

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

**DENBIGHSHIRE COUNTY COUNCIL
PLANNING COMMITTEE
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ITEM NO: 1

WARD NO: Efenechtyd

APPLICATION NO: 04/2007/0964/ PF

PROPOSAL: Construction of 10 wind turbine generators (up to 120.5 m in overall height) c/w electrical control room and compound area, new and improved access tracks, underground cabling, 80 m anemometry mast, ancillary works and equipment; temporary construction works; borrow pit and vehicular access from county road

LOCATION: Derwydd Bach Melin-Y-Wig Corwen

APPLICANT: Tegni Cymru Cyf.

CONSTRAINTS: Wildlife Site

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

CONSULTATION RESPONSES:

DERWEN COMMUNITY COUNCIL

- “ 1. The majority of local residents and electorate oppose the planning application.
2. The development is considered likely to result in significant harm to the character and quality of an attractive rural landscape and to contribute to an unacceptable cumulative and sequential visual impact with other existing, approved, and potential future wind turbine developments in the area.
3. The development is considered likely to have significant adverse effect on the residential amenities of local properties.
4. The development would lead to unacceptable noise levels to residential amenity in the surrounding area and villages.
5. The development would cause unacceptable harm to the enjoyment of the landscape for recreational and tourism purposes.
6. The development would have an impact on wildlife such as the Red Kite and Hen Harrier and a threat to the Red Squirrel population which rely on the existing Forestry environment.
7. The clear fell of such a large area of forestry should not be allowed as this would have an affect on local employment, CO2 emissions, etc.
8. The current infrastructure would not be able to cope with the additional works, traffic, etc.
9. The water table would be affected and the removal of the foresting by clear fell would cause flooding down stream.
10. The area currently is considered an area of outstanding beauty.
11. The local tourism industry will be affected to the negative.
12. The development would significantly reduce the value of the local properties. Some of the turbines within the application are considered too close to properties.

CLOCAENOG COMMUNITY COUNCIL

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13. Some of the turbines within the application are considered too close to properties. “

GWYDDELWERN COMMUNITY COUNCIL

No response.

BETWS GWERFIL GOCH COMMUNITY COUNCIL

No response.

COUNTY ARCHAEOLOGIST

Agrees that the mitigation measures proposed will enable the archaeological heritage to be preserved and would wish to see a condition attached to any grant of planning permission regarding an archaeological watching brief.

PUBLIC PROTECTION MANAGER

(i) Pollution Officer

Confirms that having liaised with the Council's Noise Consultant, is in agreement with his recommendations and approach to dealing with the application. States the proposed noise conditions should give sufficient control over windfarm developments to ensure, even cumulatively, they cause minimal disturbance to local residents.

(ii) Scientific Services Officer – Waste Quality/Pollution

Does not object to the application, but draws attention to private properties in the locality which are reliant on springs for water supply. Requests consideration of measures to ensure no adverse impacts on supplies, in particular at construction stage (e.g. sedimentation or other pollution).

HEAD OF TRANSPORT & INFRASTRUCTURE

Raises no objections, subject to imposition of conditions or a legal agreement to deal with:-

- Site access detailing;
- Temporary site accesses through A, B, and forestry roads;

- A Construction Environmental Plan (construction routes, traffic management, delivery times, wheel and road cleaning);
- Prevention of run off of surface water;
- Survey of road conditions.

COUNTY ECOLOGIST

Requests inclusion of conditions on any permission to:

- Identify all wetland features, including marshland, ponds, waterways, and details of measures to protect and mitigate impacts on these features, along with a management scheme to enhance wetland features.
- Mitigate impacts on nesting birds and water voles.
- Monitor, identified protected/priority species occurring on site or in the vicinity.
- Ensure long term protection for biodiversity features identified on site when the windfarm comes to the end of its life.

FOOTPATHS OFFICER

No response.

CLWYDIAN RANGE AONB - JOINT ADVISORY COMMITTEE

"The JAC strongly objects to the application on the grounds that it will impact on distant views from the AONB and will have detrimental effect on the enjoyment of the Clwydian Range, particularly for users of the Offa's Dyke National Trail and Moel Famau Country Park. The cumulative effects of this application, the permitted Wern Ddu scheme and other schemes in the locality, will have a seriously harmful impact on views from the AONB. This will diminish the quality, character and enjoyment of this nationally protected area and adjoining high quality landscapes. The JAC also has concerns about the wider environmental impacts of the development, notably the potential loss of biodiversity, and the impact of overhead electricity grid connects."

CONWY COUNTY BOROUGH COUNCIL

Has no objections to the proposal provided that the proposal does not compromise the ability of the Clocaenog Wind Farm Zone (CFWZ) to meet the anticipated target of 140 MW by 2010.

CLWYD POWYS ARCHAEOLOGICAL TRUST

Has no objections to the proposal but would wish to see all recorded archaeological sites within 50 metres of any ground disturbance clearly marked and fenced prior to construction commencing to prevent accidental damage during construction.

COUNTRYSIDE COUNCIL FOR WALES

The original CCW response raised objections in the absence of detailed information before determination to allow assessment of the possible effects of the construction access route on interests of acknowledged importance, (Mynydd Hiraethog Site of Special Scientific Interest (SSSI)), and the impact on European Protected Species (bats) and the UK Biodiversity Action Plan Priority Species, (Red Squirrels).

A second response from CCW removes their objections. In relation to the specific issues:

- CCW advise the bat avoidance mitigation measures are considered satisfactory and the strategy should be the subject of a condition.
- CCW confirm that they consider the assessment of impacts in respect of red squirrels to be satisfactory. CCW advise the inclusion of a condition in

respect of red squirrels to ensure monitoring takes place during and post construction together with the implementation of any necessary remedial measures.

- iii) CCW note that the applicants amended comments in respect of Curlew and no longer consider curlew to be a material issue in respect of this proposal. They advise the inclusion of a condition in respect of Curlew to ensure breeding site surveillance takes place during and post construction together with any necessary remedial measures.
- iv) CCW advise that there may be potential impact of construction phase traffic on the Mynydd Hiraethog SSSI and advise the attachment of a condition survey of the access tract is carried out prior to construction and a further condition survey post construction and for them to carry out any necessary remedial works.

CAMPAIGN FOR THE PROTECTION OF RURAL WALES

No response.

RSPB CYMRU

No response.

THE BRITISH HORSE SOCIETY

No response.

NORTH WALES WILDLIFE TRUST

No response.

CADW

No response.

NTL

No response.

SPECTRUM PLANNING GROUP

The proposal will not affect an NGW operated point-to point microwave link.

OFCOM

(Deal with fixed microwave links managed by OFCOM)

Confirms that no civil fixed links should be affected by the proposals.

T-MOBILE

No response.

BT

No response.

VODAFONE

No response.

CROWN CASTLE UK

No response.

CABLE & WIRELESS

No objections.

LIBERTY COMMUNICATIONS

No response.

JOINT RADIO COMPANY

(Analyse proposals to assess potential interference to multipoint telemetry and telecontrol radio systems operated by utility companies).

JRC does not foresee any potential problems based on known interference scenarios and the data provided.

HOME OFFICE

No response.

CELL NET

No response.

ORANGE

No response.

O²

No response.

SPECTRUM PLANNING NATIONAL GRID WIRELESS

Analysis shows the proposed development is unlikely to affect any of their UHF Re-Broadcast feeds and hence would not wish to object.

MCA

No response.

CIVIL AVIATION AUTHORITY

In response to consultation on the submitted application, refer to pre-application advice, and comment that their position remains unaltered:

- (i) They do not believe there are any aerodrome associated issues.
- (ii) Aviation obstruction lighting may be required (dependent on height and if concerns are expressed by other aviation bodies).
- (iii) All structures over 300 feet high have to be chartered on aviation maps. It is the developer's responsibility to provide details to the Defence Geographic Centre.

Stress the need to consult with MoD (Defence Estates) and NATS (formerly National Air Traffic Services).

For clarification, current advice in TAN 8 is that warning lights are required by CAA on structures over 150 metres high.

DEFENCE ESTATES

No concerns with the proposal.

NATIONAL AIR TRAFFIC SERVICES

(NERL Safeguarding)

Has examined the proposed development from a technical safeguarding aspect and does not conflict with their safeguarding criteria.

THE RAMBLERS (North Wales Area)

Object to the application. Questions the impartiality of the Environmental Impact Assessment and considers the published document misleading and its statements unsubstantiated.

ENVIRONMENT AGENCY WALES

No objections but would wish to see a number of conditions attached to any grant of planning permission in order to protect water resources.

HEALTH AND SAFETY EXECUTIVE

HSE do not require notification of applications outside the construction distance of major hazard sites/pipelines. (There are no listed hazards in the vicinity of the site).

WELSH ASSEMBLY GOVERNMENT (Department of Sustainability and Rural Development)

Consultation has been considered under the arrangements set out at Annex C6 to Technical Advice Note (Wales) 6. No views to express upon the merits or otherwise of the development.

The agricultural land classification of the land situated within the application boundary is shown on the provisional series of Agricultural Land Classification maps as being part Grade 4 and part Grade 5.

It is noted that reference is made to the need for borrow pits and attention is drawn to the guidance in Minerals Technical Advice Note (Wales) 1: Aggregates. Attention is drawn to the guidance at Section D "Restoration and Aftercare" of MTAN1.

WALES TOURIST BOARD

Response notes the Wales Tourist Board was merged into the Welsh Assembly Government on 1 April 2006 and no separate response will be made.

DART

(Denbighshire Against Rural Turbines)

Concern expressed over statements in Non Technical Summary with regard to not causing unacceptable harm to the designated landscapes and considers this illogical. Also concerned about impact on birds and bats within the area.

CLOUT

(Conwy Locals Opposing Unnecessary Turbines)

No response. (See Hiraethog Alliance response)

PACT

No response. (See Hiraethog Alliance response)

HIRAETHOG ALLIANCE

("Alliance of Ramblers Association, CPRW branches, PACT, DART, and CLOUT. Protecting the Landscapes of the Hiraethog Area").

Suggest the application should only be decided when the cumulative effects of all the other applications within the IPG area that are in operation, at planning application stage or scoping can be considered together, including the potential Clocaenog Forest site (Forestry Enterprise Land).

Specific objections are:-

Noise – need to assess cumulative impact with other sites/there are flaws in ETSU-R-97 methodology/planning conditions based on it do not take into account multiple applications, sound transfer issues, types of noise, etc.

Tourism - potential impact on small-scale tourist facilities in the area.

Ecology – further independent investigation of impact on bat colonies is required.

Community benefit – offer of ‘developer gains’ should not influence the decision making process.

Liability to residents – impact on water supplies, noise and landscape, property value, tourism income.

EIA issues – Deficiencies in cumulative visual impact assessment, limitations in value of photomontages, misleading statements on CO² savings.

Health and Safety issues – concerns over structural stability of turbines and blades, and need for risk assessments.

NATIONAL FARMERS UNION

Support the application and provide a number of observations regarding the proposal:-

- Provides 4 family farms the opportunity to ‘diversify’ current business interests and contribute in sustaining the business over the long term;
- Contributes significant financial contributions to the local community
- Contributes towards the renewable energy targets set by the Welsh Assembly

As part of the assessment of the application, the County Council has commissioned separate independent reviews of the Environmental Impact Assessment, and the noise appraisal within the Environmental Impact Assessment. The conclusions of these reviews are summarised below:

Institute of Environmental Management and Assessment (IEMA) review of the Environmental Impact Assessment

The Council has sought similar reviews by the IEMA of previous wind turbine applications. The IEMA are an independent body used by many local authorities to undertake qualitative assessments of Environmental Statements (ES), based on UK best practice guidance, not simply statutory requirements.

The IEMA review is based on the contents of the ES and acknowledges that there will be complex technical issues where specialist advice is necessary. It addresses, in turn, the information contained in the ES; an overview of how the ES deals with baseline conditions, the prediction of impacts, evaluation of significance, mitigation and follow up; areas where the ES could be strengthened; the overall presentation and communication of information; and ends with recommendations.

The IEMA grades the ES against its Review Criteria into A-F grades. In relation to most sections, the ES is Graded C or better, C being ‘satisfactory despite omissions and inadequacies’. In relation to the objectivity of the ES, the IEMA applies a C grade and notes that it is generally a fairly balanced document, providing an unbiased account of the environmental effects with reasoned and justifiable arguments.

Additional information has been sought from the applicants as a result of the IEMA review and consultee responses, and this is referred to as appropriate elsewhere in the report.

Appraisal of Noise Assessment by County Council’s Acoustic Consultant

The Council has engaged specialist consultants, (New Acoustics of Clydebank) to undertake a detailed review of the Noise Assessment in the Environmental Statement, and to look critically at the baseline survey work, methodology for assessing impact, consistency with ETSU guidance, the issue of Cumulative Noise Impact, and the practicality of controlling noise levels by condition in the event of permission being granted. For consistency, the same consultant was commissioned to undertake the same type of review for the Gorsedd Bran and Brenig applications dealt with earlier in 2008.

The evaluation of noise impact has become more complicated as a result of the submission of a number of windfarm applications at the same period in time, and the likelihood of further such applications in the SSA. One of the key issues is how noise limits and margins above background levels should relate to the cumulative effect of turbines in the area, as received at specific properties, bearing in mind that the ETSU guidance requires that noise limits are to be met by all wind farms in total. In order to progress matters, and having regard to the possibility of further windfarm applications in this area, detailed discussions have taken place between the agents, their noise consultants, public protection officers and the Council's Consultant, on a completely 'without prejudice' basis, to explore how a common approach may be developed to establish background noise levels, a standard method for calculation of turbine noise, and how a standard can be applied to individual windfarms that would result in the overall ETSU noise standard still being met. The Council's Consultant has taken a lead in this process by drafting a report on the approach to Cumulative Impact Assessment, and suggestions for methodology for assessing background noise levels, calculating turbine noise, modelling cumulative levels, and setting an appropriate noise standard.

Following the dialogue with the applicant's Noise Consultant, The Council's Consultant has forwarded a final report on the noise section of the Environmental Statement. The main points of relevance to the application are:

- The measurement of background noise levels have been carefully carried out, the measured levels appear high, as there is some doubt over the analysis of the data, and hardly any data at higher wind speeds, particularly at night.
- The consultant is satisfied that stated turbine levels represent worst case levels where properties are downwind of the turbines.
- Using Standard Background Noise, 10 properties with no financial involvement with the proposed development fail to comply with the standard set in the 'Wind Farm Cumulative Noise Assessment' document.
- In relation to Cumulative Impact, properties to the South East are potentially affected by Wern Ddu, but there does not appear to be any significant cumulative impact.
- Due account has to be taken of the possibility of future turbine development in the heart of the SSA, and allowance should be made for this. As submitted, the development would not meet the 'standard' suggested as appropriate by the consultant.

The report of the Council's Consultant concludes that relevant matters can be covered by four conditions in the event that planning permission is granted. The conditions would require:

- The carrying out, on the reasonable request of the local planning authority, and at the developer's expense by an independent consultant appointed by the Council, of detailed surveys of noise levels, specifically:
 1. Measurement and assessment of noise emissions from the turbines
 2. Measurement and assessment of tonal noise from the development
- The logging by the operator of wind speed and direction, to allow monitoring of 1 and 2; and the availability of the data on request by the Council.

- The operation of the turbines within noise levels set out in a separate annex. Separate guidance notes would be attached to assist the interpretation of the noise conditions, measurements etc.

Following dialogue between the Council's Noise Consultant and the applicants, the Noise Consultant has concluded that all properties affected by the proposed development meet the cumulative standards proposed with the exception of Pendre Bach and Bryn Celyn, which do not meet the cumulative standard that the consultant has recommended. At these properties the standard is exceeded by 1 db at wind speeds between about 6.5 and 9.5m/s.

The Council's noise consultant has accepted the applicant's argument (made in accordance with the Consultant's exceptions in para. 6.2 of his report of 12th September 2007 on Cumulative Impact) that it would not be feasible for other developments to be constructed close enough to the applicant's development to have a significant cumulative impact.

The applicant has stated that the exceedence levels attributed to the wind farm at Pendre Bach and Bryn Celyn have not taken into account any attenuation from ground absorption or screening which would in practice reduce the noise levels to those considered acceptable by the Noise Consultant.

As indicated above, the Council's Noise Consultant has recommended conditions to minimise disturbance to residents in the vicinity of the wind farm, which would provide appropriate controls over noise from the development and any cumulative noise from other sites.

On the separate matter of low frequency noise, the Council's Consultant has indicated he is aware of research on Vibro Acoustic Disease (VAD), but considers this fails to demonstrate the precise nature of VAD, or that there is a causal link between Infrasound and Low Frequency Noise, and VAD. He suggests there is far more evidence that infrasound and low frequency noise from wind turbines are substantially less than many other daily exposures we receive, e.g. from noise levels inside cars, road traffic noise.

RESPONSE TO PUBLICITY:

Up to the time of drafting this report, representations have been received from some 67 separate individuals in relation to the application.

Of these responses, 35 contained objections, and 32 expressed support for the scheme. One representation neither supported nor objected to the application but wished to point out that the labelling of a GIS image was confusing.

The origin of the letters is as follows:-

	IN OBJECTION	IN SUPPORT
Corwen	24	15
Ruthin	5	5
Denbigh	1	3
Conwy	1	3
Mold		1
Flintshire		1
Melin y wig		1
Other parts of Wales:		1
Wrexham		2
Swansea	1	
Elsewhere:		
Oswestry	1	
Isle of Wight	1	
Eastleigh, Hampshire	1	

Totals	35	32

A summary of the representations follows:

<u>The main points in letters in SUPPORT of the application</u>
<p><u>General</u></p> <p>Proposal respects the environment Local benefits:- Development is locally owned/generates on-going financial benefits to local community. Produce clean and safe electricity</p>
<u>The main points in letters in OBJECTION of the application</u>
<p><u>Landscape and Visual Impact</u></p> <p>The area in which the development is planned has a limited ability to absorb landscape change of this nature and scale.</p> <p>The scale and character of the development are out of context for the location. Would create a semi industrialised landscape.</p> <p>The development will have an adverse visual impact on the settlements in the area and will adversely impact on on the Offa's Dyke National Trail and the Mynydd Hiraethog path.</p> <p>Will be visible from the Clwydian Range AONB and Snowdonia National Park.</p> <p>Proximity to Public Rights of Way and highways and potential danger to the public.</p> <p>Invalid representation of visual impact of turbines – photo simulations disguise the true impact of the ten wind turbines. Unacceptable cumulative visual impact.</p> <p><u>Ecology</u></p> <p>Adverse impact on wildlife – rare birds of prey will be at risk Harm to red squirrels a protected species. Report lacks adequate research and limited walkover surveys are unsatisfactory.</p> <p><u>Noise</u></p> <p>Noise assessment fails to comply with ETSU-R-97 Turbines would create an unacceptable level of noise and vibration. Concern that the residences will be trapped between the noise and vibration from this site and the site at Wern Ddu which is soon to be built.</p> <p>Low frequency noise and effect on public health</p>

Shadow Flicker

Annoying for humans, dangerous for car drivers and could cause a serious accident to horse riders in the area.

