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Prif Swyddog (Llywodraethu)



CS/NG

29 August 2024

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To: Cllr Richard Lloyd (Chair)

Councillors: Mike Allport, Bernie Attridge,
Chris Bithell, Helen Brown, Paul Cunningham,
Rob Davies, Adele Davies-Cooke, Carol Ellis,
Gladys Healey, Dave Hughes, Paul Johnson,
Richard Jones, Allan Marshall, Hilary McGuill,
Ted Palmer and Mike Peers

Dear Sir / Madam

NOTICE OF HYBRID MEETING
PLANNING COMMITTEE
WEDNESDAY, 4TH SEPTEMBER, 2024 at 1.00 PM

Yours faithfully

Steven Goodrum
Democratic Services Manager

Please note: Attendance at this meeting is either in person in the Lord Barry Jones Council Chamber, Flintshire County Council, County Hall, Mold, Flintshire or on a virtual basis.

Public speakers have been asked if they would like to address the Committee in English or Welsh.

The meeting will be live streamed onto the Council's website. The live streaming will stop when any confidential items are considered. A recording of the meeting will also be available, shortly after the meeting at <https://flintshire.public-i.tv/core/portal/home>

If you have any queries regarding this, please contact a member of the Democratic Services Team on 01352 702345.

AGENDA

1 **APOLOGIES**

2 **DECLARATIONS OF INTEREST**

3 **LATE OBSERVATIONS**

4 **MINUTES** (Pages 3 - 6)

To confirm as a correct record the minutes of the meeting held on 17 July 2024.

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 4 SEPTEMBER 2024

Item No	File Reference	DESCRIPTION
<u>Applications reported for determination (A = reported for approval, R= reported for refusal)</u>		
6.1	OUT/000470/23 - A	Outline application - For the erection of up to 17 No. dwellings with associated works at Tan Y Bryn, Bryn Road, Flint (Pages 7 - 32)
6.2	FUL/000337/24 - A	Full application - Change of use to 5 bedroom, 6 person HMO at 13, Rowden Street, Shotton, Deeside (Pages 33 - 42)
6.3	FUL/000451/24 - A	Vary/Remove condition application - Application for variation of condition no.10 attached to Planning Permission ref : FUL/000498/22 at KFC, Chester Road, Mold (Pages 43 - 52)

Please note that there may be a 10 minute adjournment of this meeting if it lasts longer than two hours

PLANNING COMMITTEE
17 JULY 2024

Minutes of the Planning Committee of Flintshire County Council held as a hybrid meeting on Wednesday, 17 July 2024

PRESENT: Councillor Richard Lloyd (Chair)

Councillors: Chris Bithell, Rob Davies, Adele Davies-Cooke, Carol Ellis, Gladys Healey, Dave Hughes, Paul Johnson, Richard Jones, Allan Marshall, Hilary McGuill, Ted Palmer, and Mike Peers

APOLOGIES: Councillors Helen Brown and Paul Cunningham

IN ATTENDANCE:

Chief Officer (Planning, Environment & Economy), Service Manager - Development, Senior Engineer - Highways Development Control, Planning Officers, Solicitor, and Democratic Services Officers

08. DECLARATIONS OF INTEREST

There were no declarations of interest.

09. LATE OBSERVATIONS

The late observations would be presented prior to each item being discussed.

10. MINUTES

The minutes of the meeting held on 19 June 2024 were confirmed as a correct record, as moved and seconded by Councillor Hilary McGuill and Councillor Chris Bithell.

RESOLVED:

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

11. ITEMS TO BE DEFERRED

There were no items recommended to be deferred.

12. REPORTS OF THE CHIEF OFFICER (PLANNING, ENVIRONMENT & ECONOMY)

RESOLVED:

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

13. MEMBERS OF THE PUBLIC AND PRESS IN ATTENDANCE

There were no members of the public present at the start of the meeting.

(The meeting started at 2.00 pm and ended at 3.14 pm)

.....
Chair

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 17 JULY 2024

ITEM NO	TOWN/ COMMUNITY COUNCIL	SITE/PROPOSAL	THIRD PARTY / LOCAL MEMBER OBSERVATIONS	RESOLUTION
FUL/000961/23	Northop Community Council	Full application - Proposed 5no. glamping units and 5no. grass tent pitches with decking along with recycling/waste and a proposed parking area, bike storage, a facility building and a water treatment plant and soakaway. New proposed track to the parking/turning areas. One parking bay per unit is proposed, with two being EV charging points. Associated footpaths and landscaping of the site at Bryn Morgan House, Starkey Lane, Northop	<p>A statement was read out on behalf of Mr and Mrs Skillin (Applicants) in support of the application.</p> <p>A statement was read out on behalf of Northop Community Council which expressed concerns.</p> <p>Councillor Marion Bateman (joint local Ward Member) spoke against the application.</p> <p>Councillor Linda Thew (joint local Ward Member) spoke against the application</p>	<p>That planning permission be refused, against the Officer's recommendation, on the following grounds:</p> <ul style="list-style-type: none"> • unacceptable loss of biodiversity and wildlife and detrimental impact on the local landscape and environment which would be contrary to Policies PC2 PC3 and EN4 of the LDP; and • Bryn Morgan House is not a registered farm and therefore the proposals cannot be considered as diversification run in connection with a main farm enterprise so the scale of the proposals would be contrary to Policy PE4 of the LDP
FUL/000369/24	Connah's Quay Town Council	Full application – for an upward extension of 2.6 metres to the existing PM2 Building at Shotton Paper Mill for 990 sq.m at Shotton Paper Mill, Weighbridge Road, Sealand, Deeside		That planning permission be granted, in accordance with the Officer's recommendation, and subject to the conditions set out in the report and in the late observations.

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FLINTSHIRE COUNTY COUNCIL

REPORT TO: **PLANNING COMMITTEE**

DATE: **4TH SEPTEMBER 2024**

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

SUBJECT: **OUTLINE APPLICATION – PROPOSED ERECTION OF UP TO 17 NO DWELLINGS WITH ASSOCIATED WORKS.**

APPLICATION NUMBER: **OUT/000470/23**

APPLICANT: **MR & MRS N WALLACE**

SITE: **TAN Y BRYN
BRYN ROAD
FLINT**

APPLICATION VALID DATE: **15th MAY 2023**

LOCAL MEMBERS: **COUNCILLOR P CUNNINGHAM
COUNCILLOR M PERFECT
COUNCILLOR V PERFECT**

TOWN/COMMUNITY COUNCIL: **FLINT TOWN COUNCIL**

REASON FOR COMMITTEE: **SCALE OF DEVELOPMENT RELATIVE TO DELEGATION SCHEME AND MEMBER REQUEST.**

SITE VISIT: **YES**

1.00 SUMMARY

- 1.01 This outline application with all matters reserved for subsequent approval, proposes the erection of up to 17 No dwellings on land at Tan y Bryn, Bryn Road, Flint. The application has been submitted following dismissal of an appeal to Planning Environment Decisions Wales (PEDW) on 21/6/22, in relation to an outline application for up to 18 No dwellings submitted under 060699.
- 1.02 The appointed Inspector in determination of the appeal considered that the principle of development including its proposed density, the

highway network/ potential highway layout and impact on living conditions were all acceptable, noting that the precise details of development could be secured at reserved matters stage. The appeal was however dismissed given concerns about the adequacy of information submitted at that time, to assess the impact of development on local bat populations, and there being no indication of measures for biodiversity enhancement.

- 1.03 This current application seeks to address the above, and has been amended since its initial submission, proposing a reduction in the number of dwellings from up to 18 to 17 units. A further round of consultation has been undertaken as a result.

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

- 2.01 That conditional planning permission be granted subject to the applicant entering into a Section 106 Obligation / Unilateral Undertaking for: -
- a) the payment of £1100 per dwelling, the monies being used to enhance Flint Skatepark at 1a, Holywell Road, Flint.
 - b) the payment of a Secondary School Educational Contribution towards Flint High School of up to £55,407 to accommodate the increase in pupil numbers based on a proposal for up to 17 No dwellings.
 - c) the provision of 15% affordable housing if a reserved matters application proposes the development of more than 10 No units.

Conditions

- 1 Details of the access, appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the Local Planning Authority before any development commences and the development shall be carried out as approved.
2. (i) Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of 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 approval of the last of the reserved matters, whichever is the later.
- 3 No works associated with the proposed development of the site shall commence unless and until a detailed scheme for the widening of Bryn Road along the site frontage has been submitted to and approved by the Local Planning Authority.

- 4 No dwelling on the site shall be occupied unless and until all the works specified in the condition 3 of this permission have been completed.
- 5 The siting, layout, and design of the means of site access shall be in accordance with details to be submitted to and approved by the Local Planning Authority prior to the commencement of any site works.
- 6 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.
- 7 The stated visibility splays at the proposed point of access shall be made available and kept free from all obstructions for the duration of site construction works.
- 8 The detailed layout, design, means of traffic calming and signing, surface water drainage, street lighting and construction of the internal estate roads shall be submitted to and approved by the Local Planning Authority prior to the commencement of any site works.
- 9 The gradient of the access from the edge of the existing carriageway and for a minimum distance of 10m shall be 1 in 15 and a maximum of 1 in 12 thereafter.
- 10 A 1.8m wide footway shall be provided along the site frontage constructed to adoption requirements in accordance with the County Council's current specification for such works.
- 11 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 Local Planning Authority prior to the commencement of any site works.
- 12 No development shall take place, including site clearance works, until a Construction Traffic Management Plan has been submitted to, and approved in writing by, the Local Planning Authority

The approved Construction Management Plan shall provide details of:

- i. Contact names and numbers of personnel responsible for adherence and monitoring the plan.

- ii. Contact name(s)/number(s) for any site related enquiries, including out of hours times.
- iii. Anticipated duration of the works
- iv. Typical working days and hours of the week
- v. Proposed signage types and locations
- vi. Position of any temporary gates – preferably set-back 12m to allow a delivery vehicle to park/wait.
- vii. The access and egress route with appropriate traffic monitoring in order to control traffic movements
- viii. Measures to avoid depositing mud, dust, or other debris onto the highway by traffic movements.
- ix. The timing of deliveries and main construction traffic arrivals and
 - x. departures to avoid periods such as school arrival/leaving times.
- xi. Site notices informing construction workers and other site operatives of agreed working hours.
- xii. The parking of vehicles of site operatives and visitors
- xiii. Loading and unloading of plant and materials.
- xiv. Storage of plant and materials used in constructing the development.
- xv. Measures to control the emissions of dust and dirt during construction.
- xvi. A scheme for re-cycling/disposing of waste resulting from construction works.

