Appeal by Mullhill Estates LLP Against the Decision of Flintshire County Council to Refuse Planning Permission for Outline - Erection of 73 No. Houses Including Details of Access, Appearance, Layout and Scale (Landscaping Reserved for Future Approval) at Bychton Hall Farm, Maes Pennant Road, Mostyn - ALLOWED (047951) (Pages 87 - 92)
6.9	049812	Appeal by Mr. R. Jones Against the Decision of Flintshire County Council to Refuse Planning Permission for the Siting of 18 No. Static Caravans at Pennant Park Golf Club, Saithfynnon, Whitford - ALLOWED (049812) (Pages 93 - 98)
6.10	050383	Appeal by Mr. John Burgess Against the Decision of Flintshire County Council to Refuse Planning Permission for Change of Use from Shop into A3 Fast Food at 18 Chester Road West, Shotton - ALLOWED (050383) (Pages 99 - 104)

PLANNING & DEVELOPMENT CONTROL COMMITTEE
15 JANUARY 2014

Minutes of the meeting of the Planning & Development Control Committee of Flintshire County Council held in the Council Chamber, County Hall, Mold CH7 6NA on Wednesday, 15th January, 2014

PRESENT: David Wisinger (Chairman)

Councillors: Derek Butler, David Cox, Ian Dunbar, David Evans, Jim Falshaw, Alison Halford, Ron Hampson, Ray Hughes, Christine Jones, Richard Jones, Brian Lloyd, Richard Lloyd, Mike Peers, Neville Phillips, Gareth Roberts, Carolyn Thomas and Owen Thomas

SUBSTITUTIONS:

Councillors: Marion Bateman for Carol Ellis and Mike Lowe for Billy Mullin

ALSO PRESENT:

The following Councillor attended as local Member:-
Councillor Nancy Matthews – agenda item 6.1

The following Councillor attended as an observer:-
Councillor Haydn Bateman

APOLOGY:

Councillor Chris Bithell

IN ATTENDANCE:

Head of Planning, Development Manager, Planning Strategy Manager, Senior Engineer - Highways Development Control, Housing Strategy Manager, Senior Planners, Senior Minerals and Waste Officer, Planning Support Officers, Principal Solicitor and Committee Officer

125. **ANNOUNCEMENT BY THE CHAIRMAN**

The Chairman indicated that Councillor Ted Evans had passed away and asked those present to stand for a minute's silence.

126. **DECLARATIONS OF INTEREST**

Councillor Carolyn Thomas declared a personal interest in the following application as she was Chair of the Clwydian Range and Dee Valley AONB:-

Agenda item 6.1 – Restoration of Cambrian Quarry by the importation and recycling of inert materials at Cambrian Quarry, Glyndŵr Road, Gwernymynydd (050695)

Councillor Ray Hughes declared a personal and prejudicial interest in the following application as he was a Governor at Castell Alun High School:-

Agenda item 6.4 – Reserved Matters application – amended layout to include substitution of 15 No. house types and the addition of a

further 5 No. dwellings on land to the rear of Adwy Deg, Fagl Lane, Hope (051449)

In line with the Planning Code of Practice:-

Councillor Alison Halford declared that she had been contacted on more than three occasions on the following application:-

Agenda item 6.2 – Erection of a four bedroom detached dwelling at 37 Wood Lane, Hawarden (051234)

127. **LATE OBSERVATIONS**

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

128. **MINUTES**

The draft minutes of the meeting of the Committee held on 11 December 2013 had been circulated to Members with the agenda.

Councillor Richard Jones referred to the resolution to minute number 118 and asked whether a response had been received from Network Rail who had been given two weeks after the meeting to reply. The Development Manager advised that a response had been received which he felt had indicated that they were happy with the details, but that he would confirm this to Councillor Jones following the meeting.

Councillor Mike Peers referred to the last sentence in the first paragraph on minute number 120 where it was reported that he had left the meeting prior to the discussion of the item but had not been called back for the remainder. He felt that the process needed to be examined to ensure that Councillors who had left the meeting could return following the discussion of the relevant item.

RESOLVED:

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

129. **ITEMS TO BE DEFERRED**

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

130. **RESTORATION OF CAMBRIAN QUARRY BY THE IMPORTATION AND RECYCLING OF INERT MATERIALS AT CAMBRIAN QUARRY, GWERNYMYNYDD (050695)**

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 13 January 2014. The usual consultations had been undertaken and the responses received detailed in the report. Additional comments received since the preparation of the report were circulated at the meeting.

The officer detailed the background to the report and explained that there was a long history of quarrying at the site which had existing and extant planning permissions. Operations ceased in 2000 and there was no restoration scheme currently in place for the quarry. The application involved the importation of inert waste materials for use in the restoration of Cambrian Quarry in order to make the quarry faces stable and safe. The application also involved the recycling of inert waste materials which would be exported off site for reuse elsewhere. Access to the site would be facilitated by the construction of a new internal access road, the widening of Glyndŵr Road, and the removal and restoration of the existing quarry access. It was proposed that the work would be undertaken in five phases, with the first four phases being to shore up the quarry slopes and the final phase would be required for landscape reasons. The proposed restoration would take between 6.5 and nine years. It was anticipated that the total quantity of material to be transported into Cambrian Quarry would be between 145,000 and 200,000 tonnes per annum. Approximately 30% of the material (45,000 to 60,000 tonnes) would be recycled and exported off site and 70% of the materials imported would be used in the restoration of the site. The proposal included locating the recycling plant within the quarry void initially during phase one at the most southerly location and then subsequently moving it to the north of the site but no higher than 287m AOD within the quarry void; this was below the quarry rim.

A new internal access road would be constructed which would run parallel with Glyndŵr Road and would then rejoin the existing access. The existing access was very steep and on a blind bend and Glyndŵr Road was very narrow. The officer explained that part of the bank would be removed on Glyndŵr Road to widen the road to up to 10 metres in width which would allow two HGVs to pass and advanced planting would be undertaken of any trees lost as a result of the new access. The applicant was offering to manage the site for a total period of 15 years after completion of restoration which would ensure that the aspirations of the restoration were successful; this would be secured by a section 106 agreement. There were a number of constraints on the site such as it being in the Area of Outstanding Natural Beauty (AONB), a Site of Special Scientific Interest (SSSI) and the trees in the northern part of the site were covered by a Tree Protection Order (TPO). The north eastern part of the site was a concern due to it containing a bat habitat but no HGVs would track over the underground silica mine workings to ensure protection of the bats. As a result of the proposal, a number of trees would be lost which would be removed under licence from Natural Resources Wales (NRW) and under reasonable avoidance measures that would be conditioned. Three mine entrances were not in the quarry void and these would be protected to provide bat mitigation; this would also be done under a licence. A brick building currently on site would be restored to provide a bat roost which NRW felt would provide a beneficial habitat for the bats. As there was evidence of great crested newts on the site, surveys would be undertaken prior to commencement of the development and the creation of ponds in the north of the site would be required to provide habitats for the newts and other amphibians. The nearest properties to the quarry void were between 80 and 125 metres from the eastern quarry boundary and were 20 to 40 metres below the height quarry boundary.

The restoration would create a shallow valley landform that would be used for agriculture and nature conservation once restored. The officer explained that

there were no safety benches within the quarry development. Consequently, there was evidence of rock falls which was a concern, along with possible landslips which could be a risk for any trespassers. If the application was not approved, the owners would be served with a prohibition notice as the site had not been quarried for more than two years. Restoration secured through the prohibition process would not enable any importation of materials and it was therefore considered that the proposals would secure a higher quality restoration than if the site was left to regenerate naturally.

In conclusion, the officer said that national policy on waste indicated that landfill was not acceptable but as this was a recovery operation, it was considered that the proposals complied with draft Technical Advice Note (TAN) 21 regarding exceptional circumstances and the applicant had demonstrated that there was a need to infill the site to phase four for stability reasons and phase five for landscape reasons. With regard to the recycling element, UDP policy supported the re-use and recycling of inert waste and the proposals accorded with the waste hierarchy. There would be no HGVs in the majority of Glyndŵr Road, and even though the site was in the AONB, SSSI and had TPOs on some trees, the assessments which had been undertaken provided evidence that the proposal would provide a better habitat for wildlife. The officer explained that there had been a large number of objections from residents but none had been received from statutory consultees. Noise, dust and vibration would be monitored and controlled by conditions and any crushers used on the site would be permitted under a separate Environmental Permit issued by NRW but would be subject to conditions to ensure that any emissions would be minimised.

Mr. C. Bradshaw spoke against the application. He said that there were many reasons for concern about the application but the main one was the junction between the A494 and Glyndŵr Road. He felt that this was a hazardous junction which could not cope with up to 150 32 tonne lorries travelling to and from Cambrian Quarry. It was not fit for purpose and could not accommodate the vehicles safely. He referred to paragraph 7.92 where it was indicated that there had been no reported accidents at the junction in the past five years. Mr. Bradshaw said that he was aware of two accidents including a very serious one in 2008 ¼ mile down Gwernymynydd Hill which had been life changing for the person involved. As a result, Gwernymynydd Community Council and local residents had formed an action group which had put forward seventeen proposals to Flintshire County Council and the Trunk Road Agency to improve road safety in the community. Of these, fifteen had been implemented by the Agency such as raised hatchings in the road and the provision of bollards. Mr. Bradshaw said that some of the people proactively involved in implementing these safety features were now saying that this proposal was very dangerous. He asked the Committee to refuse the application to put the safety of the community first.

Mr. Neil Hassall, for the applicant, spoke in support of the application. He said that it was vitally important for the future of the business that the application be approved and that Cambrian Quarry would provide the operators with a much needed site to recycle materials. He referred to the recent restoration at the Bryn y Gaer quarry near Llay which had been the subject of objections prior to the start of the project but once it was underway, there had been no complaints. An Environmental Impact Assessment had been undertaken; the company had

listened to the objections made and had amended the Assessment to take account of the concerns raised. He concurred that statutory consultees had not objected to the proposals. It seemed that the main concern was the traffic and the recycling element to the application. A new junction and new internal road were proposed and as a result, Glyndŵr Road would not be used by traffic going to Cambrian Quarry. The recycling plant was not a major operation, consisting of one crusher and one screener which would be removed by the end of phase four, and it would be 45 feet below the level of the quarry. The company currently operated at Deeside but as this was a time limited consent, this proposal would enable ASH to use the Cambrian Quarry site which was ideal for their requirements and would restore the natural landform. There was a proven and urgent need for the site.

Councillor K. Hughes from Gwernymynydd Community Council spoke against the application explaining that it would be the community of Gwernymynydd that would have to live with the consequences if the application was approved. He referred to a significant number of houses on a nearby estate who had not been consulted on the proposals as it was not felt that they would be affected by the application. However, a number of those residents had responded in writing. A traffic survey had not been carried out on the A494 by Flintshire County Council and Councillor Hughes felt that the report did not reflect the true nature of this stretch of road. He referred to the bus stop which was close to the junction of Glyndŵr Road and remarked that its location might contribute to an accident occurring. The community had been fighting for road improvements and a reduction in the speed limit. Councillor Hughes referred to the Gwernymynydd Development Plan, a Welsh Government initiative, which had been developed to help with such issues and concerns raised by the community. The document had been identified as an example of good practice but the applicant argued that it was not a statutory document and therefore had no bearing on the application. If that was so, Councillor Hughes felt that the document might as well be ignored.

Councillor Derek Butler proposed the recommendation for approval which was duly seconded. He said that the Quarry had been an industrial site for many years and that the hazards that had been identified were being addressed in a beneficial way for the community. He queried the timescale for the completion of phase four and commented that the proposed conditions would be better than those which applied when the site operated as a quarry.

Councillor Ron Hampson said that he could understand the passion of the protestors but that their main concern about the access was being addressed by widening it by three metres. The Trunk Road Agency had not put forward any objections, the bats were to be protected, the site would be stabilised, and it would become a pleasant environment once the works were completed. He did not consider that the development would result in the disruption claimed and if the application was refused then the applicant would appeal and the Council would lose and have costs awarded against it.

The Local Member, Councillor Nancy Matthews, spoke against the application. She referred to the draft TAN 21 where it was reported that infill of quarries was only acceptable in exceptional circumstances; she queried what these were. She felt that even after the restoration had been completed, the land

would still be unstable and highlighted paragraph 7.30 where it was reported that the Gwernymynydd Community Development Plan opposed any use of redundant quarries for landfill. On the issue of the access, she said that the applicant had made significant efforts to address concerns but it was still insufficient. Councillor Matthews referred to UDP Policy AC13 which indicated that access roads should be adequate without compromising health and safety; she did not feel that the proposed access complied with the policy. She asked that the application be refused but if it was allowed, that extra conditions be included to require a Liaison Committee to be established and that there be no working on a Saturday, and for the section 106 obligation to include provision for projects in the community.

Councillor Mike Peers felt that there were three parts to the application – filling of the void; recycling works; and the road junction and its implications. He asked for further information about the road improvements as it was clear that what was currently in place was inadequate. He felt that condition nine should be reworded to reflect that the existing access should be closed if the application was approved, although the consensus was that infilling the site was itself an issue. He said that some of the objections referred to the proposal being unacceptable in a rural location but this was an old industrial site. Objectors also talked of devaluation of their properties but this was not a material consideration in the determination of the application. It was reported that 70% of the inert material would be used to fill the void but residents had indicated that this would only be 5%. Councillor Peers highlighted paragraph 5.06 where it was reported that previous applications had been refused on highway safety grounds and queried why this was no longer the case. He sought more clarity on the details of the amount of 477,000m³ that would be required to infill the quarry void, whether further materials would be required, and more detail about that to be exported. In highlighting paragraph 7.21, he said that ensuring that the site was restored to a suitable landform would enable the quarry to be made safe. Councillor Peers asked what weight was to be afforded to the draft TAN 21 and said that even though the bus stop near the junction with Glyndŵr Road was used very infrequently, it could still create a problem if a bus stopped and a lorry was waiting to turn to access the quarry. He suggested that a layby be considered for the bus stop.

Councillor Carolyn Thomas queried what the exceptional circumstances were to permit this application based on the draft TAN 21. She referred to the AONB, SSSI and TPO and said that the AONB Joint Advisory Committee was concerned about the impact on the community and queried whether there was a spatial plan in place. The AONB had been designated because of the tranquillity of the area which would be harmed by the noise and traffic from the proposal. She queried why the proposal was not being suggested for an urban environment and asked why the Robin Jones site at Parry's Quarry was not being used for the recycling. As the quarry had been allowed to restore naturally up to now, Councillor Thomas queried why this could not continue and added that biodiversity was better if it was left, as nature could not be forced. She referred of the newts on the site and, in commenting that she did not think that the proposal could be classed as an exceptional circumstance, added that there were better areas for recycling.

Councillor Owen Thomas said that the access to the Glyndŵr Road was dangerous and there had been a number of accidents in the area. He could not understand why the ledges had not been made safe when the quarry closed and asked whether restoration formed part of any previous planning permissions. He queried why the recycling plant was proposed for a site that did not have good access and said that vehicles to the site would have to travel through Mold. He referred to the recycling plant in Ewloe and queried whether there was a need for a further site. He added that the Welsh Government had said that each county should look after its own waste but he felt that waste from other counties would be brought to this site. He felt that the conditions did not safeguard the public in relation to the operating hours of the quarry and he raised concern that the proposal would destroy part of the SSSI.

Councillor Ian Dunbar hoped that the amendments to the road junction and access were satisfactory for HGVs if the application was approved. He asked whether there was any public access to the area around the quarry which he felt was dangerous. He concurred with Councillor Matthews that the needs of the community should be looked at if the application was approved.

In referring to quarries in Buckley, Councillor Neville Phillips said that he had objected to each application and would also vote against this application on highway grounds. He referred to the five pages in the report on highways issues and said that he could not remember a time when an officer had spent so much time trying to convince Members in respect of a single issue. He said that there were two bus stops close by the junction which could create significant problems for lorries needing to access the quarry and that the passing place referred to in paragraph 7.93 would only be put in place if the application was approved. He also referred to the one way system used by Eagles and Crawford on their site which had been requested due to the dangerous nature of the road.

Councillor Richard Jones sought clarity on the need for the proposal and said that even when phase five was completed, the void would not be full. He felt that the principles of landfill were not supported by national policy and that some of the materials not needed in this quarry would be taken to other quarries which he felt was unacceptable. He raised concern at the number of conditions proposed and said that he felt that this indicated that there was a problem with the application. He suggested that further detail should have been included for conditions 34 onwards and added that, in his opinion, some of the conditions were hardly enforceable. Councillor Jones highlighted three areas of concern which were whether the infilling was necessary; the recycling; and the number of conditions on the application.

Councillor Gareth Roberts congratulated the officer for her report. He said that, as there was an extant permission on the site, there was nothing to prevent the applicant starting up the quarry again if a suitable Environmental Statement was submitted, and this would mean that the existing junction and access could be used. If the application was refused on highway grounds and the applicant appealed the decision, he asked how this could be substantiated as the Inspector would look at the application which indicated that the junction was to be improved. Councillor Roberts could understand the residents' concerns but said that there did not appear to be any valid reasons to refuse the application and any appeal would be successful with costs being awarded against the Council.

In response to the comments made the officer provided the following answers:-

- timeframe for phases one to four would be six to eight years and the fifth phase would take an additional year
- paragraph 7.05 provided clarity on the amount of materials to be transported into and exported from the quarry (145,000 to 200,000 tonnes per annum and approximately 30% would be recycled and exported off site) so the figure of 5% infill was incorrectly quoted by some residents of which there was no evidence within the report
- there was no difference between the adopted and draft TAN 21 with regards to policy support for recycling of inert materials.
- the draft TAN introduced the wording on exceptional circumstances regarding inert landfill/disposal which would be included if the draft TAN was adopted
- the bus stop had been in place for a number of years (comments reported in late observations) and was used by approximately two to three people per day
- there were red hatched areas on the road which were a traffic improvement
- Parry's Quarry could not be used as it was not available to the applicant
- previous applications had been refused on highway grounds but this application proposed the introduction of a new access to the site to avoid the use of Glyndŵr Road and a section of the road would be widened. There had been no objections from Highways or the Trunk Road Agency
- The conditions on the quarry permission were imposed in 1951, were therefore out of date and should this application be approved, new conditions would be imposed. The site commenced operating in the 1800s when there were no rules and regulations about safety and modern quarries had safety benches in place which did not exist at this site.
- this was a complex application which required many conditions with some schemes needing to be in place before the development could commence
- proposed operating hours were reported in paragraphs 7.07 to 7.10
- the issue of need for, and capacity of, the landfill was also reported
- specialists felt that the shoring up of the quarry walls was the minimum required to make the site safe but the infilling was not up to the top of the void
- the SSSI had been designated because of the bats which used the underground mine workings. The majority of the habitat would remain untouched and NRW had indicated that reasonable avoidance measures and other mitigation would be put in place. Works would not be able to commence until a licence had been secured
- NRW suggested replacement planting was acceptable
- Most of the old quarry now comprised woodland, scrubland and calcareous grassland. The majority of this area was outside the application site and would not be affected by the proposed development.
- regarding the issue of the underground silica workings, no vehicles would go on that area of the site so there would be no risk of vibration to the bat habitat; mitigation measures had been put in place which would be beneficial for the habitat

- it was felt that the proposal would not harm residential amenity
- condition 9 had been worded as it had because the existing access would need to be used to allow for the construction of the new access but would be closed once the new access was in use
- there was no public access on the site
- the one way system used by Eagles and Crawford were reported in paragraph 7.94
- any materials not reused in this quarry would not be taken to other quarries but would be taken off site for re-use elsewhere
- regular and ad hoc monitoring of the site would take place to ensure that the conditions were enforced.

The Senior Engineer - Highways Development Control confirmed that Flintshire County Council and the Trunk Road Agency did not have any objections to the application subject to conditions. The proposal would improve the width of part of Glyndŵr Road and would lead to a better junction formation. The data on accidents was based on information logged by the Police and for this area, none had been reported. The proposed new access to the site would be closer to the A494 and the highway improvements that would be put in place prior to the use of the site would lead to the permanent closure of the existing access. When a bus was stationary at the bus stop, it would partially interfere with visibility but it would be the responsibility of the driver to decide whether to overtake the bus to proceed on his journey. She also explained that there were red hatched areas on the road to highlight that there was a need to proceed with caution.

Councillor Richard Lloyd queried whether there was a condition about the operating hours for the site and whether the public would be given access to the site once the work had been completed. The officer confirmed that condition 35 in the report (condition 46 in the draft conditions available to Members) provided a condition to control hours of operation. She explained that at this stage there was no offer from the applicant to open up the site for public access but with the proposed implementation of a Liaison Committee, this could be something to be discussed and explored in the future.

