

**FLINTSHIRE COUNTY COUNCIL**

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

**DATE:** **14<sup>TH</sup> OCTOBER 2015**

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

**SUBJECT:** **FULL APPLICATION – STRATEGIC FLOOD ALLEVIATION SCHEME FOR THE TOWN OF MOLD**

**APPLICATION NUMBER:** **052180**

**APPLICANT:** **FLINTSHIRE COUNTY COUNCIL**

**SITE:** **LAND LOCATED BETWEEN THE A5119/A494 (RUTHIN ROAD) TO THE SOUTH WEST OF MOLD AND A541 DENBIGH ROAD (NORTH WEST) AND PLAYING FIELDS AT YSGOL GLANRAFON/MAES BODLONFA, MOLD**

**APPLICATION VALID DATE:** **20<sup>TH</sup> MAY 2014**

**LOCAL MEMBERS:** **COUNCILLOR G.H. BATEMAN**  
**COUNCILLOR C. BITHELL**  
**COUNCILLOR MS A.J. DAVIES-COOKE**  
**COUNCILLOR R. GUEST**  
**COUNCILLOR C. LEGG**  
**COUNCILLOR B. LLOYD**  
**COUNCILLOR N. MATTHEWS**

**TOWN/COMMUNITY COUNCIL:** **GWERNYMYNYDD COMMUNITY COUNCIL**  
**HALKYN COMMUNITY COUNCIL**  
**MOLD TOWN COUNCIL**

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

**SITE VISIT:** **YES**  
**REQUEST FOR FURTHER SITE VISIT IN ADDITION TO THAT UNDERTAKEN ON 20<sup>TH</sup> JULY 2015, TO VIEW POINT OF DISCHARGE INTO THE RIVER ALYN**

**Members may recall that this application was deferred from consideration at the Planning & Development Control Committee held on 22<sup>nd</sup> July 2015, in order to include further clarification on the potential impact of the flood alleviation works on the River Alyn. This report has therefore been updated accordingly with further details included on this aspect of the proposed development.**

## **1.00 SUMMARY**

- 1.01 This full application which has been submitted by Flintshire County Council proposes the construction of a strategic flood alleviation scheme for the town of Mold.
- 1.02 The nature of the proposed works principally involves the formation of new culverts with associated intake/outfall structures across agricultural land on the fringe of the town, extending from the south west to the north west together with the introduction of 3 No. new underground attenuation tanks on land within the town itself, on recreational land and open space at Ysgol Glanrafon and Maes Bodlonfa.
- 1.03 The proposed works are on land within the community/town council boundaries of Gwernymynydd, Halkyn and Mold. As a result the community/town councils and Local Members representing each ward boundary have been consulted on the application.

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

- 2.01
1. Time limit on commencement.
  2. In accordance with approved details.
  3. Details of phasing scheme to be submitted and approved
  4. No development other than the formation of a site compound/storage area for machinery/plant to be undertaken during site construction works on land adjacent to A5119/A494 Roundabout (edged on attached plan) without the further grant of planning permission.
  5. No direct access for construction traffic, from the site, onto the trunk road without further written approval.
  6. No development including site clearance to take place until a Construction Traffic Management Plan has been submitted and approved.
  7. Prior to the commencement of any site works the siting, layout and design of the means of access to be submitted and approved.
  8. Stated visibility splays at proposed point of access to be kept free from obstructions for duration of site works.
  9. Details of interception culvert including the design of intake screens to be submitted and approved, prior to the commencement of development.

10. Details of attenuation storage system to be submitted and approved prior to the commencement of development.
11. Existing foul sewer to be safeguarded in accordance with details to be submitted and approved.
12. No land drainage run-off to discharge into public sewerage system.
13. No surface water to connect into public sewerage system.
14. No development including site clearance to commence until a specification/timescale for the undertaking of works and re-establishment of playing fields and open space at Maes Bodlonfa and Ysgol Glanrafon has been submitted and approved.
15. Archaeological Watching Brief to be submitted and approved prior to commencement of development.
16. Notwithstanding details contained within Ecological Appraisal no development to commence until a scheme for wildlife mitigation has been submitted and approved.
17. No development to commence until details of proposed tree removal/remedial works including where required replacement planting have been submitted and approved.
18. Timescale for implementation of landscaping scheme.
19. Footpath 1 to be protected during site construction works.
20. Details of security fencing adjacent to open culvert to be submitted and approved.
21. Details of site restoration including timescale of works across agricultural land to be submitted and approved.
22. No development to commence until a scheme incorporating flood resistance measures for Bridge Cottages has been submitted and approved. Development to be carried out in accordance with approved details within timescale to be agreed.

