

FLINTSHIRE COUNTY COUNCIL

REPORT TO: **PLANNING COMMITTEE**

DATE: **18TH JULY 2018**

REPORT BY: **CHIEF OFFICER OF PLANNING, ENVIRONMENT
& ECONOMY**

SUBJECT: **OUTLINE APPLICATION – ERECTION OF UP TO
36 UNITS OF OVER-55 RETIREMENT HOUSING,
OPEN SPACE AND ASSOCIATED
INFRASTRUCTURE WITH DETAILS OF SITE
ACCESS AT RHOS ROAD, PENYFFORDD.**

**APPLICATION
NUMBER:** **057388**

APPLICANT: **MR RICHARD HEATON**

SITE: **LAND SOUTH OF RHOS ROAD, PENYFFORDD**

**APPLICATION
VALID DATE:** **11/08/2017**

LOCAL MEMBERS: **COUNCILLOR D WILLIAMS
COUNCILLOR C HINDS**

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

**REASON FOR
COMMITTEE:** **SIZE OF DEVELOPMENT, DEPARTURE FROM
DEVELOPMENT PLAN AND LOCAL MEMBER
REQUEST**

SITE VISIT: **YES**

1.00 SUMMARY

1.01 This is an outline application for the principle of residential development to erect up to 36 residential units of over 55 retirement housing with details of the access provided, on land South of Rhos Road, Penyffordd. All other matters are reserved for future consideration.

As the site is outside 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 to provide for the following:

- a) Payment of £70,000 towards Active Travel Improvements; to provide controlled crossing facilities to ensure safe crossing of the A550 as an essential link between the application site and Penyffordd Railway Station. Such sums to be paid upon the commencement of development;
- b) Payment of £1,100 per dwelling (£733 per affordable dwelling) in lieu of onsite recreation provision, the sum to be used to improve teenage provision at Millstone Play area, Penyffordd. The contribution shall be paid upon 50% occupation or sale of the dwellings hereby approved;
- c) To ensure that as part of any reserved matters application for an over 55's residential development, details of an affordable housing scheme is submitted. Any proposed affordable housing scheme shall be in accordance with the provisions of policy HSG10;

and
- d) Restricted occupancy to persons aged 55 and over only.

2.02 Conditions

- 1. (i) Application for approval of the reserved matters shall be made to the local planning authority before the expiration of 12 months from the date of this permission

(ii) The development hereby permitted shall be begun either before the expiration of two years from the date of this permission, or before the expiration of 12 months from the date of approval of the last of the reserved matters, whichever is the later.
- 2. Details of the layout, appearance, landscaping, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development commences and the development shall be carried out as approved.

3. Development as per approved plan.
4. Maximum ridge heights/parameters for development
5. Submission of a drainage scheme for the disposal of foul, surface and land water
6. Hedgerow and tree protection measures to be submitted, agreed and erected before any other site works are undertaken.
7. Submission of a scheme for protecting the future occupiers of the development hereby permitted from noise from A550 and roundabout
8. Details of siting, layout and design of the access;
9. Submission of a scheme for the formation and construction of the means of access
10. Means of site access shall be kerbed and completed to carriageway base course layer up to the internal tangent point of the entrance radii prior to the commencement of any other site operations;
11. Access shall have a visibility splay of 2.4m x 43m in both directions
12. The stated visibility splays and the proposed point of access shall be made available and kept free from obstruction for the duration of the site construction works;
13. Facilities shall be provided and retained within the site for the parking and turning of vehicles.
14. A 2.0m wide footway shall be provided along the site frontage constructed to adoption standards;
15. Positive means to prevent surface water run-off on to the highway;
16. Construction Management Plan;
17. Full Travel Plan and Transport Implementation Strategy (TIS).

3.00 CONSULTATIONS

3.01 Local Member Councillor D Williams

The idea of such a development in my opinion is an honourable one

that can benefit the village and community as a whole. However, given its prematurity with the LDP not yet in place, plus the three other applications for developments that have been approved on appeal, I believe the community needs time for new residents to settle before any further housing is permitted.

I accept that the other appeals may have set a precedence, but I would hope and expect an understanding that any future appeals would recognise the harm that such a degree and speed of growth will have on this community.

