

FLINTSHIRE COUNTY COUNCIL

REPORT TO: **PLANNING COMMITTEE**

DATE: **19TH JUNE 2024**

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

SUBJECT: **FORMATION OF A TWO WAY VEHICULAR ACCESS AND ROAD AT EWLOE GATEWAY, EWLOE, FLINTSHIRE**

APPLICATION NUMBER: **059489**

APPLICANT: **DATA PROPERTIES LTD**

SITE: **PARRY'S PIT,
MOLD ROAD,
EWLOE GREEN,
FLINTSHIRE,
CH5 3BQ**

APPLICATION VALID DATE: **12.2.2019**

LOCAL MEMBERS: **COUNCILLOR L. THOMAS
COUNCILLOR D. MACKIE**

TOWN/COMMUNITY COUNCIL: **HAWARDEN COMMUNITY COUNCIL**

REASON FOR COMMITTEE: **LOCAL MEMBER REQUEST**

SITE VISIT: **NO. SITE VISIT WAS HELD ON 11TH MARCH 2024**

1.00 SUMMARY

- 1.01 This full application seeks approval for the creation of an access from the Mold Road/ A494 to facilitate 2 way traffic access to the Ewloe Gateway Services.
- 1.02 Members will recall that this application was deferred at the Planning Committee held on 13th March 2024. The reasons for deferment were given as;

- The late observations not being shared;
- The plan not appearing to match up with the report; and
- Clarification needed on the impact of traffic from Pinfold Lane.

- 1.03 The comments within the late observation referenced by Members at the Committee have been incorporated in the summary of responses to publicity set out in paragraph 4.01 of this report.
- 1.04 As a consequence of the comments in relation to the plan and the report, the applicant has provided a plan to indicate the route of the access road between the proposed access and the existing services at Ewloe Gateway. This plan includes details of proposed bunding to mitigate against potential amenity impacts. Further consideration of these matters is set out in paragraphs 7.26 and 7.27 of this report.
- 1.05 Further clarification in relation to the access and perceived traffic impacts upon the A494, A55 and the Pinfold Lane Junction has been provided and this information is set out in further detail in paragraphs 7.14 to 7.17 of this report.

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

- 2.01 That conditional planning permission be granted subject to the applicant entering into, a Section 106 Obligation; Unilateral Undertaking; or via the making of an advance payment to secure the following: -
- a) The payment of a sum of £6004.87 towards the provisions of Access Only signage at Smithy Lane be provided before the first use of the access and road hereby approved.
- 2.02 If the Obligation pursuant to Section 106 of the Town and Country Planning Act, 1990 (as outlined above) is not completed within 6 months of the date of the committee resolution, the Chief Officer for Planning Environment & Economy be given delegated powers to REFUSE the application.
- 2.03 Conditions:
1. The development hereby approved shall be commenced before the expiration of five years from the date of this permission.
 2. The development shall be carried out in accordance with the following approved plans and documents:
 - Application Form
 - Transport Assessment
 - Post Submission Transport Assessment Note
 - Location plan

- Dwg No. CCL-22-0101-C-ALL-SK-00-001 – Access arrangement.
 - Dwg. No, CCL- 22-0101-C-ALL-DR-00-001-P1 – New Road Layout.
3. The proposed access (and adjoining highway works) shall be completed to the written satisfaction of the Planning Authority in consultation with the Welsh Government (Transport) before the access is brought into use.
 4. No development shall take place until a scheme indicating the provision of parking and turning facilities within the site shall be submitted to and approved in writing with the Local Planning Authority. Thereafter the agreed scheme shall be implemented in full prior to the access being brought into use and retained as such thereafter.
 5. No development shall take place until a scheme indicating the proposed highway drainage scheme has been submitted to and approved in writing with the Local Planning Authority. No drainage from the development site shall be connected to or allowed to discharge into the trunk road drainage system and shall ensure that water from the access road does not drain onto the trunk road. The agreed scheme shall thereafter be implemented in full prior to the first use of the access hereby approved.
 6. No development shall take place until a scheme to provide wheel-washing facilities or an alternative method, has been submitted to and approved in writing by the Local Planning Authority. Such facilities shall be provided before any development commences and thereafter remain available during the construction stage and be used by all vehicles exiting the site.
 7. No development shall take place until a proposal for a Safety Audit of the scheme, (Stages 1 – 4) in accordance with GG119 of the Design Manual for Roads and Bridges, has been submitted to and agreed in writing with the Local Planning Authority. The development shall be undertaken in accordance with the agreed details thereafter.
 8. No development shall take place until a scheme of landscaping has been submitted to and approved in writing with the Local Planning Authority. Such scheme shall include details of
 - a) all existing trees, hedgerows and other vegetation on the land, details of any to be retained, and measures for their protection during the course of development;

