

PROTOCOL FOR PLANNING COMMITTEE

The following sets out the method by which the Chair of Planning Committee will conduct the Planning Committee in the interests of clarity, consistency, and fairness in proceedings.

In endorsing the protocol and its objectives, the Council emphasized that there must be no pre-Committee lobbying by Members of one another. The ability of non Members of the Committee to speak with the consent of the Chair provides sufficient a mechanism for all views to be expressed at the meeting.

1. The Chair will open proceedings at 9.30 a.m. and welcome all to the Planning Committee.
2. Officers will advise the Committee of any changes in substance to the agenda or its order including public speaking, deferrals and withdrawals. This will be reinforced by the Addendum Report - Late Letters and Amendments ("the blue sheet").
3. Any requests for applications to be brought forward to the start of the meeting will be proposed by Members, and subject to a seconder, will be subject to vote.
4. Applications involving public speakers will normally be considered at the start of the agenda.
5. Applications with public speakers will normally be considered before those without speakers.
6. The following will be the order of debate on each item (planning application or enforcement report) before the agenda:
 - i) Public speakers against and for to speak in accordance with the public speaking protocol.
 - ii) The Chair to seek proposers and seconds for the recommendation or any other alternative motions.
 - iii) Officers will introduce the item setting out the main planning issues including reference to visual displays.
 - iv) If a proposal to defer for a Members Site Inspection Panel is proposed and seconded, the issue as to whether a Site Inspection

Panel shall be held and the planning reasons for such a panel shall be debated first. This is in the context that the request for a Site Inspection Panel should normally be in advance of the Planning Committee as set out in the Guidelines for Site Inspection Panels.

- v) If any application has been subject to a previous Site Inspection Panel, the Chair will invite those Members who attended including the Ward Member, to speak first, before other Members.
- vi) On other applications, the Ward Member will be invited to speak first.
- vii) Members will be limited to a maximum of five minutes speaking in accordance with standing orders.
- viii) Once a Member has spoken, the Member shall not speak again unless seeking clarification on a point arising from the debate and only once all other Members have had the opportunity to speak and with the agreement of the Chair.
- ix) Following the debate the Chair will ask Officers to respond to any questions and sum up any issues arising from the debate including advice on a potential resolution in conflict with Officer recommendation.
- x) The Chair will put any motions to the vote.
- xi) The Chair will not tolerate any interruptions by Members without his agreement or audible conversations between Members or Officers which do not form part of the debate.
- xii) Failure to abide by the above protocol will lead in the first instance to a warning from the Chair. Further failures may result in a motion under Standing Order 18.3 that the member be not heard further, leading ultimately to a motion under Standing Order 18.4 that the member leave the meeting in the event of continued improper behaviour.
- xiii) The Chair will state clearly the decision once the resolution is made.

**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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ITEM NO: 1
WARD NO: Denbigh Central
APPLICATION NO: 01/2006/1098/ PF
PROPOSAL: Conversion of former job centre into 6 no. self-contained flats
LOCATION: 34-36 Vale Street Denbigh
APPLICANT: Arthur Hapgood Ltd. Jacaranda Developments (Wales) Ltd.
CONSTRAINTS: C2 Flood Zone
Town Heritage Area
Conservation Area
Article 4 Direction
PUBLICITY UNDERTAKEN: Site Notice - Yes Press Notice - Yes Neighbour letters - Yes

CONSULTATION RESPONSES:

1. DENBIGH TOWN COUNCIL
"No objection"
2. CONSERVATION ARCHITECT
No objection
3. HEAD OF HOUSING SERVICES
Affordable housing proposed is acceptable
4. HEAD OF TRANSPORT & INFRASTRUCTURE
Expresses concerns over absence of provision for the parking of vehicles clear of the highway
5. HEAD OF DEVELOPMENT SERVICES (Economic Development)
No objection
6. DWR CYMRU WELSH WATER
No objection
7. ENVIRONMENT AGENCY
No objection
8. DENBIGH CIVIC SOCIETY
No response received

RESPONSE TO PUBLICITY:

Letter of representation received from:
1. S. Lees, Y Foelas, Peakes Lane, Denbigh

Summary of planning based representations:
i) Increased noise and disturbance

- ii) Impact on privacy
- iii) No parking provision

EXPIRY DATE OF APPLICATION: 29/03/2007

REASONS FOR DELAY IN DECISION:

- timing of receipt of representations
- additional information required from applicant

PLANNING ASSESSMENT:

THE PROPOSAL:

1. The application site comprises a detached 2 storey property which is located on the corner of Vale Street and Peakes Lane. The property is currently vacant and was formerly in use as a job centre, with offices occupied by the Department of Transport, uses which are understood to have ceased in 2006. The property has 2 entrances, one from Vale Street and the other from Peakes Lane. There are no off street parking facilities. Located in the proximity of the site are a mix of retail, commercial and residential uses.
2. The property is located within the development boundary of Denbigh and within the town and district centre boundary as defined by Policy RET 1, which terminates at the application site.
3. This application is for the change of use of the former job centre to 6 no. self contained flats, with 2 no. 1 bed affordable housing units. The floor areas of the proposed units range from 46m² to 52m² with a mix of 2no. 1 bed flats and 4 no. 2 bed flats. A bin store and drying area would be provided in the yard to the rear of the property. No off street parking provision can be provided.

RELEVANT PLANNING HISTORY:

4. None

PLANNING POLICIES AND GUIDANCE:

5. DENBIGHSHIRE UNITARY DEVELOPMENT PLAN (adopted 3rd July 2002)
 - Policy GEN 1 Development within development boundaries
 - Policy CON 5 Conservation Area
 - Policy RET 1 Town & District Centre Boundary
 - Policy ENP 6 Flooding
 - Policy HSG 10 Affordable Housing within Development Boundaries
 - Policy HSG 13 Subdivision of existing premises into self contained flats
 - Policy TRA 9 Parking & Servicing Provision

Supplementary Planning Guidance 21: Parking Requirements in New Developments
Supplementary Planning Guidance 22: Affordable Housing in New Developments

GOVERNMENT GUIDANCE

Planning Policy Wales – March 2002
TAN 15 - Development & Flood Risk
TAN 18 - Transport

MAIN PLANNING CONSIDERATIONS:

6.
 - i) Principle of development
 - ii) Impact on visual amenity
 - iii) Impact on residential amenity
 - iv) Affordable Housing
 - v) Parking considerations
7. In relation to the main planning considerations as noted above:
 - i) Principle of development

The site is located within the development boundary of Denbigh and within the town and district centre boundary as defined by Policy RET 1, which is the main location for retail and commercial developments. The application site is just within the easterly boundary of the town centre boundary. The property has been vacant for some time and has been actively marketed as offices and retail uses for 12 months, without success. Other properties closer to the centre of town have been converted to residential uses at ground floor level. In these circumstances the principle of residential development in this location is considered acceptable.
 - ii) Impact on visual amenity

Whilst the site is located within a designated Conservation Area, the changes proposed to the building are all internal and would not affect the external appearance or character of the building.
 - iii) Impact on residential amenity

Part of the rear elevation of the property faces the side gable of a dwelling which fronts onto Peakes Lane, with the main part of the building set back away from the boundary with this property. There are existing windows in these elevations and it is not proposed to insert any additional windows. At first floor level to the rear elevation would be 3 no. bedroom windows, and as none of these windows serve main habitable rooms, there would be no overlooking of the neighbouring property. In terms of noise and disturbance, the previous use of the site attracted visiting members of the public throughout the day, and in this respect a residential use would be more sympathetic and compatible. The proposed flats would be fully self contained with bin stores and drying areas to be provided to the rear yard area. All main services and facilities are located within close walking distance along with car parking on Post Office Lane. There would be no adverse impact on the residential amenities of nearby residents and it is considered that there would be an acceptable level of amenity afforded to future residents of the flats.
 - iv) Affordable Housing

Policy HSG 10 of the Unitary Development Plan requires provision of affordable housing for local needs within development boundaries. Affordable housing will be required on the site in line with Council guidance (2 units), which should be secured by a Section 106 legal agreement. The applicant would provide 2 no. 1 bed properties on site for low cost homeownership. In Denbigh, there is a high demand for 1 bed accommodation and with floor areas of 46m² and 48m², the Design Quality Requirements set by the Welsh Assembly (45m² for 2 bed flats) are met.
 - vi) Parking considerations

Highways have expressed concern with regard to the absence of any off street parking facilities and consider the proposal would lead to more on-street parking on Vale Street, Post Office Lane, Park Street or Peakes Lane. The site is located in a town centre location within close walking distance to all services and

facilities, public transport links and public car parks. Planning Policy Wales advocates maximum rather than minimum parking standards as part the strategy of sustainability, including reducing the dependency of car travel. Taking into account the site's location, transport links and close proximity to public car parks it is not considered reasonable to refuse planning permission on these grounds. The nearest car park is located on Post Office Lane, which is a long stay car park with over night parking permitted by local residents. Residents with cars who wish to purchase car parking permits are able to do so. This could be secured through a Section 106 obligation.

SUMMARY AND CONCLUSIONS:

8. The principle of the development is considered acceptable with no adverse impact on visual or residential amenity. The Council's affordable housing policy has been met. There would be no adverse impact on highway safety.

The recommendation is subject to the completion of an obligation under Section 106 of the 1990 Planning Act to secure:

- i) The provision of 2 affordable housing units and the retention of these units for affordable purposes. In this case these would be low cost units for sale.
- ii) The requirement that car owners purchase car parking permits.

The Certificate of Decision would only be released on completion of the legal obligation. The application would be reported back to the Committee and determined in accordance with the policies of the Council applicable at that time, should material circumstances change beyond a period of 12 months after this Committee.

RECOMMENDATION: GRANT- subject to the following conditions:-

1. The development hereby permitted shall be begun before the expiration of five years from the date of this permission
2. The bin stores and drying areas shown on the approved plan shall be made available prior to the occupation of the flats hereby permitted and thereafter retained for such use at all times.

The reason(s) for the condition(s) is(are):-

1. To comply with the provisions of Section 91 of the Town and Country Planning Act 1990.
2. In the interests of residential amenity.

NOTES TO APPLICANT:

None

ITEM NO: 2

WARD NO: Denbigh Upper / Henllan

APPLICATION NO: 01/2007/0367/ PF

PROPOSAL: Retention of 2 no. retractable awnings at front of premises

LOCATION: Hand Inn Henllan Street Denbigh

APPLICANT: P Lester Marstons Brewery

CONSTRAINTS: Town Heritage Area
Groundwater Vulnerability
Conservation Area
Article 4 Direction

PUBLICITY UNDERTAKEN: Site Notice - Yes Press Notice - Yes Neighbour letters - No

CONSULTATION RESPONSES:

1. DENBIGH TOWN COUNCIL
"The Council does not wish to raise any objections to the application"
2. DENBIGH TOWN HERITAGE INITIATIVE OFFICER
Considers the awnings to be inappropriate for this location
3. CONSERVATION ARCHITECT
Refers informally to the Denbigh THI Officer comments

RESPONSE TO PUBLICITY:

None

EXPIRY DATE OF APPLICATION: 22/05/2007

REASONS FOR DELAY IN DECISION:

- Need to report to Planning Committee due to enforcement implications

PLANNING ASSESSMENT:

THE PROPOSAL:

1. The proposal is a full planning application for the retention of awnings above the two ground floor windows of the The Hand Inn, Denbigh. As the works have already been carried out the application is retrospective.
2. The awnings are on the front elevation of the building. The awnings are red in colour and of a cloth/canvas type material. They are 5 metres wide each and when extended project 3 metres from the building. The housings for the material element of the awning are metal construction, of light colour and bracketed onto the buildings. Within

the housings are electric wind out motors. Underneath the awnings heaters and lighting are proposed.

3. The building is currently in use as a public house. The site fronts onto the Pwll y Grawys, and Henllan Place (B5382) and is within the Denbigh Conservation Area, and Article 4 (2) area.
4. The submitted design statement argues that the awnings are required to offer outdoor shelter for patrons who smoke.

RELEVANT PLANNING HISTORY:

5. This application has been submitted following enforcement investigation.

PLANNING POLICIES AND GUIDANCE:

6. DENBIGHSHIRE UNITARY DEVELOPMENT PLAN (adopted 3rd July 2002)
Policy GEN 6 – Development Control Requirements
Policy CON 5 – Development Within Conservation Areas

GOVERNMENT GUIDANCE

Planning Policy Wales, March 2002

Welsh Office Circular 61/96 – Planning and the Historic Environment: Historic Buildings and Conservation Areas.

