

**FLINTSHIRE COUNTY COUNCIL**

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

**DATE:** **WEDNESDAY, 12 APRIL 2017**

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

**SUBJECT:** **FULL APPLICATION - ERECTION OF 186 DWELLINGS AND ANCILLARY DEVELOPMENT AT CHESTER ROAD, PENYMYNYDD**

**APPLICATION NUMBER:** **055590**

**APPLICANT:** **REDROW HOMES NW**

**SITE:** **CHESTER ROAD, PENYMYNYDD**

**APPLICATION VALID DATE:** **30<sup>TH</sup> JUNE 2016**

**LOCAL MEMBERS:** **COUNCILLOR D.T.M. WILLIAMS & COUNCILLOR MRS C. HINDS**

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

**REASON FOR COMMITTEE:** **SIZE AND SCALE OF DEVELOPMENT**

**SITE VISIT:** **YES**

**1.00 SUMMARY**

- 1.01 This is a full application for the erection of 186 dwellings and all associated works on land off Chester Road, Penymynydd.
- 1.02 The main issues to be considered within the determination of this application are;
- Principle of the development;
  - Sustainability;
  - Affordable housing;
  - Public Open Space;

- Education;
- Landscape and visual impact;
- Ecology;
- Best and Most Versatile Agricultural Land;
- Archaeology;
- Highways;
- Public Right of Ways & Bridleways;
- Drainage – surface water and sewerage and
- Design and impact upon amenity.

1.03 In terms of the principle of residential development on the site, it is considered contrary to both national and local planning policies given that the site is located outside the settlement boundary and within open countryside as defined by the Adopted Flintshire Unitary Development Plan. The site is being promoted predominantly on the basis of the current shortfall in housing land supply. However, it is considered that the weight attached to increasing the housing land supply does not outweigh the harm that would arise from the detrimental impact of such a scale of development as this would have upon the cohesiveness of the community and the principles of sustainable development.

1.04 Most of the detailed matters of the application may be capable of being resolved apart from outstanding issues relating to surface water management. It is considered that insufficient details have been submitted to enable a full assessment of any risks of flooding of the site and surrounding area to be made.

## **2.00 RECOMMENDATION: TO REFUSE PLANNING PERMISSION FOR THE FOLLOWING REASONS**

2.01 The site is located outside the settlement boundary for Penyffordd and Penymynydd and within open countryside as defined by the adopted Flintshire Unitary Development Plan. It is considered that the weight attached to increasing housing land supply is not considered to outweigh the harm that would arise from the detrimental impact of such a scale of development would have upon the cohesiveness of the community and principles of sustainable development as set out in Planning Policy Wales (9th Edition – November 2016) and contrary to paragraph 6.2 of TAN1 and contrary to Policies STR1, GEN3 and HSG4 of the Flintshire Unitary Development Plan.

2.02 Insufficient surface water drainage details have been submitted to enable a full assessment of the risks of flooding of the site and surrounding area to be made. The proposed development is therefore contrary to Policies GEN1 and EWP17 of the Adopted Flintshire Unitary Development Plan and Technical Advice Note (TAN) 15 'Development & Flood Risk' (July 2004).

## **3.00 CONSULTATIONS**

### 3.01 Local Member

#### Councillor D.T.M. Williams

Strongly objects to the proposal on the following grounds and requests application to be dealt with at Committee level.

The development proposal if approved.

- Is being considered under conflicting information on Planning Policy and Government advice and as such makes this an application not worthy of consideration if certain versions of Policy and Advice are being interpreted. This point will be elaborated on at Committee.
- Is a premature application. This is a premature application with LDP being formulated and if approved, this application could prejudice and possibly handicap future applications for other sites that have been submitted for expression of interest for the LDP. If this site is accepted, it is possible that others would be rejected due to this application satisfying commitment towards housing supply in County if approved. Sites next to the bypass that are more logical for development and identified in the expression of interest sites could be handicapped if this site is permitted.
- Is outside settlement boundary of the adopted UDP which is still being worked upon until the LDP is formulated.
- Will have a negative impact on education. Full schools, out of the six years including nursery places, four of the years in Penyffordd are full and three of the six are full at Penymynydd.
- Will have a negative impact on community wellbeing due to increase in population so urbanising and diminishing community spirit which is currently in decline due to such urbanising as a result of the two large sites of the past three years.
- Will create an over dominance of dwellings in the open countryside and will have a negative impact on the streetscene at the eastern entrance to the village.
- Will result in the loss of privacy and potential loss of light for neighbours of proposed dwellings.
- Will significantly impact on the volume of traffic using already congested roads in the village, so will increase the issues regarding road safety in the proposed location and village in general due to increased traffic.

- Will have a negative impact on community facilities. The last open space survey conducted for the ward identified a shortfall of 5.02 ha outdoor youth and adult open space and 0.95 ha shortfall of children's free playspace. The two large developments under the UDP provided provision for the immediate sites adjoining the developments, but the broader community has not benefitted and the space on each site has not addressed the overall shortfall for the ward. There should be no further residential developments until this shortfall is addressed by the authority, especially in regard to outdoor adult/youth space to provide for the current long suffering community!
- Not support the development or broader community with no doctor's surgery, a lack of shops and general amenities.
- It will be unacceptable encroachment on the open countryside.
- Will have a potential disturbance and negative impact on the protection of natural habitat and wildlife including, Bats, Song Thrush, Short Eared Owls, Newts and natural growth and habitat in the hedgerows!
- Not adequately provide for the need for more open space – two of the three senior football teams of the village have had to disband this year through unsustainability of having to play outside the village. There is still one senior football team, seven junior football teams, a senior cricket team, and various other organisations who, with the exception of the remaining senior football team, have to operate outside the village with no provision for support by way of recreation space in ward.
- It will increase flood risk at bottom of village currently subject to sewer overflows and flooding, particularly around entrance to Penymynydd Road.
- Overloaded sewage system – regular issues at bottom of the village near the Millstone and Youth Club.
- Water pressure problems in the area of the application.

Councillor Mrs C. Hinds

Objects on the following grounds:-

- Until Welsh Water carries out urgent upgrading of the water and sewage systems, no further developments should be allowed. The village is still awaiting an upgrade.
- Much more traffic in the village.

- Penymynydd & Penymynydd have only one shop and off licence.
- Need a doctor's surgery and clinic because now the new residents cannot find a doctor or dentist. Schools need to be looked into.
- Highways need to consult why community council and county councillors first know to go ahead with their own views and consult after and still do what they want.
- Big developments with executive homes is not needed. To keep a community together small bungalows for the older generation, affordable homes for our children and accommodation that can be rented as a lot of people cannot afford to buy a house. Better bus services are required as residents cannot travel to work on a Sunday by public transport as there is no service. Cannot sustain this many houses because of infrastructure and amenities.
- Environmental disaster if this land were developed. Recordings of rare birds, Tawny Owls and Barn Owls and wild flowers. Path 8 which links to historic bridleways. Cannot destroy wildlife.
- Development on brow of a hill and will be very dangerous as entrance onto Chester Road which is a busy and fast road.
- It is a rural community with equestrian centre and surrounded by farm land. Settlement boundary in place now and is there to protect the communities environment.
- Need to utilise the 888 homes that are empty.
- Does not keep communities together.
- Objection still the same and minor changes make no difference.
- Rhos Road appeal was won and other applications on top of this will cause problems for the community and will cause over-development.
- Houses are not affordable being 4 bedroom. Affordable housing in the way of pensioner's bungalows and rentable accommodation is what is needed.

