

**FLINTSHIRE COUNTY COUNCIL**

**REPORT TO:** **PLANNING COMMITTEE**

**DATE:** **26<sup>TH</sup> JULY 2017**

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

**SUBJECT:** **FULL APPLICATION – CONSTRUCTION OF 32 NO. DWELLINGS INCLUDING NEW VEHICLE ACCESS POINT, PUBLIC OPEN SPACE, CAR PARKING AND LANDSCAPING AT HAWARDEN ROAD, PENYFFORDD**

**APPLICATION NUMBER:** **056694**

**APPLICANT:** **THE STRATEGIC LAND GROUP & GREEN GATES HOMES (NW) LTD**

**SITE:** **HAWARDEN ROAD, PENYFFORDD**

**APPLICATION VALID DATE:** **13.3.2017**

**LOCAL MEMBERS:** **COUCNILLOR MRS. C. HINDS**  
**COUNCILLOR D. WILLIAMS**

**COMMUNITY COUNCIL:** **PENYFFORDD COMMUNITY COUNCIL**

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

**SITE VISIT:** **NO**

**1.00 SUMMARY**

1.01 This is a full application for the erection of 32 dwellings and creation of access and Public Open Space on land at Hawarden Road. As the site is outside of the settlement boundary of Penyffordd/Penymynydd, the application has been advertised as a departure from the Development Plan.

**2.00 RECOMMENDATION: TO GRANT PLANNING PERMISSION,**

## **SUBJECT TO THE FOLLOWING:-**

2.01 That conditional planning permission be granted subject to the applicant either entering into a Section 106 Obligation or Unilateral Undertaking, or making of an advance payment, to provide for the following:

a) Payment of £98,056 towards improvements to teaching accommodation to bring them in line with minimum standards at Penyffordd County Primary School and £110,814 towards the provision of specialist Art teaching accommodation at Castell Alun High School. Such sums to be paid upon the commencement of development;

and

b) The agreement of the precise means and methods through which the affordability of the proposed affordable units will be secured in perpetuity, together with the means via which the affordable dwellings will be managed.

2.02 Conditions

1. 2 year commencement.
2. Development as per approved details.
3. External materials samples agreed prior to use.
4. No development permitted until scheme for the equipping and maintenance of the P.O.S is submitted and agreed. Implemented prior to 50% occupation/sale.
5. No development permitted until landscaping scheme submitted and agreed.
6. Implementation of landscaping scheme.
7. No development until sewer mitigation measures submitted and agreed. Implemented before the occupation of any dwellings.
8. No development until surface water disposal scheme submitted and agreed. Implemented before the occupation of any dwellings.
9. Acoustic attenuation measures to be implemented as per approved details prior to the occupation of the dwellings to which they relate.
10. Hedgerow and tree protection measures to be submitted, agreed and erected before any other site works are undertaken.
11. Land contamination investigation prior to any development.
12. Remediation scheme to be submitted and agreed prior to any sites works. Implemented prior to occupation of any dwelling approved.

13. Scheme for external lighting submitted and agreed before installation.
14. No development until scheme for footway, improved bus stop and site access submitted and approved. Implemented in full before any dwelling hereby approved is occupied.
15. Siting layout and design of access to be submitted and agreed. No formation until agreed. Access to be formed to base course and kerbed before any other works.
16. Site access visibility splays of 2.4m x 143m in both directions. No obstructions within the splays. Visibility splays to be made available during construction works.
17. Parking facilities to be provided as per approved details.
18. Front of garages to be set back a minimum of 5.5 m behind back of footway.
19. Layout, design, traffic calming, signing, surface water drainage, street lighting and construction of internal estate roads to be submitted and agreed.
20. Scheme to prevent run off of surface water onto highway.
21. Construction traffic management plan to be submitted and agreed.

2.03 If the Obligation pursuant to Section 106 of the Town and Country Planning Act 1990 (as outlined above) is not completed within six months of the date of the Committee resolution, the Head of Planning be given delegated authority to REFUSE the application.