MAIN PLANNING CONSIDERATIONS:

7.
 - i) Principle of development
 - ii) Effect on the character and appearance of the property and the Conservation Area.
8. With regard to the considerations in paragraph 7:
 - i) The proposal is not considered acceptable in principle as it neither preserves nor enhances the character or appearance of the Denbigh Conservation Area.
 - ii) The front elevation of The Hand Inn is prominent within the street scene of Pwll Y Grawys/Henllan Place and within the designated conservation area. The introduction of awnings and the associated fixings has a detrimental impact on the premises and the surrounding conservation area and neither retains nor enhances the appearance of the conservation area. It is considered that the scale and size of the awnings when opened cause further discord within the area and obscure key features of the host building. The proposal is contrary to Policy GEN 6 as it is not considered to respect the site and surroundings in terms of design and materials, and Policy CON 5 as it does not preserve or enhance the character or appearance of the conservation area.

SUMMARY AND CONCLUSIONS:

9. The proposal is considered unacceptable and accordingly is recommended for refusal. The use of inappropriate awnings on buildings in conservation areas should not be condoned, as a clear precedent would be set rendering it difficult to control other unacceptable awnings in such locations.

RECOMMENDATION: REFUSE- for the following reasons:-

1. In the opinion of the Local Planning Authority the awnings do not respect the premises in terms of design and material and neither preserve nor enhance the character or appearance of the designated conservation area by virtue of the use of inappropriate and unsympathetic materials and detailing. The proposal is considered contrary to Policies GEN 6 and CON 5 of the adopted Denbighshire Unitary Development Plan and advice as contained within the Council's Supplementary Planning Guidance No. 13 - Conservation Areas, Planning Policy Wales, March 2002, and Welsh Office Circular 61/96.

NOTES TO APPLICANT:

None

PLANNING ENFORCEMENT REPORT

REFERENCE: ENF/2007/00045

LOCATION: Hand Inn, Henllan Street, Denbigh

INFRINGEMENT: Installation of 2 Retractable Awnings at Front of Premises

RELEVANT PLANNING POLICIES AND GUIDANCE

DENBIGHSHIRE UNITARY DEVELOPMENT PLAN
Policy GEN 6 – Development Control Requirements
Policy CON 5 – Development within Conservation Area
SPG 13 – Conservation Areas

GOVERNMENT GUIDANCE

Planning Policy Wales, March 2002
Welsh Office Circular 61/96 – Planning and the Historic Environment: Historic Buildings and Conservation Areas

HUMAN RIGHTS CONSIDERATIONS

The Human Rights Act 1998 is taken into account when considering taking enforcement action against unauthorised alterations to commercial premises within a Conservation Area. In this instance, the matter under consideration relates to the rights of an owner of a commercial property to install 2 no. retractable awnings in modern materials and the impact that the installation of those modern materials has on the character and appearance of the Conservation Area in the general public interest. It is considered that these rights are outweighed in that the development is unacceptable as it would not preserve or enhance the character of the Conservation Area contrary to the relevant planning policies.

1. BACKGROUND INFORMATION

- 1.1 The building in question is currently in use as a Public House known as The Hand Inn. The site fronts onto Pwll y Grawys, and Henllan Place (B5382) and is within the Denbigh Conservation Area, and Article 4 (2) area.
- 1.2 The owners have installed 2 no. retractable awnings on the front elevation of the building. The awnings are red in colour and of a cloth/canvas type material. They are each 5 metres wide and when extended project 3 metres from the building. The housings for the material element of the awning are metal construction, of light colour and bracketed onto the buildings. Within the housings are electric motors which operate the awnings. It is argued that the awnings are required to offer outdoor shelter for patrons who smoke.

- 1.3 The owners were formally advised that the awnings were not acceptable and a request made to remove them. This was refused and subsequently a retrospective planning application was submitted in respect of the awnings.
- 1.4 It is considered that the proposal is unacceptable and the Officer's recommendation following consideration of the application for planning permission, is for refusal. The use of inappropriate awnings on buildings in Conservation Areas should not be condoned, as a clear precedent would be set rendering it difficult to control other unacceptable awnings in such locations.

2. REASONS FOR ISSUING AN ENFORCEMENT NOTICE

- 2.1 The unauthorised development has been carried out within the last four years.
- 2.2 The front elevation of The Hand Inn is prominent within the street scene of Pwll Y Grawys/Henllan Place and within the designated conservation area. The introduction of awnings and the associated fixings has a detrimental impact on premises and the surrounding conservation area and neither retains the character, nor enhances the conservation area. It is considered that the scale and size of the awnings when opened cause further discord within the area and obscure key features of the host building.
- 2.3 The installation of the awnings is contrary to Policy GEN 6 as it is not considered to respect the site and surroundings in terms of design and materials. They are also contrary to Policy CON 5 as they do not preserve or enhance the character or appearance of the conservation area.
- 2.4 The imposition of planning conditions as part of any grant of planning permission would not overcome the highlighted concerns.
- 2.5 The owner has refused to remove them.

3. RECOMMENDATION

- 3.1 That authorisation be granted for the following:
- (i) Serve an Enforcement Notice to secure the removal of the unauthorised 2 no. retractable awnings and associated fixings and make good the fabric of the building
 - (ii) Instigate prosecution proceedings, or the appropriate action under the Planning Acts against the person, or persons upon whom any Enforcement Notice, or other such Notice is served, or against whom legal action is taken should they fail to comply with the requirements of the Enforcement Notice.
 - (iii) Period for compliance 3 months.

ITEM NO: 3

WARD NO: Corwen

APPLICATION NO: 05/2006/0382/ PR

PROPOSAL: Approval of details relating to siting of dwellings and means of access, as part of condition no. 1 attached to outline planning permission code no. 05/2004/0541/PO

LOCATION: Land Adjacent To Cwm Arddau Glyndyfrdwy Corwen

APPLICANT: Mr & Mrs A LI Davies

CONSTRAINTS: C2 Flood Zone

PUBLICITY UNDERTAKEN: Site Notice - Yes Press Notice - Yes Neighbour letters - Yes

CONSULTATION RESPONSES:

1. CORWEN TOWN/ COUNCIL

'I would like to lodge an objection to the application on behalf of the Community Council in that the number of dwellings is excessive and the fact that there will be an increase in traffic at this location.'

Additionally, the Town Council has requested clarification regarding publicity/notification procedures with adjacent residential estate properties.

2. HEAD OF TRANSPORT & INFRASTRUCTURE

Revised Plan

The amendments are acceptable. Further details relating to design and construction of the proposed access road are covered by the planning conditions attached in the outline planning permission code 05/2004/0541/PO

3. ENVIRONMENT AGENCY WALES

As the site lies within Zone C2, TAN 15, the development category is 'highly vulnerable'. Notes existing residential outline planning permission for the site. Provided Section 9 details of the Flood Consequences Report are followed, the Agency is satisfied that the flood risk has been addressed to as acceptable a level as possible.

RESPONSE TO PUBLICITY:

Letters of representation received from:

1. R.J. & G.M. Kingdom, Ty Ni, Maes-y-Glyn, Glyndyfrdwy
2. Ms. J. Edwards, Llais Y Nant, Maes Y Glyn, Glyndyfrdwy
3. Mr. & Mrs. I. Roberts, Ger y Mynudd, Maes y Glyn, Glyndyfrdwy
4. Mr. & Mrs. Hughes, Swyn-yr-Afon, Maes-y-Glyn, Glyndyfrdwy
5. Mr. & Mrs. M. L. Roberts, Ty Nant, Maes-y-Glyn, Glyndyfrdwy

Summary of planning based representations;

Amenities

- Dust, noise, and inconvenience from construction

- Loss of privacy

Parking and highways

- Additional increase in vehicles/traffic dangers to existing residents on the existing single track
- No street lighting and roads and driveways remain unfinished (at the time of the application submission)

Trees and landscaping

- On site oak tree should remain

Open space

- Where is a children's play area to be provided?

Affordable housing

- Unsuitable for the site and locality.

Drainage

- Site includes a water drainage pipe from the new housing estate

Vibration

- Building too close to the railway line – vibration currently experienced with existing properties.

Other issues

- Site filled in by farmer with rubble and tree stumps, therefore unsuitable for development.

EXPIRY DATE OF APPLICATION: 09/07/2007

REASONS FOR DELAY IN DECISION:

- re-consultations / further publicity necessary on amended plans and / or additional information
- additional information required from applicant

PLANNING ASSESSMENT:

THE PROPOSAL:

1. The site lies adjacent and to the north of the existing Maes Y Glyn residential estate. Maes Y Glyn is a new development consisting of 7 detached dwellings.

The application under consideration relates to some of the reserved details for the site, specifically siting and access arrangements, following the grant of an outline planning permission in July 2005.

The site plan included in this report details the proposed siting and access, involving a total of eleven (11no.) residential units. The existing vehicular access is the same as in the original outline application, namely through the existing estate, and, as this route now involves three different landowners, relevant legal notices have been served. This has taken a lengthy period to resolve. The Council's Legal Officer has confirmed that the correct procedure has been followed.

The remaining detailed reserved matters (including building design; external appearance and landscaping) have not, to date, been submitted for the consideration of the Local Planning Authority.

RELEVANT PLANNING HISTORY:

2. The first phase of the Maes Y Glyn estate has a lengthy planning history.

Directly relevant to the current planning application site:

14/14381

Development of 0.29ha of land for residential purposes and construction of estate access road (outline application) - REFUSED 23/02/1995

05/2004/0541/PO

Development of land for residential purposes (outline application)) - GRANTED 13/07/05

PLANNING POLICIES AND GUIDANCE:

3. DENBIGHSHIRE UNITARY DEVELOPMENT PLAN (adopted 3rd July 2002)

Policy STRAT 1 - General

Policy GEN 1 - Development within Development Boundaries

Policy GEN 6 - Development Control Requirements

Policy GEN 10 - Supplementary Planning Guidance

Policy HSG 4 - Housing Development in Villages

Policy HSG 10 - Affordable Housing within Development Boundaries

Policy ENV 2 - Development Affecting the AOB/AONB

Policy ENP 6 - Flooding

Policy ENV 7 - Landscape/Townscape features

Policy TRA 6 - Impact of New Development on Traffic Flows

Policy TRA 9 - Parking & Servicing Provision

Supplementary Planning Guidance Notes:

SPG 6 – Trees and Development

SPG 21 - Parking Requirements in new developments

SPG - Design (Residential)

GOVERNMENT GUIDANCE

Planning Policy Wales – March 2002

TAN 11 - Noise

TAN 15 - Development and Flood Risk

TAN 18 - Transport (March 2007)

MAIN PLANNING CONSIDERATIONS:

- 4.

- i) Principle
- ii) Highways/access
- iii) Amenity
- iv) Flooding
- v) Others

5. With regard to the main considerations:

- i) Principle

The grant of outline planning permission has previously established the principle for residential development for this site.

- ii) Highways/access

The main access point remains unchanged since the outline planning application. The Highways Officer recommended that certain standard conditions be included on the outline application, relating to; on site parking and turning facilities; details

of design and construction of means of access; positive system for surface water discharge. These conditions are included on the outline application, which will have to be complied with in the event of site development.

At the time of writing this report, the Highway Officer has confirmed;

- The existing estate road has not, to date, been adopted
- Land ownership issues mean that the usual Highway agreement process could not be entered into. As an alternative a different procedure applied - Section 228 of the Highways Act. On the basis that road and associated structures are built to Highway Authority satisfaction, the intention is to adopt the highway.
- A site inspection raised minor discrepancies between the approved highway plan, with an 'as built' drawing requested.

Members will be aware that Highways adoption regulations involve separate considerations and publicity procedures from planning applications. Discussions with the county Highway Officer confirms that in the event of delays with the current adoption process, the existing Maes Y Glyn residential road is suitable for the use of the 11 units with the current application. Conditions attached with the outline application will safeguard the design and constructional details.

iii) Amenity

With the total number and juxtaposition of units, the proposed layout is compatible with the locality. Detailed design, materials and overlooking/amenity standards will require further attention and consideration in the remaining detailed reserved matters application(s).

Inevitably, some limited noise and disturbance occurs with all development proposals. Given the modest scale and locality involved, together with the extant planning permission (at the time of determining the outline application) for the first phase of residential development at Maes Y Glyn, a condition controlling construction traffic and movements could not be justified for this particular site.

The relationship to the railway line is a material consideration, but no objections were raised and there are no conditions suggested through the relevant consultees. Building Regulations would require relevant insulation methods and control.

iv) Flooding

The proposal required a detailed Flood Consequences Assessment, given that the potential exists for flooding. The Environment Agency have agreed that the details are acceptable. The details form part of the application documentation and propose minimum floor levels for the site.

v) Other matters

Publicity procedures for the application have included neighbour letters; press and site notice, complying with the statutory requirements. The Town Council's concerns regarding publicity have been addressed.

The site benefits from an outline planning permission, subject to a Section 106 obligation for the provision of affordable housing within the site. The requirement for affordable housing provision for the site was based on the Council's affordable housing policy at the time of dealing with the outline consent. The Council's Housing Officer is aware of the application and possible siting of affordable

housing units within the scheme. The precise details for the type and tenure for affordable housing in this case however is covered by the obligation.

