

**FLINTSHIRE COUNTY COUNCIL**

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

**DATE:** **WEDNESDAY, 26 MAY 2021**

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

**SUBJECT:** **061790 - FULL APPLICATION - PROPOSED RESIDENTIAL DEVELOPMENT FOR 25 NO. AFFORDABLE DWELLINGS, PUBLIC OPEN SPACE WITH NEW PEDESTRIAN LINKS, LANDSCAPING, MEANS OF HIGHWAY ACCESS, PUMPING STATION AND SCHEMES FOR BIODIVERSITY NET GAIN AND SURFACE WATER ATTENUATION**

**APPLICATION NUMBER:** **061790**

**APPLICANT:** **WALES AND WEST HOUSING ASSOCIATION**

**SITE:** **LAND ADJACENT TO 150 MANCOT LANE, MANCOT**

**APPLICATION VALID DATE:** **16<sup>TH</sup> SEPTEMBER 2020**

**LOCAL MEMBERS:** **COUNCILLOR BOB CONNAH**

**TOWN/COMMUNITY COUNCIL:** **QUEENSFERRY COMMUNITY COUNCIL**

**REASON FOR COMMITTEE:** **SIZE OF PROPOSAL IN RELATION TO SCHEME OF DELEGATION**

**SITE VISIT:** **YES**

**1.00 SUMMARY**

1.01 This is a full application for a proposed residential development for 25 no. affordable dwellings, public open space with new pedestrian links, landscaping, means of highway access, pumping station and schemes for biodiversity net gain and surface water attenuation at land adjacent to 150 Mancot Lane, Mancot, Flintshire.

## **2.00 RECOMMENDATION: TO REFUSE PLANNING PERMISSION FOR THE FOLLOWING REASONS**

### 2.01

1. The Local Planning Authority consider there is insufficient evidence to identify the need to bring forward this speculative site outside the settlement boundary of Mancot. In the absence of the evidence of need and in light of the satisfactory levels of residential housing completions, commitments and allocations as set out in the planned housing trajectory in the Deposit LDP, the Council does not attach considerable weight to the need to increase housing delivery. The proposal therefore conflicts with the principles set out in PPW11 and the Future Wales Plan 2040.
2. The Local Planning Authority considers that insufficient evidence has been provided to identify the very exceptional circumstances necessary to justify inappropriate development within an area of open countryside and within an area of Green Barrier. The proposals would result in a form of unsustainable development which would unacceptably harm the openness, purpose and function of the Green Barrier in this location contrary to Unitary development plan policies GEN1, GEN3 and GEN4 and national policy contained within Planning Policy Wales (11th Edition – February 2021) and Policy 22 of the Future Wales Plan 2040.
3. The site is located within an area where the Local Planning Authority have been advised by Natural Resources Wales that there is an unacceptable risk of flooding for it to be considered suitable for residential use. The submitted Flood Consequence Assessment fails to comply with A1.12, A1.14 and A1.15 of TAN15. As such the proposal fails to comply with Planning Policy Wales (11th Edition – February 2021), TAN15 and policies STR1, GEN1 and EWP17 of the Flintshire Unitary Development Plan.

## **3.00 CONSULTATIONS**

### 3.01

#### Local Member: Councillor B Connah

- Requests committee determination
- Queries validity of PAC process
- Area is green Belt land and outside village settlement boundary
- Area is a flood plain and whole area has been subject to flooding in the past

- Local Drainage issues
- Difficulties with access onto Mancot Lane
- Requests site visit but acknowledges that this may not be possible due to current restrictions.

#### Queensferry Community Council

The land proposed for these houses is historically known to flood and lies on a floodplain and must drain into current infrastructure in ward. Have been told by National Rivers Authority that any future development draining into drainage system would overload it in direct proportion resulting in increased risk to Homes, Businesses and well-being of ward.

#### Hawarden Community Council:

Object- Objection Development is on green belt area, on a flood plain and not in the settlement plans.

#### Community and Business Protection

Further information to clarify the potential risks to/as a result of the development from ground/mine gas is needed.

If planning permission is granted, I would ask that a prior to commencement condition requiring a land contamination assessment and any subsequent remediation and verification works is imposed upon it.

#### Highways Development Control

The Transport Statement makes adequate assessment of access requirements, parking provision and pedestrian and public access requirements and includes proposals for visibility splays, footway widening and changes to road markings and signage. Implementation of these works within the highway will require separate approval of the Highway Authority but submission and approval of detail should be covered by a planning condition.

