

**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: Bodelwyddan

APPLICATION NO: 40/2005/1500/ PO

PROPOSAL: Demolition of existing barracks and related buildings and redevelopment of 2.91ha (7.19 acres) of land for employment uses (B1 and B8 uses); development of 2.74ha (6.77 acres) of grassland previously occupied by barracks, incorporating existing parking area, for residential purposes, and alterations to existing vehicular and pedestrian access (outline application)

LOCATION: Part Of Kinmel Park Army Camp Kinmel Park, Abergele Road
Bodelwyddan Rhyl

APPLICANT: Mr A Pullen-Jones

CONSTRAINTS: Wildlife Site
Previous Mining Area
Ancient Woodland

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

CONSULTATION RESPONSES:

1. BODELWYDDAN TOWN COUNCIL
 " The Town Council Object to the above application on the following grounds:
 - i) The main road- Engine Hill is too narrow to take any increase in car and commercial vehicle traffic that would be created by the new residential houses and the industrial units.
 - ii) There is no public footpath along this road and no street lighting. There is no safe access for pedestrians currently walking along this road or in the future should this development succeed. This road is also currently has a 60mph speed limit.
 - iii) The commercial traffic going to the industrial units has to pass through the residential areas first. This will cause noise disturbance to the residential areas particularly as there may be children at play.
 - iv) There is no public transport to this area for residents or workers who will be employed at the industrial units."
2. COUNTY ARCHAEOLOGIST
 Concurs with CPAT, with no objection, subject to recording of WWI barracks blocks proposed for demolition.
3. CLWYD POWYS ARCHAEOLOGICAL TRUST
 Confirms that the revised archaeology report meets the archaeology brief requirements.

Following discussions with CPAT, the case officer requested further clarification concerning the proposed layout and the Archaeological report conclusions for the Bodelwyddan mine.

In terms of the housing area, CPAT have confirmed that;

- the area originally contained two lead mining shafts, a lime kiln at the eastern extreme, a track from Bodelwyddan Castle heading west along the south boundary of the housing area and the later WWI/WWII army barracks in the form of a series of H plan blocks. The former army buildings have since been demolished in the housing area, but their foundations probably survive along with the underground services (found in the test pits) and steps up to the barracks from the road.
- One of the lead mine shafts was built over by the army barracks; presumably, filled in with construction of the barrack blocks, but may still be encountered by the new housing. Likewise the lime kiln appears to have been destroyed by the barracks construction and mature trees now occupy that site.
- One lead shaft potentially survives and was recorded by Oxford Archaeology North. Archaeologically, investigating the shaft would be hazardous and pose problems for health and safety as its precise entrance location and nature of fill is not known. It would appear from the housing plan that the development will impact on this shaft location. Therefore, advise that a contracted archaeological watching brief is maintained in this area as a condition of any consent that may be given. The watching brief could also include the area of the shaft already built over and the area of the former limekiln at the east end.

CPAT state that it would be beneficial for the developers to investigate the location of the surviving lead shaft (and the one that was built over) in advance of consent so that they can confirm if the shafts have been capped or not. If an investigation is not undertaken, an archaeologist should be present to carry out a watching brief.

4. ENVIRONMENT AGENCY

No objection, subject to 7 conditions and advisory notes, concerning drainage and contaminated land.

5. WELSH WATER

No objection subject to conditions and advisory notes.

6. HEAD OF HIGHWAYS AND INFRASTRUCTURE

No objections, subject to the inclusion of conditions and advisory notes.

7. ASSET MANAGEMENT, EDUCATION SERVICES

- In the absence of exact number and type of houses involved i.e. low cost starter homes or larger 4 bedroom houses, difficult to know the effect on local schools.
- The local school, Ysgol y Faenol, is currently near to capacity although the actual site would be capable of further development as and when required, and obviously at a cost.

8. PRINCIPAL PARKS AND OPEN SPACE OFFICER -

- The proposal involves vehicular traffic going through a residential area to get to it; this would create potential safety hazards for children living in the residential area. There is nothing in the proposal to take in to account the potential dangers for children in the residential area and the impact this will have on required open space/play provision.

- Appreciates that the proposal is in outline with no mention of play and open space provision being made. The documentation mentions 85 dwellings, this equates to a total requirement of 8,160 sq.m. of both CROS and children's play space. Understand that in this part of Bodelwyddan, there is no play provision either informal or formal, hence on site provision imperative.
- Open space and play provision would be require commuted sums both for maintenance and provision, according to approved costs. Guidance, Design layouts and landscaping plans will have to be submitted and agreed.
- Bodelwyddan as a village has little formal play provision and limited informal provision, split between Denbighshire CC and the Community Council. The recreation ground in the centre of the village is managed and maintained by the Community Council whilst the children's play areas located in Coronation Close and on Clos Deganwy are managed and maintained by DCC.
- Application documentation mentions that part of development site overlaps some of the ENV5 land but that this will be incorporated in to the site landscaping. This area is adjacent to the employment area, therefore requires careful consideration, and may require involvement from the Countryside Service.
- With regard to children especially and other residents from the proposed residential area accessing either the school or any of the other existing facilities in the village the only route available to them is down Engine Hill, which would need to be up graded to facilitate a residential development of this size. Should residents wish to walk or cycle then lighting, crossings etc will have to be incorporated in to the plan to ensure their safety.
- Advises on commuted sum figures for the development, and costs increase given considerable increase in steel prices.

9. PUBLIC PROTECTION OFFICER

Advises as follows:

Noise Assessment

- Methodology assessment results are in keeping with expected values.
- Noise mitigation recommendations in terms of protection of proposed dwellings from Road Traffic Noise and protection of existing residential premises from this) must be incorporated into any development design and details.
- Conditions are advised in respect of Construction noise with details of mitigation measures, or a condition requiring submission of the measures to be taken to minimise disturbance to local residents from the construction process. This is equally applicable in terms of dust and vibration.
- Additionally, appropriate to condition the levels of noise to be emitted from the proposed commercial / industrial premises to the west of this site and mitigation measures to protect both existing and proposed premises from it.

Land Quality Assessment, Phase Two: Intrusive investigation land quality assessment report.

Initial response

In reviewing this report the Contaminated Land Officer identified a number of deficiencies e.g. investigation concentrates only on the potential presence of asbestos, ignoring any other potential contaminants; why certain others are not fully investigated and quantified despite identification of the potential significance of them at the desk top stage.

The initial documentation was considered unsuitable for quantifying the risks to future site occupants, particularly the residential premises proposed in the vicinity of the lead mine shafts and no evaluation of the potential for heavy metal contamination that would be critical to determine in this location the suitability for the redevelopment as residential housing. Briefly the Officer highlights that there is no attempt to characterise the potential contents of any made ground identified; potential risks for the residual asbestos not clearly explained.; remedial options are not explored, recommended actions for the potential excavation of unidentified materials have not been proposed; Risks to future occupants carrying out excavation in their properties cannot be discounted. (e.g. construction of extensions or garden ponds).

The conclusion is that no site specific risk assessment for use of this land for residential has been carried out and it is therefore not possible to support this part of the submission. Significant further site investigation and risk assessment is required for full planning stage and proposes conditions should be incorporated into any approval.

Any additional comments from the Public Protection Section will be included in the late letters sheets.

10. CLWYD BAT GROUP -

- Additional details suggest that surveys of the existing trees, woodland and ecology will be undertaken but does not specify what this will involve.
- Reiterate importance of a bat survey for adequately assessing the site and to determine whether –if present- a WAG licence is required and any subsequent mitigation. The presence of a lesser horseshoe roost nearby and the presence of buildings and other structures within the site means that bats may well be present (advises of a local bat group contact.)

11. COUNTY ECOLOGIST –

- Greatest concern is proposed housing, in particular, the potential impacts on the woodland area at the southern and eastern edges of the site. There are a number of large trees with potential bat species interest which would need to be assessed.
- This area also contains plentiful fallow deer activity; although not a protected species, it is of local interest.
- The woodland Wildlife Site is also located immediately adjacent to the west side of the proposed housing. As this wood is within the ownership of the applicant, and bearing in mind the scale of the development, not unreasonable to request a management scheme for this woodland to ensure its long-term protection, ensuring a government department's duty to further the conservation of biodiversity, Request that they put forward such a scheme for all their wooded areas.
- There are some trees with potential bat species interest on the southern perimeter of the proposed employment area further west, but these appear to be unaffected. This should be clarified.

12. PRINCIPAL COUNTRYSIDE OFFICER

Employment Area. Difficult in some areas to relate the existing layout of buildings, trees and woodland edge to the proposed layout plan. Suggests it would be more helpful if the proposed layout was superimposed on the existing, allowing a more informed response in relation to the trees, especially at the west end of the site. Generally, appears that the employment area takes the protection of trees and the woodland into account to a reasonable extent. However requests a superimposed plan prior to final response.

Housing area – raises the most issues -

- Appears to have little regard for existing features. In particular the woodland along the southern and eastern edges will be largely annihilated if this proposal is implemented. This southern edge wood is almost entirely pure elm, much affected by Dutch elm disease, suggesting implementing a programme of thinning/selective felling and replanting with alternative native broadleaved species. Over time this wood could be converted into a valued habitat and would continue to act as a screen between the existing and new houses and as an important local amenity feature.
- Similarly the strip along Engine Hill could be managed (with even less effort) to create a valued screen, amenity feature and wildlife habitat. This requires two things- a commitment to conserve an existing feature and a modification to the number and siting of the dwellings.
- At the west end of the housing area the proposed development encroaches close up to the Wildlife Site which is ASN woodland. Here also there should be greater protection for the woodland and a long term commitment to its management (following so many years of total neglect). This area deserves a decent buffer zone. Ideally requires a Management Plan for all the existing woodland areas including methods of protection from trespass and abuse.

13. LANDSCAPE ARCHITECT

Notes the sensitive setting of site and comments on specific issues:

Site context and location

Site lies within the LANDMAP area of ' Bodelwyddan and Kinmel Parkland' Code D/LC/9 described as 'a rolling wooded estate farmland landscape' 'on the gentle north facing slopes' categorised as of high visual quality. The landscape is generally unspoilt except for the intrusive Kinmel Industrial Park situated on the lower slopes of the hills on the site of a former army camp on land originally within Kinmel Park.

The application site is the upper part of the disused Kinmel army camp including an area well up the hillside which has now grassed over and blends into the surrounding landscape. Relatively inconspicuous wooden buildings occupy the lower part of the site. The site is allocated for employment within the UDP but if this had not been not a former army camp it is most unlikely that industry would have been located in this attractive parkland setting.

Landscape impact

The proposed development site is clearly visible in the wider landscape particularly from the coastal plain and requires very sensitive treatment. Retention of all sound trees where appropriate, careful design and use of colour with maximum screening of industrial buildings or dwellings with new tree planting is therefore essential if the landscape quality is to be maintained.

Requires a visual assessment of the site for this prominent site with mitigation

measures to show how the impact of the development on the hillside can be reduced. Recommends that the housing area remains as open space as it would be difficult to develop without substantially lowering the landscape quality of the hillside between the two historic parklands.

Notes that the tree survey was a good exercise and advises that is not a visual survey, and the recommendations are given in terms of tree safety and management and do not include reasons for retaining trees on visual grounds to help integrate the proposed development into the landscape. The recommendations for felling other than for safety reasons therefore require justification following a visual assessment.

Housing layout

Highlights that this is in general completely rigid and unsympathetic to the landscape. Is inappropriate, with little consideration for the landform and unfortunately the information provided in the arboriculture report has not been used with any understanding or sensitivity. In order to keep trees, particularly around trees such as mature oaks, sufficient space must be left undisturbed around them. The area around trees to be retained has to be carefully considered especially the levels on rising ground. Very few trees would survive if this layout were adopted. In addition to the trees recommended for retention in the tree report. It is very important to retain and manage the narrow strip of woodland on the upper, southern boundary in order to maintain the screen of the existing housing, which already detracts from the landscape quality, as houses can be seen through gaps in the trees. It is also very important to retain all the trees adjacent to Engine Hill to protect the view from Bodelwyddan Park.

If housing is justified, the layout should be completely reconsidered to fit in to the landscape of the coastal hills. No tree planting has been proposed in the scheme and strategic planting would be essential to break up the view of houses. No space has been provided for new tree planting even along the very exposed access road where a good screen belt would be critical.

The proposals for the industrial area do not allow space for large growing trees on the lower boundary to reduce impact of building, which would be essential; however the buildings could be moved to accommodate this. The proposals for retaining existing trees should be carefully reviewed and the scheme revised to ensure there is no disturbance or change of level below the rooting area of existing tree. Car parking has been shown below the canopies of trees in the highest category for retention and the layout of car parking designed as if the site was flat.

14. NORTH WALES WILDLIFE TRUST

Objects on the basis that

- the development will destroy areas of developing woodland containing mature and semi-mature trees, which provide a wildlife corridor between Coed Pen y Garreg and the woodlands within the Kinmel Estate.
- The woodland areas affected are known to be used by Jays, Tawny Owls and Cuckoos, and may also contain roosting sites for bats as well as foraging areas for Badgers.
- The NWWT would wish to see the areas of developing woodland maintained as a feature into the long term.

15. HEAD OF HOUSING -

- 2.7 hectares residential area - so there would be a requirement for 24 affordable units.
- There is a healthy waiting list for Bodelwyddan so would argue for a mixture of 2 bedroom flats and 2/3 bedroom houses, maybe some 4 bedroom houses.
- The affordable housing should be a mixture of rented (neutral tenure) - depending on grants bid to WAG, shared ownership and low cost home ownership.

16. DRAINAGE ENGINEER

Confirms that appropriate conditions can be put in place by both Welsh Water and the E.A. at outline stage, but highlights concerns that if certain details are not covered in the conditions (i.e. surface water discharge point and a requirement for attenuation), there is a possibility that the downstream culverts are unable to cope with the extra flows and could result in flooding to that area.

RESPONSE TO PUBLICITY:

Letters of representation received from:

1. Alice Farr, Coed Cadw Woodland Trust, Llanidloes, Powys
2. C. Kirby, Allen Group Ltd., Phoenix House, Kinmel Park Industrial Estate
3. Nikki Mival - glanmorfagarage@yahoo.co.uk
4. Mr M J Jackson, Maes y Gaseg, Llanelian, Colwyn Bay LL29 8YA

Summary of planning based representations:

- i) Historical context with buildings - buildings could be reused for employment purposes
- ii) Trees - removal of large number of trees; application form details and plans inconsistent; site adjacent to an area of ancient woodland identified on the English Nature ancient woodland inventory; substantial damage to tree roots.
- iii) Highways & Traffic – Involves heavy goods traffic through a housing estate – with associated danger and noise problem; Requires pavement connection between Hillcrest Court and a factory.
- iv) Existing use - remaining part of Kinmel Camp is used for up to 100 Army Cadets and Adult instructors. Current application places them in central position of industry and loss of their facilities.
- v) Nature conservation & setting - potential impact on deer in locality; unique species associated with ancient woodland; high biodiversity value with ancient trees; site lies between Kinmel Park and Boelwyddan Park identified in historical maps; noise and light intrusion affecting species within woodland; physical presence of development impact on surrounding wildlife; proximity of ancient woodland to employment development; buffer zones required; number of mature oak trees on the site.
- vi) Affordable Housing - What type involved?
- vii) Proximity/compatibility with neighbouring industry - Impact of works and stability of bank; security of use of existing buildings; Health and Safety issues
- viii) Hydrology/drainage – alterations to ground and surface water volume and pollution run off.
- ix) Concern over loss of camp and impacts upon users

EXPIRY DATE OF APPLICATION: 27/06/2007

REASONS FOR DELAY IN DECISION:

- timing of receipt of representations
- delay in receipt of key consultation response(s)
- additional information required from applicant
- applicants submission of amended plans
- re-consultations / further publicity necessary on amended plans and / or additional information

PLANNING ASSESSMENT:

THE PROPOSAL:

1. The application submitted by Defence Estates is in outline form, with all matters reserved for future approval, with the exception of the means of access. It represents for a 'departure' proposal from the current Denbighshire Unitary Development Plan in respect of the use of Employment land for housing development.
2. To the north of the application site lies the Kinmel Camp Industrial Estate, with twelve residential properties comprising Hillcrest Court to the South. (See maps).
3. The site has been in use as an Army Camp for many years. Part of the application involves demolition of barracks and other buildings. The application form indicates no trees or hedges are to be removed, and in terms of drainage, confirms surface water drainage and foul water disposal via public sewer.
4. The proposal is in two parts:-
 - i) 2.5 hectare area immediately adjoining Engine Hill, proposed for residential use. The current Denbighshire Unitary Development Plan designation for this area is employment land (EMP 2).
 - ii) A 2.7 hectare area further west (containing several barrack buildings and other buildings, proposed for employment uses (Class B1 and B8 only). This area is currently within in the development boundary of Bodelwyddan in the Denbighshire Unitary Development Plan as GEN 1, but with no specific use allocation.
5. An indicative layout of 85 dwellings is included with the submission, together with an employment area indicative layout.
6. The site forms part of a larger area, which is to be retained in MOD ownership. To the north of the proposed employment area are land and several barrack blocks (approximately 2.47 acres) transferred to the Reserve Forces and Cadet Association (RFCA). To the south of the proposed employment development, and south west of the housing both the RFCA and the Army Training Estate (ATE), use an MOD woodland area (on lease), known as Coed Pen y Garreg for training purposes (an area of 28.16 acres). This area is recognised in the Denbighshire Unitary Development Plan for its nature conservation interest. Existing vehicular access to these areas is the existing Kinmel Drive road and Engine Hill.
7. The remaining MOD land is let on an agricultural tenancy, which includes part of the land allocated within the current Unitary Development Plan. Members may be aware that this land adjoins the Ty Tytynyrch Site, recently the subject of a planning application for an equine treatment and therapy centre, which was refused at the March 2008 Planning Committee under code 40/2007/1473/PF.

8. Plan A accompanying this report identifies the various land areas and designations on the site, and the locality.
9. The site includes mature and young trees, with a gradual north facing slope, and lies between the Grade II* listed Bodelyyddan Castle and the Grade II* listed hall, both set in wooded parkland landscapes. The proposal includes developing on part of the Coed Pen y Garreg wildlife site.

As advised by the agent, the proposal's context is set by the proposed closure/reorganisation of much of the remainder of the base, providing an opportunity to re-assess future development opportunities.

10. The agent advises that the proposal is submitted on the basis of an 'enabling development' by which a mixed use scheme is proposed as a means of achieving the development of an employment site.
11. The proposed road/highway improvements to Engine Hill, involve work on land in third party ownership. The relevant notices have been served on affected parties.
12. The application was originally submitted in 2005. Progress has been delayed for a number of reasons, including changes in personnel advising Defence Estates.
13. The following reports accompany the submission:
 - Planning Application Supporting Statement (received 05 December 2005)
 - Noise Impact Assessment (received 5 December 2005)
 - Land Quality Assessment (received 17 March 2006). Additional information supplemented.
 - Arboricultural Commentary and Tree Management Plan (submitted 22 November 2006)
 - Ecological Assessment (submitted 22 November 2006)
 - Archaeology Report (received 29/11/2007)
 - Transport design and Accessibility Statement (dated April 2007)
 - Revised Financial Appraisal (received 12 October 2007)

In brief, the relevant contents of the key documents are:

Planning Application Supporting Statement

- General description of site location and character, including MOD context/need for disposal
- Reference to UDP policies – specifically Employment allocation, with the proposal comprising "exceptional circumstances"
- Recognises improvements necessary for Engine Hill
- Development to be mixed use, incorporating 85 dwellings (30 affordable) with the 2.9ha employment split into B1 Business Park and B8 Warehousing.
- Widening of Kinmel Drive and improved existing junction with Engine Hill
- Conclusions of Noise Impact Assessment Report taken into account.
- Existing utilities/services on site.
- Advises that the area designated to the south as a non –statutory wildlife site to form part of site landscaping.
- Preliminary assessment of bat presence undertaken
- Desktop survey for archaeology undertaken
- Considers that the provision of housing onto employment allocation, with replacement employment area satisfies employment objectives of the UDP.

Noise Impact Assessment

- Identifies the proposal involving 2.5 ha. with approx. 75 dwellings and 2.9 h. for employment (B1 and B8)
- Noise assessment undertaken to inform and guide design of the development minimising noise impact on existing or proposed dwellings.
- Refers to TAN 11 noise criteria, together with BS standards.
- Noise impact from construction phase also considered, together with noise impact on existing and proposed residents.
- In accordance with TAN 11 guidance existing noise levels generally fall within Noise Exposure Category (NEC) A and B with north east corner with night time noise level within NEC 'C' category (higher category)
- Small increase in noise level with existing residents, deemed not be significant. Impact of the operation of employment development includes mitigation measures (boundary screening; control of noise at source and site layout)
- Suggests amelioration measures for dwellings proposed - additional screening adjacent to Kinmel Drive and Engine Hill, together with western boundary with employment development; guidance suggested for garden layout.

Land Quality Assessment

- A Phase Two Land Quality Assessment undertaken.
- Site sensitivity re; groundwater identified as moderate to low, given underlying Major Aquifer.
- 36 trial pits undertaken.
- Limited sources of potential contamination identified, together with suggestion for three possible mine shafts, with a further mine investigation walkover study.
- Subject to appropriate remediation and mitigation, site risks (asbestos and mine works) considered suitable for residential development.
- In terms of environmental risks – the report identifies localised Asbestos with a moderate/low risk.

Arboricultural Commentary and Tree Management Plan

- Commentary upon an arboricultural survey report produced by Lowther Forrestry Group (LWG) (one area outside application site – area E).
- Comments on a proposal by the County Landscape office for a 20m buffer zone.
- Incorporates an outline Tree Management Plan for the proposed development site, bases upon arboriculture report and ecological assessment.
- All trees in the development site (including a triangular section to the South) are deciduous and comprise predominately native species, (including 12 English Oak); with the vast majority in reasonable or good condition.
- Of the 98 trees on the development site, the arboricultural report recommends up to 22 trees (22% of individual trees on the development site) be removed given that they are dead, dying, diseased or 'bad forms' making them potentially hazardous. Majority of trees to be removed located alongside Kinmel Drive. 76 should be retained for varying degrees.
- Tree heights vary. Maximum crown spread 17.7m with one of the English Oaks.
- Two English Oak trees of particular note (352 & 409), with a recommendation for in specific management plan.