I would therefore appreciate a deferment in determining this application until the conclusion of the TAN 1 consultation is released. A change of Tan 1 could be the deciding factor on the decision of this application, and given the excessive amount of developments we have had to accept on appeal for outside the settlement boundary, I think we need and deserve some respite from further developments.

Current grounds for refusal include.

- On current policy, the application for this development does not comply with current policy as the land is outside the settlement boundary.
- Increase of dangers through increased volume of traffic. Approval will significantly impact on the volume of traffic using already congested roads in the village that will increase the issues regarding road safety in the proposed location and village in general due to increased traffic.
- The proposed access is at an unsafe and inappropriate position and if the scheme is to be progressed, this needs reviewing with local representatives prior to any decision being made. A scheme that takes into account the approved development across the road is needed, together with a review of all issues along Corwen and Rhos road that have been ongoing since 2009 and not addressed. All relevant correspondence on this can be provide on request.
- If a school contribution is not required, a contribution to enhance recreation amenities for the elderly should be made. This contribution could be linked and in addition to the 106 agreement for POS where a specific allocation is ring fenced for provision of elderly. The elderly of the entire village needs to benefit, not just this individual development, and spending of any 106 contribution should be controlled by community representatives.

With regards to the actual application, if the recommendation is for approval, as well as the other things I am seeking as far as 106 agreements are concerned, I am requesting that a condition is attached that commits both developers to ensure that a road improvement scheme that provides optimum road safety is agreed

and implemented prior to the commencement of any building.

The condition needs to be something on the lines of: If permission is granted, a full consultation on highway provision will be undertaken and a scheme agreed with the local authority and **local representatives**. Any agreed road improvement scheme will be **completed prior to the start** of any building and be a joint responsibility of both Rhos road North and Rhos road South developers.

I trust this information is helpful and all content reported to Committee who I request determine this application, and I also reserve the right to make additional comments prior to that meeting if the need arises. I also wish to make it known that I request to address committee.

Councillor C Hinds

Objects to the proposal upon the following grounds:

- Considers the proposals are premature and the site should be properly considered via the Local Development Plan process;
- Overdevelopment in the village;
- The site is outside the settlement boundary;
- Developers should be made to use allocated sites and brownfields sites first as a matter of priority;
- Considers local infrastructure is already stretched with insufficient capacity in local schools and healthcare centres;
- Reduction in public transport bus services along Rhos Road;
- considers the transport infrastructure is inadequate and poses a risk to the highway safety for road users and pedestrians; and
- The settlement is not a sustainable community, there is no social cohesion.

Penyfford Community Council

The Council strongly objects to this planning application on the grounds of it being outside the settlement boundary. The Council wish for this development to be heard at Planning Committee where a full and detailed response will be provided.

Head of Assets and Transportation

The application is for a private estate with direct access onto Rhos Road with all matters reserved except for access. The layout of the proposed access, visibility splays and fronting footway appear appropriate.

An indicative layout plan has been submitted with the application indicating the provision of 36 no. parking spaces and a further 8 no. garage spaces. This level of parking is considered appropriate considering the nature of the development.

Any permission shall include the following conditions:

- Siting, layout and design of the access
- The forming and construction of the means of access shall not commence unless and until the detailed design thereof has been submitted and approved
- The works associated with forming the means of site access shall be kerbed and completed to carriageway base course layer up to the internal tangent point of the entrance radii prior to the commencement of any other site operations
- The proposed access shall have a visibility splay of 2.4m x 43m in both directions measured along the nearside edge of the adjoining carriageway over land within the control of the Applicant and/or Highway Authority and within which there shall be no significant obstruction to visibility
- The stated visibility splays and the proposed point of access shall be made available and kept free from obstruction for the duration of the site construction works
- Facilities shall be provided and retained within the site for the parking and turning of vehicles. Such facilities shall be completed prior to the proposed development being brought into use
- A 2.0m wide footway shall be provided along the site frontage constructed to adoption standards
- Positive means to prevent surface water run-off on to the highway
- Construction Management Plan
- Full Travel Plan and Transport Implementation Strategy (TIS)

A Section 106 agreement providing funding for improvement to the proposed Active Travel facility and/or improvement to bus stop facility in proximity of the development site will also be required.