### **3.00 CONSULTATIONS**

#### 3.01 Local Members

Councillor D. Williams

Requests that the application be considered by the Planning Committee. Objects to the proposals upon the following grounds;

- considers the proposals are premature and the site ought properly to be considered via the Local Development Plan process, especially as the site is subject of proposed uses in response to the LDP call for sites;
- the proposals fail to adequately meet the demands for additional open space and recreation provision;
- inadequate local infrastructure to accommodate more dwellings;
- adverse environmental impacts upon habitat and wildlife;
- increased risk of flooding;
- inadequate foul drainage system within the village;
- the site is outside the settlement boundary;
- considers there is insufficient capacity in local schools to accommodate the proposed development;
- adverse impacts upon community wellbeing and cohesion;

- adverse impacts upon street scene;
- increased traffic with consequent impacts upon highway safety; and
- inadequate point of access;

Councillor C Hinds

Requests that the application be considered by the Planning Committee. Objects to the proposals upon the following grounds:

- considers the proposals are premature and the site ought properly to be considered via the Local Development Plan process;
- the site is outside the settlement boundary;
- considers local infrastructure is already stretched with insufficient capacity in local schools and healthcare centres.;
- considers the transport infrastructure is inadequate;
- existing drainage network is inadequate to accommodate further development; and
- the settlement is not a sustainable community.

Penyffordd Community Council

Objects to the proposed development upon the following grounds;

- the proposals will erode the village character of the settlement;
- the level and pace of development within the settlement is unsustainable and this application exacerbates this issue;
- inadequate and unsustainable public transport services within the settlement;
- local highway network is inadequate to accommodate further traffic;
- increased levels of traffic will adversely affect existing amenity and highway safety;
- insufficient capacity in local schools and healthcare centres;
- inadequate provision of open and play space;
- inadequate drainage infrastructure to accommodate the proposed development;
- insufficient affordable housing;
- the proposals are premature and the site ought properly to be considered via the Local Development Plan process;
- use of greenfield site where other sequentially preferable brownfield sites exist;
- the site is outside the settlement boundary;
- the proposals are overdevelopment; and
- the proposals are providing houses to meet a need arising from outside of the county.

Highways Development Control Manger

No objection subject to the imposition of conditions.

### Pollution Control

No objection to the proposals. Advises of the need for a condition requiring a land contamination investigation.

Advises that the submitted acoustic report identifies measures to address potential noise impacts which should be undertaken in accordance with the report.

### Head of Lifelong Learning

Advises that insufficient capacity would result from the proposals at the local primary school (Penyffordd C.P School) Advises that the nearest Secondary School is Castell Alun High School, which has insufficient capacity and would therefore be affected by the proposals.

### Public Open Spaces Manager

No objections to the proposed size and location of the POS but requires a scheme for the enclosure, equipping and subsequent maintenance of the area to be submitted and agreed. The equipped area to be provided upon 50% sale or occupation of the development.

In the event that the developer wishes any areas of P.O.S to be adopted, a commuted sum for 10 years maintenance will be required.

### Housing Strategy Manager

In terms of evidence of the need for affordable housing, advises:

- The Local Housing Market Assessment (LHMA) for Flintshire identifies an annual shortfall of 246 affordable units. In 2015/16 124 affordable units were delivered but within the Mold/Buckley sub region (within which the site is located) there is an identified annual shortfall of 165 affordable dwellings;
- The LHMA identifies a need for primarily 1 bed (14%), 2 bed (31.6%), and 3 bed (28.5%), split relatively evenly between Social rented (56.2%) and intermediate (43.8%) tenures;
- There is an identified level of interest for intermediate products within Penyffordd, with;
  - 21 applicants are currently registered for a shared equity property on a circa 50:50 split between 2 and 3 bed options; and
  - A further 11 applicants registered for affordable (intermediate) rent with 4 applicants seeking 3 bed accommodation, 5 seeking 2 bed accommodation and 3 requiring 1 bed accommodation.

In view of the above, advises that the proposed affordable housing provision within the application would be acceptable and is supported.

Dwr Cymru/Welsh Water

No objection subject to the imposition of a condition requiring a detailed scheme for the reinforcement of the public sewer network has been completed in accordance with the solutions set out in the submitted Hydraulic Modelling Assessment.

Welsh Government Land Use Planning Unit

Advises that the Agricultural Land Classification (ALC) assessment undertaken in respect of the site present an accurate reflection of the agricultural land quality across the site and recommends that the ALC survey findings are accepted.

Natural Resources Wales

No objection on either protected species or flood risk grounds.

Airbus

No objection upon aerodrome safeguarding grounds.

The Coal Authority

No adverse comments. Requests that standing advice notes are imposed upon any subsequent permission granted.

**4.00 PUBLICITY**

4.01 The application was publicised by way of the posting of a press notice, display of a site notice and notification letters to neighbours. The application has been advertised as a departure from the development plan.