- Highlights stand off (BS Standards) between construction and tree trunk – maximum precautionary distance is 15 m from trunk. No reason for 20m distance as requested.
- Recognises Ecology Report information, with 13 mature trees on the development site to have potential to roosting bats. Recommends all mature tree specimens retained.

Ecological Assessment

- Habitats adjacent to the site also assessed, recognising the existence of the wildlife site to the South of the site (Coed Pen y Garreg).
 - Detailed information on the proposals for the proposed development site and layout were not available to inform the assessment.
 - With respect to bats:
 - bat roost with the proposed development site – in Block 1-4, and 9.
 - Bats may roost in trees on and adjacent to the site.
 - Several bats foraging around the development site.
 - Considers occurrence of bat species as of local nature conservation importance.
 - Considers possible occurrence of reptiles given site and surrounding area comprising a mosaic of habitats potentially suitable.
 - In terms of development implications and recommendations, suggests-
- o Designated Sites

Works not to encroach on outermost trees of Coed Pen y Garreg SINC or the main area of SINC

Terrestrial Habitats/Flora

Biodiversity opportunities incorporated into final site layout as compensation for loss at local habitats on the proposed development site, which in turn support bats and may support reptiles e.g. species RICH hedge lines; semi -improved natural grassland on raised banks or bunds and/or broadleaved woodlands could be incorporated.

Fauna

Highlights WAG bat licence necessary to facilitate demolition of Block 1-4 and 9.

- o Advises that the use of these buildings by bats is “not fully understood since the surveys were undertaken late in the bat season”.
 - o Other blocks considered to have limited suitability for bat roosts.
 - o Recommends mature trees (wherever possible) to be retained on the proposed development site.
 - o Highlights that WAG licence may require compensation measures- e.g. provision of replacement bat roost habitat.
- o Reptiles
- Strongly recommends reptile presence/absence surveys undertaken of proposed development site and immediately surrounding landscape. As such results, to inform level of necessary mitigation. If reptiles identified, a method statement to be detailed to demonstrate no harm. This could also involve replacement habitat adjacent to the proposed development site.

Concludes :-

Coed Pen y Garreg SINC as County level nature consecration importance – potential impacts could be avoided by appropriate mitigation.

- Habitats of ecological nature consideration importance – supporting bats and may support reptiles.
- Proposed development will result in significant fragmentation of habitats in the landscape.
- Implementation of development has greatest potential to cause negative effects on species and habitats – which could be avoided by appropriate mitigation.

- Provides 6 key conclusions. Additional survey for bats; demolition of Blocks 5 & 8 with licensed bat worker; retain mature trees; additional survey work for reptiles; biodiversity opportunities included in final layout; for compensation of habitat loss;

Archaeology Report

- Provides a detailed historical overview of development of camp and land area.
- Detailed research on three specific issues; post medieval archaeological references – Kinmel Camp; Bodelwyddan Old Kiln, Bodelwyddan Mine.
- The Bodelwyddan mine is likely to remain as partially back filled voids. The survival of any mine works depends on e.g. back filling to avoid subsidence etc.
- The current area of Kinmel Camp appears to coincide with areas devoid of WWI buildings.
- In considering impact, the mine (including shaft, Engine House etc) in particular is the main issue.
- The proposed development could impact upon in situ remains of regional/county and local importance and has the potential to impact upon previously unknown buried features of similar significance.
- Suggests further archaeological investigation to better inform mitigation measures e.g. programme of trial trenching. Mitigation measures could include a strip and record exercise. A provisional mitigation strategy outlined, with recommendations for further investigation, specifically a series of trial trench programme for the engine and mine workings, and a single trench for the old kiln.

Transport Design & Assessability Statement

- Advises that existing situation junction serving the site via Engine Hill is substandard in terms of road width, kerb radii and visibility splays. The existing access road is approximately 4.2 metres wide, with no footway.
- A narrow footpath exists (on West) on Engine Hill linking the industrial access road to the A55 junction point, and includes street lighting and a 30mph speed restriction. The width of Engine Hill along this section is approximately 5.5 metres wide, with stone wall on eastern side causing vehicles to pull away, potentially HGV's accessing the industrial estate and application site.
- There is no continuous footpath, cycle or equestrian link on Engine Hill between the application site and the main industrial access road or with the properties to the South.

In terms of proposed improvements:-

- Improvements to Engine Hill and Kinmel Drive, including widening of Kinmel Drive; provision of formal footway into site; re-design of kerb radii and visibility splays.
- Widening of Engine Hill to 7 metres along site frontage.
- Provision of a shared pedestrian/cycle route on North Western side of Engine Hill. Linking into an extensive footway/cycle route, with access to Glan Clwyd Hospital and village facilities.
- Provides details of existing public transport (buses and rails). No bus service runs along Engine Hill, with the closest bus stops less than half a mile from the site. Rhyl is the closest railway station.
- Includes a chapter on Travel Plan Framework.

Revised Financial Development Appraisal

The document provides 5 detailed cost scenario cases for the site, including two scenarios with reference to the existing employment land allocation.

RELEVANT PLANNING HISTORY:

14. No recent planning applications. The following are recorded since 1984;

| Code | Proposal | Decision & Date |
|------------------|---|--|
| 2/BOD/G/0011/84 | Firing Range (1 indoor and 1 out –door) | Raise no objection, subject to conditions 02/04/1984 |
| 2/BOD/G/354/86 | Use of land for erection of building to accommodate Veterinary Investigation Unit | Raise no objection, subject to conditions |
| 2/BOD//0314/90/G | New single storey building | Raise no objection, 03/09/1990 |
| 2/BOD//437/92/G | Development by Government Department (Ministry of Defence) - Proposed Vehicle Park | Raise no objection, 25/01/1993 |

PLANNING POLICIES AND GUIDANCE:

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

Strategic Policies

| | |
|---------|---------------------------------|
| | RESOURCES |
| STRAT 1 | General |
| | ENVIRONMENT |
| “ 5 | Design |
| 7 | Environment |
| | ECONOMY |
| STRAT 8 | Employment |
| 11 | Regeneration |
| | TRANSPORT |
| 12 | General |
| 13 | New Development |
| | SOCIAL/COMMUNITY |
| 15 | Housing |
| 16 | Community Facilities & Benefits |

General Policies

Policy GEN 1 - Development within development boundaries
 Policy GEN 2 - Development of unannotated Land
 Policy GEN 6 - Development Control Requirements
 Policy GEN 8 – Planning Obligations
 Policy GEN 10 – Supplementary Planning Guidance
 Policy ENV 1 - Protection of the Natural Environment
 Policy ENV 5 - Sites of Local Conservation Importance
 Policy ENV 6 - Species Protection
 Policy ENV 7 - Landscape/Townscape Features
 Policy ENV 8 – Woodlands
 Policy Con 11 – Development at Scheduled ancient monuments
 Policy EMP 1 - Amount & Distribution of employment land
 Policy EMP 2 - Main employment areas
 Policy EMP 10 - Protection of employment land/buildings
 Policy ENP 1 - Pollution
 Policy ENP 4 - Foul and Surface Water Drainage
 Policy ENP 6 - Flooding
 Policy ENP 7 - Unstable Land
 Policy ENP 8 - Contaminated Land
 Policy HSG 2 - Housing Development in Main Centres
 Policy HSG 3 - Housing Development in main villages.

Policy HSG 10 - Affordable Housing in Development Boundaries
Policy REC 2 - Amenity & Recreational open space requirements in new developments
Policy TRA 6 - Impact of new development on traffic flows

Additional Policy – Local Connections Affordable Housing Policy adopted Summer 2007.

Supplementary Planning Guidance No's
SPG 2 Landscaping
SPG 4 Recreational Open Space
SPG 6 Trees and Development
SPG 15 Archaeology
SPG 18 Nature Conservation and Species Protection
SPG 21 Parking Requirements In New Developments
SPG 22 Affordable Housing in New Developments
SPG 25 Residential Development Design Guide

GOVERNMENT GUIDANCE

Planning Policy Wales (March 2002) as amended via MIPPS
TAN 1 Joint Housing Land Availability Studies
TAN 2 Planning & Affordable Housing
TAN 5 Nature Conservation and Planning
TAN 11 Noise
TAN 12 Design
TAN 15 Development and Flood Risk
TAN 16 Sport and Recreation
TAN 18 Transport

Circular 60/96 Planning and the Historic Environment: Archaeology.
PPG 14 Development on Unstable Land 1990 (Extracts only)

MAIN PLANNING CONSIDERATIONS:

16. The main considerations in this case are:
 - i) Principle of development – loss of employment land
 - ii) Impact on residential amenity.
 - iii) Archaeology
 - iv) Drainage
 - v) Contamination
 - vi) Highway and traffic
 - vii) Nature conservation, protected species and trees and woodlands
 - viii) Housing – market and affordable housing.
 - ix) Open Space

17. In relation to the main planning considerations noted above:
 - i) Principle of development
STRAT 8 sets out the strategic approach to employment development in the County, encouraging a range of provision of employment sites. The policy highlights that land and premises allocated or used for industry or business will generally be retained and protected for those purposes. It also promotes the establishment, development and expansion of small firms and businesses (including working from home).

STRAT 11 relates to the improvement, renovation and re-development of buildings and brownfield land which will generally be favoured. PPW's definition of brownfield land includes "defence buildings".

Subject to certain criteria, EMP 2 permits the following uses- Business Use (B1); General Industry (B2) ; Warehousing and Distribution, and highlights that “ land to the west of Kinmel Camp Industrial Estate is included within development boundaries to enable the possibility of employment development should any of the MOD land become available.”

The main employment area currently identified for Kinmel Camp was allocated in accordance with PPW’s sustainable development principles. PPW also highlights that certain sites designated for industrial uses should not be used for other single purposes e.g. retail, leisure or housing development, which could be located elsewhere. Other sites within urban areas which have extant planning permissions for commercial or retail may be suitable for housing (or other) development.

The site proposed for housing in this case is allocated as a main employment area in Policy EMP 2 in the adopted Unitary Development Plan. Policy EMP 10 seeks to protect employment land/buildings and sets out specific tests including that permission for other uses will only be permitted in exceptional circumstances. In this case, the proposal is submitted on the basis of enabling development, that is, a proposal where there is a policy objection but where planning gain is suggested in the form of service employment land/plots.

The Authority currently has more than 5 years supply of housing land. In terms of Bodelwyddan, the 2007 Housing Land Availability (as at January 2008) information on the number of dwellings is:

| Undeveloped sites | Under construction | Completed | Affordable Completions |
|-------------------|--------------------|-----------|------------------------|
| 33 | 16 | 51 | 0 |

A development appraisal was submitted by the applicants which made an attempt to show, in financial terms the feasibility of developing the site. This appraisal set out financial justifications for having to develop the number of residential units proposed in order to facilitate some employment development.

The reports have been scrutinised by colleagues in Development Services, and the Council’s Economic Development Officer.

The conclusion is that, with due regard to the applicant’s arguments, there is clear conflict with EMP 10 and the case is not made to justify the loss of employment land.

The loss of employment land is therefore considered unacceptable in principle.

ii) Impact on residential amenity

The applicants have submitted a noise report which deals with the implications on the existing and proposed housing. As this is an outline submission and part of the is allocated for employment development, it would not be reasonable at this stage to oppose on grounds of potential amenity impact on residential properties. Suitable conditions could be imposed to oblige submission of more detailed impact studies, dependant on the layout

and detailing of the uses proposed.

iii) Archaeology

With regard to CPAT's comments, the site has the potential for archaeological interest. SPG 15 highlights that at times archaeological remains are only discovered once development has started and that developers may wish to consider insuring themselves against the risk of loss.

In accordance with planning policy and guidance, a watching brief condition could be attached.

iv) Drainage

Whilst the consultation responses do not oppose the principle of the proposal, the Council's Drainage Engineer outlines the possibility that additional works may be required, such as tanking, to mitigate against downstream flooding potential. However, the applicants have requested that the proposal is considered as submitted, without additional drainage details.

To ensure compliance with Policies ENP 4 and 6 –appropriate conditions could be included.

v) Contamination

There remains concerns from the Public Protection section over the adequacy of assessment of contamination and mitigation.

vi) Highways and traffic

The Highways Officer raises no objections but would require a number of improvements given the scale of works proposed, including cycling and pedestrian walkway/paths.

However, in terms of residential development, the accessibility statement accepts that the site does not represent the most sustainable location for access to services and facilities, being located half a mile from the main village centre, to the north east and across the A55 highway. No additional bus shelter or services are intended, although there is a suggestion of bus passes being considered. The site location raises issues concerning sustainable travelling and accessibility to services and facilities, which suggest conflicts with Policy STRAT 1 and WAG guidance in TAN 18 and PPW.

vii) Nature conservation, protected species and trees and woodlands

In respect of policies ENV 1,5,6,7 and 8, together with SPG's 6 and 18 Nature Conservation and Species Protection, in the absence of the additional surveys and mitigation measures within the layout and management plans, it is difficult to conclude that the proposals are acceptable, particularly in light of changes to the Habitat Regulations, and the significance of the adjacent Coed Pen y Garreg Site of Conservation Interest. Changes to the Regulations require the Local Planning Authority to assess protected species and associated habitats in greater detail.

viii) Housing – market and affordable housing.

The indicative layout shows 27 detached dwellings; 28 semi-detached dwellings and 30 mews/town houses. No justification is submitted for the house numbers, type or density suggested. The density numbers equates to 34 units per hectare.

The Development Appraisal report included the following information:

- Of the 30 no 2/3 bedroomed townhouses – 15 to be AH units with 3 social rented; 2 shared ownership and 10 low cost market.
- Of the 30 no 3/4 bedroomed semi-detached houses – 11 to be AH, with 6 social rented and 5 shared ownership
- Remaining 25 no. to include 3/4 detached houses - no AH allocated.

Assumed values have been assumed for the AH, including 2006 costs information for low cost market valuation.

No specific plot numbers are identified, and there are no live work units involved.

The current waiting list for housing in Bodelwyddan includes a total of 426, with demand for 2 and 3 bedroomed general housing representing the main dwelling type, and 2 bedroomed bungalows representing the predominant sheltered housing need.

The current average Household income for Bodelwyddan is £31,209. Current policy guidance in relation to affordable housing stipulates a requirement of 30% affordable housing. The submission indicates a 30% provision. No other affordable housing percentage scenario is included. Given the proximity to employment land/uses, it is suggested that the proposal should have included a higher percentage for Affordable Housing.

ix) Open Space

The Council's Parks and Gardens Officer advises that, based on current Council requirements and calculations, a total of 85 dwellings requires 8160 sq metres of Open Space, allocated as 6120 sq metres of Community Recreational Open Space and 2040 sq metres of Children's Play Space with a total overall cost (currently) of £269,606.40

The indicative layout includes approximately 3600 sqm public open space – approximately half the total requirement on site, at the extreme east edge of the site, next to the vehicular access point, with other areas identified around a mature Oak tree (noted for its special interest) and at the extreme west edge, to include part of the Coed Pen Y Garreg wildlife site. No indication of play area provision is included. The agent advises that the remainder of the open space provision is to be provided off site.

The concerns of the Council's Parks and Gardens Officer are significant and it is considered the proposals are incompatible with Policy REC 2 and the accompanying SPG.

x) Layout

Whilst the application is submitted in outline form, the County Landscape Officer's comments confirm that the site lies within a sensitive landscape context. Consequently, any layout and building design should respect the constraints highlighted. The indicative layout raises a number of landscape conflicts in this case.

xi) Local Development Plan (LDP)

The current LDP timetabling indicates Spring 2009 for the second draft deposit LDP. In this context, proposed changes to current UDP allocations can be afforded little weight.

SUMMARY AND CONCLUSIONS:

18. The loss of an allocated employment site in the current UDP to residential use, on the basis of enabling development (in this case involving serviced plots) for an alternative employment land area is considered clearly contrary to policy, and the benefits do not outweigh this conflict. There are concerns over a number of detailed issues including archaeological, contamination, nature conservation and layout considerations (including open space and affordable housing issues), which require full and detailed evaluation and appropriate mitigation measures, which are not dealt with in a suitable level of detail.

RECOMMENDATION: REFUSE- for the following reasons:-

1. The Local Planning Authority considers that on the basis of the details submitted, the proposal fails to demonstrate there is a case to justify the loss of an allocated employment site for residential use, and this would prevent the site from contributing towards a range of employment needs in the area, in conflict with policies STRAT 8; 11; 16, GEN 6 (ix), EMP1; 2; 10 (i - iii) of the adopted Denbighshire Unitary Development Plan and PPW 9 March 2002 (as amended)
2. In the absence of adequate detail and mitigation measures to properly assess the potential impact on protected species, specifically bats and newts, and the Coed Pen Y Garreg wildlife site, the proposal is considered to conflict with the aims of Unitary Development Plan policies STRAT 1 (v); STRAT 7, GEN 6 (ii) ; ENV 1;5;6;7;8, Supplementary Planning Guidance Notes 6 and 18, the aims of which are to protect and enhance nature conservation and promote biodiversity features.
3. The proposal involves development of un- annotated land for employment purposes, contrary to policy GEN 2 ii) and iii) of the Denbighshire Unitary Development Plan, which aim to avoid unacceptable loss of valuable open space.
4. The Local Planning Authority consider that the proposed housing development, is unsustainable in this location, in that it is predominantly dependent on private car use for employment, services and facilities, contrary to the sustainable development approach in Unitary Development Plan policy STRAT 1, TAN 18 Transport and PPW.

NOTES TO APPLICANT:

None

ITEM NO: 2

WARD NO: Prestatyn North

APPLICATION NO: 43/2007/1527/ PF

PROPOSAL: Erection of Zyklon ride

LOCATION: Festival Gardens Ffrith Beach Victoria Road West Prestatyn

APPLICANT: Ffrith Leisure Limited

CONSTRAINTS: C1 Flood Zone
Article 4 Direction

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

CONSULTATION RESPONSES:

1. PRESTATYN TOWN COUNCIL
"No objection"
2. PUBLIC PROTECTION
No objection subject to conditions

RESPONSE TO PUBLICITY:

None

EXPIRY DATE OF APPLICATION: 21/02/2008**REASONS FOR DELAY IN DECISION:**

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

PLANNING ASSESSMENT:**THE PROPOSAL:**

1. Permission is sought for the erection of a 'Zyklon' ride at Ffrith Beach Festival Gardens. The ride will be positioned on approx 0.071 ha of land adjacent to the car park at the north boundary of the site. The footprint of the ride measures 42.6m in width, 18.6 in depth, once erected it will have a total height of approximately 11m. The ride is constructed of red and white steel with timber clad detailing. The 'Zyklon' ride was formally sited at Marine Lake in Rhyl.
2. Ffrith Beach Festival Gardens are located off West Victoria Road within the defined settlement boundary of Prestatyn. The application site consists of the main amusement premises, boating lake to the east and a number of footpaths to the north leading to the beach and Gronant Local Nature Reserve.
3. The application is being referred to Committee following residents concerns raised by Cllr's Mike & Isobel German relating to visual amenity and noise impacts upon neighbouring residents and wildlife.

RELEVANT PLANNING HISTORY:

4. 43/2007/0036/PF – Development of part of go-kart track as adventure mini-golf and associated works. Granted 21st March 2007.

PLANNING POLICIES AND GUIDANCE:

5. Denbighshire Unitary Development Plan
 - Policy GEN 6 – Development control requirements
 - Policy ENV 5 – Sites of Local Conservation Importance
 - Policy CPZ 1 – Development within the coastal planning zone
 - Policy CPZ 9 – Sand dunes
 - Policy TSM 2 – Tourism development areas

GOVERNMENT GUIDANCE

Planning Policy Wales, March 2002

MAIN PLANNING CONSIDERATIONS:

6.
 - i) Principle of the proposal
 - ii) Impact upon visual/ residential amenity
7. In relation to the main planning considerations above:
 - i) Principle of the proposal

The application site lies within both the development boundary and the tourism development area, as such policies GEN 6, CPZ 1 and TSM 2 apply. Policy CPZ 1 allows for development provided it does not unacceptably harm the landscape, character and appearance of the coast. TSM 2 seeks to improve the quality of tourism facilities by permitting development proposals for the regeneration and improvement of the coastal resorts. The proposal will provide additional tourism facilities at a designated tourism development area in keeping with policy.
 - ii) Impact upon visual/ residential amenity

Owing to the location of the proposal 140m to the north of the road frontage and the mixed nature of activities currently on the site, it is considered that the proposal will have little effect on the visual amenity of the site or surrounding area. The nearest dwellings are no. 40 Victoria Road which is approximately 155m and the White House which is 160m from the site, as such it is considered that the proposal will not impact significantly on residential amenity of surrounding occupiers.

Furthermore it is noted that there are Licensing conditions in place to limit the particular noise levels, with the maximum level permitted being 50LAeq (dB) within a 16 hr period (0700 - 2300hrs). It is considered that the imposition of planning conditions relating to hours of operation combined with the licensing control relating to operating noise will acceptably safeguard the residential amenity of neighbouring residential properties.

