

PLANNING COMMITTEE

Minutes of the meeting of the Planning Committee held in the Council Chamber, County Hall, Ruthin on Wednesday 16th November 2011 at 9:30am.

PRESENT

Councillors S. Thomas (Chair) I W Armstrong, J R Bartley, J Bellis, B Blakeley, M. Lloyd Davies, M. Eckersley, G C Evans, R L Feeley, I Gunning, D. Hannam, C Hughes, T R Hughes, E R Jones, H Ll Jones, G M Kensler, L M Morris, D Owens, P W Owen, A G Pennington, B A Smith D.I. Smith, D.A.J. Thomas J Thompson-Hill, C H Williams

ALSO PRESENT

Head of Planning, Regeneration and Regulatory Services, (G. Boase) ,Principal Solicitor (Susan Cordiner) Development Control Manager (P Mead), Principal Planning Officer (I Weaver), Team Leader (Support) (G Butler), Customer Services Officer (J Williams), and Translator (Catrin Gilkes).

APOLOGIES FOR ABSENCE WERE RECEIVED FROM

Councillors J Butterfield, J.A. Davies, J M Davies, P. Dobb, R W Hughes,

2. DECLARATION OF INTEREST

Councillors A. Pennington and I. Gunning declared an interest in application 45/2011/0834/PF (59 Ffordd Las, Rhyl)

Councillor S Thomas declared an interest in application 47/2011/0527/PF (White House, Rhualt).

3. URGENT ITEMS: None

4. MINUTES OF THE MEETING HELD ON 19th OCTOBER 2011

Resolved that the minutes of 19th October 2011 be confirmed for accuracy

5. APPLICATIONS FOR PERMISSION FOR DEVELOPMENT

The report by the Head of Planning Regeneration and Regulatory Services (previously circulated) was submitted enumerating applications submitted and requiring determination by the Committee.

RESOLVED that:-

- (a) *the recommendations of the Officers, as contained within the report submitted, be confirmed and planning consents or refusals as the case may be, be issued as appropriate under the Town and Country Planning (General Permitted Development) Order 1995, Planning and Compensation Act, 1991, Town and Country Planning Advertisements Regulations, 1994 and/or Planning (Listed Buildings and Conservation Areas) Act, 1990 to the proposals comprising the following applications subject to the conditions enumerated in the schedule submitted:-*

Item: 1

Application No: 28/2011/0483/PF

Location: Bryn Llyfannan, Denbigh Street, Henllan, Denbigh

Description: Change of use of part of former abattoir to form a brewery including siting of 2 no. foul water storage tanks.

Late Information:

Officers reported that Section 2.1 of the report, headed DETAILS OF PLANNING HISTORY, should contain reference to the following application: - 28/2000/0248/PC – Retention of use of redundant abattoir as an agricultural vehicles repair workshop and store (retrospective application), granted 06/06/2000

Public Speakers: Josephine Wynne Eaton

Ms Wynne Eaton advised the meeting that she was a trained brewer and wished to undertake her trade on a small scale as a family run business. She felt this development was good use of a brownfield site. The delay in progressing the application had resulted in the business missing the 2011 trade fairs. Objections had been received relating to the potential smell, but Ms Wynne Eaton explained that although steam would be discharged, the prevailing wind would carry that away from the village. There would be 9 “boils” per week. Any liquid effluent would not be discharged to drains as the mains were too far away, but the Environment Agency have been consulted and have agreed to an interim plan.

Councillor Colin Hughes (local member) was of the opinion that locals were concerned about smells because of problems from the former slaughterhouse on the site. A small brewery was unlikely to give rise to smells, and it should not be necessary to site it on an industrial estate. The company name of “Heavy Industry Brewery” was misleading. Councillor Hughes was happy with the suggested monitoring measures.

Councillor M. Lloyd Davies asked that officers keep the Community Council informed of future drainage detailing.

Councillor G Kensler thought that as Henllan had a good reputation for local bread, a brewery would be complementary. There had been a micro-brewery in Denbigh and there had been no complaints about unpleasant odours.

On being put to the VOTE:

23 voted to GRANT

2 voted to REFUSE

0 abstained

PERMISSION WAS THEREFORE GRANTED

Item: 2

Application No: 40/2011/1157/PF

Location: **Glan Clwyd Hospital Rhuddlan Road
Bodelwyddan Rhyl**

Description: Erection of new pathology and bulk stores building, mortuary, energy centre, and associated accesses, parking, service yards, landscaping, and drainage arrangements; and temporary contractors site huts and car parking (partly in retrospect)

Late Information

Further correspondence was reported from:

BODELWYDDAN TOWN COUNCIL

COUNTY BIODIVERSITY OFFICER

Councillor ER Jones raised concerns about the proximity of housing, the height of the proposed chimneys and the potential noise from refrigeration units. He queried the number of conditions and whether there was sufficient planning enforcement staff to monitor the development. He also advised the meeting of the potential for flooding in this area.

Councillor D Hannam wanted to ensure no pathological waste entered the local watercourses.

Councillor G Kensler asked why the buildings were not higher, to make better use of the land available.

Councillor I Gunning wondered if enough parking had been provided.

Ian Weaver (Principal Planning Officer) addressed Members' comments: The chimneys have to be the height shown in order to function correctly. Any noise issues would be covered by condition, and there are proposals for acoustic screens.

It was acknowledged that the area is boggy but it is not in a flood zone and The Environment Agency raises no objection. There is a need for a further newt survey and a surface water attenuation store is to be provided. Waste has to be treated and all surface water drainage will be held for a time before being filtered and discharged slowly.

The buildings are single storey due to their function and would cause more impact on the houses if higher. No additional staff is to be employed, so the

extra parking provided will help the present situation at the hospital. There would be little extra traffic, as existing functions of the hospital will move to the new buildings in due course. .

Councillor Lucy Morris asked the reason for the chimneys and hoped there was no incineration planned.

Ian Weaver advised that the chimneys were connected to the boiler room. Any pathological incineration would be controlled by Public Protection license.

Proposals:

Councillor P Owen proposed that permission be Granted

This was seconded by

VOTE:

23 voted to GRANT

0 voted to Refuse

0 Abstained

PERMISSION WAS THEREFORE GRANTED

Subject to the following Amended Conditions and new Note to Applicant

7. Notwithstanding the ecological mitigation proposals in the Habitat Survey and Amphibian Conservation plan, no development shall be permitted to commence until there has been submitted to and approved in writing by the Local Planning Authority, details of the precautionary and Reasonable Avoidance Measures, and mitigation proposals for great crested newts, based on an up to date survey of newts and how the proposals are consistent with the 2009 Amphibian Conservation Plan approved in relation to the adjacent car park development.

18. Prior to the occupation of any of the buildings hereby permitted, a Design Stage Certificate indicating the BREEAM overall rating for each of the buildings shall be forwarded to the Local Planning Authority; and a final certificate shall be forwarded to later than one year from the occupation of the respective buildings.

New Note to Applicant

You are advised to ensure construction works are organised to avoid disturbance to breeding bats and birds.

Item: 3

Application No: 41/2011/0741/PO

Location: **The Paddock Adjoining Downing Arms, Mold Road, Bodfari, Denbigh**

Description: Development of 0.09 hectares of land for erection of 5 No. dwellings with associated parking and amenity areas (Outline application including access, layout and scale)

Late Information

An additional letter of representation was received from:

COUNTY BIODIVERSITY OFFICER

Councillor B Smith expressed the view that, although the Affordable Housing Officer had said there was little demand, the village of Bodfari would welcome such a development as the school and other local facilities needed support. Councillor M Lloyd Davies thought that if smaller houses were built, young families would move to the area

Councillor Rhys Hughes agreed, citing the affordable housing that has brought new families into his community. .

Councillor B Feeley suggested that as there had been objections and the site was outside the development boundary there may be problems if the committee supported the proposal.

Ian Weaver (Principal Planning Officer) referred to requests to the applicant/agent for more information to assist the application process. Other sites within the development boundary have been identified which could be developed first for affordable housing, and the Housing Officers are not supporting the current proposals. .

Proposals:

Councillor Brian Blakeley proposed that permission be refused.

This was seconded by Councillor Gwilym Evans.

On being put to the VOTE:

2 voted to Grant

17 voted to Refuse

4 Abstained

PERMISSION WAS THEREFORE REFUSED

Item: 4

Application No: 45/2011/0834

Location: 59 Ffordd Las, Rhyl

Description: Demolition of fire damaged MOT testing centre and erection of replacement building, to include a taxi operators office

**Public Speakers: Against – Eryl Jones
In Favour – Terry Ledden**

Mr Eryl Jones spoke against this proposal. He told the meeting that he lived next door to the site and was not against the business. However he was regularly disturbed by late traffic and has trouble with cars and taxis blocking his access. He asked for conditions to be monitored and parking controlled.

Mr Terry Ledden spoke in favour of the application. He was aware of the problems Mr Jones had encountered and had instructed his staff not to park inconsiderately. However he said he could not influence the public. He felt the new proposal would help, as the taxi office would be at the furthest point from Mr Jones' bungalow.

Councillor D Thomas explained the industrial history of the site. He also advised the committee about the parking problems in the area and the steps taken by Highways (bollards on the pavement, plans to delineate the bus stop) and hoped an amicable solution could be found. He also requested that the conditions are closely monitored, and moved the officer's recommendation.

Councillor B Blakeley spoke of the letters he had received, from residents and a local driving school complaining about obstruction of traffic. It was feared that people were failing their driving test as a result. The police have been consulted but can do nothing as there are no parking restrictions.

Councillor J Bellis reported complaints from schools, the community centre and college in the area. Parked cars were obstructing pedestrian passage by blocking the pavement. He asked for a condition restricting taxi parking on the road.

Councillor Colin Hughes was concerned that granting this application would be a burden on officers monitoring the conditions.

Councillor D Hannam lived on this street herself and sympathised with the garage owner but the parking was causing problems for wheelchairs, prams and

ambulances. Advert boards have been seen near the site which, it was assumed, had no permission.

Councillor D.I. Smith was concerned there were insufficient staff resources. He felt there was little point in imposing conditions if they could not be monitored.

Councillor D Thomas explained the measures taken by highways which also resulted in the removal of a blind spot on a corner. The Driving Standards Agency was happier with the situation now. He felt that the suggested conditions 8 and 10 cover the taxi issue.

Development Control Manager Paul Mead explained that business uses were permissible in this area. There is an established MOT testing centre here, but the car sales operation was not authorised. Following the fire which destroyed the building, the planning officers had discussed the proposal and potential conditions with the applicant. There is more on site parking and attempts have been made to limit traffic visiting the site. Residents have valid points and the applicant has now heard those points in a public forum. The taxi control base should not require taxis to visit the premises but it would be possible to give a temporary consent for the taxi office use to allow monitoring. On-street parking was an issue for Highways or the police.

Councillor DAJ Thomas proposed that permission be granted, subject to an additional condition giving a temporary period for the taxi office use. This was seconded by Councillor M. Lloyd Davies.

On being put to the vote:

18 voted to Grant

3 voted to Refuse

2 Abstained

PERMISSION WAS THEREFORE GRANTED

Subject to:

Additional conditions

12. The development shall be undertaken strictly in accordance with the Design and Access Statement as revised, dated 25/9/2011.
Reason: For the avoidance of doubt.
13. Notwithstanding the submitted plans, the fenestration detailing on the north west facing elevation shall not be as shown, but shall be in accordance with such detail as is submitted to and approved in writing by the Local Planning Authority prior to the commencement of work on the building.
Reason: In the interests of residential amenity.
14. The Local Planning Authority shall be notified in writing no later than one month from its commencement, of the date the use of the taxi office room has

begun, and the use shall cease no later than 12 months from that date unless the formal permission of the Local Planning Authority has been obtained to the use continuing.

Reason: To allow the Local Planning Authority the opportunity to monitor the impact of the use on adjacent residential property.

Item: 5

Application No: 47/2011/0527/PF

Location: **White House Hotel, Holywell Road, Rhualt, St. Asaph**

Description: Extensions and alterations to existing public house/hotel and use of 1.6 hectares of land to rear to form a 40 pitch touring caravan and 10 pitch chalet/static caravan park, with associated works including landscaping, access tracks, sanitation and washing building, and installation of a package treatment plant

Councillor Selwyn Thomas declared an interest in the following application and left the Chamber during consideration thereof. Councillor Ray Bartley took the chair in his absence.

**Public Speakers: Against – Mrs Jelley
In favour Mr Peter Lloyd**

Mrs Jelley spoke against the proposal, stating that other sites in the area had been refused permission and the White House had already got approval for two sites. The proposed land was high grade agricultural land and adjoins the AONB. Policy TSM 12 allowed caravan sites but only if well screened. Mrs Jelley welcomed the refurbishment of the White House which she felt would be a good business if well run but she felt it needed more parking.

Mr Peter Lloyd spoke in favour of the application which he considered would bring tourism and jobs to the area. It would allow the hotel to be brought back into use. The applicants intended to work sensitively with the landscape. The land would suffer no long term harm, as any work on the caravan site could be reversed

Ian Weaver (Principal Planning Officer) advised that the proposal is for 40 touring caravans and 10 statics together with the refurbishment of the White House Hotel. There is already permission for 10 tourers and 26 static caravans. There were some disadvantages but on the whole planning officers were happy to recommend approval subject to stringent conditions.

Councillor B Smith expressed sympathy with local residents' fears of noise and disturbance. However she felt that this was an extension to an existing site and would allow the business to flourish. She asked that mature planting be

considered in order to screen the site. She also asked that a condition be imposed to ensure no more caravans are sited here.

Councillor ER Jones felt that this was high grade agricultural land and should not be developed.

Councillor B Feeley was in favour of the caravan sites and stressed the detrimental impact derelict buildings can have.

Councillor M Lloyd Davies asked how much work was needed to bring the hotel into use and whether it was possible to refurbish the hotel first.

Councillor G Kensler asked if the fields could revert to high grade agricultural land after the caravans had been on them.

Councillor Colin Hughes hoped the development would bring in much needed jobs for young people.

Ian Weaver (PPO) answered the members' questions: It was possible to condition that mature trees be planted. However it was not possible to condition no further caravan developments, in this case another application would be necessary which would have to be determined on its own merits. The agricultural land was shown on the 1966 agricultural maps as Grade 2 - this is designated as "high quality". The proposal would not necessarily change the land quality permanently unlike other proposals which might include hard standing concrete for the caravans. In terms of the refurbishment of the hotel, there is a suggested condition relating to the phasing of the development and it could be changed if required by committee. On the parking issues – there would be room for a vehicle next to each caravan, and Highways felt there was adequate provision for visitors to the hotel.

Councillor M. Lloyd Davies felt it was important to refurbish the hotel first to prevent it becoming derelict. He proposed that this be included in the phasing condition.

Councillor D Owens asked about the mature landscaping discussed earlier.

Graham Boase (Head of Planning) advised that although conditions 7, 8 and 9 covered landscaping, a Note to Applicant could be included.