In response to a question from Councillor Peers about TAN 21, the officer confirmed that the wording that such a proposal was acceptable in exceptional circumstances was not included in the adopted TAN but was included in the draft document. The Principal Solicitor said that it was a matter for the Committee to decide how much weight to give to the draft document. He referred to the request from Councillor Matthews for a Liaison Committee, no Saturday working and a section 106 agreement for community benefits. The Liaison Committee scheme was addressed in condition 26, and paragraphs 7.07 and 7.09 indicated that works would take place on Saturdays, so this would need addressing specifically by the Committee if they felt that this was inappropriate. So far as possible community benefits were concerned, the Principal Solicitor said that there was nothing in the report about any such funding by way of a Section 106 agreement. He reminded Members that requirements in such agreements had to be directly related to the development.

In summing up, Councillor Butler thanked the officer for the very comprehensive report and reiterated his proposal of approval. He said that the

NRW had answered all the questions on ecology issues. Following on from the comments of Councillor Matthews, he felt that the Liaison Committee should be established before the works commenced and suggested that the operators could consider altering the start time of operating to later than 7am. Councillor Butler also felt that, through the medium of the Liaison Committee, discussions with the operators might identify some community benefits.

Councillor Richard Jones requested a recorded vote and was supported by the requisite five other Members. On being put to the vote, planning permission was granted by 12 votes to 8 with no abstentions. The voting being as follows:-

FOR – GRANTING PLANNING PERMISSION

Councillors: Derek Butler, David Cox, Ian Dunbar, David Evans, Jim Falshaw, Ron Hampson, Ray Hughes, Christine Jones, Richard Lloyd, Mike Lowe, Gareth Roberts and David Wisinger

AGAINST – GRANTING PLANNING PERMISSION

Councillors: Marion Bateman, Alison Halford, Richard Jones, Brian Lloyd, Mike Peers, Neville Phillips, Carolyn Thomas and Owen Thomas

RESOLVED:

That planning permission be granted subject to:-

- the condition detailed in the late observations;
- the conditions detailed in the report of the Head of Planning; and
- the applicant entering into a legal agreement under the terms of the Town & Country Planning Act 1990 (as amended) Section 106 to:-
 - surrender the old mineral and waste planning permissions
 - 15 year management post restoration as set out in the outline management plan with periodic review
 - control of operations within the quarry but outside of the application site in terms of hours of operation and no artificial lighting activities not related to the application

If the Section 106 Agreement (as outlined above) is not completed within six months of the date of the committee resolution, the Head of Planning be given delegated authority to REFUSE the application.

131. **FULL APPLICATION - ERECTION OF A FOUR BEDROOM DETACHED DWELLING AND DETACHED DOUBLE GARAGE AT 37 WOOD LANE, HAWARDEN (051234)**

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 which had been deferred from the Committee meeting in December 2013. Following a request from

Councillor Mike Peers, she detailed which sections in the report had been amended to address the issues of affordability, housing need and backland/tandem development. She highlighted the section on local need and Policy HSG3 which required that any additional housing had to be justified on the grounds of local need where the growth in a settlement area exceeded 15%. The personal circumstances of the applicant and his family were detailed in paragraph 7.08 and their local connections had been demonstrated to Cymdeithas Tai Clwyd who maintained the Affordable Housing Register on behalf of the County Council. Any planning permission would restrict the first occupation to Mr & Mrs Shaw and would require a Section 106 Agreement which would put a charge on the house so that, if it was sold in the future, 30% of the money would be paid back to the Council. The Housing Strategy Officer considered that the applicants met the affordable housing criteria under policy HSG3 in terms of their local connection and affordable housing need. Members had questioned the need for a four bedroom house and double garage and details of the requirements were reported in paragraph 7.10.

The development was a form of backland development but this did not, in itself, mean that the application should be refused. The important issue to consider was the harm that this form of development might cause in terms of impacts on residential amenity to the occupiers of 37 Wood Lane, the proposed dwelling, and adjoining properties, and the impact of the development on the character and appearance of the area. The impact from the increased vehicle movements to the occupiers of 37 Wood Lane when in the existing conservatory would be minimised by the introduction of obscure glazing to reduce any impact on privacy. The officer explained that there was no direct overlooking with 37 Wood Lane or any adjacent properties but there was potential for overlooking to the rear garden of 35 Wood Lane, although this was common in urban areas. Any impact could be dealt with by the retention of the existing boundary hedgerow and other suitable boundary treatment which could be dealt with by condition.

Mr. I. Warlow spoke against the application. He said that two previous applications had been refused and that this proposal was on a footprint of a similar size to those applications, so should also be refused. He felt that a four bedroom dwelling could not be classed as an affordable dwelling and that the proposal was exploiting a planning loophole which he suggested other developers would use if the application was approved. Mr. Warlow said that the average price of a four bedroom property in the area was £300,000 and again queried how this could be an affordable dwelling. He felt that the affordable homes policy was aimed at enabling families onto the property ladder. He highlighted paragraph 7.16 about backland development and queried the need for the dwelling. He felt that the three metre hedge at the property was higher than was allowed by law and raised concern that the five metre hedge could be retained to reduce the impact of the dwelling on his garden. He said that corners had been cut and laws flouted and if the application was approved it would become a test case in law.

The Principal Solicitor advised that there was nothing in the report, and nothing that he was aware of, to suggest that laws had been flouted and no cause for concern over the way in which the application had been handled.

Mr. C. Shaw, the applicant, spoke in support of the application. He said that he hoped that the Committee now had knowledge of his circumstances and the application's compliance with Policy HSG3 and local housing need. The proposed dwelling satisfied the requirements of space around dwellings including parking, turning places and backland development. The application for local housing need had the support of Tai Clwyd and Mr. Shaw confirmed that the current family home would need to be sold to finance the proposed dwelling. The property was currently on the market for £247,000, which was lower than the £300,000 talked of by the previous speaker, and an offer lower than this had been accepted. The house was now sold subject to contract and the people purchasing the property had seen the plans for the proposed dwelling. If the application was successful, he would enter into a section 106 agreement to repay 30% of the property value if it was sold in the future. The dwelling, which would provide a home for himself and his family, was smaller than the property that they currently lived in. He confirmed that he was not a property developer and even though he worked for a building company, this was on the industrial side, not the house building side. He had approached the occupiers of 35 Wood Lane and they had raised concerns, but Mr. Shaw felt that these had been addressed in a sensitive manner.

Councillor Alison Halford proposed refusal of the application against officer recommendation which was duly seconded. She said that she was being accused of impropriety and referred to an email that she had received from the Monitoring Officer which put her in difficulty as she had asked questions as an Elected Member which she was entitled to ask. She did not think that policy HSG3 had been complied with in this case and raised concern that great emphasis had been given to the policy but there was nothing in the report about affordability. Councillor Halford had asked questions about affordability and queried whether it was necessary for the applicant to sell his home to fund the new dwelling as she had been told that it was not necessary. She referred to 41 houses which were to be built within a quarter of a mile of this dwelling on a site which was outside the settlement boundary in the Unitary Development Plan yet no consideration appeared to have been given to the growth of 18.1% in the settlement.

Councillor Derek Butler felt that the application was complicated and he had asked for it to be deferred last time as it was full of anomalies. He referred to the footprint being similar to the footprint on two previous applications which had been refused. He also commented on the growth rate of 18.1%. He referred to the affordable housing element and queried whether this would set a precedent of people buying houses that they could not afford to get on the Affordable Housing Register. However, he added that, as all the criteria had been met, he was minded to grant the application. Councillor Butler referred to paragraph 7.18 and queried whether the piece of land that the applicants leased was a capital asset. The Principal Solicitor said that if the land was leased from the electricity company by the applicant then the applicant did not own it and therefore could not obtain any capital from its sale.

Councillor Richard Lloyd queried whether the investigation works requested by the Coal Authority and the Head of Public Protection should be carried out before the application was determined to establish whether there was a mining risk. He also asked whether the 30% value of property would be based

on the value at the time of sale or the current value. Councillor Lloyd sought clarification about the piece of land leased from the electricity company and whether it formed part of the current garden area and asked for further information on the parking of vehicles to the front of 37 Wood Lane. He also asked whether the applicant had to sell the family home before building the new property.

Councillor Mike Peers said that the applicant's financial situation had been dealt with by Tai Clwyd and they were satisfied that he could go on the Affordable Housing Register. He asked if the dwelling would be allowed on the site if the 30% charge to the Council was not proposed. He said that the Committee had to determine whether the proposal could go on the site, and as the issues of impact on residential amenity and backland development had been considered in the report and the affordability element had been dealt with by Tai Clwyd, he felt that the recommendation of approval was correct.

Councillor Gareth Roberts said that the issue of affordability had been pushed by Government to give the appearance of dealing with affordable housing but if the loophole existed and was legal then he believed that approval was the correct decision. However he felt that approval of the application could set a dangerous precedent and requested that the Planning Strategy Group consider the particular issue.

In response to the comments made, the officer said that this application was not considered to be a loophole to Policy HSG3, and as the local housing need had been proved, the application was justified. She explained where the land that the applicant leased from the electricity company was located and said that the further investigative works required by the Coal Authority would need to be undertaken before the development started but not before the determination of the application. The 30% charge would be based on the value of the property at the time of the sale, and on the issue of parking to the front of 37 Wood Lane, this was deemed to be acceptable and sufficient for the size of the dwelling and it was currently used as a parking area. The officer indicated that the Council could not force the applicant to sell his current property but he had said that his financial circumstances required him to do so. She also confirmed that the dwelling would be allowed without the 30% scheme were it not for the fact that the cumulative growth of housing in Ewloe within the UDP period exceeded 15%.

The Principal Solicitor emphasised that if the housing growth figure had not been exceeded then the dwelling would not need to be an affordable.

Councillor Halford said that she had checked with Tai Clwyd and they did allow applications from people who currently had a property, with caveats, but they relied very heavily on the financial aspect of the matter with help from Flintshire's Housing officers. She said that it cost £180,000 to build a new dwelling and she felt that this could put the applicant in a worse financial state. His property was on the market for £247,000 but had not yet been sold. She raised concern that other building would be allowed to take place outside the boundary of Ewloe in the UDP and again referred to a site for 41 dwellings. She concluded that the Committee was here to ensure that policies were sound and transparent.

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

RESOLVED:

That planning permission be granted subject to the conditions detailed in the report of the Head of Planning and subject to the applicant entering into a Section 106 Obligation/Unilateral Undertaking to provide the following:-

- The property shall be occupied by the applicants Mr and Mrs Shaw in the first instance
- If the property is put up for sale in the future 30% of the property value is repaid to the Council, secured as a charge on the property

If the obligation pursuant to Section 106 of the Town and Country Planning Act 1990 (as outlined above) is not completed within six months of the date of the committee resolution, the Head of Planning be given delegated authority to REFUSE the application.

132. **CHANGE OF USE TO SMALLER A1 USE AT GROUND FLOOR AND 2 NO. ONE BEDROOM APARTMENTS TO THE REAR OF THE EXISTING BUILDING ALLOWING FOR NEW APERTURES AT GROUND FLOOR AT 79 CHESTER ROAD WEST, SHOTTON (051378)**

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 main issues included the principle of development, the highway implications and the effects upon the amenities of adjoining residents and wildlife. There were four apartments at the first floor level and this proposal would reduce the A1 use of the ground floor and create two one bedroom apartments. The shop unit was outside the core retail area and therefore the reduction in retail floor space was acceptable. The officer explained that as the site was in a highly sustainable location, it was not proposed to provide any on site off street parking spaces with the development.

Mr. G. Muggleton spoke in support of the application. He explained that the main reason for the proposal was to enable his business to carry on trading on the High Street. There had been a decline in trade and footfall and costs had increased, so reducing the size of the shop would reduce running costs. He hoped to continue the business, which had been operating for over 50 years, for several years to come and asked Members to approve the application.

Councillor Derek Butler proposed the recommendation for approval which was duly seconded. Councillor Owen Thomas felt that this was a sign of the times and the proposals were preferable to the closure of the business.

RESOLVED:

That planning permission be granted subject to the conditions detailed in the report of the Head of Planning and subject to the application entering into a

Section 106/Obligation/Unilateral Undertaking or making direct payment to provide the following:-

- Payment of £733.00 per residential unit in lieu of on site public open space. The payment would be used to enhance existing recreation facilities in the community and to be provided upon 50% sale or occupation of the development.

If the Obligation/Unilateral Undertaking or direct payment is not completed/made within six months of the date of the committee resolution, the Head of Planning be given delegated authority to REFUSE the application.

133. **RESERVED MATTERS APPLICATION - AMENDED LAYOUT TO INCLUDE SUBSTITUTION OF 15 NO. HOUSE TYPES AND ADDITION OF 5 NO. DWELLINGS AT ADWY DEG, FAGL LANE, HOPE (051449)**

The Committee considered the report of the Head of Planning in respect of this application. The usual consultations had been undertaken and the responses received detailed in the report. Additional comments received since the preparation of the report were circulated at the meeting. Councillor Ray Hughes, having earlier declared an interest in the application, left the meeting prior to its discussion.

The officer detailed the background to the report explaining that the proposal was for the substitution of 15 house types and the provision of five additional dwellings. The previous reserved matters application had been permitted in December 2011 and there were no other modifications to the proposals and no issues about the principle of development, design or layout. If the application was approved, it would require a supplemental section 106 agreement to link it to the section 106 agreement entered into under reserved matters approval reference 048186. The supplemental agreement would also provide for the additional payment of a £5500.00 recreational contribution in lieu of further on site provision arising from the additional 5 no. new dwellings.

Councillor Mike Peers proposed the recommendation for approval which was duly seconded. He said that it was one of many applications for change of house types due to changing times and market forces and added that there had been no comments from the Community Council.

Councillor Richard Jones referred to paragraph 7.02 and queried whether the number of house type substitutions was 16 not 15. The officer explained that plot 41 was not affected by the proposal and therefore the total was confirmed as 15. Councillor Jones raised concern that developers submitted applications which were approved at outline and then at the reserved matters stage, requests were submitted for changes which resulted in different house types and an increased number of dwellings. He felt that developers would continue to submit requests for this type of application until they got what they wanted. The Planning Strategy Manager said that this proposal would allow for a better mix of house types than what had previously been permitted. The previous approval was below the 30 per Hectare and it was now at 30.5 per Ha.

The Principal Solicitor said that the process of substituting house types was allowed by the law and that if the change had been unacceptable in policy terms then it would be refused.

Councillor Carolyn Thomas said that she had visited the site and confirmed that the proposals fitted in better than the previous mix of dwellings. She queried whether the applicant had undertaken an assessment of the area at the pre-planning stage.

Following a question from Councillor Richard Lloyd about the £5500.00 recreational contribution, the officer confirmed that it was subject to approval of the application and the applicant signing the supplemental section 106 agreement.

Councillor Butler said that the issue of increases in the number of houses had been undertaken for a significant number of years and had always been a cause of concern for Members. The Principal Solicitor reminded Members that the Section 106 agreement included the provision of 16 no. affordable homes if the application was approved.

RESOLVED:

That planning permission be granted subject to:-

- the additional condition detailed in the late observations,
- the conditions detailed in the report of the Head of Planning
- the applicant entering into a supplemental Section 106 agreement which linked the approval granted under this application to the provisions of the Section 106 agreement entered into under Reserved Matters Approval Ref:- 048186, providing for the following:-
 - (a) The provision of 16 No. affordable homes, to be made available at 70% of market value with the Council retaining the 30% equity and nomination rights for occupiers being retained by the Council having regard to people registered upon its Affordable Home Ownership Register.
 - (b) Ensure the payment of an educational contribution of £31,500 towards educational provision/improvements to local education facilities. The contribution shall be paid prior to occupation of the first dwelling.
 - (c) Ensure payment of a sum of £45,000 towards the maintenance of the play area upon adoption.
 - (d) Ensure payment of £29,150 in lieu of 50% on site provision of recreation/open space.
 - (e) Ensure the transfer of wildlife mitigation land to a suitable body in order to secure its future management and funding.

In addition, the Supplemental Agreement shall provide for the additional payment of a £5500 recreation contribution in lieu of further on site provision arising from the additional 5 no. new dwellings. Such payment shall be made upon sale or occupation of 50% of the total dwellings approved.

134. **GENERAL MATTERS - USE OF LAND FOR THE STATIONING OF CARAVANS FOR THE RESIDENTIAL PURPOSE FOR 5 NO. GYPSY PITCHES TOGETHER WITH THE FORMATION OF ADDITIONAL HARD STANDINGS AND UTILITY/DAYROOMS ANCILLARY TO THAT USE LAND ADJACENT TO EWLOE BARN WOOD, MAGAZINE LANE, EWLOE (050463)**

The Committee considered the report of the Head of Planning in respect of this application.

The officer detailed the background to the report and explained that paragraph 6.02 detailed the reasons for refusal of the application when it had been considered by the Committee on 15 May 2013. The Head of Public Protection had raised some concerns in respect of air pollution which were detailed in the report. Following the submission of the appeal, the appellants had submitted an addendum report to the Air Quality Assessment and it had addressed the matters which had been raised by the Head of Public Protection. He had assessed the information received and had concluded that his concerns had been addressed and therefore the inclusion of the reason for refusal relating to air pollution could no longer be sustained at appeal.

Councillor Alison Halford proposed that the officer recommendation to withdraw the second reason for refusal relating to air pollution and the impacts of road traffic pollutants on the health of the site occupants be refused and that it be pursued at the forthcoming appeal against the refusal of planning permission, but this was not seconded.

Councillor Derek Butler then proposed the officer recommendation to withdraw the second reason for refusal which was duly seconded.

Councillor Halford said that she felt removing the reason for refusal was premature and referred to the comments of the applicant's agent at an earlier Committee meeting. She said that there was evidence that traffic and children did not go well together and added that the Inspector had been critical that Flintshire County Council had ignored noise assessments. She felt that the addendum report was late in being submitted and that it should be up to the Inspector to decide whether the reason for refusal was valid.

The Principal Solicitor said that the Committee needed to disregard the perceived actions of the agent at the Committee meeting as it was not relevant. It was a common occurrence for further information to be provided during the appeal process. Advice had been taken from the Head of Public Protection following receipt of the assessment which had been shared with Counsel and, on his advice, it was proposed that the second reason for refusal be withdrawn. There was a sound basis for the recommendation in the report and if the advice was ignored, there was potential for an application for costs against the Council if they could not provide evidence of the basis for the reason for refusal.

Councillor Halford then withdrew her proposal to refuse the application and said that she was grateful for the advice from the Principal Solicitor and that she had not appreciated that Counsel's advice had been sought.

Councillor Mike Peers said that the Head of Public Protection had had concerns but the appellant had submitted information which overcame those issues. He asked whether Flintshire County Council had submitted an air pollution assessment. In response, the officer confirmed that this had not been undertaken, but confirmed that the levels of pollution on the site were within current guidelines and the assessment had therefore addressed the concerns raised by the Head of Public Protection.

RESOLVED:

That reason for refusal (2) relating to air pollution and the impacts of road traffic pollutants on the health of the site occupants be withdrawn and not pursued as a reason at the forthcoming appeal against the refusal of planning permission.

135. **APPEAL BY MR. J.P. CARR AGAINST THE DECISION OF FLINTSHIRE COUNTY COUNCIL TO REFUSE PLANNING PERMISSION FOR THE ERECTION OF FOUR DWELLINGS AT LAND ADJACENT TO NO. 1 PAPERMILL COTTAGES, PAPERMILL LANE, OAKENHOLT - DISMISSED (050243)**

RESOLVED:

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

136. **APPEAL BY MR. ANDREW CROSTON AGAINST THE DECISION OF FLINTSHIRE COUNTY COUNCIL TO REFUSE PLANNING PERMISSION FOR THE ERECTION OF 2, TWO BEDROOM SEMI-DETACHED DWELLINGS WITH PARKING TO FRONT AND REAR AT LAND OFF FERN LEIGH, BROOK STREET, BUCKLEY - ALLOWED (050291)**

RESOLVED:

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

137. **APPEAL BY MR. J. WILLIAMS AGAINST THE DECISION OF FLINTSHIRE COUNTY COUNCIL TO REFUSE PLANNING PERMISSION FOR THE ERECTION OF 4 NO. 2 BED APARTMENTS AND 3 NO. 1 BED APARTMENTS WITH ASSOCIATED PARKING AT 3 CHURCH VIEW, QUEENSFERRY - DISMISSED (050531)**

RESOLVED:

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

The Chairman thanked the officer for her presentation at the appeal hearing. The Head of Planning said that if the appeal was as a result of refusal against officer recommendation, then an independent consultant usually put

forward the Council's case. On this occasion, the Local Member and the Planning Officer defended the appeal. He said that, given the current financial climate, this could become a more common occurrence in the future.

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

There were 3 members of the press and 51 members of the public in attendance.

