

**FLINTSHIRE COUNTY COUNCIL**

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

**DATE:** **2<sup>ND</sup> SEPTEMBER 2020**

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

**SUBJECT:** **GENERAL MATTERS – APPEAL AGAINST NON  
DETERMINATION OF FULL APPLICATION FOR  
THE DEMOLITION OF 81 DRURY LANE, DRURY  
TO FACILITATE THE ERECTION OF 56  
DWELLINGS, ACCESS, PARKING, OPEN SPACE  
AND ASSOCIATED WORKS.**

**APPLICATION  
NUMBER:** **061392**

**APPLICANT:** **MULLER PROPERTY GROUP**

**SITE:** **81 DRURY LANE AND LAND TO THE REAR**

**APPLICATION  
VALID DATE:** **3<sup>rd</sup> JUNE 2020**

**LOCAL MEMBERS:** **COUNCILLOR D HUTCHINSON**  
**COUNCILLOR M. J. PEERS**

**TOWN/COMMUNITY  
COUNCIL:** **BUCKLEY TOWN COUNCIL**

**REASON FOR  
COMMITTEE:** **SCALE OF DEVELOPMENT RELATIVE TO  
DELEGATION SCHEME, MEMBER REQUEST  
AND REQUIREMENT FOR POSITION  
STATEMENT ON NON DETERMINATION APPEAL  
LODGED**

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

**For Members information, this application is the subject of an appeal lodged with The Planning Inspectorate on the grounds of non-determination.**

**Ordinarily, a period of dual determination would apply in respect of a non-determination appeal, whereby the Local Planning Authority (LPA) can determine the application within a 28 day period of the date of the appeal being validly made. However, in this instance, the statutory notices are yet to expire and when they do, we will be outside the 28 day dual jurisdiction period. Therefore Members are asked, for the purposes of this report, to determine the position to be adopted by the LPA in connection with the forthcoming appeal proceedings. However, should additional material planning issues that are not referenced in this report arise in response to the statutory notices, then a further report will be brought to Committee in order to clarify the LPA position in the non-determination appeal.**

## **1.00 SUMMARY**

- 1.01 This full planning application has been submitted for the demolition of an existing property at No. 81 Drury Lane, Drury, to facilitate the formation of an access into approximately 1.95 hectares of land at the rear, to enable the construction of 56 No. dwellings.
- 1.02 This current application has been submitted for the same character and description of development that was refused under 060587, following consideration at the Planning Committee Meeting on 4<sup>th</sup> February 2020. The applicant subsequently lodged an appeal to the Planning Inspectorate against this decision with the appeal currently held in abeyance due to the Covid-19 situation currently being faced, as the applicant requested that this appeal be held by way of a Public Inquiry.
- 1.03 As a result of the dual jurisdiction process, the current application has had to be registered from a procedural perspective, with this current submission also being the subject of an appeal to The Planning Inspectorate on the grounds of non – determination. The Inspectorate have given until the 4<sup>th</sup> September 2020, for the council to respond on the appeal, and outline their view on the submitted proposals.
- 1.04 The application that was refused under 060587 included 5 No reasons for refusal as summarised below:-
- 1 the proposal not representing positive place making or good design
  - 2 the proposal representing an unexplained /unjustified incursion into the open countryside and a green barrier
  - 3 unacceptability of the form, density and layout of the proposed development.
  - 4 Impact on Grade 3A agricultural land

## 5 Inadequacy of ecological mitigation submitted

1.05 This current application that has been submitted seeks to address the concerns in respect of Reason for Refusal 3 & 5 (above) providing a revised site layout plan and changes to ecological mitigation proposals, from that previously considered under 060587.

### **2.00 RECOMMENDATION: THAT THE COUNCIL RESIST THE APPEAL ON THE FOLLOWING GROUNDS ON BASIS THAT NO FURTHER MATERIAL PLANNING ISSUES ARISE IN RESPONSE TO THE STATUTORY NOTIFICATIONS ;**

2.01 The proposed development does not represent positive place making or embrace the objectives of good design as the development fails to respond to the existing site and its surrounding context in terms of how and at what appropriate density development can be successfully integrated on this windfall development site. The applicant simply seeks to maximise the amount of development on this site with little regard to the appropriateness or impact of this on the wider community surrounding the site. The proposal is therefore contrary to the guidance in Section 3 of Planning Policy Wales (PPW) Edition 10 in relation to place making and good design.

