

Agenda Item No. 2(a) [CABINET 2002 - 154]

CABINET

Minutes of the Cabinet meeting held in the Royal International Pavilion, Llangollen on Tuesday 10 September 2002 at 10.00 a.m.

PRESENT

Councillors P.A. Dobb, Lead Member for Health and Wellbeing; E.C. Edwards, Lead Member for Safeguarding our Communities; G.M. Kensler, Lead Member for Promoting Denbighshire; E.A. Owens, Lead Member for Finance; J.A. Smith, Lead Member for Social Inclusion; and E.W. Williams, Leader and Member for Economic Wellbeing.

Observers: Councillors M.L.I. Davies, S. Drew, F.D. Jones, M.M. Jones, R.J.R. Jones, A.J. Tobin, C.H. Williams and P.O. Williams .

ALSO PRESENT

Chief Executive, Deputy Chief Executive / Corporate Director of Resources, Financial Controller and the County Clerk[from Item 16 onwards].

APOLOGIES

Councillors M.A. German, Lead Member for Sustainable Development and Environment; D.M. Morris, Lead Member for Communications; R.W. Hughes, Lead Member for Lifelong Learning; and W.R. Webb, Lead Member for Property and Asset Management.

1 URGENT MATTERS

The Leader of the Council gave notice of the following items which in his opinion should be considered at the meeting as a matter of urgency pursuant to Section 100B(4) of the Local Government Act 1972:-

- [i] Ysgol Tir Morfa, Rhyl - Verbal Update by the Corporate Director: Lifelong Learning
- [ii] Local Democracy Week

2 MINUTES OF THE CABINET [CABINET 2002 - 1 53]

The Minutes of the Cabinet meeting held on 30 July 2002 were submitted.

Item 6 Capital Plan 2002/03 - Councillor E C Edwards asked for a breakdown of figures of the Housing Improvement Grant figures by area. Councillor E A Owens informed Members that the applications for Housing Improvement Grants are dealt with in date order received. The Chief Executive agreed that it was important to know how the capital for improvement grants was allocated and it would be of interest to all Members to know the areas where most of the monies had been spent. It was agreed this information would be provided and it was hoped that in future years the information could be automatically reported.

***RESOLVED** that the Minutes of the Cabinet meeting held on 30 July 2002 be approved as a correct record and signed by the Leader.*

3 CHILDREN'S SERVICES STRATEGIC PLAN 2002-2007 AND CHILDREN FIRST REVIEW AND PLAN 2002-2003 [CABINET 2002 - 154]

Councillor J.A. Smith presented the report seeking Cabinet's recommendation to Council for submission to the National Assembly for Wales, of the Children's Services Strategic Plan 2002-2007, which included the Children First Review and Plan 2002-2003, and took the opportunity to thank the Corporate Director: Personal Services and her staff on the production of the document.

Councillor E.A. Owens also wished to pass on her thanks to staff. Councillor Owens asked whether information was available on the long term financial commitment of the Assembly to these plans. The Corporate Director: Personal Services detailed the resources for Children First to April 2004 and said grants would be consolidated into the Revenue Support Grant. Personal Services were in the process of drawing different grant processes together and from the following year this would be known as Cymorth.

Councillor G.M. Kensler spoke on the co-operation between various departments and outside bodies e.g. the Police Authority, and said that on occasion Departments used the Data Protection Act and the Human Rights Act as a way of not providing information to others. The Corporate Director: Personal Services asked Councillor Kensler to provide specific instances which would then be investigated.

Councillor E.C. Edwards congratulated the staff on the document and said it would also be useful for statistical purposes. He discussed the Ethnic Identity within the County and asked about the services the County provided for ethnic minorities. The Corporate Director: Personal Services agreed it was often difficult to deliver appropriate services. However the Authority was aiming to improve its service delivery to ethnic minorities. With regard to Councillor Edwards' query on the Youth Justice Boards, if information other than the Youth Justice Plan summary was required, the department would provide the detail required.

RESOLVED that Cabinet approved for recommendation to Council, the Children's Services Strategic Plan 2002-2007, and Children First Review and Plan 2002-2003, as the relevant plan for Social Services Children and Families Services.

4 TRAINING POLICY FOR PROSPECTIVE FOSTER CARERS [CABINET 2002 - 155]

Councillor J.A. Smith presented the report seeking Cabinet approval of the training policy for prospective foster carers attached at Appendix 1 to the report.

RESOLVED that Cabinet approved the Training Policy for Prospective Foster Carers.

5 POLICY FOR THE ATTENDANCE OF APPLICANTS SEEKING APPROVAL AS ADOPTIVE PARENTS, AT THE ADOPTION AND FOSTERING PANEL [CABINET 2002 - 156]

Councillor J.A. Smith presented the report seeking approval of the Policy governing the attendance of applicants wishing to be approved as adopters, at the Denbighshire Adoption and Fostering Panel.

RESOLVED that Cabinet approved the Policy for the attendance of Applicants Seeking Approval as Adoptive Parents, at Denbighshire's Adoption and Fostering Panel.

6 REVISED SUPPLEMENTARY PLANNING GUIDANCE NOTE 4 'OPEN SPACE REQUIREMENTS IN NEW DEVELOPMENTS' - CONSULTATION DRAFT [CABINET 2002 - 157]

Councillor E.W. Williams presented the report seeking approval of the Supplementary Planning Guidance Note 4 on Open Space Requirements in New Developments as a consultation draft attached to the report, which would be subject to a six week consultation period.

RESOLVED that Cabinet approves the Supplementary Planning Guidance as a consultation draft, which will be subject to a six week consultation period.

7 SUPPLEMENTARY PLANNING GUIDANCE [SPG]: STATIC CARAVANS AND CHALETS [CABINET 2002 - 158]

Councillor E.W. Williams presented the report seeking Cabinet approval of the Supplementary Planning Guidance: Static Caravans and Chalets attached to the report, which would be subject to a six week consultation period.

RESOLVED that Cabinet approves the draft Supplementary Planning Guidance: Static Caravans and Chalets, which will be subject to a six week consultation period.

8 **PROGRESS ON DEVELOPMENT OF THE COMMUNITIES FIRST PROGRAMME**
[CABINET 2002 - 159]

Councillor J.A. Smith presented the report seeking Cabinet approval of the action to develop the Communities First programme in West and South West Rhyl.

Councillor E.A. Owens asked for information on any arrangements for reporting on progress. The Corporate Director: Personal Services said the Shadow Steering Group would report on progress using the NAFW guidance available and Cabinet would be kept informed. Formal arrangements for progress reporting would be put in place as soon as possible.

Councillor E.C. Edwards queried the amount of the NAFW initial funding. The Corporate Director: Environment said £82m had been allocated over 10 years for the whole of Wales and the Shadow Steering Groups would be producing business plans. Councillor Edwards was assured that the amount of funding available would be clarified.

The Leader commented that the initial funding was for administration and staffing and many areas had not made significant progress under Communities First.

RESOLVED that Cabinet note and approve the action to take forward the Communities First programme in West and South West Rhyl.

9 **CONTRACT SERVICES** [CABINET 2002 - 160]

The Chief Executive presented the report informing Cabinet of the proposed transfer on 1 January 2003 of Contract Services Department from the Chief Executive's Department to the Environment Directorate. Cabinet decisions on virement of resources to the Environment Directorate would be sought once the transfer detail and consultation period had been completed.

Councillor E.A. Owens said she was pleased to see the report but had some concerns regarding the tight timetable. She discussed various aspects of the Contract Services revenue and capital implications and the need to build safeguards into the operation of the services and emphasised the need to ensure that staff were not given the impression that Cabinet endorsed the proposed transfer at this time.

The Chief Executive agreed to pursue the points made on procedures and safeguards and also agreed to move the proposed transfer date to a later date if required.

Councillor G.M. Kensler discussed the Contract Services organisational operation and stressed the need to ensure best value for the community. The Chief Executive reassured Councillor Kensler that a system would be available to compare the private sector and contract services in accordance with best value.

Councillor E.C. Edwards agreed there was a need to move away from the Local Authority way of working and that the service would benefit from working in a similar way to a construction department. He agreed that best value was important and that all Councillors needed to be made aware of any profits or losses made by the service.

RESOLVED that Cabinet notes the proposed transfer of Contract Services Department from the Chief Executive's Department to the Environment Directorate with effect from 1 January 2003; and that decisions on virement of resources to the Environment Directorate will be sought once the detail of the transfer has been worked up and consultation has been completed.

10 **BUDGET MONITORING REVENUE AND CAPITAL [CABINET 2002 - 161]**

Councillor E.A. Owens took the opportunity to thank everyone for the gifts and messages received during her absence on sick leave. Councillor Owens presented the report advising Members of the current position in relation to the Revenue Budget and the approach taken to address the current potential overspends. The projected overspends by individual departments would need to be contained within base budgets. Turning to paragraph 2.4, Councillor Owens said that the first 1% of underspends in 2001/2002 would be distributed with 50% of the balance thereafter. The Bellwin funding reserve was now in place.

In answer to a query by Councillor G.M. Kensler regarding any restructuring costs, Councillor Owens said monies would be set aside for example for some Social Services restructuring and single status etc.

RESOLVED that Cabinet approve the proposals to address the current potential overspends as detailed in paragraphs 2.2 to 2.6 of the report.

11 **2002/2003 NATIONAL PAY AWARD [CABINET 2002 - 162]**

Councillor E.W. Williams presented the report seeking Cabinet's support to the ACAS pay proposals negotiated by the Employers' side of the NJC as detailed in Appendix 1 to the report. He said he and the Head of Personnel had recently attended a WLGA meeting on the National Pay Award and Sir Harry Jones asked Local Authorities to contact him concerning the effect of previous cuts in staffing or services.

RESOLVED that:-

- (a) Cabinet agree to support the ACAS Pay Proposals on Appendix 1, and
- (b) the impact of the pay award is considered when agreeing increases to fees and charges for the next financial year.

12 **REVIEW OF CHARGING IN CRISPIN YARD AND PARK ROAD CAR PARKS, RUTHIN [CABINET 2002 163]**

Councillor E.W. Williams presented the report seeking approval to introduce charges at Crispin Yard, Clwyd Street car park, Ruthin including a special low cost one hour charge. Members were also informed of the intention to introduce charges at the Park Road car park, Ruthin following completion of the car park.

Councillor E.C. Edwards said he was not against the principle of charging for car parking in Ruthin but reminded Members that the Cabinet of 16 July 2002 had agreed that a meeting would be arranged to discuss with Local Members and the Assistant Director of Culture and Leisure the proposed charges for the car parks mentioned in the report. To date this meeting and consultation had not been received and he stressed his disappointment with the Authority when such matters were not followed up. Councillor Edwards suggested that the paper should be deferred until the meeting had taken place.

Councillor J.A. Smith agreed a meeting for Local Members and Officers was required.

The Chief Executive said the Cabinet paper of 16 July 2002 had followed extensive consultation and that Cabinet had accepted in principle the Scrutiny Committee recommendations.

Councillor P.A. Dobb said she was disappointed that car parking charges were to be levied on the Park Road site as the charge for visiting Yr Hen Garchar was £3.00 and she suggested the visitors to Yr Hen Garchar should be reimbursed for the car parking charge.

Councillor G.M. Kensler asked to attend the meeting as an observer.

RESOLVED that Cabinet defer the item until Local Member and officer consultation had been satisfactorily concluded.

13 DIVERSION FOOTPATHS 35 AND 99 IN THE COMMUNITY OF LLANFAIR DYFFRYN CLWYD [CABINET 2002 - 164]

Councillor E.W. Williams presented the report seeking authorisation for the County Clerk to proceed to make an Order under Section 119 of the Highways Act 1980 to divert Public Footpath Nos 35 and 99 and to extinguish part of Public Footpath No 34 in the Community of Llanfair Dyffryn Clwyd as shown on the plan attached to the report.

RESOLVED that Cabinet authorises the County Clerk to proceed to make the appropriate Order under Section 119 of the Highways Act 1980. If objections are received which cannot be resolved, the Order will be referred back to Cabinet to decide whether or not to submit the Order to the National Assembly for Wales for confirmation.

14 PRESERVED COUNTIES [CABINET 2002 - 165]

Councillor E.W. Williams presented the report seeking approval of the response to the draft proposals from the Local Government Boundary Commission for Wales in respect of the preserved counties.

The Chief Executive reminded Members that preserved counties were the original 8 Counties prior to reorganisation in 1996. These were preserved for certain purposes. The effect of the Commission's proposals had no practical impact on Denbighshire County Council.

In discussion, Councillor E.C. Edwards asked the Chief Executive to write to Trevor Jones, The Lord Lieutenant of Clwyd regarding future visits to Denbighshire and the possibility of modernising the way such visits were organised.

RESOLVED that Cabinet agree that the response to the Commission should say that Denbighshire's inclination is in favour of no change, but if there were to be change Denbighshire would support the proposal to include Conwy in the preserved County of Clwyd as making more sense than its inclusion in the preserved County of Gwynedd.

15 ANNUAL TREASURY REPORT 2001/02 [CABINET 2002 - 166]

Councillor E.A. Owens presented the report seeking Members' approval to the Treasury activities undertaken in 2001/2002 as detailed in the annual report attached as an Appendix. The Policy Statement required an annual report to be produced before 30 September 2001.

RESOLVED that Members approved the Annual Treasury Report 2001/2002.

16 LOCAL AUTHORITY REPRESENTATION ON LOCAL HEALTH BOARD [CABINET 2002 - 167]

Councillor P.A. Dobb presented the report seeking agreement in principle to Denbighshire's 4 nominees to the Local Health Board.

RESOLVED that subject to final guidance from the Assembly, Cabinet agree in principle its 4 nominees to the Denbighshire Local Health Board as the Lead Member for Health and Wellbeing, the Chair of Personal Services Scrutiny, the Corporate Director: Personal Services and the Corporate Director: Environment. It was further resolved that the views of the Personal Services Scrutiny Committee on the local authority representation on the Local Health Board be sought whilst final guidance from the National Assembly for Wales is awaited.

17 POLICE AUTHORITY MEMBERSHIP [CABINET 2002 - 168]

Councillor E.W. Williams presented the report seeking nomination of 1 Independent and 1 Labour Member to a Joint Committee to appoint Members to the North Wales Police Authority for 2003/04.

RESOLVED that Members agree the Joint Committee should consist of 2 Members per Council and that Councillor W.R. Webb, Independent Group and Councillor G. Williams, Labour Group be appointed to the Joint Committee.

18 **MEMBERSHIP ON NCH CYMRU, DENBIGHSHIRE YOUNG CARERS PROJECT COMMITTEE AND GLAN Y MOR PROJECT COMMITTEE** [CABINET 2002 - 169]

Councillor J.A. Smith presented the report seeking Cabinet consideration and approval to the NCH Cymru request for two representatives to represent the Authority on the Denbighshire Young Carers Project Committee and the Glan y Mor Project Committee.

RESOLVED that Cabinet approve the nominations to represent the Authority on NCH's Denbighshire, as follows:-

- (a) Councillor J.A. Smith to represent the Authority on both Committees, and
- (b) Personal Services Scrutiny Committee to nominate a representative to each Committee.

19 **VARIOUS APPOINTMENTS TO PUBLIC BODIES** [CABINET 2002 - 170]

Councillor E.W. Williams presented the report seeking Cabinet agreement to the appointments to outside bodies as listed in the report. Councillor Williams listed the nominations received from the Groups.

RESOLVED that Members agree:-

- (a) 2 nominations for the area of South Denbighshire CAB - Councillor K. Hawkins, Independent and Councillor D. Jones, Labour;
- (b) Councillor M.L.I. Davies be the nomination for the Court of Governors of the National Library of Wales;
- (c) Phillip Brelsford, Head of Highways and Transportation be the nomination for the Rights of Way Review Committee;
- (ch) Rural Housing Task Group - no nomination to be submitted;
- (d) Councillor M.A. German be nominated to the WLGA Environment Agency National Forum;
- (dd) Councillor G. Williams nomination for Clwyd Leisure Limited, and
- (e) Joint Management Committee, Canolfan Addysg Bro Cinmerch - Councillor P.O. Williams and Councillor A.E. Roberts be nominated.

20 **URGENT ITEMS** [CABINET 2002 - 171]

- (i) **Ysgol Tir Morfa, Rhyl:** The Corporate Director: Lifelong Learning updated Members on the recent fire at the school and the school governors meeting held the previous evening. She thanked Councillor F D Jones for his attendance at the Governors' meeting and at Cabinet. The initial damage assessment had been followed by a second assessment and issues such as the electrics would need a permanent solution. The school was due to reopen in a week, once the Health and Safety and Fire Certificates had been obtained.

The long term solution of new build for the school needed to be considered and actioned sooner rather than later as a result of the fire and a paper would be produced for consideration at the 1 October 2002 Cabinet.

RESOLVED that Cabinet note the verbal report.

- (ii) **Local Democracy Week - 14-18 October 2002** – The Chief Executive referred to a letter sent by the Assistant Chief Executive: Strategy to all Cabinet Members.

The Assistant Chief Executive: Strategy informed Members that it was important as part of the Modernising Agenda for the Council to contribute to Local Democracy Week. Cabinet was asked to endorse the proposals in the letter and note the proposal for a meeting to be held between the public and Cabinet Members at some point during the week of the 14 October 2002. This combined with the other proposals provided an excellent opportunity to communicate to Denbighshire residents the Authority's priorities. Relevant points brought to Members' attention could possibly form part of the following year's budget round. With the elections due in 2004, next year's Local Democracy Week would be even more crucial. The Assistant CEO: Strategy informed Members that the proposals could be delivered at a relatively low cost and could be organised within the timescale. Members would be kept informed of the detailed arrangements.

RESOLVED that Cabinet note the verbal report.

The Leader took the opportunity to welcome Sharon Evans to the Cabinet Office.

QUESTION AND ANSWER SESSION No questions had been received by the closing date.

21. **EXCLUSION OF PRESS AND PUBLIC**

RESOLVED under Section 100A(4) of the Local Government Act 1972 the Press and Public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in paragraphs 7 and 8 of Part 1 of Schedule 12A of the Local Government Act 1972.

22 **SPECIAL GOVERNOR ADVISORY PANEL** [CABINET 2002 - 172]

The County Clerk / Clerk to the Special Governor Advisory Panel presented the factual report to inform Members of the Advisory Panel's progress and of concerns expressed by the National Assembly for Wales. The County Clerk referred to a letter received by the Leader from the Panel Chair and gave his reasons for not circulating a copy of the letter to Members. An urgent report would be made to Cabinet on 1 October 2002 after the next Panel meeting.

RESOLVED that Cabinet note the present position.

The meeting concluded at 12.45 p.m.

SPECIAL CABINET

Minutes of the Special Cabinet meeting held in the Council Chamber, Town Hall, Ruthin on Tuesday, 24th September, 2002 at 1.10 p.m.

PRESENT

Councillors P.A. Dobb, Lead Member for Health and Wellbeing; E.C. Edwards, Lead Member for Safeguarding our Communities; Councillors M.A. German, Lead Member for Sustainable Development and Environment, G.M. Kensler, Lead Member for Promoting Denbighshire; D.M. Morris, Lead Member for Communications; E.A. Owens, Lead Member for Finance; W.R. Webb, Lead Member for Property and Asset Management and E.W. Williams, Leader and Member for Economic Wellbeing.

ALSO PRESENT

Chief Executive, Deputy Chief Executive / Corporate Director of Resources, Financial Controller and the County Clerk.

APOLOGIES

R.W. Hughes, Lead Member for Lifelong Learning and J.A. Smith, Lead Member for Social Inclusion

1 EXCLUSION OF PRESS AND PUBLIC

RESOLVED under Section 100A(4) of the Local Government Act 1972 the Press and Public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in paragraphs 8 and 9 of Part 1 of Schedule 12A of the Local Government Act 1972.

2 PFI SCHEME - RUTHIN

Councillor W.R. Webb presented the report to approve entering into contractual arrangements with Neptune PFI Ruthin Limited to procure the Council's PFI Project for the provision of new civic facilities at Ruthin and to approve the necessary actions and mechanisms to achieve contractual completion. Appended to the report were copies of the National Assembly for Wales letter of approval dated 10 September 2002, comments of the Council's legal advisors, the advice of leading counsel together with drafts of the Local Government (Contracts) Act 1997 Certificates. Members noted that in paragraph 1 of counsel's advice 'Clwyd' had been misspelt and there was no reference to those parts of the former borough of Colwyn, now within Denbighshire.

Having considered the report and appendices, Members:-

RESOLVED:-

- (a) to note the contents of the letter dated 10th September 2002 from the National Assembly for Wales and that the Assembly have approved the Council's application for a notional credit allocation and PFI credits in respect of the proposed provision of Civic Facilities at Ruthin under the Private Finance Initiative as a "Pathfinder" scheme;
- (b) to note the advice of Leading Counsel on the powers of the Council to enter into the proposed Scheme together with the advice of the Council's financial and legal consultants;
- (c) to authorise the entering into by the Council of the PFI Agreement with Neptune PFI Ruthin Limited on the terms set out in the Full Business Case with such amendments thereto (other than amendments of a fundamental nature) agreed in accordance with resolution (d) below;

- (ch) to authorise the entering into by the Council of:-
- (i) the Building Licences,
 - (ii) the Headlease; and
 - (iii) the Occupational Underlease with Neptune PFI Ruthin Limited;
 - (iv) the Direct Warranties with Neptune's construction sub-contractor (and the construction sub-contractor's design consultant, structural engineer and mechanical and engineering sub-contractor), Neptune's services sub-contractor, and Neptune's construction supervisory agent;
 - (v) the Direct Agreement with Neptune PFI Ruthin Limited and Barclays Bank PLC, and
 - (vi) any other ancillary or consequential documents required for or appropriate to enable the Council to complete the transaction;
- (d) to authorise the Corporate Director: Resources, and the County Clerk and the Financial Controller (acting either individually or in consultation with each other) to approve such amendments (other than amendments of a fundamental nature) to the terms of the PFI Agreement and the documents referred to in resolutions (c) and (ch) above and the completion of such ancillary or consequential documents as they consider necessary or appropriate to enable the Council to complete the documents referred to in resolutions (c) and (ch) and to achieve completion of the Scheme
- (dd) to authorise the Corporate Director: Resources (being the Council's Chief Finance Officer who has responsibility for the administration of the Council's financial affairs) to sign certificates pursuant to the Local Government (Contracts) Act 1997 in the form appended at Appendix [4] to the report as approved or amended by Counsel. In the absence of the Corporate Director: Resources either the Financial Controller or the County Clerk be authorised to sign such certificates and such Officer be provided with an indemnity in respect of possible claims against him arising from signature of such certificates
- (e) to authorise the sealing on behalf of the Council of the contractual documentation for the Scheme referred to in (d) above in accordance with Article 14.5 of the Constitution (i.e. the seal shall be attested by the Chair or Vice Chair of the Council and the Chief Executive, County Clerk or the Legal Services Manager) and the signing (in accordance with Article 14.4 of the Constitution) or sealing (in accordance with Article 14.5 of the Constitution) (as may be determined by the County Clerk) of contractual and other documentation required for the completion of the Scheme

The meeting concluded at 13.13 p.m.

Report by: Chief Executive

Date: 1 October 2002

SUBJECT: DELEGATIONS TO CABINET MEMBERS: PHASE 1

Decision sought

1.1 Delegation of a range of functions to individual Cabinet Members, as set out in appendix 1.

Reasons for seeking decision

2.1 Compliance with article 7.6 of the constitution which provides that "the Cabinet shall delegate at least some executive functions to each Cabinet member, consistent with that member's portfolio".

2.2 Simpler, speedier decision making.

2.3 To help underpin the move to monthly meetings of the full Cabinet, principally by reducing the number of reports that come to Cabinet meetings. (The agenda for today's meeting has been structured on the assumption that the delegations proposed in appendix 1 will be agreed. If the delegations in respect of appointments and attendance at conferences are not agreed, there are at least two decisions that will need to be taken by the leader under his emergency powers before the next scheduled meeting of Cabinet.)

Criteria for proposing functions for delegation

3.1 The main criteria adopted in identifying functions for delegation are that the functions should be easily defined; should not significantly affect the portfolios held by other Cabinet members; and, while potentially affecting the whole county, would be unlikely to be considered strategic decisions of the sort that should be dealt with by the full Cabinet. A special time-limited delegation is proposed for the four members of the Joint Agricultural Board pending the Board's first meeting following the adoption of executive arrangements, in order to ensure that necessary decisions are not delayed.

3.2 To provide a full picture, appendix 2 lists delegations that the Cabinet has agreed since May.

3.3 It would be appropriate to review delegations in the light of experience after 12 months of their operation - although there is nothing to prevent earlier review of certain aspects if that is desired. As part of that review, the Cabinet might choose to withdraw delegations as well as grant further delegations.

Constraints on exercise of delegated powers

4.1 It is necessary to mention these only to dispel a common misconception that delegation will lead to "bad" decisions taken in secret, without proper advice from officers or any role for scrutiny committees.

4.2 The constraints that apply include:

4.2.1 decisions have to comply with any relevant legal or statutory provisions and with the council's constitution including the financial regulations. This means that any statutory requirements about process or consultation must be followed: for example, in the case of external appointments political balance must be applied where there are 3 or more Councillors being appointed to a body.

4.2.2 decisions have to be consistent with the policy and budget framework as set by the full council and defined in the constitution: this means, for example, that decisions cannot be taken if they cannot be implemented within existing budgets. Decisions also have to be in accordance with policies set by the Cabinet.

4.2.3 the council's normal consultation arrangements continue to apply, such as with local members, scrutiny committees or external bodies.

4.2.4 all decisions taken by individual Cabinet members have to be published in accordance with the Local Authorities (Executive Arrangements) (Decisions, Documents and Meetings) (Wales) Regulations 2001. Except in cases of urgency which have to be certified by the chair of the scrutiny committee, decisions cannot be implemented until the record of decision is published.

4.2.5 the role of scrutiny committees is not affected. They can scrutinise the work of and decisions taken by individuals just as they can scrutinise the work of and decisions taken by collective bodies such as the Cabinet or planning committee.