The suitability of ground conditions in this case would need to be addressed at Building Regulations stage.

Existing and new landscaping features are controlled by conditions attached to the outline planning permission.

Should the proposal include works affecting any drainage pipes, separate consent(s) from other bodies may be necessary.

There are no planning conditions or obligations on the outline consent regarding the provision or contribution to open space, including children's play area in connection with this site.

SUMMARY AND CONCLUSIONS:

6. Having regard to all relevant materials considerations highlighted in the report, the proposal satisfies the policy requirements and is considered acceptable.

RECOMMENDATION: APPROVE-

No Conditions imposed

NOTES TO APPLICANT:

You are advised that this permission does not convey any approval for the remaining reserved matters detail, i.e. design, appearance and landscaping. These should be discussed in advance of any formal submissions to the Local Planning Authority.

ITEM NO: 4

WARD NO: Efenechtyd

APPLICATION NO: 11/2006/1236/ PF

PROPOSAL: Erection of agricultural store and stable building

LOCATION: Land at Brynhyfryd Betws Gwerfil Goch Corwen

APPLICANT: Mr. A. Pritchard

CONSTRAINTS: Wildlife Site

PUBLICITY UNDERTAKEN: Site Notice - No Press Notice - No Neighbour letters - Yes

CONSULTATION RESPONSES:

1. CLOCAENOG COMMUNITY COUNCIL
 'The councils previous observations made on the above planning application remain the same' These comments were 'The proposed agricultural store and stable building does not look like a agricultural store and stable building – it looks more like a house structure'
2. PUBLIC PROTECTION
 No objection

RESPONSE TO PUBLICITY:

EXPIRY DATE OF APPLICATION: 07/05/2007

REASONS FOR DELAY IN DECISION:

- additional information required from applicant
- re-consultations / further publicity necessary on amended plans and / or additional information

PLANNING ASSESSMENT:

THE PROPOSAL:

1. The application site is in the open countryside in an open field off a forestry track leading from the main B5105 Cerrig y Drudion to Ruthin road. The applicant owns land in this location extending to some 7ha in total.
2. The proposal is for the erection of an agricultural building for the keeping of livestock and fodder. The building has a floor area of 60m² and is 4m in height to the ridge. It is proposed to be constructed of breeze blocks to 1.5m, Yorkshire boarding and box profile sheets to the roof.

3. The shed proposed has been revised to take into consideration the comments originally made by the community council. The original proposal was similar in terms of size but was of a different design and materials. The overall structure was proposed to be built with a stone plinth and oak boarding with box profile sheets for the roof.

RELEVANT PLANNING HISTORY:

4. None.

PLANNING POLICIES AND GUIDANCE:

5. DENBIGHSHIRE UNITARY DEVELOPMENT PLAN (adopted 3rd July 2002)

Policy GEN3 – Development Outside Development Boundaries

Policy GEN6 - Development Control Requirements

Policy EMP13 – Agricultural Development

MAIN PLANNING CONSIDERATIONS:

6.
 - i) Principle
 - ii) Impact on visual amenity
7. In relation to the main planning considerations as noted above:
 - i) Principle

The application site is in the open countryside where the provisions of Policy GEN3 are applicable. The proposal is in accordance with criterion vi) as it is development required in connection with agriculture. Policy EMP13 refers to agricultural development requiring planning permission and states that it must be demonstrated that the development is required to meet the needs of the farm enterprise. In this instance the building size is commensurate with a holding of 7ha and the applicant has justified the need for an agricultural building for his livestock and fodder. Based on this, the principle is acceptable.
 - ii) Visual amenity:

The size and design of the shed has been amended to take into account the original comments of the community council. The amended plan demonstrates that the location and orientation of the shed has been changed to sit better in the landscape and the materials have also been changed to Yorkshire boarding and box profile sheets. The proposal is in accordance with criterion iii) of Policy EMP13

SUMMARY AND CONCLUSIONS:

8. The application is for the erection of an agricultural shed for the storage of fodder and livestock. The proposal is acceptable in principle and would not detract from the landscape.

RECOMMENDATION: - GRANT subject to the following conditions

1. The development hereby permitted shall be begun before the expiration of five years from the date of this permission.

The reason(s) for the condition(s) is(are):-

1. To comply with the provisions of Section 91 of the Town and Country Planning Act 1990.

NOTES TO APPLICANT:

None

ITEM NO: 5

WARD NO: Llanarmon Yn Ial / Llandegla

APPLICATION NO: 15/2007/0271/ PF

PROPOSAL: Erection of two-storey pitched-roof extension to side of dwelling

LOCATION: 1 Maes Llan Llanarmon-Yn-Ial Mold

APPLICANT: Mr & Mrs A Povey

CONSTRAINTS: AONB

PUBLICITY UNDERTAKEN: Site Notice - No Press Notice - No Neighbour letters - Yes

CONSULTATION RESPONSES:

1. LLANARMON YN IAL COMMUNITY COUNCIL
‘Cannot support the revised design, the stepped roof is not in character with the existing roof line of dwelling nor those of adjacent properties. The design of the first submission is preferred and the footprints of both are almost identical. No objections to the first plan/design submitted (dated 08/03/2007). Councillors would appreciate receiving some written guidance and clarification on the 50% rule as none can be found within the policy documents?’
2. AONB COMMITTEE
Awaiting response on amended plans
3. LLANARMON AND DISTRICT CONSERVATION SOCIETY
Awaiting response on amended plans

RESPONSE TO PUBLICITY: None

EXPIRY DATE OF APPLICATION: 05/07/2007

REASONS FOR DELAY IN DECISION:

- protracted negotiations resulting in amended plans
- re-consultations / further publicity necessary on amended plans

PLANNING ASSESSMENT:

THE PROPOSAL:

1. The application site is in the open countryside, outside the main village boundary of Llanarmon yn Ial. The site is also located in the Clwydian Range AONB. The site comprises of a two storey semi detached dwelling of render and slate construction with a large curtilage area to the front and side.
2. The proposal is to erect a two storey side extension incorporating a living room at ground floor level and two bedrooms and a bathroom on the first floor. The extension

projects 6m from the side of the dwelling, is 6.2m in width and is 7m in height to the ridge.

3. The revised plans are a result of discussions between the officer and the applicant following the original objection to the plans by the community council. The revisions include a step in the ridgeline from the main dwelling, setting the extension back from the main front and rear elevation of the original house and changing the window to the master bedroom.

RELEVANT PLANNING HISTORY:

4. None

PLANNING POLICIES AND GUIDANCE:

5. DENBIGHSHIRE UNITARY DEVELOPMENT PLAN (adopted 3rd July 2002)

Policy GEN3 – Development outside development boundaries
Policy GEN6 - Development control requirements
Policy ENV2- Development affecting the AONB
Policy HSG12 – Extensions to Dwellings
SPG1 – Extensions to Dwellings
SPG - Design (Householder Guide)

MAIN PLANNING CONSIDERATIONS:

6.
 - i) Principle
 - ii) Impact on visual amenity
 - iii) Impact on residential amenity
 - iv) Impact on AONB
7. In relation to the main planning considerations as noted above:
 - i) Principle
The application site is in the open countryside, some 100m from the development boundary of Llanarmon yn Ial. The principle of extending the dwelling is considered to be acceptable given the location of the proposed development within the curtilage area of the property.
 - ii) Visual amenity
The size, scale and design of the proposed extension have been reduced compared to the original scheme. The reductions include a step in the ridgeline compared to the original dwelling and stepping the extension in from the main front and rear elevation of the original dwelling. The revised plans are subordinate to the original dwelling and are in accordance with advice contained in SPG1. The materials to be used are render and slate to match the existing dwelling and the window design in the proposed master bedroom has been changed to reflect those in the original dwelling. The proposal is considered to respect the character, appearance and amenity standards of the dwelling and the immediate locality and will not represent an overdevelopment of the site. This is accordance with Policy HSG12 and SPG1.
 - iii) AONB
At the time of writing the report, no comments have been received from the AONB committee on the revised plans. In principle, no concern was raised in relation to the original proposal, but there was concern about the extent of the decking area to the rear. This has been reduced to address these comments.

The proposal is considered to be acceptable based on Policy ENV2.

- iv) Residential amenity
There will be no adverse impact on residential amenity. This is in accordance with criterion v) of Policy GEN6.

SUMMARY AND CONCLUSIONS:

8. The application is for the erection of a two storey side extension. The proposal is considered to be acceptable in principle and in terms of the impact on visual and residential amenity. There will be no adverse impact on the AONB. This is in accordance with Policies GEN6, HSG12 and ENV2.

RECOMMENDATION: - GRANT subject to the following conditions:-

1. The development hereby permitted shall be begun before the expiration of five years from the date of this permission
- .2. The materials and finishes of the external surfaces of the walls and roof of the building hereby permitted shall be of the same texture, type and colour as those on external walls and the roof of the existing building.

The reason(s) for the condition(s) is(are):-

1. To comply with the provisions of Section 91 of the Town and Country Planning Act 1990.
2. In the interests of visual amenity.

NOTES TO APPLICANT:

None

ITEM NO: 6

WARD NO: Llanrhaeadr Yng Nghinmeirch

APPLICATION NO: 25/2007/0285/ PF

PROPOSAL: Use of land as personal allotment garden and erection of polytunnel for personal use

LOCATION: Land Opposite Glyn House Nantglyn Denbigh

APPLICANT: Dr Kristin Becker

CONSTRAINTS: C2 Flood Zone

PUBLICITY UNDERTAKEN: Site Notice - No Press Notice - No Neighbour letters - Yes

CONSULTATION RESPONSES:

1. NANTGLYN COMMUNITY COUNCIL
"No objections"

RESPONSE TO PUBLICITY:

Letters of representation received by the following:

1. Mr & Mrs Sandle, Llygad yr Haul, Waen, Nantglyn
2. Ian Gardner, Gwynant, Waen, Nantglyn

Summary of planning based representations:

- i) Concerns about the potential commercial use of the land
- ii) No objection provided structure does not exceed height by screening hedge (letter 2)

EXPIRY DATE OF APPLICATION: 05/06/2007

REASONS FOR DELAY IN DECISION:

- timing of receipt of representations

PLANNING ASSESSMENT:

THE PROPOSAL:

1. The application site is in the open countryside outside the village of Nantglyn, opposite Glyn House. There is an existing timber shed on the site and the site is well screened with dense, mature trees surrounding it.
2. The proposal is to erect a polytunnel on the land to be used for fruit and vegetable growing for the applicants who live at Glyn House. The polytunnel proposed measures 10.6m in length and 3.6m in width.

RELEVANT PLANNING HISTORY:

3. None

PLANNING POLICIES AND GUIDANCE:

4. DENBIGHSHIRE UNITARY DEVELOPMENT PLAN (adopted 3rd July 2002)
Policy GEN3 – Development outside development boundaries
Policy GEN6 – Development control requirements

MAIN PLANNING CONSIDERATIONS:

- 5.
- i) Principle of development
 - ii) Impact on visual amenity
 - iii) Impact on residential amenity
6. In relation to the main planning considerations as noted above:
- i) Principle
The application site is in the open countryside where the provisions of Policy GEN3 are applicable. Criterion vi) refers to development in connection with agriculture and the diversification of the rural economy. The proposal is for the use of the land for horticultural purposes for the applicants who live in Glyn House to use the site for the growing of fruit and vegetables. The use is for the personal enjoyment of the applicant and as such the principle is acceptable.
 - ii) Visual amenity
There is an existing shed on the site. The polytunnel is proposed to be located in close proximity to this and the site is well screened from the road on all sides. The size and scale of the polytunnel is considered to be acceptable and the use can be restricted to the personal use of the applicant via a condition. The proposal is considered to comply with criterion i), ii), and iii) of policy GEN6.
 - iii) Residential amenity
There will be no adverse impact on residential amenity as no dwellings are in close proximity to the site and the use of the site for personal use will not have an impact on residential amenity. This is in accordance with criterion v) of policy GEN6

SUMMARY AND CONCLUSIONS:

7. The proposal is for the erection of a polytunnel to be used for horticultural purposes for the applicants of Glyn House. The proposal is acceptable in principle and is in accordance with Policies GEN3 and GEN6.

RECOMMENDATION: GRANT- subject to the following conditions:-

- 1. The development hereby permitted shall be begun before the expiration of five years from the date of this permission.
- 2. The use of the land and the polytunnel hereby approved shall be for the personal use of the residents of Glyn House only and shall not be used for commercial or business use.

The reason(s) for the condition(s) is(are):-

- 1. To comply with the provisions of Section 91 of the Town and Country Planning Act 1990.
- 2. In the interests of visual and residential amenity.