Councillor I Gunning proposed that permission be granted with the proposed changes to conditions. This was seconded by Councillor D Owen

On being put to the VOTE:

20 voted to Grant

0 voted to Refuse

2 Abstained

PERMISSION WAS THEREFORE GRANTED

SUBJECT to the following Amended Conditions:

7. add at the end of condition 7.

”Particular attention shall be paid to the introduction of significant, mature planting along the northern and eastern boundaries of the caravan site.”

18. add after the first sentence – “.... the Local Planning Authority, to ensure The White House is renovated and opened for business no later than the bringing into use of the caravan site.... .

Revised Note to Applicant

Add at end of first note –

‘The Authority is particularly keen to ensure that mature planting is introduced as early as possible in the development to help screen the caravans from views from the east.’

AGENDA ITEM 6

PLANNING APPEAL

MODIFICATION OF SECTION 106 OBLIGATION RELATING TO THE PROVISION OF AFFORDABLE HOUSING, INVOLVING THE PAYMENT OF £115,400 COMMUTED SUM

CASTLEFIELDS, ABBEY ROAD, RHUDDLAN

Report submitted by the Head of Planning Regeneration and Regulatory Services informing members that an appeal had been submitted against the refusal of the above modification. The appeal is to be heard by a Planning Inspector at an informal Hearing on 6th March 2012. The report asked for authorisation to engage a Planning Consultant and a Financial Advisor and requested two Councillors are nominated to represent Planning Committee at the Hearing.

Councillors asked about the cost involved, how much the experts would charge and whether the Council can claim that expenditure back.

Officers explained the appeal process and advised that it could cost up to £10,000 to employ the consultants. The appellant could ask for their costs to be paid by the Council if it was deemed the Local Authority had acted unreasonably. The Council could only claim costs if the appellant acted unreasonably.

Councillor Feeley had experienced an informal hearing and warned the other members that it could be a difficult day.

Councillor Lucy Morris asked if the consultants would be appointed in time to prepare statements and meet the deadline of 14th December 2011.

G. Boase explained that a joint statement would be submitted on behalf of the authority, not individual statements. Once this had been received by the Inspector, It would be "unreasonable" to introduce new evidence.

It was proposed that Councillors Selwyn Thomas and Lucy Morris represent the planning committee at the Informal Hearing. Councillor A Pennington was proposed as a substitute.

On being put to the vote by a show of hands this was unanimously carried .

RESOLVED THEREFORE:

- a) Planning Committee Authorise officers to engage a planning and a financial consultant to prepare and present the Council's Case.
- b) Councillors Selwyn Thomas and Lucy Morris be appointed to work alongside the consultants and to help the presentation of the Council's Case at the hearing. Councillor Alan Pennington be appointed as a substitute.

The meeting closed at 11:55 am

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 sheets) 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 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.

The Planning Committee consists of 30 elected Members. In accordance with protocol, 15 Members must be present at the start of a debate on an item to constitute quorum and to allow a vote to be taken.

County Council Members who are not elected onto Planning Committee may attend the meeting and speak on an item, but are not able to make a proposal to grant or refuse, or to 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 any 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 normally invite those Members who attended, including the local member, to speak first.

On all other applications, the Chair will permit the local member(s) to speak first, should he/she wish to do so.

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 21st DECEMBER 2011
INDEX OF PLANNING APPLICATIONS**

Item No	Application No	Location and Proposal	Page No
1	01/2011/1309/PF	Former Autoworld Site Smithfield Road Denbigh Demolition of existing buildings and erection of Youth Enterprise Centre along with 6 No. 1-bed self-contained flats for rent and construction of new vehicular access	1
2	04/2011/1143/PF	Thistledown Barn Ty Cerrig Betws Gwerfil Goch Corwen Conversion and repair of barn for use as holiday cottage / serviced accommodation and installation of a new septic tank	17
3	12/2011/0858/PF T	Land at Cilgoed Derwen Corwen Erection of 1 no. 500kw wind turbine at 78 metres ground to blade tip height, construction of a new vehicular access and track and erection of associated substation control building	26
4	12/2011/1017/PR	Land between Benedict House and Tan y Llan Derwen Corwen Details of access, appearance, layout and scale of dwelling submitted in accordance with Condition No. 1 of Outline Planning Permission Code No. 12/2008/0692/PO (Reserved matters excluding landscaping)	43
5	20/2011/1219/PR	Land at (part garden of) Wenallt Llanfair Dyffryn Clwyd Ruthin Details of layout, scale and appearance of dwelling and landscaping submitted in accordance with condition no. 1 of outline planning permission code no. 20/2011/0678	48
6	27/2011/1049/PF SP	Land adjoining Abbey Grange Hotel Llantysilio Llangollen Installation of ground mounted solar photovoltaic panels array comprising 250 solar panels in three rows	53
7	30/2011/1054/PF	Land at Trefnant Isa fronting Ffordd Pen Y Maes, Parc Grosvenor Trefnant Denbigh Erection of 1 no. dwelling and construction of a new vehicular access (site area 0.08ha)	59
8	42/2011/1146/PS	Bodunig Inn High Street Dyserth Rhyl Variation of Condition No. 3 of planning permission code no. 42/2011/0652 to allow the use of the shelter until 0100hrs	72
9	45/2011/0717/PC	58 Brighton Road Rhyl Retention of car parking area for a temporary period of 5 years for use by staff of adjoining Council Offices	76

ITEM NO: 1

WARD NO: Denbigh Upper / Henllan

APPLICATION NO: 01/2011/1309/ PF

PROPOSAL: Demolition of existing buildings and erection of Youth Enterprise Centre along with 6 No. 1-bed self-contained flats for rent and construction of new vehicular access

LOCATION: Former Autoworld Site Smithfield Road Denbigh

APPLICANT: Cymdeithas Tai Clwyd Cyf

CONSTRAINTS: B Flood Zone
Conservation Area

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

CONSULTATION RESPONSES:**DENBIGH TOWN COUNCIL**

"The Council does not wish to raise any objection to the application.

DENBIGH CIVIC SOCIETY

Pleased to see development of the site and the proposed use of several facing materials, as well as solar panels and screening by tree planting.

ENVIRONMENT AGENCY WALES

The Agency originally expressed objections to the application on two grounds:-

1. That there was inadequate information submitted to allow proper assessment of risk to the quality of groundwater from potential contamination arising from old underground storage tanks.
2. That the Flood Consequences Assessment failed to demonstrate the consequences of flooding could be acceptably managed.

The Agency have since been in dialogue with the applicant's agents over the information requirements and have written to confirm that they would remove the objection in relation to contamination grounds subject to the imposition of conditions requiring suitable risk assessment, site investigation, mitigation, remediation and monitoring works. They have also confirmed that they are considering further submissions in relation to Flood Risk and will advise further on this matter.

DWR CYMRU/WELSH WATER

Requests inclusion of conditions and advisory notes if permission is granted. These include the 'standard' requirements to drain foul and surface water separately from the site, and a specific condition relating to the timing of the commencement of use to coincide with the completion of upgrading works on the public sewerage system, i.e. April 2012.

DENBIGHSHIRE COUNTY COUNCIL CONSULTEES

Head of Highways and Infrastructure

No objections, subject to inclusion of conditions requiring details of the highway improvements, a construction method statement, and completion of access works before the development is brought into use.

Biodiversity Officer

Accepts the building has low potential for roosting bats and suggests standard Reasonable Avoidance Measures should be followed.

Project Manager, Townscape Heritage Initiative

No objection to overall concept, but suggests further justification/clarification is needed to explain the relevance of use of copper cladding (on the Youth Centre building), and the design generally to the Conservation Area.

Pollution Control Officer

Response to be reported in late representation sheets.

Affordable Housing Officer

Fully supports a scheme of this nature as it supports young people and will be fully affordable, in perpetuity with a Registered Social Landlord and managed by a team of officers from the association.

RESPONSE TO PUBLICITY:

None received at the time of preparing the report.

EXPIRY DATE OF APPLICATION: 29/12/2011

PLANNING ASSESSMENT:

1. THE PROPOSAL:

1.1 Summary of proposals

- 1.1.1 The application seeks full planning permission to redevelop the former Autoworld Garage site on Smithfield Road, by way of linked buildings incorporating a 'Youth Enterprise Centre' and 6 self-contained sheltered housing apartments. The site is 0.17 hectares in extent.
- 1.1.2 The scheme is submitted on behalf of Cymdeithas Tai Clwyd by John McCall Architects. A strip of land along Maes Hyfryd is owned by Denbighshire County Council.
- 1.1.3 The proposals involve:-
- the demolition of the buildings used until 2004 as a commercial garage and petrol station;
 - the erection of a 'linked' 'L' shaped building of some 1300 sq. metres floorspace comprising:
 - (i) a Youth Enterprise Centre : a 2 storey building fronting Smithfield Road, to include at ground floor level a main reception, lounges/multi-purpose rooms/potential shop, office and toilets; and at first floor level multi purpose rooms, seating areas, office space and toilets.
 - (ii) 6 self contained apartments and warden's accommodation: a 3 storey building physically linked to the Enterprise Centre, located on the corner of Smithfield Road and running along Maes Hyfryd. This would contain the self-contained apartments on the first and second floors, which are all single bedroom units, and on the ground floor a

warden's bedroom, meeting room and office, and a communal kitchen and lounge area.

- the erection of a garage for 2 vehicles (including a minibus for use by the Centre), between the apartment block and the terrace at Nos. 1-7 Maes Hyfryd;
- the retention and renovation of an existing store building at the rear of No. 8 Bowers Villas, for use as workshop rooms and plant storage;
- the provision of 10 off-road parking spaces between Maes Hyfryd and the apartments, and a further single parking space alongside the gable end of No. 8 Bowers Villas;
- the creation of a 'drop off' area in front of the Youth Enterprise Centre, i.e. a vehicle pull in clear of Smithfield Road to allow visitors to be dropped off at the premises;
- associated landscaping and planting works, and the creation of a private amenity area at the rear of the apartments and the Enterprise Centre building, with cycle racks and seating areas.

1.1.4 The site is 0.17 hectares in extent. The plans show a development of modern design. The 3 storey section is indicated by the agents as a 'strong visual element' mimicking a tower, with the proposal being to use a heavier masonry block with colour similar to that of traditional materials in the rest of the Conservation Area. The 2 storey Youth Centre is described as a more 'lightweight' mass highlighting the main entrance, leading the way to the town centre, reflecting the 2 storey nature of adjacent housing, preserving the views of St. Mary's Church, and other parts of the Conservation Area when viewed down Smithfield Road. The proposal is to use a lightweight copper cladding on the Youth Centre, a material which the agent suggests would add to and support the character of the Conservation Area, where there is a mix of traditional and non-traditional materials, copper also being a 'natural and robust' material providing the client with a scheme requiring little maintenance, and will allow the building to 'age gracefully'.

The plans at the front of the report give an indication of the layout and elevational details of the development.

1.1.5 The application documents explain the concept of the scheme as developed in conjunction with Cymdeithas Tai Clwyd, who have identified the need for the facility. These state the aim is to create a centre that will provide support to young people in general at risk of underachieving in life, particularly in learning, skills development and securing employment, as well as to reduce the number of young people presenting in the future as homeless or potentially homeless.

1.1.6 Specifically, in relation to the elements of the scheme, the agent indicates the Youth Centre will cover the age ranges of 11-25 and provide vocational skills, access to appropriate advisory business, counselling and mentoring support, formal and informal learning facilities, as well as providing a gateway to other youth services. The supported housing project would be for 16-25 year olds, with associated on site communal training facilities. Residents would enrol on various life skills and educational support courses which may enable them to move on to independent living, further learning or employment.

1.1.7 The application is accompanied by a detailed Design and Access Statement, a Flood Consequences Assessment, a protected species survey, a Contamination Survey and an Asbestos Survey Report.

- The Flood Assessment concludes that whilst the site is on the edge of Flood Zones 2 and 3 in the Environment Agency Flood Maps, the completion of the Denbigh Flood Alleviation Scheme means residual flood risk to the development is low, and setting floor levels 300mm above path and garden levels would protect against this risk.
- The Protected Species report concludes demolition works would not have any significant impact on the favourable conservation status of bat or bird species.
- The Contamination Survey recognises the potential source of contamination from past uses of the site and recommends standard survey and remediation works in conjunction with the Council and relevant bodies.
- The Asbestos Survey Report confirms the presence of asbestos cement boarding, which would need to be removed by a licenced and professional company in accordance with standard industry practice.

1.2 Description of site and surroundings

1.2.1 The application site lies on the north side of Smithfield Road, opposite the Petrol Filling Station connected to the Morrison's foodstore.

1.2.2 It is occupied by buildings formerly in use as a commercial garage (Autoworld) and included a small petrol station close to Lenten Pool. The buildings have been vacant for many years, although the site was used in early 2011 as a depot in connection with the Denbigh Flood Alleviation Scheme.

1.2.3 The site has a frontage along Smithfield Road and along Maes Hyfryd, a road which has a junction with Smithfield Road by the adjacent Fire Station and links to the housing development at Maes Mathonwy to the north west.

1.2.4 The site shares a common boundary with No. 7 Maes Hyfryd to the north, in the form of a high stone wall delineating the garden of that dwelling. The units at Maes Hyfryd are a traditional 2 storey terrace with slate roofs and a mix of render/dash walls, and long rear gardens.

1.2.5 The eastern end of the site contains a store building which forms the boundary with the rear garden of No. 8 Bowers Villas. Sections of the boundary walls are heavily overgrown with ivy. Bowers Villas are also 'traditional' town centre units in the form of a terrace with a mix of stone and render on the walls and slate on the roofs.

1.2.6 Elsewhere in the locality there is a mix of uses and development styles. The town fire station is immediately to the west on Smithfield Road, and is a 'functional' cream/buff brick flat roof structure, with its observation/training tower in a rear parking area. The modern Morrison's store is on the south side of Smithfield Road. There are long established terraces of dwellings at Lenten Pool, a housing development at Llys y Grawys, the old bus depot (now Market World) to the north, and the Council Offices at Caledfryn at the

top of Smithfield Road.

- 1.2.7 Ground levels fall some 2.8 metres down Smithfield Road from Maes Hyfryd to Lenten Pool.

1.3 Relevant planning constraints/considerations

1.3.1 The site lies within the town development boundary in the Unitary Plan, and is within the recently extended Denbigh Conservation Area.

1.3.2 There is no specific designation on the site in the Unitary Plan proposals map.

1.4 Relevant planning history

1.4.1 The commercial garage and petrol station are long established uses.

1.4.2 In recent years the site has been the subject of applications for residential developments. These include a scheme for 19 apartments granted permission in September 2005, and a different scheme for 23 apartments in 2008. The latter scheme involved a 3 storey development and was granted at Planning Committee in June 2008 subject to completion of a legal obligation relating to affordable housing and open space. The agreement has never been completed, so the permission has not been issued.

1.5 Developments/changes since the original submission

1.5.1 None.

1.6 Other relevant background information

1.6.1 The submission refers to pre-application consultation with stakeholders, local councillors, officers, and local residents.