### **3.00 CONSULTATIONS**

#### **3.01 Local Member**

##### **Councillor G.H. Bateman**

Request site visit and planning committee determination in order to assess the impact of development on the character of the landscape, agricultural land and amenity of residents in the locality.

##### **Councillor C. Bithell**

Request site visit and planning committee determination. It is acknowledged that the scheme is important to the town and may relieve flooding within certain areas but there is potential that this will impact and increase flooding on the River Alyn to the west of Mold. Require assurances that this will not happen before the application can be supported.

##### **Councillor Ms A.J. Davies-Cooke**

No response received at time of preparing report.

Councillor R. Guest

No response received at time of preparing report.

Councillor C. Legg

Request site visit and planning committee determination in order to assess the impact of development on the character of the landscape, agricultural land and amenity of residents in the locality.

Councillor B. Lloyd

Request site visit and planning committee determination in order to assess the impact of development on the character of the landscape, agricultural land and amenity of residents in the locality.

Councillor N. Matthews

Express concerns that the proposed scheme

- Will not provide adequate capacity during heavy rainfall to cater for the volume of water from Hafod Moor/Bryn Gwyn Hill.
- Will result in development on high quality agricultural land.

Mold Town Council

The Council agreed that they would support stage one of this application on the condition that the attenuation measures are put in place to slow the flow of water. The Council had no objections to Stage 2 of the planning application. In addition the Council asked that consideration is given to the introduction of tree planting to assist with flood management and sought assurances for good management of the culverts into the future. The Council quoted Monmouth as a good example, where they had used a dam process to deviate streams in the headlands.

Halkyn Community Council

No response received at time of preparing report.

Head of Pollution Control

No adverse comments.

Welsh Government Transport

Direct that any permission granted includes the following conditions:-

1. There shall be no direct access for construction traffic, from the site, onto the trunk road, without further written approval.
2. No development shall take place, including site clearance works, until a Construction Traffic Management Plan has been submitted and approved by the Highway Authority.

Highways Development Control Manager

Recommend that any permission includes conditions in respect of access, visibility and the need for a Construction Traffic Management Plan.

Dwr Cymru/Welsh Water

Recommend that any permission includes conditions in respect of land and surface water drainage and need to safeguard impact of development on line of existing sewer which crosses the site.

Natural Resources Wales

Do not object to:-

- a) the proposal from a flood attenuation perspective subject to the imposition of conditions regarding the design of the system.
- b) the proposal on ecological grounds as the proposal will not cause any adverse major impacts on ecology. Consider that the ditched sections if appropriately managed will enhance the wildlife interest of the application site.

Public Open Spaces Manager

Wish to advise that in respect of:-

a. Maes Bodlonfa Recreation Ground

The proposed works will impact on the availability of football pitches for two seasons and the existing football clubs that use the site will need to relocate to other fields on educational sites which will require upgrading to bring them up to a playing standard.

b. Ysgol Glanrafon

The proposed scale of works will have a major impact on the availability of open space for use by the school.

Having regard to the above, consider that the timing of such works is therefore important to ensure the minimum disruption/re-establishment of playing fields and therefore a timescale/specification should be agreed prior to the commencement of development.

Environment Directorate

(Rights of Way)

Public Footpath 1 crosses the site. The applicant may be required to apply for a Temporary Closure Order to protect the public during the construction.

Head of Pollution Control

No adverse comments.

#### Ramblers Association

Subject to safeguards with regard to construction works, the proposal is supported as a means of alleviating the serious flood problems that have been experienced. Consider that temporary alternative footpath routes may be required during construction works.

#### Clwyd – Powys Archaeological Trust

Request the imposition of a condition to ensure that an archaeological watching brief is undertaken.

#### Cadw

Consider that the design of the culvert has been modified to ensure that there is no impact on the edge of the essential setting of the Grade II\* registered park and garden at Rhual.

