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



To: Cllr David Wisinger (Chairman)

CS/NG

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

31 August 2016

Nicola Gittins / 01352 702345
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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, 7TH SEPTEMBER, 2016** at **1.00 PM** to consider the following items.

Yours faithfully

Peter Evans
Democracy & Governance Manager

WEBCASTING NOTICE

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A G E N D A

1 APOLOGIES

2 DECLARATIONS OF INTEREST

3 LATE OBSERVATIONS

4 MINUTES (Pages 5 - 26)

To confirm as a correct record the minutes of the meeting held on 20 July 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.

**REPORT OF CHIEF OFFICER (PLANNING AND ENVIRONMENT)
TO PLANNING AND DEVELOPMENT CONTROL COMMITTEE ON
7 SEPTEMBER 2016**

Item No	File Reference	DESCRIPTION
<u>Applications reported for determination (A=reported for approval, R=reported for refusal)</u>		
6.1	055280 - R	055280 - R - Application for the Variation of Condition No. 9 Following Grant of Planning Permission 054135 to Allow Hours of Operation for Site Preparatory Works Between 06:00 to 18:00 Mondays to Fridays and 06:00 to 13:00 on Saturdays at Parry's Quarry, Pinfold Lane, Alltami (Pages 27 - 40)
6.2	055805 - A	055805 - A - Variation of Condition No. 4 Attached to Planning Permission Ref: 053393 to Allow Increase of the Duration of Existing Permission at Port of Mostyn, Coast Road, Mostyn. (Pages 41 - 52)
6.3	055218 - A	055218 - A - Creation of Overburden Storage Bund at Pant y Pwll Dwr Quarry, Pentre Halkyn (Pages 53 - 76)
6.4	054707 - A	054707 - A - Application for a Lateral Extension to Existing Quarry, Extension of Time to 2023 and the Erection of Static Screening Plant in the Quarry Void at Maes Mynan Quarry, Afonwen (Pages 77 - 106)
6.5	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 107 - 122)
6.6	054770 - A	054770 - A - General Matters - Erection of 56 No. Dwellings with Associated Access, Open Space and Infrastructure at Kinnerton Lane, Higher Kinnerton (Pages 123 - 128)
Item No	File Reference	DESCRIPTION
<u>Appeal Decision</u>		
6.7	052334	Appeal by Memoria Ltd Against the Decision of Flintshire County Council to Refuse Planning Permission for the Construction of a New Crematorium, Associated Car Park, Access Road and Ancillary Works, Landscaping and Gardens of Remembrance at Kelsterton Lane/Oakenholt Lane, Near Northop - ALLOWED. (Pages 129 - 140)
6.8	052381	052381 - Appeal by Lyons Holiday Parks against the Decision of Flintshire County Council to Refuse Planning Permission for Use of Land for Siting of 1 No. Static Caravan as Ancillary Managers Accommodation at St. Marys Caravan Camp, Mostyn Road, Gronant - DISMISSED. (Pages 141 - 146)
6.9	053202	053202 - Appeal by PHB(NW) Ltd Against the Decision of Flintshire County Council to Refuse Planning Permission for Siting of an Additional 4 Touring Caravan Pitches with Hardstandings and Provision of an Access (Retrospective) at Misty Waters Caravan Park, Lloc - ALLOWED (Pages 147 - 152)
6.10	053731	053731 - Appeal by PHB(NW) Ltd Against the Decision of Flintshire County Council to Refuse Planning Permission for Changes to the Layout of 25 No. Touring Caravan Pitches (Previously Approved Under Planning Permission Ref: 049102) and Temporary Retention of 2 No. 'Porta-Cabins' for Use as a Temporary Toilet/Amenity Block to Serve the Touring Caravan Site (Retrospective) at Misty Waters Caravan Park, Lloc - ALLOWED. (Pages 153 - 158)
6.11	054095	054095 - Appeal by Mr. Martin Rooney Against the Decision of Flintshire County Council to Refuse Planning Permission for a Proposed New Vehicular Access to Serve Plot 5 Only of Previously Consented Gypsy Site at Ewloe Barn Wood, Magazine Lane, Ewloe - ALLOWED. (Pages 159 - 164)

6.12	054328	054328 - Appeal by Mr. Robert Nixon Against the Decision of Flintshire County Council to Refuse Planning Permission for Erection of an Extension to Provide Additional Accommodation at First Floor Level at Arden Lea, Whitford Road, Whitford - DISMISSED. (Pages 165 - 170)
6.13	054540	054540 - Appeal by Mr. Glyn Roberts Against the Decision of Flintshire County Council to Refuse Planning Permission for an Outline Application for the Erection of a Detached Dwelling at Low Nook, Corwen Road, Treuddyn - DISMISSED. (Pages 171 - 176)
6.14	054592	054592 - Appeal by Mr. & Mrs J. Wilkinson Against the Decision of Flintshire County Council for Outline Application with All Matters Reserved for the Erection of a Dwelling at Bryn y Gwynt, Babel Road, Pantasaph - DISMISSED. (Pages 177 - 182)
6.15	054615	054615 - Appeal by Mr. & Mrs Glyn Griffiths Against the Decision of Flintshire County Council to Refuse Planning Permission for the Erection of 4 No. Dwellings (Starter Homes) at Rhyddyn Farm, Bridge End, Caergwrle - DISMISSED. (Pages 183 - 188)
6.16	054757	054757 - Appeal by Mr. & Mrs S. Parker Against the Decision of Flintshire County Council to Refuse Planning Permission for the Erection of a Replacement Dwelling and Ancillary Works at Gelli Farm, Gelli Road, Pen yr Allt, Trelogan - ALLOWED (Pages 189 - 192)

PLANNING & DEVELOPMENT CONTROL COMMITTEE **20 JULY 2016**

Minutes of the meeting of the Planning & Development Control Committee of Flintshire County Council held at County Hall, Mold on Wednesday, 20 July 2016

PRESENT: Councillor David Wisinger (Chairman)

Councillors: Marion Bateman, Chris Bithell, Derek Butler, David Cox, Ian Dunbar, David Evans, Ray Hughes, Richard Jones, Mike Lowe, Nancy Matthews, Billy Mullin, Mike Peers, Neville Phillips, Gareth Roberts and David Roney

SUBSTITUTES: Councillors: Haydn Bateman (for Carol Ellis), Jim Falshaw (for Alison Halford) and Ron Hampson (for Christine Jones)

APOLOGY: Councillor Richard Lloyd

ALSO PRESENT:

The following Councillors attended as local Members:

Councillor Phil Lightfoot for agenda item 6.1; Councillor Colin Legg for agenda item 6.2; Councillor Tim Newhouse for agenda item 6.8

IN ATTENDANCE:

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

31. DECLARATIONS OF INTEREST

Councillors Ray Hughes and Phil Lightfoot both declared a personal and prejudicial interest in the following application as they were governors of Castell Alun School and Ysgol Derwen respectively:-

Agenda Item 6.1 - Full application - Erection of 56 No. Dwellings with Associated Access, Open Space and Infrastructure at Kinnerton Lane, Higher Kinnerton (054770)

32. LATE OBSERVATIONS

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

33. MINUTES

The minutes of the meeting held on 22 June 2016 were submitted.

Accuracy

On planning application reference 054768, Councillor Mike Peers asked that the minutes be amended to reflect that his reason for withdrawing his proposal was to support the deferral of the application for further discussion. This was duly seconded.

On planning application reference 054007, Councillor Peers clarified that his request for a report by the Housing Strategy Manager to explain the rationale behind suggested affordable housing provision applied to all similar items submitted to the Committee and that this had been agreed by officers. The Service Strategy Manager confirmed that the information would be included in future reports, as agreed with the newly appointed Affordable Housing Manager.

RESOLVED:

That, subject to the amendments, the minutes be approved as a correct record and signed by the Chairman.

34. ITEMS TO BE DEFERRED

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

35. FULL APPLICATION - ERECTION OF 56 NO. DWELLINGS WITH ASSOCIATED ACCESS, OPEN SPACE AND INFRASTRUCTURE AT KINNERTON LANE, HIGHER KINNERTON (054770)

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 18 July 2016. The usual consultations had been undertaken and the responses received detailed in the report.

The officer advised that although the application was outside the settlement boundary, it complied with all the UDP policies and Planning Policy Wales guidance. He considered the lack of a five year land supply to be a material consideration in this case and recommended that conditional planning permission be granted, subject to the Section 106 provisions outlined within the report. As a point of accuracy, condition 14 should have indicated that no dwelling was to be occupied until the works in condition 13 were completed.

As the Local Member, Councillor Phil Lightfoot spoke against the application. Whilst he had a number of concerns, he specifically questioned the adequacy of drainage due to the presence of freshwater springs. He acknowledged the advice given by Natural Resources Wales (NRW) about the increased potential for flooding, adding that the increased flow of water from the development increased the risk of flooding downstream to Lower Kinnerton. He referred to flooding concerns raised by a number of local residents and sought assurances that the drainage system removing water from the site would be subject to regular maintenance by NRW,

which had not been the case over the past five years. Councillor Phil Lightfoot then withdrew from the meeting.

Mr. J. Brautigam spoke against the application on the basis that it represented a significant departure from the UDP, was outside the defined settlement boundary and within open countryside. He stated that failure of the Council to have a five year plan was not a reason to grant approval and that the development did little to address the shortage in affordable housing. He pointed out that Higher Kinnerton had delivered its quota through its 10% growth over the planned period and therefore there was no reason to deliver the next phase of the development. He highlighted the range of housing available in the area where some properties had remained unsold for some time. He described the proposals as impractical and dangerous, citing no safe access for pedestrians, cyclists and people with disabilities and no easy safe pedestrian access from Kinnerton Lane to the village.

Mr. P. Lloyd, the agent for the applicant, spoke in support of the application and thanked the officers for their assistance. He referred to the Inspector's decision to allow the appeal under Agenda Item 6.15 and drew a number of comparisons with this application such as it being outside the settlement boundary, compliance with the Council's approach to housing site releases, the five year supply and the need to release such land outweighing any open countryside harm. He said that the ongoing need to deliver housing was a material consideration and that the officers had given considerable weight to providing supply in line with national policy. He said that the development offered enhancement to local facilities together with a range of community benefits including off-site highway improvements and contributions towards facilities at local schools, as well as gifting five units to the Council and providing five affordable houses. He advised that all proposed conditions could be met with positive measures to manage surface water as part of the flood consequence assessment and that Flood Zone A should not hinder approval of the development.

Councillor Derek Butler proposed refusal of the application, which was duly seconded. He expressed concerns about the perceived lack of land supply, as a result of TAN1, and that the Welsh Government should be challenged on this, given the number of other applications made solely on that basis. He said that comments on the site not being included as a candidate site in the next round for the UDP showed the application was speculative. He did not think that the applicant was even the owner of the site. He pointed out that national press reports had identified Broughton as an area of reducing housing demand and that there was other land available for development. He expressed particular concern about the presence of natural springs on the site and the potential for flooding and sought clarity on the grading of the land which, if identified as subgrade 3a (best and most versatile agricultural land), would be protected by planning policy.

In seconding the proposal, Councillor Mike Peers agreed that the lack of five year supply should not outweigh the fact that the development was outside the settlement boundary, and that this should be discussed in more detail as this undermined the determinations of the Committee. He spoke about the risk to other

sites in the county if this situation was to continue and thanked the Cabinet Member for sharing these views.

Whilst Councillor Gareth Roberts shared these frustrations, he proposed acceptance of the officer's recommendation to approve the application, pointing out that it accorded with policies and the inevitable outcomes if it was refused. He went on to refer to the potential negative impact of 'Brexit' on the economy and housing developments.

Councillor Chris Bithell agreed with all of the comments made by Members that national policy should not allow the continuation of these types of speculative development to be considered. He said that the current 3.7 years of supply within the UDP could more than satisfy housing needs in the county and that the LDP was due to be adopted in 18 months' time. He agreed with Councillor Roberts that there was no option but to accept the officer's recommendation and called upon residents to challenge the Welsh Government on its TAN1 policy as the Council would continue to do. In relation to the concerns on surface water drainage, he questioned whether the capacity of the tanks would be adequate and was dismayed that NRW did not require the scheme to be submitted until a later stage.

The officer shared the concerns raised about the restrictions of TAN1 but confirmed that the application complied with other policies and was a sustainable form of development. In relation to the flooding concerns, he explained that surface water would discharge from the site at the greenfield rate so there would be no increased risk of flooding elsewhere downstream. NRW had raised no objections on the basis that a scheme was submitted and approved before the development commenced; an approach that was in line with other applications. The officer confirmed that the grading of the site was 3b and that it was a candidate site, advising that the applicant not being the owner was immaterial.

The Senior Engineer - Highways Development Control confirmed support for the application, subject to the conditions set out in the report. In referring to a range of highway improvements to be gained from the development including a 1.5m footway to the village, she confirmed that the width of the carriageway met requirements.

Members' concerns were acknowledged by the Service Strategy Manager who gave reassurance that the Council would continue to make representations to the Welsh Government on national policy. He advised against the Committee refusing the application on that basis alone, as demonstrated in Agenda Item 6.15, as the decision must be based on evidence-based material factors. He referred to the amendment of the LDP timetable by Cabinet and advised that a report on land supply would be brought to the Planning Strategy Group. He went on to outline the major changes to TAN1 in calculating land supply in the UDP and the fact that land supply could not be demonstrated until adoption of the LDP. In response to comments raised, he said that the site was not in the UDP and did not need to be a candidate site in the LDP. He advised the Committee to consider the sustainability of the development and whether there was any planning harm in allowing it.

Councillor Richard Jones asked whether the officer's recommendation would remain the same in the event of there being a five year land supply. The Service Strategy Manager said that, in that situation, the Council would be in a stronger position as housing policies in the UDP would provide the supply and that other policies in the development plan could be applied with the possible outcome of recommending refusal.

In response to a question from Councillor Bithell, explanation was given on the potential for 'windfall' sites to improve supply in the LDP and reduce the amount of residual new sites to be identified.

Councillor Butler thanked Members for the debate which had highlighted the challenges on national policy. He spoke against the Inspector's decision on Agenda Item 6.15 and felt it was important to make a stance as each application should be considered on its own merits. He referred to the current land supply and stressed the importance of reaching the stage of adopting the LDP to establish whether housing supply requirements could be met. He confirmed his proposal to refuse the application as this was not a candidate site and on the basis of the agricultural land grading and waterlogged nature of the site due to the natural springs. He added that the development was speculative and that it was not sustainable.

In respect of the LDP timetable, the Service Strategy Manager clarified that an additional 18 months had been added to the original four year programme.

Councillor Butler clarified his reasons for refusal as flooding concerns, based on the existence of natural springs on the site and the agricultural land classification of the top part of the site as 3a. The officer clarified that the land was in fact grade 3b and that Councillor Butler was perhaps referring to another site which had been the subject of a site visit at Leeswood, where indeed there was such a split between the grades. Councillor Butler maintained. However, that he believed that the top part of this site was 3a whilst the lower part was 3b.

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

RESOLVED:

That planning permission be refused.

The Chief Officer advised that a report would be brought to the next meeting to clarify the proposed reasons for refusal.

After the vote had been taken, Councillors Ray Hughes and Phil Lightfoot returned to the meeting and were advised of the decision by the Chairman.

36. 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. Additional comments received since the preparation of the report were circulated at the meeting.

The officer explained that the report had been deferred from the meeting in June to consider a number of concerns raised by the Committee and third parties on controlling vehicle movements at the site. To address this, conditions 15-17 had been amended to restrict HGVs entering the site until 0615 Monday-Saturday and to allow a maximum number of eleven HGVs to leave the site between 0600 and 0630 hours Monday-Saturday. A further revision to limit the number of vehicle movements on Saturdays from 300 to 200 (100 in/100 out) was also recommended, as set out in the late observations. The changes to conditions suggested by the third party at the June meeting could not be implemented as there were no material reasons to do so. Given the revised conditions to enable greater control to on-site activities, the officer felt there was no material reason to refuse the application.

Mr. D. Bartlett stated his original intention to oppose the application to seek a reduction in the number of HGVs travelling through Pentre Halkyn on Saturdays. He acknowledged the applicant's commitment to reduce the maximum number of HGVs at the site on Saturdays to 200 and the noise-reducing measures and repairs agreed as part of the consultation in December. He also noted the applicant's subsequent agreement to limit the maximum number of HGVs leaving the quarry before 0630 hours and to prohibit HGVs entering the quarry before 0615 hours. As a consequence of this and the applicant's agreement to reduce the number of HGVs using the village roads on Saturday, Mr. Bartlett withdrew his objections to the application. He thanked all those involved for their work during the process, including the applicant, stating that early morning disturbance in the village would reduce to a more acceptable level if other quarries imposed similar conditions. He said that residents would continue to seek a resolution to the 15 specific concerns which remained outstanding from the consultation process and welcomed any support from Members on this.

For the applicant, Mr. I. Southcott said that a response was no longer required in view of the above.

Councillor Chris Bithell proposed the officer recommendation for approval of the application together with the additional condition in the late observations. He felt that the issues on vehicle movements had mainly been addressed and referred to the restrictions in Circular 11/95. He pointed out that local communities had benefited from commuted sums and suggested that this could be put to better use in the future to address some of the outstanding concerns of residents.

His proposal was seconded by Councillor Derek Butler who praised the positive outcome which had been achieved through amicable and open-minded discussions.

As Local Member, Councillor Colin Legg spoke in support and explained his decision not to speak on the previous application due to the effective functioning of the quarry. Whilst he sympathised with residents on the noise disturbance, he pointed out that a range of heavy traffic used the nearby roads including vehicles from other nearby quarries. He praised the approach being taken by the quarry in

encouraging careful driving of the HGVs and pointed out that some drivers of private cars posed a more serious problem.

Councillor Mike Peers said the debate demonstrated that concerns had been heard, adding that there was no longer a need to seek a change to the operating hours due to the agreed conditions. In response to a question on paragraph 4.05 of the report, the Housing & Planning Solicitor advised that competitiveness was not a material planning consideration.

On being put to the vote, the proposal to approve the application with the inclusion of the additional condition in the late observations, was carried.

RESOLVED:

That planning permission be granted subject to the conditions detailed in the report of the Chief Officer (Planning & Environment) with an additional condition for vehicle movements to be amended from 300 to 200 movements on Saturdays (100 in/100 out) and subject to a Section 106 Agreement, Unilateral Undertaking or earlier payment to secure the following:-

The sum of £17,000 towards road resurfacing works and an anti-skid surface at the junction of the B5123 and Bryn Emlyn, Pentre Halkyn; and

The sum of £1,000 towards repairs to a fence adjacent to the cattle grid on Martin's Hill, Pentre Halkyn.

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

37. 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 (055006)

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 explained that this was a full planning application with accompanying Listed Building Consent for residential development of 89 units at the site, amending the previous consent given for 47 units in 2014. Due to the cost implications in converting the Listed Building, the new developer had submitted a different scheme. The viability assessment indicated only minor profit from the scheme, however the development did seek to achieve the main objective to

preserve the Listed Building which had been deteriorating over time. No objections had been received from statutory parties and it was recommended that an additional condition be included on phasing to ensure conversion of the Listed Building before new build elements, together with standard drainage conditions by Welsh Water. Clarification was also given on the number of units in each block.

Councillor Gareth Roberts proposed to accept the officer recommendations with the additional conditions. He referred to developers' obligations to communities and expressed his disappointment that this would not be the case on this application. However, he supported the scheme and particularly welcomed the work phasing as this would help to improve the appearance of the front of the building.

The proposal was seconded by Councillor Chris Bithell who sought clarification on whether the proposed 122 car parking spaces were adequate for the scale of the development.

Councillor Richard Jones pointed out that references to the 'viability' and 'competitiveness' of applications should not form part of any report if these were not deemed material considerations.

Councillor Mike Peers agreed with the view shared by Councillor Jones. In terms of parking spaces, he pointed out that the development of new build units on the car park area reduced parking capacity. He asked for the number of spaces needed for the new build block and whether the required number of 133 spaces could be provided.

In response to the issues raised, the officer confirmed the inclusion of an additional condition on the phasing plan to ensure that work on the Listed Building elements were carried out prior to the new build. In terms of wording used in the report, viability of the scheme was considered to ensure the restoration of the Listed Building to an appropriate standard. Confidential financial details submitted by the developer had been carefully assessed, allowing the need for some level of profit on the scheme. Although there were less parking spaces than would normally be required, the scheme was considered acceptable due to a number of other factors such as the nature of the site, proximity to the town centre and the condition for a full Travel Plan.

The Service Manager Strategy referred to the long-term condition of this important Listed Building which would continue to deteriorate if not developed. He spoke about the impact on the town and felt that the scheme offered a unique opportunity to restore and repair the site, with benefits to the market.

Councillor Roberts commented on the distance from the car park to the town centre. In summing up, he accepted the officer's recommendation as the conditions would help to improve the parking situation which he considered to be reasonable and only marginally below the required level.

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

RESOLVED:

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

31. Phasing plan to ensure conversion of the Listed Building prior to commencement on the new build element.
32. Standard drainage conditions.

38. LISTED BUILDING APPLICATION FOR AMENDMENT TO PLANNING APPLICATION NO. 051727 AND LISTED BUILDING CONSENT 051728 TO INCLUDE ADDITIONAL 1 NO. APARTMENT BLOCK 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 (055008)

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 recommended approval to Cadw on the basis that the conversion of the site was sympathetic to the appearance of the Listed Building and most of the adaptations were internal.

Councillor Gareth Roberts' proposal to accept the officer recommendation was duly seconded. On being put to the vote, this was carried.

RESOLVED:

That Listed Building Consent be granted, subject to referral to Cadw and the conditions detailed in the report of the Chief Officer (Planning & Environment).

39. 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 (054041)

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 18 July 2016. The usual consultations had been undertaken and the responses received detailed in the report.

The officer advised that the scheme complied with the principles of the UDP and PPW, and that the site comprised 25% Grade 3a land with the remaining 75% as Grade 3b. The siting of solar panels in arrays across 1.4 hectares of the Grade 3a land was considered acceptable given that this would not result in a permanent loss of agricultural land. Alternative options had been ruled out due to a number of

reasons and the location of the site was considered to be acceptable given the size. Issues raised during assessments of the site would be mitigated over time through the landscaping proposals and land stability issues had been addressed by amending the layout.

In speaking against the application, Mrs. J. Davies highlighted the need to protect the rural environment and raised concerns about the increase in construction traffic accessing the area and site via a country lane. Whilst she understood the need for renewable energy, she felt that the scheme should be located in a more suitable area, rather than on unspoilt Greenfield land. She called upon the Committee to reject the application on that basis and feared that approval would set a precedent for more land to become commercialised.

Councillor Ray Hughes proposed that the application be approved. Whilst he sympathised with the comments raised on the visual impact, he could find no reason to refuse it and had no issues arising from the site visit. He went on to say that the Committee was only considering the application due to the size of the site.

In seconding the proposal, Councillor Ian Dunbar acknowledged the concerns raised by the third party speaker but supported the application as most of the issues had been addressed. He added that following the 25 year period for the solar farm, the land could still be used for grazing purposes and that only the top two fields were Grade 3a land.

Councillor Chris Bithell referred to the proposed conditions in the report and asked if the great crested newts could survive underneath the panels. In response to the concerns raised about the location, he questioned whether an alternative site, perhaps on Brownfield land, could be identified in order to protect this Grade 3a land which was the most versatile available. He also questioned why a 25 year period had been set for the scheme and commented that the land may have deteriorated after that time. He went on to refer to a similar application previously considered by the Committee which had been refused on the grounds of no end user for the electricity and sought clarification on the Council's policy on this.

Councillor Derek Butler also raised issues on exploring other sites and there being no end user.

Councillor Richard Jones said that 25 years was most likely to be the necessary payback period and that sheep would be able to continue grazing on the land, with the land returned to full use after the 25 year period.

The Chairman said it was possible that the solar panels may only be guaranteed for 25 years.

In response to the issues raised, the officer explained that of the 2.5 hectares of Grade 3a land, only 60% had arrays above it, with that land available for grazing and the remaining 40% not developed at all. No objections had been raised by Welsh Government on this and there was a requirement for a land remediation scheme following the 25 year period to be submitted and approved. It was also explained that Brownfield and industrial sites had been considered unviable due to

commercial reasons. Concerning reference to a previous application, this application involved different factors, in particular this was not green barrier and only part of the site was of a high agricultural land grade. There was no need for the completion of a sequential process and it was also not dependent on an end user for the electricity generated.

The Service Manager Strategy referred Members to UDP policy EWP1 on sustainable energy generation as part of their considerations and said that the report presented evidence on the issues which had been raised and concluded no planning harm which was a key consideration. In respect of end users, he referred to the outcome of another application but said that a different context applied in this case.

In summing up, Councillor Hughes acknowledged the visual impact but was unable to vote against the advice given by officers. On being put to the vote, the officer recommendation was carried.

RESOLVED:

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

40. FULL APPLICATION - ERECTION OF 23 DWELLINGS WITH ADOPTABLE HIGHWAY ACCESS AT RHEWL FAWR ROAD, PENYFFORDD, HOLYWELL (055398)

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 gave the background to the application which complied with the necessary policies. Although the land was not allocated for housing development, it was within the settlement boundary and officers had taken into consideration the consent granted to an affordable housing application to the east of the site, which was originally part of this land. No objections had been raised on the access, and the adjacent play area would benefit from a commuted sum.

Councillor Gareth Roberts proposed to accept the officer recommendation to grant the application. This was seconded by Councillor Neville Phillips who questioned whether sufficient time was given for Town and Community Councils to respond on applications in general. The Chief Officer advised that a six week period applied in this case which was more than adequate to make representations.

Councillor Chris Bithell asked whether there was a need for the scheme as the report referred to Penyffordd being 'adequately catered for' in section 7.11. The Service Manager Strategy said that the contribution to housing land supply in the county was of a greater need, given the location within the settlement boundary. He referred to the design of the scheme which was in keeping with the area and the need to balance this with development in this part of the county.

In summing up, Councillor Roberts proposed approval as the scheme was within the settlement boundary. On being put the vote, this was carried.

RESOLVED:

That conditional permission be granted, subject to the conditions detailed in the report of the Chief Officer (Planning & Environment) and either a Section 106 Agreement, Unilateral Undertaking or advance payment to secure the following:-

The sum of £23,300 towards the enhancement of 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.

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

41. 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 (055459)

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 presented the application for the substitution of house types on the previously consented Phase 2 of residential development at land at Cae Eithin. This change did not raise any issues on adverse impacts on the residential amenity and it was recommended that the application be granted subject to the conditions within the report. The late observations included an amendment stating that there were no education contributions to Phase 2 of this site and that contributions were CIL compliant.

Councillor Chris Bithell proposed acceptance of the officer recommendation subject to the conditions and amendment. This was duly seconded and on being put to the vote, was carried.

RESOLVED:

That planning permission be granted subject to entering into a S106 agreement or unilateral undertaking to link this development with the requirement for the affordable housing provision and the open space 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.

42. FULL APPLICATION - ERECTION OF 2 NO. DWELLINGS AT RHYDDYN FARM, BRIDGE END, CAERGWRLE (055414)

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.

In presenting the report, the officer explained that this was a full planning application for the erection of two detached dwellings with associated parking and gardens. Reference was made to a nearby previous application for four dwellings which was the subject of a forthcoming appeal. Although outside the settlement boundary, the proposed development was situated adjacent to a Category B settlement in a highly sustainable location with no scope for further encroachment on the open countryside. The scheme also contributed to a mix of housing types in the area, together with the medical centre adjacent to the site. The principles of the development were considered acceptable with no requirement for a local need test due to the location adjacent to a Category B settlement and its modest contribution towards the five year supply.

As the agent, Mr. D. McChesney explained that the site had originally formed part of the development proposals for the medical centre and having been deemed surplus to requirements, had been included in various subsequent planning applications. He therefore felt it was important to view the application in the context of the medical centre and that its contribution towards the five year land supply was a material consideration outweighing the location outside the settlement boundary. He said that the scheme was viable and sustainable, and that the site was completely land-locked and posed only limited harm to the open countryside. Planning permission previously granted on the site demonstrated its viability for development. He said that the proposals presented no impact to Wat's Dyke and would contribute towards identified local housing need with a design in keeping with the area. He described the development as a logical extension to the settlement pattern with access to local amenities and safe vehicular movement within the site.

Councillor Mike Peers' proposal that planning permission be refused was duly seconded. He referred to the refusal of a similar application considered at the March meeting which was also outside the settlement boundary. He felt that the application should not be considered in the same context as the medical centre, which adhered to GEN3, and that this application was not an infill development as it extended to outside the settlement boundary. He pointed out that the site had no access points and that the requirements of the UDP in terms of housing policies and TAN1 should be a material consideration and not outweighed by the position on a five year supply.

As Local Member, Councillor Tim Newhouse spoke against the proposals. He referred to the unanimous decision made by the Committee in March to reject the application for four houses at the northern end of the site as this was outside the settlement boundary. He said that the same should apply in this case as granting permission to a scheme inside a Conservation Area and outside the settlement boundary could set two dangerous precedents.

As in the earlier item, Councillor Chris Bithell shared his frustrations about the implications of TAN1 on decision-making by the Committee, stressing the need for representations to Welsh Government to address this. He respected the views of the Members to proposal refusal of the application but felt that the Committee was powerless to do this.

Councillor Derek Butler highlighted the need for each application to be considered on its own merits. He referred to section 7.07 of the report and asked for clarification on this as an infill development in view of the site history and the land being surplus to the medical centre scheme.

Councillor Gareth Roberts felt that the application differed greatly from the scheme rejected in March which comprised a number of developments posing a threat to Wat's Dyke. Given the sustainability of the proposals of this application and its relativity to other buildings, he proposed that permission be granted in line with the officer's recommendation.

In response to the issues raised, the Service Manager Strategy said that the Committee had made an exception to the principles of the UDP in granting approval to the medical centre which had led to the proposals for this scheme being classed an infill development. He went on to say that approval of the development complied with criterion B of GEN3 and that any contribution to land supply was a material consideration.

In summing up, Councillor Peers stated his reasons for refusal as the development was outside the settlement boundary and within the conservation area causing planning harm. In respect of the medical centre, he pointed out that there had been an overwhelming public need in that case.

On being put to the vote, the proposal to refuse planning permission was lost and the officer's recommendation to grant planning permission was approved.

RESOLVED:

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

The sum of £1,100 per dwelling to enhance toddler play facilities at Queens Way play area.

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.

43. 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 (055310)

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 provided background to the application for the development of a 0.94 hectare site for 24 No. dwellings together with associated highway and infrastructure works. The application had previously been considered in 2013 and was included in the UDP for the purposes of residential development. The officer highlighted the potential for bats around the site and said that a survey had been undertaken on which Natural Resources Wales had raised no objections, subject to the appropriate conditions and acquisition of a licence.

On behalf of the applicant, Mr. P. Darwin, said that the report benefited from housing allocation and previous permission given for 23 No. dwellings, thus establishing the principles of development on the site and access to the main road. He said that the development would provide a mix of property types at a scale and density in keeping with the area, which would contribute towards local housing demand. The site layout had been agreed with officers and followed the principles of the previous scheme. The site was located within the settlement boundary with easy access to local facilities and no objections had been received. Mr. Darwin said that this was a deliverable and viable scheme within the settlement boundary and would provide a range of economic benefits including housing, additional Council Tax revenue and S106 contributions.

Councillor Chris Bithell proposed the officer recommendation for approval of the application, which was duly seconded. Whilst he had no objections to the application as it was within the settlement boundary, he asked whether the capacity issues with the sewerage works had been resolved as this had been a factor in the previous application.

Councillor Derek Butler spoke about an issue with an adjacent development and traffic in the area, but had no concerns in respect of planning.

Councillor Mike Peers pointed out reference in the report to the previous application on the site being determined in March 2011 where the resolution had included provision for contributions in lieu of affordable housing, as this was just below the threshold. He said that the site was allocated in the UDP for 1.1 hectare, more than that stated in the current application, and that this should provide 25 units invoking the affordable housing element of the policy. In view of this, he felt that further discussions were needed or a deferral to consider whether 25 units could be provided.

Councillor Richard Jones suggested that if the application was agreed, the time limit on the conditions should be changed from six months to twelve months.

In response to the question from Councillor Bithell, it was confirmed that a condition had been included in the previous application relating to works at the water station and that this had been completed, hence there had been no objections from Welsh Water to this application.

On Cllr Peers' comments, it was explained that the previous application had invoked affordable housing contributions (HSG10) as it covered the entire UDP allocation for the site. The Committee had agreed to accept a commuted sum as the developer chose not to make on-site affordable housing provision, however the development did not subsequently come forward. The current developer did not have full control of the site and the Council could not enforce HSG10 as it was below the 1 hectare threshold. Information on the density of the development was set out in Sections 7.10-7.12 and included the need for providing access, leading to the conclusion that the proposed density was appropriate. In addition, the concerns raised by the local community on the previous application, in respect of the location, had also been taken into account and supported the view that more units could not reasonably be included on the site given its orientation.

Councillor Peers stressed the importance of affordable housing and felt that the Committee should insist on the applicant providing 25 units within the stated 1.1 hectare to meet this provision under HSG10. Alternatively, he felt that the item should be refused or deferred for further consideration. The Service Manager Strategy reminded Members that this was not the same specific site as the UDP allocation and that the application site did not meet the affordable housing threshold.

Councillor Richard Jones felt there was a need to clarify the implications and the intentions for the remainder of the site.

Councillor Gareth Roberts also spoke in support of the point raised by Councillor Peers and referred to the previous policy for 30 units per hectare which had been changed.

Councillor Jones proposed that the item be deferred, which was seconded.

In response to these concerns, officers explained that the previous application had been submitted by the owner of the site who had resided in a property on the site. It was their right to make the remainder of the site available for development, subject to planning requirements. Officers had recommended approval of the application, having given a balanced view of all the factors including the location and constraints of the site and concluded that the density of the land was not sufficient to refuse it. The Committee was urged to consider this application on its own merits, separate from the previous scheme.

Councillor Peers, having considered the application, failed to see why the site could not accommodate a minimum of 27 units, thus invoking the affordable housing provision for the benefit of local people.

Following the proposal by Councillor Jones to defer the item, this was put to the vote and carried.

RESOLVED:

That the application be deferred to allow clarification of the site area and density in relation to earlier applications and the UDP allocation.

44. FULL APPLICATION - CHANGE OF USE FROM POST OFFICE TO SINGLE DWELLING AT 8 MANCOT LANE, MANCOT (055549)

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 application had been brought to the Committee as the applicants were local Members. It related to the change of use of the vacant post office to incorporate it into the existing dwelling of which it formed part, to provide additional living accommodation. The late observations indicated that no objections had been received from Hawarden Community Council since preparation of the report.

Councillor Ian Dunbar proposed that the Committee approve the application in line with the officer recommendation. He referred to the widespread closure of post offices and pointed out that there were other facilities within walking distance.

Councillor Derek Butler drew attention to the fact that the site had been marketed in excess of 12 months in line with the policy.

On being put to the vote, the proposal to grant permission was carried.

RESOLVED:

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

45. FULL APPLICATION - RE-MODELLING AND EXTENSIONS, ERECTION OF GARAGE AND TEMPORARY SITING OF CARAVAN AT TOP YR ALLT COTTAGE, BLACKBROOK ROAD, SYCHDYN (055612)

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 and indicated no objection from Northop Community Council.

The officer summarised the background to the application for the erection of a side and rear extension with an improved access and double timber garage at the site. The application also included the temporary siting of a storage container and static caravan for residential use whilst building work was being carried out. It was stated that the applicant was related to an officer of the Planning section.

Councillor Marion Bateman proposed to accept the officer recommendation to grant approval, as this was a sympathetic extension to a unique cottage. The proposal was duly seconded.

Councillor Chris Bithell sought assurances over the historical merit of the building and whether the proposals were in keeping with the property and its age. In response, the officer said that the proposals had been the subject of negotiations and were sympathetic to the design, noting that it was not a listed building.

On being put to the vote, the proposal to grant permission was carried.

RESOLVED:

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

46. 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 (054151)

The Committee considered the report of the Chief Officer (Planning and Environment) in respect of this application to seek approval for an amendment to the resolution made at the meeting on 16 December 2015 on the terms of the proposed Section 106 Agreement.

The officer explained that discussions since the meeting had raised concerns about the precise means and methods of affordability across 100% of the scheme. Officers therefore recommended that the terms of the S106 Agreement be restricted to eight of the units to be made available on social rented terms. The Service Manager Strategy advised that the application complied with the requirements of the policy.