2) The proposals represent an unexplained and therefore illogical and unjustified incursion into the open countryside where the land in question is also within a green barrier. No explanation has been given as to why the part of the application site in open countryside is required to help facilitate development within the settlement boundary, or why development and supporting infrastructure, including public open space, cannot be designed and provided on the windfall site within the settlement boundary. There is therefore no requirement to harm the character of the open countryside in this location. The proposal is therefore contrary to Planning Policy Wales (PPW) Edition 10 and Policies STR1, STR7, GEN1, GEN3 and GEN4 of the Flintshire Unitary Development Plan.

3) The form, density and layout of the proposed development is unacceptable and would be detrimental to the living conditions of the occupiers of existing neighbouring properties and future residents of the development, as well as to the character of the site and surrounding area. The proposed layout fails to provide adequate and integrated formal and informal play and open space within the development, fails in part to provide for adequate separation distances between dwellings or garden depths, and parts of the road layout are below the standards required for highways adoption and no details have been submitted regarding future maintenance responsibilities..

The proposal therefore simply seeks to maximise the number of units within the site at the expense of achieving a design which has the realistic ability to accommodate them and as such does not represent a sustainable form of development. The proposal is therefore contrary to Planning Policy Wales (PPW) – Edition 10, Technical Advice Note 12 – Design, Technical Advice Note 18 – Transport and Policies STR1, STR7, GEN1, D1, D2, AC18, HSG3 and HSG8 of the Flintshire Unitary Development Plan and Supplementary Planning Guidance Note 2 Space Around Dwellings.

4) The site includes an area of Grade 3A (Best and Most Versatile) agricultural land which should be protected from development unless there is an overriding need for it and there is no other lower grade land available (or such land as is available has an environmental value that outweighs agricultural considerations). The applicant has failed to address the demonstrate compliance with these tests. Accordingly, the proposals are contrary to Planning Policy Wales Edition 10 and Policies GEN1 and RE1 of the Flintshire Unitary Development Plan.

5) The application does not provide adequate details of the means of ecological mitigation associated with the development, in respect of the Great Crested Newt Habitat at this location. The proposal is therefore contrary to Planning Policy Wales (PPW) – Edition 10, Technical Advice Note 5 – Nature Conservation and Planning and Policies STR7, GEN1, WB1 and WB2 of the Flintshire Unitary Development Plan.

### **3.00 CONSULTATIONS**

#### **3.01 Local Member**

Councillor M.J. Peers/Councillor D. Hutchinson

Request application be referred to Planning Committee.

Preliminary views are:

- Proposal would lead to an unacceptable incursion of Public Open Space into the Green Barrier at this location GEN4 ( 17)
- Inadequacy of Public Open Space on the developable area of the site
- Proposal would result in overdevelopment
- Potential loss of Best and Most Versatile Agricultural Land
- Site layout would be detrimental to the character of existing development at this location.

Buckley Town Council

No response received at the time of preparing report

### Education & Youth

No response received at the time of preparing report but previous response in respect of 060587 is as follows:

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

School: Drury County Primary School  
Currently NOR (@ September 2019) 143 (excluding Nursery) Capacity (@ September 2018) 124 (excluding Nursery)  
No. Surplus Places:- 19  
Percentage of Surplus Places:- 15.32%

School: Elfed High School  
Current NOR (@ September 2019) is 878 Capacity (@ September 2018) is 983.  
No. Surplus Places is 105  
Percentage of Surplus Places is: 10.68%

Primary School Pupils  
School Capacity  $124 \times 5\% = 6.20$  (6)  
 $124 - 6 = 118$ . Trigger point for contributions is 118 pupils.  
(No. of units)  $56 \times 0.24$  (primary formula multiplier),  $0.24 =$  Child Yield, 13.4 (13) No. of pupils.

Current numbers on roll  $143 +$  Child Yield 13 = Potential Numbers on Roll 156  
Potential Numbers on Roll 156 – Tigger for Contributions, 118 =  
Potential Number of Contributions Sought 38  
Cannot seek more contributions than generated  
Actual Number of Contributions Sought  $13 \times$  Cost per Pupil Multiplier  
 $\pounds 12,257.00 =$  Contribution Requirement would be  $\pounds 159,341$ .

Secondary School Pupils  
School capacity of  $983 \times 5\% = 49.15$  (rounded up or down) 49  
Capacity  $983 - 49 = 934$  Trigger point for contributions is 934 pupils  
(No. of Units  $56 \times 0.174$  (secondary formula multiplier) = Child Yield 9.7 (10 No. of pupils/generated  $\times \pounds 18,469$  per pupil (Building Cost Multiplier)

Current Numbers on Roll,  $878 +$ Child Yield, 10 =  
Potential Numbers on Roll 888.  
The Potential Numbers on Roll do not exceed the trigger for contributions Contribution requirement would be  $\pounds 0$ .

