

**FLINTSHIRE COUNTY COUNCIL**

**AGENDA ITEM NUMBER: 5.4**

**REPORT TO:** **PLANNING & DEVELOPMENT CONTROL COMMITTEE**  
**DATE :** **14 MARCH 2012**  
**REPORT BY:** **HEAD OF PLANNING**  
**SUBJECT :** **GENERAL MATTERS APPLICATION - VARIATION OF  
CONDITION NO.3 ATTACHED TO OUTLINE PLANNING  
PERMISSION REF: 035575 TO ALLOW 7 YEARS FOR THE  
SUBMISSION OF RESERVED MATTERS FROM THE DATE  
OF THE OUTLINE PLANNING PERMISSION BEING  
GRANTED RATHER THAN THE 5 YEARS PREVIOUSLY  
PERMITTED AT "CROES ATTI", CHESTER ROAD,  
OAKENHOLT**

**1.00 APPLICATION NUMBER**

1.01 049154

**2.00 APPLICANT**

2.01 Anwyl Homes Ltd  
Anwyl House  
Mona Terrace  
Prince Edward Avenue  
Rhyl  
Denbighshire  
LL18 4PH

**3.00 SITE**

3.01 Land at  
Croes Atti  
Chester Road  
Oakenholt  
Flintshire

**4.00 APPLICATION VALID DATE**

4.01 21/10/2011

**5.00 PURPOSE OF REPORT**

5.01 To update members with regard to the planning application proposing the residential development of the land at Croes Atti, in view of the fact that an appeal against non-determination has been submitted by the applicant and has been accepted by the Planning Inspectorate. The application can no longer be determined by the local

planning authority and a resolution is therefore required to establish the stance to be adopted by Flintshire County Council in respect of the appeal.

