

FLINTSHIRE COUNTY COUNCIL

REPORT TO: **PLANNING COMMITTEE**

DATE: **3rd MARCH 2021**

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

SUBJECT: **RESIDENTIAL DEVELOPMENT OF 95
DWELLINGS (INCLUDING AFFORDABLE
HOUSING), MEANS OF ACCESS, OPEN SPACE
AND ALL ASSOCIATED WORKS**

**APPLICATION
NUMBER:** **061530**

APPLICANT: **ELAN HOMES LTD**

SITE: **LAND ADJ TO KINNERTON MEADOWS,
KINNERTON LANE, HIGHER KINNERTON,
CHESTER**

**APPLICATION
VALID DATE:** **15th JULY 2020**

LOCAL MEMBERS: **CLLR M ALLPORT**

**TOWN/COMMUNITY
COUNCIL:** **HIGHER KINNERTON COMMUNITY COUNCIL**

**REASON FOR
COMMITTEE:** **DEPARTURE & SCALE OF DEVELOPMENT**

SITE VISIT: **NO**

1.00 SUMMARY

- 1.01 This is a full planning application for the development on Land adj to Kinnerton Meadows, Kinnerton Lane, Higher Kinnerton for residential development of 95 dwellings including affordable housing, means of access, open space and all associated works. As the site is outside the settlement boundary of Kinnerton, the application has been advertised as a departure from the Development Plan.

2.00 RECOMMENDATION: TO REFUSE PLANNING PERMISSION FOR THE FOLLOWING REASONS:-

- 2.01
1. It is considered that there is insufficient evidence to identify the need to bring forward this speculative site outside the settlement boundary of Kinnerton. In the absence of the evidence of need, and in light of the satisfactory levels of residential housing completions, commitments and allocations as set out in the planned housing trajectory in the Deposit LDP, and the Council does not attach considerable weight to the need to increase housing delivery. The proposal, therefore, conflicts with the principles set out in section 4.2 of PPW 10 as it would prejudice the plan-led system with respect to the most appropriate housing sites from being brought forward as set out in the Deposit LDP.
 2. It is considered that the current undeveloped field is of historical significance to the Grade II Listed Buildings of Kinnerton Lodge, Kinnerton Lodge Stables and Compton Hall as former parkland, and this piece of open space should be remain as a buffer between the listed assets and the village. Its loss will harm the Listed Buildings and their setting, along with the historical setting of the curtilage Listed Little Farm. The proposal is, therefore, contrary to planning policy HE1 of the Flintshire UDP.
 3. The site is identified to fall partly within Llwydcoed Royal Park, a 14th-century medieval park. Whilst the exact boundary of the park is unknown, it is considered that there is insufficient information submitted with the application to assess the potential impact upon this archaeological asset fully. Accordingly, the proposal conflicts with Policy HE7 of the Flintshire Unitary Development Plan

3.00 CONSULTATIONS

3.01 Cllr Allport and Higher Kinnerton Community Council

A joint response from the Local Member and Community Council was received, which objects to the proposal on the following grounds:

- HKCC do not consider the proposed speculative development to be sustainable as the village has already absorbed exceptional development on the adjacent large speculative site and the development proposals would not deliver any positive economic, social or environmental outcomes. The proposed development conflicts with Policy Gen 1 (General Development Considerations) as the scale of the proposed development is overbearing, disproportionate to the size of the existing settlement of Higher Kinnerton and would be detrimental to the character of the village.
- Kinnerton Lodge, Stable Range at rear of Kinnerton Lodge, Crompton Hall and Little Farm are all buildings which would be blighted by the

proposed development. In terms of FCC's current planning policies, it is submitted that the proposed development conflicts with Policy HE2 (Development Affecting Listed Buildings and their Settings) as the proposed development would fail to preserve the settings of the aforementioned listed buildings.

- In terms of FCC's current planning policy, it is submitted that the proposed development conflicts with Policy Gen 1 (General Development Considerations) as the development would not have convenient access to public transport. HKCC consider that in determining the Planning Application, a recognition needs to be made that the assessment of local amenities is both inaccurate and misleading. Despite recent development there has been a decline in local service provision and the existing amenities and services to not have the capacity to accommodate the additional development.
- The proposed development conflicts with Policy Gen 1 (General Development Considerations) as the development would have a significant adverse impact on the safety and amenity of nearby residents and the community in general through increased hazards as detailed at the Highways section above. Furthermore, the development would fail to provide safe and convenient access for pedestrians, cyclists, persons with disabilities, and vehicles for the reasons identified at the Highways section above.
- Apart from 95 additional dwellings, the proposed development would not provide any additional long-term benefits as aspired to and detailed in the Higher Kinnerton Village Plan.
- There are comprehensive plans for drainage from this site, but there is no evidence of work being carried out to assess the effect downstream. Lower Kinnerton is already subject to periodic flooding and the additional flow from this site has not been properly considered

3.02 Highways Development Control

Recommends the inclusion of a S106 agreement to cover the provision of off-site Active Travel linkages and to provide funding of £80k to cover costs of future construction.