### Housing Strategy Manager

In terms of evidence of housing need in Buckley:  
The Local Housing Market Assessment (LHMA) for Flintshire identifies an annual shortfall of 238 affordable units;

The LHMA identifies a need for primarily 1 & 2 bed (45.6%), 3 bed (28.3%), and 4 + bed (12%) split relatively evenly between social rented (30%) and intermediate rent (30% ) and affordable ownership ( 40%);

The provision of 30% on site affordable housing provision ( 17 units )is supported, but the tenure mix and mechanism for provision needs to be agreed”.

#### Highways Development Control

Consider the submitted site layout to be unacceptable to meet adoption standards, with limited drainage details provided or clarification of responsibilities for future maintenance of the internal estate roads.

#### Community and Business Protection

Phase 1 Land Contamination has been submitted which must be reviewed with appropriate remediation where necessary when formal details of the development are submitted. Requires imposition of a condition to address this issue.

#### Welsh Water/Dwr Cymru

Confirm request that if planning permission is granted that a condition be imposed to secure the implementation of a satisfactory scheme for the disposal of foul water.

#### Natural Resources Wales

Express significant concern that insufficient information has been submitted to satisfy the requirements for ecological mitigation.

#### Council Ecologist

No objection to the principle of development but consider that the submitted details do not provide adequate details of mitigation / management in respect of the Great Crested Newt Habitat

#### The Coal Authority

The application site falls within the defined Development High Risk Area. A Mining & Mineshaft Risk Assessment has been undertaken as part of the application and The Coal Authority agree with its conclusions recommending the imposition of a planning condition for site investigation works/remedial works where necessary prior to commencement of development.

#### Conservation Officer

No response received at the time of preparing report but previous response in respect of 060587 is as follows:

The building is not statutorily listed or classified as a Building of Local Interest. Do not consider that its demolition when linked to wider development proposals would be detrimental to the character of the

street scene and refusal is not warranted in this respect.

Clwyd-Powys Archaeological Trust

Do not consider that the building retains adequate architectural merit to be worthy of retention. Should the application be approved recommend a condition be imposed to ensure a record of the building is undertaken prior to demolition.

AURA (Play Design Officer)

Awaiting response at time of preparing report. Previous comments in relation to 060587 are as follows;  
Do not support the proposed siting of the Public Open Space across the road from the development and require more dedicated open space where the proposed development is taking place.

Welsh Government (Agricultural Land Use Planning Unit)

As the land is confirmed to be Best and Most Versatile land – ALC Subgrade 3a. It is recommended in accordance with Planning Policy Wales that a sequential test is undertaken. The Local Planning Authority will need to be assessed that the site cannot be farmed to its full potential in future. This must be tested and the assertion evidence.

Rights of Way

Public Footpath 14 abuts the site but appears unaffected by the development. The path must be protected and free from interference from the construction.

Ramblers Association

Bank Lane should be retained solely as a walking / cycle reroute and adequate measures introduced to facilitate a safe access across adjacent agricultural land where there is a history of mine working. The site layout does not promote active travel.

## **4.00 PUBLICITY**

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

2 letters of support received, the main points of which can be summarised as follows:-

- Consider the proposal represents a sustainable form of development
- The development will increase the supply of affordable housing in the locality.

32 letters of objection received, the main points of which can be summarised as follows:-

- Demolition of existing property would have a detrimental impact on the character of the site/surroundings.
  - Increased traffic generation would be detrimental to amenity/highway safety.
- Overdevelopment in the locality.
- Demolition of existing dwelling would have detrimental impact on character of the street scene at this location.
- Limited services to serve the scale of development.
- Development of the site has previously been refused by the Planning Committee on 4 No separate occasions. There has been no change in circumstances to warrant a different conclusion being made

## **5.00 SITE HISTORY**

### 060587

Outline – Demolition of 81 Drury Lane and the erection of 56 dwellings, access, parking and associated works. Refused 2 /20  
 Appeal lodged with Planning Inspectorate held in abeyance at present due to Covid 19 situation as the appellant has requested that the appeal proceed by way of a Public Inquiry..

### 060160

Outline application for the demolition of 81 Drury Lane and construction of 66 No. dwellings – Refused 18th October 2019

### 058489

Outline application for the demolition of 81 Drury Lane and construction of 66 No. dwellings – Refused 7th March 2019. Appeal lodged but not accepted by Planning Inspectorate – due to limitations in scale parameters of proposed development.

### 056023

Demolition of existing dwelling and provision of access junction and access road – Refused 19th January 2017.

## **6.00 PLANNING POLICIES**

### 6.01 Flintshire Unitary Development Plan

Policy STR1 – New Development.

