

**PWYLLGOR CYNLLUNIO**  
**CYFARFOD: 6ed Medi 2000**  
**Agenda Eitem: 2**

**PLANNING COMMITTEE**  
**MEETING - 6th September 2000**  
**Agenda Item: 2**

**DEDDF CYNLLUNIO TREF A GWLAD 1990**  
**CYNLLUNIO TREF A GWLAD (DATBLYGIAD CYFFREDINOL)**  
**GORCHYMYN 1995 - HYD HEDDIW**  
**DEDDF CYNLLUNIO A IAWNDAL 1991**  
**RHEOLIAD HYSBYSEBU CYNLLUNIO TREF A GWLAD 1994**  
**DEDDF CYNLLUNIO (ADEILADAU RHESTREDIG A CHADWRAETH)**  
**1990**  
**CEISIADAU AM GANIATAD DATBLYGU**

Adroddiadau ac argymhellion gan Swyddogion i'w hystyried a'u datrys gan Awdurdod Cynllunio'r Sir.

Bydd pob cais am y cynigion a nodir yn yr adroddiad hwn ar gael i'w archwilio gan Aelodau o'r Pwyllgor cyn ac yn ystod y cyfarfod lle ystyrir y ceisiadau.

Gellir gweld y Papurau Cefndir i bob cais, gan gynnwys ffurflenni, cynlluniau, gohebiaeth, Cynllun Datblygiad a dogfennau arweiniad yn ystod yr oriau swyddfa arferol.

**TOWN AND COUNTRY PLANNING ACT 1990**  
**TOWN AND COUNTRY PLANNING (GENERAL PERMITTED**  
**DEVELOPMENT PROCEDURE) ORDER 1995 - TO DATE**  
**PLANNING AND COMPENSATION ACT 1991**  
**TOWN AND COUNTRY PLANNING ADVERT REGULATIONS 1994**  
**PLANNING (LISTED BUILDINGS AND CONSERVATION AREAS)**  
**ACT 1990**  
**APPLICATIONS FOR PERMISSION FOR DEVELOPMENT**

These are reports and recommendations by Officers for consideration and resolution by the County Planning Authority.

All the applications in respect of the proposals specified in this report will be available for inspection by the Members of the Committee prior to and during the meeting at which the said applications will be considered.

The Background Papers relating to each application, including forms, plans, relevant correspondence, Development Plan and guidance documents are available for public inspection during normal office hours

**JOINT REPORT  
BY THE HEAD OF PLANNING SERVICES AND COUNTY CLERK  
PROPOSED FOODSTORE  
HIGH STREET, PRESTATYN**

**1. PURPOSE OF REPORT**

- 1.1 To seek redetermination of a planning application for the development of 2 ha. of land by the erection of a foodstore (application reference 43/910/987/PO) taking into account the most recent resolution to grant planning permission was made more than 12 months ago. Under the Committee's agreed policies and procedures I am required to report back if the planning obligation has not been finalised within a 12 month period from a resolution to grant planning permission.

**2. BACKGROUND**

- 2.1 The background to the application is set out in the **attached** reports. The application was first considered at the Planning Committee on 15 April 1998 with further resolutions to grant planning permission made in July 1998 and July 1999. I had anticipated that the planning obligation would now have been completed and signed thus enabling the decision notice to be issued, but circumstances have prevented the matter being finalised within the period anticipated. Thus there is the need for a further resolution. Subject to this Committee resolving to grant planning permission again I anticipate that the obligation will be completed in the very near future allowing the planning permission to be issued.

**3. MATERIAL CONSIDERATIONS**

- 3.1 Material issues to be considered in determining the application remain largely as they were in April and July 1998 and July 1999 as dealt with in the previous reports.
- 3.2 In the meantime the Denbighshire County Council Unitary Development Plan has moved forward towards the inquiry stage (to be commenced in October 2000). Policies RET1 and RET3 of the UDP (as amended in the proposed changes document) are applicable to the foodstore and continue to support the town centre development proposed.
- 3.3 Thus the changes in material circumstances since the original resolution to grant planning permission if anything add further support to the proposal.

**4. OTHER ISSUES**

- 4.1 I have been advised recently by Tesco's that they have assembled the majority of ownership interests in the site. In addition Members will be aware that at a special meeting of the Planning Committee on 25 July 2000 it was resolved to use CPO powers if and when necessary in order to bring about proper implementation of the plan. This resolution was confirmed by Full Council on the same day. Thus if the developer cannot achieve land assembly through negotiation there is as a last resort a possibility of using compulsory purchase powers.