### **4.00 PUBLICITY**

#### 4.01 Press Notice, Site Notice, Neighbour Notification

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

- Lack of consultation on the proposed development.
- The proposed scheme will cause problems and floodrisk downstream of the new discharge points to the River Alyn.
- The installation of 'open cut' drains to catch over ground flow is excessive and unwarranted.
- Concerns that excavated material from the site will be deposited on a triangular area of land adjacent to the A5119/A494 roundabout.

One letter of support received which considers that the proposed scheme offers the best solution to the problems of flooding within the town.

### **5.00 SITE HISTORY**

5.01 None relevant.

### **6.00 PLANNING POLICIES**

#### 6.01 Flintshire Unitary Development Plan

Policy STR1 – New Development

Policy STR10 – Resources

Policy GEN1 – General Requirements for Development

Policy GEN2 – Development Inside Settlement Boundaries

Policy GEN3 – Development in the Open Countryside

Policy D1 – Design Quality, Location & Layout

Policy TWH1 – Development Affecting Trees & Woodlands

Policy TWH2 – Protection of Hedgerows

Policy L1 – Landscape Character

Policy WB1 – Species Protection  
Policy WE5 – Protection of Registered Landscapes, Parks & Gardens of Special Historic Interest  
Policy AC13 – Access & Traffic Impact  
Policy EWP17 – Flood Risk

Additional Guidance

Planning Policy Wales (PPW) 2014

Technical Advice Note 5 – Nature Conservation & Planning

Technical Advice Note 6 – Planning for Sustainable Rural Communities.

Technical Advice Note 15 – Development & Flood Risk.

The proposal would generally comply with the above policies.

**7.00 PLANNING APPRAISAL**

7.01 Introduction

This application which has been submitted by Flintshire County Council seeks planning permission for the construction of a strategic flood alleviation scheme for the town of Mold. The application has been submitted as Mold has experienced extensive flooding during the last 35 years particularly in 2000 and 2012.

7.02 Consultants employed by Flintshire County Council have identified that the source of the flooding and flood risk is from two principal sources (a) fluvial flooding from the River Alyn and (b) fluvial flooding from smaller culverted watercourses running off the strip catchments to the west of the town. These catchments deliver storm flows into the existing culverted watercourses and surface water sewers and the current drainage infrastructure is unable to cope with these flows resulting in flooding during periods of heavy rainfall.

7.03 Background

Following the October and November 2000 floods in Mold, options to manage the risk were pursued both for the River Alyn and the more urbanised ordinary watercourse and surface water systems. The Environment Agency (EA) (now Natural Resources Wales) (NRW) using powers under the Water Resources Act looked to progress a flood alleviation scheme for the River Alyn with the Council looking to progress a scheme for urban systems using similar powers under the Land Drainage Act.

7.04 In 2005 the Environment Agency implemented a scheme involving localised river widening and the construction of walls and embankments along the River Alyn. At that same time Flintshire County Council's Project Appraisal Report had identified the preferred solution of a bypass channel intercepting flows from the western catchments diverting them to the River Alyn at Rhyd Y Goleu thereby reducing flows to the urbanised watercourses and surface water

systems. Discussions were undertaken with Environment Agency (EA) and their consultants at the time in relation to the impact of flows on the River Alyn. The effect was considered acceptable in principle given the timing of the relative flood peaks and given the increase in protection now provided by the Environment Agency Wales (EAW) works. In more recent years a great deal of additional hydrological and hydraulic modelling has been undertaken to investigate the potential impacts of this approach more comprehensively.

7.05 Evolution of Scheme Design and Consideration of Alternative Options as is standard practice and in accordance with Department for Environment Food & Rural Affairs/Welsh Government guidance, the 2005 prefeasibility studies and Project Appraisal Report (PAR) considered many possible options for reducing flood risk from the systems in Mold. Alternative approaches included a new watercourse to the east of the town discharging flows downstream of Mold, upgrades to the existing culverts/watercourses, upstream attenuation etc. Whilst there are clear advantages to some of these approaches on technical grounds, many could be discounted early on, due to the associated high costs making it impossible to meet acceptable benefit-cost ratios.

