

**FLINTSHIRE COUNTY COUNCIL**

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

**DATE:** **4<sup>TH</sup> DECEMBER 2019**

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

**SUBJECT:** **FULL APPLICATION – DEMOLITION OF THE MONASTERY BUILDINGS, ST. DAMIEN’S LODGE AND ASSOCIATED OUTBUILDINGS AND THE REDEVELOPMENT OF THE SITE WITH 15 NO. HOUSES AT POOR CLARE COLLETTINE MONASTERY, UPPER ASTON HALL LANE, HAWARDEN.**

**APPLICATION NUMBER:** **060048**

**APPLICANT:** **ECCLESTON HOMES LTD.**

**SITE:** **POOR CLARE COLLETTINE MONASTERY, UPPER ASTON HALL LANE, HAWARDEN.**

**APPLICATION VALID DATE:** **29<sup>TH</sup> MAY 2019**

**LOCAL MEMBERS:** **COUNCILLOR C.S. CARVER**  
**COUNCILLOR MS H. BROWN**  
**COUNCILLOR G. HARDCASTLE**

**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 full application proposes the demolition of existing buildings at the former (now vacant) Poor Claire Collettine Monastery, Upper Aston Hall Lane, Hawarden, and the redevelopment of the site by the erection of 15 No. detached dwellings.

1.02 The site is located outside the settlement boundary of Hawarden, but within a Green Barrier as defined in the Flintshire Unitary Development Plan. Amended plans have been received in progression of the application on which further consultation has been undertaken.

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

2.01 That conditional planning permission be granted subject to the applicant entering into a Section 106 Obligation/Unilateral Undertaking to:-

- a) Secure management arrangements for the proposed access/internal roads.

Conditions

1. Time limit on commencement.
2. In accordance with approved plans.
3. Timescale for demolition/associated methodology for existing buildings.
4. Materials to be submitted and approved.
5. Siting layout, design of means of site access to be in accordance with details to be submitted and approved.
6. Forming of access not to commence until detailed design has been submitted and approved.
7. Access to have a visibility splay of 2.4 m x 3.47 m in a northerly direction and 2.4 m x 35.4 m in a southerly direction.
8. Visibility splays to be free from obstruction during construction phase.
9. Access gates to open inwards positioned a minimum distance of 12 m from existing carriageway
10. Facilities to be provided and retained within the site for parking/turning.
11. Positive means to prevent run-off of surface water to be provided.
12. No development including site clearance/demolition until a Construction Traffic Management Plan has been submitted/approved.
13. No development to commence on construction of new dwellings until a detailed Land Contamination Report has been submitted and approved.
14. Scheme for foul drainage to be submitted and approved.
15. Ecological mitigation in accordance with recommendations within Bat Survey Report.
16. Historic Building Survey to be undertaken prior to demolition of any buildings.
17. Entrance wall to be retained as part of the development.

18.No development to commence until the submission of a method statement/details of tree protection have been submitted for consideration and approval.

### **3.00 CONSULTATIONS**

3.01 Local Member  
Councillor C. Carver  
Original Scheme

No objection to determination under delegated powers.

Amended Scheme

No response received at time of preparing report.

Councillor Ms H. Brown

Original Scheme

No response received at time of preparing report.

Amended Scheme

No objection to determination under delegated powers.

Councillor G. Hardcastle (Adjoining Ward Member)

Original Scheme

No response received at time of preparing report.

Amended Scheme

No observations as adjoining Ward Member.

Hawarden Community Council

Original Scheme

Objection. Concerns over vehicular access, increase in number of cars using Upper Aston Hall Lane, access route for pupils attending Hawarden High School.

Amended Scheme

Awaiting response at time of preparing report.

Highway Development Control

Original Scheme

No objection subject to

- a) The completion of a Section 106 Obligation to secure management arrangements for the proposed road and
- b) The imposition of conditions in respect of access, visibility parking and the submission of a Construction Traffic Management Plan.

Amended Scheme

Awaiting response at time of preparing report.

