

PWYLLGOR CYNLLUNIO
CYFARFOD: 28ain Hydref 2009
Eitem: 2

PLANNING COMMITTEE
MEETING – 28th October 2009
Agenda Item: 2

DEDDF CYNLLUNIO TREF A GWLAD 1990
CYNLLUNIO TREF A GWLAD (DATBLYGIAD CYFFREDINOL)
GORCHYMYN 1995 - HYD HEDDIW
DEDDF CYNLLUNIO A IAWNDAL 1991
RHEOLIAD HYSBYSEBU CYNLLUNIO TREF A GWLAD 1994
DEDDF CYNLLUNIO (ADEILADAU RHESTREDIG A CHADWRAETH)
1990
CEISIADAU AM GANIATAD DATBLYGU

Adroddiadau ac argymhellion gan Swyddogion i'w hystyried a'u datrys gan Awdurdod Cynllunio'r Sir.

Bydd pob cais am y cynigion a nodir yn yr adroddiad hwn ar gael i'w archwilio gan Aelodau o'r Pwyllgor cyn ac yn ystod y cyfarfod lle ystyrir y ceisiadau.

Gellir gweld y Papurau Cefndir i bob cais, gan gynnwys ffurflenni, cynlluniau, gohebiaeth, Cynllun Datblygiad a dogfennau arweiniad yn ystod yr oriau swyddfa arferol.

Nid yw'r atodiad y cyfeiriwyd ato yn yr adroddiad ar gael yn Gymraeg ac mae hynny yn unol â Chynllun Iaith Gymraeg y Cyngor

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
INDEX TO REPORT**

Item No	Application No	Location and Proposal	Page No
1	01/2009/1102/PO	Land Adjoining Derfel The Green Denbigh Development of 0.33 hectares of land by erection of 12 No. residential units and formation of vehicular access (outline application)	1
2	23/2009/1203/PF	Pen Y Gerddi Peniel Denbigh Demolition of existing toilet and attached outbuilding and erection of two-storey pitched roof extension to side of dwelling	11
3	25/2009/1098/PF	Ysgubor Hendre Nantglyn Denbigh Change of use of land to form extension to residential curtilage of dwelling and erection of oak-framed gazebo within existing curtilage	14
4	42/2009/0641/PF	Land at rear of 25-35inc. St. Asaph Road Dyserth Rhyl Erection of 4-bedroom detached dwelling (amendment to previously-approved scheme under Code No. 42/2009/0031/PF by addition of two-storey pitched-roof extension to side)	17
5	45/2009/0409/PF	Land at 63 Brighton Road and Care Home at 71 Brighton Road Rhyl Demolition of existing two-storey dwelling and garage (63 Brighton Road), amendments to existing planning permission (Code No. 45/2008/0848/PF) for alterations and extensions and change of use to nursing home (28-bedrooms), and additional rear extensions to create a 32-bedroomed nursing home	22
6	46/2009/1025/AC	Elwy Bank High Street St. Asaph Details of the warning measures for users of the highway in relation to the access into and from the site submitted in accordance with condition number 4 of planning permission 46/2006/1097/PF	31
7	47/2009/1007/PF	Ysgol Isaf Waen St. Asaph Erection of single-storey extensions and alterations to dwelling	36

ITEM NO: 1

WARD NO: Denbigh Lower

APPLICATION NO: 01/2009/1102/ PO

PROPOSAL: Development of 0.33 hectares of land by erection of 12 No. residential units and formation of vehicular access (outline application)

LOCATION: Land Adjoining Derfel The Green Denbigh

APPLICANT: Mr E Evans Manor Gates Estate Ltd.

CONSTRAINTS:

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

CONSULTATION RESPONSES:**DENBIGH TOWN COUNCIL**

".....whilst not wishing to object to the planning application, would wish to put forward the following observations:

1. The Town Council would welcome the proposal to incorporate additional parking for existing properties and would wish to see this as a part of any planning consent.
2. The Town Council would wish to ensure that careful landscaping is incorporated into the proposed development “.

WELSH WATER/DWR CYMRU

No objections in relation to sewerage, sewage treatment or water supply implications, subject to imposition of conditions if permission is granted.

DENBIGHSHIRE COUNTY COUNCIL CONSULTEES

- Denbighshire County Council Head of Highways & Infrastructure
Welcomes the proposal to incorporate spaces for vehicles parking on the highway, and considers any detailed plans could improve this situation further. Recommends any permission is conditional on provision of visibility splays, and details of internal layout.
- Denbighshire County Council Affordable Housing Officer
Confirms high need for Affordable Housing in the town of Denbigh, and interest from local Housing Associations for tenure-neutral housing in this scheme. The proposed house types would provide a good mix and allow for creation of adapted units.
Notes the location of the site, but feels there is a demand in the Denbigh area and as the development would be a benefit to the area, supports the scheme.

RESPONSE TO PUBLICITY:

Letters of representation received from:

1. S. Smith, 5, Parc Derwen, The Green, Denbigh
2. I.R. Jones & G. Jones, Rhandir Mwyn, Parc Derwen (via e-mail)
3. P. & M. Minshull, Beechdown, The Green, Denbigh
4. C. & R. Maxwell, 16, The Green (via e-mail) (also on behalf of J. Davies, 17, The Green (via e-mail)

Summary of planning based representations:
In objection to the application: (4 of the above).

- (i) **Contrary to planning policy**
The Green is not within an identified settlement in the Unitary Plan/it is in open countryside for policy purposes/does not meet criteria for infill development in HSG 5 or for affordable housing in HSG 11.

Previous planning consents granted under former Glyndwr District Local Plan have expired/reference to potential inclusion in Local Development Plan should carry no weight in determining the application.
- (ii) **No need for affordable housing in The Green**
Already terraced properties for sale at The Green/opportunities of low cost housing within Denbigh at former North Wales Hospital site/development could affect the housing balance.
- (iii) **No local amenities**
Nearest facilities over 1 mile away.
- (iv) **Highway impact**
Locally dangerous sections of road between The Green and Denbigh/Trefnant/work entrance is directly opposite/limited sections of footways along A525/bus stop blocks visibility/need for pedestrian crossing/previous consents involved access through an adjoining estate(Parc Derwen) not directly onto A525/there is need for parking for more than 4 cars for existing residents who are reliant on roadside parking.
- (v) **Ecological impact**
Potential effect on bats and other species in locality, including within watercourse.
- (vi) **Flooding impact**
Eastern side of A525 prone to flooding.
- (vii) **Amenity impact**
Potential effect on adjoining dwelling/location of dwellings should be changed to reduce impact/boundary walls would be necessary.

In support of the application (1 of the above)

- (i) **General support for principle of development**
Potential enhancement to the area.

EXPIRY DATE OF APPLICATION: 04/11/2009

PLANNING ASSESSMENT:

THE PROPOSAL:

Outline of application

The application is for outline permission for the development of 0.33ha of land to the east of the A525 at The Green, north of Denbigh town. It proposes the erection of 12 dwellings and seeks the construction of a new access off the A road, and approval of the layout. All other matters are reserved for further approval (landscaping, appearance, and scale).

The submission contains a plan identifying the site and ideas for the layout. This shows a straight section of road off the A525 with a turning head, and the location of dwellings primarily on the northern and eastern sides of the site. Each unit would have 2 parking spaces, and there would be 4 spaces for visitors.

There is a separate 'Justification Design Statement' outlining general principles to be applied to any development, along with a short Access Statement setting out how the principles of accessibility for persons with disability can be met. Points of particular relevance raised by the agent's statement in relation to land use planning issues are:-

The brief is for 12 no. 2 and 3 bedroom affordable properties, 2 of which will be single storey and designed to meet special needs".

- There have been previous outline planning consents on the land in 1991 and 1997.
- The land has previously been included within a development boundary for The Green, in the Glyndwr District Local Plan.
- The land was subsequently omitted from the development boundary in the Unitary Development Plan (in error in the words of the agents).
- The detailing of the development including Design, Scale, Landscaping, etc., will respect the rural character of the area.
- In terms of planning policy context:-
the development will respect the Unitary Plan, which balances the need for affordable and open market housing in a 70-30% split should this be required (although the agent has subsequently advised that if required, 100% affordables are acceptable as a basis for proceeding).
- Policy HSG 11 permits affordable housing in rural areas in exceptional circumstances adjoining a village or main village boundary subject to meeting tests. The development is considered to meet the tests as: There are no feasible or suitable alternative sites within the Green's Settlement boundary to meet the need.

"As the land has former approval which the UDP did not take into consideration, the settlement boundary would indeed include this land and therefore become a logical extension to the Green".

The policy reaffirms the genuine need in the locality for such accommodation, reflecting the level of local need identified.

There would be no landscape or access problems and affordable housing can be secured in perpetuity.

Representations will be made to include the land in the Local Development Plan.

Finally, reference is made to local need for 2 and 3 bedroom dwellings in the locality, with the Affordable Housing Register for July 2009 showing 19 persons in Denbigh Lower (including The Green) wishing to purchase, and 16 in Denbigh Upper. The need is supported by the Council's Housing section and Local Registered Social Landlords.

Description of site and surroundings

The site consists of an open field to the east of the A525, immediately to the south of existing dwellings Beechdown and Derfel. It lies at a lower level than the A road and slopes gently down from west to east. The eastern boundary is defined by the former Denbigh-Trefnant-Rhyl railway line.

The western, southern and eastern boundaries have long established hedgerows which include some more significant trees. The northern boundary is defined in part by the fences around the dwelling Beechdown.

The Green consists of a string of long established dwellings on the western side of the A525, and a more fragmented collection of older and newer dwellings on the eastern side which are split by a number of large fields (see plan at front of report).

Relevant planning constraints/considerations

The Green is not a defined settlement (town, village, or main village) in the current planning policy document relating to development in the County, i.e. the Unitary Development Plan. The development boundary of Denbigh town is some 1 kilometre to the south. In planning policy terms the site therefore lies in open countryside.

The Green was previously identified as a 'village' for development planning purposes in the former Glyndwr District Local Plan, and the site was within the development boundary drafted in connection with that plan. The Glyndwr District Local Plan was superseded by the Unitary Plan on the formal adoption of the latter in 2002, and is of no status in the consideration of planning applications in 2009.