Policy STR4 – Housing.

Policy STR7 – Natural Environment.

Policy GEN1 – General Requirements for Development.

Policy GEN2 – Development Inside Settlement Boundaries.

Policy GEN3 – Development in the Open Countryside.

Policy GEN4 – Green Barriers.

Policy D1 – Design Quality, Location & Layout. Policy D2 – Design.

Policy D3 – Landscaping.

Policy TWH1 – Development Affecting Trees & Woodlands.

Policy TWH2 – Protection of Hedgerows.  
Policy WB1 – Species Protection.  
Policy WB2 – Sites of International Importance.  
Policy WB4 – Local Sites of Wildlife & Geological Importance.  
Policy AC13 – Access & Traffic Impact.  
Policy AC18 – Policy Provision & New Development. Policy HSG1 – New Housing Development Proposals.  
Policy HSG3 – Housing on Unallocated Site Within Settlement Boundaries.  
Policy HSG8 – Density of Development.  
Policy HSG9 – Housing Mix & Type.  
Policy HSG10 – Affordable Housing within Settlement Boundaries  
Policy RE1 – Protection of Agricultural Land.  
Policy SR1 – Sports Recreation or Cultural Facilities.  
Policy SR5 – Outdoor Playing Spaces & New Residential Development.  
Policy EWP15 – Development of Unstable Land.  
Policy IMP1 – Planning Conditions & Planning Obligations.

#### Additional Guidance

Planning Policy Wales (PPW) Edition 10 (December 2018).  
Technical Advice Note 1 – Joint Housing Land Availability Studies.  
Technical Advice Note 2 – Planning & Affordable Housing.  
Technical Advice Note 5 – Nature Conservation & Planning.  
Technical Advice Note 6 – Planning for Sustainable Rural Communities.  
Technical Advice Note 12 – Design. Technical Advice Note 18 – Transport.  
Technical Advice Note 24 – The Historic Environment.  
Local Planning Guidance Note 13 – Open Space Requirements  
Supplementary Planning Guidance Note 2 – Space Around Dwellings.  
Supplementary Planning Guidance Note 3 – Landscaping.  
Supplementary Planning Guidance Note 8 – Nature Conservation & Development.  
Supplementary Planning Guidance Note 9 – Affordable Housing.  
Supplementary Planning Guidance Note 11 – Parking Standards.  
Supplementary Planning Guidance Note 13 – Outdoor Playing Space & (under Review).  
Supplementary Planning Guidance Note 23 – Developer Contributions to Education.

## **7.00 PLANNING APPRAISAL**

### Introduction

- 7.01 This full planning application has been submitted for the demolition of an existing property at No. 81 Drury Lane, Drury, to facilitate the formation of an access into approximately 1.95 hectares of land at the rear, to enable the construction of 56 No. dwellings.

### Background

- 7.02 As members will be aware, there is a recent and significant background of planning history at this location which is material to determination of this application, and is referenced in paragraph 5.00 of this report. In summary and of particular relevance is a planning application for the same scale and character of development that was refused under 060587, following consideration at the Planning Committee Meeting on 4<sup>th</sup> February 2020. The applicant subsequently lodged an appeal to The Planning Inspectorate against this decision with the appeal currently held in abeyance due to the Covid 19 situation currently being faced.

### Proposed Development

- 7.03 The application for the erection of 56 No dwellings has been submitted in full The application site (edged red) comprises 2 No. areas of land namely:-

a) 1.75 hectares of land to the rear of 81 Drury Lane, east of properties on Meadow View and west of Bank Lane. This part of the application site is within the settlement boundary of Drury as defined in the Flintshire Unitary Development Plan; and

b) Approximately 0.2 hectares of land to the east of Bank Lane. For Members information this element of the development is located outside the settlement boundary of Drury and is within a Green Barrier as defined in the Flintshire Unitary Development Plan (FUDP).

- 7.04 The site plan submitted as part of the application proposes the erection of 56 No dwellings on that part of the site to the west of Bank Lane that is within the settlement boundary. It is proposed that the dwellings would be a mix of 2 storey terrace, semi-detached and detached dwellings, constructed having brick external walls and slate substitute roofs. This is premised on the basis that the site layout plan shows 2 No. separate areas of open space to serve the development namely:-

a) An equipped area/attenuation basin approximately 0.2 hectares in area within the north eastern corner of that part of the site within the settlement boundary.

b) An area of informal open space amounting to approximately 0.2 hectares within the Green Barrier on the northern side of Bank Lane.