(The meeting started at 1.00 pm and ended at 3.46 pm)

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Chairman

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FLINTSHIRE COUNTY COUNCIL

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

DATE: **12TH FEBRUARY 2014**

REPORT BY: **HEAD OF PLANNING**

SUBJECT: **CONVERSION OF REDUNDANT PUBLIC HOUSE INTO 5NO. ONE BEDROOMED FLATS AT RED LION, LIVERPOOL ROAD, BUCKLEY**

APPLICATION NUMBER: **051403**

APPLICANT: **MR D OWENS**

SITE: **RED LION, LIVERPOOL ROAD, BUCKLEY**

APPLICATION VALID DATE: **24.10.13**

LOCAL MEMBERS: **COUNCILLOR A HALFORD**
COUNCILLOR D MACKIE

TOWN/COMMUNITY COUNCIL: **HAWARDEN**

REASON FOR COMMITTEE: **LOCAL MEMBER REQUEST DUE TO RESIDENTS CONCERNS ABOUT IMPACT ON THE LOCAL AREA**

SITE VISIT: **NO**

1.00 SUMMARY

1.01 This is a full planning application for the conversion of the former Red Lion public house into 5 apartments. It is considered that the conversion of the public house into 5 apartments is acceptable in terms of the principle of development and the impacts of the proposed use.

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

2.01 That conditional planning permission be granted subject to the applicant entering into a Section 106 Obligation/Unilateral Undertaking to provide a commuted sum of £733 per unit to enhance recreation

provision in the area in lieu of on-site open space provision. If the Obligation pursuant to Section 106 of the Town and Country Planning Act 1990 (as outlined above) is not completed within six months of the date of the Committee resolution, the Head of Planning be given delegated authority to REFUSE the application.

The proposal is recommended for approval subject to the following conditions:

1. Time commencement
2. In accordance with plans
3. Visibility splay 2.4 x 43m
4. No obstruction to visibility to the north of the proposed access point within a 0.6m strip
5. Photographic Survey and Building Recording

3.00 CONSULTATIONS

3.01 Local Member

Councillor A Halford

Requests committee determination due to scale and nature of objections.

Councillor D Mackie

Agrees to the determination of the application under delegated powers. The application preserves the building.

Hawarden Community Council

No response received.

Buckley Town Council

Although in the Ewloe Ward of Hawarden Community Council, this Town Council have the following observations;

- Has the pub been marketed for 12 months on the open market?
- Is there no business case to maintain the building as a public house?
- Is this not a retrospective application as work has already commenced?

Head of Assets and Transportation

No objection subject to the following conditions;

- Visibility splay 2.4 x 43m
- No obstruction to visibility to the north of the proposed access point within a 0.6m strip

Head of Public Protection

No objections in principle to this application. There is potential for such developments to produce lifestyle conflicts e.g living rooms above bedrooms etc. However, a residential change of use will require Building Regulations approval and, the development will have to

comply with Approved Document “E” – Resistance to the Passage of Sound. This legislation takes into account the lateral movement of noise as well as the noise between floors and aims to improve modern living standards in relation to the effects of excessive noise and reducing unwanted noise transmission. Therefore, it is not inappropriate request any additional conditions for the control of internal noise which may conflict with those required by Building Control Legislation.

Welsh Water/Dwr Cymru

Standard conditions relating to the foul and surface water run off. There is a water main located on the site and there should be no development within a minimum distance of 6 metres from the centre line of this pipe.

Head of Play Unit

Request a contribution of £733 per apartment in lieu of on site play provision.

4.00 PUBLICITY

4.01 Site Notice and Neighbour Notification

17 objections on the grounds of

- Better use could be made of the premises, it has good potential for a specialist use or as a restaurant.
- The public will lose a good facility
- Loss of community facility in Liverpool Road area, no other pub in the vicinity people can walk to
- Loss of jobs
- Dangerous access on to a busy road, on a bend
- Proposed 6 parking spaces are outside the property boundary on public highway
- Impact on residential amenity from 24 hour use of apartments
- Increase in traffic from 5 apartments
- Access will conflict with bus stop
- Car park is adjacent to a bridleway conflict with users
- Red Lion is one of the few surviving cruck frame buildings in the area. Has other historic features and is an old building.
- Trees and hedges adjacent to the property are important to the local landscape and character
- There is existing living accommodation in the pub without having to convert it
- Building is not big enough for 5 apartments
- Would have operated successfully as a pub if it was freehold and not brewery tied
- Enough housing in the local area
- 5 apartments is out of keeping with the local area
- Not enough infrastructure to support more housing
- Work has already started inside and parts have been demolished

- No public consultation has been undertaken by the developer before the application was submitted
- No disabled parking spaces provided
- Parking spaces are not sufficient for the number of apartments and could lead to parking on the road. No visitor parking.
- People joining Liverpool Road from the un-adopted road adjacent to the old barn turn left towards Ewloe to avoid colliding with traffic and then use the Red Lion car park to turn around
- The car park is used as an unofficial overspill car park for Buckley Football club and as a car park for contractors

1 letter of support on the grounds that;

- Lots of public houses are not used, they should be converted or demolished to make homes

5.00 SITE HISTORY

5.01 044842 Erection of a smoking shelter. Approved 20.05.08

6.00 PLANNING POLICIES

6.01 Flintshire Unitary Development Plan

STR1 – New Development

STR4 – Housing

STR8 – Built Environment

GEN1 – General Requirements for Development

GEN2 – Development Inside Settlement Boundaries

HSG3 – Housing on Unallocated Sites Within Settlement Boundaries

D1 – Design Quality, Location and Layout

D2 – Design

D3 – Landscaping

AC13 – Access and Traffic impact

AC18 – Parking Provision and New Development

S11 – Retention of Local Facilities

The proposal is in accordance with the above development plan policies.

7.00 PLANNING APPRAISAL

7.01 Introduction

This is a full planning application for the conversion of the former Red Lion public house into 5 apartments.

7.02 Site description

The application site is the former Red Lion public house with areas of hard standing to the west and south which were formally used as car parking. The building is two storey and is render with a slate roof. The

application site is bounded by Liverpool road to its west. There is a bus stop on Liverpool Road adjacent to the site entrance. The site is surrounded by agricultural land to the north and east. To the south east adjacent to the southern car parking area is Stud Farm. Opposite the application site are residential properties. There are two access points from the former car parking areas onto Liverpool Road. The area directly in front of the pub has a wide dropped kerb and there is a second access further to the south. There are two recycling facilities located in the car park. The site is located on the edge of, but within the settlement boundary of Buckley.

7.03 Proposed development

It is proposed to convert the former public house into 5 one bedroom apartments with associated parking. Externally there are minimal changes to the building. The proposed scheme would lead to the introduction of one new window on the front elevation and two windows on the rear elevation. A small outbuilding has already been demolished to the rear and the smoking shelter has been removed from the front. A small single storey office to the rear will be used for cycle storage. The land to the rear which was formally where the outbuilding stood would be used as a communal outside area. 6 car parking spaces are proposed to the front of the existing building. The other hardstanding area to the south would be retained as additional car parking.

7.04 Principle of development

The application site is within the settlement boundary of Buckley as defined within the Flintshire Unitary Development Plan, however it is within the electoral ward of Ewloe.

7.05 Policy S11 of the UDP states that “development which will lead to the loss of a shop, post office or public house or other building which performs a social as well as an economic role will be permitted only where;

- a) similar facilities exist in the neighbourhood or village which are equally as conveniently accessible to local residents; or
- b) where this is not the case the property has been advertised at a reasonable price for sale or lease in its existing use for a period of at least one year without success.”

7.06 With regard to criteria a, the application site is within the settlement of Buckley which is main town as defined by the UDP. In terms of other facilities in the area which perform a social role, there is a petrol filling station and associated shop across the road from the application site. While there are no public houses in close proximity, as this is an urban area there are several public houses within Buckley and Ewloe the closest being The Hope and Anchor, Ewloe Place approximately 1km, Running Hare, Ewloe 1.2km and Horse and Jockey on Church Road at 1.3km. It is therefore considered that criteria a of the policy is met. It is therefore not necessary for the property to satisfy the

marketing test of criteria a, or to assess its commercial viability.

7.07 Local residents have referred to the fact that work has already started on the building. An outbuilding has been demolished to the rear and the smoking shelter has been removed. It is alleged that internal works have also started and there has been a skip outside. These works would not require planning permission and is not material to the consideration of the application.

7.08 Access and Parking

There are two access points from the former car parking areas onto Liverpool Road. The area directly in front of the pub has a wide dropped kerb and there is a second access further to the south. It is proposed to use the existing access and parking area to the west which is at the front of the public house. As part of the proposed development a formal access would be created in this location with a designated footway created and a raised bus stop with Kassel kerbs. These improvements would reduce any conflict between pedestrian, bus users and vehicles as raised by objectors.

7.09 The Head of Highways and Transportation is satisfied with the location of the proposed access given its previous usage connected with the public house. The car park area is private land and as such the previous informal use of it as mentioned by objectors is not a planning matter.

7.10 The scheme provides for 6 parking spaces. This equates to 1 per apartment and 1 visitor space. The southern car park area is also within the red line of the planning application and the applicant's agent has indicated could be used for further parking. The Head of Assets and Transportation is satisfied with the parking provision proposed.

7.11 Impact on the character of the building and the local area

The proposed changes to the building externally are minimal. The proposal would see the building put to an alternative use. The removal of the smoking shelter is an improvement to both the building and the street scene. The only other alteration to the front of the property is the insertion of one window. It is proposed to utilise the former beer garden as a communal area. This is to the rear of the building therefore any associated domestic items would not be seen from the street scene. Also as apartments have no permitted development rights, any sheds or other structure would require planning permission. This would control the impact of any buildings.

7.12 Residents have raised the issue that the building is one of the oldest buildings in the area and should be protected. It is considered that the building is not worthy of Listing or being considered on the Council's local list. However the building is being retained as part of this scheme, albeit for a different use. The conversion will lead to the removal of features associated with its former use such as the bar etc,

but as the building is not listed no internal features are protected. A condition would be imposed requiring a photographic record of the interior of the building.

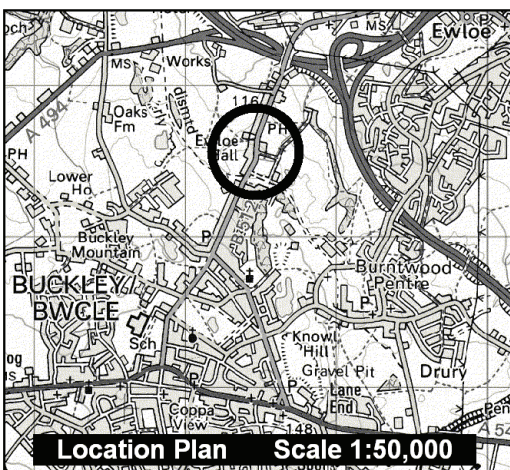
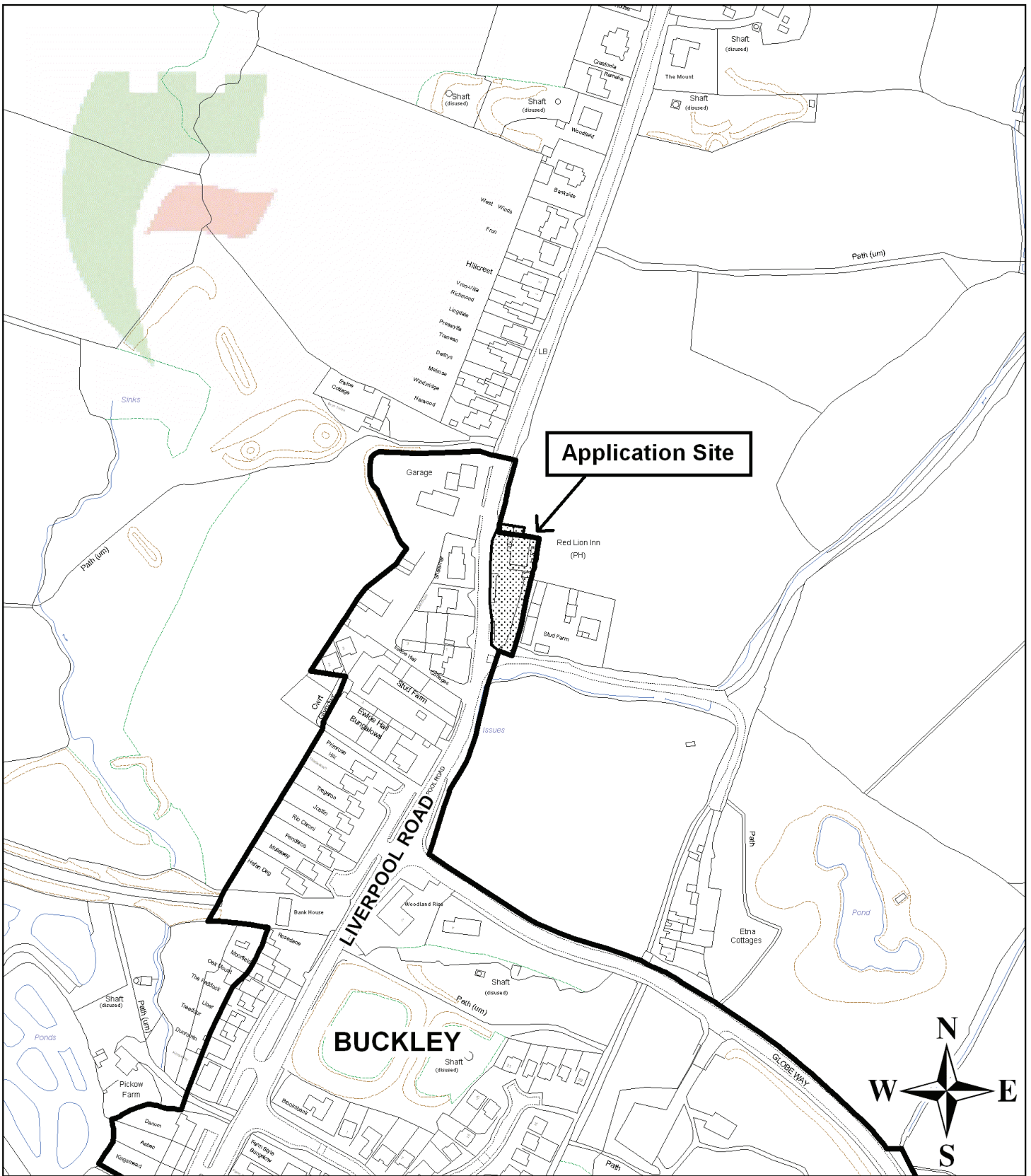
- 7.13 There are a small number of trees as part of a hedgerow along the eastern boundary of the application site adjacent to the Stud Farm and agricultural land beyond. Similarly there is some soft landscaping in the verge between part of the car park area and the road. These would not be affected by the proposed scheme.

8.00 CONCLUSION

- 8.01 It is considered that the conversion of the public house into 5 apartments is acceptable in terms of the principle of development and the impacts of the proposed use.
- 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.

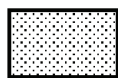
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Environment Directorate,
 Flintshire County Council, County Hall,
 Mold, Flintshire, CH7 6NF.
 Director: Mr. Carl Longland

Legend



Application Site Extent



Adopted Flintshire Unitary
 Development Plan
 Settlement Boundary

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Map Scale 1:2500

OS Map ref SJ 2865

Planning Application **51403**

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FLINTSHIRE COUNTY COUNCIL

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

DATE: **12TH FEBRUARY 2014**

REPORT BY: **HEAD OF PLANNING**

SUBJECT: **LANDFILL TO RAISE LEVEL BY APPROXIMATELY ONE METRE AND SUBSEQUENT RAISING OF HEIGHT OF AGRICULTURAL BUILDING AT LAND AT THE JUNCTION OF THE A541/TARMAC QUARRY, DENBIGH ROAD, RHYDYMWYN**

APPLICATION NUMBER: **050809**

APPLICANT: **MR. JOHN JONES**

SITE: **LAND AT THE JUNCTION OF THE A541/TARMAC QUARRY, DENBIGH ROAD, RHYDYMWYN**

APPLICATION VALID DATE: **24/10/2013**

LOCAL MEMBERS: **COUNCILLOR OWEN THOMAS**

TOWN/COMMUNITY COUNCIL: **CILCAIN COMMUNITY COUNCIL**

REASON FOR COMMITTEE: **LOCAL MEMBER REQUESTED DUE TO FLOOD RISK**

SITE VISIT: **YES – LOCAL MEMBER REQUESTED**

1.00 SUMMARY

- 1.01 The application involves raising the level of the site by 1 metre by the importation of inert construction waste materials and then subsequently raising the height of the existing agricultural building by 1 metre. This proposal is partially retrospective. The applicant has already imported and placed the majority of the inert waste materials onto the site which is required to prevent the site from flooding. Should planning permission be granted, the applicant seeks to complete the restoration and intends to raise the height of the existing agricultural building by one metre.

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

- 2.01
1. Commencement
 2. Approved plans
 3. No more waste material to be imported.
 4. No crushing/screening/processing of waste materials.
 5. Only clean soils/product to be imported
 6. Soil depths 150-200mm if imported
 7. Levels no higher than levels shown on the plan.
 8. Landraise area no greater than 650m².
 9. The landraise area should be pegged out
 10. Agreement of final restoration treatment
 11. Aftercare should the site be seeded

Informatives

Public Rights of Way information
NRW Exemption information
Possible Grass Seed mix
Bird boxes and bird ledges

3.00 CONSULTATIONS

3.01 Local Member - Councillor Owen Thomas objects to the proposal and has requested that the application be referred to the Planning Committee as the application site is located within a flood plain. The application should be refused as the land raise would add to the flood risk at Rhydymwyn. A site visit has been requested as the work has been carried out on this site before a planning consent has been sought.

3.02 Cilcain Community Council
Strongly objects to the proposal on the grounds of:-

- Pollution of the Dolfechlas Brook from contaminated material.
- The importation of material has caused the site to flood.
- A detrimental impact on the natural drainage of the area as the area is over limestone.
- The agricultural shed is unauthorised and does not benefit from planning permission.
- Infilling the site which is on a flood plain will cause increased flood risk for properties downstream in Rhydymwyn; an area of flood risk.
- Lessons should be learnt from other flooding events in North Wales.
- The proposed development is not in the public interest and only benefits the developer and it is a retrospective application.

3.03 Adjoining Community Council - Halkyn Community Council
Has offered no observations.

3.04 Head of Public Protection – has made no adverse comments regarding the proposal.

- 3.05 Head of Assets and Transportation
No objection to the proposed development and no recommendations made on highway grounds. The development is served from the highway by an existing access to which there is no proposed amendment. The proposed development excludes any further importation of material, and additional traffic movements would be limited to contractor's vehicles.
- 3.06 Public Rights of Way Officer
Although the definitive map shows footpath No. 43 to stop short of the railway line to the north of the application site, the statement accompanying the map indicates that the footpath extends southwards to the road, and indeed appears as a feature on the map and crosses the application site. This provides evidence that the site is crossed by a public right of way and that the existing building lies directly over the public right of way. Raising the levels would have a beneficial effect on the right of way, given that the land is currently prone to flooding.
- 3.07 Welsh Water/Dwr Cymru – no comments received.
- 3.08 Natural Resources Wales (NRW)
Initially, NRW objected to the proposal as there were concerns that the information submitted within the application was inadequate to establish that there would not be impact to third parties by the effect of flooding. The drawing accompanying the retrospective application showing the area which has been raised, lacked sufficient detail to allow verification that any land raising which may be permitted retrospectively is not exceeded or extended in the future. Furthermore NRW considered the statement within the application which stated: 'there *should* be no need to bring any additional material to site' was ambiguous. As a result, the applicant submitted a revised drawing showing the extent of the proposed land raise with exact measurements.
- 3.09 Whilst the revised drawing does not provide the plan area of the raised land, the information is considered sufficient to show that the plan area would be approximately 650m². This is consistent with the information provided to NRW when they carried out hydraulic modelling of Dolfechlas Brook; levels on the existing platform would be raised by an additional 100mm requiring 130 tonnes of 'crusher run' to complete the land restoration. Based on the modelled information produced by NRW (then Environment Agency Wales) in 2011, NRW are confident that the effects of the completed land raising works would be localised and minor with no measurable impact to third parties. NRW have therefore withdrawn their objection, subject to the inclusion of a condition stipulating the area of the landraise should be no greater than 650m², to ensure no increased flood risk to third parties.

- 3.10 Other advice was provided by NRW in relation to biodiversity enhancements including livestock fencing of the nearby river corridor if at risk of pollution of livestock activity; installation of nest ledges/boxes for birds and the installation of bat boxes. The potential impact of the proposed development on the favourable conservation status of otters should be considered as part of the determination of the application.
- 3.11 Additional advice was also provided in relation to exemptions to the Environmental Permitting regime regulated by NRW.
- 3.12 Ramblers Association – No comments received.