Strongly objects to the proposed development. The main reasons being:-

- Village is over developed and is not provided the protection against displaced housing from Cheshire promised in the 2000 – 2015 UDP.
- Recent developments in the village failed to provide the 30% affordable homes requirement which has now left the village with little to no affordable housing leading to families having to leave the village and relatives in search of affordable properties. Only offers 19 affordable homes. Strict on affordable housing which is leading to social exclusion.
- Overdevelopment. 190 houses would achieve 38.5% of the Council's own annual target for development. Not acceptable in one village which has already been subject to maximum development allowance in 2000 – 2015 UDP on the Elan, Redrow and Taylor Wimpey sites.
- Search sequence for previously developed land or under used buildings including surplus employment land before housing on greenfield sites should be undertaken.
- HSG3 requires that on development sites resulting in growth of more than 15% will need to be justified on grounds of housing need. No justification with this application.
- 10% local need is not enough. No affordable housing in the village now. No socially inclusive.
- Category A settlements (10 – 20% growth) sites are Buckley, Holywell, Shotton, Connah's Quay, Queensferry, Mold and Flint.
- Should be a variety of type and tenure of affordable homes.
- 190 homes is 38.5% of the entire annual target in one village. This is unacceptable.

Highways Development Control Manager

Majority of highway issues have been satisfactorily addressed apart from that an appropriate system for the collection and disposal of highway surface water has not been identified.

Emergency Services confirmed that a single point of access is satisfactory to meet their needs. They and building control are satisfied regarding the proposed lengths of cul-de-sac and confirm they comply with the usual standard.

Provision of footways and bus stop facilities on Chester Road can be covered by a condition to undertake the works would be covered by a Section 278 Agreement.

Off-site pedestrian and cycle linkages including the possible provision of a suitable hard surface and suitable lighting to Bridleway 24 and pedestrian links to Chester Road and Kent Close footpath.

Construction of the site access, provision of street lighting and footways necessitate an extension to the existing 30 mph speed restriction on Chester Road, a Section 106 Agreement will be required to fund the amendments to the traffic order.

If application is approved suggests approximately worded conditions are attached to any planning permission granted.

Environment Directorate: (Rights of Way)

Public Footpath No. 8 is now shown designed into the estate development on the revised plan.

If consent granted, there should be no requirement for a Public Path Diversion Order as this has been incorporated into the design of the new development, however it is likely that a temporary closure order would be required for a large duration of the construction works.

Concern is the length of time it will take to complete the development which will likely render the path unusable.

Proposals have been put forward to improve the surface of Bridleway No. 24 and lighting be installed along the route. Requests the surface remain untreated and no lighting to be installed along the route. This is a popular bridleway for users on horseback and the surface at present is suitable for its usage.

Requests any consent includes a condition to safeguard the route of Public Footpath No. 8 during construction works.

Head of Public Protection

Noise survey indicates that noise will be within acceptable levels with some mitigation. Recommends suggested conditions attached to any planning permission granted.

Education – Capital Projects & Planning Unit (CPPU)

Schools affected are Penyffordd Primary School and Castell Alun High School.

The Penyffordd Primary School requested contribution is £551,430 with the Castell Alun High School requested contribution requested is £591,008 which will be spent on curriculum areas.

### Housing Strategy Manager

Requests on site provision of 20 affordable ownership–shared equity units (10 x 2 bed houses and 10 x 3 bed houses), 7 affordable rent-gifted units (5 x 2 beds and 2 x 3 beds) and a commuted sum of £450,000 (equipment to 14 units). This is based on the local need for the area.

### Play Unit

Unable to support the application due to the lack of recreation facilities a community of this scale would require.

Requires a sports pitch 100 x 70 m. Play provision of an area not more than 10,000 sq.m. equipped to a neighbourhood level and including a multi-use games area. This play space should be located in one central location to be agreed.

### Natural Resources Wales

Previous response remains valid. This being:-

#### Great Crested Newts

Proposal has potential to cause disturbance to Great Crested Newts and/or loss or damage to their resting places.

Authority should not grant planning permission without having satisfied itself that the proposed scheme either would not impact adversely on any GCN's on the site or that, in its opinion, all three conditions for the eventual grant of a licence are likely to be satisfied.

Consider that the development is not likely to be detriment to the maintenance of the favourable conservation status of the GCN population provided that any subsequent consent is subject to the imposition of the suggested conditions or obligations.

#### Bats

None of the trees on site were shown to support bats.

Advise a condition regarding the submission and approval of a light spillage scheme to be submitted and approved should planning permission be granted.

#### Bio-Security

Is a material consideration owing to the nature and location of the proposal. Advise that any consent includes the imposition of a condition requiring the submission and implementation of a Biosecurity Risk Assessment to the satisfaction of the Local Planning Authority.

#### Flood Risk

Site lies within Zone A as defined in TAN15 Development & Flood Risk (2004) and shown on Welsh Government's Development Advice



Map. Development is likely to increase the surface area of impermeable ground, thus reducing percolation and increasing rapid surface run-off. TAN15 advises that in all zones development should not increase flood risk elsewhere.

Prior to granting permission, recommend contact with FCC drainage department for advice. This is to ensure that conditions are not attached to a planning permission which could later prove impossible to implement.

North-East Wales Wildlife

No response received to date.

North Wales Wildlife Trust

No response received to date.

Dwr Cymru Welsh Water

Hydraulic Modelling Assessment identified that detriment to the Local Sewer Network would be caused as a result of the new development connecting. Number of options for sewer network reinforcement have been provided, the implementation of one of these options would enable the development to connect into the public sewer network without causing any detriment to the local community or environment.

Support application on basis that appropriately worded conditions are used in the determination of the planning application

Welsh Government Land Use Planning Unit

The ALC report dated 4<sup>th</sup> May appears to have been completed in accordance with the MAFF 1988 guidelines and criteria for addressing agricultural land quality. The report provides a fair reflection of agricultural land quality across the site.

Clwyd-Powys Archaeological Trust

No archaeological implications for the proposed development at this location.

North Wales Police

Requests that this whole development be built to Secure by Design.

Fire Service

Following observations to make:-

- Single access point. Provided the access complies with Table 20 of ADB, no issues. Likewise use of bridleway.
- Roadway lead to Plot 178 no longer than 20 m if it is, compensatory feature such as the installation of a hammerhead.

- Side roads to certain properties not over 20 m and hammerhead is of sufficient size to allow a fire appliance to turn.
- Access for plots 158 – 162, roadway needs to carry 12.5 tonnes required for a fire appliance.
- Roadway leading to plot 32 – 38, pumping appliance needs to reach all properties within 45 m of the available access for the vehicle.
- Number of fire hydrants required within the site, to ensure that a property is no further than 100 m from them.

#### Ramblers Association

Amendments do not overcome previous concerns – the public path is now mainly turned into roads (albeit on definitive line), and layout is still woefully lacking in Active Travel provision – not a cycleway on the site (see UDP Policy AC2, 3, 4, 13, 14 etc) previous comments being Ramblers object to the application on the following grounds.

- Proposal will directly affect and obstruct the Public Footpath Number 8 from Daisy Hill Farm.
- No provision made for a through path. Any closure or division of the public footpath will require a separate order. The Ramblers likely to maintain a formal objection to any such Draft Order.
- Layout uninspired and fails to make provision within the layout for “Active Travel”, and linking the development to adjacent rights of way e.g., bridleway 24 or other estate footpaths to the west and south.

#### British Horse Society

No response received to date.

#### SP Energy Networks

Have plant and apparatus in the area and the developer is advised to contact them prior to any works being undertaken.

#### Wales & West Utilities

Has pipes in the area. Apparatus may be affected and at risk during construction works. Should the application be approved, then require the promoter to contact them directly to discuss their requirements before any works commence on site. Should diversion works be required these will be fully chargeable.

#### Airbus

Proposed development does not conflict with safeguarding criteria.