Councillor Chris Bithell proposed the officer recommendation for approval, which was duly seconded. On being put to the vote, this proposal was carried.

RESOLVED:

That the suggested clauses of the S.106 be amended as detailed in the report of the Chief Officer (Planning & Environment).

47. DISCHARGE OF SECTION 106 AGREEMENT AT THE MILL HOUSE, TYN Y CAEAU FARM, NORTHOP ROAD, NORTHOP (055105)

The Committee considered the report of the Chief Officer (Planning and Environment) in respect of this application for the removal of a S106 Agreement on the site in Northop, which sought to establish a newt habitat in mitigation for a residential development in Flint. The officer confirmed that the removal of the S106

Agreement was considered to be acceptable as the site was now protected by current legislation and planning policy.

Councillor Marion Bateman proposed the officer recommendation for approval, which was duly seconded. On being put to the vote, this was carried.

RESOLVED:

That the applicant, the Council and other land owners be required to sign a deed of release to remove the Section 106 Agreement.

48. **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 (053080)**

RESOLVED:

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

49. **APPEAL BY BLOOR HOMES (NORTHERN) LIMITED AGAINST THE DECISION OF FLINTSHIRE COUNTY COUNCIL TO REFUSE PLANNING PERMISSION FOR THE ERECTION OF 59 DWELLINGS, OPEN SPACE, ACCESS AND ASSOCIATED INFRASTRUCTURE AT ISSA FARM, MYNYDD ISA (053208)**

RESOLVED:

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

50. **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 (054317)**

RESOLVED:

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

51. **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 (054383)**

RESOLVED:

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

52. **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 (054386)**

RESOLVED:

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

53. **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 (054358)**

RESOLVED:

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

54. **LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985 - TO CONSIDER THE EXCLUSION OF THE PRESS AND PUBLIC RESOLVED:**

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

55. **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 (054660)**

The Committee considered the report of the Chief Officer (Governance) and Chief Officer (Planning & Environment) in light of advice received from the Local Planning Authority's Barrister. The officers provided background information to the report and outlined the reasons behind the recommendation.

Councillor Chris Bithell proposed that the recommendations be accepted which was duly seconded.

RESOLVED:

That in light of legal advice, the Local Planning Authority should proceed on the basis of the recommendation contained in the officer's report and not contest the appeal.

55. ATTENDANCE BY MEMBERS OF THE PRESS AND PUBLIC

There were 23 members of the public and two members of the press in attendance.

The meeting started at 1.00 pm and ended at 4.40pm

.....
Chairman

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FLINTSHIRE COUNTY COUNCIL

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

DATE: **WEDNESDAY, 7 SEPTEMBER 2016**

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

SUBJECT: **055280 - APPLICATION FOR THE VARIATION OF CONDITION NO. 9 FOLLOWING GRANT OF PLANNING PERMISSION 054135 TO ALLOW HOURS OF OPERATION FOR SITE PREPARATORY WORKS BETWEEN 06:00 TO 18:00 MONDAYS TO FRIDAYS AND 06:00 TO 13:00 ON SATURDAYS AT PARRY'S QUARRY, PINFOLD LANE, ALLTAMI**

APPLICATION NUMBER: **055280**

APPLICANT: **MOLD INVESTMENTS LTD**

SITE: **PARRY'S QUARRY, PINFOLD LANE, ALLTAMI**

APPLICATION VALID DATE: **13/04/2016**

LOCAL MEMBERS: **COUNCILLOR ELLIS**

TOWN/COMMUNITY COUNCIL: **BUCKLEY**

REASON FOR COMMITTEE: **REQUIREMENT FOR S106 AND MEMBER REQUEST**

SITE VISIT: **NO**

1.00 SUMMARY

1.01 This application seeks to vary the hours of operation which are controlled by condition 9 attached to the planning consent. Parry's Quarry secured planning consent to construct and operate a solid waste landfill on appeal in 2009. The conditions were imposed by the Inspector following a public inquiry. The Applicant is in the process of constructing the development, however, no waste has been received to date.

1.02 The Applicant initially requested the variation to allow hours of

operation for site preparatory works to commence from 0600 Mondays to Saturdays compared to current hours of operation which are authorised to commence from 0730 Mondays to Fridays and 0800 Saturdays. Restrictions relating to the maintenance of plant and equipment and the importation of waste would not change as a result of this application and as such, no waste would be imported before 0830 Monday to Saturday. The justification provided by the Applicant for allowing the variation is to allow site construction works to be completed within the shortest possible timeframe, however, site preparatory work could continue throughout the life of the landfill.

- 1.03 There are a number of sensitive receptors located around the quarry, the closest of which are Parry's Cottages which are located approximately 15m from the site boundary and approximately 50m from the working area. The Applicant has submitted noise assessments in support of the application; however, in response to concern raised by officers regarding noise which would be generated by the site prior to 7am, the Applicant has now requested that the Local Planning Authority consider allowing the commencement of site preparatory works from 0700 Mondays to Saturdays and not 0600.
- 1.04 Noise levels arising from the site at 0700 are considered unlikely to exceed background noise levels at the nearest sensitive receptors. Planning permission 054135 includes a condition: condition 11, which restricts absolute noise levels at the site. The restrictions relate to the approved hours of operation and would therefore need to be amended to reflect the revised hours of operation, but, if imposed would ensure that noise arising from the site does not cause a nuisance to nearby sensitive receptors.
- 1.05 Other uses within the vicinity of the site which have restrictions on hours of operation include start times of 0700, for example, certain uses on the Ewloe Barns Industrial Estate. 0700 is commonly used as a start time for industrial operations, where restrictions are required since this is defined as daytime working. It is therefore recommended that condition 9 is amended to allow site preparatory works to commence from 0700 Monday to Saturday.

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

- 2.01 Supplementary S106 agreement to attach the obligations contained in the S106 agreement dated 16 December 2008 in relation to planning permission 042468 to the permission arising out of this application.

(1) Linking commencement to date of permission (as existing condition).

(2) Development to be carried out in accordance with approved plans

(3): Approved plans and documents to be kept at site office (as

existing condition).

(4) Detailed working programme to be submitted and agreed (as existing condition).

(5) Reviews of the development to be submitted and agreed (as existing condition).

(6) A landscaping scheme to be submitted and agreed (as existing condition).

(7) Topographical surveys to be submitted and agreed (as existing condition).

(8) A scheme to secure mitigation and compensation for great crested newts to be submitted and agreed (as existing condition).

(9) Hours of operation (amended, as per recommendation).

(10) Development to be carried out in accordance with approved noise scheme (as existing condition).

(11) Noise limits at nearby sensitive properties, varied to restrict noise from 0700 instead of 0730.

(12) Development to be carried out in accordance with approved dust scheme (as existing condition).

(13) A scheme to secure details of hard surfacing of internal site access roadways, parking, vehicle manoeuvring and plant storage areas to be submitted and agreed (as existing condition).

(14) Restriction of site access to existing approved and new approved only(as existing condition).

(15) A scheme to prevent the deposition of mud, dust, debris and litter onto the public highway to be submitted and agreed (as existing condition).

(16) Sheeting of vehicles (as existing condition).

(17) No drainage from the site shall be connected to or allowed to discharge onto the highway, unless otherwise agreed in writing by the Local Planning Authority (as existing condition).

(18) Require the submission and implementation of highway improvement works prior to the receipt of waste (as existing condition).

(19) Implementation of odour neutralisation around site periphery(as existing condition).

(20) External lighting (as existing condition).

(21) Development to be carried out in accordance with approved

scheme for the control of litter (as existing condition).

(22) Location of the storage of plant, skips or any other item (as existing condition).

(23) Restriction of temporary stockpiles of waste outside of the transfer station (as existing condition).

(24) Development to be in accordance with approved scheme for the management of surface water and ground water (as existing condition).

(25) Storage of oils, fuels and liquid chemicals (as existing condition).

(26) Development to be in accordance with the approved scheme for facilities to deal with leachate and gas (as existing condition).

(27) Restriction of levels within the site (as existing condition).

(28) A scheme detailing progressive restoration to be submitted and agreed (as existing condition).

(29) An aftercare scheme to be submitted and agreed (as existing condition).

(30) Cessation of the deposition of waste no later than 20 years from the notified date of commencement and restoration in accordance with approved schemes (as existing condition).

(31) Implementation of approved liaison committee scheme (as existing condition).

(32) A traffic management plan to be submitted and agreed (as existing condition).

3.00 CONSULTATIONS

3.01 Local Member:
Request Committee determination.

Neighbouring Ward Member Councillor Mackie:

In the absence of further information, oppose the application due to the impact on A55 business and local residents. Reconsulted on revised start time: No comments received at time of writing report.

Town/Community Council:

Concerned about the number of changes which have been and are being sought. Consider that a full application is required. Detailed comments provided regarding regulation. Reconsulted on revised start time: No comments received at time of writing report.

Hawarden Community Council

Believes that the conditions must be retained. Reconsulted on revised

start time: No comments received at time of writing report.

Head of Public Protection:

On the basis of the information provided, it is likely that the site operations will often breach the lower limits set out in MTAN 1 if the application is granted approval to vary the working time permanently to operate during night time hours starting at 06.00am. Given that there may also be penalties to apply for particular noise characteristics such as tones, bangs and clangs or impulsive noise then it is very likely that noise limits will be breached on a regular basis.

Following the submission of further information and the requested change to the hours so that site preparation works commence from 0700 and not 0600 confirm that a 0700 would have a rating level below the background level at Parry's Cottages which indicates that noise from the site would have a minimal impact on nearby residential properties.

Natural Resources Wales:

Do not wish to comment on the application.

4.00 PUBLICITY

4.01 Press Notice, Site Notice, Neighbour Notification

One objection related to the new site entrance and is therefore not relevant to this application.

The second objection stated that the proposal is unacceptable and unnecessary and raised concern regarding the Applicant's past performance in terms of complying with planning conditions.

5.00 SITE HISTORY

5.01 The proposal site was previously worked under a mineral permission which is subject to an undetermined ROMP.

038425: Waste transfer station including weighbridge, highway protection, lorry parking and raising of levels to create a hardstanding. Approved by Planning Committee, date of decision 21/04/2005

042468: Construction and operation of a solid waste landfill with associated infrastructure and enhanced site access. Granted on appeal, reference APP/A6835/A/08/2068136.

054135 Variation of conditions 2, 14 and 18 attached to planning permission 042468.

Other permissions including a new access and transfer station,

reference numbers 054050 and 054201 respectively.

6.00 PLANNING POLICIES

- 6.01 Flintshire Unitary Development Plan
Flintshire Unitary Development Plan
GEN 1: General requirements for development
GEN 3: Development outside development boundaries
D3: Landscaping
D4: Outdoor lighting
WB1: Species protection
WB2: Sites of International Importance
WB3: Statutory Sites of National Importance
AC13: Access and Traffic Impact
EM5: Expansion of existing concerns
EM7: Bad Neighbour Industry
EWP6: Areas of Search for Waste Management
EWP7: Managing Waste Sustainably
EWP8: Control of Waste Development
EWP11: Development on or adjacent to landfill sites
EWP13: Nuisance

Planning Policy Wales Edition 8
Technical Advice Note 11: Noise
Technical Advice Note 21: Waste
Minerals Technical Advice Note 1: Aggregates

7.00 PLANNING APPRAISAL

- 7.01 Introduction
The proposal is a Section 73 application to vary condition 9 attached to planning permission 054135, to allow hours of operation for site preparatory works to be undertaken from 0600 Monday to Saturday instead of 0730 Monday to Friday and 0800 Saturdays. Site preparatory works may include the construction of cells, laying of liners, construction of bunds and so on, but would not include the importation or management of waste which would continue to be restricted to from 0830 Monday to Saturdays. The proposal site is a former quarry which secured planning permission on appeal for the construction and operation of a solid waste landfill. The permission is in the process of being implemented.
- 7.02 The existing wording of condition 9 is:
The hours of operation, including site preparatory work and maintenance of plant and equipment shall be restricted to:
- *0730 to 1800 Mondays to Fridays*
 - *0800 to 1300 Saturdays*
- The importation of waste shall be limited to:*
- *0830 to 1700 Mondays to Fridays*
 - *0830 to 1200 on Saturdays*

Subject to the exemptions listed below, there shall be no working whatsoever on Saturday afternoons after 1300, Sundays, Public and Bank Holidays.

The following operations are exempted from the above working hours limitations:

- *The operation of drainage and leachate pumping, pollution prevention control and monitoring equipment, and landfill gas control equipment.*
- *Any other activities as are agreed beforehand with the local planning authority.*
- *Any emergency remedial actions necessary to safeguard members of the public, employees and the environment as may arise from fire, collapses and failure of essential environmental control equipment subject to the local planning authority being notified the next working day.*

7.03 The proposed wording of condition 9 was originally:

The hours of operation for site preparatory work shall be restricted to:

- *0600 to 1800 Mondays to Fridays.*
- *0600 to 1300 on Saturdays.*

The maintenance of plant and equipment shall be restricted to:

- *0730 to 1800 Mondays to Fridays.*
- *0800 to 1300 on Saturdays.*

The importation of waste shall be limited to:

- *0830 to 1700 Mondays to Fridays*
- *0830 to 1200 on Saturdays*

Subject to the exemptions listed below, there shall be no working whatsoever on Saturday afternoons after 1300, Sundays, Public and Bank Holidays.

The following operations are exempted from the above working hours limitations:

- *The operation of drainage and leachate pumping, pollution prevention control and monitoring equipment, and landfill gas control equipment.*
- *Any other activities as are agreed beforehand with the local planning authority.*
- *Any emergency remedial actions necessary to safeguard members of the public, employees and the environment as may arise from fire, collapses and failure of essential environmental control equipment subject to the local planning authority being notified the next working day.*

7.04 The site is located within the Buckley Mountain Ward and abuts the Ewloe Ward. The site is surrounded by a number of industrial units and residential properties, the closest of which include Parry's Cottages, which abut the proposal site and are approximately 15m from the quarry boundary and 50m from the edge of the working area.

- 7.05 The proposal is supported by a noise assessment based upon the requirements of Minerals Technical Advice Note (MTAN) 1. MTAN 1 states that noise limits should relate to the background noise levels subject to a maximum of 55dB(A) where background noise levels exceed 45dB(A) and that night-time working limits should not exceed 42dB(A) at noise sensitive properties. Night-time is defined as 1900 – 0700 hours. The assessment concludes that emitted from the site would exceed the limits included on condition 11 but would be substantially below ambient noise levels between 0600 and 0730.
- 7.06 A BS4142 noise assessment was also undertaken and submitted in support of the application. The BS4142 assessment assessed background noise levels at nearby sensitive receptors and modelled the predicted noise rating from the activities which would be undertaken at the site. Background noise levels at the nearest sensitive receptors, Parry's Cottages, were identified to range from 47dB(A) to 52dB(A) between 0600 and 0700. Between 0700 and 0800 background noise levels were 56dB(A). The assessment considered noise from equipment which would be used to prepare the site including a hydraulic excavator, articulated dump truck, bulldozer and sheepfoot roller (compactor). The assessment identified that the specific noise from the activities would be 48dB(A) at Parry's Cottages, with a correction of 3dB applied to allow for impulsive or intermittent sound of 3dB(A), resulting in a rating level of 51dB(A).
- 7.07 Main planning consideration:
- Noise
- 7.08 Noise: Activities within the site
Policies EWP 8 and EWP13 seek to ensure that proposals do not have an unacceptable impact on nearby sensitive uses through increase in noise. The restriction on hours of operation have been imposed at the site due to the potential for the development to impact on sensitive receptors by virtue of noise. The Applicant submitted a noise assessment in support of the planning application which demonstrates that background noise levels in this location are particularly high, predominantly due to noise from the A55 and A494. The assessment concludes that noise emitted from the site is substantially below existing ambient noise levels at sensitive receptors between 0600 and 0730. The report relies upon an assessment which was carried out in 2013 and which measured actual noise arising from the site. However, due to the methodology used and the way in which it has been reported in the submitted assessment it was not possible to confirm that a similar conclusion could be drawn for any construction activities undertaken within the site. The Environmental Health Officer raised concern regarding the proposal and recommended refusal on the basis of the information supplied.
- 7.09 To address the concerns raised by the Environmental Health Officer the Applicant undertook and submitted a BS4142 assessment, using

computer modelling to predict what noise levels would be at identified sensitive receptors, including Parry's Cottages. The assessment demonstrated that noise levels would be 4dB over background at Parry's Cottages, including a 3dB correction for impulsive/intermittent noise, and concluded that whilst this would be a moderate adverse impact because activities would move around the site, therefore noise impacts at Parry's Cottages would be short term.

7.10 Site preparation works can occur over the life of the landfill and whilst activities would move around the site the local planning authority would not be able to restrict where works can be carried out. The assessment submitted by the Applicant included a 3dB correction for impulsive/intermittent noise but did not include any correction for tonal noise. The Environmental Health Officer (EHO) raised concern about the correction applied and advised that a correction of at least 6dB should be applied in relation to Parry's Cottages.

7.11 Because background noise levels are high in this location, any increase in noise could impact on sensitive receptors. Furthermore, any increases above background levels before 0700 are a particular concern since this is a time when people are likely to be sleeping and when they are therefore likely to be more sensitive to noise. The assessment submitted in support of the application demonstrated that background noise levels would be exceeded by 4dB between 0600-06:15; 2dB between 06:15 and 06:30 and would be 1dB below background between 06:30 and 0700. Given the concerns raised by the EHO regarding the corrections applied, it is considered that noise levels prior to 0700 would be likely to impact on Parry's Cottages and cannot be adequately controlled by condition.

7.12 Noise levels between 0700 and 0800 are predicted to be 5dB below background, including a correction of 3dB for impulsive noise only. If a further correction of 3dB is applied, as recommended by the EHO, noise levels would still be 2dB below background at Parry's Cottages. It is therefore considered that site preparatory works are unlikely to have an adverse impact on nearby sensitive receptors from 0700. In response to this, and to address concerns raised by Officers, the Applicant has requested that the local planning authority consider varying the condition to allow site preparatory works to commence from 0700 Monday to Saturday.

7.13 It is recommended that condition 9 is amended to read:

The hours of operation for site preparatory work shall be restricted to:

- 0700 to 1800 Mondays to Fridays.
- 0700 to 1300 on Saturdays.

The maintenance of plant and equipment shall be restricted to:

- 0730 to 1800 Mondays to Fridays.
- 0800 to 1300 on Saturdays.

The importation of waste shall be limited to:

- 0830 to 1700 Mondays to Fridays
- 0830 to 1200 on Saturdays

Subject to the exemptions listed below, there shall be no working whatsoever on Saturday afternoons after 1300, Sundays, Public and Bank Holidays.

The following operations are exempted from the above working hours limitations:

- *The operation of drainage and leachate pumping, pollution prevention control and monitoring equipment, and landfill gas control equipment.*
- *Any other activities as are agreed beforehand with the local planning authority.*
- *Any emergency remedial actions necessary to safeguard members of the public, employees and the environment as may arise from fire, collapses and failure of essential environmental control equipment subject to the local planning authority being notified the next working day.*

7.14 The permission includes a condition, condition 11, which specifies an absolute noise limit. It is recommended that this is retained to prevent noise creep, to ensure that the local planning authority has adequate control over the site and minimise any impact on nearby sensitive receptors.

7.15 Other matters

The application is a Section 73 application which would result in a new planning permission being issued for the site. In order to ensure that the necessary controls are in place for the site it is recommended that the conditions attached to planning permission 054135 are attached to any consent issued under this application. The previous permission required a number of schemes to be submitted and approved by the local planning authority as well as entering into a Section 106 agreement to address matters relating to ecology and bird strike. It is considered that the requirements of the S106 should still apply to any new permission.

8.00 CONCLUSION

The Applicant has demonstrated that noise from site preparatory works would not be above background levels between the hours of 0700 and 0730. Allowing site preparatory works to commence from 0700 Monday to Saturday is therefore considered unlikely to have an adverse impact on nearby sensitive receptors. The inclusion of conditions to control noise arising from the site is considered necessary to ensure that noise does not harm residential amenity. Since an application under Section 73 of the Town and Country Planning Act would result in a new permission for the site it is considered necessary to replicate conditions and obligations attached to the existing permission. Subject to the inclusion of conditions and the completion of a S106, the proposal is considered in line with policies EWP 8 and EWP 13 of the adopted Flintshire Unitary

Development Plan.

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.

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.

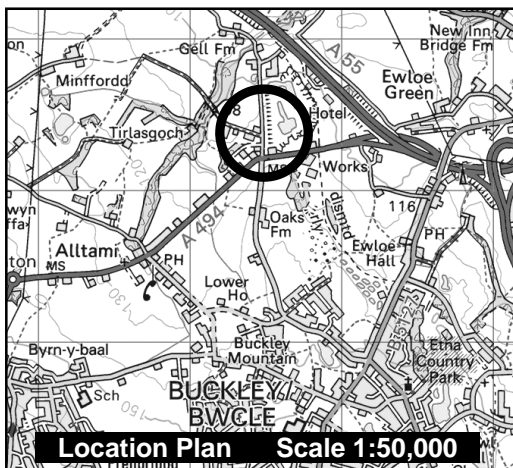
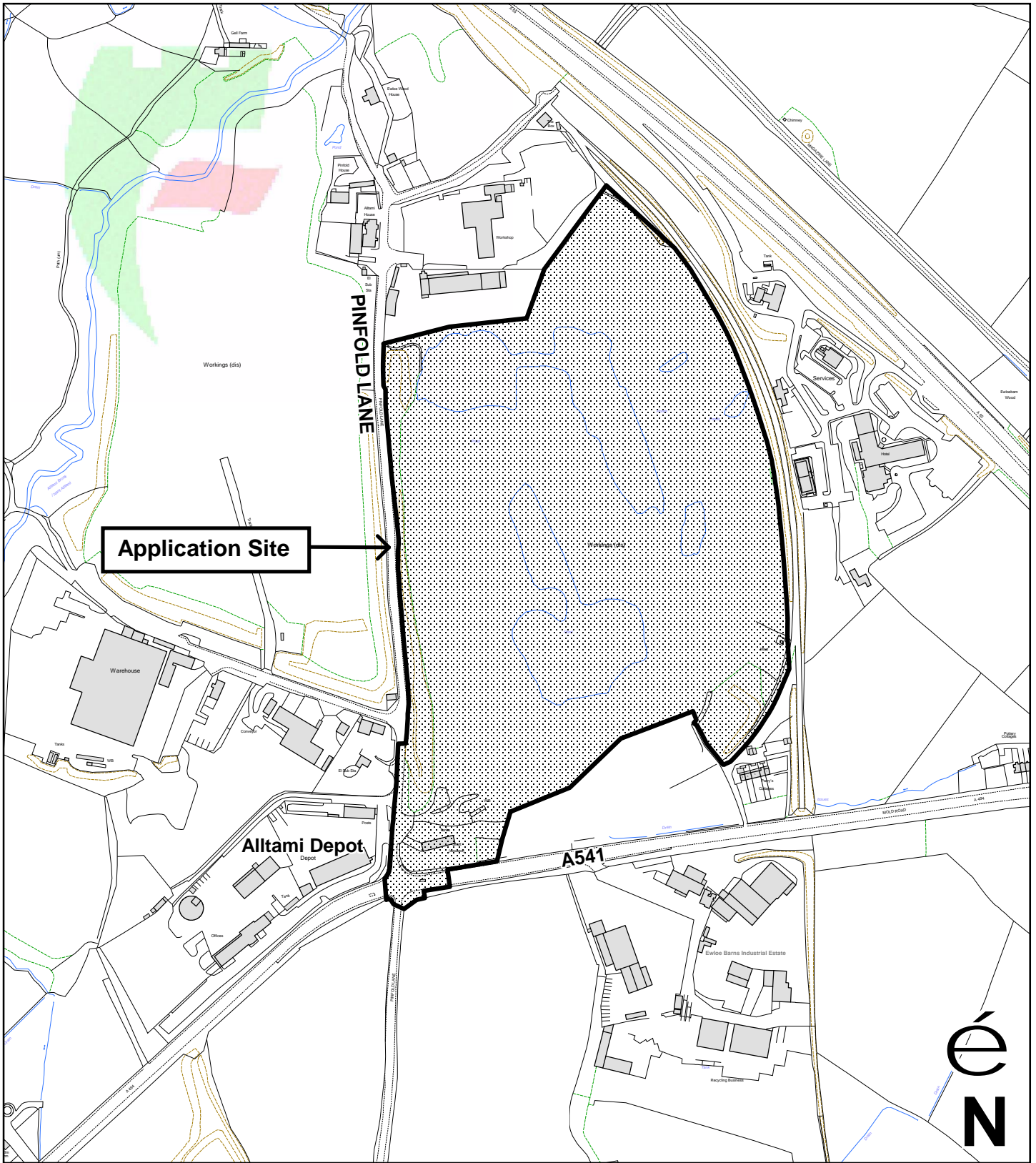
The Council has had due regard to its duty under Section 3 of the Wellbeing of Future Generations (Wales) Act 2015 and considered that there would be no significant or unacceptable impact upon the achievement of wellbeing objectives as a result of the recommended decision.

LIST OF BACKGROUND DOCUMENTS

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

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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 2766

Planning Application **55280**

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FLINTSHIRE COUNTY COUNCIL

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

DATE: **7TH SEPTEMBER 2016**

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

SUBJECT: **VARIATION OF CONDITION NO. 4 ATTACHED TO PLANNING PERMISSION REF: 053393 TO ALLOW INCREASE OF THE DURATION OF EXISTING PERMISSION AT PORT OF MOSTYN, COAST ROAD, MOSTYN.**

APPLICATION NUMBER: **055805**

APPLICANT: **AETERNIS ENERGY LIMITED**

SITE: **PORT OF MOSTYN, COAST ROAD, MOSTYN.**

APPLICATION VALID DATE: **29/07/2016**

LOCAL MEMBERS: **MOSTYN: COUNCILLOR DAVID RONEY.**

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

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

SITE VISIT: **NO**

1.00 SUMMARY

- 1.01 On 4th August, 2015 planning permission 053393 was granted for the 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 this permission requires the development to cease 5 years from commencement. This Section 73 planning application is to amend the condition to require that the development shall cease 15 years from commencement. The fundamental reason for this application is that the government has altered the funding and subsidy schemes applicable to a range of renewable energy schemes, and the private investment funding sources who will finance the development will

require a return and repayment on the investment over a longer time period than the currently consented 5 year period.

- 1.02 In May, 2016 Planning Application 055363 was submitted to attempt to amend Condition 4 to 15 years. A resolution was made at Planning Committee for a refusal, however, that application was withdrawn prior to final determination due to concerns raised during the planning committee presentation. To address these concerns this application has been submitted with a covering letter and a document that contains additional information to provide comments and clarifications following the planning committee meeting on 22nd June, 2016.
- 1.03 This application is a request for an extension in time to the original application that was given consent on 4th August, 2015. This original application that was approved was for a small scale commercial demonstration facility utilising commercially available equipment that has been fully tested and complies with all necessary operational regulations. The purpose of this development is to install commercially available equipment on a small scale to demonstrate it to funders, prior to investment in larger plants in other parts of the country. The reason for this request to a time extension is to prevent the funder from making a loss on the capital cost of the plant due to recent and significantly changed economic factors.
- 1.04 In response to comments made at the planning committee on 22nd June, 2016 the applicant confirms that the plant is not experimental, unproven, or for the testing of its component parts. It is for demonstrating a commercially working plant on a small scale to potential funders. The emissions from the development are known, monitored and within legal limits. The application for the 5 years originally was not in order to test any part of the plant or equipment. The reason for the 5 years was because subsidies available at the time allowed for the capital expenditure cost to be recovered within that period. The subsidy regime has since changed requiring an extension to the time to reach payback. Extending beyond 5 years allows the funder to recover the cost of capital.
- 1.05 Since the original application the plant has received an environmental permit. This demonstrates that there is no danger to human health or the environment. The equipment will be fully compliant with emissions regulations and the plant will be continually monitored to ensure ongoing compliance.
- 1.06 Mostyn Docks is already designated an Energy Park, servicing the offshore wind farms and is one of the premier UK ports involved in the Renewable Energy sector. The energy unit is small and produces renewable energy. It is not an incineration process as with many large plants but is classed as ATT (Advanced Thermal Treatment). The energy unit uses non-hazardous commercial and industrial feedstock or biomass and not municipal black bag wastes. Heat is

intended to be used on site and electricity is to be delivered commercially to the grid. The development to be housed in existing buildings which are currently unused. The lease entered into by the Company will require the site to be left in the same condition as it originally existed or better.

- 1.07 The original application was approved at a time when the 5 year time limit was not a significant factor. If the development is considered acceptable for 5 years then it is logical that it is acceptable for 10 or 15 years given that the operation of the facility is the same. The facility is on an operational industrial complex and the impact on the adjacent community and surrounding environment will be minimal as the development is strictly controlled by an environmental permit that has recently been issued by Flintshire County Council. The reception office and welfare units that were approved in the first application are mobile and modular (portacabins) and external to a permanent existing brick and steel clad building which will house the small energy unit. They are not brick or block construction and so are naturally 'temporary' in nature and will be leased to the applicant annually.

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

- 2.01
1. Commencement.
 2. Notification of commencement.
 3. In accordance with stated plans and particulars.
 4. Cessation 15 years from commencement.
 5. Removal of plant and machinery.
 6. Copy of permission and permitted plans to be kept at the site.
 7. Limit on fuel/waste storage capacity.
 8. Limit on annual fuel/waste throughput.
 9. Environmental Management Scheme including noise limits, storage of liquids and materials, dust and lighting.

3.00 CONSULTATIONS

3.01 Local Member for Mostyn:

Councillor David Roney:

The Planning Committee specifically requested details of why this application requires 15 years and not 5 years. The details submitted with this application appear to differ in the fact that the applicant has criticized Councillor David Roney and the way in which Councillor David Roney described the application that was withdrawn. Members of the Committee want to know why the applicant now needs 15 years and not 5 years.

In response to the application that was withdrawn Councillor David Roney stated that he would like this application to be determined by the Planning Committee due to such a major increase in length of time. Objects to changing the period of duration from five to fifteen

years. Advised that the applicants must provide an explanation of why they were previously wrong about how long it would take to break even and make a profit. If they were wrong about this, can they prove they are correct in averring they will employ between seven and ten local people - some twelve months since approval was given on the basis of their proposed "facts" they still do not have definitive numbers. They list "Temporary Staff Welfare Unit" and "Temporary Reception and Office". Five years could be regarded as temporary - fifteen years is a generation.

Under the three criteria which are noted as not contravened, the first (and arguably most germane to Planning Committee decision) - IS A DEPARTURE FROM THE DEVELOPMENT PLAN is flagged as "NO". However the Development plan states that any waste disposal management must not import waste from outside of Flintshire, and the applicants admit that they do not know where the waste will be sourced but that most if not all of it will probably not come from Flintshire.

Mostyn Community Council:

Object to this planning application. Requested answers to the questions that Mostyn Community Council asked in response to the application that was withdrawn.

In response to the application that was withdrawn Mostyn Community Council stated that they would like this application to be determined by the Planning Committee due to such a major increase in length of time. Objects to changing the period of duration from five to fifteen years. Advised that the applicants must provide an explanation of why they were previously wrong about how long it would take to break even and make a profit. If they were wrong about this, can they prove they are correct to aver they will employ between seven and ten local people - some twelve months since approval was given on the basis of their proposed "facts" they still do not have definitive numbers. They list "Temporary Staff Welfare Unit" and "Temporary Reception and Office". Five years could be regarded as temporary - fifteen years is a generation.

Under the three criteria which are noted as not contravened, the first (and arguably most germane to Planning Committee decision) - IS A DEPARTURE FROM THE DEVELOPMENT PLAN is flagged as "NO". However the Development plan states that any waste disposal management must not import waste from outside of Flintshire, and the applicants admit that they do not know where the waste will be sourced but that most if not all of it will probably not come from Flintshire.

Head of Public Protection:

No adverse comments to make regarding this proposal to extend the duration of the existing permission.

Natural Resources Wales

No comments to make on the proposed development.

4.00 PUBLICITY

- 4.01 Press Notice, Site Notice,
Publicity: Press Notice and Site Notice. No representations have been received to date.

5.00 SITE HISTORY

- 5.01 The area of the Port that the project site is situated has been previously used as ironworks until the 1960's. Since then a number of warehouses have been constructed. The Stena Line ferry service operated at the Port between 2001 and 2003 which accommodated up to 100,000 Heavy Goods Vehicles movements per annum. The Port of Mostyn is one of the oldest Ports in the country, and has a history of handling a wide range of cargoes from steel to coal to fertilisers. However, today, the Port of Mostyn is acknowledged for being one of the main centres for the assembly and installation of offshore wind turbines. The Port of Mostyn is designated as an Energy Park. As the majority of the business is now dedicated to the offshore renewable energy sector, the existing warehouses provide a perfect hub for a new sector of renewable energy to be added to the port. On 4th August, 2015 Planning Application 053393 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.

6.00 PLANNING POLICIES

- 6.01 Flintshire Unitary Development Plan

Local –Flintshire Unitary Development Plan (2011)

Policy STR1 - New Development
Policy STR3 - Employment
Policy STR10 - Resources
Policy GEN1 - General Requirements for Development
Policy D4 - Outdoor Lighting
Policy AC13 - Access and Traffic Impact
Policy EM1 - General Employment Land Allocations
Policy EM3 - Development Zones and Principle
Employment Areas
Policy EM5 - Expansion of Existing Concerns
Policy EM7 - Bad Neighbour Industry
Policy EWP1 - Sustainable Energy Generation
Policy EWP5 - Other Forms of Renewable Energy

Policy EWP6 - Areas of Search for New Waste Management Facilities
Policy EWP7 - Managing Waste Sustainably.
Policy EWP8 - Control of Waste Development and Operations
Policy EWP12 - Pollution
Policy EWP13 - Nuisance
Policy EWP16 - Water Resources
Policy EWP17 - Flood Risk

Government Guidance

Planning Policy and Guidance

Planning Policy Wales (2014)
Technical Advice Note 5 – Nature Conservation and Planning (2009)
Technical Advice Note 8 – Renewable Energy (2005)
Technical Advice Note 11 – Noise (1997)
Technical Advice Note 12 – Design (2009)
Technical Advice Note 15 – Development and Flood Risk (2004)
Technical Advice Note 18 – Transport (2007)
Technical Advice Note 21 – Waste (2014)
Technical Advice Note 22 – Sustainable Buildings (2010)
Technical Advice Note 23 – Economic Development (2014)
The Waste Framework Directive

Waste Strategy Policy and Guidance

Towards Zero Waste: The overarching Waste Strategy Document for Wales, June 2010
Collections, Infrastructure and Markets Sector Plan, 2012
Construction and Demolition Sector Plan, 2012
The Waste (England and Wales) Regulations 2011

National Energy Policy

The Energy Act 2013
UK Renewable Energy Strategy (2009)
UK Low Carbon Transition Plan (2009)
Climate Change Act (2008)
Energy Wales: A Low Carbon Transition (2012)

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

7.00 PLANNING APPRAISAL

7.01 Summary

On 4th August, 2015 Planning Application 053393 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 this planning application requires that the development shall cease 5 years from commencement. This planning application is to amend the

condition to require that the development shall cease 15 years from commencement. The fundamental reason for this application is that the funding sources will require a return and repayment on investment over a number of years so the years as stated is not sufficient.

Condition 4 currently reads:

The development hereby permitted shall cease 5 years from commencement.

REASON: The planning application was for a temporary facility. To ensure that the site is not left in a derelict state. In the interests of public safety and the amenity of the area. To maximise the potential for the future development of the site. To comply with Policies STR1, GEN1 and EWP8 of the Flintshire Unitary Development Plan.

It is proposed that the following wording is substituted:

The development hereby permitted shall cease 15 years from commencement.

REASON: The planning application was for a temporary facility. To ensure that the site is not left in a derelict state. In the interests of public safety and the amenity of the area. To maximise the potential for the future development of the site. To comply with Policies STR1, GEN1 and EWP8 of the Flintshire Unitary Development Plan.

7.02 **Site Location**

The existing energy centre is located in immediately outside of an existing warehouse situated on the far north west side of the Port of Mostyn, and adjacent to Gibbs Steel Fabricators Ltd located immediately to the south west. The majority of the port complex is located to the south east, with Warwick Chemicals some 500 metres distant. The site is separated from the residential areas to the south east by the port access road, the main railway line, the A541 and a block of woodland. The site is in excess of 500 metres from the main residential areas of Mostyn to the south east and the nearest businesses and residences located along the coast road are 150 metres away. The site boundary is within 25m of the nearest water course and the sea defence which defines the boundary to the Port. The sea defence is programmed to be upgraded in 2016 by The Port of Mostyn.