4.2.6 Officers will advise Cabinet members on the matters that are delegated to them. Relevant heads of service and corporate directors will be consulted on that advice before it is submitted.

4.2.7 The roles of the Monitoring Officer and Section 151 officer are not affected and they will be able to use their powers to intervene.

Cost implications

5.1 The act of agreeing delegations has no cost implications in itself. Arrangements for advising Cabinet members on decisions and publishing those decisions involve essentially the same amount of work as advising the full Cabinet.

Financial controller's statement

6.1 There are no direct cost implications from the proposals in the report.

It will be crucial however to ensure all delegations are compatible with the CIPFA code of Practice for financial matters and that due consideration is given to revised procedures that have been put in place recently to assist the delivery of the Council's Financial Recovery Plan which is of course on going. The fourth paragraph of Appendix 3 is a case in point. Currently all new schemes or variations to the costs etc of capital schemes, either from external or Council funds, have to be reviewed by the Asset Management Committee to ensure any potential costs to the Council, both capital and revenue together with potential VAT implications are identified and understood.

Consultation carried out

7.1 Cabinet Members, Corporate Directors and Heads of Service - only a few comments were received and they have been taken into account in appendix 1. The principal issue raised was the scope of the delegations. Appendix 3 contains suggested delegations on which the Cabinet needs to express a view so that a further report can be brought to the next meeting.

Implications on other policy areas including corporate

8.1 Nil. However delegation will reinforce individual Cabinet members' responsibility and accountability for their portfolios.

Recommendation

9.1 That Cabinet delegates functions to individual Cabinet members as set out in appendix 1, with effect from 2 October 2002.

9.2 That Cabinet discusses the possible delegations identified in appendix 3, to assist preparation of a future report.

Appendix 1 Functions recommended for delegation

None of these delegations affects existing delegations to officers.

General delegations, to each Cabinet member in respect of his or her portfolio

(Note: if there is uncertainty about whether a matter lies wholly within a Cabinet member's portfolio, advice should be sought from the Monitoring Officer or Chief Executive.)

- 1.1 To determine the response to any consultation document or inspection document which relates solely to the Cabinet member's portfolio.
- 1.2 To determine whether to publish any consultation document which relates solely to the Cabinet member's portfolio.
- 1.3 To make appointments to external bodies whose remit lies wholly within the Cabinet member's portfolio. This delegation does not include appointments to joint committees with other local authorities under section 101 of the Local Government Act 1972.
- 1.4 To submit nominations in response to requests e.g. from the Welsh Local Government Association for bodies whose remit lies wholly within the Cabinet member's portfolio.
- 1.5 In accordance with paragraph 14.3 of Contract Standing Orders, to accept the lowest tender following tendering procedures
- 1.6 To determine whether repayment of a grant may be waived, subject to the agreement of the Lead Member for Finance where the amount of repayment waived in an individual case exceeds £10,000.
- 1.7 To write off individual debts in excess of £1,000, subject to the agreement of the Lead Member for Finance. This delegation does not apply where the individual debt to be written off exceeds £20,000.

Specific delegations

Leader

- 2.1 To decide attendance by Councillors at conferences, seminars etc.
- 2.2 To make appointments to joint committees appointed under section 101 of the Local Government Act 1972.

Lead Member for Sustainable Development and the Environment

- 2.3 To approve the issue for consultation of supplementary planning guidance in the context of the Unitary Development Plan.
- 2.4 To approve diversions of footpaths under section 119 of the Highways Act 1980.
- 2.5 To make Article 4 directions for the removal of permitted development rights.
- 2.6 To authorise the making of road traffic regulation orders and to determine residents' parking schemes, disabled parking spaces, parking orders, waiting restrictions, weight limits, speed limits, bus and other priority lanes and traffic calming measures.

Lead Member for Lifelong Learning

- 2.7 To decide all matters relating to appointments etc. of school governors
- 2.8 To suspend delegation from schools in circumstances defined in legislation

2.9 To adjust designated areas for school admissions

2.10 To set dates of school terms and holidays

Lead Member for Safeguarding our Communities

2.11 To declare areas as Noise Abatement Zones

2.12 To give consent to the operation of loudspeakers under Schedule 2 to the Noise and Statutory Nuisance Act 1993

Lead Member for Health and Well-being

2.13 To approve implementation and terms of schemes for registration of houses in multiple occupation

2.14 To approve variations to tenancy agreements

Lead Member for Property and Asset Management

2.15 To determine, subject to planning permission, whether to grant consent for the installation of telecommunications equipment on the council's property.

Lead Members for Property and Asset Management, Sustainable Development and the Environment, Finance and Promoting Denbighshire acting jointly

2.16 Decisions in respect of the agricultural estate. This delegation shall extend only to decisions which would be within the remit of the Joint Agricultural Board, and shall come to an end one week before the Board holds its first meeting after 2 October 2002.

Appendix 2 Functions already delegated to individual Cabinet members by the Cabinet

Powers for leader and, in his absence, the deputy leader to take urgent decisions in certain specified circumstances [18 June 2002, minute 4]

Lead member for Communications jointly with chief executive - decisions on use of supplementary credit approvals for e-government [18 June 2002, minute 4]

Lead Member for Health and Well-being - to determine requests for the waiver of payment conditions in respect of grants towards improvement of privately owned properties [30 July 2002, minute 9 - this delegation would be overtaken by the proposed general delegation to determine whether repayment of a grant may be waived]

Appendix 3 Suggested delegations for discussion

General delegations

To determine the content of any plan, strategy or other policy document which relates solely to the Cabinet member's portfolio. This does not include plans and strategies that form part of the policy framework as defined in article 4.2 of the constitution.

To determine whether to publish any statutory notices (other than in respect of closure of schools) and to take action on advertised proposals in the light of any representations received.

To authorise the making of compulsory purchase orders, subject to the agreement of the Lead Member for Finance and the Lead Member for Property and Asset Management.

To approve submission of bids for grant funding and to accept any grant offered, subject to any funding requirement from the Council being contained within existing budgets. Where such a funding requirement cannot be afforded from existing budgets, the consent of the Lead Member for Finance must be obtained before a bid is made or a grant offer accepted.

To approve fees and charges, including any subsidies or concessions, in accordance with any policy adopted by the Cabinet on the setting of fees and charges. Decisions on these matters are subject to the agreement of the Lead Member for Finance. This delegation does not include fees and charges that are set by the Planning and Licensing Committees.

Other fees assigned to Cabinet in Contract Standing Orders.

In accordance with any policy adopted by the Cabinet on grants, to determine grants to other bodies or individuals (including determining parameters or criteria for decisions by officers on such grants).

Specific delegations: Lead Member for Sustainable Development and the Environment

To determine applications for licences under section 115E of the Highways Act 1980 to use the highway for the provision of facilities for refreshments.

To determine definitive map modification orders

To declare industrial and commercial improvement areas

To designate areas as conservation areas or as local nature reserves

To designate town schemes and to amend the boundaries of town schemes

REPORT TO CABINET

Report by: Cllr M A German, Lead Member for Sustainable Development and Environment

DATE: 1 October 2002

SUBJECT: Denbighshire County Council's Contaminated Land Strategy

1 DECISION SOUGHT

To adopt the contaminated land strategy in accordance with the requirements of Part IIA of the Environmental Protection Act 1990.

2 REASON FOR SEEKING DECISION

2.1 Background.

Under the part IIA of the Environmental Protection Act 1990 and the Contaminated Land (Wales) Regulations 2001, introduced by the Welsh Assembly on 1st July 2001, all Welsh Local Authorities are required to produce a written Strategy on how they will implement the requirements of the new Contaminated Land regime.

The legislation and guidance produced under these powers has given Local Authorities a whole series of new Statutory functions in respect of the identification, investigation and remediation of such land to prevent potential harm to human health, animals, pollution of controlled waters or the environment, or damage to property.

2.2 The Strategy.

This authority has been required to complete and adopt the written strategy by 1st October 2002. This Strategy provides the framework into which all the requirements fit and by which the Local Authority can be 'measured' in its performance. The formulation of the Strategy itself is expected to be used a performance indicator. The Strategy is a detailed document designed to identify the process that the authority intends to follow in order to identify, investigate, carry out risk assessments and then to determine liabilities of individuals or companies and to pursue remediation of the land identified that poses a risk.

2.2.1 Purpose of the Strategy.

The purpose of this Strategy is to detail the Council's approach to the inspection of its area to identify any contaminated land within the County of Denbighshire. Furthermore, this document sets down procedures which will ensure that any unacceptable risks to human health and the wider environment by virtue of Contaminated Land are identified and removed.

In particular this Strategy has been produced to:

- Meet Denbighshire County Council's Statutory duty to produce a strategy;
- Endeavour to concentrate the investigation on areas where contaminated land is more likely to be identified;
- Seek to ensure that the contaminated sites which appear to be causing or are likely to cause the most serious problems are located first;
- Explain the Authority's internal policies and procedures;
- Explain the Authority's arrangements with external bodies;

- Impart the Authority's intentions to all stakeholders;
- Provide a framework that can be utilised to supply information to the Environment Agency for periodic reports.

2.2.3 Aims of the Strategy.

The overall aim of the Strategy is to ensure that no land in the County of Denbighshire is creating an unacceptable risk to either human health or the environment by reason of contamination in relation to its current or future use.

In order to do this the Council aims to:

- identify actual and potential contaminated sites within the District by rational, ordered and efficient investigation, to remove unacceptable risk to human health and the environment;
- reinforce a "suitable for use" approach enabling developers to design and implement appropriate and cost effective remediation schemes as part of their redevelopment project of contaminated sites to bring damaged land back into beneficial use;
- identify sites which are not defined as contaminated in accordance with the statutory definition contained within Environmental Protection Act 1990, Part IIA, but could still be subject to contamination, to ensure that the land is suitable for its current use or can be made suitable for its intended future development use, where a receptor may be introduced;

2.2.4 Objectives of the Strategy.

The primary objective in inspecting land is to enable the Local Authority to obtain the information needed to decide whether or not land appears to be "Contaminated Land".

The Local Authority is required to take a strategic approach to inspecting land in its area for contamination. The Statutory Guidance requires that the approach adopted should:

- Be rational, ordered and efficient.
- Be proportionate to the seriousness of any actual or potential risk.
- Seek to ensure the most pressing and serious problems are located first.
- Ensure that resources are concentrated on investigating areas where the Council is most likely to identify contaminated land.
- Ensure that the Council efficiently identifies requirements for the detailed inspection of particular areas of land.

The Strategy states that the Council's priorities in dealing with contaminated land will be:

1. To protect human health
2. To protect controlled waters
3. To protect designated ecosystems
4. To prevent damage to property
5. To prevent any further contamination of land
6. To encourage voluntary remediation
7. To encourage re-use of brown field land

2.3 Inspection and Investigations

It is planned to use part of the 2003 /2004 financial year to create the administrative and infrastructure framework required to implement the strategy and also use this period to start to identify potential sites within this authorities ownership.

An inspection programme commencing in April 2004 will then be undertaken in an order to be determined by population-density with the largest populated towns being inspected first, (followed by the smaller towns, villages and rural areas). This will commence with desk top studies including the use of historical digital maps and databases of land with known previous contaminative uses. Sites identified will be prioritised according to the previous usage and likely presence of contaminants, the locations of the receptors specified in the guidance and the potential for the contaminant to cause harm to the receptor via a demonstrable pathway (the 'Pollutant Linkage'). Thereafter intrusive site investigations may have to be carried out on the highest priority sites. It is anticipated that this will be completed within five years although there are reviews built into the strategy to reconsider the progress of the individual site investigations.

Land owned by the Council will be inspected in the same way as that in private ownership commencing with desk top studies in October 2003. Controlled waters and protected areas of the environment will be also be examined and a prioritisation exercise undertaken to ensure that the most urgent problem sites in the counties ownership will be investigated first.

It is recognised that some sites may be identified outside this general approach to inspection that will require urgent attention. These sites will be dealt with as they arise, other non urgent sites identified outside this regime will be considered in accordance with their potential risks based on the Prioritisation system adopted within the Strategy . The Council will support parties wishing to undertake voluntary remediation and will encourage re-use of brown field land for development in preference to greenfield development.

The County Council is the lead regulator on contaminated land but, wherever necessary, the Council will work in partnership with other organisations particularly the Environment Agency.

The regulations set clear criteria that must be met before land can be formally designated as contaminated land. The Council must also maintain a public register that must contain only certain information. The expectations of some members of the public will not be met by the powers local authorities may exercise under contaminated land legislation.

3 COST IMPLICATIONS

Financial implications for the new responsibilities have been addressed by the provision of finances within the in Standard Spending Assessments (SSA). English local authorities have received a total of £12 million per year during the last 3 years (approx. £30,000 pa. each) just to complete the production of a Strategy. We are informed that a similar but unhypothecated provision has been made for Welsh Authorities in 2003/2004. Further provision in future years will be by the normal process of setting Revenue Support Grant (RSG). To date there have been no additional resources provided to assist the Public Protection department in the execution of the new provisions and this Strategy has been written within the existing resources available within the Pollution Control section, this has resulted in a reduced level of service for other statutory and non statutory functions.

Direct Costs attributable to the performing of this new statutory function will be split into four separate areas.

1. One off Capital Costs for the purchase of IT. Equipment to perform the function and software / information packages in the region of £35,000.

2. Funding required for additional technical and administrative staff resources in Pollution Control to perform this function including on costs in region of £43,000 p.a.
3. Costs of site investigations for specific identified sites during the investigations of approx. four sites per year at £3,000 - £10,000 each.
4. Costs of site investigations of sites owned by this authority, subject to the same enforcement regime, of approximately 2 sites per year at £15,000 - £25,000 each.

In addition for sites where the polluter or another liable party cannot be identified, (Orphan Sites) or where the remediation of the land is urgently required due to it posing an Imminent Risk the Local Authority will have to carry out the remediation at its own cost. English authorities have the ability to draw on a Supplementary Credit Approval program (SCA's) to facilitate the remediation of specific sites. There is no similar system planned in Wales at present.

4 FINANCIAL CONTROLLER STATEMENT

The financial implication of the strategy detailed in the report will need to be considered for funding as part of the budget setting exercise for 2003/04 which is about to start.

5 CONSULTATION CARRIED OUT

Detailed consultation has been undertaken with County Council members and Officers, Town and Community Councils and all statutory and non statutory consultees identified in the strategy appendices between July 2002 and September 2002. Further local consultations will be carried out in the area by area inspection and investigation phase commencing in October 2004.

The strategy has also been considered by the Environmental Scrutiny Committee who fully endorsed the recommendation to adopt the strategy.

6 IMPLICATIONS ON OTHER POLICY AREAS INCLUDING CORPORATE

This strategy has strong links with other policy areas of the authority, primarily with the Environmental policy, the Anti poverty policy, Local Agenda 21 policies and the Unitary Development Plans.

7 RECOMMENDATION

To adopt this strategy as the Statutory Contaminated Land Strategy of Denbighshire County Council.

REPORT TO CABINET

CABINET MEMBER: THE LEADER

DATE: 1 OCTOBER 2002

SUBJECT: APPLICATION TO REGISTER LLANGOLLEN YOUTH CLUB
PLAYING FIELD KNOWN AS "WILLOW HILL FIELD" AS A
TOWN/VILLAGE GREEN

1 DECISION SOUGHT

To adopt the recommendation by the Inspector appointed by the County Council and to reject the above application.

2 REASON FOR SEEKING DECISION

The County Council, in its capacity as Commons Registration Authority, is in receipt of an application to register the area of land shown edged in black on Plan "A" attached ("the application site") as a Town Green. The application has been submitted by a local group "Save Our Green Fields" on the basis that inhabitants of the locality have indulged in lawful sports and pastimes on the application site as of right for a period of not less than 20 years. The application has been submitted pursuant to Section 13 of the Commons Registration Act 1965.

The application site is owned in part by the Council and in part by a development company Taymove Limited who are the successors in title to Parry Homes Limited who acquired that land from the former Clwyd County Council on 3rd May 1995. The extent of the land ownerships of the County Council and Taymove Limited are shown respectively hatched and cross hatched in black on Plan "B" attached. The County Council therefore has a dual role in respect of this application as both the Commons Registration Authority and as a landowner affected by the application.

On 11th October 2002 Cabinet received a report in respect of the above matter and it was recommended that the County Council hold a non statutory hearing given that the County Council is both Commons Registration Authority and a landowner affected by the application. The County Council must act impartially and be seen to do so. The option of an informal hearing offers both an opportunity for oral evidence to be heard and for all the evidence, both written and oral, to be assessed by an impartial Inspector who can make a recommendation back to the Commons Registration Authority.

On 11th October 2001 Cabinet resolved that the report be received and the County Clerk be authorised to continue to deal with this application on behalf of the County Council as Commons Registration Authority and appoint Counsel

(a) to act as a Inspector to hold an informal "inquiry" where oral evidence will be heard

(b) to write a report to the authority with a recommendation of how the application should be determined.

The County Clerk appointed Mr Vivian Chapman of Counsel to act as an Inspector and he held a non statutory inquiry into the application on 22nd, 23rd and 24th May 2002 at the Town Hall, Llangollen which was attended by all parties directly affected by the application. The Inspector has prepared a report dated 27th August 2002 which is based on the evidence both oral and written presented to him at the Inquiry, a copy of which is appended. The Inspector made the following findings of fact (at paragraph 8 of his Report which are reproduced below.

"Findings of Fact

8.1. Since the early 1970s the application land has been laid out as grass playing fields substantially as it appears today save that until the early 1990s there was a concrete garage at the south east corner and until 2001 a portacabin behind the Youth Club building. There is a small storage shed on the application land near the Youth Club which has been there since before the date of the application in 2000.

8.2. At all times since the early 1970s the land has been maintained by the County Council (Clwyd until 1996 and Denbighshire thereafter) by grass cutting and hedge trimming, although the standard of maintenance has varied from time to time.

8.3. The application land has been used since the early 1970s with the authority of the county council for recreation by members of the Youth Club, the Arosfa Football Club and a number of one off events such as the Fringe Festival and school sports days.

8.4. The application land has not at any material time since the early 1970s been securely fenced and gated so that it has always been possible for anyone freely to enter the land either from Willow Street or Vicarage Road without climbing fences or opening gates.

8.5. The application land has been extensively used at all material times since the early 1970s for informal recreation such as walking with or without dogs, ball games and children's play without the permission of the landowner.

8.6. The people using the application land for unauthorised informal recreation have been predominantly inhabitants of the town of Llangollen.

8.7. It is not possible accurately to estimate the balance as between authorised and unauthorised recreational use of the application land, but I find that there has been at least as much unauthorised use as authorised use

8.8. The Clwyd County Council Golf and Statute Signs or signs to substantially the same effect were erected in the late 1980s. The Golf Sign fell down and was re-erected at some uncertain date in the interim. The present signs were erected in any event before local government reorganisation in 1996.

8.9. Anyone who regularly used the application land for recreation must have seen and read the Golf Sign and must have seen (although may not have read in detail) the Statute Signs."

The Golf Sign and Statute Signs are those located and described by the Inspector as follows:-

"There are a number of entrances to Willow Hill Fields. The main vehicular entrance is the entrance from Willow Street to the car park. This entrance is through double metal gates which bear a sign saying *"CLWYD COUNTY COUNCIL. NO PARKING IN ENTRANCE"*. Inside and to the south west of the gates are two signs. One says in English and Welsh *"TRESPASSING AND THE PLAYING OF GOLF PROHIBITED"*. I call this "the Golf Sign". The other says in English and Welsh *"CLWYD COUNTY COUNCIL NOTICE IS HEREBY GIVEN, pursuant to Section 40 of the Local Government (Miscellaneous Provisions) Act 1982 and Section 39 of the Clwyd County Council Act 1985, that (1) any person causing or permitting a nuisance or disturbance on these premises shall be guilty of an offence; (2) any person taking part in any game or sport on these premises without authority shall be guilty of an offence; and that any such person may be removed from these premises and prosecuted. DIRECTOR OF EDUCATION"*. I call this "the Statute Sign". There is also a pedestrian entrance from Willow Street up a flight of steps at the top of which there is another Statute Sign. There are three pedestrian entrances from Vicarage Road. The most northerly is through an unlocked metal

gate close to the boundary with The Old Vicarage. By this entrance there is another Statute Sign. About half way along the Vicarage Road frontage is an informal entrance beside a section of collapsed fencing. Towards the western end of Vicarage Road, there is another informal entrance through a gap in the hedge.”

As regards this final stage of determination how this is done is left to the Commons Registration Authority itself. It must be borne in mind that the County Council is acting purely as registration authority and that matters of planning or policy are irrelevant. The only issue that the Council has to decide is whether as a matter of law the application site has become a Town or Village Green by prescription within the terms of Section 13 of the Commons Registration Act 1965.

Until 30th January 2001, the definition was:

“land...on which the inhabitants of any locality have indulged in [lawful] sports and pastimes as of right for not less than twenty years”.

As from 30th January 2001, this definition has been replaced, pursuant to s 98 of the Countryside and Rights of Way Act 2000, by the following definition:

“...land on which for not less than twenty years a significant number of the inhabitants of any locality, or of any neighbourhood within a locality, have indulged in lawful sports and pastimes as of right, and either (a) continue to do so, or (b) have ceased to do so for not more than such period as may be prescribed, or determined in accordance with prescribed provisions.”

No regulations have yet been made to implement para (b) of the new definition.

In summary, the Inspector in his findings (contained in paragraph 9 of the report) found that the central issue was whether the user which has to be from the period 20 years immediately before the making of the application i.e. 1980-2000 has been as of right. In this instance the Inspector's view is that the uses by the inhabitants of the locality (taken as the community area of Llangollen) has not been as of right because as from the time the Golf Sign was erected in 1989 the Golf Sign has made it clear that any unauthorised person entering onto the land in disregard of the sign is not entering “as of right” but in a manner which is contentious and under protest. The Inspector recommends rejection of the application for the reasons set out in his report dated 27th August 2002.

3 COSTS IMPLICATIONS

The County Council as Commons Registration Authority has had to bear the cost of appointing the Inspector and holding the Inquiry. This cost has been borne by the County Clerk's department given the cost arises from a commons registration issue and in the absence of any other budgetary provision.

4 FINANCIAL CONTROLLER'S STATEMENT

The costs of £11,000 in connection with this item are not budgeted for but every effort will need to be made to contain the costs within the service budget.

5 CONSULTATIONS CARRIED OUT

All parties directly affected by the application were present at the Inquiry and submitted evidence to the Inspector both oral and written. The report summarises the evidence before the Inspector and upon which he has based his findings.

6 POLICY IMPLICATIONS INCLUDING CORPORATE

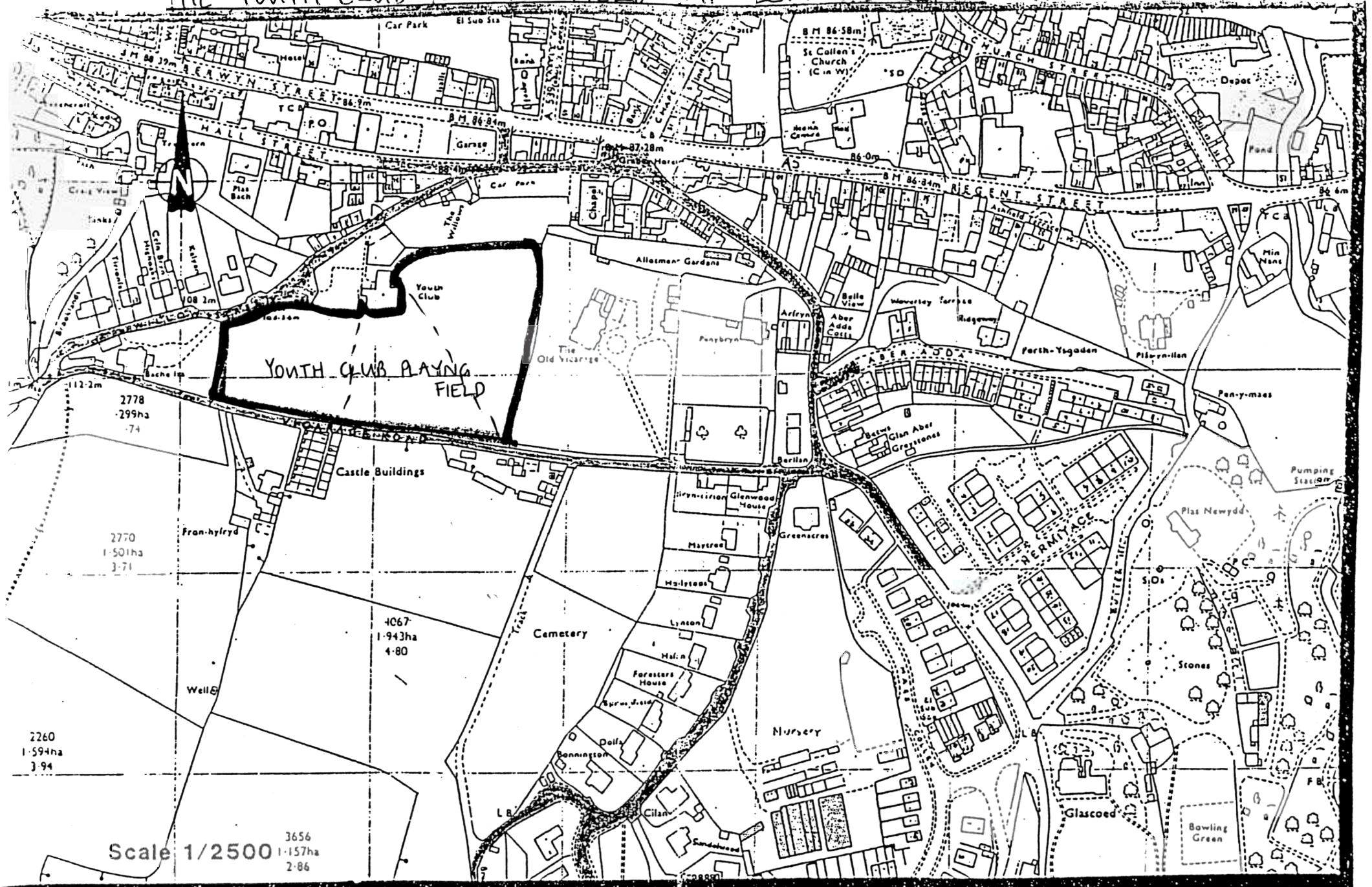
None - this is a statutory function

7 RECOMMENDATION

That the County Clerk be authorised to reject the application for the reasons set out in the report by the Inspector, Mr Vivian Chapman, dated 27th August 2002.