### Community and Business Protection

No objection subject to the imposition of a condition requiring the submission of a detailed and not draft Land Contamination Study.

### Welsh Water/Dwr Cymru

Request that any permission includes a condition to secure a satisfactory foul drainage scheme.

### Natural Resources Wales

No objection, considers the proposal represents a low risk to bats, subject to ensuring that any development is carried out in accordance with the submitted Bat Roost Assessment and Survey.

### Education

Advises that the schools affected by the proposed development are as follows:-

#### School Affected Primary School: Penarlog C.P. School

Current Number on roll (@ January 2019) 175 (excluding nunnery).

Capacity (@ January 2019) 196 (excluding Nunnery).

No. Surplus Places: 21.

Percentage of Surplus Places: 10.71%.

#### Schools Affected Secondary School: Hawarden High School

Current number on roll (@ January 2019) is 1098.

Capacity (@ January 2019) is 1145

No. surplus places is 47.

Percentage of Surplus places is 4.10%.

#### Primary School Pupils

School capacity  $196 \times 5\% = 9.8$  (10).

$196 - 10 = 186$  Trigger point for contributions is 186 pupils

(No of units)  $15 \times 0.24$  (primary formula multiplier) = 3.60 (4) No. of pupils generated)  $\times \text{£}12,257$  per pupil (Building Cost Multiplier) =  $\text{£}49,028.00$ .

Actual pupils  $175 \times 4$  (from the multiplier) = 179 does not meet the trigger.

Contribution requirement would be  $\text{£}0.00$ .

#### Secondary School Pupils

School capacity of  $1145 \times 5\% = 57.25$  (57)

Capacity  $1145 - 57 = 1088$ . Trigger point for contributions is 1088 pupils.

(No. of units  $15 \times 0.174$  (secondary formula multiplier) = 2.61 (3 No. pupils) generated  $3 \times \text{£}18,469$  per pupil (Building Cost Multiplier) =  $\text{£}55,407.00$ .

Actual pupils  $1098 \times 4$  (from the multiplier) = 1102 meets trigger of 1088.

Contribution requirement would be  $\text{£}55,407.00$ .

#### Natural Resources Wales

No objection as do not consider that the development is likely to be detrimental to the maintenances of the population of bat species provided the avoidance measures within the submitted bat report are implemented.

#### Council Ecologist

No objection in principle subject to the development being undertaken.

#### Clwyd-Powys Archaeological Trust

Recommend that any planning permission includes a condition requiring a programme of historic building recording, the equivalent of a Historic England Level 2 Building Survey. This will allow an analytical record of the buildings to be made prior to alteration.

#### Forestry Officer

The proposed site layout will result in the loss of selected trees but this represents an acceptable balance between retention/removal to accommodate redevelopment of the site. Recommend the imposition of a condition to control this aspect of the development.

### **4.00 PUBLICITY**

#### 4.01 Press Notice, Site Notice, Neighbour Notification Original Submission

2 letters of objection the main points of which can be summarised as follows:

- Questions the extent of traffic movements being comparable to those generated by the former Monastery; and
- Expresses concerns about the impact of proposed development on existing trees/hedgerows.

#### Amended Scheme

One letter of objection received which is summarised as follows:

- Expresses concerns about the impact of proposed development on existing trees/hedgerows; and
- Expresses concerns about the impact upon wildlife and habitats;
- Expresses concerns in respect of the proposed amended width of the access, the potential for increased noise and impacts upon living conditions.

