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Gareth Owens LL.B Barrister/Bargyfreithiwr
Chief Officer (Governance)
Prif Swyddog (Llywodraethu)



To: Cllr David Wisinger (Chairman)

CS/NG

Councillors: Marion Bateman, Chris Bithell,
Derek Butler, David Cox, Ian Dunbar, Carol Ellis,
David Evans, Alison Halford, Ray Hughes,
Christine Jones, Richard Jones, Richard Lloyd,
Mike Lowe, Nancy Matthews, Billy Mullin,
Mike Peers, Neville Phillips, Gareth Roberts,
David Roney and Owen Thomas

11 November 2015

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

Dear Sir / Madam

A meeting of the **PLANNING & DEVELOPMENT CONTROL COMMITTEE** will be held in the **COUNCIL CHAMBER, COUNTY HALL, MOLD CH7 6NA** on **WEDNESDAY, 18TH NOVEMBER, 2015** at **1.00 PM** to consider the following items.

Yours faithfully

Peter Evans
Democracy & Governance Manager

A G E N D A

- 1 **APOLOGIES**
- 2 **DECLARATIONS OF INTEREST**
- 3 **LATE OBSERVATIONS**
- 4 **MINUTES** (Pages 5 - 16)

To confirm as a correct record the minutes of the meeting held on 14th October 2015.

- 5 **ITEMS TO BE DEFERRED**

6 **REPORTS OF CHIEF OFFICER (PLANNING AND ENVIRONMENT)**

The report of the Chief Officer (Planning and Environment) is enclosed.

REPORT OF CHIEF OFFICER (PLANNING AND ENVIRONMENT)
TO PLANNING AND DEVELOPMENT CONTROL COMMITTEE ON
18TH NOVEMBER 2015

Item No	File Reference	DESCRIPTION
<u>Applications reported for determination (A=reported for approval, R=reported for refusal)</u>		
6.1	054199	054199 - A - Full Application - Erection of Two Storey Extension to Dwelling at Ty Capel, Lon Capel, Gwaenyngor (Pages 17 - 26)
6.2	045999	045999 - General Matters - Proposed Amendment to Section 106 Agreement - Morrison's Supermarket, High Street, Saltney (Pages 27 - 30)
6.3	052388	052388 - General Matters - Erection of 20 No. Dwellings (Phase 2) at Village Road, Northop Hall (Pages 31 - 36)
Item No	File Reference	DESCRIPTION
<u>Appeal Decision</u>		
6.4	048042	048042 - Appeal by Mullhill Estates LLP Against the Decision of Flintshire County Council to Refuse Planning Permission for Outline - Demolition of 'Sunnyside' & 66A Mold Road and the Erection of 58 No. Houses Including Details of Access, Appearance, Layout and Scale at 66A Mold Road, Myydd Isa - ALLOWED. (Pages 37 - 46)
6.5	053130	053130 - Appeal by Mr. D. Gelder Against the Decision of Flintshire County Council to Refuse Planning Permission for the Siting of 10 Static Caravans at Tarth y Dwr, Dyserth Road, Lloc - DISMISSED. (Pages 47 - 52)
6.6	053290	053290 - Appeal by Mr. Myles Berry Against the Decision of Flintshire County Council to Refuse Planning Permission for the Change of Use of Land to Provide 2 No. Residential Gypsy/Traveller Pitches to Include 2 No. Static Caravans and 2 No. Touring Caravans with Parking for 2 No. Vehicles to Each Pitch at 1 Old Paper Mill Lane, Oakenholt - ALLOWED. (Pages 53 - 62)
6.7	050613	050613 - Appeal by Morris Homes Ltd to the High Court against the decision of the Welsh Ministers to refuse planning permission for the erection of 36 No. affordable dwellings with associated parking access, habitat creation and public open space on land at Llys Ben, Northop Hall - discontinued (Pages 63 - 64)
6.8	052645	052645 - High Court appeal by Flintshire County Council against the Welsh Ministers' decision to grant planning permission for change of use of the site to a plant hire business and to erect a new workshop building along the southern boundary of the site, as well as the change of use of the Tea Pot Cafe into ancillary office space for the plant hire business - ALLOWED (Pages 65 - 68)

PLANNING AND DEVELOPMENT CONTROL COMMITTEE **14 OCTOBER 2015**

Minutes of the meeting of the Planning and Development Control Committee of the Flintshire County Council held at County Hall, Mold on Wednesday, 14 October 2015

PRESENT: Councillor David Wisinger (Chairman)

Councillors: Marion Bateman, Chris Bithell, Derek Butler, David Cox, Ian Dunbar, Carol Ellis, David Evans, Alison Halford, Ray Hughes, Richard Jones, Richard Lloyd, Mike Lowe, Nancy Matthews, Billy Mullin, Neville Phillips, Gareth Roberts, David Roney and Owen Thomas

SUBSTITUTION:

Councillor: Veronica Gay for Mike Peers

ALSO PRESENT:

The following Councillors attended as local Members:-

Councillor Dave Mackie - agenda item 6.2. Councillor Nigel Steele-Mortimer - agenda item 6.5.

The following Councillors attended as observers:

Councillors: Haydn Bateman, Amanda Bragg and Mike Reece

APOLOGY:

Councillor Christine Jones

IN ATTENDANCE:

Chief Officer (Planning and Environment), Development Manager, Planning Strategy Manager, Senior Engineer - Highways Development Control, Senior Planners, Planning Support Officer, Housing & Planning Solicitor and Committee Officer

Project Engineer (Drainage) – Minute Number 70

Mr. R. Green from Natural Resources Wales – Minute Number 70

66. DECLARATIONS OF INTEREST

No declarations of interest were made.

67. LATE OBSERVATIONS

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

68. MINUTES

The draft minutes of the meeting of the Committee held on 9th September 2015 had been circulated to Members with the agenda.

Matters arising

Councillor Carol Ellis referred to pages 12 and 13 on the Waste Management Site application at Mold Road, Ewloe. She indicated that complaints had been made by residents that the operator was moving waste in to the site at 11.30pm and were undertaking crushing of materials at the site. Natural Resources Wales had been approached but they had not taken any action as yet.

Councillor Richard Jones commented on the final paragraph on minute number 57 (erection of 19 dwellings at Ty Carreg, Stryt Isa, Hope) about the clarification that he had sought that the Section 106 obligation could not be legally challenged.

RESOLVED:

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

69. ITEMS TO BE DEFERRED

The Chief Officer (Planning and Environment) advised that deferment of the following applications was recommended:

Agenda item 6.2 - Full application – Proposed new vehicular access to serve Plot 5 only of previously consented Gypsy Site at Ewloe Barn Wood, Magazine Lane, Ewloe (054095)

And

Agenda item 6.3 – Full application – Erection of a day room/amenity building on Plot 5 in lieu of previously approved day room as approved by permission 050463 at Ewloe Barn Wood, Magazine Lane, Ewloe (054096)

The Development Manager explained that on the planning permission granted on appeal by the Inspector included an internal estate road running parallel to the A55, which would serve each of the plots. This application was proposing a new access for plot 5 only but an application had since been received requesting individual accesses for plots 2, 3 and 4. Officers felt that both applications should be heard at the same time and were therefore proposing deferment of application 6.2.

Application 6.3 was requesting the erection of a day room/amenity building on plot 5 and if approval had been given for application 6.2, this would result in the building being located next to the turning area on the approved plan. This application was also being recommended for deferment to allow further consideration to be given to the proposal.

It was intended that all of the applications would be submitted to the same Committee for consideration and discussions on the proposals would be

undertaken with the Local Members. The Development Manager added that the proposals would result in the loss of some hedgerow and trees but as the approved plans included a condition for their retention, he suggested that a site visit also be held when the applications were brought back to the Committee.

The recommendation to defer the applications and undertake a site visit prior to the applications being submitted to the Committee for determination was recommended by Councillor Richard Jones and was duly seconded.

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

Councillor Alison Halford suggested that most of the hedgerow had already been removed and sought clarification on any enforcement action that was to be undertaken. The Development Manager said that officers would look into this and would update Members in the report when it was submitted to the Committee.

RESOLVED:

That applications 6.2 (new vehicular access at Magazine Lane, Ewloe) and 6.3 (erection of day room/amenity building, Magazine Lane, Ewloe) be deferred and that a site visit be undertaken prior to the report being submitted to the Committee.

70. FULL APPLICATION – STRATEGIC FLOOD ALLEVIATION SCHEME FOR THE TOWN OF MOLD (052180)

The Committee considered the report of the Chief Officer (Planning and Environment) in respect of this application which had been the subject of a site visit on 12th October 2015. 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 the application had been submitted as a result of proposed works following the significant flooding in Mold in 2000 and 2012. The scheme would include the formation of culverts and the installation of attenuation tanks. The application had been deferred from the 22nd July 2015 meeting of the Committee due to concerns raised at the site visit held prior to the meeting; the report had been updated since that meeting. A further site visit had been held on 12th October 2015 to view the point of discharge into the River Alyn. The officer drew Members' attention to the late observations where an objection from a third party was reported. Previously Members had requested the attendance of the Council's Drainage Engineer and a representative from Natural Resources Wales (NRW) when the application was considered and the officer introduced Ruairi Barry (Project Engineer) and Rob Green (from NRW).

Councillor Derek Butler proposed the recommendation for approval which was duly seconded. He said that this was an opportunity to apply for funding from Welsh Government (WG) and said that if this application was not

agreed and the works undertaken, then nothing would be done. He felt that the proposal would alleviate any problems further downstream and queried whether the Council had the funding to contribute to the scheme.

The Local Member, Councillor Chris Bithell, said that Mold had been very badly flooded in November 2000 mainly in the West and East of Mold. The floods had caused considerable problems and residents had been forced to leave their homes for several months and their health and wellbeing had been significantly affected. There had been a campaign for a scheme to combat the problems and this had been achieved and residents could be assured that something had been undertaken. The culvert through the centre of town was incapable of dealing with the water off Hafod Moor and was causing flooding problems at Cae Bracty, an area that was principally in Councillor Haydn Bateman's ward. Councillor Bithell commended many aspects of the scheme but raised concerns about the proposal to capture the Hafod Moor water and take it west of the town to Rhyd Y Goleu, which would jeopardise properties in those areas with the additional water. Councillor Bithell referred to a scheme from a number of years ago which had proposed using the east of Mold unlike the current proposal which was to the west of the town. He spoke of the cost of the scheme which would increase water into the River Alyn and said that it had been indicated that the water from Hafod Moor would peak before the water from the catchment area. It was reported that the attenuation tanks would be necessary to meet the required design criteria of the 100 year (+ climate change) event but Councillor Bithell said that in 1974 there had been two severe storms. He also spoke of the flooding that had occurred in 2000 after a prolonged period of heavy rain and raised concern that this could happen again and that water could not be controlled.

Councillor Owen Thomas commented on the flooding in the Love Lane car park in Mold which had occurred during the last 12 months and raised concern that putting more water into the River Alyn to the west of the town would increase problems. Councillor Richard Jones spoke of the inspection and maintenance of the drains and asked how it could be ensured that funding was available to undertake this in times of reduced resources.

In response to the comments made, the Project Engineer said that he agreed with the comments of Councillor Bithell about not being able to control water and said that the proposed scheme would ensure that the flood risk was managed. He referred to early designs of a scheme to take the water to the south east of Mold but following a project appraisal report which identified work on uphill land that would need to be undertaken, this had increased the costs three-fold when compared to this current application. He commented on the cost/benefit ratio and advised that the impact of the scheme on the River Alyn was negligible. On the issue of maintenance of the tanks, he advised that the bypass channel was on third party land and, in referring to two pumping stations in the town, said that funding for future maintenance was a matter for discussion beyond the planning application. He added that planning was one aspect of the scheme and funding and deliverability were separate issues.

The Chief Officer (Planning and Environment) referred to the query from Councillor Butler about whether the Council had funding available for the scheme. He advised that the authority did not have the monies to fully support the scheme but had retained some money to put towards it. However he reminded the Committee that the Council would not be able to bid for funding if planning permission was not in place.

The Planning Strategy Manager felt that the Committee could either decide to do nothing and risk flooding reoccurring in the future or take a proactive approach and implement a scheme that could manage the risk. He added that it was a clear cut case.

Mr. Green from NRW spoke of the modelling work that had been undertaken to identify the impact on the River Alyn. He commented on the unpredictability of flood events and of the negligible impact of this scheme on a small number of properties.

In summing up, Councillor Butler spoke of the concerns that had been raised by Members but added that the Environment Agency should also take a share of the responsibility for not coming up with the finance to do a proper job.

He raised concern that the costs of this project would escalate year on year but that to do nothing would still generate costs and cause problems for residents due to flooding. He concluded that he had the same concerns as the Local Member but that he would prefer that the scheme progressed rather than nothing being done.

RESOLVED:

That planning permission be granted subject to the conditions detailed in the report of the Chief Officer (Planning and Environment).

71. FULL APPLICATION – CHANGE OF USE FROM SHOP TO 2 NO. RESIDENTIAL UNITS AT DEESPEED MOTOR FACTORS, 100-102 CHESTER ROAD EAST, SHOTTON (052329)

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

The officer detailed the background to the report and referred Members to the late observations where it was reported that the third sentence in paragraph 7.05 should refer to 4 not 5 one bedroom flats. The application was being submitted to Committee because of the Section 106/early payment for open space provision which officers did not have delegated powers for.

