

FLINTSHIRE COUNTY COUNCIL

REPORT TO: **PLANNING COMMITTEE**

DATE: **9TH JANUARY 2019**

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

SUBJECT: **FULL APPLICATION – ERECTION OF 28 NO. 2 AND 1 BEDROOM APARTMENTS (OVER 55'S) AND 3 NO. HOUSES (TOTAL SCHEME 100% AFFORDABLE HOUSING), ASSOCIATED ACCESS AND PARKING, INCLUDING DEMOLITION OF FORMER PUBLIC HOUSE AT BOARS HEAD INN, HOLYWELL ROAD, EWLOE.**

APPLICATION NUMBER: **058296**

APPLICANT: **ANWYL CONSTRUCTION GROUP IN CONJUNCTION WITH PENNAF HOUSING GROUP**

SITE: **FORMER BOARS HEAD INN
HOLYWELL ROAD
EWLOE
FLINTSHIRE
CH5 3BS**

APPLICATION VALID DATE: **5TH APRIL 2018**

LOCAL MEMBERS: **COUNCILLR D I MACKIE
COUNCILLOR MS J AXEWORTHY**

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

REASON FOR COMMITTEE: **SCALE OF DEVELOPMENT RELATIVE TO DELEGATION SCHEME**

SITE VISIT: **NO**

1.00 SUMMARY

1.01 This item was deferred by members at the 7th November 2018 Planning Committee meeting to allow the developer to reconsider issues raised by the Planning Committee in relation to design, parking

provision and impact on highway. The application has been amended and those amendments are reflected in the report below.

This is a full application for the demolition of a former public house and residential development of 28 no. 2 and 1 bedroom apartments (previously 30 apartments), and 3 no. houses, associated access and parking. The development is a 100% affordable scheme. The main issues are considered to be the design of the proposal and its impact upon the character and appearance of the locality, as well as issues of Noise, access and parking.

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

2.01 The conditional planning permission be granted subject to the applicant either entering into a Section 106 Obligation or Unilateral Undertaking to provide the following:

- Payment of £1,100 per dwelling in lieu of on-site public open space provision. The payment will be used to enhance existing POS in Sheridan Avenue Play Area.
- To secure the Affordable housing provision in perpetuity. The S.106 agreement will control that the scheme is 100% affordable with the precise means, methods and tenures to be specified within the S.106

Conditions

1. Time Limit
2. In accordance with Approved Plans
3. Material samples to be submitted and approved
4. Landscaping scheme and Implementation
5. Finished floor Levels to be submitted and approved prior to development
6. A programme of building recording and analysis shall be submitted to CPAT and the LPA prior to demolition of the public house.
7. A drainage scheme for the disposal of foul, surface and land water including an assessment of the potential for the disposal of surface and land water by sustainable means, to be submitted and thereafter implemented.
8. A suitable scheme of enhanced double/secondary glazing should be submitted for approval
9. Demolition work shall not take place during the breeding bird season
10. Submission of detailed scheme for the relocation and improvement of the adjacent bus stop
11. Siting, layout and design of means of access to be in accordance with submitted scheme
12. Existing site access permanently closed when new access

- brought into use.
13. Proposed access onto Old Mold Road to have a visibility splay of 2.4m x 43m in both directions
 14. The stated visibility splays at the proposed point of access shall be made available and kept free from all obstruction for the duration of site construction works.
 15. Facilities to be provided and retained within the site for the parking of vehicles in accordance with submitted scheme.
 16. A 1.8m wide footway shall be provided along the site frontage
 17. Positive means to prevent the run off of surface water onto the highway shall be provided in accordance with details to be submitted
 18. The legally defined right of way must be marked out on site in strict accordance with the definitive map. There is to be no unlawful obstruction of the recorded public right of way.
 19. No development shall take place until a construction traffic management plan has been submitted to and approved in writing by the LPA
 20. Implementation of remedial works and/or mitigation measures as identified within the Mining Investigation report.
 21. A Travel Plan shall be submitted to the LPA and approved in writing prior to commencement of work
 22. No demolition to be undertaken during bird nesting season

3.00 CONSULTATIONS

3.01 Local Member Councillor D Mackie

- *Comments received following amendments; Clarification sought regarding amended plans ; revised plans still show a building which for the most part is too high for the site; lack of parking; traffic congestion .*
- Scale and massing of building at significant crossroads
- Lack of on street parking in vicinity. Full requirements of SPG11 should be met.
- Building should be reduced to two storeys to reduce negative impact and allow for sufficient parking on site
- Existing congestion problems in area.