THE YOUTH CLUB PLAYING FIELD AT LANGOLLEN

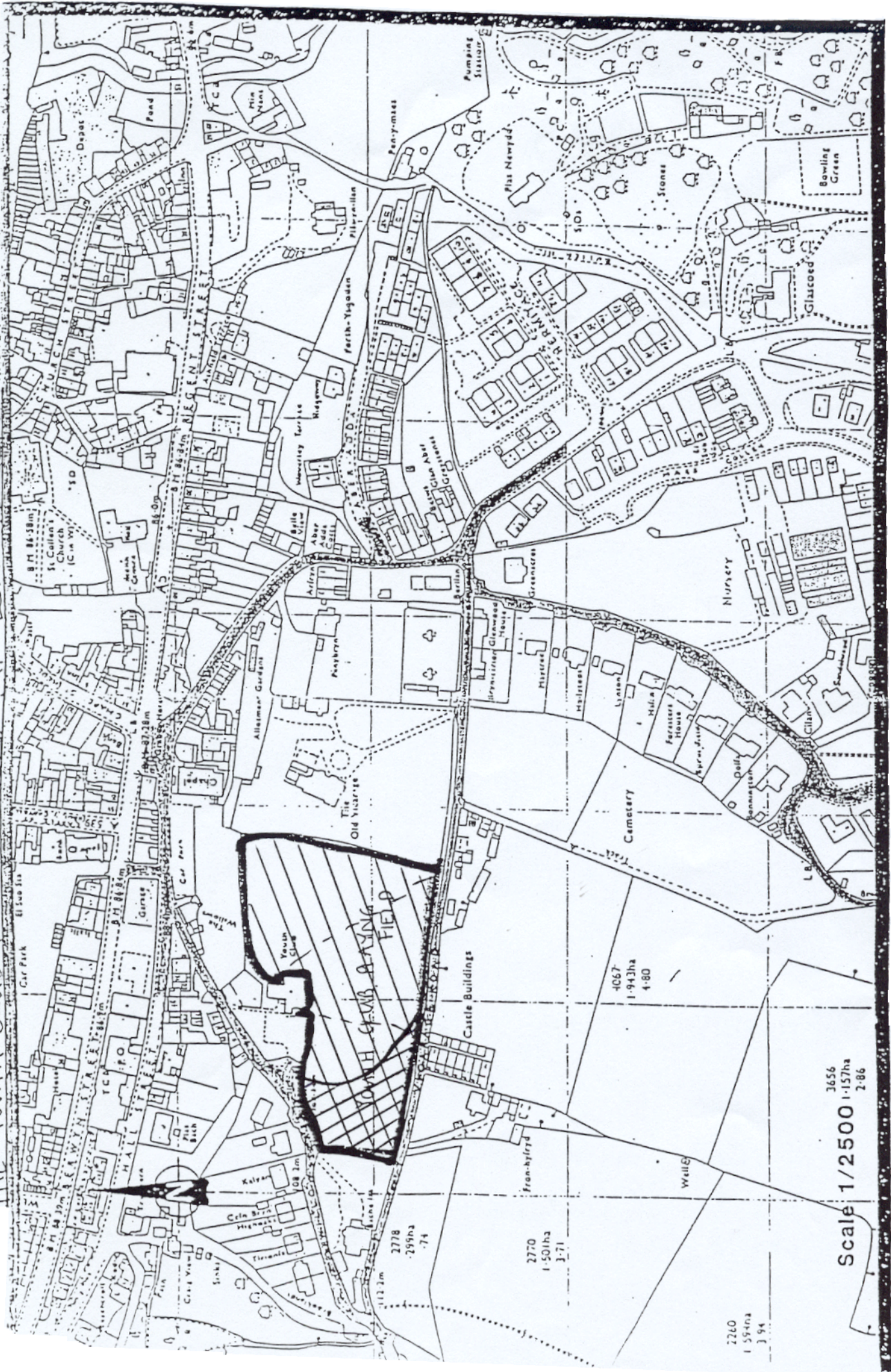
A



MAP SHOWING THE BOUNDRY LAND CLAIMED

B

THE YOUTH CLUB PLAYING FIELD AT LLANGULLEN



Scale 1/2500

2260
1 554ha
3 94

2770
1 501ha
3 71

4067
1 943ha
4 80

3656
1 157ha
2 86

BOI OR LAND CLAIMED PLEASE SGN REVERSE TO

In the Matter of an Application
to Register Land at Willow Hill Fields
as a Town or Village Green

REPORT

of Mr VIVIAN CHAPMAN

1. Willow Hill Fields

Llangollen is a small town in North Wales, which is world famous as the home of the annual International Eisteddfod. It lies in the valley of the River Dee. The centre of the town stands between the river and the main A5 road. To the south of the A5, a narrow street called Willow Street rises quite steeply away from the valley in a south westerly direction. About 50 yards up the hill and on the south eastern side of Willow Street lies the land known as Willow Hill Fields.

Willow Hill Fields are roughly triangular in shape. They have a north -west boundary of about 100 yards to Willow Street, a southern boundary of about 175 yards to Vicarage Road and an eastern boundary of about 100 yards to a large house and grounds known as The Old Vicarage. Although the Fields lie on sloping ground, they have been landscaped into three level platforms. On the lowest platform, fronting Willow Street, there is a brick built youth club with an ancillary tarmac car park¹. On the middle platform, alongside The Old Vicarage, there is a rectangular grass playing field large enough for a football pitch. On the highest platform, alongside Vicarage Road, there is a smaller rectangular grass playing field. The two higher platforms are simply flat areas of mown grass².

There are a number of entrances to Willow Hill Fields. The main vehicular entrance is the entrance from Willow Street to the car park. This entrance is through double metal gates which bear a sign saying “*CLWYD COUNTY COUNCIL. NO PARKING IN ENTRANCE*”³. Inside and to the south west of the gates are two signs. One says in English and Welsh “*TRESPASSING AND THE PLAYING OF GOLF PROHIBITED*”⁴. I call this “the Golf Sign”. The other says in English and Welsh “*CLWYD COUNTY COUNCIL NOTICE IS HEREBY GIVEN, pursuant to Section 40 of the Local Government (Miscellaneous Provisions) Act 1982 and Section 39 of the Clwyd County Council Act 1985, that (1) any person causing or permitting a nuisance or disturbance on these premises shall be guilty of an offence; (2) any person taking part in any game or sport on these premises without authority shall be guilty of an offence; and that any such person may be removed from these premises and prosecuted. DIRECTOR OF EDUCATION*”⁵. I call this “the Statute Sign”. There is

¹ Blue Bundle pp 118 & 119
² Blue Bundle pp 117, 118, 120, 121 & 125
³ Blue Bundle p 138
⁴ Blue Bundle p 137
⁵ Blue Bundle p 137

also a pedestrian entrance from Willow Street up a flight of steps⁶ at the top of which there is another Statute Sign⁷. There are three pedestrian entrances from Vicarage Road. The most northerly is through an unlocked metal gate close to the boundary with The Old Vicarage⁸. By this entrance there is another Statute Sign⁹. About half way along the Vicarage Road frontage is an informal entrance beside a section of collapsed fencing¹⁰. Towards the western end of Vicarage Road, there is another informal entrance through a gap in the hedge.

2. History of Willow Hill Fields

During the 1800s, the Fields were known as the Vicarage Fields¹¹. The 1875 OS map¹² shows the land as a large field with smaller wooded enclosures to the north and west. By the time of the 1912 OS map¹³, the large field had been divided into two and the smaller fields were no longer wooded. On 2nd November 1939, the Fields were acquired by Denbighshire County Council with the intention of using them as the site for a new school¹⁴, but it seems that the plans were disrupted by the Second World War and the Fields were used as allotments. An aerial photograph of 1968¹⁵ shows that most of the allotments were then disused. An aerial photograph of 2nd May 1971¹⁶ shows the youth club newly built and the allotments wholly disused. One room in the youth club was made available to the Llangollen Branch of the Young Farmers' Club under an agreement of 30th November 1971¹⁷. Ownership of the youth club and the fields vested in Clwyd County Council on local government reorganisation in 1974. An aerial photograph of 1977¹⁸ shows the Fields landscaped and the two higher platforms marked out as football pitches.

Since 1990 there have been a series of applications for planning permission to develop part of the Fields¹⁹. On 3rd May 1995, Clwyd County Council conveyed the western quarter of the Fields to Taymove Limited (now called Castlemead Developments Ltd), principally for use as an access road to a proposed development on the south side of Vicarage Road.

In 1996, the youth club and the retained part of the Fields vested in Denbighshire County Council on further local government reorganisation.

3. Town Green Application

On 9th February 2000, Sandra Woodhall and Helen McCreary, representing an association called Save Our Green Fields ("SOGF") applied to Denbighshire County Council under s 13 of the Commons Registration Act 1965 to register Willow Hill

⁶ Blue Bundle p 124

⁷ Blue Bundle p 136

⁸ Blue Bundle p 127

⁹ Blue Bundle p 140

¹⁰ Blue Bundle p 126

¹¹ Red Bundle p 309

¹² Red Bundle p 369

¹³ Red Bundle p 370

¹⁴ Blue Bundle p 4

¹⁵ Blue Bundle p 128

¹⁶ Blue Bundle p 129.

¹⁷ Blue Bundle p 315

¹⁸ Blue Bundle p 130

¹⁹ The full planning history is set out in a witness statement of Mr Weaver at p 2 of the Green Bundle.

Fields as a town green. The application²⁰ stated that Willow Hill Fields had become a town green “in 1974, but, for the purposes of this application, 1980” and that it had become a town green “by the actual use of the land by local inhabitants for lawful sports and pastimes as of right for a period of not less than 20 years (1980-2000)”.

The application was duly publicised pursuant to the provisions of the Commons Registration (New Land) Regulations 1969 and two written objection statements were received. One, under cover of a letter dated 10th October 2001, was from Taymove Ltd. (as it was then called) as owner of part of Willow Hill Fields. The other, dated 22nd October 2001, was from Denbighshire County Council as owner of the rest of Willow Hill Fields.

I was instructed by Denbighshire County Council, as registration authority, to hold a non statutory public inquiry into the application, and to prepare a written report with my recommendation whether the authority should accede to or reject the application. I give preliminary written directions on 4th and 17th January 2002.

I held the public inquiry in the Town Hall, Llangollen on 22nd, 23rd and 24th May 2002. The applicants were represented by Mr Martin Edwards of counsel instructed by Messrs Gamlins of Llandudno. The objectors were represented by Mr Stephen Sauvain QC instructed by Messrs Davies Wallis Foyster (for Castlemead Developments Ltd) and by the legal department of Denbighshire County Council (on behalf of the Council as landowner). I am very grateful to counsel for the helpful and courteous way in which they presented their respective cases. I must also pay tribute to Ms Susan Cordiner of the registration authority for organising the public inquiry with great efficiency.

At the end of the evidence, counsel asked to present their closing submissions in writing and I directed that the objectors’ closing submission should be presented by 7th June 2002, and the applicants’ closing submissions should be presented by 21st June 2002. I also gave the objectors until 28th June 2002 to submit any written response on points of law raised in the applicants’ closing submissions. I duly received Mr Sauvain’s submissions on 7th June and Mr Edwards’s submissions on 21st June 2002. Mr Sauvain did not submit any response.

4. The Law

The 1965 Act provides for each registration authority to maintain a register of town or village greens within its registration area. Section 13 of the Act provides for the amendment of that register where any land becomes a town or village green. The expression “town or village green” is defined by s 22(1) of the Act. It is a three limbed definition, comprising (a) statutory greens, (b) customary greens and (c) prescriptive greens. Only the third limb of the definition, i.e. of prescriptive greens, is applicable in the present case. Until 30th January 2001, the definition was:

“land...on which the inhabitants of any locality have indulged in [lawful] sports and pastimes as of right for not less than twenty years”.

As from 30th January 2001, this definition has been replaced, pursuant to s 98 of the Countryside and Rights of Way Act 2000, by the following definition:

“...land on which for not less than twenty years a significant number of the inhabitants of any locality, or of any neighbourhood within a locality, have indulged in lawful sports and pastimes as of right, and either (a) continue to do so, or (b) have

²⁰

ceased to do so for not more than such period as may be prescribed, or determined in accordance with prescribed provisions.”

No regulations have yet been made to implement para (b) of the new definition.

A number of legal issues relating to applications to register new greens have been the subject of guidance by the courts.

First, the onus of proof lies on the applicants, it is no trivial matter for a landowner to have land registered as a green, and all the elements required to establish a new green must be “properly and strictly proved”²¹. However, in my view, this does not mean that the standard of proof is other than the usual civil standard of proof on the balance of probabilities.

Second, a “locality” must be some division of the country known to the law, such as a borough, parish or manor²².

Third, use of land “as of right” means use without force, secrecy or permission and does not turn on the subjective beliefs of users²³.

Fourth, permission can be express or implied²⁴.

Fifth, the words “lawful sports and pastimes” form a composite expression which includes informal recreation such as walking, with or without dogs, and children’s play²⁵.

Sixth, recreational use of land by a “significant” number of inhabitants of a locality or neighbourhood does not require that such use should be by a considerable or substantial number of such inhabitants. “Significant” is an ordinary word in the English language and is not usefully paraphrased. What matters is that the number of people using the land signifies that it is in general use by the local community for informal recreation, rather than occasional use by individuals as trespassers²⁶.

Seventh, where the applicant proves use of a substantial part but not the whole of the application land, the registration authority can register that part as a new green²⁷.

Eighth, an application made before the new definition came into force must be determined in accordance with the old definition. This point was decided by HH Judge Moseley QC sitting as a judge of the Chancery Division in *Caerphilly CBC v Gwinnutt (2002) unreported*.

Ninth, the relevant 20 year period for the purposes at least of the old definition must be the 20 years immediately preceding the application. See Harman J in *Ministry of Defence v Wiltshire County Council*²⁸, Dyson J in *R v Norfolk CC ex p Perry*²⁹ and HH Judge Moseley QC sitting as a judge of the Chancery Division in *Caerphilly CBC v Gwinnutt (unreported)*.

5. Evidence for Applicants

²¹ R v Suffolk CC ex p Steed (196) 75 P&CR 102 at p 111 per Pill LJ

²² Ministry of Defence v Wiltshire CC [1995] 4 All ER 931 at p 937b-e

²³ R v Oxfordshire CC ex p Sunningwell PC [2000] 1 AC 335

²⁴ R (Beresford) v Sunderland City Council [2002] 2 WLR 693

²⁵ Sunningwell at pp 356F-357E

²⁶ R on the application of Alfred McAlpine Homes Ltd v Staffordshire CC 17th January 2002 (unreported)

²⁷ R on the application of Alfred McAlpine Homes Ltd v Staffordshire CC 17th January 2002 (unreported)

²⁸ [1995] 4 All ER 931 at p 938a-j

²⁹ (1996) 74 P&CR 1 at p 5

5.1. Mrs Barbara Hunt

The first witness to give oral evidence in support of the application was Mrs Barbara Hunt of 35, Berwyn Street, Llangollen. Mrs Hunt submitted a complete d evidence questionnaire³⁰ and a written statement³¹.

Mrs Hunt has lived in Llangollen and used Willow Hill Fields (which she knows as the Youth Club Fields) for informal recreation since 1976. She took her children to play there when they were small and they played there themselves when they were older. She has walked her dog there almost every day. She often sees other people enjoying similar informal recreation on the land and considers that they are mostly local people.

The land was also used for activities authorised by the landowner, such as football matches on the marked out football pitches and use for youth club activities. She did not usually use the field when there were football matches because she did not want her dogs to interfere with the games. She would give way to the football matches.

She has seen the Clwyd County Council signs on the land although they were not there when she started using the land. She had not mentioned the signs in her questionnaire or written evidence because “I never thought about it, to be honest. We have always used the field. I suppose that it indicates who owns the land.”

I considered that Mrs Hunt was rather playing down the signs, especially the Golf Sign which is in large clear lettering. I think that she must have appreciated that Clwyd County Council were intending by the signs to challenge unauthorised use of the land, although I accept that the Council did nothing to enforce that challenge and that it is not surprising that local people, including Mrs Hunt, ignored them. Subject to this point, I accept Mrs Hunt’s evidence.

5.2. Mrs Susan Meilleur

The second witness to give oral evidence in support of the application was Mrs Susan Meilleur of 1, Glan Aber, Hill Street, Llangollen. Mrs Meilleur submitted a completed evidence questionnaire³² and a written statement³³.

Mrs Meilleur has lived in Llangollen since 1979 and has known Willow Hill Fields (which she called the Youth Club Field in her questionnaire) since she arrived. Between 1979 and 1989, she, her husband and family used the land frequently, mostly to play informal games with her children. She has seen many other people using the land for informal recreation such as children’s play, dog walking and picnics. She considers that these people come from Llangollen since she recognises most of the users.

The main organised activity on the land is use of the football pitch by the Arosfa Football Club. She also recalls use of the field for a school fete and for It’s a Knock Out.

She does not remember seeing the Clwyd County Council signs. The evidence suggests that the signs were erected in the late 1980s and it is therefore possible that they were erected after she stopped using the land. Certainly I do not think that

³⁰ Red Bundle p 194

³¹ Red Bundle p 333

³² Red Bundle p 52

³³ Red Bundle p 317

anyone who regularly used the application land after they were erected could have failed to see them.

I accept the evidence of Mrs Meilleur.

5.3. Mrs Morwenna Honan

The third witness to give oral evidence in support of the application was Mrs Morwenna Honan of 7, Castle Buildings, Vicarage Road, Llangollen. She submitted a written statement³⁴.

Mrs Honan has lived in Llangollen since 1975, when she was 7. Her first recollection of the Youth Club Field (as she usually calls it) was in 1976 when she attended a school sports day on the land. Between 1976 and 1980 she used the land for activities with the Brownies. From 1980 to 1989 she used the land casually for meeting friends and hanging out. As an adult she and her family have used the land almost daily for various informal recreational activities, such as walking and games with her children. She sees other people using the land for informal recreation on a regular basis and she considers that the majority come from Llangollen.

Although she had some complaints about the standard of maintenance, Mrs Honan said that the grass of the land was kept cut by the Council. Arosfa Football Club use one or both of the football pitches but not every week. She does not use the pitches when football is being played on them.

As for the Clwyd County Council signs: "I do remember the one about golf. I am sure I was aware of them but you walk past every day and take no notice. Just part of the scenery. I have never stood and read them. The only one I noticed was "Trespassing and the playing of golf prohibited". I thought that sign was just to cover the council if someone got hit. Just a legal thing. I thought the council could be sued for allowing golf balls to hit someone. I did know that it was local authority land..."

I consider that anyone who regularly used the land would have noticed the existence not only of Golf Sign but also of the Statute Signs although I accept that the latter signs were written in such dense legal language that many and perhaps most people would not have made the effort to study them in detail. Subject only to this point, I accept the evidence of Mrs Honan.

5.4. Mrs Jane Lawrence

The fourth witness to give oral evidence in support of the application was Mrs Jane Lawrence of Can-y-Gwynt, Tower Road, Llangollen. Mrs Lawrence submitted part of a questionnaire³⁵ and a written statement³⁶.

Mrs Lawrence has lived in Llangollen since 1986 and between 1992 and 2001 was Girl Guide District Commissioner and ran the Llangollen Brownie Pack. The Brownies used the Youth Club Field (as she called it) for activities such as sports, agility, nature study and picnics many times each summer and she had personally taken them several times a year. The Brownies mostly came from Llangollen although some members came from outlying villages.

She did not seek anybody's permission to use the Youth Club Field and was unaware that permission had ever been asked for the Brownies to use the land. In cross examination she was referred to the minutes of the Youth Club Management

³⁴ Red Bundle p 295

³⁵ Red Bundle p 266 (she said that this was the only part that she was given to complete)

³⁶ Red Bundle p 301

Committee dated 15th June 1978³⁷ from which it appeared that in 1978 the Brownies and Guides were asking and obtaining permission to use the land from the Management Committee. Mrs Lawrence accepted that, in the past, the Brownies and Guides must have obtained permission to use the land.

In her evidence questionnaire³⁸ she said that no attempt had ever been made by notice to prevent or discourage the use being made of the land by the local inhabitants. However, she was not asked about the Clwyd County Council notices, and I do not take her evidence as a denial of the existence of the notices when she used the land with the Brownies.

Subject to this qualification concerning the notices, I accept Mrs Lawrence's evidence.

5.5. Mr Peter Humphries

The fifth witness to give oral evidence in support of the application was Mr Peter Humphries of 25, Princess Street, Llangollen. Mr Humphries submitted a completed evidence questionnaire³⁹ and a written statement⁴⁰.

Mr Humphries was born in Llangollen in 1966 and has lived at the same address all his life. He knows the application land as the Youth Club Field. He used the land for recreation between 1970 and 1984. He played football with the cubs and with friends and rode his bicycle on the land. He attended a school sports day on the land. Other people used the land for informal recreation such as dog walking and playing football. He thought that the users were from the community of Llangollen. The football pitches were used weekly for organised games of football. Since he stopped using the land himself, he has passed by on the road and seen people using the field for recreation.

Mr Humphries had not seen the Clwyd County Council signs, but he stopped using the land before they were erected.

I accept the evidence of Mr Humphries.

5.6. Mrs Dilys Ceinwen Ellis

The sixth witness to give oral evidence in support of the application was Mrs Dilys Ceinwen Ellis of Brow Farm, Vivod, Llangollen. Mrs Ellis submitted a completed evidence questionnaire⁴¹ and a written statement⁴².

Mrs Ellis was born in 1944 and lived at Brow Farm from 1944 to 1960. She then lived with her mother at 2, Castle Buildings, Vicarage Road, Llangollen from 1960 to 1964. She then left Llangollen from 1964 to 1976. However, her mother continued to live at 2, Castle Buildings until her death in 1988, and Mrs Ellis was a regular visitor to her mother. Mrs Ellis was a Llangollen Town Councillor from 1988 to 2000 and served as Mayor of Llangollen. She served on the Youth Club Management Committee as representative of the Town Council for 6-8 years.

Mrs Ellis remembered walking across the application land in the 1960s, when it was still allotments. After it was laid out as playing fields, she knew it as the Youth

³⁷ Blue Bundle p 170

³⁸ Red Bundle p 266 Q 39

³⁹ Red Bundle p 182

⁴⁰ Red Bundle p 299

⁴¹ Red Bundle p 35

⁴² Red Bundle p 290

Club Field. She used to take her children to play there when visiting her mother. She saw other people using the land for informal recreation such as dog walking and ball games. She thought that most users came from the Llangollen Town area. She last used the land for recreation in the early 1990s except for occasional walks on it.

Football was a popular activity on the land and, according to a Youth Club Management Committee minute of 16th September 1996⁴³, the pitches were block booked by the Arosfa Football Club every Saturday. She was unaware that the Youth Club Management Committee had a formal constitution⁴⁴. She was aware of the Clwyd County Council signs but was not sure whether she was on the Management Committee when they were erected. A sign prohibiting dog fouling was put up in the Youth Club window when she was a committee member. In her evidence questionnaire⁴⁵ she mentioned a sign saying “No ball games” but this was not explored in her oral evidence.

I accept the evidence of Mrs Ellis.

5.7. Mr Gwilym Roberts

The seventh witness to give oral evidence in support of the application was Mr Gwilym Roberts of 3, Coed Uchaf, Woodlands Road, Froncysyllte, Llangollen. Mr Roberts submitted a completed evidence questionnaire⁴⁶ and a written statement⁴⁷.

Mr Roberts was born in 1946 and lived at the family home at Ty Mawr, Willow Street, Llangollen until 1970, when he married and moved to Froncysyllte, which is about 4 miles outside Llangollen. He regularly visited his parents and brother who remained at Willow Street.

Until the late 1960s, the application land was used as allotments. Then it was grassed over and turned into open space used as playing fields. He knew the land as “The Playing Fields”. Between 1971 and 1995, Mr Roberts brought his children to visit his parents and brother 2 or 3 times a week and they played games on the field which he regarded as a public open space. There is always somebody on the land, usually children playing or adults walking their dogs. Users mostly come from Llangollen.

In his questionnaire⁴⁸, Mr Roberts said that no attempt had ever been made by notice to prevent or discourage use of the land by local inhabitants. He was not asked about the Clwyd County Council signs in his oral evidence and I do not take his evidence as a denial of the existence of the signs.

Subject to this point, I accept the evidence of Mr Roberts.

5.8. Mrs Glenys Eileen Burman

The eighth witness to give oral evidence in support of the application was Mrs Glenys Eileen Burman of Dolfa, Fron Bache, Llangollen. Mrs Burman submitted a written statement⁴⁹.

⁴³ Blue Bundle p 166-7

⁴⁴ Blue Bundle p 77

⁴⁵ Red Bundle p 39 Q 39

⁴⁶ Red Bundle p 151

⁴⁷ Red Bundle p 320

⁴⁸ Red Bundle p 155 Q 39

⁴⁹ Red Bundle p 276

Mrs Burman moved to Llangollen with her family in 1974. Her children were then aged 2 ½ years and 6 months. They played on Willow Hill Field when they were growing up, e.g. riding their bicycles.

From 1979 to 1990 Mrs Burman ran the 1st Llangollen Brownie Pack. She also ran the Guide Company for part of that time. Her Brownies regularly used the Field for activities. Brownie Revels were held on the Field in 1979, 1982, 1984 and 1986. She asked permission if she wanted to use the Youth Club building but not if she wanted only to use the Field. She took over from Mrs Hayes who had run the Brownie Pack for 20 years. Mrs Hayes had told her that it was necessary to obtain permission to use the Youth Club building but not the field. Mrs Burman however accepted that a Youth Club Management Committee minute of uncertain date⁵⁰ suggested that Mrs Hayes had asked permission to use the field and that a Youth Club Management Committee minute of 1978⁵¹ was evidence that Mrs Rickard, the District Commissioner for Brownies and Guides, had asked for permission to use the Field. Mrs Burman was inclined to think that although the minutes only referred to the field, in fact permission was only requested when the Brownies or Guides also wished to use the building, e.g. the lavatories.