In respect of the above, the Highways Authority has no objection subject to the imposition of conditions.

3.03 Rights of Way

Public Footpath 5 abuts the site but appears unaffected by the development. The path must be protected and free from interference from the construction

3.04 Community and Business Protection

No adverse comments to make.

3.05 Conservation

It is considered that the current undeveloped field is of historical significance to Kinnerton Lodge, Kinnerton Lodge Stables and Compton Hall as former parkland, and this piece of open space should be used a buffer between the

listed assets and the village. The importance of separation between the two is recognised by Mr A Thickett BA (Hons) BTP MRTPI Dip RSA, the Planning Inspector appointed by the Welsh Ministers, on Appeal Ref: APP/A6835/A/16/3156854: Land south of Kinnerton Lane, Higher Kinnerton, Flintshire.

It is important that the green open space to the South of Kinnerton Lodge is retained as it is currently to offer a sense of separation from the rest of the village. It is considered that this will preserve the historical setting of Kinnerton Lodge, Kinnerton Lodge Stables and Compton Hall, which are all Grade II Listed buildings. It is also considered that this will also retain the historical setting of the Curtilage Listed Little Farm. On this basis it is suggested that this current application should be refused.

3.06 Housing Strategy

This planning application is for 95 dwellings of which 28 are being proposed for affordable housing equating to a 30% contribution. This is acceptable to housing strategy. Based on the levels of housing need, housing strategy would suggest the mix be revised to the following:

Dwelling type	Social Rented	Intermediate Rent	LCHO	Total
1 bed flat				
2 bed flat				
2 bed house	4	5	2	
2 bed bungalow	3			
3 bed house	1	5	8	
4 bed house	1			
Total	9	9	10	

3.07 Welsh Government – Land Quality Advisory Service (LQAS)

The Department has validated the ALC report survey (Report Ref: 1738/1 by Land Research Associates, dated 13th October 2020). The Department can confirm that the survey has been conducted in accordance with the 'Revised Guidelines and Criteria for Assessing the Quality of Agricultural Land (MAFF 1988)' and therefore can be accepted by your Authority as an accurate reflection of the land quality on the site – ALC Subgrade 3b (non BMV land).

As it has been confirmed that the site in question is not BMV agricultural land, the Department for Environment, Energy & Rural Affairs therefore does not object to the proposal.

3.08 Clwyd-Powys Archaeological Trust

Advise that further information is required on the wholly sub-surface prehistoric potential of the plot and the potential sub-surface survival of a

medieval park boundary crossing the land. In the Nexus report conclusions (page 20) it is stated that the Council may consider that the application should be accompanied by information derived from field evaluation and we would agree with this advice.

The proposed development will disturb any sub-surface remains surviving here, but from present knowledge it is impossible to estimate how damaging this might be, and thus to frame an appropriate archaeological response. The planning authority appears to have insufficient information about this archaeological resource, or the applicant's intended treatment of it, to make a balanced decision. As archaeology is a material consideration here we would advise that this application is not determined until this resource has been properly evaluated.

3.09 Welsh Water/Dwr Cymru

If you are minded to grant Planning Consent for the above development, Dwr Cymru advise that a number of condition and advisory Notes are included within the consent to ensure no detriment to existing residents or the environment and to Dwr Cymru Welsh Water's assets.

3.10 Natural Resources Wales

We have no objection to the proposed development as submitted and provide the following advice.

This site is located in Zone A as defined by the Development Advice Map (DAM) referred to under TAN 15 Development and Flood Risk (July 2004), and it is not near a designated main river. Therefore it does not fall into our consultation checklist requirements, and we have no comments to make on flood risk grounds.

Natural Resources Wales considers that the controlled waters at this site are not of the highest environmental sensitivity, therefore, we will not be providing detailed site-specific advice or comments with regards to land contamination issues for this site.

3.11 Airbus

Hawarden Aerodrome Safeguarding has assessed against the safeguarding criteria and revised amendments as required by DfT/ODPM Circular 1 / 2003: Safeguarding of Aerodromes and the Commission Regulation (EU) No 139/2014 and has identified that the proposed development has an impact on operations and safeguarding criteria, and the submission of a scheme of aerodrome safeguarding measures via condition is required for mitigation.