### **5.00 SITE HISTORY**

5.01 None relevant.

## **6.00 PLANNING POLICIES**

- 6.01 Flintshire Unitary Development Plan  
Policy STR1 - New Development  
Policy STR4 - Housing  
Policy STR8 - Built Environment  
Policy STR10 - Resources  
Policy GEN1 - General Requirements for New Development  
Policy GEN3 - Development Outside Settlement Boundaries  
Policy GEN4 – Green Barrier  
Policy D1 - Design Quality, Location and Layout  
Policy D2 - Design  
Policy D3 - Landscaping  
Policy TWH1 - Development Affecting Trees and Woodlands  
Policy TWH2 – Protection of Hedgerows  
Policy WB1 - Species Protection  
Policy AC2 – Pedestrian Provision and Public Rights of Way  
Policy AC3 – Cycling Provision  
Policy AC13 - Access and Traffic Impact  
Policy AC18 - Parking Provision and New Development  
Policy L1 – Landscape Character  
Policy HSG4 – New Dwellings Outside Settlement Boundaries  
Policy HSG8 - Density of Development  
Policy HSG9 - Housing Mix and Type  
Policy SR5 - Outdoor Play Space and New Residential Development  
Policy EWP3 - Renewable Energy in New Development  
Policy SR5 – Outdoor Play Space and New Residential Development  
Policy IMP1 – Planning Conditions and Planning Obligations

### Additional Guidance

- Planning Policy Wales Edition 10 November 2018  
Technical Advice Note 1 – Joint Housing Land Availability Studies.  
Technical Advice Note 5 – Nature Conservation & Planning.  
Technical Advice Note 12 – Design  
Technical Advice Note 18 – Transport  
Technical Advice Note 24 – The Historic Environment.  
Supplementary Planning Guidance Note 2 – Space Around Dwellings  
Supplementary Planning Guidance Note 10 – New Housing in the Open Countryside  
Supplementary Planning Guidance Note 11 – Parking Standards  
Supplementary Planning Guidance Note 23 – Developer Contributions to Education

## **7.00 PLANNING APPRAISAL**

### 7.01 Introduction

This full application proposes the demolition of the former and presently vacant Poor Claire Collettine Monastery and associated outbuildings at Upper Aston Hall Lane, Hawarden, and

redevelopment of the site by the erection of 15 No. detached dwellings.

7.02 The total developed site area, which has an existing lawful residential use, amounts to approximately 0.8 hectares within the wider site area of approximately 1 hectare defined by the associated grounds/woodland. The site is located outside the settlement boundary of Hawarden but within a Green Barrier as defined in the Flintshire Unitary Development Plan.

7.03 Proposed Development

The plans which have been amended in progression of this application propose a total of 15 No. dwellings comprising the erection of 1 No. dwelling to replace the existing former lodge on the site frontage relative to Upper Aston Hall Lane, with the remaining 14 No. units on that part of the site which in the main corresponds with the footprint and associated curtilage of the existing former Monastery building.

7.04 There are 7 No. different house types proposed to be constructed having a mix of brick/rendered external walls. The site would be served from a central access point located in the current position as the access which presently serves the site. However, it is proposed that this new access is to be gated as part of the redevelopment of the site.

7.05 Main Planning Considerations

The main planning issues in this matter are:-

- Principle of development having regard to the purpose and character and appearance of the Green Barrier; the location of development outside settlement boundary and Housing Land Supply
- Adequacy of highways.
- Ecological matters.
- Impact on trees/hedgerows.

7.06 The Principle of Development

The site lies outside but directly adjacent to the settlement boundary of Hawarden and in the Green Barrier as shown in the adopted UDP.

7.07 PPW reinforces the statutory provisions that underpin a plan-led planning system. It explains that the Welsh Government is committed to promoting sustainable development, to ensure that social, economic and environmental issues are balanced and integrated, at the same time. The policy guidance also repeatedly sets out that previously developed (or brownfield) land should, wherever possible, be used in preference to green field sites.