Mrs Burman had not used the land for about a year. She remembered the Golf Sign but not the Statute Signs. She said that she thought that the sign that she saw was just dealing with golf. I find it hard to see how that sign can be construed as relating solely to the playing of golf and I also find it hard to think that Mrs Burman can have used the application land regularly without seeing the Statute Signs, although I accept that she may well not have studied them in detail, given their complex wording.

Obviously, Mrs Burman could not know of her own knowledge whether previous Brownie leaders had asked permission to use the field or not. However, subject to my doubts about her evidence relating to the signs, I accept Mrs Burman's evidence concerning all the matters that were within her own knowledge.

5.9. Dr Anthony James Downes

The ninth witness to give oral evidence in support of the application was Dr Anthony James Downes of Spindlewood, Fron Bache, Llangollen. Dr Downes submitted a written statement⁵².

Dr Downes moved to Llangollen in 1991. He has a wife and three young children. Over the last three years, he and his family have increasingly and regularly used Willow Hill Field for informal recreation such as playing football, bike riding, kite flying, tree rope playing and golf training. He visits the Field regularly at weekends in the summer with his children for such activities. There are usually other children using the Field for bike-riding and play.

He agreed that part of the land was laid out as a football pitch and that the Field was laid out to provide a playing field but he did not consider who provided it and felt that he was free to use it.

I found Dr Downes's evidence about the Clwyd County Council signs rather odd. He said that he had only seen the Statute Sign by the Vicarage Road entrance a few weeks ago because it was hidden in the hedge and that he could barely read the sign. He said that he never entered from Willow Road, implying that he had not seen

⁵⁰ Blue Bundle p 172

⁵¹ Blue Bundle p 171

⁵² Red Bundle p 288

the Golf and Statute Signs at the Willow Road entrances. The Vicarage Road Statute Sign appears perfectly legible to me⁵³, and I find it hard to accept that anyone could regularly use the application land for recreation without noticing the signs. I think that Dr Downes was playing down the signs because he perceived them as inconvenient to the applicants' case.

Subject to this point, I accept Dr Downes's evidence.

5.10. Mr Chris Hopkins

The next witness to give oral evidence in support of the application was Mr Chris Hopkins of 3, Castle Buildings, Vicarage Road, Llangollen. Mr Hopkins submitted a written statement dated 29th April 2002⁵⁴.

Since 1991, Mr Hopkins has lived in Llangollen and has used the land which he knows either as the Youth Club Field or Willow Hill Fields. He walks his dog across the land daily and, about three times a week, meets a group of friends who cycle across the land. He has used the land for informal games of tennis, football and rounders. Formal games of football are played on the land by the Arosfa Football Club, although not every week. However, he has never been to the land when he has been prevented from using it for recreation. He has seen "so many different people using the field".

He saw and read the Statute Sign by the gate from Vicarage Road⁵⁵ ten years ago when he first used the land. "I have never seen the notice enforced. Nobody paid any attention to it. Everyone presumes that anyone can use the field whenever they feel like it. ... never heard of any body being told that they were trespassers."

I accept the evidence of Mr Hopkins.

5.11. Mrs Janet Davies

The next witness to give oral evidence in support of the application was Mrs Janet Davies of 4, Castle Buildings, Vicarage Road, Llangollen. Mrs Davies produced a written statement dated 29th April 2002⁵⁶.

Mrs Davies lived in Vivod (outside Llangollen) from 1972 to 1980. She moved into Llangollen in 1980 and has lived at her present address for four years. She has used the land, which she knows as Willow Hill Fields or the Youth Club Fields about three times a week in summer for informal recreation such as walks and picnics. Since acquiring a dog three years ago she uses the land every day. Her son and the children of her neighbours use the land for games such as football and rounders. She thought that the land was a public park and that 99% of the users were from Llangollen Town. She was aware of the Youth Club and that the land was being maintained and used as a football pitch.

She did not recall the signs going up. She thought that they had always been there. When she read them, she thought that they were of no relevance and did not regard herself as a trespasser.

Subject to two points, I accept the evidence of Mrs Davies. First, I was not convinced that she used the land as much before 1980 as after 1980 when she moved

⁵³ See the photo at Blue Bundle p 140

⁵⁴ Red Bundle p 298

⁵⁵ Blue Bundle p 140

⁵⁶ Red Bundle p 285

to Llangollen. Second, I cannot understand how she can have thought that the signs were of no relevance since they were clearly addressed to users of the field.

5.12. Mrs Bernadette Maxwell

The next witness to give oral evidence in support of the application was Mrs Bernadette Maxwell of 23, Ger -y-Ddol, Abbey Road, Llangollen. Mrs Maxwell submitted a completed evidence questionnaire dated 16th April 2000⁵⁷ and a written statement dated 27th April 2002⁵⁸.

Mrs Maxwell lived at 23, Hall Street, Llangollen from 1977 to 1997 or 1998. While she lived at 23, Hall Street, she used the application land, which she knew as “The Playing Fields”, daily for exercising her dogs. She saw other local people on the land using it for recreation, such as walking, children’s play and informal ball games. Sometimes, football pitches were marked out.

In answer to Question 39 of the evidence questionnaire, which read “Has any attempt ever been made by notice or fencing or by any other means to prevent or discourage the use being made of the land by the local inhabitants?” Mrs Maxwell relied “Not to my knowledge”. However, she accepted in cross examination that she had “probably” seen the Statute Sign by the steps from Willow Street⁵⁹ although she had never read it. She accepted that she had read the Golf Sign⁶⁰ although she “thought it was a joke”. She cannot remember seeing the Statute Sign by Vicarage Road⁶¹. She “thought that the Playing Fields were a public place similar to a park”.

I accept Mrs Maxwell’s evidence concerning the recreational use of the application land by herself and others. However, I did not find her evidence about the signs to be very convincing. In particular, I cannot accept that she thought that Clwyd County Council had put up any signs on the application land as a joke. I find that Mrs Maxwell saw all the signs although she did not read the statutory notice signs in detail, that she must have realised that Clwyd County Council were challenging unauthorised use of the land, but that she carried on using the land for recreation despite the notices.

5.13. Mrs Elizabeth Ruth Stevens

The next witness to give oral evidence in support of the application was Mrs Elizabeth Ruth Stevens of Hafan, Fron Bache, Llangollen. Mrs Edwards submitted a written statement dated 6th December 2001⁶².

Mrs Stevens moved to Llangollen in 1986 with young children aged 3 and 1 ½. From the age of about 7, her children frequently played with friends in the Willow Hill Playing Fields. The children were members of the Arosfa Football Club and frequently played matches on the application land. Her husband was Treasurer of the Arosfa Football Club for several years. The Council cut the grass but did little else: it was a committee member who put down white lines on the pitch. She did not personally make much use of the land for recreation although she has occasionally played ball games with them on the land.

⁵⁷ Red Bundle p 97

⁵⁸ Red Bundle p 303

⁵⁹ Blue Bundle p 136

⁶⁰ Blue Bundle p 137

⁶¹ Blue Bundle p 140

⁶² Red Bundle p 324

Mrs Stevens knew that the signs were on the land although she was not sure when they were erected. At least one of the signs was vandalised and then re-erected. Mrs Stevens read the signs. She is a qualified lawyer and works part time as a solicitor, and she read and understood all the signs. Mrs Stevens's evidence about the signs was, to my mind, rather hard to rationalise. "Here was a public open space which everyone was using...I assumed that it was owned by the local authority for the benefit of local people...I thought that it was land made available by the council to the local community for certain purposes... the land was a public open space that local people were entitled to use...I did read the notice at Blue Bundle p 137...it does refer to a criminal offence...I did not think that they were entitled to put the notice up. Obviously they were. I thought that the sign was meaningless because it was a public open space...In the early 1990s I did not know about village greens. I was not aware that new village greens could be created. It did not cross my mind that it was a village green. I thought that it was made available by the local authority to local people...". I consider that Mrs Stevens must have realised that the council, as landowner, was challenging unauthorised use of the application land but was not deterred from using the land herself and allowing her children to use the land because it was much used by local people for recreation without any steps being taken by the landowner to turn people off.

Subject to this point, I accept Mrs Stevens's evidence.

5.14. Mr Mathew Henson

The next witness to give oral evidence in support of the application was Mr Mathew Henson of Tan y Bryn, Queen Street, Llangollen. Mr Henson submitted a written statement dated 28th April 2002⁶³.

Mr Henson has lived in Llangollen since 1981, when he was 11 years old. He went to school in Llangollen. He joined the Youth Club and was a member for six or seven years. The Youth Club played football or rounders on the field. There was a weekly disco at the Youth Club and he and his friends had a kick about on the field until the doors were opened. Over the last 15 years, Mr Henson and a group of friends have played football on the application land every Sunday afternoon. Sometimes they have friendly matches against other scratch teams, such as the staff from the local Indian restaurant. They do not ask anybody's permission to play. Indeed, he did not know who owned the land until the day he gave evidence at the public inquiry.

He saw the Golf Sign, but he did not play golf and did not consider that he was trespassing. He saw the Statute Signs and probably read them in the past. "We did not think that we were committing a criminal offence. Nobody told us to leave. We always thought that it was our right to use the land. The sign does not prove that Clwyd County Council own the land. We believed that we had the right to use the land as common ground".

In view of the wording of the signs, I do not consider that Mr Henson can consciously have believed that he had the right to use the land. I think that it is more likely that the signs were erected either before he came to Llangollen or when he was a child, and that since he and other local people had always used the land for recreation, he ignored them. Subject to this point, I accept the evidence of Mr Henson.

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5.15. Mr Fred Victor Wilson

The next witness to give oral evidence in support of the application was Mr Fred Victor Wilson of Ty Mawr, 8, Willow Street, Llangollen. Mr Wilson submitted a written statement dated 29th April 2002⁶⁴.

Mr Wilson has lived in Llangollen at his present address since 1983. He has used the application land for such recreational activities as sketching wild flowers, walking and bird watching. When his grandchildren come to visit, they play on the land. He sees other local people enjoying recreation on the land, such as walking, kite flying and sledging in the snow. Mr Wilson did not mention the signs in his evidence and was not asked about them.

I accept Mr Wilson's evidence.

5.16. Ms Emily Meilleur

The next witness to give oral evidence in support of the application was Ms Emily Meilleur of 1, Glan Aber, Hill Street, Llangollen. Ms Meilleur submitted a completed evidence questionnaire dated 14th April 2000⁶⁵ and a written statement dated 29th April 2002⁶⁶.

Ms Meilleur has lived in Llangollen at her present address since 1979, when she was nine years old, except for relatively short periods when she was away at university or working away from the area. As a child she frequently played on the application land with her brother and sister and friends. She recalls playing football and badminton, flying kites and sledging in the snow. In about 1993, she helped organise a birthday picnic on the land for the child of a friend. In recent years she has often walked around the field watching birds and looking at the hedges and trees (she is a professional botanist). She has seen the regular Sunday afternoon football matches described by Mr Henson. Whenever she passes the field someone is walking on it or children are playing on it. She is aware that the grass is cut but has never seen anyone cutting it.

In answer to question 39 in the evidence questionnaire, Ms Meilleur wrote "No". In cross examination she said (somewhat confusingly): "I am aware of the notices but I have never seen them or read them. I have never seen the notices. I did not realise that they were blue... As a child there were no notices. Since then, I have not noticed the notices." I cannot accept that Ms Meilleur, as a regular user of the application land, did not see the notices. I accept that she may not have studied the complicated Statute Signs⁶⁷ but she cannot have failed to read the Golf Sign⁶⁸.

Subject to this point, I accept Ms Meilleur's evidence.

5.17. Mr Adrian Harvey Pritchard

The next witness to give oral evidence in support of the application was Mr Adrian Harvey Pritchard of Beechlands, Fron Bache, Llangollen. Mr Pritchard

⁶⁴ Red Bundle p 325

⁶⁵ Red Bundle p 188

⁶⁶ Red Bundle p 314

⁶⁷ Blue Bundle p 136

⁶⁸ Blue Bundle p 137

submitted a written statement dated 14th May 2002⁶⁹. A completed evidence questionnaire dated 17th April 2000⁷⁰ was submitted in the name of Mr Pritchard and his wife but it was completed and sent off by Mrs Pritchard before Mr Pritchard saw it.

Mr Pritchard has lived in Llangollen since 1968. He remembers the application land when it was allotments before 1970. He recalls the land being converted from allotments into the Youth Club and open playing fields. He and his family used the playing fields for recreation although they were not members of the Youth Club. His children played ball games and rode their bicycles on the land. He thought that it was a playing field provided by the local authority for local people.

He remembers the erection of the Golf Sign. His recollection was that it was erected in the mid 1980s in response to a complaint by a local inhabitant that people were playing golf on the land. He had read the Statute Signs. At first he thought that they had only been erected two or three years ago, but he accepted in cross examination that they must date back at least to before the 1996 local government reorganisation since they are in the name of Clwyd County Council.

I think that Mr Pritchard's recollection of the dates when the signs were erected was hazy and not very reliable, but, subject to that point, I accept his evidence.

5.18. Ms Helen Emma McCreary

The last witness to give oral evidence in support of the application was one of the applicants, Ms Helen Emma McCreary of Isallt, Berwyn Street, Llangollen. Ms McCreary submitted a completed evidence questionnaire⁷¹ and a written statement⁷².

Ms McCreary is 27 years of age and has lived in Llangollen all her life. She has used the application land for recreation since she was a child. She remembers attending activities on the land with the Llangollen Brownies and Guides. She has seen the land extensively used throughout the year, for recreational activities such as walking, picnicking, children's games and tobogganing in winter. The people who use the land for recreation are nearly all from Llangollen.

In answer to question 39 in the evidence questionnaire, Ms McCreary wrote "No". In para 1(c) of her written statement she wrote that local people had used the application land for recreation "without hindrance by...notice." When cross examined about the Clwyd County Council signs she said: "I am not sure what the notices do. I do not think that the notices were meant to keep people off the field. They were never acted upon so they mean nothing. They were there for another reason: something to do with Clwyd County Council bureaucracy. Most people had not noticed the notices. I noticed the notices only when I made the town or village green application. They had been insignificant. I then read them. People who read them ignored them. They had no weight to them." I cannot accept that most people did not notice the signs, although I accept that they ignored what they said. I think that Ms McCreary, as a regular user of the land, must have been aware of the existence of the signs although I accept that she also ignored them.

Mrs McCreary also gave evidence about the local campaign which led to the formation of SOGF and the present application.

⁶⁹ Red Bundle p 340

⁷⁰ Red Bundle p 85

⁷¹ Red Bundle p 212

⁷² Red Bundle p 305

Subject to my qualification concerning her evidence about the signs, I accept the evidence of Ms McGreary.

5.19. Written Evidence

In addition to the witnesses who gave oral evidence, the applicants submitted a large body of written evidence in the form of completed evidence questionnaires and written statements from witnesses who did not give oral evidence at the public inquiry. I approach this evidence with caution as I did not have the advantage of seeing and hearing the witnesses and the evidence was not tested by cross examination. Even given this qualification, it appears to me that the written evidence, taken as a whole, gives powerful support to the applicants' case that the application land has been extensively used for informal recreation by residents of Llangollen since the early 1970s. However, most of the witnesses did not clearly distinguish between recreational activities carried out under the aegis of the Youth Club and other recreational activities. Few of the witnesses mentioned the signs and most witnesses who completed evidence questionnaires answered "No" to question 39. Mrs Tunsian Uddin⁷³ and Mr Mark Weir⁷⁴ said that they saw the notices but did not read them. Mr William Rees JP⁷⁵ mentions the Golf Sign but as if it only referred to the playing of golf and not also to trespassing. As with the witnesses who gave oral evidence, the witness who gave written evidence showed a reluctance to acknowledge the existence of the signs.

6. Witnesses to Inquiry

Two witnesses asked to give evidence as witnesses to the inquiry, as they did not wish to take sides as between the applicants and objectors.

6.1. Mrs Sharon Jones

The first witness to the inquiry was Mrs Sharon Jones of Springfield, Fron Bache, Llangollen. The background to her evidence was that she was initially interviewed by the objectors' solicitor, who prepared a draft statement⁷⁶ for her to sign. On reading the draft statement and discussing it with her husband and members of SOGF, she felt unhappy with the draft. In particular she felt that legal jargon was being put into her mouth. Accordingly, she prepared and submitted a fresh written statement dated 15th May 2002⁷⁷. She was closely cross examined as to the differences between the draft statement and the statement as submitted. I found Mrs Jones to be a most impressive witness who gave evidence that was, in my view, carefully considered and reliable.

Mrs Jones is 39 and has lived in Llangollen all her life. She is employed as a bank manageress with National Westminster Bank plc. Since 1980, Mrs Jones has acted as unpaid secretary of the Youth Club Voluntary Management Committee. This Committee consists of local people and representatives of the county council and the town council. Before local government reorganisation, the committee also had

⁷³ Red Bundle p 345

⁷⁴ Red Bundle p 348

⁷⁵ Red Bundle p 342

⁷⁶ Green Bundle p 60

⁷⁷ Green Bundle p 55

representatives of the District Council. The Youth Club has two part time paid youth officers and a caretaker but much of the day to day administration of the Youth Club is handled by Mrs Jones. She and the Committee perceive their main task to be concerned with the management of the Youth Club building rather than the land alongside it. Grass cutting is carried out by contractors of the county council about every three weeks in summer although there have been longer gaps. Apart from use by Youth Club members on Club evenings the only people who have permission to use the field are the members of the Arosfa Football Club who have standing permission to use the field although there is no formal agreement or fee. On a few occasions there has been a formal booking of the Youth Club and field (e.g. the Llangollen Fringe Festival). The field was never rented out separately from the Youth Club building. Local people use the field for recreation and nobody has ever been prevented from doing so. She passes the field four or five times a week and in the summer there will always be somebody on the field although in the winter she may only see people once a week. She has seen local people enjoying such activities as walking, sunbathing, children's play, kite flying and informal ball games.

Mrs Jones gave evidence about the signs. Between 12 and 15 years ago, a local resident complained about use of the land for practicing golf, it seems because of the risk of injury to people. The county council put up a sign which subsequently fell into disrepair and was replaced by the existing Golf Sign. Mrs Jones thought that the old sign was different from the existing sign. In para 12 of her draft statement she said that the Statute Signs were erected in the late 1980s.

Mrs Jones also gave evidence that, until recently, a portacabin stood on part of the application land at the rear of the Youth Club and was used for a playgroup and as changing rooms.

I accept the evidence of Mrs Jones.

6.2. Mr Ian Weaver

The second witness to the inquiry was Mr Ian Weaver who is employed by Denbighshire County Council as a Principal Planning Officer. Mr Weaver submitted a written statement dated 1st May 2002⁷⁸. Mr Weaver helpfully set out in his statement the planning history of the application land. This is useful background although not directly relevant to the question whether the land has become a town or village green. The accuracy of Mr Weaver's evidence was not challenged.

7. Evidence for Objectors

7.1. Mr David Andrews

The first witness to give oral evidence in support of the objections was Mr David Andrews. Mr Andrews submitted an undated written statement⁷⁹.

Mr Andrews had been employed by Clwyd County Council as Deputy Playing Field Officer from 1976 to 1988 and as Senior Client Officer (Landscape) from 1988 to 1996. In these positions he had knowledge of the maintenance programme of the application land undertaken by the county council. Except for a few years in the early 1990s when the work was contracted out, maintenance had been undertaken by the

⁷⁸ Green Bundle p 2

⁷⁹ Blue Bundle p 25

county council's direct labour force. Ground maintenance of the application land had consisted of regular grass mowing, hedge trimming and marking football pitches. He produced a tender document dating from the period when the work was contracted out, which required the grass to be cut 23 times a year and provided a detailed specification of ground maintenance work. There was a programme of regular supervision in the 1990s and a more random supervision system before that. Mr Andrews had himself visited the land about 10 times over the 20 years that he worked for the county council.

I accept Mr Andrews's evidence which was primarily based on the paperwork found in county council files rather than personal knowledge. There was considerable dispute at the public inquiry about the standard and regularity of maintenance work carried out by the county council and I suspect that the maintenance work on site sometimes fell short of the standard intended by the county council. However, I have no doubt that the application land was maintained by the Clwyd County Council (either by direct labour or contractors) until local government reorganisation in 1996, and that the maintenance included regular grass cutting, hedge trimming and the marking of football pitches.

7.2. Mr Mike Hall

The next witness to give oral evidence in support of the objections was Mr Mike Hall. Mr Hall submitted an undated written statement⁸⁰.

Mr Hall has been employed since 1999 by Denbighshire County Council as a Senior Grounds Maintenance and Cemeteries Officer. Mr Hall had researched the files of the Clwyd County Council and gave evidence similar to that of Mr Andrews in relation to maintenance of the application land by Clwyd County Council before 1996. He had also researched the files of Denbighshire County Council since 1996. Following local government reorganisation, maintenance was initially taken over by Denbighshire County Council Contract Services and was then contracted out from 1999. The contract includes grass cutting, weed killing, harrowing, aerating, hedge trimming and marking football pitches (although the marking appears to be only once a year). Monitoring is on a random basis. Mr Hall has personally visited the site only about 4 times since 1999. Again, there was dispute at the public inquiry about the standard of maintenance and Mr Hall accepted that one year the grass was not cut until it was like a hayfield. However, I accept Mr Hall's evidence (which was principally based on the paperwork that he produced from the files) and have no doubt that since 1996 Denbighshire County Council or its contractors have been regularly maintaining the land by mowing the grass and trimming the hedges.

7.3. Ms Julie Dale

The next witness to give oral evidence in support of the objections was Ms Julie Dale. Ms Dale submitted an undated written statement⁸¹.

Ms Dale has been employed by Denbighshire County Council since 1996 as a Building Maintenance Surveyor. She is responsible for maintenance of the Youth Club building and the fixed boundaries around the application site.

⁸⁰ Blue Bundle p 37

⁸¹ Blue Bundle p 28

Ms Dale has examined the Clwyd Building Maintenance files from 1988 to 1996. In 1988 instructions were given to erect a sign reading "The playing of golf on this field is prohibited. Trespassers will be prosecuted." It seems that either this was a predecessor of the sign at p 137 of the Blue Bundle or that the wording instructions were not exactly followed. In 1991, instructions were given to demolish a concrete garage at the south east corner of the application land. An internal memorandum of 1995 stated that because of gaps in the fencing the application land was being used as a dog exercising area which led to dog fouling problems in an area designated for the use of children. However, there is no evidence that any action was taken to mend the fences. There is some evidence in the files of a storage shed near the Youth Club but on the application land⁸² and I saw it on the site view. In April 2001 a dilapidated portacabin was removed from the application land at the rear of the Youth Club.

I accept the evidence of Ms Dale.

7.5. Mr John Morris Williams

The next witness called to give oral evidence in support of the objections was Mr John Morris Williams. Mr Williams submitted an undated written statement⁸³.

Mr Williams has been employed by Denbighshire County Council since 1996. His present post is Asset Manager in the Directorate of Lifelong Learning. From 1974 to 1996, he was employed in the Education Directorate of Clwyd County Council. Over his career, he has visited the Youth Club between six and ten times. The application land is regarded as a playing field used in conjunction with the Youth Club and the maintenance of the field has been charged to the educational budget of the respective county councils. Mr Williams produced evidence concerning Clwyd County Council policy in relation to the hiring of education premises which required the completion of certain formalities.

Mr Williams produced a minute of 1987⁸⁴ from which it appeared that the relevant committee resolved to erect notices under s 40 of the Local Government (Miscellaneous Provisions) Act 1982 and s 39 of the Clwyd County Council Act 1985 on the boundaries of educational premises to enable staff to turn off educational sites unauthorised people who were causing a nuisance and, in particular, dog walkers who allowing their dogs to foul playing fields. I consider that the signs on the application land referring to these statutes must have been erected pursuant to that resolution although the wording of the signs does not exactly follow the wording of the resolution.

I accept the evidence of Mr Williams. Of course, the fact that the council had certain policies does not mean that they were carried out in practice, and it seems clear from the evidence of Mrs Sharon Jones that hiring of the Youth Club was usually on an informal basis.

7.6. Mr David Henry Saunders

The final witness to give oral evidence in support of the objections was Mr David Henry Saunders. Mr Saunders submitted an undated written statement⁸⁵.

⁸² Blue Bundle pp 31 & 248

⁸³ Blue Bundle p 64

⁸⁴ Blue Bundle p 376A

⁸⁵ Blue Bundle p 57

Mr Saunders was employed by Clwyd County Council as assistant County Youth and Community Officer from 1994 to 1996. Since 1996, he has been employed by Denbighshire County Council as County Youth and Community Officer. Mr Saunders knows the application land well, visiting it 10-12 times a year, and more frequently in the earlier years of his employment. The site is not secure and there has never been a policy decision to keep it secure. He is aware that the public use the land and, while he regards such users as trespassers, the council does not in practice take issue with harmless public use of the land. The council would take action if the field were used by drug dealers or paedophiles. The main activities which have conflicted with authorised activities are dog walking (because of the fouling problem) and playing golf. The Youth Club and the playing field are part of the youth support facilities provided by the county council. Day to day management decisions concerning the Youth Club and the field are taken by the Youth Club Management Committee but ultimate control is vested in the county council and uses of the land that might conflict with policy have been referred to him, e.g. use for the Fringe Festival, and a bonfire and fireworks party.

I accept the evidence of Mr Saunders.

7.7. Written Evidence

The objectors also submitted a number of written statements from witnesses who did not attend the public inquiry to give oral evidence.