7.03 **Description of the Development**

The consented development is a pyrolysis plant that produces bio-oil, bio-gas and char, a gas cleaning unit and a gas powered engine electricity generator set. It is predicted that the energy centre will use 16 tons per day of refuse derived fuel and generate up to 1 MWh of electricity. The development includes associated temporary staff units and car parking. It is noted that a similar plant operated by Refgas

Ltd in Sandycroft has been working since 2009 in an industrial estate which is close to residential housing without complaint.

7.04 **Description of the Process**

The approved development is a 1 MW pyrolysis plant which is capable of converting a range of biomass and waste recovered fuels into a synthetic gas which is then fed into a conventional combustion engine driven electricity generator set. The fuel is processed using pyrolysis which causes gasification in the absence of Oxygen, ie, there is no combustion, and the plan is not an incinerator. The purpose of proposed development is to generate electricity.

7.05 The system is modular, and self- contained, and is intended to be located within an existing unused warehouse. The material for the processing unit is to be derived from commercial industrial sources and is non-hazardous, clean and odourless. It consists of shredded Refuse Derived Fuel (RDF) or Solid Recovered Fuel (SRF) and is principally paper, cardboard, wood, textiles and very light plastics (bags). This material is widely available as a fuel and is provided by specialist biomass fuel companies. It is anticipated 10,000 tonnes per annum being required for the consented development which is less than one 30 tonne delivery per day if used on a 7 day week basis.

7.06 The technology to be used will be from an established provider who manufactures pyrolysis/gasification plant. These small scale modular plant are not experimental, and have been in use across the UK at a number of locations. The development will be used as a demonstrator site to assist prospective investors for similar but larger development at other locations.

7.07 **Policy Context**

The site is at the Port of Mostyn which is allocated as a Development Zone by the Flintshire County Council Unitary Development Plan (Policy EM3). There are a number of similar warehouses on The Port of Mostyn land in B2 and B8 employment uses, and the application site is on previously developed land and within an existing warehouse.

7.08 This development is a hybrid in that it is primarily a power generation plant and is also intended to be fuelled by waste derived materials, but could also use virgin or other manufactured fuels. Policies for renewable energy and waste development are both applicable. Policy EWP1 *Sustainable Energy Generation* and EWP5 *Other Forms of Renewable Energy Generation* apply, as the development is considered to be a renewable energy project. The fuel can be derived from a range of sources, and can be originated from waste or virgin materials or a combination of both. Whichever is the case, the fuel is manufactured and provided by a 3rd party commercial enterprise who operate in the wider fuel market and guarantee to meet the necessary calorific value and composition, and are sold as a fuel, and not as a waste. Whilst there is an element of waste

management, Policy EWP7 Managing Waste Sustainably requires that waste is managed close to the source of generation, however, the development is not intended as a primary facility for the management of waste, and will only accept solid and refuse derived waste which has already been subject to waste processing to create a secondary product specifically for use as a fuel. The development is therefore considered to be compliant with this policy.

7.09 **Environmental Assessment**

The proposed development does not require an Environmental Impact Assessment as it falls below the relevant thresholds, and the impacts are controllable and localised. The project site lies outside of ecologically sensitive areas but the larger lease site is adjacent to the Dee Estuary European designated Special Areas of Conservation and Special Protection Areas, and the Site of Special Scientific Interest. Given that the development is to be containerised and located within an existing building, including the storage of the fuel, there is very little risk to the environmental designations.

7.10 **Need and Sustainability**

The investment at Port of Mostyn will be circa £5 m and will provide employment to approximately 7 – 10 local people who will be trained in 24 hour operation of the plant. There is an increasing need for a network of small scale electricity generation plants to be developed capable of feeding into the local electricity distribution network as the UK generation capacity de-carbonises. This is to make up shortfalls in generating capacity as coal fired capacity is taken out of service. The site has an existing electricity grid connection point, and has the potential for multi modal transportation of fuels, though in practice this is likely to remain a road haulage given the low tonnages required.

7.11 **Flood Risk**

This application does not introduce any new flood risk considerations from the 053393 planning permission, which was considered to be acceptable.

7.12 **Pollution Control**

This application does not introduce any new pollution control considerations from the 053393 planning permission, which were considered to be acceptable.

7.13 **Access**

The existing energy centre is accessible from the A541 Coast Road via the traffic light controlled junction. There is also rail access. This application does not introduce any new highways considerations from the 053393 planning permission, which were considered to be acceptable.

7.14 **Amenity and Nuisances**

This application does not introduce any new amenity and nuisances considerations from the 053393 planning permission which were considered to be acceptable.

8.00 CONCLUSION

8.01 The development is in accordance with the objectives and policies set out in the Flintshire Unitary Development Plan. This Section 73 proposal does not introduce any new impacts or effects which have not previously been considered. The only consideration is extending the existing duration of the temporary permission from 5 years to 15 years. It is recommended therefore that permission be granted for the development.

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.

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.

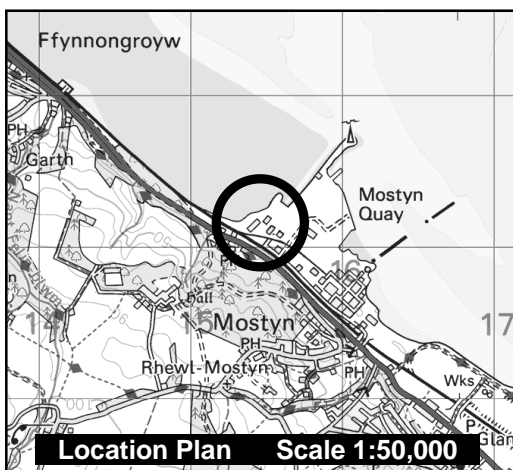
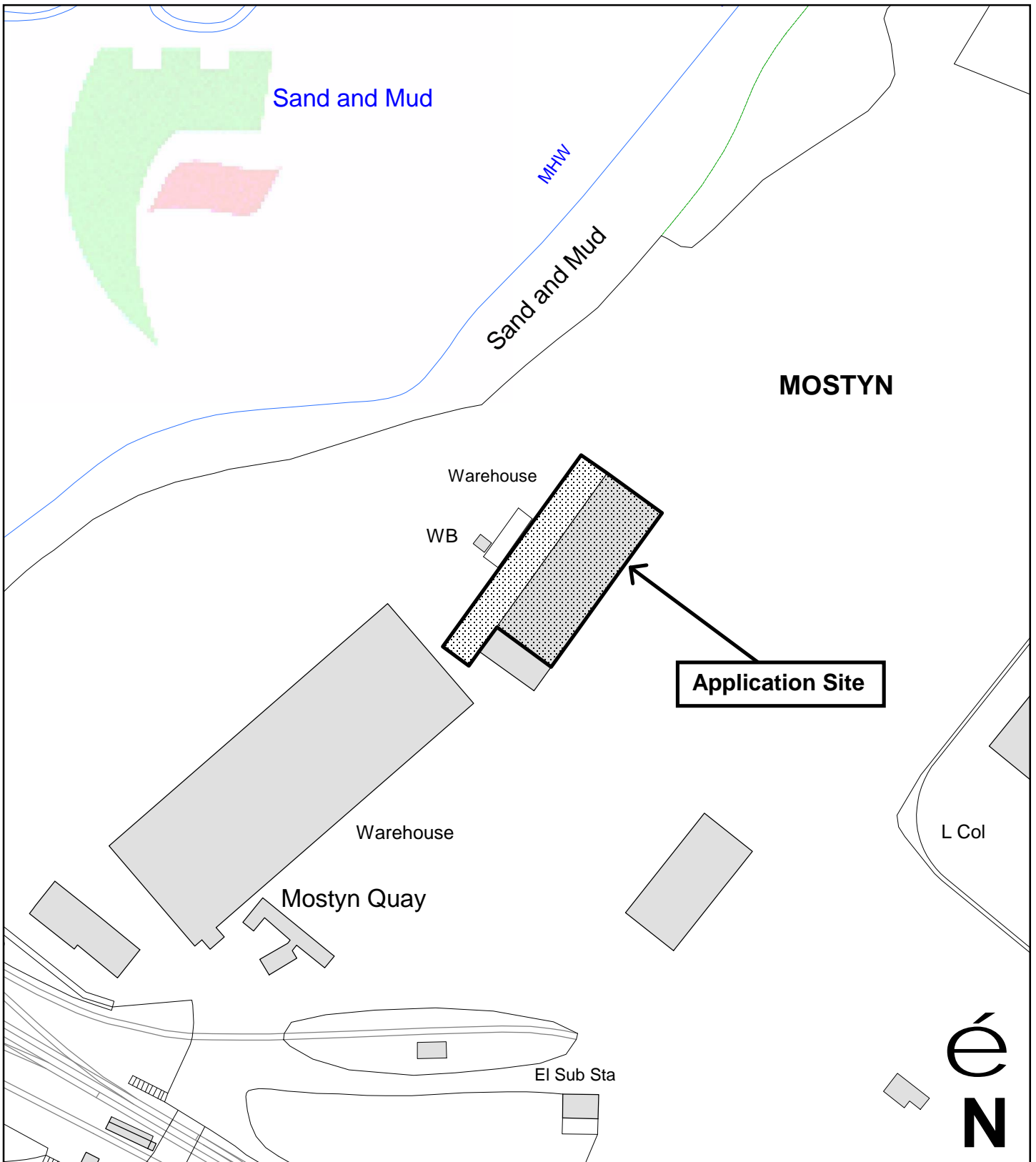
The Council has had due regard to its public sector equality duty under the Equality Act 2010.

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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Email: Neil.A.Parry@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 1581

Planning Application **55805**

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FLINTSHIRE COUNTY COUNCIL

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

DATE: **7 SEPTEMBER 2016**

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

SUBJECT: **CREATION OF OVERBURDEN STORAGE BUND AT PANT Y PWLL DWR QUARRY, PENTRE HALKYN**

APPLICATION NUMBER: **055218**

APPLICANT: **CEMEX UK MATERIALS LIMITED**

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

APPLICATION VALID DATE: **23 MARCH 2016**

LOCAL MEMBERS: **COUNCILLOR COLIN LEGG**

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

REASON FOR COMMITTEE: **SITE AREA EXCEEDS 2 HECTARES**

SITE VISIT: **NOT REQUESTED**

1.00 SUMMARY

- 1.01 Planning permission is sought to remove 210,000m³ of clay overburden which is overlying the remaining permitted limestone reserves within Pant y Pwll Dŵr Quarry, and use this material to form a north westerly extension to the existing overburden storage facility, which lies to the north west of the quarry void. The proposal would also involve the permanent diversion of a private access road, the diversion of existing public rights of way, and the creation of a new permissive path.
- 1.02 Once completed, the site would be restored back to open access Common Land. On completion and restoration of Pant y Pwll Dŵr Quarry, once mineral extraction ceases, the bund would be

remodelled in accordance with an approved restoration masterplan for the quarry site as a whole.

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

2.01 Conditions including:-

1. Commencement
2. Approved Plans
3. Availability of Approved Plans
4. Working Programme
5. Maximum height of 280m AOD
6. Demark footprint of the overburden storage bund
7. Demark the soil storage area
8. Signage for public rights of way
9. Ecological Management Plan
10. Archaeology; Strip, map, record, excavate
11. Soil handling methodology
12. Hours of operation
13. Noise mitigation
14. Normal operations noise limits
15. Temporary operations noise limits
16. Dust mitigation
17. Drainage scheme
18. Landscaping scheme; hard and soft landscaping details
19. Access provision for grazing post restoration
20. Interim aftercare scheme
21. Restoration Masterplan
22. Final post quarrying Aftercare scheme
23. Maintenance of planting
24. Annual Aftercare meetings and reporting

3.00 CONSULTATIONS

3.01 ***Local Member: Councillor Colin Legg*** – does not object to the proposal and agreed that this be determined under delegated powers.

3.02 ***Halykn Community Council*** – Do not object to the application as long as the proposal is not detrimental to neighbouring properties, highway, AONB, SSSI etc, and planning policies are complied with.

3.03 ***Neighbouring Ward Councillor Matt Wright*** - At the time of writing the report no comments had been received.

3.04 ***Neighbouring Ward Councillor Jim Falshaw*** - At the time of writing the report no comments had been received.

3.05 ***Neighbouring Community Council; Brynford Community Council*** have no objection to the application.

- 3.06 **Neighbouring Community Council; Ysceifiog Community Council** have noted the application.
- 3.07 **Head of Assets and Transportation** – has no objection to the proposal. It is presumed that comments have been sought from the Rights of Way Section and on that basis, there is no intention to make a recommendation on highway grounds.
- 3.08 **Public Rights of Way Section**
Public Footpaths 36 and 32 cross the site. The applicant must contact the Rights of Way Section before proceeding with any works. The legally defined public right of way must be marked out in strict accordance with the definitive map and with the prior approval of the surveying authority before commencement of any of the development. The surface of the rights of way must not be disturbed without lawful permission, and development which would lie over the line of the public right of way must not commence until any necessary diversion or extinguishment has been lawfully authorised under the appropriate legislation. The applicant would need to apply under the Town and Country Planning Act 1990 to divert these footpaths. The applicant has applied for a Temporary Closure Order of Footpaths 32 and 36. The closure is due to start on 1 October 2016 should it be successful. The rights of way Section has no observations on the proposed permissive route as the Local Authority would have no maintenance obligations of this route.
- 3.09 **Head of Public Protection**
A noise survey has been undertaken to assess noise levels at nearby residential properties. The noise survey predicts that the standards within the guidance of Minerals Technical Advice Note 1 will be achieved at the four nearby residential properties. However, to safeguard nearby properties in relation to noise mitigation, conditions should be imposed as proposed in the application.
- 3.10 In relation to dust, the Pollution Control section has historically received a number of dust complaints about this site. Whilst a statutory nuisance has never been proven, care must be taken to minimise any fugitive dust from leaving the site. Therefore, conditions in relation to dust mitigation, as proposed in the application should be attached to any approval in order to reduce the likelihood of nuisance.
- 3.11 **Natural Resources Wales** do not object to the proposal subject to the imposition of conditions requiring details of the species of planting that is proposed to be included within the landscaping and restoration scheme prior to the commencement of development to ensure that the species proposed are compatible with the protected sites' habitat features. The restoration scheme should also include details of the maintenance, watering, monitoring and aftercare of the restoration scheme to ensure that the restoration is successful in establishment. They have also provided comments in relation to Protected Sites,

Protected Species, Biosecurity, Landscape, and Pollution Prevention which will be expanded upon within the Appraisal section below.

- 3.12 **Clwyd-Powys Archaeological Trust** agree with the mitigation measures proposed with Archaeological Assessment Report which includes a proposed 'strip/map/excavate' methodology for recording surface and sub-surface archaeology related to earlier mining, quarrying and possible prehistoric activity. They have suggested a suitably worded condition to facilitate the archaeological recording.
- 3.13 **Cadw** have assessed the likely impact of the proposal in relation to the Scheduled Ancient Monuments located in close proximity to the application site, and in relation to the Holywell Common and Halkyn Mountain Registered Historic Landscape; a landscape of outstanding historic interest. They have concluded that the proposed development would have a very slight impact on the setting of the scheduled monuments and on the overall impact on the registered historic landscape.
- 3.14 **Halkyn Graziers and Commoners Association** strongly object to the proposal for the following reasons:
1. This project would mean a loss of grazing land for the Halkyn Graziers and Commoners Association members; and
 2. As the land subject to the planning application is not designated as a SSSI, it is one of the very few areas on the common where they are permitted to feed their animals as feeding on SSSI land is prohibited. This will cause extra work for the graziers as most of the graziers work full time and they bring their sheep off the common before and after their working day. They would have to travel further for grazing land.
 3. If this proposal was to go ahead, this would mean the loss of 4.7ha of grazing and have the inconvenience for three years.
- 3.15 The Halkyn Graziers and Commoners Association have stated that in accordance with the Common Land legislation the correct consent should be sought and compensatory land should be provided. If planning permission is granted, the Graziers Association has suggested that the land must be returned to a suitable condition for grazing animals once completed. The Halkyn Graziers and Commoners Association has suggested that a suitable solution would be for the Quarry Company to compensate the Graziers for loss of grazing land during the construction and restoration of the bund, or alternative land should be supplied for grazing. This could be provided by the quarry moving some existing fencing around their existing bunds and/or paying compensation to the graziers involved.
- 3.16 **Campaign for the Protection of Rural Wales (CPRW)** Concern is expressed at any proposed development that would impact on the open countryside and result in change to the character and

appearance of the landscape. This application is no exception. However, the need for specific mitigation measures to reduce the visual impact of the development, and its affect upon the local flora and fauna, along with environmental issue is recognised by the applicant who has put forward various proposals to limit the development's impact. As a result, the Clwyd Branch of the CPRW requests measures be conditioned with any planning consent granted.

3.17 With regard to historic assets that are present in the adjacent area, attention is drawn to the Historic Environment (Wales) Act 2016, in respect of any potential conflict with this legislation. It also requested that it be conditioned that an archaeological watching brief is maintained during soil stripping at the site, along with mitigation measures proposed by the applicant with regard to this matter.

3.18 Public rights of way cross the development site that would necessitate applying for temporary closures and diversions of footpaths, in addition to Halkyn right of way No. 32 and No. 36 being affected by extinguishment orders. Again, it is request that such action is covered by suitably worded conditions accompanying any planning consent and modifications to be made to the definitive map as required.

3.19 ***Ramblers Association***

As long as Flintshire County Council is satisfied as to the need for the development, the Ramblers Association do not wish to raise objection in principle to the landform and layout proposed in the planning application. The Ramblers Association have requested the imposition of the usual conditions on protecting the rights of way, working conditions, restoration, landscaping, and the final quarry landform. The suggested "concession path" over the summit with an outlook point; which will itself be "Open Access" under Commons legislation, is welcomed. The actual legal diversions of the rights of way would then be done by separate Order(s). The precise routes of the new paths can be reviewed at that stage.

3.20 ***Welsh Water/Dŵr Cymru*** has requested that the applicant contact them to establish the location and status of the sewer which may affect the proposal. This would be added to the decision notice as an informative.

3.21 ***Flintshire County Council Drainage*** have considered the submitted Flood Consequences assessment and have requested that prior to the commencement of development a scheme of drainage be submitted which would accord with guidance within 'Soakaway Design BRE Digest 365'.

3.22 ***Clwyd Bat group, Clwyd Badger Group, Local Access Forum, Halkyn Common Joint Consultative Board and Flintshire County Council's Common Land Section*** have been consulted at the time of writing the report, no comments had been received.

4.00 PUBLICITY

- 4.01 This application was advertised by press notice, site notices and neighbour notification letters were dispatched to nearest residential receptors. The application was advertised in accordance with the Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2016 on 21 April 2016.
- 4.02 Further information was submitted in respect of amended plans to amend the profile of the proposed landform and the routes of the rights of way. This was advertised in accordance with the Town and Country Planning (Environmental Impact Assessment) Wales Regulations 2016 on 11 August 2016.
- 4.03 During the consideration of this application one letter of objection has been received in response to the consultation on this application. The main planning based representations that are material to the determination of this application include:
- Noise and dust during construction
 - Loss of grazing land, impact on grazing rights
 - Loss of access to common land
 - Drainage concerns, run-off on to adjacent land
 - Limiting access to adjacent land
 - Unnatural landform
 - Loss of natural countryside
 - Additional heavy haulage vehicle traffic to and from site
- 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). This is the current extant planning permission in which the quarry is operating under.

- 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 on the northern boundary of the site.
- 5.05 Planning permission was granted on 11 June 2003 for revisions to the approved processing plant under reference 031328.
- 5.06 On 18 July 2012 a scheme was approved pursuant to condition No.15 of the deemed consent reference 00/20/570 approving details for the disposal of overburden waste arising from the site. This planning application is to build up on that constructed overburden storage bund. This application under determination could not be sought under the provisions of Condition No. 15 of planning permission 00/20/570 as some of the site is not within the boundary of the deemed consent.
- 5.07 In December 2015 an application was made under reference 054768 to vary condition No.17 of planning permission Ref 00/20/570 in relation to increasing output limits from the quarry. On 20 July 2016, the Planning and Development Control Committee resolved to grant planning permission subject to conditions.

6.00 PLANNING POLICIES

6.01 LOCAL PLANNING POLICY

Flintshire Unitary Development Plan (Adopted September 2011)

- STR1 – Development
- STR2 – Transport and Communities
- STR7 – Natural Environment
- STR10 – Resources
- GEN1 – General Requirements for Development
- GEN3 – Development in the Open Countryside
- GEN5 – Environmental Assessment
- D1 – Design Quality, Location and Layout
- D3 – Landscaping
- L1 – Landscape Character
- L4 – Common Land
- WB2 – Sites of International Importance
- WB3 – Statutory Sites of National Importance

- WB4 – Local Sites of Wildlife and Geological Importance
- HE6 – Scheduled Ancient Monuments and other Nationally Important Archaeological Sites
- HE7 – Other Sites of Lesser Archaeological Significance
- AC13 – Access and Traffic Impact
- EWP12 – Pollution
- EWP13 – Nuisance
- MIN1 – Guiding Mineral Development
- MIN2 – Mineral Development
- MIN3 – Controlling Minerals Operations
- MIN4 – Restoration and Aftercare
- MIN10 – Mineral Buffer Zones

6.02 **GOVERNMENT 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)

Technical Advice Note 23 – Economic Development (2014)

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

Regional Technical Statement for North Wales 1st Review (2014)

6.04 The main policies to be considered in the determination of this application are the policies of the Flintshire Unitary Development Plan (FUDP) particularly policies relating to minerals, amenity (air quality, noise), public rights of way, common land, landscape, visual impact, flood risk, nature conservation, protected species and statutory sites. The Policies and guidance contained within PPW, MTAN1, and evidence provided within the RTS in relation to regional apportionment are also central to the determination of this application. The materiality of the above policies are discussed in the following planning appraisal.

7.00 **PLANNING APPRAISAL**

7.01 Introduction

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. The Environmental Statement which accompanied the planning application has considered and assessed the impacts of the proposed extension to the quarry's existing overburden bund in terms of noise, impacts on ecology and nature conservation and adjacent designated site/protected species, soils and hydrogeology, hydrology and the water

environment, flood risk, air quality and dust, landscape and visual amenity of the proposal and potential impacts on the Common Land and adjacent landscape designations, and socio-economic impacts.

Details of Proposed Development

- 7.02 Planning permission is sought to remove 210,000m³ of clay overburden which is overlying the remaining permitted limestone reserves within Pant y Pwll Dŵr Quarry, and use this material to form a north westerly extension to the existing overburden storage facility, which lies to the north west of the quarry void. The proposal also involves the permanent diversion of a private access road, the diversion of existing public rights of way, and the creation of a new permissive path.
- 7.03 The proposed landform would be constructed in four phases to a maximum height of 280m AOD which would be no higher than the existing overburden storage bund which this application seeks to extend. Soils would be stripped, and temporarily stored on land adjacent to the proposed bund. As the bund is progressively constructed, soil would be placed on the newly formed landform in order to progressively restore the site. It is estimated to take two years to complete the construction and restoration of the bund, dependant on weather conditions.
- 7.04 Once restoration works are completed, the site would be returned back to open access Common Land but with the necessary provisions to ensure the Quarry is maintaining its health and safety obligations. A five year programme of aftercare would be agreed by condition and implemented. On the closure and final restoration of Pant y Pwll Dŵr Quarry, the proposed bund would be remodelled in accordance with a subsequently approved restoration masterplan for the site which would tie in with the restoration masterplan for the whole of the quarry, and then subject to a further programme of aftercare.

Site Description and Location

- 7.05 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 Halkyn, linking to the B5123 and connecting to the A55 at the Springfield Interchange.
- 7.06 The application site is 4.7 hectares in area and lies immediately adjacent to and north west of the existing Pant y Pwll Dŵr Quarry. The application site is bounded to the north by Ffordd Babel, an unclassified road and a power cable which crosses the northern edge of the field within which the application is located. To the east, the application boundary is defined by the brow of the existing overburden storage bund that lies within the footprint of the quarry itself. The southern site boundary is marked by the point at which the proposed

extension to the overburden storage area merges into the existing landform (consented by approval of scheme pursuant to Condition No. 15 of deemed consent 00/20/570), whilst the western boundary is formed by a stand-off margin to a field boundary.

Relevant Planning Constraints/Considerations

- 7.07 In terms of land use, the entire site is registered Common Land. It consists of upland grassland with small scattered areas of bracken; the land is used predominately for sheep grazing although there are signs that it is also used for casual horse riding. It incorporates two disused and fenced off mine shafts, although these would not be disturbed as a result of the development.
- 7.08 There are two public rights of way; FP32 and FP36 that cross the application site, and a private road which leads to a property called Nant y Fuwch also crosses the application site and would be diverted.
- 7.09 The north east corner of the site lies within the Halkyn Common and Holywell Grasslands Site of Special Scientific Interest (SSSI). A peninsula of the Halkyn Mountain Special Area of Conservation (SAC) is located 330m to the south of the site but not within the application boundary. The SAC is also located 10 metres to the north of the site. The entire site is located in Pant y Pwll Dŵr non-Statutory Wildlife Site reference 17SE26.
- 7.10 The whole site lies within but forms the western boundary of the Holywell Common & Halkyn Mountain Registered Landscape of Outstanding Interest, a non-statutory designation. The Clwydian Range and Dee Valley Area of Outstanding Natural Beauty (AONB) lies approximately 6.8km to the west.
- 7.11 In addition there would be a setting impact for the two nearest scheduled monuments (Prehistoric round barrow burial mounds SAM FL054 and FL053) Parc y Prysau A located to the west of the application site, and Parc y Prysau B adjacent to the application site to the South West. FL096 Bryn y Cosyn Round Barrows are located at a distance of 500m of the application site.
- 7.12 The closest residential properties are a number of isolated farm houses; Pant y Groes (180m north west), Nant y Fuwch (215m south), Waen y Brod拉斯 (280m north) and Parc y Prysau (350m north west).

Issues

- 7.13 ***Principle of Development***
Where mineral reserves are not found at the surface of the ground, it is expected that some quantities of overburden material would be required to be removed in order to access the mineral reserves below. The principle of this activity at Pant y Pwll Dŵr has been accepted by

the extant planning consent which was deemed in 2000, as there is a planning condition that permits the disposal of overburden material and clay waste on site, subject to details being approved.

- 7.14 Details were approved pursuant to condition No.15 of the Deemed Consent for the construction of an overburden storage bund in July 2012 located to the north west of the quarry. This proposal seeks to extend the existing bund further to the west.
- 7.15 Some of the material proposed to be moved to create the bund extension would not be permanently stored in this location. It is proposed to re-profile and remodel the bund once the quarry closes and the site is permanently restored. This material would be used in the quarry restoration which would reduce the transport impact of transporting materials off site, and then subsequently importing materials for restoration purposes.

Need for the storage of Overburden

- 7.16 Remaining permitted reserves at Pant y Pwll Dŵr Quarry lie beneath a depth of clay overburden. Therefore, in order to release permitted reserves, this overburden needs to be removed, prior to mineral being extracted. Storage of overburden is becoming a critical issue at the quarry, as presently there is nowhere within the extant planning permission boundary to store this surplus material without sterilising mineral and/or resulting in excessive double handling of material. An alternative location within the footprint of the planning permission for the winning and working of mineral has been explored for the storage of overburden but this area lies wholly within the SAC and SSSI and therefore would be more constrained and may not be supported.
- 7.17 Minerals can only be extracted where they are found. 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 removal of the overburden would release permitted reserves on site which is an important resource for the region. 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.
- 7.18 Some of the overburden material would be used in the final site restoration once the mineral extraction has completed, and the quarry's reserves exhausted. The overburden storage bund would then be remodelled in accordance with a subsequently approved scheme and restored. As this material is required for site restoration, it would not be considered sustainable to export the material off site.

Highways, Traffic, Transportation and Access

- 7.19 Concerns have been made by a local resident in relation to the proposal generating additional heavy haulage vehicle traffic to and from the site. However, no vehicle movements generated by the proposed development would use the public highway with the exception of vehicles used to deliver and collect the mobile plant required for the project. As this would amount to very few movements traffic and transportation has not been considered within the scope of the submitted Environmental Statement.
- 7.20 All haul roads proposed to facilitate the construction of the bund would be internal to the quarry, therefore here would be no off-site traffic movement associated with the proposal. Therefore, the Highway Development Control Manager does not intend to make a recommendation on highways grounds. As such, it is considered that the proposal accords with Policies AC13 and MIN3 of the adopted Flintshire Unitary Development Plan.

Public Rights of way

- 7.21 The proposal would involve the temporary closure and subsequent diversion of public and private rights of ways. The actual legal diversions of the public rights of way would be done by separate Orders. The diversion of public and rights of way would be carried out prior to the commencement of development. An additional permissive footpath has been proposed which would lead to the summit of the bund to provide a look out over the Common and the quarry. Whilst the majority of the site is designated as Open Access under Common Land legislation, once restored, the proposal would provide extended the definitive public right of way provision, subject to subsequent diversion Orders. The standard informatives in relation to rights of way would be appended to a decision notice, should planning permission be granted. The Ramblers Association and the Public Rights of Way department do not object to the proposal.

Noise

- 7.22 The proposed construction, restoration, remodelling and subsequent restoration of the overburden storage bund could give rise to noise and disturbance to amenity.
- 7.23 An independent noise assessment has been undertaken as part of the Environmental Statement and concluded that with mitigation measures as proposed, the development could be undertaken in accordance with noise guidance and levels contained within MTAN1 relating to noise emissions resultant from mineral development.
- 7.24 Hours of operation would be conditioned in line with that of the existing condition at the quarry for soil stripping and movement of overburden which would be restricted to 0800-1700 Monday – Friday and 0800-1200 on Saturdays, with no working on Sundays or public

holidays. Noise mitigation measures would be employed during the implementation of the development and subsequent restoration in line with those imposed by condition at the quarry, and noise levels would be imposed by condition in line with guidance set out in MTAN1.

7.25 The method of working proposed has been specifically designed to limit noise emitted from the development by, wherever possible ensuring that works take place behind a screening bund acting as a baffle. Where it would not be possible to work behind a baffle, during noisier elements of the proposal such as site preparation, the 'temporary operations' noise limit level contained within guidance set out in MTAN1 would not be exceeded.

7.26 The noise assessment demonstrates that noise from activities associated with the application would be within acceptable limits. It has been concluded that there would be no loss of amenity to local residents in terms of noise subjection to the suggested conditions. The County Council's Head of Public Protection has confirmed he concurs with the findings of the noise surveys. Furthermore, there have been no complaints regarding the operations at this quarry in relation to noise, and it is anticipated that the extension would not cause any loss of amenity to any nearby sensitive properties.

7.27 Concerns have been raised by a local resident in relation to noise during the construction of the bund. However, the Head of Public Protection has no objections to this proposal subject to conditions in relation to noise mitigation which would be comparable to existing site mitigation controls already in place for the quarry. This would include the imposition of planning conditions controlling noise with regards to limits, mitigation measures and hours of operation. As such, it is considered that the proposal is in compliance with the provisions set out in MTAN1 and Policies GEN1, EWP6, MIN2, MIN3, and EWP13 of the adopted Flintshire Unitary Development Plan.

Dust

7.28 It is possible that the development could give rise to dust escaping beyond the perimeter of the site from activities such as soil stripping and replacement, and overburden excavation. The activities proposed may give rise to fugitive dust which would be enhanced in dry windy weather. Much of the soil replacement would be at an elevated level as the new landform is created. However, these are relatively short term activities in comparison with the overall life of the development. The placement of overburden within the new landform, and the movement of dumpers across the landform is also a potential source of fugitive dust.

7.29 Provided that industry best practice is employed in the control of dust, the Environmental Statement concluded that the amenity of local residents would not be adversely affected by dust. Mitigation measures akin to that of the measures employed within the quarry

operations include; suspension of activities in windy weather, drop heights from excavator to dumper body minimised, on site speed limits, and the use of a water bowser. The landform has been designed to minimise dust. The bulk of the landform would be undertaken behind the baffle which would help reduce dust from escaping from the site.

- 7.30 Concerns have been raised by a local resident in relation to dust during the construction of the bund. However, the County Council's Head of Public Protection and NRW have not objected to the proposal subject to the imposition of planning conditions ensuring the proposed dust mitigation measures are implemented as proposed, so that adequate steps are taken to prevent dust causing a nuisance beyond the site boundary. As such, subject to conditions to ensure that dust is minimised and controlled, it is considered that the proposal is in compliance with the provisions set out in MTAN1 and Policies GEN1, MIN2, MIN3, and EWP12 of the adopted Flintshire Unitary Development Plan

Ecology and Nature Conservation

- 7.31 A preliminary ecological appraisal of the application site was undertaken as part of the Environmental Statement. Also, an Ecological Management Plan has been produced in order to provide habitat enhancements and a due diligence safeguarding strategy in respect of legally protected species.

- 7.32 The proposed development is approximately 10m away from the boundary of the Halkyn Mountain Special Area of Conservation (SAC) which is located to the north of the application site. To the south, the SAC also lies 200m away from the application site. As the proposal may have implications for the SAC, a test of likely significant effects under Regulation 61 of the Conservation of Habitats and Species Regulations 2010 (as amended) has been undertaken and concluded that none of the features of the SAC would be directly affected by the proposal. Controls and mitigation would prevent potential indirect effects through dust management and the management of surface water runoff.

- 7.33 Part of the site which forms the existing overburden bund lies within the Halkyn Common and Holywell Grasslands Site of Special Scientific Interest (SSSI). It is considered that any additional overburden and extension to the bund, which is outside of the SSSI would not adversely affect the SSSI. Subject to the restoration of the bund being restored to a calcareous grassland habitat, it is considered that the proposed development would not have an adverse effect on the features or functionality of the protected sites.

- 7.34 The restoration of the overburden storage bund would comprise dry calcareous grassland which aims to re-establish and compliment the features of the SAC and SSSI. Plans submitted with the application provide details of the proposed calcareous/acidic seed mix which

would be appropriate. The restoration would be secured by condition to ensure that the restoration is successful and an aftercare period of 5 years would be conditioned.

7.35 The assessments which accompany the Environmental Statement with regards to the proposal's potential impact on protected species are considered to be satisfactory, and it is considered that the proposal would not likely to be detrimental to the maintenance of the favourable conservation status of local populations of the great crested newt, bats, dormice, or otter.

7.36 The proposal would result in the loss of 1.9ha of lowland meadow which is a UK BAP Priority Habitat. However, the bund and subsequent restoration would create 4.7ha of Lowland Calcareous grassland, also a UK BAP Priority Habitat, providing a net gain of 2.8ha.

7.37 An Ecological Management Plan has been provided as part of the application to provide habitat enhancements with the aim of achieving a net biodiversity gain through eradication of gorse scrub and bracken from the grassland within the application site, and methodologies to be adopted during soil stripping to safeguard against breaches of legislation regards to nesting birds and badgers. These would be conditioned should planning permission be granted.

7.38 As there would be no material imported from outside of the quarry site there is no biosecurity risk posed by this proposal.

7.39 Whilst part of the site is with an SSSI which borders a SAC, it is considered that the proposal would not have a significant adverse effect on the designated sites or nature conservation interests of the site. The land is currently grazed therefore presents little interest in terms of nature conservation. With the implementation of the proposed restoration, ecological management plan and mitigation, there would be no significant adverse effects on the SAC or SSSI or wildlife and habitats of local importance. Natural Resources Wales and the County Council's Ecologist does not object to the proposal subject to conditions. As such it is considered that the proposal would accord with the provisions of Policies WB1, WB3, WB4, WB5 and WB6 of the Flintshire Unitary Development Plan.

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Hydrology/water resources and flood risk

7.40 Concerns have been made by a local resident in relation to drainage issues and run off onto adjacent land which could cause flooding.

7.41 A Flood Consequence Assessment has been commissioned as part of the Environmental Statement. It recommended that a system of soakaways be installed on completion of the proposed landform so that all surface water run off could be managed within the site. It concluded that, with the system of soakaways as proposed, there

would be no increased risk of flooding.

7.42 The County Council's Drainage officer has assessed the Flood Consequence Assessment and has requested that prior to the implementation of the development a scheme of drainage be submitted which would accord with guidance within 'Soakaway Design BRE Digest 365'.

7.43 Ground water or other water supplies would not be effected by the proposed development. Natural Resources Wales do not object to the proposal in terms of impact on ground water.