The Green is proposed as a hamlet in the deposit version of the Local Development Plan, and the site is within the settlement confines of the hamlet on the plan accompanying the Plan. The LDP carries no weight at this stage in the consideration of planning applications.

Relevant planning history

The section's records show outline planning permissions for residential development granted in 1991 and 1997. The 1997 permission expired in 2000 as no detailed "reserved matters" submissions were made.

Developments/changes since original submission

The agents have submitted a revised planning statement with additional illustrative details of the type of units proposed.

Other relevant background information

There has been pre-application correspondence with the agents over the principle of a development on the site. On the basis of the current development plan, officers have advised that a residential development would be contrary to housing policies and a departure from the provisions of the Unitary Plan; and that unless there are other material considerations which could override the policy conflicts then it may be difficult to justify the grant of permission.

DETAILS OF PLANNING HISTORY:

1/11368

Proposed demolition of 'Derfel' and development of land for residential purposes (outline application) – GRANTED – 15/2/1991

01/431/96

Development of 0.5ha of land for residential purposes (outline application) – GRANTED – 3/4/1997

RELEVANT PLANNING POLICIES AND GUIDANCE:

DENBIGHSHIRE UNITARY DEVELOPMENT PLAN (adopted 3rd July 2002)

Policy STRAT 15 - Housing

Policy GEN 3 - Development outside development boundaries

Policy GEN 6 - Development control requirements

- Policy GEN 8 - Planning obligations
- Policy HSG 5 - Groups of houses in the open countryside
- Policy HSG 6 - New dwellings in the Open Countryside
- Policy HSG 11 - Affordable housing for local needs in rural areas
- Policy REC 2 - Amenity and recreational open space requirements in new development
- Policy TRA 6 - Impact of new development on traffic flows
- Policy TRA 9 - Parking and servicing provision
- Policy ENV 1 - Protection of the natural environment
- Policy ENV 6 - Species protection
- Policy ENP 4 - Foul and surface water drainage
- Policy ENP 6 - Flooding

Supplementary Planning Guidance

- SPG 4 - Recreational open space
- SPG 22 - Affordable housing in new developments

Welsh Assembly Government
Planning Policy Wales 2002

Technical Advice Notes

- TAN 2 - Planning and Affordable Housing
- TAN 15 - Development and Flood Risk

Material Planning Policy Statements
MIPPS 01/2006 Housing

MAIN PLANNING CONSIDERATIONS:

The main issues are considered to be:

Principle of development
Affordable Housing/rural exceptions issues
Highways/Access
Layout
Drainage
Open Space
Ecology
Residential

Other material considerations
- previous planning consents

In relation to the main considerations:

Principle

The main Unitary Development Plan Policies relevant to the principle of housing development are STRAT 15 and GEN 1. The policies seek to make provision for new housing in a range of locations, concentrating development within the boundaries of defined settlements. HSG 2 seeks to direct most housing development to main centres, including Denbigh town. HSG 3 and HSG 4 allow for development in main villages and villages. Where development is proposed outside defined settlements, GEN 3 applies and sets out 7 potential exceptions to the policy of general restraint on such development. Exceptions include infill housing development (subject to HSG 5) agricultural workers dwellings (HSG 6) and affordable housing outside village and main village development boundaries (HSG 11).

As The Green is not identified as a settlement in the Unitary Plan the only housing policies which are directly relevant to the application are HSG 5 and HSG 6. HSG 5 sets specific tests to determine whether a development can be accepted as 'infill'; in this case the development is clearly not in accord with the policy as the site is not the infilling of a small gap between buildings within a continuously developed frontage and the scheme does not involve one or two dwellings. HSG 6 relates to the development of agricultural workers dwellings. There is no case being made on the basis of agricultural need.

With respect to the applicants case, which relies on Policy HSG 11 it is difficult to see how this can be relevant to the principle of the development. This policy applies to affordable housing for local needs in rural areas but only on sites adjoining main village and village boundaries. As stated previously, the Green is not a settlement of any description in the Unitary Plan (town or village). The application site is some 1000 metres from the boundary of Denbigh town. Whilst respecting the agent's reference to the inclusion of the Green in the former Glyndwr Plan, and the grant of permissions based on that Plan in 1991 and 1997, in terms of basic principle, the development is clearly contrary to the general development and housing policies of the current Unitary Plan. The specific matters relevant to affordable housing development are dealt with separately in the following section of the report.

In relation to the principle of development, members may be aware that the deposit version of the Local Development Plan has now been issued and there is a consultation exercise in progress in October and November 2009 on this document. The Green is proposed as a hamlet in the LDP and there is a local-connections affordable housing policy (BSC 6) which sets out tests for assessing the acceptability of applications for affordable units in such hamlets. A table accompanying the policy shows a figure of 13 dwellings as being 'permitted' in The Green over the Plan period (2006-2021). Whilst the principle of this development may be acceptable subject to the tests, at this point in the process, the LDP carries no weight in the determination of planning applications, and officer advice is that this should play no part in considering the merits of the application.

Affordable housing

The background of policy and guidance is of some importance to the consideration of this application. As ever, regard has to be given first to the policies of the development plan in the determination of the application. In this respect, the Unitary Plan only contains policies relating to affordable housing within settlement boundaries (HSG 10) and immediately adjoining village and main village boundaries (HSG 11). For the reasons outlined previously, neither of these policies applies to the application, as the Green is not a settlement in the Unitary Plan, and it is 1km north of the boundary of Denbigh town.

The Council's Supplementary Planning Guidance note on Affordable Housing (Note 22) sets out specific guidance on the delivery of affordable housing on proposals to be submitted for planning consent which are to be considered in relation to the Unitary Development Plan policies. Whilst the SPG makes clear the unmet and demonstrable need for affordable housing is a material planning consideration, it does not contain guidance on proposals involving the type of development proposed here outside a development boundary.

The other material considerations to which the Council has to have regard is general guidance on affordable housing issues from Welsh Assembly Government in Ministerial Planning Policy Statement 01/2006 and Technical Advice Note 2 – Planning and Affordable Housing (June 2006). These set out broad principles for the provision of new housing, including affordable units for local persons, when developing planning policies and considering development proposals.

The Ministerial Statement reflects advice in TAN 2 and updates advice in Planning Policy : Wales by outlining the approach to be adopted in local development plans in devising settlement strategies, including the allocation of housing sites and handling affordable housing. In relation to the allocation of housing sites, the Statement suggests authorities should follow a search sequence starting with reuse of previously developed land within settlements, then extensions to settlements, then new development around settlements with good public transport links. In relation to affordable housing, the Statement stresses the important contribution this can make to community regeneration and strengthening social inclusion, and it sets out obligations on local authorities as part of their development planning process to have up to date surveys of local need for affordables, targets for affordables, site thresholds and site specific targets, and the identification of sites for up to 100% affordable housing.

Purely in relation to the provision of housing in rural areas, the Ministerial Statement recognises there should be a choice of housing recognising the needs of all, but it acknowledges there is a requirement to control the development of new houses away from existing settlements, in order to safeguard the character and appearance of the countryside. It suggests there is scope for sensitive filling in of small gaps within isolated group of dwellings dependent on the pattern and character of development and accessibility to larger settlements. There is specific reference in 9.2.22 of the Ministerial Statement to the special provision of 'rural exception sites' to help ensure the viability of the local community. The Statement refers to 'rural exception sites' being the subject of policies in the development plan, which should be backed by surveys of need and make clear that the release of small housing sites within or adjoining rural settlements for affordable housing to meet local needs is an exception to the policies for general housing provision. Such 'exceptions' have to be fully justified, setting out the kind of development falling within the terms of the policy. The Statement comments that rural exception sites are not appropriate for market housing. As stated previously, the local development plan is at deposit/consultation stage, and its policies based on the principles set out in the Ministerial Statement can carry no weight in the process of determining the application. The relevant development plan policies remain those in the Unitary Plan.

As well as arguing in their submission that the planning background at the site should be a relevant consideration, the agents put forward a number of points supporting the proposals based on the offer of providing affordable units. The details have been clarified and it is stated the application offers 100% affordable units, i.e. all 12 dwellings would be available for persons meeting the relevant definitions, controllable through appropriate legal agreement(s) and managed through a local Registered Social Landlord. There is general support for the development of affordable housing in the Denbigh area from the Council's Housing Officer based on existence of need in housing surveys, and recognition that there would be benefits for the area from development which meets the identified demand.

Taking all the background policy and guidance into account, officers believe the proposals fall clearly outside the current planning policy framework, and inevitably represent a significant departure from the Unitary Plan. The Green is not a settlement for development purposes in the Unitary Plan. There are no policies in the Unitary Plan which allow for affordable housing developments on sites such as this at the Green. The Local Development Plan is at deposit stage and does not carry weight so the grant of permission would be premature to the proper consideration and approval of that plan. Whilst Welsh Assembly Government Ministerial Statement 1/2006 introduces the concept of 'rural exception' sites, there are no locally established 'tests' in current policy against which to assess the acceptability of individual applications. On the basis that any such development would have to be fully justified to merit support, it is noted on the positive side here that there is general support from the Housing Officers and

Registered Social Landlords : However, it has also to be recognised that the 'need' for affordables is not specific to The Green but for the Denbigh town, and there has been no investigation of alternative sites within the nearest settlements (Denbigh and Trefnant) to establish there are no options for meeting the need without using land outside a settlement boundary. Overall it is considered that the circumstances do not establish a compelling case to grant permission in this location, and that there is a significant precedent likely to be set given the existence of a number of open fields between the scattering of dwellings at The Green.

Highways/access

The main Unitary Plan policies relating to the highway impact of new developments are TRA 6, TRA 9 and GEN 6. These require due consideration of impacts on the safe and free flow of traffic, the capacity and condition of the highway network, and the adequacy of parking and servicing provision. The Council's Highway Officers raise no objections to the application, subject to conditions.

The Highways officer raises no objections to the application. The site lies within a 40mph speed limit and relevant visibility standards can be achieved at the point of access onto the A525, where the site has a straight road frontage of some 85 metres. (Visibility is shown at 120m x 2.4m from the centre of the access).

Whilst recognising local concerns over the construction of a new access onto the A525, the planning grounds for refusal on highway grounds are limited here. There is no obligation on a developer to provide off-street parking for vehicles belonging to existing residents, currently using the roadside verge, although 4 spaces are proposed for this purpose on the submitted plans.

