

# PROTOCOL FOR PLANNING COMMITTEE

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

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

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

#### Guidelines for Site Inspection Panels.

- v) If any application has been subject to a previous Site Inspection Panel, the Chair will invite those Members who attended including the Ward Member, to speak first, before other Members.
- vi) On other applications, the Ward Member will be invited to speak first.
- vii) Members will be limited to a maximum of five minutes speaking in accordance with standing orders.
- viii) Once a Member has spoken, the Member shall not speak again unless seeking clarification on a point arising from the debate and only once all other Members have had the opportunity to speak and with the agreement of the Chair.
- ix) Following the debate the Chair will ask Officers to respond to any questions and sum up any issues arising from the debate including advice on a potential resolution in conflict with Officer recommendation.
- x) The Chair will make it clear that the debate is concluded and that voting is to commence. No further debate or questions will be permitted on the item. The Officers will prepare the electronic voting system and advise the Chair when voting can commence.
- xi) The Chair will put any motions to the vote. The electronic voting system allows a 15 second period for voting to take place during which period Members must cast their vote.
- xii) The Chair will not tolerate any interruptions by Members without his agreement or audible conversations between Members or Officers which do not form part of the debate.
- xiii) Failure to abide by the above protocol will lead in the first instance to a warning from the Chair. Further failures may result in a motion under Standing Order 18.3 that the member be not heard further, leading ultimately to a motion under Standing Order 18.4 that the member leave the meeting in the event of continued improper behaviour.
- xiv) The Chair will state clearly the decision once the resolution is made.

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

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

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

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

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**ITEM NO:** 1

**WARD NO:** Prestatyn Meliden

**APPLICATION NO:** 43/2007/0972/ PF

**PROPOSAL:** Erection of 7 no. detached dwellings and construction of new vehicular access (site area 0.43 ha)

**LOCATION:** Land between Prestatyn Car Sales and Plas Deva Caravan Park off Ffordd Talargoch Prestatyn

**APPLICANT:** Mr Ron Harrison-Jones

**CONSTRAINTS:** Article 4 Direction  
Wildlife Site  
Telecommunication Mast Sites

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

**CONSULTATION RESPONSES:**

1. PRESTATYN TOWN COUNCIL – OBJECT: ‘Poor stability of land, possible contamination by heavy metals, volume of vehicular movements in sensitive area and concerns about possible mineshafts and workings on site’
2. HEAD OF HOUSING SERVICES – Will accept the 2 proposed affordable housing units as part of the development, the greatest need is for 2 and 3 bed properties therefore we would require one of each as part of the proposal. The affordable element should be of the same standard and design as the open market units, in this case the affordable units proposed are very different in terms of their design.
3. HEAD OF TRANSPORT & INFRASTRUCTURE - No objection subject to inclusion of conditions
4. DWR CYMRU WELSH WATER – OBJECT: to the development on the grounds that the proposal would overload the existing public sewerage system. The objection is based on internal and external sewage flooding incidents on the public sewerage network downstream of the connection point of the proposed development.
5. FOOTPATH OFFICER - No objection
6. PUBLIC PROTECTION (Contaminated Land Officer) - No objection subject to the inclusion of conditions
7. COUNTY ECOLOGIST – OBJECT: Maintains concerns that a full ecological survey at the optimum time of year has not been undertaken to enable a full assessment of the ecological impacts of this development on this part of the wildlife site and UK Priority Species. In addition part of the vernal sandwort community (UK biodiversity priority habitat and a European listed habitat) will be lost to development and increased recreational pressure with inadequate provision proposed for its long term sustainability due to uncertainties about the successes of the translocation and regeneration of the species. The amount of mitigation proposed appears to be inadequate / unachievable to meet the aims of policy

ENV5 due to the overdevelopment of the site and uncertainty about the long term survival of vernal sandwort. This amounts to insufficient compensation for the loss of the wildlife site interest. There are also insufficient natural corridors to link the remaining areas of sandwort (roads are unsuitable links between habitats) which may affect its viability.

8. COUNTRYSIDE COUNCIL FOR WALES (CCW) – No objection
9. NORTH WALES WILDLIFE TRUST (NWWT) – OBJECT: NWWT wishes to maintain its objection to this development as it would destroy a part of the Prestatyn Dyserth Walkway Wildlife Site and cause unacceptable adverse impact to an area of an NVC OV37 Calaminarian Grassland, a habitat type listed in Annexe 1 of the Habitats Directive that exists within the site. The NWWT considers this development to fail to satisfy the Denbighshire UDP policies ENV1 and ENV5, as it would unacceptably harm the conservation value of this wildlife site and the mitigation measures currently proposed cannot currently be deemed either effective or appropriate.
10. ENVIRONMENT AGENCY – No objection but due to the history of the site the applicant should carry out ground investigation reports to determine the extent and nature of contamination.

#### **RESPONSE TO PUBLICITY:**

Letters of representation received from the following:

1. Mr C Evans, 139 Ffordd Talargoch, Meliden
2. Rosemary Hunter, 131 Ffordd Talargoch, Meliden
3. Mr Ian Dodd, 26, Ffordd Talargoch, Meliden

#### In objection (2 letters):

- Erosion of the public footpath
- Over development
- Impact on visual amenity
- Impact on wildlife

#### In support (1 letter):

- The site in question has been an eyesore for many years with refuse being dumped
- The site has become a noisy playground at night
- Proposal would enhance the area

**EXPIRY DATE OF APPLICATION: 23/07/2008**

#### **REASONS FOR DELAY IN DECISION:**

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



## **PLANNING ASSESSMENT:**

### **THE PROPOSAL:**

1. The application site extends to 0.43ha in area and is located within the development boundary of Meliden. The site forms part of the allocated Dyserth Grasslands and Prestatyn – Dyserth Walkway County Wildlife Site. Access is off Ffordd Talargoch to the north west of the application site with Prestatyn Car Sales between the application site and the road and the Prestatyn – Dyserth walkway to the rear with the Clwydian Range AONB and Graig Fawr SSSI beyond.
2. The proposal is a full application to erect 7 no detached dwellings and the construction of a new vehicular and pedestrian access off Ffordd Talargoch, Prestatyn. The dwellings proposed consist of a mix of 4 different types as follows:
  - Type A – 4no 3 bed 5 person dwellings (plots 2-5)
  - Type B – 1no 3 bed 5 person dwelling (plot 1)
  - Type C – 1no 2 bed 4 person dwelling (plot 6, proposed affordable dwelling)
  - Type D – 1no 2 bed 4 person dwelling (plot7, proposed affordable dwelling)
3. The dwellings are of a modern design with the gable elevations of proposed dwellings 1- 6 fronting the road and the side of proposed dwelling no 7 fronting Ffordd Talargoch. The external materials would be a mix of slate, stone render, glass and cedar boarding. 2no Car parking spaces per dwelling are also proposed.
4. Members are advised that this proposal has been amended from the original proposal for 8no dwellings to 7 for reasons in relation to nature conservation. The recent additional information on the scheme has included the submission of an ecological report in addition to the information already submitted which included a contamination report, mining report and a supporting planning, design and access statement. The design statement prepared by the architect attempts to explain and justify the design approach proposed as part of this development. The topography of the site, the wooded backdrop of Graig Fawr SSSI and the AONB as well as the environmental qualities of the locality have been the main design considerations for the scheme. The location of known mine shafts has informed the layout of the road which has resulted in the linear layout of the proposed dwellings. The 'landmark' corner building proposed on plot 1 is larger in terms of height and scale compared to those on plots 2-5 and 6 and 7.
5. The application has been reported to committee at the request of the local member to allow assessment of impacts on a designated county wildlife site in the UDP next to the AONB and Prestatyn - Dyserth walkway, the access and egress into the site off Ffordd Talargoch and the size of the development in a sensitive area.

### **RELEVANT PLANNING HISTORY:**

6. Application ref no: 2/PRE/671/80 – Use of land for light industrial purposes (outline application) Granted with conditions on the 18<sup>th</sup> October 1982

Application ref no: 2/PRE/475/89 – Residential development – 20 low cost starter homes. Withdrawn on the 27<sup>th</sup> November 1989 (report on file at the time indicates that the application would be recommended for refusal on the grounds of the industrial allocation of the land under the Rhuddlan Borough Local Plan, the proximity of the proposed residential use to industrial and business uses and the inadequacy of the width of the access for residential use).

Application ref no: 2/PRE/413/91 – Residential development comprising 5no stone

cottages. Withdrawn on the 18<sup>th</sup> December 1991 to allow for further investigation of highways issues.

Application ref no:43/2000/1054/PF – Change of use of land to waste transfer station incorporating access road improvements, parking provision and associated works. Refused on 6<sup>th</sup> Feb 2001 for the following reasons:

1. The proposed development due to the width of the access track, the inadequate visibility onto Ffordd Talargoch and the increase in the use of the access by commercial vehicles would have an adverse impact on the safety of highway users, including pedestrians using the track as a link between Ffordd Talargoch and public footpath no. 15 and the Dyserth Walkway.
2. The proposed use would have an adverse impact on the appearance of the site and surroundings and would also harm the landscape value of the adjacent Area of Outstanding Natural Beauty, Special Landscape Area and the site of local conservation importance which would be contrary to Policies L2 and L10 of the Rhuddlan Borough Local Plan, Policies H4 and H5 of the Clwyd Structure Plan (First Alteration), Policy ENV2 and Policy ENV5 of the Denbighshire County Council Unitary Development Plan (Deposit Version).
3. The proposed use would harm the tourist and recreational value and enjoyment of the nearby Dyserth Walkway and public footpath no. 15 due to the adverse impact on the appearance of the area and the activity associated with the use, which would be contrary to Policy TM19 of the Rhuddlan Borough Local Plan and Policy REC8 of the Denbighshire County Council Unitary Development Plan (Deposit Version).
4. The activity, noise and dust generated from the proposed use would have an adverse impact on the residential amenities of nearby residential properties in conflict with Policy GEN7 of the Denbighshire County Council Unitary Development Plan (Deposit Version).

#### **PLANNING POLICIES AND GUIDANCE:**

7. DENBIGHSHIRE UNITARY DEVELOPMENT PLAN (adopted 3<sup>rd</sup> July 2002)
  - Policy STRAT1 – General
  - Policy STRAT5 – Design
  - Policy STRAT6 – Location
  - Policy GEN1 – Development within development boundaries
  - Policy GEN6 – Development control requirements
  - Policy ENV1 – Protection of the natural environment
  - Policy ENV2 – Development affecting the AONB
  - Policy ENV5 – Sites of local conservation importance
  - Policy ENV6 – Species protection
  - Policy ENP4 – Foul and surface water drainage
  - Policy ENP8 – Contaminated land
  - Policy HSG10 – Affordable housing within development boundaries
  - Policy REC8 – Recreational routes
  - Policy TRA6 – Impact of new development on traffic flows
  - Policy TRA9 – Parking and servicing provision

#### Supplementary Planning Guidance

- SPG2 – Landscaping
- SPG8 – Access for all
- SPG18 – Nature Conservation and species protection
- SPG21 – Parking requirements in new developments

SPG22 – Affordable housing

**NATIONAL PLANNING POLICY AND GUIDANCE**

PPW (March 2002). Chapters 5 – Conserving and Improving Natural Heritage and the Coast, MIPPS 01/06 Housing and 01/08 Good Design

TAN 2 – Planning and Affordable Housing (2006)

Draft TAN 5 – Nature Conservation and Planning (2006)

TAN 8 – Transport (2007)

TAN 12 – Design (2002)

**MAIN PLANNING CONSIDERATIONS:**

8.

- i) Principle of development
- ii) Impact on visual amenity / design
- iii) Impact on the Prestatyn Dyserth Walkway
- iv) Impact on residential amenity
- v) Highways
- vi) Nature Conservation
- vii) Affordable housing
- viii) Contaminated land
- ix) Drainage

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

i) Principle of development:

The application site is within the development boundary of Meliden where there is a presumption for development subject to site specific issues. In this instance, the site also forms part of the Dyserth Grassland and Prestatyn – Dyserth Walkway County Wildlife Site where policy EMP5 is applicable. Provided appropriate mitigation measures can be taken, development which would harm sites of local nature conservation importance may be permitted. In broad principle terms the development is acceptable in relation to policy GEN1, however there are other issues as discussed below that presume against development in this instance.

ii) Impact on visual amenity / design:

The site is located in an elevated position above Ffordd Talargoch to the rear of Prestatyn car sales with Graig Fawr SSSI and the Clwydian Range AONB to the rear of the site, separated by the Prestatyn Dyserth Walkway. The site is predominantly flat with a mix of dwelling types and land uses adjoining the site to the east (vacant site formerly used as a caravan site), south west (residential) and north west (Prestatyn car sales).

7 no detached dwellings are proposed as part of the development with the gables of proposed units 1- 6 fronting the road and the side of proposed dwelling no 7 fronting Ffordd Talargoch. Concerns have been raised on design grounds by the Affordable Housing Officer in relation to the proposed affordable housing units being different in terms of their design and appearance compared to those proposed for open market sale. Paragraph 11.1 of TAN2 in relation to design and affordable housing states '*Affordable housing should also be indistinguishable from market housing provided on the same site, in terms of external design quality and materials*'. Section 8 and 9 of SPG22 in relation to affordable housing states that affordable housing should not be concentrated in one area of a much larger site. In this instance, the 2 no proposed affordable units (plots 6 and 7) are both distinguishable in terms of their appearance and design from the open market units and are tucked away in the corner of the site with no integration into the rest of the

development which is contrary to advice in established local and national planning policy.

The character of this area is defined by mainly detached and semi detached 2 storey dwellings with pitched or hipped roofs with slate, concrete or clay roof tiles and predominantly render elevations. The elevations facing the road are the principal front elevations, not gables as proposed by this development. In terms of the mix of materials proposed for the development some elements proposed are acceptable and would retain the character and appearance of the area and a modern design in this area is not discouraged. However it is considered that the overall design approach is not appropriate in this location and the LPA still have concerns about the relationship between buildings, the orientation of the dwellings (gable facing the road), the size and scale of the proposed dwellings and the overbearing feel to the development. In light of this the proposal is considered contrary to criterion i), ii), iii) and iv) of policy GEN6, policy ENV1 and ENV2 of the Denbighshire UDP and advice contained in TAN12 – Design.

- iii) Impact on the Prestatyn Dyserth Walkway:  
The Prestatyn – Dyserth Walkway is a designated recreational route within the UDP and is covered by policy REC8 – Recreational Routes. Concerns have been raised by neighbours in relation to the impact of the proposed development on the Prestatyn – Dyserth Walkway. The footpaths officer has been consulted as part of the consultation exercise and raises no objections to the proposed development.
- iv) Impact on residential amenity:  
The layout of the proposed dwellings and the location of window details have been carefully considered as part of the proposal given the land levels of the site and the high potential for overlooking. No objections are raised to the development on the grounds of overlooking.
- v) Highways:  
Comments have been made by the local member who has received complaints from the public in relation to the access and egress into the site. The access off Ffordd Talargoch is an existing access serving the former Plas Deva Caravan Park on the adjoining site. It is proposed to improve this access by surfacing it to allow access to the application site with 3 no passing places along the access road leading up to the site. The head of highways has been consulted as part of the consultation process and raises no objections to the proposed access subject to the inclusion of conditions to deal with the parking and turning of vehicles. 2 no car parking spaces are proposed for each dwelling which is in accordance with guidelines set in SPG21 – Parking standards for new developments.
- vi) Nature Conservation:  
The site forms part of the Dyserth Grassland and Prestatyn – Dyserth Walkway County Wildlife Site as allocated in the Denbighshire UDP. The site is designated for its interest as a Calaminarian Grassland known to support species including the Spring Sandwort (grows on sites with elevated levels of contamination present in the soil) and the Nottingham Catchfly (2 nationally scarce species) amongst others. The County Ecologist and the NWWT state that part of the spring sandwort community is a UK Biodiversity Priority Habitat and an Annexe 1 European listed habitat. The applicant has provided an ecological report as part of the submission which has been assessed by the County Ecologist, CCW and the NWWT. CCW raise no objections to the proposed development, but members are reminded that in terms of their

statutory duty, CCW are responsible for the protection of both the national and international sites of nature conservation importance and have been consulted on the basis of the impact of the proposed development on the Graig Fawr SSSI to the rear of the application site. It is therefore the County Ecologist and the NNWT who are concerned with the protection of local nature conservation sites.

The county ecologist and the NNWT continue to object to the proposed development on the grounds that the ecological survey accompanying the application has been carried out at a sub optimal time of year. Parts of the vernal sandwort community will be lost to development with inadequate provision for its long term sustainability on this site. In addition, there is uncertainty about the success of the translocation and regeneration of this species as well as its long term survival on a site where there will be increased recreational pressure as a result of the development proposal. The amount of mitigation proposed appears to be inadequate / unachievable to meet the aims of policy ENV5 due to the overdevelopment of the site and the uncertainty about the long term survival of this species. Overall there is insufficient compensation for the loss of the wildlife site interest with inadequate natural corridors to link any remaining areas of sandwort. In relation to policy ENV5 it is stated that development which would unacceptably harm the conservation value of sites of local conservation importance will only be permitted where appropriate mitigation measures can be taken. Based on the comments of the county ecologist and the NNWT it is clear that in this instance inadequate mitigation is proposed to meet the needs of policy ENV5. In addition, there is the need to carry out an ecological survey at the correct time of year as well as the need to review the proposed landscaping proposal which could conflict with the species present on the site. The proposal does not comply with policy ENV5 of the Denbighshire UDP, SPG18 Nature Conservation and Species Protection or advice contained in the draft TAN5 – Nature Conservation and Planning (January 06).

vii) Affordable housing:

The application is for the erection of 7 no dwellings, 2 of which are proposed for affordable purposes by the applicant (plot 6 and 7). Details of the affordable units proposed are as follows:

Site area	0.43
Number of affordable units	2
Type	2 bedroom houses
Floor Area	78.4m <sup>2</sup>
Tenure	Low Cost Home Ownership
Cost	£82,008
Timing	Not confirmed but likely to be as per open market units
RSL involvement	None known

The Authority's Affordable Housing Officer has made comments on the scheme and has indicated that there is a need for both 2 and 3 bedroom dwellings in this area to be sold as low cost home ownership. The applicant is offering 2 no units which is in accordance with the requirements of policy HSG10 and SPG22 in terms of the 30% affordable housing requirement. However, the type of affordable units being offered are not strictly meeting the

specified need for this location as set out by the Affordable Housing Officer (41 units for LCHO with 2,963 on the social housing list). Any affordable housing requirement would need to be secured through the signing of a section 106 legal agreement.

viii) Contaminated land:

The application site is in an area of known contaminated land and mine shafts are present as a result of the historical land use of the area. The applicant has provided a mining and contaminated land report which has been assessed by the Contaminated Land Officer and the Environment Agency. No objections have been raised to the initial investigations but the consultee responses have indicated that if the LPA are mindful to approve that conditions should be used to carry out further investigations. The proposal is considered to be in accordance with UDP policy ENP8 – Contaminated Land.

ix) Drainage:

Dwr Cymru/ Welsh Water continue to object to the proposed development on the grounds that the proposal would overload the existing public sewerage system. The objection is based on internal and external sewage flooding incidents on the public sewerage network downstream of the connection point of the proposed development. Based on these comments and the criteria of policy ENP4, the proposal is likely to overload the existing public sewerage system contrary to criterion i) of policy ENP4 Foul and surface water drainage of the Denbighshire UDP.

#### **SUMMARY AND CONCLUSIONS:**

10. The application site is located to the rear of Prestatyn Car Sales off Ffordd Talargoch in Meliden, Prestatyn. The site is within the development boundary and forms part of the allocated Prestatyn – Dyserth Walkway County Wildlife Site with the Clwydian Range AONB and Graig Fawr SSSI to the rear. The land is known to be contaminated and there are mine shafts present on the site. The proposal is for the erection of 7 no dwellings, 2 of which are proposed for affordable purposes. There are continued objections to the development on the grounds of nature conservation, design/ visual amenity and drainage. The proposal is thus recommended for refusal.

#### **RECOMMENDATION: - REFUSE** for the following reasons:-

1. The site forms part of the Prestatyn - Dyserth Walkway County Wildlife Site as allocated in the Denbighshire Unitary Development Plan where the proposal to erect 7 no dwellings is considered to unacceptably harm the conservation value of the site as it has not been adequately demonstrated that appropriate mitigation measures can be taken to safeguard the long term sustainability of the Spring Sandwort community and other species of plant and animals present on the county wildlife site contrary to policy ENV5 of the Denbighshire Unitary Development Plan, advice contained in draft TAN5 - Nature Conservation and Planning (2006) and Chapters 5 - Conserving and Improving Natural Heritage and the Coast of Planning Policy Wales (2002).
2. It is the view of the Local Planning Authority that the proposal to erect 7 no detached dwellings on land to the rear of Prestatyn Car Sales off Ffordd Talargoch, Meliden would have an unacceptable impact on the character and appearance of the locality due to the size, scale and design of the dwellings along with their general layout contrary to criterion i), ii), iii) and iv) of policy GEN6, policy ENV1 and ENV2 of the Denbighshire UDP and advice contained in TAN12 - Design (2002).
3. The detailing of the affordable housing units is considered inappropriate being of a different design to the other dwellings and cramped into a corner of the site, contrary to

Denbighshire Unitary Development Plan Policy GEN6 (i) and guidance in Supplementary Planning Guidance Note No. 22 - Affordable Housing in New Developments.

4. The proposal is likely to overload the existing public sewerage system where in absence of any satisfactory arrangements from the developer to overcome this, the development is considered to be contrary to criterion i) of policy ENP4 of the Denbighshire Unitary Development Plan.

**NOTES TO APPLICANT:**

None

**ITEM NO:** 2

**WARD NO:** Dyserth

**APPLICATION NO:** 42/2008/0327/ PS

**PROPOSAL:** Variation of Condition No. 6 on outline planning permission Ref. No. 42/2003/1494/PO to omit footway provision along frontage of landscape buffer zone east of the building plots

**LOCATION:** Land adjoining No. 19 Rhodfa Gofer Dyserth Rhyl

**APPLICANT:** Mr David Kett

**CONSTRAINTS:**

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

**CONSULTATION RESPONSES:**

1. DYSERTH COMMUNITY COUNCIL –  
'Object, on grounds that to omit the footway would create an unsafe area for pedestrians (highway safety).
2. HEAD OF TRANSPORT AND INFRASTRUCTURE –  
No objection

**RESPONSE TO PUBLICITY:**

Letters of representation received from::

1. Michael and Diane Williams, 2 Rhodfa Gofer, Dyserth
2. Dr F Campbell, 23 Parc Gwelfor, Dyserth
3. Peter Wilkinson, 6 Rhodfa Gofer, Dyserth
4. Avril Daley, 5 Rhodfa Gofer, Dyserth
5. Mr JD Morris, 1 Rhodfa Gofer, Dyserth
6. A&J Tobin, 4 Rhodfa Gofer, Dyserth

Summary of representation:

- i) Impact on highway safety
- ii) Impact on street-scene
- iii) Subsidence
- iv) No justification for variation of condition
- v) Concerns relating to compliance with original conditions of consent

**EXPIRY DATE OF APPLICATION: 20/05/08**

**REASONS FOR DELAY IN DECISION:**

- Timing of receipt of representations
- Delay in receipt of key consultation response(s)

**PLANNING ASSESSMENT:****THE PROPOSAL:**

1. Permission is sought for the variation of condition no. 6 of planning reference 43/2003/1494/po. The condition stated 'No dwelling shall be occupied until a 1.8m wide footway has been completed adjacent to the existing highway across the total site frontage in accordance with details to be submitted to and approved in writing



by the Local Planning Authority', the reason for the condition stated, 'In the interest of pedestrian safety'.

2. The site comprised of the 3 no. plots and a strip of land approximately 60 metres in length, from 19 Rhodfa Gofer to the boundary of 23 Parc Gwelfor. The land slopes to the north and is open agricultural land. There is a footway on the southern side of Rhodfa Gofer which links up to the northern side of Parc Gwelfor.
3. No formal justification has been put forward for the proposed variation of condition however the agent has advised verbally that the applicant is seeking the variation of condition owing to the appeal history and the fact that there is no footway to the front of no.19 Rhodfa Gofer.

#### **RELEVANT PLANNING HISTORY:**

4. **42/2003/1494/PO** - development of 0.17 ha of land for residential purposes, outline application

**42/2005/884/PF** - Erection of 2 no. detached dwellings and construction of new vehicular accesses at plots 4 & 5. Refused and upheld on appeal 09/02/2006

#### **PLANNING POLICIES AND GUIDANCE:**

5. DENBIGHSHIRE UNITARY DEVELOPMENT PLAN (adopted 3<sup>rd</sup> July 2002)  
Policy GEN 6 - Development Control Requirements

GOVERNMENT GUIDANCE  
Planning Policy Wales, March 2002

#### **MAIN PLANNING CONSIDERATIONS:**

6.
  - i) Principle
  - ii) Visual Amenity
  - iii) Highways
7. In relation to the main planning considerations above:
  - i) Principle  
The site is located within development boundary where the principle of development is generally acceptable, subject to the relevant criteria of Policy Gen 6. The primary considerations in terms of the variation of this condition are the visual impact and highway safety.
  - ii) Visual Amenity  
The original approval included a landscape buffer zone on the eastern side of plot 3, this area abuts the development boundary and a designated local landscape area as such it is unlikely to be developable. Furthermore as there is no footway in front of 19 Rhodfa Gofer at present it is not considered that the omission of the footway would have any significant visual impact on the street scene or the general character of the area.
  - iii) Highways  
The Highways Department have been consulted on the application and raised no objection to the proposed variation of condition. Highways have advised that the original condition was imposed, as there was an expectation that the whole site would be developed for residential purposes, in this context a footway to link up to the existing footway on Parc Gwelfor was considered necessary. However a subsequent application on the adjacent plot was refused and this decision upheld on appeal. As such the existing arrangement

which comprises of a 'suitable' footway on the opposite side of the road is considered acceptable and sufficient in terms of pedestrian safety.

**SUMMARY AND CONCLUSIONS:**

8. It is considered that the proposal complies with the relevant policies of the Unitary Development Plan; as such it is recommended to approve variation of condition.

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

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

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

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

**NOTES TO APPLICANT:**

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

**ITEM NO:** 3

**WARD NO:** Dyserth

**APPLICATION NO:** 42/2008/0585/ PF

**PROPOSAL:** Erection of 1 No. detached dwelling and detached garage on 0.086 ha of land

**LOCATION:** Land at rear of 27-35inc. St. Asaph Road Dyserth Rhyl

**APPLICANT:** Messrs M & S Trefor

**CONSTRAINTS:** PD Removed  
Previous Mining Area

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

**CONSULTATION RESPONSES:**

1. DYSERTH COMMUNITY COUNCIL  
Object on grounds of over intensification of development and poor access from the adjoining highway
2. WELSH WATER/ DWR CYMRU  
No objection subject to conditions
3. HEAD OF TRANSPORT & INFRASTRUCTURE  
No objection subject to conditions

**RESPONSE TO PUBLICITY:**

Letters of representation received:-

1. Mr. G. Jones, 24, Cwm Road, Dyserth (via e-mail)
2. Glenn Morgan Jones, 35 St. Asaph Road, Dyserth
3. I. & V. Freeman, 37, St. Asaph Road, Dyserth
4. Lesley Jones, 16, Cwm Road, Dyserth
5. Mr. & Mrs. D. Dervish, 35A, St. Asaph Road, Dyserth
6. Mr. P. C. Bailey, 18, Cwm Road, Dyserth
7. I. & P. Talfryn, Arwendon, 22 Ffordd y Cwm, Dyserth
8. Mr. B. Eastwell, 20, Cwm Road, Dyserth
9. Mr. J. Haw, Argoed, 31, St. Asaph Road, Dyserth
10. Mr. T. Jones, Ingleside, No. 29, St. Asaph Road, Dyserth
11. Mr. & Mrs. P. Rogers, Trigfa, 14, Cwm Road, Dyserth
12. Mr. M. Jones, 29, Coed Onn Road, Flint

Summary of planning based representations:

- i) Impact on privacy of adjoining residents; loss of light, privacy
- ii) Drainage issues
- iii) Poor access and pedestrian footways/ no passing places
- iv) Overintensification
- v) Impact on local wildlife
- vi) Design issues

**EXPIRY DATE OF APPLICATION: 28/07/2005**

**REASON FOR DELAY IN DECISION:**

- timing and receipt of representations

**PLANNING ASSESSMENT:**

**THE PROPOSAL:**

1. Full planning permission is sought for the development of 0.086ha of land located to the rear of 25 – 35 St Asaph Road accessed via a track off St Asaph Road measuring 3.1m wide.
2. A detached dormer style 4 bed dwelling is proposed with a detached garage. Orientated in a similar position to the recently erected dwelling to the south and measuring approx. 14.5m by 8.5m, the dwelling has first floor accommodation with 3 dormer to the front and rear roof planes. The overall ridge height of the dwelling is 7m. Off street parking and turning space is proposed to the front, with the garage to the east.
3. The site is a relatively level vacant grassed plot. The existing access serves 1 no. recently erected dwelling. Historically the site of the recently erected dwelling had a lawful use as storage of building materials and siting of 2 no. caravans. The site is bounded by some trees, conifer hedging and panel fencing.