During construction, the developer will be required to submit crane permits where required.

No aerodrome safeguarding objection to the proposal.

#### **4.00 PUBLICITY**

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

277 letters of objection received. The grounds of objection are summarised below:-

- Loss of Village (harm). Sheer scale of recent growth started to dilute community spirit. This will increase. Lack of affordable housing will result in next generation moving away. Sense of family under threat.
- Pace of Change (unsustainable). 400 houses – over 1,000 people added in past 5 years or less. Infrastructure cannot keep pace.
- Bus and Rail Transport (unsustainable). Unrealistic for the train station to present it as a heavily used resource for commuters. No pedestrian access across the A550 to either Penyffordd or Buckley train stations. Bus services are impractical for working people to use. Lack of non-peak services.
- Surrounding Road Network (unsustainable). Local road network overloaded at peak times which will get worse. Increase of accidents.
- Roads in the Development (harm and unsustainable) single exit with option to open a link through Holly Drive is unsuitable and unsustainable.
- Damage to Roads (unsustainable). Significant increase in traffic journeys will exacerbate problem of poor state of roads in the area.
- Traffic Impact Inside Village (unsustainable and harm). Development will lead increased traffic to the village shops and schools detriment to highway safety.
- Lack of School Places (unsustainable). Places limited at the moment. New school will only increase number of places in line with capacity of village today. Not provide for additional capacity.
- Broad and Provision (unsustainable). Provision is very poor and highly constrained. Has a negative impact on businesses

and local residents seeking to access online services.

- Open Space (unsustainable and harm). Open space is a significant failing in past developments. New developments have provided only for childrens play provision. Footpath through the development is heavily used for dog walkers, since it is a large open space for dogs.
- Waste (unsustainable and harm). Main sewer in the village too small for number of houses using it. To consider sustainability of development must be considered within wider context of the whole village capacity and not simply managing the capacity of the development.
- Surface Waste (unsustainable and harm). Real concerns that removal of green land will introduce problems with water run off which could adversely affect properties on low ground.
- Water (unsustainable and harm). No extra water capacity until main supply to village is upgraded. Problems with water pressure. None of the investment by DCWW is earmarked for Penymynydd or Penyffordd.
- Affordable Housing (Harm). Prices out of reach of many existing villagers and first time buyers or those looking to downsize. Not providing the full allocation of affordable housing on site.
- Healthcare (unsustainable and harm). Villagers not being provided with adequate access to medical services. Adding additional 500+ residents will make the problem worse for new and existing residents.
- Prematurity. Applicants are having to submit early and outside of the process in order to reduce the risk of being left behind or missed out. Applications have been approved outside of the LDP such as Rhos Road, bringing forward more applications outside of the LDP process.
- Coalescence. Development taking the village boundary close to neighbouring Broughton and Kinnerton. The development at Warren Hall will bring the industrial development of Broughton to within a handful of fields of Penyffordd.
- Proposed sites in Buckley could bring Buckley close to Penyffordd.
- Emerging LDP. It is believed that Penyffordd is not subjected to as much as 10% growth under the LDP.

- TAN1 and Planning Policy Wales. Imperative that UDP policies retain significant weight until LDP is ready. Need to clarify scope and intention of TAN1 to avoid irreparable damage to border villages and to validity of the whole LDP process.
- Brownfield Land. Previously developed land or underused buildings, including surplus employment land should be allocated for housing before new greenfield sites e.g., 053417.
- Housing Need. Significant growth in Penyffordd needs to be managed according to need which has not been demonstrated. Developers are bringing forward sites which offer more financial potential in villages which are commutable and open up the lucrative Cheshire market.
- Settlement Boundary. Land is outside settlement boundary. Not considered under UDP, which remains the current policy. The settlement boundary remains valid.
- Settlement Size – overdevelopment. Village overdeveloped under the UDP with actual growth of 21%.
- Against UDP guidance of 8 – 15%. Growth sits at 28%. This is not sustainable without border investment in and consideration of the wider infrastructure.
- Transport. Development needs to be located so as to minimise demand for travel. Little employment in Penyffordd – most people travel out of the village to work or study. Bus services have been reduced and trains from Wrexham to Bidston is infrequent and a mile walk from the site. No medical facility within the village closest large employers are Hanson Cement, Airbus and Broughton Retail Park which are accessible by bus but there are no continuous footpaths or cycle paths.
- Nature and Environment. Fields impacted by the development contain hedgerows which are over 150 years old and contain a variety of shrubs, flowers and tree species. Numerous species of nesting birds as well as Great Crested Newts, bats, hedgerows, moles, mice and badgers.
- Noise and Disturbance. Residents on Chester Road, Hazel Drive and Kent Close will be significantly affected by noise, privacy and increased activity. Village already suffers with factory noise from Hanson Cement and excessive road noise impact would be harmful.
- Displaces Housing from Cheshire. Village is threatened by the

limited land available in Chester for housing development.

- Housing Mix. 60% 4 bedroom with less than 10% 2 bedroom. No appropriate mix likely to create a mixed and socially inclusive community. No bungalows on this site.
- Affordable Housing. Village has had repeated development where the developers have been allowed the minimum number of affordable homes and skewing the community. Youngest generation are being forced out of the village.
- Wider Context. Developers failed to build houses in Flintshire on sites proposed under the UDP and remains a shortfall against forecasts, despite the technical lack of a 5 year housing supply. Housing need and distribution is best considered properly within the LDP process.
- A Prosperous Wales. Under this goal new developments required to minimise land take. This development does not do this. The proposal will place added pressure on the inadequate water and drainage system. The road system would not be able to take the additional volumes.
- A Resilient Wales. Development will go against the goals of ecological resilience, social resilience, climate change and development in the countryside.
- A Healthy Wales. Will place added pressure on existing health care provision. Additional housing and traffic will result in worsening noise and air quality conditions.
- More Equal Wales. Mix of housing is focussed on wealthier residents with limited provision of affordable homes and no consideration of the needs of the disabled, elderly or future generations.
- A Wales of Cohesive Communities. Does not meet this goal when the poor public transport network and lack of businesses within walking distance are considered. Development does not take into account the communities needs and provides only limited affordable homes.
- Land for housing development, even with obligatory urban drainage system is likely to lead to faster run-off and increase flooding in areas downstream.

A further 32 letters of objection have been received upon the amended plans, raising no further objections to those stated above other than they do not resolve the previous objections.

## **5.00 SITE HISTORY**

### **5.01 054089**

Pre-Application Advice – Proposed residential development.

### **02/12/00213**

Renewal of planning permission ref: 97/12/00419 – To allow re-establishment and extension of dwelling in former farmhouse – Granted 7<sup>th</sup> May 2002.

### **97/12/00419**

Proposed re-establishment and extension of dwelling in former farmhouse – Granted 10<sup>th</sup> June 1997.

### **4/12/24761**

Change of use of building last used for agricultural storage to a dwelling and creation of an extension – Granted 9<sup>th</sup> February 1996.

### **197/72**

Outline Application for erection of dwellings – Refused 3<sup>rd</sup> March 1972.

### **136/64**

Outline Application for erection of dwellings – Refused 28<sup>th</sup> April 1964.

### Adjacent Site – North

### **048892**

Erection of 85 dwellings comprising 2/2.5 storey units with associated garages, parking, garden areas and public open space with demolition of existing public house and outbuildings – Granted 26<sup>th</sup> October 2012.

## **6.00 PLANNING POLICIES**

### **6.01 Flintshire Unitary Development Plan**

STR1 – New Development.

STR2 – Transport & Communications.

STR4 – Housing.

STR7 – Natural Environment.

STR11 – Sport, Leisure & Recreation.