Detailed design should include an assessment/improvement of street lighting provision and dropped kerb access to bus stops. In order to accommodate cycle usage, the improvement/widening of the existing footpath towards the school should be considered. Parking restrictions have recently been imposed on Mancot Lane in order to manage parking/drop off outside the school premises. Future residents of the development site are likely to benefit from an extension of parking restrictions; the cost of making a Traffic Regulation Order should be covered by a S106 agreement. (£4k to cover the cost of advertising, consultation and making an order).

#### Housing

### Identified Housing Need:

The demand for affordable housing in Flintshire is demonstrated by the Local Housing Market Assessment and Flintshire Council's housing waiting lists.

### Local Housing Market Assessment (LHMA) Update 2018 (Final report (addendum) Feb 2020)

The LHMA for Flintshire identifies an annual shortfall of 238 affordable units.

The assessment recommends a need for the following property types:

- 1/ 2 bedroom (45.6%)
- 3 bedroom (28.3%)
- 4+ bedroom (12%)
- Older persons stock (14.1%)

And this should be split between the following tenures:

- Social rented (30%),
- Intermediate rent (30%)
- Affordable ownership (40%)

There is also a need for specialist accommodation in Mancot. The specialist housing register lists those applicants who require adapted/ wheelchair properties and whose needs are not easily met within the current social housing stock. There are currently 6 applicants who require a 3 bed adapted property in Mancot.

### Affordable

**Housing Partner:** Wales and West Housing

### Preferred Mix of units:

- 15 x 2 bed houses
- 3 x 3 bed houses
- 1 x 4 bed house
- 3 x 1 bed bungalows
- 1 x 2 bed bungalow
- 2 x 3 bed adapted bungalows
- 25 Total

As demonstrated above, Mancot is an area of significant housing demand. The mix of units being proposed is acceptable and would provide a variety of property types that will help a range of people and the dwellings will be made available for social rent. Housing Strategy is supportive of this application and the scheme has been placed in the reserve social housing grant programme so that funding may be allocated should planning permission be approved.

General Needs Housing – social rent (SARTH waiting list as at 1.10.20)							
	1 Bed Bungalow General needs	1 Bed Bungalow (mini group over 55's)	2 Bed Bungalow General needs	2 Bed Bungalow (mini group over 55's)	2 Bed House	3 Bed House	4 Bed House
Mancot	20	45	12	14	95	35	18

## Aura Leisure

In accordance with Planning Guidance Note No.13 POS provision, the Council should be seeking an off-site contribution of £733.00 per house/dwelling, in lieu of onsite POS. The payment would be used to enhance play facilities in the community, it would be for junior play provision. Working with Planning Policy we have considered previous pooled contributions and we confirm that the pooled contributions thresholds have not been exceeded with regards to this community.

## Education

	<b>Nearest Primary School</b>	<b>Nearest Secondary School</b>
School Name	Sandycroft CP School	Hawarden High School
Age Range	3-11	11-18
School Capacity	320	1145
Number on Roll <sup>(1)</sup>	307	1133
Surplus Places	13	12
Surplus Percentage	4.06%	1.05%
5% of Capacity <sup>(2)</sup>	16	57
Trigger for Contributions (95% of Capacity)	304	1088

### Sandycroft CP School

It is the intention of Education & Youth to seek a developer contribution.

The contribution sought will be for a total of £73,542.00

### Hawarden High School

It is the intention of Education & Youth to seek a developer contribution.

The contribution sought will be for a total of £73,876.00

## Natural Resources Wales

The site lies partially within Zone C1 as defined by the Development Advice Map (DAM) referred to under Technical Advice Note (TAN) 15 Development and Flood Risk (July 2004), and is shown to be located partially within the 0.5% (1 in 200) and 0.1% (1 in 1,000) annual exceedance probability (AEP) event flood outlines on the Natural Resources Wales Flood Risk Map. The development proposal is for the construction of 25 dwellings at the site, which is currently greenfield. As such, this is deemed to be an introduction of new highly vulnerable land use in line with figure 2 of TAN15.

1. We are unable to comment fully as the FCA presents two options for flood risk mitigation. The FCA does not identify which option is proposed for flood mitigation nor does it provide sufficient details of either option.