4.02 165No. letters of objection upon the following grounds;

- The recent development in the village allocated within the UDP have highlighted the lack of infrastructure to support any additional development
- Surface water problems
- Lack of school places
- Premature in advance of the UDP and should not pre-empt decisions in advance of the LDP
- Other sites in the settlement have been put forward as part of the Candidate site process and this may prejudice them coming forward
- Overdevelopment of the village to the detriment of its character
- Landscape and visual impact of developing the open countryside
- The site is a greenfield site outside the settlement boundary
- Would lead to additional traffic and congestion
- Impact on the sewage system, water supply and other services
- Impact on dentists and doctors

- Noise impacts from the development and to the development from the bypass
- Potential drainage impacts from surface water on nearby properties
- There has been sufficient recent developments in the village almost 35%
- Impact on the hedgerow and nesting birds
- Pedestrian safety is poor
- This site is a green buffer entrance to the village and separates the built area from the bypass

4.03 4No. letters of support upon the following grounds;

- the quality of the neighbourhood;
- the close proximity of a wide range of facilities and services;
- the site is a sensible infill of land of limited agricultural potential; and
- there is a need for development to afford house buying opportunities to existing younger members of the community.

## **5.00 SITE HISTORY**

5.01 No previous site history.

## **6.00 PLANNING POLICIES**

6.01 Flintshire Unitary Development Plan

STR1 - New Development

STR4 - Housing

STR8 - Built Environment

STR10 - Resources

GEN1 - General Requirements for New Development

GEN3 - Development Outside Settlement Boundaries

D1 - Design Quality, Location and Layout

D2 - Design

D3 - Landscaping

TWH1 - Development Affecting Trees and Woodlands

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

SR5 - Outdoor Play Space and New Residential Development

EWP3 - Renewable Energy in New Development

EWP14 – Derelict and Contaminated Land

EWP16 – Water Resources

RE1 - Protection of Agricultural Land

6.02 Local/Supplementary Planning Guidance Notes

LPGN 2 - Space around dwellings

LPGN 4 - Trees and Development

LPGN 9 - Affordable Housing

LPGN 11 - Parking Standards

LPGN 13 - Open Space Requirements

SPG 23 - Developer Contributions to Education

6.03 National Planning Policy

Planning Policy Wales Edition 9 November 2016

Technical Advice Note 1 : Joint Housing Availability Studies

Technical Advice Note 11: Noise

Technical Advice Note 12 : Design

**7.00 PLANNING APPRAISAL**

7.01 Introduction

This is a full application for the erection of 32No. dwellings, creation of a new vehicular access and associated infrastructure on land at Hawarden Road, Penyffordd.

7.02 The Site & Surroundings

The site comprises some 1.30ha of land outside the settlement of Penyffordd. The site is currently a single field , lastly in use for the purpose of grazing. The land falls from its high point in the north west towards the south and is typical of the surrounding landform.

7.03 The site is bounded by a combination of post and wire fences with mature and well established hedgerows on all sides. The A550 lies beyond the western boundary, with Hawarden Road abutting to the north and east. These boundaries, in addition to the hedgerow, have a small bund associated with them. The southern boundary is marked by again by hedgerow interspersed with mature trees, with a further small field parcel beyond.

7.04 The Proposed Development

The proposals provide for the re-development of this site to provide 32No. dwellings, comprising:

- 6No. 2 bed dwellings, arranged in 2 blocks of 3No. terraces;
- 20No. 3 bed dwellings, arranged in both semidetached and detached formats; and
- 6No. 4 bed detached dwellings.

7.05 The proposals also provide for the creation of a new point of vehicular access from the site onto Hawarden Road and the creation of footpath and cycle links from the site. The proposals include the provision of some 0.16 hectares of Public Open Space.

7.06 The Main Issues

I consider the main issues for consideration in the determination of



this application to be:

- The principle of development having regard to planning policy;
- Agricultural land classification
- Highways impact;
- Amenity Impact;
- Impact upon trees and ecology;
- Highway and transport impacts;
- Drainage impacts;
- Affordable housing;
- Public Open Space; and
- Education Contributions.

7.07 The Principle of Development

The site lies outside but adjacent to the settlement boundary in the adopted UDP. In terms of the policies in the adopted UDP, policy GEN3 sets out those instances where housing development may take place outside of settlement boundaries. The range of housing development includes new rural enterprise dwellings, replacement dwellings, residential conversions, infill development and rural exceptions schemes which are on the edge of settlements where the development is wholly for affordable housing. Policy GEN3 is then supplemented by detailed policies in the Housing Chapter on each type.

7.08 Given that the proposal is for 32 dwellings and does not fall within the scope of above policy framework, then the proposal is contrary to these policies in the adopted UDP and is a departure from the development plan and has therefore been advertised as such.