Head of Public Protection

No objection in principle to the application provided a condition is imposed to require a noise survey and require any relevant mitigation.

Ecology

A tree/root protection condition required.

There is no suitable terrestrial habitat for Great Crested Newts on this site but as there is some evidence to the North of the site, I would suggest the following note to applicant with regards to protected species:

1. All great crested newts and their resting places are protected under the Conservation of Habitats and Species Regulations 2017, and the Wildlife and Countryside Act 1981 as amended. Please be advised that if great crested newts are discovered all works should stop immediately and the Natural Resources Wales or the Flintshire Ecologist should be contacted for

advice on any special precautions before continuing.

2. All British birds, their nests and eggs (with certain limited exceptions) are protected by law under Section 1 of the Wildlife and Countryside Act 1981 (as amended) and the Countryside and Rights of Way Act 2000. Please be advised that no tree or shrub removal should be undertaken while nesting birds are present

Public Rights of Way (PROW)

Public Footpath No.10 abuts the site but does not appear to be affected by the proposed development.

The path must be protected and free from interference from the construction.

Welsh Water/Dwr Cymru

We would request that if you are minded to approve planning permission for the proposed development, the following 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.

Sewerage

The Proposed Drainage Strategy dated May 2017 that was submitted in support of the application is acceptable and its implementation should be secured by planning condition so as to ensure that the development is carried out in accordance with the content of this strategy.

Sewage Treatment

No problems are envisaged with the Waste Water Treatment works for the treatment of domestic discharges from the site.

Head of Lifelong Learning

The planning application as I understand it falls with the "Exceptions" area of the SPG23 note 5.1 which states that "housing specifically designed for occupation by elderly persons (ie restricted by planning condition agreement to occupation by those over aged 55 years or more". On that basis I am unable to seek education contributions.

Play Unit

In accordance with Planning Guidance Note no.13 POS Provision, the Council should be seeking payment of £1,100 per dwelling in lieu of on-site provision (£733.00 for any affordable housing). It is intended the contribution will be allocated to provide improved teenage provision at Millstone Playarea, Penyffordd

Housing Strategy Manager

Planning Policy Wales (July 2014) states that 'A community's need for affordable housing is a material planning consideration which must be taken into account'. It is considered desirable that new housing development incorporates a reasonable mix of house types and sizes, including affordable housing (i.e. intermediate and social rented).

As set out in Policy HSG10 of the Flintshire UDP 'Where there is demonstrable need for affordable housing to meet local needs, the Council take account of this as a material consideration when assessing the housing proposals.'

The application is to develop 36no retirement dwellings in Pen-y-ffordd (Chester) which is a semi-urban settlement and the policy requires a 30% provision of affordable housing on site for development of over 1.0ha or 25 dwellings. The applicant is proposing 36 retirement dwellings for over 55's, and no proposed affordable housing provision.

Evidence of need

In terms of evidence of need:

The Local Housing Market Assessment (LHMA) for Flintshire identifies the 'proportional growth in households aged 65 years and over is significantly higher at 42.7%' compared with the overall growth in population in Flintshire. In addition the LHMA identifies that around 14% of all households in need are older people aged over 65 years.

In terms of need for social rented properties, almost a quarter of the people on the social housing register are aged over 55 years (23%), of which 256 require one bed properties and 134 2bed properties. In relation to Penyffordd (Chester) there are 23 people registered for 1 and 2 bedroom sheltered accommodation, age ranging from 59 – 84 years.

Furthermore, there is a demand in the local area for both affordable rent and shared equity:

- 10 applicants currently registered for a shared equity property looking for 2 bed properties; and
- A further 3 applicants registered for affordable rent all requiring 2 bedrooms.

As stated in the LHMA, in terms of the wider housing market, there is a need for such retirement accommodation to allow people to downsize and release family housing, however this is not only a need within the market housing sector but also within the affordable housing sector. With an increase in the older population and the health needs of older people becoming more complex, the delivery of such accommodation is welcomed where it contributes towards a mixed sustainable community and the development reflects the local housing needs.