**RELEVANT PLANNING HISTORY:**

4. Adjoining land- 42/2001/219/LE Certificate of Lawful use, storage of buildings and siting of 2 no. caravans, land to rear of 37 St Asaph Road.

Adjoining land - 42/2004/0651/PF Detached dwelling and garage - GRANTED  
June 2004

42/2005/649/PF Erection of 2 no. detached dwellings and detached garages -  
REFUSED July 2004. Reason for refusal was based on amenity and highway  
safety.

**PLANNING POLICIES AND GUIDANCE:**

5. **Denbighshire Unitary Development Plan**  
Policy GEN 1 Development Boundaries  
Policy GEN 6 Development Control Requirements

**MAIN PLANNING CONSIDERATIONS:**

6.
  - i) Principle of development
  - ii) Impact on visual amenity
  - iii) Impact on residential amenity
  - iv) Impact on highway safety
7. In relation to the main considerations in paragraph 6 above:-
  - i) The site lies within the development boundary of Dyserth, a main village as identified in the Unitary Development Plan. The principle of new residential development is generally acceptable within development boundaries subject to compliance with general development control criteria.
  - ii) The application site is located to the rear of residential properties on St. Asaph Road and also Cwm Road to the rear. Adjoining the site on St. Asaph

Road are 2 storey dwellings and on Cwm Road are a mixture of single storey and 2 storey properties. It is considered that given the scale and type of surrounding properties with large rear gardens in excess of 21m in length that the dormer bungalow in its proposed location and orientation would be acceptable.

- iii) The scale, design and external appearance of the proposed dwelling is in keeping with the character of the area and reflects that of the existing dwelling recently constructed, it is not considered that there would be any adverse impact on visual amenity.
- iv) The proposal is considered acceptable in terms of highway safety. Whilst the access to the site is narrow and the Highways Department have recommended refusal of the previous application for 2 no. dwelling, this application proposes one dwelling and as such Highways have raised no objection to the proposal. In reaching their decision the Highways Officers have considered the previous lawful use of the adjacent site. The access served the storage of building materials and the siting of 2 no. caravans and they have stated that they would not look favourably on further increase in usage of the site following this permission.

**SUMMARY AND CONCLUSIONS:**

- 8. The proposal complies with the relevant planning policies as such it is recommended for grant.

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

- 1. The development hereby permitted shall be begun before the expiration of five years from the date of this permission.
- 2. No external wall or roof materials shall be applied until the written approval of the Local Planning Authority has been obtained to the proposed materials to be used for the external surfaces of the walls and roofs of the development hereby permitted and no materials other than those approved shall be used.
- 3. The parking and turning facilities shall be laid out as shown on the approved plans and completed in accordance with the approved details prior to the proposed development being brought into use.
- 4. Notwithstanding the provisions of Classes A, B, C, D, & E of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification) no development permitted by the said Classes shall be carried out without further grant of planning permission of the Local Planning Authority.
- 5. All screen walls and/or fences relating to the dwelling(s) shall be erected before the dwelling(s) is/are occupied or completed whichever is the sooner
- 6. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that order with or without modification) no windows additional to those shown on the approved plans shall be inserted at any time in the rear and side elevations of the dwelling hereby permitted at first floor level.

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 provide for the parking of vehicles clear of the highway and to ensure that reversing by vehicles into or from the highway is rendered unnecessary in the interest of traffic safety.
4. In the interests of residential and/or visual amenity.
5. In the interests of residential and visual amenity.
6. To maintain a reasonable standard of privacy in adjoining dwellings and gardens in the interests of amenity

**NOTES TO APPLICANT:**

Please be advised Welsh Water have recommended the following:

No surface water shall be allowed to connect (either directly or indirectly) to the public sewerage system. Reason To prevent hydraulic overloading of the public sewerage system.  
No land drainage run-off will be permitted, either directly or indirectly, to discharge into the public sewerage system. Reason To prevent hydraulic overloading of the public sewerage system.

**ITEM NO:** 4  
**WARD NO:** Prestatyn Meliden  
**APPLICATION NO:** 43/2007/0504/ PC  
**PROPOSAL:** Retention of UPVC/glass canopy at front of building  
**LOCATION:** Star Inn 75 Ffordd Talargoch Prestatyn  
**APPLICANT:** Marston's Pub Company  
**CONSTRAINTS:** Article 4 Direction  
**PUBLICITY UNDERTAKEN:** Site Notice - No Press Notice - No Neighbour letters - Yes

**CONSULTATION RESPONSES:**

3. PRESTATYN TOWN COUNCIL  
Object "Development should be at rear of premises to avoid need for non smoking customers to walk through smoking area. Possible breach of building / smoking guidelines due to proximity of entrance to main premises"
4. LICENSING ENFORCEMENT  
No concerns "as there is another entrance to the rear should customers wish to avoid passing through the smoking area"

**RESPONSE TO PUBLICITY:**

None

**EXPIRY DATE OF APPLICATION: 24/06/2007**

**PLANNING ASSESSMENT:**

**THE PROPOSAL:**

1. The proposal is a full planning application for the retention of a upvc / glass canopy at the front of the Star Inn Public House in Meliden. As the works have already been carried out the application is retrospective.
2. The canopy is on the front elevation of the building. The canopy is mainly white in colour with black posts. The canopy runs 5.8 metres along the front of the pub, and it protrudes 2.7 metres from the main front elevation so that it is flush with the existing porch of the property.
3. The building is currently in use as a public house. The site fronts onto Ffordd Talargoch.
4. The plans state that the canopy is to be used to offer outdoor shelter for patrons who smoke.

**RELEVANT PLANNING HISTORY:**

5. This application has been submitted following enforcement investigation.

**PLANNING POLICIES AND GUIDANCE:**

6. DENBIGHSHIRE UNITARY DEVELOPMENT PLAN (adopted 3<sup>rd</sup> July 2002)  
Policy GEN 6 – Development Control Requirements

GOVERNMENT GUIDANCE

Planning Policy Wales, March 2002

**MAIN PLANNING CONSIDERATIONS:**

- 7.
- i) Principle of development
  - ii) Effect on the character and appearance of the property.
8. With regard to the considerations in paragraph 7:
- i) The proposal is not considered acceptable in principle as it neither preserves nor enhances the character or appearance of the property.
  - ii) Whilst not within a designated Conservation Area The Star Inn is a prominent stone built Public House within the village of Meliden. It fronts onto a busy main road, and it enjoys a wide forecourt area. The building has flat roofed front sections with black painted fascia boards to the roof. It is considered that the introduction of a large expanse of upvc / glazed roofing to such a prominent front part of the building fails to respect the site in terms of design and use of materials. This is in direct conflict with criteria (i) of policy GEN6.

**SUMMARY AND CONCLUSIONS:**

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

**RECOMMENDATION (A): REFUSE-** for the following reasons:-

The reason is:-

1. In the opinion of the Local Planning Authority the canopy does not respect the premises in terms of design and material. The proposal is considered contrary to Policies GEN 6 of the Unitary Development Plan, and Planning Policy Wales, March 2002.

**ENFORCEMENT REPORT**

1. This application is retrospective and relates to the unauthorised installation of a upvc and glass canopy on a commercial property in Meliden. The development is considered to be unacceptable having regard to the relevant policies. Therefore, this report seeks Member authorisation to take the necessary enforcement action. In considering taking enforcement action against unauthorised development, the provisions of the Human Rights Act 1998 are taken into account. It is considered that these rights are outweighed in that the development is unacceptable in terms of design and material contrary to the relevant planning policies.

**REASONS FOR TAKING ENFORCEMENT ACTION**

2. The unauthorised development was carried out within the last 4 years.
3. The development is considered unacceptable. The imposition of planning conditions as part of any grant of planning permission would not overcome this.



**RECOMMENDATION (B)** That authorisation be given for the following:

- (i) Serve an Enforcement Notice to remove the unauthorised canopy and make good the fabric of the building
- (ii) Instigate prosecution proceedings or other appropriate action under the Planning Acts against any person or persons upon whom any Enforcement Notice, or other 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:** 5

**WARD NO:** Prestatyn East

**APPLICATION NO:** 43/2008/0224/ PC

**PROPOSAL:** Continuation of use of dwelling as guesthouse, retention of log cabin for use as wash and drying room in connection with guesthouse

**LOCATION:** Plas Ifan 17 Fforddlas Prestatyn

**APPLICANT:** T.M Simpson

**CONSTRAINTS:** Tree Preservation Order  
Previous Mining Area  
Listed Building  
Conservation Area  
Article 4 Direction

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

**CONSULTATION RESPONSES:**

5. PRESTATYN TOWN COUNCIL  
"Defer, Committee would request a site visit with representatives of CADW County Planning, Enforcement, and Highways Planning Officers"
6. HIGHWAYS AUTHORITY  
No objection subject to the inclusion of conditions
7. AREA REGENERATION & INVESTMENT  
Support the application, Plas Ifan offers high quality accommodation and is ideally located on the Offa's Dyke Path National Trail which adds benefits to visitors and other businesses in Prestatyn. The County Council is trying to secure more quality accommodation on Prestatyn and do not wish to lose one which is gaining a good reputation.
8. CONSERVATION OFFICER  
No objection, the log cabin does not have a detrimental impact upon the setting of the listed building.

**RESPONSE TO PUBLICITY:**

Letters of representation received from:

In objection

1. D. & C. Griffiths, 19 Fforddlas, Prestatyn
2. Iwan & Julie Jones, Min-y-Clawdd, 22 Fforddlas, Prestatyn.
3. W D Weston, 18a Fforddlas, Prestatyn.
4. K Worsley-Davies, Garth, Fforddlas, Prestatyn.

Summary of planning based representations:

- i) Increased traffic generated from B&B business
- ii) Additional parking would detract from the character of the garden
- iii) Unsatisfactory access

In support

1. Offa's Dyke Path Community Interest Company, c/o Rod Bowden, Bergen, Hillside, Prestatyn.
2. D Bathers, Stori Pen Cyf, The Annexe, Penmaenmawr Community Centre, 3 Conway Road, Penmaenmawr
3. Mr M & Mrs J Gunther, 15 Fforddlas, Prestatyn.
4. Ms L. Muraca, 9 Mostyn Avenue, Prestatyn

Summary of planning based representations:

- i) Sympathetic proposal
- ii) High quality tourist accommodation

**EXPIRY DATE OF APPLICATION: 18/06/2008**

**REASONS FOR DELAY IN DECISION:**

- timing of receipt of representations
- delay in receipt of key consultation response(s)
- additional information required from applicant

**PLANNING ASSESSMENT:**

**THE PROPOSAL:**

1. Permission is sought for the continuation of use of dwelling as guesthouse and retention of log cabin for use as wash and drying room in connection with guesthouse. The guesthouse element of the proposal offers no. 2 double bedrooms and no. 1 twin bedroom. The remainder of the house will be used as private accommodation for owners/ operators of the business. The log cabin measures 8.8m in width, 3m in depth and 2.9m in height to ridge. The cabin has been constructed in timber with cladding painted 'national trust green' with cedar shingle roof tiles. Five parking spaces for use in connection with the guesthouse will be provided within the application site with a further two spaces reserved for the owners.
2. The application site consists of a detached two storey Grade II Listed Building originally a 19<sup>th</sup> Century Chapel which was converted into a school and now a dwelling house. The property has a series of sash windows, rendered walls and a slate roof. The site is bounded by a stone wall which fronts Fforddlas with four trees of 'TPO' status and a number of other mature trees located within the curtilage.
3. The application is accompanied by supporting information relating to the transportation behaviour of guests. Out of a total of 234 guests to date, 180 were walkers with no car transport, 46 travelled via car or public transport and 8 were cyclists.

**RELEVANT PLANNING HISTORY:**

4. 43/2005/1227/PF – Demolition of existing timber structure and erection of two-storey pitched roof extension at rear. Granted 10<sup>th</sup> January 2006

43/2005/1228/LB – Demolition of existing timber structure, erection of two-storey pitched roof extension at rear, conversion of bedroom to bathroom & formation of dormer and gable window. Granted 6<sup>th</sup> February 2006

43/2008/0263/LB – Listed Building application for the demolition of existing conservatory and erection of timber framed replacement (retrospective application). Refused

## **PLANNING POLICIES AND GUIDANCE:**

### 5. DENBIGHSHIRE UNITARY DEVELOPMENT PLAN (adopted 3<sup>rd</sup> July 2002)

Policy STRAT 9 – Tourism

Policy GEN 6 – Development control requirements

Policy CON 3 – Change of use of listed buildings

Policy CON 5 – Development in conservation areas

Policy TSM 1 – Tourism development

Policy TSM 7 – Serviced holiday accommodation

Supplementary Planning Guidance

SPG 13 – Conservation areas

SPG 14 – Listed buildings

SPG 21 – Parking

GOVERNMENT GUIDANCE

Planning Policy Wales, March 2002

## **MAIN PLANNING CONSIDERATIONS:**

### 6.

- i) Principle
- ii) Visual/ residential amenity
- iii) Highway safety/ parking

### 7. In relation to the main planning considerations above:

#### i) Principle

The proposal complies with land use criteria set out in policy TSM 7 of the UDP relating to conversion of suitable buildings/ premises into serviced holiday accommodation. The guesthouse currently has 3 no. bedrooms with the remaining 3no. bedrooms used for the private dwelling, it is therefore considered that the use of the property is not excessive in relation to its number of bed spaces and other facilities used for the guesthouse. The requirements of the other policies relating to the listed building and conservation are met with a suitably designed log cabin which is acceptable in principle and to the Conservation Officer. The Area Regeneration and Investment team fully support the provision of much needed quality tourist accommodation in Prestatyn.

#### ii) Visual/ residential amenity

The proposed change of use has no significant impact on the Listed Building or the Conservation Area. The log cabin is sited to the rear and will not impact on the setting of the Listed Building.

#### iii) Highway safety/ parking

No objections have been received from the Head of Highways in relation to the impact of the proposal upon the highway. It is considered that the proposal would not create a major increase of traffic, this is demonstrated by data received regarding the type of transport used by guests, with only 46 of a total of 234 guests using car and/or public transport as a mode of transport to Plas Ifan. Furthermore, the parking which is to be provided within the curtilage of the property is considered satisfactory and complies with the Councils parking standards set out in Supplementary Planning Guidance Note 21.

## **SUMMARY AND CONCLUSIONS:**

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

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

1. The development hereby permitted shall be begun before the expiration of five years from the date of this permission.
2. Facilities shall be provided and retained within the site for the loading, unloading, parking and turning of vehicles in accordance with the submitted plan.

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 provide for the loading, unloading, and parking of vehicles into or from the highway is rendered unnecessary in the interest of traffic safety.

**NOTES TO APPLICANT: None**

**ITEM NO:** 6

**WARD NO:** Prestatyn Meliden

**APPLICATION NO:** 43/2008/0473/ PS

**PROPOSAL:** Variation of condition no. 8 of planning permission code no. 43/2000/0875/PO relating to stopping up or closure of Cefn Y Gwrych, by proposed design and detail of new estate road junction intended to prevent vehicular access to and from estate via Cefn Y Gwrych to the east

**LOCATION:** Land Adjoining Brookdale Cefn Y Gwrych Prestatyn

**APPLICANT:** Aria Developments Ltd.

**CONSTRAINTS:** Wildlife Site  
B Flood Zone  
Tree Preservation Order  
Conservation Area  
Article 4 Direction

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

**CONSULTATION RESPONSES:**

9. PRESTATYN TOWN COUNCIL  
"Strong objection. Local residents have used this highway for many years and object to permanent closure. A member raised a query about accuracy of planning ref no. 66/201/01 contained in a letter dated 24/04/08 from ADS Plan Ltd."
10. HEAD OF TRANSPORT AND INFRASTRUCTURE  
No objection subject to conditional details of the new site junction.

**RESPONSE TO PUBLICITY:**

Letter of representation received from:

1. Mackenzie Solicitors on behalf of Mrs Byvyan Trethowain, Catref Gwenyn, Cefn y Gwrych, Meliden
2. Ms J R Currie, 25 Cefn y Gwrych, Meliden
3. Mr A Philip Perrin, 2A Paradise Street, Rhyl (on behalf of residents on Cefn y Gwrych)

Summary of planning based representations:

- i) Proposal does not satisfy the intention of originally imposed condition as vehicles will still be able to use narrow road.
- ii) Concerns over potential for more intensive use of roads ill equipped to serve 18 no. houses.
- iii) Traffic conditions have worsened in the area since original appeal decision.

**EXPIRY DATE OF APPLICATION: 23/06/2008**

**REASONS FOR DELAY IN DECISION:**

- timing of receipt of representations

## **PLANNING ASSESSMENT:**

### **THE PROPOSAL:**

1. In order to fully understand the proposed variation of condition the planning history of the development site to which it relates requires explanation. An outline application for residential development on land to the north of Cefn y Gwrych submitted in 1994 was dismissed on appeal. The Inspector considered that the proposal would increase traffic on Cefn y Gwrych to the east of the site, which is considered unsuitable for further traffic. A further outline application for the erection of 18 no. dwellings was submitted in 1996 and following refusal by the Council was allowed on appeal in November 1997. Costs were awarded against the Council. The Inspector was satisfied that the development was acceptable subject to the imposition of a number of conditions. One of these conditions, the subject of this application, was as follows:

*“No development pursuant to the permission hereby granted shall take place until Cefn y Gwrych has been stopped up as indicated on Drawing No. 96/270/104A; or until the use of Cefn y Gwrych by through vehicular traffic has been prevented in accordance with a scheme submitted to and approved in writing by the Local Planning Authority, save in so far as such development is necessary to secure the stopping up or closure to through vehicular traffic. The scheme shall include for a footpath and emergency vehicle link.”*

2. The outline permission was renewed in November 2000 and detailed reserved matters approval given in January 2004. The developer undertook operations at the end of January 2006 which have had the effect of keeping the planning permission alive. Legal advice sought by the Council at that time confirmed that such operations constituted a legal commencement of the development.
3. The current application actually seeks to vary the aforementioned condition which had required the stretch of road from the site eastwards along Cefn y Gwrych to be stopped up or closed off to through vehicular traffic. The current application, therefore, shows a newly designed junction to the intended residential development site and Cefn y Gwrych. The intention of this junction design would be to actively discourage traffic from either turning left from the site into Cefn y Gwrych or performing the reverse manoeuvre turning right into the site. Whilst vehicles would still be able to use the stretch of road it was originally conditioned to close, the proposed tightened junction radius would make it difficult for motorists intending to enter or leave the new development to use Cefn y Gwrych to the east.
4. The applicants have submitted a Transport Statement to support their proposal and have further explained that they had submitted a Prohibition of Driving Order (PDO) to the Council in June 2007. This was a formal attempt to comply with the original planning condition. This PDO received a number of objections from local residents who raised concerns about the potential inconvenience of having vehicular traffic prohibited along the relevant section of Cefn y Gwrych. As such the Council's Highway section considered that the local objections were of a material nature and requested the PDO application be withdrawn. The applicants now thus feel that this application to vary the condition is their only option to moving forward with developing on the site.

### **RELEVANT PLANNING HISTORY:**

5. 2/PRE/366/94 – Residential development (Outline) – Dismissed on appeal 21 September 1995

43/13/96/PO – Development of land by erection of 18 dwellings (Outline) – REFUSED 12 June 1996 – Allowed on appeal 4 November 1997

43/2000/0875/PO - Renewal of application 43/13/96/PO – GRANTED 3 November 2000

43/2000/1228/PR – Details of design and external appearance of 18 no. dwellings and landscaping (Reserved Matters) – APPROVED 29 January 2004

43/2005/1488/PS - Variation of condition no. 3 on planning permission 43/2000/0875/PO to allow for commencement to development before expiration of 4 years from date of approval of last of reserved matters. – APPLICATION PENDING

43/2005/1489/PS – Variation of condition no. 8 of planning permission code no. 43/2000/0875/PO relating to stopping up or closure of Cefn y Gwrych, to require the approval of the local planning authority to arrangements to prevent vehicle access to the section of Cefn y Gwrych east of the proposed new estate road. – WITHDRAWN 17<sup>TH</sup> February 2006

#### **PLANNING POLICIES AND GUIDANCE:**

6. DENBIGHSHIRE UNITARY DEVELOPMENT PLAN (adopted 3<sup>rd</sup> July 2002)  
Policy GEN 6 – Development Control Considerations  
Policy TRA 6 – Impact of New Developments on Traffic Flows

#### **GOVERNMENT GUIDANCE**

Planning Policy (Wales) March 2003  
TAN (Wales) 18 - Transport

#### **MAIN PLANNING CONSIDERATIONS:**

7.
  - i) Impact of proposed variation on highway safety
  - ii) Impact of proposed variation on amenity
8. In relation to the main planning considerations in paragraph 7 above:
  - i) Highway Safety  
In imposing the original condition at appeal, the Inspector considered that a negatively worded condition such as Condition 8 is necessary to ensure that the development would not lead to an unacceptable increase in highway danger. This was having due regard to the width of Cefn y Gwrych, its unsurfaced nature, alignment and limited visibility at junctions with Isfryn Road and Ffordd Penrhwyfya. Several times in the decision letter he refers to the need to prevent use of Cefn y Gwrych to the east of the site through closure. The highway circumstances in existence in 1997 and 2000 remain and it could be argued that there are potentially more vehicles in this area now.

Whilst the applicants have indicated measures to “make it difficult” for vehicles potentially leaving or entering the new development due to junction design they could never “prevent” the continued use of the difficult stretch of road to the east via Cefn y Gwrych by implementing these measures. It is accepted that the Head of Transport and Infrastructure raises no objection to the measures proposed. However, in this instance the previous appeal decision and clear intentions of the Inspector to “prevent” the use of the road



overrides the views of the Highway Engineers.

ii) Amenity

Impact on residential amenity was not a specific issue addressed by the Inspector in the appeal decision. However, reference was made to the fact that the closure would introduce inconvenience for the existing residents who rely on access to Cefn y Gwrych as an alternative to using Maes Meurig particularly in winter conditions. However, the Inspector did not consider this to be an overriding objection. In addition, the closure of Cefn y Gwrych would significantly reduce traffic movements immediately adjacent to the terraced cottages in Cefn y Gwrych, which would have a positive impact on residential amenity.

It must be further acknowledged that the applicant has made an attempt to comply with the planning condition 8 by applying for an Order. Whilst this application was withdrawn due to local objections this is not in itself considered sufficient justification to allow the variation of condition. In general it is likely that traffic movements in the area and on the surrounding road network have increased, thus reinforcing the need for the condition.

**SUMMARY AND CONCLUSIONS:**

9. The originally imposed condition remains valid and it is not considered that the submitted scheme and supporting information is sufficient to warrant deviation from a previously imposed Inspectors decision in the interests of highway safety.

**RECOMMENDATION: REFUSE-** for the following reasons:-

1. The proposed variation of condition 8 would not facilitate the prevention of the use of Cefn y Gwrych by vehicular traffic through its closure, and thus there would be a likelihood of additional traffic using Cefn y Gwrych to the east of the site. The stretch of Cefn y Gwrych, between the site and Ffordd Penrhwylyfa, would not be capable of accommodating additional traffic due to its width, alignment, and limited visibility at the junctions with Isfryn Road and Ffordd Penrhwylyfa. The proposal would therefore be contrary to criteria (vii) of Policy GEN 6 and Policy TRA 6 of the Denbighshire Unitary Development Plan and guidance within Planning Policy Wales and TAN 18 - Transport.

**NOTES TO APPLICANT:**

None

**ITEM NO:** 7

**WARD NO:** Prestatyn Meliden

**APPLICATION NO:** 43/2008/0561/ PF

**PROPOSAL:** Erection of monopitched shelter at rear of building

**LOCATION:** Star Inn 75 Ffordd Talargoch Prestatyn

**APPLICANT:** Marston's Pub Company

**CONSTRAINTS:** Previous Mining Area  
Article 4 Direction

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

**CONSULTATION RESPONSES:**

1. PRESTATYN TOWN COUNCIL  
"Object. Concerns about smoke pollution, increased noise, and unsupervised behaviour."

**RESPONSE TO PUBLICITY:**

Letters of representations received from:

1. Miss Marie J Thomas, 59 Ffordd Talargoch, Meliden
2. Mrs M D Williams, 69 Ffordd Talargoch, Meliden
3. Mrs B Mitchell, 71 Ffordd Talargoch, Meliden
4. Mr. & Mrs. Clarke, 65, Ffordd Talargoch, Meliden

Summary of planning based representations:

- i) Noise and disturbance;
- ii) The existing shelter to the front is very noisy already.

**MEMBERS' COMMENTS:**

None.

**EXPIRY DATE OF APPLICATION:** 13/07/2008

**REASON FOR DELAY IN DECISION:**

- Timing of receipt of representations

**PLANNING ASSESSMENT:****THE PROPOSAL:**

1. The proposal seeks permission to erect a shelter attached to the rear of the building, which will replace the unauthorised structure attached to the front of the public house. The shelter will stand at the rear corner of the building attached to the rear wall and a small flat-roofed extension which provides access out to the rear. The shelter has a floor area of 1.5 metres in depth by 3.7 metres, with the extension amended to provide a new door instead of an existing window to give direct access out to the shelter. The shelter will have a wooden framework with a

mono-pitched polycarbonate roof up to a maximum height of 2.6 metres.

2. The public house stands on the southern side of Ffordd Talargoch and has a takeaway premises to the west side and a row of terraced residential properties to the east. The site has a long rear curtilage in which lies the car park and a beer garden area. The land to the rear is bounded by walls of between 1.5 and 2.0 metres in height. The rear beer garden is situated on differing levels as the land rises to the rear. The proposed shelter will be situated on the lowest level of the existing beer garden.

#### **RELEVANT PLANNING HISTORY:**

3. The site has been subject to a number of previous planning applications, including extensions and alterations, works to the car park and signage. The latest application (ref 43/2007/0504/PC) seeks consent to retain the UPVC/glass canopy at the front of the building. This application was undetermined at the time of this report, on the understanding that the structure will be removed should the proposal for the shelter to the rear be granted. Furthermore, enforcement action has already been authorised to remove the front canopy under ref ENF/2007/00058.

#### **PLANNING POLICIES AND GUIDANCE:**

4. DENBIGHSHIRE UNITARY DEVELOPMENT PLAN (adopted 3<sup>rd</sup> July 2002)  
Policy GEN 6 – Development Control Requirements

GOVERNMENT GUIDANCE  
Planning Policy Wales March 2002

#### **MAIN PLANNING CONSIDERATIONS:**

5.
  - i) Visual appearance
  - ii) Impact on the privacy and amenity of nearby occupiers.
6. In relation to the considerations as noted in paragraph 6:
  - i) Visual appearance  
The siting of the shelter is to the rear of the building and is of an acceptable appearance. It is also considered that by allowing this modest structure to the rear of the building will facilitate the removal of the prominent and unattractive structure to the front. A condition will be imposed requiring the removal of the front canopy prior to the first use of the new one to the rear.
  - ii) Impact on the privacy and amenity of nearby occupiers  
The shelter does not project out past the existing rear extension and its roof has a highest point of only 0.6 metres more than the existing rear extension. Furthermore, the shelter lies within the existing car parking area and to the opposite side of the rear curtilage to the objectors with a beer garden and barbeque area in between. It is not therefore adjudged that the shelter will introduce any degree of noise or disturbance over and above that which can readily be generated by patrons of the beer garden and car parking area, particularly given its small scale nature with a footprint of only 5.5 sqm. As such, whilst the concerns of local residents and the town council regarding noise and disturbance are noted, it is not considered that a refusal of permission can be substantiated on this basis given the existing use of the land.

**SUMMARY AND CONCLUSIONS:**

7. The application is 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. No external wall or roof materials shall be applied until the written approval of the Local Planning Authority has been obtained to the proposed materials to be used for the external surfaces of the [walls [and roof(s)]] of the development hereby permitted and no materials other than those approved shall be used.