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

RESOLVED:

That planning permission be granted subject to the conditions detailed in the report of the Chief Officer (Planning and Environment) and subject to the applicant entering into a Section 106 agreement/unilateral undertaking or earlier payment for the following contributions:-

- £733 per unit for enhancements to 'toddler play provision' at North Street Play Area in lieu of on-site provision

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

72. FULL APPLICATION – ERECTION OF DETACHED GARAGE AND FORMATION OF ACCESS AT 13 BRON HAUL, TRELAWNYD (053545)

The Committee considered the report of the Chief Officer (Planning and Environment) in respect of this application. The usual consultations had been undertaken and the responses received detailed in the report.

The Development Manager detailed the background to the report and explained that the proposal was for the erection of a detached garage which was a stand-alone building with a ridge height of 4.21 metres. The garage would be rendered to match the existing property and was considered to be subsidiary to the main dwelling. The proposed vehicular access to the garage would be via a new access on to a private road adjacent to the rear boundary of the site. The Development Manager indicated that the access onto the private road did not require planning permission and permission was only needed because the height of the building exceeded four metres. There had been a number of objections to the proposal because of the access but the Development Manager reminded the Committee that they were only considering the erection of a building in the back garden of the dwelling. He added that whether the applicant had a right to drive her vehicle over the private road was not a planning consideration and if the application was approved, it would be stated in the decision notice that approval did not grant any rights to use the private land.

The applicant, Miss. G. Jones, had registered to speak on the application but withdrew her request following the opening comments of the Development Manager.

Councillor Chris Bithell proposed the recommendation for approval which was duly seconded. He said that the issue of the use of the private road was a civil matter and that the objectors could pursue the issue through a solicitor.

The Chairman exercised his discretion to allow the Local Member, Councillor Nigel Steele-Mortimer, to speak on the application.

Councillor Steele-Mortimer requested a deferment of one month as he was anxious to come to an agreement between the two parties to everyone's advantage. He added that the applicant had circulated a letter to the objectors and he felt that deferral would allow discussions to take place between the applicant and the objectors. If the deferment was granted, Councillor Steel-Mortimer said that he would withdraw his request for the application to be considered by the Committee and would allow officers to determine the application after the deferral of a month. He added that if the proposal was agreed at this meeting, objectors would feel less likely to discuss any possible agreement with the applicant.

In response, the Housing & Planning Solicitor said that if the application was deferred, it would need to come back to Committee for determination, but he added that there was no planning reason put forward to defer the application. The Development Manager advised that access on the private road was a civil matter and therefore the Committee was only being asked to grant a building in the grounds of the property.

Councillor Owen Thomas queried whether permission should be given for a garage if there was no access from the private road. The Housing & Planning Solicitor confirmed that approval of the garage could be made as whether or not the applicant was able to use the private road was not a planning matter and therefore should not form part of the Committee's determination.

Councillor Alison Halford proposed deferment of the application for one month, as requested by the Local Member, and this was duly seconded.

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

In summing up, Councillor Bithell said that he hoped the applicant and objectors could reach an amicable agreement with the help of Councillor Steele-Mortimer but that the Committee only needed to consider the planning merits of the application. He added that in planning terms there were no objections to the proposal.

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

RESOLVED:

That planning permission be granted subject to the conditions detailed in the report of the Chief Officer (Planning and Environment).

73. **FULL APPLICATION – CONVERSION OF THE FORMER CHURCH TO CREATE 3 NO. DWELLINGS, DEMOLITION OF THE CHURCH HALL AND CONSTRUCTION OF 3 NO. DWELLINGS AT ST. DAVID’S CHURCH, CHESTER ROAD, OAKENHOLT (053468)**

The Committee considered the report of the Chief Officer (Planning and Environment) 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 along with an amendment to paragraph 2.01 were circulated at the meeting.

The officer detailed the background to the report and explained that the main issues for consideration included the impact on the conversion of the character of the building, design and amenity considerations and ecological impacts. As part of the consultation exercise, the Local Member, Councillor Rita Johnson, had commented that the proposals would result in adverse impacts upon highway safety but the officer advised that no objections had been received from the Highways Authority. There were bats in the church but it was proposed that the installation of bat boxes within the fabric of the church would allow the continued use of the building as a roost. Approval of the application would also include a Section 106 obligation for £5499 in lieu of on-site play and recreation provision and the officer drew Members’ attention to the late observations where the details of the play area were provided.

Councillor Chris Bithell proposed the recommendation for approval which was duly seconded. He said that the building was a feature of Oakenholt and had many architectural features. The proposals would retain the character of the building which he welcomed and the report highlighted the historical aspect of the area. Councillor Bithell also welcomed the Archaeological Watching brief which was included as a condition if the application was approved and he added that the proposal made good use of the building without demolishing it.

In response to a query from Councillor Richard Jones about the retention of the gate pillars on the site, the officer confirmed that this would be covered by the agreement of the Schedule of Works for the existing walls referred to in condition 5.

RESOLVED:

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

- Ensure the payment of a contribution of £5499 to the Council in lieu of on-site play and recreation provision. Such sum to be paid to the Council prior to the occupation of any dwelling hereby approved and to be used to upgrade existing facilities within the community play area at Croes Atti Lane, Oakenholt.

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

74. **FULL APPLICATION – ERECTION OF A PAIR OF SEMI DETACHED BUNGALOWS AT HEATHERDENE, VICARAGE ROAD, RHYDYMWYN (053534)**

The Committee considered the report of the Chief Officer (Planning and Environment) 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 advised that the site was in a Category C settlement and any development would therefore need to meet an identified local housing need. The applicant was willing to enter into a Section 106 agreement to ensure that the dwellings were affordable by either affordable rent or sale (at 70% of the market value). The main issue for consideration related to possible flooding as the site lay within Zone C2 as defined in Technical Advice Note (TAN) 15. A Flood Consequences Assessment had been undertaken and lengthy discussions had been held with Natural Resources Wales (NRW). Further modelling work had been undertaken and NRW was satisfied that even if the culvert at Nant Road became blocked, then the site would not flood.

The applicant, Mr. R. Drillsma, had registered to speak on the application but withdrew his request following the opening comments of the officer.

Councillor Owen Thomas proposed the recommendation for approval which was duly seconded. He said that the site had not flooded even during the heavy rain in 2000 when flooding in other areas had occurred and said that he could not see it flooding in the future. He welcomed the proposal for affordable housing which he suggested was not always provided, even on larger developments and added that the applicant had agreed to all of the planning officer's requests. Councillor Chris Bithell said that the proposal would provide essential housing for local people. Councillor Derek Butler said that it was important that affordable housing was provided in rural areas and welcomed the proposal for two bungalows.

RESOLVED:

That planning permission be granted subject to the conditions detailed in the report of the Chief Officer (Planning and Environment) and subject to the applicant entering into a Section 106 agreement/unilateral undertaking or earlier payment for the following contributions:

- £733 per unit for recreation enhancements in lieu of on-site provision towards teenager play provision at 'Donkey field' Rhydymwyn; and

- Ensuring that the properties are sold at 70% of the market value at time of sale; or
- The properties are rented at an affordable rent at the Local Housing Allowance (LHA) rate for the area

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

75. FULL APPLICATION – PROPOSED EXTERNAL INSULATION AND RENDER AT RICHARD HEIGHTS, HOLYWELL ROAD, FLINT (054139)

The Committee considered the report of the Chief Officer (Planning and Environment) in respect of this application. The usual consultations had been undertaken and the responses received detailed in the report.

The Development Manager detailed the background to the report and explained that this was the first of three applications for the tower blocks in Flint. The proposal was to insulate the existing building and install new windows and would provide an opportunity to update the tower blocks which had been in place for a number of years. A condition was proposed for the colour of the paint to be agreed.

Councillor Dave Cox proposed the recommendation for approval which was duly seconded. He welcomed the proposals which he felt would improve the town and the painting on the three blocks would add some colour. He added that the residents of Flint were looking forward to the completion of the works. Councillor Ian Dunbar asked that the three tower blocks be painted in different colours. In response to a query from Councillor Owen Thomas about whether there was any possibility that the flats would be taken down in the near future, the Development Manager confirmed that this was not proposed. Councillor Ray Hughes queried why the windows would be grey framed. The Planning Strategy Manager advised that this was the colour of the type of laminate finish on the frames which would reduce future maintenance.

RESOLVED:

That planning permission be granted subject to the conditions detailed in the report of the Chief Officer (Planning and Environment).

76. FULL APPLICATION – PROPOSED INSULATED RENDER AND INSTALLATION OF NEW WINDOWS AT BOLINGBROKE HEIGHTS, FLINT (054140)

The Committee considered the report of the Chief Officer (Planning and Environment) in respect of this application. The usual consultations had been undertaken and the responses received detailed in the report.

The Development Manager detailed the background to the report.

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

RESOLVED:

That planning permission be granted subject to the conditions detailed in the report of the Chief Officer (Planning and Environment).

77. FULL APPLICATION – PROPOSED INSULATED RENDER AND INSTALLATION OF NEW WINDOWS AT CASTLE HEIGHTS, CHAPEL STREET, FLINT (054141)

The Committee considered the report of the Chief Officer (Planning and Environment) in respect of this application. The usual consultations had been undertaken and the responses received detailed in the report.

The Development Manager detailed the background to the report.

Councillor Marion Bateman proposed the recommendation for approval which was duly seconded.

RESOLVED:

That planning permission be granted subject to the conditions detailed in the report of the Chief Officer (Planning and Environment).

78. GENERAL MATTERS – ERECTION OF 59 DWELLINGS, OPEN SPACE, ACCESS AND ASSOCIATED INFRASTRUCTURE AT ISSA FARM, MYNYDD ISA (053208)

The Committee considered the report of the Chief Officer (Planning and Environment) in respect of this application.

The Chief Officer (Planning and Environment) advised that the application had been refused at the 9th September 2015 meeting of the Committee against officer recommendation. Councillor Alison Halford, as the proposer, had been contacted to discuss the reasons for refusal and the wording in paragraph 6.01 of the report had been agreed. The Chief Officer added that the application was not for debating at this meeting and Members were only being asked to clarify the reason for refusal.

Councillor Gareth Roberts proposed the recommendation to confirm the reason for refusal detailed in the report which was duly seconded. He reiterated his comments at the meeting on 9th September 2015 about the Welsh Government owned site in Buckley which had not been brought forward for development and an appeal on an application in Northop Hall. He fully supported the wording that had been suggested.

RESOLVED:

That the reason for refusal be confirmed as:-

‘The proposal constitutes development in the open countryside outside a settlement boundary and would have unacceptable impact on the character of the countryside contrary to Policy GEN3 of the Flintshire Unitary Development Plan.’

79. MEMBERS OF THE PUBLIC AND PRESS IN ATTENDANCE

There were 11 members of the public and 2 members of the press in attendance.

(The meeting started at 1.00 pm and ended at 2.11 pm)

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Chairman

FLINTSHIRE COUNTY COUNCIL

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

DATE: **18TH NOVEMBER 2015**

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

SUBJECT: **FULL APPLICATION – ERECTION OF TWO STOREY EXTENSION TO DWELLING AT TY CAPEL, LON CAPEL, GWAENYSGOR**

APPLICATION NUMBER: **054199**

APPLICANT: **MS J JONES**

SITE: **TY CAPEL, LON CAPEL, GWAENYSGOR**

APPLICATION VALID DATE: **19.08.15**

LOCAL MEMBERS: **CLLR N. STEELE-MORTIMER**

TOWN/COMMUNITY COUNCIL: **TRELAWNYD & GWAENYSGOR**

REASON FOR COMMITTEE: **MEMBER REQUEST**

SITE VISIT: **YES**

1.00 SUMMARY

- 1.01 This householder application seeks consent for the erection of a two storey extension to the existing two storey detached property within the Gwaenysgor village Conservation Area and Area of Outstanding Natural Beauty (AONB) designation.

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

2.01 That conditional permission be granted subject to conditions:

1. Time limit on commencement
2. In accordance with approved plans
3. No further first floor windows within extension

3.00 CONSULTATIONS

3.01 Local Member

Councillor N. Steele-Mortimer

Requests committee determination and site visit as he considers the scheme to be overbearing.

Trelawnyd & Gweanysgor Community Council

Against the proposals contained in the application.

Head of Public Protection

No adverse comments to make regarding this proposal.

AONB Joint Advisory Committee

The Joint Committee has no objection from a conservation and landscape point of view but noted the objection from a neighbouring property and suggested that the plan dimensions be checked. Also noted that the neighbour's objection may also be exacerbated by the introduction of a first floor window in the gable which appears to overlook their property. (Since these observations the plans have been verified and the gable window removed).

In response to the further amendments the Joint Committee has no further comments to make on this application.

4.00 PUBLICITY

4.01 Press Notice, Site Notice, Neighbour Notification

Two objections received from same person, on the following grounds;

- Initial plans submitted inaccurate
- Plans give the impression of small house on a generous plot
- Proposed extension (third) is equal to the extension it adjoins, which is already the second extension to the property
- Site in conservation area, duty to preserve and enhance within these areas
- Development detrimental to visual amenity character of the area, adding to an already overextended property
- Footprint created twice size of original dwelling, giving appearance of infill development, and may give impression of terracing, due to the lack of space between the two properties

- Scale and proportions would be detrimental to character of Gwaenysgor, gives no regard to the distinctiveness of the area, which is one of the remaining original parts of the village
- Objector sought confirmation of the plans proposed as discrepancies in second submission, as windows as proposed, in her opinion, in this submission would lead to overlooking and loss of privacy

As a result of the third amendment to the proposal, objection has been upheld from the above on the grounds that:

- The reduction on scale of the scheme now proposed is so small as to make little difference to the overall impact and therefore original objections remain,
- The movement of the upper floor window now overlooks directly the front garden, albeit better than the previous amendments,
- A second floor window is obtrusive to either Eversleigh or Pen Y Parc on any of the proposed extension walls.
- Some of the drawings remain inaccurate in relation to the boundary, it is misleading to anyone looking at it and should be represented accurately.