Councillor J Axeworthy

- *Comments received following amendments; It is an inappropriate building, on a congested junction and even with the removal of two units there will still not be adequate parking for the residents. Also access and exiting will reduce the already congested parking in the vicinity for the shops and businesses.*
- Compromise of existing rights of way
- Parking locally already an issue, exacerbated by inadequate

- parking for development
- Any development at this location should consider reconfiguration of road junction with the addition of one or more pedestrian crossings.

Hawarden Community Council

HCC Members have concerns about this development being inappropriate, not keeping in with the character of surrounding buildings and too many properties on the site with limited parking facilities. Members also sought assurances around housing need that would need to be “evidenced” together with ensuring the development meets the LDP requirements. Members have no objection to the principle of development on the site but request that any development fits into the surrounding area and that the junction off Liverpool Road is improved. It was suggested that a roundabout or traffic lights at this location be also considered.

The development is unsightly and visibility at the junction is severely compromised. Members would prefer a two-storey development as opposed to the three storey proposals. The pavement that runs alongside the development is very narrow and requires widening as part of any development at this site.

Highways DC

Further comments received following amendment 20.12.18

- *The reduction in apartments from 30 to 28 means there is now a shortfall of 5 parking spaces. It is considered that this is adequately compensated by the sustainable location of the site (bus service, cycle routes and shops/school/employment within easy walking distance).*
- *Concerns have been raised about traffic impact on the Holywell Road/Old Mold junction which can become congested during peak periods. Anticipated traffic flow from the development is less than 6 movements within either of the peak periods; this compares with results from a recent survey indicating existing flows through the junction in excess of 1600 movements during the morning period and 1750 movements during the evening peak period. Development flows are anticipated to be less than 1% of background flows and well within the range of expected daily fluctuations.*
- Through route provided dispenses with the need for additional on-site vehicle turning provision. Both roads are subject to 30mph speed restrictions and minimum visibility splays of 2.4mx43m should be provided in both directions; provision of these minimum distances appears practical.
- SPGN11 specifies a maximum parking standard of 1 carpark

space per unit plus 1 per 3 units for visitors for a development of flats that are to be restricted to elderly person occupation; 30 no. spaces are proposed, a shortfall of 5 no. below maximum. The proposed 2 no. spaces for each of the house is in line with the SPGN. The SPGN acknowledges that a provision lower than the maximum level may be acceptable but any shortfall needs to be justified in terms of the availability of sustainable travel opportunities and low reliance on private car ownership/use. It is accepted that there are local employment, retail, education and public transport opportunities

- The proposed development is likely to generate increased pedestrian movements and increased reliance on the use of public transport. There is an existing, signed, bus stop on the site frontage; this provision needs to be improved to include a shelter, raised boarding kerbs and road markings.
- Development proposals indicate that the bus stop is to be re-located; a scheme for relocation and improvement is required but can be covered by condition.
- Flintshire County Council operate a kerbside bin collection policy; further advice should be obtained from colleagues in the Streetscene department regarding the need and location of bin stores.
- Intensity of use of the access will necessitate a review of street lighting. Any redundant footway crossings will need to be reinstated.

Pollution Control

No objections in principle. However, the site is in close proximity to a busy road. Brief noise readings taken in this area indicate that the site is within Noise Exposure Category (NEC) B/C during the daytime under the Welsh Guidance Technical Advice Notes 11. This means that specific measures are necessary to protect the amenity of the future occupiers of the premises. Accordingly, requests conditions relating to the need for an enhanced glazing scheme to be submitted and agreed.

Rights of Way

There are no affected footpaths or bridleways in the vicinity therefore no observations made.

Housing Strategy Manager

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). The application proposes to develop 30no. 1 and 2 bed apartments for over 55s and

3no.houses (2no. 2bed and 1no. 3bed) in Ewloe as a 100% affordable housing scheme.

In terms of evidence of housing need in Ewloe, the Local Housing Market Assessment (LHMA) for Flintshire identifies an annual shortfall of 246 affordable units. 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;

Based on the current social housing register demand for 1bed and 2bed flats / houses and 3bed houses is as follows:

No. of beds	Total on register for Ewloe	Under 55	Over 55
1 bed	37	17	20
2 bed	21	19	2
3 bed	14	14	-

Public Open Spaces Manager

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. The payment would now be used to enhance existing POS in Sheridan Avenue Play Area. Advises that previous pooled contributions have been considered and thresholds have not been exceeded with regard to Sheridan Avenue.