GEN1 – General Requirements for Development.

GEN3 – Development in the Open Countryside.

GEN5 – Environmental Assessment.

D1 – Design Quality, Location & Layout.

D2 – Design.

D3 – Landscaping.

D4 – Outdoor Lighting.

TWH1 – Development Affecting Trees & Woodlands.  
TWH2 – Protection of Hedgerows.  
L1 – Landscape Character.  
WB1 – Species Protection.  
AC2 – Pedestrian Provision & Basic Rights of Way.  
AC13 – Access & Traffic Impact.  
HSG4 – New Dwellings Outside Settlement Boundaries.  
HSG8 – Density of Development.  
HSG9 – Housing Mix & Type.  
SR5 – Outdoor Playing Space4 & New Residential Development.  
EWP12 – Pollution.  
EWP13 – Nuisance.  
EWP16 – Water Resources.  
EWP17 – Flood Risk.  
IMP1 – Planning Conditions & Planning Obligations.

Local Supplementary Planning Guidance Notes  
Local Planning Guidance Note 2 – Space Around Dwellings.  
Local Planning Guidance Note 3 – Landscaping.  
Local Planning Guidance Note 4 – Trees & Development.  
Local Planning Guidance Note 8 – Nature Conservation & Development.  
Local Planning Guidance Note 9 – Affordable Housing.  
Local Planning Guidance Note 10 – New Housing in the Open Countryside.  
Local Planning Guidance Note 11 – Parking Standards.  
Local Planning Guidance Note 13 – Open Space Requirements.  
Local Planning Guidance Note 22 – Planning Obligations.  
Adopted Supplementary Guidance – Developer Contributions to Education.  
Developer Guidance Note – Speculative Housing Development Proposals.

#### National Planning Policy

Planning Policy Wales (9<sup>th</sup> Edition – November 2016).  
Technical Advice Note (TAN) 1: Joint Housing Land Availability Studies (2015).  
Technical Advice Note (TAN) 2: Planning & Affordable Housing (2006).  
Technical Advice Note (TAN) 5: Nature Conservation & Planning (200()).  
Technical Advice Note (TAN) 12: Design (2014)  
Technical Advice Note 16: Sport, Recreation & Open Space (2009).  
Technical Advice Note (TAN) 18: Transport (2007).

## **7.00 PLANNING APPRAISAL**



7.01 Site Description

The application site is 7.72 ha and is located on the eastern edge of the village of Penymynydd. It is roughly oblong in shape and comprises of six fields of gently sloping farmland. A residential property and stabling complex is located in the south east corner. Surrounding the perimeter of the site is mainly a mix of hedgerows, trees and fences, with a variety of trees and hedges also running through the site.

7.02 Footpath No. 8 crosses the site from the north-west direction to the south east, linking to the residential areas to the west.

7.03 The northern boundary is defined by mature hedgerows and trees along a track and Bridleway No. 24. To the north of this hedgerow bund track is an open green space and play area within a new residential development called Heritage Park which is accessed off the A5104 to the north. Mature trees are present on this hedgerow boundary.

7.04 The boundary to the south abuts Chester Road, which runs north-east-southwest. It is defined by mature hedgerow.

7.05 Farmland and Daisy Bank Farm are east of the site, with Chester Road and Lower Mountain Road beyond. The southern extent of this boundary is defined by mature hedgerow.

7.06 The western boundary abuts the existing residential development of the village and includes mature hedgerow and trees and property boundaries comprising garden hedgerows and fencing. Mature trees are present on this hedgerow boundary.

7.07 The site is part of a wider landscape of rolling farmland interspersed with woodland blocks, small watercourses and well maintained hedgerows and frequent hedgerow trees.

7.08 The Proposals

This is a full application for the erection of 186 dwellings including affordable housing, public open space, access, drainage and other associated infrastructure upon a 7.72 ha area of land at Chester Road, Penymynydd.

7.09 The proposed dwellings are two storey in nature. The dwellings are a mixture of detached, semi-detached and mews properties, comprising:-

- 57 x 3 bed units.

- 102 x 4 bed units.

7.10 The proposed layout provides for affordable housing comprising of;  
10 x 2 bed shared ownership houses and  
10 x 3 bed shared ownership houses which will be managed through  
Grwp Cynefin HA.

5 x 2 bed affordable rent-gifted units and  
2 x 3 bed affordable rent- gifted units these are equivalent to 21 units.

And the commuted sum equivalent of 14 units.

These proposals have been agreed with the Council's Housing Strategy Manager as an appropriate and justifiable response to affordability issues in the area.

7.11 The proposed development would be accessed from a new access point created onto Chester Road. Proposed pedestrian footways are proposed linking Footpath No. 8 into Hulleys Close, the site links into Bridleway No. 24 to the North and the site into the existing footway at the end of Kent Close. Public open space and a multi-use games area are proposed within the middle of the site.

7.12 Main Issues

The main issues for consideration in the determination of this application are:-

- The Principle of Development in relation to National and Local planning policy and the presumption in favour of sustainable development.
- Provision of Affordable Housing, Public Open Space & Education Contributions.
- Landscape & Visual Impact.
- Ecology.
- Best & Most Versatile Agricultural Land.
- Archaeology.
- Public Right of Way & Bridleway.
- Highway Implications.
- Drainage of the Site.
- Design & Impact Upon Residential Amenity.

7.13 Principle of Development

The site is located outside the settlement boundary for Penyffordd & Penymynydd in the adopted UDP. Penyffordd & Penymynydd is a Category B settlement with a planned growth threshold of 15% (beyond which any additional development would have to be justified

on the grounds of housing need). As at April 2015, the settlement had a growth rate of 27.1% over the plan period which is in excess of the planned growth rate. The monitoring of growth over a 15 year period as required by HSG3 ended on 1<sup>st</sup> April 2015.

- 7.14 In terms of policies in the 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.
- 7.15 Given the proposal is for an anticipated 186 dwellings and does not fall within the scope of the above policy framework, then the proposal is contrary to these policies in the adopted UDP and is a departure from the development plan and has been advertised as such.
- 7.16 The applicant is reliant on the lack of a housing land supply as the principle justification in support of their application, and against which they say the Council should approve it.
- 7.17 This is not sufficient in its own right and should not necessarily be given significant weight unless, as TAN1 advises, the development would otherwise comply with local and national policies, and as PPW sets out, there is a presumption in favour of sustainable development.
- 7.18 In relation to these principles, the degree to which the proposal is compliant with local and national policy is the first 'test' in relation to the principle of its suitability for development. In this context, the detail of the scheme is of less relevance, if it is not acceptable in principle.
- 7.19 In this respect, the site is clearly located outside of the settlement boundary for Penyffordd and Penymynydd in the adopted UDP, and equally does not meet the criteria set out in either Policy GEN3 Development in the Open Countryside or Policy HSG4 New Dwellings Outside Settlement Boundaries, which define the specific and limited instances where residential development may be acceptable in the countryside. This proposal is not one of those exceptions.
- 7.20 That said, given that the adopted UDP is time expired, a key factor is the weight to attach to the settlement boundary for Penyffordd and Penymynydd, and therefore the suitability of this location for development.
- 7.21 Penyffordd and Penymynydd were judged to represent a sustainable location for development as part of the UDP, and to that extent two large sustainable sites were allocated within the settlement boundary

in the adopted plan. Both of these sites have only relatively recently been substantively developed out for 356 homes (132 on the White Lion site and 224 on the Wood Lane Farm site. Over the 15 year Plan period the actual level of completions represents a growth in housing in the community of 21%, or 27% if the Meadowslea site (outside the settlement boundary) is included which is almost double the upper level of the indicative growth band for this category B settlement, as defined in the UDP. If growth is re-calculated for the LDP period (2015 to 2030) the 81 commitments at the Wood Lane Farm site and the 40 units recently allowed on appeal at Rhos Road, results in a growth of 7.5% which increases to 18.9% if the application site is included.