7.44 The installation, implementation and maintenance of the drainage and soakaways proposed would be conditioned. It is considered that subject to the approval of a drainage scheme, the proposal would accord with Policies MIN3, EWP16 and EWP 17 of the Flintshire Unitary Development Plan.

Landscape and visual impact

7.45 Concerns have been raised by a local resident in relation to the proposed bund being unnatural in the landscape and having an impact on the loss of 'natural countryside'.

7.46 A comprehensive landscape and visual impact assessment of the proposal has been undertaken. The site lies within the western edge of the Holywell Common and Halkyn Mountain Registered Landscape of Outstanding Historic Interest. Cadw have assessed the likely impact of the proposal in relation to the Registered Historic Landscape and have concluded that the proposed development would have a very slight impact on the overall impact on the registered historic landscape. It is considered that once the bund has been restored, and grass established, it would quickly fit into the existing landscape, and therefore it is considered that the proposal would have a very slight overall impact on the registered historic landscape. The site is not subject to any other landscape quality designations.

7.47 The proposed extension to the existing overburden storage bund would be no higher than the existing overburden bund which peaks just above the 280m contour which is 18m above the nearest section of road. In terms of the proposed extension, from the highest point, the storage bund would gradually slope down at a consistent gradient in a north west direction, reflecting the existing landform, towards an electricity pylon situated just outside the application site. The proposed bund would have a steeper gradient towards the road but this is comparable to the slope of the existing bund to the east of the quarry entrance.

7.48 With regards to the visual impact, the proposed extension to the existing bund would be prominent and visible from a number of locations and receptors. It is considered that the effect on visual

amenity for the duration of the construction of the bund for three nearby residential properties would be classified as 'Moderate to Major' which is considered to be a significant effect. It is important to note that this would be a temporary impact during the construction of the bund. The construction phase of the project would be a relatively short period of time; no more than a year, but potentially less subject to ground and weather conditions.

7.49 To mitigate the visual impact of the construction of the bund, the scheme has been designed to maximise the extent to which the construction operation would be screened behind a 4 metre high screening bund during construction. The screening bund would also be subject to progressive restoration works as the project progresses which would reduce the visual impact of the proposal. Once the bund has been restored, and the vegetation established it is considered that the impact would be moderate and not significant. Furthermore, the proposed grass seed mix would help green the new earthworks within the short term so the restoration should be completed within two years. When viewed from the north west, the direction of the nearest occupied residential properties the overburden bund would have an elongated form, thus reducing its impact. It is considered that the proposed landform would not be overbearing or incongruous to the residential occupiers once completed. During the proposed construction phase, the adverse visual effect would inevitably be greater but remaining acceptable with the proposed mitigation measures. It is considered that the visual impact of the proposal from the subsequently diverted public rights of way would not be significant.

7.50 With regards to landscape the bund would not be a new feature in the landscape as it would form an extension to an existing established landscape feature of Pant y Pwll Dŵr Quarry. The maximum height would not exceed the height of the adjacent landform. The proposal would join with the profile of the adjacent bund to create one combined landform. Furthermore, the landform proposed would be a less uniform and less steel feature than exists at present and would be considered to be more in keeping with the local landscape.

7.51 The restoration proposals would ensure that the development would be characteristic of the open, grassed adjacent overburden landform, with no trees, hedges or other areas of planting other than scrub vegetation such as heather, hawthorn and gorse. This would be typical of the surrounding landscape character, especially in the higher, undulating areas. With careful and strategic planting this could help to mitigate the overall appearance of the overburden bund during the life of the quarry. Details of planting would need to be submitted and agreed by condition to ensure that there was no conflict with the objectives of the SAC and SSSI or needs of the Halkyn Common Graziers. The construction is proposed to take less than a year and the planting should be undertaken the following planting season.

7.52 The landscaping scheme should also show all the proposed hard landscape elements. As well as the specification and position of fence types, the landscape scheme should show the perimeter ditch, boulder barricades, and rock out crops. These features, when combined would better replicate the existing landscape helping to mitigate the overburden bund's uniformity.

7.53 The soft landscaping scheme should show hawthorn and gorse planting where it would be expected to regenerate naturally over a period of time. There should also be a requirement to maintain and review the landscaping with the Mineral Planning Authority to enable it to be altered if necessary.

7.54 Once the quarry closes in the future, the overburden bunds would be remodelled and material used within the final restoration of the site. A subsequent restoration scheme shall be submitted for approval.

7.55 It is considered that with the mitigation measures proposed, the proposal would not have a significant impact on the landscape and the temporary visual impact of the construction of the bund could be mitigated. It is considered that the proposal complies with the provisions of Policies MIN2, MIN4, L1 and L2 of the adopted Flintshire Unitary Development Plan.

Restoration and Aftercare

7.56 The proposal provides details of how the bund would be restored once constructed. There are limited soils on site as the depth is not likely to be more than 0.3m in depth. Those soils that do exist in the application site area would be stripped and stored to a maximum height of 3 metres, and then used to restore the landform once the overburden has been transferred.

7.57 Mitigation measures have been proposed in order to minimise the damage to the soil's structure, when soils are being handled and moved. These would be conditioned to ensure that the soil is protected and available for restoration purposes to ensure that the site can be restored to an appropriate standard. The restored landform would be subject to a five year aftercare period and a scheme would be required by condition. Once the quarry has ceased operations, the landform would be remodelled and soils would be handled in the same way to ensure that the soil's structure is protected, and the site subsequently restored. A further 5 year aftercare scheme would be imposed to ensure that the restoration and planting is successful.

7.58 The site would be restored to a mosaic of acidic/calcareous grassland which is appropriate in this location. The proposal provides an interim restoration for the duration of the quarrying operations. A restoration masterplan would be required to be submitted by condition to provide details of the proposed landform once the quarry has ceased extracting mineral and is closed. With the mitigation measures

proposed, it is considered that the proposal would accord with the provisions of Policies D3, TWH1, TWH3 and MIN4 of the adopted Flintshire Unitary Development Plan.

Common/Grazing Land

7.59 The application site is located within Halkyn Common Land which is used by the Halkyn Graziers to graze their animals. For the duration of the construction of the bund, and the subsequent restoration, this Common Land would not be available for grazing. However, this would be for a temporary period of time of a maximum of two years, and once the land restored, the land would then be available for grazing. Once the quarry closes in the future, during the period of time when the bund would be remodelled to achieve the final restoration profile, the land would be not accessible for grazing once again. However, this would also be for a temporary period during the subsequent remodelling and restoration.

7.60 Concerns have been made by the local grazing community and the Halkyn Graziers and Commoners Association have objected to the proposal due to the loss of grazing land. However, compensatory provisions would be provided during the construction and restoration of the bund. Any fencing erected would not prevent livestock from accessing the site once restored.

7.61 The land would be inaccessible for a temporary period of time during construction and restoration. Once restored the land would be available for grazing. The bund would then be accessible to grazing animals and therefore, in the long term there would be no loss in grazing land on the Common. The proposed landform has been designed such that the slope gradient would be shallower than the existing overburden landform, and therefore provide more accessibility to users of the Common Land and accessible to grazing animals.

7.62 The proposed restoration scheme has been specifically designed to retain the openness of both the site as it is currently, and the adjacent proposed over burden storage bund.

7.63 The proposed development is within a registered Common and development works or an enclosure is subject to separate legislation via the Commons Act 2006. The development should it be approved, would have to qualify for an exemption or secure agreement for it to be implemented from the Planning Inspectorate Wales.

7.64 It is considered that the proposal would not affect the character or historic value of the area and would not materially affect the appearance as the proposal is an extension of an existing established feature of the landscape. Furthermore, rights of way where possible would be diverted and once the bund has been constructed and restored, the rights of way proposed on the bund would be re-opened

so the proposal would maintain public access as much as possible. As such, it is considered that the proposal accords with the provisions of Policy L4; Common Land of the Flintshire Unitary Development Plan.

Cultural/Archaeological Heritage

7.65 The application is accompanied by an archaeological desk-based assessment of the potential impact of the proposed development on the cultural heritage of the area. Cadw have also undertaken an assessment of the proposal with regards to the potential impact on the setting of Scheduled Ancient Monuments located in close proximity to the application site. Both assessments concluded that the proposed bund would have a very slight impact on the understanding of the interaction between the group of five Bronze Age round barrow burial mounds and their setting.

7.66 One of the Scheduled Ancient Monuments is located in close proximity to the south west of the application site. The development has been designed to increase the undisturbed distance between the Scheduled Ancient Monument and the soil storage bund to 20 metres. This strip would be marked out with stakes and reflective tape to ensure that there would be no encroachment. This would be conditioned.

7.67 With regards to on site archaeology, as there remains a chance of encountering unknown archaeology within the soil stripping element of the development, it is proposed to identify, map and record as part of the soil stripping exercise to ensure that anything of archaeological value is identified and recorded, minimising any impact and ensuring preservation by record. It would be conditioned to submit a scheme of written archaeological investigation to secure preservation by record of all archaeological remains which will be impacted by the development.

7.68 The application area is situated on the western edge of the Holywell Common & Halkyn Mountain registered historic landscape immediately to the west of the existing quarry. There are already existing bunds in the area and this application would be an extension to any existing bund. As such, once grassed, it will quickly blend into the existing landscape and therefore it is considered that the proposal would have a very slight overall impact on the registered historic landscape in the context of the existing landforms.

7.69 Cadw and Clwyd-Powys Archaeological Trust have raised no objections to the proposal. Subject to conditions as detailed above it is considered that the proposal would accord with Policies MIN2, HE1, HE2, HE5, HE6, HE7 and HE8 of the adopted Flintshire Unitary Development Plan. It is considered that there would be no conflict with the Historic Environment (Wales) Act 2016.

Socio-Economic

7.70 Consideration has been given to the tests detailed within Technical Advice Note 23 with regards to Economic Development and this project. In terms of alternative locations on site to store the overburden, the site is heavily constrained by existing nature conservation designation, and there are limited options to store such a large amount of material on site. Furthermore, it would not be sustainable to remove the material off site as some of the material would be used in the site's final restoration.

7.71 The Quarry is considered to be a regionally and inter-regionally important site which employs 40 people. Should planning permission not be granted, it would sterilise a large quantity of permitted reserves and could result in a premature closing of the site which has planning permission until 2042 which would result in the loss of 40 jobs.

7.72 In terms of special merit, it is considered that the need for the mineral located underneath the overburden would outweigh any temporary loss of grazing land which would be restored following the bunds construction. Furthermore, the need for the mineral would outweigh the temporary visual impact during the construction of the bund.

8.00 CONCLUSION

8.01 In order to access permitted reserves within Pant y Pwll Dŵr Quarry, overburden needs to be removed. There are limited locations within the existing quarry boundary to store this material due to surrounding nature conservation designations. A location partially outside of the existing quarry boundary has been proposed which lies within Halkyn Common. Whilst there would be a temporary loss of grazing land, this would be only for the duration of construction and restoration which would be no more than two years. Furthermore, compensatory provision would be provided to the graziers and the landscaping scheme would require details of livestock fencing to ensure access to the common is maintained following the restoration of the bund.

8.02 It is considered that the need for the aggregate reserves, would outweigh the temporary loss of grazing land. Should the application be refused, it would sterilise a large quantity of permitted reserves and could result in a premature closing of the site which has planning permission until 2042 which would result in the loss of 40 jobs.

8.03 It is considered that with the mitigation measures proposed, the proposal would not have a significant impact on the landscape and the temporary visual impact of the construction of the bund could be mitigated. Operational effects of the construction of the bund would be controlled by condition in terms of noise and dust mitigation. It is considered that there would be no impact on the adjacent ancient scheduled monuments subject to soil storage in the location proposed. The proposed landscaping and restoration would ensure that there is no adverse effect on the adjacent SAC and SSSI.

- 8.04 In considering this application the Council has taken into account all the environmental information and matters that are material to the determination of this application, as set out in the Application, Supporting Statement, Environmental Statement, amended plans and technical appendices. The Environmental Statement has considered and assessed the impacts of the proposed extension to the quarry's existing overburden bund in terms of noise, impacts on ecology and nature conservation and adjacent designated site/protected species, soils and hydrogeology, hydrology and the water environment, flood risk, air quality and dust, landscape and visual amenity of the proposal and potential impacts on the Common Land and adjacent landscape designations, and socio-economic impacts of the proposed development and concludes that the proposal would
- 8.05 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 subject to conditions.

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: **7 SEPTEMBER 2016**

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

SUBJECT: **APPLICATION FOR A LATERAL EXTENSION TO EXISTING QUARRY, EXTENSION OF TIME TO 2023 AND THE ERECTION OF STATIC SCREENING PLANT IN THE QUARRY VOID AT MAES MYNAN QUARRY, AFONWEN**

APPLICATION NUMBER: **054707**

APPLICANT: **BREEDON AGGREGATES ENGLAND LIMITED**

SITE: **MAES MYNAN QUARRY, AFONWEN, CH7 5UB**

APPLICATION VALID DATE: **10/12/2015**

LOCAL MEMBERS: **COUNCILLOR JIM FALSHAW**

TOWN/COMMUNITY COUNCIL: **CAERWYS TOWN COUNCIL**

REASON FOR COMMITTEE: **NEW NON-RESIDENTIAL DEVELOPMENT WHERE THE SITE AREA EXCEEDS 2 HECTARES**

SITE VISIT: **NONE REQUESTED**

1.00 SUMMARY

- 1.01 The proposal relates to Maes Mynan Quarry, an active sand and gravel quarry located in the village of Afonwen. The application involves a lateral extension in an easterly direction, an extension of time from 2018 to 2023, and the continuation of use of static plant on site. The application also proposes a continuation of the importation of inert materials to achieve the permitted and proposed restoration profile. The progressive restoration proposed for the site would return the site to meadow grassland with areas of woodland edge and tree planting, scrub vegetation, and marginal aquatic species located around a waterbody with wetland scrapes for nature conservation purposes and amphibian mitigation.

1.02 The application is partially retrospective as the applicant/operator is currently extracting sand and gravel in the extension area as the previous operator had been extracting outside of the permitted limit.

1.03 The main issues in considering this application relate to the impact on the Clwydian Range and Dee Valley Area of Outstanding Natural Beauty (AONB) and the surrounding landscape, the visual impact of the extension, the impact on ecology, European protected species and nature conservation interests, the need for sand and gravel, the need to extend the life of the quarry, the need to import material for restoration, the impact on residential amenity, the impact of the proposal on hydrology and flood risk, and the impact on the highway.

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

2.01 Conditions to include:-

1. Commencement
2. Approved plans
3. Retention of approved plans on site
4. Notification of commencement
5. Duration and completion of development
6. Demarcation of extraction area
7. Boundary fencing
8. Hours of operation
9. Written Scheme of Archaeological Investigation and watching brief
10. Soil handling method statement
11. Protection of soils
12. Soil storage plans
13. Stockpile heights restricted to 4 metres
14. Dust controls
15. Dust mitigation
16. Prevention of mud on the highway
17. Noise controls
18. Noise limits
19. Removal of permitted development rights
20. No dewatering/dredging
21. Pollution control
22. Tree root protection and bat mitigation plan
23. Inspection of trees prior to felling
24. Reasonable avoidance measures - Dormice
25. Reasonable avoidance measures - Reptiles
26. Great crested newt mitigation; habitat creation and fencing
27. Submission of EPS monitoring and management plan for long term amphibian monitoring and surveillance.
28. Phased working
29. Final Restoration

- 30. Early Cessation
- 31. Tree planting specification
- 32. Only inert waste restoration materials
- 33. No processing of waste on site
- 34. Submission of aftercare scheme
- 35. Five year aftercare period
- 36. Annual Monitoring report
- 37. Annual management/aftercare meeting
- 38. Liaison Committee implemented if required

3.00 CONSULTATIONS

- 3.01 *Local Member: Councillor Jim Falshaw* – Supports the application. The applicant undertook pre-application consultation with the local community and the Community Councils. Councillor Falshaw has no objections to the application subject to the applicant adhering to conditions.
- 3.02 *Caerwys Town Council* – Supports the application. The application site is an active quarry of which policies MIN1, MIN2, MIN3 and MIN4 of the adopted Flintshire Unitary Development Plan apply. Mitigation measures recommended, or proposed, within the documentation accompanying this application are required to be conditioned with any planning consent granted. In addition, restoration details for the site, as set out in the Flintshire Unitary Development Plan Policy MIN4, are also requested to be conditioned when the operational life of the quarry terminates. Subject to compliance with national and local policies, Caerwys Town Council supports the application.
- 3.03 In addition to this, it is requested that it be conditioned that prior to the restoration of the site, following termination of its operational life, some form of access agreement can be arranged with the quarry owner for the benefit of the community so that the biodiversity of the site can be enjoyed.
- 3.04 *Ysceifiog Community Council* were consulted as neighbouring community council and does not object to the proposal.
- 3.05 *Head of Assets and Transportation*
A review of the records indicates that there is no significant accident history associated with the use of this access. As there is no increased traffic movement associated with the proposal, the Highway Development Control Manager does not intend to make a recommendation on highways grounds.
- 3.06 *Public Rights of Way* – Public Footpath 3A abuts the site but appears unaffected by the development. The path must be protected and free from interference from the development.

- 3.07 *Head of Public Protection* has confirmed that there have been no complaints regarding the operations at this quarry and it is anticipated that the extension would not cause any loss of amenity to any nearby sensitive properties. The Head of Public Protection has no objections to this proposal to extend the quarry subject to conditions in relation to noise and dust mitigation which would be comparable to existing site mitigation controls already in place for the quarry.
- 3.08 *Flintshire County Council Drainage* – no comments/observations to make in relation to surface water management.
- 3.09 *Dŵr Cymru/ Welsh Water* – Do not wish to make any recommendations in relation to this application.
- 3.10 *Cyfoeth Naturiol Cymru/ Natural Resources Wales (NRW)*
NRW have commented on the proposal taking into consideration protected sites, protected species, flood risk, impact on ground water and pollution prevention.
- 3.11 NRW have considered the amended restoration proposals and have concluded that they are considered to be satisfactory from an amphibian conservation perspective. NRW have been advising the applicant on the detail of avoidance, mitigation and compensation measures associated with the anticipated European protected species derogation licence issued by NRW. NRW have confirmed that they are also considered to be satisfactory.
- 3.12 In terms of proposed amphibian surveillance and monitoring, NRW have advised that this is undertaken over a longer term duration.
- 3.13 NRW do not object to the proposal subject to the implementation of the proposed mitigation measures for great crested newt protection which will also be implemented under a protected species licence.
- 3.14 *Airbus*
The proposed development has been examined from an aerodrome safeguarding aspect and does not conflict with safeguarding criteria. The location is outside the 15km safeguarding consultation area. Accordingly there are no aerodrome safeguarding objections to the proposal.
- 3.15 *Clwyd and Powys Archaeological Trust*
There has been extensive pre-application consultation on the proposed extension between the Clwyd and Powys Archaeological Trust and the archaeological consultant working on behalf of the applicant. The results of that consultation have been set out within the Environmental Statement. A Written Scheme of Investigation has been submitted with the details for an archaeological watching brief which would be followed during the initial topsoil and subsoil stripping.

This is required to identify any sub-surface archaeology which may be present to allow for subsequent archaeological recording. This Written Scheme of Investigation is considered acceptable.

3.16 Clwyd and Powys Archaeological Trust have no objections to the proposal, subject to operations to take place in accordance with the Written Scheme of Archaeological Investigation and archaeological watching brief.

3.17 *AONB Partnership Joint Committee*

The Joint Committee notes that, although just outside the AONB, Maes Mynan Quarry is visible from much of the higher ground of the AONB to the north and west of the site, including the Offa's Dyke Path, Open Access Land and other public vantage points in the locality, and clearly impacts on the setting of the AONB. From a protected landscape perspective, the committee would wish to see quarrying operations cease and the site restored as soon as possible. However, the quarry has been in place for many years and the proposed extension is modest in area and timescale, and is relatively small in the context of the existing consented operation. The additional impact on the AONB is therefore limited and relatively modest in extent. The committee is also aware of the recently updated Regional Technical Statement for aggregates which identifies a medium term shortfall in sand and gravel reserves in Flintshire to meet anticipated need in North Wales. This provides some justification for the current proposals which will assist in meeting this need.

3.18 The proposed restoration scheme and end use involving the creation of meadow grassland with additional broadleaf woodland, scrub and marginal aquatic planting around the new waterbody is supported. The committee would suggest that opportunities for public recreation, active travel and access to enjoy the site should be included in the restoration scheme as part of a section 106 agreement. For example, a new permissive footpath/cycle path along the southern side of the waterbody would provide an attractive traffic free alternative for walkers and cyclists on the A541, and a permissive footpath along the northern site boundary would provide a valuable link to the existing public footpath network between paths 1 and 3a in the Community of Caerwys. The intention to carry out progressive restoration of the site as operations proceed is also welcomed, and the committee would emphasise the need to pursue this to ensure full restoration of the site as soon as possible after operations cease. Appropriate management and aftercare of the site will also be critical to the success of the restoration scheme, and the committee would wish to be consulted on subsequent management and aftercare plans.

3.19 As neighbouring Local Authority, Denbighshire County Council have been consulted and raise no objections in principle to the proposal.

3.20 *Health and Safety Executive* - No comments received.

3.21 *Cadw* – have no comment to make on the proposal as there would be no impact on the settings of the adjacent of the scheduled monuments as intervening vegetation would block the views to the proposed development.

3.22 *Clwyd Bat Group, Badger Group, North Wales Wildlife Trust, and Ramblers Association* – No comments received.

4.00 PUBLICITY

4.01 This application was advertised by press notice, site notices and neighbour notification letters were dispatched to nearest residential receptors. The application was advertised in accordance with the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 on 24 December 2015.

4.02 Further information was submitted in respect of great crested newt mitigation and monitoring and notification was given and it was advertised in accordance with the Town and Country Planning (Environmental Impact Assessment) Wales Regulations 2016 on 4 August 2016.

4.03 One letter of objection has been received against the proposed quarry extension. The issues raised relate to the residential amenity and impacts on the village of Afonwen. They feel that should another quarry to the east of Afonwen be reopened, and should this proposal to extend Maes Mynan Quarry be approved, then Afonwen would be flanked to the east and west by working quarries and be subjected to increase noise, dust and quarry traffic from both directions.

4.04 Speculation on future mineral development is not material to the determination of this planning application. However the issues of noise, dust, residential amenity and traffic associated with the quarry operations at Maes Mynan Quarry are considered within this report.

5.00 SITE HISTORY

5.01 Sand extraction has taken place at Maes Mynan since 1938, with the first planning permission granted in 1952. The now restored working area associated with those works is located to the west of the application site. The current extant planning permission was granted in April 1994 for the existing sand and gravel extraction under permission reference 3/655/92, which would expire on 31 May 2018.

6.00 PLANNING POLICIES

6.01 The main planning policies and guidance relevant to the determination of this planning application are considered to be:

6.02 LOCAL PLANNING POLICY

Flintshire Unitary Development Plan (Adopted September 2011)

- Policy STR1 - New Development
- Policy STR7 - Natural Environment
- Policy STR10 - Resources
- Policy GEN1 - General Requirements for Development
- Policy GEN3 - Development in the Open Countryside
- Policy GEN5 - Environmental Impact Assessment
- Policy D1 - Design Quality, Location and Layout
- Policy D3 - Landscaping
- Policy D4 - Outdoor Lighting
- Policy TWH1 - Development Affecting Tress and Woodland
- Policy TWH3 - Woodland Planting and Management
- Policy L1 - Landscape Character
- Policy L2 - Areas of Outstanding Natural Beauty
- Policy WB1 - Species Protection
- Policy WB2 - Sites of International Importance
- Policy WB3 - Statutory Sites of National Importance
- Policy WB4 - Local Sites of Wildlife and Geological Importance
- Policy WB5 - Undesignated Wildlife Habitats
- Policy WB6 - Enhancement of Nature Conservation Interests
- Policy HE1 - Development Affecting Conservation Areas
- Policy HE2 - Development Affecting Listed buildings and their Settings
- Policy HE5 - Protection of Landscapes, Parks and Gardens of Special Historic Interest.
- Policy HE6 - Scheduled Ancient Monuments and other Nationally Important Archaeological Sites
- Policy HE7 - Other Sites of Lesser Archaeological Significance
- Policy HE8 - Recording of Historic Features
- Policy AC13 - Access and Traffic Impact
- Policy EM7 - Bad Neighbour Industry
- Policy MIN1 - Guiding Minerals Development
- Policy MIN2 - Minerals Development
- Policy MIN3 - Controlling Minerals Operations
- Policy MIN4 - Restoration and Aftercare
- Policy EWP6 - Areas of Search for Waste Management Facilities
- Policy EWP7 - Managing Waste Sustainability
- Policy EWP8 - Control of Waste and Operations
- Policy EWP12 - Pollution
- Policy EWP13 - Nuisance
- Policy EWP14 - Derelict and Contamination
- Policy EWP16 - Water Resources
- Policy EWP17 - Flood Risk

6.03 GOVERNMENT GUIDANCE

Planning Policy and Guidance

Planning Policy Wales Edition 8 (2016)

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

Technical Advice Note 11 – Noise (1997)

Technical Advice Note 15 – Development and Flood Risk (2004)
Technical Advice Note 18 – Transport (2007)
Technical Advice Note 21 – Waste (2014)
Technical Advice Note 23 – Economic Development (2014)

6.04 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
Regional Technical Statement for North Wales 1st Review (2014)

6.05 Waste Strategy Policy and Guidance

Towards Zero Waste: The overarching Waste Strategy Document for
Wales, June 2010
Collections, Infrastructure and Markets Sector Plan, 2012
Construction and Demolition Sector Plan, 2012

6.06 The main policies to be considered in the determination of this application are the policies of the Flintshire Unitary Development Plan (FUDP) particularly policies relating to minerals, waste management, amenity (air quality, noise), landscape, AONB, visual impact, flood risk, nature conservation, protected species and statutory sites. The Policies and guidance contained within PPW, MTAN1, TAN21 and evidence provided within the RTS in relation to regional apportionment are also central to the determination of this application. The materiality of the above policies are discussed in the following planning appraisal.

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. The Environmental Statement which accompanied the planning application has considered and assessed the impacts of the proposal in terms of landscape and visual amenity of the proposal and potential impacts on the adjacent AONB, impacts on ecology and nature conservation and adjacent designated sites/protected species, noise, air quality, traffic, transportation and highways, hydrology, hydrogeology and flood consequences, and socio-economic impacts

Details of Proposed Development

7.02 This planning application seeks to extend the currently approved limit of extraction at the site by 2.4 hectares in an easterly direction. The current permitted site area is 18.3 hectares and the planning application site covers an area of approximately 20.7 hectares. The proposed lateral extension comprises of two phases, followed by final restoration. The application proposes a continuation of sand and gravel extraction at the site for a further five years than is currently permitted until 31 May 2023. The application also seeks to permit the continuation of the use of the static sand washing/screening plant

currently located in the quarry void. The previous owner/operator had already commenced sand extraction in the extension area prior to the current owner operating the site. Therefore the application is partially retrospective as the operator is currently extracting sand and gravel in the extension area.

- 7.03 It is proposed that the quarry would be worked in two phases, followed by final restoration of the site. During the operational phases, it is proposed that some progressive restoration would take place in the previously worked areas. During the progressive restoration, new habitat would be created to provide mitigation for great crested newts which would be implemented under a European Protected Species Licence. This would involve the creation of a number of new water bodies, hibernacula and refugia adjacent to the existing quarry lagoon. The application proposes a continuation of the importation of inert materials to achieve the permitted restoration profile. The progressive restoration proposals for the site would return the site to meadow grassland with areas of woodland edge and tree planting, scrub vegetation, and marginal aquatic species located around a waterbody with wetland scrapes for nature conservation purposes. Small areas of bare sand habitat, and part of the north eastern working face would be retained to encourage biodiversity. Following the completion of the restoration of the site, there would be a five year aftercare period to ensure that the site is adequately maintained and managed after quarrying activities have ceased. Long term amphibian surveillance and monitoring would be undertaken as part of a management plan which would be required to be submitted.
- 7.04 Existing sand and gravel extraction would continue on site in the same manner as currently permitted. Existing annual extraction rates at the quarry are approximately 135,000 tonnes, and it is estimated that there are approximately 400,000 tonnes of permitted reserves remaining. It has been estimated that, at the time of submission of the application that there is an additional 659,000 tonnes of sand and gravel resource in the extension area.
- 7.05 Extraction would take place in the same manner as currently occurs on site, with a long reach excavator used to extract material below the water table. The majority of the quarry site is worked above the water table and it is not proposed to de-water or use a dredger. Of the extracted material, 50,000 tonnes of sand per annum is washed on site to produce building sand which is sold directly from the quarry; whilst 85,000 tonnes is transported to nearby Fron Haul Quarry where it is processed to produce a concreting sand. The application seeks to continue at this rate of working, and to operate in the same manner.
- 7.06 Hours of operation would continue to be 0700 – 1800 Monday to Friday and 0700 – 1600 on Saturday. No workings would be permitted on Sunday or public holidays, in line with the existing condition relating to hours of operation.

- 7.07 The proposed extension would result in the removal of some trees along the northern and eastern boundary of the site. The proposed restoration scheme includes tree planting to replace lost trees.
- 7.08 ***Site Description and Location***
Maes Mynan Quarry is an existing sand and gravel quarry which is located adjacent to the village of Afonwen, approximately 0.8km southwest of Caerwys, and 14km northwest of Mold. The quarry is accessed off an unclassified road which runs from the A541 which is to the south of the site. The existing quarry is partially restored as progressive restoration has already taken place. The western and southern parts of the site have been restored to meadow grassland, with areas of scrub vegetation and a waterbody with marginal aquatic vegetation and an island feature.
- 7.09 The quarry lies within the administrative boundaries of Flintshire, although the border with Denbighshire is located immediately to the south. The land use within the surrounding area is predominantly improved pasture with some arable farming.
- 7.10 ***Relevant Planning Constraints/Considerations***
The quarry is immediately adjacent the Clwydian Range and Dee Valley Area of Outstanding Natural Beauty (AONB). The deeply cut hills and valleys of the AONB lie to the south, west and north west of the site, with the more undulating elevated Flintshire landscape to the north of the site.
- 7.11 Caerwys Tufa Site of Special Scientific Interest (SSSI), Coed Trefraith SSSI and Ddol Uchaf SSSI are located within 2km of the site. In addition, Halkyn Common and Grasslands SSSI is located 4km to the northeast, and Halkyn Mountain Special Area of Conservation (SAC) is located 9km to the east.
- 7.12 There are 16 non-statutory wildlife sites within 2km of the site. The closest of these are Coed Pwll Gwyn (1.5km north) and Afonwen Sand Pit (3km east). Y Ddol Uchaf (3.3km east) is a North Wales Wildlife Trust Reserve which is a disused tufa and marl quarry.
- 7.13 To the east of the proposed extension area lies an area of woodland, parts of which are classified as a Restored Ancient Woodland Site and Ancient Semi Natural Woodland in the Forestry Commissions Wales' 2011 Ancient Woodland Inventory Survey for Wales. There are 79 Ancient Woodland sites within 2km of the application site. The River Wheeler runs east-west some 350m to the south of the site.
- 7.14 The site contains habitat for the European protected species; the great crested newt. Site surveys recorded a small number of great

crested newt in the quarry lagoon, and on one occasion in a nearby ephemeral pond.

- 7.15 A vacant nursing home is located approximately 100m to the west of the site. There are a number of residential properties in the vicinity, the closest of which is located to the east of the application site, at the edge of the woodland, approximately 40 metres away from the proposed limit of extraction.

Issues

Principle of Development and suitability of location

- 7.16 The principle of extracting sand and gravel from this site has been deemed acceptable by virtue of the extant planning consent on site granted in 1994, and historical sand and gravel extraction that has taken place at the site which have been in operation since 1938.
- 7.17 Minerals Technical Advice Note 1: Aggregates (MTAN1) recognises that in dealing with applications for new mineral extraction, the planned system is best placed in determining the most suitable locations, and that future extraction should only take place in the most environmentally acceptable locations. The applicant has proposed this site to Flintshire County Council during the 'Call for Sites' exercise undertaken as part of the Local Development Plan process. Whilst the site is being considered as a candidate site by the County Council, the time frame to wait for the adoption of the Local Development Plan is too long. Whilst it is recognised that the existing active quarry is sited in close proximity to various environmental and landscape designations, these designations have been designated since the opening of the quarry. Furthermore, mineral extraction can only take place where the mineral is found to occur.
- 7.18 The proposal seeks a modest extension. The applicant has provided evidence to demonstrate that there are sufficient sand and gravel deposits located to the east of the site.
- 7.19 The principle of importing materials into quarries to facilitate restoration is well established in national guidance as set out in Minerals Planning Guidance Note 7, and latterly by MTAN1. The principle of importing material at this site to achieve the approved restoration profiles has been accepted by the existing planning consent for sand and gravel extraction, and subsequent restoration.

Need for aggregate, need to extend the quarry

- 7.20 The main market for sand and gravel extracted at this site is the local and regional construction industry. Other main sources of sand and gravel in North Wales is Wrexham, located to the south east of the site. This site, and the applicant's nearby quarry; Fron Haul, have an important role in serving markets further west within the region, as there are no other operational sand and gravel quarries to the west.

- 7.21 The existing landbank for sand and gravel is not excessive in North Wales. The spatial distribution across the region is uneven, and the character and types of sand available differs. This proposal would help safeguard a locally important source of sand in the area and maintain a degree of market competition.
- 7.22 There is currently a high demand for sand and gravel from Maes Mynan Quarry, and the applicant would like to continue to supply this need. Analysis of resources within the extension area has shown that there are sufficient resources to continue to extract from this site for approximately eight years.
- 7.23 The proposed extension would release a further 659,000 tonnes of sand and gravel. Planning Policy Wales (PPW) (paragraph 14.8.10) recognises that it is essential to the economic health of Wales that the construction industry is provided with an adequate supply of the minerals it needs, with sand and gravel a main source. MTAN1 echoes this, and adds that this should not be to the unacceptable detriment of the environment or amenity.
- 7.24 The Regional Technical Statement (RTS) for North Wales identifies the need for new allocations of 1.4 million tonnes to be made within the plan period of 2011-2033 in order to meet the shortfall in apportionment requirements for the region. The RTS analyses supply patterns in the region and states that the current supply pattern of land-won sand and gravel is dominated by one site within Wrexham, with smaller contributions for four other active pits; one other in Wrexham, one in Gwynedd and two in Flintshire, of which Maes Mynan is one. It recognises that whilst the Wrexham sites are ideally placed in relation to the markets of North East Wales, and North West England, they are much further away from the smaller, but important local markets along the North Wales coast. Therefore, from a proximity to market and a supply point of view, there is a demonstrable need to maintain an adequate supply to these areas. In summary, the RTS supports additional resources to be released to contribute to the region's landbank.
- 7.25 With regards to extensions of existing minerals workings, as is proposed in this application, PPW (para 14.4.2) states that these are often more generally acceptable than new greenfield sites. Policy MIN1 of the adopted Flintshire Unitary Development Plan states that proposals for the winning, working and processing of minerals will be assessed against the need for mineral workings, and the ability of existing sites to meet demand. It also states that where there is a clear and demonstrable need for primary materials, preference will be given to the lateral extension of mineral workings. There is a demonstrable need for additional sand and gravel reserves to be realised in the region as set out in the RTS for North Wales. Furthermore, this applicant is for an extension of existing workings which would be considered more favourable than new sites. As such,

it is considered that the proposal accords with the provisions within PPW (chapter 14), MTAN1, the RTS for North Wales and Policy MIN1 of the adopted Flintshire Unitary Development Plan.

Need to extend the life of the quarry

- 7.26 The current extant planning permission was granted in April 1994 for the existing sand and gravel extraction under permission reference 3/655/92. In accordance with the planning permission, restoration is required to be completed by 31 May 2018. Current extraction rates at the quarry are approximately 135,000 tonnes per annum. The proposal would result in the quarry being worked for an additional five years beyond the life of the current planning permission.
- 7.27 Additional time is required to complete the proposed extraction and restoration of the site. Should planning permission be granted, a condition would be imposed to ensure that the development shall cease, and site to be restored by 31 May 2023. Following the restoration of the site, the site would be maintained and managed in accordance with an approved aftercare scheme for a period of five years. The aftercare scheme shall be required by condition.

