

**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	03/2009/1535/PC	White Water Country Park Berwyn Street Llangollen Retention of single storey bungalow (mobile home) as site managers accommodation	1
2	09/2010/1356/PF	Efail Y Waen Bodfari Denbigh Construction of a circular slurry store	16
3	11/2010/1218/PF	Maestyddyn Isa Clawddnewydd Ruthin Alterations to farmhouse and conversion into 2 No. holiday accommodation units	20
4	15/2010/1288/PS	Ffynnon Y Berth Llanarmon Road Llanferres Mold Variation of Condition No. 4 on planning permission Ref. No. 5/25/5529 (No individual touring caravan shall remain on the site for more than 14 days in any one month) to allow seasonal occupancy from 1 March to 31 October in any one year	24
5	18/2010/1422/PF	Pentrefelin Ucha Pentrefelin Llandyrnog Denbigh Erection of a circular slurry store	31
6	22/2010/1338/PF	Bryn Siriol Gellifor Ruthin Erection of first-floor extension to existing bungalow including dormer windows	35
7	24/2010/1355/PF	Cerrigllwydion Arms Llanynys Denbigh Conversion and alterations to redundant public house to form 2 no. dwellings	39
8	43/2010/1222/PF	Land at High Street/ Nant Hall Road Prestatyn Development of land to provide class A1 retail units, car parking, landscaping, primary substation, petrol filling station, access and associated works	52
9	45/2010/1263/PF	Balmoral House 22-24 Queens Walk Rhyl Demolition of outbuildings and erection of single-storey pitched-roof extension to residential home for the elderly	64
10	45/2010/1300/PF	West Rhyl Coastal Defence Area Foryd Harbour/West Promenade West Parade Rhyl Engineering operations comprising construction of a stepped revetment, training wall and inner/outer harbour wall forming part of the West Rhyl Coastal Defence Scheme	69
11	45/2010/1360/PC	23 Marine Drive Rhyl Retention of single-storey flat-roofed extension but with flat roof infill over open porch and handrail over to match existing balcony deck (Retrospective application)	83
12	46/2010/1239/PC	Fairholme Preparatory School The Mount Mount Road St. Asaph Retention of all weather sports surface and perimeter fencing (retrospective application)	87

ITEM NO: 1

WARD NO: Llangollen

APPLICATION NO: 03/2009/1535/ PC

PROPOSAL: Retention of single storey bungalow (mobile home) as site managers accommodation

LOCATION: White Water Country Park Berwyn Street Llangollen

APPLICANT: Mr Matthew Fletcher

CONSTRAINTS: Groundwater Vulnerability 1
World Heritage Site Buffer

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

CONSULTATION RESPONSES:

LLANGOLLEN TOWN COUNCIL

"Members raised no objections to the application".

COUNTRYSIDE COUNCIL FOR WALES

No objections, but recommend conditions to reduce potential impacts, including restrictions on works within the boundary of the SSSI and SAC.

CADW (Ancient Monuments Section)

(Comment only on aspects relating to scheduled monuments or Registered Historic Landscapes, Parks and Gardens).

Note the proposal is in the vicinity of the scheduled ancient monument of Pontcysyllte Aqueduct and Canal, but given the grant of permission for the log cabin development, retention of the bungalow would not appear to be of a scale or nature of building to impose a significant adverse impact on the World Heritage site and scheduled ancient monument. The Authority should be satisfied that views toward and from the World Heritage site are not compromised, and should assess impacts on the historic landscape of the Pontcysyllte Aqueduct and Canal and World Heritage Site and the Vale of Llangollen, which is included in the Register of Landscapes of Historic Interest in Wales.

RESPONSE TO PUBLICITY:

Letters of representation received from:

Mr. C. Davies, ECO Leisure Ltd., The New Enterprise Centre, Lytham Road, Blackpool (via e-mail)

P. Lloyd, PLPlanning, Commodore House, 51, Conway Road, Colwyn Bay (on behalf of LPA Receivers of Whitewater Country Park).

The main points raised are:-

Principle of development

- Applicant does not control land necessary to implement extant planning permissions,

hence there is no basis at this stage to justify living on the site to construct or manage the completed development/there is no functioning rural enterprise in existence capable of being managed by the applicant/development is in open countryside and sporadic/retention of the unit would reduce the number of tourist units and create a potentially conflicting user detrimental to the implementation of the consented scheme.

- Site development is not imminent and there is no reason to believe it would be managed from a mobile home on the site proposed/there may be a need when the holiday site is developed and operational but this should be based in one of the log cabins close to the entrance/the application site is totally inappropriate.

Planning policy conflict

- In absence of any essential need, contrary to principles in Unitary plan policies GEN 3, GEN 4, HSG 6, WAG policy statement 1/2006 (Housing) and TAN 6/design is contrary to GEN 6 and MIPPS 01/2008 Design

Design/Landscape impact

- Appearance contrasts starkly with high quality of log cabin units/visually jarring from A5 and River Dee.

Unauthorised development

- Mobile home is unauthorised/has been illegally erected on one of the plots granted permission for a log home/is already the subject of Enforcement Action/application is a further delaying tactic.

EXPIRY DATE OF APPLICATION: 05/01/2011

REASONS FOR DELAY IN DECISION (where applicable):

- Protracted negotiations

PLANNING ASSESSMENT:

1. THE PROPOSAL:

1.1 Summary of proposals

1.1.1 The application seeks retrospective planning permission to retain a sectional unit as accommodation for a site warden/manager in connection with a partly constructed log cabin development. The site is referred to as Whitewaters Country Park and is located in open countryside north of Llangollen town.

1.1.2 The unit is situated approximately 40 metres to the north east of the White Waters Country Hotel (formerly known as Eirianfa), and within 20 metres of the west bank of the River Dee. (See plan at the front of the report).

1.1.3 The application forms describe the proposal as:-
“Application in retrospect to retain a single storey bungalow (mobile home) as a domestic residence/site manager’s accommodation”. The forms confirm the use was started in December 2003, and that the current use of the site is ‘residential plot within country park estate used for holiday (camping and caravans)’.

1.1.4 The application is submitted by an agent, on behalf of the applicant, Mr. Matthew Fletcher. The submitted site layout plan shows the ‘red line’ defining the application site drawn around the accommodation unit (which is shown as unit 36) and the plan edges in blue (in the same ownership) land encompassing log cabins numbered 10, 11, part of 18, 29, and 31 i.e.

excluding the remainder of the log cabin site and the White Water Country Hotel. The submitted Design and Access Statement confirms there have been ongoing ownership issues subject to legal proceedings, but state that the land shown in red on a second plan in the submission (Land Registry plan) is in the ownership of Mr. & Mrs. R. Fletcher. These are the areas edged red and blue on the site location plan. The planning application contains a Certificate B confirming formal notice has been served on Mr. R. R. Fletcher as owner in connection with the submission. The Design and Access Statement refers to a third party having a first charge against the remainder of the log cabin site. The Country Hotel is in entirely separate ownership.

1.1.5 The plans show a unit described as a 'Park Home' measuring some 18 metres long x 6 metres wide with a 3m x 3.5m conservatory at one end and a decking area at the rear. The plans indicate the unit contains 5 bedrooms, a lounge, dining room, kitchen, utility and bathroom. Its appearance resembles a bungalow with white finished textured cladding on the external walls, slate grey interlocking steel tiles, and a surrounding picket fence.

1.1.6 The application is accompanied by two supporting statements:

- a) A Statement of Need for a site warden/manager's residence at the White Waters Country Park
- b) A Design and Access Statement (revised January 2010) for site managers residence.

1.1.7 The main points in a), the Statement of Need are as follows:-

- The White Waters Country Park was formerly known as Eirianfa Holiday Park
- The Country Park is set in 3.5 acres of gardens established 20 years ago.
- The proposed development is to erect 35 luxury log cabins/homes with infrastructure; providing year round accommodation (for able and disabled persons) which is short in Llangollen
 - There are facilities for canoeing and fishing on the river
 - Other sites in the area are seasonal and have on site managers to offer daily assistance and emergency cover to holiday makers in need; there is a necessity for a full time warden, to provide the level of service required.
 - Work on the log cabin development was started in April 2007 and was due to be completed in 2008, but legal issues have arisen and set back the overall development in excess of 2 years.
 - The reasons for the provision/retention of the warden's accommodation are:
 - to provide security from theft and damage to material on site during the construction period;
 - On completion of the construction phase, to provide an active reception for multiple changeover times and days; to book clients in and out and provide assistance to less able/disabled clients; to provide a presence to cover maintenance of the units, fences, roads, lighting, drainage, river frontage, discourage poaching, provide a cleaning/linen service, accept deliveries, etc.
 - It is accepted that it was remiss of the owners to pre-empt the development by demolishing the former Warden's residence and erecting the replacement, but this was in ignorance of the Planning Act.

- The request is to permit the continued use of the unit until completion of the first phase of the development : the commencement of which is stated as due in early summer 2010 with a backstop for completion within 3 years; at which time the temporary unit will be removed and replaced with one of a new design.

The Statement contains a letter from Hoseasons Holiday Ltd., which refers to the advantages of managers' accommodation on a new site in offering support for clients.

1.1.8 The main points in the Design and Access Statement are:-

- The application seeks to regularise the erection of the Site Manager/Warden's (bungalow) accommodation, bearing in mind the approved development of log cabins has commenced and the site continues to provide facilities for camping, caravans and fishing.
- The design takes into account the needs of the family and those either visiting as friends or guests seeking accommodation within the development, incorporating access ramps.
- Access to the site is from the A5 but the road structure of the log cabin development has not been formed.
- There have been ongoing ownership issues relating to the log cabin site. A plan attached to the application shows land owned by Mr. & Mrs. R. Fletcher (including the Site manager's unit) and land where a separate company (AIB Group) has first charge.
- The mobile unit on site, constructed by Park Homes Ltd., comes in four sections which are bolted together on site. This can be dismantled, refurbished and sold on.
- When works proceed on the log cabin development, the roads and lighting will be completed.
- The unit has a pitched roof more in keeping than the former accommodation which had a flat roof.

1.2 Description of site and surroundings

- 1.2.1 The unit is sited on land which was formerly part of the grounds of Eirianfa, a substantial late Victorian property in open countryside between the A5 trunk road and the River Dee, some 600 metres to the north of the Wild Pheasant Hotel on the outskirts of Llangollen.
- 1.2.2 Vehicular access to the site is off the A5 via an existing entrance some 80 metres north of the White Waters Country Hotel. The accommodation unit is then accessed via a track which branches off down to the east.
- 1.2.3 The unit is located on a flat area immediately above the bank leading down to the River Dee, and it is at a slightly lower level than the Country Hotel. There are a number of trees along the western bank of the River Dee, which slopes sharply down to the east from the site
- 1.2.4 At the date of the Case Officer's site visit (December 2010) it was noted that the following were present on the site.
- The White Water Country Hotel (separate ownership)
 - The unit forming the subject of the current application
 - The toilet block serving the site
 - A log cabin on what appears to have been plot 3 of the 1993 consent for 6 log cabins

- An advertisement hoarding at the site entrance stating “For Sale – holiday lodge development site with planning consent for 30 log cabins”.

Attention was also drawn to the concrete slabs (bases) of the 5 other units which were subject to the 1993 consent, and the foundation of one of the log cabin units granted in 2003, but these could not be seen because of snow cover at the time of the visit.

1.3 Relevant planning constraints/considerations

- 1.3.1 The application site is in open countryside outside the development boundary of Llangollen town, as included in the Unitary Development Plan. It lies within the Area of Outstanding Beauty in the UDP, (currently under consideration of upgrade to AONB status) within the Buffer Zone of the Llangollen Canal World Heritage Site, and the Vale of Llangollen Historic Landscape. The River Dee forms part of a Special Area of Conservation.

1.4 Relevant planning history

- 1.4.1 There has been a long history of applications relating to this site, which until recent years formed part of the grounds of the former country house at Eirianfa. The history is of relevance to some of the considerations on the application.
- 1.4.2 It is understood that Eirianfa was used until the mid 1980's as a community home/school for adolescent boys, when it was known as Berwyn College. A planning consent in 1985 permitted use as a college for mentally handicapped persons.
- 1.4.3 From the early 1990's, proposals have been granted permission for the development/expansion of the main building at Eirianfa as a Hotel/leisure facility, linked to the use of surrounding land as a touring caravan halt, and self-catering holiday units.
- 1.4.4 Permission was granted on appeal in 1991 for a hotel, 20 bed extension and associated facilities at Eirianfa, an overnight caravan halt for touring caravans, and lettable self-catering cottages and chalets. Details of the development were approved in 1993. The layout plan showing the location of the 6 log cabins is included at the front of the report. The applicant and owner of the land was Mr. R. Fletcher. Officers understand this permission was taken up in the form of the touring caravan use, the erection of the log cabin on plot 3, the laying of the bases of the other 5 units, and the erection of the toilet block.
- 1.4.5 A subsequent outline permission was granted in 2001 for a development involving the refurbishment of Eirianfa as an administrative centre for the site with a bar/restaurant, 4 catering units, swimming pool and fitness centre, and 30 units of tourist accommodation. This application encompassed the whole site involved in the 1991 and 1993 permissions. Detailed plans of the log cabin development, showing a total of 36 units (presumably incorporating 6 units from the 1993 permission) were approved in 2003. The applicant and owner of the land was Mr. R. Fletcher. Officers confirmed this permission was commenced through works on the plot 7 log cabin in 2007.
- 1.4.6 An application was submitted on behalf of Mr. R. Fletcher in 2004 for a Certificate of Lawfulness of Existing Use for an old classroom block as a dwelling. File records indicate this was an old timber structure located on what are shown as log cabin units 10 and 11 on the 2003 layout plan. It is

understood this unit was removed in 2007 and that there is now no legal basis to support a 'replacement' on that site on the back of the Lawful Use certificate.

1.4.7 Matters have become somewhat complicated in recent years following a split in the ownership of the original Eirianfa site. Officers understand the main building (now named the White Waters Country Hotel) has been sold on and is in separate ownership, with no connection with the log cabin development. There have been legal issues impacting on the remaining part of the site in the ownership of Mr. R. Fletcher, such that the site layout plan on the planning application edges only the application site in red (for the warden/manager's unit) and land encompassing only 6 of the log cabin plots in blue (being land in the control of the applicant). The relevance or otherwise of these matters is covered later in the report in para.4.2.1.

1.4.8 The submission indicates the living unit forming the subject of the application has been present since 2003, and it is currently occupied by the applicant. Members may recall a report to the September 2007 Committee where it was resolved to take Enforcement Action to secure the removal of the unit. The Notice was served in October 2007 and required removal by the end of November 2008; although this was subsequently extended by 12 months to November 2009, and action has been held in abeyance following the submission of the current application in November 2009.

1.5 Developments/changes since the original submission

1.5.1 The application was submitted in November 2009. Further information was requested to allow the application to be progressed, and it was sent out for consultation in February 2010 on receipt of an additional Design and Access Statement. Further information confirming the location of the septic tank was received in March 2010.

1.5.2 There have been exchanges since this time with the agent and applicant, including over the relevance or otherwise of control over land where the log cabins are proposed. This matter is covered in Section 4.2.1 of the report.

1.6 Other relevant background information

1.6.1 None.

2. DETAILS OF PLANNING HISTORY:

2.1 3/117 - Development of land by the erection of 23 log cabin style chalets – REFUSED – 22/09/1974.

3/933 - Erection of 3 re-locatable classroom units – GRANTED – 24/11/1975

3/3160 - Closure of 2 existing accesses and construction of 1 combined access – GRANTED – 05/12/1978

3/3161 - Development of land by the erection of a covered swimming pool and gymnasium – GRANTED – 05/12/1978

3/3164 - Permanent use of Eirianfa as a therapeutic community home for adolescents – GRANTED – 05/12/1978

3/5257 - Change of use from therapeutic home to craft centre – GRANTED – 08/09/1981

3/7522 - Change of use from community home to college for mentally handicapped – GRANTED – 02/08./1985

3/11,270 - Outline permission GRANTED 21/6/1991 on appeal - Leisure facilities incl. provision of caravan site, toilet block, 6 log cabins, septic tank and alterations to existing vehicular access

3/13,272 – Details of 6 Log Units and Toilet Block – GRANTED 01/06/1993

3/14,301 – Substitution of Cabin For Previously Approved Log Cabin Plot 3, Eirianfa Tourist Site – GRANTED 30/11/1994

03/2000/0028 (Outline application) – Proposed development comprising of 30 buildings providing tourist accommodation, the refurbishment of Eirianfa to provide an administrative centre for the site, a bar/restaurant and four self catering units, and a new building providing a swimming pool and fitness centre with public access – GRANTED – 18/04/2001

03/2003/1196 – Details of development comprising 30 no. buildings providing tourist accommodation and amendments to 4 no. buildings previously approved for tourist accommodation, the refurbishment of ‘Eirianfa’ to provide an administrative centre, a bar/restaurant and four self catering units and extension to provide swimming pool and fitness centre in accordance with outline planning permission code no. 03/2001/0028 – approved – 13/11/2003

03/20040133/LE – Lawful Use Certificate application for the use of a former classroom block as a dwelling – GRANTED 17/12/2004

03/2004/1147 – Details of sitings of units 15, 16, 18, 30, 31 and 32 in accordance with condition 2 of 03/2003/1196 – APPROVED – 16/11/2004

03/2006/0331 – Details of landscaping submitted in accordance with condition no. 7 of planning permission code no. 03/2003/1196/PR – APPROVED – 08/05/2006

03/2006/0332 – Variation of condition no. 3 of planning permission code no. 03/2001/0028/PO to allow further 12 month period for commencement – GRANTED – 12/04/2006

Related Enforcement

- **Enforcement Notice served on 26 October 2007** requiring the removal of the unauthorised mobile unit and attached conservatory from the land. Notice took effect 30 November 2007 requiring compliance within 12 months.
- **Enforcement Notice period of compliance extended** for a further 12 months until 30 November 2009.

3. RELEVANT POLICIES AND GUIDANCE:

The main planning policies and guidance are considered to be:

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

- Policy STRAT 1 - General
- Policy STRAT 7 - Environment
- Policy STRAT 6 - Location
- Policy STRAT 13 - New Development

- Policy GEN 3 - Development outside development boundaries
- Policy GEN 4 - Scattered development outside development boundaries
- Policy GEN 6 - Development Control requirements
- Policy ENV 1 - Protection of the natural environment
- Policy ENV 2 - Development affecting the AONB/AOB
- Policy ENV 5 - Sites of local conservation importance
- Policy ENV 6 - Species protection
- Policy ENV 7 - Landscape/townscape features
- Policy HSG 6 - New dwellings in the open countryside
- Policy TRA 6 - Impact of new development on traffic flows
- Policy TRA 9 - Parking and servicing provision

3.2 Supplementary Planning Guidance

- SPG No. 8 - Access for All

3.3 GOVERNMENT GUIDANCE

Planning Policy Wales 2010 3rd Edition

MIPPS 01/2006 – Housing

01/2008 – Good design

TAN 6 - Agricultural and Rural Development

TAN 12 - Design

TAN 22 - Sustainable Buildings

4. MAIN PLANNING CONSIDERATIONS:

4.1 The main land use planning issues are considered to be:

- 4.1.1 Principle
- 4.1.2 Highway/access
- 4.1.3 Design/Landscape/visual impact
- 4.1.4 Impact on World Heritage Site Buffer Zone
- 4.1.5 Ecology
- 4.1.6 Sustainability/Access for all
- 4.1.7 Lawful Use issue on nearby site

4.2 In relation to the main planning considerations:

4.2.1 Principle

In setting out the basic considerations relevant to the determination, officers suggest it is critical initially to establish what exactly is the subject of the application.

As presented, the submission seeks retrospective permission for a dwelling unit in the form of a 4 part 'sectional' structure. It is stated that the unit is needed for a manager/warden to supervise the construction and running of the log cabin site on adjacent land, and there is reference to it being required until the completion of the 'first phase' of the development, which is indicated as being within 3 years, when it will be removed and replaced with one of a new design. The type of unit does not conform to the definition of a caravan. In terms of planning policy and guidance, officers believe the most relevant are ones relating to the provision of new dwellings in the countryside, since the structure is in effect a permanent living unit and the stated intention is to retain it or a replacement unit of new design in a few years time.

Unitary Development Plan policies

In respect of the principle of the development, the Unitary Plan's main policies are GEN 3 and HSG 6. GEN 3 is the Plan's policy relating to development outside development boundaries and does not permit housing other than for exceptions such as farm or forestry workers, infill development, conversions,

affordable housing exceptions, and replacement dwellings. HSG 6 is the more specific policy which relates to new dwellings in the open countryside, and permits development only where it is 'essential' to have an agricultural or forestry worker who must live at or close to a place of work rather than in a nearby dwelling or settlement. The principles of HSG 6 are broadly applicable to any rural dwelling proposed. The policy contains 6 tests including a requirement to assess availability of existing properties in the locality, demonstration of a functional and financial need for a dwelling, and the acceptability of the detailing of any development with regard to the design and landscape impact.

Welsh Assembly Government policy and guidance

There is more recent guidance in Planning Policy Wales 2010 (PPW) and Technical Advice Note 6 (TAN 6) 2010 on considerations to be given to proposals for permanent or temporary rural enterprise dwellings, i.e. new isolated residential development in the open countryside. The basis of the Assembly's guidance is that isolated new homes require special justification, and that they should be essential to enable rural enterprise workers to live at or close to their place of work in the absence of nearby accommodation. S.9.36 of PPW requires that "All applications for new 'rural enterprise' dwellings should be carefully examined to ensure that there is genuine need. It will be important to establish whether the rural enterprise is operating as a business and will continue to operate for a reasonable length of time". PPW defers to TAN 6 for further guidance on the matters to be assessed to determine whether a rural dwelling is justified.

TAN 6 states in 4.31 that 'qualifying rural enterprises' include tourism and leisure enterprises. As the consented log cabin development is not in place, the tests set in 4.61 for new dwellings on new enterprises appear to be most relevant, and require, in order to determine whether a new dwelling is essential to support an enterprise, that specific criteria area met:

"4.6.1 If it is considered that a new dwelling will be essential to support a new rural enterprise, it should satisfy the following criteria:

- a. clear evidence of a firm intention and ability to develop the rural enterprise concerned (significant investment in new buildings and equipment is often a good indication of intentions);*
- b. clear evidence that the new enterprise needs to be established at the proposed location and that it cannot be accommodated at another suitable site where a dwelling is likely to be available;*
- c. clear evidence that the proposed enterprise has been planned on a sound financial basis;*
- d. there is a clearly established functional need and that need relates to a full-time worker, and does not relate to a part-time requirement;*
- e. the functional need could not be fulfilled by another dwelling or by converting an existing suitable building on the enterprise, or any other existing accommodation in the locality which is suitable and available for occupation by the workers concerned; and*
- f. other normal planning requirements, for example siting and access, are satisfied".*

The 'robust evidence' referred to in TAN 6, which is required to support applications is in the form of a 'Rural Enterprise dwelling appraisal', which is expected to satisfy the following criteria (S.4.6.1).

- The *functional test* to provide evidence of whether there is a need for a resident worker for the proper functioning of the enterprise. (See paragraph 4.8.1).
- The *time test* to provide evidence of the labour requirement for the work who is working on the justifying enterprise. (See paragraphs 4.9.1).
- The *financial test* to provide evidence of the economic sustainability of the justifying enterprise and identify the size of dwelling that the enterprise can sustain, ensuring that the size of the dwelling is commensurate with its functional need and financial justification. (See paragraphs 4.10.1 – 4.10.3).
- The *other dwellings test* to identify whether there is an existing dwelling or building suitable for conversion on the enterprise or dwelling in the locality that could meet the identified functional need. (See paragraphs 4.11.1 – 4.11.2).
- *Other normal planning requirements test* to demonstrate that the dwelling is suitable located to fulfil its identified need and to minimise impact on the wider environment. (See paragraphs 4.12.1 – 4.12.2).

The following paragraphs in TAN 6 offer further guidance on the tests and are touched on in subsequent sections of the report.

In applying the tests of general principle in PPW, TAN 6 (4.61) and HSG 6 to the information provided with the application, officers would comment as follows:-

- a) *Evidence of a firm intention and ability to develop the rural enterprise.* Factually, it is understood works were carried out in 2007 to commence the planning consent for the log cabin development, approved in 2003, by way of the laying of a concrete base for the unit 7 cabin. Officers confirmed at that time that these works were a lawful start of development, and the remainder of the log cabin scheme can still be completed, in accordance with the 2003 approval. However, all that exists on the site at the time of preparing this report is part of the base of the plot 7 unit, the log cabin on plot 3 of the 1993 approval, the toilet block, and the other 5 bases of the 1993 approval. The current application indicates the intention to complete the development of 30 log cabins, and although it refers to a 'first phase' of development with a 'backstop of completion within three years', the number of cabins in this phase is not stated.

It is also relevant as background that the site forming the subject of the main permission for the tourist/leisure development has been 'split' since the grant of consent in 2001/2003, and the White Waters Country Hotel is now a separate planning unit. The 'coloured up' plans with the current application show only the current application site for the manager's living unit, and land encompassing a further 4 or 5 log cabins as within the same ownership. Correspondence on the file indicates there have been ongoing legal issues with respect to the remainder of the log cabin site, and the Council's Legal Officer has advised the applicant in correspondence that on the information furnished it is unclear how they can manage and control the 35 units referred to.

Having regard to the above, and the tests of TAN 6, and with respect to the applicant's case, it would appear there is currently some question over the ability of the applicant to develop the whole enterprise, and there is no clear evidence with the submission of a commencement or completion date for the

scheme, any indication of the extent of investment in the proposed log cabins, or infrastructure development to show a clear intent to complete the development.

- *b) Evidence that the enterprise needs to be established at this location or another site where a dwelling may be available.*

This 'test' in TAN 6 is less relevant to the circumstances at the site, as the need for a manager's accommodation is based on the proposed take up of a part implemented planning consent for a log cabin development. The Authority has previously approved the principle of a tourist/recreation use at this site, so there can be no challenge to the location of the log cabin development itself. Issues over the actual location of the manager's accommodation unit are dealt with in sub paragraph d) following.

- *c) Evidence that the proposed enterprise has been planned on a sound financial basis.*

There is no financial information with the application to allow assessment of the financial viability of the enterprise, its ability to remain economically sustainable for a reasonable period, or its ability to sustain a full time manager.

- *d) A clearly established functional need, for a full time worker.*

There is no detailed 'man hours' information with the submission to clarify the labour requirements which may be associated with a manager/warden running a log cabin site, including what may be essential 'out of hours' duties. The supporting statements simply refer to the 'need' for or site presence at construction stage for security reasons, and then as an ongoing security/management/servicing presence when the site is developed. There is mention of the offer of an 'emergency service' on an all year presence to maintain the river bank, facilitate access, discourage poaching and manage fishing rights, and to an ongoing need for a maintenance, cleaning and linen service which will be called upon 24/7.

On the basis of the information provided, and with the uncertainties over the number of log cabins which may be constructed and when, it is difficult to conclude that a case is made for a full time residential presence.

Respectfully, the duties outlined once log cabins are in place do not make a compelling argument that someone has to be on hand day and night to deal with an emergency which may threaten the continued viability and existence of the enterprise without immediate attention.

On the issue of a security presence at construction stage, it would be normal to expect any developer to introduce routine measures at a building site, e.g. secure site compounds, alarm systems, patrols, etc., to effect reasonable security. To consent to a dwelling unit to oversee construction works would set a clear precedent, and in officers' opinion could not be justified.

- *e) The functional need could not be fulfilled by another dwelling, or by conversion of a suitable building on the enterprise; or otherwise by way of any other existing accommodation in the locality which may be suitable and available.*

There is no evaluation in the submission of any other options which may have been considered for the provision of a manager's living unit, either on the site, or in the locality.

It seems on the face of things that the 'need' for the manager's

accommodation has come about as a result of the split in ownership of the site, which has effectively deprived the log cabin site of what was its approved 'hub' administrative centre, approved as part of the 2001/2003 consents within the old Eirianfa buildings (now the White Waters Country Hotel). This Complex was in an ideal location at the entrance to the site off the A5 to act as the manager's accommodation, and the book in/reception and servicing facility for the whole tourism and leisure use, with ample parking spaces around it for clients. Its use as the centre for the development would also have been consistent with planning policies seeking to re-use existing buildings in open countryside. There are no other buildings on the land shown as within the same control in the application documents, which could potentially be used for the purpose of a manager's living unit.

It is respectfully questioned whether it is reasonable in principle to consent to what in effect is a second unit of living accommodation within the originally consented leisure site, given the owner's decision to subdivide the planning unit, and by so doing create the 'need' for another dwelling. Also, given the uncertainty over the ability and firmness of proposals to develop the whole log cabin site, it would seem inappropriate in principle to consent to a living unit in connection with an indeterminate number of log cabins, as this may be seen to be encouraging the further subdivision of the site, and opening the door to future similar applications for residential units from owners of different parts of the site to offer the same 'on site' presence.

Locationally, it also has to be questioned, even if a need was justified for a manager's living unit, whether the position of the unit is actually appropriate to serve as a functional centre for the log cabin site. It can be readily seen from the plan at the front of the report that the unit is situated at the end of a cul-de-sac road off the main track serving the log cabin site, some 100 metres from the A5 entrance to the site. Its position just above the River Dee is below the level of most of the proposed log cabins, and it would not appear to be well suited to perform a role as a security presence, or a logical booking in office or service centre for visitors to the site. Additionally, it is to be noted from the floor plans of the manager's unit that there is no provision for a reception/office/laundry facility within the structure, and the site plan makes no provision for the parking or turning of visitors vehicles around the unit.

- *f) Other normal planning requirements*

These tests are dealt with in the following sections of the report.

Overall, from the application of the TAN 6 tests to the particular circumstances, and with regard to the information in support of the application; officers do not consider the case is made for a living unit on this site, either on a permanent or temporary basis.

4.2.2 Highways/access

Policies GEN 6, TRA 6 and TRA 9 of the Unitary Plan oblige due consideration of the highway impacts of development.

In this case, it is not considered the volume of traffic from a single living unit give rise to any adverse highway or access impacts. The development has to be viewed in the context of the approved 'larger' tourist/recreation use at White Waters, involving the Hotel and the log cabin site, which have been deemed acceptable on highway grounds previously by the County Council

and Welsh Office/Assembly Highways officers.

4.2.3 Design/Landscape and visual impact

The Unitary Plan's main policies requiring assessment of landscape and visual impact are STRAT 7, GEN 6, ENV 1, ENV 2, and ENV 7. The policies seek to safeguard the special character of the County's natural environment, including its landscape quality. ENV 2 deals with development affecting the Area of Outstanding Beauty. There is a general requirement in Assembly policy/guidance (PPW and TAN 12 Design) to secure the delivery of high quality design in new development.

The application seeks to retain a white walled single storey structure on a plot perched above the River Dee. The site is within an Area of Outstanding Beauty (UDP designation), the Buffer Zone of the Pontcysyllte Aqueduct and Llangollen canal World Heritage Site, and within the Vale of Llangollen Landscape of Historic Interest in Wales. It is visible from public view from the A5 locations on the east side of the River Dee, Llangollen Railway, Llangollen Canal and higher ground above Pentrefelin. The site is within the Vale of Llangollen character area in the LANDMAP study, where the Visual and Sensory Aspect is noted as Outstanding, as a 'low valley with mosaic of woodland and pasture'.

The natural environment in the vicinity of the site is of a high quality, reflected in the designations referred to in the preceding paragraph. The white painted unit stands out somewhat starkly – particularly in the winter months – as there are breaks in the tree cover, and it gives the impression of a modern housing estate bungalow, with a conservatory and a decking area. Whilst it is recognised that the physical impact could be reduced by a more appropriate external colour, in officers' opinion, this is an inappropriate development in such a sensitive area in open countryside, and appears at odds with the more 'natural' wood finish proposed for the log cabins which would surround it, if the remainder of the development were to proceed.

4.2.4 World Heritage Site Buffer Zone Impact

The application site lies within the Buffer Zone of the Pontcysyllte Aqueduct and Llangollen Canal World Heritage Site. This designation was confirmed in 2009, and related legislation obliges the Authority to have regard to the potential impact of development on the surrounding area which forms part of the setting of the heritage asset. There are currently no Unitary Plan policies of direct relevance to the World Heritage Site, but there is a general requirement in STRAT 7 to safeguard the County's built heritage.

The accommodation unit lies some 200 metres to the west of the Llangollen canal and is visible from the canal towpath. CADW's Ancient Monuments section has suggested that given the log cabin permission, the scale of the bungalow would not appear to be of a scale or nature to impose a significant adverse impact on the WHS, but they do defer to Denbighshire to conclude whether views towards and from the WHS are not compromised, and to assess impacts on the Ancient Monument and the Landscape of Historic Interest.

Purely in relation to the World Heritage Site Buffer Zone, officers conclusion is that with respect to CADW's observations, a white rendered bungalow structure visible at relatively close distance is a negative visual feature, which impacts on the Buffer Zone and therefore on the setting of the canal.

4.2.5 Ecology

The general requirement to consider the impact of development on ecological interests is set out in the strategic policies of the Unitary Plan, STRAT 1 – General, STRAT 7 – Environment and in the Part 2 policies ENV 6 and GEN 6. These establish a basic obligation to protect and enhance the biodiversity of the County, and support national policy, guidance in Planning Policy Wales and TAN 5, SPG 18, as well as Legislation relating to the safeguarding of protected species.

This is an instance where the living unit has been in situ for a number of years, within a site with a permission for a log cabin development. Its retention does not seem likely to give rise to any new ecological issues, (e.g. tree removal, interference with wildlife, etc), so it is not considered there is any direct conflict with the abovementioned policies and guidelines.

4.2.6 Design and Access/Sustainability Code/Access for All

Guidance in TAN 12 Design and TAN 22 Sustainable Buildings oblige applicants to demonstrate the approach to a range of design considerations, including how inclusive design and standards of environmental sustainability are to be achieved. These reflect general requirements in the strategic policies of the Unitary plan STRAT 1 and 13 to ensure sustainable development principles are embodied in schemes.

The application is accompanied by a basic Design and Access Statement which contains some commentary on arrangements for access for persons with disability, the choice of particular type of Park Home, design detailing, and the proposal to dismantle the unit in due course.

It is difficult for officers to discern from the details in the submission whether relevant standards can be achieved, although it may be possible to impose conditions in the event of permission being granted to require construction in accordance with sustainability codes.

4.2.7 Lawful Use Certificate for use of former classroom as dwelling on nearby land

There is reference in the submission to a former Warden's residence in an old Classroom unit on the site. This unit was associated with the previous use of Eirianfa as an education facility, and was the subject of a Lawfulness of Use application as a dwelling, in 2004. File records indicate the unit was located on what are log cabin plots 11 and 12 on the 2003 layout plan.

Factually, the County Council accepted on the basis of evidence with the 2004 application that a Certificate of Lawfulness should be granted. The statement in the current application confirm this 'Warden's Unit' was subsequently removed because of its deteriorating condition, and it is believed this was taken away in 2007. The advice of the Legal Officer is that the removal of the structure at that point terminated the Lawful use/rights to a dwelling in the particular location, and with the subsequent lapse of time, there is no entitlement to site a dwelling unit there at this point.

There was also correspondence between officers and the owner's agent in 2005 which confirmed officers' opinion that it was not possible legally to 'swap' a planning permission for a lawful use, on a different site. The letter suggests the owner had already taken the decision to site the accommodation unit forming the subject of this current application elsewhere, and the agent was seeking advice on the matter of securing its retention.

Having regard to the background, officers do not consider the lawful use issue

can be of any weight in the consideration of the current application.

5. SUMMARY AND CONCLUSIONS:

- 5.1 The application seeks permission to retain an unauthorised Park Home as a residence for a site manager, in connection with a proposed log cabin development.
- 5.2 There is a complex background history, which is set out in detail in the report. Planning permissions have been granted for the development of a number of log cabins related to a central administrative/leisure facility within the old Eirianfa buildings. The ownership of the site has been split since the grant of the main permissions and there have been legal issues complicating matters over some time including the full implementation of the log cabin development. The Eirianfa building has operated as the White Water Country Hotel, and is entirely separate from the remainder of the site. This has effectively removed what would have served as the manager's accommodation from the related log cabin tourist development. Work commenced on the approved 2003 log cabin development in 2007. At the time of drafting this report, there is only one completed cabin on the site.
- 5.3 Officers believe the main consideration relevant to the application to retain the Park Home unit is whether there is a justifiable case for an on-site presence at construction stage, or following completion of the log cabin development. The report touches on questions surrounding the ability of the owners to develop the whole site, and refers to current Assembly Guidance on assessment of proposals for dwellings in relation to new enterprises. On the basis of the submission, officers do not consider in principle that the case is made to retain the unit, and there are visual/landscape concerns over its impact in an area of high landscape value.