In order to comply with A1.14 of TAN15, the site must be designed to be flood free in the 0.5% AEP breach event with an allowance for climate change. All residential areas including parking, driveways and gardens should be demonstrated to be flood free. The details of the proposed mitigation have not been fully set out in the FCA, which states that the detailed design will come at a later stage. This is not acceptable and we require that the mitigation and the required flood compensation areas/volumes are detailed at this point in the planning process. This is to ensure that the appropriate areas and levels are marked correctly and secured on any approved plans. Without this information the mitigation measures fail to comply with A1.14 of TAN15. Detailed designs supported by appropriate flood modelling and calculations are required.

2. The FCA does not address the impacts of the proposed development and associated land raising as mitigation, on flood risk elsewhere. The FCA therefore fails to comply with A1.12 of TAN15. Whilst it is proposed that the flood storage volume is compensated for by re-profiling the open green space to the north of the site, this is not fully detailed in the FCA.

As previously noted, the impact of the proposals on flood risk elsewhere needs to be fully assessed. We expect pre and post development modelling to be undertaken to demonstrate that the proposed mitigation measures and compensation areas would not cause detriment elsewhere.

3. The FCA fails to comply with A1.15 of TAN15 as it does not assess the flood risk to the site during the 0.1% AEP tidal breach event with an allowance for climate change, using the Shotton breach scenario.

To summarise the above, having reviewed the revised FCA we raise significant concerns to this application. The FCA should be updated to address the above points. The primary issue is that the mitigation measures and associated flood compensation have not been fully detailed, therefore failing to comply with A1.14. Secondly, there is no assessment of the impacts of flood risk elsewhere and therefore the application also fails to comply with A1.12. Finally, the FCA also needs to provide the data required to assess compliance with A1.15 of TAN15.

Biosecurity: We consider biosecurity to be a material consideration owing to the nature and location of the proposal. Ecological surveys confirmed the presence of Himalayan balsam. This species is listed

under the provisions of the Invasive Alien Species (Enforcement and Permitting) Order 2019.

We therefore advise that any consent includes the imposition of a condition requiring the submission and implementation of a Biosecurity Risk Assessment to the satisfaction of the LPA.

### Ecology

The recommendations within the outline mitigation plan is acceptable with the detailed Conservation Plan which includes (Section 2.3) compliance monitoring and biosecurity (Invasive Species, Himalayan balsam, control) to be conditioned.

The habitats present on site have value for nesting birds plus there are numerous records of hedgehogs within the vicinity and the Conservation Plan should include reasonable avoidance measures during site clearance, with those habitats to be retained protected from accidental damage.

### Land contamination

No adverse comments

### CPAT

There are no archaeological implications for the proposed development at this location.

### Dwr Cymru/Welsh Water:

No response at time of writing

## **4.00 PUBLICITY**

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

Neighbours: Press Notice, Site notice, Neighbour notification

7 no. Letters of objection received

- Strain on local amenities
- Traffic congestion
- Loss of privacy/overbearing
- Loss of green barrier
- Speculative nature of development
- Flood risk
- Bats in trees on site

## **5.00 SITE HISTORY**

5.01 No relevant history

## **6.00 PLANNING POLICIES**

6.01 Flintshire Unitary Development Plan  
STR1 New Development  
GEN1 General Requirements for New Development  
GEN3 Development in the Open Countryside  
GEN4 Green Barriers  
D1 Design Quality, Location and Layout  
D2 Design  
D3 Landscaping  
EWP14 Derelict and Contaminated Land  
EWP17 Flood Risk

Future Wales: The National Plan 2040 (2021)  
Planning Policy Wales 11<sup>th</sup> Edition (February 2021)

## **7.00 PLANNING APPRAISAL**

### **7.01 Proposal**

7.02 This is a full application for proposed residential development for 25 affordable dwellings, public open space with new pedestrian links, landscaping, means of highway access, pumping station and schemes for biodiversity net gain and surface water attenuation.

7.03 The scheme is a major application and as such the Pre-Application Consultation process has been followed by the Applicant. The Local Member has queried whether or not the process had been correctly followed. This has been checked and I am satisfied that the process has been followed correctly in line with the most recent COVID guidelines.

### **7.04 Site**

7.05 The site is situated to the north of the settlement boundary of Mancot in the Flintshire Unitary Development Plan, located off Mancot Lane. The site is located in an area of designated Green Barrier and in the open countryside. The site is also partially located within Zone C1 as defined by the Development Advice Map (DAM) referred to under Technical Advice Note (TAN) 15 Development and Flood Risk (July 2004).