Need for restoration/importation of inert waste materials

- 7.28 Whilst the primary purpose of the planning application is to seek consent for a lateral extension, and an extension of time to extract sand and gravel at the site, the proposal also seeks to restore the site to approved and proposed restoration levels by the continuation of importing inert restoration materials. The principle of bringing materials into quarries to facilitate restoration is well established in national guidance as set out in Minerals Planning Guidance Note 7: Reclamation of Mineral Workings, and latterly by MTAN1. TAN21 also states that the restoration of quarries using inert waste materials may be acceptable in some scenarios.
- 7.29 An estimated 335,250m³ of material is required to restore the quarry in accordance with the proposed restoration scheme. Mineral waste and overburden material generated by quarrying and processing operations would equate to approximately 147,770m³ which would not be sufficient to meet the desired restoration profile. As there are limited stores of soils and overburden on site, and what is stored on site is being used presently for visual screening purposes, the remaining material needed to restore the site to the proposed levels would be imported to the site over the course of the quarrying and restoration operations. This would ensure that the quarry faces can be profiled at a 1 in 3 slope, therefore avoiding excessively steep slopes. Materials are required to be imported in order to progressively restore the site rather than the end of the extraction period. Phased restoration using imported materials to achieve proposed restoration levels would reduce the visual and landscape impact of the operations, and minimise views from the AONB located to the south of the site.

- 7.30 The applicant does not propose to process inert materials on site. The proposal is for backfilling directly to the site for restoration purposes. The applicant has demonstrated that there is sufficient inert materials available to achieve the proposed restoration levels.
- 7.31 Historically, restoration material had been imported and deposited under a series of Paragraph 19 Exemptions. Since 2012, the applicant has been importing inert waste materials under an environmental permit issued by the Natural Resources which allows the importation of up to 80,000 tonnes of inert waste materials per annum to be used in the restoration of the quarry. This equates to approximately 55,000m³ per annum.
- 7.32 Natural Resources Wales have accepted that the existing backfilling restoration operations is considered to be waste recovery operation, as opposed to disposal by virtue of their existing waste recovery permit. It is therefore considered that the proposal would accord with the Waste Hierarchy, Towards Zero Waste, the Construction and Demolition Sector Plan and TAN21. The use of inert materials for restoration purposes accords with the provisions of MTAN1 and TAN21.

Landscape and Visual Impact Assessment

- 7.33 A landscape and visual impact assessment of the proposal has been undertaken which identifies sensitive landscapes and views. The proposal involves a small extension of the operational quarry in an easterly direction. The landscape assessment considers the temporary operational effects of the extension over an eight year period, and the long term residual effects of the proposed restoration. The proposal also involves the removal of some tree vegetation on the eastern field boundary which were required to be planted as part of the existing planning consent granted in 1994 via a section 106 legal agreement.
- 7.34 It is considered that there would be a limited change to the landscape features as a result of the proposal. The proposed extension is considered to be relatively minor in scale, when compared to the existing quarry operations on the site. It is recognised that the existing operations have encroached into the new area of extraction without consent, but even taking this into account the difference between the existing permission and what is proposed is minimal.
- 7.35 The temporary direct effects of the proposal upon the landscape fabric would be slight to negligible in magnitude, and therefore would not be significant. The effects on the landscape fabric overall, are therefore not considered to be significant. The effects on the character of the landscape would be limited to isolated locations in close proximity to the site, and from remote upland locations in the wider landscape and to the south west.

- 7.36 The afteruse of the site would be for nature conservation and habitat diversity, which is in accordance with the existing approved restoration scheme for the site. The proposal would delay the restoration of the site by five years, however the site would be progressively restored and amphibian mitigation measures would be implemented during phase 1. The area has a history of quarrying and these sites have been successfully restored which demonstrates that restoration of this site is feasible with limited impact on the landscape, and it can be achieved in a reasonable timescale.
- 7.37 PPW (paragraph 14.3.3) includes minerals planning policy which deals with mineral development adjacent or close to a National Park or AONB. With regards to extensions of existing quarries, PPW states that the extent to which a proposal would achieve an enhancement to the local landscape and provide for nature conservation and biodiversity should be considered. Development adjacent to or close to an AONB that might affect the setting of these areas should be assessed carefully to determine whether the environmental and amenity impact is acceptable or not, or whether suitable, satisfactory conditions can be imposed to mitigate the impact.
- 7.38 The Joint AONB Partnership Committee notes that, although just outside the AONB, Maes Mynan Quarry is visible from much of the higher ground of the AONB to the north and west of the site, including the Offa's Dyke Path, Open Access Land and other public vantage points in the locality, and clearly impacts on the setting of the AONB.
- 7.39 However, the quarry has been in place for many years, and the proposed extension is modest in area and timescale, and is relatively small in the context of the existing consented operation. The additional impact on the AONB is therefore considered to be limited and relatively modest in extent.
- 7.40 Whilst the proposal would be visible from the AONB, it is considered that the proposal would not harm the special features of the AONB, and there would be no effect on it. Distant views to the site, especially from within the AONB would not be adversely affected to any significant degree by the proposal. Proposed landscaping and planting scheme would ensure that there would be no harm to the AONB once restored. As such, it is considered that the proposal accords with the provisions of Policy MIN2 of the adopted Unitary Development Plan.
- 7.41 In terms of visual impact of the proposal, views from a number of locations and properties have been assessed. Nearby views of the extension are considered to be minimal, and only confined to views through the roadside vegetation on the A541 during the winter months, and views from the north and south west of the site. All views into the site are not considered to be significant, with the exception of views from the west of the site. However, the proposal would not

present a significant change to the existing visual impact of the existing quarrying activities. The proposed progressive restoration would mitigate this impact.

- 7.42 Existing trees and the topography of the land screen the site which would remain for this proposal. Tree protection measure would be required by condition to protect the remaining trees/screening on site. However, the proposed extension would require the removal of an area of early mature screen planting on the eastern and northern boundary of the site, but this would not encroach on the mature Ancient Semi Natural Woodland further to the east, which separates the nearby residential properties from the quarry.
- 7.43 Three mature sycamores would need to be felled on a headland protruding into the existing extraction area. These are considered to be relatively insignificant in the landscape and provide poor habitat.
- 7.44 Whilst there would be some tree removal as a result of the extension, they would be replaced as part of the restoration planting scheme. As the site is an existing quarry, the proposal would not increase the magnitude of visual impact into the site. The existing temporary visual effects would be retained during Phase 1, however would diminish by the end of Phase 2 as the site is progressively restored.
- 7.45 The existing site gives rise to existing significant effects limited to the immediate vicinity of the site and from discrete upland locations within the AONB to the south and west. The proposal forms a modest extension to the existing site, and it is considered that it would not increase the existing magnitude of change. The existing significant effects would be predominantly retained during phase 1, however the establishment of progressive restoration during Phase 2 would reduce the magnitude of change, resulting in the temporary effects considered to be not significant.
- 7.46 The final restoration scheme is in keeping with the current approved restoration scheme. Having regard to the scale of the development, the proposed scheme of working, progressive restoration, visibility into the site, duration of the operations and the characteristics of the surrounding landscape, the potential impacts are considered to be acceptable. It is considered that the proposal complies with the provisions of Policies MIN2, MIN4, L1 and L2 of the adopted Flintshire Unitary Development Plan.

Ecology and Nature Conservation

- 7.47 An ecological impact assessment has been undertaken to assess the likely significant effects associated with the proposal in relation to ecology and habitats. A Phase 1 Habitat survey was undertaken which highlighted further survey work was required to establish presence of a number of protected species; dormouse, reptiles,

badgers and bats. Following additional survey work, the reports concluded that, with the implementation of mitigation, reasonable avoidance measures and enhancements measures which have been incorporated into the proposal that the extension to the quarry would not have any significant effect on dormice, reptiles or bats. The various reasonable avoidance measures would be conditioned.

- 7.48 With regards to badgers, the applicant has submitted an acceptable Method Statement which confirmed that the locations of badger setts are beyond the proposed development boundary and that these would be undamaged by the proposed extension. It concluded that the impact on badgers would be minor and no licence or mitigation would be required.
- 7.49 NRW assessed the application in terms of potential impacts of the proposal protected species. In terms of birds, bats and dormouse, NRW are satisfied with the information submitted with in the application and have advised the imposition of conditions in relation to assessment of trees for the potential of bats prior to felling, and the requirement to implement mitigation measures as proposed with the environmental statement which would be conditioned.
- 7.50 With regards to the great crested newt, NRW advised that waterbodies within the environs of the quarry were subject to survey prior to the determination of the proposal in order to establish whether great crested newts are present or not. Survey work was undertaken April – June 2016 and great crested newts were found in the quarry lagoon and in a nearby ephemeral pond. NRW have concurred with the applicant that there is limited connectivity to the proposed lateral extension for any great crested newts present within the existing quarry lagoon and its associated terrestrial habitat. Therefore, no anticipated detrimental impact would arise through the implementation of the lateral extension area with regard to great crested newts.
- 7.51 However, as great crested newts have been identified within the quarry lagoon, and the terrestrial core habitat around the lagoon is optimal for supporting great crested newts during their terrestrial phase, a scheme of mitigation has been submitted, and the restoration scheme amended to improve and enhance the potential breeding and terrestrial habitat. These measures would be conditioned and also would be implemented under a European protected species licence to create a number of new water bodies, hibernacula and refugia adjacent to the existing quarry lagoon which would commence being created during Phase 1 of the development. The conservation area would be partially fenced off using permanent, one-way amphibian fencing. A long term monitoring programme would be completed in order to examine the relative success or failure of the scheme and to put in place contingency plans to improve the scheme should it fail. A management plan containing the details of monitoring would be required by condition.

- 7.52 Mitigation and enhancement proposed would result in long-term beneficial impacts for ecology and nature conservation across the extension area and site as a whole. Restoration scheme planting schedule incorporate plants which would attract as many species as possible to the site.
- 7.53 The ecological impact assessment has shown that the excavation phases and operational phases would not have any significant effect on either statutory or non-statutory designated sites, protected or priority species.
- 7.54 The implementation of the proposed reasonable avoidance measures, mitigation and monitoring, the proposal would not have a significant adverse effect on important species or their habitats. No statutory sites of national importance, wildlife sites or regionally important geological sites would be adversely affected by the proposal. With the implementation of the proposed restoration and mitigation, there would be no significant adverse effects on wildlife and habitats of local importance, and the restoration proposals would result in long-term beneficial effects. As such, it is considered that the proposal accords with the provisions of Policies WB1, WB3, WB4, WB5 and WB6.

Noise

- 7.55 Noise assessments have been carried out by an independent noise consultant to consider noise levels at the closest noise sensitive receptors, and to evaluate the proposal in terms of the potential impact during its operation and final restoration. The models used a worse-case scenario with all plant operating simultaneously. The noise assessments have been considered against national planning policy guidance set out in MTAN1: Aggregates, TAN11: Noise, and the relevant British Standards. The calculated worse case noise levels associated with the operations and final restoration are predicted to be below the recommended daytime criteria of 55dB LAeq (one hour) (free-field) at noise sensitive properties as set out in MTAN1. Therefore, no significant effects are predicted from the operations with regards to noise.
- 7.56 MTAN1 acknowledges that during temporary and short term working such as soil stripping, higher levels may be reasonable but should not exceed 67dB(A) LAeq (one hour) (free-field) for a period of up to 8 weeks in a 12 month period. The predicted noise immission level at each noise sensitive receptor due to the operation of plant during a period of soil stripping in the extension area has also been included in the assessments. This concluded that during soil stripping, the day time noise limit for temporary operations would not be exceeded. Therefore, no significant effects are predicted.
- 7.57 In summary, noise levels associated with operations, final operations

and a short term period of soil stripping in the extension area are predicted to be below acceptable daytime limits at the closest noise sensitive properties. Whilst it is not anticipated that noise levels associated with the proposal are predicted to exceed the recommended noise limits, best practice mitigation measures would be employed on site to reduce noise levels as far as possible.

- 7.58 Should planning permission be granted, noise limits would be conditioned accordingly in line with national policy and mitigation measures would be employed during the life of the permission to ensure that noise is maintained at the lowest possible level.
- 7.59 The noise assessment demonstrates that noise from activities associated with the application would be within acceptable limits. The County Council's Head of Public Protection has confirmed he concurs with the findings of the noise surveys. Furthermore, there have been no complaints regarding the operations at this quarry in relation to noise, and it is anticipated that the extension would not cause any loss of amenity to any nearby sensitive properties.
- 7.60 The Head of Public Protection has no objections to this proposal subject to conditions in relation to noise mitigation which would be comparable to existing site mitigation controls already in place for the quarry. This would include the imposition of planning conditions controlling noise with regards to limits, mitigation measures and hours of operation. As such, it is considered that the proposal is in compliance with the provisions set out in MTAN1 and Policies GEN1, EWP6, MIN2, MIN3, EWP12 and EWP13 of the adopted Flintshire Unitary Development Plan.

Air Quality and Dust

- 7.61 The operations involved in the extraction and processing of aggregate, and the subsequent site restoration have the potential to generate dust emissions. A detailed dust and air quality assessment of existing and proposed operations has been undertaken by an independent consultant to support the application.
- 7.62 The County Council's Head of Public Protection has confirmed that he would agree with the findings of the Air Quality Assessment report and that fugitive dust emissions are unlikely to affect any nearby sensitive receptors. However, there is potential for excessive emissions from such sites during periods of dry windy weather. The main sources tend to be vehicle movements on haul roads and soil stripping activities. Such problems can avoided or at least minimised by the application of preventative measures such as the use of bowsers on haul roads and workings, and ceasing operations during adverse weather conditions.
- 7.63 Should planning permission be granted, existing dust mitigation

measures would continue to be employed on site, to ensure that dust emissions are minimised. These include; seeding stockpiles of soil and progressive restoration, speed limits set to 10mph in the extraction area and on internal haul roads, the use of dust suppression via water sprays when handling soils, on the internal haul route, and on stockpiles of product, maintenance of plant and machinery on site, washing and screening of sand as part of the process acts to suppress dust emissions from the plant, sheeting of vehicles exporting sand and importing restoration materials, the use of a wheel wash, the use of a road sweeper, maintenance and housekeeping of haul road surfaces, regular visual inspections, temporary cessation of dust generating operations in extreme windy weather conditions.

- 7.64 The assessment concluded that, with the dust mitigation measures employed at site, the proposal would unlikely lead to significant dust impacts at sensitive receptors close to the site.
- 7.65 An assessment of PM10 levels from the proposal has been carried out in accordance with MTAN1. This concluded that PM10 levels from the site are not likely to exceed the Air Quality objectives. It concludes that the small magnitude of change is predicted as a result of the extension, but the change in PM10 concentration leading to a negligible residual effect that is not considered to be significant.
- 7.66 The County Council's Head of Public Protection and NRW have not objected to the proposal subject to the imposition of planning conditions ensuring the proposed dust mitigation measures are implemented as proposed, so that adequate steps are taken to prevent dust causing a nuisance beyond the site boundary. As such, subject to conditions to ensure that dust is minimised and controlled, it is considered that the proposal is in compliance with the provisions set out in MTAN1 and Policies GEN1, MIN2, MIN3, EWP8 and EWP12 of the adopted Flintshire Unitary Development Plan.

Geology, Geotechnical stability and Soils

- 7.67 As part of the design process undertaken for the proposal, a geotechnical assessment was carried out to ensure safe and stable slopes within the site during the working and restoration phases of the proposal. The quarry site will have to comply with the Quarries and Mines Regulations. The geotechnical work and slope stability analysis has been undertaken during the design of the working phases at the site, and confirms that the proposal is acceptable in this regard. The analysis concluded that the quarry excavations should be considered stable. The proposal therefore is in accordance with Policies MIN2 and EWP15 of the adopted Flintshire Unitary Development Plan.
- 7.68 Whilst there are limited soils that remain on site, the application has considered the protection of soils and a method statement is included

with the submission, alongside plans showing the location of soils storage stockpiles which would not exceed a height of 4 metres. Where possible and practical, soils would be stripped and directly placed for progressive restoration. Soils protection conditions would be included in any permission.

Highways, Traffic, Transportation and Access

- 7.69 The quarry is accessed off an unclassified road which runs from the A541 on its southern boundary. This road forms the main transport route through the valley between the towns of Mold and Denbigh.
- 7.70 The A541 is subject to the national speed restrictions in this vicinity. Analysing the results from a traffic survey undertaken by the applicant, this indicates that 2.4 x 215m splays would be appropriate at this access in line with guidance given in TAN 18: Transport (2007). The splay to the left of the exit can be provided in full, however the splay to the right is restricted to 120m. Therefore, the quarry access which joins the A541 at a junction with sub-standard visibility and therefore would not be in accordance with the guidance provided in TAN 18. However, a review of the records indicates that there is no significant accident history associated with the use of this access. Furthermore, the quarry has been operating from the application site since 1994, and from the site to the west since 1938 and this access has been used from the A541 with no reported complaints or accidents attributed to quarry traffic.
- 7.71 The application seeks a continuation of sand and gravel extraction and exportation at a rate of 135,000 tonnes of material per annum. This equates to 50 HGV movements per day. In addition to this, the application seeks to continue to import inert materials to achieve approved restoration levels at approximately 30 HGV movements per day. The proposal would not increase the amount of HGV movements into, or out of the site. Should planning permission be granted, a condition would be imposed to ensure that vehicle cleaning facilities shall be provided on site and used for all HGVs leaving the site to ensure that no mud or other deleterious materials are deposited on the public highway.
- 7.72 There would be no increase in either HGV movements or staff vehicle movements as a result of the proposal. The site traffic contributes to existing background traffic at a level below the relevant thresholds set out in the Institute for Environmental Assessment guidelines for environmental assessment of road traffic, both in terms of total traffic and HGV traffic. No significant residual effects are predicted from the proposal.
- 7.73 As there would be no increased traffic movement associated with the proposal, whilst the visibility splays of the road onto the A541 does not accord with the guidance provided in TAN 18, the Highway

Development Control Manager does not intend to make a recommendation on highways grounds. As such, subject to the imposition of a planning condition to ensure that mud is not deposited onto the public highway, it is considered that the proposal accords with Policies AC13 and MIN3 of the adopted Flintshire Unitary Development Plan and should not be refused on highways grounds.

7.74 With regards to Public Rights of Way, whilst Footpath No.3A abuts the site to the west and Footpath No.1 is located to the east of the extension it is considered that these public footpaths would not be affected by the proposal. Should planning permission be granted, an informative would be imposed on the decision notice informing the applicant of their duties in relation to keeping public rights of way clear from obstructions.

7.75 ***Cultural Heritage and Archaeology***

There is a very low potential for archaeology at the site due to historical soil stripping at the quarry. Also, there are no designated heritage assets that would be adversely affected by the proposal. A written scheme of investigation which includes an archaeological watching brief has been submitted and is considered acceptable. This would be followed during the initial topsoil and subsoil stripping to identify any sub-surface archaeology which may be present to allow for subsequent archaeological recording.

7.76 Should planning permission be granted, a condition would be imposed requiring the operations to be carried out in accordance with the Written Scheme of Archaeological Investigation and Archaeological Watching Brief. As such, it is considered that the proposal would accord with Policies HE7 and HE8 of the adopted Flintshire Unitary Development Plan.

7.77 Due to the topography of the site, distance and screening, no features of historic importance in the surrounding area would experience a significant adverse effect as a result of the proposal and therefore accords with Policies MIN2, HE1, HE2, HE5, HE6, HE7 and HE8 of the adopted Flintshire Unitary Development Plan.

7.78 ***Hydrology and Hydrogeology***

An assessment of the likely impacts of the proposal on the water environment in and around the site has been undertaken. Mineral located below the water table would be extracted via a long reach excavator. No dredging or de-watering is required for mineral extraction on the site. However, in the past, after excessive periods of rainfall, sufficient water has entered the site that the lake level has risen sufficiently to stop mineral extraction. During these occasional events, with discharge consents/surface water abstraction licences from Natural Resources Wales, the lake has been lowered to its normal level by pumping into local water courses. The restored site is expected to have no impact on ground water level, flow, or resources

compared to the pre-operational conditions. Should planning permission be granted, a condition would be imposed to state that no de-watering shall occur on site.

- 7.79 Pollution prevention measures are in place at site to prevent contamination of surface water and ground water from accidental fuel spills or leaks within the quarry are minimised. These would continue to be employed on site to prevent contamination of the water environment. In relation to the importation of restoration materials, strict waste acceptance procedures are in place to ensure that no potentially contaminating materials are used. This is monitored and enforced as part of the waste recovery permit issued by Natural Resources Wales. Should planning permission be granted, these pollution prevention measures would continue to be employed on site and monitored by Natural Resources Wales.
- 7.80 It is considered that with control measures in place, there would be no significant effect on the ground water environment. Under normal working conditions, no water is discharged off site. Therefore, there would be no significant effect on any of the adjacent water courses.
- 7.81 The assessment also considered the proposal and its potential impacts on nearby statutory sites. Caerwys Tufa SSSI is the closest statutory site but is not ground water dependent. There are no ground water-dependant sites of ecological interest downstream, or down gradient of the site, and no dewatering would be undertaken. Halkyn Common and Grasslands SSSI and Halkyn Mountain SCA are not located within the water catchment and therefore would not be effected. The proposal would not have a significant adverse effect on nearby protected sites from a hydrology or hydrogeology perspective.
- 7.82 Part of the extension area which encroaches into the woodland appears to contain spoil mounds or made ground which might be associated with former tufa extraction or lime works. However, boreholes and trial pits within the proposed extension area have found no evidence of contamination. As such, there is no risk of future contamination of water courses or ground water from contamination.
- 7.83 The hydrological and hydrogeological impact assessment concluded that the proposal would not have a significant adverse effect on the capacity, flow and quality of ground water or surface water. Cyfoeth Naturiol Cymru/ Natural Resources Wales do not object to the proposal in terms of impact on ground water. It is considered that the proposal would accord with Policies MIN3 and EWP 16 of the Flintshire Unitary Development Plan.
- 7.84 **Flood Risk**
In accordance with the requirements of TAN 15, a flood consequences assessment has been undertaken which considers the likelihood of the proposal causing flooding, or the site being

susceptible to flooding.

- 7.85 The assessment concluded the risk of flooding to the site is at most low. At present, surface water flooding is managed effectively within the site. During the operational phases of the quarry, occasional short-term pumping may be required to remove water from the site after periods of heavy rain. When the site has been restored, the site would drain directly into the water body in the quarry void and there would be no discharge from the site. The void is considered to have sufficient capacity to contain the estimated amount of water that could potentially drain into it. The flood consequences report concluded that the site satisfies the flood risk requirements set out in the guidance.
- 7.86 Natural Resources Wales note that the FCA has failed to recognise that the absence of a mapped flood outline associated with the tributary is not due to an absence of flood risk but is because of the limitations of the NRW Floodmap on which the Welsh Government's Development Advice Map zones are based, which does not consider catchments smaller than 3km². As a result, the potential flows and volumes entering the quarry area remain unknown. However, the submitted FCA has qualitatively addressed the unknown flows in the unnamed tributary of the Wheeler which flows past the western side of the application site, with reference to the capacity of the culvert just downstream of the quarry entrance. The FCA recognises that some flood flows from the tributary discharge into the quarry void, raising the lake level and disrupting production. Natural Resources Wales would accept that this could offer some flood alleviation to downstream reaches of the tributary and the River Wheeler, and does not object to the proposal in relation to flood risk.
- 7.87 The flood plain downstream of the site lies within Denbighshire. Denbighshire Council Council's Flood Risk Manager does not have any concerns in relation to flood risk. As such, it is considered that the proposal would accord with the provisions of Policy EWP17 of the adopted Flintshire Unitary Development Plan.
- 7.88 ***Community and Employment – Socio-Economic Assessment***
It is considered that the continued operation at Maes Mynan Quarry would lead to a number of socio-economic benefits to the local area. The primary benefit being the retention of five jobs at Maes Mynan, and a further seven jobs associated with the transportation and processing of material at neighbouring Fron Haul Quarry. The local and regional construction industries, particularly those located in the north and west of the site would continue to benefit from the position of the quarry which is closer than other principle sources of sand and gravel in the Wrexham area.
- 7.89 The operator feels that they have a good relationship with the local community and has spoken personally to the residents of properties in close proximity to the site to keep them informed with regards to the

proposals. Letters were sent to neighbouring community councils and the applicant has kept Caerwys Town Council informed. The applicant has invited the Town Council and other interested parties to visit the quarry to view current operations and discuss the proposals. There has only been one local resident objecting to the proposal.

7.90 The applicant has approached the local community to enquire if there is any interest locally for a Quarry Liaison Committee to be established. Whilst at present there seems to be little interest, the applicant is willing to establish one should there be the demand in the future. As such, they have proposed a scheme for the terms of reference of a Liaison Committee so that, should there be the interest in the future, the terms of reference would provide the framework and mechanism to establish one.

7.91 **Restoration**

The progressive restoration proposals for the site would return the site to meadow grassland with areas of woodland edge and tree planting, scrub vegetation, and marginal aquatic species located around a waterbody with wetland scrapes for nature conservation purposes and the creation of new water bodies, hibernacula and refugia adjacent to the existing quarry lagoons for amphibian mitigation. Small areas of bare sand habitat, and part of the north eastern working face would be retained to encourage biodiversity. Following the completion of the restoration of the site, there would be a five year aftercare period to ensure that the site is adequately maintained and managed after quarrying activities have ceased. A condition would be imposed to require the submission of a scheme to ensure that the site is managed and maintained appropriately for a period of five years. Annual aftercare meetings would take place to ensure that the site is being managed in accordance with the approved scheme.

7.92 Once restoration and planting has been completed, there would be no net loss of habitat due to the proposed restoration and planting. The restoration proposals would create new habitats and enhance existing habitats across the site. The proposal would result in a net gain of broadleaved woodland, grassland and wetland habitats above the currently approved restoration scheme.

7.93 During the consultation the AONB Joint Partnership suggested that opportunities for public recreation, active travel and access to enjoy the site should be included in the restoration scheme. Caerwys Town Council also requested a condition for access of the site once operations had ceased for the benefit of the community so that the biodiversity of the site could be enjoyed.

7.94 The applicant has considered two options for enhancing access and recreation opportunities for the site which involved the creation of permissive paths on the site, providing linkages with the existing public footpath network. Unfortunately due to landownership and

conflict with the proposed European protected species mitigation and the proposed nature conservation area, there does not appear to be any viable options for providing opportunities for recreational uses on site as the linkages would cross over land not within the ownership of the applicant and through the amphibian nature conservation area.

- 7.95 Also, given the proposed topography of the site following extraction, and the presence of the water body, options for recreation are limited. Therefore, due to the nature of the site, it is considered the appropriate after-use for the site to be one of nature conservation rather than recreation.
- 7.96 Should planning permission be granted, a condition would be imposed to ensure that the proposed planting scheme is implemented as approved, with flexibility to allow for changes in species should it be required.
- 7.97 The proposed restoration scheme is predominantly in keeping with the current approved restoration scheme. Given the net gain of broadleaved woodland across the site, and an appropriate planting plan is proposed, it is considered that the proposal accords with the provisions of Policies D3, TWH1, TWH3 and MIN4 of the adopted Flintshire Unitary Development Plan.

8.00 CONCLUSION

- 8.01 The proposal involves a lateral extension to the east of the existing Maes Mynan Quarry, working in two phases with progressive restoration for nature conservation purposes until 31 May 2023. This would present an extension of time to current permitted extraction by five years as the extant permission allows for extraction until 2018. Existing and proposed restoration profiles would be achieved by the importation of inert waste materials already consented under the existing waste recovery permit from Natural Resources Wales.
- 8.02 The quarry has been in place for many years and the proposed extension is modest in area and timescale, and is relatively small in the context of the existing consented operation. The additional impact on the AONB is therefore limited and relatively modest in extent. The Regional Technical Statement for aggregates identifies a medium term shortfall in sand and gravel reserves in Flintshire to meet anticipated need in central North Wales. This provides justification for the current proposals which will assist in meeting this need.
- 8.03 There is a demonstrable need for aggregate in the region and this proposal would provide sand and gravel as required by the Region Technical Statement for North Wales and contribute to the regional apportionment for sand and gravel. It is considered more favourable to extend existing sites as opposed to opening new sites as there is existing infrastructure in place to support further mineral extraction.

The additional five years required to complete the restoration is a realistic proposal based on existing extraction rates.

8.04 In considering this application the Council has taken into account all the environmental information and matters that are material to the determination of this application, as set out in the Application, Supporting Statement, Environmental Statement, amended plans and technical appendices. The environmental statement has considered and assessed the impacts of the proposed extension to the quarry in terms of landscape and visual amenity of the proposal and potential impacts on the adjacent AONB, impacts on ecology and nature conservation and adjacent designated sites/protected species, noise, air quality, traffic, transportation and highways, hydrology, hydrogeology and flood consequences, and socio-economic impacts of the proposed development and concludes that the proposal would retain some existing significant effects associated with the existing site which would be reduced and considered no longer significant as the progressive restoration of the site is undertaken. There are no significant residual effects predicted as a result of the proposal.

8.05 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 subject to conditions.

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.

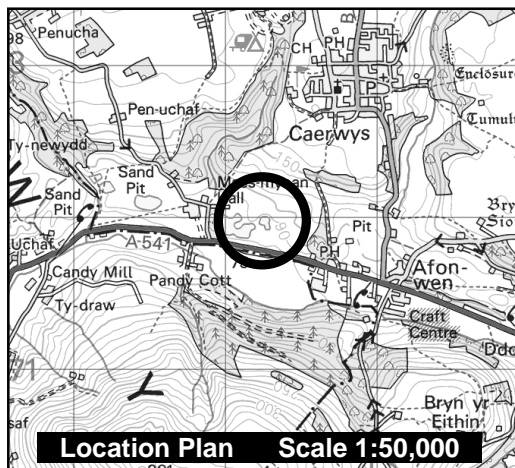
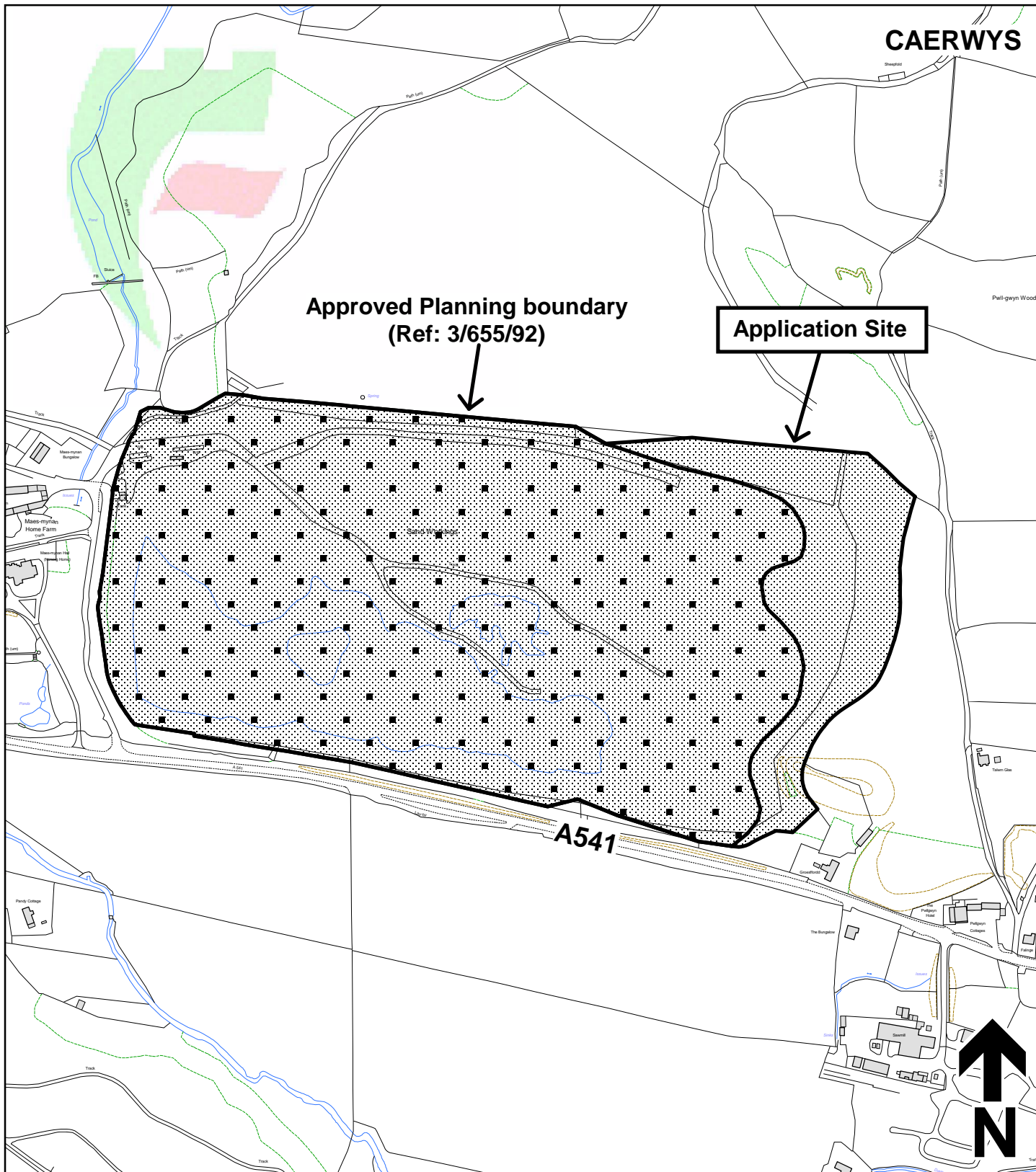
LIST OF BACKGROUND DOCUMENTS

Planning Application & Supporting Documents
Environmental Statement
National, Regional & Local Planning Policy
Responses to Consultation
Responses to Publicity

Contact Officer: Hannah Parish
Telephone: 01352 703253
Email: hannah.parish@flintshire.gov.uk

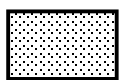

Approved Planning boundary
(Ref: 3/655/92)

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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Map Scale	1:5000
OS Map ref	SJ 1271
Planning Application	54707

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FLINTSHIRE COUNTY COUNCIL

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

DATE: **7TH SEPTEMBER 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**

Members will recall considering this application at the 20th July 2016 meeting of the Committee and opting to defer a determination pending clarification in respect of the site area relative to the allocation and a previous permission upon the site and the reasons behind the proposal not providing affordable housing.

The site is 0.94 hectares in area. Members are aware that the allocation within the Flintshire Unitary Development Plan indicates an area of 1.1 hectares to form the full allocation. Based upon this area and bearing in

mind the provisions of Policy HSG10, provision of affordable housing would be expected as the allocated site exceeds the 1 hectare threshold. When querying why the application site is less the allocation, Members were mindful that planning permission granted under 045048 has secured the provision of affordable housing even though the numbers of dwellings provided was less than the 25 dwelling threshold, being 23No.

In that case the site area was also below the 1 hectare threshold, being 0.95 hectares. It was considered at the time of granting permission, that the strictest application of Policy HSG8 was such that a higher number of units could be reasonably expected to be delivered. Therefore a sum in lieu of on-site affordable provision was secured.

Since the July Committee, the applicant has provided details which indicate that the development of this site for the proposed 24No. dwellings amounts to a development at a density of at least 30.53 d.p.h. This figure is calculated on the basis of the developable area of the site, discounting areas of amenity space, tree protection areas and the route of a sewer easement adjacent to Plot 1.

I am satisfied that this information demonstrates that the site is being developed in a manner which accords with the aims of Policy HSG8.

In addition, clarification has been received from the site owner who confirms that the allocated site included the family home and its garden areas. The letter confirms that in the light of a family bereavement since the allocation of the site, the house and its gardens are not available for development and therefore the full allocated 1.1 hectare site is reduced by 0.16 hectares by this omission. The allocated 1.1 hectare site will not therefore be available for development and the residual 0.94 hectares of land is that to which this application applies.

Accordingly, I am satisfied that the proposals are being developed in a manner which meets the requirements of policy HSG8 in terms of the best use of land, being a scheme which delivers development at a density compliant with the 30d.p.h expectation upon allocated sites within the UDP.

Therefore, the proposed development of 24No. dwellings upon this less than 1 hectare site would not trigger the provisions of Policy HSG10 to come to bear upon this application.

My recommendation that planning permission be granted in the terms set out below is therefore unaltered.

