

**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

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**REPORT BY THE HEAD OF PLANNING AND PUBLIC PROTECTION**

**DENBIGH HOSPITAL**

**1. PURPOSE OF REPORT**

1.1 To confirm with Members the reasons for refusal of the planning application considered at the Planning Committee on 24<sup>th</sup> March 2005.

**2. BACKGROUND**

2.1 Members resolved to refuse outline planning permission for a mixed development at the former North Wales Hospital, Nantglyn Road, Denbigh (application reference 01/2004/1445/PO) at the last Planning Committee.

2.2 Given the scale and significance of the development and the possibility of an appeal, it is considered important that the detailed wording of the reasons for refusal are considered by Members, prior to the issue of the decision notice.

2.3 Members resolved to refuse the application on the basis of conflict with the Denbighshire Unitary Development Plan, and in particular Policies MDA 4 and GEN 7.

2.4 Policy MDA 4 is a site specific policy promoting a major mixed development area at the hospital, subject to a number of criteria being met. In relation to this policy the main concern of Members relates to the fact that the primary use of the site will not be for employment but for residential.

2.5 Policy GEN 7 deals with the Welsh language and culture and states:

*"In considering development proposals in areas with a strong social, cultural and linguistic identity, particularly based on the Welsh language, special account will be taken of that identity to ensure that no demonstrable harm is caused to the character of the local community."*

Whilst Members' concerns in relation to this policy are understood, it would be for the Council to provide the evidence that the application would result in demonstrable harm, to defend a reason for refusal based on this policy.

2.6 In conclusion it is considered that the reason for refusal should be based on Policy MDA 4 alone.

2.7 In due course consideration will need to be given to action to be taken in relation to the deteriorating condition of the listed buildings on the site. A report will be presented to Members as soon as the implications of different courses of action have been further examined.

### **3. RECOMMENDATION**

3.1 That the planning application be refused for the following reason:

*The proposals would be contrary to Policy MDA 4 of the Denbighshire Unitary Development Plan, in particular criteria (i) and (iv), in that the proposals do not indicate that the primary use of the site would be for employment purposes and housing would not be subordinate to and ancillary to the employment use of the land and buildings. In the view of the Local Planning Authority, the proposals would lead to an imbalance of uses on the site and a scale of residential development greater than that envisaged by Policy MDA 4 of the Unitary Development Plan. This would lead to an excessive scale of residential development on an unsustainable site on the periphery of the town, adversely impacting on the character of the area and in conflict with sustainability principles.*

**A REPORT BY THE HEAD OF PLANNING AND PUBLIC PROTECTION**

**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 County Clerk's Department, it has been decided that the morning of Friday 29th April 2005 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 **Friday 29th April 2005**

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

- 3.1** This will be in accordance with Political Balance. The membership of the Site Panel will be: Three Independent Group representatives (including the Chair and Vice Chair) and one each from Labour, Conservative, Plaid Cymru, Democratic Alliance and Liberal Democrat Groups. The Local Member(s) for each site will also be invited to attend.

**4. RECOMMENDATION**

- 4.1** That Members agree to the Site Visits being held on **Friday 29th April 2005**

**REPORT BY THE HEAD OF PLANNING AND PUBLIC PROTECTION**

**INFORMATION ITEMS FOR PLANNING COMMITTEE**

**1. PURPOSE OF REPORT**

1.1 This comprises the standing agenda item at Planning Committee providing a reference point for Members for information on emerging policy, guidance, useful publications, and other items of interest.

1.2 The information provided to Members is limited to a brief description and a reference to the source of any documentation (internet/intranet address). The report will also include a summary of any significant implications for Planning Committee decision making, where relevant.

**2. PLANNING SURGERIES**

2.1 We are continuing with a series of planning advice surgeries in Rhyl, Prestatyn, Ruthin, Llangollen and Corwen. Dates have been set for the period April to September (programme **attached**). Details of the locations and timetables of the surgeries have been sent to our main customers, including Councillors, Community Councils, and agents. The dates are also available at [www.planning.denbighshire.gov.uk/portal](http://www.planning.denbighshire.gov.uk/portal). Posters have been sent to the surgery venues. A press release has been issued. The intention of the surgeries is to provide planning advice at locations near to our customers. To help get the best out of the surgeries we have asked that people make an appointment. Appointments will last 15 minutes. We will continue to provide an advice service from Caledfryn in Denbigh.