4.00 PUBLICITY

- 4.01 Press Notice, Site Notice, Neighbour Notification
This application was advertised by way of a press notice and a site notice. Neighbour notification letters were dispatched to nearest residential receptors. The application was advertised as affecting a public right of way.
- 4.02 Two letters of objection have been received following the consultation of this application. The issue raised includes the impact on the Public Footpath No. 43 as the tipping and the building would obstruct the right of way and an appropriate diversion of the path (or creation of new link) would be necessary.
- 4.03 One of the objectors who is a Footpath Worker for the Ramblers Association in the Cilcain and Gwernaffield area, has observed that the original line of Cilcain Footpath No. 43 runs south of the application site as shown on the definitive plan. They comment that, it would appear that the section south of the old railway is missing from the definitive map and their view is that until the status of the public right of way can be determined, then the application should be halted. They feel that an alternative route may need to be explored as otherwise there is no access to this path from a public highway.

5.00 SITE HISTORY

- 5.01 There is no known planning history on this site. The existing agricultural building was in situ on the site when the applicant purchased the land in 1992 and the applicant has no details of any planning permissions in relation to the agricultural building. However an aerial photograph taken in October 1993 provides evidence that the building had been constructed at this time.

- 5.02 Previous aerial photographs available from October 1984 show that the building had not yet been built by this date. There is no record of planning permission obtained for this building, however, it could have been considered to be permitted development by the Local Planning Authority at the time of construction which must have been some time after October 1984 but before 1992. There is evidence therefore that the Local Planning Authority would not be able to take any enforcement action on this building as it would be immune from any enforcement action and would likely to be deemed lawful should an application for a certificate of lawful development be submitted.
- 5.03 The applicant commenced importing inert waste material onto the site sometime before October 2010 when the Council's Planning Enforcement team received a letter of complaint from Cilcain Community Council with regards to the unauthorised development by the importation of waste. The applicant was advised to stop importing any further inert construction waste material and that due to the amount of material imported onto the land, the works carried out would be considered to be an engineering operation which no planning permission had been granted. The applicant was advised to submit a planning application in June 2011.
- 5.04 NRW were first made aware of this issue in July 2012. It was alleged that it was an 'Illegal Waste Site'. During the investigation, it became apparent that the area concerned was subject to a waste permitting exemption (using waste for construction) which had been registered in October 2010 and expired in October 2013.
- 5.05 Officers from NRW visited the site in the beginning of November 2013 and they reported that there were no piles of construction waste, and confirmed that the inert waste had been compressed into a rough hard standing area. NRW have confirmed that they cannot prove this activity is a disposal activity, and from the information provided, the inert waste has been used for construction as per exemption, and the inert construction waste is suitable for that use, such as creating a hard standing for the shed.
- 5.04 Work on site was stopped by NRW under Section 8 of the Land Drainage Act Byelaws for the deposit of material near rivers. However, NRW subsequently confirmed that they would not take any action on the applicant due to subsequent hydraulic modelling that had been undertaken on the site which confirmed that there would be no measureable impact on third parties from importing inert construction waste in the flood plain.

6.00 PLANNING POLICIES

6.01 Flintshire Unitary Development Plan

STR10 - Resources

GEN1 – General Requirements for Development.

EWP7 – Managing Waste Sustainably.

EWP8 – Control of Waste Development & Operations.
EWP16 – Water Resources
EWP17 – Flood Risk
AC2 – Pedestrian Provision and Public Rights of Way
AC13 – Access & Traffic Impact.

6.02 National Planning Policy & Guidance

Planning Policy Wales (2011)

Technical Advice Note 5 – Nature Conservation & Planning (2009)

Technical Advice Note 11 – Noise.

Technical Advice Note 15 – Development & Flood Risk (2004)

Technical Advice Note 18 – Transport (2007)

Technical Advice Note 21 – Waste.

Draft Technical Advice Note 21 – Waste (2013)

Policy Clarification Letter, CL-01-12, Publication of Collections, Infrastructure & Markets Sector Plan and its role relative to Regional Waste Plan First Reviews – Interim Planning Position.

6.03 Waste Strategy Policy & Guidance

Towards Zero Waste: The overarching Waste Strategy Document for Wales, June 2010.

Collections, Infrastructure & Markets Sector Plan, 2012.

Construction & Demolition Sector Plan, November 2012.

6.04 The main policies to be considered in the determination of this application are the policies of the Flintshire Unitary Development Plan (FUDP) particularly Policies EWP8, EWP16 and EWP17.

7.00 PLANNING APPRAISAL

7.01 Introduction

The proposal is a retrospective application which involved the importation of inert waste material to raise the levels of the land and the floor level of an existing agricultural building to approximately 1 metre above existing levels to alleviate flooding problems which occur on site. The amount of material that has been imported is approximately 900m³ over a site area which is 862m², with approximately 650m² of that area subject to the landraise. No more additional waste material would be imported to the site. However, the applicant has confirmed that an additional 130 tonnes of material would be required to complete the restoration which would amount to an increase in height of approximately 100mm. This would consist of materials such as 'crusher run' and/or soils to complete the restoration. Should soils be imported to complete the restoration, an appropriate grass seed mix would be applied.

7.02 A partially dismantled agricultural building is on site, and as part of the application, the applicant seeks to raise the floor level of the building by 1m also to enable the successful future use of the building for agricultural uses and to alleviate flooding from the building.

- 7.03 The main issues are to be considered:-
1. The principle of the landraise and flood risk.
 2. Contamination of surrounding water courses.
 3. The impact on a Public Right of Way.
 4. Restoration and aftercare.
 5. Ecology, biodiversity and European Protect Species
- 7.04 Principle & Flood Risk
The principle of the proposal to raise the land is to provide flood mitigation for the site so that the existing agricultural land and building can be put back to a useful agricultural building without risk of harm to livestock or ruining feed/materials/machinery that may be stored in the building. Photographs provided and recent site visits have demonstrated that the site is prone to flooding. Whilst the Community Council believe that the applicant has exacerbated the flooding problem on the site, modelling undertaken by Natural Resources Wales (NRW) shows that the site is at risk in the 1% (1 in a 100) annual chance flood event.
- 7.05 The site lies within Zone C2 as defined by TAN15: Development & Flood Risk (July 2004) and shown on the Welsh Government's Development Advice Maps (DAM). Concerns have been raised by the Local Member and the Community Council with regards to the imported waste material on the flood plain as they believe it would cause increased flood risk for properties downstream in Rhydymwyn which is in an area of high flood risk. Furthermore, lessons should be learnt from other flooding events in North Wales.
- 7.06 Policy EWP17: Flood Risk of the adopted Flintshire Unitary Development Plan supports development which seeks to reduce the impact and frequency of flood risk to areas at risk of flooding subject to a number of tests to ensure the measures do not have a detrimental impact on the surrounding area. The proposal would enable currently underused land to be brought back into beneficial agricultural use. As such, it is considered that the proposal accords with Policy EWP17 of the Flintshire Unitary Development Plan.
- 7.07 However, whilst the applicant has not submitted a Flood Consequences Assessment, NRW have confirmed that the hydraulic modelling of Dolfechlas Brook indicates the effects for the existing deposition are localised and minor, with no measurable impact to third parties subject to a condition to ensure that the site area is no increased.
- 7.08 The applicant has confirmed that once the building is completed, rainwater would be collected from the roof of the building which would also assist to alleviate surface water flooding.

- 7.09 The Community Council believe that the importation of construction waste material would have a detrimental impact on the natural drainage of the area as the area lies over limestone and has natural permeability which they believe the compaction of hardcore material will be instrumental in detrimentally affecting the natural seepage of the ground on this site. However, due to the nature of the deposited material being uncompacted bricks/rubble it is considered that this would improve the drainage of the area which has been raised, and it would not be subject to ponding water. Open ditches surrounding the site could be cleared which would assist in the site drainage. Whilst we hold no specific information, it is noted that the fill material used in raising the level of the land would still have the capacity to hold some flood plain water below the final levels. This is because the loose hardcore materials used to raise the levels of the land would contain interconnected voids between fragments of brick, rock and concrete typically used for this purpose and it is not a solid impermeable compacted mass such as clay.
- 7.10 Subject to a condition to ensure that the area that has been raised would not increase in area, the levels would not be exceeded as shown on the submitted plan, the proposed development is considered acceptable and inline with Policy EMP17: Flood Risk of the adopted Flintshire Unitary Development and TAN15. For the avoidance of doubt, a condition would require the site area to be pegged out to ensure that the restoration is completed in accordance with approved plans.
- 7.11 Contamination of Surrounding Water Courses
The Community Council have raised concerns in relation to the nature of the materials that have been deposited on land, and the possibility of leachate from the imported fill material and the proximity to Dolfechlas Brook and risk of contamination of surrounding water courses.
- 7.12 'Inert waste' means waste that does not undergo any significant physical, chemical or biological transformations. Inert waste will not dissolve, burn or otherwise physically or chemically react, biodegrade or adversely affect other matter with which it comes into contact in a way likely to give rise to environmental pollution or harm human health. The total leachability and pollutant content of the waste and the ecotoxicity of the leachate must be insignificant, and in particular not endanger the quality of surface water and/or groundwater.
- 7.13 Natural Resources Wales and the Council's Head of Public Protection who are responsible for environmental protection which include pollution prevention of water courses have not objected to the proposal. As such, it is considered that the proposal accords with the provisions of Policies STR10, GEN1, EWP8 and EWP16.

- 7.14 Impact on Public Rights of Way
The Rights of Way Officer has not objected to the proposal. The result of the development and raising the levels of the land would have a beneficial effect on the Public Right of Way given that the land is subject to flooding. Whilst the existing building is causing an obstruction of the right of way at present, this could be rectified by way of a diversion under a separate statutory process outside of the planning process. Since the building has been located over the right of way for over 20 years, anyone using the right of way would have had to use an alternative route and, prior to the importation of waste; at times the alternative route through the application site would be impassable as the route would be flooded on occasions.
- 7.15 Should planning permission be granted, the alternative route though the application site would be no longer flooded and therefore the proposal would have a beneficial effect on the right of way. Whilst the existing building is obstructing the right of way, the right of way would still be retained in accordance with Policy AC2 of the Flintshire Unitary Development Plan and it would not justify the application being refused. An informative would be added to the decision notice.
- 7.16 Restoration and Aftercare
As the proposal is partially retrospective and that the applicant was told to stop any further works, the restoration has not yet been completed. The land that has been partially raised is not a sensitive habitat. The finished levels would be brought up to the proposed height by the importation of approximately 130 tonnes of clean materials; either clean aggregate or soils at a height of 100mm to complete the restoration, and amounts to less than 10 deliveries using standard fixed chassis tipper trucks. This would ensure that the site is restored and completed to a satisfactory standard to ensure that the site can be restored back to agricultural use. Should soils be required this would be conditioned to minimum depth of 150-200mm, but not higher than levels as shown on the plans. Should soils be used as the finished treatment, to ensure the site is restored back to the previous condition of an agricultural field, an appropriate grass seed mix which would be tolerant of environmental stresses and potential drought due to the freely draining soils. A five year aftercare would be conditioned to ensure that the site was satisfactorily restored, should it be seeded.
- 7.17 The final floor level of the existing agricultural building would be completed with concrete and raised by one metre. In order to allow cattle to use the building the height of the building would also be raised by one metre.
- 7.18 Ecology, Biodiversity and European Protected Species
The land that has been raise is not considered to be sensitive habitat. The key area of ecological interest is the existing Dofechlas Brook and its banks which would not be effected by the development as it is located approximately 15 metres to the west of the site which has

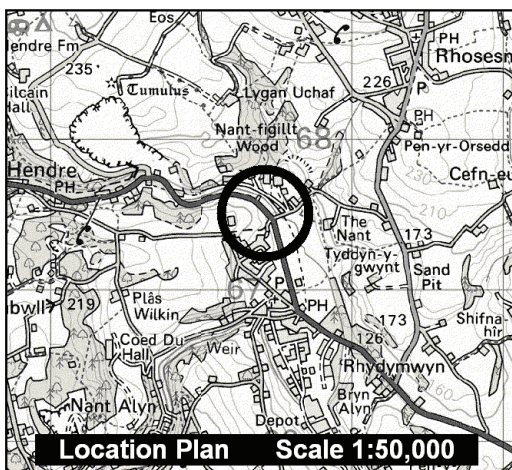
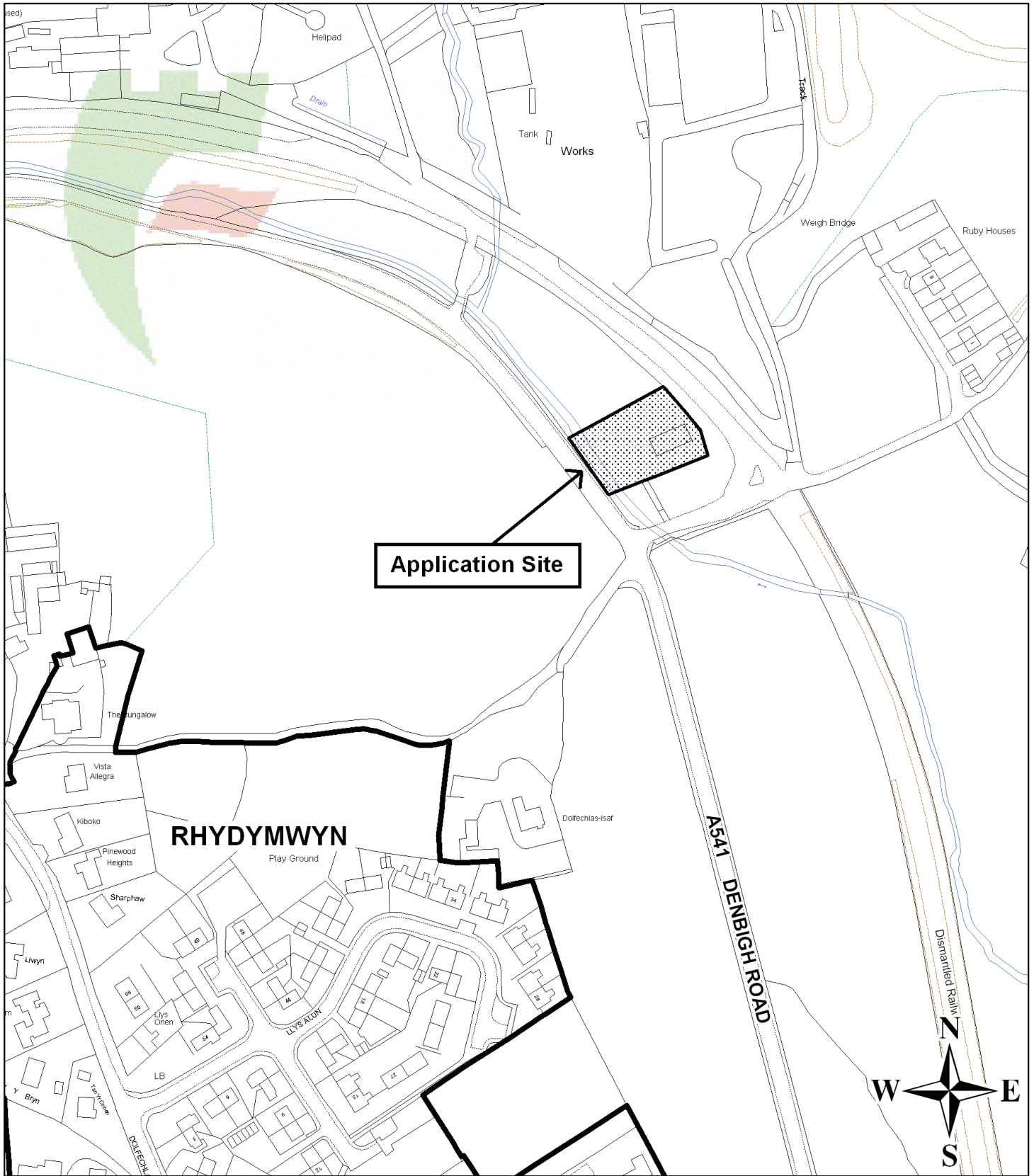
been subject to land raising. In relation to the matter raised by NRW in relation to the potential impact on otter habitat, it is considered that the proposal would not affect any otter holts and/or resting places. There would be no change to the river corridor as a result of the development and the land raise would not obstruct any routes used by otters to travel to the woodland to the north of the site. As such it is considered that the proposal would not have an impact on the Favourable Conservation Status of otters and the proposal would accord with Policy WB1 of the Flintshire Unitary Development Plan.

- 7.19 The proposal would not present risk of pollution to the adjacent water course. However, it would be possible for the applicant to install nest ledges and boxes for birds within the agricultural building which would enhance biodiversity on the site.

8.00 CONCLUSION

- 8.01 The proposal would enable currently underused land to be brought back into beneficial agricultural use. The hydraulic modelling of Dolfechlas Brook indicates the effects for the existing deposition are localised and minor, with no measurable impact to third parties subject to a condition to ensure that the site area is no increased.
- 8.02 Whilst there is a public right of way running through the site, the proposal would have a beneficial effect on the right of way as it would prevent the right of way being flooded. Whilst the right of way is technically obstructed, the improvements that the proposal would bring would not justify a refusal.
- 8.03 Should planning permission be granted, the landraising/ flood alleviation project would be completed to a satisfactory condition and restoration using clean aggregate product or soil with appropriate grass seed mix. The proposals would not have a detrimental impact on any biodiversity interests or protected species.
- 8.04 Should planning permission be refused all the waste material must be removed off site to a suitable authorised site/facility. Failure to do so may lead to an enforcement notice being served under Section 59 of the Environmental Protection Act 1990.
- 8.05 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.

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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 2067

Planning Application 50809

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FLINTSHIRE COUNTY COUNCIL

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

DATE: **12TH FEBRUARY 2014**

REPORT BY: **HEAD OF PLANNING**

SUBJECT: **CHANGE OF USE OF AGRICULTURAL LAND TO A GRAVEYARD AT LAND TO THE REAR OF CROMPTON CLOSE, HIGHER KINNERTON.**

APPLICATION NUMBER: **051534**

APPLICANT: **WILLIAM CROMPTON ESTATE CHARITY**

SITE: **LAND TO THE REAR OF CROMPTON CLOSE, HIGHER KINNERTON**

APPLICATION VALID DATE: **28TH NOVEMBER 2013**

LOCAL MEMBERS: **COUNCILLOR P LIGHTFOOT**

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

REASON FOR COMMITTEE: **REQUESTED BY THE LOCAL MEMBER**

SITE VISIT: **YES**

1.00 SUMMARY

- 1.01 This planning application seeks permission for the change of use of agricultural land to the rear of Crompton Close, Higher Kinnerton to a graveyard.
- 1.02 Planning permission for an identical scheme was granted 19th August 2008. The only difference between the current application and the extant permission is the proposed vehicular access.

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

- 2.01 That conditional planning permission be granted subject to the following conditions:
1. Time commencement
 2. In accordance with plans
 3. Restrictions on positioning of burials
 4. Landscaping details to be submitted and approved
 5. An approved scheme for the layout of the graveyard is to be submitted and approved
 6. Access restricted to the funeral hearse and maintenance vehicles

3.00 CONSULTATIONS

3.01 Local Member

Councillor P Lightfoot

Requests a site visit as there are inconsistencies in the plans submitted and there are parking issues.

Higher Kinnerton Community Council

Does not support the proposal. The plans submitted are incorrectly annotated.

Head of Assets and Transportation

No objection subject to the vehicular access being limited only to a funeral hearse and maintenance traffic.

Head of Public Protection

No objection subject to conditions recommended by NRW

Natural Resources Wales

No objection subject to conditions.

4.00 PUBLICITY

4.01 Site Notice, Neighbour Notification

5 representations have been received objecting on the grounds of:

- Inaccurate plans submitted with the application
- Inappropriate for funeral procession to go through the play area
- Increased traffic and parking on Park Avenue

5.00 SITE HISTORY

5.01 044413 - Change of use of agricultural land to a graveyard

6.00 PLANNING POLICIES

6.01 Flintshire Unitary Development Plan

GEN1 – General Requirements for New Development

GEN3 – Development in the Open Countryside

7.00 PLANNING APPRAISAL

7.01 Introduction

The application site is located just outside the settlement boundary of Higher Kinnerton as defined in the adopted Flintshire Unitary Development Plan and is therefore in the open countryside. To the north and west of the site is open countryside; to the east is an open field, on the opposite side of which are residential properties on Crompton Close; to the south east of the site is a play area, on the opposite side of which are residential properties on Kirkett Avenue.

7.02 The proposed access to the site is via an existing footpath which runs along the north boundary of the adjacent playing field linking it with Park Avenue.

7.03 The proposal includes for the change of use of approximately 0.2 hectares of agricultural land for use as a graveyard. It is proposed that hedging will be planted on all sides of the graveyard to provide privacy and also screen the site. Badger proof fencing will also be erected on the inside of the hedge to prevent badgers from entering the site and disturbing the ground.