3.12 Education

In response to the consultation of this planning application, Education have confirmed that the proposed development would trigger the need for financial contributions at the nearest and most suitable primary and secondary schools, Ysgol Derwen and Castell Alun High School, respectively. The proposed development would generate the addition of 23 primary pupils and

17 secondary pupils. Therefore a primary contribution of £281,911 (23 x £12,257.00) and a secondary contribution of £313,973.00 (17 x 18,496.00).

3.13 Ramblers Cymru

While no public path is directly affected, a public path adjoins the development and is being laid out as a "spine path". We are concerned at a further large extension of the village into rural areas and would ask FCC to rigorously check that the proposal meets current policy requirements and provides appropriate, affordable housing to provide for local needs. We are however, concerned that the proposal makes inadequate provision for "Active travel" and does not guarantee the "Public Open Space" in perpetuity. There is only one path link provided to the adjacent public path. We would suggest further links from each of the other cul de sacs to cater for other "desire lines" to local services. There is also likely to be a "desire line on foot" from the south east corner housing cul de sac to near the "lake" and then on into village. We are also concerned about the arrangements for the "Open Space" in perpetuity. The "Management Plan variously describes this as "communal open space" and then as "Public Open space", but communally owned and managed by an agent company. We would ask that a covenant or similar legal agreement is required (or dedication as "Open Access land") to ensure that PUBLIC access on foot is guaranteed in perpetuity and that there are safeguards to prevent it ever being developed (or sold on) for any commercial or building purposes.

4.00 PUBLICITY

4.01 Press Notice, Site Notice and Neighbour Notification

60no. responses received at the time of writing raising the following objection:

- Surface water problems, the area acts as a flood plain.
- Lack of school places
- Other sites nearby are being developed and left unsold for a period of time
- Overdevelopment
- Unsustainable location
- The Higher Kinnerton Village plan has this area marked as unfavourable
- The Flintshire LDP at Warren Hall already has a very large area marked for property development
- Impact on roads and road safety,
- Landscape and visual impact of developing the open countryside
- Negative effect on the village's character and appearance
- The proposal will lead to further development and encroachment
- Loss of productive agricultural land
- Impact on the sewage system, water supply and other Services
- Dependency on private car as a means of transport
- No facilities in the village to support such a large 95 house expansion, current services full to capacity

- There is a shortage of one bedroom/retirement properties, not family homes
- Noise impacts from the development;
- Potential drainage impacts from surface water on nearby Properties
- The proposed development would be dominant and out of keeping with its surroundings and would therefore harm the character and appearance of the immediate and wider area of the open countryside
- Cause Loss of light and overbearing impact to the adjacent properties
- The development would have a significant displacement impact on this wildlife.
- Impact upon adjacent developments play facilities.
- Public transport improvements needed.
- The proposal fails to preserve the settings of Crompton Hall, Kinnerton Lodge and The Coach House and that any subsequent application for planning permission would need to be refused on the basis of irresolvable conflict with UDP Policy HE2 and PPW

5.00 SITE HISTORY

5.01 No relevant planning history

6.00 PLANNING POLICIES

6.01 Flintshire Unitary Development Plan
 STR1 New Development
 STR4 Housing
 STR7 Natural Environment
 GEN1 General Requirements for Development
 GEN3 Development in the Open Countryside
 D1 Design Quality, Location and Layout
 D2 Design
 D3 Landscaping
 TWH1 Development Affecting Trees and Woodlands
 TWH2 Protection of Hedgerows
 L1 Landscape Character
 HE2 Development affecting Listed Buildings and their Settings
 HE7 Other Sites of Lesser Archaeological Significance
 WB1 Species Protection
 AC13 Access and Traffic Impact
 AC18 Parking Provision and New Development
 HSG4 New Dwellings outside Settlement Boundaries
 HSG8 Density of Development
 HSG9 Housing Mix and Type
 HSG10 Affordable Housing Within Settlement Boundaries
 RE1 Protection of Agricultural Land
 SR5 Outdoor Playing Space and New Residential Development

Flintshire Planning Guidance Notes
 SPGN No. 2 Space Around Dwellings

SPGN No. 9 Affordable Housing
SPGN No. 11 Parking Standards
SPGN No. 23 Developer Contributions to Education
PGN No. 13 Outdoor Space Requirements
SPGN No 6. Listed Buildings

National Policy and Advice Notes
Planning Policy Wales Edition 10 (December 2018) (PPW10)
TAN2: Planning and affordable housing
TAN6: Planning For Sustainable Rural Communities
TAN24: The historic environment

7.00 PLANNING APPRAISAL

7.01 Introduction

This is a full planning application for the development on Land adj to Kinnerton Meadows, Kinnerton Lane, Higher Kinnerton for residential development of 95 dwellings including affordable housing, means of access, open space and all associated works.