- 7.05 In support of this approach the agent has advised that:  
“The applicant is proposing two areas of POS as part of the development. The first is on the larger parcel of land where new dwellings are proposed. It will be centrally positioned and interrelate with the new drainage infrastructure and play area equipment. A second area is proposed on the north side of Bank Lane, immediately adjacent to the proposed housing. New pedestrian linkages are proposed between the two. The amount of POS provided is 4,115m<sup>2</sup> of

which 400m<sup>2</sup> is provided as children's play area. Based on 2.4 people per dwelling the amount of POS proposed accords with the standard included in Policy SR5 of the UDP and will result in a usable and attractive area that can be used by new residents. The location of the POS is considered appropriate as one often has to cross a road to access POS, so this situation is not unusual."

7.06 Notwithstanding the above, this part of the application site is distinctly separate from the part of the site considered to be a potentially suitable windfall site by the FUDP Inspector, which is within the settlement boundary. Bank Lane is beyond the limits of the settlement defined in the UDP and represents a distinct character break and change from the urban form of Drury to the open countryside beyond.

7.07 Main Planning Considerations

It is considered that the main planning considerations to be taken into account in relation to this application area:-

- a) The principle of development
- b) Place making and Design
- c) Provision of housing and the disapplication of paragraph 6.2 of TAN 1
- d) Scale/form design.
- e) Agricultural Land Classification
- f) Adequacy of Access.
- g) Visual impact and loss of trees and hedgerows
- h) Impact on ecological habitats.
- i) Provision of affordable housing
- j) Open space provision.
- k) Provision of Education Contributions.
- l) Loss of existing dwelling on the character of the street scene

Principle of Development

7.08 It is acknowledged that in progression of the Unitary Development Plan, the Inspector at that time recommended retention of the allocation at Clydesdale Road (now developed) for residential development. It was also concluded that the land on the western side of Bank Lane also be retained within the settlement boundary, and if it was in accordance with Policy HSG3 treated as any other windfall site.

7.09 The general principle of development is considered acceptable within a settlement boundary (subject to acceptability of detailed matters). However, in this application it is also proposed that an area of additional land adjacent to, but outside of the settlement boundary is also included within the application site, with this land being within the open countryside and a designated Green Barrier. Notwithstanding the views of the applicant summarised in paragraphs 7.05 of this report, it is unclear from the information submitted in support of the application why it is considered necessary or appropriate for an area of open countryside beyond the clearly defined settlement limits to be included

as part of this development. The impact of this aspect of the development is considered in detail both in terms of acceptability from a co-ordinated development management perspective, and in terms of its impact on the landscape and character of the open countryside on the eastern edge of Drury.

- 7.10 PPW states in paragraph 3.3 that good design is fundamental to creating sustainable places where people want to live, work and socialize. It also states that design must include how space is used, how buildings and the public realm support this use, as well as its construction, operation, management and its relationship with the surrounding area. In paragraph 3.4 PPW urges that for all those involved in the development process (which includes the applicant), the aim for all should be to meet the objectives of good design, applied to all development at all scales.
- 7.11 A key concern with this proposal is the unexplained need to encroach into the open countryside, particularly in this instance where there is a clear transition represented by Bank Lane, from an urban context, to the rural countryside beyond. Simply stating as the applicant has that “the change has the benefit of creating a more integrated connection between the public open spaces on both sides of Bank Lane” does not explain the need to encroach, or why development cannot be successfully achieved and integrated on the recognised windfall element of the site within the settlement boundary following the principles of good design. PPW is clear in paragraph 3.34 that the countryside is a dynamic and multipurpose resource that, in line with the sustainable development and national planning principles and in contributing towards place making outcomes, must be conserved and where possible enhanced for amongst other things referenced, its ecological and agricultural value, and for its landscape and natural resources.
- 7.12 Returning to the principles of good design set out in PPW and this unexplained encroachment into the countryside, it is considered that the proposed development has failed to respect the principles of place making and good design in terms of:-
- Character – there is no clear rationale or strong vision as required in paragraph 3.9 of PPW that explains the design decision made, based on site and context analysis, to explain why the development needs to encroach into the open countryside.
  - Community Safety – because of the annexed nature of the part proposal in open countryside and the intended use of the land beyond the settlement boundary for informal recreational use, the applicant has failed to produce a safe environment in accordance with the cohesive communities well-being goal because of the lack of surveillance, overlooking and the need to cross a public highway to access the land;
  - Appraising context – Paragraph 3.4 of PPW explains that site and context analysis should be used to determine the appropriateness of a

development proposal in responding to its surroundings. It goes on to state that this process will ensure that a development is well integrated into the fabric of the existing built development. The Local Planning Authority considers that the applicant has failed in this assessment and in presenting a design that responds appropriately to the existing environment and context, having also failed to explain the need to develop part of the proposal in the open countryside or highlighted no particular constraints or limitations of the windfall element of the site within the settlement boundary, that prevent an integrated development from being designed in that context, that provides for the needs of the future residents within the development.