First there was submitted a witness statement of Mr Frank Edward Burgoyne dated 14th March 2002⁸⁶. Mr Burgoyne was a member of the Youth Club Management Committee from 1971 to 1981. His evidence was that the application land was maintained by the county council. It was used with the permission of the Committee by the Youth Club, the Arosfa Football Club and for certain other events such as the Llangollen Fringe Festival and school sports days. The application land was also used for informal recreation without the permission of the Committee and action would be taken by the Committee if those activities became a nuisance, e.g. playing golf. It appears to me that Mr Burgoyne's evidence was consistent with that of other witnesses whose evidence I accept and supported by documentation. Accordingly, I accept Mr Burgoyne's evidence although it was not subject to cross examination.

Second, there was submitted a written statement of Mr Allan Jones dated 21st March 2002⁸⁷. Mr Jones is managing director of Castlemead Developments Ltd. He sets out the history of his company's involvement with the land. This is helpful background material but not germane to the issue whether the land is a town or village green.

Third, there was submitted a witness statement of Mr John Emlyn Parry dated 29th April 2002⁸⁸. It does not contain any material which is of relevance to the issue whether the application land is a town or village green.

⁸⁶ Blue Bundle p 73

⁸⁷ Blue Bundle p 110

⁸⁸ Blue Bundle p 113

8. Findings of Fact

On hearing and reading the whole of the evidence submitted to the public inquiry, including the evidence summarised above, I make the following findings of fact:

8.1. Since the early 1970s the application land has been laid out as grass playing fields substantially as it appears today save that until the early 1990s there was a concrete garage at the south east corner and until 2001 a portacabin behind the Youth Club building. There is a small storage shed on the application land near the Youth Club which has been there since before the date of the application in 2000.

8.2. At all material times since the early 1970s the land has been maintained by the county council (Clwyd until 1996 and Denbighshire thereafter) by grass cutting and hedge trimming, although the standard of maintenance has varied from time to time.

8.3. The application land has been used since the early 1970s with the authority of the county council for recreation by members of the Youth Club, the Arosfa Football Club and a number of one off events such as the Fringe Festival and school sports days.

8.4. The application land has not at any material time since the early 1970s been securely fenced and gated so that it has always been possible for anyone freely to enter the land either from Willow Street or Vicarage Road without climbing fences or opening gates.

8.5. The application land has been extensively used at all material times since the early 1970s for informal recreation such as walking with or without dogs, ball games and children's play without the permission of the landowner.

8.6. The people using the application land for unauthorised informal recreation have been predominantly inhabitants of the town of Llangollen.

8.7. It is not possible accurately to estimate the balance as between authorised and unauthorised recreational use of the application land, but I find that there has been at least as much unauthorised use as authorised use

8.8. The Clwyd County Council Golf and Statute Signs or signs to substantially the same effect were erected in the late 1980s. The Golf Sign fell down and was re-erected at some uncertain date in the interim. The present signs were erected in any event before local government reorganisation in 1996.

8.9. Anyone who regularly used the application land for recreation must have seen and read the Golf Sign and must have seen (although may not have read in detail) the Statute Signs.

9. Applying the Law to the Facts

I now turn to apply the law to the facts. I propose to consider in turn the various elements of the relevant definition:

Land: The application land is a well defined area of open land. During the whole or part of the relevant twenty year period parts of the land have been occupied by a concrete garage, storage shed and portacabin. However, if all the other requirements for registration were proved in relation to the rest of the land, the sites of the garage, storage shed and portacabin could be excluded from registration under the reasoning in *R on the application of Alfred McAlpine Homes Ltd v Staffordshire CC* 17th January 2002 (unreported)

On which the inhabitants of any locality: In my view, the people using the application land for unauthorised informal recreation have been predominantly inhabitants of the town of Llangollen, which is a division of the country known to the law, i.e. a community council. It is true that the boundaries of the community council have been altered twice during the period 1980 to 2000⁸⁹ but I do not think that these boundary alterations affect the identity of the “locality” which has at all material times been recognisably the town of Llangollen.

Have indulged in lawful sports and pastimes: Informal recreation normally constitutes “lawful sports and pastimes” but in the present case the position is complicated by the Statute Signs.

S 40 of the Local Government (Miscellaneous Provisions) Act 1982 only applies to a person who causes or permits nuisance or disturbance to the annoyance of persons who lawfully use those premises. In my view the vast majority of unauthorised recreational users of the application land neither caused or permitted any nuisance or disturbance to authorised users. The section no doubt applies to persons who allow their dogs to foul the land, but I am satisfied that they are a small minority of the unauthorised recreational users.

However, s 39 of the Clwyd County Council Act 1985 makes it a criminal offence if, without the consent of the appropriate authority, any person takes part in any game or sport on any land forming part of a playing field under the control of the local education authority. The crime is only committed if signs are posted warning of liability under the section. In my view the appropriate signs have been posted in the present case since the later 1980s. Although the county councils tolerated harmless informal recreational use of the application land, it does not appear to me that they “consented” to it. There is a difference between toleration and consent, which, to my mind, means permission. In these circumstances, it appears to me that unauthorised use of the application land for any game or sport has been a criminal offence since the late 1980s. Many of the activities relied upon by the applicants plainly constitute games or sports, e.g. informal ball games, kite flying, sledging, and many children’s games. In my view criminal activities cannot be relied upon to found a legal right: *Hanning v Top Deck Travel (1994) 68 P&CR 18*, *Robinson v Adair (1995) unreported* and *Hereford & Worcester County Council v Pick (1995) 71 P&CR 231*. However, some of the unauthorised recreational activities relied upon by the applicants cannot

⁸⁹

be regarded as games or sports, e.g. simple walking, picnicking, looking at flora and fauna. These would not be made unlawful by s 39. It is impossible to estimate what proportion of total recreational use of the application land is represented by such non criminal use.

Mr Sauvain mounted an interesting argument based on the predominance of authorised over unauthorised recreational use of the application land. It is a point on which there is no judicial authority and I do not need to express a view on the point in this case.

As of right: To my mind, the central issue in this case is whether unauthorised recreational use of the application land by local people has been “as of right”. No physical force has been used to enter the application land to enjoy unauthorised informal recreation because at all times there have been open gates or other openings in the boundaries through which local people could pass. Unauthorised recreational use has not been secret: on the contrary it has been well known to county council officers and to the Youth Club Management Committee. No express permission has been given by or on behalf of the county councils to informal recreational use by local people. Nor, in my view, despite Mr Sauvain’s powerful argument to the contrary, has there been any implied permission: the land has been maintained as playing fields for use by the Youth Club and other authorised users: it has not been maintained in order to provide facilities for informal recreation by local people. Since the late 1980s, the Golf Sign prohibited trespassing and clearly showed that the landowner was not impliedly authorising recreational use by local people.

Indeed, it seems to me that the Golf Sign goes further than to negative implied permission: it prevents any unauthorised user of the application land from being “as of right”. At first sight, the Golf Sign seems oddly worded. However, the effect of it is clear enough. It prohibits any unauthorised entry to the application land (“trespassing”) and it also prohibits the playing of golf even by people who have authority to enter the land. If any unauthorised person enters the land in disregard of the sign he is not entering and using the land “as of right” but in a manner which is contentious and under protest. See *Eaton v Swansea Waterworks Co (1851) 17 QB 267*, *Dalton v Angus (1881) 6 App Cas 740 at p 786* and *Newnham v Willison (1987) 56 P&CR 8*. In my view, it is right as a matter of policy that a landowner ought to be able to prevent the acquisition of the legal right to carry on activities on his land by erecting a sign prohibiting entry to his land or prohibiting those activities. The whole basis of prescription is to make lawful an activity which has been carried on for a long time in a manner which has the appearance of the exercise of a lawful right. To enter land in disregard of a notice prohibiting trespass does not, to my mind, constitute an activity which has the appearance of the exercise of a lawful right. As I see it, it is not legally different from entering land by climbing fences designed to keep people out. It would be productive of unnecessary expense and contention if a landowner could not protect his land from the creation of prescriptive rights except by physically preventing the user on which prescription is based.

In my view, unauthorised recreation on the application land has not been “as of right” since erection of the Golf Sign in the late 1980s.

For not less than 20 years : the parties were agreed, and the authorities say, that the relevant twenty years is the twenty years immediately before the making of the application, i.e., in the present case 1980-2000. There has been use of the application land for informal recreation by local people throughout that period, but it

has not been “as of right” since the erection of the Golf Sign in the late 1980s. The applicants have therefore failed to prove user of the requisite quality throughout the relevant twenty year period and the application fails on that ground.

10. Conclusion and Recommendation

I conclude that the application wholly fails because the Golf Sign prevents the applicants from proving user “as of right” for the whole of the relevant twenty year period. I recommend that the registration authority rejects the application. Under reg 8(1) of the Commons Registration (New Land) Regulations 1969, the authority must give written reasons for rejection in its notice of disposal of the application. I recommend that the reasons are stated to be “the reasons set out in the Inspector’s Report dated 27th August 2002”.

Vivian Chapman
27th August 2002
Lincoln’s Inn

In the Matter of an Application
to Register Land at Willow Hill Fields
as a Town or Village Green

REPORT

of Mr VIVIAN CHAPMAN

27th August 2002

Denbighshire County Council

Russell House

Churton Road

Rhyl

Denbighshire LL18 3DP

Ref SC/C15/5

VRC/02/207/wp/162/Llangollen Report 3

REPORT TO CABINET

CABINET MEMBER: COUNCILLOR E A OWENS, LEAD MEMBER FOR FINANCE

DATE 1 OCTOBER 2002

SUBJECT: REVENUE BUDGET 2002/03

1 DECISION SOUGHT

That in the light of the latest budget performance figures for the current financial year as detailed in the attached appendices, Members consider any actions necessary to reduce the balance of overspendings on services.

2 REASON FOR SEEKING DECISION

The need to deliver the Council's agreed Recovery Action Plan and budget strategy which calls for positive balances of at least £1.0m by the end of the current year .

3 COST IMPLICATIONS

The latest projections undertaken for 2002/03 show a potential overspend at year end of £188k (£460k at the end of May). Cabinet at its meeting of 10 September agreed that Directorates will be expected to achieve their budget expenditure figures.

4 FINANCIAL CONTROLLER STATEMENT

The Council's financial strategy for the year requires balances to be built up to £1.0m by 31 March 2003. Any adverse deviation from agreed budgets will endanger achievement of this objective. A package of measures aimed at bringing spending into line with budgets was agreed at the 10 September Cabinet when it was also agreed that the position would be reviewed in November. The latest projection indicates that spending remains in excess of budgets and further action may be required within the Directorate concerned to resolve this problem.

5 CONSULTATION CARRIED OUT

Lead Cabinet Members consult on an ongoing basis with Heads of Service to agree necessary remedial action to prevent overspends in 2002/03.

6 IMPLICATIONS ON OTHER POLICY AREAS INCLUDING CORPORATE

The level of funding available to services together with budgetary performance impacts upon all services of the Council.

7 RECOMMENDATION

That Members note the figures in the appendices and consider necessary remedial actions to ensure that balances of £1.0m are achieved by the end of the current financial year.

MONTHLY BUDGET MONITORING REPORT - FINANCIAL YEAR 2002/03

Summary of Pressures
PERIOD ENDING AUG 2002

Directorate	- Year to Date -			- 2002/03 Totals -				Projected Variance (Previous Report)
	Budget Profile	Actual to end Aug 2002 Plus Commitments	Variance (Increase/ - Saving)	Budget As per Budget Book	Budget As at end Aug 2002	Projected Outturn	Variance (Increase/ - Saving)	
	£000s	£000s	£000s	£000s	£000s	£000s	£000s	
Lifelong Learning (excluding schools delegated)	5,009	4,270	-739	15,065	15,256	15,444	188	350
Environment	6,184	5,734	-450	16,768	16,991	16,991	0	110
Personal Services	9,793	9,536	-257	23,297	23,532	23,532	0	0
Chief Executive	948	784	-164	2,244	2,298	2,298	0	0
Resources	2,366	2,321	-45	4,543	4,580	4,580	0	0
Corporate, Miscellaneous & Benefits	5,223	4,903	-320	3,097	3,170	3,170	0	0
	29,523	27,548	-1,975	65,014	65,827	66,015	188	460
Non - Service Items:								
				1,720	216	216	0	
				11,144	11,137	11,137	0	
				4,130	4,130	4,130	0	
				1,000	1,000	1,000	0	
				83,008	82,310	82,498		
				Total Variance			188	

**MONTHLY BUDGET MONITORING REPORT - FINANCIAL YEAR 2002/03
LIFELONG LEARNING
PERIOD ENDING AUG 2002**

	Year to Date -			- 2002/03 Totals -				Projected Variance (Previous Report)
	Budget Profile	Actual to end Aug 2002 Plus Commitments	Variance (Increase/ - Saving)	Budget As per Budget Book	Budget As at end Aug 2002	Projected Outturn	Variance (Increase/ - Saving)	
	£000s	£000s	£000s	£000s	£000s	£000s	£000s	
Individual Schools Budget	16,919	15,235	-1684	35,527	36,224	36,064	-160	-160
School Funds Held Centrally	2,729	2,075	-654	9,004	9,202	9,299	97	253
Non school Funding	35	25	-10	172	172	170	-2	0
Leisure Services	1,069	1,008	-61	2,701	2,719	2,812	93	91
Culture	721	771	50	2,245	2,238	2,238	0	6
Countryside	249	226	-23	405	402	402	0	0
Youth	206	165	-41	538	523	523	0	0
	5,009	4,270	-739	15,065	15,256	15,444	188	350
Total Lifelong Learning	21,928	19,505	-2,423	50,592	51,480	51,508	28	190

Notes:

Reserves not yet matched
 The zero basing exercise for 2002/03 is underway.
 The re-profiling exercise for 2002/03 is also to be undertaken.

Comments**Education****Individual Schools Budgets**

This is based on the latest outturn projections for each of the schools. £ 000s

-160

Pressures

£ 000s

School Funds Held Centrally

SEN specialist provision to compensate for capacity issues at Tir Morfa 65

SEN disability adaptation (a retrospective bid has been made from Capital) 21

SEN significant pressure (currently at the same level as this point last year and replicated in other Authorities) to be confirmed at next Cabinet meeting

Joint Use Leisure Centres 18

Transport (Cost of additional days and contract variations) 110

Savings

Management and administration - various -15

Delay in appointment of SEN Lead Officer and other staff -60

Reduction in Free Meal numbers -30

Equipment Leasing -10

Boarding Grants -2

Student Awards Support -2

95

Culture and Leisure**Leisure Services variance due to:**

£ 000s

Costs associated with hosting the Blue Peter Event 5

Loss of income from the Apollo profitshare agreement 23

Increased operating costs, specifically de-casualisation of staff, at some Leisure Centres, due to changes in Employment Law 45

Funding of Supernumary post 18

Potential loss of rental income due to sale of Prestatyn Golf Club 2

93

Bids to Scrutiny for the remainder of the 2002/03 Contingency will include:

£ 000s

Marketing costs 17

Increased operating costs due to the completion of the de-casualisation exercise at the remaining Leisure Centres 28

Funding of a Community Arts post 9

Increased operating costs at the Pavilion Theatre 14

Clwyd Leisure Limited additional grant regarding Insurances 15

83

MONTHLY BUDGET MONITORING REPORT - FINANCIAL YEAR 2002/03
ENVIRONMENT
PERIOD ENDING AUG 2002

	- Year to Date -			- 2002/03 Totals -				Projected Variance (Previous Report)
	Budget Profile	Actual to end Aug 2002 Plus Commitments	Variance (Increase/ - Saving)	Budget As per Budget Book	Budget As at end Aug 2002	Projected Outturn	Variance (Increase/ - Saving)	
	£000s	£000s	£000s	£000s	£000s	£000s	£000s	
Consultancy Services	685	647	-38	995	995	1,041	46	50
Economic Regeneration	451	453	2	798	843	837	-6	0
Highways and Transportation	1,628	1,629	1	5,929	5,987	5,969	-18	20
Planning Services	296	252	-44	889	889	868	-21	0
Public Protection & Regulatory Services	2,878	2,534	-344	7,540	7,635	7,655	20	40
Support Services	246	219	-27	617	642	621	-21	0
Total Environment	6,184	5,734	-450	16,768	16,991	16,991	0	110

**MONTHLY BUDGET MONITORING REPORT - FINANCIAL YEAR 2002/03
PERSONAL SERVICES
PERIOD ENDING AUG 2002**

	- Year to Date -			- 2002/03 Totals -				Projected Variance (Previous Report)
	Budget Profile	Actual to end Aug 2002 Plus Commitments	Variance (Increase/ - Saving)	Budget As per Budget Book	Budget As at end Aug 2002	Projected Outturn	Variance (Increase/ - Saving)	
	£000s	£000s	£000s	£000s	£000s	£000s	£000s	
Children and Families	1,664	1,918	254	3,805	4,223	4,410	187	155
Intake A & C M (North)	3,323	3,161	-162	8,011	8,696	8,926	230	19
Intake A & C M (South)	1,293	1,262	-31	3,046	3,030	3,078	48	12
Provider	2,285	2,390	105	5,442	5,398	5,648	250	0
Business Support & Development	1,194	771	-423	2,910	2,102	1,387	-715	-186
Non HRA Housing	34	34	0	83	83	83	0	0
Total Personal Services	9,793	9,536	-257	23,297	23,532	23,532	0	0

Children and Families

As previously reported Fostering will be the major drain on the 2002/2003 budget.

The Out of County position appears healthy and is expected to underspend by over £380k.

The NCH Residential establishment (Bryn Y Wal) is expected to overspend by £77k. This is due to both a high inflationary increase by NCH and insufficient budget within Children's Services.

Intake A & C M (North & South)

Preserved Rights and Residential Care Allowance budget and spend included in A & C M (North). Currently underspent as fees have not yet been increased.

Increase in spend in both Community Care Older People and Physically Disabled.

Adult Services - Provider

Elderly Residential Services - estimated overspend year end - £317K

Mental Illness - Llys Marchan Residential Home overspend estimated to be £69K

Adult Services General

Learning Disabilities and Mental Illness Services - Transitional Housing Benefit (THB) Income has been removed from Adult Services.

MONTHLY BUDGET MONITORING REPORT - FINANCIAL YEAR 2002/03
CHIEF EXECUTIVE, RESOURCES, CORPORATE & MISCELLANEOUS
PERIOD ENDING AUG 2002

	- Year to Date -			- 2002/03 Totals -				Projected Variance (Previous Report)
	Budget Profile	Actual to end Aug 2002 Plus Commitments	Variance (Increase/ - Saving)	Budget As per Budget Book	Budget As at end Aug 2002	Projected Outturn	Variance (Increase/ - Saving)	
	£000s	£000s	£000s	£000s	£000s	£000s	£000s	
Chief Executive's Dept	948	784	-164	2,244	2,298	2,298	0	0
Resources Directorate:								
Corporate Property Unit	127	139	12	247	247	247	0	0
Finance	1,230	1,303	73	1,908	1,943	1,943	0	0
Audit	121	128	7	308	298	298	0	0
I.T	655	500	-155	1,492	1,492	1,492	0	0
Personnel	233	251	18	588	600	600	0	0
Total	2,366	2,321	-45	4,543	4,580	4,580	0	0
Corporate & Miscellaneous Benefits								
	765	15	-750	2,622	2,695	2,695	0	0
	4,458	4,888	430	475	475	475	0	0
Total	5,223	4,903	-320	3,097	3,170	3,170	0	0
Total Chief Executive's, Resources, Corporate & Misc. and Benefi	8,537	8,008	-529	9,884	10,048	10,048	0	0
Contract Services Memorandum	Actual Income	Actual Expenditure	Actual Surplus / - Deficit	Projected Income	Projected Expenditure	Projected Surplus / - Deficit		
	£000s	£000s	£000s	£000s	£000s	£000s		
	4,480	4,546	-66	12,000	11,900	100		

The deficit on the Contract Services revenue accounts is totally attributable to the School Catering operation and the fact that, whilst there was employee and other costs during the summer school holidays, this situation is the same as in the past years end of August trading position with the deficit being eliminated during the remaining months of the financial year.

REPORT TO CABINET

CABINET MEMBER: Lead Member for Communications - Cllr. David Morris

DATE: 1 October 2002

SUBJECT: Human Resources System

1 DECISION SOUGHT

To support the purchase of a modern Integrated Computerised Personnel System

2 REASON FOR SEEKING DECISION

- 2.1 The Personnel function is currently undergoing a Best Value review of all services, ie Central and Devolved Personnel, Training and Development, Occupational Health and Health and Safety. As part of this review, the poor quality of information available from Personnel has been highlighted, especially in relation to Statutory PI's and the difficulty in producing local PI's for benchmarking against other Welsh Authorities.
- 2.2 Employee information is currently accessed through the Payroll System. This gives Personnel Officers access to basic employee information such as name and address, start date, date of birth, job grade etc. Information flows in paper format from Personnel to Payroll for input. Analysis of information held is difficult, with reports being produced in lists using numerical data fields, therefore a high degree of manual analysis is required to give management information. The time required to do this frequently prohibits the collation of data.
- 2.3 A modern, full integrated computerised personnel system, will provide relevant and timely information, for the development of personnel policies. It will enable both central and devolved personnel functions to respond quickly and effectively to budgetary constraints and provide accurate and relevant statistical information.
- 2.4 A modern H R system will give the Personnel Department greater functionality and will encompass modules on Post Administration (including Job Evaluation), Training Administration, Absence Management, Recruitment and Selection, Diary facilities for forward planning, merge facilities for correspondence, powerful reporting systems as well as Personnel Records Administration all from one single entry to populate all relevant fields of data in a user friendly manner, ie typing in of alpha information instead of numerical codes.

3 COST IMPLICATIONS

- 3.1 We have received 9 tenders and are currently in the process of matching these against the Specification requirements. The initial assessment of these tenders indicates that there are 5 possible systems to meet our needs with costs for Software and Implementation of between £95K and £222K.
- 3.2 There will also be a requirement for a Project Manager to ensure successful implementation of the system at a cost of £21K (9 months salary and on costs)

4 FINANCIAL CONTROLLER STATEMENT

- 4.1 The service will be required to submit a bid for this project during the forthcoming budget round. The ability to proceed with the project will be dependent upon the level of capital resources available to the Council and the demand for resources arising from competing demands for capital investment from each Directorate.

5 CONSULTATION CARRIED OUT

- 5.1 The Service Review Team which consists of Members, Personnel Officers and Department Heads recognise the need for such a system.
- 5.2 The Personnel/Payroll Group are involved and kept fully informed on a regular basis. The Personnel Officers would welcome a system dedicated to Personnel, but there are concerns from Payroll over who enters what information.

6 IMPLICATIONS ON OTHER POLICY AREAS INCLUDING CORPORATE

- 6.1 The introduction of a HR system can only enhance our ability to identify the need for changes to policy.

7 RECOMMENDATION














- (a) That Cabinet endorse the work being undertaken as per Project Plan (Appendix 1).
- (b) That prioritisation be given to a HR System in the coming budget round.

ID	i	Task Name	Duration	Start	Finish	09 Sep '02						16 Sep '02					
						M	T	W	T	F	S	S	M	T	W	T	F
1		Produce draft Project Plan	7 d?	Mon 09/09/02	Tue 17/09/02	[Blue bar]						[Blue bar]					
2		Shortlist 3 or 4 Tenders	7 d?	Mon 09/09/02	Tue 17/09/02	[Blue bar]						[Blue bar]					
3		Produce Cabinet Report	7 d?	Mon 09/09/02	Tue 17/09/02	[Blue bar]						[Blue bar]					
4		Review work done to date	23 d?	Tue 01/10/02	Thu 31/10/02												
5		Select Project Team	23 d?	Tue 01/10/02	Thu 31/10/02												
6		Presentation of systems to DC	21 d?	Fri 01/11/02	Fri 29/11/02												
7		Evaluate presentations and s	22 d?	Mon 02/12/02	Tue 31/12/02												
8		Agree Capital Proposal	22 d?	Thu 02/01/03	Fri 31/01/03												
9		Negotiate , draw up, & sign c	42 d?	Thu 02/01/03	Fri 28/02/03												
10		Produce Implementation Plan	20 d?	Mon 03/03/03	Fri 28/03/03												
11		Implementation Programme	131 d?	Tue 01/04/03	Tue 30/09/03												

23 Sep '02							30 Sep '02							07 Oct '02							14 Oct '02				
M	T	W	T	F	S	S	M	T	W	T	F	S	S	M	T	W	T	F	S	S	M	T	W	T	F



Project: PER - New Personnel System
Date: Tue 24/09/02

Task		Rolled Up Task		Project Summary	
Split		Rolled Up Split		External Milestone	
Progress		Rolled Up Milestone		Deadline	
Milestone		Rolled Up Progress			
Summary		External Tasks			

REPORT TO CABINET

CABINET MEMBER: Councillor P A Dobb, Lead Member for Health and Wellbeing

DATE: 1 October 2002

SUBJECT: Integrated Mental Illness Services for Adults

1 DECISION SOUGHT

- 1.1 Previous reports to Cabinet on the 30 August 2001 and 30 July 2002 have set out the importance of developing strategic partnerships with the NHS.
- 1.2 This report requests Cabinet to agree to the establishment of a Project Board to produce detailed proposals for the full integration of Mental Illness Services for Adults between the County Council and the Conwy & Denbighshire NHS Trust.

2 REASON FOR SEEKING DECISION

2.1 There are excellent front line working arrangements with colleagues in the Conwy & Denbighshire NHS Trust. However, what is not in place is alignment at strategic, financial and managerial levels. Creating such alignments is consistent with:

- the National Service Framework for Mental Health Services in Wales,
- the North Wales Strategy for Adult Mental Health Services, and
- recommendations from the Social Services Inspectorate for Wales.

The rationale behind full integration of services is based upon:

- service user and carer wishes to see seamless services and better co-ordinated support,
- reducing duplication of service delivery, planning and commissioning,
- applying greater consistency of management approaches and practice,
- making better use of available resources between the Council and the Trust.

2.2 Initial work has been undertaken by a multi-agency Project Team, and this team is now ready to take forward detailed work relating to the legal, financial, personnel and service implications of integrating services. This work will be taken forward through the establishment of a Project Board.

