

FLINTSHIRE COUNTY COUNCIL

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

DATE: **14TH MAY 2014**

REPORT BY: **HEAD OF PLANNING**

SUBJECT: **ERECTION OF 41 NO. DWELLINGS, OPEN SPACE AND ACCESS WORKS AT OLD HALL ROAD/GREENHILL AVENUE, HAWARDEN.**

APPLICATION NUMBER: **051613**

APPLICANT: **ANWYL CONSTRUCTION LTD**

SITE: **AT OLD HALL ROAD/GREENHILL AVENUE, HAWARDEN.**

APPLICATION VALID DATE: **23.12.13**

LOCAL MEMBERS: **COUNCILLOR A HALFORD**
COUNCILLOR D MACKIE

TOWN/COMMUNITY COUNCIL: **HAWARDEN**

REASON FOR COMMITTEE: **SCALE OF DEVELOPMENT AND LCOAL MEMBERS REQUEST**

SITE VISIT: **YES**

1.00 SUMMARY

1.01 This is a full planning application for 41 dwellings with on site open space outside but adjacent to the defined settlement boundary for Ewloe. It was previously allocated by the Council and the principle of development has been accepted by both Officers and Members during the UDP process. The UDP Inspector considered it to be a sustainable location for development and an appropriate site for development if the agricultural land issue and be resolved.

It is considered that the submitted Agricultural Land Classification Survey is robust and clarifies the matter of the grade of the agricultural land. The small quantity of subgrade 3a land would not justify a

refusal on these grounds. The proposed development of the site does not raise any highway or ecology issues and it is considered that the proposed layout is in accordance with the Council's Local Planning Guidance Note 2 Space Around Dwellings.

The basis for making decisions on planning applications should be in accordance with the development plan unless other material considerations deem otherwise. In this instance it is considered that the material consideration is the need for a 5 year land supply which outweighs the fact the site is outside the settlement boundary in the development plan. In order to ensure that the site comes forward to meet the current shortfall a 2 year planning permission is proposed with a requirement for a phasing plan to ensure that the site is delivered in the short term.

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

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

- a) Payment of £122,570 towards educational provision/improvements for Ysgol Penarlag Ewloe and £129,283 towards educational provision/ improvements for Hawarden High.
- b) Provision of a play area to be equipped to a specification provided by the Council, upon sale or occupation of 50% of the development. Should the developer require the Council to adopt the POS a commuted sum of 10 years maintenance to be provided to the Council on adoption
- c) The provision of 4 no homes to be presented to the Council as gifted units and allocated in accordance with a local letting policy

- 2.01
- 1. Time commencement 2 years
 - 2. Plans
 - 3. Phasing plan
 - 4. Drainage – foul conditions
 - 5. Surface water drainage including RAM's for ecology
 - 6. Scheme for the provision and implementation of a surface water regulation system
 - 7. Scheme for the management of overland flow from surface water drainage
 - 8. Scheme for the realignment of Greenhill Avenue S278
 - 9. Details of site accesses
 - 10. Front of garages shall be set back a minimum distance of 5.5m behind the footway line
 - 11. Detailed layout, design, means of traffic calming and signing, surface water drainage, street lighting and construction of the internal estate roads

12. Positive means to prevent the run-off of surface water onto the highway.
13. Landscaping implementation
14. Tree protection measures
15. Boundary treatment
16. Code 3 for sustainable homes
17. Reasonable Avoidance Measures GCN
18. Hedge removal/scrub clearance outside bird nesting season
19. Materials
20. Removal of permitted development rights - extensions

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

3.00 CONSULTATIONS

3.01 Local Member

Councillor A Halford

Object strongly. Requests committee determination and a site visit to allow members to familiarise themselves with the site, the very congested area and the road access & egress.

3.02 Councillor D Mackie

Object to any proposal to develop this site. I have been contacted by many residents who oppose development on this site. I object to these proposals because the site is outside the settlement boundary, is not included in the FUDP and because new housing in Ewloe has increased by 18.3% and so already exceeds the permitted maximum of 15%. I believe an application of this size will be decided by the Planning Committee and I feel a site visit by the committee will be necessary.

3.03 Hawarden Community Council

Object on the following grounds;

- The site is outside the village settlement boundary
- The site is not included within the current UDP
- The construction of a further 41 house in Ewloe cannot be justified given the number already approved and ongoing new housing allocations
- The site has been designated as a 'Minerals Safeguarding Area' in the UDP

3.04 Head of Assets and Transportation

No objections subject to conditions covering;

- Scheme for the realignment of Greenhill Avenue S278
- Details of site accesses
- Front of garages shall be set back a minimum distance of 5.5m behind the footway line

- Detailed layout, design, means of traffic calming and signing, surface water drainage, street lighting and construction of the internal estate roads
- Positive means to prevent the run-off of surface water onto the highway
- Construction traffic management plan

3.05 Head of Public Protection

No adverse comments to make.

3.06 Welsh Water/Dwr Cymru

No objections subject to standard conditions relating to surface water and foul water drainage.

3.07 Natural Resources Wales

The site is in Zone A as defined by TAN15 Development and Flood Risk and as shown on the Welsh Government's Development Advice Map (DAM). However the development of the site will increase the surface area of impermeable ground, thus reducing percolation and increasing rapid surface water run-off. Natural Resources Wales's general requirement for surface water run off is that the developed rate of run-off should be reduced in comparison to the undeveloped rate for the same 1 in 100 year climate change event. The submitted Drainage Statement proposes a maximum surface water discharge rate of 7.2 litres per second. This is considered acceptable as it is proposed to attenuate flows over and above this rate in storage tanks.

No objection subject to conditions covering;

- scheme for the provision and implementation of a surface water regulation system
- scheme for the management of overland flow from surface water drainage

3.08 Welsh Government Natural Resources and Food

In an advisory capacity WG have considered the Agricultural Land Quality and Soil Resource Survey submitted with the planning application by Reading Agricultural Consultants Ltd conducted in October 2009.