7.04 The proposed vehicular access and turning area will be created using graded limestone.

7.05 Main Issues

The main issues to consider in the determination of this application are the impact the proposal will have on the general character of the area; the impact on highway safety and the highway network; and, the impact on the amenities of nearby residents.

7.06 Policy Context

The site subject of this application is located outside the settlement confines of Higher Kinnerton within an area of open countryside as shown on the Proposals Maps in the adopted Unitary Development Plan.

7.07 UDP Policy GEN3 sets out the types of development that may be permitted outside settlement boundaries. Criterion *J* allows for other development which is appropriate to the open countryside and essential to have an open countryside location rather than be sited elsewhere. Given the nature of this proposal it could be deemed an appropriate use for a rural area subject to meeting the detailed general requirements of UDP Policy GEN1.

7.08 As such, in principle, the proposal would comply with the relevant policies of the UDP.

7.09 Impact on the character of the area

By its very nature, the proposal will not be visually obtrusive in that the only physical features of the graveyard will be headstones. Notwithstanding this, adequate natural screening will even further reduce this impact.

7.10 The proposed access and turning area will be constructed of stone and will run through the existing play area. It is not considered that this will cause any adverse harm on the character of the area.

7.11 Impact on residential amenity

The proposal will not generate any noise, and given its distance from nearby residential properties, it will not cause any adverse over bearing or overlooking impact, particularly during times when a funeral is taking place on the site.

7.12 Concerns have been raised by local residents regarding the issue of people parking on Park Avenue and causing congestion and using the entrance to the play area as a vehicular access to the site; however, the Head of Assets and Transportation has no objection subject to the vehicular access only being used by the funeral hearse and maintenance. Due to the scale of the site, it is not considered that it will be frequently used and therefore any impact on residents by funeral processions or visitors to the site will be minimal and sporadic.

7.13 Other considerations

Reference has been made by third party representations to the submission of an inaccurately annotated plan. However, the plan referred to forms part of the lease agreement for the land and does not form part of the planning application.

7.14 There is an extant planning permission for a similar scheme to that proposed, the only difference being the vehicular access on the current application. The extant permission only has consent for a 1.5m wide footpath following the same route as the currently proposed vehicular access. Whilst the UDP has been formally adopted since the extant permission was granted, the relevant policies to be considered have not materially changed.

8.00 CONCLUSION

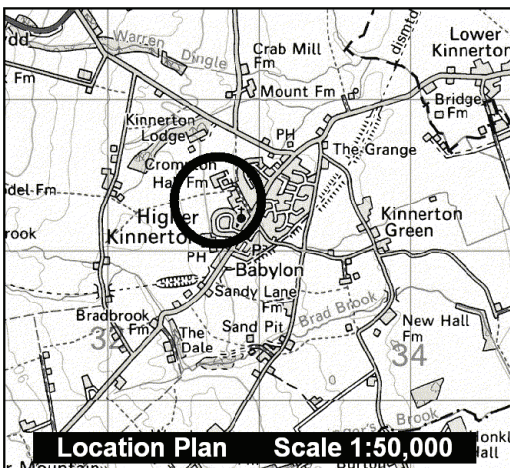
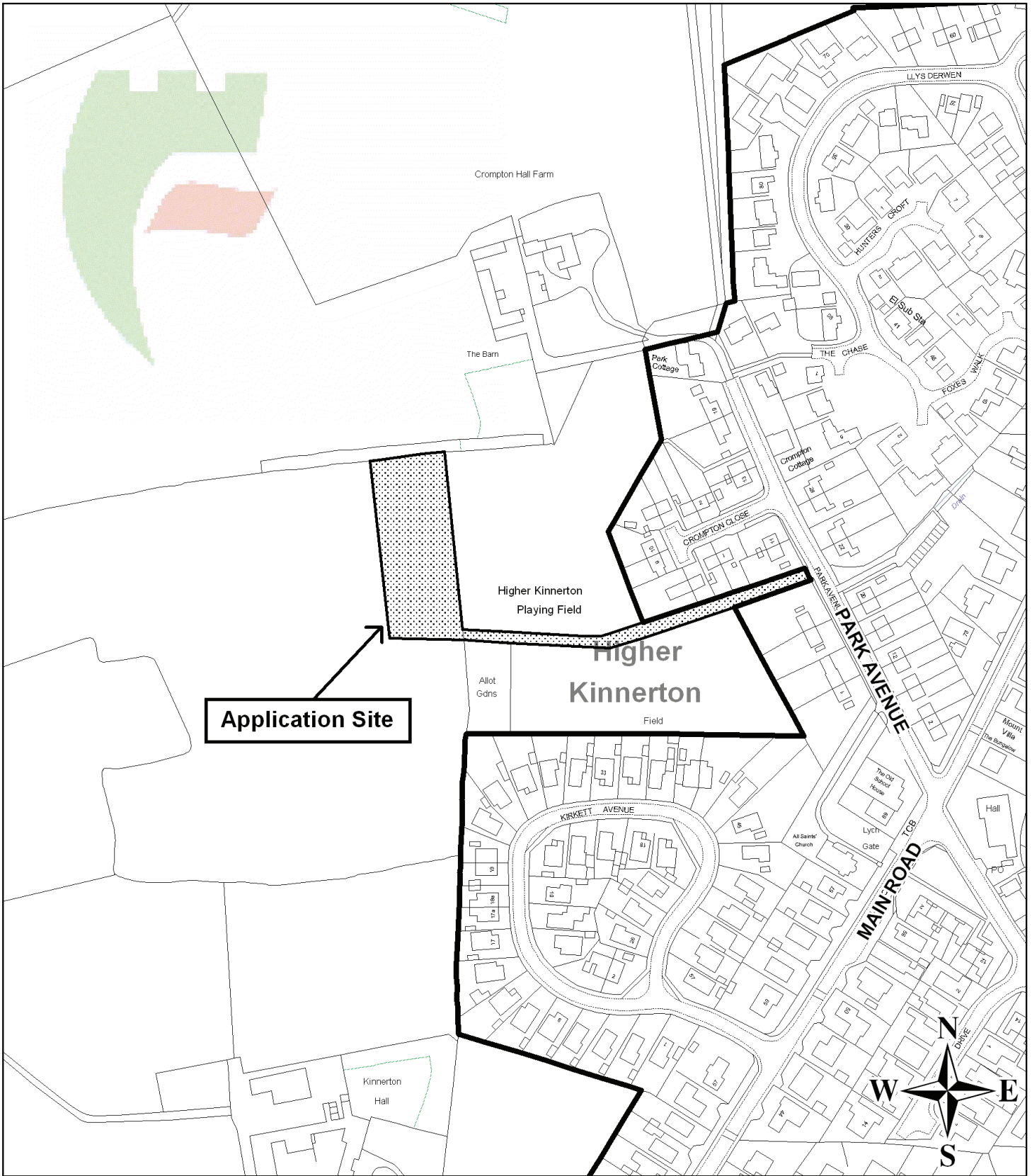
8.01 For the reasons above, it is considered that the proposal is acceptable in terms of the principle of the development in planning policy terms, the highway implications, the effects upon the character and appearance of the area and the effects upon the amenities of nearby residents.

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.

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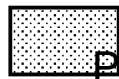


Environment Directorate,
 Flintshire County Council, County Hall,
 Mold, Flintshire, CH7 6NF.
 Director: Mr. Carl Longland

Legend



Adopted Flintshire Unitary
 Development Plan
 Settlement Boundary



Application Site Extent

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Map Scale 1:2500

OS Map ref SJ 3261

Planning Application 51534

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FLINTSHIRE COUNTY COUNCIL

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

DATE: **12TH FEBRUARY 2014**

REPORT BY: **HEAD OF PLANNING**

SUBJECT: **FULL APPLICATION – ERECTION OF 16 NO. DWELLINGS TO INCLUDE 6 NO. 2 BED HOUSES, 6 NO. 1 BED APARTMENTS AND 4 NO. 2 BED APARTMENTS AT STARLIGHTS SOCIAL CLUB, SEALAND AVENUE, GARDEN CITY.**

APPLICATION NUMBER: **051518**

APPLICANT: **PENNAF HOUSING GROUP**

SITE:

APPLICATION VALID DATE: **27TH NOVEMBER 2013**

LOCAL MEMBERS: **COUNCILLOR MRS. C. M. JONES**

TOWN/COMMUNITY COUNCIL: **SEALAND COMMUNITY COUNCIL**

REASON FOR COMMITTEE: **SIZE OF PROPOSALS ARE SUCH THAT AUTHORITY TO DETERMINE THIS APPLICATION IS NOT DELEGATED**

SITE VISIT: **NO**

1.00 SUMMARY

1.01 The application seeks full planning permission for the erection of 16No. dwellings in the form of 6No. semi detached dwellings and 10 apartments. Access to the site is proposed to be derived from Sealand Avenue via a new point of vehicular access. The proposals provide for a mix of 1 and 2 bed accommodation.

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

2.01 That conditional permission be granted, subject to the applicant

entering either into a Section 106 agreement, providing a unilateral undertaking or the making of an advance payment which provides for the following;

- a) Ensure the payment of a commuted sum payment, in lieu of on site public open space provision, of £11728 with such sum being used to upgrade existing open space and recreation facilities within the locality. This sum shall be paid upon the occupation of the 10th units of accommodation.

1. Time limit on commencement
2. In accordance with approved plans
3. Drainage details to be submitted & agreed before commencement
4. Parking and turning facilities to be provided
5. Finished floor and external ground levels to be approved
6. Landscaping scheme before commencement.
7. Timescale for implementation of landscaping
8. Materials to be approved
9. Building to CFSH level 3 and 1 credit under ene1.
10. CFSH 'Interim Certificate' before work commences.
11. CFSH 'Final Certificate' before houses occupied.
12. No building within 3m of the centre line of identified sewer.
13. Siting layout and design of access to be submitted & agreed before commencement.
14. Forming and construction of access before any other works.
15. Visibility splays of 2.4m x 43m. No obstructions above 0.6m.
16. 1.8m wide footway across site frontage.
17. Scheme for prevention of surface water runoff to highway.
18. Any flood risk conditions required on the advice of NRW/CNC.

3.00 CONSULTATIONS

3.01 Local Member

Councillor Mrs. C. M. Jones

Requests Committee Determination due to size and scale of proposals

Sealand Community Council

No objections.

Head of Assets and Transportation

No adverse comments. Requests the imposition of conditions.

Head of Public Protection

Final comments awaited at time of writing.

Head of Lifelong Learning

Advises that local schools all have a surplus of capacity and therefore no requirement for an educational contribution is being made.

Public Open Spaces Manager

Requests that a commuted sum of not less than £1000 per dwelling and £733 per apartment be secured in lieu of on site public open space and recreation facilities.

Welsh Water/Dwr Cymru

Requests the imposition of conditions requiring the submission and agreement of drainage proposals. Also advises of the location of a public sewer on the site boundary and advises no buildings within 3 metres of the centreline of that sewer.

Natural Resources Wales/Cyfoeth Naturiol Cymru

Final comments awaited at time of writing.

AIRBUS

No adverse comments

4.00 PUBLICITY

4.01 The application has been publicised by way of a press notice, site, notice and neighbour notification letters. At the time of writing this report 1 No. letter raising a concern in relation to the potential for the proposals to give rise to increased parking problems along Sealand Avenue.

5.00 SITE HISTORY

5.01 **043436**

Erection of 38No. apartments
Approved 16.6.2011 subject to S.106 agreement.

6.00 PLANNING POLICIES

6.01 Flintshire Unitary Development Plan
Policy GEN1 - General requirements for development
Policy GEN2 - Development inside settlement boundaries
Policy D1 – Design Quality, Location & layout
Policy D2 - Design
Policy D3 - Landscaping
Policy AC13 - Access & traffic impact
Policy AC18 – Parking & New Development
Policy HSG3 - Housing on unallocated sites within settlement boundaries
Policy HSG8 - Density of development
Policy HSG9 - Housing mix and type
Policy HSG10 - Affordable housing within settlement boundaries
Policy SR5 - Play areas and new housing development
Policy IMP1 - Planning conditions & planning obligations

7.00 PLANNING APPRAISAL

7.01 Site and Surroundings

The site is presently vacant, being lastly occupied by a former snooker hall building and its associated car parking or pathways to the building. The site is bounded to the north and west with security boarded hoarding. Boundaries to the residential properties to the east are formed by a 1.8 metre close boarded and concrete post fence. This boundary treatment wraps partly across the southern boundary where it meets existing boundary treatments to the side of 13 Sealand Avenue. Sealand Avenue and Queens Road bound the site to west and north respectively. Vehicular access to the site is presently derived from three points, two upon Sealand Avenue and one off Queens Road.

7.02 The surrounding area is characterised by 2 storey dwellings of varying ages and types. Finish external materials are either brick or pebble dash with a mixture of slate or tile roofs.

7.03 The Proposed Development

The proposed development provides for the following:

- a) the erection of 6No. 2 storey semi-detached dwellings, providing 2 bed accommodation;
- b) a 2 storey 'terrace' apartment building which provides for 4No, 1 bed apartments arranged with 2 at ground floor level and 12 at first floor level;
- c) a 2 storey apartment building providing 6no. apartments comprising 2no. 1 bed apartments and 4no. 2 bed apartments. These are arranged with 3no. apartments at ground floor and 3no. apartments at first floor; and
- d) the creation of a new centrally positioned access into the site from Sealand Avenue, together with the provision of a parking court.

7.04 The Principle of Development

The site is located within the settlement boundary of Garden City as defined in the Flintshire Unitary Development Plan. Therefore, in planning policy terms there is a presumption in favour of development.

7.05 The site is located in a C1 flood risk zone as identified in the Development Advice Map referred to in TAN15 : Development and Flood Risk. Applications for development of this nature must demonstrate to the satisfaction of the Environment Agency Wales that the development would not present an undue risk to life from flooding. Subject to agreement upon this matter, the proposals would accord with the policies in relation to development and flood risk. Detailed discussion in relation to this issue can be found in the Planning Appraisal below.

7.06 In considering the issue of housing development upon unallocated sites within Settlement Boundaries, the UDP directs that residential development proposals upon such sites in Category B settlements, such as Garden City, should seek to achieve a development density of 30 dwellings per hectare (dph). The proposals represent a development which accords with this aim, being 48 d.p.h.

7.07 Main Planning Issues

It is considered that the main issues for consideration are;

- a) Design and layout
- b) Flood risk
- c) Highways
- d) Affordable housing
- e) Recreation and education contributions

7.08 Design and Layout

Whereas with the previous building upon the site, the mass of built form was set back into the site and largely abutted the eastern boundary of the site, the built form is now proposed to be dispersed across the site. This has served to allow for the creation of a continuation of street scene along Sealand Avenue and turning the corner into Queens Road.

7.09 I am satisfied that the proposals do not give rise to any adverse overbearing impacts upon nearby residents and consider that the separation distances which the scheme provides are acceptable. I consider that the proposals actually represent an improvement in residential amenity terms for nearby residents as a result of improved relationships between built form and a reduction in the concentrated mass of built form when compared with that building previously upon the site.

7.10 I consider that the design and visual appearance of the proposed dwellings create a pleasing street scene across the site frontage and serve to continue the street presence already existing in the vicinity. Design features such as panelled surrounded windows upon the corners of buildings which are located at junctions serve to enhance the legibility of the scheme and introduce variety and interest into the external appearance of the proposed dwellings. In terms of form and mass, they are broadly consistent with that residential built form which exists in the locality and therefore I am satisfied that these proposals will not appear incongruous in the locality.

7.11 Highways

Vehicular access to the site is proposed a new point of access within the site frontage. The proposals have been the subject of consultation with the Head of Assets and Transportation who advises that subject to the imposition of conditions, no objection is raised to the proposals.

I propose to condition as requested.

7.12 Concerns have been raised in relation to the potential for increased parking to arise as a consequence of the development. I am satisfied that the proposals made adequate provision for the parking of vehicles in accordance with the Council's standards. I am proposing a condition requiring the proposed parking and turning facilities to be provided as per the approved scheme and prior to the occupation of the units to which they relate.

7.13 Flood Risk

As stated previously in this report, the site occupies a position within a C1 flood zone. As a consequence, the applicant has produced a flood consequence assessment (FCA) to demonstrate that the impacts in the event of a flood, can be acceptably managed. Natural Resources Wales have examined these assessments and their final comments are awaited at the time of writing this report. Members will however be aware that significant flood prevention works are to be undertaken in the context of the Northern Gateway mixed development proposals and once complete they will have a mitigating effect on flood risk within the wider Garden City area. Consequently, it is envisaged that a 'grampian' style condition will address this issue, delaying the commencement of this development until the embankment strengthening works have been carried out. This will allay any concerns that NRW/CNC may have and Committee will be updated in this respect once their final observations have been received.

7.14 Affordable Housing

The site and the scale of the proposed development is such that a requirement for an element of affordable housing normally arises. The scheme is proposed to be 100% affordable as the developer is the registered social landlord, Pennaf. The scheme has secured funding from Welsh Government as part of Flintshire County Council's Social Housing Grant Programme. The properties are proposed to be available via a rental tenure. However, schemes which are the subject of Welsh Government funding operate upon a tenure neutral basis. This will enable flexibility within the scheme to make properties available via shared equity provisions should the need be identified for such provision. Accordingly there no requirement for a S.106 agreement to address these matters.

7.15 Recreation and Education Contributions

The scale of the proposal requires that either play facilities are provided upon site or a commuted sum is provided by the developer towards the upgrade of existing play facilities in the community. Consultation with the Public Open Spaces Manager has established that in this case a commuted sum is considered the most appropriate way to secure play provision in the community. Consequently a sum equivalent to £1000 per dwelling and £733 per apartment is requested

to be secured via a Section 106 agreement.

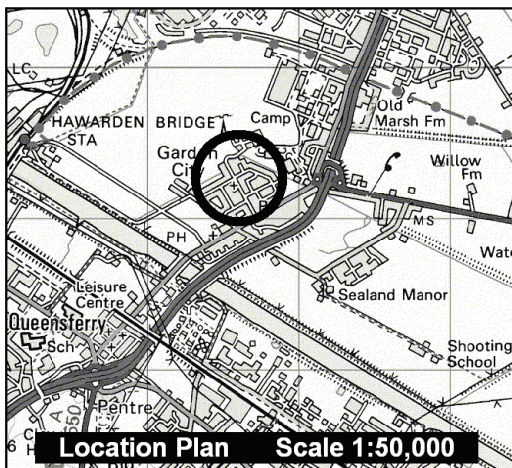
- 7.16 Members will be aware that where proposals are providing for 100% affordable housing, the normal requirements in terms of commuted sums for P.O.S and play provision are relaxed. Accordingly, and notwithstanding the response to consultation received from the Public Open Spaces Manger, I propose to require a commuted sum equivalent to £733 per unit of accommodation. This provides for a total payment of £11728.
- 7.17 Consultation with the Head of Lifelong Learning has indicated that none of the local primary or secondary schools are in such a position that there is lack of surplus places such that would give rise to a requirement for any contributions to be sought.
- 7.18 Other matters
Consultation with the Head of Public Protection has revealed the need for conditions requiring a land contamination investigation be undertaken to establish that the site is not a risk from historical contaminants. I propose to condition in both respects accordingly.

8.00 CONCLUSION

- 8.01 I am satisfied that, having regard to the provisions of the applicable policies and all other material considerations, this proposal would accord with the provisions of the same and would, through the suggested conditions and Planning Obligation under Section 106, 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
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Email: david.glyn.jones@flintshire.gov.uk

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Location Plan Scale 1:50,000



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 3269
Planning Application	51518

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FLINTSHIRE COUNTY COUNCIL

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

DATE: **12TH FEBRUARY 2014**

REPORT BY: **HEAD OF PLANNING**

SUBJECT: **FULL APPLICATION – RE-PLAN TO PLOTS 124-127, 136-139 AND ADDITION OF PLOTS 172-180 AS AMENDMENTS TO LAYOUT PREVIOUSLY PERMITTED UNDER APPLICATION 049605 AT FORMER LANE END BRICKWORKS, CHURCH ROAD, BUCKLEY (PARTLY RETROSPECTIVE)**

APPLICATION NUMBER: **051066**

APPLICANT: **REDROW HOMES NW LTD**

SITE: **LAND AT LANE END BRICKWORKS, CHURCH ROAD, BUCKLEY.**

APPLICATION VALID DATE: **23RD JULY 2013**

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

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

REASON FOR COMMITTEE: **REQUIREMENT FOR SUPPLEMENTAL PLANNING OBLIGATION AND MEMBERS REQUEST IN ORDER TO ASSESS DEVELOPMENT RELATIVE TO EXISTING PERMISSION DUE TO RESIDENTS OBJECTIONS AND PARTLY RETROSPECTIVE NATURE OF APPLICATION.**

SITE VISIT: **YES.**

1.00 SUMMARY

- 1.01 This full application which is partly retrospective, proposes amendments to the southern parcel of a previously approved residential development currently under construction at the former

Lane End Brickworks, Buckley. The changes principally incorporate the re-siting of affordable dwelling units within the site layout by the substitution of house types on 8 No. existing plots and addition of a further 8 No. dwellings with associated modifications to the curtilage areas and access arrangements. The application is being reported to the planning committee for determination at the request of the Local Members and in accordance with the Council's delegation scheme as a supplemental planning obligation is required.