13 No development shall commence until a foul drainage scheme for the site has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details prior to the occupation of any dwelling unit permitted.

14 No development shall take place, nor shall there be any site clearance until further bat emergence surveys have been undertaken and measures designed to safeguard bat roost sites and their management including lighting proposals have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

15 No development shall take place until there has been submitted to, and approved in writing by, the Local Planning Authority, a detailed scheme of hard and soft landscaping for the site to provide details of:

- a. all existing trees, hedgerows, and other vegetation on the land, including details of any to be retained, and measures for their protection during the course of development and future management
- b. proposed new trees, hedgerows, shrubs, or vegetation,

- including confirmation of species, numbers and location and the proposed timing of the planting
 - c. proposed materials to be used on the driveway(s), paths and other hard surfaced areas
 - d. proposed earthworks, grading and the mounding of land and changes in levels, final contours, and the relationship of proposed mounding to existing vegetation and surrounding landform
 - e. proposed positions, design, materials, and type of boundary treatment.
- 16 All planting, seeding, turfing, fencing, walling or other treatment comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the commencement of the development and any trees or plants which, within a period of five years of the time of planting, die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species.
- 17 No development shall take place until a scheme for biodiversity enhancement has been submitted to and agreed in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
- 18 No hedgerow removal shall be undertaken during the bird nesting season (March - September) unless preceded by a nesting bird check for active nests by a suitably qualified ecologist. If clear of nests, this vegetation should be removed within 48 hours (preferably 24 hours). If a nest is found, an appropriate buffer will be established by the ecologist, which is to be left undisturbed until the ecologist confirms that the chicks have fledged, or the nest is no longer active.
- 19 No development shall commence until an Arboricultural Impact Statement (AIA) and Arboricultural Method Statement (AMS), for the detailed layout are submitted to and approved in writing by the Local Planning Authority.

The AMS shall include a plan showing the position and specification for protective fencing and method for safeguarding the trees during development.

Once approved, development shall only be carried out in accordance with the AIA and AMS, unless the Local Planning Authority agree to a variation in writing.

- 20 No development shall commence until a survey of the remains of the World War II Air Raid Shelter within the site has been

submitted to the Local Planning Authority to establish its suitability for retention and preservation.

3.00 CONSULTATIONS

3.01 **Councillor P Cunningham (Local Member):** No response received at time of preparing report.

Councillor M Perfect (Local Member): Request site visit and Planning Committee determination. Preliminary concerns relate to the principle of development at this location, inadequacy of access and potential flooding.

Councillor V Perfect (Local Member): No response received at time of preparing report.

Flint Town Council: Object as it is considered that the proposal represents overdevelopment of the site to the detriment of ecological habitat and biodiversity net benefit.

Highways Development Control: Recommend that any permission includes conditions in respect of road widening along the site frontage, access detail, visibility, gradients, surface water run-off and the submission of a Construction Traffic Management Plan.

Community and Business Protection: No objection

Welsh Water/Dwr Cymru: No objection subject to the imposition of a condition requiring the submission of a foul drainage scheme.

Natural Resources Wales: No objection subject to the imposition of a condition to minimise the impact of development on protected species and their habitats.

Airbus: No aerodrome safeguarding objection.

Public Rights of Way (PROW): Public Footpath 78 abuts the site but appears unaffected by the proposed development. The path must be kept free from interference during construction.

Council Ecologist: No objection in principle subject to the imposition of a condition to secure adequate landscaping, mitigation, biodiversity net benefit and management.

Capital Projects and Planning (Education): Advises that the schools affected by the proposed development are as follows:

St Mary's Primary School
Capacity 317 (excluding nursery)

Current NOR 225 (excluding nursery)
Number of Surplus Places 92
Percentage of Surplus Places 29.02%

Flint Secondary High School
Capacity 707
Current NOR 824
Number of Surplus Places -27
Percentage of Surplus Places 3.39%

Primary School Calculation
Trigger for Contributions 301
Does not exceed trigger for contributions.

Secondary School Calculation.
Trigger for Contributions 757
Number of unit 17 x 0.17 (Secondary Multiplier) = Child Yield 3
Child Yield 3 x Cost Multiplier £18,469.00
Developer Contribution requested for £55,407.00.

Leisure Services (AURA): Request the payment of a commuted sum of £1100 per dwelling, the monies being used to enhance Flint Skatepark.

Henrob: Clwyd Powys Archaeological Trust (CPAT): No objection subject to the imposition of a condition to require the undertaking of a survey of the remains of a World War II Air Raid Shelter within the site to establish its suitability for retention and preservation.

Forestry Officer: No objection in principle. Note that the application has been submitted in outline with all matters reserved for subsequent approval. Consider that the revised illustrative layout and supplemental reports seek to address previous concerns reducing the removal of trees to facilitate development.

4.00 PUBLICITY

4.01 Neighbour Notifications were sent to 37 neighbouring and nearby properties. The application was also publicised by way of a Press Notice and Site Notices displayed near the site.

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

1. Proposal would represent overdevelopment.
2. Detrimental impacts on highway safety
3. Loss of wildlife habitat
4. Detrimental impact, on living conditions.

5.00 SITE HISTORY

- 5.01 060699 – Outline application – Proposed erection of up to 18 No dwellings with associated works. Refused 2/9/21.
Appeal to the Planning & Environment Decisions Wales (PEDW) Dismissed 21/6/22 given concerns that inadequate information had been submitted to assess the impact of development on local bat populations.

6.00 PLANNING POLICIES

- 6.01 Flintshire Local Development Plan
Policy STR2 – The Location of Development
Policy STR5 – Transport and Accessibility
Policy STR6 – Services, Facilities, and Infrastructure
Policy STR13 – Natural and Built Environment, Green Networks, and Infrastructure.
Policy PC1 – The Relationship of Development to Settlement Boundaries
Policy PC2 – General Requirements for Development
Policy PC3 – Design
Policy PC4 – Sustainability and Resilience of New Development
Policy PC5 – Transport and Accessibility
Policy HN2 – Density and Mix of Development
Policy HN3 – Affordable Housing
Policy EN6 – Sites of Biodiversity Importance
Policy EN7 – Development Affecting Trees, Woodlands, and Hedgerows.

Supplementary Planning Guidance Notes (SPGN)

- SPGN2 – Space Around Dwellings
SPGN3 – Landscaping
SPGN4 – Trees and Development
SPGN8 – Nature Conservation and Development
SPGN11 – Parking Standards
SPGN 23 – Developer Contributions to Education.

National Planning Policy/Guidance

- Planning Policy Wales (PPW) – Edition 11
Future Wales: The Development Plan 2020-2040
Technical Advice Note 5 – Nature Conservation and Planning
Technical Advice Note 12 – Design
Technical Advice Note 18 – Transport

7.00 PLANNING APPRAISAL

7.01 Introduction /Site Description

This outline application with all matters reserved for subsequent approval, proposes the erection of up to 17 No dwellings on land that forms part of the residential curtilage associated with Tan y Bryn, Bryn Road, Flint. The sloping site which amounts to approximately 0.8 hectares in area is located on the eastern side of The Bryn. It occupies a central position to the east of Nos 16-26 The Bryn, north of 15-31 Bryn Road and west of properties on the A5119 Northop Road.

7.02 Background

By way of the background of planning history at this location, a previous outline planning application for the erection up to 18 No dwellings on the site was refused under 060669 on 2/9/21 following consideration at the Planning Committee on 21/7/21. The reason for refusal is referenced below (italics):

- 1. It is considered that the proposal forms overdevelopment and is therefore contrary to part (i) C of Policy HSG 3 of the Flintshire Unitary Development Plan. Furthermore, as the proposal has an insufficient highway layout the proposal is in conflict with part (e) of Policy GEN 1 and Policy AC13 of the Flintshire Unitary Development Plan."*

7.03 An appeal was subsequently lodged with Planning & Environment Decisions Wales (PEDW), with the appeal being dismissed on 21/6/22, given concerns by the appointed Inspector, that inadequate information had been submitted to assess the impact of development on local bat populations. A copy of the appeal decision is attached as an Appendix to this report.

7.04 Proposed Development

Although submitted in outline, an illustrative site layout and accompanying sectional details have been submitted to show how the site could potentially be developed given the sloping topography.

7.05 The amended indicative site layout submitted in progression of this current application shows the proposed demolition of the existing dwelling to facilitate the erection of up to 17 No dwellings, and whilst this carries limited weight in the overall planning balance, it is useful to understand how the site could be developed. The precise details for development of the site would however need to be secured as part of any reserved matters application, as it is only the principle of development for up to 17 No dwellings that is being sought at this stage.

7.06 Main Planning Considerations

The main planning considerations to be addressed in determination of this application include:

- Principle of development

- Character and appearance
- Impact on living conditions.
- Affordable Housing
- Leisure / Educational Contributions
- Adequacy of access
- Impact on local bat population.

These issues are considered in further detail below.

7.07

Principle of Development

The site is located within the settlement boundary of Flint, which is a Tier 1 Main Service Centre as defined in the Flintshire Local Development Plan. The principle of development for general and affordable housing need in such locations, is generally supported in accordance with national /local planning policy subject to the safeguarding of relevant development management considerations.

7.08

Character and Appearance

The site the subject of this application amounts to approximately 0.8 hectares in area. The proposed erection of 17 No dwellings would represent a density of 21 dwellings per hectare (dph), which is below the 30 dph specified as a minimum referenced in LDP Policy HN2, that is sought to be achieved on sites within settlement boundaries.

7.09

The proposed scale of development considers the site constraints in particular the topography, landscape features together with the density of existing development at this location which is also set at approximately 21dph.

7.10

The application suggests that the proposed dwellings would range from single to 2 -storey in height. This recognises that as part of any reserved matters application, that it will be necessary to consider a mix of house types on the site given its topography, ecological constraints, and relationship to existing dwellings. The parameters of scale provided indicate that the dwellings are proposed to be 8-16m wide, 8-11m in depth, 5m to eaves and 8 m in height. This range in the scale of the proposed units would it is considered be acceptable and help to assimilate the development into the site and wider surroundings.