Hydrology

Change of land use management on any scale would cause environmental damage as the concrete turbine bases would alter water course, cause accelerated run-off and pollution plus the potential for serious flooding in lower lying areas

Other

Lack of grid connection

Tourism will be adversely affected

Poor safety record of Windfarms

Impact on property values

Premature – Denbighshire CC should wait until all applications on wind farms for the area submitted and deal with them at one time

A list of persons who have submitted representations is included as Annex ??? to the report.

EXPIRY DATE OF APPLICATION: 13/09/2007

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. The application is seeking planning permission for:-
 - i) The erection of 10 Enercon E70 wind turbine generators, each with an overall base to tip height 'not exceeding 120.5 metres'. The generating capacity would be approximately 23M W (megawatts), i.e. 2.3 MW each turbine.
 - ii) The erection of 1 anemometry tower up to 80 metres in height and of a lattice construction.
 - iii) The erection of a sub-station, control room and switchgear compound
 - iv) The proposed access route to be used for the major infrastructure elements such as turbine towers, blades, hub, cabling and transformer (A5 – A483 – A534 - B4501 – track East of Llyn Brenig – forestry tracks – B5105)

- v) An on-site borrow pit for the source material in construction of the access tracks, crane pads and site construction compound. The volume of material required for these elements is stated to be approximately 12,650m³.
 - vi) Consent is sought for a period of twenty to twenty five years after which time turbines and associated infrastructure would be removed and the development reinstated or the development re-powered.
2. The site is located in an upland area of Denbighshire approximately 7.5km North West of Corwen and 11.5km South West of Ruthin. The nearest settlements to the proposed windfarm are the villages of Melin-y-Wig and Betws Gwerfil Goch located approximately 1.2km and 2.4km South East and South of the nearest turbines respectively. The site covers an area of approximately 126 hectares and no inhabited dwellings are identified within the development site boundary.

There is a basic location plan at the front of this report and a number of maps are included as Appendices, which illustrate the location of the site relative to main settlements, private dwellings and other relevant features/designations. These are referred to in subsequent sections of the report.

- 3. The nearest private properties to the application site are to the east of the site, the nearest properties being Pendre Bach and Pendre Fawr, approximately 650 metres from the nearest turbine.
- 4. The application site is located wholly within the Betws Gwerfil Goch Community Council area. The County boundary with Conwy is some 1.5 km to the West. Plan 1 of the Appendix is an extract from the application documents and shows the proposed layout of the site. Plan 2 shows the site's relationship with dwellings in the locality. Plan 3 shows the respective position of the site and other existing, proposed, and consented windfarms in the locality.
- 5. The submission confirms the land areas forming part of the site are in the ownership of persons at Melin y Wig and Betws Gwerfil Goch.
- 6. The owners have been served formal notice by the applicants as part of the application process.
- 7. The applicant company are indicated as Tegni Cymru Cyf with an address in Corwen. The agents involved in the application are Gifford, based in Chester.
- 8. The application is one of the most recent of a number relating to wind turbine developments in the area.

	<u>No. of turbines</u>	<u>Turbine height</u>	<u>Status</u> (Sept 07)
<u>Denbighshire</u>			
Tir Mostyn/Foel Goch	25	75m	Operating
Wern Ddu, Gwyddelwern	4/5	90m/80m	Granted (Appeal June 07)
Gorsedd Bran, Nantglyn	13	125m	Refused (February 2008)

Brenig, Nantglyn	16	100m	Granted subject to S.106 (February 2008)
<u>Conwy</u>			
Moel Moelogan	12	74m/77/81m	Operating
Cwm Penanner	8	93m	At appeal/new application for 3 turbines
Nant Bach (Mwdwl Eithin)	13	100m	Refused New application undetermined
Hafotty Ucha	4	86m	Operating
<u>Gwynedd</u>			
Braich Ddu	3	91m	Operating

DETAILS AND PROGRESS OF THE SUBMISSION

9. The application was acknowledged valid in August 2007 and includes the following documents:-
- i) The standard application forms, ownership certificate and fee.
 - ii) A detailed Environmental Statement comprising:-
 - a) A non-technical summary
 - b) Volume 1 Environmental Statement and Main Report (268 pages)
 - c) Volume 2 Environmental Statement Figures (Maps, Photomontages/Wireframes)
 - d) Volume 3 Environmental Statement Appendices Background papers and data)
10. Members will appreciate that a report of this nature can only provide a broad outline of the contents of what is a highly detailed application containing considerable technical content. All the background documents have been, and remain available for inspection prior to the consideration of the application.

OUTLINE OF THE SUBMISSION

11. The main contents of the application documents are summarised in the following paragraphs:
- i) The non-technical summary, a 9 page précis of the Environmental Statement, which provides a commentary on the main elements of the proposals and its predicted impacts.

Summary findings of the Environmental Impact Assessments

- Landscape and visual assessment
The site is wholly within the TAN 8 Strategic Search Area (SSA) and although there is recognition that wind energy development will result in some significant landscape and visual effects in the general locality

of the development this should be balanced against the designation of the site within the SSA and the potential long term benefits in terms of climate change.

- Nature Conservation
The ES concludes that the proposed development is not likely to have a detrimental effect on bird population. Known nesting sites for curlew have been avoided during planning of the layout design and there is no evidence of effects on skylark from this type of development. Suitable layout design also been used to avoid development in key areas such as wetlands.
- Cultural Heritage
Direct impacts have been identified on 12 known archaeological features within the development site. At six of these features the impact significance is Minor or Minor/None and in the remaining six it is Moderate. Construction will trigger a programme of work which mitigates any impact to the archaeological and cultural heritage resource in the site. Archaeological investigation and a watching brief may be conditioned
- Hydrology.
The development site is located above a 'non-aquifer' and no Source Protection Zones are located nearby. The main potential impact on the hydrological regime will be from the risk of increased sedimentary transport from excavation and storage of soils during construction phase. Mitigation measures will ensure that there will not be any significant adverse effect on the hydrology of the development site.
- Noise
Chapter 10 of the ES provides details on noise impact from the proposed wind farm and has been assessed using the guidance document ETSU-R-97 as recommended by TAN8. The conclusion is that as predicted noise levels will occasionally exceed background noise levels it would be necessary to operate turbines T3, T8 and T9 as a reduced power mode in certain wind conditions and speeds. The Chapter also concludes that there would be no impact from the construction noise as a result of the development.
- Shadow flicker
The shadow flicker effect from the turbines is not considered to be significant.
- Traffic movement
Traffic impacts at construction stage are considered likely to be of low significance and, with specific mitigation measures, the overall impact is assessed to be of low significance.
- Public safety
Measures would be taken to ensure public safety around the site at construction phase, including fencing of the public footpaths. The possibility of turbine failure, ice throw, and lighting strikes are not considered significant and no safety risks are expected as a result of public access to the wind farm site. Modern turbine design and sensors trigger shutdown of turbines when malfunction, instabilities, unsafe operation and high wind speeds occur.

- Tourism

It is concluded that the development is unlikely to have a negative effect on tourism in the Denbighshire region, but that neither would it have a significant positive effect.

The non technical summary (NTS) refers to the establishment of a Community Fund as part of the development. The principle is that whilst a development of this nature brings about some local benefits, most are felt to be 'wider' benefits to the environment in terms of renewable energy and CO² reductions. Developers are therefore taking a lead from TAN 8 in proposing more tangible links to local communities by setting up mechanisms such as a Community Fund, to which the development would contribute through payment of a specified amount of money per megawatt per annum. The fund would typically be held in Trust and managed and distributed by a local committee made up of representatives of Community Councils, the County Council and any local enterprise groups/parties, who would determine the criteria to be adopted for applications/projects to enable the funds to be released. The NTS makes it clear that TAN 8 advises the provision of benefits to a local community is on a voluntary basis, and has no connection to the planning process.

- Mitigation

The NTS details a range of mitigation proposals to address issues arising from the proposals, as identified in the evaluation of topic areas.

In summary, the NTS states that the development will have the capacity to generate up to 23MW of 'clean', renewable energy which will make an important contribution to the UK government's commitment to produce renewable energy. The only impacts considered to be significant are upon the landscape character and visual amenity of the surrounding area but it considers the development is located in a dedicated wind farm zone identified by the Welsh Assembly Government as being suitable for the construction of wind farms.

ii) The Environmental Statement Volume 1 contains all the environmental assessments undertaken, including a number of appendices with details relating to landscape, ecology, tourism, noise and cultural heritage.

iii) The Environmental Statement Volume 2 includes all the maps, visualisations and diagrams, referenced to the Volume 1 assessments.

Members will appreciate that it is normal practice in the course of progressing major applications of this nature, for officers to conduct 'without prejudice' dialogue with applicants and their agents, to clarify key elements of proposals, and to discuss the scope of potential mitigation in relation to a range of land use impacts, in terms of possible planning conditions and Section 106 legal agreements. The relevant issues are outlined within the different headings of the 'Main Planning Considerations' section of the report. It has been made clear to the applicants that the engagement in dialogue does not signify an indication an officers' part on the likely recommendation on the application at the end of the process of evaluating the proposals.

There are a number of detailed responses to the application, summarised in the Consultations and Publicity sections of the report. Additionally, an independent evaluation of the ES has been undertaken for the County Council by the Institute for Environmental Management and Assessment, and the Noise Appraisal in the

ES has been reviewed by an independent acoustics company (New Acoustics) in conjunction with the Public Protection officers. The site has been visited by the case officer in varying weather conditions, at different times of the day.

RELEVANT PLANNING HISTORY:

12. None.

PLANNING POLICIES AND GUIDANCE:

13. There is a complex range of policies and guidance to which the Authority is obliged to have regard in weighing the merits of this application. This section of the report outlines this context in some detail, as it is critical to the determination of the proposals.

14. Policy and guidance relevant to windfarm proposals at the time of considering this particular scheme falls into a basic hierarchy:

The Denbighshire Unitary Development Plan (UDP)

The starting point in relation to all planning applications is the UDP. Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out the requirement that planning applications are to be determined in accordance with the relevant Development Plan, unless material considerations indicate otherwise.

The main policies of relevance in the UDP are two relating to renewable energy:

Policy MEW 8	-	Renewable energy
Policy MEW 10	-	Wind power

Other policies with considerations which may be applicable are:-

Policy STRAT 1	-	General
Policy STRAT 2	-	Energy
Policy STRAT 5	-	Design
Policy STRAT 6	-	Location
Policy STRAT 7	-	Environment
Policy GEN 6	-	General development control requirements
Policy GEN 8	-	Planning Obligations
Policy GEN 9	-	Environmental Assessment/Statement
Policy ENV 1	-	Protection of the Natural Environment
Policy ENV 2	-	Development affecting the AONB/AOB
Policy ENV 6	-	Species Protection
Policy ENP 1	-	Pollution
Policy ENP 4	-	Impact of new development on traffic flows
Policy TRA 8	-	Transport requirements in Major developments
Policy TRA 10	-	Public rights of way
Policy CON 10	-	Scheduled Ancient Monuments
Policy CON 11	-	Areas of Archaeological Importance

The relevance of specific UDP policies is detailed in the evaluation of the main planning considerations which follows, and the key policies (MEW 8 and 10) are included as Appendix 4 to the report.

Other material considerations

As outlined, the basic principles of current legislation are that where a proposal is in accordance with the policies of the UDP, planning permission should be granted,

unless there are material planning considerations which indicate a contrary view should be taken. Where compliance with the UDP policies is not clear cut, due regard therefore has to be given to other matters which are material to the consideration of the merits of a proposal in determining whether permission should be granted.

'Other material considerations' are considered to include, broadly in terms of the significance of weight to be attached:

Planning Policy Wales: March 2002

This provides a range of general advice for local planning authorities on:

- Sustainable development (Section 2 outlines the principles, and the role of the planning system in encouraging the use of renewable resources and of sustainability).
- Conservation of Wildlife and Habitats (Section 5 – species protection).
- Tourism (Section 11 – Encouraging Sustainable tourism)
- Sustainable Energy (Section 12 – general principles).

Section 12 has been superseded by Ministerial Interim Planning Statement (MIPPS) 01/2005, which accompanied TAN 8 – Planning for Renewable Energy. This sets out the basic principles established at Kyoto, UK government targets for reductions in CO² emissions, the specific role WAG proposes to play in delivering an energy programme contributing to reducing emissions, targets of electricity production by 2010 and 2020, targets for renewables capacity from strategic onshore wind energy, and identification of Strategic Search Areas for large scale windfarm developments. (See also the following section).

Planning Guidance Wales:

Technical Advice Note Wales 8 – Planning for Renewable Energy, July 2005 (TAN 8) and Ministerial Interim Planning Statement 1/2005 (MIPPS)

TAN 8 and the MIPPS update and supplement Planning Policy Wales 2002, set in the context of UK and national energy policies. As the most up to date Welsh Assembly Guidance, these inevitably carry significant weight as material considerations on renewable energy developments, evidenced in the recent Wern Ddu windfarm appeal decision.

TAN 8 and the MIPPS confirmed a fundamental change in guidance in Wales on the derivation of electricity from renewable energy sources, and introduced the principle of spatial planning for the delivery of WAG's clean energy policy.

The key points are:-

- i) WAG has set a renewable energy generation benchmark of 4 TWh (4 terrawatt hours, or 4,000 Giggawatt hours) from all renewable sources by 2010, and a further target of 7TWh by 2020. These are 'non-negotiable' targets.
- ii) The scenario of renewable energy production for 2010 is:-
 - a) Onshore large scale wind – 800MW
 - b) Other technologies (including offshore wind) – 200 MW
- iii) The 800MW target for onshore generation is set as a minimum.
- iv) The identification of seven 'Strategic Search Areas' (SSA's) which are considered suitable for 'large scale' windfarm developments (Areas are

referred to as A-G). SSA 'A' is referred to as the Clocaenog Forest.

- v) Large scale windfarms are referred to as those in excess of 25MW capacity.
- vi) The extent of the Clocaenog Forest SSA 'A' is shown at 'broadbrush' scale on maps within TAN 8. The SSA falls partly within Denbighshire and partly within Conwy. (See Appendix 5).
- vii) 'Indicative capacities' are set for each SSA. The Clocaenog Forest SSA has a 140MW capacity for 2010.
- viii) Outside the SSA's, local planning authorities should encourage proposals for smaller renewable energy developments.
- ix) Local planning authorities are encouraged to undertake 'local refinement' within each SSA to guide and optimise developments.
- x) In relation to the incidence of noise from windfarms, TAN 8 refers to the framework for the measurement of turbine noise in the ETSU-R-97 report, which gives indicative noise levels calculated to offer a reasonable degree of protection to wind farm neighbours. It states the recommendations of ETSU-R-97 'can be regarded as relevant guidance on good practice'.
- xi) Factually, the Derwydd Bach site lies wholly within the Clocaenog Forest SSA 'A' as annotated on the TAN 8 plan.

Other Technical Advice Notes

TAN 5 – Nature Conservation and Planning (1996).

TAN 5 contains general advice on the handling of proposals which may affect protected species, and areas with special designations (Sites of Special Scientific Interest, Special Areas of Conservation etc).

TAN 6 – Agricultural & Rural Development (2000).

TAN 6 outlines considerations relevant to development for agricultural purposes, setting basic requirements to take into account the quality of agricultural land and the impact of development on agricultural uses.

TAN 11 – Noise (1997)

TAN 11 relates to the assessment of noise in relation to development proposals. The general guidance is that planning authorities should ensure noise generating development does not cause an unacceptable degree of disturbance; but acknowledges there may be circumstances where it may be acceptable to allow noise generating activities near to noise sensitive development. It recommends the use of planning conditions or obligations to safeguard local amenity, and mitigation measures such as adequate separation distances between noise sources and noise sensitive buildings or areas.

Specifically with regard to windfarm developments, Annex B of TAN 11 refers to advice in TAN 8 (1996), which mentions the use of ETSU-R-97 as guidance on noise assessment. TAN 8 2005 repeats this advice (see note on TAN 8 2005).

TAN 12 – Design (2002)

TAN 12 contains advice and guidance to ensure development is of a high design quality, promoting good design to assist environmental sustainability, economic growth, etc, and encouraging the use of design to mitigate effects of development.

TAN 15 – Development and Flood Risk (2004)

TAN 15 sets out to avoid development in areas where the consequences of flooding will be unacceptable, and seeks to guide new development away from areas at high risk of flooding. In identified Flood Risk areas, planning authorities have to be satisfied that development is justified, and that the consequences of flooding are acceptable. (The application site is not in a Flood Risk area).

TAN 18 – Transport (2007)

TAN 18 outlines a range of considerations to be given to schemes where transport issues are a relevant factor, and how land use planning and transport have a key role to play in supporting the sustainable development approach of the Assembly. So far as the TAN is relevant to applications for wind turbine development, due consideration is required for the highway implications of proposals and the use of conditions or legal agreements to mitigate impacts.

Central Government policy

WAG policy and guidance on the approach to renewable energy production emanate from UK national government. The basis of UK government policy is to address the phenomenon of climate change and to seek the reduction of environmentally damaging gasses, topically referred to as 'greenhouse gasses'. Briefly, by way of background, there is a long history of scientific reports, United Nations conventions, and efforts made to seek commitments for action by nation states, since at least the 1980's. The first major step forward in securing commitments at international level was the signing of the Kyoto protocol in 1997, in which industrialised countries accepted binding targets to limit/reduce greenhouse gas emissions. The Kyoto protocol was finally ratified by Russia in 2005 when it became legally binding. The European Union (EU) has acted on the Kyoto protocol and sought to identify contributions from individual member states; the UK's contribution being a 12.5% reduction in greenhouse gasses below 1990 levels, by 2008/2012. Recent developments include an EU commitment in March 2007 to cut CO² emissions by 20% of 1990 levels by 2020, and to boost renewable fuel use by 20% to 2020, all subject to ratification and proportional targets for individual countries.

UK government policy has developed out of commitment to International/European Climate Change agreement. Domestic targets for reduced CO² emissions have been set beyond the timescale covered by Kyoto, at 20% of 1990 levels by 2010. The UK Climate Change Programme launched in 2000 outlines how these policies are to be achieved, and identifies renewable energy sources as an essential element. Successive energy White Papers update longer term aspirations to cut CO² emissions. There has been a significant statement in December 2007 from the Secretary of State for Business, Enterprise, and Regulatory Reform, that some 7,000 turbines will be built offshore to meet EU targets on renewable energy.