RECOMMENDATION: REFUSE- for the following reasons:

1. The Local Planning Authority does not consider the submission or the circumstances applying make the case for the retention of a full time manager/warden's accommodation unit in this location, to offer a security presence during the proposed construction of a log cabin development, or as a centre for running the site once complete, in particular in relation to key tests for new dwellings in relation to new enterprises as outlined in Planning Policy Wales 2010, TAN 6 - Planning for Sustainable Communities, and in respect of Policies GEN 3 and 4 and HSG 6 in the Denbighshire Unitary Development Plan relating to residential development in open countryside. In the absence of an essential need, the proposals are considered to be unacceptable in principle and contrary to the afore-mentioned policies and guidance, and represent an unacceptable, sporadic development in attractive open countryside.
2. The Park Homes unit is considered to have an unacceptable visual impact in a highly sensitive location within an Area of Outstanding Beauty, the Buffer Zone of the Llangollen Canal and Pontcysyllte World Heritage Site, and the Vale of Llangollen Landscape of Historic Interest, and does not preserve or conserve the character of the landscape in those areas, contrary to Policies STRAT 7, ENV 1, 2, and 7, and GEN 6 of the Denbighshire Unitary Development Plan; and the principles of high quality design in Planning Policy Wales 2010 and TAN 12 Design.

NOTES TO APPLICANT:

None

ITEM NO: 2

WARD NO: Llandymog

APPLICATION NO: 09/2010/1356/ PF

PROPOSAL: Construction of a circular slurry store

LOCATION: Efail Y Waen Bodfari Denbigh

APPLICANT: Mr Ken Hulme

CONSTRAINTS:

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

CONSULTATION RESPONSES:

ABERWHEELER COMMUNITY COUNCIL

“(1) misleading size of farm. 11.5 hectares only is rented from DCC. As this is a starter unit. Other land farmed from private landlords.

(2) Size of Farm does not warrant a circular slurry store of the height and capacity.

(3) Height of tank an intrusion on the landscape.

(4) Location of tank too close to the residential village of Aberwheeler e.g. Porth-y-Waen, Cartrefle and Hafoty Wen.

(5) Very concerned about the health effects on the residents of Aberwheeler and Bodfari.

(6) The impact on the devaluation of property in the area.

(7) The smell will be a major problem”

ENVIRONMENT AGENCY

No objection

DENBIGHSHIRE COUNTY COUNCIL CONSULTEES

PUBLIC PROTECTION

No objection due to nature of proposed development potentially reducing the impact from odour on residential properties in the locality.

RESPONSE TO PUBLICITY:

Letters of representation received from:

J A Jones, Hafoty Wen, Bodfari, Denbigh, Denbighshire, LL16 4EE

Summary of planning based representations:

Objections

- Landscape Impact
- Impact on Residential Amenity
- Environmental Impact

EXPIRY DATE OF APPLICATION: 22/12/2010

Reason for delay;

Deferred from previous Committee to address issues relating to the Council's interest, as landlord, in the land.

PLANNING ASSESSMENT:

1. THE PROPOSAL:

1.1 Summary of proposals

1.1.1 The proposal is for the erection of an above ground circular slurry store at an existing farm at Efail Y Waen. It would measure 4.27m in height and 17m in diameter.

1.1.2 The store would be located immediately south west of the existing farm complex and would be finished in non reflective dark green steel sheets.

1.2 Description of site and surroundings

1.2.1 The existing farm complex is located to the north east of the village of Waen, Aberwheeler. The proposed slurry store would be sited to the south east of the existing farm buildings, and be approximately 75m from the nearest residential properties at Porth Y Waen.

1.2.2 The farm occupies a tenanted holding occupying 40.8ha of agricultural land which is rented off various landowners, including 11.5ha from Denbighshire County Council.

1.3 Relevant planning constraints/considerations

1.3.1 The site is located outside of the development boundary of Waen, Aberwheeler.

1.4 Relevant planning history

1.4.1 None

1.5 Developments/changes since the original submission

1.5.1 None

1.6 Other relevant background information

1.6.1 Consideration of the application was deferred at the December 2010 meeting to allow issues relating to the Council's interest as a landowner to be investigated. The application is referred to Committee at the request of Councillor Gwilym Evans to allow for consideration of amenity and landscape impact.

1.6.2 The submission indicates the store is required to provide 5 months slurry storage to comply with European Nitrate Vulnerable Zone (NZV) legislation which seeks to reduce water pollution.

2. DETAILS OF PLANNING HISTORY:

2.1 None

3. RELEVANT POLICIES AND GUIDANCE:

The main planning policies and guidance are considered to be:

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

Policy GEN 3 - Development Outside Development Boundaries

Policy GEN 6 - Development Control Requirements

Policy EMP 13 - Agricultural Development

3.2 GOVERNMENT GUIDANCE

Planning Policy Wales (July 2010)

4. MAIN PLANNING CONSIDERATIONS:

4.1 The main land use planning issues are considered to be:

- 4.1.1 Principle
- 4.1.2 Visual and landscape impact
- 4.1.3 Residential amenity impact

4.2 In relation to the main planning considerations:

4.2.1 Principle

Policy GEN 3 allows for certain types of development outside development boundaries. Criterion vi) permits agricultural development providing there is no unacceptable impact on the social natural and built environment. EMP 13 relates specifically to agricultural development, and the aim of this policy is to ensure agricultural development has no unacceptable impact on the environment. Proposals must comply with four tests relating to; the need for the development, the use of alternative existing buildings, the impact of development on the character and appearance of the countryside and the siting relating well to the existing complex.

Questions are raised by the Community Council over the need for a slurry tank of the size proposed. In this instance, the volume of the proposed slurry store is justified by a detailed need calculation submitted with the planning application. As statutory consultees, the Environment Agency have not disputed these calculations.

As this development is required to comply with NVZ legislation, and no other suitable buildings exist on the site that could meet this need, it is considered with respect that the proposals comply with the tests of principle in i) and ii) of EMP 13. Compliance with tests iii) and iv) are assessed in the next section.

4.2.2 Visual and landscape impact

The general requirement to assess landscape and visual impact are set out in policies EMP 13 and GEN 6.

The Community Council and private individuals express concerns over the landscape/visual impact of the proposed slurry store. The slurry store would be constructed of green coloured sheets and would be located adjacent to existing farm buildings.

In officers' opinion, the design and siting of the proposed slurry store would be acceptable and ensure that the development would relate satisfactorily to the existing farm complex. In relation to scale, the height of the proposed structure is lower than buildings in the existing complex. For the above reasons it is considered that the proposals comply with test iii) and iv) of EMP 13.

4.2.3 Residential Amenity Impact

Policy GEN 6 v) sets a requirement to ensure new development does not unacceptably affect the amenities of local residents, by virtue of noise, activity, fumes, etc.

The Community Council and local residents have raised concerns on the potential impact of the proposed development, in relation to public health and odour, given the proximity of the development to residential properties (approximately 75m to nearest residential property). The Environment Agency and the Public Protection department of Denbighshire County Council, raise

no concerns over health impacts of slurry storage. It is understood the proposed development is necessary to comply with NVZ regulations which require 5 months slurry storage for farms within NVZ's. Public Protection Officers have confirmed that the ability to store greater amounts of slurry would actually improve the situation in relation to smells as issues of odour release from slurry are greatest when stored slurry is being distributed as fertiliser. Increased storage capacity would mean that distribution of the stored slurry would occur less often and therefore reduce exposure to the odour.

In acknowledging the concerns of the Community Council and residents, officers respectfully suggest due consideration has to be given to the fact that the proposal relates to development immediately adjacent to a long established working farm. The Public Protection officers consider the slurry store may actually bring about a reduction in the frequency of release of odour, since it would reduce the number of times necessary to move material. In officers' view, the development would not seem likely to result in significant additional potential for smells, sufficient to merit refusal of permission.

5. SUMMARY AND CONCLUSIONS:

The proposed development is required to meet current NVZ regulations, and in officers' opinion given the location and existence of the farm, the tank would not have unacceptable additional impacts, and it is therefore considered that the application is worthy of support.

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: Efenechtyd

APPLICATION NO: 11/2010/1218/ PF

PROPOSAL: Alterations to farmhouse and conversion into 2 No. holiday accommodation units

LOCATION: Maestyddyn Isa Clawddnewydd Ruthin

APPLICANT: Mr E Williams

CONSTRAINTS: PROW

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

CONSULTATION RESPONSES:
CLOCAENOG COMMUNITY COUNCIL-
'No objection'

DCC CONSULTEE RESPONSES-
HEAD OF TRANSPORT AND INFRASTRUCTURE-
No objection, subject to conditions.

RESPONSE TO PUBLICITY:
None

EXPIRY DATE OF APPLICATION: 16/11/10

REASONS FOR DELAY IN DECISION (where applicable):

- Additional information requested.

PLANNING ASSESSMENT:

1. THE PROPOSAL:

1.1 Summary of proposals

1.1.1 The application proposes alterations to an existing farmhouse and conversion into 2 holiday accommodation units. All alterations proposed to facilitate the conversion into 2 three-bedroom holiday units would be internal. One unit is proposed on the northern side of the existing unit and the second unit would be attached to the western side. (See floor plans at the front of the report).

1.1.2 Off road parking for 4 cars is proposed to the south of the building, with overspill parking proposed for a further 4 cars on an open area to the west of the building. The layout plan is also attached to the front of the report.

1.2 Description of site and surroundings

1.2.1 The site is located to the west of Clawddnewydd on the fringe of Clocaenog Forest. It is accessed off a minor road, approximately 2kms in length, which runs off the B5105, to serve Maestyddyn Isa farm and the adjacent dwellings.

1.2.2 Maestyddyn Isa comprises a farm complex with a variety of modern and older stone outbuildings. The complex is spread over two sides of the minor road. The farmhouse and older buildings are on the northern side of the road.

1.3 Relevant planning constraints/considerations

1.3.1 The site is located in the open countryside, outside of any defined development boundary.

1.4 Relevant planning history

1.4.1 Planning permission was granted in 2001 for the conversion of the attached outbuildings to two dwellings.

1.5 Developments/changes since the original submission

1.5.1 Clarification has been sought from the Agent on a number of points since the original submission, including details of why units would be separated by a lockable door which would enable the units to be rented out to larger groups, whether the conversion of the farmhouse would result in a demand for additional farm workers accommodation, (as permission exists for two dwellings attached to the south-western side of the building) and the farmhouse has operated as a B&B since the 1970's. Finally, it has been confirmed that the farming activities would not impact on the holiday lets as these mainly take place on the southern side of the minor road.

1.6 Other relevant background information

1.6.1 The application is referred to Committee as the Applicant is a County Councillor.

2. DETAILS OF PLANNING HISTORY:

2.1 11/2001/0290 Conversion of outbuilding to three dwellings and new septic tanks.
Granted. 26/07/2001

3. RELEVANT POLICIES AND GUIDANCE:

The main planning policies and guidance are considered to be:
DENBIGHSHIRE UNITARY DEVELOPMENT PLAN (adopted 3rd July 2002)
Policy GEN 3 - Development outside development boundaries
Policy GEN 6 - Development control requirements
Policy ENV 1 - Protection of the natural environment
Policy ENV 6 – Species protection
Policy TSM 15 - Self-serviced holiday accommodation

3.1 Supplementary Planning Guidance

Supplementary Planning Guidance Note 16 - Conversions of Rural Buildings

3.2 GOVERNMENT GUIDANCE

Planning Policy Wales (third edition 2010)

4. MAIN PLANNING CONSIDERATIONS:

4.1 The main land use planning issues are considered to be:

- 4.1.1 Principle
- 4.1.2 Visual and landscape impact
- 4.1.3 Residential amenity impact
- 4.1.4 Highway safety impact
- 4.1.5 Ecology impact

4.2 In relation to the main planning considerations:

4.2.1 Principle

Policy GEN 3 relates to new development in the open countryside, and restricts development other than for specific exceptions. One of the exceptions relates to tourism development in the open countryside, which may be acceptable subject to compliance with TSM 15. The primary objective of policy TSM 15 relates to the reuse of existing buildings for tourism uses. The remaining criteria of policy TSM 15 relate to the structural stability of the building, the retention of the character of the building and building group, the capability of the highway network to cater for the development, satisfactory standards of accommodation are provided, and finally that the number of units does not represent an over-development of the site. The principle of the development proposed appears compatible with the basis of the policy.

4.2.2 Visual and landscape impact

The main policy that refers to scale, landscape and visual impact is GEN 6. Policy TSM 15 also refers to the character of the buildings and area.

In terms of visual appearance, the proposal would retain the scale and form of the building, only internal alterations are proposed to facilitate the conversion. Furthermore as a B&B has operated on the site since the 1970's the character of the site has already moved marginally away from solely agricultural activity. Therefore it is considered the proposal is in line with the general thrust of policy TSM 15.

4.2.3 Residential amenity impact

Policy GEN 6 sets specific tests to be applied to amenity of impacts of development. Policy TSM 9 also refers to accommodation standards and the need to assess amenity impacts of tourism development.

The building is located to the north of the farm complex and enjoys a small/enclosed private garden area immediately to its southern and northern sides. In viewing the relationship to the attached outbuildings, which are proposed to be converted to dwellings, it is not considered there will be any adverse impact on proposed occupiers by virtue of loss of amenity or overlooking. It is not considered that the impact of noise and disturbance or comings and goings of either occupier would be excessive owing to the scale of each use, i.e. average size dwellings, and the 2 three bed holiday lets, and the provision of the proposed parking area. There is adequate space around the site to allow for amenity areas for all uses.

4.2.4 Highway safety impact

Policy GEN 6 criteria (vii) permits development where it does not have an unacceptable effect on the local highway network.

The application proposes off road parking for the holiday accommodation. The highway officers raise no objection. A condition can be attached to ensure a parking area is retained and maintained for the holiday use.

4.2.5 Ecology impact

In terms of ecology, Policies ENV 1, ENV 6 and GEN 6 oblige due consideration of wildlife impacts.

As the application proposes the change of use of an existing building with residential use to holiday accommodation, with minimal changes to the fabric of the building, it is considered unlikely that the development will impact on protected species. An advisory note can be attached to advise the Applicant if

protected species are found during the building works.

5. SUMMARY AND CONCLUSIONS:

5.1 The proposal is considered acceptable under the terms of the relevant policies 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.
2. 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.
3. All planting, seeding, turfing, fencing, walling or other treatment comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the 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.

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

1. To comply with the provisions of Section 91 of the Town and Country Planning Act 1990.
2. To provide for the loading/ unloading, parking and turning of vehicles and to ensure that reversing by vehicles into or from the highway is rendered unnecessary in the interest of traffic safety.
3. To ensure a satisfactory standard of development, in the interests of visual amenity.

NOTES TO APPLICANT:

None

ITEM NO: 4

WARD NO: Llanarmon Yn Ial / Llandegla

APPLICATION NO: 15/2010/1288/ PS

PROPOSAL: Variation of Condition No. 4 on planning permission Ref. No. 5/25/5529 (No individual touring caravan shall remain on the site for more than 14 days in any one month) to allow seasonal occupancy from 1 March to 31 October in any one year

LOCATION: Ffynnon Y Berth Llanarmon Road Llanferres Mold

APPLICANT: Mr John Davies

CONSTRAINTS: AONB

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

CONSULTATION RESPONSES:

LLANARMON YN IAL /COMMUNITY COUNCIL – ‘Council wish for caravan not to become static and ONLY to be used within the season period for short stays only’.

JAC AONB - “The JAC has no objection to the principle of substituting a more flexible seasonal holiday use condition in place of the current 14 day restriction, and would recommend that the season should be defined as no longer than 2 March to 31 October each year.

It is noted that this site is quite prominent when viewed from the adjoining B5430 and, if possible, the JAC would suggest a landscaping condition be attached to any permission requiring a suitable planting scheme comprising native local species to be drawn up and implemented to mitigate visual impact.”

DCC CONSULTEES
PUBLIC PROTECTION – LICENCING
Confirms site licence exists for the touring use.

RESPONSE TO PUBLICITY:

None.

EXPIRY DATE OF APPLICATION: 03/01/2011

REASONS FOR DELAY IN DECISION (where applicable):

PLANNING ASSESSMENT:**1. THE PROPOSAL:****1.1 Summary of proposals**

1.1.1 The application relates to the variation of a planning condition, in relation to a touring caravan site use, imposed on a permission granted in February 1982.

- 1.1.2 The wording of the existing Condition 4. on planning permission ref 05/25/5529 states:-

'No individual caravan shall remain on the site for more than fourteen (14) days in any one month'. The reason for this condition was 'In order that the proposal does not conflict with the policies of the County Structure Plan relating to additional caravan development in the area'.

- 1.1.3 The proposal seeks to vary condition 4 to allow a touring caravan use from 1 March to 31 October in any one year.

- 1.1.4 Planning permission was granted at the February 1982 Planning Committee, for the use of land as a touring caravan site, subject to a number of planning conditions, including one requiring that not more than a total of eight caravans could be on the land at any one time, and that the site could only be used for caravans on tour. These conditions remain relevant to the use regardless of the determination on this application.

- 1.1.5 The application includes a Design and Access Statement, which refers to environmental sustainability; movement; character; community safety and includes development plan policies.

1.2 Description of site and surroundings

- 1.2.1 Access to the site is off the main A494 Ruthin to Llanferres road, along the B5430 towards Llanarmon yn Ial. The site comprises of a static and touring caravan park. The plan accompanying this report indicates the extent of the static and touring caravan area.

- 1.2.2 There are limited views onto the site as there are mature hedgerows and trees in the locality. With the exception of Ffynnon Y Berth farm, the nearest dwelling is Tyddyn Draw, located some 180 metres to the north east, along the B5430.

1.3 Relevant planning constraints/considerations

- 1.3.1 The site lies in the open countryside, within the Clwydian Range AONB. A number of public footpaths run in the locality.

1.4 Relevant planning history

- 1.4.1 Planning permission exists for the use of the site for touring caravans, as granted in 1982.

1.5 Developments/changes since the original submission

- 1.5.1 The application originally sought to delete condition 4. Subsequent discussions have resulted in an amendment as the proposal now seeks a variation to the condition, to retain a seasonal use.

1.6 Other relevant background information

- 1.6.1 None.

2. DETAILS OF PLANNING HISTORY:

2.1 Touring site

Code 25/5529 – Use of land as a touring caravan site and construction of a septic tank – GRANTED – 23/02/1982 with conditions

(Limiting the number of touring caravans to 8 on the land at any one time and restricting their time on site to no more than 14 days in any one month)

Static caravan planning history

Code 25/3685 - Resiting of 6 caravans and addition of 3 caravans – GRANTED - 4/11/1980.

Planning records identify 6 caravans located on this part of the site by virtue of the Caravan sites and Control of Development Act of 1960

Code 15/2007/0182 Realignment of existing access road and siting of 4 No. additional static caravans, associated parking area, additional landscaping and installation of new septic tank - GRANTED 5 /09/ 2007

Other planning applications

25/6883 Retention of 2 existing ponds and construction of 1 further pond for fishing purposes at Ffynnon y Berth – GRANTED - 25/04/1984

3. RELEVANT POLICIES AND GUIDANCE:

The main planning policies and guidance are considered to be:

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

- Policy STRAT 9 - Tourism
- Policy GEN 3 - Development outside development boundaries
- Policy GEN 5 - Green Barriers
- Policy GEN 6 - Development Control Requirements
- Policy ENV2 - Development affecting the AONB
- Policy TSM 1 - Tourism Development
- Policy TSM 5 - Rural Tourism
- Policy TSM 12 - Touring Caravan Sites
- Policy TRA 6 - Impact of New Development on Traffic Flows
- Policy TRA 9 - Parking and Servicing Provision

3.2 Supplementary Planning Guidance

No. 8 – Access for All

3.3 GOVERNMENT GUIDANCE

Planning Policy Wales, Edition 3, 2010

TAN 12 Design

TAN 13: Tourism (1997)

Circulars

WO Circular 35/95 'The Use of conditions in planning permissions.

4. MAIN PLANNING CONSIDERATIONS:

4.1 The main land use planning issues are considered to be:

- 4.1.1 Principle
- 4.1.2 Control over holiday use
- 4.1.3 Landscape impact
- 4.1.4 Residential amenity impact
- 4.1.5 Highway impact
- 4.1.6 Inclusive design

4.2 In relation to the main planning considerations:

4.2.1 Principle

There are no Unitary Development Plan Policies of specific relevance to applications which seek to remove a condition limiting the length of stay on a touring caravan site. There is general reference in the Strategic and Tourism policies of the plan to the importance of the tourist industry to the local economy, and while there remains a general restraint on new development in open countryside, there is encouragement for suitable 'small scale' projects subject to compliance with basic environmental impact tests.

At a national level, the Welsh Assembly Government's objectives for tourism are to encourage sustainable tourism, promoting local prosperity and supporting community well-being and involvement, while protecting and giving value to natural heritage and culture; and to manage the tourism sector in ways which minimise environmental impact. Planning Policy Wales (3rd edition 2010) states that the planning system should encourage sustainable tourism in ways which enable it to contribute to economic development, conservation, rural diversification, urban regeneration and social inclusion, recognising the needs of visitors and those of local communities.

TAN 13 highlights particular consideration be given to the suitability of holiday caravans in designated areas, including sites of national and international importance, noting that tourism development should not have an unacceptable adverse impact on the environment, landscape, biodiversity, coastal or historic environment or the interests of local communities. TAN 13 also states that holiday and touring caravan sites should be operated flexibly by limiting the number of pitches on a particular site and that authorities should give sympathetic consideration to applications to extending the opening period allowed under existing permissions.

Denbighshire's Unitary Development Plan policies are in accordance with the thrust of these national objectives. Policy TSM 12 is the main 'detailed' policy relating to touring caravan sites, and sets specific tests for any application. Policy TSM 12 states that sites are for touring purposes only, that any touring vans are removed from the site for periods when not in use and should be vacated during the months granted by the planning permission.

The grant of permission for the touring caravans in 1982 recognised the Council's acceptance that the site was suitable for a pitch touring caravan use, having regard to the principle, and following assessment of the scale, landscape, amenity, highway, drainage, ecology and sustainability impacts.

In light of the above, Officers consider therefore that the key issue to address here is whether there are adequate controls to ensure the site is used for holiday purposes and the touring caravans would not become permanently occupied.

4.2.2 Control over holiday use

This application is for the variation of one condition only. The remaining conditions with the approved planning permission for touring caravans would remain. These control the use of the land for not more than 8 caravans at any one time; the site can only be used for caravans on tour, and access to the site is limited to the existing access serving the adjoining static caravan site.

There are also separate Site Licensing controls administered by the Public Protection section which include conditions relating to the nature of occupation and length of the holiday season.

There is an inherent complexity in the system of control over caravans. Given this background, and as members are aware from recent experience the approach to controls over caravan use has had to evolve.

Members will be aware from considering other planning applications (and from the outcome of planning appeals) relating to caravan developments, that efforts have been made to develop/refine planning conditions where the principle of caravan use has been accepted, to ensure adequate controls over the actual use of units on a site. The prime concern has been to address concerns over holiday caravans being used for residential purposes, and in so doing, to take a critical approach to the wording of conditions which in the past (with respect to all concerned) have been somewhat vague and largely unenforceable – resulting in reliance on separate site licence conditions to secure controls, and actual loss of control over the use of caravans in some cases.

Recent examples of the Council's 'new' approach to restrictive conditions on caravan permissions have related primarily to static caravan sites (Thatched Cottage, Trefnant; Llwyn Afon, Llanrhaeadr: Woodlands Hall, Bontuchel; Cwybr Fawr, Rhyl). The most recent caravan appeal, in the form of the siting of 21 static caravans on land at the Croft, Upper Denbigh Road, St. Asaph, confirmed the Inspectorate's acceptance of the wording of the Council's 'without prejudice' condition. This condition included the following wording and criteria:

"The units shall be occupied for holiday purposes only and not as a person's sole or main place of residence. The owner of each unit and the site operator shall maintain an up-to-date register of the names of the owners and occupier of each caravan on the site, their main home and addresses, the dates each caravan has been occupied, and by whom. The information shall be made available for inspection at all reasonable times on written request from the local planning authority".

There is consequently Inspectorate 'approval' of the Council's basic approach to tightening controls over caravan uses, albeit predominantly relating to static caravans.

Condition 4 at Ffynnon y Berth was included on the officer recommendation at that time, as it had been used for a number of years by Denbighshire's predecessors as a standard wording on caravan site permissions, alongside other standard caravan conditions, including that the caravans should be used for "holiday purposes only".

The current application relates to a variation – not the removal of a condition - hence the use of this part of the site would need to comply with the conditions restricting the use of the site for touring use only. Officers would not consider it inconsistent to concede a revision to Condition 4, provided the case to do so is well founded.

In reviewing appeal case scenario's the imposition of this particular type of control over both the permitted length of stay and the right to return within a specified period does not meet the basic tests of the relevant Welsh Office Circular on the use of planning conditions, in that this is considered unnecessary and unreasonable.

The Authority would need to point to a clear harm likely to arise from

caravans staying in excess of 14 days and the same caravans returning within 14 days to merit imposing such a condition. For example, demonstrating that there would be clear visual harm arising from the presence of caravans for more than 14 days. This seems unlikely, as any one caravan leaving the site could be replaced immediately by another. It has been held to be unreasonable to prevent people from returning to their favourite holiday site for a number of weeks without sound planning reasons for doing so.

4.2.3 Landscape impact

The Unitary Plan's main policies requiring assessment of landscape impact are STRAT 7, GEN 6, ENV 2 and TSM 9.

The Clwydian Range Area of Outstanding Natural Beauty was formally designated in 1985. Policy ENV2 – Development affecting the AONB – aims is to conserve and enhance the natural beauty of the area; small scale development only allowed, where it would not detract from the character and appearance of the AONB. The justification to the policy highlights that development that is permitted in the AONB will be subject to high standards of design, and must be properly integrated into the landscape in terms of a number of factors, including siting and design.

Officers do not consider that the current proposal would result in significant landscape harm in this case. Different caravans could be left every 14 days on site, in accordance with the existing planning permission.

The JAC AONB comments suggest a landscaping condition, but with respect, whilst this could have been considered as part of the original planning permission for the touring use of the site, it is not considered to fall within the control and mechanism of this current application, which is focused solely on the acceptability of a variation of a condition.

4.2.4 Residential amenity impact

Unitary Development Plan policy GEN 6 sets out the general requirement to assess impact of proposals on the amenity of local residents, including from increased activity, disturbance and noise.

In this instance, the potential use of the caravans and any limited increase in activity on the site it is not considered likely to result in such significant additional disturbance to the locality to justify a refusal.

4.2.5 Highway impact

Unitary Plan Policies TRA 6 and TRA 9 permit new development provided there is no unacceptable impact on the safe and free flow of traffic, and the capacity of and traffic conditions on the surrounding road network are satisfactory.

Having regard to the specific proposals, it is not considered that the likely additional trips involved would not be so significant to either result in highway safety problems or raise new questions over the principle of the development from reliance on the motor car.

4.2.6 Inclusive design

The requirement for mandatory Access Statements is outlined in TAN 12 Design, 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, and the Council's document 'Planning and Inclusive

design’.

The Design and Access Statement adopts a positive approach to inclusive design, respecting the Welsh Assembly approach for standards. Officers consider that the DAS content reflects and is proportionate to the type of application submitted in relation to a touring caravan use. The main emphasis of the WAG guidance is in relation to permanent residential and commercial properties.

5. SUMMARY AND CONCLUSIONS:

5.1 Given the above assessment, officers suggest there is a reasonable case to agree to the variation of condition 4, given that other planning controls over holiday use of touring caravans exist, in the form of condition 3 of the original permission, to allay the concerns of the Community Council over permanent use of the site. The removal of the 14 day limitation on stay, or being able to return to the site within a period 14 days is considered acceptable, since other planning conditions and site licence controls ensure that this could not become a ‘permanent’ occupied site.

5.2 The proposal to allow the variation is not considered likely to have additional adverse effects on the immediate locality in terms of landscape, residential amenity, or highways impacts. The site is relatively small scale, and there is clear national policy encouragement for seasonal tourism use in appropriate locations. The condition used on the recent Crofts appeal is a far stronger form of holiday occupancy condition which would ensure the units are only used for touring holiday purposes and do not become dwelling units, undermining Unitary Plan policies for development in the open countryside.

RECOMMENDATION: APPROVE- subject to the following conditions:-

1. The touring use of the site shall be permitted only from 1 March to 31 October in any one year, and the caravans shall be occupied for holiday purposes only and not as a person's sole or main place of residence. The owner of each unit and the site operator shall maintain an up -to- date register of the names of the owners and occupier of each caravan on the site, their main home and addresses, the dates each caravan has been occupied, and by whom. The information shall be made available for inspection at all reasonable times on written request from the local planning authority.

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

1. The site is not considered suitable for permanent living accommodation.

NOTES TO APPLICANT:

None

ITEM NO: 5

WARD NO: Llandrynog

APPLICATION NO: 18/2010/1422/ PF

PROPOSAL: Erection of a circular slurry store

LOCATION: Pentrefelin Ucha Pentrefelin Llandrynog Denbigh

APPLICANT: Mr David Hill

CONSTRAINTS:

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

CONSULTATION RESPONSES:

LLANDYRNOG COMMUNITY COUNCIL
"No observations"

ENVIRONMENT AGENCY
No objection

DENBIGHSHIRE COUNTY COUNCIL CONSULTEES
PUBLIC PROTECTION POLLUTION OFFICER
No objection due to nature of proposed development potentially reducing the impact from odour on residential properties in the locality.

RESPONSE TO PUBLICITY:

Letters of representation received from:
Mr Spinks, Bracdy, Tan Y Glyn, Llandrynog, LL16 4LS

Summary of planning based representations:

- Impact on residential amenity - Impact of odour
- Impact on landscape -Loss of views
- Principle - Requirement for slurry store of size proposed

EXPIRY DATE OF APPLICATION: 06/01/2011

REASONS FOR DELAY IN DECISION:

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

PLANNING ASSESSMENT:**1. THE PROPOSAL:****1.1 Summary of proposals**

- 1.1.1 The proposal is for the erection of an above ground circular slurry store at an existing farm at Pentrefelin Ucha. It would measure 4.26m in height and 19.5m in diameter.

- 1.1.2 The store would be located immediately north east of the existing farm complex and would be finished in concrete panels.
- 1.1.3 The slurry store would be partially buried. The proposed store would be 2.4m at its highest point above the existing ground level.
- 1.1.4 A new Hawthorn hedge is proposed between the adjacent residential property Bracdy and the proposed store, to provide screening.

1.2 Description of site and surroundings

- 1.2.1 The existing farm complex is located to the east of the village of Llandyrnog. The proposed slurry store would be sited to the north east of the existing farm buildings, and be approximately 38m from the nearest residential property, Bracdy. The existing slurry lagoon is 17m away. (See map at front of report).
- 1.2.2 The farm occupies a tenanted holding occupying 44.7ha of agricultural land which is rented from Denbighshire County Council.

1.3 Relevant planning constraints/considerations

- 1.3.1 The site is located outside of the development boundary of Llandyrnog.

1.4 Relevant planning history

- 1.4.1 None

1.5 Developments/changes since the original submission

- 1.5.1 Amended plans were submitted in mid December 2010 to show a partially buried store to replace the originally submitted above ground slurry store. Amended plans also include additional screen planting.

1.6 Other relevant background information

- 1.6.1 The submission indicates the store is required to provide 5 months slurry storage to comply with European Nitrate Vulnerable Zone (NZV) legislation which seeks to reduce water pollution.
- 1.6.2 The application is referred to committee at the request of Councillor G. Evans to allow consideration of impacts on the nearby property.

2. DETAILS OF PLANNING HISTORY:

- 2.1 None

3. RELEVANT POLICIES AND GUIDANCE:

The main planning policies and guidance are considered to be:

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

3.2 GOVERNMENT GUIDANCE

Planning Policy Wales (July 2010)

4. MAIN PLANNING CONSIDERATIONS:

4.1 The main land use planning issues are considered to be:

- 4.1.1 Principle
- 4.1.2 Visual and landscape impact
- 4.1.3 Residential amenity impact

4.2 In relation to the main planning considerations:

4.2.1 Principle

Policy GEN 3 allows for certain types of development outside development boundaries. Criterion vi) permits agricultural development providing there is no unacceptable impact on the social natural and built environment. EMP 13 relates specifically to agricultural development, and the aim of this policy is to ensure agricultural development has no unacceptable impact on the environment. Proposals must comply with four tests relating to; the need for the development, the use of alternative existing buildings, the impact of development on the character and appearance of the countryside and the siting relating well to the existing complex.

Questions are raised by the occupier of the adjoining property over the need for a slurry tank of the size proposed. In this instance, the volume of the proposed slurry store is justified by a detailed need calculation submitted with the planning application. As statutory consultees, the Environment Agency have not disputed these calculations.

As this development is required to comply with NVZ legislation, and no other suitable buildings exist on the site that could meet this need, it is considered with respect that the proposals comply with the tests of principle in i) and ii) of EMP 13. Compliance with tests iii) and iv) are assessed in the next section.

4.2.2 Visual and landscape impact

The general requirement to assess landscape and visual impact are set out in policies EMP 13 and GEN 6.

The occupier of the adjoining property has expressed concerns over the landscape/visual impact of the proposed slurry store.

In officers' opinion, the design and siting of the proposed slurry store would be acceptable. The store would be partially buried and additional screening would be provided which would ensure that the visual intrusion on the adjoining residential property Bracdy will be minimal. It is considered that the development would relate satisfactorily to the existing farm complex. For the above reasons it is considered that the proposals comply with test iii) and iv) of EMP 13.

4.2.3 Residential Amenity Impact

Policy GEN 6 v) sets a requirement to ensure new development does not unacceptably affect the amenities of local residents, by virtue of noise, activity, fumes, etc.

The occupier of the adjoining property has raised concerns on the potential impact of the proposed development, in relation to odour, given the proximity of the development to residential properties. The Environment Agency and the Public Protection department of Denbighshire County Council, raise no concerns over health impacts of slurry storage. It is understood the proposed development is necessary to comply with NVZ regulations which require 5 months slurry storage for farms within NVZ's. Public Protection Officers have confirmed that the ability to store greater amounts of slurry would actually improve the situation in relation to smells as issues of odour release from slurry are greatest when stored slurry is being distributed as fertiliser.

Increased storage capacity would mean that distribution of the stored slurry would occur less often and therefore reduce exposure to the odour.

In acknowledging the concerns in relation to odour, officers respectfully suggest due consideration has to be given to the fact that the proposal relates to development adjacent to a long established working farm, and actually proposes to move the main slurry store further away from the adjacent dwelling than the existing slurry lagoon. The Public Protection officers also consider the slurry store may actually bring about a reduction in the frequency of release of odour, since it would reduce the number of times necessary to move material. In officers view, the development would not seem likely to result in significant additional potential for smells, sufficient to merit refusal of permission.

5. SUMMARY AND CONCLUSIONS:

The proposed development is required to meet current NVZ regulations, and in officers' opinion given the location and existence of the farm, the tank would not have unacceptable additional impacts, and it is therefore considered that the application is worthy of support.

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: 6

WARD NO: Llanbedr Dyffryn Clwyd / Llangynhafal

APPLICATION NO: 22/2010/1338/ PF

PROPOSAL: Erection of first-floor extension to existing bungalow including dormer windows

LOCATION: Bryn Siriol Gellifor Ruthin

APPLICANT: Mr & Mrs Graham Atkinson

CONSTRAINTS: PROW

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

CONSULTATION RESPONSES:

LLANGYNHAFAL COMMUNITY COUNCIL:
"No objections"

RESPONSE TO PUBLICITY:

None received

EXPIRY DATE OF APPLICATION: 19/12/2010

REASONS FOR DELAY IN DECISION (where applicable):

- timing of receipt of representations

PLANNING ASSESSMENT:**1. THE PROPOSAL:**1.1 Summary of proposals

- 1.1.1 Permission is sought for an extension to Bryn Siriol to an existing dwelling, by way of the addition of a first floor. The new ridge height would be 7m. A small single storey side extension is also proposed to replace an existing lean-to.
- 1.1.2 The proposed extension would facilitate the addition of a two first floor bedrooms, a study and bathroom. The side extension would comprise a utility room and porch.
- 1.1.3 The extension would be constructed of materials to match the existing dwelling, with rendered walls and blue grey mineral slate roof. Rainwater goods would be white upvc, as would fascias and bargeboards.