7.11

It is important to note that the scale parameters are consistent with those forming application 060699 and recognises that whilst that application proposed the development of up to 18 No dwellings, the appointed Inspector concluded in paragraphs 10-12 of the appeal decision letter as follows (italics):

“10 The Council acknowledges that the proposed density of housing at 23 per hectare, falls below the 30dph specified as a minimum in Policy HSG8 of the Flintshire Unitary Development Plan (UDP). It

appears to me that the density is broadly similar to the housing estate that bounds the southern boundary whilst some of the terraced housing to the east would be at a higher density. The Council calculates the surrounding density to be 21dph. I agree with it that a lower density than sought in the UDP is justified given the site's constraints particularly its topography. Whatever the actual densities of nearby development, there is no reason to believe that the proposed development would appear at odds with its surroundings given the wide range of housing styles that that provide a visual context. The precise details of the development would be a matter for further consideration in response to a reserved matters application.

11 The scheme would inevitably give rise to the loss of some attractive landscaping within the site and along the frontage. However much of the main features are along the side and rear boundaries which could be protected from development. The extent of loss within the site, particularly of specimen trees, is a matter to be considered at the reserved alongside any new landscaping works. The same approach applies to the roadside frontage.

12 The scheme would not constitute overdevelopment in relation to the character of the site or the surrounding area. Whilst the proposed development would cause the loss of some landscape features, it would not unacceptably harm the character or appearance of the area. As such there is no conflict with criterion c. i of policy HSG3 of the UDP."

- 7.12 Having regard to the above it is considered that the density of the proposed development would be acceptable in the context of existing development at this location, the precise details of the development being considered and controlled at reserved matters stage subject to the safeguarding of relevant development management considerations.
- 7.13 Impact on Living Conditions
Of particular importance in consideration of this application, is ensuring that the privacy of the occupiers of the proposed dwellings and those existing dwellings adjacent to the site are safeguarded as part of the proposed development. Whilst recognising that the site layout submitted carries limited weight in the assessment process, it does consider the relationship of proposed dwellings to existing development, confirming that it is possible to design a layout meeting adequate interface separation distances having regard to Supplementary Planning Guidance Note 2 – Space About Dwellings. (SPGN2)
- 7.14 The impact of development on living conditions was addressed by the appointed Inspector in respect of the appeal under 060699, it

being concluded in paragraphs 15 and 16 of the decision letter as follows(italics)

15 In terms of private open space provision and the separation from neighbours, the illustrative layout does not appear materially different to the existing provision at the neighbouring housing estate to the south. Subject to further consideration of details such as the position of openings, screening measures and finished floor levels, I am satisfied that an acceptable effect on living conditions can be secured for future residents and their neighbours.

16 On this main issue, and mindful of the extent to which details can be controlled at reserved matters stage, I am satisfied that the development would not have a significant adverse impact on nearby residents and thus accords with policy GEN1, d. I am also satisfied that the scheme has the potential to provide adequate outdoor amenity space for prospective occupiers in line with the SPG. Highway Safety

- 7.15 Having regard to the above it is considered that an acceptable site layout can be satisfactorily secured at reserved matters stage having regard to LDP Policy PC2 and SPGN2.
- 7.16 Affordable Housing
In accordance with LDP Policy HN3, there will be a requirement on developments of more than 10 No units to secure the provision of 15% affordable dwellings given the sites location within the Flint and Coast sub-market area.
- 7.17 This can be secured /addressed through the completion of a legal obligation as part of this outline application, the precise details including tenure being addressed at reserved matters stage in light of demand at that time.
- 7.18 Leisure / Education Contributions
Supplementary Planning Guidance Note 13 seek to ensure that any new residential development of two or more units consider the need for the provision of sufficient open space or if the scheme is below 25 No units that there is a contribution secured to facilitate the provision /enhancement of existing recreational facilities in the locality. As in this case and based on the proposed density of development there would be no on-site recreational provision. The development would however require the payment of a commuted sum of £1100 per dwelling, and Leisure Services (AURA) have specified that the monies would be used to enhance Flint Skatepark at 1a Holywell Road, Flint.
- 7.19 In addition, Supplementary Planning Guidance Note 23 requires the impact of development on any existing school capacity to be considered given the potential impact on these existing facilities. As

a result, primary and secondary school formula multipliers have been applied to assess the impact on both St Mary's Primary School and Flint High School. This confirms that: - a) there is a requirement for a secondary school educational contribution of £55,407 based on the potential construction of 17 No dwellings.

- 7.20 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'.
- 7.21 It is unlawful for a planning obligation to be considered when determining a planning application for a development, or any part of a development, if the obligation does not meet all of the following regulation 122 tests.
1. be necessary to make the development acceptable in planning terms.
 2. be directly related to the development; and
 3. be fairly and reasonably related in scale and kind to the development.
- 7.22 While the Authority does not yet have a charging schedule in place, with CIL Regulations puts limitations on the use of planning obligations. These limitations restrict the number of obligations for the funding or provision of an infrastructure project/type of infrastructure. From April 2015 if there have been 5 or more S.106 obligations relating to an infrastructure project/type of infrastructure since 2010 then no further obligations for that infrastructure project/type of infrastructure can be considered in determining an application.
- 7.23 I am advised that since the advent of the CIL Regulations that no more than 5 obligations for the same project have been entered into in respect of the leisure / educational contributions requested and am satisfied that on application of the tests set out above the contributions would satisfy these requirements.
- 7.24 Adequacy of Access
As previously referenced all matters including the proposed access to the site itself, are reserved for subsequent approval. Whilst the objections to the development on highway grounds are noted, consultation on the aspect of the development has been undertaken with the Highway Development Control Manager to assess the adequacy of the existing highway network in proximity to the site and acceptability /feasibility of designing a road layout given its topography. It has been confirmed that there is no objection to the principle of development from a highway perspective, subject to the imposition of conditions as outlined in paragraph 2.00 of this report.

7.25 It is important to note that the Inspector in considering the appeal in relation to application 060699, commented on the adequacy of the highway network to serve the proposed development, concluding in paragraphs 23 – 26 of the decision letter as follows (italics)

23 Regardless of destination, occupiers of the proposed dwellings would have the choice of two routes when travelling from the site. For many journeys including to the town centre, the shortest route would be northwards along Bryn Road. However, I agree with the appellants' traffic consultant that such a route would not be an attractive proposition given its narrow, steeply sloping alignment and the potential for delays when meeting oncoming traffic. In contrast, the route to Halkyn Road via Bryn Mor Drive would be along a much better carriageway such that most drivers are likely to prefer it. Indeed, the extension of the estate road would not only benefit users of Bryn Road but may encourage those travelling to properties closer to that end of the road to use the southern route.

24 Local objectors suggest that existing residents on the southern part of Bryn Road travel along its length rather than southwards. I accept that the route taken by future residents would be a matter of individual choice; for the reasons explained I consider that the likelihood is that most would travel along the easier route especially as there would be no discernible time benefit in taking the shorter route even on unhindered journeys. The appellants have also suggested that when the detailed access arrangements are being designed consideration could be given to arrangements that would discourage motorists from accessing or leaving the site from the north. Those visitors reliant on satellite navigation directions may be taken along Bryn Road, but they would be a small proportion of the additional flows generated by the development.

25 Concerns have also been raised in relation to the wider highway network, however there is no evidence to demonstrate that the additional traffic associated with the proposal would materially affect the capacity of the road network, or otherwise have a harmful effect. Whilst the appellants' technical traffic data is questioned by objectors, I am satisfied that it provides a reliable estimate of 10 vehicles per hour. Whilst vehicles associated with the construction of the development may cause some inconvenience to users of Bryn Road this could be minimised by considerate working practises which could be secured through a planning condition.

26 For the foregoing reasons I am satisfied that the scheme would have an acceptable effect on highway safety. It would accord with criterion e) of Policy GEN1 which seeks the provision of appropriate, safe, and convenient access for all users. It would also accord with Policy AC13 which seeks that approach roads are of adequate standard to accommodate the traffic likely to be generated.

- 7.26 Having regard to the above, it is considered that the principle of development can be supported from a highway perspective having regard to LDP Policies STR5, PC2 and PC5
- 7.27 Impact on Local Bat Populations
In dismissing the appeal in respect of 060699, the Inspector considered that the application did not give adequate certainty at that time, that the potential impact of development on bats could be addressed including measures to secure biodiversity net benefit.
- 7.28 The site is predominantly amenity grassland (lawn) with a central area of trees and shrubs including fruit trees and bounded by hedgerows and shrubs. This current application has sought to address these concerns with the submission of a Preliminary Ecological Appraisal (PEA), Tree Condition Survey, Tree Protection Plan and Biodiversity Enhancement Plan to aid the assessment process, and give more details in relation to these aspects of the development.
- 7.29 Consultation on the details submitted has been undertaken with the Council's Forestry Officer, Council's Ecologist and Natural Resources Wales (NRW)
- 7.30 The Forestry Officer acknowledges that the site layout currently submitted is for illustrative purposes only and would need to be revisited as part of any reserved matters application. It is however considered that trees can be retained whilst achieving the development of up to 17 No units, with the landscaping of the site and retention of key landscape features being secured by the imposition of a condition in the event of outline planning permission being obtained.
- 7.31 In addition, the Council Ecologist raises no fundamental objection to the development having regard to the details submitted in that no priority habitats are present and recognising the intention to retain those key trees within the central area of the site that are of habitat value. In line with the appeal decision bat emergence surveys have been undertaken which recorded a maximum of 3 Common/Soprano Pipistrelle Bats both being widespread species that readily make use of suitably placed bat boxes or other crevices as mitigation. It is considered that having regard to the submitted biodiversity enhancement plan that a range of options exist to compensate for the loss of a number of trees, including additional planting, hedgehog houses and bat/bird boxes. To address the above, it is considered that this outline application be the subject of a condition to secure:
- Details of the bat compensation in conjunction with lighting and landscape proposals building on the Reasonable avoidance measures provided in the submitted reports.