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

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

**NOTES TO APPLICANT:**

None

**ITEM NO:** 8

**WARD NO:** Prestatyn East

**APPLICATION NO:** 43/2008/0635/ PF

**PROPOSAL:** Installation of 1 No. 0.6m dish and 2 No. 1.2m dish antennae on existing tower

**LOCATION:** ARQIVA Transmitter Station Gwaenysgor Rhyl

**APPLICANT:** Arqiva Limited

**CONSTRAINTS:** Telecommunication Mast Sites  
Previous Mining Area  
Article 4 Direction  
AONB

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

**CONSULTATION RESPONSES:**

1. PRESTATYN TOWN COUNCIL- 'Object, Concerns about public health and safety associated with such transmitters'.
2. AONB JAC  
"The JAC has no observations on this application".

**RESPONSE TO PUBLICITY:**

None received.

**EXPIRY DATE OF APPLICATION: 29/07/2008**

**PLANNING ASSESSMENT:****THE PROPOSAL:**

1. It is proposed to install 1 no. 0.6m antenna at 9.0m, 1 no. 1.2m dish antenna at 8.0m and 1 no. 1.2m antenna at 20.0 on an existing mast at the Arqiva Transmitter Station, Gwaenysgor. No alterations to the height of the existing mast are proposed. The equipment housing will also remain the same.
2. The mast proposal has been submitted by Arqiva who own the site and tower on behalf of National Grid Wireless who will use the equipment. The operator has stated that the mast and antennae complies with government guidance on maximum public exposure levels with reference to electromagnetic field (ENF) emissions and ICNIRP Guidelines.
3. The application site is located to the south west corner of the Old Radar Station.

**RELEVANT PLANNING HISTORY:**

4. Various on the application site, most recent  
43/2005/700 Installation of 7 No. antennas Granted 17/06/2005

43/2006/0645 Replacement of 6 No. sector antennas with 3 No. UMTS antennas and 3 No. dual polar antennas. Granted 26/07/2006

**PLANNING POLICIES AND GUIDANCE:**

5. DENBIGHSHIRE UNITARY DEVELOPMENT PLAN (adopted 3<sup>rd</sup> July 2002)  
Policy TRA15 - Telecommunications

**GOVERNMENT GUIDANCE**

Welsh Office Circular 22/99 "Planning for Telecommunications"

Planning Policy Wales March 2002

TAN 19 – Telecommunications – August 2002

**MAIN PLANNING CONSIDERATIONS:**

6. The main issues are considered to be:
- i) Principle of mast development in this location
  - ii) Impact of siting and appearance
  - iii) Health and safety
7. In relation to the considerations as noted above:
- i) Principle  
The precedent has been set for development of this nature in the area as there is an existing mast and telecommunications equipment on the site. Furthermore Government guidance encourages such new equipment to be sited on existing structures.
  - ii) Impact of siting and appearance  
The proposal is for antennae on an existing mast which will not have any greater visual impact than the existing arrangement. The new antennae's overall size and scale would not be obvious on this 45m high mast and would not cause any increased visual intrusion. Although the proposal is located in the AONB, it would not impact on the character of the immediate area as there is other communications equipment in this area.
  - iii) Health and Safety  
Health concerns raised in relation to telecommunications equipment can be a material planning consideration. However no definitive evidence is currently available which links emissions with health risks. The applicants have supported their planning application with a Declaration of Conformity with ICNIRP Public Exposure Guidelines. The Local Planning Authority have taken a view that until such time as evidence is available and guidance is clear on the effect of masts and equipment each proposal must be dealt with on its merits balancing the public's demand for mobile phone coverage and their health concerns. In the proposed location, fears of health risks could not warrant the refusal of this application particularly as there is an existing mast on the site.

**SUMMARY AND CONCLUSIONS:**

8. The proposal would not cause significant detriment to visual amenity and the operator has provided sufficient information to justify the proposal.

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

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

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

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

**NOTES TO APPLICANT:**

None

**ITEM NO:** 9

**WARD NO:** Rhuddlan

**APPLICATION NO:** 44/2008/0555/ PF

**PROPOSAL:** Change of use of part of beauty salon to café

**LOCATION:** Skin Deep Fondella Buildings High Street Rhuddlan Rhyl

**APPLICANT:** Suzanne J Newberry

**CONSTRAINTS:** CLA-Class A Road  
Groundwater Vulnerability 2  
Conservation Area

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

**CONSULTATION RESPONSES:**

11. RHUDDLAN TOWN COUNCIL –  
“Object, due to present sufficient number of existing cafes in the High Street”
12. HEAD OF TRANSPORT AND INFRASTRUCTURE –  
No objection

**RESPONSE TO PUBLICITY:**

Letter of objection:  
G Wong, 2 High Street, Rhuddlan

Summary of representation:

- vi) Impact on highway network/parking
- vii) Concentration of A3 Uses
- viii) Potential for future intensification

**EXPIRY DATE OF APPLICATION: 08/07/08**

**REASONS FOR DELAY IN DECISION:**

- Timing of receipt of representations
- Delay in receipt of key consultation response(s)

**PLANNING ASSESSMENT:****THE PROPOSAL:**

1. Permission is sought for the change of use of part of Fondella Buildings to Class A3 café. The A3 café is proposed at the rear of the building. The area to the street frontage will be retained for the existing A1 retail unit and another A1 retail use; the first floor will remain in use as the beauty salon. The entrance to the proposed A3 café will be at the rear, accessed via a side entrance gate to a small courtyard, which currently serves as the secondary access and amenity



area to the first floor salon. There are no external works proposed to Fondella Buildings.

2. The application site is located in the centre of Rhuddlan, in a designated Conservation area, on the south side of High Street. Fondella Buildings comprises a first floor beauty salon and 2 no. approved retail units. Adjacent to Fondella Buildings is a Public House to the northeast and an A1 Interior Design Shop and Funeral Directors to the southwest. To the rear of Fondella Buildings assessed off Parliament Street is a Public Car Park.

**RELEVANT PLANNING HISTORY:**

3. 44/227/99/PC Continuation of use of ground floor and part first floor as beauty salon. Granted  
44/2001/493/PF Change of use of residential flat to form extension to beauty salon. Granted  
44020060809 Change of use of part of beauty salon to 2 no. retail units. Granted

**PLANNING POLICIES AND GUIDANCE:**

4. DENBIGHSHIRE UNITARY DEVELOPMENT PLAN (adopted 3<sup>rd</sup> July 2002)  
GEN 1 - Development Within Development Boundaries  
GEN 6 - Development Control Requirements  
RET 1 - Town and District Centres  
RET 6 – Town and District Centres  
RET 16 - Food and Drink – Hot Food Take Aways  
CON 5 – Development within Conservation Areas

GOVERNMENT GUIDANCE  
Planning Policy Wales, March 2002

**MAIN PLANNING CONSIDERATIONS:**

5.
  - i) Principle
  - ii) Visual Amenity/ Impact on the Conservation Area
  - iii) Residential Amenity
  - iv) Highways
6. In relation to the main planning considerations above:
  - i) Principle  
The site is located within the defined development boundary and retail centre of Rhuddlan. Policy RET 6 aims to provide the widest range of shops and uses within retail centres in order to maintain vitality and viability. Policy RET 16 relates specifically to A3 uses and sets out the criteria that apply when considering A3 uses; these include the location, clustering, amenity and highways impacts.  
This application proposes the change of part of a building to A3 cafe; the units to the street frontage will remain as A1 retail use and the first floor as a Sui Generis beauty salon. The A3 café is at the rear of the building, utilising excess space and the external courtyard area, as such it is not considered that the proposal will impact adversely on the range of retail uses in the town centre. Whilst there is a Public House to the north east side of Fondella Buildings there is a range of uses in the block and the High Street, as such it is not considered that the change of use of part of the Fondella Buildings will create a clustering or over intensification of A3 uses in the retail centre.

- ii) Residential amenity  
Owing to the location in the town centre it is not considered that the proposal would impact on residential amenity. Whilst there is no residential use in the building it is unlikely that the proposed A3 café would impact of surrounding occupiers as it is like to be a daytime use with restricted hours of operation and no take-away.
- iii) Visual Amenity/ Impact on the Conservation Area  
No alterations or extensions are proposed to Fondella Buildings to accommodate the change of use as such there will be no impact on visual amenity or the character and appearance of the Conservation Area. The side entrance and courtyard area opens up the rear of the building and provides interest off the High Street, which contributes to the overall character of the area.
- iv) Highways  
The site is located within the designated town centre; although there is no off street parking provided however the proposal it is acceptable in terms of highway safety and parking. Owing to the scale of the A3 café use is unlikely to generate excessive amounts of traffic. Furthermore Rhuddlan town centre is served by good public transport links including bus and cycle routes, which would enable users to access the café by a range of means of transport. Finally it must be noted that to the rear of the Fondella Buildings is a Public Car Park.

**SUMMARY AND CONCLUSIONS:**

- 7. It is considered that the proposal complies with the relevant policies of the Unitary Development Plan, as such it is recommended for grant.

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

- 1. The development hereby permitted shall be begun before the expiration of five years from the date of this permission.
- 2. The café use hereby permitted relates to the area of Fondella Buildings as shown on the plan submitted on 14th May 2008 only.
- 3. The café shall only be open to the public between the following hours:- 08.00 to 20.00 daily.
- 4. There shall be no sale of food or drink for consumption off the premises hereby permitted.
- 5. Prior to the erection of any external ventilation flue for the cafe, full details of its design and materials shall be submitted and approved in writing by the Local Planning Authority. The flue and other 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.

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 interest of clarity.
- 3. In the interest of amenity and the vitality and viability of the town centre.

4. In the interest of amenity and the vitality and viability of the town centre.
5. In the interests of amenity.

**NOTES TO APPLICANT:** None

**ITEM NO:** 10

**WARD NO:** Rhuddlan

**APPLICATION NO:** 44/2008/0655/ PS

**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

**LOCATION:** (Rhuddlan Triangle) Land at Marsh Road Rhuddlan Rhyl

**APPLICANT:** Muller Property Holdings Ltd.

**CONSTRAINTS:** C1 Flood Zone

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

**CONSULTATION RESPONSES:**

13. RHUDDLAN TOWN COUNCIL  
Awaiting response at time of writing report.
14. RHYL TOWN COUNCIL  
Awaiting response at time of writing report.
15. POLICY SECTION  
Awaiting response at time of writing report.

**RESPONSE TO PUBLICITY:**

None

**EXPIRY DATE OF APPLICATION: 07/08/2008****REASONS FOR DELAY IN DECISION:**

- timing of receipt of representations

**PLANNING ASSESSMENT:****THE PROPOSAL:**

1. The proposal is a variation of condition 21 on a full planning permission for a mixed commercial and retail development on a 1.5ha roughly triangular site. Development on the site has commenced with a Hotel and restaurant recently opened.
2. The site lies within an allocated Major Development Area as set out within the adopted Unitary Development Plan sitting at a gateway location to the south of Rhuddlan.
3. The originally imposed condition no. 21 sought to restrict the use of permitted retail units on the site to only selling non-food bulky goods only. The condition also ensured that the gross floor space would be a maximum of 2300 sq.m and that the

units could not be sub-divided.

4. Permission is now sought to vary the condition to allow the sale of non-food goods, thus lifting the bulky goods element enabling more general non-food retailing to take place.
5. The application is supported by a detailed Retail Assessment which attempts to highlight that allowing such a variation would not impact negatively on the nearby retail centres of Rhuddlan or Rhyl. The report by Alyn Nicholls and Associates – Chartered Town Planners, concludes within the following key points:
  - No harm would follow from the removal of the restriction on the ranges of goods to be sold from the Rhuddlan Triangle site;
  - Removing the restriction would ensure the implementation of the retail component of the scheme;
  - It would improve the attractiveness of Rhuddlan as a destination for shopping;
  - It would benefit existing businesses through linked trips ensuing new people attracted to Rhuddlan;
  - It would provide investment at an important gateway site, provide additional employment opportunities at Rhuddlan; and
  - It would contribute towards achieving a more sustainable pattern of development
6. The report also highlights that, given the size of the retail unit's limit at 2300 sq.m, the impact upon Rhuddlan and Rhyl in retail terms by varying this restrictive condition would be no more than 1%. Thus, it is claimed, would be unlikely to be perceptible on any existing retail centre.

#### **RELEVANT PLANNING HISTORY:**

7. **44/2007/1009/PS** – 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 – GRANTED 21/09/07 with Condition Imposed :
  1. The retail units hereby permitted shall not be used for the sale of food, convenience goods, clothes, footwear, books, jewellery, sports goods, toys, compact discs, DVDs and cosmetics, other than ancillary to the main retailing use of the retail unit. In this respect the ancillary sales of the excluded goods shall comprise no more than 20% in total of the nett internal retail sales floorspace of the store. The retail units shall have in total a gross floor space of no greater than 2300 sq.m and shall not be sub-divided into smaller units.  
*Reason:* To control the retail elements of the scheme in the interest of the vitality and viability of nearby town centres.
- 44/733/97/PO** – Development of 1.49 hectares of land by erection of public house, hotel, fast food unit and non-food retail unit (outline) – GRANTED 28<sup>th</sup> November 1997
- 44/2000/1013/PO** – Renewal of outline planning permission reference 44/733/97/PO – GRANTED 27<sup>th</sup> December 2000
- 44/2005/0999/PS** – Variation of conditions on 44/2000/1013/PO to allow submission of reserved matters by 27<sup>th</sup> December 2005 and the commencement of development by the 27<sup>th</sup> December 2006 – GRANTED 28<sup>th</sup> September 2005
- 44/2005/0771/PF** – Erection of public house/restaurant, hotel, drive-thru fast food unit, non-food retail unit, and associated access, car parking and landscaping. GRANTED 27 October 2005.

**44/2006/0105/PF** - Erection of public house/restaurant, hotel, drive-thru fast food unit, non-food retail units, and associated access, car parking and landscaping (amended scheme). GRANTED 8<sup>th</sup> NOVEMBER 2005.

**PLANNING POLICIES AND GUIDANCE:**

8. DENBIGHSHIRE UNITARY DEVELOPMENT PLAN (adopted 3<sup>rd</sup> July 2002)
- Policy STRAT 1 – General
  - Policy STRAT 6 – Location
  - Policy STRAT 10 – Town Centres
  - Policy STRAT 11 – Regeneration
  - Policy STRAT 13 – New Development
  - Policy GEN 1 – Development within Development Boundaries
  - Policy GEN 6 – Development Control Requirements
  - Policy RET 1 – Town and District Centres
  - Policy RET 4 – Non food retail stores or warehouses
  - Policy MDA 6 – Major Mixed Development Area – Rhuddlan Triangle
  - Site Brief MDA 6 – Rhuddlan Triangle

**GOVERNMENT GUIDANCE**

Planning Policy Wales (March 2002)

MIPPS 02/2005 Planning and Retailing for Town Centres (Nov 2005)

Technical Advice Note (Wales) 4 – Retailing and Town Centres (November 1996)

**MAIN PLANNING CONSIDERATIONS:**

9.

- i) Retail issues relating to range of goods to be sold

10. In relation to the main planning considerations in paragraph 9 above:

- i) Retail issues relating to range of goods to be sold  
The planning permission for the Hotel, Restaurant, Fast food outlet and retail units has commenced on this long vacant gateway site. The retail part of this development has not come forward largely due to the restrictive conditions imposed previously relating to the ranges of goods which could be sold. The condition made it difficult to attract suitable end users who could comply with the condition outlined in paragraph 7 above (44/2007/1009/PS).

However, in granting the permission 44/2007/1009/PS the Council effectively allowed a variation on the bulky goods restriction, albeit imposing another fairly restrictive condition on goods sold. The retail assessment submitted by the applicant has been assessed on behalf of the Council by Roger Tym and Partners. This respected company have been used by the Council previously and have actually undertaken full retail studies for Denbighshire in 2003 and 2006.

Roger Tym and Partners accept the applicant's claims that the likely trade impact of the variation of condition is unlikely to materially affect the long term vitality and viability of the deprived centres. A refusal of this application on the basis of any conflict with UDP Policy RET 4 and/or Ministerial Guidance on Retailing is not justified. The extant permission sets a precedent for more mainstream non-food retail uses at the Rhuddlan Triangle site. Against this background they consider that resisting the proposal on the basis of a conflict with Policy MDA 6 of the UDP would be difficult to substantiate. They also

stress that this proposal to vary the condition is unlikely to have any bearing on the delivery of any retail scheme in Rhyl Town Centre.

Furthermore, this application is submitted whilst a planning appeal (public inquiry) is due to be heard in August of this year against the Councils previously imposed restrictive condition. Roger Tym stress that there would be a strong likelihood that the Council would lose this planning appeal based on current retail evidence.

**SUMMARY AND CONCLUSIONS:**

11. The proposed variation of condition would allow any non-food retailing to take place from within the previously approved retail units. This has been assessed as acceptable by specialist consultants employed on behalf of the Council. They have confirmed that this proposal is unlikely to materially affect the long term vitality and viability of nearby centres. Furthermore, it should not impact on the potential delivery of any retail schemes for Rhyl Town Centre. The condition element which restricted the floorspace of the units to 2300 sq.m should still apply along with restrictions of sub-division.

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

1. The retail units hereby permitted shall be used for the sale of non-food goods only. They shall have in total a gross floorspace no greater than 2300 sq.m and shall not be sub-divided into smaller units.

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

1. For the avoidance of doubt and to enable the Local Planning Authority to retain a degree of control over the future use of the units in the interests of retail vitality and viability in nearby centres.

**NOTES TO APPLICANT: None**

**ITEM NO:** 11  
**WARD NO:** Rhyl West  
**APPLICATION NO:** 45/2006/1406/ PF  
**PROPOSAL:** Conversion and alterations to create 16 no. self-contained flats and construction of new vehicular access  
**LOCATION:** Sandringham Hotel 46-47 West Parade and 50/52 Abbey Street Rhyl  
**APPLICANT:** L W Properties Ltd.  
**CONSTRAINTS:** C2 Flood Zone  
Town Heritage Area  
Groundwater Vulnerability  
EA Floodmap Zone 3  
EA Floodmap Zone 2  
Conservation Area  
Article 4 Direction  
**PUBLICITY UNDERTAKEN:** Site Notice - Yes Press Notice - Yes Neighbour letters - Yes

**CONSULTATION RESPONSES:**

16. RHYL TOWN COUNCIL  
"No objection".
17. HEAD OF TRANSPORT & INFRASTRUCTURE  
No objection subject to condition.
18. ENVIRONMENT AGENCY  
No objection, mitigation measures in Flood Consequences Assessment are sufficient.
19. CONSERVATION ARCHITECT  
No objection.
20. HEAD OF HOUSING  
No objection.

**RESPONSE TO PUBLICITY:**

None.

**EXPIRY DATE OF APPLICATION: 14/02/2008**

**REASONS FOR DELAY IN DECISION:**

- additional information required from applicant

**PLANNING ASSESSMENT:**

**THE PROPOSAL:**



1. The application site comprises the former Sandringham Hotel serviced tourist accommodation. A public house operated from the ground floor with upper floor tourist accommodation becoming bed sits in more recent years.
2. The property is a large, traditional 4 storey property located at the end of a terrace on West Parade. Attached to the rear is 50/52 Abbey Street. No. 50 Abbey Street is a two-storey building which had previously been used as a Fish and Chips Café at ground floor and No. 52 Abbey Street is a 3 storey property previously used for residential purposes.
3. Full planning permission is sought for the conversion and alteration of this group of properties to create 16 no. self-contained apartments. This application has been revised following negotiations between officers and the applicant with the overall number of apartments reduced from 18 no. and intended extensions to No. 50 Abbey Street being omitted. The 16 no. apartments proposed are set out below:-

Area	Unit	No. of Beds	Floor
sq.m	1	1	72
sq.m	2	2	81
sq.m	3	2	72
sq.m	4	2	106
sq.m	5	1	62
sq.m	6	1	37
sq.m	7	2	56
sq.m	8	2	69
sq.m	9	2	73
sq.m	10	1	56
sq.m	11	1	37
sq.m	12	2	56
sq.m	13	2	68
sq.m	14	2	73
sq.m	15	2	55
sq.m	16	2	73

4. The applicant has offered 5 no. units (1, 2, 5, 7 and 10) as affordable units in accordance with the Council's adopted policy. However, further information submitted by the applicant, estate agents and the Council's Affordable Housing Officer suggests that these affordable units be returned to open market units after a specified period should it prove impossible to fill them against recognised criteria.

This would not strictly comply with the Council's adopted policy and guidance in respect to the provision of affordable housing and as such must be reported to Members for consideration as a potential departure. The proposed refurbishments and conversion of the application premises have been completed by the developer. It had been resolved to grant permission for the now revised scheme of 18 no. apartments subject to the signing of a Section 106 Agreement. This was not completed due to circumstances explained below.

#### Background of Affordable Housing Issues

5. The applicant is a local developer who has developed a number of properties in Rhyl contributing to the general regeneration aims of the Council. These previous schemes have also included the provision of affordable housing. The scheme at the current application site began as one for 18 no. apartments. Officers resolved to grant this scheme subject to the signing of a Section 106 Agreement to secure the 5 no. affordable units and commuted sums for open space.

Given the amount of low cost units of accommodation in this part of Rhyl, the Council began work on Interim Planning Guidance (IPG) which would attempt to supersede the current SPG and allow a relaxation on the provision of affordable housing units. Instead, the aim would be to require a financial contribution from developers to a regeneration fund for West Rhyl.

As such, the intended Section 106 Agreement at this site was not signed and further negotiations began with Officers in Planning, Housing and the developer to explore the IPG options.

Over this preceding period open market prices in Denbighshire have been falling and house values are considerably lower and are set to fall further. This is causing a problem with the method of calculating the price of an affordable property using three times the local income as described within the existing SPG. This calculation has obviously remained the same and is not reflecting the fall in house prices. Therefore, the price comparison between an affordable property and an open market property was significantly narrowed. This, along with rising mortgage rates and the requirement from lenders for longer deposits has significantly affected our affordable housing process.

In relation to this particular case, the applicant has offered 5 no. units for sale as affordable. The people on the Council register are having ever increasing problems with obtaining a mortgage, providing a deposit or are simply not interested in the type or location of these apartments. On top of this, the current open market valuations we have received for the affordable units are priced lower than our calculations. This makes the affordable units as unsaleable as those able to obtain a mortgage will choose the current cheaper units in this scheme with no affordable housing restrictions on re-sale.

The developer in this case, therefore, proposes to continue to offer the 5 no. affordable units in accordance with the Council's policy. However, he also now requests that following a further 6 month period, within which the units would be offered out wider to applicants who do not meet the affordable criteria, they then return to open market units.

#### **RELEVANT PLANNING HISTORY**

6. None.

## **PLANNING POLICIES AND GUIDANCE**

7. DENBIGHSHIRE UNITARY DEVELOPMENT PLAN (adopted 3<sup>rd</sup> July 2002)
- |               |   |  |
|---------------|---|--|
| Policy GEN 6  | - | Development Control Requirements                 |
| Policy HSG 10 | - | Affordable Housing Within Development Boundaries |
| Policy ENP 6  | - | Flooding   |
| Policy HSG 13 | - | Subdivision into Self-Contained Flats            |
| Policy HSG 15 | - | Residential Conversion in East and West Rhyl     |
| Policy TSM 8  | - | Safeguarding existing serviced accommodation     |
| Policy TRA 9  | - | Parking and Servicing Provision                  |

### Supplementary Planning Guidance

- |        |   |                                       |
|--------|---|---------------------------------------|
| SPG 4  | - | Open Space in New Developments        |
| SPG 21 | - | Parking Standards in New Developments |
| SPG 22 | - | Affordable Housing                    |

### GOVERNMENT GUIDANCE

- |        |   |                         |
|--------|---|-------------------------|
| TAN 15 | - | Planning and Flood Risk |
|--------|---|-------------------------|
- Planning Policy Wales, March 2002

## **MAIN PLANNING CONSIDERATIONS:**

- 8.
- i) Principle of proposed development
  - ii) Impact on residential amenity
  - iii) Impact on visual amenity
  - iv) Flood Risk
  - v) Affordable Housing
  - vi) Open Space
  - vii) Highways & Parking Issues
9. In relation to the points identified above in paragraph 8:-
- i) Principle of development  
This area of West Rhyl has seen some positive regeneration schemes whereby run down, under used or vacant premises have been renovated creating more acceptable uses and a better standard of accommodation. Whilst this property had been used for tourist accommodation in the past the Principal Tourism Marketing Officer has confirmed that it had not figured as one of the town's working hotels for some years. As such, no objection has been raised to the principle of the development having regard to the intentions of Policy TSM 8. In relation to the other relevant adopted UDP policies, the principle of renovating and converting the existing bed sits into self-contained apartments is acceptable.
  - ii) Residential Amenity  
The scheme has been revised to omit rear extensions which may have impinged upon the amenity of residents on Abbey Street. The area is residential in character and the proposed renovations would not harm the existing levels of residential amenity enjoyed. Windows and doors proposed are located in elevations where sufficient existing distances are present ensuring relevant space standards are met within an area where upper floor windows are already present. All of the apartments are self-contained and meet existing floor space standards. Cycle stores, bin storage and secure rear car parking is being provided making the proposed level of amenity for future occupiers adequate and in line with guidance.
  - iii) Visual Amenity  
The area to the rear of the site will be significantly improved by the removal of

poorly designed extensions and outbuildings. Previously proposed 3 storey extensions have now been omitted from the scheme and it is considered that the finishes and detailing on the building are an improvement on the previous dull grey Hotel exterior.

iv) Flood Risk

A flood consequences assessment has been submitted and assessed by the Environment Agency. This report has been accepted by the Agency as it demonstrates that the risks and consequences of flooding can be acceptably managed. The development has followed the mitigation measures proposed in the flood consequences assessment.

v) Affordable Housing

As set out within paragraph 5 above, the applicant has offered to fully comply with the adopted affordable housing policy and guidance. The 5 no. units offered meet the minimum 30% threshold set out in the guidance. A Section 106 legal agreement will need to be signed to reflect this offer. However, the key difference here as compared to other schemes, which have offered the necessary affordable housing, is what happens to these 5 no. units should it be further proved that nobody will take them up? A report submitted by the Council's Affordable Housing Officer has outlined clearly that, given the economic climate and the fact that there are now unrestricted properties available cheaper than those which have been provided through our existing adopted policy, it is unfair on a developer to insist the legal agreements hold him to this provision. Furthermore, given that we have not yet produced and approved Interim Planning Guidance which would relax the affordable housing provision in favour of a commuted sum for regeneration it is also difficult to request the developer follows this route. Given the economic downturn, however, the developer profit on this scheme now would not warrant a contribution towards this regeneration pot in any case based upon IPG calculations. As such, it is considered reasonable, considering developer attempts to comply with adopted policy, to allow any subsequent legal agreement to give the scope for the 5 no. affordable housing units to return to open market sale after a specified period. Should the Council and Registered Social landlords be able to fill these 5 no. units, however, within this time then the developer would have complied with the adopted policy. In this instance, therefore, a departure from adopted policy and guidance is justified.

vi) Open Space

In accordance with Policy REC 2 and SPG 4 this development of over 10 no. units requires the provision of open space. Given the location on West Parade the option of providing a commuted sum in lieu of on-site provision has been put forward. In relation to the overall regeneration benefits to the building and the obvious difficulties of providing the required amount of open space on site, this commuted sum option is acceptable. This will be secured through a Section 106 legal agreement for the sum of £19,250.50 which is in line with adopted policy and guidance.

vii) Highways and Parking

Taking into account the previous uses on this site and the fact no parking was available, the Head of Transport and Infrastructure raise no objection to the proposal subject to conditions. Some off-street, secured parking is being provided via the rear entry and given the site's proximity to the town centre and transport links this is deemed as acceptable.

**SUMMARY AND CONCLUSIONS:**

10. A previous scheme for 18 no. units has already been resolved to be granted subject to a Section 106 agreement. This revised scheme is an improvement to that as it now omits a 3 storey rear extension. The development meets all adopted policies and guidance with the applicant providing a commuted sum for open space and undertaking measures to address flood risk. The key issue in this case relates to the provision of affordable housing. Whilst still offering the required 5 no. units the developer wishes to have these returned to open market sale after a specified period should the Council and Registered Social Landlord's not manage to fill them. Given the economic circumstances and the adopted calculations for mortgage purposes this is deemed as reasonable by the Council's Affordable Housing Officer until such time as the new IPG is adopted.

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

1. The development shall be carried out in accordance with recommendations contained in the FCA report dated December 2006 ref. 3301 from Richard Braun Associates.
2. The bin and cycle storage areas shall be kept available for that purpose at all times.
3. The number of apartments within the building shall be 13 no. and the floorplan layouts shall remain as per the approved plans (No. 06/18/BR3b, BR2b, BR1b) unless otherwise agreed in writing by the Local Planning Authority.
4. Facilities shall be provided and retained within the site for the parking and turning of vehicles in accordance with the approved plan and which shall be completed prior to the proposed development being brought into use.