Ecology

A bat and bird survey (2015) was undertaken on a previous scheme on the site. No evidence was found, and the building due to its location (built up and well lit) is not considered of high potential for bats, but it does have opportunities for nesting birds.

Recommends that demolition avoids the bird nesting season unless suitable checks have been undertaken (condition) and that a Note to applicant is added with regards to the protection of bats.

Welsh Government (Highways)

The Welsh Government as highways authority for the A494 trunk road does not issue a direction in respect of this application.

Welsh Water/Dwr Cymru

The proposed development site is crossed by a 150mm diameter foul raising main public sewer. Accordingly Dwr Cymru/Welsh Water requests a conditions securing an easement of 3 metres either side of the centre line of this pipe.

The developer has indicated that foul flows are to be disposed of via the public sewerage system and surface water is set to be drained via

a sustainable urban drainage system. These drainage arrangements are acceptable in principle. Dwr Cymru/Welsh Water requests that conditions and advisory notes are attached to any grant of planning permission.

Natural Resources Wales

Without prejudice to the assessment undertaken by Flintshire County Council, NRW consider that mitigation proposals are in this case likely to be required for the purposes of addressing indirect impacts on the SAC, including those associated with potential in combination increases in recreational pressures and disturbance/predation of wildlife. Suggests a condition requiring the submission and implementation of a scheme to address indirect impacts from the development on the SAC.

Clwyd Powys Archaeological Trust

The Boars Head public house is recorded on the Historic Environment Record as PRN17882 and is believed to be 19th century in date. No other archaeological potential is identified within the rest of the development area.

As the development will completely demolish the public house which is a building of local architectural and historical interest, requests that a condition requiring a full record of the buildings current layout, structural history, fabric and fittings is undertaken before it is demolished. This record should equate to a Level 3 (Historic England equivalent) archaeological building survey.

The Coal Authority

Considers that the applicant has fully assessed the risk to the development from the coal mining legacy affecting the site (as per requirement of the Planning Policy Wales paragraph 13.9). Requests the imposition of a planning conditions which requires the implementation of the remedial works and/or mitigation measures as identified within the Mining Investigation report prepared by NKC Geotech Ltd, Ref: 1309 (dated 16 November 2017).

Based on all information submitted in support of this planning application, the Coal Authority withdraws its holding objections subject to the imposition of a condition to secure the above.

Education and Youth

As the development is regarding the over 55's no contribution can be required in line with SPG.

4.00 PUBLICITY

4.01 Press Notice, Site Notice, Neighbour Notification

Republication following the amendments undertaken;

No further notification letters received.

5 letter of objection received

- Overbearing development in relation to the surrounding area
- Over development of site
- Issues of overlooking and loss of privacy, over shadowing
- Highways safety, inadequacy of parking, introducing more traffic to already busy highway
- Adequacy of local drainage provision
- Noise issues
- Loss of historical property

5.00 SITE HISTORY

- 5.01 052158 –Prior notification for the demolition of The Boars Head Public House- Deemed approved 8th June 2014
054163 - Outline application for residential development.
Approved 22nd July 2016

6.00 PLANNING POLICIES

- 6.01 Flintshire Unitary Development Plan
STR1 - New Development
STR 4 – Housing
GEN1 - General Requirements for Development
GEN2 - Development Inside Settlement Boundaries
D1 - Design Quality, Location and Layout
D2 - Design
D3 - Landscaping
WB1 - Species Protection
AC13 - Access and Traffic Impact
AC18 - Parking Provision and New Development
HSG3 – Housing on Unallocated Sites within settlement boundaries
HSG8 - Density of Development
HSG10- Affordable housing within Settlement Boundaries
SR5 - Outdoor Playing Space and New Residential Development
S11 - Retention of Local Facilities
EWP13 – Nuisance
EWP14 – Derelict and Contaminated Land
EWP15 – Development of Unstable Land
EWP16 – Water Resources

Supplementary Planning Guidance Note 2: Space around Dwellings
Supplementary Planning Guidance Note 11: Parking Standards
Local Planning Guidance Note 13: Open Space Requirements

PPW 10th Edition

7.00 PLANNING APPRAISAL

7.01 Proposal

This is a full application for the erection of a three storey apartment block comprising 28 no. 1 and 2 bed units alongside 2 no. 2–bed semi detached houses and 1 no. 3-bed detached house. The scheme is to be 100% affordable. The apartment block is to cater for over-55s to address an identified local need for housing for an ageing population who are not able to access private market housing.