7.09 The applicant justifies the proposal on the basis of a lack of a 5 year housing land supply, the fact that the UDP is out of date and that the proposal represents sustainable development.

7.10 **Welsh Government Advice and National Planning Policy**

Planning Policy Wales Edition 9 November 2016 paragraph 4.2.2 states;

*“The planning system provides for a presumption in favour of sustainable development to ensure that social, economic and environmental issues are balanced and integrated, at the same time,”* when taking decision on planning applications.”

7.11 Planning Policy Wales Edition 9 November 2016 paragraph 4.2.4 states;

*“A plan led approach is the most effective way to secure sustainable development through the planning system and it is important that plans are adopted and kept regularly under review. Legislation*

*secures a presumption in favour of development in accordance with the development plan for the area unless material considerations indicate otherwise. Where;*

- *There is no adopted development plan; or*
- *The relevant development plan policies are considered outdated or superseded; or*
- *Where there are no relevant policies*

*there is a presumption in favour of proposal in accordance with the key principles and key policy objectives of sustainable development in the planning system. In doing so, proposals should seek to balance and integrate these objectives to maximise sustainable development outcomes.”*

7.12 Paragraph 4.2.5 states “*In taking decisions on individual planning applications it is the responsibility of the decision-maker to judge whether this is the case using all available evidence, taking into account the key principles (see 4.3) and policy objectives (see 4,4) of planning for sustainable development. In such case the local planning authority must clearly state the reasons for the decision.”*

7.13 The Inspector in his appeal consideration of APP/A6835/A/14/2220730 land off Old Hall Road/Greenhill Avenue, Ewloe in March 2015 stated that “*There is a danger that the need to increase supply and lack of a 5-year housing land supply could be used to justify development in inappropriate locations.”*

7.14 A recent appeal decision allowed 40 dwellings on a site at Rhos Road (APP/A6835/A/16/3149082). The Inspector noted ‘*The development of the site would result in the loss of open land on the approach to the settlement. The site is well-enclosed in views from the main roads and this mature vegetation can be retained as part of the development. The A550 also forms a logical boundary for the settlement at this location*’. The Inspector went on to comment ‘*The proposed development would not accord with the Policy GEN3 of the UDP because the site is outside the settlement limit. However, the site is adjacent to the limit and is well enclosed with a logical boundary limiting incursion into the open countryside. The site is on the edge of a settlement that is well served by a range of local facilities, bus services and a train station. The UDP Inspector considered local services to be good. The Council accepts that the site is in a sustainable location in terms of facilities and services*’. The conclusion of the Inspector was that ‘*I have found that the proposed development would be sustainable and this particular location would be appropriate. Having taken all relevant matters raised into account, I conclude that the benefits of the proposal outweigh the conflict with the development plan*’.

7.15 It is therefore key in making the planning balance therefore to consider the sustainable development 'key principles' and 'key policy objectives' set out in PPW.

### **Housing Land Supply**

7.16 Welsh Government Technical Advice Note 1 states that "*The housing land supply figure should also be treated as a material planning consideration in determining planning applications for housing. Where the current land supply shows a land supply below the 5 year requirement or where the local planning authority has been unable to undertake a study..... The need to increase supply should be given considerable weight when dealing with planning applications provided that the development would otherwise comply with the development plan and national planning policies.*"

7.17 In these circumstance, advice contained in para 6.2 of TAN1 is that '*The housing land supply figure should also be treated as a material consideration in determining planning applications for housing. Where the current study shows a land supply below the 5-year requirement or where the local planning authority has been unable to undertake a study.....the need to increase supply should be given considerable weight when dealing with planning applications provided that the development would otherwise comply with development plan and national planning policies*'.

7.18 Further guidance is contained in para 9.2.3 of PPW that '*Local planning authorities must ensure that sufficient land is genuinely available or will become available to provide a 5-year supply of land for housing judged against the general objectives and the scale and location of development provided for in the development plan*'. This paragraph then goes on to explain what constitutes 'genuinely available' and this is defined as '*...sites must be free, or readily freed, from planning, physical and ownership constraints, and economically feasible for development, so as to create and support sustainable communities where people want to live*'.