7.13 Given this, the principle of the development is unacceptable given the unexplained and unnecessary encroachment of the development into the open countryside. Although it is acknowledged that no formal structures or buildings are proposed in the part of the development beyond the settlement boundary, because of the lack of justification or need to do so, the overriding need is to preserve the character of the open countryside from harmful encroachment and unsustainable forms of development.

7.14 Place Making and Design

Planning Policy Wales states that good design is fundamental to creating sustainable places and is not simply about the architecture of a building or development, but the relationship between all elements of the natural and built environment and between people and places. It is important therefore that this proposal, makes a positive and sensitive response to the character, context, accessibility, and environmental sustainability of the site and its surroundings. These are some of the main objectives of good design referred to in PPW, yet the proposal because of its unexplained encroachment into open countryside, and at the scale applied for represents an unacceptably high density of development in this location and is in conflict with these objectives from the outset, as it fails to create a positive and legible relationship between the site and its surroundings.

7.15 The design and access statement fails to make detailed reference to relevant context and guidance found in Planning Policy Wales - Edition 10 and Technical Advice Note 12 Design. There are other omissions from the supporting statements that have a direct relationship to the principle of place making and good design

7.16 The application specifically asks the Local Planning Authority to approve 56 dwellings on that part of the site within the settlement boundary (1.75 hectares) which would result in a density of development of approximately 32 dwellings per hectare (dph). This is in excess of the existing built form and context of approximately 29 dph that exists.

7.17 The issue of density however needs to be read in conjunction with the

site layout submitted, having regard to the nature of the existing development in proximity to the site in which it is located and the fact that the layout fails to provide for adequate play and informal open space within the development, compromises space about dwellings and separation distances for some units, and has a substandard and unadoptable highways layout. This does not represent good design or place making in response to site context, and is instead simply an exercise in attempting to maximising development on this site, which is not a sustainable approach to development.

- 7.18 It is my view that the layout fails to respect the existing character both adjacent to existing development and the site's edge of settlement location on the edge of the open countryside resulting in a form of overdevelopment which if developed would be detrimental to the well-being of future residents and the surrounding community.
- 7.19 Housing Land Supply  
The requirement in Planning Policy Wales 10 ( PPW 10) and Technical Advice Note 1 for Local Planning Authority's ( LPA's) to monitor their housing land supply and maintain a 5 year supply of genuinely available housing land was removed on 26th March 2020 and replaced by a requirement for LPA's to monitor housing delivery. Revisions to PPW10 and the Development Plan Manual 3 require that LPA's monitor the delivery of their housing development plan housing requirement based on a housing trajectory contained in the development plan.
- 7.20 The LPA included in a Background Paper accompanying the Deposit Local Development Plan ( LDP ), a housing trajectory to illustrate how the Plans housing requirement would be delivered over the 15 year Plan period. Whilst the revised national guidance does not provide a specific method for an LPA to monitor supply where the LDP is not yet adopted, the LPA is continuing to prepare the LDP in line with the new guidance. Given that there is now no other means of monitoring supply, the LPA considers that it is entitled to give weight to the principle of using the Deposit LDP trajectory to demonstrate the progress of the Plan in delivering housing and whether there is a shortfall of delivery against the trajectory.
- 7.21 Although the LDP is not yet adopted, nor been through Examination, the housing trajectory prepared, was compliant with the national guidance in force at the time, and had regard to the draft Development Plan Manual 3. The trajectory clearly demonstrated that maintenance of a 5 year supply of housing land throughout the PLDP period. In the light of revised guidance in the final Development Plan Manual 3, the Deposit LDP housing trajectory has been revised and the completions achieved in the early years of the Plan period demonstrate that there is no shortfall of housing land in Flintshire.