2. DETAILS OF PLANNING HISTORY:

2.1 There are 2 recent applications of relevance:

01/2005/0764/PO

Development of 0.15ha of land by the erection of 19 apartments, construction of new vehicular/pedestrian accesses, and associated works (outline application) – GRANTED 28th September 2005.

01/2008/0108/PF

Demolition of existing building and erection of 23 no. apartments, construction of new vehicular/pedestrian access and associated works
Resolved to grant at Planning Committee on 11th June 2008 subject to completion of legal agreement.

3. RELEVANT POLICIES AND GUIDANCE:

The main planning policies and guidance are considered to be:

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

Policy STRAT 1 - General

Policy STRAT 6 - Location

Policy STRAT 11 - Regeneration

Policy STRAT 15 - Housing

Policy STRAT 16 - Community facilities and benefit

Policy GEN 1 - Development within Development Boundaries

- Policy GEN 2 - Development of unannotated land
- Policy GEN 6 - Development Control requirements
- Policy CON 5 - Development in Conservation Areas
- Policy CON 7 - Demolition in Conservation Areas
- Policy TRA 6 - Impact of new development on traffic flows
- Policy TRA 9 - Parking and servicing provision
- Policy HSG 10 - Affordable housing within development boundaries
- Policy ENP 4 - Foul & surface water drainage
- Policy ENP 8 - Contaminated land
- Policy CF1 - Community facilities – General
- Policy EMP 6 - Office development

3.2 Supplementary Planning Guidance

- SPG 8 - Access for All
- SPG 18 - Nature Conservation and Species Protection
- SPG 21 - Parking provision in new developments
- SPG 22 - Affordable housing in new developments
- SPG 26 - Residential Space standards

3.3 GOVERNMENT GUIDANCE

- Planning Policy Wales 2011
- TAN 12 - Design
- TAN 15 - Development and flood risk
- TAN 18 - Transport
- TAN 22 - Sustainable Buildings

4. MAIN PLANNING CONSIDERATIONS:

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

- 4.1.1 Principle of redevelopment
- 4.1.2 Impact on visual amenity/Conservation Area
- 4.1.3 Impact on residential amenity
- 4.1.4 Highways/parking
- 4.1.5 Affordable housing
- 4.1.6 Flooding/drainage
- 4.1.7 Inclusive design
- 4.1.8 Sustainability code considerations
- 4.1.9 Ecology
- 4.1.10 Contaminated land

4.2 In relation to the main planning considerations:

4.2.1 Principle of redevelopment

The site lies within the development boundary for Denbigh and has no specific use designation in the Unitary Plan. The Unitary Plan looks to encourage sustainable development and concentrate new development into main centres such as Denbigh, in strategic policies STRAT 1, STRAT 6 and GEN 1, favours regeneration of run down sites in towns in STRAT 11, and seeks to meet a range of housing needs in STRAT 15, and community needs in STRAT 16 and CF1. Office development is permitted in edge of centre locations in EMP 6.

The proposal is considered to be consistent with the principles of the Unitary Plan's strategic and more specific policies; offering a combination of housing provision, and a Youth Centre with office accommodation.

4.2.2 Impact on visual amenity/character of Conservation Area

The Unitary Plan's main policies obliging consideration of impact on visual

amenity and the character of a Conservation Area are GEN 6, and CON 5 and CON 7. These require due assessment of the acceptability of new development on its surroundings/townscape; and in respect of the Conservation Area, require that development preserves or enhances the character of that area; and that demolition of buildings is justified following evaluation of the potential for re-use or adaptation of existing buildings, the contribution of those buildings to the character of the area, and the acceptability of the redevelopment proposals.

The submission argues the case that the proposals for demolition and redevelopment are acceptable in relation to the policies. In respect of demolition, it points to unsuccessful marketing attempts to find an alternative user of the buildings, and their deteriorating condition. It contends the 'modern' scheme is appropriate in this location, respecting the mixed character of development in the Conservation Area. The Conservation Architect's view is that the overall concept addresses issues such as the relationship and massing of the blocks with the surrounding built environment, but has concerns over the justification for the selection of external materials, in particular the proposal to use copper cladding on the Youth Centre building.

Officers' opinion is that the modern approach to design would not be inappropriate given the variation in styles of development in the locality, and that to respect the concerns of the Conservation Architect, conditions should be considered to agree the final external materials. A redevelopment would do much to remove what is currently a significant eyesore at the entrance to the town from the west, and to enhance the character of the Conservation Area.

4.2.3 Impact on residential amenity

The main Unitary Plan policy requiring assessment of impact on residential amenity is GEN 6.

The issues to address here are the potential impacts of the new buildings in terms of overlooking/overshadowing of residential properties to the north at Bowers Villas and Maes Hyfryd, and nuisance/noise/disturbance to residents from the proposed uses. At the time of drafting the report, no individual objections had been received in relation to these matters.

Looking first at the physical detailing of the proposed buildings, it is to be noted that the height of the 3 storey apartment element is actually lower than that of the previously approved apartment block, which was acceptable to the Committee in 2008, and the nearest part of the 3 storey section to No. 7 Maes Hyfryd is now some 5 metres further away from the nearest part of the gable end of that property than it was in the earlier scheme. The Youth Centre section of the scheme is now only 2 storey height. In officers' opinion the proposals would not result in unacceptable overshadowing of adjacent residential property.

There are issues to address over the position and detailing of windows in the 1st and 2nd floors of the north facing elevations of the apartment block (2 kitchen windows), and windows at 1st floor level in the Youth Centre (an office and meeting room window) to avoid the potential for overlooking of private rear gardens of Maes Hyfryd dwellings. These can be dealt with by a suitably worded condition.

Officers do not consider the proposed uses would be inappropriate in this

town centre location, in respect of generating unacceptable nuisance, noise, or disturbance to occupiers of dwellings in the locality. The principle of a larger scale of apartment style development has been accepted previously by the Committee, and it is not considered the Youth Centre use and the 6 self-contained apartments now proposed, with warden accommodation would introduce a character of use so different or inappropriate as to give rise to unacceptable amenity impacts. The Youth Centre use would operate restrictive hours and seems unlikely to give rise to unacceptable residential amenity issues. Bearing in mind the established commercial/industrial use at the site, it is considered the proposed development offers opportunity to considerably enhance the amenities of occupiers of nearby property.

4.2.4 Highways/parking

The main Unitary Plan policies relevant to assessment of highway impact are TRA 6 and TRA 9. TRA 6 permits new development provided there are no unacceptable impacts 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 also contains basic tests including in vii a requirement that development provides safe and convenient access for a range of users, and adequate parking and servicing.

The submission highlights the existing situation at the site, where there is already an off-road parking strip all the way along Maes Hyfryd, and access into and out of the main buildings from Smithfield Road. The proposals are to widen the road along Maes Hyfryd and to formalise the parking arrangements there, with 10 parking spaces and 2 additional spaces within a garage building; and to simplify the arrangements onto Smithfield Road by way of an 'in and out' access serving a drop off point for visitors outside the Youth Centre entrance. The Highways Officers have no objections to the proposals.

Taking into account the existing situation at the site, and the detailing of the proposals, it is suggested the scheme offers a considerable improvement on the current access and parking arrangements, in what is a busy section of the A543 leading up from Lenten Pool to the west. The absence of dedicated on-site parking for users of the Youth Centre is not considered critical given the location of the site close to the town centre and public car parks, on a regular bus route.

4.2.5 Affordable housing

The requirement to consider the provision of affordable housing in new development within settlements is set out in Policy HSG 10 of the Unitary Plan, and is detailed further in SPG 22 – Affordable Housing in new developments.

The submission confirms the housing element of the scheme is for a total of 6 one bed housing units, which will be managed by Tai Clwyd and will be for affordable rent. The Affordable Housing Officer fully supports the proposals as all units would be affordable.

The proposals are effectively creating a 100% affordable provision to fit with the Tai Clwyd Youth Enterprise development, so would clearly be in compliance with current policy on provision in SPG 22.

4.2.6 Flooding/drainage

Flooding and drainage considerations are contained in Policies ENP 4, ENP 6 and GEN 6 and in TAN 15 – Development and Flood Risk of the Unitary Plan.

The basic requirement is to ensure there are no unacceptable flooding, foul or surface water impacts from development.

The site is close to an existing town centre and has been in commercial/industrial use for years. It was close to land identified as susceptible to flooding in the original development advice maps accompanying TAN 15 – Flooding, but recent major works on Denbigh's drainage system have been undertaken to alleviate localised problems, including at Lenten Pool. The Environment Agency raised objections to the original submission as they were not satisfied that the level of information in the Flood Consequences Assessment demonstrated the consequences of flooding could be acceptably managed. The Agency have since been in discussion with the applicant's consultants, and it is understood they will be able to confirm by the time of the Committee meeting whether mitigation measures necessary to protect the development from flooding in an extreme event or blockage at Lenten Pool are acceptable (e.g. setting floor levels 300mm above surrounding ground levels). Dwr Cymru/Welsh Water are undertaking improvement works to the foul sewer system and have no objections to the piped drainage proposals subject to any new development connecting to the system after 1st April 2012.

Subject to the Environment Agency's confirmation that the Flood Mitigation proposals are acceptable, and to the inclusion of suitable conditions, the development is considered to be acceptable in relation to the aforementioned policies and meets the necessary justification tests for developments in Flood risk areas in TAN 15.

4.2.7 Inclusive design

The requirement for mandatory Access Statements is outlined in TAN 12 Design and TAN 18 Transport, and Policy GEN 6, which sets out the need to provide safe and convenient access for persons with disabilities. SPG 8 – 'Access for All' supplements this policy, along with the Council's document 'Planning and Inclusive design'.

The submitted Design and Access statement outlines a positive approach to inclusive design, respecting Welsh Government's approach. The plans demonstrate how levels are to be managed and how the design of specific features in the development are to be geared at meeting the needs of persons with a range of disability.

4.2.8 Sustainability Code considerations

Policy STRAT 2 in the Unitary Plan requires new development to be sited, designed, and constructed to be as energy efficient as possible. Recent Welsh Government guidance/policy advice in Planning Policy Wales, TAN 12 and TAN 22 now sets specific sustainability standards for new buildings in order to reduce their impact on the environment, and to tackle climate change.

The submission confirms the proposal is to achieve the BREEAM Excellent rating for non-residential developments.

The Sustainability Code issues can be adequately addressed through planning conditions here.

4.2.9 Ecology

Unitary Plan policies, Welsh Government guidance and current legislation oblige due consideration of impact on ecological interests, and in particular

protected species (ENV 1, ENV 6 and GEN 6). This approach is supported by SPG 18 – Nature Conservation and Species Protection.

There are no objections to the proposals from the County's Biodiversity Officer on grounds of impact on ecological interests, subject to imposition of a condition to oblige implementation of the recommendations in the Ecology report. These are considered likely to ensure suitable protection in the event that any protected species are uncovered during demolition works.

4.2.10 Contaminated land

Policy ENP 8 of the Unitary Plan states that development should not be permitted on or close to contaminated land unless it can be established there is no unacceptable risk to life, the environment, water resources or property.

It is apparent from the history of the Autoworld site that there are contamination issues to address in respect of asbestos present in the buildings, and old underground tanks associated with previous uses. Detailed proposals would need to be submitted to demonstrate acceptable arrangements for removal of asbestos and the treatment of underground tanks and any contamination related to previous uses. The Environment Agency originally raised objections based on the adequacy of information, but they have confirmed since that they are agreeable to the imposition of suitable conditions obliging full surveys and mitigation proposals to address concerns over potential risk to groundwater quality.

In accepting there are contamination issues pertaining to the site, the proposal represents a positive opportunity to see them addressed in a suitably controlled fashion, by specialists competent in handling the materials and structures which may be present. Officers suggest these are matters capable of addressing by condition, as they have been at the time of dealing with the 2005 and 2008 applications.

5. SUMMARY AND CONCLUSIONS:

5.1 The site is occupied by a semi-derelict commercial garage and has been the subject of recent permissions for residential apartment development. It lies within the town boundary and the Conservation Area.

5.2 The proposal is by Cymdeithas Tai Clwyd, who are looking to develop a Youth Enterprise Centre with associated self-contained apartments for affordable rent.

5.3 In officers' opinion, subject to conditions, the scheme to redevelop a 'brownfield' site merits support and is recommended for grant.

The recommendation is subject to the receipt of no additional representations by the 22nd December 2011, raising planning issues not already covered in the report (this being the closing date for receipt of comments specified on the site notice).

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

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

2. PRE-COMMENCEMENT CONDITION

Notwithstanding the detailing on the submitted plans, 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.

3. None of the apartments shall be occupied until the parking spaces and associated pathways, ramps and entrances to the units, and the rear amenity area have been completed in accordance with the approved plans, and those details required in connection with other conditions of this permission.

4. Notwithstanding the details on the submitted plans, the window detailing on the north west facing elevations at 1st and 2nd floor level in the apartments, and at 1st floor level in the Youth Enterprise Centre shall not be as shown, but shall be as submitted to and approved in writing by the Local Planning Authority before works are commenced on those elevations; in connection with which, full details of the proposed final profile (height and extent) of the wall along the northern boundary of the site shall be submitted to and approved in writing by the local planning authority. Development shall proceed strictly in accordance with the approved details.

5. **PRE-COMMENCEMENT CONDITION**

The development shall not begin until the mechanism for securing the provision of affordable housing as part of the development has been submitted to and approved in writing by the local planning authority. The affordable housing shall be provided in accordance with the approved scheme and shall meet the definition of affordable housing in Annex B of TAN 2 : Planning & Affordable Housing (2006) or any future guidance that replaces it. The scheme shall include:

- i. the numbers, type and tenure of the affordable housing provision to be made;
- ii. the arrangements for the management of the affordable housing by the Registered Social Landlord;
- iii. the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and

iv. the occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.

6. The Youth Enterprise Centre shall not be brought into use until the accesses, drop off facility, associated boundary walls and pathways, the hard and soft landscaping; and the parking space at the Lenten Pool end of the site, have been completed in accordance with the approved plans. Any trees or plants which, within a period of five years of the development, die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species.

7. The Youth Enterprise Centre shall not be brought into use until the proposed hours and days of opening have been approved in writing by the local planning authority.

8. The finished floor levels of the apartments and Youth Enterprise Centre shall not be as shown on the submitted plans but shall be as submitted to and approved in writing by the local planning authority prior to the commencement of any works of construction.

9. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that order with or without modification), no windows additional to those shown on the approved plans shall be inserted at any time in the buildings hereby permitted, unless otherwise agreed in writing by the local planning authority.

10. In the event that the scheme is to be carried out in a phased manner, no development shall be permitted to commence until there has been submitted to, and approved in writing by, the local planning authority, precise details of the phasing and the detailed treatment of the buildings and external areas of the site in connection with each phase.

