

Public Document Pack

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

13 July 2016

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Dear Sir / Madam

A meeting of the **PLANNING & DEVELOPMENT CONTROL COMMITTEE** will be held in the **COUNCIL CHAMBER, COUNTY HALL, MOLD CH7 6NA** on **WEDNESDAY, 20TH JULY, 2016** at **1.00 PM** to consider the following items.

Yours faithfully

Peter Evans
Democracy & Governance Manager

WEBCASTING NOTICE

This meeting will be filmed for live broadcast on the Council's website. The whole of the meeting will be filmed, except where there are confidential or exempt items, and the footage will be on the website for 6 months.

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A G E N D A

1 **APOLOGIES**

2 **DECLARATIONS OF INTEREST**

3 **LATE OBSERVATIONS**

4 **MINUTES** (Pages 5 - 20)

To confirm as a correct record the minutes of the meeting held on 22 June 2016.

5 **ITEMS TO BE DEFERRED**

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

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

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

The following item is considered to be exempt by virtue of Paragraph 16 of part 4 of Schedule 12A of the Local Government Act 1972 (as amended).

7 **054660 – APPEAL BY BLOOR HOMES AGAINST NON-DETERMINATION OF APPLICATION 054660 – ERECTION OF 36 NO. DWELLINGS ON LAND ADJACENT TO PARC JASMINE AND BLUESTONE MEADOW, CHESTER ROAD, BROUGHTON** (Pages 239 – 246)

Report of the Chief Officer (Governance) and Chief Officer (Planning and Environment).

**REPORT OF CHIEF OFFICER (PLANNING AND ENVIRONMENT)
TO PLANNING AND DEVELOPMENT CONTROL COMMITTEE ON 20/07/16**

Item No	File Reference	DESCRIPTION
Applications reported for determination (A=reported for approval, R=reported for refusal)		
6.1	054770 - A	054770 - A - Full Application - Erection of 56 No. Dwellings with Associated Access, Open Space and Infrastructure at Kinnerton Lane, Higher Kinnerton (Pages 21 - 44)
6.2	054768 - A	054768 - A - Variation of Condition No. 17 Attached to Planning Permission Ref: 00/20/570 to Increase Production Limit at Pant y Pwll Dwr Quarry, Pentre Halkyn (Pages 45 - 80)
6.3	055006 - A	055006 - A - Full Application - Amendment to Planning Application No. 051727 Listed Building Consent 051728 to Include Additional 1 No. Apartment to Block B, 12 No. Apartments to Block C, 5 No. Apartments to Block A (Chapel) and a New Build Residential Block to Include 27 No. Apartments, to Give a Total of 89 Residential Units at Lluesty Hospital, Old Chester Road, Holywell (Pages 81 - 96)
6.4	055008 - A	055008 - A - Listed Building Application for Amendment to Planning Application No. 051727 and Listed Building Consent 051728 to Include Additional 1 No. Apartment to Block B, 12 No. Apartments to Block C, 5 No. Apartments to Block A (Chapel) and a New Build Residential Block to Include 27 No. Apartments, to Give a Total of 89 Residential Units at Lluesty Hospital, Old Chester Road, Holywell (Pages 97 - 108)
6.5	054041 - A	054041 - A - Full Application - Use of Land for the Erection of a Solar Photovoltaic Array Including Metering and Inverter Kiosks, Security Cameras, Fencing and Gates Temporary Construction Compound and Access Track at Celyn Farm, Stryt Cae Rhedyn, Leeswood. (Pages 109 - 124)
6.6	055398 - A	055398 - A - Full Application - Erection of 23 Dwellings with Adoptable Highway Access at Rhewl Fawr Road, Penyffordd, Holywell (Pages 125 - 138)
6.7	055459 - A	055459 - A - Full Application - Modification of House Types on Plots 52 - 53 & 62 - 63, Change of House Type Position on Plots 56 & 64 - 66 & Change of House Type on Plot 67 at Village Road, Northop Hall. (Pages 139 - 146)
6.8	055414 - A	055414 - A - Full Application - Erection of 2 No. Dwellings at Rhyddyn Farm, Bridge End, Caergwrle (Pages 147 - 158)
6.9	055310 - A	055310 - A - Full Application - Erection of 24 No. Dwellings with Associated Garages, Parking Garden Areas and Open Spaces with Demolition of Existing Service Station and Outbuildings at Argoed Service Station, Main Road, New Brighton. (Pages 159 - 172)
6.10	055549 - A	055549 - A - Full Application - Change of Use from Post Office to Single Dwelling at 8 Mancot Lane, Mancot (Pages 173 - 178)
6.11	055612 - A	055612 - A - Full Application - Re-modelling and Extensions, Erection of Garage and Temporary Siting of Caravan at Top Yr Allt Cottage, Blackbrook Road, Sychdyn (Pages 179 - 186)
Item No	File Reference	DESCRIPTION
General Matters		
6.12	054151	054151 - General Matters - Demolition of Existing Health Care Centre and Erection of 24 No. Affordable Apartments with Associated Landscaping and Parking at Buckley Health Centre, Padeswood Road North, Buckley (Pages 187 - 192)
6.13	055105 - A	055105 - A - Discharge of Section 106 Agreement at The Mill House, Tyn Y Caeau Farm, Northop Road, Northop. (Pages 193 - 198)

Item No	File Reference	DESCRIPTION
<u>Appeal Decision</u>		
6.14	053080	053080 - Appeal by Diocese of Wrexham Against the Decision of Flintshire County Council to Refuse Planning Permission for the Redevelopment of the Site for the Erection of a Residential Apartment Block with Means of Access and Off-Street Parking at 1 Queen Street, Queensferry - DISMISSED (Pages 199 - 206)
6.15	053208	053208 - Appeal by Bloor Homes (Northern) Limited Against the Decision of Flintshire County Council to Refuse Planning Permission for Erection of 59 Dwellings, Open Space, Access and Associated Infrastructure at Issa Farm, Mynydd Isa - ALLOWED (Pages 207 - 216)
6.16	054317	054317 - Appeal by Mr. R. Pierce Against the Decision of Flintshire County Council to Refuse Planning Permission for the Outline Application for the Erection of a Dwelling at Milwr Farmhouse, Milwr Road, Holywell - ALLOWED (Pages 217 - 222)
6.17	054383	054383 - Appeal by Mr. Peter Davies Against the Decision of Flintshire County Council to Refuse Planning Permission for Temporary Change of Use to Allow for the Siting of Holiday Lodge for Advertising Purposes at Park View Garage, St. Asaph Road, Lloc - ALLOWED. (Pages 223 - 228)
6.18	054386	054386 - Appeal by Mr. Peter Davies Against the Decision of Flintshire County Council to Refuse Planning Permission for the Display of 3 No. Flexible Plastic Advertisements at Park View Garage, St. Asaph Road, Lloc - ALLOWED. (Pages 229 - 234)
6.19	054358	054358 - Appeal by Mr. & Mrs Kelly Against the Decision of Flintshire County Council to Refuse Planning Permission for the Erection of a Replacement Dwelling at Oakfield Cottage, Alltami - ALLOWED (Pages 235 - 238)

PLANNING & DEVELOPMENT CONTROL COMMITTEE

22 JUNE 2016

Minutes of the meeting of the Planning & Development Control Committee of Flintshire County Council held at Council Chamber, County Hall, Mold on Wednesday, 22 June 2016

PRESENT: Councillor David Wisinger (Chairman)

Councillors: Marion Bateman, Chris Bithell, Derek Butler, Ian Dunbar, David Evans, Alison Halford, Richard Jones, Richard Lloyd, Mike Lowe, Nancy Matthews, Mike Peers, Neville Phillips, Gareth Roberts, David Roney and Owen Thomas

SUBSTITUTIONS:

Councillors Haydn Bateman for Carol Ellis, and Mike Reece for Christine Jones

APOLOGY: Councillor Billy Mullin

IN ATTENDANCE:

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

14. DECLARATIONS OF INTEREST

Whilst not having an interest Councillor Nancy Matthews indicated that she would speak as a Local Member only as she may have been perceived to have predetermined her stance on the matter and would therefore not vote on the following application:-

Agenda item 6.6 – Full application – Conversion and Alteration of Stable Block to Holiday Accommodation at Fron Bach, Ffordd Las, Gwernymynydd (055300)

15. LATE OBSERVATIONS

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

16. MINUTES

The draft minutes of the meeting of the Committee held on 25 May 2016 had been circulated to Members with the agenda.

RESOLVED:

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

17. ITEMS TO BE DEFERRED

The Chief Officer (Planning and Environment) advised that none of the items on the agenda were recommended for deferral by officers.

18. VARIATION OF CONDITION NO.17 ATTACHED TO PLANNING PERMISSION REF.00/20/570 TO INCREASE PRODUCTION LIMIT AT PANT Y PWLL DWR QUARRY, PENTRE HALKYN (054768)

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 explained that the applicant had applied under Section 73 of the Town and County Planning Act 1990 to vary Condition No.17 of the deemed planning permission at Pant y Pwll Dwr Quarry, Pentre Halkyn, to effectively increase the tonnage output from the Quarry from a limit of 800,000 tonnes per annum, as measured over a period of three consecutive years, to a limit of 1.2 million tonnes per annum, as measured over a period of three consecutive years. The application was being applied for retrospectively as the applicant had been exceeding the three yearly average annual tonnage for some years. The application had been submitted at the request of the Authority to regularise this.

The officer advised that the main issues being considered to determine the planning application related to the impact on the highway network and amenity in terms of potential noise, dust, and blasting from the quarry operations as a result of an increase in exported limestone aggregate products.

The officer detailed the background to the report and advised that the quarry operated under a deemed consent, in terms of regulations. She referred to the consultation which had been undertaken with local residents and the neighbouring Ward Member and the concerns which had been expressed around the increase in output at the Quarry and the suggestion that there should be improvements made to the highways as a result. Local residents had also raised concerns relating to vehicles 'wheel spinning' and noise. The response to the concerns raised were detailed in the report

The officer advised that the current conditions provided no control of output and were not enforceable and suggested it would be more effective and appropriate to remove Condition No.17 and replace with a maximum daily vehicle number rather than revising the average output level. It was suggested that a daily week day HGV limit of 600 HGV movements (300 in and 300 out) per week and restrict HGV movements to 300 on Saturdays with no HGV movements on Sundays or public/bank holidays. The condition would also state that in any 12 months period the quantity of processed limestone aggregate leaving the site should not exceed 1.2 million tonnes.

In summary the officer explained that the application would provide the opportunity to review all the conditions which would help address the concerns raised by local residents around noise and blasting. She advised a restriction in

daily vehicle movement, controlled by condition which would not have an impact on the operation, capacity, safety of the local highway network, and that consent be reviewed and modernised as outlined in the report with the draft conditions provided. The Officer recommended that the application be approved as there was no sustainable reason for refusal.

Mr. D. Bartlett spoke against the application. He said he appreciated the contribution the Company made to the economy and valued the liaison which had taken place with local residents regarding development at the quarry. He asked that the application be refused. In outlining the reasons for refusal Mr. Bartlett referred to a mistake in the Transport Assessment and said there were not enough restrictions in the Planning Officer's report to resolve the objections raised during consultation. He said many residents would be able to support the planning officers recommendation for approval if a number of conditions were included in the recommendation of the report which would address most of the 19 objections which had been raised during consultation.

Mr. I. Southcott for the applicant, spoke in support of the application and asked the Committee to endorse the officer's recommendations. In detailing his reasons for approval he said that the Company believed the conditions and limits proposed would enable it to further improve its performance, maintain its important role in the local economy, and continue to support the local community.

Councillor Gareth Roberts proposed the officer recommendation for approval of the application which was duly seconded. He supported the application subject to monitoring and control of vehicle movements.

Councillor Chris Bithell raised a number of questions and concerns around an increase in production by 50% at the site and referred to the long term impact of quarrying of the limestone, the hours of operation, the number of HGV vehicles entering and leaving, and the aggregate levy.

Officers responded to the questions raised by Members concerning HGV limits, visibility, increase in production and the impact on future stocks, monitoring of output, hours of operation, the requirement for a footpath.

Councillor Owen Thomas expressed concerns around access to the site and said there was a need for consideration to be given to improvement of the highways before the application was approved.

Councillor Mike Peers referred to the conditions which had been put forward by Mr. Bartlett and suggested that they should be given consideration by the Chief Officer (Planning & Environment) and would improve the position for local residents. He referred to the hours of operation at the site and the level of vehicle movements planned and expressed concern about the 6.00 a.m. start which he felt was not acceptable. He proposed an amendment to the motion that the hours of operation be amended to 7.00 a.m. from 6.00 a.m. and the amendment was duly seconded.

Councillor Richard Jones said that if the start time was amended to 7.00 a.m. then the rate of vehicles entering and leaving the site per hour would be increased.

He suggested that the number of vehicles be limited during the hours of operation on the site per day. He also referred to the list of conditions put forward by Mr. Bartlett and reiterated the comments expressed by Councillor Peers that there were valid points in the list which needed consideration.

Councillor Mike Peers acknowledged the point raised by Councillor Jones and said that his proposal to amend the start time to 7.00 a.m. stood but he would like to see the number of vehicle movements entering and leaving the site limited to 50 per hour on a daily basis as detailed in the report.

Councillor Gareth Roberts queried the hours of operation of other quarries in the North Wales area. Councillor Owen Thomas asked what the hours of operation were at other quarries in Flintshire.

The officer explained that whilst she was aware that there were some quarries in the area which operated at a 6.00 a.m. start she could not confirm the hours of operation for all quarries in North Wales. She emphasised the upper daily limit of vehicle movements and the caveat of no more than 1.2m tonnes per annum which controlled and capped the annual output. The officer advised that the average output was anticipated to be less but the condition was worded so that the operator would not be in breach of condition during busy periods.

Councillor Derek Butler commented on the need for clarity and costings around the retrospective application. He said he acknowledged that there was a national demand for the operation of the quarry but was unclear as to the benefit to be gained by the local community. He proposed that the application be deferred until the issues raised had been fully addressed.

Councillor Richard Lloyd spoke in support of a 6.00 am start and queried why there was a limit on the output in terms of tonnage.

The Service Manager Strategy advised the Committee to be mindful of the operating hours of other providers in the area and that the quarry was not put in a position of disadvantage.

Members were asked to consider the recommendations within the report with a variation on the condition relating to the operating hours from 6.00 a.m. to 7.00 a.m.

The Chief Officer (Planning & Environment) referred to the issues raised by Members concerning the amended hours of operation at the quarry in relation to tonnages, the hours of operation at other quarries in Flintshire, the need to reduce vehicle movements in and out of the quarry, the aggregate levy, and the conditions suggested by Mr Bartlett. He explained that if Members wished to defer the item the additional information requested on the matters raised could be provided by officers.

Councillor Mike Peers withdrew his proposal to amend the condition relating to the operating hours from 6.00 am to 7.00 am.

Councillor Derek Butler proposed that the application be deferred which was duly seconded.

RESOLVED:

That the application be deferred to allow clarification of the issues raised by the Committee.

19. FULL APPLICATION – ERECTION OF NEW HIGH BAY INDUSTRIAL BUILDING AT ELECTROIMPACT UK LTD., MANOR LANE, HAWARDEN (054887)

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 20 June 2016. The usual consultations had been undertaken and the responses received detailed in the report.

The officer explained that the full application proposed the erection of a new high-bay industrial building, including the formation of a new vehicular access hardstanding as an expansion of an existing industrial operation undertaken by Electroimpact UK Ltd, Manor Lane, Hawarden. The company was involved in the manufacture of aircraft assembly equipment and the site is located in the development zone, enterprise zone, and a principal employment area in this location. He reported on the proposed size of the building and explained that the height of the building was required to facilitate the provision of an internal crane which would be used for the movement of larger items of aircraft manufacturing equipment. He reported that during progression of the application amended plans were received which resulted in the re-siting of the building further into the site from Manor Lane and on the basis of the amendments further consultation had been undertaken. The Officer advised that the recommendation was to grant planning permission subject to the conditions outlined in the report.

Mr. C. Turnbull for the applicant, spoke in support of the application. He explained that Electroimpact was dedicated to the design and manufacture of state of the art assembly equipment and lead the world in technical ability and counted Airbus and Boeing amongst its customer base. He outlined the reasons for choosing the site and explained that the new building would enable the company to expand their manufacturing business without the need to relocate. He spoke of the hours and nature of operations and of the benefits to the economy and local community through the creation of new highly skilled and well paid jobs as a result of the expansion. He also commented on the highly valued apprenticeship scheme in conjunction with Coleg Cambria.

Councillor Derek Butler proposed the officer recommendation for approval which was duly seconded. He acknowledged that there had been some objections around the scale and height of the building but explained that an alternative site had not been found. A compromise had been agreed which had resulted in the revised siting of the building which would increase the distance between the proposed building and existing residential properties. Councillor Butler said he welcomed the opportunity for the company to develop and commented on the exceptional quality

of the business and opportunities and apprenticeships that had been provided in an enterprise zone.

Councillor Mike Lowe, adjoining Local Member, speaking on behalf of the local member Councillor Billy Mullin, was against the application due to the scale of the proposed building which he said was not in keeping with the buildings in the surrounding area and was too close to the buildings situated opposite. He said that local residents were against the structure which was detrimental the amenities and affected the character of the area. He said the Community Council was also against the structure.

Councillor Owen Thomas commented on the height of other buildings connected to Airbus in the area and supported the application.

Councillor Mike Peers said that the proposed building was located on an aviation site in an enterprise zone. He supported the application and said the company was a leader in innovation and technology and the employment it created in Flintshire was welcomed.

Councillor Richard Lloyd asked if some form of screening could be provided to offset the impact of the building and commented on the recommendation that a pre-commencement condition be imposed requiring a noise survey be undertaken given the proximity of the site to existing residential properties.

The officer responded to the issues raised by Members and advised that the combination of re-siting of the building, supplemental landscaping and noise mitigation, resulted in a recommendation that the application be granted.

In summing up Councillor Derek Butler asked if the applicant could give a commitment to be a 'good neighbour' for the benefit of the community.

RESOLVED:

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

20. FULL APPLICATION – ERECTION OF 64 DWELLINGS WITH PUBLIC OPEN SPACE AND OTHER ASSOCIATED INFRASTRUCTURE AT SUMMERHILL FARM, DROVERS LANE, CAERWYS (054007)

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 advised that this was a reserved matters application for 64 dwellings with associated open space and associated infrastructure. He drew attention to the late observations in relation to the application which stated that the

application related to 64 dwellings not 67 and provided clarity in terms of the affordable housing component.

The officer advised that the application provided details of the siting, design, external appearance and landscaping of the site following the grant of outline planning permission 044232 and the extensions of time for the submission of Reserved Matters subsequently granted under 048605 and 052169. The issues associated with the principle of developing this site for residential development had been dealt with at the outline stage. It was considered that the details of the scheme did not raise any issues in relation to impact on residential amenity or the character of the area. He referred to the recommendations as detailed in the report that conditional planning permission be granted subject to the applicant entering into a Section 106 Obligation or Unilateral Undertaking or making an advance payment with the conditions attached. The officer referred to the main considerations as detailed in the report around design and impact upon character and amenity, access, education, and S106 public open space.

Councillor Owen Thomas proposed the recommendation for approval which was duly seconded. Councillor Mike Peers commented on affordable housing and the matter of gifted properties and shared equity. He referred to the decision to take gifted properties and said whilst this was acceptable it would be useful to have a report from the Housing Strategy Manager to explain the rationale behind suggested affordable housing provision in order to assist the Committee with future decision making.

Councillor Nancy Matthews commented on the design of some of the dwellings which were 3 storeys and queried whether they were compatible with other buildings in the area.

Councillor Owen Thomas asked that gifted and first time buyer houses be allocated to local people.

RESOLVED:

That planning permission be granted subject to the conditions as detailed in the report of the Chief Officer (Planning and Environment) and a Section 106 Obligation or Unilateral Undertaking, to secure the following :-

- a. Ensure the payment of a contribution of £49,500 in lieu of 66% of on-site recreation provision, the sum to be used to enhance the children's play area at Chapel Street Play Area. The contribution shall be paid upon 50% occupation or sale of the dwellings hereby approved, and
- b. Five gifted dwellings comprising three three-bed and two two-bed dwellings to be gifted to NEW Homes and made available via an intermediate rental model
- c. Five shared equity units (30% equity retention) comprising five three-bed dwellings

21. FULL APPLICATION – APPLICATION FOR AMENDMENTS TO PREVIOUSLY APPROVED HOUSE TYPES INCLUDING AMENDED SITE LAYOUT TO ALLOW FOR 61 DWELLINGS (INCREASE BY 11 DWELLINGS) AT CROES ATTI, CHESTER ROAD, OAKENHOLT (055209)

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 information to the report and advised that the application related to the erection of 61 dwellings, being 11 additional dwellings to that shown on the original approval for this part of the site. The dwellings proposed consisted of mainly detached, semi-detached and terraced 2 storey dwellings and some 2.5 storey properties.

The officer referred to the consultations undertaken and advised that the local Ward Member had raised concerns on the changes proposed and one letter of objection had been received. He advised that the recommendation was to grant approval subject to the conditions detailed in paragraph 2.01 of the report.

Mr M Mallon spoke in support of the application for the applicant Persimmon Homes (North West) Limited. He said the site formed part of a wider development in which Anwyl had already secured planning permission for housing and therefore the principle for developing the site was well established. Persimmon Homes had recently completed an earlier phase at Croes Atti in which smaller house properties proved popular with young families and first time buyers. Smaller house types mean that there will be an increase in the number of properties slightly above the number applied for. Mr. Mallon referred to the recommendation for approval in the officer's report and said there were no objections from any of the statutory consultees. He continued that the design of the house types followed the plan already approved and would be in keeping with the development in the area. He outlined the benefits of the proposal and said that 10% of the units would be affordable and in accordance with the S106 agreement to develop affordable housing, would create jobs, and stimulate the economy.

Councillor Ian Dunbar proposed the officer's recommendation for approval which as duly seconded. He said the area of land which was the subject of the application related to 1.34 hectares of an overall site of 27 hectares. He continued that the application formed part of the third phase of development on the site and commented on the affordability of smaller homes and the need for affordable housing to be provided. Councillor Dunbar also referred to the condition with the recommendation to safeguard the two known areas of Roman occupation.

Councillor Owen Thomas also commented on the issue of affordability and referred to the number of applications made by different builders on the site. He queried whether the original planning for affordable homes was being achieved and if there were the appropriate number of affordable dwellings on site.

Councillor Chris Bithell referred to the 20% increase in development and said this was a major development that had changed dramatically over the years. He

said he acknowledged the reasons for some of the objections raised and that people should be made aware of any future developments on site.

The officer referred to the S106 Agreement which addressed the 10% affordability position and explained that the affordable dwellings were 'pepper-potted' throughout the site.

The Planning Development Manager commented that it was inevitable that a residential development on this scale would change in accordance with demand over time. He said the developer had explained that the changes were necessary to address the preference and demand within the local community for housing supply.

In response to the question raised by Councillor Owen Thomas the Service Manager Strategy advised that the 10% affordability applied across the whole of the site and reiterated the advice that this was 'pepper-potted' throughout the development.

In summing up, Councillor Ian Dunbar referred to the need for affordable housing and said that the applicant had to adapt to the changing needs and demands of buyers in the property market.

RESOLVED:

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

22. VARIATION OF CONDITION NO.4 ATTACHED TO PLANNING PERMISSION REF: 053393 TO ALLOW INCREASE OF THE DURATION OF EXISTING PERMISSION AT PART OF MOSTYN, COAST ROAD, MOSTYN (053363)

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 advised that in August 2015 planning permission was granted for installation and operation of a mobile advanced thermal treatment plant (ATT) and associated operations in existing buildings comprising a 1MW pyrolysis unit and associated gas engine. Condition 4 of the application required that the development shall cease 5 years from commencement. The application for consideration by the Committee was to amend the condition to require that the development shall cease 15 years from commencement. The reason for the application was that the funding sources would require a return and repayment on investment over a number of years so the time currently consented was not sufficient.

Councillor David Roney proposed that the application be deferred which was duly seconded.

Councillor Peers asked for clarification on the reasons for deferral.

Councillor Chris Bithell queried the reference to a temporary facility on page 77 of the report. He suggested that permission be granted on a permanent basis with the condition that if the site was not required it was cleared and left in a tidy state if operations ceased to function.

Councillor Richard Jones commented on the reason for the application which was financial and said this was not a planning consideration. He expressed the view that the application should be refused and not deferred.

Councillor David Roney concurred with the views expressed by Councillor Jones, and said he wished to withdraw his proposal for deferral and proposed refusal against the officer's recommendation which was duly seconded.

Councillor Richard Lloyd said he could see no reason why 15 years was needed and the applicant could reapply after 15 years.

Councillor Derek Butler spoke in support of the application and said there were no issues with the operation of the site. Councillor Gareth Roberts also said there was no reason to oppose the application.

Councillor Mike Peers referred to the fundamental reason for the application, which was that the funding sources required a return on investment over a number of years and the time currently consented was not sufficient. He said this was not a planning consideration and supported refusal of the application.

The officer advised that the proposed development had not yet been implemented and therefore there was no impact on the local community. He said the 5 year term had been granted on the original application because it had been requested by the applicant. He explained that the application complied with all of the planning policies and a 15 year period would give further control to ensure the site was not left in a derelict state.

Councillors Richard Jones and Mike Peers stated that the application had been granted with condition No.4 because the technology was new, unproven, and a pilot development.

The Chairman invited Councillor David Roney to sum up. Councillor Roney outlined his reasons for proposing refusal of the application which was that he did not want to accept the risk of a further 10 years of unproven technology.

RESOLVED:

That planning permission be refused on the grounds that the original 5 year permission was granted on the basis that the proposed application involved unproven technology and a further 10 years of unproven technology was unacceptable.

The Chief Officer (Planning and Environment) indicated that a report would be taken to the next Committee to clarify the reasons for refusal.

23. FULL APPLICATION – CONVERSION AND ALTERATION OF STABLE BLOCK TO HOLIDAY ACCOMMODATION AT FRON BACH, FFORDD LAS, GWERNYMYNYDD (055300)

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 20 June 2016. The usual consultations had been undertaken and the responses received were detailed in the report. Additional comments received since the preparation of the report were circulated at the meeting.

The officer advised that the application was for the conversion, extension to, and alteration of an existing stable block to holiday accommodation at Fron Bach, Gwernymynydd. He explained that the main consideration around the application was its ability to comply with policy T3 Self Catering Tourist Accommodation, due to the works required to the fabric of the building to facilitate the development. The officer advised that the recommendation was for refusal of the application for the reasons set out in paragraph 2.01.

Mrs. Gillett, the applicant, spoke in support of the application for the change of use of a redundant stable block to a holiday let at Fron Bach. She said that she believed the application accorded with the Welsh Government strategy which aimed for tourism to grow in a sustainable way and to make an increasing contribution to the economic, social, and environmental well being of Wales. Mrs. Gillett said that the proposed alteration and extension to the stable block would not be tantamount to a new building in the countryside. She detailed the proposed works and alterations to the building and said the infrastructure was already in place and there was adequate parking attached to the accommodation. She said the proposal would accord with policy T3 as it did not restrict conversion of rural buildings to those of architectural or historical merit. Mrs. Gillett said her proposal was similar to schemes which had already been approved in local areas and that the need for holiday accommodation in the area was recognised by granting permission for a caravan site and amenity block locally.

Councillor Chris Bithell proposed that the application be refused in accordance with the reasons set out in report of the Chief Officer (Planning and Environment) as he said it did not comply with Planning policy. He said that the building did not have any historic or architectural merits and if approved could set a precedent for similar applications across the County. He supported the recommendation in the report.

Councillor Derek Butler said the need to encourage tourism in Flintshire was recognised, however, the application did not comply with Planning policy and he commented on the need for consistency.

The Local Member, Councillor Nancy Matthews, referred to two recent applications which had been granted by the Planning Committee for holiday/tourist accommodation in local areas. She said that the application for consideration at the meeting accorded with planning policy rules concerning the conversion of an existing buildings which are structurally sound and do not have to be of architectural merit. She said that policy T3 does not restrict extensions where they are not

extensive. She continued that holiday use could be ensured by condition which would prevent permanent residence. Councillor Matthews said that tourism was vital to ensure economic prosperity in Wales and that there was a shortage of tourist accommodation. She commented on the need to develop tourism in Flintshire and to be consistent in decision making around planning applications.

Councillor Nancy Matthews withdrew from the meeting.

Councillor Owen Thomas supported the application and said there was a need to promote tourism. He expressed the view that granting the application would not set a precedent because it was promoting the provision of holiday lets.

Councillor Alison Halford also spoke in support of the application and referred to the need to develop tourism and for consistency in granting planning permission.

Councillors Mike Peers and Richard Jones commented that the proposal was an acceptable way of utilising the existing building.

Councillor Gareth Roberts spoke against the application. He said it was a new building in the countryside which had been erected in 2008 and if the application was granted it could set a precedent for the future.

Councillor Richard Lloyd referred to the site visit which had taken place and commented that the building was in a prominent position in the countryside. He did not support the application.

The officer referred to the photographic evidence that the stable block was not redundant and still in use. He explained that in respect of the design the building was more urban in character and prominent and therefore would urbanise the location.

The Service Manager Strategy advised the Committee that they could not compare one application with another unless all the details of the applications were known and that each application should be considered on its own merits.

In summing up, Councillor Bithell said that the need to promote tourism was acknowledged, however, it was important not to destroy the countryside. He referred to the previous applications which had been cited and referred to the specific circumstances and the reasons why permission had been granted. He proposed that the officer's recommendation as stated in the report be supported.

RESOLVED:

That planning permission be refused as it is considered that the proposal due to the amount of works, and alterations proposed to the existing fabric of the stable block it is tantamount to a new build in the open countryside, as the existing building is not of sufficient size to accommodate the proposal without extension and significant alteration to the existing stable. In addition the existing building is not considered to be of historic / architectural merit to be considered worthy of retention, as such the proposal is contrary to the provisions

of Policy T3 - Self Catering Tourist Accommodation, of the adopted Flintshire Unitary Development Plan.

After the vote had been taken, Councillor Nancy Matthews returned to the meeting and the Chairman advised her of the decision.

24. GENERAL MATTERS – OUTLINE APPLICATION FOR TRHE ERECTION OF UP TO 40 RESIDENTIAL DWELLINGS WITH ASSOCIATED ACCESS AND ALL OTHER MATTERS RESERVED AT RHOS ROAD, PENYFFORDD (053656)

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 advised that the purpose of the report was to inform Members of the Council's current position in relation to an appeal against the refusal of planning permission and to seek a resolution to withdraw the current reason for refusal. She explained that outline planning permission for the erection of 40 dwellings with associated access and all other matters reserved at Rhos Road, Penyffordd had been refused by the Planning and Development Control Committee on 20 January 2016 for the reasons detailed in paragraphs 6.01 and 6.02 of the report.

The officer referred to a Hydraulic Modelling Assessment (HMA) which had been commissioned by the applicant through Welsh Water. She advised that in the light of the HMA, and given that Welsh Water would now accept a condition requiring the implementation of the works to accommodate the foul flows in the network, the Council withdraws the reason for refusal in defence of the current appeal. The suggested conditions to be put forward to the Inspector were detailed in paragraph 7.02 of the report. The Council also sought a S106 undertaking as detailed in paragraph 7.03.

Councillor Derek Butler proposed that the appeal be opposed and this was seconded. Councillor Butler outlined the reasons and said that the application was outside the designated settlement boundary and was not included in the UDP. Councillor Owen Thomas concurred with the reasons expressed by Councillor Butler.

During discussion the officer responded to the questions raised by Councillor David Evans on the options detailed in paragraph 6.07 of the report, and the education contribution detailed in paragraph 7.03, and contribution to provide a wheeled sports facility.

Councillor Chris Bithell agreed with the proposal put forward by Councillor Butler and said the application was against the UDP planning policy and contrary to the recommendations concerning the category for development and growth of a settlement.

Councillor Richard Jones referred to the original reasons for refusal of the application and said he did not see anything in the report to confirm that deliverability and sustainability of the site was justified. He acknowledged that the Welsh Water

HMA had been completed but said that there were other reasons for refusal of the application.

The Service Manager Strategy said that the reason for refusal of the original application was outlined in paragraph 6.01 of the report and advised that the Committee was being presented with mitigation as to why that reason was no longer sustainable. In response to the further issues which had been raised the officer advised that growth bands had ceased in 2015.

Councillor Derek Butler thanked the Officers for their advice and referred to TAN1. He said there were already sustainable developments in Flintshire that were not being progressed and representation needed to be made about them. A new Minister has been appointed that may take another look at it. He proposed the appeal was resited on the basis that the proposed development was outside the settlement limits and contrary to the relevant policies in the UDP.

RESOLVED:

That the appeal be opposed on the basis that it constituted development outside the settlement boundary in open countryside, contrary to the relevant policies of the Unitary Development Plan.

25. **APPEAL BY MR. DYLAN HUGHES AGAINST THE DECISION OF FLINTSHIRE COUNTY COUNCIL TO REFUSE PLANNING PERMISSION FOR AN AGRICULTURAL WORKER'S DWELLING AT GROESFFORDD BACH, WHITFORD**

RESOLVED:

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

26. **APPEAL BY MR. & MRS S, PARKER AGAINST THE NON-DETERMINATION OF FLINTSHIRE COUNTY COUNCIL FOR THE ERECTION OF A REPLACEMENT DWELLING AND ANCILLARY WORKS AT GELLI FARM, GELLI ROAD, PEN Y ALLT, TRELOGAN**

RESOLVED:

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

27. **APPEAL BY NORMAN BEDFORD AGAINST THE DECISION OF FLINTSHIRE COUNTY COUNCIL TO REFUSE PLANNING PERMISSION FOR THE ERECTION OF 1 NO. DWELLING AT 18 GLAN GORS, FLINT**

RESOLVED:

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

28. **APPEAL BY MRS E. WATKIN AGAINST THE DECISION OF FLINTSHIRE COUNTY COUNCIL TO REFUSE PLANNING PERMISSION FOR THE**

ERECTION OF A REPLACEMENT DWELLING AT THE VARDO, GARREG BOETH, RHYDYMWYN

RESOLVED:

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

29. **APPEAL BY MR & MRS JONES AGAINST THE DECISION OF FLINTSHIRE COUNTY COUNCIL TO REFUSE PLANNING PERMISSION FOR THE ERECTION OF A FIRST FLOOR EXTENSION TO SIDE OF DWELLING, ERECTION OF PORCH TO FRONT, FORMATION OF NEW ROOF WITH CREATION OF A SECOND FLOOR WITHIN THE ROOF SPACE AT COPPER VIEW, PENTRE ROAD, PENTRE HALKYN**

RESOLVED:

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

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

There were 16 members of the public in attendance and 1 member of the press.

(The meeting started at 1.00 pm and ended at 4.10 pm.)

.....
Chairman

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FLINTSHIRE COUNTY COUNCIL

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

DATE: **20TH JULY 2016**

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

SUBJECT: **FULL APPLICATION – ERECTION OF 56 NO. DWELLINGS WITH ASSOCIATED ACCESS, OPEN SPACE AND INFRASTRUCTURE AT KINNERTON LANE, HIGHER KINNERTON.**

APPLICATION NUMBER: **054770**

APPLICANT: **ELAN HOMES LTD**

SITE: **KINNERTON LANE,
HIGHER KINNERTON**

APPLICATION VALID DATE: **13TH JANUARY 2016**

LOCAL MEMBERS: **COUNCILLOR P. LIGHTFOOT**

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

REASON FOR COMMITTEE: **SCALE OF THE PROPOSAL EXCEEDS THAT FOR WHICH POWERS TO DETERMINE ARE DELEGATED TO THE CHIEF OFFICER**

SITE VISIT: **YES. LOCAL COUNCILLOR HAS REQUESTED IN VIEW OF THE FACT THAT THE SITE IS OUTSIDE THE SETTLEMENT BOUNDARY**

1.00 SUMMARY

- 1.01 This is a full planning application for 56No. dwellings with onsite open space and associated infrastructure. The site is outside but adjacent to the defined settlement boundary for Higher Kinnerton. This application is therefore a departure from the adopted Flintshire Unitary Development Plan as it is outside any defined settlement boundary and is located within the open countryside.

1.02 The basis for making decisions on planning applications should be in accordance with the development plan unless other material considerations deem otherwise. In this instance it is considered the lack of a 5 year land supply is a material consideration which outweighs the fact the site is outside the settlement boundary and is a departure from the development plan. Furthermore the site is considered to be sustainable, viable and deliverable in order to come forward within the next 5 years to meet the supply.

1.03 In order to ensure that the site comes forward to meet the current shortfall a 2 year planning permission is proposed with a requirement for a phasing plan to ensure that the site is delivered in the short term.

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

2.01 That conditional planning permission be granted subject to the applicant entering into a Section 106 Obligation/Unilateral Undertaking to provide the following:

- a) Payment of £134,827 towards improvements to teaching accommodation to bring them in line with minimum standards at Higher Kinnerton C.P School and £184,690 towards the remodelling of music teaching accommodation to bring it in line with minimum standards at Castell Alun High School. Such sums to be paid upon the commencement of development;
- b) Provision of a play area to be equipped to a specification provided by the Council, upon sale or occupation of 50% of the development. Should the developer require the Council to adopt the POS a commuted sum of 10 years maintenance to be provided to the Council on adoption;
- c) Payment of a commuted sum of £40,000 in lieu of the shortfall of on-site play provision. This sum to be used to improve facilities at the Park Avenue Neighbourhood Play Area. Higher Kinnerton. Such sum payable on sale or occupation of 50% of the development.
- d) Affordable housing to be provided in the form of 5No. 2 bed units to be gifted to NEW homes and a further 5No. 2 bed units to be provided via a Discounted Open Market Sale scheme at 70% market value in accordance with an agreed marketing strategy and qualification policy. The 30% equity to be retained by the Council.
- e) Payment of £8000 as a contribution to the costs of the legislative requirements in respect of the advertising and public consultation exercises associated with the proposed

traffic calming measures and speed restriction amendment.
Such sum payable before commencement of development.

2.02 Conditions

1. Time commencement 2 years
2. In accordance with the approved plans
3. Phasing plan to be submitted and agreed.
4. Submission and agreement of Landscaping scheme, notwithstanding the submissions.
5. Implementation of agreed landscaping scheme.
6. Submission and agreement of Tree Constraints Plan prior to development.
7. Submission and agreement of Arboricultural Method Statement (including stump grinding) prior to development.
8. Scheme for foul, surface and land water drainage to be submitted and agreed prior to development.
9. Land contamination investigation prior to any development.
10. Remediation scheme to be submitted and agreed prior to any sites works. Implemented prior to occupation of any dwelling approved.
11. Archaeological Investigation to be undertaken and reported upon prior to the occupation of any dwelling hereby approved.
12. External finishes to be submitted and agreed.
13. Scheme for off-site highway works including alteration to road width of Kinnerton Lane, provisions of footway, extension to traffic calming scheme, improvement works to Footpath No.5 and other ancillary minor works to be submitted and agreed prior to commencement.
14. No dwelling to be occupied until Condition 10 works completed.
15. Siting layout and design of access to be submitted and agreed. No formation until agreed.
16. Access to be formed to base course and kerbed before any other works.
17. Principal site access visibility splays of 2.4m x 152m to west and 2.4m x 116m to east. Secondary access visibility splays of 2.4m x 121m to the west and 2.54m x 43m to the east. No obstructions within the splays.
18. Visibility splays to be made available during construction works.
19. Parking facilities to be provided as per approved details.
20. Front of garages to be set back a minimum of 5.5 m behind back of footway.
21. Layout, design, traffic calming, signing, surface water drainage, street lighting and construction of internal estate roads to be submitted and agreed.
22. 1.8m footway between Footpath No. 5 and eastern edge of site to be provided.
23. Scheme to prevent run off of surface water onto highway.
24. Construction traffic management plan to be submitted and agreed.

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

3.00 CONSULTATIONS

3.01 Local Member

Councillor P. Lightfoot

Objects to the proposals on the following grounds:

- Highway impact. – Questions whether, given the nature of the highway from which access is proposed to be derived, together with the speed of traffic using Kinnerton Lane, safe levels of visibility for vehicles exiting the site can be provided to ensure no detriment to highway safety.
- Pedestrian Safety - Considers proposed pedestrian upgrades in the form of a new footway along Kinnerton Lane area inadequate in width and encourage road crossings on Main Road at a dangerous point. Does not consider the improved footpath link to Park Avenue to be acceptable as an alternative route to school given the increased distance this represents.
- Flood Risk - Considers the site contains springs and watercourses that run through and adjacent to it, draining into existing culverts and drainage ditches. Lack of proper maintenance of these ditches and increased flow of water as a consequence of development will only serve to increase the risk of flooding downstream.

Higher Kinnerton Community Council

Objects to the proposals on the following grounds:

- Considers that visibility requirements at the proposed point of access area such as would have a detrimental impact upon the street scene at this location;
- As above, considers the pedestrian footway proposals to be inadequate;
- Considers that the assessment of traffic flows, speeds and stopping distances is flawed and insufficient information in the form of swept path analysis is provided to consider a range of traffic movements by a range of vehicle types which might reasonably be expected upon this road;

- Too much weight attached to bus services in supporting the contention as to the sustainability credentials of the village;
- The proposals represent unjustified development outside of the settlement which would not accord with national and local planning policies;
- Considers that the outline drainage strategy proposed by the applicant will not address surface water flooding concerns and will result in greater pressure upon an already inadequate drainage system;
- Considers impact upon a private water supply pipeline to Padeswood Cement works which is alleged to run across the site frontage has not been considered in making the application.

Highways DC

No objections subject to the imposition of conditions.

Public Footpath 5 abuts the site. Advises that the current rural nature of the path would not be adequate for unraised links to the village. Advises that the whole path would need to be brought up to adoption standards to a width of 2m along its length. Advises of the need for a temporary Footpath Closure Order to facilitate such improvement works.

Pollution Control Officer

Identifies that the site has the potential to be contaminated due to historical uses in part of the site. Advises of the need for a land contamination condition requiring investigation and if required, mitigation measures to be submitted and agreed.

Education - Capital Projects and Planning Unit (CPPU)

Advises that insufficient capacity would result from the proposals at the local primary school (Higher Kinnerton C.P School). Advises that the nearest Secondary School is Castell Alun High School, which has insufficient capacity and would therefore be affected by the proposals.

Public Open Spaces Manager

Advises that the requirements of LPG 13 would normally be satisfied by the provisions of 3,136 sq. metres of Public Open Space. Advises that the amenity areas adjacent to Kinnerton Lane are not considered to be suitable for POS designation.

Considers the proposed L.A.P area for play is acceptable, subject to the agreement of equipment specification and fencing,

Advises that the shortfall of 2000 Sq. metres of POS can be addressed via a commuted sum of £40,000 with such sum to be used to improve facilities at the Park Avenue Neighbourhood Play Area.

In the event that the developer wishes any areas of P.O.S to be adopted, a commuted sum for 10 years maintenance will be required.

Natural Resources Wales

Considers the ecological appraisal submitted in support of the application to be acceptable. Notes the potential for tree T1 to offer roost opportunities for bats and requests that a condition be imposed requiring further survey work if this tree is proposed to be removed.

Also requests the imposition of a condition requiring a Biosecurity Risk Assessment to be submitted and agreed to detail appropriate measures to control invasive non-native species (INNS) on site and identify measures to prevent INNS being introduced to the site during the course of development.

Dwr Cymru/Welsh Water

No adverse comments. Requests the imposition of a conditions requiring the submissions and agreement of the proposed site drainage scheme. Also notes that public sewers cross the site and requests that an advisory note prohibiting development within 6m of the foul sewer and 3m of the surface water sewer be imposed upon any subsequent grant of permission.

Clwyd Powys Archaeological Trust

Has considered the archaeological assessment report submitted with the application. Considers the assessment recommendations in respect of the further investigation of the area of a former dwelling and smithy, together with the 19th century well, to be well founded and therefore requests the imposition of conditions relating to the need for a programme of archaeological work to be undertaken, recorded, agreed, reported upon and deposited as part of the national Historic Environment Record.

Airbus

No adverse comments. Advises of the need for a crane permit should any cranes be required during the course of development.

4.00 PUBLICITY

4.01 The application has been publicised by way of the publication of a press notice, display of a site notice and neighbour notification letters. At the time of writing this report, 153No. letters have been received in response raising objections on the following grounds;

- The proposals are not compliant with planning policy;
- The site is located outside of the settlement and in open

countryside;

- The proposals will give rise to increased traffic;
- The nature of surrounding roads is such that increases in traffic will result in an adverse impact upon highway safety;
- The proposed footpath arrangements are not adequate to safeguard pedestrian safety;
- Existing drainage infrastructure is inadequate to accommodate the proposal;
- The proposals will give rise to an increased risk of surface water flooding off site;
- The proposals are an overdevelopment of the site;
- No need for the dwellings has been proven;
- The proposals are not reflective of the character of the village and would be detrimental to character and appearance of the wider landscape;
- The proposals would adversely affecting existing residential amenity as a consequence of overlooking;
- There is insufficient capacity at nearby schools to accommodate additional pupils;
- The existing community infrastructure is inadequate to accommodate the proposal; and
- Will result in adverse impacts upon amenity as a result of increased noise and disturbance.

5.00 SITE HISTORY

5.01 No previous history.

6.00 PLANNING POLICIES

6.01 Flintshire Unitary Development Plan

Policy STR1	-	New Development
Policy STR4	-	Housing
Policy STR8	-	Built Environment
Policy STR10	-	Resources
Policy GEN1	-	General Requirements for Development
Policy GEN3	-	Development in the Open Countryside
Policy D1	-	Design Quality, Location and Layout
Policy D2	-	Design
Policy D3	-	Landscaping
Policy WB1	-	Species Protection
Policy TWH1	-	Development Affecting Trees & Woodlands
Policy TWH2	-	Protection of Hedgerows
Policy HSG4	-	New Dwellings Outside Settlement Boundaries
Policy HSG8	-	Density of Development
Policy HSG9	-	Housing Mix and Type

- Policy HSG10 - Affordable Housing within Settlement Boundaries
- Policy AC2 - Pedestrian Provision & Rights of Way
- Policy AC13 - Access and Traffic Impact
- Policy AC18 - Parking Provision & New Development
- Policy SR5 - Outdoor Playing Space & New Residential Development

Local/Supplementary Planning Guidance Notes

- LPGN 2 - Space around dwellings
- LPGN 4 - Trees and Development
- LPGN 8 - Nature Conservation and Development
- LPGN 9 - Affordable Housing
- LPGN 11 - Parking Standards
- LPGN 13 - Open Space Requirements
- SPG 23 - Developer Contributions to Education

National Planning Policy

- Planning Policy Wales (8th Edition – Jan 2016)
- Technical Advice Note 1 : Joint Housing Availability Studies
- Technical Advice Note 12 : Design
- Technical Advice Note 18 : Transport

7.00 PLANNING APPRAISAL

7.01 The site and surroundings

The site comprises a 2.9 hectare area of vacant land which abuts the settlement boundary of Higher Kinnerton but is located within the open countryside. The site is roughly triangular in shape and comparatively flat across its north – south each axis although the site falls slightly in an easterly direction. The site is rough grassland with a numbers of trees upon boundaries and within the site.

7.02 A mature hedgerow abuts Kinnerton Lane to the north. The southern boundary comprises a mixture sparse hedgerow and residential style fences abutting the private rear amenity areas of adjacent dwellings. There is no formal demarcation of the western edge of the site where is bounds Footpath No. 5. Existing dwellings abut to the east of the site.

7.03 The Proposals

This is a full planning application for the erection of 56No. dwellings, including affordable housing, public open space, access, drainage and other associated infrastructure upon a 2.91ha area of land at Kinnerton Lane, Higher Kinnerton.

7.04 The proposed dwellings are predominantly two storey in nature, although 4No, bungalows are also proposed. The dwellings are a mixture of detached, semi-detached and mews properties, comprising:

- 13No. 2 bed units (including 4no. bungalows);
- 9No. 3 bed units;
- 23No. 4 bed units; and
- 11no. 5 bed units

7.05 The proposed layout provides for affordable housing comprising 12No. 2 bed properties. These are proposed to be made available for affordable purposes by 6No. of the units being gifted to NEW homes and the other 6No. being made available via a Discounted Open Market Sale model (70%). This proposal has been agreed with the Council's Housing Strategy Manager as an appropriate and justifiable response to affordability issues in the area.

7.06 The proposed development would be accessed from a new access point created onto Kinnerton Lane. A proposed pedestrian footway network within the site is proposed to connect into the existing footpath to the west of the site with this footpath being upgraded in width and surface. This facilitates pedestrian access from the site to Park Avenue to the south. A network of green spaces is proposed within the development creating visual links to the wider countryside context an incorporating the mature trees which exist within the site into the landscaping of the site. A formal equipped play area is proposed along with the creation of more informal areas at the eastern edge of the site. Attenuation tanks are proposed as part of the surface water drainage scheme for the site, these being subterranean in nature and located within two of the open space areas.

7.07 The Main Issues

The main issues for consideration in the determination of this application are;

- The Principle of Development;
- Housing Land Supply;
- Welsh Government Advice and National Planning Policy;
- Best & Most Versatile Agricultural Land;
- Highway impacts;
- Drainage impacts;
- Landscape and visual impact;
- Land Contamination;
- Ecology and Trees;
- Design and impact upon amenity;
- Archaeological impact;
- POS and Play provision; and
- Educational impacts

7.08 The Principle of Development

The site is located outside the settlement boundary for Higher Kinnerton in the adopted UDP. In the UDP Higher Kinnerton was identified as a category C settlement in the settlement hierarchy

initially with an indicative growth band of 0-10% although with revisions to policy HSG3 this became a ceiling of 10% growth with an additional stipulation that any additional new dwellings (within the settlement boundary should be to meet 'proven local needs'.