7.02 The site and surroundings

The site comprises a 6.11 hectare area of greenfield agricultural land which is located within the open countryside. The site is irregular in shape and rises towards the west. The site is grassland with a number of trees upon boundaries, and within the site. The site is bounded to the east by the Elan Homes “Kinnerton Meadows” development with the listed buildings of Crompton Hall Farm to the South and Kinnerton Lodge to the west. A small area of the site has been used as a compound for the adjacent development, with a number of temporary portacabins and building materials on site. There is currently a stockpile of topsoil on the site from the creation of the temporary compound. A mature hedgerow bounds the majority of the site with Footpath No 5. located to the east of the site, between the proposal and the village.

7.03 The Proposals

This is a full planning application for the erection of 95 No. dwellings; the proposed dwellings are predominantly two-storey in nature, although 4No, bungalows are also proposed. The dwellings are a mixture of detached, semi-detached and mews properties, comprising:

- 14No. 2-bed units (including 7no. bungalows);
- 30No. 3-bed units;
- 34No. 4-bed units; and
- 16No. 5-bed units

The proposed layout provides for a 30% provision of affordable housing.

7.05 The proposed development would be accessed from a new access point created onto Kinnerton Lane. A pedestrian footway network within the site is proposed to connect into the existing footpath to the east of the site, with this footpath being upgraded as part of the neighbouring development. This facilitates pedestrian access from the site to Park Avenue to the south. Green public open spaces (POS) is proposed within the development and mature trees which exist will be incorporated within the landscaping of the site.

7.06 Principle of Development

The site is located outside the settlement boundary of Higher Kinnerton in the adopted UDP, and therefore the proposed development is clearly contrary to the development plan. It is acknowledged that parts of the UDP are now outdated, particularly in respect of settlement boundaries, as reflected in a number of appeal decisions that were made prior to July 2018 when the Minister dis-applied para 6.2 of TAN1 and launched her call for evidence into the provision of housing via the planning system, which has now concluded with the deletion of TAN1 in its entirety as it was not fit for purpose, in recognition of the unsustainable impact of unplanned speculative development on communities. Since the full revocation of TAN1 two appeal decisions have been allowed, but these both had particular circumstances and benefits with the Rhos Rd (South), Penyffordd delivering an over 55's development and the Poor Clair Convent, Hawarden utilising a brownfield residential site. There does not appear to be any specific circumstances relating to the application that allow relevant comparison.

7.07

The key determining factor is whether the proposal represents sustainable development and whether there are material planning considerations that would outweigh the development plan. A further factor, which is given considerable weight by the applicant, is whether weight should be attached to increasing housing delivery. In this context, the focus has clearly moved away from each LPA being required to have a 5 year supply of housing land, removed with the deletion of TAN1, to a system of delivering housing based on the trajectory in a Local Development Plan.

7.08 Sustainable Development

There is no dispute that Higher Kinnerton is a sustainable location to accommodate development during the LDP Plan period. The UDP contained a housing allocation at Main Rd and the 34 units were developed during the UDP period. In the LDP period 2015 to 2030, planning permission was granted on appeal for the adjacent Elan Homes scheme for 56 dwellings and construction is progressing. This would represent a level of growth which is broadly consistent with that experienced in the UDP period. The present proposal for 95 dwellings would represent a much higher level of growth over the LDP period. The LDP has moved away from a prescriptive growth band type approach to distributing housing development, to a more refined approach based on identifying the most sustainable locations and sites based on the first three tiers of the settlement hierarchy. The spatial approach in the LDP is not premised on every settlement having to make planned growth and

there are another 21 Tier 3 settlements. Policy STR2 identifies Higher Kinnerton as a Tier 3 Sustainable Settlement and the policy directs that these 'will be the locations for housing development related to the scale, character and role of the settlement'. It is considered that Higher Kinnerton is already providing for an appropriate level of growth in the Plan period and it is not necessary or appropriate for further development to take place. To do otherwise would make a mockery of the exception already made for the development of 56 dwellings, and would lead to the same incremental harm being created to this tier 3 settlement, as has already been permitted by cumulative appeal decisions under TAN1 in Penyffordd/Penymynydd nearby, which was a key factor that precipitated the review of that policy and its subsequent deletion.

7.09 Taking a broader context, the settlement and site also lies in close proximity to the Warren Hall Strategic Mixed-Use Site which is allocated in the Deposit LDP (STR3b) and includes 300 dwellings. This is a site that is already allocated in the UDP for a business park and already has outline planning permission for a business park but the size of the allocation and the mix of uses has been broadened in the LDP. The site forms an important part of the Growth Deal for North Wales and there is a publicly declared commitment to funding the necessary infrastructure to deliver this important site. The site will bring key economic and social benefits and will contribute to the growth agenda, in a manner that this application site cannot. It is also of concern that the application site would prejudice the delivery of the housing element of the strategic site by diverting market attention away from it.