5.00 SITE HISTORY

5.01 **006223** Dining room, bedroom and bath room extension - Approved 23.12.81

6.00 PLANNING POLICIES

6.01 Flintshire Unitary Development Plan
 GEN1 - General Requirements for Development
 HSG12 - House Extensions and Alterations
 HE1 - Development Affecting Conservation Areas

7.00 PLANNING APPRAISAL

7.01 Introduction

This householder application seeks consent for the extension of the existing two storey property by a part two storey extension and part single storey extension. The site is within the Gwaenysgor Conservation Area and within in an area designated as an Area of Outstanding Natural Beauty (AONB).

7.02 The existing detached two storey property has been extended previously in 1981, by a two storey rear / side extension within the existing garden area of the property. This extension provided a dining room at ground floor and a bedroom and bath room at first floor level. The property is considered to have retained its vernacular character. The Conservation Officer recommends approval having considered the application and noted the amendments made to improve the

overall design which lessen the overall impact of this small extension upon adjacent buildings.

- 7.03 This application seeks consent for the erection of a further two storey extension and a single storey extension, to the rear and side elevation of the existing property, these extensions are within the grounds of the existing property. The two storey and single storey extensions are proposed to provide accommodation for the enlargement of the kitchen / breakfast room, downstairs shower and wc and the enlargement of the existing bedroom at first floor level.
- 7.04 The orientation of the existing property on the plot leads to a narrow frontage and a long linear built form. The existing extension and that proposed continues this form, reflective of the character of this particular property and the general vernacular.
- 7.05 The amendments to the position of the proposed first floor window (which now overlooks the road) overcomes any potential adverse effect on amenity to the neighbouring properties, as there are now no first floor windows which overlook the private rear amenity space of adjoining properties. The proposed bedroom window fronts on to the part the front portion of garden area of Pen y Parc, however this is not considered to constitute a private amenity space as it is already overlooked from the road.
- 7.06 In addition the extension has been reduced in overall scale and now amounts to a projection of 2.7m, with a footprint size of approx. 12m² and a ridge height of 5.4m high, which is set approx. 0.5m below the ridge line of the previous extension, leading to a logical hierarchy of this extension in relation to the previous extension and the host building. Whilst it is noted that this proposal is in conjunction with a former extension, the amount of extension proposed is not considered to be excessive and the stepping in and stepping down of the extension reduce the overall massing of the extension, retaining the character of the property and the wider Conservation Area within which it is set .
- 7.07 The proximity of the extension to the adjacent property at approx. 2m is acceptable in this context as there is no one predetermining plot or property size, and this form of development equates to the built visual character of the Conservation Area. The adjacent property has a blank gable elevation, as such there is no detriment to residential amenity. By steeping the extension back and a single storey element on the side elevation achieves a visual break between the application site and the adjacent property, avoiding any terracing effect.
- 7.08 It is also considered that the amount of development does not constitute overdevelopment, in fact it is considered to be reflective of the character and form of the property and the wider Conservation Area.

7.09 An objection had been raised with regards to the accuracy of the plans showing the location of the extension in relation to the boundary wall between the application site and Pen Y Parc, the agent has subsequently considered this aspect and has for clarification purposes, forwarded plan details, which show the boundary wall section between the application site and Pen Y Parc, and the front boundary wall on to Lon Capel as can be seen from the plan appended to the report.

8.00 CONCLUSION

8.01 It is considered that the proposed development of extension and alteration of the property in the manner proposed is considered to be compliant with relevant policies. The development in the manner proposed will not adversely impact upon residential / visual amenity and is not considered to adversely impact upon the character and form of the Conservation Area or the Area of Outstanding Natural Beauty.

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.

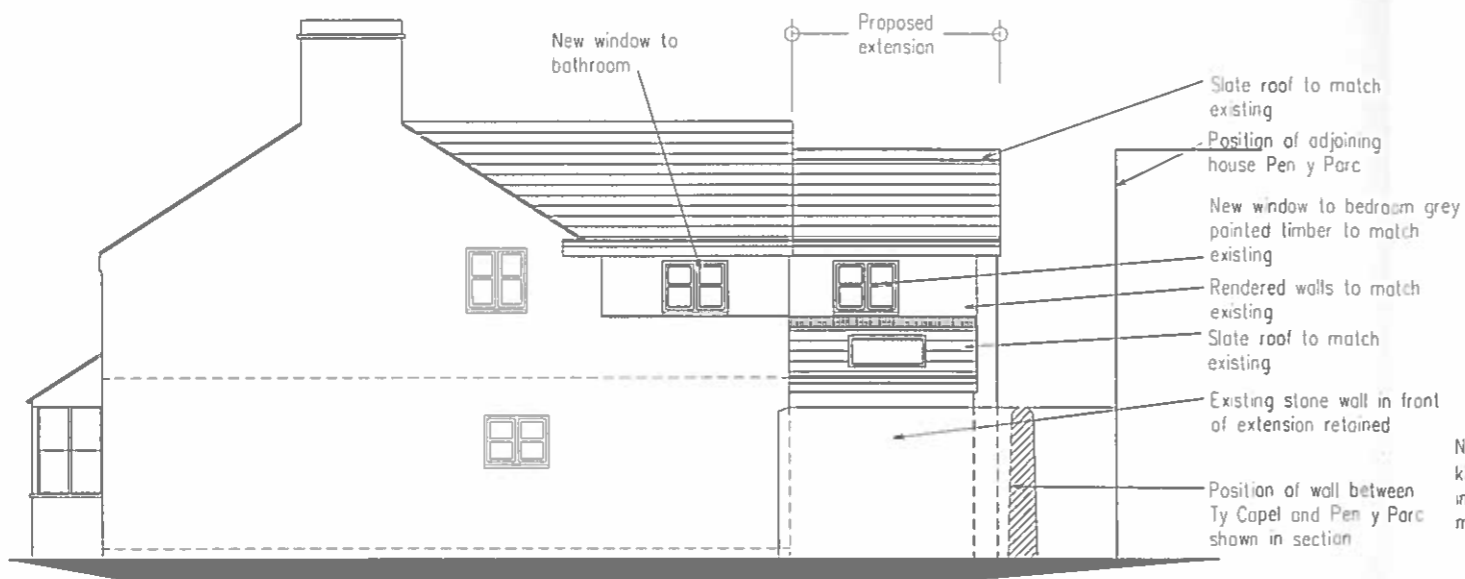
LIST OF BACKGROUND DOCUMENTS

Planning Application & Supporting Documents
National & Local Planning Policy
Responses to Consultation
Responses to Publicity

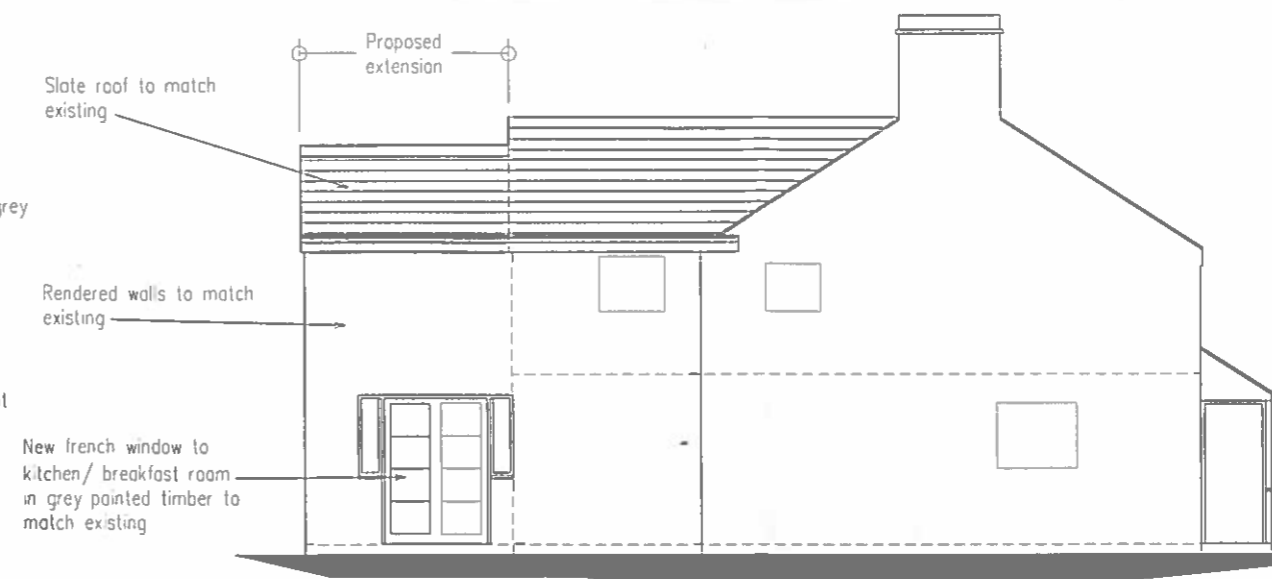
Contact Officer: Barbara Kinnear
Telephone: (01352) 703260
Email: Barbara.kinnear@flintshire.gov.uk

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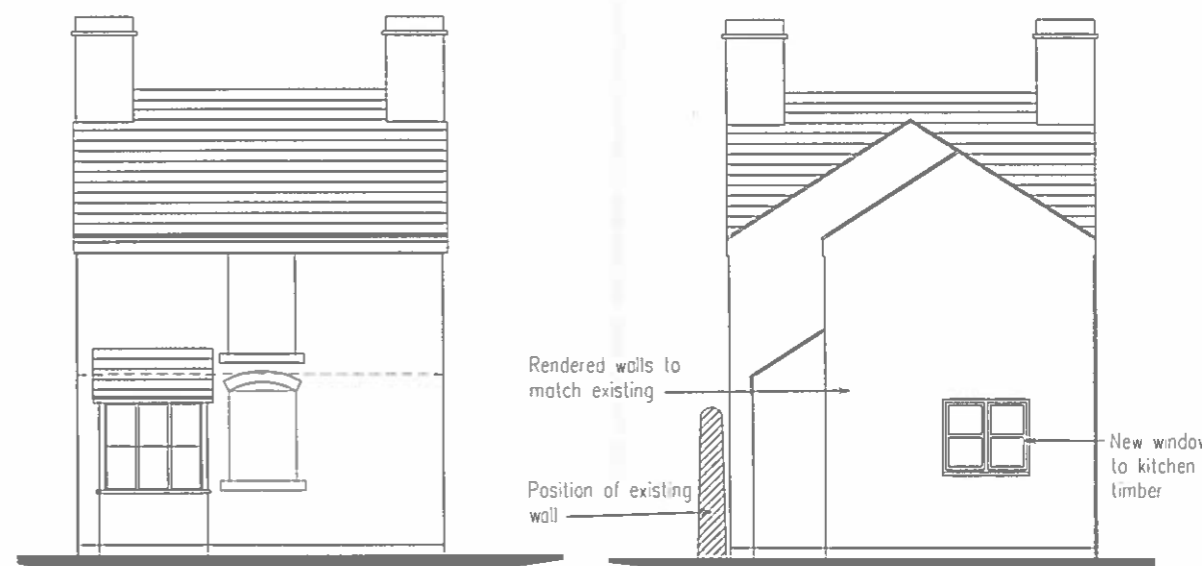
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Side elevation (north) to Lon Capel

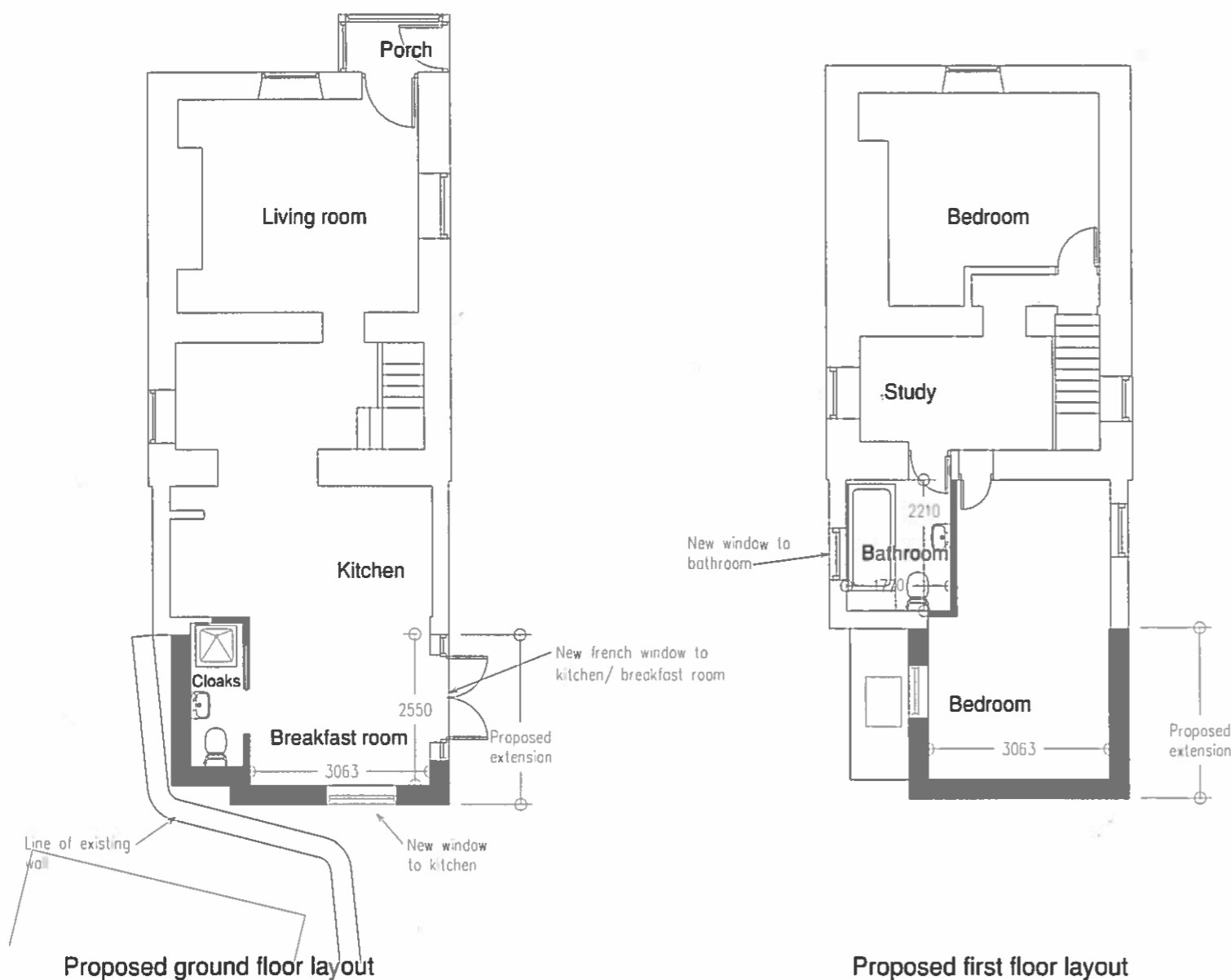


Side elevation (south) to garden



Front (east) elevation (unchanged)