2.2 We will provide advice on the following matters – the need for planning permission, how to submit a planning application and your chances of success, and how to get involved in applications already submitted. We will agree actions at the end of the appointment.

2.3 Thus far, we have had limited feedback. However, if Members have received any feedback themselves we would like to hear it.



### **3. PLANNING: DELIVERING FOR WALES**

- 3.1 WAG has produced Newsletter 3 linked to the programme launched 2 years ago, aimed at delivering improvements to the planning system in Wales. Hard copies of the newsletter will be distributed at the Planning Committee. The newsletter is also available via the WAG web site - [www.wales.gov.uk/subiplanning](http://www.wales.gov.uk/subiplanning)

**PLANNING SURGERIES**

**TIMETABLE – MARCH - SEPTEMBER 2005**

<b>Corwen (One stop shop) 10.00 a.m. – 1.00 p.m.</b>			
THURSDAY MORNINGS			
31 <sup>st</sup> March	14 <sup>th</sup> April	28 <sup>th</sup> April	12 <sup>th</sup> May
26 <sup>th</sup> May	9 <sup>th</sup> June	23 <sup>rd</sup> June	7 <sup>th</sup> July
21 <sup>st</sup> July	4 <sup>th</sup> August	18 <sup>th</sup> August	1 <sup>st</sup> September
<b>Prestatyn (Nant Hall Road) 9.00 a.m. – 12.00 p.m.</b>			
MONDAY MORNINGS			
4 <sup>th</sup> April	18 <sup>th</sup> April	16 <sup>th</sup> May	13 <sup>th</sup> June
27 <sup>th</sup> June	11 <sup>th</sup> July	25 <sup>th</sup> July	8 <sup>th</sup> August
22 <sup>nd</sup> August	5 <sup>th</sup> September	19 <sup>th</sup> September	
<b>Rhyl (Library) 1.00 p.m. – 4.00 p.m.</b>			
MONDAY AFTERNOONS			
4 <sup>th</sup> April	18 <sup>th</sup> April	16 <sup>th</sup> May	13 <sup>th</sup> June
27 <sup>th</sup> June	11 <sup>th</sup> July	25 <sup>th</sup> July	8 <sup>th</sup> August
22 <sup>nd</sup> August	5 <sup>th</sup> September	19 <sup>th</sup> September	
<b>Ruthin (Trem Clwyd) 10.00 a.m. – 1.00 p.m.</b>			
TUESDAY MORNINGS			
12 <sup>th</sup> April	26 <sup>th</sup> April	10 <sup>th</sup> May	24 <sup>th</sup> May
7 <sup>th</sup> June	5 <sup>th</sup> July	2 <sup>nd</sup> August	16 <sup>th</sup> August
30 <sup>th</sup> August			
<b>Llangollen (One Stop Shop) 10.00 a.m. – 1.00 p.m.</b>			
FRIDAY MORNINGS			
8 <sup>th</sup> April	6 <sup>th</sup> May	20 <sup>th</sup> May	3 <sup>rd</sup> June
17 <sup>th</sup> June	1 <sup>st</sup> July	15 <sup>th</sup> July	29 <sup>th</sup> July
12 <sup>th</sup> August	9 <sup>th</sup> September		

**REPORT BY HEAD OF PLANNING AND PUBLIC  
PROTECTION SERVICES**

**APEAL DECISION UPDATE**

**1. PURPOSE OF REPORT.**

- 1.1 To advise members of recent appeal decisions.

**2. BACKGROUND**

- 2.1 The report on the delegation scheme and procedures considered at the Planning Committee on 31st October 2001 and subsequently approved at the County Council meeting on 27th November 2001 proposed that a summary of appeal decisions be reported on a quarterly basis to a set format. Appeal decisions received for July 2004 – December 2004 are set out in the attached appendix.
- 2.2 As requested by Members we have included a column indicating the original decision level (Committee or Delegated) and the officer recommendation.
- 2.3 Whilst we are happy to answer questions on the appeal decisions at the Planning Committee, if you have any matters of detail that you would like to discuss please contact Mark Dakeyne or Ian Weaver prior to the meeting.

