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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, Sean Bibby,
Chris Bithell, Derek Butler, David Cox,
Adele Davies-Cooke, Ian Dunbar, Carol Ellis,
David Evans, Veronica Gay, Patrick Heesom,
Dave Hughes, Kevin Hughes, Christine Jones,
Richard Jones, Richard Lloyd, Billy Mullin,
Mike Peers, Neville Phillips and Owen Thomas

30 August 2018

Nicola Gittins 01352 702345
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Dear Sir / Madam

A meeting of the **PLANNING COMMITTEE** will be held in the **COUNCIL CHAMBER, COUNTY HALL, MOLD CH7 6NA** on **WEDNESDAY, 5TH SEPTEMBER, 2018** at **1.00 PM** to consider the following items.

Yours sincerely

Robert Robins
Democratic Services Manager

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Generally the public seating areas are not filmed. However, by entering the Chamber you are consenting to being filmed and to the possible use of those images and sound recordings for webcasting and / or training purposes.

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A G E N D A

1 **APOLOGIES**

2 **DECLARATIONS OF INTEREST**

3 **LATE OBSERVATIONS**

4 **MINUTES** (Pages 5 - 12)

To confirm as a correct record the minutes of the meeting on 18 July 2018.

5 **ITEMS TO BE DEFERRED**

6 **REPORTS OF CHIEF OFFICER (PLANNING, ENVIRONMENT & ECONOMY)**

The reports of the Chief Officer (Planning, Environment & Economy) are enclosed.

**REPORTS OF CHIEF OFFICER (PLANNING, ENVIRONMENT & ECONOMY) TO
PLANNING COMMITTEE ON 5 SEPTEMBER 2018**

Item No	File Reference	DESCRIPTION
<u>Applications reported for determination (A = reported for approval, R= reported for refusal)</u>		
6.1	058164 - R	Outline Application- Residential Development at Land East of Vounog Hill, Penyffordd. (Pages 13 - 38)
6.2	058212 - A	Outline Application - Residential Development, Including Access, Open Space and All Associated Works at Woodside Cottages, Bank Lane, Drury. (Pages 39 - 56)
6.3	058299 - A	Full Application - Erection of Stables and Menage Area and Change of Use of Land to Grazing of Horses at Pen y Ball Hill, Holywell (Pages 57 - 70)
6.4	057388 - R	Outline Application - Erection of Up To 36 Units of Over-55 Retirement Housing, Open Space and Associated Infrastructure with Details of Site Access at Rhos Road, Penyffordd. (Pages 71 - 94)
6.5	058434 - A	Full Application - Renovation and Change of Use of a Former Shop Premises to Create a One Bedroom Holiday Let and Garden Area at Post Office, Ffordd y Llan, Cilcain. (Pages 95 - 104)
<u>General Matters</u>		
6.6	055430	General Matters - Outline Application with All Matters Reserved for Residential Development Consisting of 14 Units with a Mixture of 2 Storey Semi-Detached and 3 Storey Detached Dwellings at Spectrum Home & Garden Centre, Wrexham Road, Cefn-y-Bedd. (Pages 105 - 110)
<u>Appeal Decision</u>		
6.7	057257	Appeal by Mrs T. Johnston Against the Decision of Flintshire County Council to Refuse Planning Permission for the Erection of 1 No. Dwelling at Brook Cottage, Chester Road, Oakenholt - DISMISSED . (Pages 111 - 116)
6.8	057788	Appeal by The Euro Garages Ltd Against the Non-Determination by Flintshire County Council for the Demolition of Existing Petrol Filling Station and Convenience Store and Redevelopment of Site for New Petrol Filling Station, Convenience Store and Drive-Thru Bakery (Use Class A1) at Esso Service Station, Church Street, Connah's Quay - DISMISSED (Pages 117 - 122)
6.9	057681	Appeal by Mr. J. Woodcock Against the Refusal of Planning Permission by Flintshire County Council for the Use of Land as a Touring Caravan Site at Stamford Way Farm, Stamford Way, Ewloe - ALLOWED . (Pages 123 - 128)

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PLANNING COMMITTEE

18 JULY 2018

Minutes of the meeting of the Planning Committee of Flintshire County Council held at County Hall, Mold on Wednesday, 18 July 2018

PRESENT: Councillor David Wisinger (Chairman)

Councillors: Marion Bateman, Sean Bibby, Chris Bithell, Derek Butler, David Cox, Adele Davies-Cooke, Ian Dunbar, Carol Ellis, David Evans, Veronica Gay, Patrick Heesom, Dave Hughes, Kevin Hughes, Christine Jones, Richard Jones, Richard Lloyd, Billy Mullin, Mike Peers, Neville Phillips and Owen Thomas

ALSO PRESENT: The following attended as local Members:

Councillor Arnold Woolley - for Agenda Items 6.1 (058237) and 6.2 (057056)

Councillor Sian Braun - for Agenda Item 6.3 (058304)

Councillor Dennis Hutchinson - for Agenda Item 6.4 (058212) - deferred

Councillor Cindy Hinds - for Agenda Item 6.7 (057388) – deferred

IN ATTENDANCE:

Chief Officer (Planning, Environment & Economy); Development Manager; Service Manager - Strategy; Team Leader - Planning; Senior Planners; Senior Engineer - Highways Development Control; Senior Minerals & Waste Officer; Senior Solicitor; Overview & Scrutiny Facilitator and Democratic Services Officer

14. DECLARATIONS OF INTEREST

Councillor Dennis Hutchinson declared a personal and prejudicial interest on agenda item 6.4 and advised that he had been granted dispensation from the Standards Committee to speak as a local Member on agenda item (058212).

Councillor Richard Lloyd declared a personal and prejudicial interest on agenda item 6.1 (058237) as the applicant was a customer of his and said he would leave the room prior to debate and vote on the application.

Councillor Sean Bibby declared a personal and prejudicial interest on agenda item 6.3 (058304) and agenda item 6.8 (058310) as he was the Vice-Chair of the North East Wales Homes Board and said he would leave the room prior to debate and vote on the application. Councillor Bibby also declared he had formally objected and provided assistance to local residents in objecting to application 6.6 (058282). He advised that he would speak for three minutes and leave the room prior to debate and vote on the application.

Councillor Ian Dunbar declared a personal and prejudicial interest on agenda item 6.1 (058237) as the applicant was a close friend. He also declared a personal and prejudicial interest on agenda item 6.4 (058212) as the applicant was a fellow Local Magistrate. He said that he would leave the room prior to debate and vote on both applications.

Councillor Dave Hughes declared a personal and prejudicial interest on agenda item 6.1 (058237) as the applicant was a close friend and said that he would leave the room prior to debate and vote on the application.

15. LATE OBSERVATIONS

The Chairman allowed Members an opportunity to read the late observations which had been circulated at the meeting and were appended to the agenda on the Flintshire County Council website:

<http://committeemeetings.flintshire.gov.uk/ieListDocuments.aspx?CId=490&Mid=4148&LLL=0>

16. MINUTES

The draft minutes of the meeting on 20 June 2018 were submitted and confirmed as a correct record.

RESOLVED:

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

17. ITEMS TO BE DEFERRED

The Chief Officer (Planning, Environment & Economy) advised that the following item was recommended for deferral to allow the developer to clarify the ownership of land for the proposed access:-

Agenda Item 6.5 - Full application - Erection of 14 No. Dwellings and Associated Works at Within Cottage and Cheshire Lane, Alltami Road, Buckley (058229)

The Chief Officer (Planning, Environment & Economy) referred to a letter which had been received prior to the start of the meeting from the Welsh Government Cabinet Secretary for Energy, Planning and Rural Affairs, copies of which had been circulated to Members. The letter instructed the Council to dis-apply paragraph 6.2 of TAN 1 with immediate effect. He therefore recommended that the following items be deferred to allow for the opportunity to re-consider the weight which had been attributed to the need to increase housing land supply in the overall planning balance:-

Agenda Item 6.4 - Outline Application - Residential Development, Including Access, Open Space and All Associated Works at Woodside Cottages, Bank Lane, Drury (058212)

Agenda Item 6.7 Outline Application – Erection of up to 36 units of over-55 retirement housing, open space and associated infrastructure with details of site access at Rhos Road, Penyffordd (057388)

Councillor Chris Bithell moved the deferral which was seconded and agreed by the Committee.

Councillors Patrick Heesom and Chris Bithell welcomed the instruction from the Cabinet Secretary for Energy, Planning and Rural Affairs and thanked officers for the work undertaken in this matter.

RESOLVED:

That agenda items 6.4 (058212), 6.5 (058229) and 6.7 (057388) be deferred to the next available meeting of the Committee for the reasons stated.

18. REPORTS OF THE CHIEF OFFICER (PLANNING AND ENVIRONMENT)

RESOLVED:

That decisions be recorded as shown on the Planning Application schedule attached as an appendix.

19. MEMBERS OF THE PUBLIC AND PRESS IN ATTENDANCE

On commencement of the meeting, there were 56 members of the public and no members of the press in attendance.

(The meeting started at 1.00pm and ended at 4.26pm)

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Chairman

Meetings of the Planning Committee are webcast and can be viewed by visiting the webcast library at: <http://flintshire.public-i.tv/core/portal/home>

PLANNING COMMITTEE ON 18 JULY 2018

ITEM NO	TOWN/ COMMUNITY COUNCIL	SITE/PROPOSAL	THIRD PARTY SPEAKERS / ACTION	RESOLUTION
058237	Buckley Town Council	Full Application - Erection of 435 Residential Dwellings and a 450 m2 Retail Unit at Spon Green Farm, Spon Green, Buckley.	<p>On behalf of the applicant, Mr. N. Culkin spoke in support of the application.</p> <p>Mr. J. Woolley spoke against the application.</p> <p>Councillor A. Woolley, as Local Member, spoke against the application.</p>	That planning permission be refused in line with the officer recommendation.
57056	Buckley Town Council	Outline Application for Residential Development at Megs Lane, Buckley.	<p>Mr. M. Lewis spoke against the application.</p> <p>Councillor A. Woolley, as Local Member, spoke against the application.</p>	That planning permission be refused in line with the officer recommendation.

ITEM NO	TOWN/ COMMUNITY COUNCIL	SITE/PROPOSAL	THIRD PARTY SPEAKERS / ACTION	RESOLUTION
058304	Llanasa Community Council	Full Application - Residential Development for 41 No. Dwellings and Associated Gardens and Car Parking at Nant y Gro, Prestatyn.	On behalf of the applicant, Mr. S. Jones spoke in support of the application. Ms. K. James spoke against the application. Councillor S. Braun, as Local Member, spoke in support of the application.	That planning permission be granted subject to the conditions set out in the report and in line with the officer recommendation.
058212	Buckley Town Council	Outline Application - Residential Development, Including Access, Open Space and All Associated Works at Woodside Cottages, Bank Lane, Drury.		DEFERRED
058229	Buckley Town Council	Full Application - Erection of 14 No. Dwellings and Associated Works at Within Cottage and Cheshire Lane, Alltami Road, Buckley.		DEFERRED
058282	Shotton Town Council	Change of Use from C3 (Dwellings) to C4 (House of Multiple Occupation) at 15 Bridge Street, Shotton.	Councillor S. Bibby, as Local Member, spoke against the application.	That planning permission be granted subject to the conditions set out in the report and in line with the officer recommendation.

ITEM NO	TOWN/ COMMUNITY COUNCIL	SITE/PROPOSAL	THIRD PARTY SPEAKERS / ACTION	RESOLUTION
057388	Penyffordd Community Council	Outline Application – Erection of up to 36 units of over-55 retirement housing, open space and associated infrastructure with details of site access at Rhos Road, Penyffordd.		DEFERRED
058310	Penyffordd Community Council	Full Application - Erection of 24 No. Dwellings and Associated Gardens and Car Parking at Land West of Greenwood Grange, Chester Road, Dobshill.	On behalf of the applicant, Mr. S. Jones spoke in support of the application.	That planning permission be granted subject to the conditions set out in the report and in line with the officer recommendation.

ITEM NO	TOWN/ COMMUNITY COUNCIL	SITE/PROPOSAL	THIRD PARTY SPEAKERS / ACTION	RESOLUTION
058270	Connah's Quay Town Council	Construction and Operation of a Waste Management Facility for the Management of Municipal, Commercial and Industrial Waste, Comprising: a Waste Reception Hall with Ground Level Pit Tipping Area, Sorting Hall with Associated Equipment for Separation and Processing, a Refused Derived Fuel (RDF) Hall, Control Room, Electrical Room and Workers' Facilities, Anaerobic Digestion Tank Farm and Associated Infrastructure on Land off Weighbridge Road, Deeside Industrial Estate.	On behalf of the applicant, Mr. D. Green spoke in support of the application.	That planning permission be granted subject to the conditions set out in the report and in line with the officer recommendation, so long as, in the opinion of the Chief Planning Officer (Planning, Environment and Economy), no new material issues are raised by Connah's Quay Town Council on the 31 st July. In the event that, in the opinion of the Chief Officer (Planning, Environment and Economy) new material issues are raised by the 7 th August, 2018 by Connah's Quay Town Council, the application would be reported back to Planning Committee.

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FLINTSHIRE COUNTY COUNCIL

REPORT TO: **PLANNING COMMITTEE**

DATE: **WEDNESDAY, 5TH SEPTEMBER 2018**

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

SUBJECT: **OUTLINE APPLICATION- RESIDENTIAL DEVELOPMENT AT LAND EAST OF VOUNOG HILL, PENYFFORDD.**

APPLICATION NUMBER: **058164**

APPLICANT: **ROUNDFIELD LIMITED**

SITE: **LAND EAST OF VOUNOG HILL, PENYFFORDD**

APPLICATION VALID DATE: **05/03/18**

LOCAL MEMBERS: **COUNCILLOR D WILLIAMS**
COUNCILLOR C HINDS

TOWN/COMMUNITY COUNCIL: **PENYFFORDD**

REASON FOR COMMITTEE: **SIZE OF DEVELOPMENT, DEPARTURE FROM DEVELOPMENT PLAN AND LOCAL MEMBER REQUEST**

SITE VISIT: **YES**

1.00 SUMMARY

1.01 This is an outline application for up to 37 dwellings with details of the access provided on land east of Vounog Hill, Penyffordd. All other matters are reserved for future consideration. As the site is outside the settlement boundary of Penyffordd, the application has been advertised as a departure from the Development Plan.

2.00 RECOMMENDATION: TO REFUSE PLANNING PERMISSION FOR THE FOLLOWING REASONS

1. The proposal amounts to unjustified residential development within an area of open countryside. The proposal would result

in a development which does not relate well to the existing pattern of development in the area, and would result in a fragmented form of development which does not integrate well with the existing built form. As such the proposal represents an illogical extension to the settlement which would be contrary to the provisions of Paragraphs 2.1.3, 4.6.4, 4.7.8 and 9.3.1 of Planning Policy Wales (9th Edition – Nov 2016) and Policies STR1, STR7, GEN1, GEN3 and HSG4 of the Adopted Flintshire Unitary Development Plan.

3.00 CONSULTATIONS

3.01 Local Member

Councillor D Williams

I strongly object to this proposal on the following grounds and request the application is dealt with at committee level, and consider this application should be refused on the following grounds.

- Conflicting expressions of interest for use of the site as part of the LDP process;
- Prematurity to the LDP;
- Land is outside UDP settlement boundaries;
- Negative impact on Education potential in the ward;
- Negative impact and erosion of community fabric;
- Increase of dangers through increased traffic volume;
- Failure to adequately support demands for additional open space and recreation provision;
- Negative impact on streetscene;
- Loss of valuable farming land, Proposal is not the best and most versatile use;
- Failure to provide necessary provision for broader needs of the community;
- Increased flood risks and foul disposal issues of the village.

Councillor C Hinds

Objections to the proposal upon the following grounds:

- Outside the Settlement Boundary;
- Overdevelopment in the village;
- Grave concerns regarding Highway Safety and the speed vehicles travel at along Vounog Hill into the village;
- Drainage infrastructure is not capable of accommodating further development pressures, localised flooding has been experienced within the village;
- Loss of recreation land used by all members (young and old) of the community – sledging field during snow events;
- No control over the type of houses, there is a need for more bungalows;

- Local infrastructure is weak and nearing capacity, with further pressures being placed on local services, facilities, medical (GP) practices and local hospitals;
- Public Transport not being supported, with a recent loss of services within the village, resulting in an increased dependency on the private car causing further congestion, parking and safety concerns.

Penyffordd Community Council

No response received at the time of writing the report.

Head of Assets and Transportation

The application is in outline with all matters reserved with the exception of access. Whilst the formation of the access to serve the development is acceptable in principle, I advise that any subsequent reserved matters application should consider the following points;

- a) Vehicular (and pedestrian) access from an adoptable road to the community open space should be provided, otherwise access for maintenance vehicles cannot be ensured.
- b) I note that swept paths have been submitted, but as the proposal currently lacks definitive detail, they lack precision. I still expect swept path analysis to be undertaken as part of a full technical submission.

Head of Public Protection

No adverse comments to make.

Welsh Government – Department for Rural Affairs

Agricultural Land Use

The department does not hold survey information for this site. A survey has been submitted as part of the application and completed by Reading Agricultural Consultants.

The survey has been reviewed by the Welsh Government's Senior ALC Surveyor who found the report to be of a high standard and fairly reflects the agricultural land quality across the site. The Department recommends that the ALC survey is accepted by your Authority.

Coal Authority

The application site does not fall within the defined Development High Risk Area and is located instead within the defined Development Low Risk Area.

In accordance with the agreed approach to assessing coal mining risks as part of the development management process, if this proposal is granted planning permission, it will be necessary to include The Coal Authority's Standing Advice within the Decision Notice as an informative note to the application in the interests of

public health and safety.

Welsh Water/Dwr Cymru

Dwr Cymru Welsh Water initially raised concerns surrounding the capacity of the local public sewerage network to accommodate the foul flows from the proposed development (in our pre-planning consultation letter, ref PPA0002650). However, Waterco Consultants have since identified a total of 310m² surface water contributing area from the roof and concrete yard areas of the adjacent Emmanuel Church is currently discharging into the 225mm diameter combined public sewer situated along Vounog Hill. In light of the above, Dwr Cymru Welsh Water can confirm that should the surface water flows from the connected area (310m²) be re-directed from the combined line into an existing ditch, we would be satisfied this would offset the anticipated foul flows associated with the proposed new development.

Having reviewed the Flood Consequence Assessment and Drainage Strategy prepared by Waterco Consultants dated February 2018, Dwr Cymru Welsh Water consider the proposed drainage arrangement to be acceptable in principle and as such have no objection to the proposed development providing the following condition and advisory notes are included in any planning consent.

Natural Resources Wales

Natural Resource Wales do not object to the proposal, NRW do not consider that the application will have any impact on flood risk.

Furthermore the application is supported by an ecological submission: Etive Ecology Ltd. Preliminary Ecological Appraisal – Land adj to Vounog Hill, Penyffordd, Proposed Residential Development. February 2018.

NRW is satisfied that the preliminary survey has been carried out to an acceptable standard. NRW concur with the survey conclusions and advise that the recommendations proposed within section 4 of the report should be adhered to avoid adverse impacts on protected species.

In our view, the proposal is not likely to be detrimental to the maintenance of the favourable conservation status of any local populations of European protected species; nor it is likely to adversely affect any local populations of British 'fully' protected species.

Airbus

Hawarden Aerodrome Safeguarding have assessed against the safeguarding criteria as required by DfT/ODPM Circular 1/2003: Safeguarding of Aerodromes and the Commission Regulations (EU) No 139/2014 and has identified that the proposed development does not conflict with safeguarding criteria.

Accordingly, we have no aerodrome safeguarding objection to the proposal based on the information given. Please note this housing development is in the centre of the 04 Approach and 22 take off so we require the houses to be no higher than the existing in that area.

Ecology

The application site consists of improved agricultural grassland with occasional mature trees including a Black Poplar and Horse Chestnut.

Etive Ecology report – summary

The site was visited April 2017 and consists of improved grassland dominated by perennial rye grass. The hedges are species poor dominated by Hawthorn with an occasional mature tree on the western boundary.

The Black Poplar has been recorded (Cofnod dataset) since 1994 as native which is a rare tree within England and Wales.

Protected Species –

- Bats – the mature trees were assessed as of medium potential for bats and the hedgerows were considered to provide good bat commuting and foraging corridors.
- Nesting birds – no survey was undertaken but the trees and hedgerows offer potential habitats. The Indicative Layout shows retention of the trees and the majority of the hedgerows.
- Badgers – no evidence recorded within the application area or within 30m of the boundary.
- GCN – no records within 500m and no ponds within the immediate vicinity.
- Reptiles – poor habitat and no records in close proximity.

Recommendations

The habitat creation measures shown on the Indicative Layout should be implemented in full and managed appropriately post construction. All retained trees will be subject to tree protection measures and covered by a management plan. A suitable lighting scheme provided to minimise lighting in public open space and avoid hedgerows and trees. Vegetation clearance to be undertaken outside of the nesting season and to mitigate for losses a nest box scheme prepared for the site.

Public Rights of Way

Public Footpath No. 7 in the Community of Hope crosses the site. The applicant may be required to apply for a Temporary Closure Order to protect the public during the construction.

Ramblers Cymru

We welcome the fact that the proposal would retain the line of existing public path, and would surface and light it. But we feel the layout could

go further in enhancing Active Travel in the area. In particular, the proposal does nothing to connect the rather isolated development on Min-y-Ddol to the village, we would suggest one or more path or cycle track links. Also residents of this development (and Min-y-Ddol) will have to cross the main road of Vounog Hill to reach the schools and all village services. If a second traffic island is not feasible, then traffic calming should be considered or a new footway to village on east side of the road. We would request a safeguarding conditions for the public path and appropriate conditions for street furniture. We would also ask for an alternative concession path to be made available during construction work on the public path line.

Head of Lifelong Learning

Advises that a contribution would be sought and secured by means of a Section 106 in order to provide additional toilet provision at Penyffordd Primary School and Castell Alun Secondary School.

The contribution has been calculated as follows:

Primary School Pupils

Penyffordd Primary School

School Capacity $259 \times 5\% = 12.95(13)$

$259 - 13 = 246$ Trigger point for contributions is 246 pupils

(no. of units) 37×0.24 (primary formula multiplier) = 8.88(9) No. of pupils generated $\times \pounds 12,257$ per pupil (Building Cost multiplier) = 110,313

Actual pupils $244 + 9$ (from the multiplier) = 253 meets trigger $253 - 246 = 7$

$7 \times \pounds 12,257 = \pounds 85,799$

Contribution requirement would be $\pounds 85,799$

Secondary School Pupils

Castell Alun Secondary School

School Capacity $1240 \times 5\% = 62$

Capacity $1240 - 62 = 1178$ Trigger point for contributions is 1178 pupils

(No. of units) 37×0.174 (secondary formula multiplier) = 6.43 (6) no of pupils generated $\times \pounds 18,469$ per pupil (Building Cost multiplier) = $\pounds 110,814$

Contribution requirement would be $\pounds 110,814$

Play Unit

In accordance with Planning Guidance no.13 POS Provision, the Council should be seeking payment of $\pounds 1,100$ per dwelling ($\pounds 733.00$ per affordable dwelling) in lieu of on-site provision. The payment

would be used to enhance existing POS in the community; specifically youth provision at Millstone Play Area in the centre of the village.

Working with Planning Policy, we have considered previous pooled contributions and we confirm that the thresholds have not been exceeded with regard to Millstone Play Area.

Housing Strategy Manager

The application is outline, however the indicative layout suggests 37no dwellings can be provided within the site capacity. Penyffordd (Chester) is a semi urban settlement and the policy requires a 30% provision of affordable housing on site for developments of over 1.0ha or 25 dwellings. The applicant is proposing 11 affordable units, with mix and tenure to be agreed.