7.10 The Deposit Plan is therefore already providing for the needs of Higher Kinnerton and the surrounding area over the Plan period in a balanced and sustainable manner, where the sites identified have clear evidence of deliverability and do not cause planning harm, in contrast to this speculative application site. There are other concerns relating to the sustainability of the site and these will be commented on later in this document in the form of comments on the agents planning statement. This specifically focusses on the loss of Best and Most Versatile Agricultural Land and concerns that the proposal does not represent a logical extension to the settlement in terms of the existing form and pattern of built development and the presence of listed buildings at either end of the site.

7.11 Housing Land Supply

Welsh Government has permanently revoked TAN1 and as a result of this is that there is no longer a requirement to maintain a 5 year supply of housing land, and has also removed all of the other provisions previously within TAN1, including the monitoring of supply against a Joint Housing Land Availability Study. Instead, housing delivery for each authority will be measured against the trajectory in the adopted LDP. For those authorities who adopt a Plan following the publication of the revised Development Plan Manual guidance (including Flintshire) the Anticipated Annual Build Rate (AABR) method will be used. This is a significant material change in relation to the consideration of planning applications for speculative housing development.

- 7.12 In relation to the new approach to measuring housing provision against the LDP trajectory, whilst the LDP is not yet adopted, Welsh Government have confirmed that the use of the draft LDP trajectory is a material consideration in assessing speculative applications such as this proposal. In terms of present LDP performance in enabling the delivery of housing, in the first 4 years of the LDP Plan period, the County has seen annual completions of 662 (2016), 421 (2017), 608 (2018) and 454 (2019) which gives a total of 2,145 completions or an average of 536 units per annum. This is in excess of the Plan requirement of 6950 dwellings (or 463 units per annum) and is very close to the Plan's housing provision of 7,950 dwellings (or 530 units per annum). The LDP is therefore on track to deliver not only the amount of housing it is required to meet, but also the rate provided in the plan taking account of the flexibility allowance of 14.4%. It is also the case that the predominant supply in the earlier years of the LDP trajectory is delivered by existing commitments that already have planning permission, and as such, there is nothing for the LDP Examination to consider in relation to the deliverability of this element of the Plan's proposed supply.
- 7.13 The early years of the trajectory up to 2022 show that the plan can continue to deliver primarily from commitments and maintain the delivery rate planned for and experienced in the early part of the plan period. The sites allocated in the deposit LDP that do not already have planning permission, do not feature in the trajectory until 2022 onwards. It should also be noted that of the 13 strategic and housing sites allocated in the LDP which will contribute housing towards the overall requirement figure, 4 already have planning permission and or are already delivering housing, and a further 2 lie within existing settlement boundaries in the adopted UDP and so are capable of early delivery prior to adoption. A further 2 are the subject of current planning applications. Taken together there is a significant degree of certainty that the majority of the sites allocated for housing in the LDP are sustainable, part of a sound plan, may come forward prior to adoption, and are capable of the early delivery of housing. Against this context there is clearly adequate provision for housing and no identifiable shortfall in supply.
- 7.14 The Council published (before the announcement of TAN1 being revoked) its April 2019 Housing Land Monitoring Statement which evidences a '5 year supply figure' of 2533 units and a further 878 units in Category 3 i.e. beyond 5 years. In addition to this is 5 year average supply figure of 447 units and a s106 pending sites figure of 61 which gives a total 5 year supply of 3041 dwellings. Although this is no longer directly relevant, it does serve to demonstrate that there is an existing healthy supply of land with which to deliver housing.
- 7.15 The applicant references that the 'most recent 'tested' measure of delivery is the 2014 Joint Housing Land Availability Study'. However, this JHLAS report for April 2014 presently has no standing as a material consideration given that TAN1 has been revoked. The Council has continued to undertake a yearly housing land monitoring study in consultation with a Study Group, and each of these demonstrates, factually, that a supply of land exists and that

completions are taking place. Although within the terms of the previous TAN1 the Council could not formally undertake or demonstrate a 5 year supply calculation (as it does not have an up to date adopted development plan) the Council has provided informal calculations of supply. Firstly a measurement of supply against past completions (the completions method) has been undertaken which shows that over a 5 year period the land supply is 5.59 years and over a 10 year period the land supply is 6.79 years.