11. No buildings on the application site shall be brought into beneficial use earlier than 1st April 2012 unless the upgrading of the public sewerage system into which the development shall drain has been completed and written confirmation of this has been issued to the local planning authority by Dwr Cymru/Welsh Water.

12. Foul water and surface water discharges shall be drained separately from the site.

13. No surface water shall be allowed to connect, either directly or indirectly, to the public sewerage system unless otherwise approved in writing by the local planning authority.

14. Land drainage run-off shall not be permitted to discharge, either directly or indirectly, into the public sewerage system.

15. PRE-COMMENCEMENT CONDITION

Prior to the commencement of any works of demolition or new building approved by this planning permission, the following components of a scheme to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the local planning authority:

1. A preliminary risk assessment which has identified;
 - a) all previous uses;
 - b) potential contaminants associated with those uses;
 - c) a conceptual model of the site indicating sources, pathways and receptors;
 - d) potentially unacceptable risks arising from contamination at the site.
2. A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
3. The results of the site investigation and detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
4. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action. Any changes to these components require the express consent of the local planning authority. The scheme shall be implemented as approved.

16. Prior to occupation of any part of the permitted development, a verification report demonstrating completion of the works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the local planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include any plan (a "long-term monitoring and maintenance plan") for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan, and for the reporting of this to the local planning authority. The long-term monitoring and maintenance plan shall be implemented as approved.

17. Reports on monitoring, maintenance and any contingency action carried out in accordance with a long-term monitoring and maintenance plan shall be submitted to the local planning authority as set out in that plan. On completion of the monitoring programme of final report demonstrating that all long-term site remediation criteria have been met and documenting the decision to cease monitoring shall be submitted to and approved in writing by the local planning authority.

18. If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until the developer has submitted, and obtained written approval from the local planning authority for, a remediation strategy detailing how this unsuspected contamination shall be dealt with. The remediation strategy shall be implemented as approved.

19. No demolition shall take place before a contract for carrying out the works of redevelopment on the site has been made and a copy of that contract has been forwarded to the local planning authority.

20. PRE-COMMENCEMENT CONDITION

Prior to the commencement of any demolition works on site, the following details shall be submitted for the further approval of the local planning authority:

- i. an audit of all existing building materials;
- ii. the potential re-use and recycling of those materials for incorporating into an agreed, replacement site development, and
- iii. where relevant, the recipient of remaining building materials. The approved audit shall

form part of the building contract agreed for new building development for the site, a copy of which shall be submitted for record purposes for the local planning authority.

21. PRE-COMMENCEMENT CONDITION

No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

- i. the parking of vehicles of site operatives and visitors;
- ii. loading and unloading of plant and materials;
- iii. storage of plant and materials used in constructing the development;
- iv. the erection and maintenance of security hoarding;
- v. wheel washing facilities if considered necessary by the highway authority;
- vi. measures to control the emission of dust and dirt during demolition and construction;
- vii. a scheme for recycling/disposing of waste resulting from demolition and site clearance.

22. The development hereby permitted shall be undertaken in accordance with the recommendations of the edc protected species report received by the Local Planning Authority on 2nd November 2011.

23. No works of construction of any building hereby permitted shall begin until an 'Interim Certificate'; has been submitted to the local planning authority, certifying that a minimum BREEAM overall very good rating and a minimum of 6 credits under Ene1 - Reduction of CO2 'Emissions has been achieved for that individual building in accordance with the requirements of BREEAM in force at the time of the grant of this permission.

24. Prior to the occupation of any of the apartments or the Youth Enterprise Centre hereby permitted, a 'Final Certificate' shall be submitted to the Local Planning Authority, certifying that a minimum (BREEAM) overall very good rating and a minimum of 6 credits under Ene 1 - Reduction of CO2 'Emissions; has been achieved for that building in accordance with the requirements of BREEAM in force at the time of the grant of this permission.

25. Full details of the highway improvements and alterations to the existing vehicular accesses as indicated on the approved plan, including the details design, layout, construction and drainage shall be submitted to and approved in writing by the Local Planning Authority before the commencement of any development and the works shall be completed in accordance with the approved plans and the requirements of conditions 3 and 6 of this permission before the apartments or the Youth Centre is first brought into use.

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

1. To comply with the provisions of Section 91 of the Town and Country Planning Act 1990.
2. In the interests of visual amenity.
3. To ensure the apartments are served by adequate parking and amenity space.
4. In the interests of the residential amenity of occupiers of adjacent property.
5. To ensure there are adequate arrangements to secure the provision and retention of affordable housing.
6. To ensure the Youth Enterprise Centre is served by a suitable access/drop off point and amenity space.
7. In the interests of the residential amenity of occupiers of adjacent property.
8. In order to minimise any susceptibility to flooding.
9. In the interests of the residential amenity of occupiers of adjacent property.
10. To ensure the appearance of the development is acceptable between different phases of construction.
11. To mitigate the existing hydraulic overloading of the public sewerage system and to ensure the local community and environment are not unduly compromised.
12. To protect the integrity of the public sewerage system, to prevent hydraulic

overloading of the system, and to protect the health and safety of existing residents.

13. To protect the integrity of the public sewerage system, to prevent hydraulic overloading of the system, and to protect the health and safety of existing residents.

14. To protect the integrity of the public sewerage system, to prevent hydraulic overloading of the system, and to protect the health and safety of existing residents.

15. Environment Agency Wales considers that the controlled waters at this site are of high environmental sensitivity as the site is located on a Principal aquifer and contamination is known/strongly suspected at the site as the site was previously a petrol filling station with known tanks still on site.

16. To demonstrate that the remediation criteria relating to controlled waters have been met and (if necessary) to secure longer-term monitoring of groundwater quality. This will ensure that there are no longer remaining unacceptable risks to controlled waters following remediation of the site.

17. To ensure that longer term remediation criteria relating to controlled waters have been met. This will ensure that there are no longer remaining unacceptable risks to controlled waters following remediation of the site.

18. Given the size/complexity of the site, it is considered possible that there may be unidentified areas of contamination at the site that could pose a risk to controlled waters if they are not remediated.

19. To ensure there is proper evaluation of the potential for contamination on the site, that the extent is identified, and that adequate steps are taken to deal with any contamination.

20. To ensure a sustainable approach to the development.

21. In the interests of residential amenity and the users of the adjacent highways during demolition and construction works.

22. In the interests of nature conservation.

23. In order to ensure compliance with Sustainable building standards legislation.

24. In order to ensure compliance with Sustainable building standards legislation.

25. To ensure the access and parking details are acceptable to serve the development.

NOTES TO APPLICANT:

1. In relation to Condition 2, you are advised to contact the Council's Conservation Architect to discuss the approach to the choice of external wall materials.

2. In relation to drainage matters, your attention is drawn to the following advisory notes from Dwr Cymru/Welsh Water.

If a connection is required to public sewerage system, the developer is advised to contact Dwr Cymru Welsh Water's Developer Services on 0800 917 2652.

SEWAGE TREATMENT

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

WATER SUPPLY

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

3. In relation to ecological matters; your attention is drawn to the following advisory notes from the County Council's Biodiversity Officer:

Reasonable Avoidance Measures should be followed:

1. If possible, works should be carried out between November and the end of February to avoid potential disturbance to breeding bats and/or birds.
2. Slates, ridge tiles/finishers, abutment flashings, door frames and window frames, structural members, lintel bearings, purlins or wall plates where these are involved, are all removed by hand where possible and with care to ensure that no torpid or hibernating bats are injured during the works. Similarly, defects to structural masonry should be lowered to prevent torpid/hibernating bats being injured.
3. If Ivy or vegetation is to be removed from a building, this should be done by hand, inspecting for bats and/or nesting birds.
4. If torpid or hibernating bats are uncovered at any time during the works, works must stop immediately and further advice sought from a licensed bat worker.
5. If any active birds nests, or nests in the middle of construction are found, work must not take place until all young have fledged. In the case of swallows and house martins, the most likely to be found, this could be as late as September as these species tend to have multiple broods. If birds are using the building for nesting and nests cannot be retained when the conversion is undertaken, compensation should be provided by installing suitable artificial nests/nesting platforms.

Any planting on site should be using native species of local provenance.

4. In relation to highways matters:

Your attention is drawn to the attached Highway Supplementary Notes 1, 3, 4, 5 & 10. With regard to Condition 5 of this permission, you are advised to contact the Highways Officer to clarify the relevant details prior to any formal submission for approval.

Denbighshire County Council Specification for Road Construction.

Highways Act 1980 S. 184 Consent - Notes for Guidance to Applicants.

5. Prior to the carrying out of any demolition works, you should contact the Council's Public Protection and Building Control sections to ensure proper procedures are followed, in particular in respect of removal of hazardous materials.

6. In relation to Conditions 15 - 19:

Your attention is drawn to the following advisory notes from the Environment Agency:

The treatment and disposal of contaminated soils and groundwater is regulated by waste legislation and requires an environmental permit.

Excavated materials that are recovered via a treatment operation can be re-used on-site under the CL:AIRE Definition of Waste: Development Industry Code of Practice. This voluntary Code of Practice provides a framework for determining whether or not excavated material arising from site during remediation and/or land development works are waste.

Developers should ensure that all contaminated materials are adequately characterised both chemically and physically, and that the permitting status of any proposed on site operations are clear. If in doubt, the Environment Agency should be contacted for advice at an early stage to avoid any delays.

The Environment Agency recommends that developers should refer to their :

- Position statement on the Definition of Waste: Development Industry Code of Practice and;

- website at www.environment-agency.gov.uk for further guidance

Contaminated soil that is excavated, recovered or disposed of, is controlled waste. Therefore, its handling, transport, treatment and disposal is subject to waste management legislation, which includes:

- Duty of Care Regulations 1991
- Hazardous Waste (England and Wales) Regulations 2005
- Environmental Permitting (England and Wales) Regulations 2010

Developers should ensure that all contaminated materials are adequately characterised both chemically and physically, and that the permitting status of any proposed off site operations is clear. If in doubt, the Environment Agency should be contacted for advice at any early stage to avoid any delays.

With regard to flood risk issues, we have had further submissions from the applicant's agent which are currently being assessed.

ITEM NO: 2

WARD NO: Efenechtyd

APPLICATION NO: 04/2011/1143/ PF

PROPOSAL: Conversion and repair of barn for use as holiday cottage / serviced accommodation and installation of a new septic tank

LOCATION: Thistledown Barn Ty Cerrig Betws Gwerfil Goch Corwen

APPLICANT: Mr & Mrs Robert de Hoxar

CONSTRAINTS: PD Removed

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

CONSULTATION RESPONSES:**BETWS GWERFIL GOCH COMMUNITY COUNCIL**

'It was apparent there are many objections by local residents, and as their representative council we were duty bound to consider their concerns when considering the planning application. It was decided that as a community council we would oppose the planning as conversion to a 'retreat' style accommodation. We would kindly ask that DCC, on behalf of the local community, would look further into some concerns that the residents have. For example, many residents seek further clarification as to who would be expected to use the facility at Thistledown Barn, and if they pose a threat to the community. We understand that some residents are contacting you themselves, and as community council we request that you take their concerns as a matter of importance'.

COUNTRYSIDE COUNCIL FOR WALES (CCW)

No objection.

CLWYD POWYS ARCHAEOLOGICAL TRUST (CPAT)

No objection.

**DENBIGHSHIRE COUNTY COUNCIL CONSULTEES-
BIODIVERSITY OFFICER**

No objection.

BUILDING CONTROL OFFICER

Building is capable of conversion.

HEAD OF HIGHWAYS AND INFRASTRUCTURE

No objection, subject to conditions relating to the provision and retention of on site parking.

RESPONSE TO PUBLICITY:

Representations received from:

In Objection:

A letter entitled "residents letter", has been received containing 18 signatures, but no addresses, only postcodes.

Summary of representations:

Site not suitable for commercial use.
Environmental impacts. Use would impact on local services, drainage and refuse collection.
Highways impacts. Lane not suitable for more intensive use,

In Support:
Mr and Mrs Kirby, Ty Cerrig
Summary of representations:
Visual amenity, proposal will improve existing appearance.

EXPIRY DATE OF APPLICATION: 20/11/1011

REASONS FOR DELAY IN DECISION (where applicable):

- 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 proposes the change of use and rebuilding of a partially converted outbuilding, to holiday accommodation. Alterations proposed to facilitate the conversion to a four bedroom holiday cottage, include rebuilding most of the northern section of the barn and converting the remaining structure.

1.1.2 Off road parking is proposed to the west of the building, and turning is provided for two vehicles. The existing access is proposed to remain.

1.1.3 The application is accompanied by a detailed structural report and design and access statement (DAS), which comments on the adequacy and suitability of the outbuilding for the scheme of conversion and policy context. In support of the application, a Structural Engineers report and a Protected Species Report was also submitted.

1.2 Description of site and surroundings

1.2.1 The site is located to the south west of Betws Gwerfil Goch. It is accessed off a lane from the minor road which runs from Betws Gwerfil Goch to Maerdy.

1.2.2 Thistledown was originally part of the adjacent complex of buildings, known as Ty Cerrig Farm. It comprises a two storey traditional farmhouse and attached outbuilding. Either side of the complex is open agricultural land.

1.3 Relevant planning constraints/considerations

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

1.4 Relevant planning history

1.4.1 Planning permission was originally granted for the conversion of the outbuilding to a dwelling in 2004. This development commenced and various works were undertaken. Whilst carrying out these works it was apparent that fully implementing the original plans was not possible and a new planning application was submitted to amend the scheme. A site visit was carried out by Officers and it was apparent that part of the building had been removed;

therefore the conversion could not have been carried out fully as described. This application was withdrawn and work ceased on site. The applicants have reconsidered their options and the policies, and this application was submitted in October 2011.

1.5 Developments/changes since the original submission

1.5.1 Additional information was sought from the applicant relating to protected species on site and in the area.

1.5.2 Having considered the consultation response of the Community Council the Agent has also advised of the following:
Use: The application is for a holiday cottage; which may at times be used as Retreat Accommodation, in connection with a charity (Christian). Objections from a number of residents are on the basis of "commercial" use; however, the nature of proposed use is human habitation, and the character of the use is not materially different from the spectrum of normal residential use.

Septic tank: A maximum of 4 bedrooms/potentially 8 persons is shown. One bedroom is very small. It is highly unlikely that this total would be achieved other than occasionally. A septic tank for the conversion has been approved.

Refuse collection: The bags would be household waste from persons temporarily staying at the site. This situation is replicated at many dwellings in the area.

Driveway: This access has been approved originally for a 3-bedroomed conversion, and has been constructed.

Employment: The web-site for the applicants' premises at Lake Bala includes the information that volunteers are welcomed. These are temporary. However, there is only one, as at present, or on occasion two, at most. They would not be involved with the "holiday cottage" letting for a number of reasons, nor is it intended that volunteers would be involved with Retreat lettings.

The applicants currently employ 3 persons. Employment gain is anticipated from working hours mainly in cleaning, maintenance, garden work, as well as construction, on site. Further benefit to local employment would be seen in local spend,- on local services, pubs and restaurants, visiting attractions, events, and shopping for food, gifts, fuel, mementoes, etc.