- A detailed landscape plan including trees to be retained plus new tree and hedge planting and biodiversity net benefit in line with the requirements set out in Planning Policy Wales (PPW)
 - An associated long term Management Plan.
- 7.32 Natural Resources Wales (NRW) also consider that the current proposals offer lower risks to the bat population within the site but request that as part of any reserved matters application updated emergence surveys are undertaken to support the proposed layout at that time.
- 7.33 The concerns raised in relation to the proposal representing overdevelopment of the site to the detriment of ecological habitat and biodiversity net benefit are noted. Whilst the precise layout of the site falls to be considered at reserved matters stage, it is considered that the number of units and associated house types including the introduction of smaller and/ or semi-detached units within the site may help to achieve this balance.
- 7.34 Other Matters
It is important to note the remains of a World War II air raid shelter. located within the south -eastern corner of the site, the illustrative site plans showing this to be located/retained within one of the proposed residential curtilage areas
- 7.35 As previously referenced this layout carries limited weight in the assessment process. Henrob:Clwyd Powys Archaeological Trust (CPAT), who have been consulted on the application and recognise at this stage of the application process the status of the site layout, but consider that there is a need to undertake a survey of the remains to establish its long term suitability for retention and preservation. This can be secured through the imposition of a condition in the event of outline permission being granted.
- 7.36 In addition to the above, there are 2 No existing definitive footpaths in proximity to the site namely: - i) Footpath 78 – this runs from Bryn Road to Northop Road, outside but adjacent to the sites northern boundary ii) Footpath 79 – this runs from Northop Road in an approximate 45 degree south westerly direction, from a spur into the site to an existing cul-de-sac head at Bryn Road
- 7.37 There are no specific detailed proposals in relation to the wider pedestrian connectivity to the existing facilities at this stage which is supported from a sustainability perspective. This would need to be secured and evaluated at reserved matters stage in the event of outline planning permission being obtained.

7.38 Whilst the concerns relating to the potential flooding of the site are noted, the site does not fall within a defined area at risk of flooding. Consultation has been undertaken with both Dwr Cymru/Welsh Water and Natural Resources Wales who raise no objection to the development on flood risk grounds with the disposal of surface water from the site being the subject of separate approval from SuDS (Sustainable Urban Drainage Systems)

8.00 CONCLUSION

This outline application seeks to establish at this stage the principle of development only of the site for a total of up to 17 No dwellings. It has sought to address the concerns of the Inspector in dismissing an appeal on ecological ground for a previous application on the site for residential development for up to 18 No dwellings through the submission of additional information to aid the assessment process.

Although an illustrative site layout has been submitted, this carries limited weight in the assessment process other than to confirm that it would be possible to develop the site for the scale of development proposed whilst meeting relevant policy and development management considerations. The precise layout and details of the development including its density would however need to be established at reserved matters stage.

Accordingly, it is therefore recommended that permission be granted subject to the completion of a legal obligation and imposition of conditions as referenced in paragraph 2.00 of this report.

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: Robert Mark Harris

Telephone: 01352 703269

Email: Robert.M.Harris@flintshire.gov.uk



Penderfyniad ar yr Apêl

Ymweliad safle a wnaed ar 29/3/22

gan H W Jones, BA (Hons) BTP MRTPI

Arolygydd a benodir gan Weinidogion
Cymru

Dyddiad: 21/06/2022

Appeal Decision

Site visit made on 29/3/22

by H W Jones, BA (Hons) BTP MRTPI

an Inspector appointed by the Welsh
Ministers

Date: 21/06/2022

Appeal Ref: CAS-01503-Y8F4K2

Site address: Tan y Bryn, Bryn Road, Flint, CH6 5HU

The Welsh Ministers have transferred the authority to decide this appeal to me as the appointed Inspector.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr and Mrs N Wallace against the decision of Flintshire County Council.
 - The development proposed is the erection of up to 18 No. Dwellings with associated works.
-

Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr and Mrs N Wallace against Flintshire County Council. This application is the subject of a separate Decision.

Procedural Matters

3. The application seeks outline permission with all matters reserved for subsequent approval. I have treated the illustrative site layout and access plans accompanying the application as being for indicative purposes only.
4. The appellants have submitted an executed s106 unilateral undertaking. Given my decision on the appeal it is not necessary for me to reach a finding on its provisions.

Main Issues

5. The Council's first reason for refusal is based on 'overdevelopment'. Its subsequent statement of case clarifies that there are 2 elements to this concern, identified in the first 2 of the main issues set out below.
6. The main issues in this case are the effect of the proposed development on:
 - (i) the character and appearance of the area;
 - (ii) the living condition of prospective and neighbouring residents;

- (iii) highway safety; and
- (iv) the ecology of the area, particularly protected species.

Reasons

Character and Appearance

7. Tan y Bryn is a detached dwelling with access onto Bryn Road. In addition to outbuildings and enclosed garden areas that surround the house there are also more extensive, landscaped grounds all of which is included in the appeal site. Within the south-eastern corner of the site there is a flat-roofed former World War 2 Air Raid Shelter. The site lies within the built-up limit of Flint in an area primarily characterised by residential properties including terraced, semi-detached and detached buildings of various styles and sizes.
8. The site slopes quite steeply towards the road and also slopes downwards in a northerly direction. The illustrative layout shows a proposed row of roadside houses with another row behind, all of which, save for a pair of semi-detached dwellings, would be detached. The scale parameters detailed in the submission suggest that they would range from single to 2 storey in height. They would be served by rear gardens, with parking either in front gardens or nearby. Topographical detail include illustrative cross sections which show significant proposed recontouring of ground levels, most notably in the reduction of the ground levels by the equivalent of a storey height towards the higher ground levels.
9. The Council opines that the density of the proposed development is not commensurate with the prevailing form and pattern of development in the immediate area. It considers that the characteristics of the site and surroundings would mean that the scheme would be over imposing, at odds with its surroundings. No detail is provided of the specific concerns in this respect. There is no acknowledgement that the site levels could be altered nor of the variety of building densities that characterise the site's environs.
10. The Council acknowledges that the proposed density of housing, at 23 per hectare, falls below the 30dph specified as a minimum in policy HSG8 of the Flintshire Unitary Development Plan (UDP). It appears to me that the density is broadly similar to the housing estate that bounds the southern boundary whilst some of the terraced housing to the east would be at a higher density. The Council calculates the surrounding density to be 21dph. I agree with it that a lower density than sought in the UDP is justified given the site's constraints, particularly its topography. Whatever the actual densities of nearby development, there is no reason to believe that the proposed development would appear at odds with its surroundings given the wide range of housing styles that provide a visual context. The precise details of the development would be a matter for further consideration in response to a reserved matters application.
11. The scheme would inevitably give rise to the loss of some attractive landscaping within the site and along the frontage. However, much of the main features are along the side and rear boundaries which could be protected from development. The extent of loss within the site, particularly of specimen trees, is a matter to be considered at the reserved matters stage alongside any new landscaping works. The same approach applies to the roadside frontage.
12. The scheme would not constitute overdevelopment in relation to the character of the site or the surrounding area. Whilst the proposed development would cause the loss

of some landscaping features, it would not unacceptably harm the character or appearance of the area. As such there is no conflict with criterion c. i. of policy HSG3 of the UDP.

Living Conditions

13. The second aspect of the Council's concern of overdevelopment relates to the living conditions of existing residents and prospective occupiers. Although it refers to criterion c. i. of policy HSG3 in this respect, that is concerned with matters of character. Nonetheless, the protection of living conditions is sought by criterion d. of policy GEN1 of the UDP.
14. The Council's appeal statement states that the rear amenity space proposed falls short of the guidance as set out in the adopted supplementary planning guidance (SPG) note no. 2, Space Around Dwellings and describes it as unusable. It also asserts that there would be unacceptable overlooking. However, no detail is provided to substantiate these assertions, which are at odds with those of the Council's professional officers as recorded in the committee report.
15. In terms of private open space provision and the separation from neighbours, the illustrative layout does not appear materially different to the existing provision at the neighbouring housing estate to the south. Subject to further consideration of details such as the position of openings, screening measures and finished floor levels, I am satisfied that an acceptable effect on living conditions can be secured for future residents and their neighbours.
16. On this main issue, and mindful of the extent to which details can be controlled at reserved matters stage, I am satisfied that the development would not have a significant adverse impact on nearby residents and thus accords with policy GEN1, d. I am also satisfied that the scheme has the potential to provide adequate outdoor amenity space for prospective occupiers in line with the SPG.

Highway Safety

17. Although the means of access is a reserved matter it is inevitable that access would be gained on to Bryn Road, which links the residential estate road of Bryn Mor Drive with Halkyn Road. The illustrative plans show a single point of access centrally positioned on the road frontage.
18. The submitted plans demonstrate that an access arrangement can be achieved on the site which would meet the Council's requirements in terms of its layout and the provision of visibility splays. I agree that an acceptable layout can be secured. The concerns of the Council and most local objectors relate to the suitability of the road network serving the site, specifically Bryn Road which for the most part is a single carriageway track
19. For much of its length Bryn Road has no footway or street lighting provision and has steeply sloping sections and tight bends. It provides access to dwellings that are loosely distributed along both sides of the road. In terms of motorised vehicles it is lightly trafficked. Local residents explain that it is well used as a pedestrian link to the town and to the local school, as my site visit confirmed. It is also used by cyclists and mobility carriages.
20. There are limited passing opportunities for motor vehicles, mainly in the form of private driveway entrances. A short section of Bryn Road, where it emerges onto the modern housing estate of Bryn Mor has been laid out to modern standards with a two-lane carriageway flanked by footways. It is a spur road from the main estate road of

Bryn Mor Drive and serves 2 properties and an electricity substation, and effectively terminates at a point adjacent to the southern end of the appeal site frontage at which point it narrows to single track. The scheme proposes to effectively 'extend' the estate road along the site frontage. This would involve works to an unadopted section of the road, on land within the appellants' ownership. The precise detail of such work is reserved for future consideration.