## **6.00 REPORT**

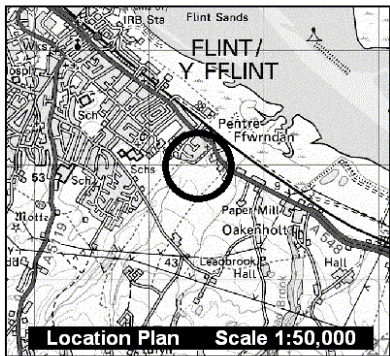
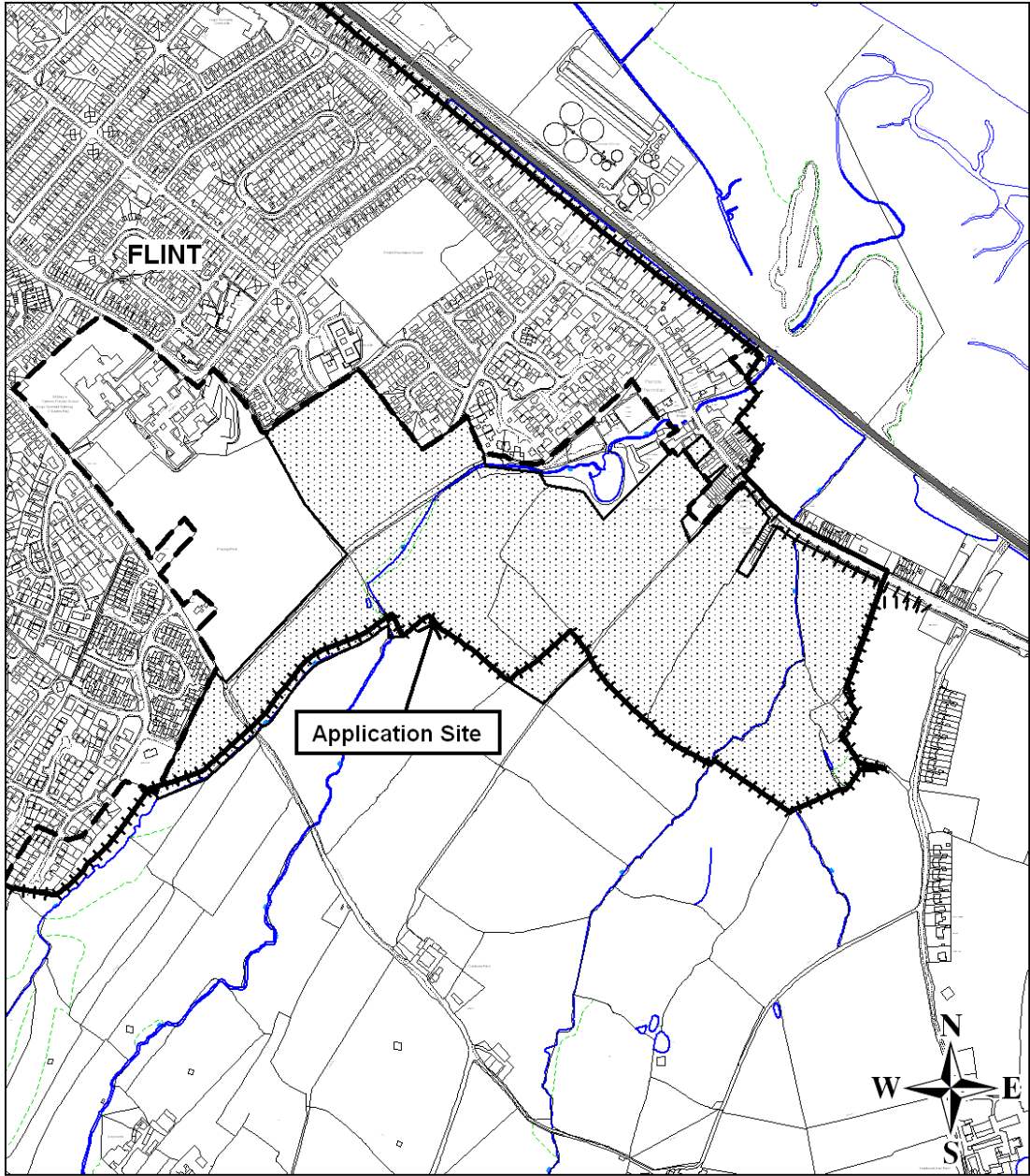
- 6.01 The proposed development relates to the variation of condition No.3 attached to outline planning permission Ref: 035575 to allow 7 years for the submission of reserved matters from the date of the outline planning permission being granted rather than the 5 years previously permitted at "Croes Atti", Chester Road, Oakenholt. The application site is 27 hectares which was granted outline planning permission for a mixed use development scheme in July 2006 and comprises residential development, public open space, infrastructure works, landscaping and education and community facilities. Since the outline planning permission was granted two further applications have been granted for reserved matters on the site with a total of 321 units. The overall site has an extant i.e. live permission that is valid until 11th July 2013, however the outline planning permission required the submission of all the reserved matters within five years of the granting of that permission and this date has now lapsed - the applicant seeks to extend the time to allow for the submission of the rest of those reserved matters applications within the lifetime of the outline permission.
- 6.02 In the normal course of events the application would have been reported to planning committee for determination, however as mentioned above this cannot now be pursued. The 8 week determination date for the application expired in mid December. In considering this application whilst the principle of the development is not in dispute, the Council can potentially review aspects of the scheme and it was at this stage in the process that the application was at prior to the appeal being made. The application was not due to be reported to planning committee until various matters relating to the application had been clarified e.g. educational provision. Some of these issues are still outstanding, however, notwithstanding the issues to be clarified, the officer recommendation in any event would have been to recommend granting of the variation of condition No.3 attached to outline planning permission Ref: 035575. The issues to be clarified would have related to conditions to be re-applied to the overall consent and any changes to the legal agreement if these were warranted.
- 6.03 The start date for the appeal has been confirmed, it is to be considered by way of an informal hearing and will be heard on Tuesday 12th June 2012 in Flint Town Hall.
- 6.04 The options now open to the Council are :**1. To resolve to permit the application** including the requirements covered by the proposed Section 106 Agreement and conditions as attached in Appendix 1. **2. To resolve to permit the application in some other terms** - including some or none of the conditions /limitations contained in the recommendation at Appendix 1. **3. To resolve to refuse the application** - in which case sound planning reasons would need to be brought forward to support this stance. A resolution to adopt no stance regarding the appeal is not therefore an option.