This report is for Members' information.

**DENBIGHSHIRE PLANNING APPEALS DECISIONS**  
**LIST OF APPEAL DECISIONS FROM 1ST JANUARY 2005 TO 31ST MARCH 2005**

DESCRIPTION	DECISION LEVEL/ RECOMMENDATION	LOCATION	TYPE	DECISION DATE	APPEAL DECISION	COST	KEY ISSUES
Variation of Condition No. 5 on planning permission Ref. No. 44/2003/1016/PF to read hours of use/opening only in order to allow independent use of the premises not linked to adjoining shop	Grant Delegated	Land rear of Apart Gallery fronting Parc Edith, Rhuddlan	WR	07/01/05	ALLOWED		B1 Workshop, independent from High Street shop acceptable, subject to conditions.
Redevelopment of brownfield site/infill for residential purposes (single unit) outline only all matters reserved	Refuse - Committee	Kimmel Farm, Llandyrnog	Hearing	26/01/2005	DISMISSED		Infill issue (HSG 5) Group dwellings too fragmented to satisfy policy
Details of proposed dwelling and construction of new vehicular access submitted in accordance with Outline Application Code No 16/2002/0775/PO	Refuse - Delegated	Land Adj. 41 Tan y Bryn, Llanbedr DC	Written Repts	03/02/05	DISMISSED		Impact on character and appearance of area – cramped appearance and overdevelopment of plot.

Change of use from Cafe Bar (Class A3) to Day Centre (Class D1)	Grant Committee	Millie's Wine bar, Water Street, Rhyl	Written Reps	03/02/05	DISMISSED		Adverse effect on the viability and vitality of Rhyl Town Centre
Installation of 1 No. 12.5m. High flexicell, 2 column lamppost mast and associated equipment cabinets	Delegated Refuse Prior Approval	Pavement fronting Ffrith Public House, 305 Victoria Road, Ffrith, Prestatyn	Written Reps	09/02/05	ALLOWED		Acceptable visual impact in urban area
Unauthorised Alteration rebuilding and construction works to Agri & Agri Building	ENF NOTICE SERVED	Parc Bach, Derwen, Corwen	Written Reps	10/02/05	QUASHED		Insufficient evidence of residential use to support enforcement
Application for certificat of Lawfulness of existing use as a dwelling	Refuse to Certify	Tan y Gyrt Hall, Nantglyn	Inquiry	10/02/05	DISMISSED		Use of building as a dwelling abandoned
Erection of 4 No. Dwellings with perimeter screen walling/fencing and formation of new vehicular/pedestrian access (resubmission of applicatin ref 45/2003/1382/PF	Refuse - Delegated	Land west of Ty Newydd Road rear of Bryn Avenue, Rhyl	Hearing	02/03/05	DISMISSED		Concerns over plot sizes and overlooking from adjacent road bridge (Policy GEN 6)
Erection of 15 metre Lattice Tower, 2 Equipment Cabinets and a fence compound	Refuse Prior Approval - Delegated	Castle Steel Fabrications Ltd, Colomendy Industrial Estate, Rhyl Road, Denbigh	Written Reps	14/03/05	DISMISSED		Not justified in terms of alternative sites elsewhere not being explored

Development of land for residential purposes & construction of new pedestrian 78 vehicular access (outline application)	Refuse - Delegated	Land adjoining Islwyn, Glyndyfrdwy	Written Reps	16/03/05	ALLOWED		Policy HSG 5 – Chapel House considered a relevant building for infill purposes
Erection of extension to factory outlets - formation of car and coach parking	Refuse Committee	Tweedmill Factory Outlet, St. Asaph, Denbigh	Public Inquiry	31/03/05	ALLOWED		Benefits outweigh harm to objective of UDP.  <b>Note</b> More detailed report to follow at next meeting

p/ps/aeh/applst/jan-march05

**Decisions Made by the Head of Planning and Public Protection  
under  
Delegated Powers  
1st - 31st March 2005**

**Item For Information**

This is a list of applications where the decision has already been made under delegated powers. If you wish to discuss the application/decision please contact the Case Officer.

