

WELCOME TO DENBIGHSHIRE COUNTY COUNCIL'S PLANNING COMMITTEE

HOW THE MEETING WILL BE CONDUCTED

The note outlines the manner in which the meeting is likely to be run.

Unless the Chair of the Committee advises to the contrary, the order in which the main items will be taken will follow the agenda set out at the front of this report.

General introduction

The Chair will open the meeting at 9.30am and welcome everyone to the Planning Committee.

The Chair will ask if there are any apologies for absence and declarations of interest.

The Chair will invite Officers to make a brief introduction to items on the agenda.

Officers will outline as appropriate items which will be subject to public speaking, requests for deferral, withdrawals, special reports, and any Part 2 items where the press and public will be excluded. Reference will be made to additional information circulated in the Council Chamber prior to the start of the meeting, including the late representations/amendments summary sheets (blue papers) and any supplementary or revised plans relating to items for consideration.

The 'Blue Sheets' contain important information, including a summary of material received in relation to items on the agenda between the completion of the main reports and 5pm on the day before the meeting. The sheets also set out the proposed running order on planning applications, to take account of public speaking requests.

In relation to the running order of items, any Members seeking to bring forward consideration of an item will be expected to make such a request immediately following the officer's introduction. Any such request must be made as a formal proposal and will be subject to a vote.

CONSIDERING PLANNING APPLICATIONS

The sequence to be followed

The Chair will announce the item which is to be dealt with next. In relation to planning applications, reference will be made to the application number, the basis of the proposal, and the location.

If there are public speakers on an item, the Chair will invite them to address the Committee. Where there are speakers against and for a proposal, the speaker against will be asked to go

first. Public speaking is subject to a separate protocol.

Where appropriate, the Chair will offer the opportunity for Members to read the late information on the item on the 'Blue Sheets' before proceeding.

If any Member is minded to propose deferral of an item, including to allow for the site to be visited by a Site Inspection Panel, the request should be made, with the planning reason. Opportunity will be given for debate on the request, and a vote shall be taken to determine the course of action.

The Chair will seek propositions and seconders for or against the officer recommendation, or any other resolutions.

The Chair will invite officers to provide a brief introduction to the item where this is considered to be worthwhile in view of the nature of the application.

If any application has been subject to a Site Inspection Panel prior to the Committee, the Chair will invite those Members who attended, including the local member, to speak first.

On all other applications, the Chair will invite the local member(s) to speak first.

Members are normally limited to a maximum of five minutes speaking, and the Chair will conduct the debate in accordance with Standing Orders.

Once a member has spoken, he/she should not speak again unless seeking clarification of points arising in debate, and then only once all other Members have had the opportunity to speak, and with the agreement of the Chair.

At the conclusion of Members debate, the Chair will ask officers to respond as appropriate to questions and points raised, including advice on any resolution in conflict with the recommendation.

The Chair will announce when the debate is closed, and that voting is to follow.

The voting procedure

Before requesting Members to vote, the Chair will announce what resolutions have been made and how the vote is to proceed. Clarification of resolutions, amendments, additional conditions and reasons for refusal may be sought so there is no ambiguity over what the Committee is voting for or against.

If any member requests a Recorded Vote, this must be dealt with first in accordance with Standing Orders. The Chair will clarify the procedure to be followed.

When the Chair is satisfied that the vote can proceed, this will be conducted through the electronic voting system. The Chair will request officers to set up the voting screen(s) in the Chamber, and members must vote once the voting screen appears.

Members have 10 seconds to record their votes once the voting screen is displayed.

On failure of the electronic voting system, the vote may be conducted by a show of hands. The Chair will clarify the procedure to be followed.

On conclusion of the vote, the Chair will announce the decision on the item

DENBIGHSHIRE COUNTY COUNCIL
PLANNING COMMITTEE 15th June 2011
Planning applications

Item No	Application No	Location and Proposal	Page No
1	06/2011/0249/ PFT	Tyn Y Celyn Gwyddelwern Corwen Erection of 2 no. 55kw wind turbines, at 46 metres ground to blade tip height, and associated works.	1
2	41/2010/1177/PF	Warren Woods Ltd. The Warren Mold Road Bodfari Denbigh Erection of a detached building to provide classroom, office, kitchen and WC and installation of new septic tank; and retention of use for woodland based education and training centre for up to 200 days per year and 2 no. forest school structures in woodland known as The Warren	19
3	42/2011/0399/PF	Carmel Caravan Park Bryniau Dyserth Rhyl Alterations to site to allow provision of 3 No. additional static caravans for holiday use.	29
4	43/2011/0262/PO	Former Public Convenience Meliden Road Prestatyn Development of 0.03 ha of land by the demolition of existing former public convenience, erection of 1 no. dwelling and construction of a new vehicular access (outline application including access)	35
5	47/2010/0887/PF	Corn Bwch Waen St. Asaph Proposed change of use into tenting camp facility, alterations to existing vehicular access, erection of shower/toilet block building and installation of new cesspool	40

ITEM NO: 1

WARD NO: Llanfair Dyffryn Clwyd / Gwyddelwern

APPLICATION NO: 06/2011/0249/ PFT

PROPOSAL: Erection of 2 no. 55kw wind turbines, at 46 metres ground to blade tip height, and associated works.

LOCATION: Tyn Y Celyn Gwyddelwern Corwen

APPLICANT: Mr Roberts

CONSTRAINTS:

PUBLICITY Site Notice - Yes

UNDERTAKEN: Press Notice - No
Neighbour letters - Yes

CONSULTATION RESPONSES:

GWYDDELWERN COMMUNITY COUNCIL

The Clerk has confirmed by telephone that the Community Council considered the planning application and the vote was to offer no objections. (The Community Council have adopted the practice of only writing when they have comments to raise or are objecting to applications.)

CLWYDIAN RANGE AREA OF OUTSTANDING NATURAL BEAUTY JOINT ADVISORY COMMITTEE

“The proposed turbines will be visible from a number of vantage points in the AOB and proposed AONB extension area and, having regard to their height and proximity to the AOB/proposed AONB boundary, the JAC considers that a development on this scale will have a detrimental impact on the AOB and proposed AONB. Taken together with the existing wind turbine developments in the SSA, the JAC also considers that the development would contribute to a harmful cumulative effect on the AOB and proposed AONB. In addition, if permission were granted for turbines of this size outside the SSA, the JAC is concerned about the precedent that would be set which could open up the area for other wind turbine schemes on a similar scale. The JAC therefore objects to this application.

Whilst the JAC has serious concerns about the current proposals, the committee commends Tyn y Celyn Farm in seeking to reduce their carbon footprint through the generation of renewable energy. However, the JAC would suggest that the applicant should have demonstrated that they have identified and evaluated other less visually intrusive renewable technology options before large scale wind turbines. For example, Tyn y Celyn has a large range of existing agricultural buildings that would be suitable for installation of roof mounted solar PV panels. There is no evidence that such an options appraisal has been undertaken in this case.”

COUNTRYSIDE COUNCIL FOR WALES

No objections to the proposal, on the basis that this does not prejudice future responses or comments in respect of similar schemes in the locality. Draws attention to a number of detailed points on the submitted Landscape and Visual Impact (LVI) report, briefly;

- Clwydian Range Area of Outstanding Natural Beauty – the site lies 8.5 km from the current boundary and 1.5 km from the proposed AONB boundary

extension. As previously recommended to the agent, the LVI includes several viewpoints within the proposed AONB extension, as well as other significant locations in the area, such as the A5 road, an important tourist corridor into the North Wales area;

- Existing wind farm at Mynydd Rhyd Ddu– being approx. 3 km away, has a greater impact on the local landscape and notes the existence of several large electricity pylons in close proximity to the proposal. The construction of two, additional turbines would have no greater impact on the surrounding landscape than the existing.
- Screening – site is screened from several directions, notably the A5 route corridor to the south, by woodland, located to the south and east.
- LVI – in considering the LVIA findings, together with the above points, provided that granting the proposal is not contrary to planning policy, does not consider that the development will adversely impact the integrity of the local landscape.

ENVIRONMENT AGENCY

No objection. Advisory notes required in respect of construction phase.

AIRBUS

No objections.

CIVIL AVIATION AUTHORITY

No comments received

ROYAL SOCIETY FOR THE PROTECTION OF BIRDS

No comments received

MINISTRY OF DEFENCE - DEFENCE INFRASTRUCTURE ORGANISATION

No objections. In the event of planning permission, requires notification of construction start and end; the maximum height of construction equipment; latitude and longitude of every turbine.

GWYNEDD COUNTY COUNCIL

Notes the site position within 3 metres of the boundary with Gwynedd. Acknowledges the need to be aware in the future of the impact of the concentration of wind turbines on the amenities of this part of the country, in view of the recent enquiries to develop a 75MW wind farm nearby at Mynydd Mynyllod as additional developments to the existing 3 turbine Braich Ddu scheme, and other sites. In conclusion, considers that there will not be any significant/adverse effects on the Gwynedd landscape, and have no specific comments to submit.

NEIGHBOURING COMMUNITIES

CORWEN TOWN COUNCIL (LATE CONSULTEE)

At the time of writing the report, response awaited.

DENBIGHSHIRE COUNTY COUNCIL CONSULTEES

POLLUTION CONTROL OFFICER

Suggest impositions of conditions, in the event of the application being approved, covering noise levels.

SENIOR BIODIVERSITY OFFICER

No objections provided the 50m buffer referred to in the Design and Access Statement will be maintained between the turbines, and any bird or bat features (trees and / or hedges) remain.

COUNTY ARCHAEOLOGIST

Pre submission advice confirmed no known archaeological features are affected.

PLANNING POLICY MANAGER

Advises that proposed focus changes to the Denbighshire Local Development Plan were approved at the Special Full Council Meeting held on 20 May 2011. Policies VOE 9 & VOE 10 relating to renewables / turbine development have been recommended for inclusion in the Plan and would become live with the adoption of the Plan which is anticipated in mid 2012.

LANDSCAPE CONSULTANT

Response addresses:

- The effect of the proposal upon the landscape character and appearance of the area and effect upon the residential amenity of neighbouring properties
- How the proposed development would be perceived within the landscape in relation to the strategically planned area of major wind development at Clocaenog Forest Strategic Search Area (SSA), the boundary of which lies some 2.5km to the west of the site
- How the proposal would be seen against existing wind development in the area and would this result in cumulative visual impacts

In summary, considers that the proposal would:

- Have a wide range of significant adverse visual impacts as demonstrated by the supporting landscape and visual impact assessment
- Have a significant adverse cumulative impact upon views from Caer Drewyn
- Have an overbearing dominance upon residential amenity, as experienced by properties in Gwyddelwern
- Form an unacceptable extension of the SSA with future wider potential cumulative visual impacts
- Cause a departure in approach to the planning and delivery of wind development within this part of North Wales which could establish a precedent which places need above the conservation of valued landscapes

Recommends that the proposal is refused on the basis of unacceptable harm to the character of the AOB/potential AONB; an unacceptable cumulative visual impact; and unacceptable impact on the enjoyment of the landscape for recreation and tourism, contrary to UDP policy MEW 10.

RESPONSE TO PUBLICITY:

Letters of representation received from:

Mr. M. Wynne, Tyn y Rhos, Gwyddelwern (e-mail)

The basis of the comments are :

Noise- requires assurance that the noise levels would not impinge on Ty'n Rhos

Objections

Mr. A. Jones, Tyn Llechwedd, Gwyddelwern (e-mail)

The basis of the objections include:

Landscape – limited information on the impact from Ty'n Llechwedd and surrounding area; with prominent view of turbines likely.

EXPIRY DATE OF APPLICATION: 24/04/2011

REASONS FOR DELAY IN DECISION (where applicable):

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

PLANNING ASSESSMENT:

1. THE PROPOSAL:

1.1 Summary of proposals

- 1.1.1 The application seeks full planning permission for the erection of two 50 kW wind turbines, each being a free standing, tubular monopole structure, and associated structures and works, on farmland at Ty'n Celyn farm. Vehicular access to the site is intended via the existing farm track which will be extended temporarily over the development phase.
- 1.1.2 Information submitted indicates that the turbines will be used to produce electricity for the farm, (a dairy farm), with any excess to be exported to the National Grid. Information on the type of turbine proposed suggests a standard rated output of 55kW at 11m/s wind speed, producing a practical energy yield for farms, offices, small businesses and public buildings, where the main aim is to reduce the amount of electricity imported, rather than generate specifically for export to the grid, providing an optimal yield at moderate wind speed sites.
- 1.1.3 Both turbines are intended to be positioned some 250 metres to the south east of the main farm complex, with a separation distance of some 90 metres between the turbines. The turbines include a 36 m tower, with a triple blade rotor diameter of 19.2 m, providing an overall 46 metres ground to blade tip height, with a foundation base measuring 7.0 by 7.0 metres. A diagrammatic representation of the turbines is included at the front of the report.
- 1.1.4 The application submission includes the following documents: briefly:
- Design and Access Statement
Includes details of the wind turbine design; safety features; national and local planning policies; reference to landscape impact assessment; sites of designated importance; ecology and nature; transport and access; benefits of the proposal; noise; shadow flicker; aviation and communications; decommissioning.

The conclusions are that the proposal accords with planning policies; based on typical wind speeds the development will reduce greenhouse emissions by 163 tonnes of Carbon Dioxide equivalent and any small impacts involved are greatly outweighed by the economic and environmental benefits.
 - Acoustic Characterisation of the endurance wind power E – 3120 Wind Turbine.
A general report with accompanying appendices, describes the acoustic character of wind turbine E-3120. It concludes with the actual sound power level noted as 94dB. Dependent on wind

speed; that this power generates a sound level of around 43 dB at a distance of 100m.

- Landscape and Visual Impact Assessment.
The report (dated March 2011) identifies the potential effects on the landscape character and visual amenity of the area based on a 15km radius study area. The conclusions are that significant *landscape* effects relate to higher ground at distances of 5 km and further away, and significant *visual* effects relate to within 1.5km radius at receptors with an immediate and close view of the site and then to more distant views of 5 km and further where the turbines will be part of a wider landscape context.

1.2 Description of site and surroundings

- 1.2.1 The application site lies approximately 2 km to the north of the town of Corwen, and approximately 500 metres south east of the village of Gwyddelwern. The A494 trunk road runs through the village and the valley. There is a line of electricity pylons, approximately 30 metres high, running in an east –west direction, some 100 m to the north of the proposed turbines.
- 1.2.2 The turbines would be sited in two separate pasture fields to the south east of the farm of Tyn Celyn, on a south west facing ridge line, some 240 m above Ordnance Datum. The immediate surroundings include hedge field boundaries and two woodland blocks to the south east.
- 1.2.3 The area around the site comprises of predominantly pasture land, with a limited number of public footpaths. Public footpath No 36 lies approximately 750 metres to the north east of the site, with public footpath No.52 approximately some 500 metres to the south, near the detached property Tyddyn Angharad. These are shown on plans 1 & 2 at the front of the report.
- 1.2.4 The nearest residential property, with the exception of the applicant's residence, is the detached property, Ty'n Y Rhos, approximately 450 metres to the south west.
- 1.2.5 Approximately 1.5 km to the west is the Wern Ddu windfarm, which is within the Clocaenog Forest Strategic Search Area for large scale wind turbines. This consists of four 2.3MW turbines (90 metres in height), allowed on appeal in June 2007.
- 1.2.6 The A5 runs east / west some 2 km to the south.
- 1.2.7 The Denbighshire Landscape Strategy describes the area as comprising two groups of hills of similar character and quality visually separated by the main A494 (T), with distinctive rounded hills in places, with two distinct ridges, with fields and hedgerows. It mentions Caer'r Drewyn, a rounded hill on the south east, which is a nationally important pre- historic hillfort.
- 1.2.8 There are a number of plans at the front of the report. These show in turn:
 - Plan 1 - Location relative to nearby properties
 - Plan 2 – Plan showing site in relation to nearby villages, Strategic Search Area Boundary, Area of Outstanding Beauty / proposed extended Area of Natural Beauty boundary
 - Plan 3 – Site relative to existing/proposed windfarms and boundary of the Clocaenog Forest Strategic Search Area

- Plan 4 – TAN 8 Strategic Search Area
- Plan 5 – Turbine detail

1.3 Relevant planning constraints/considerations

- 1.3.1 In planning policy terms the site lies in the open countryside. It is some 1.5 km to the north west of the current boundary of the Denbighshire Unitary Development Plan 'Area of Outstanding Beauty' (AOB). Members may be aware that the majority of the AOB area has recently been subject to a statutory consultation process as a proposed extension to the Clwydian Range Area of Outstanding Natural Beauty.
- 1.3.2 The easternmost boundary of One of the Welsh Assembly Government's TAN 8 Strategic Search Area (SSA) locations for large scale wind farm developments in Wales lies approximately 2.5 km to the west. This is identified as the 'Clocaenog Forest' SSA. The SSA lies partly within Denbighshire County Council and partly within Conwy CBC.
- 1.3.3 As noted above plans accompanying this report show the location of the application site, the current Area of Outstanding Beauty and the Strategic Search Area.
- 1.3.4 A number of open access and common land areas lie within a 10 km radius of the site.

1.4 Relevant planning history

- 1.4.1 There is no planning history of direct relevance to this planning application.