- 6.05 In the case of options **1** or **2** the Planning Inspectorate would be advised that the local authority would have been minded to permit the development in the terms set out and that the council would not wish to present a case other than to request that the Inspector considered these terms if he/she was minded to grant permission. In the case of option **3** the reasons for refusal would need to be substantiated with evidence and the case prepared in a manner appropriate to the appeal method. Once submitted, an appeal can only be withdrawn by the appellant.

## **7.00 RECOMMENDATIONS**




- 7.01 My recommendation on the application is that planning permission should be granted subject to the completion of a Section 106 Agreement and appropriate conditions as attached in Appendix 1. These have been adapted to take account of material considerations since the outline planning permission was originally granted as these became apparent and the appended report sets out the terms under which I now consider that planning permission should be granted. As the grant of planning permission is no longer within the Authority's power I recommend that the Inspector be asked to allow the appeal in the terms set out in the recommendation (i.e. subject to the completion of the Section 106 Agreement and to the conditions listed) and that it be confirmed that, beyond this, the Authority does not propose to contest the appeal or make any further representations.

Contact Officer: Declan Beggan  
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Environment Directorate,  
Flintshire County Council, County Hall,  
Mold, Flintshire, CH7 6NF.  
Director: Mr. Carl Longland

**Key to Settlement Boundaries**

-  Delyn Local Plan Settlement Boundary
-  North Flintshire Local Plan Settlement Boundary
-  Emerging Flintshire Unitary Development Plan Settlement Boundary

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Map Scale	1:7500
Ordnance Survey Sheet SJ 2571	
Planning Application	49154

## FLINTSHIRE COUNTY COUNCIL

AGENDA ITEM NUMBER: 5.-4

**REPORT TO:** PLANNING & DEVELOPMENT CONTROL COMMITTEE  
**DATE :** 18 APRIL 2012  
**REPORT BY:** HEAD OF PLANNING  
**SUBJECT :** VARIATION OF CONDITION NO.3 ATTACHED TO OUTLINE PLANNING PERMISSION REF: 035575 TO ALLOW 7 YEARS FOR THE SUBMISSION OF RESERVED MATTERS FROM THE DATE OF THE OUTLINE PLANNING PERMISSION BEING GRANTED RATHER THAN THE 5 YEARS PREVIOUSLY PERMITTED AT "CROES ATTI", CHESTER ROAD, OAKENHOLT

**APPLICATION NO:** 049154  
**APPLICANT:** ANWYL HOMES LTD  
**SITE:** LAND AT (WHOLE SITE)  
CROES ATTI,  
CHESTER ROAD,  
OAKENHOLT,  
FLINTSHIRE  
**APPLICATION VALID DATE:** 21/10/2011  
**LOCAL MEMBERS:** CLLR. R. JOHNSON  
**TOWN/COMMUNITY COUNCIL:** FLINT TOWN COUNCIL  
**REASON FOR COMMITTEE:** SCALE OF DEVELOPMENT  
**SITE VISIT:** NO

### **1.00 SUMMARY**

- 1.01 The proposed development relates to the variation of condition No.3 attached to outline planning permission Ref: 035575 to allow 7 years for the submission of reserved matters from the date of the outline planning permission being granted rather than the 5 years previously permitted at "Croes Atti", Chester Road, Oakenholt. The application site is 27 hectares which was granted outline planning permission for a mixed use development scheme in July 2006 and comprises residential development, public open space, infrastructure works, landscaping and education and community facilities. Since the outline planning permission was granted two further applications have been granted for reserved matters on the site with a total of 321 units. The overall site has an extant i.e. live permission that is valid until 11th July 2013, however the outline planning permission required the submission of all the reserved matters within five years of the granting of that permission and this date has now lapsed - the applicant seeks to extend the time to

allow for the submission of the remainder of those reserved matters applications within the lifetime of the outline permission.

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

2.01 That condition No.3 attached to the outline planning permission ref. 035575 is varied to allow 7 years for the submission of reserved matters from the date of outline planning permission being granted. That all previous planning conditions attached to the outline planning permission are re-imposed and subject to the applicant entering into a section 106 Obligation/Unilateral Undertaking to re-impose all the requirements of the original legal agreement attached to the outline planning permission i.e.