7.19 It is clear from national planning guidance that considerable weight should be attached to the lack of a 5 year housing land as a material planning consideration. Furthermore, decisions must also be made in the context of the Welsh Governments 'presumption in favour of sustainable development'. It is acknowledged that the Council cannot demonstrate a 5 year housing land supply within the terms of TAN1 and the Council has identified measures that would be taken to increase housing land supply. One of the measures is as follows:

*'Firstly, the Council will continue to work with landowners and developers in bringing forward appropriate and sustainable windfall housing sites as well as addressing any difficulties or obstacles preventing the delivery of allocated sites. Applications for sites within settlement boundaries will generally be looked upon favorably*

*provided that they satisfy the Plan's policies. Applications on sites outside of existing settlements will be assessed on their individual merits in terms of whether they represent logical and sustainable development having regard to material planning considerations and will not be approved merely because they would increase housing land supply. They must also be capable of demonstrating that they can positively increase supply in the short term (perhaps by granting a short term permission) otherwise they would not be capable of meeting the requirements of TAN1. The Council has developed a guidance note for developers in this respect, which seeks to ensure that speculative sites put forward on the basis of a lack of housing land supply are genuine development proposals, as opposed to simply adding value to land'.*

### **Development Guidance Note**

7.20 a) Full application  
The application is a full application and therefore satisfies the guidance note in this respect

b) Sustainability  
The applicant's planning statement provides a commentary on how the proposal is considered to be sustainable in the context of guidance in PPW. The applicant has undertaken an analysis of the candidate sites on the register for the settlement of Penyffordd and Penymynydd in terms of their sustainability against standard criteria. The applicant considers that this table demonstrates that the application site scores highly against these criteria. The site is located in close proximity to a range of services and transport nodes, is visually and physically contained due to existing hedgerows and roads, and is capable of accommodating a safe new access point. It is contended by the applicants that development of the site for housing would constitute a sustainable extension to the settlement of Penyffordd; and adjoining roads at three of its boundaries restrict any further encroachment into open countryside.

Furthermore, the site has been assessed against both the Council's LDP sustainability objectives and the 7 wellbeing goals of Welsh Government as set out in PPW and the Well Being of Future Generations (Wales) Act 2015.

The site is considered to perform well in relation to all assessments and demonstrates that the site is both sustainable and suitable for the proposed development.

c) Viability

There is no dispute over the requested S106 contributions or matters required by condition which are;

Affordable housing - Provision of 10No. affordable dwellings, comprising 6No. 2 bed units and 4No. 3 bed units. 7No. of these are to be provided via shared ownership and the remaining 3 via affordable rent;

Open Space – Provision of 0.16 hectares of Public Open Space within the site which is to be equipped in agreement with the Local Planning Authority.

Education - £98,056 for Penyffordd Primary School and £110,814 for Castell Alun High School.

Whilst the applicant has not submitted a viability statement, they have confirmed that they have undertaken an assessment of viability and are content that the scheme is viable. I would suggest that as the applicant has made plain that the development will meet the Council's Planning Obligations in all respects, then there is no need to submit viability information.

d) Deliverability

The applicant is experienced delivering housing developments, delivering 188 units across 5 sites within the last 18 months. The applicant advises that the site would be commenced within 2 years and completed they are confident that all 32 dwellings will be delivered within a 5 year period if the planning application is approved.

7.21 The recent appeal decision at Rhos Rd has demonstrated the weight to be attached to the lack of a 5 year housing land supply relative to development plan policies, having regard to an assessment as to whether the development is sustainable or would cause harm. In this context I consider that the proposal is similar in terms of its location and scale and has the potential to represent sustainable development. I consider that the site would meet the tests in PPW and TAN1, and that the need to increase housing land supply would outweigh the development plan presumption against development.

Agricultural Land Classification

7.22 The application was accompanied by An Agricultural Land Classification Survey (undertaken by Reading Agricultural Consultants Ltd – March 2016) which indicated that the site comprised some 0.9ha (64%) of Grade 3a land and 0.5ha (36%) of

Grade 3b land. Subgrade 3a land is classed as Best and Most Versatile (BMV) agricultural land and is protected by planning policy.

7.23 Consultation has been undertaken with Welsh Government's Land Use Planning Unit who have advised have clarified that the submitted Agricultural Land Classification study has been completed to a high standard and is considered to provide an accurate indication of agricultural land quality. They advise that whilst 64% of the site does amount to BMV land, the site must be viewed in the context of its surroundings. The site is not part of a larger assemblage of agricultural land of comparable quality. The land to the south of the site comprises subgrade 3b land and this is reflective of the majority of the agricultural land in the immediate vicinity of Penyffordd. Accordingly, this site is not going to be able to produce the moderate to high yields of a wide range of crops, as would normally be expected of such land, due to the restricted nature of the site area and the fact that it is an isolated area within a larger area of subgrade 3b land.