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 side 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

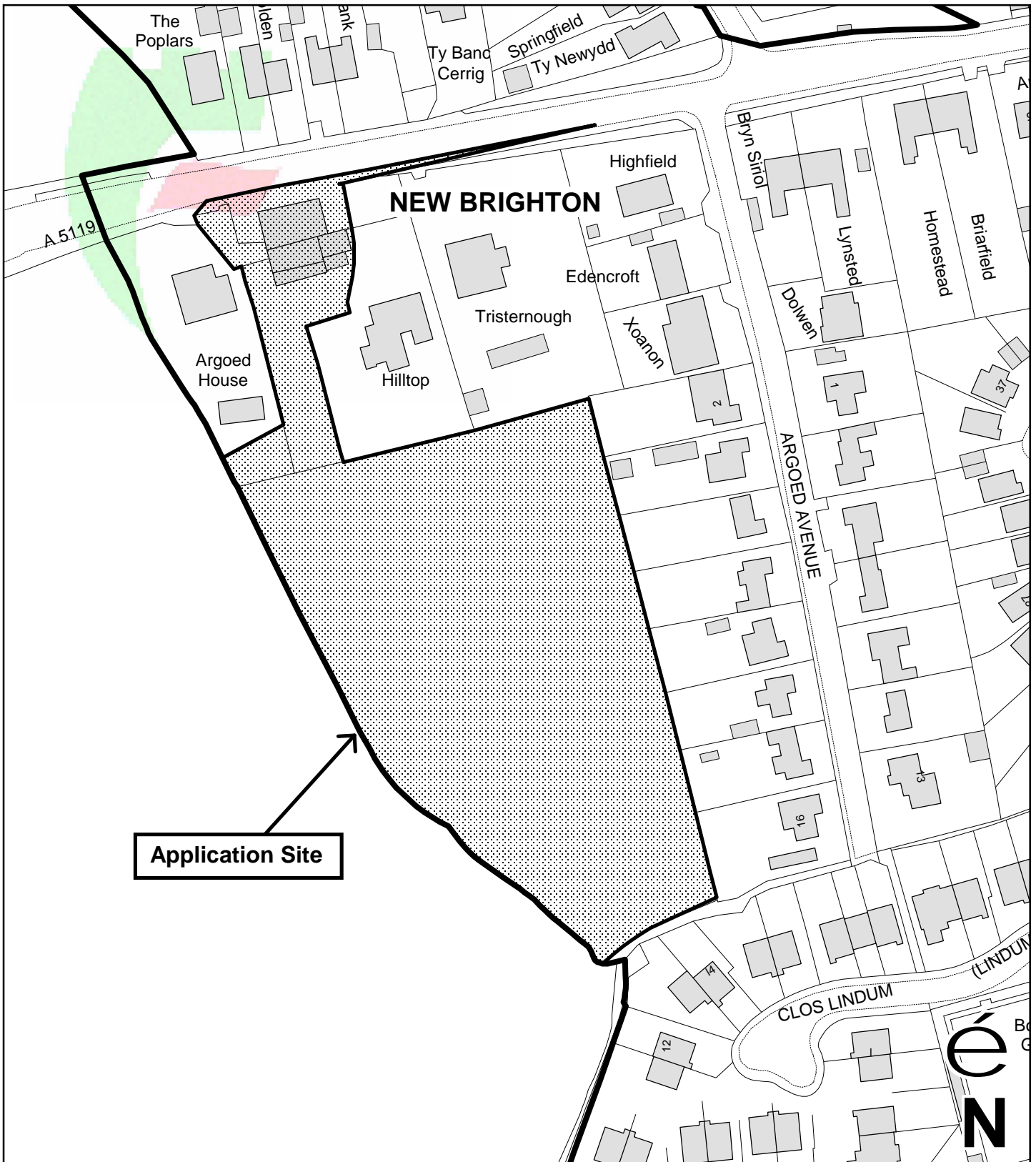
- 8.01 Having regard to the proposals and the above consideration of all relevant matters, I consider that these proposals represent a scheme, the detail of which is acceptable. I recommend that planning permission be granted subject to approximately worded planning conditions and the suggested legal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

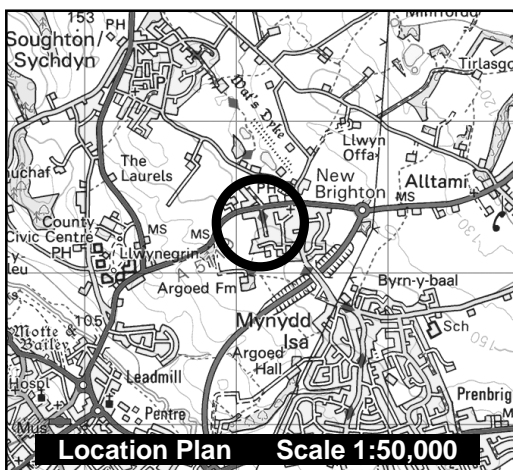
Planning Application & Supporting Documents
National & Local Planning Policy
Responses to Consultation
Responses to Publicity

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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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Map Scale 1:1250

OS Map ref SJ 2565

Planning Application **55310**

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FLINTSHIRE COUNTY COUNCIL

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

DATE: **WEDNESDAY, 7 SEPTEMBER 2016**

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

SUBJECT: **GENERAL MATTERS - ERECTION OF 56 NO. DWELLINGS WITH ASSOCIATED ACCESS, OPEN SPACE AND INFRASTRUCTURE AT KINNERTON LANE, HIGHER KINNERTON**

1.00 APPLICATION NUMBER

1.01 054770

2.00 APPLICANT

2.01 ELAN HOMES LTD

3.00 SITE

3.01 KINNERTON LANE,
HIGHER KINNERTON

4.00 APPLICATION VALID DATE

4.01 13TH JANUARY 2016

5.00 PURPOSE OF REPORT

5.01 At the Planning and Development Control Committee meeting on the 20th July 2016, members resolved to refuse the above application for two reasons. This report seeks agreement of the wording of the reason which relates to flooding and drainage concerns but also seeks agreement from Members to withdraw the reason for refusal in respect of agricultural land quality, on the basis set out below.

6.00 REPORT

6.01 In coming to the resolution to refuse to grant planning permission for the proposed development, Members expressed concerns in respect of the site drainage proposals and in particular, cited that there were

natural springs upon the site which gave rise to groundwater flowing across the site. There was concern that the submitted information did not demonstrate with sufficient certainty that the proposed drainage solution had addressed the management of this water.

- 6.02 In addition concerns were raised in relation to the proposed storage of water within the confines of the site in underground storage tanks. Whilst it was appreciated that these were required for the purposes of storage to ensure that run off rates from the site could be restricted to the 'greenfield rate', there was concern as to whether these were of a capacity sufficient to accommodate the surface water reasonably expected to arise from this development and whether these served any function in relation to the management of groundwater.
- 6.03 In view of this concern, the weight in favour of a proposal which does not otherwise accord with the Development Plan for reasons associated with a lack of 5 year housing land supply (paragraph 6.2 - TAN1), do not come to bear with such significance as compliance with all other applicable policy matters is not demonstrated.
- 6.04 Accordingly, it is proposed that the following wording be used in the decision notice:

The Local Planning Authority Considers that insufficient information has been provided in respect of the proposed drainage system to demonstrate that the development of this site would not result in an increased risk of flooding arising elsewhere further downstream. Accordingly the Local Planning Authority considers that the proposals are contrary to the provisions of policies STR1, GEN1, GEN3, HSG4 and EWP17 of the Flintshire Unitary Development Plan and fail to satisfy the requirements of Technical Advice Note 15 : Development and Flood Risk, and fails to satisfy Paragraph 6.2 of Technical Advice Note 1 – Joint Housing Land Availability Studies.

- 6.05 Turning to the second reason for refusal, which was based upon the loss of Best and Most Versatile agricultural land. It was suggested that the development of the site would give rise to the loss of agricultural land of such quality as to amount to land which is deemed to be of the Best and Most Versatile (BMV) quality. This was based upon the proposition that part of the site was graded at Agricultural Land Grade 3a.
- 6.06 The agricultural land quality assessment which formed part of the application particulars identifies that the Agricultural Land Classification (ALC) Maps for Wales identify the site and surrounding land to be of Grade 3 standard. However, the maps are only an indication of the classification and assessment of each site is required to establish whether the land is Grade 3. This assessment will identify whether the land is then either sub-grade 3a land or 3b land. 3a land is BMV land whereas 3b is not BMV land.

- 6.07 The evidence submitted to accompany the application on this point formed an assessment of the ALC as part of the wider assessment of ground conditions at the site. It identified that this site is classified as Grade 3b land due to its wetness and the numerous boggy areas across the site. The site does not therefore amount to BMV land. The Council has no evidence to counter this assessment.
- 6.08 Members will recall that where the Council chooses not to follow the professional advice of its officers, it will be required to produce evidence to substantiate its reasons for taking such a view in the event of an appeal. In light of the assessment accompanying the application, the Council has no evidence to support the contention and could not therefore properly defend such a reason for refusal in a subsequent appeal.
- 6.09 Accordingly, Members are invited to withdraw the reason in respect of the loss of BMV as a reason for refusal, and focus the refusal upon the sole drainage reason.

7.00 RECOMMENDATIONS

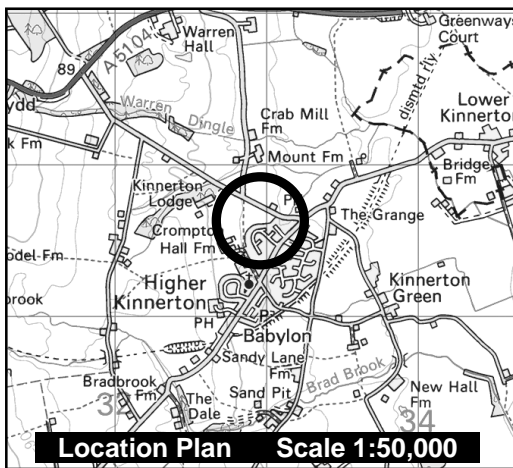
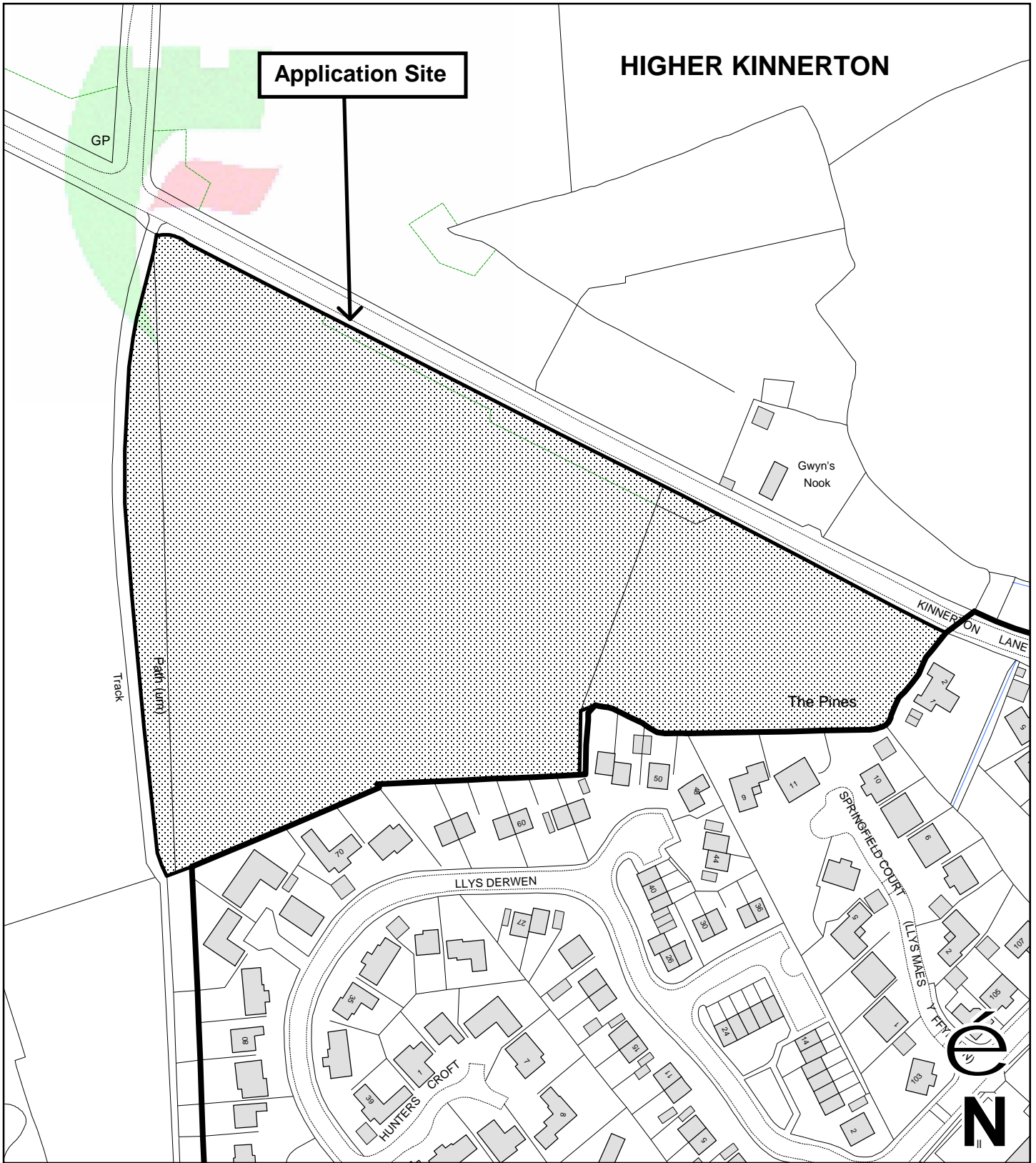
- 7.01 The suggested reason for refusal as set out in paragraph 6.04 above form the basis of the decision of the Council to refuse application Ref: 054770.

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 3261

Planning Application **54770**

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FLINTSHIRE COUNTY COUNCIL

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

DATE: **7TH SEPTEMBER 2016**

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

SUBJECT: **APPEAL BY MEMORIA LTD AGAINST THE DECISION OF FLINTSHIRE COUNTY COUNCIL TO REFUSE PLANNING PERMISSION FOR THE CONSTRUCTION OF A NEW CREMATORIUM, ASSOCIATED CAR PARK, ACCESS ROAD AND ANCILLARY WORKS, LANDSCAPING AND GARDENS OF REMEMBRANCE AT KELSTERTON LANE/OAKENHOLT LANE, NEAR NORTHOP – ALLOWED.**

1.00 APPLICATION NUMBER

1.01 052334

2.00 APPLICANT

2.01 Memoria Ltd.

3.00 SITE

3.01 Land at Kelsterton Lane/Oakenholt Lane,
Near Northop.

4.00 APPLICATION VALID DATE

4.01 20th June 2014.

5.00 PURPOSE OF REPORT

5.01 To inform Members of the Inspector's decision in respect of the refusal to grant planning permission for a new crematorium, associated car park, access road and ancillary works, landscaping and gardens of remembrance at Kelsterton Lane/Oakenholt Lane, Near Northop.

5.02 The application the subject of this appeal was refused following consideration at the Planning & Development Control Committee held on 12th February 2015 and the appeal was dealt with at a Public Inquiry held on 28th June – 1st July and 5 – 6th July 2016. The appeal was allowed, subject to conditions.

6.00 REPORT

6.01 The Inspector considered that the main issues in this case were:-

- Whether the proposal would provide an appropriate site for a crematorium in particular having regard to the need for it to be located in the countryside and its effect on the character and appearance of the area; and
- The effect of the proposal on highway safety.

6.02 In commenting on these main issues the Inspector concluded as follows:-

6.03 The Need for a Countryside Location

The Inspector drew specific reference to the requirements of the Cremation Act 1902 and the provisions of the Department of the Environment Guidance LG1/232/36 1978 – “The Siting & Planning of Crematoria”.

“The Inspector’s report advises that the Cremation Act requires no crematorium be constructed nearer to any dwelling house than 200 yards (182.9 metres), nor within 45.7 metres of a public highway. The guidance advises that ideally a site should be between 2 and 4 hectares, with a well wooded site with natural undulations and good views. These requirements and advice clearly require a relatively large and attractive area of land, away from existing dwellings and which inevitably restricts the availability of sites within settlements for such development. Nonetheless there is no express requirement for crematoria to be located in the countryside or relaxation of the normal restriction on development in the countryside in national policy that would allow crematoria to be located in the countryside as a matter of principle”.

6.04 The Inspector confirmed that whilst there is no dispute that there is a quantitative and qualitative need for a crematorium in Flintshire, that the following was also noted: (a) the Council’s view that a further assessment of the other alternative sites within the countryside should have been carried out with consideration given as to whether there were other more sustainable sites than the appeal site and (b) the Council’s and Rule 6 Party (J.E. Davies & Son) view that they do not accept that there is an essential need for the development to be located in this particular location in the open countryside.

- 6.05 The Inspector was satisfied that the criteria used by the appellant in carrying out an alternative site assessment was adequate and appropriate. The Inspector noted that most sites were discounted on the basis of their proximity to large infrastructure, commercial or industrial premises, which would not be considered to providing the ambience advocated by the guidance. Others were discounted due to their allocation for other uses such as employment.
- 6.06 In terms of the site's sustainability credentials it was concluded that the appeal site lies within a central location to the catchment area that it would serve and enable approximately 80,000 people to travel to the crematorium within 30 minutes. This would result in a significant mileage saving and associated reduction in CO² emissions and would be beneficial to local well-being.
- 6.07 The Inspector noted that the site is also located close to a regular bus route operating 11 buses a day (Monday – Saturday) with a bus stop located to the south of the site. The availability of other means of transport would provide a choice for users of the development in line with the objectives of Planning Policy Wales. The central position of the site was also considered by the Inspector to meet the sustainability objectives of Welsh Government.
- 6.08 The Inspector also commented on an alternative site at Starkey Lane put forward at the Inquiry by J.E. Davies & Son. The contention that the site would be located closer to main access routes and the built up area and provide a higher reduction in CO₂ emissions than the appeal proposal was also noted. The Inspector advised that no substantive evidence was provided in this respect. Nevertheless the Inspector concluded that the site at Tyddyn Starkey is too located within the open countryside and with a designated Green Barrier, which is a comparative designation to a Green Wedge and provides a presumption against inappropriate development in such locations. The Inspector noted that the Council has refused permission on this site on the basis that it has not been demonstrated that there are no other suitable sites outside the Green Barrier that could meet the need. As such the Inspector did not consider the potential of the alternative site to be demonstrably preferential to the appeal site.
- 6.09 Character & Appearance
From the evidence provided and the Inspector's own observations, the Inspector considered that the site contains the characteristics and features of the wider mosaic rolling lowland. This comprises an attractive area of medium sized agricultural fields, strongly bordered by mature hedgerows, trees and woodlands with an overall undulating landform.
- 6.10 Whilst noting the consideration that the site has an overall higher landscape value than its surroundings the Inspector did not concur with this view as it does not comprise any national or local landscape

designation and its value is influenced by the presence of power lines and pylons, the busy B5126 and the surrounding dispersed pattern of development of farms, houses and diversified farm buildings.

- 6.11 The Inspector noted that the introduction of a new crematorium, associated car park, access road, (involving the removal of a small section of hedgerow to create an access point) and ancillary works, landscaping and gardens of remembrance would inevitably result in a change to the character and appearance of the site and change the use from agricultural land.
- 6.12 The Inspector noted however that the land to be utilised is not the best and most versatile agricultural land and the proposal would retain the mosaic of medium sized fields divided by mature hedgerows and trees. The development would comprise a relatively low level building that would not be of such a size or scale as to be out of keeping with other buildings within the general area. Whilst the gardens of remembrance would comprise a more manicured landscape, they would not be out of character with other properties in the landscape that contain landscaped and ornamental gardens.
- 6.13 The Inspector noted the contention of J.E. Davies & Son's that the proposed widening of Oakenholt Lane would result in the likely loss of parts of the hedgerows and the need for regular maintenance to provide visibility splays, would result in them being out of character with the area due to their heavy cut appearance.
- 6.14 Whilst the Inspector noted that there would be some loss of trees and remedial works to branches to achieve the visibility splays, the hedgerows and remaining trees would remain as a result of the cutting back. Evidenced as a result of the site visit undertaken by the Inspector, a formation cut of the hedgerows had been undertaken, with it being agreed at the Inquiry that this had not resulted in their destruction and with regrowth and supplemental planting, the Inspector did not consider this to be out of character with the overall landscape as maintained hedgerows are a feature of the surrounding area.
- 6.15 As such the Inspector is satisfied that the proposal would not be harmful to the visual and sensory aspect of the landscape character. Whilst acknowledging that the proposal would result in the loss of agricultural land, this would represent a small proportion within the wider landscape and does not comprise the best and most versatile land. The Inspector is therefore satisfied that the development would not result in any material harm to the overall cultural, historic, landscape habitat or geological aspects of the landscape character.
- 6.16 In respect of visual amenity, the Inspector notes that the site is surrounded by a network of local roads with a number of footpaths to the north-west, west and east. Whilst there would be some views of

the development from this road network, these are partially filtered by vegetation and due to the sunken nature of the lanes behind hedgerows, there would be few open views of the site. In addition the Inspector considered that whilst there would be some views from nearby footpaths, as these are located some distance away from the proposed development, this would not comprise a dominating or intrusive feature in this context.

6.17 In conclusion, the Inspector considers that the proposal would provide an appropriate site for a crematorium that would not be harmful to the character and appearance of the area.

6.18 Highway Safety

The Inspector drew specific reference to National and Local Planning Policy requirements to ensure that an acceptable vehicular access can be provided to serve the proposed development. The Inspector specifically comments on the acceptability of the existing road network, widening of Oakenholt Lane, visibility splays and Forward Sight Stopping Distances (FSSD) which are referenced in further detail below.

6.19 Existing Road Network

The Inspector noted the concerns of the Council and J.E. Davies & Son together with third party representation that the development would result in the use of a substandard existing highway network through nearby villages and approach roads and the associated impact on highway safety.

6.20 The Inspector references disputes between parties regarding the precise routes that would be most commonly used to access the site, some of which were based on the use of satellite navigation systems with a range of data provided to the Inquiry to this effect.

6.21 In addition, the Inspector referenced differences between the parties in respect of the likely number of traffic movements with the appellant relying on an average figure based on observation of several crematoria and the Council relying on the 85th percentile trip generation based on one crematorium over one week.

6.22 The Inspector notes that the nature of a crematorium is such that the number of cars accessing the site per service can vary considerably and range from 2 – 200 vehicular movements per service with an average of four or five services taking place per day.

6.23 The Inspector notes that with the exception of Oakenholt Lane which is considered in further detail in the decision letter, that there is no evidence that the surrounding road network could not accommodate the increase in traffic. The Inspector considers that most people would seek to travel to the crematorium by the quickest route rather than the shortest, which on the evidence submitted and Inspector's

observations would result in the catchment area using the main arterial routes rather than the more localised and rural village roads which are designed for heavier traffic volumes and it is considered by the Inspector could accommodate the additional traffic.

- 6.24 The Inspector does however make reference to all of the various routes into the site and whilst acknowledging that some mourners may enter or leave through Northop or Northop Hall that the roads would be capable of absorbing the additional traffic without causing harm to road safety. In addition the Inspector considers that the situation would be controlled through services being operated at hourly intervals to minimise traffic travelling in both directions at the same time.
- 6.25 The Inspector also notes the impact of traffic on Oakenholt Lane if people use a navigation system to access the site. The Inspector notes that Oakenholt Lane narrows at the northern end where it becomes Papermill Lane, but that it is illogical that much of the catchment area would seek to use the northern section of Oakenholt Lane in preference to main routes and the southern end of the lane as it would not provide the quickest or more direct route.
- 6.26 The Inspector advises that the nature of a crematorium is such that visitors would be unfamiliar with the destination and seek directions prior to attending. This it is considered would be normally done through accessing the crematorium's web site or by a phone call with instructions given as to the most relevant postcode or reference point for navigation from the south. Even should the northern sector of Oakenholt Lane be utilised, it is considered by the Inspector that on the basis of peak flow traffic data, that an average number of 25 vehicles per service is likely to be minimal in relation to traffic flows and would not be harmful to highway safety.

Widening of Oakenholt Lane

The proposal includes the widening of a 170 m section of the southern end of Oakenholt Lane to 4.8 m with the Inspector acknowledging concerns raised that this would not be sufficient to allow two cars to pass comfortably.

- 6.27 The Inspector notes that this stretch of road is of straight alignment, and is subject to an advisory sign against use by HGVs and whilst there are no road demarcations the carriageway would have a 450 mm edge clearance of the hedgerows which would minimise vehicles needing to drive shy of the hedgerows. The Inspector considers that this is typical of the rural nature of numerous roads that accommodate a range of vehicles including cars, vans, lorries and farm machinery. Whilst the Inspector noted accidents reference by local residents no recorded accidents have taken place in the last five years. As most traffic generated by the proposal would be travelling in one direction due to the time intervals between the services this would reduce the

likelihood of additional traffic passing in either direction. The Inspector is therefore satisfied that the width would enable two cars to pass each other without conflict.

- 6.28 The Inspector also draws specific reference to Manual for Streets Guidance which indicates that where cars and lorries meet in a carriageway of 4.8 m they would be able to pass each other. The Inspector concluded that an increased width to 4.8 m would not result in unacceptable risks to highway safety and would enable the hedgerows to be retained to the benefit of the character and appearance of the area.
- 6.29 Visibility Splays
The Inspector noted that visibility splays can be provided to serve the development in line with guidance contained within the Design Manual for Roads and Bridges (DMRB).
- 6.30 The Inspector acknowledges that to retain the visibility splays that the hedgerows will require regular maintenance with some dispute expressed at the Inquiry as to how often that would need to be undertaken. The Inspector concludes that the maintenance of the hedgerows 2/3 times a year is realistic and not unduly onerous or unreasonable. This requirement is to be secured through the obligation in the Undertaking provided at the Inquiry.
- 6.31 Forward Sight Stopping Distances
The Inspector notes concerns that in applying DMRB Standards for FSSD due to limited visibility on the approach to the site from access to the north, that there are concerns that there may be conflicts and increased risk of rear end shunts due to the lack of forward visibility.
- 6.32 The Inspector notes that DMRB has been developed principally for motorways, trunk roads and other roads with similarly characteristics. Where it is applied to local roads it shall be decided the extent to which the document is appropriate in any given situation.
- 6.33 The Inspector concludes that following the taking of measurements on site that the access could be viewed from the edge of the carriageway at a distance of approximately 115 m to the north.
- 6.34 Whilst the Inspector acknowledges that this falls below the DMRB standards, this is based on worst case weather situations such as snow and is applicable primarily to major busy routes with heavy traffic flows. Furthermore, evidence was provided by J.E. Davies & Son in respect of the available forward visibility and measurements were taken at the site visit. On the evidence provided the Inspector confirms that at the time of the site visit, the site access could be viewed from the edge of the carriageway at a distance of approximately 115 metres to the north. Whilst this clearly falls below the DMRB recommended standard, the evidence provided indicates

that this is based on stopping distances with a braking force in worst case situations such as on snow and is applicable primarily to major, bus routes with heavy traffic flows. Furthermore, traffic travelling south has right of way, and there is no reason why priority would be given to vehicles turning into the crematorium necessitating the need to stop. Even if they did, the Inspector acknowledges that it is courteous to allow a cortege to pass without stopping and, the traffic levels referred to are not so significant to lead to the likelihood of a tailback of multiple vehicles. At worst, based on the vehicle numbers, it is likely that only up to 2 cars would be stopped for a short period of time.

6.35 The Inspector commented that the proposed FSSD to the north would be sufficient to ensure that there would not be an unacceptable risk to highway safety and on the basis of the evidence submitted a satisfactory FSSD would be provided to the south.

6.36 Concern relating to the need for vehicles to cross the centre of the highway to access/exit the site and the resulting potential for conflict were noted by the Inspector. On the basis of the swept path diagrams provided, the Inspector is satisfied that there is little likelihood of the majority of vehicles needing to cross the centre of the carriageway to represent an unacceptable risk.

6.37 Other Matters

The Inspector references J.E. Davies & Son and third parties contention that an alternative site at Starkey Lane offers a more suitable location than the appeal site given the concerns relating to the proposal's impact on landscape character and highway safety. The Inspector notes and takes into account case law cited in respect of the consideration of alternative sites, particularly as the evidence suggests that there is only a need for one crematorium to serve Flintshire.

6.38 The Inspector concludes that the proposal the subject of the appeal is acceptable on landscape and highway safety grounds and taking into account that the alternative site at Starkey Lane is also located within the open countryside and additionally within a Green Barrier the Inspector is satisfied that the potential of this alternative site is not demonstrably preferential to the appeal site, sufficient to justify the refusal of the appeal proposal.

7.00 CONCLUSION

7.01 The Inspector concluded that the appeal should be allowed subject to the imposition of conditions and the requirements of the Unilateral Undertaking regarding the maintenance regime of the hedgerows on Oakenholt Lane.

LIST OF BACKGROUND DOCUMENTS

Planning Application & Supporting Documents

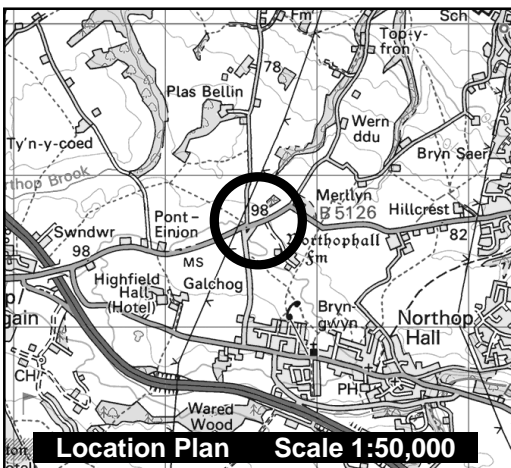
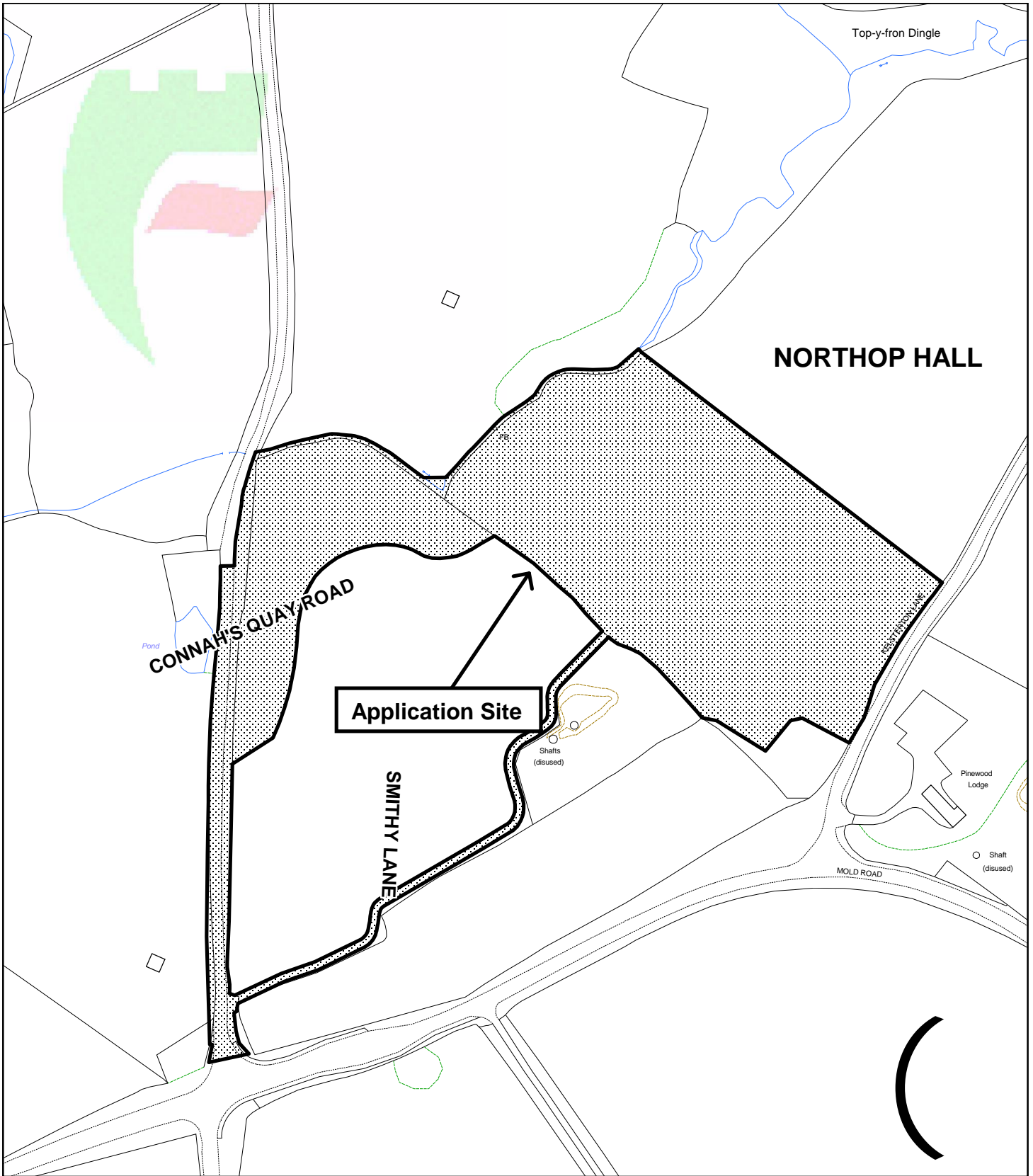
National & Local Planning Policy

Responses to Consultation

Responses to Publicity

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Email: mark.harris@flintshire.gov.uk

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Planning & Environment,
Flintshire County Council, County Hall,
Mold, Flintshire, CH7 6NF.