- scheme to be in general conformity with the Revised development Brief,
- construct or to reimburse the Council for the reasonable cost of a footpath/cycleway linking the site with Leadbrook Drive,
- phasing/occupation of housing,
- setting aside of 1.5 hectares of land and its transfer for a school site
- setting aside of land for a shop site,
- setting aside of a site of 0.45 hectares for a health centre,
- setting aside of a site of 0.25 hectares for a community centre and its transfer
- provision of 4.5 hectares of open space including an enclosed equipped children's play area, a landscape strategy, a management strategy for open space areas including establishment of a management company
- Provide for a maximum of 10% of number of dwellings for affordable use
- If deemed necessary a financial contribution for enhanced educational facilities in schools to be reasonably served by the development

**Conditions**

1. Reapply conditions 1-29 of outline planning permission Ref. 035575 except as amended below.
2. Condition 13 of outline planning permission Ref. 035575 which referred to a SUDS drainage system no longer required in consultation with the Environment Agency.
3. Condition 14 of outline planning permission Ref. 035575 amended to reflect occupancy rate of a maximum of 200 units per year commencing in 2012 and thereafter 100 units per year (previous condition referred to an occupancy rate commencing on 2006).
4. Code for Sustainable Homes applied to any new reserved matters applications on the site.

**3.00 CONSULTATIONS**

3.01 Local Member

Cllr. R Johnson

None at time of writing report

Adjacent Flint Members

Cllr. E.F. Evans, Cllr. D Cox, Cllr. I.B. Roberts

Agree to determination under delegated powers

Flint Town Council

Supports the application

Head of Assets and Transportation

No objections

Clwyd Badger Group

No objections

Welsh Water

No objections subject to conditions

Environment Agency

No objections

Countryside Council for Wales

No objections

Campaign for the Protection of Rural Wales

No objections

**4.00 PUBLICITY**

4.01 Press Notice, Site Notice, Neighbour Notification

The application has been advertised by way of press and site notices.

One letter of representation has been received who objects and is summarised as follows,

- Questions the validity of the applicant to submit a Section 73 application on the site and whether the applicant is out of time to submit any more reserved matters applications under such an a Section 73 application.
- The application should be refused, the applicant has had 7 years to accommodate such a request for an extension of time and no other developers have received such favourable conditions.

**5.00 SITE HISTORY**

5.01 **98/17/1308**

Outline residential development and associated recreational, community and retail was originally reported to committee on 14.12.99 which resolved to approve subject to a Section 106 Agreement - No decision was ever issued due to changed circumstances of the applicants.

**035575**

Outline application for a mixed use development including residential, open space, infrastructure, landscaping, education and community facilities was reported to committee on 19.7.2004 which resolved to approve subject to a Section 106 Agreement - the agreement was signed and the permission issued on 11.7.06.

**044035**

Highway improvements, street lighting and all associated works, on land at Croes Atti, Chester Road, Oakenholt, in connection with the outline planning permission ( ref. 035575) - Granted permission on 23rd April 2008.

**044033**

Reserved matters application - residential development consisting of 189 no. dwellings, public open space, new roundabout and all associated works at Croes Atti, Oakenholt - Granted 11th July 2008.

**046562**

Substitution of house types on plots 119, 124, 128-129, 131-132, 136, 138, 139, 142-144, 146-150, 160-163, 165-166, 170-177 and 183 on land at Croes Atti, Oakenholt, granted 11th July 2008.

**046595**

Reserved matters application for residential development consisting 132 no. dwellings, new roads, open space and all associated works on land at Croes Atti, Chester Road, Oakenholt, granted on 19th January 2012.