7.06 The site is characterised by its openness, greenness and rural character in stark comparison to the more urban character of the adjacent settlements.

## 7.07 Principle

- 7.08 The site is located outside the settlement boundary of Mancot in the open countryside and within a Green Barrier in the adopted UDP, areas where there is a presumption against residential development in accordance with Policy GEN4, and therefore the proposed development is clearly contrary to the development plan. It is acknowledged that parts of the UDP are now outdated, particularly in respect of settlement boundaries, as reflected in a number of appeal decisions that were made prior to July 2018 when the Minister dis-applied para 6.2 of TAN1 and launched her call for evidence into the provision of housing via the planning system, which has now concluded with the deletion of TAN1 in its entirety as it was not fit for purpose.
- 7.09 The key determining factor for this application is whether the proposal represents sustainable development and whether there are material planning considerations which would outweigh the development plan. A further factor, which is given weight by the applicant, is whether weight should be attached to increasing housing land delivery.

## 7.10 Sustainable Development and Green Barrier

- 7.11 There is no dispute that Mancot is a sustainable settlement given that it is a category B settlement in the adopted UDP and a Tier 3 Sustainable Settlement in the Deposit LDP. Over the UDP period 2000-2015 the settlement saw 58 completions which represented just under a 2% growth. In the first 4 years of the LDP Plan period the settlement has seen a further 17 completions. It must be borne in mind, however, that the UDP growth rates (8-15% for a category B settlement) were not 'targets', and the 2% growth in 2000-2015 does not represent underdevelopment of the settlement.
- 7.12 The settlement also directly adjoins Hawarden where the Deposit LDP has allocated land at Ash Lane for 298 dwellings and this will meet wider housing needs including Mancot, and not just Hawarden. The housing needs of Mancot will therefore be met through the LDP allocation, for both market and affordable housing. Since the Deposit Plan was consulted on in the Autumn of 2019, representations and responses have been reported to Cabinet and Council and the Plan approved for submission to Welsh Government and Planning Inspectorate Wales for examination. The current examination will provide the means to examine the soundness of the Plan, its strategy, level of growth, policies and allocations.
- 7.13 The application site was proposed for development in the UDP by an objector in the form of an omission site. In her Report on the UDP the Inspector comments '*The land is an integral part of the open countryside and part of the narrow green barrier between Mancot and Pentre which prevents the coalescence of the settlements*'. In

preparing the LDP a Green Barrier Review has been undertaken (Background Paper 01) which concludes that the site still forms an integral part of the green barrier which seeks to retain the narrow gap between Mancot and Pentre, thereby confirming the clear view of the UDP Inspector on this location. When considering this application with regard to the national and local policy position today nothing has changed in terms of the planning context since the Inspector came to that view.

- 7.14 The agent has repeated and submitted their objection through the LDP process. The objection is based on the agents view that the review of the Green Barrier is based upon a crude assessment and is not fit for purpose, and that there is no sound justification for the continued Green Barrier designation. However it is considered that the agents own assessment is superficial and ignores the views of the UDP Inspector referred to above, the proper site context in terms of its contribution as a Green Barrier, and also fails to recognize the guidance in PPW11 and the Future Wales Plan relating to the actual purpose and function of green barriers.
- 7.15 The significance of the Green Barrier designation is set out clearly in PPW11 which has a strong presumption against inappropriate development. Welsh Government identify that housing development (including affordable housing) is inappropriate development within a Green Barrier. PPW maintains the principle that inappropriate development should not be granted planning permission except in very exceptional circumstances where other considerations clearly outweigh the harm which such development would do to the purpose of the Green Barrier.
- 7.16 It should be emphasised that PPW guidance in respect of Green Barriers changed considerably between versions 9 and 10. The earlier version permitted affordable housing exceptions schemes on the edge of settlements in green barriers whereas this was omitted from version 10, and this has again been omitted from PPW11. The implication of this is that both market housing and now affordable housing is regarded by Welsh Government as 'inappropriate' development in a green barrier. Para 3.73 states '*When considering applications for planning permission in Green Belts or green wedges, a presumption against inappropriate development will apply. 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 Given the weight attached to protecting designated Green Barriers in PPW11, and the clear harm to the openness of the Green Barrier and harm to open countryside that this proposal would cause, it is not considered that the proposal represents sustainable development. Given that the site sits within a designated Green Barrier in the adopted UDP makes the agent's 'objections' to the Green Barrier designation a moot point in the context of its materiality to the

consideration of this application. If the applicant and agent wish to argue that the site is not properly designated as a Green Barrier and that this site is better than the Council's other allocated site at Ash Lane, then the proper place to do this is through the LDP Examination and not through a planning application.