SUMMARY AND CONCLUSIONS:

8. The proposal complies with policy and is recommended for approval

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 ride shall only operate between 10.00hrs and 21.00hrs for a season running from Easter weekend until 5th November, and on school and public holidays. Records shall be kept and retained for each consecutive two year period, of the hours of operation and shall be made available for inspection on request by the Local Planning Authority.
3. No amplified music or public address system shall be used in connection with or on the ride.
4. Noise levels when measured at the site boundary with neighbouring properties shall not exceed 50 LAeq(dB) 16hr (0700-2300hrs) or a peak level of 60 LAm_{max,fast} (dB) when the ride is being used. Records shall be kept and retained for each consecutive two year period, of the noise levels and shall be made available for inspection on request by the Local Planning Authority.
5. No development shall take place until there has been submitted to, and approved in writing by, the Local Planning Authority, a detailed scheme of hard and soft landscaping for the site, and such scheme shall include details of:
 - (a) all existing trees, hedgerows and other vegetation on the land, details of any to be retained, and measures for their protection in the course of development.
 - (b) proposed new trees, hedgerows, shrubs or vegetation, including confirmation of species, numbers, and location and the proposed timing of the planting;
 - (c) proposed materials to be used on the driveway(s), paths and other hard surfaced areas;
 - (d) proposed earthworks, grading and mounding of land and changes in levels, final contours and the relationship of proposed mounding to existing vegetation and surrounding landform;
 - (e) Proposed positions, design, materials and type of boundary treatment.
6. 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 occupation of the dwelling/completion of the development/commencement of the development/next planting and seeding season] 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.

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 amenity of occupiers of neighbouring properties.
3. In the interests of amenity of occupiers of neighbouring properties.
4. In the interests of amenity of occupiers of neighbouring properties.
5. To ensure in the interests of visual amenity a satisfactory standard of landscaping in conjunction with the development.
6. To ensure a satisfactory standard of development, in the interests of visual amenity.

NOTES TO APPLICANT:

None

ITEM NO: 3

WARD NO: Prestatyn East

APPLICATION NO: 43/2008/0072/ PF

PROPOSAL: Extension to and regularisation of stands, clubhouse and store, erection of floodlights and associated works

LOCATION: Prestatyn Football Club Bastion Gardens Prestatyn

APPLICANT: Prestatyn Town Football Club

CONSTRAINTS: C1 Flood Zone
Article 4 Direction

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

CONSULTATION RESPONSES:

1. PRESTATYN TOWN COUNCIL
No objection
2. PUBLIC PROTECTION
No objection subject to conditions
3. ENVIRONMENT AGENCY WALES
No objection
4. HEAD OF TRANSPORT AND INFRASTRUCTURE
Awaiting response.

RESPONSE TO PUBLICITY:

Letters of representation received from:

1. Mrs. K. Williams, 21, Bastion Gardens, Prestatyn
2. Mr. I. Poole (via e-mail) 43 Bastion Gardens
3. Peter Sutton (via email) 25 Bastion Gardens
4. Mrs S Ahmad 33 Bastion Gardens Prestatyn LL19 7LU
5. Mr & Mrs M Wright 27 Bastion Gardens Prestatyn LL19 7LU (Letter 27 signatures)
6. Ms K Beattie C/O Mrs S Beattie, 39 Bastion Gardens, Prestatyn LL19 7LU
7. Mr. S. Fitton, Bidston Cottage, 39, Ffordd Talargoch (petition 97 signatures)

Letter of objection on grounds of:

- i) Residential amenity/ Impact of flood lights
- ii) Highway safety
- iii) Accessibility, compliance with DDA legislation
- iv) Concerns relating to overflow parking on the ground/ security and management
- v) Planning history

Letter of support on grounds of:

- i) Improved facilities and lighting

EXPIRY DATE OF APPLICATION: 27/05/2008

REASONS FOR DELAY IN DECISION:

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

PLANNING ASSESSMENT:

THE PROPOSAL:

1. The application is for various works at Prestatyn Football Club, Bastion Gardens, Prestatyn. The proposal includes the extension to and regularisation of stands, clubhouse and store, the erection of floodlights and associated works.
2. The proposal seeks to regularise the stand which had been built to replace temporary shelters. An open extension to the stand is also proposed on the west and eastern sides. Regularisation of the northern side of the extended clubhouse is also sought and the siting of a portable building on the north western side of the site for use as an office. 8 no. floodlighting columns are proposed on the north and south sides of the pitch. Works around the ground include erection of a ticket office, fencing, turnstiles, disabled access and improved parking facilities and lighting control box.
3. Prestatyn Football Club is located on land to the east of Bastion Road; further north is the Cricket Ground. The grounds are accessed off Bastion Gardens a residential cul de sac. The Football Club have occupied the site since the 1970's. The site comprises of a parking area on the east side, clubhouse and changing rooms, the football pitch and a smaller training pitch with 3 no. floodlights on the western side.
4. A supporting statement has been submitted with the application which outlines the following:
 - Improvements are sought as the club is seeking to move to a higher football league.
 - Average attendance is 250 spectators per game, no increase in numbers are envisaged.
 - Improvements are proposed to the disabled parking facilities.
 - Overflow parking is available at the Nova Centre.
 - Proposed lighting is custom made for urban environments with minimum spillage.
 - Lighting will only be used for second half of Saturday games and some evening games (maximum 12 per year).

RELEVANT PLANNING HISTORY:

5. Various applications for alterations and improvements at the ground. Most recent 1995. PRE/302/95 Extension to form players lounge. Approved 1995

PLANNING POLICIES AND GUIDANCE:

6. DENBIGHSHIRE UNITARY DEVELOPMENT PLAN (adopted 3rd July 2002)
 - Policy GEN1 – Development within development boundaries
 - Policy GEN6 – Development control requirements
 - Policy REC1 – Protection of existing open space
 - Policy CPZ 1 – Coastal Planning Zone
 - Policy REC4 – Recreation facilities within development boundaries
 - Policy TRA6 – Impact of new development on traffic flows
 - Policy TRA9 – Parking and servicing provision

DENBIGHSHIRE COUNTY COUNCIL PARKING STRATEGY AND STANDARDS

GOVERNMENT GUIDANCE
Planning Policy Wales March 2002
Planning Guidance (Wales) – TAN 11 – Noise
Planning Guidance (Wales) – TAN 16 – Sport and Recreation

MAIN PLANNING CONSIDERATIONS:

7.

- i) The principle of the development on this site.
- ii) Impact on residential amenity from floodlighting, noise, disturbance and privacy.
- iii) Visual impact of the development
- iv) Adequacy of the highway network and parking proposals

8. In relation to the main planning considerations in paragraph 7:

i) Principle

The application site lies within the settlement limits of Prestatyn as defined in the Unitary Development Plan on a site protected by Policy REC1 of the UDP. Policies GEN1 and REC4 of the UDP support the principle of development including recreation/leisure proposals within the defined settlements. Policy REC1 of the UDP seeks to protect open space. The proposed improvements would not conflict with this policy in that it would retain and enhance the recreational asset. Therefore, it is considered the principle is acceptable. Policies GEN6 and REC4 of the UDP and Planning Policy Wales and TAN16 recognise that development, including new recreation facilities, need to be considered against amenity, environmental, highway, parking and drainage impacts, including where the principle is acceptable.

ii) Residential Amenity

In terms of the impact on residential amenity the use of the site will not be intensified. Details submitted by the applicant indicate that the football pitch will not be used any more than existing and the alterations and improvements sought will not lead to increased use.

The concerns from local residents about the impact on their amenity is understandable however taking into account the above and having regard to relevant policies including Policy GEN6 of the Unitary Development Plan, advice within TAN11 and the response of the of Public Protection it is considered that on balance the impact on neighbours would not be so detrimental as to justify refusal subject to the imposition of planning conditions.

iii) Floodlighting

A further significant amenity issue is the impact of the floodlighting in terms of both residential and visual amenity. The floodlights on the south of the pitch are located between 20m and 17m from the rear of the dwellings at Bastion Gardens. A full floodlighting scheme has been submitted comprising 8 no. 15m high floodlights, each floodlight to accommodate a flat glass floodlight on each column – described as 2Kw Osram long arc metal halide floodlights. Lighting levels would be 250 LUX at full lighting. The spill is tightly controlled around the perimeter to meet the environmental zone E1 for the control of overspill and comply with BS EN12193:2007. Whilst it is accepted that the floodlighting proposals would have an impact on residential amenity it must be noted that there is some floodlighting on the pitch at present. In addition conditions would be imposed to limit the hours that the floodlights would operate and to ensure that the scheme followed the detailed specification submitted with the application.

- iv) Visual Amenity
There would also be a visual impact from the alterations and floodlighting. The development would be seen from nearby residential properties and Bastion Road, however owing to the exiting nature of the use and established buildings it is not considered the new floodlight columns and development proposed and to be retained would have so severe an impact to justify refusal.
- v) Highway Network
Concerns have been expressed as to the adequacy of the existing highway network to serve the proposal. However consideration must be given to the fact that the network serves the existing use and this use will not be intensified.
- vi) Parking
There is no specific parking requirement for outdoor sport within the Council's Parking Standards. Thus the proposal is considered acceptable against Policy TRA9 of the UDP.
- vii) Other Issues
A significant number of representations and objection have been received from nearby residents. Most of these concerns have been discussed above. The other issues raised are now commented upon. Control over matters such as vandalism, litter and trespass relate primarily to the management and security of the Football Club.

SUMMARY AND CONCLUSIONS:

- 9. The proposal is acceptable and 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 use of the lighting should be limited to no later than 21.15 hours for 12 no. matches per year; records shall be kept and shall be made available for inspection on request by the Local Planning Authority.
- 3. During the months of October to March inclusive, the lights shall only be used until 16.45 hours once in any 14 day period; records shall be kept and shall be available for inspection on request by the Local Planning Authority.
- 4. In the interest of clarity the extension to the seating area shall not be covered.
- 5. The use of the pitch shall be solely for the club - it shall not be rented to any other club or used for other games.
- 6. The lighting levels produced by the floodlighting system shall at no time exceed those levels shown on the details forming part of the application.

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.
- 3. In the interests of visual and residential amenity.
- 4. In the interests of visual and residential amenity.
- 5. In the interests of visual and residential amenity.
- 6. In the interests of visual and residential amenity.

NOTES TO APPLICANT:

None

ITEM NO: 4

WARD NO: Prestatyn Meliden

APPLICATION NO: 43/2008/0127/ TP

PROPOSAL: Felling of 3no sycamore trees and 1no. elm tree, and works to 3no. other sycamore trees subject to Tree Preservation Order No. 5, 1982

LOCATION: Noddfa Tan Yr Allt Prestatyn

APPLICANT: Mr & Mrs Keyes

CONSTRAINTS: Tree Preservation Order
Article 4 Direction
AONB

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

CONSULTATION RESPONSES:

5. PRESTATYN TOWN COUNCIL
"The Council object to the application. Trees should be preserved."
6. PRINCIPAL COUNTRYSIDE OFFICER
No objection.

RESPONSE TO PUBLICITY:

None

EXPIRY DATE OF APPLICATION: 13/04/2008**REASONS FOR DELAY IN DECISION:**

- delay in receipt of key consultation response(s)

PLANNING ASSESSMENT:**THE PROPOSAL:**

1. The proposal is to fell one Elm tree and three Sycamore trees and carry out maintenance to three other Sycamore trees.

The land to the rear of Noddfa, Tan y Allt is within the Clwydian Range Area of Outstanding Natural Beauty to the south east of Meliden. The local area consists of numerous well established trees of various species protected with a Tree Preservation Order.

RELEVANT PLANNING HISTORY:

2. 43/2000/1036/TP – Felling of 1 No. Ash Tree and Pollarding of 1 Ash Tree – Consent given 15/12/2000

PLANNING POLICIES AND GUIDANCE:

3. DENBIGHSHIRE UNITARY DEVELOPMENT PLAN (adopted 3rd July 2002)
Policy GEN 1 – Development within development boundaries
Policy ENV 2 – Development affecting AONB / AOB
Policy ENV 7 – Landscape / Townscape Features

MAIN PLANNING CONSIDERATIONS:

4.
 - i) Visual appearance
5. In relation to the main planning consideration:
 - i) Visual appearance
According to the Principal Countryside Officer, the four trees may present a future health and safety risk owing to their poor condition. Considering replacement trees will be required by condition and the appearance of three other trees will be enhanced it is concluded the proposal will be visually acceptable.

SUMMARY AND CONCLUSIONS:

6. The proposed work is acceptable and recommended for approval.

RECOMMENDATION: GRANT- subject to the following conditions:-

1. Prior to the felling of the trees, details of four replacement trees (species, size and location) shall be submitted to, and approved in writing by the Local Planning Authority.
2. The replacement trees shall be planted in the first planting season following the felling, if any of the trees within a period of five years of planting dies or becomes seriously damaged or diseased they shall be replaced in the next planting season with the approved species.
3. All works shall be carried out by a competent tree surgeon in accordance with British Standard Recommendations for Tree Work BS 3998, 1989.

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

1. In the interest of visual amenity.
2. In the interest of visual amenity.
3. In the interests of good arboricultural practice.

NOTES TO APPLICANT:

None

| | |
|------------------------------|---|
| ITEM NO: | 5 |
| WARD NO: | Rhyl West |
| APPLICATION NO: | 45/2007/0243/ PO |
| PROPOSAL: | Development of 0.09 hectares of land for residential purposes and construction of new vehicular/pedestrian access (outline application seeking approval of means of access) |
| LOCATION: | Land at 52 Crescent Road off Gordon Avenue Rhyl |
| APPLICANT: | Mr J Roberts |
| CONSTRAINTS: | C1 Flood Zone Article 4 Direction |
| PUBLICITY UNDERTAKEN: | Site Notice - No Press Notice - No Neighbour letters - Yes |

CONSULTATION RESPONSES:

7. RHYL TOWN COUNCIL
Awaiting response on amended description. In relation to the original proposal: "OBJECTION - the development if approved will result in further development in an area already suffering from over intensification of housing development. If possible land should be acquired and retained as public open space."
8. HEAD OF TRANSPORT AND INFRASTRUCTURE
No objection subject to conditions
9. WELSH WATER
No objection
10. ENVIRONMENT AGENCY
The site lies entirely within a C1 flood zone. An FCA has been submitted to support the application. Raise no objections subject to the inclusion of conditions to deal with floor levels.

RESPONSE TO PUBLICITY:

Letters of objection received from the following:

1. Mr. & Mrs. D. Griffiths, West Dale Guest House, 43, John Street, Rhyl
2. Mrs. B. Pryce, 47, Pendyffryn Road, Rhyl
3. Lynn Roberts, Or Diwedd, 7, Gordon Avenue, Rhyl
4. Mr. & Mrs. Ambrose, Erryl, 3, Gordon Avenue, Rhyl
5. The Owner/Occupier, Dudley House, 2, Gordon Avenue, Rhyl
6. P. Cullibrand, Dudley House, 2, Gordon Avenue, Rhyl
7. The Owner/Occupier, Willow Ban, 5, Gordon Avenue, Rhyl
8. Mr A. S. Williams, 29 Gronant Street, Rhyl
9. Mohan Namasivayam & Ambilimol Shanmukan, 1 Gordon Avenue, Rhyl

Summary of planning based representations:

- i) Concerns in relation to the impact on visual amenity, loss of light and overshadowing
- ii) Highway safety, additional traffic generation and adequacy of parking, loading and turning facilities
- iii) Concerns about heavy machinery and the possibility of this causing damage to adjoining properties foundations (especially no 7 and the garage adjoining the site) and a risk of flooding.
- iv) Noise and disturbance resulting from use and smells
- v) Contrary to west Rhyl regeneration strategy (March 2006) – this proposal will negatively affect this regeneration programme. Overcrowding a small plot of land.
- vi) Contravention of PPS 3 – Housing
- vii) Contravention of Rhyl Going Forward Strategy and Key Investment Programme (April 2004)

(PPS3 – Housing is an English national planning policy statement and is not applicable in Wales.)

EXPIRY DATE OF APPLICATION: 06/05/2007

REASONS FOR DELAY IN DECISION:

- additional information required from applicant
- protracted negotiations resulting in amended plans
- re-consultations / further publicity necessary on additional information

PLANNING ASSESSMENT:

THE PROPOSAL:

1. The application site is the development boundary of Rhyl and extends to approximately 0.09ha. The site is bound on Gordon Avenue (to the south west) by a wall of approximately 1.8m in height which extends along the rear of 34 – 21 John Street (to the south east) and round to the rear of 31 – 15 Gronant Street (to the north west). A depot building (now in use as a gym) bounds the site on the north east side. The site was formerly used as a boat yard but this use ceased some time ago and it is now vacant.
2. The proposal is in outline form for a residential development, with means of access only to be agreed at this stage. The access is proposed off Gordon Avenue.
3. The original submission included the siting of a building for the development of 4 flats but negotiations with officers have resulted in this element of the scheme being removed, with access only to be agreed at this stage.

RELEVANT PLANNING HISTORY:

4. None

PLANNING POLICIES AND GUIDANCE:

5. DENBIGHSHIRE UNITARY DEVELOPMENT PLAN (adopted 3rd July 2002)
 - Policy STRAT1 – General
 - Policy STRAT6 – Location
 - Policy STRAT11 – Regeneration
 - Policy GEN1- Development within development boundaries
 - Policy GEN6 – Development control requirements
 - Policy ENP4 – Foul and surface water drainage
 - Policy ENP6 – Flooding

Policy TRA6 – Impact of new development on traffic flows

GOVERNMENT GUIDANCE

Planning Policy Wales – (PPW) - (March 2002)

TAN15 – Development and Flood Risk (July 2004)

MAIN PLANNING CONSIDERATIONS:

6. The main issues are considered to be:
 - i) Principle of development
 - ii) Highways
 - iii) Flooding / drainage
 - iv) Amenity issues

7. In relation to the main planning considerations noted above:
 - i) Principle:

The application site is in the development boundary of Rhyl and is surrounded by predominantly residential properties. The land meets the definition of previously developed land or Brownfield land in section 2.7 of PPW. STRAT 1, 6, and 11 relates to the re- use of derelict, vacant and under used land within defined settlement boundaries and the principle of development is therefore acceptable.

 - ii) Highways:

Concerns have been raised by adjoining occupiers in relation to highway safety, additional traffic generation and the adequacy of parking, loading and turning facilities proposed for the site. The application seeks approval for means of access only at this stage, which is proposed off Gordon Avenue. The highways officer has assessed the site and raises no objections to the proposed development subject to the submission of the full construction details at a later stage. The proposal therefore is considered to be in accordance with policy TRA6 of the Denbighshire Unitary Development Plan.

 - iii) Flooding / drainage:

The site is located within the C1 flood zone as identified in TAN15. The site is brownfield land within the development boundary. A Flood Consequence Assessment has been submitted as part of the planning application and has been assessed by the Environment Agency. No objections have been raised from the Environment Agency in relation to the impact of the development on flooding, the proposal is therefore considered to be in accordance with policy ENP6 and advice in TAN15 – Development and Flood Risk.

 - iv) Amenity issues:

Concerns are expressed over: impact on visual amenity, loss of light and overshadowing, heavy machinery and the possibility of this causing damage to adjoining property foundations, noise and disturbance resulting from use and smells, contrary to west Rhyl regeneration strategy and the Rhyl Going Forward Strategy and Key Investment Programme.

The concerns with regards to visual amenity, loss of light and overshadowing are not an issue at outline stage as no details of any building on site are to be agreed at this stage. Careful siting of a building / buildings on this site can address concerns in relation to overshadowing and loss of light. With regards to the impact of the development on the foundations of other properties, the onus is on the developer to make sure that the land is suitable for the development proposed and any impact on neighbouring properties is the

responsibility of the land owner, not the Local Planning Authority.

The strategic aims of the west Rhyl regeneration strategy and the Rhyl Going Forward Strategy should be familiar to members, and the overall objective of these strategies is to redevelop vacant and underused land for regeneration purposes. The development is consistent with these strategic documents.

SUMMARY AND CONCLUSIONS:

8. The proposal is for the residential development of 0.09ha of land within the development boundary of Rhyl. The application is for outline permission with means of access only to be agreed at this stage. The principle of development is acceptable and the highways department have raised no objections to the proposed development. The Flood Consequence Assessment has been assessed by the Environment Agency and there are no objections raised on the grounds of flooding.

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. If at the reserved matters stage the number of residential units proposed on the site is equal to or exceeds three (3), no development shall commence until the formal written approval of the Local Planning Authority has been obtained to a scheme for the provision of affordable housing as part of the development. Such details shall include:
 - (i) 30% affordable housing units and the type and location to be determined;
 - (ii) timing of the construction of the affordable housing;
 - (ii) the arrangement to ensure that such provision is affordable for both initial and subsequent occupiers of the affordable housing; and the occupancy criteria to be used for determining the identity of prospective and successive occupiers of the affordable housing, and the means by which such occupancy criteria shall be enforced.
5. Floor levels should be set no lower than 6.28 metres above Ordnance Datum.
6. Mitigation measures outlined in the FCA Ref 3361 (October 2007) must be incorporated into the design and construction of the dwellings.
7. Full details of the design and construction of the access and parking shall be submitted to and approved in writing by the Local Planning Authority before any works start on site.
8. Foul and surface water discharges shall be drained separately from the site.

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. In order to ensure an adequate supply of affordable housing in accordance with planning policies HSG 10 of the Unitary Development Plan.
5. To protect the development from flooding.
6. To protect the development from flood damage.
7. To ensure the formation of a safe and satisfactory access and to provide for the parking of vehicles clear of the highway.
8. To protect the integrity of the public sewerage system.

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). Tidal flood warnings are available for properties in Rhyl. Future occupants should be advised to register for this service, please contact the Environment Agency's Flood Warning Department on 0845 988 1188 for further information. Your attention is drawn to paragraph 13.9.2 of Planning Policy Wales (March 2002) which informs that the responsibility and subsequent liability for safe development and secure occupancy of the site rests with the developer and/or land owners.

ITEM NO: 6

WARD NO: Rhyl West

APPLICATION NO: 45/2007/1464/ AD

PROPOSAL: Display of externally-illuminated fascia sign and internally-illuminated projecting sign (retrospective application)

LOCATION: Eastern Delight Indian Restaurant 10 Kinmel Street Rhyl

APPLICANT: Mr Tariq Mahmood

CONSTRAINTS: C1 Flood Zone
Conservation Area
Article 4 Direction

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

CONSULTATION RESPONSES:

1. RHYL TOWN COUNCIL
No objection
2. DENBIGH AND RHYL TOWNSCAPE MANAGER
Signage as installed is not acceptable in the Conservation Area.
3. HEAD OF HIGHWAYS & TRANSPORTATION
No objection to the internally illuminated fascia, object to the projecting sign.