Layout

The application seeks approval of the layout of the development. Policy GEN 6 is of relevance to considerations of layout, and requires that development respects the site and surroundings in respect of layout and a range of related considerations such as siting, scale, form, design and density.

There are very limited consultee responses on the specific issue of layout. Neighbours question the potential impact on their property and request consideration be given to relocating the houses and bungalows to limit the effect.

Having due regard to the submitted details, officers have considerable reservations at the acceptability of the layout as drafted on the application plans. The plan is attached at the front of the report. The layout appears sterile and of little interest, with a straight section of cul-de-sac road at 90° to the A525 and a standard turning head. The majority of dwellings are sited in a straight line row of 10 on the northern side of the cul-de-sac, split into 2 units with three dwellings and one unit with four dwellings. There are two detached bungalows cramped between the cul-de-sac and the southern boundary. The layout plans show no indication of the extensive hedgerow/tree cover along the boundaries and how the development would impact on this (particularly the southern boundary). The 'open space' shown on the layout plan is the remnant left between the proposed visitor car parking area and the A525, and would be of limited practical value for residents. There are separate concerns over the relationship with adjoining dwellings. Overall the scheme appears unimaginative and poorly detailed. Officers do not consider that the siting should be approved on the basis of the submitted plans.

Drainage

The requirement to consider the drainage implications of a development is set out in Policy GEN 6(x) (drainage and liability to flooding), EMP 4 and ENP 6.

There are no objections to the development from Dwr Cymru/Welsh Water. The site does not lie within a Flood Zone identified as part of TAN 15, hence there is no Environment Agency involvement.

It is not considered there are any drainage or flooding grounds to oppose the development.

Open space

Policy REC 2 and SPG 4 set out the requirement for provision of amenity and recreational space in new residential development.

In this instance, the submitted plans show an open space area located at the site entrance. This measures approximately 130m².

The proposals for open space seem to be unsatisfactory for a couple of reasons. In terms of size, the Council's Open Space Calculator sets out the requirement for an area of 1152m² for a development of 12 dwellings. The proposal falls some way short of that requirement. In terms of position, the open space is not considered to be located in an appropriate spot for use by residents as it is next to the A525. Whilst accepting the existence of a play area on the west side of the A525 south of the site, this is a heavily trafficked road and it would be inappropriate to expect children to cross it to gain access to a play space.

These points add to previously stated concerns over considering the approval of the siting of the dwellings as this would mean approving an inadequate and unsuitably located open space to serve the development.

Ecology

Policies ENV 1 and ENV 6 oblige due consideration and protection of the natural environment, including landscape character and the biodiversity of an area, including ensuring there is no harm to protected species.

The application site is an open field with no buildings or ponds present. There are hedgerows and trees along the boundaries.

It is not considered there are any protected species issues to address here, and that protection of the hedgerows and trees can be conditioned as part of any permission to ensure no detriment to wildlife interests therein. There is however, an issue along the southern boundary where the two bungalows are proposed within 1 metre of the hedge line. This is not considered a suitable distance to ensure the retention of the hedgerows and in officers' view constitutes a further reason not to approve the siting of the dwellings.

Residential amenity

The general requirement to assess the acceptability of a new housing development on the amenities of occupiers of nearby residential property are set out in GEN 6.

The application is in outline form but seeks approval of the access and layout. There are sketch/perspective details of the dwellings in the form of illustrative plans showing a typical 'street scene' of the units numbered 1-10, but no floor plans.

The layout plans show the rear walls of the two-storey units numbered 1-10 would be some 7 metres from the boundary with the adjacent properties at Beechdown and Derfel. These distances would be below that normally accepted where first floor windows face out onto private gardens of residential property and it is considered that there is a potential for adverse amenity impacts from the new dwellings from Units 1-3

in particular. Loss of view would not be a reasonable ground for resisting the development.

SUMMARY AND CONCLUSIONS:

Whilst acknowledging the proposals offer the possibility of an affordable housing development, officers are obliged to advise on the land use planning issues. In this case the key issues appear to be whether there is any planning policy support for a 100% affordable housing development on land outside any defined settlement in the Unitary Plan, and if not whether the other material considerations in Welsh Assembly Government policy and guidance which may presume in favour of a development, outweigh the policy conflict. In officers' opinion there is clear planning policy conflict here, and the circumstances relating to the development do not conform to the 'rural exceptions' tests referred to in MIPPS 01/2006 and TAN 2. The Local Development Plan is not a material consideration at this point, and the grant of permission would be premature in respect of the process through which that development has to pass. Respectfully, officers conclude that there is no basis for granting permission on current policy or guidance, and there is a significant precedent issue to be addressed if development is allowed in these circumstances.

In addition to the concerns over the principle of the development, officers do not consider the layout is acceptable, and would not recommend this should be approved.

RECOMMENDATION: REFUSE- for the following reasons:-

1. The development is proposed on land outside any identified settlement in the Denbighshire Unitary Development Plan where Policy GEN 3 seeks to control new development to limited circumstances, including housing for farm and forestry workers, infill development, and affordable housing exceptions schemes adjoining main villages and villages. It is not considered that the circumstances meet the relevant tests of the detailed policies HSG 5 (infill), HSG 6 (farm and forestry workers), or HSG 11 (affordable housing exceptions schemes adjoining main villages and villages), and as there are no material planning considerations which outweigh the basic conflicts with the development plan, the development would set a clear precedent for further development on sites outside established settlements.
2. In the opinion of the Local Planning Authority, the layout of the development is unacceptable in this rural location, as it consists of an unimaginative straight line of 10 units and a straight service road, the dwellings numbered 1-3 are likely to have an unacceptable amenity impact on occupiers of adjacent dwellings to the north, there is an unsatisfactory open space area next to the A525, and the location of units 11 and 12 would have an adverse effect on the hedgerows on the southern boundary, contrary to the requirements of Policy GEN 6, REC 2, and ENV 1 of the Unitary Development Plan.

NOTES TO APPLICANT:

None

ITEM NO: 2

WARD NO: Llanrhaeadr Yng Nghinmeirch

APPLICATION NO: 23/2009/1203/ PF

PROPOSAL: Demolition of existing toilet and attached outbuilding and erection of two-storey pitched roof extension to side of dwelling

LOCATION: Pen Y Gerddi Peniel Denbigh

APPLICANT: Mr Iwan & Ms Helen Jones

CONSTRAINTS:

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

CONSULTATION RESPONSES:
LLANRHAEADR Y C COMMUNITY COUNCIL
No response received

RESPONSE TO PUBLICITY:
None

EXPIRY DATE OF APPLICATION: 11/11/2009

REASONS FOR DELAY IN DECISION:

- No delay (statutory expiry date 11/11/09)

PLANNING ASSESSMENT:
THE PROPOSAL:

Outline of application

Alterations and extensions are proposed to the dwelling Pen Y Gerddi comprising of:

- A two storey side extension to the southern side of the dwelling, projecting 4.8m in length, the full width of the existing dwelling, the overall height is 6.4m.
- Removal of an existing porch and replacement on the western side of the dwelling, projecting 1.05m, 1.5m in width, the overall height is 3m.
- Removal of the wall on the west elevation linking the outbuildings.
- Removal of the outhouse attached to the northern side of the dwelling.
- Alterations to some of the existing openings and the installation of two no. rooflights.

Description of site and surroundings

Pen Y Gerddi Farm is located in Peniel, approximately 4kms to the south west of Denbigh town centre. The site is accessed off a 70m track off the minor road which links the B4501 to Prion. The dwelling is located to the south of the agricultural complex, which comprises a range of stone built and modern timber clad agricultural buildings. The dwelling has a small grassed garden area to the west and south which

is bounded by a post and rail fence. It is a pebble dashed and rendered dwelling with slate roof and timber windows.

Relevant planning constraints/considerations

The site is located in the open countryside outside the any defined development boundary. The application should be assessed under the extensions policy of the UDP.

Relevant planning history

There has been an application for a replacement dwelling on the site earlier in 2009 which was withdrawn in April following concerns raised over the justification and retention of a building of merit.

Other Matters

The application is has to be determined by Planning Committee as the Applicant is an employee of the Planning and Public Protection Service.

RELEVANT PLANNING HISTORY:

23/2009/0151/PF Proposed demolition of existing substandard dwelling and attached outbuildings and erection of replacement dwelling. Withdrawn 24/04/09. This application was withdrawn as Officers were concerned that the proposal did not meet the replacement dwellings policy HSG 8, particularly the policy requirements relating to justification for replacement and the fact the dwelling was considered to be a building of architectural merit and worth retaining.

PLANNING POLICIES AND GUIDANCE:

DENBIGHSHIRE UNITARY DEVELOPMENT PLAN (adopted 3rd July 2002)
Policy GEN 6 Development Control Requirements
Policy HSG 12 Extensions to Dwellings

Supplementary Planning Guidance
SPG Note No. 1 Extensions to Dwellings
SPG Note No. 24 Householder Development Design Guide

GOVERNMENT GUIDANCE
Planning Policy Wales

MAIN PLANNING CONSIDERATIONS:

The main issues are considered to be:

Principle
Visual Appearance
Residential Amenity

In relation to the main planning considerations:

1. Principle

Providing the proposal complies with the policies identified above, the principle of an extension to an existing dwelling is generally acceptable. HSG 12 relates specifically to extensions to dwellings and recognises householders have the right to alter and extend providing they meet the criteria relating to; size/scale, character, amenity consideration and the extensions do not result in over development of the site.

2. Visual appearance/ size, scale and character

Policy HSG 12 requires extensions to reflect the character of the original dwelling; it is considered that the modest side extension and other alterations would respect the character of the original dwelling in terms of design and materials. All elements of the proposal are in keeping with the guidance set out in SPG 1 and 24. The extensions are clearly subordinate in size to the original dwelling. The side extension represents a 50%

increase on the original footprint and the ridge is set down .15m from the existing ridge height of the dwelling. The porch is smaller than the existing porch it is proposed to replace. The plans at the front of the report show the details of the scheme.

3. Residential amenity

Due to the relatively isolated location, the relationship with surrounding dwellings, and boundary treatment; the development would not impact on the residential amenity of existing or nearby occupiers.