Further weight has been added recently to the case for action to control emissions, through the publication of the Stern Review in October 2006, which dealt with the economic impacts of climate change rather than the human/scientific effects, and urged strong collective action to avoid the worst impacts of such changes.

This history reflects a strong government commitment to addressing climate change and CO² emissions, and to the development of energy wherever they may be economically and environmentally acceptable. WAG has translated this commitment through TAN 8 and the MIPPS in 2005.

Denbighshire/Conwy Interim Planning Guidance – Onshore Wind Farms (IPG)

In response to TAN 8 and the MIPPS, Denbighshire and Conwy collaborated in the development of Interim Planning Guidance for Onshore Windfarm developments, to give effect to a 'local refinement' of the SSA 'A' boundary, and to set out local policy (in the context of the TAN). The IPG route was taken as the timescale for progression of the Local Development Plan was unlikely to result in an approved development plan document with revised policies and plans relating to the windfarm SSA, until 2010.

The IPG was adopted at Full Council in February 2007 for use in the consideration of applications and as a guide for developers and the public. It included a 'refined' SSA, referred to as the Clocaenog Wind Farm Zone, which reduced the physical extent of the SSA 'A', excluding for example, land owned by Dwr Cymru/Welsh Water at Brenig, which it was understood would not be made available for turbine development. The majority of the Derwydd Bach site was within the Clocaenog Wind Farm Zone.

The County Council attached significant weight to the IPG in its handling of the Wern Ddu windfarm applications, and this was tested thoroughly at the Public Inquiry into the Wern Ddu proposals in 2007. The appeal inspector ultimately attached very little weight to the IPG in the determination of the appeals.

As a consequence of the Wern Ddu appeal decision, and the growing irrelevance of the IPG as a result of increased WAG targets for renewable energy from wind, a report was put to Full Council in June 2008 recommending the deletion of the IPG. Full Council resolved to delete the IPG at the meeting, and it is therefore not suggested any weight should be afforded to it in the determination of the Derwydd Bach application.

The Denbighshire County Council Landmap study is a comprehensive Landscape Area Character Assessment undertaken by Denbighshire County Council with assistance from the CCW. It provides a useful appraisal of the quality of the landscape and a baseline against which the impact of wind turbine proposals can be assessed.

The Wales Spatial Plan is a Welsh Assembly Government strategy document approved in late 2004, setting out broad principles through which sustainable development may be achieved in the country. The plan looks to promote the development of renewable energy, but does not go into the details of locational criteria dealt with in draft TAN 8.

Welsh Assembly Government consultation document
"Renewable Energy Route Map for Wales – February 2008"

WAG issued this document in early 2008 with a consultation period between February 19th and May 13th, 2008. Although it has no status in the consideration of planning applications at this point, the contents indicate the broad thrust of Assembly strategy on renewable energy matters.

WAG view the Renewable Energy Route Map for Wales as a first strategic step to fulfilling their commitment in 'One Wales' document to tackling climate change, including actions on diversified renewable energy generation sets out specific actions on how a renewable energy self sufficiency objective could be met, involving different forms of electricity and heat generation and improving energy efficiency.

The Route Map is a 58 page document that sets out in turn the reasons and

opportunity for consultation, the different means of renewable energy production, objective for energy conservation and generation, and in a series of Appendices includes possible electricity and heat generation from renewable energy in Wales by 2025.

The main points of relevance to onshore wind turbine development are that WAG:

- Will continue to pursue the proposals in TAN 8
- Will review TAN 8, revising upwards the old targets for renewables from a range of sources, following publication of WAG's Energy Strategy later in 2005
- View onshore wind as offering the greatest potential for an increase in low cost electricity from renewable energy in the short to medium term.
- Consider the characteristics used to define Strategic Search Areas in TAN 8 remain unchanged since 2005, and the 7 SSA's remain the most suitable locations for large onshore windfarms.

MAIN PLANNING CONSIDERATIONS:

15. A major application of this nature raises a range of planning considerations, from general principles, to the particular localised impact of the development. This section attempts to review the main issues considered of relevance to deliberations on the merits of the proposals, hopefully to give members sufficient information to determine what weight to attach to considerations, in order to reach a balanced conclusion. There is a short summary and conclusion in paragraphs 21-27.
16. Members will appreciate that there is considerable technical content and a high volume of responses generated on wind turbine applications. Many quite understandable concerns are expressed over detailed effects such as visual impact, noise, health and safety, water supply, wildlife and archaeological impact. It is clear from experiences to date in Denbighshire, and from decisions elsewhere, that a number of detailed 'technical' concerns are capable of being addressed or resolved by using planning conditions or legal agreements. As a principle therefore, members need to apply the normal tests in assessing particular land use planning issues and whether constraints or obstacles can be suitably mitigated or resolved through conditions or obligations, the latter forming the basis of Policy GEN 8 of the Denbighshire Unitary Development Plan.
17. There are also a number of general points raised which it is respectfully suggested need to be placed into appropriate context in the weighing up of the application:
 - i) The merits of National Government policy and Welsh Assembly Government Policy in relation to renewable energy production, including the case for alternative forms of generating electricity and the concentration of wind turbine sites in Wales are not matters for challenge in the determination of an individual planning application for a wind turbine development.
 - ii) The economic and technical case for wind turbine projects remains a matter for National Government and Welsh Assembly Government.
 - iii) The contribution which the Derwydd Bach development itself could make to the TAN 8 target for electricity generation in the Clocaenog SSA 'A' is in the order of 28%, and is a tangible benefit which has to be placed in to the balance against other factors relevant to the decision.

- iv) The key considerations are likely to be those specific to the land use planning impacts of the proposals, hence;
 - Fear of precedence, in itself is not sufficient to justify a refusal of permission.
 - There is no right to maintain unchanged a private right to view over third party land.
 - Protection of private property values can be accorded little weight, as the planning system is based on the exercise of control in the public interest, through protection of the amenities and rights of individuals to enjoy their property and surroundings.
 - v) Developer claims over the precise contribution the windfarm would make to electricity production and CO² savings may be open to challenge, but the issue remains that the development is consistent with the principle of generating electricity by renewable means to meet national policy objectives. Refusal of permission could not be justified on the basis that estimates of electricity production and CO² savings for an individual windfarm may be 'optimistic'.
 - vi) The objectivity or otherwise of the Environmental Statement should not assume great significance in the consideration of the merits of the application. Its contents have been reviewed systematically by the IMEA, and have been assessed in detail by the range of consultees referred to in the report, who have reached their own conclusions on the contents. The contents of the Environmental Statement are considered adequate as a basis for assessing the impacts of the development and for drawing conclusions by the Local Planning Authority, consultees and interested individuals.
 - vii) Public opinion may be a material consideration, and clearly has to be taken into account by the Authority. Members will however appreciate that it is not the number of persons expressing support or objection which is critical, but the relevance of the issues on which their representations are based.
18. There has been extensive consultation with interested bodies, the local community and private individuals on the application. To some, this will be inadequate given the issues involved, but it is considered that within the confines of the system within which the Authority is obliged to operate, there has been adequate opportunity for all sides to make representation on the application, and there is sufficient information on which to make an objective judgement and decision.
19. In this particular case, the main planning considerations are considered to be:-
- i) The principle of developing renewable energy sources.
 - ii) Landscape and visual impact.
 - iii) Amenity Impact:-
 - a) Residential amenity
 - b) Noise
 - c) Visual impact
 - d) Shadow flicker
 - e) Electromagnetic interference
 - f) Health and safety
 - iv) Nature Conservation.
 - v) Archaeology.
 - vi) Hydrology.
 - vii) Impact on local economy.
 - viii) Highways impact.

20. In relation to the main considerations:

ii) **The principle of developing renewable energy sources**

There is clear policy guidance at International, National Government and Welsh Assembly Government level encouraging the development of suitable means of generating electricity through renewable sources, to help reduce greenhouse gas emissions and to address issues of climate change. In support of this policy, WAG has produced TAN 8 and the MIPPS in 2005, and set specific targets for the generation of electricity by onshore windfarms for 2010. TAN 8 establishes the principle of Strategic Search Areas for locating large scale onshore wind turbine developments, and is a significant material consideration on any application for turbine developments in Denbighshire.

Planning policy and guidance/other material considerations

The UDP contains general policies on renewable energy in STRAT 2 and MEW 8 which support the principle of development which captures energy from naturally sustainable sources, MEW 8 stating as far as this is compatible with other planning policies, but requires that development will only be permitted where there is no unacceptable effect on the environmental quality of the locality. The subtext to MEW 8 refers to the Council's commitment to considering the contribution the plan area is able to make in meeting needs on a local, regional and national basis, but emphasises there is no justification for this to be at the expense of other important concerns such as landscape and nature conservation – concluding that "in order to reconcile these different issues, it will therefore be necessary to balance the commitment to encourage renewable energy with the local and national need to conserve the environment and the landscape for its own sake".

Policy MEW 10 deals specifically with wind power developments, stating these will be permitted subject to assessment against 10 specific tests. These are reviewed against the particular issues to which they are relevant in the following sections.

It is of some relevance to the consideration of the application that the Unitary Development Plan's policies date back to 2002, and are largely 'criteria based' in relation to wind turbine proposals. TAN 8 (2005) introduced a very different approach in Wales to the development of onshore windfarms in the adoption of a locational approach through concentrating large scale windfarms in a number of Strategic Search Areas, with policies relating to them. The County Council reacted quickly to the fact that TAN 8 and the MIPPS are significant statements of policy capable of overriding the now 'outdated' policies of the UDP, and developed the Interim Planning Guidance jointly with Conwy to assist consideration of proposals.

Summary

National and local policies set a framework offering clear support for the development of renewable energy. WAG's TAN 8 and the MIPPS in 2005, refine the approach on a locational basis, in the guise of Strategic Search Areas where large wind farms (25MW+) are to be developed. The Clocaenog Forest is one of the Strategic Search Areas. The Derwydd Bach site is within the TAN 8 'broadbrush' SSA, The principle of developing a large scale windfarm on the application site is in line with the policies in these key strategic documents. National and WAG policy is not up for challenge in

relation to individual planning applications.

iii) **Landscape and visual impact**

Basis of responses

A high proportion of objections received from private individuals express a range of concerns over the potential visual impact of turbines and the effect these would have on the local landscape. Letters refer to the increasing height of turbines, the potential cumulative impact, and to the desecration of the local landscape. Suggestions are made that the cumulative impact cannot be fully assessed until applications for other schemes in the SSA have been submitted, and details of any connection to the National Grid are included.

Planning policy and guidance/other material considerations

There are specific requirements in the Unitary Development Plan policies in relation to the visual and landscape impact of wind turbine developments. MEW 10 (iii) requires that proposals do not unacceptably harm the character and appearance of the landscape, especially in Areas of Outstanding Natural Beauty and Area of Outstanding Beauty, Local Landscape Areas or the Snowdonia National Park. MEW 10 (viii) requires that proposals would not lead to an unacceptable cumulative visual impact in an area where zones of visibility (with other wind turbine development) overlap, and that particular attention will be paid to the potential proliferation of such developments in any one area. MEW 10 (i) requires details of all ancillary equipment as part of an application.

TAN 8 and the MIPPS are essentially strategic level policy statements and contain limited specific guidance on the consideration of landscape and visual impact in respect of individual planning applications. However, in introducing the concept of SSA's to accommodate large scale windfarm developments. TAN 8 recognises that significant landscape character change will occur in and around those areas, and it establishes the acceptability of the principle of such change. This is reflected in the advice in Annex D of TAN 8, which sets out a methodology for refinement of SSA's by local planning authorities, and states in 8.4:-

"Within (and immediately adjacent) to the SSA's, the implicit objective is to accept landscape change i.e. a significant change in landscape character from wind turbine development".

This is an important statement in the context of how landscape impact is considered in relation to wind turbine development.

Contents of the application

The application itself contains a detailed landscape and visual assessment, including appraisal of cumulative impact with other windfarms. There are a number of maps and photomontages in support of the assessment, indicating zones of visual influence and visualisations of the development from different viewpoints. The submission recognises there will be significant landscape change within and immediately adjacent to the SSA, but that this would extend an already existing locally significant landscape character effect (the Tir Mostyn windfarm). It concludes that proposals to site new wind energy development will result in some significant landscape and visual effects in the

general locality of the development site although significant effects are not necessarily adverse or, if adverse, unacceptable.

Summary

In looking at the application first in terms of UDP policy, there is inevitably a degree of conflict with tests (iii) and (viii) of MEW 10 as the erection of 10 turbines of 120.5 metres in height will result in harm to the local landscape, and will have a significant cumulative impact with existing and future windfarms in the SSA. It is difficult to conclude otherwise, albeit that the site is not within a formally designated/protected landscape area.

Critically, in respect of landscape and visual impact, any conflict with planning policy has to be balanced against other material considerations. In this case, there is unquestionably significant weight to be attached to the presumption in TAN 8 that there will be landscape character change within and adjacent to the SSA's, and that the implicit objective is to accept this change from wind turbine development.

Ultimately, whilst acknowledging local objections in relation to landscape impact, the identification by Welsh Assembly Government of the Clocaenog area as a SSA for large scale wind turbine developments and the contents of TAN 8 are strong material considerations. Respectfully, it is suggested that the grant of the Tir Mostyn and Wern Ddu permissions, and the issue of subsequent WAG policy and guidance in 2005 fatally undermine any case to oppose the development on landscape or visual grounds, including the cumulative impact with existing and proposed windfarms in the SSA, and any impact on the AONB and AOB.

In relation to other matters raised with relevance to landscape and visual impact:

- a) Whilst respecting points raised over grid connection issues, the planning authority can not reasonably withhold permission on grounds that there are no details of the proposed electricity grid connection. This matter has been raised in relation to other applications which have gone to appeal, where Inspectors have attached little or no weight to the absence of such details, and have referred to separate legislative procedures under the Electricity Acts for handling overhead line proposals (e.g. Wern Ddu).
- b) The planning authority could not reasonably delay consideration of the application in order to await receipt of 'future' applications within the SSA, solely to allow further consideration of cumulative landscape/visual impact. Such action would open the authority to non-determination appeals and cost claims for unreasonable behaviour, as there is no certainty over the timing of future applications, and there is a reasonable expectation in the context of the landscape/visual assessment in the submission and the contents of TAN 8 that the Authority is able to make a judgement on the cumulative impact issues.
- c) Potential additional landscape/visual impact from safety lighting on turbines (for air traffic purposes) does not arise in this instance. TAN 8 Annex C (2.38) advises that lights are only required on structures that are over 150 metres high.

iii) Amenity Impacts

a) Noise

Basis of responses

Many individual responses, outline specific concerns over the potential noise implications of this windfarm development. These express fears that turbines will lead to an increased incidence of noise and disturbance, and refer to the possibility of cumulative noise impact of windfarms sited in close proximity to one another. Questions are raised over the methodology for the assessment of noise (ETSU-R-97), how acceptable noise controls can be set and monitored, and whether the issue of Infrasound and Low Frequency Noise has been properly assessed.

Planning policy and guidance/other material considerations

UDP policy MEW 8 is the 'general' policy relating to renewable energy and states such development will be supported in principle as far as is compatible with other plan policies; and that development will only be permitted where there is no unacceptable effect on the environmental quality of the locality. MEW 10 states wind farms will be permitted, provided proposals meet specific tests. Test iv) requires that the proposal does not lead to unacceptable noise levels to residential amenity in the surrounding area.

Guidance on noise in TAN 8 is contained in paras. 2.14-2.18. This refers to the recommendations in ETSU-R-97 "The Assessment and Rating of Noise from Wind Farms" as relevant guidance on good practice for measurement of windfarm noise and "gives indicative noise levels calculated to offer a reasonable degree of protection to windfarm neighbours". In granting the recent Wern Ddu permissions, the Planning Inspector framed the relevant noise conditions on the methodology and assessment in ETSU-R-97, and this remains the 'standard' referred to by Inspectors in appeals nationally in relation to assessment of noise impacts of windfarm development. However, it is to be noted that some ETSU conditions are being tested by Judicial Review in England, and many developers and Councils are agreeing alternative and more robust conditions of the form put forward here by the Council's consultant, following critical consideration of matters such as cumulative impact.

Planning Guidance Wales: Planning Policy and TAN 11 - Noise have limited up to date relevance to the detailed assessment of noise from windfarms. On the separate issue of low frequency noise, TAN 8 states there is no evidence that ground transmitted low frequency noise from wind turbines is at a sufficient level to be harmful to human health (2.17). It refers to a separate ETSU study on vibration from a modern windfarm, where vibration levels 100 metres from the nearest turbine were a factor of 10 or less than those recommended for human exposure in critical buildings, and tones above 3.0Hz were found to attenuate rapidly with distance, higher frequencies at a progressively increasing rate (2.18).

Relevant contents of application

The Environmental Statement contains a detailed noise impact assessment carried out by Fleming and Baron.

The assessment contains a baseline noise survey at 4 properties in the locality, (agreed with the Public Protection section) to determine existing background noise levels. The survey and noise limits apply the ETSU guidance in line with TAN 8. The assessment concludes that predicted noise levels will occasionally exceed relevant background noise levels,

and 3 turbines would need to be operated at reduced power mode at certain wind speeds and conditions.

Summary

As detailed earlier in the report, the County Council has followed the same procedure to that adopted in relation to other windfarm applications received since 1999, in commissioning an independent acoustics consultant to undertake an appraisal of the submitted noise assessment.

The Council's Consultant has engaged in detailed dialogue with the developer's consultants and Public Protection Officers, to investigate key issues, including how the matter of cumulative noise impact should be addressed. The conclusions of the Consultant are outlined in detail at the end of the 'Consultation Responses' section of the report. Ultimately, it is suggested that enforceable planning conditions can be imposed to take account of cumulative noise, with suitable arrangements for future monitoring. The conditions are considered to be consistent with advice in ETSU-R-97, but as drafted are more robust alternatives, to cover cumulative noise impact. Consequently, and with respect to concerns expressed, it is not considered there is any 'technical' basis for opposing the development on noise grounds.

In relation to the question of low frequency noise, the Council's Consultant concurs with the contents of TAN 8 in that there is insufficient evidence to conclude that the levels of such noise are harmful to human health.

b) Visual Amenity

Basis of responses

There are no representations expressing objection over the direct residential amenity effects of wind turbines on individual properties. Visual amenity impacts are normally taken to be the visual effects of turbines sited close to individual properties, on the day to day enjoyment by residents of the environment in and around their dwellings, and in the course of using roads and footpaths. Such impacts arise from the potentially intrusive physical presence of the turbines, including disturbance from the movement of blades on the quality of the experience.

Planning policy and guidance/other material considerations

UDP Policy GEN 6 test (v) requires that proposals do not unacceptably affect the amenity of local residents.