RESPONSE TO PUBLICITY: None.

EXPIRY DATE OF APPLICATION: 14/02/2008

REASONS FOR DELAY IN DECISION:

- timing of receipt of representations

PLANNING ASSESSMENT:**THE PROPOSAL:**

1. The application site is currently in use as a Class A3 take-away shop and is located on the southern side of Kinmel Street and within the Rhyl Conservation Area. The area is characterised by a mix of retail, public house and take away uses with upper floor residential uses.
2. Permission is sought for the retention of one externally illuminated fascia sign and one internally illuminated projecting box sign. The fascia sign measures 4.8m in width and 0.6m in height, the projecting sign measures 0.6m in width and 0.9 in height. Both signs are constructed using white plastic with a slim metal surround and have static illumination.
3. This application has been generated as a result of an enforcement investigation.

RELEVANT PLANNING HISTORY:

4. 45/2003/1284/PF - Change of use of ground floor from Class A1 shop to Class A3 restaurant/take-away and single-storey extension at rear of premises.
Granted 17th December 2003

PLANNING POLICIES AND GUIDANCE:

5. Denbighshire Unitary Development Plan
Policy GEN 11 – Advertisements within development boundaries
Policy RET 1 – Town and district centres
Policy CON 8 – Advertisements in conservation areas
Policy SPG 12 – Shop fronts

Government Guidance
Planning Policy Wales, March 2002

MAIN PLANNING CONSIDERATIONS:

6.
 - i) Visual amenity/ conservation area
 - ii) Highway safety
7. In relation to the main planning considerations above:

- i) Visual amenity/ conservation area
Policy Gen 11 relates to advertisements within development boundaries. Policy CON 8 is a more prescriptive policy which refers to advertisements within conservation areas. This policy permits appropriate advertisements that comply with set criteria relating to the character of the area, the style of advertisement, materials and illumination.

The signage that is proposed to be retained is the externally illuminated plastic fascia sign and the glossy internally illuminated projecting box sign. Criteria iii) and iv) of Policy CON 8 relate specifically to these elements and it is clear that glossy highly finishes and internally illuminated signage should be excluded from proposals.

It is considered that the fascia sign appears disproportionate to the shop front and both signs appear visually intrusive and out of keeping with the shopfront on which they are sited and the streetscene which is contrary to criteria i) and iv) of Policy Gen 11.

- ii) Highway safety
Criterion iii) of Policy Gen 11 relates to highway safety and states that signage should not be erected in locations that would create a highway safety hazard. The Highway Authority has no objection to the externally illuminated fascia sign, however have objected to the projecting sign as it obstructs an advanced direction sign for traffic travelling on the A548, creating a highway safety hazard.

SUMMARY AND CONCLUSIONS:

8. The proposal does not comply with policy and as such is recommended for refusal.

RECOMMENDATION: - REFUSE for the following reasons:-

1. It is considered that the signage by virtue of its inappropriate design and materials is unacceptable. The signs fail to preserve or enhance the character and appearance of the Conservation area and appear visually intrusive and out of keeping with the building on which they are sited. As such the proposed is contrary to Policy GEN 11 and CON 8 of the Unitary Development Plan.

2. The siting of the projecting sign is causing obstruction of a highways advance direction sign. As such the projecting sign is creating a highways safety hazard, contrary to criterion iii) of Policy GEN 11 of the Unitary Development Plan.

NOTES TO APPLICANT:

None

ENFORCEMENT REPORT TO FOLLOW

PLANNING ENFORCEMENT REPORT

REFERENCE: ENF/2008/00031

LOCATION: Eastern Delight Indian Restaurant 10 Kinmel Street Rhyl

INFRINGEMENT: Unauthorised advertisements – Externally illuminated fascia and internally illuminated projecting box sign

RELEVANT PLANNING POLICIES AND GUIDANCE

DENBIGHSHIRE UNITARY DEVELOPMENT PLAN
Policy GEN 11 – Advertisements Within Development Boundaries
Policy RET 1 – Town and district centres
Policy CON 8 – Advertisements in conservation areas
Policy SPG 12 – Shop fronts

GOVERNMENT GUIDANCE:
Planning Policy Wales, March 2002
Technical Advice Note Wales (9) – Enforcement of Planning Control

HUMAN RIGHTS CONSIDERATIONS

The provisions of Human Rights Act 1998 are taken into account when considering taking enforcement action against unauthorised development and other related matters. In this instance the matters under consideration relate to the right of an owner to display an unauthorised sign. It is considered that these rights are outweighed by policy considerations that seek to ensure any development is controlled.

1. BACKGROUND INFORMATION

- 1.1 On the 14th November 2007 it was drawn to the Local Planning Authorities attention that unauthorised advertisements were installed on the said premises.
- 1.3 On the 29th November 2007 a letter was sent to the owner stating that advertisement consent would be required to retain the unauthorised signage.
- 1.2 A valid application was received on the 21st December 2007. The signage by reason of its size, scale, design projection and materials was deemed to have a detrimental impact upon the Conservation Area, the street scene and highway safety. This was in direct conflict with adopted UDP policies CON 8 and GEN 6 as set out above.
- 1.3 Given the circumstances of the case, it is now necessary to pursue enforcement action in order to remove the signage in question.

2. REASONS FOR ISSUING AN ENFORCEMENT NOTICE

- 2.1 The unauthorised development has been carried out in the last four years.
- 2.2 It is considered that the display of the signs is unacceptable. The proposal will have an adverse impact upon the Conservation area. By reason of their size, scale and design (fascia), projection and use of materials (box sign) the signs are causing detriment to the visual amenities of the building and Conservation Area contrary to Policy CON 8 of the Denbighshire Unitary Development Plan.

3. RECOMMENDATION

- 3.1 That authorisation to be granted for the following:
- i) Serve an Enforcement Notice to secure the removal of the unauthorised illuminated signage located on the front of the building, namely the externally illuminated fascia sign and internally illuminated projecting box sign.
 - ii) Instigate prosecution proceedings, or the appropriate action under the Planning Act against the person or persons upon whom an 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 of compliance: 3 months

ITEM NO:**WARD NO:**

Tremeirchion

APPLICATION NO:

47/2008/0003/ PF

PROPOSAL:

Continuation of use of land as arboricultural business with associated parking and storage, and erection of unit for office and storage of plant, machinery and vehicles (partly in retrospect)

LOCATION:

Pant Ifan Goch Holywell Road Rhualt St. Asaph

APPLICANT:

Mr John Paul Williams

CONSTRAINTS:**PUBLICITY**

Site Notice - No Press Notice - No Neighbour letters - Yes

UNDERTAKEN:**CONSULTATION RESPONSES:**

11. COMMUNITY COUNCIL FOR TREMEIRCHION, CWM & WAEN

"No objection"

12. HEAD OF HIGHWAYS & TRANSPORTATION

No objection subject to conditions

RESPONSE TO PUBLICITY:

None.

EXPIRY DATE OF APPLICATION: 19/03/2008**REASONS FOR DELAY IN DECISION:**

- timing of receipt of representations

PLANNING ASSESSMENT:**THE PROPOSAL:**

1. Permission is sought for the continuation of use of land by an arboricultural business, with associated parking and storage, and for the erection of a building/workshop unit for the storage of plant, machinery and vehicles ancillary to business. Minor additional works are also proposed including the demolition of an existing outbuilding, landscaping and an extension of an existing access.
2. The proposed pitched roof building would measure 30m in length, 15m in width and 5.9m to the ridge. Materials include green powder coated metal profile cladding to external walls and roof with roller shutter and timber doors to the south elevation. The building would be located some 50 metres to the south of the existing buildings at Pant Ifan Goch.
3. The application site is located on the south side of the B5429 to the west of the settlement of Rhualt. The site currently contains a dwelling house within a large curtilage and an attached field to the south. The site is immediately adjacent to dwellings along the B road, (Pant Ifan Goch and Bridgemere) and there is a dwelling/commercial operation on the opposite side of the road at

Llwyn Derw.

4. The application has been submitted following enforcement investigation. It is understood that the use has been operating for 2 years. It relates to the servicing and repair of vehicles, plant and machinery, associated with arboricultural use, for the local farming community and statutory undertakers. The applicant's agent has advised that the activities include the arrival of 10-15 employees private cars at 8.00 a.m. and the departure of 10 work vehicles (mainly private vans), which return at 4.30p.m. He stated no vehicles, plant or machinery currently operate on the site.

RELEVANT PLANNING HISTORY:

5. None relevant to the current application.

PLANNING POLICIES AND GUIDANCE:

6. DENBIGHSHIRE UNITARY DEVELOPMENT PLAN (adopted 3rd July 2002)
Policy GEN 6 – Development Control Requirements
Policy GEN 3 – Development outside development boundaries
Policy EMP 5 – Small scale employment outside development boundaries

Government Guidance
Planning Policy Wales, March 2002

MAIN PLANNING CONSIDERATIONS:

7.
 - i) Principle of the proposal
 - ii) Visual/ residential amenity
8. In relation to the main planning considerations above:
 - i) Principle of the proposal

The application site lies outside the allocated development boundary of Rhualt, where policies GEN 3 and EMP 5 are applicable. The purposes of these policies are to ensure development outside settlements is controlled and does not detract from the high quality environment of the county. Policy EMP 5 encourages small scale development outside a development boundary in the form of the conversion / use of existing buildings or, where there is no land or buildings available within the development boundary of main or minor villages, in the form of small scale employment on the edge of settlements.

It is considered that the proposal for the intensification of the use, by the erection of a unit for office, workshop and storage uses and the use of land as an arboricultural business outside the development boundary of Rhualt is contrary to Policy EMP 5. In the absence of evidence to demonstrate that other buildings or units within the defined boundaries of surrounding towns and villages are not suitable or available for use in connection with the enterprise, it is considered that the proposal is unacceptable.

- ii) Visual/ residential amenity

It is considered that the erection of a building of this scale, physically divided from other buildings, would result in a form of development which is harmful to the character of the surrounding countryside. The proposal for the continuation of use of the land for the arboriculture business with a new workshop is considered unacceptable close to other residential property. The intensity of the business use incorporating 24 hour emergency service is deemed unacceptable within

such an area, having a detrimental impact on the residential amenity of both Pant Ifan Goch and the other residential properties nearby. Therefore the proposal is contrary to Policies GEN 6 ii) and v) and EMP 5 i) part d) and ii) part c) of the Denbighshire Unitary Development Plan.

SUMMARY AND CONCLUSIONS:

8. The proposal is contrary to policy and is recommended for refusal.

RECOMMENDATION: REFUSE - for the following reasons:-

1. The development of an active commercial use in a location outside an established settlement is considered unacceptable in principle, in relation to policies GEN 3 and EMP 5 of the Denbighshire Unitary Development Plan, which seek to restrict new development to within established settlements or by way of conversion of existing buildings, unless exceptional circumstances apply. In the absence of any evidence to demonstrate why the business needs to be in the proposed location, the proposal is considered to conflict with the basic principles of the aforementioned policies and would result in unacceptable development in the open countryside, detrimental to the visual amenities of the area and residents of nearby property.

2. The continuation of the use and further development of land for business purposes, incorporating a 24 hour emergency service in close proximity to residential properties is considered unacceptable and would have a detrimental impact upon the residential amenity of nearby residential properties, contrary to Policy GEN 6, ii) and v) of the Denbighshire Unitary Development Plan.

NOTES TO APPLICANT:

None

ENFORCEMENT REPORT FOLLOWS

PLANNING ENFORCEMENT REPORT

REFERENCE: ENF/2007/00024
LOCATION: Pant Ifan Goch Holywell Road Rhualt St. Asaph
INFRINGEMENT: Business Use of Residential Property

RELEVANT PLANNING POLICIES AND GUIDANCE

DENBIGHSHIRE UNITARY DEVELOPMENT PLAN

Policy GEN 3 – Development outside development boundaries
Policy GEN 6 – Development control requirements
Policy EMP 5 – Small Scale Employment Development Outside Development Boundaries

GOVERNMENT GUIDANCE

Planning Policy Wales, March 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 change of use and other related matters. In this instance the matters under consideration relate to the right of an owner to change the use of a residential property to Arboriculture business use. It is considered that these rights are outweighed by policy considerations that seek to ensure any developments outside development boundaries are controlled.

1. BACKGROUND INFORMATION

- 1.1 The site is located on the south side of the B5429 to the west of the settlement of Rhualt. The site currently consists of a dwelling house within a large curtilage and attached field unit.
- 1.2 The unauthorised change of use was reported to an Enforcement Officer in 8th March 2007. Following a site visit it appeared that the dwelling, attached curtilage and attached field was being used for the business use.
- 1.3 A Planning Contravention Notice was served on the 27th March 2007. The questionnaire was subsequently returned detailing the scale of the business use at the property.
- 1.4 A site visit was undertaken on 22nd May 2007 with the owner to outline the concerns relating to the impact upon the amenity of the area as a result of the business use. A letter dated 20th May 2007 was sent outlining the issues discussed and advised the owner that the part change of use of the dwelling and land for use as a commercial arboricultural business is unauthorised and a breach of planning control.

- 1.5 An application seeking permission for the continuation of use of land as arboriculture business with associated parking, storage and the erection of building/ unit for storage of plant machinery and vehicles ancillary to business was duly submitted. If successful the application would result in the cessation of use of the dwelling in connection with the business.
- 1.6 Given the circumstances of the case it is now necessary to pursue enforcement action in order to cease the part business use of the dwelling and land.

2. REASONS FOR ISSUING AN ENFORCEMENT NOTICE

- 2.1 The development has been undertaken within the last four years.
- 2.1 The continuation of the use of the land and dwelling for a business use, incorporating a 24 hour emergency service within a predominately residential area is considered unacceptable and will have a detrimental impact upon the residential amenity of the nearby residential properties. Therefore the change of use is contrary to Policy GEN 3, Policy GEN 6 and EMP 5 of the adopted Unitary Development Plan.

3. RECOMMENDATION

- 3.1 That authorisation to be granted for the following:
 - i. Serve an Enforcement Notice to secure the cessation of the unauthorised use of the property and land returning the property to residential use, its cartilage to residential use and attached field to agricultural use.
 - 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.

ITEM NO: 8

WARD NO: Tremeirchion

APPLICATION NO: 47/2008/0053/ PF

PROPOSAL: Demolition of redundant outbuilding and erection of two dwellings (resubmission)

LOCATION: Outbuildings at Llwyn Derw Holywell Road Rhualt St. Asaph

APPLICANT: Mr A Parry-Jones

CONSTRAINTS: Zone B
CLB-Class B Road

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

CONSULTATION RESPONSES:

1. TREMEIRCHION/ CWM/ WAEN COMMUNITY COUNCIL-
'Objection, this planning application is situated outside the development area as laid down in the Denbighshire Unitary Development Plan. Please note- SPG, Infill housing in the countryside No. 10, background 3-3.1,3.2 in accordance with Policy HSG 5'.
2. HEAD OF TRANSPORT AND INFRASTRUCTURE-
No objection, subject to condition.
3. BUILDING CONTROL-
Concur with Surveyors report of 28/02/08 relating to the condition of the existing building.
4. WELSH WATER/DWR CYMRU-
No objection
5. CLWYD POWYS ARCHAEOLOGICAL TRUST-
No objection
6. ENVIRONEMNT AGENCY WALES-
No objection

RESPONSE TO PUBLICITY:

None received

EXPIRY DATE OF APPLICATION: 13/03/2008

REASONS FOR DELAY IN DECISION:

- Additional information required from applicant

PLANNING ASSESSMENT:**THE PROPOSAL:**

1. Permission is sought for the demolition of a traditional outbuilding and erection of two new dwellings. This application follows the substantial collapse of the main

structure of the former agricultural building during works on a scheme of conversion. Plans indicate the intention to build the two dwellings with rendered walls and slate roofs of similar design and dimensions to the original building.

2. The application is a resubmission of a previous scheme refused permission at Committee in April 2007.
3. Llwyn Derw is located on the north side of the B5429, outside the development boundary to the west of the centre of the village of Rhualt. The complex comprises of a number of buildings of a commercial nature and a dwelling that fronts onto Holywell Road. The outbuilding would have been originally attached to the farmhouse at Llwyn Derw. This farmhouse has since been replaced with a detached dwelling. The outbuilding is attached to a modern shed on the western side, which is occupied by the Fifth Wheel Company who operate from the site.
4. The applicant has submitted a supporting statement, which refers to the following:
 - The original permission granted under ref 47/2002/988/PF required substantially more new/rebuild than the Local Planning Authority had realised.
 - The minor amendments approved rendered the conversion impracticable.
 - Precedent has been set by a departure from policy to justify the dwelling opposite and the group of dwellings has increased.
5. The application is reported to Planning Committee due to a request for Committee determination by Councillor R Lloyd Williams who has advised that comparable development has taken place at the premises across the road to the site and there would be no demonstrable harm if the development should take place.

RELEVANT PLANNING HISTORY:

6. 47/2002/0988/PF - Change of use of outbuildings to Class B1 use and conversion of barn to form 2 no. dwellings. GRANTED 22 January 2002

47/2006/1342/PF - Demolition of redundant outbuilding and erection of two dwellings. REFUSED 18 April 2007

PLANNING POLICIES AND GUIDANCE:

7. DENBIGHSHIRE UNITARY DEVELOPMENT PLAN (adopted 3 July 2002)
 - Policy GEN 6 - Development Control Requirements
 - Policy HSG 5 - Groups of houses in the open countryside
 - Policy HSG 6 - New dwellings in the open countryside
 - Policy HSG 9 - Residential Conversion of Rural Buildings
 - Supplementary Planning Guidance
 - SPG 10 – Conversion of rural buildings.

GOVERNMENT GUIDANCE
Planning Policy Wales, March 2002

MAIN PLANNING CONSIDERATIONS:

8.
 - i) Principle
 - ii) Impact on residential/ visual amenity
 - iii) Impact on highway safety
9. In relation to the main planning considerations:

i) Principle

The development involves the erection of two new dwellings in the open countryside; therefore Policy Gen 3 of the Unitary Development Plan applies. This policy states that new building in the open countryside is strictly controlled and new housing is only permitted for agricultural or forestry workers dwellings in accordance with Policy HSG 6 and infill development in accordance with Policy HSG 5. No justification has been submitted to the Local Planning Authority for an essential workers dwelling to satisfy Policy HSG 6. In accordance with Policy HSG 5 infill development of one or two housing units may be permitted within a clearly identifiable group of dwellings in the open countryside. Infill plots are permitted provided that they form a small gap between buildings in a continuously developed frontage; does not result in ribbon development, and is of a comparable scale and size and is sited so as to respect adjacent properties in the locality. This policy is augmented by Supplementary Planning Guidance Note No. 11 Infill Housing in the Open Countryside.

The first test of the infill policy (criterion (i)) relates to a small gap between buildings within a continuously developed residential frontage, SPG 10 refers specifically to a clearly identifiable group being of 6 or more units. In this case although there are 5 dwellings in the group on the south side of the road, there is only Llwyn Derw on the north side. It is not considered that a former holiday let can be considered as a dwelling, as para 5.2 of the SPG is clear on converted buildings and their exclusion from this assessment. Furthermore there is clearly only 1 dwelling on the north side of the road, which is not considered to form a continuous line of residential frontage.

The second test of the policy (criteria (ii)) refers to ribbon development. It is not considered that the proposal would in itself result in ribbon development but would consolidate a collection of buildings in the open countryside.

The third test (criteria (iii)) refers to a small gap of comparable scale, character and size to the surrounding properties. The group of dwellings which are interspersed with agricultural buildings and bounded by the commercial buildings, Llwyn Derw could be argued to be loosely related as opposed to a clearly recognisable group of dwellings and thus does not comply with policy. It is not considered to respect adjacent properties and the locality.

The applicant's argument that a previous permission has been approved on Pant Ifan Newydd opposite the application site needs to be treated with caution. This site benefited from a long history for conversion works, which were well underway when it became apparent that the condition of the outbuilding rendered it incapable of conversion. This application was not justified under Policy HSG 5 or 6 but as a 'departure', which the Planning Committee approved owing to the history.

Justification has also been put forward by the agent that the original conversion required substantially more rebuild than the structural report acknowledged. The agent has made an assessment and submitted a further report from Surveyor Richard Broughton dated 28/02/08 which states that the building would have been unlikely to survive should the original scheme have been implemented. Furthermore that the extent of new and rebuild authorised in by the planning permission is considerable and is in effect tantamount to a new build. However the Building Control Section has advised that the original conversion could have been implemented if the correct precautions had been taken, and construction techniques used, and the original scheme was not

tantamount to a new build.

- ii) Residential/Visual Amenity
Owing to the design of the development, the location and spacing, it is considered that the development would have no significant visual or residential amenity impact.
- iii) Highway Safety
The proposal is considered acceptable in terms of highway safety.

SUMMARY AND CONCLUSIONS:

- 10. There is no provision in the conversion policy HSG 9 to allow for new build where the conversion is no longer possible and as such the application has been assessed under policy HSG 5 and HSG 6. The proposal does not meet the criteria of these policies and as such is recommended for refusal.

RECOMMENDATION: REFUSE- subject to the following conditions:-

- 1. The site is located outside the defined development boundary of Rhualt. The number of residential units and the mixed nature of the uses in the group do not satisfy the relevant tests of Policy HSG 5 and SPG 10. No justification has been provided for the development to meet the requirements of Policy HSG 6 for an agricultural or forestry workers dwelling. As such the proposal is contrary to Policy GEN 3 of the Denbighshire Unitary Development Plan and advice contained in Planning Policy Wales.