## **5. RECOMMENDATION**

- 5.1 The planning permission is granted for development under application reference 43/910/97/PO subject to the applicants first entering into an Obligation under Section 106 of the Town and Country Planning Act 1990 covering the matters set out in paragraph 26 of the Report to Planning Committee of 15 April 1998 and subject also to the conditions contained within that report together with amendments referred to in paragraph 2.3 of the report to Planning Committee on 28 July 1999.

md/mr/22/08/2000

APPENDICES NOT AVAILABLE IN ELECTRONIC FORM




CYNGOR  
Sir Dainbych  
Denbighshire  
COUNTY COUNCIL

Title:

APPLICATION NUMBER 20/1999/859/PF  
HAFOD Y BRYN, LLANFAIR D.C.,  
RUTHIN, DENBIGHSHIRE

Aneurin O Phillips BA(Hons) MSc MRTPI  
Head of Planning Services  
Trem Clwyd  
Canol Y Dre  
Ruthin  
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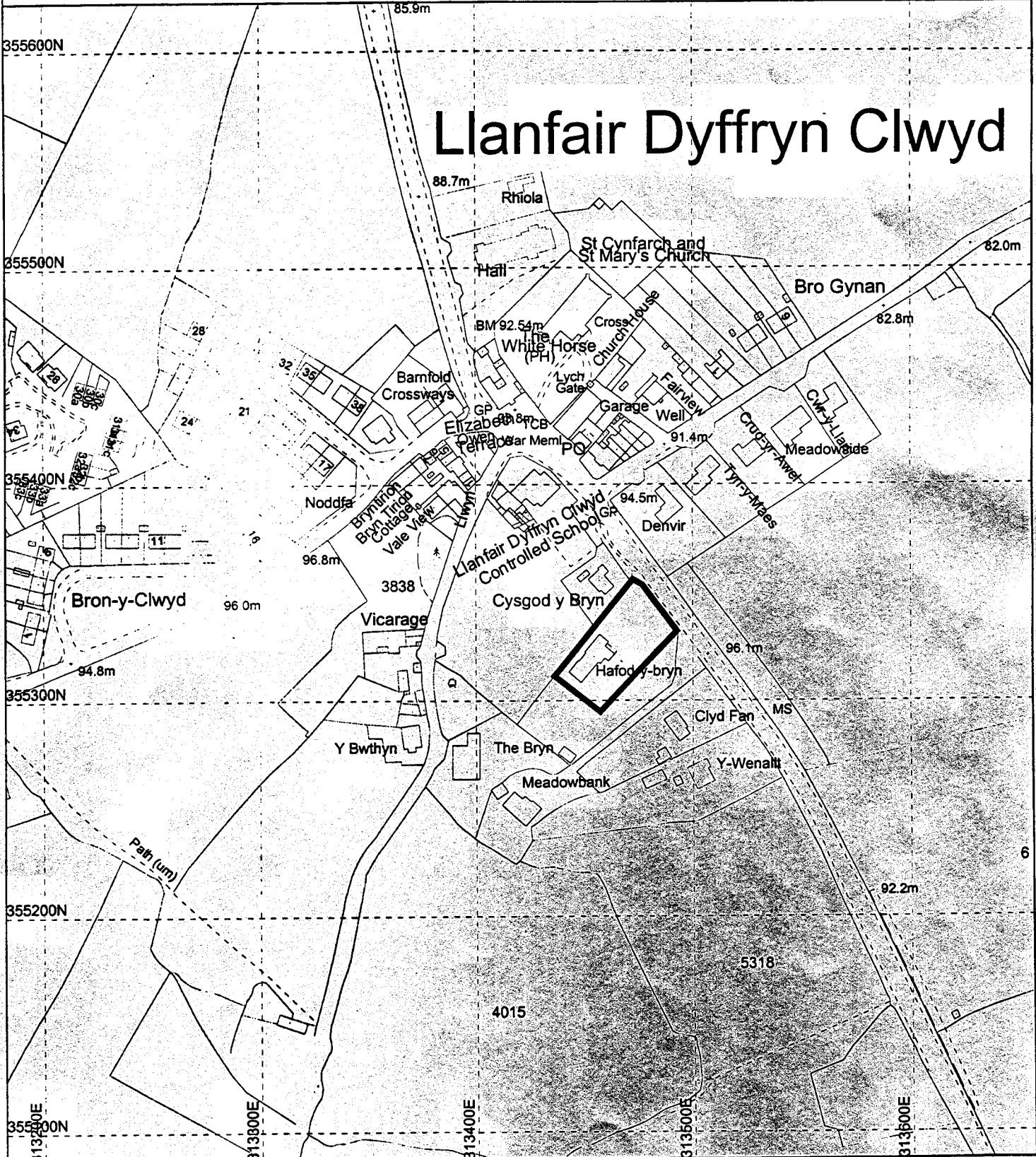
 Application Site