SUMMARY AND CONCLUSIONS:

The proposal is considered to comply with the relevant policies, and is therefore recommended for grant.

RECOMMENDATION: - GRANT subject to the following conditions:-

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

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

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

NOTES TO APPLICANT:

None

ITEM NO: 3

WARD NO: Llanrhaeadr Yng Nghinmeirch

APPLICATION NO: 25/2009/1098/ PF

PROPOSAL: Change of use of land to form extension to residential curtilage of dwelling and erection of oak-framed gazebo within existing curtilage

LOCATION: Ysgubor Hendre Nantglyn Denbigh

APPLICANT: Mr & Mrs P J Marfleet

CONSTRAINTS:

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

CONSULTATION RESPONSES:
NANTGLYN COMMUNITY COUNCIL
No response at time of preparing the report.

RESPONSE TO PUBLICITY:
None

EXPIRY DATE OF APPLICATION: 29/10/2009

PLANNING ASSESSMENT:

THE PROPOSAL:

Outline of application

This is a full application for the change of use of land to form an extension to the existing residential curtilage and for the erection of an oak framed gazebo within the existing curtilage. The main elements are:

- An extension to the existing residential curtilage of 6.5m and the formation of a new boundary with a traditional style fence
- The erection of an oak framed gazebo with slate roof to be erected in the existing curtilage, measuring 4m by 3m with a pitched roof height of 2.85m.

Description of site and surroundings

The application site comprises the dwelling of Ysgubor Hendre which is a barn conversion located within the open countryside beyond the village of Nantglyn. The field to the south is a hay field, to the north are redundant outbuildings outside the ownership of the applicant and to the east and west is open countryside.

Relevant planning constraints/considerations

The site is located in the open countryside.

Relevant planning history

The original residential curtilage was established as part of the June 2005 permission for the conversion.

Other matters

This application is being referred to the Planning Committee for determination as the applicant is a County Councillor.

RELEVANT PLANNING HISTORY:

25/2005/0180/PF Conversion of existing outbuilding to dwelling and installation of new septic tank GRANTED 6th June, 2005 with the following condition imposed:

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

PLANNING POLICIES AND GUIDANCE:

The main policies and guidance considered to be of relevance to the application are:

DENBIGHSHIRE UNITARY DEVELOPMENT PLAN (adopted 3rd July 2002)
Policy GEN 6 Development Control Requirements
Policy HSG 16 Extensions to Domestic Gardens

MAIN PLANNING CONSIDERATIONS:

The main planning issues are considered to be:-

1. Principle of development
2. Visual Impact
3. Residential Amenity

In relation to the main planning considerations:

Principle of development

The main policy relevant to considerations of the principle of extending the curtilage of a dwelling is Policy HSG 16 and in relation to the erection of a gazebo within the curtilage of a dwelling it is Policy GEN 6.

The field to the south of the property, where it is proposed to extend the existing curtilage, was the subject to much building work during the barn conversion with trenches dug to accommodate a ground source heat pump. It also accommodates rainwater harvesting tank and ancillary infiltration units, soakaways, septic tank and drains. The field is slowly returning to normal as a hay field, however there are manholes and heat pump manifolds in the field that are currently outside the curtilage area and therefore the main reason for extending the curtilage by 6.5m is to protect the manholes etc from stock or machinery. Also, when the original planning application was submitted in 2005, the curtilage did not follow the line of a longstanding fence line, so this application also corrects an error to the curtilage as shown on the original planning permission for the barn conversion. The extension to the curtilage is considered acceptable assessed against Policy HSG 16.

Policy GEN 6 contains a wide range of general development control amenity considerations geared at ensuring a high standard of development with minimal impacts. The assessment of impacts is set out in the following section:

Visual Impact

The main policy relevant to the considerations of visual amenity is Policy GEN 6.

The scale of the extension to the curtilage is considered acceptable and the formation of a new boundary constructed of timber in a traditional style is considered acceptable

in this location. The siting of the proposed gazebo within the existing curtilage, approx 4.5m from the dwelling is considered acceptable along with its size, scale and design, which is sympathetic to the character of the area within the open countryside. It is not considered that there would be any adverse impact on the visual amenities of the area.

Residential Amenity

The closest residential property is located approx 60m away to the east from Ysgubor Hendre and the proposal would not impact upon the amenities of this property. There would be no harm to the existing amenities enjoyed by the residents of Ysgubor Hendre.

SUMMARY AND CONCLUSIONS:

It is considered that the principle and detailing of development is acceptable. It is not considered that there would be any adverse impact on visual or residential amenity.

RECOMMENDATION: - GRANT subject to the following conditions:-

1. The development hereby permitted shall be begun before the expiration of five years from the date of this permission.
2. Notwithstanding the provisions of Class E of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification) no development permitted by the said Classes shall be carried out without further grant of planning permission of the Local Planning Authority.

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

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

NOTES TO APPLICANT:

None

ITEM NO: 4

WARD NO: Dyserth

APPLICATION NO: 42/2009/0641/ PF

PROPOSAL: Erection of 4-bedroom detached dwelling (amendment to previously-approved scheme under Code No. 42/2009/0031/PF by addition of two-storey pitched-roof extension to side)

LOCATION: Land at rear of 25-35inc. St. Asaph Road Dyserth Rhyl

APPLICANT: Mr & Mrs Mike Trefor

CONSTRAINTS:

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

CONSULTATION RESPONSES:

DYSERTH COMMUNITY COUNCIL

"The Council once again repeats its objections to development of this plot as over intensification of development and in particular difficult access for emergency vehicles"

DENBIGHSHIRE COUNTY COUNCIL CONSULTEES:

DCC HEAD OF HIGHWAYS & INFRASTRUCTURE

No objection subject to condition

RESPONSE TO PUBLICITY:

Letters in objection:

1. D & PC Bailey, 18 Cwm Road, Dyserth (via e-mail)
 2. Mr. & Mrs. G. Jones, 24 Cwm Road, Dyserth
 3. Gareth & Lesley Jones, 16 Cwm Road, Dyserth (via e-mail)
 4. K. Turner, 10, Parc Derwen, Glan Conwy
 5. Ioan & Pegi Talfryn, Arwendon, 22 Ffordd y Cwm, Dyserth
- Mr. B. Eastwell, 20 Cwm Road, Dyserth, Rhyl

Summary of planning based objections:

- a) Impact on visual amenity and character of the area
- b) Impact on privacy of neighbouring properties

EXPIRY DATE OF APPLICATION: 04/11/2009

PLANNING ASSESSMENT:**THE PROPOSAL:**Outline of application

This is a full application containing revisions to a dwelling under construction on a plot measuring 0.099ha. The main elements are:

- A detached 2 storey 4 bed dwelling, measuring approx 20.5m by 10m with a ridge height of 8m, with a 2 storey side 'extension' to the approved plans, measuring 3m wide by 7.8m with a ridge height of 6.5m

- Use of an existing vehicular access off St Asaph Road with parking and turning area to the front
- Use of Terca Cassandra Multi Brick on the external walls and Grey Marley modern roof tiles with red ridge tiles
- The property would be orientated to face towards a recently erected dwelling to the south.

Description of site and surroundings

The dwelling approved under planning permission ref 42/2009/0031/PF has been constructed on site, but it has not been completed.

The application site is located to the rear of residential properties on St. Asaph Road and also Cwm Road to the rear. Adjoining the site on St. Asaph Road are 2 storey dwellings and on Cwm Road there are a mixture of single storey and 2 storey properties.

Relevant planning constraints/considerations

The site is located within the development boundary of Dyserth. The principle of residential development and scale, size and design of the dwelling constructed on site has been accepted previously through the grant of planning permission in April 2009.

This application seeks permission to erect a 2 storey 'extension' to the side of the previously approved dwelling. There are no other alterations proposed to what has been granted planning permission.

Relevant planning history

This application seeks an amendment to the previously approved scheme under Code No. 42/2009/0031/PF, by addition of a two-storey pitched-roof extension to the side. Planning permission was granted by the Planning Committee on the 15th April, 2009 subject to the following conditions:

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

Developments/changes since original submission

None.

Other relevant background information

None.

RELEVANT PLANNING HISTORY:

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

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

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

42/2008/0585/PF Erection of detached dwelling on 0.086ha of land and garage
GRANTED 30th July 2008

42/2009/0031/PF Erection of 1 no. detached dwelling on 0.099 ha of land GRANTED
15th April, 2009

(42/2009/0922/AC Details of external materials APPROVED

PLANNING POLICIES AND GUIDANCE:

The main policies and guidance considered to be of relevance to the application are:

DENBIGHSHIRE UNITARY DEVELOPMENT PLAN (adopted 3rd July 2002)

Policy GEN 1 Development Boundaries

Policy GEN 6 Development Control Requirements

Policy TRA 6 Impact of New Development on traffic flows

Supplementary Planning Guidance 1 Extensions to Dwellings

Supplementary Planning Guidance 24 Householder Development Design Guide

Planning Policy Wales (March 2002)

MAIN PLANNING CONSIDERATIONS:

The main issues are considered to be:-

- a) Principle of development
- b) Residential amenity
- c) Visual amenity and character of the area
- d) Highway Safety

a) Principle of development

The application site is located within the development boundary of Dyserth where the principle of residential development is considered acceptable subject to compliance with all other relevant planning policies. The principle of residential development has been established by the previous grants of planning permission.

b) Residential amenity

The main policy relevant to considerations of residential amenity is Policy GEN 6. The application site is located to the rear of residential properties on St. Asaph Road and also Cwm Road to the rear. Adjoining the site on St. Asaph Road are 2 storey dwellings and on Cwm Road there are a mixture of single storey and 2 storey properties. It is considered that given the scale and type of surrounding properties with large rear gardens, some in excess of 21m in length that the proposed dwelling,

orientated and sited in the location proposed would be acceptable. The main issue is the introduction of an additional extension to the side, with dormer windows to front and rear. The rear dormer serving a proposed office is causing concern for local residents who consider it will overlook their properties. The plan however shows this rear window to be a fixed pane, with obscure glazing. The dormer features are proposed due to the steeply sloping pitched roof in order to provide the headroom required. Whilst a condition was imposed on the previous planning permission to prevent the insertion of additional windows on the side and rear elevations to protect the amenities of nearby residents, it is considered a condition can be imposed here to ensure this rear window is permanently fixed with obscure glazing, and retained as such. In these circumstances, it is not considered that the addition of the side extension would cause any significant impact on neighbouring properties.