2. **DETAILS OF PLANNING HISTORY:**

2.1 04/2001/1085

Conversion of outbuilding to form a dwelling, installation of a new septic tank and formation of a new vehicular access and proposed change of use of existing agricultural land to form extension to domestic curtilage. Granted 04/04/2002

2.2 04/2006/1225

Conversion of outbuilding to form a dwelling, installation of a new septic tank and formation of a new vehicular access and proposed change of use of existing agricultural land to form extension to domestic curtilage (amendment to previously-approved scheme). Granted 23/03/2007

2.3 04/2009/0839

Conversion of outbuilding to form a dwelling (amendment to previously-approved scheme under Code. No. 04/2006/1225/PF). Withdrawn 14/08/2009

3. RELEVANT POLICIES AND GUIDANCE:

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

3.1 Supplementary Planning Guidance

Supplementary Planning Guidance Note 16 – Conversions of Rural Buildings

3.2 GOVERNMENT GUIDANCE

Planning Policy Wales 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 Residential amenity impact
- 4.1.4 Highway safety impact
- 4.1.5 Ecology impact

4.2 In relation to the main planning considerations:

4.2.1 Principle

The application is submitted for use as a holiday cottage/serviced accommodation.

Policy GEN 3 relates to development outside development boundaries and states that development will not be permitted apart from some exceptions. Criterion vi) of Policy GEN 3 is supportive of development in connection with rural tourism provided there is no unacceptable impact upon the social, natural and built environment.

Policy TSM 1 relates specifically to tourism development. This policy allows for new build outside of development boundaries when conversion or extensions are not practicable. However new buildings are only permitted in instances where investigations have been made for alternative sites within development boundaries, usually following a 'sequential' test for tourism development.

Policy TSM 15 permits the development of self-serviced holiday accommodation outside development boundaries through the change of use and/or conversion of existing redundant buildings. The criteria of this policy relate to the building being structurally sound and capable of conversion, the character of the buildings and area being retained, the local highway network being capable of taking the increase in traffic, adequate space being provided within the units for general amenity and the number of units proposed not being an overdevelopment of the site.

This application involves an element of conversion works and elements of new build work; therefore it does not easily fit against either specific tourism policy. However, the rural restraints policy, GEN 3, allows for tourism development in the open countryside, through either the re-use of existing buildings or new build where a case can be made. In this case the site has had the benefit of permission for conversion, which has commenced, and

although in its present condition the scheme can not be achieved solely by conversion, there is part of a building on site, an access has been created and hardstandings have been laid. Whilst the aim of policy GEN 3 is to limit new building in the open countryside, considering the development carried out to date and history of the site, Officers are of the opinion that this particular proposal would not necessarily be contrary to the aims of GEN 3 and may be best assessed against policy TSM 15.

In terms of Policy TSM 15, it is considered the conversion and associated works would not have an unacceptable impact on the character of the buildings and the character and appearance of the countryside, as with its neighbour Ty Cerrig, the complex would be sub-divided and well contained. The unit would have an adequate curtilage with suitable boundary treatment. The proposals are not considered to be inconsistent with the main tests of this policy.

4.2.2 Visual and landscape impact

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

The application proposes to redevelop the site in a similar scale and form as the original outbuilding; the most notable alterations are the addition of 'cat slide' dormers to provide first floor accommodation.

It is considered the scheme of conversion would preserve the remainder of the stone outbuilding from further degradation by introducing a positive re-use. It would replicate the scale and form of the building, which is in line with the general thrust of policy TSM 15.

4.2.3 Residential amenity impact

Policy GEN 6 sets specific tests to be applied to amenity of impacts of development; policy TSM 15 also refers to accommodation standards and the need to assess amenity impacts of tourism development.

Windows are proposed on the west, north and south elevations. There is a substantial amount of amenity space proposed for the unit, as can be seen from the site plan at the front of the report.

Owing to the location of the outbuilding to the west of Ty Cerrig, the window arrangements and the site layout, it is considered the proposal would not raise any conflicts with policy in terms of the amenity of existing or proposed occupiers.

4.2.4 Highway safety impact

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

The application proposes access as existing off a lane feeding to a minor road. There are local concerns over the highway implications of the development. This access road was deemed acceptable for the previously granted conversion scheme. Parking will be provided on site for the holiday accommodation.

It is considered the proposal would not significantly increase the intensity of the use of the site. It is acknowledged that the minor road serving the site is narrow. However, Highway Officers have not objected to the proposal.

It is considered the proposal would not lead to any conflicts with highway safety.

4.2.5 Ecology impact

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

A Bat and Bird survey has been submitted with the application. The survey found evidence of bat activity in the outbuilding.

In considering the grant of planning permission the Authority must consider whether the disturbance of a protected species is required for the purpose of "preserving public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance of the environment."

It is noted that mitigation methods for bats and birds have been proposed and agreed with CCW and the County Council's bio-diversity officer, so that if development were permitted, it would not be detrimental to the maintenance of the species concerned. The proposal is considered to meet the Habitat Regulations 3 tests. It is considered that these issues would be suitably controlled through the licensing process if considered necessary. A note to applicant stressing the importance of attaining a licence from WAG can be attained as well as a condition relating to the conversion works and maintenance of the detached outbuilding, which is proposed to be retained as a positive conservation method.

It is considered the proposal would not conflict with the policy criteria of ENP 2.

4.2.6 Other matters

With respect to the comments of the Community Council and the local residents, the assessment of the application is being made on the basis of the use being a unit of holiday accommodation for tourism purposes. The end user of the holiday accommodation or their particular beliefs is respectfully not relevant to the planning merits of any decision and is therefore not something the Local Planning Authority can exercise any control over.

5. SUMMARY AND CONCLUSIONS:

5.1 The proposal is considered acceptable under the terms of the relevant policies and is therefore recommended for grant.

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

1. The development hereby permitted shall be begun before the expiration of five years from the date of this permission.
2. **PRE-COMMENCEMENT CONDITION**
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.
3. **PRE-COMMENCEMENT CONDITION**
No development shall take place until there has been submitted to, and approved in writing by, the Local Planning Authority, a detailed scheme of hard and soft landscaping for the site, and such scheme shall include details of:
 - (a) all existing trees, hedgerows and other vegetation on the land, details of any to be

retained, and measures for their protection in the course of development.

(b) proposed new trees, hedgerows, shrubs or vegetation, including confirmation of species, numbers, and location and the proposed timing of the planting;

(c) proposed materials to be used on the driveway(s), paths and other hard surfaced areas;

(d) proposed earthworks, grading and mounding of land and changes in levels, final contours and the relationship of proposed mounding to existing vegetation and surrounding landform;

(e) Proposed positions, design, materials and type of boundary treatment.

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. **PRE-COMMENCEMENT CONDITION**

Development shall not begin until an appropriate photographic survey of the existing buildings on the site has been carried out in accordance with details to be submitted to, and approved in writing by the Local Planning Authority. The resulting photographs should be forwarded on a CD or DVD to the Local Planning Authority and the Development Control Archaeologist, Clwyd-Powys Archaeological Trust, 41 Broad Street, Welshpool, Powys, SY21 7RR. Tel. 01938 553670.

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

7. The development shall be carried out in accordance with the details submitted in the Bat and Bird mitigation reports and drawings.

8. Facilities shall be provided and retained within the site for the parking of vehicles in accordance with the approved plans, and shall be completed prior to the development being brought into use.

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

1. To comply with the provisions of Section 91 of the Town and Country Planning Act 1990.
2. In the interests of visual amenity.
3. To ensure in the interests of visual amenity a satisfactory standard of landscaping in conjunction with the development.
4. To ensure a satisfactory standard of development, in the interests of visual amenity.
5. In the interests of investigation and recording of historic/listed buildings.
6. In the interests of residential and/or visual amenity.
7. In the interest of safeguarding the conservation of protected species.
8. To provide for the parking of vehicles clear of the highway.

NOTES TO APPLICANT:

You are advised that the Local Planning Authority has granted this permission solely on the basis that the proposal involves the conversion of the building to a dwelling, to be carried out strictly in accordance with the approved plans. Any alteration or demolition work deviating from that shown on the approved plans, unless agreed by the Local Planning Authority, involving the rebuilding of part or all of the outbuilding will invalidate the planning permission. Condition No. 5 of this permission requires the carrying out of a photographic survey. The applicant is expected to pay for and complete the photographic survey. Professional photographers may be used where access to a camera or technical difficulties are

encountered but the applicant should be aware that this will significantly increase the cost of the survey.

Photographs should be taken using a digital camera with a minimum resolution of 4 megapixels and preferably 8 megapixels or more.

Photographs should be taken at the highest jpeg resolution setting available on the camera (usually Fine or Super Fine). The saved photographs must be copied onto a good quality branded CD or DVD disk in the jpeg/jpg file format.

Note: Digital photographs presented on normal paper or photographic paper will not be accepted as they are not archivally stable in the long term.

The use of a standard flashgun is recommended indoors to light the interior views.

If available a measured scale should be placed within each but this is not essential.

Photographs should be taken of all exterior and interior wall elevations which are affected by the development together with photographs of interior roof detail where this is altered. Features of particular interest (e.g. obvious differences in wall makeup, windows and doors whether blocked up or not, fireplaces, timber framing, stairwells, cellars) should also be fully photographed.

The applicant should indicate where the views taken are positioned on an architect's floor plan of the building. Location reference numbers on the plan/s should utilise the digital photo numbers from the camera for cross reference purposes.

The applicant must check the photos at the application site to ensure there are no blurred or poorly lit images. If some images are blurred, please increase the speed at which the exposures are taken (1/125 is a good minimum) and re-take the images. If images are poorly lit please check your flash is working and/or increase the aperture. Setting the camera ISO at 200 or 400 will also allow higher shutter speeds to be used in dimly lit locations.

The photographs should then be sent to: Mark Walters, Development Control Section, Clwyd-Powys Archaeological Trust, 7A Church Street, Welshpool, Powys, SY21 7DL (Tel: 01938 553670). CPAT will confirm receipt of your photographs and inform the planning authority that the condition has been satisfied.

You are advised that a public right of way lies adjacent to the development. The right of way must not be disrupted during the duration of building works.

ECOLOGY NOTE

The development shall be carried out in accordance with the submitted protected species information. The additional reasonable avoidance measures detail below should be followed:

1. Works should be carried out between November and end of March to avoid potential disturbance to breeding bats and/or birds.
2. Slates, ridge tiles/finishers, abutment flashings, door frames and window frames, structural members, lintel bearings, purlins or wall plates where these are involved, are all removed by hand where possible and with care to ensure that no torpid or hibernating bats are injured during the works. Similarly, defects to structural masonry should be lowered to prevent torpid / hibernating bats being injured.
3. If Ivy or vegetation is to be removed from a building, this should be done by hand, inspecting for bats and/or nesting birds.
4. If torpid or hibernating bats are uncovered at any time during the works, works must stop immediately and further advice sought from a licensed bat worker.

5. If any active birds nests, or nests in the middle of construction are found work must not take place until all young have fledged. In the case of swallows and house martins, the most likely to be found, this could be as late as September as these species tend to have multiple broods. If birds are using the building for nesting and nests cannot be retained when the conversion is undertaken, compensation should be provided by installing suitable artificial nests / nesting platforms.

6. If any bats are found, work must stop and CCW or a licensed bat worker must be contacted immediately.

ITEM NO: 3

WARD NO: Efenechtyd

APPLICATION NO: 12/2011/0858/ PFT

PROPOSAL: Erection of 1 no. 500kw wind turbine at 78 metres ground to blade tip height, construction of a new vehicular access and track and erection of associated substation control building

LOCATION: Land at Cilgoed Derwen Corwen

APPLICANT: Mr Ellis Pritchard Ecoutilty Energy Limited

CONSTRAINTS: Wildlife Site

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

CONSULTATION RESPONSES:

DERWEN COMMUNITY COUNCIL

"The Community Council Objects to the Proposal on grounds related to:

1 Consultation

Although the organisations that have been consulted in respect of the proposed wind turbine have been listed in the proposal, Derwen Community Council is concerned that, other than Ecoutilty's initial letter dated April 2011, no consultation has been undertaken with Derwen Community Council prior to the application being submitted. However all other developers have held public consultations, where the public were given the opportunity to view proposals and voice concerns.

2 Minimum distance regarding noise

It is stated in the supporting statement that the minimum distance is 350 metres, but does this figure satisfy current guidelines – i.e. 500m.
Page 9-paragraph 3.1 states the proposed position of the turbine will not result in noise issues. However, we would be interested in determining at which properties did you carry out noise assessments?

3 Diversification

Paragraph 1.2 suggests that Melin Wynt Cambwll will be developed for the benefit of the Community, whereas, in paragraph 1.33, it appears that the predominant purpose of the turbine is to benefit an individual farm enterprise as a means of diversification.

4 Community Benefits

Page 14- paragraph 5 suggests the Community will benefit financially. We do not agree that the financial incentive should form part of the planning application as such statements can be misconstrued.

5 Transportation of Turbine Components

How does the Company propose to access the site with turbine components using the current road network? Does Ecoutilty propose to alter or extend any existing road infrastructure? If so, this should be presented within the proposed planning application, along with any detrimental effect of the existing habitat.

6 Height of Turbine

The height of the proposed turbine contradicts the LDP guidelines- i.e. that height should not exceed 50m (see page 167 of the LDP).

7 Cumulative Effect

The cumulative effect linked with other wind farms has a negative impact on the community.

8 Grid Connection

How will the electricity supply generated by the proposed wind farm be kept within the local area?

9 Notification of Residents

Is there an obligation on part of Ecouility to notify local residents of the proposed development?

10 Private Natural Water Supply

Can the developers guarantee that the supply of natural water supplies to neighbouring stock producing fields will neither be polluted, disturbed or permanently lost?

In conclusion, during the Derwen Community Council meeting held on the 21st September 2011 there was strong opposition to the proposed development from the members of the community present at the meeting. Therefore, we oppose this proposed development and are concerned that should you grant planning consent you will be opening the floodgates to other developments by setting a precedent".

COUNTRYSIDE COUNCIL FOR WALES (CCW)

CCW does not object to the proposal and comments as follows:

- (a) protected sites – will not affect any protected sites of ecological, geological or geomorphologic interest – not in or adjacent to a statutory protected site – unlikely to have an adverse impact on the special character of any statutory landscapes – no objection on landscape grounds
- (b) protected species – records of several protected species in locality –water vole and badger most notable – absence of features in the site which may support the species – proposal will not be detrimental to the maintenance of the favourable conservation status of any statutory protected species
- (c) local or regional interest – maybe local interests associated with the Denbighshire Wildlife Sites of Cilgoed and Clocaenog Forest – needs to be looked at by the local authority to see if any adverse impacts.
- (d) In combination or Cumulative Effects – These effects should be considered carefully for those energy developments in existence, consented or proposed.