WG agree with the methodology of the survey which has been conducted in accordance with the Revised guidelines and criteria for grading the quality of agricultural land (MAFF 1988). It was also confirmed that the background information used in the survey was correct. They conclude that the survey appears sound and that a mixture of subgrade 3a and 3b would have probably been predicted for this site. WG explain that this survey may appear to contradict the previous surveys due to the unusual variability in soil profiles present on the site. Due to the scale of the mapping used to undertaken surveys and the small size of the site each survey has shown a variability in soil profiles/textures. WG consider it would be very

difficult to resolve the grade differences between surveys due to the scale of mapping and unusual variability in soil profiles present.

3.09 Airbus

No aerodrome safeguarding issue.

3.10 Housing Strategy Manager

No objection to affordable housing provision proposed.

3.11 Head of Lifelong Learning

The placement of the estimated 7 pupils from the proposed development will increase the pressure on Hawarden High School, which already has twenty four more pupils than its official capacity. The placement of the estimated 10 pupils from the proposed development, will increase the pressure on Ysgol Penarlag Ewloe which only has 9 surplus places. (4.09%)

The financial contributions requested are £122,570 for Ysgol Penarlag Ewloe, and £129,283 for Hawarden High.

3.12 Head of Play Unit

No objection to level of open space provision on site. The play area should be equipped to a specification provided by the Council, to be agreed prior to commencement of development. POS to be provided and equipped upon sale or occupation of 50% of the development. Should the developer require the Council to adopt the POS a commuted sum of 10 years maintenance to be provided to the Council on adoption.

4.00 PUBLICITY

4.01 Press Notice, Site Notice, Neighbour Notification

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

114 objections were received on the grounds of;

General

- Site is in Hawarden not Ewloe
- Conclusions in UDP Inspectors report are out of date
- Impact on Human Rights – peaceful enjoyment of all possessions and Article 8 respect for privacy and family life
- Poor public consultation by applicant
- Devaluation of property from being overlooked and increase in traffic
- Will be increase in crime as area is opened up. Policing is already inadequate. Youths will cross gardens to get to Ewloe.

Youths already form gangs and cause a nuisance and this development will fuel the situation.

- Loss of view

Land supply/need/UDP policies

- Hawarden does not need another development and is in danger of becoming a town
- Brownfield sites are available in Flintshire and in local area e.g Woodlane/Sorrell Close
- Vacant new build in local area
- No need for more housing plenty being built in area such as St. David's Park
- Site is outside settlement boundary
- Will create further pressure on green barrier
- The countryside should be protected from ribbon development
- Ewloe is a Category B settlement which is above 15% growth at 18.1% and therefore this development would contravene HSG3 of UDP
- No shortfall of housing land supply if accelerated build rates on sites under construction are applied which are not accounted for in JHLA 2012
- Site next to Ewloe Green School is committed and not accounted for in Planning Statement
- Contrary to Policy HSG4 of the UDP – not for forestry or agricultural workers, Policy STR1 – not in a settlement boundary, Contrary to policy STR7 – loss of open countryside/natural environment, Contrary to MIN8 - minerals safeguarded, Policy STR10, GEN1, GEN2, GEN3, HSG5
- Contrary to UDP strategy – decisions should be in accordance with the development plan unless it is out of date or superseded
- JHLA 2021 is two years out of date
- Will set a precedent for other sites to come forward outside the settlement boundary
- Agricultural land quality does not change over time therefore the reports are un-reliable. The best and versatile agricultural land should be protected unless there is an overriding need. Contrary to Policy RE1.

Ecology

- Ecological surveys should be undertaken for Great crested newts, voles
- The surface water outfall will connect to Broughton Brook which runs into the Dell, Hawarden High School's environmental area. There is a concern this will impact on the ecosystem there and the impact of surface water run off into the ponds at the Dell which are fed by the brook
- Bats use the site and sparrow hawks nest in the trees by the high school and use the field for foraging

Highway safety

- Access through estate roads will cause road safety and noise issues
- Limited visibility on access roads
- Most households have 2 or 3 cars leading to an increase in 100 vehicles passing existing residential properties
- Children won't be able to play in the garden due to increased risk of accidents with increased traffic volumes
- Bedrooms at the front of existing properties on Kearsley Avenue will have increased traffic noise from cars stopping at the junction
- Pavements on Kearsley Avenue are un-adopted and in a terrible state causing a poor pedestrian environment especially for the elderly
- Will make an existing cul-de-sac an estate
- Traffic will increase conflict between cyclists and pedestrians
- Existing roads are narrow and not suitable to accommodate any increase in traffic especially construction lorries etc. Two cars cannot pass
- The junction between Wood Lane and Kearsley Avenue is already a busy junction and narrow. Insufficient room for cars to turn in if a car is coming out of the junction. There is poor visibility at this junction. There was an accident in last two weeks.
- Old Hall Road and Greenhill Avenue have steep inclines which are impassable during adverse weather
- School drop off and pick up time the roads are congested and cars park on the road on Old Hall Road and Kearsley Avenue due to the sites proximity to Hawarden High School blocking access to existing properties. Added traffic will add to the

problems at these times and will adversely affect child safety.