1.5 Developments/changes since the original submission

- 1.5.1 A Landscape Visual Impact Assessment was submitted following a direction for this information, together with an addendum document covering the relevance of Planning Policy Wales (revised version 2011).
- 1.5.2 Clarification has been sought in relation to the application description and details on plans. In respect of data and evidence, the agent has confirmed that the locations for the turbines were chosen on the basis that they were not near an independent dwelling; appropriate distances from hedges; the conditions of the ground were suitable and a good location for wind optimisation. Additionally, it is stated that no noise data is available, but the turbine produces 35Db at a distance of 285 metres and the nearest property is 330 metres away, which demonstrates there would be no noise issue. In respect of the submitted details, clarification has been provided for the foundation base plan. The initial details related to a 24m turbine.
- 1.5.3 Additional clarification has been sought on wind speed data and output, and the likely level of consumption on the farm. The agents has confirmed that; *'on average the farm currently consumes 75,000kWh of energy a year and on average one turbine estimates to produce approximately 97,000kWh of energy in a year. Please note this is assuming an average throughout the year and could be less when there is less wind. Surplus energy produced which is not required for the farm will be exported to the grid and we have a grid connection offer ready to be accepted should planning consent be granted.'* In relation to wind speed, the agent has included a 'power predictor' information page, which indicates the result of site monitoring over a period of 7 months. This indicates a wind speed of 4.5 m/s at 12 metres height and 6.0 m/s at 37metres. The agent also confirms that; *the NOABL data suggests that the proposed site will have an average wind speed of 5.05m/s at 37m agl. It is key to note that NOABL is a computer modelled*

average windspeed, based on 1km grid squares. As such it is recognised as being up to 30% inaccurate.

Mr Roberts has deployed a Power Predictor wind anemometer, which has been used to measure on-site wind conditions for the past 7 months. The anemometer has been deployed at 12m agl, and based on the recognised modelling tools utilised by Better Generation, the 4.7m/s at 12m agl has been analysed to give the 6.0m/s at 37m agl based on the actual on-site results.'

- 1.5.4 The agent has confirmed that the anemometer results have been taken from the location of proposed turbine 2.

1.6 Other relevant background information

- 1.6.1 The supporting information notes that pre- application advice was sought in regard to a single wind turbine (WEZ250Kw 49 metre hub height) with a blade diameter of 30 metres. Pre- application information indicated that the existing farm, a dairy business, uses 75,000 kWh of electricity per annum.
- 1.6.2 A formal Environmental Impact Assessment (EIA) screening opinion was submitted prior to the current planning application and related to two turbines, with a ground to blade tip height of 46.6m.
- 1.6.3 The Landscape Visual Impact Assessment Report post dates the planning application submission date.
- 1.6.4 The Department of Energy and Climate Change windspeed database indicates the following windspeed information, based on a 1 km grid square for the area;

Above ground level	Wind speed (in m/s)
45m	4.7
25m	3.9
10m	3.2

- 1.6.5 Members may be aware of the Council's draft Local Development Plan policy approach for wind turbine developments and other renewable energy developments, following a report to Full Council on 20 May 2011. The interim policy approach is attached as an appendix to the report. The policy carries no weight at this point in the progression of the Local Development Plan.
- 1.6.6 The Local Planning Authority has recently experienced an increase in the number of both pre- application enquiries and formal planning applications for wind energy developments. Members may recall dealing with two, separate planning applications relating to single 55kW wind turbines on land within the SSA, near Cyffylliog. These were 35 metre high turbines, and were granted at the 5 December 2010 Planning Committee
- 1.6.7 Plan 3 at the front of the report includes details of other wind turbine developments developed/ proposed/ approved in the area. RWE n power are intending to submit an application for 32 turbines on land within the Clocaenog Forest, and Scottish Power are proposing a 25 turbine windfarm at Mynydd Mynyllod west of Llandrillo, as an extension to the existing Braich Ddu 3 turbine site. Both proposals will be submitted to the Infrastructure Planning Commission for determination.

1.6.8 For Members information, The Wern Ddu windfarm proposals were originally refused permission by Denbighshire on the following grounds in 2006:

1. The development is considered likely to result in significant harm to the character and quality of an attractive rural landscape and to contribute to an unacceptable Cumulative and Sequential visual impact with other existing, approved, and proposed wind turbine developments in the area; contrary to policies MEW 8, MEW 10, GEN 6, ENV 1, ENV 2, and STRAT 7 of the Denbighshire Unitary Development Plan which seek to protect and enhance the landscape character of the countryside. The grant of permission would also be premature to decisions on draft TAN 8 in terms of the physical extent of the future Denbigh Moors Strategic Search Area, the completion of a systematic evaluation of the Cumulative Impact of developments in and around that Search Area, and development of up to date policies in the development plan based on an agreed national methodology of mapping and landscape appraisal.

2. The development is considered likely to have a significant adverse effect on the residential amenities of the occupiers of the property Bryn Ffynnon, as a consequence of the overpowering physical impact of turbines 1,2 and 3, contrary to policy MEW 8, MEW 10 and GEN 6 of the Denbighshire Unitary Development Plan.

The applications at Wern Ddu raised a number of landscape and residential impact issues. Ultimately, the Inspector concluded that the ‘*harm that would result from these proposals would be outweighed by the benefits of the generation of renewable energy and concluded that ‘the effect of the proposals on the character and appearance of the area and the effect on the amenity of the occupiers of neighbouring dwellings would not be unacceptably harmful and would be outweighed by the benefits having regard to the objectives of the appropriate local and national planning policies.’* The decision was clearly made on the basis that the site was within the Strategic Search Area and followed weighing landscape impact versus the generation of renewable energy.

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)
Strategic Policies ; 1 General; 2 Energy ; 5 Design; 6 Location; 7 Environment

Detailed policies:

Policy GEN 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 6 Species Protection

Policy MEW 8 Renewable Energy

Policy MEW 10 Wind Power

GOVERNMENT GUIDANCE

PLANNING POLICY WALES (PPW February 2011)

TAN 8 Planning for Renewable Energy (2005)
 TAN 5 Nature Conservation and Planning (2009)
 TAN 6 Planning for Sustainable Rural Communities (2010)
 TAN 11 Noise (1997)
 TAN 12 Design

Practice Guidance

Planning Implications of Renewable and Low Carbon Energy February 2011

Other Denbighshire County Council Documents

Denbighshire Landscape Strategy 2003
 Denbighshire Local Development Plan
 Denbighshire Biodiversity Action Plan

Other background documents

RSPB Statement of Environmental Masterplanning Principles Clocaenog Forest SSA
 – Stakeholder Group document involving DCC

4. MAIN PLANNING CONSIDERATIONS:

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

- 4.1.1 Principle – national and local planning policies
- 4.1.2 Landscape and Visual and landscape impact, including cumulative effects of/with other wind turbines.
- 4.1.3 Nature conservation
- 4.1.4 Noise and amenity

4.2 In relation to the main planning considerations:

4.2.1 Principle

This part of the report sets out the national and local planning policy approach towards wind energy developments, including relevant technical guidance and considerations to be given when dealing with planning applications.

Welsh Assembly Government policy and guidance - Planning Policy Wales (PPW) 2011

The 2011 revised PPW reaffirms UK and national level priorities, with energy production remaining a key policy, based on maximising the use of renewable resources. It refers to the Assembly Government's Energy Policy Statement 2010, which identifies Wales' sustainable renewable energy potential, with on shore wind energy as a key part of the Assembly's future energy production, with a potential of 2GW by 2015/17. PPW seeks to promote the generation and use of energy from renewables and low carbon energy sources at a range of scales.

Reference is made in Planning Policy Wales to TAN 8's identification of areas for large scale onshore wind energy development at an all Wales level, with the TAN 8 Strategic Search Areas being appropriate for 'large scale' wind farm development. The main difference with the revised PPW edition is the reference to renewable and low carbon energy developments at different scales for planning purposes:

Scale of development	Threshold (Electricity and heat)
Strategic	Over 25 MW for onshore wind and over 50 MW for all other technologies
Local Authority - Wide	Between 5MW and 25 MW for shore wind and between 5 MW and 50MW for all other technologies
Sub local authority	Between 50 kW and 5MW
Micro	Below 50kW

Based on the above, the current proposals fall into the 'Sub local authority' category.

On shore developments of less than 50MW are identified as a key area of responsibility of the planning system. Those above 50 mw are currently dealt with through the Infrastructure Planning Commission process.

Planning Policy Wales refers to 'Feed in Tariffs', which provide financial support for projects in the sub local authority category i.e. the system through which energy suppliers make regular payments to customers who generate surplus electricity to the grid. The upper limit of Feed in Tariffs is currently schemes of 5MW.

In relation to Development Plans, PPW highlights that local planning authorities should undertake an assessment of the potential of all renewable energy resources and low carbon energy resources within the area, as this would provide an evidence base for a number of considerations, including the cumulative effects of developments. It mentions that SSA's could be refined and policies outside SSA's could be included, and sub local authority scale projects should be assessed against a set of local criteria.

In assessing planning applications, PPW outlines a number of factors to consider, including the contribution a proposal will play in meeting identified targets and the wider environmental, social and economic benefits. It also advises that developers should seek to avoid or where possible minimise adverse impacts through careful consideration of location, scale, design and other measures, and consider the impact on existing or proposed renewable and low carbon developments and sources.

In relation to priorities for rural areas, it highlights that, in line with sustainability principles, the landscape must be conserved and wherever possible enhanced, balancing the economic, social and recreational need of local communities and visitors.

There is also general support for the principles of farm diversification in Planning Policy Wales, with TAN 6 providing further guidance on the role of the planning system in supporting the delivery of sustainable rural communities, encouraging farmers to consider farm diversification as an alternative means of supporting a farm enterprise, and mentions renewable energy projects as a possibility in this respect.

TAN 5 and TAN 11 provide advice on positive planning for nature conservation with a precautionary approach to be taken towards protected species, and control over noise-generating development and unacceptable noise disturbance. TAN 12 Design aims to deliver the WAG desire of good design in the built and natural environment, advising that appraising the site context is important in achieving good design.

- Technical Advice Note 8 (TAN 8), 2005

TAN 8 remains a key document in respect of consideration of wind turbine proposals. It introduced the principle of spatial planning for the delivery of energy policy, and the establishment of 7 Strategic Search Areas (SSA'S) in Wales. It set out the Assembly's target for production of renewable energy by 2020 and the requirements for 800MW of installed capacity from onshore wind sources, to be concentrated in the SSA'S, by way of large scale turbine (25MW +) development. The Clocaenog Forest is identified as one of these SSA's, with an indicative capacity of 140MW.

Paragraph 2.10 of TAN 8 mentions that local authorities are encouraged to take an active approach in developing local policies for SSA's, 'in order to ensure best outcomes', including 'safeguarding wind farm sites', noting 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.

In relation to wind energy developments in **other areas** i.e. outside SSA's, TAN 8 indicates Local authorities are expected to encourage smaller community based wind farm schemes, (generally less than 5MW schemes) , but with the onus resting with the Local Planning Authorities to define ' local criteria' and what is meant by 'small scale' and community based wind power schemes. The TAN refers(para. 2.13) to the need for Local Authorities to consider the cumulative impact of smaller schemes and mentions the balance to be struck between the desirability of renewable energy and landscape protection, to avoid wind turbines being spread across the whole of a county.

Annex D of TAN 8 outlines how local planning authorities might consider SSA's in more detail, and allows for 'minor adjustments' to SSA boundaries when translated into their local planning documents.

-Practice Guidance: Planning Implications of Renewable and Low Carbon Energy February 2011

The Guidance advises that, at the time of publication, the number of operational wind farms in Wales totalled 13, representing a total of 381MW installed capacity. It sets out how local planning authorities can identify the planning implications for renewable and low carbon development, and in relation to wind energy a total of 13 issues are listed, with relevant assessments to be undertaken. It advises that the installation of individual wind turbines tend to fall within four size bands, with potential outputs in terms of the number of homes supplied:

Scale - illustration only	Typical turbine rating	Typical turbine height (to blade tip)	Potential no of homes supplied.
Micro (less than 2.5kw)	2.5 kW	11m	0.7
Small (1.5- 50kw)	20 kw	20m	6
Medium (50 kw – 750kw)	500 kw	65m	205
Large (above 750Kw)	2.5 MW	Up to 135m	1,536

The Practice Guidance indicates that individual large and medium scale turbines can be deployed as single turbines, but are more often developed in groups 'to form part of a larger planning application in the form of a large scale wind farms.'

It also advises that 'for a typical upland site in the UK, a turbine is likely to be operational for around 70-85% of the time.' (para.3.1.11)

Chapter 15 relates to cumulative effects, highlighting that these must also be taken into account. It defines cumulative effect as ' where more than one renewable energy scheme is proposed by one or more developers or where a single scheme is proposed in an area with existing schemes, the combined effect of all schemes taken together is known as the 'cumulative effect'. The Guidance mentions that potential cumulative effects of renewable energy developments could involve a range of factors, including impacts on landscape and visual amenity; viability of bird populations, ecological features , and noise levels. The Tyn y Celyn application falls within the 'Medium' scale category in this practice document.

Denbighshire Unitary Development Plan Policies

The strategic policies of the Unitary Plan promote a sustainable approach to development, with STRAT 2 supporting the principle of 'clean and renewable energy sources' provided these are compatible with other planning policies of the Plan. STRAT 6 controls new development to defined development boundaries, with development in the open countryside limited to exceptional circumstances. STRAT 5 highlights that new development will be required to comply with a number of design criteria, including the need to protect the character and amenity of the locality.

In relation to detailed policies. Policy GEN 3 restricts development in the open countryside, other than for exceptions, including development in connection with agriculture and diversification of the rural economy, provided that there is no unacceptable impact on the social, natural and built environment. Policy GEN 6 refers to general development control requirements which apply to most developments. The criteria of most relevance are; 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, requiring proposals 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 avoid development which would unacceptably harm protected species. Policy ENV 2 precludes against development which would either unacceptably harm the views in and out of the AONB or the landscape, or prejudice future designation as an extension to the AONB.

MEW 8 supports the principle of development which captures energy from naturally sustainable sources, provided that 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 main tests of relevance are considered to be:

- 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.

The justification to the policy highlights that the Council will seek to ensure that cumulative impact, especially cumulative visual impact, will be minimised, and it requires an assessment of the impact of such proposals with a study of at least a 15 Kilometre radius 'zone of visibility'. It indicates that this is particularly important where zones of visibility overlap with existing or approved developments.

The Planning Policy Manger's response refers to the Council's interim policy in relation to wind turbine developments. The approach reinforces support for the principle of wind energy developments, subject to satisfying normal environmental impacts, including cumulative effects. However, these policies carry no weight at this stage. It is also understood that the Council has undertaken a first stage approach in producing a County wide renewable energy assessment, with a report to be finalised in the summer of 2011.

Summary - Overall context for the current application

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 scale of development may be acceptable. It offers no specific guidance on how to deal with issues relevant to 'community' turbine developments and the cumulative impact/ spread of turbines throughout the county. Policies proposed in the draft Local Development Plan may be of some assistance in developing a strategy for handling 'one off' turbine applications, but as noted above these policies carry no weight at this stage and may be updated in the deposit version of the Plan.

The main thrust of WAG policy and guidance is to support the development of renewables, whilst having regard to impacts on the character of rural areas. A balanced approach has to be taken in securing the economic, social and recreational need of local communities and visitors. Planning Policy Wales 2011 categorises the current proposal as a 'Sub local authority' scale proposal. The site is positioned some 2.5 km outside the Clocaenog Strategic Search Area. TAN 8 highlights that whilst encouragement is given to encouraging smaller, community based wind farm schemes, (generally less than 5MW schemes) outside SSA's, Local Authorities are obliged to consider the cumulative impact of proposals. The recent Practice Guidance highlights that cumulative effects must be taken into account.

In light of the above, Officers would suggest that, in the absence of any up to date and specific local level guidance on wind energy developments, including for single or two 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 (WAG policy, TAN's, etc) indicate otherwise. The following sections of the report therefore weigh the merits of the application against the relevant planning policies, and then in respect of the other material considerations. It is respectfully suggested that issues of environmental capacity are key considerations here.

4.2.2 Impact on landscape and visual amenity, including cumulative implications.

Policy and Guidance

The specific requirements in the Unitary Development Plan policies in relation to the visual and landscape impacts include the normal planning considerations within policy GEN 6 and the specific wind energy policy MEW 10. GEN 6 requires considerations of ii) 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 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.

The Denbighshire Landscape Strategy is based on the LANDMAP study, which provides useful background material on the essential characteristics and quality of the landscape of the County. The site lies within a Landscape Character Area known as the 'Llanelidan and Gwyddelwern Hills', with the Visual and Sensory evaluation is identified as 'high'. The accompanying management objectives include maintaining open character and the high visual quality of hill tops and enhancing and diversifying landscape by increasing woodland cover and encouraging woodland planting.

PPW and TAN 8 are essentially strategic level policy statements and contain limited specific guidance on the detailed consideration of landscape and visual impact in respect of individual turbine planning applications. However, Annex D TAN 8 (para. 8.2- 8.3) details an approach when assessing cumulative effects, in mentioning that there are implicit objectives in TAN 8 in respect of assessing landscape change;

- To maintain the integrity and quality of the landscapes within the National Park/AONBs i.e. no change in landscape character for wind turbine development
- In the rest of Wales, outside the SSAs, to maintain landscape character i.e. 'no significant change in landscape character from wind turbine development'
- Within (and immediately adjacent) to the SSAs , to accept landscape change i.e. ' a significant change in landscape character from wind turbine development'. 'Immediately adjacent' is not defined in TAN 8.