NOTES TO APPLICANT:

None

SES

ITEM NO: 7

WARD NO: Dyserth

APPLICATION NO: 42/2005/1150/ PO

PROPOSAL: Development of 0.14ha of land by the erection of 2 no. dwellings and construction of new vehicular and pedestrian access (outline application)

LOCATION: Land at (part garden of 97 Cwm Road) known as 93/95 Cwm Road Dyserth Rhyl

APPLICANT: Mr R Williams

CONSTRAINTS: Public Footpath / Bridleway
Previous Mining Area
AONB

PUBLICITY UNDERTAKEN: Site Notice - No Press Notice - No Neighbour letters - Yes

CONSULTATION RESPONSES:

1. DYSERTH COMMUNITY COUNCIL
"No objection"
2. HEAD OF TRANSPORT & INFRASTRUCTURE
No objections subject to conditions
3. DWR CYMRU WELSH WATER
No objection
4. PRINCIPAL COUNTRYSIDE OFFICER
Awaiting response

RESPONSE TO PUBLICITY:

None

EXPIRY DATE OF APPLICATION: 13/03/2007

REASONS FOR DELAY IN DECISION:

- protracted negotiations resulting in amended plans
- re-consultations / further publicity necessary on amended plans and / or additional information

PLANNING ASSESSMENT:

THE PROPOSAL:

1. This application was deferred from Planning Committee on 23rd May 2007 to allow the issue of affordable housing and commuted sums to be investigated further.

2. The application site comprises 0.14ha of land which forms the side garden of 'Highfield' on Cwm Road, located within the development boundary of Dyserth. All properties in the locality are large detached dwellings set in extensive grounds. The site slopes upwards into the site from Cwm Road and within the site there are some small trees and shrubs along with a greenhouse and other garden paraphernalia. Located along the frontage of the site is a hedge with some trees.
3. This application seeks outline planning permission for the erection of 2 no. dwellings. All matters are reserved for further approval with the exception of the means of access, which has been included within this application.

RELEVANT PLANNING HISTORY:

4. **DYS/390/89**
Proposed residential development for 2 detached dwellings GRANTED 26th September, 1989

PLANNING POLICIES AND GUIDANCE:

5. DENBIGHSHIRE UNITARY DEVELOPMENT PLAN (adopted 3rd July 2002)
Policy GEN 1 Development within development boundaries
Policy GEN 6 Development Control Requirements
Policy HSG 3 Housing Development in Main Villages
Policy HSG 10 Affordable Housing within development boundaries

Supplementary Planning Guidance 22: Affordable Housing in New Developments

GOVERNMENT GUIDANCE

Planning Policy Wales (March 2002)

MAIN PLANNING CONSIDERATIONS:

6.
 - i) Principle of development
 - ii) Impact on residential amenity
 - iii) Impact on visual amenity
 - iv) Impact on highway safety
 - v) Affordable Housing
7. In relation to the main planning considerations above:
 - i) Principle of development
The application site is located within the development boundary of Dyserth. The principle of residential development is considered acceptable provided the proposal complies with other relevant planning policies. Outline planning permission has been previously granted in 1989 but this has long expired. The plan submitted showing the siting and design of the dwellings is for indicative purposes only and has not been included for approval in this outline application.
 - ii) Impact on residential amenity
The site is located inbetween existing residential properties which front Cwm Road. Subject to appropriate siting and design, 2 no. dwellings could be located on the site without adversely impacting upon the amenities of adjoining residents. The proposed dwellings would be located within large plots with large amenity areas and car parking, therefore providing an acceptable level of amenity.

iii) Impact on visual amenity

This application is in outline form, and whilst the plans provided are for indicative purposes only, they do demonstrate that 2 dwellings of an appropriate scale can be sited on the side garden of 'Highfield' without adversely impacting upon the character and visual amenities of the area. Subsequent reserved matters applications would need to ensure the properties are of an appropriate scale and design, to be in keeping with adjoining properties and the locality. The proposal also proposes the removal of trees and hedging along the road frontage in order to provide a new access and visibility splay, but it does indicate the intention to build a traditional stone boundary wall and to provide a new hedge set back behind the wall, which is considered acceptable and in character with the area.

iv) Impact on highway safety

The existing vehicular access to the site is located adjacent to the boundary of the property with 91 Cwm Road, with a sweeping driveway up to 'Highfield'. Any proposal to increase the use of this access should not be encouraged as it is substandard and does not meet modern highway standards. The proposal therefore includes the formation of a new access to serve the existing and proposed dwellings, which is to be located centrally within the site and driveways with a gradient of 1 in 8 achieved for the new properties. A 750mm high stone wall is proposed along the frontage with a new hedge to be planted. Highways have raised no objection subject to the inclusion of conditions, ensuring acceptable construction details of the access, visibility splays and drainage.

v) Affordable Housing

The site area exceeds the 0.1 ha threshold which obliges consideration of affordable housing provision. The Affordable Housing SPG (No. 22) applies a standard density of 30 dwellings to a hectare for purposes of calculation for development, which would translate to a total of 3 dwellings for this 0.14 ha site, one of which would need to be 'affordable'.

The guidance in the SPG has to be applied with due regard to the particular circumstances at any site. In officer's opinion, this is a case where it would be unreasonable to impose the density figures of the SPG and insist on the development of three dwellings on the site in order to ensure an affordable unit is built here; the plot is capable of accommodating a maximum of two detached dwellings which could be designed to fit in with the character of development in the area (predominantly substantial dwellings in large grounds). The erection of three dwellings would result in a cramped and unsatisfactory form of development.

It is suggested therefore that this is an instance where the options of off site provision of affordable housing or the payment of a commuted sum in accordance with the SPG (£73,138 based on current data) would be the most realistic. It is possible to cover the situation through a suitably worded planning condition.

SUMMARY AND CONCLUSIONS:

8. The principle of the development is considered acceptable. Subject to appropriate siting, scale, design use of appropriate materials and landscaping there would be no adverse impact on visual or residential amenity with acceptable levels of amenity afforded to future occupiers. There would be no adverse impact on highway safety subject to the inclusion of conditions.

RECOMMENDATION: - GRANT - subject to the following conditions:-

1. Approval of the details of the siting, design and external appearance of the building(s), and the landscaping of the site (hereinafter called "the reserved matters") shall be obtained from the Local Planning Authority in writing before the commencement of any development.
2. Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.
3. The development hereby permitted shall be begun either before the expiration of five years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.
4. No development shall be permitted to commence until the formal approval of the Local Planning Authority has been obtained to a scheme for the provision of 1 affordable house in Dyserth or the payment of a commuted sum in accordance with the Council's affordable housing policy and Housing Needs Survey. The submitted scheme shall include details of all of the following:
 - a) For off-site provision of affordable housing;i) the delineation of the site upon which the affordable house will be constructed;ii) the type and size of affordable dwelling to be provided;iii) the arrangements the developer shall make to ensure that such provision is affordable for the initial purchase and successive occupiers in need;iv) the phasing of affordable housing provisions in relation to open market housing on the site;v) occupation criteria and nomination rights;The affordable house shall be provided in accordance with the approved details prior to the occupation of any of the dwellings on the application site.
 - b) For the payment of a commuted sum;i) the amount calculated shall be in accordance with the formula set out in SPG 22.ii) the payment shall be made prior to the first occupation of any of the dwellings on the application site.The arrangements may be secured by the completion of a Section 106 agreement, which would need to be completed before the issue of any reserved matters.
 - c) Legal arrangements for securing the affordable provision detailed in the preferred option in a) or b)
5. All planting, seeding, turfing, fencing, walling or other treatment comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the completion of the development and any trees or plants which, within a period of five years of the development, die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
6. The access and visibility splays shall be laid out, constructed and completed in accordance with the approved plan prior to the occupation of any of the dwellings hereby permitted.
7. Facilities shall be provided and retained within the site for the parking and turning of vehicles in accordance with the approved plans and which shall be completed prior to the proposed development being brought into use.
8. The surface of the parking area shall be paved with a concrete or bituminous material or as otherwise agreed in writing for a distance of 5m behind the highway boundary and the whole of the access frontage adjacent to the highway boundary shall be reinforced with bullnose kerbs before the dwellings are occupied.
9. Positive means to prevent the run-off surface water from the site to the highway shall be submitted to and approved in writing by the Local Planning Authority and implemented in accordance with such approved details.
10. No development shall take place until a scheme of foul drainage and surface water drainage has been submitted to, and approved by, the Local Planning Authority and the approved scheme shall be completed before the building(s) is(are) first occupied.

The reason(s) for the condition(s) is(are):-

1. The application is for outline permission with details of means of access only.

2. To comply with the provisions of Section 92 of the Town and Country Planning Act 1990.
3. To comply with the provisions of Section 92 of the Town and Country Planning Act 1990.
4. To comply with Policy HSG 10 and SPG 22 Affordable Housing in New Developments.
5. To ensure a satisfactory standard of development, in the interests of visual amenity.
6. In the interest of traffic safety and to ensure the formation of a safe and satisfactory access.
7. To provide for the parking of vehicles clear of the highway and to ensure that reversing by vehicles into or from the highway is rendered unnecessary in the interest of traffic safety.
8. To ensure that deleterious material is carried onto the highway.
9. In the interests of highway safety and to prevent damage to the highway.
10. To ensure satisfactory drainage of the site and to avoid flooding.

NOTES TO APPLICANT:

Your attention is drawn to the attached Highway Supplementary Notes Nos. 1, 3, 4, 5 & 10. Your attention is drawn to the attached Part N form (New Road and Street Works Act 1991)

ITEM NO: 8

WARD NO: Dyserth

APPLICATION NO: 42/2007/0508/ PC

PROPOSAL: Retention of summerhouse at rear of dwelling (Retrospective application)

LOCATION: 12 Glan Ffyddion Dyserth Rhyl

APPLICANT: Mr & Mrs Wood

CONSTRAINTS: C2 Flood Zone
C1 Flood Zone

PUBLICITY UNDERTAKEN: Site Notice - No Press Notice - No Neighbour letters - Yes

CONSULTATION RESPONSES:

1. DYSERTH COMMUNITY COUNCIL
'Object, over intensification of development'

RESPONSE TO PUBLICITY:

None received

EXPIRY DATE OF APPLICATION: 26/06/07

REASON FOR DELAY IN DECISION:

- Timing of receipt of representations

PLANNING ASSESSMENT:**THE PROPOSAL:**

1. The existing dwelling is a bungalow with red brick walls and a tiled roof, situated on the western side of Glan Ffyddion in Dyserth. There is an existing single storey conservatory on the northern side of the dwelling which serves as a porch. Access to the rear garden is via a gateway between the boundary wall and a garage.
2. The summerhouse is a single storey render structure on a concrete base, attached to the original garage and extending along the north side of the garden area, measuring 6.05m in length with a maximum width of 4.2m. The central area of the summerhouse facing the garden has windows and a central doorway, covered with timber panelling shutters.

RELEVANT PLANNING HISTORY:

3. **83/261** Extension to provide bathroom and shower-room Permitted Development

PLANNING POLICIES AND GUIDANCE:

4. DENBIGHSHIRE UNITARY DEVELOPMENT PLAN (adopted 3rd July 2002)
Policy Gen 6 Development Control Considerations

Policy HSG12 Extensions to Dwellings

SPG 1 Extension to Dwelling
SPG – Design (Householder Guide)

GOVERNMENT GUIDANCE
Planning Policy Wales March 2002

MAIN PLANNING CONSIDERATIONS:

5.

- i) Principle
- ii) Visual Appearance
- iii) Residential Amenity

6. In relation to the main considerations:-

i) Principle

The principle of the proposal is acceptable and in line with Policy HSG 12 as the scale and form are subordinate to the existing dwelling, the design and materials are in keeping with the existing, and the proposal will not adversely impact on the character and appearance of the locality. The proposal does not represent an overdevelopment of the site as there is adequate and comparable garden space to the adjacent dwellings remaining.

ii) Visual appearance

The visual appearance of the extension is acceptable. Whilst the flat roof arrangement is not ideal there was an existing flat roof on the garage. There will be no impact on the character of the area or the existing dwelling as the summerhouse is not visible from the frontage and the change in levels result in the building not being prominent from the open space to the rear.

iii) Residential amenity

The proposal will not impact on the privacy and amenity of nearby occupiers owing to the single storey nature of the development and the siting in the rear garden. Furthermore all windows on the summerhouse face the garden area of the dwelling and as there are no windows in the elevation to no. 11. There is adequate space remaining in the garden area for the dwelling.

SUMMARY AND CONCLUSIONS:

7. The proposal is acceptable and is recommended for grant.

RECOMMENDATION: GRANT

There are no conditions.