- At the lower end of Wood Lane it will lead to increased congestion at peak times during school drop off and pick up. This leads to queues onto Kearsley Avenue
- Increased traffic on the roads will mean children can't play in the estates
- Highways should carry out a full daily/weekly survey to assess the traffic issues in the vicinity of the site and the area
- Approach roads are substandard and very narrow
- Junction between Kearsley Avenue to Greenhill Avenue has restricted visibility and it is difficult not to cut the corner
- Use of Old Hall Road and Greenhill Avenue from Wood Lane as access route to the proposed development negatively impacts far more existing residents and is a longer access route which uses more road junctions than access from Wood Lane via Springdale as previously proposed. This route is also further away from the busy Highway junction.
- There should be a third access via Springdale as this is closer to a bus stop
- Challenge Transport Statement as peak traffic periods are inaccurate not 8.00 - 9.00 and 17.00 - 18.00 but 2.45pm – 6pm due to the High School's proximity; should have included school times; junction from Kearsley Avenue and Wood Lane does not provide good visibility; the comparisons made in terms of traffic generation are unsuited to local circumstances; failed to assess carriageway width.
- Difficulty turning right out of Springdale
- No account taken of child road safety
- Difficult pedestrian environment already due to congestion when walking children to school
- Record of personal injury accidents at the junction of The Highway and Wood Lane which is fed by traffic from Greenhill Avenue
- Impact of construction traffic
- Area is not well served by public transport. Train station is 1 mile away and bus service is only once every half an hour

Detrimental impact on residential amenity

- Difference in architectural style from the existing houses which

are predominately 1960's and single storey bungalows (95%)

- Site is elevated and therefore the development would have an overbearing impact and would have an invasion of privacy on existing surrounding dwellings and those on the next road due to the topography of the area
- Plans don't show difference in levels on Old Hall road, Sandy Way and Melbreck Avenue.
- Overlooking from proposed development into Melbrook Avenue, Old Hall Road and Greenhill Avenue.
- Loss of light and natural daylight
- No footpaths proposed in new development
- Over development, density, layout and landscaping
- Overshadowing to adjacent and surrounding properties
- Excessive height proposed dwellings
- Loss of greenfield site and greenspace would harm local residents amenity
- Development on the site and mineshafts on the site and in the area might lead to subsidence to surrounding properties
- Increased pollution and noise and smell due to increase in vehicles
- Regularly walk dog here

Public services

- Issues with surface water drainage in the area. Drainage information submitted with application is 10 years old.
- Loss of natural drainage due to development of the site will lead to increasing flooding to surrounding properties
- Sewage system does not have capacity
- NHS dentist is full and has long waiting list
- Schools are at or near capacity

Comments on Design and Access Statement

- The development is not sustainable as under extreme pressures to maintain roads, sewers, electricity surges, loss of water pressure,
- Development is not off Springdale but Kearsley Avenue, Old Hall Road, Sandy Way, Melbreck Avenue and Greenhill

Avenue

- Only existing point of access is from Kearsley Avenue not as stated
- The photos in the D & A are not reflective of the adjacent properties in the area
- Affordable housing gifted units are seen as a form of payment to the Council
- Construction will not necessarily provide local employment opportunities as work contracted to large firms from elsewhere
- UDP inspectors report is out of date, more development has taken place since then
- The development does not harmonise with surroundings, the developer just wants large properties to maximise profits
- There are lots of 4 bedroom dwellings on the market in this area and the new development at Overlea Drive is underway
- Not a mix of dwelling types
- No bungalows for the disabled
- Ewloe has a higher crime rate than Hawarden because there are more houses

A petition with 135 signatories from local residents who have a direct interest in the proposed development and its effect on their lifestyle and the local neighbourhood objecting to the development on the grounds of;

- The status of the Flintshire UDP – contrary to principles.
- The supply of housing land in Flintshire – sufficient land available allocated for residential development in the UDP to meet household projections over the plan period. Other sites have come forward since JHLA Study 2012 which would meet any shortfall.
- The Ewloe settlement boundary – lies outside the settlement boundary contrary to UDP policy.
- Agricultural land – site in use for agriculture as part of Kearsley Farm. Submitted agricultural land study is at variance with previously submitted studies for the site. Need land for food production.
- The effect of the proposed development on local services – 2 of the local Primary Schools and the Secondary School are over subscribed. Only 1 doctors surgery which struggles to cope with demand. Additional demand on these services will aggravate the situation to the detriment of current residents
- The effect of the proposed development on road transport – entry and exit to and from the site to Wood Lane will be via

Kearlsey Avenue. The junction between Wood Lane and the highway is a notorious bottleneck in the morning and pm rush hour. Additional road traffic in this critical area will only make this problem worse to the detriment of current residents.

Letter from Mark Tami MP objecting on grounds of;

- Outside settlement boundary
- Ewloe is over its growth limit
- Local road network is congested
- Schools are full

5.00 SITE HISTORY

5.01 038718 - Erection of 47 dwellings, construction of new vehicular and pedestrian access and associated works Refused 27.11.06

6.00 PLANNING POLICIES

6.01 Flintshire Unitary Development Plan

STR1 - New Development

STR4 - Housing

STR8 - Built Environment

STR10 - Resources

GEN1 - General Requirements for New Development

GEN2 - Development Inside Settlement Boundaries

GEN3 - Development Outside Settlement Boundaries

D1 - Design Quality, Location and Layout

D2 - Design

D3 - Landscaping

TWH1 - Development Affecting Trees and Woodlands

WB1 - Species Protection

AC13 - Access and Traffic Impact

AC18 - Parking Provision and New Development

HSG3 - Housing on Unallocated Sites Within Settlement Boundaries

HSG5 - Limited Infill Development Outside Settlement Boundaries

HSG8 - Density of Development

HSG9 - Housing Mix and Type

HSG10 - Affordable Housing within Settlement Boundaries

SR5 - Outdoor Play Space and New Residential Development

EWP3 - Renewable Energy in New Development

RE1 - Protection of Agricultural Land

Planning Policy Wales Edition 6

TAN 1

The proposal accords with the above policies.

7.00 PLANNING APPRAISAL

7.01 Introduction

This is a full planning application for 41 dwellings with on site open space and access works.