The recent WAG Practice Guidance Note outlines four potential impacts to consider with an application:

- Direct landscape impacts on the site
- Indirect impacts on the landscape character of the surrounding area
- Direct impacts on views
- Cumulative impacts in combination with other existing or proposed wind energy developments on landscape character and views.

For each of the factors, possible mitigation measures are also identified.

The Guidance defines '**cumulative effects**' as '*where more than one renewable energy scheme is proposed or where a single scheme is proposed in an area with existing schemes, the combined effect of all schemes taken together is known as the 'cumulative effect'. Although it is a fundamental principle of the planning system that each planning application is determined on its individual merits, cumulative effects must also be taken into account. (para.15.1).....The issue of cumulative impacts can be complex. However, there may be circumstances when a planning authority is willing to accept cumulative impacts where, for example, this means that other, more sensitive areas can be protected from development'* (para 15.6)

TAN 12 Design mentions that that LANDMAP is one method of landscape assessment. It highlights that it is particularly important that proposals to amend or create new landscape are not considered as an afterthought and that the long term impact of development on the landscape is fully understood.

Detailed Matters of Relevance to the Submission

The Design and Access Statement briefly refers to the existing Wern Ddu turbines and a potential Scottish Power proposal to the south of Corwen. There is no reference to the proximity of the Strategic Search Area.

The Countryside Council for Wales response to the Ty'n Celyn proposal obliges the Local Planning Authority to consider the relevant planning policy implications at Ty'n Celyn. Consultation responses from the AONB Joint Advisory Committee and the Council's Landscape Consultant outline a number of landscape concerns over the proposal. These are the effect on the local landscape; the implications on the AOB/AONB, cumulative and precedent issues, in relation to existing and proposed turbine developments, including those in the SSA.

The Landscape Consultant's assessment highlights a number of matters relevant to the landscape/visual impact, including the existing landscape and visual context of the locality; the landscape characterisation for the area; and assessment of impacts upon landscape and views. Briefly, the assessment notes the particularly high value placed on areas of landscape within close proximity to the proposed development;

that a strategic landscape understanding, regarding site options and scale of wind turbines is required; that it is unclear how the assessed value of landscape sensitivity, was derived at; and he concurs with the broad assessment that within 1km of the site lies landscape of Medium sensitivity, and within 15km lies landscape of High sensitivity. The consultant concurs with the submitted LVI conclusion, i.e. the development would lead to significant adverse landscape and visual impacts upon a high number of sensitive receptors. The response details a number of issues and refers to additional sensitive receptors including views from Caer Drewyn, bungalows at Garreg Lwyd (Gwyddelwern), from the cemetery at Clawdd Poncen; from Glyndwr's Seat above Corwen, and an assessment in terms of the relationship with the Wern Ddu wind farm.

In summary, the landscape Consultant concludes -

- Within the context of the SSA, it is very important to maintain the current separation distance to help conserve the special qualities of the landscape at Caer Drewyn hillfort. The combination of the proposed turbines and development at Wern Ddu would change the visual balance and prominence of wind development within the locality with an adverse cumulative visual impact upon Caer Drewyn.
- With some 30 bungalows in this Garreg Lwyd cul-de-sac at the southern end of Gwyddelwern, located approximately 400m away and immediately below the hill on which the turbines would be sited), the turbines in their elevated position on the skyline, of the scale proposed and at only 400m away would have an overbearing presence and dominance affecting residential amenity.
- The prominence and movement from the turbines would be very intrusive and affect the tranquillity of the cemetery.
- Glyndwr's Seat site has cultural and recreational significance, with a viewing platform providing panoramic scenic views over the Dee Valley and of the site 2.5km to the north. The 4 existing wind turbines of the Wern Ddu development on Mynydd Rhyd Ddu are prominent on the skyline. The proposed turbines would bring wind development into the valley and breach what appears to be the current logical association and balance of turbines with the simple unenclosed upland ridge of Mynydd Rhyd Ddu on the edge of the SSA. The proposed turbines would also appear to overlap slightly within this view increasing clutter, prominence and visual intrusion.

The agents have been made aware of the views of the CCW, the AONB Joint Advisory Committee and the Council's Landscape Consultant. In response they have indicated they have produced the LVI in accordance with their brief and no further comments have been offered.

Conclusions

With regard to the assessment of the Council's 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 two 46 metre turbines will impact on the local landscape, and may contribute to a cumulative impact with existing larger turbines in the area, including 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 consideration of local landscape issues, although as outlined previously, acknowledges that the balance has to be struck when there are likely adverse landscape/visual impacts.

In concluding on the issue of landscape and visual impact, on the basis of the comments of the Landscape Consultant, Officers consider there would be a clearly negative impact from two 46 metre turbines in this location on a ridge physically divorced from the SSA. 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 Ty'n y Celyn site may be viewed from some viewpoints in that context, there are recognisable impacts to address over such 'one off' proposals for turbines of this height extending the 'windfarm landscape' of the SSA further out into open tracts of high quality landscape in the County, divorced from the Strategic Search Area.

In the absence of a clear County or WAG policy or strategy to deal with the principle of spreading 'one off' non-domestic turbines of this scale out from the SSA, Officers believe some caution has to be extended at this point in respect of supporting such proposals, based on the landscape/visual impact, and the setting of precedent opening larger parts of the County up to such turbine development.

4.2.3 Nature conservation

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 STRAT 1 and 7; ENV 1, ENV 6, 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.

Specific to turbine development is MEW 10 (x); which requires no unacceptable effect on nature conservation interests.

The submission indicates that no features of wildlife interest have been identified in the vicinity of the site and no adjacent sites are designated of ecological interest. Reference is made to guidance in respect of birds and bats, noting that the site is not within 50m of any trees and no bat evidence exists.

As both the Countryside Council for Wales and the County have expressed no objections to the proposal, it is reasonable to conclude that the proposal would not unacceptably harm any protected species or surrounding wildlife.

The proposal is therefore considered to comply with the requirements of the relevant national and local planning policies and guidance in respect of nature conservation impacts.

4.2.4 Noise and amenity

Both policy GEN 6, criteria v) and policy MEW 10, criteria iv) and v) seek to ensure that proposals for wind turbines do not harm the residential amenity of the locality, with particular consideration to be given to noise and shadow flicker issues.

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 that in some circumstances it may be acceptable to allow noise-generating activities near to noise sensitive development

The submission notes the existence of an independent residential property within 330 metres of the turbines and that the 35dB predicted noise level generated by the proposed turbines would not exceed the established ETSU limits. (These being the methodology used elsewhere when dealing with turbine proposals)

The submission also includes reference to the potential for shadow flicker. and suggests that in this case the separation distances between the turbines and all neighbouring properties are in excess of the guidance.

The Public Protection Officer has had regard to the details submitted, including the general information on the type of turbine proposed, site specific issues, and the distances involved. It is suggested that conditions can be imposed to control noise levels to ensure the noise generated by the wind turbines would not have unacceptable impact upon the amenity of neighbouring dwellings. One of the conditions suggested is that noise from the turbines shall not exceed 35dB_{LA90,10min} for wind speeds of up to 10m/s at 10m height when measured freefield at the nearest noise sensitive receptor in accordance with ETSU-R-97.

The size and sitting of the turbines in relation to the neighbouring dwelling is such that they are unlikely to result in shadow flicker. This matter can however be covered by condition in the event of a permission being granted.

Subject to the inclusion of conditions, it is reasonable to conclude that the proposal would comply with policy GEN 6 part v) and policy MEW 10, criteria iv) and v)

5. SUMMARY AND CONCLUSIONS:

- 5.1 The report sets out a number of considerations officers suggest are relevant to the determination of the application.
- 5.2 As with a number of wind energy developments, inevitably, there will be factors which weigh against and in favour of grant of permission. The particular application is for two 46 metre high turbines, and this raises specific issues of principle, precedent and negative landscape/visual impact which require careful deliberation.
- 5.3 The requirement of S.54A of the Planning Act is that determination of an application shall be made in accordance with the Development Plan (here the Unitary Development Plan), unless material considerations indicate otherwise. Proposals which are not in accordance with the policies of the Development Plan should not be allowed unless material considerations justify the grant of planning permission. The balancing exercise is to set the harm which may arise from the development against the material considerations which are relevant to a proposal to generate electricity from a renewable source.
- 5.4 As stated earlier, in relation to priorities for rural areas, Planning Policy Wales highlights that, in line with sustainability principles, the landscape must be conserved and wherever possible enhanced, and this includes balancing the economic, social and recreational need of local communities and visitors.
- 5.5 Current Unitary Development Plan policy predates WAG policy and guidance in TAN 8 and PPW. The Unitary Plan 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, adopting a locational approach to large-scale turbine developments, but gives limited guidance for the handling of one off single turbine applications. There is more recent WAG guidance on the scales of turbine development, with the current proposal falling within the 'sub local authority' category in Planning Policy Wales, and being a 'medium sized' scheme in the 2011 Practice Guidance document.
- 5.6 In the absence of any local or national strategy for the handling of single or two 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.

- 5.7 In terms of general principle, Officers acknowledge there is considerable national support for the development of suitable renewable schemes, and that wind 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 Ty'n Celyn. The difficulty remains however, that in the absence of a clear strategy for handling one off applications for wind turbines of 46 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.
- 5.8 In this instance, outlined in section 4.2.2 of this report, there are detailed and strong objections from the Council's Landscape Consultant on a number of direct and indirect, Landscape and Visual impacts, including cumulative effects.
- 5.9 Having regard to the contents of the report, and in the particular circumstances, therefore, Officers have reservations over the landscape/ visual impact of a 'one off' proposal for two 46 metre turbines on land 2.5 km outside the Strategic Search Area. The reservations are in terms of the specific impacts on the AOB/AONB, cumulative impacts, and impact on residential visual amenity; and more generally in terms of principle in relation to the spread of turbines over the rest of the County.
- 5.10 It is respectfully questioned whether the general support for renewable energy schemes in Welsh Assembly and Unitary Plan policies outweigh the concerns over the landscape and amenity impact of the development, and the setting of a clear precedent. Overall, Officers conclude that the national need for renewable energy should not override the consideration to be given to significant landscape and visual harm which would arise in this high quality landscape, or the impact on nearby residential properties. In these circumstances, officers do not consider the balance is struck in favour of the development, and the recommendation is therefore to refuse permission.

RECOMMENDATION: - REFUSE for the following reasons:-

1. The Local Planning Authority consider that, on the basis of the information submitted, and in the absence of clear national or local strategy and criteria to determine the acceptability of one-off wind turbine proposals of this nature, the erection of two 46 metre high turbines in this high quality attractive rural landscape, located on the periphery of the Area of Outstanding Beauty, and outside the TAN 8 Clocaenog Forest Strategic Search Area, would have an unacceptable landscape and visual impact, and contribute to an unacceptable cumulative visual and landscape impact with other existing, approved, and proposed wind turbine developments in and around the Strategic Search Area, spreading the windfarm landscape further into the County. The potential benefits of the wind turbine development in generating renewable energy are not considered to outweigh the national and local policy objectives in relation to landscape protection, and the proposal is therefore considered to be contrary to policies MEW 8, MEW 10, GEN 6, ENV 1, ENV 2, and STRAT 7 of the Denbighshire Unitary Development Plan which seek to protect and enhance the landscape character of the County's countryside.
2. The Local Planning Authority consider, as a consequence of their scale and location, that the turbines would have an overpowering and adverse impact on the visual amenities currently enjoyed by the occupiers of nearby residential properties, including in the vicinity of the Garreg Lwyd housing development, and would therefore be contrary to policies MEW 8, MEW 10 and GEN 6 of the Denbighshire Unitary Development Plan.

NOTES TO APPLICANT: none

ITEM NO:	2
WARD NO:	Tremeirchion
APPLICATION NO:	41/2010/1177/ PF
PROPOSAL:	Erection of a detached building to provide classroom, office, kitchen and WC and installation of new septic tank; and retention of use for woodland based education and training centre for up to 200 days per year and 2 no. forest school structures in woodland known as The Warren
LOCATION:	Warren Woods Ltd. The Warren Mold Road Bodfari Denbigh
APPLICANT:	Mr Rod Waterfield Warren Woods Limited
CONSTRAINTS:	Public Right Of Way AONB
PUBLICITY UNDERTAKEN:	Site Notice - No Press Notice - No Neighbour letters - Yes

CONSULTATION RESPONSES:**BODFARI COMMUNITY COUNCIL**

"Whilst the Community Council are supportive of local businesses in the area it was decided that on balance the community council had to object to the application. Whilst the community council are supportive in principle of the need to diversify, the site is well known within the vicinity and there are already various activities on this site which have not been properly explained in the application and the community council wanted to ensure that full consideration was given to the surrounding properties.

The following comments were noted:

When Mr Waterfield applied to increase the number of timber loads from 8 to 12 in 2008, he was refused and part of that refusal was on the basis that it would increase the number of traffic movements. It was refused on the grounds below. The application states that there will be no increase in traffic but it would seem logical that there would be more traffic if more courses were run from the site. The application states that they are in the process of registering with Argored Cymru so that they can deliver OCNs in a range of subjects.

There is concern whether the surrounding highways network could not support the traffic accessing the site. The application also states that there will be no increase in parking spaces.

Policy GEN 6 states that development which is in accordance with the plan's other policies and proposals will be permitted, provided that it:

vii) does not have an unacceptable effect on the local highway network as a result of congestion, danger and nuisance arising from traffic generated and incorporates traffic management / calming measures where necessary and appropriate;

The previous application was refused as it was also felt that it would result in an unacceptable increase in the activity at and around the site which was considered close to the residential property Glascoed. It was felt that under Gen 6 (criteria v) that this would have an adverse impact on the level of amenity for the occupiers. The siting of

this development would surely have the same impact as it is along the side of the site adjacent to Glascoed.

As stated in the application, the existing facilities are located within the existing agricultural building which is very large. They are located in one small corner of this building. Would it be possible to locate a larger, purpose designed building within the existing structure to avoid the need for a new detached building? This option would appear to satisfy the need to replace existing obsolete accommodation (quote from the application) without creating a new building with a footprint of 72 square metres. It could also not be considered to have any effect that could be contrary to env 2.

Another building on this site would have a detrimental impact on the AONB as it is already a diverse site running a variety of businesses/activities which is not fully noted on the application.

Policy ENV 2 states that development affecting the area of outstanding natural beauty will only be permitted where it would not detract from the character and appearance of the AONB.

Policy EMP 11 detailed below is also quoted in the application. Would a building perhaps within or attached to one of the existing buildings, fit better with this aspect of policy?

Policy EMP 11 allows for the expansion, extension, subdivision and intensification of existing employment sites and premises provided the proposal does not result in the over-development of the site; the proposal does not involve a non-conforming use and the development relates physically to existing built up areas and does not result in intensive, ribbon, or isolated development, or a disjointed and fragmented development pattern.

The council would also like to state that if planning is approved that a condition of no residency is attached to the application, to ensure that in future courses do not become residential”.

AREA OF OUTSTANDING NATURAL BEAUTY JOINT ADVISORY COMMITTEE (AONB JAC)

“The JAC is supportive of the development of traditional woodland skills and the principle of bringing woodlands into positive management, and acknowledges the contribution made to the development of sustainable tourism in the AONB by Warren Woods Ltd.

The JAC has previously expressed concerns about the appropriateness of this site and the surrounding highway network for a large scale operation which would have a detrimental impact on the AONB, but it is noted that the application documents state that the new building will not result in an intensification of current use or generate additional traffic and, provided the planning authority is satisfied on this point, the JAC has no observations to make on the principle of development.

Given the impermanent nature of the building and proposed use the JAC would recommend that if permission is granted this should be for a temporary period of say 5-10 years to allow the situation to be kept under review. If the use classes during this period the site should be restored to its open condition”.

DENBIGHSHIRE COUNTY COUNCIL CONSULTEES -HEAD OF TRANSPORT AND INFRASTRUCTURE

No objection, subject to conditions relating to parking and note to Applicant regarding tree works.

RESPONSE TO PUBLICITY (* denotes responses to original consultation):

Letters of representation received (in objection) from:
Mr & Mrs Collins, Glascoed, Off Mold Road, Bodfari
Glenn & Lisa Cavill, Glascoed, Pen y Maes Road, Bodfari
Angela Collins, Y Berllan Bach, Trefnant, Denbigh*

R Williams Llety'r Eos Bodfari
I R Allnuttt, Pentre Uchaf Bodfari*
DJ Watkin, Trem y Foel, Lixwm
R Bell, Lodge Farm, Bodfari*
Mrs E Jepps, Top Lodge, Tremeirchion*

Summary of planning based representations:
Highways safety- increased use of surrounding highway network/ narrow approach road
Residential amenity- increased activity owing to increase in use of site
Compliance/monitoring- facility may be used as overnight accommodation

Letter of representation received (in support) from:
David Scrutton, Clwydian Counties Tourism Group, Hafan Deg, Maeshafn, Mold*

Summary of planning based representations:
Sustainable tourism- development is an asset and should be encouraged.