1.2 Description of site and surroundings

- 1.2.1 The site is in open countryside, located at Commins, Gellifor, on the eastern side of the road from Hendrerwydd.
- 1.2.2 The dwelling is sited at a slight angle to the road on the large plot and its front elevation faces south. The rear elevation of the dwelling bounds the rear property boundary. The western boundary is screened from the road by an established hedgerow.

- 1.2.3 Bryn Siriol is a bungalow with rendered walls and slate roof; it has an open sided carport attached to the front elevation.
- 1.2.4 Surrounding dwellings are a mix of mainly two storey styles, sited in large plots. Immediately east of the dwelling, Faenol is a two storey dwelling of a similar style to the proposal. The dwelling to the south, Garth Villa has recently been extended to the rear. The permission for this extension was granted by Planning Committee in March 2009.

1.3 Relevant planning constraints/considerations

- 1.3.1 The site is located in the open countryside, outside any development boundary.

1.4 Relevant planning history

- 1.4.1 The application is a resubmission of a previously refused application. The extent of the alterations has been reduced, although the proposal to lift the overall ridge height remains the same.

1.5 Other relevant background information

- 1.5.1 The application is supported by a planning statement from the Applicant who acknowledges the proposal does not strictly fall within Policy HSG12, however, based on local examples it should be accepted.
- 1.5.2 The application is reported to Planning Committee at the request of Councillor Pauline Dobb to allow debate on the issue of character of the area, in the context of planning policy.

2. DETAILS OF PLANNING HISTORY:

- 2.1 Erection of first floor pitched roof extension to form two storey dwelling. Refused (under delegated powers) 27/09/10 for the following reason:
'It is the opinion of the Local Planning Authority that the cumulative size, scale and mass of the proposed extensions and alterations would not be subordinate in scale or form to the original dwelling, or in keeping with the character of the simple bungalow. The proposals are considered unacceptable and contrary to Policy HSG 12 criteria i) and ii) of the Denbighshire Unitary Development Plan and the Council's adopted Supplementary Planning Guidance No.1 - Extensions to dwellings, para 8.2-8.3'.

3. RELEVANT POLICIES AND GUIDANCE:

The main planning policies and guidance are considered to be:

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

3.2 Supplementary Planning Guidance

- SPG 1 – Extensions to Dwellings
- SPG 24 – Householder Development Design Guide

3.3 GOVERNMENT GUIDANCE

- Planning Policy Wales 3(July 2010)
- TAN 12 – Design (2009)

4. MAIN PLANNING CONSIDERATIONS:

- 4.1 The main land use planning issues are considered to be:
 - 4.1.1 Principle
 - 4.1.2 Detailed design and impact upon neighbours
 - 4.1.3 Access/Highway safety

4.2 In relation to the main planning considerations:

4.2.1 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 UDP 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.

4.2.2 Detailed design and impact upon neighbours

Scale and form – Test i) of Policy HSG 12 requires extensions to dwellings to be subordinate in scale and form to the original dwelling. Supplementary Planning Guidance Note 1 offers interpretation on the key considerations and refers specifically to the size, height and proportion of any new extension which should take into account the size, form and style of the original. It adds that any new extension should be subsidiary or subordinate in terms of overall floor area, size, height, and proportion to that of the original dwelling.

The application proposes raising the overall ridge height of the whole dwelling from 5m to 7m, and in so doing increase the floorspace of the existing bungalow from 91m² to over 166m².

It is considered that the extension would result in a form of development, which by virtue of its height in relation to the existing bungalow would not appear subordinate to the size of the original dwelling, which is contrary to test i) of policy HSG 12.

Design and Materials – Test ii) of Policy HSG 12 requires extensions to dwellings to be sympathetic to the original dwelling and character of the area in terms of design and materials.

It is not considered the materials proposed would impact negatively upon the character or appearance of the dwelling, as they would match the existing. The design is not considered likely to harm the character of the area, which is of mixed, well-dispersed dwellings. However, the increased height and dormer features are not considered in keeping with the original character of a modest bungalow. It is considered the proposal would harm the appearance of the original dwelling by losing its original character, and would therefore not meet a basic aim of Policy HSG 12.

Amenity of area and dwelling – Test iii) of Policy HSG 12 seeks to ensure that proposals to extend dwellings do not harm the amenity of the area by way of loss of privacy or light to neighbouring dwellings.

The proposal is not considered likely to impact adversely upon the character/amenity of the locality. Neighbours are unlikely to be affected by this proposal as a result of the location of windows, height of extension, separation distances and boundary treatments.

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 the dwelling.

5. SUMMARY AND CONCLUSIONS:

5.1 It is Officers' opinion that the scale and design of the proposed extension does not comply with important tests of Policy HSG 12, and guidance as contained in Supplementary Planning Guidance Note 1, Extensions to Dwellings.

RECOMMENDATION: REFUSE- for the following reason: -

1. It is the opinion of the Local Planning Authority that the size and scale of the proposed extension would not be subordinate to the original dwelling, or in keeping with the character of what is a simple bungalow. The proposals are considered unacceptable and contrary to Policy HSG 12 criteria i) and ii) of the Denbighshire Unitary Development Plan, and the Council's adopted Supplementary Planning Guidance No.1 - Extensions to dwellings, para 8.2-8.3'.

NOTES TO APPLICANT:

None

ITEM NO: 7

WARD NO: Llandymog

APPLICATION NO: 24/2010/1355/ PF

PROPOSAL: Conversion and alterations to redundant public house to form 2 no. dwellings

LOCATION: Cerrigllwydion Arms Llanynys Denbigh

APPLICANT: Mr Graham Williams

CONSTRAINTS:

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

CONSULTATION RESPONSES:

LLANYNYS COMMUNITY COUNCIL

' This Council has no objections to the above planning application and plans as long as the car park at the existing site can be used as the Church car park. Members also feel that due to the current economic climate there is no demand to keep the building as a Public House.'

CLWYD-POWYS ARCHAEOLOGICAL TRUST

Notes that the development appears to have limited archaeological implications but will affect a building of special architectural interest, of local importance. Suggests that a photographic survey of the building should be conditioned.

THE COUNTRYSIDE COUNCIL FOR WALES

No objections, based on the contents of the protected species survey. Precautionary approach suggested.

OPEN SPACE SOCIETY

Response awaited.

DENBIGHSHIRE COUNTY COUNCIL CONSULTEES

HIGHWAYS AND TRANSPORTATION

No objections, subsequent to receipt of a plan showing two car spaces per dwelling, and with the inclusion of standard conditions.

LEGAL SERVICES

In relation to issues of common land and service of notice in relation to the planning applications:

'Notice of planning applications has to be served upon owners of land or tenants. If the Common had an owner or there were registered common rights exercised by named persons on the register (which are treated as freehold interests) then all of them would need to be served with notice of the application.'

In this case ownership of the common is unknown and consequently it falls under the protection of DCC by virtue of Section 9 Commons Registration Act 1965.

There are no entries in the Rights section of the Register indicating any rights held by commoners. There is no one who requires service of notice of the application. Section 9 protection is a power of protection only and does not confer ownership.

A note of caution when checking the Commons Register. The ownership section is the only part of the register which is not conclusive and a check should also be made at the Land Registry because any entries there override the Commons Register in this respect.

If the common land is being used to access the application site then there may be an argument that such access should be referred to in the Design and Access statement. I am not certain that omission would invalidate the application per se but it could not be regarded as complete'.

RIGHTS OF WAY OFFICER

Advises of the existence of Public footpath 26 abutting the proposed development. Suggests the inclusion of a note safeguarding the presence of this footpath, should planning consent be granted.

CONSERVATION ARCHITECT

Supports the proposal on the basis that, in assessing the effects on the listed church and/or its setting, that the proposal significantly enhances the appearance of the building and the setting of the church. Mentions limited design queries ; Fence – the requirement for and visual impact, noting the avoidance of standard solid timber fencing ; windows - top light windows out of keeping, and suggests replacement with casement type window with a central horizontal glazing bar. A number of conditions requiring further approval matters of detail are suggested.

ECONOMIC DEVELOPMENT

Comments that public houses and restaurants which offer a niche product and become destinations for customers are still able to achieve financial viability despite the difficult trading conditions in the hospitality sector generally. A full commercial appraisal of the alternative business models which could be operate from the premises in the hospitality sector would be necessary to demonstrate whether or not they are viable.

SENIOR BIODIVERSITY OFFICER – Has no objection to the proposal as there will be no detrimental effect on the favourable conservation status of any species or sites. Suggests highlighting the recommendations in the ecological report to the applicant, with a note to applicant recommending implementing bat friendly features, with a cautionary note regarding the ivy at the rear of the building, which could be used and therefore works should start before/after the nesting season if possible to avoid disturbance.

PLANNING POLICY SECTION - Highlights that the protection of community facilities such as public houses falls under UDP Policy RET12 which emphasises the need to maintain rural facilities wherever possible. Conversion to other uses can only be considered if it has been clearly demonstrated that the business is not commercially viable under all potential scenarios. The views of the tourism consultant submitted with the application do not make it clear what development proposals have been looked at and no financial information is supplied. Considers that this information does not constitute a financial appraisal and that the application cannot be considered to comply with policy RET12. Recommends that the applicant be advised to submit full financial appraisals based on a number of development options including maintaining the entire property as a commercial

venture, keeping part of the building as a public house and converting part to residential etc.

Comments that there are also examples of rural pubs in the area that are commercially viable where the owners are putting in the necessary effort, The White Horse, Hendrerwydd being one such.

RESPONSE TO PUBLICITY:

Letters of representation received from:
Mr. P. Evans, Melys Dref, Llanynys (e-mail)

Summary of planning based representations:

Community use – the community has lost the hub for local people; chance for focal point should not be lost..

Marketing attempts – no serious attempts to open or sell as public house; number of interested parties not entertained as either tenants or buyers over the years.

Highways – given existing dangerous and difficult nature of the highway/bend at the site, difficulties would be involved with parking , requiring right turn angle; visitors forced to park on road, adding to the danger.

EXPIRY DATE OF APPLICATION: 26/12/2010

REASONS FOR DELAY IN DECISION (where applicable):

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

PLANNING ASSESSMENT:

1. THE PROPOSAL:

1.1 Summary of proposals

1.1.1 The application relates to a conversion of the existing former public house into two dwellings. The proposed conversion involves the demolition of the existing front and rear elevation extensions , with an increase in height of the existing northerly extension. The submitted floor plan illustrates one unit of three bedrooms; the second unit with 2 bedrooms. The proposed site layout includes the area along the front elevation as subdivided to form two areas for the parking of two cars for each unit, with two separate vehicular access points, with boundary details indicated as 'iron railings set on dwarf walls'. The southerly unit vehicular entrance is obtained via land to the south, abutting the application site; whilst the northerly unit is accessed via a track/lane off the main highway.

1.1.2 The application includes a Design and Access Statement. Briefly, this includes reference to the following; History of the disused public house, and includes reference to a commercial assessment, noting it has not traded for 7 years.; General Access , which includes topography of the site; movement to and from; the site and access to the property and movement around the site; design principles and concepts; community safety, and sustainability and environment. The statement notes the existence of a garden area across the roadway, and the existence of an existing septic tank.

- 1.1.3 The application includes a copy of a letter from an Enterprise and Tourism Consultant to the applicant. The letter refers to the completion of cash flows and provides comments regarding the operation of the building as a restaurant and B& B.
- 1.1.4 The submitted floor plans indicate for the 3 bedroomed unit a ground floor of 73sqm and upper floor of 51 sqm. The two bedroomed unit includes a ground floor area of 42.75 and upper floor of 42.75, inclusive of staircase. The proposed ground floor area for unit 2 includes a 'bar' area. All floor measurements are based as internal measurements.

1.2 Description of site and surroundings

- 1.2.1 Cerrigllwydion Arms, is a traditionally constructed stone and slate 2 storey detached building, which has undergone alterations and extensions within the last 20 years. The site lies in the rural area known as Llanynys, positioned some 1-1½ miles to the east off the main Denbigh to Ruthin highway. The locality lies within the defined CPAT Historic Landscape of 'The Vale of Clwyd', sub-category Llanynys, which highlights the importance of the medieval parish Church – *'one of the important early churches in the cantref of Dyffryn Clwyd.'*
- 1.2.2 The existing public house car parking area lies to the north of the Cerrigllwydion, and includes two existing vehicular points onto the adjacent lane. The lane lies between the property and associated car park (in the ownership of Cerrigllwydion) which provide a private right of way for 3 no. dwellings, further east, from the highway access point. A public footpath exists along this lane. Adjoining the application site, to the north, lies the remaining car park area, which backs onto a field with stabling. The existing car parking area is a relatively level tarmac/gravel area, with mature hedgerow and trees along the east and west boundaries. The existing site plan is included at the front of the report.
- 1.2.3 To the west of the application site, separated via a hedge boundary, lies part of a domestic/garden area serving the detached bungalow, Bryn Awel, (further to the north east). To the east of the site, separated by a private access area, lies the first of a row of terrace, two storey cottage properties, known as Melus Dref.
- 1.2.4 Adjoining the Cerrigllwydion, to the east, lies the listed St Saeran's Church with other individual detached properties further afield. The Church is Grade 1 Listed. The church yard includes a number of listed chest tombs. A separate, Grade II listed telephone box sits alongside the church wall. During the course of a previous planning application, the County Conservation Officer advised that the group of buildings consisting of the Church, the pub, the Vicarage and the terrace of cottages form an important traditional group; and, that few years ago the church received Heritage Lottery funding to re-roof and re-point the stonework. This was all part of a scheme to re-establish St Saeran's as the "Mother" church in an important string of Clwyd Valley churches which were once an ancient pilgrimage route. As part of the publicity of the pilgrimage the church key was left in the pub by arrangement so that pilgrims could access the church and also rest and receive hospitality at the pub.
- 1.2.5 A garden area, presently overgrown (used in conjunction with the property) lies to the west, across the highway, from the property. An area of Registered Common Land lies along the southerly corner of the property. The planning history for Cerrigllwydion Arms, indicates the established planning use as an

'A3 ' food and drink establishment.

1.2.6 Other, separate detached residential properties lie to the south of the Church and the highway.

1.3 Relevant planning constraints/considerations

1.3.1 The site lies in the Vale of Clwyd Landscape of Historic Interest and adjoins the listed church, and telephone box.

1.4 Relevant planning history

1.4.1 There have been a number of planning applications relating to the building and associated land. Of specific relevance to the current proposal is an application submitted in 2005, under code 24/2005/1205/PF , for a Change of use to create mixed use of part public house and 2 no. dwellings. The application was refused under delegated powers, for the following reasons;

'1. Inadequate information has been provided in terms of the financial viability of the public house to demonstrate that it cannot remain as a valid going concern. The area of public house indicated on the submitted plans is not adjudged to represent a viable commercial enterprise due to its very limited size. As such, the proposal is considered contrary to Policy RET 12 of the adopted Denbighshire Unitary Development Plan.

2. The proposal fails to make adequate provision for amenity space or external drying area for the proposed one-bedroom self-contained flat above the public house. Accordingly, the application is unacceptable as it is contrary to Policy HSG 15 of the adopted Denbighshire Unitary Development Plan.'

Other planning applications have related to proposed new housing development on the existing public house car parking area, refused on the principle against planning policy.

1.5 Developments/changes since the original submission

1.5.1 Additional plans were requested by the Highways Officer to demonstrate adequate space for the parking of two vehicles. A protected species survey was submitted, at the request of the Countryside Council for Wales.

1.5.2 Further clarification has been sought from the County Highways Section and the Land registry on landownership and control. The Land Registry details confirm that the land immediately to the south of the site giving access to the adjoining highway lies outside the applicants' control.

1.6 Other relevant background information

1.6.1 None.

2. **DETAILS OF PLANNING HISTORY:**

2.1 Building

24/2005/1205/PF

Change of use to create mixed use of part public house and 2 no. dwellings -
REFUSED - 13/12/2005

The reasons for refusal were:

'1. Inadequate information has been provided in terms of the financial viability of the public house to demonstrate that it cannot remain as a valid going concern. The area of public house indicated on the submitted plans is not adjudged to represent a

viable commercial enterprise due to its very limited size. As such, the proposal is considered contrary to Policy RET 12 of the adopted Denbighshire Unitary Development Plan.

2. *The proposal fails to make adequate provision for amenity space or external drying area for the proposed one-bedroom self-contained flat above the public house. Accordingly, the application is unacceptable as it is contrary to Policy HSG 15 of the adopted Denbighshire Unitary Development Plan.'*

24/2005/0867/PF

Alterations to and conversion of Public House into 2 dwellings - WITHDRAWN August 2005

35/7433

Proposed extension to existing Public House to provide new kitchen and toilets – Cerrigllwydion Arms, Llanynys - GRANTED 29/03/85

Related planning applications -on adjoining land ,previously under ownership of Cerrigllwydion Arms

Code No. 24/2009/0270

Removal of existing garages and gas tank and development of 0.02 ha of land by the erection of 2 no. semi-detached dwellings with associated car parking (outline application - all matters reserved - REFUSED 24/04/2009

The application was dealt with under delegated powers. The reasons for refusing permission were :

1. The site lies outside any defined settlements as set out in the adopted Denbighshire Unitary Development Plan, where restrictive policies apply to new residential development. The proposal would create a sporadic form of residential development outside defined settlements where no essential need has been proven, and the development would not represent infilling. To allow development in the manner proposed in this location would set an unwanted precedent for further such residential development in the open countryside, contrary to Policies STRAT 6, GEN 3, GEN 4, GEN 6, HSG 2, HSG 5, HSG 6 and guidance contained within SPG 9 - Agricultural and Forestry Workers Dwellings, SPG 10 - Infill Housing in the Open Countryside and Governmental Guidance. Additionally, the site does not adjoin a main village or village where affordable housing schemes may be justified in exceptional cases and is contrary to Policy HSG 11 or SPG 22 - Affordable Housing.
2. The proposal is unsustainable, in that the site is located in the open countryside outside a defined settlement boundary as identified in the Denbighshire Unitary Development Plan. The plan seeks to control development in order to maximise and make best use of resources by reducing the need to travel by car and making the optimum use of existing infrastructure, services and facilities. The proposal would, therefore be contrary to Policies STRAT 1, 11, 12 and 15 of the Denbighshire Unitary Development Plan along with the relevant Government Guidance.
3. It is the opinion of the Local Planning Authority that, based on the information submitted, the proposal, involving a reduction in the existing car parking area and garaging facilities for use in connection with the existing commercial food and drink establishment (Cerrigllwydion Arms), would result in a loss of an essential area for the reasonable and proper commercial functioning of the property. This in turn may contribute to the loss of an existing community facility, in circumstances where it has not been fully demonstrated that reasonable attempts have been undertaken to show the property is incapable of sustaining a commercially viable use. The

proposal is in conflict with Policies EMP 10; RET12 and criteria (viii) of Policy GEN6 of the Denbighshire Unitary Development Plan and advice contained in paragraphs 10.1.4 and 10.3.9 of Planning Policy Wales (March 2002) which highlights the need to retain the use of buildings and land which contribute to rural communities, in order to safeguard their character and vitality.

4. It is the opinion of the Local Planning Authority that, based on the information submitted, the proposal would result in the loss of parking facilities for the Cerrigllwydion Arms, and would therefore encourage parking on the highway, with consequent risk of additional danger to all users of the highway and interference with the free flow of traffic. Furthermore, the proposal would provide for insufficient car parking spaces to serve the dwellings. The proposal would therefore have an adverse effect on the amenities of adjacent residential properties, contrary to the aims of policy GEN6 criteria vi), TRA 9, and SPG 21 - Parking requirements in new developments.

5. Based on the information submitted, the Local Planning Authority is of the opinion that the proposal would involve an over intensification and overdevelopment of the site, resulting in an adverse impact on neighbouring properties and the locality, in conflict with criteria i) ii) and v) of Policy GEN 6, criteria i) ii) and iv) of CF5, and STRAT 1 and 5, which require developments to have regard to character and amenity of the locality, and provide adequate amenity space and related facilities within the scheme.

Code No. 24/2008/0291/PO

Development of 0.05 ha of land for residential purposes and installation of septic tank (outline application) - REFUSED 13/08/2008

The application was dealt with under delegated powers. The reasons to refuse permission were :

1. The site lies outside any defined settlements as set out in the adopted Denbighshire Unitary Development Plan, where restrictive policies apply to new residential development. The proposal would create a sporadic form of residential development outside defined settlements where no essential need has been proven, the development would not represent infilling, and it is not adjoining a village or main village boundary where affordable housing may be justified in exceptional circumstances. To allow development in the manner proposed in this location would set an unwanted precedent for further such residential development in the open countryside, contrary to Policies STRAT 6, GEN 3, GEN 4, GEN 6, HSG 2, HSG 5, HSG 6, HSG 11 and guidance contained within SPG 9 - Agricultural and Forestry Workers Dwellings, SPG 10 - Infill Housing in the Countryside, SPG 22 - Affordable Housing, and advice in Planning Policy Wales.

2. It is the opinion of the Local Planning Authority that the proposal would represent an unsustainable form of development in that the site is located in the open countryside outside any defined settlement boundary as identified in the Denbighshire Unitary Development Plan. The plan seeks to control development in order to maximise and make best use of resources by reducing the need to travel by car and making the optimum use of existing infrastructure, services and facilities. The proposal would be contrary to Policies STRAT 1, 12 and 15 of the Denbighshire Unitary Development Plan.

3. It is the opinion of the Local Planning Authority that, based on the information submitted, the reduction in the existing car parking area and garaging facilities for use in connection with the existing commercial food and drink establishment (Cerrigllwydion Arms), would result in the loss of an essential area for the proper commercial functioning of the property, and may contribute to the loss of an existing community facility, in circumstances where it has not been fully demonstrated that

the property is incapable of sustaining a commercially viable use. The proposal is in conflict with Policy RET12 of the Denbighshire Unitary Development Plan and advice contained in paragraphs 10.1.4 and 10.3.7 of Planning Policy Wales (March 2002) which highlights the need to retain buildings and land which contribute to rural communities, in order to safeguard their character and vitality.

4. The proposal would result in the loss of parking facilities for the Cerrigllwydion Arms, and would therefore encourage parking on the adjacent highway, with the consequent risk of additional danger to all users of the highway and interference with the free flow of traffic. This in turn would have an adverse effect on the amenities of occupiers of adjacent residential properties, contrary to the aims of policy GEN6 criteria vii), TRA 6, TRA 9, and SPG 21 - Parking requirements in new developments.

5. Based on the information submitted, the Local Planning Authority is of the opinion that the proposal would result in a cramped form of development out of character with the locality, in conflict with criteria i) ii) and v) of Policy GEN 6, which require developments to have regard to character and amenity of the locality, and provide adequate amenity space for residents.

24/2003/0424/PS

Removal of condition 2 of permission for dwelling granted under code 35/8914 restricting occupation to person(s) employed or last employed in the running of the Cerrigllwydion Arms, Llanynys and the widow/widower and dependents of such persons.

Location ; Green Pastures, Llanynys - GRANTED 25/06/2003

35/12562

Deletion of occupancy condition imposed on the planning permission under code no.35/8914 relating to the dwelling at the Cerrigllwydion Arms, Llanynys - APPEAL DISMISSED 18/01/1993

35/8914

Development of land by the erection of a dwelling, construction of new vehicular and pedestrian access and new septic tank - GRANTED 16/10/87.

35/5632

Continued use of caravan to supplement staff accommodation at Hotel- adjoining car park at Cerrigllwydion Arms, Llanynys - 30/03/1982 (TEMPORARY PERMISSION)

35/4346

Continued use of caravan to supplement staff accommodation at Hotel- for which temporary permission was granted under code 35/3234 - /adjoining car park at Cerrigllwydion Arms, Llanynys - 3/06/1980 (TEMPORARY PERMISSION)

3. RELEVANT POLICIES AND GUIDANCE:

The main planning policies and guidance are considered to be:

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

Strategic policies;

1 – General; 6 – Location; 11 – Regeneration; 12 – General; 15 – Housing
16 – Community facilities and benefits

Detailed policies;

GEN3 – Development outside development boundaries
GEN6 – Development Control Requirements
GEN 8 – Planning Obligations

ENV 1 – Protection of the Natural Environment
ENV2 – Development affecting the AOB
ENV 10 – Common Land.

ENP 4 - Foul and surface water drainage.

HSG 9 – Residential conversions of Rural Buildings to dwellings

CON 1 – The setting of listed buildings
CON 11 – Areas of Archaeological Importance
CON12 - Historic Landscapes, parks and gardens

RET12 – Local Shops and Post Offices

TSM 5 – Rural Tourism

EMP 10 – Protection of Employment Land and Buildings.

TRA 6 – Impact of new development on Traffic Flows.
TRA 9 – Parking and Servicing Provision
TRA 10 – Public Rights of Way

Supplementary Planning Guidance:

8 – Access for All
14 – Listed Buildings
15- Archaeology
16 – Conversion of Rural Buildings
18 –Nature Conservation
21 – Parking requirements in new developments
25 – Residential Development Guide

GOVERNMENT GUIDANCE
Planning Policy Wales, 2010

Technical Advice Notes

5 – Nature Conservation
6 – Agricultural and Rural Development
12 – Design
13 - Tourism
18 – Transport

Circulars;

60/96 – Archaeology
61/96 – Listed Buildings
05/93 (Welsh Office) Public Rights of Way

Other Council Documents

Access in new developments

4. MAIN PLANNING CONSIDERATIONS:

4.1 The main land use planning issues are considered to be:

- 4.1.1 Principle
- 4.1.2 Amenity impact
- 4.1.3 Design
- 4.1.4 Highways and Parking
- 4.1.5 Impact on the setting of adjacent listed buildings
- 4.1.6 Landscape impact

- 4.1.7 Protected species
- 4.1.8 Common Land
- 4.1.9 Inclusive design
- 4.1.10 Sustainable Building Standards

4.2 In relation to the main planning considerations:

4.2.1 Principle

In terms of principle, Policy RET 12 is of most relevance. This policy states that the Council will support the retention of existing facilities and resist development which would result in the loss of existing facilities. The explanation to the policy considers that local facilities, including public houses, perform an important function in rural communities and should be retained if possible. However, it is added that where it can be shown that the business is no longer commercially viable and all means of retaining the use have been explored then a change of use may be permitted.

In this instance, Planning Policy response highlights that the information provided does not meet the requirements of the key test of Policy RET 12. There are no other material considerations which would enable the policy requirements to be overridden in this case.

4.2.2 Impact on amenity

Planning policy GEN 6, together with SPG 25, seek to safeguard sufficient privacy and amenity levels for occupiers of existing and new properties.

The main factors to consider in assessing amenity and privacy are whether the layout and design would achieve acceptable distances, amenity/garden areas and relationships between existing and proposed dwellings, having regard to site topography and orientation.

The plans show the area currently used as a beer garden as part of the application site, although no firm description of the proposed use is suggested. The plans also show a limited extent of immediate amenity space for the proposed houses, with the front area dedicated for parking and turning of vehicles. In this respect, the development appears somewhat cramped, and in officers opinion is considered to be insufficient amenity area to be provided, contrary to Policy HSG 15 and GEN 6.

4.2.3 Design

GEN 6, SPG 25 and TAN12 highlight relevant design considerations to be taken into account with development proposals.

The main factors in relation to design relate to the potential effect on the street scene, landscape and size, scale and materials in relation to the existing design/character of the locality.

Having regard to the site and locality as outlined earlier in the report, the design elements involved with the proposal – type, style, features, and details – are considered in keeping with the overall character of adjoining and surrounding properties and locality.

The proposal therefore complies with the aims and objectives of GEN 6, SPG 25 and TAN12.

4.2.4 Highways and parking

TAN 18 advises that evidence based on the likely effects of different parking levels for each land use should be considered with regard to a range of

criteria , including cycling and designing for inclusive mobility and access for disabled.

UDP policy TRA 6 states that proposals should not unacceptably affect the safe and free flow of traffic and that the capacity of and traffic conditions on the surrounding road network are satisfactory. TRA 9 highlights that development will be required to provide appropriate car and cycle parking, servicing and manoeuvring facilities in accordance with the County standards, unless alternative arrangements/ provision are available. GEN 6 criteria vi) & vii) requires adequate parking, servicing and manoeuvring space and no unacceptable. effect on the local highway network . HSG 13 requires appropriate servicing and provision.

SPG 21 provides guidelines for proposals including maximum parking standards for new developments. It highlights that all applications will be treated on their own merits. In terms of maximum car parking standards, 3 bedroomed dwellings require 3 car spaces per unit. In minimum cycling provision; there is no prescribed standard for dwellings – suggests communal car parking.

Whilst the proposal complies with the standards required for the provision of car parking space, there remains concerns regarding the relationship of the limited extent of amenity area and car parking provision provided immediately to the front of the premises. It is considered that the proposal is likely to incur conflicts between parking provision and the use of the amenity area, and likely lead to the potential for conflicts involving the adjoining highway use in this case. The proposal is considered therefore to conflict with planning policy GEN 6, TRA 9 and HSG 13.

4.2.5 Impact on the setting of adjacent listed buildings

PPW highlights that where a development proposal affects a listed building the primary material consideration is the statutory requirement to have regard to the desirability of preserving the building, or its setting, or any features of special architectural or historic interest which it possesses.

UDP policy CON 1 seeks to preserve the setting of a listed building particularly where the setting is an essential part of the character of the building. CON 11 highlights that development which would cause unacceptable harm to important monuments or their setting will not be permitted. These policies are supplemented with Supplementary Planning Guidance Notes 14 – Listed Buildings; SPG 15 – Archaeology.

Having regard to the removal of the modern alterations and the Conservation Officer's comments, the proposal is considered to enhance the setting of the listed structures in this case.

4.2.6 Landscape Impact

In terms of the location within the Vale Of Clwyd Historic Landscape. CON 12 highlights that development which would cause unacceptable harm the character of a historic landscape, park or garden or their setting will not be permitted.

Given the proposal involves partial removal of modern alterations and minimum new build works, the proposal is not considered to conflict with the objectives of policy CON12 in this instance.

4.2.7 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. (Policies ENV 1, ENV 6, ENV 8 and GEN 6; Planning Policy Wales : Habitat Regulations 2010 ; Unitary Plan Policy and Supplementary Guidance). Significantly, where there are grounds for suspecting the presence of European Protected Species, their presence should be established before the grant of permission.

Neither the Countryside Council for Wales or the County Biodiversity Officer have any objections to the protected species survey. As such, the proposal is not considered likely to have an adverse effect on protected species, and is therefore considered to comply with the respective policies and guidance.

4.2.8 Common Land

ENV 10 Common Land - seeks to ensure that development would not unacceptably harm the status, character, ecological and historic value of common land. Its explanatory text explains that the Council should seek to oppose proposals which attempt to enclose such land.

The applicant is aware that an area of common land exists directly adjoining the southern gable elevations, and this land would be used to gain access to one of the units.

The Council's legal officer has confirmed that any works and use change require separate consent from the Welsh Assembly Government as the body responsible for enforcing Section 194 of The Law of Property Act 1925.

It is considered that the proposal would not affect the common land area and is therefore not in conflict with policy ENV 10.

4.2.9 Inclusive design

The requirement for mandatory Access Statements is outlined in TAN 12 design and 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 DAS identifies a positive approach to inclusive design, respecting the Welsh Assembly approach for residential development quality standards. A suitable condition could be attached to ensure that this is achieved.

4.2.10 Sustainable Building standards

Planning Policy Wales, TAN 12, TAN 22 (as amended) require specific standards for improving the sustainability of new buildings in order to reduce their impact on the environment and to tackle climate change. As of December 2010, the Code for Sustainable Homes has been amended to level 3. The proposal involves a conversion of a building in this case, which could include a different technical requirement.

The DAS provides a basic approach to achieving sustainable building standards.

5. SUMMARY AND CONCLUSIONS:

- 5.1 Policy RET 12 looks to support the retention of local facilities such as public houses. The proposal would involve a change of use of a public house contrary to the policy approach. The principle of the change of use cannot be justified in this case. The proposal would involve a cramped form of development with amenity and parking implications, especially along the site frontage.

RECOMMENDATION: - REFUSE for the following reasons:-

1. Based on the information submitted, the Local Planning Authority is of the opinion that the proposal is contrary to the aims of Denbighshire Unitary Development Plan policy RET 12, in that insufficient information has been provided to justify the loss of the Public House, in particular in terms of the financial viability of the business to demonstrate that it cannot operate as a valid going concern. As such, the proposal is considered contrary to Policy RET 12 of the adopted Denbighshire Unitary Development Plan.
2. Based on the information submitted, the Local Planning Authority considers that the proposed site layout, involving the provision of car parking provision and amenity area along the site frontage in particular , would result in a cramped form of development, detrimental to the character of the area and would give rise to vehicle conflict and dangers to users of the adjoining highway, contrary to policies HSG 9, GEN 6, TRA 9 of the Denbighshire Unitary Development Plan, together with the accompanying Supplementary Planning Guidance Note 25, which aims to ensure amenity considerations are taken into account.

NOTES TO APPLICANT:

None

ITEM NO:	8
WARD NO:	Prestatyn East
APPLICATION NO:	43/2010/1222/ PF
PROPOSAL:	Development of land to provide class A1 retail units, car parking, landscaping, primary substation, petrol filling station, access and associated works
LOCATION:	Land at High Street/ Nant Hall Road Prestatyn
APPLICANT:	Stadium Prestatyn Limited
CONSTRAINTS:	Conservation Area Article 4 Direction Tree Preservation Order C1 Flood Zone PROW
PUBLICITY UNDERTAKEN:	Site Notice - Yes Press Notice - Yes Neighbour letters - Yes

CONSULTATION RESPONSES

PRESTATYN TOWN COUNCIL – “Defer for further clarification on traffic flows and assessment of impact on neighbouring properties.” – **Awaiting response on re-consultation.**

WELSH WATER – No objection subject to standard conditions to deal with foul and surface water flows.

ENVIRONMENT AGENCY – Awaiting response on further technical information submitted by the applicant to deal with the petrol station tanks. Objection to original submission based on the tanks potential impact on the water table.

CLWYD POWYS ARCHAEOLOGICAL TRUST – No objections subject to standard pre-commencement investigation condition.

COUNTRYSIDE COUNCIL FOR WALES – No objection subject to recommendations of the Ecology report being followed in respect to nesting birds and bats.

DENBIGHSHIRE COUNTY COUNCIL RESPONSES

HEAD OF TRANSPORT AND INFRASTRUCTURE – No objection subject to conditions to deal with highway infrastructure works off site. In particular the need to signalise the junctions on Pedyffryn Road with Penisadre and Bridge Road.

CONSERVATION ARCHITECT – Has concerns over the proposed location of the petrol filling station (PFS) and its negative impact upon the Conservation Area. Awaiting comments on the revised PFS arrangements and mitigation measures.
BIODIVERSITY OFFICER – No objection in principle but would require further consideration to be given to bat use of the site, in particular in relation to the trees around the site.

TREE CONSULTANT – No objections but would like to see the developer use this opportunity to develop a good landscaping scheme in order to enhance the tree planting on Nant Hall Road and around the High Street.

COUNTY ARCHAEOLOGIST – No objection subject to watching brief condition being imposed.

RESPONSE TO PUBLICITY

Letter of representation in objection or observation received from:

Robert White, 10 Glan Y Gors, Prestatyn x2 (via portal)

Tim Williams, 104 and 121 High Street, Prestatyn

Shona Hale, 9 Clos Bodnant, Prestatyn

Mrs J S Hillidge, 11 Lon Delyn, Prestatyn

Thomas Myatt, 67 High Street, Prestatyn

Dr H J Williams, 54 Sandy Lane, Prestatyn

Mr and Mrs G Roberts, 19 Llandaff Drive, Prestatyn

BW Rawlins, Prestige Carpets, Lon Alwen, Prestatyn

G Clague, 260 Victoria Road, Prestatyn

Letters of representation in support received from:

Carol Caroll, 35 Ceg Y Ffordd, Prestatyn

AW Mack, The Cottage, 6 Bollingwood Chase, Wilmslow, Cheshire (owner of 71-79 High Street, Prestatyn)

Mark and Lee Dakeyne, 21 Pendre Avenue, Prestatyn

Summary of Planning Based Representations:

- Concerns over the impact of the development on the retail viability of the town
- Concerns over the impact of the development on the highway infrastructure in the town
- Observation on the lack of pedestrian link from the development onto Church Lane and Lon Alwen
- Observation on the lack of cycle link from Gas Works Lane
- Observation on the need to provide a screen to the PFS from the High Street
- Potential to use the haul road for service vehicles
- Concern as to the proposed staff parking area and the impact on neighbouring properties from disturbance and lighting
- Observation on the design of the buildings and the need to use local materials
- Observations welcoming the development as it will provide a much needed economic boost to the town.