21. It is common ground that, with the exception of its southern extremity, Bryn Road is not well suited to accommodate vehicular traffic, given the inconvenience to drivers having to reverse in the face of on-coming traffic and the absence of dedicated pedestrian or cyclist provision.
22. The appeal site provides the opportunity to link to an existing pedestrian route onto Northop Road which would provide access to nearby local facilities, including shops, a high school and bus stops. The site is 1km or so away from the town centre which includes a railway station. I agree with the appellants' assessment that the site is in a highly accessible location with good pedestrian access and that improved pedestrian connectivity would promote active travel.
23. Regardless of destination, occupiers of the proposed dwellings would have the choice of two routes when travelling from the site. For many journeys including to the town centre, the shortest route would be northwards along Bryn Road. However, I agree with the appellants' traffic consultant that such a route would not be an attractive proposition given its narrow, steeply sloping alignment and the potential for delays when meeting oncoming traffic. In contrast, the route to Halkyn Road via Bryn Mor Drive would be along a much better carriageway such that most drivers are likely to prefer it. Indeed, the extension of the estate road would not only benefit users of Bryn Road but may encourage those travelling to properties closer to that end of the road to use the southern route.
24. Local objectors suggest that existing residents on the southern part of Bryn Road travel along its length rather than southwards. I accept that the route taken by future residents would be a matter of individual choice; for the reasons explained I consider that the likelihood is that most would travel along the easier route especially as there would be no discernible time benefit in taking the shorter route even on unhindered journeys. The appellants have also suggested that when the detailed access arrangements are being designed consideration could be given to arrangements that would discourage motorists from accessing or leaving the site from the north. Those visitors reliant on satellite navigation directions may be taken along Bryn Road, but they would be a small proportion of the additional flows generated by the development.
25. Concerns have also been raised in relation to the wider highway network, however there is no evidence to demonstrate that the additional traffic associated with the proposal would materially affect the capacity of the road network, or otherwise have a harmful effect. Whilst the appellants' technical traffic data is questioned by objectors, I am satisfied that it provides a reliable estimate of 10 vehicles per hour. Whilst vehicles associated with the construction of the development may cause some inconvenience to users of Bryn Road this could be minimised by considerate working practises which could be secured through a planning condition.
26. For the foregoing reasons I am satisfied that the scheme would have an acceptable effect on highway safety. It would accord with criterion e) of Policy GEN1 which seeks the provision of appropriate, safe and convenient access for all users. It would also accord with Policy AC13 which seeks that approach roads are of adequate

standard to accommodate the traffic likely to be generated and that safe vehicular access can be provided.

Ecology

27. The application was accompanied by a Preliminary Ecological Appraisal (PEA) which considers the potential effect on protected species. It identifies the site has providing habitat for foraging badgers and the potential foraging, emigration corridors and hibernation for great crested newts and reptiles. It describes potential avoidance and mitigation measures and concludes that there would be no detrimental effect on the favourable conservation status of any of these protected species. These findings are endorsed by the Council's Ecologist and accordingly I am satisfied that the scheme is acceptable in relation to these species.
28. In relation to bats, which are also a protected species, the PEA explains that there are records of Common Pipistrelle and Soprano Pipistrelle bats within 1km of the site and records of other species within 5km. It identifies a moderate potential for bats in the roof of the dwelling with also potential for roosting in trees. The hedgerows and mature tree lines also provide valuable flight-lines for foraging and commuting bats and the vegetation on site provides good foraging habitat for bats. The PEA identifies that further survey work is required to determine bat activity on site and important flight lines. The Council's Ecologist confirms that this will be necessary as it would have implications for the development of the site.
29. The submitted layout does not show the retention of any of the trees or other vegetation within the site. Whilst this is only indicative it is reasonable to assume that achieving the density of development proposed would involve the loss of much of the vegetation.
30. Several objectors have raised concerns regarding the impact of developing the site on ecological features. The Council's decision to refuse permission does not cite concerns in relation to the potential impact on bats. Its committee report explains that its Ecologist raises 'no fundamental objection' and recommends that any permission should include a condition requiring bat emergence surveys with appropriate mitigation where required.
31. Planning Policy Wales (PPW) provides specific advice on the approach to protected species in the determination of planning applications. More detail is contained in Technical Advice Note 5: Nature and Conservation & Planning and paragraph 6.2.2 advises that "It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted" and that permission "should not be granted subject to a condition that protected species surveys are carried out and, in the event that protected species are found to be present, mitigation measures are submitted for approval". It goes on to state that such surveys should only be sought when there is a reasonable likelihood of protected species being present. That test has clearly been established in this case.
32. As the objection of the Town Council notes, without additional survey work the potential impact on local bat populations cannot be ascertained. It follows that the potential efficacy and practicality of any mitigation measures cannot be established. This is a consideration relevant to the assessment of the acceptability of the principle of the development. Thus, on this main issue I find that the scheme would have the potential to unacceptably harm the local bat population and is therefore contrary to criterion c. of policy GEN1 of the UDP. The scheme also fails to include measures for

the enhancement of biodiversity as sought by Future Wales and PPW. Although such enhancement could be sought by planning condition, it is a matter best addressed at the earliest opportunity in the design process.

Other Matters

33. I have account of the other concerns raised by local residents and their elected representatives. Concerns over surface water flooding is a matter for the Sustainable Drainage Systems Approval Body. Other concerns include the effect on local infrastructure. Noting that there are no objections from the specialist consultees in relation to these matters, and the scope to secure mitigating through planning conditions and a unilateral undertaking, none of these matters justify withholding permission for the scheme.

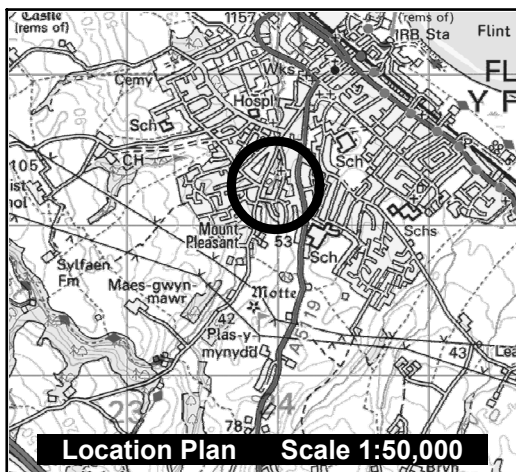
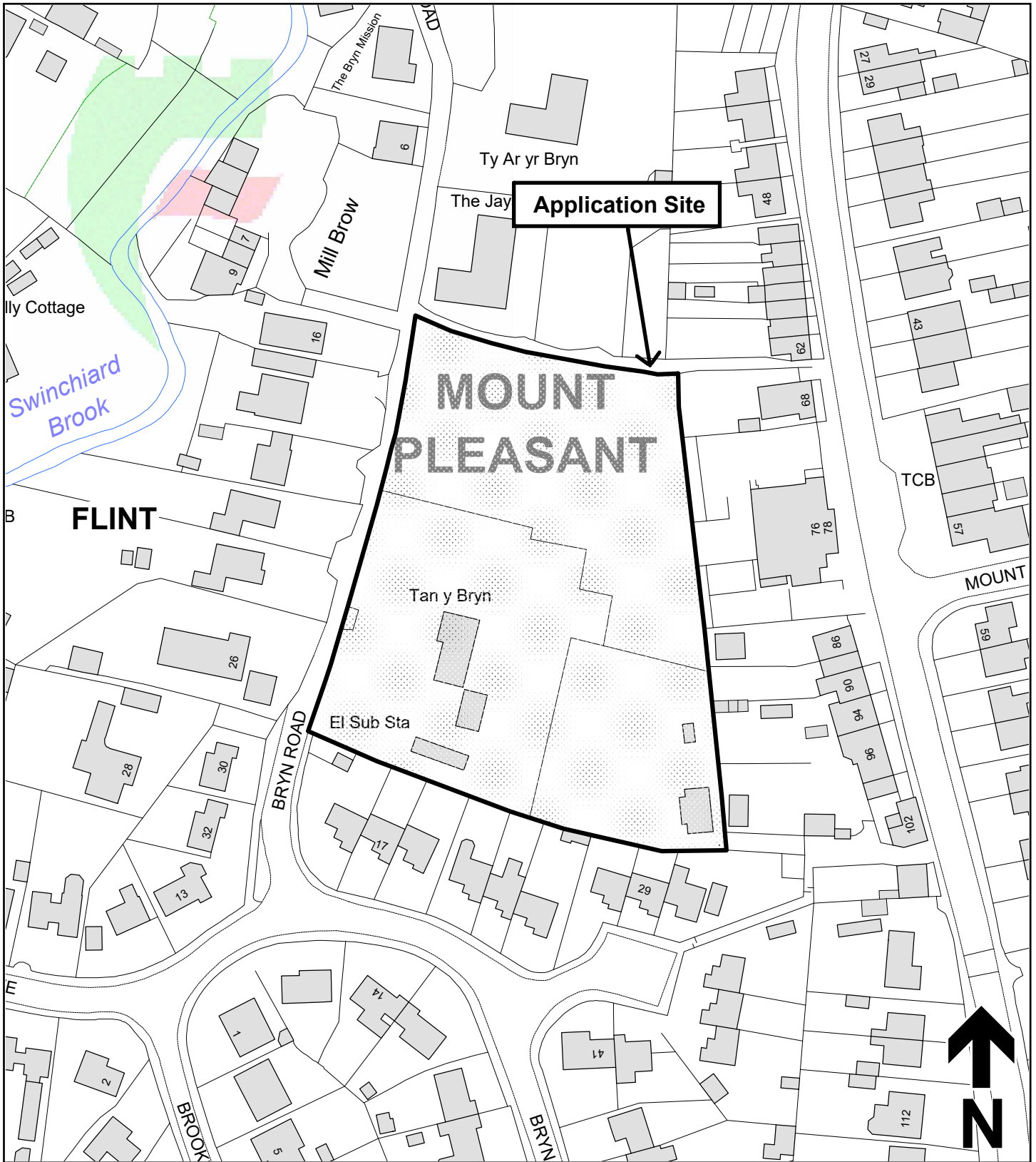
Conclusion

34. The site lies within the settlement boundary of Flint, a settlement in which the UDP is generally supportive of additional housing. The site lies within a location that performs well in relation to sustainable transport patterns and in this respect its development aligns well with Planning Policy Wales. Thus, I afford significant weight to the proposed contribution to the local supply of housing. I also acknowledge that I have found the scheme acceptable in relation to three of the main issues. However, such considerations do not justify permitting the potentially harmful impact on local bat populations that has been identified. I shall therefore dismiss the appeal.

35. In reaching my decision, I have taken into account the requirements of sections 3 and 5 of the Well-Being of Future Generations (Wales) Act 2015. I consider that this decision is in accordance with the Act's sustainable development principle through its contribution towards one or more of the Welsh Ministers' well-being objectives.