Relevant contents of the application

The Environmental Statement contains detailed assessment of the effects of the proposals on residential amenity. It accepts that occupiers of individual properties in close proximity to turbines may experience visual effects of varying significance, dependent on the actual distance and relationship to the turbines, and intervening landform. It provides information on the respective distances to turbines from individual properties and concludes on the potential dominance from turbines, particularly at distances under 2km, which is often referred to in studies and Inspectors' decisions as a distance below which a windfarm may be seen as a dominant focus. The nearest occupied dwelling to a turbine is Pendre Bach which is approximately 600 metres from the nearest turbine

(T7). The conclusion is that as the distance for the nearest occupied dwelling is over 500 metres from the nearest turbine there would be no unacceptable adverse impact on residential amenity.

Summary

The majority of residential properties closest to the site are located to the south of the proposed site at a distance of approximately between 800metres and 1.2 km. At these distances, it is considered unlikely that the impact on residential amenity would be so significant that refusal of permission could be justified. Whilst caution is necessary in comparing situations, it is of relevance that the Wern Ddu appeal inspector concluded the impact of 2 turbines within 500 metres of a private dwelling would not be unacceptably overbearing or intrusive.

c) Shadow Flicker

Basis of responses

Representations raise the matter of shadow flicker as a specific concern in relation to the application.

Planning policy and guidance/other material considerations

UDP policy MEW 10 (v) requires that there is no unacceptable risk or nuisance to the public arising from wind turbines, such as shadow flicker. TAN 8 explains the phenomenon of shadow flicker in Annex C, 2.32, outlining that it can occur where the sun passes behind the rotors of a turbine and casts a shadow over neighbouring property, which flicks on and off as the blades rotate. TAN 8 obliges developers to provide an analysis of the potential for shadow flicker impacting on nearby property.

Relevant contents of the application

Chapter 11 of the Environmental Statement (Human Environment) contains a section on shadow flicker effect from the turbines. Under certain combinations of geographical position, time of day and year, the sun may pass behind the rotor of a turbine and cast a shadow over neighbouring properties. The effect will only occur when a particular combination of conditions coincide. It happens when the sun is low in the sky and shines onto a building from behind the sweep of the blades of a turbine. The resulting shadow caused by the blade will move across the intervening ground and building. If this shadow passes across a narrow window which faces the turbine then it can cause a 'flicking effect' inside the building. The submission concludes that shadow flicker is thought to be of low significance for the proposed development.

Summary

On the basis of the information available, the potential incidence of shadow flicker appears to be limited in this case. It would nonetheless be appropriate to take a precautionary stance in respect of Pendre Bach, Pendre Fawr, Bryn Celyn and an unnamed (unoccupied) property which lies nearby and to suggest, if permission were to be granted, the inclusion of a suitably worded condition to oblige suitable investigation and action should the phenomenon occur at these properties.

d) Electromagnetic Interference

Basis of responses

A small number of individuals express concerns over the potential for electromagnetic interference from the turbines. This would be from

physical interference (the scattering of signals resulting in 'ghosting' on TV screens) or electrical interference (signals generated within turbines, impacting on telecommunications equipment). A range of consultees have forwarded specific comment on the potential impacts on their networks/systems.

Planning policy and guidance/other material considerations

UDP policy MEW 10 (v) requires that there is no unacceptable risk or nuisance to the public from wind turbines, including radio interference.

Relevant contents of the application

The Environmental Statement concludes that from information obtained, the proposed development is unlikely to have a significant impact on access to television broadcasts or other telecommunications systems.

Summary

On the basis of consultation responses, there are no anticipated adverse impacts on telecommunication networks and systems. It is however common practice in relation to turbine applications to address any possibility for interference with TV, radio or other systems by including conditions obliging surveys of existing reception and the submission and implementation of specific schemes for mitigation of impact, should problems arise.

d) Health and Safety

Basis of responses

A range of concerns are expressed over potential health and safety implications of turbine development. These include the possibility of interference to air navigation systems, dangers to low flying aircraft, and potential dangers to users of footpaths and highways from blade failure, ice throw, lightning strikes, and structural failure of turbines and blades.

Planning policy and guidance/other material considerations

UDP policy MEW 10 (v) and GEN 6 (v) are relevant to the issue of health and safety impacts, requiring that no unacceptable risk or nuisance arises to the public from developments. TAN 8 Annex C outlines the need to protect aviation interests and to consult the relevant air traffic bodies, and in relation to safety issues, comments that properly designed, erected and maintained turbines are a safe technology, and that minimum distances from occupied buildings should be calculated to ensure safety requirements.

Relevant contents of the application

Issues relating to air safeguarding are referred to in the Environmental Statement, which notes pre-application dialogue with the relevant airspace bodies.

Summary

It is apparent from consultation responses that there are no air safeguarding objections to the proposals.

Safety devices are built into modern turbines to deal with ice build up and lightning strikes, by way of vibration sensors to detect imbalances

caught by icing on blades (where operation would be automatically inhibited), and lightning receptors on blades which discharge electricity to the rotor hub, the shaft, the main frame, and to earth by way of carbon brushes.

Overall it is accepted that there can be no absolute guarantee over the incidence of ice throw, blade failure, etc, but there is no compelling evidence elsewhere that turbines would give rise to unacceptable risk to the members of the public, sufficient to warrant withholding permission.

Although no formal construction risk assessment has been, (nor can it reasonably be expected to have been), prepared in advance of the award of planning permission, a fundamental principle of risk management is ensuring that both construction workers and the public are properly protected. Insofar as protection of the public during construction is concerned, as no right of public access (via "right to roam" or other public footpaths) is present on the proposed site, the principle aim of public protection will be achieved by ensuring the exclusion (typically by suitable fencing and warning signs) of the public from the works.

Any turbines installed will be new machines, which will be certified in accordance with the relevant European standards, and installed, operated and maintained in strict accordance with the manufacturer's recommendations. As no public access exists to the site, the inherent risk to members of the public at the development sites is therefore considered to be exceptionally low.

iv) **Nature Conservation**

Basis of responses

A number of individual objectors outline concerns over potential impacts on wildlife habitat, specifically bird species, and other species like red squirrel.

Planning policy and guidance/other material considerations

The requirement to ensure there is no unacceptable impact on wildlife/nature conservation is outlined in policies STRAT 7, GEN 6, ENV 1, ENV 6 and MEW 10(x) of the Unitary Development Plan. TAN 5 obliges due consideration of biodiversity issues. TAN 8 Annex C refers to TAN 5 and identifies the need for proper consultation with CCW and RSPB to establish potential impact, in particular on the migration paths of birds and bats from moving blades.

Relevant contents of the application

The Environmental Statement acknowledges the Clocaenog forest is a stronghold for red squirrels, a UK Biodiversity Action Plan Priority Species. It highlights the point that the Derwydd Bach site itself is comprised of habitats which are not favourable for the species. No tree felling is proposed and the swept path of the turbine blades is well above the tree canopy. There are no anticipated adverse impacts on bird populations.

Summary

It is considered that concerns over the impact on the SSSI from the construction traffic access track works can be reasonably addressed by way of a planning condition obliging detailed proposals for works and mitigation. Surveys of impact on bats and red squirrels, along with positive proposals for mitigation, and a complementary Habitat Management Plan would be

essential pre-development requirements, to be covered by detailed conditions. CCW raise no objections to the proposals.

v) **Archaeology**

Basis of responses

There are no representations expressing concern over the potential for damage to archaeological interests.

Planning policy and guidance/other material considerations

UDP policy MEW 10 (ii) seeks to ensure there is no unacceptable harm to areas or features of archaeological importance. TAN 8 Annex C refers to advice in Welsh Office Circular 60/96 Archaeology and Planning, and requires that care is taken to ensure relevant procedural steps are followed in the preparation, consideration of applications and during/after construction.

Relevant contents of the application

The Environmental Statement outlines the contents and conclusions of an archaeological impact assessment of the site. This identified 34 sites and monuments of cultural heritage interest, of regional, local, and minor scales of importance, but no scheduled ancient monuments within the site boundary. It is not considered likely there will be any direct impacts on archaeological assets during the operational or decommissioning phases of the development.

Summary

There are no objections to the proposals from the two key consultees, the County Archaeologist, and the Clwyd Powys Archaeological Trust. Both require any consent to include an Archaeological Watching Brief, and a requirement to implement proposed mitigation works.

vi) **Hydrology/Hydrogeology/Geology**

Basis of responses

There are general comments made in representations over the potential impact on water resources, including concerns over development affecting the quality of private water supplies.

Planning policy and guidance/other material considerations

The relevant Unitary Development Plan policies are GEN 6 (x) and MEW (ix) which require that proposals do not have an unacceptable effect on amenity, groundwaters or private water supplies.

Relevant contents of the application

The Environmental Statement contains a detailed appraisal of potential impacts. It concludes that the only impact on the hydrology of the area would be from sediment arising from run off at the construction stage, which can be addressed by way of mitigation measures.

Summary

The main technical consultees in respect of water/drainage issues are the Environment Agency Wales, and the Council's Scientific Services Officer. The Agency have confirmed they have no objections to the proposals as submitted, subject to the imposition of conditions to protect water resources. There are no objections from the Scientific Services Officer in relation to

water supply issues, but it would be necessary to include controls to ensure development does not affect the quality of supply to properties served by local springs.

vii) Impact on Local Economy

Basis of responses

Impact on the local economy is mentioned as a concern. This is primarily in respect of the effect which individuals believe turbine development would have on the attractiveness of the area for tourists. A number of letters comment that the development would have limited local employment benefits beyond the landowners and developers. Letters in support take a contrary view, in suggesting there will be financial benefit for local farmers and the local economy.

Planning policy and guidance/other material considerations

There is limited direct policy guidance on this issue. Policy MEW 10 (viii) of the Unitary Development Plan requires that proposals do not cause unacceptable harm to the enjoyment of the landscape for recreational and tourism purposes. There is general encouragement in other policies of the UDP for proposals which contribute to, and diversify the rural economy, subject to normal environmental safeguards.

Relevant contents of the application

In commenting on the socio-economic effects of the proposed development, the Environmental Statement concludes that communities in the surrounding area have already experienced impacts associated with windfarm development, and there will be no significant negative impacts as a result of this development.

Summary

In viewing the range of issues relevant to impact on the local economy, it is difficult to conclude there is evidence to suggest the potential benefits or disbenefits clearly outweigh one another. There is a direct benefit to affected landowners, and potential benefits from the award of construction contracts to local companies, but no way of guaranteeing the latter would occur. Impacts on tourism are impossible to determine with certainty, as public opinion surveys suggest varying reaction to the presence of turbines. The developer's offer to set up a Community Fund package, involving payment of a specified amount of money per megawatt generated per annum, into a fund administered by a Trust comprising representatives of agreed local Community Councils and relevant interested groups/parties, should not be accorded any weight in the determination of the application as this form of 'gain' is not necessary for the development to proceed.

viii) Highways impact

Basis of responses

There are limited concerns expressed over potential highways issues.

Planning policy and guidance/other material considerations

Policies GEN 6 (viii) and MEW 10 (vi) of the Unitary Development Plan require that proposals should not have an unacceptable effect on the local highway network, or give rise to dangers to road users.

Relevant contents of the application

The application outlines the proposal to route construction traffic from the Brenig direction via existing tracks.

Summary

The Council's Highways officer states that the unclassified and unadopted forestry roads take vehicles through Clocaenog forest and their condition will need to be assessed before the commencement of work. Whereas the forestry tracks will have been built to cater for HGVs the unclassified roads, based on previous experience of windfarm construction, are prone to damage.

A degree of inconvenience is likely at construction stage, but this is for a limited period only, and the highway network appears adequate to cope with the type and volume of traffic involved. Normal planning conditions can be imposed to control movement and timing of construction works, and there would be a need for separate conditions obliging the recording of the highway condition prior to the commencement of works in conjunction with an obligation to reinstate and make good any damage to any public highway arising from heavy construction traffic. The Highway Officer recommends that construction traffic be controlled by means of the Section 106 Agreement and recommends a number of conditions be included on any grant of planning permission for reasons of highway safety.

ix) Other issues

The application has raised a number of issues which do not 'fit' conveniently under the main topic headings adopted in the report. These include:

Impact on property value

There are objections over the potential impact of more wind turbine development on property values.

As a general principle, fears over loss of property value should themselves be accorded little or no weight in the determination of planning applications, as the basic premise is that the system does not exist to protect the private interests of one person against the activities of another – and that proposals should be considered in terms of their effect on the amenity and existing use of land and buildings in the "public interest". The land use planning considerations should therefore centre on the acceptability of a development on the level of amenity enjoyed by residents, rather than matters like financial gain or loss.

Community Benefits

Concerns are expressed over the developer's offer to set up a Community Fund in connection with the scheme, and whether this is an appropriate consideration in relation to an application.

There is a clear guidance on 'developer offers' in TAN 8 Annex B. Where development is likely to have a direct implication for the public provision of infrastructure (e.g. off site highway improvements, wildlife habitat management/creation) then there is a straightforward requirement for a developer to enter into a legal obligation under Section 106 of the Planning Act to secure agreement to the mechanism for the relevant financial contribution. Other 'gains' offered by developers, which are not necessary for a development to proceed, are not in themselves unlawful, but TAN 8 makes it clear that they must not impact on the decision making process. Consequently, the offer to set up a Community Fund in this instance should

play no part in the consideration of the application.

Fear of precedent

It is respectfully suggested that the possibility of the grant of permission setting a precedent for the submission of further wind turbine applications, and pressuring the Authority to approve them, is not in itself a defensible ground for refusing permission. The basic principle is that each application has to be assessed on its own particular merits against planning policies and other material considerations, and it is these matters which should determine whether to grant or refuse.

SUMMARY AND CONCLUSIONS:

21. The determination of major applications of this nature obliges a careful balancing exercise, within the context set by legislation, which requires the County Council to make decisions in accordance with the development plan, unless material considerations indicate otherwise.

22. The report sets out in some detail a range of land use planning issues which are relevant to the weighing of the merits of the application. Evaluation of the issues suggests there are conflicts with elements of development plan policy, and that the final decision rests on whether any harm identified is sufficiently compelling, when set against other material considerations, to justify refusal of permission.

23. In assessing the weight to be given to factors which presume against the grant of permission, due account has to be given to the possibility of addressing conflicts with policy or potential harm, by way of suitable planning conditions or legal agreements. Hence whilst acknowledging the basis of concerns over aspects of the development, experience from previous applications and appeals suggests specific impacts such as those relating to noise, shadow flicker, electromagnetic interference, nature conservation, archaeology, hydrology and highways, can be mitigated satisfactorily through appropriate controls as part of any permission. Consultee responses on the Derwydd Bach application indicate that suitable controls can be included to address concerns arising in relation to these issues.

24. Looking first at the Derwydd Bach proposal in the context of the development plan, the main policies are MEW 8 and MEW 10, which deal respectively with renewable energy and windfarm development. Other policies are relevant to specific elements of the proposals. MEW 8 and MEW 10 provide a general presumption in favour of wind turbine developments, unless the impacts conflict with a number of criteria 'tests', and involve unacceptable harm. The report suggests there will be conflict with policy in terms of the significant visual and landscape effects, including cumulative impact with existing and potential future windfarms in the SSA. There are potential conflicts with a number of other policy tests, but realistic controls and mitigation measures are possible to address these.

25. The other material considerations of relevance to the determination are policy and guidance from national and Welsh Assembly Government. WAG's Technical advice Note 8 (2005) and MIPPS 01/2005 are highly significant, up to date policy and guidance, introducing the concept of concentrating large scale windfarm developments to identified Strategic Search Areas. The TAN and MIPPS effectively 'designate' the Clocaenog Forest area as suitable for windfarm developments and set specific targets for the generation of electricity from renewables.

26. Ultimately, the view is taken that conflict with Unitary Development Plan landscape protection policies is inevitably outweighed by current policy and guidance in TAN 8 and the 2005 MIPPS, which attach a high premium to the generation of

electricity from renewables. The harm which would arise to the local landscape has now to be set against the context of the change brought about already by the existing Tir Mostyn windfarm and the consents at Brenig and Wern Ddu, and with the clear acceptance in TAN 8 and MIPPS of significant landscape change within and around Strategic Search Areas through the creation of 'windfarm landscapes'.

27. In conclusion, therefore, having due regard to the range of issues relevant to the determination of the application, it is respectfully suggested that a number of potential conflicts with planning policies can be addressed through suitable mitigation, and that the harm to the local landscape is outweighed by the strong material considerations in TAN 8 and MIPPS. The officer recommendation is consequently for the grant of permission, subject to appropriate conditions and a legal agreement.

The recommendation below is subject to the completion of a Section 106 agreement to secure:

- A detailed Habitat Management Plan, including a mechanism to establish a Steering Group/Committee to monitor and review the plan, and how the plan can coordinate with the Tir Gofal Scheme.

In addition, and to be considered outside the planning process:

- The establishment of a Community Fund based on agreed developer contributions, and a mechanism for holding the Fund in Trust, and managing and distributing the Fund, to include for:

The establishment of an Environmental Community Benefit Fund for habitat management and enhancement in the locality of the wind farm, in accordance with a Land Management Plan and the Statement of Environmental Masterplanning Principles, to include the creation of a Steering Group to monitor and review the Management Plan and the administration of the Fund; and the basis of contributions.

The planning permission would not be released until the completion of the agreement; and on failure to complete the agreement within 12 months of the date of this Committee; the application would be reported back to the Committee for determination against the policies and guidance relevant at that time.

The contents of the Environmental Impact Assessment have been taken into account in preparing this report and recommendation.

RECOMMENDATION: - GRANT subject to the following conditions:-

1. GENERAL

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

2. The planning permission shall be for a period of 25 years from the date of commissioning of the development. Written confirmation of the date of commissioning of the development shall be provided to the Planning Authority no later than 1 calendar month after the event.

3. The turbines and ancillary structures such as anemometer masts, and the substation

building, shall be erected in the positions indicated on the submitted plans. A variation of the indicated position of any turbine (and any associated transformer) or any track on the plans by up to 20 metres shall be permitted. Any variation greater than 20 metres shall require the written approval of the Local Planning Authority.

4. This permission relates solely to the erection of 3 bladed wind turbines as described in the application plans and drawings with a maximum height to blade tip of 120.5m from original ground level.
5. All the blades shall rotate in the same direction.
6. The finish of all the turbines shall be semi-matt and their colour, including proposals for mitigating the contrast between the tower base section and surrounding vegetation, shall be approved in writing by the Local Planning Authority before the turbines are erected on site.
7. No part of the development shall display any name, logo, sign, advertisement or means of illumination without the prior written approval of the Local Planning Authority.
8. All electricity and control cables between the turbines and the switch room shall be laid underground and alongside tracks which are constructed on the site as part of the development unless otherwise agreed in writing with the Local Planning Authority.
- 9.