7.02 Site Description

The application site is 1.9 hectares of agricultural land situated to the south of an existing residential estate made up of Old Hall Road, Kearsley Avenue, Greenhill Avenue and Sandy Way accessed from Wood Lane. To the south west is further residential development on Marlborough Avenue and Springdale which are accessed a separate access from Wood Lane. The site is situated to the south east of Ewloe and to the west of Hawarden.

7.03 The site is agricultural land, bounded to the north, east and west by existing residential development and to the south by agricultural land. The surrounding residential development is a mixture of two storey properties to the west and predominately single storey and dormer bungalow properties to the north dating from circa 1960/1970. The application site is relatively flat but is slightly elevated above the existing residential estate. The site is bounded by a an existing hedgerow along parts of its north western and north eastern boundary with the existing residential development. There are a small number of hedgerow trees along this boundary.

7.04 Proposed Development

It is proposed to erect 41 two storey predominately detached dwellings constituting 2 two bedroom, 5 three bedroom, 20 four bedroom, 14 five bed room properties (2 and a half storey with rooms in the roof). The two bedroom properties and 2 of the three bedroom properties form two pairs of semi-detached properties which are to be gifted to the Council for affordable housing provision. The proposed development is accessed from two points of access from the existing housing estate to the north via Greenhill Avenue and Old Hall Road. An area of 0.31 hectares of public open space is provided within the development in the south west corner with new hedge planting around its boundaries.

7.05 The application is accompanied by a Design and Access Statement, Planning Statement, Code for Sustainable Homes pre-assessment, Tree Survey, Landscape Strategy, Ecological Survey, Agricultural Land Quality and Soil Resource Survey, Drainage Statement and a Transport Statement.

Principle of development

7.06 The site is located adjacent to but outside the settlement boundary for Ewloe in the adopted UDP. The site is not located within the designated green barrier which abuts the eastern edge of Ewloe, as the site is bounded on all sides by residential development except for its southern boundary. Beyond the site to the south lies the green barrier designation. In planning terms the settlement boundary of Hawarden is located further to the east.

- 7.07 In terms of the policies in the adopted UDP, policy GEN3 sets out those instances where housing development may take place outside of settlement boundaries. The range of housing development includes new rural enterprise dwellings, replacement dwellings, residential conversions, infill development and rural exceptions schemes which are on the edge of settlements where the development is wholly for affordable housing. Policy GEN3 is then supplemented by detailed policies in the Housing Chapter on each type. Given that the proposal is for 41 dwellings and does not fall within the scope of above policy framework, then proposal is contrary to these policies in the adopted UDP.
- 7.08 The applicant seeks to justify the development in terms of a broader policy context, having regard to the following points:
- i) The planning history of the site and the Inspector's comments following the UDP inquiry
 - ii) The present lack of a 5 year supply of housing land
 - iii) The present level of growth in Ewloe being below 15%
 - iv) The recent Ministerial statement by Carl Sargeant about the need to increase the supply of housing throughout Wales in order to meet housing needs and to contribute to the economy of Wales
- 7.09 Planning history
An application for planning permission for 47 dwellings on the site was made in November 2004 and refused in November 2006 on the grounds of; the site being outside any settlement boundary; development in the open countryside and green barrier; premature in the context of emerging UDP and overdevelopment.
- 7.10 The site was subsequently allocated for housing in the deposit draft UDP along with other housing allocations in Ewloe. However, during the progression of the UDP other housing schemes came forward within the settlement which led the Council to re-evaluate the level of growth in the settlement against the Plans spatial strategy and settlement hierarchy which led to publication of Proposed Change 321 which deleted the site as a housing allocation.
- 7.11 The Inspector at the UDP public inquiry assessed a range of objections relating to Ewloe and these included those objections to allocated sites, an objection seeking the reinstatement of the deleted allocation and other objections seeking the allocation of 'omission' sites for housing. The Inspector recommended that that the allocation be deleted (i.e. supported PC321) based on a concern about the possible loss of best and most versatile agricultural land and the lack of robust evidence with which the Inspector could make an informed decision to recommend that the allocation be reinstated. It is necessary to look in more detail about the Inspector's comments and

reasoning in respect of both Ewloe as a whole and this site in particular.

- 7.12 The Inspector generally saw Ewloe as a sustainable location for development and growth over the Plan given its accessibility and range of facilities and services. The Inspector comments *'Ewloe is a category B settlement where commitments and allocations will result in growth towards the upper end of the indicative band of 8 - 15%. However, given the settlement's facilities and location close to major centres of employment and population this level of growth would not be untoward. There have been no overriding objections from service providers such as the local health board, the local education authority or DCWW. The indications are that the services and facilities in the locality are sufficient to cater for the increased population'*.
- 7.13 In terms of the agricultural land issue the Inspector comments *'PPW advises that land in Grades 1, 2 and 3a should only be developed if there is an overriding need for the development and either previously developed land or land in lower agricultural grades is unavailable. The Agricultural Land Classification Map indicates a substantial portion of the site as Grade 2 with the remainder being Grade 3. Whilst such grading is only intended as a broad guide I do not consider it should be dismissed lightly. It has been suggested that the land is of much poorer agricultural quality and should not be considered as being within the best and most versatile category. However, there is some doubt as to whether the report was prepared in accordance with the relevant guidelines and I do not consider those findings to be conclusive'*. The Inspector then went on to say *'I am satisfied that sufficient land has been allocated elsewhere to accommodate the envisaged growth in the County and it follows there is no overriding need for this land to be allocated until this matter is resolved. If the agricultural land quality issue can be resolved the allocation could be considered again as part of the LDP'*.
- 7.14 In terms of the level of growth in the settlement the Inspector looked at the reasoning behind PC321 and commented *'The reason given in PC321 to delete this allocation is **In view of recent completions, commitments and other sequentially preferable allocations, there is no longer considered to be a need for this site.** The Council did not delete the allocation on the basis of other issues raised in objections to the allocation'*. The Inspector comments on Ewloe being an appropriate location for growth and that an additional 47 dwellings resulting in an additional 2% growth would not be excessive in terms of local facilities, services and the local highway network and also comments on the development of the site being a logical rounding off of existing development. However, the Inspector did not consider the additional 2% growth that would result from this allocation would be unduly onerous and did not amount to sufficient justification to delete the allocation. The Inspector's reasoning is set out below:

“11.65.5. I have considered the other objections made against the allocation. The UDP allocates land to accommodate the required growth in the plan period and given Ewloe’s facilities and location close to major centres of employment and population, I consider it is an appropriate settlement for further development. This site would accommodate some 47 dwellings resulting in additional growth of some 2%. This would not be excessive. There have been no overriding objections to the allocation from service providers such as the local health board, the local education authority or DCWW. The indications are therefore that the services and facilities in the locality are sufficient to cater for the increased population.