Rear (west) elevation



Proposed ground floor layout

Proposed first floor layout

054199

29 OCT 2015

- B Window to first floor rear deleted. 06/09/15
- C Window to first floor rear reinstated and window to first floor south side deleted. 13/09/15
- D Window to first floor bedroom moved to north elevation. No FF windows to south or west elevations. Extension reduced in length 13/10/15
- E Position of existing wall confirmed. Oct 2015

PROPOSED LAYOUT	
Ty Capel, Lon Capel	
Gwaenysgor LL18 6EJ	
SCALE	1:100 @ A3
DATE	May 2015
DRWG. No 3949/03E	

0mm 50mm 100mm

This scale will measure 100mm when the drawing sheet has been printed on A3 paper at 1:1 scale

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FLINTSHIRE COUNTY COUNCIL

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

DATE: **WEDNESDAY, 18 NOVEMBER 2015**

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

SUBJECT: **GENERAL MATTERS - PROPOSED AMENDMENT TO SECTION 106 AGREEMENT - MORRISONS SUPERMARKET, HIGH STREET, SALTNEY**

1.00 APPLICATION NUMBER

1.01 045999

2.00 APPLICANT

2.01 N/A

3.00 SITE

3.01 Land adj. Morrisons supermarket, Saltney.

4.00 APPLICATION VALID DATE

4.01 N/A

5.00 PURPOSE OF REPORT

5.01 To seek authority for land to be transferred by Morrisons directly to the Town Council and to vary the Section 106 Agreement entered into by the Council with Morrisons in connection with the planning permission for the erection of the store at Chester Road, Saltney in 2009 as required.

6.00 REPORT

6.01 Planning permission was granted in August 2009 for the erection of a retail superstore with associated external works including car parking, trolley storage shelters, landscaping and enclosed service yard with separate vehicular access and ancillary works at the former G.T.

Owens site. The planning permission was subject to a Section 106 Agreement which, amongst other matters, required of Morrisons the transfer of a plot of land to the Council for the erection of a new library building to serve Saltney. The land concerned covers approximately 0.3 acres and is located at the eastern end of the site, to the east of the supermarket access road.

- 6.02 The Agreement further requires that the land be transferred back to Morrisons (or any subsequent owner of the retail store) if the library building has not been built within seven years of the date of the permission. A report to Committee in Dec. 2014 obtained a resolution to renegotiate the clause within the Agreement to allow the land to be retained by the Council beyond the August, 2016 cut-off, providing it is used for some benefit to the community. At that time the intention was to allow the land to be transferred to the Town Council to be used as a memorial garden. Currently the land is still in Morrisons' ownership.
- 6.03 Following further negotiations it is now intended that the land should be transferred by Morrisons directly to the Town Council and the current report seeks the authority to allow Morrisons to transfer the land directly to the Town Council which they have indicated that they are willing to do, and to vary the S.106 Agreement as required (including adding the Town Council as a party if necessary).
- 6.04 Clearly, as the intention is that the land is to be handed to the Town Council by Morrisons free of charge, it is likely that their solicitors would impose restrictions on its reuse, e.g. that it should not be used for any commercial, profit making purpose. The Town Council will also need to apply for planning permission for any proposed use of this land or for any development on it.

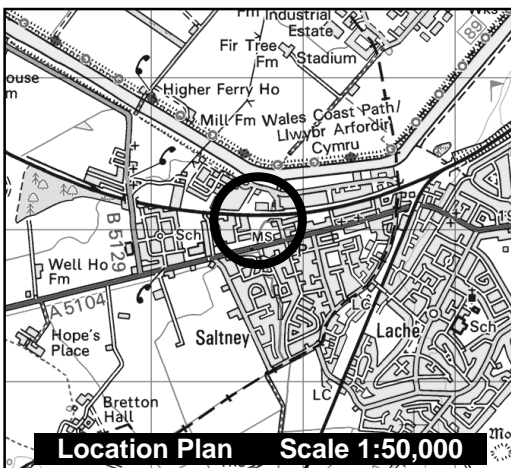
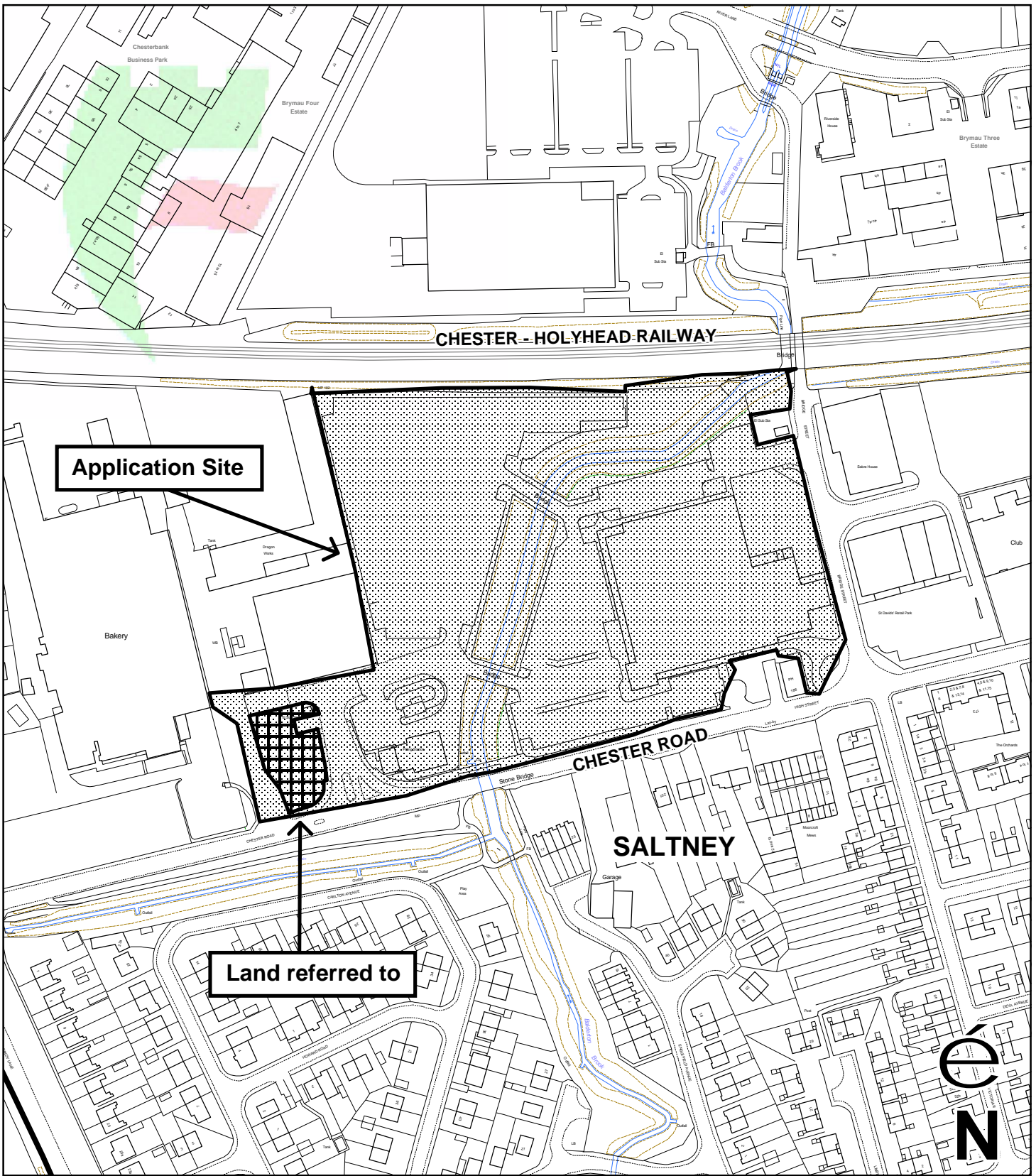
7.00 RECOMMENDATIONS

- 7.01 That the land be transferred directly to the Town Council and the existing Section 106 Agreement entered into in connection with planning permission ref. 045999, be varied as required.

LIST OF BACKGROUND DOCUMENTS

Planning Application & Supporting Documents
Section 106 Agreement dated August 2009

Contact Officer: Mr. G.P. Jones
Planning Development Manager
Telephone: (01352) 703248
Email: glyn.p.jones@flintshire.gov.uk

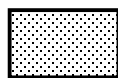


Location Plan Scale 1:50,000

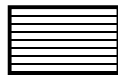


Planning & Environment,
 Flintshire County Council, County Hall,
 Mold, Flintshire, CH7 6NF.
 Chief Officer: Mr Andrew Farrow

Legend



Planning Application Site



Land Referred To



Adopted Flintshire Unitary
 Development Plan
 Settlement Boundary

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Map Scale 1:2500

OS Map ref SJ 3764

Planning Application **45999**

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FLINTSHIRE COUNTY COUNCIL

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

DATE: **WEDNESDAY, 18 NOVEMBER 2015**

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

SUBJECT: **GENERAL MATTERS - ERECTION OF 20 NO. DWELLINGS (PHASE 2) AT VILLAGE ROAD, NORTHOP HALL**

1.00 APPLICATION NUMBER

1.01 052388

2.00 APPLICANT

2.01 Anwyl & Co Ltd

3.00 SITE

3.01 Village Road, Northop Hall.

4.00 APPLICATION VALID DATE

4.01 11.07.14

5.00 PURPOSE OF REPORT

5.01 To inform Members that the incorrect layout plan was shown to members during the presentation of this application and that an amended location plan has also now been submitted to accord with the correct layout plan.

6.00 REPORT

6.01 Planning and Development Control Committee resolved to grant permission on 8th October 2014 for the erection of 20 dwellings as phase 2 of the residential development at Cae Eithin, Northop Hall subject to the applicant entering into a S106 agreement relating to the provision of affordable housing and commuted sums for open space and education.

- 6.02 A further general matters report was considered by Planning and Development Control Committee on 20th May 2015 to remove the education contribution as the Council had already entered into 5 obligations for contributions towards Hawarden High School and therefore the request for the contribution was not CIL compliant at that time. The recommendation therefore was to grant permission subject to the applicant entering into a S106 agreement relating to affordable housing provision and a commuted sum for open space.
- 6.03 During the course of the negotiations on the S106 agreement it became apparent that at the time of the submission of the planning application two layout plans had been submitted which showed a different site boundary to the north of the site between plots 16 and 17 on Phase 2 which are plots 67 and 68 on the overall layout. This arose as a strip of land to the north of the site was unregistered and therefore had been removed from a later layout, however both had been submitted for planning purposes in error. The red line application site also showed the slightly larger site area.
- 6.04 The correct planning layout Drawing AH008-01N has been the subject of public consultation, however during the planning committee presentation the layout shown to members was Phase 2 version A. The physical difference between the two drawings relates to a slither of land between the rear of the existing properties of Hawkwind and Bryn-y-Cae and the boundaries of plots 16 and 17 on Phase 2 which are plots 67 and 68 on the overall layout. This reduces the rear garden of plot 16 and reduces the side garden to plot 17. Both dwellings still have useable private garden spaces which are in accordance with the Council's Spaces Around Dwellings Guidance LPGN2. This moves the boundaries of the new properties further away from the existing dwellings. There is therefore no detrimental impact on residential amenity.
- 6.05 The overall redline application boundary that was submitted with the planning application therefore showed a slightly bigger site area which the proposed layout sits within. During the course of the S106 discussions the amended red line boundary was submitted to accompany the documents and this discrepancy was realised.

7.00 RECOMMENDATIONS

- 7.01 To resolve to grant planning permission based on the amended red line boundary and planning layout Drawing AH008-01N subject to the applicants entering into a S106 agreement/unilateral undertaking or earlier payment for the following contributions;
- To gift 2 three bed dwellings to North East Wales Homes to be used as affordable housing.
 - To provide a commuted sum of £1,100 per dwelling in lieu of on-site open space provision.