- 7.09 The monitoring of growth associated with policy HSG3 of the UDP ceased at 01/04/15 as the growth figures coincide with the Joint Housing Land Availability Study survey work undertaken each April, As at April 2015 Higher Kinnerton had seen an actual level of growth over the Plan period of exactly 10% (the ceiling point for a category C settlement) and no further commitments (permissions). In effect we are now entering a new plan period in terms of looking at growth and the present proposal for 56 dwellings would represent a further 9% growth.
- 7.10 In terms of the policies in the adopted UDP, policy GEN3 sets out those instances where housing development may take place outside of settlement boundaries. The range of housing development includes new rural enterprise dwellings, replacement dwellings, residential conversions, infill development and rural exceptions schemes which are on the edge of settlements where the development is wholly for affordable housing. Policy GEN3 is then supplemented by detailed policies in the Housing Chapter on each type.
- 7.11 Given that the proposal is for 56No. dwellings and does not fall within the scope of above policy framework, then the proposal is contrary to these policies in the adopted UDP and is a departure from the development plan.
- 7.12 The applicant seeks to justify the development in terms of a broader policy context, having regard to the following points:
- The Council currently not having a 5 year housing land supply.
 - The Ministerial statement by Carl Sergeant on 4th June 2014 about the need to increase the supply of housing throughout Wales in order to meet housing needs and to contribute to the economy of Wales
 - Site Sustainability and compliance with other plan policies
- 7.13 Housing Land Supply
PPW and TAN1 requires each local planning authority to maintain a 5 year supply of housing land. Welsh Government have taken the decision not to pass the Statement of Common Ground for the 2015 Joint Housing Land Availability Study onto the Planning Inspectorate. The 2015 Study will therefore be recorded as 'uncompleted' and in line with the advice in TAN1 Flintshire is '**considered not to have a 5 year supply**'. The Council is unlikely to be able to demonstrate a 5 year land supply until the LDP is adopted. This falls below the 5 year requirement.

Welsh Government Advice and National Planning Policy

7.14 Welsh Government Technical Advice Note 1 states that

“The housing land supply figure should also be treated as a material planning consideration in determining planning applications for housing. Where the current land supply shows a land supply below the 5 year requirement or where the local planning authority has been unable to undertake a study..... The need to increase supply should be given considerable weight when dealing with planning applications provided that the development would otherwise comply with the development plan and national planning policies.”

7.15 Welsh Government Advice and National Planning Policy Planning Policy Wales Edition 7 July 2014 paragraph 4.2.4 states

“A plan led approach is the most effective way to secure sustainable development through the planning system and it is important that plans are adopted and kept regularly under review. Legislation secures a presumption in favour of development in accordance with the development plan for the area unless material considerations indicate otherwise (see 3.1.2) Where;

- *There is no adopted development plan; or*
- *The relevant development plan policies are considered outdated or superseded; or*
- *Where there are no relevant policies.*

there is a presumption in favour of proposal in accordance with the key principles and key policy objectives of sustainable development in the planning system. In doing so, proposals should seek to balance and integrate these objectives to maximise sustainable development outcomes.”

7.16 Paragraph 4.2.5 states

“In taking decisions on individual planning applications it is the responsibility of the decision-maker to judge whether this is the case using all available evidence, taking into account the key principles (see 4.3) and policy objectives (see 4,4) of planning for sustainable development. In such case the local planning authority must clearly state the reasons for the decision.”

7.17 The Inspector in his appeal consideration of APP/A6835/A/14/2220730 land off Old Hall Road/Greenhill Avenue, Ewloe in March 2015 stated that

“There is a danger that the need to increase supply and lack of a 5-year housing land supply could be used to justify development in inappropriate locations.”

It is therefore key in making the planning balance therefore to consider the sustainable development ‘*key principles*’ and ‘*key policy objectives*’ set out in PPW.

7.18 Higher Kinnerton was considered by the Inspector to represent a sustainable location for development given that she recommended the allocation of land at Babylon Fields.

7.19 Higher Kinnerton is the largest category C settlement. It has a range of facilities and services including primary school, public houses, shops and village hall. It lies within easy commutable distance to the nearby settlement of Broughton which has a greater range of facilities and services and is located close to Chester. With public transport and road links to nearby settlements and employment centres, it is considered to represent a settlement which is capable of accommodating further development in a sustainable manner.

7.20 Due to the current land supply situation and the timeframe for the UDP housing strategy, in order to provide some clarity the Council has produced a Developer Guidance Note which was endorsed by the Council’s Planning Strategy Group and Cabinet in June 2015. This application was submitted prior to the publication of this guidance. In brief it is set out below how the application meets the requirements;

7.21 1. Need for the development proposals

This has been argued in terms of the fact that Flintshire does not have a 5 year land supply. There has been limited growth in the settlement in terms of windfall sites. In terms of a search sequence for identifying new sites for housing development PPW paragraph 9.2.8 refers to;

- Previously developed land and buildings within settlements;
- Settlement extension; and then
- New development around settlements with good public transport links.

There are no available sites which are previously developed land and buildings within the settlement and this would be a settlement extension.

7.22 2. Full application

The application is in full and accompanied by a suite of documents to address the key issues.

7.23 3. Sustainability Appraisal

The Planning Statement, TA and an accompanying documentation have attempted to demonstrate the sustainability of the site, although not through a formal Sustainability/Strategic Environmental

Assessment. This refers to the public transport links and footpath links that are proposed to be created.

7.24 The development also provides for a mix of house types which will range from 2 – 5 bedroom houses. The choice of materials for construction and the design of the new dwellings aims to reduce the energy and decrease thermal energy loss. The scheme will provide appropriate space for the storage, disposal and collection of waste. There are a variety of types of amenity space to encourage a healthy community and to encourage an inclusive community.

7.25 4. Viability Assessment

The applicant is providing affordable housing in line with the need identified in consultation with the Council's Housing Strategy Manager, education contributions, on site open space and contributions to the improvement of off-site recreation facilities in the village. No dispute has been raised in terms of these matters and therefore no viability assessment has been submitted. The viability of the site is therefore not questioned and the applicant is not seeking to depart from the planning obligation requirements.

7.26 5. Housing Delivery Statement

The applicant is a house builder (Elan Homes) who has a track record of delivering the sites they gain planning permission for within this authority and not land banking sites. Elan Homes would exercise their option to purchase the land if permission is granted. A 2 year permission is therefore proposed. Subject to planning permission being granted in the Summer of 2016 it is their intention to start on site as soon as possible in spring/summer of 2017. Projected annual completion rates are envisioned to be 24 units per annum. The anticipated completion date of the development would be 2019.

7.27 Best & Most Versatile Agricultural Land:

The question of the Agricultural Land Classification is examined within the submitted Desk Study and Ground Investigation report as the available data suggests the site is Grade 3 land but was not clear if the development site was subgrade Grade 3a or subgrade Grade 3b agricultural land. Subgrade 3a land is classed as Best and Most Versatile agricultural land and is protected by planning policy.

7.28 The report submitted noted the wetness of the site and records numerous boggy areas of varied size across the site. A number of land drains, a spring and a drainage pit are also in evidence. Groundwater is encountered at various depths but very shallow depths. The site is therefore classed as being very wet with moderate seepages and a moderate inflow. As a consequence of the application of the consideration of wetness to the site, the report concludes that the land is Grade 3b. The site is therefore not Best and Most Versatile

agricultural land.

7.29 Highway impacts

The site is proposed to be accessed via a newly created principal access off Kinnerton Lane within the northern boundary of the site. A secondary access to serve the proposed private drive is also proposed within this boundary. Access visibility splays are proposed to be created and pedestrian footpaths across the frontage are to be provided within the rural fringe to be created in the interests of retaining frontage trees. A footpath link to the adjacent Public Right of Way No. 5 is also proposed and works to improve this PROW are also offered.

7.30 The consultation process associated with the application has resulted in concerns being raised in respect of visibility at the proposed point of access, adequacy of the carriageway and footpaths adjacent to the site and the appropriateness of proposals to upgrade Footpath No. 5. The proposals have been the subject of consideration, negotiation and subsequent amendment following discussions with colleagues within Highways DC.

7.31 It is considered that the provision of a footway of a width of 1.5m from the site through the junction adjacent to the Royal Oak Public House and onto main Road, in conjunction with the proposed improvement to Footpath No.5 are acceptable to demonstrate that adequate pedestrian links can be provided to link the site with other facilities within the village. These matters are proposed to be conditioned in terms of their provision.

7.32 Highway traffic calming measures are also proposed to be extended along Main Road and the 30m.p.h restriction along Kinnerton Lane extended. These matters will be required to be secured via statutory processes to which the applicant has indicated a willingness to meet the £8000 cost. This will be secured via S.106 agreement.

7.33 I am advised that the proposed visibility splays are adequate to serve both access points and is conditioned accordingly. Other conditions in relation to the details of the access and highway formation are requested to be imposed and a construction traffic management plan will also be required. Accordingly, no objection is raised on highway safety grounds.

7.34 Drainage Issues

Concerns have been expressed in relation to the existing surface water drainage system upon the site and within the surrounding landscape and the impact of the proposals upon this system. In addition, reference has been made to ground water flows across the site and the presence of a spring within the site itself. The site is crossed by both a public surface water sewer and a public foul water sewer in the area to the eastern edge of the site.

- 7.35 The application is accompanied by a drainage layout proposal in response to these issues. I do not give weight to this drawing as, for amongst other reasons set out elsewhere in this report, there is a concern in relation to this drainage scheme and the impact upon trees. This in itself would not amount to a basis for refusal as the Tree Officer advises me that he considers the issue can be addressed via condition.
- 7.36 In response to consultation, neither Dwr Cymru/Welsh Water (DCWW) nor Natural Resources Wales (NRW) have raised any objection to the proposals. DCWW advice is consistent with my view in terms of the weight to attach to the proposed drainage layout in that, notwithstanding this drawing, they request a condition be imposed which requires the submission and agreement of a comprehensive drainage scheme for the site.
- 7.37 NRW references the fact that the site is located within Flood Zone A upon the Development Advice Map. It is also noted that the creation of hard surfaced areas can give rise to an increased potential for increased off site flooding due to a reduction in the amount of permeable surface available for water to naturally drain away. The proposals indicate that surface water will be stored within the site in subterranean storage tanks and is proposed to be released at a rate equivalent to the greenfield run-off rate to an existing drainage ditch on the southern boundary of the site which ultimately outfalls to a brook to the north east of the site.
- 7.38 This proposal is not objected to by NRW but in view of the fact that infiltration rates in the area are poor, advises that the proposed scheme of surface water drainage should be condition to be submitted and approved prior to the commencement of development. This advice is consistent with the advice of DCWW.
- 7.39 In view of the fact that I am advised by DCWW and NRW that subject to conditions requiring the final agreement of the precise details of the proposals being imposed, no objection is raised.
- 7.40 Landscape and visual impact
The site is presently vacant agricultural land within the open countryside, It is therefore important to assess the landscape and visual impact of the proposals. The application is accompanied by a Landscape and Visual Impact Assessment. This concludes that the overall impact of the proposed development would be categorised as moderate adverse and identifies individual areas within which there would be impacts of a minor adverse significance. These impacts are principally restricted to the views from private dwellings towards the site.
- 7.41 Whilst an overall impact of moderate adverse significance is identified,

the site must be viewed in the context of the edge of urban form location which it abuts. The resultant developed frontage is softened by the green fringe proposed and will appear as a frontage with existing built form to either side. I am therefore satisfied that the proposal will appear as separate from the wider landscape and will integrate into the setting of the village.

7.42 Land Contamination

The north western area of the site was historically occupied by a smithy. This gives rise to the potential for historical land contamination to have occurred. The application is accompanied by a desk study and ground investigation study which highlights the potential for such contamination. I am advised in consultation with the Council's Pollution Control officer that the potential for contamination is such that a site investigation should be carried out, the methodology of which should be agreed in advance, and if any contamination is identified, a scheme for remediation should be provided to detail the measures by which the contamination is to be addressed. I propose to condition accordingly.

7.43 Ecology and Trees

The site is distinctive for the number of trees within and upon its boundaries. The proposals retain the majority of trees and seek to make an amenity area feature of the stand of Scots Pine trees to the eastern end of the site. The proposals have been the subject of consultation with the Council's Tree Officer who has advised that those concerns he has in respect of the detail of proposed tree works and potential impacts arising from contamination investigation/remediation works and drainage works are such that can be considered as part of the submission and agreement of details pursuant to conditions in respect of each issue.

7.44 Furthermore, and notwithstanding the submitted details, I am advised that revised Tree Constraints Plans and Arboricultural Method Statements will be required to address matters such as the construction of hard surfacing areas within Root Protection Areas. These matters can be adequately addressed via condition and I propose to add conditions to this effect.

7.45 Design and impact upon amenity

The proposed design and layout of this scheme has been the subject of negotiation and discussion over the course of both pre-application discussion and consideration of the application.

7.46 The scheme has evolved to respond to the site characteristics and delivers a design where the form and dwellings reflect both the design of the residential areas and buildings in the locality, and provide for a mixture of house types. The scheme has sought to provide a greater variety of house types, improvements to street scenes and seek to retain existing natural features and routeways to provide a natural

focal point at the key location at the entrance to the site and maintain a green, rural character to the site frontage in this location.

7.47 Furthermore, the proposal seeks to deliver improvements to the adjacent Footpath No.5 in the interests in providing enhanced routes for pedestrians to link into the wider footpath network and to offer an alternative route to school for school pupils and their parents.

7.48 The wider area is characterised by a mixture of property types, styles and ages with a variety of arrangements of built form but has no overall dominant local vernacular. The applicant has sought to recognise this within the proposal and seeks to create a development which sits well in its locality but delivers a strong sense of identity. The layout takes full account of the existing dwellings adjacent to the site by maintaining adequate separation distances, in line with Council guidance standards on space about dwellings and overlooking to secure privacy and amenity as well as respecting the private gardens of adjacent houses.

7.49 Accordingly and notwithstanding representations made, I consider the proposals provide an adequate and appropriate response to the design issues raised in connection with the consideration of this application.

7.50 Archaeological Impacts

Consultation has identified that there is archaeological interest in the site as a result of the fact that the fields surrounding Higher Kinnerton are relatively undeveloped from the post medieval enclosure. In addition there is interest on the site of the smithy and associated holding. The application is accompanied by an archaeological assessment which has been the subject of consultation with Clwyd Powys Archaeological Trust who have advised that they are in agreement with the conclusions of the report and therefore request the imposition of a condition requiring a programme of archaeological work.

7.51 POS and Public Open Space Requirements

The Public Open Spaces Manager advises that it is appropriate to apply the requirements of Local Planning Guidance Note 13: Open Space Requirements in connection with this proposal.

7.52 I am advised that the proposed L.A.P area for play and recreation is acceptable, subject to the detailed specification of the equipping and landscaping of the area being agreed. Accordingly I propose to impose a condition requiring the submission of scheme to equip the area of open space provided within the site.

7.53 I am advised that the shortfall in space on site can be satisfied in the form of commuted sum. The sum required is £40,000 and this sum is proposed to be utilised in upgrading the existing play and recreation

facilities at Park Avenue Neighbourhood Play Area. The sum will be required, via legal agreement, to be paid upon 50% sale or occupation of the approved dwellings.

- 7.54 The infrastructure and monetary contributions that can be required from the a planning application through a S.106 agreement have to be assessed under Regulation 122 of the Community Infrastructure Levy (CIL) Regulations 2010 and Welsh Office Circular 13/97 'Planning Obligations'.
- 7.55 It is unlawful for a planning obligation to be taken into account when determining a planning application for a development, or any part of a development, if the obligation does not meet all of the following Regulation 122 tests;
1. be necessary to make the development acceptable in planning terms;
 2. be directly related to the development; and
 3. be fairly and reasonably related in scale and kind to the development.
- 7.56 While the Authority does not yet have a charging schedule in place, the CIL Regulations puts limitations on the use of planning obligations. These limitations restrict the number of obligations for the funding or provision of an infrastructure project/type of infrastructure. From April 2015 if there have been 5 or more S.106 obligations relating to an infrastructure project/type of infrastructure since 2010 then no further obligations for that infrastructure project/type of infrastructure can be considered in determining an application.
- 7.57 The consultation has established that the sum requested should be used in connection with a project to upgrade facilities at the nearby Park Avenue Neighbourhood Play Area. In accordance with the requirements of the Community Infrastructure Levy Regulations (CIL) 2010, this sum, when pooled would not exceed 5 contributions towards a single project.
- 7.58 I am satisfied, on the application of the tests set out in S.122 of the CIL Regulations and as detailed above, that such a contribution would satisfy these requirements. I am also satisfied that the sum is sought for a specific identified project and as such, would not be caught by the S.123 prohibition with the CIL Regulations.
- 7.59 Educational Infrastructure Implications
It has been suggested by third party responses to consultation that the settlement does not have sufficient capacity within the existing infrastructure to accommodate the proposed development of a further 56No. dwellings. Specifically cited is the lack of capacity at local schools.

- 7.60 Members will be aware that applications of this type are the subject of consultation with the Capital Projects and Planning Unit within the Local Education Authority. This consultation has established, having regard to SPG23 : Developer Contributions to Education, the development would give rise to the need for contribution requirements at both primary school and secondary school level as there would be insufficient capacity within the schools both currently and following this development (if approved).
- 7.61 Such capacity would not be available at the nearest primary school (Higher Kinnerton C.P). The current capacity of the school stands at 201. There are presently 189 pupils attending the school. Accordingly the school has only a 5.97% surplus of spaces, which equates to 12 spaces for additional pupils. The proposals would give rise to an additional 13 pupils. This would erode the remaining capacity. Accordingly, upon the application of the guidance, a sum of £134,827 would be sought for educational purposes as a consequence of this development.
- 7.62 Capacity is also not available at the nearest high school (Castell Alun). The current capacity of the school stands at 1240. There are presently 1380 pupils attending the school. The proposals would give rise to an additional 10 pupils. Accordingly, upon the application of the SPG23 guidance, a sum of £184,690 would be sought for educational purposes as a consequence of this development.
- 7.63 Members will recall from recent discussions in respect of this school and the implications of the effects of the CIL Regulations upon the ability of the Local Planning Authority to seek contributions via S.106 Agreements in respect of educational infrastructure in respect of this school. The considerations relating to this issue in respect of CIL are as those set out above.
- 7.64 The Planning Authority has secured 1 obligation towards Higher Kinnerton C.P School since April 2010 namely;

Reference No.	Site Address	Contribution Amount
048676	Land at Babylon Fields, Higher Kinnerton	£10,500

7.65 The Planning Authority has secured 5 obligations towards Castell Alun High School since April 2010 namely;

Reference No.	Site Address	Contribution Amount
048186	Land at Bridge Farm, Fagl Lane, Hope	£31,500
048313	Land at Wood lane Farm, Penyffordd	£139,607
048676	Land at Babylon Fields, Higher Kinnerton	£21,000
048471	Land at Cymau Lane, Abermorddu	£24,500
048892	Land at the Former White Lion Public House, Penymynydd	£52,500

7.66 I am advised that since the advent of the provisions of the CIL Regulations, The Director of Lifelong Learning has identified separate projects in respect of educational needs at both schools which are distinct and separate to the project to which the above listed obligations relate.

7.67 At Higher Kinnerton C.P School I am advised that the sum sought will be used as a contribution towards a project to improve the standards of teaching accommodation to bring such facilities up to the minimum standard required to deliver the National Curriculum.

7.68 At Castell Alyn High School I am advised that the sum sought will be used as a contribution towards a project to remodelling of music teaching accommodation at the school to bring such facilities up to the minimum standard required to deliver the National Curriculum.

7.69 I am satisfied, on the application of the tests set out in S.122 of the CIL Regulations and as detailed above, that such a contribution would satisfy these requirements. I am also satisfied that the sum is sought for a specific identified project and as such, would not be caught by the S.123 prohibition with the CIL Regulations.

8.00 CONCLUSION

- 8.01 The basis for making decisions on planning applications should be in accordance with the development plan unless other material considerations deem otherwise. In this instance it is considered the need for a 5 year land supply is a material consideration which outweighs the fact the site is outside the settlement boundary and is a departure from the development plan. Furthermore the site is considered to be sustainable, viable and deliverable in order to come forward within the next 5 years to meet the supply. In addition, whilst the site would not accord with UDP policies (by virtue of its open countryside location) it does accord with the broad thrust of national policies and guidance as set out in PPW.
- 8.02 In order to ensure that the site comes forward to meet the current shortfall a 2 year planning permission is proposed with a requirement for a phasing plan to ensure that the site is delivered in the short term.
- 8.03 Although this application is a departure from the development plan and has been advertised as such, it would not need to be referred to Welsh Government under The Town and Country (Notification) (Wales) Direction 2012. The Direction requires local planning authorities to refer applications for 'significant residential development' where they are minded to grant planning permission for residential development of more than 150 residential units, or residential development on more than 6 hectares of land, which is not in accordance with one or more provisions of the development plan in force. The application does not fall within this definition.
- 8.04 Other Considerations
The Council has had due regard to its duty under Section 17 of the Crime and Disorder Act 1998 and considered that there would be no significant or unacceptable increase in crime and disorder as a result of the recommended decision.
- 8.05 The Council has acted in accordance with the Human Rights Act 1998 including Article 8 of the Convention and in a manner which is necessary in a democratic society in furtherance of the legitimate aims of the Act and the Convention.
- 8.06 The Council has had due regard to its public sector equality duty under the Equality Act 2010.
- 8.07 The Council has had due regard to its duty under Section 3 of the Wellbeing of Future Generations (Wales) Act 2015 and considered that there would be no significant or unacceptable impact upon the achievement of wellbeing objectives as a result of the recommended decision.

LIST OF BACKGROUND DOCUMENTS

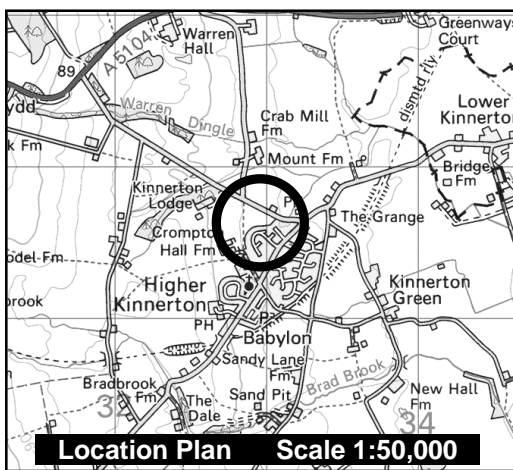
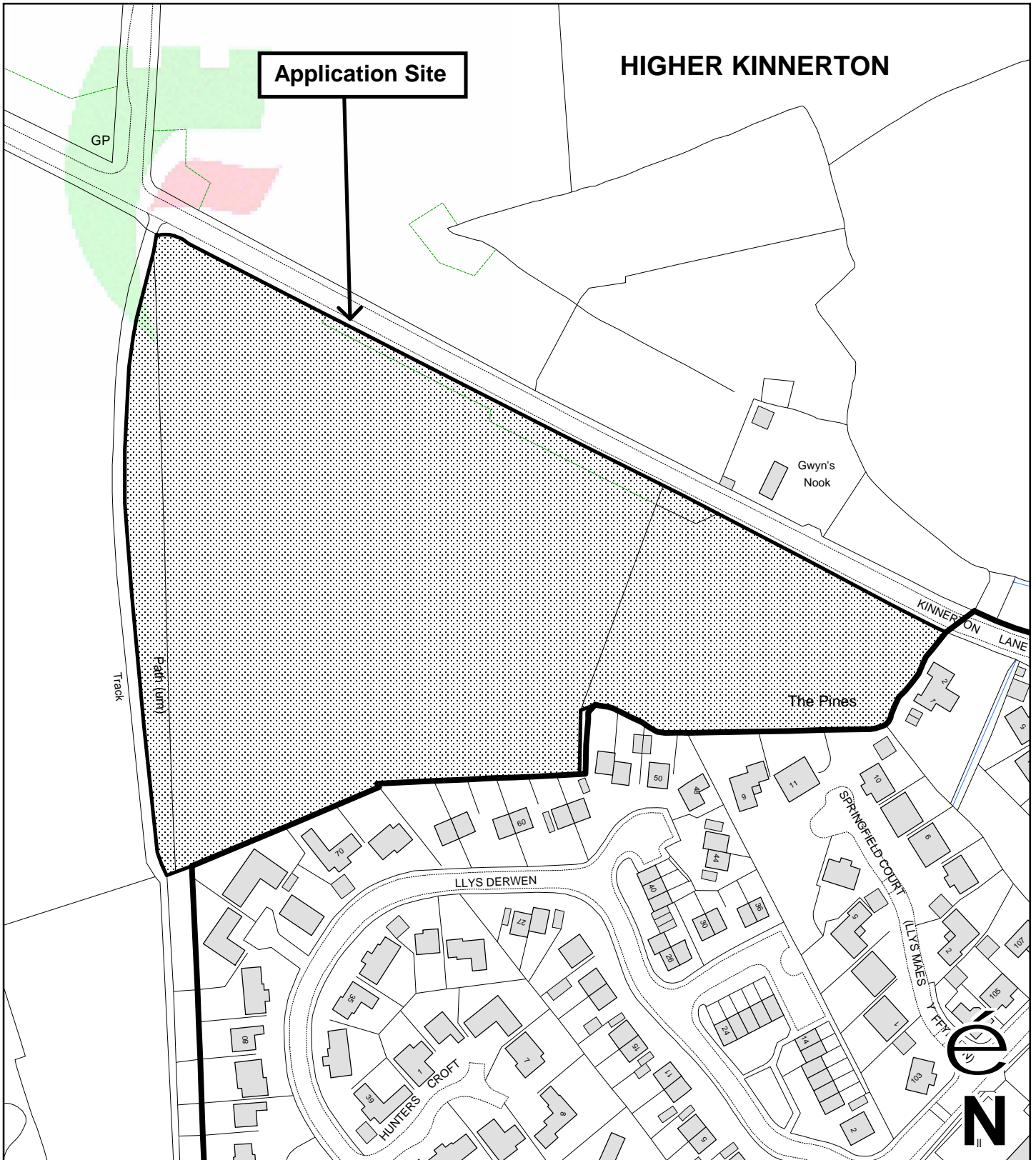
Planning Application & Supporting Documents

National & Local Planning Policy

Responses to Consultation

Responses to Publicity

Contact Officer: David Glyn Jones
Telephone: 01352 703281
Email: david.glyn.jones@flintshire.gov.uk



	<p>Planning & Environment, Flintshire County Council, County Hall, Mold, Flintshire, CH7 6NF. Chief Officer: Mr Andrew Farrow</p>						
	<p>This plan is based on Ordnance Survey Material with the permission of the Controller of Her Majesty's Stationery Office. © Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. Licence number: 100023386. Flintshire County Council, 2016.</p>						
<p>Legend</p> <ul style="list-style-type: none"> Planning Application Site Adopted Flintshire Unitary Development Plan Settlement Boundary 	<table border="1"> <tr> <td>Map Scale</td> <td>1:1750</td> </tr> <tr> <td>OS Map ref</td> <td>SJ 3261</td> </tr> <tr> <td>Planning Application</td> <td>54770</td> </tr> </table>	Map Scale	1:1750	OS Map ref	SJ 3261	Planning Application	54770
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FLINTSHIRE COUNTY COUNCIL

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

DATE: **20TH JULY 2016**

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

SUBJECT: **VARIATION OF CONDITION NO. 17 ATTACHED TO PLANNING PERMISSION REF 00/20/570 TO INCREASE PRODUCTION LIMIT AT PANT Y PWLL DŴR QUARRY, PENTRE HALKYN**

APPLICATION NUMBER: **054768**

APPLICANT: **CEMEX UK MATERIALS LIMITED**

SITE: **PANT Y PWLL DŴR QUARRY. PENTRE HALKYN, HOLYWELL**

APPLICATION VALID DATE: **23 DECEMBER 2015**

LOCAL MEMBERS: **COUNCILLOR COLIN LEGG**

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

REASON FOR COMMITTEE: **LEGAL AGREEMENT REQUIRED**

SITE VISIT: **NOT REQUESTED**

1.00 SUMMARY

1.01 A report was taken to the Planning and Development Control Committee on 22 June 2016 to consider the above development. See appended report for details. Members resolved to defer the decision in order for officers to gather further information and report back to the Committee on matters in relation to:-

- Clarification and comparison of hours of operation and the implications of a 0700 hours start time at the application site;
- The need for an increase in the production limits at the application site and vehicle movement restrictions;
- Output limits and vehicle movement restrictions at other quarries in the region;
- Clarification regarding actual vehicle movements and

correlating tonnages, and the implications of a 0700 hours start time at the quarry on tonnages;

- Addressing the suggested conditions of Mr Bartlett; third party speaker;
- Prospects of funding for Aggregates Levy Sustainability funding for community benefits/provision of footway in Pentre Halkyn; and
- Community benefits.

1.02 Since the Members deferred the determination of this planning application, the applicant has agreed to accept a planning condition that would restrict the number of HGV leaving the site between 0600 hours and 0630 hours to 11 HGV, and a condition that would control HGVs entering the site before 0615 hours.

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

2.01 The applicant entering into a Section 106 agreement or unilateral undertaking under the terms of the Town & Country Planning Act 1990 (as amended) or to provide an earlier payment to:-

- a) Provide a commuted sum of £17,000 to Flintshire County Council Highways Department to undertake road re-surfacing works with an anti-skid surface at the junction of the B5123 and Bryn Emlyn, Pentre Halkyn.
- b) Provide a commuted sum of £1,000 to Flintshire County Council Highways Department to make repairs to a fence adjacent to the Cattle Grid on Martin's Hill, Pentre Halkyn.

2.02 Summary of proposed conditions including:

1. Approved plans
2. Plans to be kept on site
3. Duration of permission
4. Time limit for completing the restoration of site
5. Revised restoration should the site close prematurely
6. Interim restoration scheme
7. Notification of temporary suspension
8. Specified Access Road
9. Maintenance of access road
10. No material to be deposited on the highway
11. Sheeting of exporting HGVs
12. Implementation of five year working programme
13. Update of working programme at least every five years
14. Notification of overburden stripping
15. Hours of operation; to include 0600 – 1800 hours Monday to Friday; 0600 – 1200 hours Saturday, no operations Sunday or public holidays and no HGVs entering the site until 0615 Monday - Saturday
16. HGV number limitations; 600 movements (300 in/300 out)

- Monday to Friday; 300 Movements (150 in/150 out) Saturday
17. Between the hours of 0600 hours and 0630 hours Monday to Saturday there shall be no more than 11 HGVs leaving the site
 18. Dust control and monitoring Action Plan
 19. Noise control and monitoring Action Plan
 20. Day time noise limits
 21. Noise limits for temporary working
 22. Blast Monitoring Action Plan
 23. Blast vibration limits
 24. No secondary blasting
 25. Protection of water course
 26. Pollution prevention
 27. Surface water management
 28. Removal of permitted development rights
 29. Maintenance of boundary treatment
 30. No quarry waste to be removed from site unless it is an approved adjacent sites
 31. Submission of final restoration and outline aftercare scheme
 32. Tree and hedge planting and protection
 33. Aftercare scheme
 34. Annual aftercare meeting and reporting

- 2.03 The above is a list of a summary of the proposed conditions and a full detailed set of draft conditions are available in Members Rooms.
- 2.04 If the Section 106 Agreement, unilateral undertaking or earlier payment (as outlined above) is not completed/paid within six months of the date of the Committee Resolution, the Chief Officer (Planning and Environment) be given delegated authority to REFUSE the application.

3.00 DETAILS OF PROPOSED DEVELOPMENT

- 3.01 Cemex UK Materials Limited have applied under Section 73 of the Town and Country Planning Act 1990 to vary condition No.17 of the deemed planning permission at Pant y Pwll Dŵr Quarry, Pentre Halkyn.
- 3.02 Condition No.17 states: *“The quantity of processed limestone aggregate leaving the site shall not exceed an equivalent level of 800,000 tonnes per annum as measured over a period of three consecutive years.”*
- 3.03 The application seeks to increase the three yearly average annual tonnage from a limit of 800,000 tonnes per annum, as measured over a period of three consecutive years to a limit of 1.2 million tonnes per annum, as measured over a period of three consecutive years. However, as discussed in the appended report taken to the

Planning and Development Control Committee on 22 June 2016, concluding in paragraphs 8.03 and 8.04, it is considered that a condition relating to the output of the quarry, averaged over a three year period provides no control to the flow of traffic. It is not possible to ensure compliance, or highlight a breach until three years have passed, and it could be argued that, such a condition, should it be imposed would not pass the tests set out in Circular 11/95 'The use of conditions in planning permissions', as it would not be enforceable and it is not precise.

- 3.04 Therefore, it is recommended that the condition relating to the output be removed and replaced with a condition to control the number of HGVs entering and leaving the site to 600 movements (300 HGVs in and 300 HGVs out on a daily basis, with an annual cap of 1.2 million tonnes per annum.

4.00 CLARIFICATION ON QUERIES FROM PLANNING AND DEVELOPMENT CONTROL COMMITTEE 22 JUNE 2016

Clarification and comparison of hours of operation and the implications of a 0700 hours start time at the application site

- 4.01 A comparison of hours of operation for limestone quarries in Flintshire and in the North East Wales sub-region has been carried out and the figures are illustrated in the table below. Of those operational limestone quarries in Flintshire which have conditional restrictions, the hours of operation are 0600 hours until 1800 hours, with the exception of one; Hendre Quarry which is permitted to operate at 0630 hours until 1900 hours.
- 4.02 As the table below indicates, the hours of operation of operational limestone quarries are comparable across the region. Most having a start time of 0600 hours, with one site permitted to operate from 0530 hours until 1900 hours. All operational limestone quarries, which have restricted hours of operation are permitted to operate for at least a 12 hour day, Monday to Friday and the vast majority commence from 0600 hours.

Table to show hours of operation of operational limestone quarries in the North East Wales Sub-Region

Site	County	Hours of operation Monday - Friday
Aberdo/Bryn Mawr Quarry	Flintshire	No restrictions
Cefn Mawr Quarry	Flintshire	No restrictions for Cement dispatch; 24 hour vehicle movements. Aggregate hours of operation 0700 - 1800
Hendre Quarry	Flintshire	0630 - 1900
Pant Quarry	Flintshire	0600 - 1800
Pant y Pwll Dŵr Quarry	Flintshire	0600 - 1800
Denbigh Quarry	Denbighshire	0600 - 1800
Raynes Quarry	Conwy	0600 - 1700
Saint George Quarry	Conwy	0530 - 1900

- 4.03 As with all the conditions imposed on the deemed consent at Pant y Pwll Dŵr Quarry, the condition controlling hours of operation were suggested by the quarry operator in 2000, when a review of their conditions were submitted and deemed to be approved.
- 4.04 Pant y Pwll Dŵr Quarry provides a regionally important source of limestone aggregate. As a result, its products tend to travel further than those produced by a sand and gravel quarry which have more local market catchment areas. Hours of operation for these sand and gravel quarries may therefore commence later to reflect this. Many of the applicant's customers, and the applicant's own network of ready mixed concrete plants commence at 0700 hours, and so require the delivery of aggregate products prior to that time to maximise their working day and productivity. It is critical to the applicant's business therefore that it can deliver aggregate products at an appropriate time which is required by its customers, hence the quarry's 0600 hours start time.
- 4.05 It is imperative for the competitiveness of the applicant to continue to be permitted to operate from 0600 hours, as other limestone quarries in the immediate area, and the wider sub-region have either no restrictions on hours of operation, or are permitted to start at 0600 hours or earlier. Placing a restriction of a 0700 hours start time would place the site at a commercial disadvantage to its competition and may be considered unreasonable and therefore fail to meet the tests set out in Circular 11/95 with regards to conditions.
- 4.06 The data provided within the Transport Assessment indicates that the hours of 0600-0700 is a peak time for the development for exporting aggregate products to their customers. Should planning

permission be granted to restrict the opening times to commence operations at 0700 hours this would conflict with the peak commuter travel times and add to the commuter traffic and 'school run' traffic. This would increase HGV movements through the village during other peak times in the village which may increase road traffic hazards.

- 4.07 The applicant is not unsympathetic to the views of its neighbours and has barred third party drivers (those which are not in the direct control of the applicant) from entering the application site until 0615 hours on a voluntary basis since 2014. Should drivers arrive earlier than 0615 hours, a penalty is imposed and drivers are sent to the back of the queue and are refused loading for up to an hour as a deterrent. This voluntary policy has proved to be effective as the data provided by the applicant demonstrates a marked reduction in HGVs exiting the site between 0600 hours and 0630 hours since 2014. This has also solved the problem of vehicles queuing outside of the quarry prior to the quarry opening. The applicant proposes to retain this policy and would accept a planning condition which would prevent HGVs entering the site until 0615 hours Monday – Saturday.
- 4.08 Furthermore, the applicant has proposed an additional planning condition which would restricts the number of HGVs leaving the site between 0600 hours and 0630 hours to 11 HGVs. These vehicles would be in the control of the applicant and already on site as they would be parked on site overnight and ready for loading at 0600 hours the following day. This would also reduce the number of vehicles traveling through Pentre Halkyn in the earlier hours of the morning as the site would be restricted to only 11 HGVs leaving the site during the first 30 minutes of the working day. It is considered that the proposed changes to the planning conditions would present a workable compromise between the business needs of the applicant and the interests of the local residents, bearing in mind that the current operating hours of the quarry have been in place for a great many years and not imposed by the Mineral Planning Authority.

The need for an increase in production limits and vehicle movement restrictions

- 4.09 Mineral Planning Guidance advice indicates that production limits should only be used to control environmental impacts and not to conserve the resource. Mineral Planning Guidance advice suggests, a more appropriate way of controlling the environmental impacts of the operations of the quarry would be by the proposed restrictions in vehicle movements entering and exiting the site as recommended within this report, and the recommendation of the report by the Chief Officer (Planning and Environment) on 22 June.
- 4.10 Condition No.17 (which restricts the output limit) was suggested by

RMC; the quarry operator at that time in 2000. It is important to note that the Mineral Planning Authority did not impose this condition, nor did it require a limit on output. The rate of 800,000 tonnes per annum was offered by the applicant as they considered this rate to be appropriate for the level of production at that time in the year 2000, based on the operational output and capacity of the plant at that particular time. Since 2000, planning permission has been granted for new plant (granted in June 2003) which has in turn, increased the output capacity on quarry.

- 4.11 In the year 2000, there were a total of eight operational limestone quarries in Flintshire, and 20 operational limestone quarries in the sub-region. There were also a further 7 quarries in the sub-region that would have supplied lower quality 'bulk fill' material, which would provide an aggregate substitute, totalling to 35 operational limestone/shale quarries in the sub-region.
- 4.12 In stark comparison, now there are only five operational quarries in Flintshire. There are only an additional three operational limestone quarries in the sub-region, with two quarries in the wider sub-region providing lower quality bulk fill material, totalling to 10 operational limestone/shale quarries in the sub-region compared to 35 in 2000.
- 4.13 The increase in export rates experienced at Pant y Pwll Dŵr Quarry is due to the increase in demand, but also due to a reduction in the number of operational quarries providing limestone for aggregate products in the sub-region and wider North West England. The increase in production has been experienced to meet the demand of the market.
- 4.14 Future need for minerals and aggregate resources are assessed through the Regional Aggregate Working Party's Regional Technical Statement as required by Mineral Technical Advice Note 1: Aggregates (MTAN1). The starting point for assessing the future demand for aggregates is using the sales figures for the preceding 3 and 10 years, and assessing those remaining permitted reserves to calculate the Landbank for a given area. The historical sales represents the demand that has been placed upon those authorities in terms of aggregate required within the area. Therefore, the planning system through the production of Local Development Plans, with the evidence provided within the Regional Technical Statement identifies where there is potential short fall in the Landbank provisions for an area and identifies an apportionment for the future provision of aggregates.
- 4.15 The 2014 (the most recent data available) Limestone landbank for North Wales based on 3 year average sales is currently 35 years. The Flintshire landbank is 24 years. The overwhelming majority of the landbank for limestone is in NE Wales sub-region.

- 4.16 Whilst increasing the production at Pant y Pwll Dŵr Quarry would lead to the mineral being used more quickly, as stated previously, the Mineral Planning Authority should not place restrictions on a quarry to conserve the permitted reserves available. The purpose of the Managed Aggregate Supply System is to ensure that there is future provision to meet the demand for aggregates in the region. Should the Mineral Planning Authority restrict the output of a given quarry, the knock on effect would be that production and sales would be displaced elsewhere, and as a result an increase in production at other quarries so therefore the reserves would continue to decline on a regional basis. In some instances this could cause mineral to unnecessarily travel further which would not be sustainable.
- 4.17 Minerals can only be worked where they occur and are available. The market dictates demand for aggregate and the role of the planning system to plan for future demand through the LDP process to ensure that Flintshire makes adequate provision for future demand. At present, the current Regional Technical Statement has recommended a 3.84 million tonne apportionment for Flintshire and Wrexham to cover the lifetime of the forthcoming LDP.

Clarification regarding actual vehicle movements and tonnages and the proposed restriction, and the implications of a 0700 hours start time on tonnages

- 4.18 It is proposed to control the output of limestone by restricting vehicle movements entering and existing the site by a condition to state:-

“The total number of daily HGV movements associated with the development hereby approved shall not exceed the following limits:

- 600 movements (300 in and 300 out) Monday to Friday*
- 300 movements (150 in and 150 out) Saturdays*

In any 12 month period the quantity of processed limestone aggregate leaving the site shall not exceed 1.2 million tonnes”

- 4.19 A key part of the proposed condition is the annual restriction of 1.2 million tonnes per annum. Whilst in any one day there would be no more than 300 HGVs exporting limestone from the site, in reality the actual daily HGV output would be much less. Taking the proposed annual upper limit of 1.2 million tonnes, and an average payload of 21 tonnes, this would equate to on average 220 HGV export movements, considerably less than the proposed upper daily HGV export limit. Therefore, in reality, the daily HGV export movements would not reach the proposed restriction of 300 export movements on a regular daily basis. The annual upper limit of 1.2 million tonnes per annum is provided to allow for fluctuations in demand, but yet controlling output to a reasonable daily limit, that which is less than has been experienced in recent years.

- 4.20 The submitted Transport Assessment provides data which includes the maximum number of export HGV movements in one day from 2009 until 2015. In 2014 this reached 387 HGV export movements in one day, and in 2015 one day reached 348 HGV export movements. Therefore, in recent years there have been occasions where there has been in excess of the now proposed daily limit, but without any significant impact on the safe operation of the highway, with no recorded highway incidents that involved quarry traffic, and no reports of exceptional maintenance issues caused by the passage of quarry traffic during this period.
- 4.21 Should the quarry meet the proposed daily HGV limit of 300 export movements per day, using an average payload of 21 tonnes, the upper annual limit of 1.2 million tonnes would be far exceeded; exporting in excess of 1.75 million tonnes per annum which is greater than the applicant seeks to export. Furthermore, the existing quarry plant and infrastructure could not sustain this level of output.
- 4.22 The submitted Transport Assessment provides data for the average daily HGV export movement in 2014; their busiest year where annual export rates were 1.4 million tonnes. The average daily export HGV movement was 250 HGV export movements Monday to Friday and 40 HGV export movements on Saturday. As the proposed upper annual limit of export levels would be conditioned and restricted to 1.2 million tonnes per annum, which is less than that experienced in 2014, logically the forecasted proposed average daily HGV export movements would be less than experienced in 2014.
- 4.23 The proposed upper daily limit of 300 HGV export movements would allow the fluctuations in demand for limestone aggregate products and is less than what has been experienced in recent years. The condition, as proposed would allow a degree of flexibility, which the existing condition provides, yet it would have an upper annual tonnage limit to control annual output, which is less than was reached in 2014. The combination of the proposed conditional restrictions on a daily HGV movements and a cap on annual tonnage output need to be reasonable to meet the tests of Circular 11/95; 'The use of conditions in planning permissions'. It is considered that, based on the evidence provided within the Transport Statement in relation to the quarry's previous production rate, that the proposed condition would meet the tests within the circular.
- 4.24 Members raised concerns at the Planning and Development Control Committee on 22 June 2016 that should a later start time of 0700 hours be imposed, this could have the subsequent effect of increasing quarry HGV movements per hour through the village as there would be a shorter operational day of 11 hours instead of 12

hours as is currently allowed. Based on the average day of 220 vehicle movements this would equate to on average 18 HGV export movements per hour for a 12 hour day, and on average 20 HGV export movements per hour for an 11 hour day. Using the upper limit of 300 HGV export vehicle movements, this would equate to an average of 25 HGV export movements per hour for a 12 hour day, and an average 28 HGV export movements per hour for an 11 hour day. In reality however, the movements of vehicles into, and out of the application site are not steadily spaced out throughout the day, and there could be a variation in vehicle movements from one hour to the next. It would not be reasonable to control hourly vehicle movements into and out of the site. However, the applicant has agreed to accept a condition with restricts HGV output movements between 0600 hours and 0630 hours as stated previously.

Addressing the suggested conditions of Mr Bartlett; third party speaker

4.25 At the Planning and Development Control Committee meeting on 22 June 2016, the third party speaker requested a number of matters to be controlled by condition:-

- The collection of near miss information about safe use of the route by HGVs from the quarry.
- The change from 'Give Way' to 'Stop' at the junction of Bryn Emlyn and the B5123.
- The implementation of a single direction traffic priority scheme through the dangerous pinch points on Springfield and Martins Hill.
- A further restriction in the number of HGV vehicle movements to and from the quarry between 0600 hours and 0700 hours on weekdays.
- An annual sum beyond the £18,000 proposed, to implement and maintain road noise reduction and road safety developments.

4.26 Any proposed condition that fails to meet any of the six tests of Circular 11/95; 'The use of conditions in planning permissions' (detailed below) should not be used. This applies even if the applicant suggests it, or agrees on its terms or it is suggested by the members of a planning committee or a third party. Conditions should only be imposed where they are:

- Necessary;
- Relevant to planning; and
- To the development to be permitted;
- Enforceable;
- Precise; and
- Reasonable in all other respects

4.27 Considering each suggestion in turn, the Local Highway Authority

relies upon police data for the recording of traffic accidents; it is not practical to collect near miss data as there is no agreed definition of what represents a 'near miss'. Any reports would be subjective and anecdotal, and therefore unenforceable. The nationally agreed practice when assessing the requirement of highway improvement works or safety measures is to consider only actual accidents and incidents that are recorded only by the police. Furthermore, as the Local Highway Authority has not requested that this information is collected, it would be unreasonable for the Planning Authority to require it by condition. Therefore it would fail to meet the tests of circular 11/95 as outlined above. However, the Company has always encouraged local residents to report to the quarry management team any incidents that have given cause to concern, and it continues to be committed to this process

- 4.28 The third party speaker also suggested a number of traffic calming measures to be controlled by condition; one of which includes a change in the designation from 'give way' to 'Stop' at the junction of Bryn Emlyn and the B5123. This is a matter for the Local Highway Authority; they have considered this suggestion and have stated that it would be inappropriate to change this junction designation. The provision of a mandatory STOP sign can only be justified on the grounds of extremely restricted junction visibility and conditions at this junction do not comply. Any such condition would be both unreasonable and un-deliverable.
- 4.29 The introduction of single direction traffic priority scheme is also a matter for the Local Highway Authority, but the applicant feels that this would cause significant and unacceptable levels of traffic congestion at certain times of the day on the route between the quarry and the A55. As such, it would likely to be counterproductive. The Local Highway Authority has the following comment; 'In order for the location to qualify, the site must first be assessed in accordance with Flintshire County Councils Traffic Calming Policy to ascertain if the site meets the requirements for the implementation of physical measures'. The use of traffic 'build outs' or systems of chicanes in this location could potentially cause traffic hazards that do not exist at present and is likely to introduce additional traffic noise, from braking vehicles and in particular, noise from HGVs moving up and down the gear box. As with the request to change the designation of the junction, any condition requiring a single flow traffic system would fail to meet the tests of Circular 11/95 as it would not be considered necessary, and the Planning Authority could not enforce its implementation.
- 4.30 Additional footpaths from A55 Springfield Hill and Martins Hill were also requested by the third party speaker. The merits of providing additional footpaths has already been discussed in paragraph 7.24 of the Committee report of 22 June 2016 appended to this report. This states that there is insufficient width within the existing highway

to deliver an appropriate scheme, and this would therefore be reliant on land in third party ownership. In accordance with Circular 11/95, conditions that would require land to be given up should not be used. Due to the topography of the land in this location, it would require major engineering works and retaining walls for additional footpaths to be feasible, making a project such as this very costly. The Council could not require the quarry operator to construct a footway, as there are no material grounds for requiring this, and therefore it would not be reasonable for the Planning Authority to require this, failing to meet the tests of Circular 11/95.

- 4.31 It would be considered unreasonable to require an annual revenue for road maintenance for the local road network as there are two other large quarries in Halkyn who use the road network, plus other road users. Furthermore, the quarry has been exceeding the proposed tonnage output since 2014, and exceeding the permitted tonnage limit since 2011 with no reports of exceptional maintenance issues caused by the passage of quarry traffic during this period.
- 4.32 When consulted on this planning application, the Local Highway Authority has concluded that despite the increased output, this has not had a significant impact on the safe operation of the highway and there were no recorded highway incidents that involved quarry traffic. It is therefore considered that there would be no material planning reason to require additional traffic management features to support ongoing operation of the quarry under the proposed export threshold. Furthermore, on consideration of the measures suggested by third party speaker, the Local Highway Authority has concluded that they would not be appropriate in this instance at this location as outlined above. Should a planning condition require the implementation of additional traffic management schemes as suggested by the third party speaker, the tests of Circular 11/95; 'The use of conditions in planning permissions' would not be met, as it would not be reasonable or necessary to provide these additional works.

Prospects of Aggregates Levy funding for community benefits/provision of footway

- 4.33 The Aggregates Levy Sustainability Fund has the aim of addressing the environmental costs associated with aggregate extraction. In Wales the fund is used to address the following issues: the legacy of old minerals permissions; promoting the use of alternative materials to aggregates; reducing the impact of aggregate extraction; environmental and amenity benefits to communities affected by aggregates extraction; and conserving sites of special interest.
- 4.34 Since 2011, Pentre Halkyn has been awarded over £45,000 of grant funding to contribute towards the Community Centre and the Bowling Club. A further £175,000 has been awarded to contribute

towards the Halkyn Mountain Industrial Heritage Project.