11.65.6. From my visits to the area, and bearing in mind the scale of development, I consider the highway network is suitable and would not be overloaded or unacceptably congested by the development of this land. This site is within a well established residential area and is bordered with housing development on three sides. It would be a logical rounding off of development and would harm neither the character of the locality nor the integrity of the green barrier. Mitigation for wildlife interests could be addressed as part of the development control process. The effect of development on property values is not a planning matter.

11.65.7. Turning to the reason given by the Council for deleting the allocation. When the UDP was issued it was envisaged that the allocations and commitments would result in growth of 11%. This is the mid point of the indicative growth band of 8 – 15% for this category B settlement. However, completions and commitments in the first five years of the plan, when combined with the outstanding allocations would result in a growth rate of 15%. I do not consider that growth at the upper end of the indicative band would be untoward. The adjustments made to the allocations in Ewloe result in growth of 13%. Sites with planning permission and planning applications since 2005 would increase that slightly. However, bearing in mind the site’s location within a residential area I do not consider the additional 2% growth that would result from this allocation would be unduly onerous and does not amount to sufficient justification to delete this allocation.”

- 7.15 The Inspector concluded *‘However, whilst I do not consider the above matters amount to sufficient justification to delete the allocation they are outweighed by the need to resolve the agricultural land classification issue’* and comments further *‘Whilst I accept the merits of many of the points made in favour of retaining this allocation they do not outweigh the need to resolve the agricultural land classification issue’*. The Inspector noted that despite Ewloe having experienced a significant level of growth in the past 10 years or so she did not support the argument that there is now a need for a cooling off period. The Inspector comments *‘Even if I were to accept such a stance, deleting a site that would provide some 2% growth would not make a significant difference’*.

- 7.16 In summing up the stance taken by the Inspector it is clear that she considered the allocation to be reasonable and also did not identify any harm to the settlement that would arise from the additional 2% growth. Nevertheless, the Inspector did not consider that she could recommend the allocation of the site with the uncertainty over the agricultural land issue.
- 7.17 Ewloe's Growth Rate
In the applicant's justification they incorrectly state that no planning consent exists on the housing allocation at West of Ewloe Green Primary School, however a Reserved matters approval for 23 dwellings was granted on this allocated site on 12/12/13 and development has commenced on site. Notwithstanding progress on this particular application the 15% growth level for Ewloe has already been exceeded as a result of completions alone (15.8%). The combined growth rate for Ewloe taking into account completions and commitments is 18.1% and by incorporating the application site (41 dwellings) would increase the growth rate to 19.8%. Although this is higher than the scenario considered by the Inspector at the time of the UDP inquiry, it is still not clear that this level of growth would be harmful given the Inspector's comments about the settlement and the site. Growth rates are not ceilings and each settlement should be judged on its own merits.
- 7.18 Housing Land Supply
PPW and TAN1 requires each local planning authority to maintain a 5 year supply of housing land. The most recent published housing land supply figure is contained in the Joint Housing Land Availability Study 2012 published in September 2013. This identifies a housing land supply of 4.5 years calculated using the residual method with a base date of April 2012. This falls below the 5 year requirement.
- 7.19 The Council has previously argued in its submissions to PINS that the residual method of calculation does not give a true picture of the actual amount of land available in the County and that the past completions method of calculation provides a more accurate measurement of land supply as it is measured against what the house building industry is actually delivering on the ground, rather than merely against what the Plan originally set out to provide. Using the past completions method over the last 5 year period this gives a supply of 13.6 years. WG however use the residual method and where in such circumstances the Council does not have a 5 year land supply the Council is required to demonstrate, in accordance with PPW and TAN1 to set out the measures by which it will seek to make good the shortfall in housing land supply. The 2012 JHLAS Report states that to maintain a 5 year supply '*The Council will continue to work with landowners and developers in bringing forward appropriate and sustainable windfall housing sites as well as addressing any difficulties or obstacles preventing the delivery of allocated sites*'.

7.20 The recent appeal decision (APP/A6835/A/13/2204741) on application 050616 at the Neighbourhood Centre, Ffordd Llanarth, Conna's Quay reiterates the view Inspectors take in relation to a 5 year land supply. This key issues in this appeal was whether the site allocated for housing was required for housing development or could be lost to an alternative use. The Inspector acknowledged that the appeal site was identified in the JHLAS as being within Category 3i indicating that due to major physical or other constraints development was unlikely within 5 years and was therefore not counted in the 5 year land supply. The Inspector considered that "*since the five year land supply is deficient notwithstanding the site limitations its potential to meet some of the County's housing need is a compelling reason to adhere to its allocated purpose and not permit a use other than residential.*" This demonstrates the importance that is placed on having a 5 year supply by Inspector's and gives an insight into the approach an Inspector is likely take in relation to the principle of a suitable site coming forward which would contribute to the 5 year land supply.