LIST OF BACKGROUND DOCUMENTS

Planning Application & Supporting Documents

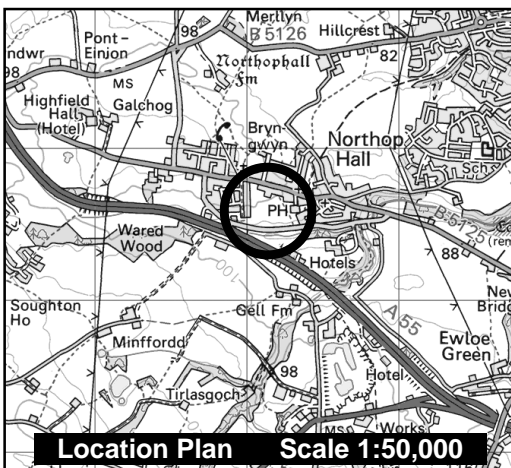
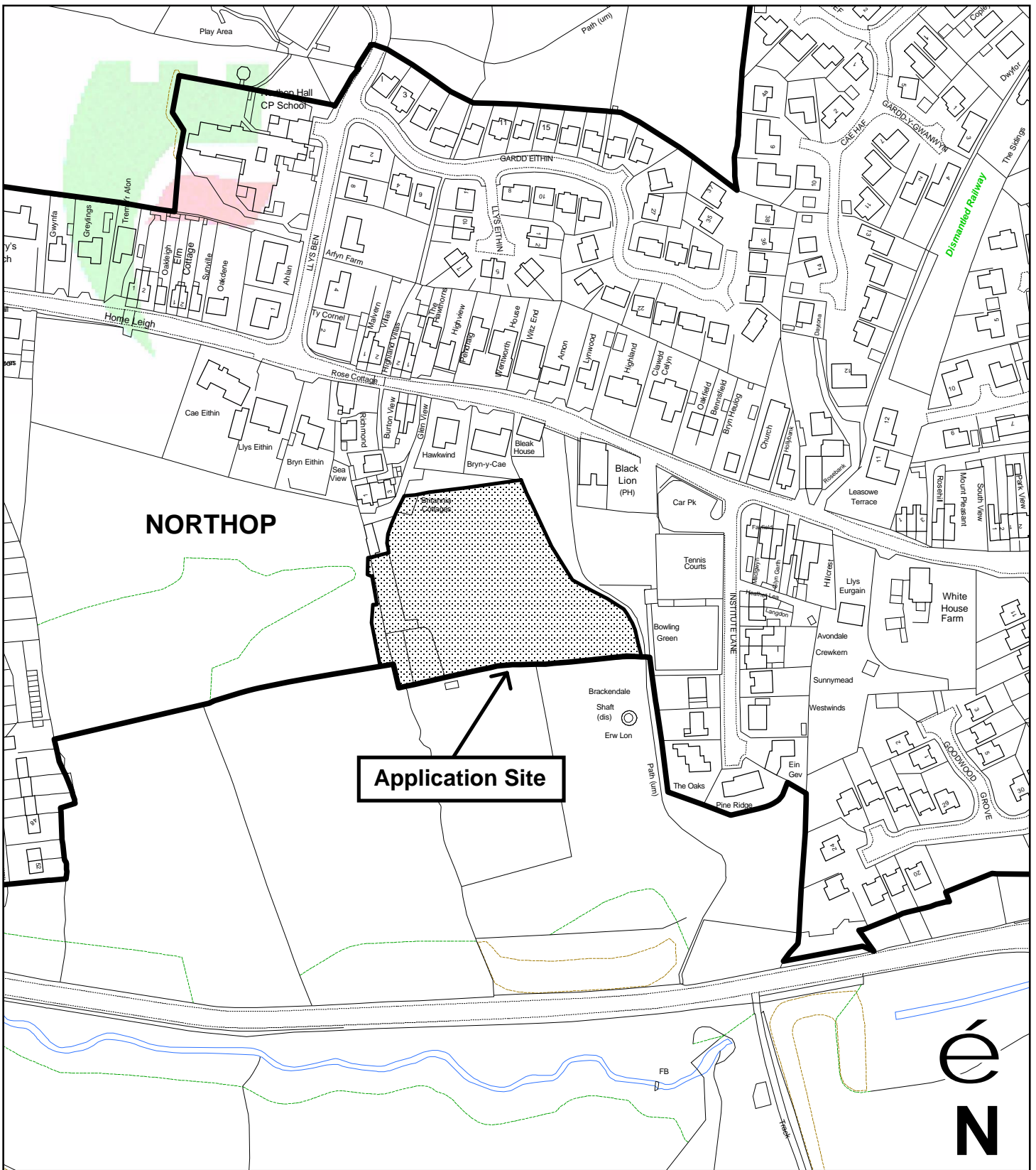
National & Local Planning Policy


Responses to Consultation

Responses to Publicity

Contact Officer: Emma Hancock
Telephone: (01352) 703254
Email: emma.hancock@flintshire.gov.uk

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Sir y Fflint
Flintshire
COUNTY COUNCIL

Planning & Environment,
Flintshire County Council, County Hall,
Mold, Flintshire, CH7 6NF.
Chief Officer: Mr Andrew Farrow

Legend

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

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Planning Application	52388

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FLINTSHIRE COUNTY COUNCIL

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

DATE: **18TH NOVEMBER 2015**

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

SUBJECT: **APPEAL BY MULLHILL ESTATES LLP AGAINST THE DECISION OF FLINTSHIRE COUNTY COUNCIL TO REFUSE PLANNING PERMISSION FOR OUTLINE – DEMOLITION OF ‘SUNNYSIDE’ & 66A MOLD ROAD AND THE ERECTION OF 58 NO. HOUSES INCLUDING DETAILS OF ACCESS, APPEARANCE, LAYOUT AND SCALE AT 66A MOLD ROAD, MYNYDD ISA – ALLOWED.**

1.00 APPLICATION NUMBER

1.01 048042

2.00 APPLICANT

2.01 Mullhill Estates LLP

3.00 SITE

3.01 Land to rear of 66A Mold Road.
Mynydd Isa.

4.00 APPLICATION VALID DATE

4.01 18TH November 2010

5.00 PURPOSE OF REPORT

5.01 To inform Members of the Inspector's decision in relation to an appeal into the refusal to grant outline planning permission for the erection of 58 houses at land to the rear of 66A Mold Road, Mynydd Isa, Mold, Flintshire. The application was refused by committee contrary to officer recommendation to approve and the appeal being dealt with by an Informal Hearing, was ALLOWED.

6.00 REPORT

Background

- 6.01 Members may recall that this application was reported to the Planning & Development Control Committee on 24th July 2013 whereby it was refused contrary to officer advice and subsequently reported back to Committee on 4th September 2013 on the grounds that the proposals did not provide 30% affordable housing within the scheme, highway safety, the proposals did not make provision for adequate public open space and inadequate parking provision. Both highway safety and inadequate parking provision were later dropped as reasons for refusal.

Issues

- 6.02 The Inspector considered that the main issues were whether or not the scheme made adequate provision for affordable housing, the effects on local ecology (great crested newts - GCN) and the effects on highway safety.

Affordable Housing

- 6.03 At the hearing the pressing need for affordable housing, and the planning system's role in its delivery, was accepted by all parties. Policy HSG10 of the UDP seeks a 30% provision of affordable housing. When it considered the proposal the Council's planning committee resolved that this level of provision should not be reduced. This stance was contrary to the advice of its officers that, as the applicant had shown that the economic viability of the scheme could not bear this level of provision, the contribution sought should be considerably lower. At the hearing the Council accepted that the policy provided some flexibility in relation to this target where justified by economic viability considerations. This position accords with LPG22 which explains that the Council will be realistic about the economics of development when negotiating the level of contributions.

- 6.04 The appellant provided updated evidence on viability issues prepared by specialist consultants, which was reviewed by the Valuation Office Agency (VAO) on behalf of the Council. Compiling viability assessments inevitably involve making informed judgements on a range of matters over which professional practitioners may disagree. Relatively small changes in inputs can significantly affect overall figures.

- 6.05 The main parties agreed that the main difference between them on viability turned on the benchmark land value. There are several significant abnormal costs associated with the development of the site. The degree to which this should be reflected in land costs is influenced by the need to provide a 'competitive return to a willing landowner'. The parties agreed at the hearing that there is difference

of some £50,000 between the parties' values on land benchmark costs. This is a relatively modest figure against the total costs of the project at over £8.6 million.

- 6.06 The financial contributions contained in the UU exceed that which the appellant considers economically viable using accepted measures. It stated that it is willing to accept a reduced developer return in this case to adhere to the total sum of all financial contributions that was originally offered even though the viability positioned has worsened in the meantime. Thus, even if the VAO figures are to be preferred, this would only serve to provide the return to the developer at a rate which is closer to the 28% figure which the parties agree is reasonable.
- 6.07 The Inspector acknowledged the potential for future changes in circumstances that could markedly alter viability but he must base his decision on the present situation. These circumstances lead him to find that the appellant's approach to land values was reasonable, and that the available evidence on viability justified reducing the level of contribution to affordable housing to that proposed in the Undertaking. Whilst both local and national policy favours on-site provision of affordable housing, the Inspector agreed that the level of contribution that is to be provided by the unilateral undertaking means that a commuted sum is the only practical means of such provision in this case. Thus, in the circumstances, the Inspector found that the appeal scheme would make adequate provision towards affordable housing.

Ecology

- 6.08 The evidence, including the ES, established that the scheme would not be likely to cause harm alone or in combination with other projects on any site designated for its nature conservation interests, including the Buckley Clay Pits and Commons Site of Special Scientific Interest and the Deeside and Buckley Newt Sites Special Area of Conservation. On the basis of the up-to-date and detailed ecological surveys which are contained in the ES, the Inspector was satisfied that the only significant ecological resource within the zone of influence of the proposed development which was likely to be affected is the GCN, which is protected under the Conservation of Habitats & Species (CH&S) Regulations 2010.
- 6.9 In a survey of the area conducted in 2010, GCN were identified as present in one nearby pond ('Pond 2' in the ES). The pond is some 350 m from the site. The terrestrial range of a GCN is known to occasionally extend to between 250 m and 500 m. Thus, given the shelter and foraging opportunities provided by the site the ES concluded that it was probable that GCN were present. Although the appellant's ecologist could not obtain access to Pond 2 when carrying out a more recent survey, in the absence of any known change in circumstances, the ES has assumed continued GCN presence on the site.

- 6.10 The scheme proposed to mitigate the potential impact on the local population of GCN in 2 ways. Firstly, it proposes to adopt measures to avoid direct harm during and after the construction phase by measures to include physical barriers and buffer landscaping works, which would be matters to be secured by planning condition. Secondly, the S106 undertaking would provide a financial contribution towards the provision of alternative migration land or improvements to existing GCN habitats locally.
- 6.11 Any works that would potentially affect a European Protected Species would require a licence. It was agreed that it was necessary to consider the prospects of such a derogation licence being granted by Natural Resources Wales (NRW). The 3 relevant tests in relation to derogation are set out in regulation 53 of the CH&S Regulations, which require that: there is an imperative reason of overriding public interest; that there is no satisfactory alternative; and, that the licence would not be detrimental to maintaining the population of the species at a favourable conservation status in its natural range. The appellant accepted that NRW would require significant further information before granting any licence. At this stage, and bearing in mind the favourable response of NRW to the scheme, considered that there is a reasonable prospect that a licence would be granted.
- 6.12 Whilst the Inspector noted the detailed matters raised by an objector, he was satisfied on the evidence before him and the absence of objections from either NRW or the Council's Ecologist, that the scheme is not likely to unacceptably affect the favourable conservation status of the local GCN population. The requirement for a licence will ensure that a more detailed assessment will be undertaken before any works can take place.
- 6.13 The revised ES established that the scheme could be undertaken without unacceptable impacts on other ecological interests, provided conditions were imposed to control the timing of works and to require further details of mitigating measures to be agreed and implemented.
- Highway Safety
- 6.14 In deciding to refuse the application against the advice of its officers the Council's Planning Committee cited harm to highway safety and insufficient parking provision among its reasons for refusal. However, at a subsequent meeting the Committee resolved that, in the absence of technical evidence, it would not pursue these objections.
- 6.15 In line with national policy, the Council's parking standards are expressed as maxima which, in this case, would mean a provision of up to 150 spaces. The scheme provides this level of provision is appropriate in a location which has good access by means other than a car to local services and facilities, and a bus route to the nearby

larger settlement of Mold. The proposed Travel Plan, which can be secured by condition, will further encourage reduced car dependency.

- 6.16 Access from the site onto the A549 would be facilitated by the demolition of No. 66A and would involve the widening and realignment of the present junction of a short service road that runs parallel with the main road. There have been only 2 recorded personal injury accidents nearby in the last 5 years, both of which were recorded a 'slight'. Local residents are concerned that the present incidents of minor collisions that they have witnessed on this section of highway would be exacerbated.
- 6.17 The highway safety and capacity implications of the proposed access have been assessed by specialists on behalf of the appellant, and found to be acceptable, by the Council's Highways Officers, by specialist consultants employed by the Council, and by an independent road safety unit. Updated traffic surveys have been undertaken following the opening of the local Sainsbury's store which residents explained has increased traffic volumes. The evidence indicates that the staggered junction arrangements that would be created by the construction of the proposed access onto the main road would provide sufficient capacity to accommodate the predicted traffic flows.
- 6.18 It was evident to the Inspector that there were aspects of the arrangements that are not ideal, in particular some vehicles exiting the site may need to cross the centre line, and there will be occasions when the visibility splay eastwards will be reduced whilst a bus stop is in active use. However, the scheme would provide for the realignment and widening of the existing service road junction which would improve visibility and the angle at which vehicles presently enter the main road. It would also widen a presently sub-standard section of footway along Mold Road that extends towards Rose Lane.
- 6.19 Whilst local residents were concerned about traffic speeds the appellant's evidence shows that visibility splays would meet the appropriate standards. In an urban location such as this it is reasonable to assume that those travelling along the main road, as well as those entering it, will do so with caution. This is especially the case given the presence of several junctions and numerous private driveways along this section of the main road. If the incidents of dangerous parking on the opposite side of the road continue, as the appellant's highway consultant points out, this can be addressed by the police and/or highway authority. On this main issue, the Inspector considered that the effect of the proposed development on highway safety would be acceptable below that expected in UDP Policy SR5 and LPG, the significance of the shortfall is limited given the local circumstances and that the UU would provide a financial contribution to equip the facility and to address its future management.