- 4.35 Future viable projects within Pentre Halkyn that meet the Aggregates Levy Sustainability Fund criteria could therefore benefit from this funding stream. Due to the proximity of the village in relation to three limestone quarries, Pentre Halkyn would be eligible to apply for funding, and previous projects in the village have been successful in their applications.
- 4.36 It is possible that funding for additional pedestrian footways through the village could be funded through the Aggregates Levy fund as other villages have been successful for these types of projects. However, as discussed above, a footpath could not be secured through the planning process, and furthermore, the feasibility of such a path would be questionable, and therefore its deliverability is questionable.

Community Benefits

- 4.37 The planning system is in place to assess whether the use of land and development is acceptable in land use terms and not to consider what community benefits a scheme can provide. However, the company has provided contributions voluntary to the local community:-
- The Company has sponsored the Halkyn Ranger annually since 2008 to a value of £1,000, increased in 2015 to £1,650;
 - Donated books to Plas Derw Trust Ltd.;
 - Donated to the erection of a plaque and plinth at Rhes-y-Cae Primary School;
 - Donated £1,000 to the restoration of Christ Church, Rhes-y-Cae;
 - Contributed to the refurbishment of the showers at the local football club;
 - Voluntarily undertaking a twice weekly sweep of the public highway as far as Martins Hill;
 - Making of a donation to Rhos Helyg Primary School summer fair;
 - Contributing £500 to a new strip for Halkyn United Junior FC;
 - Contributing to the Halkyn Mountain Community Cinema;
- 4.38 In addition, the quarry provides a total of 40 jobs which contribute to the local economy. Indirect jobs are also associated with the quarry which contribute to the local economy. The quarry provides the material for the region's infrastructure and housing. Also, the applicant is willing to provide a one off sum of money contributing £17,000 to the provision of a skid resistant road surface at the junction of the B5123 and Bryn Emlyn to mitigate against noise from

wheel spinning, and also to provide funds to contributing £1,000 to the repair of the a damage cattle grid fence.

- 4.39 The quarry company is also remains committed to maintaining the biannual liaison group meetings as a forum to investigate issues raised by local residents and to report back to attendees the results of any investigations and actions taken.
- 4.40 The quarry could also be approached for match funding for any future projects that maybe eligible for receiving Aggregates Levy funding.

Review of Mineral Planning Permissions

- 4.41 Should the application be refused, or should conditions be imposed that the applicant cannot accept, the quarry can still operate under their existing conditions under their deemed consent which they would be required to review under the provisions of the Environment Act 1995.
- 4.42 A review of planning conditions cannot be refused, and should a Planning Authority impose conditions via a Review that would restrict the quarry operator's working rights and entitlements (such as reduced hours of operation) the Local Planning Authority would be liable for compensation claims.
- 4.43 This section 73 planning application provides the Local Planning Authority an alternative opportunity to review the deemed consent and obtain greater control of the operations by imposing strict and modern conditions to address concerns in relation to dust, noise and blasting vibration to ensure that the operations are not causing a detrimental impact on the local environment and residents.

5.00 CONCLUSION

- 5.01 There is no evidence to suggest a start time of 0600 hours at Pant y Pwll Dŵr Quarry is inappropriate. All but one quarry in Flintshire and the wider North East Wales region commences an operational day at 0600 hours. Therefore, there is no planning reason why the existing hours of operation should be reduced. However the applicant is willing to change the existing hours of operation as stated above to prevent HGVs entering the site until 0615 hours, and also to limit the number of HGVs exiting the site between 0600 hours and 0630 hours to 11. This would contribute to reducing the number of quarry associated HGVs travelling through Pentre Halkyn in the early hours of the morning.
- 5.02 Mineral Planning Guidance suggests that output limits should not be conditioned. However the deemed consent for the application site contains a condition that controls the output of aggregate products

which is being exceeded as demand for aggregate products from the quarry has increased since 2000 when the consent was 'deemed'. In order to control environmental impacts of the export of aggregates, it is considered that a more appropriate and effective way is to control vehicle movements. A daily limit of 300 HGV export movements has been proposed with an upper annual limit of 1.2 million tonnes, which would also effectively control daily vehicle movements. The proposed daily HGV and annual tonnage limits of the condition would be considered reasonable based on the data provided within the Transport Assessment.

- 5.03 The increase in exportation levels has not resulted in a significant impact on the safe operation of the highway, and there were no recorded highway incidents involved quarry traffic. There have been no reports of exceptional maintenance issues caused by the passage of quarry traffic during this period. Therefore, there is no material planning reason why planning permission should be refused to allow the requested increase in exportation levels and vehicle movements. Furthermore, there would be no justification for requiring additional traffic management features to support ongoing operation of the quarry under the proposed export threshold, and none of the requests suggested by the third party speaker would meet the tests of Circular 11/95.
- 5.04 In determining this application, the Council has had regard to the Policies of the Development Plan, and regional and national policy, legislation and guidance. Subject to the imposition of conditions as listed above, there is no sustainable planning reason why planning permission should be refused to allow the requested increase in output of minerals from the quarry. Accordingly, it is recommended that planning permission should be granted. The applicant has agreed to enter into a Unilateral Undertaking via Section 106 of the Town and Country Planning Act 1990 to provide a commuted sum for resurfacing works to provide an anti-skid surface to reduce the risk of wheel-spinning, and to provide funds to repair a fence adjacent to a cattle grid in Pentre Halkyn. The funds could be provided by earlier payment or secured by a Section 106 legal agreement. The proposal would give rise to increased vehicle movements and the anti-skid resurfacing should address concerns in relation to wheel skidding and associated vehicle noise and disturbance when vehicles are turning right onto Bryn Emlyn. If the Section 106 Obligation (as outlined above) is not completed or the earlier payment is not received within 6 months of the date of the committee resolution, the Head of Planning be given delegated authority to REFUSE the application.

6.00 OTHER CONSIDERATIONS

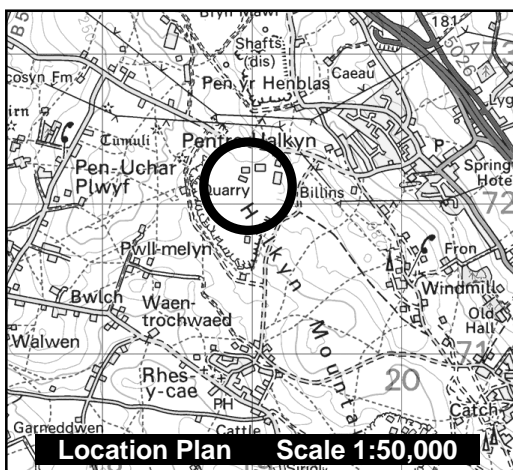
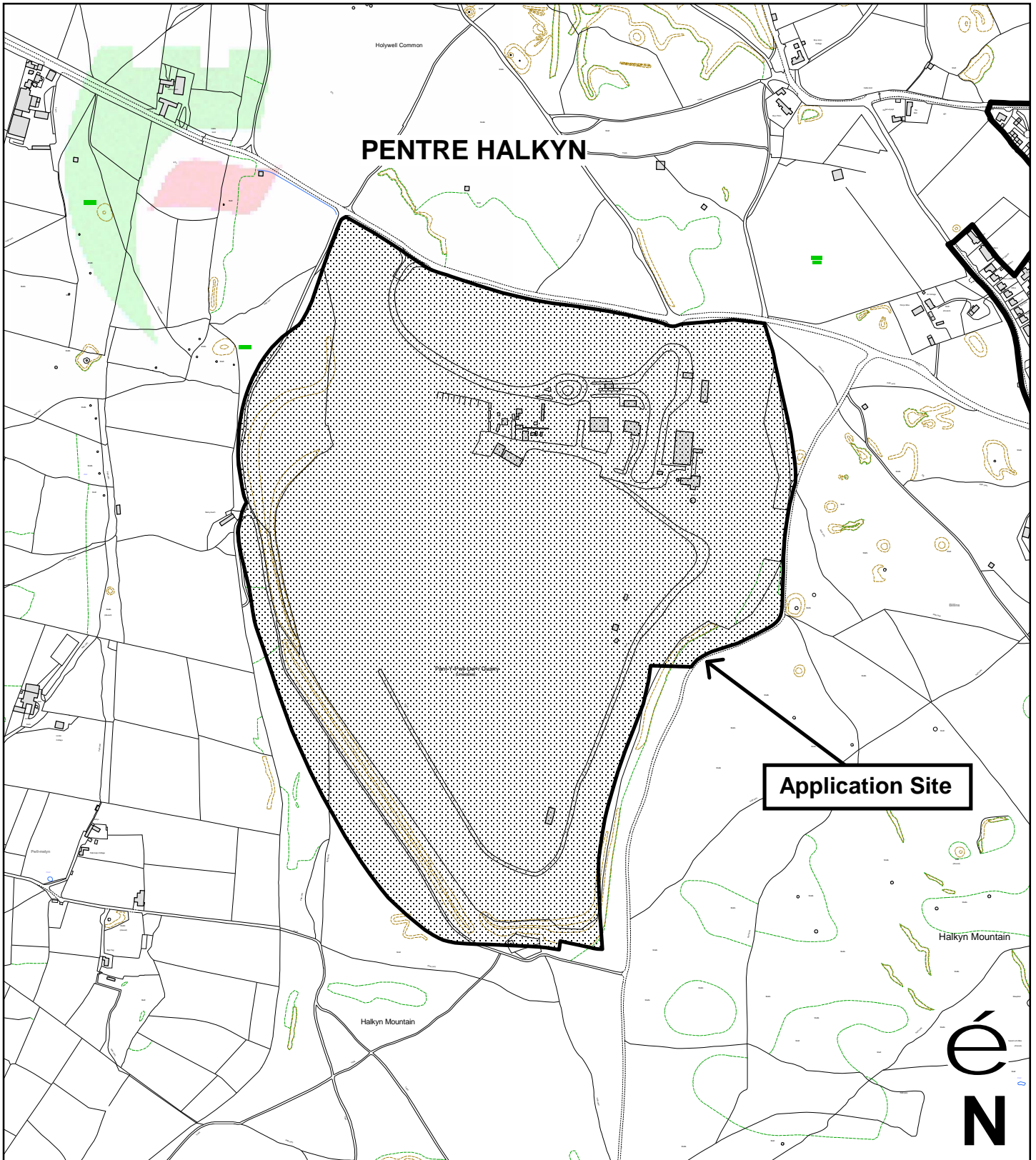
The Council has had due regard to its duty under Section 17 of the Crime and Disorder Act 1998 and considered that there would be no

significant or unacceptable increase in crime and disorder as a result of the recommended decision. 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. The Council has had due regard to its public sector equality duty under the Equality Act 2010. The Council has had due regard to its duty under Section 3 of the Wellbeing of Future Generations (Wales) Act 2015 and considered that there would be no significant or unacceptable impact upon the achievement of wellbeing objectives as a result of the recommended decision.

LIST OF BACKGROUND DOCUMENTS

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

Contact Officer: Hannah Parish
Telephone: (01352) 703253
Email: hannah.parish@flinshire.gov.uk



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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Map Scale 1:7500

OS Map ref SJ 1872

Planning Application **54768**

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FLINTSHIRE COUNTY COUNCIL

REPORT TO: PLANNING AND DEVELOPMENT CONTROL COMMITTEE

DATE: 22 JUNE 2016

REPORT BY: CHIEF OFFICER (PLANNING AND ENVIRONMENT)

SUBJECT: VARIATION OF CONDITION NO. 17 ATTACHED TO PLANNING PERMISSION REF 00/20/570 TO INCREASE PRODUCTION LIMIT AT PANT Y PWLL DWR QUARRY, PENTRE HALKYN

APPLICATION NUMBER: 054768

APPLICANT: CEMEX UK MATERIALS LIMITED

SITE: PANT Y PWLL DŴR QUARRY. PENTRE HALKYN, HOLYWELL

APPLICATION VALID DATE: 23 DECEMBER 2015

LOCAL MEMBERS: COUNCILLOR COLIN LEGG

TOWN/COMMUNITY COUNCIL: HALKYN COMMUNITY COUNCIL

REASON FOR COMMITTEE: LEGAL AGREEMENT REQUIRED

SITE VISIT: NOT REQUESTED

1.00 SUMMARY

- 1.01 Cemex UK Materials Limited have applied under Section 73 of the Town and Country Planning Act 1990 to vary Condition No.17 of the deemed planning permission at Pant y Pwll Dŵr Quarry, Pentre Halkyn to effectively increase the tonnage output from the Quarry from a limit of 800,000 tonnes per annum, as measured over a period of three consecutive years, to a limit of 1.2 million tonnes per annum, as measured over a period of three consecutive years.
- 1.02 This application is being applied for retrospectively as the applicant has been exceeding the three yearly average annual tonnage for some years. This application has been submitted at the request of the Local Planning Authority in order to regularise this.

1.03 The main issues being considered in order to determine this planning application relate to the impact on the highway network and amenity in terms of potential noise, dust and blasting from the quarry operations as a result of an increase in exported limestone aggregate products.

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

2.01 The applicant entering into a Section 106 agreement or unilateral undertaking under the terms of the Town & Country Planning Act 1990 (as amended) or to provide an earlier payment to:-

- a) Provide a commuted sum of £17,000 to Flintshire County Council Highways Department to undertake road re-surfacing works with an anti-skid surface at the junction of the B5123 and Bryn Emlyn, Pentre Halkyn.
- b) Provide a commuted sum of £1,000 to Flintshire County Council Highways Department to make repairs to a fence adjacent to the Cattle Grid on Martin's Hill, Pentre Halkyn.

2.02 Conditions including:

1. Approved plans
2. Plans to be kept on site
3. Duration of permission
4. Time limit for completing the restoration of site
5. Revised restoration should the site close prematurely
6. Interim restoration scheme
7. Notification of temporary suspension
8. Specified Access Road
9. Maintenance of access road
10. No material to be deposited on the highway
11. Sheeting of exporting HGVs
12. Implementation of five year working programme
13. Update of working programme at least every five years
14. Notification of overburden stripping
15. HGV number limitations
16. Hours of operation
17. Dust control and monitoring Action Plan
18. Noise control and monitoring Action Plan
19. Day time noise limits
20. Noise limits for temporary working
21. Blast Monitoring Action Plan
22. Blast vibration limits
23. No secondary blasting
24. Protection of water course
25. Pollution prevention
26. Surface water management
27. Removal of permitted development rights
28. Maintenance of boundary treatment

- 29.No quarry waste to be removed from site unless it is an approved adjacent sites
- 30.Submission of final restoration and outline aftercare scheme
- 31.Tree and hedge planting and protection
- 32.Aftercare scheme
- 33.Annual aftercare meeting and reporting

2.03 If the Section 106 Agreement, unilateral undertaking or earlier payment (as outlined above) is not completed/paid within six months of the date of the Committee Resolution, the Chief Officer (Planning and Environment) be given delegated authority to REFUSE the application.

3.00 CONSULTATIONS

3.01 *Local Member: Councillor Colin Legg* – at the time of writing the report no comments have been received.

3.02 *Halykn Community Council* – supports the application. Providing the applicant agrees and takes necessary precautions to mitigate environmental damage and impact in the locality, including the transportation aspect.

3.03 *Neighbouring Ward Councillor Matt Wright* is very concerned about this proposal. The quarry is already exporting more than they are permitted. Concerns include the dust emitted from the quarry which is transported from vehicles onto the public highway which cause a nuisance. Councillor Wright has tried to be supportive towards Cemex as a local employer but the various dust problems from the site and the constant traffic are upsetting the local residents. There are a number of infrastructure projects in line for years to come, therefore it would seem that the company will be busy in the future and Councillor Wright would like to see some fairness. If Cemex wish to proceed sensibly, they really need to look at assisting with the existing road network. There is no pavement on most of the route through the village making the route dangerous and support for capital works are needed. There is also need for strict conditions addressing dust, noise, blasting and other issues and modernising the site further. Things are currently not up to the mark and more work being permitted requires a re-think of the standards at this site. It is entirely reasonable of the residents to expect this, who under the circumstances have been more than understanding. Whilst the proposed conditions are an improvement to the existing consent in terms of controlling the operational impacts of the quarry, Councillor Wright cannot support the proposal as it would increase vehicle movements to an unacceptable level, although it is noted that the proposed level may not be reached. Furthermore, Councillor Wright would prefer to see a later start time as HGVs passing through Pentre Halkyn at 6am can be intrusive to the residents.

- 3.04 *Neighbouring Ward Councillor Jim Falshaw* at the time of writing the report no comments have been received.
- 3.05 *Brynford Community Council* were consulted as neighbouring Community Council and do not object to the planning application.
- 3.06 *Ysceifiog Community Council* were consulted as neighbouring Community Council and do not object to the application but raised concerns as to the potential impact the increase of vehicle movement will have on adjacent communities. The Community Council request that improvements to highway maintenance should be provided to the roads used by heavy goods vehicles and that the recordings of vehicle movements should be introduced in order that communities impacted can be identified for future reference for such things as application into the Aggregate levy fund.
- 3.07 *Head of Assets and Transportation*
It is difficult to assess the extent of the impact that this proposal would have on the operation of the highway; a condition related to the output of the quarry, averaged over a three year period provides little or no control to the flow of traffic during a particular time.
- 3.08 The Transport Assessment, Table TA4.1 indicates a steady increase in annual export tonnage over the past six years. Despite this increased output, Section 3.3 of the Transport Assessment identifies that this has not had a significant impact on the safe operation of the highway and that there were no recorded highway incidents that involved quarry traffic. There have been no reports of exceptional maintenance issues caused by the passage of quarry traffic during this period.
- 3.09 The imposition of a revised planning condition may prove to be more effective in managing the quarry output and hence traffic on the highway, and on that basis I have no objection to the proposal.
- 3.10 *Head of Public Protection* – No observations made.
- 3.11 *Cyfoeth Naturiol Cymru/Natural Resources Wales (NRW)*
Based on the information provided to date, NRW does not object to the proposed variation of condition No. 17, however have the following comments in relation to protected Sites at the site which include Halkyn Common and Holywell Grasslands SSSI and Halkyn Mountain / Mynydd Helygain SAC.
- 3.12 The quarry is notified as a SSSI for the mineralogical interest which is exposed within the quarry faces. NRW does not consider that the proposed variation in the condition would adversely affect the geological interest of the SSSI.

4.00 PUBLICITY

4.01 This application was advertised by way of press and site notice and neighbour notification letters were dispatched to neighbouring residential properties.

4.02 During the consideration of this application a total of 16 letters of objection have been received in response to the consultation on this application. The main planning based representations in objection that are material to the determination of this application include:

- The proposal would result in an increase in HGVs
- Local roads cannot accommodate two passing HGVs
- Drivers use private driveways as passing bays
- The proposal suggests that the vehicles are larger, therefore impounds existing problems of the narrow local roads
- Damage to local roads due to continuous/frequent HGV use
- Local roads are not suitable and do not have the capacity for the increase in HGVs
- Cattle grids are damaged by continuous HGV use; an increase in production would exacerbate this.
- HGV movement over cattle grids generate noise and vibration which would be increased with an increase in HGV movement
- The proposal presents real road safety concerns for the village of Pentre Halkyn; there are no pavements, and HGV drivers have little regard to speed limits and residents
- Road improvements should be made; the road should be widened and pavements should be constructed, the road surfacing should be improved to prevent wheel spinning at the junction of Springfield Hill and Martins Hill
- There are no traffic calming features on the local roads
- The quarry company should construct a bypass to avoid the village of Pentre Halkyn or source an alternative route
- The proposal has a negative impact on the quality of life of the residents of Pentre Halkyn
- Breaching the conditions for 5 years with no action despite complaints; it should not be considered retrospectively
- The proposal would result in the increase in pollution on the roads in the locality from dust and emissions from HGVs causing damage to health of local residents
- Increase in noise from quarry operations and HGV traffic which results in disturbing sleep of neighbouring residents
- Increase in blasting will cause more damage to neighbouring properties
- An increase in production would result in an increase in working hours therefore hours of operations should be reviewed; 6.00 am opening time is too early and disturbs sleep, Saturday opening hours should be reviewed to open at 7.30am
- The wording of the condition as an average over 3 years allows for further scope to increase output. Should it be increased there would be even additional scope to increase

- 4.03 Other issues have been raised by local residents that are material to another undetermined planning application which has been submitted by Cemex at the site which involves the construction of an overburden storage mound (reference 055218). These issues are not material to this planning application and are not considered within this report.
- 4.04 The applicant also held a pre-application public exhibition event on 1 December 2015.

5.00 SITE HISTORY

- 5.01 Planning permission for the working of minerals at Pant y Pwll Dŵr Quarry was first granted on 15 November 1948 (Ref. D40). Since then a number of extensions and modifications at the Quarry have been granted: Reference P72 (extension) 1 May 1956
- Reference 163/67 (extension) 29 February 1968
 - Reference 3/HA/658/80 (extension) 19 January 1982
 - Reference 3/316/88 (modification of working) 5 December 1988
- 5.02 In November 1995 planning permission was granted for a series of proposals primarily seeking approval of a number of detailed matters for the future development of the site in relation to revisions of the quarry working scheme, relocation of the quarry processing plant and landscaping and restoration.
- 5.03 On 30 May 2000 the quarry operator made an application for the determination of new conditions under the requirements of the Environment Act 1995. This application proposed a scheme of conditions for the Council to consider. However, the Council did not determine this application within the statutory time period. As a result, in accordance with the provisions of the Environment Act 1995, and in particular paragraph 9(9) Schedule 13, the 'deemed' approval took effect on 31 August 2000 (Ref 00/20/570 which is the extant planning permission to which this Section 73 application relates).
- 5.04 Planning permission was granted on 10 June 2003 for a new access road to the quarry under reference 031327 and subsequently varied by permission 047245 on 3 November 2010 to allow for additional overburden to be deposited on an existing screen bund.
- 5.05 Planning permission was granted on 11 June 2003 for revisions to the approved processing plant under reference 031328.
- 5.06 By February 2016, the quarry operator was required to make another application for the determination of new conditions under the requirements of the Environment Act 1995 to review mineral planning permissions ever 15 years. However, pursuant to the provisions of paragraphs 38 and 153 of MPG14, the quarry operator requested that the date by which an application must be made be postponed until the 31st December 2016. This request was made to allow the Minerals

Planning Authority sufficient time to determine this planning application. The determination of which may render the submission of a schedule of conditions unnecessary as there is the opportunity to impose any condition in which the Planning Authority deem necessary.

- 5.07 In March 2016, the quarry operator submitted a planning application for the creation of an overburden storage bund (reference 055218). This application is under consideration and undetermined.

6.00 PLANNING POLICIES

6.01 LOCAL PLANNING POLICY

Flintshire Unitary Development Plan (Adopted September 2011)

STR2 – Transport and Communities

GEN1 – General Requirements for Development

AC13 – Access and Traffic Impact

AC14 – Traffic Calming

MIN1 – Guiding Mineral Development

MIN3 – Controlling Minerals Operations

6.02 GOVERNMENT POLICY/GUIDANCE

Planning Policy and Guidance

Planning Policy Wales Edition 8 (including Minerals Planning Policy) (2016)

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

Technical Advice Note 11 – Noise (1997)

Technical Advice Note 18 – Transport (2007)

6.03 Minerals Planning Policy and Guidance

Minerals Technical Advice Note 1: Aggregates 2004

Minerals Planning Guidance Note 11: The Control of Noise at Surface Mineral Workings, 1993

Minerals Planning Guidance Note 14: Review of mineral planning permissions

7.00 PLANNING APPRAISAL

Introduction

- 7.01 The details of the proposed development will be outlined below, along with a description of the site and location, site constraints and the issues that will be assessed within the main planning appraisal.

Details of Proposed Development

- 7.02 Cemex UK Materials Limited have applied under Section 73 of the Town and Country Planning Act 1990 to vary condition No.17 of the deemed planning permission at Pant y Pwll Dŵr Quarry, Pentre Halkyn to effectively increase the tonnage output from the Quarry.

- 7.03 Condition No.17 states: *“The quantity of processed limestone aggregate leaving the site shall not exceed an equivalent level of*

800,000 tonnes per annum as measured over a period of three consecutive years.”

- 7.04 The application seeks to increase the three yearly average annual tonnage from a limit of 800,000 tonnes per annum, as measured over a period of three consecutive years to a limit of 1.2 million tonnes per annum, as measured over a period of three consecutive years.
- 7.05 This application is being applied for retrospectively as the applicant has been exceeding the three yearly average annual tonnage for some years (since 2011). The application has been submitted at the request of the Local Planning Authority in order to regularise this.

Site Description and Location

- 7.06 Pant y Pwll Dŵr Quarry is located 1km to the west of the settlement of Pentre Halkyn and 3km to the east of Babel. The A55 North Wales Expressway is located 1.5km to the east of the site, with access to this route from the quarry gained via local unclassified roads through Pentre Halklyn, linking to the B5123 and connecting to the A55 at the Springfield Interchange.
- 7.07 Due to the quarry’s proximity to the A55 trunk road it is considered to be an important strategic facility supplying limestone products to both the North Wales region and the North West of England.

Relevant Planning Constraints/Considerations

- 7.08 The extant planning permission reference 00/20/570 is a ‘deemed consent’ and therefore Condition No.17 was suggested by RMC; the quarry operator at that time. It is important to note that the Mineral Planning Authority did not impose this condition, or require a limit on output; it was offered by the applicant based on the operational output and capacity at that time, in the year 2000. Many quarries in Flintshire do not have a quarry output limit imposed as a condition as other conditions control the impacts of the quarry operations.
- 7.09 The Quarry site lies entirely within the Halkyn Common and Holywell Grasslands SSSI and adjacent to the Halkyn Mountain / Mynydd Helygain SAC. However, it is considered that the proposed application and increase in tonnage output would not give rise to a significant effect on the nearby SAC or SSSI.
- 7.10 Should planning permission be granted, as a new development consent would be issued, the Mineral Planning Authority has the ability to impose conditions that would meet the tests of Circular 11/95; ‘The use of conditions in planning permissions’. Furthermore, any new planning permission granted would effectively substitute the need for the review of conditions as required by the Environment Act 1995. This planning application provides the review mechanism to ensure that the planning conditions are up to date with current

guidance, would meet the tests of Circular 11/95, and fit for purpose. A new development consent would render the submission of a schedule of new conditions unnecessary.

Monitoring and Enforcement

- 7.11 Local residents have expressed concerns that the Mineral Planning Authority has allowed this breach of condition to occur, and have suggested that planning permission should not be granted retrospectively to allow the increase in exportation.
- 7.12 It was drawn to the Council's attention that the average three yearly output limit was being exceeded in December 2012 when the Council undertook a chargeable monitoring visit which monitors each condition of the planning consent. It had not become apparent until then due to the retrospective manner in which the condition operates. The Mineral Planning Authority discussed mechanisms to resolve this with the operators. The Quarry operators analysed their records to establish if the activity could be considered lawful under the provision of section 191 of the Town and Country Planning Act for established lawful use. It was apparent that this could not be demonstrated and the Mineral Planning Authority formally wrote to Cemex in January 2014 with regards to the continued breach of condition. It was accepted by the Mineral Planning Authority that Condition No. 17 does construe a degree of ambiguity, and it was noted that the Mineral Planning Authority was required to wait for the period to time to lapse (over three years) to establish whether it was expedient to enforce.
- 7.13 However, the Mineral Planning Authority considered that the most appropriate way forward was in the form of remedial regulatory action. As such, it was suggested that a Section 73 application be submitted by the operator to vary the condition. The Mineral Planning Authority therefore invited the quarry company to submit a planning application to regularise the situation and this planning application was submitted.

Issues

- 7.14 ***Principle of Development and suitability of location***
The principle of extracting limestone in this site has been deemed acceptable by virtue of the historical mineral working at the site which planning permission was first granted in 1948. Subsequent planning permissions were granted which provides evidence that mineral extraction at this site represents an appropriate and established land use for this site. Furthermore, mineral extraction can only take place where the mineral is found to occur. As stated previously, the quarry site is located close to strategic and regional road networks.
- 7.15 ***Need for aggregate***
Minerals Technical Advice Note 1: Aggregates states that it is

essential to the economic and social well-being of the country that the construction industry is provided with an adequate supply of the materials it needs but not to the unacceptable detriment of the environment or amenity. Due to its location, it is considered that Pant y Pwll Dŵr Quarry has a key strategic role in limestone product supply. The proposal does not seek any additional reserves. The permitted reserves at the site contribute to the County's landbank in which the figures within the Regional Technical Statement are based and the managed aggregate system in the Region.

7.16 ***Need to vary Condition No.17 and increase output limits***

Over recent years the quarry operator has been experiencing strong demand for the aggregate products produced by Pant y Pwll Dŵr Quarry. There are a number of local and national factors contributing to this situation including economic growth, a reduction in production capacity in Flintshire and north east Wales due to a number of limestone quarries in the region closing and put to restoration, or mothballed. Also, advances in HGV technology and legislation has resulted in larger vehicles being permitted to export material from the site and as a result, more material can be exported per HGV trip as payloads have increased.

7.17 As a result, the quarry operators have been unable to satisfy the demand for its products within the confines of the limits within condition No.17, although the extent to which production has exceeded the three year average of 800,000 tonnes per annum has only become wholly apparent during 2009-2011 given the retrospective manner in which the condition operates, when the three yearly average reached 813,793. Nevertheless, the condition has been breached since 2011. Since then, production from the site and exports have increased gradually with a peak in 2014, with a slight decline last year.

7.18 The applicant seeks to increase the limit on production from 800,000 tonnes per year, as an average measured over three preceding years to 1.2 million tonnes per annum, as measured over a three yearly average. With this proposed increased, it is not expected that sales of processed limestone would increase over and above that which has been achieved in the last three years, rather than annual sales would be more consistently reach 1.1 to 1.2 million tonnes per annum, each year, as opposed to wider variations in tonnage experienced in the past. As a consequence, it is not expected that HGV numbers, when compared to that experienced in the recent past, would increase as a result of the application. Number of movements currently experienced would become more consistent year on year. The analysis of HGV movement associated with this proposal will be explored in more detail in the following section.

7.19 ***Highways, Traffic, Transportation and Access***

An independent Transport Assessment to determine the likely impacts

of the proposal has been submitted to support the application. The assessment concluded that the proposed revised condition and increase in the output of the quarry would not result in a noticeable impact on operational, or environmental conditions on the local road network linking the quarry to the A55. As a result, it concluded that no local highway network improvement would be required to facilitate the development proposed.

- 7.20 A review of the historical weighbridge data for the quarry has demonstrated that annual payloads of export movements have increased over time. The move to higher payloads has effectively managed overall HGV demand by the site, by resulting in fewer vehicle movements per tonne. Essentially, whilst export levels have increased, larger vehicles have resulted in more materials being exported per load. Should export levels at the quarry be restricted to below market requirements, it would likely result in the need for a local level of demand to be satisfied by more remote facilities which could result in more HGV miles travelled for the transportation of limestone products.
- 7.21 The submitted Transport Assessment which supported the application, identified the existing road network operates within no existing capacity, congestion or safety issues. Export levels in excess of the current restriction have already occurred without any material impact on the operational safety of the local highway network. Nevertheless, concerns have been raised by local residents in relation to the increase in large HGVs that would result from the proposal.
- 7.22 Concerns have been made in relation to the lack of traffic calming measures. It is considered that the nature of the existing local highway network linking the site to the A55 already exhibits a number of natural traffic calming features which encourage appropriate driving conditions such as narrow road widths and steep inclines.
- 7.23 Local residents and Councillor Wright have suggested that a footpath should be provided to improve pedestrian safety. Until recently a footpath improvement scheme to provide a 2 metre wide footway from the Springfield Hotel to Greenlands on Pentre Road was included within the Council's Strategic Highway Improvement Schemes. However, as the route did not form part of the strategic highway network, in March 2016, the Council's Cabinet agreed to remove the scheme from the Scheme, as it has not been possible to implement any further elements of the scheme due to budgetary constraints and the lack of appropriate grant funding for schemes of this nature.
- 7.24 The evidence provided within the Transport Assessment includes safety records for this section of the highway network which highlights no quarry HGV related accident events within the past 10 years. A search of accident data reveals no significant history of incidents related to the previously high levels of traffic generated by the quarry.

It is therefore considered that there would be no requirement for additional traffic management features to support ongoing operation of the quarry under the proposed export threshold. Furthermore, there is insufficient width within the existing highway to deliver an appropriate scheme and this would therefore be reliant on land in third party ownership. Due to the topography of the land it would require major engineering works and retaining walls for it to be feasible, making a project such as this very costly. The Council could not require the quarry operator to construct a footway as there are no material grounds for requiring this.

- 7.25 Local residents have raised concerns in relation to vehicles 'wheel-spinning' at the junction with Springfield Hill (B5123) and Bryn Emlyn as HGVs are often required to stop at this junction before turning right. On occasions accelerating HGVs are finding a problem with low grip levels and resulting in wheel-spinning. As stated previously, there is no evidence to support the requirement for highways improvements or evidence of quarry related traffic causing undue wear and tear to the fabric of the highway. Furthermore, there are other HGVs on the road network which are not associated with the applicant's quarry. However, the wheel-spinning of vehicles has given rise to concerns raised by residents in relation to the noise disturbance that this causes, especially in the early hours of the morning before the quarry opens. Therefore, to try to reduce wheel-spinning and the associated noise concerns, the applicant has agreed to pay a commuted sum of £17,000 to the Council Council's Highways Department to undertake road re-surfacing with an anti-skid surface. It has been agreed that these works would be undertaken by the County Council, outside of the quarry's operational hours. The works would need to be completed within 12 months of the date of the legal agreement. The payment of the community sum would be secured by unilateral undertaking via Section 106 of the Town and Country Planning Act.
- 7.26 Local residents have also expressed concerns in relation to the increase in quarry HGVs causing damage to the cattle grids in the common. It has recently been reported that a fence adjacent to a cattle grid has been struck by a HGV. Whilst it is understood that the incident took place on a Sunday when Pant y Pwll Dŵr Quarry is closed, as a gesture of good will, the applicant is prepared to contribute a sum of £1,000 to repair the fence adjacent to the cattle grid. However, it should be noted that the applicant would not accept any ongoing maintenance liability or responsibility for the damage. As with the resurfacing works, the repairs must be completed within 12 months of the date of the legal agreement.
- 7.27 Local residents have suggested that the plans to construct a by-pass should be pursued so that the quarry vehicles would be diverted away from Pentre Halkyn. In 2007, the quarry operators submitted a Scoping Request to the Council for the construction of a by-pass. Unfortunately, this project is considered to be financially and

practically unviable at this present time. It would also involve third party land which the applicant does not have control over. It is considered that the proposal to increase the output at the quarry would be acceptable without the construction of a by-pass as there is sufficient capacity on the existing highway network.

- 7.28 Despite this increased output, the Transport Assessment identifies that this has not had a significant impact on the safe operation of the highway and that there were no recorded highway incidents involved quarry traffic. Furthermore, there have been no reports of exceptional maintenance issues caused by the passage of quarry traffic during this period. Whilst the exportation of limestone material has increased, payloads of HGVs transporting the material have also increased resulting in fewer vehicles per tonne exported. Furthermore, export level would not exceed that already experienced in recent years with no significant impact on the highway in terms of safety, incidents or maintenance.
- 7.29 Whilst the Council's Head of Assets and Transportation does not object to the proposed increase in output levels at the quarry, the imposition of a revised planning condition to control the number of vehicles leaving the quarry may prove to be more effective in managing the quarry output, and hence traffic on the highway. The retrospective manner in which the condition operates renders the monitoring and enforcing of this condition problematic. This has been demonstrated as it is not possible to ensure compliance or highlight a breach until three consecutive years have passed. It could be argued therefore that such condition, should it be imposed by the Mineral Planning Authority would not pass the tests set in circular 11/95, as it would not be enforceable and it is not precise. It does not provide the Mineral Planning Authority with any level of control. As stated previously, as the consent was 'deemed', the neither the Mineral Planning Authority nor the Highway Authority requested such a condition be imposed; it was offered by the applicant based on the operational output and capacity at that time in the year 2000.
- 7.30 The imposition of a revised planning condition to control actual vehicle numbers may prove to be more effective in managing the quarry output, and hence traffic on the highway. This would also provide the Mineral Planning Authority with a greater level of control. The current wording would allow for excessive levels of output in one year which may cause congestion and problems on the highway and unacceptable levels of dust and noise for example, but the condition would not be breached as long as the export levels in subsequent years were within the confines of the limits of the three yearly average. Furthermore, as stated previously this mechanism of control is not immediately effective and a period of time would have to pass to establish if there had been a breach of planning control. The planning application provides maximum daily vehicle movements in one day since 2009; the highest being 387 export vehicles in 2014. However

the current way in which the condition operates would allow for a much higher daily vehicle movement. Furthermore, the quarry has demonstrated that it can operate at this level without cause for concern in terms of highway safety or maintenance issues.

- 7.31 It is considered therefore, that it would be more effective and appropriate to remove Condition No.17 and replace it with a maximum daily vehicle number rather than revising the average output level. Having analysed the data submitted within the Transport Statement, and using the statistics provided by the Quarry associated with their previous export output rate and figures, it is considered reasonable to enforce a daily week day HGV limit of 600 HGV movements (300 in and 300 out) per week day, and restrict HGV movements to 300 (150 in and 150 out) on Saturdays with no HGV movements on Sundays or public/bank holidays. The condition would also state that in any 12 months period the quantity of processed limestone aggregate leaving the site shall not exceed 1.2 million tonnes.
- 7.32 This condition would be enforceable unlike the existing condition. It would provide the applicant with certainty and the Mineral Planning Authority with a condition that could be enforced, providing certainty for the local community. The Head of Assets and Transportation supports the change from a tonnage limit to a daily HGV limit.
- 7.33 Ysceifiog Community Council suggested that the recordings of vehicle movements should be introduced in order that communities impacted can be identified for future reference for such things as application into the Aggregate levy fund. The Quarry company do not as a matter of course record the routes of all vehicle exiting the site. However, there is a high level of certainty that the vast majority of quarry vehicles turn right of the tie site, and then travel to the A55. Only local deliveries would turn left out of the site. There is evidence within the planning application to support this assumption and any of the Community Councils could use this data to support Aggregates Levy applications to secure funds for community projects in the future.
- 7.34 On the basis of the evidence provided within the Transport Assessment and the information presented above, the Council's Head of Assets and Transportation does not object to the application. Vehicle movements would be controlled by condition, and additional works would be carried out on the local highway network which the applicant will provide a community sum. The application has demonstrated that an increase in export rates, and in-turn vehicle movements would not have a significant impact on the safe operation of the highway or cause any network capacity or maintenance concerns. As such, it is considered to comply with the provisions of GEN1, STR2, AC13 and AC14 of the adopted Flintshire Unitary Development Plan.

- 7.35 ***Residential Amenity; Noise, dust and blasting***
During the consultation residents have asked if the hours of operation at the quarry could be reviewed as part of the consideration of this planning application. Residents have stated that HGVs passing their homes in the early hours of the morning disturb their sleep, and have requested the Council to impose stricter opening hours. This has been proposed to the applicant but they have stated that this would have a substantial negative impact on their business. It would severely truncate their ability to service their market as many of their customers rely on product delivered at 07:00 hours, making a 06:00 hours start at the quarry imperative to allow for travel time. The quarry operator could not agree to such a restriction.
- 7.36 Should planning permission be granted, a new consent would be issued. Whilst the Mineral Planning Authority has the ability to impose any condition it sees fit, it would still have to pass the tests of Circular 11/95; 'The use of conditions in planning permissions'. The tests include that the condition has to be relevant to the development to be permitted, and also reasonable in all other respects. As the concerns raised are related to traffic on the highway disturbing sleep, as opposed to noise from the quarry or vehicles within the quarry, it would be difficult to defend a request to reduce working hours since a planning permission could not control vehicles on the public highway; any taxed vehicle could be legally using the highway at any time.
- 7.37 However, as stated previously, the applicant is willing to provide a commuted sum to provide an alternative road surface which would contribute to reducing the sound of vehicles wheel-spinning which could reduce disturbance levels.
- 7.38 Concerns have been raised in relation to the impact of increasing the tonnage output at the quarry as it is believed it would lead to an increase in dust, noise and blasting. The Council has received a number of complaints recently in relation to dust from the quarry which has caused the Mineral Planning Authority to write to them to address this breach of the existing condition in relation to dust. As a response to these concerns, the quarry operator has begun to implement a number of new dust mitigation techniques which include increasing the frequency of road sweeping on the local highway network, implementing an additional daily sweep and wash down of the quarry access road and at the end of the working day using a fixed brush and water bowser on the access road, and installing 'sleeping policemen' in the existing wheel wash to maximise the 'linger time' of HGVs passing through, thus improving the effectiveness.
- 7.39 Should planning permission be granted, an entirely new planning permission would be issued. As a result, this would provide the opportunity to revised and modernise if necessary the existing conditions to be in line with current planning guidance. It is proposed to address concerns in relation to dust, noise and blasting vibration to

require the applicant to submit compliance and monitoring action plans which would be reviewed annually to ensure compliance with conditions in terms of limitations, and to ensure that the operations are not causing a detrimental impact on the local environment and residents.

7.40 ***Environmental Assessment***

The application was screened negatively on 25 January 2016 in accordance with the provisions of the Environmental Impacts Assessment (England and Wales) Regulations 1999 (as amended). The Screening Opinion was been considered against the proposed change of the development which in effect would be an increase in output. It was considered that the proposal would not give rise to significant environmental effects and therefore would not require to be accompanied by an Environmental Statement.

8.00 CONCLUSION

- 8.01 Technically planning condition No.17 of the current planning permission for mineral extraction at Pant y Pwll Dŵr Quarry has been breached since 2011. However, evidence provided within the planning application and Transport Assessment concludes that whilst export limits have been exceeded, payloads have increased thus resulting in fewer vehicles per tonne exported. The increase in exportation levels has not resulted in a significant impact on the safe operation of the highway, and there were no recorded highway incidents involved quarry traffic. There have been no reports of exceptional maintenance issues caused by the passage of quarry traffic during this period.
- 8.02 In order to regularise this breach of tonnage output, the applicant has requested to increase the output figure from 800,000 tonnes per annum, measured over three consecutive years, to 1.2 million tonnes per annum, measured over three consecutive years.
- 8.03 However, it is considered that condition related to the output of the quarry, averaged over a three year period provides no control to the flow of traffic during a particular time. Furthermore, as the monitoring of this condition has demonstrated, it is not possible to ensure compliance or highlight a breach until three years have passed. It could be argued therefore that such condition, should it be imposed by the Mineral Planning Authority would not pass the tests set in circular 11/95, as it would not be enforceable and it is not precise. The imposition of a revised planning condition to control actual vehicle numbers would prove to be more effective in managing the quarry output and hence traffic on the highway.
- 8.04 It is therefore recommended that Condition No.17 be removed and replaced with a condition to control the number of vehicles entering

and leaving the site on a daily basis. It is recommended that the replacement conditions reads:

“The total number of daily HGV movements associated with the development hereby approved shall not exceed the following limits:

- 600 movements (300 in and 300 out) Monday to Friday
- 300 movements (150 in and 150 out) Saturdays

In any 12 month period the quantity of processed limestone aggregate leaving the site shall not exceed 1.2 million tonnes.”

- 8.05 Should planning permission be granted, as a new development consent would be issued, this would replace the need for the applicant to submit an application for the determination of new conditions. All other conditions related to the approved quarry development in which the operation is controlled would be reviewed and modernised to ensure that the Mineral Planning Authority has control on the operations for example in relation to dust, noise, vibration and blasting from the quarry.
- 8.06 It is considered that the proposed application and increase in daily vehicle movements would not give rise to a significant effect on the nearby SAC or SSSI
- 8.07 In determining this application, the Council has had regard to the Policies of the Development Plan, and regional and national policy, legislation and guidance. Subject to the imposition of conditions as listed above, there is no sustainable planning reason why planning permission should be refused. Accordingly, it is recommended that planning permission should be granted. The applicant has agreed to enter into a Unilateral Undertaking via Section 106 of the Town and Country Planning Act 1990 to provide a commuted sum for resurfacing works to provide an anti-skid surface to reduce the risk of wheel-spinning, and to provide funds to repair a fence adjacent to a cattle grid in Pentre Halkyn. The proposal would give rise to increased vehicle movements and the anti-skid resurfacing should address concerns in relation to wheel skidding and associated vehicle noise and disturbance when vehicles are turning right onto Bryn Emlyn. If the Section 106 Obligation (as outlined above) is not completed within 6 months of the date of the committee resolution, the Head of Planning be given delegated authority to REFUSE the application.

9.00 OTHER CONSIDERATIONS

The Council has had due regard to its duty under Section 17 of the Crime and Disorder Act 1998 and considered that there would be no significant or unacceptable increase in crime and disorder as a result of the recommended decision.

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.

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

The Council has had due regard to its duty under Section 3 of the Wellbeing of Future Generations (Wales) Act 2015 and considered that there would be no significant or unacceptable impact upon the achievement of wellbeing objectives as a result of the recommended decision.

LIST OF BACKGROUND DOCUMENTS

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

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FLINTSHIRE COUNTY COUNCIL

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

DATE: **20TH JULY 2016**

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

SUBJECT: **FULL APPLICATION – AMENDMENT TO PLANNING APPLICATION NO. 051727 TO INCLUDE ADDITIONAL 1 NO. APARTMENT TO BLOCK B, 12 NO. APARTMENTS TO BLOCK C, 5 NO. APARTMENTS TO BLOCK A (CHAPEL) AND A NEW BUILDING RESIDENTIAL BLOCK TO INCLUDE 27 NO. APARTMENTS, TO GIVE A TOTAL OF 89 RESIDENTIAL UNITS AT LLEUSTY HOSPITAL, OLD CHESTER ROAD, HOLYWELL.**

APPLICATION NUMBER: **055006**

APPLICANT: **KEHAR BUILDERS LTD**

SITE: **LLEUSTY HOSPITAL, OLD CHESTER ROAD, HOLYWELL.**

APPLICATION VALID DATE: **03.03.16**

LOCAL MEMBERS: **COUNCILLOR G ROBERTS**

TOWN/COMMUNITY COUNCIL: **HOLYWELL**

REASON FOR COMMITTEE: **SCALE OF DEVELOPMENT**

SITE VISIT: **NO**

1.00 SUMMARY

- 1.01 This is a full planning application with accompanying Listed Building Consent for residential development of 89 units at the former Llesty Hospital Old Chester Road Holywell. This application amends the previous consent for 47 units. The new application amends this application in the following ways;

- 1 additional apartment to Block B making a total of 3 (previously 2)
- 12 additional apartments to Block C the workhouse making a total of 33 (previously 21)
- 5 additional units in Block A the chapel (previously 1 dwelling to 6 apartments)
- A new build block of 27 apartments comprising 7 one bedroom units and 20 two bedroom units

1.02 This is a result of further viability and market testing of the consented scheme which demonstrated that the scheme was not financially viable due to the values that could be achieved for the type of units proposed in this location. The proposed scheme has therefore developed in liaison with local estate agents with the aim of creating a viable scheme in order to preserve the Listed Building and secure a future for it.

1.03 It is considered that the proposed scheme provides a scheme of conversion and new build which will provide a long term viable reuse of the Listed Buildings without significantly comprising the historic character of the Listed Buildings. The proposed scheme will also delivery a housing allocation in the UDP and will contribute to the housing land supply in a sustainable location.

2.00 RECOMMENDATION: ANY PLANNING PERMISSION SHOULD INCLUDE THE FOLLOWING CONDITIONS:-

- 2.01
1. Time commencement
 2. In accordance with plans
 3. Archaeological watching brief for early stages
 4. Photographic record of the site
 5. Details for the footway and junction works
 6. Completion of above works prior to occupation
 7. Details of siting, layout and design of the means of access
 8. Visibility splay of 2.4 x 43m
 9. Visibility splays to be kept free of obstruction
 10. Access gates shall open inwards only and positioned a minimum distance of 5.m from the edge of the carriageway
 11. Site investigation prior to commencement of new build
 12. Bat mitigation full details for licence
 13. Replacement nesting places for house martins and swifts
 14. Tree protection measures during construction and construction of hardsurfaces around trees to be in accordance with Tree Survey
 15. Surface water drainage
 16. Detailed scheme for play are on site
 17. Details of usage of land to the north for informal recreation to south east
 18. Pointing specification
 19. Windows, rooflights details and samples

20. Materials including glazing
21. Hard and soft landscaping details and implementation
22. Railings and gates
23. Cycle rack details
24. Sections
25. Foul drainage
26. Construction Traffic Management plan
27. Transport Implementation Strategy
28. Full Travel Plan
29. Details of private management company for roads
30. Bin storage details

3.00 CONSULTATIONS

3.01 Local Member

Councillor G Roberts

No preliminary views submitted.

Holywell Town Council

The Council, in maintaining its support of the principle of development on this site, believes it important for the planning position to be carefully managed to ensure the site is effectively and sympathetically developed.

The following are issues of concern having considered amendments to the application:

- **Potential overdevelopment** – the new application refers to accommodation well above the numbers originally proposed;
- **Impact on the area's character and appearance** – the proposed significant addition of one-bedroomed apartments/units to the development may be out-of-keeping with the other residential developments that surround the site, at for example Old Chester Road, Halkyn Road, Yr Aber and Y Milwr;
- **Car parking** – the provision of car parking spaces per unit would appear to be insufficient for the proposed new units figure for the development compared to the number of spaces allocated in the original proposal;
- **Traffic management** – potential traffic flow problems around the area of Old Chester Road, Brynford Hill and the path alongside Lluesty suggest that a review of traffic management is merited to consider a one-way arrangement;
- **Impact on water system/sewerage arrangements** – a full evaluation of capacity to accommodate new development is considered essential prior any planning approval.

Highways Development Control Manager

Amendments made to the submitted Transport Assessment have now addressed the issues raised regarding the increase in numbers. The proposed access details are similar to those in the previous planning consent and therefore similar conditions should be applied namely;

- Construction Traffic Management Plan
- Full Travel plan and Transport Implementation Strategy

Public Protection Manager

No objections in principle to this application, however, the site has an extensive historical use as a Work House and Hospital and there was also a gas works on site and there could also be asbestos present in the building fabric. In addition the site is in an area which includes an extensive lead mining history, therefore, there is considerable justification to believe that contamination could be present in all or part of the site. Additionally the proposed development which includes residential accommodation could be particularly vulnerable to the presence of contamination. No objections subject to the imposition of a conditions requiring a site investigation prior to the commencement of development of the new build.