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

1. To mitigate against the consequences of flooding in the area.
2. In the interest of residential amenity.
3. For the avoidance of doubt and in the interests of residential amenity.
4. To provide for the parking and turning of vehicles clear of the highway and to ensure that reversing by vehicles into or from the highway is rendered unnecessary in the interest of traffic safety.

**NOTES TO APPLICANT:**

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

**ITEM NO:** 12

**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:**

## 21. 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."

22. HEAD OF TRANSPORT AND INFRASTRUCTURE  
No objection subject to conditions23. WELSH WATER  
No objection24. 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 John Street (to the south east) and round to the rear of 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 3<sup>rd</sup> 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:** 13

**WARD NO:** Rhyl West

**APPLICATION NO:** 45/2007/1234/ PF

**PROPOSAL:** Erection of two pairs of semi-detached houses in place of two detached houses previously approved as part of application code no. 45/2005/0477/PR, and revisions to access and parking arrangements

**LOCATION:** Former North Wales Saab Centre, Morville Garage 27-28 East Parade Rhyl

**APPLICANT:** J & T Gizzi Builders

**CONSTRAINTS:**

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

**CONSULTATION RESPONSES:**

25. RHYL TOWN COUNCIL  
(Original submission)  
"No Objection".
26. HEAD OF TRANSPORT & INFRASTRUCTURE  
No objection in principle. Adequate additional parking will be provided. Minimum height clearance of 3.75m must be maintained under the ballroom, as previously approved.
27. HOUSING OFFICER  
Advises the proposal to provide an additional affordable unit would be acceptable.
28. WELSH WATER/DWR CYMRU  
No objections. Require separation of foul and surface water systems.
29. NORTH WALES FIRE & RESCUE SERVICE  
Are aware that the existing development which is under construction was approved following consultation, and that there were specific requirements for minimum height clearance under the ballroom, maximum gradients for the access beneath the ball room, and the dimensions of the turning area within the site. Reiterate the need for a minimum 3.7m height clearance and suitable gradients for the access so access for fire appliances would not be compromised; and suggest minor revisions to the layout to ensure adequate turning space and access road widths for appliances.

**RESPONSE TO PUBLICITY:**

Letters of representation received from:-

1. A O'Brien, Interleisure (Rhyl) Ltd., Morville Hotel, 25/29 East Parade, Rhyl
2. Mr & Mrs Woonton, 10 Bath Street, Rhyl LL18 3EB (via email)
3. R. Simons, 11, Morlan Park, Rhyl
4. E.O. Jones MBE, 14, Fairfield Avenue, Rhyl

Summary of planning based representations.

In objection:

Overintensive development – Original scheme is intrusive and overintensive/out of character, additional units only add to the concerns/too close to boundaries.

Inadequate access – width, alignment, gradients will cause difficulties for emergency and public service vehicles/would be further prejudiced when crash barriers are erected/two way traffic impossible/no access exists onto Bath Street/potential damage from vehicles to 'oversailing' section of hotel above access/gradients of access and turning area inadequate/additional development would add to problems.

Privacy/amenity impact – Overlooking potential into hotel/loss of light and privacy/additional noise.

Site contamination issues – Concerns over current operation of building site (storage and burning of material).

Other issues – disputes over site boundaries and landownership, development intrudes onto land outside ownership; no legal notification of application; covenants over land; use of unsustainable materials in construction; interference with services and rights of way for adjacent property; concerns over structural support for ballroom; legal disputes.

**EXPIRY DATE OF APPLICATION: 09/07/2008**

**REASONS FOR DELAY IN DECISION:**

- Awaiting consideration at Committee

**PLANNING ASSESSMENT:**

**THE PROPOSAL:**

1. The application seeks permission to revise part of a housing development granted outline permission in April 2005 and which was subject of a reserved matters (detailed) approval in August 2005. This approved scheme was for a total of 10 units, comprising a main block of 8 flats (3 storeys) and 2 detached dwellings (2 storeys).
2. The development has been commenced in respect of the flats and related site works, including the main access. The proposal here relates to that part of the site intended for the 2 detached dwellings, and seeks to change the scheme to allow the development of a total of 4 dwellings, in the form of two semi-detached two storey units on basically the same plots, i.e. an increase of 2 units. There would be associated minor changes to the access/layout as previously proposed.
3. The main part of the site is at the rear of the Morville Hotel, on East Parade. It was formerly occupied by the North Wales Saab Centre. It is surrounded by residential development on Fairfield Avenue, Morlan Park, and Bath Street.
4. The 2005 permissions permitted the erection of the 8 flats at the south eastern (Morlan Park) end of the site, and the 2 detached houses on plots between the flats and the rear of the Morville Hotel. The main vehicular access was approved 'beneath' the old ballroom attached to the Morville. Specific conditions were attached to the permissions relating to the detailing of the access and works

around the ballroom. The development has been under way for some time and can proceed in accordance with the approved plans regardless of the decision on the current application.

5. The current plans have been revised since original submission in respect of the detailing of the units, to take account of concerns over relationships with adjacent dwellings (e.g. overlooking from first floor windows). There has been a reconsultation exercise on the amended plans.

**RELEVANT PLANNING HISTORY:**

6. 45/2004/0043/PO  
Development of 0.22ha of land by part demolition of existing buildings and erection of 10 No. dwellings and alterations to existing vehicular access (Outline application) – GRANTED – 20/04/2005

45/2005/0477/PR

Design and external appearance of the buildings and landscaping submitted in accordance with Condition 2 of outline planning permission 45/2004/0043/PO – APPROVED – 31/8/2005

**PLANNING POLICIES AND GUIDANCE:**

7. DENBIGHSHIRE UNITARY DEVELOPMENT PLAN (adopted 3<sup>rd</sup> July 2002)
  - Policy GEN 6 - Development control requirements
  - Policy GEN 1 - Development within development boundaries
  - Policy TRA 6 - Impact of new development on traffic flows
  - Policy HSG 2 - Housing in main centres
  - Policy HSG 10 - Affordable housing within development boundaries
  - Policy REC 2 - Amenity and recreational open space requirements in new developments

Supplementary Planning Guidance

SPG 21 - Parking Requirements in new developments

Planning Policy Wales March 2002

Technical Advice Note 2 – Planning and Affordable Housing

Ministerial Interim Planning Policy Statement 1/2006

**MAIN PLANNING CONSIDERATIONS:**

8.
  - i) Principle of the development
  - ii) Siting of buildings and impact on residential amenity
  - iii) Access/parking
  - iv) Affordable housing
  - v) Open space
9. In relation to the main considerations:
  - i) Principle of the development  
The principle of a residential development on this site, and the creation of the main access beneath the Morville ballroom has already been established through the grant of permissions in 2005. The application is not an opportunity to re-visit the acceptability of these basic elements. The unit containing the 8 flats is nearing completion, and the developers can continue with the 10 unit scheme in accordance with these plans. The matters to address are whether the additional units are acceptable in the form proposed, along with the revisions to the access and parking arrangements. These are

dealt with in the following sections.

ii) Siting and residential amenity

The siting of the semi-detached units is very similar to that of the detached units previously approved. Amendments have been made to the detailing to reduce the potential for overlooking of residential properties on Fairfield Avenue and Bath Street, through the deletion of first floor bedroom windows from the rear elevations, and their repositioning on the side elevations. Given the location of the respective properties, the overlooking potential and impact on privacy/amenity of existing occupiers of adjacent property would be limited.

With respect to concerns over an overdevelopment of the site, due regard has to be taken of the high density of existing development in the area, and it has to be recognised here that there is already an approved and partially implemented permission for 10 units, with 2 detached dwellings on the plots now proposed for 2 semi-detached units. In officers opinion, having due regard to the changes that are actually involved, it would not be reasonable to conclude the scheme would change the character of the development to the extent that this would lead to an overdevelopment of the site. The semi-detached units would all have reasonable private garden areas and circulation space.

iii) Access/parking

The access proposals are similar to those approved in August 2005, with the main entrance off East Parade, underneath the Morville ballroom, serving a number of parking spaces around the flats under construction, and the proposed 4 units. The layout is shown on the plan at the front of the report. There would be two parking spaces for each of the 4 units, and the existing arrangements for the 8 flats would be unchanged (ground floor garages and parking spaces in front). The existing alleyway off Bath Street would be 'pedestrian only'.

Concerns over the headroom underneath the ballroom, and the gradients of the access beneath it are appreciated, but there are no changes proposed here to the existing arrangements which were approved in 2005. The highways officer has no objections to the proposals. The works underneath Morville ballroom would have to be completed in strict compliance with the terms of these previous consents, to ensure the passage of emergency vehicles. Minor revisions would be necessary to the alignment and widths of the access and turning areas immediately around the proposed semi-detached units to ensure ease of passage by these vehicles, but this can be covered by condition if a permission is granted. With respect to the concerns expressed, it is not considered that the additional traffic likely to be generated by two new dwellings would have a material impact and now justify a refusal of permission.

iv) Affordable housing

The 2005 scheme was subject to a Section 106 agreement requiring the provision of 3 affordable units. The proposal now is to increase the number of affordables to 4, with one of the semi-detached units available for low cost home ownership. This arrangement is acceptable to the Housing Officers, and would be compliant with current planning policy and guidance.

v) Open Space

The Authority has already accepted the principle of payment of a commuted sum in lieu of on-site provision of open space in relation to the 2005 scheme.

The increase in the numbers of units would oblige an increased contribution, making a total of £38,062.08. This would again need to be secured through a (revised) Section 106 Agreement.

#### Other matters

There is a history of disputes here over landownership, covenants and rights of access. The agent has been made aware of these matters. He has advised that the applicants have assured him the land edged red on the plans is within his ownership and therefore it is not necessary to serve notice on any affected party. The Authority can not become involved in any private legal disputes and these have to be resolved between the respective parties. Nuisance from site activities would need to be addressed separately by Compliance or Public Protection Officers. Interference with utility services would need to be taken up with the respective statutory undertakers.

#### **SUMMARY AND CONCLUSIONS:**

10. There is an existing permission for 10 residential units on the site, which is under construction. The proposal is to add 2 more units by changing the details of two detached dwellings to 4 semi-detached dwellings. The detailing of the proposals are not considered to deviate significantly from the approved scheme, and with respect to objections raised, there are no realistic land use planning grounds to merit refusal.

The recommendation is subject to the completion of a Section 106 Agreement (or appropriate revision to the existing agreement) within 12 months of the date of the Committee, to secure:-

- i) The provision of a total of 4 affordable units for the whole development in accordance with the Council's policies and guidance.
- ii) The payment of a sum of £38, 062.08 for the whole development in lieu of the provision of on-site open space.

The Certificate of Decision would only be issued on completion of the Section 106 Agreement.

On failure to complete the agreement within the 12 month period the application would be reported back to the Committee for reconsideration against the policies and guidance relevant at that time.

#### **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. All works on the access to the site off East Parade, the treatment of the area beneath the Morville Hotel ballroom and the retention of a minimum 3.75m headroom beneath the ballroom shall be carried out strictly in accordance with the details approved in respect of application Code No. 45/2005/0477/PR, prior to the occupation of any of the dwellings hereby approved.
3. Notwithstanding the submitted details, the precise alignment of the access road and turning areas around plots 1 and 2, and 12 and 13 shall be as may be further agreed in writing by the Local Planning Authority prior to the commencement of development on any of the units. The units shall not be occupied until the access and turning areas have been completed in accordance with the details approved under this condition.
4. The car parking spaces for each plot shall be laid out and constructed strictly in accordance with the approved plans prior to the first occupation of the units to which they

relate.

5. No works shall be permitted to commence on the external walls and roofs of any of the dwellings until the written approval of the Local Planning Authority has been obtained to the materials, and to the type of roofing material to be used.
6. Foul and surface water discharges shall be drained separately from the site.
7. No surface water shall be allowed to connect either directly or indirectly to the public sewerage system.
8. Land drainage runoff shall not be permitted to discharge, either directly or indirectly into the public sewerage system.
9. None of the dwellings 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 (strategic landscaping, boundary, and screen wall details, railings, surfacing, planting, etc) and the approved details have been completed.
10. All planting, seeding, turfing, fencing, walling or other treatment comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the completion of the development and any trees or plants which, within a period of five years of the development, die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
11. There shall be no direct vehicular access to the site from the Bath Street alleyway and the written approval of the Local Planning Authority shall be obtained to the means of restricting vehicular access, other than by emergency vehicles. The development shall be carried out strictly in accordance with the details approved under this condition.

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. For the avoidance of doubt and to ensure the access and parking arrangements are acceptable and allow entry of emergency/service vehicles.
3. For the avoidance of doubt and to ensure the access and parking arrangements are acceptable and allow entry of emergency/service vehicles.
4. For the avoidance of doubt and to ensure the access and parking arrangements are acceptable and allow entry of emergency/service vehicles.
5. In the interests of visual amenity.
6. To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no detriment to the environment.
7. To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no detriment to the environment.
8. To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no detriment to the environment.
9. In the interests of visual amenity.
10. To ensure a satisfactory standard of development, in the interests of visual amenity.
11. In the interests of highway safety and to ensure an emergency access is available.

#### **NOTES TO APPLICANT:**

Your attention is drawn to the attached Highway Supplementary Notes Nos. 1, 3, 4, 5 & 10. Your attention is drawn to the attached Part N form (New Road and Street Works Act 1991). You should contact the planning case officer to discuss ideas for the details required by Condition 2 of this permission prior to submission of any details.

The Authority's attention has been drawn to matters of a private legal nature which relate to landownership, the existence of covenants and rights of way over the land; all of which may impact on the possible implementation of any permission. You should ensure there are no private legal constraints which may prevent the development from proceeding.



**ITEM NO:** 14

**WARD NO:** Rhyl South East

**APPLICATION NO:** 45/2008/0442/ PF

**PROPOSAL:** Construction of footway/cycleway

**LOCATION:** Land rear of 50-56 adjoining 48 Thornley Avenue Rhyl

**APPLICANT:** Denbighshire County Council Head Of Transport & Infrastructure

**CONSTRAINTS:** PROW  
Groundwater Vulnerability 1  
Groundwater Vulnerability 2  
Article 4 Direction

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

**CONSULTATION RESPONSES:**

3. RHYL TOWN COUNCIL  
"No objection subject to consultation with adjoining property owners/ occupiers including resolution of issues relating to access to neighbouring properties."
4. TRANSPORT & INFRASTRUCTURE  
No objection subject to the inclusion of conditions
5. HIGHWAYS AUTHORITY  
No objection subject to the inclusion of conditions

**RESPONSE TO PUBLICITY:**

Letters of representation were received from:

1. Janette Tomes, 50-58 Thornley Avenue, Rhyl
2. Hari & Eunice Hughes, 37 Handsworth Crescent, Rhyl, LL18 4HP

Summary of planning based representations:

- i) Increased anti-social behaviour

**EXPIRY DATE OF APPLICATION: 16/06/2008**

**REASONS FOR DELAY IN DECISION:**

- Timing of receipt of representations

**PLANNING ASSESSMENT:****THE PROPOSAL:**

1. Permission is sought for the construction of a foot/ cycleway on land between 48 and 50-58 Thornley Avenue. The proposed footway/cycleway measures 2.5m in width with an asphalt surface, bounded by 1.8m high steel palisade fencing. Access to the foot/ cycleway will be gained from Thornley Avenue from the south and will join an existing cycleway network to the north which runs along the rear of

the dwellings on Handsworth Crescent. Bollards are proposed at the entrance/ exit at Thornley Avenue.

2. The application site is located in south east Rhyl and forms part of a car park which currently services no's. 50 – 74 Thornley Avenue.

**RELEVANT PLANNING HISTORY:**

3. None.

**PLANNING POLICIES AND GUIDANCE:**

4. DENBIGHSHIRE UNITARY DEVELOPMENT PLAN (adopted 3<sup>rd</sup> July 2002)  
Policy GEN 6 – Development control requirements  
Policy TRA 11 – Walking and cycling routes  
Policy REC 1 – Protection of existing open space  
Policy REC 4 – Recreation facilities within development boundaries

**GOVERNMENT GUIDANCE**

Planning Policy Wales, March 2002  
TAN 18 – Transport

**MAIN PLANNING CONSIDERATIONS:**

5.
  - i) Principle of proposal
  - ii) Impact upon amenity
6. In relation to the main planning considerations above:
  - i) Principle of the proposal  
The application site is located within the development boundary. The relevant policy criteria contained in the Unitary Development Plan of GEN 6, REC 1 and REC 4 apply to the proposal. The development of the link cycle/footway will encourage walking and cycling within the area and increase access to community facilities. The proposal will enhance the area and will help to realise objectives set by the both the Council and the Government in terms of increased cycling/ walking, thus complying with REC 4 of the Denbighshire Unitary Development Plan. The principle of the proposal is considered acceptable and the proposal complies with Policies GEN 6 criteria i), v) and vi) and REC 1 criterion iii) of the Denbighshire Unitary Development Plan.
  - ii) Impact upon amenity  
Whilst is accepted that the proposal may increase the amount of pedestrian and cycle traffic though the area, given the nature of the proposed use, the distances to the dwellings and the existing network of paths and pattern of development surrounding the application site it is not considered that residential amenity will be adversely affected.

**SUMMARY AND CONCLUSIONS:**

7. 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 detailed layout, design, signing, drainage and construction of the footway/cycleway shall be submitted to and approved by the Local Planning Authority in consultation with the Highway Authority prior to the commencement of any site works.

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 that the footway/cycleway is constructed to a standard suitable for adoption and, in the interests of traffic safety, is capable of catering for the amount of traffic that is likely to be generated by the proposal.

**NOTES TO APPLICANT:**

Please be advised of the following:

- There is no diminution in the width of the right of way
- No building materials are stored on the right of way
- No damage to the surface, temporary or permanent. If the surface is to be altered, a licence will be required.
- Vehicle movements should not interfere with the public's use of the way
- No additional barriers are placed across the right of way, of either temporary or permanent nature
- The safety of members of the public using the right of way is ensured at all times

**ITEM NO:** 15

**WARD NO:** St Asaph East

**APPLICATION NO:** 46/2007/1538/ AC

**PROPOSAL:** Details of access warning measures submitted in accordance with condition number 4 of Planning Permission 46/2006/1097/PF

**LOCATION:** Elwy Bank High Street St. Asaph

**APPLICANT:** Mr T R Smith

**CONSTRAINTS:** Listed Building  
Conservation Area

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

**CONSULTATION RESPONSES:**

30. ST ASAPH TOWN COUNCIL  
"OBJECT – As the Council is totally opposed to the formation of a vehicular access at this property it cannot approve any measures which would support such access."
31. HEAD OF TRANSPORT AND INFRASTRUCTURE  
"Details submitted are unacceptable."
32. CONSERVATION ARCHITECT  
Awaiting response.

**RESPONSE TO PUBLICITY:**

N/A

**EXPIRY DATE OF APPLICATION: 04/12/2007****REASONS FOR DELAY IN DECISION:**

- delay in receipt of key consultation response(s)
- additional information required from applicant

**PLANNING ASSESSMENT:****THE PROPOSAL:**

1. Planning permission was granted in November 2006 for the internal and external alterations to dwelling, rebuilding of structure to rear and alterations to adjoining shop to create access to Elwy Bank, High Street, St Asaph.
2. The property itself is a mid c.18<sup>th</sup> Grade II Listed Building which had been vacant and semi derelict since the mid 1990's. It had become an eyesore on the High Street with structural problems resulting in scaffolding being erected in a prominent position on the frontage for some years.

3. On granting planning permission and Listed Building Consent for the renovations to the dwelling Members of Denbighshire's Planning committee had due regard to the overall conservation and visual benefits of the scheme and welcomed the great enhancements being made to this prominent historic High Street premises.
4. Vehicular access through the adjoining Butchers shop on the High Street was also considered by the Planning Committee and the permission given included for this element of the scheme.
5. The application before Members now is not in relation to the acceptability or otherwise of the vehicular access as this has been accepted in the original permission. The original permission included a number of conditions one of which was as follows:-

“Prior to the use of the building hereby permitted commencing, details of measures to be taken to warn highway users of the presence of the access into and from the site shall be submitted to and approved in writing by the Local Planning Authority. Only those measures subsequently agreed shall be used thereafter and maintained.”

6. The application, therefore, seeks approval of the above condition and relates to the submitted details of 2 no. warning signs which have now been erected on the front of the premises to warn highway users of the presence of the access. These signs show a red triangle with vehicle inside with the words “WARNING CARS CROSSING” underneath. They measure 230mm in width by 330mm in length and are constructed out of an aluminium frame attached to adjustable aluminium brackets. Both signs will be fitted with red lights which will come on if a vehicle is approaching the access point from within. The signs have been located on the front of the building at heights to maximise views from people walking up and down the High Street, however, they can be adjusted where necessary.
7. The application for approval of this condition has been requested to be heard at Committee by Cllr Dewi Owens who wished to have the vehicular access issues examined.

**RELEVANT PLANNING HISTORY:**

8. 46/2006/1097/PF – Internal and external alterations to dwelling, rebuilding of structure to rear and alterations to adjoining shop to create access – GRANTED 13/11/06

46/2006/1098/LB – Internal and external alterations to dwelling, rebuilding of structure to rear and alterations to adjoining shop to create access – GRANTED LISTED BUILDING CONSENT

**PLANNING POLICIES AND GUIDANCE:**

9. DENBIGHSHIRE UNITARY DEVELOPMENT PLAN (adopted 3<sup>rd</sup> July 2002)  
 Policy CON 2 – Extension or alteration to Listed Buildings  
 Policy TRA 6 – Impact of new development on traffic flows  
 Policy TRA 9 – Parking and Servicing Provision

GOVERNMENT GUIDANCE  
 TAN 18 - Transport

**MAIN PLANNING CONSIDERATIONS:**

10.

- i) Acceptability of submitted condition details in relation to warning highway users of the presence of the access.

11. In relation to the main planning consideration in paragraph 10 above:

- i) It is vitally important to reiterate that the vehicular access to which this approval of condition application relates has been granted planning permission. The access has not yet been constructed, however, the dwelling to which it relates has been largely renovated in accordance with the permitted scheme and is being occupied by the applicant. It is also of relevance to note that when granting permission for the access back in November 2006 Members had regard to the following factors:
  - a) The access was going to be serving a single dwelling only with limited comings and goings.
  - b) The historic nature of the street with buildings close up to the pavement and forming continuous terraces makes it difficult to provide an access to meet modern standards.
  - c) The existence of other narrow access points elsewhere on the High Street.
  - d) The relatively slow traffic speeds on the High Street caused by its narrowness and on-street parking.
  - e) A previously agreed scheme for demolition of the buildings on site with the proposed re-development having vehicular access off the High Street.

As such, it is considered that the intention of the condition to which this application now relates was to take measures to warn highway users (predominantly pedestrians using the High Street) of the presence of the vehicular access point through the former butchers shop. Clearly the applicant is limited in terms of what he can do in this regard. The applicants originally permitted scheme indicated his intention to install cameras within an upper floor window to point up and down the High Street. These cameras would relay pictures to a monitor positioned within the access point in an attempt to show a driver exiting the site whether there were pedestrians nearing the access. Mirrors were also shown at the access point in an attempt to assist this process. However, the aforementioned measures do not relate to the planning condition for which this application has been made. Their benefits or otherwise are not forming part of this proposal.

In order to comply with the relevant condition the applicant has proposed the 2 no. warning signs as previously described. The applicant is limited to providing warning measures on land within his ownership. The frontage of his building, therefore, is the most appropriate place upon which to fix signage. It is considered, having regard to the historic character of the building and the neighbouring shop users, that projecting warning signs as proposed are acceptable as they have the same visual impact of similar shop signage.

The size, scale and design of the signs incorporating the red warning lights will serve the purpose for which they are intended without imposing significantly on the character of the building. The proposal complies, therefore, with the intention of the condition and should be accepted.

Any issues relating to highway consents for the vehicular access are not

considered to be of relevance to the approval of a planning condition application and cannot be debated as part of this proposal.

**SUMMARY AND CONCLUSIONS:**

12. The vehicular access for the building has been approved. This application relates to proposed warning measures which the applicant was required to provide for the permitted access. Given that the applicant is limited to providing such measures on this building and has considered many alternative warning measures it is considered that signage linked to sensors is the most appropriate measure in this instance. The signs are designed and located appropriately on the building to serve their purpose without causing any significant detriment to the visual character of the building.

**RECOMMENDATION: APPROVE**

**ITEM NO:** 16

**WARD NO:** Tremeirchion

**APPLICATION NO:** 47/2008/0272/ PF

**PROPOSAL:** Change of use from repair and sales of agricultural tractors and machinery to Class B1 (Business) use

**LOCATION:** Clwyd Agricultural Terfyn Farm Caerwys Road Cwm Dyserth Rhyl

**APPLICANT:** Clwyd Agricultural Limited

**CONSTRAINTS:** PROW  
PD Removed  
Nitrate Vulnerable Zone  
AONB

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

**CONSULTATION RESPONSES:**

33. TREMEIRCHION, CWM & WAEN COMMUNITY COUNCIL –  
No objection
34. CONSERVATION OFFICER-  
No objection.
35. AREA OF OUTSTANDING NATURAL BEAUTY JOINT ADVISORY COMMITTEE -  
'The JAC has no objection to this application'.
36. HEAD OF TRANSPORT AND INFRASTRUCTURE –  
No objection, subject to condition & advisory note re. Public Bridleway No.16.

**RESPONSE TO PUBLICITY:**

Letters of representation received from:

In objection

1. J.F. Blythman, Terfyn Barn, Caerwys Road, Dyserth
2. John Patterson, Fairhaven, Tai Terfyn, Marian Cwm, Dyserth
3. Clwyd Jones, Terfyn Farm, Caerwys Road, Dyserth
4. Mary Houghton, Hillside, Caerwys Road, Dyserth

Summary of representation:

- ix) Impact on highway network/parking
- x) Impact on amenity, noise/ disturbance

**EXPIRY DATE OF APPLICATION: 25/06/08**

**REASONS FOR DELAY IN DECISION:**

- Timing of receipt of representations
- Delay in receipt of key consultation response(s)



**PLANNING ASSESSMENT:**

**THE PROPOSAL:**

7. Permission is sought for the change of use of part of Terfyn Buildings to B1 Business Use, B1 use includes research and development, studios, laboratories and high tech industry. No alterations to the building are proposed as part of the application.
8. Terfyn Buildings are currently used for the repair and sales of agricultural tractors and machinery, operating as 'Clwyd Agricultural Limited'. The use is classed as a Sui Generis. The application site comprises a large shallow pitched roof agricultural building and hard standings to the north, east and west sides for parking.
9. Located off the Caerwys Road in Cwm, Terfyn Buildings is accessed via a farm driveway, which also serves Terfyn Farmhouse and a range of converted outbuildings. Adjoining the site on the western side is a Public Bridleway.

**RELEVANT PLANNING HISTORY:**

2/TRE/0298/90/P Use of outbuildings for the repair and sale of agricultural tractors and machinery. Granted 16/07/1990

**PLANNING POLICIES AND GUIDANCE:**

10. DENBIGHSHIRE UNITARY DEVELOPMENT PLAN (adopted 3<sup>rd</sup> July 2002)  
GEN 3 - Development outside Development Boundaries  
GEN 6 - Development Control Requirements  
EMP 5 – Small Scale Employment Development Outside Development Boundaries  
CON 1 – The Setting of Listed Buildings

**GOVERNMENT GUIDANCE**

Planning Policy Wales, March 2002

**MAIN PLANNING CONSIDERATIONS:**

11.
  - v) Principle
  - vi) Visual Amenity/ Impact on the Conservation Area
  - vii) Residential Amenity
  - viii) Highways
6. In relation to the main planning considerations above:
  - v) Principle  
The site is located in the open countryside, Policy GEN 3 relates to development outside development boundaries. This policy permits development in connection with diversification of the rural economy provided there is no impact on the social, natural or built environment. Policy EMP 5 specifically relates to small-scale employment development outside development boundaries and clearly states that employment development in the open countryside is permitted through the conversion of existing buildings. Whilst this proposal is not strictly a conversion as no alterations are proposed to the building, the proposal is for the re-use of a building, which currently has a business use. Taking into account the history of Terfyn Buildings which has operated for the repair and sale of agricultural tractors and machinery since 1990 and the reuse of the building for employment it is considered that the principle of the proposal meets the policy criteria.