**DECISION TYPES**

<b>GRANT</b>	- grant planning permission
<b>REFUSE</b>	- refuse all types of application
<b>APPROVE</b>	- approve reserved matters or condition
<b>CONSENT</b>	- grant listed building, conservation area, or advert consent
<b>DEEMED</b>	- does not require advert consent
<b>NO OBJ</b>	- no objection to works to tree(s) in conservation area
<b>NOT REQ</b>	- proposal does not require permission/consent
<b>DETERMIN</b>	- determine that prior approval is not required or is granted on determination application (certain telecom or agricultural works)
<b>P DEV</b>	- proposal found to be permitted development after receipt
<b>WDN</b>	- application withdrawn by applicant
<b>INVALID</b>	- application found to be invalid
<b>CERTIFY</b>	- Certificate of lawful use issued
<b>RCERTIFY</b>	- refuse to issue certificate of lawful use

**Report to:** Planning Committee  
**Report by:** Monitoring Officer  
**Date:** 20<sup>th</sup> April 2005  
**Subject:** Denbigh Hospital Planning Application

## **1 DECISION SOUGHT**

That members:-

- (i) Note my proposal to refer this application to full Council for determination.
- (ii) Consider the terms of a reason for refusal should full Council not be minded to grant permission.

## **2 BACKGROUND**

One of my functions as Monitoring Officer is to guard against the risk of a finding of maladministration against the Council and particularly with regard to planning matters avoiding an award of costs against the Council on the grounds of unreasonableness. Members themselves must consider the financial consequences of their decisions.

At the Committee's last meeting it resolved to refuse the application on the basis of conflict with the Denbighshire Unitary Development Plan, in particular policies of MDA 4 and GEN 7. The Head of Planning and Public Protection prepared a report (agenda item 3) for today's Committee meeting in which he proposed wording to meet members' aspirations. However, for the reasons below I have advised that that report be withdrawn but that I cover the matter within this report.

My reason for referring the matter to full Council is that the applicant's agents have written a letter to the Council (copy attached) which highlights the planning reasons for granting permission. Members will recall that planning matters should be determined in accordance with the development plan unless material indications indicate otherwise. The material considerations were set out in the report of the Head of Planning and Public Protection. Further and of particular concern to me is that the agents have identified that on 24<sup>th</sup> March during debate members failed to give sufficient prominence to the listed building status. Planning Policy for Wales indicates that there should be a general presumption in favour of the preservation of listed buildings and the statutory obligation on the Authority is to have special regard to the desirability of preserving the building or its setting or any feature of special architectural or historic interest which it possesses.

The Council is accordingly vulnerable from two perspectives, namely one of maladministration in the failure "to have special regard" and the other the consequential risk of a finding by the Planning Inspector of unreasonable behaviour giving rise to an award of costs.



Notwithstanding the above it is not my role to substitute my judgment for that of members but rather to ensure that all considerations are properly addressed and the risks to the Council are minimised so that the Council is not in the position of being unable to substantiate its reasoning as happened at the Tweedmill appeal.

So as to assist full Council in the event that the ultimate decision remains one of refusal members are invited to consider whether the phraseology suggested by the Head of Planning and Public Protection which I set out below adequately expresses the reasoning of those who supported a refusal:-

*The proposals would be contrary to Policy MDA 4 of the Denbighshire Unitary Development Plan, in particular criteria (i) and (iv), in that the proposals do not indicate that the primary use of the site would be for employment purposes and housing would not be subordinate to and ancillary to the employment use of the land and buildings. In the view of the Local Planning Authority, the proposals would lead to an imbalance of uses on the site and a scale of residential development greater than that envisaged by Policy MDA 4 of the Unitary Development Plan. This would lead to an excessive scale of residential development on an unsustainable site on the periphery of the town, adversely impacting on the character of the area and in conflict with sustainability principles*

### **3 RECOMMENDATION**

That members:-

- (i) Note my proposal to refer this application to full Council for determination.
- (ii) Consider the terms of a reason for refusal should full Council not be minded to grant permission.