7.18 Furthermore Policy 22 – Green Belts in the North within the very recently published Future Wales Plan re-emphasises that development in areas of Green Belt should only be considered where very exceptional circumstances exist. This reinforces the significant weight attributed to the status of Green Barrier in the overall planning balance.

7.19 In summation, in respect of the Green Barrier the agent argues in para 3.88 of the Planning Statement that 'In Summary the Green Barrier does not involve any land that is of any particularly special landscape character and the gap will be preserved'. This represents a misunderstanding of the purpose and designation of Green Barriers as they are not designated on the basis of any intrinsic landscape or other other 'quality', but are based on 'openness'. The proposed built development will clearly contribute to coalescence and is, by its nature and location in the designated Green Barrier, inappropriate development.

7.20 The agent has made no compelling case regarding very exceptional circumstances which would outweigh the harm to the purpose of the Green Barrier in this location or to justify the harm to the open countryside location. As such it is contrary to the advice within Planning Policy Wales 11, the Future Wales Plan 2040 as well as the relevant Flintshire Unitary Development Plan policies and in particular policy GEN4.

#### **7.21 Housing Land Supply and Delivery**

7.22 With the permanent revocation of TAN1 there is no longer a requirement to demonstrate a 5 year supply of housing land. Instead, housing delivery for each authority will be measured against the trajectory of the adopted LDP. For those authorities who adopt a Plan following the publication of the revised Development Plan Manual guidance, applicable to Flintshire, the Anticipated Annual Build Rate (AABR) method will be used. This is a significant material change as the applicant's case is that the application should be considered as an exception to Green Barrier policy as it would help meet a shortfall in 5 year housing land supply. This is no longer a directly relevant consideration, and as such this approach carries limited weight in the planning balance.

7.23 Welsh Government have confirmed that in relation to the new approach to measuring housing provision against the LDP trajectory,

whilst the LDP is not yet adopted the use of the draft LDP trajectory is a material consideration in assessing speculative applications such as this proposal. In terms of present LDP performance in enabling the delivery of housing, in the first 4 years of the LDP Plan period, the County has seen annual completions of 662 (2016), 421 (2017), 608 (2018) and 454 (2019) which gives a total of 2,145 completions or an average of 536 units per annum. This is in excess of the Plan requirement of 6950 dwellings (or 463 units per annum) and is very close to the Plan's overall housing provision of 7,950 dwellings (or 530 units per annum). The LDP is therefore on track to deliver not only the amount of housing it is required to meet, but also the rate provided in the Plan taking account of the flexibility allowance of 14.4%.

7.24 The evidence base alongside the Deposit LDP clearly demonstrates that the Plan has and will continue to deliver its housing requirement. In the context of the new arrangements for monitoring housing provision, notwithstanding that the LDP is not yet adopted, evidence of actual housing provision in the first four years of the plan period demonstrates that the plan is in line with its draft trajectory, which is a material consideration in determining this application for speculative development on a site in Green Barrier and not allocated in the UDP or emerging LDP. It is also important to mention that Welsh Government, in their formal representations on the Deposit Plan have no fundamental concerns about the soundness of the Plan. In their covering letter Welsh Government states '*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*'. In the supporting document the Welsh Government 'support in principle' the scale and location of homes and jobs. This formal response does not suggest that there are concerns about the Plan 'not delivering' or being unsound.

7.25 It therefore must be concluded that as Housing Delivery is not an issue in Flintshire that matter cannot be considered a 'very exceptional circumstance' which outweighs the harm the development would cause to the purpose of the Green Barrier in this location. This significantly erodes the main basis of the planning case of the applicant that housing supply provides a 'very exceptional circumstance' to allow for development within the Green Barrier.

#### 7.26 **Flood Risk**

7.27 The application site lies partially within Zone C1 as defined by the Development Advice Map (DAM) referred to under Technical Advice Note (TAN) 15 Development and Flood Risk (July 2004), and is shown to be located partially within the 0.5% (1 in 200) and 0.1% (1 in 1,000) annual exceedance probability (AEP) event flood outlines on the Natural Resources Wales Flood Risk Map.