- 7.16 Secondly, a measurement against the Plan's annual average requirement has been undertaken (the residual method) which shows against an average requirement of 463 units there is a land supply of 6.6 years. Although these figures have no formal standing (either at the time TAN1 was in force, or since its permanent revocation) they clearly demonstrate factually that the County does indeed have a supply of housing land not only available, but also that it is being delivered. It is this same factual background evidence which feeds into the LDP's housing trajectory as commented on below.
- 7.17 In addition to the position set out in the Annual Monitoring Reports there is also the additional supply provided by allocations in the Deposit LDP. A Background Paper on Housing Land Supply was published alongside the LDP which explains the various components of housing land supply and sets out a Housing Trajectory to illustrate delivery over the Plan period. Appendix 4 and 5 of that background paper showed that (at the time of Deposit consultation) a 5 year supply can be achieved on adoption. The commentary above demonstrates that delivery has and will take place during the early years of the Plan period.
- 7.18 The evidence base alongside the Deposit LDP clearly demonstrated that a 5 year housing land supply could be delivered (in the context of the now revoked TAN1). In the context of the new arrangements for monitoring housing provision, notwithstanding that the LDP is not yet adopted, evidence of actual housing provision in the first four years of the plan period demonstrates that the plan is in line with its draft trajectory, which is a material consideration in determining this application for speculative development on a greenfield site not allocated in the UDP or emerging LDP. It is also important to mention that Welsh Government, in their formal representations on the Deposit Plan have no fundamental concerns about the soundness of the Plan. In their covering letter Welsh Government states 'The Welsh Government is generally supportive of the spatial strategy and level of homes and jobs proposed and has no fundamental concerns in this respect'. In the supporting document the Welsh Government 'support in principle' the scale and location of homes and jobs. This formal response does not suggest that there are concerns about the Plan 'not delivering' or being 'unsound'.
- 7.19 The starting premise for the Examination of the deposit LDP is that the plan is considered sound unless it can be demonstrated to the contrary by evidence based objections. It is not the role of the Examination to seek to find ways to find the plan as written unsound, but to ensure that sufficient evidence exists to support this starting premise of soundness. In this context it is correct to give the draft housing trajectory weight for the purpose of monitoring

housing provision and land supply against the new approach to this set out in PPW and DPM3. Given that both of these sources are otherwise silent on the means to monitor delivery and supply for a deposit plan not yet adopted, if weight is not given to the 'direction of travel' clearly indicated by the trajectory (bearing in mind also that early supply is predominantly from commitments), then the best that any decision maker can do is to conclude that it is not possible to come to a conclusion on the situation of land supply.

7.20 In this context, and given the imminent examination of the soundness of LDP and its provision of housing to meet the identified requirement, it would be unsafe or irrational to give weight to such an unknown and determine a speculative application for housing in this context. This is particularly the case when a significant exception has already been made on land adjacent to the application site, but where now the applicant seeks an 'exception to the exception' which is neither a sound nor sustainable proposition in its own right. Finally, given the uncertain but clearly apparent negative effect that the Covid 19 situation has had on the building industry, the market, and on buyer confidence and demand, and in light of the recent Welsh Government Ministerial letter that such effects should be assessed as part of development plan process, it would seem to be illogical to make decisions on speculative sites totally outside of this guidance and due process.

7.21 Impact upon Heritage Assets

The current greenfield site is recognised as a former historic parkland associated with the Kinnerton Lodge estate, which included the Kinnerton Lodge, Kinnerton Hall and Compton Hall. These three buildings are all historic in date and are located in varying positions adjacent to the proposed development site. Cadw has designated these three buildings as Grade II Listed along with the Kinnerton Lodge stable range, which also sits adjacent to the proposed development site. The outbuildings that are located within the curtilage of each of the three primary buildings are regarded as curtilage Listed buildings, and these include the building known as Little Farm.

7.22 Policy HE2 - Development Affecting Listed Buildings and their Settings of the Flintshire UDP seeks to protect listed building from inappropriate development, which includes development which may affect the setting of a listed building. The policy states that development within the setting of a listed building will only be permitted where it has no adverse effect on the building's special architectural or historic character and appearance.

7.23 Heritage assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations. The empty green space of the proposed development site currently contributes in a positive way to the setting by allowing distinctive and attractive views of Kinnerton Lodge in its historic and current woodland setting. However it is considered that the open fields have a much wider concept than mere visibility due to the fact that there is a strong historical and economic connection

between Kinnerton Lodge and the agricultural lands of the former estate parkland. It is important that the green and open surroundings adjacent to Kinnerton Lodge are retained so that the heritage asset retains its historical significance and presence as an important country house.