- 7.08 Paragraph 3.34 indicates that “The countryside is a dynamic and multi-purpose resource. In line with sustainable development and the national planning principles and in contributing towards placemaking outcomes, it must be conserved and, where possible, enhanced for the sake of its ecological, geological, physiographic, historical, archaeological, cultural and agricultural value and for its landscape and natural resources.
- 7.09 The need to conserve these attributes should be balanced against the economic, social and recreational needs of local communities and visitors”.
- 7.10 Paragraph 3.56 notes that in respect of development in the open countryside, “All new development should be of a scale and design that respects the character of the surrounding area.”
- 7.11 In terms of the policies in the adopted UDP, policy GEN3 sets out those instances where housing development may take place outside of settlement boundaries. The range of housing development includes new rural enterprise dwellings, replacement dwellings, residential conversions, infill development and rural exceptions schemes which are on the edge of settlements where the development is wholly for affordable housing. Policy GEN3 is then supplemented by detailed policies in the Housing Chapter on each type.
- 7.12 Policy GEN4 advises that development within the green barriers will only be permitted where it comprises one or more of a series of identified categories of development provided that it would not:
- contribute to the coalescence of settlements; and
  - unacceptably harm the open character and appearance of the green barrier.
- 7.13 Given that the proposal centres upon the erection of 15No. dwellings and does not fall within the scope of 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.
- 7.14 **Green Barrier Policy**  
The site lies adjoining, but just outside, the settlement boundary of Hawarden and within the Hawarden - Mancot - Hawarden Airport - Saltney (S River Dee) green barrier which was designated for the purpose of protecting the narrow gap between the settlements of Ewloe and Hawarden on the north side of the B5125. The objective of the green barrier is therefore to prevent coalescence of settlements and to assist in safeguarding the open countryside from the encroachment of built development.

- 7.15 UDP Policy GEN4 says that development will only be permitted within green barriers where it meets certain specified criteria and provided it would not contribute to the coalescence of settlements and unacceptably harm the open character and appearance of the green barrier. The proposed scheme would not meet any of the specified criteria, and so it would fall outside development plan policy.
- 7.16 Planning Policy Wales (PPW) also provides useful policy guidance on development in green barriers. It refers to the establishment of Green Belts and to local designation such as green wedges; ('green barriers' are the corresponding designation in Flintshire). PPW advises at Paragraph 3.69 that "when considering applications for planning permission in Green Belts or green wedges, a presumption against inappropriate development will apply" and also advises that "substantial weight should be attached to any harmful impact which a development would have on the purposes of Green Belt or green wedge designation."
- 7.17 It is clear that the proposed development falls outside the list of purposes for which development is considered to be appropriate. Thus the proposal must amount to inappropriate development in the green barrier.
- 7.18 PPW further advises (Para. 3.70) that "inappropriate development should not be granted planning permission **except** [my emphasis] in very exceptional circumstances where other considerations clearly outweigh the harm which such development would do to the Green Belt or green wedge." This is a stringent and demanding test, and the planning balance is different to that applicable for land outside the green barrier.
- 7.19 Having regard to the purpose of the green barrier at this location, the site and surroundings and the fact that the proposals amount to inappropriate development in a green barrier, the proposal would, as a point of principle, be considered to harm the openness of the green barrier and therefore undermine its purpose.
- 7.20 It is therefore necessary to turn to consider whether there are any very exceptional circumstances which would outweigh this harm.
- 7.21 **Very Exceptional Circumstances**  
In considering this question, I consider that there are 3 very exceptional circumstances which exist to support the recommendation to allow the development proposed. These are:
- The existing lawful residential use of the site;;
  - The fact that the site amounts to previously developed land (PDL); and
  - The lack of a 5 year housing land supply.

7.22 *Lawful residential use*

Members will be aware that the site was formerly in use as a monastery building. This use involved the residential occupation of the site by the members of the order situated within the monastery. The site has not been put to any intervening use since the cessation of occupation by the order and therefore the site benefits from an existing and extant lawful use for residential occupation. The proposals would see a continuation of the residential use of the site.