NOTES TO APPLICANT: None

ITEM NO: 9

WARD NO: Denbigh Upper / Henllan

APPLICATION NO: 01/2007/1505/ PF

PROPOSAL: Change of use from Class B8 store and internal alterations to form Class A3 food and wine bar

LOCATION: Church Institute Lenten Pool Denbigh

APPLICANT: JD Wetherspoon PLC

CONSTRAINTS: Town Heritage Area
Listed Building
Conservation Area
Article 4 Direction

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

CONSULTATION RESPONSES:

13. DENBIGH TOWN COUNCIL
"No objection"
14. ENVIRONMENT AGENCY WALES
No comment.
15. COMMUNITY SAFETY OFFICER
Advise that if operated in accordance with the provisions of the Licensing Act (Action Plan), there should be no risk to community safety.
16. DENBIGH TOWN HERITAGE INITIATIVE MANAGER
No objections in principle to the change of use of this building as proposed in the planning application, and would not consider it to be detrimental to the conservation area.
17. HEAD OF TRANSPORT & INFRASTRUCTURE
Comments awaited.

RESPONSE TO PUBLICITY:

Letters of representation received from:

1. Mrs C.R Cathers, The Plough Inn, Bridge Street, Denbigh
2. Mrs H. Turner, The White Lion, Back Row, Denbigh
3. Mr G.W. Jones, The Old Vaults, 40/42 High Street, Denbigh
4. Mr S Jones, 1 Llys Cerrig, Upper Denbigh Road, St. Asaph, LL17 0BZ
5. Mr & Mrs G.B. Miller, 10 Y Werglodd, Denbigh, LL16 3SS
6. Halcrow Group Plc, Deanway Technology Centre, Wilmslow Road, Handforth, SK9 3FB (on behalf of) Marston Plc owners of; Golden Lion, Hand Inn & Plough Inn, Denbigh
7. Mr S Lloyd, Bron Haul, Henllan Place, Denbigh
8. Mr C.N. Williams, The Hand Inn, Lenten Pool, Denbigh, LL16 3PF

9. Mrs A. Campbell, 11 Caer Gofaint, Groes, Nr Denbigh, Conwy, LL16 5YT
10. Miss E.A. Carden, The Forum, 27 -29 High Street, Denbigh, LL16 3HY
11. Miss J. Chambers Jones, 39 Lon Llewelyn, Denbigh, LL16 3RW
12. R.M Owen, 2 Dalar Wen, Denbigh, LL16 3HT
13. Dr. J Gwyn Thomas, Ystad Isa, Denbigh, LL16 4RL
14. R.E Blundell, 41 Dalar Wen, Denbigh, LL12 3HT
15. Mrs Ann R Campbell, on behalf of 15 Denbigh Businesses
16. Mrs Ann R Campbell (Petition of 441 signatures)
17. Mr R Gotts (via e-mail) Denbigh

Summary of planning based representations-

- i) Increase in volume of traffic in the vicinity with no designated parking facilities in the immediate area
- ii) The introduction of a Wetherspoons in a small town like Denbigh would lead to the closure of several licensed premises and have a detrimental effect on the towns economic climate
- iii) Opening hours leading to noise, disturbance, late night activity, litter and loss of amenity
- iv) Impact the character and function of St Mary's Church and the Denbigh Conservation Area
- v) Interior and exterior alterations will have a significant impact upon the character of the building
- vi) Commercial and economic activity moving away from the designated town centre, having a detrimental impact on the character of Denbigh

EXPIRY DATE OF APPLICATION: 11/02/2008

REASONS FOR DELAY IN DECISION:

- Timing of receipt of representations

PLANNING ASSESSMENT:

THE PROPOSAL:

1. Permission is sought for the change of use of the St Mary's Church Institute (a Use Class B8 store) to form a A3 food and wine bar. The proposal involves internal alterations and an external seating area to both the south-east and west of the site. External works are to be kept to a minimum; elevations are to be retained in their existing form with repairs undertaken where needed. Access steps from the south east of the property will be replaced with new steps and DDA compliant ramp. A separate Listed Building Consent application has been submitted in respect of the alterations affecting the Grade II building.
2. The application building is of a Grade II listed former church. The property was built in 1875 and was used as the Church Institute by the adjacent St Mary's Church and subsequently for the storage of antique furniture. The property is constructed in local stone, with mullioned leaded windows and pitched slate roofs.
3. The application site is located within the Denbigh Conservation Area and Article 4 (2) area. The conservation area includes a high density of listed buildings, including Pwll Y Grawys and St Mary's Church, Henllan Place.
4. The site is in a prominent location being located adjacent to a major roundabout at the western end of Bridge Street. To the immediate east of the site lies a Class D1 surgery. To the west and south of the site lie two public houses, 'The Hand Inn' and 'Déjà vu'. The building is slightly set back from the road, with landscaped

gardens.

5. Proposed opening hours are detailed below:

| | |
|--------------------|-------------|
| Monday to Thursday | 0700 – 0030 |
| Friday & Saturday | 0700 – 0130 |
| Sunday | 0700 – 0030 |

6. The list below details public houses within the immediate area and their licensing hours:

| | |
|------------------------------------|--|
| Hand Inn, Lenten Pool, Denbigh | Monday to Thursday: 1000 – 0130 Friday & Saturday: 1000 – 0230 Sunday: 1000 – 0130 |
| Déjà vu, Lenten Pool, Denbigh | Monday to Wednesday: 1100 – 0000 Thursday to Saturday: 1100 – 0100 Sunday: 1100 – 0000 |
| Plough Inn, Bridge Street, Denbigh | Monday to Wednesday: 1100 – 0000 Thursday to Sunday: 1100 – 0100 |

RELEVANT PLANNING HISTORY:

7. 01/2007/1506/LB – Listed Building application for internal alterations. Pending at time of writing.

PLANNING POLICIES AND GUIDANCE:

8. DENBIGHSHIRE UNITARY DEVELOPMENT PLAN (adopted 3rd July 2002)
Policy GEN 6 – Development control requirements
Policy CON 3 – Change of use of Listed Buildings
Policy CON 5 – Development within Conservation areas
Policy RET 7 – Fringe areas adjacent to town & district centres
Policy SPG 13 – Conservation areas
Policy SPG 14 – Listed buildings

GOVERNMENT GUIDANCE
Planning Policy Wales, March 2002

MAIN PLANNING CONSIDERATIONS:

- 9.
- i) Principle of proposal
 - ii) Visual amenity/ Impact upon conservation area
 - iii) Impact upon residential amenity
 - iv) Crime and disorder
 - v) Highway considerations
10. In relation to the main planning considerations in paragraph 10:
- i) Principle of proposal
In relation to the principle, the application site lies within the development boundary of Denbigh, within the conservation area and on the fringe of the town centre where policies GEN 6, CON 5 and RET 7 are applicable. There are established Class A3 public houses in the area with The Hand Inn and Déjà vu. It is considered that the proposal would not result in an over concentration of Class A3 uses and would not be out of keeping with the surrounding area by virtue of its close proximity to the town centre. There are no grounds to conclude the proposal would unacceptably harm the vitality and viability of the town centre or other A3 uses. Given the nature of this proposed

use and general character of the area it is considered that the proposal is acceptable in principle.

- ii) Visual amenity/ Impact upon conservation area
The proposed external changes are minimal with no alterations to the elevations with the exception of signage, which would require separate advertisement and / or Listed Building consent. Taking this into account and the comments received from the Denbigh Town Heritage Initiative Manager, it is considered that the proposal would have negligible impact upon the visual amenity of the area or the character of the conservation area.
- iii) Impact upon residential amenity
Residential properties exist to the north and southwest of the application site, with the closest of these (No. 3 Lenten Pool) being approximately 45m away from the site. The area contains a number of commercial uses (including three public houses within a 50m radius of the application site). Given the location and licensing regulations it is considered that the proposal can be accommodated in this location without detriment to the residential amenity of the nearby residential properties.
- iv) Crime and disorder
The Community Safety Officer has raised no objection to the proposal. It is considered that proposal would pose no risk to community safety.
- v) Highway considerations
The property is close to the town centre and there are public car parks in close proximity. It is not considered that there are any highway reasons to oppose the development.

SUMMARY AND CONCLUSIONS:

12. The proposal is considered acceptable in terms of planning policy and is recommended for permission subject to conditions.

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. No development shall take place until there has been submitted to, and approved in writing by, the Local Planning Authority, a detailed scheme of hard and soft landscaping for the site, and such scheme shall include details of:
 - (a) all existing trees, hedgerows and other vegetation on the land, details of any to be retained, and measures for their protection in the course of development.
 - (b) proposed new trees, hedgerows, shrubs or vegetation, including confirmation of species, numbers, and location and the proposed timing of the planting;
 - (c) proposed materials to be used on the driveway(s), paths and other hard surfaced areas;
 - (d) proposed earthworks, grading and mounding of land and changes in levels, final contours and the relationship of proposed mounding to existing vegetation and surrounding landform;
 - (e) Proposed positions, design, materials and type of boundary treatment.
3. 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 occupation of the dwelling/completion of the development/commencement of the development/next planting and seeding season] 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.

4. Prior to the commencement of the use of the premises, equipment for the treatment and extraction of fumes and smells resulting from the preparation and cooking of food shall be installed in accordance with details to be submitted to, and approved in writing by the Local Planning Authority. Following its installation, the equipment shall be operated whenever preparation and/or cooking of food is taking place.

5. The premises shall only be open to the public between the following hours:

0700 hours Sunday to 0030 hours Monday

0700 hours Monday to 0030 hours Tuesday

0700 hours Tuesday to 0030 hours Wednesday

0700 hours Wednesday to 0030 hours Thursday

0700 hours Thursday to 00300 hours Friday

0700 hours Friday to 0130 hours Saturday

0700 hours Saturday to 0130 hours Sunday.

6. There shall be no sale of food or drink for consumption off the premises hereby permitted.

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 ensure in the interests of visual amenity a satisfactory standard of landscaping in conjunction with the development.
3. To ensure a satisfactory standard of development, in the interests of visual amenity.
4. In the interests of amenity.
5. In the interests of residential amenity.
6. In the interests of residential amenity.

NOTES TO APPLICANT:

You are reminded that separate Listed Building consent is required to carry out alterations to the building, and that no works requiring such consent should be carried out until formal permission is granted by the Local Planning Authority.

ITEM NO: 10

WARD NO: Denbigh Upper / Henllan

APPLICATION NO: 01/2008/0108/ PF

PROPOSAL: Demolition of existing building and erection of 23 no. apartments, construction of new vehicular/pedestrian access and associated works

LOCATION: Former Autoworld Site Smithfield Road Denbigh

APPLICANT: Gower Homes

CONSTRAINTS: Conservation Area
Article 4 Direction
B Flood Zone

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

CONSULTATION RESPONSES:

18. DENBIGH TOWN/COMMUNITY COUNCIL
"Whilst not wishing to object to the application, would wish to put forward concerns regarding the movement of vehicles to and from the proposed development, taking into account that access will be close to a busy junction on Smithfield Road".
19. DENBIGH CIVIC SOCIETY
Have no objection. Consider this would be a welcome addition in the local townscape.
20. ENVIRONMENT AGENCY WALES
No comments.
21. WELSH WATER / DWR CYMRU
Request addition of condition to separate foul and surface water systems.
22. DENBIGHSHIRE HEAD OF TRANSPORT & INFRASTRUCTURE
Accepts the level of parking provision given the proximity to the town centre and public transport. Would require revisions to details of various footways, kerbing, visibility, and provisions for access for disabled persons.
23. DENBIGHSHIRE CONSERVATION OFFICER
Comments on matters of detail and the relationship with the adjacent Conservation Area. Suggests careful attention is given to the use of external materials and the handling of specific design features.
24. HOUSING MANAGER
Happy with the proposals. Are aware that Tai Clwyd will be purchasing 6 of the affordable units and the other will be sold at discount for sale.

RESPONSE TO PUBLICITY: None received

EXPIRY DATE OF APPLICATION: 01/04/2008

REASONS FOR DELAY IN DECISION:

- timing of receipt of representations

PLANNING ASSESSMENT:

THE PROPOSAL:

1. The Autoworld premises are located on the north side of Smithfield Road, opposite the petrol filling station attached to Morrison's supermarket.
2. The property has been vacant since 2004, and has been used as a commercial garage and petrol station over a number of years. It lies within the development boundary of the town, but has no specific use allocation in the Unitary Development Plan. The town's Conservation Area runs alongside the north eastern boundary of the site closest to Pwll y Grawys, but none of the site is within the Conservation Area.
3. The area around the site is in a mixture of uses: the town Fire Station to the south west, traditional terraced residential properties at Maes Hyfryd and Lenten Pool to the north, and the Morrison's foodstore to the south. The main vehicle access to the Maes Mathonwy area runs alongside the Southwest boundary of the site, and joins Smithfield Road opposite to the foodstore entrance. Site levels rise up some 2.8 metres from the eastern end of the site towards the west end by the Fire Station.
4. This is valid outline planning permission on the site for the erection of 19 apartments, granted in September 2005.
5. The current application is for full planning permission for a total of 23 apartments, with associated access and parking arrangements. The basic proposals involve:
 - the erection of an 'L' shaped apartment building, fronting Smithfield Road and Maes Mathonwy. This would have apartments on 3 floors, with the exception of the units immediately abutting the terraced properties at Bowers Villas, which would be of 2 storey height.
 - A building of 'modern' design, using distinctive stair 'towers' to split it into blocks and to echo the towers of Denbigh Castle, 'step up' changes in roofline as levels rise up Smithfield Road; the use of render as the main wall material, with vertical natural wood 'durable timber' features on the upper floors and stair towers.
 - A single new vehicular access point off Maes Mathonwy, leading to a rear parking area with 21 spaces, a cycle store and bin/recycling enclosure.
6. The application is accompanied by a Design and Access Statement, and an affordable housing questionnaire. The Design Statement elaborates on the basic principles adopted for the scheme, which it states following those in the outline consent, and seek to "develop this derelict brown-field site to create an urban housing scheme that will enhance the townscape, respect the amenity of adjoining properties, and add to the vitality of Denbigh". The Access Statement outlines detailed proposals to provide, so far as practicable on a sloping site, adequate access routes to units for persons with disability, including appropriate use of lighting and materials to assist. The Affordable Housing Questionnaire confirms the intention to provide 7 affordable units as

part of the scheme.

7. The main differences between this proposal and the one illustrated on the 2005 application are that additional land along the Maes Mathonwy road frontage is now included, which allows for the creation of 4 additional units, and the repositioning of the main vehicular access, which was previously off Smithfield Road almost opposite the Morrisons Supermarket entrance.

RELEVANT PLANNING HISTORY:

8. 01/2005/0764/PO
Development of 0.15ha of land by the erection of 19 apartments, construction of new vehicular/pedestrian accesses, and associated works (outline application).
Granted – 28th September 2005.

PLANNING POLICIES AND GUIDANCE:

DENBIGHSHIRE UNITARY DEVELOPMENT PLAN (adopted 3rd July 2002)

9. Policy GEN 6 Development Control Requirements
Policy GEN 2 Development of un-annotated land
Policy HSG 10 Affordable housing within development boundaries
Policy EMP 10 Protection of Employment Land/Buildings
Policy REC 2 Amenity and recreational open space in new developments
Policy TRA 6 Impact of new development on traffic flows
Policy TRA 9 Parking and Servicing Provision
Policy ENP 6 Flooding
Policy SPG 21 Parking

GOVERNMENT GUIDANCE

Planning Policy Wales March 2002

TAN 12 Design (2002)

TAN 15 Development and flood risk (July 2004)

TAN 18 Transport (1998)

MAIN PLANNING CONSIDERATIONS:

10.
 - i) Principle of redevelopment
 - ii) Design detailing / visual amenity / impact on occupiers of neighbouring properties
 - iii) Highways / parking
 - iv) Affordable housing
 - v) Open space
 - vi) Flooding
11. In relation to the main considerations:
 - i) Principle of redevelopment
The principle of a suitable redevelopment of a site such as this close to the town centre has been established in granting the outline permission in 2005, and is in accord with planning policies. The site is outside the main shopping area and has been in commercial use for some years. There are no objections raised over the removal of the existing building, nor to the principle of providing flats there. The proposals would not be in conflict with the basic tests in Policy EMP

10 of the Unitary Development Plan, as the buildings do not lend themselves to appropriate alternative use by virtue of the size, location and construction. The loss of the building would not prejudice the ability of the area to meet a range of local employment needs.

- ii) Design / visual amenity / impact on occupiers of nearby properties
The 'modern' approach to the design has been supported previously in the grant of the outline permission. There is a mix of styles in this area, ranging from the more 'traditional' development within the Conservation Area to the east at Lenten Pool, the recent housing at Meas Mathonwy and along Smithfield Road, and varying design approaches in the adjacent Fire Station, the Morrisons Supermarket, and the Council offices at Caledfryn. The site is not in the Conservation Area, and would be visible mainly in the context of other 'modern' development along Smithfield Road. It is suggested that the approach is worthy of support subject to the imposition of suitable controls over the use of external materials.

The plans have been detailed to take due account of the amenities of occupiers of nearby property, and in particular those adjoining at Bowyers Villas / Pwll y Grawys.

- iii) Highways / parking
The Highways Officer raises no objections to the application, but requests further attention to details of the proposed access, footways and arrangements for access for the disabled. The proposal to relocate the main access off Maes Mathonwy rather than Smithfield Road is a clear improvement on the previous proposals. Parking provision is below the maximum provision set out in SPG 21 (21 spaces compared to a maximum requirement of around 30 spaces) but given the location close to town centre and public transport, and provision of cycle parking, the level is considered acceptable.

- iv) Affordable housing
In the event of permission being granted it would be necessary to secure the provision of the 7 affordable units through a Section 106 agreement. The basic details relevant to the application are -
Site area – 0.2ha
No. of affordable units – 7
Provision / Tenure – 6 units for rent, 1 discounted for sale
Type – 6 x 2 bed apartments 1 x 1 bed apartment
Floor area – 2 bed units – 56m²; 1 bed unit 46m²
Timing – units to be available on completion of market units.
RSL involvement – Tai Clwyd

Current waiting list in Denbigh indicates demands for 163 persons on the social housing list.

- v) Open Space
The applicants are aware of the planning policy requirements for provision of open space in new developments of more than 10 units, in Policy REC 2 of the UDP. The size and type of development and the location close to the town centre alongside a busy A road would support the case for payment of a commuted sum to allow provision / enhancement of open space elsewhere in the town, a matter which can also be dealt with by a Section 106 agreement.

- vi) **Flooding**
The site falls within an area shown as Zone B on the Development Advice Map accompanying TAN 15: Development and Flood Risk. Zone B relates to areas which have been known to flood in the past, and requires an applicant to provide levels information to enable the Environment Agency Wales to assess the need for further flood evaluation assessment. The Environment Agency have assessed the levels information provided with the application and have no objections.

SUMMARY AND CONCLUSIONS:

- 12. The site is occupied by vacant former commercial premises bordered by residential properties to the north. The principle of a suitable housing development is acceptable in terms of policy, and the details are appropriate to the locality.

The recommendation is subject to:

- (a) the completion of a Section 106 agreement within 12 months of the date of this committee, otherwise the application would be brought back before committee for reconsideration against the relevant policies and guidance applicable at that time. The Section 106 would secure
 - i) The provision of 7 affordable units in accordance with the Council's policies and guidance.
 - ii) The payment of a Commuted sum of £72,952 in lieu of provision of on site open space.
- (b) Compliance with the conditions specified below. The Certificate of Decision would be released only on completion of the Section 106 agreement.

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. No works on the external faces of the walls, or the roofs of any buildings shall be permitted to commence until the written approval of the Local Planning Authority has been obtained to precise details of:
 - (a) The proposed render (colour, type and finish)
 - (b) The type and treatment of vertical boarding
 - (c) The window box features (finish, materials and colours)
 - (d) The rainwater goods
 - (e) The roof materials (type, profile/colour)The development shall be carried out strictly in accordance with the details approved under this condition.
3. None of the apartments shall be occupied until the access and parking area, and associated pathways, ramps and entrances to the units has been completed in accordance with the approved plans, and those details required in connection with condition of this permission.
4. None of the apartments shall be occupied until the written approval of the Local Planning Authority has been obtained to the detailing of the hard and soft landscaping of the site (boundary and screen wall treatment, railings, surfacing, planting, etc), and the approved details have been completed.

5. Notwithstanding the submitted details, no development shall be permitted to commence until the written approval of the Local Planning Authority has been obtained to the detailing of the kerbways / footways around the access point, the treatment of boundary walls relative to the visibility splays, and the access ramps; and the development shall proceed strictly in accordance with the details approved under this condition.

6. No work shall be permitted to commence until there has been carried out a comprehensive soil survey over the entire site, to determine whether any of the land is contaminated and whether the development may impact on controlled surface and ground waters, such survey to be in accord with BS:10175:2001 ("The Investigation of Potentially Contaminated Sites") and to include water monitoring data; and the contents of the survey and its conclusions have been submitted to the Local Planning Authority for assessment in liaison with the Environment Agency Wales.

7. In the event that the site survey required by Condition 6 of this permission reveals the presence of hazard from any contamination, no development shall be permitted to commence until there has been submitted to the Local Planning Authority a detailed site specific risk assessment to identify risks to water resources, surrounding land and property, wildlife, building materials and future users of the site, and any other person; and the written approval of the Local Planning Authority has been obtained to detailed proposals for addressing the risks, specific measures for decontaminating the site and dealing with any unsuspected contamination which becomes evident during the development of the site. The development shall be carried out strictly in compliance with the detailed measures approved by the Local Planning Authority.

8. In the event that any areas of unexpected contamination become evident in the course of development, all works in the vicinity of that contamination shall be suspended immediately, and the Local Planning Authority shall be notified within 24 hours. No work shall be permitted to continue in the affected area until the written agreement of the Local Planning Authority has been obtained to details of the measures proposed to remove or contain any hazard presented by the contaminants, and the method of rendering harmless such contamination. The development shall only be permitted to proceed in accordance with the details approved.

9. No demolition shall take place before a contract for carrying out the works of redevelopment on the site has been made and all reserved matters have been approved for the redevelopment for which the contract provides.

10. All foul drainage shall be directed to a foul sewerage system and all surface water drainage to a surface water system unless agreed by the Local Planning Authority.