- 6.20 Local residents, some of whom have experience at first-hand flooding of their properties, were concerned that the scheme would exacerbate such problems. Areas of the lower-lying parts of the site are marshy and, on occasions, saturated. The appellant's investigations revealed that a drainage pipe traversing the site is fractured which is likely to exacerbate these local drainage problems. Mindful of the specialist advice of NRW, the Inspector considered that the provision of suitable surface water drainage to serve the development and to replace the existing drainage infrastructure is a matter that could be adequately addressed by a planning condition. Whilst the Inspector noted the concerns expressed by local residents that drainage works on some other modern housing estates in the County have proved ineffective, he was not aware of the details of those cases, satisfied that there were controls available to ensure that properly designed and constructed drainage works are provided, which will avoid flooding.
- 6.21 Bearing in mind the relevant local guidance, the separation distances between existing and proposed houses, and the potential to secure additional screening through new boundary enclosures mean that the scheme would not give rise to unacceptable impacts in terms of overlooking, visual intrusion or loss of light. The access to the site will pass in proximity to two dwellings, the closest of which is a bungalow, No. 64, which was visited during his inspection of the site. The proposed estate road would be separated from this neighbouring property by a footpath and the modest gap between its side elevation and its boundary. The Inspector observed that along this elevation there is a secondary window serving a living room, a dining room window which presently faces the side elevation of No. 66A and a rear conservatory. He considered that the physical presence of the proposed 2 m acoustic fence along the side of the neighbouring bungalow would be no more intrusive than the presence of the existing dormer building and the boundary fence that presently forms a mutual boundary at the rear of the buildings. The separation distance and the acoustic barrier, the details of which would need to be approved, would protect the neighbour from intrusive noise effects of passing vehicles.
- 6.22 The south eastern part of the site has been subject to landfill activities in the past. As a consequence the appellant has commissioned several reports to assess the implications of land contamination and associated landfill gas emissions. Means of providing protective measures against gas and other potential pollution have been identified, and the appellant confirmed that this would require the raising of land on parts of the affected area which has been factored into the details that have been provided on proposed finished floor levels. The Council's Contaminated Land Officer has confirmed that there is no objection to the scheme. He was satisfied that the scheme

was acceptable in this respect, subject to suggested conditions. These would require further details on mitigation measures and would control further development within the affected area by removing certain permitted development rights.

6.23 Additional landscaping works to supplement the existing boundary hedgerows could be secured at reserved matters stage to soften the impact from the surrounding countryside. The scheme would involve the extensive loss of hedgerows within the site, contrary to the aim of Policy TWH2, which in this case is justified by the need to facilitate the scale of development envisaged in the UDP allocation. The scheme has been designed to retain all but two of the trees protected by a preservation order. The Council's Forestry Officer has confirmed that one of these is in poor health and the other has limited amenity value. The scheme makes provision for planting replacements for those lost and a condition is required to safeguard the remaining trees during construction. The degree to which the new development would be visually self-contained and the wide variety of architectural styles and sizes of nearby properties means that the scheme would not harm the character or appearance of the area.

6.24 The site has been identified through the UDP process as suitable for housing and is in a sustainable location close to a range of local services and facilities. Realising the site's envisaged contribution to meeting an identified need for housing is a factor that weighs in favour of the scheme. Given that the latest published Joint Housing Land Availability Study (JHLAS) for the County shows a shortfall in the 5 year supply of housing required by national policy, the Inspector attached considerable weight to this consideration. It was also recognised that the development of the site would benefit the local economy during the construction period.

7.00 CONCLUSION

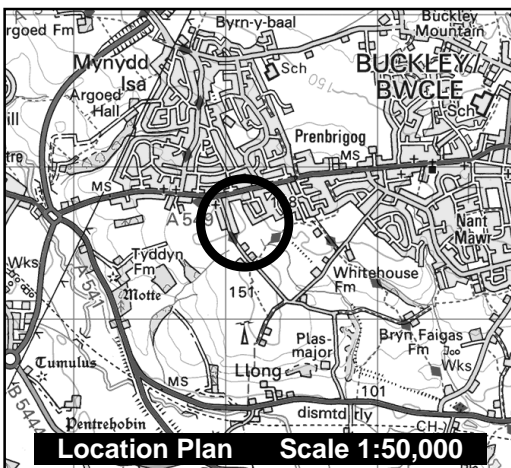
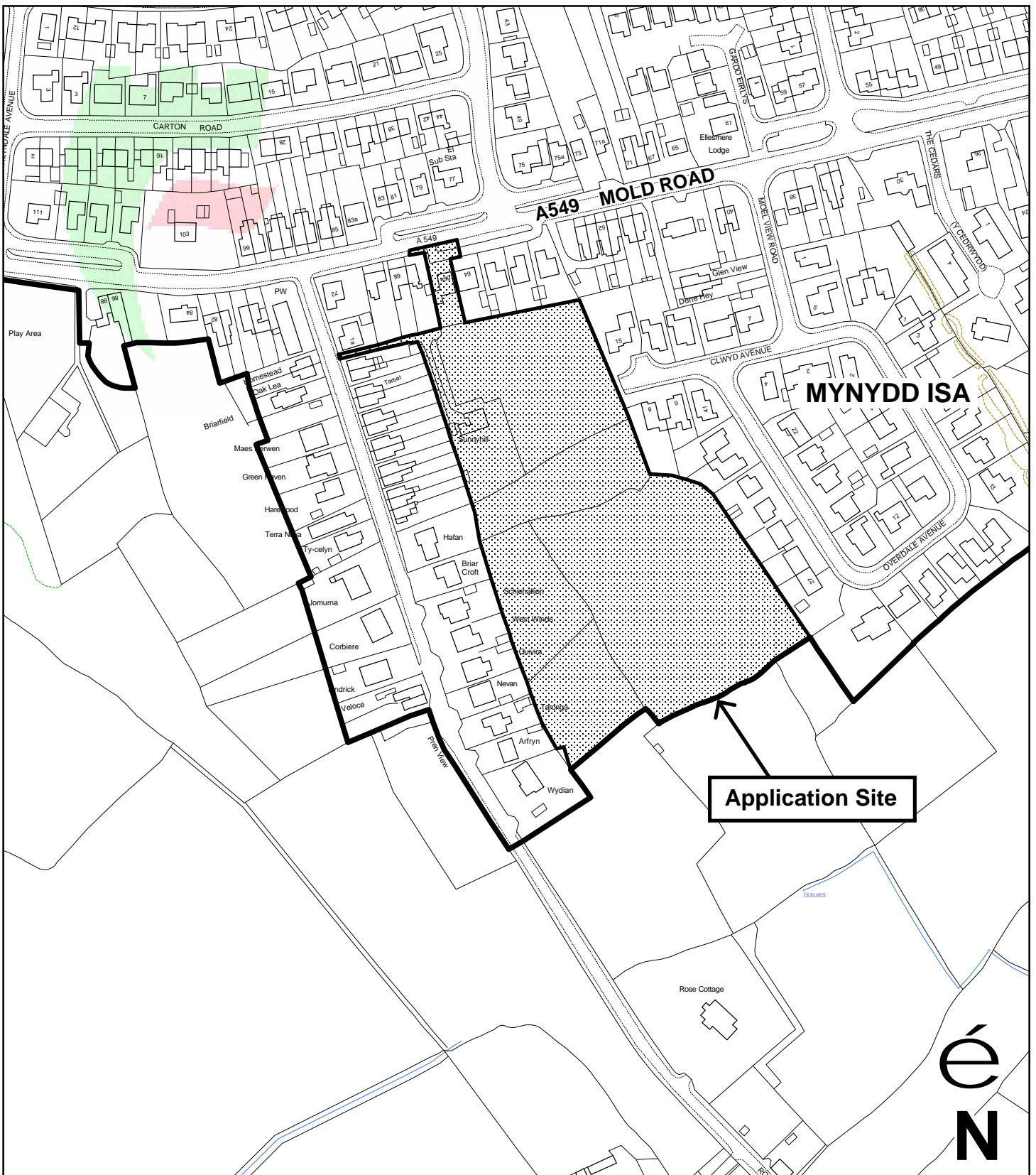
7.01 Subject to the imposition of suggested conditions, the Inspector concluded that the scheme is acceptable in all respects and would make a valuable contribution to the local supply of housing. For these reasons the Inspector **ALLOWED** the appeal.

LIST OF BACKGROUND DOCUMENTS

Planning Application & Supporting Documents
National & Local Planning Policy
Responses to Consultation
Responses to Publicity

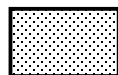
Contact Officer: Alan Wells
Telephone: (01352) 703255
Email: alan.wells@flintshire.gov.uk

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Planning & Environment,
 Flintshire County Council, County Hall,
 Mold, Flintshire, CH7 6NF.
 Chief Officer: Mr. Andrew Farrow

Legend



Application Site Extent



Adopted Flintshire Unitary
 Development Plan
 Settlement Boundary

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Map Scale 1:2500

OS Map ref SJ 2663

Planning Application **48042**

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FLINTSHIRE COUNTY COUNCIL

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

DATE: **18TH NOVEMBER 2015**

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

SUBJECT: **APPEAL BY MR. D. GELDER AGAINST THE DECISION OF FLINTSHIRE COUNTY COUNCIL TO REFUSE PLANNING PERMISSION FOR THE SITING OF 10 STATIC CARAVANS ON LAND AT TARTH Y DWR, DYSERTH ROAD, LLOC – DISMISSED.**

1.00 APPLICATION NUMBER

1.01 053130

2.00 APPLICANT

2.01 Mr. D. Gelder

3.00 SITE

3.01 Tarth Y Dwr,
Dyserth Road, Lloc.

4.00 APPLICATION VALID DATE

4.01 12th January 2015.

5.00 PURPOSE OF REPORT

5.01 To inform Members of the appeal decision against a refusal of planning permission for the siting of 10 No. static holiday caravans on land at Tarth y Dwr, Dyserth Road, Lloc, Holywell, Flintshire. The application was refused under delegated powers on 11th May 2015.

5.02 The appeal was determined by way of the written representation procedure and a site visit by the Inspector. The appeal was DISMISSED.

6.00 REPORT

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

- a) The effect of the proposal on the character and appearance of the countryside; and
- b) Whether there is adequate information provided to establish that the proposal would not risk potable ground water supplies.

6.02 Impact on Character & Appearance

In considering this issue the Inspector noted that:-

The site lies adjacent to the A5026 bounded by the roadside hedge and field gate on the southern side and hedge and footpath on the eastern side. The northern boundary is lined by trees and hedge which borders a static caravan park. To the west is Tarth y Dwr and adjacent to this is a touring caravan site which is landscaped next to the boundaries which align with the A5026/A5151 roundabout. The site is quite steeply sloping from the boundary of the static caravan site down to the A5026. The site is located in the countryside as defined in the Flintshire Unitary Development Plan (UDP).

6.03 The Inspector considered that whilst the appeal field is bounded with hedgerows and trees on three sides it is a sloping site and the development of a caravan site at this location would be particularly exposed from the A5026. In addition the Inspector commented that the 'established caravan sites are more discreet and are relatively will screened from view in contrast to the appeal development.

6.04 The Inspector concluded that despite the relatively high hedgerows which bound the site with the A5026, the site is exposed to view due to its slope. The landscape character of the field would also change from agriculture to a recreational use of land. This it is considered by the Inspector would inevitably involve the need for level basis to facilitate the caravans, with associated access ways and possibly low level lighting. This highly engineered and structural change together with the siting of static caravans on a sloping site would result in a significant adverse impact on the local landscape contrary to the established planning policy framework.

6.05 Potable Groundwater

The Inspector noted that the site is located within the Ffynnon Asaph Source Protection Zone and the stance adopted by Natural Resources Wales (NRW) to oppose the development, as there is insufficient confirmation on the foul water treatment system, which may pose a risk to polluting potable water supplies.

6.06 The Inspector considered that the information supplied by the appellant did not adequately address NRW's concerns and that this objection to the development remains in place.