**049312**

Application for a Lawful Development Certificate for proposed use or development to establish that outline planning permission for residential development at Croes Atti (035575) grants consent for vehicular access to be taken to the Thomas Land from Prince of Wales Avenue to serve residential development land at Croes Atti, Chester Road, Oakenholt - undetermined

**049425**

Variation of condition no.15 attached to planning permission ref:046595 at Croes Atti, Chester Road, Oakenholt - undetermined

**049426**

Variation of condition no.3 attached to outline planning permission ref: 035575 to allow 7 years for the submission of reserved matters from the date of the outline planning permission being granted rather than the 5 years previously permitted - undetermined



## **6.00 PLANNING POLICIES**

### **6.01 Flintshire Unitary Development Plan ( FUDP )**

The FUDP shows the land as a housing commitment and outline planning permission has now been issued. In the context of the development as a whole a large number of the policies of the plan are relevant but the most significant policy is Policy HSG2 - Housing at Croes Atti, Flint, other relevant policies include D1-D4 which refer to design/location/layout/landscaping and Policy GEN1 (General Requirements for Development).

The proposal is considered to accord with the aims of the relevant policies and development brief for the overall site.

## **7.00 PLANNING APPRAISAL**

### **7.01 Principle of Development**

The proposed development relates to the variation of condition No.3 attached to outline planning permission Ref: 035575 to allow 7 years for the submission of reserved matters from the date of the outline planning permission being granted rather than the 5 years previously permitted at "Croes Atti", Chester Road, Oakenholt. The application site is 27 hectares which was granted outline planning permission for a mixed use development scheme in July 2006 and comprises residential development, public open space, infrastructure works, landscaping and education and community facilities. Since the outline planning permission was granted two further applications have been granted for reserved matters on the site with a total of 321 units. The overall site has an extant i.e. live permission that is valid until 11th July 2013, however the outline planning permission required the submission of all the reserved matters within five years of the granting of that permission and this date has now lapsed, although two reserved matters applications have been approved - the applicant seeks to extend the time to allow for the submission of the remainder of those reserved matters applications within the lifetime of the outline permission.

7.02 In the normal course of events the application would have been reported to planning committee for determination, however as mentioned above this cannot now be pursued. The 8 week determination date for the application expired in mid December. In considering this application whilst the principle of the development is not in dispute, the Council can potentially review aspects of the scheme and the application was at this stage in the process prior to the appeal being lodged. The application was not due to be reported to planning committee until various matters relating to the application had been clarified e.g. educational provision. Some of these issues are still outstanding, however, notwithstanding the issues to be clarified, the officer recommendation in any event would have been to recommend granting of the variation of condition No.3 attached to outline planning permission Ref: 035575. The issues to be clarified would have related to conditions to re-applied to the overall consent and any changes to the legal agreement if these were warranted.

7.03 Effect on adjacent/future residential amenities

These issues would be addressed via any future reserved matters applications, however, the Council's normal standards regarding space about dwellings and distance away from either proposed dwellings or existing dwellings would be applied.

7.04 Provision of Public Open Space

Overall the site has to provide a total area of approximately 4.5 hectares of open space which includes the village green. The site would benefit from the previously approved formally laid out "village green" which would include a mini soccer pitch, a junior play area, a toddlers/picnic area, a Multi Use Games Area (MUGA) which forms part of the wider open space allocation for the overall site. The public open space on the site would be subject to a landscape strategy, a management strategy including the establishment of a management company to be included in the legal agreement.

7.05 Affordable Housing

Policy HSG2 of the adopted UDP refers to housing allocation at Croes Atti and indicates that it will be developed subject to an appropriate provision of affordable housing and that "The location and extent of land uses within the site and the means of delivering them in the future, including the protection of landscape features, have been set out in a detailed Development Brief for the site, which has been agreed between the Council and the developers as the basis on which to develop this site". The agreed Development Brief for the site stipulates that a maximum of 10% affordable housing will be required on the Croes Atti Site and this is reinforced in the existing Section 106 Legal Agreement.

The original outline planning permission for the overall site required that if justified, up to 10% of dwellings on the site should be social/affordable and was secured via a Section 106 legal agreement. The exact number/location of affordable units within any future phases of the development has yet to be determined, however, any new affordable dwellings would need to indicate a potential mix of properties which are spread geographically across the site with that final figure being in accordance with the terms of the original Section 106 legal agreement.