- b) proposed new trees, hedgerows, shrubs, or vegetation, including confirmation of species, numbers and location and the proposed timing of the planting;
 - c) proposed earthworks, grading and the mounding of land and changes in levels, final contours, and the relationship of proposed mounding to existing vegetation and surrounding landform; and
 - d) proposed positions, design, materials, and type of boundary treatment to safeguard against noise disturbance to nearby dwellings.
9. All planting, seeding, turfing, fencing, walling or other treatment comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the commencement of the development and any trees or plants which, within a period of five years of the time of planting, die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species.

3.00 CONSULTATIONS

3.01 **Councillor L Thomas (Local Member):** Requests committee determination and site visit in order that Members of the Planning Committee can see the site and the concerns raised below in context . Strongly objects to the proposal for the following reasons:

1. Proposal does not conform to the design standards for roads and bridges (DMRB);
2. Impacts upon the local community;
3. Unclear how cycle route from Ewloe to Mold is incorporated into the proposed plan;
4. Noise and vehicle pollution;
5. Will increase already existing traffic problems in the area due to the nature and narrowness of surrounding roads;
6. Proposals will increase adverse impacts upon the living conditions of nearby residents; and
7. Suggests Smithy Lane be subject of 'ACCESS ONLY' signs at either end.

Councillor D Mackie (Local Member): Considers the proposal, being amended to a left turn in and left and right turn out arrangement, is now acceptable.

Hawarden Community Council: Objects. Has concerns that proposals will give rise to traffic impacts on Smithy Lane and has the potential to result in traffic accidents.

Highways Development Control: Considers there is no direct impact on the county highway network.

Recognises a potential concern related to traffic diverting onto Smithy Lane and notes the requirement for a Traffic Regulation Order is discussed within application submissions, with the applicant willing to investigate the installation of Access Only signage. As such, funding for such a restriction (£6004.87) should be provided via a Section 106 agreement as part of any planning consent.

Community & Business Protection: No objections

Welsh Government - Department for Economy and Infrastructure
No objections. Requests the imposition of conditions as set out in Section 2.03 of this report.

4.00 PUBLICITY

4.01 The application was publicised via the display of a site notice and neighbour notification letters. At the time of writing, nine letters of objection have been received raising objections on the following grounds:

1. Increased traffic in relation to existing accesses along A494 will result in detriment to highways safety;
2. Lack of awareness of turning for traffic turning onto A494 from A55;
3. Impact of traffic upon traffic flows at Pinfold Lane junction;
4. Potential adverse impact upon users of proposed Active Travel Route;
5. Proposals will result in adverse impacts to the living conditions of nearby residents;
6. Visual detriment to the surrounding area from the proposed use;
7. Increased noise and light pollution;
8. Potential for Smithy Lane to be used as short cut with resultant impacts upon amenity and increased littering. and
9. Opportunities to facilitate increased drug dealing.