With regards to evidence of housing need in Penyffordd, I support the provision of 11 affordable properties on site. I would propose:

- 6 of the units are a mix of 1 and 2 bed social rented properties, which would be delivered by one of our partner Housing Associations, who would acquire the units direct from the developer; and
- 5 of the units would be a mix of 2 and 3 bed units for affordable rent either delivered by a partner Housing Association or North East Wales Homes.

4.00 PUBLICITY

4.01 Press Notice, Site, Notice, Neighbour Notification

The application was advertised as a departure from the development plan.

59 no. letters of objection upon the following grounds:

- The recent development in the village allocated within the UDP have highlighted the lack of infrastructure to support any additional development with the consequent impacts this will have upon community cohesion;
- Surface water problems;
- Lack of school places;
- Penyffordd is no longer a village, its rapid growth is causing it to lose its identity;
- Premature in advance of the UDP and should not pre-empt decisions in advance of the LDP;
- Other sites in the settlement have been put forward as part of the Candidate site process and this may prejudice them coming forward;
- Overdevelopment of the village to the detriment of its character;
- Unsustainable location;

- There has been sufficient recent developments in the village, 37% growth;
- The proposed development contradicts the 2000-2015 UDP (Chapter 11 – Housing 11.7);
- Landscape and visual impact of developing the open countryside;
- The site is a greenfield site outside the settlement boundary;
- The proposal if approved will lead to further development and encroachment along the undeveloped east side of Vounog Hill and the open countryside;
- Loss of recreational facility used by the community i.e. sledging during winter months;
- Overall lack of community open space and free open space for children and youths to access;
- The development does not contribute to the Well-being of Future Generations (Wales) Act;
- Would lead to additional traffic and Congestion on Vounog Hill and within the village;
- Impact on the sewage system, water supply and other services;
- Lack of Public Transport services;
- Dependency on private car as a means of transport;
- Impact on dentists and doctors, current services full to capacity;
- There is a need for bungalows and affordable properties, not more unaffordable luxury houses or apartments;
- There is an overriding need for 2-3 bed affordable dwellings not large 4 or 5 bed roomed properties;
- Noise impacts from the development;
- Potential drainage impacts form surface water on nearby properties;
- Pedestrian safety is poor;
- The proposed development would be dominant and out of keeping with its surroundings, and would therefore harm the character and appearance of the immediate and wider area of the open countryside;
- Loss of good quality agricultural land;
- Cause overlooking and loss of privacy to the adjacent properties at Min-y-Ddol.

5.00 SITE HISTORY

5.01 No previous site history.

6.00 PLANNING POLICIES

6.01 Flintshire Unitary Development Plan
STR1 - New Development

STR4 – Housing
STR7 – Natural Environment
STR8 - Built Environment
STR10 - Resources
GEN1 - General Requirements for New Development
GEN3 - Development Outside Settlement Boundaries
D1 - Design Quality, Location and Layout
D2 - Design
D3 - Landscaping
TWH1 - Development Affecting Trees and Woodlands
WB1 - Species Protection
AC13 - Access and Traffic Impact
AC18 - Parking Provision and New Development
HSG4 – New Dwellings Outside Settlement Boundaries
HSG8 - Density of Development
HSG9 - Housing Mix and Type
HSG10 - Affordable Housing within Settlement Boundaries
RE1 – Protection of Agricultural Land
SR5 - Outdoor Play Space and New Residential Development
EWP3 - Renewable Energy in New Development
EWP14 – Derelict and Contaminated Land
EWP16 – Water Resources

Local/Supplementary Planning Guidance Notes

LPGN 2 - Space around dwellings
LPGN 4 - Trees and Development
LPGN 9 - Affordable Housing
LPGN 11 - Parking Standards
LPGN 13 - Open Space Requirements

Planning Policy Wales Edition 9 November 2016
Technical Advice Note 1 : Joint Housing Availability Studies
Technical Advice Note 11: Noise
Technical Advice Note 12 : Design
Technical Advice Note 18 : Transport

7.00 PLANNING APPRAISAL

7.01 Introduction

This is an outline planning application for up to 37 dwellings with details of the access provided, on land east of Vounog Hill, Penyffordd. All other matters are reserved for future consideration.

7.02 Site Description

The application site extends to 1.91 hectares and is located on the edge of the village of Penyffordd. The site is bound to the east by the former Meadowslea hospital site, Min y Ddol, to the south by properties along Wrexham Road within the settlement boundary and scattered properties and open countryside to the opposite side, properties along Vounog Hill to the west, and to the north lies open

countryside. The site is fronted by Vounog Hill.

The site is undeveloped greenfield land bound by established hedgerows and scattered mature trees along its east, south and western boundaries.

The site topography slopes steadily towards the north, across the site towards higher ground where the Min y Ddol access road and associated houses are situated. There is an existing public right of way across the site, this is proposed to be retained, improved and incorporated within the proposed scheme for residential development.

7.03 Proposed Development

This is an outline planning application for up to 37 residential units with associated access. It is proposed that the site will be accessed via a new central access off Vounog Hill, taking the form of a simple T-Junction with internal roads for the development. This would involve the removal of part of the hedgerow in order to achieve the required visibility splays.

A new footpath is proposed across the site frontage along Vounog Hill. A pedestrian refuge is also proposed. All other matters are reserved for future consideration.

7.04 Planning History and the UDP

There is no known planning history to the site. However, the land to the east has a planning history in that it is a residential development on the site of the former Meadowslea Hospital. The deposit UDP had a policy which provided advice on the re-use of redundant hospital sites, although this was later removed from the plan. Planning permission was granted on the site for residential development, now known as Min y Ddol.

The settlement has seen a significant planning history in recent years. The deposit UDP allocated two sites for housing which were the White Lion and Wood Lane Farm sites. The Inspector considered a large number of 'omission sites' and recommended that the two allocated sites remain in the Plan. The Inspector was aware that this resulted in a significant growth rate for the settlement but regarded this as being part of the UDP's 'planned' housing provision. The Inspector commented:

"Penyffordd & Penymynydd is a Category B settlement with an indicative growth band Of 8-15%. It is one of the larger settlements in this category and it is appropriate that it makes provision for a portion of the housing needs."

However, in considering other omission sites, the UDP Inspector commented on several occasions about the detrimental impact of

allocating edge of settlement greenfield sites as extensions to the settlement boundary. In many cases it was considered that the land in its undeveloped form was distinctively rural in character and formed part of the attractive setting for the settlement, for which development in such areas would significantly harm the character of the local and wider area. It is considered that the application site shares a number of similarities, therefore the views of the UDP inspector are considered to be relevant.

7.05 Principle of Development

The site lies outside and adjacent to the settlement boundary of Penyffordd in the adopted UDP. In terms of adopted UDP policies, policy STR1 refers to the requirements of new development, while policy GEN3 sets out those instances where housing development may take place outside of settlement boundaries. The range of housing development includes new rural enterprise dwellings, replacement dwellings, residential conversions, infill development and rural exceptions schemes which are on the edge of settlements where the development is wholly for affordable housing. Policy GEN3 is then supplemented by detailed policies in the Housing Chapter on each type. In this case, policy HSG4 is of most relevance, referring to new dwellings outside settlement boundaries. The policy aims to strictly control new dwellings outside settlement boundaries unless it is essential to house a farm or forestry worker at or very close to their place of work.

Given that the proposal is for up to 37 units and does not fall within the scope of the above policy framework, the proposal is contrary to these policies in the adopted UDP and is a departure from the development plan, and has therefore been advertised as such.

The applicant justifies the proposal on the basis of a lack of a 5 year housing land supply, the fact that the UDP is out of date, that the proposal represents sustainable development and that it would reconnect the former Meadowslea hospital development at Min y Ddol, resolving the current sense of distance from the village.

Welsh Government Advice and National Planning Policy

Planning Policy Wales Edition 9 November 2016 paragraph 4.2.2 states;

“The planning system provides for a presumption in favour of sustainable development to ensure that social, economic and environmental issues are balanced and integrated, at the same time, when taking decision on planning applications.”

Planning Policy Wales Edition 9 November 2016 paragraph 4.2.4 states;

“A plan led approach is the most effective way to secure sustainable

development through the planning system and it is important that plans are adopted and kept regularly under review. Legislation secures a presumption in favour of development in accordance with the development plan for the area unless material considerations indicate otherwise. Where;

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

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

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

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

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

Housing Land Supply

Welsh Government Technical Advice Note 1 states that “The housing land supply figure should also be treated as a material planning consideration in determining planning applications for housing. Where the current land supply shows a land supply below the 5 year requirement or where the local planning authority has been unable to undertake a study....The need to increase supply should be given considerable weight when dealing with planning applications provided that the development would otherwise comply with the development plan and national planning policies.”

In these circumstance, advice contained in para 6.2 of TAN1 is that ‘The housing land supply figure should also be treated as a material consideration in determining planning applications for housing. Where the current study shows a land supply below the 5-year requirement or where the local planning authority has been unable to

undertake a study, the need to increase supply should be given considerable weight when dealing with planning applications provided that the development would otherwise comply with the development plan and national planning policies’.

On the 10th May 2018, Cabinet Secretary for Energy, Planning and Rural Affairs announced a 6 week consultation exercise seeking views in relation to the temporary disapplication of TAN1 paragraph 6.2. This was in response to the current housing land supply position across Wales, with a number of Local Planning Authorities (LPAs) receiving high numbers of ‘speculative’ applications for housing on sites not allocated for development in LDPs, generating uncertainty for communities and to the detriment of the plan-led system.

As a result, the Cabinet Secretary for Energy, Planning and Rural Affairs supported the review, and in order to alleviate some of the immediate pressures on LPAs, decided to dis-apply paragraph 6.2 of TAN1 *Joint Housing Land Availability Studies*. The disapplication specifically refers to the notion of affording “considerable” weight to the lack of a 5 year housing land supply as a material consideration in determining planning applications for housing. The disapplication took effect on the 18th July 2018.

Whilst this does not mean that a lack of land supply is no longer a material planning consideration to be weighed in the planning balance, it does redress the previous bias emphasised by the use of the term “considerable weight”, and also leaves the weight to be applied to this issue, for the Local Planning Authority (LPA) to determine. Therefore, the weight that should now be attributed to the need to increase supply is dependent on the planning balance providing that the development would otherwise comply with the development plan and national planning policies.

It is acknowledged that despite the changes to TAN1 para 6.2, the Council cannot demonstrate a 5 year housing land supply within the broader terms of TAN1. Therefore, the measures identified by the Council that would increase housing land supply such as the Development Guidance Note for speculative development continues to play a key part in assessing the individuals merits of a proposal, especially for those outside existing settlements.

‘Firstly, the Council will continue to work with landowners and developers in bringing forward appropriate and sustainable windfall housing sites as well as addressing any difficulties or obstacles preventing the delivery of allocated sites. Applications for sites within settlement boundaries will generally be looked upon favourably provided that they satisfy the Plan’s policies. Applications on sites outside of existing settlements will be assessed on their individual merits in terms of whether they represent logical and sustainable development having regard to material planning considerations and

will not be approved merely because they would increase housing land supply. They must also be capable of demonstrating that they can positively increase supply in the short term (perhaps by granting a short term permission) otherwise they would not be capable of meeting the requirements of TAN1. The Council has developed a guidance note for developers in this respect, which seeks to ensure that speculative sites put forward on the basis of a lack of housing land supply are genuine development proposals, as opposed to simply adding value to land'.

Development Guidance Note

a) The need for the Development

This application has been submitted in the context of the lack of a 5 year land supply, the fact that the UDP is out of date, that the proposal represents sustainable development and that it would reconnect the former Meadowslea hospital development at Min y Ddol, resolving the current sense of distance from the village.

The applicant has undertaken an analysis of the LDP candidate sites on the register for the settlement of Penyffordd & Penymynydd, this is introduced at para.4.5 in the accompanying planning statement. This is presented in a tabular form whereby each site is assessed against the following:

- Appropriate scale
- Technical deliverability
- Balanced development of the village
- Does not compromise open space

The results of the assessment shows that the application site is the best scoring site. However, when compared to, for instance, the methodology for assessing candidate sites, the assessment presented is rather superficial.

The table is presented in terms of the following conclusions:

- *'The above has provided an overview of the sites reviewed by the Local Planning Authority within the Preferred Strategy Consultation Document and has justified why the Vounog Hill Site should be allocated as strategic housing land within the Preferred Strategy in advance of the other proposed sites.'*
- *'The above demonstrates that the Vounog Hill Site is both deliverable and sustainable and will contribute towards the Local Authority's Housing land supply, specifically in Penyffordd.'*

It is not possible for the application site to be allocated in the Preferred

Strategy for the LDP, as it does not identify housing allocations (other than strategic sites). The site is not of a scale that would warrant consideration as a strategic housing site. It is also not understood how the assessment has established how the site is deliverable.

In addition to the above, paragraph 3.2 of the planning statement states that *'this part of the Penyffordd is currently characterised by the separation of the hospital redevelopment housing from the main core of the village along Vounog Hill, which has created an anomaly to the visual layout to Penyffordd. This site presents the opportunity to reconnect the outlying residents of the hospital redevelopment housing, with the core of the village community, resolving the current sense of distance from the village.'* It is not considered that there is any anomaly with the visual layout of the settlement. Penyffordd is almost wholly on the western side of Vounog Hill whilst Penymynydd is predominantly on the eastern side of Hawarden Road.

The circumstances which led to the residential development at the former Meadowslea Hospital has been set out. It is not understood how the Min y Ddol development and its residents are either physically or socially separated from the village, given that the access road is only some 130m. Furthermore, it is not understood why it is necessary to seek to rectify this by building housing on the intervening land. PPW provides clear advice in para.9.3.1 that *'new housing developments should be well integrated with and connected to the existing pattern of settlements.'* Given that the present pattern of development on this side of Vounog Hill, beyond the settlement boundary is sporadic and isolated in parts by open countryside, it is considered that the site relates poorly with the existing built form and pattern of Penyffordd, and will result in a block of development which will be harmful to the character and appearance of the countryside and locality.

b) Full Application

In accordance with the Developer Guidance Note, the Council would prefer the submission of a full application to allow the Council to properly assess the proposal in terms of the need to be met, the housing to be provided, and the deliverability of the scheme. Outline applications are not considered appropriate or acceptable to consider proposals for speculative development on the basis of a lack of housing land supply, as without full information it may prove difficult for the Council to be satisfied that the proposal represents a sustainable and deliverable form of development.

The application is in outline and has been submitted by Strutt & Parker Land Agents on behalf of the applicant Roundfield Limited, the background of which is not known.

The applicant does not provide comment in respect of their decision

to submit an outline application. No explanation has been provided as to why the submission of a full planning application would not be prudent or necessary in this case, despite the recommendations made by the Council in respect of speculative applications.

c) Sustainability Appraisal

The application is supported by a 'Sustainability Appraisal' which provides commentary on how the proposal is considered to be sustainable in the context of the guidance in PPW. The applicant has undertaken an analysis of the site, and considers that it has been demonstrated that the application site scores highly against the respective criteria.

The conclusions of the appraisal are that the site has no constraints to development, and is directly adjacent to existing housing development and infrastructure, with the ability to walk to local services and amenities by foot. It is on this basis that the applicant considers the site to be a sensible site to be considered for housing development as a sustainable solution to providing housing needs at a well located site.

Further arguments in relation to sustainability of the site are advanced in the planning statement in terms of its proximity to a range of local amenities and services, by both bicycle and regular bus services. It continues to state that one of the key features of the site is its location, immediately adjacent to the settlement boundary of Penyffordd.

d) Viability Appraisal

A viability assessment is provided in the simplistic form of a paragraph within the Sustainability and Viability Assessment document submitted with the application.

The paragraph refers to supporting documents that have been provided in relation to utilities, highways and drainage, which confirm that there is adequate infrastructure capacity at the site with delivery of these services being achievable. In addition, the applicant acknowledges the need to comply with site specific contributions, such as public open space, highways improvements, education and affordable housing. There is has been no dispute to the contribution requirements that would be generated in respect of the proposed scale of development. The applicant continues to state a commitment to complying with the specific planning policy provisions, offering to provide the full 30% provision of affordable dwelling units on site.

With reference to the outline form of the application and in the absence of a robust financial viability assessment, it is difficult to dispute the reality of the commitments being made by the applicant.

e) Housing Delivery Statement

The Council requires the submission of this essential evidence by the developer in order to demonstrate how the development can deliver housing to help to reduce whatever is considered to be the identified shortfall in housing supply, within 5 years from the application date. This should clearly identify a timeline for the development including the expected start date, the annual completion rate, as well as the expected completion date for the whole development. This should also clearly identify which developer(s) will be building the homes, as well as a statement that the land owner (where relevant) has agreed to the sale of the land on the basis of the scheme proposed, and will complete this agreement on the grant of planning permission thereby making the land immediately available for development. This requirement is also to ensure compliance with advice in paragraph 9.2.3 of PPW: *“This means that sites must be free, or readily freed, from planning, physical and ownership constraints, and economically feasible for development, so as to create and support sustainable communities where people want to live”*.

Threaded throughout the planning statement, the applicant reiterates that the development is deliverable. However, in respect of the above Development Guidance Note commentary, it is not considered that the applicant has adequately demonstrated how the site can come forward within a 5 year period to meet the identified shortfall in housing supply.

Furthermore, it is understood that the applicant is not the owner of the land subject to this application. Therefore without evidence that the sale of the land has been agreed and or transferred, the notion of para 9.2.3 of PPW in that sites must be free or readily freed from ownership constraints has not been adequately demonstrated. It is therefore considered that this application is wholly speculative in nature, and that the intention to deliver housing on this site has not been genuinely investigated as a commitment to meet the current shortfall in housing supply.

Agricultural Land Classification

7.06 An Agricultural Land Classification Survey was submitted as part of the submission. This was undertaken by Reading Agricultural Consultants Ltd in November 2017. This confirmed that the main limitations to the agricultural land quality at the site is the soil wetness and workability which therefore limits most of the site to subgrade 3b with a smaller area of subgrade 3a (best and most versatile agricultural land) to the north of the site.

Welsh Government’s Land Use Planning Unit have clarified that the submitted Agricultural Land Classification Study has been completed to a high standard, and is considered to provide an accurate indication of the agricultural land quality.

Highways

7.07 The proposed vehicular access into the site is from a proposed new central access off Vounog Hill, allowing access to both the local and wider network. The application is accompanied by a Transport Statement which demonstrates that safe vehicular access to the proposed development can be made from Vounog Hill. It also highlights that the site is sustainably located and has good links to the public transport network; promoting the use of sustainable transport means.

Further representations have been made that the proposal will give rise to a level of traffic generation which would adversely affect the safety of existing highway users and is unsustainably excessive. The Local Highway Authority have considered the proposal and raise no objections on highway safety grounds. Accordingly, there is no objection to the proposals, subject to the imposition of conditions.

Landscape and Visual Impacts

7.08 The application is accompanied by a Landscape Visual Impact Assessment (LVIA) undertaken by Ryder Landscapes Consultants in November 2017. The LVIA has considered the baseline landscape and visual environment through a desk top review of published documents and reports, supplemented and verified by fieldwork. This included the identification of a range of landscape receptors and visual receptors at fixed locations within the study area to create a series of viewpoints.

In summary, the LVIA concludes that through the aid of mitigation measures such as boundary treatments and planting, the landscape effects would generally reduce over time. It is accepted that with the exception of the built portion of the site itself, the landscape character will change permanently as a consequence of the development. In terms of visual effects, it is recognised that there will be change for the users on or close to the site, with the visual effects predominately limited to receptors local to the site; confirming that there are limited mid or long range views affected by the proposals. The LVIA notes that users of local roads adjacent to the site will experience an ongoing change in their visual amenity. However, it is considered that the change will diminish as people become familiar with seeing houses in this particular location, and that the effects would reduce over time as the development becomes established.

The proposed site forms part of a wider local and regional character area. No landscape receptors were assessed as experiencing significant effects post mitigation. In most part all trees and hedgerows of merit will be retained and enhanced as part of the landscape planting proposals; which are said to soften the built form and assimilate the development into the wider landscape context.

The submitted LVIA has not been reviewed by an independent Landscape Architect on behalf of the Council. Such reviews are only considered necessary should the Council resort to refuse the application on Landscape and Visual Impact grounds. As it is considered that the proposal fails in principle policy terms, and therefore does not comply with the development plan and national planning policies, an independent review of the submitted LVIA was not considered necessary.

However, the proposed site lies within open countryside as defined by the Adopted Flintshire Unitary Development Plan. It is therefore my opinion that the site is a constituent of its enveloping rural landscape character by virtue of its topography, openness, pasture use, vegetation and presence of settlement. It is not on the fringes of the rural character, but very much part of it. Historically, the settlement of Penyffordd/Penymynydd has an east-west layout with two historic cluster areas. This east-west form will be further accentuated through the recent appeal of 187 dwellings at Chester Road. In relation to the application site, the present pattern of development is concentrated to the west, while on east side of Vounog Hill, development is sporadic and isolated in parts by open countryside. It is considered that the location is counter to the pattern of the settlement, and will result in a block of development which will be harmful to the character and appearance of the open countryside.

Trees

7.09 The application site consists of improved agricultural grassland with species poor hedges and occasional mature trees including a Black Poplar and Horse Chestnut.

The application is accompanied by a Tree Survey Report undertaken by 'acs consulting' tree consultants in November 2017. The report concludes that the site's principle constraints on development are T43 Poplar and off site tree T2. Tree T43 is a significant specimen in the landscape with veteran potential. The remaining trees within the site are unremarkable specimens of very limited merit or in such impaired condition that they do not qualify in higher categories. They are trees offering low or only temporary/transient landscape benefits.

The proposal seeks to retain all hedgerows and trees including the trees as identified of significant merit within the scheme of development, employing tree protection measures where appropriate.

Ecology

7.10 An ecological appraisal was submitted with the application undertaken by ETIVE Ecology Ltd. dated February 2018. The report concludes that the site has the potential to support roosting, foraging and commuting bats, nesting birds and other notable species of fauna. However, the proposal layout has been designed to retain all

ecological features of potential value to include the existing hedgerow network and all mature trees, thereby avoiding and minimising ecological impacts to a minor level. Provided the habitat creation measures are implemented in full, and managed appropriately post-construction, there should be no residual ecological impacts posed as a result of the scheme.

Drainage Impacts

7.11 Welsh Water initially raised concerns surrounding the capacity of the local public sewerage network to accommodate the foul flows from the proposed development. However, Waterco Consultants have since identified a total of 310m² surface water contributing area from the roof and concrete yard areas of the adjacent Emmanuel Church is currently discharging into the 225mm diameter combined public sewer situated along Vounog Hill.

In light of the above, DCWW confirms that should the surface water flows from the connected area (310m²) be re-directed from the combined line into an existing ditch, we would be satisfied that this would offset the anticipated foul flows associated with the proposed new development.

I am advised in response to consultation by DCWW that there is no objection to the proposed development subject to the imposition of a condition that requires the removal of 310m² of surface water contributing area from the combined foul network as identified in the Flood Consequence Assessment & Drainage Strategy, to be completed in full and maintained thereafter to prevent surface water run-off from the application site and Emmanuel Church entering the combined public sewerage network.

Education

7.12 It has been suggested in third party responses to consultation that the settlement does not have sufficient capacity within the existing infrastructure to accommodate the proposed development of a further 37 dwellings. Specifically sited is the lack of capacity at local schools.

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 established, having regard to SPG23: Developer Contributions to Education, that the development would give rise to the need for a contribution requirement at both primary school and secondary school levels.