- vi) Residential amenity  
Whilst Terfyn Buildings is located in close proximity to a group of residential units it is considered that the change of use to B1 business use would have no greater impact on the residential amenity of the adjacent occupiers than the existing use.
- vii) Visual Amenity/ Impact on the Listed Building  
No alterations or extensions are proposed to Terfyn Buildings to accommodate the change of use as such there will be no impact on visual amenity or the setting of the Listed Terfyn Farmhouse.
- viii) Highways  
In assessing the impact of any change of use on the local highway network the existing use must be considered. Terfyn Buildings has operated since 1990 from the site; the proposed change to B1 use would have no greater impact on the surrounding highway network than the existing use. The Highways Department have considered the proposal and raised no objection to the proposed change of use subject to the approval of a plan for parking. It is noted that Bridleway No. 16 abuts the site; therefore an informative will be attached to advise that this should not be interfered with.

**SUMMARY AND CONCLUSIONS:**

- 7. It is considered that the proposal complies with the relevant policies of the Unitary Development Plan, as such it is recommended for grant.

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

- 1. The development hereby permitted shall be begun before the expiration of five years from the date of this permission.
- 2. Facilities shall be provided and retained within the site for the loading, unloading parking and turning of vehicles in accordance with a scheme to be agreed with the Local Planning Authority and which shall be completed prior to the proposed development being brought into use.
- 3. Prior to the commencement of development details of the precise nature of the use including annotated plans to show the site layout shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be implemented strictly in accordance with the approved plans unless otherwise 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 provide for the loading/unloading, parking and turning of vehicles clear of the highway and to ensure that reversing by vehicles into or from the highway is rendered unnecessary in the interest of traffic safety.
- 3. In the interest of amenity and highway safety.

**NOTES TO APPLICANT:**

Your attention is drawn to the attached Highway Supplementary Notes Nos. 1, 2, 3, 4, 5 & 10.

You are advised that the Definitive Map of Public Rights of Way, a Public Bridleway (No. 16 community of Cwm) abuts the proposed development area; and you are advised of the following:-

There is no diminution in the width of the right of way.

No building materials are stored on the right of way.

No damage to the surface, temporary or permanent. If the surface is to be altered, a licence will be required.

Vehicle movements should not interfere with the public's use of the way.

No additional barriers are placed across the right of way, of either temporary or permanent nature.

The safety of members of the public using the right of way is ensured at all times.

**ITEM NO:** 17

**WARD NO:** Tremeirchion

**APPLICATION NO:** 47/2008/0367/ PF

**PROPOSAL:** Change of use from Class C3 dwelling to form Class C1 retreat house (B & B)

**LOCATION:** Rowan Marian Cwm Dyserth Rhyl

**APPLICANT:** Deacon Gwynn Bamford Rowan Retreat House

**CONSTRAINTS:** Previous Mining Area  
AONB

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

**CONSULTATION RESPONSES:**

37. TREMIERCHION, CWM & WAEN COMMUNITY COUNCIL –  
'No objection'
38. PLANNING POLICY DEPARTMENT –  
No objection to this proposal
39. HEAD OF TRANSPORT AND INFRASTRUCTURE –  
'According to the DCC Parking Standards, the existing use Class C3, 4 bedroom dwellings require 3 no. parking spaces, the property at present affords no parking spaces. The proposed C1 use requires 1 additional car space and I consider the impact on the highway will be minimal and therefore the Highway authority have no objection to the proposal'.

**RESPONSE TO PUBLICITY:**

Letters of representation received from:

1. Mr. J. O'Toole, The Shieling, Marian Cwm, Dyserth
2. Mr. J. T. Carter, Bryn Awel, Marian Cwm, Dyserth
3. John Roberts, Llwyn Onn, Marian Cwm, Dyserth

Main planning objections:

- xi) Increased amount of parking
- xii) Increased traffic
- xiii) Property is unsuitable for this change of use
- xiv) Lack of off street parking

**EXPIRY DATE OF APPLICATION: 11/06/2008**

**REASONS FOR DELAY IN DECISION:**

- Timing of receipt of representations
- Delay in receipt of key consultation response(s)

**PLANNING ASSESSMENT:**

### **THE PROPOSAL:**

1. Permission is sought for the change of use of Class C3 dwelling to form Class C1 retreat house. There are no external works proposed therefore the external appearance of the property will not be affected. No off street parking will be provided. The retreat house would cater mainly for the clergy who can come and spend quiet time reading, walking or painting in tranquil surroundings. Up to 6 adults would be accommodated but it is envisaged only 1 or 2 will stay at anyone time.
2. The application site is located in the centre of Marian Cwm and consists of a dwelling within a relatively large curtilage. The site is within the Clwydian Range AONB.

### **RELEVANT PLANNING HISTORY:**

3. 47/2002/0948 – Erection of two-storey pitched-roof extension at rear and formation of roof garden. Granted 21<sup>st</sup> October 2002

### **PLANNING POLICIES AND GUIDANCE:**

4. DENBIGHSHIRE UNITARY DEVELOPMENT PLAN (adopted 3<sup>rd</sup> July 2002)  
Policy GEN 3 – Development Outside Development Boundaries  
Policy TSM 5 – Rural Tourism  
Policy ENV 2 – Development affecting the AONB / AOB

GOVERNMENT GUIDANCE  
Planning Policy Wales, March 2002

### **MAIN PLANNING CONSIDERATIONS:**

5.
  - i) Principle
  - ii) Residential amenity
  - iii) Highways
6. In relation to the main planning considerations above:
  - i) Principle  
The application is located outside of any defined development boundary within the 'Clwydian Range' AONB. As such policies GEN 3, TSM 5 and ENV 2 apply. Policy GEN 3 supports development in connection with rural tourism. The purpose of TSM 5 is to develop and improve rural tourism via the use, re-use or conversion of existing buildings. Taking policy TSM 5 into account it is considered that the principle of the proposal is acceptable. The dwelling does not require major physical or structural work in order to implement the scheme, nor does it involve the loss of a viable dwelling due to the relative ease of conversion from Class C3 to C1. Furthermore, it is considered that the proposal will not detract from the character and appearance of the AONB and consideration regarding the limited exterior alterations to the host building must be taken into account. Therefore the proposal complies with policies GEN 3, TSM 5 and ENV 2 of the Denbighshire Unitary Development Plan.
  - ii) Residential amenity  
Owing to the small scale and nature of the proposed C1 use it is not considered that the proposal would impact on the amenity of adjacent occupiers. No alterations or extensions are proposed as such it is unlikely that the use will be significantly intensified, or that the proposal would lead to increased noise or disturbance than that potentially created by the comings and goings of occupiers of a four bedroom dwelling.

iii) Highways

At present there is no off street parking for the four bedroom dwelling. In accordance with the DCC Adopted Parking Standards there should be 3 no. parking spaces, however there is no scope to provide these parking spaces. In considering the change to C3 the Highways Department have to consider the existing arrangement as well as the relevant Parking Standards, as there is no parking at present the Highways Department are of the opinion that the proposed change of use would have no greater impact on Highway Safety or the Local Highway Network and have raised no objection to the change to C3.

**SUMMARY AND CONCLUSIONS:**

7. It is considered that the proposal complies with the relevant policies of the Unitary Development Plan, as such it is recommended for grant.

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

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

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

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

**NOTES TO APPLICANT: None**

**ITEM NO:** 18

**WARD NO:** Denbigh Central

**APPLICATION NO:** 01/2008/0228/ LB

**PROPOSAL:** Listed Building application for the repair and reinstatement of gates and railing to frontage of property

**LOCATION:** 44 Vale Street Denbigh

**APPLICANT:** Mr & Mrs G Kensler

**CONSTRAINTS:** Listed Building  
Conservation Area  
Article 4 Direction  
C2 Flood Zone  
Town Heritage Area

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

**CONSULTATION RESPONSES:**

1. DENBIGH TOWN COUNCIL  
"No Objection"
2. CONSERVATION ARCHITECT  
No Objection

**RESPONSE TO PUBLICITY:**

None

**EXPIRY DATE OF APPLICATION: 05/05/2008****REASON FOR COMMITTEE DECISION:**

- Applicant is County Councillor

**PLANNING ASSESSMENT:****THE PROPOSAL:**

1. 44 Vale Street is a detached dwelling and a Grade II Listed Building. The front wall bounds Vale Street and the rear bounds Park Street. The application is submitted in connection with the previous application on the agenda, Code No. 01/2008/0282/PF.
2. The application is supported by a justification statement informing that the property has been carefully inspected and researched to establish the original form of gates and railings so that they can be repaired correctly. The works form part of the Townscape Heritage Initiative.
3. The application is reported to the Committee as the applicant is an elected member of Denbighshire County Council.

**RELEVANT PLANNING HISTORY:**

4. None

**PLANNING POLICIES AND GUIDANCE:**

5. DENBIGHSHIRE UNITARY DEVELOPMENT PLAN (adopted 3<sup>rd</sup> July 2002)  
Policy GEN 1 – Development within Development Boundaries  
Policy GEN 6 – Development Control Requirements  
Policy CON 2 – Extension or alteration to Listed Buildings

**MAIN PLANNING CONSIDERATIONS:**

6. The main issues are considered to be:
- i) The Principle
  - ii) Visual Appearance / Impact on the Listed Building
7. In relation to the main planning considerations in paragraph 5:
- i) The Principle  
The principle of the proposal is considered acceptable and accords with Policy GEN 1.
  - ii) Visual Appearance / Impact on the Listed Building  
The works proposed to repair and reinstate the gates to the frontage of the property and rear garden entrance of the property of no. 44 Vale Street are considered to be an improvement on the existing appearance. The work will enhance the overall character of the Listed Building and the proposal accords with Policy CON 2.

**SUMMARY AND CONCLUSIONS:**

8. The proposal is considered acceptable and is recommended for approval. The recommendation is subject to referral to CADW and authorisation to grant consent.

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

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

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

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

**NOTES TO APPLICANT:**

None



**ITEM NO:** 19

**WARD NO:** Denbigh Central

**APPLICATION NO:** 01/2008/0282/ PF

**PROPOSAL:** Repair and reinstatement of gates and railing to frontage of property

**LOCATION:** 44 Vale Street Denbigh

**APPLICANT:** Mr & Mrs G Kensler

**CONSTRAINTS:** C2 Flood Zone  
Town Heritage Area  
Listed Building  
Conservation Area  
Article 4 Direction

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

**CONSULTATION RESPONSES:**

6. DENBIGH TOWN COUNCIL  
"No Objection"
7. CONSERVATION ARCHITECT  
No Objection

**RESPONSE TO PUBLICITY:**

None

**EXPIRY DATE OF APPLICATION: 05/05/2008****REASON WHY COMMITTEE DECISION**

- Applicant is County Councillor

**PLANNING ASSESSMENT:****THE PROPOSAL:**

1. 44 Vale Street is a detached dwelling and a Grade II Listed Building. Planning permission and listed building consent re requested for the works. The listed building issues are dealt with under application no. 01/2008/0228/LB which follows on the agenda. The front wall bounds Vale Street and the rear bounds Park Street.
2. The application is supported by a justification statement informing that the property has been carefully inspected and researched to establish the original form of gates and railings so that they can be repaired correctly. The works form part of the Townscape Heritage Initiative.

3. The application is reported to Committee as the applicant is an elected member of Denbighshire County Council.

**RELEVANT PLANNING HISTORY:**

None

**PLANNING POLICIES AND GUIDANCE:**

4. DENBIGHSHIRE UNITARY DEVELOPMENT PLAN (adopted 3<sup>rd</sup> July 2002)  
Policy GEN 1 – Development within Development Boundaries  
Policy GEN 6 – Development Control Requirements  
Policy CON 5 – Development within Conservation Areas

**MAIN PLANNING CONSIDERATIONS:**

5. The main issues are considered to be:
  - i) The Principle
  - ii) Visual Appearance / Impact on the Conservation Area
6. In relation to the main planning considerations in paragraph 4 above:
  - i) The Principle  
The principle of the proposal is considered acceptable and accords with Policy GEN 1.
  - ii) Visual Appearance / Impact on the Conservation Area  
The works proposed to repair and reinstate the gates to the frontage of the property and rear garden entrance of the property of no. 44 Vale Street is considered to be an improvement on the existing appearance. The work will enhance the overall character of the Conservation Area, and the proposal accords with Policy CON 5.

**SUMMARY AND CONCLUSIONS:**

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

**DECISION: APPROVE - subject to the following conditions:-**

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

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

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

**NOTES TO APPLICANT:**

You are hereby reminded that the works to which this permission relates also require Listed Building consent and it does not necessarily follow that such Consent will be granted. It is a criminal offence for demolition works or other operations affecting the character of a Listed Building (including internal alterations) to be carried out without Listed Building Consent; no such works should therefore be carried out until Listed Building Consent has also been granted.

**ITEM NO:** 20

**WARD NO:** Denbigh Upper / Henllan

**APPLICATION NO:** 01/2008/0552/ 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:** Mr Hugh Jennings

**CONSTRAINTS:** B Flood Zone  
Town Heritage Area  
Listed Building  
Conservation Area

**PUBLICITY UNDERTAKEN:** Site Notice - Yes Press Notice - Yes (Joint Neighbour letters - Yes

**CONSULTATION RESPONSES:**

1. DENBIGH TOWN COUNCIL  
"Whilst not wishing to object to the application there is one observation/concern, namely that the building is located near to a roundabout, bus stops and a busy road junction and the question asked is how is it envisaged that vehicles making deliveries to the premises will park?"
2. ENVIRONMENT AGENCY WALES  
No comment.
3. COMMUNITY SAFETY OFFICER  
Has commented previously that if operated in accordance with the provisions of the Licensing Act (Action Plan), there should be no risk to community safety.
4. DENBIGH TOWN HERITAGE INITIATIVE MANAGER  
Has previously officered 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.

**HEAD OF TRANSPORT & INFRASTRUCTURE**

With regard to delivery arrangements it is considered that a suitable condition controlling times of delivery would be sufficient to ensure minimal impact upon the local highway infrastructure.

5.

**RESPONSE TO PUBLICITY:**

1. None

**EXPIRY DATE OF APPLICATION: 28/7/08**

**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 Church Institute is a Grade II listed building. The property was built in 1875 and was used in conjunction with 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 contains a high density of listed buildings, including St Mary's Church at 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 doctor's 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.
5. Proposed opening hours are:

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

7. This application is identical to a previous application, code no. 01/2007/1505/PF which was withdrawn by the then applicants, Wetherspoons plc prior to consideration at the Committee.

**RELEVANT PLANNING HISTORY:**

8. **01/2007/1506/LB** – Listed Building application for internal alterations. WITHDRAWN.

**01/2007/1505/PF** – Full planning for change of use from Class B8 to A3 food and wine bar. WITHDRAWN.

**PLANNING POLICIES AND GUIDANCE:**

9. DENBIGHSHIRE UNITARY DEVELOPMENT PLAN (adopted 3<sup>rd</sup> 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:**

10.

- i) Principle of proposal
- ii) Visual amenity/ Impact upon conservation area
- iii) Impact upon residential amenity
- iv) Crime and disorder
- v) Highway considerations

11. 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 fridge 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  
As the property is close to the town centre and there are public car parks in close proximity, it is not considered there are any customer parking issues.

**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:-  
07.00 Sunday - 00.30 Monday  
07.00 Monday - 00.30 Tuesday  
07.00 Tuesday - 00.30 Wednesday  
07.00 Wednesday - 00.30 Thursday  
07.00 Thursday - 00.30 Friday  
  
07.00 Friday - 01.30 Saturday  
07.00 Saturday - 01.30 Sunday
6. There shall be no sale of food or drink for consumption off the premises hereby permitted.
7. Prior to the commencement of the use hereby permitted full details of the delivery arrangements including location of delivery bay and times of deliveries shall be submitted to and approved in writing by the Local Planning Authority and those details approved shall be adhered to at all times unless otherwise 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 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 amenity of occupiers of neighbouring properties.
6. In the interests of residential amenity
7. in the interest of amenity and highway safety

**NOTES TO APPLICANT: None**

<b>ITEM NO:</b>	21
<b>WARD NO:</b>	Ruthin
<b>APPLICATION NO:</b>	02/2006/1423/ PO
<b>PROPOSAL:</b>	Development of 0.32 hectares of land by the erection of 9 no. dwellings, including siting details ( outline application)
<b>LOCATION:</b>	Land adjoining Llys Famau Ruthin
<b>APPLICANT:</b>	Cymdeithas Tai Clwyd
<b>CONSTRAINTS:</b>	Public Footpath / Bridleway
<b>PUBLICITY UNDERTAKEN:</b>	Site Notice - Yes Press Notice - Yes Neighbour letters - Yes

**CONSULTATION RESPONSES:**2. RUTHIN TOWN COUNCIL  
'No objections'

## 3. DENBIGHSHIRE COUNTY COUNCIL HEAD OF HOUSING

Advises of the following issues for Ruthin and the application:

- Glasdir timeframe – possibly up to 10 years; 35 affordable housing units in total for phase 1; ( 3 parts to phase 1) - second and third phase appear to be on hold, given current climate; only 1 low cost unit and two rented on first phase, due to be completed soon.
- Social Housing Grant secured for the site
- Very high house prices in Ruthin; with limited affordable properties to buy or rent; limited number of Planning Applications and AH units.
- Social waiting list has 609 registrations; Low Cost Housing List has 25 registrations; amounting to a high need for low cost housing.
- Large number of 'right to buys' in the area, reducing the total council stock, with few council properties becoming available. - 64 Council properties lost since 1996.
- Turnover of social (Council or Housing Association) severely limited.
- The site would add to an established community.

Accepts the need to consider the potential against any wider implications (including the use for a school) and suggests that the evidence provides the context for affordable housing need on the site

## 4. DENBIGHSHIRE COUNTY COUNCIL HEAD OF TRANSPORT AND INFRASTRUCTURE

Confirms that :

- In relation to the Ruthin western by pass, no firm plan/programme currently exists for this project.
- In relation to the planning application, no objection, subject to standard conditions and Notes.



5. WELSH WATER  
Objection subject to standard conditions, including separation of foul and surface water drainage.
6. DENBIGHSHIRE COUNTY COUNCIL CONTAMINATED LAND OFFICER  
Suggests a condition to deal with areas of unexpected contamination.
7. DENBIGHSHIRE COUNTY COUNCIL DRAINAGE ENGINEER  
No observations regarding land drainage matters. Advises that foul sewers serving the first phase of Llys Fammau are not formally adopted.
8. DENBIGHSHIRE COUNTY COUNCIL ECOLOGIST  
No objection, subject to the conclusions in the protected species report being taken into account, for example protective fencing and relevant habitat planting such as a hedge and/or planted trees along north eastern boundary.
9. ENVIRONMENT AGENCY  
No objection - Standard advice notes.
10. DENBIGHSHIRE COUNTY COUNCIL ARCHAEOLOGIST  
Advises that the Historic Environment Record refers to the track which bounds the plot to the North West. However, given no archaeological work in this area up to now and that the land is previously undeveloped; in the area generally there is increasingly evidence of prehistoric activity. Recommends an archaeological watching brief condition.
11. COUNTRYSIDE COUNCIL FOR WALES  
Accepts protected species report conclusions, noting no impact on protected species and recommends including habitat/biodiversity design features at detailed design stage.
12. DENBIGHSHIRE COUNTY COUNCIL EDUCATION SERVICES  
In commenting on the site's potential for a school, together with general education provision in Ruthin, highlights;
  - DCC owns a proposed new school site (at Glasdir), which is earmarked in the UDP. The scheme is not in a current programme, given Modernising Education/Cambridge discussions.
  - Currently, unless there is compelling planning/financial justification, there is no requirement to review other sites.
  - The proposals would not affect education provision in Ruthin.
12. DENBIGHSHIRE COUNTY COUNCIL PLANNING POLICY SERVICES  
Advises that;
  - There are LDP 'candidate sites' to the west of Ruthin, basically running alongside a potential new road route (as illustrated in the current UDP).
  - The scheme should consider the ability for future west Ruthin developments are aware that Highways have confirmed that the proposal would not prejudice a road scheme.
  - In terms of the LDP, suggests that the application may be premature, with the pre- deposit commitment for 150 new residential units for Ruthin, to be looked in more detail later this year.

**RESPONSE TO PUBLICITY:**

None

**EXPIRY DATE OF APPLICATION: 22/04/2007**

#### **REASONS FOR DELAY IN DECISION:**

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

#### **PLANNING ASSESSMENT:**

##### **THE PROPOSAL:**

1. Whilst the application is in outline form, the proposal includes siting details for 9 dwellings, with all other matters reserved (i.e. design of buildings; external appearance and landscaping). The site is to the west of the existing Esso Petrol Station, near the northern entrance to Ruthin from Denbigh. Vehicular access is via the adjoining Llys Fammau estate, to the south.
2. The site lies outside the current development boundary for Ruthin. The boundary ends at the adjacent Llys Fammau development, as identified in the accompanying plan. The site forms part of an existing agricultural field, with public footpaths along the north and westerly field boundaries. A Flood Monitoring Station is positioned further north. The site does not lie within or adjoin an identified flood zone.
3. Drainage details include connection to the existing system at Llys Fammau, with a separate soakaway system.
4. Planning permission for the existing Llys Fammau estate (30 dwellings) was granted in February 1999, as a departure application, in relation to the previously adopted Glyndwr District Local Plan. A Section 106 obligation restricts occupancy to local residents.
5. The current application (submitted by Cymdeithas Tai Clwyd) proposes all 9 dwellings to meet local affordable needs. The applicants have served the relevant planning notices on the landowner. The site plan includes a terrace of 3 units, and 3 pairs of semi-detached dwellings.
6. The application includes the following;
  - i) Affordable Housing Questionnaire and additional information statement
  - ii) Protected species survey

The additional information explains -

- a) The Affordable Housing situation in Ruthin is critical
- b) Cymdeithas Tai Clwyd have a total of 46 on the waiting list.
- c) The Council list is longer
- d) Present Glasdir development is the only site likely to make any impact on Affordable Housing - but will only include 17 to let and 18 for sale.
- e) The LDP is at an early stage.
- f) The current site adjoins an existing site, with all available services.

The protected species survey identifies otter presence in an adjacent drainage ditch to the north of the site, with potential for water voles to the North West

#### **RELEVANT PLANNING HISTORY:**

##### **7. 02/11528 (Glyndwr)**

Development of Land by the erection of a new private primary school, construction of new vehicular and pedestrian access and alteration of an existing access, Land to the rear of Petrol Station and adjacent to Maes Hafod, Denbigh Road,

Ruthin

Planning Committee in 1990 resolved to grant planning permission – subject to a Section 52 agreement. This has never been pursued.

**Code 02/187/96/PF (05/02/11,659)**

Development of 2.58 acres of land by the erection of 27 no. houses and construction of new vehicular and pedestrian access, estate roads and associated drainage works . Maes Hafod, Ruthin. Committee resolved to grant planning permission in January 1991, but the Section 106 Obligation (relating to occupancy) was not formally signed and planning permission could not therefore be issued.

**Code 02/8/97/PF**

Development of 1.08 ha of land by the erection of 30 dwellings ( Phase 1) with associated access works.

GRANTED 12/02/1999.

Permission granted with a Section 106 legal agreement controlling the first and subsequent occupancy of dwelling units to local residents.

**PLANNING POLICIES AND GUIDANCE:**

8. DENBIGHSHIRE UNITARY DEVELOPMENT PLAN (adopted 3<sup>rd</sup> July 2002)
- |               |   |  |
|---------------|---|--|
| Policy GEN 3  | - | Development Outside Development Boundaries           |
| Policy GEN 4  | - | Scattered Development Outside Development Boundaries |
| Policy GEN 6  | - | Development Control Requirements                     |
| Policy GEN 8  | - | Planning Obligations                                 |
| Policy GEN 10 | - | Supplementary Planning Guidance                      |
| Policy ENP 4  | - | Foul and Surface Water Drainage                      |
| Policy HSG 5  | - | Groups of Houses in the Open Countryside             |
| Policy HSG 6  | - | New Dwellings in the open countryside                |
| Policy HSG 11 | - | Affordable Housing for Local Needs in Rural Areas    |
| Policy ENV 1  | - | Protection of the Natural Environment                |
| Policy ENV 2  | - | Development affecting the AONB/AOB                   |
| Policy ENV 6  | - | Species Protection                                   |
| Policy ENV 7  | - | Landscape/Townscape Features                         |
| Policy TRA 4  | - | Safeguarded Road Proposals                           |
| Policy TRA 6  | - | Impact of new development on traffic flows           |
| Policy TRA 9  | - | Parking and servicing provision                      |

Supplementary Planning Policy – Local Needs - Adopted July 2007

Supplementary Planning Guidance

- |        |   |  |
|--------|---|--|
| 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)

Ministerial Interim Planning Policy Statement 01/2006 – Housing (MIPPS 1/06)

TAN 2 - Planning and Affordable Housing June 2006

TAN 5 - Nature Conservation

TAN 11 - Noise  
TAN 18 - Transport

**MAIN PLANNING CONSIDERATIONS:**

9.

- i) Principle – policy and justification
- ii) Archaeology
- iii) Drainage
- iv) Nature Conservation
- v) Noise
- vi) Other issues - Western by- pass and LDP

10. In relation to the main considerations in paragraph 9 above:-

- i) Principle – Planning policy and justification for development contrary to the development plan

Policy

In planning policy terms, the site lies outside the defined development boundary for Ruthin. In this context, the proposal represents a 'departure' in that it is contrary to the policies of the Unitary Development Plan. There is no case that there is an 'essential' need for agricultural and /or forestry workers ( policy HSG 6); 'infilling' (Policy HSQ 5) ; neither is it positioned on the edge of a village (Policy HSG 11) or complies with WAG definition for a 'Rural exception site' i.e. "*small scale housing site, within or adjoining existing rural settlements for the provision of , within or adjoining existing rural settlements for the provision of **affordable housing** to meet local needs, which would not otherwise be allocated in the development plan*". (TAN 2: Planning and Affordable Housing, June 2006)

As the application represents a departure from current unitary plan policies, to justify the grant of planning permission it would be necessary to demonstrate overriding circumstances apply i.e. up to date and rigorous local housing needs assessment; a thorough site selection process; assessment of site specific issues; relevance of local needs policy criteria.

There are no Unitary Development Plan policies which provide for local needs housing on the edges of defined Main Centres.

MIPPS 1/06 advises that in developing sustainably, new houses in the countryside away from existing settlements have to be strictly controlled. It mentions that much depends on the character of the surroundings; the development pattern and accessibility to services. Significant incremental expansion of housing in rural settlements and small towns should be avoided, if this results in unacceptable and unsustainable expansion of travel demand.

TAN 2 advises that Local Planning Authorities should define their 'local needs' in respect of rural areas (para 10.16) and highlights that 'local' must be defined in the development plan.

The Council's adopted local connections policy for affordable housing (adopted June/July 2007) states:

*'Where the provision of Affordable Housing is to be provided through granting planning permission and a Section 106 agreement (or similar) is required to ensure that the household meets all 3 of the following criteria : -  
- is an eligible affordable household*

- comprises a household in unsatisfactory accommodation
  - comprises a household with a genuine or strong local connection
- the definition and criteria to qualify under the local connections test is set out below-

*Local connection*

*At least one of the following tests or criteria must be met to establish a strong or genuine local connection above: -*

- (i) a household must have lived/resided as its PRINCIPAL RESIDENCE continuously in the locality for 5 years*
- (ii) A household must have previously lived/resided as its PRINCIPAL RESIDENCE continuously in the locality for 5 years and wishes to move back*
- (iii) the household has worked continuously in the locality for at least 5 years – or retired from work in the locality within the last 2 years following continuous work in the locality for at least 5 years*
- (iv) a household which has vacated tied accommodation as its principal residence and which has lived or worked in the locality for minimum of 5 years*
- (v) a household containing a key worker who works in the locality and wishes to live in the locality – no qualifying period is necessary*
- (vi) where the household/person is moving into the area to look after a close relative/friend who (i) qualifies as above and (ii) is in need of substantial care and attention.*

The current policy does not adopt a different approach between rural and urban areas.