- 7.28 The general approach of PPW, supported by the TAN, is to advise caution in respect of new development in areas at high risk of flooding by setting out a precautionary framework to guide planning decisions. The overarching aim of the precautionary framework is, in order of preference, to:-
- Direct new development away from those areas which are at high risk of flooding.
  - Where development has to be considered in high risk areas (zone C) only those developments which can be justified on the basis of the tests outlined in section 6, justifying the location of development, and section 7, assessing flood consequences are located within such areas.
- 7.29 The development proposal is for the construction of 25 dwellings at the site, which is currently greenfield. As such, this is deemed to be an introduction of new highly vulnerable land use in line with figure 2 of TAN15 and as such the tests in Sections 6 and 7 of the TAN apply. Consequently a Flood Consequence Assessment (FCA) has been provided in support of the application, and has been considered by Natural Resources Wales.
- 7.30 In order to comply with the flooding frequency thresholds set out in A1.14 of TAN15, the site must be designed to be flood-free in the 0.5% AEP breach event with an allowance for climate change. All residential areas including parking, driveways and gardens should be demonstrated to be flood free. The details of the proposed mitigation have not been fully set out in the FCA that has been submitted in support of the application, and which states that the detailed design will come at a later stage. NRW do not consider that this approach is acceptable and require that the mitigation and the required flood compensation areas/volumes are detailed prior to the determination of the planning application. This is to ensure that the appropriate areas and levels are marked correctly and secured on any approved plans. Without this information the mitigation measures fail to comply with A1.14 of TAN15.
- 7.31 The FCA does not address the impacts of the proposed development and associated land raising as mitigation, on flood risk elsewhere. The FCA therefore fails to comply with A1.12 of TAN15. Whilst it is proposed that the flood storage volume is compensated for by reprofiling the open green space to the north of the site, this is not fully detailed in the FCA, as is required. NRW consider that the impact of the proposals on flood risk elsewhere needs to be fully assessed and expect pre and post development modelling to be undertaken to demonstrate that the proposed mitigation measures and compensation areas would not cause detriment elsewhere.

7.32 The FCA fails to comply with A1.15 of TAN15 as it does not assess the flood risk to the site during the 0.1% AEP tidal breach event with an allowance for climate change, using the Shotton breach scenario.

7.33 As the application fails to adequately address these points and be compliant with TAN15 it is considered that the proposal fails to be in accordance with Policies GEN1 and EWP17 of the Flintshire Unitary Development Plan.

#### 7.34 **Affordable Housing**

7.35 The proposal offers a 100% affordable housing scheme. Housing Strategy have confirmed that Mancot is an area of significant housing demand. Furthermore they consider that the mix of units being proposed would provide a variety of property types that will help a range of people and the dwellings will be made available for social rent, which again would meet a need on the housing register. Housing Strategy is therefore supportive of this application.

7.36 The merits of the affordability of the housing provided by this scheme are accepted, however as mentioned before Planning Policy Wales 11 does not differentiate between market or affordable housing scheme in considering whether residential development is inappropriate in a Green Barrier. Within the allocation of housing sites coming forward in the emerging LDP, as well as windfall sites in appropriate locations there will be opportunities for the Council to secure affordable dwellings in order to meet local housing need in accordance with its policies.

7.37 As such the affordable nature of the scheme is not a very exceptional circumstance which is considered to outweigh the harm to the designated Green Barrier by its erosion of the narrow area of countryside and contribution to coalescence that this proposal would represent.

#### 7.38 **Highways**

The development fronts onto Mancot Lane, with a new vehicular access from Mancot Lane and a spine road running through the middle of the site, with the dwellings arranged off this spine road.

7.39 The Highway Authority have been party to prior consultation regarding these proposals. The Transport Statement makes adequate assessment of access requirements, parking provision and pedestrian and public access requirements and includes proposals for visibility splays, footway widening and changes to road markings and signage. Implementation of these works within the highway will require separate approval of the Highway Authority but submission and approval of detail should be covered by a planning condition. Detailed design should include an assessment/improvement of street lighting provision

and dropped kerb access to bus stops. In order to accommodate cycle usage, the improvement/widening of the existing footpath towards the school would need to be considered.