The property itself is set in a large plot with sufficient amenity space and car parking and turning areas, and the proposal is not considered to be overdevelopment of the plot.

c) Visual amenity and character of the area

The main policy relevant to considerations of visual amenity and impact on the character of the area is Policy GEN 6. The scale, design and external appearance of the proposed dwelling is considered acceptable in this location. The dwelling would be in keeping with the recently constructed property nearby and its scale and design would reflect its location in a significantly larger plot. There would be no adverse impact on the character of the area or on visual amenity.

d) Highway Safety

The main policy relevant to considerations of highways issues is Policy TRA 6. The access has previously served uses involving the storage of building materials and 2 caravans. Highways officers have had regard to this history and raise no objections to applications for a single dwelling. There are no changes to the access arrangement to what has previously been approved.

SUMMARY AND CONCLUSIONS:

The principle of the development is acceptable. In relation to the details, It is not considered that there would be an adverse impact on residential amenity or on visual amenity, or the character of the area. It is not considered that there would be any adverse impact 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. The parking and turning facilities shall be laid out as shown on the approved plans and completed in accordance with the approved details prior to the proposed development being brought into use.
3. Notwithstanding the provisions of Classes A, B, C, D, & E of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification) no development permitted by the said Classes shall be carried out without further grant of planning permission of the Local Planning Authority.
4. All screen walls and/or fences relating to the dwelling shall be erected before the dwelling is occupied or completed whichever is the sooner.
5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that order with or without modification) no windows additional to those shown on the approved plans shall be inserted at any time in the rear and side elevations of the dwelling hereby permitted at first floor level.
6. The first floor rear dormer window facing the north eastern boundary of the site and

serving the office room shall be a permanently fixed window with obscure glass and thereafter retained as such.

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

1. To comply with the provisions of Section 91 of the Town and Country Planning Act 1990.
2. To provide for the parking of vehicles clear of the highway and to ensure that reversing by vehicles into or from the highway is rendered unnecessary in the interest of traffic safety.
3. In the interests of residential and/or visual amenity.
4. In the interests of residential and visual amenity.
5. To maintain a reasonable standard of privacy in adjoining dwellings and gardens in the interests of 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: 5

WARD NO: Rhyl East

APPLICATION NO: 45/2009/0409/ PF

PROPOSAL: Demolition of existing two-storey dwelling and garage (63 Brighton Road), amendments to existing planning permission (Code No. 45/2008/0848/PF) for alterations and extensions and change of use to nursing home (28-bedrooms), and additional rear extensions to create a 32-bedroomed nursing home

LOCATION: Land at 63 Brighton Road and Care Home at 71 Brighton Road Rhyl

APPLICANT: Cameron Developments David Arrowsmith

CONSTRAINTS: Article 4 Direction

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

CONSULTATION RESPONSES:**RHYL TOWN COUNCIL**ORIGINAL PLAN

'While in support of the original application and generally in support of the amended plans submitted with the LPA letter of the 10 August 2009, the Council do object to that element of the revised applications relating to the car parking. The Council believe that the area of open space included within the original application is fundamental to the application and the amenities of future residents. The amended plans as submitted will mean that the residents will have access to significantly limited on site open space.'

AMENDED PLAN

Response awaited.

CLWYD –POWYS ARCHAEOLOGICAL TRUST – No comments. Advises in the event of significant changes to the proposal, additional consultation should be made.

CARE AND SOCIAL SERVICES INSPECTORATE WALES - Advises that should planning permission be granted, and an application for registration submitted to CSSIW, then as part of the process advice would be sought from their contracted architects to ensure National Minimum Standards are met.

DENBIGHSHIRE COUNTY COUNCIL CONSULTEES :**- DCC HEAD OF HIGHWAYS AND INFRASTRUCTURE**

No objections subject to conditions on the original plans. The Case Officer has indicated that this recommendation would still apply for the revised proposal.

- DCC COUNTY ECOLOGIST

Provides a series of detailed points in response to the Ecology report: briefly highlighting :

- Bats – whilst no current or historical evidence of bats has been found, given the potential presence and local records (0.3 km away at St Thomas's

church) the standard general precautionary recommendations for conversion works should be followed. i.e. careful removal of ridge tiles etc. Additionally, recommends enhancement measures to the new buildings to enhance potential for bats – which will compensate for the loss of the potential, though limited habitat may be lost. Such measures could include providing bat access to soffit / fascia box sections by leaving one or two 18mm x 150mm gaps and erecting suitable bat boxes in sheltered locations which could provide valuable new roosting opportunities which could in turn enhance local bat populations. If possible, some of the crevices should be left unfilled. Advises that further details on bat friendly building techniques and bat boxes can be provided.

- Birds – whilst no active birds' nests were found, there is a small chance that birds could have built nests since the survey date. If the demolition work is commenced before the end of the bird breeding season (September), checks should be undertaken for any nests in or on the buildings and, if present works will have to be delayed until nesting is finished as it is illegal to disturb any nesting birds.

RESPONSE TO PUBLICITY:

Letters of representation received from:

Mr R Thomas, Sec. Clwyd Street Presb. Church 6, Fforddlas (e-mail)

Mrs. E. Roose, 53, Brighton Road

Mr. R.Thomas, 6, Fforddlas (via e-mail)

Summary of planning based representations:

Highways – lane at the rear of the building not built to serve a large building – a 44 bedroomed Nursing Home.; no room for manoeuvring large vehicles etc; severely restricted access to 57 Brighton Road; entrance is via a single and unadopted lane; vehicles would block entrance to existing residential properties; increased traffic onto Churton Road; limited visibility to oncoming traffic along lane; lane recently surfaced (private means) for minimal traffic use.

Amenity & overlooking - plans proposed may result in overlooking with 63 Brighton Road.

EXPIRY DATE OF APPLICATION: 28/09/2009

REASONS FOR DELAY IN DECISION:

- timing of receipt of representations
- additional information required from applicant
- negotiations resulting in amended plans
- re-consultations / further publicity necessary on amended plans and / or additional information

PLANNING ASSESSMENT:

THE PROPOSAL:

Outline of application

This application is a full application involving amendments to a previous permission for alterations and extensions to form a Nursing Home, with a total of 32 bedrooms.

Planning permission has previously been granted for a residential care home, with 28 bedrooms in September 2008. Plans indicate a pedestrian access off Brighton Road, with vehicular access arrangements via the rear of the site, off Churton Road

The current application involves design amendments and extensions to the existing planning permission; briefly, as follows:

- Amendments to side extension (previously approved) - stepping forward by 2 metres; different window design on front elevation; additional windows on side elevation; additional floorspace to the rear.
- Additional two storey and single storey rear extensions.
- Demolition of an existing two storey, detached residential dwelling, identified as 63 Brighton Road. The proposal initially included a new building area in lieu of 63 Brighton Road, which would include a link with the main, principle Nursing Home Building. The new build plans for this part of the application however no longer form part of the proposal, with the area proposed as an associated amenity area for the main Nursing Home use.

The plans at the front of this report show the details. The car parking and service area layout remains the same as in the previously approved planning permission.

Amenity areas include the existing area fronting Brighton Road, and a larger area to the rear.

The application documents include a Design Statement and a Protected Species Survey, summarised in brief as follows

- Design Statement – site is surrounded by a mixture of two, two and half and three storey houses and apartments to provide adequate Care Standards, ensuring style of buildings is in keeping with surroundings and existing building.; design approach to include gables to each part of the extension at varying heights, breaking up the overall scale of the building.
- Protected Species - the report focuses on 63 Brighton Road. The conclusions reached highlight that no evidence of bats or use by bats was found and, whilst the potential for a presence is low, bats are nomadic, and recommends a series of precautionary measures. In terms of birds, advises the same precautionary approach particularly during nesting season.

The proposal includes render on the walls to match existing and slate tiles as the roofing material.

Description of site and surroundings

71 Brighton Road is a large semi-detached property historically used as flats, set in a relatively large curtilage with existing parking and turning areas within the site. It is understood that the property is currently undergoing renovation works. The attached property has been extended to the north-east and has been divided to form no. 73/75 Brighton Road.

No 63 Brighton Road is a detached property, with a large garden area. It is of 1970's detailing, with white render walls, with a part tiled roof and felt, flat roof extension. 63 Brighton Road (proposed for demolition) is positioned to the west of 71 Brighton Road, and currently uses the rear highway off Churton Road, as the main vehicular access route to the site. 71 Brighton Road is three storey, white rendered and natural slate roof, with historically a vehicular access served off the rear lane with Churton Road.

The immediate locality includes primarily residential properties, including those on Brighton Avenue, to the north of the site, with the Brighton Road properties including three storey Victorian 'villa' properties. Further afield, on Churton Road and Brighton Road there are 2 existing nursing homes.

Relevant planning constraints/considerations

The site lies within the development boundary of Rhyl in an area subject to Tree Preservation Orders.

Relevant planning history

The site has a recent, extant planning permission for extending and changing the use of the property to a Nursing Home with 28 bedrooms. These included a 3 storey extension to the side with a link to a rear extension. These are shown on the plan at the front of the report.

The site ownership now includes the property of 63 Brighton Road. Additionally, relevant planning notices have also been served in response to ownership issues involving the unadopted lane leading to the rear of the site, from Churton Road.

Development/changes since original submission

The proposal has involved submission of revised plans. This committee report relates to the second set of plans, which now include design changes, including to the proposed front elevation, revised parking details, reduction in the overall bedroom numbers (from 44 to 32 no.) and the omission of a two storey extension.

Other relevant background information

The existing planning permission for the site, and planning history for 63 Brighton Road are a significant material consideration in this case.

RELEVANT PLANNING HISTORY:

71 Brighton Road

RYL /0264/87 Flat roofed extension at rear of premises

Granted 09/09/1987

RYL/0109/92 P Provision of vehicular access with driveway parking and turning

Granted 12/05/1992

RYL/0116/94/P Extension of first floor flat to form self contained flat and steel fire escape

Withdrawn 13/06/1994

RYL/0260/94/P Erection of rear extension to form flat and alterations to form 2 flats

Granted 20/09/1994

45/2007/105/PF Alterations and extension to existing property to form additional 2 no self contained flats Granted 20th May, 2007

45/2008/0848/PF – Alterations and extension to existing premises to create residential nursing home.