CONSTRUCTION METHOD STATEMENT

No work shall commence on site until a Construction Method Statement has been submitted in writing to and approved by the Local Planning Authority. The scheme shall include provisions relating to:

Construction and reinstatement of the temporary site compound
Construction and reinstatement of all internal tracks including measures to reinstate planting on approach tracks
Soil stripping management
Surface and foul water drainage
Pollution Prevention and Control plan
Traffic Management including HGV routes
Traffic signing along public roads
Recording the existing state of the site

Development shall be carried out in compliance with the approved Construction Method Statement, unless otherwise approved in writing by the Local Planning Authority.

10. No works on the construction of the turbine bases or delivery of wind turbine components or wind turbine erection plant shall be permitted to commence until there have been submitted to and approved in writing by the Local Planning Authority:

- (i) a scheme for the recording of existing road conditions by the developer,
- (ii) the local widening and improvement, at the developer's expense, of the county highway between the B4501 and the site entrance.
- (iii) arrangements for the repair and reinstatement of public highways.

11. Construction work on the site shall be confined to the hours of 0700- 1900 Mondays to Fridays and 0700-1300 hours on Saturdays with no working in Sundays or national public holidays unless otherwise agreed in writing with the Local Planning Authority.

12. All new tracks shall be surfaced with stone from the approved borrow pit(s) or excavations for the turbine bases, unless otherwise agreed in writing by the Local Planning Authority.

13. The permanent running widths of internal access tracks shall be no greater than 5m wide (10m on bends) unless agreed in writing by the Local Planning Authority.

14. SURFACE WATER DRAINAGE

No development approved by this permission shall be commenced until a scheme for the disposal of foul and surface waters has been approved by and implemented to the reasonable satisfaction of the Local Planning Authority.

15. Nothing other than uncontaminated excavated natural materials shall be tipped on the

site.

16. Any facilities for the storage of oils, fuels or chemicals shall be sited on impervious bases 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%. If there is multiple tankage, the compound should at least equivalent to the capacity of the largest tank, or the combined capacity of interconnected tanks, plus 10%. All filling points, vents, gauges and sight glasses must be located within the bund. The drainage system of the bund shall be sealed with no discharge to any watercourse, land or underground strata. Associated pipe work should be located above ground and protected from accidental damage. All filling points and tank overflow pipe outlets should be detailed to discharge downwards into the bund.

17. No development shall be permitted to commence until the written approval of the Local Planning Authority has been obtained to an Environmental Management Plan incorporating specific details of the means of addressing/attenuating surface water run off from construction works, together with associated mitigation and monitoring arrangements.

18. DECOMMISSIONING

Not later than 12 months after the date of commissioning of the development hereby approved, a scheme for the restoration of the site, including the dismantling and removal of all elements above ground level, and the removal of turbine bases to a depth of 1.0m, shall be submitted for the consideration of the Local Planning Authority. The scheme approved in writing by the Local Planning Authority shall be carried out and completed within 12 months from the date that the planning permission hereby granted expires.

19. If any wind turbine generator(s) hereby permitted ceases to operate for a continuous period of 6 months then, unless otherwise agreed by the Local Planning Authority, a scheme for the decommissioning and removal of the wind turbine generator(s) and any other ancillary equipment and structures relating solely to that generator(s), shall be submitted to and agreed in writing by the Planning Authority within 6 months of the end of the cessation period. The scheme shall include details for the restoration of the site. The scheme shall be implemented within 6 months of the date of its agreement by the Local Planning Authority.

20. HIGHWAYS

Full details of the proposed site access shall be submitted to and approved in writing by the Local Planning Authority before any work commences on site.

21. Facilities shall be provided and retained within the site for the loading, unloading, parking and turning of construction vehicles in accordance with a scheme to be agreed with the Local Planning Authority, and which shall be completed before work on the turbines in commenced. These facilities shall be retained for the whole duration of the construction period.

22. Facilities shall be provided and retained within the site for loading, unloading, parking and turning of service vehicles in accordance with a scheme to be agreed with the Local Planning Authority, and which shall be completed prior to the commissioning of the wind farm.

23. The site access shall be laid out and constructed strictly in accordance with the submitted plan before works on the remainder of the development is commenced.

24. Full details of temporary accesses between the forestry roads and the public highway shall be submitted to and approved in writing to by the Local Planning Authority before any works commence on site.

25. The Construction Environmental Management Plan (CEMP) (including details of the routing of all construction vehicles, traffic management, delivery times, sweeping of roads at the interface between forestry roads and the public highway) shall be submitted to and approved in writing by the Local Planning Authority before any works commence on site.

26. Facilities for the cleaning of wheels of vehicles prior to their entering the public highway shall be provided and used and retained for the duration of the construction period.

27. Positive means to prevent the run-off of surface water from the site to the highway shall be provided to the satisfaction of the Local Planning Authority and retained so long as the development herewith approved shall remain in use.

28. Full details of any temporary floodlighting to the site compound shall be submitted to

and approved in writing by the Local Planning Authority. No light source shall be directly visible to drivers of vehicles using the adjoining highway.

29. A precondition survey, in conjunction with the Highway Authority, shall be carried out of the delivery routes designated in the CEMP. Any defects shall be noted and, where essential for the safety of construction traffic, shall be made good to the satisfaction of the Highway Authority before any work commences. Damage to the highway caused by construction traffic shall be made good to the satisfaction of the Highway Authority.

30. BORROW PIT

No development shall commence until full details of the location, maximum extent and depth, profiles, means of working including rock crushing and restoration of the borrow pit/s have been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented as approved.

31. ARCHAEOLOGY

PRE-COMMENCEMENT CONDITION

No development works of any kind shall begin until the presence of a contracted archaeologist has been secured on-site, at the developer's expense, according to the prescriptions set out in a curatorial design brief, 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.

32. AIR SAFEGUARDING

The developer shall provide written confirmation of the following details to the Ministry of Defence/Civil Aviation Authority within 3 months of the date of this permission and the commencement of development shall not occur until this confirmation has been given:

- i) Proposed date of commencement of the development
- ii) The maximum extension height of any construction equipment.

33. Within 14 days of the commissioning of the final turbine, the Company shall provide written confirmation of the following details to the Ministry of Defence/Civil Aviation Authority:

- i) Date of completion of construction
- ii) The height above ground level of the highest potential obstacle (anemometry mast or wind turbine).
- iii) The position of that structure in latitude and longitude.
- iv) The lighting details of the site.

34. TELECOMMUNICATIONS INTERFERENCE

Prior to the commencement of development, a baseline television reception study in the area shall be undertaken by a qualified television engineer at the developer's expense, and shall be submitted to the Local Planning Authority. Details of any works necessary to mitigate any adverse effects to domestic television signals in the area caused by the development shall also be submitted to and approved in writing by the Local Planning Authority. Any claim by any person for domestic television picture loss or interference at their household within 12 months of the final commissioning of the wind farm/turbine, shall be investigated by a qualified television engineer at the developer's expense and the results submitted to the Local Planning Authority. Should any impairment to the television reception be determined by the qualified engineer as attributable to the wind farm/turbine on the basis of the baseline reception study, such impairment shall be mitigated within 6 months of this decision according to the mitigation scheme outlined.

35. SHADOW FLICKER

No development shall be permitted to take place until the written approval of the Local Planning Authority has been obtained to the details of a scheme to address the incidence of shadow flicker at any dwelling; such scheme to include details of photocells or other measures to control, re orientate, or shut down particular turbines. Unless agreed in writing by the Authority, any turbine producing shadow flicker effects at any dwelling shall be shut down, and the blades remain stationary until the conditions causing those effects have passed. The scheme shall be implemented as approved.

36. ECOLOGY

No development shall commence until a scheme has been submitted in writing to and approved by the Local Planning Authority providing for habitat management within the site. The scheme shall include for:

- (a) The identification of all wetland features, including marshland, ponds, waterways, and details of measures to protect and mitigate impacts on these features, along with a management scheme to enhance wetland features.
- (b) Steps to mitigate impacts on nesting birds and water voles.
- (c) Steps to monitor, identified protected/priority species occurring on site or in the vicinity.
- (d) Measures to ensure long term protection for biodiversity features identified on site, when the windfarm comes to the end of its life.

37. Within 1 year of the construction of the wind farm all bare ground exposed by works to improve the road exposed by works to improve the road access southwards along the track from its junction with the B5401 through the Mynydd Hiraethog SSSI should be:

- (i) Between Chainage 0 and 500, reseeded with a grass mix that includes one or more of the following species of fine leaved grass species: *Agrostis capillaris*, *Deschampsia flexuosa* and *Festuca ovina*
- (ii) Between Chainage 500 and 1225, re-seeded by the strewing of heather *Calluna vulgaris* bales cut on the adjacent moorland after flowering and seed set.
- (iii) From Chainage 1125 out to the FCW gate, exposed bare peat should be to re-vegetate naturally.

All re-seeding should occur at the appropriate season so as to ensure optimal germination and growth. The re-seeded and re-vegetated areas should be protected from the attentions of grazing livestock by the erection of fencing. The fencing should be maintained in the case of the grass-mix for a minimum of one year and in the case of the heather strewing and re-vegetated bare peat for a minimum of three years.

38. Bat avoidance and mitigation measures shall be carried out in accordance with the details set out in the Appendix 3 of the Tegni Cymru Cyf report dated 18 August 2008 and referenced 27038 KB.JM 18-08-2008 for the duration of the development.

39. Prior to any commencement of works between 1st March and 31st August in any year, a detailed survey is required to check for nesting birds. Where nests are found in any building, hedgerow, tree or scrub to be removed (or converted or demolished in the case of buildings), a 4m exclusion zone to be left around the nest until breeding is complete. Completion of nesting should be confirmed by a suitably qualified person and a report submitted to the Council.

40. NOISE

At the request of the Council the operator of the development shall, at its own expense, employ an independent consultant approved by the Council to measure and assess the level of noise emissions from the wind turbine generators following the procedures described in the 'Guidance Notes' section of the consultation response from New Acoustics entitled "Derwydd Bach Wind Farm Environmental Statement - Comments on Noise Section" and dated 13 December 2007.

41. At the request of the Council the operator of the development shall, at its expense,

employ an independent consultant approved by the Council to measure and assess the total noise of the development in accordance with the procedure described in the 'Guidance Notes' section of the consultation response from New Acoustics entitled "Derwydd Bach Wind Farm Environmental Statement - Comments on Noise Section" and dated 13 December 2007.

42. The wind farm operator shall log wind speed and wind direction data at a grid reference to be approved by the Council as planning authority to enable compliance with conditions 1 and 2 to be monitored. This wind data shall include the wind speed in metres per second (ms-1) and the wind direction in degrees from north for each 10 minute period. At the reasonable request of the planning authority the recorded data measured at 10m height above ground level and relating to any periods during which noise monitoring took place or any periods when there was a specific noise complaint shall be made available to them. Where wind speed is measured at a height other than 10m, the wind speed data shall be converted to 10m height, accounting for wind shear by a method whose details shall also be provided to the planning authority. At the reasonable request of the Council the wind farm operator shall provide a list of ten-minute periods during which any one or more of a relevant set of turbines was not in normal operation. This information will only be required for periods during which noise monitoring in accordance with conditions 1 and 2 took place. The "relevant set" and "normal operation" are defined in the 'Guidance Notes' section of the consultation response from New Acoustics entitled "Derwydd Bach Wind Farm Environmental Statement - Comments on Noise Section" and dated 13 December 2007.

43. The rating level of noise emissions from the combined effects of the wind turbine generators when measured and calculated in accordance with the 'Guidance Notes' section of the consultation response from New Acoustics entitled "Derwydd Bach Wind Farm Environmental Statement - Comments on Noise Section" and dated 13 December 2007 shall not exceed the levels set out below:

The figures in the body of the tables are the rating noise levels from turbines measured in dB as an LA90 at each wind speed in accordance with the procedure set out in the guidance notes.

At Bod Petryal, Pendre Bach, Pendre Fawr, Ty-Hên, Pentre, Parc, Bryn Goleu, Minffordd, Tyn-y-Graig, Pen-y-Bryn, Tan-y-Bwlch and Bryn-Celyn:

Wind Speed m/s 45678910 and above
Individual Standard dB38383839414343

At all other properties:

Wind Speed m/s45678910 and above
Individual Standard dB35353535384042

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 in order that the Local Planning Authority returns control over the longer term uses of the land.
3. For the avoidance of doubt and to allow the Local Planning Authority to return control over the development.
4. For the avoidance of doubt and in the interest of visual amenity.

5. For the avoidance of doubt and in the interest of visual amenity.
6. For the avoidance of doubt and in the interest of visual amenity.
7. For the avoidance of doubt and in the interest of visual amenity.
8. In the interests of visual amenity.
9. To ensure proper controls over the matters referred to minimise the impact of the development.
10. In the interests of highway safety.
11. In the interests of amenity of occupiers of property in the locality.
12. To minimise the need for imported material and movement of HGV's on highways
13. In the interests of visual amenity.
14. To prevent pollution of the water environment.
15. To prevent pollution of the water environment.
16. To prevent pollution of the water environment.
17. To ensure proper arrangements to limit surface water run off.
18. To ensure adequate arrangements are in place to reinstate the site.
19. To ensure adequate arrangements are in place to reinstate the site.
20. In the interest of free and safe movement of traffic on the adjacent highway and to ensure the formation of a safe and satisfactory access.
21. To provide for the loading, unloading and parking of construction 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.
22. To provide for loading, unloading and parking of service 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.
23. 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.
24. 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.
25. In the interests of traffic safety.
26. To ensure that no deleterious material is carried onto the highway.
27. In the interests of highway safety and to prevent damage to the highway.
28. To prevent glare or dazzle in the interest of traffic safety.
29. In the interests of traffic safety.
30. To ensure proper arrangements for the capture of material for access tracks, and subsequent reinstatement of the land.
31. In the interests of archaeological investigation and recording.
32. In the interests of air safety.
33. In the interests of air safety.
34. To ensure full investigation of television reception and arrangements to address any interference as a result of the development.
35. To protect the amenity of the area
36. In the interest of ecological protection and enhancement.
37. To ensure the long term protection of Mynydd Hiraethog SSSI.
38. For the monitoring and protection of Bats a European Protected Species.
39. To avoid the disturbance and for the protection of breeding birds including Curlew.
40. To minimise disturbance to residents in the vicinity of the wind farm.
41. To minimise disturbance to residents in the vicinity of the wind farm.
42. To minimise disturbance to residents in the vicinity of the wind farm.
43. To minimise disturbance to residents in the vicinity of the wind farm.

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 notes relating to applications for consent to construct a vehicular crossing over a footway / verge under Section 184 of the Highways Act 1980. The applicant should be aware that the construction of any dam, weir or other like structure which affects the flow in a watercourse requires the prior formal consent of the Environment Agency's Flood Defence Department. Before any works are carried out in, adjacent to, or over a watercourse, the applicant should contact Duncan Quincey on 01244 894528 to discuss whether a consent is required.

If the development is to utilise reclaimed or recycled aggregates in the construction process these must conform to the WRAP quality assurance guidelines to avoid the need to register Exemptions from the Waste Management Licensing regulations 1994. If products are used that do not conform to the above; exemptions for their use must be registered with the Environment Agency NCCC on 08708 506506. All waste transfers to and from the site must be accompanied by Duty of Care Waste Transfer notes in line with S.34 of the Environmental Protection Act 1990. Please contact Aled Zachary on 01244 894610 for more information on the above.

ITEM NO: 2

WARD NO: Llanbedr Dyffryn Clwyd / Llangynhafal

APPLICATION NO: 16/2008/0389/ PF

PROPOSAL: Erection of 1no detached dwelling and garage on 0.09ha of land

LOCATION: Land Adjacent To Haul Y Gwynt Lon Cae Glas Llanbedr Dyffryn Clwyd Ruthin

APPLICANT: Mr J.E Parry

CONSTRAINTS: AONB

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

CONSULTATION RESPONSES:

LLANBEDR DC COMMUNITY COUNCIL:
Awaiting response

HIGHWAY AUTHORITY:
No objection subject to conditions

WELSH WATER:
No objection

AONB JOINT ADVISORY COMMITTEE:

“The JAC is disappointed about the number of recent consultations received for development within this village without any new public green space provision. As regards the current application, the Committee has concerns about the scale and mass of the proposed dwelling on this small infill plot which it considers would be detrimental to the character and appearance of the area and surrounding AONB. The JAC is also concerned about the potential loss of two mature trees to create the proposed access. However, if the local planning authority is minded to grant this application the Committee would prefer the use of natural slate for the roof and the render to be painted white.”

RESPONSE TO PUBLICITY:

Letters of representation received from:

- Mike Gill (via email), Hafod Las, Lon Cae Glas, Llanbedr DC
- Commodore J E V Madgwick, 6 Tan y Bryn, Llanbedr DC

Summary of planning based representations:

- Plot is not wide enough to accommodate the dwelling
- Out of character with the area/harmful to AONB
- Cramped form of development
- There is no extant permission on the site

EXPIRY DATE OF APPLICATION: 16/06/2008

REASONS FOR DELAY IN DECISION:

- timing of receipt of representations

PLANNING ASSESSMENT:

THE PROPOSAL:

1. Full planning permission is sought for the development of 0.09ha of land by way of the erection of a single dwelling. The plot measures 43 metres by 17.5 metres.
2. The site is located on Lon Cae Glas, is within the development boundary of Llanbedr and is in the AONB. Either side of the site are residential properties, Haul y Gwynt and Hafod Las with the site currently forming part of the garden of Haul y Gwynt. To the rear of the site is no. 6 Tan Y Bryn. Development within the area is characterised by render walls and tile roofs.
3. The proposed dwelling would be split level in design; the front elevation being two storeys featuring an integral garage to the ground floor, and the rear elevation being only single storey. The design is similar to Haul Y Gwynt and is influenced by the topography of the site which rises steeply to the rear and is terraced in the middle. Access and parking is to the front of the site. The site boundaries are well formed with mature planting.
4. Internally the dwelling would feature 3 bedrooms, lounge, dining room, kitchen, utility and store.

RELEVANT PLANNING HISTORY:

5. 11/1653 – Development of land by the erection of 8 dwellings and construction of service road. GRANTED 19th February 1963. This permission established the principle of developing the plot currently being considered.

11/1715 – Layout of land for the erection of 8 dwelling houses, erection of one detached house and construction of estate road. GRANTED 27th August 1963. This permission re-establishes the principle of developing the plot being considered and also established the design for the dwelling now known as Haul Y Gwynt.

11/1715/1 – Details of 7 dwelling houses and construction of estate road. GRANTED 18th February 1964. This permission establishes the design of the dwellings granted outline under code 11/1715. All plots except that now being considered have been developed in accordance with this permission and modifications under a range of applications referenced 11/1715/2 – 11/1715/10. Accordingly it is considered that this permission is extant.