Conclude – No Objection

ENVIRONMENT AGENCY (EA)

No objection to the proposal in principle. Comments as follows:

- (a) Close to a site used to deposit waste material (Cambwll Quarry) – recommend contact with Environmental Health and Building Control Departments re possibility of landfill gas and if found what remedial work will be necessary.
- (b) Potential import of inert material for use on the access track and associated with the development will require an environmental permit.

AIRBUS

No Objections.

CIVIL AVIATION AUTHORITY (CAA)

Make no comment other than advising on procedural matters.

MINISTRY OF DEFENCE (MOD)

No objection to the proposal - Suggest turbine be fitted with aviation lights – advises on procedures if planning permission is granted.

DENBIGHSHIRE COUNTY COUNCIL CONSULTEES

HEAD OF HIGHWAYS AND INFRASTRUCTURE

Initially requested further details of the exact transport route for bringing the turbine to site, and precise details of the access with the unclassified road and constructional details of the access track. A further response has been received raising no objection in principle but requesting that any planning permission should include highway conditions to cover the points raised (i.e. full access details, construction method statement).

SENIOR BIODIVERSITY OFFICER

The Biodiversity Officer originally requested further information, however having viewed the comments of CCW has requested that the turbine is sited at least 50m from any woodland or hedgerow.

POLLUTION CONTROL OFFICER

Recommends that any planning permission includes conditions to control noise at nearby residential receptors.

LANDSCAPE CONSULTANT

Notes the proposal is for a 78m high to rotor tip 500kW wind turbine, presented as a community scale wind generation scheme and lies 400m beyond the Clocaenog Strategic Search Area (SSA) for major wind development.

The site and its context The site lies 400m beyond and to the east the edge of the Clocaenog SSA and is presented as a community scale wind scheme . The SSA boundary in this area appears to have been drawn with a contextual understanding of landscape character and the location and distribution of sensitive visual receptors - The eastern hill tops of the Clocaenog upland at 408m and 368m (the site) have been excluded to focus wind development beyond this ridgeline, within distant large scale forested or bare ridgeline landscapes and away from settled areas lying to the east. This approach utilises good macro landscape integration techniques, by using natural features to help obscure elements of wind development and use distance from sensitive receptors to lessen prominence, apparent scale and therefore resultant landscape change and visual impact.

Built and consented wind development and previous planning inspector's appeal decisions associated with the Clocaenog SSA indicate that careful siting and design of wind development are important considerations in minimising landscape and visual impacts within and immediately adjacent to a SSA.

The choice of site location in stepping beyond the SSA places the turbine closer to a number of sensitive visual receptors. Assessment indicates that the proposed turbine would have significant adverse visual impacts upon residential amenity at Glan y Gorse, recreational uses of the Brenig Way, Boncyn Foel Bach Forestry Commission picnic site and Llyn Deryn Fly Fishery and local use of the B5105. Some of these viewpoints would be solely affected by the proposed development and not influenced by existing, consented and planned wind development presently associated with the

SSA and in one view the proposed turbine, seen in conjunction with existing/ consented wind development would have an adverse cumulative impact.

Although the site location has similar landscape characteristics such as height, landform and edge of forest location to other approved wind development in the locality, the number and relatively close proximity of sensitive receptors within the locality which would be unacceptably harmed by the proposal, make the site an inappropriate one for wind development.

In looking at options for mitigating impacts, considers that a smaller turbine of say 50m to rotor tip would not singularly address the reasons for which adverse impacts have been assessed. For example, a smaller turbine would no longer have similarity and unity with existing and consented development at Wern Ddu and Derwydd Bach and appear at odds with the carefully planned and sited wind development of the SSA.

Recommendation

Ultimately, considers that the proposal would unacceptably harm the character and appearance of landscape of County value, have an unacceptable cumulative visual impact, and unacceptably harm the enjoyment of the landscape for recreational purposes, contrary to Denbighshire Unitary Development Plan policy MEW 10, and therefore recommends the application should be refused.

RESPONSE TO PUBLICITY:

Letters of **support** have been received from:

AW and MP Evans Pendre Fawr, Melin y Wig Corwen

RL Jones Maes Truan, Llanellidan, Ruthin.

Mrs M E Jones Bryn Siriol, Clawddnewydd, Ruthin.

JP and E Jones Blaen Gwnodl Isaf , Cynwyd, Corwen.

D Gwyn Jones No Address

AD Holliday 2 Bro Cloion Clawddnewydd Ruthin

The basis of support relates mainly to being in favour of renewable energy within the community.

Letters of **objection** have been received from:

Thomas Davies Glan-yr-Aber Derwen.

Colin Morgan Hen Wylfa, Clawddnewydd, Ruthin.

Mrs PM Connor (Property address missing apart from Derwen Corwen).

R D and AM Hattersley Minffordd, Derwen, Corwen (3 Letters + 1 E-mail).

G and D Mann Yr Hen Dy Ysgol, Derwen Corwen.

Neil Morgan Ty Gwyn, Clawddnewydd, Ruthin.

S and L Evans Fawnog Rhydd, Derwen.

Ian Rogers Lodge Isa, Betws Gwerfil Goch, Corwen

Campaign for the Protection of Rural Wales (Clwyd Branch).

Ramblers Cymru (North Wales Area)

J. Hopkinson, Fron Dirion, Llanfihangel Glyn Myfyr, Corwen

The basis of the objections are:

- Questionable value –Visual impact v generating potential.
- Concern re lack of consultation.
- Noise nuisance.
- Out of keeping with surroundings.
- Possible shadow flicker.
- Cumulative impact contrary to UDP policy.
- Not a Community Scheme as too large.

- Over 50 metres therefore contrary to Deposit LDP.
- Sporadic growth of single turbines should be prevented.
- Loss of amenity.
- Light pollution from aircraft warning lights.
- Large isolated turbine.
- Too large for a farm or domestic use.
- Profit driven not Community based.
- Set a precedent for any hill top to be used lead to proliferation of single isolated turbines
- Intervisibility issues with other wind farms (adverse cumulative effect).
- ETSU-R97 on noise out of date.
- Stated energy generation questionable.
- Needs unsightly substation building in addition to turbine.
- Adversely effect Tourism goals for the area/dominate skyline along sections of Brenig Way footpath
- Need to stop turbine sprawl.
- Be a blight on the landscape.
- Problems with shadow flicker.
- No wind monitoring taken place to see if site is suitable.

EXPIRY DATE OF APPLICATION: 26/10/2011

REASONS FOR DELAY IN DECISION (where applicable):

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

PLANNING ASSESSMENT:

1. THE PROPOSAL:

1.1 Summary of proposals

- 1.1.1 The application seeks full planning permission for the erection of a 500kw wind turbine at 78 metres ground to blade tip height, construction of a new vehicular access and track and the erection of an associated substation control building, on land at Cilgoed Farm, Derwen.
- 1.1.2 Information submitted with the application indicates that the electricity produced will be fed directly into the local electricity distribution system. The connection will be through the proposed substation and the link to the network will be either underground or overhead on wood poles. The route and method of connection has not been finalised.
- 1.1.3 The proposed wind turbine is a three bladed machine, which as stated would be 78 metres to the blade tip. The turbine would be supported by a steel cylindrical column measuring 50 metres to the hub. The turbine blades will measure 27.1 metres giving a blade diameter of 54.2 metres.
- 1.1.4 The proposal is described as a “Farm/Community Scale development”, and would be known as Melin Wynt Cambwll.
- 1.1.5 It is indicated that the 500kw wind turbine may generate up to 2,000,000 kw/h of electricity which would be enough to supply approximately 320 homes.

- 1.1.6 The application is supported by a Design and Access Statement and a Supporting Statement.
- 1.1.7 The Supporting Statement indicates that the submission is based on National Government's "Feed in Tariff Scheme" which provides financial support to the production of clean renewable energy at a local level.
- 1.1.8 The Statement also indicates that the scheme is a farm diversification project designed to support Cilgoed farm which is a farm of approximately 180 acres used exclusively for livestock production, predominantly sheep and cattle.
- 1.1.9 The project developers have given a commitment to make a community payment estimated to be in the region of £4,5000 a year.

1.2 Description of site and surroundings

The site is within the farm holding known as Cilgoed Farm.

- 1.2.1 The farm is approximately 11km south west of Ruthin and 9km north west of Corwen.
- 1.2.2 In the immediate vicinity, the nearest residential property is Fawnog Rhydd, which is 540 metres to the south of the site. Cilgoed itself is some 750 metres east of the proposed turbine.
- 1.2.3 The proposed turbine is located on a high point on the farm, and on improved grassland.
- 1.2.4 The site is located adjacent to and flanked to the north and east by Forestry Commission plantation blocks.

1.3 Relevant planning constraints/considerations

- 1.3.1 The site is located in the open countryside outside any town or village development boundary.
- 1.3.2 The site is located some 400 metres outside the boundary of the Strategic Search Area "A"(SSA) as defined within Welsh Assembly Technical Advice Note 8 (TAN 8).(see maps at front of report).
- 1.3.3 The site is located near to the Denbighshire Wildlife Site of Cilgoed. (see map).

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 local Member has been contacted by officers in order that he is fully aware of the differences between the size and capacity of this proposal compared to the other single wind turbine proposals which have been supported by members in recent past, and as referred to elsewhere in this report.
- 1.6.2 The applicant's agent has forwarded additional information in relation to the Community Fund and the make up of Melin Wynt Cambwll (the business behind the scheme). This indicates that the partners are the landowners and

other local individuals and businesses who have invested in the project and are able to assist in the delivery, operation, and maintenance of the turbine scheme. All the existing partners are stated to live and work in North Wales, and there will be a minimum of seven local individuals who will benefit directly from the ownership, operation and maintenance of the project. It is also stated that the existing partners do not exclude other members of the community becoming stakeholders. In relation to the Community Fund, the agent stresses that there is a commitment to provide the local community with an annual sum of at least £4,000, and it is suggested the administration of the fund is undertaken in a framework similar to that involved with the Wern Ddu windfarm.

2. DETAILS OF PLANNING HISTORY:

2.1 No relevant Planning History.

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 3 - 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 Biodiversity Action Plan

Other background documents

RSPB Statement of Environmental Master planning 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

- 4.1.2 Visual and landscape impact
- 4.1.3 Residential Amenity
- 4.1.4 Ecology
- 4.1.5 Community Involvement
- 4.1.6 Landfill

4.2 In relation to the main planning considerations:

4.2.1 Principle

This part of the report sets out the current 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 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 50MW 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 SSAs could be refined and policies outside SSAs 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 requirement 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 SSAs, with an indicative capacity of 212MW (letter from WAG Minister July 2011 refers). The extent of the Clocaenog forest SSA is shown on the plans at the front of the report.

Paragraph 2.10 of TAN 8 mentions that local authorities are encouraged to take an active approach in developing local policies for SSAs, '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 SSAs, 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 SSAs 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 Cilgoed application falls within the 'Medium' scale category in this practice document.

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 impact on landscape and visual amenity; viability of bird populations, ecological features, and noise levels.

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 Local Development Plan policies carry no weight at this stage but reinforce support for the principle of wind energy developments, subject to satisfying normal environmental impacts, including cumulative effects.

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 Welsh Government 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 400m 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 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 (Welsh Government 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 remain 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 consideration 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 " Denbigh and Derwen Hills", where the Visual and Sensory evaluation is identified as 'high'. .

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 Welsh Government 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.

The landscape consultant has looked at the submitted documentation and the visual impact of the scheme and has come to the conclusion that the proposal would unacceptably harm the character and appearance of landscape and have an unacceptable cumulative visual impact and unacceptably harm the enjoyment of the landscape for recreational purposes and as such should be refused. The landscape and visual impact of the proposal is therefore a negative factor to weigh in the balance on this application.

4.2.3 Impact on residential amenity

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

There are no dwellings within 500 metres of the site. The nearest property is Fawnog Rhydd at 540 metres with all other properties in excess of 700

metres from the turbine.

From the information submitted with the application it is indicated that the "PowerWind500" turbine has been specifically chosen for its "Efficiency, robust construction and quiet operation". The submitted sound power statement for the turbine indicates that the normal operating sound power level of the turbine is within a range of 82.9dB to 96.2dB. It goes on to say that it calculates that this power level ensures a sound level of below 45dB within a distance of 150 metres.

It concludes that at the distances to residential receptors it is believed that the likely noise attributed to the operational wind turbine will be well within ETSU R97 guidelines.

The Pollution Control Officer raises no concerns but requests that any planning permission includes conditions to ensure noise levels at nearby residential properties are at an appropriate level and that measures are included in order that noise levels can be checked if legitimate complaints are received. On the basis of this response, there do not therefore appear to be any noise impact issues of concern in respect of the proposal.

4.2.4 Ecology

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

CCW raises no objection to the proposal and indicates that the proposed development will have no effect on protected sites or protected species. It however acknowledges that the proposed turbine is close to the Denbighshire Wildlife Sites of Cilgoed and Clocaenog Forest and an assessment is necessary to see whether the proposed development will have any adverse impact on these areas.

The Council's Biodiversity Officer considers that there will be no adverse impact on these areas and recommends that the turbine be located at least 50m from any woodland or hedgerow.(which it is). It is therefore there are no unacceptable ecological impacts likely to arise in this instance.

4.2.5 Community involvement

TAN 8 Para 2.12 indicates that smaller Community based schemes should be encouraged and that it is for the local planning authority via their development plans to define relevant criteria for "smaller" and "Community based" schemes. Para 2.15 indicates that developers should take an active role in engaging with the local Community.

Previously members have looked at and supported (contrary to officer recommendation) small scale schemes in relation to turbines generating 55kw on sites at Cae'r Weirglodd and Cae Gwyn Cyffylliog and 2 turbines at Tyn y Celyn, Gwyddelwern. The applications were supported in part on the basis of being acceptable farm diversification schemes, and in the Cyffylliog cases, as the sites were also within the Strategic Search Area.

The present proposal is considered to involve a different scale and nature of

development than that previously supported. The turbine will be a 500kw generating turbine with a height to the tip of 78 metres, with a rotor blade diameter of 54.2 metres. The applicants have submitted it as a "Farm/Community scale" scheme. From the information provided the turbine will be "Owned and operated within a partnership of the landowners and other local individuals and organisations". It goes on to say that if planning permission is approved "The partners propose to establish a company which will own and operate the wind turbine and "The substantive benefits of the project will be retained within the local community". The basis of the arrangements are outlined in Section 1.6.2.

From the evidence in the submission there appears to have been very little if any Community involvement prior to the application submission. Furthermore apart from the committed community benefit payment the other benefits for the community in the scheme appear very limited. The make up of the proposed company to be set up to own and operate the turbine is very sketchy and does not indicate which local individuals or organisations will benefit.

It is considered that without the committed community involvement in the formulation of the scheme and without the confirmation of who in the local community will benefit directly from the scheme it is difficult to consider this 500kw turbine to be a "Community based" project. As such it is not considered that the proposal as submitted is in line with advice given in TAN 8 or TAN 6 and as such is significantly different to those individual and small scale schemes previously approved.