Chief Officer: Mr Andrew Farrow

Legend



Planning Application Site



Adopted Flintshire Unitary
Development Plan
Settlement Boundary

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OS Map ref SJ 2668

Planning Application **52334**

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FLINTSHIRE COUNTY COUNCIL

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

DATE: **7TH SEPTEMBER 2016**

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

SUBJECT: **APPEAL BY LYONS HOLIDAY PARKS AGAINST THE DECISION OF FLINTSHIRE COUNTY COUNCIL TO REFUSE PLANNING PERMISSION FOR USE OF LAND FOR SITING OF 1 NO. STATIC CARAVAN AS ANCILLARY MANAGERS ACCOMMODATION AT ST. MARYS CARAVAN CAMP, MOSTYN ROAD, GRONANT – DISMISSED.**

1.00 APPLICATION NUMBER

1.01 052381

2.00 APPLICANT

2.01 Lyons Holiday Parks

3.00 SITE

3.01 St. Marys Caravan Camp,
Mostyn Road, Gronant.

4.00 APPLICATION VALID DATE

4.01 18th November 2014

5.00 PURPOSE OF REPORT

5.01 To inform Members of the decision of the Planning Inspectorate on an appeal which followed the refusal under delegated powers of an application for the siting of a static caravan for use as a residential wardens accommodation. The appeal was considered under written representations and was DISMISSED

6.00 REPORT

- 6.01 The Inspector considered the main issues in this case to be:
- Whether the development represented inappropriate development in the Green Barrier.
 - Whether there would be any other harm to the Green Barrier.
 - Whether the benefits of the development would clearly outweigh any harm to the Green Barrier together with any other harm, and thus justify the development on the basis of exceptional circumstances.
 - The effect of the proposal on flooding
- 6.02 The appeal site lies within an area designated as Green Barrier (GB). National planning guidance, contained within Planning Policy Wales (PPW), makes it clear that new development in a GB is inappropriate except under certain circumstances including for the purposes of informal recreation. Inappropriate development is, by definition, harmful to the GB. This is reiterated in policy Gen4 of the Flintshire Unitary Development Plan (UDP).
- 6.03 St Mary's is an open caravan park with demarcated pitches accessed by a road network and served by a single storey building that houses reception and other facilities. The site operates between the 1 March and 14 January each year. The site is an open one and reflects the rural nature of its surroundings. In the Inspectors opinion the siting of the proposed static caravan as permanent residential accommodation within the setting would undermine the area's open rural character by introducing new, built development into the open countryside. The proposed development would be visible from surrounding countryside and would be out of character with its predominantly rural surroundings. It would undermine the openness of the GB as a result.
- 6.04 The appellant stated that a warden on site is important in order to address normal day to day functions of the site. The Inspector noted how it may be useful to have a member of staff permanently on site to manage incidents, for security purposes and for the proper use of resources.
- 6.05 After giving consideration to these matters the Planning Inspector concluded that any and all of the functions of wardens could be met by alternative accommodation either within the existing facilities building, or a touring caravan or other accommodation. This was considered to be particularly the case during the off season despite its short duration.
- 6.06 The site lies within a C1 flood zone and the appellants submitted a flood consequences assessment. The Environment Agency considered that the siting of additional accommodation would represent additional vulnerable development and would not meet the

criteria for acceptable development in a flood zone, or could be acceptably managed in accordance with guidance, contained within Technical Advice Note 15 – *Development and Flood Risk* (TAN15). The Inspector concurred with this view. Whilst considering the role a Warden may play in the flood warning and evacuation plan the Inspector considered that this does not outweigh the risk that has been identified in introducing new permanent development within a flood zone

7.00 CONCLUSION

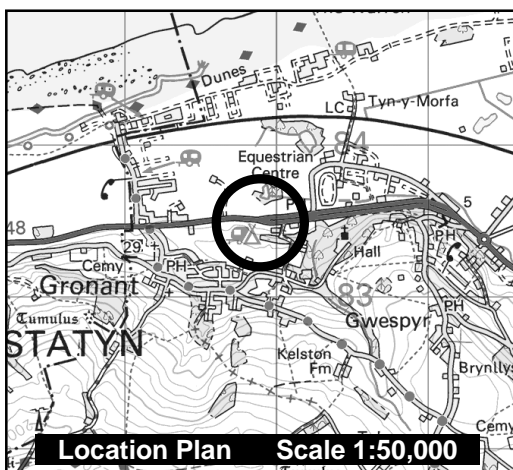
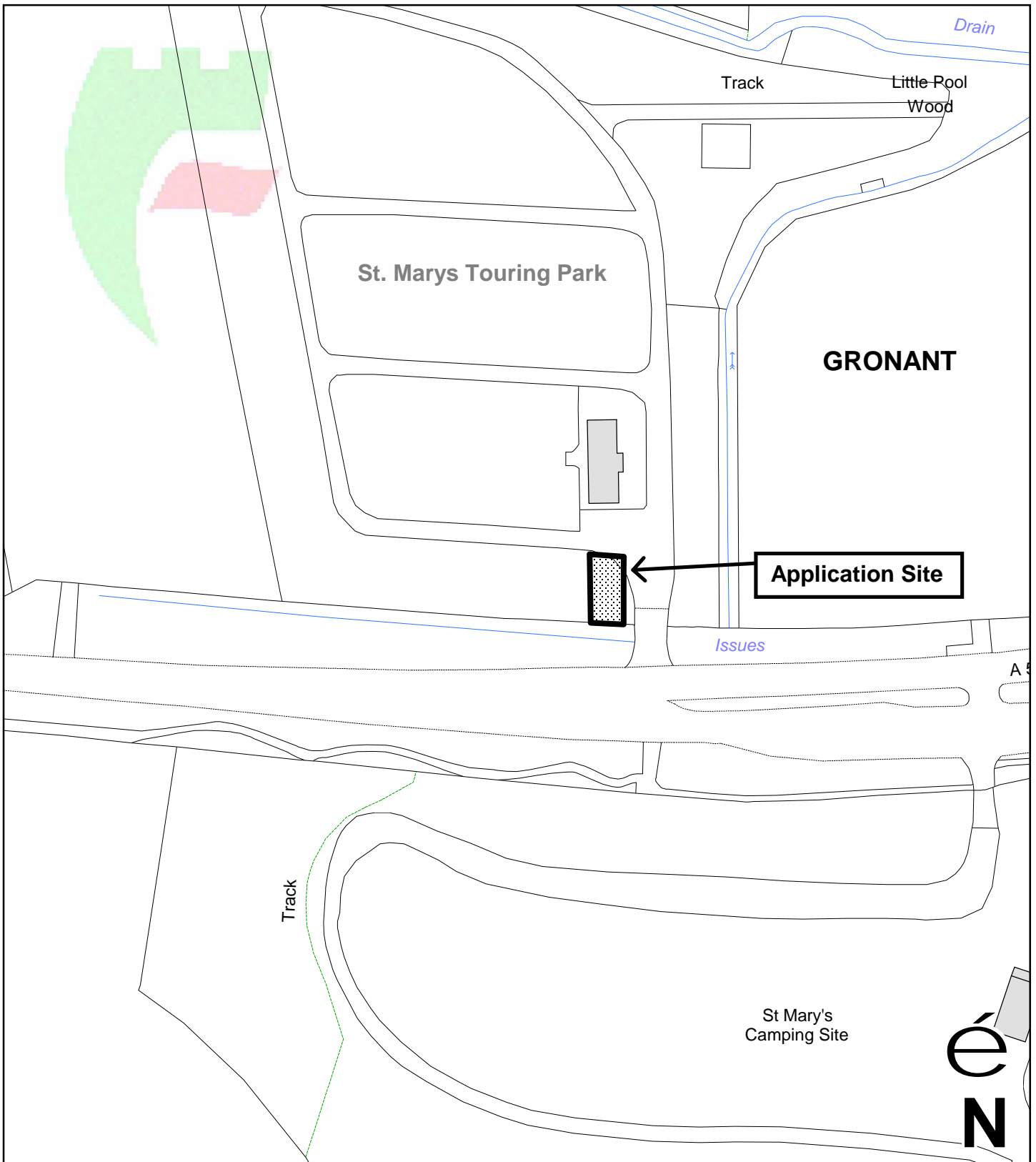
- 7.01 Overall, The Inspector concluded that the proposal is inappropriate development in the GB. There would also be other harm to the character and appearance of the area, and in flood risk as a result of the proposal. However, there are no exceptional circumstances in terms of the needs to service the essential functioning of the site, or in administering a flood warning and evacuation plan, which clearly outweigh the harm by reason of inappropriateness.
- 7.02 The proposal is therefore contrary to policies Gen1, Gen 3, Gen 4, HSG4 and EWP17 of the UDP and national guidance within PPW, TAN6 and TAN15. Consequently and having considered all other matters raised, the Planning Inspector concluded that the appeal should be **DISMISSED**.

LIST OF BACKGROUND DOCUMENTS

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



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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 0983
Planning Application	52381

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FLINTSHIRE COUNTY COUNCIL

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

DATE: **7TH SEPTEMBER 2016**

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

SUBJECT: **APPEAL BY PHB(NW) LTD AGAINST THE DECISION OF FLINTSHIRE COUNTY COUNCIL TO REFUSE PLANNING PERMISSION FOR SITING OF AN ADDITIONAL 4 TOURING CARAVAN PITCHES WITH HARDSTANDINGS AND PROVISION OF AN ACCESS (RETROSPECTIVE) AT MISTY WATERS CARAVAN PARK, LLOC – ALLOWED.**

1.00 APPLICATION NUMBER

1.01 053202

2.00 APPLICANT

2.01 PHB (NW) LTD

3.00 SITE

3.01 MISTY WATERS CARAVAN PARK,
LLOC

4.00 APPLICATION VALID DATE

4.01 2nd February 2015

5.00 PURPOSE OF REPORT

5.01 To inform Members of the appeal decision, following the delegated decision to refuse to grant planning permission for the siting of an additional 4No. touring caravan pitches with hardstandings and the provision of an access (retrospective) Misty Waters Caravan park, Lloc, Holywell. The appeal was considered by way of an exchange of written representations and was ALLOWED.

6.00 REPORT

- 6.01 The Inspector considered the main issue to be the effect of the proposals upon the character and appearance of the area.
- 6.02 The appeal site comprises two separate sections upon the western boundary of a larger caravan site. The application had sought permission for the siting of an additional 4No. pitches to the wider site. The Inspector noted that the pitches are in essentially the same position as 4No. pitches previously approved by the Council under Planning Permission Ref: 049102 and therefore concluded that the effect of the development insofar as siting was concerned was neutral.
- 6.03 He considered the provisions of Policy T6 and noted that the proposal (together with the scheme for the amended layout for 25No. pitches on the remainder of the field) amounted to an increase in the number of pitches equivalent to a 16% rise. Whilst this exceeded the policy guidance that increases should not exceed 10%, he noted the purpose of the policy was to protect landscape character.
- 6.04 Having concluded that the proposed siting did not give rise to an adverse visual or landscape impact, he turned to consider the hard surfaces proposed in the scheme, namely the pitch bases and the access roadway to a further field parcel. In both cases he concluded that whilst they presently appeared quite stark, this was only so at close range views. He considered the screening effect of existing hedgerows and trees and additional landscaping would, in combination, ensure that wider landscape and character impacts would be avoided.
- 6.05 He therefore concluded that the proposals accorded with policies GEN1, L1 and T6 as the proposals provided for the protection of the character and appearance of the site and landscape but allowed for the modest extension of existing touring caravan sites.

7.00 CONCLUSION

- 7.01 The Inspector concluded that the proposal was not unacceptable in the terms presented and would not give rise to unacceptable impacts upon the character and appearance of the area and was not therefore contrary to the applicable policies and consequently the appeal was ALLOWED.

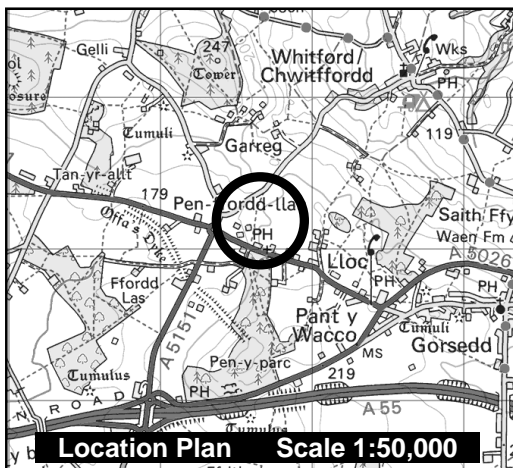
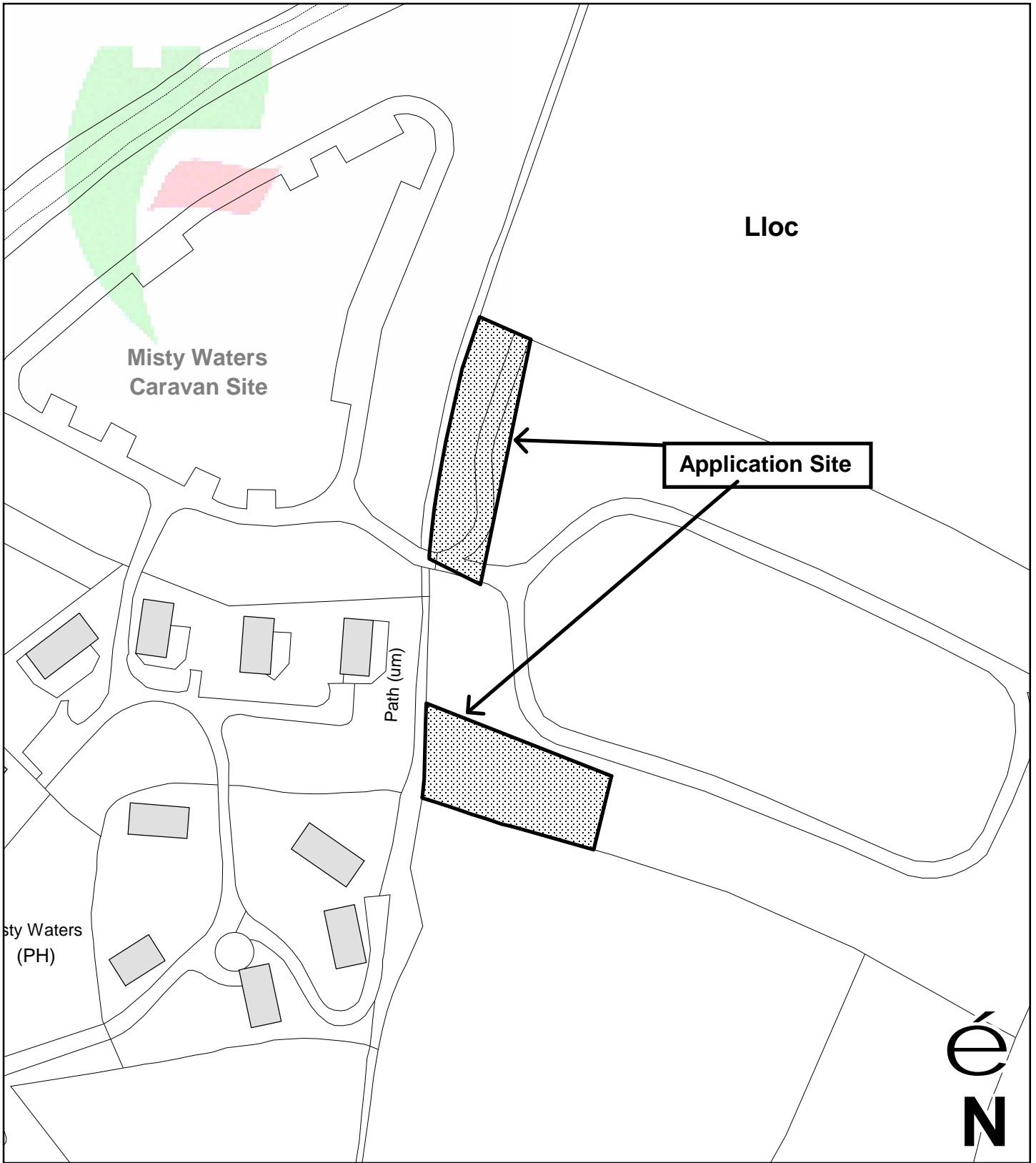
LIST OF BACKGROUND DOCUMENTS

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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OS Map ref	SJ 1377
Planning Application	53202

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FLINTSHIRE COUNTY COUNCIL

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

DATE: **7TH SEPTEMBER 2016**

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

SUBJECT: **APPEAL BY PHB (NW) LTD AGAINST THE DECISION OF FLINTSHIRE COUNTY COUNCIL TO REFUSE PLANNING PERMISSION FOR CHANGES TO THE LAYOUT OF 25 NO. TOURING CARAVAN PITCHES (PREVIOUSLY APPROVED UNDER PLANNING PERMISSION REF: 049102) AND TEMPORARY RETENTION OF 2 NO. 'PORTA-CABINS' FOR USE AS A TEMPORARY TOILET/AMENITY BLOCK TO SERVE THE TOURING CARAVAN SITE (RETROSPECTIVE) AT MISTY WATERS CARAVAN PARK, LLOC – ALLOWED.**

1.00 APPLICATION NUMBER

1.01 053731

2.00 APPLICANT

2.01 PHB (NW) Ltd

3.00 SITE

3.01 Misty Waters Caravan Park,
Lloc.

4.00 APPLICATION VALID DATE

4.01 19th May 2015

5.00 PURPOSE OF REPORT

5.01 To inform Members of the appeal decision, following the decision of Members to refuse to grant planning permission at the Planning and Development Control Committee held on 16th December 2015 for changes to the layout of 25No. touring caravan pitches (previously approved under P.P ref: 049102) and temporary retention of 2 No. 'porta-cabins' for use as a

temporary toilet/amenity block to serve the touring caravan site (retrospective) at Misty Waters Caravan park, Lloc, Holywell. The appeal was considered by way of an informal hearing held on the 12th July 2016 and was ALLOWED.

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

6.00 REPORT

- 6.01 The Inspector considered the main issue to be the effect of the proposals upon the character and appearance of the area.

- 6.02 The appeal site lies within an area of open countryside and forms an extension to an existing established caravan site. The application had sought permission to amend the layout of 25No. pitches which already have planning permission and concentrate those into a smaller area within the site itself. The Inspector identified that that the position of the majority of the pitches was unchanged and its was an additional pitch on the northwest corner of the site and three additional pitches close to the eastern boundary near to the amenity block which represented the amendments to the previously approved layout.

- 6.03 It was the Council's case that the amended additional pitches would give rise to an increased concentration of pitches in the most exposed area of the site, occasioning an increased detrimental visual impact upon the landscape character and appearance of the area. The Council argued that the Landscape and Visual Impact Assessment (LVIA) which had accompanied the extant scheme application for this site had not been updated and submitted to support the appeal scheme, and therefore the effects of the changes between the two schemes could not be properly established.

- 6.04 In arriving at his decision the Inspector considered that the additional pitch in the northwest corner of the site was well screened and inconspicuously located. Whilst the Inspector noted that the other 3 pitches would be more visible from public viewpoints in the locality, especially during winter months, he took the view that the pitches would be viewed in the context of a caravan site rather than in isolation. He noted that existing hedgerows and trees afforded a degree of screening but concluded that a condition requiring further landscaping would be required.

- 6.05 He did not agree with the Council that an updated LVIA was required. He considered that the appeal scheme represented a minor change to the extant permission and therefore an updated LVIA was not necessary to establish the landscape and visual impacts of the amended layout.

- 6.06 He noted that temporary permission was sought for the porta-cabin toilet/amenity blocks and noted that they were located in a prominent part of the site which, as a consequence of their appearance are visible in longer distant views. He considered the appellants explanation in relation to

difficulties securing the originally approved toilet/amenity building and concluded that a condition requiring the removal of the porta-cabins by 14th February 2017 would mitigate against longer term harm.

6.07 He noted that the extant permission for the site had been granted subject to a legal agreement in respect of the rescinding of an original touring caravan permission upon the neighbouring part of the wider site. A new Unilateral Undertaking (UU) was offered at the hearing which made the same provisions. The Inspector afforded this UU significant weight as being necessary to ensure that the character and appearance of the area was protected.

6.08 In concluding to allow the appeal, the Inspector considered that conditions (in addition to those referenced earlier) would be required to afford control. Most notable amongst these are the requirements for the caravans to be sited only for holiday purposes and for no winter storage of caravans. The permitted season was restricted to 14th February to 14th January in the following year.

6.09 **Costs**

In deciding to make an award for full costs in favour of the Appellant, the Inspector considered that the Local Planning Authority had acted unreasonably in refusing planning permission.

6.10 Whilst he accepted that the appeal scheme results in a different visual and landscape effect compared to that of the extant permission that in itself was not a sufficient reason to justify the refusal of permission. He considered that the Council had failed to provide sufficient evidence to substantiate that view and concluded that there was little in the Council's evidence to explain how the appeal scheme would result in materially different visual and landscape impact sufficient to warrant refusal.

7.00 **CONCLUSION**

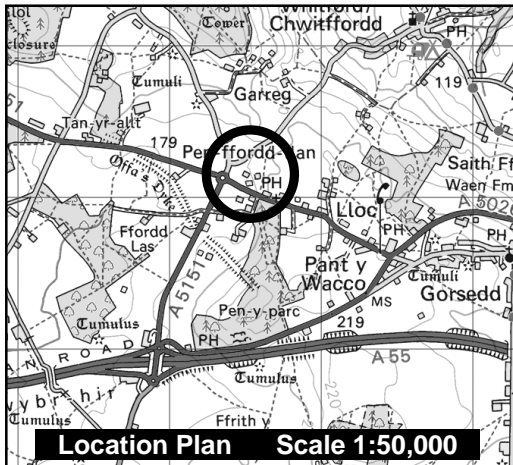
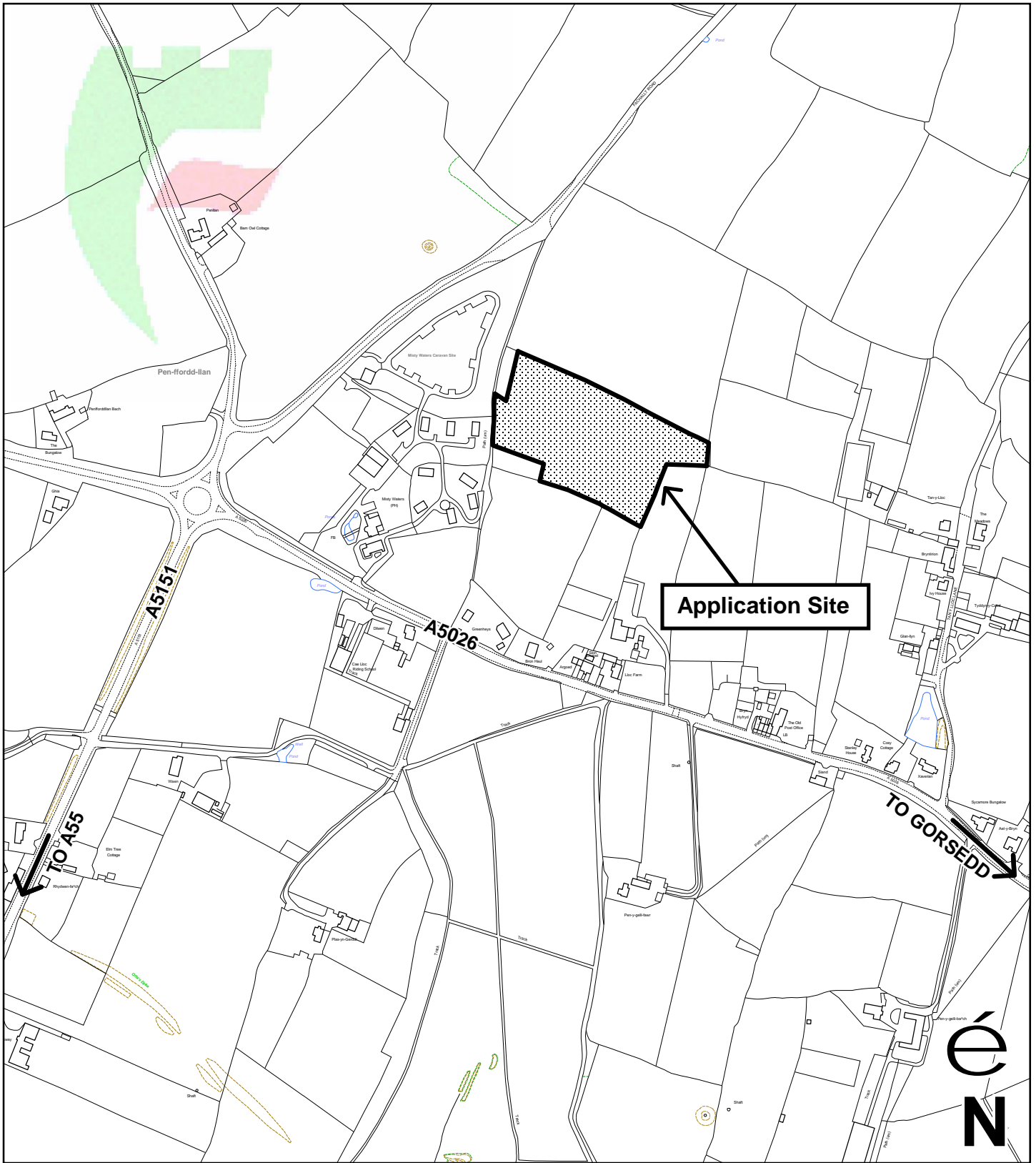
7.01 The Inspector concluded that the proposal was not unacceptable in the terms presented and would not give rise to unacceptable impacts upon the character and appearance of the area and was not therefore contrary to the applicable policies and consequently the appeal was ALLOWED.

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 1377

Planning Application **53731**

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FLINTSHIRE COUNTY COUNCIL

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

DATE: **7TH SEPTEMBER 2016**

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

SUBJECT: **APPEAL BY MR. MARTIN ROONEY AGAINST THE DECISION OF FLINTSHIRE COUNTY COUNCIL TO REFUSE PLANNING PERMISSION FOR A PROPOSED NEW VEHICULAR ACCESS TO SERVE PLOT 5 ONLY OF PREVIOUSLY CONSENTED GYPSY SITE AT EWLOE BARN WOOD, MAGAZINE LANE, EWLOE – ALLOWED.**

1.00 APPLICATION NUMBER

1.01 054095

2.00 APPLICANT

2.01 Mr. M. Rooney

3.00 SITE

3.01 Ewloe Barn Wood,
Magazine Lane, Ewloe.

4.00 APPLICATION VALID DATE

4.01 03.08.15

5.00 PURPOSE OF REPORT

5.01 To inform Members of the Inspector's decision in relation to the decision of Planning and Development Control Committee on 24th February 2016 to refuse to grant planning permission for a vehicular access to serve plot 5 only at land at Ewloe Barn Wood, Magazine Lane, Ewloe. The decision was contrary to officer recommendation. 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 impact of the proposal on the open character of this area of countryside within a Green Barrier in the light of Policies GEN3 and GEN4 of the Flintshire Unitary Development Plan. The Inspector noted the site's history.
- 6.02 The Inspector noted that the site is in the green barrier as defined by Policy GEN4 of the Flintshire Unitary Development Plan. He observed the site's boundary with Magazine Lane comprises a wide verge with trees and hedging and the ditch. He noted that there are gaps in the vegetation and a section has been cleared around the proposed access. He also noted that fencing had been erected in this location with a gap reminding of the proposed access.
- 6.03 The Inspector considered that comments regarding the principle of the use, that it would contribute to the coalescence of settlements and whether it would constitute inappropriate development are not relevant to this proposal for associated works.
- 6.04 The Inspector did not consider that the works proposed as part of this application would unacceptably harm the open character of this area of countryside even within a green barrier context due to the small scale of the works and the mitigation in the form of new planting. He concluded that the proposal would not be in conflict with policy GEN4 or other policies of the Flintshire Unitary Development Plan.
- 6.05 Considerable emphasis was placed by objectors on the importance attached to the existing trees and hedging around the site in the previous appeal decisions. He notes the previous Inspectors comments about the screening of the site but also their remarks about the possibility of additional planting and boundary treatments to aid the existing natural screening. Additional planting to the current appeal site would address these issues.
- 6.06 The Inspector stated that there is no requirement to demonstrate a need for this access. Approval of the current proposal would not set a precedent for future proposals for additional accesses, which could be assessed by the Council on their own merits.
- 7.00 CONCLUSION**
- 7.01 The Inspector carefully considered all matters raised by objectors many of which related to issues addressed under the previous appeals on the site. He concluded that the proposal is not in conflict with the provisions of the Flintshire Unitary Development Plan and that the objections to the proposal have not been sustained. The appeal is therefore **ALLOWED**.
- 7.02 Conditions are imposed in relation to landscaping, culverting of the ditch and the required visibility splay.

LIST OF BACKGROUND DOCUMENTS

Planning Application & Supporting Documents

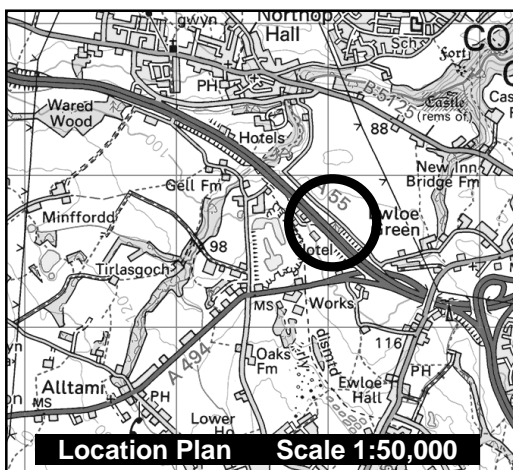
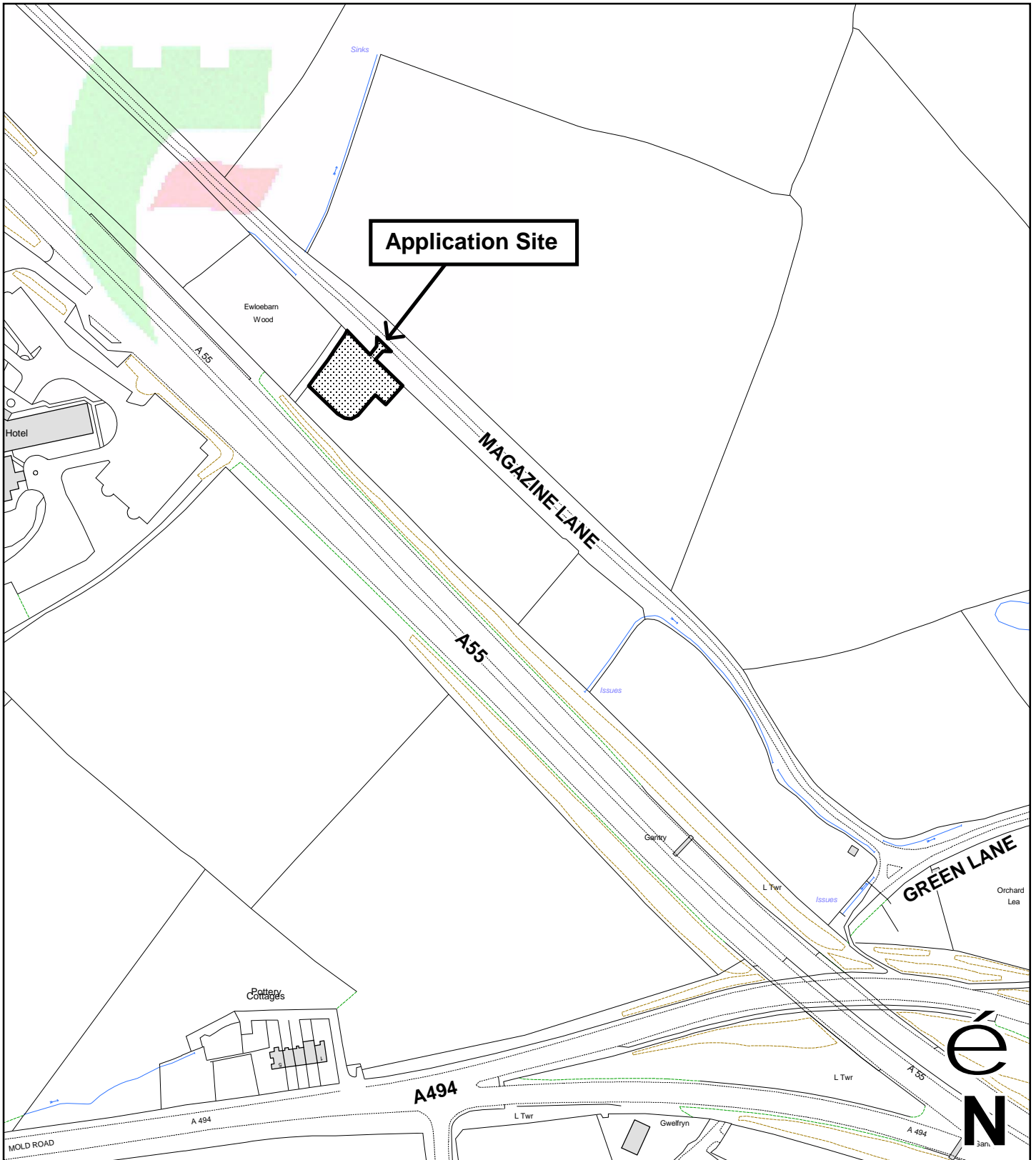
National & Local Planning Policy

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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OS Map ref SJ 2866

Planning Application **54095**

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FLINTSHIRE COUNTY COUNCIL

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

DATE: **7TH SEPTEMBER 2016**

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

SUBJECT: **APPEAL BY MR. ROBERT NIXON AGAINST THE DECISION OF FLINTSHIRE COUNTY COUNCIL TO REFUSE PLANNING PERMISSION FOR ERECTION OF AN EXTENSION TO PROVIDE ADDITIONAL ACCOMMODATION AT FIRST FLOOR LEVEL AT ARDEN LEA, WHITFORD ROAD, WHITFORD – DISMISSED.**

1.00 APPLICATION NUMBER

1.01 054328

2.00 APPLICANT

2.01 Mr. Robert Nixon

3.00 SITE

3.01 Arden Lea,
Whitford Road, Whitford.

4.00 APPLICATION VALID DATE

4.01 14th September 2015

5.00 PURPOSE OF REPORT

5.01 To inform members of the Inspectors decision in relation to an appeal into the decision to refuse an application for erection of extension to provide additional accommodation at first floor level at Arden Lea, Whitford Road, Whitford. The application was refused under delegated powers with the appeal dealt with by way of an Informal Hearing, and was **DISMISSED**.

6.00 REPORT

- 6.01 The appeal property is a single storey dwelling which has been extended in an elongated series of extensions to the rear of the site. To the side front elevation there is a garage and linked structure. The front elevation is a double fronted bay under a pitched roof projection. The main roof is a pyramid style apex leading to a pitched roof extension and then a flat roof addition.
- 6.02 The proposal seeks to extend the dwelling upwards by adding an additional floor and a hipped roof on top. There would be a two storey front side extension and a single storey garage and a two storey pitched roof rear extension.
- 6.03 The Council had calculated that the floor area increase above the existing dwelling would be around 94%. The appellant indicated that it would be nearer 83% increase as an existing conservatory had not been added to the calculation. The guide figure in policy HSG12 of the Flintshire Unitary Development Plan (UDP) is no more than 50% increase over the original floor area.
- 6.04 In the Inspectors opinion the proposal would leave very little of the identity of the existing dwelling intact such that the existing dwelling would not be recognisable in its form and appearance. It would not be a subsidiary feature nor would it respect the design and setting of the existing dwelling. It would be clearly contrary to UDP policy HSG12.
- 6.05 The Inspector noted the appellant's contention that there is a variety of house styles and scale in the area but the character of the existing dwelling would fundamentally change from a single storey to a two storey dwelling. The Inspector did not consider that the mix of house types found in the area provided a justification to change the existing dwelling so radically and to its overall detriment.
- 6.06 The Inspector therefore concurred with the Council that the proposal would harm the character and appearance of the dwelling and the surrounding area in conflict with UDP policies HSG12 and GEN1.
- 6.07 The appellant's daughter has a serious medical condition and as a consequence of this requires privacy and access to an ensuite bathroom which is separate from the remainder of the family. The present accommodation is inadequate for the collective needs of the family and the specific needs of the Appellants daughter.
- 6.08 The Inspector recognised that the best interests of the child and the need to safeguard and promote their well-being and welfare is a primary consideration in all actions by public authorities concerning children. The Inspector attached significant weight to the appellants daughters needs but concluded that there was no compelling evidence presented that the refusal of this appeal of this particular

scale of proposal would deny them the opportunity to provide for their collective needs. There are alternatives to the scale of development or that consideration has been given to find properties that suit their collective needs.

7.00 CONCLUSION

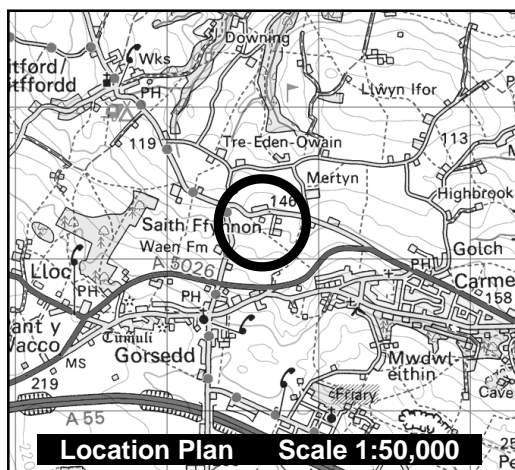
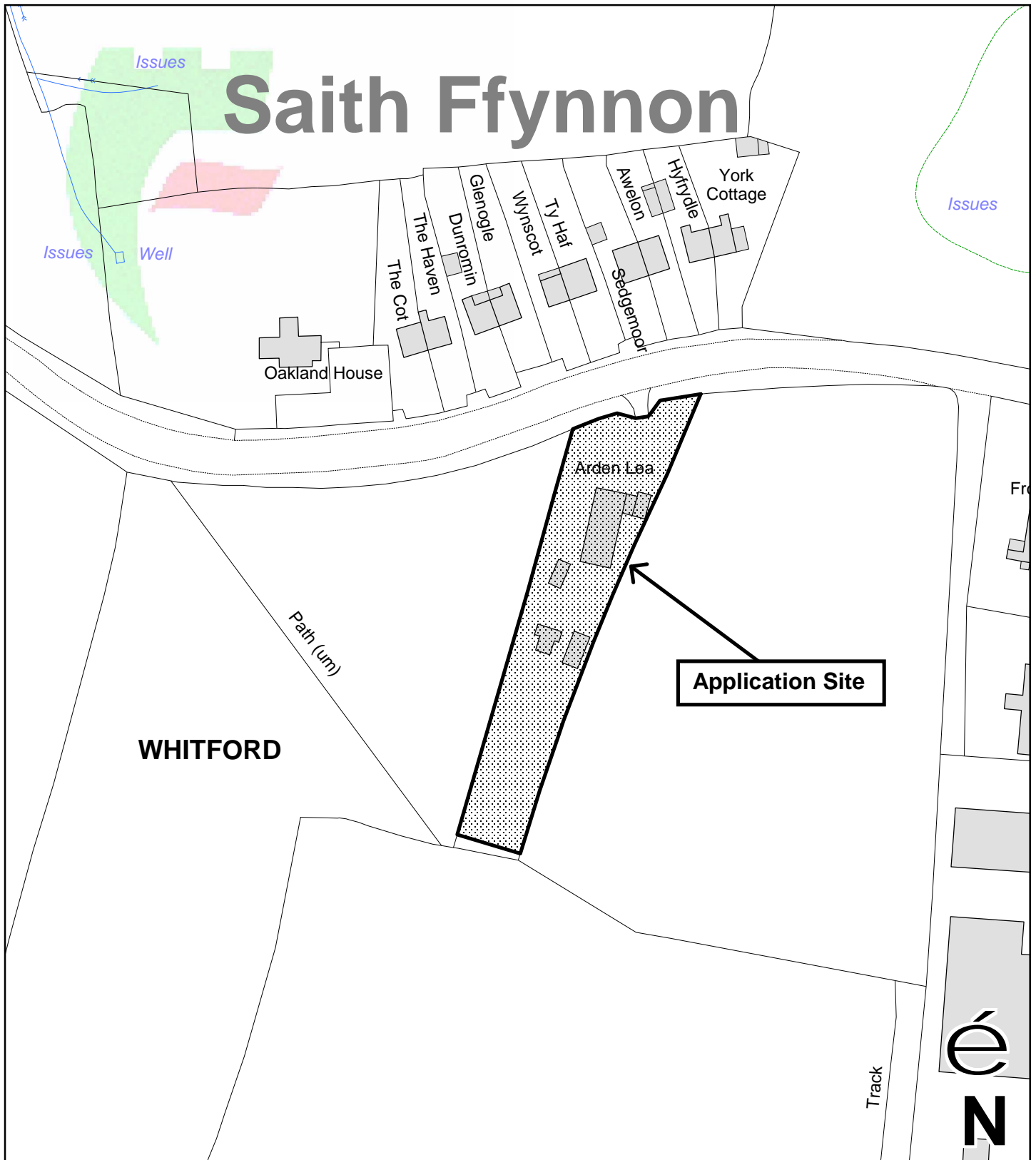
- 7.01 The Inspector noted that whilst dismissing the appeal would interfere with the appellant's rights it would not result in the daughter being made homeless or deprive her of care and welfare. He therefore concluded that the material considerations in favour of the proposal do not collectively and individually outweigh the legitimate aim of planning policy to protect the character of the rural area and to ensure that the scale of extensions are subsidiary to the existing dwelling. In his view a refusal of permission would be proportionate and necessary and would not unacceptably violate the family's rights. The protection of the public interest cannot be achieved by means that are less interfering and the planning balance is therefore against allowing this appeal. Consequently and having considered all other matters raised, the Planning Inspector concluded that the appeal should be **DISMISSED**.