EXPIRY DATE OF APPLICATION: 10/07/2011

REASONS FOR DELAY IN DECISION (where applicable):

- protracted negotiations resulting in amended plans
- re-consultations necessary on amended plans and

PLANNING ASSESSMENT:

1. THE PROPOSAL:

1.1 Summary of proposals

- 1.1.1 The application seeks full planning permission for various developments associated with an existing woodland business at Warren Woods, in Bodfari. The proposal includes the following elements:
- Erection of a detached building to provide a classroom, office, kitchen and WC
 - Installation of new septic tank
 - Continuation of use for woodland based education and training centre for up to 200 days per year
 - Retention of 2 'forest school' structures in woodland known as The Warren
- 1.1.2 The classroom building would be sited on a hard-standing to the north of the existing group of buildings on site. Measuring 12 metres by 6 metres, it would have an overall height of 4 metres. It would be a timber frame construction, clad in Larch or Douglas fir, the northern roof plane would have a sedum finish and the southern roof plane would be utilised for the siting of solar panels.
- 1.1.3 The septic tank and soakaway would be to the north of the buildings, to serve the proposed classroom. The basic layout of the main part of the site is shown on the plan at the front of the report.
- 1.1.4 As the original use as a woodland based education and training centre has intensified, over time and the classroom is proposed to facilitate this use, it has been necessary to seek regularisation of this activity as part of the planning application. It is understood the woodland based education and training centre runs approximately 70 courses per year, over a maximum of 200 days. The education and training centre is used by a range of people from school children to families, and attendees sometimes stay overnight at a caravan club site adjacent to the site.

1.1.5 Retention of existing forest school structures is also sought. These structures are located in the woodland to the east of the site. The shelters are rudimentary structures measuring 5 metres by 5 metres with an overall height of 2.5 metres and 5 metres respectively.

1.1.6 The application is supported by the following documents:

- Design and Access Statement, which refers to the relevant planning policies, site context and constraints, environmental sustainability, character, movement, community safety and access.

This document provides a background for the application and the educational aspects of use. The Applicant is Warren Woods Limited, a 'social enterprise' company founded in March 2010. 'Social enterprises' are businesses trading for social and environmental purposes, and their profits are reinvested to sustain and further their mission for positive change.

The range of courses provided at the woodland based education and training centre, range from hedge laying to green woodwork, chainsaw use and bushcraft. The building is primarily required to accommodate, where necessary, the theoretical element of these courses, providing classroom space, an office, kitchen area and WC facilities. There is some existing accommodation within one of the buildings; however it is substandard, owing to a lack of space and natural light, and no wheelchair access.

- Article from AONB website, promoting the 'Woodland Skills Centre'.
- Details of the Applicants intentions to carry out 'tree and hedge work' at the junction with A541.

- Additional Information submitted to clarify the extent of the existing use. At present approximately 70 education and training courses are run at the woodland based education and training centre.

The courses are attended by a range of individuals from school children, to single adults and families.

The number of individuals attending courses varies; most craft courses have 4-5 attendees. Attendees occasionally camp on the site (for less than 28 days per year) or on the adjacent caravan club site. Vehicle movements for the education and training use would be up to 10 cars to and from the site on a course day, as well as the traffic movements of up to 3 staff and other deliveries permitted by the 2002 permission.

1.2 Description of site and surroundings

1.2.1 Warren Woods is located in the open countryside some 1.5km to the north east of the village of Bodfari. Access is via a Class C County road which links to the A541 from two junctions 0.5 km apart (see plan at the front of the report).

1.2.2 The site comprises an open area of land to the north which is used as a caravan club site, and a group of buildings to the south, adjacent to woodland to the east. The site has been partly hard-cored and there is an earth bund on the lower northern side. There is some landscaping around the boundaries of the site and to the north of the group of buildings.

1.2.3 The nearest properties to the site are Glascoed to the north, Argoed House to the north west, and Warren House to the south (see plan).

1.2.4 In planning terms the use of site is mixed, comprising land used for woodland based education and training, forestry and a landscape contractors business.

1.3 Relevant planning constraints/considerations

1.3.1 The site is located in the open countryside, in the Clwydian Range AONB.

1.4 Relevant planning history

1.4.1 Planning permission was granted at Planning Committee in 2003 for the use of the land for production of charcoal using a twin unit kiln and for associated bagging and storing of charcoal; for the cutting, bagging and storage of fuel wood (e.g. logs, kinder); production of coppice craft goods, retention of the earth bund, erection of a polytunnel (involving engineering operations to level sloping ground). The application also refers to using the land as a tree nursery and providing woodland education services and a landscape contractors business. The planning permission was subject to 13 conditions, 3 of which required further details to be submitted within an agreed timescale - soft landscaping, re-siting of retort, location and numbers for car parking for staff and visitors, while the majority of the remaining conditions were conditions controlling the uses and activities on the site.

1.4.2 A subsequent application has been made to vary the conditions relating to timber deliveries and movements, but this was refused in 2009 on highway grounds.

1.5 Developments/changes since the original submission

1.5.1 The original application was made for the classroom building and septic tank only. Having considered the information submitted with the application and following a site visit, Officers were of the opinion that the woodland based education and training centre element had expanded since the 2002 permission was granted, and the application needed to address a number of related matters.

1.5.2 Similarly, it was suggested that the new forest school structures which are utilised by people attending woodland based education and training centre should be included in this application.

2. DETAILS OF PLANNING HISTORY:

2.1 41/31/98 – Development of 0.2 hectares of land by the erection of a single dwelling house and means of access and installation of septic tank (outline application) – REFUSED 12 February 1998.

41/451/98 - Development of 0.2 hectares of land by the erection of a single dwelling house and means of access and installation of septic tank (outline application) – DISMISSED AT APPEAL 2nd July 1999

41/2002/0808 - Retention of hardstanding, and earth bund and continued use of land for mixed forestry-related uses incorporating storage of machinery/materials in connection with Landscape Contractor's business, timber storage, cutting, bagging & storage of fuelwood, charcoal production, tree nursery, coppice crafts, and woodland-based education and training. Erection of polytunnel. (Retrospective application). GRANTED 23/04/2003

41/2009/0016 Variation of Conditions No. 9 & 10 of planning permission Ref. No. 41/2002/0808/PC to allow storage of timber up to 300 tonnes (from 200 tonnes) and 12 deliveries annually (from 8). Refused 25/03/2009 for the following reasons:

1. On the basis of the information submitted, the Local Planning Authority considers that the development would give rise to an unacceptable level of additional traffic movements along a network of single track highways, and substandard junctions onto the A541, increasing the potential for conflict between vehicles, thereby being detrimental to highway safety, in conflict with

Policies GEN 6 (vii) and TRA 6 of the Denbighshire Unitary Development Plan and guidance in Planning Policy Wales, March 2002.

2. On the basis of the information submitted, the Local Planning Authority considers the development would result in an unacceptable increase in the level of activity at and around the site, which is located in close proximity to the residential property, Glascoed, and this would have an adverse impact on the level of amenity for the occupiers of that property contrary to Policy GEN6 criteria v) of the Denbighshire Unitary Development Plan.

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 ENV 1 - Protection of the Natural Environment
- Policy ENV 6 - Species Protection
- Policy ENV 2 - Development Affecting the AONB
- Policy EMP5 - Small Scale Employment Development Outside Development Boundaries
- Policy EMP 11 -Expansion / Intensification of Existing Employment Sites / Premises
- Policy TRA 6 - Impact of New Development on Traffic Flows
- Policy TRA 9 - Parking and Servicing Provision

3.2 GOVERNMENT GUIDANCE

- Planning Policy Wales Edition 4
- TAN 6 Planning for Sustainable Rural Communities

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 Highway Safety
- 4.1.5 Ecology

4.2 In relation to the main planning considerations:

4.2.1 Principle

The application site lies outside any development boundary, where policies GEN 3 and EMP 5 are applicable.

Policy GEN 3 allows for development outside development boundaries for various uses including development in connection with agriculture, minerals extraction, diversification of the rural economy, rural tourism, leisure and recreation and existing educational/institutional establishments, provided there is no unacceptable impact on the social, natural and built environment. Policy EMP 11 allows for expansion, intensification of existing employment sites provided that, the proposal does not result in over development of the site with unacceptable impacts on the amenity, environment and highway network of the local area, the proposal does not involve a non-conforming use, any new boundary is defensible and the development relates physically to existing built up areas.

Policy ENV 2 states that development in the Area of Outstanding Natural Beauty should be assessed against the primary objective of conserving and enhancing the natural beauty of the area. Any new development should therefore be of a very high standard in order to conserve the landscape. TAN6 encourages the development of appropriate scale woodland-based enterprise that adds to rural diversification.

The application proposes the further development of the woodland enterprise at Warren Woods, and includes various elements including a classroom building. The Design and Access statement and subsequent correspondence from the Applicant outlines why the various elements of the scheme including the building are proposed, to justify the development in this location. The proposed building is relatively small scale and is within close proximity to existing built development. It is considered that the principle of the proposal is acceptable in relation to policy, subject to assessment of the detailed impacts covered in the tests of GEN 6 outline below.

4.2.2 Landscape/Impact on visual amenity

The main policy that refers to scale, landscape and visual impact is GEN 6, the visual impact of new employment development is also a consideration of policy EMP 11. As the site is located in the AONB, policy ENV 2 relating to landscape impact must also be considered.

The site is located off a minor road, is relatively well contained and screened to the west by the woodland, and to the north by established landscaping. The design and materials of the classroom building and forest school structures is such that they would not appear out of keeping with their surroundings. Additional landscaping is proposed and a condition could be attached to ensure this is appropriate for the location and implemented promptly. It is not considered the other element of the application, regularising the use would have an adverse impact on the visual amenity of the area as it would continue operating as existing.

In acknowledging the comments of the Community Council and local concerns, having regard to the scale of the proposal and the nature of the use, it is not considered that the development would adversely impact upon the visual amenities of the site and surroundings and therefore it is not considered that the proposal conflicts with Policy GEN 6, EMP 11 of ENV 2.

4.2.3 Residential amenity

Policy GEN 6 sets specific tests to be applied to amenity of impacts of development.

The site is located in the open countryside and the nearest dwellings are Glascoed to the north of the site on the opposite side of the C Road, and Argoed House to the north west. There is screening along the boundary and two bunds partially obscure views to the buildings on site.

Historically concerns have been raised over the amenity impacts of the charcoal burning and commercial wood cutting and timber delivery activities on the site, however it is to be noted that these are established uses and the current application does not propose any changes to this element of the enterprise.

With respect to the concerns from the Community Council and private individuals, owing to the separation distances it is not considered that the proposed classroom or regularisation of use of the woodland based education and training centre would impact significantly on the amenity of the adjacent occupiers. In terms of distances, Glascoed would be some 80 metres from the classroom block, and Argoed House and Warren House over 200 meters. It is understood that the woodland based education and training centre has been operating at the current levels for a number of years and that no concerns have been raised over this element of the use until the application was made.

It is considered there are unlikely to be any conflicts with GEN 6 amenity criteria as a result of the development.

4.2.4 Highway/access impact

The main Unitary plan policies relevant to assessment of highway impact are TRA 6 and TRA 9. TRA 6 permits 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. TRA 9 requires adequate provision within a site for parking and servicing. GEN 6 contains a number of tests including in (vii) a requirement that development does not have an unacceptable effect on the local highway network.

Access to the site would be from the existing entrance and driveway. Parking for the woodland based education and training centre is proposed to the west of the proposed classroom, in an area which could accommodate 8 cars. The applicant has also provided details of his intentions to carry out tree work at the A541 junction, however as this is outside the application site or land in the applicants control it cannot be formally controlled by conditions.

In assessing the application, Highways Officers have taken into account the applicant's statement that the woodland based education and training centre has been operating for over 3 years at the level at which it would continue. Records have been checked, and in this time period there have been no reported highway related problems arising from the operation, and no reported accidents at the Junction with the A541 Mold Road.

Based on the vehicle movements indicated, the number of courses held throughout the year and the highway network leading to the site, Highway Officers have raised no objection to the proposal, subject to a suitable condition restricting the parking to the area shown on the submitted plan as E2 (for course users only) and to restrictions on the number of courses held throughout the year.

In relation to the applicant's intention to improve visibility at the Junction of the A541, as this is land outside the application site it cannot be formally controlled, but the applicant can contact the Highway Section prior to works commencing to ensure the necessary Street Works Notification consents are obtained..

With respect to the comments of the Community Council and neighbouring occupiers relating to highway safety, considering Highways Officers raise no objections to the proposal, and there are conditions which can be imposed to restrict visitors parking to an area capable of accommodating only 8 vehicles, reasons for refusal may be difficult to sustain in planning terms, therefore the proposal is considered acceptable under the criteria of policies TRA 6 and TRA 9, subject to suitable conditions restricting parking and the number of days on which courses are held.

4.2.5 Ecology

Policies ENV 1, ENV 6 and GEN 6 oblige due consideration of impact on ecological interests, and in particular protected species.

The proposed building is located adjacent to the existing buildings at Warren Woods and to the south of the caravan club site.

Considering the nature of the existing use and the proposed development which is the subject of this application. It is not considered in this case that there are any unacceptable ecological impacts likely to arise which would be

contrary to Policies ENV 1 and ENV 6.

5. SUMMARY AND CONCLUSIONS:

5.1 The history of the development of the site is to be noted, and due consideration needs to be given to the concerns of the Community Council and local residents. The application seeks to regularise recent developments and it is considered it offers opportunity to the Local Planning Authority to impose control over activity at the site. Officers view is that the proposal does not raise significant policy conflicts, and therefore it is recommended for grant, subject to suitable conditions.

RECOMMENDATION: GRANT- subject to the following conditions:-

1. The development hereby permitted shall be begun before the expiration of five years from the date of this permission.
2. In relation to the woodland based education and training centre use:
 - (i) A maximum of 200 course days shall be permitted per annum.
 - (ii) The Applicant shall maintain an up to date register of the courses held and attendees names and addresses. The register shall be made available on request for inspection by officers of the local planning authority. Responsibility for the maintenance of the register shall be that of the Applicant or his/her nominated person
3. Notwithstanding the submitted plans, full details of additional planting shown in area 'P3' on drawing 'Proposed Site Plan, Revision P1' received by the Local Planning Authority on the 9th May 2011, shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the use, and the approved details shall be implemented within 6 months of the date of this permission.
4. 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.
5. Notwithstanding the submitted plans, full details of surface and boundary treatment of the parking area shown in area E2 on drawing 'Proposed Site Plan, Revision P1' submitted to the Local Planning Authority on the 09th May 2011, shall be submitted to and approved in writing by the local planning authority. The parking area shall be surfaced and marked out in accordance with the approved details within 6 months of the date of this permission.
6. The parking area in area shown E2, shall be used solely by attendees of the woodland based education and training centre use only and shall not be used for any other purpose.
7. Prior to the commencement of development full details of the external wall and roof materials (including treatment / colour) of the classroom building shall be submitted to and approved in writing by the Local Planning Authority., and it shall be constructed in accordance with the approved details.
8. The use of the classroom building shall be for the woodland based education and training centre only and not in connection with any other use or purpose, or for overnight accommodation.
9. Should the woodland based education and training centre use cease, the building shall be removed from the site and land restored to its former condition within 6 months of the cessation of the use.
10. Prior to the commencement of the use of the new classroom, the existing accommodation used for the woodland based education and training centre use shall cease and the area returned to use as storage space only.
11. Should the woodland based education and training centre use cease, the forest school structures shall be removed from the site and land restored to its former condition within 6 months of the cessation of the use.

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

1. To comply with the provisions of Section 91 of the Town and Country Planning Act 1990.
2. In order that the local planning authority is able to retain control over the use of the woodland based education and training centre in the interest of highway safety and residential amenity.
3. In the interests of visual and residential amenity.
4. To ensure a satisfactory standard of development, in the interests of visual amenity.
5. To provide adequate parking and turning of vehicles in the interest of traffic safety and to control vehicle movements in connection with the woodland based education and training centre.
6. To provide adequate parking and turning of vehicles in the interest of traffic safety.
7. In the interests of visual amenity.
8. In the interest of amenity and highway safety and to control the use of the site.
9. classroom building has been granted planning permission on the basis of need for the building.
10. The existing accommodation is considered substandard and not fit for purpose.
11. The shelter building has been granted planning permission on the basis of need, and in the absence of the need the buildings should not be retained.

NOTES TO APPLICANT:

You are advised that this planning permission relates solely to development described in the application. The conditions of the previous consent ref. 41/2002/0808, relating to charcoal burning, number and siting of retort, noise levels, timber storage and deliveries remain in place and are not superseded by the grant of this planning permission. In relation to your intentions to improve visibility at the Junction of the A541, please contact the Council's Highway Section prior to works commencing to ensure the necessary Street Works Notification consents are obtained, for tree works etc. within the highway.

ITEM NO: 3

WARD NO: Prestatyn Meliden

APPLICATION NO: 42/2011/0399/ PF

PROPOSAL: Alterations to site to allow provision of 3 No. additional static caravans for holiday use.

LOCATION: Carmel Caravan Park Bryniau Dyserth Rhyl

APPLICANT: Mr M Lock Locker Enterprises Ltd

CONSTRAINTS: PROW
AONB

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

CONSULTATION RESPONSES:

DYSERTH COMMUNITY COUNCIL:

"No objections, but is concerned that no further development takes place."

COUNTRYSIDE COUNCIL FOR WALES:

No objection, but requests additional screening be considered, and the colour of the caravans is controlled.

NORTH WALES WILDLIFE TRUST:

No response received.

OPEN SPACES SOCIETY:

No response received.

DENBIGHSHIRE COUNTY COUNCIL CONSULTEES:

HEAD OF TRANSPORT AND INFRASTRUCTURE:

No objections.