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. To ensure the development is served by a suitable access and parking area.
4. In the interests of visual amenity.
5. To ensure the access arrangements are satisfactory.
6. To ensure that there is proper evaluation of the potential for contamination on the site, that the extent is established, and that adequate steps are taken to deal with any contamination.
7. To ensure that there is proper evaluation of the potential for contamination on the site, that the extent is established, and that adequate steps are taken to deal with any contamination.
8. To ensure that there is proper evaluation of the potential for contamination on the site, that the extent is established, and that adequate steps are taken to deal with any contamination.
9. In the interests of the character and appearance of the Conservation Area.
10. To ensure the proper drainage of the site and to minimise the risk of production.

NOTES TO APPLICANT:

Your attention is drawn to the attached Highway Supplementary Notes Nos. 1, 3, 4, 5 & 10. With regard to Condition 5 of this permission, you are advised to contact the Highways Officer to clarify the relevant details prior to any formal submission for approval.

Denbighshire County Council Specification for Road Construction.

Highways Act 1980 S. 184 Consent - Notes for Guidance to Applicants.

Prior to the carrying out of any demolition works, you should contact the Council's Public Protection and Building Control sections to ensure proper procedures are followed, in particular in respect of removal of hazardous materials.

| | |
|------------------------------|---|
| ITEM NO: | 11 |
| WARD NO: | Denbigh Lower |
| APPLICATION NO: | 01/2008/0134/ PF |
| PROPOSAL: | Change of use from petrol filling station to Class A3 chip shop/hot-food takeaway |
| LOCATION: | Abbey Filling Station Abbey Garage Rhyl Road Denbigh |
| APPLICANT: | Mr Mark Williams |
| CONSTRAINTS: | C2 Flood Zone CLA-Class A Road Conservation Area |
| PUBLICITY UNDERTAKEN: | Site Notice - No Press Notice - No Neighbour letters - Yes |

CONSULTATION RESPONSES:

1. DENBIGH TOWN COUNCIL
"The Council does not wish to raise any objections to the application."
2. PROJECT MANAGER, DENBIGH AND RHYL TOWNSCAPE HERITAGE INITIATIVE
Appropriate development of this vacant site would be welcome, especially if the proposals included upgrading the boundary and opening up/environmental improvements at the entrance.

The building is a modern structure 'of its time' which has recently come within the extended conservation area boundary. Because of its form and construction, and location, would not consider its conversion for use as a takeaway to be particularly damaging to the conservation area, provided that the integrity of the existing building is maintained and the need for any storage of supplies and waste is contained within the envelope.

3. HEAD OF TRANSPORT AND INFRASTRUCTURE
No objection subject to the inclusion of a condition to deal with parking/turning.

RESPONSE TO PUBLICITY:

Letters of representation were received from:

1. Mrs N M V Hunt, Berwyn, 20 Abbey Road, Denbigh.
2. Ian Carpenter, Abbey Cottage, Abbey Road, Denbigh
3. Tai Wing Express, 2 Clifton Terrace, Rhyl Road, Denbigh
4. Mr Lloyd, 5 Ruthin Road, Denbigh
5. Mr O'Donovan, Abbey Road, Denbigh
6. Mrs Davis, Llwyn, Abbey Road, Denbigh
7. Mr & Mrs Pierce, 24 Abbey Road, Denbigh
8. Mr & Mrs Pierce, Preswylfa, 24 Abbey Road, Denbigh
9. A M Roberts, Abbey Villa, Abbey Road, Denbigh
10. Terry & Chris Tynan, 22 Abbey Road, Denbigh
11. Owner/Occupier, 11 Abbey Road, Denbigh
12. Mr & Mrs D L Corner, 18 Abbey Road, Denbigh

13. Mr & Mrs Law, 16 Abbey Road, Denbigh
14. Mr Jordan, Simply Fish and Chips, Fron Shop, Rhyl Road, Denbigh

Summary of planning based representations:

- i) There are already 6 properties on Rhyl Road selling hot and cold food, namely: Tai Wang Express, Simply Fish & Chips, The Masons Arms, Shell filling station, Alafowlia restaurant, and Booze Busters;
- ii) The site lies between two such establishments: 38 metres from Simply Fish & Chips and 36 metres from Tai Wang Express;
- iii) Traffic generation and fumes;
- iv) Litter;
- v) Impact on the historic Abbey;
- vi) Smells and rubbish;
- vii) Increased parking on the highway.

EXPIRY DATE OF APPLICATION: 24/04/2008

**PLANNING ASSESSMENT:
THE PROPOSAL:**

1. The site is the former petrol filling station/car sales property which occupies a corner plot of land at the junction of Rhyl Road and Abbey Road. The property has been vacant for some time and is a single-storey detached building with an unusual concrete canopy projecting forwards over the forecourt. To the north and east of the site lies a storage/commercial building and yard. Residential properties lie to the south on the opposite side of Abbey Road and to the west on the opposite side of Rhyl Road, where there are also a number of commercial uses. The site lies within the Conservation Area. Abbey Road leads down to the former Camelote Friars, which is a listed building and a scheduled ancient monument.
2. The application seeks to change the use of the vacant property from a petrol filling station, to a hot food take away (Use Class A3). The submitted plans confirm that the floor plans and elevations will remain unchanged, with a simple layout showing a servery area, preparation area and wc. Although the site benefits from two vehicle access points to each end of the site, the applicant has stated that a 'one way' system would be considered if felt necessary. Parking is suggested for six cars within the site, although no layout has been provided. The submitted forms state that the unit will employ one full-time person and two part-time persons. No proposed hours of use are stated.

RELEVANT PLANNING HISTORY:

3. None.

PLANNING POLICIES AND GUIDANCE:

4. DENBIGHSHIRE UNITARY DEVELOPMENT PLAN (adopted 3rd July 2002)
Policy GEN 6 – Development Control Requirements
Policy CON 1 – Setting of Listed Buildings
Policy CON 5 – Development within Conservation Areas
Policy CON 10 – Scheduled Ancient Monuments
Policy RET 16 – Food and Drink (hot food take aways)
SUPPLEMENTARY PLANNING GUIDANCE

SPG 11 – Hot Food Takeaways

GOVERNMENT GUIDANCE
Planning Policy Wales March 2002

MAIN PLANNING CONSIDERATIONS:

5.
 - i) Principle
 - ii) Impact on amenity
 - iii) Highway Issues
 - iv) Impact on the Conservation Area / Listed Building / Ancient Monument
 - v) The comments of the objectors

6. In relation to the considerations as noted in paragraph 5:
 - i) Principle

The site is outside the defined Town Centre has no specific allocation within the Unitary Development Plan. Policy RET 16 relates to hot food takeaway proposals, but applies within Town and District Centres. The subject property lies outside this designation. SPG 11 provides additional guidance on such matters and suggests that the broad aim is to safeguard the character and amenity of the locality, and that particular care needs to be exercised in locating such uses in or near primarily residential areas. In this instance, the subject site has the benefit of its long established use as a petrol filling station which, if re-opened, could give rise to a high turnover of vehicles and associated activity. Accordingly, it is not considered that there are grounds on which to oppose a change of use in principle, to another commercial operation.

 - ii) Impact on amenity

The nearest residential properties to the unit lie on the opposite sides of Abbey Road and Rhyl Road. It is acknowledged that there would be a degree of noise and disturbance emanating from the use as vehicles visiting the take away and food being prepared. However, given the distances involved and extant use of the site it is not considered there are strong amenity grounds for refusal. Conditions limiting the hours of use and adequate filtration systems for odours will serve to mitigate the impact on nearby residential properties.

 - iii) Highway Issues

Highway officers have not raised any objection to the proposal, subject to the provision of parking and turning facilities. It is noted earlier in this report that the applicant has offered to implement a 'one-way' system through the site and it is considered that this should be achieved via condition to prevent any conflict of vehicle movements within the site and on entry / exit from Rhyl Road.

 - iv) Impact on Conservation Area / Listed Building / Ancient Monument

Policies CON 1, 5 and 10 all seek to ensure that developments cause no harm to their setting or the setting of protected buildings. Given that the Abbey lies some distance away, that there are no external changes proposed and that the Project Manager for the THI does not object, the application is not adjudged to cause any harm to these designations.

SUMMARY AND CONCLUSIONS:

7. The application is considered acceptable and is recommended to be granted subject to appropriate conditions.

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 premises shall only be open to the public between the following hours:
11.30 hours to 23.00 hours (midnight) Monday, Tuesday, Wednesday, Thursday, Friday, Saturday.
17.30 hours to 23.00 hours on Sunday
3. Specific provision shall be made at all times when the shop is open for the disposal of litter by customers in accordance with details to be submitted to and approved in writing by the Local Planning Authority.
4. The premises shall not be permitted to open for trade other than when a system of fume extraction is in operation, the system to be strictly in accordance with detailed plans to be submitted to and approved in writing by the Local Planning Authority.
5. Prior to the commencement of the use of the premises, equipment for the treatment and extraction of fumes and smells resulting from the preparation and cooking of food shall be installed in accordance with details to be submitted to, and approved in writing by the Local Planning Authority. Following its installation, the equipment shall be operated whenever preparation and/or cooking of food is taking place.
6. Facilities shall be provided and maintained within the site for the loading and unloading, parking and turning of vehicles in accordance with a scheme to be submitted to and agreed in writing by the Local Planning Authority; and such scheme shall be completed prior to the commencement of the use hereby approved.

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 amenity of occupiers of neighbouring properties.
3. In the interests of amenity.
4. In the interests of amenity.
5. In the interests of amenity.
6. In the interests of amenity and highway safety by ensuring that adequate space is available for all vehicles visiting the property to park and turn clear of the highway.

NOTES TO APPLICANT:

None

ITEM NO: 12

WARD NO: Corwen

APPLICATION NO: 05/2008/0054/ PF

PROPOSAL: Change of use of redundant chapel to Indian restaurant

LOCATION: Baptist Chapel Capel Cernyw London Road Corwen

APPLICANT: Mr Jueb Ali

CONSTRAINTS:

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

CONSULTATION RESPONSES:

25. CORWEN COMMUNITY COUNCIL
No Objection
26. CLWYD-POWYS ARCHAEOLOGICAL TRUST
No Objection
27. HIGHWAYS DEVELOPMENT CONTROL
No Objection
28. LICENSING
No Objection
29. ENVIRONMENT AGENCY WALES
No Objection – Conditions attached
30. PUBLIC PROTECTION
No Objection – Conditions attached

RESPONSE TO PUBLICITY:

Letters of representation received from:

1. K Holland, Isaviel, London Road, Corwen. LL21 0DR.
2. Wayne Williams, Nwyfa, Glyndwr Terrace, Corwen. LL21 0DT.
3. Mr & Mrs Williams, 4 Glyndwr Terrace, Corwen. LL21 0DT.

Summary of planning based representations:

- i) Impact on the character of the area
- ii) Concerns over potential smells
- iii) Parking concerns

EXPIRY DATE OF APPLICATION: 03/04/2008

REASONS FOR DELAY IN DECISION:

- timing of receipt of representations
- delay in receipt of key consultation response(s)

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

PLANNING ASSESSMENT:

THE PROPOSAL:

1. The proposal is for the change of use from redundant chapel (D1) to restaurant (A3). The only external alteration proposed is for the creation of an extraction vent to the rear elevation. The restaurant will comprise of seating and bar area, stores, staff and customer WC and kitchen.
2. The property is a vacant former Baptist Chapel on the northern side of London Road and set within a mix of commercial and residential properties. The building is finished in a grey / green pebble dash with slate tiles and white wooden window frames. The chapel has approximately 260m.sq. of amenity space surrounding the building, bounded by fences / walls.
3. To the east of the chapel on both sides of London road are terraced dwellings. Abutting the boundary to the west is a commercial building. Opposite the chapel is a garage and Corwen Manor. To the rear is a large car park which serves the surrounding commercial uses.
4. The site lies within the development boundary for Corwen. The chapel is currently vacant.

RELEVANT PLANNING HISTORY

5. 05/2006/0992/PF
Change of use of redundant Baptist Chapel to single residential dwelling unit (resubmission) – REFUSED – 16/11/2006

05/2004/1655/PF
Change of use of redundant Baptist Chapel to single residential dwelling unit – REFUSED – 30/6/2005

05/2005/1130/PF
Change of use of redundant Baptist Chapel to single residential dwelling unit (resubmission) – REFUSED – 15/12/2005

05/2006/0422/PF
Development of 0.05 hectares of land by demolition of redundant Chapel and erection of 4 Mews style cottage (Outline application) – Pending

05/2007/0281/PF
Change of use of redundant Baptist Chapel to single residential dwelling unit (resubmission) – GRANTED – 13/6/2007

PLANNING POLICIES AND GUIDANCE:

6. DENBIGHSHIRE UNITARY DEVELOPMENT PLAN (adopted 3rd July 2002)
Policy GEN 1 – Development Within Development Boundaries
Policy GEN 6 – Development Control Requirements
Policy EMP 4 – Employment Development Within Development Boundaries
Policy TRA 9 – Parking and Servicing Provision
Policy RET 7 – Fringe Areas Adjacent to Town District Centres

MAIN PLANNING CONSIDERATIONS:

7.
 - i) Principle of Development
 - ii) Highways/Parking

- iii) Fumes
- iv) Flooding

8. In relation to the main planning considerations as noted above:

i) Principle of Development

The site lies within the Development Boundary for Corwen adjacent to the designated town centre. The chapel has previously obtained permission to change the use to a single residential dwelling in 2007, however this use has not been implemented. There will be no external alterations to the chapel as such the proposal is considered acceptable having regard to Policy Gen 1, and criteria i) of Policy GEN 6.

In this town centre location and within the direct vicinity of the chapel is a mix of uses including residential, mechanics garages and a public house. The proposal will not impact negatively on the character of the area nor will it have an unacceptable affect on the amenity of local residents therefore the proposal accords with Policy GEN 6 criteria ii) and v) of the adopted Unitary Development Plan.

ii) Highways/Parking

The Highways department have raised no objections to the proposal making recognition of the fact that the site is located close to the town centre with public car parking nearby. Furthermore, if brought back into use as a place of worship or changed within its D1 category for example as a crèche or day nursery could potentially create parking problems on the highway at peak times. The change of use proposed would have no adverse impact on traffic than the use that is already permitted.

iii) Fumes

The application has not indicated in detail how potential smells will be controlled from the kitchen, however details of ventilation will be conditioned.

iv) Flooding

An Flood Consequence Assessment has been carried out on the site for the previous application 05/2007/0281/PF. The Environment Agency Wales have raised no objections to the proposal subject to conditions.

SUMMARY AND CONCLUSIONS:

9. The proposal complies with the relevant policy therefore subject to conditions it is recommended for approval.

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 finished floor levels of the development hereby permitted shall be set at a minimum of 135.8 m AOD.
3. Prior to the erection of any extraction system/vents, full details of design and materials shall be submitted to and approved by the Local Planning Authority. The duct and other equipment for the treatment of and extraction of fumes and smells resulting from the cooking of food shall be installed in accordance with details to be submitted to, and approved in writing by the Local Planning Authority. Following installation the equipment shall be operated whenever preparation and / or cooking of food is taking place
4. No loudspeakers shall be used or amplified music played outside the building for the purpose of providing entertainment at any time.

5. Deliveries and collections from the premises shall only be carried out between the hours of 08.00hrs and 18.00hrs.
6. The premises shall not be open to customers outside the following times and days: 0800 hours to 2300 hours Monday to Sunday inclusive.
7. The premises shall not be used for the sale of hot food for consumption off the premises unless agreed in writing with the Local Planning Authority.

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 minimise risk of flooding.
3. To ensure that no nuisance or disturbance is caused to the detriment of the amenities of adjoining occupiers or the area generally.
4. To ensure that no nuisance or disturbance is caused to the detriment of the amenities of adjoining occupiers or of the area generally.
5. To ensure that no nuisance or disturbance is caused to the detriment of the amenities of adjoining occupiers or of the area generally.
6. In the interest of residential amenity.
7. In the interest of amenity and character of the area.

NOTES TO APPLICANT:

Extraction equipment shall be installed to suppress and disperse fumes and/or smell produced by cooking and food preparation, and the equipment shall be effectively operated for so long as the use continues. You are advised that Condition No. 3 requires details of the equipment to be submitted to, and approved by, the Local Planning Authority and the equipment shall be installed and be in full working order to the satisfaction of the Local Planning Authority prior to the commencement of use.

The extraction equipment shall be designed, constructed and maintained in such a manner that its interior is capable of being cleaned to ensure its continued satisfaction of the Local Planning Authority.

It is suggested that documentary evidence including receipts, invoices and copies of any service contracts in connection with the maintenance of the extraction equipment, is kept, preferably at the premises and is available for inspection by officers of the Local Planning Authority, to facilitate monitoring of compliance with this condition.

ITEM NO: 13

WARD NO: Llandyrnog

APPLICATION NO: 18/2007/1507/ PC

PROPOSAL: Retention of agricultural building for agricultural machinery/storage

LOCATION: Glanywern Isaf Llandyrnog Denbigh

APPLICANT: H Jones

CONSTRAINTS:

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

CONSULTATION RESPONSES:

1. Llandyrnog Community Council
"The Community Council are concerned about the proximity of this building to nearby residential properties and that the use will be detrimental to the amenity of the said properties."
2. Environment Agency Wales
No Objection

RESPONSE TO PUBLICITY:

Letters of representation received from:

1. Ellen Millington, Meribel, Rhes-y-Cae, Holywell
2. Mr. D. B. Williams, 2, Glanywern Isaf, Llandyrnog

Summary of planning based representations:

- i) Impact on the character of nearby properties
- ii) Size of the structure
- iii) Impact on view
- iv) Impact on the visual amenity
- v) Mud and slurry running onto the road

EXPIRY DATE OF APPLICATION: 09/03/2008

REASONS FOR DELAY IN DECISION:

- timing of receipt of representations
- delay in receipt of key consultation response(s)

PLANNING ASSESSMENT:**THE PROPOSAL:**

1. The application is for the retention of an agricultural building for the storage of agricultural machinery at Glan y Wern Isaf, Llandyrnog. The agricultural building measures 19.50 metres in length by 9.0 metres in width with a pitched roof 3.20 meters to the eaves and 4.50 metres to the ridge. The agricultural building is to be constructed from block and dark green box profile sheets and will be finished with

Yorkshire board cladding.

2. The agricultural building is located on the south side of the Llandyrnog to Pentre Llanrhaeadr road West of the agricultural building is a converted outbuilding comprising 4 dwellings and Glan y Wern Farmhouse.
3. Planning permission was granted in 2002 under ref. 18/2002/0160/PF for the erection of an agricultural livestock building at Glan y Wern Isaf, subject to compliance with pre- commencement conditions. The pre commencement conditions were not discharged, however the structural frame and roof to the building have been erected, hence the requirement for the retrospective application.

RELEVANT PLANNING HISTORY:

4. 18/2002/0160/PF - Erection of an agricultural livestock building – GRANTED – 18/3/2002

PLANNING POLICIES AND GUIDANCE:

5. DENBIGHSHIRE UNITARY DEVELOPMENT PLAN (adopted 3rd July 2002)
 - Policy GEN 3 - Development Outside Development Boundaries
 - Policy GEN 6 - Development Control Requirements
 - Policy EMP 13 - Agricultural Development

MAIN PLANNING CONSIDERATIONS:

6.
 - i) Principle of Development
 - ii) Impact on the character of the area
 - iii) Impact on residential amenity
7. In relation to the main planning considerations as noted above:
 - i) Principle of Development
The principle of development has been established in the previously approved application. The circumstances relating to the need for the building have not changed and the building is located close to the existing farm complex it complies with Policy EMP 13 of the adopted Unitary Development Plan.
 - ii) Impact on the character of the area
The proposal site is located in the open countryside where there are surrounding farms and converted outbuildings. Agricultural buildings exist at Glan y Wern to the south west of the converted outbuildings and as such the proposal is in keeping with the character of the area.
 - iii) Impact on residential amenity
The use of the building is for storage purposes only and a condition will be attached to control future use. The closest property is 37.50 metres from the agricultural building and this is screened by a closed panel timber fence with trellis on top measuring 2 metres. Also, the access for the agricultural building is separate from the access to the converted outbuildings. As such it is considered that the proposal will not have an adverse impact on residential amenity of nearby occupiers.

SUMMARY AND CONCLUSIONS:

8. The proposal complies with the relevant policy therefore subject to conditions it is recommended for approval.

RECOMMENDATION: GRANT - subject to the following conditions:-

1. Notwithstanding the submitted details, the colour of the Yorkshire boarding and cladding on the elevations and on the roof sheets shall be green in colour with exact details of colour submitted to and approved by the Local Planning Authority and thereafter implemented in the agreed colour unless otherwise agreed in writing with the Local planning Authority.
2. The agricultural building hereby permitted shall solely be used for the storage of agricultural machinery and not for livestock.

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

1. In the interest of visual amenity.
2. In the interest of amenity.

NOTES TO APPLICANT:

None

ITEM NO: 14

WARD NO: Llangollen

APPLICATION NO: 27/2007/1450/ PF

PROPOSAL: Erection of detached holiday accommodation unit

LOCATION: Land at Dinbren Ucha Dinbren Llangollen

APPLICANT: Mr Richard Lloyd Jones

CONSTRAINTS: AOB

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

CONSULTATION RESPONSES:

31. LLANTYSILIO COMMUNITY COUNCIL
No objection.
32. COUNTRYSIDE COUNCIL FOR WALES
"Does not wish to comment"
33. COUNTY ECOLOGIST
"The proposed development is within the existing yard and as such is considered would have no impact on the adjoining SSSI. Downhill of and approximately half a km from the proposed development lies a tributary that feeds into the canal, which lies adjacent to the River Dee SAC. As long as adequate measures are provided to control water pollution and discharges to this tributary, it is considered that there is unlikely to be an effect on the SAC."
34. HIGHWAYS DEVELOPMENT TEAM
No objection
35. ENVIRONMENT AGENCY WALES
"The Environment Agency has assessed the application as having a low environmental risk. Standard advice applies."