H W Jones

Inspector



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: SJ 2472

Application: OUT/000470/23

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FLINTSHIRE COUNTY COUNCIL

REPORT TO: **PLANNING COMMITTEE**

DATE: **4TH SEPTEMBER 2024.**

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

SUBJECT: **FULL APPLICATION – CHANGE OF USE TO 5 NO BEDROOM 6 NO PERSON HOUSE IN MULTIPLE OCCUPATION (HMO)**

APPLICATION NUMBER: **FUL/000337/24**

APPLICANT: **MRS J KING**

SITE: **13 ROWDEN STREET, SHOTTON, DEESIDE**

APPLICATION VALID DATE: **22ND MAY 2024**

LOCAL MEMBERS: **COUNCILLOR S BIBBY**

TOWN/COMMUNITY COUNCIL: **SHOTTON TOWN COUNCIL**

REASON FOR COMMITTEE: **MEMBER REQUEST TO ENABLE THE IMPACT OF THE DEVELOPMENT ON THE LIVING CONDITIONS OF OCCUPIERS OF NEARBY PROPERTIES TO BE ASSESSED.**

SITE VISIT: **NO**

1.00 SUMMARY

- 1.01 This full application proposes the change of use of 13 Rowden Street, Shotton a 4-bedroom terraced property to a 5 No bed ,6 No person House of Multiple Occupation (HMO)

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

- 2.01
- 1 The development hereby approved shall be commenced before the expiration of five years from the date of this permission.
 - 2 The development shall be carried out in accordance with the following approved plans and documents.
 - Application Form
 - Location Plan
 - Site Plan
 - Existing / Proposed Elevations 1017/1
 - Proposed Floor Plans 1017/3
 - 3 The HMO hereby permitted shall be occupied by no more than 6 persons.
 - 4 The building shall not be brought into use until a drying area and cycle storage have been provided in accordance with details to be submitted and approved in writing by the Local Planning Authority.
 - 5 No development shall commence until a scheme of biodiversity net benefit to incorporate bird nesting boxes has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with a timetable to be approved in accordance with the approved details or any agreed variation therefrom

3.00 CONSULTATIONS

- 3.01 **Councillor S Bibby (Local Member):** Request Planning Committee determination. Preliminary concerns relate to overdevelopment along with impact to amenities /character and parking of the area.

Shotton Town Council: Object to the application on the grounds of over saturation and parking issues.

Highways Development Control: Raise no objection to the proposal and do not intend to make a recommendation on highway grounds.

Community and Business Protection (Pollution Control):
No objection.

Community and Business Protection (Housing Standards):
No objection.

Airbus: No aerodrome safeguarding objection.

4.00 PUBLICITY

4.01 Neighbour Notifications were sent to 43 neighbouring and nearby properties. The application was also publicised by way of a Site Notice displayed near the site.

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

1. Proposal would lead to overdevelopment and proliferation of HMO'S in Rowden Street.
2. Detrimental impacts on the living conditions of occupiers of nearby residential properties.
3. Inadequacy of parking.

5.00 SITE HISTORY

5.01 No planning history

6.00 PLANNING POLICIES

6.01 Flintshire Local Development Plan (LDP)
STR2 – The Location of Development
STR4 – The Principles of Sustainable Development, Design and Placemaking
STR5 – Transport and Accessibility
STR13 – Natural and Built Environment, Green Networks, and Infrastructure
PC2 – General Requirements for Development
PC3 – Design
PC5 – Transport and Accessibility
HN7 – Houses in Multiple Occupation.

Supplementary Planning Guidance Notes (SPGN)

SPGN2 - Space Around Dwellings
SPGN11 – Parking Standards

National Planning Policy

Planning Policy Wales (PPW) – Edition 12
Future Wales: The National Plan 2020-2040
Technical Advice Note (TAN)12: Design
Technical Advice Note (TAN) 18: Transport

7.00 PLANNING APPRAISAL

7.01 This is a full application for the change of 13 Rowden Street, Shotton an existing 2 storey 4 No bedroom terraced dwelling located on the eastern side of Rowden Street, Shotton approximately 60m to the south of its junction with Chester Road West into an HMO.

7.02 By way of the background history, the property in 2009, obtained a licence issued by the Environmental Health Department, to allow it to be used as an HMO for occupation by four persons. Whilst this change would not have required planning permission at the time, there are no planning records of the property being occupied as an HMO in the intervening period, the applicant advising that the property has been vacant since 2023.

7.03 Proposed Development

The application proposes the change of use of an existing 4 No bedroom property (Class C3) into a 5-bedroom, 6 person Class C4 HMO (House in Multiple Occupation).

Although no physical alterations to the external appearance of the building are proposed in the formation of the HMO, it is proposed that the internal layout be adapted to accommodate the following:

Ground Floor: 2 No bedrooms, Shower Room, Kitchen, Dining Room, Utility Room, and Storage Room.

First Floor: 3 No bedrooms and Shower Room.

7.04 Main Issues

The main issues to be addressed in determination of this application include:

- i) the principle of development
- ii) impact upon the character and appearance of the area
- iii) impact on the living conditions of occupiers of existing / proposed residential units
- iv) adequacy of access and parking.
- v) bio-diversity net benefit

These issues are addressed in further detail below.

7.05 Principle of Development

The site is located within the settlement boundary of Shotton, which is a Tier 1 Main Service Centre in the adopted Local Development Plan (LDP). It is located almost adjacent to the District Centre boundary, where there is a broad range of services and facilities as well as public transport and local employment opportunities and is therefore in a highly sustainable location. The application proposes to continue the use of a dwelling that is located within a highly sustainable settlement for residential purposes which is acceptable in principle, in accordance with Policies STR2 and PC1, subject to meeting the criteria-based approach set out in Policies PC2 and HN7, in terms of the safeguarding of relevant development management considerations and establishing whether planning harm would arise.

7.06 Character and Appearance

There are no external changes proposed to the building, its physical appearance remaining unchanged within the street scene and comparable with that which currently exists This is considered acceptable having regard to LDP Policy PC3, and criterion a) of HN7.

7.07 Impact on Living Conditions

It is important in consideration of this application to ensure that the living conditions of future occupiers of the HMO, and occupiers of existing properties located in proximity to the site, are safeguarded. It is important to note that there is currently no formal adopted Supplementary Planning Guidance in Flintshire on the size or layout of HMOs regarding the provision of acceptable living conditions for occupiers, other than an informal advice note.

7.08 The Council's Community and Business Protection (Housing Standards Team) however apply Welsh Government minimum standards during the assessment of applications for HMO's. As a result, it is concluded that this proposal is acceptable having regard to these standards.,

7.09 The objections raised regarding the proliferation of flats and HMOs within Rowden Street and the cumulative impact of this on the character /overdevelopment within the street scene and living conditions are noted. Community and Business Protection (Housing Strategy) have interrogated their data base records and advise, that there is one existing HMO within Rowden Street with one currently awaiting inspection, it being important to note that the proposal would not lead to two HMO's being located side by side or an existing residential property being sandwiched between HMO's. As this section of Rowden Street comprises a total of 14 properties, it is not considered that its inherent character will be unduly impacted, and the proposal would not result in harm when compared with the continued use as a single family dwelling this considered acceptable having regard to criteria b, e, and f of LDP Policy HN7.

7.10 The existing property has a front garden area and linear shaped outside area located at the rear amounting to approximately 50m2 in total. This area can be accessed by occupants not only from within the dwelling, but also by pedestrians from an access to the rear. It is considered that this area is acceptable in terms of amenity / outside space having regard to serve the scale of development proposed whilst affording bin storage to the front as existing, with drying space, and cycle storage to be provided at the rear. This is considered acceptable having regard to criterion d of Policy HN7, the details being secured by the imposition of a condition.

7.11 Adequacy of Highways and Parking.

The current proposal seeks to convert a four-bedroom property into a 5 No bed HMO with no off-road parking facilities being provided.

- 7.12 Consultation on the application has been undertaken with Highways Development Control who note that there is no specific requirement in SPGN 11 – Parking Standards, which prescribes parking provision for HMOs. However, in an Appeal Decision notice for a similar application in Flintshire, the Inspector stated an estimation of 0.4 cars per flat/bed to be considered reasonable, and this is referenced in the explanatory text accompanying Policy HN7.
- 7.13 On this basis, the parking demand in connection with an existing 4 bedroom house (3 spaces) and 5 bedroom HMO (2 spaces) is comparable with that should the property remain as a single dwelling occupied by a family who all have access to a car, with there being no additional demand being placed on the adjoining highway.
- 7.14 Notwithstanding the above, the site is in a highly sustainable location where there are alternative modes of travel i.e., cycling, walking, use of public transport etc. in accordance with local and national guidance. Based on the above, there is no objection to the proposal on highway grounds.
- 7.15 Bio- diversity
Planning Policy Wales (PPW12) has confirmed the requirement for development to deliver Biodiversity Net Benefit recognising that this should be proportionate the development proposed. It is considered that for the use proposed within this urban location, that the introduction of bird boxes represent the best option, which can be appropriately located under the eaves of the building. This can be secured by the imposition of a condition.

8.00 CONCLUSION

The change of use of the premises from a single dwelling to a 5 bedroom / 6 No person HMO, is considered acceptable in this sustainable location within Shotton, which is defined as a main service centre within the Flintshire Local Development Plan. There are no external changes to the building proposed and the level of occupancy would it is considered be commensurate were it to remain as a single-family dwelling unit. Whilst acknowledging concerns over the proliferation of this type of accommodation within Rowden Street, the proposed development is considered acceptable having regard to LDP Policy HN7.

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.