2.3 It is worth noting that whilst such arrangements are not uncommon in England, this is the first set of proposals for **full** integration of Mental Illness Services in Wales. This makes the work particularly demanding and reinforces the need for the Cabinet to agree that this work should proceed. The intention is that any **final** set of proposals would require the formal approval of both the Executive Board of the Conwy & Denbighshire NHS Trust and the Cabinet, and that financial and legal issues in particular will require careful analysis.

3 COST IMPLICATIONS

The Project Board will not result in any additional cost to the Social Services Directorate and will be led by the Joint Flexibilities Implementation Manager, based in Social Services and funded by the National Assembly for Wales.

4 FINANCIAL CONTROLLER STATEMENT

Additional costs are expected to be met through Assembly funding. It will be essential to ensure that costs do not arise which cannot be financed from external funding as these would then have to be accommodated from within existing Directorate budget provisions.

5 CONSULTATION CARRIED OUT

- 5.1 The proposals have been produced with full consultation and participation of Social Services staff, Conwy & Denbighshire NHS Trust staff, service users and carers and the Voluntary Sector.
- 5.2 Regular reports have gone to the Policy Review and Scrutiny Committee, most recently in July 2002.
- 5.3 The proposal to establish the Project Board was presented to the Executive Board of the NHS Trust on 23 September 2002 and Policy Review and Scrutiny Committee on the 25 September 2002, and the results of their discussions will be available at this meeting.

6 IMPLICATIONS ON OTHER POLICY AREAS INCLUDING CORPORATE

The proposals will enable the Authority to fulfil its responsibilities to promote health, social care and well being.

7 RECOMMENDATIONS

That Cabinet:

- agree to the establishment of a Project Board to produce detailed proposals to integrate Mental Illness Services for Adults,
- require regular progress reports to the Policy Review and Scrutiny Committee, and
- require any final set of proposals to be placed before Cabinet.

REPORT TO CABINET

CABINET MEMBER: Councillor P A Dobb, Lead Member for Health and Wellbeing & Councillor J A Smith, Lead Member for Social Inclusion

DATE: 1 October 2002

SUBJECT: Social Services Workforce Strategy

1 DECISION SOUGHT

Cabinet to endorse the Workforce Strategy and agree to the Workforce Strategy group carrying forward work on the action plan as outlined in the appendices attached to the report.

2 REASON FOR SEEKING DECISION

- 2.1 Recruitment and Retention is a key issue for Social Services.
- 2.2 This reflects a national problem with a shortage in numbers of people qualifying as Social Workers, and Occupational Therapists and less people attracted to work as care staff.
- 2.3 In September 2001 the report of the Task and Finish Group on workforce issues in the Social Care sector was published.
- 2.4 This report initiated action on a national level to raise the profile of the care workforce and support recruitment and retention on a regional level.
- 2.5 Organisations are being asked in Inspections for their workforce strategy and evidence they are dealing with recruitment and retention.
- 2.6 Social Services Workforce Strategy includes action plans for one year and 5 years to improve recruitment and retention within Social Services and to work with key partners in health and the Independent sector to plan for the future.

3 COST IMPLICATIONS

- 3.1 The main costs of the Strategy are within the existing budget of Social Services and the Training Support Programme grant.
- 3.2 Additional costs to improve recruitment and retention particularly for Social Workers and Occupational Therapists, in line with the Council's key priorities for 2003/04, have been included in the budget bids for 2003/04

4 FINANCIAL CONTROLLER STATEMENT

Any increased costs arising from this policy will need to be accommodated within agreed budgets.

5 CONSULTATION CARRIED OUT

- 5.1 The Head of Personnel and Lead Member for Communications will continue to be key members of the Workforce Strategy group. There was a reminder that initiatives which were of benefit to Social Services on recruitment and retention would have impacts at a corporate level and may have to be reconsidered in the light of corporate priorities.

- 5.2 The Workforce Strategy has been discussed at the Member/Officer Joint Review meeting and has been supported.
- 5.3 It will be discussed at Personal Services Scrutiny Committee on the 25th September, 2002, and their views will be reported to the meeting.
- 5.4 It will be shared with other Directorates, and key partner agencies e.g. Health, Independent Sector representatives and representatives of the Voluntary sector. One of the action points is to set up a Denbighshire Workforce Strategy group with these agencies, so we are not working in competition with each other.
- 5.5 It has been sent to Unison.
- 5.6 The Strategy group will decide the best way of communicating the key actions in the strategy with staff.

6 IMPLICATIONS ON OTHER POLICY AREAS INCLUDING CORPORATE

- 6.1 Issues raised by the workforce strategy are of concern to other Directorates, so action can be taken at a County level to benefit the whole workforce.

7 RECOMMENDATION

Social Services is supported in taking forward the work on the strategy and reports on progress in twelve months time.

DENBIGHSHIRE COUNTY COUNCIL

PERSONAL SERVICES DIRECTORATE

SOCIAL SERVICES DEPARTMENT

WORKFORCE STRATEGY

2002 – 2007

Draft 3

Report of Workforce Strategy group
Sept 02

HRS3ab

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1. INTRODUCTION

.....we know that we must take further steps to improve the recruitment, retention, and motivation of staff throughout the public sector.....

Tony Blair, Queens Speech, 20th June 2001¹

1.1 A Human Resource Strategy for Social Services that contains steps to increase recruitment, retention and motivation is essential for the Department in delivering the transformational change that is at the heart of initiatives such as Modernising Government, Best Value in Local Government and the implementation of the NHS Plan.

1.2 The White Paper Building for the Future set out the agenda for the Social Care Sector in Wales and acknowledged that:

Our most important asset is the team of dedicated staff who work hard to provide good quality care – often in testing circumstances.

Social Services White Paper March 1999²

1.3 The National Assembly for Wales set up a Task and Finish Group to address the prevailing recruitment and retention crisis affecting the whole of the Social Care Sector in Wales as elsewhere. Reporting in September 01³, they noted the key message emanating from the Joint Reviews then completed. Their report 'People need People' demonstrated that :

Employers that are performing best in service delivery and management of performance and resources are also those who score highly on their management of staff.

'People Need People' October 2000¹

1.4 The Task and Finish Group Report concluded that the social care sector in Wales is ONE sector, which includes statutory, private and voluntary provision. Denbighshire Social Services Department embraces the philosophy of the 'one workforce' agenda and will follow the aims of 'taking the agenda forward' and the 35 recommendations contained within the report but will

1 Public Services Productivity Panel, 2002

2 Building for the Future, Welsh Office, March 1999

3 Report of the Task & Finish Group on Workforce Issues in Social Care, NAFW Sept 01

develop local strategies to enhance action at the National Level under the leadership of the Care Council for Wales.

- 1.5 The Denbighshire Workforce Strategy will focus on the areas of Workforce Profile, Workforce Planning, and Recruitment issues, Workload Management, Staff Development and Retention.

2. WORKFORCE PROFILE

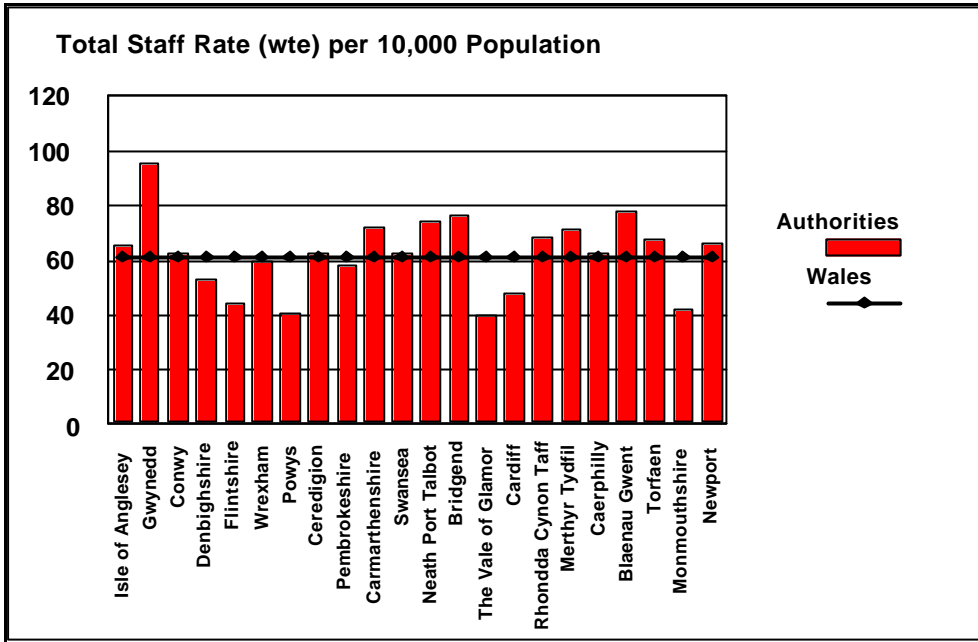
- 2.1 The trends highlighted by the NAFW Task and Finish Group suggest that the care sectors workforce will continue to grow at 2-3% every year until 2006. For Denbighshire Social services alone, this equates to approximately 62 staff.
- 2.2 There are 619 staff and the turnover rate is 8.9%. This means that at least 20 new staff will need to be recruited each year of a variety of skills and qualifications. (The stability rate for Denbighshire is 70%)
- 2.3 Each year we are required to provide statistics to the National Assembly or Wales detailing staff numbers and qualifications. The forms are intended to provide information about staff numbers by setting and client group. Data is related solely to staff directly employed by the local authority on the census day. Details of staff and the posts in which they are employed are held on the computerised personnel information system (CPIS) and supplemented by the Staff Development Management System (SDMS).
- 2.4 The following analysis is based on information collated for the 30th September 2001. This compared to information collated by the Department for 30th September 2000 and data from the Training Support submissions from Wrexham and Flintshire 2000/01. Denbighshire has a population of 91,000. The population in Wrexham is 125,000 and Flintshire is 147,000⁴. Latest estimates show that the population of Denbighshire is increasing albeit at a slow rate. It has a lower percentage of the population of working age than the Wales average⁵ and it is projected that the proportion over 80 years is likely to grow with the concomitant growth in the demand in social care services.
- 2.5 The Statistical Directorate for the National Assembly for Wales shows that Denbighshire is one of the authorities that have a lower than average whole time equivalent staff rate per 10,000 population⁶ as shown in Figure 1

⁴ Training Support Programme for the Personal Social Services: Progress Report for 2000-2001

⁵ Office for National Statistics, 2000 mid year estimates.

⁶ National Statistics First Release, 14th November 2001

Figure 1 Comparator data for staff ratios across Wales as at 30th September 2000

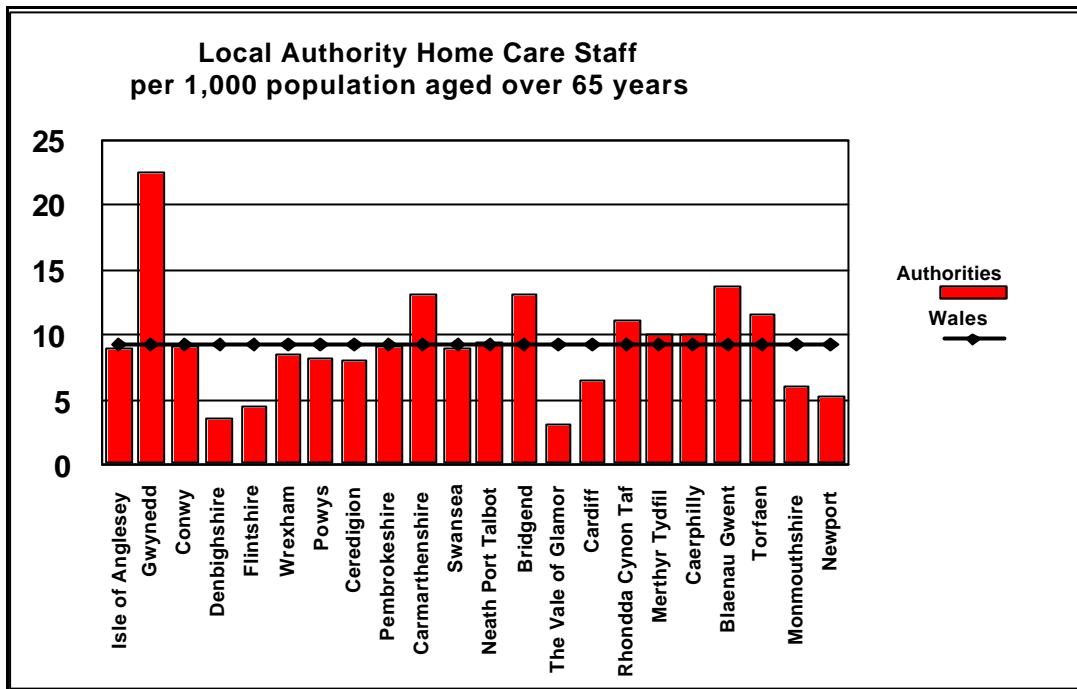


ADULTS SERVICES

2.6 The most significant change in Adult Services is the reduction in numbers of home care staff. These have reduced from 138 to 88 in the 12-month period. In Wrexham there are 220 and Flintshire 186⁷ Whilst it is not possible to provide comparative data relating to population size and profile, the data shows that Denbighshire has a low rate of home care staff per 1,000 population aged 65 and over as shown in Figure 2 below. This low number, however, may simply be a reflection of the percentage of home care hours provided by the Independent Sector. This, nevertheless, strengthens the rationale of a 'one workforce' approach.

Figure 2: Local Authority Home Care Staff – year ending 31st March 2001

⁷ National Statistics First Release, 14th November 2001



- 2.7 Denbighshire Social Services employ 40 Social Workers (including hospital) in comparison to Wrexham who employ 45 and Flintshire who employ 40. All Social Workers within Adult Services either have, or are close to completing, the social work qualification.
- 2.8 The number of qualified staff within residential settings has doubled in the period and now exceeds the 50% target set by the National Assembly for Wales. There is currently no target set by the NAFW for home care. In Denbighshire Social Services 25% hold the listed qualification⁸

CHILDREN & FAMILIES

- 2.9 The number of Social Workers has reduced by 2 to 32 within the period. This may be due to the use of agency staff to cover recruitment difficulties. Agency staff are not included in these returns. We have significantly lower numbers than Flintshire who employ 42 and Wrexham who have 48⁹. All Social Workers within Children's Services either have, or are close to completing, the social work qualification. This compares well to the Wales average but comparative data is unavailable.

⁸ Annex 1, Statistical Returns Guidance, April 2002

⁹ Training Support Programme for the Personal Social Services: Progress Report for 2000-2001

- 2.10 There is a significant increase in the numbers recorded in STF323 (Services for Children and Adolescents). The increase of 18 is due to the inclusion of project workers employed in the Children with Disabilities Service.
- 2.11 Foster Carers are not included in the STF Returns. However, they are included in the Training Support Programme statistics and there are now national training targets for this group. 85 Foster Carers are included in the statistics provided, 2% were qualified by 30th September 2001 but we anticipate reaching the 15% target set by the NAFW for September 2003.

MANAGEMENT STAFF

- 2.12 The number of managers with listed management qualifications is 14. This is out of a total of 69 (20%). We have identified the ILM (Institute of Learning and Management - formerly NEBSM and ISM) Introductory Award as the appropriate qualification for senior care/deputies, new managers and senior administration staff. These are not recorded in the statistics.

ADMINISTRATION STAFF

- 2.13 These are categorised on the STF Forms as Other Staff. Representations have been made to the NAFW to define this further as it does not do justice to the range of staff included under that heading. The total number for staff in this category is 64 in 2000. In 2001 this is 55. This can possibly be accounted for because a number of vacant posts have been temporarily filled by agency staff that are not included in these figures.
- 2.14 Staff holding the listed qualification in Social Services in Denbighshire is 41%. The qualification listed is currently NVQ 2, when in fact many of our staff have, or are currently undertaking NVQ 3 Business and Administration, or equivalent e.g. HNC, HND.

WELSH SPEAKERS

- 2.15 Of the total staff employed at 30th September 2001, 18.5% were Welsh speakers. This shows a decrease from the previous year where 20% of staff was Welsh speaking¹⁰. The population of Denbighshire who are Welsh speakers range from 11.8% in Prestatyn and Rhyl to 69.4% in Gwddelwern¹¹.

ETHNICITY

- 2.16 The population of Denbighshire of ethnic origin was 0.6% in 1991¹². Denbighshire County Council records shows 0.19% which relates to 8 people, of whom 2 work in Social Services. The STF forms do not record ethnicity but we recognise that due to the Race Relations (Amendments) Act 2001 that we will be required to report on this aspect.

¹⁰ National Statistics First Release, 14th November 2001

¹¹ Office for National Statistics: 1991 Census

¹² Office for National Statistics: 1991 Census

PEOPLE WITH DISABILITIES

- 2.17 Central Personnel audit all staff by the use of anonymous questionnaires. Of those returned in the 2001-2002 audit, 2.72% of the total workforce considered themselves to have a disability¹³.

INDEPENDENT SECTOR

- 2.18 Whilst we have not collated information of the size of the independent sector within Denbighshire we are mindful of the needs of staff employed facing the same challenges as the statutory and voluntary sector. According to national statistics it is estimated that 54% of social care staff are employed by the independent sector. This may be higher within Denbighshire because of the number of residential and nursing homes as well as the increasing allocation of domiciliary work to the independent sector. Insufficient data is available profiling the Sector. This will be addressed in the Action Plan

SICKNESS ABSENCE

- 2.19 The sickness absence rate for all Social Services (not including Housing) was 7.7% in 2001 -2002 compared with 7.4% the previous year. This equates to 12,084 days. The areas with the highest rate of sickness were Children and Families Services with 12.7% and Cefndy Enterprises with 11.2%

3. WORKFORCE PLANNING

- 3.1 The National Assembly for Wales (Social Services Inspectorate, SSIW) has commissioned the development of a 'Human Resource Planning Guidance' aimed at improving and enhancing the human resource practices of employers to improve recruitment & retention across the sector.
- 3.2 It is anticipated that there will be clear and comprehensive working guidance on human resource planning that acknowledges the role of local authorities as both commissioners and employers and takes into account the planning framework and structure required. Future resource requirements will be identified. The timescale for the completion of this work is August 2002.
- 3.3 This guidance is eagerly awaited as, similar to other Local Authorities, Denbighshire does not have a 'mechanism to accurately estimate the future need for qualified social workers'.¹⁴ The reasons are similar; new statutory duties can suddenly affect demand (the introduction of preserved rights is one example); cutbacks or budget increases are made annually (Denbighshire has suffered £ 5m cuts in budgets over 5 years) and turnover varies. This and a high sickness absence rate have increased the need for locum or agency cover that in turn has become limited in availability. Changes within adjacent authorities may also mean staff leave for new opportunities nearby without having to move home.
- 3.4 Whilst it is anticipated that the need for increased recruitment into the Social Care Sector will grow at 2-3% every year up to 2006, at the same time, the overall labour supply will grow at only 0.5% over the same period and 8 out of 10 people who will be working in 2010 are already in work now.

¹³ Central Personnel: Denbighshire County Council, 2002

¹⁴ Report of the Task & Finish Group on Workforce Issues in Social Care, NAFW Sept 01 (Page 36)

However, employment patterns in social care may mean that only 3 out of 10 people currently working in the sector will still be working in the sector in 2010¹⁵

- 3.5 In the Denbighshire context, we know that there is a low number of 20-24 year olds reflecting the fall in the fertility rate in the 1970s and because there is no University establishment in the County. The area suffers from rural depopulation and already has a significant proportion of its workforce employed in public administration, education and health¹⁶. (37% in 2000 compared with 13.2% for Wales)
- 3.6 Anecdotal evidence suggests that the majority of staff working for Denbighshire Social Services originate from North Wales. Some have moved to the area but because of local connections. Therefore it is unlikely that significant inward migration into the sector will be achieved by national recruitment campaigning other than benefiting from National recruitment campaigns aimed at improving the profile of the sector. These have been, and are being, developed as a response to a significant decline in recruitment to all public services such as teaching, nursing and police.
- 3.7 Thus, the planning for the future of the sector in Denbighshire is intended to build on reasonable foundations and is aimed at improving recruitment and retention factors that are proven to have an impact on staff motivation and morale. At the same time the focus will be on developing all existing staff to move on in their career history and provide opportunities for the local population to work in Local Government and have definable career paths to follow. The emphasis is on 'growing our own'.

4. STAFF DEVELOPMENT AND TRAINING

One of the key priorities in 'Building for the Future' is the need to ensure

That staff involved in Social Care are appropriately skilled, trained and qualified and that their conduct and practice are properly regulated.¹⁷

Development and training of staff is a key aspect of any workforce strategy. The objectives of Staff Development and Training are detailed in the Business Plan, but can be summarised under four main headings:

- To ensure achievement of qualifications required for each post.
- To develop the staff of the organisation in a way that will meet the future requirements of the Council.¹⁸

¹⁵ Report of the Task & Finish Group on Workforce Issues in Social Care, NAFW Sept 01 (Page 10)

¹⁶ Office for National Statistics: Annual Business Enquiry 2000

¹⁷ Building for the Future. Welsh Office, March 1999

- To maintain motivation of staff through professional and career development opportunities.
- To promote 'continuous improvement' by investing in skill development and performance appraisal

QUALIFICATION ATTAINMENT

- 4.1 The Qualifications Steering group is responsible for the strategic direction and monitoring of progress on qualifications within the Directorate. This group reviews progress on the whole qualifications continuum, (Steering group terms of reference) and has made considerable progress towards achieving the National Training Targets for Personal Social Services set by the NAFW.¹⁹
- 4.2 The required qualifications for each post are listed by the National Assembly and sent out with the Staffing Return forms (STF). This has been updated through the work of TOPSS in the Qualifications Framework. We use this for a guide to the appropriate qualifications for each job description and for guidance in applications for funding for qualifications.
- 4.3 Denbighshire Social Services is a City and Guilds NVQ Assessment Centre, for Awards in Care, Promoting Independence, Children and Young People, Assessor and Verifier, Advice and Guidance. The centre is also accredited for the Certificate in Community Mental Health. It employs three full time NVQ Assessors, and have 14 work based Assessors.
- 4.4 The Department believes that the advantage of having our own assessment centre is that standards and assessment can become integrated into the work of the Directorate. NVQ has in each service been a driver for improving standards as the awareness of good practice and expectations of staff are raised. It also means we can be confident of the quality of the assessment process. The reports of the External Verifier rate all aspects grade A., 'a centre of excellence'.
- 4.5 However the funding available to Colleges means we are moving to partnerships with Colleges that will expand capacity. This is particularly relevant to working with the Independent Sector to offer training and assessment and promote the concept of 'One Workforce.'
- 4.6 Denbighshire is a member of the North and West Wales Social Work Education and Training Consortium. The organisation took a lead role in the development of a PQ1 route in North Wales through the Consortium.
- 4.7 Social Worker progression to Level 3 is linked to requirements for PQ1. Achievement of PQ is also linked to the person specification for Senior Practitioner posts.
- 4.8 Denbighshire is committed to providing placements for DipSw students of the Consortium and have 12 Practice Teachers who have gained their Practice Teacher Award through the Consortium's Practice Teacher Award programme. In recognition of the need to develop

¹⁸ Denbighshire County Council: Draft Improvement Plan 2002-2003 – Corporate Objective C4

¹⁹ See Training Support Programme progress Report 2001-2002 (SSD document)

practice placements in the Statutory sector the Department has recruited a Staff Development Officer to work 3 days a week on Practice Teaching, placement development and PQ1.

- 4.9 Denbighshire is also a partner in the North West Mental Health Partnership for the provision of Approved Social Worker training. The ASW panel decides on applications for ASW, monitoring and assessment decisions and reports to the Qualifications Steering group. We have 8 trained ASWs and two undergoing training. We may need to look at the need for ASW in Children's Services.

MANAGEMENT DEVELOPMENT AND OTHER QUALIFICATIONS

- 4.10 The Department has had a partnership with Llysfasi College/Wrexham Training to assess for Management NVQ4. Llysfasi also acts as the Accredited Centre for the delivery of an in house Introduction to management course the Introductory Award in Management through ILM. (Institute for Learning in Management formerly Institute for Supervision and Management, and National Examining Board for Supervisory Management.)

Other management qualifications are accessed through Llandrillo, John Moores University, the Open University and Birmingham University. We have also supported two managers to take the Certificate in Managing in Health and Social Care run by Conwy/Denbighshire NHS Trust.

There are other accredited courses undertaken to develop administrative and or job specific skills for example AAT and CIPFA.

- 4.11 Professional and Career development qualifications are also considered if they can be proved to be of value to the Service. Examples of these include the Postgraduate Diploma in Art and Play Therapy, MSc in Profound Learning Disabilities and Sensory Impairment for Social Workers in the Children with Disabilities Team.
- 4.12 The process for planning training and development depends on the identification of needs by the manager and the individual during supervision or at the yearly Staff Development Reviews. The County has a policy that all staff should receive an annual Staff Development Review focusing on the key tasks of the job, the strengths and achievements, learning needs and further development.
- 4.13 Introduced by the Social Services Department in 1996 the process of Staff Development Review has been the subject of audit to determine frequency and quality. Over time the frequency and quality has appeared to be variable and it is therefore recommended that its process be formalised through meetings between managers and Staff Development Officers. The result of this process will inform the Training Plan.
- 4.14 The review of the Staff Development Review process will be expanded to include the need for a performance management appraisal linked to corporate, service team/section business plan. It will include performance targets.
- 4.15 In addition to accredited or qualifying programmes, an in house programme is offered to prepare staff to embrace and implement new legislation and or policy changes. In this way the promotion of good practice assumes primary importance.

5. RECRUITMENT AND RETENTION

The following are suggestions for consideration, consultation and adoption. They are summarised in the Action Plan Appendix 1.

5.1 INFORMATION PACK

5.1.1 This is being developed and all future requests for information about existing and future vacancies will receive an information pack.

5.1.2 Packs to be bright and attractive whilst accurate.

5.1.3 Non-return of application forms for vacancies to be followed up with questionnaire and results analysed to inform future strategy.