NOTES TO APPLICANT:

None

SES

ITEM NO: 9
WARD NO: Rhyl West
APPLICATION NO: 45/2006/0236/ PF
PROPOSAL: Conversion and alterations including ground floor extensions to existing 12 no. flatlets and 2 owners flats to form 8 no. self-contained apartments
LOCATION: 39/41 Aquarium Street Rhyl
APPLICANT: Mohammed Ishfaq
CONSTRAINTS: Tidal FloodplainC1 Flood Zone
Article 4 Direction
PUBLICITY UNDERTAKEN: Site Notice - No Press Notice - No Neighbour letters - Yes

CONSULTATION RESPONSES:

1. RHYL TOWN COUNCIL
"Object on the grounds that the application represents an over intensification of site"
2. HEAD OF TRANSPORT & INFRASTRUCTURE
No objection
3. HEAD OF HOUSING SERVICES
No formal response
4. DWR CYMRU/WELSH WATER
No response received

RESPONSE TO PUBLICITY:

None

EXPIRY DATE OF APPLICATION: 22/01/2007

REASONS FOR DELAY IN DECISION:

- timing of receipt of representations

PLANNING ASSESSMENT:

THE PROPOSAL:

1. This application was deferred at the request of officers from the Planning Committee on 18th April, 2007 to allow the opportunity to clarify the lawfulness of the existing use of the property, to allow further assessment of concerns on the 'over intensification' of the development, and to review the approach taken to self contained flats. These issues are discussed in the main planning considered to follow.
2. The application site comprises a traditional pair of 3 storey mid terrace properties, located within the development boundary of Rhyl. The use of the properties as a hotel facility ceased some time ago. It has been indicated that in recent years the properties

have been operating as bed sit accommodation, but there is no record of this use in terms of planning history. Other properties in the area are predominantly in residential use, with limited off street parking facilities. On street parking on Aquarium Street is unrestricted.

3. This application is for the conversion and alteration of the properties to provide 8 no. self contained flats in place of the 12 flats present. It is proposed to erect extensions at ground and first floor level to the rear of the property, which replace existing structures. The conversion scheme would provide 6 no. 2 bed flats and 2 no. 1 bed flats with floor areas ranging from 45 to 55 square metres. Covered bin stores would be provided for each flat to the front and rear, with some small amenity areas to the rear.

RELEVANT PLANNING HISTORY:

4. 2/RYL/1/92/E – Use as 12 flatlets. Certified 18th August 1992

PLANNING POLICIES AND GUIDANCE:

5. DENBIGHSHIRE UNITARY DEVELOPMENT PLAN (adopted 3rd July 2002)
 - Policy STRAT 11 Regeneration
 - Policy GEN 1 Development within Development Boundaries
 - Policy GEN 6 Development Control Requirements
 - Policy HSG 10 Affordable Housing within development boundaries
 - Policy HSG 13 Subdivision of existing premises to self contained flats
 - Policy HSG 15 Residential conversions in East and West Rhyl

Supplementary Planning Guidance 7: Self Contained Flats and Houses in Multiple Occupations

Supplementary Planning Guidance 22: Affordable Housing

GOVERNMENT GUIDANCE

Planning Policy Wales March 2002

MAIN PLANNING CONSIDERATIONS:

6.
 - i) Principle of development
 - ii) Issue of overintensification
 - iii) Impact on residential amenity
 - iv) Impact on visual amenity
 - v) Affordable Housing
7. In relation to the main planning considerations in paragraph 5:
 - i) Principle

The application site is located within the defined settlement limits, where residential uses are considered acceptable provided the proposal conforms with other relevant planning policies. In relation to the lawful use of the building, investigations confirm an application for a Certificate of Lawfulness of Existing use was certified in 1992 for 12 flatlets for holiday purposes, and 2 owners flats. Housing Enforcement officers advise this is consistent with their records relating to the property. The property is not a registered House in Multiple Occupation. There are no enforcement issues relating to the use of the property. The flatlets within the property each have a kitchenette, but share bathroom facilities and have provided temporary accommodation throughout the year.

The application is to provide 8 no. fully self contained flats (a reduced number of units) and a higher, improved standard of accommodation, which is accepted in

principle.

- ii) Issue of overintensification
In relation to the concerns raised relating to overintensification, the proposed self contained flats meet within floor space standards set out in SPG 7. They are fully self contained units and amenities such as bin stores for all units and small external private amenity areas would be provided for some units on the ground floor.

The concerns raised by Rhyl Town Council are noted, but whilst ground floor extensions are proposed, these are to replace existing extensions and it is not considered that the proposal would result in an over intensive use of the building or site.

- iii) Impact on residential amenity
The site has an area to the front and rear where bin stores would be provided, which can be secured by a planning condition. It is not considered that the extensions would result in an unacceptable impact on any nearby residential properties, and an acceptable level of amenity would be afforded to future occupiers of the flats.
- iv) Impact on visual amenity
The external alterations proposed comprise the erection of 2 no. lean-to extensions at first floor level and a pitched roof extension at ground floor level to the rear. The appearance of the building would not be altered on the front elevation. The scale and design of the proposed extensions are in keeping with the property and would not adversely impact on the visual amenities of the street scene or locality.
- v) Affordable Housing
The site is located in West Rhyl where the Authority's regeneration strategy seeks to encourage the use of self contained flats, rather than Houses in Multiple Occupation/unlawful use of premises. It is considered in this case that the proposal meets an identified, acknowledged and over riding approved regeneration aim in accordance with the emerging Council Regeneration Strategy. Taking into account the basis of the proposal, which would effectively reduce the number of units from 12 no. non-self contained flatlets to 8 no. self contained flats it is not considered appropriate to apply the Council's affordable housing policy, a stance taken previously by the committee in this area. Other factors to consider are the existing concentration of RSL rented self contained flats in this location and the need to encourage private sector housing in West Rhyl.
- vi) Flooding
The site is located within a Zone C1 floodplain as identified by TAN 15. In this instance, due to the existing use of the property as a hotel, which like residential development, is a highly vulnerable use/development, there would be no greater risk to life than currently exists, and therefore a Flood Consequences Assessment has not been requested.

SUMMARY AND CONCLUSIONS:

- 8. The principle of a modest re-development of a flatlet property in West Rhyl into self contained residential accommodation is considered acceptable. There would be no adverse impact on residential or visual amenity.

RECOMMENDATION: - GRANT subject to the following conditions:-

1. The development hereby permitted shall be begun before the expiration of five years from the date of this permission.
2. The materials and finishes of the external surfaces of the walls and roof of the building hereby permitted shall be of the same texture, type and colour as those on external walls and the roof of the existing building.
3. The bin stores shown on the approved plans shall be provided prior to the occupation of the flats to which they relate and shall thereafter be kept available for this purpose at all times.

The reason(s) for the condition(s) is(are):-

1. To comply with the provisions of Section 91 of the Town and Country Planning Act 1990.
2. In the interests of visual amenity.
3. In the interest of residential amenity.

NOTES TO APPLICANT:

Your attention is drawn to the attached Highway Supplementary Notes Nos. 1, 3, 4, 5 & 10.

ITEM NO: 10
WARD NO: Rhyl West
APPLICATION NO: 45/2007/0042/ PF
PROPOSAL: Erection of single-storey extension at rear and change of use to form target shooting gallery (for amusement purposes)
LOCATION: 30 Wellington Road Rhyl
APPLICANT: Mr David Jones
CONSTRAINTS: CLA-Class A Road
Article 4 Direction
C1 Flood Zone
Town Heritage Area
PUBLICITY UNDERTAKEN: Site Notice - No Press Notice - No Neighbour letters - Yes

CONSULTATION RESPONSES:

1. RHYL TOWN COUNCIL
"Strongly object on the following grounds that the application if approved will encourage gun culture which the Town Council does not support and will be detrimental to the Town and Local Community."
2. COMMUNITY SAFETY
No issues
3. PUBLIC PROTECTION
Awaiting response.

RESPONSE TO PUBLICITY:

Letters of representation received from:

1. Maria Sidoli, 32 Wellington Road, Rhyl
2. Bedford Street Community Company Ltd, 38 Bedford Street, Rhyl
3. Shane Jones, 39 Seabank Road, Rhyl (in support)

Summary of planning representations:

- i) Objections, Safety issues associated with proposed use.
- ii) Crime and disorder implications of proposed use.
- iii) Highways implications.
- iv) Noise implications associated with the use.
- v) Proposal is needed in Rhyl (in support)

MEMBERS' COMMENTS:

None.

EXPIRY DATE OF APPLICATION: 26/03/2007

REASON FOR DELAY IN DECISION:

- Awaiting key consultees

PLANNING ASSESSMENT:

THE PROPOSAL:

1. The proposal is for alterations and extensions at rear to form a target shooting gallery. The change of use of the café to A1 shop has been implemented as permitted development. To the rear the proposal seeks to alter the existing outbuilding and extend it to a length of 13.4m and width of 2.45m with monopitch roof over to a max height of 5m, to comprise of a shooting and laser gun gallery.
2. The unit is located on the northern side of Wellington Road in Rhyl. It formally operated as a chinese restaunt although currently as a shop selling novelty goods. The narrow rear yard contains a pitched roof brick outbuilding and render link.
3. The agent has submitted a statement in support which refers to the following:
 - i) the intended guns for use on the main shooting gallery are normal air powered pellet guns that do not produce a lot of noise,
 - ii) the openings in the building are minimal for security reasons and there is little opportunity for noise to escape the building,
 - iii) the current Building Regulations will require a high degree of insulation which will further serve to deaden any noise produced within the premises.
 - iv) all guns will be secured to the firing range counter with locked chains.
 - v) If necessary the use will be registered with the relevant authorities.

RELEVANT PLANNING HISTORY:

4. None

PLANNING POLICIES AND GUIDANCE:

5. DENBIGHSHIRE UNITARY DEVELOPMENT PLAN (adopted 3rd July 2003)
Policy GEN 6 - Development Control Criteria
Policy RET 1 – Town and District Centres

MAIN PLANNING CONSIDERATIONS:

6. The main issues are considered to be:
 - i) Principle
 - ii) Visual Appearance
 - iii) Impact on amenity
7. In relation to the main issues in paragraph 6:
 - i) Principle
The principle of the proposal is acceptable. The change of use of the A3 café to shop is permitted development. Furthermore the reintroduction of an A1 use in this town centre location should be encouraged. The rear change of use, extension and alteration element meets the criteria of Policy GEN 6. The public safety issues raised are not considered to be overriding given that the use will be for amusement purposes only and will not involve live ammunition.
 - ii) Visual Appearance
The visual appearance of the rear alterations is acceptable. the extension represents a small increase on the overall footprint of the outbuildings. There is a mix of building types to the rear of adjacent properties. However, the outbuildings

are to the rear of the property and away from any public vantage points.

iii) Impact on the Amenity

The proposal will not impact on amenity of nearby occupiers. Although issues have been raised with regard to the noise associated with the use, the agent has confirmed that the gallery is for air guns and laser guns which do not create loud noises. A condition can be attached to ensure that the building is adequately sound proofed prior to the commencement of the use. Furthermore hours of operation can be controlled to limit the use in the evenings and the use restricted to the gallery area indicated on the submitted plans.

SUMMARY AND CONCLUSIONS:

8. The proposal is acceptable and is recommended for grant.

RECOMMENDATION: GRANT- subject to the following conditions:-

1. The development hereby permitted shall be begun before the expiration of five years from the date of this permission.
2. The shooting gallery use hereby permitted shall not commence until the written approval has been obtained from the Local Planning Authority to a scheme of insulation against noise emission, and such scheme has been implemented strictly in accordance with the approved details.
3. No sound amplification equipment or loudspeakers shall be operated in or outside of the shooting gallery other than in accordance with details to be agreed in writing with the Local Planning Authority.
4. The premises shall not be open to customers outside the following hours and days:0900 - 1800 Monday – Friday
5. The change of use relates only to the areas indicated as the shooting gallery and laser gun gallery on the approved plan date stamped 11th January 2007. The yard area shall not be used by visiting members of the public or in connection with the shooting or laser gun gallery activity.
6. The shooting gallery shall be used for amusement purposes only and not for firearms training or utilising live ammunition.

The reason(s) for the condition(s) is(are):-

1. To comply with the provisions of Section 91 of the Town and Country Planning Act 1990.
2. To protect the amenities of occupiers of nearby properties.
3. To protect the amenities of occupiers of nearby properties.
4. In the interests of the amenity of occupiers of nearby residential property.
5. In order to retain control over the use of the site and facilities in the interests of amenity.
6. In order to retain control over the use of the site and facilities in the interests of amenity.