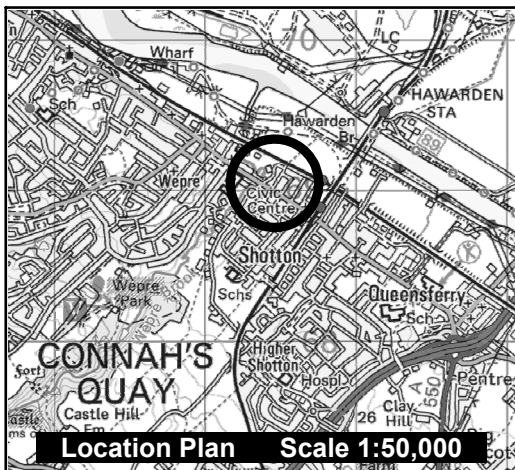
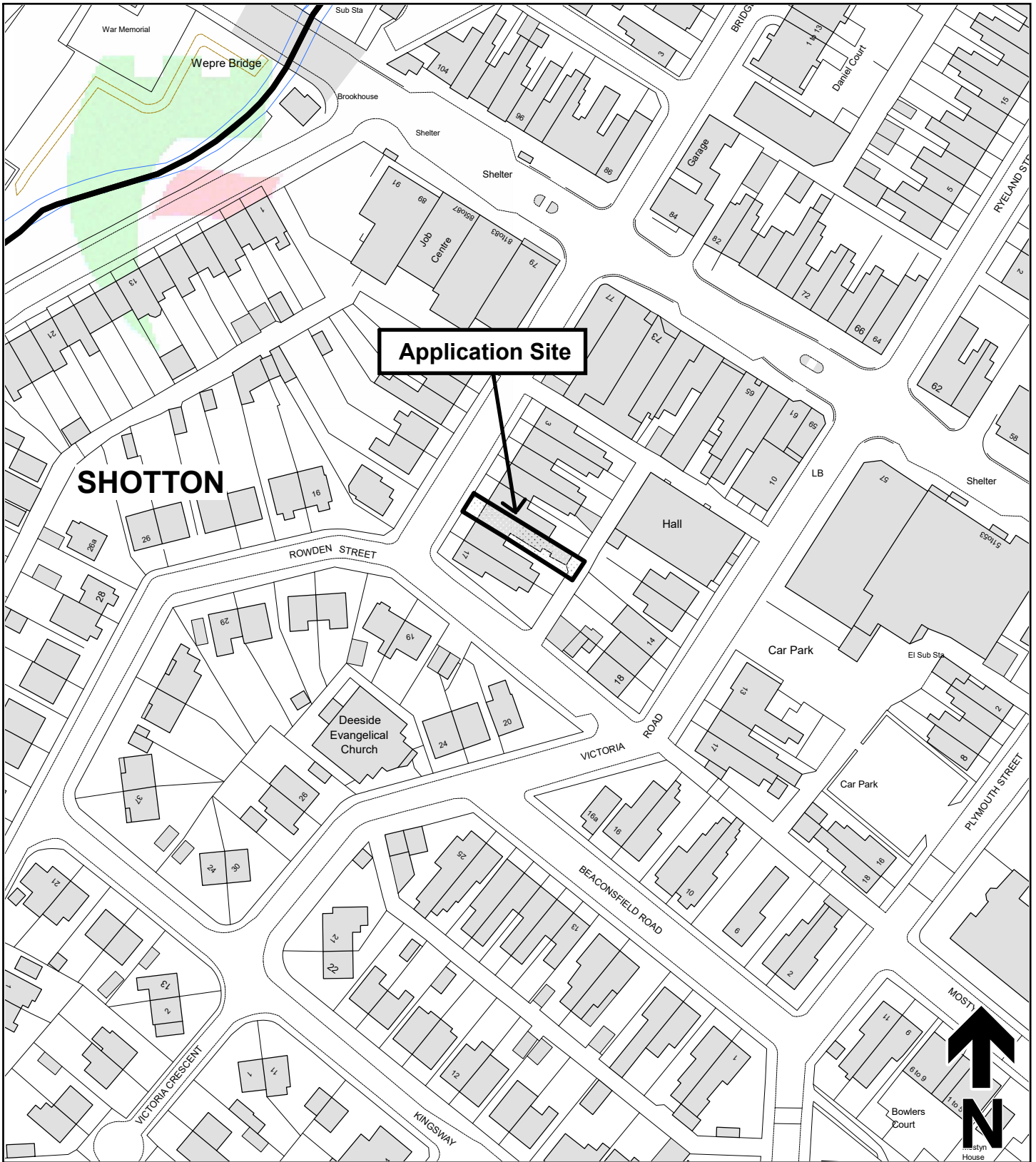
The Council has had due regard to its duty under Section 3 of the Wellbeing of Future Generations (Wales) Act 2015 and considered that there would be no significant or unacceptable impact upon the achievement of wellbeing objectives as a result of the recommended decision.

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: SJ 3068

Application: FUL/000337/24

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FLINTSHIRE COUNTY COUNCIL

REPORT TO: **PLANNING COMMITTEE**

DATE: **4th SEPTEMBER 2024**

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

SUBJECT: **Application for variation of condition no.10 attached to Planning Permission ref : FUL/000498/22**

APPLICATION NUMBER: **FUL/000451/24**

APPLICANT: **Gastronomy Foods UK Limited**

SITE: **KFC, Chester Road, Mold, CH7 1UF**

APPLICATION VALID DATE: **10 June 2024**

LOCAL MEMBERS: **Councillor Bithell**

TOWN/COMMUNITY COUNCIL: **Mold Town Council**

REASON FOR COMMITTEE: **Requested by Councillor Bithell due to detrimental impacts upon neighbouring amenity**

SITE VISIT: **No**

1.00 SUMMARY

- 1.01 The application seeks to vary condition 10 of the original planning permission FUL/000498/22 by extending the opening hours 1 hour and closing at 23:00 hours. The previously imposed condition was as follows:

The opening hours of the uses hereby approved shall be limited to 08:00 hours and 22:00 hours.

Reason: In the interest of protecting adjacent living conditions in accordance with Policy GEN 1

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

2.01 Conditions

1. The development hereby approved shall be commenced before the expiration of five years from the date of this permission.

Reason: To comply with the requirements of Sections 91 to 93 of the Town and Country Planning Act, 1990.

2. The development shall be carried out in accordance with the following approved plans and documents:

- Application form, received 10th June 2024
- Location plan, received 10th June 2024
- Planning statement, received 10th June 2024

Reason: To ensure that the development is carried out in accordance with the approved details.

3. Adequate facilities shall be provided and retained within the retail park for the loading, unloading, parking and turning of vehicles in accordance with a scheme to be submitted to and approved by the Local Planning Authority prior to the commencement of any site works. Such facilities being completed prior to the proposed development being brought into use and to remain so in perpetuity.

Reason: To ensure that adequate parking and manoeuvring space is provided to serve the proposed development in the interests of highway safety and maintaining the free flow of traffic on the adjoining highway in accordance with Policies PC2 and PC5 of the Flintshire Local Development Plan.

4. Prior to the development hereby permitted being brought into use, details of an adequate grease trap to be fitted, in accordance with environmental health regulations, shall be submitted to and approved by the Local Planning Authority and maintained thereafter so as to prevent grease entering the public sewerage system.

Reason: To protect the health and safety of existing residents and ensure no pollution of or detriment to the environment in accordance with Policies PC2 and EN15 of the Flintshire Local Development Plan.

Details required by this condition were submitted and approved under reference 00468/23, dated 19.7.2023

5. No surface water from any increase in the roof area of the building /or impermeable surfaces within its curtilage shall be allowed to drain directly or indirectly to the public sewerage system.

Reason: To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no pollution of or detriment to the environment, in accordance with Policies PC2 and EN15 of the Flintshire Local Development Plan.

6. Prior to the development hereby permitted being brought into use, full details of any proposed flood defence controls and measures shall be prepared, submitted to and approved in writing by the Local Planning Authority. Such plan should detail proposed flood control measures and procedures for evacuation in the event of a flood. The plan approved shall remain so in perpetuity.

Reason: To ensure flood risk can be appropriately managed in accordance with Policy PC2 and EN14 of the Flintshire Local Development Plan.

7. Prior to the development hereby permitted being brought into use, a scheme of external lighting shall be prepared, submitted to and approved in writing by the Local Planning Authority. Such scheme as shall be approved shall remain so in perpetuity.

Reason: To ensure the development complies with the aims of Policies PC2 and PC3 of the Flintshire Local Development Plan.

8. Prior to the development hereby permitted being brought into use, a suitable system for the extraction, filtration and ventilation of any process odours and fumes, should be installed in accordance with a scheme to be first submitted to and agreed in writing by the Local Planning Authority. Such scheme as shall be approved shall remain so in perpetuity.

Reason: To ensure the development complies with the aims of Policies PC2 and EN18 of the Flintshire Local Development Plan.

Details required by this condition were submitted and approved under reference 00468/23, dated 19.7.2023

9. Prior to the proposed development being bought into use, details of the proposed 3m high acoustic fence to the east of the site shall be submitted to and approved in writing by the Local Planning Authority. Such details as may be approved shall be implemented and maintained in perpetuity.

Reason: To ensure that appropriate noise mitigation is provided within the scheme in the interests of protecting adjacent living conditions in accordance with Policy PC2 of the Flintshire Local Development Plan.

10. The opening hours of the uses hereby approved shall be limited to 08:00 hours and 23:00 hours.

Reason: In the interest of protecting adjacent living conditions in accordance with Policy PC2 and EN18 of the Flintshire Local Development Plan.

3.00 CONSULTATIONS

- 3.01 **Councillor Chris Bithell (Local Member):** Request that the application goes to planning committee for determination on the grounds that local residents have concerns about the additional hour in the evening extending noise, disruption and traffic to and from the premises further into the night.

Mold Town Council: The Planning Committee discussed the likely effect increasing the opening hours of KFC would have on the residents and surrounding area. Issues have already been raised with regards to increased litter, the impact of the bright lights, noise, smell and increased traffic in the area. On the original planning application Mold Town Council objected to the late opening hours due to the likely impact on local residents. The Planning Committee resolved to object to this application for variation of condition 10 as opening hours of 8am to 10pm is sufficient.

Highways: No objection to the proposal and do not wish to make a recommendation on highway grounds.

Community & Business Protection (Pollution Control): No objection to the premises operating hours being amended to mirror those of adjacent commercial premises.

Welsh Water/Dwr Cymru: No comments to make in regard to opening hours.

Natural Resources Wales: No objections.

Airbus: No aerodrome safeguarding objection.

4.00 PUBLICITY

- 4.01 28 Neighbour Notifications were sent to adjoining and nearby properties. The application was also advertised by way of a Site Notice posted adjacent to the site.

Two objections have been received on the following grounds:

1. Increased traffic and noise on the road since the opening of KFC which affects the residents which are located within close proximity and within a residential area.
2. The presence of strong odours and smells when you walk past the premises.
3. Already experienced an increased and unacceptable level of noise, light and smell pollution as a result of the restaurant opening.
4. The bright illuminated signage seems to be on from 5am in the morning, illuminating the house all through the night, extending the hours will result in the signage causing more pollution and stress on the residents.
5. The increase in traffic has been considerable especially after 8pm at night with gatherings of cars and youths in the carpark until early hours of the morning, well past the current closing time. Extending the hours will only encourage these gatherings and I am concerned about the potential for anti-social behaviour.
6. The extract/ventilation system continues to operate well past the current closing time of 10pm with a constant rattle and hum heard especially later at night above the road noise.
7. Extending opening hours will obviously increase levels of waste and litter.