AONB COMMITTEE:

No objections, subject to additional landscaping and the colour of the caravans being controlled.

FOOTPATH OFFICER:

No objections.

PUBLIC PROTECTION (Licensing):

Response to be reported.

RESPONSE TO PUBLICITY:

Letters of representation received from:

Frenaces Elcomb, Red Roofs, Bryniau Dyserth

Miss E. Jones, Tyddyn Olive, Bryniau Ucha Farm, Bryniau, Rhyl

Mr. & Mrs. D. K. Jones, 3/5 Russell Road, Rhyl
Mr. & Mrs. T. J. Ireland, Pen-y-Gadlas, Ffordd Bryniau, Prestatyn
J. Thorburn, Portico, Bryniau, Dyserth (e-mail)
J. T. Tibbells, Clarence House, Bryniau, Dyserth
S. & A. Jones, Pant yr Eithin, Bryniau, Dyserth
Mary P. Thorburn, The Hollies, Bryniau, Dyserth
Alison Lacey, Laburnum Cottage, Bryniau, Dyserth
Miss A. Brophy & Mrs. J. M. Pullen, Bryn Goleu, Bryniau, Dyserth

Summary of planning based representations:

Visual amenity:

The additional caravans will be harmful to the appearance and character of the AONB, which is already being harmed by the caravan site.

Highway Infrastructure:

The surrounding road network is not capable of accommodating the additional traffic that would result from the increase in caravan numbers and the access is not suitable for additional traffic.

Residential Amenity:

The additional activity associated with the increase in numbers will have a detrimental impact upon the amenity of nearby dwellings by way of noise and increase in vehicular movements.

EXPIRY DATE OF APPLICATION: 09/06/2011

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 the extension of an existing caravan park to allow for the siting of an additional 3 static caravans.
- 1.1.2 At present the site accommodates 18 caravans; this proposal would increase the number to 21.
- 1.1.3 The new caravans would be coloured green, and the existing caravans, as replaced would also be green.

1.2 Description of site and surroundings

- 1.2.1 The site is a small static caravan park located at the former Mulberry Farm, now Carmel Caravan Park, Bryniau. The site slopes downwards in a westerly direction and is clearly visible from the adjacent footpaths and Graig Fawr. Within the site landscaping is minimal.
- 1.2.2 Access is off a narrow country lane, which currently serves 2 residential properties, the caravan site itself, and The Cattery.
- 1.2.3 The location plan at the front of this report indicates the relationship between the site and neighbouring residential properties.

1.3 Relevant planning constraints/considerations

- 1.3.1 The site is located within an Area of Outstanding Natural Beauty. Immediately to the north of the site is a designated wildlife site, Tan yr Allt. A public footpath runs along the western boundary of the site.

1.4 Relevant planning history

- 1.4.1 The site was originally granted permission in the 1960's. Since then there have been applications for the expansion and improvement of the site. The salient points from these applications are that the appearance of the site, its impact upon the AONB and the capacity of the surrounding highway network are all key considerations.

- 1.4.2 Previous permissions for the expansion of the site have not included control over the occupancy or seasonal period of operation. Whilst separate licensing controls are in place to ensure that the caravans are not occupied on a permanent basis, if this application is granted, it is suggested that a suitable condition be imposed to assist with the monitoring of occupancy of the caravans.

1.5 Developments/changes since the original submission

- 1.5.1 None

1.6 Other relevant background information

- 1.6.1 None

2. **DETAILS OF PLANNING HISTORY:**

- 2.1 DYS/84/86 - Revised application for the proposed siting of additional static holiday caravans. GRANTED - February 1986, with conditions limiting number of static units to 12

42/491/96/PF – Variation of condition no 2 on planning permission 2/DYS/84/86 to allow an increase in number of static caravan units from 12 to 16. REFUSED - October 1997

42/59/98/PS - Variation of condition 2 on pp DYS/84/86 to allow increase in number of static caravans from 12 to 14. REFUSED - March 1998. ALLOWED on Appeal September 1998

42/2005/1355/PF - Removal of existing residential caravan, barn, cattery, annexe and associated structures, addition of 2 static caravans for holiday use and 9 timber clad twin units for holiday use and installation of new septic tank. WITHDRAWN - August 2006

42/2006/1363/PF – Re-spacing of existing 14 no static caravans and provision of 4 no. additional static caravans. REFUSED - 16th January 2007 for the reason of impact upon visual amenity of the area and impact upon character of the AONB.

42/2007/1108/PF - Re-spacing of existing 14 no static caravans and provision of 4 no. additional static caravans. GRANTED at planning committee – January 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 GEN 6 – Development Control Requirements

Policy GEN 3 – Development Outside Development Boundaries
Policy ENV 2 – Development Affecting the AONB
Policy TSM 10 – Extensions of/Improvements to existing static caravan and chalet sites
Policy TRA 6 – Impact of New Development On Traffic Flows

3.2 GOVERNMENT GUIDANCE Planning Policy Wales 4 (February 2011)

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 Impact on highway infrastructure
- 4.1.4 Impact on residential amenity
- 4.1.5 Ecology

4.2 In relation to the main planning considerations:

4.2.1 Principle

The site is located outside of any defined development boundary, where policy GEN 3 is the relevant policy. Criteria vi) of policy GEN 3 allows for suitable development in the open countryside which is in connection with rural tourism. It is considered that the current proposal falls within this category.

Policy TSM 10 specifically relates to the expansion of existing static caravan sites, and allows for modest extensions to existing caravan parks provided there is no detrimental impact upon the character and amenity of the area.

Therefore, it is considered that the proposal is acceptable in principle, subject to a detailed assessment of its impacts.

4.2.2 Visual and landscape impact:

The site is visible from the hill top of Graig Fawr (some 700 metres away) and is therefore a feature within the AONB. Policy ENV 2 'Development Affecting the AONB' requires that the proposals must demonstrate that there would not be a detrimental impact upon AONB/landscape would be improved as a result. This requirement is repeated in Policy TSM 10 'Extensions of/Improvements to existing static caravan and chalet sites'.

The siting of the new caravans would be on lower ground than the existing caravans. The previous proposal incorporated a scheme of planting which was intended to screen this lower portion of the site from views from Graig Fawr. Planting included a new blackthorn/hawthorn hedge around the site with new beech and ash trees. Of most relevance is the planting to the west boundary which in time will directly screen the new caravans from views from Graig Fawr. The AONB Committee has requested that further additional planting is undertaken, and this can be achieved through the imposition of a planning condition.

It is also proposed to change (over time) all caravans to a suitable green colour. It is considered that this would be a significant improvement to the appearance of the site as the present colour of the caravans only serves to highlight the site's prominence within the landscape. It is considered that this can also be dealt with via a suitable planning condition.

Given the sloping nature of the site, the existing vegetation and the colour of the additional 3 caravans, it is considered that the caravans would assimilate into the existing layout of the site and there is unlikely to be a detectable visual harm to the local landscape. This view is also held by the AONB committee who have not raised an objection to the application. The proposal is therefore considered compliant with the requirements of Policy ENV 2 and TSM 10 with regard to its impact upon visual amenity and the character of the AONB.

4.2.3 Impact on highway infrastructure:

Policy TRA 6 seeks to ensure that new development does not have a detrimental impact upon the safe and free flow of traffic on the public highway.

The adjoining highway linking Dyserth and Bryniau is generally wide enough to accommodate a two way flow of light vehicles despite the steepness of some sections of the highway. It is noted that the Head of Transport and Infrastructure raises no objection to the proposal.

It is therefore concluded that the proposed additional units would not have a detrimental impact upon the highway network of the area, and would not result in a loss of highway safety. The proposal complies with Policy TRA 6.

4.2.4 Impact upon residential activity:

Policy GEN 6, Development Control Requirements includes criteria which seeks to protect the amenity of local residents.

The nearest residential property to the additional caravans would be Red Roofs, at a distance of approximately 30 metres. It is considered that given the established site boundaries the additional activity that might be associated with 3 additional caravans is not likely, within the context of an existing 18 caravan site, to result in harm to the amenity of neighbouring properties.

Given the nature of the existing site and the number of proposed additional caravans and their location away from residential properties, it is not considered that the proposal would result in a loss of amenity for neighbouring properties, or that there would be conflict with the requirements of Policy GEN 6.

4.2.5 Ecology:

The site is located immediately adjacent to a County Wildlife site. Policy ENV 5 seeks to resist development which would unacceptably harm the conservation value of such sites.

The caravan site itself is well maintained with regularly mown grass. It does not encroach into the wildlife site. Consultation with CCW and the County Council's Biodiversity Officer has not generated any objections. Based on these it is considered that the proposal is unlikely to have any noticeably adverse affect upon the conservation value of the adjacent wildlife site, and hence the proposal accords with the requirements of Policy ENV 5.

5. SUMMARY AND CONCLUSIONS:

5.1 Policy TSM 10 allows for extensions to caravan parks provided they improve the appearance and impact of the site on the character of the area. It is considered that the additional 3 units would not negatively impact upon the character of the AONB as a result of the scheme of landscaping submitted and that this proposal serves to offer

a mechanism with which to address the impact the existing site has upon the visual amenity of the AONB. It is concluded that the proposal is compliant with policy TSM 10 and ENV 2.

5.2 With specific regard to comments of the Community Council which state this should be the last increase in numbers at the site, it is considered that each case has to be assessed on its own merits. However, it is the officers' opinion that only the lower sections of the site are suitable for such developments as the upper section is more prominent within the AONB. Should this application be granted then it would effectively use up what is considered to be the remaining developable area of the site, and that any future applications for additional caravans would be likely to fail visual amenity and landscape impact tests.

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 details, no development shall commence until the exact details (species, type and size) of the proposed trees has been submitted to and approved in writing by the Local Planning Authority and only those details approved shall be implemented thereafter.
3. The approved planting scheme incorporating those details as submitted in compliance with condition number 2 of this permission shall be fully implemented prior to the installation of the 3 additional static caravan units hereby approved.
4. **PRE-COMMENCEMENT CONDITION**
Prior to the commencement of development the colour of the static caravans hereby approved shall be agreed in writing with the Local Planning Authority, and only those details shall be implemented and the caravans shall be maintained that colour in perpetuity.
5. The timing of the replacement of the existing caravans on site shall be as agreed in writing with the Local Planning Authority within 1 month of the date of this permission. The subsequent replacement of the vans shall be in accordance with the approved scheme and the colour finish of the vans shall match the colour scheme agreed in Condition 4.
6. No more than 21 caravans shall be stationed on the land at any time.
7. 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 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. To comply with the provisions of Section 91 of the Town and Country Planning Act 1990.
2. In the interest of visual amenity and the character of the AONB.
3. In the interest of visual amenity and the character of the AONB.
4. In the interest of visual amenity and the character of the AONB.
5. In the interest of visual amenity and the character of the AONB.
6. In the interest of visual amenity and the character of the AONB.
7. To enable the Local Planning Authority to monitor the site for compliance with adopted planning policies.

NOTES TO APPLICANT:

You are advised that it is considered the caravan park has now reached its capacity, and it is not likely that any further expansion would be supported by the Local Planning Authority.

ITEM NO: 4

WARD NO: Prestatyn Meliden

APPLICATION NO: 43/2011/0262/ PO

PROPOSAL: Development of 0.03 ha of land by the demolition of existing former public convenience, erection of 1 no. dwelling and construction of a new vehicular access (outline application including access)

LOCATION: Former Public Convenience Meliden Road Prestatyn

APPLICANT: Denbighshire County Council

CONSTRAINTS:

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

CONSULTATION RESPONSES:

PRESTATYN TOWN COUNCIL

'Observations, concerns about highway access into Meliden Road. Property needs to be in keeping with surrounding property in sympathy with adjoining conservation area status'.

WELSH WATER / DWR CYRMU

No objection

DENBIGHSHIRE COUNTY COUNCIL CONSULTEES

-HEAD OF HIGHWAYS AND INFRASTRUCTURE

No objection, subject to conditions.

RESPONSE TO PUBLICITY:

Letters of representation received (in objection) from:

Mr. C.J. Mitchell & Mrs. B.L. Mills, Clwyd, 7, Ffordd Talargoch

S. Hackney, Bryn Llwyd Lodge, 142, Meliden Road, Prestatyn

Mr. O'Donnell, Meliden Post Office, 21, Ffordd Talargoch, Meliden

Mrs. M. P. O'Donnell, 19, Ffordd Talargoch, Meliden

Gamlins Solicitors (on behalf of Mr & Mrs Rourke, 5 Ffordd Talargoch) 31/37 Russell Road, Rhyl

Clement Hughes & Co (on behalf of Mr & Mrs Drew, 3 Ffordd Talargoch) 4 Maes Y Groes, Prestatyn

Summary of planning based representations:

Highway safety- location of site and access on busy road/ close to main road junction/ history of accidents/ limited visibility.

Residential amenity- overlooking, loss of privacy for adjacent occupiers.

Precedent- previous application in area refused.

EXPIRY DATE OF APPLICATION: 28/04/2011

REASONS FOR DELAY IN DECISION (where applicable):

- additional information required from applicant

PLANNING ASSESSMENT:

1. THE PROPOSAL:

1.1 Summary of proposals

- 1.1.1 Outline planning permission including access is sought for the development of land on the site of the former Public Conveniences in Meliden.
- 1.1.2 The site is approximately 0.03ha. The access is proposed to the north of the site. An indicative plan submitted shows a two bedroom bungalow sited on the southern side of the plot with parking and turning to the north and small garden area to the west (see plan at front of the report).
- 1.1.3 The application submission includes the following documents:
 - Design and Access Statement, which refers to the site context and constraints, accessibility, character, community safety and environmental sustainability and a 'design example' which shows how the site could accommodate the bungalow shown on the illustrative plan.
 - Code for Sustainable Homes Pre-Assessment Report, which states that the dwelling could meet Code Level 3 of the Code for Sustainable Homes and achieve at least 1 credit under ENE 1.

1.2 Description of site and surroundings

- 1.2.1 The site is located on the western side of the A547 Meliden Road. The public conveniences on the site have been redundant since 1997.
- 1.2.2 The existing single storey building is of brick and render construction with a slate roof. Accessed from Meliden Road via two sets of four steps, the public convenience building is sited on a higher level than the road. There is some established landscaping on the site in the form of planting in raised beds and hedgerows.
- 1.2.3 The rear of the site is bounded by the rear gardens of the dwellings off Ffordd Talargoch to the west. These dwellings range from a detached cottage to a terrace of two storey dwellings. Opposite the site are bungalows at a higher level off Meliden Road.

1.3 Relevant planning constraints/considerations

- 1.3.1 The site is located within the development boundary of Meliden, to the east of the conservation area.

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 The Application is made by Denbighshire Design Services on behalf of the Denbighshire Property Service Section.

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 1 Development within Development Boundaries
- Policy Gen 6 Development Control Requirements
- Policy HSG 3 Housing Development in Main Villages
- Policy TRA 6 Impact of New Development on Traffic Flows

3.2 GOVERNMENT GUIDANCE

Planning Policy Wales Edition 4

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 Amenity impact
- 4.1.4 Highway safety impact
- 4.1.5 Sustainable buildings

4.2 In relation to the main planning considerations:

4.2.1 Principle

The principle of the proposal accords with Policy GEN 1. The site is located within the development boundary of Meliden, as such the development of the land for residential purposes is considered acceptable subject to compliance with the general development control criteria as set out in Policy GEN 6. Policy GEN 6 must be applied to assess the capability of the plot to accommodate a dwelling and the main issues considered under this policy are set out below.

4.2.2 Impact on visual amenity

Policy GEN 6 contains general considerations to be given to the visual impacts of new development.

The application is submitted for outline permission, with access only included at this stage. Although it is not possible to assess the visual impact of the proposal at this point, it is considered that the site can accommodate a dwelling without appearing cramped and out of character with its surroundings. Furthermore in terms of impact on the conservation area, the removal of the redundant public conveniences would have a positive impact on the setting of the Conservation Area.

With respect to the comments of the Community Council, whilst the site is located adjacent to the Conservation Area it is not within its boundary, a full assessment of the impact on the Conservation Area would be made in any reserved matters application.

4.2.3 Impact on residential amenity

Policy GEN 6 sets specific tests to be applied to amenity of impacts of development.

Indicative plans show that the dwelling can be accommodated on the site with adequate amenity space, parking and turning.

In the absence of detailed plans, a full assessment cannot be made of the impact on the amenity of adjacent occupiers, however on the basis of the indicative plans and site area, it is considered that a dwelling could be accommodated on the site without significant harm to residential amenity. The

proposal would not result in an overdevelopment of the site. The acceptability of the detailed plans would need to be assessed on their merits at reserved matters stage.

4.2.4 Impact on highways safety

Policy GEN 6 and TRA 6 require consideration of access and highway safety issues.

In relation to highway safety and access, vehicular access off the A547 is proposed adjacent to the existing access to the dwelling to the north Bryn Llwyd. Parking for two cars is proposed to the north of the access and plans show turning can be accommodated within the site to allow access and egress in forward gear. A 40 metre visibility splay is also proposed at the access point.

Highways Officers have raised no objection to the proposed development of the site for one dwelling.

With respect to the representations, including those of the Town Council, it is considered there are no policy conflicts relating to access or highway safety.

4.2.5 Sustainable Buildings

Planning Policy Wales requires that all new dwellings meet Code Level 3 of the Code for Sustainable Homes and achieve at least 1 credit under ENE 1.