Granted 09/09/2008

63 Brighton Road

45/2007/1340/PF – Alterations and extensions to existing four- bedroom house to create 3 three bedroom townhouses and alterations to existing vehicular access. Refused 18/12/2007. The reason for refusal included:

1. The proposed rear facing first floor habitable room windows will allow the overlooking of the adjacent rear garden areas and result in a loss of privacy and amenity to the occupiers of those properties. As such, the proposal is unacceptable as it is contrary to criteria (i) and (v) of Policy GEN 6 of the adopted Denbighshire Unitary Development Plan and Paragraphs 9.3.3 and 9.3.4 of Ministerial Interim Planning Policy Statement 01/2006.

2. The proposed design is not considered to be acceptable in terms of appearance and would therefore be harmful to the visual amenity of the area. As such, the

proposal is contrary to Policy GEN 6 criteria i) and ii) and STRAT 5 of the adopted Denbighshire Unitary Development Plan.

PLANNING POLICIES AND GUIDANCE:

DENBIGHSHIRE UNITARY DEVELOPMENT PLAN (adopted 3rd July 2002)

Resources

Policies STRAT 1 – General; STRAT 5 – Design; STRAT 6 – Location; STRAT 7 – Environment

Economy

Policies STRAT 8 – Employment; STRAT 11 – Regeneration

Transport

Policies STRAT 2 – General ; STRAT 13 – New Development

Social/Community

Policies STRAT 15 – Housing; STRAT 16 – Community Facilities & Benefits

Policy GEN 1 – Development within development boundaries

Policy GEN 2 – Development of un-annotated land

Policy GEN 6 – Development control requirements

Policy GEN 8 – Planning obligations

Policy GEN 10 – Supplementary planning guidance

Policy ENV 1 – Protection of the natural environment

Policy ENV 6 – Species protection

Policy ENV 7 – Landscape/Townscape features

Policy ENP 4 – Foul and surface water drainage

Policy CF 5- - Residential Institutions

Policy TRA 1 – Public transport

Policy TRA 6 – Impact of new development on traffic flows

Policy TRA 9 – Parking and servicing provision

SPG's

2 – Landscaping New Developments

4 – Open Space Requirements in New Developments

6 – Trees and Developments

8 – Access for All

18 – Nature Conservation and Species Protection

21 – Parking

25 – Residential Development Design Guide

Other Relevant Council publications/documents

Local Biodiversity Action Plan

Denbighshire Landscape Strategy

Access for All

Access Statements

GOVERNMENT GUIDANCE

Planning Policy Wales (March 2002) as amended via MIPPS and circular letters

TAN 1 Joint Housing Land Availability Studies

TAN 2 Planning & Affordable Housing

TAN 5 Nature Conservation and Planning

TAN 12 Design (as supplemented)

TAN 18 Transport

Circular 35/05 – The Use of conditions in planning permissions

Circular 13/97 – Planning Obligations

MAIN PLANNING CONSIDERATIONS:

6. The main issues are considered to be:

- i) Principle and fall back position
- ii) Highway, traffic & parking and accessibility
- iii) Space and amenities – on site and adjacent occupiers
- iv) Design & character
- v) Nature Conservation & protected species
- vi) Inclusive design

7. In relation to the main issues in paragraph 6:

i) Principle and fallback position

The site lies within the development boundary. As such the principle of the development would be generally acceptable subject to site specific and relevant material considerations.

Policy CF5 includes specific criteria for new or extensions to existing residential institutions, including the need to assess whether there would be an over concentration of such uses in one particular area.

The use of the building and site as a Nursing Home has previously been established by planning permission 45/2008/0848/PF – Alterations and extension to existing premises to create residential nursing home, granted in September 2008. The planning assessment on this application concluded that whilst there were 2 other care homes within a close proximity, in terms of the intention of policy CF5, an additional home at no 71 would not lead to an over concentration. As it was not considered the proposal conflicted with criteria i) criteria of Policy CF5, the principle of this proposal is therefore considered to remain acceptable.

ii) Highway, Traffic & parking and accessibility

Policies GEN 6, TRA 6, TRA 9 and criteria iii) and v) policy CF5 require consideration of highway issues, parking, (supplemented by SPG 21) and accessibility. The SPG car parking standard for Residential Institutions refers to 1 car space per 3 bed spaces and 1 cycle parking space per 10 employees.

The site is considered to be 'sustainable' with regard to proximity to local services, and the development would be in line with the government's approach of maximising the sustainable use of land. Given this context minimum parking requirements could be justified with an emphasis on non car modes of travelling, including cycling and walking.

Highways and car parking considerations were assessed with the previous planning application for a Nursing Home, and considered acceptable by the Highways Officer. The current planning application adopts the same approach to parking and servicing provision, with an additional two parking spaces. There are no objections from the Head of Transport and Infrastructure. Given the approach adopted to the previous planning application, it is not considered the proposal would have significant highway implications.

iii) Space and amenities – on site and adjacent properties

Policies GEN 6 and CF5 require proposals to respect the site and surroundings including intensity of use of land/buildings and spaces around and between buildings; with no unacceptable effect on the amenity on local residents and the locality.

The planning assessment on the previously approved application concluded that the properties in this area are set in extensive grounds and are well spaced from their neighbours. It also concluded that the scheme would not result in any adverse impact on the amenities of residents in the area and provide an acceptable level of amenity for residents of the care home.

Given the extent of open space proposed, around the property, the distance and juxtaposition of new buildings relative to existing adjoining buildings, and the limited extent of new build work, it would be difficult to conclude significant harm would arise to adjoining residents and the locality.

The proposal is considered acceptable and to comply with the aims of GEN 6, criteria (v) in respect of safeguarding sufficient amenity standards for residents and the locality, together with criteria ii) and iv) of CF5. However, to protect such arrangements for the future, appropriate landscaping/boundary details are essential, and can be covered by condition. Adequate safeguards should also be included for arrangements during construction stage, minimising disruption to local residents. A construction method statement can be conditioned to control impacts on nearby property.

iv) Design and Character

Policies GEN 6, CF5 and SPG 25 highlight relevant design considerations with development proposals, together with TAN 12. CF5 criteria ii) and iv) requires proposals to avoid unacceptable effects on the character and amenities of the locality, and encourages suitable design approaches.

The submitted Design Statement makes reference to key design and vision objectives. In the context of the previous planning application for the site, the size, scale and design proposed with this new application is considered to represent a more acceptable design approach for the site, in particular for the front elevation, along Brighton Road. Conditioning the use of appropriate external materials and sympathetic landscaping, would control any visual impact on the locality.

The existing building, particularly 71 Brighton Road makes a positive contribution to the unique character of Brighton Road, and it is considered the proposal supports the identity and local distinctiveness of this property and the locality.

v) Nature conservation and protected species

The current legislative and planning policy framework sets a strict requirement on the local planning authority to take into account the potential impact on wildlife and in particular protected species. (Planning Policy Wales : Habitat Regulations; Unitary Plan Policy ENV 6 and Supplementary Guidance). The gist of the legislation is that where there are grounds for suspecting the presence of European Protected Species, their presence should be established before the grant of permission; and that it is inappropriate to grant permission subject to condition that protected species surveys are carried out.

In this case, both the Countryside Council for Wales and County Ecologist have raised no objections to the proposal; but highlight the potential for bat presence, given existing records. The species report provides sufficient information to confirm that suitable precautionary measures can be taken, should planning permission be granted. The proposal therefore complies with the policies and guidance relating to protected species, including UDP policy ENV 6, and the accompanying SPG.

Inclusive design

Members will be aware that Access Statements are now mandatory for most planning applications, and access issues have to form part of a planning assessment. The approach is outlined in TAN 18 Transport, and Policy GEN 6 which sets out the need to provide safe and convenient access for persons with disabilities. SPG 8 'Access for All' supplements this policy, together with SGP 25 'Residential Development Design Guide' and the Council's document 'Planning and Inclusive design'.

The application outlines a basic approach to inclusive design. Should planning permission be granted, further details should be conditioned.

SUMMARY AND CONCLUSIONS:

The principle of the change of use and extensions to the property has previously been established, with access and parking off the rear lane leading to/from Churton Road. The current scheme shows an overall improvement to the main, principal building elevation and the demolition of a poor quality house. Adequate amenity standards would be achieved for neighbouring properties and the locality. The amendments and alterations proposed for the current scheme are considered acceptable, subject to the inclusion of various conditions, to comply with planning guidance and policy.

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. **PRE-COMMENCEMENT CONDITION**

No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period.

The Statement shall provide for:

- i. the parking of vehicles of site operatives and visitors;
- ii. loading and unloading of plant and materials;
- iii. storage of plant and materials used in constructing the development;
- iv. the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- v. wheel washing facilities;
- vi. measures to control the emission of dust and dirt during construction;
- vi. a scheme for recycling/disposing of waste resulting from demolition and construction works.

3. Facilities shall be provided and retained within the site for the loading/ unloading, parking and turning of vehicles in accordance with the approved plan and which shall be completed prior to the development being brought into use.

4. **PRE-COMMENCEMENT CONDITION**

Prior to the commencement of any demolition works on site, the following details shall be submitted for the further approval of the Local Planning Authority:

- i. an audit of all existing building materials
- ii. the potential re-use and recycling of those materials for incorporating into an agreed, replacement site development, and
- iii. where relevant, the recipient of remaining building materials. The approved audit shall form part of the building contract agreed for new building development for the site, a copy of which shall be submitted for record purposes for the Local Planning Authority.

5. **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.

6. All planting, seeding, turfing, fencing, walling or other treatment comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the 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.

7. **PRE-COMMENCEMENT**

Prior to the commencement of the development, the written approval of the Local Planning Authority shall be obtained in respect of the walls and roof materials to be used for the development hereby permitted and no materials other than those approved shall be used.

8. No additional windows to those shown on the approved plan shall be inserted at any time, unless otherwise agreed in writing by the Local Planning Authority.