- 7.22 The LPA is therefore delivering its Deposit Plan housing requirement and there is no housing land supply or delivery shortfall. Although this has yet to be the subject of examination by a Planning Inspector, the comments of Welsh Government in their formal representations on the Deposit Plan are that: 'The Welsh Government is generally supportive of the spatial strategy and level of homes and jobs proposed and has no fundamental concerns in this respect' do not suggest that there is any fundamental concern about the Plan not delivering. Both the UDP and now the LDP include an allowance for policy compliant windfall housing development.
- 7.23 The provision of unidentified sites coming forward as windfalls makes an important contribution to the Plans overall housing requirement and forms part of a range of sources of supply. In principle land within the settlement boundary is considered suitable for housing development provided that it is compliant with national and local planning guidance and policy. Therefore whether or not the site can contribute to the windfall allowance for the LDP, and form part of the Plans housing land supply going forward, depends on the detailed assessment of the proposal in the remainder of this report.
- 7.24 Provision of Open Space  
Consultation on the application has been undertaken with the Council's Play Design Officer (AURA). The submitted site layout plan shows 2 No. separate areas of open space to serve the development consistent with that forming part of application 060587 namely:-
- a) An equipped area of land on the part of the site within the settlement boundary. This has been re-positioned from that previously shown in respect of that shown as part of previous outline applications.
  - b) An area of informal open space divorced from the main development within the Green Barrier on the eastern side of Bank Lane.
- 7.25 This approach is considered unacceptable to AURA as the Public Open Space Provision should from a functionality and safety perspective be located in one area and integrated within the layout proposed and not divorced/separated in this case by Bank Lane. It is not considered and disputed that the POS is centrally positioned within the site as referenced by the applicant in paragraph 7.05
- 7.26 The provision of an acceptable level/appropriate siting of open space is of fundamental importance to the Local Planning Authority. It is therefore of concern that it appears likely that the only way the sufficient open space can be provided whilst at the same time allowing up to 56 dwellings to be constructed within the settlement boundary, is for a significant part of it to be provided on the western side of Bank Lane, where there is a potential for conflict between its usage and impact on BMV.

7.27 Adequacy of Access

Consultation on the application has been undertaken with Highway Development Control who have assessed the proposal having regard to the submitted Transport Assessment and additional trip rate data (TRICS). The views of the Highway Strategy Department have also been sought in this respect given concerns raised as part of the consultation exercise undertaken that there are capacity issues along Drury Lane. In the absence of any objection from Highway Strategy to this particular aspect of the highway network and having regard to the submitted data forming part of this application there is no objection to the principle of proposed development.

7.28 It is however the view that the submitted layout is unacceptable as there are a number of parts within it that do not meet adoption standards and limited information has been provided in respect of highway drainage or management responsibilities for future maintenance.

7.29 Agricultural Land Classification

An Agricultural Land Classification Survey has been re-submitted as part of the application which refers to the whole site being classified as Subgrade 3a (Best and Most Versatile Agricultural Land – BMV). Welsh Government's Land Use Planning Unit have accepted that the submitted Agricultural Land Classification Study has been completed to a high standard and is considered to provide an accurate indication of the agricultural land quality on the site.

7.30 In accordance with Planning Policy Wales (paragraphs 3.54 & 3.55) and Technical Advice Note 6 Annex B, BMV "should be conserved as a finite resource for the future". Therefore "considerable weight should be given to protecting such land from development, because of its special importance" and it should "only be developed if there is an overriding need for the development, and either previously development land or land in lower agricultural grades is unavailable, or available lower grade land has an environmental value recognised by a landscape, wildlife, historic or archaeological designation which outweighs the agricultural considerations. If land in grades 1, 2 or 3a does need to be developed and there is a choice between sites of different grades, development should be directed to land of the lowest grade". Essentially the same tests are reflected in Policy RE1 of the UDP.

7.31 The applicant's agent has sought to justify the loss of BMV on that part of the site which the settlement boundary on the basis that it will not be farmed to its full potential. The Welsh Government Land Use Planning Unit do not consider this has been adequately tested and evidenced and as the unacceptability of encroaching into the open countryside has already been established, any loss of BMV is equally therefore unacceptable in this context.

- 7.32 Impact on Ecological Habitats  
For Members information the application site is located within approximately 0.5 km of the Deeside and Buckley Newt Sites Special Area of Conservation (SAC). This supports a nationally important population of Great Crested Newt.
- 7.33 Consultation on the application has been undertaken with both Natural Resources Wales (NRW) and the Council's Ecologist in order to address the potential direct/indirect impact on the SAC including those associated with potential in combination increases in recreational pressures and disturbance/predation of wildlife.
- 7.34 It is considered that the current proposal does not offer the same level of mitigation as that previously forming the earlier outline applications, and it has not been confirmed to an acceptable level of detail, whether appropriate mitigation is to be provided by:-
- a) Submission and implementation of an on/off site recreation scheme and/or
  - b) Submission of a commuted sum per household or
  - c) a mechanism to secure the above through a legal obligation.
- 7.35 Whilst the general principle of the use of this land for ecological mitigation is considered to be acceptable to the Council's Ecologist and NRW, further details in respect of ecological mitigation need to be resolved satisfactorily to enable this issue to be controlled by the imposition of condition(s) and/ or a legal agreement .It cannot at this stage as a result of the above, be satisfactorily concluded that there will be no impact on the Deeside and Buckley Newt Sites Special Area of Conservation.
- 7.36 Visual Impact & Loss of Trees/Hedgerows  
The application site comprises 3 parcels of agricultural land bisected by Bank Lane. The boundaries of the site are defined by existing residential development /hedgerows. As part of the application a Visual Appraisal has been submitted which proposes additional tree /hedgerow planting along the south-west and south east boundaries but insufficient details have been submitted to ensure that this will integrate development into the wider surroundings.
- 7.37 Impact of Ex-Mining Works  
Given the previous mining history at this location a Mining & Mineshaft Risk Assessment has been submitted as part of the application on which consultation has been undertaken with the Coal Authority. In progression of this application however the basis for the assessment/data used has been questioned and as a result further clarification has been sought in the respect form The Coal Authority in order to ensure that they have access to the relevant mining records.
- 7.38 For Members information it has been confirmed that whilst