A Code for Sustainable Homes Assessment has been submitted with the planning application which demonstrates the Code requirements can be met. A condition can be attached to control this and the reserved matters application would need to demonstrate how particular features would be accommodated.

It is considered the information provided demonstrates that the proposal could meet the relevant sustainable buildings policy requirement.

5. SUMMARY AND CONCLUSIONS:

- 5.1 The site is located within the development boundary and is occupied by a redundant public convenience. Planning policy directs development to sites within development boundaries and previously developed land. As this application is for outline permission only, the detailed impacts cannot be fully considered, however Officers are of the opinion that the site is developable and therefore recommend grant of outline planning permission.

RECOMMENDATION: GRANT - subject to the following conditions:-

1. Approval of the details of the layout, scale and appearance of the building, and the landscaping of the site (hereinafter called "the reserved matters") shall be obtained from the Local Planning Authority in writing before the commencement of any development.
2. Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.
3. The development hereby permitted shall be begun either before the expiration of five years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.
4. 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 commencement 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.

5. PRE-COMMENCEMENT

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

6. Construction of the dwelling hereby permitted shall not begin until an 'Interim Certificate' has been submitted to the Local Planning Authority, certifying that a minimum Code for Sustainable Homes Level 3 and a minimum of 1 credit under 'Ene1 - Dwelling Emission Rate', and 5 credits under Ene 2 has been achieved for that individual dwelling or house type in accordance with the requirements of the Code for Sustainable Homes: Technical Guide 22 November 2010.

7. The dwelling hereby permitted shall be constructed to achieve a minimum Code for Sustainable Homes Level 3 and achieve a minimum of 1 credit under category 'Ene1 and 5 credits under Ene 2 - Dwelling Emission Rate' in accordance with the requirements of the Code for Sustainable Homes: Technical Guide 22 November 2010. The development shall be carried out entirely in accordance with the approved assessment and certification.

8. Prior to the occupation of the dwelling hereby permitted, a Code for Sustainable Homes 'Final Certificate' shall be submitted to the Local Planning Authority certifying that a minimum Code for Sustainable Homes Level 3 and a minimum of 1 credit under 'Ene1 and 5 credits under Ene 2 - Dwelling Emission Rate', has been achieved for that dwelling in accordance with the requirements of the Code for Sustainable Homes: Technical Guide 22 November 2010.

9. Facilities shall be provided and retained within the site for the parking and turning of vehicles in accordance with a scheme to be agreed with the Local Planning Authority and which shall be completed prior to the proposed development being brought into use.

10. The surface of the parking area shall be paved with a concrete or bituminous material or as otherwise agreed in writing with the Local Planning Authority before the development is brought into use.

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

1. The application is for outline permission with details of means of access only.
2. To comply with the provisions of Section 92 of the Town and Country Planning Act 1990.
3. To comply with the provisions of Section 92 of the Town and Country Planning Act 1990.
4. To ensure a satisfactory standard of development, in the interests of visual amenity.
5. In the interests of visual amenity.
6. To comply with the provisions of TAN 22: Planning for Sustainable Buildings.
7. To comply with the provisions of TAN 22: Planning for Sustainable Buildings.
8. To comply with the provisions of TAN 22: Planning for Sustainable Buildings.
9. To provide for the parking and turning of vehicles clear of the highway and to ensure that reversing by vehicles into or from the highway is rendered unnecessary in the interest of traffic safety.
10. To ensure that no deleterious material is carried onto the highway.

NOTES TO APPLICANT:

None

ITEM NO: 5

WARD NO: Tremeirchion

APPLICATION NO: 47/2010/0887/ PF

PROPOSAL: Proposed change of use into tenting camp facility, alterations to existing vehicular access, erection of shower/toilet block building and installation of new cesspool

LOCATION: Corn Bwch Waen St. Asaph

APPLICANT: Mr & Mrs Neil Rawson

CONSTRAINTS:

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

CONSULTATION RESPONSES:

TREMEIRCHION, CWM & WAEN COMMUNITY COUNCIL

Comments on revised plans:

"The Community Council feels that it is possible that the wording in the application is a misrepresentation of the current use of the land as there is and never has been an equestrian centre on this site.

The Community Council feel that they have to reiterate their initial objections to this application.

This misrepresentation could possibly add weight to the planning application".

Comments on original submission:

"Objection for the following reason,

This land was sold as a paddock and as far as the Community Council is aware there has not been a planning application for an Equestrian Centre

We are of the opinion that the ground is unsuitable for this kind of enterprise due to the high water table owing to the inadequate drainage".

ENVIRONMENT AGENCY WALES

No objection.

WELSH WATER/ DWR CYMRU

No objection.

DENBIGHSHIRE COUNTY COUNCIL CONSULTEES

-HEAD OF TRANSPORT AND INFRASTRUCTURE

No objection subject to conditions relating to construction of the access, visibility splays and parking arrangements.

-COUNTY ECOLOGIST

No objection. Owing to potential for Newts in the vicinity, Reasonable Avoidance Measures are recommended to be undertaken when putting in the toilet block.

Recommend maintenance of a 1m buffer around the perimeter of the site at the base of all the hedgerows where the grass is kept long and only cut once a year (so that it doesn't become unmanageable) in September / October (when newts are not hibernating or moving to and from ponds and nesting birds are not an issue) to a minimum length of 15 cm. This will ensure terrestrial habitat is maintained.

RESPONSE TO PUBLICITY:

None.

EXPIRY DATE OF APPLICATION: 23/05/2011

REASONS FOR DELAY IN DECISION (where applicable):

- additional information required from applicant
- consultations necessary on additional information

PLANNING ASSESSMENT:

1. THE PROPOSAL:

1.1 Summary of proposals

1.1.1 The application seeks full planning permission for the change of use of land to form a 10 pitch campsite, on land at Corn-bwch on the Waen.

1.1.2 The proposals involve the following main elements:

- Use of an existing improved vehicular access off the C road which connects the B5429 to the A541.
- Creation of track from the access point into a camping field.
- Erection of a pre-fabricated building to provide an amenity block (showers and toilets).
- Installation of an 18,000 litre capacity cess pool.
- Retention of the existing stable on site for winter use by the Applicant.

1.2 Description of site and surroundings

1.2.1 Corn-bwch is located at the Waen, approximately 1.2 kilometers south of the A55. The 1.2ha site is bounded to the west by the C road. It is flat land with hedgerows to all other boundaries.

1.2.2 As present there is a brick outbuilding in a state of disrepair at the entrance, and a small timber stable block and garden shed type structure further into the site.

1.3 Relevant planning constraints/considerations

1.3.1 The site lies in the open countryside outside of any development boundary.

1.4 Relevant planning history

1.4.1 There is some planning history on the site, as the previous owners had submitted various applications for a range of agricultural type uses including rabbit farming and horse grazing. The existing barn and stables on the site and the agricultural use have been accepted as lawful by virtue of Certificates of Lawfulness issued in 1995. These do not establish a commercial equestrian use.

1.5 Developments/changes since the original submission

1.5.1 The details of the application have been amended since its original submission, to address concerns of the Environment Agency Wales.

1.5.2 The description of the application has also been amended to avoid confusion of the existing use and proposed development, which has been a concern of the Community Council.

1.6 Other relevant background information

1.6.1 In relation to the details of the proposal the Agent has advised of the following:

- The Applicants wish that all the campers using the site have a predominant interest in horses, in planning terms the application is for a camping site (hence original reference to equestrian centre/use).
- The campsite would be used for no more than 10 tents at any one time.
- Proposed opening times will tie in with local equestrian events, probably around 6 events through the summer period.

2. DETAILS OF PLANNING HISTORY:

2/TRE/395/83 Stables, barn and change of access. Refused
 2/TRE/216/84 Stable, barn and change of access. Refused 26/09/1984
 2/TRE/462/84 Change agricultural dwelling to agricultural building. Refused 24/04/1985

2/TRE/1/86/S Continuation of use of land & building for the purposes of agriculture.
 Refused 28/10/1986

2/TRE/198/86. Continuation of use of land & building for the purposes of agriculture for smallholding. Refused 06/11/1986

2/TRE/0001/95/E Timber Barn/field Shelter & 2 Timber Framed Horse Loose Boxes
 Granted 03/05/1995

2/TRE/1/95/E Certificate of lawfulness for the erection of stables and loose box. Lawful
 03/02/1995

3. RELEVANT POLICIES AND GUIDANCE:

The main planning policies and guidance are considered to be:

DENBIGHSHIRE UNITARY DEVELOPMENT PLAN (adopted 3rd July 2002)

- STRAT 1 - General
- STRAT 6 - Location
- STRAT 7 - Environment
- STRAT 9 - Tourism
- STRAT 13 - New development
- 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 ENP 4 - Foul and Surface Water Drainage
- 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

Supplementary Planning Guidance

- SPG 2 - Landscaping in New Developments
- SPG 18 - Nature Conservation and Species Protection
- SPG 21 - Parking

GOVERNMENT GUIDANCE

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Technical Advice Notes

4. MAIN PLANNING CONSIDERATIONS:

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

- 4.1.1 Principle
- 4.1.2 Scale of development
- 4.1.3 Landscape/Impact on visual amenity
- 4.1.4 Highway/access impact
- 4.1.5 Residential amenity
- 4.1.6 Drainage
- 4.1.7 Ecology

4.2 In relation to the main planning considerations:

4.2.1 Principle

National policy objectives encourage sustainable tourism, maximising its economic and employment benefits, promoting tourism in all seasons whilst safeguarding the environment and interests of local communities. In rural areas, tourist development is considered to be an essential element in providing for a healthy, diverse local and national economy.

Denbighshire's Unitary Development Plan policies are in accordance with the thrust of these national objectives. Within the UDP, there are a number of strategic policies seeking to ensure that development should be sustainable, including maximum re-use of buildings and land in preference to use of green field sites, maintaining and enhancing community benefit; and protecting biodiversity and historic areas. Policy STRAT 9 deals with tourism development. In the countryside or rural settlements, it highlights that development will be permitted in the form of small scale built or natural environment based tourism projects in the countryside and rural settlements", where they provide appropriate infrastructure, accommodation and attractions, where they consolidate the tourism industry without unacceptably affecting social, highway, amenity, heritage or environmental interests.

Policy GEN 3 contains a general restraint on new development outside development boundaries, with a number of exceptions, including tourism/leisure schemes, again subject to compliance with basic criteria and other policies in the plan.

Policy TSM 12 is the detailed policy relating to touring caravan sites. Although the application proposes the development of a camp site, it is considered to be the most relevant policy. Policy TSM 12 sets specific tests for any application, requiring an unobtrusive and well screened site and/or one which can be readily assimilated into the landscape, and in no way appears conspicuous or alien, that the site is close to and can be easily accessed to the main highway network without significant or inappropriate highway alterations; the overall quality of the development is of a high standard by virtue of its design, layout and appearance as seen from inside and outside the site; there is no unacceptable impact on the surrounding area by virtue of noise, disturbance, fumes/smell or other nuisance and landscape, agricultural and nature conservation considerations and finally that the site is used for touring purposes only and touring vans are removed from the site for periods when not in use.

Overall, the policies of the UDP and guidance in Planning Policy Wales accept the general principle of suitable tourism related developments outside established settlements, as they provide potential economic benefits for the

area, but qualify this support with the requirement that proposals meet a range of detailed tests. The principle of the proposed camp site development would not therefore appear to be contrary to the UDP's general policies, but invariably the acceptability rests on assessment of the detailed local impacts. These are reviewed in the following sections of the report.

4.2.2 Scale of development

Policy STRAT 9 of the Unitary Plan permits "small scale built or natural environment based tourism projects in the countryside and rural settlements", where they provide appropriate infrastructure, accommodation and attractions, where they consolidate the tourism industry without unacceptably affecting social, highway, amenity, heritage or environmental interests. STRAT 7 sets a specific requirement to safeguard the countryside and environment.

The application site is located south of the village of Rhualt, 1.2 kilometres from the A55. The proposal is for a 10 pitch camping site and the specific environmental impacts of a development of that size are assessed in the following sections of the report.

It is the opinion of Officers this scale of development in itself would not seem out of keeping in the context of the surrounding area, which includes a mix of sporadic development around the local road network.

4.2.3 Landscape/Impact on visual amenity

The main policy that refers to scale, landscape and visual impact is GEN 6, the visual impact of caravan development is also a consideration of policy TSM 12.

The site is a small, flat, enclosed paddock only partially visible to public view from the eastern side from the C road.

Considering the scale of the development, the screening and the seasonal nature of a camping use, it is not considered that the development would adversely impact upon the visual amenities of the site and surroundings and therefore it is not considered that the proposal conflicts with Policy GEN 6 of TSM 12.

4.2.4 Highway/access impact

The main Unitary plan policies relevant to assessment of highway impact are TRA 6 and TRA 9. TRA 6 permits 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. TRA 9 requires adequate provision within a site for parking and servicing. GEN 6 contains a number of tests including in (vii) a requirement that development does not have an unacceptable effect on the local highway network.

Access to the site would be from an existing entrance onto the site which is proposed to be improved to accommodate visibility splays.

Highways officers raise no objections to the proposals considering the scale and nature of the use. The proposal is therefore considered acceptable in terms of policies TRA 6 and TRA 9.

4.2.5 Residential amenity

Policy GEN 6 sets specific tests to be applied to amenity of impacts of development.

The site is located in the open countryside; the nearest dwellings are converted barns and the dwelling at Glan Clwyd Farm. Glan Clwyd is on the western side of the C road and accessed off a private drive.

Owing to the distances between the site and its nearest neighbours it is considered there are unlikely to be any conflicts with GEN 6 amenity criteria as a result of the development.

4.2.6 Drainage & Flooding

Drainage considerations are contained in policies ENP 4 and GEN 6 of the Unitary Plan. The requirement is to ensure new development has no unacceptable impacts on the locality from foul or surface water drainage.

Following lengthy discussions with the Environment Agency over the best methods of water treatment and disposal, the application proposes a 18,000 litre capacity cess pool for foul sewerage, which has been deemed acceptable by the Environment Agency.

With respect to the comments of the Community Council relating to the suitability of the site, the site is not known to have a history of flooding, which would be a planning consideration. Although the site may be susceptible to some degree of water logging owing to the high water table referred to by the Community Council, this would not warrant refusal of the planning permission.

It is not considered there are likely to be any adverse foul drainage impacts from the proposals.

4.2.7 Ecology

Policies ENV 1, ENV 6 and GEN 6 oblige due consideration of impact on ecological interests, and in particular protected species, an approach is supported by SPG 18.

There are great crested newt records adjacent to the site to the east and there are a number of ponds in the vicinity, some with records of newts. However, the Ecologist has considered the application and advised that as proposal is fairly non-intrusive and there are no ponds actually on the application site, it would be more likely to be used for commuting / foraging / hibernating habitat. Conditions can be attached to ensure terrestrial habitat is maintained.

Subject to the recommendations of the Ecologist being adhered to, is not considered in this case that there are any unacceptable ecological impacts likely to arise.

4.2.8 Other Material Considerations

The Community Council have raised concerns over the description of the application which initially referred to 'an equestrian centre'. The description was altered with the agreement of the Agent, who accepted the lawful use of the site was agricultural land with stabling. Whilst horses have been grazed on the site, there is no lawful equestrian centre use. The Agent advised that it was the Applicants intention to market the campsite for use by individuals that may be attending local equestrian events, hence the original description. This

is a matter of preference and would not impact on the assessment of the planning application.

In terms of planning assessment, the application has been considered as a straightforward change of use to campsite. A condition can be attached to ensure there is no confusion over existing and proposed uses.

5. SUMMARY AND CONCLUSIONS:

5.1 The application is considered acceptable under the relevant policies, 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. In relation to the use of the camp facility:
 - (i) A maximum of 10 tents shall be permitted on site at any one time.
 - (ii) No tent shall be permitted to be present on the site for a period in excess of 21 consecutive days.
 - (iii) The site licence holder shall maintain an up to date register of the names and addresses of the occupiers of the tents and the dates each tent arrives on the site and leaves the site. The register shall be made available on request for inspection by officers of the local planning authority. Responsibility for the maintenance of the register shall be that of the camp site licence holder or his/her nominated person.
3. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking or re-enacting that order) the written approval of the Local Planning Authority shall be obtained in respect of the siting, design and external appearance of any buildings required by the conditions of the site licence prior to their erection on site.
4. Notwithstanding the submitted details, details of additional planting shall be submitted to and approved in writing by the Local Planning Authority along the eastern boundary of the site.
5. All planting, seeding, turfing, fencing, walling or other treatment comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the completion of the development and any trees or plants which, within a period of five years of the development, die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
6. Facilities shall be provided and retained within the site for the loading, unloading, parking and turning of vehicles in accordance with a scheme to be agreed with the Local Planning Authority, and which shall be completed prior to the proposed commencement of the use.
7. Prior to the commencement of the use of the campsite, the access shall be laid in accordance with the revised plan R.1126/1 Ref. D.
8. The visibility splay shown on the approved plan shall at all times be kept free of any planting/ fencing or any other obstruction in excess of 1.05m above the level of the adjoining highway.
9. **PRE-COMMENCEMENT CONDITION**
Prior to the commencement of development full details of Reasonable Avoidance Measures to be undertaken when siting the toilet block, shall be submitted to and agreed in writing with the Local Planning Authority.
10. A 1 metre wide buffer zone shall be maintained around the perimeter of the site at the base of all the hedgerows. In this buffer the grass shall be kept long and only cut to 15cm minimum length once a year in September or October, when newts are not hibernating or moving to and from ponds and nesting birds are not an issue.