7.06 The most realistic options were taken forward for additional benefit cost analysis and a route to the west of Mold was identified as *“far and away the most cost effective of all schemes that met the indicative standard”* with costs for alternative strategies being 3 to 3.5 times more expensive. Further assessment and refinement of western route options was undertaken resulting in a preferred option of a cut off channel following the now proposed route.

7.07 In May 2011 as the design was refined it was identified that in addition to the bypass channel, sub surface attenuation would also be necessary within public open spaces within Mold to store floodwater to meet the required design criteria of the 100 year (+ climate Change event). The additional investigations listed below were undertaken to ensure that the revised and now larger scheme continued to be viable by meeting benefit-cost and design standards.

- *Mold Flood Alleviation Scheme – Project Appraisal Addendum Report (Feb 2013)*
- *Mold Surface Water Model Results Discussion - Report (December 2013)*

7.08 Although an open cut off channel remains the technically preferable solution, the design was amended significantly in 2013 in recognition of the potential impact of an open channel on upstream landowners' farming practices. The revised design saw the majority of the bypass channel being piped/culverted and smaller feeder ditches introduced to capture flows where needed. This compromise approach minimised the longer term impact on the land yet retained the ability of the

bypass culvert to intercept the flows necessary to meet design standards.

#### 7.09 Proposed Development

For Members information, there are two distinct parts to the proposed scheme which now forms part of this application and seeks to address the flooding issues highlighted. This includes:-

- a. An Overland Flow Cut-Off Drain to the West of Mold  
This will involve the formation of a culvert and in part an open ditch/channel together with intake and outfall structures stretching from the A494 near Gwernymynydd, northwards through a series of five farms, passing under the Gwernaffield Road and the A541, before discharging into the River Alyn, through the Poole House Culvert. The culvert would pass across agricultural land approximately 585 m which is Grade 3a and 1900 m of Grade 3 which are defined as being a mix of good/moderate quality.
- b. Underground Attenuation Tanks Near Caer Bracty & Maes Bodlonfa  
The installation of 3 No. underground attenuation tanks each with a storage capacity of approximately 3,000m<sup>3</sup> on playing fields/open space at Maes Bodlonfa and Ysgol Glanrafon. At Maes Bodlonfa there will be a single attenuation tank while at the school fields at Ysgol Glanrafon the storage area will consist of two tanks. It is proposed that ground levels will be raised by approximately 500 mm to facilitate their installation.

In addition to the standard application forms and plans, the application is accompanied by:-

- A Design & Access Statement.
- An Arboricultural Assessment.
- An Ecological Survey.

#### 7.10 Main Planning Considerations

It is considered that the main issues to be taken into account in consideration of this application are:-

- a. The principle of development.
- b. Assessment of Flood Consequences Risks and Potential Impacts of the Proposed Scheme.
- c. Impacts on River Alyn.
- d. The impact of development on the character of the landscape.
- e. Impact on amenity of occupiers of existing properties.
- f. Impact on playing fields at Maes Bodlonfa and Ysgol Glanrafon.
- g. Adequacy of access.

- h. Agricultural Land Classification (ALC).
- i. Impact on ecology.

7.11 In commenting in detail in response to the main planning considerations outlined above, I wish to advise as follows:-

7.12 Principle of Development

The principle of the development which is proposed to alleviate instances of significant flooding within the town, is in my view acceptable in line with the established planning policy framework. This is however subject to ensuring that there is no detrimental impact on the character of the landscape/ecology/highways and the safeguarding of relevant amenity considerations.

7.13 Assessment of Flood Consequences, Risks and Potential Impacts of the Proposed Scheme

Whilst the intention of flood alleviation schemes is clearly not to cause increases in incidental flooding, the Land Drainage Act 1991 and Flood & Water Management Act 2010 gives powers to local authorities to undertake such works where some incidental flooding elsewhere is unavoidable and where on balance it provides betterment to an existing situation. This reflects the unique nature of flood risk management projects and allows schemes to deliver the greatest improvements across wider communities at risk. By their nature flood alleviation schemes are set apart from typical development where the criteria of Technical Advice Note 15 – Development & Flood Risk apply and no increases in flood risk elsewhere would be acceptable.