Welsh Water/Dwr Cymru

No response received at time of writing.

4.00 PUBLICITY

4.01 Press Notice, Site Notice and Neighbour Notification

1 objection on the grounds of;

- Overdevelopment of the site
- Old Chester Road is narrow and unlit
- Traffic survey was not undertaken at peak traffic times

5.00 SITE HISTORY

5.01 051727 Residential development of 47no. units including part demolition of existing modern buildings, conversion of retained modern buildings into 8no. three bedroom town houses, conversion of listed buildings into 1no. four bedroom detached house (chapel) and 26no. apartments (8no. one bed and 18no. two bed) and erection of 12no. three bedroom terraced houses. Approved 14.08.14

051278 Listed Building Application - Residential development of 47no. units including part demolition of existing modern buildings, conversion of retained modern buildings into 8no. three bedroom town houses, conversion of listed buildings into 1no. four bedroom detached house (chapel) and 26no. apartments (8no. one bed and

18no. two bed) and erection of 12no. three bedroom terraced houses. Approved 14.08.14.

045131 Residential development (69 no. units) comprising the conversion of historic buildings (38 no. units) and the erection of new build dwellings (31 no. units). File closed 20.11.13

045133 LISTED BUILDING APPLICATION - Residential development (69 no. units) comprising the conversion of historic buildings (38 no. units) and the erection of new-build dwellings (31 no. units) File closed 20.11.1

6.00 PLANNING POLICIES

6.01 Flintshire Unitary Development Plan

STR1 - New Development

STR4 - Housing

STR8 - Built Environment

GEN1 - General Requirements for New Development

GEN2 - Development Inside Settlement Boundaries

D1 - Design Quality, Location and Layout

D2 - Design

D3 - Landscaping

TWH1 - Development Affecting Trees and Woodlands

WB1 - Species Protection

HE2 - Development Affecting Listed Buildings and their Settings

AC13 - Access and Traffic Impact

AC18 - Parking Provision and New Development

HSG1 - New Housing Development Proposals

HSG8 - Density of Development

HSG9 - Housing Mix and Type

HSG10 - Affordable Housing within Settlement Boundaries

SR5 - Outdoor Play Space and New Residential Development

EWP3 - Renewable Energy in New Development

The proposal accords with the above policies.

7.00 PLANNING APPRAISAL

7.01 Introduction

This is a full planning application and Listed Building Consent for residential development of 89 units at the former Lluesty Hospital Old Chester Road Holywell. This application amends the previous consent for 47 units "*Residential development of 47no. units including part demolition of existing modern buildings, conversion of retained modern buildings into 8no. three bedroom town houses, conversion of listed buildings into 1no. four bedroom detached house (chapel) and 26no. apartments (8no. one bed and 18no. two bed) and erection of 12no. three bedroom terraced houses*" which was approved under planning and Listed Building Consent references (051727) & (051728)

in August 2014.

- 7.02 The new application amends this application in the following ways;
- 1 additional apartment to Block B making a total of 3 (previously 2)
 - 12 additional apartments to Block C the workhouse making a total of 33 (previously 21)
 - 5 additional units in Block A the chapel (previously 1 dwelling to 6 apartments)
 - A new build block of 27 apartments comprising 7 one bedroom units and 20 two bedroom units

- 7.03 This is a result of further viability and market testing of the consented scheme which demonstrated that the scheme was not financially viable due to the values that could be achieved for the type of units proposed in this location. The proposed scheme has therefore developed in liaison with local estate agents with the aim of creating a viable scheme in order to preserve the Listed Building and secure a future for it.

7.04 Site Description

Lluesty Hospital is situated to the west of Holywell town centre and is elevated above the town. It was built as a workhouse and used more recently a community hospital. The workhouse itself and the adjacent chapel and entrance buildings are Grade 2 Listed. There are a number of more modern buildings in the grounds. The site also contains the former Infirmary building which is not part of the application site and in separate ownership. The site has been vacant since the hospital closed and has fallen into disrepair prior to purchase by the current owner. The site has sloping topography and is therefore a prominent site in terms of the setting of the town of Holywell.

- 7.05 The site is located to the west of Old Chester Road and is situated in a predominately residential area with Llys Emlyn Williams and the entrance to a residential development opposite the site. To the north is a further residential development with open land sloping upwards to the south west. To the east is the Old Infirmary building and beyond that a further residential development known as the Beeches. There is a petrol filling station on the other side of Old Chester Road and The Stamford Gate Public House off Halkyn Road to the east. The site is accessed from the south from the A5026 Halkyn Road off Old Chester Road. There is also a secondary access to the north of the site behind the former chapel off a minor road which leads to the B5121.

7.06 Proposed Development

This is a full planning application for residential use of the Lluesty Hospital site. This proposal amends principally the conversion scheme in the Listed buildings. The new build elements in the previous scheme in the form of the conversion and alterations to the 1960's

ward block to 8 three bedroom townhouses and the 12 new build three bedroom houses on land to the south west of the existing complex of buildings remain the same. This application adds a new build block adjacent to the 1960's ward block in the form of additional 27 apartments over three storeys. This is in place of a car parking area which has been redistributed around the site.

- 7.07 The scheme involves a mixture of conversion of the existing buildings and new build creating a mix of property types. It is proposed to convert the workhouse building into apartments; one bedroom and two bedroom. The two buildings on the site frontage would be converted to 1 one bedroom and 2 two bedroom apartments. The majority of the apartments are split over 1 and 2 levels. The new three storey apartment block is three storey with a slate roof and would have a stone clad elevation to complement the other buildings on site.
- 7.08 The new application amends this application in the following ways;
- 1 additional apartment to Block B making a total of 3 (previously 2) 1 one bed and 2 two bed
 - 12 additional apartments to Block C the workhouse making a total of 33 (previously 21) 1 one bed, 30 two bed, 1 three bed and 1 four bed
 - 5 additional units in Block A the chapel (previously 1 dwelling to 6 one bed apartments)
 - A new build block of 27 apartments comprising 7 one bedroom units and 20 two bedroom units
- 7.09 There are no significant external changes as a result of the changes to the way the building is converted. The amendments have tried to work with the current internal layout of the building to minimise any required alterations.
- 7.10 Access into the site would be via a one way system with an entrance off Old Chester Road at the western extent of the site and the exit from an existing access between two existing buildings. 6 units would be accessed off the existing Brynford Road access; 5 apartments and the chapel. The entrance to the site would have security gates and railings designed to an agreed specification to respect the Listed Building. New paths and footways are to be provided within the site. Bin stores and cycle stores are proposed in appropriate locations for each element of the residential scheme. Due to the location of the site within proximity of Holywell town centre one cycle rack has been provided for each bedroom on the site. The roads and footways on the site are to be privately maintained through a management company for the site as a whole. The existing pavement on Old Chester Road is to be extended to provide safe pedestrian refuge. 122 parking spaces are provided within the site for the proposed residential units in the form of driveways and parking courts.
- 7.11 The proposed scheme would utilise the existing foul drainage which

was used for the site's previous use. Surface water drainage will also utilise the existing system although site investigations have been undertaken for the use of soakaways on the site.

7.12 Issues

Principle of Development

The application site is allocated within the Flintshire Unitary Development Plan for residential development. The Council produced a Development and Conservation Brief for the site in 2006 to support the UDP residential allocation under policy HSG1. This set out which buildings the Council wanted to retain and which would be supported for demolition along with identifying areas for new development.

- 7.13 The site as a whole is allocated for 70 dwellings within policy HSG1 of the UDP. The site is within Holywell which is a Category A main town within the UDP. It is considered the proposed scheme concurs with the strategic aims the Council has for this site, respecting the character of the Listed Building while providing a new use in accordance with its residential allocation. While the number of dwellings is in excess of what was initially envisaged and is only for part of the site, it is not considered to be an issue in planning terms. The site is within a Category A settlement which is a focus for growth and is within walking distance of the town centre. It is also a previously developed site. The development therefore meets the aims of Planning Policy Wales and would make a significant contribution to the housing land supply. The number of units in itself is therefore not an issues as long as the parking requirements can be met and the scheme preserves the character of the Listed Building.

7.14 Impact on the historic environment

The historic buildings on the site vary in age and comprise; the former workhouse, which is a cruciform building of classical proportions completed in 1840 by John Welch; a chapel in the Gothic style by John Douglas of Chester completed in 1884 and a nursing home extension in a classical style with interior elements of art nouveau completed in 1902. There are two stone faced buildings dating from the mid Victorian period of a domestic scale on the north eastern frontage of the site facing Old Chester Road. During the 20th century a number of functional brick and concrete buildings and extensions were added to serve the hospital use of the site.

- 7.15 A Heritage Statement has been submitted with the application which describes the character of the buildings and their attributes along with the impacts of the proposal on them. The workhouse and the chapel were Grade II Listed by CADW in 1991 as "an especially good Classical example of a former workhouse building". It has the standard workhouse grid plan with separate courtyards for men and women with a linking central octagon. There may have been alterations in 1869 and it was enlarged to the right in 1902 with modern extensions during its hospital use.

- 7.16 It is proposed to demolish a number of the buildings and modern extensions. These are of little architectural merit and will assist in exposing parts of the Listed Buildings. The demolitions are therefore deemed to be acceptable. The proposed redevelopment aims to conserve historic features of the buildings and sympathetically replace missing features. Internally the building has been extensively modernised with internal partitioning and no significant features of historic or architectural significance remain. The internal layout aims to maintain the original character with the recording and preservation of any features of historic interest.
- 7.17 The proposed scheme aims to convert the buildings to a residential use to ensure the preservation of the buildings as heritage assets, without significantly affecting the exterior and preserving the workhouse's appearance. This is to be achieved by maintaining the historic quadrant, retaining the front wall and sloping grassed areas, retention of external chimneys and internal staircases and limiting the number of new door openings in the external fabric, closure of existing door openings creation of new window openings and closure of existing window openings. The open spaces in the quadrant areas will be resurfaced with the introduction of new formal planting along with discrete parking areas.
- 7.18 The scheme for the conversion of the chapel proposes its conversion into 6 one bedroom units with the insertion of a floor within the building to provide 6 apartments over two floors. As this is a large building it is considered that the approved scheme converting the chapel into 1 dwelling creates a unit which is too large in terms of the market demand in this area and it does not have any private amenity space which would be expected with a 4 bedroom unit. The Victorian Society have expressed concerns about the increase in units in this building however, although there is an increase in the number of apartments within the building the impact on the external appearance of the building does not change from the consented scheme. The only changes being the insertion of roof lights in the roof of the building. It is therefore considered that current proposed option of converting the scheme into 6 units is acceptable in terms of the impact on the Listed building and achieving a viable use.
- 7.19 The workhouse building is an imposing structure and is three and four storey in places. Behind the workhouse the site slopes upwards with a significant change in levels. The retention of the ward block and its reuse assists in providing a transition between the different areas of the site and the new build properties on the elevated ground. The proposed apartment block provides an additional 27 apartments follows on this form of development providing a form of development which assists in this visual transition. The height of the block and the design has been amended during the course of the application to reduce the height of the building and to create a more simpler design

which will be clad in stone, instead of the initial more modern glazing and panel clad design to be more in keeping with the character of the workhouse and its surroundings.

7.20 Highways and Parking

The site would have historically had significant traffic generation associated with its use as a hospital. As the proposed scheme increase the consented units to 89 which is over and above the number considered when the site was allocated a Transport Statement was requested. This was undertaken by SCP Transportation Planning. Amendments to this were made during the course of the application following discussions with highways.

7.21 Due to the presence of Listed Buildings on the site and the desire to retain them this has implications for what can be achieved in terms of the internal road layout and any external highway improvements. Due to the topography of the site and the location of the buildings the proposed layout of the internal access roads does not conform to the requirements for adoptable public highway, therefore these would remain in private ownership. A condition has been added to require the details of the management company to be submitted to ensure that maintenance is provided.

7.22 It is proposed to provide a new length of footway along the frontage between blocks A and E and to change the roundabout junction at the entrance to Yr Aber to a T junction. Provision of the footway will enable the existing road junction (adjacent to block A) to be modified resulting in significant improvements to visibility. This can be provided through a 278 agreement.

7.23 The existing wall fronting the site severely restricts the visibility of drivers existing the main access. It is therefore proposed to use this as an entrance only, with the exit via an existing access located between Blocks E and D. Visibility from this exit is restricted but can be improved to an appropriate 2.4 x 43m. It is proposed to improve visibility from the existing access point (adjacent to Block A) by setting back the wall which achieves a visibility splay of 2.4 x 43m. There is no objection to the use of Brynford Road for the limited number of units.

7.24 122 parking spaces are proposed. Given the location of the site and the sustainable travel measures proposed this is considered to be acceptable and in accordance with Policy AC18. A condition requiring the submission of a Travel Plan and Transport Implementation Strategy have been imposed to ensure that these measures are put in place.

7.25 Impact on the natural environment

A Phase 1 Ecological Survey has been undertaken as part of the previous application submission. The area immediately around the

buildings is hardstanding with some areas of amenity grass and borders with shrubs. The site is bounded by a line of mature trees, bushes and vegetation from the south eastern corner around the southern boundary and along the western edge of the site to its north west corner. A number of mammal pathways were observed during the site survey. There was no conclusive evidence of badgers on the site. The site proposed for the new build development is generally of moderate ecological value. The retention and protection of the mature and semi-mature trees and enhancement of the hedgerows as key boundary features are important in terms of maintaining connective features of the site and screening of the development. Evidence of swifts has also been noted on the site and replacement roosts should be provided.

7.26 A bat survey was undertaken in August 2013. The report confirms the presence of bats within buildings on the site. No outstanding habitats present but the report considers that they may provide foraging areas for bats and be important for flight lines. The emergence surveys one dusk and one dawn, concentrated on the northern section of the site which confirmed the presence of small roosts of Pipistrelle and Brown Long Eared Bats. In addition a single Lesser Horseshoe bat was picked up within the loft space within a building. As the loft space of the workhouse is not being converted, this will form the basis of the mitigation strategy.

7.27 Bats are a European Protected Species under the Conservation and Species Regulations 2010 (as amended). European protected animal species and their breeding sites or resting places are protected. It is an offence to damage or destroy a breeding or resting place of such an animal. A licence will be required to undertake the development works and to provide the mitigation. The three tests under the regulations need to be demonstrated before a licence is granted.

(1) Regulation 53(2)(e) states: a licence can be granted for the purposes of “preserving public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment”. In this case the development works are for the preservation of a Listed Building which will also involve making the building safe in terms of public safety and preserving it for future generations in the public interest. There will also be social and economic benefits in terms of construction jobs created and the creation of a variety of housing types.

(2) Regulation 53(9)(a) states: the appropriate authority shall not grant a licence unless they are satisfied “that there is no satisfactory alternative”. The application site is a residential allocation within the Unitary Development Plan. Alternatives to providing residential development within Holywell have been

considered through the development plan process in allocation the site. There is also the requirement under other legislation to protect Listed Buildings and works are required to the building to prevent further deterioration.

- (3) Regulation 53(9)(b) states: the appropriate authority shall not grant a licence unless they are satisfied “that the action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range.” The Listed Building is deteriorating due to vandalism and exposure to the elements. The suitability of the building as a resting place for bats is therefore also declining. The restoration of the building and mitigation in the form of retention and repair to the roof space will provide a betterment and therefore improve the favourable conservation status of the bat.

7.28 A Tree Survey was undertaken in September 2013 in accordance with BS5837. None of the trees on site are covered by a Tree Preservation Order. The tree cover on the site is principally peripheral. This assessed the condition of the trees on the site and whether they were worthy of retention or required removal. The report recommends tree protection measures are undertaken to avoid damage to the retained trees during construction. These can be conditioned. A landscaping scheme has been drawn up for the whole site.

7.29 S106 contributions

Prior to the submission of the previous application the applicants submitted a financial assessment which was assessed by the District Valuer in December 2013. This included a breakdown of construction costs, purchase price of the site and estimated sales values of the properties to determine the profit to be made. The District Valuer concluded any financial contributions towards S106 requirements would not make the scheme viable. In his opinion he considered the scheme was not viable without such payments due to the current market conditions.

7.30 The proposed development was revised due to the viability issues and amendments made to the scheme which are the subject of this application. A financial assessment was requested and undertaken for this scheme. This concludes that this scheme is viable financially and would produce a small profit percentage for the developer. If any contributions were therefore required for example in respect of affordable housing then this would sway the balance in terms of whether a developer would be willing to invest in the site. The main aim of developing this site is to see the reuse of the Listed Buildings which is predominately a conversion scheme with some elements of new build. Conversion scheme particularly of Listed Buildings will inevitably have higher build costs than a conventionally development.

7.31 Open Space

Local Planning Guidance Note 13 requires developments for 25 dwellings or more to provide the minimum of 56.65 square metres of open space per dwelling. In this instance due to the nature of the site and the limited amount of open land this is not achievable. The developer has offered to put forward the sloping land to the south east of the development site as use for residents for informal recreation. This is suitable for dog walking and free play but not for any formal sports. Provision will also be made on site for a small formal play area for young children. It is considered that this provides adequate play provision and recreation opportunities for site residents.

7.32 Affordable Housing

The Council's starting point for affordable housing in accordance with policy HSG10 for allocated sites within settlement boundaries. This site raises different issues to 'normal' greenfield development sites. A significant portion of this site is the conversion of Listed Buildings which has higher cost implications in terms of the work necessary and the level of detail involved. The new build development therefore assists in funding these elements. Any provision of affordable housing is deemed to be un-viable by the developer. However it is considered that as the development would provide a mix of housing types with a significant number of one and two bedroom apartments, by virtue of the housing market in this area these would be affordable by nature. It is therefore considered that in order to achieve a scheme for the restoration of the Listed Building in light of these overriding special circumstances that no affordable housing is requested.

7.33 Education

Members will be aware of the Council's proposals for the new Holywell School project (051719) which encompasses infant, junior and secondary school provision in one new purpose built building. This scheme is under construction with its opening scheduled for September 2016. This makes provision for 315 Primary school places (infants and juniors) and 600 Secondary School places. It is therefore not considered that it is reasonable to ask for a contribution towards education provision in this instance as the situation in the current schools is not reflective of the new provision provided.

8.00 CONCLUSION

8.01 It is considered that the proposed scheme provides a scheme of conversion and new build which will provide a long term viable reuse of the Listed Buildings without significantly comprising the historic character of the Listed Buildings. The proposed scheme will also deliver a housing allocation in the UDP and will contribute to the housing land supply in a sustainable location.

8.02 Other Considerations

The Council has had due regard to its duty under Section 17 of the

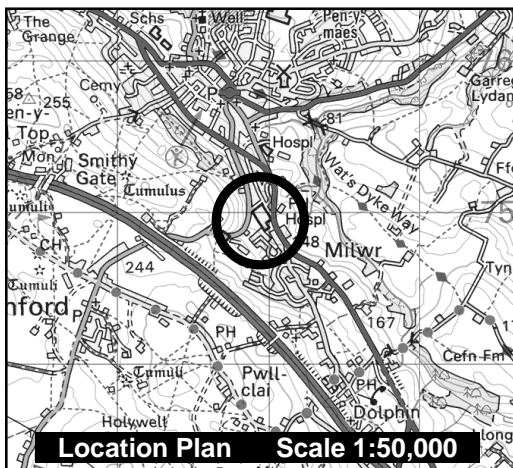
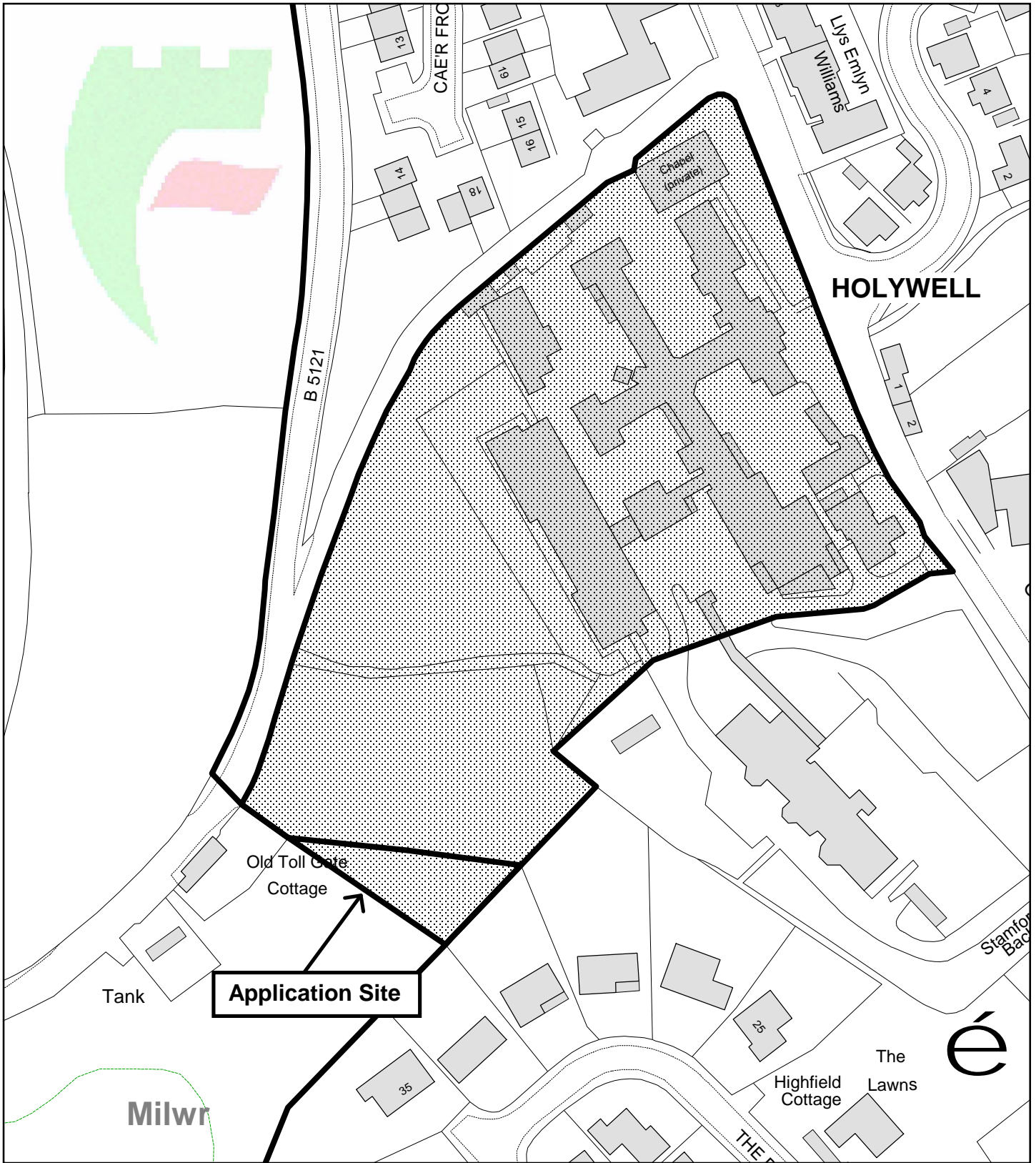
Crime and Disorder Act 1998 and considered that there would be no significant or unacceptable increase in crime and disorder as a result of the recommended decision.

- 8.03 The Council has acted in accordance with the Human Rights Act 1998 including Article 8 of the Convention and in a manner which is necessary in a democratic society in furtherance of the legitimate aims of the Act and the Convention.
- 8.04 The Council has had due regard to its public sector equality duty under the Equality Act 2010.
- 8.05 The Council has had due regard to its duty under Section 3 of the Wellbeing of Future Generations (Wales) Act 2015 and considered that there would be no significant or unacceptable impact upon the achievement of wellbeing objectives as a result of the recommended decision.

LIST OF BACKGROUND DOCUMENTS

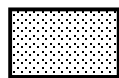
Planning Application & Supporting Documents
National & Local Planning Policy
Responses to Consultation
Responses to Publicity

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



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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 Flintshire County Council, 2016.

Map Scale 1:1250

OS Map ref SJ 1874

Planning Application **55006**

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FLINTSHIRE COUNTY COUNCIL

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

DATE: **20TH JULY 2016**

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

SUBJECT: **LISTED BUILDING APPLICATION FOR AMENDMENTS TO LISTED BUILDING CONSENT 051728 TO INCLUDE ADDITIONAL 1 NO. APARTMENT TO BLOCK B, 12 NO. APARTMENTS TO BLOCK C, 5 NO. APARTMENTS TO BLOCK A (CHAPEL) AND A NEW BUILDING RESIDENTIAL BLOCK TO INCLUDE 27 NO. APARTMENTS, TO GIVE A TOTAL OF 89 RESIDENTIAL UNITS AT LLEUSTY HOSPITAL, OLD CHESTER ROAD, HOLYWELL.**

APPLICATION NUMBER: **055008**

APPLICANT: **KEHAR BUILDERS LTD**

SITE: **LLUESTY HOSPITAL, OLD CHESTER ROAD, HOLYWELL**

APPLICATION VALID DATE: **03.03.16**

LOCAL MEMBERS: **COUNCILLOR G ROBERTS**

TOWN/COMMUNITY COUNCIL: **HOLYWELL**

REASON FOR COMMITTEE: **SCALE OF DEVELOPMENT**

SITE VISIT: **NO**

1.00 SUMMARY

- 1.01 This is a Listed Building Consent and accompanying full planning application with residential development for 89 units at the former Llesty Hospital Old Chester Road Holywell. This application amends the previous consent for 47 units. The new application

amends this application in the following ways;

- 1 additional apartment to Block B making a total of 3 (previously 2)
- 12 additional apartments to Block C the workhouse making a total of 33 (previously 21)
- 5 additional units in Block A the chapel (previously 1 dwelling to 6 apartments)
- A new build block of 27 apartments comprising 7 one bedroom units and 20 two bedroom units

1.02 This is a result of further viability and market testing of the consented scheme which demonstrated that the scheme was not financially viable due to the values that could be achieved for the type of units proposed in this location. The proposed scheme has therefore developed in liaison with local estate agents with the aim of creating a viable scheme in order to preserve the Listed Building and secure a future for it.

1.03 It is considered that the proposed development provides a scheme of conversion and new build which will provide a long term viable reuse of the Listed Buildings without significantly comprising the historic character of the Listed Buildings.

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

2.01 RECOMMENDATION: TO GRANT LISTED BUILDING CONSENT, SUBJECT TO REFERRAL TO CADW. ANY LISTED BUILDING CONSENT SHOULD INCLUDE THE FOLLOWING CONDITIONS:-

1. Time commencement
2. In accordance with plans
3. Archaeological watching brief for early stages
4. Photographic record of the site
5. Replacement nesting places for house martins and swifts
6. Pointing specification
7. Windows, rooflights details and samples
8. Materials including glazing
9. Hard and soft landscaping details and implementation
10. Railings and gates
11. Cycle rack details
12. Sections
13. Bin storage details

3.00 CONSULTATIONS

3.01 Local Member
Councillor G Roberts

No preliminary views submitted.

Holywell Town Council

The Council, in maintaining its support of the principle of development on this site, believes it important for the planning position to be carefully managed to ensure the site is effectively and sympathetically developed.

The following are issues of concern having considered amendments to the application:

- **Potential overdevelopment** – the new application refers to accommodation well above the numbers originally proposed;
- **Impact on the area's character and appearance** – the proposed significant addition of one-bedroomed apartments/units to the development may be out-of-keeping with the other residential developments that surround the site, at for example Old Chester Road, Halkyn Road, Yr Aber and Y Milwr;
- **Car parking** – the provision of car parking spaces per unit would appear to be insufficient for the proposed new units figure for the development compared to the number of spaces allocated in the original proposal;
- **Traffic management** – potential traffic flow problems around the area of Old Chester Road, Brynford Hill and the path alongside Lluesty suggest that a review of traffic management is merited to consider a one-way arrangement;
- **Impact on water system/sewerage arrangements** – a full evaluation of capacity to accommodate new development is considered essential prior any planning approval.

Victorian Society

Object due to;

- the increase in density of the number of units which would harm the special interest of the Listed buildings
- the additional five units proposed within the Douglas chapel. It is one of the most important structures and spaces on the site and its over-intensive and harmful subdivision must be avoided.
- Additional flats within Blocks B and C would further erode their legibility and historic character and should be avoided.

Ancient Monuments Society

No response received.

The Georgian Group

No response received.

Royal Commission for Ancient Historic Monuments
No response received.

Society for the Protection of Ancient Buildings
No response received.

4.00 PUBLICITY

4.01 Press Notice, Site Notice and Neighbour Notification
None.

5.00 SITE HISTORY

5.01 051727 Residential development of 47no. units including part demolition of existing modern buildings, conversion of retained modern buildings into 8no. three bedroom town houses, conversion of listed buildings into 1no. four bedroom detached house (chapel) and 26no. apartments (8no. one bed and 18no. two bed) and erection of 12no. three bedroom terraced houses. Approved 14.08.14

051278 Listed Building Application - Residential development of 47no. units including part demolition of existing modern buildings, conversion of retained modern buildings into 8no. three bedroom town houses, conversion of listed buildings into 1no. four bedroom detached house (chapel) and 26no. apartments (8no. one bed and 18no. two bed) and erection of 12no. three bedroom terraced houses. Approved 14.08.14.

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045133 LISTED BUILDING APPLICATION - Residential development (69 no. units) comprising the conversion of historic buildings (38 no. units) and the erection of new-build dwellings (31 no. units) File closed 20.11.1

6.00 PLANNING POLICIES

6.01 Flintshire Unitary Development Plan
STR1 - New Development
STR4 - Housing
STR8 - Built Environment
GEN1 - General Requirements for New Development
GEN2 - Development Inside Settlement Boundaries
D1 - Design Quality, Location and Layout
D2 - Design
D3 - Landscaping

HE2 - Development Affecting Listed Buildings and their Settings
HSG1 - New Housing Development Proposals
HSG8 - Density of Development

The proposal accords with the above policies.

7.00 PLANNING APPRAISAL

7.01 Introduction

This is a Listed Building Consent and accompanying full planning application with residential development for 89 units at the former Lluesty Hospital Old Chester Road Holywell. This application amends the previous consent for 47 units "*Residential development of 47no. units including part demolition of existing modern buildings, conversion of retained modern buildings into 8no. three bedroom town houses, conversion of listed buildings into 1no. four bedroom detached house (chapel) and 26no. apartments (8no. one bed and 18no. two bed) and erection of 12no. three bedroom terraced houses*" which was approved under planning and Listed Building Consent references (051727) & (051728) in August 2014.

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7.03 This is a result of further viability and market testing of the consented scheme which demonstrated that the scheme was not financially viable due to the values that could be achieved for the type of units proposed in this location. The proposed scheme has therefore developed in liaison with local estate agents with the aim of creating a viable scheme in order to preserve the Listed Building and secure a future for it.

7.04 Site Description

Lluesty Hospital is situated to the west of Holywell town centre and is elevated above the town. It was built as a workhouse and used more recently a community hospital. The workhouse itself and the adjacent chapel and entrance buildings are Grade 2 Listed. There are a number of more modern buildings in the grounds. The site also contains the former Infirmary building which is not part of the application site and in separate ownership. The site has been vacant since the hospital closed and has fallen into disrepair prior to purchase by the current owner. The site has sloping topography and

is therefore a prominent site in terms of the setting of the town of Holywell.

7.05 The site is located to the west of Old Chester Road and is situated in a predominately residential area with Llys Emlyn Williams and the entrance to a residential development opposite the site. To the north is a further residential development with open land sloping upwards to the south west. To the east is the Old Infirmary building and beyond that a further residential development known as the Beeches. There is a petrol filling station on the other side of Old Chester Road and The Stamford Gate Public House off Halkyn Road to the east. The site is accessed from the south from the A5026 Halkyn Road off Old Chester Road. There is also a secondary access to the north of the site behind the former chapel off a minor road which leads to the B5121.

7.06 Proposed Development

This is an application for Listed Building Consent and accompanying full planning application for residential use of the Lluesty Hospital site. This proposal amends principally the conversion scheme in the Listed buildings. The new build elements in the previous scheme in the form of the conversion and alterations to the 1960's ward block to 8 three bedroom townhouses and the 12 new build three bedroom houses on land to the south west of the existing complex of buildings remain the same. This application adds a new build block adjacent to the 1960's ward block in the form of additional 27 apartments over three storeys. This is in place of a car parking area which has been redistributed around the site.

7.07 The scheme involves a mixture of conversion of the existing buildings and new build creating a mix of property types. It is proposed to convert the workhouse building into apartments; one bedroom and two bedroom. The two buildings on the site frontage would be converted to 1 one bedroom and 2 two bedroom apartments. The majority of the apartments are split over 1 and 2 levels. The new three storey apartment block is three storey with a slate roof and would have a stone clad elevation to complement the other buildings on site.

7.08 The new application amends this application in the following ways;

- 1 additional apartment to Block B making a total of 3 (previously 2) 1 one bed and 2 two bed
- 12 additional apartments to Block C the workhouse making a total of 33 (previously 21) 1 one bed, 30 two bed, 1 three bed and 1 four bed
- 5 additional units in Block A the chapel (previously 1 dwelling to 6 one bed apartments)
- A new build block of 27 apartments comprising 7 one bedroom units and 20 two bedroom units

7.09 There are no significant external changes as a result of the changes to the way the building is converted. The amendments have tried to

work with the current internal layout of the building to minimise any required alterations.

- 7.10 Access into the site would be via a one way system with an entrance off Old Chester Road at the western extent of the site and the exit from an existing access between two existing buildings. 6 units would be accessed off the existing Brynford Road access; 5 apartments and the chapel. The entrance to the site would have security gates and railings designed to an agreed specification to respect the Listed Building. New paths and footways are to be provided within the site. Bin stores and cycle stores are proposed in appropriate locations for each element of the residential scheme. Due to the location of the site within proximity of Holywell town centre one cycle rack has been provided for each bedroom on the site. The roads and footways on the site are to be privately maintained through a management company for the site as a whole. The existing pavement on Old Chester Road is to be extended to provide safe pedestrian refuge. 122 parking spaces are provided within the site for the proposed residential units in the form of driveways and parking courts.

7.11 Issues

The application site is allocated within the Flintshire Unitary Development Plan for residential development. The Council produced a Development and Conservation Brief for the site in 2006 to support the UDP residential allocation under policy HSG1. This set out which buildings the Council wanted to retain and which would be supported for demolition along with identifying areas for new development. The site as a whole is allocated for 70 dwellings within policy HSG1 of the UDP.

- 7.12 The site is within Holywell which is a Category A main town within the UDP. It is considered the proposed scheme concurs with the strategic aims the Council has for this site, respecting the character of the Listed Building while providing a new use in accordance with its residential allocation. While the number of dwellings is in excess of what was initially envisaged and is only for part of the site, it is not considered to be an issue in planning terms. The site is within a Category A settlement which is a focus for growth and is within walking distance of the town centre. It is also a previously developed site. The development therefore meets the aims of Planning Policy Wales. The number of units in itself is therefore not an issue as long as the parking requirements can be met and the scheme preserves the character of the Listed Building.

7.13 Impact on the historic environment

The historic buildings on the site vary in age and comprise; the former workhouse, which is a cruciform building of classical proportions completed in 1840 by John Welch; a chapel in the Gothic style by John Douglas of Chester completed in 1884 and a nursing home extension in a classical style with interior elements of art nouveau

completed in 1902. There are two stone faced buildings dating from the mid Victorian period of a domestic scale on the north eastern frontage of the site facing Old Chester Road. During the 20th century a number of functional brick and concrete buildings and extensions were added to serve the hospital use of the site.

- 7.14 A Heritage Statement has been submitted with the application which describes the character of the buildings and their attributes along with the impacts of the proposal on them. The workhouse and the chapel were Grade II Listed by CADW in 1991 as “an especially good Classical example of a former workhouse building”. It has the standard workhouse grid plan with separate courtyards for men and women with a linking central octagon. There may have been alterations in 1869 and it was enlarged to the right in 1902 with modern extensions during its hospital use.
- 7.15 It is proposed to demolish a number of the buildings and modern extensions. These are of little architectural merit and will assist in exposing parts of the Listed Buildings. The demolitions are therefore deemed to be acceptable. The proposed redevelopment aims to conserve historic features of the buildings and sympathetically replace missing features. Internally the building has been extensively modernised with internal partitioning and no significant features of historic or architectural significance remain. The internal layout aims to maintain the original character with the recording and preservation of any features of historic interest.
- 7.16 The proposed scheme aims to convert the buildings to a residential use to ensure the preservation of the buildings as heritage assets, without significantly affecting the exterior and preserving the workhouse’s appearance. This is to be achieved by maintaining the historic quadrant, retaining the front wall and sloping grassed areas, retention of external chimneys and internal staircases and limiting the number of new door openings in the external fabric, closure of existing door openings creation of new window openings and closure of existing window openings. The open spaces in the quadrant areas will be resurfaced with the introduction of new formal planting along with discrete parking areas. The conversion scheme aims to minimise intrusion into the historic fabric of the building and it is considered that this has been achieved with the increase in numbers without compromising the character of the building.
- 7.17 The scheme for the conversion of the chapel proposes its conversion into 6 one bedroom units with the insertion of a floor within the building to provide 6 apartments over two floors. As this is a large building it is considered that the approved scheme converting the chapel into 1 dwelling creates a unit which is too large in terms of the market demand in this area and it does not have any private amenity space which would be expected with a 4 bedroom unit. The Victorian Society have expressed concerns about the increase in units in this

building however, although there is an increase in the number of apartments within the building the impact on the external appearance of the building does not change from the consented scheme. The only changes being the insertion of roof lights in the roof of the building. It is therefore considered that current proposed option of converting the scheme into 6 units is acceptable in terms of the impact on the Listed building and achieving a viable use.

- 7.18 The workhouse building is an imposing structure and is three and four storey in places. Behind the workhouse the site slopes upwards with a significant change in levels. The retention of the ward block and its reuse assists in providing a transition between the different areas of the site and the new build properties on the elevated ground. The proposed apartment block provides an additional 27 apartments follows on this form of development providing a form of development which assists in this visual transition. The height of the block and the design has been amended during the course of the application to reduce the height of the building and to create a more simpler design which will be clad in stone, instead of the initial more modern glazing and panel clad design to be more in keeping with the character of the workhouse and its surroundings.

8.00 CONCLUSION

- 8.01 It is considered that the proposed development provides a scheme of conversion and new build which will provide a long term viable reuse of the Listed Buildings without significantly comprising the historic character of the Listed Buildings.

8.02 Other Considerations

- The Council has had due regard to its duty under Section 17 of the Crime and Disorder Act 1998 and considered that there would be no significant or unacceptable increase in crime and disorder as a result of the recommended decision.
- 8.03 The Council has acted in accordance with the Human Rights Act 1998 including Article 8 of the Convention and in a manner which is necessary in a democratic society in furtherance of the legitimate aims of the Act and the Convention.
- 8.04 The Council has had due regard to its public sector equality duty under the Equality Act 2010.
- 8.05 The Council has had due regard to its duty under Section 3 of the Wellbeing of Future Generations (Wales) Act 2015 and considered that there would be no significant or unacceptable impact upon the achievement of wellbeing objectives as a result of the recommended decision.

LIST OF BACKGROUND DOCUMENTS

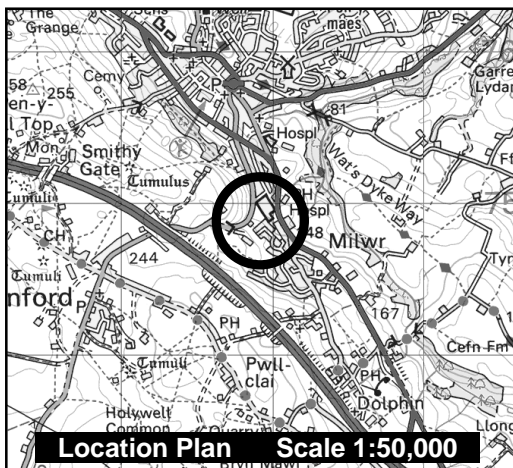
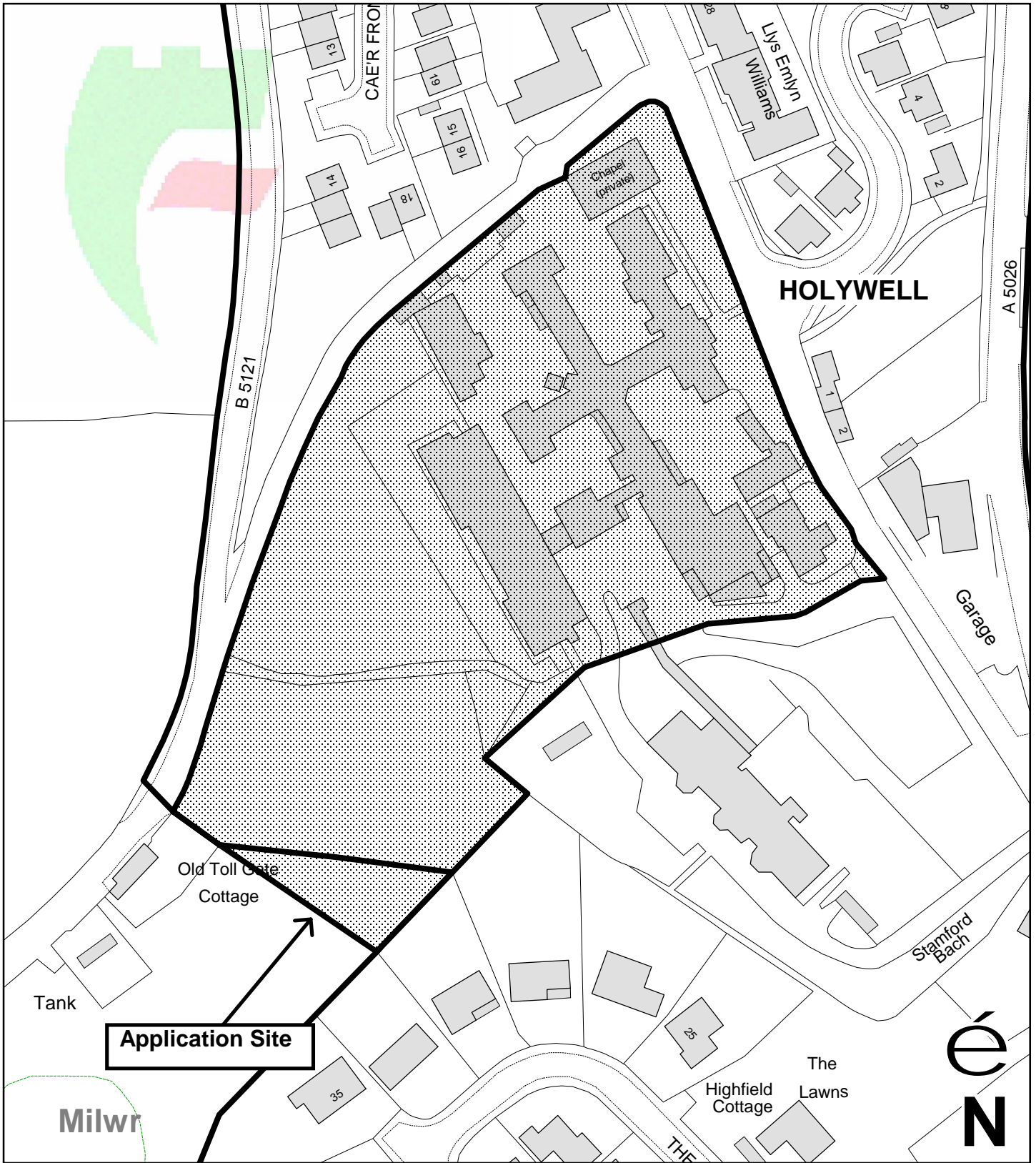
Planning Application & Supporting Documents

National & Local Planning Policy

Responses to Consultation

Responses to Publicity

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



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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Flintshire County Council, 2016.

Map Scale 1:1250

OS Map ref SJ 1875

Planning Application **55008**

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FLINTSHIRE COUNTY COUNCIL

REPORT TO: PLANNING AND DEVELOPMENT CONTROL COMMITTEE

DATE: 20TH JULY 2016

REPORT BY: CHIEF OFFICER (PLANNING AND ENVIRONMENT)

SUBJECT: FULL APPLICATION - USE OF LAND FOR THE ERECTION OF A SOLAR PHOTOVOLTAIC ARRAY INCLUDING METERING AND INVERTER KIOSKS, SECURITY CAMERAS, FENCING AND GATES, TEMPORARY CONSTRUCTION COMPOUND AND ACCES TRACK AT CELYN FARM, STRYT CAE RHEDYN, LEESWOOD

APPLICATION NUMBER: 054041

APPLICANT: EARTHWORM ENERGY PLC LTD

SITE: LAND AT "CELYN FARM", STRYT-CAE-RHEDYN, LEESWOOD, FLINTSHIRE.

APPLICATION VALID DATE: 29TH OCTOBER 2015

LOCAL MEMBERS: COUNCILLOR R. HUGHES

TOWN/COMMUNITY COUNCIL: LEESWOOD COMMUNITY COUNCIL

REASON FOR COMMITTEE: THE SIZE OF THE APPLICATION SITE EXCEEDS THAT FOR WHICH DETERMINATION POWERS ARE DELEGATED TO THE CHIEF OFFICER (PLANNING AND ENVIRONMENT)

SITE VISIT: YES

1.00 SUMMARY

- 1.01 The proposal is a full planning application for a 5MW photovoltaic solar farm and ancillary works on agricultural land at Celyn Farm, Stryt-Cae-Rhedyn, Leeswood. The site extends to 10.4 hectares.

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

2.01 That planning permission be granted subject to the following conditions:

1. Commencement of development within 2 years
2. Carried out in accordance with the submitted details
3. No generation of electricity hereby permitted shall take place after 25 years from the date on which electricity is first transmitted from the site, nor after electricity ceases to be generated for a continuous period of 6 months, whichever is the earlier.
4. No generation of electricity hereby permitted shall take place unless a monthly record is kept by the site operator of the amount of electricity generated that month; and that record shall be made available for inspection by the local planning authority
5. When electricity ceases as per the requirements of any of the circumstances in condition 3, within 12 months all plant/machinery/development to be removed and land restored to its pre-development condition in accordance with a scheme to be submitted to be agreed in writing with the Local Planning Authority prior to such works being undertaken.
6. No land drainage run-off into the public sewerage system
7. No surface water to connect to the public sewerage system
8. Foul and surface water drainage drained separately from site
9. No part of the solar panel or associated structure shall be higher than 2.4 metres above existing ground level
10. Full details of both hard and soft landscaping works, including materials to be submitted to and approved by the Local Planning Authority.
11. Prior to commencement of development, a scheme providing a detailed GCN method statement, which includes a scheme for reasonable avoidance measures for great crested newts, mitigation and compensation including a bio-security risk assessment and an ecological compliance audit. The agreed details shall also be used to support an application for a Regulation 53 ((1) e) derogation licence by NRW which demonstrates how the Great Crested Newt population will be protected and any impact properly mitigated, and implemented thereafter. All activities undertaken on site shall be strictly in accordance with those details unless otherwise agreed in writing by the Local Planning Authority.
12. External lighting scheme to be submitted and agreed.
13. Bird Hazard management plan to be submitted and agreed.
14. Implementation of landscaping scheme.
15. Development to undertaken in strict accordance with Coal Mining Risk Assessment Report and mitigation strategy.
16. Navigational aids impact assessment to be submitted and agreed.

17. Construction Traffic Management Plan to be submitted and agreed.

3.00 CONSULTATIONS

3.01 Local Member
Councillor R. Hughes
No response at time of writing.

Leeswood Community Council
No response at time of writing.

Highways DC
No objection subject to the imposition of conditions.

Pollution Control Officer
No adverse comments.

Welsh Government – Land Use Planning Unit
No objections raised. Considers the agricultural land quality report provided as part of the application is accurate and confirms the conclusions that the site comprises 25% Grade 3a land and 75% Grade 3b land.

Clwyd Powys Archaeological Trust
Advises that they agree with the conclusions of the Archaeophysica report which concludes that there are no significant sub-surface archaeological features of interest across the site. Therefore there is no archaeological requirement arising from the proposal.

CADW
Advises that whilst there are a number of scheduled monument and registered historic parks and gardens within the vicinity, the distance between the site and these heritage features is such that there is no inter-visibility with them and therefore any impact is neutral in scale. Therefore, no objection is raised.

Natural Resources Wales
No objection to the proposals subject to the imposition of suitable conditions to safeguard the favourable conservation status of the Great Crested Newt Population in the area.

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

The Coal Authority
No objection. Advises that concerns in relation to the stability and safety of the site have been addressed in the submitted Coal Mining Risk Assessment Report and mitigation strategy. Requests a condition that the development is carried out in accordance with these details.

Airbus

Advises that the Glint and Glare information indicates that there is no significant concern in relation to aerodrome safeguarding arising from the proposals.

Notes that the proposals have potential to increase the risk of bird strike at the airport. Requests the imposition of a condition requiring the submission, agreement and implementation of a bird hazard management plan.

Also requests the imposition of conditions in relation to the need for a navigational aids impact assessment, scheme of site lighting and a construction management strategy.

Council for the Protection of Rural Wales

Objects on the following grounds:

- Considers no need case has been proven to override Policy GEN3;
- Considers that part of the site amounts to Best and Most Versatile Agricultural Land (BMV) and should be protected;
- The loss of the land to agricultural production for 25 years will result in a cumulative impact when taken into account with other land loss in the county and country for this purpose;
- Concerned that return to BMV status post development is impracticable;
- Concerns in relation to means and location of grid connection; and
- Adverse impacts upon landscape character and receptors of the landscape.

4.00 PUBLICITY

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

At time of writing, 4No. letters have been received which raise objection on the following grounds:

- Landscape impact in the open countryside;
- Detriment to visual amenity; and
- Adverse impact upon landscape character.