7.21 Welsh Government advice

Carl Sargeant the Minister for Housing and Regeneration has issued two Ministerial statements the first on 17.07.13 and the second in March 2014. Both statements state that his main duty was to increase the supply of housing (both market and affordable) in order to meet growing housing needs and to stimulate the economy. However, the Minister was quite clear that this equated to the building of more homes. In working towards this aim, the granting of planning consents will achieve nothing unless there is a clear commitment from the housebuilder to implement the permission and deliver completions.

7.22 The applicants Planning Statement states '*The applicant is a well-established regional house builder active in the area (Croes Atti, Flint) who has a land purchase option with land triggered by a planning consent. Consequently, if granted planning consent the site is likely to come forward quickly and deliver completions within 5 years*'. However, there is no clear commitment from the applicant in terms of a timetable for the delivery of the site. If the housing need situation is as pressing as the applicant is arguing then delivering completions over a 5 year period will achieve little. It is therefore considered that any planning consent should be time limited to commencement within 2 years of the date of the permission with a phasing plan to ensure that any development on the site meets the current land supply shortfall. This would reflect the fact consent would be granted only as a result of exceptional circumstances at the time of the application and the need to ensure that the site is not 'land banked' for delivery at some unspecified time in the future.

7.23 Precedent

The Council does not wish to set a precedent for any windfall sites to come forward outside settlement boundaries however, it is considered

that there are a special set of circumstances in relation to the planning history of this site. Although the site is outside the settlement boundary, it was previously allocated by the Council and the principle of development has been accepted by both Officers and Members during the UDP process. Furthermore the Inspector considered it to be a sustainable location for development and an appropriate site for development. The Inspector also commented that the site could be considered as part of the LDP if the agricultural land issue and be resolved.

7.24 Agricultural land classification

Four previous Agricultural Land Classification (ALC) field surveys have been conducted on the site to inform the development plan process and to support the previous planning application. These have all come to different conclusions on the Grade of the agricultural land and are listed below.

018/1980 (ADAS / Welsh Office) Kearsley Farm, Hawarden, Clwyd: The entire site area was assessed as Grade 2 agricultural land. The survey noted a *“very complex arrangement of parent material patterns”* and a high variability in subsoil textures.

February 1988 Hawarden, Clwyd: This survey was conducted in detail by Michael Boddington & Associates (MBA). The site was identified as a mixture of ALC Subgrade 3b (dominant) and Subgrade 3c.

018/1988: (ADAS / Welsh Office) Land at Spring Dale, Off Wood Lane, Hawarden, Clwyd: This survey was conducted shortly after the MBA survey above. This survey identified the entire site as Grade 2 agricultural land.

2007: Appraisal of an agricultural field and its land classification known as Land off Greenhill Avenue, Ewloe, Flintshire: The report was prepared by Promar International. The report suggested the *“...if the fields were to be re-evaluated clinically it would be grade 4 or grade 3b at best”*. Validation of the Promar report suggested it had not been conducted according to the 1988 MAFF Guidelines.

7.25 This application is accompanied by an Agricultural Land Quality and Soil Resource Survey undertaken by Reading Agricultural Consultants Ltd conducted in October 2009. This survey aimed to carry out a definitive assessment of the quality of agricultural land on the site and to address the limitations of the previous survey by Promar International put forward during the preparation of the UDP. The report classifies the site as mainly Subgrade 3b (moderate quality land) 1.3 hectare (76%) and with a small area of Subgrade 3a (good quality land) 0.4 (24%). In policy terms only 3a is classed as the best and most versatile agricultural land and is protected by policy RE1 of the UDP.

- 7.26 The Welsh Government Department for Natural Resources and Food have been consulted on the application for their advice on this matter and have considered it in light of TAN6 paragraph B6 which is circumstances where applications do not meet the criteria for formal consultation set out in the GDPO but where the LPA requires some technical assistance. In such instances consultation responses are confined to technical detail and do not comment on the merit of applications. The GDPO only requires LPA's to consult with WG on proposals for development for non-agricultural purposes which is not in accordance with the development plan, and would involve the loss of 20 hectares or more of grades 1, 2 or 3a agricultural land or a loss which is less than 20 hectares but is likely to lead to further losses amounting cumulatively to 20 hectares or more.
- 7.27 In this advisory capacity WG have considered the Agricultural Land Quality and Soil Resource Survey submitted with the planning application by Reading Agricultural Consultants Ltd conducted in October 2009. They consider that one of the reasons for the difference in the survey results previously undertaken is that the MAFF guidelines for undertaking Agricultural Land Classification were revised in 1988. The 1980 survey was undertaken using the old guidelines but the subsequent survey undertaken by Micheal Boddington and Associates in 1988 was undertaken with the new guidelines. WG advised that the 1988 survey undertaken by the Welsh Office used a hybrid of the new and old guidelines therefore providing some explanation as to the inconsistencies in results.
- 7.28 WG agree with the methodology of the survey which included soil pits and lab analyses. The Survey has been conducted in accordance with the Revised guidelines and criteria for grading the quality of agricultural land (MAFF 1988). It was also confirmed that the background information used in the survey was correct. They conclude that the survey appears sound and that a mixture of subgrade 3a and 3b would have probably been predicted for this site. WG explain that this survey may appear to contradict the previous surveys due to the unusual variability in soil profiles present on the site. Due to the scale of the mapping used to undertaken surveys and the small size of the site, each survey has shown a variability in soil profiles/textures. WG consider this factor and the changes in Agricultural Land Classification assessment guidelines in 1988 account for the apparent differences in grading.
- 7.29 It is therefore considered that due to the scale of the area of Subgrade 3a land, it is not considered that this is significant and weighs against granting planning permission.
- 7.30 Layout and variety of housing types
Concerns have been raised about the proposed 2 and 2 and a half

storey nature of the properties proposed due to the predominance of bungalows on the existing estate to the north of the site. Residents consider that the new development will have an overbearing impact on the existing properties around the site and will have a detrimental impact on residential amenity and adversely affect privacy. Specific reference has been made with regard to the relationship between the bungalows on Melbreck Avenue and the proposed development and the differences in levels.