The consultation response confirmed that nearby primary school and secondary school currently have capacity to accommodate the number of pupils that would be generated as a result of the development. This would not tip the scales in terms of the schools ability to accommodate new pupils, but the number of pupils generated would trigger the need for contribution requirements. In this

respect, the contribution sought for Penyffordd Primary would be £85,799 and £110,814 for Castell Alun Secondary.

I am advised that the sums would be used as a contribution towards providing additional toilet provision.

Open Space

7.13 Following discussions with the leisure services, it is proposed that a contribution of £1,100 per dwelling in lieu of on-site provision (£733.00 for any affordable housing) is secured through the proposed legal agreement. The payment would be used to improve teenage provision at Millstone Play area, Penyffordd.

Affordable Housing

7.14 The applicant proposes to provide affordable housing in line with UDP policy HSG10. The application is to develop 37 no. dwellings, in accordance with the provisions of policy HSG10 at 30%, 11 units have been committed as affordable housing. Housing Strategy supports the provision of 11 affordable properties on site, and recommends that the provision is delivered in the following format:

- 6 of the units should be a mix of 1 and 2 bed social rented properties, which should be delivered by one of the Council's partner Housing Associations, who would acquire the units direct from the developer; and
-
- 5 of the units should be a mix of 2 and 3 bed units for affordable rent either delivered by a partner Housing Association or North East Wales Homes.

CIL Compliance

7.15 Members will be aware that where it is recommended that planning permission be granted, I would set out the consideration of this issue in relation to the CIL Regulations and its impact upon any suggested S.106 Agreement. However, in view of the recommendation that permission be refused, I have in this case refrained from so doing at this stage.

Other Matters

7.16

- Third party objections have included concerns regarding the loss of the land as a recreational facility and open space for the community. The land is in private ownership and is not designated recreational or open space for the use of the community. Concerns have also been raised regarding lack of doctors, dentist and public transport. The sustainable nature of Penyffordd and associated infrastructure has been examined by several Inspectors in recent times. The Inspectors have consistently concluded that Penyffordd is a sustainable location and no evidence has been submitted by third party objectors to demonstrate that there is a lack of

provision. There has also been no evidence submitted to demonstrate how the development proposed would create a noise issue. As the proposal is in outline form it is not possible to consider issues relating to privacy and overlooking as if the application were approved these would be examined in a later reserved matters application.

8.00 CONCLUSION

The basis for making decisions on planning applications should be in accordance with the development plan unless other material considerations deem otherwise.

In this instance, it is considered that the proposal amounts to unjustified residential development within an area of open countryside, whereby the proposed development would be detrimental to its setting. It would result in the loss of what is currently an open, agricultural field and its replacement with built development and associated human activity. This is considered to have an adverse impact on the rural quality of the landscape, increasing the built form of development outside the settlement boundary, at the expense of the surrounding open countryside. In these terms, the proposed development would conflict with UDP policy STR7 requirement to protect and enhance the character, appearance and features of the open countryside.

Further, the proposal would result in a development which does not relate well to the existing pattern of development in the area, and would result in a fragmented form of development which does not integrate well with the existing built form. As such the proposal represents an illogical extension to the settlement which would be contrary to the provisions of Paragraphs 2.1.3, 4.6.4, 4.7.8 and 9.3.1 of Planning Policy Wales (9th Edition – Nov 2016) and UDP Policies STR1, GEN1, GEN3 and HSG4 of the Flintshire Unitary Development Plan.

It is acknowledged that despite the changes to TAN1 para 6.2 which came into effect of the 18th July 2018, the Council cannot demonstrate a 5 year housing land supply within the broader terms of TAN1. As set out, the disapplication does not mean that a lack of land supply is no longer a material planning consideration to be weighed in the planning balance, it does however, redress the previous bias emphasised by the use of the term “considerable weight”, and also leaves the weight to be applied to this issue, for the Local Planning Authority (LPA) to determine. Therefore, the weight that should now be attributed to the need to increase supply is dependent on the planning balance providing that the development would otherwise comply with the development plan and national planning policies.

From the above, it has been demonstrated that this is not the case

and as such the lack of a housing land supply is not sufficient to outweigh the harm on the character and appearance of the open countryside. I therefore recommend accordingly.

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.

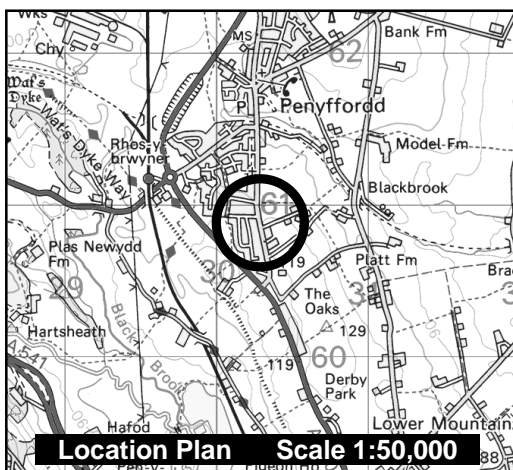
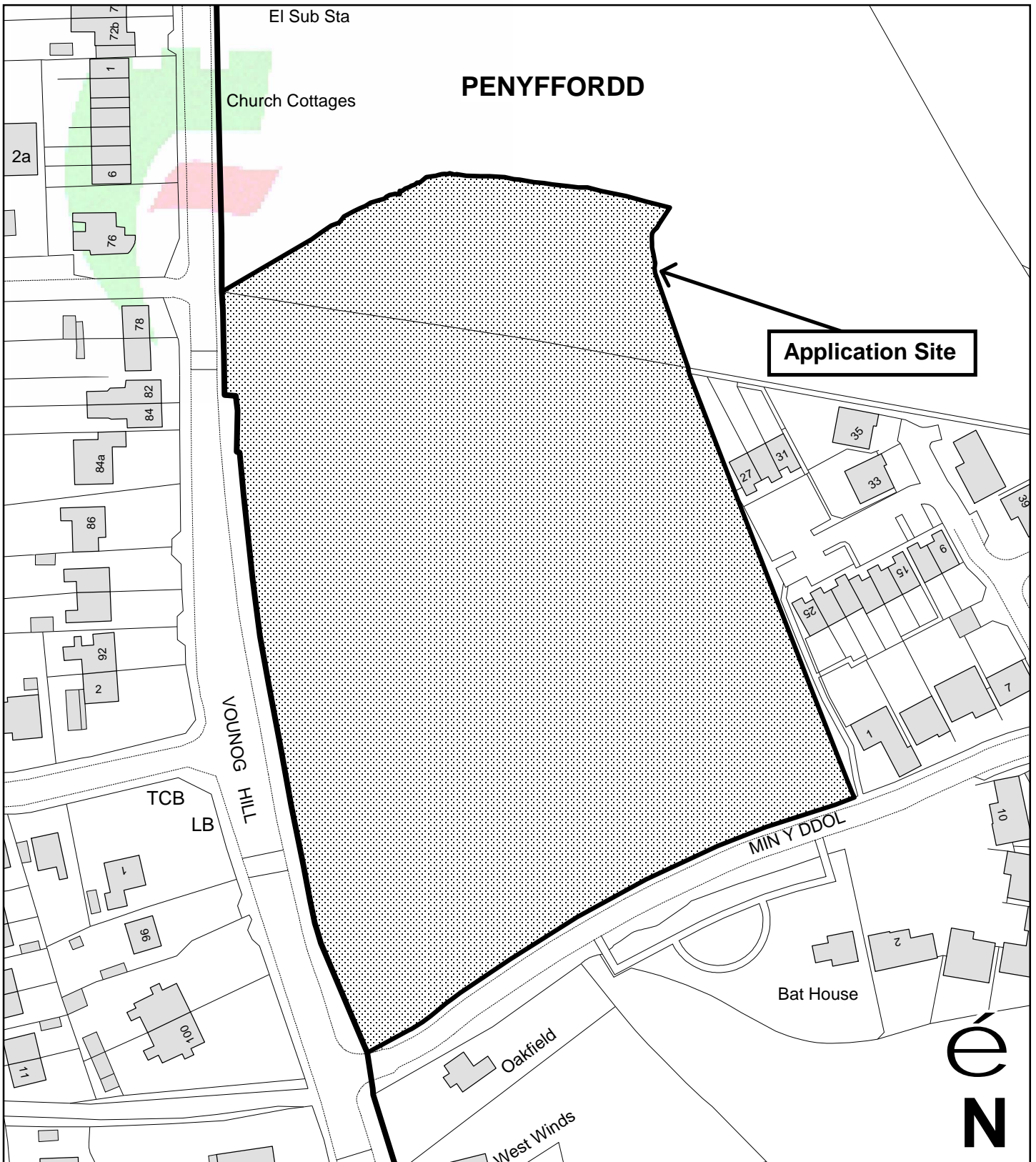
The Council has had due regard to its duty under Section 3 of the Wellbeing of Future Generations (Wales) Act 2015 and considered that there would be no significant or unacceptable impact upon the achievement of wellbeing objectives as a result of the recommended decision.

LIST OF BACKGROUND DOCUMENTS

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


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Planning, Environment & Economy,
 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 3060
Planning Application	58164

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FLINTSHIRE COUNTY COUNCIL

REPORT TO: **PLANNING COMMITTEE**

DATE: **5TH SEPTEMBER 2018**

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

SUBJECT: **OUTLINE- RESIDENTIAL DEVELOPMENT , INCLUDING ACCESS, OPEN SPACE AND ALL ASSOCIATED WORKS AT LAND ADJACENT WOODSIDE COTTAGES, BANK LANE, DRURY**

APPLICATION NUMBER: **058212**

APPLICANT: **LINGFIELD HOMES**

SITE: **LAND ADJACENT WOODSIDE COTTAGES
BANK LANE
DRURY
BUCKLEY
CH7 3EQ**

APPLICATION VALID DATE: **15TH MARCH 2018**

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

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

REASON FOR COMMITTEE: **SCALE OF DEVELOPMENT RELATIVE TO DELEGATION SCHEME
PUBLIC INTEREST**

SITE VISIT: **YES
TO ALLOW MEMBERS TO SEE LOCAL ROADS INFRASTRUCTURE AND LOCAL AREA**

1.00 SUMMARY

1.01 This is an outline planning application for residential development on 0.85 hectares at Woodside Cottages, Bank Lane, Burntwood. All matters are reserved with the exception of access. The main issues to consider are the principle of development as a windfall site, the highway impacts, ecological implications and other site constraints.

1.02 Members should be aware that an appeal on the basis of non-determination has been lodged by the applicant with the Welsh Ministers. As Members will recall, a 28 day 'dual jurisdiction' period exists from the date of the appeal being lodged with the Welsh Ministers, during which time the Local Planning Authority may determine the application. The 28 day period began on 20th August 2018.

1.03 Accordingly, the Committee may now pursue one of the following courses of action. It may either;

1. grant planning permission; or
2. refuse to grant planning permission.

1.04 Should the Committee resolve to refuse to grant planning permission, then the reasons for such a refusal will form the basis of the Council's position in the subsequent consideration of the appeal.

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

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

Payment of £73, 542 to Drury C.P Primary School. Such sums to be paid upon the commencement of development;

Payment of £1,100 per dwelling in lieu of on-site public open space provision. The off-site contribution would be used to enhance existing public open space in the community; namely Mount Pleasant road Play area. The contribution shall be paid upon 50% occupation or sale of the dwellings hereby approved;

And

Payment of £2,500 per dwelling towards mitigating the indirect impacts due to in combination pressures on the Special Area of Conservation (SAC).

Conditions

1. Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters")
2. (i) Application for approval of the reserved matters shall be made three years from the date of this permission
(ii) The development hereby permitted shall be begun either before the expiration of five years from the date of this

permission, or before the expiration of two years from the date of a reserved matters.

3. A scheme of disposal of foul sewage and surface water from the site
4. Surface water flows from the development shall only discharge at a rate not exceeding 5 l/s.
5. The submission of reserved matters shall include details of existing and proposed site levels and, where appropriate, proposed finished floor levels of the building(s).
6. Detailed scheme for the re-alignment if kerb-lines associated with the making of a TRO and provision of a footway on Pen y Coed Road has been submitted to and approved by the LPA. Such works shall become subject of a Section 278 Agreement.
7. The detailed layout, design, means of traffic calming and signing, surface water drainage, street lighting and construction of an internal estate roads.
8. Formation and construction of a means of site access
9. Facilities shall be provided and retained within site for the parking and turning of vehicles
10. The front of any garage shall be set back a minimum distance of 5.5m behind the back of footway line or 7.3m from the edge of the carriageway in the case where the crossing of a grass service margin verge is involved.
11. Positive means to prevent the run off of surface water from any part of the site onto the highway
12. Submission of a Construction Traffic Management Plan
13. Submission of a Full Travel Plan and Transport Implementation Strategy
14. Submission of a site investigation.
15. Submission of a scheme of great crested newt avoidance and mitigation measures.
16. Submission of an appropriate Ecological Compliance Audit.
17. Submission of a programme of building recording and analysis equivalent to a Historic England Level 3 building survey for the existing buildings to be demolished.
18. Submission of a scheme for remedial works to treat the identified areas of shallow coal mine workings.
19. Details of proposed pedestrian links and footpaths to be submitted

3.00 CONSULTATIONS

3.01 Local Member Councillor M Peers Councillor D Hutchinson

Joint response. Preliminary views are that application should be refused for the following reasons:

- Proposed access is unacceptable given that the traffic to and from the proposed development will need to travel through the existing local road network through narrow roads with parked

- cars on Pen-y-Coed housing estate.
- Impact of additional traffic generated by development on the residential amenity of existing residents, road safety.
- Local road network under stress. Highways strategy has been asked to carry out capacity v. volume checks in the community.
- Proposal conflicts with Welsh Governments “Prosperity for All: The National Strategy”. Fails the test with regards to adequacy of local infrastructure.
- Contradictory statements regarding ‘developable area’ between supplied documents.
- Housing mix unacceptable under HSG9
- Inefficient use of land contrary to policy HSG8
- No demonstrated housing need. Drury and Burntwood has exceeded the 8%-15% guidance in the UDP
- LDP currently being drafted and housing development land should be approved in line with the facilities and infrastructure, currently lacking in the community.
- Current consultation on TAN1 by Welsh Government Cabinet Secretary for Energy, Planning and Rural Affairs.

Buckley Town Council

- Concerns raised in relation to the impact on the amenity of the area, particularly in respect of traffic flow and the access and egress. Proposed one way system would exacerbate danger to public from traffic.
- Impact upon ecological amenity
- Inadequacy of parking
- Increased traffic flow would have an adverse effect on the roads in the immediate area particularly Mount Pleasant Road and Drury Lane

Head of Assets and Transportation

No objection providing conditions imposed.

Head of Public Protection

No objections in principle. Recommends contaminated land conditions.

Ecology

Recommends that any permission is conditioned with agreed reasonable avoidance measures in relation to GCN.

Mitigation can be either through the provision of land for conservation/recreation or through financial enhancement projects within the Buckley area. Financial contributions would need to be dedicated to the enhancement and creation of new habitat to avoid significant adverse effects (both alone and in combination with other projects) on the conservation features of the Deeside and Buckley Newt SAC.

Capital Projects and Planning Manager

SCHOOLS AFFECTED: PRIMARY

School: Drury C.P. School

Current NOR (@ January 2018) 146 (excluding Nursery)

Capacity (@ January 2018) (excluding Nursery) 124

No. Surplus Places: -22

Percentage of Surplus Places: -17.74%

SCHOOLS AFFECTED SECONDARY

School: Elfed High School

Current NOR (@ January 2018) is 745

Capacity (@ January 2018) is 1037

No. Surplus Places is 292

Percentage of Surplus Places is: 28.15 %

Formula

The figures are arrived at from a combination of formula application and practical experience, informed by sufficiency criteria.

The formula reads:

Primary School Pupils

School capacity 124 x 5% = 6.2 (6)

124 – 6 = 118 Trigger point for contributions is 118 pupils

(No. of units) 23 x 0.24 (primary formula multiplier) = 5.52 (6 No. of pupils generated) x £12,257 per pupil (Building Cost multiplier) = £73,542

Actual pupils 146 + 6 (from the multiplier) = 152 meets trigger

Contribution requirement would be £73,542

Secondary School Pupils

School capacity of 1037 x 5% = 51.85 (rounded up or down) 52

Capacity 1037 - 52 = 985 Trigger point for contributions is 985 pupils

(No. of Units 23 x 0.174 (secondary formula multiplier) = 4.02 (4 No. of pupils) generated x £18,469 per pupil (Building Cost multiplier) = £73,876

Actual pupils 736+4=740 does not meet trigger of 985

Contribution requirement would be £0

Primary – Drury C.P. Primary School – it is our intention to seek a Section 106 contribution.

Secondary – Elfed High Secondary – it is not our intention to seek a Section 106 contribution.

Welsh Water/Dwr Cymru

No problems are envisaged with the waste water treatment works for the treatment. A water supply can be made available to serve the development. Suggested conditions.

Natural Resources Wales

Do not object to proposal subject to the imposition of conditions relating to protected species.

CPAT

Recommend a condition for a photographic survey of the buildings to be demolished.

Coal Authority

No objection subject to the imposition of a condition for a scheme of remedial works to treat areas of shallow coal mine workings.

4.00 PUBLICITY

4.01 Press Notice, Site, Notice, Neighbour Notification

50 Letters of Objection received, for the following reasons:

- Impact of traffic on local road network
- Flooding
- Request for better pedestrian links to Burntwood Road
- Restricted access for emergency vehicles to development
- Local schools oversubscribed
- Substandard bus routes
- Character of Drury being undermined by overdevelopment
- Infrastructure issues
- Ground stability
- Concern over inaccuracies in SCP transport assessment
- Impact on protected species
- Noise

5.00 SITE HISTORY

5.01 **71/12**

Outline erection of dwellings. Refusal.

4/0/19084

Erection of 23 no semi-detached and terraced starter homes.
Withdrawn 20.02.90

4/0/19139

Erection no of 22 no detached houses, 8 no semi-detached houses
and 6 no link detached. Refused 04.02.92.

05/0/039757

Outline application for residential development. Withdrawn 17.11.05.

05/040708

Proposed erection of 41 dwellings. Withdrawn 16.06.06

041555

Erection of 40 no. residential dwellings, land at Dinghouse Wood,
Buckley. Refused 04.10.06. Appeal Withdrawn 14/03/07.

045405

Outline - Residential Development
Refused 02.08.2010 Appeal Dismissed 17.06.2011

6.00 PLANNING POLICIES

6.01 Flintshire Unitary Development Plan

STR1- New Development

STR4- Housing

GEN1- General Requirement for Development

GEN2- Development Inside Settlement Boundaries

D1- Design Quality, Location and Layout

D2 – Design

D3 - Landscaping

TWH1- Development Affecting Trees and Hedgerows

TWH2- Protection of Hedgerows

WB1- Species Protection

WB2- Sites of International Importance

WB3- Statutory Sites of National Importance

WB6- Enhancement of Nature Conservation Interests

AC2- Pedestrian Provision and Public Rights of Way

AC13- Access and Traffic Impact

AC18- Parking Provision

HSG8 – Density of Development

HSG9 – Housing Mix and Type

HSG10– Affordable Housing within Settlement Boundaries

SR5 – Outdoor Playing Space and New Residential Development

EWP14- Derelict and Contaminated Land

EWP15- Development of Unstable Land

Additional Guidance

Planning Policy Wales 9 (PPW9)
Technical Advice Note 1: Joint Housing Land Availability Studies
Technical Advice Note 5- Nature Conservation and Planning
Technical Advice Note 18- Transport
Local Planning Guidance Note 2 – Space About Dwellings
Local Planning Guidance Note 3- Landscaping
Local Planning Guidance Note 8-Nature Conservation and Development
Local Planning Guidance Note 9 – Affordable Housing
Local Planning Guidance Note 14- Open Space Contributions
Local Planning Guidance Note 23- Developer Contributions to Education

7.00 PLANNING APPRAISAL

7.01 Proposal

This outline application, with all matters reserved apart from Access, is for the residential development of up to 23 units, including open space.

7.02 Site

The application site is 0.85 hectares, with 1 and 2 Woodside Cottages in the centre of the site and a parcel of agricultural land to the southern portion of the site. Due to existing site constraints the developable area of the site is approximately 0.581 Hectares. The application site is surrounded by residential development. To the southern boundary are semi-detached properties off Pen y Coed Road and Hillside Cottages, to the east a terrace of properties known as Hawarden View, to the north and north east residential development at Dinghouse Wood and Burntwood house and west the Burntwood public house and further residential properties off Burntwood Road. A public footpath runs adjacent to the northern and eastern boundary of the site. There are a number of trees and hedgerows around the perimeter of the site and a hedgerow along the driveway to Woodside Cottages in the centre of the site. The site is located within the settlement of Drury & Burntwood in the Flintshire Unitary Development Plan

7.03 Main Issues

The main issues are considered to be the principle of development as an unallocated windfall site within a settlement boundary, highways and access issues, the impact of the proposal on wildlife sites and local ecology, and issues of contamination and ground stability as a result of nearby landfill sites and historic coal mining.

7.04 **Principle of Development**

The site is located within the settlement boundary of Drury and Burntwood which was identified within the adopted Flintshire Unitary Development Plan as a Category B settlement. Policy GEN2 identified a presumption in favour of the development of such sites but noted that in the case of unallocated 'windfall sites' there are limitations imposed via policy HSG3.

7.05 Policy HSG3 directs that upon unallocated sites within settlement boundaries, new housing development would be permitted in Category B settlements where it did not conflict with the planned housing provision for the County, as set out in the UDP, and does not conflict with Policy GEN1. It also identified that development which would result in growth over 15% during the plan period would be required to meet a recognised local need. However, as the plan period has now passed, so too has the period for monitoring in respect of Policy HSG3.

7.06 I am mindful that previous applications have been refused at this location, the most recent of which (reference 045405) was refused solely upon the basis of the proposal resulting in a form of development which exceeded the growth thresholds under HSG3. However, the situation in respect of HSG3, as set out above, and with regard to National advice in Technical Advice Note 1: Joint Housing Land Availability Studies (TAN1) amounts to a significant material change of circumstances in relation to the policy context for this site since the determination of the previous application.

7.07 On the 10th May 2018, Lesley Griffiths AC/AM announced a 6 week consultation exercise seeking views in relation to the temporary disapplication of TAN1 paragraph 6.2. This was in response to the current housing land supply position across Wales, with a number of Local Planning Authorities (LPAs) receiving high numbers of 'speculative' applications for housing on sites not allocated for development in LDPs, generating uncertainty for communities and to the detriment of the plan-led system.

7.08 As a result, Lesley Griffiths AC/AM supported the review, and in order to alleviate some of the immediate pressures on LPAs, decided to disapply paragraph 6.2 of TAN1 Joint Housing Land Availability Studies. The disapplication specifically refers to the notion of affording "considerable" weight to the lack of a 5 year housing land supply as a material consideration in determining planning applications for housing. The disapplication took effect on the 18th July 2018.

7.09 It is important to note that the disapplication of para 6.2 has not removed the requirement for LPAs to consider what weight to attach to a lack of housing land supply as part of its determination of an application. Therefore, the weight that should be attributed to the

need to increase supply when determining the application is dependent on the planning balance providing that the development would otherwise comply with the development plan and national planning policies.

7.10 Accordingly, the scheme should be viewed on its own merits as a market scheme and is essentially a 'windfall site'. The bringing forward of such windfall sites is consistent with the strategic aims of the UDP and the UDP Inspector's conclusions in relation to housing in that housing development should be primarily directed towards such settlements. As such there is a planning presumption in favour of such proposals. Members will be aware that the granting of windfall sites such as this will assist the council in maintaining a supply of housing land as it moves towards the completion of its Local Development Plan.