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 planning obligation re-enforcing the provisions entered into in respect of highway, ecological, and open space requirements, together with the need to increase the number of affordable housing units required to be provided within the site from 44 - 46. If the Obligation pursuant to Section 106 of the Town & Country Planning Act 1990 (as outlined above) is not completed within six months of the date of the committee resolution, the Head of Planning be given delegated authority to REFUSE the application.

Conditions

1. In accordance with approved plans.
2. Materials to be submitted and approved.
3. Positive means to prevent run-off of surface water from any part of the site onto highway to be provided.
4. Detailed layout, design, means of street lighting and construction of internal estate roads to be submitted and approved.
5. Development to remain subject to conditions imposed on planning permission reference 049605.

3.00 CONSULTATIONS

3.01 Local Member

Councillor D. Hutchinson

Request site visit and planning committee determination due to nature of objections, the need to assess development relative to current permission and partly retrospective nature of application.

Councillor M.J. Peers

Request site visit and planning committee determination due to nature of objections, the need to assess development relative to current permission and partly retrospective nature of application.

Buckley Town Council

No observations.

Head of Assets and Transportation

Following receipt of amended plan, no objection subject to the imposition of conditions to prevent run-off of surface water onto highway and design of internal estate road.

Head of Public Protection

No adverse comments.

Welsh Water/Dwr Cymru

No objection given previous planning history.

Natural Resources Wales

No response received.

4.00 PUBLICITY

4.01 Site Notice, Neighbour Notification

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

- Increase in number of dwellings from that previously approved would result in overdevelopment.
- Impact on privacy/amenity by way of overlooking.
- Increase in vehicular movements.
- Introduction of affordable housing in this area of the site will impact on make up of existing development and result in increased noise and change of environment.

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 & 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* 172 on Reserved Matter approval 046778, using house types used elsewhere on said appeal – Permitted 28th June 2012.

050333

Full Application – Re-plan to the northern parcel of former brickworks with mix of 2, 3 & 4 bedroom detached, semi-detached and terraced dwellings with associated parking and amenity spaces (partly retrospective) – Permitted 28th January 2014.

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.

Additional Guidance

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

This full application relates to a proposed re-plan on approximately 0.28 hectares (0.71 acres) of land within the southern parcel of a wider residential development of 19.9 hectares (49 acres) currently under construction at the former Lane End Brickworks, Buckley. The development has two distinct inter-related phases namely the southern parcel of the development which is accessed from Church Road in contrast to the northern parcel which has a separate access into the site from Drury Lane.

7.02 Proposed Development

The plans submitted as part of this application propose modifications and amendments to the site layout on an area of the southern parcel of the site which currently has planning permission for the erection of a total of 8 No. dwellings. This comprises 7 No. detached dwellings

fronting onto a central courtyard with one dwelling facing onto an existing approved estate road.

- 7.03 It is proposed that the site layout be amended at this location by:-
- i. the substitution of the detached house types currently permitted on plots 124 – 127 and 136 – 139 and relocation of 8 No. affordable housing units initially intended to be provided within the northern parcel in 2 No. x 4 blocks.
 - ii. the addition of plots 172 – 180 as amendments to the layout for a total of 8 No. affordable housing units also initially proposed within the northern parcel, to be provided within a terrace of 6 No. units and a pair of semi-detached dwellings.
- 7.04 The terraced units would be served by a central courtyard accessed off the main estate road, with the pair of semi-detached dwellings having a direct access from the main estate road. In support of the application the applicant has advised that the reason for the proposed relocation of the affordable units is based on (i) them being more visually related to existing development within the southern panel given the intention to develop a new Abode housing range within the northern parcel (ii) earlier delivery of the affordable units as development on the southern phase is more advanced.
- 7.05 Consequently as a result of the proposed re-plan, this application proposes 171 dwellings within the southern parcel and with 143 dwellings units within the northern parcel; provides for a total of 314 dwellings within the overall site, as compared to 306 units currently permitted.
- 7.06 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 restoration costs. This was addressed by way of a planning condition and Section 106 Obligation. As the overall density of development is proposed to be increased to 314 dwellings this now requires 46 affordable units to be provided within the overall development.
- 7.07 For Members information development initially commenced on the construction of the southern parcel of the site accessed off Church Road. There are currently a number of affordable dwellings within this phase which are completed/occupied, the terms of the provision of the affordable housing having been amended following consideration at the Planning & Development Control Committee on 5th October 2011 with them now proposed for occupation on a shared equity basis.
- 7.08 Within the development, the affordable housing units are intended to be provided as semi-detached properties, terraces or within apartment blocks. The house types include The Letchworth (semi-detached) and

Broadway/Evesham (terraces). These units are distributed throughout the development with some of these aforementioned units also being occupied and available as general market housing. Within the northern panel there is also a similar form of terraced unit (Kent), which has a different form of elevational treatment. In visual terms is difficult to differentiate when compared to the Broadway/Evesham house type whether it is an affordable or general housing market unit and it is possible given the flexibility of affordable housing provision within the site for these to be targeted to meet this requirement should circumstances require.

7.09 It is acknowledged that this replan will result in a greater number of the proposed affordable dwellings being provided within the southern parcel of the development (i.e., 37 out of 46 units). The proposal within the southern parcel is however for them to be dispersed throughout the layout and although the 16 No. units within this area of the site will represent the greatest concentration of affordable dwellings, it is considered that this is acceptable as this would not imbalance the housing mix within the overall site.

7.10 Design/Appearance

The plans submitted propose the substitution of house types and associated modifications to the site curtilages, the pattern and orientation/relationship of the dwellings to each other and existing development being acceptable to provide a well-balanced layout.

7.11 The house types/designs are reflective of the character of development that this has already been permitted, completed and occupied for both affordable housing and general market purposes within the estate layout. This it is therefore considered would provide for a consistency in terms of design and use of materials.

7.12 Density & Development

The proposed development of 16 units on approximately 0.28 hectares represents a higher density of development (54 dwellings per hectare) than that specified as a minimum requirement (30 dwellings per hectare) as outlined in Policy HSG8 of the Flintshire Unitary Development Plan. It is my view having regard to the mix of house types proposed within the layout that this level of provision within a central area of the southern parcel, would not represent overdevelopment or imbalance the overall site layout within the southern parcel or in combination within the northern parcel of the development.

7.13 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 existing dwellings adjacent to the application site are safeguarded.

7.14 The objections raised in respect of the proposed introduction of affordable units compared to general market housing as currently permitted within this part of the site layout are duly noted. For Members information however, although the density of development is proposed to be increased within this part of the site, the interface distances between dwellings of approximately 21 m and 15 m are maintained in accordance with that previously permitted having regard to Council's Local Planning Guidance Note 2 - Space Around Dwellings.

7.15 Adequacy of Highways

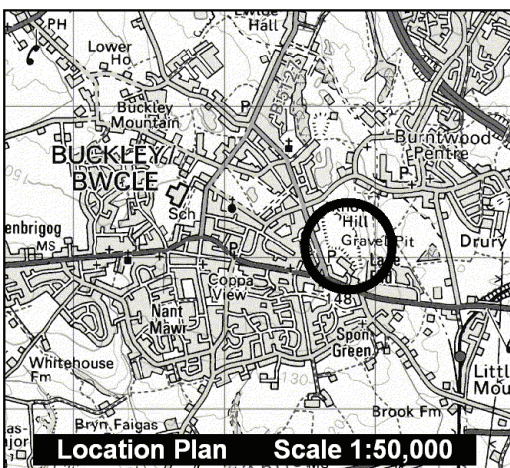
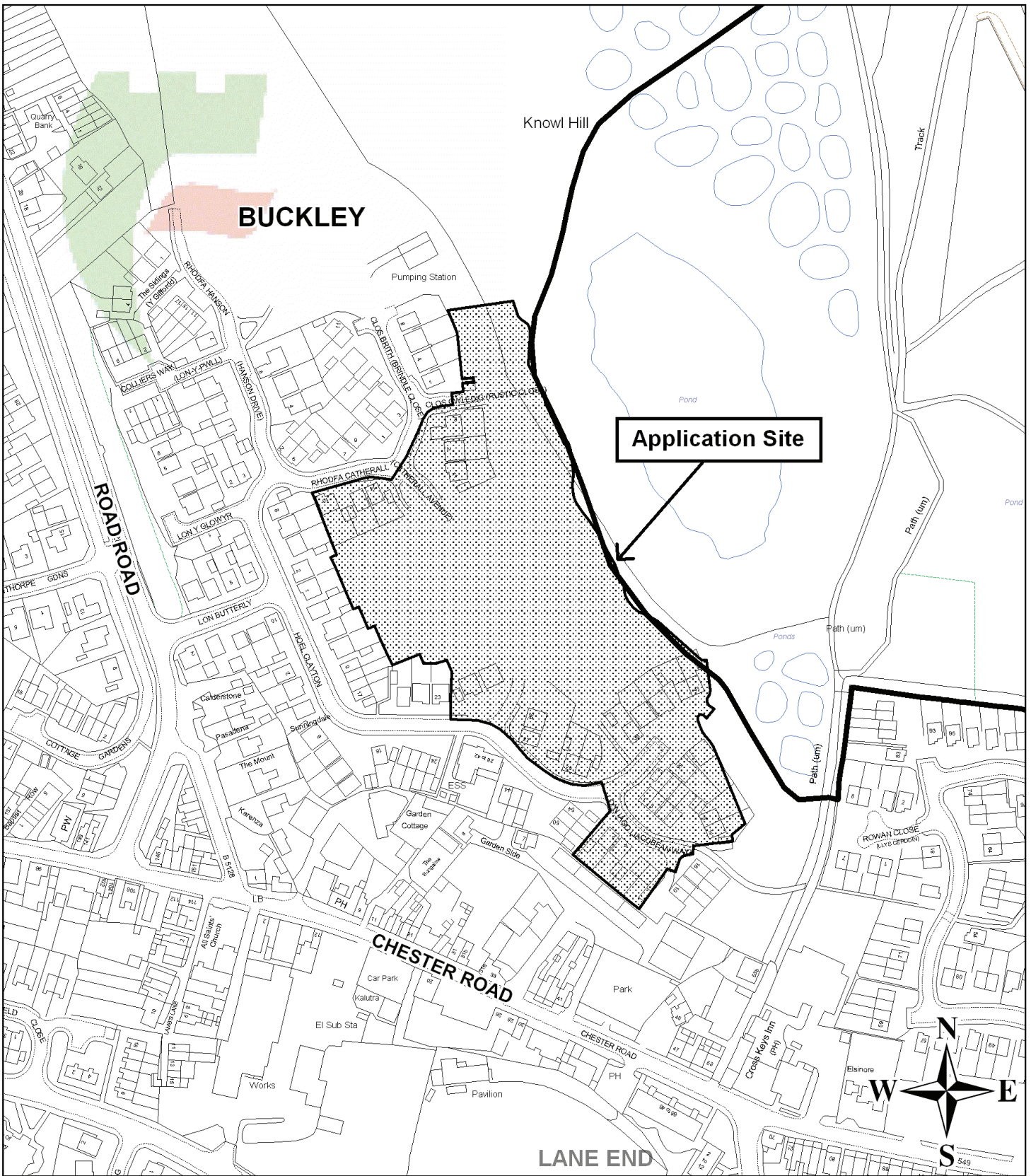
Consultation on the application has been undertaken with the Head of Assets & Transportation. It has been confirmed that there is no objection to the revisions to the site layout or access/parking arrangements to serve the development subject to conditions.

8.00 CONCLUSION

8.01 It is considered that the modifications proposed to the site layout incorporating the repositioning and introduction of a number of additional affordable housing units is acceptable at this location having regard to the character of the site/surroundings and relationship to existing residential properties. The house types proposed have already been introduced within the development providing for a high quality scheme and balanced layout. Subject to the completion of a supplemental legal obligation, the application 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
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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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Map Scale 1:2500

OS Map ref SJ 2863

Planning Application 51066

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FLINTSHIRE COUNTY COUNCIL

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

DATE: **12TH FEBRUARY 2014**

REPORT BY: **HEAD OF PLANNING**

SUBJECT: **FULL APPLICATION – SUBSTITUTION OF HOUSE TYPES ON PLOTS 295 – 302 & 337 – 339 OF NORTHERN PARCEL OF FORMER BUCKLEY BRICKWORKS AS PREVIOUSLY APPROVED UNDER APPLICATION 050333 AT LANE END BRICKWORKS, BUCKLEY**

APPLICATION NUMBER: **050874**

APPLICANT: **REDROW HOMES NW LTD**

SITE: **LAND AT LANE END BRICKWORKS, BUCKLEY.**

APPLICATION VALID DATE: **7TH JUNE 2013**

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

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

REASON FOR COMMITTEE: **THE APPLICATION REQUIRES A SUPPLEMENTAL PLANNING OBLIGATION LINKING DEVELOPMENT TO THAT PREVIOUSLY PERMITTED.**

SITE VISIT: **NO.**

1.00 SUMMARY

- 1.01 This full application proposes the substitution of house types on 11 No. plots previously approved within the northern parcel of the residential development currently under construction at the former Lane End Brickworks, Church Road, Buckley. In accordance with the Council's delegation scheme, the application is being reported for planning committee determination as a supplemental planning

Obligation is required.

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 planning obligation reinforcing the provisions of the Section 106 Obligation entered into under Code No. 050333 in respect of highway, ecological, affordable housing and open space requirements.

3.00 CONSULTATIONS

3.01 Local Member

Councillor D. Hutchinson

No objection to determination under delegated powers.

Councillor M.J. Peers

No response received at time of preparing report.

Buckley Town Council

No observations.

Head of Assets and Transportation

Do not intend to make a recommendation on highway grounds. Request imposition of conditions as per original outline permission allowed on appeal to the Planning Inspectorate.

Head of Public Protection

No adverse comments.

Natural Resources Wales

No objections.

4.00 PUBLICITY

4.01 Site Notice, Neighbour Notification

One letter of objection received, the main points of which can be summarised as follows:-

- Smaller properties will have a detrimental impact on property values in the locality.
- Increased traffic generation.

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 & 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* 172 on Reserved Matter approval 046778, using house types used elsewhere on said appeal – Permitted 28th June 2012.

050333

Full Application – Re-plan to the northern parcel of former brickworks with mix of 2, 3 & 4 bedroom detached, semi-detached and terraced dwellings with associated parking and amenity spaces (partly retrospective) – Permitted 20th December 2013.

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 general complies with the above policies.

7.00 PLANNING APPRAISAL

7.01 **Introduction**

This application proposes the substitution of house types on 11 No. plots within the northern parcel of a previously approved residential development currently under construction at the former Lane End Brickworks, Church Road, Buckley. There is no increase in the overall number of dwellings proposed within the site as part of this application.

7.02 **Proposed Development**

This application seeks the substitution of house types with associated modifications to the curtilage areas and change in road layout in respect of plots 295 – 302 and 337 – 339 within the development introducing a new housing range in response to market demand.

7.03 **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 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 the site is therefore well established subject to ensuring a satisfactory well balanced layout and the safeguarding of relevant amenity considerations.

7.04 **Design/Appearance**

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

7.05 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.

7.06 **Adequacy of Highways**

For Members information, the principle of development on the scale proposed has been established on appeal to the Planning Inspectorate. Whilst a minor re-alignment to the road layout is proposed and the objection received in respect of increased traffic generation is duly noted, the Head of Assets & Transportation raises no objection to this modification subject to conditions.

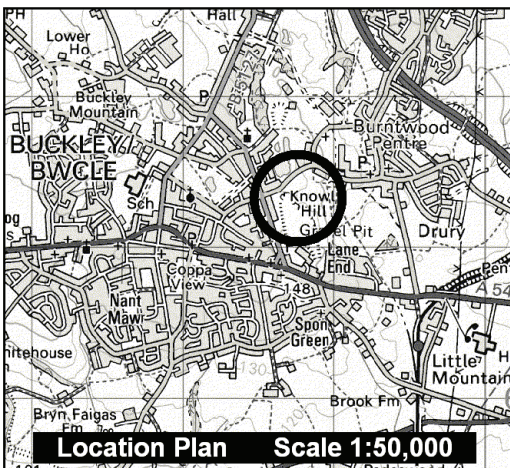
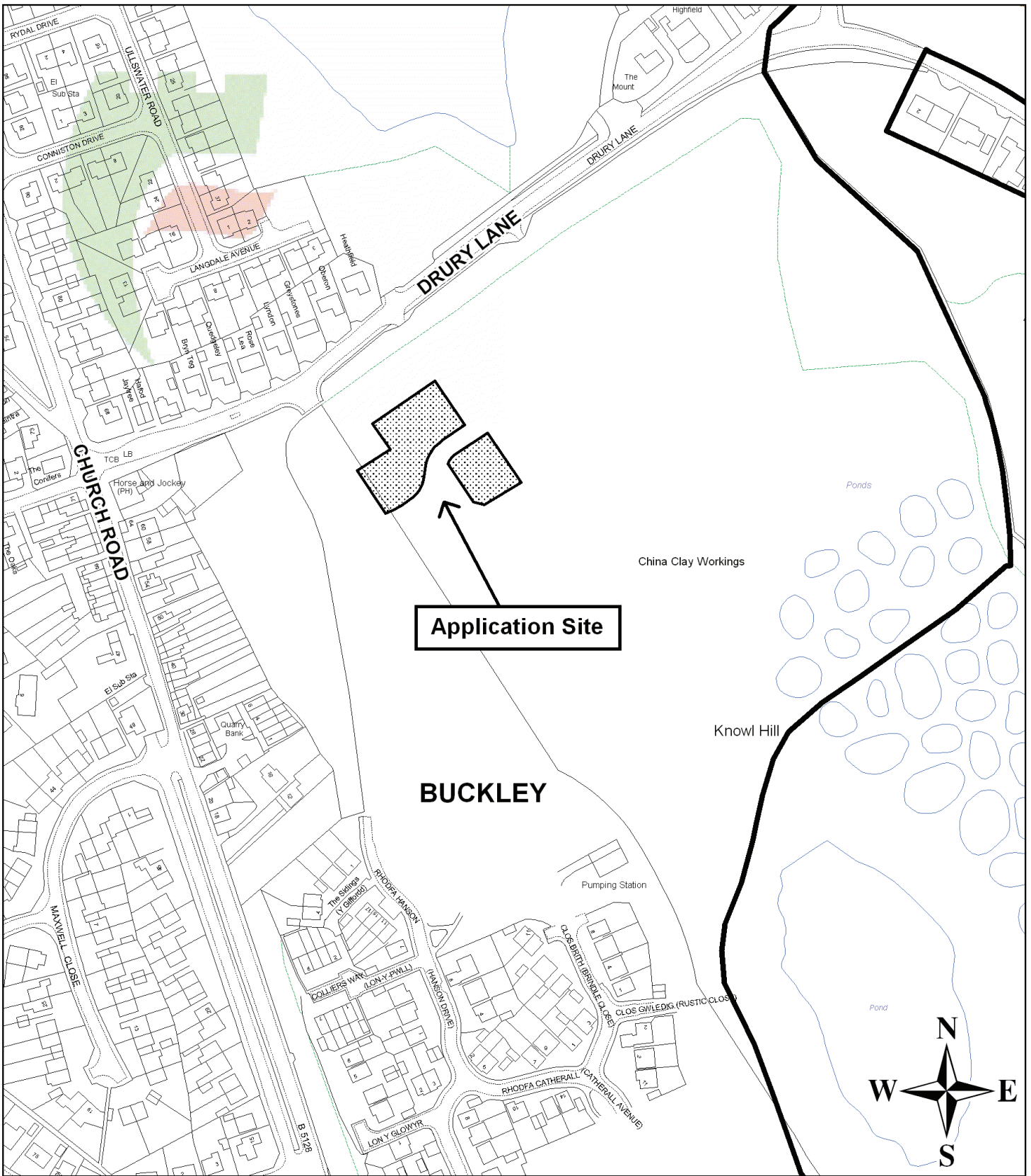
8.00 CONCLUSION

8.01 It is considered that the proposed modifications to the northern parcel of the site layout principally involving the substitution of house types and re-alignment of the road layout 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
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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 50874

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FLINTSHIRE COUNTY COUNCIL

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

DATE: **12 FEBRUARY 2014**

REPORT BY: **HEAD OF PLANNING**

SUBJECT: **INSTALLATION OF A SINGLE 11KW MICRO WIND TURBINE AT MIDLIST FARM, PANT Y GOF, HALKYN**

APPLICATION NUMBER: **051493**

APPLICANT: **Mr J SIGSWORTH**

SITE: **MIDLIST FARM, PANT Y GOF ,HALKYN**

APPLICATION VALID DATE: **18 NOVEMBER 2013**

LOCAL MEMBERS: **COUNCILLOR C LEGG**

TOWN/COMMUNITY COUNCIL: **HALKYN COMMUNITY COUNCIL**

REASON FOR COMMITTEE: **THE HEIGHT OF THE TURBINE STRUCTURE EXCEEDS THE 15M HEIGHT OF STRUCTURES THAT CAN BE DETERMINED UNDER DELEGATED POWERS**

SITE VISIT: **NO**

1.00 SUMMARY

- 1.01 This application has been submitted as a full application and seeks consent for the erection of one, 11kw wind turbine. The turbine is proposed to be 18.3m to hub height and the height to the tip of the blades being 25m high. The wind turbine is proposed to generate electricity for the farm unit within which it is set.
- 1.02 The main issues to consider in the determination of this application are the impact upon visual amenity, potential noise and any potential adverse impact upon residential amenity and wildlife.