7.24 Accordingly, Welsh Government's Land Use Planning Unit have advised that the findings of the Agricultural Land Classification survey be accepted and do not object to the loss of Grade 3a land in this instance.

7.25 Although both PPW and UDP policy RE1 require considerable weight to be given to protecting Grade 3a land, the restricted agricultural utility should also be taken into consideration in the overall balance. Accordingly I am of the view that the loss of such constrained piece of isolated Grade 3a land should not serve as an impediment to development in this case.

Design issues and impacts upon amenity

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

7.27 The scheme has evolved to respond to the site characteristics and delivers a design where the form and dwellings reflect both the design of the residential areas and buildings in the locality, and provide for a mixture of house types. The scheme has sought to provide a greater variety of house types and seeks to retain existing natural features upon the site fringe to maintain a green, rural character to the site frontage in this location.

7.28 The wider area is characterised by a mixture of property types, styles and ages with a variety of arrangements of built form but has no overall dominant local vernacular. The applicant has sought to recognise this within the proposal and seeks to create a development which sits well in its locality but delivers a strong sense of identity. The layout takes full account of the existing dwellings opposite the site by maintaining adequate separation distances, in line with

Council guidance standards on space about dwellings and overlooking to secure privacy and amenity. The proposals provide development at a density of 25 dwellings per hectare (d.p.h) or 28 d.ph if the P.O.S area is excluded. I am satisfied, taking account of the edge of settlement location, that this density of development is acceptable in this context.

Accordingly and notwithstanding representations made, I consider the proposals provide an adequate and appropriate response to the design issues raised in connection with the consideration of this application.

7.29

The potential for traffic upon the adjacent A550 and Hawarden Road to have an adverse noise impact upon the proposed dwellings. Consultation with Pollution Control colleagues has established that site has been identified as being in Category C of TAN 11 and as such there will be a high level of mitigation required to protect the amenity of future residents. The applicant has identified that erection of an acoustic attenuation fence along the western boundary of the site, with some return along the southern and northern boundaries would address the noise impact. This fence would be 2.2m in height towards the north, rising to 2.8m along the southern end of the site. This, in combination with the proposed enhanced glazing would serve to ensure that noise will not adversely affect future residential amenity.

7.30

#### Visual Impact

The proposed site forms only a small part of a wider local character area. Trees and hedgerows of merit are to be retained and enhanced as part of the landscape planting proposals which will also help to soften the built form and assimilate the development into the wider landscape context. The proposed development will sit between the existing settlement, the road and the A550 and will be an infill development that will have only very limited landscape and visual effects over a small area of influence. Any visual impacts that remain following mitigation will remain local in nature and become neutral in tone as the proposal assimilates into the existing settlement form.

7.31

The noise mitigation measures in the form of the acoustic fence and the proposed removal of approximately 31m of hedgerow to form the access to Hawarden Road would result in an impact to the character of the site. However, the A550 boundary would remain as strategic landscaping buffer with a fence and further additional evergreen boundary planting is proposed. Further landscaping in the form of additional evergreen planting (semi mature Holly of 1.5m – 1.75m in height) is also proposed to be provided along the Hawarden Road boundary and I propose to condition the implementation of this scheme.

7.32

Accordingly, whilst the development of the site will have some impact on the approach to the settlement it is not considered that this harm

is so great that it would weigh against granting planting permission.

7.33 Impact upon trees & ecology

The application was accompanied by a Tree Survey Report. The trees within the site are located within the boundary hedgerows on the site are within the boundary hedgerow to the south of the site. The

7.34 scheme proposes the retention of all of the trees with the exception of a single beech tree, the condition of which is such that it is considered to be a risk of falling in high winds. Subject to the imposition of a condition for the protection of the trees and hedges during the course of works, there are no tree constraints on the site.

An Ecological Appraisal of the site was submitted with the application which identifies that the site has no built structures to offer roosting and foraging potential for bats and foraging potential is also low.

7.35 There is an existing hedgerow on the boundary of the development site which could be utilised by bats. It is proposed to retain and enhance the hedgerow boundaries. It is also proposed to condition any external lighting in order to maintain the foraging potential of these hedgerow corridors.

Highway and transport impacts

Vehicular access to the site is proposed to be derived via a new access from Hawarden Road, allowing access to both the County highway network and existing adjacent residential estate roads. The

7.36 application is accompanied by a Transport Statement which highlights that the site is sustainably located within the settlement and has good links to the public transport network. The site is within easy walking distance of the Penyffordd railway station and bus stops are located upon the road frontage of the site upon Hawarden Road.