5.00 SITE HISTORY

5.01 No previous site history

6.00 PLANNING POLICIES

6.01 Flintshire Local Development Plan
STR4 - Principles of Sustainable Development, Design & Placemaking
STR5 - Transport and Accessibility
STR6 - Services, Facilities and Infrastructure
STR7 - Economic Development, Enterprise & Employment
STR10 - Tourism, Culture and Leisure
STR13 - Natural and Built Environment, Green Networks & Infrastructure

STR14 - Climate Change and Environmental Protection
PC1 - The Relationship of Development to Settlement
Boundaries
PC2 - General requirements for Development
PC3 - Design
PC5 - Transport and Accessibility
EN4 - Landscape Character
EN7 - Development Affecting Trees, Woodlands & Hedgerow
EN20 - Landfill Buffer Zone
Supplementary Planning Guidance
Supplementary Planning Guidance Note 3 – Landscaping

National Planning Policy
Planning Policy Wales (PPW) Ed. 12 (Feb 2024)
Future Wales- The National Plan 2040
Technical Advice Note 18 - Transport

7.00 PLANNING APPRAISAL

7.01 Site and Surroundings

The site is located within the open countryside and within an agricultural field located to the north of the A494 Mold Road. The access is proposed to be formed within the southern boundary of this field at a mid-point between the route of the former railway to the west and the existing agricultural access to the east. The landform in this area slopes downhill from the eastern boundary to the west. Boundaries to the field are formed of a mixture of established and mature hedgerows, interspersed with trees.

7.02 Existing residential dwellings are located at Pottery Cottages, some 100m to the west of the site, and Parry's Cottages, 75m to the east. A further dwelling is located 205m to the north of the proposed access point, close to and accessed via the existing services.

7.03 Parry's Quarry Landfill site is located to the east and the site falls within the designated landfill buffer zone.

7.04 The Proposal

The proposal seeks permission for the creation of a vehicular access to Mold Road/A494 and the provision of a circa.230m two-way access road to the Ewloe Gateway Services. The reason for this link is to both facilitate an additional means of accessing the services from the easterly direction, reducing the present pressure upon Pinfold Lane from return traffic and to negate the need to travel up to the Connah's Quay Road, some 2 mile to the west, and then drive back. In addition, the access will serve to try and mitigate an existing issue and risk of pedestrians from the hotel at the services crossing the A55 to get taxi's into the local town

7.05 The Main Issues

The main issues to consider are:

1. The principle of development, having regard to the development plan;
2. Access and highway impacts;
3. Impacts upon living conditions; and
4. Impacts upon the character and appearance of the area.

7.06 The Principle of Development

Policies STR2 and PC1 indicate that development proposals should primarily be directed toward allocated sites and settlement boundaries, being the most suitable and sustainable locations to accommodate development. However, exceptions are identified to this presumption and are set out in Policy PC1. Of particular relevance to this proposal is criterion c) which advises that, inter alia, development related to tourism, leisure and recreation may be acceptable in open countryside locations, subject to compliance with other plan policies.

7.07 The proposal, being for the purposes of facilitating easier access to and from the Ewloe Gateway Services on the A55, would satisfy this exception.

7.08 The site is located within the designated Landfill Buffer Zone for the landfill at Parry's Quarry, the closest point of which is some 50m from the access road element of this proposal. This policy advises that where development proposals would amount to sensitive, such development is not to be permitted. Sensitive development comprises development which would be sensitive to the effects of noise dust, odour, pests and the effects of the potential migration of landfill gases. This proposal does not represent sensitive development and therefore this policy would be satisfied.

7.09 As a matter of principle therefore, the proposal is acceptable, subject to the consideration of detailed matters the relevant policies in those regards.

7.10 Access and Highway Impact

The proposal provides for the creation of a splayed access off the A494 to provide a left turn in from approaches from the east and a left and right turn out from the access onto the A494. The access then links into a two lane six metre wide access road which runs directly north to link in with the services at the Ewloe Gateway Services.

7.11 As the access is to be formed from a Trunk Road, consultation has been undertaken with Welsh Government Highways department who have advised that it is acceptable to them for the Council to issue planning permission of the works subject to the conditions set out in paragraph 2.03 of this report. The proposal has been the subject of

lengthy discussion and numerous amendments to reach a point whereby Welsh Government are satisfied that the access meets the standards for road design and bridge building (DMRB).