5.00 SITE HISTORY

5.01 **035000**

Erection of a 20m monopole telecommunications mast and with associated equipment.
Permitted 03.02.2003

035289

Erection of a farm building
Permitted 14.05.2003

6.00 PLANNING POLICIES

6.01 Flintshire Unitary Development Plan

- Policy STR1 – New Development
- Policy STR7 – Natural Environment
- Policy STR10 – Resources
- Policy GEN1 – General Requirements for Development Control
- Policy GEN3 – Development in the Open Countryside
- Policy D1 – Design Quality, Location and Layout
- Policy D2 – Design
- Policy D3 – Landscaping
- Policy L1 – Landscape Character
- Policy WB1 – Species Protection
- Policy WB6 – Enchantment of Nature Conservation Interests
- Policy AC2 – Pedestrian Provision and Public Rights of Way
- Policy AC13 – Access and Traffic Impact
- Policy CF7 – Development by Utilities
- Policy EWP1 – Sustainable Energy Generation
- Policy EWP5 – Other Forms of Renewable Energy Generation
- Policy RE1 – Protection of Agricultural land

Planning Policy Wales (2014);

Technical Advice Note 5: Nature Conservation and Planning (January 2011);

Technical Advice Note 6: Planning for Sustainable Rural Communities (July 2010);

Technical Advice Note 8: Renewable Energy (July 2005); Technical Advice Note 23: Economic Development (February 2014)

7.00 PLANNING APPRAISAL

7.01 The Site and Surroundings

The site is a 10.6ha area (including access) of land to the east of Celyn Farm. The site comprises 5No. field parcels of varying shapes which themselves amount to some 10.4ha of agricultural land. Access to the site is derived via the farm track through Celyn Farm, which in turn is accessed from Stryt Cae Rhedyn to the north of the site.

7.02 The site topography varies but generally slopes downhill from the north east. The northernmost field parcels are generally undulating but become steeper in slope towards the south west. The fields to the south are steeply sloping for the most part. Site boundaries are formed by established hedgerows, interspersed with occasional trees. More heavily wooded areas are located to the north western and

south western site fringes of the site. The site is reflective of the general surroundings in terms of appearance and topography.

7.03 The Proposed Development

The proposals seek permission for the development of the site to provide a 5MW solar park. The proposal seeks permission on a temporary basis of 25 years. The proposals provide for the siting of solar panels arranged in arrays running across the site. The panels are proposed to be mounted upon a metal frame at an angle of 15 degrees from the horizontal. The panels will be 2.4 metres above ground level at the highest point and 0.8 metre at their lowest.

7.04 In addition, cabling conduits, set 1 m into the ground are proposed which in turn link with inverters and control cabinets. The proposals provide for the site to be enclosed by a 2m high fence and a new electricity sub-station is proposed within the northern part of field 4 to provide connections to the national grid. Access to the site will remain as existing.

7.05 The Main Issues

I consider the main issues for consideration in connection with this application are:

1. The principle of development having regard to both national and local planning policy;
2. Loss of Best and Most Versatile agricultural land (BMV);
3. Impacts of land stability arising from historical mining in the area;
4. Impacts upon the visual character and appearance of the landscape; and
5. Impacts upon aerodrome safeguarding.

7.06 The Principle of Development

National Policy and Guidance

The Welsh Government (WG) has clear priorities to reduce carbon emissions, with one of the important ways of delivering this being through the continued development of renewable energy generating projects. TAN8 included a target of 4 TWh (Terrawatt hours) per annum of renewable energy production by 2010 and 7 TWh by 2020.

7.07 PPW advises that the WG's aim is to secure an appropriate mix of energy provision for Wales, whilst avoiding, and where possible minimizing, environmental, social and economic impacts. This will be achieved through action on energy efficiency and strengthening renewable energy production.

7.08 When considering planning applications for renewable energy schemes, WG advises that planning authorities should take into account:-

- The contribution a proposal will play in meeting identified national, UK and European targets and potential for renewable energy.
- The wider environmental, social and economic benefits and opportunities from renewable energy and low carbon development.
- The impact on the national heritage, the coast and the historic environment.
- The need to minimize impacts on local communities, to safeguard quality of life for existing and future generations.
- To avoid, mitigate or compensate identified adverse impacts.

7.09 In addition to this there is a raft of further key documentation relevant to the proposal, for example, EU Energy Strategy 2020, Climate Change Strategy for Wales (2010), Energy Wales a Low Carbon Transition (2014), Planning implications of Renewable and Low Carbon Energy – Practice Guidance (Welsh Government, 2011) and Planning for Renewable and Low Carbon Energy – A Toolkit for Planners (Welsh Government, 2015).

7.10 The above paragraphs therefore set out the national planning policy framework associated with renewable energy proposals.

7.11 The Planning and Compulsory Purchase Act 2004 stipulates at S.38 that ‘if regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise’. Accordingly, the UDP is the starting point for the consideration of this application, unless National Planning Policy supersedes the provisions of those applicable policies.

7.12 The Planning and Compulsory Purchase Act 2004 states at S. 38(6) that, “If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise”.

7.13 The development plan is therefore the starting point for the consideration of this application. The proposed development has been advertised as a departure to the adopted UDP because the site is not allocated in the UDP for any specified use nor is it within a settlement boundary.

7.14 **Local Planning Policy**

There are a number of strategic and general policies within the UDP which are applicable to this proposal and I consider each in turn below:

- 7.15 STR1 New Development - Advises that development should generally located within existing settlement boundaries, allocations, development zones, principal employment areas and suitable brownfield sites and will only be permitted outside these areas where it is essential to have an open countryside location. Whilst located within an area of open countryside, I consider that the size of site require precludes these other locations for reasons discussed later in this report. Accordingly I consider that the proposal satisfies criterion a. of STR1.
- 7.16 STR7 Natural Environment – One of the stated aims of this policy is to safeguard Flintshire’s natural environment by protecting and enhancing the character, appearance and features of the open countryside. The site is within an area of open countryside but is well screened by a combination of landscape topography, existing and proposed screening. The site and the surroundings are not formally designated or protected for any intrinsic landscape value.
- 7.17 STR10 Resources – Criterion a) requires that new development must make the best use of resources through utilizing suitable brownfield land wherever practicable in preference to greenfield land or land with ecological, environment or recreational value. It is arguable that the proposal does not do this as it is a greenfield site and part of the sites intrinsic environmental value is it’s open countryside character, however the policy refers to “wherever practicable in preference to” and in this instance there is an arguable case to be made that the proposal is policy compliant (considered later in this report). I am also satisfied that proposal accords with criterion e) of STR10 in that it clearly utilizes clean, renewable and sustainable energy generation.
- 7.18 Policy GEN1 requires that proposed development should harmonise with the site and surroundings and, amongst other matters, the development should not have a significant adverse impact on recognised wildlife species and habitats. The appraisal below illustrates that the proposals accord with these general policy aims.
- 7.19 Policy GEN3 sets out those instances where development will be permitted in the open countryside and criterion j refers to other development which is appropriate to the open countryside and where it is essential to have an open countryside location rather than being sited elsewhere. I have stated earlier that I consider the proposal is of such a size where an open countryside location is essential.
- 7.20 Taking all of the above into account, I am comfortable that the proposals satisfy the requirements of national and local policy as a matter of principle.
- 7.21 Loss of Best and Most Versatile agricultural land (BMV)
The Agricultural Land Classification Map indicates the site as Grade 3. The applicant has undertaken an Agricultural Land Classification

Investigation, carried out in accordance with MAFF's revised guidelines and criteria. This investigation classifies approximately 2.5 ha (25%) as Grade 3a with 7.5 ha (75%) as Grade 3b. The report also notes that there are some areas of Grade 4 land but these are too small to map separately. The assessment records that variability of slope across the site inhibit the use of farm machinery such that the agricultural utility of the land is restricted.

- 7.22 The assessment report has been considered Welsh Government's land Quality Advisory Service who have concluded that the survey appears sound and the report conclusions of a mixture of subgrade 3a and 3b is an accurate indication of the agricultural land quality. It should be noted that they have not raised any objection to the proposals upon the basis of the loss of BMV.
- 7.23 Both national and local planning policy seek to prevent the permanent loss of the best and most versatile agricultural land where either suitable previously developed land or land in lower agricultural grade is available. The application site is a mixture of grades 3a (BMV) and 3b. The applicant contends that the loss of the 3a land would not be permanent on the basis that once the arrays of panels are in situ sheep grazing can take place underneath them.
- 7.24 Whilst 25% of the site clearly falls within the best and most versatile agricultural land, this land is surrounded both areas of Grade 3b land, which is not BMV. Furthermore, the 3a land is located principally to the north of the site and is made up of the smaller of the 2 field parcels. This, coupled with site slopes, places a restriction upon the operation of machinery within the fields in such a way as would not enable the maximising of the yields from the agricultural use of these fields. I also note that the area indicated to comprise Grade 3a land is actually not developed fully for the siting of arrays and therefore approximately 40% of the land remains undeveloped and available for grazing in addition to the land beneath the arrays.
- 7.25 However when assessing the proposal against criteria k) of GEN1 it is important to note that reference is made to the 'permanent loss'. The safeguarding of the best and most versatile agricultural land is reinforced in UDP Policy RE1 and Paragraph 4.10 in PPW. Whilst I am conscious of the high quality agricultural land that is to be developed I am also conscious of the fact that the site would not be lost to agriculture in the long term since the proposal is limited to a period of 25 years with the reinstatement of the land to agricultural use at the end of that period. The reversibility of the scheme is an important consideration of this issue.
- 7.26 The national asset of Grade 3a land is not being permanently lost as a result of any grant of planning permission. However, whilst the intensity of that agricultural use would undoubtedly be diminished, it is

not, in my opinion, to such a degree as to override the national presumption in favour of renewable energy development.

7.27 Accordingly I do not consider that the temporary removal of the BMV land (Grade 3a) is a matter of sufficient weight in itself to warrant the refusal of this application.

7.28 Land Stability Issues

The site is located within an area of known historical coal mining features and hazards. Accordingly the proposal needs to be considered in the context of actual and probable shallow coal mine workings and recorded mine shafts. Therefore, regard has to be had to the potential for this to give rise to land stability issues which may affect the development.

7.29 A Coal Mining risk assessment has been provided in response to the issues raised in consultation by The Coal Authority. This identified that the site had been subjected to historic and unrecorded underground coal mining at shallow depths. In addition, four mine shafts are recorded within the site or within 20m of the site.

7.30 The applicant has responded to the results of the assessment by amending the layout of the proposed arrays such that there is a 20m exclusion buffer around each of the mine shafts. In addition, a mitigation strategy has also been developed. These amendments and strategy have been the subject of further examination by The Coal Authority and I am advised that the concern has been addressed by this additional information. I propose to condition that the development is carried out in strict accordance with the proposed mitigation strategy.

7.31 Impact on landscape character and visual amenity

GEN3 sets out those instances where development will be permitted in the open countryside and criterion j) refers to other development which is appropriate to the open countryside and where it is essential to have an open countryside location rather than being sited elsewhere. Whilst in my view it is not specifically essential for solar panel developments per se to be located in the open countryside, an open countryside location is often considered to be logical and essential given the land take requirements usually associated with "solar farms". In this instance the site area is approximately 10.6 hectares (including access).

7.32 The applicant has considered the use of other land in the form of seeking to site the arrays upon roofs of buildings. For a variety of reasons it is concluded that this is not a viable or feasible solution in the case of seeking to generate 5MW of power.

7.33 Accordingly I am satisfied that the area of land required for the development naturally precludes other brownfield sites or land within

the settlements of the County. As discussed, the site utilizes, in the main, lesser grade agricultural land which, in the absence of other suitable sites, is sequentially preferable.

- 7.34 I turn then to consider whether the proposed siting of the arrays in this area would have an adverse impact upon the landscape itself. I note that the application has been the subject of landscape and visual impact assessment and the proposals are accompanied by a Landscape and Visual Impact Assessment (LVIA) and a Cultural Heritage Assessment (CHA). These assessments have assessed both the visual impacts of the proposed development from various vantage points around the site and also the impact of the proposals upon any historic assets in the locality.
- 7.35 The vantage points from which the LVIA has been undertaken at points ranging between 200m to 4km from the site. The LVIA concludes that the impact from these viewpoint is for the most part negligible. There is considered to be an impact of scale between negligible and slightly adverse in respect of 3 properties within the area but it is noted that this impact is fragmented due in part to distance and landscaping in the intervening land. Similarly, a slightly adverse impact is considered likely in respect of footpaths P1, P2 and P6 which are routed closest to the site. This impact is proposed to be mitigated via a landscaping scheme and proposed programme of hedgerow planting. This will of course take time to become fully established but given the low scale of the impact, is considered a proportionate response to the impact.
- 7.36 In terms of impacts upon Historic Assets, the CHA illustrates that there are a range of Scheduled Ancient Monuments, Listed Buildings, Conservation Areas and Registered Parks and Gardens within the 5km search area. The report identifies that due predominantly to the nature of the topography of the landscape in the area, there is no direct inter-visibility between the site and the majority of these assets and therefore no impact arises. Where the low potential for some inter-visibility between the eastern part of the site and Leeswood Green farm is identified, a scheme of hedgerow landscaping (Holly) to the site boundary is proposed which will provide an effective evergreen screen. It should be noted however that there is no impact upon the views to or the setting of the listed building itself.
- 7.37 Accordingly, I conclude that both the LVIA and the CHA demonstrate that the impact within the landscape of the proposals is in actual fact, largely well screened by the landscape and topography of the landscape itself. Taking the requirements of Policies GEN3 & L1 into account I conclude that the proposals would comply with these policies.

- 7.38 Impacts upon Aerodrome Safeguarding
The site lies within 10km of Hawarden Airport. In recognisance of the importance of considering the impacts of solar reflection (Glint & Glare) from solar panels and their impact upon aircraft approaching, and leaving Hawarden and the control tower itself an assessment report accompanies the application.
- 7.39 The report has assessed risk having regard to:
- The Air Traffic Control Tower (ACT) and its ability to see the site directly; and
 - Impact upon aircraft approaching the last 2 miles of the runway 04 and 22 on either bearing.
- 7.40 Using both the Solar Glare Hazard Analysis Tool (SGHAT) and the Pager Power model, it was predicted that no glint or glare effects are predicted at the ATC tower.
- 7.41 Both models were used to assess impact upon both runway 04 and runway 22. Both predict no glint and glare effect upon aircraft on final approach for last 2 miles on either runway threshold.
- 7.42 No objection has been raised from AIRBUS from an aerodrome safeguarding perspective. Conditions have been requested to require the submission, agreement and implementation of a bird hazard management plan; a navigational aids impact assessment; a scheme of site lighting and a construction management strategy. I propose to condition accordingly.

8.00 CONCLUSION

- 8.01 In coming to my recommendation, I have weighed into the balance the strong support at national and local levels for the development of renewable energy generation against the presumption against non-essential development in the open countryside, the impact arising therefrom and the loss of BMV land for the duration of the life of the site.
- 8.02 I consider the national presumption on favour of proposals of this form has significant weight, especially where the other matters which might normally weigh against such a proposal, namely the loss of BMV and landscape impact, do not in themselves have such a significance as would outweigh the national presumption.
- 8.03 Accordingly I consider that the proposals are acceptable having regard to the policies within the UDP and having regard to the national policy guidance framework.

8.04 **Other Considerations**

The Council has had due regard to its duty under Section 17 of the Crime and Disorder Act 1998 and considered that there would be no significant or unacceptable increase in crime and disorder as a result of the recommended decision.

8.05 The Council has acted in accordance with the Human Rights Act 1998 including Article 8 of the Convention and in a manner which is necessary in a democratic society in furtherance of the legitimate aims of the Act and the Convention.

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

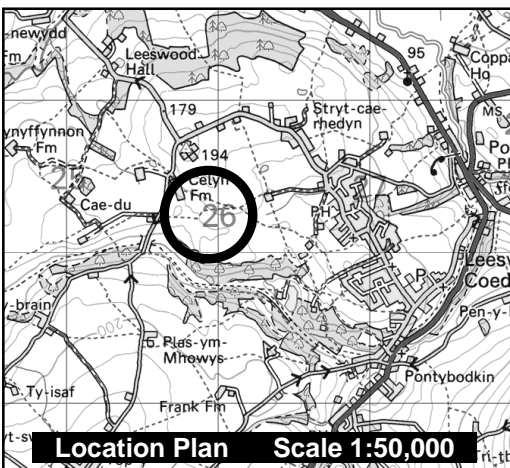
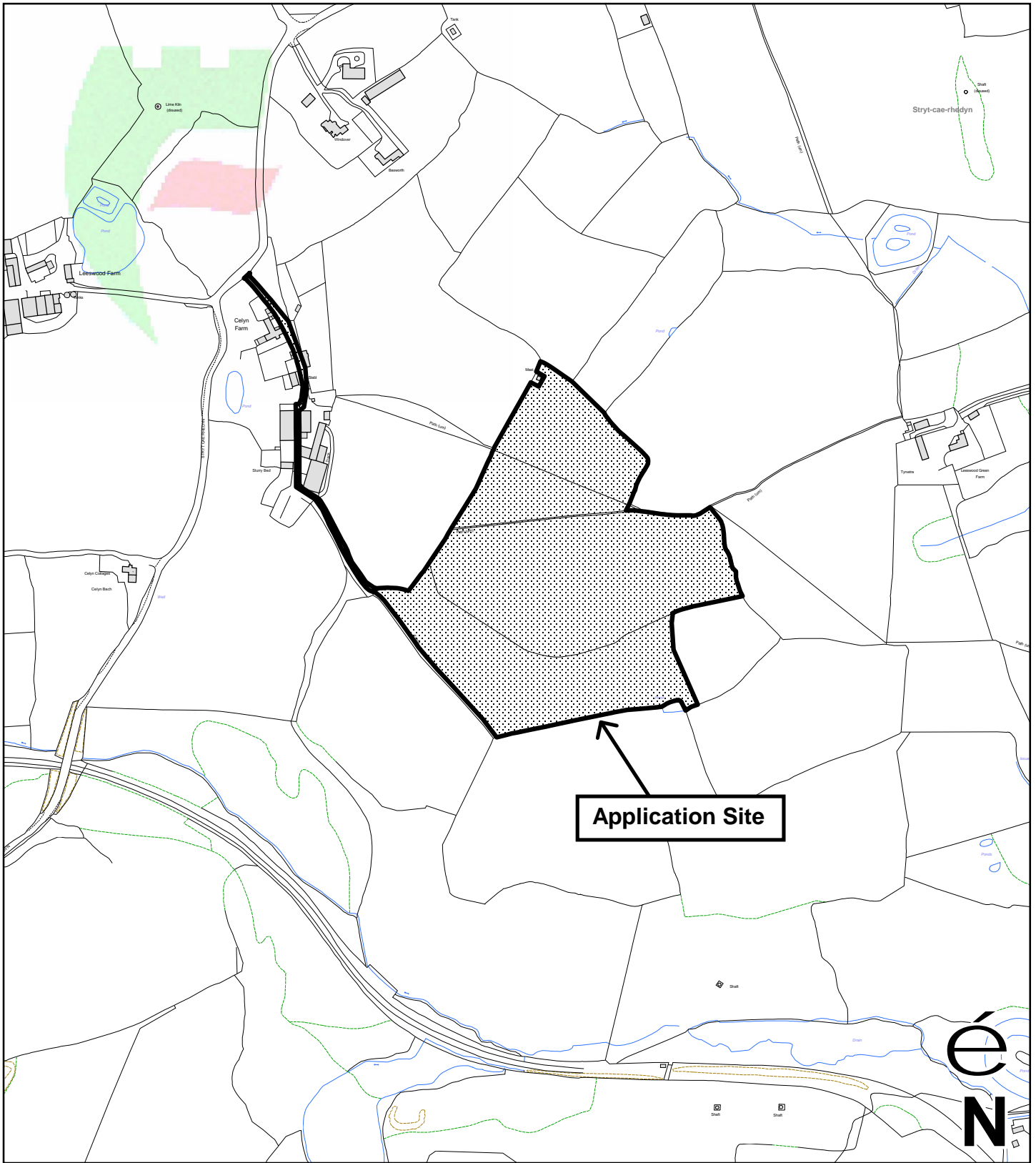
8.07 The Council has had due regard to its duty under Section 3 of the Wellbeing of Future Generations (Wales) Act 2015 and considered that there would be no significant or unacceptable impact upon the achievement of wellbeing objectives as a result of the recommended decision.

LIST OF BACKGROUND DOCUMENTS

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

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Telephone: 01352 703281
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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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OS Map ref SJ 2560

Planning Application **54041**

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FLINTSHIRE COUNTY COUNCIL

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

DATE: **20TH JULY 2016**

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

SUBJECT: **FULL APPLICATION - ERECTION OF 23 DWELLINGS WITH ADOPTABLE HIGHWAY ACCESS AT RHEWL FAWR ROAD, PENYFFORDD, HOLYWELL**

APPLICATION NUMBER: **055398**

APPLICANT: **MR & MRS J. ROBERTS**

SITE: **LAND NORTH OF COED MOR RHEWL FAWR ROAD PEN-Y-FFORDD NR. HOLYWELL**

APPLICATION VALID DATE: **27TH MAY 2016**

LOCAL MEMBERS: **COUNCILLOR G. BANKS**

TOWN/COMMUNITY COUNCIL: **LLANASA COMMUNITY COUNCIL**

REASON FOR COMMITTEE: **SCALE OF THE PROPOSAL EXCEEDS THAT FOR WHICH POWERS TO DETERMINE ARE DELEGATED TO THE CHIEF OFFICER**

SITE VISIT: **NO**

1.00 SUMMARY

- 1.01 This full planning application seeks approval for the development of this 1 hectare site for 23No. dwellings together with associated highway and access works.

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

2.01 That conditional permission be granted, subject to the applicant entering either into a Section 106 agreement, providing a unilateral undertaking or the making of an advance payment which provides for the following;

1. Ensure the payment of a commuted sum of £23,300 in lieu of on site play and recreation provisions. Such sum to be paid to be used to enhance existing play facilities at Coed Mor Play Area, Pen-y-Ffordd. Such sum to be paid prior to the occupation of 50% of the approved dwellings.

2.02 Conditions

1. Time limit
2. In accord with approved plans
3. Materials to be submitted and agreed
4. Finished floor and site levels to be submitted and agreed
5. Submission of landscaping scheme.
6. Implementation of landscaping scheme.
7. External lighting scheme to be submitted and agreed.
8. No development until a construction traffic management plan is submitted and agreed.
9. Scheme for comprehensive integrated drainage system to be submitted and agreed.
10. Submission of Ecological Mitigation Strategy and Reasonable Avoidance Measures.
11. No tree works unless qualified ecologist present to ensure no adverse impacts upon nesting birds or roosting bats.
12. Tree and hedgerow protection to be submitted, agreed and implemented prior to works commencement.
13. Removal of Permitted Development Rights to Plots 1 – 9 inclusive and Plots 22 and 23.
14. Parking facilities to be provided as per approved details.
15. Layout, design, traffic calming, signing, surface water drainage, street lighting and construction of internal estate roads to be submitted and agreed.
16. Scheme to prevent run off of surface water onto highway.
17. Construction traffic management plan to be submitted and agreed.

2.03 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 & Environment) be given delegated authority to REFUSE the application.

3.00 CONSULTATIONS

3.01 Local Member

Councillor G. Banks

No response at time of writing.

Llanasa Community Council

No response at time of writing.

Highways DC

No objection subject to the imposition of conditions.

Pollution Control Officer

No response at time of writing.

Education - Capital Projects and Planning Unit (CPPU)

Advises that the nearest schools are Ysgol Bryn Garth (primary) and Ysgol Treffynnon (secondary). Advises that in each case, the schools would not be affected by the proposals.

Public Open Spaces Manager

Advises that an on-site play facility would not be required. Advises that a commuted sum of £1100 per dwelling should be sought to contribute to the provision of recreational facilities within the locality at Coed Mor play area, Pen-y-Ffordd.

Natural Resources Wales

Requests that a condition be imposed requiring the submission and agreement of the proposed surface water drainage scheme.

Dwr Cymru/Welsh Water

No adverse comments. Requests the imposition of a conditions requiring the submissions and agreement of the proposed site drainage scheme. Also notes that a public sewer crosses the site and requests that an advisory note prohibiting development within 3m of the sewer be imposed upon any subsequent grant of permission.

The Coal Authority

No adverse comments. Standard advice applies.

Airbus

No adverse comments.

4.00 PUBLICITY

- 4.01 The application has been publicised by way of the publication of a press notice, display of a site notice and neighbour notification letters. At the time of writing this report, 2No. letters have been received in response raising objections on the following grounds;

- The proposals will result in adverse overlooking of existing dwellings to the detriment of amenity;
- The proposals will result in increased noise to the detriment of amenity
- The access point for the wider site onto Rhewl Fawr road is dangerous, especially during winter weather. Increased use will be detrimental to highway safety;
- The site is rich in wildlife which would be adversely affected by the proposal
- The wider highway network is not adequate to accommodate further development.

4.02 1No. response has been received from North Wales Police Architectural Liaison advising that the scheme should accord with the principles of Secured by Design.

5.00 SITE HISTORY

5.01 There is no directly relevant planning history to this site. However, the history relevant to the development at Cwrt y Glowyr are material in my consideration of this application and I set them out below for ease of reference.

1022/88

O/L Residential development
Refused 13.1.1989

040205

O/L Residential development
Withdrawn 10.4.2006

041456

O/L Residential development
Approved 30.10.2006

046888

Renewal of 41456
Approved 11.2.2010

048489

Variation of condition to allow further time to submit Reserved Matters
Approved 15.6.2011

051212

Reserved Matters – Erection of 11 dwellings
Approved 5.8.2014

053683

Erection of 8 dwellings and 1 special needs bungalow
Recommended permission. S.106 awaits signing to date.

6.00 PLANNING POLICIES

6.01 Flintshire Unitary Development Plan

- Policy STR1 - New Development
- Policy STR4 - Housing
- Policy GEN1 - General Requirements for Development
- Policy GEN2 - Development inside settlement boundaries
- Policy HSG3 - Housing on unallocated sites within Settlement boundaries
- Policy HSG8 - Density of Development
- Policy HSG9 - Housing Type and Mix
- Policy HSG10 - Affordable Housing within Settlement Boundaries
- Policy D1 - Design Quality, Location and Layout
- Policy D2 - Design
- Policy D3 - Landscaping
- Policy TWH1 - Development Affecting Trees and Woodlands
- Policy TWH2 - Protection of Hedgerows
- Policy AC13 - Access and Traffic Impacts
- Policy AC18 - Parking Provision and New Development
- Policy SR5 - Outdoor Playing Space and New Residential Development

The proposals would comply with the requirements of the above policies.

7.00 PLANNING APPRAISAL

7.01 Site and Surroundings

The site is a 1ha area of land, roughly trapezoidal in shape and occupies a position within the settlement of Pen-y-ffordd as defined within the FUDP. The site slopes gently downhill from a high point in the north west to south eastern boundaries with the newly constructed properties at Cwrt-y-Glowyr. The site is presently vacant, semi improved pasture land with access derived via a field gate from Cwrt-y-Glowyr.

7.02 The site is surrounded on 3 sides by existing residential development. The linear form of development to the north follows Ffordd Picton and comprises a mix of single and 2 storey dwellings. The aforementioned dwellings at Cwrt-y-Glowyr abut the application site to the south east. The dwellings and garden areas at the northern end of Coed Mor, along with a communal garage area, form the southern boundary. Boundaries to the west abut further areas of agricultural land which are within open countryside. Boundaries are formed by hedgerows which have developed into expanses of scrub projecting in to the site. A small stream is in evidence within the area of the north western boundary.

- 7.03 The character of built form in the area varies, comprising mainly detached and semi-detached 2 storey and single storey dwellings to the north and east, where as terraces and semi-detached properties dominate built form to the south.
- 7.04 The Proposal
It is proposed to erect 23No. dwellings comprising a mix of 2 and 3 bed accommodation, comprising:

18No. 2 bed dwellings, and
5o. 3 bed dwellings.
- 7.05 The proposed dwellings are a mix of house types including detached (3bed) and semi-detached (2 bed) dwellings with both brick finishes beneath tile roofs. There is a central spine road running south to north across the site from Cwrt-y-Glowyr with houses on both sides.
- 7.06 The Main Issues
The main issues for consideration are:
- The principle of development;
 - Highway and access considerations;
 - Design and impact upon amenities;
 - Ecological issues;
 - P.O.S and play provisions; and
 - Infrastructure impacts.
- 7.07 Principle of Development
The site is located within the settlement boundary of Pen-y-Ffordd which is defined as a Category C settlement within the adopted FUDP. Policy GEN2 identifies a presumption in favour of the development of such sites but identifies that in the case of unallocated 'windfall sites' there are limitation imposed via policy HSG3.
- 7.08 Policy HSG3 directs that upon unallocated sites within settlement boundaries, new housing development will be permitted in Category C where it is designed to meet proven local needs, where it does not conflict with the planned housing provision for the County, as set out in the FUDP, and does not conflict with Policy GEN1. The bringing forward of such windfall sites is consistent with the strategic aims of the FUDP.
- 7.09 Members will recall that the development approved upon that parcel of land to the south west of the site also formed a parcel of unallocated land within the settlement boundary. Permissions granted in respect of this land provide for 19No. dwellings and one special needs bungalow. The developer of the site is Tai Clwyd. Accordingly, these dwellings will be affordable via the suite of affordability options available to an RSL. The development of this site has therefore provided for 100% affordable housing.

- 7.10 I am mindful of HSG3 in my consideration of this application but I do not attribute overriding weight to it in this case. The land is identified as vacant land but within the settlement boundary within the FUDP. There is therefore a presumption in favour of development as a matter of principle. Policy HSG3, where it refers to local needs housing, must be read in tandem with Policy HSG10 which sets out the context for affordable housing within the settlement boundaries. This policy is predicated on the basis of an identified need.
- 7.11 I am of the view that the need within Pen-y-ffordd is adequately catered for via the affordable units under development at Cwrt-y-Glowyr. I am also mindful of other historic RSL development further to the west along Rhewl Fawr Road and the large areas of Council housing within the settlement as a whole.
- 7.12 I am also cognisant of the fact that PPW and TAN1 requires each local planning authority to maintain a 5 year supply of housing land. Welsh Government have taken the decision not to pass the Statement of Common Ground for the 2015 Joint Housing Land Availability Study onto the Planning Inspectorate. The 2015 Study will therefore be recorded as 'uncompleted' and in line with the advice in TAN1 Flintshire is 'considered not to have a 5 year supply'.
- 7.13 I consider it is therefore key in making a judgement as to the planning balance in respect of this proposal, to consider the sustainable development aims and principles set out in PPW.
- 7.14 Pen-y-ffordd has certain services and facilities which one would not readily expect of a category C settlement, principally a primary school. It also has a local shop and is served by a local bus route. It also lies in very close proximity to Ffynnongroyw, a Category B settlement which has a greater range of facilities and services including shops and a doctors' surgery. With public transport and road links to nearby settlements and employment centres, it is considered to represent a settlement which is capable of accommodating further development in a sustainable manner.
- 7.15 Members are reminded that as this site located within the settlement boundary, albeit not allocated for residential development, the requirements of developers as set out in the Councils Developer Guidance Note : Speculative Housing Development Proposals, do not apply to this site.
- 7.16 Highways and access
Vehicular access to the site is proposed to be derived via an extension of the newly constructed Cwrt-y-Glowyr, which itself derives access off Rhewl Fawr Road.

- 7.17 Representations have been made that the proposals will give rise to an increase in traffic which in turn will result in an adverse impact upon highway safety and pedestrian safety. The proposals have been considered by colleagues in Highways DC who advise that there is no objection to the proposals from a highway safety perspective, subject to the imposition of conditions.
- 7.18 I am mindful that there is a need for construction traffic to utilise the existing point of access to the site. I am satisfied that the site can be developed without adverse impacts upon highway safety. A condition is proposed to be imposed requiring the submission and agreement of a Construction Traffic Management Plan, prior to the commencement of development. I am satisfied that such a condition will allow the management of any traffic impact upon amenity.
- 7.19 Design and amenity Impacts
The scheme has evolved to respond to the site characteristics and delivers a design where the form and dwellings reflect both the design of the residential areas and buildings in the locality, and provide for the identified mix of accommodation types.
- 7.20 The development of this 1 hectare site for 23 dwellings would equate to a density of development equivalent to 23 dwellings per hectare (d.p.h). I am mindful of the advice within Policy HSG8, that development upon unallocated sites within Category C settlements should seek to achieve 25 d.p.h. However, I am satisfied that the density achieved in this case is appropriate when one considers that the site is crossed by a drainage easement and easement for a public sewer, both of which sterilise a developable area of 3 m either side of the sewer/drain.
- 7.21 The wider area is characterised by a mixture of property types, styles and ages with a variety of arrangements of built form but has no overall dominant local vernacular. The applicant has sought to recognise this within the proposal and seeks to create a development which sits well in its locality.
- 7.22 The layout takes full account of the existing dwellings adjacent to the site by maintaining separation distances which are in line with Council standards on space about dwellings and overlooking to secure privacy and amenity as well as respecting the private gardens of adjacent houses. The layout in this regard has also enabled for measures to be secured via condition for the retention of those existing natural features upon the site boundaries which will add to the measures employed in safeguarding amenity. Furthermore, I propose to remove residential permitted development rights for plots 1 - 9 inclusive and for plots 22 – 23. This reflects that plots 1 – 9 have separations to dwellings to the rear which, whilst acceptable, have the potential to be adversely affected by future extensions and garden area development. Maintaining control of such future development will

ensure that development which would erode the residential amenity can be properly controlled. The permitted development rights to Plots 22 and 23 are removed due to the fact that the sewer easement runs through the garden and car parking area for these plots.

7.23 Accordingly and notwithstanding representations made, I consider the proposals provide an adequate and appropriate response to the design issues raised in connection with the consideration of this application.

7.24 Ecological Issues

The application is accompanied by an Extended Phase 1 Habitat Survey which identifies that the hedgerows to the site boundaries are of particular value to nesting birds, invertebrates and commuting bats. There is no evidence of any EPS within the site boundaries although the site itself has potential value for Great Crested Newt (GCN) habitat. The report advises that the hedges are protected and retained for their ecological value.

7.25 The report recommendations form the basis of conditions to be added to the permission. I recommend conditions for tree/hedgerow protective fencing to be erected; a restriction to hedgerow or scrub clearance during the bird nesting season; a requirement for a qualified ecologist to present during site clearance or any tree/hedgerow works/removal. Conditions are sought to control external lighting to avoid light spill into the adjacent hedge and scrubland as this would adversely affect the ability of the bats to utilise this area. I consider that these are appropriate conditions to be added.

7.26 In respect of the potential for the site to offer good terrestrial habitat for GCN I propose to condition the submission of a scheme of Reasonable Avoidance Measures and mitigation to be submitted and agreed prior to the commencement of works.

7.27 P.O.S and play provision

The proposals do not provide for on-site public open space intended for formal recreation and play. Consultation with the Public Open Spaces Manager has revealed that rather than formal provision within the site for play, a commuted sum should be sought to be utilised in connection with projects for play and recreation within the community.

7.28 The consultation has established that the sum requested should be used in connection with a project to upgrade existing play facilities at the nearby Coed Mor children's play area to the south of the site. In accordance with the requirements of the Community Infrastructure Levy Regulations (CIL) 2010, this sum, when pooled would not exceed 5 contributions towards a single project.

- 7.29 Accordingly and in line with LGPN 13: Open Space Requirements, I recommend that a contribution of £25,300 is sought via a S.106 agreement to satisfy this requirement.
- 7.30 Infrastructure Impact
Having regard to SPG23 : Developer Contributions to Education, the development would not give rise to any contribution requirement at either Primary or Secondary School level as there is sufficient capacity within the schools in question.
- 7.31 The capacity at the nearest primary school (Ysgol Bryn Garth C. P). The current capacity of the school stands at 119. There are presently 90 pupils attending the school. Accordingly the school has 24.37% surplus of spaces for additional pupils. The proposals would give rise to an additional 6 pupils. This would not erode capacity below the 5% margin which is sought to be protected as set out in SPG23 guidance. Accordingly, no contribution is sought for primary educational purposes as a consequence of this development.
- 7.32 The capacity at the nearest secondary school (Ysgol Treffynnon). The current capacity of the school stands at 600. There are presently 407 pupils attending the school. Accordingly the school has 39.6% surplus of spaces for additional pupils. The proposals would give rise to an additional 4 pupils. This would not erode capacity below the 5% margin which is sought to be protected as set out in SPG23 guidance. Accordingly, no contribution is sought for secondary educational purposes as a consequence of this development.

8.00 CONCLUSION

- 8.01 I am satisfied that, having had regard to the provisions of the applicable policies and all other material considerations, this proposal would accord with the provisions of the same and would, through the suggested conditions and Planning Obligation under Section 106, represent an appropriate and acceptable form of development in this location.
- 8.02 Other Considerations
The Council has had due regard to its duty under Section 17 of the Crime and Disorder Act 1998 and considered that there would be no significant or unacceptable increase in crime and disorder as a result of the recommended decision.
- 8.03 The Council has acted in accordance with the Human Rights Act 1998 including Article 8 of the Convention and in a manner which is necessary in a democratic society in furtherance of the legitimate aims of the Act and the Convention.
- 8.04 The Council has had due regard to its public sector equality duty under the Equality Act 2010.

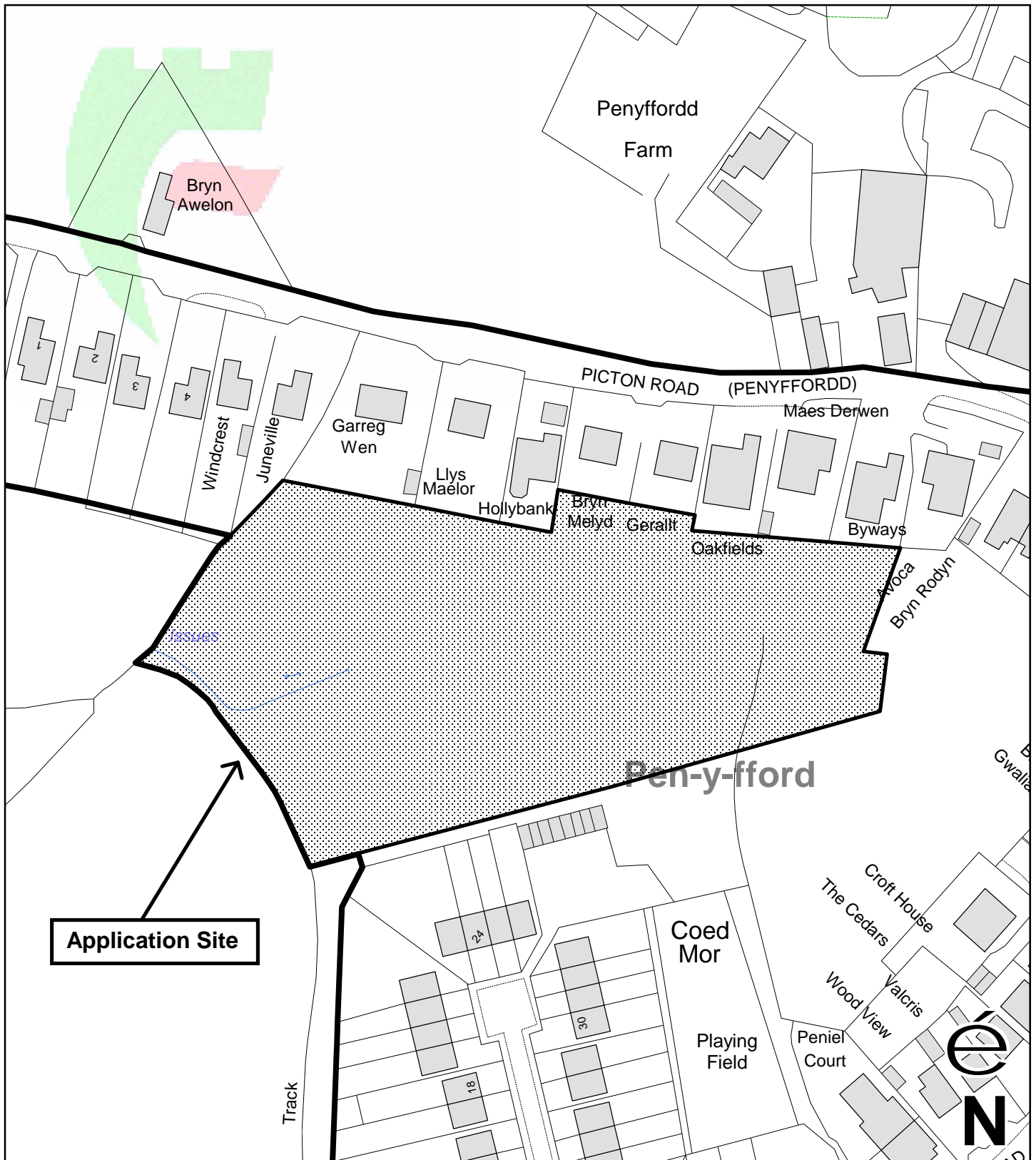
- 8.05 The Council has had due regard to its duty under Section 3 of the Wellbeing of Future Generations (Wales) Act 2015 and considered that there would be no significant or unacceptable impact upon the achievement of wellbeing objectives as a result of the recommended decision.

LIST OF BACKGROUND DOCUMENTS

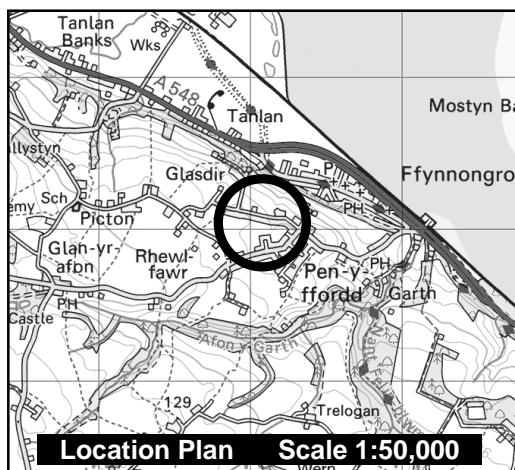
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Responses to Consultation
Responses to Publicity

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Application Site



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	55398

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FLINTSHIRE COUNTY COUNCIL

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

DATE: **20TH JULY 2016**

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

SUBJECT: **FULL APPLICATION – MODIFICATION OF HOUSE TYPES ON PLOTS 52 – 53 & 62 – 63, CHANGE OF HOUSE TYPE POSITION ON PLOTS 56 & 64 – 66 AND CHANGE OF HOUSE TYPE ON PLOT 67 AT VILLAGE ROAD, NORTHOP HALL.**

APPLICATION NUMBER: **055459**

APPLICANT: **ANWYL CONSTRUCTION LTD**

SITE: **VILLAGE ROAD, NORTHOP HALL**

APPLICATION VALID DATE: **17.05.16**

LOCAL MEMBERS: **COUNCILLOR T SHARPES**

TOWN/COMMUNITY COUNCIL: **NORTHOP HALL**

REASON FOR COMMITTEE: **SUPPLEMENTARY S106 REQUIRED**

SITE VISIT: **NO**

1.00 SUMMARY

- 1.01 This is an application for the substitution of house types on the previously consented Phase 2 of residential development at land at Cae Eithin, Village Road, Northop Hall.
- 1.02 It is considered that the proposed change in house types does not give rise to any adverse impacts on residential amenity. It is therefore considered that permission be granted subject to the applicant entering into a supplementary S106 agreement or unilateral undertaking to link this development with the requirement for the

affordable housing provision and the open space and education contributions and relevant conditions as required by 052388 and 054206.

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

2.01 Subject to entering into a supplementary S106 agreement or unilateral undertaking to link this development with the requirement for the affordable housing provision and the open space and education contributions as required by 052388 and 054206.

1. Time commencement
2. In accordance with plans
3. Other conditions relevant on 052388 and 054206.

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

3.00 CONSULTATIONS

3.01 Local Member
Councillor T Sharps
No response received at time of writing.

Northop Hall Community Council
No response received at time of writing.

Highways Development Control Manager
No objections.

Head of Public Protection
No observations.

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

4.00 PUBLICITY

4.01 Site Notice and Neighbour Notification
No responses received.

5.00 SITE HISTORY

5.01 055220 Application for the approval of details reserved by condition nos; 3 (landscaping), 4 & 5 (drainage), 7 (materials), 9 (estate road system), 10 (surface water) and 11 (Construction Traffic Management

Plan) attached to planning permission ref: 052388. 17.06.16

052406 Erection of 4 dwellings. (i) Substitution of house type on previously approved Phase 1 plot 38; (ii) Substitution of sub-station with additional dwelling; (iii) Erection of 2 dwellings (re-plan of plots 19 and 20 phase 2) 27.01.16

052388 Erection of 20No dwellings (phase 2) Approved following legal agreement 26.01.16

048855 Residential development consisting of 51no. dwellings, new road and creation of mitigation land in relation to ecology. Appeal against non-determination. Allowed on appeal 31.01.13

048373 Residential development consisting of 72no. dwellings, new road and creation of mitigation land in relation to ecology. Withdrawn 28.07.11

043413 Outline residential development 15.10.07

036558 Outline residential development 30.01.04

035046 Residential development 01.05.03. Dismissed on appeal 22.09.03

6.00 PLANNING POLICIES

6.01 Flintshire Unitary Development Plan

STR1 – New Development

GEN1 – General Requirements for Development

GEN2 – Development inside settlement boundaries

D1 – Design Quality

D2 – Location and layout

D3 – Design

D4 – Landscaping

HSG1 – New Housing Development Proposals

AC13 – Access and Traffic Impacts

AC18 – Parking Provision and New Development

WB1 – Species Protection

TWH1 – Development Affecting Trees and Woodland

The proposal **would** comply with the above policies.

7.00 PLANNING APPRAISAL

7.01 Introduction

This is an application for the substitution of house types on the previously consented Phase 2 of residential development at land at Cae Eithin, Village Road, Northop Hall.

7.02 Site description

The plots involved are in phase 2 of the development which is the eastern part of the site of the development site. They are bounded by existing residential properties of 1 - 3 Britannia Cottages to the north with Village Road beyond. The plots are bounded by the residential spine road to the south and other plots in the development to the west and east. Plot 56 bounds the southernmost boundary of the site.

7.03 Proposed development

This is an application to modify the house types on plots 52 - 53 and 62 - 63 and for a change of house type position on plots 56 & 64 - 66 and a change of house type on plot 67 of the approved Phase 2 052388 for 20 dwellings.

7.04 The changes are;

- Plots 52 - 53 semi-detached Chester house types become two detached Chester house types.
- Plots 62 - 63 semi-detached Chester house types become two detached Chester house types.
- Plot 56 the Beaumaris house type is resited to the east by 1 metre
- Plot 64 - 66 slight orientation of dwellings and change of dwelling on Plot 66 from the Kimnel to the Cricceth
- Plot 67 Change of house type from the Betws to the Hope

7.05 Issues

The application site is allocated for residential development within the Adopted Unitary Development plan for 93 dwellings. Planning permission was granted for 51 dwellings as part of phase 1 of the development on appeal in January 2013 and the site is under construction with properties occupied (048855). Phase 2 of the development provides 20 dwellings (052388). This proposal affects plots on Phase 2 of the development site. No additional units are proposed. The main issues relate to the implications of the changes in terms of the separation distances and the impact on private garden areas.

7.06 Impact on residential amenity

The proposed amendments in general do not have any adverse impacts in terms of separation distances or impacts on the sizes of private amenity space as they are all minor changes.

7.07 The most significant change is the change of house type on Plot 67 from the Betws to the Hope. This plot bounds the edge of the site with the existing houses on Village Road. The proposed change of house type fits better within the plot than the former Betws house type and has only 1 window at first floor facing the existing properties. The garage is also reduced in size from a double garage to a single garage. The proposed dwelling also has a larger private amenity

space. The separation distances with the existing dwellings are in excess of 22 metres and in accordance with Local Planning Guidance Note 2: Space Around Dwellings. The gable end of the Hope faces plot 68 however this is a blank gable end. The proposed siting of the dwelling is therefore considered acceptable with no adverse impacts.

7.08 Education and open space contributions and affordable housing provision

A supplementary S106 agreement or unilateral undertaking is required to link this development with the requirement for the affordable housing provision and the open space and education contributions.

8.00 CONCLUSION

8.01 Other Considerations

It is considered that the proposed change in house types does not give rise to any adverse impacts on residential amenity. It is therefore considered that permission be granted subject to the applicant entering into a supplementary S106 agreement or unilateral undertaking to link this development with the requirement for the affordable housing provision and the open space and education contributions and relevant conditions as required by 052388 and 052406.

8.02 The Council has had due regard to its duty under Section 17 of the Crime and Disorder Act 1998 and considered that there would be no significant or unacceptable increase in crime and disorder as a result of the recommended decision.

8.03 The Council has acted in accordance with the Human Rights Act 1998 including Article 8 of the Convention and in a manner which is necessary in a democratic society in furtherance of the legitimate aims of the Act and the Convention.

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

8.05 The Council has had due regard to its duty under Section 3 of the Wellbeing of Future Generations (Wales) Act 2015 and considered that there would be no significant or unacceptable impact upon the achievement of wellbeing objectives as a result of the recommended decision.