7.02 Site Description

The application site is the former Boars Head public house and its associated car parking. It is situated on the corner of Holywell Road and Old Mold Road at a key road junction which forms its eastern and southern boundaries. The former public house building remains and is situated in the eastern corner of the site. It is a two storey white rendered building which has been extended and altered incrementally over the years. The land to the west of the former pub is partially hardstanding and was used as car parking with some over grown areas to the north and north east.

7.03 To the north of the site are the residential properties of Nyth Bach a bungalow and Melville a two storey property. To the west of the application site is a two storey dwelling known as Oak Royd. It should be noted that outline planning permission for 4 no. dwellings was granted in January 2017 under planning reference 056028 on the site of the dwelling known as Oak Royd.

7.04 Principle of Development

Ewloe is a Category B settlement within the adopted UDP. Formal monitoring of the growth rates of Category B settlements ended as of 1st April 2015. Ewloe is a sustainable settlement with a range of facilities and services and access to public transport. Policy HSG3 directs that upon unallocated sites within settlement boundaries, new housing development would be permitted in Category B settlements where it did not conflict with the planned housing provision for the County, as set out in the UDP, and does not conflict with Policy GEN1. It also identified that development which would result in growth over 15% during the plan period would be required to meet a recognised local need. However, as the plan period has now passed, so too has the period for monitoring in respect of Policy HSG3.

7.05 The development of this previously developed site in this location would be in accordance with the principles of the newly published 10th edition of Planning Policy Wales in terms of complying with the principles of sustainable development. The area is predominantly residential in nature with a mixture of some commercial uses with the social club, local shops and a car auction in close proximity. This is recognised as a sustainable location which attracts significant weight as a material planning consideration in the overall planning balance.

7.06

The bringing forward of such windfall sites is consistent with the strategic aims of the UDP and the UDP Inspector's conclusions in relation to housing in that housing development should be primarily directed towards such settlements. Members will be also be aware that the granting of windfall sites such as this will assist the Council in maintaining a supply of housing land as it moves towards the completion of its Local Development Plan. The principle of residential development is therefore acceptable.

7.07

There is a building on the site which was the former Boars Head public house. The loss of the building in policy and architectural terms was dealt with as part of the outline consent. The building can therefore be demolished at any time. The site is a prominent location on a road junction and therefore it has been considered that it would be appropriate to consider a landmark development of architectural merit at this location.

7.08

The proposed apartment building is therefore designed along these lines. The main portion of the building occupies the location of the former Coaching Inn. Along Mold road the three storey height of the building is softened by careful use of materials which break up the visual impact of the building as well as the utilisation of the roof space for the second floor accommodation with gabled elements to reduce the height and massing of the wall on the elevations facing the highway. The use of brick as well as rendered features pick up architectural elements of the locality whilst retaining the contemporary feel of the building.

7.09 Design and impact upon local amenity

Following concerns raised at Planning Committee the developer has redesigned the building.

7.10

The previously proposed apartment building was three storey block located close to the Old Mold Road boundary of the site, with the building located on the footprint of the former public house, extending onto areas that was previously a hardstanding parking area.

7.11

The proposed building remains in the corner of the site at the back of pavement there are a number of constraints, including position of mineshaft and a sewer which limit where built form can be set out on the site.

7.12

There are a variety of designs in the locality but no particular local vernacular. There is a mix of development in the form of commercial units and residential dwellings, particularly on Holywell Road, where there is a row of shops and a large car auctions building. On Old Mold road opposite the site there is a take away and the Sports and Social club, which is a large single storey building with a flat roofed element set within a large area of car parking.

7.13 The amended design has a pitched roof, with dormer details, which reduces the bulk of the building in comparison with the originally submitted flat roof design. The introduction of the roof element is considered to be more characteristic of some of the prevailing character of the area.

7.14 The revised design shows a building predominantly of brick rather than render. It is considered that through the use of quality design much of the impact of the building is mitigated, with the choice of materials and fenestration details providing a visual break from the building massing. White render is used at the proposed corner of the building to provide prominence and a visual relief.

7.15 Due to the orientation of the proposed building away from adjacent residential properties I consider that the buildings scale and massing is acceptable in this location and would not adversely impact upon the character and appearance of the area or neighbouring amenity. As has been mentioned previously it has been identified that this site is suitable for a landmark building.