7.11 Members should note that as this site is located within the settlement boundary, albeit not allocated for residential development, the requirements of developers as set out in the Councils Developer Guidance Note : Speculative Housing Development Proposals, do not apply to this site.

7.12 It is acknowledged that current proposals for development in Penyffordd/Penymynydd cite prematurity as key reasons for refusal, with the proposed growth in that settlement, taken together with undelivered sites within the same, providing 90 percent of proposed growth within this settlement with significant ramifications for the sustainable objectives of delivering housing growth across Tier 3 settlements in the new plan period. It is considered that the situation in Drury is markedly different to Penyffordd/Penymynydd and the same objections are not considered to apply.

7.13 Over the UDP period Drury saw an actual growth of 26.7% (from completions) and had the highest growth rate of any category B settlement. At the end of the UDP Plan period (April 2015) there were outstanding commitments of 2 units. Since then there have been no significant commitments within this settlement. The difference between Drury and Penyffordd/Penymynydd is that in Drury the two significant sites of Waverley and Clydesdale Rd, an allocated site, were both finished well before the end of the Plan period whereas in Penyffordd/Penymynydd there was a significant number of units being carried over from the end of the Plan period into the LDP Plan period, which has added to the growth over this period. Drury has had a few years with no significant housebuilding occurring which has alleviated the pressure that comes with too much growth too quickly.

7.14 If we look at the LDP period from April 2015 the site subject to this report, which proposes 23 units, would result in a growth of 3.6% and the Bank Lane site (66 units) would result in a growth of 10.3%. Combined this would be 13.9% for the settlement. In comparing thios

level of growth with Penyffordd the scale of development from the two sites is nowhere near the scale of development from the 3 sites in Penyffordd/Penymynydd. In sustainability terms there is also a difference in that Penyffordd/Penymynydd is a settlement within open countryside which 'stands alone' whereas Drury is part of a loose urban area with Buckley and Mynydd Isa with good connection links to the amenities afforded by these settlements as well as to Hawarden and Ewloe.

Access

7.15 Access to the site is achieved through the use of an existing field access that links onto Pen-y-Coed Road, which has two accesses onto Burntwood road. The proposal was subject to a Schedule 1C consultation with the Highways department prior to the submission of the planning application. An assessment of the likely traffic impacts of the development has been submitted with the application. This assessment shows that given the proposed level of development the impact arising from traffic generated by the proposal would be negligible, as such it is not considered that any sort of mitigation measures would be required. Highways Development Control have accepted the findings of this assessment and consider that the proposed access arrangements meet any previous concerns regarding the impact of the proposal on the existing highway network.

7.16 Concern has been raised regarding on-street parking on the adjacent Pen y Coed Road. In order to investigate a possible solution to ease any problems that may arise from this it is proposed that a public consultation exercise into the implementation of a Traffic Regulation Order (TRO), to provide a one-way system, would be funded by the development. If there was public support for such an order this would subsequently be applied and any minor amendments to kerb lines etc undertaken to facilitate this order. Should this TRO not garner sufficient public support it is the opinion of Highways Development Control that nevertheless the proposed access is acceptable.

7.17 New footpath links are shown on the illustrative layout, within the site, to provide pedestrian connectivity to the adjacent public footpath network. More details will be required in any subsequent reserved matters detailing the layout of the development proposal. The Public Rights of Way service would be a consulted on any such proposal and it would be the intention to maintain these paths at the public's expense. Concerns have been raised about the impact upon existing residential amenity due to the location of one of the proposed links and this would need to be given serious consideration at reserved matters stage. Whilst the principle of creating greater accessibility to the existing footpath network is acceptable this should not be detrimental to existing amenity. However, this is an outline planning application which is only considering the principle of development and therefore these matters can be considered at reserved matters stage and rejected if a suitable scheme which protects amenity cannot be

designed. I consider that a condition requiring the submission of full details of the location and specifications of the proposed pedestrian links could be imposed, for the sake of clarity within the reserved matters application.

- 7.18 Conditions have been proposed to ensure that the proposed estate road would be constructed to adoptable standard, that sufficient parking is available within the site, that no surface water run off onto the highway shall arise from the development and that a full travel plan and transport implementation strategy is submitted and approved prior to the first use of the development, in order to ensure that the development encourages more sustainable forms of travel in close proximity to bus stops.

Ecology

- 7.19 The site lies within 150m of the Deeside and Buckley Newt Site SAC, which was designated in December 2004 for its great crested newts (GCN) and Oak woodland. The SAC is further designated as Buckley Clay Pits and Commons SSSI, for its great crested newts, assemblage of other amphibians and the mosaic of acid, neutral and marshy grassland, wet heath, tall herb and scrub.

- 7.20 It is not considered that a development of the application site at the scale proposed would have a direct impact on the SAC, but it is acknowledged that there could be indirect effects for the following reasons.

- 7.21 Whilst there is developed land between the site and the known location of the GCN population, one of the breeding ponds is within 500m of the site. Limited links do exist to the SAC through woodland and hedgerow corridors. As such there is a potential for GCNs to be present upon the site, although it is considered that this could be overcome by undertaking reasonable avoidance measures to prevent harm to newts during the construction phase.

- 7.22 The field that forms the southern section of the site is semi improved grassland, in addition to the established and overgrown garden for the cottages this represents terrestrial habitat for GCNs and an area of mitigation would be required to maintain the favourable conservation status of the species. The field contains species of flora such as Bulbous buttercup and Ribwort plantain, which is typical of grasslands with limited agricultural improvement. Whilst not outstanding in its own right when combined with other features present on site it is indicative of the sites potential to provide nesting habitats for birds and potentially feeding and foraging habitats for other species.

- 7.23 When considered with other developments in the wider Drury and Buckley areas the combination effects arising from increased recreational pressures could be potentially significant without appropriate mitigation and compliance with conditions and

obligations.

- 7.24 It is proposed that any permission would include conditions relating to a scheme of reasonable avoidance measures, and an ecological compliance audit scheme to be submitted and approved in writing by the Local Planning Authority prior to any work commencing on site. This would include protection for GCNs during the construction phase.

Contamination

- 7.25 The site is within 200 metres of 2 former landfill sites, Standard landfill and a site between Mount Peasant Road and Drury Lane. There is also a legacy of coal mining on the site. Given the possibility of land contamination on site is considered appropriate to condition the submission of a Phase 1 Contaminated land site assessment, prior to the commencement of any development.

- 7.26 A letter was submitted with the application from NKC Geotech Ltd who have undertaken site investigations with regard to the historic coal mining on site, which includes 3 recorded mine entries within, or within 20 metres of the site boundary. The letter confirms that physical investigation has discounted any risks posed by the mine entries but identified that shallow mine workings will require consolidation to provide a stable building platform.

- 7.27 Given the above, the Coal Authority have responded to the consultation to request the imposition of a condition requiring the submission of a scheme of remedial works and their subsequent implementation.

- 7.28 It is considered that subject to the identified conditions being imposed the proposal is acceptable with regards to land contamination and ground stability.

Education

- 7.29 Primary and Secondary formula multipliers have been applied to assess the potential impact of the proposal on the capacity of both Drury CP School and Elfed High School. Due to capacity having been reached at Drury CP School a section 106 contribution would be sought for £73, 542. This is based on a calculation of 23 units. The trigger points for Elfed High School have not been met and a contribution will not be sought.

- 7.30 The infrastructure and monetary contributions that can be required from 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'.

It is unlawful for a planning obligation to be taken into account when

7.31 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;

- 7.32
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.

7.33 It is considered that the education contributions would meet the regulation 122 tests. Drury CP School is oversubscribed and due to the added pressure on the school the development would require contributions to mitigate against this impact. Drury CP School does not appear to have received more than 5 contributions and therefore the limitations of regulation 123 does not apply.

Other Matters

7.34 The proposed development includes the demolition of the existing domestic residential buildings on site. These dwellings appear on the earliest Ordnance Survey maps and are potentially mid-19th century workers dwellings. It is considered that the buildings are of local and archaeological interest and worthy of recording in their current form before they are demolished. It is therefore intended to impose the requirement for a level 3 archaeological building survey as a condition, to allow an adequate analytical record of the buildings prior to demolition.

7.35 As the application site was part of a site subject to a previous planning application, the trees on the site were previously assessed in terms of whether they merit a Tree Preservation Order. Following this assessment a group of sycamores situated on the western boundary of the site adjacent to 30 Burntwood Road were protected by a Tree Preservation Order. Any site layout could accommodate these the protection of these trees. It was considered at the time that no other trees on the site merit a Tree Preservation Order.

7.36 Concerns have been raised over the indicative housing mix and density of development shown in the proposal. Whilst this application is in outline with all matters except access reserved an indicative layout has been provided and a maximum number of residential units shown. A more detailed scheme will be required for the reserved matters submission, to include up to 24 plots. The housing mix and type can be more properly considered at this point. Policy HSG8 advises that a density of 30 dwellings per hectare is appropriate in category B settlements, subject to the site location and character of the area, and the proposal represents a density per hectare of 28, which increases to 41 dph when the excluded areas are taken into account. While the details put forward by the developer in terms of site constraints have been queries, it is clear that there are clearly

existing site constraints, in particular the excluded areas of site due to the coal mining legacy, and these limit the developable land on site and the proposed unit number of 24 is considered to represent efficient use of land in policy terms, and complies with policy HSG8. In my opinion even if you exclude the undevelopable areas from the equation the proposed density of development would represent an efficient use of land that reflects the characteristics of the site and the surrounding areas.

7.37 Members will be aware of the appeal decision relating to Argoed Service Station, New Brighton (planning ref. 55310 Appeal ref. APP/A6835/A/16/3161711), where a similar argument was put forward with regards to density and efficient land use. On that occasion the Planning Inspector considered that the proposal was compliant with the relevant Policy. The site scale and characteristics bear similarities to this proposal.

7.38 The site is under the threshold for requiring affordable housing provision under policy HSG10.

7.39 An area of public open space is shown on the site. There is also an existing play area a short distance away from the site on Mount Pleasant road. Commuted sums required for public open space provision, calculated as £1,100 per dwelling, shall be sought in order to upgrade the existing facility on Mount Pleasant Road.

7.40 Objections have been received in relation to flood risk and increased pressure on community infrastructure. There is no evidence to support that there are any ground or surface water flooding issues so this objection would attract very little weight in the overall planning balance. Furthermore no evidence has been submitted to demonstrate that local community facilities would not be able to accommodate future residents so this would attract very little weight in the overall planning balance.

7.41 With regard to the Council's Developers Guidance Note. As this proposal is not predicated on the lack of a 5year supply of housing land alone and in principle is acceptable as a windfall site within a residential area within a settlement boundary the requirements of the at note do not apply.

8.00 CONCLUSION

I consider that the principle of development is acceptable for this outline residential development and, subject to the imposition of suitable conditions, that the proposal accords with the relevant guidance within National and Flintshire Unitary Development Plan policies.

8.01 With the disapplication of paragraph 6.2 of TAN1 in mind, I consider that weighted in favour of the principle of development is the location

of the site within a settlement boundary and in a sustainable location and can be considered as 'windfall development' on white land. The planning balance lies in favour of the development and as such I recommend that the application is approved with the schedule of conditions given above.

8.02 Other Considerations

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

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

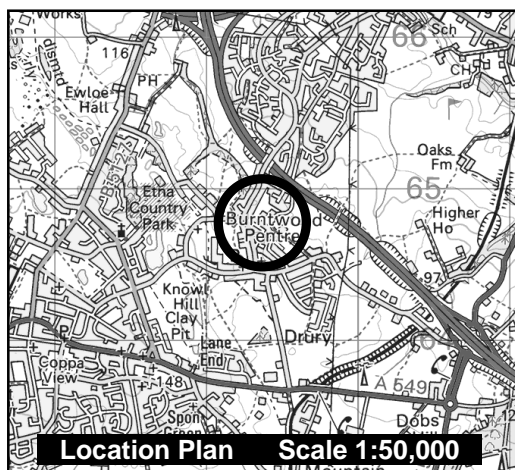
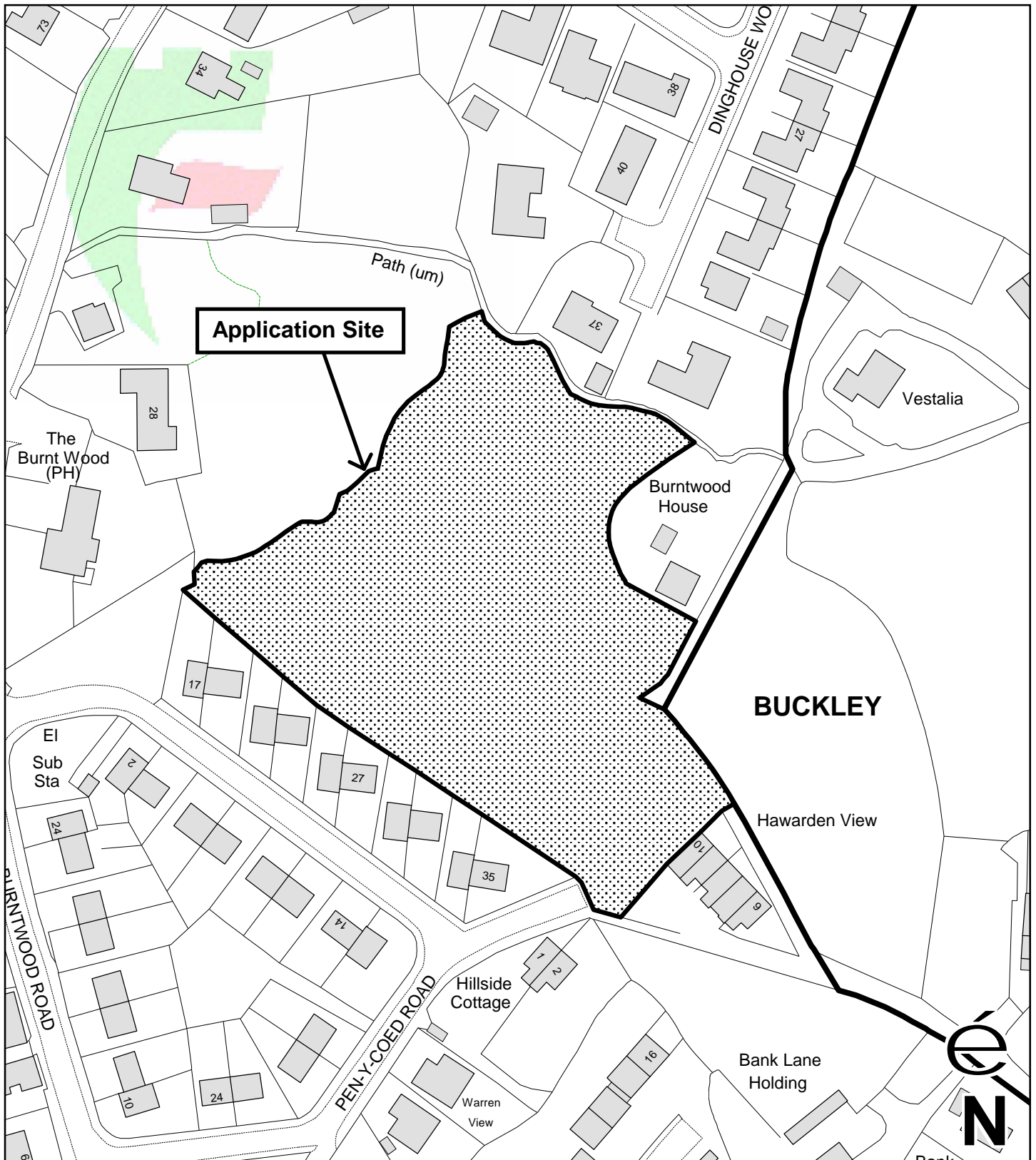
8.04 The Council has had due regard to its public sector equality duty under the Equality Act 2010.

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

LIST OF BACKGROUND DOCUMENTS



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

Contact Officer: James Beattie
Telephone: 01352 703262
Email: james.beattie@flintshire.gov.uk



Planning, Environment & Economy,
 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 2964
Planning Application	58212

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FLINTSHIRE COUNTY COUNCIL

REPORT TO: **PLANNING COMMITTEE**

DATE: **5th SEPTEMBER 2018**

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

SUBJECT: **FULL APPLICATION – ERECTION OF STABLES AND MANEGE AREA AND CHANGE OF USE OF LAND TO GRAZING OF HORSES AT PEN Y BALL HILL, HOLYWELL**

APPLICATION NUMBER: **058299**

APPLICANT: **HEATHER DICKENS**

SITE: **LAND AT PEN Y BALL HILL, HOLYWELL**

APPLICATION VALID DATE: **20/04/18**

LOCAL MEMBERS: **COUNCILLOR MS JS DAVIES**
COUNCILLOR P JOHNSON

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

REASON FOR COMMITTEE: **MEMBER REQUEST**

SITE VISIT: **YES**

1.00 SUMMARY

1.01 This is a full planning application seeking the change of use of land to allow the grazing of horses, the erection of stables, manege and associated access on land at Pen y Ball Hill, Holywell.

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

2.01 Conditions

- Time commencement

- In accordance with approved plans
- No development shall take place until details of the materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- Landscaping Plan
- Planting schedule
- Details of any external lighting shall be submitted to and approved in writing by the local planning authority before the building is first used. Development shall be carried out in accordance with the approved details.
- Archaeological watching brief
- The existing vehicular footway crossing shall be increased to serve the proposed access road and reconstructed in accordance with the attached heavy duty specification.
- Facilities shall be provided and retained within the site for the loading, unloading, parking and turning of vehicles. Such facilities being completed prior to the proposed development being brought into use.
- Positive means to prevent the run off of surface water from any part of the site onto the highway shall be provided in accordance with details to be submitted to and approved by the County Council prior to the commencement of any site works.

3.00 CONSULTATIONS

3.01 Local Member Councillor P Johnson

Objects to the proposal and requests that the application is heard at Planning Committee for the following reasons:

- Lack of details on the plans;
- The overall impact on the environment and the landscape i.e. appropriateness of the site for this use;
- The scale of the works including the access track going up from the hammerhead at the end of Coed y Fron;
- Public Rights of Way crosses through the site and this will be obstructed by the proposed manege;
- The only access to the site would be the very steeply graded Coed y Fron and through a residential area.

Councillor Ms JS Davies

Objects to the proposal on grounds of highway impact and access.

Holywell Town Council

The Council is opposed to the development proposal in relation to

access and rights of way concerns and a lack of detail in the application. The whole look of the area would be affected and there are also environmental concerns with the diesel emissions from vehicles transporting horse boxes.

Head of Assets and Transportation

I refer to the additional information received in connection with the above proposal and can confirm that it addresses my outstanding highway concerns. If you are minded to grant planning consent I would request the following conditions be included:-

CONDITION(S)

1. The existing vehicular footway crossing shall be increased to serve the proposed access road and reconstructed in accordance with the attached heavy duty specification.

REASON: To ensure the formation of a safe and satisfactory means of access.

2. Facilities shall be provided and retained within the site for the loading, unloading, parking and turning of vehicles. Such facilities being completed prior to the proposed development being brought into use.

REASON: To ensure that adequate provision is made for servicing the site and that adequate parking and manoeuvring space is provided to serve the proposed development and to avoid the necessity for reversing movements into or from the highway in the interests of highway safety and maintaining the free flow of traffic on the adjoining highway.

3. Positive means to prevent the run off of surface water from any part of the site onto the highway shall be provided in accordance with details to be submitted to and approved by the County Council prior to the commencement of any site works.

REASON: In the interests of highway safety and to prevent damage to the highway surface or structure.

In addition please ensure that the attached Supplementary Notes are issued to the Applicant as part of any planning consent which may be granted with particular reference to Clauses 1, 2 & 9. Clause 9 relates to Public Footpath number 14 that abuts the application site.

Head of Public Protection

No adverse comments to make.

Drainage

No comments to make. Considers the proposal acceptable, refers applicant to Supplementary Planning Guidance Note 29 Management of Surface Water for New Development.

Public Rights of Way (PROW)

Public Footpath No.14 crosses the site but does not appear to be significantly affected by the development now that the route has been incorporated into the proposed site layout. The applicant may be required to apply for a temporary closure order to protect the public during construction and are required to contact the Rights of Way team to discuss the proposed works if consent is issued.

The nearest accessible Bridleway to the site is No.19 in the Community of Brynford.

Ecology

While I have no objection to the stables, ménage and change of land use per se, there are known wildlife issues which need to be taken into account.

1. Record of Mine adit (to south west of site) as a lesser horseshoe bat hibernation roost.
2. Records of badgers within scrub around mine shaft.

The patches of scrub on site identify mine shafts which on the ground may be open/infilled/partially infilled and I presume the access track has taken the historic land use into account. The shaft to the south west of the site may have been infilled and partially opened by badgers allowing access for bats.

The presence of a bat roost on site means it is important to retain (and preferably enhance) existing hedgerow corridors on site which will provide dark commuting and foraging corridors. This is particularly relevant to the boundary hedgerows as well as the hedge dissecting the site. Lesser horseshoe bats are particularly sensitive to lighting and ideally there should be no external lights. If security lighting is proposed at the stable, this would need to be sensitively placed and away from vegetation.

To mitigate for the loss of scrub during the creation of the new access and the ménage, I would recommend that gaps within the existing hedges are planted with native species such as hawthorn. I would also recommend that the open shafts and associated scrub are fenced using post and rail rather than netting which provides access for bats and badgers.

If permission is granted, apart from a landscape plan condition, I would recommend a note to applicant with regards to bats and their protection.

Please be advised that all bats and their roosts are protected under the Conservation of Habitats and Species Regulations 2017, and the Wildlife and Countryside Act 1981 as amended. Please contact the FCC Ecologist or Natural Resources Wales for further information.

Natural Resources Wales

Natural Resources Wales (NRW) do not object to the proposal. NRW do not consider that the application will have an adverse impact on the interests of protected species or pollution.

Clwyd-Powys Archaeological Trust (CPAT)

Information retained within the Regional Historic Environment Record Indicates that the development is located amongst a number of recorded lead mine shafts; which are understood to be located between and around the proposed manege, stable building and access route to the site. While the shaft mounds themselves do not appear to be directly impacted, there is a potential for sub-surface impact. CPAT therefore recommends an archaeological watching brief condition be imposed.

4.00 PUBLICITY

4.01 Press Notice, Site, Notice, Neighbour Notification

The application was advertised by Site and Press Notice.

30 no. letters of objection upon the following grounds:

- Parking issues along Coed y Fron, cars park on street, narrowing the highway to other road users;
- Proposed access not suitable for the type of vehicles that will be using it;
- Highway safety concerns for residents;
- Impact on the Public Right of Way;
- Concerns for the protection of protective species, namely Bats and Badgers;
- Concerns for the welfare of the horses, applicant does not reside in the locality;
- Loss of agricultural land;
- Concerns regarding the storage of hay and straw as potential fire hazards;
- Storage of manure onsite;
- Drainage concerns, surface water run-off onto Coed y Fron;
- Concerns regarding the removal of trees;
- Land known to have a mining history, and possibility of lead contamination;
- Landslide concerns;
- Increased traffic and diesel emissions from vehicles transporting horses;
- Light pollution;

- Application lacks detail and does not illustrate materials proposed for the stable building;
- Concerns regarding the change to the character and appearance of the area;
- No environmental impact assessment submitted;
- 10 stables is not for personal use;
- Negatively impact residential amenity;
- Poor quality grazing and insufficient amount of land for 10 horses.