Justification for supporting the application

There is a range of data which is considered relevant to assessment of the case:

- **Land Availability Housing Completions ( LAHC) ( as of 01/04/07)**

For Ruthin community, the data confirms to date:

Vacant	Under construction	Completed	Affordable Housing Completions
263	11	8	1

For the *adjoining* communities:

Community area	Vacant	Under construction	Completed	Affordable Completions
Efenechtyd	5	1	1	0
Llanbedr Dyffryn Clwyd	15	4	1	0
Llanfair Dyffryn Clwyd	33	1	1	0
Llanynys	23	7	2	0

- **The Joint Denbighshire 2007 waiting list (Applicants may have registered an interest in one or more areas and/or waiting list.)**

	1bed flat	1 Bed. House	1 bed. bung.	2 bed flat	2 bed. house	2 bed. Bung.	3 bed house	3 bed. Bung.	4 plus bed. house	Total
<b>G</b>	152	8	11	13	159	7	99	3	22	<b>474</b>
<b>S</b>	36	0	39	28	0	32	0	0	0	<b>135</b>

Key ; **G**= General Housing needs; **S** = Sheltered Housing Needs

- **Low cost homeownership register** (as defined in the local connections policy)  
Tai Clwyd information confirms ( as of 12/12/07 ) 24 applicants for the Ruthin Community area.
- **Income**  
The 2007 CACI income data = £29,247 average household income for Ruthin Community
- **Existing/current affordable Housing 106 obligations/schemes** ( including cascade effect/ neighbouring communities ) : at the time of writing the report:-

Community	Current undetermined applications	Current available affordable housing schemes for development.	Other schemes - at approved outline or part reserved details stage	Awaiting completion of a 106 obligation
<b>Ruthin</b>	None	None	Glasdir site - Phase 1 only permission granted. Phase 2 with no submission.  35 AH involved including flats; semi-detached; terrace. No detached houses.  Overall final site should include 60 AH units.	None
<b>Efenechtyd</b>	None	None	None	None
<b>Llanbedr Dyffryn Clwyd</b>	Land adj. Bryn Derw.  8 no. total number of dwellings submitted – 24 AH indicated in submission.	None	None	None

<b>Llanfair Dyffryn Clwyd</b>	25 units total submission 8 AH	None	None	None
<b>Llanynys</b>	Land adj. Cerrigllwydion  3 units – proposed as affordable by the applicant.	None	None	None

- **Site density and location**

With a total of nine (9 no.) units, the proposal complies with SPG 22 density requirements. Adjoining existing dwellings and to the rear of the existing Petrol Station, the site represents logical extension to the current development boundary.

The foregoing information, along with the supporting detail, confirms that there are significant local housing needs issues. In this respect, officers consider that there is a case to adopt an 'alternative' approach in certain circumstances and to support affordable provision outside current policy, subject to resolution of other policy and site issues.

ii) Archaeology

The County Archaeologist's response highlights potentially sensitive archaeological issues. A watching Brief condition is consistent with SPG 15.

iii) Drainage

Subject to standard conditions, the proposal is considered acceptable in terms of drainage implications and complies with UDP policy ENP 4.

iv) Nature Conservation

Both the Countryside Council for Wales and the County Ecologist accept the principle of the scheme, subject to suitable protective fencing measures and a habitat scheme. This could be conditioned and delivered as part of the detailed design for the site, ensuring compliance with UDP policies ENV1, 6, and 7.

v) Noise

TAN 11 advises Local Planning authorities to have regard to the impact of adjacent sources of noise including commercial activities. The proposed siting of dwellings and distances should take account of neighbouring / existing uses – in this case, the adjacent Petrol Filling station ( to the east). Given the proposed layout, the relative distances and juxtaposition of plots to the garage would appear reasonable but in order to ensure satisfactory standards are met at detailed design stage, a condition to minimise the effects of noise should be included, which could include appropriate acoustic fencing and landscaping.

vi) Other issues - Western by-pass and Local Development Plan

Given the position and limited scale of the proposed housing scheme and the observations of the Head of Highways ( in respect of the road line and western by pass) , the proposal is not considered to prejudice possible future

development in this part of Ruthin, and complies with the current approach in Policy TRA 4

The Local Development Plan has not reached a stage where it is considered as a significant material planning consideration. However, it would be sensible to adopt an approach which would not prejudice LDP considerations and, in the event of planning permission being granted, it would seem reasonable in this case require submission of reserved matters within one year of the grant of permission.

**SUMMARY AND CONCLUSIONS:**

11. The application is submitted on the basis of a recognisable local, affordable needs requirement for the Ruthin community. Current information for neighbouring communities indicates limited availability of affordable housing.

Taking into consideration the 'local need' evidence; the adopted local needs policy, WAG guidance and the site location it is considered the submission merits support. Control over the local , affordable housing can be secured through a condition obliging agreement to the mechanism for delivery as part of the reserved / detailed design submissions. In terms of site specific issues, conditions would ensure compliance with both national and local biodiversity and nature conservation legislation and policies, together with measures to address potential noise issues.

**The recommendation is also subject to referral to Full Council as the application represents a significant departure from the development plan.**

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

1. Approval of the details of the design and external appearance of the buildings, the means of access thereto 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. 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.
5. Foul and surface water discharges shall be drained separately from the site.
6. The detailed layout, design, means of traffic calming, street lighting, signing, drainage and construction of the internal estate road shall be submitted to and approved by the Local Planning Authority in consultation with the Highway Authority prior to the commencement of any work on site.
7. Facilities shall be provided and retained within each plot for the parking of vehicles in accordance with a scheme to be agreed with the Local Planning Authority, and which shall be completed prior to the proposed development being brought into use.
8. No development works of any kind shall begin until the presence of a contracted archaeologist has been secured on-site according to the prescriptions set out in a curatorial



design brief and approved in writing by the Local Planning Authority. Access, at any reasonable time, shall be given to this archaeologist to enable the observations and recording of any archaeological remains uncovered during the early stages of development. A report of any archaeological records made must be deposited with the County Sites and Monuments Record, Clwyd-Powys Archaeological Trust, 7a Church Street, Welshpool, Powys, SY21 7DL (01938-553670) within one month of the completion of this work with a summary of records sent to the Local Planning Authority at the same time.

9. As part of the reserved details for the site covered by condition 1 of this permission, the following details shall be submitted for the consideration and approval of the Local Planning Authority

- i) a comprehensive plan to deliver the conclusions outlined in the submitted protected species report
- ii) a noise assessment report and mitigation scheme, where required, to protect the site from noise associated with the Petrol Station;

All works forming the approved scheme shall be completed in accordance with the agreed timetable.

10. The development shall not begin until a scheme to secure the provision of the affordable housing has been submitted to and approved in writing by the Local Planning Authority. The site shall be developed for affordable housing in accordance with the approved scheme. The scheme shall include:

- i) The size and type of affordable housing;
- ii) The timing and transfer of land for affordable housing;
  - a) The arrangements to ensure that such provision is affordable for both initial and subsequent occupiers of the affordable housing; and
  - b) 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.

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 comply with the provisions of Section 92 of the Town and Country Planning Act 1990.
3. To comply with the provisions of Section 92 of the Town and Country Planning Act 1990.
4. To ensure that suitable measures are taken to deal with contaminated land in connection with the development.
5. To prevent the integrity of the sewerage systems.
6. To ensure that the estate road system and access are constructed to a standard suitable for adoption and, in the interests of traffic safety, is capable of catering for the amount of traffic that is likely to be generated by the proposal.
7. To provide for the parking of vehicles clear of the highway in the interest of traffic safety.
8. In the interests of archaeological investigation and recording.
9. In the interests of preserving and enhancing nature conservation and biodiversity aims and to ensure satisfactory amenity standards for residential use of the site.
10. In order to ensure that the Affordable Housing provision for the site is secured.

## **NOTES TO APPLICANT:**

You are advised that a suitable legal agreement is required in relation to the Highway works and the work shall only be commenced with the specific agreement of the Highway Authority. As part of the scheme, traffic calming may be required on the existing estate road of Llys Fammau leading to the site.

Your attention is drawn to the attached Highway Supplementary Notes Nos. 1, 2, 3, 4, 5 & 10. Your attention is drawn to the attached Part N form (New Road and Street Works Act 1991). Following specification guides are relevant; Road Construction; Highway Lighting Installations; Traffic Signs and Road Markings.

Welsh Water advisory Notes = see response 05/04/07

If a connection is required to the public sewerage system, the developer is advised to contact Dwr Cymru Welsh Water's Network Development Consultants on Tel: 01443 331155.

### **WATER SUPPLY**

A water supply can be made available to serve this proposed development. The developer may be required to contribute (under Section 40-41 of the Water Industry Act 1991) towards the provision of new off-site and/or on-site watermains and associated infrastructure. The level of contribution can be calculated upon receipt of detailed site layout plans which should be sent to New Connections Design Department, Players Industrial Estate, Clydach, Swansea SA6 5BQ.

Please see attached guidance notes from the Environment Agency

**ITEM NO:** 22

**WARD NO:** Ruthin

**APPLICATION NO:** 02/2007/1179/ PF

**PROPOSAL:** Erection of two/three storey extension to existing care home to provide 14 no. 2 bed flats, 3 no. 1 bed flats and associated communal areas. Internal alterations to existing building and some demolition. Demolition of existing single storey bungalow, and erection of two storey block of 4 no. 2 bed flats to create extra accommodation. Associated groundworks to create extra parking, and landscaping

**LOCATION:** Awelon Extra Care Home School Road Ruthin

**APPLICANT:** Mr Bryn Davies Cymdeithas Tai Clwyd

**CONSTRAINTS:** Conservation Area

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

**CONSULTATION RESPONSES:**

13. RUTHIN TOWN COUNCIL  
"No objection"
14. HEAD OF TRANSPORT AND INFRASTRUCTURE  
No objection subject to conditions
15. CLWYD POWYS ARCHAEOLOGICAL TRUST  
No objections
16. ENVIRONMENT AGENCY  
No objections
17. CONSERVATION OFFICER  
"The amendments to the scheme have generally improved the appearance to the proposal. However, the "dead" frontage onto School road still causes some concern as it creates an unwelcoming and foreboding street scene. It is noted that the conservation area boundary in this part of Ruthin is overdue for a review."
18. DWR CYMRU/WELSH WATER  
No Objections

**RESPONSE TO PUBLICITY:**

Letters of representation received from:

1. G M Griffiths, 5 Troed Y Rhiw, Ruthin (via email)
2. E.W. & A. Evans, 4, Troed y Rhiw, Ruthin
3. Mr. & Mrs. D. Williams, Fives Court, School Road, Ruthin
4. Mr. P. Edwards, Golygfa, 12, Troed y Rhiw, Ruthin
5. Helen Dumbalton, Abbeyfield Ruthin & District Society Ltd.
6. Mrs. E. Morris, Menlli, 11, Troed y Rhiw

Summary of planning based representations:

- i) Impact upon residential amenity
- ii) Impact upon highway
- iii) Over development of site
- iv) Impact upon visual amenity of the area

**EXPIRY DATE OF APPLICATION: 29/07/2008**

**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 site is located within the Ruthin Town Development Boundary and Conservation Area. The site is accessed via School Road, at the rear of the site to the south and overlooks Park Road to the north. The site is currently occupied by an existing nursing/care home which is two storey and flat roofed in design. There is also a bungalow within the site.
2. Surrounding the site there are a mix of uses including residential, care/nursing home, a cemetery and ambulance station. The surrounding buildings including Awelon itself are generally of a mixed and undistinguished character. The site is not significantly landscaped and is readily visible from public views in the locality.
3. Permission is sought to extend the nursing/care home by way of a 2 and 3 storey extension to the north of the site, demolishing the existing bungalow and building a 2 storey unit. In total the number of flats provided would be 21 with a total occupancy of approximately 32. The scheme is intended to provide secure accommodation with an element of independence for elderly people. The scheme represents a model of care as adopted by Denbighshire County Council. The scheme is a joint venture between Denbighshire County Council and Cymdeithas Tai Clwyd.
4. Within the site additional parking would be provided with the total number of spaces of 58.

**RELEVANT PLANNING HISTORY:**

5. None

**PLANNING POLICIES AND GUIDANCE:**

6. DENBIGHSHIRE UNITARY DEVELOPMENT PLAN (adopted 3<sup>rd</sup> July 2002)
  - Policy GEN 6 – Development Control Requirements
  - Policy GEN 1 – Development within Development Boundaries
  - Policy TRA 9 – Parking and Servicing Provision
  - Policy CF1 – Community Facilities
  - Policy CON 2 – Development Affecting Conservation Area
  - Policy HSG 2 – Housing Development in Main Centres
  - Policy REC 2 – Amenity and recreational open space requirements in new developmentsSUPPLEMENTARY PLANNING GUIDANCE
  - SPG 21 – Parking requirements in new developments – September 2004
  - SPG – Residential standards for new development

**MAIN PLANNING CONSIDERATIONS:**

7.

- i) The principle of the development
- ii) Impact on residential amenity
- iii) Impact on visual amenity/conservation area
- iv) Highway considerations
- v) Open space requirements

8. In relation to the main considerations

i) Principle of development:

In terms of the principle the scheme proposed is within the town boundary where planning policies permit appropriate and sustainable development which meet identifiable needs. The proposal is for extra care housing scheme which is comparable to and compatible with the existing use within the site. It is considered acceptable in principle subject to amenity considerations.

ii) Impact upon residential amenity:

The proposed expansion would take the development closer to the boundaries of the site – the extension element to the north of the site overlooking Park Road, and the new build replacing the bungalow at the south of the site. The majority of neighbouring residential properties back on to the eastern edge of the site and have existing views of Awelon Care Home. This would not be altered by the scheme.

Specific concern has been expressed over the relationship between the two storey extension element and number 12 Troed Y Rhiw (Golygfa) where the proposal is at its closest to a residential property. It is considered that the proposed blank elevation of the proposal in this location, and the distance (some 12.5 metres) to 12 Troed Y Rhiw is sufficient to limit impact on residential amenity. A landscaping scheme will also soften the impact reducing further any perception of overbearing development.

Other specific points of concern have been the impact upon the amenity of Five Courts and Abbeyfield House. However, it is concluded that the separation distances between the proposal and these buildings (approx 22 metres and 30 metres respectively) and the height of the proposed building (9 metres) would not have an unacceptable impact upon the amenity of Five Courts and Abbeyfield House.

The proposal is considered overall to be acceptable from a residential amenity point of view, given the relationship, orientation and scale of building relative to surrounding buildings.

iii) Impact upon visual amenity/conservation area:

The proposal involves the introduction of a contemporary style building in an area characterised by other modern buildings of limited design quality. Within the context of the site and the surrounding area the proposal is considered to be an improvement. The existing flat roof building would effectively become screened from view by the newer development. The extension element features a split level roof line which would help to create interest in the street scene. Whilst it is acknowledged that the scheme involves a considerable intensification of development, it is considered that this is inevitable given the

space available within the site, and would create a landmark building within the street scene.

Planning Policy Wales states that the design process should promote the efficient use of resources including land and that good design is important for the success of relatively compact mixed use developments, is essential to ensure that areas, particularly those where higher density takes place, offer high environmental quality.

The integrated approach to the development in terms of the mixed uses is also considered acceptable complying with design guidance, PPW/TAN, reducing the need for residents to travel with complementary services located on site.

It is considered that in the context of the site and surrounding area, the proposed scheme is acceptable in terms of visual amenity. It is not considered that the proposal would be detrimental to the conservation area, and given the overall character of the existing buildings the proposal would bring about an improvement to the area.

iv) Highway considerations:

In terms of highway considerations, the proposal is to provide a total of 36 additional vehicle spaces giving a total on site parking of 58. Policy TRA 9 and SPG 21 on parking currently aim to reduce the need to travel by car and to support sustainable travel options. Car parking standards can be reduced in town centre locations and SPG type standards should be expressed as maximum standards. In town centre locations such as this, with the current parking arrangements, the proposed use by elderly persons, and the integrated nature of the development reducing the need for travel to facilities in the town, it would be in order to accept the proposal as compatible with the requirements of the SPG and planning policies. The Highway officers have not offered any objection to the scheme.

v) Open space requirements:

Within the site there is little open space available, and so a commuted sum is considered acceptable in this instance. Further the nature of the occupancy must be taken into account and the lower level of occupancy to standard development. It is stated that the proposed level of occupancy would be 32 residents. A commuted sum has been calculated based on this occupancy rate. No children's play area/equipment is required as the residents will be elderly. A commuted sum of £19,225 will be required. This is made up of £9389 for Community Recreational Space and £9865 for Maintenance Costs.

**SUMMARY AND CONCLUSIONS:**

9. The proposal is considered acceptable in principle, in design and amenity terms and in respect of highway and open space contributions.

**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 be permitted to commence on the construction of any buildings until the written approval of the Local Planning Authority has been obtained to the proposed materials and colours to be used on the external surfaces of all walls including window frames and surrounds and doors, and no materials other than those approved shall be used.
3. The flats hereby approved shall be occupied solely by person(s) aged 55 years or over, unless otherwise agreed in writing by the Local Planning Authority.

4. Facilities shall be provided and retained within the site for the parking and turning of vehicles in accordance with the approved plan and which shall be completed prior to the proposed development being brought into use.
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 visual amenity.
3. In order to justify departing from the normal requirements of Policy REC 2 of the adopted Denbighshire Unitary Development Plan in that the scheme as permitted lacks provision of on site play space and addresses Community Recreational Open Space requirements by means of a commuted sum based on reduced occupancy rates.
4. To provide for the parking of vehicles clear of the highway and to ensure that reversing by vehicles into or from the highway is rendered unnecessary in the interest of traffic safety.
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:**

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).

<b>ITEM NO:</b>	23
<b>WARD NO:</b>	Llangollen
<b>APPLICATION NO:</b>	03/2008/0052/ LB
<b>PROPOSAL:</b>	Listed Building application for repair and refurbishment as a single dwelling involving demolition of a detached coach-house and erection of garage and conservatory extensions and associated external works
<b>LOCATION:</b>	The Willows Willow Street Llangollen
<b>APPLICANT:</b>	Castlemead Homes Limited
<b>CONSTRAINTS:</b>	Within 67m Of Trunk Road Listed Building EA Floodmap Zone 2 Conservation Area
<b>PUBLICITY UNDERTAKEN:</b>	Site Notice - Yes Press Notice - Yes Neighbour letters - No

**CONSULTATION RESPONSES:**

8. LLANGOLLEN TOWN COUNCIL  
"No Objection"
9. ROYAL COMMISSION ON THE ANCIENT AND HISTORICAL MONUMENTS OF WALES  
No Objection
10. ANCIENT MONUMENT SOCIETY  
No comments on the proposals as far as they affect the principle building.  
As far as the coach house is concerned, note the reports of the historical consultant and the structural engineer. Preferred solution would be the repair of the structure, but if this is impractical then agree with the consultant's view that there is no over riding reason in townscape terms for rebuilding it.
11. LLANGOLLEN CIVIC SOCIETY  
No Objection
12. THE GEORGIAN GROUP  
Object to the demolition of the coach house.
13. THE SOCIETY FOR THE PROTECTION OF ANCIENT BUILDINGS  
Object - The proposed demolition of the coach house and roadside wall and the proposed realignment of the street would have a substantial detrimental effect on the architectural and historic interest and the character both of the main listed building and this part of the Conservation Area.
14. CONSERVATION ARCHITECT  
Object

The repair work to the house appears to be sympathetic.



The coach house is listed and every effort should be made to preserve it in the first instance in accordance with guidelines in paragraph 91 and 92 of Circular 61/96." Despite its current state of repair the Coach House makes a positive and prominent architectural and historical contribution to the setting and context of the Listed Willow House and to the character of Willow Street in this part of the Conservation Area.

This proposal will have a major detrimental impact upon the special historic character and appearance of the Conservation Area.

The modern highway standards employed to widen the street and provide a 1.8metre footpath on both sides of the street will have a detrimental impact upon the special enclosed / dense/ compact historic character and appearance of Willow Street and this part of the Conservation Area.

15. COUNCIL FOR BRITISH ARCHAEOLOGY  
Awaiting response

16. THE VICTORIAN SOCIETY  
Awaiting Response

**RESPONSE TO PUBLICITY:**

None

**EXPIRY DATE OF APPLICATION: 13/07/2008**

**REASON FOR DELAY IN DECISION:**

- Amended plans obliging reconsultation

**PLANNING ASSESSMENT:**

**THE PROPOSAL:**

1. The application is a resubmission of a lapsed planning and Listed Building application which was granted in 1996 under ref 03/77/96/LB.
2. The internal works proposed to Willow House include the reworking of some internal rooms and spaces. Externally new windows are proposed to the ground and first floor and the overall building is to be re tiled with blue welsh slates. As part of the works a utility room which faces the road is to be demolished.

To the rear (south) a conservatory is to be constructed measuring 2.0m in length by 5.0m in width. The conservatory will be constructed from softwood timber frames, doors and roof structure. The windows and doors are to be fitted with double glazed units. The roof panels will be fitted with a laminated / toughened tinted glass.

To the east elevation a new garage is proposed measuring 5.30m in length by 3.60m in width; the garage will have a maximum height of 4.0m. The garage will be constructed from rendered brickwork with a lean to slate roof. The garage doors will be reused from the demolished coach house.

3. The curtilage listed Coach House is to be demolished as part of the works. The demolition of this building which was previously consented at appeal in 1996 coincides with a larger scheme for the development of 47 houses on Vicarage

Road. The demolition of the coach house will allow for re alignment of Willow Street to allow access onto the Vicarage Road site.

4. The existing boundary wall which is built up tightly to the edge of the road is to be demolished., a new boundary wall is to be constructed which measures 1.40m in height by a length of 11.12m. The boundary wall is to be constructed from reclaimed stone from the demolished coach house.
5. Willow House is located to the south of Willow Street on the junction with Hall Street. Willow House is a Grade II Listed Building and the Coach House is curtilage listed. The site is located within the Conservation Area of Llangollen.

The building includes architectural details which derived from at least three periods of development. The details include Gothic detailing to the house and a familiar Denbighshire vernacular style of rubble stone for the coach house. The house is a three storey pebble dashed building. Gothic details have been added to the house such as door cases on the first floor, lancets to the windows of the principle elevation and the elaborate over porch to front door. A two gable extension is set back to the right of the façade of Willow House. This building has plain undecorated yellow brick façade with four paned sash windows with brick arches and a projecting stone sill.

The Coach House is located further up Willow Street towards the west of Willow House. The Coach House is a two storey structure constructed from local shale stone with a gable frontage onto the road and forms part of the boundary wall which forms an enclosure of the site. The Coach House has a brick arch and a diamond shaped dove hole in the apex of the gable.

6. Willow House and the Coach House both directly abut Willow Street (north). The land slopes steadily up toward the west. To the east of Willow House lies the public car park, to the rear is the Llangollen Youth Club.
7. The Archaeological and Architectural Appraisal carried out by King and Partnership suggests that the building has been empty for over ten years and is in poor condition, the application is supported by a detailed justification statement.

The application has been amended since its original submission to incorporate suggestions from consultees to retain the chimney stack.

The Listed Building application is accompanied by a planning application 03/2008/0051/PF however this is not being presented to the Planning Committee as there have been no objections to the application and it can be dealt with under the Scheme of Delegation.

#### **RELEVANT PLANNING HISTORY:**

8. Code No. 03/77/96/LB  
Repair and refurbishment as a single storey dwelling - Granted - 21/06/1996  
Appeal  
The applicant appealed against the decision to refuse planning applications code no. 3/14274 and 3/14275LB. A public enquiry was held in March 1995. For Members' information the Secretary of State for Wales upheld both appeals, subject to appropriate conditions and agreements. Appeal Upheld - 28/03/1996

3/14275/LB

Demolition of Coach House, demolition of boundary wall and refurbishment of the Willows, Willow Street, Llangollen Refused - 06/10/1994

3/14274

Development of land for residential purposes, provision of off street parking spaces, construction of new access - Refused - 06/10/1994

3/13126

Demolition of property in connection with road improvement scheme - Refused  
30/09/1993

3/13263/LB

Demolition of property in connection with road improvement scheme – Refused  
30/09/1993

3/15284/LB

Repair and refurbishment as a single dwelling involving alteration (demolition of chimney stack) and garage and conservatory extensions and associated external works.

**PLANNING POLICIES AND GUIDANCE:**

**9. Denbighshire Unitary Development Plan**

Policy GEN 1 – Development within Development Boundaries

Policy GEN 6 – Development Control Requirements

Policy CON 2 – Extensions or Alterations to Listed Buildings

**MAIN PLANNING CONSIDERATIONS:**

10. The main issues are considered to be:

- i) The principle
- ii) Affect on the character and appearance of the Listed Building
- iii) Site History

11. In relation to the main issues considered in paragraph 10 above:-

i) The Principle

The site lies within the defined Development Boundary for Llangollen where GEN 1 is applicable. The proposal to repair and refurbish Willow House would substantially improve the current appearance of the building and thereby the townscape.

The demolition of the Coach House and the boundary wall forms part of a larger scheme to improve the highway network by realigning the road at the junction between Willow Street and Hall Street. This work was linked to the permission for 47 new dwellings on Vicarage Road granted on the 14<sup>th</sup> July 2001 under Ref 03/1997/0740. Section 106 Agreement dated 28<sup>th</sup> June 2001 accompanied that proposal. The Section 106 specifically required the repair and refurbishment of Willow House and the demolition of the Coach House and the south west boundary wall in conjunction with highway improvement works subject to conditions.

The application is supported by a justification statement in relation to the three key tests set out Welsh Office Circular 61/96 for the demolition of Listed Buildings. The justification statement notes that the Coach House is in a poor state of repair. This was also noted in three independent documents; CADW's List Description, the 'Archaeological and Architectural Analysis' provided by King Partnerships and The Bingham Rawlings Partnership Structural Survey. The report notes that the building is of insufficient size to allow for conversion

to a single dwelling and could only be used as ancillary accommodation; however the cost of refurbishment/ rebuilding would not justify its future use as ancillary accommodation. Also, the Coach House is not proposed to be replaced therefore the issue of subjective architectural merits of an alternative scheme are not considered relevant. It is also not possible to incorporate the building into any new development as the Coach House is situated wholly within the line of the proposed realignment of Willow Street.

It is considered that the proposal is acceptable and complies with National Policy Guidance. Furthermore the works to demolish the Coach House and wall will ensure that Willow House is properly repaired in a way which will secure its future.

- ii) Effect on the character and appearance of the Listed Building  
The proposal to refurbish and repair Willow House will positively enhance and preserve the character and appearance of the building and the Conservation Area. The road realignment will result in Willow House being set back from the road and a footpath will be created to the front of the building. This increased openness will improve the context and setting of the Listed Building. The proposal complies with Policy CON 2 as the works proposed will not detrimentally affect the character of the Listed Building. Parts of the demolished Coach House are to be reused in the proposed garage and boundary wall; these details will help to preserve the architectural and historic character of the building.
  
- iii) Site History  
The proposal to demolish the Coach House and boundary wall was granted on appeal on the 28<sup>th</sup> March 1996. The Inspector found that the Coach House should be demolished as its demolition would be necessary in order to secure development on Vicarage road. The Inspector found that the Coach House does not form an important architectural appendage to the main house and that its demolition would be of benefit when taken overall. The Inspector also noted that the demolition of the outbuilding will ensure that the main house, which is clearly worthy of retention, will be properly repaired in a way which will secure its useful future life. The 1996 appeal did not include Listed Building consent for any refurbishment works relating to Willow House however an application was made and granted in June 1996 for this. These applications have lapsed however the principle of the proposal and the works involved in the proposals remain the same.

#### **SUMMARY AND CONCLUSIONS:**

12. The proposal for the refurbishment of Willow House and demolition of the Coach House and boundary wall is considered acceptable. The proposal has previously been granted on appeal in 1996. The proposed works form part of a wider scheme in connection with Vicarage Road development to improve and realign the road. The proposal accords with Policy GEN 1, GEN 6 and CON 2 of the Unitary Development Plan and is recommended for approval.

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

1. The works hereby permitted shall be begun before the expiration of five years from the date of this consent.
2. The materials to be used on the roof of the buildings shall be blue / grey natural mineral slate of uniform colour and texture.
3. No windows or doors shall be installed until detailed scaled plans and elevations

(1.20 scale) have been submitted to and approved in writing by the Local Planning Authority showing the proposed frame material, finish and sectional profile, the subdivision of the fixed lights and method of opening the windows, the nature of the glazing, details of the beading and puttying, and the extent of recess of the frames in the openings.

4. The proposed windows or doors and their frames shall be painted softwood and shall not be of UPVC construction and all external wood surfaces shall be of white painted and not stained.

5. Unless otherwise agreed in writing by the Local Planning Authority, all rainwater goods shall be in cast iron and painted black.

6. No external wall material shall be applied until the written approval of the Local Planning Authority has been obtained to the proposed materials to be used for the external surfaces of the wall of the development hereby permitted and no materials other than those approved shall be used.

7. A detailed schedule of works shall be detailing all repair works and wall and floor finishes and services shall be submitted to the Local Planning Authority prior to the commencement of development.

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

1. To comply with the provisions of the 1990 Listed Buildings Act.
2. In the interest of visual amenity and in order to retain the historic fabric / character of the building.
3. To ensure the fenestration respects the character of the existing building.
4. In the interest of visual amenity.
5. To respect the character and appearance of the building.
6. In the interest of visual amenity.
7. In order that the Local Planning Authority may retain control over the operations in the interests of public health and amenity.