7.22 At the time of the UDP Inquiry, the UDP Inspector also considered this sit along with other objection sites, and the proposed allocations. The Inspector rejected this site stating **“This large area of land could accommodate over 190 dwellings and would result in an unacceptable level of growth contrary to the Plan’s sustainability principles. The land is outside the defined settlement boundary and would result in an excessive incursion into the countryside. There is no need or justification to allocate this land”**.

7.23 The UDP Inspector was clearly concerned from a number of perspectives:

- The addition of this site to those already allocated would result in unacceptable and unsustainable growth;
- The level of growth allocated, whilst almost double that indicated by the settlement growth band, was acceptable without this site, as was the settlement boundary;
- This site was an inappropriate location for development.

7.24 This site if developed would add, as calculated earlier, a further 18.9% (along with other commitments) growth to the 27% that has substantially only come forward in the last 5 years or so, i.e., in the latter years of the UDP period. Given the present lack of a 5 year supply, it is anticipated that these speculative sites, if granted planning permission, would be delivered over the early years of the LDP period. That would mean that in total over 500 homes and up to 1,500 new residents would have been added to the community by the end of this proposal, and within a ten year period. Over the UDP period only one category B settlement experienced a higher actual growth rate from completions which was Drury/Burntwood at 26.7%. However, if the Meadowslea development is included in the calculations, then Penyffordd/Penymynydd had the highest growth of any settlement in the County. It is interesting in looking at Category A settlements that only Mold at 10.1% and Buckley at 17.4% fell within the indicative growth band of 10-20%. In this broader context the growth in

Penyffordd/Penymynydd is in excess of any other settlement in Flintshire. The UDP Inspector supported a higher level of growth in the settlement given the location and characteristics of the settlement and the availability of two logical and defensible housing allocations. However, this does not necessarily mean that a similar growth in the LDP period is either acceptable or sustainable. In those terms this is clearly unacceptable growth.

- 7.25 It is also arguable that, given the growth band for category B settlements envisaged growth up to 15% during the UDP period, and this settlement has grown at almost double that level, then the settlement's contribution to housing provision has been substantial, both within the UDP period and requirement, and extending beyond into the emerging LDP timeframe. This is particularly important from the perspective of community cohesion and the time required for new housing and residents to become successfully integrated into the community.
- 7.26 From this perspective it is not an automatic presumption that this settlement will, or needs to, accommodate growth as part of the LDP and certainly not at this scale. Indeed, it has already had smaller scale consents grant during the LDP plan period which count as commitments to address the local needs of the settlement. The Council is at the pre-deposit stage with its LDP and has made no decisions yet as to what development any settlement will have. Notwithstanding this, and a lack of any evidence to the contrary submitted with the application, the applicant simply assumes that:
- As significant development took place as part of the UDP and was considered sustainable, this can simply be repeated as part of the LDP;
  - Whilst the LDP is in its "early days...", "only one of the suggested options for growth did not identify Penyffordd as a location where growth would take place".
- 7.27 Both of these assumptions are false and highlight a lack of justification presented with this proposal. In particular the second assumption also highlights a lack of understanding between emerging LDP growth and spatial options, neither of which have stated that growth "would take place" in Penyffordd or Penymynydd. In addition, neither assumption makes a convincing case for this site or location being suitable.
- 7.28 Given this and the view of the UDP Inspector on this site, as well as the contribution Penyffordd and Penymynydd has made to housing provision over and above that expected by the UDP growth bands, this is not a suitable location for development at the scale proposed. As such significant weight can be given to the adopted UDP settlement boundary in this location and the fact that the site

represents inappropriate development in the open countryside. In these circumstances, the test set out in TAN1 is not met, and as such the weight to attach to a lack of land supply is very limited, as it is not the purpose of the TAN to make otherwise unsuitable sites, suitable.

7.29 Sustainability

In terms of sustainability, the presumption in favour of sustainable development set out in PPW has to be demonstrated by the applicant, and is not an assumed right that simply flows from submitting an application against TAN1 and a lack of land supply.

7.30 The Council have made it very clear that this should be clearly demonstrated and evidenced as part of a speculative application, via its Developer Guidance Note, emphasising particularly that such a justification needs to extend beyond simply noting the facilities in a settlement, to how a proposed speculative development of this scale can successfully integrate into a community without affecting or damaging its cohesion.

7.31 Whilst the applicant has invested time in challenging the status of the Council's guidance note, this time might have been better spent in addressing this fundamental point. Notwithstanding the status of the guidance note, the applicant has been asked by the Council to provide such an assessment during the course of considering the submitted application. The applicant could have undertaken a Sustainability Appraisal of the settlement and proposed development using the Sustainability Appraisal indicators being used to test the UDP and these can be found in the SA Scoping Report on the LDP website. It is the Council's view that they have failed to provide convincing evidence of such an assessment.

7.32 In a letter to the Council the applicant did make a comparison to an appraisal presented for a site for 37 units off Rhos Road, Penyffordd. This was a simplistic and superficial assessment of the sustainability of the proposed development of just 37 dwellings, and is not appropriate in any respect for one for 186 dwellings. The Council's purpose in highlighting this assessment was to demonstrate that other speculative developers had attempted to meet the requirements of the guidance note, and therefore national policy, and the need to justify the presumption in favour of sustainable development. It was not to promote it as a model to follow. The applicant's conclusion, having following this simple format, that their site is "arguably more sustainable" than the Rhos Road site is naïve, superficial, and does not address the main point about community integration and cohesion.

7.33 Equally, the question asked of the applicant was not, as they have misinterpreted, "is the site sustainable", but rather "is this a sustainable development". There is a fundamental difference between these which is reflected in the lack of an adequate response from the applicant.

- 7.34 In contrast, the community have given clear expression to their concerns regarding this proposal via a community questionnaire which received a very high response rate, and the development of their own Village Plan. Part of this is a clear concern for the impact of this proposed development on the loss of village identity and their sense of community, the pace and scale at which development has happened, and could be compounded by this proposal, and the impact it will have on the economic, social and environmental infrastructure of the community and settlement.
- 7.35 The applicant has failed to directly address these valid concerns from the community, instead appearing to offer an implied criticism of the stance of the community, expressed as “an almost instinctive fear of new development”. The only contextualisation provided by the applicant is that they state that the development would be “delivered progressively”, or drip fed, over “a number of years”.
- 7.36 There are a number of concerns that emanate from such an approach:
- Its failure to adequately explain how such a scale of development will not affect community cohesion during construction and once completed;
  - How such an approach delivers an ‘urgent need’ for housing in the “short term”?
  - How “a degree of uncertainty associated with the housing market” in any way is reflective of the community’s local need for “sufficient, good quality housing, including affordable housing for local needs”, or indeed the ability of this development to be delivered effectively and sustainably.
- 7.37 The statements above are all from the applicant’s submissions and serve to illustrate the lack of understanding as well as any real attempt to consider how this proposal represents a sustainable proposition, given clear Council and community concerns about the impact that such a level of growth would have cumulatively, on the ability of this community and settlement to successfully integrate such growth, without negatively impacting on the cohesion of the existing community.
- 7.38 Whilst the work done to date at the pre-deposit stage of the LDP does in general consider Penyffordd and Penymynydd as a sustainable village, this places the settlement in the third category of the settlement hierarchy below main and local service centres. This does not state, and nor therefore should it be assumed, that this means that growth that occurred at the level in the UDP can and will be acceptable as part of the LDP. Given that there are two tiers of

settlements above the tier of ‘sustainable settlements’ it would be logical to assume that the upper two tiers i.e. Main Service Centres and Local Service Centres would be more appropriate to accommodate larger development proposals, reflecting their size, overall character, role and level of services and facilities. To simply assume as the applicant has, that this level of development will be sustainable in a third tier settlement, falls significantly short of the minimum required to demonstrate and justify a presumption in favour of sustainable development.