7.40 Parking restrictions have recently been imposed on Mancot Lane in order to manage parking/drop off outside the school premises. Future residents of the development site are likely to benefit from an extension of parking restrictions. Highways Development Control have advised that the cost of making a Traffic Regulation Order should be covered by a S106 agreement. (£4k to cover the cost of advertising, consultation and making an order).

7.41 In general it is considered that the development is acceptable from a Highways point of view, subject to the imposition of suggested conditions.

#### 7.42 **Ecology**

7.43 The development has been made with an apparent 'biodiversity net gain', couched presumably as mitigation for the loss of a large amount of green space by the development. The application has been accompanied by an outline ecological mitigation plan, and this document can be seen as an aspirational setting out of broad aims that would be fed into a conservation plan, which would be secured by a condition, should planning permission be granted.

7.44 Protected species surveys submitted in support of the application conclude that the site is considered unlikely to support roosting bats, badgers, reptiles, great crested newt or any other protected species, although the site is likely to be used as a foraging resource by low numbers of common bat species. The proposal has identified the north east of the site, in an area identified as being suitable for the SUDs ponds, to implement a scheme of ecological enhancement. These enhancements would need to be secured by submission of final details through the discharge of suitable conditions, were the proposal to be deemed acceptable. This would be in accordance with the relevant development plan policy, Policy WB6, for the enhancement of nature conservation interests

7.45 NRW consider biosecurity to be a material consideration owing to the nature and location of the proposal. Ecological surveys confirmed the presence of Himalayan Balsam. This species is listed under the provisions of the Invasive Alien Species (Enforcement and Permitting) Order 2019. They have therefore advised that any consent includes the imposition of a condition requiring the submission and implementation of a Biosecurity Risk Assessment to the satisfaction of the LPA.

7.46 The ecological mitigation identified appears to be acceptable and in accordance with the relevant development plan policies. I do not

consider that the 'biodiversity net gain' as mentioned in the development proposal has been explicitly demonstrated as being above and beyond what would normally be expected for this sort of development. It proposed to utilise land that cannot be developed as a result of the needs for flood water attenuation and other site constraints, as you might expect. It does not, however, provide such significant bio-diversity gains they should be considered very exceptional circumstances. As such the measures described do not outweigh the serious harm the proposal would cause to the purpose of the Green Barrier and this open countryside location.

#### **7.47 Agricultural Land**

7.48 In accordance with Flintshire Unitary Development Plan Policy RE1 development is resisted on sites where there would be a loss of agricultural land of Grades 1,2,or 3a.

7.49 The Agricultural Land Classification of the site was assessed in November 2018. The land was classified using the system outlined in the Ministry of Agriculture, Fisheries and Food (MAFF now Defra) publication: 'Agricultural Land Classification of England and Wales - Revised guidelines and criteria for grading the quality of agricultural land' (October 1988). At the time of the assessment the land was not in agricultural use and the land was under scrub and unmanaged grass. The site is similarly not in agricultural use at present.

7.50 The outcome of the assessment is that the 100% of the area was sub-grade 3b. This sub-grade of agricultural land is considered to be 'moderate quality agricultural land', that is:  
*"Land capable of producing moderate yields of a narrow range of crops, principally cereals and grass or lower yields of a wider range of crops or high yields of grass which can be grazed or harvested over most of the year."*

7.51 It is not considered to be 'best and most versatile' agricultural land and the proposal is therefore not considered to be contrary to the UDP policy. It should be noted that the fact the land is lower grade agricultural land is not, in itself a very exceptional circumstance and does not outweigh the harm the proposal would cause for the Green Barrier and the open countryside.

#### **7.52 Character and Appearance**

7.53 The development proposed a mix of dwelling types, including 2, 3 and 4 bed two-storey houses and 1, 2 and 3 bedroom bungalows. The dwelling are arranged around the central spine road and are provided with their own amenity space and parking areas. The development allows for a level of amenity space that accords with SPGN2- Space around dwellings in area and depth. This ensures that the development would not unacceptably impinge upon neighbouring

living conditions or privacy by imposing an unacceptable relationship with the new dwellings. The dwellings on the south western corner of the site, which back onto three detached dwellings at 'The Green', appear to be slightly shallower in depth, but again would generally comply with the supplementary guidance with regard to acceptable interface distances to the neighbouring dwellings as well as garden depth and area.