#### **NOTES TO APPLICANT:**

If during the course of the works, any items or features of architectural or historical interest are uncovered, the local planning authority shall be notified immediately. The local planning authority shall be given the opportunity of recording such items or features prior to their disturbance or removal.

To comply with the Section 106 clause 6.1.2 in conjunction with ref: 03/1997/0740 there shall be no demolition of the Coach House or the south westerly boundary wall of the Willow House until the following have occurred:-

- i. (if appropriate) contracts for the repair and refurbishment of Willow House and for the implementation of the Highway Works have been signed by those who are to undertake those works, and
- ii. The bond referred to in clause 6.1.3.1 has been entered into or the County Council is satisfied that other sufficient security is in place in accordance with clause 6.1.3.2.



3/1837	Erection of tickets and info office	Granted 17/02/1977
3/3655	Erection of an office block	Granted 19/06/1979

**PLANNING POLICIES AND GUIDANCE:**

4. DENBIGHSHIRE UNITARY DEVELOPMENT PLAN (adopted 3<sup>rd</sup> July 2002)  
 Policy GEN 1 – Development within Development Boundaries  
 Policy GEN 6 – Development Control Requirements  
 Policy ENV 2 – Development Affecting the AONB  
 Policy ENV 5 – Sites of Local Conservation Importance

**MAIN PLANNING CONSIDERATIONS:**

5. The main issues are considered to be:  
 i) The Principle  
 ii) Visual Appearance / effect on the AONB
6. In relation to the main planning considerations in paragraph 5 above:  
 i) The principle  
 The principle of the proposal is considered acceptable given its location within the development boundary. It will be partially visible from the canal to the north east however it is partly screened by trees and foliage.
- ii) Visual Appearance / Affect on the AONB  
 The visual appearance of the proposal is considered acceptable and the chosen colour of green will blend in well with the surrounding area and will contrast with the existing cream rendered buildings. The container will be sited close to the existing buildings and the height of the container is no greater than the original buildings. The proposal will not have a negative impact on the character and appearance of the AONB.

**SUMMARY AND CONCLUSIONS:**

7. The proposal is considered acceptable 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.

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

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

**NOTES TO APPLICANT:**

None

**ITEM NO:** 25

**WARD NO:** Corwen

**APPLICATION NO:** 05/2007/0509/ PF

**PROPOSAL:** Erection of 9 No. dwellings and construction of new vehicular access (site area 0.4ha)

**LOCATION:** Land Adjoining The Crescent Corwen

**APPLICANT:** Clive Williams

**CONSTRAINTS:**

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

#### **CONSULTATION RESPONSES:**

19. CORWEN TOWN COUNCIL  
" I list the concerns as follows:  
\* Although the area is outside the UDP we have suggested it comes within the revised LDP  
\* Better traffic management needs to be arranged in the area  
\* There should be a minimum of 3 (three) affordable houses under section 106 and NOT 2
20. WELSH WATER / DWR CYMRU  
No objection subject to inclusion of conditions obliging separation of foul and surface water drainage systems. Note the site is crossed by a public sewer and the needs to avoid new building within 3 metres of the centre line.
21. DENBIGHSHIRE HEAD OF TRANSPORT AND INFRASTRUCTURE  
Amended plans incorporate design changes discussed with the applicants. Recommends any permission includes conditions relating to details of access/highway works and visibility splays.
22. AFFORDABLE HOUSING OFFICER  
Accepts the provision of 2 affordable units out of the 6 additional dwellings proposed, and the location of the units in the layout, suggests the developer contacts the Registered Social Landlord to ascertain interest.

#### **RESPONSE TO PUBLICITY:**

Letters received from

1. L & G Hughes, Awelon, The Crescent, Corwen
2. Mrs. E. Williams, Tawelfryn, The Crescent, Corwen
3. Alan Hughes (by email).

Basis of representations:

- (i) Highway impact – approach highway (Pen y Bryn) is narrow / additional traffic generated would increase problems.
- (ii) Drainage implications – site crossed by foul sewer, would add to problems of blockage already experienced at The Crescent



- (iii) No need for houses in area / affordables can be provided in development elsewhere
- (iv) Amenity impact – close proximity to properties at The Crescent, would lead to overlooking and loss of privacy;
- Other matters
- Impact on electricity voltage.

**EXPIRY DATE OF APPLICATION: 07/07/2008**

**REASONS FOR DELAY IN DECISION:**

- Amended plans / awaiting consultation responses.

**PLANNING ASSESSMENT:**

**THE PROPOSAL:**

1. The application is for full permission to erect 9 dwellings with an access off Pen y Bryn, immediately to the west of The Crescent, Corwen. The basic layout is shown on the plan at the front of the report.
2. The site is elevated above the A5 trunk road, and in common with other development in this part of the town at Uwch y Dre (to the west), and The Crescent, overlooks the Dee Valley from rising land on what is the northern facing slopes of the Berwyn mountains.
3. The approach highway is Pen y Bryn, which runs south west from the town centre and joins the B4401 Llandrillo road near the existing Uwch y Dre housing development. Pen y Bryn serves as the main access road for all existing development in this area of Corwen.
4. The application site lies below Pen y Bryn and has an attractive stone wall along most of its frontage with the highway. Land levels slope steeply down towards the A5 from this point.
5. The site has been the subject of previous applications (see planning history), which are of some relevance to consideration of the current proposals. An outline permission was granted in December 1998, and details of 3 detached dwellings were approved in October 2003 with access off Pen y Bryn. Work commenced on this development within the relevant start date, with the construction of the foundations of one of the dwellings, and hence this permission remains alive and capable of completion.
6. The applicants have clearly reviewed the strategy for the development of the site, having regard to the housing market situation, and submitted an application for an alternative scheme, for 9 units, in March 2006. This was refused permission in April 2006 primarily on the basis on concerns over the impact of the particular scheme on properties at The Crescent and the highway arrangements.
7. The current application was originally submitted in April 2007, and in the period since then, the applicant and agents have sought to address specific concerns over the detailing of the development. A revised scheme was submitted in May 2008, and this has been the subject of a recent reconsultation exercise.
8. The proposal before the Council now comprises a support statement, access and design statement, transport assessment, and an affordable housing questionnaire, along with the layout and house detail plans. The documents refer to the applicant's wish to make better use of the site, to introduce different dwelling types (in preference to one large house type), to take the opportunity to incorporate affordable housing (2 units are proposed), and to ensure improvements to the design, layout and highway arrangements.
9. Despite the existence of the outline planning permission at the time of the preparation of the Unitary Development Plan, the development boundary for Corwen was drawn to exclude it, hence the site appears outside the boundary on the proposals map. The relevance of this situation is dealt with the Main Planning Considerations section of the report.

**RELEVANT PLANNING HISTORY:**

10. 14/9810 (Glyndwr) – Outline permission for 6 dwellings.  
GRANTED – 12/04/1996
- 05/1073/97/PO – Outline permission for residential development  
GRANTED – 12/02/1998
- 05/2001/137/PR – Reserved matters approval for 3 dwellings  
APPROVED – 29/10/2003
- 05/2005/1287 – Variation of condition to allow extension of time to start development  
GRANTED – 19/01/2006
- 05/2006/0300/PF – Details of 9 dwellings  
REFUSED – 24/04/2006 (Highways, residential amenity, potential precedent).

**PLANNING POLICIES AND GUIDANCE:**

11. DENBIGHSHIRE UNITARY DEVELOPMENT PLAN (adopted 3<sup>rd</sup> July 2002)
- GEN 3 - Development Outside Development Boundaries
  - GEN 6 - Development Control Requirements
  - HSG 2 - Housing Developments in Main Centres
  - ENV 7 - Landscape / Townscape features
  - TRA 6 - Impact of New Development of Traffic Flows
  - TRA 9 - Parking & Servicing Provision
- Supplementary Planning Guidance  
21 Parking Requirements in New Developments

**MAIN PLANNING CONSIDERATIONS:**

12. (i) The principle of development  
(ii) Highway impact  
(iii) Impact on the amenities of the locality  
(iv) Drainage  
(v) Affordable housing
13. In relation to the main considerations:  
(i) Principle of the development  
The history of the site throws up a fairly unusual set of circumstances which need to be weighed carefully in determining the acceptability of the principle of a development here.

The site was originally included within the Corwen town boundary in the Old Glyndwr District local plan, which was the main planning policy document guiding development until the formal approval of the Unitary Development Plan in July 2002. Outline planning permission has been granted for residential development here in 1996, and subsequently in 1998. At the time the Unitary Plan was in its final stages before formal adoption, officers were handling the detailing planning application seeking approval of 3 dwellings on the site, submitted in accordance with the 1998 outline permission. This reserved matters' approval was eventually issued in October 2003.

Following consideration of objections to the Unitary Plan, the Planning Inspector recommended drafting the new development boundary to exclude the application site, and this was duly confirmed in the adopted proposals map for Corwen. Consequently the curious situation was created in 2002 where a site with a legally valid permission was placed outside the development boundary on the proposals map.

Significantly, in law, the exclusion of a site from the development boundary of a settlement as part of a development plan process can have no effect on the legal status of a valid planning permission, which can continue to be implemented in accordance with approved plans. Hence the simple fact that the site was no longer included within the town boundary in 2002 made no difference to the right of the applicant / owner to proceed with the development, subject to obtaining the relevant approvals in accordance with the permissions in place. Matters have moved on since the adoption of the Unitary Plan with the approval of the plans for 3 dwellings, and the commencement of that development through specific construction works on one of the units.

The situation at the time of considering the current application is, therefore, that there is a commenced development on the site for 3 dwellings, which can proceed to completion without challenge. This is a significant material planning consideration, and one which officers believe carries some weight in assessing the merits of the proposals to develop the site in an alternative manner.

It is therefore suggested that whilst recognising the fact the site is located outside the development boundary, given the background history outlined here purely in terms of the principle of a residential development, this has already been established as acceptable through the grant of previous permission. As this development can take place in the form of 3 large detached houses, regardless of the decisions on the current proposals, the main issue before the Committee is whether the particular scheme for 9 units is acceptable in terms of the localised impact, given the particular benefits/disbenefits it offers.

(ii) Highway impact

The current application is accompanied by a detailed transport assessment and a range of technical drawings which seek to demonstrate the approach road is adequate to accommodate the anticipated volume of traffic, and that acceptable gradients/levels can be achieved for the service road and driveways off Pen y Bryn.

The Highways Officer has no objections to the proposals, subject to Conditions on the detailing of the access and road construction. With due respect to comments on the highway situation, it is considered there are no justifiable grounds for refusal here.

(iii) Impact on amenities of the locality

The layout and design of dwellings for the development have been revised in important respect from the plans refused in 2006, and as originally submitted in 2007, to take account of concerns over the relationship with properties to the east, at The Crescent. In addition, the agents have agreed to revised fenestration detailing for the first floor bedroom windows of the plot 6 unit, to eliminate overlooking of adjacent rear/side gardens. In officers opinion, the location, orientation and detailing of the dwellings have now been adjusted to an acceptable degree, to limit the potential for overlooking and loss of

privacy.

In terms of design detailing, the plans show a considerable improvement on the previously submitted scheme, with a more 'local' approach to the elevational treatment with the use of a rendered finish on the walls.

There is also more obvious commitment to strategic landscaping, which is considered a key feature given the exposed hillside location and the extensive groundworks involved in creating the access road.

Overall it is suggested that the scheme has been improved to a considerable degree and would bring about a quality development in keeping with this attractive edge of town location.

(iv) Drainage

Whilst noting local concerns over problems with the foul sewer in the area of The Crescent, there are no objections from Welsh Water / Dwr Cymru to the development on grounds of inadequate capacity or system inadequacies.

(v) Affordable Housing

One of the clear 'plusses' of the development now proposed is the potential for providing an element of affordable housing on the site. The scheme with permission (for 3 large houses) can be completed without any obligation for affordable housing. The applicants are now offering 2 units, as affordable (no's 8 & 9 1 x 2 bed, 1 x 3 bed), for low cost home ownership, representing 30% of the 'additional' number of dwellings which are being sought on the site (i.e. 2 out of 6). In officers opinion this is consistent with the Council's Affordable Housing Supplementary Planning Guidance Note, No 22. Current figures indicate one person on the LCHO waiting lists with Tai Clwyd in Corwen and 61 on the social housing list in Corwen for 2 bed properties, and 54 for 3 bed properties.

The affordable units would be made available following completion of units 1-6, and would need to be secured through a Section 106 agreement, which the applicants have confirmed would be acceptable way forward.

**SUMMARY AND CONCLUSIONS:**

14. The site has a commenced permission for the development of 3 large detached houses. Whilst there is a complicated background history, officers consider the current proposals would result in a more acceptable development, offering 2 affordable units, and is worthy of support.

**RECOMMENDATION: -GRANT**

The recommendation is subject to the completion of a section 106 agreement within 12 months of the date of the committee, to secure the provision of 2 affordable housing units for low cost home ownership (Plots 8 and 9).

The Certificate of Decision would only be issued on completion of the Section 106 agreement.

On failure to compete the agreement within the 12 month period the application would be reported back to the Committee for reconsideration against the policies and guidance relevant at that time.

## Conditions

1. The development hereby permitted shall be begun before the expiration of five years from the date of this permission.
2. No works shall be permitted to commence on the external walls and roofs of any of the dwellings until the written approval of the local planning authority has been obtained to the type, colour, and texture of render, and to the type of roofing material to be used.
3. The proposed access shall have a visibility splay of 70m x 2.4m in both directions measured along the nearside edge of the carriageway overland within the control of the Applicant and/or the Highway Authority and within which there shall be no obstruction in excess of 1.05m in height.
4. The detailed layout, design, signing, drainage, street lighting and construction of the internal estate road shall be submitted to and approved by the Local Planning Authority in consultation with the Highway Authority prior to the commencement of any site works.
5. The car parking spaces for each plot shall be laid out and constructed strictly in accordance with the approved plans prior to the first occupation of the units to which they relate.
6. Foul and surface water discharges shall be drained separately from the site.
7. No surface water shall be allowed to connect either directly or indirectly to the public sewerage system.
8. Land drainage runoff shall not be permitted to discharge, either directly or indirectly into the public sewerage system.
9. None of the dwellings 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 (strategic landscaping, boundary and screen wall details), railings, surfacing, planting, etc), and the approved details have been completed.
10. All planting, seeding, turfing, fencing, walling or other treatment comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the completion of the development and any trees or plants which, within a period of five years of the development, die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
11. The fenestration detailing of the Plot 6 dwelling shall be as shown on drawings RB03A and RB05A, and the obscure glazing in the panes facing properties at The Crescent shall be fitted prior to the occupation of the dwelling.

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

1. To comply with the provisions of Section 91 of the Town and Country Planning Act 1990.
2. In the interests of visual amenity.
3. In the interests of the free and safe movement of traffic on the adjacent highway and to ensure the formation of a safe and satisfactory access.
4. In the interests of the free and safe movement of traffic on the adjacent highway and to ensure the formation of a safe and satisfactory access.
5. To provide for the loading, unloading and parking of vehicles clear of the highway.
6. To ensure the development is properly drained and to avoid overloading the existing sewer system.
7. To ensure the development is properly drained and to avoid overloading the existing sewer system.
8. To ensure the development is properly drained and to avoid overloading the existing sewer system.
9. In the interests of visual amenity.
10. In the interests of visual amenity.
11. In the interests of the privacy and amenity of occupiers of adjacent properties.

**NOTES TO APPLICANT:**

You are advised to liaise with Dwr Cymru/Welsh Water over the arrangements for any work on the diversion of the foul sewer which crosses the site, as no buildings should be permitted within 3 metres of the centre line of the sewer.

The Council's Agricultural and Estates officers has also drawn attention to the terms of a restrictive covenant relating to works affecting the foul sewer which you should check/clarify before undertaking any development which may impact on the drain and its service strip.

**ITEM NO:** 26

**WARD NO:** Llanarmon Yn Ial / Llandegla

**APPLICATION NO:** 17/2008/0294/ PO

**PROPOSAL:** Development of 0.095 ha of land by the erection of a dwelling, construction of new vehicular access and installation of a new septic tank (outline application including siting and access)

**LOCATION:** Land Adjacent To Bryn Hyfryd Pen Y Stryt Llandegla Wrexham

**APPLICANT:** Mr K Staley

**CONSTRAINTS:**

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

**CONSULTATION RESPONSES:**

1. LLANDEGLA COMMUNITY COUNCIL  
 "The community council have now discussed the above mentioned application and have the following objections to the proposal:
  - i) there should be a minimum requirement of 90 metres with regard to access (the application does not meet Policy TAN 18)
  - ii) additional traffic onto the lane is of concern
  - iii) there could be drainage issues on the site".
2. HEAD OF TRANSPORT AND INFRASTRUCTURE  
 No objection subject to conditions
3. COUNTY ECOLOGIST  
 Does not object to the proposal, but comments that wildlife surveys should be undertaken.
4. PUBLIC PROTECTION  
 Awaiting response
5. ENVIRONMENT AGENCY  
 No objection, subject to condition relating to the location of the septic tank.

**RESPONSE TO PUBLICITY:**

Letters of representation received from:

1. L.O. & Mrs. J. Wilkinson, Jalna, Llandegla
2. Mrs. Olive Williams, Arosfa, Llandegla (e-mail)

Summary of planning based representations:

- i) Location of septic tank
- ii) Drainage issues
- iii) Impact upon wildlife

**EXPIRY DATE OF APPLICATION: 15/06/2008**

**REASONS FOR DELAY IN DECISION:**

- timing of receipt of representations

## **PLANNING ASSESSMENT:**

### **THE PROPOSAL:**

1. The application is for outline planning permission for the development of 0.095 ha of land by the erection of 1 no. dwelling. The application includes details of access and siting for consideration. Matters relating to design, appearance and landscaping are reserved for later consideration.
2. Whilst the site area has been reduced, the application effectively mirrors that of two previous applications which were granted in 2000 and 2004 respectively. However, this application is not a renewal as it was submitted after the expiry of the previous permission.
3. The site is currently vacant grassland surrounded by residential properties. It lies within the development boundary of Llandegla and would utilise an existing junction between private land and the public highway.

### **RELEVANT PLANNING HISTORY:**

4. 17/2000/716/PO - Development of 0.1ha of land by the erection of a single dwelling, construction of a new vehicular and pedestrian access and the installation of a septic tank. GRANTED – 2000

17/2004/1211/PO – Development of 0.157ha of land by the erection of a dwelling, construction of a new vehicular access and the installation of a new septic tank. GRANTED – 15<sup>th</sup> December 2004

### **PLANNING POLICIES AND GUIDANCE:**

5. Denbighshire Unitary Development Plan
  - Policy GEN 1 - Development Within Development Boundaries
  - Policy GEN 6 - Development Control Requirements
  - Policy HSG 4 - Housing Development in Villages
  - Policy ENV 2 – Area of Outstanding Beauty

Planning Policy Wales March 2002

### **MAIN PLANNING CONSIDERATIONS:**

6.
  - i) Principle
  - ii) Access and infrastructure
7. In relation to the main planning considerations:
  - i) Principle:  
The site is within the development boundary and has previously been granted outline permission on two occasions with the last application being assessed under the same UDP policies. Whilst the site area has been reduced, there have been no other significant alterations to the application or the area. It is therefore considered that the proposal is acceptable in principle.
  - ii) Access and infrastructure:  
Highway Engineers have made an assessment that the access to the development is satisfactory as it is the same as the previous permission and the access point onto the public highway is already in existence. Drainage



for the development will be to a septic tank given that the connection to the main drainage system will not be feasible with the gradient involved.

**SUMMARY AND CONCLUSIONS:**

8. The proposal is considered acceptable in principle and is accordingly recommended for approval subject to conditions.

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

1. Approval of the details of the design and external appearance of the building(s), the means of access thereto 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. The plans of the access to the plot shall include a detailed specification of the means of construction of the access, including surfacing and drainage, from the road to the plot boundary, and development shall only be permitted to commence once the access has been constructed to a suitable standard(s) approved by the Local Planning Authority, and the dwelling shall not be occupied until the access has been completed in its entirety in accordance with the approved plans.
5. The proposed septic tank and ancillary soakaway system shall conform to BS6297 and no part of the system shall be sited within 10 metres of any watercourse, ditch or surface water feature nor within 50 metres of any water abstraction or well.

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 comply with the provisions of Section 92 of the Town and Country Planning Act 1990.
3. To comply with the provisions of Section 92 of the Town and Country Planning Act 1990.
4. To ensure the construction of a safe and satisfactory access, and to protect the interests of the joint owners of the access onto the highway.
5. To ensure the proper drainage of the site and to minimise the risk of pollution.

**NOTES TO APPLICANT: None**

**ITEM NO:** 27

**WARD NO:** Llandyrnog

**APPLICATION NO:** 18/2007/1507/ PC

**PROPOSAL:** Retrospective application for the retention of an agricultural building to be used for the purposes of agricultural machinery and storage and alterations to existing vehicular access (amended scheme)

**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  
"Members were unable to support the application – the proximity of the new building and use thereof would adversely affect the privacy and amenity currently enjoyed by the occupants of the nearby converted outbuildings."
2. ENVIRONMENT AGENCY WALES  
No Objection
3. HIGHWAYS AUTHORITY  
No objection subject to the inclusion of conditions

**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)
- deferred by previous committee for further consideration of access issues

**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 metres to the eaves and 4.50 metres to the ridge. The agricultural building is 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 3<sup>rd</sup> 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
  - iv) Highway safety
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 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.

iv) Highway safety

It is considered that the access has sufficient visibility and is therefore acceptable. Issues relating to debris and water washing onto the highway from the farm can be dealt with via a condition requiring full details of site drainage to be agreed within 3 months of the date of permission.

**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.
3. Full details of the access as indicated on the approved drawing, shall be submitted to and approved in writing by the Local Planning Authority within 3 months of the date of this permission. The details to be approved shall include the detailed design, construction, drainage and the works shall be fully constructed in accordance with the approved details before the building is brought into use.

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

1. In the interest of visual amenity.
2. In the interest of amenity.
3. In the interest of the free and safe movement of traffic on the adjacent highway and to ensure the formation of a safe and satisfactory access.

**NOTES TO APPLICANT:**

You are advised that you will need to submit details of a surface water drainage system that is within the site and does not discharge onto the highway.

Your attention is drawn to the enclosed documents:

- i) Highway Supplementary Notes 1, 3, 4, 5 & 10.
- ii) New Roads and Street Works Act 1991 - Part N Form

**ITEM NO:** 28

**WARD NO:** Llandyrnog

**APPLICATION NO:** 18/2008/0289/ PF

**PROPOSAL:** Construction of 6 no. chalets, landscaping and pedestrian access routes

**LOCATION:** Land at Pentre Mawr Llandyrnog Denbigh

**APPLICANT:** Mr & Mrs G Carrington-Sykes

**CONSTRAINTS:** PROW  
Groundwater Vulnerability 1

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

#### CONSULTATION RESPONSES

1. LLANDYRNOG COMMUNITY COUNCIL  
-Awaiting response on additional information. (unable to comment at this stage and would like the decision deferred until such time as the following information is made available:
  - a. Has a listed building application been and if so what impact will this development have on the listed building?
  - b. This is seemingly a non residential building and therefore part 2 should have been filled out so that the impact of additional traffic can be judged.)
2. CCW  
No objection
3. ENVIRONMENT AGENCY  
Low environmental risk, standard advice applies
4. PUBLIC PROTECTION MANAGER  
(Senior Scientific Services Officer) - the capacity of the existing septic tank and soakaway system needs to be checked and if necessary enlarged or replaced.
5. WELSH WATER  
No comment to make
6. COUNTY FOOTPATHS OFFICER  
Public footpath no 45 abuts the proposed development site, standard advice applies.
7. CONSERVATION ARCHITECT  
Awaiting response on additional information A full independent financial study is required in order to justify the proposal
8. HEAD OF TRANSPORT AND INFRASTRUCTURE  
OBJECT to the proposal for the following reasons:

- a. The proposed development would be likely to result in an increase in the volume of traffic entering and leaving the Class 2 County road through junctions which do not provide adequate visibility from and of emerging vehicles, with the consequent risk of additional danger to all users of that road and interference with the free flow of traffic
- b. The site is in an unsuitable location in terms of transport and the proposed development would not provide a reasonable alternative to reliance on the private car.

9. VALUATION AND ESTATES OFFICER

Accepts the business model as being robust and that the development proposal should provide the income stream to fund the schedule of works to the listed outbuildings within the first five years. What happens once the enabling development has achieved its primary purpose will be a matter to consider on planning policy grounds.

**RESPONSE TO PUBLICITY:**

Representations received from the following:

1. Mr J Collins, Glascoed, Pen y Maes Road, Bodfari LL16 4D
2. Mr. M. Burness, Ty Brazier, Llandyrnog

In objection (2 letters) :

- i) Impact on listed buildings: Object to a mini holiday village degrading the surrounding listed buildings
- ii) Principle: Questions the principle of development and the fact that people could easily live in these units all year round. Do not want this type of development occurring all over the county similar to Conwy and Flintshire. The outbuildings should be converted to make sure that they are maintained.
- iii) Impact on landscape/ visual amenity: Degrade the landscape
- iv) Drainage: Concerns about foul surface water, sewerage and surface water runoff and the existing problems with this. Neighbour wants assurance that this situation will not get any worse as a result of the proposed development.

**EXPIRY DATE OF APPLICATION: 14/08/2008**

**REASONS FOR DELAY IN DECISION:**

- additional information required from applicant
- re-consultations / further publicity necessary on additional information

**PLANNING ASSESSMENT:**

**THE PROPOSAL:**

1. The application site is in the open countryside outside the village of Llandyrnog and outside the boundary of the Clwydian Range AONB. The site consists of a Grade II Listed manor house with adjoining outbuildings within the curtilage which are also grade II listed in their own right. The main house at Pentre Mawr is currently used for B&B purposes with the outbuildings used for storage.
2. The proposal is to erect 6no tented bedroom structures in the grounds of the Listed Building for the purposes of providing holiday accommodation. The proposals involve the erection of a base and frame with a roof as the outer structure with the tented accommodation hung inside the frame to provide a bedroom and bathroom. Drainage facilities will be required for the proposal. The tent accommodation can

be removed when not in use and the frame can also dismantled, but this would require considerably more effort. It is the intention of the applicants to remove the bedroom accommodation when not in use over the winter months but to retain the frame. The life span of the structures is estimated to be 10 years and they are intended to substitute the use of the rooms in the manor house for B&B purposes although food will still be served in the house for the guests who stay in the tented bedrooms.

3. The outbuildings surrounding the house are in need of repair and it is proposed that the income generated as a result of the tented bedrooms would go towards the maintenance of these buildings. The buildings identified for maintenance are the Smithy, the Granary and the Dairy. There is no end use identified for these buildings after they have undergone maintenance and the extent of works required includes re-roofing all three buildings, internal refurbishment to the dairy and the smithy and buttress, and stabilising works to the dairy. The applicants have provided a summary of the costs associated with the development and the sum of money dedicated to the maintenance of the buildings per year. It is proposed that this would run over a time period of 10 years given the estimated life span of the structures.
4. The applicant has submitted the following additional information as part of the planning application: access statement, planning justification including information on landscaping and highways, a schedule of the cost of works to maintain the buildings and a bat report to inform of the presence of these protected species in the outbuildings.
5. This application has been referred to committee on the request of the local member in order to explore issues in relation to highways and the unusual nature of the development and its impact on future upgrade of the listed buildings

#### **RELEVANT PLANNING HISTORY:**

6. None relevant

#### **PLANNING POLICIES AND GUIDANCE:**

7. DENBIGHSHIRE UNITARY DEVELOPMENT PLAN (adopted 3<sup>rd</sup> July 2002)

Policy STRAT1 – General  
Policy STRAT5 – Design  
Policy STRAT6 – Location  
Policy STRAT9 – Tourism  
Policy GEN3 – Development outside development boundaries  
Policy GEN6 – Development Control Requirements  
Policy ENV1 – Protection of the natural environment  
Policy ENV6 – Species Protection  
Policy CON1 – The setting of listed buildings  
Policy CON2 – Extension or alteration to listed buildings  
Policy ENP4 – Foul and surface water drainage  
Policy TSM9 – Static Caravan and Chalet Development  
Policy TRA6 – Impact of new development on traffic flows  
Policy TRA9 – Parking and servicing provision

#### Supplementary Planning Guidance

SPG2 – Landscaping  
SPG14 – Listed buildings  
SPG20 – Static Caravan and Chalet Development

## SPG21 – Parking Requirements in new developments

### NATIONAL PLANNING POLICY AND GUIDANCE

Circular 61/96 – Planning and the historic environment: conservation areas and listed buildings

English Heritage Policy Statement Practical Guide to Assessment – Enabling development and the conservation of heritage assets (June 1999)

#### MAIN PLANNING CONSIDERATIONS:

8.
  - i) Principle of development including the principle of enabling development:
  - ii) Impact on visual amenity
  - iii) Impact on residential amenity
  - iv) Highway considerations
  - v) Protected species
  - vi) Drainage
  
9. In relation to the main planning considerations as noted above:
  - i) Principle of development:

It is officers' opinion that the proposals are in effect for a chalet type of development and should be considered against the Unitary Plan policies for that form of development. The applicants do not concur with this approach. The application site is in open countryside outside the development boundary of Llandyrnog. The Denbighshire UDP makes provision for tourism proposals in the open countryside subject to certain tests as set out in policy STRAT 1, 9, criterion vi) of policy GEN3 and TSM9. STRAT 1 i) makes reference to the preference for the reuse of land and buildings and criterion ii) of STRAT9 relates to small scale built or natural environment based tourism projects in the countryside and rural settlements. Criterion vi) of GEN3 states that in exceptional circumstances, development outside development boundaries may be permitted for rural tourism and the diversification of the rural economy. Policy TSM9 relates to the specifics of development for chalet and static caravan development and the main thrust of the policy is sustainability, transport and landscape impact. The justification for the policy states that '*It is highly unlikely that even in the inland areas a case could be justified for new sites*'. In broad principle terms the proposal to erect 6 no chalets in the grounds of Pentre Mawr is questionable in principle based on the preference for the reuse of buildings and land in favour of new build in the open countryside.