The applicant has not provided any evidence of viability or other matters to justify a reduction of on-site provision.

Therefore, a S106 or condition should be imposed for a satisfactory scheme of affordable housing to be delivered.

4.00 PUBLICITY

4.01 Press Notice, Site, Notice, Neighbour Notification

The application was advertised as a departure from the development plan.

4no. 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 with the consequent impacts this will have upon community cohesion;
- 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;
- There has been sufficient recent developments in the village, 35% growth;
- The proposed development contradicts the 2000-2015 UDP (Chapter 11 – Housing 11.7);
- Landscape and visual impact of developing the open countryside;
- The site is a greenfield site outside the settlement boundary;
- Wrong location for this type of housing;
- Would lead to additional traffic and Congestion on Rhos Road;
- Impact on the sewage system, water supply and other services;
- Public Transport links are not good from Rhos Road;
- No disabled access to the Penyffordd Station;
- The proposed development is not on a bus route, nearest bus stop reached by foot with a long walk and not a frequent service;
- Dependency on private car as a means of transport;
- Impact on dentists and doctors, current services full to capacity;
- Insufficient parking provision;

- No affordable housing provision proposed;
- There is a need for bungalows and affordable properties, not more unaffordable luxury houses or apartments;
- Noise impacts from the development and to the development from the bypass;
- Potential drainage impacts from surface water on nearby properties;
- Pedestrian safety is poor;
- This site is a green buffer entrance to the village and separates the built area from the bypass;
- The proposed development would be dominant and result in direct overlooking, a loss of privacy and a loss of natural light to adjacent properties.

Penyffordd Community Group

It is accepted that Penyffordd needs more housing provision for elderly residents and this application purports to address that need.

However, the application site is outside the UDP settlement boundary and in Flintshire's Settlement with the highest percentage growth, whose residents have experienced harm caused through recent rapid overdevelopment. Irrespective of the quality or perceived value of an individual development proposal, when considered within the wider context, it is not sustainable.

- Rapid overdevelopment has caused damage to social cohesion;
- Infrastructure has not had time to keep up with recent development; and
- This is one of 4 active large applications in the planning system, totalling nearly 300 more dwellings.

This village needs the LDP process to be completed and the land and proposals for growth to be considered and consulted properly. The time waiting for the LDP to be adopted will benefit the community in allowing it to 'catch-up' from the 35% growth in the last 5 years.

The most recent cases, where TAN1 has been used as a means for developers to speculate outside of the development plan have been refused where there is another good reason for refusal.

We believe that you have that in Penyffordd and that our boundary should be protected ahead of the LDP.

If this development is to be part of the future of our community, the decision needs to be taken properly in the LDP context in order to ensure the right balance of need, scale, affordability and housing mix. It is therefore premature.

In wishing to make no contribution to affordable housing, including

the management fees, this development is seeking to create a retirement community exclusively for affluent people. The implication is that those less well-off will have to look elsewhere, outside the village.

These are big issues and we believe that at this time the committee should move for refusal.

In addition, there is detail of the application and we hope that the case officer will assess these details objectively, of particular concern are:

- Surface water and waste solution, and the access road particularly in light of the Rhos Road (North) application;
- Car parking;
- Density of the development;
- Large distance from the village facilities;
- Difficulty getting to medical facilities via public transport;
- Capacity of GP services; and
- Loss of trees.

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

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

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
Technical Advice Note 18 : Transport

7.00 PLANNING APPRAISAL

7.01 Introduction

This is an outline planning application for up to 36 residential units with details of the access provided, on land south of Rhos Road, Penyffordd. It should be noted that the application relates to the specific provision of an over 55's housing proposal. All other matters are reserved for future consideration.

7.02 Site Description

The application site extends to 1 hectare and is located on the edge of the village of Penyffordd. To the west of the site lies the A550 with links to the A55, separated by a parcel of undeveloped land and the un-adopted road, Rhos Avenue. To the east and south is the existing residential development in Penyffordd on Westfield Drive and the existing dwellings situated along Rhos Avenue. The site is bound by an established hedgerow to the north and western boundaries, while the southern and south eastern boundaries have an existing mature hawthorn hedge reinforced with additional tree planting.