9. **PRE-COMMENCEMENT CONDITION**

Before the development hereby permitted is commenced a scheme indicating the provision to be made for disabled people to gain access to the building shall be submitted to and approved in writing by the Local Planning Authority. The agreed scheme shall be implemented before the development hereby permitted is first brought into use

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

1. To comply with the provisions of Section 91 of the Town and Country Planning Act 1990.
2. In the interests of highway safety and residential amenity.
3. To provide for the loading/ unloading, parking and turning of vehicles and to ensure that reversing by vehicles into or from the highway is rendered unnecessary in the interest of traffic safety.
4. To ensure that the development involves a sustainable approach.
5. To ensure in the interests of visual amenity a satisfactory standard of landscaping in conjunction with the development.
6. To ensure a satisfactory standard of development, in the interests of visual amenity.
7. In the interests of visual amenity.
8. In the interests of safeguarding the amenities of adjacent properties.
9. To ensure suitable access for the disabled to the building.

NOTES TO APPLICANT:

Ridge tiles or finishers should be removed by hand to ensure that no torpid or hibernating bats are injured during the conversion / demolition works.

Door frames and window frames should be removed with care to ensure that no torpid or hibernating bats are injured during the conversion / demolition works.

Defects to structural masonry should be lowered to prevent torpid or hibernating bats being injured during the conversion / demolition works.

Structural members, lintel bearings, purlins or wall plates should be removed with care to ensure that no torpid or hibernating bats are injured during the conversion / demolition works.

If it is found that at any time during the works torpid or hibernating bats are uncovered, the works must cease immediately and further advice should be sought.

ITEM NO: 6

WARD NO: St Asaph East

APPLICATION NO: 46/2009/1025/ AC

PROPOSAL: Details of the warning measures for users of the highway in relation to the access into and from the site submitted in accordance with condition number 4 of planning permission 46/2006/1097/PF

LOCATION: Elwy Bank High Street St. Asaph

APPLICANT: Mr T R Smith

CONSTRAINTS: Listed Building

PUBLICITY UNDERTAKEN: Conservation Area
Site Notice - No
Press Notice - No
Neighbour letters - No

CONSULTATION RESPONSES:

ST ASAPH TOWN COUNCIL

"Object – the Council is totally against any measures which would permit any vehicular access to/from these premises, as to permit the same would put pedestrians and other road users in considerable danger (said comments also refer to additional information contained in letter dated 10/09/09)

Awaiting further response on latest revisions

HEAD OF HIGHWAYS AND INFRASTRUCTURE

Signs proposed do not meet the specific standards of the Traffic Signs Regulations and General Directions 2002. In light of the fact that planning consent has been granted the best that can realistically be achieved in addition to the proposed cameras and convex mirrors is to ensure the vehicle crossing is clearly delineated by the use of a contrasting paving. This would best be achieved with edge makings consisting of concrete edgings laid flush at a suitable angle across the width of the footway with the section of footway between them surfaced using dense wearing course macadam.

I would also reiterate that none of the above absolves the need to obtain consent under Section 184 of the Highways Act 1980. This will require an amendment to the parking order to remove approximately 33 metres of the existing parking. As required by the regulations, this will need to be advertised and any resulting objections will have to be considered prior to granting Section 184 consent.

CONSERVATION ARCHITECT

Awaiting response.

RESPONSE TO PUBLICITY:

N/A

EXPIRY DATE OF APPLICATION: 04/12/2007

REASONS FOR DELAY IN DECISION:

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

PLANNING ASSESSMENT:

1. THE PROPOSAL:

1.1 Outline of application

1.1.1 This application seeks approval for the provision of warning measures to warn highway users of the presence of a previously approved vehicular access. Members may recall that, as part of a comprehensive renovation of this Listed Building, they approved details of a vehicular access through a former Butcher's shop on the High Street at Planning Committee in November 2006.

1.1.2 The application before Members now is not in relation to the acceptability or otherwise of the vehicular access as this has been accepted in the original permission. The original permission included a number of conditions one of which was as follows:-

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

1.1.3 The submitted details indicate the applicant's intention to fit warning signs to each gateway stanchion at either end of the vehicular access. The signs would be affixed at 2100mm height from the ground level and read “Warning – Beware of Moving Vehicles”. It is intended that the signs would be bilingual with English and Welsh versions on either side of each sign. An illustration of this warning sign is shown at the front of this report (Plan A) along with the associated elevation detail (Plan B). The plans also indicate the intention to clearly delineate the area of pavement to the front of the access with contrasting paving. This would be achieved with edge markings consisting of concrete edgings laid flush at a suitable angle across the width of the footway with the section of footway between them surfaced using dense wearing course macadam. (Plan C)

1.1.4 Alongside the above warning measures, which are submitted specifically to deal with the planning condition described above, the applicant intends to install CCTV cameras and monitors to enable users of the access to view pedestrians coming up or down the High Street. A further 2no. convex mirrors will also be installed under the head of the access opening in order to help drivers view the pavement outside the access.

1.2 Description of site and surroundings

1.2.1 The property itself is a mid c.18th Grade II Listed Building which had been vacant and semi derelict since the mid 1990's. It had become an eyesore on the High Street with structural problems resulting in scaffolding being erected in a prominent position on the frontage for some years.

1.2.2 On granting planning permission and Listed Building Consent for the renovations to the dwelling. Members of Denbighshire's Planning committee

had due regard to the overall conservation and visual benefits of the scheme and welcomed the great enhancements being made to this prominent historic High Street premises.

- 1.2.3 The High Street of St. Asaph contains a number of commercial premises on both sides of the road. Elwy Bank sits roughly opposite the junction of the High Street and Gemig Street. There are parking restrictions outside part of the Elwy Bank frontage, however, parking bays extend from outside up to the top of the High Street on this side of the road. There are other examples of vehicular access points onto the High Street on both sides of the road.

1.3 Relevant planning constraints/considerations

- 1.3.1 Elwy Bank is a Grade II Listed Building sited within the St.Asaph Conservation Area. The site is located within the development boundary as shown in the adopted UDP proposals maps. It is important to note that this application relates to the discharge of a planning condition and does not involve an assessment of the vehicular access already approved.

1.4 Relevant planning history

- 1.4.1 Members will recall that permission has been given for the renovation of the dwelling at Elwy Bank along with the provision of a vehicular access onto the High Street. An application to discharge the planning condition the subject of this application was refused by Planning Committee in July 2008. The reason for that refusal was as follows:-

“The proposed access warning measures are insufficient to adequately warn all highway users of the presence of the vehicular access. This is contrary to Policy TRA 6 of the Denbighshire Unitary Development Plan.”

- 1.4.2 The previously refused scheme incorporated different warning signs and did not propose to alter the footway area outside of the site.

1.5 Development/changes since the original submission

- 1.5.1 The scheme has evolved since the plans and documents were submitted with this application. The applicant has liaised with Planning Officers who have themselves taken advice from Highway Engineers of the Council. This has resulted in alterations to the footway area details which now incorporate a finish suggested by the Highway Engineer.

1.6 Other relevant background information

- 1.6.1 None.

2. RELEVANT PLANNING HISTORY

- 2.1 46/2006/1097/PF – Internal and external alterations to dwelling, rebuilding of structure to rear and alterations to adjoining shop to create access – GRANTED
13/11/06

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

46/2007/1538/AC- Details of access warning measures submitted in accordance with

condition number 4 of Planning Permission 46/2006/1097/PF – REFUSED

3. PLANNING POLICIES AND GUIDANCE

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

Policy CON 2 – Extension or alteration to Listed Buildings
Policy TRA 6 – Impact of new development on traffic flows
Policy TRA 9 – Parking and Servicing Provision

GOVERNMENT GUIDANCE

TAN 18 – Transport

4. MAIN PLANNING CONSIDERATIONS

4.1 The main issues in this case are considered to be:-

4.1.1 Acceptability of submitted condition details in relation to warning highway users of the presence of the access.

4.2 In relation to the main considerations noted above:

4.2.1 Acceptability of submitted condition details in relation to warning highway users of the presence of the access.

It is vitally important to reiterate that the vehicular access to which this approval of condition application relates has been granted planning permission. The access has not yet been constructed, however, the dwelling to which it relates has been renovated in accordance with the permitted scheme and is being occupied by the applicant. It is also of relevance to note that when granting permission for the access back in November 2006 Members had regard to the following factors:

- The access was going to be serving a single dwelling only with limited comings and goings.
- The historic nature of the street with buildings close up to the pavement and forming continuous terraces makes it difficult to provide an access to meet modern standards.
- The existence of other narrow access points elsewhere on the High Street.
- The relatively slow traffic speeds on the High Street caused by its narrowness and on-street parking.
- A previously agreed scheme for demolition of the buildings on site with the proposed re-development having vehicular access off the High Street.

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

In order to comply with the relevant condition the applicant has proposed the 2 no. warning signs as previously described. The applicant is relatively limited to providing warning measures on land within his ownership. The frontage of his building, therefore, is the most appropriate place upon which to fix signage. It is considered, having regard to the historic character of the building and the neighbouring shop users, that projecting warning signs as proposed are acceptable as they have the same visual impact as similar shop signage. To enlarge such warning signs to meet the requirements of the Traffic Sign Regulations would potentially impact upon the character of this Listed Building. Given the relatively infrequent use of this access point, having full size traffic signs normally put on lampposts or other street furniture, would seem inappropriate.

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

The alterations proposed to the pavement area outside of the site will clearly enable pedestrians walking up or down the High Street to see that an access exists. The proposals have been suggested by the Highway Engineers and will serve to warn highway users of the presence of the access. A change to the surfacing will show that an access point is located here.

Any issues relating to highway consents for the vehicular access are not considered to be of relevance to the approval of a planning condition application and cannot be debated as part of this proposal.

5. SUMMARY AND CONCLUSIONS:

5.1 The vehicular access for the building has been approved. This application relates to proposed warning measures which the applicant was required to provide for the permitted access. Given the limitations in providing such measures on such an historic building in this location it is considered that the signage along with pavement alterations are the most appropriate measures in this instance. The signs are designed and located appropriately on the building to serve their purpose without causing any significant detriment to the visual character of the building. The pavement alterations have been suggested by the Highway Engineers and would be acceptable as additional warning measures.