5.00 SITE HISTORY

057418 - Erection of stables, manege area and the change of use of land for grazing horses [WITHDRAWN]

6.00 PLANNING POLICIES

6.01 Flintshire Unitary Development Plan

STR1 – New Development

STR7 – Natural Environment

STR10 – Resources

STR11 – Sport, Leisure and Recreation

GEN1 – General Requirements for New Development

GEN3 – Development in the Open Countryside

TWH2 – Protection of Hedgerows

L1 – Landscape Character

WB1 – Species Protection

AC13 – Access and Traffic Impact

RE1 – Protection of Agricultural Land

SR1 – Sports, Recreation or Cultural Facilities

SR2 – Outdoor Activities

EWP14 – Derelict and Contaminated Land

Planning Policy Wales 9th Edition November 2016

7.00 PLANNING APPRAISAL

7.01 Introduction

This is a full planning application for the change of use of land for the grazing and keeping of horses, the erection of a 10 unit stable block with associated hay store and tack room, a 40m x 30m Manege and new access and track at Coed y Fron, Pen y Ball Hill, Holywell.

7.02 Site Description

The land comprising the application site extends for 6.8ha (17 acres) comprising of rough pasture, located on an elevated north easterly facing slope to the rear of Pen y Ball Hill and Coed y Fron. The land has an undulating profile, rising gradually to the west into open

countryside bound by sporadic hedgerows and crossed by Public Footpath no.14. Pen y Ball Hill bounds the land to the south and is bound by residential areas to the North, Wedgewood Heights and East, Coed y Fron located within the settlement boundary of Holywell.

7.03 Proposed Development

The proposal is for the change of use of land to allow for the grazing and keeping of horses. The proposal also comprises the erection of a 'U' shaped 10 unit stable block with associated tack room and hay/feed store, a 40m x 30m all weather surface manege with post and rail fencing, track and access.

The proposed manege and stable block are to be sited in the elevated corner of the associated land holding. Access is proposed to be taken directly from Coed y Fron, with a track that continues up towards the facilities.

The planning statement accompanying the application states that the stables and manege are proposed for private use only. The land is currently tenanted and used for the grazing of livestock.

7.04 Main Issues

The main issues with regard to this application relate to the principle of equestrian development and the material change of use of the land, highway impact, the impact on the character and appearance of the landscape and drainage matters.

7.05 Principle of Development

The land is located outside the settlement boundary for Holywell in the adopted UDP, and is therefore defined as open countryside.

In terms of the policies in the adopted UDP, policy GEN3 sets out those instances where development may take place outside of settlement boundaries. In this case, criterion (J) of GEN3 allows for *“other development which is appropriate to the open countryside and where it is essential to have an open countryside location rather than being sited elsewhere.”*

In principle, equestrian uses are recognised as a countryside activity and by virtue require a rural location. Horse riding and other equestrian activities are popular forms of recreation in the countryside that can fit in well with farming practices and the rural ethos. Whilst the adopted UDP does not have a specific policy relating to equestrian development, policy SR2 is considered to be of most relevance.

Policy SR2 Outdoor Activities states:

Outdoor activities will be permitted where:

- a) *The activity proposed is of a type, scale and intensity that would not unacceptably harm the character and appearance of the site and its surroundings, residential or other amenity, or the landscape, nature conservation or historic interest;*
- b) *In the case of riding centres the County Council is satisfied that there are suitable and convenient bridleways for riding in the vicinity; and*
- c) *The site is accessible by a choice of modes of travel other than the private car.*

In the case of criterion (b), there are no immediately adjoining bridleways to the site. However, the Pen y Ball hill leads to bridleway No.19 and 'Byway open to all traffic' No.20 to the south of the site, both are considered to be easily accessible to those on horseback. Pen y Ball Hill itself is a rural lane, leading to other properties that keep horses. Therefore horse riding on this road and the within the wider area is likely to be a common practice given its rural location.

Furthermore, the inclusion of a manege would reduce the need for riders to ride their horses on the highway, and instead allow them to be adequately exercised within the safe confines of the manege onsite. It is therefore considered that adequate facilities are being provided to reduce the need to ride on the road, nevertheless, there are both accessible and suitable bridleways and permissive routes available for riding in the vicinity.

In relation to criterion (c), the planning statement accompanying this application states that the stables and manege are for private use only. Therefore the criterion is not applicable in relation to the site being accessible by a choice of transport modes used by the general public. It is accepted that as the site is proposed solely for private use, the private car will be the main mode utilised in this case.

7.06 Highways

The proposed vehicular access into the site is from an existing hammerhead point at the top of Coed y Fron. From this point, the land increases steeply and therefore to create a suitable access, considerable engineering works would be required.

The proposed impact of the access and track in visual terms needs to be considered in terms of the overall impact of the development of the site. Following the submission of additional information which confirmed that the gradient from the hammerhead at Coed y Fron would be no more than 1 in 24 for the first 8m and 1 in 9 for the access track thereafter, Highways raised no objections to the position of the access on the basis that it is for sole private use only.

Highways confirms that it has no objection to the proposed development subject to standard highway conditions covering the details of access, vehicular footway, turning and parking facilities and prevention of surface water run off onto the highway.

7.07 Drainage

With regards to drainage and surface water runoff, the proposed manege will comprise in its construction a drainage system, which will channel the flow of water to a soakaway to prevent water runoff and pooling on the surface of the manege. This is considered to be acceptable. As stated above, Highways have suggested a condition for the prevention of surface water run-off in respect of the access. The condition is considered to be relevant and necessary in order to prevent surface water run off onto Coed y Fron.

7.08 Landscape and Visual Impact

The site is located in the open countryside but does not benefit from any other designations. The site is not within an area of designated landscape, nature conservation or historic value and therefore would not have a significant adverse impact on any features in accordance with criterion (a) of policy SR2.

The proposed site for the manege and stable block is located in an elevated position within the corner of the second field parcel comprising the land holding. The site would sit beyond the water works site at Pen y Ball Hill, beyond the first field and the residential areas to the north and east, making use of the undulating land profile and mix of existing hedgerows and trees, the majority of which are said to be retained. A landscaping and planting schedule condition has been imposed in order to maintain and enhance the level of screening currently available. Further hedgerow planting would offset the loss as a result of the new access and infill the gaps to the rear of the manege; greatly benefiting the visual screening and providing additional habitat enhancements.

It is evident that the land is predominately used for grazing livestock, mainly sheep. The change of use to allow the land to be grazed by horses would create little change in how the land is currently managed.

The land is crossed by Public Footpath No.14 which travels central to the land holding. The course of the path would not change, however the visual impact from the immediate site would be noticeable, however, it is considered that the overall enjoyment of the path would not be jeopardised as a consequence of the proposal. Officers consider that the public right of way will not be affected by the proposed stables and manege. The application will not have a significant detrimental impact on the public right of way or its users.

Due to the land topography, the proposed track and equestrian development would involve the excavation of land to create level platforms in order to accommodate the proposal. The flow of the track follows the undulating profile of the landform, while the low profile of the proposed manege and stable development would sit neatly within

the landscape. The combination of the location, gradient and available screening would mean that views from Pen y Ball Hill and the residential areas at Wedgewood Heights and Coed y Fron would be limited.

It is not considered that the excavation and resurfacing of some of the land for a manege, stable block and track would cause such an intrusive feature that would be harmful to the rural landscape character of the area. Although the proposed stables building and manege would not be insignificant in scale, they would not form harmfully prominent features within the countryside in this relatively discreet location. The development would be of a type, and design that would prove compatible with its rural setting. A condition seeking the details of the external surfaces of the stable block has been imposed.

The application site is located in a rural district where equestrian activities are popular; therefore, the proposal would not be incongruous in such a setting and would not have such a visual intrusion that would cause harm to the landscape character and appearance of the surrounding area.

Other Matters

- 7.09 Objections have been received in relation to the impact of the development on residential amenity. Although the construction of the access will cause some short term disturbance, the main activity is at a sufficient distance away from the residential amenity and is therefore unlikely to cause considerable noise disturbance or loss of privacy. Additionally, no external lighting is proposed and the scheme will have minimal visual impact on the rural landscape of the area and nearby properties. Any lighting would require consent from the Local Planning Authority.

A number of objections have been raised in relation to the quality of the grazing and the adequate provision of sufficient grazing for the number of horses being kept at the site and on the land. The land holding which forms part of the application site extends for 17 acres. The proposal comprises the erection of a stable block that will provide 10 stables at the standard size of 12ft x 12ft with a single storey 9ft (3m) height clearance as recommended by the British Horse Society.

In accordance with the British Horse Society Welfare Guidance, *“average pasture will maintain approximately two horses per hectare as permanent grazing (1-1.5 acres per individual), provided that good pasture management is employed. This is generally considered a minimum acreage requirement for the average horse, but there are numerous variables that must also be taken into consideration. The acreage required per horse or pony will depend, to a large extent, on the type of and general management of the animal and also on the grazing quality.”*

The grazing quality of the land is mainly rough pasture, with areas of improved grazing in places. *“There is a distinct difference between acreage requirements for horses where the grassland is to provide total grazing keep for the animal and where it is only to provide supplementary grazing or turnout exercise. In the combined system of management, where the horses are stabled for part of the time, 1 acre per horse may be more than adequate. Even where adequate pasture is available, stabling the horse helps reduce the effects of long term grazing, giving the grass and ground a chance to recover.”*

It is not a planning consideration to require the applicant to state how they intend to manage their animals or land holding. However, in respect of the guidance and the application, it is considered that there is sufficient land and grazing available to support the number of horses proposed to be stabled onsite.

8.00 CONCLUSION

The basis for making decisions on planning applications should be in accordance with the development plan unless other material considerations deem otherwise.

In this instance, I conclude that subject to appropriate conditions, the development proposed would not cause harm to the character and appearance of the surrounding landscape or cause detrimental harm to neighbouring land uses. For the reasons explained above, the proposal is considered to accord with the provisions of adopted UDP policy GEN3 and SR2. It is therefore considered to be acceptable development in the open countryside, and is recommended accordingly.

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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FLINTSHIRE COUNTY COUNCIL

REPORT TO: **PLANNING COMMITTEE**

DATE: **5TH SEPTEMBER 2018**

REPORT BY: **CHIEF OFFICER OF PLANNING, ENVIRONMENT
& ECONOMY**

SUBJECT: **OUTLINE APPLICATION – ERECTION OF UP TO
36 UNITS OF OVER-55 RETIREMENT HOUSING,
OPEN SPACE AND ASSOCIATED
INFRASTRUCTURE WITH DETAILS OF SITE
ACCESS AT RHOS ROAD, PENYFFORDD.**

**APPLICATION
NUMBER:** **057388**

APPLICANT: **MR RICHARD HEATON**

SITE: **LAND SOUTH OF RHOS ROAD, PENYFFORDD**

**APPLICATION
VALID DATE:** **11/08/2017**

LOCAL MEMBERS: **COUNCILLOR D WILLIAMS
COUNCILLOR C HINDS**

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

**REASON FOR
COMMITTEE:** **SIZE OF DEVELOPMENT, DEPARTURE FROM
DEVELOPMENT PLAN AND LOCAL MEMBER
REQUEST**

SITE VISIT: **YES**

1.00 SUMMARY

1.01 This is an outline application for the principle of residential development to erect up to 36 residential units of over 55 retirement housing with details of the access provided, on land South of Rhos Road, Penyffordd. All other matters are reserved for future consideration.

As the site is outside the settlement boundary of Penyffordd/Penymynydd, the application has been advertised as a departure from the development plan.

2.00 RECOMMENDATION: TO REFUSE PLANNING PERMISSION FOR THE FOLLOWING REASONS:-

- 2.01 1. Planning Policy Wales (9th edition – Nov 2016) identifies that weight can be attached to policies in emerging Local Development Plans. The Flintshire LDP is at Deposit stage. It is considered that the proposal amounts to development which individually and cumulatively, in relation to existing undeveloped commitments in this settlement, would prejudice the LDP by predetermining decisions about the scale and location of development both within this settlement and elsewhere, that ought properly to be taken in the context of preparing the Deposit LDP. Accordingly the proposals are considered to be premature, contrary to paragraphs 2.14, 2.14.2 and 2.14.3 of Planning Policy Wales (9th edition – Nov 2016).

3.00 CONSULTATIONS

3.01 Local Member – Councillor D Williams

The idea of such a development in my opinion is an honourable one that can benefit the village and community as a whole. However, given its prematurity with the LDP not yet in place, plus the three other applications for developments that have been approved on appeal, I believe the community needs time for new residents to settle before any further housing is permitted.

I accept that the other appeals may have set a precedence, but I would hope and expect an understanding that any future appeals would recognise the harm that such a degree and speed of growth will have on this community.

I would therefore appreciate a deferment in determining this application until the conclusion of the TAN 1 consultation is released. A change of Tan 1 could be the deciding factor on the decision of this application, and given the excessive amount of developments we have had to accept on appeal for outside the settlement boundary, I think we need and deserve some respite from further developments.

Current grounds for refusal include.

- On current policy, the application for this development does not comply with current policy as the land is outside the settlement boundary.
- Increase of dangers through increased volume of traffic. Approval will significantly impact on the volume of traffic using already congested roads in the village that will increase the issues regarding road safety in the proposed location and

village in general due to increased traffic.

- The proposed access is at an unsafe and inappropriate position and if the scheme is to be progressed, this needs reviewing with local representatives prior to any decision being made. A scheme that takes into account the approved development across the road is needed, together with a review of all issues along Corwen and Rhos road that have been ongoing since 2009 and not addressed. All relevant correspondence on this can be provide on request.
- If a school contribution is not required, a contribution to enhance recreation amenities for the elderly should be made. This contribution could be linked and in addition to the 106 agreement for POS where a specific allocation is ring fenced for provision of elderly. The elderly of the entire village needs to benefit, not just this individual development, and spending of any 106 contribution should be controlled by community representatives.

With regards to the actual application, if the recommendation is for approval, as well as the other things I am seeking as far as 106 agreements are concerned, I am requesting that a condition is attached that commits both developers to ensure that a road improvement scheme that provides optimum road safety is agreed and implemented prior to the commencement of any building.

The condition needs to be something on the lines of: If permission is granted, a full consultation on highway provision will be undertaken and a scheme agreed with the local authority and **local representatives**. Any agreed road improvement scheme will be **completed prior to the start** of any building and be a joint responsibility of both Rhos road North and Rhos road South developers.

I trust this information is helpful and all content reported to Committee who I request determine this application, and I also reserve the right to make additional comments prior to that meeting if the need arises. I also wish to make it known that I request to address committee.

Councillor C Hinds

Objects to the proposal upon the following grounds:

- Considers the proposals are premature and the site should be properly considered via the Local Development Plan process;
- Overdevelopment in the village;
- The site is outside the settlement boundary;
- Developers should be made to use allocated sites and brownfields sites first as a matter of priority;
- Considers local infrastructure is already stretched with insufficient capacity in local schools and healthcare centres;
- Reduction in public transport bus services along Rhos Road;
- considers the transport infrastructure is inadequate and poses

- a risk to the highway safety for road users and pedestrians;
and
- The settlement is not a sustainable community, there is no social cohesion.

Penyfford Community Council

The Council strongly objects to this planning application on the grounds of it being outside the settlement boundary. The Council wish for this development to be heard at Planning Committee where a full and detailed response will be provided.

Head of Assets and Transportation

The application is for a private estate with direct access onto Rhos Road with all matters reserved except for access. The layout of the proposed access, visibility splays and fronting footway appear appropriate.

An indicative layout plan has been submitted with the application indicating the provision of 36 no. parking spaces and a further 8 no. garage spaces. This level of parking is considered appropriate considering the nature of the development.

Any permission shall include the following conditions:

- Siting, layout and design of the access
- The forming and construction of the means of access shall not commence unless and until the detailed design thereof has been submitted and approved
- The works associated with forming the means of site access shall be kerbed and completed to carriageway base course layer up to the internal tangent point of the entrance radii prior to the commencement of any other site operations
- The proposed access shall have a visibility splay of 2.4m x 43m in both directions measured along the nearside edge of the adjoining carriageway over land within the control of the Applicant and/or Highway Authority and within which there shall be no significant obstruction to visibility
- The stated visibility splays and the proposed point of access shall be made available and kept free from obstruction for the duration of the site construction works
- Facilities shall be provided and retained within the site for the parking and turning of vehicles. Such facilities shall be completed prior to the proposed development being brought into use
- A 2.0m wide footway shall be provided along the site frontage constructed to adoption standards
- Positive means to prevent surface water run-off on to the highway
- Construction Management Plan
- Full Travel Plan and Transport Implementation Strategy (TIS)

A Section 106 agreement providing funding for improvement to the proposed Active Travel facility and/or improvement to bus stop facility in proximity of the development site will also be required.

Head of Public Protection

No objection in principle to the application provided a condition is imposed to require a noise survey and require any relevant mitigation.

Ecology

A tree/root protection condition required.

There is no suitable terrestrial habitat for Great Crested Newts on this site but as there is some evidence to the North of the site, I would suggest the following note to applicant with regards to protected species:

1. All great crested newts and their resting places are protected under the Conservation of Habitats and Species Regulations 2017, and the Wildlife and Countryside Act 1981 as amended. Please be advised that if great crested newts are discovered all works should stop immediately and the Natural Resources Wales or the Flintshire Ecologist should be contacted for advice on any special precautions before continuing.
2. All British birds, their nests and eggs (with certain limited exceptions) are protected by law under Section 1 of the Wildlife and Countryside Act 1981 (as amended) and the Countryside and Rights of Way Act 2000. Please be advised that no tree or shrub removal should be undertaken while nesting birds are present

Public Rights of Way (PROW)

Public Footpath No.10 abuts the site but does not appear to be affected by the proposed development.

The path must be protected and free from interference from the construction.

Welsh Water/Dwr Cymru

We would request that if you are minded to approve planning permission for the proposed development, the following condition and advisory notes are included within the consent to ensure no detriment to existing residents or the environment and to Dwr Cymru Welsh Water's assets.

Sewerage

The Proposed Drainage Strategy dated May 2017 that was submitted in support of the application is acceptable and its implementation should be secured by planning condition so as to ensure that the

development is carried out in accordance with the content of this strategy.

Sewage Treatment

No problems are envisaged with the Waste Water Treatment works for the treatment of domestic discharges from the site.

Head of Lifelong Learning

The planning application falls with the “Exceptions” area of the SPG23 note 5.1 which states that “housing specifically designed for occupation by elderly persons (ie restricted by planning condition agreement to occupation by those over aged 55 years or more”. On that basis I am unable to seek education contributions.

Play Unit

In accordance with Planning Guidance Note no.13 POS Provision, the Council should be seeking payment of £1,100 per dwelling in lieu of on-site provision (£733.00 for any affordable housing). It is intended the contribution will be allocated to provide improved teenage provision at Millstone Playarea, Penyffordd

Housing Strategy Manager

Planning Policy Wales (July 2014) states that ‘A community’s need for affordable housing is a material planning consideration which must be taken into account’. It is considered desirable that new housing development incorporates a reasonable mix of house types and sizes, including affordable housing (i.e. intermediate and social rented).

As set out in Policy HSG10 of the Flintshire UDP ‘Where there is demonstrable need for affordable housing to meet local needs, the Council take account of this as a material consideration when assessing the housing proposals.’

The application is to develop 36no retirement dwellings in Penyffordd (Chester) which is a semi-urban settlement and the policy requires a 30% provision of affordable housing on site for development of over 1.0ha or 25 dwellings. The applicant is proposing 36 retirement dwellings for over 55’s, and no proposed affordable housing provision.

Evidence of need

In terms of evidence of need:

The Local Housing Market Assessment (LHMA) for Flintshire identifies the ‘proportional growth in households aged 65 years and over is significantly higher at 42.7%’ compared with the overall growth in population in Flintshire. In addition the LHMA identifies that around 14% of all households in need are older people aged over 65 years.

In terms of need for social rented properties, almost a quarter of the people on the social housing register are aged over 55 years (23%), of which 256 require one bed properties and 134 2bed properties. In relation to Penyffordd (Chester) there are 23 people registered for 1 and 2 bedroom sheltered accommodation, age ranging from 59 – 84 years.

Furthermore, there is a demand in the local area for both affordable rent and shared equity:

- 10 applicants currently registered for a shared equity property looking for 2 bed properties; and
- A further 3 applicants registered for affordable rent all requiring 2 bedrooms.

As stated in the LHMA, in terms of the wider housing market, there is a need for such retirement accommodation to allow people to downsize and release family housing, however this is not only a need within the market housing sector but also within the affordable housing sector. With an increase in the older population and the health needs of older people becoming more complex, the delivery of such accommodation is welcomed where it contributes towards a mixed sustainable community and the development reflects the local housing needs.

The applicant has not provided any evidence of viability or other matters to justify a reduction of on-site provision.

Therefore, a S106 or condition should be imposed for a satisfactory scheme of affordable housing to be delivered.

4.00 PUBLICITY

4.01 Press Notice, Site, Notice, Neighbour Notification

The application was advertised as a departure from the development plan.

4no. letters of objection upon the following grounds;

- The recent development in the village allocated within the UDP have highlighted the lack of infrastructure to support any additional development with the consequent impacts this will have upon community cohesion;
- Surface water problems;
- Lack of school places;
- Premature in advance of the UDP and should not pre-empt decisions in advance of the LDP;
- Other sites in the settlement have been put forward as part of the Candidate site process and this may prejudice them coming forward;

- Overdevelopment of the village to the detriment of its character;
- There has been sufficient recent developments in the village, 35% growth;
- The proposed development contradicts the 2000-2015 UDP (Chapter 11 – Housing 11.7);
- Landscape and visual impact of developing the open countryside;
- The site is a greenfield site outside the settlement boundary;
- Wrong location for this type of housing;
- Would lead to additional traffic and Congestion on Rhos Road;
- Impact on the sewage system, water supply and other services;
- Public Transport links are not good from Rhos Road;
- No disabled access to the Penyffordd Station;
- The proposed development is not on a bus route, nearest bus stop reached by foot with a long walk and not a frequent service;
- Dependency on private car as a means of transport;
- Impact on dentists and doctors, current services full to capacity;
- Insufficient parking provision;
- No affordable housing provision proposed;
- There is a need for bungalows and affordable properties, not more unaffordable luxury houses or apartments;
- Noise impacts from the development and to the development from the bypass;
- Potential drainage impacts form surface water on nearby properties;
- Pedestrian safety is poor;
- This site is a green buffer entrance to the village and separates the built area from the bypass;
- The proposed development would be dominant and result in direct overlooking, a loss of privacy and a loss of natural light to adjacent properties.

Penyffordd Community Group

It is accepted that Penyffordd needs more housing provision for elderly residents and this application purports to address that need.

However, the application site is outside the UDP settlement boundary and in Flintshire's Settlement with the highest percentage growth, whose residents have experienced harm caused through recent rapid overdevelopment. Irrespective of the quality or perceived value of an individual development proposal, when considered within the wider context, it is not sustainable.

- Rapid overdevelopment has caused damage to social cohesion;

- Infrastructure has not had time to keep up with recent development; and
- This is one of 4 active large applications in the planning system, totalling nearly 300 more dwellings.

This village needs the LDP process to be completed and the land and proposals for growth to be considered and consulted properly. The time waiting for the LDP to be adopted will benefit the community in allowing it to 'catch-up' from the 35% growth in the last 5 years.

The most recent cases, where TAN1 has been used as a means for developers to speculate outside of the development plan have been refused where there is another good reason for refusal.

We believe that you have that in Penyffordd and that our boundary should be protected ahead of the LDP.

If this development is to be part of the future of our community, the decision needs to be taken properly in the LDP context in order to ensure the right balance of need, scale, affordability and housing mix. It is therefore premature.