- 7.31 The separation distances between the proposed two storey properties and the existing bungalows on Melbreck Avenue range from between 30 - 45 metres from habitable room to habitable room. The separation distances between the proposed and existing properties are in excess of the 22 metres set out in the Council's Local Planning Guidance Note 2 Space Around Dwellings even taking into account any difference in levels. There is also existing trees and hedgerow in part along this boundary which it is proposed to retain.
- 7.32 In terms of the height of the proposed properties, the three and four bedroom house types vary in height from 7.5 metres to 8.3 metres. The 2 and a half storey properties with 5 bedrooms which have rooms in the roof; the Kinmel is 9.3 metres and the Penarth is 9 metres in height. It is not considered that the difference in height between the three and four bedroom properties and the five bedroom properties is significant and will not look out of character in the street scene. To the west of the site the majority of properties are two storey semi-detached dwellings, with two large two storey detached properties to the south west. In terms of the difference in architectural style the existing estate is predominately 1960/70's style properties which have been altered and extended significantly in some cases in to dormer//two storey properties. It is not considered that the proposed dwellings would adversely affect the architectural quality of the area and the proposed brick and render would be in keeping with the local vernacular.
- 7.33 There has also been objections to the proposed house types and the relationships with existing properties on Greenhill Avenue, Old Hall Road, Sprindale and Marlborough Avenue. The initial layout had not taken into account the extensions that some properties have built. The amended layout aims to address these overlooking issues with changes in house types to ensure that the proposed layout is in accordance with the Council's Local Planning Guidance Note 2 Space Around Dwellings. It is also considered that the private garden areas of the proposed dwellings are in accordance with the Council's standards providing at least 70m² for all dwellings.
- 7.34 Density
The application site is 1.99 hectares. 0.31 hectares is provided as public open space leaving 1.68 hectares as developable area. The density of the scheme is therefore 24 dwellings to the hectare. This is

a low density development and therefore is not considered to be overdevelopment. Policy HSG8 refers to the density of development and advocates making the most efficient use of land also reflecting the characteristics of the site and surrounding area. The text of the policy advocates that on unallocated sites developers should aim to achieve 30 dwellings per hectare in Category B settlements, although individual circumstances will vary according to the site location. It is considered that the proposed density of 24 dwellings to the hectare is appropriate in this location.

7.35 Affordable Housing

Policy HSG10 of the UDP requires the provision of affordable housing on windfall sites within settlement boundaries. Although this site is outside a defined settlement boundary the same principles apply. The starting point for affordable housing is 30% provision, traditionally this has been provided at discounted market value housing which has been slow on take up due to difficulties in obtaining mortgages. In order to ensure delivery of affordable housing and to meet the need in the area the Council's Housing Strategy Manager considers that in this case the proposed 4 gifted units meets the requirement. These units will be social rented by the Council and secured by S106 agreement.

7.36 Highways

Residents have raised numerous concerns regarding the highway and road safety implications of the proposed development relating to the inadequacy of the estate roads and junctions to the site.

7.37 A Transport Assessment undertaken by AXIS dated November 2013 was submitted with the planning application. This assesses the local highway network which leads to the application site. This states that Old Hall Road and Greenhill Avenue are both 4.8 metres in width with 1.8 metre footways. These roads in turn lead to Kearsley Avenue which is also 4.8 metres in width. Kearsley Avenue then leads on to Wood Lane which is 6.3 metres in width. Wood Lane leads on to the Highway B5125. The Head of Assets and Transportation considers that the existing estate road width meets with the Council's former Highway Design Guide for residential streets and the guidance now provided in Manual for Streets. Some minor realignment of the existing carriageway is required to join Greenhill Avenue to the new development due to the position of the existing turning head. This will all be works within the highways and can be undertaken under a S278 agreement.

7.38 The Transport Statement assesses all the estate road junctions which would lead to the application site. The visibility at the junctions of Old Hall Road and Kearsley Avenue and Kearsley Avenue to Wood Lane are in excess of that required for a 30mph road. The junction from Greenhill Avenue to Kearsley Avenue has restricted visibility due to third party gardens. The visibility is below the requirements for a

30mph road however speeds along Kearsley Avenue at this location are likely to be low given it terminates 40 metres to the south of Greenhill Avenue. The visibility achieved equates to a prevailing speed of 20mph using Manual for Streets 2, which is likely to be representative of conditions in this area. During the surveys undertaken no evidence of congestion or delay were observed at the junction between Wood Lane and The Highway. The Head of Assets and Transportation raises no concerns in relation to this assessment.

- 7.39 Residents have raised concerns regarding accidents on the roads leading to the development. There have been 3 accidents in the last 5 years at the Wood Lane junction with the Highway and one recorded along Wood Lane at its junction with Spring Dale. These are noted in the applicants Transport Statement. The Head of Assets and Transportation does not consider that this a sufficient cluster for any action to be taken in terms of junction improvements.
- 7.40 Residents have questioned why access has not been provided via Springdale which is seen as a more direct route to Wood Lane passing fewer properties. In considering planning applications, we can only consider whether the proposed scheme is acceptable and not suggest alternatives.
- 7.41 In terms of sustainability the site is within 800m – 1200 metres of Penerlag Primary School, Hawarden High School, local food and convenience shops and a dental surgery. The site is therefore within walking distance of a range of services and local facilities. There are bus stops on Wood Lane and B5125 The Highway which are within a 400 metres walk of the centre of the site with the No 4 service every half an hour and the x44 hourly which both serve, Mold, Buckley, Hawarden and Chester. There is also a train station in Hawarden which is on the Wrexham to Bidston Line. It is therefore considered that the site is in a sustainable location.
- 7.42 Residents have raised concerns that the footways in the vicinity of the site are un-adopted and that no footpaths are provided within the development. The Head of Assets and Transportation has confirmed that all the footways in the adjacent estate roads are adopted apart from the footway along the northerly side of Kearsley Avenue. Footpaths are provided linking the existing footways on Greenhill Avenue and Old Hall road into the proposed site along the majority of the new development frontages. There are some internal courtyards where a shared surface is shown and this in line with the approach's advocated in Manual for Streets.
- 7.43 It is considered that the development proposed would not result in a detrimental impact on the local highway network either in operational or highway safety terms. The Head of Assets and Transportation does not object to the proposed development subject to conditions set out in the consultation response.