4.2.6 Landfill

The Environment Agency has indicated that there is a deposit of waste material at Cambwll Quarry. The Council's Pollution and Building Control Officers have no record of the deposit. The applicants have been made aware of the likely existence and the possibility of landfill gas. The applicant's have not, to date, provided any further information on the matter. If members were to be minded to support this proposal the matter would need to be investigated further, prior to any grant of planning permission, to see if there would be any impact on the proposed development and if so, what if any, remediation work would be needed.

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 a 78 metre high turbine with a rotor blade diameter of 54.2 metres, and this raises specific issues of principle, precedent and negative landscape/visual impact which require careful deliberation.
- 5.3 Factually the capacity of the turbine at 500kw means that it falls within the Medium scale of turbine development as described in the Planning Practice guidance where the primary purpose is to provide electricity directly to the grid network.
- 5.4 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. In the absence of any local or national strategy for the handling of single turbine proposals of this size, the difficulty facing the Authority is the weight to be given to the Unitary Plan policies and other material considerations such as Planning Policy Wales and TAN 8.

- 5.5 Current Unitary Development Plan policy predates Welsh Government 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.
- 5.6 Planning Policy Wales reaffirms that renewable energy production is a key policy and that generation may be possible at a range of scales. It offers general advice on the factors to consider in dealing with applications and suggest in line with sustainability principles, the landscape must be conserved and wherever possible enhanced, which includes balancing the economic, social and recreational need of local communities and visitors.
- 5.7 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 Welsh Government guidance on the scales of turbine development, with the current proposal falling within the 'sub local authority' category in Planning Policy Wales, and a 'medium sized' scheme in the 2011 Practice Guidance document.
- 5.8 In concluding on the merits of the current application, 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 Welsh Governments aspirations for generating electricity. The difficulty remains however, that in the absence of a clear strategy for handling one off applications for wind turbines of 78 metres height outside the Strategic Search Area, there is a clear danger of precedent being set indicating acceptance of the spread of large turbines throughout Denbighshire, further extending the 'wind farm landscape' being created by the large scale turbine schemes within the designated Strategic Search Area in the west of the County. This is a concern which has to be addressed again with this application, as it would seem inappropriate to continue to deal with each proposal solely on its individual merits, oblivious of the wider picture.
- 5.9 In this instance, there are detailed and strong objections and a recommendation for refusal from the Council's Landscape Consultant on a number of direct and indirect, Landscape and Visual impacts, including cumulative effects.
- 5.10 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 a 78 metre turbine on land 400m outside the Strategic Search Area. The reservations are in terms of the specific impacts on the immediate area, 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.
- 5.11 With due respect to the applicant/agent's submissions, there are questions here over the community involvement in the scheme and due to the size, scale and capacity of the turbine it is very difficult to consider this as a "Farm/Community based" scheme. As such it is considered the proposal is contrary to the policy principles and

aspirations in TAN 8 and TAN 6.

5.12 Ultimately it is questioned whether the general support for renewable energy schemes in Welsh Government and Unitary Plan policies outweigh the concerns over the landscape and amenity impact of the development, and the setting of a clear precedent, which are matters of clear concern to the Derwen Community Council. 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 the nearby community. 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 this 78 metre high turbine with a rotor blade diameter of 54.2 metres in a high quality attractive rural landscape, 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 wind farm 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 considers that this scheme is for a "medium scale" development in terms of Welsh Government's Practice Guidance: Planning Implications of Renewable and Low carbon Energy, 2011, having a capacity of 500kw and where the primary aim is to supply electricity directly to the local network. From the submitted details it is not considered to be a scheme to directly support a local business or building and is too large in capacity terms to be considered a farm diversification scheme. There is no evidence of community involvement in the project, and therefore it is considered that this is not a "farm/community based" scheme. There is therefore considered to be no local justification for this project which could outweigh the adverse visual impact of the proposal and the need to adequately protect the landscape. The proposal is therefore considered to be contrary to advice given in Planning Policy Wales (2011), TAN 8 and TAN 6.

NOTES TO APPLICANT:

None

ITEM NO:	4
WARD NO:	Efenechtyd
APPLICATION NO:	12/2011/1017/ PR
PROPOSAL:	Details of access, appearance, layout and scale of dwelling submitted in accordance with Condition No. 1 of Outline Planning Permission Code No. 12/2008/0692/PO (Reserved matters excluding landscaping)
LOCATION:	Land between Benedict House and Tan y Llan Derwen Corwen
APPLICANT:	Mr & Mrs D Lovell
CONSTRAINTS:	Public Right Of Way
PUBLICITY UNDERTAKEN:	Site Notice - Yes Press Notice - Yes Neighbour letters - Yes

CONSULTATION RESPONSES:

DERWEN COMMUNITY COUNCIL-

"The only observation that this Community Council has on the above planning application and plans is that Members feel that the access is dangerous and can only be accessible from one direction of Bryn Saith Marchog".

RESPONSE TO PUBLICITY:

Letters of representation received from:

Mr E Turner, Tan Y Graig, Derwen.
G and D Mann, Yr Hen Ysgol, Derwen.
S and D Harber, Tan y Llan, Derwen
J & J Crowhurst, Ty Derwen, Derwen

Summary of planning based representations:

Visual amenity- two storey dwelling would have a detrimental impact on the area.

Residential amenity- two storey dwelling would have detrimental impact on amenity of adjacent occupiers, by virtue of scale mass and overbearing impact.

EXPIRY DATE OF APPLICATION: 25/10/2011**REASONS FOR DELAY IN DECISION (where applicable):**

- Timing/ receipt of representations.

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

- 1.1.1 The application seeks approval of reserved matters details for the development of a dwelling on land between Benedict House and Tan Y Llan, Derwen, granted outline planning permission under planning reference 12/2008/0692PO.

- 1.1.2 The details subject to this application are; access and layout, scale and appearance of the dwelling.
- 1.1.3 Access is proposed via the existing agricultural access, which is also a public right of way. The access track would be graded and gravelled.
- 1.1.4 A two storey dwelling is proposed, with an attached single storey garage. It would be sited centrally towards the south of the plot with an amenity area to the south (rear) and parking and turning to the north (front), see plan at the front of the report.
- 1.1.5 The dwelling would comprise of living accommodation on the ground floor and four bedrooms at first floor level.
- 1.1.6 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.
 - Information on the drainage details and mitigation for protection of the well on site (also part of a planning condition on the original approval).

1.2 Description of site and surroundings

- 1.2.1 The site is located in a gap between a group of dwellings in the village of Derwen. Its current use is agricultural land.
- 1.2.2 It is a sloping site, bounded to the east and west by the dwellings Ty Derwen and Tan Y Llan. The dwelling Tan Y Graig faces the access track. To the south of the site is open agricultural land, which slopes down towards Bryn SM.

1.3 Relevant planning constraints/considerations

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

1.4 Relevant planning history

- 1.4.1 The application proposes details of reserved matters of an outline permission granted in 2008. The outline permission was granted under delegated powers.

1.5 Developments/changes since the original submission

- 1.5.1 The scheme has been amended to take account of updated drainage details.
- 1.5.2 The design of the rear elevation has been altered slightly. A Juliet style balcony has been added to the proposal in lieu of a larger balcony.

1.6 Other relevant background information

- 1.6.1 The application is being considered by Planning Committee owing to the number of representations received.

2. DETAILS OF PLANNING HISTORY:

- 2.1 12/2008/0692 Development of 0.01ha of land by the erection of 1no. dwelling (outline application including means of access, all other matters reserved). Granted 03/09/2008

2.2 12/2009/1064 Removal of Condition No. 6 on planning permission Code No. 12/2008/0692/PO (Outline application for 1 No. dwelling) relating to provision of entrance gates. Granted 12/10/2009.

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 3 – Development outside Development Boundaries

Policy GEN 6 – Development Control Requirements

Policy HSG 5 – Groups of Houses in the open Countryside

Policy ENP 4 – Foul and Surface Water Drainage

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 development accords with Policy GEN 3 and was established in the 2008 permission.

This application relates solely to the assessment of the reserved matters of access, and layout, scale and appearance. Policy GEN 6 must be applied to assess these reserved matters, and the detailed issues are considered under this policy as 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.

A two storey dwelling is proposed, using traditional materials of slate and render.

In the immediate vicinity of the site there are different styles of detached dwellings. Tan y Llan is a bungalow, Benedict House, Tan Y Graig and Gwylfa are all two storey dwellings. Materials are mixed and include red brick and render. As such it is not considered that there is a distinct character to follow in the group, hence the design and materials are considered acceptable.

The comments of the objectors are noted, however the lack of distinct character in the area mentioned above, means that there is no particular pattern of development, or style of dwelling or materials to follow. The mixed character would enable the two storey dwelling to be built without detriment to the general amenity of the area. Furthermore owing to the sloping nature of the site, it is considered that the dwelling would not appear visually obtrusive

when viewed from the north.

It is not considered the proposal would conflict with GEN 6 criteria relating to visual amenity.

4.2.3 Impact on residential amenity

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

The plans show that a dwelling can be accommodated on the site with adequate amenity space, and parking/turning. Windows are proposed on all elevations, the first floor windows serve bedrooms, a bathroom and the landing.

The comments of the objectors in respect of residential amenity are noted, however as above, owing to the orientation of the proposed dwelling, the relationship to the surrounding dwellings and the site levels, the impact would not be so significant as to warrant refusal. The proposed dwelling would not be sited directly in line with surrounding dwellings. This means there would be no direct 'window to window' overlooking. Although first floor windows are proposed, these face north, south and east, which would look in the directions of surrounding gardens, and there would still be at least 19m between the dwelling and its own site boundaries, so there would be greater distances to the surrounding gardens. There are no first floor windows on the west elevation as this elevation would be closer to adjacent dwellings and their rear curtilages.

With respect to the objectors comments relating to the impact of the proposal on their 'views', the fact the neighbouring occupiers have enjoyed a view that may be disrupted by the proposed dwelling is not material to the planning decision. In planning terms there is no 'right' to an uninterrupted view.

Considering the location of the dwelling to the south of adjacent dwellings and the orientation of adjacent dwellings, it is considered that the proposal would not result in a significant loss of amenity for adjacent occupiers by virtue of being overbearing or overlooking.

It is not considered the proposal would conflict with GEN 6 criteria relating to residential amenity.

4.2.4 Impact on highways safety

Policy GEN 6 and TRA 6 and TRA 9 require consideration of access and highway safety issues.

The access issues were considered and resolved in relation to the outline application, although the specific detail has been submitted for reconsideration. Highways Officers are satisfied with the access arrangements and raise no objection to the principle of the use of the access or the details.

There are no policy conflicts relating to access and highway safety and that the proposal complies with Policy GEN 6, Policy TRA 6 and Policy TRA 9.

4.2.5 Sustainable buildings

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

As the application proposes reserved matters for an application submitted before the requirement for CSH was introduced, there is no formal requirement to comply with the CSH level prescribed by PPW.

The DAS includes a section on how the proposal would comply with PPW requirements, which is to be welcomed.

5. SUMMARY AND CONCLUSIONS:

5.1 The principle of the development of the site has been established. This application seeks approval of the reserved matters which are considered acceptable within the terms of the relevant policies.

RECOMMENDATION: - GRANT subject to the following conditions:-

1. **PRE-COMMENCEMENT CONDITION**

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.

2. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that order with or without modification) no windows additional to those shown on the approved plans shall be inserted at any time in the dwelling hereby permitted, unless otherwise agreed in writing by the Local Planning Authority.

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

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

1. In the interests of visual amenity.
2. To maintain a reasonable standard of privacy in adjoining dwellings and gardens in the interests of amenity.
3. To ensure a satisfactory standard of development, in the interests of visual amenity.

NOTES TO APPLICANT:

None

ITEM NO: 5

WARD NO: Llanfair Dyffryn Clwyd / Gwyddelwern

APPLICATION NO: 20/2011/1219/ PR

PROPOSAL: Details of layout, scale and appearance of dwelling and landscaping submitted in accordance with condition no. 1 of outline planning permission code no. 20/2011/0678

LOCATION: Land at (part garden of) Wenallt Llanfair Dyffryn Clwyd Ruthin

APPLICANT: Mr Dafydd Evans Urbanbuild Northern Limited

CONSTRAINTS:

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

CONSULTATION RESPONSES:
LLANFAIR DYFFRYN CLWYD COMMUNITY COUNCIL-
'No objections'

RESPONSE TO PUBLICITY:

Letters of representation received from:
Mr K Skempton, Hafod Y Bryn, Llanfair DC (by email)
Mr Perry, The Bryn, Llanfair DC (by email)
Mr & Mrs Hunter, Meadowbank, Llanfair DC (by email)

Summary of planning based representations:
Concerns over accuracy of the submission, lack of information.
Visual amenity- design of proposed dwelling inappropriate and would have a detrimental impact on the area.
Highway safety- issues with safety of existing access onto trunk road.

EXPIRY DATE OF APPLICATION: 11/12/11

REASONS FOR DELAY IN DECISION (where applicable):

- Timing/ receipt of representations.

PLANNING ASSESSMENT:

1. THE PROPOSAL:

1.1 Summary of proposals

- 1.1.1 The application seeks approval of reserved matters details for the development of a dwelling on land to the rear of Wenallt in Llanfair DC, granted outline planning permission under planning reference 20/2011/0678/PO.
- 1.1.2 The details subject to this application are; the layout, scale and appearance of the dwelling, and landscaping.

- 1.1.3 A two storey dwelling is proposed, with attached single storey garage. It would be sited centrally on the plot with an amenity area to the west (rear) and parking and turning to the east (front). See the plan at the front of the report.
- 1.1.4 The dwelling would comprise of living accommodation on the ground floor and four bedrooms at first floor level.
- 1.1.5 Landscaping proposals show a native hedgerow proposed on the eastern boundary and minimal changes to the existing boundary treatments, and landscaping on the remainder of the site.
- 1.1.6 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.
 - Information on how this proposal aims to achieve Code Level 3 of the Code for Sustainable Homes.

1.2 Description of site and surroundings

- 1.2.1 The site is located on land to the rear of the dwelling Wenallt. Wenallt is a substantial two storey dwelling, set back from the A525 road. The existing use of the land is the garden area of Wenallt.
- 1.2.2 It is a flat site, bounded to the north by a leylandii hedge and to the south by a native hedgerow.
- 1.2.3 Wenallt lies on the southern end of the village, with open agricultural land to the south. There are dwellings to the north and north west.
- 1.2.4 Access to the site is off the A525 and is shared with Wenallt. A garage/outbuilding to the north west of the dwelling has been demolished to facilitate the development.

1.3 Relevant planning constraints/considerations

- 1.3.1 The site is located within the development boundary of Llanfair Dyffryn Clwyd.

1.4 Relevant planning history

- 1.4.1 The application proposes details of a dwelling following the grant of outline permission in July 2011. The outline permission was granted under officers' delegated powers.

1.5 Developments/changes since the original submission

- 1.5.1 None.