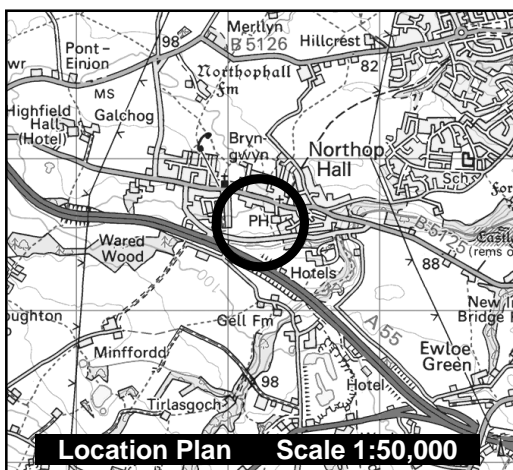
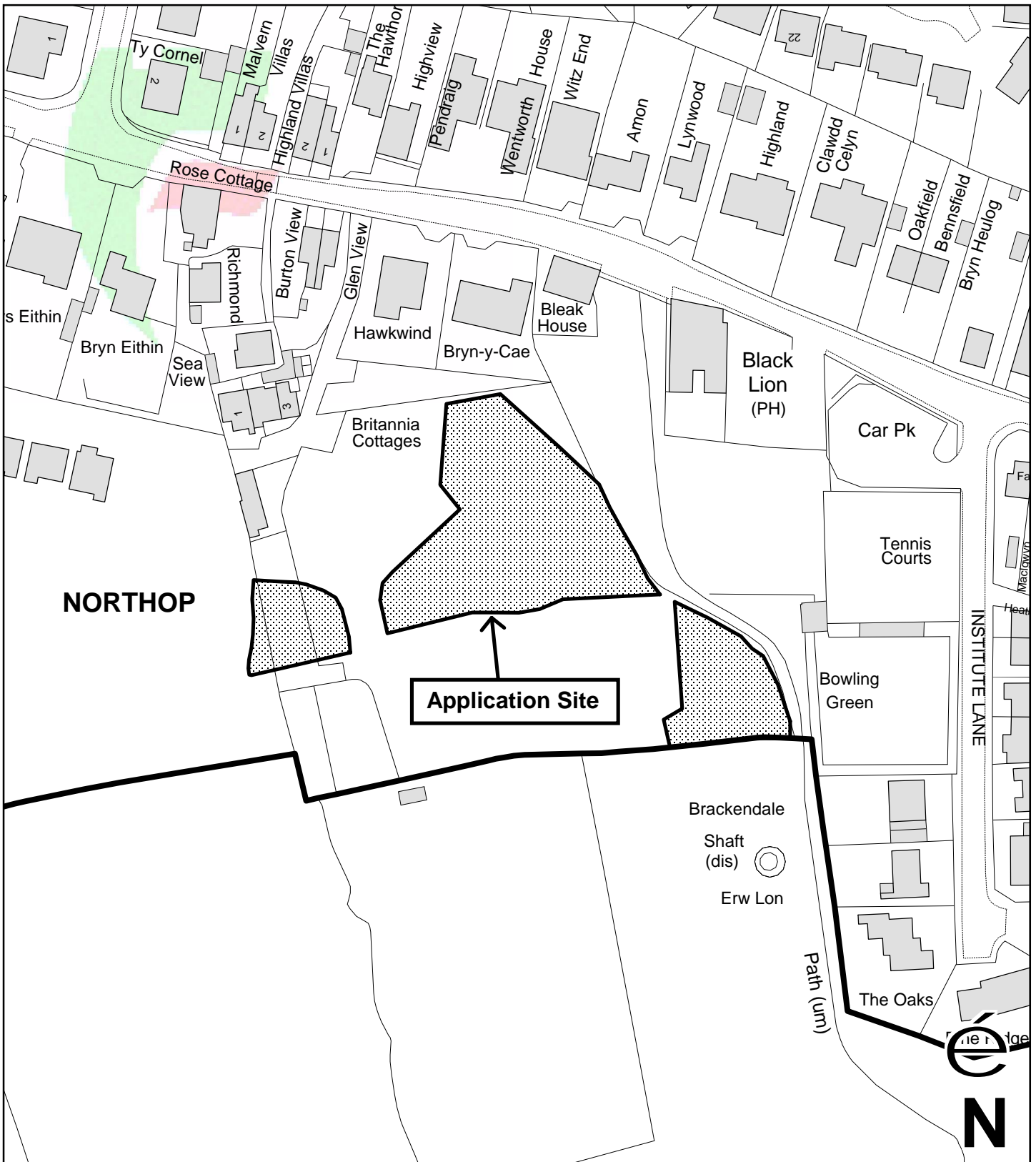
LIST OF BACKGROUND DOCUMENTS

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

Contact Officer: Emma Hancock



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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	55459

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FLINTSHIRE COUNTY COUNCIL

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

DATE: **20TH JULY 2016**

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

SUBJECT: **ERECTION OF TWO DWELLINGS AT LAND AT RHYDDYN FARM, BRIDGE END, CAERGWRLE**

APPLICATION NUMBER: **055414**

APPLICANT: **WHITEGATE ENTERPRISES LIMITED**

SITE: **LAND AT RHYDDYN FARM, BRIDGE END, CAERGWRLE**

APPLICATION VALID DATE: **18.04.16**

LOCAL MEMBERS: **COUNCILLOR T NEWHOUSE**

TOWN/COMMUNITY COUNCIL: **HOPE**

REASON FOR COMMITTEE: **LOCAL MEMBER REQUEST AND DEPARTURE FROM THE DEVELOPMENT PLAN**

SITE VISIT: **NO**

1.00 SUMMARY

1.01 This is a full planning application for the erection 2 dwellings with associated parking and private gardens. It is considered that although the site is outside the defined settlement boundary it is adjacent to a Category B settlement and is within a sustainable location. Also there is no demonstrable harm arising from the proposal in respect of the open countryside, amenity or highways considerations. In this case, the contribution of two dwellings, in a sustainable location, to housing land supply is considered to represent a material planning consideration which outweighs the development plan.

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

2.01 That conditional planning permission be granted subject to the applicant entering into a Section 106 Obligation/Unilateral Undertaking

or earlier payment to provide the following;-

a) Contribution of £1,100 per dwelling in lieu of on-site open space provision to enhance toddler play at Queens Way Play area

1. Time commencement – 2 years
2. Plans
3. Removal of permitted development rights
4. Access to the site to be in accordance with the attached standard detail relating to a single residential access by means of a vehicle footway crossing and a minimum width of 5m
5. Positive means to prevent surface water run-off onto the highway from the site
6. Contaminated Land Assessment
7. Materials
8. Landscaping and boundary treatment
9. Details of solar panels
10. Foul, surface water and land drainage

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

3.00 CONSULTATIONS

3.01 Local Member

Councillor T Newhouse

Requests committee determination as the site is outside the settlement boundary and a dangerous precedent would be set.

Hope Community Council

No response received.

Highways Development Control Manager

No objection subject to conditions covering;

- Access to the site to be in accordance with the attached standard detail relating to a single residential access by means of a vehicle footway crossing and a minimum width of 5m
- Positive means to prevent surface water run-off onto the highway from the site

Head of Public Protection

The site is close to a former landfill site it is recommended that a site investigation is undertaken this can be secured by condition.

Welsh Water/Dwr Cymru

No objections subject to standard conditions requiring details of foul, surface water and land drainage

Play Unit

Contribution of £1,100 per dwelling in lieu of on-site open space provision to enhance toddler play at Queens Way Play area.

Public Rights of Way

Public Footpath 64 runs to the north of the application site but appears unaffected by the development.

CPAT

There are no archaeological implications for the proposed development. It would have no significant impact upon the setting of the scheduled dyke.

4.00 PUBLICITY

4.01 Press Notice, Site Notice and Neighbour Notification

The application was advertised as a departure from the development plan and affecting a Public Right of Way.

4 objections on the grounds of;

- This land should be kept as a green space and landscaped
- Drainage issues
- Impact of more construction disturbance
- The conifer hedge is not on the application site but on neighbouring land so cannot be removed
- Impact on the character of the area
- Drains to adjacent properties run under this site
- Increased traffic and conflict with existing access points
- Outside the settlement boundary
- In the conservation area
- Creates an additional entrance on an A road
- Near to bus stops which could cause conflict with the access
- It would create an additional access to cross on the way to the Primary School
- Should be a bungalow not houses
- Should have a flatter parking area and entrance on to the main road

5.00 SITE HISTORY

5.01 355/62 Outline application for erection of houses and/or bungalows. Approved

51/64 Proposed erection of houses. Approved.

218/64 Outline application for erection of houses and bungalows Refused

6.00 PLANNING POLICIES

6.01 Flintshire Unitary Development Plan

STR1 - New Development
STR4 - Housing
STR8 - Built Environment
STR10 - Resources
GEN1 - General Requirements for New Development
GEN3 - Development Outside Settlement Boundaries
D1 - Design Quality, Location and Layout
D2 - Design
D3 – Landscaping
HE1 – Development Affecting Conservation Areas
TWH1 - Development Affecting Trees and Woodlands
WB1 - Species Protection
AC13 - Access and Traffic Impact
AC18 - Parking Provision and New Development
HSG4 – New Dwellings Outside Settlement Boundaries
HSG5 – Limited Infill Development Outside Settlement Boundaries
HSG8 - Density of Development
HSG9 - Housing Mix and Type
SR5 - Outdoor Play Space and New Residential Development
EWP3 - Renewable Energy in New Development
EWP14 – Derelict and Contaminated Land
EWP16 – Water Resources

Planning Policy Wales Edition 8 January 2016
TAN 1 Joint Housing Availability Studies 2015

The compliance of the proposal with the relevant policies is set out in the planning appraisal below.

7.00 PLANNING APPRAISAL

7.01 Introduction

This is a full planning application for the erection of two detached dwellings with associated parking and turning and private gardens on a 0.1 hectare site on land adjacent to Rhyddyn Farm, Caergwrle.

7.02 Site Description

The site is located off the A550 to the north of the settlement of Hope. The site is bounded to the north by the newly constructed medical centre. To the south is an existing residential dwelling 'Wistonia' and to the east is Rhyddyn Farm house and to the north east the property of Badgers Bank. There is an access road to these properties which runs along the southern boundary of the site adjacent to 'Wistonia'.

7.03 The site currently has no vehicular access points. The site is elevated above the A550 and there is a wooden post and rail fence before the land slopes down to the footway by means of a grass verge. Its

eastern boundary comprises a mature conifer hedge. Along the southern boundary is a stone wall with a hedge along the site boundary. The boundary with the medical centre to the north is demarcated with a wooden post and rail fence.

7.04 The site is located inside the Caergwrle Conservation Area and outside the settlement boundary within the adopted Flintshire Unitary Development Plan.

7.05 Proposed development

This is a full planning application for the erection of 2 detached four bedroom two storey dwellings. The proposed dwellings would be accessed via a single point of access off the A550 with parking for four cars and a turning area to serve both properties. The conifer hedge on the northern boundary is located on the adjacent land but significantly overhangs the application site. It is proposed to cut back the hedge on the development side in line with the existing chain link fence. The proposed dwellings are rendered with wooden cladding with a tiled roofed and solar panels.

7.06 Principle of development

The site is located outside the settlement boundary for Hope, Caergwrle, Abermorddu and Cefn y Bedd in the adopted UDP. Hope Caergwrle, Abermorddu and Cefn y Bedd is a category B settlement with a growth threshold of 15% (beyond which any additional development would have to be justified on the grounds of housing need). As at April 2015 the settlement had a growth rate of 10% over the Plan period (which is within the indicative growth band of 8-15% for a category B settlement, which informed the Plan). The monitoring of growth over a 15 year period as required by HSG3 ended on 1st April 2015.

7.07 In terms of the policies in the adopted UDP, policy GEN3 sets out those instances where housing development may take place outside of settlement boundaries. The range of housing development includes new rural enterprise dwellings, replacement dwellings, residential conversions, infill development and rural exceptions schemes which are on the edge of settlements where the development is wholly for affordable housing. Policy GEN3 is then supplemented by detailed policies in the Housing Chapter on each type.

7.08 Policy HSG5 allows for infill residential development in the open countryside however this has to meet an identified local need. The proposal does not therefore comply with the housing policies of the UDP.

7.09 Housing Land Supply

PPW and TAN1 requires each local planning authority to maintain a 5 year supply of housing land. The latest published Joint Housing Land Availability Study for Flintshire 2014 shows a 3.7 year land supply

using the residual method with a base date of April 2014. Welsh Government have taken the decision not to pass the Statement of Common Ground for the 2015 JHLAS onto the Planning Inspectorate and the 2015 study will therefore be recorded as uncompleted. In line with the advice in TAN1, Flintshire is considered to not have a 5 year land supply and the Council is unlikely to be able to demonstrate a 5 year land supply until the LDP is adopted. The lack of a 5 year land supply is therefore a material consideration to be given weight.

7.10 It is therefore key to consider if the proposal complies with the requirements of TAN1 and PPW to consider the whether the lack of a 5 year land supply can be given significant weight in this instance. National Planning Policy Planning Policy Wales Welsh Government Advice and National Planning Policy Planning Policy Wales Edition 8 January 2016 paragraph 4.2.2 states *“The planning system provides for a presumption in favour of sustainable development to ensure that social, economic and environmental issues are balanced and integrated, at the same time,”* when taking decision on planning applications.” Planning Policy Wales Edition 8 January 2016 paragraph 4.2.4 states

“A plan led approach is the most effective way to secure sustainable development through the planning system and it is important that plans are adopted and kept regularly under review. Legislation secures a presumption in favour of development in accordance with the development plan for the area unless material considerations indicate otherwise (see 3.1.2) Where;

- *There is no adopted development plan (see 2.6) or*
- *The relevant development plan policies are considered outdated or superseded (see 2.7) or*
- *Where there are no relevant policies (see 2.7)*

there is a presumption in favour of proposal in accordance with the key principles (see 4.3) and key policy objectives (see 4.4) of sustainable development in the planning system. In doing so, proposals should seek to balance and integrate these objectives to maximise sustainable development outcomes.”

7.11 Paragraph 4.2.5 states *“In taking decisions on individual planning applications it is the responsibility of the decision-maker to judge whether this is the case using all available evidence, taking into account the key principles (see 4.3) and policy objectives (see 4.4) of planning for sustainable development. In such case the local planning authority must clearly state the reasons for the decision.”*

7.12 The Inspector in his appeal consideration of APP/A6835/A/14/2220730 land off Old Hall Road/Greenhill Avenue, Ewloe in March 2015 stated that *“There is a danger that the need to increase supply and lack of a 5-year housing land supply could be used to justify development in inappropriate locations.”* It is therefore key in making the planning balance therefore to consider the

sustainable development 'key principles' (see 4.3) and 'key policy objectives' (see 4.4) set out in PPW.

- 7.13 In the commentary on the Council's 2014 HLA Study Report the Council sets out ways in which we would work with landowners and developers to bring forward appropriate and suitable windfall housing sites. It was stated that "*applications on sites outside of existing settlements will be assessed on their individual merits in terms of whether they represent logical and sustainable development having regard to material planning considerations and will not be approved merely because they would increase housing land supply.*" Such sites must also be capable of demonstrating that they can positively increase supply in the short term (perhaps by granting a short term permission) otherwise they would not be capable of meeting the requirements of TAN1.
- 7.14 TAN1 sets out in paragraph 6.2 how the housing land supply figure should be realised as a material consideration in determining planning applications for housing. This guidance states 'where the current study shows a land supply below the 5 year requirement or where the local planning authority has been unable to undertake a studythe need to increase supply should be given considerable weight when dealing with planning applications provided that the development would otherwise comply with the development plan and national planning policies.
- 7.15 Sustainable development
The site lies adjacent to but outside a category B settlement which is a number of smaller settlements linked together which hosts a variety of facilities and services including two primary schools and a Secondary School, doctors surgeries, public houses, play areas and convenience stores. The villages are also on the Wrexham to Bidston railway line. The site itself is located on the edge of the settlement adjacent to the health centre and opposite the Willows play area. It is in close proximity to bus services, a train station, schools and other village facilities and services within walking distance. The settlement and particularly this site is well connected in terms of road links and public transport links to bus routes and the railway station which is in walking distance. It is therefore considered that this is a highly suitable location for additional residential development and accords with the requirements of PPW.
- 7.16 In terms of the capacity of the settlement the growth rate as of April 2015 for Hope, Caergwrle, Abermorddu and Cefn y Bedd was 10% within the UDP plan period. This development is outside the plan period and will in effect contribute to achieving completions in the LDP period in this context. It is considered that the settlement, in view of and its facilities could accommodate 2 additional dwellings as proposed. A time limited 2 year permission would also ensure that the development comes forward to meet the supply situation.

- 7.17 The development would continue the line of development of detached bungalows along the A550. To the rear of the site is Rhyddyn Farm and Badgers Bank both two storey dwellings and to the west is the medical centre which is now completed. The site is therefore a small plot with readily identifiable boundaries. It is therefore considered the development of this site would have limited harm to the open countryside.
- 7.18 The remaining issue is whether it is reasonable to apply the local need housing requirements of HSG5 which sets out the relevant policy guidance on in-fill development. A key principle in making this judgement is that such a proposal must be considered on its individual merits. The application does not have a 'rural' context in terms of the character or appearance. It related much more closely to the built form and pattern of development in the settlement than it does to open countryside given that it has an 'urban' context provided by the health centre and existing residential development. It is not therefore an infill plot within a group of dwellings in a rural open countryside site setting. It is an infill plot within the existing built form of the settlement.
- 7.19 A further consideration is the fact that following the cessation of monitoring growth levels in respect of the 15% threshold in policy HSG3 the local need requirements for additional dwellings is no longer capable of being implemented in a Category B settlement. Balancing the sustainable location, the urban context of the site and the housing land supply considerations, it is therefore not considered reasonable to seek to apply the local need requirements in this instance.
- 7.20 Impact on the Conservation Area and the character of the area
The proposal is for 2 two storey dwellings within the Conservation Area. The site is a parcel of land and is viewed in the context of the Medical centre which is a large render building and the adjacent bungalow which is brick with a concrete tiled roof. The medical centre is higher than a domestic two storey building. Rhyddyn Farm is screened from the A550 by the existing conifer hedge which is proposed to be retained. Badgers Bank is visible however this is in an elevated position from the road.
- 7.21 The Conservation area has the castle at its core and the surrounding pattern of red brick terraced housing which is also evident across the road from the development site. The site however is viewed in the context of the Medical Centre therefore it is considered the two storey nature of the dwellings and the choice of render finish is appropriate in this location. The roof covering should be similar in colour and profile to the adjacent Medical Centre and a similar tile is proposed. It is therefore considered that the proposed development would enhance the character of the Conservation Area. The site as an open space is not an area of open space which makes any significant positive

contribution to the character of the Conservation Area.

7.22 Impact on residential amenity

The site is bounded to the south by the dwelling of Wistonia which is a bungalow. There is the existing access to Rhyddyn Farm and Badgers Bank between this dwelling and the application site. There is a blank elevation on the gable end of the dwelling which faces this dwelling, therefore there is no potential for overlooking. The existing boundary treatment of the fence and hedge would remain along this boundary.

7.23 Rhyddyn Farm house lies to the north of the proposed dwellings however this is screened by the existing conifer hedge which is on the adjacent boundary and outside the application site. This would be trimmed back and therefore would still remain to provide screening between the existing and proposed dwellings.

7.24 It is therefore considered that the proposed dwellings would comply with Local Planning Guidance Note 2: Space Around Dwellings in relation to separation distances and private amenity areas.

8.00 CONCLUSION

8.01 In terms of the test in TAN1 the proposal does not comply with the development plan but is considered to comply with the general principles embodied in national planning policy regarding sustainable development. Also there is no demonstrable harm arising from the proposal in respect of the open countryside, amenity or highways considerations. In this case, the contribution of two dwellings, in a sustainable location, to housing land supply is considered to represent a material planning consideration which outweighs the development plan.

8.02 Other Considerations

The Council has had due regard to its duty under Section 17 of the Crime and Disorder Act 1998 and considered that there would be no significant or unacceptable increase in crime and disorder as a result of the recommended decision.

8.03 The Council has acted in accordance with the Human Rights Act 1998 including Article 8 of the Convention and in a manner which is necessary in a democratic society in furtherance of the legitimate aims of the Act and the Convention.

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

8.05 The Council has had due regard to its duty under Section 3 of the Wellbeing of Future Generations (Wales) Act 2015 and considered that there would be no significant or unacceptable impact upon the

achievement of wellbeing objectives as a result of the recommended decision.

LIST OF BACKGROUND DOCUMENTS

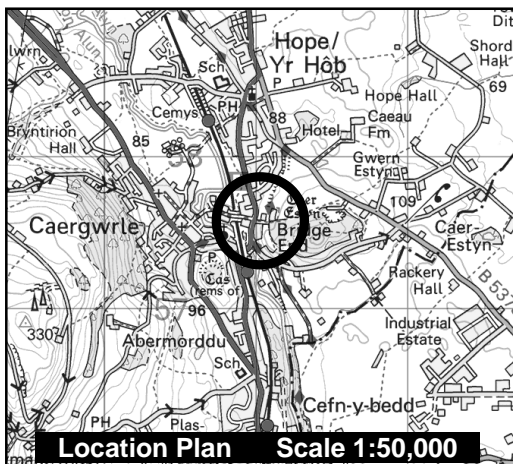
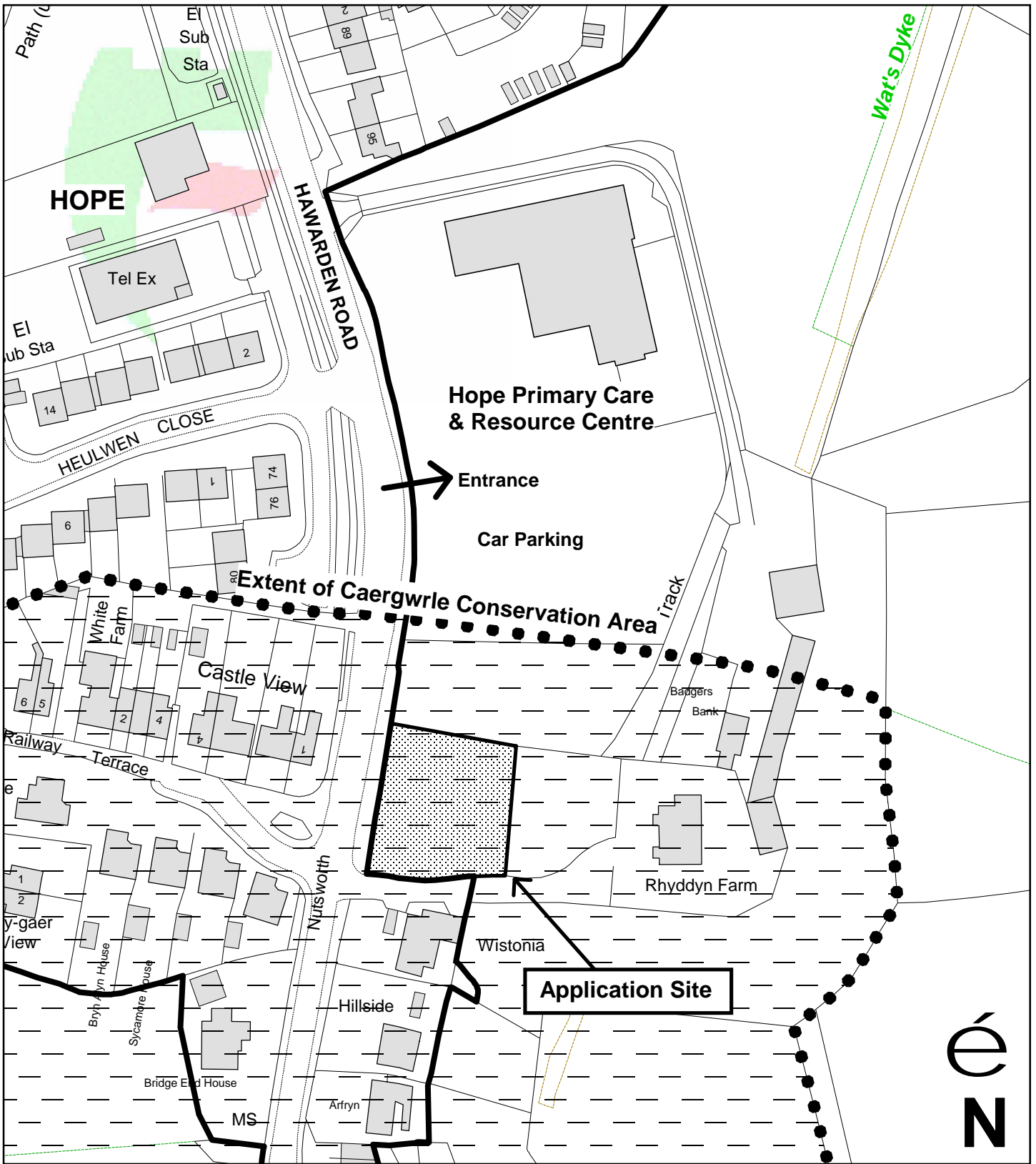
Planning Application & Supporting Documents


National & Local Planning Policy

Responses to Consultation

Responses to Publicity

Contact Officer: Emma Hancock
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Email: emma_hancock@flintshire.gov.uk





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	55414

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FLINTSHIRE COUNTY COUNCIL

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

DATE: **20TH JULY 2016**

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

SUBJECT: **FULL APPLICATION – ERECTION OF 24NO. DWELLINGS WITH ASSOCIATED GARAGES, PARKING AND OPEN SPACES, TOGETHER WITH THE DEMOLITION OF THE EXISTING FORMER SERVICE STATION AND OUTBUILDINGS AT ARGOED SERVICE STATION, MAIN ROAD, NEW BRIGHTON**

APPLICATION NUMBER: **055310**

APPLICANT: **ELAN HOMES LTD**

SITE: **ARGOED SERVICE STATION, MAIN ROAD, NEW BRIGHTON, MOLD.**

APPLICATION VALID DATE: **20TH APRIL 2016**

LOCAL MEMBERS: **COUNCILLOR S. PARKER**

TOWN/COMMUNITY COUNCIL: **ARGOED COMMUNITY COUNCIL**

REASON FOR COMMITTEE: **SCALE OF THE PROPOSAL EXCEEDS THAT FOR WHICH POWERS TO DETERMINE ARE DELEGATED TO THE CHIEF OFFICER**

SITE VISIT: **NO**

1.00 SUMMARY

- 1.01 This full planning application seeks approval for the development of this 0.94 hectare site for 24No. dwellings together with associated highway and infrastructure works.

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

2.01 That conditional permission be granted, subject to the applicant entering either into a Section 106 agreement, providing a unilateral undertaking or the making of an advance payment which provides for the following;

1. Ensure the payment of a commuted sum of £26,400 in lieu of on site play and recreation provisions. Such sum to be paid to be used to enhance existing play facilities at Clwyd Crescent Play Area, New Brighton. Such sum to be paid prior to the occupation of 50% of the approved dwellings.
2. Ensure the payment of commuted sums towards the provision of educational facilities at the nearest primary and secondary schools as follows:
 - a) £61,285 which is required at Mynydd Isa. C.P School; and
 - b) £73,876 which is required at Argoed High School.

Such sums to be payable before the commencement of development.

2.02 Conditions

1. Time limit
2. In accord with approved plans
3. Materials to be submitted and agreed
4. Finished floor and site levels to be submitted and agreed
5. Implementation of landscaping scheme
6. Removal of Permitted Development Rights to Plots 14 – 24inc.
7. Tree protection measures to be implemented prior to any other site works.
8. No lopping topping or felling without prior approval by LPA.
9. Drainage scheme to be submitted and agreed
10. Land contamination investigation prior to any development.
11. Remediation scheme to be submitted and agreed prior to any sites works. Implemented prior to occupation of any dwelling approved.
12. Boundary treatments to be submitted and agreed.
13. Siting layout and design of access to be submitted and agreed. No formation until agreed.
14. Visibility splays of 2.4m x 90m in both directions. No obstructions above 0.6m.
15. Parking facilities to be provided as per approved details.
16. Layout, design, traffic calming, signing, surface water drainage, street lighting and construction of internal estate roads to be submitted and agreed.

17. Gradient of access to be a maximum of 1 in 24 for minimum 10m into site and 1 in 15 thereafter.
18. Scheme to prevent run off of surface water onto highway.
19. Construction traffic management plan to be submitted and agreed.

2.03 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 & Environment) be given delegated authority to REFUSE the application.

3.00 CONSULTATIONS

3.01 Local Member

Councillor S. Parker

No objection to a delegated determination.

Argoed Community Council

No response at time of writing.

Highways DC

No objections subject to the imposition of conditions.

Advises Footpath 45 abuts the site but is unaffected by the proposals.

Pollution Control Officer

Advises that the recommendations within the acoustic report accompanying the application should form the basis of a condition in respect of enhanced glazing provision, passive acoustic ventilation and acoustic fencing.

Also advises that the site has potential to be contaminated, especially in the area of the former service station. Has raised concerns in respect of the adequacy of the contamination reports but advises the matter can be adequately addressed via a condition requiring the investigation and any remediation proposals to be undertaken, and agreed prior to the commencement of any development.

Education - Capital Projects and Planning Unit (CPPU)

Advises that insufficient capacity exists in the local primary school (Mynydd Isa C.P School) and therefore would be affected by these proposals. Advises that the local Secondary School affected by the proposals would be Argoed High School which is already over capacity.

Public Open Spaces Manager

Advises that an on site play facility would not be required. Advises that a commuted sum of £1100 per dwelling should be sought to contribute to the provision of recreational facilities within the locality at Clwyd Crescent :play Area, New Brighton.

Natural Resources Wales

No objections to the proposals. Advises of the need for a bat licence should bats be encountered during works.

Notes that the historic use of part of the site give rise to the potential for the site to be the subject of land contamination. Requests the imposition of investigation and remediation conditions.

Notes the ground conditions in the area do not favour infiltration as a means of surface water disposal. Requests that a condition be imposed requiring the agreement of the propose drainage system prior to any site development.

Dwr Cymru/Welsh Water

No adverse comments. Requests the imposition of conditions.

Clwyd Powys Archaeological Trust

Confirms there are no archaeological implications arising from the proposals.

AIRBUS

No adverse comments.

Ramblers Cymru

Observes a footpath runs to the south of the site. Considers layout should seek to link into this footpath. Queries whether improvement to the surface could be achieved.

4.00 PUBLICITY

4.01 The application has been publicised by way of the publication of a press notice, display of a site notice and neighbour notification letters. At the time of writing this report, 1No. letter has been received in response raising objections on the following grounds;

- The need for the proposals is not proven;
- Considers the proposed point of access to be dangerous and likely to give rise to vehicular accidents;
- Proposal will increase already high levels of HGV movements in the area to detriment of highway and pedestrian safety; and
- The village does not have the services or infrastructure to accommodate new development.

5.00 SITE HISTORY

5.01 694/90

Erection of a forecourt canopy
Permitted 23.8.1990

043678

Outline - Erection of 16 dwellings
Withdrawn 12.11.2007

045048

Erection of 24No. dwellings
Permitted 16.8.2013

6.00 PLANNING POLICIES

6.01 Flintshire Unitary Development Plan

- Policy STR1 - New Development.
- Policy STR4 - Housing.
- Policy STR7 - Natural Environment.
- Policy STR11 - Sport, Leisure & Recreation
- Policy GEN1 - General Requirements for Development.
- Policy GEN2 - Development Inside Settlement Boundaries.
- Policy D1 - Design Quality, Location and Layout.
- Policy WB1 - Species Protection
- Policy TWH1 - Development Affecting Trees and Woodlands
- Policy TWH2 - Protection of Hedgerows
- Policy AC13 - Access and Traffic Impact.
- Policy HSG1(33) - New Housing Development Proposals.
- Policy HSG8 - Density of development.
- Policy EWP14 - Derelict & Contaminated Land.
- Policy SR5 - Play areas and new housing development.

7.00 PLANNING APPRAISAL

7.01 The Site and Surroundings

The site is located within the settlement boundary of New Brighton as defined in the FUDP. It lies on the south side of the Main Road (A5119) on the western edge of the settlement. It comprises an irregular shaped field rising gently and tapering towards its southern end. Access to the site is presently derived via an agricultural gate from the premises of the existing service station. The site has most recently been used for agricultural grazing.

7.02 The site is bounded to the west by a substantial and mature tree lined hedgerow beyond which is agricultural land sloping down to Mold. To the south is residential development on Lindum Close and to the east is residential development along Argoed Avenue. A public right of way runs along the southern edge of the site providing a link between Lindum Close, Argoed Avenue and open countryside to the south west. The northern part of the allocation comprises the dwelling Hilltop and the former petrol station and garage 'Argoed Garage'. The garage is bounded on either site by two individual dwellings, Argoed House and Tristernough, which are set within substantial plots.

7.03 The Proposals

It is proposed to erect 24No. dwellings comprising a mix of 2, 3 and 4 bed accommodation, comprising:

4No. 2 bed dwellings;
4No. 3 bed dwellings, and
16No. 4 bed dwellings.

7.04 The houses are proposed to be externally finished in both brick and render beneath grey slate effect or tile roofs, both with detached and integral garages. The site is served in access terms via a central spine road running north to south, terminating in a turning head with private drive arrangement at the most southerly part of the site. An area of amenity open space adjacent to the site entrance is indicated.

7.05 The Main Issues

The main issues for consideration are:

- The principle of development;
- Access & highway considerations;
- Land contamination and remediation;
- Design and impact upon amenities;
- Ecological Issues;
- P.O.S and play provisions; and
- Infrastructure impacts.

7.06 The Principle of Development

The site is allocated for development in the Flintshire Unitary Development Plan for residential development. The principle of development has therefore been accepted. In addition, a resolution to grant planning permission under reference 045048 for residential development of the same scale on this site was made at Planning Committee on 16th March 2011. The principle of residential development has therefore been reinforced through this grant of planning permission.

7.07 Access & highway considerations

The proposals provide for access to the site to be derived via a newly created access across the land presently occupied by the former service station. The access and proposed internal estate road layout has been the subject of consultation with Highways DC who have advised that subject to the imposition of conditions, no objection is raised to the proposals upon highway safety grounds.

7.08 Land contamination and remediation

The concern in respect of land contamination raised by both NRW and the Pollution Control Officer (PCO) relates to the northern part of the site which is occupied by the former petrol filling station (PFS). The subterranean fuel tanks were foam filled in 2006. Land contamination

investigations undertaken in connection with historical applications for this site has identified contamination within the area of the PFS.

7.09 The buildings of the former PFS and the tanks themselves will be removed as part of this proposal. Therefore appropriate conditions in respect of the identification of the precise nature of contamination and a scheme of remediation are requested by both NRA and PCO to be imposed upon any subsequent granted of planning permission. I propose to condition accordingly.

7.10 Design and impact upon amenities

An indicative yield of 33 dwellings from this site was envisioned in allocating the site within the UDP. This accords with the aim of the plan to seek to ensure that all allocated housing sites should achieve a minimum of 30dpha (unless there are particular constraints or issues which indicate a lower density is appropriate). Policy HSG8 - Density of Development, advises that, where appropriate, development should seek to make the most efficient use of land whereby the density of development should be optimised, whilst having regard to the characteristics of the site and surroundings and making provision for a high quality living environment in terms of privacy and space. This proposal equates to a form of development which yields development at a rate of approximately 25d.p.ha. Notwithstanding the aims of HSG8, I consider that the specific characteristics of the site, namely its edge of settlement and edge of green barrier location, are such that the density proposed represents the best use of this land in accordance with the aims and requirements of policy HSG8.

7.11 It is the southern field within the site is proposed to be developed for the purposes of the erection of 24No. dwellings. The layout indicates houses arranged around an adoptable road, turning head and private drive. The dwellings adjacent to the tree and hedgerow lined western boundary are set an appropriate distance from these natural features. The dwellings are of a form and scale reflective of the general vernacular in the area and therefore conclude that the form and layout indicated would be acceptable in design terms. The dwellings are of 2 storey form to be constructed of brick and render beneath slate or tile roofs, all of which is consistent with the local vernacular.

7.12 The site layout is in line with Council guidance on space about dwellings/overlooking/privacy and is complimentary to the general character of the area which has a mixture of property types and styles. I am satisfied that the proposal makes adequate provision for space about dwellings and I consider that the design and layout of the proposals are such that the potential for adverse residential amenity impacts, such as overlooking, have been suitably addressed. In the interests of ensuring that these standards of residential amenity and separation are maintained and controlled, I propose to impose a planning condition which removes certain of the permitted

development rights which residential properties can normally expect to enjoy.

7.13 Ecological Issues

I am mindful that the position of the site adjacent to a Green Barrier area. The mature and established trees which exist predominantly along the southern and western boundaries of the site serve to screen the site to views from the Green Barrier and will also contribute to soften the appearance of built form upon the site. Whilst the proposals provide for the retention of these hedgerows and trees, in view of the importance of the function which they serve in landscaping terms, I propose to condition the protection of these important natural features during the course of development and thereafter via the imposition of suitable conditions to this effect. I consider that these conditions will serve to address the concerns raised in respect of these issues. Furthermore, the imposition of a condition requiring the implementation of the submitted landscaping scheme will reinforce the softening of this development and ensure that it relates well to its surroundings term of both hard and soft landscaping.

7.14 I am equally mindful of the potential for the trees to offer nesting and roosting sites for bats and birds. An ecological survey has been provided to accompany the application which establishes that the buildings are not acting as roost sites for bats nor nesting sites for birds. NRW have considered this information and advise that they have no objection upon ecology grounds.

7.15 Development with the potential to affect bats are required to be licenced under the Conservation of habitats and Species Regulations 2010 (as amended). A licence can only be authorised if:

- i. There is no satisfactory alternative; and
- ii. The action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in its natural range; and
- iii. The development works to be authorised must be for the purposes of preserving public health or safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment.

7.16 In consideration of these requirements I note that the site lies within the identified settlement boundaries of Mynydd Isa and is an allocated housing site within the FUDP. National Planning Policies seek to direct the majority of new development of this form to existing urban centres upon sites which, by virtue of their location in close proximity to existing infrastructure and services, would also satisfy the sustainability aims of national policy.

- 7.17 Therefore, the context of this land within the settlement and, therefore subject to presumption in favour of development, has existed for in excess of 15 years. Therefore the development of this site would help to satisfy the demand for housing in an area where the need for more housing has already been identified.
- 7.18 The application is accompanied by survey data to indicate that the proposals would not adversely affect European Protected Species (EPS). In considering this data, together with Mitigation Measures to be required through the imposition of an appropriately worded condition, the Local Planning Authority are satisfied that there are no adverse effects upon the EPS. It is considered that this proposal will ensure that the species and habitats are brought into favourable conservation status, where, without the development, this would not be the case.
- 7.19 In view of the above, I propose to condition that no works to any trees or hedgerows are undertaken without first a qualified ecologist having investigated those trees upon which works are to be undertaken to establish that neither nesting birds nor bats are present. No work shall be undertaken until a report confirming the absence of either is submitted and agreed.
- 7.20 P.O.S and play provisions
The proposals do not provide for on-site public open space intended for formal recreation and play. Consultation with the Public Open Spaces Manager has revealed that rather than formal provision within the site for play, a commuted sum should be sought to be utilised in connection with projects for play and recreation within the community.
- 7.21 The consultation has established that the sum requested should be used in connection with a project to upgrade existing play facilities at the nearby Clwyd Crescent Garreg children's play area. In accordance with the requirements of the Community Infrastructure Levy Regulations (CIL) 2010, this sum, when pooled would not exceed 5 contributions towards a single project.
- 7.22 Accordingly and in line with LGPN 13: Open Space Requirements, I recommend that a contribution of £26,400 is sought via a S.106 agreement to satisfy this requirement.
- 7.23 Infrastructure impacts
Consultation has highlighted a lack of capacity within the existing educational infrastructure to accommodate the pupils arising from the proposed development of a further 24No. dwellings.
- 7.24 Members will be aware that applications of this type are the subject of consultation with the Capital Projects and Planning Unit within the Local Education Authority. This consultation has established, having regard to SPG23 : Developer Contributions to Education, the

development would give rise to the need for contribution requirements at both Primary and Secondary School level as there is sufficient capacity within the school nearest schools both currently and following this development (if approved).

- 7.25 The nearest primary school is Mynydd Isa C. P School. The current capacity of the school stands at 513. There are presently 486 pupils attending the school. Accordingly the school has a 5.26% surplus of spaces for additional pupils. The proposals would give rise to an additional 6 pupils. This would erode capacity further below the 5% margin which is sought to be protected as set out in SPG23 guidance. Accordingly, upon the application of the guidance, a sum of £61,285 is sought for educational purposes as a consequence of this development.
- 7.26 The nearest secondary school is Argoed High School. The current capacity of the school stands at 580. There are presently 589 pupils attending the school. Accordingly the school is already oversubscribed with no surplus of spaces for additional pupils. The proposals would give rise to an additional 4 pupils. Accordingly, upon the application of the guidance, a sum of £73,876 is sought for educational purposes as a consequence of this development.
- 7.27 Members will recall from recent discussions in respect of this school and the implications of the effects of the CIL Regulations upon the ability of the Local Planning Authority to seek contributions via S.106 Agreements in respect of educational infrastructure in respect of this school.
- 7.28 The infrastructure and monetary contributions that can be required from the a planning application through a S.106 agreement have to be assessed under Regulation 122 of the Community Infrastructure Levy (CIL) Regulations 2010 and Welsh Office Circular 13/97 'Planning Obligations'.
- 7.29 It is unlawful for a planning obligation to be taken into account when determining a planning application for a development, or any part of a development, if the obligation does not meet all of the following Regulation 122 tests;
1. be necessary to make the development acceptable in planning terms;
 2. be directly related to the development; and
 3. be fairly and reasonably related in scale and kind to the development.
- 7.30 While the Authority does not yet have a charging schedule in place, the CIL Regulations puts limitations on the use of planning obligations. These limitations restrict the number of obligations for the funding or provision of an infrastructure project/type of infrastructure. From April

2015 if there have been 5 or more S.106 obligations relating to an infrastructure project/type of infrastructure since 2010 then no further obligations for that infrastructure project/type of infrastructure can be considered in determining an application.

- 7.31 The Planning Authority has secured 2 obligations towards Mynydd Isa C. P School since April 2010, namely;

Reference No.	Site Address	Contribution Amount
051424	Land to the rear of 'Rock Bank', Main Road, New Brighton	£36,771
053208	Land at 'Issa Farm' Mynydd Isa	£171,598

- 7.32 The Planning Authority has also secured 2 obligations towards Argoed High School since April 2010, namely;

Reference No.	Site Address	Contribution Amount
051424	Land to the rear of 'Rock Bank', Main Road, New Brighton	£36,938
053208	Land at 'Issa Farm' Mynydd Isa	£184,690

- 7.33 In view of that fact that not more than 5 obligations in respect of each school have been entered into to date, I am advised that the sums sought will be used as a contribution towards providing additional resources to accommodate the additional pupils generated from the development.

- 7.34 I am satisfied, on the application of the tests set out in S.122 of the CIL Regulations and as detailed above, that such a contribution would satisfy these requirements. I am also satisfied that the sum is sought for a specific identified project and as such, would not be caught by the S.123 prohibition with the CIL Regulations.

8.00 CONCLUSION

- 8.01 Having regard to the proposals and the above consideration of all relevant matters, I consider that these proposals represent a scheme, the detail of which is acceptable. I recommend that planning permission be granted subject to approximately worded planning conditions and the suggested legal agreement.

8.02 **Other Considerations**

The Council has had due regard to its duty under Section 17 of the Crime and Disorder Act 1998 and considered that there would be no significant or unacceptable increase in crime and disorder as a result of the recommended decision.

8.03 The Council has acted in accordance with the Human Rights Act 1998 including Article 8 of the Convention and in a manner which is necessary in a democratic society in furtherance of the legitimate aims of the Act and the Convention.

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

8.05 The Council has had due regard to its duty under Section 3 of the Wellbeing of Future Generations (Wales) Act 2015 and considered that there would be no significant or unacceptable impact upon the achievement of wellbeing objectives as a result of the recommended decision.

LIST OF BACKGROUND DOCUMENTS

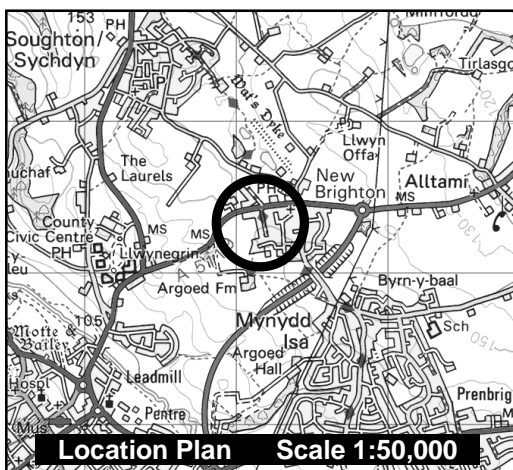
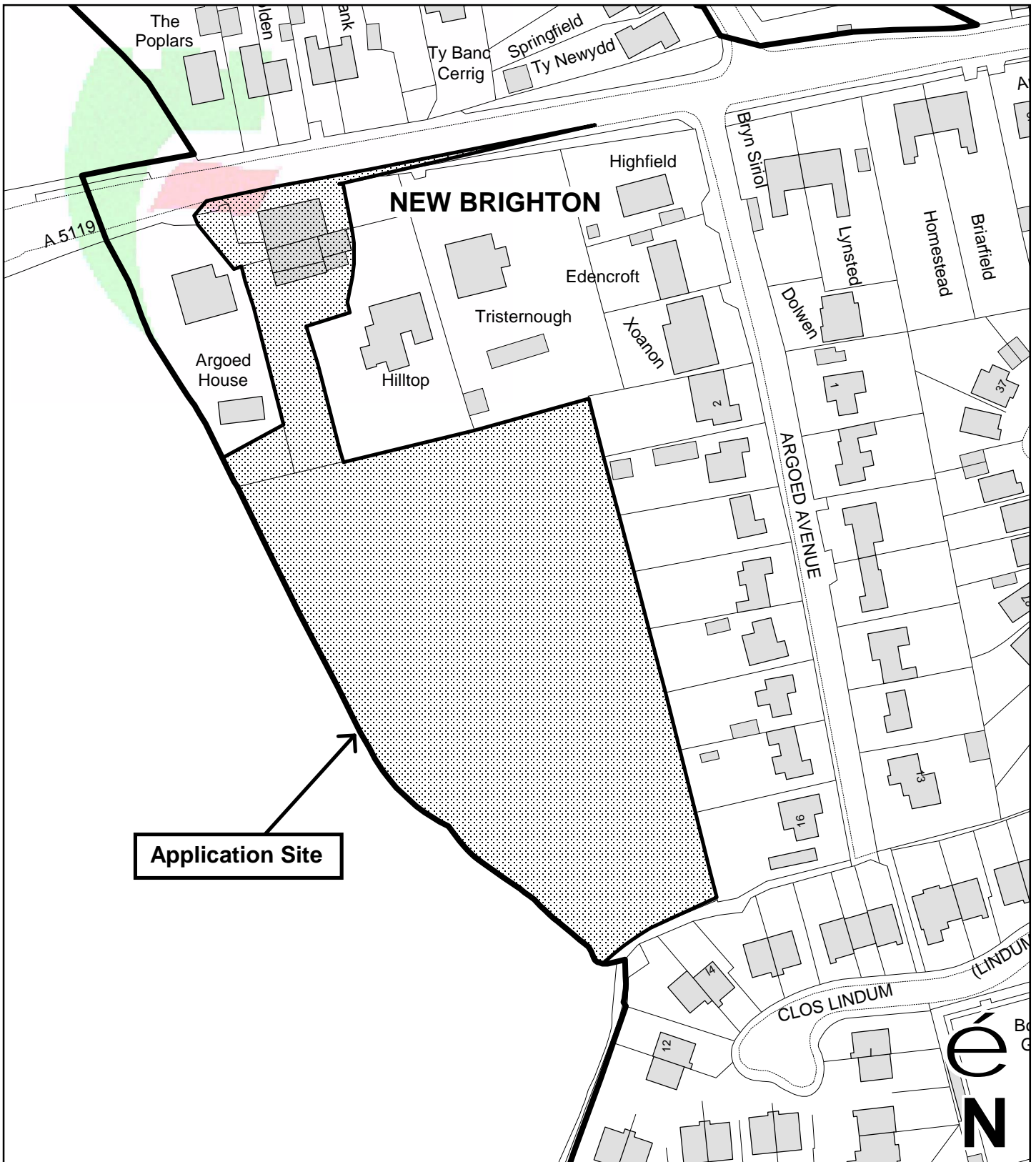
Planning Application & Supporting Documents

National & Local Planning Policy

Responses to Consultation

Responses to Publicity

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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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OS Map ref SJ 2565

Planning Application **55310**

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FLINTSHIRE COUNTY COUNCIL

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

DATE: **20TH JULY 2016**

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

SUBJECT: **FULL APPLICATION - CHANGE OF USE FROM POST OFFICE TO SINGLE DWELLING AT 8 MANCOT LANE, MANCOT**

APPLICATION NUMBER: **055549**

APPLICANT: **MR. A .DISKIN**

SITE: **8 MANCOT LANE MANCOT DEESIDE ,FLINTSHIRE**

APPLICATION VALID DATE: **6TH JUNE 2016**

LOCAL MEMBERS: **COUNCILLOR Mrs G D DISKIN**
COUNCILLOR A G DISKIN

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

REASON FOR COMMITTEE: **APPLICANT IS LOCAL MEMBER**

SITE VISIT: **NO**

1.00 SUMMARY

- 1.01 The application relates to the change of use of the vacant post office and incorporate it into the existing dwelling to which it forms part, to provide additional living accommodation. As part of the change of use application the plans also show the removal of the existing shop front and the provision of a new bay window to match the existing dwelling.

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

2.01 Conditions

1. Time commencement.
2. In accordance with approved plans.
3. Materials to be agreed.

3.00 CONSULTATIONS

3.01 Local Member Local Members
Councillor Mrs G D Diskin
No response at time of writing.

Councillor A G Diskin
Is the applicant.

Hawarden Community Council
No response at time of writing.

Head of Public Protection

Welsh Water/Dwr Cymru:-

Welsh Water do not wish to make any representations in relation to the application.

4.00 PUBLICITY

4.01 Site Notice
No response at time of writing.

5.00 SITE HISTORY

5.01 No relevant history

6.00 PLANNING POLICIES

6.01 Flintshire Unitary Development Plan
GEN1 - General Requirements for Development
D1 - Design
S11 - Retention of Local facilities

7.00 PLANNING APPRAISAL

7.01 The application relates to two aspects the first being the change of use of the former post office at 8 Mancot Lane, Mancot. to residential use as part of the existing dwelling. The second aspect is the removal of the existing shop front and the introduction of a new bay window to match that of the existing dwelling.

7.02 The plans submitted show the building which consists of a two storey brick built structure under a slated roof. At present the vacant shop area occupies the right hand side ground floor area. The scheme shows the integration of the former shop/post office into the adjacent house to form a new family room and dining room as additional accommodation to the existing dwelling which it forms part. The addition of a new bay window as part of the conversion will enhance the building and the street scene.