7.14 Assessments suggests that some 360 properties have a degree of flood risk from the ordinary watercourses and surface water systems in Mold. Of these 167 properties are expected to be completely taken out of flood risk following the implementation of the proposed scheme and many others will have flood risk reduced. It is for the Council as a Flood Risk management Authority to determine whether or not on balance, the proposed development represents betterment across the wider community of Mold.

7.15 Impacts on the River Alyn

As the proposed scheme introduces flows to the River Alyn above the town there are legitimate concerns within the community given that the River Alyn has flooded prior to the implementation of the EA/NRW scheme in 2005. It is entirely proper that these issues were identified and taken account of within the scheme design and that Flintshire County Council demonstrate that the consequences or reduction of flooding resulting from the scheme are clear so that the acceptability of the proposals can be considered. The Council instructed that the existing information such as the EA/NRW River Alyn numerical computer models and river hydrology etc. be reviewed in collaboration with EA/NRW staff. In addition new modelling was undertaken to

improve confidence in the outputs and to assess the implications on flood risk resulting from the proposed addition of storm flows to the river from the bypass culvert. Full details of the model build process, assumptions, calculations, calibrations and outputs are provided within the separate modelling study reports:

- *River Alyn Modelling Study - Report (March 2014)*
- *River Alyn Modelling Addendum - Report (March 2014)*

7.16 The flood risk implications of the above model outputs are considered and discussed within the Flood Consequence Assessment:

- *Mold Flood Alleviation Scheme - Flood Consequence Assessment Final (May 2014)*

7.17 A key factor mitigating the impact of the scheme on the River Alyn flood levels relates to the differences in the relative catchment response times for the Alyn catchment and those of the western Mold catchments. This effectively means that for the design event (100 year + climate change) the proposed bypass channel is expected to deliver its maximum flows some hours prior to the River Alyn reaching its maximum flows.

7.18 Notwithstanding the above mitigation, some increases in flow rates in the River Alyn are inevitable and the modelling indicates that as a result of the scheme there are likely to be relatively small general increases in flood depths across the Alyn floodplain of 1 to 12cm. The majority of the increases are so marginal (less than 5cm for the 100 year + climate change flood event) as to be thought insignificant when considered in the context of model accuracies and the scale and nature of such an event.

7.19 Four locations were identified where flood levels could increase by some 7 to 26cm. This potential impact was investigated in more detail and property floor levels surveyed. Two of these properties have now been re-developed as part of the Pen Y Bont Farm (Marston Brewery) site and will be protected from flooding by means of a new flood defence wall agreed as part of the development. Modelling shows that for the two properties at Bridge Cottages the flood levels would be increased. It is therefore proposed that should planning be granted and the scheme progressed, flood resistance measures will be offered at these properties to reduce the flood consequences.

7.20 At the request of NRW a precautionary approach was taken and an extreme but unlikely 'worst case scenario' situation was considered where the peak flows of the River Alyn and proposed flood alleviation channel coincide. Although considered to be beyond the design criteria of the flood alleviation scheme this approach provided a useful tool to identify unforeseen consequences that could otherwise be

overlooked. No significant new flood risks were highlighted and increase in levels in the River Alyn compared with the more likely scenario were shown to be minor.

#### 7.21 Other Potential Impacts and Risks

Further to the more obvious concerns in relation to the River Alyn, implementing the proposed scheme introduces some generic risks inherent in most flood alleviation scheme projects. These include:

- Introduction of new (unforeseen) risks arising from failure or blockage of the new systems e.g. the new bypass channel - which could result in overland flows into areas of town that are not currently at flood risk. This has predominantly been addressed in the design through culverting and large (over-designed) screens on open channel sections.
- Availability of adequate Council resources to implement proper inspection and maintenance regimes required over the lifetime of the proposed scheme.
- The proposed scheme will be implemented for the most part on land in private ownership (predominantly actively farmed agricultural land to the west of Mold). In the absence of compulsory purchase powers being used, access arrangements to facilitate proper inspection and maintenance regimes over the lifetime of the scheme are required.

7.22 These risks are considered to be wider management issues and outside the technical scope of the detailed design and planning application. Should planning permission be obtained, and funding made available for the scheme to be progressed, the Council has committed to undertake additional investigation and review of the above matters prior to scheme implementation.