- 7.24 It is considered that the proposed development within the former historic parkland will have an adverse impact on the setting of at least two of the Grade II Listed building groups that are adjacent to the application site, comprising of Kinnerton Lodge and Compton Hall. This aspect of the proposal is discussed in the applicant's Heritage Impact Assessment and the conclusion of this document states 'With respect to indirect impacts to the significances of designated heritage assets arising from changes to their settings which would be occasioned by the proposed development it is concluded that the proposals would impact the heritage significance of two listed buildings by means of changes to their settings'. Whilst the adverse effect to two of the Listed Buildings is noted by the applicant it is considered that this is an underestimate as it is considered that the proposed development will also have an adverse impact on the heritage significance of the Listed Kinnerton Lodge Stable block and Curtilage Listed Little Farm.
- 7.25 It is considered that the current undeveloped field is of historical significance to Kinnerton Lodge, Kinnerton Lodge Stables and Compton Hall as former parkland, and this piece of open space should be used a buffer between the listed assets and the village. The importance of separation between the two is recognised by the Planning Inspector appointed by the Welsh Ministers, on the adjacent Kinnerton Meadows site (Appeal Ref: APP/A6835/A/16/3156854)
- 7.26 The appeal report states 'There are two listed buildings visible from the site and Cadw has expressed concern regarding the impact of the proposed development on the setting of Kinnerton Lodge and Compton Hall Farm (both Grade II). Kinnerton Lodge is a regency villa with its main aspect (including a central two-storey bay) providing views over fields towards Higher Kinnerton. The 1914 ordnance survey map for the area suggests that the appeal site was part of the parkland surrounding the house and it is clearly part of its setting. The proposed development would extend no further west than the adjoining housing estate. The field to the south of Kinnerton Lodge would continue to provide a sense of space and separation from Higher Kinnerton'.
- 7.27 It is important that the green open space to the South of Kinnerton Lodge is retained as it is currently to offer a sense of separation from the rest of the village. It is considered that this will preserve the historical setting of Kinnerton Lodge, Kinnerton Lodge Stables and Compton Hall, which are all Grade II Listed buildings. It is also considered that this will also retain the historical setting of the Curtilage Listed Little Farm. The proposal is, therefore, contrary to planning policy HE1 of the Flintshire UDP.

7.28 Archaeological Impact

The submitted heritage statement discusses the possibility that part of the site falls within the boundary of Llwydcoed Royal Park, a 14th-century park established by King Edward III. The statement outlines that there is currently no archaeological evidence to support the identification of the medieval park boundary within the development boundary. The applicant has suggested that the standard archaeological watching brief condition would be sufficient to deal with that matter.

7.29 However, Clwyd Powys Archaeological Trust has considered the proposals impact upon the potential archaeological asset and conclude that the proposed development will disturb any sub-surface remains surviving at the site. It is impossible to estimate how damaging this might be. They recommend that a geophysical survey is undertaken prior to the determination of any application.

7.30 Given the above, it is considered that the application is not supported by sufficient information to show compliance with planning policy HE7 of the Flintshire UDP.

7.31 Quality of Agricultural Land

PPW10 seeks to conserve the BMV agricultural land as a finite resource for the future. Considerable weight should be given to protecting such land from development and land in grades 1, 2, and 3a should only be developed if there is an overriding need for the development, and either previously developed land or land in lower agricultural grades is unavailable or available lower grade land has an environmental value. TAN6: Planning for Rural Sustainable Communities states that once agricultural land is developed, even for “soft” uses such as golf courses, its return to agriculture as BMV agricultural land is seldom practicable. UDP policy RE1 states that the loss of land in grades 1, 2 and 3a should only be developed if there is an overriding need for the development, and either previously developed land or land in lower agricultural grades is unavailable or available lower grade land has an environmental value

7.32 The application is supported by an agricultural land classification report survey (Report Ref: 1738/1 by Land Research Associates, dated 13th October 2020) which classified the land as Subgrade 3b (non-BMV land). The report has been subject to consultation with the Department for Environment, Energy & Rural Affairs who have confirmed that the survey has been conducted in accordance with the ‘Revised Guidelines and Criteria for Assessing the Quality of Agricultural Land (MAFF 1988)’ and therefore can be accepted as an accurate reflection of the land quality on the site

7.33 As it has been confirmed that the site in question is not BMV agricultural land, the Department for Environment, Energy & Rural Affairs, therefore, does not object to the proposal.

Affordable Housing

7.34

The provision of affordable housing is a material planning consideration that attracts significant weight in the overall planning balance. The proposal provides 30% affordable housing units across the development in the form of 28 affordable dwellings. A revised mix of 3no. 2bed bungalow, 10no. 2-bed houses 14no. 3-bed houses and 1no. 4-bed house has been agreed with the housing officer and can be provided within the existing layout. The mix accords with the identified local housing need as shown in the Local Housing Market Assessment for Flintshire, and on this basis, the proposal is supported by Flintshire County Council Housing Options.