7.23 *Previously Developed Land*

Previously Developed Land (PDL) is defined in Planning Policy Wales (PPW – Edition 10) as follows:

*“Previously developed (also known as brownfield) land is that which is or was occupied by a permanent structure \*(excluding agricultural or forestry buildings) and associated fixed surface infrastructure. The curtilage (see note 1 below) of the development is included, as are defence buildings and land used for mineral extraction and waste disposal (see note 2 below) where provision for restoration has not been made through development management procedures.”*

7.24 Note 1 appended to this definition is of particular relevance to the site and the proposals. It serves to identify that curtilage is defined as the area of land attached to a building. All of the land within the curtilage of the site will also be defined as previously developed. However, this does not mean that the whole area of the curtilage should therefore be redeveloped. For example, where the footprint of a building only occupies a proportion of a site of which the remainder is open land (as in this case) the whole site should not normally be developed to the boundary of the curtilage. It is incumbent upon the planning authority to make a judgement about the site layout in this context, bearing in mind other planning considerations such as policies for the protection of open space, playing fields or development in the countryside. Factors such as how the site relates to the surrounding area and requirements for on-site open space, buffer strips and landscaped areas will also need to be taken into account as part of his consideration.

7.25 Paragraph 3.51 of PPW advises that “previously developed land (also referred to as brownfield) land, should, wherever possible, be used in preference to greenfield sites where it is suitable for development. In settlements, land should generally be considered suitable for appropriate development where its re-use will promote sustainability principles and any constraints can be overcome.”

7.26 Built form within the application site is located within 2 very distinct areas. When considering the issue of PDL and its relevance to this site, it is considered that redevelopment should be focussed upon these areas. These areas are:

- a) St. Damien's Lodge (and its curtilage) at the site frontage forming one edge to the formal garden at the core of the monastery; and The area of the site containing the footprint of the former Monastery and its associated curtilage.

- 7.27 The existing buildings, including St. Damien's Lodge, have a total footprint area amounting to 1977.25m<sup>2</sup>.
- 7.28 The proposed site layout provides for a single replacement dwelling in the location of St. Damien's Lodge. The remaining 14No. dwellings are proposed within the area of the former monastery building and its immediate curtilage. The total footprint area of the proposed dwellings would measure 1619.61m<sup>2</sup>.
- 7.29 The proposals therefore represent a reduction in the area of built form of some 357.64 m<sup>2</sup> of floorspace. This represents a reduction of developed floor space across the site of 18%.
- 7.30 In considering the question of whether the proposals would affect the openness of the green barrier, I am of the view that this reduction in respect of both the extent and massing of built form within the site is a significant material consideration in relation to the consideration of whether vary exceptional circumstances are demonstrated to warrant the grant of planning permission.
- 7.31 *Housing Land Supply & Location Outside the Settlement Boundary*  
It is accepted that an objective of the planning system is to increase the supply of housing land where there is a deficit. The disapplication of paragraph 6.2 of TAN 1 requires the Council to determine whether considerable weight should be attached to a lack of housing land supply. The Council considers it can demonstrate a level of completions over the first three years of the LDP plan period which is excess of the annual housing requirement in the Deposit LDP. This proposal amounts to a welcome windfall site and it should be noted that the housing balance sheet makes allowance for appropriate windfall sites to come forward.
- 7.32 It must be noted that PPW refers in paragraph 1.17 that 'The Planning System provides for a presumption in favour of sustainable development...'. Essentially, the purpose of the presumption in favour of sustainable development is to ensure that social, economic and environmental issues are balanced and integrated in taking decisions on individual planning applications.
- 7.33 Whilst the application site is outside the settlement boundary of Hawarden, it note that it does directly about the same. I am mindful that previous appeal decisions have established that the housing policies of the FUDP, in addition to its settlement boundaries, are now out of date. However, in accordance with the principles set out in PPW and having regard to the presumption in favour of sustainable

development. I turn to consider the sustainability merits of the proposal in this location.