In wishing to make no contribution to affordable housing, including the management fees, this development is seeking to create a retirement community exclusively for affluent people. The implication is that those less well-off will have to look elsewhere, outside the village.

These are big issues and we believe that at this time the committee should move for refusal.

In addition, there is detail of the application and we hope that the case officer will assess these details objectively, of particular concern are:

- Surface water and waste solution, and the access road particularly in light of the Rhos Road (North) application;
- Car parking;
- Density of the development;
- Large distance from the village facilities;
- Difficulty getting to medical facilities via public transport;
- Capacity of GP services; and
- Loss of trees.

5.00 SITE HISTORY

5.01 No previous site history.

6.00 PLANNING POLICIES

- 6.01 Flintshire Unitary Development Plan
STR1 - New Development
STR4 - Housing
STR8 - Built Environment
STR10 - Resources
GEN1 - General Requirements for New Development
GEN3 - Development Outside Settlement Boundaries
D1 - Design Quality, Location and Layout
D2 - Design
D3 - Landscaping
TWH1 - Development Affecting Trees and Woodlands
WB1 - Species Protection
AC13 - Access and Traffic Impact
AC18 - Parking Provision and New Development
HSG4 – New Dwellings Outside Settlement Boundaries
HSG8 - Density of Development
HSG9 - Housing Mix and Type
HSG10 - Affordable Housing within Settlement Boundaries
SR5 - Outdoor Play Space and New Residential Development
EWP3 - Renewable Energy in New Development
EWP14 – Derelict and Contaminated Land
EWP16 – Water Resources

Local/Supplementary Planning Guidance Notes

- LPGN 2 - Space around dwellings
LPGN 4 - Trees and Development
LPGN 9 - Affordable Housing
LPGN 11 - Parking Standards
LPGN 13 - Open Space Requirements

- Planning Policy Wales Edition 9 November 2016
Technical Advice Note 1 : Joint Housing Availability Studies
Technical Advice Note 11: Noise
Technical Advice Note 12 : Design
Technical Advice Note 18 : Transport

7.00 PLANNING APPRAISAL

- 7.01 Introduction
This is an outline planning application for up to 36 residential units with details of the access provided, on land south of Rhos Road, Penyffordd. It should be noted that the application relates to the specific provision of an over 55's housing proposal. All other matters are reserved for future consideration.

Site Description

7.02 The application site extends to 1 hectare and is located on the edge of the village of Penyffordd. To the west of the site lies the A550 with links to the A55, separated by a parcel of undeveloped land and the un-adopted road, Rhos Avenue. To the east and south is the existing residential development in Penyffordd on Westfield Drive and the existing dwellings situated along Rhos Avenue. The site is bound by an established hedgerow to the north and western boundaries, while the southern and south eastern boundaries have an existing mature hawthorn hedge reinforced with additional tree planting.

To the north of the site it is bounded by Rhos Road, beyond which lies land which benefits from planning permission for residential development.

It is proposed that the site would be accessed via a new central access off Rhos Road. This will involve the removal of a hedgerow to achieve the required visibility splays. A 2.0m footway will be provided along the frontage of the site to Rhos Road with crossing points at either end.

7.03 The Principle of Development

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

Given that the proposal is for up to 36 units and does not fall within the scope of the above policy framework, the proposal is contrary to these policies in the adopted UDP and is a departure from the development plan, and has therefore been advertised as such.

The applicant seeks to justify the proposal on the basis of a lack of a 5 year housing land supply, the fact that the UDP is out of date and that the proposal represents sustainable development.

7.04 The Main Issues

The main issues for consideration in relation to this application are:

- The current planning policy context and the weight to give this;
- The principle of development having particular regard to Prematurity;
- The merits of the application in relation to over 55s development and housing land supply;

- The sustainability of the proposal.

The Current Planning Context

7.05 In a national policy context, Planning Policy Wales (PPW) Edition 9 November 2016 paragraph 4.2.2 states;

“The planning system provides for a presumption in favour of sustainable development to ensure that social, economic and environmental issues are balanced and integrated, at the same time,” when taking decision on planning applications.”

At paragraph 4.2.4 PPW also states;

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

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

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

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

Whilst this provides broad guidance and context for considering the sustainability of this speculative proposal, and noting also that development has already been permitted on appeal on a similar sized site to the north of Rhos Road (40 dwellings on land north of Rhos Road (APP/A6835/A/16/3149082), significant changes have taken place to the planning context that require the LPA to go beyond simply considering the sustainability of this application in its own right.

Whilst at the time of the submission of this application national planning guidance via Technical Advice Note 1 (TAN1) required “considerable weight” to be given to a lack of housing land supply (the basis for the submission of this application), as long as a proposal

was otherwise policy compliant and sustainable, this context has recently changed significantly.

This change has resulted from the decision taken by the Cabinet Secretary for Energy, Planning and Rural Affairs to disapply paragraph 6.2 of TAN1 with effect from the 18th July 2018. Whilst this does not mean that a lack of land supply is no longer a material planning consideration to be weighed in the planning balance, it does redress the previous bias emphasised by the use of the term “considerable weight”, and also leaves the weight to be applied to this issue, for the Local Planning Authority (LPA) to determine.

It is also a matter of fact that during the time the application has been under consideration, decisions have been taken relating to applications and appeals for residential development elsewhere in this settlement. Two significant appeal decisions (the largest of which was ultimately made by the Cabinet Secretary) have, along with existing commitments, imposed a very significant amount of as yet undeveloped growth on this settlement amounting to a total of 261 units. Whilst each appeal case has been dealt with separately and on their individual merits, there has been a failure to note the cumulative effect of the amount of growth each decision has imposed on the settlement of Penyffordd/Penymynydd. It is the view of the LPA that the level of cumulative growth imposed on this settlement is a material factor, both in terms of the questionable sustainability of adding to it, the wider implications for the distribution of growth around the County via the emerging LDP.

Finally, the LDP is at the Deposit stage defined by LDP Regulations 17-19, and approaching the point defined in the Delivery Agreement for publication of the Deposit LDP for consultation (November 2018). The position reached with the LDP is therefore also material to the consideration of this application and in relation to the above context.

Prematurity

7.06 There are a number of related factors to consider in relation to the prematurity of this application:

- The position reached with the LDP;
- Penyffordd’s position/role within the LDP Preferred Strategy settlement hierarchy;
- The amount of housing growth already committed to this settlement.

The refusal of planning permission on grounds of prematurity will not usually be justified except in cases where a development proposal goes to the heart of the plan. Where this cannot be demonstrated, applications should continue to be considered in light of policies within the UDP, and in accordance with national policy and guidance. In order to determine whether prematurity is an issue, PPW advises that

in order for a proposal for residential development, which is a departure from the development plan, to be considered premature in relation to the emerging LDP, it must be of such a scale either in isolation **or cumulatively with other development proposals**, that it would go to the heart of the emerging plan. That is, the proposal itself and in addition to other proposals, would together prejudice the LDP by predetermining decisions about the scale, location or phasing of new development which ought properly to be taken as part of developing the LDP.

Whilst on its own this application at 36 units would not meet this requirement, it is the view of the LPA that given the amount of growth recently imposed on this settlement by appeal decisions, the cumulative impact of adding to that with this application would be significant. This is quantified further later in this report.

Whilst account can be taken of policies in emerging LDPs, the weight to attach to such policies depends upon the stage of preparation or review. The Flintshire LDP is at the Deposit Consultation Stage defined by LDP Regulations 17-19. The LDP is scheduled to reach Deposit in November 2018. Whilst limited weight can be attributed to the LDP at this stage, a proposal which contributes to the predetermination of the scale, location and distribution of development across the County at this crucial time in developing the Deposit LDP, has the potential to conflict with the plan making process and the implementation of the approved Spatial Strategy of the LDP. This must particularly be the case where recent appeal decisions have cumulatively already affected the LPA's ability to not only determine the level of growth appropriate for the settlement, but elsewhere in the County via the LDP preparation process. Accordingly, the refusal of this application in the above context on the grounds of prematurity can be justified.

Penyffordd and Penymynydd together are defined as a tier 3 settlement in the approved LDP Preferred Strategy sustainable settlement hierarchy. It is therefore considered to be a sustainable settlement capable of accommodating a reasonable level of growth. It is one of 22 settlements defined in tier 3 of the hierarchy.

Whilst the LDP deliberately does not set settlement specific growth bands or targets, the Preferred Strategy does set out a broad apportionment of growth by settlement tier, as follows:

Tier 1	40-45%
Tier 2	35-40%
Tier 3	15-20%
Tier 4	1-2%
Tier 5	0-1%

Whilst there is no absolute requirement for each settlement in each tier to accommodate some growth, the premise behind the LDP Strategy is that the most sustainable sites will be allocated in line with the sustainable settlement hierarchy. What also has to be factored in is that the need to identify new sites in the LDP (the residual requirement) will be net of housing already completed in the plan period, sites already with permission (commitments), and allowances for small site and windfall site development. The main effect of this is that the LDP has a significant range of site and settlement options from which to select and allocate the most sustainable.

To illustrate the contribution expected from tier 3 settlements overall towards meeting the LDP housing requirement, given the LDP housing requirement is 6,950 (7,645 with 10% flexibility) and the residual requirement is 1,452, at the upper percentage contribution from tier 3 settlements (20%), the expected contribution would be 1,390 (1,529) and 291 units respectively.

In this context, the level of undeveloped housing commitments imposed by appeal on Penyffordd/Penymynydd is significant comprising 261 units from appeals at Rhos Road (north) 40, Hawarden Road (35), and Chester Road (186).

In opposing each of these appeals, the community has consistently raised concerns about the impact that the proposed development would have on the ability of the community and settlement to successfully integrate such growth, without negatively impacting on the cohesion of the existing community. The community has also consistently felt that consideration of growth for the settlement should happen via the LDP process. These concerns are reiterated in the comments section of this report.

Each of the above appeal decisions has been made incrementally and without regard to the cumulative effects of granting one appeal after another. Given where this leaves this settlement, consideration needs to be given as to how the growth of this settlement should be considered holistically, and against the approved Strategy of the LDP and emerging Deposit Plan. Otherwise, it simply cannot be a sustainable proposition to continue to incrementally consider speculative applications in this settlement, submitted on the basis of a lack of housing land supply and previous appeal 'successes', in compliance with the requirements of TAN1 (notwithstanding disapplication of para 6.2).

Equally, the knock on effects and negative impacts of continuing to commit growth in just one LDP tier 3 settlement on the ability of the LPA to implement the agreed LDP Strategy, is potentially also very significant.

To illustrate just how much growth has been committed to

Penyffordd/Penymynydd by recent appeal decisions, when the total growth committed (261) is related to the expected contribution to overall growth from tier 3 settlements set out above, the growth committed in this settlement represents 17-18% of the contribution from all tier 3 settlements to the overall LDP growth, and 90% of the expected contribution of all tier 3 settlements to the residual growth. There are a number of clear implications from this:

- The commitments already imposed on Penyffordd/Penymynydd are significant and potentially already in conflict with the LDP Spatial Strategy;
- Penyffordd/Penymynydd already provides almost one fifth of the overall tier 3 contribution to the LDP housing requirement, without considering further proposals;
- Penyffordd/Penymynydd already provides 90% of the overall tier 3 contribution to the LDP residual housing requirement, without considering further proposals;
- The decisions taken incrementally in relation to appeals for Penyffordd/Penymynydd have cumulatively impacted on the Council's agreed Preferred Strategy and its ability to translate this into the Deposit Plan.

As a consequence, any further incremental grant of planning permission in this settlement will not only impact on the settlement directly and cumulatively, but elsewhere in the County in terms of the Council's ability to implement its LDP Preferred Strategy.

Further incremental decisions about growth in Penyffordd/Penymynydd would therefore individually and in combination with existing undeveloped commitments, be so significant as to predetermine decisions about the scale, location, distribution and phasing of housing growth which ought properly to be taken in an LDP context.

From this, the grant of any further permissions would be premature in advance of considering and finalising what growth to be allocated, whether in this settlement or elsewhere in Flintshire, in the Deposit LDP.

- 7.07 The merits of the application and housing land supply
The application is put forward in outline only and on the basis of a lack of housing land supply. The site is also a candidate site as part of the LDP and is therefore currently under consideration by the LPA, relative to the merits of many other sites and in relation to the approved Preferred Strategy of the emerging Plan. A key component of the Preferred Strategy is the sustainable settlement hierarchy and the approach being taken to the sustainable distribution of growth amongst the settlement hierarchy.

The applicant also proposes that the development will specifically

meet the housing needs of over 55s, although no further detail is provided about what this means in reality, or evidence of the local or wider need for such a private development or its deliverability, other than a general statement of 'compliance' with the LPA's Developer Advice Note. Whilst the comments of the Housing Strategy Manager indicate an emerging need for such accommodation generally, the applicant's "confidence" that market demand exists, coupled with the lack of an identified developer for such a specialist scheme, cast some doubt on the weight that should be given to the specific nature of the proposal.

When submitted, TAN1 directed LPAs to give speculative applications like this "considerable weight" when there was a lack of housing land supply. However, as clarified earlier this position is now different. Following the Cabinet Secretary's disapplication of paragraph 6.2 this direction no longer applies, and it is a matter for the LPA to determine the weight to be attributed to the need to increase housing land supply where an LPA has a shortfall in its housing land. Disapplication took effect from the 18th July 2018 and effects all future applications and those made but not determined at that date, which includes this application.

Even if this outline proposal for over 55s accommodation could be supported by evidence of need by the applicant, this is still essentially a speculative outline application for residential development as an exception to existing development plan policy, put forward on the basis of a lack of housing land supply. Given the compelling arguments made above relating to prematurity, it is the view of the LPA that there is no over-riding case to consider making a further exception to policy to allow further speculative housing development in this settlement, at this time.

This also includes the consideration of the weight to attach to the inability of the Local Planning Authority to be able to demonstrate a 5 year land supply, which remains despite the disapplication of para. 6.2 of TAN1. Whilst some weight must always attach in such circumstances until the LDP is adopted and/or the Council is able to demonstrate a 5 year land supply, the need to increase supply is not sufficiently material to outweigh the concern that the LPA has not only for the cumulative level of undeveloped growth already imposed on this settlement by appeal decisions, but on the related effect this concentration of growth has had on the LPA's ability to implement its approved LDP strategy and translate it into a Deposit Plan. Any decision about if, how much, and where any further growth is committed to this settlement, or elsewhere, must be taken as part of the LDP process, and not by simply continuing to incrementally consider speculative applications such as this.

The sustainability of the proposal

Notwithstanding the fundamental conclusions reached above, it is not

7.08 necessarily the case that this site is not in a potentially sustainable location, or that the site's development would not be a sustainable proposition. Central to such a consideration is the degree to which the proposal would satisfy the key planning requirements which are for completeness, considered briefly below, as well as their ability to comply or be acceptable:

Highways access, safety and traffic generation	A new access is proposed off Rhos Road which can be designed to meet relevant standards. The Highway Authority do not object subject to conditions and provisions for Active Travel improvements.
Landscape & Visual Impact	The submitted LVIA concludes the impact of the development are low and the development will easily assimilate into the urban context, partly given the site's location between the existing settlement and the A550. It therefore represents infill development.
Drainage Issues	There are no objections from DCWW regarding surface water and foul disposal subject to conditions.
Affordable Housing	Whilst not originally proposed, the applicant agrees to the imposition of a condition requiring 30% of the development to be offered.
Open Space	Following consultation with leisure services, given the proposal is for over 55s it is proposed that a commuted sum is secured to improve existing facilities.
Education	Given the proposal is for over 55s this falls within the 'exceptions' element of the SPG and the development is exempt from education contributions.
Other Matters	Objections have been raised based on the type and mix of housing, factor of prioritising and the impact on privacy, light and living conditions of existing residents. As this is an outline application matters of such detail would be assessed at the reserved matters stage.

Clearly this is to some extent an academic exercise given the very strong conclusions regarding prematurity above. Equally though having assessed the application on its merits and weighed those issues in the planning balance, it is the LPA's view that this is a potentially sustainable location for development. However, the main issue relates to the timing of such development given commitments imposed on this settlement, prematurity and the proper mechanism

to use to determine further growth, namely the LDP.

CIL Compliance

- 7.09 Members will be aware that where it is recommended that planning permission be granted, I would set out the consideration of this issue in relation to the CIL Regulations and its impact upon any suggested S.106 Agreement. However, in view of the recommendation that permission be refused, I have in this case refrained from so doing at this stage.

Other Matters

- 7.10 Third party objections have raised a number of matters such as lack of public transport access links and disabled access to Penyffordd railway station. These matters were most recently examined by the Inspector in the Chester Road Public Inquiry and the Inspector concluded that there was no evidence that Penyffordd could not be considered as a sustainable location in relation to public transport and access to Penyffordd station. It is therefore considered that very little weight can be attached to these matters in the overall planning balance. Further objections have been received relating to lack of health infrastructure, excessive noise and issues relating to privacy, loss of light and overlooking. No evidence has been submitted to substantiate the claims regarding noise and lack of health infrastructure and therefore very little weight can be attached to these matters in the overall planning balance. Furthermore as the application is in outline form only matters relating to living conditions cannot yet be considered. These matters would be explored in a future reserved matters application if this application were to be approved.

8.00 CONCLUSION

A central premise of the Planning Acts is that the basis for making decisions on planning applications should be in accordance with the development plan unless other material considerations dictate otherwise. It is also clearly recognised that in considering applications, each case must be considered on its merits. Whilst both of these principles have been appropriately considered in assessing this application, including the sustainability of the proposal and the weight to apply to a lack of housing land supply, it has also been important to consider the stage reached with the LDP as part of the planning balance, given the significant undeveloped housing commitments imposed on this settlement and the impact of this not only for the settlement, but also for the LPAs ability to implement the approved LDP Preferred Strategy and develop the deposit LDP.

Whilst it is not disputed that considered on its own the scale and location of this proposal in relation to the existing settlement is potentially sustainable, particularly given how a similar scale of development was approved at appeal to the north of Rhos Road opposite this site, in the current planning context this is not sufficient

to justify approval of the application.

This is because the current context has changed significantly since the submission of this application and during its consideration. These changes are significant and relate to the large amount of commitments imposed on this settlement by appeal decisions, the disapplication of paragraph 6.2 of TAN1, and the position reached with the LDP.

In relation to the commitments imposed on the settlement by recent appeal decisions, these amount to 261 as yet undeveloped housing units. This is a large scale of growth for an LDP tier 3 settlement which represents 90% of the expected contribution of all tier 3 settlements to the LDP residual housing requirements for new sites. This is already disproportionate and results from incremental appeal decisions taken with no regard for cumulative impacts on this settlement or the knock-on effects for the implementation of the LDP spatial strategy.

This is a key point and a failing of the way in which appeals have been dealt with incrementally in this settlement. These decisions have failed to recognise the point at which it becomes potentially unsustainable to keep on incrementally permitted growth in a balanced sense, or the effects on the wider plan making process.

Given the above, it cannot be a sustainable proposition to keep on approving incremental speculative applications, such as this proposal, without regard to the cumulative effect on this settlement, and wider strategic impact on the emerging LDP. This wider consideration cannot be made on the basis of determining an individual application, and notwithstanding the apparent potential sustainability of this proposal in its own right, this is outweighed by the need to properly consider the growth of this settlement and elsewhere in Flintshire, holistically, via the LDP process.

To determine the proposal now is therefore not a sustainable proposition. As such this guides the LPA in determining the weight to attach to a lack of housing land supply, following disapplication of para. 6.2. Given the LPA is currently not required to apply "considerable weight" to this factor, a minimum requirement of the proposal to give weight to a lack of supply, must be that the proposed is sustainable at this time. From the above the LPA has demonstrated that this is not the case and as such the lack of a housing land supply is not sufficient to outweigh the harm that further incremental speculative growth would cause both to this settlement, and to the wider emerging LDP.

Given the above summary of the main issues and having carefully assessed those in the planning balance, it would be premature to approve this application in advance of the LDP process, as to do so

would individually and in combination with existing commitments, be so significant as to predetermine decisions about the scale, location or phasing of new development which ought to be properly taken in an LDP context. I therefore recommend accordingly.

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.

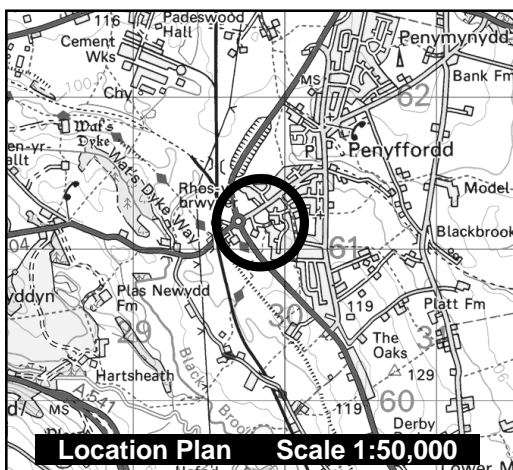
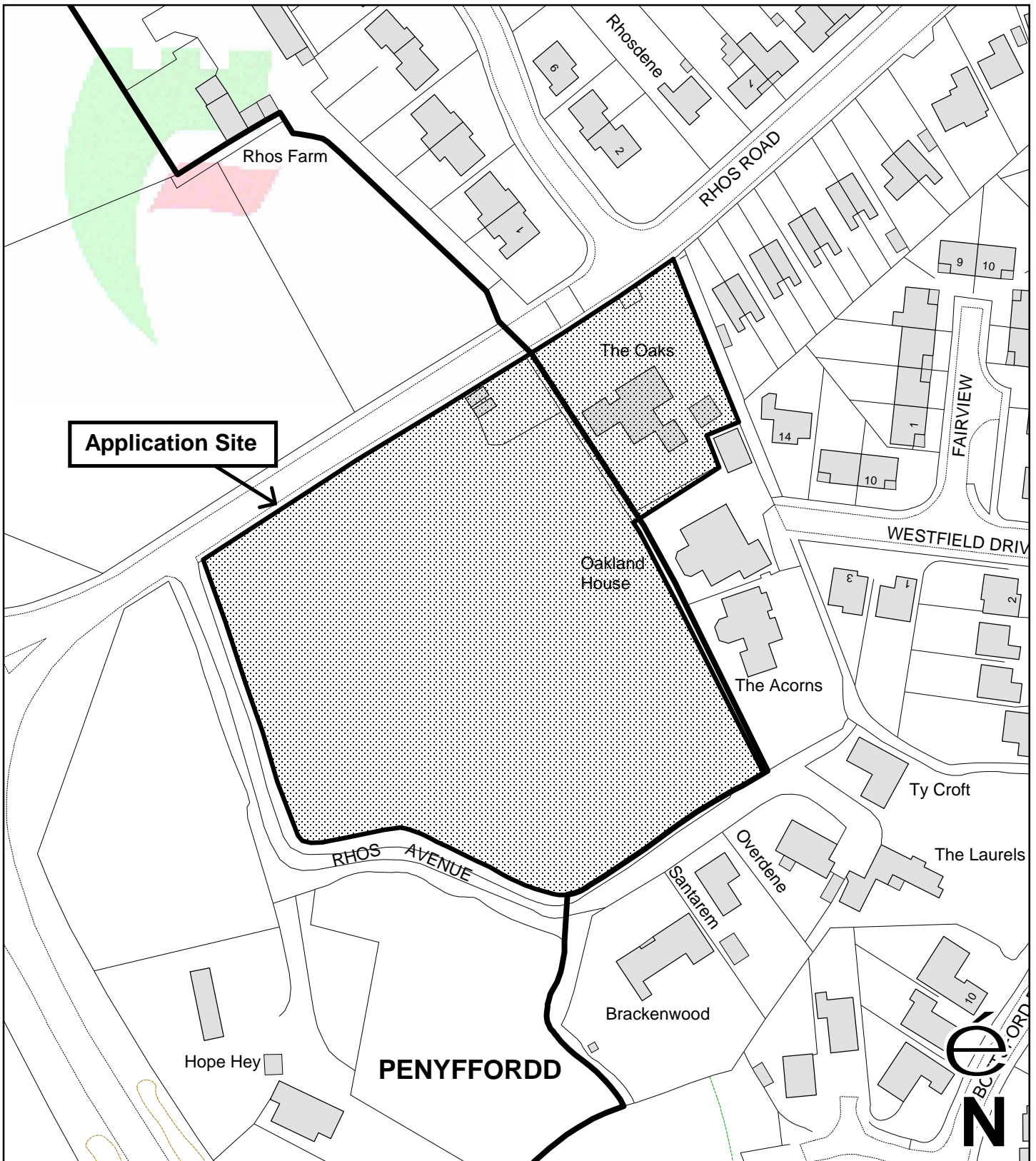
The Council has had due regard to its duty under Section 3 of the Wellbeing of Future Generations (Wales) Act 2015 and considered that there would be no significant or unacceptable impact upon the achievement of wellbeing objectives as a result of the recommended decision.