acknowledging this additional source data, none of the recorded mine entries are in the site boundary and their respective zones of influence do not encroach into the site. Whilst it is however appreciated that the mine entries are on land within the control of the application it is considered unreasonable for further investigation be undertaken, given that the mine entries do not implicate on the development proposed

7.39 Provision of Affordable Housing

It is proposed that 17 No. affordable units are provided with the development to meet 30% affordable provision in accordance with Policy HSG10 of the Flintshire Unitary Development Plan. Further agreement on the tenure and mix would however need to be agreed and secured by legal agreement in the event of planning permission being obtained.

7.40 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 Drury CP School and Elfed High School. Due to capacity having been reached at Drury CP School a section 106 contribution would be sought for £159,341. This is based on a calculation of 56 units. The trigger points for Elfed High School have not been met and a contribution will not be sought.

7.41 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'.

7.42 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.

7.43 It is considered that the education contributions would meet the regulation 122 tests. Drury CP School is oversubscribed and due to the added pressure on the school the development would require contributions to mitigate against this impact.

7.44 Impact of Loss of Existing Dwelling

As previously indicated, the proposed development would involve the demolition of an existing dwelling at 81 Drury Lane in order to facilitate the formation of an access to serve the erection of up to 56 No.

dwellings at this location.

- 7.45 The property is physically attached to an adjacent dwelling (No. 79 Drury Lane) and although it is not statutorily listed or classified a Building of Local Interest (BLI) it has formed part of the inherent character of the street scene at this location for a considerable period of time.
- 7.46 In determination of application 056023 in January 2017 particular concern/objection was raised to the demolition of the building for the sole purpose of forming a new access which if it remained in situ for some time would have a detrimental appearance on the street scene at this location.
- 7.47 The concerns of residents and Local Members to the loss of this building is respectfully noted and acknowledged. The fundamental difference in my opinion however between that previous application for the sole demolition of 81 Drury Lane and that currently submitted is that this proposal is now linked to a wider application site that it is intended to serve. The Council's Conservation Officer does not consider the building to be worthy of listing and whilst its demolition would change the street scene at this location this would not be detrimental within this urban environment to warrant a reason for refusal on this basis Clwyd-Powys Archaeological Trust have however requested in the event of permission being granted, that a condition be imposed to secure the submission of a photographic survey prior to its demolition.
- 7.48 Other Matters  
Third parties have objected to the application on the basis that there are limited services in the area. As there is little evidence to support this claim this matter can only be attributed very minor weight in the overall planning balance.

### **CONCLUSION**

- 8.00 There is no justification given by the applicant as to why it is necessary  
8.01 to extend the proposed development beyond the settlement boundary and into open countryside.
- 8.02 Given this, the proposal fails to represent positive place making and the objectives of good design, as it does not respect to or respect the existing character and context of the site and surrounding area.
- 8.03 The resultant design and layout of the proposed scheme compromises clear principles in relation to space about dwellings, adequate provision of open space and highways design and layout, in search of the maximum number of units on the site.
- 8.04 This does not represent a sustainable form of development and as such little weight should be attached to increasing housing supply, due to the failings of this proposal. The proposal would also lead to the loss

of an area of Grade 3A Best and Most Versatile Agricultural Land and does not provide at this stage adequate details of proposed ecological mitigation

- 8.05 In these circumstances there has been no material change in circumstances to warrant a different position to be adopted by the Local Planning Authority, subsequent to application 060587 It is therefore recommended that the position to be adopted on this appeal is as outlined in paragraph 2.00 of this report.

#### **LIST OF BACKGROUND DOCUMENTS**

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

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