7.16 Neighbouring Living Conditions

There are two residential properties to the north of the site, known as 'Nyth Bach' and 'Melville'. There are no existing windows in the elevations of these dwellings that overlook the development site. The proposed car park lies between the dwellings and the proposed apartment block, and the northern boundary of the site will be screened. The distance between the apartment block building and these properties is in excess of 20 metres. It is considered that the proposed building will not adversely affect these properties from either overshadowing or through a loss of privacy and the interface distances meet the required distances in SPGN2: Space Around Dwellings.

7.17

The three two storey dwellings located on the western end of the site, which consists of one no. 3 bedroom detached property and a pair of 2 bedroom semi-detached properties, are of a brick and tile construction which is characteristic in style of developments in the locality. Given their orientation on the site they will not cause any adverse impacts upon the streetscene or upon neighbouring residential amenity.

7.18

Housing Need and Affordability

The proposal is 100 % affordable and being promoted by a social landlord. Policy HSG10 in the Unitary Development Plan states that Where there is a demonstrable need for affordable housing to meet local needs, the Council will take account of this as a material consideration when assessing housing proposals

- 7.19 There is a clear and identified need for over 55 social housing within the social housing register which meets an identified need in the locality, is compliant with Policy HSG10 in the Unitary Development Plan. This attracts significant weight as a material planning consideration in the overall planning balance.
- 7.20 Although paragraph 6.2 of TAN 1 has been disapplied the matter of weight attached to housing need is to be considered by the Council. The Council remains in a sub 5 year position in terms of housing land supply. The proposed site is in a sustainable location with an extant planning permission for residential development. Both these matters weigh heavily in favour of the development in the overall planning balance.
- 7.21 Historic Environment
The current building is recognised by the Royal Commission for Ancient and Historic Buildings in Wales as a particular rare and early type of purpose-built inn with later alterations that includes a Thomas Telford style front extension to collect tolls from the adjacent road. Despite the apparent historic interest Cadw would not offer protection by listing the building on the grounds that it had been considered for listing some years earlier. Previous permissions of site have established that the principle of demolishing the building is acceptable.
- 7.22 In light of the historic interest in the building, which would be completely demolished, it is considered that it would be appropriate to require, via condition, a Level 3 (Historic England Equivalent) archaeological building survey to be undertaken and the subsequent survey to thereafter be lodged with the Local Planning Authority and Clwyd Powys Archaeological Trust.
- 7.23 Access and Parking
The proposed development is served by accesses off both Old Mold Road and Holywell road. This creates a through road and dispenses with the need for additional on-site vehicle turning. Both roads are subject to a 30mph speed restriction and minimum visibility splays of 2.4x 43m appear achievable in both directions.
- 7.24 The scheme as amended reduces the number of units from 30 to 28. This has reduced the shortfall in maximum spaces required by 5. There remains a shortfall but it is the opinion of the Highways Authority that this is acceptable in accordance with the supplementary planning advice. The SPGN 11 acknowledges that a provision of lower than the maximum level is acceptable where it can be justified in terms of the availability of sustainable travel options and a low reliance on private car use. It is considered that there are local employment, retail, education and public transport options, but that the development should be supported by a Travel Plan. I consider that a condition requiring the submission of the same can be imposed

to ensure that sustainable travel opportunities are utilised by the development to offset the lower than maximum standard of parking provided.

- 7.25 There is an existing signed bus stop on the site frontage. Development proposals indicate that the stop is to be re-located and it is considered that a scheme for this relocation as well as for improvement in terms of a shelter, raised boarding kerbs and road markings, is required and I propose that this is conditioned. Details of proposed bin stores, including their location, are also proposed to be conditioned.
- 7.26 The proposed access and parking arrangements are considered to be acceptable, subject to the suggested condition and it should be noted that there are no objections to this development from the Highways Authority.
- 7.27 Noise
The site is adjacent to Liverpool Road and the Holywell Road junction and close to the A494/A55 Ewloe roundabout which are included in the Noise Action Plan for Wales which looks at amongst other things the noise from busy roads. The calculated data for this road indicates that parts of the site will be within Noise Exposure Category (NEC) B/C during the daytime and possibly the night time under the Welsh Government Technical Advice Notes 11.
- 7.28 A Noise Assessment has been undertaken in support of the application. The assessment shows that with suitable details such as acoustic glazing, conditioned on the development the noise levels can be mitigated to within levels deemed acceptable within TAN11. Consultation with Pollution Control has established that this is an appropriate approach to this issue.
- 7.29 Welsh Water Sewer
The proposed development site is crossed by a 150mm diameter foul raising main public sewer. Dwr Cymru/Welsh Water have rights of access to its apparatus at all times and as such require an easement of 3 metres either side of the centreline of the pipe. The applicant may apply to divert this rising main under Section 185 of the Water Industry Act 1991. Until a diversion is applied for a condition requiring the easement should be applied to protect the integrity of the public sewer.
- 7.30 Dwr Cymru/Welsh Water have confirmed that the proposed drainage provision, namely foul flows to be disposed of via the public sewerage network and surface water drainage to be drained via a sustainable urban drainage system, is acceptable in principle. There are no problems envisaged with the Waste Water Treatment Works for the treatment of domestic discharges from the site. However, a condition will be imposed requiring the full details of the drainage scheme to be