7.00 CONCLUSION

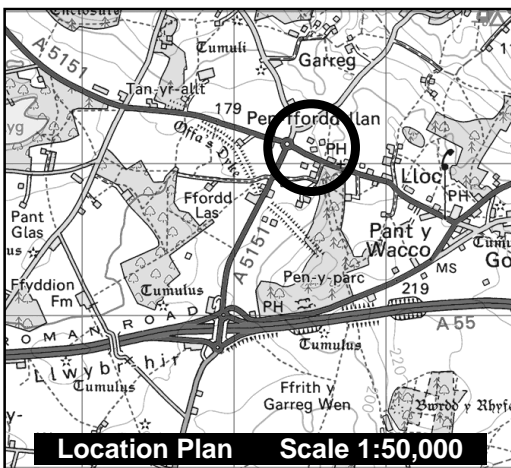
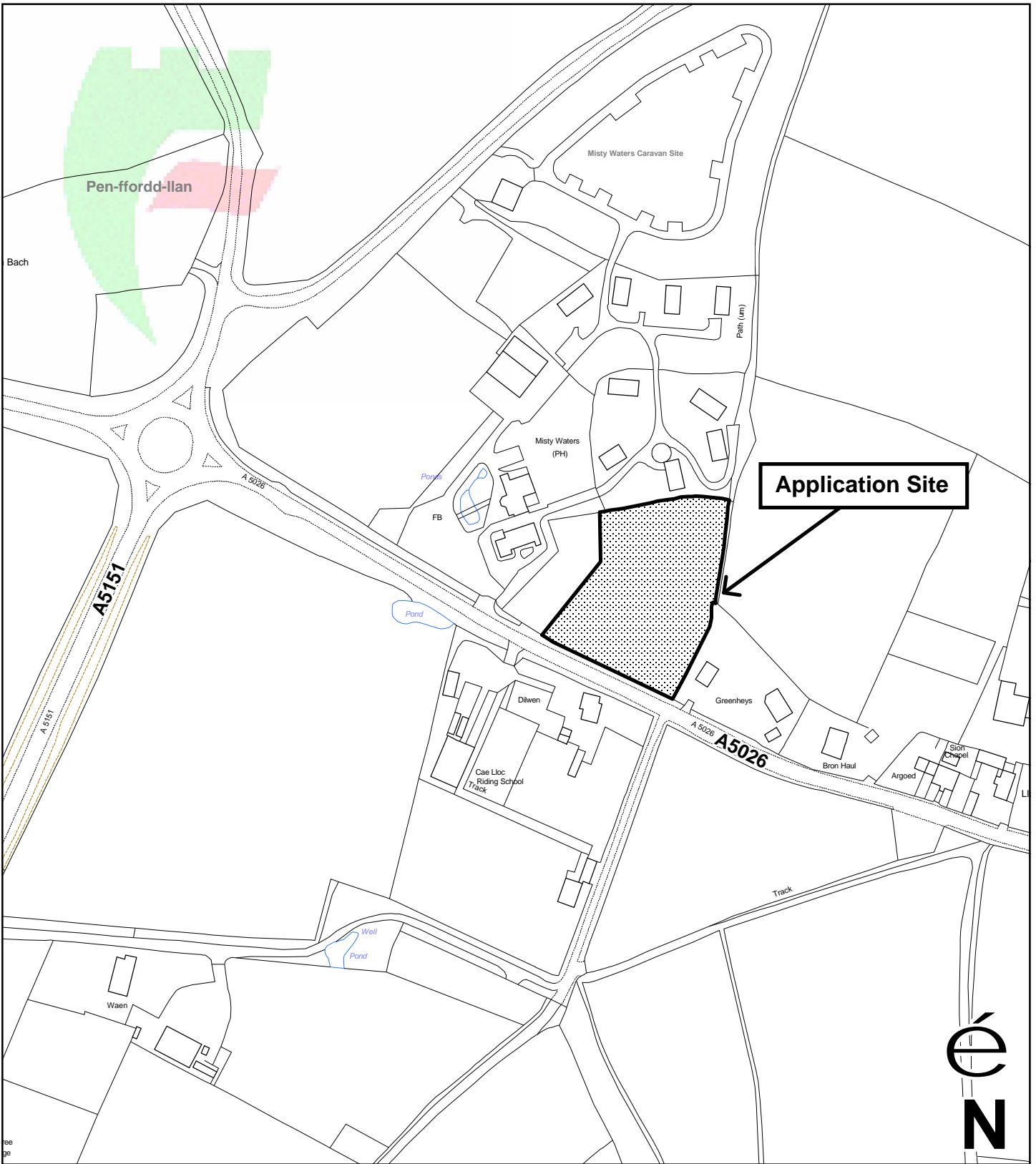
7.01 For the reasons outlined above, the appeal was **DISMISSED**.

LIST OF BACKGROUND DOCUMENTS

Planning Application & Supporting Documents
National & Local Planning Policy
Responses to Consultation
Responses to Publicity

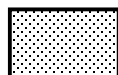
Contact Officer: Mark Harris
Telephone: (01352) 703269
Email: Robert.mark.harris@flintshire.gov.uk

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Planning & Environment,
Flintshire County Council, County Hall,
Mold, Flintshire, CH7 6NF.
Chief Officer: Mr Andrew Farrow

Legend



Planning Application Site



Adopted Flintshire Unitary
Development Plan
Settlement Boundary

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Planning Application **53130**

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FLINTSHIRE COUNTY COUNCIL

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

DATE: **18TH NOVEMBER 2015**

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

SUBJECT: **APPEAL BY MR. MYLES BERRY AGAINST THE DECISION OF FLINTSHIRE COUNTY COUNCIL TO REFUSE PLANNING PERMISSION FOR THE CHANGE OF USE OF LAND TO PROVIDE 2 NO. RESIDENTIAL GYPSY/TRAVELLER PITCHES TO INCLUDE 2 NO. STATIC CARAVANS AND 2 NO. TOURING CARAVANS WITH PARKING FOR 2 NO. VEHICLES TO EACH PITCH AT 1 OLD PAPER MILL LANE, OAKENHOLT – ALLOWED.**

1.00 APPLICATION NUMBER

1.01 053290

2.00 APPLICANT

2.01 MR. MYLES BERRY

3.00 SITE

3.01 1 OLD PAPER MILL LANE,
OAKENHOLT.

4.00 APPLICATION VALID DATE

4.01 17TH FEBRUARY 2015

5.00 PURPOSE OF REPORT

5.01 To inform Members of the Inspector's decision in relation to an appeal into the refusal to grant planning permission for change of use of land to provide 2 No. residential Gypsy/Traveller pitches to include 2 No. static caravans and 2 No. touring caravans with parking for 2 No. vehicles to each pitch (partly in retrospect) on land adjacent to 1 Old Paper Mill Lane, Oakenholt. The application was refused under delegated powers with the appeal dealt with by way of an informal hearing and was **ALLOWED**.

6.00 REPORT

6.01 Background

Members may recall that this application was refused under delegated powers on 8th April 2015 on the grounds that the proposals represented inappropriate development in the green barrier and there were no very exceptional circumstances to outweigh the subsequent harm.

6.02 Issues

The Inspector considered that the main issues were the effects of the proposals on the character and appearance of the area, whether the proposals complied with local and national policies designed to protect the countryside and green barrier and if not whether the harm to the green barrier clearly outweighs other circumstances and whether the circumstances amount to very exceptional circumstances necessary to justify the development.

6.03 Character & Appearance

The site forms part of a small area of mixed development located within the countryside. The site is accessed via a narrow unmade road, Old Papermill Lane, which slopes relatively steeply towards the site. Access to the site is gained directly from Old Papermill Lane and opposite and to the south of the site are a number of dwellings. The site is generally screened from sight from these properties by mature trees. The paper mill, a substantial industrial building, is to the north of the site and a field with Papermill Lane beyond is to the east of the site. The immediate area surrounding the appeal site is characterised by these features.

6.04 Prior to its occupation by Ms Hamilton and her children, the site was vacant. Inevitably there has been a change in character of the site. This change would be amplified should the appeal succeed and further caravans be brought onto the site.

6.05 Notwithstanding the change in character of the site itself, the presence of the existing residential and industrial uses means that a relatively small gypsy and traveller site would not be out of character with the land use pattern of the area. There is no reason why existing trees would be affected by the development and there are no proposals to alter the existing access to the site. Visually, the development would result in little change to the area. Therefore, whilst the development would result in a change of character to the site itself, it would be seen in the context of the surrounding area and the Inspector did not consider that it would have an unacceptable impact on the character and appearance of the area.

- 6.06 Countryside & Green Barrier
In policy terms, the site is located within the countryside. Policy GEN3 of the UDP provides that development proposals outside settlement boundaries will not be permitted except for a number of listed exceptions, none of which have been cited as applicable in this case. In this respect the development would fail to accord with development plan policy and would be inappropriate development in the open countryside.
- 6.07 Planning Policy Wales Edition 7 – July 2014 (PPW) makes reference to “local designations such as green wedges”. Policy GEN4 references the proposals map and designates the site as being within the green barrier: Flint – Connah’s Quay. The Inspector considered this designation to be akin to a green wedge and treated references to the “green barrier” as synonymous with “green wedge” for the purpose of the advice contained within national policy and guidance. This approach was agreed by the parties at the hearing. There was no dispute that in development plan terms, the development would be inappropriate development since it falls within the green barrier.
- 6.08 WAGC 30/2007 states that gypsy and caravan sites within the green wedge are likely to be inappropriate development. PPW advises that inappropriate development in green wedges should not be granted planning permission, except in very exceptional circumstances. Policy GEN4 states that development within the green barrier will only be permitted if development is one of a number of listed criteria, none of which are contended to apply to the proposed development. The policy states that the role of the green barrier is to protect key areas of open land and prevent the coalescence of settlements. For these reasons, the proposal would fail to accord with Policy GEN4 and would represent inappropriate development within the green wedge.
- 6.09 Therefore, the Inspector found that the proposed development would amount to inappropriate development in the countryside and within the green barrier.

Other Circumstances

- 6.10 The Need for Additional Gypsy Pitches
The Council has a duty under the Housing Act 2004 and WAGC 30/20076 to assess the need for Gypsy/Traveller accommodation and where an assessment of unmet need is evident, to ensure sufficient sites are allocated through the Local Development Plan (LDP) process. These duties reflect wider duties to promote equal opportunities and to prevent unlawful discrimination on the grounds of race.

- 6.11 The Council has not yet adopted a LDP and at the hearing it was confirmed that at present there is no timescale for adoption. In 2013 a Gypsy & Traveller Accommodation Needs Assessment (GTANA) was carried out covering the North Wales area. At that time, Flintshire was identified as having a shortfall of 36 pitches. Since that time the shortfall has been reduced to 25 after the grant of two planning permissions. The Council's evidence is that consideration has been given to extending the Council run site by 10 pitches however no firm plans have been formulated and therefore little weight was attached to this consideration. The Council acknowledged that there is a shortage of gypsy and traveller sites within Flintshire. Whilst the Council asserted that they are working on an updated GTANA and in evidence stated that it was anticipated that this work would be completed within three years, at this point in time the Council was unable to point to any available site which would be able to accommodate the appellant and extend family now or within the near future. This is a factor to which the Inspector attached substantial weight.
- 6.12 Personal Circumstances
The appellant, Mr. Berry, lives in a house with his daughter and her family. At the hearing he stated how the combination of overcrowding and his poor health made this an unsuitable arrangement, particularly since he suffers from emphysema and finds it difficult to use the stairs.
- 6.13 Mr. Berry's daughter-in-law, Ms Hamilton is currently residing on the site with her six children, four of whom attend the local school. The children have been attending school since they moved onto the site and are reported to have settled well. Ms Hamilton also suffers poor health and is under the care of Deeside Community Hospital for a back complaint. Evidence was also provided at the hearing that her youngest child had been referred to a specialist asthma clinic.
- 6.14 The appellant and Ms Hamilton stated that they have made enquiries about securing a pitch at the Queensferry and Huntley Yard sites but have been told there are no vacancies. Their evidence was that if the appeal failed, Mr. Berry would have to continue to reside at his daughter's house and Ms Hamilton would have nowhere to go and would resort to pitching at the roadside. The Inspector considered this would result in regular moving which would interfere with the children being able to attend school and would cause difficulties in accessing medical care.
- 6.15 The Council's position was that should this appeal fail, Ms Hamilton would be expected to comply with the enforcement notice but that action would be stayed provided it was clear steps were being taken to ensure compliance. The Council confirmed that assistance would be offered to Ms Hamilton in finding suitable alternative accommodation. However, given the lack of alternative sites the Inspector considered that there would be little prospect of the Council being able to find a pitch. As a result of this, the Council

acknowledged that any alternative offered would likely be in a house where there may be garden space to pitch a caravan. No assurances could be given that alternative accommodation could be found for the family which would avoid disruption to the family.

6.16 Overall, the Inspector considered these to be compelling reasons for the appellant and his extended family to be able to secure suitable accommodation, preferably within the area of the appeal site.

6.17 Other Matters

Local residents raised a number of other concerns including highway safety, noise and disturbance and the potential nuisance of smoke caused by fires on the site. Concerns relating to highway safety arose generally from the fact that Old Papermill Lane is narrow, slopes relatively steeply towards the site and is poorly surfaced. However, these matters have been considered by the Council's highways engineers who expressed no objection to the proposal. Whilst it was noted that additional traffic would be generated by the site could cause further damage to the surface of the road, the Inspector was satisfied on the basis of the evidence submitted that the level of additional traffic would not be sufficient to cause any harm, furthermore, a restriction on heavier commercial vehicles using the site is a matter which could be addressed by means of a suitable condition. This would reduce the number of heavy vehicles using the lane. In terms of potential for noise disturbance and nuisance from fires being lit on site, it was acknowledged that local residents have experienced some nuisance in this regard however these are matters which could be dealt with by through other statutory powers outside of the planning system.

6.18 Overall Balancing

The Inspector found that the proposed development would amount to inappropriate development in the countryside and the green barrier and was mindful of the advice contained within PPW that planning permission should not be granted for development which falls within the green wedge, unless very exceptional circumstances exist. It was therefore necessary to balance the finding that the development would be inappropriate development against other considerations in order to assess whether these amounted to the very exceptional circumstances required to overcome this. In assessing this balance the Inspector took into account the purposes of the green barrier and the extent of the harm which would be caused to it. The stated purpose of the green barrier is to protect the sense of openness and to prevent the coalescence of settlements at Flint and Connah's Quay. In this case, whilst the site is located within a rural setting, the site itself is largely enclosed by trees, many of which are mature and evergreen. As a result of this, there are very limited views into the site from the surrounding area. This, together with the presence of the adjacent housing and paper mill mean that the site as it was prior to its occupation by Ms Hamilton and her children would have made a

limited contribution to the openness of the green barrier. Further due to the location of the site adjacent to the row of dwellings and the paper mill, the proposal would not appear to extend the developed area any further into the countryside, nor would the proposal make any appreciable contribution to the coalescence of settlements. The Inspector attached substantial weight to the fact that the site is within the green barrier and found that the proposal would be in conflict with Policies GEN3 and GEN4 of the UDP. However, the particular circumstances of the proposal mean that the harm to the green barrier and conflict with countryside policy was limited.