LIST OF BACKGROUND DOCUMENTS

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

Contact Officer: Katie H Jones
Telephone: 01352 703257
Email: katie.h.jones@flintshire.gov.uk

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Location Plan Scale 1:50,000



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

Chief Officer: Mr Andrew Farrow

Legend



Planning Application Site



Adopted Flintshire Unitary
 Development Plan
 Settlement Boundary

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 Flintshire County Council, 2018.

Map Scale 1:1250

OS Map ref SJ 2961

Planning Application **57388**

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FLINTSHIRE COUNTY COUNCIL

REPORT TO: **PLANNING COMMITTEE**

DATE: **5TH SEPTEMBER 2018**

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

SUBJECT: **FULL APPLICATION – RENOVATION AND CHANGE OF USE OF A FORMER SHOP PREMISES TO CREATE A ONE BEDROOM HOLIDAY LET AND GARDEN AREA AT POST OFFICE, FFORDD Y LLAN, CILCAIN.**

APPLICATION NUMBER: **058434**

APPLICANT: **ROTHESAY ESTATES LIMITED**

SITE: **POST OFFICE
FFORDD Y LLAN
CILCAIN
CH7 5NW**

APPLICATION VALID DATE: **3RD MAY 2018**

LOCAL MEMBERS: **COUNCILLOR W O THOMAS**

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

REASON FOR COMMITTEE: **IMPACT OF PROPOSAL ON CONSERVATION AREA, IMPACT ON AMENITY OF NEIGHBOURING PROPERTIES, PARKING ISSUES**

SITE VISIT: **NO**

1.00 SUMMARY

- 1.01 This is a full application for the change of use of a former shop to create a one bedroom, with ancillary accommodation, holiday let and garden area. The main issues are considered to be the principle of development in this location, the impact of the proposal upon the conservation area, AONB and neighbouring amenity and issues of parking.

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

- 2.01
1. Date of commencement
 2. In accordance with approved plans
 3. Landscaping scheme to be submitted and agreed
 4. Implementation of Landscaping scheme
 5. No surface water/land drainage to connect directly or indirectly to the public sewerage network
 6. Details of the stone wall to be submitted and agreed prior to construction
 7. Details of all windows and doors to be introduced to the building to be submitted and approved
 8. Holiday use only

3.00 CONSULTATIONS

3.01 Local Member

Councillor W O Thomas

Requests the planning application to go to planning committee.

My reasons are:

There are a number of questions to be asking- the application is in the conservation area, the curtilage is marked to the end of the road there are no pavements so the first 4ft of the grass verge has to be left clear, there is the wood stove the chimney is low and the smoke would affect the adjacent dwellings. This is a 2 bed not a 1 bed as stated which would involve 2 cars, no parking provided within the curtilage and we have had a lot of complaints of parking in front of parking properties

Cilcain Community Council

The community council object to the application for the following reasons:

- a) No provision is made in the application for off street parking. The Council is aware of existing parking/obstruction problems in both Ffordd y Llan and Glascoed. Therefore no off street parking on this development would aggravate the situation.
- b) Because there is no footway for pedestrians in Glascoed, vehicles on the estate are not allowed to park on the road in order to eliminate pedestrian/vehicle conflict. Similarly, persons using the holiday let facility should not be parking on

- the carriageway in Glascoed.
- c) Houses erected in Glascoed have to have off road parking provision on their drives, so this new development should also have to provide off street parking
 - d) Vehicles parking in Ffordd y Llan outside this development would obscure the visibility of vehicles exiting the Glascoed Estate.
 - e) The Council questions the land ownership details shown on the application. There is no footpath in Glas Coed, but the County Council owns a 4ft wide service strip on each side of the carriageway. This 4ft strip at the back of the roadside kerb does not appear to tally with the land boundary shown on the application plan.

Head of Assets and Transportation

Does not consider that refusal could be substantiated on lack of parking given previous use as a shop.

In order to safeguard visibility from the adjoining junction serving Glas Coed I would recommend the proposed new boundary, if greater than 1.0m, be set back clear of the visibility sightline indicated on the attached plan.

Head of Public Protection

No adverse comments

Economy

Support application. This development would bring back into use a currently vacant space to a high standard and realise a quality holiday let accommodation in a popular location

Welsh Water/Dwr Cymru

Note that the developer proposes to dispose of foul flows via the public sewerage system and it is unknown how the developer proposed to dispose of surface water runoff. Therefore, request a condition and advisory notes to be included with any consent.

AONB

No objection. Request that details of stone wall be agreed to ensure that is traditionally constructed to complement the character of the conservation area.

Natural Resources Wales

NRW do not object to the proposal. NRW do not consider that the application will have any impact on foul water or protected species. Advisory notes are requested to be added to any permission issued,

4.00 PUBLICITY

4.01 Site Notice, Neighbour Notification

3 letter of objection received

- Traffic, Parking and safety issues
- Impact of proposal on Conservation area

5.00 SITE HISTORY

5.01 85/0634 Change of use of 2 rooms to tea rooms approved 23rd January 1986

6.00 PLANNING POLICIES

6.01 Flintshire Unitary Development Plan
STR6 Tourism
GEN1 General Requirements for Development
GEN2 Development Inside Settlement Boundaries
L2 Area of Outstanding Natural Beauty
HE1 Development Affecting Conservation Areas
AC18 Parking Provision and New Development
S11 Retention of Local Facilities
T3 Self-Catering Tourist Accommodation

7.00 PLANNING APPRAISAL

7.01 Proposal

The proposal is for the change of use of a former shop unit to create a one bedroom holiday let and associated garden area. The site is located within the settlement boundary for Cilcain in the Flintshire Unitary Development Plan, as well as within the Cilcain Conservation area.

Main Issues

The main issues are considered to be the acceptability of the proposal in policy terms, with particular regard to the retention of local facilities, the impact of the proposal on the conservation area and the AONB, the impact of the proposal on neighbouring amenity and parking.

Principle of development

The site is within the settlement boundary for Cilcain. In such areas, by virtue of UDP Policy T3 there is a presumption in favour of self-catering tourist accommodation, where such development is appropriate in scale and character to its location and setting, will not have a significant adverse impact upon the amenity of nearby residents or the community in general, where appropriate is

accessible by a choice of modes of travel and will not have a significant adverse impact on features or areas of landscape, nature conservation or historic value.

The development is utilising the existing vacant shop unit and is not requiring the shop to close. Notwithstanding this, similar facilities to those lost by the closure of the shop exist within the community so that it is considered that the requirements of Unitary Development Policy S11 are satisfied.

It is considered that the principle of the proposal is acceptable in policy terms.

Parking and traffic safety

The previous use of the unit as a shop, which can be described as a 'fall-back' position is a significant material planning consideration to be given significant weight in the overall planning balance. It is considered that the proposed use as a small holiday let will have a reduced impact upon the highways in terms of traffic generation and parking requirement than the currently permitted use as a shop. As such a reason for refusal on a lack of parking would be difficult to substantiate on appeal.

Amendments to the plan have been made to ensure that visibility from the adjacent junction is left unimpeded by the boundary wall.

It is not considered that the proposal would have an adverse impact upon highways safety.

Impact upon Conservation area

The proposal has been designed in a way as to require very little external changes to the current shop unit. New fenestration and openings consists of three new conservation style rooflights and a set of French doors. These features are being introduced to the eastern elevation of the building, which faces into the courtyard. The western elevation, which is located tight against the boundary with the highway and clearly visible to public view, is unchanged although one of the windows shall be obscurely glazed as it will serve a bathroom in the new development. A new flue for a wood burner is also proposed on the roof plane of the eastern elevation, the height of this flue is approximately the same as the ridge of the roof and is unobtrusive.

Policy HE1 of the Flintshire Unitary Development Plan required development in the conservation area to either preserve or enhance the character and appearance of the designated area. I consider that the sensitive conversion of this former shop unit will both preserve and enhance the conservation area. To ensure that the work is

sympathetic to the locality conditions regarding the materials and details of individual features such as fenestration and the new boundary wall shall be imposed.

Impact upon neighbouring living conditions

Given the small scale of the proposal, and the relatively little external alteration to the unit I do not consider that the proposed development would unduly impact upon neighbouring living conditions with particular regard to noise, disturbance and privacy. The use of the unit as a shop would involve a far greater amount of comings and goings with a resultant impact upon local living conditions.

The introduction of a flue to serve a wood burner has been queried. This feature would not unacceptably impact upon the conservation area, on the outlook for neighbouring residents from a visual point of view. In terms of other impacts from its use these would be controlled by public nuisance legislation and other controls outside of the jurisdiction of the planning department.

8.00 CONCLUSION

I consider that the proposal is acceptable and in accordance with all relevant unitary development plan policies and as such I recommend that the application is approved with the schedule of conditions given above.

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

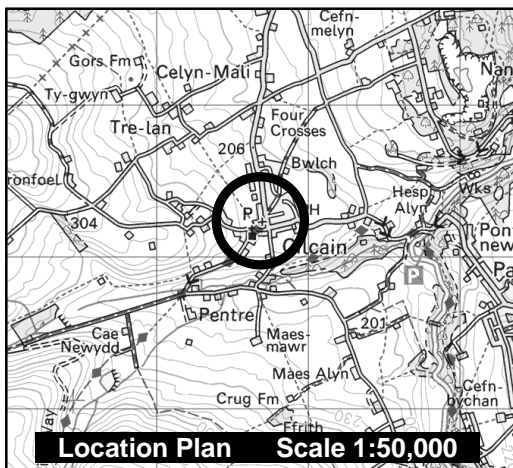
Responses to Publicity

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Planning, Environment & Economy,
 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	1:750
OS Map ref	SJ 1765
Planning Application	58434

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FLINTSHIRE COUNTY COUNCIL

REPORT TO: **PLANNING COMMITTEE**

DATE: **5TH SEPTEMBER 2018**

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

SUBJECT: **GENERAL MATTERS - OUTLINE APPLICATION WITH ALL MATTERS RESERVED FOR RESIDENTIAL DEVELOPMENT CONSISTING OF 14 UNITS WITH A MIXTURE OF 2 STOREY SEMI-DETACHED AND 3 STOREY DETACHED DWELLINGS AT SPECTRUM HOME & GARDEN CENTRE, WREXHAM ROAD, CEFN-Y-BEDD.**

1.00 APPLICATION NUMBER

1.01 055430

2.00 APPLICANT

2.01 Mr. P. Williams

3.00 SITE

3.01 Former Spectrum Home & Garden Centre
Wrexham Road
Cefn-y-Bedd
Flintshire
LL12 9UR

4.00 APPLICATION VALID DATE

4.01 12th May 2016

5.00 PURPOSE OF REPORT

5.01 To advise the committee about the decision in relation to this application following the referral of the same for determination to the Welsh Minsters in accordance with Circular 07/12.

6.00 REPORT

- 6.01 Members will recall that this application was considered at the Planning Committee held on 26th July 2017, where it was resolved to grant planning permission subject to conditions and a S.106 planning obligation. As the site is located within a C2 flood zone and the proposal was for residential development of more than 10 dwellings, the application was required to be referred to the Welsh Ministers for determination.
- 6.02 The determination of the Welsh Ministers has had regard to the report undertaken by a Planning Inspector appointed to consider whether the proposals amount to a form of development which, having regard to national and development plan policy in relation to flood risk, would be appropriate in this location.
- 6.03 **Flood Risk**
The Inspector noted the context of the site and the surroundings and the nature of the development proposals. The Inspector identified that the site amounted to Previously Developed Land (PDL), was sustainably located in relation to services and public transport and noted that the site was largely located within C2 flood zone.
- 6.04 PPW and TAN15 set out that caution should be exercised in relation to development in high risk flood areas and identify that residential development is classified as highly vulnerable development. The Inspector sets out that TAN15 is categorical that such development should not be permitted within a C2 flood zone and given this, there is no provision within TAN15 that this position can be offset by mitigation or development benefit.
- 6.05 The Inspector advised the Ministers that as the proposal is highly vulnerable development within a C2 flood zone, further consideration of the scheme is strictly not required. However, it is noted that both the Local Planning Authority and Natural Resources Wales (NRW) have had regard to the justification tests in TAN15 and other mitigation factors.
- 6.06 The provisions of UDP policy EWP17 are noted. However, whilst the Inspector considers that the proposals would accord with this policy, she notes that the policy is not consistent with TAN15 as it makes no distinction in respect of zones C1 or C2 and does not reflect the presumption against highly vulnerable development in these areas.
- 6.07 The Welsh Ministers have concluded that the Inspector is correct in her consideration and concludes that as the proposal is highly vulnerable development with a C2 flood zone, the development should not be permitted. Furthermore, they state that the justification tests in TAN15 do not apply to such situations.

6.08 **Other Matters**

The Minister has noted that the appointed Inspector had regard to the fact that NRW did not raise objection to the proposal. However it is not the role of NRW to determine the acceptability of a proposal. That responsibility rests with the LPA. It has been noted that whilst there are existing dwellings in the surrounding area and the proposed development would have wider beneficial impacts, these do not outweigh the significant harm associated with flood risk.

7.00 **CONCLUSION**

7.01 The Welsh Ministers have noted that whilst the risk from development could be mitigated in accordance with UDP policies, TAN15 is unambiguous and clearly states that highly vulnerable development in C2 flood area should not be permitted. This is a position reiterated to LPA's in the Welsh Government letter of 9th January 2014 and a position which cannot be moderated via mitigation measures.

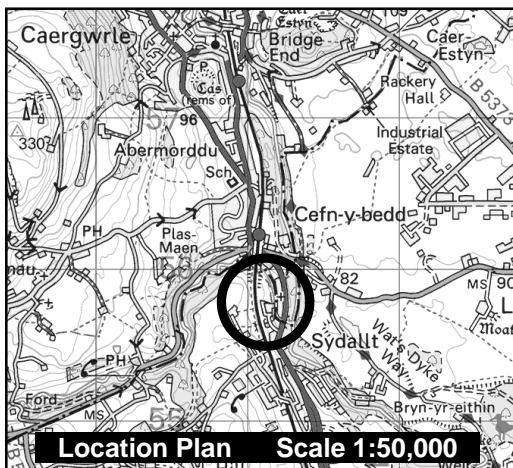
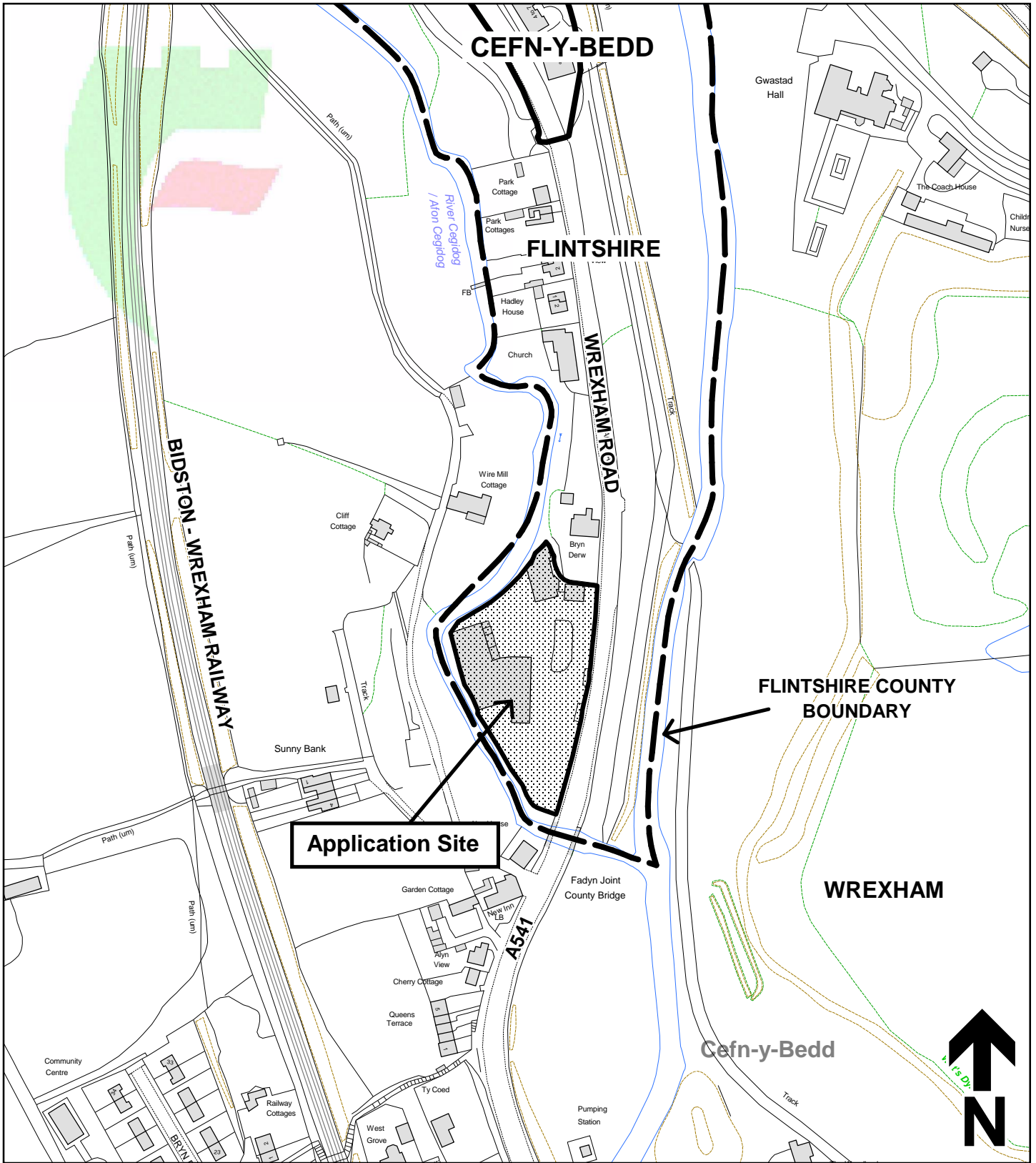
7.02 Accordingly, the Welsh Ministers have determined that the applications should be **REFUSED** for the reasons set out above.


LIST OF BACKGROUND DOCUMENTS

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

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**Sir y Fflint
Flintshire
COUNTY COUNCIL**

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

Legend

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

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OS Map ref	SJ 3155
Planning Application	55430

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FLINTSHIRE COUNTY COUNCIL

REPORT TO: **PLANNING COMMITTEE**

DATE: **5TH SEPTEMBER 2018**

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

SUBJECT: **APPEAL BY MRS T. JOHNSTON AGAINST THE DECISION OF FLINTSHIRE COUNTY COUNCIL TO REFUSE PLANNING PERMISSION FOR THE ERECTION OF 1 NO. DWELLING AT BROOK COTTAGE, CHESTER ROAD, OAKENHOLT - DISMISSED.**

1.00 APPLICATION NUMBER

1.01 057257

2.00 APPLICANT

2.01 Mrs. T. Johnston

3.00 SITE

3.01 Brook Cottage
Chester Road
Oakenholt
Flintshire
CH6 5SE

4.00 APPLICATION VALID DATE

4.01 9TH July 2017

5.00 PURPOSE OF REPORT

5.01 To inform Members of a decision in respect of an appeal, following the failure of the Local Planning Authority to determine the application within the prescribed 8 week period, for the erection of a single 4 bed semi-detached dwelling at Brook Cottage, Chester Road, Oakenholt, Flintshire.

The appointed Planning Inspector was Mr. I. Lloyd. The appeal was determined via the Written Representations method and was

5.02 **DISMISSED.**

6.00 **REPORT**

6.01 **The Main Issues**

The Inspector noted that the Local Planning Authority issued a refusal under dual jurisdiction rules refusing the application upon grounds of flood risk and archaeological concerns. Accordingly the Inspector considered the main issues to be;

- i) whether the development would be at significant risk of flooding and whether it would satisfy the TAN15 tests for highly vulnerable development if a flood zone C1; and
- ii) whether sufficient information had been provided to enable an appropriate assessment of the impact upon the archaeological significance of the site.

6.02 **Flood Risk**

The Inspector noted the context of the site and its surroundings; its location of the site within a C1 flood zone and identified that residential development within such areas is defined within TAN15 as highly vulnerable development.

6.03 He noted the presumption against unjustified development in such locations, as set out in PPW and the guidance set out in TAN15. In particular he noted the tests set out within 6 and 7 which identifies that development will only be justified where it can be demonstrated that (in the context of the appeal proposal);

- a) the development is necessary to assist, or be part of, a local authority regeneration initiative or a local authority strategy required to sustain an existing settlement; **and**
- b) it concurs with the aims of PPW and meets the definition of PDL (Previously Developed Land); and
- c) the potential consequences of a flooding event have been considered and found to be acceptable.

6.04 In respect of the first test he noted the definition of a regeneration initiative within TAN15 and concluded the appeal proposals was not of a scale to meet this definition.

6.05 He also noted that a local authority strategy includes a development plan. He noted the site was not an allocation within the UDP and the UDP was now beyond its plan period. He had regard to the Council's housing land supply situation as a material consideration and noted that whilst one dwelling would increase the supply of housing, it would be limited and insignificant in terms of the overall shortfall. He concluded that whilst the proposals would assist a local authority

strategy in a small part, he did not regard the location necessary to sustain an existing settlement and therefore considered that the site is not strategic for such purposes.

6.06 Whilst the site is in a sustainable location and amounts to PDL, sustainable development considerations include directing new development to locations at little or no risk from flooding. Therefore, the proposals would fail the second justification test.

6.07 The final test requires the consequences of flooding to have been considered and proven to be acceptable. The Inspector notes that NRW consider the submitted FCA to be inadequate as it fails to address the flood consequences in relation to development over a 100 year lifetime and significantly underestimates the risks from the site from tidal sources. Accordingly he considers that the third test is also not met.

6.08 Notwithstanding the arguments advanced by the appellant in this matter, the Inspector identified that the proposals do not satisfy the tests for highly vulnerable development in a flood zone C1 and would therefore be at significant risk from flooding and concluded therefore that policies GEN1 and EWP17 of the UDP are not satisfied.

6.09 **Archaeological Remains**

The Inspector noted the location of the site within an area of high archaeological sensitivity and noted the advice of CPAT in response to consultation upon the proposals. He also noted the consistent approach within PPW and TAN24 which direct that where archaeology is a material consideration in connection with development proposals, the application should be accompanied by a study. He identifies that the failure to provide adequate information in this regard would be a valid basis for refusing such applications.