11. The planning permission relates solely to the change of use from agricultural land to tenting camp facility, and does not permit any commercial equestrian use of the site.

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 order that the local planning authority is able to retain control over the uses of the campsite to holiday purposes to prevent use as permanent places of residence.
3. The site is located within a sensitive area wherein the Local Planning Authority wish to ensure that any buildings are of a high standard of design.
4. In the interests of visual and residential amenity.
5. To ensure a satisfactory standard of development, in the interests of visual amenity.
6. To provide for the parking of vehicles clear of the highway and to ensure that reversing into or from the highway is rendered unnecessary on the interest of traffic safety.
7. In the interest of the free and safe movement of traffic and to ensure the formation of a safe and satisfactory access.
8. To provide adequate visibility at the point of access to the highway.
9. To minimise disturbance to potential Newt species and habitat.
10. To ensure terrestrial habitat for potential Newts is maintained.
11. In the interest of clarity and to control the use.

NOTES TO APPLICANT:

None

ENFORCEMENT REPORTS

- ENF/2011/0003** **Bodaeron, Mount Street, Ruthin**
- Unauthorised erection of a fence above 1 metre in height adjacent to a highway**
-
- ENF/2011/00006** **Field opposite Pantyterfyn, Rhydtalog Road, Graianrhyd**
- Without permission, the carrying out of an engineering operation to create a hardstanding in an Area of Outstanding Beauty**
-
- ENF/2011/0007** **White Water Country Manor, (Field opposite Plas Derwen) Abbey Road, Llangollen**
- Unauthorised development – erection of 2.5 m gate and engineering works to access track**

PLANNING ENFORCEMENT REPORT

REFERENCE: ENF/2011/00003

LOCATION: Bodaeron Mount Street Ruthin

INFRINGEMENT: Unauthorised erection of fencing above 1 metre in height adjacent to a highway

RELEVANT PLANNING POLICIES AND GUIDANCE

DENBIGHSHIRE UNITARY DEVELOPMENT PLAN

Policy GEN 6 – Development Control Requirements
Policy CON 5 – Development within Conservation Areas

GOVERNMENT GUIDANCE – Planning Policy (Wales) 2010, Circular 1/98 – Planning and the Historic Environment

Technical Advice Note (Wales) 9 – Enforcement of Planning Control

HUMAN RIGHTS CONSIDERATIONS

The provisions of the Human Rights Act 1998 are taken into account when considering taking enforcement action against unauthorised developments/uses and other related matters.

In this particular instance, matters relate to the rights of a potential land owner to carry out development by erecting fencing adjacent to a highway within the Conservation Area.

The rights of an owner in this situation do not outweigh the rights of the Local Planning Authority to protect the historic environment and ensure that breaches of planning control are addressed.

1. BACKGROUND INFORMATION

- 1.1 The land where the alleged breach has taken place is located to the west side of a property called Bodearon on Mount Street in Ruthin. The site forms part of a highway, as defined under the relevant legislation, within the Ruthin Conservation Area but just outside the Town Centre Boundary. The highway links the Council car park off Market Street with School Road to the north and formed the old Farmer's Market access road.
- 1.2 A complaint alleging that a number of potential breaches of planning control were being carried out at this site was received on 20th April 2011. Issues pertaining to some works to a detached coach house building within the curtilage of Bodearon have been investigated and the site owner has submitted details of intended works. The partial demolition of this structure within the Conservation Area does not require planning permission or Conservation Area consent and does not form part of this enforcement investigation. The actual breach of planning control identified at the site,

however, is that the owner of Bodearon has erected, without planning permission, a timber close boarded fence in excess of 1 metre in height on the highway land. The fencing extends out from the west side of Bodearon by some 2.5m into the middle of the link highway between the car park and School Road. It extends by some 4m along the highway but does not form an enclosure. (see photograph)

- 1.3 The site owner has been alerted to this breach in correspondence dated 12th May, 16th May and 24th May 2011.
- 1.4 Within this correspondence the site owner has been asked to confirm his intentions for the area of land which has been fenced off. The use of the land by the site owner for the parking of a vehicle could constitute another breach of planning control. The change of use of the highway land to form part of the curtilage of the dwelling may have occurred. It is considered that the removal of the fencing would remedy the identified breach and the potential change of use.

2. REASONS FOR ISSUING AN ENFORCEMENT NOTICE

- 2.1 The development has taken place within the last 4 years.
- 2.2 No planning application has been submitted.
- 2.3 The unauthorised development is contrary to policies contained within the adopted Denbighshire Unitary Development Plan and advice contained within the aforementioned government guidance in respect of:-

(i) Visual Impact and Impact on Conservation Area - It is considered that the fencing by reason of its siting, form and materials fails to comply with criteria i of Policy **GEN 6** of the Plan. This criterion permits development only where it respects the site and surroundings. In relation to Policy **CON 5** of the Unitary Development Plan it is considered that the fencing by reason of its siting, form and materials fails to preserve or enhance the character or appearance of the designated Conservation Area.

3. RECOMMENDATION

- 3.1 That the Planning Committee authorise the service of an Enforcement Notice with a 1 month compliance period, requiring the removal of the fencing, posts and any other associated materials from the land and the re-instatement of the highway.
- 3.2 To instigate prosecution proceedings where any person on whom an Enforcement Notice has been served, fails or refuses to comply with the requirements thereof within the specified time period.

Heading:

ENF/2011/00003
BODAERON, MOUNT STREET,
RUTHIN, LL15 1BG

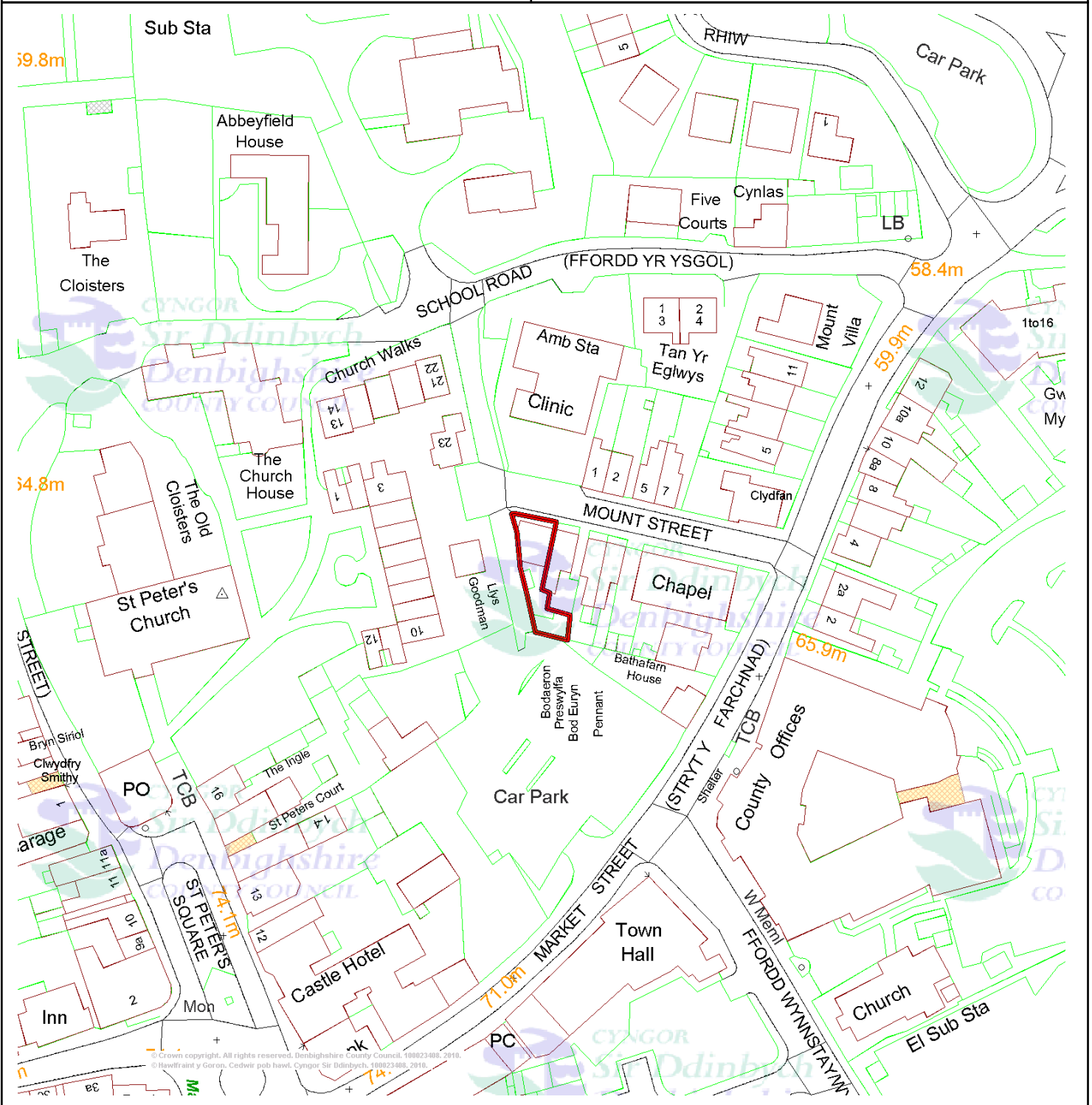
Graham Boase
Head of Planning & Public Protection
Denbighshire County Council
Caledfryn
Smithfield Road
Denbigh
Denbighshire LL16 3RJ



Date 26/5/2011
Centre = 312445 E 358395 N

Scale 1/1250

Tel: 01824 706800 Fax: 01824 706709



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PLANNING ENFORCEMENT REPORT

REFERENCE: ENF/2011/00006
LOCATION: Field opposite Pantyterfyn, Rhydtalog Road, Graianrhyd.
INFRINGEMENT: Without permission, the carrying out of an Engineering operation to create hard-standing, in an Area of Outstanding Beauty (AOB).

RELEVANT PLANNING POLICIES AND GUIDANCE

DENBIGHSHIRE UNITARY DEVELOPMENT PLAN

Policy GEN3 – Development Outside Development Boundaries
Policy GEN 6 – Development Control Requirements
Policy ENV 1 – Protection of the Natural Environment
Policy ENV 2 – Development affecting the AOB

Government Guidance – Planning Policy (Wales) 2010

Technical Advice Note (Wales) 9 – Enforcement of Planning Control

HUMAN RIGHTS CONSIDERATIONS

The provisions of the Human Rights Act 1998 are taken into account when considering taking enforcement action against unauthorised development and use and other related matters.

In this particular instance, matters relate to the rights of an owner who carries out an unauthorised engineering operation in an area designated as being one of outstanding natural beauty.

The rights of an owner in this situation do not outweigh the rights of the Local Planning Authority to ensure that breaches of planning control are addressed.

1. BACKGROUND INFORMATION

- 1.1 The land which is the subject of this report lies approximately 2.5 miles to the east of Llanarmon yn Ial and is accessed from a single track lane off the Rhydtalog road.
- 1.2 The land lies in a rural location within an area of Outstanding Beauty (AOB).
- 1.3 A complaint alleging various unauthorised activities on the land was made to the Planning Department on 12 December 2010. A preliminary site visit was carried out by a Compliance Officer on 28 January 2011. As 'Guard Dog' signs were observed, photographs were taken of the building on the land and what could be seen from the single track lane. The decision was made to contact the owner of the land for full access in order to investigate alleged breaches of planning control.
- 1.4 On 3 March 2011, a Compliance Officer met with the owner on the land with a view to carrying out an assessment of the whole site. On 7 March 2011, the Compliance

Officer confirmed to the owner by letter, that the above breach of planning control had taken place in creating the area of hard-standing on the land. In order to regularise said breach, a retrospective planning application was requested within 28 days.

2. REASONS FOR ISSUING AN ENFORCEMENT NOTICE

- 2.1 The development has taken place within the last 4 years.
- 2.2 No planning application has been submitted.
- 2.3 The unauthorised development is contrary to policies contained within the adopted Denbighshire Unitary Development Plan 1996 and advice contained within Planning Policy Wales (2010) in respect of :-

(i) Principal - **Policy GEN6** aims to ensure that development does not unacceptably affect the form and character of the landscape. **Policy GEN3** contains a presumption against development outside development boundaries other than in exceptional cases. The form and character of the landscape has been harmed in this case and an exceptional case cannot be made to overcome the requirements of these policies.

(ii) Visual Impact – A pre-requisite of development should be that it is not detrimental to visual amenity and that it achieves minimum impact. Development must be in sympathy with the natural environment and **Policy ENV1** aims to ensure that that the landscape character of the countryside is maintained or enhanced. Furthermore, **Policy ENV2** aims to avoid development which causes harm to the character and appearance of the landscape in areas designated AOB. The ground area covered by the engineering works extends to approximately 700 square metres and as the land falls from west to east the depth of the material deposited varies to a maximum of approximately 2 metres at the eastern extremity creating a high banking effect. This large scale engineering operation involving re-scaling of the land, has a negative visual impact on the rural landscape and is not sympathetic to the designation of the area as an Area of Outstanding Beauty (AOB).

3. RECOMMENDATION

- 3.1 That the Planning Committee authorise the service of an Enforcement Notice with a 3 month compliance period, requiring the re-instatement of the land to its levels prior to the engineering operation having taken place.
- 3.2 To instigate prosecution proceedings where any person on whom an Enforcement Notice has been served, fails or refuses to comply with the requirements thereof.

Heading:

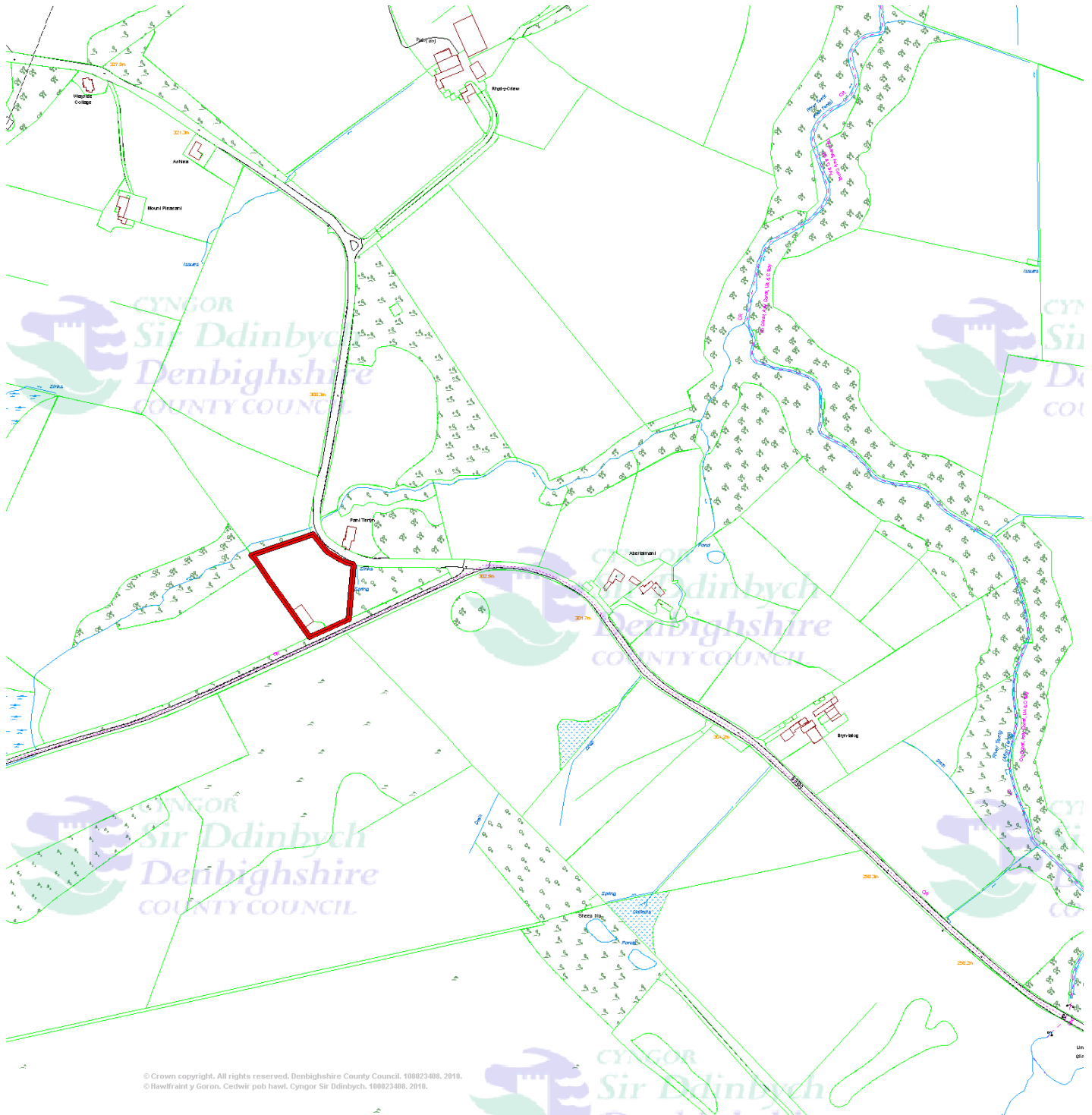
ENF/2011/00006
FIELD OPPOSITE PANTYTERFYN,
RHYDTALOG ROAD, GRAIANRHYD

Graham Boase
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Denbighshire County Council
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Date 25/5/2011
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Scale 1/5000



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PLANNING ENFORCEMENT REPORT

REFERENCE: ENF/2011/00007

LOCATION: White Water Country Manor, Field Opposite Plas Derwen, Abbey Road, Llangollen

INFRINGEMENT: Unauthorised development - Erection of 2.5m gate and engineering works to access track

RELEVANT PLANNING POLICIES AND GUIDANCE

DENBGHSHIRE UNITARY DEVELOPMENT PLAN
Policy GEN 3 - Development Outside Development Boundaries
Policy GEN 6 - Development Control Requirements
Policy ENV 2 - Development Affecting the AONB/AOB
Policy ENV 4 - Sites of Local Conservation Importance
Policy CON 12 - Historic Landscapes, Parks and Gardens
SPG 18 - Nature Conservation and Species Protection

GOVERNMENT GUIDANCE

Planning Policy Wales 2002
Technical Advice Note (Wales) 9: Enforcement of Planning Control
Circular 61/96 Planning and the Historic Environment

HUMAN RIGHTS CONSIDERATIONS

The Human Rights Act 1998 is taken into account when considering taking enforcement action against unauthorised development. In this instance, the matter under consideration relates to the rights of an owner of land to undertake an engineering operation and erect a gate and the impact that development has in relation to visual and ecological impact. It is considered that such development is not in the general public interest which outweighs the rights of the owner.