16/2006/0553/PO – Development of 0.09ha of land for residential purposes and construction of new vehicular access. Refused on 24th August 2006

16/2006/1051/PO - Development of 0.09ha of land for residential purposes and construction of new vehicular access, all matters except access reserved (resubmission of 16/2006/0553). Refused 25th April 2007. The reason for refusal was based upon the proposals impact upon the character of the area and over development of the site.

PLANNING POLICIES AND GUIDANCE:

6. **Denbighshire Unitary Development Plan** (adopted 3rd July 2002)
Policy GEN1 – Development within development boundaries
Policy GEN6 – Development control requirements

MAIN PLANNING CONSIDERATIONS:

7. i) Principle
- ii) Impact upon visual amenity/AONB
- iii) Impact upon residential amenity
- iv) Highways issues

8. In relation to the considerations in paragraph 7:

i) Principle:

The planning history indicates that permission has been granted for the development of this site some years ago although individual plot sizes and shapes have altered since the 1960's permissions.

The site is however located within the development boundary of Llanbedr, where the principle of suitable housing development is acceptable provided the proposal satisfies other planning criteria which relate to general amenity and access issues.

ii) Impact upon visual amenity/AONB:

It is noted that previous outline applications made in 2006 were refused on the grounds of the potential impact upon the character of the area and overdevelopment of the site. However, neither of these applications included details of design or siting for consideration. The current application includes full details of siting and design and this allows for a full consideration of the impact upon the character of the area.

The Location Plan shows the plot in relation to the surrounding developed plots. It is not considered that the plot proposed for development (being approximately 17.5metres wide on the front boundary) is significantly narrower than the plot frontages of Hazel Ridge (19m wide), Hafod Las (22m wide) or Delanor (18m wide). It is further noted that the siting of the proposed dwelling allows for sufficient circulation space around the dwelling (3.5metres to the east and 4m to the west). Therefore it is argued that the development of this site in the manner proposed would not result in a form of development which would appear cramped or over intense.

With regard to the specific design of the proposed dwelling, it is noted that the applicants have submitted a design which is closely based upon a previous design (house type c on application 11/1715/1). It is therefore considered that the design is in character with the surrounding dwellings subject to control over the external wall and roof materials. Similarly, for the same reason and given the residential character of the area it is not considered that the proposal would be harmful to the wider character of the AONB. The existing planting on the site is of an ornamental nature and this can be replicated and the proposal integrated into the area via the establishment of a suitable landscaping scheme. The proposal is therefore compliant with policy GEN 6 and ENV 2 in terms of visual amenity and its impact upon the character of the area.

iii) Impact upon residential amenity:

As commented above the proposal provides adequate circulation space around the dwelling. The proposal also provides adequate amenity space for a dwelling of this size. There no objections relating to the amenity of future occupiers of the proposed dwelling.

In relation to the proposed dwelling and its impact upon the amenity of neighbouring dwellings, it is considered that the topography of the site, lack of side elevation windows for principal rooms in the proposed dwelling and the existing and potential additional screening all serve to ensure that this proposal would not result in a detrimental impact upon the amenity of the neighbouring dwellings.

iv) Highway Issues:

Parking and turning is provided to the front of dwelling as well as an integral garage. No objection has been received from the Highway Authority in relation to the impact upon the highway infrastructure. It is therefore concluded that the proposal is acceptable in terms of its impact upon highway safety and its provision of parking and turning space.

SUMMARY AND CONCLUSIONS:

9. The proposal is recommended for grant of permission

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 access, parking and turning shall be laid out and constructed in accordance with the approved drawing no:4814/S1 and completed to the satisfaction of the Local Planning Authority before the dwelling is occupied.
3. 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.
4. **PRE-COMMENCEMENT CONDITION**
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.
5. All planting, seeding, turfing, fencing, walling or other treatment comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the completion of the development and any trees or plants which, within a period of five years of the development, die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
6. 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 dwelling, unless otherwise agreed in writing by the Local Planning Authority.

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

1. To comply with the provisions of Section 91 of the Town and Country Planning Act 1990.
2. In the interest of free and safe movement of traffic on the adjacent highway and to ensure the formation of a safe and satisfactory access and to provide for the parking and turning of vehicles clear of the highway.
3. In the interests of visual amenity.
4. To ensure in the interests of visual amenity a satisfactory standard of landscaping in conjunction with the development.
5. To ensure a satisfactory standard of development, in the interests of visual amenity.
6. To maintain a reasonable standard of privacy in adjoining dwellings and gardens in the interests of amenity

NOTES TO APPLICANT:

None

ITEM NO: 3

WARD NO: Llanrhaeadr Yng Nghinmeirch

APPLICATION NO: 23/2008/0603/ PS

PROPOSAL: Variation of Condition No. 2 on planning permission Ref. No. 23/2007/1327/PF, to allow removal of the 21-day stay limitation

LOCATION: Caer Mynydd Caravan Park Saron Denbigh

APPLICANT: Mr R Barton

CONSTRAINTS:

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

CONSULTATION RESPONSES:

LLANRHAEADR COMMUNITY COUNCIL:

"This Council objects to the above planning application for the following reasons:

- i) The applicant is abusing the planning application system; and
- ii) The application would lead to permanent accommodation of families on site which would not be acceptable for the other residents of Saron as there would be more residents in the caravan park than in the dwelling houses of Saron village."

HIGHWAY DEVELOPMENT TEAM:

No objections

PUBLIC PROTECTION:

Awaiting response

HEAD OF DEVELOPMENT SERVICES (TOURISM):

Awaiting response

RESPONSE TO PUBLICITY:

Letters of representation received from:

- i) D. E. Tyrer, Cefn Maen Isaf, Saron (via e-mail)
- ii) Dr G Jones, Cefn y Marial, Saron
- iii) Mr and Mrs Edwards, Cefn Maen Uchaf

Summary of planning based representations:

- Detrimental to the general amenity of the village
- Would place a further strain on the services and infrastructure
- Would result in the village population growing excessively

EXPIRY DATE OF APPLICATION: 30/07/2008**REASONS FOR DELAY IN DECISION:**

- timing of receipt of representations

PLANNING ASSESSMENT:

THE PROPOSAL:

1. This application and the following relate to separate proposals at Cae'r Mynydd Caravan Park, Saron.
2. The area of land which is the subject of this application measures approximately 80 metres by 80 metres and stands opposite the existing main office for the caravan park, which is on the south of the public road that splits the site. The land to the north of the road contains a play area and on-site toilet/shower block, and is abutted to the east and north by open fields with houses within the village to the west and south.
3. The application seeks to vary the existing consent for the site to remove the condition on a previous consent which limits the stay of any touring caravan on this part of the site to a maximum of 21 days.

RELEVANT PLANNING HISTORY:

4. 34/EW/3 – Established Use Certificate for touring caravan site: Refused 1979 but allowed at appeal; 34/7277 – Amendment to condition 3: Granted 1985;

23/2001/0031 – 6 additional tourers and associated tenting: Granted 2001;

23/2001/0031 – Amenity building, wc and laundry: Granted 2001;

23/2007/1327 – Rationalisation of existing touring caravan park to allow for siting of 30 mixed touring units (caravans and tents) in lieu of 18 touring caravans and 12 tents: Granted 27/12/07

PLANNING POLICIES AND GUIDANCE:

5. DENBIGHSHIRE UNITARY DEVELOPMENT PLAN (adopted 3rd July 2002)
Policy GEN 3 - Development outside Development Boundaries
Policy GEN 6 - Development Control Requirements
Policy TSM 12 -Touring Caravan Sites

GOVERNMENT GUIDANCE:

Planning Policy Wales March 2002

MAIN PLANNING CONSIDERATIONS:

6.
 - i) Principle
7. In relation to the main consideration:
 - i) Principle
The purpose of the condition limiting stays of touring caravans to 21 days is to prevent the site being used as a more permanent static type of caravan site or for caravan storage, as this would be contrary to Unitary Development Plan policies relating to visual amenity i.e. to prevent the site having permanent caravans on it and therefore resulting in a permanent impact upon the appearance/character of the area.

In practical terms, it is considered that although a touring caravan removed after 21 days would create a vacant plot, it could feasibly be replaced by another caravan almost immediately, rendering the condition meaningless. Further, the restriction on the length of stay to 21 days at the caravan park is considered unreasonable as there is no real justification for preventing someone from enjoying a holiday longer than three weeks.

In relation to fears over creating a more permanent use, reference is made to condition 3 of permission 23/2007/1327/PF which prevents any caravan from remaining on site between 31st October in any one year and 1st March in the succeeding year. This condition prevents the site being used on a more permanent basis.

SUMMARY AND CONCLUSIONS:

7. It is considered that the removal of restriction of the length of stay of touring vans at Caer Mynydd Caravan Park is reasonable.

RECOMMENDATION: APPROVE- subject to the following conditions:-

Condition 2 shall be reworded as follows:

2. The site shall only be used for caravans on tour.

NOTES TO APPLICANT:

None

ITEM NO: 4

WARD NO: Llanrhaeadr Yng Nghinmeirch

APPLICATION NO: 23/2008/0614/ PS

PROPOSAL: Variation of Condition No. 3 on planning application 11/2856 (Former Denbighshire CC) appeal decision Ref. No. 429/33 dated 8 February 1972, and Condition No. 3 of planning permission Ref. 34/1087 dated 20 February 1976, to allow extension of the operating season from 1 March in any one year to 14 January in the following year

LOCATION: Caer Mynydd Caravan Park Saron Denbigh

APPLICANT: Mr R Barton

CONSTRAINTS:

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

CONSULTATION RESPONSES:

LLANRHAEADR COMMUNITY COUNCIL:

“This Council objects to the above planning application for the following reasons:

- iii) The applicant is abusing the planning application system; and
- iv) The application would lead to permanent accommodation of families on site which would not be acceptable for the other residents of Saron as there would be more residents in the caravan park than in the dwelling houses of Saron village.”

HEAD OF TRANSPORT & INFRASTRUCTURE

No objections.

PUBLIC PROTECTION:

No response.

HEAD OF DEVELOPMENT SERVICES (TOURISM):

No response.

RESPONSE TO PUBLICITY:

Letters of representation received from:

- iv) D. E. Tyrer, Cefn Maen Isaf, Saron (via e-mail)
- v) Dr G Jones, Cefn y Marial, Saron
- vi) Mr and Mrs Edwards, Cefn Maen Uchaf

Summary of planning based representations:

- Detrimental to the general amenity of the village
- Would place a further strain on the services and infrastructure
- Would result in the village population growing excessively

EXPIRY DATE OF APPLICATION: 30/07/2008

REASONS FOR DELAY IN DECISION:

- timing of receipt of representations

PLANNING ASSESSMENT:

THE PROPOSAL:

1. The site is located on the southern edge of Pentre Saron and has a long history of use as a static caravan site. There are numerous outbuildings and a site shop/reception. The site is well screened by mature hedgerows and planting.
2. The application seeks to vary the existing consent to allow the operating season to be extended from its existing period (1st March to 31st October) to 1st March in any one year to 14th January the following year.

RELEVANT PLANNING HISTORY:

3. 11/2856 – Retention of 5 holiday caravans (temporary permission granted under code nos 11/2287 and 11/2469: Refused 12/2/71

P429/33 – Appeal of the above refusal; Allowed February 1972, with condition 3 limiting operating season to 1st March to 31st October.

34/1087 – Stationing of 2 additional holiday caravans; Granted 20/2/76 with condition 3 limiting operating season to 1st March to 31st October.

PLANNING POLICIES AND GUIDANCE:

4. DENBIGHSHIRE UNITARY DEVELOPMENT PLAN (adopted 3rd July 2002)
Policy GEN 3 - Development outside Development Boundaries
Policy GEN 6 - Development Control Requirements
Policy TSM 9 - Static Caravan Development
Policy TSM 10 – Extensions of /Improvements to existing Static Caravan Sites

GOVERNMENT GUIDANCE:

Planning Policy Wales March 2002

MAIN PLANNING CONSIDERATIONS:

5.
 - i) Principle
6. In relation to the main consideration:
 - i) Principle
The reason for the imposition of a condition limiting the operating season to 1st March to 31st October was to ensure that the caravans are not used for permanent residential purposes, as such use in this location would be contrary to long standing planning policy, both at local level and national. It is considered therefore that the extension to the operating season is acceptable provided it does not result in the caravans being used for permanent residential purposes. To this end it is considered that the proposal is acceptable subject to a condition requiring the caravans to be for holiday purposes only. The trend to allow a longer season of operation for holiday caravan sites is well established and it is considered unreasonable to oppose this.

It is further noted that the proposal seeks to synchronise the operating season as allowed by the caravan site licence and planning regulations.

SUMMARY AND CONCLUSIONS:

7. It is considered that to allow this extension to the operating season, to bring the planning permission in line with the standard static caravan site licence is

reasonable and acceptable in planning policy terms, and it would not lead to the site becoming a permanent residential site.

RECOMMENDATION: APPROVE-

Condition 3 shall read as follows:

3. The caravans shall be occupied only during the period commencing on 1st March and terminating on the 14th January in the following year.

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

1. In order that the caravans shall not be used for permanent residential purposes.

NOTES TO APPLICANT:

You are reminded that the variation granted applies solely to condition 3 of the permissions referred to, and no other conditions on permissions applying to the site.

ITEM NO: 5

WARD NO: Prestatyn East

APPLICATION NO: 43/2008/0934/ TP

PROPOSAL: Works to trees subject to a Tree Preservation Order

LOCATION: Land off Nant Hall Road Prestatyn

APPLICANT: Mr Alex Clare Stadium

CONSTRAINTS: Tree Preservation Order

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

CONSULTATION RESPONSES:

PRESTATYN TOWN COUNCIL
Awaiting response to amended plans

TREE CONSULTANT, FARMING & WILDLIFE ADVISORY GROUP
No objection

HEAD OF TRANSPORTATION & INFRASTRUCTURE
No objection

RESPONSE TO PUBLICITY:

Letters of representation received from:

1. Mr J. Johnson, 30 Nant Hall Road, Prestatyn
2. R.M. Hughes, Aberconway House, 26, Clwyd Avenue, Prestatyn
3. Cllr L. Muraca (Prestatyn Town Council), Old Fallings, 9, Mostyn Avenue, Prestatyn
4. Mary Mottram (via e-mail)
5. Anthony Astubry, The Lodge, Bryneithin Avenue (via e-mail)
6. Mr. R. D. Jones, 12, Llys Bodnant, Nant Hall Road, Prestatyn
7. Mr G Bourne, 14 Lon Eirlys, Prestatyn
8. Lynn Lodge, 8 Bryneithin Avenue, Prestatyn
9. B. Meakin, 20 East Avenue, Prestatyn

Summary of planning based representations:

- i) Impact on the visual amenity/character of Nant Hall Road

EXPIRY OF APPLICATION: 18/11/2008

PLANNING ASSESSMENT:**THE PROPOSAL:**

1. This application relates to a group of trees protected by a Tree Preservation Order on Nant Hall Road. The trees are located to the frontage of the new retail development approved on the site of the former Somerfield store, which has recently been demolished.

2. This application proposes various pruning and crown lifting work to the group of trees closest to the High Street end of Nant Hall Road and includes the removal of 1 no. sycamore tree required to facilitate a 2m wide cycle/footway along the frontage of the site. This application includes details of 3 no. replacement birch trees, to be replanted within the group.

RELEVANT PLANNING HISTORY:

3. 43/2007/0866/PF Erection of retail units, provision of parking and servicing areas, new highway access, and associated landscaping and site works GRANTED 31st March, 2008

PLANNING POLICIES AND GUIDANCE:

4. DENBIGHSHIRE UNITARY DEVELOPMENT PLAN (adopted 3rd July 2002)
Policy GEN 6 Development Control Requirements
Policy ENV 7 Landscape/townscape Features

GOVERNMENT GUIDANCE

Planning Policy Wales (March 2002)

MAIN PLANNING CONSIDERATIONS:

5.
 - i) Impact on visual amenity/character of the area
6. In relation to the main planning consideration in paragraph 5 above:
 - i) Impact on visual amenity/character of the area
Nant Hall Road is characterised by a number of protected mature trees which form a significant feature within the area and which are of a very high amenity value. In this instance it is necessary to balance the issues of highway safety in relation to the retail store development, the health and well-being agenda and the visual amenity of the tree to be lost. Taking into account these issues and also having regard to the health of the tree (which is in the poorest of health) and the proposed replacement trees, the removal of 1 no. tree is considered an acceptable proposal in this particular instance and would not result in a significant impact on visual amenity or on the character of the area. There are no objections from the Tree Specialist to the proposals for remedial works and the removal of the tree.

SUMMARY AND CONCLUSIONS:

7. It is not considered that there would be no adverse impact on visual amenity or on the character of the area.

RECOMMENDATION: - GRANT subject to the following conditions:-

1. All works shall be carried out by a competent tree surgeon in accordance with British Standard Recommendations for Tree Work BS 3998, 1989.
2. The replacement trees shall be planted within the first planting season following the felling of the existing trees. Any trees, which within a period of five years of their planting 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. In the interests of good arboricultural practice.
2. In the interests of visual amenity.

NOTES TO APPLICANT:

None

ITEM NO: 6

WARD NO: Rhyl South West

APPLICATION NO: 45/2008/0792/ PF

PROPOSAL: Use of land for storage of approximately 35,000 tons of inert waste materials and subsequent re-profiling of former landfill

LOCATION: Land at (South side of) Glan Morfa Industrial Estate Marsh Road Rhyl

APPLICANT: Mr Jim Espley Denbighshire County Council

CONSTRAINTS: Wildlife Site
Section 106
Landfill Site
Historic Contaminative Use L

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

CONSULTATION RESPONSES:

RHYL TOWN COUNCIL

No objection subject to conditions being attached to limit the period of operation and ensure that no mud is brought onto the public highway.

COUNTY ECOLOGIST

No objection subject to conditions being attached to ensure no loss of biodiversity as a result of the works.

HEAD OF TRANSPORT AND INFRASTRUCTURE

No objection subject to condition.

ENVIRONMENT AGENCY WALES

No objection. Remind the applicant that an exemption under the Environmental Permitting Regulations 2007 will be required.