To the north of the site it is bounded by Rhos Road, beyond which lies land which benefits from planning permission for residential development.

7.03

It is proposed that the site would be accessed via a new central access off Rhos Road. This will involve the removal of a hedgerow to achieve the required visibility splays. A 2.0m footway will be provided along the frontage of the site to Rhos Road with crossing points at either end.

7.04 The Principle of Development

The site lies outside but immediately adjacent to the settlement boundary of Penyffordd in the adopted UDP. In terms of adopted UDP

policies, 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.

Given that the proposal is for up to 36 units and does not fall within the scope of the above policy framework, 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.

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.

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.”

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.”

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.”

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.”*

The appeal of most relevance to this site allowed 40 dwellings on land north of 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’*.

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

Housing Land Supply

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.”*

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 the development plan and national planning policies’.

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 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’.*

It is clear from national planning guidance that considerable weight should be attached to the lack of a 5 year housing land supply 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 favourably 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’.

Although it is acknowledged that Welsh Government have written to Local Planning Authorities asking for their views on a consultation period to consider the effect of paragraph 6.2 of TAN the outcome of

the initial consultation is not yet known. Although it was indicated that paragraph 6.2 may be disapplied during any consultation period it is not clear if the consultation will happen or whether paragraph 6.2 would be disapplied. Therefore the weight that should be attributed to TAN 1 as a material planning consideration in the overall planning balance remains unchanged. Furthermore it would be unreasonable of the planning authority to attempt to delay the determination of the planning application to await the announcement or outcome of any consultation.

Development Guidance Note

i. The need for the Development

This application has been submitted in the context of the lack of a 5 year land supply. In addition, the application proposes a unique development within Penyffordd and the surrounding area specifically targeted at meeting the needs of an increasingly elderly population.

It is understood that the site has been put forward for consideration as a candidate site in response to Flintshire County Council's 'Call for Candidate Sites' forming part of the preparations for the LDP. In the absence of a formal determination from the Local Planning Authority with regards to the site's potential, the applicant has provided an analysis of the site and concludes *"that it has been demonstrated that the Candidate Site could be an environmentally-sensitive developed site, well connected and well served...and in terms of location, scale and type, it is an appropriate site, clearly acceptable to National Planning Policy and sustainably located without any negative constraints and, therefore, appropriate for inclusion as a residential allocation within Flintshire's Local Development Plan."*

ii. Full Application

In accordance with the Developer Guidance Note, the Council would prefer the submission of a full application to allow the Council to properly assess the proposal in terms of the need to be met, the housing to be provided, and the deliverability of the scheme. Outline applications are not considered appropriate or acceptable to consider proposals for speculative development on the basis of a lack of housing land supply, as without full information it may prove difficult for the Council to be satisfied that the proposal represents a sustainable and deliverable form of development.

The application is in outline and has been submitted by Real Planning on behalf of the landowner, the background of which is not known.

Justification has been submitted to demonstrate that an outline application does not affect the deliverability of the site following issues raised by officers. Although the aim of an outline application is to

formally seek the principle of development, the application is accompanied by compelling evidence of site constraint investigations, detailed information and a firm commitment to promoting the suitability of the site for residential development that is both sustainable and deliverable; the provision of such information at this stage avoids the need for excessive pre-commencement conditions that can otherwise delay commencement.

iii. Sustainability Appraisal

The application is supported by a 'Sustainability Appraisal' which provides 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 site, and considers that it has been demonstrated that the application site scores highly against the respective criteria.