REASONS FOR DELAY IN DECISION

- Protracted negotiations on the highway infrastructure impact

PLANNING ASSESSMENT

1. THE PROPOSAL:

1.1 Summary of proposals

- 1.1.1 Full planning permission is sought for the development of 5ha of land at High Street/Nant Hall Road to provide Class A1 retail, car parking, landscaping, primary substation, access, petrol filling station and ancillary works.
- 1.1.2 The application is made by Stadium Prestatyn Limited and represents a retailing scheme which attempts to combine a previous Tesco foodstore permission with an adjacent retail scheme within the town centre of Prestatyn.

- 1.1.3 The proposed development combines both sites in order to deliver a scheme which utilises the two sites in a more effective and efficient manner. The scheme now comprises:
- 18,753 sq.m Class A1 retail floorspace
 - Petrol Filling Station (PFS)
 - Primary Substation
 - Access from Nant Hall Road and High Street
 - 779 car parking spaces including 42 disabled car parking spaces
 - Public realm works
 - Off-site highway infrastructure works
- 1.1.4 The submitted layout plans indicate the main retail units, including the 3790 sq.m retail unit for Tesco, would be located to the north end of the site, backing on to the main Holyhead to London railway line. The customer parking areas would be to the south side of these units accessed via the High Street and Nant Hall Road access points. The Petrol Filling Station (PFS) would be located to the west of the site off the High Street with some smaller retail units backing onto the Church Lane side of the site to the west.
- 1.1.5 An additional area of land is proposed to be used to the east of the site abutting the railway line for some 75 staff car parking spaces. These spaces would be accessed via the main service route into the site off Nant Hall Road adjacent to the boundary with the Parc Bodnant estate. The proposed site layout plan is attached at the front of this report.
- 1.1.6 The application has been submitted with the following documents:-
- Design and Access Statement
 - Retail Impact Assessment
 - Traffic Impact Assessment
 - Planning Statement
 - Contamination Report
 - Ecological Report
 - Arboricultural Report
 - Flood Consequences Report
 - Structural Surveys
- 1.1.7 The above documents have been the subject of consultation with the appropriate specialist consultees and the findings are covered within the main planning considerations section of this report.

1.2 Description of site and surroundings

- 1.2.1 The 5ha site is located at the northern end of Prestatyn High Street. It has the main railway line to the north. The High Street itself forms part of the western boundary, whilst the eastern boundary abuts the Parc Bodnant residential estate. The southern boundary comprises a mix of uses including the Iceland food store on Nant Hall Road.
- 1.2.2 The site was formerly made up of industrial units and a large Kwik Save (Somerfield) supermarket. Subsequent to the aforementioned retail development permissions, the site has been cleared but no construction works have begun.
- 1.2.3 Part of the site which adjoins the High Street has been used as a temporary car park. The northern boundary of the site is defined by the railway line and contains an access road to the railway verge to be retained for the use of Network Rail.

- 1.2.4 In the north western corner of the site there are two Listed Buildings. The buildings were previously used in connection with the use of the railway but have been redundant for a number of years and fallen into disrepair.
 - 1.2.5 The town of Prestatyn is characterised by its main High Street rising up towards the hillside in a southerly direction. Clearly there are buildings at a much higher level than the site at the top end of the High Street with views into the site from these higher vantage points.
 - 1.2.6 The site itself is flat and hard surfaced, having been previously developed.
- 1.3 Relevant Planning constraints/considerations
- 1.3.1 The site lies within the town centre and development boundary of Prestatyn. There is an area of the site at the bottom of the High Street which is within the Conservation Area.
- 1.4 Relevant Planning History
- 1.4.1 In November 2000 outline planning permission was granted for the development of 2ha of land by the erection of a food store with cafeteria, petrol filling station, taxi kiosk, small retail units and associated parking and servicing areas. This Tesco scheme was followed up with a reserved matters approval for the design and landscaping of the store in July 2005.
 - 1.4.2 The Tesco scheme was commenced by the formation of some foundation trenches around their approved petrol filling station (PFS) off the High Street around November of 2005. The approved store was to have a gross floor space of some 3214 sq.m with 276 car parking spaces.
 - 1.4.3 In March 2008, the County Council approved a scheme known as the Prestatyn Shopping Park for Stadium Ltd. This scheme involved the development of some 13,377 sq.m of retail floor space, 363 car parking spaces and associated works. In October that same year an application to increase the retail floor space for the Stadium scheme up to 17,907 sq.m, of which no more than 2,787 sq.m shall be for food retailing, was approved.
 - 1.4.4 Also on the Stadium site is a permission to replace the former GK Evans building with a non-food retail unit of some 557.5 sq.m of floor space which was approved in August 2008.
 - 1.4.5 In summary, based on extant permissions one can see that the retail position over the two retail sites is that some 21,678.50 sq.m of retail floor space has been allowed. This can be broken down as 15,677.50sq.m of gross non food floor space with 6,001 sq.m of food floor space.
- 1.5 Developments/changes since the original submission
- 1.5.1 Officers have met with the applicants on numerous occasions during the course of this application. There have been changes made to the off-site highway junction works on Ffordd Pendyffryn in order to accommodate the highway engineer's comments. Further, the applicants have also provided information to the Environment Agency on the location and safety of the proposed on-site tanks for the PFS.
 - 1.5.2 There have also been additional plans which have been tendered which attempt to mitigate the impact of the PFS on the bottom of the High Street by providing hard and soft landscaping.
- 1.6 Other relevant background information
- 1.6.1 None

2. DETAILS OF PLANNING HISTORY

43/1997/0910/PO – Development of 2ha of land by the erection of a food store and petrol filling station (outline application) – GRANTED 30th Nov 2000 (**Tesco scheme**)

43/2003/1360/PR – Details of food store under planning permission ref 43/1997/0910/PO – APPROVED 26th July 2006

43/2007/0866/PF – Erection of retail units, provision of parking and servicing areas, new highway access and associated landscaping and site works – GRANTED 31st March 2008 (**Stadium scheme**)

43/2008/0741/PS - Variation of Condition 13 and deletion of Condition 17 on permission 43/2007/0866/PF to allow increase in retail floor space – GRANTED 13th October 2008

3. RELEVANT PLANNING POLICIES AND GUIDANCE

The main planning policies and guidance are considered to be:

DENBIGHSHIRE UNITARY DEVELOPMENT PLAN (adopted 3rd July 2002)
Strategic Policies 1,5,6,7,10,11 and 13

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 CON 1 – Setting of Listed Buildings
Policy CON 5 – Development within Conservation Areas
Policy CON 6 – Development Adjacent to Conservation Areas
Policy CON 11 – Areas of Archaeological importance
Policy ENP 4 – Foul and Surface Water drainage
Policy ENP 6 – Flooding
Policy ENP 7 – Unstable Land
Policy EMP 1 – Employment Land
Policy EMP 4 – Employment development within development boundaries
Policy EMP 10 – Protection of employment land
Policy RET 1 – Town and District Centres
Policy RET 3 – Food supermarkets
Policy RET 4 – Non-food retail stores and warehouses
Policy RET 7 – Fringe areas adjacent to town and district centres
Policy TRA 6 – Impact of new development on traffic flows
Policy TRA 8 – Transport requirements in major developments
Policy TRA 9 – Parking and servicing provision

Supplementary Planning Guidance Notes 2, 8, 13, 14, 15, 18, 21
Denbighshire Retail and Leisure Study

GOVERNMENT GUIDANCE

Planning Policy Wales, 3rd Edition
TAN 4, 12, 15 and 18

Welsh Office Circulars 60/96 & 61/96 – Archaeology and Historic Buildings in Conservation Areas

4. MAIN PLANNING CONSIDERATIONS

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

- 4.1.1 Principle of retail development in this location and flood risk
- 4.1.2 Accessibility by modes of transport

- 4.1.3 Acceptability of highway proposals
- 4.1.4 Parking and servicing provision
- 4.1.5 Impact on residential amenity
- 4.1.6 Impact on Conservation Area and Listed Buildings
- 4.1.7 Archaeological implications
- 4.1.8 Ecological Implications
- 4.1.9 Ground conditions, drainage and flooding issues
- 4.1.10 Other material issues

4.2 In relation to the main planning considerations above:-

4.2.1 Principle

The proposal complies with the overall emphasis of retail planning policies at national and local level which seek to guide new retail development to within existing town centres. The majority of the application site lies within the defined town centre boundary in the UDP and thus Policies RET 1, RET 3, RET 4 and RET 7 generally support the proposal. There is a part of the site which sits outside the defined boundary, however, this anomaly is to be addressed in the LDP and having regard to the retail planning history of the site, which shows a permission for retail units in this area, this is considered acceptable.

The information contained within paragraph 1.4 above shows that the proposed retail development at 18,753 sq.m is actually less than the combined permissions on the Tesco and Stadium sites. The proposals comply with the sequential approach set out in both national and local policies and given that the majority of the site lies within the town centre boundary there is no requirement to demonstrate need.

In relation to flood risk it is considered that the proposal satisfies the tests within paragraph 6 of TAN 15 in that the proposal is necessary to assist a local authority strategy, to reinforce town centres; it is previously developed land; and the consequences of flooding have been considered and are acceptable.

The scheme is estimated to create some 675 jobs (directly and indirectly), having positive employment and regeneration benefits. This is having regard to the small loss of the employment land allocation to the north-east of the site.

4.2.2 Accessibility

The location of the site within and adjacent to the town centre allows access to the development by means other than private car including rail, bus, taxi, cycle and on foot. It is considered that the proposals satisfy planning policy requirements for access by alternative means of transport. This is a relevant consideration when reviewing the issue of parking provision (para 4.2.4 below).

4.2.3 Highway Proposals

Highway engineers have been working through the proposals for this scheme with the applicants' highway consultant. There are several key areas in and around the development which the Council need to be satisfied can be addressed in terms of the impact of the development on the local infrastructure. The proposals involve the provision of a new roundabout at the entrance of the site on Nant Hall Road. This would need to be designed to the appropriate highway specification and a condition can be imposed to deal with this. The access to the site and the PFS off the High Street also creates highway safety issues in terms of the capacity and capability of existing linked junctions in the area. Works are proposed which will create signalised

junctions at High Street/Nant Hall Road, Bridge Road/Pendyffryn Road and Penisardre/Pendyffryn Road. Further works are required at key junctions at the top of the High Street and further down Nant Hall Road at its junction with Mostyn Avenue.

The applicants have accepted the works which will be required to these key pinch points on the road networks around the site. The highway works would be controlled through the imposition of conditions, S.106 planning agreement and S.278 highways agreements.

4.2.4 Parking and Servicing Provision

There will be some 779 car parking spaces provided in this combined scheme. This meets with the relevant planning policies and the supplementary guidance on parking standards. Whilst the number of spaces appears high the end users on the retail scheme require the standards to be at the high end in order to avoid vehicles queuing on the nearby highway network particularly during peak trading periods. The amount of spaces provided is considered to be of benefit to the town centre generally.

In terms of servicing, the proposals follow that of the previously permitted retail scheme for Stadium. The route follows that of the original Kwik Save store. The servicing route will be required to be open 24 hours. It is acknowledged that this will have some negative impact upon nearby residential properties on Parc Bodnant, however, the principle of this route has been established in the previous scheme.

4.2.5 Impact on Residential amenity

The development would lie adjacent to existing residential development on the Parc Bodnant estate. Given the historical commercial activity at this site and the previously permitted schemes it is considered difficult to resist this proposal based on the potential impact upon residential amenity. It is accepted that the residents are likely to experience some increased levels of disturbance from servicing activity and the general increase in vehicle movements in and around the town centre location. The service road remains in the position it has always been in and it is envisaged that the proposed junction and parking improvements in the town will mitigate any potential negative impacts upon the residential estate. It is suggested the wider economic benefits that the development will bring to the residents of the nearby estate in terms of the regeneration of the site outweighs the potential for disturbance.

4.2.6 Impact upon the Conservation Area and Listed Buildings

It is considered that the main impact of the development on the Conservation Area would be the location and design of the PFS. This is the part of the site which is within the Conservation Area. The other buildings are mainly outside the Conservation Area, however, one needs to have regard to the views in and out of the Conservation Area. The applicants have attempted to mitigate the impact on the Conservation Area of the PFS by proposing to either plant a hedge on the High Street boundary with trees or to erect a low "wave" design wall in matching light brick material to that used on the main PFS building. The Conservation Architect remains of the view that locating the PFS in the location shown will harm the character of the Conservation Area and the setting of the Listed railway buildings beyond.

It is necessary in weighing the issues to also have to have regard to the fact that permission has been given previously for a PFS in this location. Further, the applicant has indicated his willingness to contribute towards the

refurbishment and potential future use of the redundant and derelict Listed buildings as part of any s.106 obligation. In this context, officers feel that, on balance, subject to the most appropriate form of screening for the PFS from the High Street, the impact on the Listed Buildings and the Conservation Area would not be so detrimental to warrant refusal of this scheme. There will be a new area of public realm provided to the foreground of the Listed Buildings as part of this scheme in order to create a public square area. Having regard to the wider regenerative benefits of the scheme, officers consider it reasonable to support the PFS in this location, providing this area of public realm and the Listed Buildings can be utilised and improved as shown.

The size, scale and design of the proposed buildings have been approved previously and subject to conditions to control samples of the precise finishes to be used, it is considered that the impacts on the area generally will be acceptable.

4.2.7 Archaeological Implications

The application site includes land which has been identified as being archaeologically sensitive given the historic deposits found on nearby land. Investigations have already been carried out previously on the Tesco site and this has not revealed any significant finds. A condition requiring an archaeological watching brief would be sufficient. Given the lack of previous finds and archaeological work already carried out it is considered that a condition would be acceptable to deal with these issues.

4.2.8 Ecological Implications

The application has been submitted with an ecological and tree survey. The recommendations in this survey have been assessed by both CCW and the Council's Biodiversity Officer. Subject to further consideration being given in the eventual scheme to the future nesting of birds and to the implications on bats, which can be covered by the imposition of planning conditions, they have no objection to the scheme.

4.2.9 Ground Conditions, drainage and flooding issues

The application has been submitted with a detailed ground contamination and geotechnical survey. There are no known land contamination issues to deal with. The main area of concern with the scheme is the location of the proposed underground tanks for the PFS which are below the water table level. The Environment Agency have raised initial concerns over this part of the proposal and the applicants have attempted to address these concerns. It is considered that conditions could be imposed to deal with this issue and having regard to the previous permission here for a PFS a refusal on this reason would be difficult to justify even with changes to legislation.

Further conditions can adequately deal with how foul and surface water drainage can be discharged from the site. Meetings have taken place with Welsh Water to address the adequacy of the existing system and the need to deal with on-site watercourses. The applicants are content with the advice they have received from the statutory bodies on this subject and can comply with any imposed conditions.

4.2.10 Other material issues

Members may appreciate that in progressing major applications of this nature it is normal for Officers to negotiate with applicants/developers on a "without prejudice" basis potential additional benefits from a scheme which can be secured through a separate section 106 legal agreement. Such "benefits" have to relate reasonably to the development and cannot be imposed through

planning conditions as they normally involve off-site development or financial contributions.

In this instance, the developer has indicated a willingness to enter into a section 106 agreement which would include works to some of the off-site road junctions mentioned previously and works to the Listed Buildings.

5. SUMMARY AND CONCLUSIONS

5.1 This is a major planning proposal involving the redevelopment of a key site within the town centre of Prestatyn. The scheme involves an effective combining of two previous retail permissions on the site in order to facilitate a better linked and workable retail scheme for the town.

5.2 The retail units would be primarily located to the north of the site to back onto the adjacent railway line with parking areas to the front. The buildings themselves would be of a similar scale and design to those already approved on the site with the main Tesco store slightly larger in size now due to the increased retail floor space proposed. Vehicular access to the site would be via the main Nant Hall Road and High Street access points with a Petrol Filling station being located to the bottom of the High Street.

5.3 The application has been submitted with all the relevant retail and traffic assessments and subject to relevant conditions and highway controls is deemed acceptable.

5.4 The recommendation is subject to the following:-

- The completion of a S.106 Obligation to secure the following:-
 - Renovation works to the Listed Buildings on the site
 - Off-site highway improvement works
 - Provision of off-site allotment land for the community
 - Ecological Management Plan to deal with bats and birds on site

The planning permission would only be released on the completion of the S.106 agreement and in the event that this is not completed within 12 months of the date of the final determination of the application, the application would be referred back to Planning Committee for determination against planning policies and guidance relevant at that time.

- Notification of the resolution to grant permission to the Welsh Assembly Government in accordance with TAN 4 and confirmation from WAG that the Council can determine the application.

RECOMMENDATION: GRANT subject to the following conditions:-

1. The development hereby permitted shall be begun before the expiration of five years from the date of this permission.
2. No development shall be permitted to commence until the written approval of the local planning authority has been obtained to the proposed programme of construction/phasing of development including the sequence of completion of building works and associated parking and access arrangements. Only those details subsequently agreed shall be followed thereafter.
3. No works shall be permitted to commence on the external faces of the walls or the roofs of the buildings hereby permitted until the written approval of the local planning authority has been obtained to the colour and type of materials to be used, including any stonework,

brickwork and mortar mix, render, composite wall panels, support columns and roof sheets; in connection with which, samples shall be provided for inspection by officers of the authority. The development shall be carried out strictly in accordance with the details approved under this condition.

4. No external ventilation/refrigeration equipment or electrical or mechanical plant shall be installed on any building or within the site without the written agreement of the local planning authority to the precise siting, design and external appearance, and the operation of such equipment shall not be permitted to exceed the noise levels agreed in conjunction with condition 5 of this permission.

5. The retail units, related service yards and ancillary plant and machinery, including any sited within areas on the roof of a store shall not be brought into operation until the written approval of the local planning authority has been obtained to the maximum permissible noise levels arising therefrom, as measured from the facade of nearby residential properties. The agreed levels shall not be exceeded at any time.

6. Prior to the commencement of any works relating to the public realm area and screening around the petrol filling station details of the proposed materials and finishes to be used on those areas shall be submitted to and approved in writing by the local planning authority. Only those details subsequently approved shall be used thereafter.

7. Prior to the first use of any of the buildings hereby permitted commencing details of the intended treatment of the service road and staff car park boundary to the properties on the Parc Bodnant estate shall be submitted to and approved in writing by the local planning authority. Only those details subsequently approved shall be used and thereafter maintained.

8. Prior to the first use of the buildings hereby permitted commencing details of a pedestrian footpath link between the site and Church Lane shall be submitted to and approved in writing by the local planning authority. Only those details subsequently approved shall be used and maintained thereafter.

9. Provision for disabled people to gain access to the buildings shall be implemented in accordance with the approved details before the units to which they relate are first brought into use.

10. No development shall be commenced until a scheme for the comprehensive and integrated drainage of the site showing how foul water, surface water and land drainage will be dealt with has been submitted to and approved in writing to the local planning authority. Such a scheme shall be implemented prior to the construction of any impermeable surfaces draining to the system unless otherwise agreed in writing by the local planning authority.

11. Floor levels of all buildings constructed on the site shall be set at a minimum of 5.0m AOD.

12. 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.

13. 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.

14. No development shall take place within the application site until the applicant, or their agents or successors in title, has secured the implementation of a programme of

archaeological work in accordance with a written scheme of investigation to be submitted to and approved by the local planning authority. The archaeological work will be undertaken to the standards laid down by the Institute for Archaeologists. On completion of site works and any post-excavation analysis a report on the investigation shall be submitted for approval with the local planning authority and to Clwyd Powys Archaeological Trust.

15. Foul water flows shall only be permitted to discharge into manhole ref: SJ06835002 as identified on drainage record plan WW-01.

16. The developer shall provide a suitable grease trap to prevent entry into the public sewerage system of matter likely to interfere with the free flow of sewer contents, or which would prejudicially affect the treatment and disposal of such contents.

17. The proposed development site is crossed by a public sewer. No part of any building will be permitted within 3 metres either side of the centreline of the public sewer.

18. No external lighting of the buildings or the car parking areas shall be permitted without the prior written approval of the local planning authority to details of the type and position of the lights, column sizes, design and hooding, the level of luminance and proposed hours of use.

19. No external sound amplification systems shall be permitted at any time without the formal written consent of the local planning authority.

20. Prior to the commencement of any of the development hereby permitted a phasing programme and methodology for the carrying out of construction works including off-site highway works, hours of operation, noise mitigation measures and all routing of construction traffic shall be submitted to and approved in writing with the local planning authority. Only those details subsequently agreed shall be used thereafter.

21. None of the retail units hereby permitted shall be brought into use until the accesses into the site, off-site highway works, parking and servicing arrangements have been completed, in accordance with the approved plans and conditions and to the satisfaction of the local planning authority.

22. Prior to the commencement of any work relating to the petrol filling station details of the design, location and protection for the underground storage tanks shall be submitted to and approved in writing with the local planning authority. Only those details subsequently approved shall be implemented thereafter.

23. The permission hereby granted relates to the following maximum gross internal floorspace and uses by each unit:

	A1 Convenience Floorspace (NIA)	A1 Comparison Floorspace (NIA)	Total Floorsapce Sqm
Proposed Tesco Store	2,500	1,290	
Unit 1	1,000	6,965	
Units 2 - 11	185		
TOTAL	3,685	8,255	11,940

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

1. To comply with the provisions of Section 91 of the Town and Country Planning Act 1990.
2. To ensure the development is carried out in a co-ordinated manner and the retail units are served by an adequate highway network and parking provision.
3. In the interests of visual amenity.
4. In the interests of the amenities of nearby residential properties.

5. In the interests of the amenities of nearby residential properties.
6. In the interests of the visual amenity of the Conservation Area.
7. In the interests of visual and residential amenity of the nearby residential properties.
8. To ensure adequate pedestrian links are made to the site from adjoining retail streets.
9. To ensure compliance with Disability Discrimination legislation.
10. To ensure effective drainage facilities are provided for the proposed development and that no adverse impact occurs to the environment or the existing public sewerage system.
11. To prevent the risk of flooding.
12. To ensure in the interests of visual amenity a satisfactory standard of landscaping in conjunction with the development.
13. To ensure a satisfactory standard of development, in the interests of visual amenity.
14. To prevent any harm to issues of archaeological importance.
15. To prevent hydraulic overloading of the public foul/combined sewerage system, to protect the health and safety of existing residents and ensure no detriment to the environment.
16. To protect the integrity of the public sewerage system.
17. To protect the integrity of the public sewer and to avoid damage thereto.
18. In the interests of the amenities of nearby residential properties.
19. In the interests of the amenities of nearby residential properties.
20. To ensure minimal disturbance to residential properties, existing businesses and the existing highway network during construction phases.
21. To ensure that all users of the site including car users, cyclists and pedestrians can do so safely and to ensure that the highway network is able to cater for any increased traffic generated.
22. To prevent any contamination of land or water.
23. In order that the local planning authority retains control over the use of the floorspace, in the interests of the vitality and viability of the town centre.

NOTES TO APPLICANT:

Advisory Notes

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

SEWAGE TREATMENT

No problems are envisaged with the Waste Water Treatment Works for the treatment of domestic discharges from this site.

WATER SUPPLY

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

It should be noted that Network Rail has been in discussion with the developer over a Network Rail access road that runs through the site and will have to be altered due to the works on site. Network Rail are still in discussion regarding the actual access path route but we would like to comment that whichever access route is decided upon we would request that any access gates are not blocked or have the potential to be blocked by any car parking spaces or any structures either permanent or temporary that may impede Network Rail for accessing its land, especially in the case of an emergency.

You are advised that on the basis of the potential for the presence of bats in the locality, to incorporate bat friendly features in the proposed buildings.

ITEM NO: 9

WARD NO: Rhyl East

APPLICATION NO: 45/2010/1263/ PF

PROPOSAL: Demolition of outbuildings and erection of single-storey pitched-roof extension to residential home for the elderly

LOCATION: Balmoral House 22-24 Queens Walk Rhyl

APPLICANT: Mr N Woodward

CONSTRAINTS: Article 4 Direction

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

CONSULTATION RESPONSES:

RHYL TOWN COUNCIL
'No objection'

DCC CONSULTEE RESPONSES-
HEAD OF TRANSPORT AND INFRASTRUCTURE-
No objection, subject to condition controlling parking area.

SENIOR BIODIVERSITY OFFICER-
No objection, subject to condition regarding protected species.

RESPONSE TO PUBLICITY:

Letters of representation received from:
Stephen Ratcliffe, 32 Highfield Park Rhyl
Chris Featherstone, 30 Highfield Park, Rhyl
Mr & Mrs Jones, 38 Highfield Park, Rhyl
Lisa Hodson, 12 Vincent Close, Rhyl
A & E.A. Davies, The Thatched Cottage, Upp. Denb. Rd, St. Asaph email
A. Davies, 67, Bishops Walk, St. Asaph (e-mail)
Mr. & Mrs. H. Davies, 20, Queens Walk, Rhyl

Summary of planning based representations:
Over development- large extensions
Highways impact- parking problems associated with intensification of use
Residential Amenity- space remaining for residents/ circulation would be minimal and
proposed extension would impact on neighbours

EXPIRY DATE OF APPLICATION: 29/11/2010

REASONS FOR DELAY IN DECISION (where applicable):

- delay in receipt of key consultation responses

PLANNING ASSESSMENT:

1. THE PROPOSAL:

1.1 Summary of proposals

- 1.1.1 The application proposes alterations and an extension to Balmoral House Care Home in Rhyl. The single storey rear extension would replace an existing rear outbuilding and project further out into the rear garden area. The total projection of the extension would be 18 metres. The extension would be slightly wider than the footprint of the existing building. (See plans at front of report).
- 1.1.2 The proposed extension would facilitate the addition of 9 bed spaces and an extension to the existing dining room, allowing for a total of 29 residents.
- 1.1.3 As part of the proposal, the existing parking area will be remodelled, creating a total of 8 parking spaces. Some landscaping is also proposed as part of the development.

1.2 Description of site and surroundings

- 1.2.1 Balmoral House is located off the south-eastern end of Queens Walk in Rhyl. Although not strictly speaking a cul de sac, the road terminates at the entrance to the site.
- 1.2.2 The nursing home has occupied the site since the 1980's. It is a large two-storey building of red brick walls and a slate roof.
- 1.2.3 The area is characterised by large residential dwellings, although there are two care homes to the west of the site on 'The Grove'.
- 1.2.4 To the north east the site is bounded by the dwellings on Vincent Close, to the southeast the dwellings on Highfield Park. There is parking and turning at the front of the site, with an enclosed garden surrounded by landscaping to the rear. There is also a seating area to the front.

1.3 Relevant planning constraints/considerations

- 1.3.1 The site is located within the development boundary of Rhyl.

1.4 Relevant planning history

- 1.4.1 Permission was granted for alterations and single storey extensions in 2007 which would have resulted in an increase in 6 bed spaces in the care home.
- 1.4.2 In 2010, an application for a two-storey rear extension on the rear of the care home was refused. Officers considered the alterations would have an unacceptable impact on neighbouring occupiers' amenity, and the character of the area.

1.5 Developments/changes since the original submission

- 1.5.1 None.

1.6 Other relevant background information

- 1.6.1 The application is supported by various documents including a Design and Access Statement which refers to the following:
 - o The existing care home has a total floor area of 558sq m, the extension and alterations would result in an increase in floor space of 234sq m, which equates to 38% increase in floor area.
 - o There are currently 20 residents in the home; the application proposes an increase to 29.
 - o There are currently 16 staff in the home. Staffing levels would increase to 22 to cater for the increase in residents. Staff would work shifts.
 - o The proposal has been sensitively designed to take into consideration the amenity of adjacent occupiers and the overall character of the area.

2. DETAILS OF PLANNING HISTORY:

2.1 45/2009/1061 Single storey extension to side and rear. Granted (under delegated powers) 02/07/2007

2.2 45/2009/061 Demolition of outbuilding and erection of two-storey pitched roof extension to rear. Refused (under delegated powers) 08/03/2010 for the following reasons:

“ 1. It is the opinion of the Local Planning Authority that the proposed extension to Balmoral House is unacceptable within the terms of Policy CF 5 Residential Institution as the overall scale and mass of the extension would appear over dominant and out of keeping with the character of this predominantly residential area. Furthermore owing to the close proximity of the two-storey extension to the boundaries when viewed from surrounding dwellings and rear gardens it would appear overbearing, thus impacting on residential amenity, contrary to criteria ii) and iv) of policy CF 5.”

2. It is the opinion of the Local Planning Authority that the proposed car park would result in increased activity giving rise to additional disturbance which would impact on the residential amenity of adjacent occupiers. The proposed use of the front garden area as a hardstanding parking area is also considered out of keeping with the character of this residential area, and this element of the proposal is also considered contrary to criterion ii) and iv) of Policy CF 5.”

3. RELEVANT POLICIES AND GUIDANCE:

The main planning policies and guidance are considered to be:

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

Policy GEN 1 - Development Within Development Boundaries

Policy GEN 6 - Development Control Requirements

Policy ENV 6 - Species Protection

Policy CF 5 - Residential Institutions Provision

3.2 GOVERNMENT GUIDANCE

Planning Policy Wales (July 2010)

4. MAIN PLANNING CONSIDERATIONS:

4.1 The main land use planning issues are considered to be:

4.1.1 Principle

4.1.2 Visual and landscape impact

4.1.3 Residential amenity impact

4.1.4 Highways impact

4.1.5 Ecological impact

4.2 In relation to the main planning considerations:

4.2.1 Principle

Policy CF 5 relates to residential institutions and permits extensions provided there is no adverse impact on the character of the area, they do not represent overdevelopment of the site and adequate space remains for amenity space and parking. Policy GEN6 requires that development is considered against environmental, highway, parking and drainage impacts, including where the principle is acceptable. These criteria are discussed in more detail below.

4.2.2 Impact on visual amenity

Policy CF 5 permits extensions provided there is no impact on the character of the area and the extensions do not represent overdevelopment of the site. GEN 6 criteria refer to scale, landscape and visual impact.

As noted in the Applicants submission, the site area is approximately 0.12ha and the existing care home occupies 25% of the site, with a footprint of 300sq m. The application proposes to increase the footprint of the building on the site by 234sq m, which would translate to 41% of the site area. Taking into account the nature of the development, and the absence of guidance for external amenity space for this type of development, the scale of the extension is not considered unreasonable, nor is it considered to be over development of the site.

The character of the area is noted. Queens Walk and Highfield Park comprise mainly of large Victorian style dwellings, with narrow outriggers to the rear, and these tend to be narrow and subordinate in scale to the frontages. The extension reflects this as the rear extension will be single storey.

Most sites in the area enjoy some front garden space, and have narrow rear gardens. Whist Balmoral House has been extended previously these extensions do not detract from the character of the original or indeed appear over dominant in the context of the area. The 2007 permission must also be considered, which permitted adding 137sq m floorspace.

It is not considered that the single storey extension and alterations would result in any adverse impact on the character and appearance of the area, or conflict with policies GEN 6 and CF 5.

4.2.3 Impact on residential amenity

Policy GEN 6 sets specific tests to be applied to amenity impacts of development. As mentioned above there is no guidance in policy CF 5 in respect of amenity space or areas although the policy makes reference to providing private open space.

There is space around the site which could be used as an amenity area for residents should they wish. The plans show a sitting area to the south of the existing building and a lawn to the northeastern side.

The proposed extension would be sited closer to the boundaries than the existing development, however the extension would be single storey, therefore would have limited impact on the adjacent occupiers and would not be overbearing.

Whilst if permitted the proposal would result in an increase in activity on the site, as a result of more residents and staff, this increase is not considered likely to result in an adverse impact on adjacent occupiers amenity.

In conclusion it is considered that the proposal would not impact on the amenity of existing or proposed occupiers and is acceptable within the terms of policy GEN 6 and CF 5.

4.2.4 Impact on highways safety

Policy GEN 6 criteria (vii) permits development where it does not have an unacceptable effect on the local highway network. CF 5 refers to the need for car parking, manoeuvring and servicing to ensure no impact on the local highway network.

Highways officers have made an assessment of the proposal and the increase in activity associated with the extension. Eight parking spaces are proposed and Highways officers consider this would be adequate, considering the location and nature of the development.

Therefore there is no objection on highway safety grounds or in terms of policy GEN 6.

4.2.5 Ecological impact

Policy ENV 6 seeks to ensure that wildlife and bio-diversity are not negatively affected as a result of development.

There are no Council records of protected species on the site, however the County Ecologist notes the comments of the neighbouring occupiers regarding the potential for newts on the site. Therefore if Members were minded to grant, a condition can be attached to ensure the proposal does not impact on protected species.

5. SUMMARY AND CONCLUSIONS:

5.1 It is the opinion of Officers that the proposal is acceptable within the terms of policy CF5 and GEN 6, and it 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.
2. The materials and finishes of the external surfaces of the walls and roof of the building hereby permitted shall be of the same texture, type and colour as those on external walls and the roof of the existing building.
3. 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. Where any species listed under Schedules 2 and 4 of The Conservation (Natural Habitats & C) (Amended) Regulations 2007 is present on the site in respect of which this permission is hereby granted, no works of site clearance, demolition or construction shall take place in pursuance of this permission unless a licence to disturb any such species has been granted in accordance with the aforementioned Regulations and a copy thereof has been produced to the Local Planning Authority."

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

1. To comply with the provisions of Section 91 of the Town and Country Planning Act 1990.
2. In the interests of visual amenity.
3. To 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 the protection of species listed under the Habitat Regulations 1994

NOTES TO APPLICANT:

None

ITEM NO: 10
WARD NO: Rhyl West
APPLICATION NO: 45/2010/1300/ PF
PROPOSAL: Engineering operations comprising construction of a stepped revetment, training wall and inner/outer harbour wall forming part of the West Rhyl Coastal Defence Scheme
LOCATION: West Rhyl Coastal Defence Area Foryd Harbour/West Promenade West Parade Rhyl
APPLICANT: Denbighshire County Council
CONSTRAINTS: C2 Flood Zone
C1 Flood Zone
Wildlife Site
Listed Building
Article 4 Direction
PUBLICITY UNDERTAKEN: Site Notice - Yes
Press Notice - Yes
Neighbour letters - Yes

CONSULTATION RESPONSES:

RHYL TOWN COUNCIL
"No objection".

WELSH WATER
No objection but provides series of comments relating to Water Industry Act 1991.

ENVIRONMENT AGENCY
No objection. Scheme provides a betterment to the area.

COUNTRYSIDE COUNCIL FOR WALES
Concerns raised in relation to some elements of the Environmental Statement, but no objections in principle.

ROYAL SOCIETY FOR THE PROTECTION OF BIRDS
Awaiting response.

NORTH WALES WILDLIFE TRUST
No response received.

RHYL ENVIRONMENTAL ASSOCIATION
No response received.

BRITISH TRUST FOR ORNTHOLOGY
No response received

DENBIGHSHIRE COUNTY COUNCIL RESPONSES

BIODIVERSITY OFFICER

Happy with the conclusions and recommendations of environmental statement and management plan.

HEAD OF TRANSPORT & INFRASTRUCTURE

No objection subject to imposition of conditions to deal with construction traffic management and compound.

RELEVANT CONWY RESPONSES

Highway Team – Request contracted arrangements between DCC and contractor to deal with traffic calming on St. Asaph Avenue – Suggest note to applicant.

RESPONSE TO PUBLICITY:

None.

EXPIRY DATE OF APPLICATION: 06/12/2010

REASONS FOR DELAY IN DECISION (where applicable):

- timing of receipt of representations

PLANNING ASSESSMENT:

1. THE PROPOSAL:

1.1 Summary of proposals

- 1.1.1 The application seeks full planning permission for engineering works comprising a Coastal Defence scheme in West Rhyl.
- 1.1.2 The submission includes an Environmental Statement (ES) along with relevant appendices and non-technical summary. The application is made under the provision of the Town and Country Planning Act 1990 in accordance with the relevant Environmental Impact Regulations 1999.
- 1.1.3 The Coastal Defence Scheme components comprise works to the Training and Harbour Walls along with a proposed Stepped revetment (retaining wall). Further details of the scheme components are contained later in this report.
- 1.1.4 As the scheme involves engineering operations to deal with the aforementioned components there was no requirement to submit a Design and Access Statement under the provisions of Technical Advice Note 12 (Design).