- 7.12 Furthermore, the access and off-site highway improvements make provision for pedestrians and cyclists in the form of a three metre Active Travel route across the site frontage, to link into the countywide network of cycle and pedestrian routes. It should be noted however, that this proposal is not seeking to provide pedestrian access to the services.
- 7.13 Concerns raised in relation to Smithy Lane being potentially used a short cut route from areas of Buckley to the services have been considered by the applicant. Notwithstanding that the Transport Assessment concludes that it is unlikely that the proposals will result in increased trips from the Mold area (due to the presence of similar dining offers within Mold), it is noted that the applicant is willing to seek to address this concern via the provision of a contribution towards a Traffic Regulation Order to provide for 'Access Only' signage at the junction of Smithy Lane with the A494. To this end, this recommendation includes a requirement for a Section 106 agreement to require the financial contribution to enable this provision to be made.
- 7.14 Concerns have also been raised to the effect that the proposal will result in an increase in traffic and a consequent detrimental impact upon highway safety. In particular, comments have been received in relation to potential adverse impacts arising from traffic entering the A494 from the A55 not being aware of the turning and also the potential for increased traffic creating a traffic backlog at the Pinfold Lane Junction.
- 7.15 It should be noted that the proposal has been the subject of consultation with both Welsh Government Highways and Highways Development Control at Flintshire County Council, neither of whom raise any objection and advise that the proposals will not result in an adverse impact upon the wider local highway network.
- 7.16 The concern in relation to the impact of the turning upon traffic leaving the A55 was a matter of discussion between the applicant and Welsh Government and, prior to the proposed access being operational, the traffic speed on the A494 between the junction of the A494 and Smithy Lane; and the Pinfold Lane Junction is to be reduced from the current 60m.p.h to 40m.p.h. This is in addition to the fact that the access is configured in such a way to prohibit right turn manoeuvres from the A494 into the proposed access. Signage to this effect is to be installed along the A494 from the junction with the A55.
- 7.17 Similarly, whilst the concern in relation to impacts upon the traffic light controlled junction at A494/Pinfold Lane is noted, this proposal has

been the subject of lengthy discussion between the applicant and Welsh Government Highways, in conjunction with the Local Highway Authority. If there were a concern that this proposal would adversely impact upon the junction, this would have been reflected in the comments from Welsh Government. As this is not the case, this is not a matter which concerns Welsh Government Highways.

- 7.18 Accordingly the proposals would satisfy the requirements of policies STR5, PC2 and PC5 of the Plan.
- 7.19 The commuted sum payment as requested can be secured through the completion of a legal obligation requiring payment toward the required Traffic Regulation Order before any development upon the site is commenced.
- 7.20 The infrastructure and monetary contributions that can be required from a planning application through a S.106 agreement must be assessed under Regulation 122 of the Community Infrastructure Levy (CIL) Regulations 2010 and Welsh Office Circular 13/97 "Planning Obligations".
- 7.21 It is unlawful for a planning obligation to be taken into account, when determining a planning application for a development, or any part of a development, if the obligation does not meet all of the following Regulation 122 tests.
1. be necessary to make the development acceptable in planning terms;
 2. be directly related to the development; and
 3. be fairly and reasonably related in scale and kind to the development.
- 7.22 While the Authority does not yet have a charging schedule in place, with CIL Regulations puts limitations on the use of planning obligations. These limitations restrict the number of obligations for the funding or provision of an infrastructure project/type of infrastructure.
- 7.23 From April 2015 if there have been 5 or more S.106 obligations relating to an infrastructure project/type of infrastructure since 2010 then no further obligations for that infrastructure project/type of infrastructure can be considered in determining an application.
- 7.24 Members are advised that since the advent of the CIL Regulations, no more than 5 obligations have been entered into in respect of the contribution requested, and that on application of the tests set out above the contributions would satisfy these requirements.
- 7.25 Impacts upon living conditions
As noted previously, the site is located in varying proximities to existing dwellings. The terraced properties at Pottery and Parry's

Cottages, by virtue of their location in relation to the existing industrial and commercial sites in the local area, experience a certain degree of noise and disturbance associated with traffic using these businesses and traffic using the adjacent A494 Trunk Road. Consultation with Community and Business protection colleagues has not generated any adverse comments or objection in this regard. Indeed, in the case of Pottery Cottages, it can be suggested that vehicles which presently utilise the A494 to access the traffic interchanges at Ewloe as a means of accessing the services would be reduced by virtue of the ability to access the services without the need to pass these properties.