submitted and thereafter implemented following approval by the Local Planning Authority.

Ecology

7.31 Previous applications and pre-application discussions on site have identified that whilst the site was not considered to be of high potential for bats, being in a built up and within a well-lit area, there were opportunities for nesting birds to be using the building. A previously submitted bird and bat survey confirmed this. It is therefore recommended that no demolition work should take place during bird nesting season, unless suitable checks are undertaken, and I propose a condition to this effect.

7.32 The site is located within 800m of the boundary of the Deeside and Buckley Newt Sites Special Area of Conservation (SAC) This site supports an important population of great crested newts. Whilst it is not considered that the proposal would have direct impacts upon the SAC concerns have been raised by Natural Resources Wales over possible indirect impacts from the development. With this in mind NRW propose that a condition is imposed that requires a scheme to be submitted and implemented to address indirect impacts from the development on the SAC. Any mitigation scheme would need to be proportionate to the distance between the application site and the SAC.

7.33 It is considered that the imposition of such a condition may not satisfy the tests required in relation to the imposition of conditions. Furthermore, given the degree of separation between the site and the SAC, the imposition of the suggested condition may be viewed to be unreasonable as it does not reasonably relates to the site and the proposals for which permission is sought.

7.34 It is considered that concerns in respect of ecology at the site are adequately addressed via the condition outlined in paragraph 7.31, above and therefore conclude that the development would not unacceptably impact upon the favourable conservation status of locally recorded protected species.

Mining history

7.35 The application site falls within the Coal Authority's defined Development High Risk area. This means that within the application site and surrounding area there are coal mining features and hazards which need to be considered. The Coal Authority records indicate that there is a recorded mine entry within 20m of the boundary with a zone of influence which extends into the application site. This means the mine entry could be located on the application site.

7.36 The planning application is accompanied by a Mining Investigation report which has been prepared by NKC Geotech Ltd. This report has been informed by existing geological and mining information together with the results from intrusive site investigations, undertaken with the

written consent of the Coal Authority.

- 7.37 The exact location of the recorded mine entry has been established and appropriate recommendations have been made that the shaft will be fully remediated in accordance with measures identified in the report. These remediation measures can be required by imposing a suitable planning condition. The Coal Authority consider that the submitted information demonstrates that the site will be safe, stable and suitable for development.

Public Open Space

- 7.38 The infrastructure and monetary contributions that can be required from 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'.

- 7.39 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. These require that an obligation must;

1. be necessary to make the development acceptable in planning terms;
2. be directly related to the development; and
3. be fairly and reasonably related in scale and kind to the development.

- 7.40 In accordance Planning Guidance Note no. 13 Public Open Space provision, the Council should be seeking payment of £1,100 per dwelling in lieu of on-site provision to enhance existing POS in the community. Specifically the payment would be used to enhance existing public open space in Sheridan Avenue Play Area, within the locality of the site. There have not been 5 or more obligations of this type and therefore the proposal satisfies Regulation 123 of the CIL regulations.

7.41 Education

The majority of the development is 1 or 2 bed flats for Over-55s. In accordance with Supplementary Planning Guidance No. 23: Developer Contributions to Education both developments for over-55s and 1 bed dwellings or apartments are exceptions to the provision of school places.

- 7.42 The remaining 3 dwellings are under the threshold of 5 dwellings before contributions are sought in accordance with the SPG.

8.00 CONCLUSION

In conclusion it is considered that the proposal complies with policy.

Accordingly, it is recommend that planning permission be granted subject to the imposition of conditions within paragraph 2.01 of this report, and the completion of a legal agreement.

8.01 Other Considerations

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

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

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

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

LIST OF BACKGROUND DOCUMENTS

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

Contact Officer: James Beattie
Telephone: (01352) 703262
Email: james.beattie@flintshire.gov.uk