The overall conclusions of the appraisal are that "the site is of medium size and an acceptable extension to the village of Penyffordd with the potential to meet the requirement for additional housing. It has no physical constraints and would result in little adverse environmental impacts. The site is a 'non-strategic' site considered appropriate for residential development and is accommodated in terms of infrastructure availability, and access as evidenced through the assessment process and supporting documentation. The site benefits from excellent public transport opportunities that are consistent with minimising the need to travel and increasing accessibility by modes of other transport other than the private car. It has been clearly demonstrated that the application site is in a sustainable location, and that the proposed development is environmentally, socially and economically sustainable when judged across the criteria, and will positively contribute to meeting the considered housing supply shortage for Flintshire."

iv. Viability Assessment

The applicant has not submitted a viability statement, however arguments have been made that due to the absence of physical constraints or issues that would otherwise limit the viability of the development, the applicant is content that the scheme is viable. Furthermore, there is no dispute over the requested S106 contributions which are towards Active Travel Improvements and public open space contributions.

v. Housing Delivery Assessment

The applicant's planning statement provides commentary regarding deliverability. Despite the infancy of the proposed scheme, the applicant confirms that the site complies with the advice in paragraph 9.2.3 of PPW in that the site is in willing ownership, with no known

constraints and all major infrastructure and utilities are immediately accessible.

The applicant is confident that there is sufficient market demand for housing within this location and that the site can be disposed of to a housebuilder following outline consent. Further, the applicant accepts that the Authority has the powers to limit commencement to a shorter period as a means of ensuring planning permissions are implemented and to further reinforce the assurance that dwellings will be delivered to meet the shortfall to which the permission was justified.

The appeal decision at Rhos Road 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.

The community has raised concerns about the impact the proposed development would have upon the ability of the community and settlement to successfully integrate such growth, without negatively impacting on the cohesion of the existing community. The Council, in exercising its responsibilities as a decision-maker, is required to judge whether this proposal is a sustainable proposition. This responsibility is heightened by the duty placed on the Council under the Well Being of Future Generations (Wales) Act 2015, and specifically through the goal for more cohesive communities. This ensures principles of cohesion are enshrined in legislation to support the need to look at the sustainability of our communities and encourage long term thinking of how communities interact, live and work harmoniously together.

I am mindful of the recent appeal decision (APP/A6835/17/3174699) to allow a residential development of 186 no. units on land at Chester Road, Penymynydd, whereby the Council's reason to refuse planning permission related to the cohesiveness of communities. The inspector in her appeal consideration refers to Welsh Government's '*National Community Cohesion Delivery Plan 2014*', which describes community cohesion as "*how everyone in a geographical area lives alongside each other with mutual understanding and respect.*" Essentially, it is about everyone getting on together, having equal opportunities to participate and have access to services, supporting integration, valuing difference and focusing on shared values that join people together.

The community have produced a 'Penyffordd Place Plan' (PPP) which contains the strategic aims and objectives for the development

of the village as a whole. Whilst this plan can be afforded little weight given its lack of formal consultation and relationship to the emerging LDP, in the context of community cohesion and shared values, the plan identifies at paragraph 3.06 that *“the will of the village is that there is no growth under the LDP, but if development is permitted, the maximum acceptable size of an individual site must not exceed 25 homes.”* In the first instance, the shared value is that there should be no growth during the plan period. The ‘threshold’ of 25 No. units is considered to be a low density of development that would not represent the best use of land. Therefore the future vision for housing development in respect of the plan is not considered to be sustainable.

The application site lies in a sustainable location situated adjacent to the boundary of Penyffordd in close proximity to public transport. It is evident that Penyffordd accommodates a reasonable range of local services, facilities, clubs and associations; none of which have expressed concern of an inability to accommodate future residents. Objections have been raised in relation to access to medical services and capacity of local health centres, neither practices nor the Local Health Board have made any representations to the Council or offered any evidence of capacity issues.

The inspector in her appeal consideration of APP/A6835/17/3174699 land at Chester Road, Penymynydd, concluded that there is *“no compelling evidence to suggest that the existing community could not successfully integrate or that services and facilities in Penyffordd could no accommodate the proposal, which would increase patronage to such services, facilities, as well as to local clubs and associations. Whilst the proposal would be a material expansion of the village, the objections relating to the social cohesion of the community have been made out. I conclude, therefore that the proposed development would not cause significant harm to the community or undermine the principle of the creation of cohesive communities, which forms the basis of the Welsh Government’s planning policy.”*

Forming comparisons with the Inspector’s decision for Chester Road, although the scales of development are fundamentally different the overall conclusions for this application correspond with the conclusions made above. Accordingly, having regard to National Guidance, I can see no evidence to support the contention that the development of this site would contravene either national planning policy or the requirements of the Well Being of Future Generations Act.