7.6 Drainage and Contamination Issues

The Environment Agency/Welsh Water have not objected to the proposal. It should be noted that approx. £2.1 million has been spent for the off site sewer works and these works include improvements to a pumping station which in addition to catering for the Croes Atti development will also generally improve drainage in the area. Contamination reports relating to the discharge of conditions on the outline overall site have revealed lead contamination. As part of the remediation strategy for the overall site the Council are satisfied any contamination can be adequately addressed during the course of construction with final verification of remediation being on a plot by plot basis.

7.7 Highways

The Head of Assets and Transportation has raised no objections to the application. When the original outline planning permission was granted it was envisaged the site would be accessed via three points i.e. Chester road, Prince of Wales Avenue and Coed Onn Road.

7.8 The access component of the Croes Atti development has been the subject of extensive negotiations with the applicant. Due to highway concerns raised as part of the public consultation process to the last reserved matters application on that part of the site commonly known as the "Thomas Land", the applicant was requested to submit an updated Transport Assessment for the proposal. An updated Transport Statement was submitted based on the original TIA of 2003 but updated with particular reference to the following:-

- assess the proposed detailed design layout which incorporates a roundabout access off the A548, linking to Prince of Wales Avenue and Coed Onn Road via a sinuous alignment spine road
- review trip generation against contemporary TRICS data
- provide an updated assessment of shopping/leisure based trips
- consider revised assessment years
- provide an assessment of routes that would be used by construction period traffic
- general update of previous TIA data relating to the local area (traffic flow/accident data etc)
- the influence that construction of two nearby schools may have had on traffic patterns adjacent to the development site

The Transport Statement concluded that,

- The development can be served satisfactorily by the proposed A548 Chester Road roundabout with additional access to Coed Onn Road and Prince of Wales Avenue
- Traffic generated by the proposed residential development off Prince of Wales Avenue/Coed Onn Road in isolation can be accommodated by the existing road network without improvement.
- FCC's "traffic calming scheme" which has been implemented along Prince of Wales Avenue, Coed Onn Road and adjoining roads to compliment the traffic management scheme in Flint town centre, has enhanced safety for road users by reducing traffic speeds
- The presence of traffic calming along Prince of Wales Avenue and Coed Onn Road will also detract usage from the proposed development
- Based on the assessment undertaken the development is expected to have minimal impact on the existing highway environment. Modelling analysis has identified that the proposed A548 Chester Road Roundabout has adequate capacity to accommodate the expected traffic flows from the 683 dwellings.

Traffic flows on the existing routes (A548, Prince of Wales Avenue, Albert Avenue and Coed Onn Road) are well within theoretical capacities.

- Public transport links will be extended into the proposed development, subject to reaching agreement with local bus companies
- Existing footpaths will be retained/enhanced
- The assessment undertaken of the alterations will be marginal and have a minimal impact on the local road network when compared to the current situation.

7.9 The findings of the updated Transport Assessment are clearly relevant to the current application. The updated Transport Assessment was independently reviewed on behalf of the Council by the Transport Consultancy Atkins who have concluded that the proposed development is acceptable in highway terms.

7.10 The Council's Head of Assets and Transportation accepted the findings of the independently reviewed Transport Assessment and therefore offered no highway objections to that scheme, nor to the current application.

7.11 Education

The original planning permission/legal agreement required the setting aside of 1.5 hectares of land and its transfer for a school site. Since the original outline planning permission was granted the council's Head of Education and Resources has reviewed the funding of education facilities via the planning process i.e. an educational contribution is required based on the projected pupil numbers a development would generate and whether or not these would impact on adjacent schools resulting in pupil capacity issues. As regards the current proposal the Council are still in the process of quantifying the value of the "gifted" school site as detailed in the legal agreement attached to the outline planning permission and whether or not an additional financial contribution is required in addition to the "gifted" site. Members are asked that officers proceed with any consent based on the re-imposition of the previous outline planning permission requirements i.e. a site is set aside for a school in addition to any further requirements for a financial contribution which may be deemed appropriate by the Head of Education and resources.

**8.00 Conclusion**

8.01 I recommend approval subject to conditions and legal agreement as attached to the previously approved outline planning permission and revised at paragraph 2 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.

**9.00 Appendices**

9.01

## **8.00 CONCLUSION**

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