In addition, there is the linked issue of an 'enabling development' proposal, as it is proposed that the income generated from the units would go towards the maintenance of the listed outbuildings (as summarised in paragraph 3 above). There are no specific Unitary Plan policies relating to enabling development. Officers consider there is useful guidance in a document produced by English Heritage - Enabling Development and the Conservation of Heritage Assets (June 1999), which outlines a presumption against enabling development unless all of the following criteria can be met:

- The enabling development will not materially detract from the archaeological, architectural, historic, landscape or biodiversity interest of the asset, or materially harm its setting
- The proposal avoids detrimental fragmentation of management of the heritage asset



- The enabling development will secure the long term future of the heritage asset, and where applicable, its continued use for a sympathetic purpose
- The problem arises from the inherent needs of the heritage asset, rather than the circumstances of the present owner or the purchase price paid
- Sufficient financial assistance is not available from any other source
- It is demonstrated that the amount of enabling development is the minimum necessary to secure the future of the heritage asset, and that its form minimises disbenefits
- The value or benefit of the survival or enhancement of the heritage asset outweighs the long-term cost to the community (i.e. the disbenefits) of providing the enabling development

It is the view of the officers that in this instance, the case has not been made to demonstrate that all of the above 'tests' have been met, particularly with regard to the continued use of the outbuildings for a suitable purpose (as there is an argument that the outbuildings should be looked at first for conversion holiday accommodation), that the problem arises as a result of the needs of the heritage asset and not the personal circumstance of the applicant and it is not clear that financial assistance is not available from any other source.

The financial information submitted as part of the justification for the development has been assessed by the Valuation and Estates Manager. Whilst the figures produced for the cost of works appear reasonable, (but not informed by any structural report submitted for the condition of the outbuildings), the question has been raised as to what happens with income once the enabling development has achieved its primary purpose. The figures provided by the applicant suggest a sum of £5,000 per year being ploughed back in to the listed outbuildings, and based on the total cost of the works, it would appear that this could be achieved within the first 5 years.

Overall, having regard to the tests of enabling development, the principle of development, and whether there are exceptional circumstances to justify development in the open countryside, the proposal is not considered to be acceptable in principle and is in conflict with policy STRAT 1 criterion i), criterion vi) of policy GEN3 of the Denbighshire UDP as well as advice contained in the English Heritage Policy Statement Practical Guide to Assessment – Enabling development and the conservation of heritage assets (June 1999)

- ii) Impact on visual amenity:  
The location of the proposed units have been carefully considered and located beyond the walled garden, with 3 units to the north east of the existing hedge that divides the paddock, and three to the south the other side of the hedge. In terms of location, the units have been located to minimise the impact of the development on the setting of the listed buildings. However, in light of the concerns expressed over the principle of development, the erection of the units in the grounds of the listed buildings where there is inadequate justification for their development would be harmful to the setting and as such the proposal fails to comply with policy CON1 of the Denbighshire UDP.
- iii) Impact on residential amenity:  
The residential properties of Pentre Bach and The Lodge are the two properties which are nearest to the proposed development, but in terms of

residential amenity and considerations of protecting the privacy of the residents in these houses, the officers consider the impact of the development on residential amenity to be minimal. The proposal is therefore in compliance with criterion v) of policy GEN6.

iv) Highway considerations:

The Highway officers object to the development on the grounds the site is accessed via unclassified roads off the B5429 north of Llandyrnog which links with the A494 south of Llandyrnog at Llanbedr D.C and to the north onto the A541 in Bodfari. Two points of access to and from the site onto the B5429 are possible from the application site, the first being the access at Cefn Bithel some 500m to the north east and the other 900m to the south at Pen y Waen. The unclassified road from the site to the B5429 is narrow and bound by high hedges on either side with few natural passing places. Visibility from both these junctions falls short of the standards laid out in TAN18 and the Highway officer considers that the junctions referred to above are substandard to accommodate new development traffic.

In addition, the proposal is considered to be unsustainable in terms of walking and public transport to comply with criterion i) of policy TSM9, and in addition, paragraph 3.15 of TAN18 – Transport states '*Tourism proposals, particularly in rural areas, should demonstrate access by a choice of modes to avoid locking in the requirement for travel by car*'. Based on the comments of the Highways officer, the proposal is considered contrary to policy STRAT1, criterion vi) of policy GEN6, criterion i) of policy TSM9, advice contained in section 8 of SPG20 and advice in TAN18 – Transport.

v) Protected Species:

The application is accompanied by a bat report which has been assessed by CCW, who raise no objections to the proposed development. The proposal is therefore in accordance with policy ENV6 of the Denbighshire UDP.

vi) Drainage:

Concerns have been raised by neighbours in relation to the impact of the development on foul and surface water drainage in the area. The Public Protection Section have been consulted in relation to the development and the Senior Scientific Officer has commented that the capacity of the existing septic tank needs to be checked and if necessary replaced (subject to planning permission) if it is found to be inadequate. This could be covered by a suitably worded planning condition if the application was deemed acceptable.

**SUMMARY AND CONCLUSIONS:**

10. The proposal is for the erection of 6 units in the grounds of the listed manor house of Pentre Mawr, Llandyrnog. The proposal is to provide sleeping and bathroom accommodation only to substitute the rooms currently used for B & B purposes in the main house. Guests would still be able to have food in the main house. The income generated from the chalets would go towards the maintenance of the listed buildings. It is considered the principle of both enabling development and the type of development in the open countryside is not acceptable in this instance and there are other material objections on highways grounds which presume against development in this instance. The application is therefore recommended for refusal.

**RECOMMENDATION: REFUSE-** for the following reasons:-

1. The application site is in the open countryside outside the village of Llandyrnog, and the proposal to develop 6 units for holiday accommodation purposes in the grounds of the Grade II Listed dwelling of Pentre Mawr is considered contrary to national and local planning policy objectives which seek to minimise new development and to maximise the reuse of buildings for suitable purposes. In this instance it is considered that the case has not been adequately made to justify an exception to policies to permit new build development outside established settlements, and there is no case to justify enabling development to maintain the listed outbuildings associated with Pentre Mawr, all contrary to criterion ii) of policy STRAT1, criterion vi) of policy GEN 3, and policy CON1 of the Denbighshire Unitary Development Plan, as well as advice contained in English Heritage Policy Statement Practical Guide to Assessment - Enabling Development and the Conservation of Heritage Assets (June 1999).

**NOTES TO APPLICANT: None**

**ITEM NO:** 29

**WARD NO:** Llanfair Dyffryn Clwyd / Gwyddelwern

**APPLICATION NO:** 20/2008/0379/ PR

**PROPOSAL:** Details of siting, design and external appearance of building, means of access thereto and landscaping, submitted in accordance with Condition No. 1 of outline permission Code No. 20/2007/0205/PO (Reserved matters)

**LOCATION:** Land at (Part garden of) Ty Berllan Graigfechan Ruthin

**APPLICANT:** N Griffiths Esq

**CONSTRAINTS:** Groundwater Vulnerability 1  
AONB

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

**CONSULTATION RESPONSES:**

1. LLANFAIR DYFFRYN CLWYD COMMUNITY COUNCIL  
*"Object - At their last meeting last night my members re- considered the amended planning application. Having noted your comments on the Certificate of Decision my members compared both sets of plans and felt that the proposed dwelling would still be out of character with the surrounding properties. They therefore could not support the amended application."*
2. DWR CYMRU / WELSH WATER  
Awaiting Response
3. AONB COMMITTEE  
*"The JAC has concerns about the scale, height and mass of this proposed development which it considers to be inappropriate for this small elevated site. The JAC also recommends natural slate be used for the roof and all elevations should be render only."*
4. HEAD OF TRANSPORT AND INFRASTRUCTURE  
No Objection

**RESPONSE TO PUBLICITY:**

Letters of representation received in relation to superseded drawings from:

1. RAJ Holding & Mrs JA Holding, 2 Bryn Glas, Graigfechan Ruthin LL15 2EX
2. D & P Jones, Bryn Ffynnon, 4 Bryn Glas, Graigfechan. Ruthin LL15 2EX.

Summary of planning based representations:

In Objection: (2 letters)

- i) Loss of light to property
- ii) Concerns that the proposed house is considerably bigger than that for which permission was given at outline planning stage.
- iii) Boundary hedges should be retained
- iv) The number of rooms such as number of w/c is questioned
- v) v) Highways safety

**EXPIRY DATE OF APPLICATION: 29/05/2008**

**PLANNING ASSESSMENT:**

**THE PROPOSAL:**

1. The application is for the approval of reserved matters of siting, design and external appearance of the dwelling on land at Ty Berllan, Graigfechan which was given outline permission under ref. 20/2007/205/PO in May 2007.
2. The proposed 3 bedroom dwelling is split level incorporating a basement, ground and first floor. The dwelling measures 11.90m in width by 12.30m in length. The maximum height of the ridge would be 9.0m. Parking and turning is proposed to the north of the site and a garden area to the south of the dwelling.
3. The application site is in the development boundary of Graigfechan off the B5429 and was formally part of the garden of Ty Berllan. It is located within the Clwydian Range AONB. The site is bounded by established hedging and shrubs to the north, east and west. There is a mix of dwelling types in the area. To the north east Bryn Glas is an estate of red brick bungalows and to the south Ty Berllan is a two storey white render end terrace dwelling. The land slopes up towards the south east.
4. The proposal was deferred at the committee on the 11<sup>th</sup> June 2008 to enable officers to clarify site levels and to allow better assessment of issues of scale. This proposal is a resubmission of a larger scheme previously refused under reference 20/2008/0048/PR. Changes that have been made since the original submission is that the overall ridge height has been dropped by 0.50m. To the front elevation the ground level is to be retained to reduce the impact from the road. To the rear (east) elevation the sun room has been amended to reduce the number of windows and to lower the ridge height by 1.20m and to incorporate a hip feature to the roof. The applicant has indicated that as part of the proposal hedges to the rear and side of the dwelling are to be retained at a height of 2.0m.

**RELEVANT PLANNING HISTORY:**

5.

20/2008/0048/PR	Details of siting, design and external appearance of building, means of access thereto and landscaping submitted in accordance with condition no. 1 of outline permission code 20/2007/205/PO	Refused 19/03/2008
20/2007/0205/PO	Development of 0.06 ha of land by erection of 1 dwelling and the formation of a new vehicular access (Outline)	Granted 23/05/2007

**PLANNING POLICIES AND GUIDANCE:**

6. DENBIGHSHIRE UNITARY DEVELOPMENT PLAN (adopted 3<sup>rd</sup> July 2002)  
Policy GEN 1 – Development Within Development Boundaries  
Policy GEN 6 – Development Control Requirements  
Policy ENV 2 – Development Affecting the AONB

**SUPPLEMENTARY PLANNING GUIDANCE**

- SPG 21 – Parking Requirements in New Developments  
SPG 25 – Residential Development Design Guide

## MAIN PLANNING CONSIDERATIONS:

7.
  - i) Principle of development
  - ii) Impact on Visual Amenity
  - iii) Impact on residential amenity
8. In relation to the main planning considerations as noted above:
  - i) Principle of development

The application site is in the development boundary of Graigfechan where the principle of development is acceptable. In this case the principle has been established in the outline permission.
  - ii) Impact on Visual Amenity

Whilst the design of the proposal is fairly modern, given to the mix of dwelling styles in the area this is considered acceptable. The dwelling is to be finished with natural slate and render which is appropriate in the AONB. The materials and certain design features of the dwelling reflect the existing dwelling of Ty Berllan. As such it is not considered that the proposal would be out of keeping with the character of the area.
  - iii) Impact on Residential Amenity

Subject to control over the detailing of the window serving bedroom 3, it is not considered there would be any adverse impact on the privacy or amenity of neighbouring properties due to the land levels and siting of the dwelling centrally within the plot. The rear garden depth is 6m, although there are 2 first floor windows these serve a bathroom and an en suite and would be obscure glazed. There is 15m from the side of the dwelling to the side of no. 2 Bryn Glas, and due to the orientation of no. 2 there will be no overlooking or loss of privacy. The proposal has been amended since its first submission to reduce the overall ridge height of the dwelling and to reduce the ridge height of the sun room. This reduction in height will reduce the impact on neighbouring properties amenity. Furthermore the hedging is to be retained along the side and rear boundaries which will screen the ground and first floor windows. A condition can be attached to retain this hedge.

## SUMMARY AND CONCLUSIONS:

9. The proposal is considered acceptable and is recommended for approval.

## RECOMMENDATION: APPROVE- subject to the following conditions:-

1. No external wall or roof materials shall be applied until the written approval of the Local Planning Authority has been obtained to the proposed materials to be used for the external surfaces of the [walls [and roof(s)] of the development hereby permitted and no materials other than those approved shall be used.
2. The boundary hedge located on the north of east boundaries of the site shall be retained and maintained at all times at a height of no less than 2.0m.
3. 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.

4. Full details of the piped access and ditch crossing shall be submitted to and approved in writing by the Local Planning Authority before the commencement of any site works and the access shall be completed in accordance with the approved plans before the development is brought into use.

5. The detailing of the window serving bedroom 3 shall not be as shown on the submitted plans but shall be in accordance with such plans as are submitted to and approved in writing by the Local Planning Authority prior to the commencement of development.

6. The windows serving the first floor bathroom and the ensuite to bedroom 1 shall be glazed with obscure glass at all times.

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

1. In the interests of visual amenity.
2. In the interest of residential amenity.
3. To ensure in the interests of visual amenity a satisfactory standard of landscaping in conjunction with the development.
4. To ensure the formation of a safe and satisfactory access.
5. In the interests of the privacy and amenity of occupiers of adjacent property.
6. In the interests of the privacy and amenity of occupiers of adjacent property.

**NOTES TO APPLICANT:**

None

**ITEM NO:** 30

**WARD NO:** Llanarmon Yn Ial / Llandegla

**APPLICATION NO:** 21/2008/0359/ PF

**PROPOSAL:** Erection of replacement dwelling and installation of private treatment plant

**LOCATION:** Ty Pren Hendre Foelas Pant Du Road Eryrys Mold

**APPLICANT:** Mr & Mrs J Clement-Evans

**CONSTRAINTS:** PROW  
AONB

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

**CONSULTATION RESPONSES:**

1. LLANFERRES COMMUNITY COUNCIL  
 "Following the Llanferres Community Council meeting on 14<sup>th</sup> May and a subsequent site visit, the Community Council resolved to offer no objections to the development.  
  
 Although the proposed new build, as regards footprint and volume, is considerably greater than the existing building, it was felt that the site was of sufficient size to accommodate a dwelling of this size and would be in keeping, both in size and appearance, with the adjacent property.  
  
 Concerns, however, were expressed over the proposed felling of mature trees and it was felt that restrictions should be imposed to keep such felling to a minimum. It was noted that a tree near to and on the eastern side of the entrance, which was marked for retention, had already been felled."
2. AONB JOINT ADVISORY COMMITTEE:  
 "The JAC objects to this application on the grounds that the proposed replacement dwelling is not subordinate to the scale, form and mass of the original dwelling and proposed materials do not reflect the character of this area of the AONB and adjoining properties. In addition the JAC are also concerned about the impact of the development on the attractive grouping of trees on the site."
3. HIGHWAY AUTHORITY:  
 No objection subject to the inclusion of conditions relating to the access and parking area.
4. ENVIRONMENT AGENCY:  
 Low environmental risk; standard advice applies.
5. PUBLIC FOOTPATHS OFFICER:  
 No objection
6. BUILDING CONTROL:  
 The submitted structural report is an accurate indication of the condition of the



building's condition. It is agreed that the existing building is considered structurally unsound and not capable of renovation without complete reconstruction.

**RESPONSE TO PUBLICITY:**

Letter of representations received from:

1. K Massey, Hendre Foelas, Pant Du Road, Eryrys

Summary of planning based representations:

- i) Impact upon residential amenity

**EXPIRY DATE OF APPLICATION: 19/06/2008**

**REASONS FOR DELAY IN DECISION:**

- timing of receipt of representations

**PLANNING ASSESSMENT:**

**THE PROPOSAL:**

1. The proposal is to replace the existing dwelling with a dwelling of single storey appearance with a loft area served by conservation style rooflights and a small gable window. The proposed dwelling would have a footprint of 6 metres x 16 metres and an average height of 6 metres to the ridge, and include two bedrooms, kitchen, living and dining, bathroom and upstairs loft room. The remaining site area would serve as a private garden area, within which there would be space for the parking and turning of 2 vehicles at a higher level above the road, and then steps up to ground floor level of the dwelling. Materials would include block and rendered walls, natural slate roof and sliding sash detailed painted timber windows.
2. Ty Pren is located approximately a mile north of the village centre of Eryrys. The application site is accessed directly off the unclassified Pant Du Road to Treuddyn approximately ¼ of a mile from the Pant Du crossroads on the Eryrys to Nercwys road. There is an existing stone wall along the boundary with the highway used by vehicles and an existing splayed access on to the application site. The site is relatively well screened from adjacent lanes by existing trees within the application site.
3. The building forming the subject of this application is located within a 0.10 hectare (approx 0.24 acres) site. It is a two-storey building of timber construction with an external skin of horizontal boarding and a corrugated asbestos pitched roof. The building has a footprint of 5 metres x 6 metres and is believed to date from the 1920's and was renovated in 1950's.

**RELEVANT PLANNING HISTORY:**

4. 31/10,770 - Proposed erection of replacement dwelling (outline application) – Timberhouse, Hendre Foelas, Eryrys – GRANT – 22/12/89

21/2004/0838/PF - Erection of replacement dwelling – WITHDRAWN to allow for consideration of lawfulness of the dwelling

21/2006/0984/LE - Certificate of Lawfulness for the existing use of a building as a dwelling – REFUSED 30<sup>th</sup> December 2006. ALLOWED on Appeal reference

**PLANNING POLICIES AND GUIDANCE:**

5. Denbighshire Unitary Development Plan (adopted 3<sup>rd</sup> July 2002)
- |                |   |  |
|----------------|---|--|
| Policy STRAT 5 | - | Design                                       |
| Policy STRAT 7 | - | Environment                                  |
| Policy GEN 3   | - | Development outside development boundaries   |
| Policy GEN 6   | - | Development Control Requirements             |
| Policy HSG 8   | - | Replacement Dwelling in the open countryside |
| Policy ENV 2   | - | Development affecting AONB/AOB               |

Supplementary Planning Guidance Note:  
No. 6 – Trees and Development

GOVERNMENT GUIDANCE  
Planning Policy Wales, March 2002 (Chapter 9 – Housing)

**MAIN PLANNING CONSIDERATIONS:**

- 6.
- i) Dwelling status
  - ii) Existing Dwelling merits
  - iii) Proposed Dwelling merits
  - iv) Amenity Impact
  - v) Effect on trees
7. In relation to the considerations as noted in paragraph 10:
- i) Dwelling Status  
The current planning policy HSG 8 of the Unitary Development Plan states that proposals involving buildings which were never intended to have a permanent residential use including structures built of materials for only temporary or seasonal use must establish that the building has current dwelling status. The Appeal decision of the 6<sup>th</sup> March 2008 confirms that the building has a lawful use as a dwelling house and therefore the application for a replacement is acceptable in principle.
  - ii) Existing Dwelling merits  
The existing dwelling has minimal architectural or historic importance and is considered low in design and appearance standards. The structural report confirms the dwelling cannot be renovated without major or complete reconstruction.
  - iii) Proposed Dwelling merits  
It would be undesirable to replace the dwelling with a similar timber structure due to the limitations of its lifespan and although the design is substantially different it is believed that a sympathetic balance has been struck. The proposed design, a traditional single storey vernacular cottage enhance the appearance of the site within the AONB. The siting away from the rear of Hendre Foelas, more centrally located in the plot is considered an improvement and the materials, render, slate and timber sliding sash windows reflect the traditional materials of the area.
  - iv) Amenity Impact  
Sited amongst the trees the existing dwelling is not visually intrusive from distance, however, upon approach on Pant Du Road the substantial two storey dwelling detracts from the amenities of Hendre Foelas. The proposed dwelling is designed to a high standard and will contribute to the character

and appearance of the AONB, without detracting from the amenities of the neighbouring properties.

v) Effect on Trees

The submitted tree survey is considered to lack detail on the condition of individual trees. It is therefore proposed that an independent tree survey is undertaken to the satisfaction of the Authority prior to any trees being removed.

**SUMMARY AND CONCLUSIONS:**

8. The proposals are considered to be acceptable and therefore it is recommended that planning permission be granted.

**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 external wall or roof materials shall be applied until the written approval of the Local Planning Authority has been obtained to the proposed materials to be used for the external surfaces of the [walls [and roof(s)] of the development hereby permitted and no materials other than those approved shall be used.
3. Space for the parking and turning of vehicles as shown on the approved plan shall be provided prior to the occupation of the dwelling and thereafter retained at all times.
4. Any entrance gates hung across the existing access within 5 metres of the edge of the near side carriageway shall be arranged to open inwards into the site.
5. The surface of the access shall be paved with a bituminous material for a distance of 5 metres behind the adjoining carriageway edge and the access frontage adjoining the carriageway edge shall be reinforced with bull nose kerbs unless otherwise agreed in writing by the Local Planning Authority.
6. Notwithstanding the provisions of the Town and Country Planning General Development Order 1995 (or any order revoking or re-enacting that order) no tank for the storage of oils fuels or chemicals shall be erected within the curtilage of a dwellinghouse unless it is sited on an impervious base and surrounded by impervious bund walls. The volume of the bunded compound should be at least equivalent to the capacity of the tank plus 10%. All filling points, vents, gauges and sight glasses must be sealed with no discharge to any watercourse, land or underground strata. Associated pipework should be located above ground and protected from accidental damage.
7. No development approved by this permission shall be commenced until a scheme for the provision and implementation of foul drainage works has been approved by and implemented to the reasonable satisfaction of the Local Planning Authority.
8. 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.

9. Notwithstanding the provisions of Classes A, B, C, D, E of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification) no development permitted by the said Classes shall be carried out without [approval in writing of the Local Planning Authority] [further grant of planning permission of the Local Planning Authority].

10. 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, 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 visual amenity.
3. In the interest of free and safe movement of vehicles onto and from the adjoining highway
4. In the interest of free and safe movement of vehicles onto and from the adjoining highway
5. In the interest of free and safe movement of vehicles onto and from the adjoining highway
6. To prevent pollution of the water environment.
7. To prevent pollution of the water environment.
8. To ensure in the interests of visual amenity a satisfactory standard of landscaping in conjunction with the development.
9. In the interests of residential and/or visual amenity.
10. To ensure a satisfactory standard of development, in the interests of visual amenity.

**NOTES TO APPLICANT:**

None

**ENFORCEMENT MATTERS**

- (i) **ENF/2008/00001 -**  
Land at Brookdale Road, Rhyl  
Unauthorised dumping of waste / materials

**PLANNING ENFORCEMENT REPORT**

**REFERENCE:** ENF/2008/00001  
**LOCATION:** Land adjacent Brookdale Road Rhyl  
**INFRINGEMENT:** Unauthorised dumping of waste / materials

**RELEVANT PLANNING POLICIES AND GUIDANCE**

DENBIGHSHIRE UNITARY DEVELOPMENT PLAN (adopted 3<sup>rd</sup> July 2002)  
Policy GEN 6 – Development Control requirements  
Policy GEN 2 – Development of non-annotated land

**HUMAN RIGHTS CONSIDERATIONS**

The provisions of the Human Rights Act 1998 are taken into account when considering taking action against unauthorised development of land and other related matters. In this instance, the matters under consideration relate to the rights of an individual to store building waste on a site. These rights have to be weighed up against the relevant policies which seek to ensure that developments do not adversely impact on visual amenity.

**1. BACKGROUND INFORMATION**

- 1.1 The site comprises an area of open land within the development boundary of Rhyl, measuring approximately 25m x 85m, alongside Brookdale Road and the Rhyl Cut Watercourse. To the west of the site are Glanaber Trading Estate and Coronation Gardens playing fields. Running alongside the cut is a public footpath. Along the western boundary are several mature trees. The ground level slopes downwards slightly into the site from Brookdale Road and slightly from south to north
- 1.2 The site is the subject of a current planning application (reference 45/2006/0816) for the erection of 18 dwellings and construction of a new vehicular access.
- 1.3 In December 2006 the Planning Committee resolved to grant planning permission subject to the developer (J + T Gizzi Builders) first entering into a Section 106 agreement in relation to affordable housing and open space provision. There was a requirement to complete the legal agreement within 12 month of the date of resolution, which passed without completion, in December 2007.
- 1.4 In December 2007, an Officer of the Council received a complaint from local residents that building rubble was being brought onto the site. Photographs were taken of the large amount of rubble that had been placed there.
- 1.5 The scale of the rubble that has been placed on to site would constitute an engineering operation requiring planning permission under Section 55(1) of the Town and Country Planning Act 1990.
- 1.6 No specific planning permission has been granted for the placing and storage of rubble on the site.

- 1.7 In January, J + T Gizzi were served with a section 330 Requisition for information and given 21 days to remove the rubble. This Requisition for Information was not returned. A site visit in June confirmed that the rubble had not been removed.
- 1.8 Whilst no valid retrospective planning application has been submitted in respect of this development, it is considered that any such planning application would have been recommended for refusal due to the adverse visual impact that this development has on the occupants of Brookdale Road.

## **2. REASONS FOR ISSUING AN ENFORCEMENT NOTICE**

- 2.1 The unauthorised operational development has taken place within the last four years.
- 2.2 The placing and storage of rubble has had an adverse impact on the visual amenity of the area due to its scale and prominence which is contrary to Policy GEN6 ( i, ii, v, xii and xiii) of the Unitary Development Plan.
- 2.3 The imposition of conditions as part of any grant of planning permission for the unauthorised use and works would not overcome these objections.

## **3. RECOMMENDATION**

- 3.1 That the authorisation be given for the following :
- (i) Serve an Enforcement Notice to secure the removal of the rubble.
  - (ii) Instigate prosecution proceedings, or other appropriate action under the Planning Act, against any person, or persons, upon whom any Enforcement Notice, or other Notice is served, or against whom legal action is taken should they fail to comply with the requirements of the Enforcement Notice.

**REPORT BY THE CHAIRMAN**

**START TIME FOR COMMITTEE AND PROTOCOL CHANGES**

**1. PURPOSE OF REPORT**

1.1 The purpose of this report by the Chairman is to seek Member approval for putting back the existing start time of planning committee from 9.30 a.m. to 10.00 a.m.

**2. BACKGROUND**

2.1 Members will be aware that Planning Committee has previously commenced at 10.00 a.m. The reasons given for moving the start time forward to 9.30 a.m. were to allow greater scope for public speaking at Committee with the aim to complete the agenda at a reasonable time.

2.2 Having undertaken many such committees the Chairman now feels that starting at 10.00 a.m. would still achieve the previously described objectives and allow greater time for Members to study plans and discuss matters with Officers where necessary.

**3. RECOMMENDATION**

3.1 That Members approve the new suggested start time of 10.00 a.m.