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

- 2.01
1. Time limit on commencement of works
 2. In accordance with approved plans
 3. Decommissioning of the site upon cessation of use
 4. Limit on noise emission from the turbine shall not exceed 42 d B LAeq(1hr)
 5. Prior to commencement of development a scheme for Reasonable Avoidance Measures Strategy to be submitted with regard to bats and great crested newts.
 6. Prior to commencement of any works a condition survey of the proposed route shall be carried out in conjunction with the Highways Authority's Street Scene Section.

3.00 CONSULTATIONS

3.01 Local Member

Councillor C Legg

No response received at time of writing.

Halkyn Community Council

Offer no observations.

Head of Assets & Transportation

Raised no objection subject to condition regarding a condition survey of the proposed access route being carried out prior to any works on site.

Airbus

The proposal does not conflict with the safeguarding criteria, we have no aerodrome safeguarding objection to the proposal.

Pollution Control

From the information submitted it indicates that a turbine of this design, size and position will be within the recommended noise levels, however in the interests of amenity it is suggested that any permission should be conditioned to limit the noise level emitted from the wind turbine. Shadow flicker has been considered and due to the distance between the wind turbine and any nearby properties is not considered to be an issue.

Rights of Way

Public Footpaths 46 and 47 cross the site but appear unaffected by the development. The footpath must be protected and free from interference from the construction.

Welsh Government Transport

No response received at time of writing.

Defence Infrastructure Organisation

No objection to the proposal.

Energy Services

No response received at time of writing.

Natural Resources Wales

NRW does not object to the proposal, providing advice with regards to bat and great crested newt protection on the submitted supporting statement are followed, then the proposal is unlikely to adversely affect protected species, or statutory nature conservation sites and protected landscapes.

4.00 PUBLICITY

4.01 Site Notice, Neighbour Notification

No response received at time of writing as a result of this publicity.

5.00 SITE HISTORY

5.01 None relevant to this proposal.

6.00 PLANNING POLICIES

6.01 Flintshire Unitary Development Plan

STR1 - New Development

GEN1 - General Requirements for Development

GEN3 - Development in the Open Countryside

EWP4 - Wind Turbine Development

D2 - Design

WB1 - Species Protection

TAN8 Technical Advice Note Planning for Renewable Energy

Planning Policy Wales, Edition No 5 Nov 2012.

PLANNING APPRAISAL

Introduction

7.01 This application is a full planning application for the installation of one 11kw wind turbine, for the generation of electricity for use in connection with the existing farm and wholesale meat processing use, operating from the existing farm unit. The hub height of the turbine is proposed to be 18.3m high and a total height to the tip of the blades being 25m high.

Site Description

7.02 The proposed turbine is to be located in open countryside but not within any designated sensitive site. The location of the turbine is proposed to be sited on a steep grass slope, within the existing farm unit. The topography of the site means that the position of the turbine will not result in sky line development, and will effectively lead to the

turbine being largely viewed against a background of the existing pasture land, which will minimise its visual impact.

- 7.03 In addition the colour of the tower being of a galvanised grey steel colour and the white turbine blades further help the turbine assimilate in to the land/sky scape. The site is set within grassed pasture land with mixed woodland copses in the general area, where there are also a number of telegraph poles and a telecommunication mast.
- 7.04 Principle of Development
Development such as this that comes from clean renewable energy generation sources is encouraged under TAN 8 Technical Advice Note Planning for Renewable Energy and guidance offered in Planning Policy Wales, Edition No 5, Nov 2012.
- 7.05 In addition the adopted Flintshire Unitary Development Plan also encourages the use of this type of energy generation, under the above policies and especially in compliance with Policy EWP4 Wind Turbine Development, subject to no significant adverse impact upon visual amenity of the area, noise generation, no adverse impact upon residential amenity or wildlife.
- 7.06 Justification
Development of the installation of one 11kw turbine is considered to be micro generation. The height of the turbine has been designed to achieve the most energy generation for this location, in order to offset the cost of the installation in conjunction with use on the farm unit.
- 7.07 Visual Impact, Shadow Flicker and Potential Noise Impact
The application has been considered by both the Energy officer and the Environmental Health Officer, with regard to the expected energy generation and any potential adverse impact in relation to visual, noise and shadow flicker impact and no objection has been raised in this regard.
- 7.09 The location of the turbine has been carefully considered with regard to the potential impact on visual amenity, being located against the slope of the land using the existing topography of the land as a background to the turbine as a result the proposal does not result in a sky line development.
- 7.10 As such the proposal is not considered to be over dominant or to adversely impact on the open countryside. The potential for shadow flicker, whilst the blades are rotating has been considered by the pollution control officer and he has assessed that due to the distance of the turbine from residential properties that this will not be an issue.
- 7.11 Due to the proximity of the turbine in relation to the A55 I have consulted with the Welsh Government Transportation section and at the time of writing no response had been received. The Highways

section have also been consulted on the application and raise no objection to the proposal, subject to a condition re. a survey of the proposed access route to the development site being undertaken, prior to commencement of works, this is to be carried out in conjunction with the Highways Street Scene Section. Any planning permission shall include a note to the applicant with regard to the applicant contacting the Street Scene Section in order to arrange the necessary traffic management, and the required photographic log of the existing condition of the approach road, and once works have been completed an assessment is to be carried out to establish whether any damage has occurred, if so the applicant will be liable for the cost of any repair works.

- 7.12 The Environmental health officer has had regard to the acoustic details accompanying the application and considers that on the information provided, that a turbine of the design, size and in the position proposed, will be within the recommended noise levels, however in order to safeguard the local amenity it is advised that any permission should be conditioned to ensure that the noise level emitted from the wind turbine shall not exceed 42d B LAeq (1hr) at any nearby residential property.

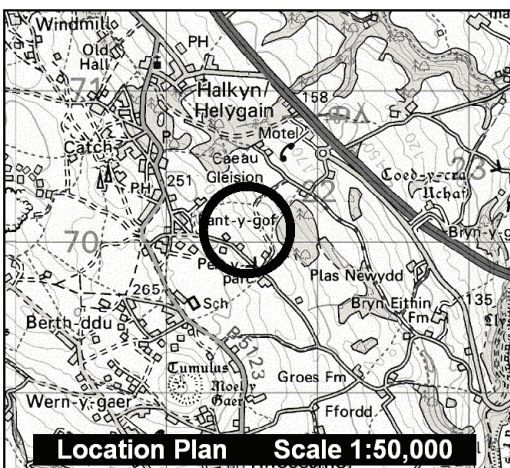
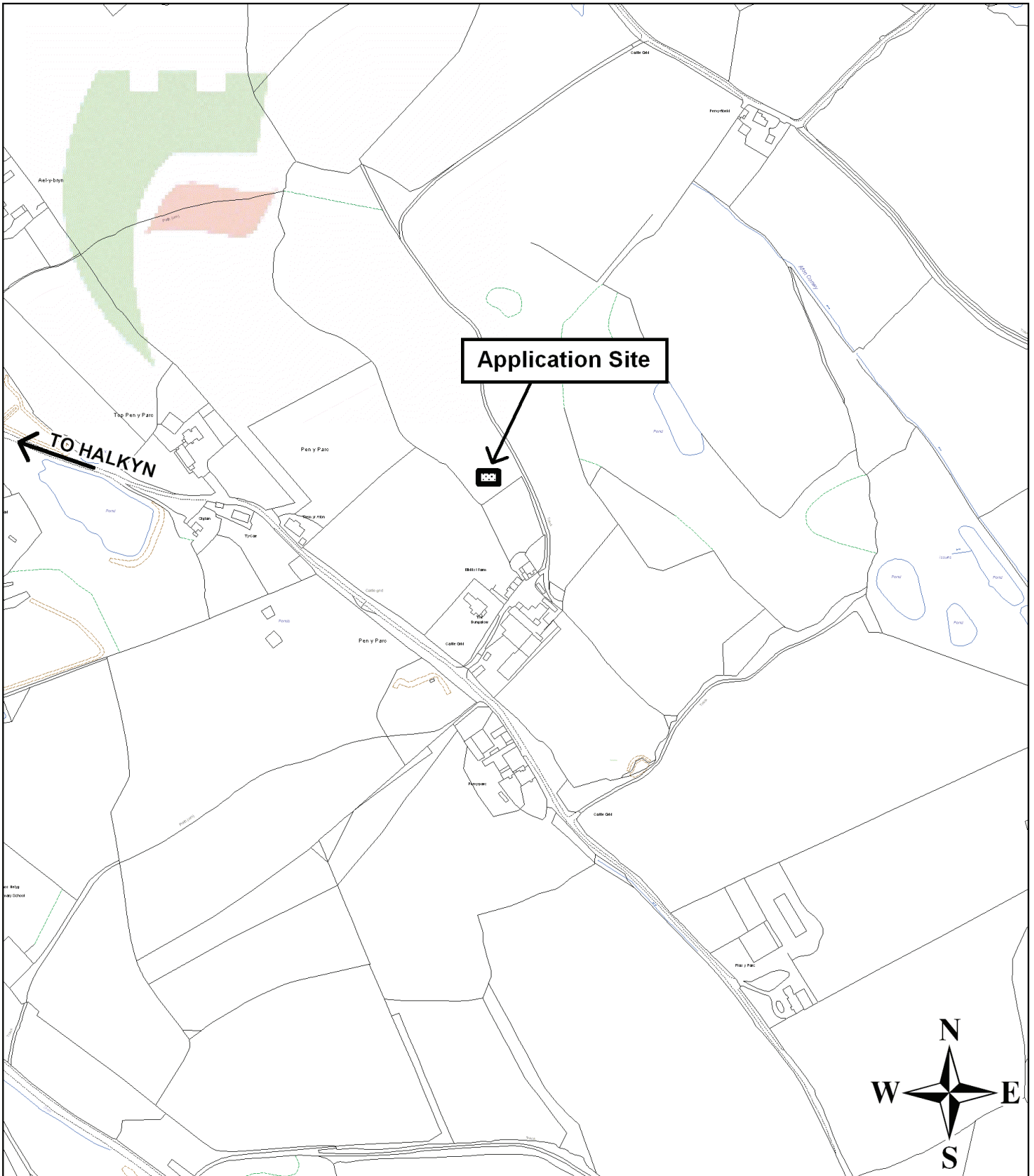
Protected Species

- 7.13 Due to the open countryside location of the proposed turbine and the potential for adverse impact on wildlife, Natural Resources Wales and the County Ecologist have been consulted on the proposal. Natural Resources Wales have offered no objection to the proposal as the scheme appears to achieve the minimum 20m buffer zone from hedgerows and trees, accordingly the scheme is not considered to adversely impact upon the foraging/commuting routes afforded by hedges / trees, as such the proposal is unlikely to have a detrimental impact on the favourable conservation status of any bat populations.
- 7.14 As great crested newts (GCN) have been recorded with in approximately 280m of the site, it is likely that GCN may cross the application site. To ensure that the development has no detrimental impact upon the favourable conservation status of the GCN population, it is recommended that any planning approval should be conditioned to require the submission of a Reasonable Avoidance Measures Strategy (RAMS), prior to commencement of any development on the site. In addition to the above the proposal is not considered to adversely impact upon any nature conservation sites or protected landscapes, due to the distance of the application site from any protected landscapes.
- 715 In view of the above, it is considered that the proposal will not adversely impact upon protected species or habitat and as such is compliant with the above protected species policy of the adopted unitary development plan.

8.00 CONCLUSION

- 8.01 It is considered that the proposed 11kw wind turbine will enable the generation of a clean source of renewable energy to be generated from the site, for use with the existing farm unit and the connected meat processing plant on the farm unit. As such the proposal is considered compliant with the above policies and guidance.
- 8.02 Any potential impacts will be mitigated for, by the sensitive location of the proposed turbine, its design, noise emissions and the materials of its construction, limiting any potential adverse impacts upon the wider area.
- 8.03 In considering this planning application the Council has acted in accordance with the Human Rights Act 1998 including Article 8 of the Convention and in a manner which is necessary in a democratic society in furtherance of the legitimate aims of the Act and the Convention.

Contact Officer: Barbara Kinnear
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Email: Barbara.kinnear@flintshire.gov.uk

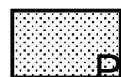


Environment Directorate,
 Flintshire County Council, County Hall,
 Mold, Flintshire, CH7 6NF.
 Director: Mr. Carl Longland

Legend



Adopted Flintshire Unitary
 Development Plan
 Settlement Boundary



Application Site Extent

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Planning Application **51493**

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FLINTSHIRE COUNTY COUNCIL

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

DATE: **12TH FEBRUARY 2014**

REPORT BY: **HEAD OF PLANNING**

SUBJECT: **APPEAL BY MULLHILL ESTATES LLP AGAINST THE DECISION OF FLINTSHIRE COUNTY COUNCIL TO REFUSE PLANNING PERMISSION FOR OUTLINE – ERECTION OF 73 NO. HOUSES INCLUDING DETAILS OF ACCESS, APPEARANCE, LAYOUT AND SCALE (LANDSCAPING RESERVED FOR FUTURE APPROVAL) AT BYCHTON HALL FARM, MAES PENNANT ROAD, MOSTYN – ALLOWED.**

1.00 APPLICATION NUMBER

1.01 047951

2.00 APPLICANT

2.01 MULHILL ESTATES LLP

3.00 SITE

3.01 LAND AT BYCHTON HALL FARM, MAES PENNANT ROAD, MOSTYN, FLINTSHIRE.

4.00 APPLICATION VALID DATE

4.01 19TH OCTOBER 2010

5.00 PURPOSE OF REPORT

5.01 To inform Members of the appeal decision against a refusal of planning permission for the erection of 71No. dwellings and associated garages and parking, and the provision of on-site public open space on land adjacent to Bychton Hall Farm, Maes Pennant Road, Mostyn. The application was refused by Committee contrary to officer recommendation on 22nd February 2013.

5.02 The appeal was held by way of an exchange of Written Representations and was ALLOWED.

6.00 REPORT

6.01 In considering the appeal the Inspector identified the main issue in the case to be the effect of the proposed development upon the character and appearance of the area.

6.02 The Inspector noted that the site is an allocated housing site within the Flintshire Unitary Development Plan (UDP) and therefore that the principle of the development of the site was not in question. He noted members concerns in respect of the proposed development of the site at a density of 38 dwelling per hectare and noted this was in excess of the indicative yield for the site outlined in the UDP. However, he noted that the UDP sought the development of allocated sites at densities of 35 dwellings per hectare and upwards.

6.03 He noted that in this regard, the UDP was consistent with the thrust of national planning policy in seeking to make the best and most efficient use of land allocated for development. He noted that this overall aim is tempered by the need for development to secure adequate standards of privacy and space and to ensure that it reflects the characteristics of the surroundings.

6.04 In contemplation of the views expressed by Members that the proposals amounted to a cramped, incongruent and unacceptably regimented layout, the Inspector observed that the proposed layout allowed adequate privacy and amenity standards to be achieved. He also noted that the variations within the layout, street scenes and house types were such that did not contribute to a cramped layout. In coming to this view, the Inspector considered that the proposals were reflected of the regular pattern and dense layout of existing nearby dwellings. He also took the view that the linear form of the proposals complimented the historical built form of Bychton Hall Farm.

6.05 Accordingly, he concluded that the proposals would accord with the requirements of UDP policies GEN1, D1, D2 and HSG8.

6.06 The Inspector also considered a range of third party representations as part of his determination of this appeal. He considered that concerns in relation to the impacts of increased traffic had been adequately addressed through documentation submitted at the time of the application and concurred with the findings of the same that no adverse impacts upon highway safety would arise. He also noted the sustainability of the site in respect of walking, cycling and access to public transport.

6.07 The Inspector also considered representations by the appellant in relation to the housing land supply situation within the county. He

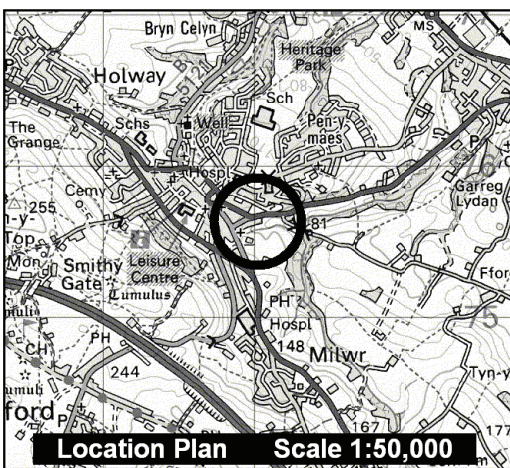
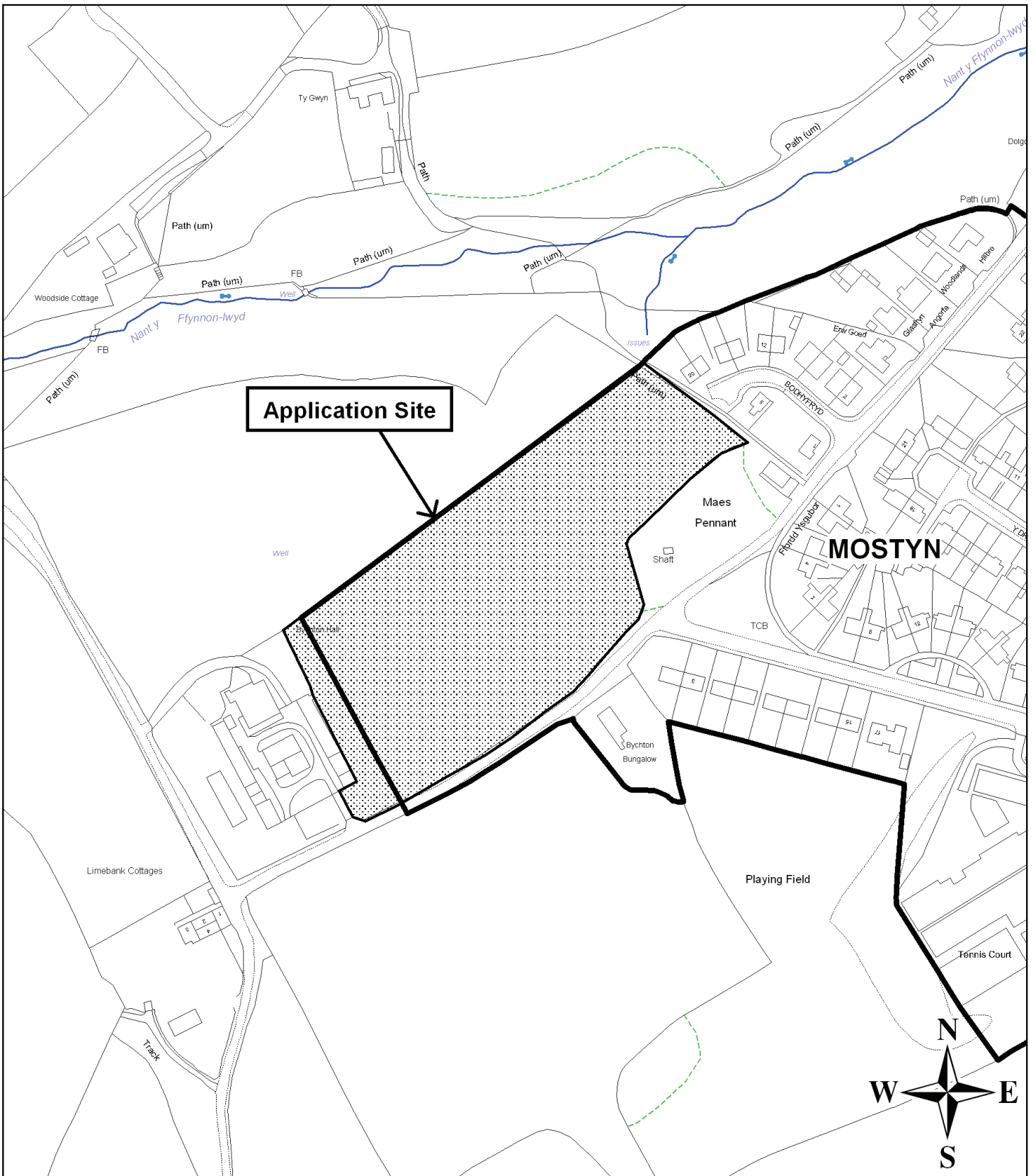
noted the current shortfall and observed that this situation would be worsened were acceptable development proposals upon allocated sites such as this not delivered within plan period.