- 7.39 This is also far short of the available evidence that the Council, in exercising its responsibilities as a decision-maker, requires in order to judge whether this is a sustainable proposition. This responsibility is heightened by the duty placed on the Council under the Well Being of Future Generations Act, and specifically the objective for a Wales of more cohesive communities (PPW Section 4.8 page 60).
- 7.40 No consideration has been given to this by the applicant, as to how such a significant scale of development and change in this community, could be successfully integrated. In the absence of this a development of this scale has the potential to cause harm in terms of the negative impact it would have on the cohesiveness of the community. It is housing for housing’s sake and is not driven in any sense by a desire to meet the local community’s need for “sufficient, good quality housing, including affordable housing for local needs”. It is rather, a speculative opportunity to create a demand to live in this ‘attractive location’. In this sense Penyffordd and Penymynydd simply become the means to promote new housing to the market creating a demand on a scale that is significantly in excess of that deemed sustainable by the UDP Inspector, that might be needed locally, or that might successfully integrate into this community. Such an impact can dilute the existing character and identity of this settlement.
- 7.41 This was recently reinforced by Lesley Griffiths AM, Cabinet Secretary for Environment and Rural Affairs who, in clarifying to Heads of Planning in Wales the Welsh Government’s position on housing land supply, stated **“the principles of sustainable development and the creation of cohesive communities, which forms the basis of Welsh Government planning policies, should not be undermined by the need to increase housing land supply”** (Letter dated 23<sup>rd</sup> February 2017 Ref: LG/00496/17).
- 7.42 Recent appeal decisions (Ewloe Old Hall Road/Greenhill Avenue, Ewloe – Ref: APP/A6835/A/14/220730) have also recognised the fact that *“there is a danger that the need to increase supply and lack of a 5-year housing land supply could be used to justify development in inappropriate locations”*. Such is the case here. This is clearly a speculative housing-led proposal, the main justification for which is the



inability of the Council to demonstrate a 5-year housing land supply, rather than whether it represents a sustainable development. As well as not being in the right location at the scale proposed, it has also failed to meet this critical test of national policy.

7.43 Having regard to the above and notwithstanding the requirements of TAN1 which advises that the housing land supply figure should be treated as a material consideration in determining applications, this is based on the proviso that the need to increase supply would otherwise comply with the development plan and national planning policies.

7.44 From the foregoing assessment of the context relating to the principle of this development, the proposal represents inappropriate development in the open countryside and outside the settlement boundary of Penyffordd and Penymynydd. Equally, given the significant Council and community concerns about the negative impact of such a scale of development on the cohesiveness of this community, this proposal does not represent a sustainable proposition. In these circumstances it is not considered that material weight can be attached to a lack of housing land supply, sufficient to outweigh the clear harm from this proposal, identified above.

7.45 Affordable Housing

Following discussions with Housing Strategy and the number and type of affordable housing required in the area, it is proposed that based on the provision of 186 dwellings, the site would provide;

7.46 For 20 affordable ownership – shared equity (managed through GRWP CYNEFIN HA) dwellings (10 x 2 beds and 10 x 3 beds) and 7 which is equivalent to 21 affordable rent-gifted units to new homes (5 x 2 bed houses and 2 x 3 bed houses) and a commuted sum payment of £450,000 which will be used as part of the SHARP programme to building social/council homes across Flintshire in areas of need. Penyffordd has been identified as an area of need for social/council housing. This sum is equivalent to 14 units. The total of units is equivalent to the 30% requirement of Policy HSG10 of the Adopted Flintshire UDP. The units being provided on the site are pepper potted through the site and this is considered appropriate.

7.47 Public Open Space

The Public Open Space Manager advises that developments of this size to be in accordance with Local Planning Guidance Note 13 – Open Space Requirements, need to provide sports and recreation facilities in the form of a sports pitch measuring 100 m x 70 m together with play provision of an area not less than 10,000 sq metres equipped to a neighbourhood level and including a multi-use games area. This play space should be located in one central location to be agreed by the Council.

7.48 Local Planning Guidance Note 13 advises that for 100 – 200 dwellings, a small-medium size sports facility is required together with standard requirement for recreation space (56 – 65 sq.m. per dwelling). As the applicant is providing a multi-use games area together with 1, 17 ha of recreation space which is considered to be centrally located, the development is in accordance with the requirement of LPG Note 13.

7.49 Education Contribution

Pentrobini Primary School is the primary school which is in close proximity to the development. The level of primary school pupils which are likely to be generated trigger a financial contribution requirement for the school. However, as the school has no meaningful way in which to physically accommodate further pupils any financial contribution, no matter how large would not mean that Pentrobini would be capable of accommodating any new demand generated from the development. The primary school age pupils would have to go to Penyffordd CP School, nearest Abbots Lane.

7.50 The calculations which underpin the education contributions are as follows;

Penyffordd CP School

186 dwellings x 0.24 = 44.64. This equates to 45 pupils of primary school age which would be likely to result from the development. The PLASC figures for Penyffordd Primary School at January 2017 is 252.

The Supplementary Planning Guidance requires that a contribution is triggered when occupation reaches within 5% of the schools total capacity.

The schools capacity is 259. 5% of 259 = 12.95 = 13.

The 5% trigger for contributions is therefore 259 – 13 = 246

The contribution is worked out on the basis of the current PLASC figure + additional capacity from the development. 252 + 45 = 297.

Then 246, the 5% trigger point is subtracted from 297 – 246 = 51

The contribution for Penyffordd CP School would therefore be 51 x £12,257 = £625,107.00.

As the final calculation procedures a figure of 51 which cannot be required as it is greater than the need for 45 pupils that the development will produce the contribution required will be;

The Penyffordd Contribution is therefore 45 x £12,257.00 = £551,430.

Castell Alun High School is the nearest secondary school to the development.

### Castell Alun High School

186 dwellings x 0.174 = 32.36. This equates to 32 pupils of secondary school age which would be likely to result from the development.

The PLASC figures for children at Castell Alun High School at January 2017 is 1361.

The Supplementary Planning Guidance requires that a contribution is triggered when occupation reaches within 5% of the schools total capacity.

The schools capacity is 1240. 5% of 1240 = 62.

The 5% trigger for contributions is therefore 1240 – 62 = 1178:-

The contribution is worked out on the basis of the current PLASC figure + additional capacity from the development. 1361 + 32 = 1393.

Then 1178, the 5% trigger point is subtracted from 1394. 1393 - 1178 = 215.

As the final calculation produces a figure of 215 which cannot be required as it is greater than the need for 32 pupils that the development will produce.

The Castell Alun High School contribution is therefore 32 x £18,469 = £591,008. This will be spent on the technology curriculum areas. The High School has already had five financial contributions. However, only two have been for specific projects, therefore the Council can still request that this contribution be made for this project.

The amount and committed intention of spend would be in line with CIL regulations and considered acceptable.

#### 7.51 Landscape & Visual Impact

The site is presently agricultural land within the open countryside adjacent to the North Eastern edge of the existing residential development of Penymynydd. It is therefore important to assess the landscape and visual impact of the proposals. The application is accompanied by a Landscape & Visual Impact Assessment (LVIA).