No specific human rights issues have been raised by the owner of the dwelling or any other interested party.

1. BACKGROUND INFORMATION

- 1.1 The site is an agricultural field to the north of Llangollen. It is bounded to the west by the River Dee and the east by the Llangollen Railway and is outside the development boundary of Llangollen in the Unitary Plan Proposals map
- 1.2 The site lies within the World Heritage Site Buffer Zone, the Area of Outstanding Beauty, the Vale of Llangollen and Eglwyseg Historic Landscape, a C2 Floodzone and bounds the River Dee which is a designated SAC and SSSI.
- 1.3 On the 3 May 2011, a complaint was received that unauthorised works had been undertaken at the site. A site visit was undertaken on the 5 May 2011 by a Planning Officer, who made record of the works that had been undertaken.

- 1.4 The works that were noted included the erection of a 2.5m gate and the creation of a raised access track. The landowner has stated that a track was pre existing in the same location as the raised track that has been created. However it is considered that the introduction of new material to raise the track would constitute an engineering operation and would therefore be development that would require planning permission.
- 1.5 There is no planning permission in place to authorise the development, nor has an application for planning permission been submitted, as required under the Town and Country Planning Act 1990.
- 1.6 The owners of the site have been contacted and advised of the breach in planning control.

2. REASONS FOR ISSUING AN ENFORCEMENT NOTICE

- 2.1 The unauthorised development has been carried out within the last four years.
- 2.2 The development that has been undertaken is considered to be unacceptable in relation to its landscape and ecological impact.
- 2.3 The development is therefore considered to be in conflict with Policy GEN 3, Policy GEN 6, Policy ENV 2, Policy ENV 4 and Policy CON 12 of the Denbighshire Unitary Development and guidance contained in SPG 18.
- 2.4 The use of conditions as part of any grant of planning permission would not remove these objections.

3. RECOMMENDATION

- 3.1 That authorisation be granted for the following:
 - (i) Serve an Enforcement Notice to secure the removal of the unauthorised Gate and the making good of land where the engineering operation to raise the access track has been undertaken within 3 months.
 - (ii) Instigate prosecution proceedings, or the appropriate action under the Planning Acts against the person, or persons upon whom any Enforcement Notice, or other such Notice is served, or against whom legal action is taken should they fail to comply with the requirements of the Enforcement Notice.

Heading:

ENF/2011/00007

WHITE WATER COUNTRY MANOR

FIELD OPP PLAS DERWEN, ABBEY RD., LLANGOLLEN

Graham Boase
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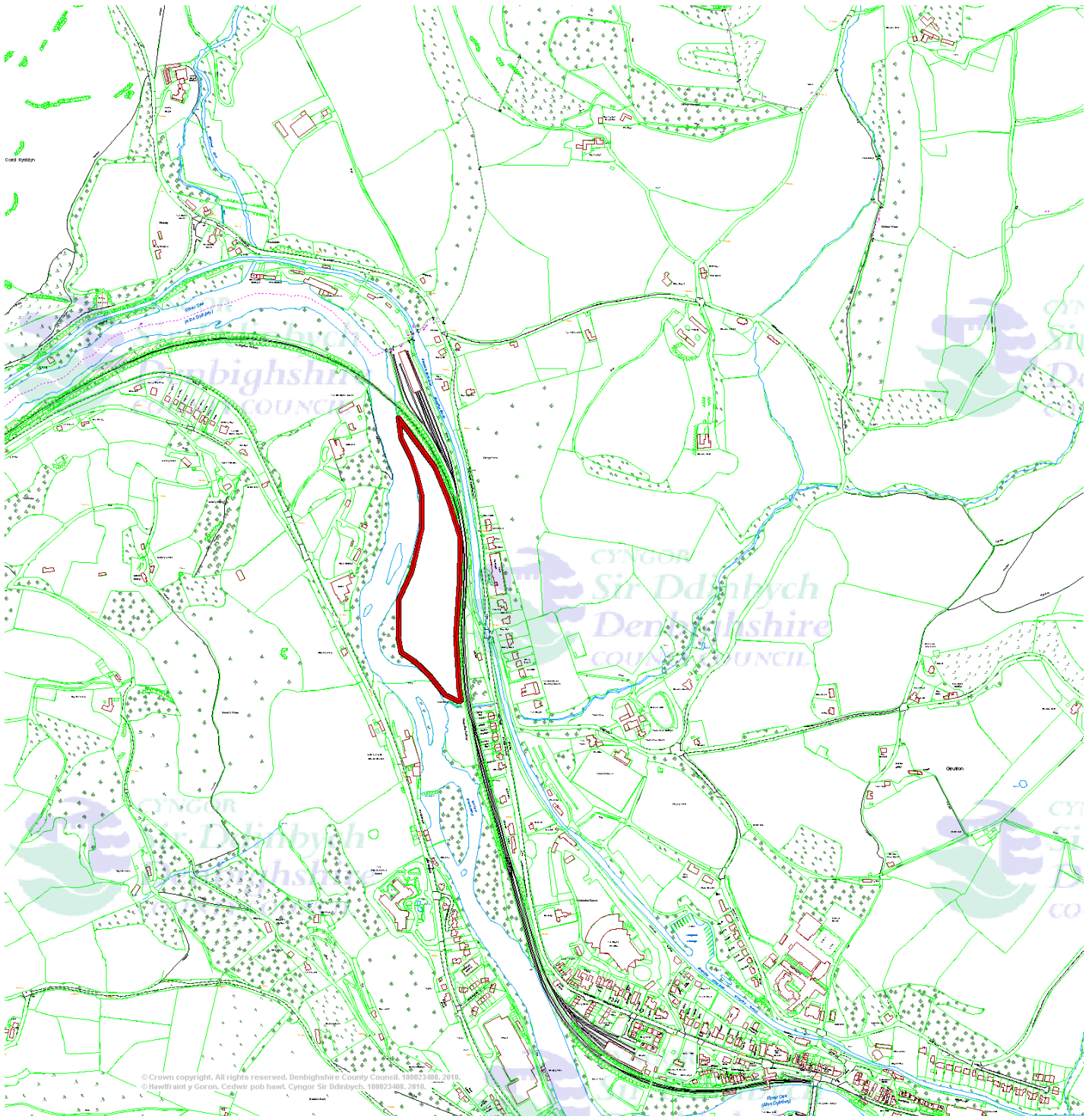
The Site



Date 25/5/2011

Scale 1/10000

Centre = 321042 E 343106 N



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REPORT BY CLAIRE MYATT SOLICITOR FOR DCC

INFORMATION ITEM FOR PLANNING COMMITTEE

5 MANOD ROAD, PRESTATYN

1. AN EXPLANATION FROM LEGAL SERVICES AS TO WHY THE PROSECUTION ON THE OWNERS OF THE ABOVE PROPERTY HAS NOW BEEN WITHDRAWN.

1. PURPOSE OF REPORT

- 1.1 The report seeks to provide an information update to Committee in relation to the prosecution of the owners of 5, Manod Road Prestatyn "the Property", Russell Reeve, Elin Reeve and Rebecca Reeve for failure to comply with an Enforcement Notice served by the Authority on 10 March 2009.

2. BACKGROUND

- 1.1 On the 7th July 2008 a complaint was received by the Planning Department that an unauthorised extension was being built at the Property. A Planning Compliance Officer visited the property and advised that the work may need planning permission.
 - 1.2 On 16th July 2008, a planning application was received and this was put before members on 17th December 2008 and the application was refused citing that the extension by reason of its scale, design and materials used was not sympathetic to the character or appearance of the property and the extension had a detrimental impact visually on the immediate locality.
 - 1.3 An appeal was received on 17 January 2009 and an Enforcement Notice was served on the owners of the Property on 10 March. The appeal was subsequently dismissed by the Planning Inspectorate on 09 July 2009.
 - 1.4 On 14 July 2009 the compliance period for the Enforcement Notice expired and on inspection the Property remained the

same, with no evidence of works being commenced or completed to comply with the Notice.

- 1.5 Following on from this a Certificate of Lawfulness was approved in June 2010 with a caveat that the works be started by 21 June 2010 and completed by 31 July 2010. Again this was not complied with.
- 1.6 In light of this, a file for prosecution was prepared by the Planning Department and passed to Legal Services for comment. This is where I became involved and took the decision on the evidence provided that we had enough evidence to prosecute the owners for failure to comply with an Enforcement Notice.
- 1.7 A further planning application was submitted to the Planning Department for "Alterations to existing single-storey extension..." and this was refused on 04 November 2010 under delegated powers by the Planning Department. An appeal was received against this decision shortly afterwards.
- 1.8 The matter was first heard in Denbigh Magistrates Court on 22 November 2010 and progressed to a trial date of 14 June 2011. However at the end of March 2011, the Planning Inspectorate allowed the appeal and I have attached a copy of this for your information. This basically concluded that there was not any significant difference between the planning applied for and that granted under the Certificate of Lawfulness. Furthermore the Inspector stated at paragraph 11 "As the proposal is partly retrospective in nature, there is no need for the standard commencement of development condition".

3. REASONING FOR DECISION TO WITHDRAW PROSECUTION

- 1.1 On receiving the Appeal Decision notification, as part of my on going duty to review the evidence throughout the proceedings, I started to have grave concerns about the implications this would have to our argument of non-compliance with the Enforcement Notice and in my opinion our chances of success at trial had been dramatically reduced. Furthermore I was very concerned about the cost implications to the Authority if we persisted with the proceedings.
- 1.2 The Decision more or less took away the remedies that we were asking for from the court and in essence made the original Enforcement Notice null and void. We could no longer ask the owners of the Property to remove the extension as they had retrospective planning permission and we could not ask them to comply in a requisite time limit as the Inspector stated that this

was not applicable. Furthermore it is my opinion that the Magistrates would not be minded to impose a fine on the owners of the Property as they could clearly argue that they had not complied with the Notice as they were going through an appeal process and were not going to take down their extension until a definitive decision had been made. This Decision actually vindicated their actions.

- 1.3 On discussion with the solicitor for the Reeve family, it became apparent that they also believed there was no longer a case against their clients and that they would be seeking full costs from the Authority if we continued with proceedings.
- 1.4 I then took the opportunity to discuss the case with a Planning Expert Barrister. After appraising him of the facts of the case, he agreed with my concerns and agreed that I should strongly consider withdrawing the matter as soon as possible.
- 1.5 I contacted the Client Department to advise them of my thoughts and understandably they were unhappy with withdrawing from the prosecution. Discussions via email took place with both Paul Mead and Graham Boase and ultimately it was my decision to withdraw from this matter. I took this decision after first safeguarding the Authority as to any adverse costs and negotiated with the other side that our withdrawal would only be on the basis that each side would bear their own costs in relation to these proceedings. The confirmation of this was eventually obtained, after some legal wrangling, and as such I wrote to the court withdrawing the prosecution on behalf of the Authority. I stand by this decision made and sincerely believe that it was the right decision in the circumstances.

4. WHAT HAPPENS NEXT

- 1.1 As the Planning Inspectorate stated that there was no need for the standard commencement of development condition, the Reeve family now have 5 years from the date of the decision to implement the requisite changes to the property. This is far from ideal, but that is the decision that was made on appeal.
- 1.2 If after the five years have elapsed the Reeve family still have not implemented the changes, then legal advice would have to be sought at that stage.

If I can be of any further assistance to members, please do not hesitate to contact me directly.

Claire Myatt
07.06.2011



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Penderfyniad ar Apêl

Appeal Decision

Ymweliad safle a wnaed ar 15/03/11

Site visit made on 15/03/11

gan Emyr Jones BSc(Hons) CEng
MICE MCI

by Emyr Jones BSc(Hons) CEng MICE
MCI

Arolygydd a benodir gan Weinidogion Cymru

an Inspector appointed by the Welsh Ministers

Dyddiad: 29/03/11

Date: 29/03/11

Appeal Ref: APP/R6830/A/10/2141645

Site address: 5 Manod Road, Meliden, Prestatyn LL19 8PH

The Welsh Ministers have transferred the authority to decide this appeal to me as the appointed Inspector.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr Russell Reeve against the decision of Denbighshire County Council.
- The application Ref 43/2010/1101/PF, dated 12 August 2010, was refused by notice dated 4 November 2010.
- The development proposed is described as alterations to existing single storey extension at rear of property to provide a tiled pitched roof in lieu of the existing felted flat roof.

Decision

1. I allow the appeal, and grant planning permission for alterations to existing single storey extension at rear of property to provide a tiled pitched roof in lieu of the existing felted flat roof and installation of dormer windows to each elevation of dwelling at 5 Manod Road, Meliden, Prestatyn in accordance with the terms of the application, Ref 43/2010/1101/PF, dated 12 August 2010, and the plans submitted with it, subject to the following condition:
 - 1) The materials and finishes of the external surfaces of the walls and roof of the extension hereby permitted shall be of the same texture, type and colour as those on external walls and the roof of the existing building.

Procedural matters

2. The description of the proposal given on the application is as per the above bullet point, but the Certificate of Decision adds 'and installation of dormer windows to each elevation of dwelling'. Because that given on the Certificate of Decision is more accurate, I will determine the appeal on that basis.
3. As the proposal includes alterations to an existing unlawful extension, it is partly retrospective in nature and I will consider it as having been made in part under Section 73A of the *Town and Country Planning Act 1990*, as amended, which relates to planning permission for development already carried out.
4. The appellant is of the view that the proposed rear extension constitutes permitted development such that it does not require planning permission. Whether or not planning permission is required is not a matter for me to determine in the context of an appeal made under section 78 of the above Act. It is open to the appellant to apply for a determination under sections 191/192 of the Act to determine this matter. My

determination of this appeal under section 78 does not affect the issuing of a determination under sections 191/192.

Main Issue

5. I consider the main issue in this case to be the effect of the proposal on the character and appearance of the surrounding residential area.

Reasons

6. The Council does not object to the proposed dormer windows. These would essentially replicate those at 1 Manod Road (planning permission Ref: 43/2007/0443/PF) and thereby provide some balance to this particular frontage of 3 dwellings.
7. The extension would protrude beyond the main rear elevation by slightly less than the maximum of 4m recommended for a detached dwelling by *Supplementary Planning Guidance Note No 1: Extensions to Dwellings*. Strictly speaking, this limit only applies to situations where the dwelling is on/close to a party/boundary wall whereas in this case the existing dwelling is not particularly close to the boundary with 1 Glasfryn Avenue. Furthermore, the proposed ridge height would be considerably lower than that of the existing dwelling and its side elevation facing Glasfryn Avenue would be well set back from that of the original dwelling.
8. Notwithstanding the gable feature facing Glasfryn Avenue, the above would result in the extension being of a scale and form subordinate to the original dwelling. As a result, it does not conflict with *Denbighshire Unitary Development Plan* policies GEN6 and HSG12.
9. The Council has issued a Certificate of Lawfulness for an alternative proposal which would be permitted development and represents a fallback position. The main differences are that the fallback would be 0.9m further from, and it would not incorporate a gable feature facing, Glasfryn Avenue, but its ridge would be somewhat higher. Overall, I do not consider that there would be any significant differences between the two insofar as scale and mass are concerned.
10. Retrospective planning permission for the existing extension was refused on appeal Ref: APP/R6830/A/09/2096263. However, the proposal before me is a much improved design in that it does not feature an incongruous flat roof and lantern light, the side elevation facing Glasfryn Avenue is well set back, and the eaves are not higher than those of the host dwelling. The Council suggest that my colleague specifically objected to the rear projection. Nevertheless, the reference to moving the existing house significantly closer to the rear boundary emphasising the extension and accentuating its jarring quality must be read in the context of the particular design under consideration at the time. It should also be noted that the fallback would project by the same amount.
11. As the proposal is partly retrospective in nature, there is no need for the standard commencement of development condition. However, the Council's suggested condition relating to matching materials is necessary to ensure an acceptable visual appearance to the development.
12. For the reasons given above I conclude that the appeal should be allowed.

E Jones

Inspector