5.2 RECRUITMENT PROCESS

5.2.1 The Cabinet has resolved that decisions on external recruitment for replacement posts, grant funded posts or posts funded within budget are delegated to the Chief Executive in consultation with Corporate Directors on a trial basis.²⁰

5.2.2 The Social Services Department has particular difficulties in this area especially for qualified Social Work and Occupational Therapy posts. The use of internal advertising in the first instance often results in the success of the candidate and results in a vacancy elsewhere that then needs to follow a similar process thus incurring considerable delay in the Department's staffing establishment. It is therefore recommended that all posts requiring a Social Work qualification should be subject to external recruitment at the same time as internally. Internal candidates can be given preference and external job advertisements should state that suitability for other vacancies would be considered during the recruitment process.

5.2.3 It is recommended that, on occasion, Social Work college leavers be appointed prior to the completion of their course subject to qualification being obtained. This will only apply for a maximum of two months prior to completion and some of the time can be spent on part time induction to coincide with college commitments. This possibility can be explicit in job adverts at relevant times of the academic year.

5.2.4 The facility to grant relocation packages should be made explicit, in relevant circumstances, in job adverts.

5.2.5 Vacation work can be offered to students studying for a relevant professional qualification as Support Staff at unqualified rates of pay. Those studying on a part time basis can be offered part time work to supplement their income whilst studying.

²⁰ DCC Cabinet Resolution, 23/04/02

5.2.6 Consideration should be given to extra increments to exceptional candidates applying for posts with Denbighshire.

5.2.7 Another consideration would be to include the facility of 'hours to suit' in adverts for posts where there is a particular shortage.

5.2.8 Attendance at Regional and Local 'Jobs Fairs' for Social Care with targeted events in Denbighshire locations in conjunction with Health, Voluntary and Independent Sector as well as other Departments of the County Council.

5.2.9 We have taken part in local job fairs and career conventions and can develop more attractive literature and presentation for these events. The Care Council is developing innovative ways to attract potential workers nationally. The opportunity is there to develop the modern apprentice scheme to include care work internally and in the Independent sector.

5.2.10 We can introduce 'flexible working' to professional and managerial staff and make this explicit in job adverts. This will only be according to the needs of the service and team. See Section on retention (3.10).

5.2.11 In exceptional circumstances we could discuss with County Personnel the employment of staff who have left the authority and who receive a Local Government pension.

5.3 RETENTION

5.3.1 Examine 'hygiene' factors of staff working in existing offices and address poor factors by the use of 'working from home', hot desking, flexible work time, provision of chairs and space. In some areas this is a priority and cannot wait for the 'accommodation strategy' to progress.

5.3.2 Enlist support for tidy up of offices using temporary administrative staff and 'time out' for staff to assist.

5.3.3 Reward staff for long service. Extend the use of certificates to the use of shopping vouchers to equate to length of service. This could be a staged process across the County Council with Social Services staff targeted as a matter of priority. There will be associated costs for the County, the Personal Services Directorate and the Social Services Department.

5.3.4 Introduce Workload Management system across the Department and acknowledge that this will result in waiting lists for assessment and service provision for those of lower priority need. Failure to achieve this will result in greater stress, sickness absence and staff turnover, as staff leave to work for authorities that ensure that workloads are manageable.

5.3.5 Develop a system of 'sabbaticals' for staff to undertake professional and / or personal development in an area of their own interest. Staff would apply for paid sabbatical leave for up to one month every two years in addition to any training undertaken. The application would state the benefits to be gained and how the absence would be covered. Support of senior management would be required as well as reporting back.

- 5.3.6 Create a career structure within administration and support structures. The notion of what the NHS calls a “skills escalator”²¹ is a concept that should be adopted and should be considered in all service sectors.

The ‘Skills Escalator’.....provides a dynamic approach to supporting career potential and development. Staff are encouraged through lifelong learning to renew and extend their skills and knowledge so they can move up the escalator. At the same time roles and workload pass down where appropriate, giving greater job satisfaction, and generating efficiency gains.²²

Within Local Authorities, this developing approach is referred to as the need to ‘grow our own’.

- 5.3.7 This strategy suggests that either in advance or as vacancies arise, teams should analyse their staff requirements and skill mix. Different grades of staff can be created to free up the time of professionals to concentrate on complex work requiring professional skills. As an example, Portsmouth County Council have analysed the types of work undertaken by Social Workers / Care Managers and have used different grades of staff for activities such as reviews, financial assessments and invoice checking under the direction of the responsible Social Worker.²³ This creates opportunities for staff to develop skills and move up the escalator.
- 5.3.8 This approach is currently being piloted in the Disability Resource Team. Social Work Assistants are being used on a temporary basis in Care Management and Parent Support Workers and Social Work Assistants in Children’s Services. However, for this approach to have longer-term impact it is necessary to be purposeful in the use of different grades of staff and ensure that such posts are linked according to competencies with a definable career path for staff to follow.
- 5.3.9 The example of the support staff in the Disability Resource Team is given in Appendix 2. There should be no reactive use of unqualified staff to cover gaps where a standard rate of pay is offered and where staff are then stuck and stagnate. Neither should staff in such positions perceive an automatic right to move up the grades unless there is a vacancy for a higher grade in the team or elsewhere and the appropriate qualification has been achieved. The strategy group should ensure consistency within the Department in the use of support staff.
- 5.3.10 Trainee Social Work post has been established. The first two Trainees start this September. It is recommended that the plan to introduce other opportunities is extended next year and beyond using flexible routes to qualification. As money becomes available, this could be expanded to external recruitment and to Occupational Therapists. It links with the grade structure of support staff outlined in 3.8 above.

²¹ HR in the NHS Plan, Chapter 4 The Skills Escalator, DOH July 02

²² HR in the NHS Plan, Chapter 4 The Skills Escalator, DOH July 02 page 19

²³ OLM Consulting Ltd. Issue 4 Volume 8

- 5.3.11 The opportunity for flexible working should be extended to professional grades of staff such as Social Workers and Managers. It is recognised that this might only be achievable in larger teams and that a rota system to ensure adequate cover may be needed. Staff will need to be flexible in changing their hours to suit if necessary to cover for sudden absence. The other type of situation would be where work can be planned reasonably well in advance and where the need to provide for emergency situations is unlikely to arise or can be catered for in other ways. The use of this facility is by discussion and consultation with the Team Manager and Service Manager with reference to the Head of Service where difficulties emerge.
- 5.3.12 Flexible Contracts to facilitate term time working; carer commitments²⁴ and career breaks should be introduced. This may be made easier with the introduction of different grades of staff and the use of Social Work assistants or support staff during college breaks.
- 5.3.13 Encourage all teams to have 'away days' linked with Business Planning Processes that have an element of fun and team building within the day. Funding should be available for this purpose without recourse to 'student monies'
- 5.3.14 Develop the introduction of Senior Practitioners across teams and provide more opportunity for this career path. This links with the creation of support work posts noted in 3.6 that potentially releases a small amount of money to add to an existing Social Work Post thereby funding a Senior Practitioner. This is particularly important, as support post holders require greater supervision from the qualified staff.
- 5.3.15 Review the pay scales of staff that attain the full Post Qualifying Award, the Practice Teacher Award or Clinical Supervisor in Occupational Therapy or Approved Social Worker status to consider the introduction of added increments for attainment of recognised post qualifications.
- 5.3.16 Review the terms and conditions of those qualified staff, such as Occupational Therapists, to ensure parity across the sector.
- 5.3.17 The number of temporary staff across the Department should be reviewed and, where possible, permanent contracts issued. It is accepted that the rise in such arrangements has been in response to time limited grants funded posts, the release of staff for DipSW Training, budget crises and because opportunities for permanent staff have been created. However, this has created instability within teams and a merry-go-round of staff. It has been difficult to ensure continuity of staff especially in administration.

6. ONE SECTOR WORKFORCE

- 6.1 This report commissioned by the Recruitment and Retention Task Group has focussed on some future direction for the Social Services Department in response to a recruitment crisis. However, there are implications for the County arising from some of the earlier recommendations and the 'one-workforce' approach needs greater attention. A number of avenues to progress these issues are outlined in the 5 year Action Plan.

²⁴ About 25% of social services staff are supporting an adult in their personal life – NISW Director Jan 02

- 6.2 Attention to recruitment and retention issues is not a stand-alone or one off event. The Plan will need constant monitoring and revision. It is therefore recommended that the Workforce Strategy Group continue to meet to implement and monitor the final agreed Plan. However, to do so requires an extended membership to take account of County implications and the realities of implementation. The Head of Personnel has started to attend, and we need to include the Lead Member for Personnel, and a Trades Union representative. There would need to be a sub group who concentrate on preparation for reassessment for IIP.
- 6.3 The North Wales Regional Partnership set up in response to the NAFW Task & Finish Report on Workforce issues in Social Care will continue to meet and Denbighshire will remain an integral part of this group. However, in order to develop a 'one-workforce' approach in Denbighshire, it is recommended that Denbighshire CC take the lead in establishing a Denbighshire Social Care Strategy Group to consist of Health, Voluntary Sector, Independent Sector providers and Social Services. There is much to be gained from a co-ordinated approach to recruitment, training, and rotation or secondment especially in view of Increased Flexibilities between Health and Social Services.
- 6.4 A number of initiatives are within the Action Plan and are fairly self-explanatory. The Action Plan itself is an iterative process and already needs the Training Plan for Social Services and the County to be included.

7. CONCLUSION

This report, in addressing Recruitment and Retention, has tried to address the myriad factors that influence motivational factors at work. It became obvious that a total workforce strategy was required as no one factor stands in isolation as each element of developing staff resources is inextricably linked. Many ideas have been drawn from academic research and government reports and all suggest that a proactive and long-term strategy is required. It is an exciting time to be suggested a dynamic approach that links our partners, our problems and our solutions. The problem will get worse unless we act.

This is the first document we look forward to suggestions and, over the five years of the Strategy, many amendments as we become more responsive to workforce needs.

8. ACTION PLAN

The Action Plan is detailed over a five-year time frame and, no doubt will be the subject of amendment and additions as a result of the consultation on this strategy. Already some events have occurred that have achieved some of the targets of this, what would be, the first year. It is important that such initiatives as the Trainee Social Worker development should be acknowledged and be seen as part of an overall strategy that will evolve. The Action Plan is therefore divided to show the key elements and targets for the first year with the detail in subsequent sections.

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Summary Of Key Actions 2002-2003

Key Objective	WHO	WHEN	PROGRESS	COMMENT
Establish County Group on Workforce Planning				
Establish a Denbighshire Social Care Partnership				
Support the Independent Sector				
Review existing recruitment methods				
Examine Hygiene Factors				
Develop Trainee Social Work Scheme				
Implement Management of Sickness Policy				
Ensure Compliance with Stress Policy				
Undertake Staff Satisfaction Survey				
Undertake Supervision and SDR Audit				
Develop Recruitment Pack				
Try new methods of Recruitment				
Introduce workload management				
Review Pay Scale for Social Workers attaining post qualifications				

Appendix 2

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Key Objective 1: Establish systems to enable effective workforce planning analysis to be developed

Key Task	Action Required	Targets / Measurable Outcomes	Year	Progress
Complete the profile of the current workforce	Profile key indicators of age, gender, disability and ethnicity	Analysis of current workforce plotted against future demographic changes	Oct 02	
	Project key indicators e.g. retirement and link to qualification profile	Detailed information across Social Care Sector	Dec 02	
	Link to Employment Agency for analysis of the local workforce	Quarterly Reports into County Personnel Section	Mar 03	
Up-date and maintain Personnel and Training Data Systems	Clarify links with developing Personnel database system	Provision of STF ¹ electronically Contemporary and accurate data Quarterly data reports to Managers and Monitoring Group	Oct 02	
Establish County Group on Workforce Planning	Extend remit of Recruitment & Retention Group OR combine with IiP ² Group	County Workforce Planning Group Workforce strategy is monitored	Sep 02	
	Invite Head of Personnel, lead Cabinet Member and Unison Representative	Cross cutting approach to workforce planning Implications of SSD action considered and shared Corporate recognition of pressures on the sector Adoption of SSD good practice across other Departments	Sep 02 Jun 02 Year 3	

¹ Statistical Forms on Personal Social Services

² Investors in People

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Key Objective 2: Ensure a 'One Sector' approach to the Social Care workforce

Key Task	Action Required	Targets / Measurable Outcomes	Year	Progress
Establish a Denbighshire Social Care Strategy Group	Meeting of Health, Voluntary Representatives, Independent Care providers, Social Services	Action Group established	Nov 02	
	Share workforce profile data	Development of joint Action Plan	Jan 03	
	Link to Regional Social Care Partnership	Denbighshire initiatives integrated with North Wales strategy	Dec 02	
Contribute to North Wales Regional Partnership	Maintain membership	Partnership is maintained and strengthened	quarterly	
	Denbighshire Workforce Strategy shared with the group	Co-ordinated plans and greater consultation Attendances at North Wales Jobs Fairs	Next mtg	
Support the Independent Sector to develop and maintain it's workforce	Offer 'free' training places at in house training events	Shared learning and increased skill levels	Jun 02	
	Develop 'block contracting' or 'cost and volume' contracting for market stability and continuity of employment	Reduction of turnover rates and increased stability rates	Oct 02	
	Agree and fund 'quality initiatives' determined by the sector in partnership with SSD	Funding linked to a quality service	Sep 02	
	Encourage participation at local and regional jobs fairs	Raised profile of the sector and increased recruitment rates	May 02 Oct 02	
	Widen representation of providers at monthly meetings with the purchasing managers	Increased representation	Dec 02	
	Ensure annual increases in line with budget availability and inflation increase whilst ensuring adherence to the impact of increases of the National Minimum Wage	Fairer competition with the public sector and capacity of the market is stable and enhanced over time	Year 1 – Year 5	

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Key Objective 3: To support the organisation to ensure that it's Social Care workforce is able to respond to the changing national and local expectations.

Key Task	Action Required	Targets / Measurable Outcomes	Year	Progress
Continue competency based job descriptions and person specifications in line with national occupational standards	Review existing job descriptions as vacancies arise	Job descriptions and competencies based on competencies		
	Review the workforce profile against required competencies and identify future requirements	Skill mix related to profile and planned development	Year 2	
Work with Managers and Teams in identifying workforce skills mix needs	Develop skills mix process	More effective use of professional time	Year 1 - Year 3	
	Demonstrate advantages of creating skill mix	Teams contain a mix of qualified and support staff with 'senior' staff supervising whilst developing management experience	Year 3	
Assess and review structure of existing posts and vacancies	Work with managers to restructure posts against skill mix requirements and workload demand	A more effective mix of part time and full time posts and flexibility	Year 1 – Year 2	
Review existing recruitment methods	Develop guidance of what is expected on application forms	Applicants address the evidence required in application	Dec 02	
	Address effectiveness of ISIS method and inherent delays built into the process	Fewer candidates find similar jobs in neighbouring authorities during the process	Nov 02	
	Develop flow chart of requirements for the notification of impending vacancies, justification of vacancies and internal / external advertisements with associated standards and timescales	Clarity about the process for all staff and managers. Speedier recruitment Appointments made prior to incumbent of post leaving Greater clarity about where delays lie	Sep 02	

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Key Objective 3: To support the organisation to ensure that it's Social Care workforce is able to respond to the changing national and local expectations.

Key Task	Action Required	Targets / Measurable Outcomes	Year	Progress
Promote effective and innovative methods to recruit and retain staff in the organisation	Analysis of present and potential recruitment sources	Reduction in vacancy rate Reduction in length of time to recruit	Year 2	
	Develop a more structured approach with Educational Establishments	Links to County Modern Apprenticeship scheme	Year 1	
		Demonstrable benefits of links to educational colleges – trainee schemes, local occupational therapy courses and modern apprenticeships / summer placements / sessional work		
	Specific, targeted recruitment and marketing exercises	Increased rate of recruitment from DipSW programmes	Oct 02	
		Increased rate of recruitment to the residential and domiciliary sector, both Independent and in-house providers	Oct 02	
	Use of technology to assist marketing and advertising	All jobs, internal and external, on the Denbighshire web-site	Sep 02	
	Develop coherent flexible working policy for Social Work and Occupational Therapy staff	Facility for flexible hours and term time working established	Jan 03	
	Define existing policy for internal secondment of staff	Manageable job rotation	Nov 02	

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Key Objective 3: To support the organisation to ensure that it's Social Care workforce is able to respond to the changing national and local expectations.

Key Task	Action Required	Targets / Measurable Outcomes	Year	Progress
Promote effective and innovative methods to recruit and retain staff in the organisation (Continued)	Specify 'hours to suit' and flexible working in job advertisements	Increased number of enquiries to job adverts Increased recruitment rate Increased stability rate	Sep 02	
	Prepare presentation packs to accompany all job application forms sent out	Pack sent with all applications	Sep 02	
	Follow up questionnaire to enquiries where application form not submitted	Non applicants followed up and results analysed to determine patterns	Sep 02	
	Attendance at job fairs, local and regional	Increased level of applicants to posts	Year 1 – Year 5	
	Attendance at Career Conventions	Twice per year and use of promotional stand	Year 1 – Year 5	
	Develop opportunities for professional sabbaticals Funding Implications for Staff Replacement – possible use of agency staff	Staff develop professional skill base and are motivated by the opportunity	Year 2	
	Introduction of voucher rewards to accompany long service certificates – Funding Implications ³	Staff feel rewarded	Oct 02	
Examine 'hygiene' ⁴ factors of office work space	Audit of offices to be prioritised to tackle worst areas first – Funding Implications	Staff feel happier in their work area Work areas maintained in a tidy manner Staff find it easier to complete office tasks	Dec 02	

³ All Actions entail opportunity costs in terms of staff time but some have financial costs

⁴ Hertzberg

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Key Objective 4: To support the organisation to maximise the inputs (time and effort) that existing and future staff bring to their work.

Key Task	Action Required	Targets / Measurable Outcomes	Year	Progress
Formalise existing or developing workload management system	Audit of current practice across teams	Baseline data achieved	Dec 02	
	Link to SCIE ⁵ Management skills	Evidence based approach	Jan 03	
	Develop and implement workload management	Staff feel less stress and work is manageable	Mar 03	
		Quality of outcomes for users is increased		
		Waiting Lists for assessment for lower priority or Funding Implications	Mar 04	
Provide support to managers to effectively manage the sickness / absence rates in the Department	Produce monthly absence data for managers	Monthly reports distributed prior to the following month	Feb 02	
	Utilise management information to enable 'hot spots' to be analysed and remedial action identified	Levels of sickness absence reduced in specific areas		
	Provide specific training for managers on sickness absence related policies and activity	All managers trained and informed on key policies	Year 1	
		Refresher training provided annually		

⁵ Social Care Institute for Excellence

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Key Objective 4: To support the organisation to maximise the inputs (time and effort) that existing and future staff bring to their work.

Key Task	Action Required	Targets / Measurable Outcomes	Year	Progress
Provide support to managers to effectively manage the sickness / absence rates in the Department (continued)	Work with Occupational Health on ensuring an appropriate, timely and effective service is provided	Levels of support increased and increased Doctor time	Year 1	
		Increased visibility in the organisation and dialogue with managers		
	Initial work with managers, staff and unions to develop initiatives	Longer term strategy developed with key targets and indicators		
Introduce performance management appraisal	Ensure that managers and staff are aware of corporate and directorate performance indicators	Performance Data Returns	Jan 03	
	Teams and sections to align Operational Plan targets with corporate and directorate targets	Evidence in Operational Plans Performance Review Meetings	Mar 03	
	Managers and staff set achievable targets linked to Operational PI's, Statutory PI's, Local Standards and staff development	Performance Appraisal Targets set	Mar 04	
	Staff Development Review to identify staff targets for tasks to be achieved. Summary sheet to be sent to Service Manager and Staff Development for collation	SDR Lists collated by SD&T Targets set	Year 2	
	Monthly supervision to include targets for the next month and subsequently monitored / amended	Supervision Audit shows targets set. Work boundaries more clear	Year 2	
	Supervision records to be audited for frequency of meetings and adherence to supervision policy	Staff feel supported – evidenced via Supervision Audit and Annual Survey	Year 2	
	Random sample of supervision records to monitor target setting, quality and adherence to policy.	Compliance with Policy assured	Year 3	

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Key Objective 5: To ensure that staff development and training activity reflects the business needs of the organisation

Key Task	Action Required	Targets / Measurable Outcomes	Year	Progress
To develop specific training and development plans that meet the priority requirements of the Department's strategic objectives	Implementation of the training programme as identified in the Training Plan	Staff Development Plans are consistent with organisational goals	Year 3	
To revive the SDR ⁶ process	Review SDR process and link to performance appraisal process and targets	Staff development is more clearly linked to organisational goals, Service Business Plans and Team Operational Plans	Year 3 – Year 4	
To provide a training plan from the Team Operational Plan and summary of SDR Information and targets	Analysis of training record information	The workforce are clear about the priorities for Training and Development and have an individual SDR	Year 3	
To develop scheme for professional sabbaticals	Policy to be developed	Professional development linked to individual learning objectives and organisation's goals	Year 2	
To extend Trainee Social Worker scheme	Create more Trainee opportunities Funding Implications	Capacity of the Social Care Sector is enhanced	Year 1 – Year 5	
To maintain IiP ⁷ status	Develop a process for evaluation	On-going evaluation exercise established	Year 2	
	Identify action plan in response to feedback from assessor and Develop Action Plan to meet new standards	On-going evaluation linked to IiP Group Action Plan Completed and IiP maintained	Year 3	

⁶ Staff Development Review

⁷ Investors in People

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Key Objective 5 (contd): To ensure that staff development and training activity reflects the business needs of the organisation

Key Task	Action Required	Targets / Measurable Outcomes	Year	Progress
To lead on the workforce aspects of inter-agency, corporate and partnership activity	Identify the changes required from the workforce involved in inter-agency, corporate and partnership requirements	Sustained and improved performance against service objectives and indicators for inter-agency and partnerships activity		
To ensure that awareness of Elected Members is timely and contemporary	Invite Head of Personnel, lead member for Personnel and Unison representative to Departmental Working Group	Members understand and promote workforce issues by supporting a proactive approach to workforce development both within the Department, Directorate and County Council		

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Key Objective 6: To ensure a safe and supportive working environment

Key Task	Action Required	Targets / Measurable Outcomes	Year	Progress
Review membership of Departmental Health and Safety Committee	Report to DMT and commitment of membership of the group	Quarterly meetings of H&S Committee established and quorate		
Review and up-date existing policies on Health and Safety and Violence to staff	Key policies to be collated by H&S committee	Completed and contemporary schedule compiled and gaps identified		
Integrate different elements of the H&S agenda eg. Moving and positioning, workplace assessments, fire safety	Work with relevant staff to complete integration	Integration complete by Year 3 of strategy		
To ensure that there are sound systems in place to prevent unsafe working practices	Analysis of accident and incident information and take remedial action	Percentage decrease in accidents and incidents		
	Audit of risk assessments completed	Percentage decrease in employers liability		
Incorporate safe working practices into Staff Development Review process	Train and develop staff to promote safe working practice	Percentage decrease in absence due to unsafe working practice		
To seek ways to alleviate stress at work	Formal adoption of Stress Management Policy and implementation of monthly Stress Management Workshops	All staff have access to and use RB1 checklist		
		All staff have attended Stress Management Workshops RB1 checklist incorporated into SDR		

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Key Objective 6: To ensure a safe and supportive working environment

Key Task	Action Required	Targets / Measurable Outcomes	Year	Progress
To seek ways to alleviate stress at work (cont)	Include Basic H&S Certificate into Induction Training	Increased staff awareness of Health & Safety issues for themselves and the organisation	Aug 01	
	Develop programme of Training for Basic H&S Certificate for all existing staff		Dec 01	
	To raise awareness of relevant policies e.g. <ul style="list-style-type: none"> ▪ Supervision ▪ Family & Carer Friendly working ▪ Whistle-blowing ▪ Staff Care Scheme ▪ Stress Management ▪ Equal Opportunities 	Staff aware and use policies	Year 1 – Year 5	
	To promote existing schemes e.g. <ul style="list-style-type: none"> ▪ Mediation ▪ Counselling from Occupational Health ▪ Management of Sickness Policy 	Staff aware and use existing services / schemes Sickness Levels reduced	Year 2	

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Key Objective 7: To enable the organisation to effectively respond to workforce legislation and agreements

Key Task	Action Required	Targets / Measurable Outcomes	Year	Progress
Support the organisation in responding to single status	Conclusion of negotiations on job evaluation methodology	Commencement of review of existing posts subject of single status		
	Provide relevant training and development on any changes	Training provided to staff groups		
	Develop new policies and train staff as necessary			

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Key Objective 8: Identify ways in which the workforce can be enabled to participate in the process of organisational change and contribute to the development of the organisation and service delivery.