Highways

7.05 The proposed vehicular access into the site is from a proposed new central access off Rhos Road, allowing access to both the local and wider highway network. The application is accompanied by a

Transport Statement which demonstrates that safe vehicular access to the proposed development can be made from Rhos Road. It also highlights that the site is sustainably located and has good links to the public transport network; promoting the use of sustainable transport means.

The Local Member has requested a condition be imposed in relation to a road improvement scheme. The proposed condition seeks the involvement of both the application site and the site adjacent, known as North of Rhos Road. However, such a condition would fail the six tests for planning conditions, namely the tests of reasonableness and enforceability, and is therefore not included within the suggested conditions for this application.

Further representations have been made that the proposal 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 proposal and raise no objections on highway safety grounds. Accordingly, there is no objection to the proposals, subject to the imposition of conditions.

The submitted Design and Access Statement and Transport Statement both promote the use of public transport and of walking and cycling, as a means of access to local facilities and as justification for promoting the sustainability of the site in terms of its location. I am advised that Rhos Road is identified as an improvement route on the Active Travel Integrated Network Map with the schedules identifying the need for route improvements. Whilst the Bus Service provision remains under review, the Active Travel Improvements are still being developed and will include controlled crossing facilities on the A550. Therefore it is proposed that contributions should be sought to provide for a safe crossing of the A550 as an essential link between the application site and Penyffordd Railway Station.

With consideration to the above, I am advised by our Streetscene Department that the cost of such provision will be in the order of £70,000 and will be secured by the proposed legal agreement. The applicant has confirmed their agreement to this.

Landscape and Visual Impacts

7.06

The application is accompanied by a Landscape and Visual Impact Assessment (LVIA) undertaken by Tirlun Barr Associates. The LVIA has considered the baseline landscape and visual environment through a desktop review of published documents and reports supplemented and verified by field work. This included the identification of a range of landscape receptors and visual receptors at fixed locations within the study area to create a series of viewpoints.

In summary, the LVIA concludes that public receptors and people

travelling along local roads will experience low grade visual impacts due to existing flat topography, built form and vegetation screening limiting views. The greatest visual effects will be experienced by a small number of properties with existing views over or towards the site whose location is generally either immediately adjacent to or very close to the boundaries. The change, although noticeable is anticipated to become a neutral element in the view as the proposals become assimilated into the existing urban form of the village over time.

The proposed site forms only a small part of the wider local and regional character area. Trees and hedgerows of merit are to be retained and enhanced as part of any detailed reserved matters application as part of a landscaping scheme 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 limited landscape and visual effects over a small area of influence. Any visual impacts that remain will be local in nature and become neutral in tone as the proposal assimilates into the existing settlement form.

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 outweigh against granting planning permission.

Drainage Impacts

7.07

Discussions have taken place between Welsh Water and Richard Broun Associates regarding the connection to the public sewers. The principle of freeing up capacity within the public sewer by removing surface water flows is considered to be acceptable and one which is offered in this particular case. The Proposed Drainage Strategy dated May 2017 that was submitted in support of the application and refers to the scheme of surface water removal. The calculations provided are considered to accurately represent the anticipated foul discharge from the site and identifies the amount of surface water entering the local public sewer.

I am advised in response to consultation by DCWW that there is no objection to the proposed development subject to the imposition of a condition that requires the drainage strategy to form part of the suite of documents that clarifies the precise technical design of the system. Accordingly, I propose to condition the submission and agreement of such a scheme.

No problems are envisaged with the Waste Water Treatment works for the treatment of domestic discharges from the site.

Affordable Housing

7.08 Initially the applicant proposed a 'nil' affordable housing contribution as detailed in the Affordable Housing Statement submitted with the application. However, following discussions with the Housing Strategy Manager who confirms that there is a specific need for affordable housing for individuals over 55 in the local area, the statement has been amended and a commitment to providing affordable housing in accordance with UDP policy HSG10 was agreed and accepted by the applicant.