#### 7.23 Impact on Character of Landscape

During the construction phase, it is acknowledged that disturbance, movement and additional noise would affect the landscape character of the site and locality. However the impact of the construction works will be for a temporary period only and with the exception of a short section of an open ditch/channel, the culverts and attenuation tanks will be installed underground. This will, in my view, minimise the visual impact of the development proposed.

7.24 For Members information the application site includes a triangular area of land adjacent to the A5119/A494 roundabout on the north-western edge of Mold. This area of land has been included within the site on the rationale that the land in question, given its proximity to the line of the new culverts/channel, could be used as a contractor's site or compound for the storage of machinery whilst works are being undertaken.

- 7.25 During the construction phase of the development, it is also recognised that there will be a volume of excavated material produced, with any excess quantities proposed to be removed from the site. The third party concerns regarding the potential deposit of any surplus material on the triangular area of land adjacent to the A5119/A494 roundabout are duly noted. It is my view that such activity would have a detrimental appearance on the character of the landscape and entrance to the town of Mold. If Members are mindful to support the application then a condition should be imposed to restrict the use of this land for the siting of a contractor's compound or storage of machinery only, this being limited for the duration of the site works.
- 7.26 Impact on Amenity of Occupiers of Existing Dwellings  
The proposed development seeks to alleviate the impact of flooding for residents and their properties within the town of Mold, but it is recognised that during construction works that there will be a level of disturbance for residents. This will primarily be as a result of the movement of plant/machinery, noise from site operations and removal of excavated material from the site. It is however considered that with the imposition of conditions to control hours of use as part of the Construction Traffic Management Plan, that this will safeguard the privacy/amenity of existing residents.
- 7.27 Impact on Existing Playing Fields at Maes Bodlonfa/Ysgol Glanrafon  
As highlighted in paragraph 7.03 (b) of this report, the proposed development would involve the installation of underground attenuation tanks on playing fields/open space at Maes Bodlonfa and Ysgol Glanrafon.
- 7.28 During construction works this will result in these areas being unavailable for use and consultation on this aspect of the development has been undertaken with the Council's Public Open Spaces Manager.
- 7.29 It is acknowledged that the existing users of the recreational ground at Maes Bodlonfa will have to relocate to other site(s) whilst the work is undertaken and the availability of open space within the Ysgol Glanrafon will be impacted upon for a period of time. However, the nature of the site works proposed will result in the unavailability of these facilities for a short period of time only and provided the work can be timed and programmed to ensure minimum disruption, can in my view be supported.
- 7.30 Adequacy of Highways  
Given the relationship of the site to the existing highway network including the A494 Trunk Road, consultation on the application has been undertaken with both Welsh Government Transport and the Council's Highways Development Control Manager.

- 7.31 An assessment of vehicular movements associated with the development from construction vehicles, the movement of excavated material from the site and the safeguarding of access for any future maintenance work has been undertaken.
- 7.32 Whilst there is no objection to the principle of development from a highway perspective, and it is considered that there is likely to be minimal disruption to the operation of the highway network following completion of the works, Welsh Government Transport have directed that any permission includes conditions to:-
- a. Ensure that there is no direct access from the site onto the Trunk Road without further written approval, and
  - b. No development including site clearance work is to take place until a Construction Traffic Management Plan has been submitted and approved to control, the scale/nature of vehicular movements.
- 7.33 The Highways Development Control Manager concurs with the conclusions of this direction and if Members are mindful to grant permission, specific details of the Construction Traffic Management Plan including e.g., access/egress routes and hours of operation can be controlled through the imposition of a condition.
- 7.34 Agricultural Land Classification  
Clarification on the Agricultural Land Classification (ALC) across which the proposed development is to take place, has been undertaken with the Land Use Planning Unit (Welsh Government).
- 7.35 It has been confirmed that the proposed culvert would pass across approximately 585 m of Grade 3a and 1900 m of Grade 3 agricultural land. Whilst there are national and local policies which seek to protect the 'best and most versatile agricultural land, the development does not require on the basis of the area involved consultation with Welsh Government (Agriculture).
- 7.36 It is acknowledged that during site works there there will be some disruption on farming activities that are currently undertaken with some land being unavailable for use during this period. It is important to ensure that the level of disruption and impact on farming operations is minimised during this period and after completion of the works the site is restored to its previous condition with measures for aftercare secured. If members are mindful to grant permission this can be secured through the imposition of planning conditions.
- 7.37 Ecological Considerations  
The proposed route of the proposed culverts/ditches and associated structures across agricultural land, has been the subject of an ecological assessment and a species survey has been submitted as

part of the application. This has focussed on the potential impact of development on Great Crested Newts, Bats, Badgers, Birds, Water Voles and Reptiles including Lizards and Slow Worms.