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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Planning Application **54328**

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FLINTSHIRE COUNTY COUNCIL

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

DATE: **7TH SEPTEMBER 2016**

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

SUBJECT: **APPEAL BY MR. GLYN ROBERTS AGAINST THE DECISION OF FLINTSHIRE COUNTY COUNCIL TO REFUSE PLANNING PERMISSION FOR AN OUTLINE APPLICATION FOR THE ERECTION OF A DETACHED DWELLING AT LOW NOOK, CORWEN ROAD, TREUDDYN – DISMISSED.**

1.00 APPLICATION NUMBER

1.01 054540

2.00 APPLICANT

2.01 Mr. Glyn Roberts

3.00 SITE

3.01 Low Nook,
Corwen Road, Treuddyn

4.00 APPLICATION VALID DATE

4.01 11th November 2015

5.00 PURPOSE OF REPORT

5.01 To inform Members of the decision of the Planning Inspectorate in respect of the refusal of an outline application for the erection of a detached dwelling under delegated powers. The appeal was considered by way of an informal hearing and was DISMISSED

6.00 REPORT

6.01 The appeal site, which is in a generally rural setting, is a roughly rectangular plot of land where it is proposed to build a single dwelling. Apart from a level area adjacent to the road where the proposed dwelling would be located, the land is quite overgrown and slopes steeply down.

- 6.02 The area is not within any of the settlement boundaries identified in the Flintshire Unitary Development Plan (UDP). The glossary to the UDP defines 'open countryside' as land lying outside the settlement boundary of a town or village and not affected by any other allocation or designation for development. The appeal site is within such an area. For the purposes of the UDP, therefore, it is classified as being in open countryside, even though not as remote or free from development as might be expected from this description. Planning Policy Wales (PPW) states that new houses in the countryside, away from existing settlements recognised in development plans or from other areas allocated for development, must be strictly controlled. This is for reasons including safeguarding the character and appearance of the countryside¹.
- 6.03 UDP Policy HSG4 permits new dwellings essential for forestry or farm workers outside of settlement boundaries but it was not the appellant's case that the dwelling proposed here would be of this very specific type. The most appropriate UDP policy was thus HSG5 which concerns limited infill development outside of settlement boundaries. A proviso of this policy is that the proposal should meet a proven local housing need. In the absence of up-to-date housing figures, the Council had not sought this requirement and the Inspector had no reason to disagree with the Council's position in this case.
- 6.04 The appeal site is a parcel of land between Low Nook, to which it is attached, and Sefton House. Guidance on the identification of infill development is provided in the UDP at paragraph 11.61 which accompanies Policy HSG5. In the terms of that guidance, and despite not being a focus of dwellings such as a crossroads, the row of five houses opposite together with Low Nook could be seen as comprising a small group of houses. Dwellings on the Low Nook side of the road, however, are dispersed and separated by significant parcels of undeveloped land; they do not form a continuous frontage. In the Inspector's opinion the site is also somewhat larger than that necessary to accommodate a single dwelling and, given the amount of land unoccupied by buildings which would remain between Low Nook and Sefton House, it would not constitute a small gap. Although within a small group of houses, the proposed development would not be located in a small gap within a continuously developed frontage and would not comply with UDP Policy HSG5.
- 6.05 In the Inspector's view, the additional dwelling proposed would consolidate and increase the amount of residential development in the immediate area. Dwellings would be less spread out and more frequent along this part of the A road, diminishing the countryside character. The proposed dwelling would thus be contrary to the general thrust of the UDP's settlement policies, especially HSG5, and to PPW.

- 6.06 Whilst somewhat overgrown the Inspector did not consider that the site is unsightly or unattractive in its current state. Changes to the site's appearance would not, therefore, be considered particularly beneficial. Indeed, the proposed dwelling, no matter how well designed and attractive, would draw attention to the changed character of the area and the increased amount of residential development. In 2014 the Council approved plans for a garage on the site in roughly the position now proposed for the dwelling. This would be a fairly large building with a room above the garage area. Nonetheless, it seems to the Inspector that it would be recognised as a domestic garage connected to Low Nook. As such, it would not have a severely detrimental effect on the area's character.
- 6.07 The site was previously occupied by miners' cottages, a shop and café. There is little sign of these now but the appellant has provided copies of Ordnance Survey maps from 1871 and 1912 as evidence. The shop and café remained until about 1942 but Low Nook operated as a small market gardening business, producing and selling planted hanging baskets, until 2012. There is no dispute that there have previously been buildings on the site but the remains of the structures have largely blended into the landscape over time. More recently sheds and a garage have been removed from the site; a modest shed remains. On balance, therefore, I consider that the site meets the definition of previously developed land set out in Planning Policy Wales (PPW)². Even so, although the re-use of previously developed land is strongly encouraged in PPW, the Government recognises that not all previously developed land is suitable for development.

7.00 CONCLUSION

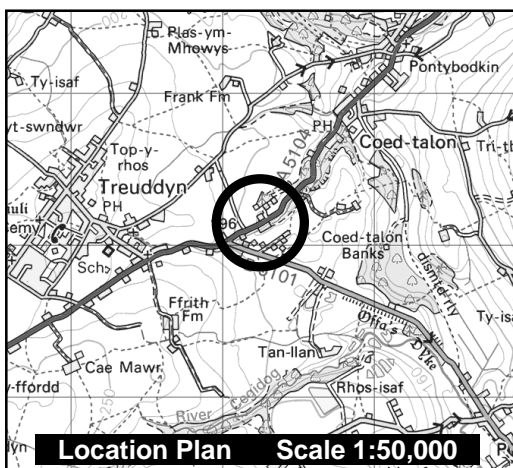
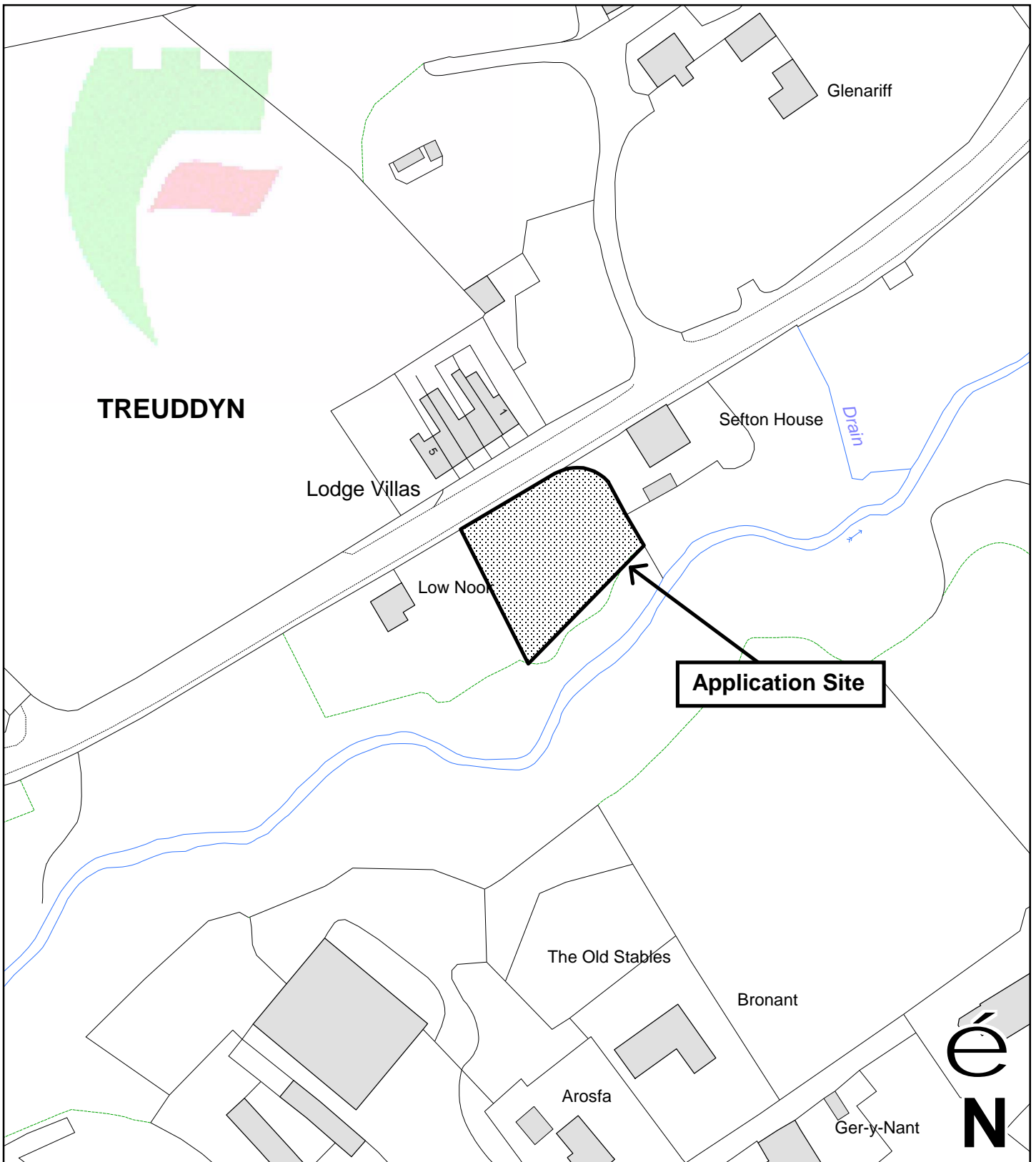
- 7.01 Although the site can be defined as previously developed land it is not necessarily suitable for development. The proposal has several benefits but these are not sufficient to outweigh the harm which would be caused to the open countryside. Having taken all the matters raised into consideration the Inspector considered that they do not amount to compelling reasons to allow the proposal. For the reasons given above the appeal was **DISMISSED**.

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 2658

Planning Application **54540**

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FLINTSHIRE COUNTY COUNCIL

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

DATE: **7 SEPTEMBER 2016**

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

SUBJECT: **APPEAL BY MR. & MRS J. WILKINSON AGAINST THE DECISION OF FLINTSHIRE COUNTY COUNCIL TO GRANT OUTLINE PLANNING PERMISSION FOR THE ERECTION OF A DWELLING AT BRYN Y GWYNT, BABELL ROAD, PANTASAPH – DISMISSED.**

1.00 APPLICATION NUMBER

1.01 054592

2.00 APPLICANT

2.01 Mr. & Mrs J. Wilkinson

3.00 SITE

3.01 Bryn y Gwynt,
Babell Road, Pantasaph.

4.00 APPLICATION VALID DATE

4.01 30th November 2015

5.00 PURPOSE OF REPORT

5.01 To inform Members of the Inspector's decision in relation to an appeal into the refusal to grant outline planning permission for a new dwelling at Bryn y Gwynt, Babell Road, Pantasaph. The application was refused under delegated powers with the appeal dealt with by way of written representations and was **DISMISSED**.

6.00 REPORT

6.01 Background

Members may recall that this application was refused under delegated powers on 20th January 2016 on the grounds that the development represented unjustified non-essential development in the open

countryside which would be detrimental to the character and appearance of the locality and thereby contrary to both Local and National planning policies.

6.02 Issue

The Inspector considered the main issue to be the effect of the proposal on the character and appearance of the area.

6.03 Character & Appearance

The site forms part of the garden of Bryn y Gwynt opposite Swyn y Bedol and adjacent to Broomwood, Babel Road, Pantasaph.

6.04 The site is outside the settlement boundary as defined by the Flintshire Unitary Development Plan. Both National and Local Planning Policies restrict development outside development boundaries. The case did not relate to an essential farm or forestry worker.

6.05 Policy HSG5 relates to infill development provided it is for a proven local need. There is no case which fulfils the particular criteria of the policy in relation to local need. Under this policy the site must be located within a clearly identifiable small group of houses. The policy refers to six or more dwellings. In this instance there are 3 houses. Beyond these three properties there is a significant gap between them and Moorfield House. To the south of Swyn y Bedol there is a significant gap before a farm. Broomwood is situated to the south and Broiler buildings associated with a farm. The Inspector considered that the collection of houses did not form a clearly identifiable small group of houses and the proposal did not meet the requirements of Policy HSG5.

6.06 The character of the countryside is protected for its intrinsic sake and whilst not in a location which is regarded as open, it would be a development which would be squeezed between properties diminishing the setting of the parent house and resulting in the removal of substantial trees. The Inspector considered that these landscaping features form part of the setting of the area, and it would as a result appear to urbanise that rural setting by shoehorning development in between houses. The Inspector therefore concluded that the proposal would harm the character and appearance of the area.

6.07 The Inspector was aware that the UDP was outside of its plan period and the Council is unable to demonstrate a 5 year housing supply. Where the UDP is outside its plan period, the Local Planning Authority has been unable to undertake a current study of its housing supply. As a result, the need to increase supply should be given considerable weight provided that the development would otherwise comply with the Development Plan and National Planning Policies.

6.08 The Inspector considered that in this case, the development did not comply and therefore less weight would be attributed to the contribution this development would make to housing land supply. Policy HSG4 allows small scale housing to meet the social and economic needs of the rural area, but in this instance the development would not meet the limited circumstances for which development of this type is permitted.

7.00 CONCLUSION

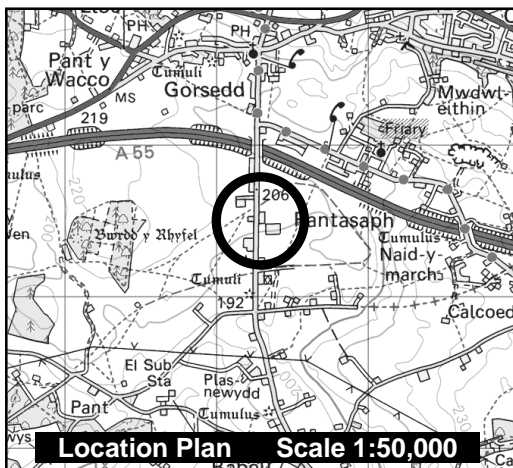
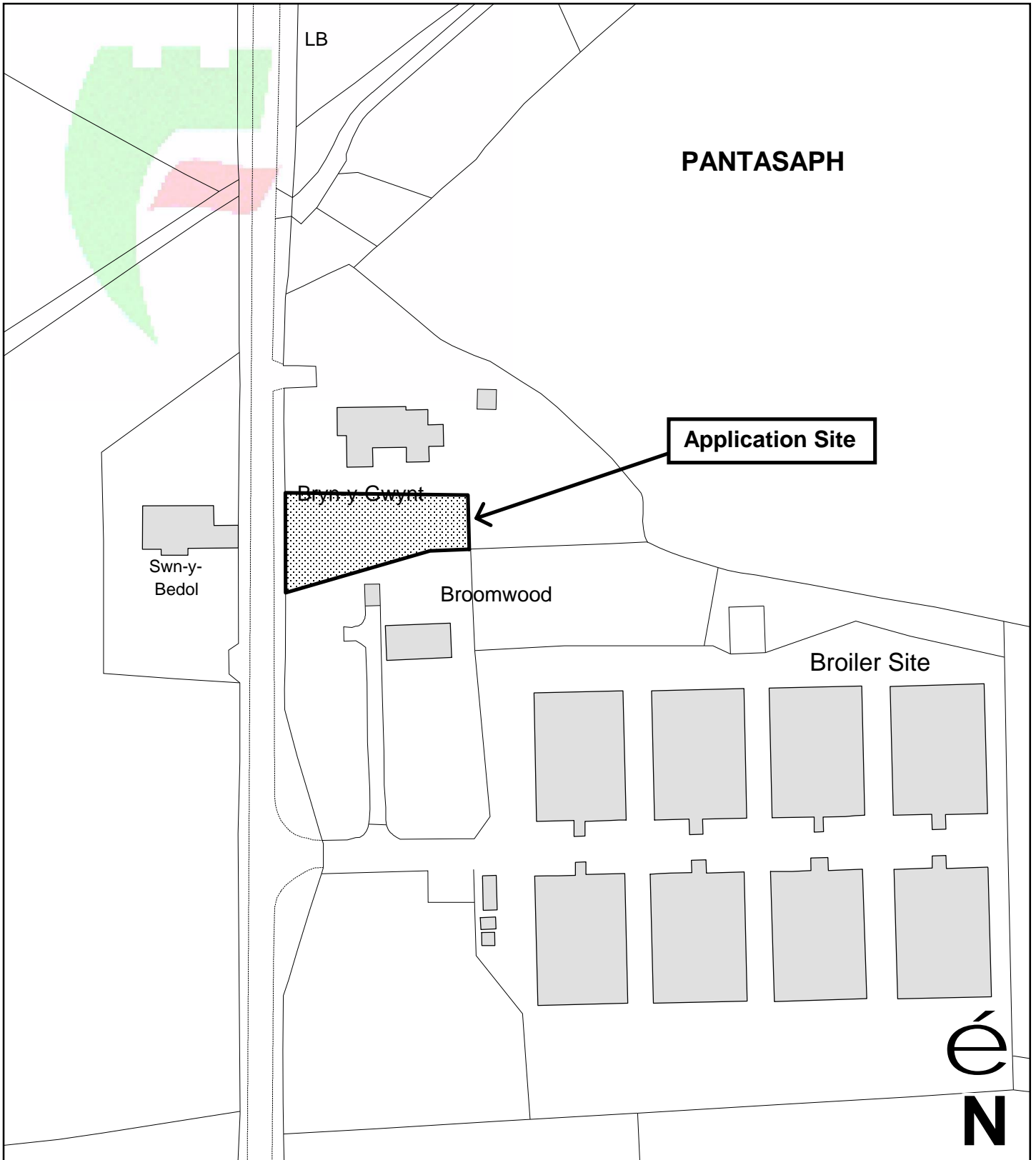
7.01 The Inspector concluded that the individual and cumulative benefits did not outweigh the harm to the character and appearance of the area and the conflict with the development plan. The planning balance was therefore against allowing the appeal and was **DISMISSED**.

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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 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 **54592**

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FLINTSHIRE COUNTY COUNCIL

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

DATE: **7TH SEPTEMBER 2016**

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

SUBJECT: **APPEAL BY MR. & MRS GLYN GRIFFITHS AGAINST THE DECISION OF FLINTSHIRE COUNTY COUNCIL TO REFUSE PLANNING PERMISSION FOR THE ERECTION OF 4 NO. DWELLINGS (STARTER HOMES) AT RHYDDYN FARM, BRIDGE END, CAERGWRLE – DISMISSED.**

1.00 APPLICATION NUMBER

1.01 054615

2.00 APPLICANT

2.01 Mr. & Mrs Glyn Griffiths

3.00 SITE

3.01 Rhyddyn Farm,
Bridge End, Caergwrle.

4.00 APPLICATION VALID DATE

4.01 25.11.15

5.00 PURPOSE OF REPORT

5.01 To inform Members of the Inspectors decision in relation to an appeal against the refusal of planning permission for the above development by Planning and Development Control Committee on 23rd March 2016, contrary to officers' recommendation. The appeal was considered through an Informal Hearing and was DISMISSED. No application for costs was made.

6.00 REPORT

- 6.01 The Inspector considered that the main issues were;
- The suitability of the site and location for housing development having regard to its relationship to existing development and to the open countryside;
 - The proposals impact on the setting of Wat's Dyke scheduled ancient monument (SAM); and
 - Whether any harm in these terms and resulting conflict with the development plan is outweighed by the lack of a 5 year supply of housing land.
- 6.02 Suitability of the site and location
The Inspector noted the sites location outside the settlement boundary comprising part of a small field and commented that the proposed development would be an addition to the existing built form beyond the present settlement limit, extending part way into the adjacent open field.
- 6.03 The Inspector noted the strategic policies which govern the location of new housing development namely, STR1, GEN2 and GEN3. The Inspector noted that the proposed development does not fall within any of the exceptions set out in policy GEN3 or comprise small scale infill in terms of policy HSG5.
- 6.04 He notes that the scale of the extension of development beyond the settlement boundary and into the surrounding countryside would be comparatively small, however there is a clearly defined edge to the limit of development in this location and a sharp distinction between the built up area and the adjacent countryside which forms an attractive backdrop to the settlement. The development would relate poorly to the existing settlement form being tacked on in a contrived manner behind the Queensway development and creating an awkward staggered layout of development projecting into the field. The poor relationship to the existing settlement form would be reinforced by the site's isolation from the highway network, requiring the use of an unadopted track leading some 75 metres from the A550 in order to provide access to the proposed dwellings.
- 6.05 Although the medical centre has extended the limit of development beyond the settlement boundary in this locality, the dwellings now proposed would lie further back from the A550 than the medical centre and would create a clear incursion into the open land lying further to the east. The Inspector recognised that the site is located on the edge of a sizeable settlement with a range of facilities and is a sustainable location for housing in accessibility terms but would fail to integrate with the existing built form. While the Inspector noted the proposed housing would not be particularly visible from the A550, it would be evident from the footpath forming part of the Wat's Dyke Way Heritage Trail. Although the sight of the new houses would be

broken to some extent by trees, the resulting seemingly random intrusion of built form into the open field would be apparent from the trail.

6.06 Impact on the setting of Wat's Dyke (SAM's)

The Inspector noted that the proposed development would lie some 30 m to west of SAM FL119 (Wat's Dyke). The scheduled area encompasses a significant section of the surviving dyke structure. It runs roughly north-south and broadly parallel to the staggered line of the proposed dwellings. He noted the comments of CPAT and CADW. While he accepted that CADW's response does not amount to outright objection to the proposal, its concerns about infill of the surviving open ground to the west of the monument and encroachment into key views were confirmed by the Inspectors site visit. Notwithstanding CADW's view that the development would not have a significant adverse impact on the setting of this part of the dyke, the Inspector concluded that the development would nevertheless cause harm to the setting of the SAM and that this renders the proposal contrary to UDP policy HE6.

6.07 Housing land supply

The proposed development would make a contribution towards addressing the current shortfall in housing land supply in Flintshire. The need to ensure an adequate housing land supply is an important consideration which significant weight should be given to as advised by paragraph 6.2 of TAN1. However the Inspector considered that the harm arising and conflict with the development plan in respect of the other two issues set out above does not outweigh this in the planning balance.

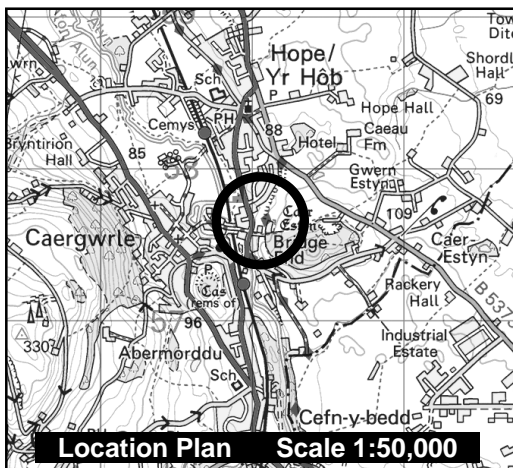
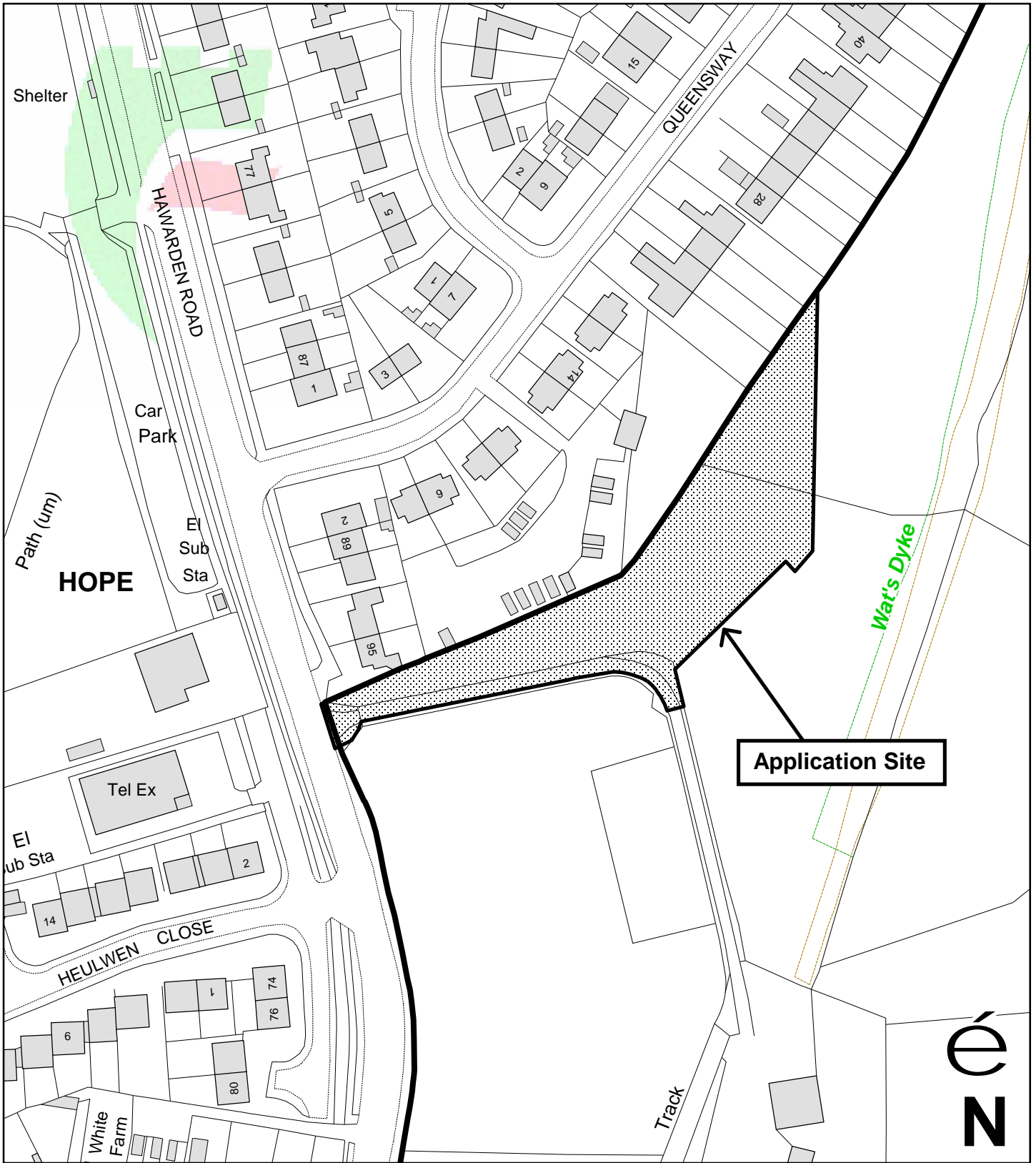
7.00 CONCLUSION

7.01 The Inspector concluded that the proposal would relate poorly to the existing settlement form, consequently appearing to be awkwardly attached to the settlement edge and protruding randomly into the surrounding countryside. This would be contrary to design principles set down in UDP policy GEN1. The resulting harm to the character and appearance of the area and erosion of the open countryside weighs the proposals. The appeal was **DISMISSED**.

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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Planning Application **54615**

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FLINTSHIRE COUNTY COUNCIL

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

DATE: **7TH SEPTEMBER 2016**

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

SUBJECT: **APPEAL BY MR & MRS S. PARKER AGAINST THE DECISION OF FLINTSHIRE COUNTY COUNCIL TO REFUSE PLANNING PERMISSION FOR THE ERECTION OF A REPLACEMENT DWELLING AND ANCILLARY WORKS AT GELLI FARM, GELLI ROAD, PEN YR ALLT, TRELOGAN – ALLOWED.**

1.00 APPLICATION NUMBER

1.01 054757

2.00 APPLICANT

2.01 Mr. & Mrs S. Parker

3.00 SITE

3.01 Gelli Farm, Gelli Road,
Pen Yr Allt, Trelogan.

4.00 APPLICATION VALID DATE

4.01 21 December 2015

5.00 PURPOSE OF REPORT

5.01 To inform Members of the Inspectors decision in relation to an appeal into the delegated decision to refuse planning permission for the erection of a replacement dwelling and ancillary works at Gelli Farm, Gelli Road, Trelogan. The appeal was considered via the written representations procedure and was ALLOWED.

6.00 REPORT

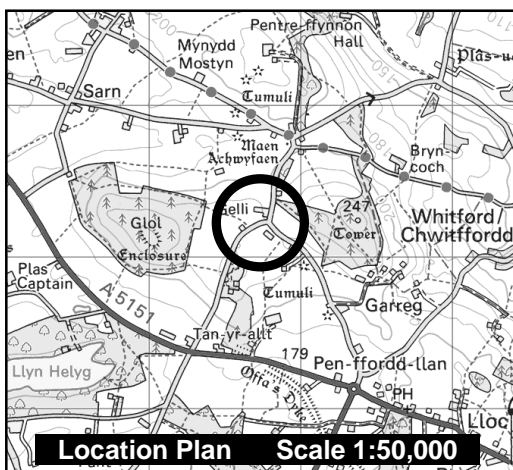
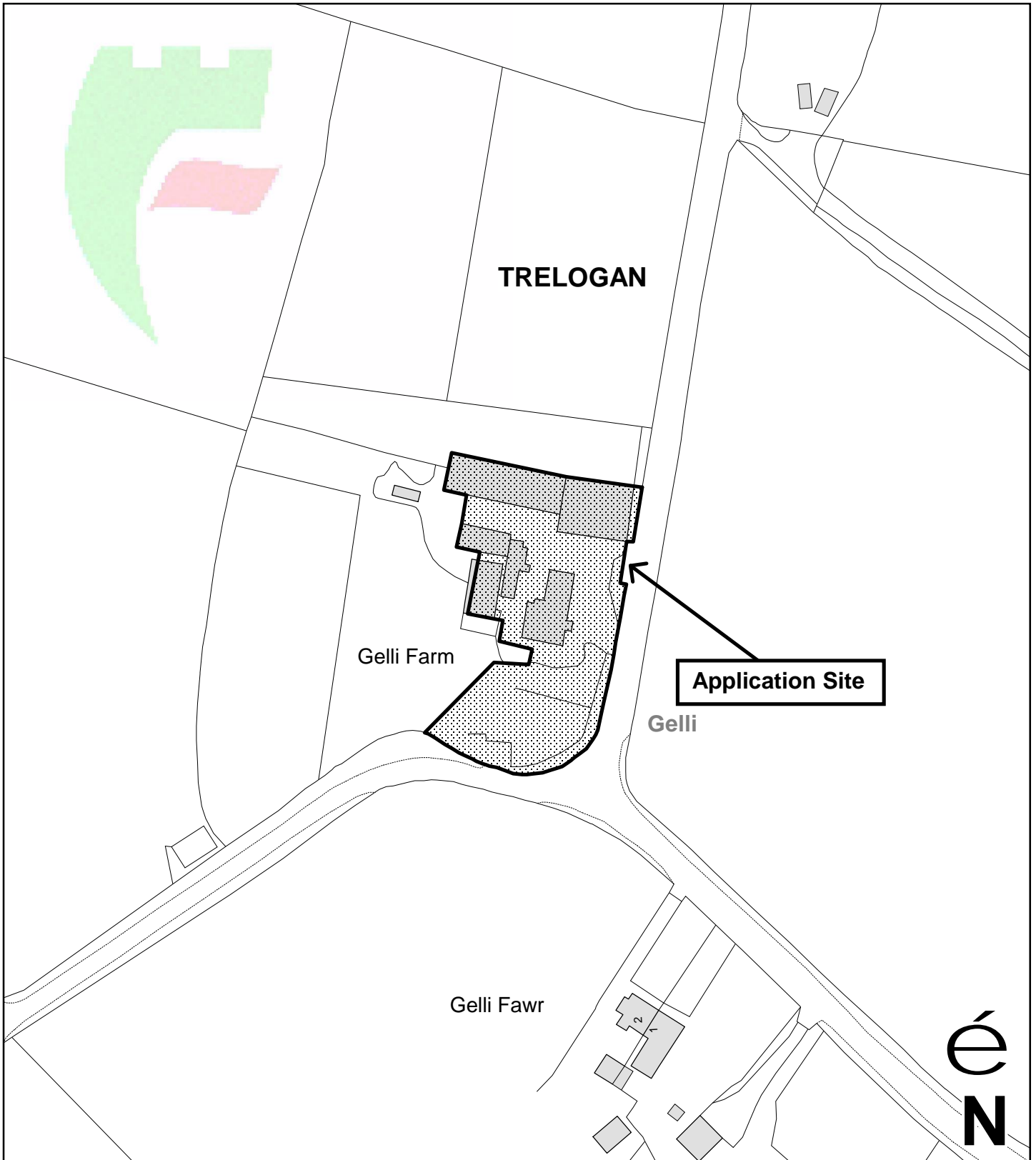
6.01 The appeal considered the replacement of the existing dwelling a designed Building of Local Interest, with a larger dwelling at Gelli Farm, Trelogan.

- 6.02 Main Issue
The main issue in this appeal was identified by the Inspector as the effect of the proposal on the character and appearance of the area.
- 6.03 The Inspector noted the open countryside setting of the site southeast of Trelogan and that the existing dwelling was an original stone farm building identified as a Building of Local Interest (BLI), but now in a state of disrepair. The proposal would result in the demolition of the original stone farmhouse and shippon. The building is largely concealed by tall hedgerows to the south and rear, the eastern elevation is readily visible from the lane which it fronts.
- 6.04 The Inspector noted that the appellant submitted evidence to demonstrate that the restoration of the building for residential use is unviable, due to the state of the building and the relative impracticability of its restoration. The Inspector did not contest the evidence relating to the structural condition and the restoration costs, and proceeded to determine the appeal based on the acceptability or otherwise of the replacement dwelling.
- 6.05 The Inspector noted Policy HE4 requirements of any replacement building design for a BLI to match or exceed the building to be demolished. Whilst the proposal is not an exact design match to the existing farmhouse, it was considered to be of a similar form to the existing farmhouse and was considered that it would appear as a building of similar scale to the existing farmhouse.
- 6.06 Although it was noted that design features such as the windows, gables and glazing to solid wall ratio would differ to the existing, they would appropriately reflect the replacement dwelling, rather than slavishly follow the existing farmhouse. He considered that the proposal would accord with the Unitary Development Plan policies.
- 7.00 CONCLUSION
- 7.01 The Inspector considered that the proposal does accord with policies HE4 and HSG6 of the Flintshire Unitary Development Plan and 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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Legend

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

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Planning Application	54757

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