7.03 In policy terms the application site forms part of the applicant's house with toilet facilities being shared. The applicant has marketed the site in excess of twelve months as required by policy without success. In addition there are other facilities within reasonable close proximity to the site.

8.00 CONCLUSION

8.01 Given the above it is considered that the change of use of the existing commercial use to additional living accommodation with the existing residential use is considered acceptable.

Other Considerations

8.02 The Council has had due regard to its duty under Section 17 of the Crime and Disorder Act 1998 and considered that there would be no significant or unacceptable increase in crime and disorder as a result of the recommended decision.

8.03 The Council has acted in accordance with the Human Rights Act 1998 including Article 8 of the Convention and in a manner which is necessary in a democratic society in furtherance of the legitimate aims of the Act and the Convention.

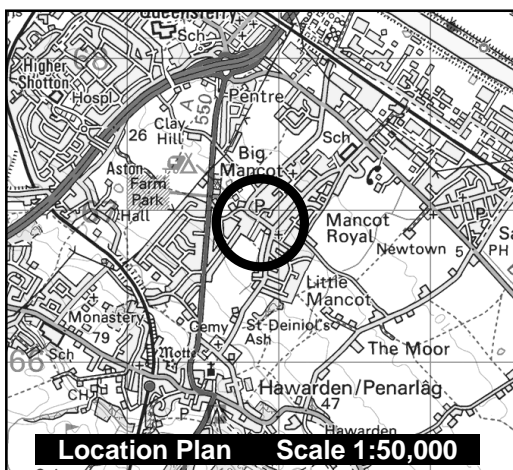
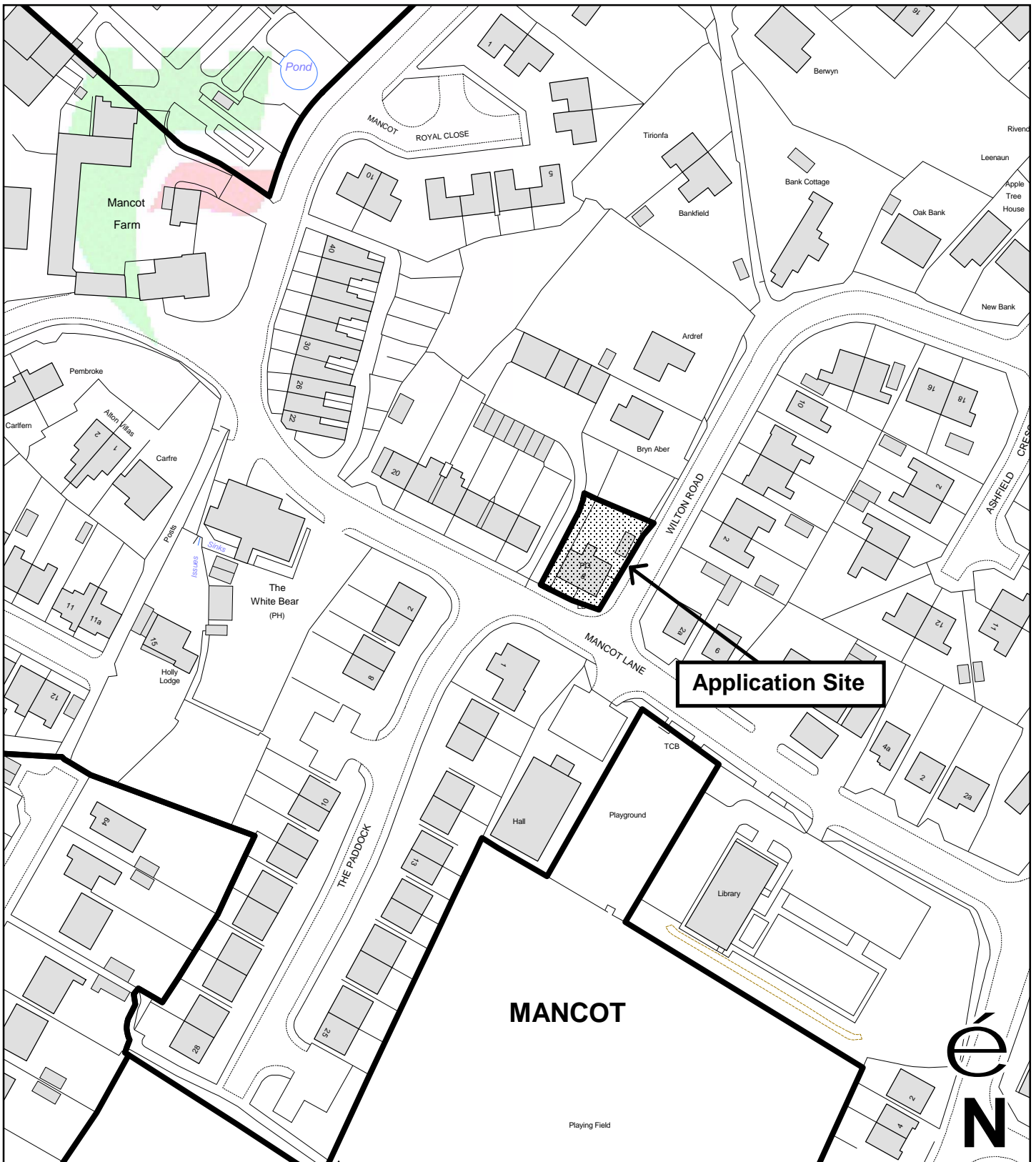
8.04 The Council has had due regard to its public sector equality duty under the Equality Act 2010.

8.05 The Council has had due regard to its duty under Section 3 of the Wellbeing of Future Generations (Wales) Act 2015 and considered that there would be no significant or unacceptable impact upon the achievement of wellbeing objectives as a result of the recommended decision.

LIST OF BACKGROUND DOCUMENTS



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

Contact Officer: Karl Slater
Telephone: (01352) 703259
Email: karl_slater@flintshire.gov.uk



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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Map Scale	1:1250
OS Map ref	SJ 3166
Planning Application	55549

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FLINTSHIRE COUNTY COUNCIL

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

DATE: **20TH JULY 2016**

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

SUBJECT: **REMODELLING AND EXTENSION, ERECTION OF A GARAGE AND THE TEMPORAY SITING OF A CARAVAN AT TOP YR ALLT COTTAGE, BLACKBROOK ROAD, SYCHDYN**

APPLICATION NUMBER: **055612**

APPLICANT: **MR JOHN MCVEY**

SITE: **TOP YR ALLT COTTAGE, BLACKBROOK ROAD, SYCHDYN**

APPLICATION VALID DATE: **22ND JUNE 2016**

LOCAL MEMBERS: **CLLR M BATEMAN**

TOWN/COMMUNITY COUNCIL: **NORTHOP COMMUNITY COUNCIL**

REASON FOR COMMITTEE: **FAMILY MEMBER OF PLANNING OFFICER**

SITE VISIT: **NO**

1.00 SUMMARY

- 1.01 This is a full application for the erection of a side and rear extension along with an improve access and double timber garage at Top yr Allt Cottage, Blackbrook Lane, Sychdyn. The application also includes the temporary siting of a storage container and static caravan for residential use whilst the building work is being undertaken The main issues to consider are the principle of development, impact on visual amenity and the highway.
- 1.02 It is considered that the proposed dwelling is in accordance with Policy HSG12 and meets the Councils requirements for LPGN 2 Space Around Dwellings.

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

- 2.01
1. Time limit.
 2. In accordance with plans.
 3. Facilities to be provided and retained within the site for parking and turning of vehicles.
 4. The caravan and storage container are removed within 12 months.
 5. Turning and parking facilities shall be provided and retained.

3.00 CONSULTATIONS

3.01 Local Member: Cllr M Bateman
No response at time of writing.

Northop Community Council
No response at time of writing.

Head of Assets and Transportation's:
Have requested a condition requiring turning and parking facilities to be provided and retained.

Head of Public Protection
No adverse comments.

Ecology
No response at time of writing.

Historic Parks and Gardens
No response at time of writing.

Welsh Water/Dwr Cymru
No Objection subject to an advisory note.

4.00 PUBLICITY

4.01 Site Notice
No Responses received at the time of writing.

5.00 SITE HISTORY

5.01 None.

6.00 PLANNING POLICIES

- 6.01 Flintshire Unitary Development Plan
 - STR1 – New Development
 - STR8 – Built Environment
 - GEN1 – General Requirements for Development
 - D1 – Design Quality, Location and Layout
 - D2 – Design
 - D3 – Landscaping
 - HSG12 – House Extension and Alternations

7.00 PLANNING APPRAISAL

- 7.01 The application site is located just outside the settlement boundary of Sychdyn as defined in the Flintshire Unitary Development plan.
- 7.02 The dwelling is a detached two storey cottage of stone construction under a slate roof and was built as part of the Gwysaney Estate in circa 1830. The dwelling is situated within a large plot off Blackbrook road and remains largely unaltered over the past 100 years. This application seeks consent for the erection of a 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/lounge, downstairs toilet and an additional bedroom to the first floor. The application also include the siting of a caravan and storage for residential use whilst the works are undertaken.
- 7.03 The main issues in considering this application are the visual amenity impact and highways impact. As the site is located away from any other residential properties it is considered that there will be no impact on residential amenity.

Visual Amenity

- 7.04 The orientation of the existing property on the plot leads to a long frontage and a linear built form. The proposed extensions continue this form, reflective of the character of this this particular property and the general vernacular when viewed from the road. The proposed extension has been stepped down from the existing ridge and eaves height by approximately 50cm.
- 7.05 The elevation facing the road has been designed to be in keeping with the existing dwelling with the use of windows in a matching style and proportion to the existing. The proposed extension to the rear elevation incorporate a cat slide style roof which screens a first floor balcony from the road. This elevation has a larger amount of glazing but as it is sunk into the ground slightly does not appear overbearing within the landscape. The proposed use of matching stone along with render is considered acceptable and in keeping with the style of the existing

dwelling.

7.06 The proposed temporary storage container and static caravan will have an impact on the visual amenity of the area but this will only be short lived. A condition will require the removal of the caravan and storage container within 12 months of this permission.

7.07 The proposed garage is on timber construction and is to be clad in oak cladding. It is to be located away from the dwelling and set back from the road. This will be visible from the public highway but its design and scale are considered to be acceptable.

Highways Impact

7.08 The application proposes a new area of porous hardstanding along with an improved access and a boundary wall. The proposed gate along with the majority of the boundary wall will be under 1 meter in height and therefore does not require planning permission. The boundary will be moved back from the highway by approximately 50cm in order to improve the visibility. The bound wall will raise to 2 meters in height for approximately 5 meters adjacent to the proposed extension.

7.09 The garage along with the porous hard standing's will provide an ample amount of space for the parking and turn of vehicles.

8.00 CONCLUSION

It is considered that the proposed development of extension and alteration of the property in the manner proposed is compliant with relevant policies. The development in the manner proposed will not adversely impact upon visual amenity on the area or the highway.

8.01 Other Considerations

The Council has had due regard to its duty under Section 17 of the Crime and Disorder Act 1998 and considered that there would be no significant or unacceptable increase in crime and disorder as a result of the recommended decision.

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

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

8.04 The Council has had due regard to its duty under Section 3 of the Wellbeing of Future Generations (Wales) Act 2015 and considered that there would be no significant or unacceptable impact upon the achievement of wellbeing objectives as a result of the recommended decision.

LIST OF BACKGROUND DOCUMENTS

Planning Application & Supporting Documents

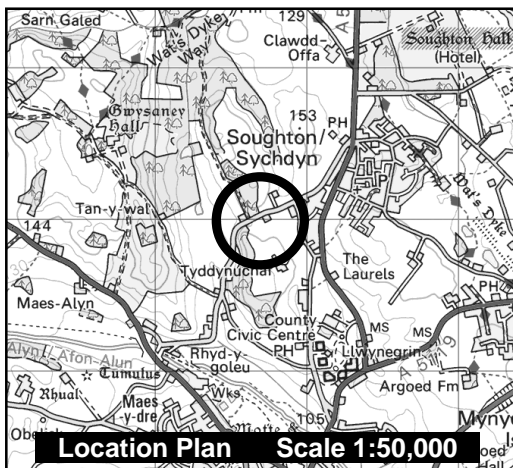
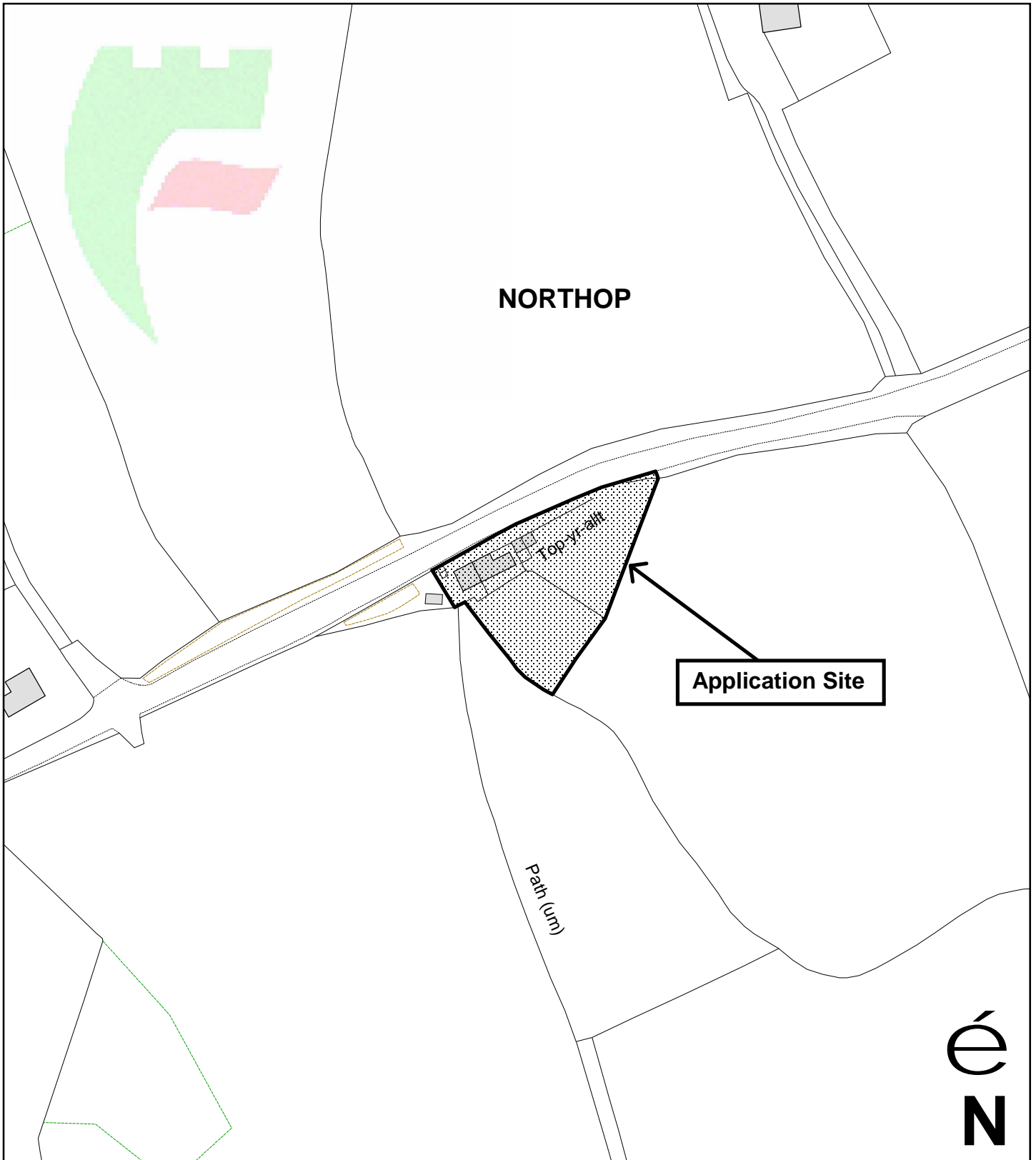
National & Local Planning Policy

Responses to Consultation

Responses to Publicity

Contact Officer: Karl Slater
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Email: karl_slater@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 **55612**

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FLINTSHIRE COUNTY COUNCIL

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

DATE: **WEDNESDAY, 20 JULY 2016**

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

SUBJECT: **054151 - GENERAL MATTERS - DEMOLITION OF EXISTING HEALTH CARE CENTRE AND ERECTION OF 24 NO. AFFORDABLE APARTMENTS WITH ASSOCIATED LANDSCAPING AND PARKING AT BUCKLEY HEALTH CENTRE, PADESWOOD ROAD NORTH, BUCKLEY**

1.00 APPLICATION NUMBER

1.01 054151

2.00 APPLICANT

2.01 GRWP CYNEFIN

3.00 SITE

3.01 FORMER BUCKLEY MEDICAL CENTRE,
PADESWOOD ROAD NORTH,
BUCKLEY.

4.00 APPLICATION VALID DATE

4.01 12TH AUGUST 2015

5.00 PURPOSE OF REPORT

5.01 To seek approval from Members for an amendment to the resolution made at the Planning and Development Control Committee held on 16th December 2015 in respect of the proposed Section 106 Agreement required in connection with the above proposal.

6.00 REPORT

6.01 Members will recall considering this proposal at the Committee of the 16th December 2015 and resolving to grant planning permission

subject to, amongst other matters, a S.106 Agreement requiring the following:

- 6.02
- a) Ensure the payment of a contribution of £17,592 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 at Lyme Grove Play Area;
 - b) The precise methods of Social Rental via which the units are to be made affordable and provisions for their continued affordability thereafter;
 - c) The payment of £4000 as a contribution to the cost of amendments to existing on road parking restrictions and the provision of related signage and road markings via a new Traffic Regulation Order on Padeswood Road.
- 6.03 There have been discussions between officers of the Council and the Applicant in respect of the above terms of the S.106. The matters to which this report directs itself relates to clause b) above. It is normal practice where an application is submitted upon the basis of being an affordable scheme for the precise methods and means of affordability to be secured in perpetuity via a S.106 agreement.
- 6.04 As the applicant is a Registered Social Landlord (RSL), dwellings in their ownership will be made available upon an affordable basis in any event.
- 6.05 However, whilst the application was advanced upon the basis of being 100% affordable, the applicant is concerned that the suggested S.106 clause (for 100% of the dwellings to be made available on social rented terms) would place a restriction upon the means and methods by which the units may be made available as affordable housing. The applicant has requested that only 30% (8no.) of the units are restricted under the terms of the S.106 agreement and are thereby required to be made available on social rented terms with the rent to be in accordance with the Local Housing Allowance set for the Community.
- 6.06 I do not consider that this is unreasonable. I appreciate that control over the proposed affordability method across 100% of the scheme causes practical difficulties for the applicant in that they will not be able to secure the required lending on this basis, and therefore I consider such a scheme would be unduly restrictive and therefore unjustifiable.
- 6.07 The residual of the scheme (16No. units) will be available for occupation via a range of other affordable accommodation models as the applicant is an RSL, but these would not be restricted under the S.106. There is a demonstrable need for affordable housing in the

area and this proposal will contribute to meeting this need.

6.08 Accordingly, I consider the amendment to the S.106 clause to be acceptable and am satisfied that the amendment still ensures that the proposals, as a whole, are compliant with the requirements of policy.

7.00 RECOMMENDATIONS

7.01 That the suggested clauses of the S.106 be amended to provide for the following:

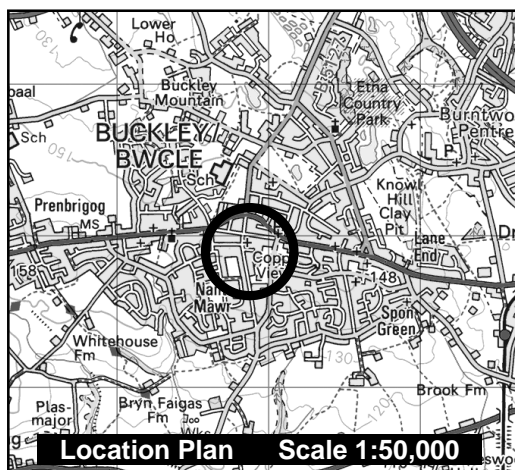
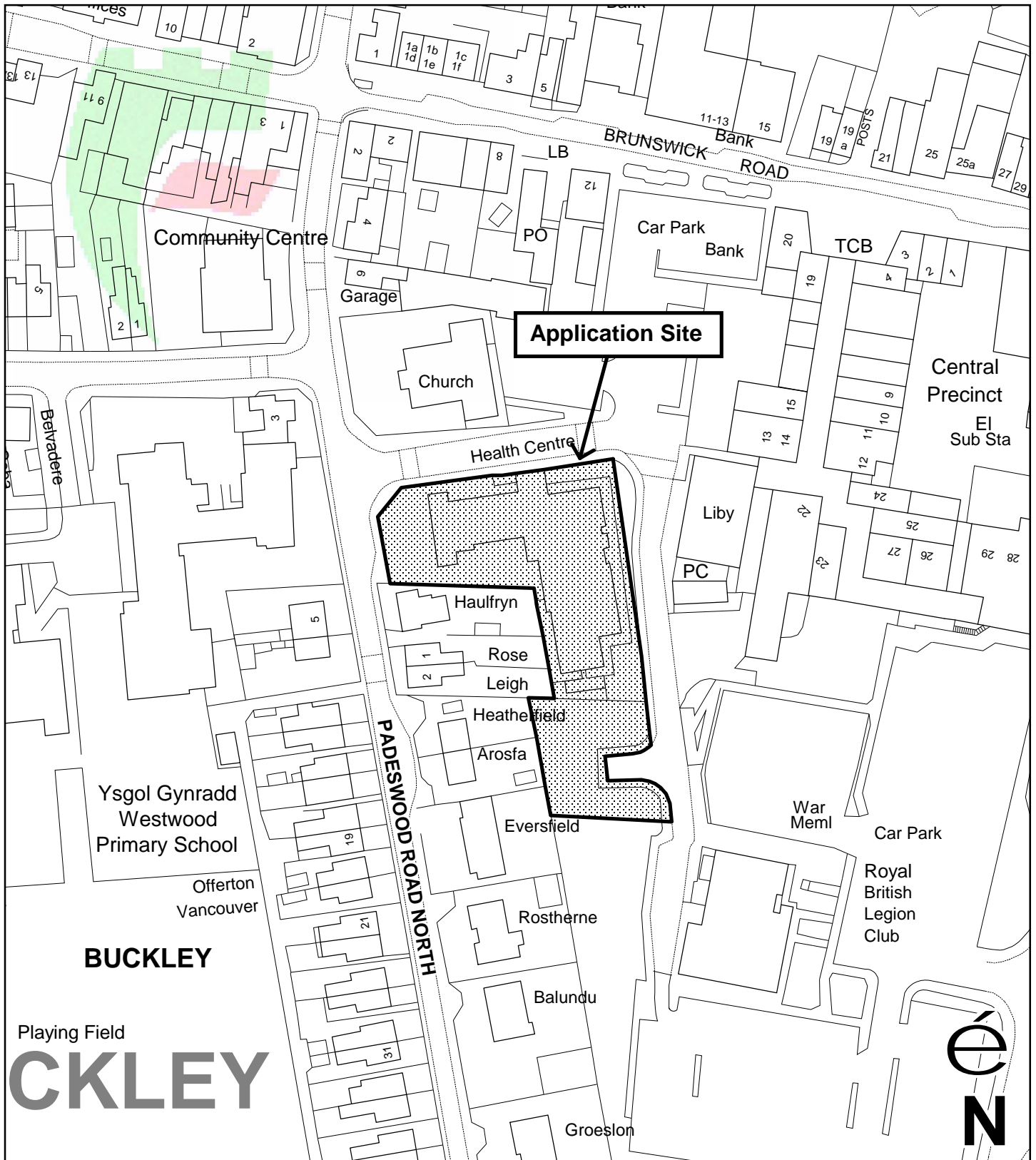
- a) Ensure the payment of a contribution of £17,592 to the Council in lieu of on-site play and recreation provision. Such sum to be paid to the Council prior to the occupation of any dwelling hereby approved and to be used to upgrade existing facilities within the community at Lyme Grove Play Area;
- b) Ensure that 8No. of the proposed units are made affordable on Social Rented Terms with rents in accordance with the Local Housing Allowance set for the Community, and to contain provisions for their continued affordability thereafter;
- c) The payment of £4000 as a contribution to the cost of amendments to existing on road parking restrictions and the provision of related signage and road markings via a new Traffic Regulation Order on Padeswood Road

LIST OF BACKGROUND DOCUMENTS

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

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Email: david.glyn.jones@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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 Flintshire County Council, 2015.

Map Scale 1:1250

OS Map ref SJ 2763

Planning Application **54151**

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FLINTSHIRE COUNTY COUNCIL

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

DATE: **20th JULY 2016**

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

SUBJECT: **DISCHARGE OF SECTION 106 AGREEMENT AT THE MILL HOUSE, TYN Y CAEAU, NORTHOP**

APPLICATION NUMBER: **055105**

APPLICANT: **MR & MRS JOHN & JO MARTIN**

SITE: **THE MILL HOUSE, TYN Y CAEAU, NORTHOP ROAD, NORTHOP, CH7 6BE**

APPLICATION VALID DATE: **11TH MARCH 2016**

LOCAL MEMBERS: **CLLR M BATEMAN**

TOWN/COMMUNITY COUNCIL: **NORTHOP COMMUNITY COUNCIL**

REASON FOR COMMITTEE: **SECTION 106 AGREEMENT**

SITE VISIT: **NO**

1.00 SUMMARY

- 1.01 This is a full application for the removal of a Section 106 Agreement relating to land at The Mill House, Tyn y Caeau, Northop Road, Northop, which sought to establish a newt habitat in mitigation for a residential development at Flint. The main issue to be considered is whether the Section 106 is still achieving what it set out to achieve in 1993.
- 1.02 It is considered that the removal of the Section 106 agreement is acceptable as the site is now protected by current legislation and planning policy.

2.00 RECOMMENDATION: TO RELEASE THE LEGAL AGREEMENT

- 2.01 The applicant, the Council and other land owners will be required to sign a deed of release to remove the Section 106 Agreement.

3.00 CONSULTATIONS

3.01 Local Member: Cllr M Bateman
No response at time of writing

Northop Community Council:
No objection

Head of Public Protection:
No objection

Natural Resources Wales:
NRW does not object to the discharge of the Section 106 Agreement for the above site.

4.00 PUBLICITY

4.01 Site Notice
One letter of support received.

5.00 SITE HISTORY

5.01 The site subject to this planning application has no other relevant planning history other than the Section 106 Agreement subject to this application.

6.00 PLANNING POLICIES

6.01 Flintshire Unitary Development Plan
STR7 – Natural Environment
WB1 - Species Protection

7.00 PLANNING APPRAISAL

7.01 This application seeks the removal a Section 106 Obligation from the land to the rear and side of Mill House, Tyn Y Caeau, Northop.

7.02 The Section 106 Agreement was signed in 1993 following the granting of planning permission at Min Awel, Flint for residential development. The agreement required the developer to translocate the Great Created Newt (GCN) population from Min Awel to this site and create a number of ponds alongside associated newt habitat. This was undertaken in 1993-1995 with ponds being created and an area of woodland preserved. The Section 106 Agreement was one of the first of its kind for Natural Resources Wales and was signed prior to the schemes for mitigation following the current legislative protection of GCN coming into force.

7.03 Since this time ownership of the land has changed and there have been a number of changes to the land. The population of GCN continues to thrive but there is no formal management of the site. This is due to the lack of any long term funding for management of this site within the Section 106 Agreement.

7.04 It has been agreed between the County Ecologist and Natural Resources Wales that whilst there is concern regarding the potential precedent set by the discharge of this Section 106 Agreement, in this case it is acknowledge that the Agreement failed to effectively consider long term funding issues associated with surveillance and wardening. The Section 106 Agreement therefore no longer provides the GCN population with any further protection than the existing legislation can provide.

8.00 CONCLUSION

8.01 It is considered that the Section 106 Agreement has outlived its usefulness with the GCN population now being protected by legislation along with the land use protection by planning policy. Therefore I recommend that the application be approved subject to the applicant and all other land owners signing a deed of release.

8.02 Other Considerations

The Council has had due regard to its duty under Section 17 of the Crime and Disorder Act 1998 and considered that there would be no significant or unacceptable increase in crime and disorder as a result of the recommended decision.

8.03 The Council has acted in accordance with the Human Rights Act 1998 including Article 8 of the Convention and in a manner which is necessary in a democratic society in furtherance of the legitimate aims of the Act and the Convention.

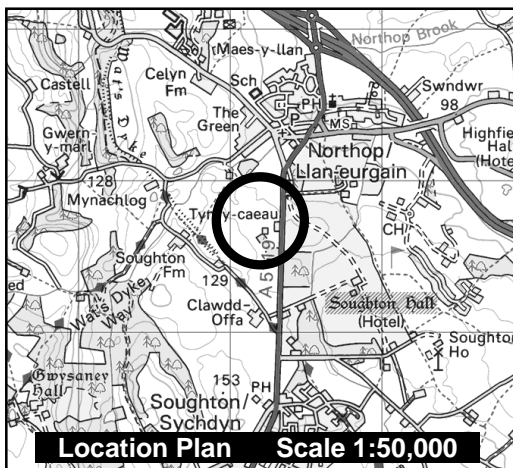
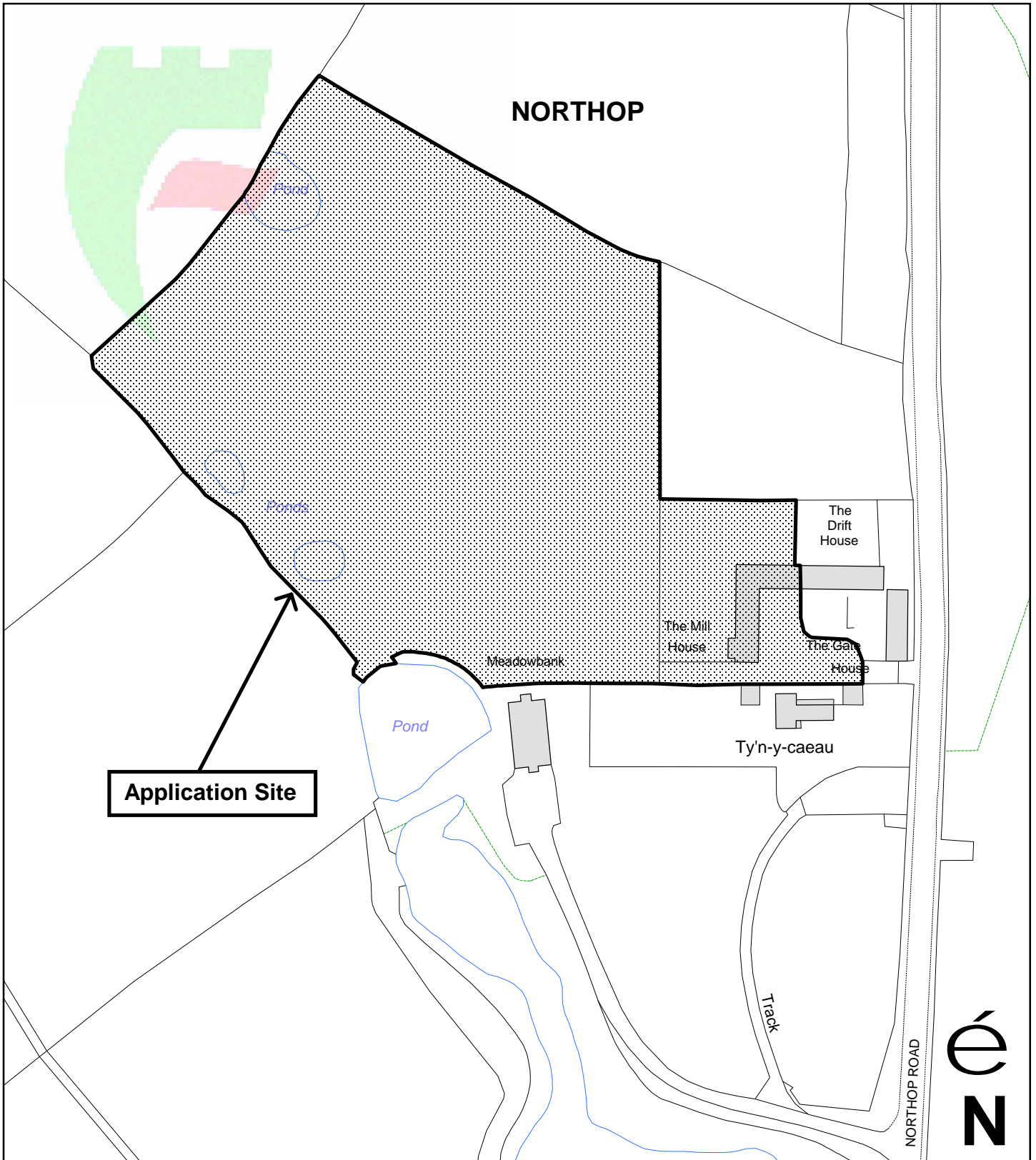
8.04 The Council has had due regard to its public sector equality duty under the Equality Act 2010.

8.05 The Council has had due regard to its duty under Section 3 of the Wellbeing of Future Generations (Wales) Act 2015 and considered that there would be no significant or unacceptable impact upon the achievement of wellbeing objectives as a result of the recommended decision.

LIST OF BACKGROUND DOCUMENTS

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

Contact Officer: Daniel McVey
Telephone: (01352) 703266
Email: daniel.mcvey@flintshire.gov.uk



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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OS Map ref SJ 2467

Planning Application **55105**

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FLINTSHIRE COUNTY COUNCIL

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

DATE: **20TH JULY 2016**

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

SUBJECT: **APPEAL BY DIOCESE OF WREXHAM AGAINST THE DECISION OF FLINTSHIRE COUNTY COUNCIL TO REFUSE PLANNING PERMISSION FOR THE REDEVELOPMENT OF THE SITE FOR THE ERECTION OF A RESIDENTIAL APARTMENT BLOCK WITH MEANS OF ACCESS AND OFF-STREET PARKING AT 1 QUEEN STREET, QUEENSFERRY - DISMISSED**

1.00 APPLICATION NUMBER

1.01 053080

2.00 APPLICANT

2.01 DIOCESE OF WREXHAM

3.00 SITE

3.01 1 QUEEN STREET,
QUEENSFERRY,
FLINTSHIRE. CH5 1TB

4.00 APPLICATION VALID DATE

4.01 22ND DECEMBER 2014

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 the redevelopment of the site for the erection of a residential apartment block with means of access and off-street parking at 1 Queen Street, Queensferry, Flintshire. CH5 1TB. The application was refused by Members of the Planning & Development Committee with the appeal dealt with by way of an informal hearing and was **DISMISSED**.

6.00 REPORT

6.01 Background

Members may recall that his application was refused by the Planning & Development Control Committee on 20th May 2015 contrary to officer recommendation. It was refused on the grounds that as the site lies within a C1 Flood Risk Zone, the Local Planning Authority were not satisfied that the development would not result in an increase in flood risk, to the detriment of the safety of the occupants of the proposed apartments.

6.02 Issues

The Inspector considered that the main issue was whether the proposed development is justified, in respect of whether the consequences of flooding would be acceptable.

6.03 Justification

The site is a vacant corner plot which is currently being used as a compound for construction equipment. The proposal is to construct a block of six flats. Despite the living accommodation being raised to the first and second floors, the Inspector considered the proposed development would be residential and thus classified as highly vulnerable.

6.04 TAN15 takes a precautionary approach directing new development away from those areas which are at high risk of flooding, away from zone C and towards suitable land in zone A, otherwise to zone B2. It should only be permitted within zone C1 if determined to be justified in that location according to a series of tests.

6.05 The first test is that the proposal would be necessary to assist, or be part of, a local authority strategy required to sustain an existing settlement; such a strategy is defined as the development plan for the area⁴. The proposed development would be in Queensferry which is identified in the Flintshire Unitary Development Plan (UDP) as a Category A settlement where the largest amount of growth, 10-20%, is proposed. Additionally, there is a shortfall in the County's housing provision and a lack of a five year supply of housing land. The six flats proposed would contribute to the UDP's total housing requirement and the growth anticipated for Queensferry. This contribution would be minimal, however, and in that light the Inspector considered that the proposed development would do little to assist a local authority strategy, namely the UDP.

6.06 A second test for justification is that the proposed development would concur with the aims of PPW and meet the definition of previously developed land. It was in the planning committee report that the land had previously been a garden associated with a residential property. The definition set out in Figure 4.4 of PPW records that the curtilage

of the relevant development is included and thus the appeal site can be defined as previously developed land. PPW also notes, however, that that does not mean that the whole area should be redeveloped.

- 6.07 The main thrust of PPW is achieving the sustainable development of Wales which is defined as the process of improving the country's economic, social, environmental and cultural well-being. Whilst not being classified as affordable units, the small flats proposed would no-doubt be within the budget of many residents in the area. They would be within easy walking distance of the shops and services provided in Queensferry, would make use of land within the previously developed definition and, during the construction period, provide employment. In general terms therefore, the proposed development would concur with the sustainability aims of PPW.
- 6.08 Consequences of Flooding
The final justification test is that the potential consequences of a flooding event for the proposed development have been considered and, in terms of criteria set out in TAN15, found to be acceptable.
- 6.09 The appellant's Flood Consequences Assessment (FCA), which is based on data from NRW, records the potential and probability of flooding. The main source of risk to the site is tidal flooding from the River Dee. Although the flood defences are earth banks dating from canalisation of the river in the 1700s there is no evidence that they are not in a serviceable condition. There are no records of fluvial or tidal flooding at or near the site which falls outside the extent of past flooding. No overtopping of the defences, including with a climate change allowance (CCA), is estimated up to 2061 and minimal overtopping up to 2086. Such an occurrence would be unlikely to cause significant flooding at the site.
- 6.10 The most severe flood event would be most likely as a result of a breach of the defences. This could result in depths of 1.17m on site during the 1 in 200 event and, taking account of climate change, 2.1m on site up to 2111. There is a risk therefore, albeit very low, that the development proposed would be subject to such flooding, particularly since the agreed lifetime of residential development is 100 years.
- 6.11 The appellant's FCA concluded that the site is at high risk of tidal flooding during the 0.5% Annual Exceedance Probability event when including 100 years CCA. Although the depth of water on the site would be likely to be minimal it results in conflict with TAN15's acceptability criteria for flooding consequences. These state that, in view of the traumatic impact of flooding on people's personal lives, it is not sensible to allow residential development in areas which flood frequently. The advice, therefore, is that development should be designed to be flood free during the 0.5% tidal flood.

- 6.12 If such an event took place, due to the ground floor parking area flood water would not enter future occupiers' living accommodation. Nonetheless, those occupiers would suffer from disruption, worry, and possible damage to vehicles and any other possessions stored at ground floor level. There would also be the inconvenience, and possibly expense, of clearing up debris and deposits. TAN15 makes clear that the frequency thresholds are indicative rather than prescriptive. When dealing with a circumstance as potentially distressing as flood, however, it is necessary to be cautious in line with the general approach of TAN15.
- 6.13 The chances of flooding arising from a breach are very low but must be taken into account. Were one to occur the depth and flow of water in the parking area would be likely to cause considerable damage to vehicles and cycles stored there. It would also impede escape from the living floors, potentially marooning occupiers. As it would be tidal the flood would subside to allow escape, for example via the nearby area of higher ground. Nonetheless, confinement in the proposed flats would be uncomfortable at the least, and particularly so if utilities were affected.
- 6.14 The potential consequences of a flooding event would not, therefore, be acceptable in the terms of the criteria set out in TAN15. In particular there would not be minimal disruption to people living and working in the area or minimal potential damage to property. At the hearing the possibility of a condition to de-risk the building and make it flood resilient was discussed; the potential to incorporate solar panels was also mentioned. In the absence of detail as to such measures the Inspector could not be confident, however, that they would be practicable and would enable the proposed block to be flood free in accordance with TAN15.
- 6.15 The proposed development would provide new housing in a sustainable location and in a County which is in great need of such. Technical Advice Note 1 states that where there is not a five year supply of land, as is the case now in Flintshire, the need to increase supply should be given considerable weight. This is subject to the proviso, however, that the development would otherwise comply with development plan and national planning policies.
- 6.16 By reason of the small number of units which would be provided it was the view of the Inspector that the proposed development would not assist a local authority strategy to any significant degree. In addition the potential consequences of flood would not be acceptable. In failing these tests the proposed development would not be justified and thus would be contrary to national policy set out in TAN15.
- 6.17 The proposed development would be within an area at risk of flooding but is not justified and the consequences of a flooding event could not be effectively managed.

6.18 Other Considerations

Apart from its contribution to the housing stock, the proposed development would undoubtedly have a number of benefits. During construction it would bring jobs for local firms and generate increased spending in the local economy. Once the flats were occupied additional council tax would be raised to support existing services. The site is temporarily being used as a construction compound and thus serves a useful purpose. It has an untidy appearance, however, which will persist as long as it does not have a permanent, beneficial use. The proposed development, which has been thoughtfully designed, would improve the appearance of the site and area and make good use of a brownfield site. Sustainable methods would be used in its construction and renewable and low carbon means of energy generation would be implemented.

6.19 Planning Policy Wales (PPW) states that it is essential that Natural Resources Wales' (NRW) advice is obtained and given due weight as a material consideration; planning authorities must have good reasons for not following the advice of NRW. It is therefore understandable that the appellant is concerned at apparent inconsistency in NRW's advice on this case and in respect of similar development at a nearby site, the builder's yard in Queen Street.

6.20 The difference in the recommendations was a result of the previous uses of each site. There was correspondence between NRW and the Council as to whether the site was brownfield but, in this context, the PPW definition does not seem to me to be relevant. It was the understanding of the Inspector that the builder's yard use was categorised by NRW as less vulnerable development, as was the ground floor parking area of the scheme proposed there. It was also considered that the new use would be preferable as there would no longer be employees spending time at ground level on the builder's yard site. NRW did not therefore object to the proposal although it did recommend that the advice of the emergency planning officer should be sought.

6.21 In the case of the appeal site, its garden status was considered by NRW to be outside of the development categories and thus the change to less vulnerable development, as the proposed ground floor parking area was considered to be, represented a step up the vulnerability hierarchy and a consequent increase in risk. Whilst it is helpful to understand the differences in NRW's approach to the two proposals, the Inspector considered the appeal on its own merits and gave little weight to the builder's yard advice. The Inspector was aware that the emergency planning officer did not object to the proposal, subject to the provision of a flood plan and future occupiers signing up to the flood warning scheme.

6.23 The two outline permission for residential development granted in 1986 and 1995 have long expired and carried no weight.

7.00 CONCLUSION

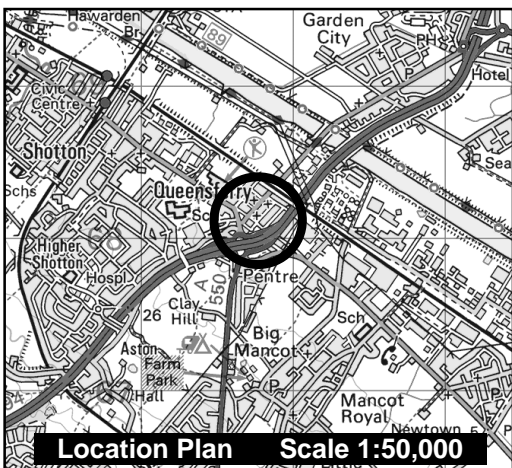
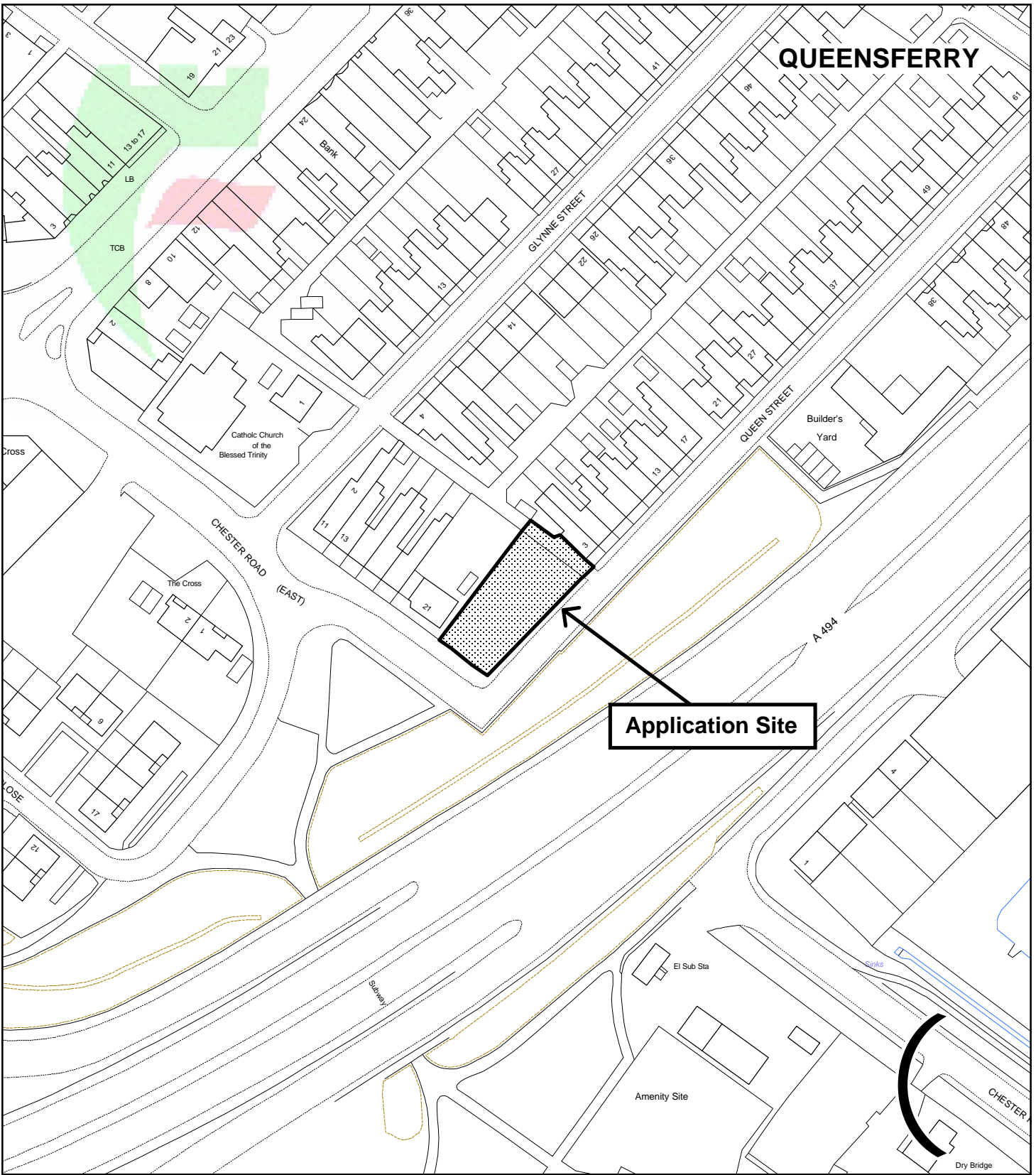
7.01 The proposed flats would be in a flood zone C1 but the Inspector found that they would not be justified in this location. Although the development would have several benefits and would be generally sustainable development, these advantages are not sufficient to outweigh the risk to the proposed development and its future occupiers from flooding. The inspector took all the matters raised into consideration but found no compelling reasons to allow the proposal.

7.02 For the reasons given above the Inspector concluded that the appeal should be **DIMISSED**.

LIST OF BACKGROUND DOCUMENTS

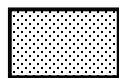
Planning Application & Supporting Documents
National & Local Planning Policy
Responses to Consultation
Responses to Publicity

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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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OS Map ref SJ 3168

Planning Application **53080**

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FLINTSHIRE COUNTY COUNCIL

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

DATE: **20th JULY 2016**

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

SUBJECT: **APPEAL BY BLOOR HOMES (NORTHERN) LIMITED AGAINST THE DECISION OF FLINTSHIRE COUNTY COUNCIL TO REFUSE PLANNING PERMISSION FOR ERECTION OF 59 DWELLINGS, OPEN SPACE, ACCESS AND ASSOCIATED INFRASTRUCTURE AT ISSA FARM, MYNYDD ISA – ALLOWED COSTS DECISION - REFUSED**

1.00 APPLICATION NUMBER

1.01 053208

2.00 APPLICANT

2.01 BLOOR HOMES

3.00 SITE

3.01 ISSA FARM, MYNYDD ISA

4.00 APPLICATION VALID DATE

4.01 03.02.15

5.00 PURPOSE OF REPORT

5.01 To inform Members of the decision in respect of an appeal against refusal of planning permission for the erection of 59 dwellings, open space, access and associated infrastructure at Issa Farm, Mynydd Isa. The application was refused by Planning and Development Control Committee on 9th September 2015 contrary to officer recommendation. The reason for refusal was;

“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.”

The appeal was dealt with by Public Inquiry which ran for 3 days 26th - 28th April. An application for costs was also made.

6.00 REPORT

- 6.01 The Inspector considered that the main issues in this case were:
- the effect of the proposed development on the character of the open countryside; and
 - whether there is a 5 year supply of housing land and;
 - if not, whether any detriment to the open countryside would be outweighed by the need to increase housing supply.

6.02 Impact on the character of the countryside

The Inspector noted that the appeal site was allocated for residential development in the deposit version of the UDP. The UDP Inspector found, however, that because of its location, shape, landscape and surrounding topography, it would be poorly related to the existing pattern of development and a significant incursion into the rural area. The Inspector noted that the UDP Inspector thus deleted the allocation and redrew the settlement boundary to exclude the site, considering that the UDP’s countryside, wildlife and landscape policies would be robust enough to offer sufficient protection from development.

- 6.03 The UDP inquiry took place in 2007 with the Inspector’s report being issued to the Council in May 2009. The UDP Inspector’s opinions are concisely expressed as is appropriate and realistic in the context of a development plan examination. It is not clear, however, on what evidence she was basing these. Whilst the assessment of landscape impact involves an element of judgement, the appellant’s LVIA submitted with the planning appeal is detailed and methodical and the responses to it are similarly robust. A further consideration is the increased national policy emphasis in recent years on the provision of new housing which is explored in more depth elsewhere in this decision. In these circumstances the Inspector in this appeal considered that the UDP inspector’s assessment carries limited weight.