1.2 Description of site and surroundings

- 1.2.1 The application site area equates to approximately 15.75ha. Of this only 3.95ha will be subject to permanent land take and approximately 0.09ha to temporary land take (i.e. for period of 30 months) to accommodate the construction site compound. Consequently, a large part of the application site will not be subject to permanent development. The relevant red line application site plan is attached at the front of this report.
- 1.2.2 The vast majority of the application site lies within Denbighshire's boundary. However, a small proportion (some 1ha) lies within Conwy. A formal application for planning permission has also been required to be made to Conwy County Borough Council.
- 1.2.3 The application site currently comprises an existing harbour wall, training wall and revetment. Each will be upgraded. Other elements include the estuary waters, a parcel of the beach and areas of hardstanding. To the west of the

application site, the River Clwyd flows west to east into Foryd Harbour and out along the estuary past Horton's Nose dunes. The existing training wall directs the estuary flow out to sea and protects the beach along Rhyl seafront.

1.3 Relevant planning constraints/considerations

1.3.1 The majority of the site lies outside the development boundary of Rhyl as shown in the Unitary Development Plan (UDP) proposals map. Enjoying a boundary with Conwy, the land out to sea forms part of a designated Coastal Planning Zone (CPZ1) as set out in the Denbighshire Unitary Development Plan. The primary consideration in this zone is to preserve and enhance the coastal landscape. The site is also located within an area of Local Conservation (Policy ENV 5) Importance as well as within the Foryd Harbour/Ocean Beach regeneration area (Policy TSM 14, CPZ 8). The relevant constraints, as set out within the UDP, mean that proposals of this nature would require full consideration of their environmental impacts through the submission of an Environment Statement (ES).

1.4 Relevant planning history

1.4.1 None of direct relevance to this scheme.

1.5 Developments/changes since the original submission

1.5.1 None.

1.6 Other relevant background information

1.6.1 In line with the New Approaches Programme (NAP) for Flood and Coastal Risk Management promoted by WAG a series of consultation initiatives have been adopted by the applicant to inform design and to establish the scope of the supporting technical assessments. The primary focus of this consultation has been to improve public awareness of the potentially significant risk posed by flooding, whilst also enhancing community resilience to flooding.

1.6.2 A range of consultation (and promotional) initiatives have been undertaken by the applicant to date, as follows:

- Public exhibitions
- Public meetings
- Press releases/public notices
- School visits/lectures, competition for pupils
- Fact sheets
- websites

1.6.3 The applicants have also followed the procedures set out in the EIA Regulations 1999 and consulted extensively with relevant specialist bodies throughout the screening and scoping processes. These processes have informed the production of the eventual ES. Planning Officers have been thoroughly involved in all pre-application work and have sat on project group meetings at all relevant stages.

2. DETAILS OF PLANNING HISTORY:

2.1 None relevant to this application.

3. RELEVANT POLICIES AND GUIDANCE:

The main planning policies and guidance are considered to be:

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

- Policy STRAT 1 - General
- Policy STRAT 5 - Design
- Policy STRAT 6 - Location
- Policy STRAT 7 - Environment
- Policy STRAT 9 - Tourism
- Policy STRAT 14 - Highways
- Policy GEN 3 - Development Outside Development Boundaries
- Policy GEN 6 - Development Control Requirements
- Policy ENV 5 - Sites of Local Conservation Importance
- Policy ENV 6 - Species Protection
- Policy ENP 6 - Flooding
- Policy CPZ 1 - Coastal Planning Zone
- Policy CPZ 2 - Design in CPZ development
- Policy CPZ 8 - Foryd Harbour, Rhyl
- Policy TSM 14 - Foryd Harbour/Ocean Beach, Rhyl
- Policy TRA 6 - Impact of new development on traffic flows

3.2 Supplementary Planning Guidance

- SPG 15 - Archaeology
- SPG 18 - Nature Conservation and Species Protection

3.3 GOVERNMENT GUIDANCE

Planning Policy Wales Edition 3, 2010, Wales Spatial Plan

Technical Advice Notes

- TAN 5 - Nature Conservation & Planning
- TAN 11 - Noise
- TAN 12 - Design
- TAN 13 - Tourism
- TAN 14 - Coastal Planning
- TAN 15 - Development & Flood Risk

4. MAIN PLANNING CONSIDERATIONS:

4.1 The main land use planning issues are considered to be:

- 4.1.1 Principle
- 4.1.2 Access/Highways
- 4.1.3 Ecological Impact/Water Quality
- 4.1.4 Landscape/Visual Amenities
- 4.1.5 Heritage Issues
- 4.1.6 Flood Risk
- 4.1.7 Other material issues

4.2 In relation to the main planning considerations:

4.2.1 Principle

As a general overview to the proposed Coastal Defence Scheme the works comprise improvements to the harbour and training walls within the Rhyl Harbour area. The works are designed to address a high risk of flooding to Rhyl and the wider area. In very basic terms, therefore, the principle of what is trying to be achieved (better coastal defence) would be acceptable.

As mentioned earlier in this report there are 3 main components to the coastal

defence scheme:-

Phase 1 - Training Wall

Phase 2 - Harbour Wall

Phase 3 - Stepped Revetment

All of the above elements have been through a rigorous options assessment in order to try to best achieve the project objectives (coastal defence) whilst at the same time minimising the environmental impacts. The submitted information, which is extensive, proposed an option as set out below:-

Phase 1 - Training Wall

The main function of the Training Wall is to “train” the River Clwyd out to sea, thus preventing the immediate Rhyl seafront from fluvial erosion. Based on current mean high water levels, the proposed training wall will be upgraded to c.50mm above the pile cap level of the existing structure, with a wide crest to facilitate future upgrading works in line with sea level rise.

The proposed Training Wall will be designed in such a way as to retain existing material where possible (i.e. sheet piles, timber pile cap, tie-rods and anchor piles) and encase with a rock armour structure. The footprint of the proposed works is c.850m long; the rock armour is approximately 9.3m wide, with the anti-scour aprons at 3m wide.

The rock armour structure will be placed to achieve a 1 in 1.6 front slope (western side); the crest width would be 3.6m wide, with a 1:2 back slope (eastern side). The anti-scour apron structure will be placed at the toe of the main rock armour, at a width of 3 metres (approximately 800mm below bed level).

As directed by Trinity House (Governing Body for the safety of shipping, and the well being of seafarers), five navigation markers will need to be installed equidistant along the western side of the training wall to aid waterborne navigation. These will be sited 2m above mean high water spring tide level and consist of a tubular steel 10m pile.

At the transition of the training wall, two linked static access platforms will be incorporated to replace the existing landing platform which is currently used by harbour users.

Phase 2 – Harbour Wall

The entire harbour wall works would be 480m in length, comprising 200m to the west (inner harbour wall) and 280m to the east of the cycle bridge (outer harbour wall). The proposed Foryd Harbour Sustainable Transport Bridge scheme subdivides the inner and outer harbour. Further details of the Outer Harbour and Inner Harbour elements of the Harbour Wall are provided below:

Outer Harbour

Where the training wall ends and the outer harbour wall starts, the rock armour will grade up in level from the root of the training wall before dropping at the proposed cycle bridge, where the outer and inner harbour walls meet.

The outer harbour works consist of varying slope gradients ranging from 1 in 2 to 1 in 3.5, with crest widths ranging from 2.4m to 6m with a maximum structure width of approximately 18m

Sheet piles will form the rear wall, from the root of the training wall to the full height of the harbour wall, whilst low level piles will also form the toe of the rock revetment. The sheet piles to the rear of the rock armour will form the connection to the stepped revetment, whilst also providing an access platform (1.5m wide) to the proposed static landing points.;

An anti-scour apron structure will be placed at the toe of the sheet piles, at a width of 3m; this apron will extend along the entire length of the harbour wall works to reduce the risk of localised scour around the toe of the sheet piles.

Inner Harbour

It is proposed that piling to the harbour wall will be to the height of the promenade sea wall, and set 5m seaward of the current sea wall. All piling will be undertaken from the promenade. The height of the existing sea wall will increase in level as it approaches Foryd Harbour Bridge, however, the height above the promenade level will remain as present.

The proposed design is required to overcome the substantial deficiencies of the existing concrete wall, the design life of which has expired.

At the request of the Rhyl Foryd Harbour Forum, the scheme includes a pontoon upstream of the proposed Sustainable Transport Bridge. Access to the pontoon will be via ramp from the cantilever landing for the Sustainable Transport Bridge, although detailed design has yet to be confirmed.

Phase 3 – Stepped Revetment

The Stepped Revetment works, to the east of the training wall to the intersection with the existing harbour wall between Sydenham Avenue and John Street, span approximately 470m in length and will involve the placement of sheet piled toe and crest works to support precast concrete stepped sections. As well as reducing the risk of overtopping and flooding to Rhyl Town Centre, the Stepped Revetment will create a promenade facility providing a new and attractive seating area for local residents and visitors to the town.

The Stepped Revetment toe position will be installed approximately 32m seaward of the existing harbour wall, increasing to approximately 50m at locations where the revetment forms a curved feature.

A sheet piled toe will be constructed at the base and top of the Stepped Revetment units to provide structural support and to prevent leaching of sediment and fill out from beneath the units. The intermediate steps, constructed centrally on the promenade, are designed to reduce wave overtopping before reaching the primary flood wall. Further, the intermediate steps are also intended to serve as a transition between the upper promenade (close to the primary flood wall) and the lower promenade (close to the top of the revetment).

Other Works

Alongside the main three elements of the scheme outlined above, a series of additional works are proposed. These are discussed in Chapter 3 of the ES, but in summary comprise the following:

- *Footpath and Cycle Path* – the increased height of the promenade sea wall upstand provides a physical barrier and prevents percolation of tidewater through the rock armour crest and onto the promenade. This gives the opportunity to provide the public with an enhanced view over the protection by increasing the level of the footpath immediately behind the sea wall upstand;
- *Themed Decorations* - towards the west of the proposed Sustainable Transport Bridge, the existing concrete sea wall upstand will be removed and replaced with the wave return wall (recurve). It is envisaged that a themed decoration will be imprinted upon the landward face, possibly to reflect the marine nature of the location;
- *Highways Drainage* – the existing drainage system will be abandoned as part of the works and a new system will be constructed to accommodate flows generated from rainfall events and a small allowance will be given to additional flows generated from overtopping;
- *Hand Rails* – hand rails will be included within the design when and where necessary, although the main aim of this scheme is to design out the need for high maintenance promenade hand rails;
- *Promenade Lighting* - existing lighting (7 No. columns) along the harbour wall promenade will be removed and stored for reuse, later during the works;
- *Promenade Close Circuit Television (CCTV)* - an existing CCTV camera is located on the promenade opposite to Quay Street. It is understood that this camera will be upgraded and used to assist with the operation of the proposed Sustainable Transport Bridge, the revised location for which will be agreed with the Bridge designers;
- *Vehicular Activated Sign (VAS)* - an existing VAS is located 100m east of Quay Street, adjacent to former access steps into the harbour. The power supply for the VAS is taken from a distribution box situated immediately behind the hand railings on the promenade. This VAS will be relocated in accordance with the requirements of the Local Planning Authority; and
- *Bus Stop* - an existing bus stop located between Sydenham Avenue and Quay Street will be temporarily relocated for the duration of the Phase 1 and 2 works, in accordance with DCC requirements. A new facility, with a lay-by, will be provided at a suitable location, to be agreed with the Local Highways Authority.

Need

As previously outlined, West Rhyl is situated in a low-lying area which has been identified to be at significant risk of flooding from both the sea and the adjacent River Clwyd Estuary. Consequently, up to 2,500 existing residential;/commercial properties are currently identified to be at risk of flooding.

Preliminary overtopping assessments have indicated that the current tidal

defences from the training wall upstream to the Foryd Harbour Bridge are of insufficient height to protect the land behind from a 1 in 200 year tidal event. With climate change posing a further threat to both people and property, the volume of splashover/overtopping is expected to increase in the future. Kinmel Bay and Rhyl are consequently at considerable risk of tidal flooding. Investigations undertaken fro to inform the Catchment Flood Management Plan (CFMP) concluded that up to 7,641 properties could be at risk of flooding in a 1 in 200 probability tidal flood event.

Further justification for progressing with the proposed scheme is provided by a Structural Integrity Review undertaken by Evans Wolfenden Partnership in March 2005, which found that there is an urgent need to take action on the training wall and on a section of the harbour wall between the training wall and Foryd Harbour Bridge at the western end of the scheme.

The most extreme flood event in Rhyl occurred in February 1990, when defences were overtopped as a result of combined high-level tides and storm surges. In Rhyl, 55 properties were affected and these were several kilometres south east of the Marine Lake. Simultaneous flooding occurred in Towyn, Kinmel Bay and Prestatyn and was more acute than in Rhyl, with 2,800 properties flooded.

Consequently, the scheme components listed within this Section have a significant role to play in helping to reduce the flood-risk of Rhyl and its immediate surroundings, and with it seek to facilitate the long-term future and regeneration of the town.

Having regard to the elements of the works outlined above, officers consider that all relevant adopted Policies and Guidance would support, in principle, the scheme as proposed.

4.2.2 Access/highways

Chapter 12 of the submitted Environmental Statement (ES) deals with the potential transport impacts associated with the proposed works during the construction period. The statement emphasises that traffic levels are expected to return to the baseline conditions upon completion of the works. As such, it is considered necessary to analyse the expected traffic impact during the construction period of the coastal defence works. Traffic is likely to mean delivery traffic as well as workforce travelling to and from the site.

It is anticipated that delivery of materials would be by a Fleet of 20 tonne HGV's with some smaller 15 tonne vehicles where appropriate. Materials to be delivered would be rock armour, sheet piles, concrete and other fill materials. Initial information provided suggests that up to 78 HGV movements per day would be required over 27 and 16 weeks respectively. This represents around a third of the overall construction period which is estimated at around 30 months. Whilst the HGV movements will be temporary they are assessed as being of major adverse significance based on traffic count data for DCC and Conwy. In order to address the impacts of these HGV movements over the temporary period mitigation measures are proposed (which will be subject to conditions), which look at the safest and most appropriate routes, the storage of materials on site and 9a.m. – 3.00p.m. limits on the times of delivery. A detailed construction traffic management plan will be agreed with both DCC and Conwy Highway engineers prior to any works commencing. Highway Engineers have

assessed the impacts of both material delivery and workforce traffic as acceptable subject to strict controls and management. Whilst it must be accepted that a scheme of this nature will have a temporary impact on the highway networks to be used to access the site the mitigation measures proposed, in terms of routing and timing of deliveries, will reduce the impact from major to moderate.

Further information which has been given to supplement the Environmental Statement has explained that at least 50% of the materials (rock armour) delivered to the site can be achieved via barge on the sea. This has significant implications on the potential temporary impact on the surrounding road network. Officers consider that, subject to details of how the deliveries can be dealt with by road and sea, clearly stating the ratio of such journeys and the relevant controls to be used the environmental impact can be kept at a moderate and acceptable level.

4.2.3 Ecological Impact/Water Quality

Chapter 8 of the submitted ES attempts to deal with potential impacts that the coastal defence scheme would have on water and sediment quality during construction and operation. Chapter 9 then goes on to look at impacts upon nature conservation sites and designations and discusses specific impacts upon flora and fauna.

Water Quality

The ES specifies that the construction of the training wall element of the scheme will require access of heavy plant onto the foreshore at low tide with a resultant risk of pollution. Without mitigation the construction impact on water and sediment quality is considered to be moderate adverse. This training wall part of the scheme could also increase the risk of erosion which could have implications for marine organisms. There are also similar risks during the construction of the harbour wall and stepped revetment. In light of the construction activities the ES advises that contractors and other operatives should follow the Pollution Prevention Guidelines (PPG) issued by the Environment Agency. A series of mitigation measures have been suggested within the ES which have been the subject of lengthy discussions with the Environment Agency, Countryside Council for Wales and the Council's own Biodiversity Officer. Subject to the imposition of conditions to deal with these mitigation and control measures there should be no significant residual impacts to water and sediment quality during or after construction.

Species Protection

The ES recognises that the construction activities associated with the proposal could have effects on statutory designated sites at the Liverpool Bay Special Protection Area (SPA) and the Dee Estuary. The ES finds that work on the training wall, including the placement of rock armour could potentially affect the red-throated diver and common scoter populations in the SPA (Special Area of Conservation). However, the key area for bird species linked to the SPA is Colwyn Bay some 10 kilometres west of Rhyl. In view of these distribution patterns the ES concludes that any potential disturbance arising from works on the training wall will only be likely to affect a small percentage of these bird populations. In the main it would be the noise associated with the sheet piling (Phase 2) which will have the most impact on the SPA bird species but this is considered to be negligible.

The Dee Estuary is also a designated SPA, Special Area of Conservation, Ramsar and SSSI (Site of Special Scientific Interest). It is also a European Marine Site in that it supports a number of important habitats.

The ES states that construction work will have a negligible impact on both coastal processes and water quality within the Dee Estuary. Having liaised with the appropriate specialist bodies in the formulation of the ES it is clear that mitigation measures are required in order to deal with potential impacts upon statutory designated nature conservation sites. These measures will be controlled to take account of bird populations and the conclusions are that no significant adverse effects on the statutory designated sites are likely to arise during construction works.

As well as the statutory sites mentioned above, the ES has regard to the non-statutory designated nature conservation sites. These include a North Wales Coast Important Bird Area (IBA) which stretches from the Little Orme to Rhyl extending 6 kilometres out to sea, the Clwyd Estuary and Floodplain Wildlife Site which includes the Brickfields Pond and Marine Lake and finally the Kinnel Dunes Local Nature Reserve situated some 500m west of the Clwyd Estuary. In addition, there is one candidate non-statutory site of importance which the ES refers to as Horton's Nose Wildlife Site (a Local Priority Habitat within Conwy).

Hydrodynamic modelling has shown the works to have minor localised effects on these sites during construction.

Birds

Looking specifically at bird populations likely to be effected by the works, the ES considers that, given that the habitats available to bird species for foraging or roosting at low tide are limited, the areas around the harbour and training walls are unlikely to be used by significant bird populations.

A noise assessment of the proposed scheme found the noise level at 100 metres to be 75dB(A), a level not considered to be of major significance. On this basis, the impact of construction activities on birds is assessed to be minor and temporary, largely due to the high availability of similar habitat in the wider area and the limited value of the bird populations likely to be present.

Otters

An otter survey was undertaken by Jane Walsh (Ecological Consultant) in April 2010. The conclusions of this survey were that there is the potential for minor increases in disturbance to otters in the lower reaches of the Clwyd Estuary during construction phases. Overall, the potential impacts on otters were found to be negligible with no requirement for mitigation.

4.2.4 Landscape/Visual Amenity

Chapter 13 of the ES deals with the potential during and post construction, impacts of the works. The assessment looks at individual landscape character (LCA), character areas which are broken down as follows:-

- LCA 1 - Rhyl Promenade
- LCA 2 - Intertidal Zone and Beach
- LCA 3 - Foryd Harbour and Clwyd Estuary
- LCA 4 - Ocean Plaza Site (Former Fairground)

It should be remembered that the demolition and construction phase will be relatively short-term in nature, however, there will be landscape and visual impacts associated with the works. These impacts will be highly localised to areas within the immediate vicinity of the works and traffic routes. A number

of mitigation measures are proposed to minimise the construction phase impacts. These comprise screening/enclosing using temporary hoardings, controlled vehicular access points, managed working hours, careful consideration of construction and material storage and phasing of works. The site compound will be temporarily located on the existing Quay Street Car Park and managed./screened accordingly. It is inevitable, however, that there will be a temporary negative landscape and visual impact during these works, however, this is not considered so significant having regard to the eventual benefits on completion.

Post construction the works have the potential to impact on the character of both urban and rural coastal landscape character. These will be limited to the immediate setting around the Rhyl Promenade and Foryd Harbour. The design concepts used, however, will eliminate any negative landscape and visual impacts with materials and finishes enhancing the immediate area. The ES concludes that there will be no significant long term landscape or visual detriment. Subject to detailed controls (through a planning condition) on the precise design and detailing of the stepped revetment the areas of the Rhyl Promenade and Foryd Harbour will be enhanced to provide an attractive, useable yet defended area. There is, therefore, no conflict with any local or national development plan policies in respect to the visual impact of the scheme.

4.2.5 Heritage Issues

Chapter 14 of the ES deals with potential impacts of the scheme on archaeology and heritage. The methodology used within the ES has been previously agreed with the County Archaeologist and CADW.

The ES has looked at potential impacts on nearby Listed Buildings and Conservation Areas. Grade II Listed Buildings and structures are seen on West Parade and at the blue Bridge. The closest Conservation Area is that at River Street. Perhaps the most affected heritage asset, however, is the shipwreck the City of Ottawa, which was beached in the harbour area in 1906. The ES has looked at both the construction and post construction impacts on such heritage assets.

The assessment has found that any disturbance resulting from piling activities is likely to be negligible upon the City of Ottawa. Pre-application discussions with the Marine Officer of the Royal Commission on the Ancient and Historical Monuments of Wales have highlighted a preference for the wreck of the City of Ottawa to be preserved in situ. Mitigation measures based around a full Written Scheme of Investigation will be used prior to commencing removal of material from areas where excavation is proposed. A qualified archaeologist will monitor this and the ES concludes that there would be no adverse impact upon the City of Ottawa itself. Having regard to the other heritage assets mentioned previously, the ES concludes that the impacts upon the Foryd Bridge, other nearby Listed Buildings and the Conservation Area would be negligible. The scheme is considered to comply with the relevant local and national policies and guidance relating to the protection of the Historic Environment.

4.2.6 Flood Risk

Chapter 7 of the ES deals directly with the issue of Flood Risk. A Flood Consequence Assessment (FCA) has been undertaken in accordance with TAN 15.

The ES looks at the potential for increased temporary risk of flooding during

the construction phase and looks at the longer term benefits of the scheme.

During the 30 months construction period, the coastal defences will remain of a similar standard to that existing. This has temporary implications on areas such as the temporary site compound and the workforce. The ES concludes that this has a moderate, adverse significance, albeit actual flood risk will remain at current levels. Post construction the Coastal Defence Scheme will lead to a significant reduction in over lopping of the coastal defences. This in turn will lead to a significant reduction in flood risk and at a substantially lower depths than that which would occur if existing defences were to remain.

4.2.7 Other Material Issues

Noise and Vibration

Chapter 11 of the ES deals with the potential noise impacts arising from the project during the construction period. The noise sensitive receptors (NSR's) which could potentially be affected are considered to be:-

- Residential properties and other commercial premises along Foryd Road (Conwy), West Parade, Sydenham Avenue and nearby roads.
- Sunnyvale Holiday Campsite (Conwy).

The ES has considered the noise impacts arising from vibration during the construction period. This has found that in respect of the closest NSR's, which are located beyond the minimum threshold distance of 6m, the impact of vibration on building structure is found to be negligible.

The City of Ottawa wreck is located approximately 5m from the closest part of the proposed piling. The expected vibration level at the City of Ottawa is significantly below the 5mm/s limit which is often used to protect structures. The ES therefore finds that the vibration activities will have a negligible impact on the City of Ottawa wreck.

In addition to the construction work impacts, the ES has assessed potential noise impacts arising from construction traffic.

With regards to compound movements, without any mitigation measures in place, there will be a temporary major adverse impact at the nearest NSR's. However, noise impacts on the local road network arising from transport movements will be negligible.

Given the potential for some major adverse noise impacts to arise during the construction period, the ES has identified a number of potential mitigation measures, which if implemented would serve to reduce the significance of any impact.

By implementing the mitigation measures set out within Chapter 11, the ES concludes that the noise impacts arising from the construction works will range from negligible to minor/moderate adverse. Accordingly, post-mitigation the construction works and associated traffic movements will not give cause to any major adverse noise impacts on any receptors.

Accordingly, no conflict is found with the provisions of the development plan.

-

5. SUMMARY AND CONCLUSIONS:

5.1 There is support within the development plan for coastal and flood protection along the North Wales Coastline (Policies CPZ1 and CPZ8) subject to assessing the potential for any adverse environmental impacts.

5.2 The submitted ES provides a comprehensive assessment of the scheme components and the potential environmental impacts arising during the construction and post construction of the three phases of development. The conclusions of the ES having regard to the detailed impact of specialist technical bodies is that the Coastal Defence Scheme, subject to appropriate planning conditions and contractual obligations relating to construction traffic, times and management, will not have any long term and major significant adverse environmental impacts.

5.3 The scheme will undoubtedly realise substantial overall benefits by virtue of its significant role in helping to reduce flood risk and its assistance in facilitating long term regeneration of Rhyl and the wider area.

5.4 The contents of the Environmental Statement have been taken into account in considering the application.

RECOMMENDATION: GRANT - subject to the following conditions:-

1. The development hereby permitted shall be begun before the expiration of five years from the date of this permission.
2. Notwithstanding the submitted plans, no development shall be permitted to commence until the written approval of the Local Planning Authority has been obtained to the full details of the proposed stepped revetment area, pontoon and static landing platforms. The details shall include proposed drainage, design, levels, materials and finishes and only those details subsequently approved shall be implemented.
3. Prior to the commencement of any on site works, a construction method statement and traffic management plan shall be submitted to and approved in writing by the local planning authority. The plan shall include details of all on and off-site works, the details and management of the site compound, routing, timing and relevant mitigation measures involved in the delivery of materials and associated works via land and sea routes. Further details on noise levels for all construction processes and any mitigation proposed shall be included and only those details subsequently approved shall be implemented and strictly adhered to throughout the scheme.
4. Prior to the first use of any rock armour on site a sample of the materials to be used shall be submitted to and approved in writing by the local planning authority. Only those details subsequently approved shall be used thereafter.
5. Prior to the commencement of development on-site the further information as required by the Countryside Council for Wales in their letter dated 9th December 2010 shall be submitted to and approved in writing by the Local Planning Authority to include sediment transport and managing sea level rise, and vessel movements for the delivery of materials and piling activities. Those details subsequently agreed shall be implemented in full in liaison with the local planning authority and the Countryside Council for Wales.
6. Full details of the vehicular access and disabled parking as indicated on the approved plans including the detailed design, layout, construction, visibility splays and drainage shall be submitted to and approved in writing by the Highway Authority before the commencement of any site works and the access and parking area shall be completed in accordance with the approved plans before it is brought into use.
7. No development shall take place until a scheme of highway surface water drainage has been submitted to and approved in writing by the Local Planning Authority and the approved scheme shall be completed in accordance with the approved plans.
8. In relation to the carrying out of the works, no development shall be permitted to take

place until the written approval of the Local Planning Authority has been obtained in relation to the site compound location and vehicular access including the design and construction of the access, traffic management scheme, relocation of the existing bus stops, vehicle wheel washing facilities, hours and days of operation and the management and operation of construction vehicles, the works shall be carried out strictly in accordance with the approved details.

9. Full details of the proposed cycle route and diversion of the existing route shall be submitted to and approved in writing by the Local Planning Authority before the commencement of any site works.

10. Prior to the commencement of any works on site further details of the impact of the proposal on the archaeological interests of the site and surroundings shall be submitted to and approved in writing by the local planning authority. Only those details subsequently approved shall be implemented thereafter.

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

1. To comply with the provisions of Section 91 of the Town and Country Planning Act 1990.
2. In the interests of visual amenity and to ensure the drainage arrangements are satisfactory.
3. In the interests of users of the highway network and the amenities of occupiers of property in the vicinity.
4. In the interests of visual amenity.
5. In order to protect ecological interests.
6. In the interest of the free and safe movement and traffic on the adjacent highway and to ensure the formation of a safe and satisfactory access.
7. To ensure satisfactory drainage of the site and to avoid flooding.
8. In the interest of the free and safe movement of traffic on the adjacent highway and in the interests of highway safety.
9. In the interests of highway safety.
10. To ensure adequate archaeological investigation of the site.

NOTES TO APPLICANT:

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

ITEM NO: 11

WARD NO: Rhyl East

APPLICATION NO: 45/2010/1360/ PC

PROPOSAL: Retention of single-storey flat-roofed extension but with flat roof infill over open porch and handrail over to match existing balcony deck (Retrospective application)

LOCATION: 23 Marine Drive Rhyl

APPLICANT: Mr Russell Moffatt

CONSTRAINTS: Article 4 Direction

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

CONSULTATION RESPONSES:

RHYL TOWN COUNCIL
'No objection'

RESPONSE TO PUBLICITY:

Letters of representation received from:
Mr. & Mrs. K. Owen, 22, Marine Drive, Flat 1, Rhyl (via e-mail)
S. & J. Soudagar, Ardmore, 24, Marine Drive Rhyl (e-mail)

Summary of planning based representations:

- Impact on residential amenity.
- Concerned that the flat roof area will be used for access.

EXPIRY DATE OF APPLICATION: 21/12/2010

REASONS FOR DELAY IN DECISION (where applicable):

- timing of receipt of representations

PLANNING ASSESSMENT:

1. THE PROPOSAL:

1.1 Summary of proposals

- 1.1.1 Planning permission is sought for the retention of a section of handrail and a porch on a single storey flat roofed extension.
- 1.1.2 The majority of the works on site have been accepted as "permitted development" not requiring planning permission by the terms of The Town and Country Planning (General Permitted Development) Order 1995, Schedule 2, Part 1, Class A. This was in the form of a certificate of lawfulness issued under reference number 45/2009/1003/LP,
- 1.1.3 The proposal to be determined is essentially the acceptability of the handrails being 30cm higher, and the porch being 0.9m longer in length, than what was accepted as permitted development in 2009.

- 1.1.4 The balcony area would remain unchanged; with the flat roof section next to the boundary of 22 Marine Drive not intended to be used for access, or as a balcony. The plans at the front of the report highlight the detailing referred to.

1.2 Description of site and surroundings

- 1.2.1 The property is a three storey mid-terraced dwelling standing within a run of 8 such properties, many of which have been converted into flats.
- 1.2.2 The adjacent property at No.22 has four windows and a door at ground floor level, and two windows at first floor level on its side elevation facing towards the application site. The two storey outrigger to the rear of No.24 results in a blank pebble dashed elevation which is the western boundary of the balcony at the application site.

1.3 Relevant planning constraints/considerations

- 1.3.1 None.

1.4 Relevant planning history

- 1.4.1 Two previous refusals have been issued at the site in 2007 and 2008 for two larger two storey side extensions with a balcony, an open verandah and new steel staircase, based on the size of the extension and adverse impact on the amenities of adjacent occupiers. A certificate of lawfulness was subsequently granted in relation to the single storey side extension, as the proposal was "permitted development".

1.5 Developments/changes since the original submission

- 1.5.1 None.

1.6 Other relevant background information

- 1.6.1 Cllr Diana Hannam has requested the application to be referred to Committee in order to assess the impact of the proposal on surrounding residential amenity.

2. DETAILS OF PLANNING HISTORY:

- 2.1 45/2007/1511/PF, Erection of two storey flat roofed extension with balconies at rear of premises and provision of new steel staircase, REFUSED under delegated powers on the 14/03/2008 for the following reason:-

"The scale, massing, height and siting of the proposed two-storey and single-storey extensions with their balconies above would have a severe and detrimental impact on the amenity and privacy of the adjacent occupiers. As such, the proposal is contrary to criterion v) of Policy GEN 6 and criterion iii) of Policy HSG 12 of the adopted Denbighshire Unitary Development Plan and advice as contained within MIPPS 01/2006 Housing at paragraph 9.3.3."

- 2.2 45/2008/0694/PF, Erection of two storey extension with balconies and open verandah and new steel staircase at the rear of the dwelling, REFUSED under delegated powers on the 04/09/2008 for the following reason:-

"The scale, massing, height and siting of the proposed two-storey and single-storey extensions with their balconies above would have a severe and detrimental impact on the amenity and privacy of the adjacent occupiers. As such, the proposal is contrary to criterion v) of Policy GEN 6 and criterion iii) of Policy HSG 12 of the adopted Denbighshire Unitary Development Plan and advice as contained within MIPPS 01/2006 Housing at paragraph 9.3.3."

- 2.3 45/2008/1356/PF, Erection of single-storey flat roof extension to rear, WITHDRAWN in light of the proposal being considered permitted development.
- 2.4 45/2009/1003/LP, Application for a Certificate of Lawfulness for the proposed erection of single storey flat roof extension to side of dwelling, GRANTED under delegated powers 13/07/10.

3. RELEVANT POLICIES AND GUIDANCE:

The main planning policies and guidance are considered to be:

- 3.1 DENBIGHSHIRE UNITARY DEVELOPMENT PLAN (adopted 3rd July 2002)
Policy HSG 12- Extensions to dwellings
Policy GEN 6 Development Control Requirements
- 3.2 Supplementary Planning Guidance
SPG No.24- Household Development Design Guide

4. MAIN PLANNING CONSIDERATIONS:

4.1 The main land use planning issues are considered to be:

- 4.1.1 Principle of development
4.1.2 Detailed design and impacts

4.2 In relation to the main planning considerations:

4.2.1 Principle

The principle of extending existing dwellings is acceptable in relation to the policies of the Unitary Development Plan and Supplementary Planning Guidance Note No.24- Householder Development Design Guide. The main UDP policies are HSG 12 and GEN 6. HSG 12 permits extensions to dwelling subject to 4 tests- requiring assessment of the acceptability of scale and form; design and materials; the impact on the 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 sections.

4.2.2 Detailed design and impact upon neighbours

- Scale and form – Test i) of Policy HSG 12 requires extensions to dwellings to be subordinate in scale and form to the original dwelling. Supplementary Planning Guidance Note 1 offers interpretation on the key considerations and refers specifically to the size, height and proportion of any new extension which should take into account the size, form and style of the original. It adds that any new extension should be subsidiary or subordinate in terms of overall floor area, size, height, and proportion to that of the original dwelling. The extension is lower in height and occupies significantly less floorspace than the original dwelling and is therefore deemed to be acceptable in terms of scale and form.

- Design and materials – Test ii) of Policy HSG 12 requires extensions to dwellings to be sympathetic to the original dwelling and character of the area in terms of design and materials.

The use of a flat roof extension to the rear of the property is considered acceptable, with surrounding rear outriggers and extensions being a mixture of gable ends and flat roofs. The proposed design and selection of materials are considered sympathetic to the appearance and character of the existing

dwelling and would therefore be acceptable in terms of this test.

- Impact on character, appearance and amenity standards of existing dwelling an the area – Test iii) of Policy HSG 12 seeks to ensure that proposals to extend dwellings do not harm the amenity of the area by way of loss of privacy or light to neighbours.

Officers consider the proposals are of an appropriate scale, design and external construction materials, and it is not considered the proposal would materially harm the visual or residential amenity of occupiers of the existing dwelling.

- Impact on character, appearance and amenity standards of the locality

The submitted plans indicate that no access is intended onto the flat roof of the single storey extension, with the existing balcony area to be separated by a metal railing, and Juliet balconies to be installed against existing doors surrounding the flat roof to restrict access. A condition could be attached to ensure this section of the flat roof does not become used as additional balcony area or as access.

As noted, the application involves only minor development on top of what has already been accepted as “permitted development”. This amounts to the addition of 30cm in the handrail height, and an additional 1m in length to the open sided porch, drawing it level with the flat roof above. It is considered that these additions are small in scale and do not lead to any adverse impact on the adjoining neighbours, to the extent which would warrant refusal.

- Overdevelopment of the site

As the footprint of the dwelling will remain the same, it is not considered the proposal could be considered overdevelopment of the curtilage.

5. SUMMARY AND CONCLUSIONS:

- 5.1 Officers consider that the proposal is of a relatively minor nature and therefore the impact on adjoining residential amenity would be limited. In respect of neighbour concerns regarding the flat roof potentially being used for access, a condition could be attached to ensure no access is allowed to the roof.

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

1. The roof area of the extension hereby permitted shall not be used as a balcony, roof garden, means of access or similar amenity area at any time without the grant of further specific permission from the Local Planning Authority.

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

1. In the interests of the privacy/amenity of the occupiers of nearby properties.

NOTES TO APPLICANT:

None

ITEM NO: 12
WARD NO: St Asaph East
APPLICATION NO: 46/2010/1239/ PC
PROPOSAL: Retention of all weather sports surface and perimeter fencing (retrospective application)
LOCATION: Fairholme Preparatory School The Mount Mount Road St. Asaph
APPLICANT: Mrs E Perkins Fairholme Preparatory School
CONSTRAINTS: Tree Preservation Order
PUBLICITY UNDERTAKEN: Site Notice - No
Press Notice - No
Neighbour letters - Yes

CONSULTATION RESPONSES:

ST.ASAPH CITY COUNCIL

"No objection subject to a condition being imposed that the facility must not be used after 6.00pm on any day"

DENBIGHSHIRE COUNTY COUNCIL CONSULTEES

PUBLIC PROTECTION MANAGER

Initial response – no objections subject to conditions restricting hours of use to between 0800 – 1800 Monday – Friday only, no music or broadcasting system, no floodlighting. Further response on noise monitoring to be reported to Committee.