RECOMMENDATION: APPROVE (no additional conditions imposed)

NOTES TO APPLICANT: None

ITEM NO: 7

WARD NO: Tremeirchion

APPLICATION NO: 47/2009/1007/ PF

PROPOSAL: Erection of single-storey extensions and alterations to dwelling

LOCATION: Ysgol Isaf Waen St. Asaph

APPLICANT: Mr & Mrs John Carter

CONSTRAINTS: Public Right Of Way

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

CONSULTATION RESPONSES:

BODELWYDDAN COMMUNITY COUNCIL:

“Objection. The flat roof is not in keeping with the remainder of building; however Councillors are happy with other alterations.”

RESPONSE TO PUBLICITY:

Letters of representation received from:
R. L. Williams, Plas Wern, Waen, St. Asaph

Summary of planning based representations:

- Flat roof not in character with the existing dwelling
- The proposal would result in the loss of an affordable small property

EXPIRY DATE OF APPLICATION: 05/10/2009

REASONS FOR DELAY IN DECISION:

- timing of receipt of representations

PLANNING ASSESSMENT:**THE PROPOSAL:**Outline of application

Planning permission is sought for the erection of two extensions to an existing dwelling in Waen, near St Asaph.

The first extension would be located on the northern elevation and would provide a new entrance porch, utility, and cloakroom to the dwelling. It would measure 8m by 2.4m with a pitched roof ridge height of 3.8 metres external. Materials would match the existing, i.e. render and tiles.

The second extension would be located on the southern elevation facing the dwellings main garden area. This involves a flat roof with a glazed lantern light, all behind a parapet wall and would be built on an existing patio area, 'squaring off' the existing building. The front elevation would measure 9 metres in length and it would project 3 metres out from the dwelling. The walls would be rendered to match the existing wall, whilst the parapet wall would be capped with dressed stone. Bespoke wooden framed sliding/folding doors (7.4m wide) would be fitted to the front elevation. The plans are at the front of the report.

Description of site and surroundings

The site is in an isolated location outside any defined development boundary. The surrounding land is primarily agricultural with some scattered dwellings.

The site is approached via a long access track from a minor road which links Trefnant and Rhuallt. There is a parking/turning area to the north east of the dwelling, and a large landscaped garden with a pond to the south. A public right of way exists along the south western site boundary.

Relevant planning constraints/considerations

None to this application

Relevant planning history

It is understood the dwelling was originally a two bedroom cottage, which has been altered and extended since 1970's by way of a ground floor extension, and in the 1980's by extensive additional extensions and alterations. The scheme approved in 1983 involved significant alterations to the original dwelling, be considered to be tantamount to a replacement dwelling.

RELEVANT PLANNING HISTORY:

5213 – Extension. GRANTED 31st January 1972

TRE/254/83 – Extensions and alterations to dwelling house – GRANTED 8th November 1983

PLANNING POLICIES AND GUIDANCE:

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

Policy GEN 6 – Development Control Requirements

Policy HSG 12 – Extensions to dwellings

SUPPLEMENTARY PLANNING GUIDANCE:

SPG 1 – Extensions to Dwellings

SPG 24 – Householder Development Design Guide

GOVERNMENT GUIDANCE:

Planning Policy Wales (March 2002)

TAN 12 – Design (2009)

MAIN PLANNING CONSIDERATIONS:

- i) Principle
- ii) Detailed design and impact on neighbours

With regard to the above:

i) Principle

The principle of extending existing dwellings is acceptable in relation to the policies of the UDP and SPG note 1 and 24. HSG 12, the main policy permits extensions subject to 4 tests requiring the acceptability of scale and form; design and materials; the impact upon character, appearance, and amenity standards of the dwelling and its immediate locality; and whether the proposal represents overdevelopment of the site. GEN 6 contains a wide range of general development control amenity considerations geared at ensuring a high standard of development with minimal impacts. SPG 24 offers basic advice on the principles to be adopted when designing domestic extensions and related developments. The assessment of impacts is set out in the following section.

ii) Detailed design and impact on neighbours

Scale and form – the alterations to the ‘original’ dwelling during the 1980’s changed its character significantly and it is considered that the proposed alterations would be appropriate in scale and form to the existing building.

Design and Materials – The design and materials proposed would not impact negatively upon the character/appearance of the dwelling. The flat roof would be hidden behind a parapet wall, capped with dressed stone. There is some interest in the design detailing on the side and front elevations, which respect the appearance of the dwelling and surrounding area.

Amenity of area and dwelling - The proposal is not likely to impact adversely upon the character/amenity of the locality. There are no neighbours affected by the proposal.

Over development - The proposal is not considered to be an over development of the site, with sufficient amenity space remaining after the development is implemented for the enjoyment of occupiers of Ysgol Isa.

SUMMARY AND CONCLUSIONS:

The comments of the Community Council and neighbour are noted, and addressed in the preceding paragraphs. It is considered that the proposal complies with policy and it is accordingly recommended that permission be granted.

RECOMMENDATION - GRANT - subject to the following conditions:-

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

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

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

NOTES TO APPLICANT:

None

PWYLLGOR CYNLLUNIO
CYFARFOD: 28ain Hydref 2009
Eitem: 3

PLANNING COMMITTEE
MEETING: 28th October 2009
Agenda Item: 3

ENFORCEMENT MATTERS

ENF/ 2008/00054 :

Land at Lodge Farm, Mold Road, Bodfari, Denbigh

Unauthorised permanent Residential Use of Static Caravan
on Agricultural Land

PLANNING ENFORCEMENT REPORT

REFERENCE: ENF/2008/00054

LOCATION: Land at Lodge Farm, Mold Road, Bodfari, Denbigh

INFRINGEMENT: Unauthorised Permanent Residential Use of Static Caravan on Agricultural Land

RELEVANT PLANNING POLICIES AND GUIDANCE

DENBIGHSHIRE UNITARY DEVELOPMENT PLAN

Policy GEN 6	-	Development Control Requirements
Policy ENV 2	-	Development Affecting the AONB
Policy HSG 6	-	New Dwellings in the Open Countryside

CENTRAL GOVERNMENT GUIDANCE

Planning Policy Wales 2002

Technical Advice Note (Wales) 6	-	Agricultural and Rural Development 2000
Technical Advice Note (Wales) 9	-	Enforcement of Planning Control

HUMAN RIGHTS CONSIDERATIONS

The Human Rights Act 1998 is taken into account when considering taking enforcement action against planning control breaches. In this instance, the matter under consideration is whether the owner of land within the AONB has a right to use a static caravan for residential purposes. The general public interest outweighs that of the land owner in this particular case. No specific human rights issues have been raised by the land owner or any other interested party.

1. BACKGROUND INFORMATION

- 1.1 The land in question is located in a rural setting at a property known as Lodge Farm on the outskirts of Bodfari. The farm comprises a number of buildings sited adjacent to the farm house; a milking and dairy parlour, a dutch barn, a livestock building and a loose box. There are also two static caravans located in a clearing in a wooded area at the side of a track leading away from the farm yard.
- 1.2 The farm house is occupied by a tenant, who is not employed at Lodge Farm.
- 1.3 In relation to the two static caravans, one is used as an agricultural dry store and the other as residential accommodation for a farm worker.
- 1.4 On the 19 May 2008, a planning contravention notice was served on the land owner in order to establish certain facts. The questionnaire attached to the notice was duly completed and returned on the 27 May 2008. The land owner confirmed that one static caravan was being used as residential accommodation for a farm worker.
- 1.5 As it was necessary to confirm whether the residential occupation of the caravan was on a permanent basis, a further query was posed to the land owner. On the 19 June 2008, written confirmation was received that although the worker was employed on a part-time basis, his residential occupation of the caravan was in fact permanent.

- 1.6 On the 2 July 2008, a letter was forwarded to the land owner outlining that permanent residential occupancy of the caravan on his land represented a breach of planning control and should cease.
- 1.7 Formal enforcement action was not pursued at that time as a result of the land owner disclosing that he intended to submit an application for a Certificate of Lawful Use in relation to the residential occupancy of the caravan.
- 1.8 On the 19 August 2008 an application was duly submitted by the land owner. However, due to a lack of detail this was classed as 'invalid' and the land owner advised to forward the required outstanding material. The application was eventually validated on the 3 March 2009.
- 1.9 On the 28 September 2009, the application was refused.

2. REASONS FOR ISSUING AN ENFORCEMENT NOTICE

- 2.1 The unauthorised use has commenced within the last 10 years.
- 2.2 In these circumstances although it is accepted that the static caravan has been in situ for a lengthy period of time, it does not, however, have any characteristics of permanency. It is not attached to the ground, nor are any utilities connected. Accordingly, on the basis that the static caravan does not represent 'operational development', the 10 year rule applies, rather than the 4 year rule. In any event, this issue is academic in that permanent residential occupancy has only commenced within the last 4 years.
- 2.3 The land owner is unlikely to voluntarily cease residential use of the static caravan.
- 2.4 The residential use of a static caravan at this location does not conform to Policy GEN 6; Development Control Requirements in that the site, surroundings, form, design and materials are unacceptable within this Area of Outstanding Natural Beauty (AONB).
- 2.5 As Lodge Farm is located within an AONB, Policy ENV 2; Development Affecting the AONB applies. This policy details the requirement that any development must seek to conserve or enhance the natural beauty of the area. It is contended that the residential use of a static caravan does not meet this requirement and in fact detracts from the character and appearance of the AONB.
- 2.6 Policy HSG 6; New Dwellings in the Open Countryside, demands that any temporary accommodation, such as a caravan, utilised as farm worker's accommodation at a new agricultural enterprise, must be authorised by the Local Planning Authority. The use of the static caravan in this case cannot meet the requirements of this policy due to the fact that Lodge Farm is not a new enterprise and Local Planning Authority approval has not been granted.
- 2.7 The use of conditions as part of any grant of planning permission for the continuation of the residential use of a static caravan could not overcome these objections.

3. RECOMMENDATION

3.1 That authorisation be granted for the following:

- (i) Serve an enforcement notice to stop the unauthorised residential use of the static caravan. (Compliance 6 months).
- (ii) Instigate prosecution proceedings or other appropriate action under the Planning Acts against the person or persons upon whom any enforcement notice or other such notice is served should they fail to comply with the requirements thereof.