- 6.04 The Inspector’s assessment of the impact of this proposed application on the countryside, was informed by those of all other parties at this Inquiry. Her conclusions are;
- the appeal site is wrapped around by existing development on two sides;
 - when seen in plan view a majority of the site, perhaps two thirds, appears to be projecting into the open countryside in the

form of a large triangle of land;

- the existing development at Parc Issa lies further out along Bryn Road and also extends northwards for some distance into the countryside.

- 6.05 On the ground, therefore, the effect of this relationship would be that from several public viewpoints the proposed development would be framed by and set against existing residential development. When walking northwards along the public footpath to the west of Bryn-y-baal, for example, the proposed dwellings would be seen running down the slope and extending the settlement well beyond the apartments which mark its existing outermost point. From midway across the first field existing dwellings start to appear behind the appeal site and, by the first hedgerow, it is wholly set against existing development. The new dwellings proposed would be at a similar level to many of the existing houses and would thus obscure them from view.
- 6.06 Whilst the proposed development would bring the settlement edge closer to the public footpath, the general outlook from much of it would not be greatly altered. To the Inspectors mind the increased extent of the settlement would not be clearly apparent or seen to intrude significantly into the surrounding countryside from most viewpoints.
- 6.07 In addition, the countryside here is typified by hedgerows, many including mature trees, which filter views. The landscaping scheme proposed would supplement the existing site boundaries with additional planting and would reduce the effect of the proposed development, including at those times of year when trees and shrubs are not in full leaf.
- 6.08 Another public viewpoint would be from Bryn-y-baal Road close to where it crosses the A494. Although the proposed development would be visible and would jut out into the countryside, at this distance the Inspector did not consider that it would be seen as a considerable extension of the settlement or a significant change to the view.
- 6.09 The Inspector concluded that the proposed development would fundamentally change the character of the appeal site itself from greenfield, agricultural land to a residential development. However as a result of its proximity and relationship to existing, modern housing; its limited visibility in the wider area; and its modest extent she does not consider, that it would represent a significant encroachment into the surrounding countryside. The character of that countryside would not, therefore, be considerably altered and the proposed development would not be inconsistent with paragraph 4.6.4 of PPW which states that, in line with sustainability principles, the conservation of the countryside should be balanced against the economic, social and recreational needs of local communities.

- 6.10 Five year housing land supply
The plan period of the Flintshire Unitary Development Plan ended in 2015. Whilst it remains the development plan until superseded by an adopted local development plan, parts of it may be out of date. Planning Policy Wales (PPW) states that it is for the decision maker to determine whether policies are outdated for the purposes of determining a planning application. Where relevant development plan policies are considered outdated there is a presumption in favour of proposals in accordance with the key principles and key policy objectives of sustainable development.
- 6.11 Technical Advice Note 1 – *Joint Housing Land Availability Studies* (TAN1) is also relevant to this case. The latest Joint Housing Land Availability Study (JHLAS) for Flintshire, which has a base date of April 2014, demonstrated 3.7 years of housing land supply. In addition, as the UDP is beyond its end date the Council will be unable to produce a JHLAS to evidence any land supply until a replacement adopted LDP is in place. In circumstances where there is not a five year supply TAN1 instructs that the need to increase the housing supply should be given considerable weight when dealing with planning applications provided that the development would otherwise comply with development plan and national planning policies.
- 6.12 Mynydd Isa, of which Bryn-y-baal is a part, is identified in the UDP as a Category B settlement where growth between 8% and 15% is proposed. The Settlement Growth Schedule shows that, taking account of completions, commitments and allocations, Mynydd Isa has grown by only 7.2% during the plan period. The settlement boundary, which is drawn tightly round the developed area, is thus inconsistent with the level of growth identified for Mynydd Isa. The Inspector noted that construction will have been severely constrained by the recession, have noted the additional housing data submitted by third parties and she was aware that the UDP inspector did not consider that the growth levels should be regarded as prescriptive. Nevertheless, in her judgement in this case, she considered that Policy GEN3 is now outweighed by the need to increase housing supply, including affordable housing, the lack of harm to the character and appearance of the surrounding area and the presumption in favour of sustainable development.
- 6.13 The appellant drew the Inspectors attention to an appeal case in Ewloe. The development proposed was 41 dwellings on a site in agricultural use located immediately adjacent to, and outside of, the settlement boundary. The Inspector noted that while there are clear similarities with the case before her although the Ewloe site appears to have been more enclosed by existing housing than the one here; the effect of the proposed scheme on the open countryside was not identified as a main issue. That difference, however, has little bearing on the conclusions of the Ewloe inspector. On noting the significant shortfall in housing delivery during the UDP period he considered that,

had the Council released additional sites in order to increase housing land, these would in all probability have been greenfield sustainable urban extensions. The Inspector agreed that this does not mean that any or all greenfield sites should be developed but, generally, the finding supports her conclusion that the Mynydd Isa settlement boundary, which Policy GEN3 enforces, no longer has currency.

6.14 Other matters

The proposed development would be most clearly visible from the dwellings and gardens surrounding the appeal site. The Inspector appreciated that nearby occupiers, several of whom purchased their properties because of the open views from them, would prefer to see the existing field rather than the housing development proposed. The proposed scheme has, however, been thoughtfully laid out with, in the main, gardens adjacent to existing gardens. The sloping land and orientation of the dwellings would ensure that the distant vista was not completely obscured whilst the landscaping scheme would augment the existing perimeter trees and hedgerows with additional planting. Whilst the newly-planted trees would take many years to reach maturity, the use of extra heavy standards would ensure that there was some immediate filtering and structural effect.

6.15 Highways

Following comments from the Council, the appellant submitted a revised Transport Assessment (TA) during the course of the planning application. The Inspector was content that appropriate data was used and a suitable methodology followed. The assessment concluded, amongst other matters, that the proposed development would not have a material impact and would be able to be accommodated on the local highway network. Furthermore, there was no evidence to suggest that the proposals would have an adverse effect on road safety or the number of accidents in the vicinity. The Inspector noted that the highways authority was satisfied by the revised TA and its conclusions and have no reason to disagree with that position.

6.16 In order to encourage pedestrian traffic through the proposed development and easy access to the new play area, the appellant has indicated a footpath from the site into Llys-y-Graig. As this would traverse privately-owned land outside the appeal site it could not, however, be provided without the full agreement of those landowners. The Inspector therefore gave no weight to the provision of the path in reaching her decision.

6.17 Conditions

In the light of Circular 16/2014 *The Use of Planning Conditions for Development Management* (the Circular) the Inspector imposed conditions as discussed at the inquiry and as largely agreed by the parties. The two year commencement condition will ensure that the construction of the site gets underway promptly. Whilst conditions requiring the completion of the whole of a development should not

normally be imposed as they are difficult to enforce the Circular advises that conditions should encourage developers to commence development as soon as possible through phasing. Since the proposed development has been justified on the contribution it will make to the housing supply it is necessary for there to be some assurance dwellings will be delivered, not only that development will commence. The Inspector agreed that a phasing plan will enable this but the Inspector amended the condition suggested by the Council to omit the reference to the completion of dwellings. Other conditions relating to drainage, highways and landscaping were also included.

6.18 The appellant has submitted a signed planning obligation through which it undertakes to provide affordable housing and an equipped play area on the site and to make contributions towards the provision of primary and secondary education at local schools. These provisions meet the tests set out in regulation 122(2) of The Community Infrastructure Levy Regulations 2010 in that they are necessary to make the development acceptable, directly related to it, and fairly and reasonably related in scale and kind. The Inspector had no evidence that the school contributions would result in five or more obligations having been entered into for the same provision; the planning obligation would thus also comply with regulation 123(3).

6.19 Planning balance and conclusions

By reason of the shortfall in housing provision and limited growth of the settlement during the UDP period, which is now ended, Policy GEN3 and the defined settlement boundaries have limited weight. In these circumstances PPW provides a presumption in favour of proposals which would be in accordance with the principles and objectives of sustainable development.

6.20 The purpose of the presumption in favour of sustainable development is to ensure that social, economic and environmental issues are balanced and integrated in taking decisions on individual planning applications. The proposed development would have a social benefit in providing new housing, particularly affordable dwellings. It would also have economic advantages through creating jobs during the construction period and providing some additional on-going custom for local businesses. The site would have good access to Bryn-y-baal and Mynydd Isa where there is a range of everyday services including public transport. Some facilities, such as the doctors' surgery and a pub, have been lost in recent years and the Inspector heard that local schools are almost full. Nonetheless, whilst not sufficient to provide for all day-to-day needs the local services are of a level commonly found in villages of this size which are fairly close to larger settlements.

6.21 Taking into account her conclusion that it would not cause harm to the landscape, the proposed development would not result in significant detriment to environmental interests. All things considered, it would be sustainable development and could thus be located outside of the

outdated settlement boundary.

- 6.22 In addition there is not a five year supply of housing land in the County. TAN1 thus requires that the need to increase the housing supply should be given considerable weight in dealing with schemes such as the one before her now. She found that the proposed development would not harm the surrounding countryside to any significant extent. In any event, the substantial weight which can be given to the addition of 59 dwellings to the County's housing supply would outweigh any harm.

7.00 CONCLUSION

- 7.01 For the reasons given above the Inspector concluded that the appeal should be ALLOWED.

7.02 COSTS DECISION

An application for costs was made at the Inquiry. The application was REFUSED.

- 7.03 The Inspector noted that the reason for refusal was succinct but had two interwoven strands; the Council considered that the proposed development would not comply with Policy GEN3, by reason of being outside of a defined settlement boundary, and that it would also have an unacceptable impact on the character of the countryside.

- 7.04 In respect of the character of the countryside, as a chartered town planner the Council's witness was entitled to make his own judgement on the effect of the proposed development on the landscape. In his statement he responded to the appellant's LVIA in robust terms with analysis and illustrative photographs. In addition the Council's witness and members were not alone in their conclusions on the proposed development's effect on the countryside. These were in accord with those of the UDP Inspector who had dismissed the site as an allocation on landscape grounds some years previously.

- 7.05 Planning Policy Wales (PPW) states that it is for the decision maker to determine whether policies in an adopted local development plan are outdated for the purpose of determining a planning application; being beyond its end date does not automatically signal that a plan or any of its policies are out of date. In any event, the continuing objection to the effect of the proposed development on the character of the landscape, which was a matter of appearance separate from the GEN3 principle, ensured that it was necessary to hold the inquiry.

- 7.06 As explained in my decision Flintshire did not have a five year housing supply at the time of the last Joint Housing Land Availability Study (JHLAS) and now, as the UDP is beyond its end date, the Council will be unable to produce a JHLAS until a replacement adopted LDP is in place. In such circumstances TAN1 states that the need to increase

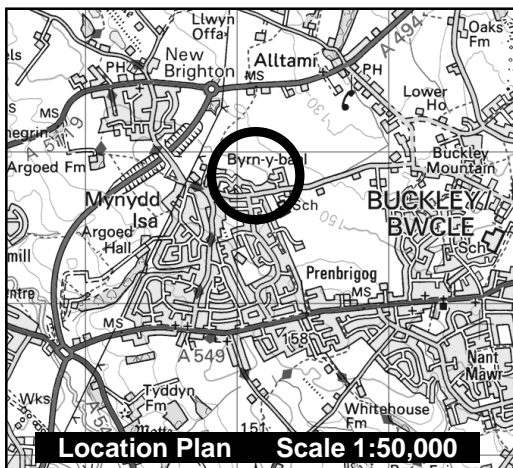
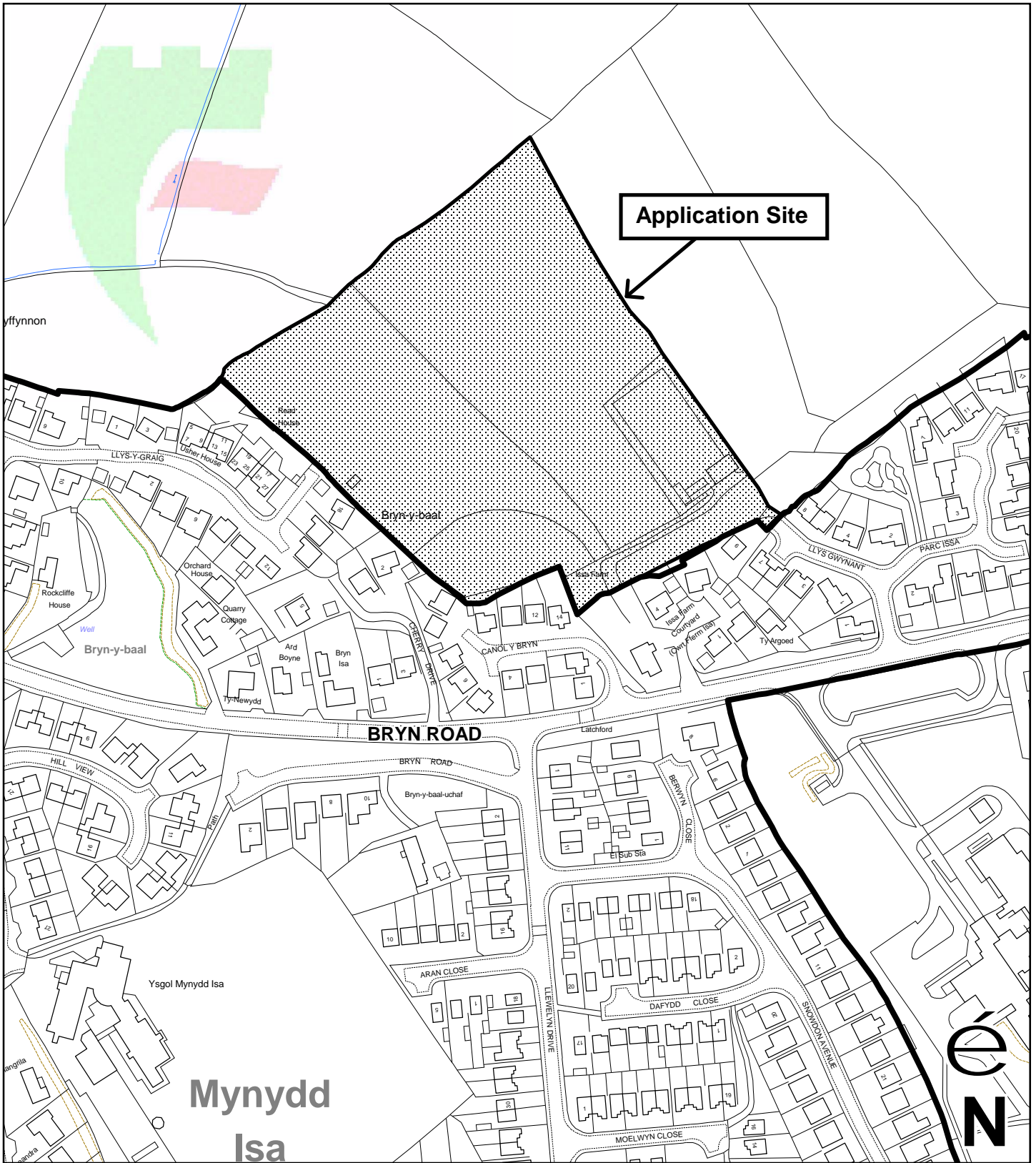
housing supply should be given considerable weight when dealing with planning applications, provided that the development would otherwise comply with development plan and national planning policies. The Council considered that the proposed development did not comply with UDP Policy GEN3 or, in respect of the effect on the landscape, with PPW. In that light it was entitled to choose not to give greater weight to the land supply position.

- 7.07 There are similarities between paragraph 49 of the National Planning Policy Framework (the Framework) and paragraph 6.2 of TAN1 in that they both address the issue of the weight to be given to housing supply matters in the absence of a five year supply of land. Paragraph 6.2 of TAN 1, however, does not refer to relevant policies for the supply of housing. Thus it was not necessary for the Council to consider what types of policy those relevant to this case were.
- 7.08 The planning officer's report sets out the UDP policies with which the proposed development complies – there are over twenty of them. In the Council's view, the fact that the appeal site was outside of the development boundary and did not, therefore, comply with Policy GEN3 was fatal in itself. That it would be consistent with much of the development plan did not outweigh or reduce the harm that would be caused. Whilst the Inspector didn't agree with the Council's conclusions in respect of GEN3 she did not consider that compliance with a large number of policies, which is most usually the case with any proposal, necessarily represents compliance with the development plan as a whole.
- 7.09 The presumption in favour of sustainable development is activated when there are deficiencies in the development plan. The Council considered that the landscape harm was sufficient to outweigh the economic and social benefits of the proposal such that it would not be sustainable development.
- 7.10 Overall the Inspector did not consider that the Council has acted unreasonably in terms of paragraphs 7, 8, 9, 13, 16 of Annex 3 of the Circular or otherwise. She therefore finds that unreasonable behaviour resulting in unnecessary expense, as described in the Circular has not been demonstrated and that a full award of costs is not justified.

LIST OF BACKGROUND DOCUMENTS

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

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 Chief Officer: Mr Andrew Farrow

Legend



Planning Application Site



Adopted Flintshire Unitary
 Development Plan
 Settlement Boundary

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OS Map ref	SJ 2664
Planning Application	53208

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FLINTSHIRE COUNTY COUNCIL

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

DATE: **20TH JULY 2016**

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

SUBJECT: **APPEAL BY MR. R. PIERCE AGAINST THE DECISION OF FLINTSHIRE COUNTY COUNCIL TO REFUSE PLANNING PERMISSION FOR THE OUTLINE APPLICTAION FOR THE ERECTION OF A DWELLING AT MILWR FARMHOUSE, MILWR ROAD, HOLYWELL – ALLOWED.**

1.00 APPLICATION NUMBER

1.01 054317

2.00 APPLICANT

2.01 MR. R. PIERCE

3.00 SITE

3.01 MILWR FARMHOUSE,
MILWR ROAD, HOLYWELL

4.00 APPLICATION VALID DATE

4.01 18TH SEPTEMBER 2015

5.00 PURPOSE OF REPORT

5.01 To inform Members of the Inspector's decision in respect of the refusal to grant outline planning permission for the erection of one dwelling at Milwr Farm, Milwr Road, Holywell, CH8 7SE. The application was refused under delegated powers, the appeal was considered under the Hearing procedure and was ALLOWED.

6.00 REPORT

6.01 Introduction

This appeal considered the principle of outline planning permission for the erection of one dwelling at Milwr Farmhouse, Milwr Road, Holywell.

6.02 Main Issue

The Inspector considered the main issue in this appeal to be the effect of the proposal on the character and appearance of the area having regard to the provisions of the development plan and whether there are material considerations to outweigh any conflict with local and national planning policies that seek to strictly control new residential development outside settlement boundaries.

6.03 Reasons

The Inspector considered the location of the site the edge of settlement boundary of Holywell, the site is outside the settlement boundary as defined by the Flintshire Unitary Development Plan. Policies STR1, GEN3, HSG4 and HSG5 essentially restrict development outside settlement boundaries.

6.04 The application does not make a case for essential farm/forestry worker under policy HSG4. There is no case which fulfils the infill development for proven local need, nor does it proposal comply with the requirements of policies STR1, GEN3, the proposal does not accord with the development plan.

6.05 The appellant put forward a number of material considerations to be considered in the overall planning balance. There is no dispute that the site is sustainable in terms of its location within a short distance of a frequent bus service and within a 15 min walk to the town and short distance from a convenience store. The change in the character of the built up form and the more sporadic form of development and fields to the east was recognised by the Inspector. Never the less the Inspector considered that the site was contained and the development would consolidate the built development as a logical and cohesive cluster of buildings. He considered that the development of the site in the manner proposed would not affect the wider countryside and he found no harm to the character and appearance of the area. He noted that until recently there was a house on the site and the proposal would not alter that position as a house would be built between two properties either side. Whilst it is noted that the site is outside the settlement the Inspector noted no harm would result from the development. He considered that the development would infill the void between the existing dwellings and would remove deteriorating buildings on the site.

6.06 The inspector noted that the Council was unable to demonstrate a 5 year housing land supply, as a result the need to increase supply should be given considerable weight, providing that the development would otherwise comply with the development plan and national planning policies. Whilst the Council indicated that it will work towards bring forward appropriate and sustainable windfall housing sites. The Inspector considered that there is a significant shortfall in housing land supply and the lack of this relates to the whole County and not to the supply in and around Holywell.

7.00 CONCLUSION

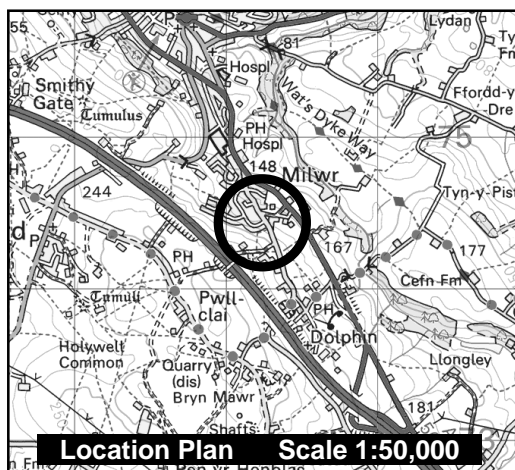
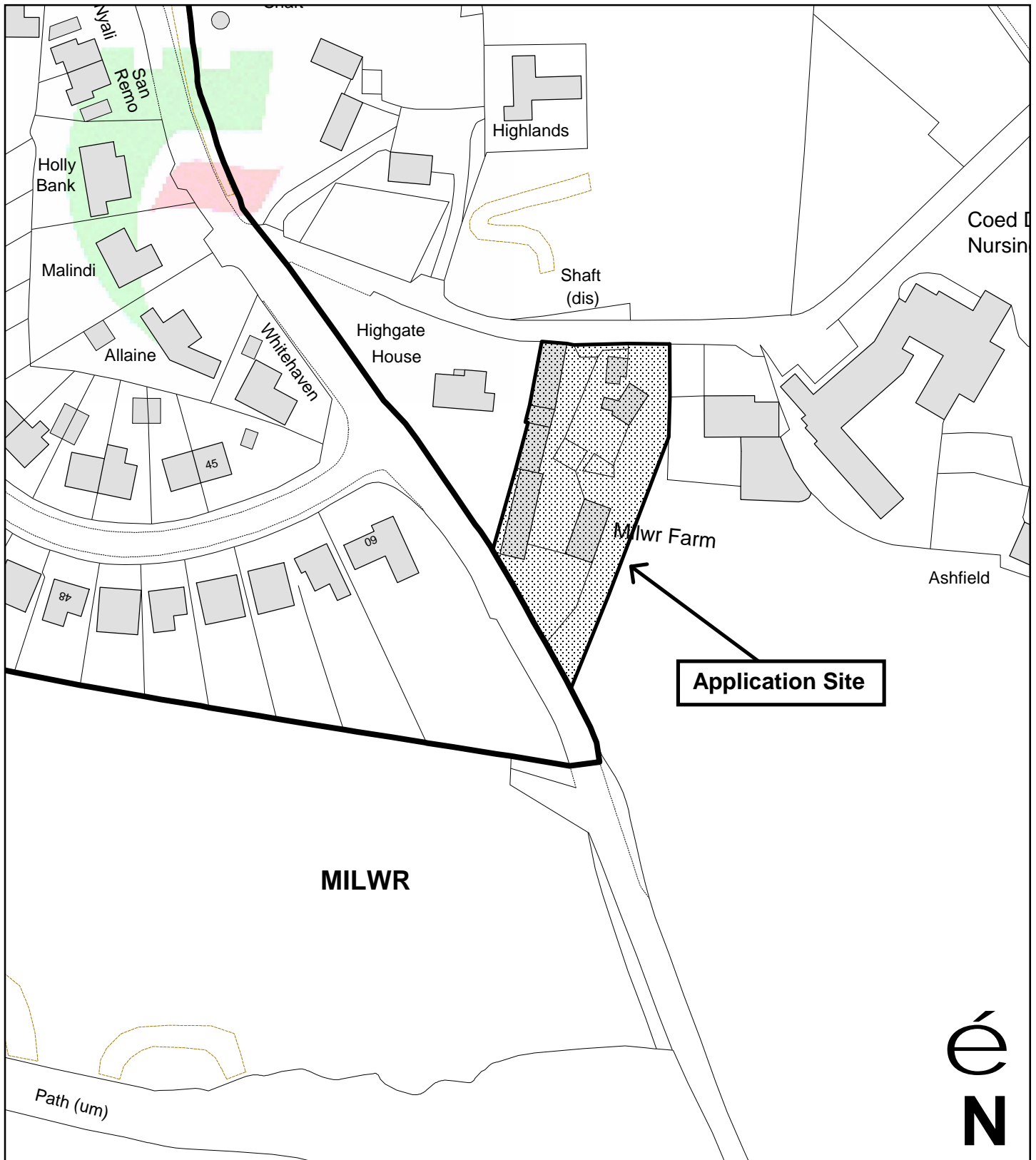
7.01 The Inspector concluded that there was no identifiable harm to the character and appearance of the area, the location of the site accords with the sustainable development principles of Planning Policy Wales. There is a substantial shortfall in housing land supply and this proposal would increase that supply and that these material considerations in combination, and compliance with national policies indicate a decision other than in accordance with the development plan and allowed the appeal, subject to a number conditions relating to the timing and details of the reserved matters application, the application relates to a single dwelling, land contamination, land investigation methodology, submission of an ecological survey mitigation measures for birds for the outbuildings, the extent and timing of demolition to be agreed , development shall not begin until a drainage scheme has been submitted and agreed and photographic survey of the existing buildings to be carried out in accordance with a scheme to be submitted .

LIST OF BACKGROUND DOCUMENTS

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

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 Chief Officer: Mr Andrew Farrow

Legend



Planning Application Site



Adopted Flintshire Unitary
 Development Plan
 Settlement Boundary

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Planning Application **54317**

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FLINTSHIRE COUNTY COUNCIL

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

DATE: **20 JULY 2016**

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

SUBJECT: **APPEAL BY MR P DAVIES AGAINST THE DECISION OF FLINTSHIRE COUNTY COUNCIL TO REFUSE PLANNING PERMISSION FOR TEMPORARY CHANGE OF USE TO ALLOW THE SITING OF HOLIDAY LODGE FOR ADVERTISING PURPOSES AT PARK VIEW GARAGE , LLOC, HOLYWELL.**

1.00 APPLICATION NUMBER

1.01 054383

2.00 APPLICANT

2.01 MR. P. DAVIES

3.00 SITE

3.01 PARK VIEW GARAGE, LLOC, HOLYWELL.

4.00 APPLICATION VALID DATE

4.01 29.09.2015

5.00 PURPOSE OF REPORT

5.01 To inform Members of a decision in respect of an appeal following refusal of planning permission by Flintshire County Council, under delegated officer procedure for the temporary change of use for the siting a holiday lodge for advertising purposes at Park View garage, Lloc, Holywell. The appeal was determined via the hearing procedure and was ALLOWED.

6.00 REPORT

6.01 Main Issue

The Inspector considered the main issue to be the effect of the proposed development on the amenity of the surrounding area.

6.02 The Inspector noted that the site was roughly a rectangular plot to the front of Park View garage and adjacent to the access road that served the garage. The site is at the edge of a small area of commercial development, including a café, caravan sales and McDonalds, at the junction of the A55. The holiday lodge has been placed at this location to advertise the availability for purchase of such accommodation at Pennant Park.

6.03 The appeal site is located within in a designated Area of Special Control for advertisements, originally approved in 1960 and amended in 1974, the Local Planning Authority should consider the status every five years as to whether it should be revoked or modified, I have no evidence that such reviews have been carried out.

6.04 The area round the appeal site has changed greatly since the order was made, the A55 has been widened and the junction has become the focus for service type development, such as café, McDonalds etc. It was the Inspectors view that these changes together with the absence of evidence regarding a review since the order was amended limited the weight that can be afforded to the Area of Special Control designation.

6.05 The Inspector noted that the lodge is located against the outer boundary of the site and thus separated from the other buildings of the area. The Inspector noted that the lodge has a pleasant appearance, being of a style frequently encountered in rural holiday locations and was not significantly out of keeping. The signs affixed to the lodge confirmed its advertising function, they were not considered to be overly large or numerous. It was noted that there were additional signs in place regarding the holiday lodge which was not covered by this appeal and that there were other signs in the immediate area which are unauthorised. In any event the Inspector did not consider that the 3 signs the subject of the appeal did not make the area any more cluttered and were not detrimental to the overall appearance of the site or the surrounding area.

6.06 During the consideration of the appeal the Inspector considered the use of the site in the past and what it could be used for in the future .As permission has been granted for an overnight lorry park and associated amenity block, and despite landscaping would have a much greater visual impact than the advertisements.

7.00 CONCLUSION

7.01 In conclusion the Inspector noted that the lodge acting as an advertisement would not be detrimental to the interests of amenity and having regard to all other matters raised the Inspector allowed the appeal.

8.00 Costs Application

The appellant made a costs application on the grounds that the Local Planning Authority had failed to show good reason why the application should be refused.

8.01 The Local Planning Authority refuted this in that, it had not acted unreasonably, but had determined the application to be contrary to the provisions of the Unitary Development Plan.

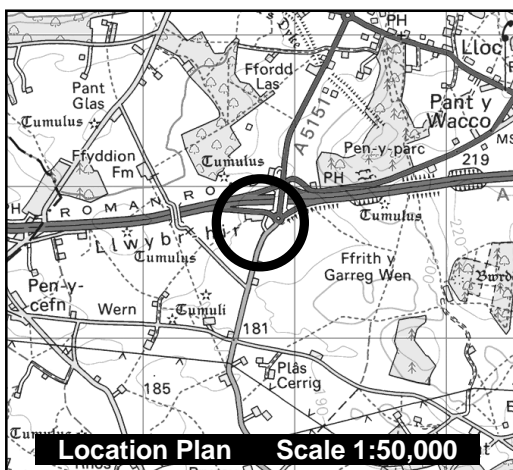
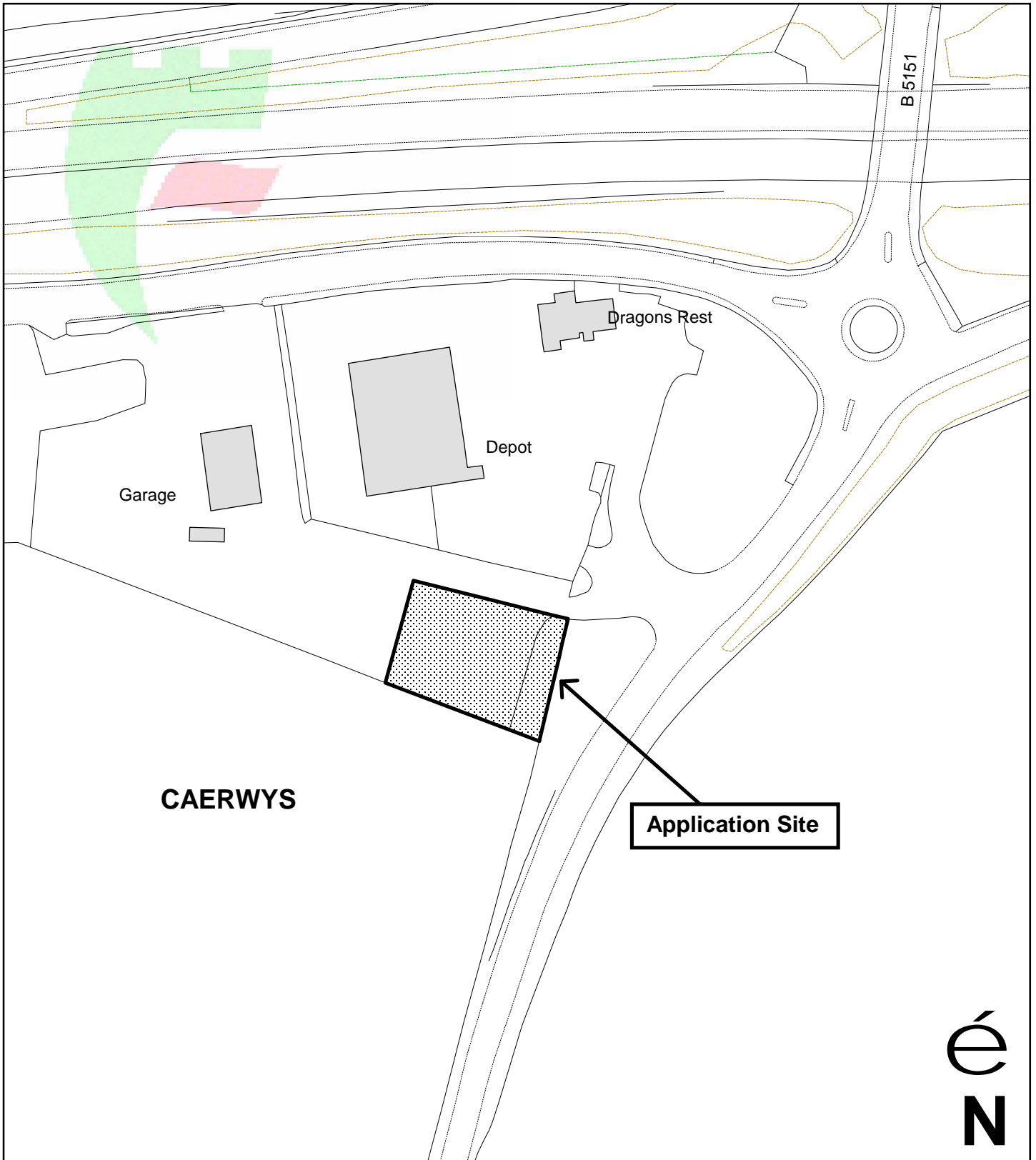
8.02 The Inspector considered that sufficient evidence had been provided to substantiate reasons for refusal and therefore found that unreasonable behaviour resulting in unnecessary expense, as described in Circular 23/93 has not been demonstrated and DISMISSED the award of costs.

LIST OF BACKGROUND DOCUMENTS

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

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Planning & Environment,
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Chief Officer: Mr Andrew Farrow

Legend



Planning Application Site



Adopted Flintshire Unitary
Development Plan
Settlement Boundary

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Planning Application **54383**

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FLINTSHIRE COUNTY COUNCIL

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

DATE: **20 JULY 2016**

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

SUBJECT: **APPEAL BY MR P DAVIES AGAINST THE DECISION OF FLINTSHIRE COUNTY COUNCIL TO REFUSE PLANNING PERMISSION FOR DISPLAY OF 3 PLASTIC ADVERTISEMENTS AT PARK VIEW GARAGE, LLOC**

1.00 APPLICATION NUMBER

1.01 054386

2.00 APPLICANT

2.01 MR. P. DAVIES

3.00 SITE

3.01 PARK VIEW GARAGE, LLOC, HOLYWELL

4.00 APPLICATION VALID DATE

4.01 29.09.15

5.00 PURPOSE OF REPORT

5.01 To inform Members of a decision in respect of an appeal following the refusal of advertisement consent under delegated officer procedure. The appeal was determined by means of hearing, the appeal was ALLOWED.

6.00 REPORT

6.01 Main Issue

The Inspector considered the main issue in this appeal to be the effect of the proposed development/signage on the amenity of the surrounding area.

- 6.02 The Inspector noted that the site is roughly a rectangular plot to the front of Park View garage, and adjacent to the access which serves the garage. The site is at the edge of a small area of commercial development, including a café, caravan sales and garage at the junction of access to the A55. The holiday lodge upon which the advertisements were proposed to be placed upon was in situ at this location to advertise the availability for purchase of such accommodation for Pennant Park.
- 6.03 The Inspector noted that whilst the site was within a designated Area of Special Control for advertisements, originally approved in 1960 and amended in 1974, the Local Planning Authority should consider this status ever 5 years in regard to as to whether it should be revoked or modified, the Inspector noted that she had no evidence that such reviews have been carried out. In addition the area around the appeal site had changed greatly since the Order was made, the A55 has been widened and the junction has become the focus for service type development, such as the café, McDonalds. It was the Inspector's view that these changes together with the absence of evidence regarding a review since the Order was amended limit the weight that can afforded to the Area of Special Control designation.
- 6.04 The Inspector noted that the lodge is located against other commercial sites as well as open countryside , and considered that the lodge had a pleasant appearance, being of a style frequently encountered in rural holiday locations and thus not significantly out of keeping.
- 6.05 The signs affixed to the lodge confirmed its advertising function and were not considered to be overly large or numerous. It was noted that there were additional signs in place regarding the holiday lodges, which were not covered by this appeal and other signs in the area being unauthorised. In any event the Inspector considered that the signs did not make the area significantly more cluttered and were not detrimental to the overall appearance of the site or the surrounding area.
- 6.06 During the consideration of the appeal the Inspector considered the use of the site in the past and what it could be used for in the future for the parking of vehicles as well as the permission granted for the overnight lorry park, with its associated amenity block and despite landscaping would have a much greater visual impact than the advertisements.
- 6.07 The Inspector notes that TAN7 states that outdoor advertisements can only be controlled in the interests of amenity and public safety, anyone proposing to display an advert needs it in that particular location, there is minor exception to this presumption and this is in an Area of Special Advert Control, where applicants need to show a reasonable

requirement for an advert, however the Inspector considered that the Area of Special Advert Control has limited weight in this appeal and as the lodge drew availability of the lodge to purchase, a brown tourist sign would not be appropriate in this case.

7.00 CONCLUSION

7.01 In conclusion the Inspector considered that the advertisements would not be detrimental in the interests of amenity. Having regard to all other matters raised, The Inspector allowed the appeal.

8.0 Costs Application

The appellant made a costs application on the grounds that the Local Planning Authority had failed to show good reason why the application should be refused.

8.1 The Local Planning Authority refuted this in that it had not acted unreasonably, but had determined the application to be contrary to the provisions of the Unitary Development Plan.

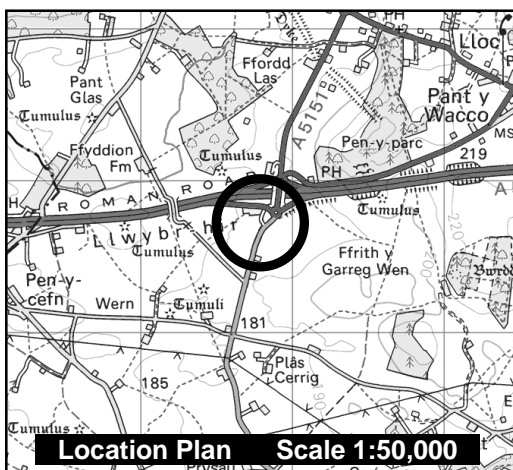
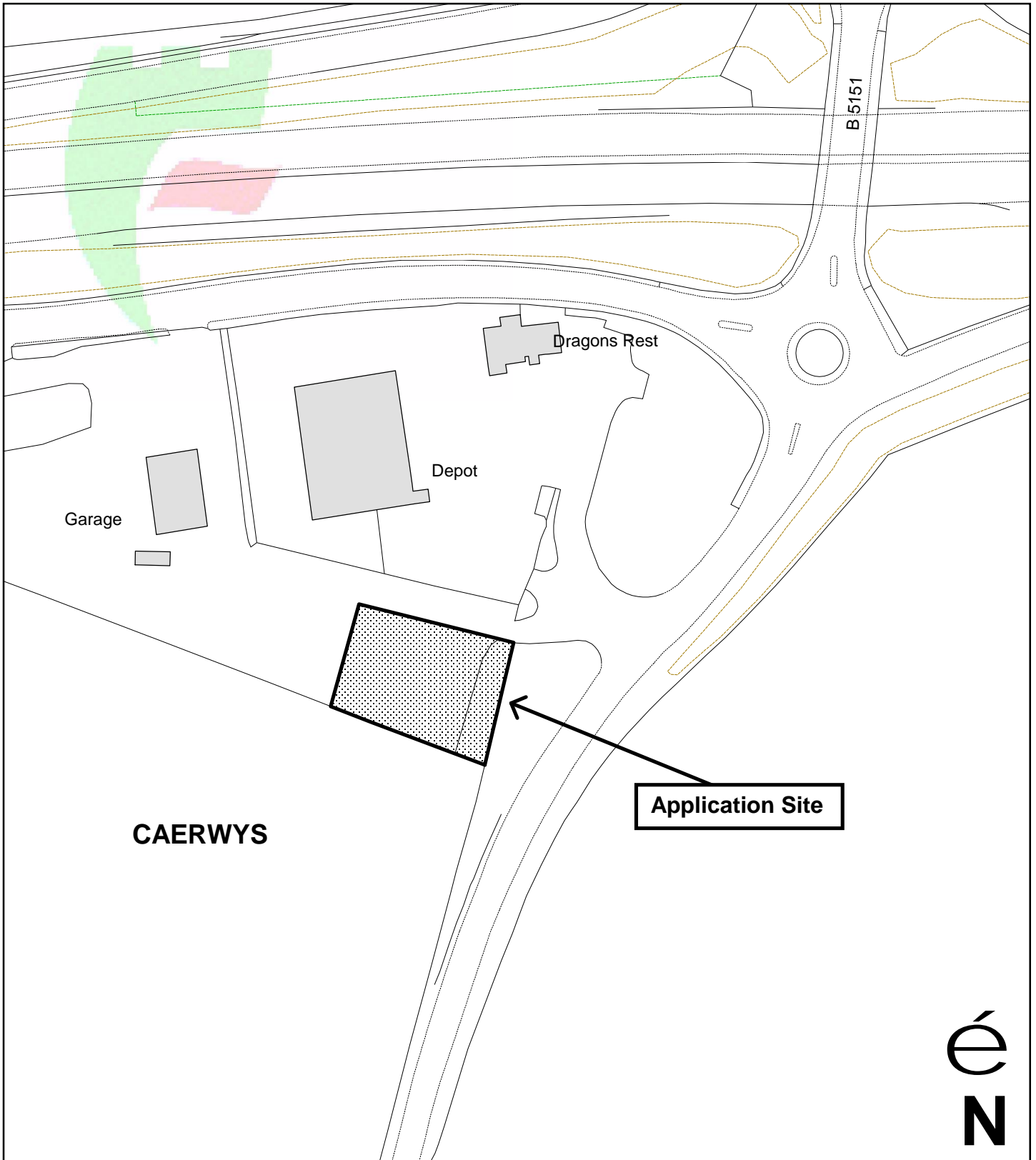
8.2 The Inspector considered that sufficient evidence has been provided to substantiate reasons for refusal and therefore found that unreasonable behaviour resulting in unnecessary expense, as described in Circular 23/93 has not been demonstrated and DISMISSED the award of costs.

LIST OF BACKGROUND DOCUMENTS

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

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Chief Officer: Mr Andrew Farrow

Legend



Planning Application Site



Adopted Flintshire Unitary
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Settlement Boundary

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Planning Application **54386**

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FLINTSHIRE COUNTY COUNCIL

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

DATE: **20TH JULY 2016**

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

SUBJECT: **APPEAL BY MR. & MRS KELLY AGAINST THE DECISION OF FLINTSHIRE COUNTY COUNCIL TO REFUSE PLANNING PERMISSION FOR THE ERECTION OF A REPLACEMENT DWELLING AT OAKFIELD COTTAGE, ALLTAMI – ALLOWED.**

1.00 APPLICATION NUMBER

1.01 054358

2.00 APPLICANT

2.01 Mr & Mrs Kelly

3.00 SITE

3.01 Oakfield Cottage, Alltami, CH7 6LQ

4.00 APPLICATION VALID DATE

4.01 22/9/2015

5.00 PURPOSE OF REPORT

5.01 To inform Members of the Inspector's decision in relation to the delegated decision of the Local Planning Authority to refuse to grant planning permission at Oakfield Cottage, Alltami. The appeal was dealt with by way of an exchange of written representations and was ALLOWED.

6.00 REPORT

6.01 The Inspector considers the main issues to be the effects of the proposal on the character and appearance of the countryside and highway safety.

- 6.02 The Inspector discusses the setting of the site within the open countryside and describes the building and its surroundings. He also quotes the floor areas of the existing and proposed dwellings. He considers policy HSG6 of the Flintshire Unitary Development Plan and specifically makes reference to the explanatory text that states that an increase in floor area of over 50% will not be acceptable. The Inspector recognises that the Authority objects to the 88% proposed increase and the height increase intended.
- 6.03 The Inspector then goes on to agree with the appellant in saying that the explanatory text is not policy. He considers the floor area increase and the need for the replacement dwelling to be 'similar' as required by criterion (d). However, he continues to discuss the policy and states that criterion (d) pulls in different directions and mentions inconsistencies between the policy itself and the explanatory text. Although the Inspector clearly states that the proposal fails to comply with Policy HSG6 on the face of it, he concludes that he is attaching little weight to the policy due to the aforementioned inconsistency and considers the proposal against policies GEN1 and D2 instead. These policies require development that harmonises with the site and its surroundings. After discussing the design merits of the proposal he concludes that it would not affect the character and appearance of the countryside location.
- 6.04 The Inspector considers the access from the A494 trunk road and agrees with concerns raised by Welsh Government's Transport Officer, who is seeking further information about the access. He is of the opinion that all of the outstanding access issues can be addressed by a suitable condition.

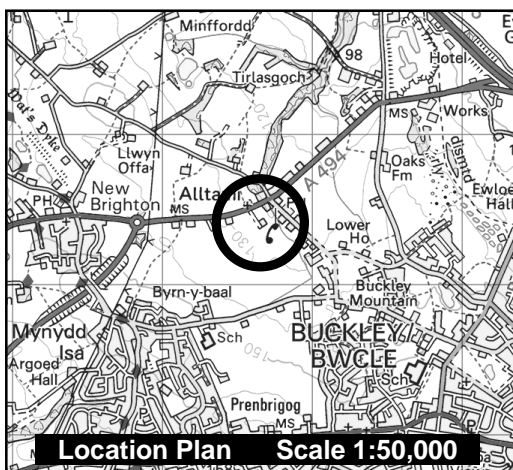
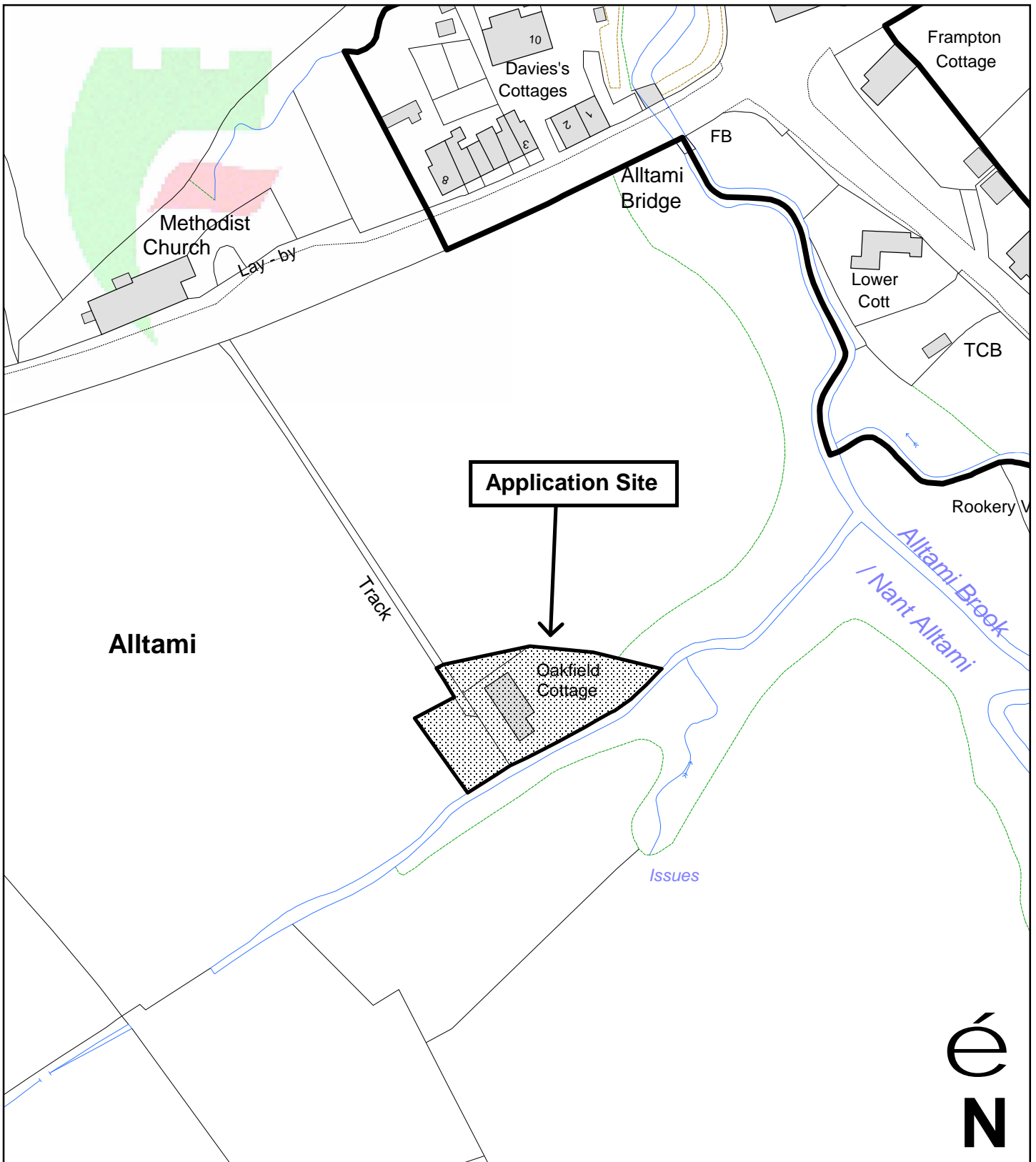
7.00 CONCLUSION

- 7.01 The Inspector concludes that it appears possible to achieve a safe and satisfactory access and that the proposed dwelling would not adversely affect the character and appearance of the countryside. He, therefore, grants planning permission subject to conditions.
- 7.02 For the reasons above, the Inspector concluded that the appeal should be ALLOWED.

LIST OF BACKGROUND DOCUMENTS

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

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 Chief Officer: Mr Andrew Farrow

Legend



Planning Application Site



Adopted Flintshire Unitary
 Development Plan
 Settlement Boundary

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Planning Application	54358

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