- 7.54 In terms of the design the dwellings proposed are generally finished with red brick with grey tile roofs and some rendered gable details. In general I would conclude that the dwellings proposed are acceptable for the location and would reflect the local vernacular. The proposal would therefore comply with the relevant development plan policies from the point of view of their design and general arrangement, density and housing mix offered.
- 7.55 The general arrangement of the development around the central spine road allows for a site layout that allows for a good level of amenity space to be afforded to each dwelling, whilst maintaining an acceptable overall density that reflects the local characteristics. The mix of housetypes, including bungalows, helps to create a varied and attractive development.
- 7.56 In the planning statement the positive effect of placemaking created by the scheme is mentioned as a benefit of the development. Were the development in a location that was not a designated Green Barrier then these aspects may be acceptable, however, it is considered that all development should aid in placemaking and this is not a feature that is in any way unique to this scheme. In fact when you consider the potential harm to the openness of the green barrier it can be seen that this speculative proposal would negatively affect placemaking in the community and therefore be contrary to the important PPW11 assigns place making as a central thread of positive planning.

7.57 **Planning Obligations**

- 7.58 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'.

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.

- 7.59 Whilst the recommendation for this application is for refusal, for the reasons already discussed and summed up below, should Members be minded to grant planning permission the following matters would need to be addressed through the entering into of a legal agreement.
- 7.60 Education has demonstrated that both the nearest Primary school, Sandycroft Primary, and nearest Secondary School Hawarden High have hit the triggers for requiring Developer contributions, as set out in SPGN no. 23- Developer Contributions to Education and calculated on the basis of all the dwellings other than those which are exempt in the planning guidance. Education would be requesting a financial contribution of £73,542.00 in respect of Sandycroft CP School, and £73,876.00 in respect of Hawarden High School.
- 7.61 Aura Leisure have identified that, in accordance with Planning Guidance Note No.13 POS provision, the Council should be seeking an off-site contribution of £733.00 per house/dwelling, in lieu of onsite POS. The payment would be used to enhance play facilities in the community, it would be for junior play provision.
- 7.62 It would also be required for a legal agreement to secure the affordable tenure of the units on site in perpetuity and a contribution to secure necessary highway requirements.
- 7.63 At the time of writing the report Hawarden High School has collected more than 5 contributions. However a distinct a separate project to accommodate more capacity at the school which is considered to meet
- 7.64 CIL requirements is imminent and it would be possible to assign the commuted sum to that project. It is therefore considered that these
- 7.65 contributions comply with the requirements of section 122 of the Community Infrastructure Levy (CIL) Regulations 2010.

### **Other matters**

The site is located in an area where there is a history of extensive coal mining past and where unrecorded mine shafts have been known to collapse at the surface. A land contamination report has been submitted in support of the application. The report identifies gas/vapour and refers to Radon protection for the dwellings. Should planning permission be granted for the development, however, it would be necessary to impose appropriate conditions to secure suitable gas risk assessment and gas protection measures for gases other than Radon.

## **8.00 CONCLUSION**

The proposal represents inappropriate development that will harm the openness of an existing green barrier and an open countryside

location, contrary to PPW11 and the Future Wales Plan. Despite the planning case advanced by the agent and applicant that the proposal is justified in terms of lack of housing land delivery, it can be robustly demonstrated that the Plan is delivering completions over the first 4 years of the Plan period and by the trajectory which forms part of the Housing Land Supply Background Paper, and which accompanies the Deposit LDP in the current examination. This is now the method of monitoring provision following deletion of TAN1 and can be relied on to demonstrate housing delivery. When this is taken alongside the progression of the Plan almost at the end of the examination and the provision for growth within that plan it is not considered that the scheme represents the 'very exceptional circumstances' such as to warrant harm to the green barrier.

Given that the LDP has allocations that are capable of, and are delivering early housing, it is also unclear from the planning application how this site can come forward significantly quicker than the sites allocated by the Council in the Deposit LDP, or why it is therefore needed.

Furthermore there are significant flood risk concerns on the site and it has not been demonstrated that the application adequately addresses the points raised by Natural Resources Wales in order to be compliant with TAN15, and as such it is considered that the proposal fails to be in accordance with Policies GEN1 and EWP17 of the Flintshire Unitary Development Plan.

Therefore I recommend that the proposal is refused for the reasons given in paragraph 2.01.

#### 8.01 Other Considerations

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

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

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

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

**LIST OF BACKGROUND DOCUMENTS**

Planning Application & Supporting Documents

National & Local Planning Policy

Responses to Consultation

Responses to Publicity

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