COUNTRYSIDE SECTION

No objection

RESPONSE TO PUBLICITY:

EXPIRY DATE OF APPLICATION: 14/09/2008

REASONS FOR DELAY IN DECISION:

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

PLANNING ASSESSMENT:

THE PROPOSAL:

1. The application involves the storage of approximately 35,000 tonnes of inert waste materials at land at (south side of) Glan Morfa Industrial Estate., Marsh Road, Rhyl. The material is to be made up of soil currently being stored at Rhuddlan, Station Road and additional soil material from the Tesco development in Prestatyn. A location plan is included at the front of the report.
2. The site includes land formally used as a municipal landfill site which closed in 1985. An application for a change of use from landfill to a Nature Park was subsequently approved and implemented on part of the site, as shown in figure X. The proposed storage area is located within the north-eastern part of the designated Glan Morfa Countryside site. This part of the site was identified as an informal games area following a public participation exercise carried out by Countryside Services in 1997-8 and is considered to have minimal wildlife value. At the time of preparing this report a potential BMX/cycle track scheme for this site had not been submitted to the Planning Department. It is not considered this temporary use of land would prejudice any future scheme.
3. Material was previously brought on to the site to restore and profile the site; however, the applicant considers the works already undertaken to be inadequate, causing poor drainage which affects the safe operation of the civic amenity site. It is intended to use the soil material to profile the site to help resolve the drainage problems. The applicant is considering the redevelopment of the existing civic amenity site which could potentially make use of the soil material. However, this would require a separate planning application and is therefore not considered as part of this application.
4. The storage of the waste material is regulated by the Environment Agency, using an exemption under the Environmental Permitting Regulations 2007. This will limit the period of time that the material can be stored to 6 months prior to its use and ensure that the material being stored does not pose a risk to the surrounding environment by virtue of its composition.
5. It is proposed that the soil will be moved over a period of approximately 6 weeks using 8 wheelie tippers and an estimated 75 movements per day.

RELEVANT PLANNING HISTORY:

6. 10764 Use of land for controlled tipping of refuse GRANTED

45/608/98/PF Change of use from landfill to Nature Park with landscaping activity.
– GRANTED 17th September 1999

PLANNING POLICIES AND GUIDANCE:

7. DENBIGHSHIRE UNITARY DEVELOPMENT PLAN (adopted 3rd July 2002)
 - Policy STRAT 3 - Waste Disposal / Reuse
 - Policy GEN 3 - Development outside development boundaries
 - Policy CPZ 1 - Development within the Coastal Planning Zone
 - Policy ENV 5 - Sites of Local Conservation Importance
 - Policy ENV 9 - Community Woodlands
 - Policy REC 3 - Open Space/Recreation Allocations
 - Policy MEW 11 - Waste Management Facilities

MAIN PLANNING CONSIDERATIONS:

8. The main planning considerations are considered to be:
 - i) Principle

- ii) Waste
- iii) Public Rights of Way
- iv) Nature Conservation
- v) Visual Impact
- vi) Impact on Highway Safety
- vii) Flood Risk

9. In relation to the points identified in paragraph 8 above:

- i) Principle
The broad principle of the development is acceptable. Whilst the site lies outside of the development boundary, the intention is to use the soil to assist in the restoration of the now closed landfill site. In this respect, the development needs to be outside of the development boundary. Given the time periods involved here there does not appear to be any significant conflict with adopted policies and guidance or other potential land use considerations.
- ii) Waste
This proposal will prevent a large volume of material from being disposed in landfill and therefore contribute to the objectives and principles set out in the National Waste Strategy, Technical Advice Note 21 and Regional Waste Plan. The proposal satisfies the proximity principle as the waste material will be sourced from the local area and used on the site.
- iii) Public Right of Way (PROW)
A public right of way runs along the eastern boundary of the Glan Morfa Countryside site. Whilst the proposed storage area does not impact directly on the public right of way, any movement of the soil around the site could potentially impact on the PROW if not carefully controlled. The imposition of an appropriate planning condition will deal with this.
- iv) Nature Conservation
The site is located within an area designated under Policy ENV5 for its local conservation importance. Development which would unacceptably harm the conservation of such sites will not be permitted. The proposed storage area is located to the north east of the designation and is considered to have minimal wildlife value. However, this has not been confirmed by a walkover survey. In addition, any movement of the soil could potentially impact on wildlife if not carefully controlled. The majority of the nature park, excluding the proposal area, has been restored to re-create wild meadow. It is important therefore, that prior to the deposit of any material an inspection of the area to be used is carried out. This is also covered by a planning condition.
- v) Visual Impact
The proposal will have a temporary impact on the landscape because the material can only be stored for a maximum of 6 months.
- vi) Impact on Highway Safety
The proposal will have a temporary impact on the highway network. The Head of Transport and Infrastructure has suggested an all encompassing condition to deal with potential highway amenity issues.
- vii) Flood Risk
The proposed storage area lies outside of the flood risk area; however, a small part of the site to the north east of the application site lies within flood zone C1. The majority of the landfill is classed as zone B and is outside of the Environment Agency flood zones. Rhyll Cut runs adjacent to the Glan Morfa

Countryside site, The Environment Agency have no objections to the proposal but request that the material is not deposited within 7m of Rhyl Cut.

SUMMARY AND CONCLUSIONS:

10. The principle of the development is considered acceptable as it will assist in meeting the aims and objectives set out in the National Waste Strategy, Technical Advice Note 21 and the North Wales Regional Waste Plan. The re-profiling of the landfill will result in an overall improvement to the area, through enhanced drainage. . There will be temporary impacts on public amenity and visual amenity; however, these will be limited to a small part of the overall site and highways impacts will be temporary. No objections were received in respect to this application.

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 soil shall be deposited within 7m of the Cut.
3. A site walkover should be carried out by a suitably qualified person prior to works in order to locate any areas of biodiversity interest.
4. The area should be restored sympathetically to re-create wild meadow areas. A proposal for landscaping should be submitted and agreed in writing by the local planning authority prior to any works on the site.
5. In relation to the carrying out of the waste removal, no material shall be permitted to be moved until the written approval of the Local Planning Authority has been obtained in relation to the wheel wash facilities, traffic management scheme, hours and days of operation, the management and operation of construction vehicles and the construction vehicle routes, the movement of the waste shall be implemented strictly in accordance with the approved details.

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 accord with Policy ENP1.
3. To accord with Policy ENV 5 and ensure areas of biodiversity interest are not disturbed/destroyed.
4. To accord with Policy ENV 5.
5. In the interest of the free and safe movement of traffic on the adjacent highway and the interests of highway safety.

NOTES TO APPLICANT: NONE

ITEM NO: 7

WARD NO: Rhyl East

APPLICATION NO: 45/2008/0822/ PS

PROPOSAL: Erection of conservatory to rear of existing day nursery and variation of Condition No. 1 on planning permission Ref. No. 45/2007/0302 to read:- "No more than 40 children shall be accommodated at the children's day nursery at any one time"

LOCATION: 37 Marine Drive Rhyl

APPLICANT: Mr Tony Thomas

CONSTRAINTS: Article 4 Direction
CLB-Class B Road

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

CONSULTATION RESPONSES:

RHYL COUNCIL

"Object the original condition was imposed 'in the interests of residential amenity and highway safety'. It is the view of the Town Council that the proposal will not address the Planning Authorities reasons for the imposed conditions."

HEAD OF TRANSPORT & INFRASTRUCTURE-

No objection to original consultation, subject to conditions.

Awaiting response to amended description re-consultation sent 30/09/2008

RESPONSE TO PUBLICITY:

Letter of representation on original consultation received from:

Mr and Mrs Jackson, 39 Marine Drive, Rhyl

Summary of planning based representations:

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

EXPIRY DATE OF APPLICATION: 19/11/2008**PLANNING ASSESSMENT:****THE PROPOSAL:**

1. The application comprises two elements; the erection of a conservatory and the variation of Condition No. 1 on planning permission Ref. No. 45/2007/0302 to read:- "No more than 40 children shall be accommodated at the children's day nursery at any one time".
2. The proposal relates to a property used as a day nursery with a condition restricting the number of children to 32. The conservatory extension would facilitate a potential increase in the numbers of children attending from 32 to a total of 40. Projecting 5.2m on the south east of the rear elevation, the proposed 27m sq upvc conservatory is glazed on the west and south elevations with a blank

render wall elevation to the east.

3. The large detached building comprising the nursery and residential unit above is served by a vehicular access off an unadopted road off Marine Drive. The 26m long rear yard is bounded by a 2m high wall on the western side and by outbuildings and a wall on the eastern side. The access to the rear car-parking is at the south western corner of the site. There is an existing garage in the south eastern corner of the site.
4. The applicants have submitted a supporting statement which refers to the following:
 - i) Since the original application in 2006 the applicants have acquired an additional premises at St Thomas Church in Rhyl which they use as a 'fun club'. The 'fun club' is open to children aged 3 and over.
 - ii) The intention is that Beech House will be used as a nursery for children up to 3 years, when they reach 3 years they will be transferred to the 'fun club'.
 - iii) Owing to the condition on the original consent, the restriction on outside play remains in place, the applicants have also undertaken a voluntary agreement with the adjacent occupiers to refrain from using the outdoor play area from 12.00 to 14.00 hrs.
 - iv) Use of the outdoor play space depends on the age of the children, at present owing to the large number of babies the space is only used for 2-3 hours per day, weather permitting.
 - v) At present 20% of users of the nursery utilise the pick-up, drop-off service offered by the applicants. Parental pick-up and drop-off is supervised, peak times at the nursery are between 8.00- 8.30 hrs and 17.00-17.30hrs.
 - vi) Increasing the number of children to 40 is unlikely to increase the requirement for staff parking. At present of 11 full-time staff only 3 drive to work and park in the designated car-park at the rear.

RELEVANT PLANNING HISTORY:

5. **45/2006/868/PF** - Change of use of ground floor flat to children's day nursery for 25 children with living accommodation over. - Granted 04/10/06

45/2007/302/PF - Variation of Condition No. 2 on Planning Permission Ref No. 45/2006/0868/PF to allow increase in number of children from 25 to 32. Granted 01/08/2007

PLANNING POLICIES AND GUIDANCE:

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

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

GOVERNMENT GUIDANCE
Planning Policy Wales March 2002

MAIN PLANNING CONSIDERATIONS:

7.
 - i) Principle
 - ii) Residential Amenity
 - iii) Highways
8. In relation to the main considerations:-

- i) Principle
The principle of the proposed extension and variation of condition is considered acceptable and in line with Policies GEN 6, CF1 and SPG 3. The site is located to serve the local population, accessible to non-car users and located within the Rhyl development boundary. Extensions are permitted provided the general development control criteria are met. The key considerations relating to this proposal are; the character of the building and area, and the amenity of adjacent occupiers. The conservatory will not impact adversely on either. The nursery is an established use which has been operating since late 2006. The planning section is not aware that any complaints have been received, or concerns raised at any time other than during the previous application process.
- ii) Residential amenity
The conservatory is located at the rear of the property and has a blank elevation to the east, therefore will not impact on adjacent occupiers by virtue of overlooking or loss of privacy. The nursery is a weekday, daytime use and unlikely to generate more excessive noise levels than existing. Considering the supporting statement and intentions of the applicant it is envisaged that the outside space may be used less intensively if the nursery adopts a 0 to 3 years policy. Notwithstanding this, the condition on the original permission remains in place which restricts the number of children playing outside at any one time. As such the proposed increase in numbers using the building will not appear likely to impact significantly more than at present on nearby occupiers.
- iii) Highways
Highways Officers have raised no objection to the proposal. It is understood that they have monitored the use and they state that there is limited traffic flow. It is considered that the parking to the rear and parking at the front remains adequate for an intensified use, and the related picking up and dropping off would not impact on highway safety or lead to a proliferation of parking on the highway. A condition can be attached to control the number of children using the nursery to 40.

SUMMARY & CONCLUSIONS:

- 9. The proposal is considered acceptable, and subject to conditions is recommended for permission.

RECOMMENDATION: GRANT- subject to the following conditions:-

- 1. The development hereby permitted shall be begun before the expiration of five years from the date of this permission.
- 2. The materials and finishes of the external surfaces of the walls and roof of the building hereby permitted shall be of the same texture, type and colour as those on external walls and the roof of the existing building.
- 3. No more than 40 children shall be accommodated at the children's day nursery at any one time.

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

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

NOTES TO APPLICANT:

You are reminded of the existing conditions on the original permission granted under reference 45/2007/0302/PS which still apply to the development.

ITEM NO: 8

WARD NO: Rhyl East

APPLICATION NO: 45/2008/1011/ PF

PROPOSAL: Erection of first floor extension to form two-storey dwelling and extension to rear

LOCATION: 2 Brynhedydd Bay Rhyl

APPLICANT: Mr Clive Williams

CONSTRAINTS: C1 Flood Zone
Article 4 Direction

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

CONSULTATION RESPONSES:

RHYL TOWN COUNCIL
"No objection".

RESPONSE TO PUBLICITY:

Representations received in objection from:

1. Mr A & Mrs B Shilton, 4 Brynhedydd Bay
2. Mr A & Mrs M Smith, 3 Garford Road
3. Mrs Sylvia Nicholson, 1 Garford Road
4. Mr & Mrs Free, 162 Rhyl Coast Road (also on behalf of Mrs Margaret Smith of 174 Rhyl Coast Road)

Representation received in support from:

1. P M Sorrill, 1 Brynhedydd Bay, Rhyl

Summary of planning based representations in objection:

- i) Loss of privacy;
- ii) The road is typified by bungalows;
- iii) Out of keeping with the area.

EXPIRY DATE OF APPLICATION: 29/10/2008

PLANNING ASSESSMENT:**THE PROPOSAL:**

1. The property is a detached gable-ended bungalow standing adjacent to another similar style property at no. 4. The road is comprised of properties of an array of styles and sitings including bungalows and houses with gable-ended and hipped-roof styles including some with dormer windows. The properties to the south of the site front onto Rhyl Coast Road (nos. 162 to 168) with their rear gardens abutting the subject site. An electricity sub-station stands within the rear corner of the rear garden. Brynhedydd Bay is an unadopted road.
2. The application proposes:

- i) Two-storey rear extension to allow for a study and enlarged bedroom on the ground floor with a bedroom above. The extension projects out by 2.1 metres and spans the width of the bungalow at 7.0 metres;
- ii) Raising of the existing roof over the property from the current eaves height of 2.6 metres and ridge height of 5.1 metres up to 3.7 metres high eaves and 6.3 metres ridge, an overall increase in height of 1.2 metres. The new roof has windows to the front and rear gables, three roof lights to one side facing no. 4 Brynhedydd Bay and three roof lights to the other side facing nos. 164 and 166/8 Rhyl Coast Road.

RELEVANT PLANNING HISTORY:

3. **45/2008/0640/PF**

Erection of rear extension and raising roof height to form two-storey pitched-roof dwelling and erection of conservatory to front of dwelling: Refused 4 August 2008 for the following reasons:

- 1) *The addition of the conservatory will project close by to the frontage of the property in a row of properties which have a distinct 'building line' in terms of their set back from the road. As such, it is considered that the addition of a glazed conservatory to the front of the dwelling would be out of character and harmful to the visual appearance of the street scene due to its siting proximity to the front boundary, contrary to criterion i) of Policy GEN 6 and criteria ii) and iii) of Policy HSG 12 of the Denbighshire Unitary Development Plan and advice contained in Supplementary Planning Guidance 1 'Extensions to Dwellings' and Supplementary Planning Guidance 24 'Householder Development Design Guide'.*
- 2) *The two new dormer windows in the side of the new roof will be located close to the side boundary and directly overlook adjacent rear gardens, and result in a loss of privacy and amenity to the occupiers of adjacent properties. The proposal is therefore contrary to criterion v) of Policy GEN 6 of the Denbighshire Unitary Development Plan and advice as contained in paragraph 9.3.3 of Ministerial Interim Planning Policy Statement 01/2006.*

4. **RYL/536/80** Porch and car port extension – GRANTED 20th October 1980

PLANNING POLICIES AND GUIDANCE:

- 5. DENBIGHSHIRE UNITARY DEVELOPMENT PLAN
 - Policy GEN 1 – Development within Development Boundaries
 - Policy GEN 6 – Development Control Requirements
 - Policy HSG 12 – Extensions to Dwellings

SUPPLEMENTARY PLANNING GUIDANCE

SPG1 – Extensions to Dwellings

SPG24 – Householder Development Design Guide

GOVERNMENT GUIDANCE

Planning Policy Wales March 2002

Ministerial Interim Planning Policy Statement 01/2006

MAIN PLANNING CONSIDERATIONS:

- 6.
 - i) Changes made to the proposed plans since the August 2008 refusal
 - ii) Visual appearance of the extension and increase in roof height
 - iii) Impact on the privacy and amenity of nearby occupiers
 - iv) The objections of nearby occupiers

7. In relation to the considerations as noted in paragraph 5:
- i) The plans have been amended since the previous refusal to (a) delete the proposed front conservatory and (b) to replace the dormer windows to the side facing the rear garden of the properties on Rhyl Coast Road with roof lights.
 - ii) The property stands within an area formed by a mixture of properties with no prevailing style of dwelling and a mixture of heights and ages of bungalows and houses. The only two dwellings in the area which are of a similar appearance are the subject property and its neighbour at no. 4 which are of the same form. It is not adjudged that the change of appearance of the dwelling from a bungalow to a low-level style house with a two-storey rear extension will therefore look out of keeping to an extent which would justify a refusal of permission. Given the juxtaposition of nearby dwellings and the composition of housing form, a refusal of permission is not considered to be substantiated in visual appearance terms. Furthermore, given the relatively small increase to the overall height of the dwelling proposed it is considered that the extensions remain subordinate to the existing dwelling. This is in compliance with criteria of Policy HSG 12 – Extensions to Dwellings.
 - iii) The existing bungalow has a rear facing window at first floor level of the gable wall which already affords a degree of overlooking of the adjacent garden. It is not therefore adjudged that this aspect of the scheme will introduce additional overlooking which would justify a refusal. In addition, the replacement of the two dormer windows in the side of the new roof with roof lights will preclude downward overlooking to a large extent and therefore on balance this aspect is also acceptable. The resultant size of the dwelling and its relationship with neighbouring properties would not conflict with criteria i), or v) of Policy GEN 6 or criteria of Policy HSG 12.
 - iv) The objections of nearby occupiers are noted; however the changes made to the submitted plans since the previous refusal and the relatively small increase in height proposed are adjudged to render the scheme acceptable.

SUMMARY AND CONCLUSIONS:

8. 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. The materials and finishes of the external surfaces of the walls and roof of the building hereby permitted shall be of the same texture, type and colour as those on external walls and the roof of the existing building.
3. 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 extension hereby permitted, unless otherwise agreed in writing by the Local Planning Authority.