RESPONSE TO PUBLICITY:

Letters of representation received from:

R F & J M Cotton, 11 Bryn Coed, Off Mount Road, St. Asaph
Mr & Mrs J G Owen, 19 Bryn Coed, Mount Road, St. Asaph
Dr. (Mrs) Azeeza Devakumar, 15 Bryn Coed, St. Asaph
Mr C & Mrs R Bickley, Arfryn St. Asaph
Mt Chris Weaver, 17 Bryn Coed, St. Asaph

Summary of planning based representations:

- Amenity impact - unacceptable levels of noise/impact on enjoyment of residential property nearby/use of pitch at unacceptable times- until 6pm, at weekend and during summer holidays at sports camps/need for the school to erect an acoustic barrier

Other matters

Loss of property value/properties unsaleable

EXPIRY DATE OF APPLICATION: 24/11/2010

PLANNING ASSESSMENT:

1. THE PROPOSAL:

1.1 Summary of proposals

- 1.1.1 Retrospective planning permission is sought for the retention of an all weather sports surface and perimeter fencing, at Fairholme Preparatory School. The pitch measures 30m by 15m, bounded by a green mesh fence to a height of 3m. The surface of the pitch is a synthetic grass carpet finish, with the relevant markings, to host football, hockey and various sports activities.

1.2 Description of site and surroundings

- 1.2.1 Fairholme Preparatory School is a long established facility set in its own grounds. The site is bounded by mature hedgerow on all sides, with the hedgerow surrounding the multi use games area being approximately 3.5m high.
- 1.2.2 The site is surrounded by residential properties to the south, east and west, with the A55 to the north. The Bryn Coed residential estate is to the east which consists of detached two storey dwellings, with rear gardens of the closest dwellings on this estate abutting the boundary of the school. The Lon Derw cul-de-sac to the west is separated from the site by a section of small fields and Mount Road, which narrows to a bridge over the A55.

1.3 Relevant planning constraints/considerations

- 1.3.1 The school lies within the development boundary of St. Asaph.

1.4 Relevant planning history

- 1.4.1 The school has been in existence for many years and has been subject to a number of applications for extensions, etc. The land occupied by the all weather pitch has been used previously by pupils as a recreational area.

1.5 Developments/changes since the original submission

- 1.5.1 None.

1.6 Other relevant background information

- 1.6.1 The application has been submitted following a complaint submitted to a Planning Enforcement Officer. Planning permission is required for the construction of an all weather pitch as this is an engineering operation.
- 1.6.2 Planning and Public Protection officers have been investigating complaints from neighbours over noise levels arising from use of the new pitch.
- 1.6.3 Councillor Dewi Owens has requested the application be considered at Committee to assess the issue of noise impact on neighbours.

2. **DETAILS OF PLANNING HISTORY:**

2.1 APH/0020/90/P

Two Pre Fab Buildings Single Storey With Flat Roofs For Temporary Classrooms – GRANTED - 26/04/1990

2/APH/0220/91/P

Formation Of Two Classrooms From Existing Outbuildings – GRANTED - 16/07/1991

2/APH/0493/91/P

Retention Of Temporary Classrooms And Alterations To Elevations Of Outbuildings - GRANTED - 10/03/1992

2/APH/0192/92/P

New Classrooms - GRANTED 29/07/1992

46/0950/97/PF

Erection Of Wall, Piers & Alteration To Access With Rebuilding – GRANTED -

08/01/1998

46/2000/0442

Erection of single-storey building to provide sports pavilion – GRANTED - 06/07/2000
46/2010/0622/PF

Erection of two-storey extension to form three new classrooms, alterations and extension of further classroom to provide a new pedestrian entrance for pupils, staff and parents, and internal alterations to enlarge two classrooms into one multi use space, Granted 01/07/2010

3. RELEVANT POLICIES AND GUIDANCE:

The main planning policies and guidance are considered to be:

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

Policy GEN 1 Development within development boundaries

Policy GEN 6 Development control requirements

Policy REC 4- Recreation Facilities within development boundaries

3.2 GOVERNMENT GUIDANCE

Planning Policy Wales, Edition 3, 2010

4. MAIN PLANNING CONSIDERATIONS:

4.1 The main land use planning issues are considered to be:

4.1.1 Principle

4.1.2 Visual impact

4.1.3 Impact on amenity of surrounding properties

4.2 In relation to the main planning considerations:

4.2.1 Principle

The site is within the St. Asaph development boundary where the general principle of many forms of development is considered acceptable as indicated in policy GEN 1. The principle of a school use at the site has long been established, and the all weather pitch is located in what has been the play area. The detailed planning considerations for the application are outlined below.

4.2.2 Impact on visual amenity

Policy GEN 6 test i) seeks to ensure that development does not visually harm the surrounding area.

The pitch is contained within the private grounds of the school, and benefits from being screened by a high mature hedgerow, which reaches a height of 3.5m around the pitch. The appearance of the pitch itself is discreet, with green fencing helping it blend visually into the surrounding area. It is therefore considered the proposal meets the visual impact tests of policy GEN 6 part i).

4.2.3 Impact on amenity of surrounding properties

Policy GEN 6 test v) seeks to ensure that development does not unacceptably impact on the amenity of local residents, by virtue of, for example, increased activity, disturbance, and noise.

The basis of neighbours' concerns is the noise impact from what has been a more intensive use of the play area following the laying of the all weather pitch.

In officers' opinion, the residential amenity impacts are the key considerations here. There are factors which weigh in support and against the grant of permission, and there is an obligation to consider whether the imposition of planning conditions can mitigate impacts to an acceptable degree to support

the grant of permission.

In factual terms, and in support of the proposal, it is of some relevance here that the formerly grassed area where the all weather pitch is located has been used for recreational purposes by school pupils over many years. The proposal does not involve a change of use of that land. There has been a level of noise and disturbance from active use of the grassed area, and there have been no planning controls exercisable over the frequency/hours or days of use of the land, or over who uses it (Fairholme School or any outside organisation). The all weather surface simply creates a more practical area and user friendly area for play for children, also allowing use at times when wet weather would otherwise have made it impractical for use of a grassed area. Planning permission is required because the creation of an all weather pitch involves engineering works and the erection of fences in excess of the 'permitted development' height of 2 metres. The pitch measures only 30m x 15m so is nowhere near a full size hockey or football pitch size, hence allows only limited scale competitive matches.

On the negative side, the impact of introducing an all weather pitch has primarily been a more frequent use by children, and hence the potential for more intense levels of noise and disturbance, including in areas closer to the boundaries with occupiers of nearby residential property. Residents' responses suggest the level of noise and disturbance has increased significantly and the pitch has allowed for the staging of more competitive and additional events, such as after school activities, summer sports camps and use until early evening. Reference is made to the existence of the protective fencing near the boundaries and constant disturbance from balls crashing against it.

Complaints over noise were investigated in October 2010 by Public Protection officers, including examination of residents log sheets indicating the frequency and type of noise. The conclusion at that time was that it would not be possible to establish statutory nuisance and the Council could not take formal action (meaning residents could only pursue civil legal action based on nuisance). Further noise monitoring has been undertaken and the Public Protection officer's conclusions will be reported to Committee on the late representations sheet. On the basis of the initial response, the Public Protection officer raises no objections subject to reasonable conditions being imposed on any permission, including on the hours and days of use to mitigate impact.

Clearly monitoring of the situation can continue at any time, and if statutory nuisance can be established then appropriate action can be taken by the Council.

Taking all the aforementioned into account, officers respectfully suggest the basic issue is whether the **increased** levels of activity which an all weather pitch can give rise to, in terms of noise and disturbance, is such that it would lead to an unreasonable loss of amenity for local residents. The situation is inevitably compensated here by the fact there is a 'fall back' position for the school as the area where the pitch has been laid has a long established planning use as a games area in connection with the school, and the use of the grassed area could have carried on at all times of day and over weekends outside any planning control; and if the proprietors had so determined, the intensity of use of the old grassed area in this location could have been increased without any requirement for permission from the planning authority. This is an important material consideration.

Information on the planning file suggests residents have experienced an increase in noise and disturbance from what has clearly been an intensified use of the area as a result of the new pitch. This is also a relevant consideration to be taken into account. The Public Protection officer has however investigated complaints, and has indicated these do not suggest there is a statutory nuisance, and there is mitigation possible by introducing controls through planning condition(s) restricting hours and days of use, which does not exist at present. There is an approach suggested by the City Council, who raise no objections. Whilst further monitoring is being undertaken, on the basis of the current Public Protection response, officers' view is that it may be difficult to substantiate a recommendation for refusal of permission based on amenity impact, on the evidence and the possibility of mitigating impact by planning conditions.

Other issues

Whilst respecting residents' concerns, it is not considered much weight can be attached to potential loss in property value in determining a planning application. The land use planning matters outlined previously in the report are the main considerations to which the Authority has to have regard.

5. SUMMARY AND CONCLUSIONS:

5.1 The application raises a number of issues which need to be taken into consideration in weighing the case for and against the grant of permission. These include the quite legitimate concerns of local residents over noise and disturbance, and the historic use of the land as a playing area for the school, with no planning restrictions on the timing or intensity of use.

5.2 Whilst acknowledging matters are finely balanced, on the basis of the Public Protection response, officers conclusion is that there are reasonable planning conditions that could be imposed which would help to mitigate the impacts of the use of the all weather pitch to protect residents interests, and that there is a basis for supporting the application.

RECOMMENDATION: - GRANT subject to the following conditions:-

1. The Multi Use Games Area shall only be used during school term time between the hours of 0830 and 1800 Monday to Friday.
2. There shall be no sound amplification equipment, including facilities for the playing of live or recorded music within the school premises without the prior written consent of the local planning authority.

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

1. To ensure that no nuisance or disturbance is caused to the detriment of the amenities of adjoining occupiers and of the area generally.
2. To ensure that no nuisance or disturbance is caused to the detriment of the amenities of adjoining occupiers and of the area generally.

NOTES TO APPLICANT:

None

WIND TURBINE APPLICATIONS

CAE GWYN CYFFYLLIOG, RUTHIN – 14/2010/0959/PF
CAE'R WEIRGLODD, CYFFYLLIOG, RUTHIN – 14/20010/0960/PF

INTRODUCTORY REPORT

1. PURPOSE OF REPORT

- 1.1 The report introduces two items which were dealt with at the December 2010 Committee, where Members resolved to grant permission subject to the further consideration by Committee of possible conditions to be attached to the respective decision notices.

2. BACKGROUND

- 2.1 The applications reported to the December meeting were for the erection of 35 metre high wind turbines at separate sites west of Cyffylliog village. These were:-

Code No. 14/2010/0959/PF

Erection of a 55kw wind turbine on a 25m tower with a 19.2m rotor diameter (approximate ground to blade tip height 35m).
Cae Gwyn, Cyffylliog, Ruthin

Code No. 14/2010/0960/PF

Erection of a 55kw wind turbine on a 25m tower with a 19.2m rotor diameter (approximate ground to blade tip height 35m).
Cae'r Weirglodd, Cyffylliog, Ruthin

- 2.2 Whilst the two applications were submitted by the same agents (Dulas Ltd), they were for single turbines on land in separate ownership, and in the name of separate applicants.

- 2.3 Planning Committee resolved to grant permission contrary to the planning officer's recommendation, in each case on the basis that the sites were within the boundary of the Clocaenog Forest Strategic Search Area A in Technical advice Note 8 (TAN 8), - Planning for Renewable Energy, and the proposals represented acceptable schemes of farm diversification in accordance with TAN 6 – Planning for Sustainable Rural Communities.
- 2.4 The resolutions on both applications were to grant permission, with the request that officers present a further report to the January Committee with suggested conditions on the respective submissions.
- 2.5 Officers have prepared separate reports on the two applications, which immediately follow. Attached to each of the reports are the original officer reports which contained consultation responses on the applications, which have some relevance to the possible conditions to be attached to the permissions.
- 2.6 Officers believe the conditions as drafted are reasonable and necessary in relation to the two applications, and cover matters such as noise, the colour of turbines, access tracks, landscaping, and arrangements for reinstating the site when the turbines are removed. A draft of the list of conditions has been forwarded to the applicant's agent. Any response will be reported to the Committee.

3. RECOMMENDATION

- 3.1 Members are requested to deal with the two reports separately, and to agree to the inclusion of the conditions on the respective Certificates of Decision.

WARD NO: Llanrhaeadr Yng Nghinmeirch
APPLICATION NO: 14/2010/0959/ PF
PROPOSAL: Erection of a 55 kW wind turbine on a 25 m tower with a 19.2 m rotor diameter (approximate ground to blade tip height 35 m)
LOCATION: Cae Gwyn Cyffylliog Ruthin
APPLICANT: Mr Richard Roberts

1. INTRODUCTION

- 1.1 Planning Committee on the 15th December 2010 resolved to grant permission for the erection of the turbine.
- 1.2 The resolution also required officers to present a follow up report to the January 2011 Committee incorporating possible conditions to be imposed on the permission.
- 1.3 The officer report to the December 2010 meeting follows as an appendix after the list of conditions, for information only.

2. RECOMMENDATION

- 2.1 Members are requested to accept the conditions as drafted below and to agree to these being imposed on the permission:-
 1. The development hereby permitted shall begin before the expiration of 5 years from the date of this permission.
 2. The planning permission shall be for a period of 25 years from the date of the first generation of electricity from the development. Written confirmation of the date of the first generation of electricity from the development shall be provided to the Planning Authority no later than 1 calendar month after the event.
 3. The location of the turbine shall be in the position indicated on the submitted plans, subject to variation of the indicated position by up to 20 metres, or where the written approval of the Local Planning Authority has been given to a variation arising from details approved in relation to other conditions of this permission. Any variation greater than 20 metres shall require the written approval of the Local Planning Authority.

4. This permission relates solely to the erection of a 3 bladed wind turbine as described in the application plans and drawings with a maximum height to blade tip of 35m from original ground level.
5. The finish of the turbine tower, hub and blades shall be semi-matt, and the colour shall be a dark grey or dark green, as approved in writing by the Local Planning Authority prior to the commencement of any work on their erection on site.
6. No ancillary external equipment required in connection with the operation of the turbine, such as metering boxes, switchgear and overhead lines and poles shall be permitted without the prior written approval of the local planning authority.
7. No part of the development shall display any name, logo, sign, advertisement or means of illumination without the prior written approval of the Local Planning Authority.
8. **PRE-COMMENCEMENT CONDITION**
No development shall be permitted to commence until the written approval of the local planning authority has been obtained to a detailed scheme of additional landscaping/planting to be carried out in association with the development, the timing of the planting, measures for the protection and retention of existing trees and hedgerows, and proposals for the future enhancement and maintenance of the landscaping/planting.
9. No trees or hedges within the application site shall be felled, lopped or topped without the prior written consent of the Local Planning Authority. Those removed without consent or which die or are severely damaged or become seriously diseased within five years of the completion of the development shall be replaced with trees or hedgerow plants of such size and species to be agreed in writing by the Local Planning Authority.
10. The turbine hereby permitted shall be removed from the site and the land restored to its former condition/use in the event that it is non-operational for a continuous period of 6 months.
11. Noise from the turbine shall not exceed 35dB LA90, 10min for wind speeds of up to 10m/s at 10m height when measured free field at the nearest noise sensitive receptor in accordance with ETSU-R-97.
12. If justified complaints of noise nuisance are received by Denbighshire County Council, the applicant shall employ a suitably qualified acoustic consultant to undertake a noise assessment, the purpose of which shall be to assess whether condition 11 is being complied with, but if this is found not to be the case, then it should

recommend mitigation measures that will ensure compliance and these should then be implemented by the applicant. A copy of the report should be forwarded to the Council within 14 days of its completion.

13. The applicant shall temporarily turn the turbine off (braked to stop the rotors) to facilitate noise investigations being undertaken in nearby locations, when requested in writing by the Local Planning Authority, to aid assessment of (cumulative) impact and noise complaint investigations, should they be necessary.

14. No later than 12 months before the expiry of the 25 year operational period of this permission, a scheme for the restoration of the site, including the dismantling and removal of all elements above ground level, and the removal of turbine base to a depth of 1.0m, shall be submitted for the consideration of the Local Planning Authority. The scheme approved in writing by the Local Planning Authority shall be carried out and completed within 12 months from the date that the planning permission hereby granted expires.

The reasons for the Conditions are:-

1. In order to comply with the provisions of Section 91 of the Town and Country Planning Act 1990.
2. For the avoidance of doubt and in order that the Local Planning Authority retains control over the longer term uses of the land.
3. For the avoidance of doubt and to allow the Local Planning Authority to retain control over the development.
4. For the avoidance of doubt and in the interests of visual amenity.
5. In the interests of visual amenity.
6. In the interests of visual amenity.
7. In the interests of visual amenity.
8. In the interests of visual amenity.
9. In the interests of visual amenity.
10. In the interests of visual amenity.

11. In the interests of the amenities of occupiers of residential property in the locality.

12. To ensure adequate measures are in place to monitor and assess noise from the turbine in the event of complaints, in the interests of occupiers of residential property in the locality.

13. To ensure adequate measures are in place to monitor and assess noise from the turbine in the event of complaints, in the interests of occupiers of residential property in the locality.

14. To ensure the long term reinstatement of the site, in the interests of visual amenity.

Note to Applicant

You are advised to contact the Case Officer to discuss the approach to Condition 5 relating to the colour of the turbine.



CYNGOR
Sir Ddinbych
Denbighshire
COUNTY COUNCIL

Graham Boase
 Head of Planning & Public Protection
 Denbighshire County Council
 Calédfryn
 Smithfield Road
 Denbigh
 Denbighshire LL16 3RJ

Tel: 01824 706800 Fax: 01824 706709

Heading:

Ref No 14/2010/0959/PF
 Cae Gwyn
 Cyffylllog, Nr Ruthin

APPENDIX
FOR INFORMATION

DECEMBER 2010
COMMITTEE
REPORT



Application Site

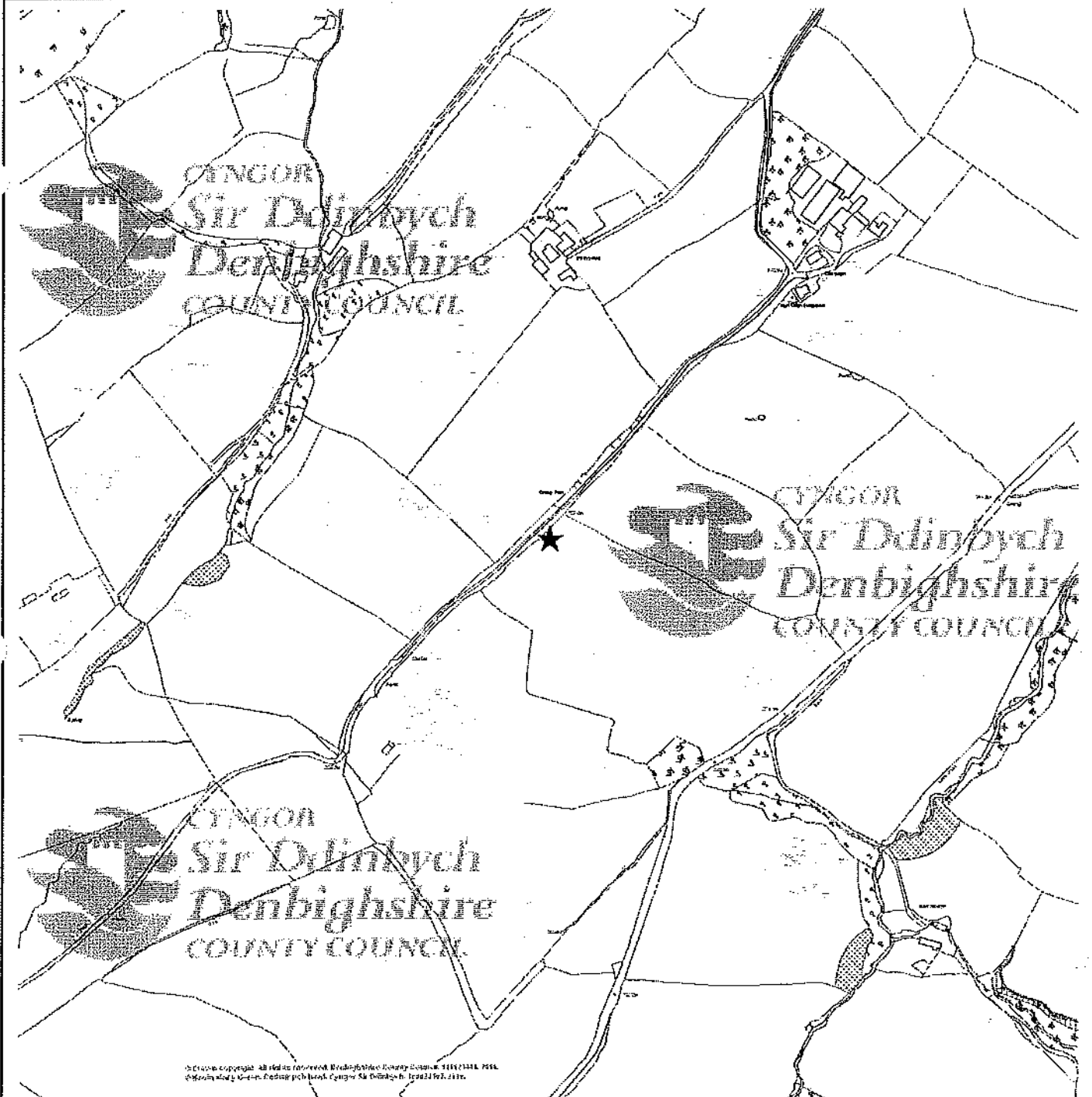
Date 2/12/2010

Scale 1/5346

Centre = 304673 E 356183 N



This plan is intended solely to give an indication of the LOCATION of the application site which forms the subject of the accompanying report. It does not form any part of the application documents, and should not be taken as representative of the proposals to be considered, which are available for inspection prior to the meeting.



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 © Hawffraint y Goron. Mae atgynhychu heb ganiatâd yn torri hawffraint y Goron a gall hyn arwain at arlyniad neu achos sifil. Cyngor Sir Ddinbych, 100023408, 2010.

Site Location



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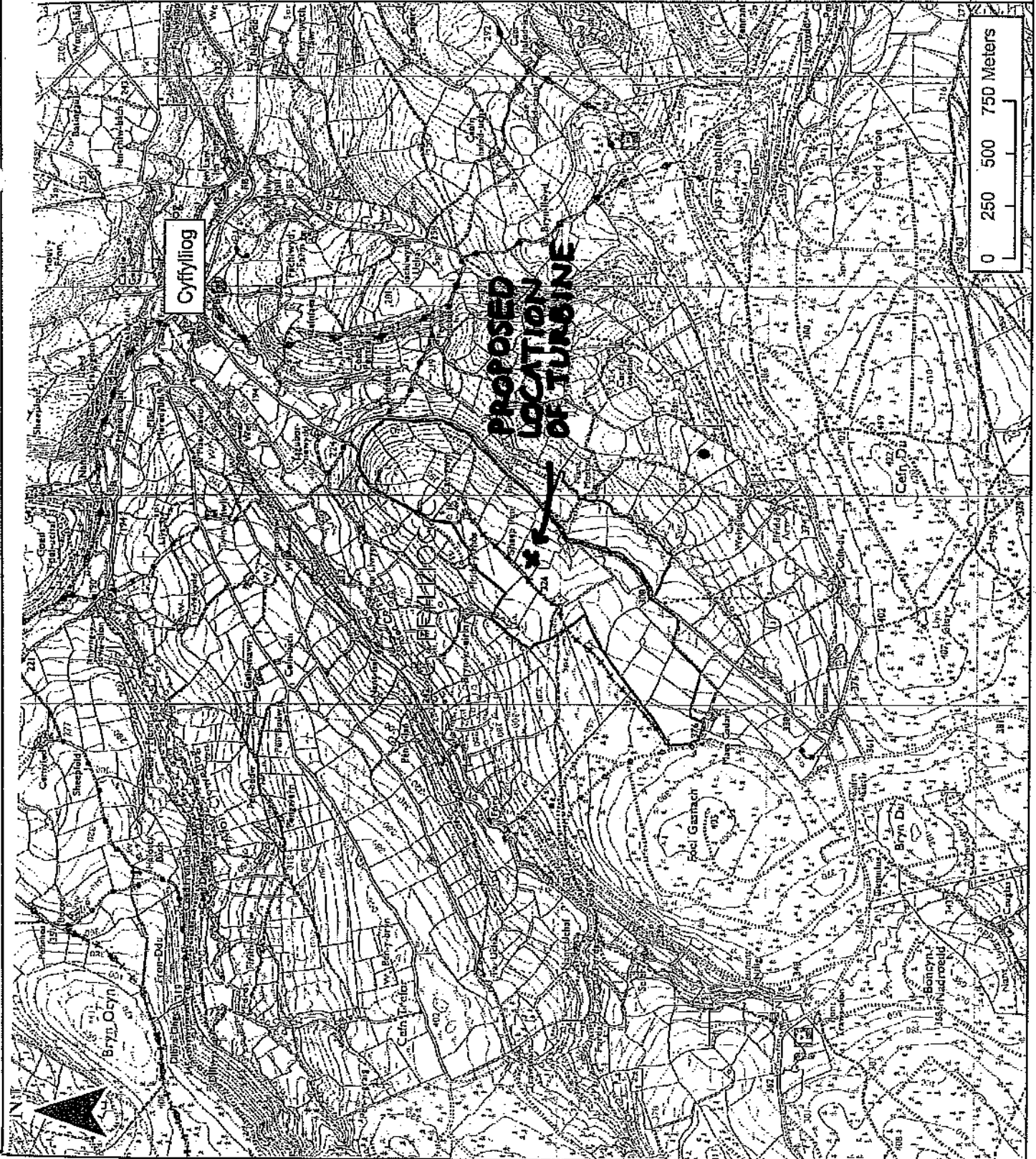
Scale (at A4): 1:25,000

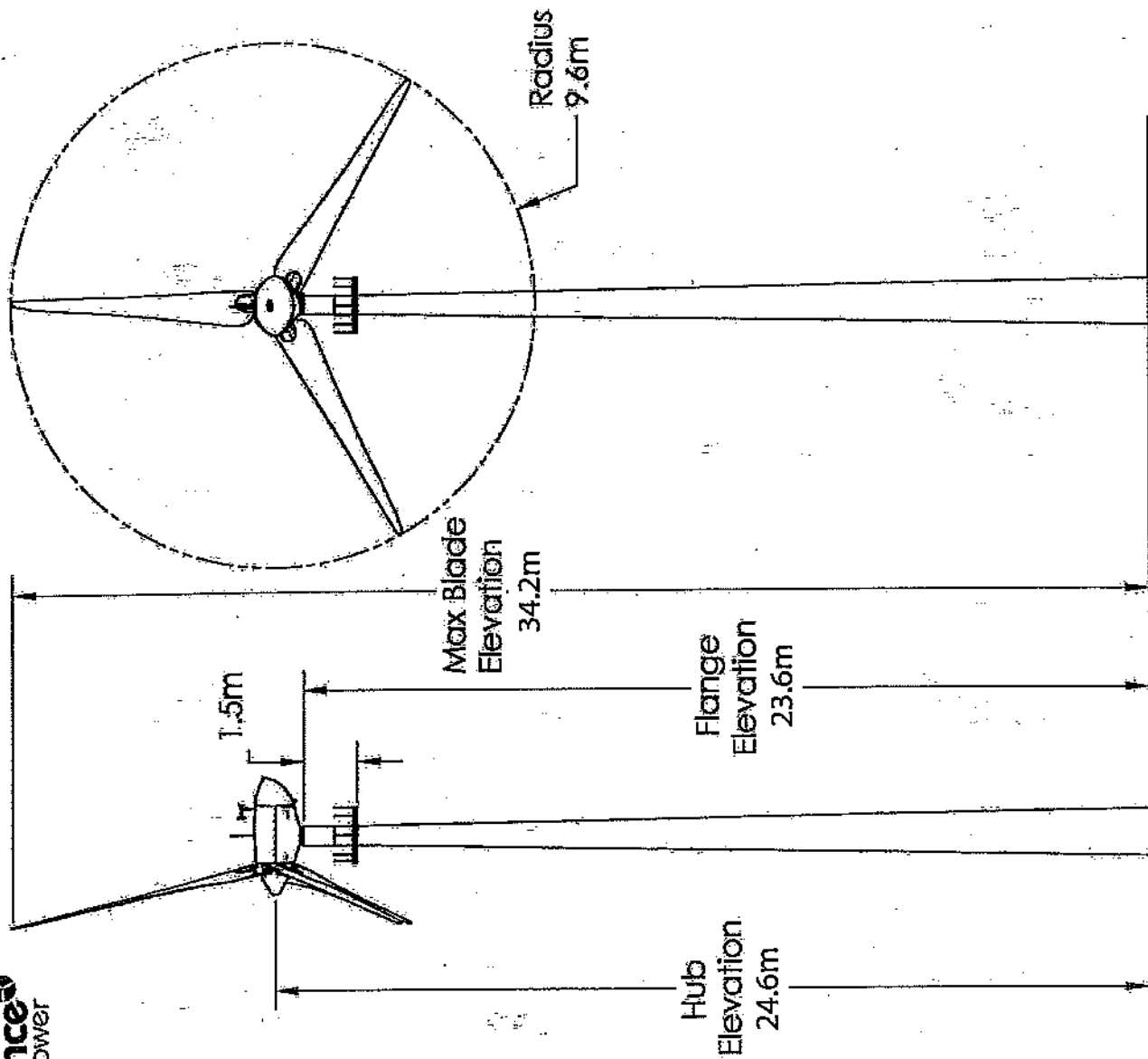
Date: July 2010

Client: Caa Gwyn

Prepared by:  dulias ReSolutions

Figure 1: Site Location Map





Notes: Dimensions are approximate and provided for planning purposes only. Final construction elevations are available in a permitting package on a per-lower basis

Date: July,2010

Scale: Not to Scale



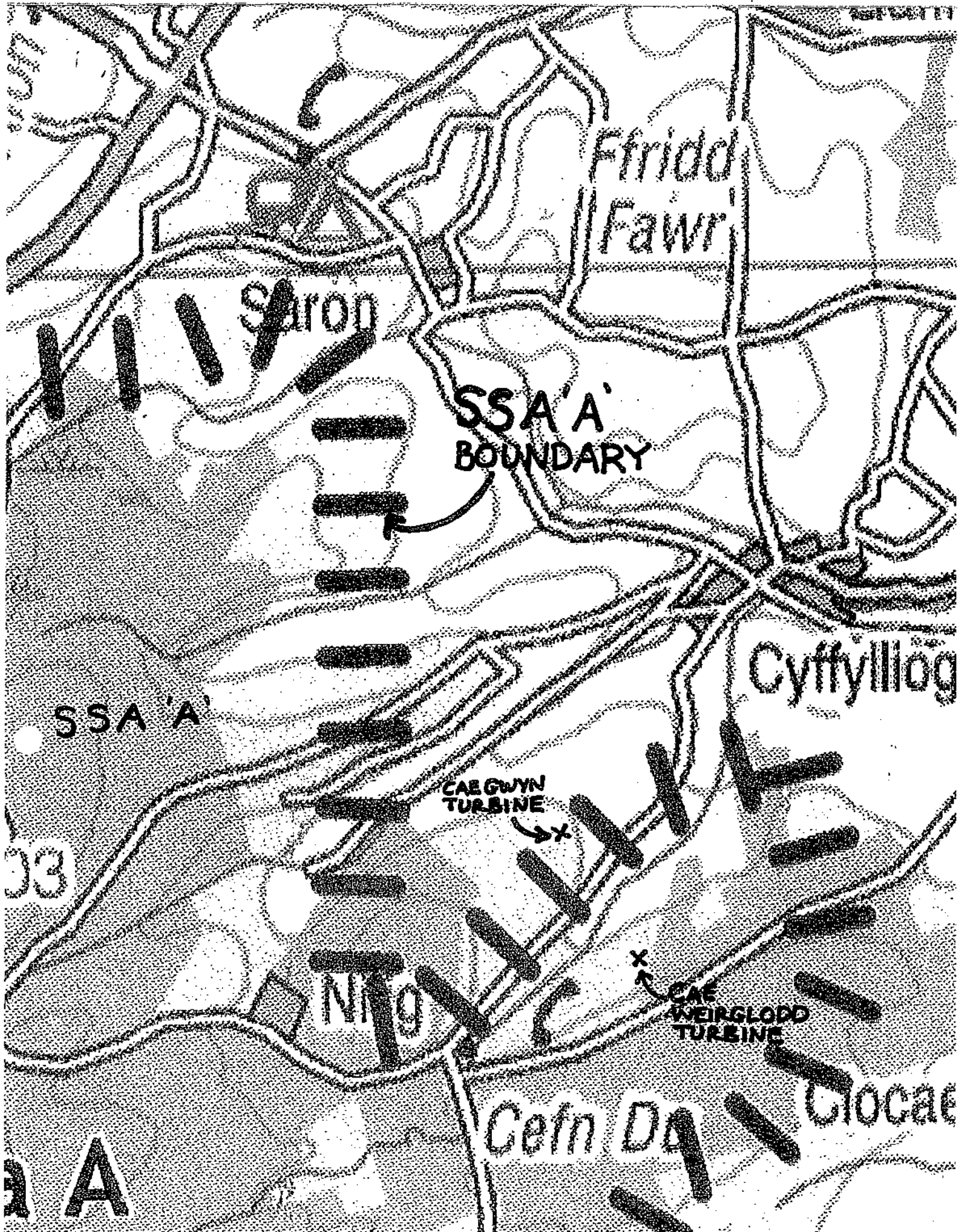
Prepared by: **dulasReSolutions**

Cae Gwyn & Cae Weirglodd

Figure 3 : E-3120 Elevation Drawing

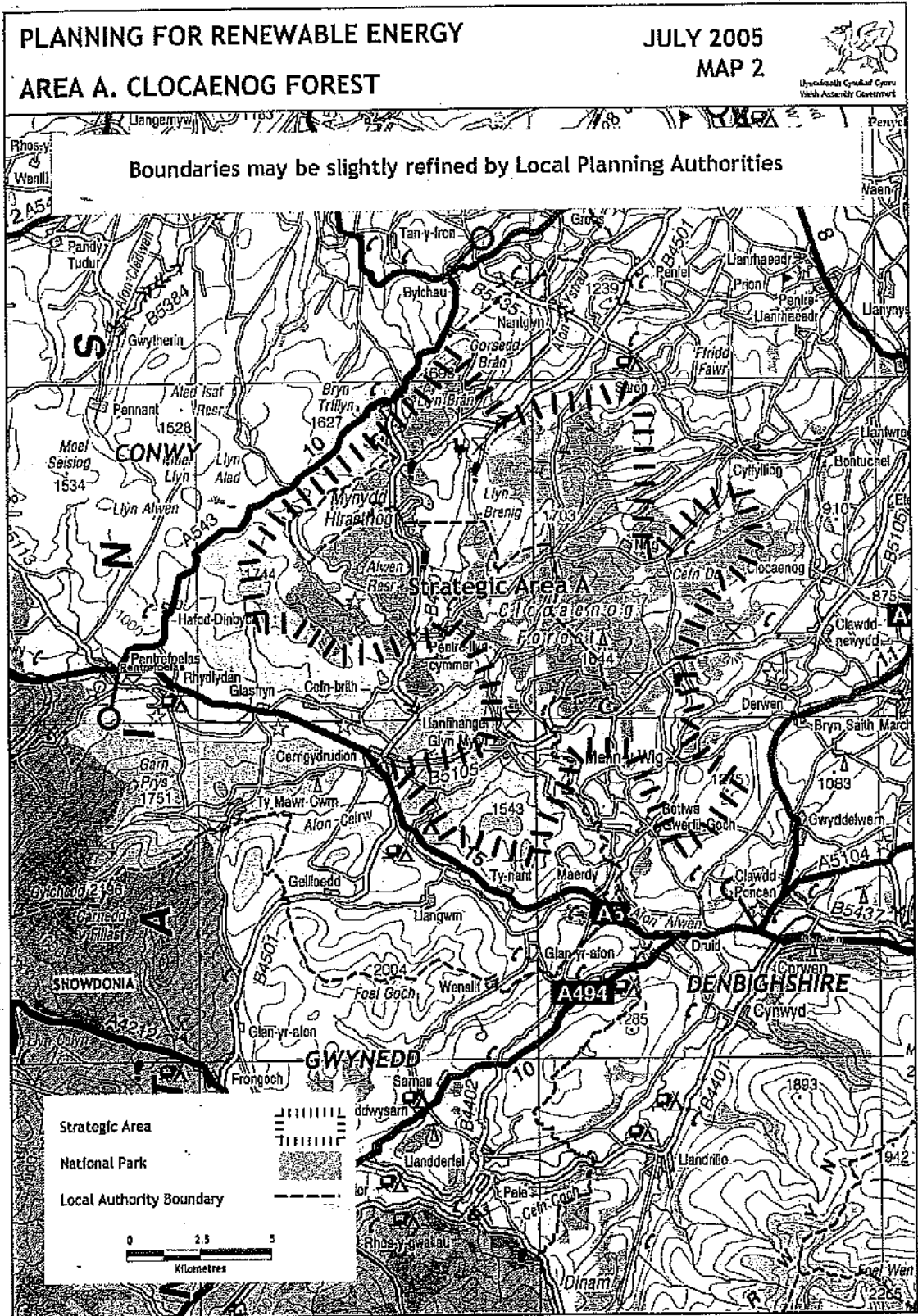
ITEMS 3 AND 4

EXTRACT FROM PLAN IN TAN 8 SHOWING BOUNDARY OF STRATEGIC SEARCH AREA A ; AND APPROXIMATE LOCATION OF TURBINES AT CAE GWYN (ITEM 3) AND CAE'R WEIRGLODD (ITEM 4)



TAN 8 STRATEGIC SEARCH AREA

Map 2



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C46/03-06

ITEM NO: 3
WARD NO: Llanrhaeadr Yng Nghinmeirch
APPLICATION NO: 14/2010/0959/ PFDT
PROPOSAL: Erection of a 55 kW wind turbine on a 25 m tower with a 19.2 m rotor diameter (approximate ground to blade tip height 35 m)
LOCATION: Cae Gwyn Cyffylliog Ruthin
APPLICANT: Mr Richard Roberts
CONSTRAINTS:
PUBLICITY Site Notice - No
UNDERTAKEN: Press Notice - No
 Neighbour letters - Yes

CONSULTATION RESPONSES:

CYFFYLLIOG COMMUNITY COUNCIL

"No objection"

AIRBUS

No aerodrome safeguarding objection to the proposal.