- 7.52 This assessment concludes that on completion of the proposed development, there would be a moderate adverse significance of effect on the landscape character on site, and in the immediate vicinity of the site. The proposed development would introduce prominent elements onto the site, altering the site from farmland to residential development with a suburban character. However, the proposed development would form an extension to the existing built form of the village. The design and scale of the proposed residential properties incorporating areas of open space with new tree planting, and the retention of mature trees and hedgerows on site and along site boundaries, would assist in integrating the site into the existing settlement edge, as well as within the wider landscape.

- 7.53 After fifteen years, proposed tree planting would have matured, and new housing would be more established within the landscape, in the context of existing residential development at Penymynydd. Landscape effects would reduce overtime, although the significance of effect on the landscape would remain as moderate adverse.
- 7.54 This LVIA has been reviewed for the Council by an independent Landscape Architect who considers that the LVIA accurately assesses the likely landscape and visual effects on the whole, although these do not appear to have adequately taken winter effects into consideration apart from longer distant views to the South.
- 7.55 It concludes that the application site is fairly well contained and the local topography, existing development and vegetation would restrict potential views of the proposed development to close views. The proposed development would extend the built form of the village further eastwards into the open countryside, but would be seen in the context of existing built form. The strong framework of mature trees and hedgerows to the boundaries would help accommodate the proposal, creating a well-defined settlement edge. It is considered that these boundaries could be further strengthened to be more effective, particularly in winter.
- 7.56 The character of the site would be altered from a pastoral landscape to suburban housing, resulting in moderate adverse effects on landscape character. These effects would reduce slightly in time as the proposed planting matures. The character of the bridleway to the North would also be affected by possible surfacing and lighting.
- 7.57 There would be major adverse visual effects for users of the public footpath crossing the site, the residents of Daisy Bank Farm and the properties overlooking the Western boundary. Moderate effects would result for users passing Chester Road to the South of the site and for residents to the South East of Heritage Park. Most other visual receptors would experience minor adverse visual effects. There would also be some visual effects in winter due to lighting within an area that is mainly unlit at present.
- 7.58 The Landscape Architect recommended that the layout and landscape scheme be revised to reduce potential landscape and visual effects to include
- Reinforcement of hedgerows to all boundaries, increase tree planting and omit high close boarded fencing, replacing with less intrusive type.
  - Proposals for hedgerow management.
  - Omission/adjustment of plots to Eastern boundary.

- Retention of public footpath crossing the site within public open space with a pedestrian link to the bridleway within linear open space following the line of mature oaks.

7.59 These recommendations have been addressed by the applicant through the receipt of amended plans and details apart from the pedestrian link to the bridleway within linear open space following the line of mature oaks. This is provided, however, by two separate routes along the proposed road network, which is considered sufficient. The Ecologists have agreed that the line of oaks should provide a corridor through the site for Great Crested Newts and should not be publicly accessible.

7.60 Whilst the development will have some adverse impact upon the landscape, the harm is not considered to have significant weight in the planning balance.

7.61 Ecology

The site consists of a series of fields with overgrown, thick species hedgerows with a large number of Oak trees. It has been managed un-intensively as hay meadows, hence the overgrown hedges and semi improved grassland. The site is 7.72 ha with approximately 2 km of hedgerow on site (including boundary hedges).

7.62 There are no statutory or local sites present.

7.63 In relation to protected species and Great Crested Newts, there is one pond on site and a further three within a 250 m radius. Amphibian surveys were carried out on the site pond in 2015 and no amphibians were recorded. The two ponds to the north of the site are known to support breeding populations of Great Crested Newts.

7.64 There is good connectivity between the ponds to the north and the site itself through the bridleway, network of hedgerows on the site and un-intensive grassland.

7.65 European Protected Species (EPS) and their breeding sites and resting places are protected under Regulation 41 of the Conservation of Habitats and Species Regulations 2010 (As Amended) and under Article 12 of the EC Directive 92/43/EEC in the United Kingdom. Plans or projects that could affect EPS must satisfy the appropriate Article 16 derogation and two mandatory tests. Disturbance to an EPS whilst occupying a place of shelter and/or obstruction of access to a place of shelter are also prohibited under the Wildlife and Countryside Act 1981 (as amended by the Countryside & Rights of Way Act 2000).

7.66 The submitted Ecological Framework advises that the work on site will be undertaken using a combination of Reasonable Avoidance

Measures (RAMS) and licensing. A Mitigation Licence will be required from NRW prior to works commencing. Regulation 9 (1) and 9 (5) of the Conservation of Habitats & Species Regulations 2010 (As Amended) requires public bodies in exercise of their functions (to ensure compliance with and to have regard to the provisions of the 1992 'Habitats Directive' (92/43/EEC). Consequently the local planning authority decision making must be taken in accordance with the compliance of the Habitats Directive. The local authority must be satisfied that a proposal satisfies the appropriate Article 16 derogation and two mandatory tests as part of the planning decision process. The need to consider this derogation is specifically identified in TAN5 and Regulation 53 of the Conservation of Habitats & Species Regulations 2010. In summary to obtain an NRW Derogation Licence the application needs to demonstrate public need, that there is no satisfactory alternative and that the favourable conservation status of the species will be maintained.

- 7.67 In consideration of "Public Need", it is considered that the proposals seek to establish the use of the site for the purposes of residential development. The site does not lie within the identified settlement boundary of Penyffordd/Penymynydd within the Adopted Flintshire Unitary Development Plan. National Planning Policies seek to direct the majority of new development of this form to within settlement boundaries.
- 7.68 Similarly, in consideration of "Satisfactory Alternatives", the application site comprises an area of land which is not allocated for residential development, is located outside the settlement boundary for Penymyndd/Penyffordd and within open countryside as defined by the Adopted Flintshire Unitary Development Plan. The applicant has not undertaken an assessment of alternative sites for residential development either within the village.
- 7.69 With regard to the test relating to the favourably conservation status of the GCN population the planning layout indicates that the majority of the hedgerows will be retained, protected and maintained as newt corridors. Where hedgerows will need to be severed to provide road links, suitable means of passage for newts will be provided. The applicant is also proposing to provide a compensatory payment of £20,000 towards off-site enhancement works. This payment would be made to an agreed wildlife organisation which will be determined if planning permission is granted.
- 7.70 In considering the proposed mitigation measures, scheme of reasonable avoidance measures and management of the mitigation areas by a combination of conditions and a legal agreement, NRW and the local planning authority are satisfied that there will be no adverse effects upon the GCN population. It is considered that these proposals will ensure that the favourable conservation status of the species, providing the habitat is secured and protected.

- 7.71 Other Protected Species  
The bat activity survey recorded Pipistrelles, Brown Long Eared Bats and an occasional Lesser Horseshoe Bat foraging in and around the hedgerows. No bat roosts were identified but the presence of foraging bats emphasises the value of the hedgerows as dark corridors.
- 7.72 The species rich hedgerows (LBAP priority habitat) are also of value in their own right and there are variety of red and amber listed nesting birds associated with the hedgerows and grassland, which include dunnoek, yellowhammer and linnet.
- 7.73 With regard to hedgerow protection there are 19 hedgerows on site. Five hedgerows are classified as “Important” under the Regulations. All five are being retained, although two will be severed to allow the creation of the access and footways.
- 7.74 The retained hedgerows will be buffered and protected during the development with a stand-off zone designed to incorporate the root protection of the trees. Heras fencing will be erected along the hedgerows. A long term management plan will also be produced which will detail the on-going future management of all retained hedgerows on site and additional planting.
- 7.75 Also the loss of nesting habitat will be mitigated for by the implementation of a bird box mitigation scheme.
- 7.76 An ecological compliance audit would be required and it would have to be agreed with Flintshire County Council and NRW prior to the commencement of the development. This would apply to all important ecological factors on site, including the bridleway which is an important wildlife corridor, with details on how this will be protected and include a lighting strategy to ensure this is maintained as a dark corridor. The audit would also be a requirement of the application for the GCN mitigation licence.
- 7.77 Best & Most Versatile Agricultural Land  
The question of the Agricultural Land Classification is examined with the submitted Desk Study and Ground Investigation Report. This identifies that 100% of the farmed land and 97.2% of the site is Grade 3, subgrade 3b. This is moderate quality land capable of growing a limited range of crops. The site is therefore not Best & Most Versatile agricultural land.
- 7.78 Archaeology  
An archaeological Desk Based Assessment has been submitted with the application which concludes that there is no direct evidence for Prehistoric Roman, Medieval or early Post Medieval activity on the site. There are features dating to the later Post-Medieval period present on the site in the form of field boundaries and a former stone-

built dwelling. These archaeological assets are to be considered to be of low significance.