- 7.34 The site by virtue of its adjacency to the settlement boundary, is located in close proximity to a range of services, including shops and schools; transport nodes including bus routes and rail station; and sits directly adjacent extensive and well equipped recreation grounds at Gladstone Fields. The site is visually and physically contained due strong physical boundaries formed by woodland to the rear and by trees along the southern boundary. It has a particular character with its landscaped grounds offering a sense of peacefulness and tranquillity reflecting its former use as a monastery. It sits comfortably in an open countryside setting and does not create a precedent or pressure for development of adjoining land particularly because of its green barrier protection.
- 7.35 I therefore consider the proposed development for the purposes of housing would result in a sustainable extension to the settlement of Hawarden.
- 7.36 Accordingly, I conclude that these factors, taken in combination, are such that the very exceptional circumstances required to be demonstrated to support development of this form within a green barrier have been demonstrated.
- 7.37 Adequacy of Highways  
Consultation on the application has been undertaken with the Highway Development Control Manager. For Members information no objection has been raised to the general principle of development at this location having regard to the conclusions of the Transport Statement submitted as part of the application, having regard to the number of anticipated vehicle movements associated with the scale of development proposed.
- 7.38 The Highway Development Control Officer has advised that it is normal practice however to require a road serving 15 No. dwellings to be constructed to highway adoption standards. The applicant confirms that the intention is for the access be gated and for it to remain under private control. Whilst there is no objection to this approach, Manual for Streets suggests that a Section 106 Obligation is the mechanism to control management arrangements in such instances.
- 7.39 Having regard to the above and subject to (a) the completion of Section 106 Obligation to ensure that the roads and footways are maintained and managed in an appropriate condition in perpetuity (b) the imposition of planning conditions in respect of access, visibility, parking, surface water and a Construction Traffic Management Plan the development is supported.

- 7.40 Ecology  
The proposed development would involve the demolition of both the main monastery building and St. Damian's Lodge. Consequently, a Bat Survey has been submitted as part of the application and consultation has been undertaken with Natural Resources Wales (NRW) and the Council's Ecologist in respect of this report.
- 7.41 It has been confirmed by NRW that there is a low risk for the presence of bats at this location, and that the development is not likely to be detrimental to the maintenance and population of the species concerned at a favourable conservation status in its natural range.
- 7.42 It is also confirmed that the proposed development is not likely to harm or disturb the bats or their breeding site's and nesting places at the site, provided the measures outlined in the accompanying bat report are implemented.
- 7.43 Impact on Trees/Landscape Features  
Consultation on the application has been undertaken with the Council's Arboricultural Officer recognising the site's location within a Green Barrier and its associated woodland setting.
- 7.44 To facilitate the proposed development, a number of trees and a hedgerow within the site will be removed, as specified in the Tree Survey which accompanies the submitted application.
- 7.45 The Arboricultural Officer has supported the removal of the identified trees/hedgerows, recognising the balance between tree retention and removal with the most important woodland group to the rear of the former Monastery Building being important from a visual perspective together with a number of trees and hedgerows on the site frontage which help to maintain the open setting of the site when viewed from Aston Hall Lane. As a result there is no objection to the proposed development subject to the imposition of a condition to secure and safeguard retention during development should Members support the principle of development at this location.
- 7.46 Education - Provision of Education Contributions  
Primary and Secondary formula multipliers have been applied to assess the potential impact of the proposal on the capacity of both Penarlag C. P. School and Hawarden High School. Due to capacity at Hawarden High School having been reduced below the 5% surplus spaces threshold as set out in SPG23, I am advised by Education colleagues that a section 106 contribution would be sought for £55,407. The trigger points Penarlag C. P. School have not been met and a contribution is not sought.
- 7.47 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