Representations have been made that the proposals will give rise to a level of traffic generation which would adversely affect the safety of existing highway users and is unsustainably excessive. The Local Highway Authority have considered the proposals and raise no

7.37 objections on highway safety grounds. Accordingly there is no objection to the proposals, subject to the imposition of conditions.

Drainage impacts

*Surface water*

The site lies entirely within Zone A of Welsh Government's Development Advice Map referred to under TAN15: Development & Flood Risk. Flood Map information confirms that the site lies outside of the extreme flood risk outline.

7.38

Although the potential flood risks to the development are considered to be relatively low, there is potential for flooding on-site and/or offsite if surface water run-off is not effectively managed. Accordingly the applicant has produced a surface water management proposal which

7.39 has considered the effects that the proposed development could have on surface water runoff rates, and sets out a number of measures



which seek to minimize potential on-site and off-site flood risk impacts, over the development lifetime (including consideration of the effects of climate change). The applicant has examined the potential for the site surface water to be disposed of via soakaways. This examination has established that the soil conditions are such that low to moderate infiltration rates could be demonstrated. Given these unfavorable conditions, it is proposed to direct surface water runoff generated from newly impermeable areas of the site to an existing culverted watercourse located to the south east of the site.

7.40 This proposed method of disposal has been the subject of consultation with both NRW and the Council's drainage engineers. No objection to this proposal has been raised, although the agreement of the precise technical design of the system will be required. Accordingly I propose to condition the submission and agreement of such a scheme.

#### *Foul water*

7.41 The applicant has commissioned a Hydraulic Modelling Assessment (HMA) from Dwr Cymru/Welsh Water (DCWW) prior to the submission of this application. This has established that the local sewer network would be detrimentally affected as a result of the proposed development discharging to the sewers. The HMA identifies a number of options for sewer network reinforcement and I am advised that the implementation of one of those options would enable the proposed development to connect to the public sewer network without causing detriment to the network or the environment.

The preferred option is to remove surface water disposal from the public sewer system, which will free up capacity in the system to accommodate the foul flows generated from this site.

7.42 I am advised in response to consultation by DCWW that there is no objection to the proposed development subject to the imposition of conditions. Amongst the suggested conditions is the requirements for the submission and agreement of the detailed scheme of sewer mitigation measures to reinforce the existing network. I propose to

7.43 condition that no development be permitted until this detail is submitted and agreed and no occupancy will be permitted until the approved measures are implemented.

#### Affordable housing

7.44 The proposed layout provides for 10No. affordable dwellings, comprising 6No. 2 bed units and 4 No. 3 bed units. It is proposed that 7No. of the dwellings will be affordable via a shared equity model and 3No. via affordable rental.

The Housing Strategy Manager has advised in response to consultation that these proposals are acceptable to meet the need for affordable housing in the area. However, I am advised that there is a

7.45 need to reach agreement in respect of the delivery options for the affordable units. Accordingly, this requirement will be addressed via the proposed legal agreement.

#### Public Open Space

7.46 The proposals provide an indication of on-site public open space intended for recreation and play. Consultations with the Public Open Spaces Manager has revealed that the provision within the site for play is acceptable in terms of area. There is the need for a scheme of boundary treatments, access and play equipment to be submitted and agreed. The area will be required to be equipped as per the approved scheme upon 50% sale or occupation of the development.

7.47 After a period of 12 months following the completion of the P.O.S, should the developer require the council to adopt the P.O.S, a commuted sum payment for 10 years maintenance would be required.

7.48 Accordingly and in line with LGPN 13: Open Space Requirements, I propose to condition the submission and agreement of a scheme for the equipping of the area and the maintenance provisions for the same in the future.

#### Education Contributions

7.49 It has been suggested in third party responses to consultation that the settlement does not have sufficient capacity within the existing infrastructure to accommodate the proposed development of a further 32 dwellings. Specifically cited is the lack of capacity at local schools.

7.50 Members will be aware that applications of this type are the subject of consultation with the Capital Projects and Planning Unit within the Local Education Authority. This consultation has established, having regard to SPG23 : Developer Contributions to Education, that the development would give rise to the need for a contribution requirement at both primary school and secondary school levels.

7.51 Such capacity would not be available at the nearest primary school (Penyffordd C.P. School). The current capacity of the school stands at 259. There are presently 251 pupils attending the school. Accordingly the school has only a 3.09% surplus of spaces, which equates to 8 spaces for additional pupils. The proposals would give rise to an additional 8 pupils, thereby eroding the remaining capacity. Accordingly, upon the application of the guidance, a sum of £98,056 would be sought for educational purposes as a consequence of this development.