- 7.44 Open Space
The applicants are providing 0.31 hectares of open space on site. This is in accordance with Local Planning Guidance Note 13 Open Space which requires 54m² of open space per dwelling. The equipping and adoption of this area would be covered by a S106 agreement.
- 7.45 Drainage
Residents have raised concern regarding existing problems with surface water and foul drainage in the area. The application is accompanied by a Drainage Statement which covers flood risk, surface water drainage and foul water drainage.
- 7.46 Flood risk
NRW have clarified that the site is in Zone A as defined by TAN15 Development and Flood Risk and as shown on the Welsh Government's Development Advice Map (DAM).
- 7.47 Surface water
Welsh Water have previously confirmed that no surface water from this development can connect to the public surface water sewers in close proximity to the site to prevent hydraulic overload of the public sewerage system. A site investigation has concluded that ground conditions are not suitable for a soakaway therefore it is proposed to take surface water via an outfall sewer across the adjoining fields to the east and connect to Broughton Brook. Surface water flow rates to the brook had previously been agreed with NRW. All flows over and above these discharge rates will be catered for on site in underground storage tanks.
- 7.48 The development of the site will increase the surface area of impermeable ground, thus reducing percolation and increasing rapid surface water run-off. Natural Resources Wales's general requirement for surface water run off is that the developed rate of run-off should be reduced in comparison to the undeveloped rate for the same 1 in 100 year climate change event. The submitted drainage Statement proposes a maximum surface water discharge rate of 7.2 litres per second. This is considered acceptable as it is proposed to attenuate flows over and above this rate in storage tanks. The details of this can be secured by condition. Welsh Water have raised no objection to the proposed surface water proposals.
- 7.49 Foul drainage
Welsh Water have previously confirmed only foul flows can be accommodated within the existing sewerage system and a connection can be made to the combined public sewers within or near Kearsley Avenue. Welsh Water raise no objections subject to standard conditions to the proposed development.

7.50 Ecology

An extended phase one survey was submitted with the planning application. This concluded that;

- the main area of development was semi-improved grassland
- the stream recorded burrows which are required to be resurveyed in Spring 2014
- RAM's may need to be developed to protect the off – site sewer works if protected species are confirmed
- Any features lost need to be negated and mitigated through the landscape enhancement
- No major adverse impact on species or habitats have been identified

7.51 No designated ecological sites are located within the development area or adjacent to it. Two ponds are recorded within 200 metres of the proposed development and 45 metres of the offsite drainage route in the school wildlife area. No records of the ponds are available however it is considered that if great crested newts were present the use of the development site by GCN as foraging habitat would be low due to better quality foraging habitats and potential refuges adjacent to the wildlife pond area. Potential for GCN on the development site is therefore concluded to be low, however it is recommended that a precautionary approach is taken during the construction phase and reasonable avoidance measures to exclude newts from the construction area, particularly the off-site sewer area are employed.

7.52 No badger setts or outliers were recorded within the site boundaries or within 30 metres of the proposed development, although large mammal tracks were recorded within adjacent fields. No potential bat roost sites were identified within the development site however the mature trees within the field boundaries offer potential for roosting bats and foraging. These are not proposed to be removed. Within the stream that runs through the school wildlife area some burrows were recorded which could be used by water voles but it was difficult to see if these were active and it could not be surveyed at the time due to seasonal constraints. The development itself will not affect this stream corridor and any potential impact is related to the offsite drainage works. It is therefore considered that reasonable avoidance measures in relation to drainage works will mitigate any potential impacts in this regard.

8.00 CONCLUSION

8.01 The basis for making decisions on planning applications should be in accordance with the development plan unless other material considerations deem otherwise. In this instance it is considered that the material consideration is the need for a 5 year land supply which outweighs the fact the site is outside the settlement boundary in the development plan. In order to ensure that the site comes forward to meet the current shortfall a 2 year planning permission is proposed

with a requirement for a phasing plan to ensure that the site is delivered in the short term.

- 8.02 It is considered that the submitted Agricultural Land Classification Survey is robust and clarifies the matter of the grade of the agricultural land. The small quantity of subgrade 3a land would not justify a refusal on these grounds. The proposed development of the site does not raise any highway or ecology issues and it is considered that the proposed layout is in accordance with the Council's Local Planning Guidance Note 2 Space Around Dwellings.
- 8.03 Although this application is a departure from the development plan and has been advertised as such, it would not need to be referred to Welsh Government under The Town and Country (Notification) (Wales) Direction 2012. The Direction requires local planning authorities to refer applications for 'significant residential development' where they are minded to grant planning permission for residential development of more than 150 residential units, or residential development on more than 6 hectares of land, which is not in accordance with one or more provisions of the development plan in force. The application does not fall within this definition.
- 8.04 The new direction does not contain a requirement to refer 'any other development' that is not in accordance with the development plan and there is therefore no requirement to refer any other residential proposals, unless it exceeds 150 dwellings or includes residential development on more than 6 hectares of land.
- 8.05 In considering this planning application the Council has acted in accordance with the Human Rights Act 1998 including Article 8 of the Convention and in a manner which is necessary in a democratic society in furtherance of the legitimate aims of the Act and the Convention.

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