- 7.48 It is unlawful for a planning obligation to be taken into account when determining a planning application for a development, or any part of a development, if the obligation does not meet all of the following regulation 122 tests;
1. be necessary to make the development acceptable in planning terms;
  2. be directly related to the development; and
  3. be fairly and reasonably related in scale and kind to the development
- 7.49 Where an Authority does not yet have a charging schedule in place, the CIL Regulations puts limitations on the use of planning obligations.
- 7.50 These limitations restrict the number of obligations for the funding or provision of an infrastructure project/type of infrastructure. From April 2015 if there have been 5 or more S.106 obligations relating to an infrastructure project/type of infrastructure since 2010 then no further obligations for that infrastructure project/type of infrastructure can be considered in determining an application.
- 7.51 I am aware that the Planning Authority has secured 5 obligations towards Hawarden High School since April 2010. Accordingly, any further requests towards the same end would not be in compliance with the Community Infrastructure Regulations 2010 and therefore, by virtue of Reg.123, The Local Planning Authority may not make any further requests for S.106 contributions for the same purpose at this school.
- 7.52 The LPA cannot therefore consider a Section 106 agreement in respect of education capacity at Hawarden High School.
- 7.53 Having regard to the principles in relation to S.106 Agreements set out within Welsh Office Circular 13/97 'Planning Obligations', that such obligations should only be sought where without the same the Local Planning Authority would not grant planning permission, it falls to be considered whether the proposals ought therefore to be refused in the light of the implications of CIL.
- 7.54 Clearly, in relation to educational contributions towards primary school places at Hawarden High School, the development proposals bring about an adverse impact which cannot now be mitigated by a further Section 106 contribution. I have therefore considered whether or not, weighing all matters into the balance and exercising my planning judgement, I should recommend that this application should

be refused given that there is an impact at Hawarden High School which cannot be mitigated by way of a Section 106 contribution.

- 7.55 I am mindful of the fact that the proposals provide for the residential development of a site which benefits from an existing and extant residential use. I am also mindful that the Council has not met the requirement to maintain a 5 year housing land supply.
- 7.56 I am also mindful that, save the issue in relation to secondary education contributions, all other matters are acceptable on the assessment of their planning merits in all other respects. Nonetheless, there is an impact arising from the proposals which cannot be mitigated by a Section 106 obligation and this will impact upon the capacity of Hawarden High School. The impact therefore needs to be weighed against the matters set out above, and in light of CIL. The proposals, upon the application of the formula within LPG23 indicate that 3 pupils are expected to be generated from the development to attend this school which presently has 1098 pupils on the roll. The proposals would therefore increase the pupils on roll to 1101. The school has an actual capacity of 1145. The proposals would result in a further encroachment into the surplus places at the school below the 5% threshold. Therefore, in planning policy terms, the proposed development is in conflict with Policy IMP1 of the UDP.
- 7.57 If the development gave rise to a higher number of pupils and the school did not have any spare capacity at all, the impact may be such that the application should be refused, given that mitigation of the impact cannot now be taken into account as a result of CIL. However, having considered all the other matters set out in this report, I am of the view that, whilst finely balanced, the particular impact that would arise as a result of this proposed development is not so great as to warrant refusal of planning permission in this instance.
- 7.58 Layout and Living Conditions  
The site amounts to some 1.84 hectares in area. However, given the need to maintain the openness of the green barrier in this location; recognising the importance of both retaining the significant trees coverage upon the site and seeking to limit the proposed floor space to those areas currently covered by buildings and their associated curtilage, the actual developable area of the site amounts to 0.74 hectares. The density of the proposals therefore amounts to approximately 20 dwellings per hectare which, having regard to the edge of settlement location of the site and the sense of openness which is a key feature of the green barrier in this location, I consider to be appropriate.
- 7.59 I have had regard to the guidance set out in SPG 2 – space around dwellings, and I note that the proposals make provision for both depth and area of rear gardens and separation distances between existing and proposed dwellings which is broadly in accordance with the

guidelines. Accordingly I am satisfied that the proposals will not result in adverse impacts upon the living conditions of either existing or future occupiers of dwellings within or adjacent to the site.

- 7.60 Equally, having regard to the Councils parking guidelines, I note that the proposals provide for 3NO. car parking spaces per dwellings, which accords with the guidance in this regard.

## **8.00 CONCLUSION**

- 8.01 In conclusion it is my view that, notwithstanding the site's green barrier designation, the 'very exceptional circumstances' necessary to support a recommendation to grant permission for the development in the form proposed are demonstrated. The proposal is otherwise in accord with both national and local planning policy and, following assessment of the technical matters relevant to the site and proposals, is therefore considered to be acceptable. I recommend accordingly.

### **8.02 Other Considerations**

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

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

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

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

## **LIST OF BACKGROUND DOCUMENTS**

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

**Contact Officer:** Mark Harris  
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