CIVIL AVIATION AUTHORITY

No objection.

MINISTRY OF DEFENCE

No objection, would like to be kept informed of further developments.

DENBIGHSHIRE COUNTY COUNCIL CONSULTEES

DCC POLLUTION CONTROL OFFICER

No objection, subject to conditions.

SENIOR BIODIVERSITY OFFICER

No reply received.

LANDSCAPE CONSULTANT

The proposal given its landscape and visual impact does not accord with UDP policy STRAT 7 iii), GEN6 i) ii) iii) and ENV1.

RESPONSE TO PUBLICITY:

Letters of representation (in support) received from:

Mr. G. Jones, 55, Maes Cantaba, Ruthin (email)

Lisa, 24, Chertsey Road, Windlesham, Surrey (email)

R. & K. Petch, Bryn Gwyn, Cyffylliog (email)

Mr. I. Henshall, Merlyn, Cyffylliog (email)

Mr. G. Carney, Maes Cadarn, Llanelidan, Ruthin (email)

Mr Nicholson, Maes Cadarn, Cyffylliog (email)

Mr. E. Evans, Ty Mawr, Llanrhaeadr, Dinbych (email)

Ms. E. Horton-Jones, 8, Lon y Fedwen Arian, Denbigh (email)

Mr. D. Oakes, co-owner, Glan Ceirw, Nant Ucha, Cyffylliog (email)
Mr. G. Jones, Ffynnon Ddu, Cyffylliog (email)
Ms. D. Askew, Ffridd y Rhos, Cyffylliog, Ruthin (email)
I. D. Evans, Pentylfa House, Pentyrch, Cardiff (email)
A. Lloyd, Llwyn On, Cyffylliog (email)
I. Jones, Cae Felin, Cyffylliog (email)
G Davies, Derlwyn, Cyffylliog (email)
E Jones, Yscubor Newydd, Cyffylliog (email)
S Jkinson, Nant Mostyn, Cyffylliog (email)

Summary of planning based representations:
Sustainability - support green energy
Visual impact - limited owing to siting
Precedent - existence of other turbines in area

EXPIRY DATE OF APPLICATION: 20/09/2010

REASONS FOR DELAY IN DECISION (where applicable):

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

PLANNING ASSESSMENT:

1. THE PROPOSAL:

1.1 Summary of proposals

- 1.1.1 The application proposes the erection of a single wind turbine at Cae Gwyn Farm, Cyffylliog. The turbine would have an overall height of 35m from ground level to blade tip. There would be three blades on the turbine, with a 19.2m diameter, and the supporting tower would be 25m in height.
- 1.1.2 The turbine would have a 6.5m by 6.5m foundation pad of steel and concrete. A control cabinet is also proposed to the north east of the base of the turbine, which would measure 2m by 1.9m by .7m.
- 1.1.3 The submission indicates the basis of the proposal is to export all the electricity to the grid. The turbine would be connected to the grid at the farmhouse and a three-phase electricity system will be required for the connection.
- 1.1.4 The 55kW wind turbine would have a predicted annual electricity output of 167,780kWhrs; which the submission estimates would meet the domestic electricity requirements for 35 homes per annum.
- 1.1.5 The application is one of two on the agenda which relate to the erection of individual wind turbines, the other is ref 14/2010/0960 involving the erection of a 55kW wind turbine on a 25m tower (approx height 35m) at Cae'r Weirglodd.
- 1.1.6 The Cae Gwyn turbine would be located some 980 metres to the north west of the one at Cae'r Weirglodd. It is submitted by the same planning agents, Dulas Limited, but the applicants and landowners are different.
- 1.1.7 The application is accompanied by a 25 page Supporting Statement which includes commentary on planning policy and site specific impacts, and a photo montage showing a representation of the turbine alongside the one proposed at Cae'r Weirglodd, taken from a viewpoint along a public road to the north west. The statement refers to the site being outside the Strategic Search Area in TAN 8 and the scheme being within the 'small scale category'.
- 1.1.8 Reference is made in the Supporting Statement to exporting energy under the 'Feed-in Tariff'. This is a government initiative, which provides fixed payment for the electricity generated, and pays for any unused electricity exported to

the grid.

1.2 Description of site and surroundings

- 1.2.1 The site is located on land to the south west of Cae Gwyn Farm, approximately 400m from the farm complex on the southern side of a public right of way.
- 1.2.2 The turbine is proposed within a field, on a broad ridgeline, which drops on each side to the small tributary valleys of the Afon Clywedog, Nant Gladur on the southern side and the Afon Corris on the northern side. The extensive edge of Clocaenog forest coniferous plantation lies approximately 1200m to the south west of the site.
- 1.2.3 The LANDMAP Visual and Sensory evaluation for the area, which is within the Denbigh and Derwen Hills, indicates it is typified by upland/hill, lower plateau and scarp slopes. The area is recognised as a landscape of regional or county significance, with High character and High scenic qualities.

1.3 Relevant planning constraints/considerations

- 1.3.1 The site is located in the open countryside outside of any defined development boundary.
- 1.3.2 The Strategic Search Area A in TAN 8 is one the Assembly's 7 preferred locations for large scale wind turbine developments in Wales.

1.4 Relevant planning history

- 1.4.1 A temporary permission was granted in April 2010 for a wind monitoring mast on the site.

1.5 Developments/changes since the original submission

- 1.5.1 None

1.6 Other relevant background information

- 1.6.1 Officers are presenting this application and the other one to Planning Committee, as there are important issues of policy and principle to be considered.
- 1.6.2 Officers are aware of the encouragement in TAN 8 for renewables and the advice in Section 2.11 - 2.14 on 'smaller' turbine applications. The Council has not however developed any detailed local criteria to determine the acceptability of individual turbine applications, what may be defined as 'smaller', or 'community wind farms', nor is there any strategy to deal with the implications of developing 'one off' turbines throughout the County (2.13) including those around the Strategic Search Area of Clocaenog Forest.

2. DETAILS OF PLANNING HISTORY:

- 2.1 Ref 14/2010/0305 Application for a 24-metre monopole metrological measuring mast.
Granted (delegated powers) 24/04/2010

3. RELEVANT POLICIES AND GUIDANCE:

- 3.1 The main planning policies and guidance are considered to be:
 - DENBIGHSHIRE UNITARY DEVELOPMENT PLAN (UDP adopted 3rd July 2002)
 - Policy STRAT 2 Energy
 - Policy STRAT 7 Environment
 - Policy GEN 6 Development Control Requirements
 - Policy ENV 1 Protection of the Natural Environment
 - Policy ENV 6 Species Protection

Policy MEW 8 Renewable Energy
Policy MEW 10 Wind Power

GOVERNMENT GUIDANCE

PLANNING POLICY WALES (PPW July 2010)

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

- Sustainable Development (Section 4)
- Conservation of Wildlife and Habitats (Section 5)
- Sustainable Energy (Section 12)

TAN 8 PLANNING FOR RENEWABLE ENERGY (2005)

TAN 8 is a key document setting the context of national and UK energy policies and introduced a fundamental change in the principle of spatial planning for the delivery of clean energy policy. The TAN sets out the Assembly's target for production of renewable energy by 2020 and the requirements for 800MW of installed capacity from onshore wind sources. Delivery is to be concentrated in 7 Strategic Search Areas by way of large-scale turbines (25MW +) development. The Clocaenog Forest is identified as one of these SSA's.

TAN 8 makes reference to smaller scale (less than 5MW schemes) in para. 2.11 - 2.14, however this puts the onus on Local Planning Authorities to define what is meant by 'small scale' and community based wind power schemes. The TAN refers to the need for Local Authorities to consider the cumulative impact of smaller schemes and the balance to be struck between the desirability of renewable energy and landscape protection.

TAN 5 NATURE CONSERVATION AND PLANNING (2009)

TAN 5 contains general advice on positive planning for nature conservation, and more specific information relating to the handling of proposals, which may affect protected species, and areas with special designations (Sites of Special Scientific Interest, Special Areas of Conservation etc).

TAN 6 PLANNING FOR SUSTAINABLE RURAL COMMUNITIES (2010)

TAN 6 provides guidance on the role of the planning system in supporting the delivery of sustainable rural communities.

TAN 6 also encourages farmers to consider farm diversification as an alternative means of supporting the farm enterprise, and mentions renewable energy projects as a possibility.

TAN 11 – NOISE (1997)

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

DENBIGHSHIRE COUNTY COUNCIL LANDMAP

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

4. MAIN PLANNING CONSIDERATIONS:

4.1 The main land use planning issues are considered to be:

- 4.1.1 Principle
- 4.1.2 Visual and Landscape Impact
- 4.1.3 Residential Amenity
- 4.1.4 Ecology
- 4.1.5 Safeguarding Wind Farm Sites

4.2 In relation to the main planning considerations:

4.2.1 Principle

Welsh Assembly Policies

There is clear policy guidance at national level encouraging the development of suitable means of generating electricity through renewable sources, to help reduce greenhouse gas emissions and to address issues of climate change. In support of this policy, WAG has produced TAN 8 and Planning Policy Wales, and sets specific targets for the generation of electricity through renewables. There is also general support for the principles of farm diversification in Planning Policy Wales and TAN 6.

TAN 8 establishes the principle of Strategic Search Areas for locating large-scale onshore wind turbine developments (i.e. wind farms with a generating capacity exceeding 25MW). In relation to smaller scale proposals, TAN 8 states that each Planning Authority should provide local guidance and define 'smaller', or 'community wind farms'. The TAN refers to the need for Local Authorities to consider the cumulative impact of smaller schemes and the balance to be struck between the desirability of renewable energy and landscape protection. Paragraph 2.13 acknowledges that the balance should not result in a severe restriction on the development of wind power capacity, and there is a case for avoiding a situation where wind turbines are spread across the whole of a County. Authorities are also expected to safeguard developments of large-scale wind farms in the Strategic Search Area (Para. 2.10) from over development which may sterilise land for such proposals.

WAG has recently closed consultations on a revised Section 12 of Planning Policy Wales. This consultation document will update the Assembly's position in terms of delivering of renewable energy targets set out in the Welsh Assembly Government Energy Policy Statement 2010. It is of interest that the consultation contains commentary on different scales of renewable energy approaches, referring to small-scale, 'microgeneration' projects as below 50kW, and the next category up would be classed as 'community scale' projects.

Unitary Development Plan Policies

At present at local level, the UDP contains general policies on renewable energy in policy STRAT 2 and MEW 8 which support the principle of development which captures energy from naturally sustainable sources. Policy MEW 8 is supportive of proposals that generate energy from sustainable sources, but requires that development will only be permitted where there is no unacceptable effect on the environmental quality of the locality.

Policy MEW 10 deals specifically with wind power developments, stating these will be permitted subject to assessment against 10 tests. The tests of most relevance are, iii) the proposal should not unacceptably harm the character and appearance of the landscape and viii) the proposal does not cause unacceptable harm to the enjoyment of the landscape for recreational

and tourist purposes.

Policy GEN 6 refers to general development control requirements and applies to most developments. The criteria of most relevance are the following; ii) relating to the effect of development on the form and character of surrounding landscape, iii) the effect on prominent views into, out of, or across any area of open countryside, v) the impact on residential amenity and iv) incorporating existing landscape features and taking account of site contours and changes in levels and avoids prominent skylines.

Policy ENV 1 relates to the protection of landscape and biodiversity. It states development must be designed to maintain or enhance the landscape character of the countryside and biodiversity of the natural environment. Policy ENV 6 is the detailed policy relating to species protection, which seeks to ensure that development which would unacceptably harm species given special protection by law are not permitted.

Taken together, the policies of the Unitary Development Plan offer basic support for a range of suitable renewable energy schemes, all subject to detailed tests of impact. However as the Unitary Development Plan was adopted in 2002, its contents predate TAN 8 and more recent WAG policy statements relating to energy development, and inevitably contain no guidance on what may be 'smaller' or 'community' turbine developments, and it offers no specific guidance on how to deal with the issues of 'community' turbine developments and the cumulative impact/ spread of turbines throughout the county. There are currently detailed policies proposed in the draft Local Development Plan which will be of some assistance in developing a strategy for handling 'one off' turbine applications. However these policies carry no weight at this stage and are likely to be updated in the deposit LDP following the adoption of the revised Section 12 of PPW.

Ultimately Officers take the simplistic view that in the absence of any up to date and specific local level guidance on the matter of single turbine applications of this scale, it is incumbent on the Council to deal with the proposal in accordance with the statutory requirements in the Planning/ Planning and Compensation Act i.e. determine in accordance with the current policies of the development plan, unless material considerations indicate otherwise. The following sections of the report therefore weigh the merits of the application against the policies of the Unitary Development Plan and then in respect of the other material considerations including current WAG policy and guidance in PPW and TAN 8.

4.2.2 Impact on visual amenity

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

PPW and TAN 8 are essentially strategic level policy statements and contain limited specific guidance on the consideration of landscape and visual impact in respect of individual turbine planning applications. However it is noted that in introducing the concept of SSA's to accommodate large-scale wind farm developments, TAN 8 recognises that significant landscape character change will occur in and around those areas. The site is on the periphery of the SSA of Clocaenog Forest, on open land to the east of the conifer plantation.

The LANDMAP study provides useful background material on the essential characteristics and quality of the landscape in the area. The site is within an area recognised as a landscape of regional or county significance, with High character and High scenic qualities. The LANDMAP Visual and Sensory evaluation for the general area (which is within the Denbigh and Derwen Hills) notes that it is typified by upland/hill, lower plateau and scarp slopes.

The application itself contains a brief landscape and visual assessment. It concludes there will be negligible cumulative effect on the landscape and visual receptors.

The Council's Landscape Consultant considers the supporting statement to be somewhat general in its discussion of the landscape and visual issues, and that there are a number of assertions made which are not substantiated by a clearly presented assessment process. However, in dealing with the application he accepts the Local Authority is required to make an assessment of the proposed development as submitted, and he comments in detail that: The proposed siting of the turbine would not allow the turbine to site well within the landscape. Its location on a broad ridge, some distance from the Clocaenog Forest boundary would result in an isolated form of development, unrelated to the most dominant visual component of the landscape (the wooded skyline, particularly the vertical woodland edge). There are a number of sensitive views of the site have been identified in assessing the application. These include views from Pen Y Llan Uchaf, a dwelling to the north of the site which would have views upwards to the turbine. Also views from public roads to the north from which the turbine would be visible looking south and northeast towards Moel Arthur. There is also a promoted mountain bike route (Ride Hiraethog) following the byway to the north which would have close views of the turbine. In concluding, the Landscape Consultant considers the siting of the proposed 35 metre high turbine would have a landscape and visual impact which cannot be mitigated.

In looking at the application first in terms of UDP policy, there is clearly a degree of conflict with tests (iii) and (viii) of MEW 10 as the erection of a 35 metre high turbine will impact on the local landscape, views in and out of the area and may contribute to a cumulative impact with existing larger turbines within the SSA and future smaller scale turbines outside the SSA. This is a negative factor in the weighing of the application. National policy supports development for renewable energy projects subject to considerations of local landscape issues, although as outlined previously, to date, offers no specific advice on the scale of developments or how the balance is to be struck when there are likely adverse landscape/visual impacts.

In concluding on the issue of landscape and visual impact, and with regard to the comments of the Landscape Consultant, Officers consider there would be a negative impact from a 35 metre high turbine in this location on open land east of the tree cover in Clocaenog Forest. Whilst it has to be accepted there is a possibility of a large scale wind farm being developed in the near future in

the Clocaenog Forest SSA, and the Cae Gwyn site may be viewed from many viewpoints in that context, there are issues of precedent to address over such 'one off' proposals for non-domestic 'small' turbines of this height extending the 'wind farm landscape' further out into open tracts of land in the county. In the absence of a County or WAG policy or strategy to assess the merits of spreading 'one off' non-domestic turbines of this scale, Officers believe some caution has to be extended at this point in respect of this aspect of the application.

4.2.3 Impact on residential amenity

Policy MEW 10 and GEN 6 seek to ensure that proposals for wind turbines do not harm the residential amenity of the locality, and this would include particular consideration to be given to noise and shadow flicker.

There are some dwellings within a 500m radius of the site. Information submitted as part of the application indicates that the noise level generated by the proposed turbine would not exceed 29.7(db(A)) at the Applicants dwelling Cae Gwyn 400m metres from its base, 34.8(db(A)) at the next nearest dwelling Ffridd Yn Rhos 250 metres north of the base, the next closest dwelling Bryn Yr Eirin would be 290 metres north of the base and the noise would not exceed 33.5(db(A)). Given the distances involved it is considered that the noise generated by the wind turbine would be below the general background noise level of the area and so would be unlikely to have a significant impact upon the amenity of the neighbouring occupiers.

The Public Protection Officer indicates that given the distances involved, it is considered that the noise generated by the wind turbine would be below the general background noise level of the area and so would be unlikely to have a significant impact upon the amenity of the neighbouring dwellings. Noise level conditions can be imposed to protect residential amenity.

The size and siting of the turbine in relation to the neighbouring dwelling is such that it is unlikely to result in shadow flicker.

It is considered that the proposal accords with policy GEN 6 part v) and MEW 10 as it is unlikely to result in harm to the residential amenity of residential property in the area.

4.2.4 Ecology

The general requirement to consider the impact of development on ecological interests is set out in the strategic policies of the Unitary Development Plan, STRAT 1 and STRAT 7 and the general policies ENV 6 and GEN 6. Specific to turbine development is MEW 10 (x); all of which require the protection and enhancement of the biodiversity of the Council, in support of national policy, guidance in PPW, TAN 5, SPG 18 and legislation relating to the safeguarding of protected species.

In this case the turbine would be located 60 metres from the boundary to the northwest of the site. The authority has taken the view on similar proposals that bats and birds are unlikely to be adversely affected by turbines. It is not considered therefore, that the proposal would unacceptably harm any protected species or surrounding wildlife and there would be no conflict with the requirements of policy ENV 6 or relevant policy or guidance.

4.2.5 Safeguarding Wind Farm Sites

Paragraph 2.10 of TAN 8 enlarges on the area where local authorities are encouraged to take an active approach in developing local policies for SSA's, 'in order to ensure best outcomes'. This includes 'safeguarding wind farm

sites' and states that Local Planning Authorities should be aware that other developments could sterilise land for wind power proposals, and bear this in mind during policy formulation and decision-making. There is currently no local policy developed in respect of 2.10.

The submission refers briefly to the issue of large-scale wind farm development in the SSA close to the location of the proposed turbine. It states the turbine will not sterilise the SSA 'A' from wind development.

It is not clear from TAN 8 whether the matter of safeguarding wind farm sites in the SSA from other development includes 'protecting' large scale wind farms from 'one off' turbine developments on the fringe of the SSA such as this. The submission contains no detailed analysis of this matter and in the absence of any policy or guidance to assist interpretation or evidence to determine either way, it is impossible to conclude whether there would be any safeguarding issues. Officers would not consider this to be a key determinant issue on the application, but nonetheless suggest a precautionary approach to such 'one off' development is not unreasonable.

5. SUMMARY AND CONCLUSIONS:

- 5.1.1 The report sets out a number of considerations officers suggest are relevant to the determination of the application.
- 5.1.2 Inevitably, with wind turbine applications there will be factors which weigh against and in favour of grant of permission. The particular application is for a 35 metre high turbine, and this raises specific issues of principle, precedent and negative landscape/visual impact which require careful deliberation.
- 5.1.3 Current Unitary Development Plan policy predates WAG policy and guidance in TAN 8 and PPW. The UDP policies give general encouragement to schemes to generate renewable energy, but the main policy is 'criteria based', setting only requirements to assess detailed impacts. TAN 8 (2005) is a material consideration and redefined national policy in support of renewables and adopted a locational approach to large-scale turbine developments, but gives limited guidance for the handling of one off single turbine applications.
- 5.1.4 In the absence of any local or national strategy for the handling of single turbine proposals of this size, the difficulty facing the Authority is the weight to be given to the Unitary Plan policies and other material considerations such as PPW and TAN 8.
- 5.1.5 In terms of general principle, Officers acknowledge there is considerable national support for the development of suitable renewable schemes, and that turbines are one of many potentially acceptable means of delivering WAG's aspirations for generating electricity. This has to be weighed appropriately when dealing with applications such as the one at Cae Gwyn. The difficulty remains however, that in the absence of a clear strategy for handling one off applications for non domestic scale turbines of 35 metres (or greater), there is a clear danger of precedent being set indicating acceptance of the spread of turbines throughout Denbighshire, further enlarging the 'windfarm landscape' being created by the large scale turbine schemes in the designated Strategic Search Area in the west of the County. This is a concern which has to be addressed with this application as it would seem inappropriate to deal with each proposal solely on its individual merits, oblivious of the wider picture.
- 5.1.6 In the particular circumstances therefore, Officers have reservations over the landscape/ visual impact of a 'one off' turbine of 35 metre height on land fringing the Strategic Search Area, and whether the principle of this development should be regarded as acceptable in the absence of any County strategy for the handling of such applications, including how to address the spread of turbines over the rest of the County and the issue of safeguarding

the SSA from other development. It is respectfully questioned at this point whether the general support for renewable energy schemes in Welsh Assembly and Unitary Plan policies outweigh the concerns over the impact of the development, and the setting of a clear precedent.

RECOMMENDATION: REFUSE- for the following reason:-

1. It is the opinion of the Local Planning Authority that the erection of a 35 metre turbine would have an unacceptable landscape and visual impact, and in the absence of any national or local criteria to determine the acceptability of one off turbine proposals of this nature on the fringes of and outside the Clocaenog forest Strategic Search Area, in terms of cumulative impact, the effect of extending the wind farm landscape of the Strategic Search Area by spreading turbines into the rest of the County, and the potential for sterilising large scale wind farm development in the SSA, it is considered premature to consent to development which could set a significant precedent, contrary to policies of the Denbighshire Unitary Development Plan which seek to protect the quality of the landscape, including STRAT 7, GEN 6, ENV 1 and MEW 8 and 10, and the principles set out in TAN 8 Section 2.10-2.13.

NOTES TO APPLICANT:

None

WARD NO: Llanrhaeadr Yng Nghinmeirch
APPLICATION NO: 14/2010/0960/ PFDT
PROPOSAL: Erection of a 55 kW wind turbine on a 25 m tower with a 19.2 m rotor diameter (approximate ground to blade tip height 35 m)
LOCATION: Cae'r Weirglodd Cyffylliog Ruthin
APPLICANT: Huw Jones

1. INTRODUCTION

- 1.1 Planning Committee on the 15th December 2010 resolved to grant permission for the erection of the turbine.
- 1.2 The resolution also required officers to present a follow up report to the January 2011 Committee incorporating possible conditions to be imposed on the permission.
- 1.3 The officer report to the December 2010 meeting follows as an appendix after the list of conditions, for information only.

2. RECOMMENDATION

- 2.1 Members are requested to accept the conditions as drafted below and to agree to these being imposed on the permission:-

1. The development hereby permitted shall begin before the expiration of 5 years from the date of this permission.

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

3. The location of the turbine shall be in the position indicated on the submitted plans, subject to variation of the indicated position by up to 20 metres, or where the written approval of the Local Planning Authority has been given to a variation arising from details approved in relation to other conditions of this permission. Any variation greater than 20 metres shall require the written approval of the Local Planning Authority.

4. This permission relates solely to the erection of a 3 bladed wind turbine as described in the application plans and drawings with a maximum height to blade tip of 35m from original ground level.
5. The finish of the turbine tower, hub and blades shall be semi-matt, and the colour shall be a dark grey or dark green, as approved in writing by the Local Planning Authority prior to the commencement of any work on their erection on site.
6. No ancillary external equipment required in connection with the operation of the turbine, such as metering boxes, switchgear and overhead lines and poles shall be permitted without the prior written approval of the local planning authority.
7. No part of the development shall display any name, logo, sign, advertisement or means of illumination without the prior written approval of the Local Planning Authority.
8. **PRE-COMMENCEMENT CONDITION**
No development shall be permitted to commence until the written approval of the local planning authority has been obtained to a detailed scheme of additional landscaping/planting to be carried out in association with the development, the timing of the planting, measures for the protection and retention of existing trees and hedgerows, and proposals for the future enhancement and maintenance of the landscaping/planting.
9. No trees or hedges within the application site shall be felled, lopped or topped without the prior written consent of the Local Planning Authority. Those removed without consent or which die or are severely damaged or become seriously diseased within five years of the completion of the development shall be replaced with trees or hedgerow plants of such size and species to be agreed in writing by the Local Planning Authority.
10. The turbine hereby permitted shall be removed from the site and the land restored to its former condition/use in the event that it is non-operational for a continuous period of 6 months.
11. Noise from the turbine shall not exceed 35dB LA90, 10min for wind speeds of up to 10m/s at 10m height when measured free field at the nearest noise sensitive receptor in accordance with ETSU-R-97.
12. If justified complaints of noise nuisance are received by Denbighshire County Council, the applicant shall employ a suitably qualified acoustic consultant to undertake a noise assessment, the purpose of which shall be to assess whether condition 11 is being complied with, but if this is found not to be the case, then it should

recommend mitigation measures that will ensure compliance and these should then be implemented by the applicant. A copy of the report should be forwarded to the Council within 14 days of its completion.

13. The applicant shall temporarily turn the turbine off (braked to stop the rotors) to facilitate noise investigations being undertaken in nearby locations, when requested in writing by the Local Planning Authority, to aid assessment of (cumulative) impact and noise complaint investigations, should they be necessary.

14. No later than 12 months before the expiry of the 25 year operational period of this permission, a scheme for the restoration of the site, including the dismantling and removal of all elements above ground level, and the removal of turbine base to a depth of 1.0m, shall be submitted for the consideration of the Local Planning Authority. The scheme approved in writing by the Local Planning Authority shall be carried out and completed within 12 months from the date that the planning permission hereby granted expires.

The reasons for the Conditions are:-

1. In order to comply with the provisions of Section 91 of the Town and Country Planning Act 1990.
2. For the avoidance of doubt and in order that the Local Planning Authority retains control over the longer term uses of the land.
3. For the avoidance of doubt and to allow the Local Planning Authority to retain control over the development.
4. For the avoidance of doubt and in the interests of visual amenity.
5. In the interests of visual amenity.
6. In the interests of visual amenity.
7. In the interests of visual amenity.
8. In the interests of visual amenity.
9. In the interests of visual amenity.
10. In the interests of visual amenity.

11. In the interests of the amenities of occupiers of residential property in the locality.

12. To ensure adequate measures are in place to monitor and assess noise from the turbine in the event of complaints, in the interests of occupiers of residential property in the locality.

13. To ensure adequate measures are in place to monitor and assess noise from the turbine in the event of complaints, in the interests of occupiers of residential property in the locality.

14. To ensure the long term reinstatement of the site, in the interests of visual amenity.

Note to Applicant

You are advised to contact the Case Officer to discuss the approach to Condition 5 relating to the colour of the turbine.

APPENDIX FOR INFORMATION

DECEMBER 2010 COMMITTEE REPORT




CYNGOR
Sir Ddinbych
Denbighshire
COUNTY COUNCIL

Heading:
14/2010/0960/PF
Cae'r Weirglodd
Cyffylliog Ruthin

Graham Boase
Head of Planning & Public Protection
Denbighshire County Council
Caledfryn
Smithfield Road
Denbigh
Denbighshire LL16 3RJ

Tel: 01824 706800 Fax: 01824 706709

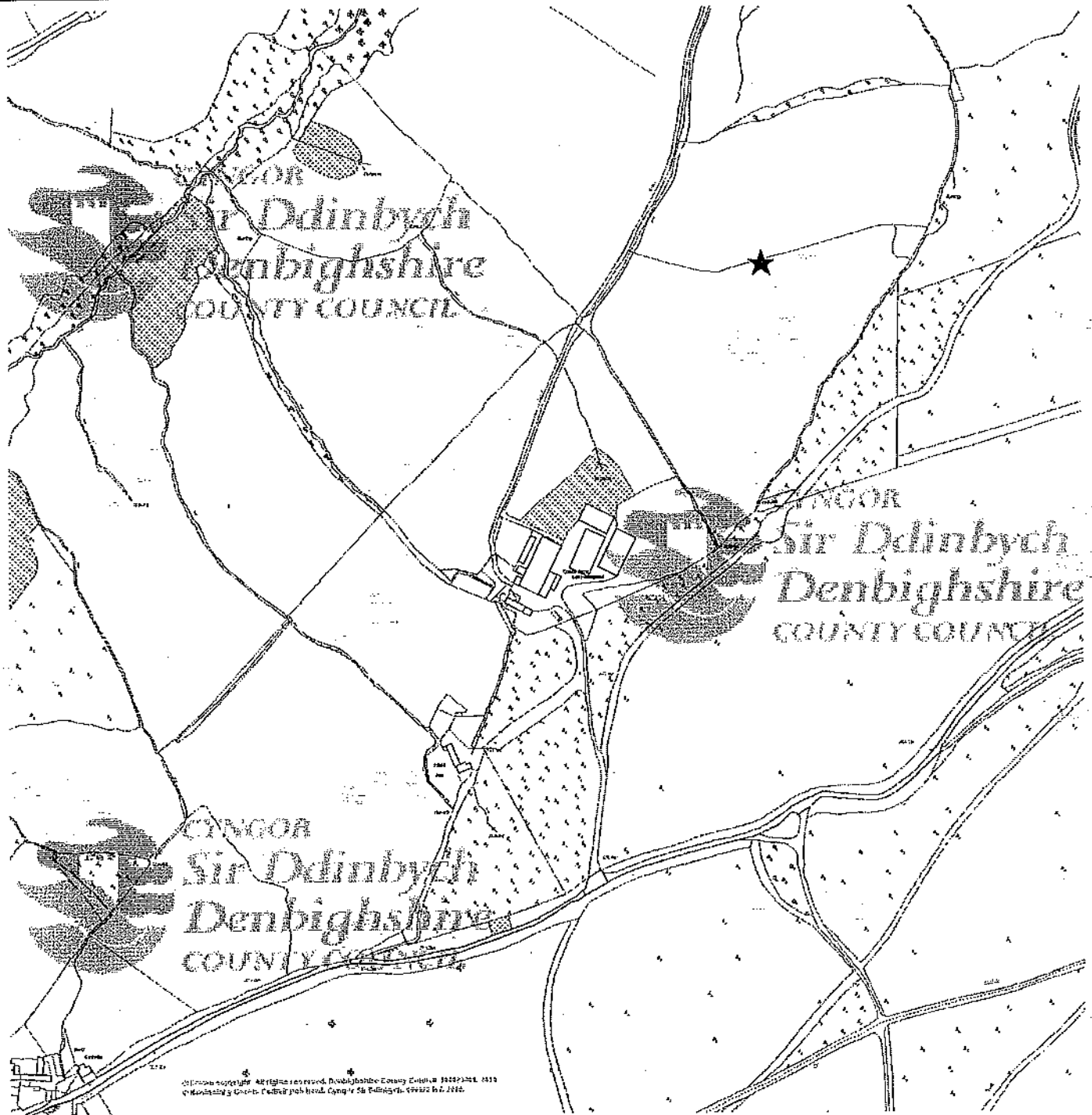
 Application Site

Date 2/12/2010
Centre = 305028 E 355124 N

Scale 1/5000



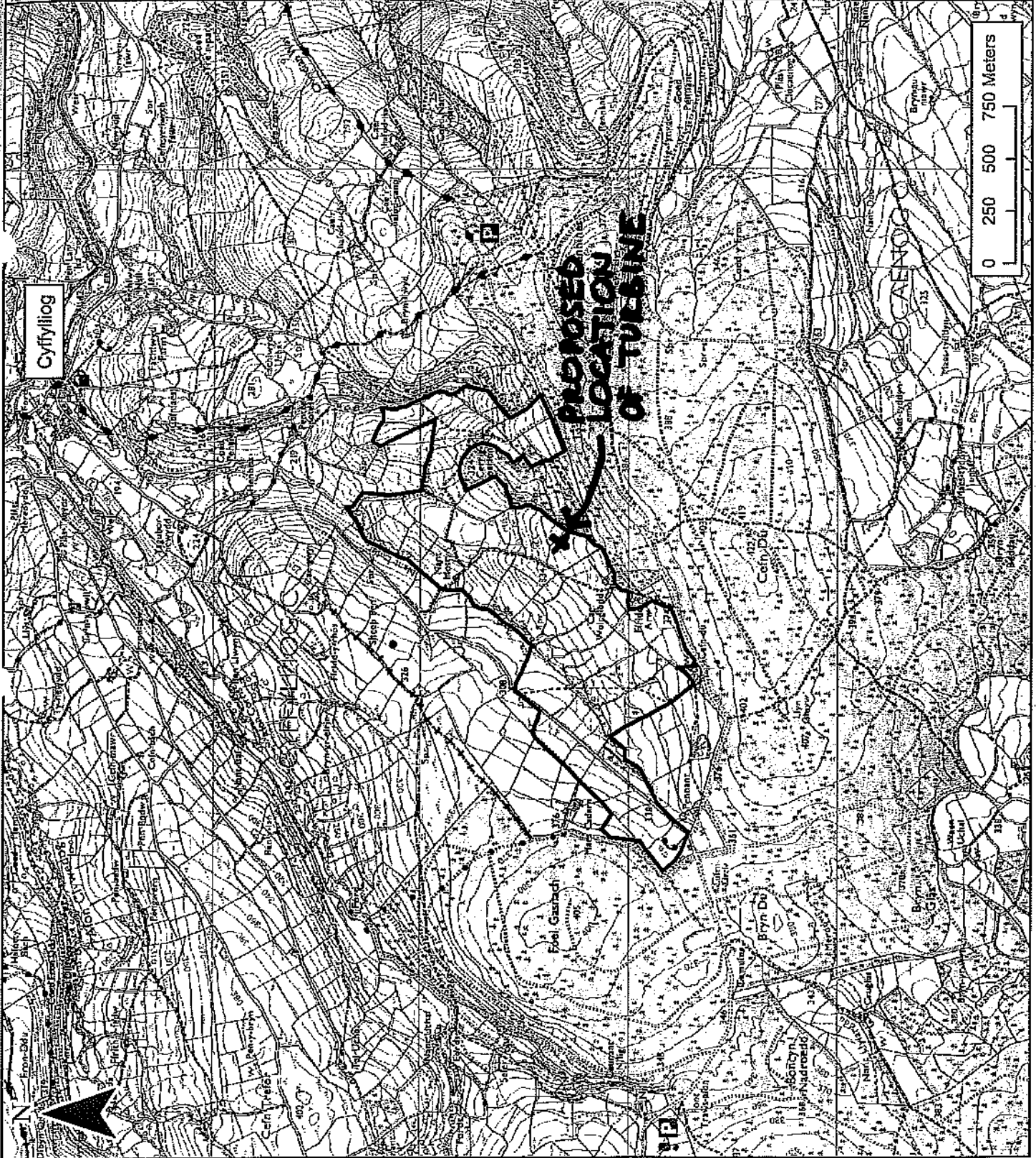
This plan is intended solely to give an indication of the LOCATION of the application site which forms the subject of the accompanying report. It does not form any part of the application documents, and should not be taken as representative of the proposals to be considered, which are available for inspection prior to the meeting.