7.79 The Clwyd-Powys Archaeological Trust have been consulted on the application and this Assessment who advise that there are no archaeological implications for the development at this location.

7.80 Highways

The proposed vehicular access into the site is from a proposed new access onto Chester Road within part of the southern boundary. The hedgerow to the west of the access would be retained along the frontage and a pedestrian footway will be provided. The hedgerow to the east would be removed in order to gain visibility in this direction but would be replanted behind the splay. Pedestrian footways are also proposed linking Footpath No. 8 into Hulleys Close, the site into Bridleway No. 24 to the North and the site into the existing footway at the end of Kent Close.

7.81 An amended Transport Assessment has been submitted by the applicant which advises that the development would be served by a priority junction on Chester Road and could benefit from a potential reduction in the speed limit from 60 mph to 30 mph. The access arrangements have been designed to accommodate typical service vehicles associated with residential use.

7.82 It further advises that no off-site highway safety issues are expected to be introduced or exacerbated by the development proposals. In addition, the traffic impact of the proposed development would have a minimal effect on the operation of the local highway network. Junction capacity modelling of the site access junction and wider network has demonstrated that the highway network would generally operate within capacity with minimal queuing or delays. Only the Chester Road/A5104 junction would experience any material levels of congestion, operating around capacity during the AM peak in 2022 with queues of up to 16 vehicles during the busiest 15 minutes of the peak period, which is not an unacceptable level of queuing.

7.83 The Head of Highways Control raises no objections to these proposed works subject to conditions being imposed if planning permission were to be granted. However, there remain objections to the scheme in that an appropriate system has not yet been identified to deal with the collection and disposal of highway surface water. This is dealt with in the Drainage Section on surface water later in this report.

7.84 Public Right of Way & Bridleway

Footpath No. 8 crosses the site from the North-West direction to the South-East, linking to the residential areas to the west. The amended layout plan now shows the footpath designed into the estate development.



- 7.85 If permission is granted, there should therefore be no requirement for a public path diversion order as this has been incorporated into the design of the new development, however it is likely that a temporary closure order would be required for a large duration of the construction works.
- 7.86 It is considered that the visual significant effects of the development upon the users of the footpath have been reduced by the incorporation of the middle of the footpath within the proposed open space of the development, retention of trees and landscaping etc.
- 7.87 Public Bridleway No. 24 lies adjacent to the site beyond its northern boundary and part of the proposals is to provide a footpath link from the development onto the bridleway.
- 7.88 If planning permission were granted there may be a requirement from highways for this part of the bridleway to be surfaced and lighting installed for a cycleway. However, this has not been incorporated into the development due to the conflict with horse riders and protection of bats using the hedgerows from the lighting.
- 7.89 Drainage  
Surface Water  
NRW advise that the site lies within Zone A as defined in TAN15 Development & Flood Risk (2004) and shown on Welsh Government's Development Advice Map. However, the development is likely to increase the surface area of impermeable ground, thus reducing percolation and increasing rapid surface run-off. In accordance with Section 8 of TAN15, in all zones, development should not increase flood risk elsewhere. Insufficient information has been submitted to demonstrate that a satisfactory/sustainable surface water drainage scheme can be provided for this proposed development. The applicant states that these details could be further submitted to and approved in writing by the Local Planning Authority if planning permission were granted as a condition. However, it is considered that such a condition could not be attached to any permission as it could be impossible to implement for technical or legal reasons.
- 7.90 Sewerage  
Following Welsh Water's objection to the proposed development, the developer commissioned a Hydraulic Modelling Assessment which has now been completed. The outcome of the Hydraulic Assessment identified that detriment to the local sewer network would be caused as a result of the new development connecting. A number of options for sewer network reinforcement has been provided, the implementation of one of these options would enable the development to connect into the public sewer network without causing any detriment to the local community or environment.
- 7.91 These options have been identified and the developer has been made

fully aware of the cost of implementing these options, it is now considered reasonable for Welsh Water to revoke the objection previously raised and offer support for the application on the basis that the suggested conditions could be attached to any planning permission if granted.

7.92 Design & Impact Upon Amenity

The proposed design and layout of this scheme has been subject of negotiation and discussion over the course of both pre-application discussion and consideration of the application.

7.93 The proposed layout of the development has been designed around the existing hedgerows and trees which are located within and around the perimeter of the site together with the proposed public open space areas in the middle of the site. Access to and from the site is via Chester Road and is achieved via a spine road and boulevard from which internal roads branch off from to serve the properties. The site has a number of links to the existing developments and village facilities to the West.

7.94 The dwellings will be from Redrow's heritage collection which have a traditional appearance and will be a mix of 2, 3 and 4 bedroom detached, semi-detached and mews properties, all two storey in height. The properties will be constructed within a mix of brick and render walls with a mix of grey and red tile roofs.

7.95 The layout also takes full account of the existing dwellings adjacent to the site by maintaining adequate separation distances, in line with Council guidance standards on space about dwellings and overlooking to secure privacy and amenity as well as respecting the private gardens of adjacent houses.

7.96 The density of development equates to approximately 24 dwellings per hectare. This density being reflective of the rural nature of the site.

7.97 The adjacent new development of Heritage Park equates to a density of 21 houses per hectare and the more established residential developments to the west being 22.5 houses per hectare and 23.5 per hectare respectively.

7.98 Accordingly and notwithstanding the representations made, it is considered that the proposals provide an adequate and appropriate response to the design issues raised in connection with the consideration of this application.

**8.00 CONCLUSION**

8.01 It is acknowledged that in terms of the principle of the development, in accordance with TAN1, that the Council is not able to demonstrate a 5 year housing supply. Also in accordance with TAN1, significant

weight can only be attached to this if the proposed development is otherwise compliant with local and national policies. This is not the case with this application, particularly where it is considered that the development upon such a scale of this would have a significant detrimental impact upon the cohesiveness of the community and the principles of sustainable development.

- 8.02 Many of the detailed matters of the application have been resolved apart from surface water management whereby insufficient details have been submitted to demonstrate that the site and its surroundings are not at the risk of flooding caused by the development.
- 8.03 Other Considerations  
The Council has had due regard to its duty under Section 17 of the Crime and Disorder Act 1998 and considered that there would be no significant or unacceptable increase in crime and disorder as a result of the recommended decision.
- 8.04 The Council has acted in accordance with the Human Rights Act 1998 including Article 8 of the Convention and in a manner which is necessary in a democratic society in furtherance of the legitimate aims of the Act and the Convention.
- 8.05 The Council has had due regard to its public sector equality duty under the Equality Act 2010.
- 8.06 The Council has had due regard to its duty under Section 3 of the Wellbeing of Future Generations (Wales) Act 2015 and considered that there would be no significant or unacceptable impact upon the achievement of wellbeing objectives as a result of the recommended decision.

#### **LIST OF BACKGROUND DOCUMENTS**

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

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