Key Task	Action Required	Targets / Measurable Outcomes	Year	Progress
Develop and improve communication and feedback systems and encourage access to participate in planning and development opportunities	Develop and Implement systems throughout the Directorate e.g. <ul style="list-style-type: none"> ▪ Team Briefing system ▪ Newsletters ▪ Headlines ▪ SSD staff suggestion database ▪ Systematic recording of unmet need 	Greater employee awareness of key issues		
		Service delivery more responsive to user needs and preferences		
		Feedback from staff on future change indicates improved management effectiveness		
Provide a management development programme to include organisational change	Investigate Liverpool University's 'Management of Change' programme	X number of managers trained and gained qualifications		
	Launch the Denbighshire Guide for Managers	Greater awareness of County policies and procedures		
	Develop Induction Programme for Managers	Managers have adequate information and embrace future direction of the Authority		
Continue to develop positive relations with Trades Unions	Provide more support to Managers re: - Union interaction and responsibilities	Improved Industrial Relations position		
	Maintain / identify opportunities to provide for Union involvement at all appropriate stages of the development of strategies and service development			

Person Specification for Support Staff within the Disability Resource Team (Occupational Therapy)

APPENDIX 3

Requirements	Level 1 - Occupational Therapy Assistant	Level 2-Occupational Therapy Assistant	Level 3 - Disability Advisor	Level 4 - Disability Officer
Anticipated grade/salary	Scale 3 -12618 - 13500 Equates to T13 in Health 11880-13300	Scale 4 - 13764 -15342 Equates to T12 in Health - 13670-15940	Scale 5 - 15741-17265 Equates to T12 with additional responsibility of own caseload(- T11)	Scale 6 - 17823 - 19014 Equates to T11 in Health -16060 -19400
Education/ Qualifications/ Memberships	Good standard of education NVQ (Care) Level 2 desirable - Essential to obtain NVQ Level 2 within 2 years	Good standard of education NVQ (Care) Level 2 essential - Willingness to work towards NVQ Level 3	NVQ Level 3 Essential - with an endorsement in self environmental management skills AND/OR Undertaking foundation courses to enable access to Professional training	NVQ Level 3 Essential - with an endorsement in self environmental management skills AND/OR Essential to obtain an OT support qualification e.g. HNC) within 2/3 years ALONG WITH Obtain D32/D33 NVQ assessors qualification OR commence Professional OT training within 2 years OR

Person Specification for Support Staff within the Disability Resource Team (Occupational Therapy)

APPENDIX 3

Requirements	Level 1 - Occupational Therapy Assistant	Level 2-Occupational Therapy Assistant	Level 3 - Disability Advisor	Level 4 - Disability Officer
		Essential to obtain CACDP within 2 years Membership of BAOT is desirable	CACDP - Essential to obtain within 1 year BSL Stage 1 -desirable Membership of the BAOT is highly desirable	Obtain NVQ Level 4 in management within 3 years CACDP -Essential Certificate in basic Counselling skills is desirable Membership of the BAOT is highly desirable as well as a special interest group.
Experience	Work experience where there is frequent contact with members of the public is essential. Previous experience of working in a caring setting e.g. Care Worker, Customer Service, Stores Technician for a minimum of 2 years is essential.	Work experience where there is frequent contact with members of the public is essential. Previous experience of working in a caring setting for 5 years e.g. Care Worker, Customer Services OR a therapeutic setting for 2 years e.g. OT Assistant is essential.	Previous experience working in a therapeutic/reablement role, for a minimum of 5 years of which 1 year in the community is essential e.g. Project Worker, Technical Instructor Grade 3/Rehab. Officer OR 4 years as an OT Assistant in SSD is essential	Previous experience in a therapeutic/reablement setting for a minimum of 5 years, 2 years of which must be in a Social Services OT Team OR 4 Years as a Disability Advisor in SSD is essential

Person Specification for Support Staff within the Disability Resource Team (Occupational Therapy)

APPENDIX 3

Requirements	Level 1 - Occupational Therapy Assistant	Level 2-Occupational Therapy Assistant	Level 3 - Disability Advisor	Level 4 - Disability Officer
Knowledge	<p>A basic knowledge of Social Service’s functions are highly desirable</p> <p>Basic Knowledge of IT is desirable</p> <p>An awareness of the importance of ensuring valued lifestyles for people with disabilities is essential.</p> <p>Commitment to equal opportunities and</p>	<p>A basic knowledge of Social Service’s functions are essential</p> <p>Basic Knowledge of IT is highly desirable</p> <p>An awareness of the importance of ensuring valued lifestyles for people with disabilities is essential.</p> <p>Commitment to equal opportunities and</p>	<p>A good knowledge of social services’ functions and thorough understanding of the OT process and contribution to the Department’s aims is essential</p> <p>Basic knowledge of IT is essential</p> <p>An understanding of Disability Rights and relevant policies and procedures for the work of the Team</p>	<p>A good knowledge of social services’ functions and thorough understanding of the OT process and contribution to the Department’s aims is essential</p> <p>Knowledge of and adherence to the OT Code of Ethics</p> <p>Working knowledge of IT is essential</p> <p>Evidence of understanding and promoting valued lifestyles for people with disabilities of all ages and thorough knowledge of legislation, policies and procedures relevant for the work of the Team</p> <p>Commitment to equal opportunities and</p>

Person Specification for Support Staff within the Disability Resource Team (Occupational Therapy)

APPENDIX 3

Requirements	Level 1 - Occupational Therapy Assistant	Level 2-Occupational Therapy Assistant	Level 3 - Disability Advisor	Level 4 - Disability Officer
	recognising the importance of the Welsh language and culture	recognising the importance of the Welsh language and culture	Commitment to equal opportunities and recognising the importance of the Welsh language and culture	recognising the importance of the Welsh language and culture
Abilities	<p>To drive and provide own car is essential To work as a member of a Team is essential</p> <p>Potential ability to work alone, follow instructions and report back to supervisor, responding appropriately to supervision</p>	<p>To drive and provide own car is essential To work as a member of a Team is essential</p> <p>Proven ability to work alone, follow instructions and report back to supervisor, responding appropriately to supervision. A developing ability to have a small caseload, with regular support</p>	<p>To drive and provide own car is essential To work as a member of a primary Team and across other Teams and Agencies is essential</p> <p>Potential ability to manage a caseload of people involving assessment of needs requiring simple solutions to easily identified problems, with Professional and managerial support.</p>	<p>To drive and provide own car is essential To work as a member of a primary Team and across other Teams and Agencies is essential . Contribution to the development of the Team is essential</p> <p>Proven ability to manage a complex caseload of people requiring a range of solutions to meet a range of needs and/or take responsibility for a service area with Professional and managerial support.</p>

Person Specification for Support Staff within the Disability Resource Team (Occupational Therapy)

APPENDIX 3

Requirements	Level 1 - Occupational Therapy Assistant	Level 2-Occupational Therapy Assistant	Level 3 - Disability Advisor	Level 4 - Disability Officer
	<p>Recognition of the limitation of the role</p> <p>Recent experience of self development</p> <p>Potential ability to respond to complaints from members of the public in an appropriate manner</p>	<p>and guidance. E.g. review cases.</p> <p>Recognition of the limitation of the role</p> <p>Recent experience of self development and willingness to apply knowledge following training</p> <p>Ability to respond to complaints from members of the public in an appropriate manner</p>	<p>Recognition of the limitation of the role</p> <p>Proven ability to apply knowledge following training</p> <p>Proven ability to manage simple complaints from members of the public in an appropriate manner</p>	<p>Recognition of the need for Professional involvement.</p> <p>To supervise OT Assistants and support Professionals from other Agencies wishing to access the Department's services. Self motivation for Continuing Professional Development</p> <p>Proven ability to manage complex complaints from members of the public in an appropriate manner</p>
Skills	Ability to communicate effectively verbally in	Ability to communicate effectively verbally and	Ability to communicate effectively verbally and	As for Disability Advicor. In addition

Person Specification for Support Staff within the Disability Resource Team (Occupational Therapy)

APPENDIX 3

Requirements	Level 1 - Occupational Therapy Assistant	Level 2-Occupational Therapy Assistant	Level 3 - Disability Advisor	Level 4 - Disability Officer
	<p>order to obtain information from service users, determine information needs and give accurate advice</p> <p>Potential ability to assess with disability equipment in a home environment in accordance with Professional instructions</p>	<p>in writing in order to obtain information from service users, determine information needs and give accurate advice</p> <p>Proven ability to assess the use of practice with and review effectiveness of disability equipment, following a recommendation from experienced team members or Professional staff.</p>	<p>in writing with people who may have communication difficulties in order to obtain information from service users, determine information needs and give accurate advice.</p> <p>Basic functional assessment skills Ability to analyse problems and appraise environmental solutions Evaluate the effectiveness of intervention</p>	<p>competencies must include report writing and presentation skills and appropriate preparation and contribution to case conferences and meetings.</p> <p>Holistic assessment skills Ability to analyse an individual’s abilities and the environment within the Community care context Research skills</p>
Personal Qualities	<p>Practical person with problem solving skills Eagerness to learn new skills Organised with good time management Friendly, sensitive with</p>	<p>Practical person with problem solving skills Eagerness to learn new skills Organised with good time management</p>	<p>Practical person with problem solving skills Eagerness to learn new skills Organised with good time management</p>	<p>Practical person with problem solving skills Eagerness to learn new skills Organised with good time management</p>

Person Specification for Support Staff within the Disability Resource Team (Occupational Therapy)

APPENDIX 3

Requirements	Level 1 - Occupational Therapy Assistant	Level 2-Occupational Therapy Assistant	Level 3 - Disability Advisor	Level 4 - Disability Officer
	a good sense of humour	Friendly, sensitive with a good sense of humour	Friendly, sensitive with a good sense of humour Willingness to undertake responsibility for self and work	Friendly, sensitive with a good sense of humour Willingness to undertake responsibilities on behalf of the Team

REPORT TO CABINET

CABINET MEMBER: COUNCILLOR R W HUGHES, LEAD MEMBER FOR LIFELONG LEARNING

DATE 1 OCTOBER 2002

SUBJECT: Ysgol Tir Morfa - Replacement School

1 DECISION SOUGHT

That Members consider the current position as detailed below and determine to replace the existing school in phases.

2 REASON FOR SEEKING DECISION

Ysgol Tir Morfa is a special school for children aged 3-19 with special educational needs. There are currently 180 pupils on roll which is significantly above the permanent accommodation available hence the need to supplement the permanent accommodation with 1 double mobile and 3 single mobiles.

It is a split site school and the accommodation on both sites is unsatisfactory as evidenced by 2 separate ESTYN Inspections in 1994 and 1999 which also raised health & safety issues. A key issue for action for the Governing Body arising from the ESTYN Report is to "address all the accommodation issues which directly affect the provision that the school offers".

In order to assist the Local Authority with analysis, preparation and planning of the long term development of the school the Governors agreed to the secondment of the Headteacher on a temporary basis in May 2001. In 1999 following a series of meetings involving the Governors and the Authority the Council agreed that the Rhuddlan Site should be sold with the capital receipt utilised towards the redevelopment of the provision on the Rhyl Site. The sale is now proceeding but the capital receipt will not be released until the next financial year. Additionally there were separate but linked consultations with outside partnerships via a Task Group to incorporate siting an Early Years Child Development Centre on the Rhyl Site.

The Headteacher, during his secondment, has held extensive discussions with key officers in the Authority in order to address the long term development and progress to date encompasses:

- * An audit of SEN Provision both within Denbighshire & neighbouring Authorities
- * Detailed accommodation schedules drawn up
- * Sketch plans drawn up
- * Capital bid made to Denbighshire County Council for £5m for replacement school
- * Regular Governing Body consultations as agreed
- * Outline Business Plan produced re: Joint Development

Members will know from the verbal update given by the Corporate Director of Lifelong Learning at the Cabinet meeting on 10th September 2002 that a recent fire at Ysgol Tir Morfa (Rhyl Site) has caused extensive damage, although the pupils are now back in school after some remedial works were undertaken.

The fire has highlighted the need to carry out other extensive works to protect the long term future of the buildings:

Technical Services Condition Report - electrical works required	£88k
Building Improvement to restore the fire damaged kitchen and adjacent classroom (still out of use) - this figure to be funded from insurance claim	£25k(estimated)
Condition Survey works required over a 5yr period as identified in 2000 by Independent Survey Consultant	£150k

Members should be aware that Denbighshire currently purchases places in Special Schools in adjacent Authorities for 60 pupils with severe learning difficulties. The planned provision in the long term development being looked at would include resources to meet the needs of this group on the Rhyl Site. The annual cost (excluding transport) of educating these pupils out of County is in the region of £600k. Additionally, because Ysgol Tir Morfa is above capacity the Authority is experiencing some difficulty in placing pupils moving into Denbighshire with statements of special educational needs. This has resulted in the need to make specialist provision on mainstream sites to compensate for the capacity issues at Ysgol Tir Morfa as reported in the latest Lifelong Learning monthly budget report to cabinet

3 COST IMPLICATIONS

Estimated cost of new school £5m in Phases 2003/04, 2004/05, 2005/06
Potential of significant revenue savings in Out of County fees
Potential Repair & Maintenance savings
Potential capital receipt of sale of Rhuddlan Site
Potential capital receipt of sale of Rhuddlan premises once pupils care moved to Rhyl Site

This will have a significant impact on other capital bids

Funding for Phase 1 in 2003/04 from the Rhuddlan Site capital receipt. The County Council will need to commit capital funding to complete remainder of project in Phases 2 & 3. The School Building Improvement Grant is currently committed for 2002/2003 and 2003/2004. The Authority should receive its next allocation of School Building Improvement Grant in the 2004/5 financial year.

4 FINANCIAL CONTROLLER STATEMENT

The full capital costs and proposed phasing will need to be considered by the Asset Management Committee for inclusion in the Capital Programme from 2003/04.

5 CONSULTATION CARRIED OUT

Lifelong Learning Scrutiny Committee - 4th September 2002
Lead Member for Lifelong Learning
Corporate Director: Lifelong Learning
Head of Education Services
Head of Strategy & Resources (Lifelong Learning)
Executive Board of the NHS Trust
Clinical Director Conwy & Denbighshire NHS Trust
Consultant Paediatrician Conwy & Denbighshire
Chair of Governing Body, Ysgol Tir Morfa
Vice Chair of Governing Body, Ysgol Tir Morfa
Parent Governor, Ysgol Tir Morfa
NHS Project Manager

County Asset Manager, Denbighshire County Council
Asst. Director NCH
Design Services Team, Denbighshire County Council

All in agreement with long term development plan

Current Consultees

N A W
Parents/Staff all Denbighshire Schools
Neighbouring & Placing LEA
Professional Associations
Social Services
On-going with the Health Authorities

6 IMPLICATIONS ON OTHER POLICY AREAS INCLUDING CORPORATE

- A joint approach to policy and information across services
- The development would have significant benefit for the families of children with disabilities
- Development would help meet a number of objectives contained in the white paper - "Shaping the Future for Special Education - An Action Programme for Wales."

7 RECOMMENDATION

Determine to replace the existing school in phases.

REPORT TO CABINET

Report By: Cllr M A German, Lead Member Sustainable Development and Environment

Date: 1 OCTOBER 2002

Subject: **Waste Contracts and the requirement to increase recycling/composting of municipal waste to comply with the anticipated Welsh Assembly directive on Managing Waste Sustainably**

1.0 **Decision Sought**

- 1.1 To agree that the existing domestic waste collection contract with the Council's Contract Services be extended to 31st March 2005.
- 1.2 To implement waste minimisation programmes in tandem with the extended contract to enable targets to be met.
- 1.3 To bring into uniformity the method of distributing refuse sacks through out the county by issuing one bag per week per household annually (52 bags bulk delivery).
- 1.4 To authorise officers to commence the procurement process for an holistic waste collection / waste minimisation contract which will be performance based.
- 1.5 To authorise the Lead Member for Sustainability and the Environment to consider a possible joint venture with Conwy CBC for handling the waste generated from the north of the County and Conwy

2.0 **Reasons for Seeking Decision**

2.1 The National Assembly for Wales (NAW) consultation paper Managing Waste Sustainably issued in July 2001, with only minor amendments, now forms the basis of the Welsh Assembly Directive on that subject. This document was circulated to members for comment on 6th August 2001.

2.2 Within that document the (NAW) set targets for local Authorities in Wales to ensure that the recycling/composting of municipal waste improves significantly beyond the current average of 5%. The targets for municipal waste are expected to be:-

- by 2003/04

achieve 15% recycling/composting of municipal waste with a minimum of 5% composting and 5% recycling.

- by 2006/07

achieve 25% recycling/composting of municipal waste with a minimum of 10% composting and 10% recycling

- by 2009/10

achieve 40% recycling/composting of municipal waste with a minimum of 15% composting and 15% recycling.

2.3 Following a report to Environment Scrutiny Committee on 18th September 2001, agreed at Cabinet and ratified by the meeting of full council at the meeting held in November 2001, the Authority introduced Green Waste Composting at the Northern Civic Amenity Sites at Rhyl, Prestatyn, Denbigh and Ruthin. All four sites being operational by early January 2002. It is anticipated that over a full year these sites will be able to divert in the order of 2500 tonnes of green waste, approximately 5% of the total 47097 tonnes of municipal waste currently disposed of through landfill.

- 2.4 This is a small, but significant start to tackling the need to reduce the amount of waste going to landfill. It is critical that this authority meets the targets set and accordingly it is considered prudent that any internal targets should exceed the above by in the region of 2% in order to allow for future changes and to allow some leeway.
- 2.5 Please refer to appendix 1 for further details of the waste handled by this authority.
- 2.6 There are a number of options which are open to the authority to reduce the waste going to landfill. However the first item to consider is the way in which the overall contract or contracts is/are to be organised.
- 2.7 Currently, the County has two contracts for the removal of domestic / commercial waste one covering the north of the county and the other for the south. Both contracts were won by the Contract Services when last tendered on a competitive basis.
- 2.8 The northern contract has been extended to give time to look at the new requirements and the southern contract, due to terminate in August 2003, will also need extending. Neither contract has any requirement for recycling or waste minimisation.
- 2.9 The value of the overall waste contract is considerable, currently being in excess of **£1,630,000** per year. In order to be able to put a fully comprehensive contract out to tender it will be necessary to go through the European route of procurement. It would be expected that the minimum term for any contract would be 6 years, but it could be as long as 21 years where there are significant start up costs which need building in to the contract.
- 2.10 The procurement process takes time to implement and accordingly a short to medium term solution is necessary if we are to be able to continue with the waste stream and to facilitate minimisation. The most appropriate way to continue with the service in the short term is considered to be to allow Contract Services to continue by "agreement" on an open book basis until 31st March 2005. Both contracts to be brought into line as one.
- 2.11 If this approach is to work effectively it will be necessary for officers to agree with the contractor to replace some vehicles which have now exceeded their working life. It is considered that this could be done on an individual basis as agreed with the "client". Such vehicles would need to be offered up with the contract when tendered if this is the eventual route taken. This makes it imperative that future acquisitions are monitored carefully, as this could add to the cost of later contracts and vehicles may in any event not be suitable for use later.
- 2.12 Contract Services consider that the dimensions of the original contract have altered, particularly in respect of the numbers of properties collected from and there will be a need to consider the request for additional payments in this respect. This claim relates to additional properties occupied since the inception of the contract.
- 2.13 As part of the interim arrangement it is considered that the county needs to consider one system for the provision of black waste sacks. At present there are two methods of distribution, one being bulk annual deliveries in the north of the county and the other weekly in the south. In both cases the number of bags given will depend on the size of the household (one or two per week)
- 2.14 It would be preferable to regularise all distributions to an annual basis and to give all households two bags. This would make the system fairer and reduce problems in operation. However no solution is without cost and accordingly I set out below the costings associated with any change.

Additional Bags needed to provide two per household. **£35,000**

Additional delivery costs claimed by Contract Services **£20,000**

Total cost **£55,000**

- 2.15 A more appropriate solution would be to issue only one bin bag to each household, with householders being required to purchase the extra bags at what amounts to minimum cost for the individual, but which nets a significant saving to the authority.

Savings bags at one per property	£8,500
Additional delivery costs claimed by contract services to bulk deliver to whole county	£16,000
Total cost	£ 7,500

- 2.15 If the above is acceptable and if targets are to be met, it will be necessary to run positive recycling schemes alongside the collection service. In the intervening period contracts would be entered into with contractors who would be approached to provide a recycling service sufficient to meet the set targets **(it has to be said that there are dangers in this fragmented approach in possibly not meeting the targets set.)**.
- 2.16 For the future there is a need to look seriously at the greater picture with a view to arriving at a solution which places the onus on the contractor to comply with the targets on a performance based contract.
- 2.17 It is preferable to enter into a procurement route that will put out to tender a comprehensive contract in respect of the collection of waste and recycling as part of the same contract. This would most likely result in economies of scale. There will also be a need to consider community-based projects as part of any strategy.
- 2.18 Officers are currently in discussion with officers of Conwy CBC with regard to a possible joint venture. This could involve working from the Llandulas site where the contractor is looking to set up a major waste / recycling centre. This discussion is in its infancy, but the joint venture route is considered to be of potential merit.
- 2.19 Joint ventures of this nature can offer considerable gains in respect of providing a value for money contracts on the basis of the overall scale of the proposal. However there will be a need for bulking facilities to serve the south of the county in order to make any such scheme viable.
- 2.20 Officers will continue with the dialogue, but it will soon be necessary to involve Members as part of group meetings. It is therefore suggested that the lead member for sustainable Development and the Environment be authorised by Cabinet to be the Member to be given delegated power to deal with the matter, consulting with the Chair of the Environment Scrutiny Committee as matters progress.
- 2.21 Trade waste makes up a significant proportion of waste disposed of to landfill by this authority and recent brief studies, together with feed back received from the contractor indicate that a significant number of traders are not disposing of waste in the approved manner, instead using black bin bags used for domestic waste.
- 2.22 This practice is illegal and is costing the authority in excess of £100k per year. Having discussed the matter with the Environment Agency it is proposed to employ a Trade Waste compliance Officer on the basis that it will be both self financing and possibly will result in a reduction of waste going to land fill. The officer would be employed on a two year fixed term contract on this basis. Over the two year period it is expected the trade waste service will operate at a small profit overall (as required by the District Audit service) per year after the costs of employing the officer are taken out.
- 2.23 If recycling is to be effective we need to look to the operation of the existing civic amenity sites. The current sites have limited value in terms of recycling facilities offered, as they are too small to provide the type of facility needed to recycle materials effectively.

There is a need to consider reducing the number of sites by approximately 30% and to provide new strategically placed sites which are large enough to provide all facilities safely. A further report will be presented on this proposal at a later date.

3 Cost Implications

- 3.1 Whatever the solution chosen, the basic waste collection costs will be similar to those of our existing contracts but with an additional cost for the recycling and composting elements. Based on data available from other authorities the cost for collecting recyclables at kerbside for all of the urban areas of Denbighshire, together with the cost of processing for onward delivery to the recycling processors should be of the order of £0.5m / year when the schemes are all fully up and running, plus a similar sum for the additional 'Bring' system. The composting scheme, as previously reported, will add a further £40k to the costs.
- 3.2 Finance is available through the National Assembly for Wales to assist in meeting recycling targets as set out below 2

2002 - 2003	£307,733
2003 - 2004	£979,276
2004 - 2005	£943,007

Performance related Grants bid -

2002 - 2003	£50k
2003 -2004	£100k

- 3.3 It is anticipated that the additional funds being made available will be adequate to meet the initial targets. However, the Assembly's financial arrangements only cover a 3 year period whereas Denbighshire will need to enter in to a much longer term commitment if it chooses to follow the Assembly's likely Directive. Should Britain fail to meet the European Directive on waste reduction/diversion it stands to be penalised by fines which could amount to £300k for each day of non compliance with those regulations.

4 Implications On Other Policy Areas Including Corporate

- 4.1 The waste minimisation proposals facilitated by this report will assist towards the necessary diversion of waste from the landfill stream.

5 Financial Controller Statement

- 5.1 The large costs and potential funding involved in the service changes detailed in the report will need to be considered as part of the budget setting exercise for the next financial year currently being undertaken.

6.0 Consultations Carried Out.

- 6.1 Environment Scrutiny Committee held on 17th April 2002. In considering the report Members were keen to stress that officers must investigate and implement ways of involving the community and entering into partnerships in applying any waste minimisation process. The need for flexibility in any contract was also emphasised.

7.0 Recommended

- 7.1 To agree that the existing domestic waste collection contract with the Council's Contract Services be extended to 31st March 2005.
- 7.2 To implement waste minimisation programmes in tandem with the extended contract to enable (NAW) targets to be met.

- 7.3 To bring into uniformity the method of distributing refuse sacks through out the county by issuing one bag per week per household annually (52 bags bulk delivery).
- 7.4 To authorise officers to commence the procurement process for an holistic waste collection / waste minimisation contract which will be performance based.
- 7.5 To authorise the Lead Member for Sustainability and the Environment to consider a possible joint venture with Conwy CBC for handling all waste from both counties.

ED ~ KE

Waste handling details, together with required improvements to meet set targets.

- 1 During the financial year 2000 /01 this authority handled 47,097 tonnes of municipal waste of which only 1610 tonnes were recycled (hardcore which is at present separated out for reuse, and abandoned cars do not currently count in the recycling tonnages). Giving an **existing recycling rate of only 3.4%**
- 2 By April 2003 this Authority will need to have systems in place to increase recycling by a further minimum of 1.6%, to meet the 5% minimum and additionally increase composting/recycling another 5% to achieve the overall 15% target for that date. Based on current tonnage's that will be a total of just over 7,000 tonnes per annum we will need to divert.
- 3 By April 2006 systems will need to be in place to increase recycling by a minimum of 6.6% above current rates, composting by a further 5%, and an increase of composting/recycling of another 5% **to achieve the collective 25% target for that date - nearly 12,000 tonnes per annum.**
- 4 Similarly, by 2009 recycling will have to increase at least by a further 5% above the 2006 targets, composting a further 5% with an additional 10% again on top of that to reach the **target of nearly 19,000 tonnes per annum .**
- 5 To achieve these targets this Authority needs to alter the existing collection systems and / or introduce new systems which will divert the required tonnages from waste to recycling or composting.

CABINET MEMBER: Councillor P A Dobb, Lead Member for Health & Wellbeing

DATE: 1 October 2002

SUBJECT: Attendance at UK Social Services Conference - 16-18 October 2002

1. DECISION SOUGHT

To agree representation at the UK Social Services Conference "Success through Diversity" which this year is in Cardiff International Arena.

2. REASON FOR SEEKING DECISION

2.1 Cabinet approval is required to enable official representation at this conference. The conference is the main UK Conference in the social care field and has speakers and exhibitors of national standing. The Conference is organised by the Association of Directors of Social Services and the LGA.

2.2 The theme for this year's event is Diversity. Policy sessions will focus on: managing the diverse nature of the social care client base; the diversity of best practice across the sector; the diverse demands placed on social work professionals by central & local government and the public at large.

2.3 Representatives of the leading political parties, at ministerial and shadow ministerial level, are expected to present plenary sessions.

3. COST IMPLICATIONS

Full delegate rate £411.25 plus overnight accommodation.

4. FINANCIAL CONTROLLER STATEMENT

It will be necessary to contain costs within the relevant members and service budgets for conference costs.

5. CONSULTATION CARRIED OUT

Not applicable.

6. IMPLICATIONS ON OTHER POLICY AREAS INCLUDING CORPORATE

The Conference will particularly enable information to be gathered on the way the national social care policy agenda is being developed with health services.

7. RECOMMENDATION

That Cabinet nominates the Lead Member for Health & Wellbeing and one officer to attend the Conference.