# CA PLANNING

*town planning + environmental consultants*

Our Ref : APC/C/2188  
Date : 15 April 2005

Mr I Miller  
Chief Executive  
Denbighshire County Council  
Wynnstay Road  
Ruthin  
LL15 1YN

Dear Mr Miller

**RESTORATION, PARTIAL DEMOLITION AND CHANGE OF USE OF THE FORMER NORTH WALES HOSPITAL TO RESIDENTIAL, BUSINESS AND COMMUNITY USES AND THE DEVELOPMENT OF ADJACENT LAND AND BUILDINGS FOR RESIDENTIAL, COMMERCIAL AND PARKLAND USES INCLUDING CHANGE OF USE TO B1 [BUSINESS USE], CREATION OF NEW ACCESS AND LANDSCAPING**

I write as the Agent to the above planning application which Planning Committee resolved to refuse on 24 March 2005.

I understand that this decision is proposed to be ratified at Planning Committee on 20 April 2005.

My reason for writing is to bring to your attention the manner in which the resolution was reached, and to suggest that the application should be taken to, and determined by, Full Council to avoid the Council being in a position where it can be accused of having behaved unreasonably.

In this respect, I understand that an unreasonable decision is one mechanism which can allow Full Council to take the authority for determining planning applications away from Planning Committee. In my opinion, these circumstances now apply.

The applicant has worked closely with Council Officers over the last two years and the application is the result of a Feasibility Study which was part funded by the Council, and a number of documents which accompanied the application including a Planning Supporting Statement, Design Statement, Transportation Assessment, Financial Appraisal and Conservation Management Plan, the contents and conclusions of which were approved by Council Officers prior to submission.

As you are aware, the development proposed relates to the means to rescue and restore a Grade II\* listed building, together with other associated listed

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Environmental Assessment  
Sustainability Analysis  
Retail Assessment  
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buildings and their setting. Owners of such buildings are required not to allow them to deteriorate without seeking their repair.

To this end, the applicant has worked with the Council's own Officers to agree a balanced scheme which will save the important buildings on the site whilst producing a development which will be of benefit to the community of Denbigh as a whole.

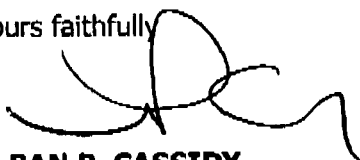
Notwithstanding this, amongst others, the most important matter which was not duly considered at Planning Committee on 24<sup>th</sup> March 2005 when the resolution to refuse was made, was the Importance of the buildings and their settings, and the need to examine closely the mechanism for their preservation. Rather, Members simply dismissed the importance and grading of the buildings and concentrated on other matters for which no evidence was available to them to reach the conclusions that they made, many of which were emotive not planning issues. Given the fact that the buildings were subject to substantial neglect in the eight years prior to the applicant purchasing the site, and that a Grade II\* listed building is by definition of outstanding significance, and worthy of preservation, I consider this to constitute unreasonable behaviour.

Although I hope that this matter can be resolved directly between the applicant and the Council, if the matter were to be taken to appeal, and/or a subsequent application, this unreasonable behaviour could result in the Council being subject to substantial costs. These may not only be the Council's own costs and resources but also the potential for a costs award in favour of the applicant, in respect of an appeal inquiry which would last several days and require the applicant to instruct Queen's Counsel and his own professional witnesses.

Furthermore, given that any resubmission would ultimately have to be referred to Full Council, it would seem expedient to refer the application now. I would hope that this would also allow the Council the opportunity to seek to avoid the time and expenses involved in an appeal and/or resubmission and possible award of costs.

I therefore urge you to refer this application for determination by Full Council at the next available meeting.

Yours faithfully



**ALBAN P. CASSIDY**  
**CA PLANNING**  
**Town Planning and Environmental Consultants**

cc Mr G Boase Head of Planning and Public Protection  
Mr I Prys-Jones Corporate Director - Environment  
Mr I Hearle County Clerk