NOTES TO APPLICANT:

ITEM NO: 11

WARD NO: Rhyl South West

APPLICATION NO: 45/2007/0103/ PS

PROPOSAL: Variation of Condition No. 2 on Planning Permission Ref. No. 45/2001/0632/PF to allow hours of opening to read 0800 to 0300 hours on Fridays and Saturdays, 0800 to 2330 hours on Mondays to Thursdays and 1000 to 2330 hours on Sundays

LOCATION: 36-38 Vale Road Rhyl

APPLICANT: Mr & Mrs Bahattin Nas

CONSTRAINTS: C2 Flood Zone
C1 Flood Zone
CLA-Class A Road
Article 4 Direction

PUBLICITY UNDERTAKEN: Site Notice - No Press Notice - No Neighbour letters - Yes

CONSULTATION RESPONSES:

1. RHYL TOWN COUNCIL
'Object in order to safeguard the amenities of neighbouring residential and other properties'.
2. COMMUNITY SAFETY OFFICER
No issue with the application. Licensed premises nearby are open later. Only concern is that the food outlets should not be open later than licensed premises in the area.

RESPONSE TO PUBLICITY:

None received

MEMBERS' COMMENTS:

None

EXPIRY DATE OF APPLICATION: 27/03/2007

REASON FOR DELAY IN DECISION:

- Awaiting key consultees

PLANNING ASSESSMENT:**THE PROPOSAL:**

1. The proposal seeks to vary the condition no. 2 of Planning permission ref no. 45/2001/632/PF to allow extended opening hours to 0800 to 2330 hrs Monday to Thursday, 0800 to 0300 hrs Friday and Saturday and 1000 to 2330 hrs on Sundays.
2. Planning permission ref no. 45/2001/632/PF was granted in 2001 with a condition no. 2 restricting the hours of operation to between 0800 and 2330 hrs Monday to Saturday and 0800 to 2300 hrs on Sunday.

3. The property has a current licence to operate from 0800 until 0000 hrs on Sunday to Thursday, 0800 to 0300 hrs on Friday and Saturdays. The applicant has advised that the hours of operation since April 2007 have been in keeping with the licensing hours. He has also stated he is ordering a CCTV system to operate on the premises and hopes to have this installed in the near future.

RELEVANT PLANNING HISTORY:

4. **45/2001/632/PF**
Change of use of ground floor butchers shop (class A1) to hot-food take away (class A3). Granted with conditions 26 July 2001.

PLANNING POLICIES AND GUIDANCE:

5. DENBIGHSHIRE UNITARY DEVELOPMENT PLAN (adopted 3rd July 2002)
Policy GEN 6 - Development Control Requirements
Policy Ret 10 – Local and Neighbourhood Shopping Centre
Policy RET16 - Food and Drink- Hot Food Takeaways

MAIN PLANNING CONSIDERATIONS:

6.
 - i) Impact on residential amenity
 - ii) Crime and Disorder
7. In relation to the main planning considerations as noted at paragraph 6.
 - i) Residential Amenity
The main issue is considered to be the principle of the extension of the opening hours and the amenity considerations covered by criterion v) of Policy Gen 6. Although the A3 use is established in the RET 10 Local and Neighbourhood Shopping Centre, the limit of the opening hours controlled by the original condition was intended to protect the amenity of nearby occupiers as there are residential units in the vicinity.

It is acknowledged that the changes to the licensing regulations encourage the operators of this type of establishment to stay open for longer. However, the assessment must be made as to whether different controls are required through the Planning Acts compared to the Licensing Act. Case law has indicated that planning powers may be used to impose more stringent hours of opening than allowed by licensing hours. However in this instance, the detached nature of the property, the retail centre location and comparative late night activity of the other establishments such as the public house, Caskeys, who are licensed until 0300 hrs Monday to Sunday, and Kebab and Chinese restaurants nearby which operate until 0100 hrs and 0200 hrs on weekdays and 0200 hrs and 0300 hrs on weekends indicate that Licensing Act restrictions are sufficient to exercise control and the planning conditions should be varied to tie in with the license.
 - ii) Crime and Disorder
No objections have been raised by the Community Safety Section and as the premises will still close at a time no later than and comparable to the other A3 uses nearby, the proposal is unlikely to exacerbate anti-social behaviour.

SUMMARY AND CONCLUSIONS:

8. The proposal is acceptable and is recommended for approval of variation of condition.

RECOMMENDATION: GRANT- subject to the following conditions:-

1. The use hereby permitted shall only be carried out between the hours 0800 to 2300 Monday to Thursday, 0800 to 0300 Friday and Saturday and 100 to 2330 on Sunday.

The reason(s) for the condition is:

1. In the interests of the residential amenities of nearby occupiers.

NOTES TO APPLICANT:

None

ITEM NO:	12
WARD NO:	Rhyl East
APPLICATION NO:	45/2007/0302/ PS
PROPOSAL:	Variation of Condition No. 2 on Planning Permission Ref. No. 45/2006/0868/PF to allow increase in number of children from 25 to 32
LOCATION:	37 Marine Drive Rhyl
APPLICANT:	Mr & Mrs A C Thomas
CONSTRAINTS:	Article 4 Direction
PUBLICITY UNDERTAKEN:	Site Notice - No Press Notice - Np Neighbour letters - Yes

CONSULTATION RESPONSES:

3. RHYL TOWN COUNCIL

"The original drop-off on Marine Drive was considered inappropriate. Parking is restricted on the area by double yellow lines and the simultaneous arrival of a number of vehicles at peak times is considered unacceptable in terms of road usage and the amenities of adjacent properties. These concerns will be exacerbated.

Although there is on street parking on the north side of Marine Drive this will require children to cross the road to access/depart the Nursery and parking (particularly in the summer months) is limited in this area. This is likely to lead to parents immediately outside the property.

The proposed parking/drop-off point is also considered insufficient especially if parking to the front of the building is not permitted. Given the number of children to be accommodated it is likely that all identified parking spaces will be required by staff. It is also likely that parents would park in the alley creating an obstructive/nuisance to other properties occupiers which utilise this joint access to their own properties. The increase in numbers of children will presumably lead to an increase in the numbers of staff required on site leading to staff parking problems.

It is considered that all users of the rear access entry way should be consulted by the Local Planning Authority."

4. HEAD OF TRANSPORTATION & INFRASTRUCTURE-
No objection subject to conditions,**RESPONSE TO PUBLICITY:**

Letters of representations were received from:

1. Mr C.H. Jones, 46 Burns Drive, Rhyl
2. Mr and Mrs Jackson, 39 Marine Drive, Rhyl

Summary of planning based representations:

- i) Impact on amenity from increased noise disturbance
- ii) Highways implications of increase including parking problems

EXPIRY DATE OF APPLICATION: 13/05/2007

PLANNING ASSESSMENT:

THE PROPOSAL:

1. The proposal relates to a property used as a day nursery. The proposal is to increase the numbers of children attending from 25 to a total of 32.
2. The large detached dwelling is served by a vehicular access off an unadopted road off Marine Drive. The 26m long rear yard is bounded by a 2m high wall on the western side and by outbuildings and a wall on the eastern side. The access to the rear car-parking is at the south western corner of the site. There is an existing garage in the south eastern corner of the site.

RELEVANT PLANNING HISTORY:

3. **45/2006/868/PF**
Change of use of ground floor flat to children's day nursery for 25 children with living accommodation over. Granted 04/10/06

PLANNING POLICIES AND GUIDANCE:

4. DENBIGHSHIRE UNITARY DEVELOPMENT PLAN (adopted 3rd July 2002)
Policy GEN 6 - Development Control Considerations
Policy CF1- Community Facilities

SPG 3 Children's Day Care
SPG 21 – Parking Requirements in New Developments

GOVERNMENT GUIDANCE
Planning Policy Wales March 2002

MAIN PLANNING CONSIDERATIONS:

5.
 - i) Principle
 - ii) Residential Amenity
 - iii) Highways
6. In relation to the main considerations:-
 - i) Principle
The principle of the proposal is acceptable and in line with Policies GEN 6 and CF1 and SPG 3 as the site is located to serve the local population, accessible to non-car users and located within the Rhyl development boundary. The proposed use is established so the issue relates to the increased use of the premises with a further 7 children.
 - ii) Residential amenity
The proposal will not impact significantly more than at present on the privacy and amenity of nearby occupiers. It is a daytime use and unlikely to generate excessive noise levels than existing as there is an existing condition on the original permission which restricts the number of children playing outside at any one time. This condition will remain and therefore the increase will have no greater impact on residential amenity.
 - ii) Highways
Highways have monitored the site and the existing use and have not objected to the proposal. It is considered that the parking to the rear and parking at the front remains adequate for intensified use and the related picking up and dropping off

which would not impact on highway safety or lead to a proliferation of parking on the highway. A condition will be attached to control the number of children using the nursery to 32.

SUMMARY & CONCLUSIONS:

7. The proposal is acceptable and subject to conditions is recommended for permission.

RECOMMENDATION: GRANT- subject to the following conditions:-

1. No more than 32 children shall be accommodated at the children's day nursery at any one time.

The reason(s) for the condition(s) is(are):-

1. In the interests of residential amenity and highway safety.

NOTES TO APPLICANT:

Your attention is drawn to the attached Highway Supplementary Notes Nos. 1, 3, 4, 5 & 10. Your attention is drawn to the attached Part N form (New Road and Street Works Act 1991). You are reminded of the existing conditions on the original planning permission granted under reference 45/2007/0302/PS which still apply to the development.

ENFORCEMENT MATTERS

- (i) **ENF/ 2005/0084 :** **Garden Centre, Church Street, Henllan**
Unauthorised change of use;
Boundary Fence over 2m high;
Untidy Land.
- (ii) **ENF/2007/0015 :** **Former National Milk Bar, (Castle Cafe)**
48 - 52 High Street, Denbigh
Installation of upvc windows
- (iii) **ENF/2006/0029:** **Land at Entrance to Abbey Grange**
Hotel, Llantysilio, Llangollen
Unauthorised Farm Shop
- (iv) **ENF/2007/0039:** **Lakehill Fishery and Farm, Llandegla**
Erection of unauthorised building
- (v) **ENF/2007/0040:** **Lakehill Fishery and Farm, Llandegla**
Erection of Conservatory; Erection of Decking;
Erection of cellar area for use as Manager's
accommodation
- (vi) **ENF/2007/0041:** **Lakehill Fishery and Farm, Llandegla**
Unauthorised siting and use of mobile unit

PLANNING ENFORCEMENT REPORT

REFERENCE: ENF/2005/00084

LOCATION: Henllan Garden Centre, Church Street, Henllan Denbigh

INFRINGEMENT: Unauthorised Change of Use
Boundary Fence over 2 metres high
Untidy Land

RELEVANT PLANNING POLICIES AND GUIDANCE

DENBIGHSHIRE UNITARY DEVELOPMENT PLAN
Policy GEN 6 – Development Control Requirements
Policy CON 5 – Development within Conservation Area
Policy RET 14 – Garden Centres
SPG Note 13 – Conservation Areas

GOVERNMENT GUIDANCE

Planning Policy Wales 2002
Technical Advice Note Wales (9) – Enforcement of Planning Control

HUMAN RIGHTS CONSIDERATIONS

The provisions of the Human Rights Act 1998 are taken into account when considering taking enforcement action against unauthorised development and other related matters. In this instance these matters relate to the rights of a land owner to erect a fence to an unacceptable height, to undertake unauthorised use and to fail to maintain the land in a tidy condition to the extent that it adversely impacts upon the amenity of the area. It is considered that these rights are outweighed in that the use of the site, the fence erected and the untidy state of the land is unacceptable, as they do not preserve or enhance the character of the Conservation Area contrary to the relevant planning policies.

1. BACKGROUND INFORMATION

1.1 The land subject of this report is situated in the Conservation Area of Henllan. It is primarily a garden centre with a retail outlet on Church Street and large storage yard to the rear. The land in question is completely surrounded by residential properties, some of which are Listed Buildings. The rear gardens of these properties are primarily adjacent to the large storage area.

- 1.2 The planning history of this site relies on its use for agricultural machinery and tools sales over a period of 30 years culminating in this becoming a lawful use. During the Spring of 2005, the area of the site off Church Street has been developed as a retail garden centre. The land to the rear of the retail outlet has been used for the storage of materials connected with the garden centre business, but has also been used for the storage of apparent waste building materials, non-operational vehicles and agricultural equipment and materials. Access to this area of the site is off Ty-Coch Street.
- 1.3 During the Spring of 2005 the need for planning permission for the change of use to garden centre, in respect of the part of this site off Church Street, was drawn to the attention of the tenant at the site and despite numerous subsequent attempts to secure the submission of an application for planning permission, one has not been forthcoming.
- 1.4 During October 2006, complaints were received from Henllan Community Council and a neighbouring resident regarding the untidy state of the site, in particular the access off Ty-Coch Street and the area to the rear of the garden centre used for storage.
- 1.5 An initial site visit by a Planning Compliance Officer revealed that the complaints received were substantiated. The access to the site off Ty-Coch Street is set back and the access area is used for the storage of apparent waste building materials. This has an unacceptable detrimental impact upon the visual amenity of the area, which as outlined previously falls within the Henllan Conservation Area.
- 1.6 The area of the site to the rear of the garden centre was also in an unacceptable condition with mounds of apparent waste building materials piled against boundary fencing of neighbouring residential properties. Two non-operational heavy goods vehicles are also stored in this area, along with various types of agricultural equipment and materials. Similarly this has an unacceptable detrimental impact upon the visual amenity of the area.
- 1.7 The issues were drawn to the attention of the tenant at the time of the site visit and the required remedial action and timescale outlined.
- 1.8 Notwithstanding the tenant's apparent willingness to remedy the situation, subsequent site visits and meetings with him, have failed to achieve any improvement in the area of the site access off Ty-Coch Street. Within the rear storage yard some of the materials have been moved and stacked around the site, but this fails to make the required improvement. In fact additional materials have been deposited at the Ty-Coch Street access and two further non-operational commercial vehicles have been moved to the site for storage.