5.00 SITE HISTORY

5.01 **FUL/000191/24** – Variation of condition to opening hours. Withdrawn

FUL/000498/22 – Change of use from motor vehicle service and parts sales to Class A1 sandwich shop & bakery and Class A3 (cafe / restaurant/ hot food takeaway)

FUL/000042/23 - Variation of Condition of 10 (Opening Hours) attached to planning permission ref: FUL/000498/22

DET/000468/23 - Discharge of Conditions No. 4 & 8, relating to application No. FUL/000498/22

DET/000469/23 - Discharge of conditions no 4 & 8, relating to Application No: FUL/000042/23

DET/000512/23 - Approval of details reserved by condition No. 9 attached to Ref: FUL/000042/23

DET/000534/23 - Application for Approval of Details Reserved by Condition No. 7, Ref: FUL/000042/23

DET/000560/23 - Application for Approval of Details Reserved by Condition No.6, Ref: FUL/000042/23

FUL/000834/23- New aluminium entrance door to be installed; new section of cladding to fascia signage area of unit; various illuminated and non-illuminated signage to both the building and the site.

ADV/000835/23 - New aluminium entrance door to be installed; new section of cladding to fascia signage area of unit; various illuminated and non-illuminated signage to both the building and the site.

ADV/000920/23 – Three fascia signs

6.00 PLANNING POLICIES

- 6.01 Flintshire Local Development Plan
Policy STR2: The Location of Development
Policy STR5: Transport and Accessibility
Policy PC1 The Relationship of Development to 109 Settlement Boundaries
PC2 General Requirements for Development
Policy PC3 Design
Policy PC5: Transport and Accessibility
EN 18 Pollution and Nuisance

National Planning Policies:
Planning Policy Wales – Edition 11 (Feb.2021)
Technical Advice Note 11 – Noise
Technical Advice Note 12 – Design
Future Wales: The National Plan 2040 (FWP 2040)

7.00 PLANNING APPRAISAL

- 7.01 The Site and Surroundings
The Site comprises a former motor vehicle service / repair unit, off Chester Road, Mold which previously was granted planning permission for the change of use to a Class A1 sandwich shop and bakery and Class A3 (café / restaurant/ hot food takeaway) along with external works to refurbish and extend the existing unit, reconfigured car park, external seating, acoustic barrier and associated works. The surrounding area is generally commercial in nature, bound to the northwest by existing retail uses, with nearby retailers including Iceland, Home Bargains and B&M. Mold Cricket Club and Mold Rugby Club sit directly northeast of the Site. The closest residential dwellings are located southeast of the Site on the opposite side of Chester Road. Existing vehicular and pedestrian access to the Site is gained from Chester Road (A541).

7.02 Principle of Development

The use of the unit as a Class A1 sandwich shop and bakery and Class A3 (café / restaurant/ hot food takeaway has been established with the granting of the original planning permission. As such the principle of the development is not in question.

7.03 The Proposal

The application seeks to vary condition 10 attached to Planning Permission ref : FUL/000498/22 which requires the store to close by 10pm. The applicants are applying to extend the opening hours by 1 hour to 11pm.

7.04 The Main Issues

Issues regarding increased traffic, disposal of waste are matters considered at the time of the original permission and do not fall to be reconsidered at this stage. The main issue is whether the proposed increase in opening hours will give rise to a material adverse impact upon neighbouring residential amenity.

A perceived increase in anti-social behaviour is a matter outside of planning control and cannot be considered as part of this application.

7.05 Impacts upon Neighbouring Residential Amenity

Furthermore, comments have been received regarding strong odours and noise from ventilation system. The extension of opening hours by this amount of time is not going to have a significant impact upon either of these matters – neither of which have been raised as concerns by Community and Business Protection.

7.06 There are a number of commercial/fast food outlets within residential areas which aren't deemed to cause detrimental harm upon neighbours.

7.07 Comments have been also received regarding the intrusion of the lighting on the building and the impact this will have upon residential amenity. Having looked into the objector's comments, advert consent was granted under ADV/000920/23 & ADV/000835/23 – advert consent was granted and the development is in accordance with this.

7.08 The LPA would also note that the car park lighting is more extensive and covers the adjoining retail units, and, on all night, so in isolation, the issue is unlikely to give rise to any greater light intrusions than that already arising from the car park.

7.09 The closest residential properties are located on the opposite side of A541 approximately 26 metres to the closest property from the rear wall of the retail unit and separated from the site by the highway. The front of the unit faces away from any residential property towards the car park of the neighbouring retail units.

7.10 The existing hours of operation were included as a condition to the original permission at the request of Community and Business protection in addition to the installation of the noise and odour mitigation measures that were also secured by condition and subsequently approved and implemented. It is noted that Community and Business protection have not objected to this alteration to the hours of opening. It is also noted that the Mold Rugby Club offers club hire and is licensed until midnight, and that in general other takeaways in Mold have later opening hours. This proposal therefore accords with existing similar commercial outlets in the area.

8.00 CONCLUSION

With the existing noise and odour mitigation measures in place, and the distance between the retail unit and surrounding residential development, it is not considered that the extra hour being requested will introduce any materially adverse impacts upon neighbouring residential amenity. The proposal complies with planning policy and is not deemed to cause a detrimental impact upon neighbouring living amenities. As such, the application is recommended for approval by the LPA.

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.

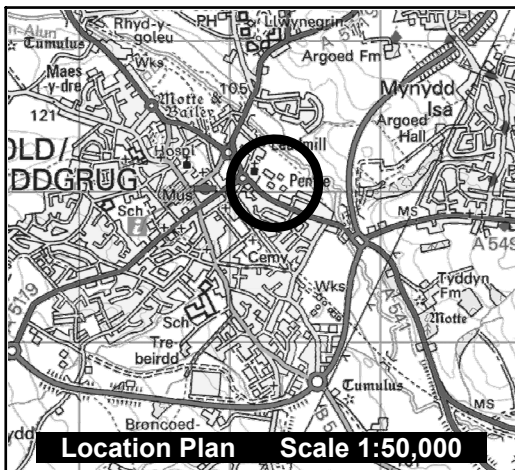
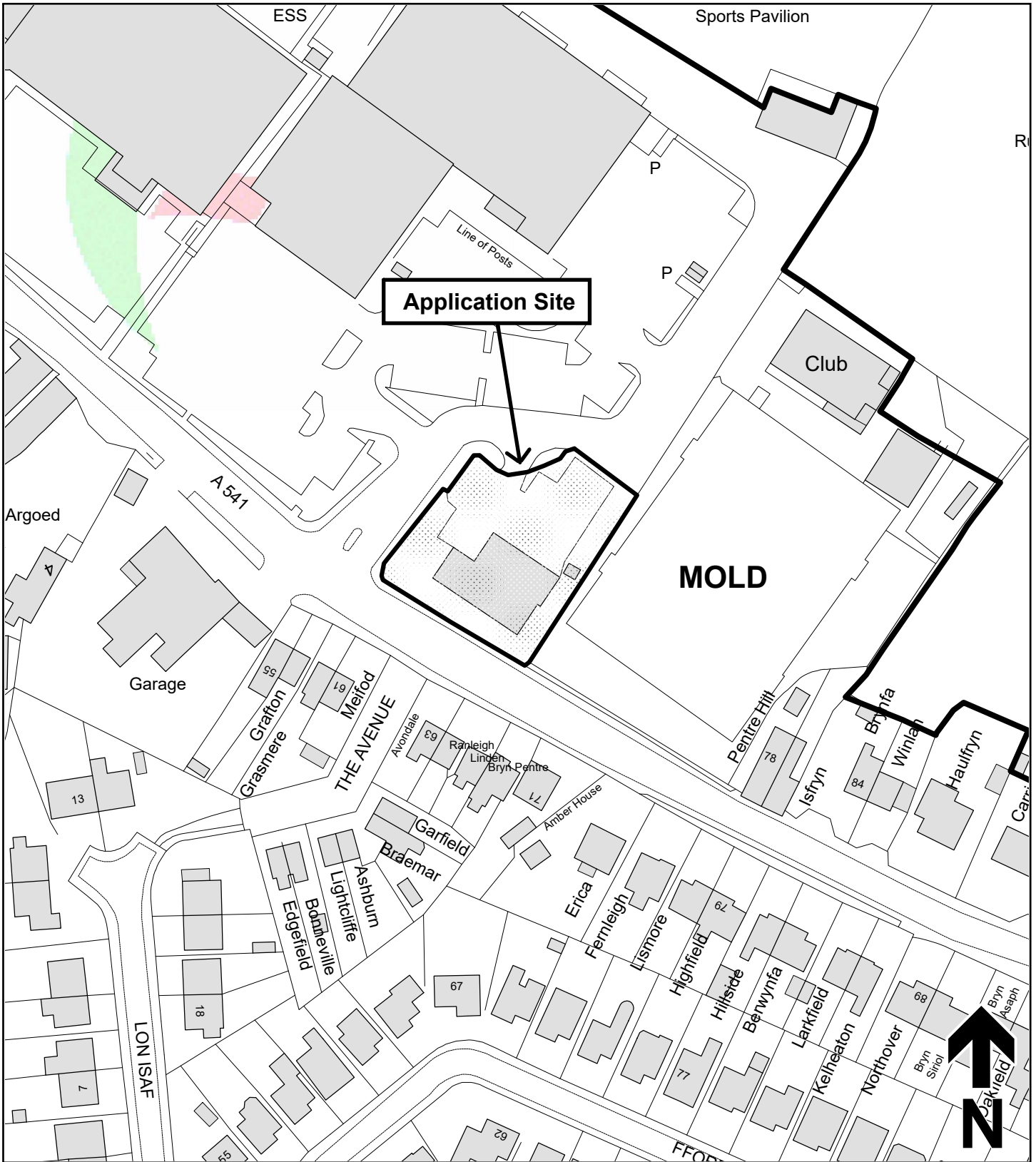
The Council has had due regard to its public sector equality duty under the Equality Act 2010.

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.

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Responses to Consultation
Responses to Publicity

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Planning, Environment & Economy,
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 Chief Officer: Mr Andrew Farrow

Legend



Planning Application Site



Adopted Flintshire Unitary
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 Settlement Boundary

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