Date: 10/01/2000

Scale: 1 : 2500



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**REPORT BY HEAD OF PLANNING SERVICES**

**REQUIREMENT FOR SECTION 106 IN RELATION TO  
ERECTION OF DOMESTIC GARAGE -  
HAFOD-Y-BRYN, LLANFAIR D.C. RUTHIN  
(Planning Application Code No 20/859/99/PF)**

**1. PURPOSE OF REPORT:**

- 1.1. To seek Members resolution on an appropriate course of action on a planning application considered at Committee in January 2000, where the grant of permission was subject to the completion of a legal agreement under Section 106 of the 1990 Planning Act.

**2. BACKGROUND:**

- 2.1 Hafod-y-Bryn is a detached dwelling in Llanfair DC village.
- 2.2 A planning permission was granted in June 1995 by the former Glyndwr District Council, for the erection of a detached garage between the house and the A525 Ruthin-Wrexham Road. This permission was subject to the 'normal' implementation condition requiring commencement within 5 years of the date of grant, in this instance by 30 June 2000. (Glyndwr Application No 30/14808).
- 2.3 I understand that in late 1999 the owner of Hafod-y-Bryn was negotiating the sale of the property, and that the prospective purchaser wished to arrange for the erection of a garage in a wholly different location, at the side/rear of the dwelling, instead of the one with a valid permission closer to the A525. As no work had commenced on the garage granted permission in June 1995, and this was still capable of implementation, the planning application for a 'new' garage at the side of the house, submitted in late November 1999, was accompanied by an offer from the owners that if necessary, the previous permission would be relinquished if permission was granted for the new building. The application was dealt with under Code No 20/859/99/PF.
- 2.4 The application was reported to the Planning Committee on 26th January 2000. Members resolved to grant permission for the 'new' garage, subject to the completion of a Section 106 Obligation securing the relinquishment of the June 1995 permission.
- 2.5 Since the January 2000 Committee, complications have arisen in relation to the drafting of the legal obligation, following the changes in ownership of Hafod-y-Bryn, and the Legal Officer has come to the conclusion that realistically there is now no legal or planning purpose to be served in proceeding with the preparation and completion of a legal document for the purpose originally intended. I believe this to be the only reasonable conclusion at this point in time, as the original permission has lapsed at the end of June 2000, and cannot now be legally implemented in any event.

- 2.6 Work has proceeded on the construction of the garage forming the subject of the application considered by the Committee in January 2000, and I am advised this has now been completed in accordance with the plans, and to the satisfaction of the Building Control Section in relation to a separate Building Regulation application. Whilst strictly speaking the erection of the 'new' garage has been unauthorised without the issue of a formal planning Decision Certificate and the Section 106 Obligation, the Legal Officer and Principal Planning and Enforcement Officer do not consider it expedient to contemplate enforcement action as there is no justification in the circumstances, in particular as the development conforms with the plans considered acceptable by the Planning Committee in January 2000.
- 2.7 As the Legal Officer's conclusion is that the 1995 permission cannot now be legally commenced, and there is no purpose or benefit in pursuing a Section 106 Obligation to secure its relinquishment, it is suggested that the most appropriate course of action would be to issue the Certificate of Decision on the application 20/859/99/PF with a covering letter explaining why a legal obligation is not now necessary.
- 2.8 Since the application dealt with by the Planning Committee in January 2000 was subject to a specific resolution relating to the Section 106 Obligation, it is necessary to obtain the Committee's agreement to the release of the Decision Certificate without a legal obligation, for the reasons outlined. In the circumstances, I believe this to be a sensible conclusion to the matter.

### **3. RECOMMENDATION:**

- 3.1 That authorisation be given for the release of the Certificate of Decision on application Code No 20/859/99/PF, without the requirement for a Section 106 Obligation relating to the relinquishment of the previous permission for a domestic garage, ranted under Glyndwr Code No 20/14808, and subject to compliance with the following condition:-
1. No trees or hedges within the application site shall be felled, lopped or topped without a prior written consent of the Local Planning Authority. Those removed without consent or which die or are severely damaged or become seriously diseased within five years of the completion of the development shall be replaced with trees or hedgerow plants of such size and species to be agreed in writing by the Local Planning Authority.