- 6.19 Against this finding there is an accepted unmet need for gypsy and traveller sites within Flintshire which despite the advice contained within WACG 30/2007, the Council has not yet addressed. The proposal would contribute to the existing shortfall in pitches and would meet the needs of the current and intended occupants by providing sufficient space. This would provide a stable and secure environment for the appellant and his extended family to have undisturbed access to education and medical provision in circumstances, certainly in the case of Ms Hamilton and her children, where there appears to be no reasonable prospect of finding suitable alternative accommodation. Overall, the failure of the Council to address the unmet need for gypsy accommodation over a relatively long period with no clearly identifiable date by which the shortfall is expected to be addressed is a matter to which the Inspector attached substantial weight.
- 6.20 The family's personal circumstances are also material to the balancing exercise. The appellant's current living conditions are overcrowded and his evidence is that the proposal would allow him an appropriate lifestyle. Ms Hamilton and her children's personal circumstances are such that a refusal of permission would risk a disruption to the children's education and access to medical care due to the lack of suitable alternative accommodation. Furthermore, a refusal of permission in circumstances where enforcement action would be pursued would result in an interference with Ms Hamilton's and her children's right to respect for family and private life and to the peaceful enjoyment of their possessions as enshrined in Article 8 and Article 1 of Protocol 1 of the European Convention on Human Rights. Whilst this is a qualified right which has to be balanced against the public interest in protecting the countryside and green barrier from inappropriate development, taking into account all other considerations including the family's personal circumstances and the lack of suitable alternative sites, the Inspector concluded that the harm by reason of inappropriateness would clearly be outweighed by these factors.
- 6.21 Overall, the Inspector found that the need for additional gypsy pitches within the area and the personal circumstances of the appellant and his extended family, together amount to very exceptional circumstances. The potential for harm to the green barrier and the

countryside is clearly outweighed by these other considerations. As a result of this a permanent permission is justified and there is no need to consider the merits of a temporary permission as discussed at the hearing.

7.00 CONCLUSION

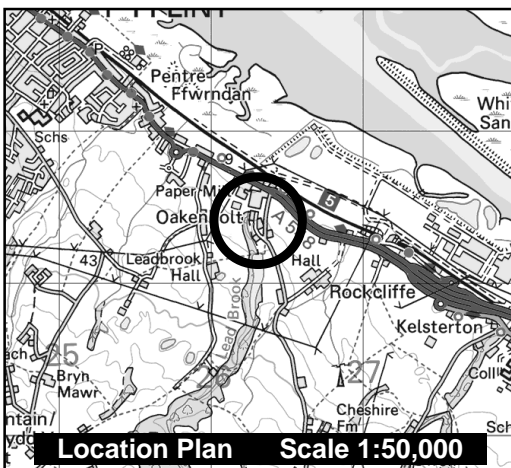
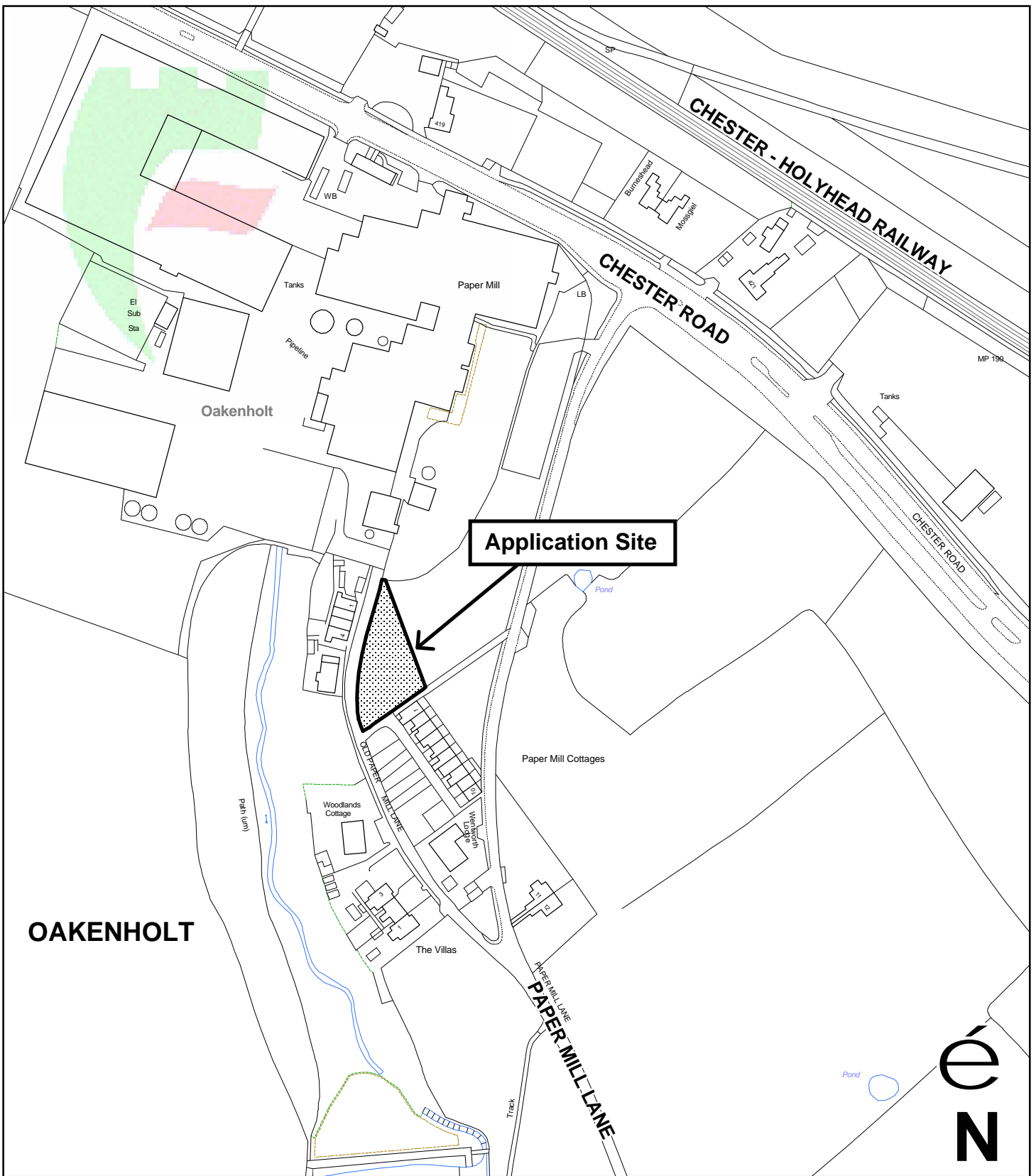
7.01 For the reasons set out above, the Inspector ALLOWED the appeal.


LIST OF BACKGROUND DOCUMENTS

Planning Application & Supporting Documents
National & Local Planning Policy
Responses to Consultation
Responses to Publicity

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



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 CYNGOR Sir y Fflint
Flintshire
 COUNTY COUNCIL

Planning & Environment,
 Flintshire County Council, County Hall,
 Mold, Flintshire, CH7 6NF.
 Chief Officer: Mr Andrew Farrow

Legend

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

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Planning Application	53290

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FLINTSHIRE COUNTY COUNCIL

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

DATE: **WEDNESDAY, 18 NOVEMBER 2015**

REPORT BY: **CHIEF OFFICER (PLANNING AND ENVIRONMENT)**
CHIEF OFFICER (GOVERNANCE)

SUBJECT: **APPEAL BY MORRIS HOME LTD TO THE HIGH COURT AGAINST THE DECISION OF THE WELSH MINISTERS TO REFUSE PLANNING PERMISSION FOR THE ERECTION OF 36 NO. AFFORDABLE DWELLINGS WITH ASSOCIATED PARKING ACCESS, HABITAT CREATION AND PUBLIC OPEN SPACE ON LAND AT LLYS BEN, NORTHOP HALL – DISCONTINUED**

1.00 APPLICATION NUMBER

1.01 050613

2.00 APPLICANT

2.01 Morris Homes Ltd.

3.00 SITE

3.01 Llys Ben, Northop Hall

4.00 APPLICATION VALID DATE

4.01 19 March 2013

5.00 PURPOSE OF REPORT

5.01 To update the committee on the outcome of a High Court challenge against the Welsh Ministers' decision to dismiss an appeal against the Local Planning Authority's decision to refuse planning permission for the above development.

6.00 REPORT

6.01 The applicant appealed to the High Court against a decision made by an Inspector appointed by the Welsh Ministers on the 23 April 2015 to dismiss an appeal against the Local Planning Authority's decision to refuse the application. Both the Welsh Ministers and the Local

Planning Authority indicated that they would be contesting the applicant's appeal. The matter was listed for a hearing on the 13 November 2015. However, on the 16 October 2015 the appellant discontinued (withdrew) their appeal. This means that the matter will not now be the subject of a hearing in the High Court and that the Inspector's decision of the 23 April 2015 stands and cannot now be the subject of further challenge.

7.00 CONCLUSION

- 7.01 For the reasons set out above the planning permission pursuant to the application remains refused for the reasons given by the Welsh Ministers on the 23 April 2015.

LIST OF BACKGROUND DOCUMENTS

High Court Appeal papers
Planning Application & Supporting Documents
National & Local Planning Policy
Responses to Consultation
Responses to Publicity

Contact Officer: Matthew Georgiou
Telephone: 01352 702330
Email: matthew.georgiou@flintshire.gov.uk

FLINTSHIRE COUNTY COUNCIL

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

DATE: **WEDNESDAY, 18 NOVEMBER 2015**

REPORT BY: **CHIEF OFFICER (PLANNING AND ENVIRONMENT)**
CHIEF OFFICER (GOVERNANCE)

SUBJECT: **HIGH COURT APPEAL BY FLINTSHIRE COUNTY COUNCIL AGAINST THE WELSH MINISTERS' DECISION TO GRANT PLANNING PERMISSION FOR CHANGE OF USE OF THE SITE TO A PLANT HIRE BUSINESS AND TO ERECT A NEW WORKSHOP BUILDING ALONG THE SOUTHERN BOUNDARY OF THE SITE, AS WELL AS THE CHANGE OF USE OF THE TEA POT CAFÉ INTO ANCILLARY OFFICE SPACE FOR THE PLANT HIRE BUSINESS - ALLOWED**

1.00 APPLICATION NUMBER

1.01 052645

2.00 APPLICANT

2.01 Mr W Thomas

3.00 SITE

3.01 Tea Pot Café and Sundawn Garden Centre, Llwybr Hir, Caerwys, Mold, Flintshire CH7 5BL

4.00 APPLICATION VALID DATE

4.01 16 September 2014

5.00 PURPOSE OF REPORT

5.01 To advise the committee about the outcome of a challenge brought by the Local Planning Authority in the High Court against the decision of the Welsh Ministers of the 11 June 2015 to allow an appeal against the Local Planning Authority's decision to refuse the application.

6.00 REPORT

6.01 On the 11 June 2015 an Inspector appointed by the Welsh Ministers allowed an appeal against the Local Planning Authority's decision to

refuse planning permission to change the use of the site to a plant hire business and to erect a new workshop building along the southern boundary of the site, as well as the change of use of the Tea Pot café into ancillary office space for the plant hire business.

- 6.02 The main issue in the appeal was the impact of the development on the character and appearance of the surrounding countryside. The Inspector reached a different view to the Local Planning Authority and considered that the development would harmonise with the site and its surroundings, thus complying with policy GEN1 of the Unitary Development Plan. However, the Inspector also dealt with highway safety considerations in light of the site being next to the A55 Expressway.
- 6.03 The Inspector found that “the development would not have any harmful impact on highway safety, which is confirmed by the Council’s own highways officers, a condition requiring the submission of a Traffic Management Plan is unnecessary”. However, this was incorrect, as a memorandum from the Highways Development Control Manager dated the 17 November 2014 recommended that any permission should include a condition requiring a Traffic Management Plan to be submitted prior to the commencement of development.
- 6.04 Additionally, the Inspector stated that he intended to attach a condition relating to “adequate vehicular turning space” within the site but then failed to do so in the Schedule of Conditions attached to his Decision Letter.
- 6.05 Although the determination of the landscape impact was a matter of planning judgement, that would not have been a valid reason for challenging the decision in the High Court, the Local Planning Authority considered that the parts of the decision dealing with highways safety were legal errors in the decision and an appeal to the High Court was made on this basis.
- 6.06 After considering its legal position and the Local Planning Authority’s grounds for challenge, both the Welsh Ministers and the interested parties (the applicant and landowners) agreed that the Inspector had made an error in his decision and by consent of all the parties the appeal to the High Court was allowed and the decision was quashed with the matter being remitted to the Welsh Ministers for re-determination.

7.00 CONCLUSION

- 7.01 For the reasons set out above the appeal was allowed.

LIST OF BACKGROUND DOCUMENTS

High Court Order

Inspector’s decision dated 11 June 2015

Planning Application & Supporting Documents
National & Local Planning Policy
Responses to Consultation
Responses to Publicity

Contact Officer: Matthew Georgiou
Telephone: 01352 702330
Email: matthew.georgiou@flintshire.gov.uk

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