- 7.38 The EC Habitats Directive 1992 requires the UK to maintain a system of strict protection for protected species and their habitats. The Directive only allows disturbance, or deterioration or destruction of breeding sites or resting places, in the interests of public health and public safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment and provided that there is no satisfactory alternative and no detriment to the maintenance of the species population at favourable conservation status in their natural range.
- 7.39 The UK implemented the Directive by introducing The Conservation (Natural Habitats etc) Regulations 1994, now the 2010 Regulations, which contain two layers of protection a requirement on Local Planning Authorities (“LPAs”) to have regard to the Directive’s requirements above, and a licensing system administered by the Welsh Ministers.
- 7.40 Planning Policy Wales (Edition 7, paragraph 5.5.11) advises Local Planning Authorities that: “The presence of a species protected under European or UK legislation is a material consideration when a local planning authority is considering a development proposal which, if carried out, would be likely to result in disturbance or harm to the species or its Habitats”.
- 7.41 Technical Advice Note 5 - Nature Conservation and Planning (2009) states at para. 6.3.6 :- “Regulation 3(4) of the Habitats Regulations [Regulation 9 (5) in the Habitats Regulations 2010] requires all local planning authorities, in the exercise of their functions, to have regard to the provisions of the Habitats Directive so far as they might be affected by the exercise of those functions. Consequently, the Directive’s provisions are relevant in reaching planning decisions where a European protected species may be affected and it is therefore important that such planning decisions are reached in a manner that takes account of, and is consistent with, the Directive’s requirements. Those requirements include a system of strict protection for European protected species, with derogations from this strict protection being allowed only in certain limited circumstances and subject to certain tests being met. These requirements are transposed by the provisions of the Habitats Regulations. The issues of whether development could give rise to a breach of the Regulations’ requirements, and whether there may be a potential need for a licence to avoid such a breach, are therefore a material consideration in a relevant planning decision, and where a licence may be needed, the three licensing ‘tests’ required by the Directive should be considered by the local planning authority. Paragraph 6.3.7

then states:- “It is clearly essential that planning permission is not granted without the planning authority having satisfied itself that the proposed development either would not impact adversely on any European protected species on the site or that, in its opinion, all three tests for the eventual grant of a regulation 44 (of the Habitats Regulations) licence are likely to be satisfied”.

7.42 For Members information, the submitted report/survey concludes that the proposed route of the flood alleviation scheme does not have any major impact on any habitats or protected species listed. On completion of the scheme the report also advises that the ditched sections of the route will if managed appropriately enhance the species diversity along this corridor.

7.43 The proposed development and conclusions of the ecological survey have been assessed by Natural Resources Wales (NRW) who have confirmed that the development will not have an impact on the species listed, subject to the undertaking of appropriate mitigation in respect of badgers. In addition NRW have also confirmed that the ditched sections if appropriately managed, will enhance the wildlife interest of the application site. The aspects of the development can be addressed through the imposition of appropriately worded conditions if Members are minded to support the proposed development.

## **8.00 CONCLUSION**

8.01 It is my view that given recent instances of heavy flooding within the town of Mold, that a strategic scheme to try and alleviate the consequences for individuals and their properties is to be welcomed and supported. Of particular importance however is the need to ensure for landowners, across whose land the additional works are required to be undertaken, that the impact on the character of the landscape and their farming interests are minimised and ecological interests safeguarded through a scheme of appropriate mitigation. In addition there is a need to recognise that during construction operations that there will be an inevitable impact on the existing highway network through increased vehicular movements and that the impact of these movements needs to be strictly controlled. I therefore recommend that conditional permission is granted as outlined in paragraph 2.01 of this report.

8.02 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.

**LIST OF BACKGROUND DOCUMENTS**

Planning Application & Supporting Documents

National & Local Planning Policy

Responses to Consultation

Responses to Publicity

**Contact Officer:** Mark Harris  
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