- 7.26 The location of the access being located at a point of some distance to the nearest point of each terrace of dwellings is such that this is not envisaged to result in any adverse impact upon the living conditions presently enjoyed by the occupiers of these dwellings. Nevertheless, the applicant has indicated upon the road layout drawing that a bund will be provided to the east of the access road at the junction which is intended to provide further protection from disturbance in this direction.
- 7.27 The existing dwelling to the north of the site is presently located adjacent to, and accessed via, the Services access roads. As such, this dwelling experiences a certain degree of disturbance associated with the same. It is noted however, that the proposed road would pass within close proximity of the dwelling at its closest point before linking into the existing access road which serves the dwelling. The applicant has indicated that landscaped bund will be provided to help to mitigate such impacts.
- 7.28 Notwithstanding the indication of bunds to be landscaped, there is need for further detail of these bunds in terms of their height and intended scheme of landscaping. As such. It is proposed that a condition requiring the submission, agreement and implementation of such a scheme should be imposed to ensure the bunds serve as both a visual buffer and sound mitigation to ensure that the living conditions of nearby residents are not unacceptably impacted. The details submitted in respect of the matter will also serve to contribute to the need to aims of bio-diversity net benefit.
- 7.29 Subject to this condition, it is not considered that the proposals would give rise to significant impacts upon the living conditions of the occupiers of the identified dwellings and therefore would satisfy the requirements of the Policy PC2 in this regard.
- 7.30 Impacts upon Character & Appearance
The area within which the site is located comprises a wide range of differing land uses set within in otherwise open countryside location. Whilst commercial, waste, industrial and tourism service uses are all

prevalent in the area, they are all largely the subject of significant screening from wider landscape views.

7.31 The proposal has the potential, particularly as it would be viewed in the landscape against the woodland backdrop of the former railway line and landfill buffer to Parry's Quarry, of seeming potentially intrusive in the landscape, especially to views from the west and particularly in the autumn and winter. To mitigate this impact, a condition is suggested for the submission and agreement of a scheme of structural landscaping.

7.32 Visual impacts from the east and north are not considered to be significant in character and appearance terms as ample screening exists and is retained to ensure that the proposal does not detract from wider views from these directions. Similarly, the view of the proposed access point itself from the south is seen in the context of a busy trunk road and, whilst pedestrian and cycle provision is made within the access formation works, these will be seen against the backdrop of retained hedgerow boundaries and the additional planting required at the back edge of the newly formed access itself will compliment this existing vegetation to soften impacts in the longer term.

7.33 As such, the proposals are not considered to be detrimentally impacting to the character and appearance of the area and as such are compliant with the aims of policies STR13, PC2, PC3, EN4 and EN7 in this regard.

7.34 Other Matters

Concern has been expressed that the proposals will give rise to increased opportunity for anti-social behaviour in the form of drug dealing. This issue is not related to the application in any way and is also not a planning matter, being an issue enforceable by the Police. As such it does not carry weight in the determination of this application.

8.00 CONCLUSION

The proposal is in accord with the relevant development plan policies within the Flintshire Local Development Plan, there being no objection from either a Trunk Road or local Highway network perspective, subject to the completion of the S.106 agreement (or similar) and imposition of planning conditions, as referenced in Paragraphs 2.01 to 2.03 of this report. It is therefore recommended that planning permission be granted.

8.01 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.

- 8.02 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.
- 8.03 The Council has had due regard to its public sector equality duty under the Equality Act 2010.
- 8.04 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: Glyn Jones
Telephone: 01352 703281
Email: david.glyn.jones@flintshire.gov.uk