1.9 A complaint was also received in relation to a boundary fence, in excess of 2 metres, erected by the tenant. During the course of monitoring the site in relation to other issues, it was evidenced that the fence had been erected in a location which clearly affected one particular neighbouring property and is unacceptable. The tenant was advised to remove the fence, he agreed to do so, but has failed to take any action.

2. REASONS FOR ISSUING AN ENFORCEMENT NOTICE

2.1 Despite numerous requests since the Spring of 2005 to regularise the change of use for the whole of the site, the tenant has failed to take any positive action. There is a need to ensure that the Local Planning Authority has some control of the site. It is evident that in its current state and intensity of operation the use of the land fails to comply with criteria of Policy GEN 6, Policy CON 5 and SPG 13. The use does not respect the site and surroundings in terms of layout and intensity of use and is clearly impacting upon the amenity of the local residents. The use has not been in existence for 10 or more years.

2.2 The unauthorised fence is unacceptable due to its height and material and the tenant has failed to take any action to remove it, or make an application for planning permission. The fence fails to comply with criteria in Policy GEN 6, Policy CON 5 and SPG 13 by not respecting the site and surroundings and unacceptably affecting the amenity of nearby residents.

2.3 The state of the land, in particular the access off Ty-Coch Street and the storage yard to the rear of the garden centre, detrimentally affects the visual amenity of the area and despite repeated requests the tenant has failed to take the required action. The taking of enforcement action under Section 215 is the only course of action which can be taken by the Local Authority to ensure that the site is cleared.

3. RECOMMENDATION

3.1 That authorisation be granted for the following:

- (i) Serve an Enforcement Notice to secure the removal of the unauthorised fence, or to reduce its height to meet the 2 metre limit and for the use of materials gaining Local Planning Authority approval.
- (ii) Serve an Enforcement Notice to cease current use of the site and revert to the previous lawful use as an 'agricultural machinery and tools sales outlet', with appropriate conditions approved by the Local Planning Authority.

- (iii) Serve a Notice under Section 215 to require works to be undertaken to tidy the land. (Delegated authority)
- (iv) Instigate prosecution proceedings, or the appropriate action under the Planning Acts against the person, or persons upon whom any Enforcement Notice, or other such Notice is served, or against whom legal action is taken should they fail to comply with the requirements of the Enforcement Notice.
- (v) Period for compliance 2 months.

PLANNING ENFORCEMENT REPORT

REFERENCE: ENF/2007/00015

LOCATION: Castle Café (Former National Milk Bar), 48 - 52 High Street, Denbigh

INFRINGEMENT: Installation of UPVC Windows

RELEVANT PLANNING POLICIES AND GUIDANCE
DENBIGHSHIRE UNITARY DEVELOPMENT PLAN
Policy GEN 6 – Development Control Requirements
Policy CON 5 – Development within Conservation Area
SPG 13 – Conservation Areas

GOVERNMENT GUIDANCE
Planning Policy Wales, March 2002
Welsh Office Circular 61/96 – Planning and the Historic Environment: Historic Buildings and Conservation Areas

HUMAN RIGHTS CONSIDERATIONS
The Human Rights Act 1998 is taken into account when considering taking enforcement action against unauthorised alterations to premises within a Conservation Area. In this instance, the matter under consideration relates to the rights of an owner of a property to install 2 no. UPVC windows and the impact that the installation of those windows, of modern design and materials, has on the character and appearance of the Conservation Area in the general public interest. It is considered that these rights are outweighed in that the development is unacceptable as it would not preserve or enhance the character of the Conservation Area contrary to the relevant planning policies.

1. BACKGROUND INFORMATION

- 1.1 The building in question is currently in use as a café with a store area above with residential apartments on the second and third floors. The site fronts onto High Street, Denbigh and is within the Denbigh Conservation Area, and Article 4 (2) area.
- 1.2 The current leaseholders of the property have installed 2 no. UPVC windows on the front elevation; one on the second floor and one on the third floor.

- 1.3 The leaseholders and owners have been formally advised that the awnings are not acceptable and a request made that they be removed. This has been refused.
- 1.4 It is considered that the use of UPVC materials is inappropriate on buildings in Conservation Areas should not be condoned, as a clear precedent would be set rendering it difficult to control other unacceptable development in such locations.

2. REASONS FOR ISSUING AN ENFORCEMENT NOTICE

- 2.1 The unauthorised development has been carried out within the last four years.
- 2.2 The front elevation of the property is prominent within the street scene of High Street, Denbigh and within the designated Conservation Area. The introduction of UPVC windows has a detrimental impact on premises and the surrounding Conservation Area and neither retains the character, nor enhances the Conservation Area.
- 2.3 The installation of the UPVC windows is contrary to Policy GEN 6 as they are not considered to respect the site and surroundings in terms of design and materials. They are also contrary to Policy CON 5 as they do not preserve or enhance the character or appearance of the Conservation Area.
- 2.4 The imposition of planning conditions as part of any grant of planning permission would not overcome the highlighted concerns.
- 2.5 The owner has refused to remove them.

3. RECOMMENDATION

- 3.1 That authorisation be granted for the following:
 - (i) Serve an Enforcement Notice to secure the removal of the unauthorised 2 no. UPVC windows and replace them with windows of a design and material approved by the Local Planning Authority.
 - (ii) Instigate prosecution proceedings, or the appropriate action under the Planning Acts against the person, or persons upon whom any Enforcement Notice, or other such Notice is served, or against whom legal action is taken should they fail to comply with the requirements of the Enforcement Notice.
 - (iii) Period for compliance 6 months.

PLANNING ENFORCEMENT REPORT

REFERENCE: ENF/2006/00029

LOCATION: Land at entrance to Abbey Grange Hotel, Llantysilio,
Llangollen

INFRINGEMENT: Unauthorised Farm Shop

RELEVANT PLANNING POLICIES AND GUIDANCE

DENBIGHSHIRE UNITARY DEVELOPMENT PLAN

Policy RET 3 - Food Supermarkets
Policy GEN 6 – Development Control Requirements
Policy GEN 3 – Development Outside Development Boundaries
Policy ENV 2 - Development affecting the AOB
Policy EMP 5 - Small Scale Employment Development Outside
Development Boundaries

HUMAN RIGHTS CONSIDERATIONS

The rights of a person to operate a Farm Shop, does not outweigh the right of the Local Planning Authority to protect the amenity of this area of outstanding beauty. No Human Rights issues have been raised in this case.

1. BACKGROUND INFORMATION

- 1.1 The Farm Shop is sited at the entrance to the Abbey Grange Hotel, which is in a countryside setting outside the Development Boundary in an Area of Outstanding Beauty.
- 1.2 A complaint was received in May 2003 about the erection of a small wooden shed on land to the side of the entrance to the Abbey Grange Hotel (see photo labelled '1') It was decided that the structure at that time could be regarded as existing ancillary to the use of the hotel
- 1.3 By October 2004, the scale of the operation had increased significantly (see photo labelled '2') and an Enforcement Officer wrote to the owner advising that planning permission was now required. No application was submitted.

- 1.4 In January 2006, the owner was served with a S.330 Enforcement Notice requiring a questionnaire to be completed and returned within 21 days of its service. The owner failed to comply.
- 1.5 An identical S.330 Notice was served on the owner in May 2006; with a 21 day compliance period, but this was not returned until August 2006.
- 1.6 In the meantime, in July 2006 a Planning Contravention Notice was served on the owner; with a 21 day compliance period to complete and return the questionnaire. Despite regular reminders and frequent contact with the owner's agent, this was never completed and returned.
- 1.7
- 1.8 Negotiations have been on-going with the owner's agent throughout this protracted period of time and every opportunity has been offered to discuss with Planning Officers, the submission of a suitable application. All attempts to negotiate have failed.

2. REASONS FOR ISSUING AN ENFORCEMENT NOTICE

- 2.1 It would appear that the breach of planning control has occurred within the last 10 years.
- 2.2 The use of the land is contrary to the Unitary Development Policy policies referred to above and constitutes a breach of planning control. A food retail operation has developed on the site which is clearly in excess of a traditional small ancillary farm shop use. A new, detached structure has been erected on the site from where the sale of food takes place (see photograph labelled '3'). This is contrary to Policy RET3 of the Unitary Development Plan which clearly outlines the principle of siting any food retail uses within town and district centres as well as Policy EMP 5 which allows small scale employment uses outside development boundaries only where existing buildings have been converted.
- 2.3 It is now two and a half years since our Enforcement Officer first advised the owner that planning permission was required. Deadlines for compliance have been extended during that time, in the interest of fairness, but the owner has repeatedly failed to complete and return the Planning Contravention Notice or to submit an application for planning permission to retain the farm shop. It is now considered that enforcement action is the only way to deal with the present breach of planning control at this site.

3. RECOMMENDATION

- 3.1 That authorisation be granted for the serving of an Enforcement Notice with a two month compliance period ordering the cessation of use of the structure as a farm shop and its removal from the land.

- 3.2 To instigate prosecution proceedings where any person on whom a Notice has been served fails or refuses to comply with the provisions of the Notice.

PLANNING ENFORCEMENT REPORT

REFERENCE: ENF/2007/00039

LOCATION: Lake Hill Fishery And Farm Llandegla Wrexham

INFRINGEMENT: Erection of Unauthorised Building

**RELEVANT PLANNING POLICIES AND GUIDANCE
DENBIGHSHIRE UNITARY DEVELOPMENT PLAN**

Policy STRAT 6 - Location
Policy STRAT 7 - Environment
Policy GEN3 – Development Outside Development Boundaries
Policy GEN4 – Scattered Development Outside Development Boundaries,
Policy GEN6 – Development Control Requirements
Policy ENV2 – Development affecting the AOB,
Policy ENV4 - International/ National sites of Nature Conservation Value
Policy EMP13 – Agricultural development

NATIONAL PLANNING POLICY AND GUIDANCE

Planning Policy Wales (March 2002):
Chapter 4 - Making and Enforcing Planning Decisions, Section 4.8 Enforcing Planning Control.
Chapter 5 – Conserving and Improving Natural Heritage and the Coast, Section 5.5: Development Control and the Conservation and Improvement of the Natural Heritage, (paragraph 5.5.8)

Technical Advice Note (TAN) 5: Nature Conservation and Planning (1996).

Draft Revised TAN5: Nature Conservation and Planning (January 2006),
Chapter 5: Development Affecting Designated Sites and Habitats
Chapter 6: Development Affecting Protected and Priority Habitats and Species

Technical Advice Note (TAN) 6: Agricultural and Rural Development, paragraph 41 – 46.

Technical Advice Note (TAN) 9: Enforcement of Planning Control (October 1997). 'Where unauthorized development is unacceptable and relocation is not feasible' paragraphs: 20-22

HUMAN RIGHTS CONSIDERATIONS

The provisions of the Human Rights Act 1998 are taken into account when considering taking action against breaches of planning control. In this instance the matters under consideration relate to the rights of an individual to erect an agricultural building. These rights are outweighed by policy considerations that seek to protect and manage sites of national nature conservation importance (species and habitats) and protect the character and appearance of the AOB.

1. BACKGROUND INFORMATION

- 1.1 The site forms part of Lake Hill Fishery and Farm and is located in the open countryside in the AOB. Access to the site is off the B5104 Llandegla to Rhydtalog road. The lawful use of the site is as a fish farm. The site falls within the Berwyn and South Clwyd Mountain Site of Special Scientific Interest (SSSI) with a Special Area of Conservation (SAC), designated due to the Annexe1 habitat of European Dry Heath adjacent to it.
- 1.2 Application ref no 17/2006/0821/PC was received by the Local Planning Authority on the 4th July 2006 and relates to the retention of a replacement agricultural building. The applicant maintains that the replacement agricultural building is permitted development under part 6 of the GPDO (1995).
- 1.3 A notice of appeal was received by the Local Planning Authority on the 14th December 2006 for non determination within the 8 week period. The appeal was dismissed by the Planning Inspectorate on the 4/4/07. The inspectors main issues are as follows:
 - The site is in the SSSI and SAC and according to TAN5 (1996) and the draft TAN5 (2006) on Nature Conservation, permission is required from the relevant nature conservation body before any permitted development rights can be exercised in this location.
 - The surrounding moorland is no longer owned by the applicant and the extent of the agricultural unit and suggested agricultural use is unclear. The need for the building has not been made out.
- 1.4 The inspectors main conclusions are:
 - The building is large and intrusive in the open moorland landscape and is harmful to the isolated character
 - Moorland has been destroyed by the erection of the building (estimated loss of 290m² of European dry heath for the erection of the building itself and more during the construction works) that has damaged the integrity of the SSSI and the SAC.