Reason -

To safeguard the existing trees and hedges on the site, in the interests of the visual amenities of the locality.

## INFORMATION REPORT BY HEAD OF PLANNING SERVICES

### 1. PURPOSE OF REPORT:

- 1.1 To advise Members of ongoing developments in relation to Site Inspection Panel procedures, and site visits in connection with proposals at Burley Hill (extension to quarry) and Tir Mostyn/Foel Goch (windfarm).

### 2. SITE INSPECTION PANEL PROCEDURES:

- 2.1 Members may be aware of incidents which occurred prior to and during one of the Site Inspection Panels in Llangollen in early August, when two Members of the Panel lost their footing when walking to and on the site.
- 2.2 As a result of the events, I am in discussion with the County Clerk to clarify the legal and procedural implications of accidents in the course of Site Panels, and the related question of the conduct of the Panels.
- 2.3 The situation is one where it may be appropriate to prepare a basic protocol/guidance note on the safety of Members and Officers attending Site Panels. In the circumstances, I propose to report to the Planning Scrutiny Panel on the issues arising, and will advise the Committee as soon as possible on developments.

### 3. BURLEY HILL QUARRY:

- Extension to Quarry application:
- 3.1 In connection with the application to extend the quarry, it has been suggested that Members may wish to take the opportunity to visit a quarry where comparable restoration works have been undertaken, to help consider the merits of the Burley Hill proposals.
  - 3.2 Along with the County Minerals and Principal Planning & Enforcement Officer, I have recently visited two quarries in the Peak District where restoration works are taking place, to assess the value of an inspection by Members of the Committee.
  - 3.3 Whilst the restoration works undertaken at the Peak District quarry are of interest, I question whether a visit there by Members would be of value in this instance. However, a number of photographs will be displayed and explained to Members in conjunction with the site meeting to be arranged at Burley Hill. Investigations are still taking place into the possibility of an inspection of one of the Flintshire quarries.
  - 3.4 The situation on the Burley Hill application is that following recent contact with the applicants, revisions to the plans are being made, and these should be submitted for consideration (and reconsultation) later this year. Again, I will keep Members advised of developments, and ensure arrangements are made for a site visit at the appropriate time.

#### **4. TIR MOSTYN/FOEL GOCH, NANTGLYN**

- Windfarm application:
- 4.1 Following an approach to the applicants for information on 'comparable' windfarms, a list of sites has now been received. This list is currently being investigated in detail, so Members can be advised of the potential value of visiting sites of similar size, or ones using similar turbines. Unfortunately there appear to be no sites in the UK where the specific type and number of turbines proposed at Tir Mostyn have been developed.
  - 4.2 For information, all documents relating to the 'revised' application for 25 turbines have now been received, and the relevant re-consultation and publicity steps have taken place.
  - 4.3 I will report back to Members on the situation, so a decision can be made on the appropriate course of action on a site visit prior to the consideration of the Tir Mostyn application.



## A REPORT BY THE HEAD OF PLANNING SERVICES

### DATE OF SITE VISITS

#### 1. PURPOSE OF REPORT

- 1.1 To advise Members of the likely date of any Site Visits requested by the Planning Committee.

#### 2. DATE OF THE SITE VISITS

- 2.1 In consultation with Legal and Administration, it has been decided that the **Thursday 14th September 2000** is most suitable. This date has been provisionally booked.
- 2.2 You are advised, therefore that any site visits arranged today will take place **On Thursday 14th September 2000(times to be advised)**.

#### 3. MEMBERSHIP OF THE SITE VISIT PANEL

- 3.1 This will depend on Political Balance and will include the Chair and Vice Chair of the Committee to include in total:  
Four (4) Independent Councillors  
Four (4) Labour Group Members  
Two (2) Councillors from the Plaid Cymru Group  
One (1) Conservative Councillor  
One (1) Member of the Democratic Alliance of Wales Group  
In addition to the relevant Local Member(s)

#### 4. RECOMMENDATION

- 4.1 That Members agree to the Site Visits being held on **Thursday 14th September 2000**

**AGENDA ITEM NO. 8**  
**PLANNING COMMITTEE - 6TH SEPTEMBER 2000**

**ITEM NOT AVAILABLE IN ELECTRONIC FORM**