6.10 He noted the contention of the appellant that the matter could be conditioned but concluded that without knowledge of the effects of the proposals upon such remains as there may be, applications should not be determined until the impact is identified and the extent of the same understood.

6.11 He concluded that insufficient information in this regard had been provided and therefore considered the proposal to be contrary to policies GEN1 and HE7.

7.00 CONCLUSION

7.01 The Inspector considered the proposals failed to accord with the identified UDP policies and national guidance in respect of both issues. Accordingly, because of this failure to comply with these policies, the weight derived from a lack of housing land supply does not attach as the proposals would not amount to sustainable

development. Accordingly he **DISMISSED** the appeal.

LIST OF BACKGROUND DOCUMENTS

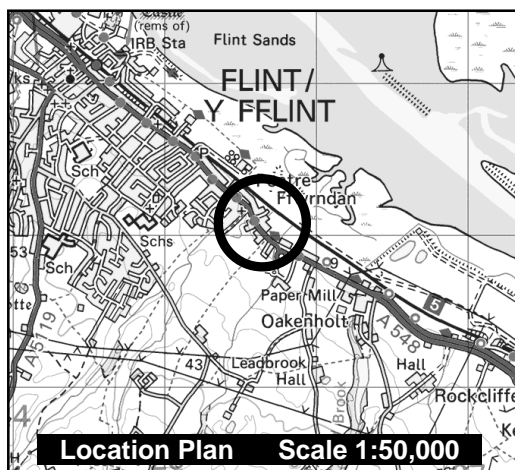
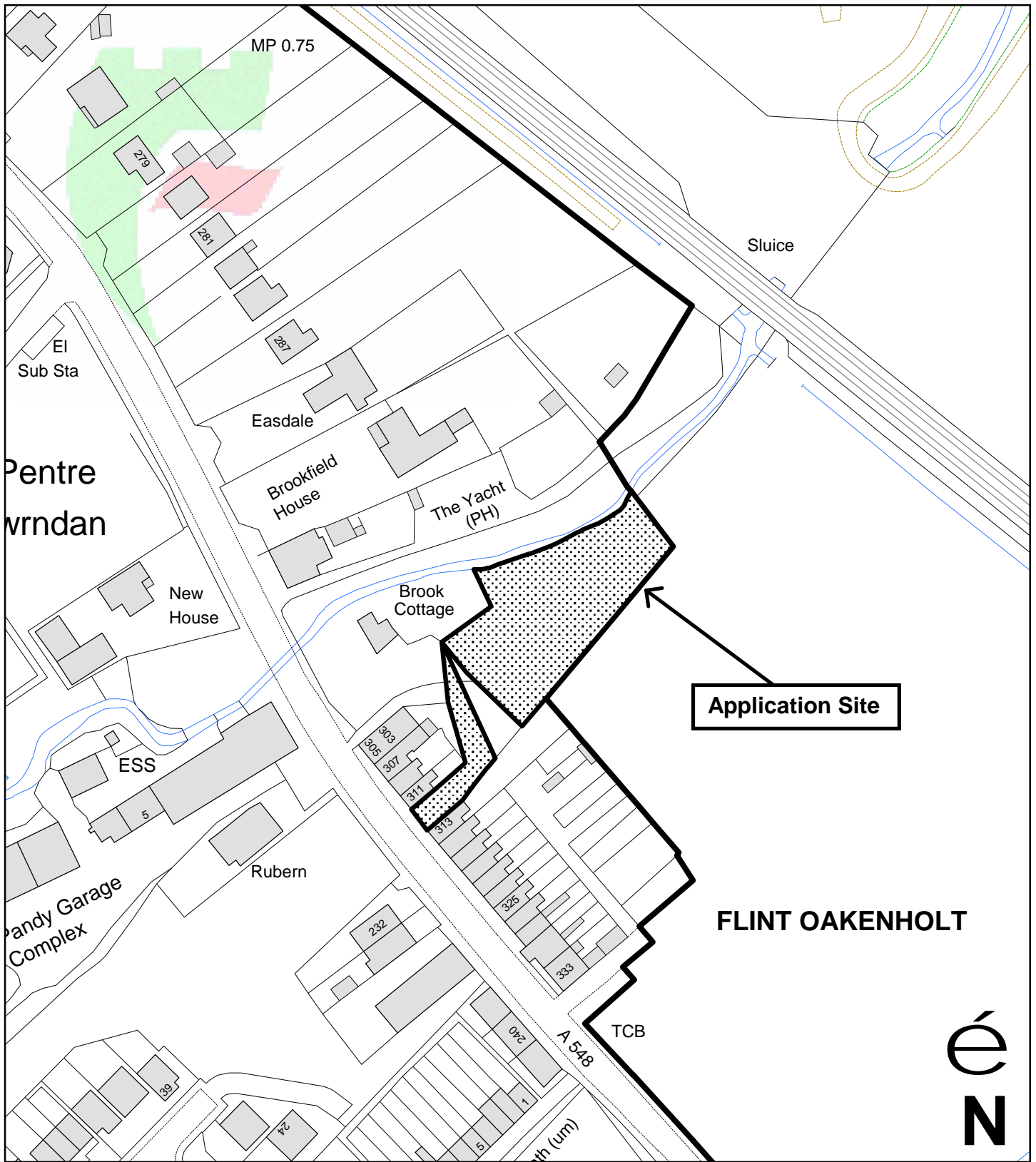
Planning Application & Supporting Documents

National & Local Planning Policy

Responses to Consultation

Responses to Publicity

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Planning, Environment & Economy,
 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 2572

Planning Application **57257**

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FLINTSHIRE COUNTY COUNCIL

REPORT TO: **PLANNING COMMITTEE**

DATE: **5TH SEPTEMBER 2018**

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

SUBJECT: **APPEAL BY THE EURO GARAGES LTD AGAINST THE NON-DETERMINATION BY FLINTSHIRE COUNTY COUNCIL FOR THE DEMOLITION OF EXISTING PETROL FILLING STATION AND CONVENIENCE STORE AND REDEVELOPMENT OF SITE FOR NEW PETROL FILLING STATION, CONVENIENCE STORE AND DRIVE-THRU BAKERY (USE CLASS A1) AT ESSO SERVICE STATION, CHURCH STREET, CONNAH'S QUAY – DISMISSED.**

1.00 APPLICATION NUMBER

1.01 057788

2.00 APPLICANT

2.01 Euro Garages

3.00 SITE

3.01 Esso Service Station
Church Street
Connah's Quay
Flintshire
CH5 4AS

4.00 APPLICATION VALID DATE

4.01 22nd November 2017

5.00 PURPOSE OF REPORT

5.01 To inform Members of a decision in respect of an appeal, following the failure of the Local Planning Authority to determine the application within the prescribed 8 week period, for the demolition of the existing petrol filling station and convenience and redevelopment of the site for a new petrol filling station, convenience store and drive thru bakery at Esso Service Station, Church Street, Connah's Quay, Flintshire. The appointed Planning Inspector was Mr. I. Lloyd. The appeal was

5.02 determined via the Written Representations method and was **DISMISSED**.

6.00 REPORT

6.01 The Main Issues

The Inspector noted that the Local Planning Authority, if it had been able to determine the application within 8 weeks, would have refused to grant planning permissions on the basis of harm to the living conditions of existing nearby residents and harm to highway and pedestrian safety and concluded that these were the main issues in the appeal.

6.02 Impact upon existing living conditions

The Inspector noted the current context of the site, its surroundings and its relationship to existing residential premises upon Dunbar Close. He noted how the proposals would alter the proximity of the relationship of the current convenience store with these dwellings.

6.03 Whilst he noted that the site is part of a wider assemblage of commercial activity fronting Church Street, he was of the view that the proposals would bring the commercial activity much closer to No's 5 & 7 Dunbar Close. He noted the shallow nature of their gardens and the fact the proposed drive thru element of the scheme would be situated only some 5-6 metres from the rear elevations of these properties. He also had regard to the fact that the flank of the proposed store would be located only some 13m away from the dwellings.

6.04 The Inspector identified that the eastern part of the site is presently heavily landscaped with significant trees and shrubbery which serves to attenuate the noise and disturbance associated with the current petrol filling station. He noted that the proposals involved the removal of this natural screen. He noted the mitigation suggested by the appellant but considered that this did not demonstrate that the impact as a result would be tolerable.

6.05 He concluded in relation to this issue that the nature of the use, its operation; its proximity to existing dwellings and the loss of the existing natural screening would have a significantly different effect upon the living conditions of nearby residents, as a result of noise and disturbance, than is presently the case. He concluded therefore that the proposal would not accord with Policies GEN1 and D2 of the UDP.

6.06 Highway Safety

The Inspector noted that the proposals involved the re-configuration of 'in and out' movements associated with the use. He noted the disagreement between the parties in respect of the trading floor area of the convenience store and concluded it amounted to some 320m²,

thereby requiring the provision of some 20 parking spaces. He noted that the proposed 12 parking spaces, in addition to the eight spaces at the pumps would satisfy this requirement.

6.07 The Inspector considered that the proposed re-configuration of the access resulted in insufficient space for the manoeuvring of vehicles from the parking spaces when the pumps are occupied and concluded, notwithstanding the appellants suggested mitigation, that this arrangements would result in harm to highway safety. Accordingly he noted the proposals would conflict with policy GEN1 of the UDP.

6.08 **Costs Decision**
TBC

7.00 **CONCLUSION**

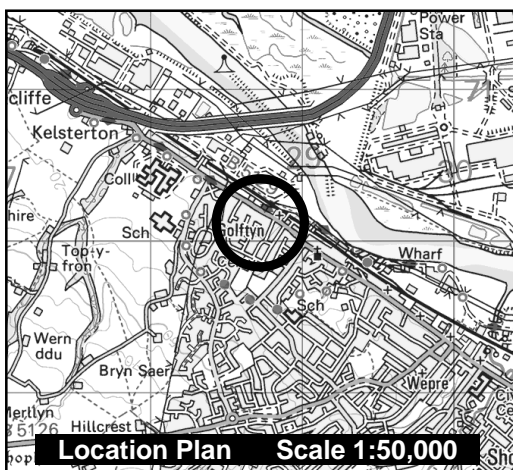
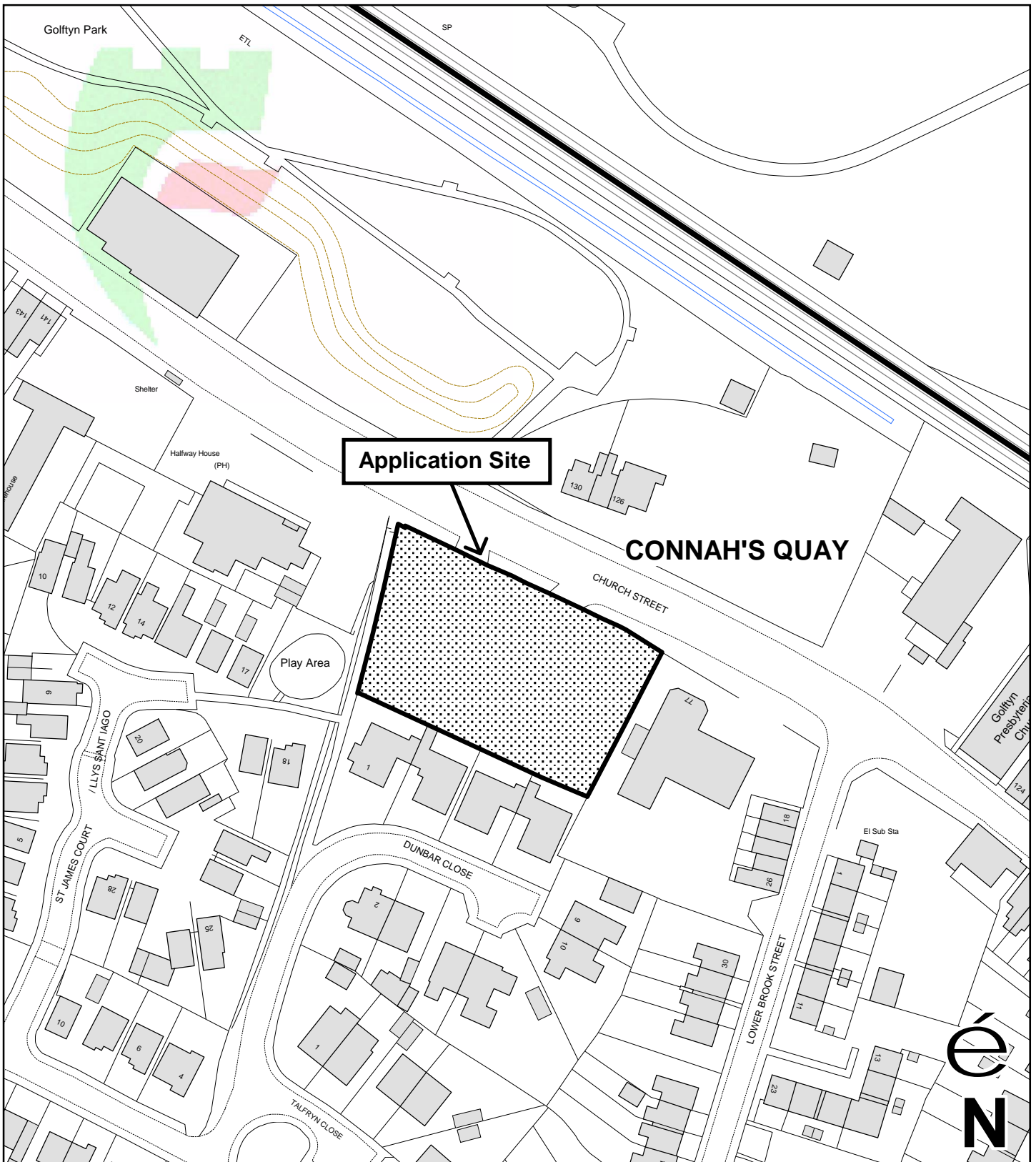
7.01 The Inspector considered the proposals failed to accord with the identified UDP policies or PPW for the reasons set out above. He had regard to the appellants economic benefit argument but concluded that they did not outweigh the identified harm. Accordingly he **DISMISSED** the appeal.

LIST OF BACKGROUND DOCUMENTS

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



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Planning, Environment & Economy,
 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 2870
Planning Application	57788

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FLINTSHIRE COUNTY COUNCIL

REPORT TO: **PLANNING COMMITTEE**

DATE: **5TH SEPTEMBER 2018**

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

SUBJECT: **APPEAL BY MR. J. WOODCOCK AGAINST THE REFUSAL OF PLANNING PERMISSION BY FLINTSHIRE COUNTY COUNCIL FOR THE USE OF LAND AS A TOURING CARAVAN SITE AT STAMFORD WAY FARM, STAMFORD WAY, EWLOE – ALLOWED.**

1.00 APPLICATION NUMBER

1.01 057681

2.00 APPLICANT

2.01 Mr. J. Woodcock

3.00 SITE

3.01 Land opposite Stamford Way Farm
Stamford Way
Ewloe
Flintshire
CH5 3BZ

4.00 APPLICATION VALID DATE

4.01 20TH October 2018

5.00 PURPOSE OF REPORT

5.01 To inform Members of a decision in respect of an appeal following the refusal to grant planning permission for the use of land as a touring caravan site at land opposite Stamford Way Farm, Stamford Way, Ewloe by the Local Planning Authority.

5.02 The decision to refuse planning permission was made by the Chief Officer under delegated powers on 7th February 2018.

5.03 The appointed Planning Inspector was Mrs. S. Worden. The appeal was determined via the Written Representations method and was **ALLOWED**.

6.00 REPORT

6.01 The Main Issues

The Inspector noted the basis for the refusal of the application by the Local Planning Authority. She also noted matters referenced by interested parties and concluded that the main issues for consideration in this case were:

1. whether the proposal would be inappropriate development in the Green Barrier; and
2. whether the harm by reason of inappropriateness, and any other harm, would be outweighed by other considerations and if so, would this amount to the very special circumstances required to justify the proposals.

6.02 The Inspector considered the question of openness. She identified that openness is considered to the absence of development, but also noted the visual component to the determination of the same. She noted that whilst the site itself, the roadway and the pitches (being laid to grass) would not be clearly visible within the landscape, the site when in use and occupied by up to 60 vehicles, would. Accordingly, she concluded that the proposals would not maintain the openness of the green barrier.

6.03 The Inspector noted the context of the site and the fact that the proposals formed part of a larger (approved) scheme for the site in connection with a fishery business. She noted that whilst the scheme would not be densely developed with buildings and would have generally naturalistic features, it would nonetheless have an engineered and managed character and appearance which would mark it out from the surrounding landscape. However, she concluded that the appeal proposals did not encroach into the countryside to any greater extent than that permitted previously.

6.04 On balance however, the Inspector considered that as the proposals did not maintain openness within the Green Barrier, they therefore amounted to inappropriate development as defined within PPW.

6.05 The Inspector then turned to consider the conformity of the proposals with UDP policies. She considered that the proposals were not in conflict with policies STR7 or GEN4 as they did not contribute to settlement coalescence and considered it part of an essential facility for sport and recreation, noting the connection with the fishery business. She noted the landscaping proposed and concluded therefore that the proposals would not unacceptably harm the character or appearance of either the open countryside or Green

Barrier more particularly.

- 6.06 The Inspector also had regard to other issues in coming to her decision. She considered the use of the caravan site in connection with the fishery business to be a benefit to the business and considered the condition to restrict occupation to those using the fishery would result in reduced car journeys. She considered touring caravans to have a lesser visual impact than static caravans, noting the lesser requirement for infrastructure. She also considered the scheme had the potential to generate economic benefits for surrounding local businesses.

Other Matters

- 6.07 The Inspector noted the views of a previous Inspector who had dismissed an appeal for the wider scheme at this site but concluded that the assessment of the inappropriateness of the scheme was different as a consequence of development subsequently permitted by the LPA. She also considered the scheme did not result in the loss of BMV and noted there was no highway objection and concluded that the scheme would not affect alleged traffic problems within Northop Hall village.

Conditions

- 6.08 The Inspector considered the conditions suggested by the Council, together with the guidance in Welsh Government Circular 016/2014. She concluded the conditions suggested by the parties were appropriate and accordingly imposed the same. She considered the conditions requiring the restriction on caravan numbers, use and type to be necessary to protect the Green Barrier. However, she did not consider a condition to restrict the occupancy period of caravans to 11 months in a year and therefore declined to impose the same. The Inspector also imposed conditions related to Great Crested Newt protection and mitigation, together with other ecological matters.

7.00 CONCLUSION

- 7.01 The Inspector took the view that whilst she found the proposals would amount to inappropriate development within a Green Barrier by failing to maintain openness and noted the presumption against such development, she considered there to be significant other considerations which clearly outweighed the minor harm. Consequently she concluded that very exceptional circumstances exist to justify the proposals.
- 7.02 Accordingly, for the reasons given above, the Inspector concluded that the appeal should be **ALLOWED**.

LIST OF BACKGROUND DOCUMENTS

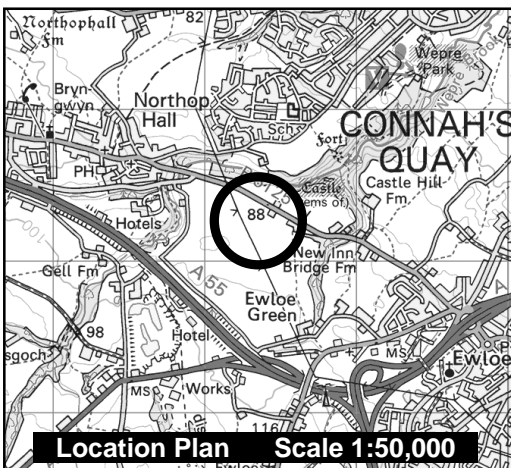
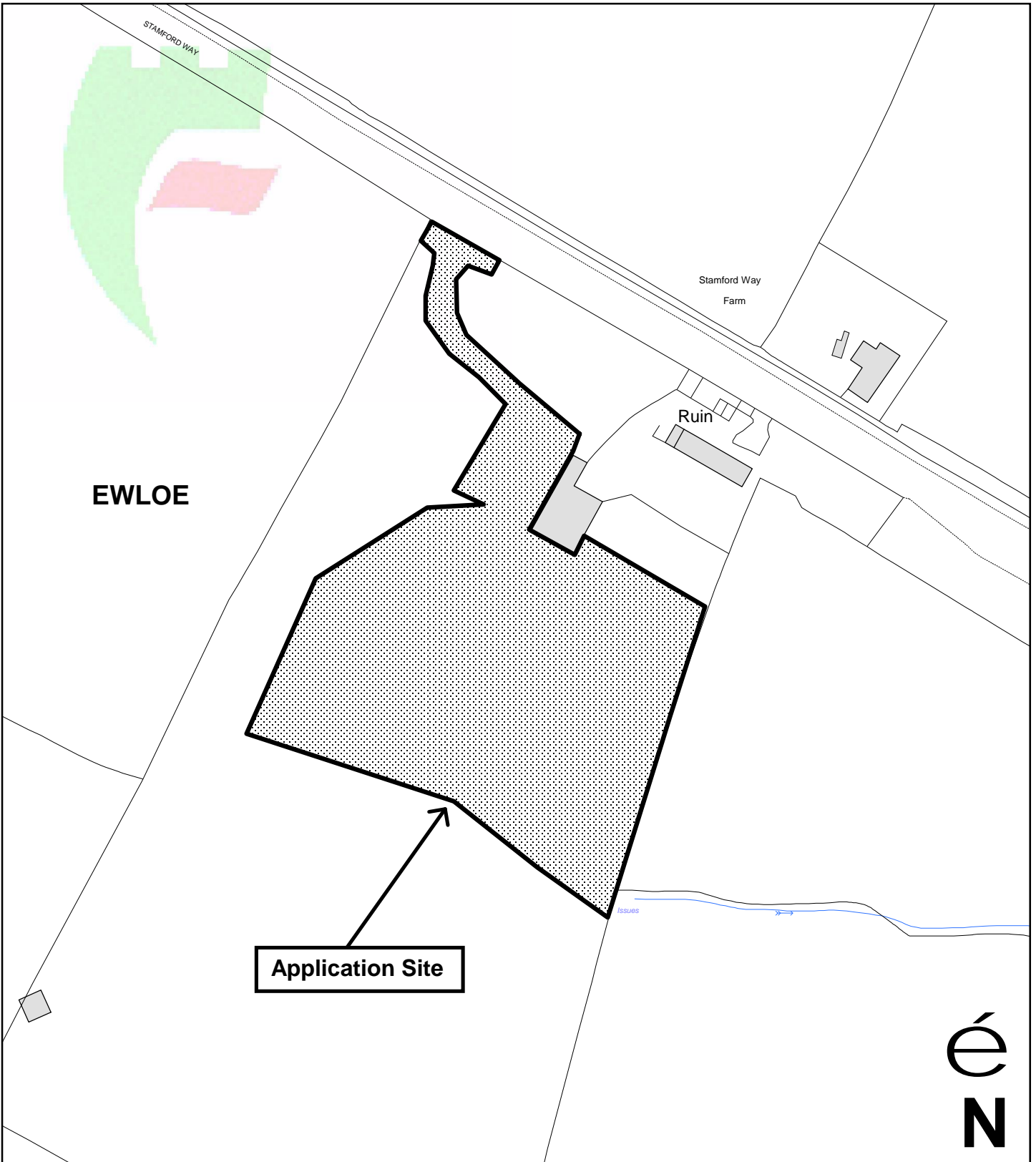
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Chief Officer: Mr Andrew Farrow

Legend



Planning Application Site



Adopted Flintshire Unitary
Development Plan
Settlement Boundary

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Planning Application **57681**

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