2. REASONS FOR ISSUING AN ENFORCEMENT NOTICE

- 2.1 The building on site does not have planning permission. No permitted development rights exist for the erection of an agricultural building in this location given the SSSI and the SAC constraints. The extent of works required for the erection of the building and construction work has damaged the integrity of the SSSI and the SAC and as such the proposal is contrary to policy ENV4 of the Denbighshire Unitary Development Plan and advice contained in TAN5 (1996) Nature Conservation and the daft TAN 5 (2006) Nature Conservation.
- 2.2 The building is harmful to the open moorland landscape of the AOB and as such is contrary to policy ENV2 and EMP13 of the Denbighshire Unitary Development Plan.

3. RECOMMENDATION

- 3.1 That authorisation be granted for the serving of an Enforcement Notice with a 3 month compliance period ordering the demolition of the building and the removal of all construction materials from the site along with the restoration of any damaged areas of the SSSI and the SAC.
- 3.2 To instigate prosecution proceedings where any person on whom a notice has been served fails or refuses to comply with the provisions of the notice.

PLANNING ENFORCEMENT REPORT

REFERENCE: ENF/2007/00040

LOCATION: Lake Hill Fishery And Farm Llandegla Wrexham

INFRINGEMENT: (1) Erection of Conservatory; (2) Erection of Decking;
(3) Erection of Cellar Area for use as Manager's
Accommodation;

**RELEVANT PLANNING POLICIES AND GUIDANCE
DENBIGHSHIRE UNITARY DEVELOPMENT PLAN**

Policy STRAT 6 - Location
Policy STRAT 7 - Environment
Policy GEN3 – Development Outside Development Boundaries
Policy GEN4 – Scattered Development Outside Development Boundaries,
Policy GEN6 – Development Control Requirements
Policy ENV2 – Development affecting the AOB,
Policy ENV4 - International/ National sites of Nature Conservation Value
Policy HSG6 – New Dwellings in the Open Countryside

NATIONAL PLANNING POLICY AND GUIDANCE

Planning Policy Wales (March 2002):
Chapter 4 - Making and Enforcing Planning Decisions, Section 4.8 Enforcing
Planning Control.
Chapter 5 – Conserving and Improving Natural Heritage and the Coast,
Section 5.5: Development Control and the Conservation and Improvement of
the Natural Heritage, (paragraph 5.5.8)

Ministerial Interim Planning Policy Statement (MIPPS) 01/2006 (June 2006) –
Housing, Section 9.3 Development Control and Housing (paragraphs 9.3.6 –
9.3.10)

Technical Advice Note (TAN) 5: Nature Conservation and Planning (1996).

Draft Revised TAN5: Nature Conservation and Planning (January 2006),
Chapter 5: Development Affecting Designated Sites and Habitats
Chapter 6: Development Affecting Protected and Priority Habitats and Species

Technical Advice Note (TAN) 6: Agricultural and Rural Development,
paragraph 41 – 46.

Technical Advice Note (TAN) 9: Enforcement of Planning Control (October 1997). 'Where unauthorized development is unacceptable and relocation is not feasible' paragraphs: 20-22

HUMAN RIGHTS CONSIDERATIONS

The provisions of the Human Rights Act 1998 are taken into account when considering taking action against breaches of planning control. In this instance the matters under consideration relate to the rights of an individual to alter a building and create a separate dwelling. These rights are outweighed by policy considerations that seek to protect and manage sites of national nature conservation importance (species and habitats) and protect the character and appearance of the AOB

1. BACKGROUND INFORMATION

- 1.1 The site forms part of Lake Hill Fishery and Farm and is located in the open countryside in the AOB. Access to the site is off the B5104 Llandegla to Rhydtalog road. The lawful use of the site is as a fish farm. The site falls within the Berwyn and South Clwyd Mountain Site of Special Scientific Interest (SSSI) with a Special Area of Conservation (SAC), designated due to the Annexe1 habitat of European Dry Heath adjacent to it.
- 1.2 Application ref no: 17/2006/0820/PF was received by the Local Planning Authority on the 4th July 2006 and relates to the retention of a cellar area for use as managers accommodation and the retention of a conservatory and decking area.
- 1.3 Planning permission was granted under code number 17/2004/0792/PF for the erection of an office/ store on the 27/10/2004. The building subject to this permission consisted of a single storey building of stone and slate construction, divided internally to provide a display area, reception, office/ store and toilet.
- 1.4 Condition no 2 of planning ref no 17/2004/0792/PF states the following:

No development shall be permitted to commence on the building until the written approval of the Local Planning Authority has been obtained to all the following:

- a) *The precise siting and orientation of the building, which shall not be as shown on the submitted plans, but in accordance with such detail as is acceptable to the authority in order to avoid intrusion into the candidate Special Area of Conservation.*
- b) *Specific proposals for the protection of fauna during and after construction phase of the building and septic tank, and for the restoration of fauna following the completion of the building and septic tank.*

Reason: To ensure adequate measures are taken to protect the Special Area of Conservation and vegetation in the SSSI.

No details of criteria a) or b) have been submitted to the Local Planning Authority for approval.

1.5 A notice of appeal was received by the Local Planning Authority on the 14th December 2006 for non determination within the 8 week period. The appeal was dismissed by the Planning Inspectorate on the 4/4/07. The inspectors main issues are as follows:

- effect on nature conservation interests
- conservation of the natural beauty of the AOB
- justification for the proposals in light of policies to protect the open countryside from unnecessary residential development

1.6 The inspectors main conclusions are:

- Condition no 1 of planning application ref no 17/2004/0792/PF has not been discharged and therefore no planning permission exists for the building
- The retention of the building for use as an office/ store and managers accommodation conflicts with UDP policies by harming the sensitive moor land landscape (SSSI and SAC) and fails to protect the character and appearance of the AOB.
- No evidence has been submitted that states that residential accommodation is essential for the running of the fish farm.

2. REASONS FOR ISSUING AN ENFORCEMENT NOTICE

2.1 No planning permission exists for the building as condition no 1 of application ref no 17/2004/0791/PF has not been discharged by the Local Planning Authority. The retention of the building is not acceptable as no case has been put forward for an essential worker to live on the site to look after the fish farm, contrary to policy HSG6 of the Denbighshire Unitary Development Plan, advice contained in MIPPS 01/2006 and TAN6 on Agricultural and Rural Development

2.2 The location of the building in the open countryside is harmful to the open character and appearance of the AOB contrary to policy ENV2 of the Denbighshire Unitary Development Plan

2.3 Uncertainty in relation to the location of the building compared to the boundary of the SAC and the damage to the integrity of the habitat of European Dry Heath. Regardless of this, the whole of the site is in a SSSI and the retention of the building is detrimental to the special interest of the site in conflict with policy ENV4 of the Denbighshire Unitary Development Plan and advice contained in TAN5 (1996) Nature Conservation and the daft TAN 5 (2006) Nature Conservation.

3. RECOMMENDATION

- 3.1 That authorisation be granted for the serving of an Enforcement Notice with a 3 month compliance period ordering the demolition of the building and the removal of all construction materials from the site along with the restoration of any damaged areas of SAC and SSSI.
- 3.2 To instigate prosecution proceedings where any person on whom a notice has been served fails or refuses to comply with the provisions of the notice.

PLANNING ENFORCEMENT REPORT

REFERENCE: ENF/2007/00041

LOCATION: Lake Hill Fishery And Farm Llandegla Wrexham

INFRINGEMENT: Unauthorised siting and use of mobile unit

RELEVANT PLANNING POLICIES AND GUIDANCE
DENBIGHSHIRE UNITARY DEVELOPMENT PLAN

Policy STRAT 6 - Location
Policy STRAT 7 - Environment
Policy GEN3 – Development Outside Development Boundaries
Policy GEN4 – Scattered Development Outside Development Boundaries,
Policy GEN6 – Development Control Requirements
Policy ENV2 – Development affecting the AOB
Policy ENV4 - International/ National sites of Nature Conservation Value
Policy HSG6 – New Dwellings in the Open Countryside

NATIONAL PLANNING POLICY AND GUIDANCE

Planning Policy Wales (March 2002):
Chapter 4 - Making and Enforcing Planning Decisions, Section 4.8 Enforcing Planning Control.
Chapter 5 – Conserving and Improving Natural Heritage and the Coast, Section 5.5: Development Control and the Conservation and Improvement of the Natural Heritage, (paragraph 5.5.8)

Ministerial Interim Planning Policy Statement (MIPPS) 01/2006 (June 2006) – Housing, Section 9.3 Development Control and Housing (paragraphs 9.3.6 – 9.3.10)

Technical Advice Note (TAN) 5: Nature Conservation and Planning (1996).

Draft Revised TAN5: Nature Conservation and Planning (January 2006),
Chapter 5: Development Affecting Designated Sites and Habitats
Chapter 6: Development Affecting Protected and Priority Habitats and Species

Technical Advice Note (TAN) 6: Agricultural and Rural Development, paragraph 41 – 46.

Technical Advice Note (TAN) 9: Enforcement of Planning Control (October 1997). 'Where unauthorized development is unacceptable and relocation is not feasible' paragraphs: 20-22

HUMAN RIGHTS CONSIDERATIONS

The provisions of the Human Rights Act 1998 are taken into account when considering taking action against breaches of planning control. In this instance the matters under consideration relate to the rights of an individual to retain a mobile unit for use as an office/ store and residential use. In this instance, these rights are outweighed by planning policy considerations that seek to protect the character and appearance of the open AOB countryside.

1. BACKGROUND INFORMATION

- 1.1 The site forms part of Lake Hill Fishery and Farm and is located in the open countryside in the AOB. Access to the site is off the B5104 Llandegla to Rhydtalog road. The lawful use of the site is as a fish farm. The site falls within the boundary of the Berwyn and South Clwyd Mountain Site of Special Scientific Interest (SSSI) but outside the Special Area of Conservation (SAC).
- 1.2 Planning permission was granted under code no 17/2004/0791/PF for the retention of the siting of a mobile unit for use as an office/ store. This permission was granted on a temporary basis up until 4th April 2006.
- 1.3 Application ref no: 17/2006/0822/PS was received by the Local Planning Authority on the 4th July 2006 and related to the variation of condition no 1 on planning application ref no: 17/2004/0791/PF to allow for the continued use of the mobile unit for an additional 12 months. This application was made on the basis of a variation of condition, but as the temporary permission under code no 17/2004/0791/PF had expired, the application under code no 17/2006/0822/PS should be for the retention of the mobile unit for use as an office/ store.
- 1.4 Application ref no: 17/2004/0762/PF granted permission for the erection of a permanent building for use as an office/store. This building is subject to a separate enforcement report.
- 1.5 A notice of appeal was received by the Local Planning Authority on the 14th December 2006 for non determination within the 8 week period. The appeal was dismissed by the Planning Inspectorate on the 4/4/07. The inspectors main issues are as follows:
 - The application is for the use of the land for the stationing of a mobile unit for use as residential accommodation, an office and store.

- The location and orientation of the mobile unit differs from that approved under application ref no: 17/2004/0761/PF

1.6 The inspectors main conclusions are:

- No evidence of any functional or financial need for residential accommodation in the open countryside
- Visual intrusion in the open moor land landscape
- A permanent office/ store use for managing the fishing activity has already been granted under code no 17/2004/0762/PF, albeit that the building erected is materially different from that granted approval.

2. REASONS FOR ISSUING AN ENFORCEMENT NOTICE

- 2.1 No planning permission exists for the mobile unit and its location in the SSSI and open AOB moorland landscape is harmful to the visual amenity of the area, contrary to policy GEN3, GEN6, ENV2 and ENV4 of the Denbighshire Unitary Development Plan and advice contained TAN5 (1996) Nature Conservation and the daft TAN 5 (2006) Nature Conservation.
- 2.2 No justification exists for the retention of residential use in the open countryside contrary to policy GEN3 and HSG6 of the Denbighshire Unitary Development Plan and advice contained in MIPPS 01/2006 and TAN6 on Agricultural and Rural Development

3. RECOMMENDATION

- 3.1 That authorisation be granted for the serving of an Enforcement Notice with a 1 month compliance period ordering the removal of the mobile unit from the site.
- 3.2 To instigate prosecution proceedings where any person on whom a notice has been served fails or refuses to comply with the provisions of the notice.