Capacity is also not available at the nearest high school (Castell Alun). The current capacity of the school stands at 1240. There are presently 1362 pupils attending the school. The proposals would give rise to an additional 6 pupils. Accordingly, upon the application of the

7.52 SPG23 guidance, a sum of £110,814 would be sought for educational purposes as a consequence of this development.

Members will recall from recent discussions in respect of this school and the implications of the effects of the CIL Regulations upon the ability of the Local Planning Authority to seek contributions via S.106 Agreements in respect of educational infrastructure in respect of this school.

7.53

The infrastructure and monetary contributions that can be required from the a planning application through a S.106 agreement have to be assessed under Regulation 122 of the Community Infrastructure Levy (CIL) Regulations 2010 and Welsh Office Circular 13/97 'Planning Obligations'.

7.54

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;

7.55

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.

While the Authority does not yet have a charging schedule in place, the CIL Regulations puts limitations on the use of planning obligations.

7.56

These limitations restrict the number of obligations for the funding or provision of an infrastructure project/type of infrastructure. 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.

7.57

The Planning Authority has secured 1 obligations towards Penyffordd C.P School since April 2010 namely;

7.58

<b>048313</b>	Land at Wood Lane Farm, Penyffordd	£193, 291
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At Penyffordd C.P School I am advised that the sum sought will be used as a contribution towards a project to improve the standards of teaching accommodation to bring such facilities up to the minimum standard required to deliver the National Curriculum.

7.59

The Planning Authority has secured 5 obligations towards Castell

Alun High School since April 2010 namely;

Reference No.	Site Address	Contribution Amount
048186	Land at Bridge Farm, Fagl Lane, Hope	£31,500
048313	Land at Wood Lane Farm, Penyffordd	£139,607
048676	Land at Babylon Fields, Higher Kinnerton	£21,000
048471	Land at Cymau Lane, Abermorddu	£24,500
048892	Land at the Former White Lion Public House, Penymynydd	£52,500

7.61 I am advised that since the advent of the provisions of the CIL Regulations, The Director of Lifelong Learning has identified separate projects in respect of educational needs a Castell Alyn High School which are distinct and separate to the project to which the above listed obligations relate. I am advised that the sum sought will be used as a contribution towards a project to develop the provision of specialist Art teaching accommodation at the school.

7.62 I am satisfied, on the application of the tests set out in S.122 of the CIL Regulations and as detailed above, that such contributions would satisfy these requirements. I am also satisfied that the sum sought in relation to Castell Alun High School is for a specific identified project and as such, would not be caught by the S.123 prohibition with the CIL Regulations.

7.63 Other matters

In addition to the above issues, objections have also been advanced in respect of the perceived impact upon existing local health care facilities. Members will be aware that responsibility for planning services to meet the needs of the community in this regard rests with the Local Health Board.

**8.00 CONCLUSION**

- 8.01 The basis for making decisions on planning applications should be in accordance with the development plan unless other material considerations deem otherwise. In this instance it is considered the need for a 5 year land supply is a material consideration which outweighs the fact the site is outside the settlement boundary and is a departure from the development plan. Furthermore the site is considered to be sustainable, viable and deliverable in order to come forward within the next 5 years to meet the supply. In addition, whilst the site would not accord with UDP policies (by virtue of its open countryside location) it does accord with the broad thrust of national policies and guidance as set out in PPW.
- 8.02 In order to ensure that the site comes forward to meet the current shortfall a 2 year planning permission is proposed.
- 8.03 Although this application is a departure from the development plan and has been advertised as such, it would not need to be referred to Welsh Government under The Town and Country (Notification) (Wales) Direction 2012. The Direction requires local planning authorities to refer applications for 'significant residential development' where they are minded to grant planning permission for residential development of more than 150 residential units, or residential development on more than 6 hectares of land, which is not in accordance with one or more provisions of the development plan in force. The application does not fall within this definition.
- 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.
- 8.05 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.
- 8.06 The Council has had due regard to its public sector equality duty under the Equality Act 2010.
- 8.07 The Council has had due regard to its duty under Section 3 of the Wellbeing of Future Generations (Wales) Act 2015 and considered that there would be no significant or unacceptable impact upon the achievement of wellbeing objectives as a result of the recommended decision.

## **LIST OF BACKGROUND DOCUMENTS**

Planning Application & Supporting Documents

National & Local Planning Policy  
Responses to Consultation  
Responses to Publicity

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