RESPONSE TO PUBLICITY:

Letters of representation received from:

1. J Davies - Dinbren Isaf, Eglwyseg
2. M Smith - Bryn Goleu, Eglwyseg
3. D.M Williams & H Matthews - Tan y Castell, Sunbank
4. G Edwards - Bryn Hyfryd, Sunbank (by e-mail)
5. R Convery - Unit B, Advance Park, Rhosymedre, Wrexham

Summary of planning based representations – all in support:

- (i) The proposal represents a sympathetic scheme and quality tourist accommodation

EXPIRY DATE OF APPLICATION: 23/04/2008

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. The application seeks permission to erect a detached stone building for use as holiday accommodation. The building would measure 14.2m in length, including a verandah, 6.6m in width, 2.8m in height to the eaves and 4.2m in height to the ridge. The accommodation would comprise 2 bedrooms, one with an en-suite, bathroom, lounge/dining room, kitchen, utility and hall.
2. The proposed building is to be sited to the north of the site close to the existing garages/workshop. It is the intention of the applicant to remove the existing steel container from the site in order to accommodate the proposed building.
3. The application is accompanied by a supporting brochure in which the applicant has provided a justification for the building, for use as holiday accommodation.
4. Dinbren Uchaf farm is located in the open countryside, to the west of Eglwyseg mountain. The site comprises a farm complex, including dwelling and agricultural buildings and two stone buildings.
5. The stone building to the front of the site has been converted to 3no. holiday accommodation units. There is also a redundant building at the rear of the site which it is intended for conversion into 1no. holiday accommodation unit. Parking facilities exist on site as approved in 2004.
6. The submission has been revised since it was originally lodged in December 2007 in an attempt to overcome concerns raised over visual amenity impact.
7. Cllr Stuart Davies has requested the application be considered by Planning Committee as the use makes a contribution to local economy.

RELEVANT PLANNING HISTORY:

8. 27/2003/1233/PF – Conversion, part reconstruction and extensions of redundant farm buildings to form 4no. holiday accommodation units– REFUSED – 03/12/2003 (unacceptable in terms of retaining character and enhancing the AOB)

27/2004/1534/PF - Conversion, repairs and extension to redundant farm buildings to form 4no. holiday accommodation units – GRANT – 20/02/2004

PLANNING POLICIES AND GUIDANCE:

9. DENBIGHSHIRE UNITARY DEVELOPMENT PLAN (adopted 3rd July 2002)
 - Policy GEN 3 – Development Outside Development Boundaries
 - Policy GEN 6 – Development Control Requirements
 - Policy STRAT 9 – Tourism
 - Policy STRAT 6 – Location
 - Policy TSM 1 – Tourism
 - Policy TSM 5 – Rural Tourism
 - Policy TSM 15 – Self Serviced Holiday Accommodation
 - Policy ENV 2 – Development affecting the AOB

MAIN PLANNING CONSIDERATIONS:

10.

- i) Principle of Development
- ii) Visual amenity impact
- iii) Impact upon the AOB

11. In relation to the main planning considerations noted above:

i) Principle

The site is located in the open countryside outside any defined development boundary. Policy Strat 6 states that new development will only be permitted in the open countryside in exceptional circumstances. Criterion vi) of Policy GEN 3 is supportive of development in connection with rural tourism provided there is no unacceptable impact upon the social, natural and built environment. Policy TSM 1 relates specifically to tourism development, this policy allows for new build outside of development boundaries when conversion or extensions are not practicable. However new builds are only permitted in instances where investigations have been made for alternative sites within the development boundaries, usually following a 'sequential' test for tourism development. No evidence has been provided by the application to demonstrate that they have considered alternative sites for the proposal, hence the new build cannot be justified in terms of policy TSM 1. Although Policy TSM 5 encourages rural tourism and proposal to improve and develop tourism facilities this should be by re-use and conversion of existing buildings. Policy TSM 15 relates specifically to self serviced accommodation and reflects that criteria relating to conversions as opposed to new build.

ii) Visual Impact

The proposed unit would be located some 22m to the north of the existing holiday accommodation. The siting of the building in this position would have a detrimental visual impact upon the open countryside. The development extends the existing 'line' of buildings in a position which can be viewed across the landscape.

iii) Impact on AOB

The site is located within the AOB and is adjacent to a SSSI and SAC. The erection of a new building in this location would have a harmful impact upon the views across the landscape, which is a designated AOB.

SUMMARY AND CONCLUSIONS:

12. The proposal does not comply with Planning Policy as such the recommendation is to refuse planning permission.

RECOMMENDATION: - REFUSE - for the following reason:-

1. The principle of new build for self serviced holiday accommodation in the open countryside is not acceptable. No evidence of investigation of alternative sites within any development boundary have been put forward to justify the new build for tourism development in the open countryside. As such the proposal is contrary to Policy TSM 1, TSM 5 and TSM 15 of the Unitary Development Plan.

NOTES TO APPLICANT: None

ENFORCEMENT MATTERS

- (i) **ENF/ 2008/00036 :**
Ashmount, Ffordd Bryniau, Meliden, Prestatyn

Unauthorised engineering operation to create change in land levels and retaining walls

- (ii) **ENF/2005/00037 :**
Clwyd Gate Restaurant, Llanbedr DC, Ruthin

Material change of use of restaurant car park for siting and storage of Canal Narrow Boat and Touring Caravan

PLANNING ENFORCEMENT REPORT

REFERENCE: ENF/2008/00036

LOCATION: Ashmount, Ffordd Bryniau, Meliden, Prestatyn

INFRINGEMENT: Unauthorised engineering operation to create change in land levels and retaining walls

RELEVANT PLANNING POLICIES AND GUIDANCE

DENBIGHSHIRE UNITARY DEVELOPMENT PLAN

| | | |
|--|---|----------------------------------|
| Policy GEN 6 | - | Development Control Requirements |
| Policy ENV 2 | - | Development Affecting the AONB |
| Supplementary Planning Guidance Note 2 | - | Landscaping |

GOVERNMENT GUIDANCE

Planning Policy Wales – March 2002

HUMAN RIGHTS CONSIDERATIONS

The Human Rights Act 1998 is taken into account when considering taking enforcement action in relation to unauthorised development. In this case the matter under consideration relates to the rights of an owner to undertake development without the requisite authority to do so. These rights are outweighed by the general public interest and the need to ensure control over development which does not meet the permitted development criteria.

1. BACKGROUND INFORMATION

- 1.1 The property in question is a detached property located on Ffordd Bryniau, Meliden. The building itself and the majority of its curtilage falls within an Area of Outstanding Natural Beauty.
- 1.2 As a result of a complaint a site visit was undertaken on the 1 August 2007, which revealed that a large brick retaining wall had been constructed at the front of the property and a movement of material had commenced within the curtilage amounting to a change in land levels. As the development work undertaken cannot be classed as permitted development and as no planning permission has been granted, the work is accordingly unauthorised.
- 1.3 On the 6 August 2007 a letter was forwarded to the owner of the property outlining the concern and that an application for planning permission, part retrospective, was required.
- 1.4 On the 16 August 2007, an application for planning permission was received, which was unfortunately classed as 'invalid' and could not therefore be processed.
- 1.5 A further letter was forwarded to the applicant on the 21 August 2007, identifying the details required to validate the application. The letter invited a response within a 21 day period.

- 1.6 As a result of the applicant failing to provide the outstanding detail, on the 24 October 2007, a further letter was forwarded in order to remind the applicant.
- 1.7 Following a further letter sent on the 29 November 2007, an agent representing the owner eventually contacted Planning Services stating that he would address the outstanding matters. On the 11 January 2008, the agent was provided with a summary of the application process at that time and clear directions as to what was required to validate the application.
- 1.8 The agent failed to provide the required details and a reminder letter was forwarded on the 14 March 2008. There has been no further response.
- 1.9 Despite the clear indication to both the owner and the agent that the development undertaken has not been authorised, further development work has taken place at the property. Additional large retaining walls have been constructed and further land level changes have taken place, which also require planning permission.

2. REASONS FOR ISSUING AN ENFORCEMENT NOTICE

- 2.1 The development has taken place within the last four years.
- 2.2 The land in question is located within the AONB. The location, design and material used for the large retaining walls and the significant land level changes are not in character with the area, detract from the visual amenity and are overbearing on neighbouring properties contrary to Policy ENV 2, criteria i, ii and iv of Policy GEN 6 and Supplementary Planning Guidance Note 2 of the Denbighshire Unitary Development Plan.
- 2.3 The application submitted remains invalid despite all attempts to secure the required outstanding detail for its validation and determination.

3. RECOMMENDATION

- 3.1 That authorisation be granted for the following:
 - (i) Serve an Enforcement Notice to secure the removal of the retaining walls from the land and for the re-instatement of original land levels.
 - (ii) Instigate prosecution proceedings, or the appropriate action under the Planning Acts against the person, or persons, upon whom any Enforcement 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/2008/00037
LOCATION: Clwyd Gate Restaurant, Llanbedr Dyffryn Clwyd, Ruthin, LL15 1YF
INFRINGEMENT: Material Change of Use of Restaurant Car Park for Siting and Storage of :
1. Canal Narrow Boat and
2. Touring Caravan.

RELEVANT PLANNING POLICIES AND GUIDANCE

DENBIGHSHIRE UNITARY DEVELOPMENT PLAN

Policy GEN 6 – Development Control Requirements
Policy GEN 3 – Development outside Development Boundaries
Policy ENV 2 – Development affecting an Area of Outstanding Natural Beauty
Policy TSM 13 – Winter Storage of Caravans

GOVERNMENT GUIDANCE

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

HUMAN RIGHTS CONSIDERATIONS

The rights of a person(s) to site and store a canal narrow boat and touring caravan does not outweigh the right of the Local Planning Authority to protect a material change of use of land taking place and to protect the amenity of an Area of Outstanding Natural Beauty. No human rights issues have been raised in this case.

1. BACKGROUND INFORMATION

- 1.1 The land on which the narrow boat and touring caravan have been sited and are being stored has an established use as a car park for the benefit of patrons of the Clwyd Gate Restaurant.
- 1.2 The storing of the narrow boat was reported to an Enforcement Officer in November 2007. The Owner has been advised that it is unacceptable for the narrow boat to be sited and stored in the restaurant car park, which is in within the Area of Outstanding Natural Beauty.
- 1.3 The touring caravan was reported to the same Enforcement Officer in February 2008. The Owner has been advised that it's siting and storage in the restaurant car park within the AONB is unacceptable by reason of the visual harm being caused.

2. REASONS FOR ISSUING AN ENFORCEMENT NOTICE

- 2.1 The siting and storage of a canal narrow boat and touring caravan in the restaurant car park constitutes an unacceptable material change of use of the land. To allow such a material change of use of the land would be contrary to the UDP policies identified above.
- 2.2 Policy GEN 6 criterion ii) refers to landscape impact of developments, the change of use of land for the storage of the touring caravan and canal boat would have an unacceptable impact on the surrounding landscape which is a designated AONB.
- 2.3 The primary objective of Policy ENV 2 is to ensure new development conserves and enhances the AONB, the siting and storage of the canal boat and touring caravan represent a visually intrusive form of development which has a detrimental impact on the AONB contrary to Policy ENV 2.
- 2.4 Policy TSM 13 allows for out of season storage of caravans on sites that are small scale and inconspicuous and sites that would not have an unacceptable impact on the AONB. It is not considered that this prominent location in the AONB meets the criteria of the policy in terms of an acceptable location for the use.
- 2.5 Both the canal narrow boat and touring caravan represent an intrusive and detrimental impact on the amenity of this area of outstanding natural beauty.
- 2.6 The owner was advised in November 2007 that the narrow boat should be removed from the car park. Owing to its size and therefore the logistical problems of moving it, a compliance period of 3 months was allowed. The owner has failed to comply and the narrow boat remains in situ on the land.

3. RECOMMENDATION

- 3.1 That authorisation be granted for the following:
 - (i) serving of an Enforcement Notice ordering the removal of the narrow boat and touring caravan from the car park.
 - (ii) Instigate prosecution proceedings, or the appropriate action under the Planning Acts against the person, or persons, upon whom any Enforcement 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.

ENFORCEMENT COMMITTEE AUTHORISATIONS
CASE REVIEW REPORT
WORKING REPORT: 2 April 2008

These cases have previously been reported to Committee, but remain unresolved. The purpose of the Report is to provide a brief quarterly update for Members. Any issues of detail are best raised with Officers before or after Committee.

| REF. NO. | ADDRESS | P/CMTE | BREACH | ACTION | NOTES |
|--------------------------|--|----------------------|---|---|---|
| ENF/037/95/N P13/11 | Rhydorddwy Goch, Dyserth Road, Rhyl | 28/10/98 24/03/04 | 31 unauthorised windows in listed building. | Works progressing | Site visit undertaken 7/2/08 – owner confirms nearly completed replacing the windows on the eastern elevation (8) of the property lack of funds hampering completion of remaining windows. To be monitored. |
| ENF/2002/007 P7/568 | Ty Isoe, Maes Maelor, Llandegla | 30/01/02 25/05/05 | Storage of vehicles and residential use | Monitoring site. Legal options being investigated. | Site being monitored – further proceedings under consideration |
| ENF/2002/021 P7/351 | Cornel Bach, Lower Denbigh Road, St. Asaph | 04/09/02 | Siting of mobile home and creation of curtilage | DS to monitor and ensure removal of caravan once vacated by sick parents. Parents remain in residence. | Caravan remains and still occupied by elderly parents. Monitoring visit each November – next 2008 |
| 15/877/98/MA P47/3 | Maes y Droell Quarry, Graianrhyd | 30/10/02 | Undetermined ROMP application – extraction continuing | Application submitted. Legal options being investigated. | Counsel advice – under consideration |
| ENF/2002/00043 P7/592 | Former Railway Land, Ty Draw, Bodfari | 18/12/02 | Storage of railway carriages and associated paraphernalia | Monitoring | On hold pending HM Customs investigation. Owner due in Mold C/Ct 7/4/08 to answer charges of VAT fraud. |
| ENF/2003/031 P7/592 | | 23/07/03 | Boundary fence & gates over 2m high | | |

| REF. NO. | ADDRESS | P/CMTE | BREACH | ACTION | NOTES |
|----------------|---|----------------------|---|---|--|
| ENF/2003/009 | Casgan Fishery, Llandegla | 23/07/03 | Residential use of caravan and stationing of vehicles | | Correspondence ongoing with solicitor for parties who have legal charge over land. Site being monitored |
| ENF/2003/041 | Coral Spring, Ruthin Road, Llandegla | 26/11/03 21/02/07 | (1) Unauthorised use of land to site static caravan for residential use; (2) Storage of various items on the land; (3) Untidy land; | Proceedings under consideration | LS preparing for prosecution |
| ENF/2007/00103 | Ty Newydd, Llandegla | 23/1/08 | (1) S 215 (2) Residential use of caravan (to be removed) | (1) S215 served 14/1/08 (2) E Notice served 12/2/08 | (1) Compliance by 15/3/08 (2) Compliance by 14/6/08 Site being monitored |
| ENF/2003/0002 | Gwasg Gee, 12 -18 Chapel Street, Denbigh | 24/03/04 | Neglect of listed building. | Discussions ongoing with Planning/Conservation Officers | Application received – refused 27/2/08 – further app anticipated – urgent works carried out & property protected |
| ENF/302/00/N | 37 – 39 Pendyffryn Road, Rhyl | 21/04/04 | Neglect of a listed building | Applications received for redevelopment / renovation. | Application not determined to date. Developer urged to undertake protective works. Site to be inspected by Conservation Architect to for consideration of Urgent Works Notice. |
| ENF/2004/00012 | Oak Frame Company, Part OS Field Nos. 5000 and 6300, Pen y Bryn Road, Glascoed Road, St Asaph | 15/12/04 | Erection of timber building for use as dwelling. | E Notice for removal of 'dwelling' by 20 June 2007 | Following Letter Before Action app submitted 1/2/08 which incorporates demolition of timber building – to be determined – currently invalid. |

| REF. NO. | ADDRESS | P/CMTE | BREACH | ACTION | NOTES |
|----------------|---|----------|---|---|--|
| ENF/2005/00050 | Rhoslydan, Bryneglwys, Corwen | 25/05/05 | Change of use of agricultural land for storage of containers to be used in connection with road surfacing activity. | Monitoring permission – 10/2005/0678/PC | Temp. until 31/8/08. |
| ENF/2004/00066 | The Grapevine, 87 High Street, Prestatyn | 31/08/05 | Installation of roller shutters and associated metal box and plastic canopy | E Notices served. | E Notices served 20/9/07 – compliance date 22/1/08. Following LBA from JK tenant afforded 28 days to comply expiring 29/2/08 – owner copied into letter. Owner has submitted details of proposed replacement shutters for consideration. |
| ENF/2005/00059 | Plot 1 Holiday Chalet Site, Llantysilio, Llangollen | 26/10/05 | Holiday let cabin used as sole residential accommodation | | Breach of condition – residential use of holiday cottages – imposed at Appeal 1996. LS undertaking a review to consider enforcement action. |
| ENF/2005/00060 | Plot 3 Holiday Chalet Site, Llantysilio, Llangollen | 26/10/05 | Holiday let cabin used as sole residential accommodation | | As above |
| ENF/2005/00061 | Plot 4 Holiday Chalet Site, Llantysilio, Llangollen | 26/10/05 | Holiday let cabin used as sole residential accommodation | | As above |
| ENF/2004/00026 | Camp Alyn, Tafarn y Gelyn, Llanferres | 26/10/05 | Change of use of land for residential use. | Cert of Lawfulness for use as holiday chalet determined – refused 4/9/07. | Structure is immune from P/Control – use to be monitored. |

| REF. NO. | ADDRESS | P/CMTE | BREACH | ACTION | NOTES |
|----------------|---|----------|--|---------------------------------|---|
| ENF/2006/00030 | 3 Grawys Villas, Lenten Pool, Denbigh | 19/04/06 | Insertion of double glazed UPVC windows and door | Notice served. Appeal dismissed | Appeal dismissed. Owner has obtained estimate £10,800 for work required and now intends to replace all windows shortly. To be monitored |
| ENF/2006/00055 | 1 Llan Ucha, Bryneglwys | 24/05/06 | Erection of brick wall | S 215 Notice served | Compliance by 14/3/08. For further consideration by LS |
| ENF/2006/00076 | 20 – 22 Chapel Street, Denbigh | 04/10/06 | Unauthorised UPVC windows / doors | E Notices served. | E Notices served 20/9/07. Appeal dismissed 12/3/08. Compliance period now ending 12/6/08 – reminder letter sent to owner. |
| ENF/2005/00116 | 1 Artillery Row, Bodelwyddan | 08/11/06 | Sub-division of residential curtilage to create 2 No. residential units. | E Notices served. | E Notices served – due to non compliance LS preparing for prosecution. |
| ENF/2007/00004 | Tan y Foel, Bryneglwys | 21/02/07 | Unauthorised Siting of Residential Caravan | E Notice served. | Enforcement Notice complied with – removal of septic tank witnessed |
| ENF/2006/00001 | Cil Onnen, Corwen Road, Ruthin | 21/03/07 | Unauthorised use of land as mixed use of residential;commercial and erection of building. | | Cert of Lawfulness to be granted. Thereafter expediency of taking action re business use to be assessed – to be monitored. |
| ENF/2005/00084 | Henllan Garden Centre, Church Street, Henllan | 20/06/07 | Unauthorised change of use; Boundary fence over 2 metres high; Untidy Land | E Notices served. | ENs served 20/9/07. Compliance period ends 22/12/07 for untidy land and 22/4/08 for unauthorised use. S/V 25/1/08 revealed good improvement re untidy land. Pre-app discussions at advanced stage re pp for residential use – 15 units. |
| ENF/2006/00029 | Land at entrance to Abbey Grange Hotel, Llantysilio, Llangollen | 20/06/07 | Unauthorised Farm Shop | Application sub'd | Awaiting release of decision notice |

| REF. NO. | ADDRESS | P/CMTE | BREACH | ACTION | NOTES |
|----------------|--|----------|--|--|--|
| ENF/2007/00039 | Lake Hill Fishery & Farm, Llandegla, Wrexham | 20/06/07 | Erection of unauthorised building | Under investigation | Land survey required prior to further action |
| ENF/2007/00040 | Lake Hill Fishery & Farm, Llandegla, Wrexham | 20/06/07 | (1) Erection of Conservatory; (2) Erection of Decking; (3) Erection of Cellar Area for use as Manager's Accommodation; | | As above |
| ENF/2007/00041 | Lake Hill Fishery & Farm, Llandegla, Wrexham | 20/06/07 | Unauthorised siting and use of mobile unit | | As above |
| ENF/2007/00058 | Star Inn, 73 Ffordd Talargoch, Prestatyn | 01/08/07 | Erection of unauthorised front extension | E Notice served | E Notice served – compliance date 2/4/08 – architect working with DS to redesign ext'n. |
| ENF/2007/00011 | School House, Prion | 01/08/07 | Unauthorised extension of garage and garden store | E Notices served | ENs served 20/9/07. Compliance period ends 22/4/08. Site visit undertaken garage/store now permitted development – for further S/V 22/4/08 |
| ENF/2008/00023 | School House, Prion | 19/3/08 | Unauthorised engineering operation/excavation of material | Authorisation given for E Notice to re-instate original garden levels | LS preparing E Notice |
| ENF/2005/00025 | Bryn Coli, Llanrhaeadr | 05/09/07 | Residential use of wooden structure | Authorisation given for EN to cease use & remove structure | Public enquiry 22/4/08 |
| ENF/2005/00108 | Eirianfa, Berwyn Rd, Llangollen | 05/09/07 | Residential use of mobile home | Authorisation given for EN to cease use & remove mobile home and attached conservatory | E Notice served compliance Nov 08 |
| ENF/2005/00087 | 1 & 1b Prior St, Ruthin | | Unauthorised works in Listed Building | On-going negotiation with owner to agree remedy | Conservation Architect to provide further detail re description of windows which would meet approval – |

| REF. NO. | ADDRESS | P/CMTE | BREACH | ACTION | NOTES |
|----------------|--|---------|-------------------------------------|--|---|
| | | | | | awaited |
| C10/2007/0256 | New Inn, Bryneglwys | | Untidy land (Building and car park) | S.215 Notice served | Compliance date 8/9/08 |
| ENF/2006/00098 | 88 West Parade, Rhyl | | Untidy Land | S215 Notice served | Case for PTR 8/4/08 |
| ENF/2005/00048 | 87 West Parade, Rhyl | | Untidy Land | S215 Notice served | Compliance by 25/5/08 |
| ENF/2008/00010 | Yale Hospital, Unit 88a Ffordd William Morgan, Business Park, St Asaph | 23/1/08 | Unauthorised class of business use | E Notice served for cease of business operation within 12 mths | On-going negotiation with owners who are seeking alternative premises |
| ENF/2008/00011 | Abbey House, Rhyl Rd, Rhuddlan | 20/2/08 | Breach of TPO | Reported to P/Comm | P/Comm resolved to seek amended landscaping plan & app for removal of TPO trees – app sub'd 6/3/08 |
| ENF/2007/00098 | 3 Bryn Elwy, St Asaph | | Untidy Land | S.215 Notice served 22/2/08 | Compliance by 30/4/08 |
| ENF/2008/00022 | 3 Hilltop Rd, Rhyl | | Untidy Land | S.215 Notice served 22/2/08 | Compliance by 30/4/08 – mortgage company have confirmed that property repossessed and have cleared inside and outside house |
| ENF/2007/00094 | 32 – 36 Bedford St, Rhyl | | Untidy Land | Notice to be served | Notice being prepared by LS |
| ENF/2008/00032 | 115 Coast Rd, Rhyl | | Unauthorised adverts | File to LS | Prosecution to be considered |
| ENF/2008/00032 | 42 Wellington Rd, Rhyl | | Unauthorised adverts | As above | As above |

| REF. NO. | ADDRESS | P/CMTE | BREACH | ACTION | NOTES |
|----------------|--|---------|---|------------------|----------------------------|
| ENF/2008/00029 | Field adjacent to Pen y Mynydd Bach, Rhuallt | 19/3/08 | Unauthorised use of land to pheasant rearing and erection of rearing huts | Report to P/Comm | PP granted by P/Comm - NFA |

PPPS – Planning and Public Protection Services
 LS – Legal Services
 DS – Development Services

SV – Site Visit
 NFA – No Further Action

Should Members require further information on any of the above cases, please contact Paul Mead on 01824 706705 or paul.mead@denbighshire.gov.uk or one of the following Planning & Compliance Officers:

***Michael Hughes on 01824 706731 or mg.hughes@denbighshire.gov.uk for Rhyl and Prestatyn areas
 Wayne Williams on 01824 706806 or wayne.williams@denbighshire.gov.uk for Denbigh and North Area excluding Rhyl & Prestatyn
 Jill Emerson on 01824 706743 or jill.emerson@denbighshire.gov.uk for Ruthin, Llangollen Corwen areas***

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

APPEAL DECISION UPDATE

1. PURPOSE OF REPORT.

1.1 To advise members of recent appeal decisions.

2. BACKGROUND

2.1 Outstanding appeals and appeal decisions received between 1st July 2007 and 31st March 2008 are set out in the attached appendix.