I am advised that there is a need to reach agreement in respect of the proposed details of the affordable housing scheme, this requirement will therefore be addressed via the proposed legal agreement.

Open Space

7.09 Following discussions with the leisure services, it is proposed that a contribution of £1,100 per dwelling in lieu of on-site provision (£733.00 for any affordable housing) is secured through the proposed legal agreement. The payment would be used to improve teenage provision at Millstone Play area, Penyffordd. The Local Member has required that any contribution for open space should be ring fenced for the elderly. Unfortunately this does not align with the SPG for requiring contribution to open space and the contribution cannot be ring-fenced in this way.

Education

7.10 The application falls within the "Exceptions" area of the SPG23 note 5.1 whereby proposals specifically providing "housing designed for occupation by elderly persons" no education contribution will be sought as such housing will not affect the capacity of school places within the locality. Such housing proposals will be restricted by condition or agreement to restrict occupation by those aged 55 and over.

CIL Compliance

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

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 Regulations 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.

While the Authority does not yet have a charging schedule in place, the 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. 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.

The Planning Authority is seeking an obligation towards Active Travel Improvements, Affordable Housing and Public Open Space in relation to this proposal.

a) Active Travel Improvements

With regards to the above contribution, I am advised that the sum of £70,000 sought will be used as a contribution towards the Active Travel Improvement Scheme to facilitate the provision of controlled crossing facilities, to ensure safe crossing of the A550 as an essential link between the application site and Penyffordd Railway Station.

The Planning Authority has not secured obligations for the provision of such facilities in this location since April 2010. In accordance with the details submitted and the consultation response received, it is considered that the planning obligation would contribute to the future well-being of people in the locality and complies with the provisions of S123 of the CIL Regulations.

b) Public Open Space

With regards to the above contribution, I am advised that the sum of £1,100 per dwelling (£733 per affordable dwelling) sought is required in lieu of onsite recreation provision in accordance with policy SR5 *Outdoor Playing Space and New Residential Development*.

I am advised by our Leisure Services Department that the sum will be used to improve teenage provision at Millstone Play area, Penyffordd.

In accordance with the requirements of the Community Infrastructure Levy Regulations (CIL) 2010, this sum, when pooled would not exceed 5 contributions towards a single project.

c) Affordable Housing

In respect of the CIL tests the following applies to the affordable housing provision the Council would require if planning permission were granted:-

Necessity

Supplementary Planning Guidance Note No. 9 Affordable Housing and Policy HSG10 'Affordable Housing Within Settlement Boundaries' of the Adopted Flintshire Development Plan sets out the Council's position in terms of the affordable housing requirement from residential developments as provided in Appendix 2 and 3.

The threshold for providing affordable housing on sites is a minimum size of 1.0 hectares or 25 dwellings, and this is set out in paragraph 11.75 of the UDP. This development therefore exceeds this threshold. Although the site is not within the settlement boundary, it has not been put forward as an affordable housing exception site, and therefore the Council considers that it would be appropriate to apply Policy HSG10 to this development and therefore apply the 30% provision as a starting point.

Direct Relationship to Development.

The proposal is in outline with all matter, save for access, reserved for future consideration. In accordance with Policy HSG10, the detailed layout of this site will be expected to provide for 30% of the proposed units for affordable purposes.

Fair & Reasonable Relationship in Scale and Kind

Based on the methodology above and the scale of the development, the provision as outlined above is considered to relate fairly and reasonably in scale and kind to the development for which permission is sought.

Other Matters

Objections have been raised based on the type and mix of housing, lack of parking and the impact of housing on privacy, light and living conditions. As this is an outline application matters of details regarding the housing type and mix, parking, design and outlook would be assessed at a reserved matters stage.

8.00 CONCLUSION

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

and the sustainable principle of the Well-Being of Future Generations Act.

In order to ensure that the site comes forward to meet the current shortfall, a 2 year planning permission is proposed. The 2 year commencement condition is necessary because the planning permission is being granted to meet a pressing need and therefore the development should be delivered quickly. This also addresses any issue in regard to the fact that this is an application for outline planning permission. The applicant has agreed with this point and accepted that this condition is necessary given the circumstances.

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.

8.01 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.

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

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