7.00 CONCLUSION

7.01 Accordingly, the Inspector considered that the appeal should be **ALLOWED** and the deemed application for planning permission granted, subject to conditions and the provisions of a Unilateral Undertaking provided by the appellant in relation to contributions towards education, public open space and recreation, affordable housing and the formulation of a Green travel plan. The Unilateral Undertaking also provides for the provision of an area of on-site public open space.

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

Legend

 Adopted Flintshire Unitary Development Plan Settlement Boundary

 Application Site Extent

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Ordnance Survey Sheet SJ 1579

Planning Application **47951**

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FLINTSHIRE COUNTY COUNCIL

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

DATE: **12TH FEBRUARY 2014**

REPORT BY: **HEAD OF PLANNING**

SUBJECT: **APPEAL BY MR. R. JONES AGAINST THE DECISION OF FLINTSHIRE COUNTY COUNCIL TO REFUSE PLANNING PERMISSION FOR THE SITING OF 18NO. STATIC HOLIDAY CARAVANS ON LAND AT PENNANT PARK GOLF CLUB, MERTYN DOWNING LANE, MOSTYN, HOLYWELL, FLINTSHIRE, CH8 9EP – ALLOWED.**

1.00 APPLICATION NUMBER

1.01 049812

2.00 APPLICANT

2.01 MR. R. JONES

3.00 SITE

3.01 LAND AT PENNANT PARK GOLF CLUB, MERTYN DOWNING LANE, MOSTYN, HOLYWELL, FLINTSHIRE, CH8 9EP

4.00 APPLICATION VALID DATE

4.01 31ST JULY 2012

5.00 PURPOSE OF REPORT

5.01 To inform Members of the appeal decision against a refusal of planning permission for the siting of 18 static holiday caravans on land at Pennant Park Golf Club, Mertyn Downing Lane, Mostyn, Holywell, Flintshire. The application was refused by Committee, contrary to officer recommendation, on 2nd November 2012.

5.02 The appeal was held by way of an Informal Hearing and was ALLOWED. In addition, an application for costs by the appellant was considered and ALLOWED in part by the Inspector.

6.00 REPORT

6.01 In considering the appeal, the Inspector identified the main issues in the case to be as follows:

1. The effect of the proposals upon the character and appearance of the locality;
2. The effect upon highway safety; and
3. Whether a precedent for other similar proposals would be established.

6.02 Impact upon Character and Appearance

In considering this issue, the Inspector also considered issues in respect of need and sustainability. He noted the open countryside location of the site but considered the criticism of the proposals as unwarranted development in the open countryside was unsubstantiated. He noted the position of the site as an 'island' surrounding by the golf course. He noted that the proposals were supported by development plan policies in respect of the case advanced in relation to the need for the development as a part of the continued economic stability of the golf course as a business. He considered the applicable plan policies encouraged such rural diversification.

6.03 In considering the Council's assertion that the site was not sustainably located in access terms, the Inspector gave weight to the consideration of the issue bearing in mind the established context of the site and surroundings. He concluded that the nature of golf, as a sport, was such that one would not reasonably expect a player to arrive via public service carrying a set of golf clubs. He noted the levels of membership, both current and previously, and the traffic generation associated with the golf clubhouse in itself. He concluded there would be no material increase in traffic as a consequence of the proposals. Furthermore, he considered that this aspect of sustainability should be balanced against the contribution the proposals would make to the local rural economy.

6.04 The Inspector considered the visual impact of the proposals in relation to the landscape character, having regard to the proposals, the cases advanced by both parties and his own visual assessment within the wider locality. He noted the site was not protected in any specific way other than by designation as open countryside. He concluded that the site was not readily visible in the landscape and considered that the proposed extensive and comprehensive landscaping scheme would serve to ensure that the proposals will suitably blend into the landscape.

6.05 Highway Safety

The Inspector firstly noted that there was no technical objection from the Local Highway Authority in view of the improvements to sightlines and provisions of passing places under a separate historical planning

permission. He took account of the survey information provided which indicated that the majority of golf club members utilise the 'improved' route to the site. He considered the representations made by third parties in relation to highway and access problems but considered there to be a lack of evidence to support these claims.

6.06 Precedent

The Inspector considered the case to which he was referred of *Collins Radio v SOS* [1975] on this issue. He noted that subsequent cases have served to clarify the generality of the precedent concern such that, in the absence of particular evidence to illustrate the concern, a general concern would not suffice.

6.07 He noted that in this instance, no such compelling evidence was forthcoming and, taking all other material matters into account, concluded there was no risk of this proposal creating a precedent.

7.00 CONCLUSION

7.01 The Inspector concluded that planning policies catered for tourism development in the open countryside. He considered that concerns that the proposals amounted to residential development in the open countryside could be controlled via the application of conditions and has imposed a condition which ties the proposals to the golf club as a venture such that should the golf course use cease, the caravans will have to be removed from the site.

7.02 Accordingly he concluded that the proposals were compliant with the applicable national and local planning policy context and therefor granted conditional permission for the proposal.

8.00 COSTS

8.01 The appellant sought a full award of costs with reference to Circular 23/93. In addition, it was contended by the appellant that the Council had failed to produce evidence to support its reasons for refusal and therefore, the appellant had been put to unreasonable and unnecessary expense in preparing evidence in response to the Council's reasons for refusal.

8.02 The Council advised of the relevant considerations in respect of applications for costs and highlighted the specific provisions set out in Paragraphs 7 – 11 of Annex 3 to Circular 23/93 – Awards of costs incurred in Planning and Other Proceedings. The Council advised of the fact that its decision was balanced and made having regard to the applicable development plan policies and other material considerations. Accordingly, it contended that its actions were not unreasonable.

8.04 **CONCLUSION**

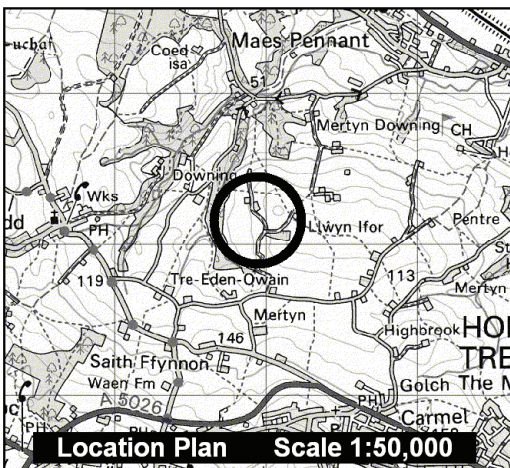
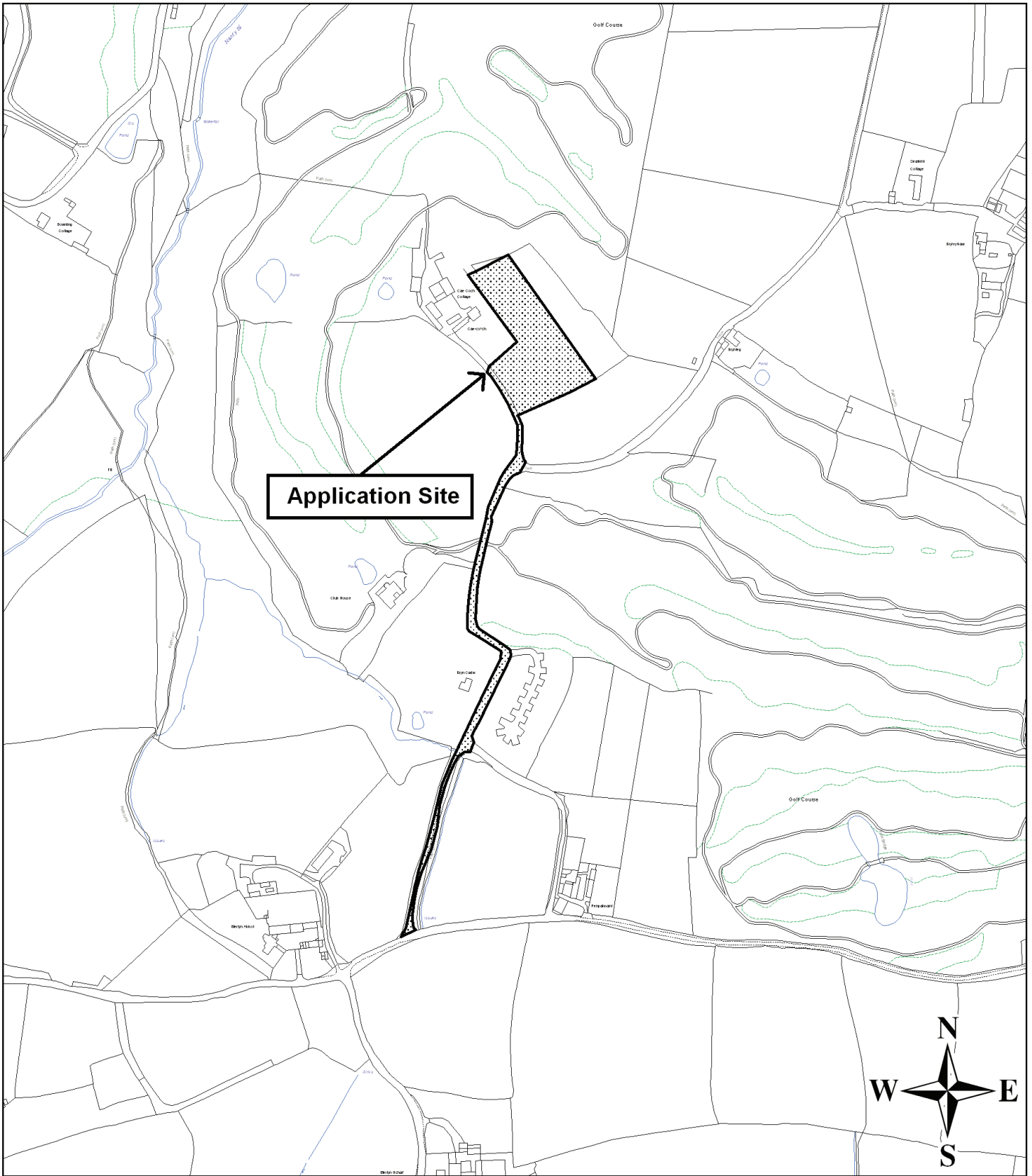
The Inspector commented that irrespective of the outcome of an appeal, costs would only be awarded where a party was considered to have acted unreasonably such that the offended party has incurred unnecessary expense,

accepting the assertion of the Council that costs do not necessarily follow the event.

- 8.05 He considered the appellants claim that the Council had failed to provide sufficient evidence to form a respectable basis in relation to its reasons for refusal of planning permission.
- 8.06 The Inspector was of the view that the nature of the first reason for refusal was a subjective matter and as such, the stance taken by the Council was arguable. He concluded in respect of this particular reason that the Council was entitled to assess the landscape impacts in the manner it did and offered adequate reasoning for this stance. He therefore did not accept that the Council had acted unreasonably in respect of the first reason for refusal.
- 8.07 However, in respects of reasons 2 – 4 inclusive, the Inspector considered that the appellant was correct in his assertion. He considered that in respect of the highways based reason for refusal, there was an absence of evidence to substantiate the refusal and not that the Council's decision to ignore the advice of its Head of Highways and Transportation was unreasonable.
- 8.08 In respect of the reason advanced requiring the developer to prove a 'need' for the proposals, the Inspector noted that there was no policy basis for such an argument to be advanced but concluded nonetheless that the evidence provided was not adequate to make such an argument reasonable. He was of a similar view in relation to the arguments of 'precedent' advanced in respect of the final reason for refusal.
- 8.09 Taking these matters into account, the Inspector concluded that in relation to reasons for refusal 2, 3 and 4, the Council had acted unreasonably and had therefore put the appellant to unnecessary expenditure in preparing his case and therefore considered a PARTIAL AWARD OF COSTS was justified.

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LE



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 1578

Planning Application 49812

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FLINTSHIRE COUNTY COUNCIL

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

DATE: **12TH FEBRUARY 2014**

REPORT BY: **HEAD OF PLANNING**

SUBJECT: **APPEAL BY MR JOHN BURGESS AGAINST THE DECISION OF FLINTSHIRE COUNTY COUNCIL TO REFUSE PLANNING PERMISSION FOR THE CHANGE OF USE OF AN A1 SHOP INTO AN A3 FAST FOOD AT 18 CHESTER ROAD WEST, SHOTTON – ALLOWED.**

1.00 APPLICATION NUMBER

1.01 050383

2.00 APPLICANT

2.01 Mr John Burgess

3.00 SITE

3.01 18 Chester Road West, Shotton, Deeside, Flintshire

4.00 APPLICATION VALID DATE

4.01 5th February 2013

5.00 PURPOSE OF REPORT

5.01 To inform Members of the Inspector's decision in relation to an appeal into the refusal of planning permission the change of use from a shop into A3 fast food at 18 Chester Road West, Shotton. The application was refused under delegated powers on 27th March 2013. The appeal was determined by way of written representations and a site visit. The appeal was ALLOWED with conditions.

6.00 REPORT

- 6.01 The Inspector considered that the main issue is the effect of the proposal on the vitality and viability of the Shotton town centre.
- 6.02 The Inspector accepted that the Council's assessment that the proposed change of use would result in a non-shop frontage in excess of 25% of the continuous frontage and therefore would not conform to the requirements of policy S7 of the UDP.
- 6.03 However, she considered that the Council had not provided any substantive evidence to explain the actual harm that might be caused to the role of the centre in this case. She referred to the supporting text to Policy S7 in that the aim of this policy is to concentrate retail activity in the core of the town centre at high densities to achieve a critical mass of retailing. It is designed to prevent other commercial uses from locating in a core retail area and displacing shops to more peripheral locations to the detriment of the attraction of the town centre as a place to shop.
- 6.04 The Inspector found that in this case, the continuous frontage in which the appeal premises are situated is currently made up of a predominance of non A1 uses. As such, she did not consider that this particular row of commercial properties contribute significantly to the critical mass of A1 retailing in the town centre. Given its peripheral location on the edge of the core retail area, neither did she consider that the change of use of the premises would unduly displace a shop use in a central position in the town centre.

7.00 CONCLUSION

- 7.01 It was considered by the Inspector that this particular row of commercial properties are complementary to the A1 retail offer in the core retail area. In this context, the change of use would not compromise the important function of the centre to meet the shopping needs of the community in terms of both the quality and the range of goods. She therefore concluded, notwithstanding that the proposal would not meet the criteria of policy S7, including the vacancy test, it would not be fundamentally at odds with its overall objective to sustain the vitality and viability of the town centre. For this reason, the Inspector ALLOWED the appeal subject to conditions.

8.00 COMMENT

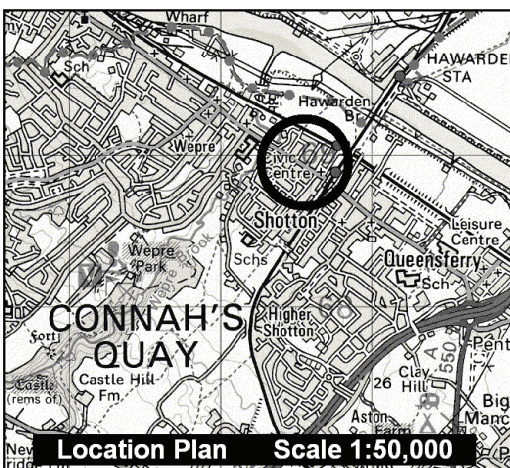
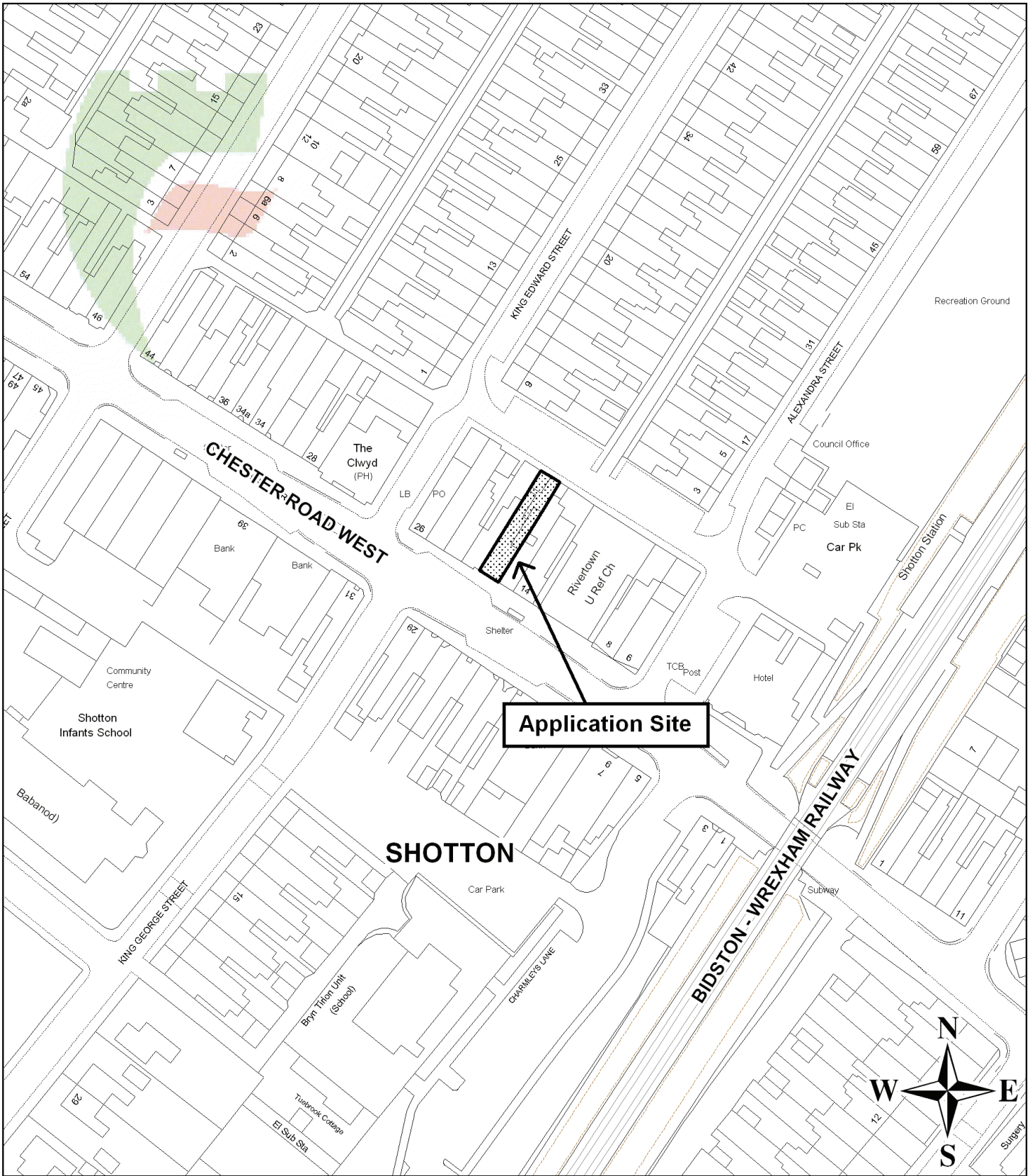
- 8.01 This appeal decision provides another example of the difficulties in resisting development which is contrary to UDP Policy S7, which the Inspector recognises, is geared towards protecting the vitality and viability of town centres. She refers to the fact that there is no evidence of the harm that would be caused to the role of the centre but it is difficult to fathom how such evidence would be collected without complex modelling and projection based on trading patterns. Clearly it would not be practical or feasible to undertake such an

exercise in the context of a change of use of a single, small retail unit.

- 8.02 In the absence of any 'evidence' to the contrary the Inspector goes on to downplay the significance of this premises in relation to the Shotton core retail area, which effectively raises questions over the way in which this has been delineated. Whereas Policy S7 seeks to provide some certainty it seems that in the light of this decision individual applications need to be considered on their merits in the light of context and circumstances. How this will work in future remains to be seen but Members might agree that we need to explore this decision and its implication for Policy S7 in more detail when next we report appeal decisions to Planning Strategy Group.

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 Director: Mr. Carl Longland

Legend



Adopted Flintshire Unitary
 Development Plan
 Settlement Boundary



Application Site Extent

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Planning Application 50383

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