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

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

3. To maintain a reasonable standard of privacy in adjoining dwellings and gardens in the interests of amenity

NOTES TO APPLICANT: None

SES

ITEM NO: 9

WARD NO: Rhyl West

APPLICATION NO: 45/2008/1029/ PF

PROPOSAL: Redevelopment of existing bus station layout; provision of cycle route; relocation of taxi rank and revisions to parking facilities

LOCATION: Rhyl Bus Station Bodfor Street Rhyl

APPLICANT: Denbighshire County Council

CONSTRAINTS: C2 Flood Zone
Tree Preservation Order
Town Heritage Area
Listed Building
Historic Contaminative Use E
Conservation Area
Article 4 Direction

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

CONSULTATION RESPONSES:

RHYL TOWN COUNCIL
No objection

CONSERVATION OFFICER
No objection

HEAD OF TRANSPORT & INFRASTRUCTURE
No objection subject to inclusion of condition requiring additional details of design, construction, street lighting, drainage, traffic orders and the highway works, the site compound location, traffic management scheme, hours and days of operation, the management and operation of construction vehicles and the construction vehicle routes.

ENVIRONMENT AGENCY
No objection subject to inclusion of condition relating to drainage details.

RESPONSE TO PUBLICITY:

Letter of representation received from:

1. C. Parry (comments via Public Access Portal)

Summary of planning based representations:

- i) Neither object or support, comments that - "This "new" layout seems remarkably like the layout of the bus station before it was changed to what it is now".

EXPIRY DATE OF APPLICATION: 03/11/2008

PLANNING ASSESSMENT:

THE PROPOSAL:

1. The application relates to works at Rhyl Bus Station, located adjacent to Rhyl Train Station off Bodfor Street. The application site area extends from Elwy Street, through to Vale Road Bridge then Morley Road and Grange Road. The site is located within the development boundary of Rhyl, within a designated Conservation Area, and lies adjacent to group of listed train station buildings.
2. This application is for the redevelopment of the whole bus station layout, provision of a cycle track from the station under Vale Road Bridge through Morley Road to Grange Road, the relocation of the taxi rank and revisions to parking facilities. The proposal also includes new bus shelters, stands and lighting, new cycle stands, new toilet facilities, new artwork, new paving, tree planting and landscaping.

RELEVANT PLANNING HISTORY:

3. None

PLANNING POLICIES AND GUIDANCE:

4. DENBIGHSHIRE UNITARY DEVELOPMENT PLAN (adopted 3rd July 2002)
Policy GEN 6 Development Control Requirements
Policy TRA 1 Public Transport
Policy TRA 11 Walking & Cycling routes

GOVERNMENT GUIDANCE

Planning Policy Wales (March 2002)
TAN 18: Transport (2007)

MAIN PLANNING CONSIDERATIONS:

5.
 - i) Impact on visual amenity/character of the Conservation Area and Listed Building
 - ii) Impact on highway safety
6. In relation to the main planning considerations noted above:
 - i) Impact on visual amenity/character of the Conservation Area and Listed Building
The site is located within a designated Conservation Area adjacent to the listed train station building. Subject to suitable controls over the final finishes to the street furniture, paving, shelters and planting, it is considered the proposal would preserve and enhance the Conservation Area and protect the character of the listed building. The redevelopment proposals would represent a significant improvement to the bus and train station area, improving both pedestrian and vehicle movements in and around the site and creating a more pleasant physical realm.
 - ii) Impact on highway safety
The proposal involves the redevelopment of public transport facilities and the provision of a cycle route. Details relating to the detailed design, construction, street lighting, drainage, traffic orders and the highway works, the site compound location, traffic management scheme, hours and days of operation, the management and operation of construction vehicles and the construction vehicle routes can be dealt with through conditions. There would be no adverse impact on highway safety and the scheme would comply with

adopted policies and guidance.

iii)

SUMMARY AND CONCLUSIONS

7. There would be no adverse impact on visual amenity, the character of the Conservation Area and Listed Station Building or on highway safety.

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. Full details of the highway works as indicated on the approved drawings, shall be submitted to and approved in writing by the Local Planning Authority before any works start on site. The details to be approved shall including the detailed design, construction, street lighting, drainage, traffic orders and the highway works shall be fully constructed in accordance as the approved details before the development is brought into use.
3. In relation to the carrying out of the works, no development shall be permitted to take place until the written approval of the Local Planning Authority has been obtained in relation to the site compound location, traffic management scheme, hours and days of operation, the management and operation of construction vehicles and the construction vehicle routes, the works shall be carried out strictly in accordance with the approved details.
4. Full details of the paving, shelters, street furniture and planting shall be submitted to and approved in writing by the Local Planning Authority and the development shall be carried out strictly in accordance with the approved details.

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 the free and safe movement of all user of the highway and to ensure the formation of a safe and satisfactory access.
3. In the interest of the free and safe movement of traffic on the adjacent highway and in the interests of highway safety.
4. To preserve and enhance the character and appearance of the Conservation Area/Listed Building.

NOTES TO APPLICANT:

You are advised to discuss the highway works and any traffic orders at an early stage with the Head of Transport and Infrastructure.

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).

CALL IN PLANNING APPLICATION

**PROPOSED CONSTRUCTION OF 15 WOODLAND LODGES
RUTHIN CASTLE HOTEL, RUTHIN
APPLICATION CODE NO. 02/2007/0177/PF**

REQUEST FOR CONFIRMATION OF STANCE FOR CALL IN INQUIRY

1. PURPOSE OF REPORT

- 1.1 The report seeks the resolution of the Committee on its stance in relation to an application which is the subject of a 'Call In' Inquiry.
- 1.2 Members of the Committee may be aware of the background to this report. A brief outline follows.

2. BACKGROUND

- 2.1 The planning application to develop woodland lodges in two locations within the grounds of Ruthin Castle was originally submitted to Denbighshire County Council, as Local Planning Authority, in February 2007.
- 2.2 The application originally proposed the erection of 5 lodges in the woodland area to the north west of the Ruthin Castle Hotel, and 10 lodges in the woodland area to the south west.
- 2.3 The application was reported to the Planning Committee of Denbighshire County Council on 20th February 2008. The planning officer's report recommended refusal of planning permission based on the case as presented at that time. Consideration of the application was deferred at the request of the applicant, to allow opportunity to explore options, including development of the idea of linking the development to the creation of Charitable Trust to conserve the Castle Walls.
- 2.4 The applicant's agents subsequently submitted additional supporting information and plans, including:
 - A detailed statement on the Charitable Trust proposal.
 - Revised plans showing 4 lodges in the north west woodland and 11 lodges in the south west woodland.
 - A detailed statement of case for the location of the proposed lodges.
- 2.5 A further reconsultation exercise was carried out on the 'revised' submission on 26th March 2008. A report on the application was placed on the agenda for the planning committee meeting on the 11th June 2008. The report

recommended the grant of planning permission subject to completion of a Section 106 Agreement to secure the following:

- the establishment of the Charitable Trust
- the gifting of the Castle Walls to the Trust
- the funding of the Trust for a period of 10 years from the proceeds of the lodge development
- the preparation of a full Conservation Plan
- public access to the Castle Walls

- 2.6 Prior to consideration of the application at the June Planning Committee, notification was received from officers of Planning Division of Welsh Assembly Government that responsibility for determination of the application had been taken away from the County Council. The basis of the 'call in' direction from the Minister for Environment, Sustainability and Housing was:

"that the proposed development raises planning issues of more than local importance, in particular, she has concluded that it raises issues which may conflict with national planning policy on the protection of the historic environment".

- 2.7 The 'call in' direction set in motion procedures administered by The Planning Inspectorate. The Inspectorate formally notified the County Council on 4th September 2008 that they intended to deal with the application through a written procedure, and set out the key dates by which the parties were obliged to submit statements. The Council informed interested parties accordingly.

- 2.8 On the 23rd September 2008, The Planning Inspectorate sent a further letter advising that the application would in fact be dealt with through the public local inquiry procedure i.e. a formal open hearing. The likely date for the Inquiry will be the 3rd March 2009, but this is subject to confirmation from interested parties and a suitable venue. To comply with the Planning Inspectorate's timetables, the Council has been obliged to forward a basic Statement of Case to the Inspectorate by the 16th October 2008. This Statement has been based on the contents of the planning officer's report to the June Committee. The Inquiry is now scheduled for the 10th March 2009, in County Hall, Ruthin.

- 2.9 Members may appreciate from the above that it has not been practical for officers to report to Planning Committee on the situation, to seek a formal resolution on its stance on the application (if it had been in a position to determine it), and on which to base the Statement of Case. This referral to Committee to seek a resolution is normal practice in dealing with appeals of this nature, including non-determination appeals where applicants exercise their rights to seek a decision from The Planning Inspectorate if the Council does not make a determination within the statutory period from submission (normally 8 weeks).

- 2.10 Whilst acknowledging the awkwardness of the situation, it is nonetheless officers' opinion that it would still be opportune to seek the resolution of the Committee on the recommendation of the Planning Officer on the application in his report to the June 2008 meeting, so this can be passed on to the Planning Inspectorate. This resolution from the Committee can not be taken as a formal determination but may assist The Planning Inspectorate in its consideration of the application.

- 2.11 Members are therefore referred to the officer report on the application at the end of this introductory report, and are requested to make a formal resolution on the recommendation.

3. RECOMMENDATION

- 3.1 That members ratify the recommendation in the Planning Officer's report on application Code No. 02/2007/0177/PF, that if the Committee had been in a position to determine the application, it would have GRANTED planning permission subject to the inclusion of a range of conditions and completion of a Section 106 agreement to secure the matters outlined in the report.

REPORT BY THE HEAD OF PLANNING AND PUBLIC PROTECTION

INFORMATION ITEM FOR PLANNING COMMITTEE
THE FORMER NORTH WALES HOSPITAL, DENBIGH

1. PURPOSE OF REPORT

- 1.1 The report is an update for the Committee on progress relating to the implementation of the Section 106 Agreement and development generally of the site.

2. PROGRESS SINCE LAST REPORT

- 2.1 The last information report was presented to the Planning Committee on 11th June 2008.
- 2.2 Development Team meetings have taken place with the owner on 30th June and 25th September 2008. Member Working Group meetings have been held on the same dates to update on developments.

In relation to the listed buildings

The owner's agents have forwarded detailed proposals seeking approval of conditions on the listed building consent, and it is understood that preliminary works have been undertaken in preparation for demolition and asbestos removal. The works will include temporary structural support for those parts of the buildings identified in the Urgent Works survey and report as in danger of serious structural failure.

The demolition and asbestos removal works are eligible expenditure from the Restoration Fund.

In relation to the new build development

The owners' agents have forwarded detailed proposals seeking approval of conditions on the planning consent, including a Phase 1 Development Brief setting out basic principles for the housing development within the hospital grounds. Officers have consulted on the proposals and have sought input from the Design Commission for Wales.

There is no indication of current interest in the site from housebuilders.

The next Development Team meeting will be on the 4th November, 2008.

3. RECOMMENDATION

- 3.1 That the Committee accepts this information report.

Denbighshire Planning Appeals

List of Outstanding Appeals and Appeal Decisions from 1st April 2008 to 30th September 2008



Proposal - Development of equine treatment and therapy centre, and stud farm including ancillary stabling and educational training facility, use of adjoining pasture land for grazing of horses and sheep, installation of private treatment plant, closure of existing access and formation of new vehicular access

	Officer	Decision level	Location	Type	Rec Date	Date of decision	Decision	Costs
Pending	PJM	Delegated	Tytynyrch Land, , Bodelwyddan, Glascoed, LL229DD,	Informal 22/10/2008 0	12/06/2008	Pending		0.00

Key Issue =

Proposal - Erection of 15 no. woodland lodges for leisure leasing and or letting and installation of new sewage treatment tanks

	Officer	Decision level	Location	Type	Rec Date	Date of decision	Decision	Costs
Pending	IXW	Committee	Ruthin Castle Hotel, Stryd Y Castell, Ruthin, , LL152NU,	Public	04/09/2008	Pending		0.00

Key Issue = Impact on Historic Park and Garden, Listed Buildings, Ancient Monument. Means of safeguarding Castle walls.

Denbighshire Planning Appeals
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Proposal - **Erection of two-storey pitched-roof extension at rear of dwelling**

	Officer	Decision level	Location	Type	Rec Date	Date of decision	Decision	Costs
Pending	PDG	Delegated	2 Pont Garreg, , Denbigh, Llandyrnog, LL164HP,	Written	10/07/2008	Pending		0.00

Key Issue = Scale of extension in relation to original dwelling

Proposal - **Erection of two-storey pitched-roof extension to side of dwelling**

	Officer	Decision level	Location	Type	Rec Date	Date of decision	Decision	Costs
Pending	PJM	Delegated	Abernant, , Denbigh, Bodfari, LL164DE,	Written	05/09/2008	Pending		0.00

Key Issue = Cumulative impact of further extensions on previously extended dwelling

Denbighshire Planning Appeals
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Proposal - **Change of use from Class B8 store and internal alterations to form Class A3 food and wine bar**

	Officer	Decision level	Location	Type	Rec Date	Date of decision	Decision	Costs
Pending	PDG	Committee	Church Institute, Lenten Pool, Denbigh, , LL163LG,	Written	02/09/2008	Pending		0.00

Key Issue = Impact upon highway

Proposal - **Erection of livestock/agricultural store building**

	Officer	Decision level	Location	Type	Rec Date	Date of decision	Decision	Costs
Pending	EOC	Delegated	Land at OS Field No. 0800, Opposite Perthi Chwarae, Llandegla Road, Mold, Llanarmon-Yn-Ial,	Written	03/09/2008	Pending		0.00

Key Issue = Size/scale/siting of agricultural building
Landscape impact

Denbighshire Planning Appeals
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Proposal - **Development of 0.35ha of land by the erection of a dwelling and installation of private treatment plant (outline application-all matters reserved)**

	Officer	Decision level	Location	Type	Rec Date	Date of decision	Decision	Costs
Pending	PG	Delegated	Land between Fron Cottage and, Cyfronydd, , Ruthin, Llanbedr Dyffryn Clwyd, ,	Written	17/09/2008	Pending		0.00

Key Issue =

Proposal - **Conversion of former job centre into 6 no. self-contained flats**

	Officer	Decision level	Location	Type	Rec Date	Date of decision	Decision	Costs
Decision	SES	Delegated	34-36, Vale Street, Denbigh, , LL163BE,	Written	17/12/2007	07/04/2008 01	APPEAL-AL	0.00

Key Issue = No parking provided - impact on highway safety

Denbighshire Planning Appeals
List of Outstanding Appeals and Appeal Decisions from 1st April 2008
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Proposal - **Erection of free-standing decorative glazed shelter to front of premises**

	Officer	Decision level	Location	Type	Rec Date	Date of decision	Decision	Costs
Decision	PDG	Committee	Bridge End Hotel, Mill Street, Llangollen, , LL208RY,	Written	11/01/2008	28/04/2008 01	APPEAL-AL	0.00

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

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

	Officer	Decision level	Location	Type	Rec Date	Date of decision	Decision	Costs
Decision	NMJ	Delegated	Land at (Part side garden of), Ridgeway, Aber Adda, Llangollen, ,	Written	16/01/2008	28/04/2008 01	APPEAL-DIS	0.00

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

Denbighshire Planning Appeals
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Proposal - **Erection of conservatory at front of dwelling**

	Officer	Decision level	Location	Type	Rec Date	Date of decision	Decision	Costs
Decision	EOC	Delegated	5, Gareth Close, Rhyl, , LL182LD,	Written	07/02/2008	07/05/2008 01	APPEAL-DIS	0.00

Key Issue = Visual impact of development at front of dwelling

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

	Officer	Decision level	Location	Type	Rec Date	Date of decision	Decision	Costs
Decision	PJM	Delegated	Bryn Coli, , Denbigh, Llanrhaeadr, LL164PW,	Public	17/08/2007	13/05/2008 01	APPEAL-AL	0.00

Key Issue = Whether structure represented a building
 Whether occupant had resided there for over 4 years

Denbighshire Planning Appeals

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

	Officer	Decision level	Location	Type	Rec Date	Date of decision	Decision	Costs
Decision	PG	Delegated	Eryrys Caravan Park, Bryn Awelon, Mold, Eryrys,	Informal 01/04/2008 0	03/01/2008	05/06/2008 0	APPEAL-AL	0.00

Key Issue =

Justification for presence of permanent residential unit.

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

	Officer	Decision level	Location	Type	Rec Date	Date of decision	Decision	Costs
Decision	PG	Delegated	Land between Greycote and, Highfield, Bishopswood Road, Prestatyn, ,	Informal 20/05/2008 0	18/01/2008	17/06/2008 0	APPEAL-AL	0.00

Key Issue =

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

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

	Officer	Decision level	Location	Type	Rec Date	Date of decision	Decision	Costs
Decision	IXW	Committee	Land at, Tarleton Street, Rhyl, ,	Informal 04/06/2008 0	05/02/2008	08/07/2008 0	APPEAL-DIS	0.00

Key Issue = Adequacy of approach road and footways.

Proposal - Erection of commercial smoke house unit

	Officer	Decision level	Location	Type	Rec Date	Date of decision	Decision	Costs
Decision	PDG	Committee	Highcroft, Birch Hill, Llangollen, , LL208LN,	Written	25/03/2008	14/07/2008 0	APPEAL-AL	0.00

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

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Proposal - **Development of 0.25 ha of land by the erection of 3 no. dwellings and installation of private treatment plant (outline application)**

	Officer	Decision level	Location	Type	Rec Date	Date of decision	Decision	Costs
Decision	PJM	Delegated	Land adjoining, Llwyn Afon, , Denbigh, Llanrhaeadr, LL164NG,	Informal 24/06/2008 0	08/04/2008	28/07/2008 0	APPEAL-DIS	0.00

Key Issue = Whether development represented infilling
 Issues of development in open countryside

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

	Officer	Decision level	Location	Type	Rec Date	Date of decision	Decision	Costs
Decision	PJM	Delegated	(Rhuddlan Triangle), Land at, Marsh Road, Rhyl, Rhuddlan,	Public	18/03/2008	29/08/2008 0	APPEAL - WIT	0.00

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

Denbighshire Planning Appeals

List of Outstanding Appeals and Appeal Decisions from 1st April 2008 to 30th September 2008



Proposal - Development of 0.07ha of land by the erection of single dwelling and detached garage (Outline application including siting, design, external appearance and access)

	Officer	Decision level	Location	Type	Rec Date	Date of decision	Decision	Costs
Decision	EOC	Committee	Land at rear of, 51, Brighton Road, Rhyl, ,	Informal 22/07/2008 0	10/04/2008	09/09/2008 0	APPEAL-AL	0.00

Key Issue =

Proposal - Retention of roller shutter blinds to ground-floor windows (Retrospective application)

	Officer	Decision level	Location	Type	Rec Date	Date of decision	Decision	Costs
Decision	EOC	Delegated	The Games Exchange, 131, High Street, Rhyl, , LL181UA,	Written	17/06/2008	10/10/2008 0	APPEAL - WIT	0.00

Key Issue = Appeal relating to the imposition of a planning condition seeking removal of shutter by May 2009, in the interest of visual amenity; the character and appearance of the conservation area and THI.