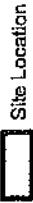
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Atgynhyrchir y map hwn o ddaunydd yr Ordnance Survey gyda chaniatâd yr Ordnance Survey ar ran Rheolwr Llyfrfa Eil Mawrhydi
© Hawffraint y Goron. Mae atgynhyrchu heb ganiatâd yn torri hawffraint y Goron a gall hyn arwain at erlyniad neu achos sifil. Cyngor Sir Ddinbych. 100023408. 2010.



Key:



Site Location

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Scale (at A4): 1:25,000

Date: July 2010

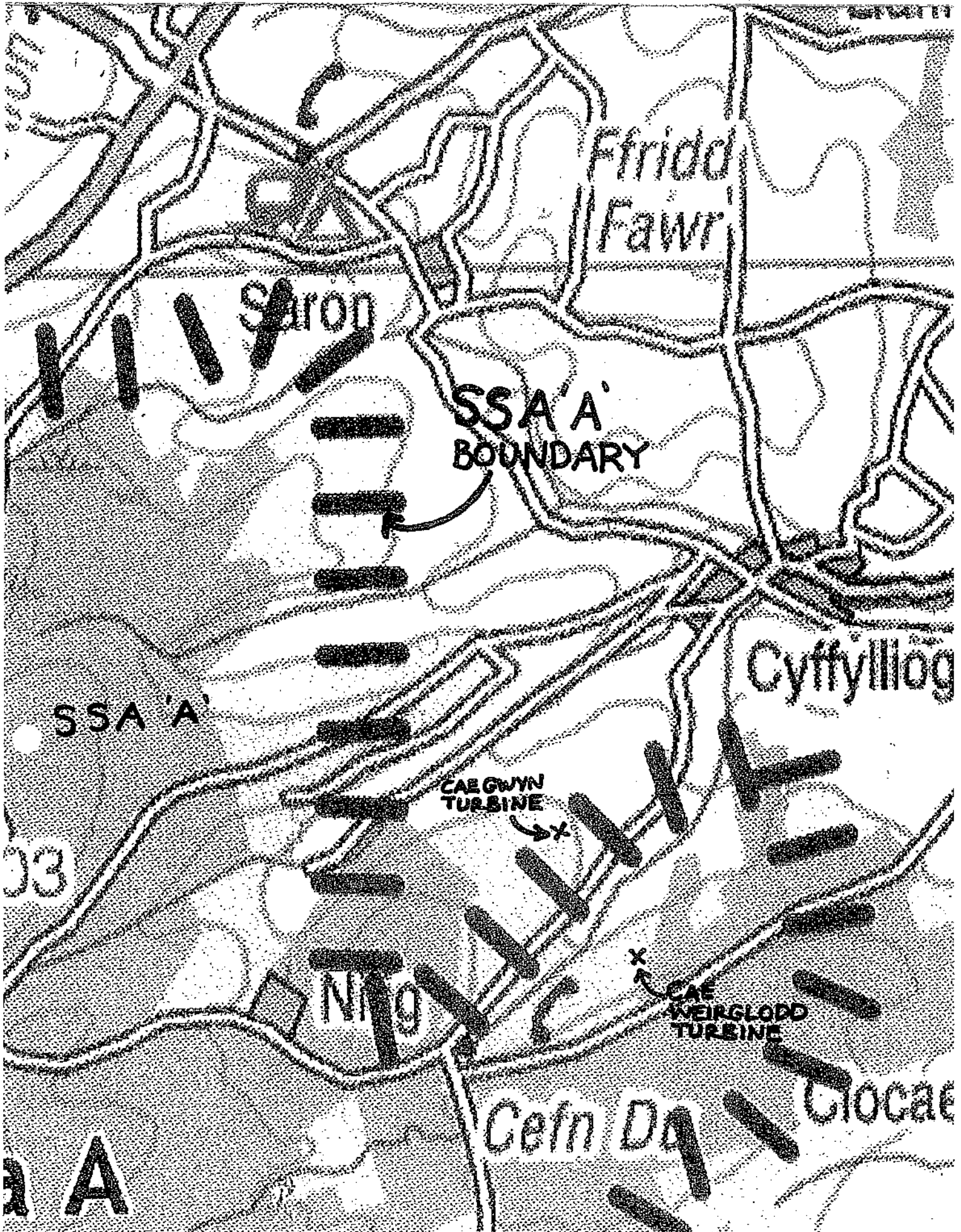
Client: Caer Wairgodd

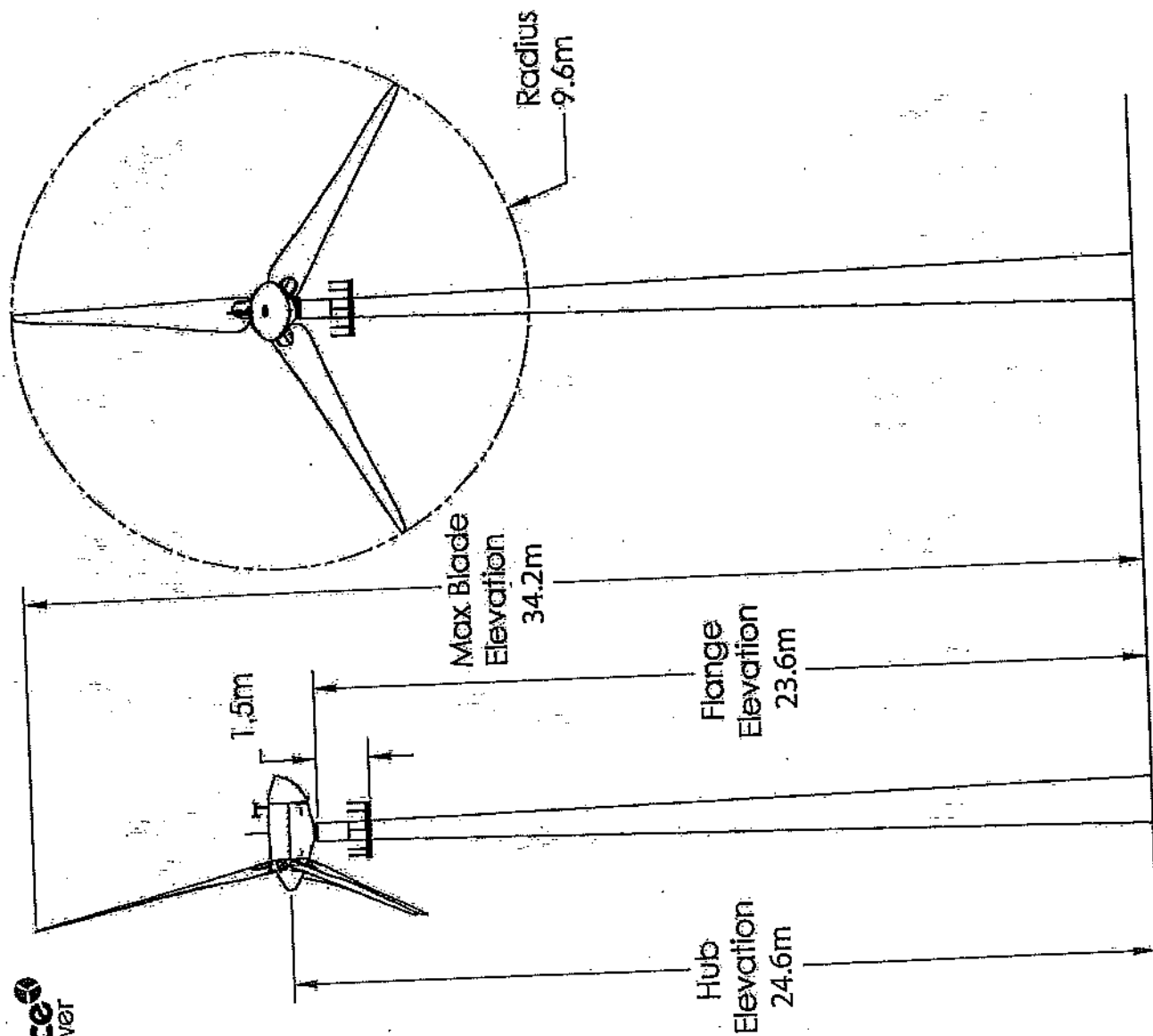
Prepared by:  dulaspisolutions

Figure 1: Site Location

ITEMS 3 AND 4

EXTRACT FROM PLAN IN TAN 8 SHOWING BOUNDARY OF STRATEGIC SEARCH AREA A ; AND APPROXIMATE LOCATION OF TURBINES AT CAE GWYN (ITEM 3) AND CAE'R WEIRGLODD (ITEM





Note: Dimensions are approximate and provided for planning purposes only. Final construction elevations are available in a permitting package on a per-tower basis

Date: July 2010

Scale: Not to Scale

Prepared by:  **dulasReSolutions**

Cae Gwyn & Cae Weirglodd

Figure 3 : E-3120 Elevation Drawing

TAN 8 STRATEGIC SEARCH AREA

Map 2

PLANNING FOR RENEWABLE ENERGY

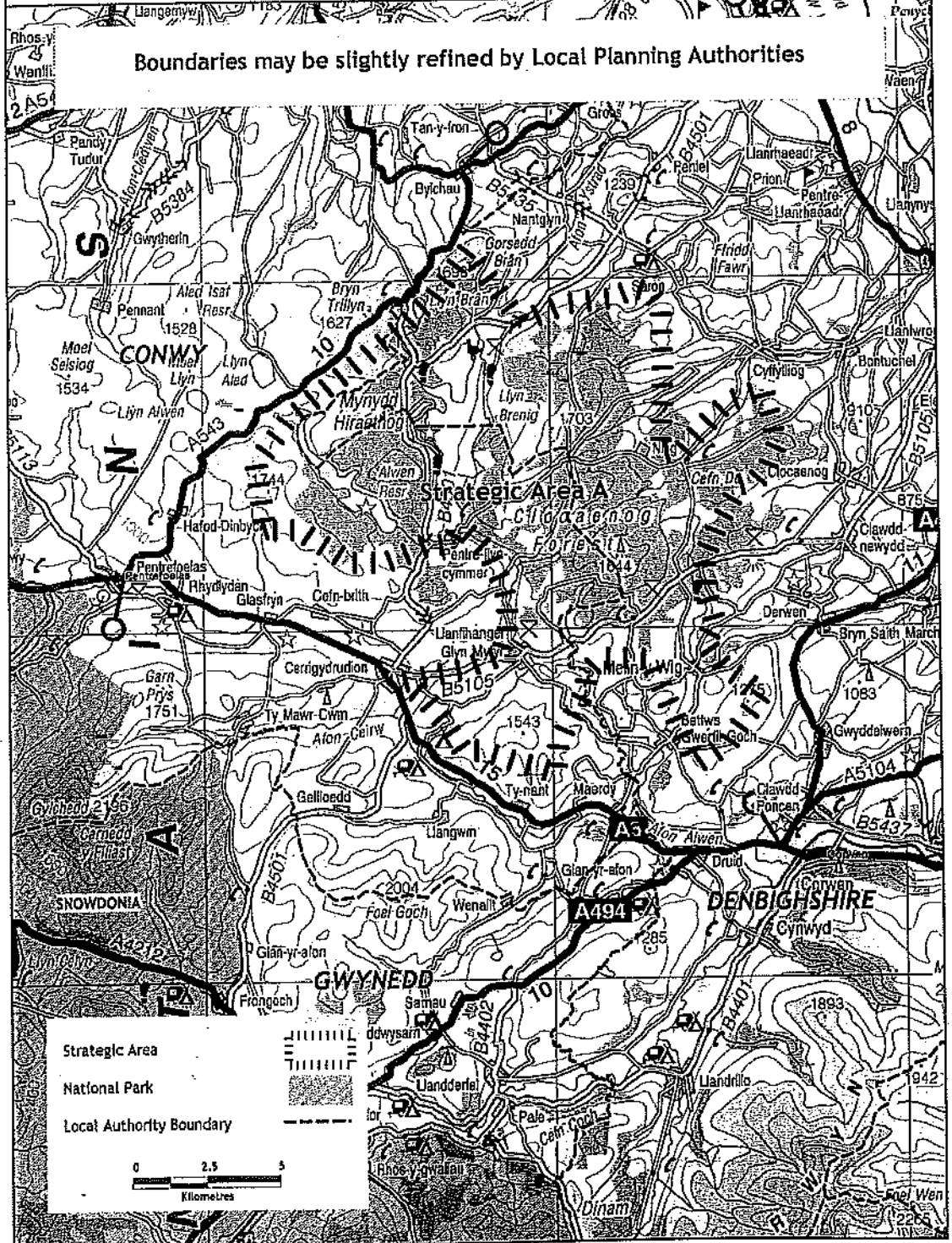
JULY 2005

AREA A. CLOCAENOG FOREST

MAP 2



Boundaries may be slightly refined by Local Planning Authorities



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C45/05-06

ITEM NO: 4
WARD NO: Llanrhaeadr Yng Nghinmeirch
APPLICATION NO: 14/2010/0960/ PFDT
PROPOSAL: Erection of a 55 kW wind turbine on a 25 m tower with a 19.2 m rotor diameter (approximate ground to blade tip height 35 m)
LOCATION: Cae'r Weirglodd Cyffylliog Ruthin
APPLICANT: Huw Jones
CONSTRAINTS:
PUBLICITY UNDERTAKEN: Site Notice - No
 Press Notice - No
 Neighbour letters - Yes

CONSULTATION RESPONSES:

CYFFYLLIOG COMMUNITY COUNCIL
 "No objection"

AIRBUS

No aerodrome safeguarding objection to the proposal.

CIVIL AVIATION AUTHORITY

No objection.

MINISTRY OF DEFENCE

No objection, would like to be kept informed of further developments.

DENBIGHSHIRE COUNTY COUNCIL CONSULTEES

DCC POLLUTION CONTROL OFFICER

No objection, subject to conditions.

SENIOR BIODIVERSITY OFFICER

No reply received.

LANDSCAPE CONSULTANT

Considers the turbine would be a prominent feature within local views from publicly accessible locations, although landscape and visual impact has been lessened by careful siting in relation to large-scale landscape elements. Planting proposals would be required to bring about visual mitigation and landscape enhancement to fully support UDP policy ENV1. Has no objection subject to the incorporation of landscape enhancement measures and conditions.

RESPONSE TO PUBLICITY:

Letters of representation (in support) received from:
 Warwick Nicholson, Maes Cadarn, Llanellidan, Ruthin (email)
 Ian Jones, Cae Felin, Cyffylliog (email)
 Mr G Jones, Ffynnon Ddu, Cyffylliog (email)
 Mr. E. Evans, Ty Mawr, Llanrhaeadr, Dinbych (email)
 Mr Paul Fowles, Ffrith Arw, Cyffylliog (email)

Sion Jinkinson, Nant Mostyn, Cyffylliog (email)

Summary of planning based representations:
Sustainability - support green energy
Visual impact - limited owing to siting

EXPIRY DATE OF APPLICATION: 20/09/2010

REASONS FOR DELAY IN DECISION (where applicable):

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

PLANNING ASSESSMENT:

1. THE PROPOSAL:

5.1 Summary of proposals

- 5.1.1 The application proposes the erection of a single wind turbine at Cae'r Weirglodd Farm, Cyffylliog. The turbine would have an overall height of 35m from ground level to blade tip. There would be three blades on the turbine, with a 19.2m diameter, and the supporting tower would be 25m in height.
- 5.1.2 The turbine would have a 6.5m by 6.5m foundation pad of steel and concrete. A control cabinet is also proposed to the north east of the base of the turbine, which would measure 2m by 1.9m by .7m.
- 5.1.3 The submission indicates the basis of the proposal is to export all the electricity to the grid. The turbine would be connected to the grid at the farmhouse and a three-phase electricity system will be required for the connection.
- 5.1.4 The 55kW wind turbine would have a predicted annual electricity output of 167,780kWhrs; which the submission estimates would meet the domestic electricity requirements for 35 homes per annum.
- 5.1.5 The application is one of two on the agenda which relate to the erection of individual wind turbines. The other is ref 14/2010/0959 involving the erection of a 55kW wind turbine on a 25m tower (approx height 35m) at Cae Gwyn.
- 5.1.6 The Cae'r Weirglodd turbine would be located some 980 metres to the south east of the one at Cae Gwyn. It is submitted by the same planning agents, Dulas Limited, but the applicants and landowners are different.
- 5.1.7 The application is accompanied by a 25 page Supporting Statement which includes commentary on planning policy and site specific impacts, and a photo montage showing a representation of the turbine alongside the one proposed at Cae Gwyn, taken from a viewpoint along a public road to the north west. The statement refers to the site being outside the Strategic Search Area in TAN 8 and the scheme being within the 'small scale category'.
- 5.1.8 Reference is made in the Supporting Statement to exporting energy under the 'Feed-in Tariff'. This is a government initiative, which provides fixed payment for the electricity generated, and pays for any unused electricity exported to the grid.

5.2 Description of site and surroundings

- 5.2.1 The turbine is proposed to be sited on land to the north east of Cae Weirglodd Farm, approximately 290m from the farm complex on the eastern side of a public footpath.
- 5.2.2 The turbine is proposed within a field, which lies along the upper slopes of a small tributary valley of the Clywedog Valley adjacent to the edge of Clocaenog forest. The extensive edge of coniferous plantation lines the top of the valley, below which gentle convex slopes and spurs descend to the valley

below covered with a regular field pattern defined by hedgerows in variable condition, some tree lined, some maintained, sections which have gaps and sections replaced with post and wire fencing. The integrity of field patterns is showing signs of decline. The landscape of the upper slopes is large-scale and where hedgerow trees and hedgerows are intermittent, particularly open, which is apparent within a number of local and distant scenic views. Farmsteads are scattered across the gentle upper valley slopes and have typically spread out beyond their traditional form, and include several large barns that appear industrial within some views.

- 5.2.3 The LANDMAP Visual and Sensory evaluation for this area, which is within the Denbigh and Derwen Hills, indicates it is typified by upland/hill, lower plateau and scarp slopes. The area is recognised as a landscape of regional or county significance, with High character and High scenic qualities.

5.3 Relevant planning constraints/considerations

- 5.3.1 The site is located in the open countryside outside any defined development boundary.
- 5.3.2 The Strategic Search Area A in TAN 8 is one the Assembly's 7 preferred locations for large scale wind turbine developments in Wales.

5.4 Relevant planning history

- 5.4.1 A temporary permission was granted in April 2010 for a wind monitoring mast on the site.

5.5 Developments/changes since the original submission

- 5.5.1 None

5.6 Other relevant background information

- 5.6.1 Officers are presenting this application and the other one to Planning Committee, as there are important issues of policy and principle to be considered.
- 5.6.2 Officers are aware of the encouragement in TAN 8 for renewables and the advice in Section 2.11 - 2.14 on 'smaller' turbine applications. The Council has not however developed any detailed local criteria to determine the acceptability of individual turbine applications, what may be defined as 'smaller', or 'community wind farms', nor is there any strategy to deal with the implications of developing 'one off' turbines throughout the County (2.13) including those around the Strategic Search Area of Clocaenog Forest.

6. DETAILS OF PLANNING HISTORY:

- 6.1 Ref 14/2010/0306 Application for a 24-metre monopole metrological measuring mast.
Granted (delegated powers) 29/04/2010

7. RELEVANT POLICIES AND GUIDANCE:

- 3.1 The main planning policies and guidance are considered to be:
- DENBIGHSHIRE UNITARY DEVELOPMENT PLAN (UDP adopted 3rd July 2002)
 - Policy STRAT 2 Energy
 - Policy STRAT 7 Environment
 - Policy GEN 6 Development Control Requirements
 - Policy ENV 1 Protection of the Natural Environment
 - Policy ENV 6 Species Protection
 - Policy MEW 8 Renewable Energy
 - Policy MEW 10 Wind Power

GOVERNMENT GUIDANCE

PLANNING POLICY WALES (PPW July 2010)

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

- Sustainable Development (Section 4)
- Conservation of Wildlife and Habitats (Section 5)
- Sustainable Energy (Section 12)

TAN 8 PLANNING FOR RENEWABLE ENERGY (2005)

TAN 8 is a key document setting the context of national and UK energy policies and introduced a fundamental change in the principle of spatial planning for the delivery of clean energy policy. The TAN sets out the Assembly's target for production of renewable energy by 2020 and the requirements for 800MW of installed capacity from onshore wind sources. Delivery is to be concentrated in 7 Strategic Search Areas by way of large scale turbines (25MW+) development. The Clocaenog Forest is identified as one of these SSA's.

TAN 8 makes reference to smaller scale (less than 5MW schemes) in para. 2.11 - 2.14, however this puts the onus on Local Planning Authorities to define what is meant by 'small scale' and community based wind power schemes. The TAN refers to the need for Local Authorities to consider the cumulative impact of smaller schemes and the balance to be struck between the desirability of renewable energy and landscape protection.

TAN 5 NATURE CONSERVATION AND PLANNING (2009)

TAN 5 contains general advice on positive planning for nature conservation and more specific information relating to the handling of proposals, which may affect protected species, and areas with special designations (Sites of Special Scientific Interest, Special Areas of Conservation etc).

TAN 6 PLANNING FOR SUSTAINABLE RURAL COMMUNITIES (2010)

TAN 6 provides guidance on the role of the planning system in supporting the delivery of sustainable rural communities.

TAN 6 also encourages farmers to consider farm diversification as an alternative means of supporting the farm enterprise, and mentions renewable energy projects as a possibility.

TAN 11 – NOISE (1997)

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

DENBIGHSHIRE COUNTY COUNCIL LANDMAP

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

8. MAIN PLANNING CONSIDERATIONS:

8.1 The main land use planning issues are considered to be:

- 8.1.1 Principle
- 8.1.2 Landscape and Visual Impact
- 8.1.3 Residential Amenity
- 8.1.4 Ecology

8.1.5 Safeguarding Windfarm Sites

8.2 In relation to the main planning considerations:

8.2.1 Principle

Welsh Assembly Government Policy

There is clear policy guidance at national level encouraging the development of suitable means of generating electricity through renewable sources, to help reduce greenhouse gas emissions and to address issues of climate change. In support of this policy, WAG has produced TAN 8 and Planning Policy Wales, and sets specific targets for the generation of electricity through renewables. There is also general support for the principles of farm diversification in Planning Policy Wales and TAN 6.

TAN 8 establishes the principle of Strategic Search Areas for locating large-scale onshore wind turbine developments (i.e. wind farms with a generating capacity exceeding 25MW). In relation to smaller scale proposals, TAN 8 states that each Planning Authority should provide local guidance and define 'smaller', or 'community wind farms'. The TAN refers to the need for Local Authorities to consider the cumulative impact of smaller schemes and the balance to be struck between the desirability of renewable energy and landscape protection. Paragraph 2.13 acknowledges that the balance should not result in a severe restriction on the development of wind power capacity, and there is a case for avoiding a situation where wind turbines area spread across the whole of a County. Authorities are also expected to safeguard developments of large-scale wind farms in the Strategic Search Area (Para. 2.10) from over development which may sterilise land for such proposals.

WAG has recently closed consultations on a revised Section 12 of Planning Policy Wales. This consultation document will update the Assembly's position in terms of delivering of renewable energy targets set out in the Welsh Assembly Governments Energy Policy Statement 2010. It is of interest that the consultation contains commentary on different scales of renewable energy approaches, referring to small-scale, 'microgeneration' projects as below 50kW, and the next category up would be classed as 'community scale' projects.

Unitary Development Plan Policies

At present at local level the UDP contains general policies on renewable energy in policy STRAT 2 and MEW 8 which support the principle of development which captures energy from naturally sustainable sources. Policy MEW 8 is supportive of proposals that generate energy from sustainable sources, but requires that development will only be permitted where there is no unacceptable effect on the environmental quality of the locality.

Policy MEW 10 deals specifically with wind power developments, stating these will be permitted subject to assessment against 10 tests. The tests of most relevance are, iii) the proposal should not unacceptably harm the character and appearance of the landscape and viii) the proposal does not cause unacceptable harm to the enjoyment of the landscape for recreational and tourist purposes.

Policy GEN 6 refers to general development control requirements and applies to most developments. The criteria of most relevance are the following; ii) relating to the effect of development on the form and character of surrounding landscape, iii) the effect on prominent views into, out of, or across any area of open countryside, v) the impact on residential amenity and iv) incorporating

existing landscape features and taking account of site contours and changes in levels and avoids prominent skylines.

Policy ENV 1 relates to the protection of landscape and biodiversity. It states development must be designed to maintain or enhance the landscape character of the countryside and biodiversity of the natural environment. Policy ENV 6 is the detailed policy relating to species protection, which seeks to ensure that development which would unacceptably harm species given special protection by law are not permitted.

Taken together, the policies of the Unitary Development Plan offer basic support for a range of suitable renewable energy schemes, all subject to detailed tests of impact. However as the Unitary Development Plan was adopted in 2002, its contents predate TAN 8 and more recent WAG policy statements relating to energy development, and inevitably contain no guidance on what may be 'smaller' or 'community' turbine developments, and it offers no specific guidance on how to deal with the issues of 'community' turbine developments and the cumulative impact/ spread of turbines throughout the county. There are currently detailed policies proposed in the draft Local Development Plan which will be of some assistance in developing a strategy for handling 'one off' turbine applications. However these policies carry no weight at this stage and are likely to be updated in the deposit LDP following the adoption of the revised Section 12 of PPW.

Ultimately Officers take the simplistic view that in the absence of any up to date and specific local level guidance on the matter of single turbine applications of this scale, it is incumbent on the Council to deal with the proposal in accordance with the statutory requirements in the Planning/ Planning and Compensation Act i.e. determine in accordance with the current policies of the development plan, unless material considerations indicate otherwise. The following sections of the report therefore weigh the merits of the application against the policies of the Unitary Development Plan and then in respect of the other material considerations including current WAG policy and guidance in PPW and TAN 8.

8.2.2 Impact on landscape and visual amenity

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

PPW and TAN 8 are essentially strategic level policy statements and contain limited specific guidance on the consideration of landscape and visual impact in respect of individual turbine planning applications. However it is noted that in introducing the concept of SSA's to accommodate large-scale windfarm developments, TAN 8 recognises that significant landscape character change will occur in and around those areas. The site is on the periphery of the SSA of Clocaenog Forest, on open land to the east of the conifer plantation.

The LANDMAP study provides useful background material on the essential characteristics and quality of the landscape in the area. The site is within an area recognised as a landscape of regional or county significance, with High character and High scenic qualities. The LANDMAP Visual and Sensory evaluation for the general area (which is within the Denbigh and Derwen Hills) notes that it is typified by upland/hill, lower plateau and scarp slopes.

The application itself contains a brief landscape and visual assessment. It concludes there will be negligible cumulative effect on the landscape and visual receptors. The Council's Landscape Consultant considers the supporting statement to be somewhat general in its discussion of the landscape and visual issues, and that there are a number of assertions made which are not substantiated by a clearly presented assessment process. However, in dealing with the application he accepts the Local Authority is required to make an assessment of the proposed development as submitted, and he comments in detail that:

'A number of sensitive views of the site have been identified in assessing the application. The most prominent view is from the lane which climbs out of the valley south westwards from Cyffylliog, which passes 650 metres north of the turbine, and there would be a number of views up towards the turbine given the intermittent hedgerow which lines the lane. The views from here would also include the farm complex at Cae'r Weirglodd. The dwelling Pen y Llan Uchaf, 2km to the north, has open panoramic views southwards to the site. There are several public rights of way in close proximity to the site, one passing within 110 metres of the turbine. There is also a promoted mountain bike route (Ride Hiraethog) following the byway open to all traffic along the ridge line 1km to the north which would have views of the site to the south'.

In concluding, the Landscape Consultant considers that the backdrop of the forestry and landscape features in the area provide a setting which has a potential to reduce the prominence and apparent scale of a single isolated 35 metre turbine in the proposed location. He indicates that the close proximity of the turbine to the woodland backdrop, and the setting of the structure lower down the valley slopes, in combination, would help reduce the potential of turbine blades breaking the skyline, relate the turbine to the key landscape form and pattern, and thereby integrate it as well as could be achieved given the characteristics of the development. Improving boundary treatments and additional planting may mitigate the visual impact of lower views of the site.

Whilst noting the conclusion of the Landscape Consultant, in looking at the application first in terms of UDP policy, there is inevitably a degree of conflict with tests (iii) and (viii) of MEW 10 as the erection of a 35 metre turbine will impact on the local landscape, and may contribute to a cumulative impact with existing larger turbines within the SSA and future smaller scale turbines outside the SSA. This is a negative factor in the weighing of the application. National policy supports development for renewable energy projects subject to considerations of local landscape issues, although as outlined previously, to date, offers no specific advice on the scale of developments or how the balance is to be struck when there are likely adverse landscape/visual impacts.

In concluding on the issue of landscape and visual impact, and with regard to the comments of the Landscape Consultant, Officers consider there would be a negative impact from a 35 metre turbine in this location on open land east of the tree cover of Clocaenog Forest. Whilst it has to be accepted there is a possibility of a large scale windfarm being developed in the near future in the

Clocaenog Forest SSA, and the Cae'r Weirglodd site may be viewed from many viewpoints in that context, there are issues of precedent to address over such 'one off' proposals for non-domestic 'small' turbines of this height extending the 'windfarm landscape' of a SSA further out into open tracks of land in the County. In the absence of a County or WAG policy or strategy to assess the merits of spreading 'one off' non-domestic turbines of this scale, Officers believe some caution has to be extended at this point in respect of this aspect of the application.

8.2.3 Impact on residential amenity

Policy MEW 10 and GEN 6 seek to ensure that proposals for wind turbines do not harm the residential amenity of the locality, and this would include particular consideration to be given to noise and shadow flicker.

There are some dwellings within a 500m radius of the site. Information submitted with the application indicates that the noise level generated by the proposed turbine would not exceed 30.7(db(A)) at the Applicants dwelling (280m from its base), 30.7(db(A)) at the next nearest dwelling Ffridd Arw (450m south west of the base). The next closest dwelling would be 500m north of the base and the noise would not exceed 29.4(db(A)).

The Public Protection Officer indicates that given the distances involved, it is considered that the noise generated by the wind turbine would be below the general back ground noise level of the area and so would be unlikely to have a significant impact upon the amenity of the neighbouring dwellings. Noise level conditions can be imposed to protect residential amenity.

The size and siting of the turbine in relation to the neighbouring dwelling is such that it is unlikely to result in shadow flicker.

It is considered that the proposal accords with policy GEN 6 part v) and MEW 10 as it is unlikely to result in harm to the residential amenity of residential property in the area.

8.2.4 Ecology

The general requirement to consider the impact of development on ecological interests is set out in the strategic policies of the Unitary Development Plan, STRAT 1 and STRAT 7 and the general policies ENV 6 and GEN 6. Specific to turbine development is MEW 10 (x); all of which require the protection and enhancement of the biodiversity of the Council, in support of national policy, guidance in PPW, TAN 5, SPG 18 and legislation relating to the safeguarding of protected species.

In this case the turbine would be located 10 metres from the closest field boundary to east. The authority has taken the view on similar proposals that bats and birds are unlikely to be adversely affected by turbines. It is not considered therefore, that the proposal would unacceptably harm any protected species or surrounding wildlife and there would be no conflict with the requirements of policy ENV 6, or relevant policy guidance.

8.2.5 Safeguarding Wind Farm Sites

Paragraph 2.10 of TAN 8 enlarges on the area where local authorities are encouraged to take an active approach in developing local policies for SSA's, 'in order to ensure best outcomes'. This includes 'safeguarding wind farm sites' and states that Local Planning Authorities should be aware that other developments could sterilise land for wind power proposals, and bear this in mind during policy formulation and decision-making. There is currently no local policy developed in respect of 2.10.

The submission refers briefly to the issue of large-scale wind farm development in the SSA close to the location of the proposed turbine. It states the turbine will not sterilise the SSA 'A' from wind development.

It is not clear from TAN 8 whether the matter of safeguarding wind farm sites in the SSA from other development includes 'protecting' large scale wind farms from 'one off' turbine developments on the fringe of the SSA such as this. The submission contains no detailed analysis of this matter and in the absence of any policy or guidance to assist interpretation or evidence to determine either way, it is impossible to conclude whether there would be any safeguarding issues. Officers would not consider this to be a key determinant issue on the application, but nonetheless suggest a precautionary approach to such 'one off' development is not unreasonable.

9. SUMMARY AND CONCLUSIONS:

- 9.1.1 The report sets out a number of considerations officers suggest are relevant to the determination of the application.
- 9.1.2 Inevitably, with wind turbine applications there will be factors which weigh against and in favour of grant of permission. The particular application is for a 35 metre high turbine, and this raises specific issues of principle, precedent and negative landscape/visual impact which require careful deliberation.
- 9.1.3 Current Unitary Development Plan policy predates WAG policy and guidance in TAN 8 and PPW. The UDP policies give general encouragement to schemes to generate renewable energy, but the main policy is 'criteria based', setting only requirements to assess detailed impacts. TAN 8 (2005) is a material consideration and redefined national policy in support of renewables and adopted a locational approach to large-scale turbine developments; but gives limited guidance for the handling of one off single turbine applications.
- 9.1.4 In the absence of any local or national strategy for the handling of single turbine proposals of this size, the difficulty facing the Authority is the weight to be given to the Unitary Plan policies and other material considerations such as PPW and TAN 8.
- 9.1.5 In terms of general principle, Officers acknowledge there is considerable national support for the development of suitable renewable schemes, and that turbines are one of many potentially acceptable means of delivering WAG's aspirations for generating electricity. This has to be weighed appropriately when dealing with applications such as the one at Cae'r Weirglodd. The difficulty remains however, that in the absence of a clear strategy for handling one off applications for non domestic scale turbines of 35 metres (or greater) height, there is a clear danger of precedent being set indicating acceptance of the spread of turbines throughout Denbighshire, further enlarging the 'windfarm landscape' being created by the large scale turbine schemes in the designated Strategic Search Area in the west of the County. This is a concern which has to be addressed with this application as it would seem inappropriate to deal with each proposal solely on its individual merits, oblivious of the wider picture.
- 9.1.6 In the particular circumstances therefore, Officers have reservations over the landscape/ visual impact of a 'one off' turbine of 35 metre height on land fringing the Strategic Search Area, and whether the principle of this development should be regarded as acceptable in the absence of any County strategy for the handling of such applications, including how to address the spread of turbines over the rest of the County and the issue of safeguarding the SSA from other development. It is respectfully questioned at this point whether the general support for renewable energy schemes in Welsh

Assembly and Unitary Plan policies outweigh the concerns over the impact of the development, and the setting of a clear precedent.

RECOMMENDATION: - REFUSE for the following reasons:-

1. It is the opinion of the Local Planning Authority that the erection of a 35 metre turbine would have an unacceptable landscape and visual impact, and in the absence of any national or local criteria to determine the acceptability of one off turbine proposals of this nature on the fringes of and outside the Clocaenog forest Strategic Search Area, in terms of cumulative impact, the effect of extending the wind farm landscape of the Strategic Search Area by spreading turbines into the rest of the County, and the potential for sterilising large scale wind farm development in the SSA, it is considered premature to consent to development which could set a significant precedent, contrary to policies of the Denbighshire Unitary Development Plan which seek to protect the quality of the landscape, including STRAT 7, GEN 6, ENV 1 and MEW 8 and 10, and the principles set out in TAN 8 Section 2.10-2.13.

NOTES TO APPLICANT:

None