7.35

Should planning permission be granted for the development, a Section 106 agreement would be required to ensure that these units are retained as affordable in their lifetime and that their specific terms of tenure meet the requirements of the local need.

7.36

Whilst this affordable housing provision is a significant positive in support of the development, I do not consider it outweighs the considerable harm the scheme would cause the setting of the Listed Buildings and unplanned nature of unallocated development outside an existing settlement boundary.

Highways

7.37

Access to the site would be directly off Kinnerton Lane, with internal estate roads servicing the proposed dwellings. Higher Kinnerton is not one of the communities that were specifically identified by Welsh Government for Active Travel considerations; however, recent and potential developments has identified the lack of compliant Active Travel linkages both within the community and to neighbouring communities.

7.38

Streetscene are currently progressing improvements along the identified Active Travel route between Penyffordd and Broughton. To link to this identified route there have been suggestions that the proposed Elan Homes development should fund/provide a footway/cycleway connection within the Kinnerton Lane verge as far as the A5104. Although this would provide the required Active Travel link from the site, it is considered that this is not the optimum route to best serve the future residents of the development.

7.39

Land was allocated within the UDP for a mixed commercial/residential development on land at the nearby Warren Bank site; this site is also promoted for inclusion within the LDP. The LDP submission provides an indicative layout, including the provision of internal footway/cycleway facilities. It is envisaged that when provided, these routes should be adopted as public highway, and their use would be available to residents of the Elan Homes development and provide accessible routes towards Broughton.

7.40

Given the above, the highways officer recommends that provision of an off-site footway/cycleway connection between the site and a suitable connection

7.41 point on the Warren Hall Development site be provided. This could be within the verge of either Kinnerton Lane or Lesters Lane both routes being approximately 400m in length. The route could be constructed through a Section 278 highway agreement but in order to avoid provision of an isolated, partial section of a route, funding through a Section 106 planning agreement would be preferred. The applicant has agreed to fund the works; a Section 106 agreement to the value of £80,000 will be required to cover anticipated costs.

7.42 Public footpath no. 7 runs to the east of the site, however, is unaffected by the proposed development. A link from the proposed site onto the footpath is proposed.

7.43 CIL Compliance
Members will be aware that where it is recommended that planning permission be granted, I would set out the consideration of this issue in relation to the CIL Regulations and its impact upon any suggested S.106 Agreement. However, in view of the recommendation that permission be refused, I have in this case refrained from so doing at this stage

7.44 Other Matters
Third parties have commented that other developments have been built elsewhere and that houses on those site remain unused. This may be the case but there is no requirement in planning or other legislation to require all other new or existing homes to be occupied before new homes are permitted.

Concerns were also raised that the loss of the land would adversely impact on wildlife however the site has no designated habitat status and there is no evidence submitted to demonstrate there are protected species present at the site and therefore this matter would be attributed very minor weight in the overall planning balance.

8.00 CONCLUSION

8.01 A central premise of the Planning Acts is that the basis for making decisions on planning applications should be in accordance with the development plan unless other material considerations dictate otherwise. It is also clearly recognised that in considering applications, each case must be considered on its merits. Both of these principles have been appropriately considered in assessing this application, including the sustainability of the proposal. There is insufficient evidence to identify the need to bring forward this speculative site outside the settlement boundary of Kinnerton, and it would be premature to approve this application in advance of the LDP process, as to do so would individually and in combination with existing commitments, be so significant as to predetermine decisions about the scale, location or phasing of new development which ought to be properly taken in an LDP context.

8.02

In addition, the site is an important green open space within the setting of Kinnerton Lodge and currently to offer a sense of separation from the rest of the village. It is considered that its retention will preserve the historical setting of Kinnerton Lodge along with Kinnerton Lodge Stables and Compton Hall, which are all Grade II Listed buildings. The site also falls partly within Llwydcoed Royal Park, a 14th-century medieval park and whilst the exact boundary of the park is unknown, it is considered that there is insufficient information submitted with the application to fully assess the potential impact upon this archaeological asset.

8.03

Given the above summary of the main issues and having carefully assessed those in the planning balance, I recommend refusal accordingly.

8.04 Other Considerations

The Council has had due regard to its duty under Section 17 of the Crime and Disorder Act 1998 and considered that there would be no significant or unacceptable increase in crime and disorder as a result of the recommended decision.

The Council has acted in accordance with the Human Rights Act 1998 including Article 8 of the Convention and in a manner which is necessary in a democratic society in furtherance of the legitimate aims of the Act and the Convention.

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

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

LIST OF BACKGROUND DOCUMENTS

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

Contact Officer: Mr D McVey

Telephone: 01352 703266

Email: Daniel.McVey@Flintshire.gov.uk