2.2 As requested by Members we have included a column indicating the original decision level (Committee or Delegated) and the officer recommendation.

2.3 Whilst we are happy to answer questions on the appeal decisions at the Planning Committee, if you have any matters of detail that you would like to discuss please contact the Case Officer prior to the meeting.

This report is for Members' information.

Denbighshire Planning Appeals
List of Outstanding Appeals and Appeal Decisions from 01-Jan-2008 to
31-Mar-2008



Proposal - Variation of Condition No. 3 on planning permission Ref. No. 15/2001/0231/PS to allow 12-month residential occupation of Plot 7 personal to Mrs J Hewings

| | Officer | Decision level | Location | Type | Rec Date | Date of decision | Decision | Costs |
|----------------|---------|----------------|---|---------------|------------|------------------|----------|-------|
| Pending | PG | Delegated | Eryrys Caravan Park, Bryn Awelon, Mold, Eryrys, | Informal | 03/01/2008 | Pending | | 0.00 |
| | | | | 01/04/2008 01 | | | | |

Key Issue = Justification for presence of permanent residential unit.

Proposal - Demolition of existing dwelling and development of land by the erection of 12 no. 1-bed flats and 3 no. 2-bed lodges for assisted living for St. David's Care Home and formation of new vehicular and pedestrian access (outline application seeking approval of siting and means of access)

| | Officer | Decision level | Location | Type | Rec Date | Date of decision | Decision | Costs |
|----------------|---------|----------------|-----------------------------------|---------------|------------|------------------|----------|-------|
| Pending | IXW | Delegated | Land at, Tarleton Street, Rhyl, , | Informal | 05/02/2008 | Pending | | 0.00 |
| | | | | 04/06/2008 01 | | | | |

Key Issue = Adequacy of approach road and footways.

Denbighshire Planning Appeals
List of Outstanding Appeals and Appeal Decisions from 01-Jan-2008 to
31-Mar-2008



Proposal - Development of 0.15 ha of land by the erection of 1 no. dwelling and construction of new vehicular access (outline application)

| | Officer | Decision level | Location | Type | Rec Date | Date of decision | Decision | Costs |
|----------------|---------|----------------|--|---------------|------------|------------------|----------|-------|
| Pending | NMJ | Delegated | Land between Greycote and, Highfield, Bishopswood Road, Prestatyn, , | Informal | 18/01/2008 | Pending | | 0.00 |
| | | | | 20/05/2008 01 | | | | |

Key Issue = Adequacy of approach road, impact on residential amenity, provision of affordable housing

Proposal - Proposed variation of condition 21 of planning permission 44/2006/0105/PF restricting use of retail units to sale of non food bulky goods only, to permit use for the sale of non food goods only

| | Officer | Decision level | Location | Type | Rec Date | Date of decision | Decision | Costs |
|----------------|---------|----------------|---|--------|------------|------------------|----------|-------|
| Pending | PJM | Delegated | (Rhuddlan Triangle), Land at, Marsh Road, Rhyl, Rhuddlan, | Public | 18/03/2008 | Pending | | 0.00 |

Key Issue = Impact on vitality and viability of town centre.

Denbighshire Planning Appeals
List of Outstanding Appeals and Appeal Decisions from 01-Jan-2008 to
31-Mar-2008



Proposal - Demolition of existing garage, erection of 30 no. apartments and retail store and construction of new vehicular and pedestrian access (site area 0.27ha)

| | Officer | Decision level | Location | Type | Rec Date | Date of decision | Decision | Costs |
|----------------|---------|----------------|--|--------|------------|------------------|----------|-------|
| Pending | IXW | Delegated | Clwyd Garage, The Roe, St. Asaph, , LL170NA, | Public | 12/03/2008 | Pending | | 0.00 |

Key Issue = Inadequate provision for affordable housing and open space design of buildings.

Proposal - Erection of conservatory at front of dwelling

| | Officer | Decision level | Location | Type | Rec Date | Date of decision | Decision | Costs |
|----------------|---------|----------------|-----------------------------------|---------|------------|------------------|----------|-------|
| Pending | EOC | Delegated | 5, Gareth Close, Rhyl, , LL182LD, | Written | 07/02/2008 | Pending | | 0.00 |

Key Issue = Visual impact of development at front of dwelling

Denbighshire Planning Appeals
List of Outstanding Appeals and Appeal Decisions from 01-Jan-2008 to
31-Mar-2008



Proposal - **Erection of free-standing decorative glazed shelter to front of premises**

| | Officer | Decision level | Location | Type | Rec Date | Date of decision | Decision | Costs |
|----------------|---------|----------------|---|---------|------------|------------------|----------|-------|
| Pending | PDG | Delegated | Bridge End Hotel, Mill Street, Llangollen, , LL208RY, | Written | 11/01/2008 | Pending | | 0.00 |

Key Issue = Impact on Conservation Area, visual amenity, pedestrian safety.

Proposal - **Erection of commercial smoke house unit**

| | Officer | Decision level | Location | Type | Rec Date | Date of decision | Decision | Costs |
|----------------|---------|----------------|---|---------|------------|------------------|----------|-------|
| Pending | PDG | Committee | Highcroft, Birch Hill, Llangollen, , LL208LN, | Written | 25/03/2008 | Pending | | 0.00 |

Key Issue = Impact on residential amenity, character of area.

Denbighshire Planning Appeals
List of Outstanding Appeals and Appeal Decisions from 01-Jan-2008 to
31-Mar-2008



Proposal - Development of 0.016 hectares of land by erection of detached dwelling and construction of new vehicular access (Outline application inc. siting and access)

| | Officer | Decision level | Location | Type | Rec Date | Date of decision | Decision | Costs |
|----------------|---------|----------------|---|---------|------------|------------------|----------|-------|
| Pending | NMJ | Delegated | Land at (Part side garden of), Ridgeway, Aber Adda, Llangollen, , | Written | 16/01/2008 | Pending | | 0.00 |

Key Issue = Effect on residential amenity and character of area.

Proposal - Erection of conservatory at front of dwelling

| | Officer | Decision level | Location | Type | Rec Date | Date of decision | Decision | Costs |
|-----------------|---------|----------------|-----------------------------------|----------|---------------|------------------|------------|-------|
| Decision | PDG | Delegated | 5, Merton Place, Rhyl, , LL182PA, | Informal | 21/08/2007 | 08/01/2008 01 | APPEAL-DIS | 0.00 |
| | | | | | 28/11/2007 01 | | | |

Key Issue = Effect on character and appearance of the bungalow and street scene.

Denbighshire Planning Appeals
List of Outstanding Appeals and Appeal Decisions from 01-Jan-2008 to
31-Mar-2008



Proposal - **Conversion of redundant barn to single dwelling**

| | Officer | Decision level | Location | Type | Rec Date | Date of decision | Decision | Costs |
|-----------------|---------|----------------|--|---------------------------|------------|------------------|------------|-------|
| Decision | EOC | Delegated | Barn at, Rhydyddauddwr Farm, Abbey Road, Rhyl, Rhuddlan, | Informal 06/11/2007 01 | 21/08/2007 | 15/01/2008 01 | APPEAL-DIS | 0.00 |

Key Issue = Effect on living conditions of residents. Conflict with policy protecting the local economy.
 (No award of costs)

Proposal - **Development of 0.09ha of land by the erection of 1no. dwelling and construction of new vehicular access (Outline application)**

| | Officer | Decision level | Location | Type | Rec Date | Date of decision | Decision | Costs |
|-----------------|---------|----------------|--|---------|------------|------------------|------------|-------|
| Decision | PDG | Delegated | Land at (Part garden of), 15 Maes Bache, fronting, , Llangollen, Fron Bache, | Written | 31/10/2007 | 21/01/2008 01 | APPEAL-DIS | 0.00 |

Key Issue = Impact on character of the area. Impact on visual amenities.

Denbighshire Planning Appeals
List of Outstanding Appeals and Appeal Decisions from 01-Jan-2008 to
31-Mar-2008



Proposal - **Retention of 2 no. retractable awnings at front of premises**

| | Officer | Decision level | Location | Type | Rec Date | Date of decision | Decision | Costs |
|-----------------|---------|----------------|---|---------|------------|------------------|------------|-------|
| Decision | PDG | Delegated | Hand Inn, Henllan Street, Denbigh, , LL163PF, | Written | 14/11/2007 | 30/01/2008 00 | APPEAL-DIS | 0.00 |

Key Issue = Impact on character and appearance of Conservation Area

Proposal - **Development of 0.05 hectares of land by erection of 2 dormer dwellings and alterations to existing pedestrian access to form new vehicular access (Outline application to include siting of dwellings)**

| | Officer | Decision level | Location | Type | Rec Date | Date of decision | Decision | Costs |
|-----------------|---------|----------------|--|---------------------------|------------|------------------|------------|-------|
| Decision | IXW | Delegated | Land at (Part front garden of), Plas Llanerch, Hiraddug Road, Rhyl, Dyserth, | Informal 20/11/2007 00 | 04/09/2007 | 05/02/2008 00 | APPEAL-DIS | 0.00 |

Key Issue = Effect on character and appearance of the area. Impact on living conditions of further occupiers and occupiers of existing dwelling.

Denbighshire Planning Appeals
List of Outstanding Appeals and Appeal Decisions from 01-Jan-2008 to
31-Mar-2008



Proposal - **Erection of first floor extension to provide office**

| | Officer | Decision level | Location | Type | Rec Date | Date of decision | Decision | Costs |
|-----------------|---------|----------------|--|---------|------------|------------------|------------|-------|
| Decision | PDG | Delegated | 1, Abbey Road, Llangollen, , LL208SN, | Written | 20/11/2007 | 20/02/2008 01 | APPEAL-DIS | 0.00 |

Key Issue = Impact on living conditions of neighbours.

Proposal - **Certificate of Lawfulness for the existing use of the building as a dwelling**

| | Officer | Decision level | Location | Type | Rec Date | Date of decision | Decision | Costs |
|-----------------|---------|----------------|--|--------|------------|------------------|-----------|-------|
| Decision | NMJ | Delegated | Ty Pren, Hendre Foelas, Pant Du Road, Mold, Eryrys, CH7 4DD, | Public | 01/08/2007 | 06/03/2008 01 | APPEAL-AL | 0.00 |

Key Issue = Abandonment of residential use.

Denbighshire Planning Appeals
List of Outstanding Appeals and Appeal Decisions from 01-Jan-2008 to
31-Mar-2008



Proposal - **Change of use from Class A1 (shop) to Class A3 (food & drink)**

| | Officer | Decision level | Location | Type | Rec Date | Date of decision | Decision | Costs |
|-----------------|---------|----------------|--|---------|------------|------------------|-----------|-------|
| Decision | PDG | Delegated | 4, Bridge Street, Denbigh, , LL163TF, | Written | 04/12/2007 | 10/03/2008 01 | APPEAL-AL | 0.00 |

Key Issue = Impact of proposed Class A3 use on vitality and viability of town centre.

Proposal - **Erection of two-storey pitched-roof extension at rear, conservatory at side, front porch at front of dwelling and change of use of land to form extension to residential curtilage**

| | Officer | Decision level | Location | Type | Rec Date | Date of decision | Decision | Costs |
|-----------------|---------|----------------|---|----------|------------|------------------|----------|-------|
| Decision | NMJ | Delegated | Bryn Gerllig, , Mold, Maeshafn, CH7 5LU, | Informal | 27/11/2007 | 18/03/2008 01 | DC-SPT | 0.00 |
| | | | | | | 04/03/2008 01 | | |

Key Issue = Effect on character and appearance of existing dwelling and rural character of area.
 Impact on visual amenities of occupiers of nearby dwelling.

Denbighshire Planning Appeals
List of Outstanding Appeals and Appeal Decisions from 01-Jan-2008 to
31-Mar-2008



- Proposal -** Variation of Condition No. 3 of planning permission code no. 24/518/99/PS and condition no. 5 on Planning Permission Ref. No. 24/0834/98/PF to allow use of the Firearms Training Centre site and buildings in compliance with the following restrictions:-
- i) Any organisation using the site and buildings shall be authorised and supervised by North Wales Police.
 - ii) The hours of use to be restricted to between 0830hrs and 1730hrs on any day with the provision for a maximum of 12 days in any 12 month period where the hours to be permitted between 0830hrs and 2000hrs (within which shooting activity shall not be permitted to exceed a maximum of 5 hours).
 - iii) The site and buildings shall not be used on Christmas, Boxing or New Years Day.
 - iv) There shall be no firing of high or low velocity weapons or activities involving explosions within the site on Saturdays, Sundays or public Holidays and no sound amplification equipment shall be used outside buildings within the site on these days

| | Officer | Decision level | Location | Type | Rec Date | Date of decision | Decision | Costs |
|-----------------|---------|----------------|--|---------------------------|------------|------------------|-----------|-------|
| Decision | PJM | Committee | Firearms Training Complex, Craig y Ddywart Quarry, , Ruthin, Rhewl, LL152TW, | Informal 05/03/2008 01 | 29/11/2007 | 28/03/2008 01 | APPEAL-AL | 0.00 |

Key Issue = Impact on residential amenities of neighbourhood. (Full award of costs agianst Council).

REPORT BY THE HEAD OF PLANNING AND PUBLIC PROTECTION

INFORMATION ITEMS FOR PLANNING COMMITTEE
APPEAL DECISION FOR RHEWL FIRING RANGE COMPLEX, RHEWL

1. PURPOSE OF REPORT

- 1.1 This report is intended for Members information only and relates to a recent decision of the Planning Inspectorate to allow an appeal and award costs against the Council.
- 1.2 The report will provide Members with the relevant background information to this case highlighting the key issues and the reasoning behind the eventual decision.

2. BACKGROUND

- 2.1 North Wales Police (NWP) had sought planning permission for the passive use of their training facilities at the Rhewl Firearms Centre without compliance to previously imposed planning conditions.
- 2.2 These previously imposed conditions state that the use of the Centre shall be subject to compliance with the following restrictions:
 - a) the organisations permitted to use this site shall be limited to NWP and any other such emergency services as are authorized by North Wales Police;
 - b) the hours of use shall be restricted to between 0830 and 1730 with the provision for a maximum number of 12 days in only 12 month period where the hours of use shall be permitted between 0830 and 2000, within which shooting activity shall not be permitted to exceed a maximum of 5 hours;
 - c) a register identifying all users and hours of use of the training centre shall be kept and made available for Officers of the Local Planning Authority on request;
 - d) there shall be no operation on Saturdays, Sundays or Public Holidays.
- 2.3 The Police sought to vary the above as follows:
 - a) any organisation to use the site and buildings as authorized and supervised by NWP.
 - b) hours to remain the same
 - c) the site and buildings to be open for use every day other than Christmas, Boxing or New Years Day.
 - d) there should be no firing of high or low velocity weapons or activities involving explosions within the site on Saturdays, Sundays or Public Holidays and no sound amplification equipment shall be used outside the buildings within the site on these days.

2.4 Members will recall that the above planning application was presented to them on 1st August 2007 with an Officer recommendation to grant.

2.5 This recommendation was proposed and seconded by Members but the subsequent vote lead to the application being refused.

2.6 Based upon the debate at Committee, Officers formulated a reason for refusal as follows:

The proposed variations of condition to allow increased use of the site at weekends and certain Bank Holidays for additional organisations to North Wales Police and other Emergency Services would lead to an unacceptable intensification of use at the site beyond the original grant of permission, having a detrimental impact on the general amenity of the area contrary to criteria i) and v) of Policy GEN 6 of the Denbighshire Unitary Development Plan.

2.7 The decision was issued on 1st August 2007 and a planning appeal was lodged in November 2007. This appeal was heard by way of an informal hearing which took place over one day on 5th March 2008. The appeal was allowed and costs awarded against the Council on 28th March 2008.

3. APPEAL DECISION AND AWARD OF COSTS

3.1 In allowing the appeal the Inspector raised a number of points summarised below:

- Objectors had mistakenly assumed that NWP would fire weapons at weekends and Public Holidays.
- The protection afforded by a condition precluding the firing of weapons satisfactorily resolves any concerns of local residents.
- The extended facility would not be open to all and sundry but strictly controlled by NWP.
- Any sounds arising from weekend operations would be limited to vocal commands or vehicle movements within the site.
- Training events as proposed are unlikely to be audible to any great extent to residents of the wider neighbourhood.
- There was no conflict with any relevant policy criteria within the UDP.
- There was no impact on the existing highway and adequate parking exists within the site.

3.2 The appeal was duly allowed with the following conditions imposed:

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

2. The proposed passive training pursuits **on weekends and public holidays** (except Christmas Day, Boxing Day and New Year's Day) shall be subject to

compliance with all the following restrictions:- a) the organisations permitted to use this site shall be limited to the North Wales Police Authority, other emergency services and other organisations as are authorised by the North Wales Police; b) it should not operate except between the hours of 0830 and 1730 hours on Saturdays, Sundays or Public Holidays, with the proviso that no activities whatsoever shall take place on the site on Christmas Day, Boxing Day and New Year's Day in any year; c) no firing of high or low velocity weapons or activities involving explosions within the site (including buildings) and no sound amplification equipment shall be used outside buildings within the site on Saturdays, Sundays or Public Holidays; d) there shall be no more than 30 persons in attendance at training events at any one time; e) a register identifying all users and hours of use of the training centre shall be kept and made available for inspection by officers of the Local Planning Authority on request.

3. The use of the firearms training centre **during weekdays** shall be subject to compliance with all the following restrictions: a) the organisations permitted to use this site shall be limited to the North Wales Police Authority and such other emergency services as are authorised by the North Wales Police Authority ; b) the hours of use shall be restricted to between the hours of 0830 and 1730 during weekdays (Mondays to Fridays) with the provision of a maximum number of 12 days in any 12 month period where the hours of use shall be permitted between 0830 and 2000, within which shooting activity shall not be permitted to exceed a maximum of 5 hours; (c) a register Appeal Decision APP/R6830/A/07/2060678

4. ISSUES TO NOTE

- 4.1 Under the Council's agreed Scheme of Delegation officers could, in this instance, have referred the application to Full Council following the resolution to refuse at Planning Committee.
- 4.2 Where it is anticipated that resolution to refuse may result in an award of costs against the Council this safety net can be used to further clarify this point.
- 4.3 In this instance the referral was not instigated. This was largely due to the level of good will which had been built up between the Council and NWP, not only when dealing with this particular application, but over some considerable time in partnership approaches to dealing with and preventing crime in the County.
- 4.4 However, the NWP were represented at the Hearing by planning consultants who felt it appropriate, given the issues in this case, to seek costs for their preparation and appearance at a hearing.
- 4.5 The formal claim for costs has not yet been received and the Planning Officer has made attempts to discuss this issue with NWP in an attempt to further foster this good will and partnership working.
- 4.6 Clearly the Rhewl Firearms Centre will be monitored in terms of its existing use and the use further allowed by this appeal decision. It is hoped that NWP will continue to work in partnership with Denbighshire County Council and the local community with transparency and consideration in order to minimize any impact the site would have

locally.

5. RECOMMENDATION

5.1 That Members note the contents of this report.