1.6 Other relevant background information

- 1.6.1 The application is being considered by Planning Committee on the request of Cllr Hugh Evans, to allow consideration of planning policy issues and amenity impact.

2. DETAILS OF PLANNING HISTORY:

2.1 20/2011/0314

Development of 0.1 ha of land by erection of a detached dwelling and associated works (outline application including access - all other matters reserved). Granted 04/05/2011

2.2 20/2011/0678

Development of 0.095 ha of land by erection of a detached dwelling and associated works (Outline application including access - all other matters reserved). Granted 05/07/2011

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
Policy TRA 9 Parking and Servicing Provision

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 development of a dwelling on the plot accords with Policy GEN 1, as the site is located within the development boundary of Llanfair DC. The principle of the development of a single dwelling has been established with the outline permission granted in July 2011.

This application relates solely to the details of layout, scale, appearance and landscaping. Policy GEN 6 must be applied to assess these reserved matters, and the detailed issues are considered under this policy as 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.

A modern two storey dwelling is proposed, using traditional external materials of slate and render. Cedar cladding and a flat sedum roof on the garage would give the design a more contemporary appearance. Most of the landscaping on site is proposed to be retained, apart from three fruit trees in the centre of the site.

There are a variety of dwelling types in the village of Llanfair DC. The dwellings along the road, Wenallt, Clwyd Fan and Hafod Y Bryn are older dwellings, whilst Meadowbank, Hafod and the Bryn are all more modern dwellings built since the 1980s. In Officers' opinion this variety in style means the proposed dwelling can be accommodated on site without detriment to the visual amenity of the area.

It is not considered the proposal would conflict with GEN 6 criteria relating to visual amenity.

4.2.3 Impact on residential amenity

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

The plans show that a dwelling can be accommodated on the site with adequate amenity space, and parking/turning. Windows are proposed on all elevations, the first floor windows serve bedrooms, a bathroom and the landing.

In view of the orientation of the proposed dwelling and the siting of adjacent dwellings, it is considered that the proposal would not result in a significant loss of amenity for adjacent occupiers by virtue of loss of light or overlooking.

It is not considered the proposal would conflict with GEN 6 criteria relating to residential amenity.

4.2.4 Impact on highways safety

Policy GEN 6 and TRA 6 and TRA 9 require consideration of access and highway safety issues.

The access issues were discussed and resolved in the consideration of the outline application. As per the Community Council's request, the 30 mph signage at the gate of Wenallt is being moved in consultation with the Council's Highways Officers.

It is not considered there are policy conflicts relating to access and highway safety and that the proposal complies with Policy GEN 6, Policy TRA 6 and Policy TRA 9.

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.

Although a full Code for Sustainable Homes Assessment has not been submitted with the planning application which demonstrates the Code requirements can be met, the DAS includes a section on how the proposal would comply with PPW requirements. A condition could be attached to control this.

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

4.2.6 Other matters

Regarding the comments of the objectors relating to the validity, and level of detail in the application, Officers confirm that the level of detail in the submission is considered acceptable, and the application is a valid submission. There is no requirement for Transport Assessments, EIA or Flood Risk Assessments for an application of this scale or on this site.

Officers would also re-iterate that the principle of the development of the site, including the access, was considered in the earlier application in July and deemed acceptable under the Unitary Development Plan policies.

5. SUMMARY AND CONCLUSIONS:

5.1 The principle of the development of the site has been established. With respect to the concerns raised, this application seeks approval of the reserved matters which are considered acceptable within the terms of the relevant policies.

RECOMMENDATION: - GRANT subject to the following conditions:-

1. The development hereby permitted shall be begun before the expiration of five years from the date of this permission.
2. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that order with or without modification) no windows additional to those shown on the approved plans shall be inserted at any time in the dwelling hereby permitted, unless otherwise agreed in writing by the Local Planning Authority.
3. All planting, seeding, turfing, fencing, walling or other treatment comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the 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.

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

1. To comply with the provisions of Section 91 of the Town and Country Planning Act 1990.
2. To maintain a reasonable standard of privacy in adjoining dwellings and gardens in the interests of amenity.
3. To ensure a satisfactory standard of development, in the interests of visual amenity.

NOTES TO APPLICANT:

None

ITEM NO: 6

WARD NO: Llangollen

APPLICATION NO: 27/2011/1049/ PFSP

PROPOSAL: Installation of ground mounted solar photovoltaic panels array comprising 250 solar panels in three rows

LOCATION: Land adjoining Abbey Grange Hotel Llantysilio Llangollen

APPLICANT: Mr Steven Evans

CONSTRAINTS: AONB
World Heritage Site Buffer

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

CONSULTATION RESPONSES:

LLANTYSILIO COMMUNITY COUNCIL
"No objection"

AONB JOINT ADVISORY COMMITTEE

No objection. Due to relationship with existing buildings and screening the development will not have a significant impact on the proposed AONB extension area.

CADW - PROTECTION AND POLICY SECTION

No objection. Due to scale, location and screening impact on the Buffer Zone of the Pontcysyllte Aqueduct and Llangollen Canal World Heritage Site (WHS) and nearby Scheduled Ancient Monuments (SAM) will be minimal.

LANDSCAPE ARCHITECT

The location and scale of the proposal would not unacceptably harm the historic landscape character of the locality which is fundamental to the AOB, historic landscape and visitor approach to the WHS, or harm the setting of Scheduled Ancient Monuments in the locality.

The Landscape Architect had initial concerns over the potential impact of reflected sunlight, which required the submission of additional information, but he has advised that this information demonstrates no unacceptable harm is likely from reflected sunlight due to the angle of reflection.

DENBIGHSHIRE COUNTY COUNCIL CONSULTEES

CONSERVATION ARCHITECT

No objection. Impact on listed buildings and WHS minimal due to the location of the development and existing buildings in the locality. Additional planting is suggested to the west and south west boundaries.

COUNTY ARCHAEOLOGIST

No objection. Proposal would not affect any known archaeology and very low likelihood of anything unknown being present.

RESPONSE TO PUBLICITY:

Letters of representation received from:

Mr. D. Batty, Hendy Isa, Llantysilio, Llangollen (e-mail)

Mr. J. Hughes, Hendy, Velvet Mountain, Llantysilio, Llangollen

Summary of planning based representations:

- Visual impact - impact on the countryside, WHS, local footpaths and neighbouring properties
- Concern raised over the size of the installation and the impact of glare from the panels
- Impact of the proposals considerable due to minimal screening
- Need for a development of this size questioned

EXPIRY DATE OF APPLICATION: 09/11/2011

REASONS FOR DELAY IN DECISION (where applicable):

- Additional information required from applicant
- delay in receipt of key consultation response

PLANNING ASSESSMENT:

1. THE PROPOSAL:

1.1 Summary of proposals

- 1.1.1 The proposal is for the installation of 250 solar panels comprising of 3 ground mounted arrays within a field to the west of Abbey Grange Hotel. Each array would measure approximately 43m in length by 2m in width.
- 1.1.2 The panels will be mounted on frames which provide a minimum ground clearance of 0.8m. This clearance ensures that it is possible for sheep to continue to graze the land. Each panel has a maximum height of 2.8m from ground level. Each individual panel would measure approximately 0.5 width and 1m in length.
- 1.1.3 The panels proposed have a black surface beneath tempered glass and slim anodized aluminium frames.
- 1.1.4 It is anticipated that the installation would generate approximately 40 000 kWh of electricity.

1.2 Description of site and surroundings

- 1.2.1 The site is a paddock adjoining the Abbey Grange Hotel which is some 2km to the north of Llangollen. The paddock is currently used for agricultural purposes and contains a previously approved polytunnel.
- 1.2.2 The site is to the west of the A542. The site is only partially visible from the A542 due to screening provided by existing structures at the Abbey Grange Hotel, the Maes y Llan farm complex and existing hedgerows and trees.
- 1.2.3 Residential properties at Hendy and Hendy Isa adjoin the paddock to the west and south respectively.

1.3 Relevant planning constraints/considerations

- 1.3.1 The site is within the WHS Buffer Zone, Vale of Llangollen and Eglwyseg Historic Landscape and the recently designated extension to the AONB. The site is within 200m of Eliseg's Pillar and approximately 600m from Valle Crucis Abbey, which are designated Scheduled Ancient Monument and listed buildings.

1.3.2 The site is in close proximity to the grade II listed Maes y Llyn farmhouse. However the site is not visible from the farmhouse as it is screened by a number of modern farm buildings.

1.3.3 Velvet Hill wildlife site is located to the south of the site. An elevated footpath runs parallel to the site in an elevated position on the north facing slope of Velvet Hill, which overlooks the site.

1.4 Relevant planning history

1.4.1 Application for the retention of a polytunnel granted permission 28/11/2001.

1.4.2 Retention of building and use as farm shop granted permission 18/04/2008.

1.5 Developments/changes since the original submission

1.5.1 Additional information has been requested and submitted in relation to the issue of reflected sunlight off the solar panels.

1.6 Other relevant background information

1.6.1 The application is reported to Committee as it raises novel issues of principle in relation to an emerging form of renewable energy development and involves development within the WHS Buffer Zone.

2. DETAILS OF PLANNING HISTORY:

2.1 Retention of a polytunnel GRANTED at Planning Committee 28/11/2001.

2.2 Retention of building and use as farm shop and continuation of use of land as display, storage and veranda areas GRANTED under delegated powers 18/04/2008.

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 GEN6 - Development Control Requirements

Policy ENV2 - Development affecting the AONB/AOB

Policy CON1 - The setting of listed buildings

Policy CON10 - Scheduled Ancient Monuments

Policy CON12 - Historic landscapes, parks and gardens

Policy MEW8 - Renewable Energy

3.2 SUPPLEMENTARY PLANNING GUIDANCE

Draft Pontcysyllte Aqueduct and Canal World Heritage Site Supplementary Planning Guidance Document

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 the historic environment

4.1.4 Impact on residential amenity

4.2 In relation to the main planning considerations:

4.2.1 Principle

Policy MEW8 of the Unitary Plan states that development that generates or captures energy from naturally sustainable sources will be supported in principle subject to compliance with other policies. The proposal is therefore

acceptable in principle in relation to this policy.

4.2.2 Visual and landscape impact

Policy ENV2 states that development that unacceptably harms the character and appearance of the landscape will not be permitted.

The comments submitted by the Landscape Architect state that there are a number of visual receptors in the locality where potential visual impacts need to be assessed from. These include residential properties, lanes, public footpaths and open access land. It is considered by the Landscape Architect that due to the scale and location of the proposal that there would be no unacceptable impact on the historic landscape character which is fundamental to the AONB. This opinion is subject to the retention and improvement of existing boundary treatments. There are local concerns over visual and landscape impacts.

Having regard to the comments of the landscape consultant assessment it is considered that the proposals will not unacceptably harm the character and appearance of the landscape. This is subject to satisfactory arrangements to retain and improve existing boundary treatments and landscaping. The proposals are considered to comply with the requirements of Policy ENV2. To ensure the development is acceptable, it is suggested that a suitably worded condition for the retention and improvement of boundary treatments and landscaping be attached.

4.2.3 Impact on the historic environment

Relevant policies relating to the proposal's impact on the historic environment include; Policy CON1 which requires that development preserves the setting of listed buildings, Policy CON10 requires that there is no unacceptable harm to a nationally important monument or its setting and Policy CON12 requires that development does not unacceptably harm the character of a historic landscape.

In relation to the historic environment the impact of the development proposed must be considered in relation to the WHS Buffer Zone, the Vale of Llangollen and Eglwyseg Historic Landscape, nearby listed buildings and Scheduled Ancient Monuments. This impact must be assessed against the policies listed above. The Conservation Architect is satisfied that the impact of the development on the setting of listed buildings will be acceptable due to the location of the development and existing boundary treatments and buildings in the locality. The Landscape Architect is satisfied that the impact on the historic environment is acceptable due to the scale and location of the development.

For the reasons above it is considered that the impact on the historic environment, including the WHS Buffer Zone would not be unacceptable, and complies with the requirements of Policy CON1, Policy CON10 and Policy CON12.

4.2.4 Impact on residential amenity

Criteria v) of Policy GEN6 requires that development does not unacceptably affect the amenity of local residents.

Information within the application states that the installation will not generate any noise and therefore there will be no additional disturbance due to additional noise. Noise generation related to the installation may emanate from an 'inverter' which would be located outside the development site. An

inverter is required to take the direct current from the solar panel and convert it to a useable form of electricity. It is possible to oblige that full details of the proposed inverter are submitted in order to ensure impact in relation to noise generation is controlled. An appropriate condition can be attached to require details to be submitted and approved. In relation to amenity impact on the neighbouring properties, due to the scale and location of the proposed development there will be no overshadowing of the neighbouring residential properties. The wider visual impact of the development is assessed above.

For the reasons above it is considered that the proposals would not have an unacceptable impact in relation to residential amenity and would comply with the requirements of criteria v) of Policy GEN6.

5. SUMMARY AND CONCLUSIONS:

5.1 The proposals are considered acceptable in principle as they will provide a renewable source of energy production, and the impacts on the landscape, historic environment and neighbouring properties are considered to be acceptable.

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

1. The development hereby permitted shall be begun before the expiration of five years from the date of this permission.
2. All development hereby permitted shall be removed from the land and the land shall be re-instated to a condition to be agreed in writing by the Local Planning Authority within 6 months of the cessation of energy production from the development or 25 years from the date of this permission, whichever occurs first.
3. **PRE-COMMENCEMENT CONDITION**
No development shall take place until there has been submitted to, and approved in writing by, the Local Planning Authority, a detailed scheme of hard and soft landscaping for the site, and such scheme shall include details of:
 - (a) all existing trees, hedgerows and other vegetation on the land, details of any to be retained, and measures for their protection in the course of development.
 - (b) proposed new trees, hedgerows, shrubs or vegetation, including confirmation of species, numbers, and location and the proposed timing of the planting;
 - (c) proposed materials to be used on the driveway(s), paths and other hard surfaced areas;
 - (d) proposed earthworks, grading and mounding of land and changes in levels, final contours and the relationship of proposed mounding to existing vegetation and surrounding landform;
 - (e) Proposed positions, design, materials and type of boundary treatment.
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, for the full duration of the development hereby permitted, 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. No development shall be permitted to commence until there has been submitted to and approved in writing to the Local Planning Authority full details of the inverter associated with the development and the development shall be carried out in accordance with the approved details.

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

1. To comply with the provisions of Section 91 of the Town and Country Planning Act 1990.
2. To ensure long term reinstatement of the site, in the interest of visual amenity.
3. To ensure in the interests of visual amenity a satisfactory standard of landscaping in conjunction with the development.
4. To ensure a satisfactory standard of development, in the interests of visual amenity.

5. To ensure acceptable noise levels from ancillary equipment in the interest of residential amenity.

NOTES TO APPLICANT:

None

ITEM NO: 7

WARD NO: Trefnant

APPLICATION NO: 30/2011/1054/ PF

PROPOSAL: Erection of 1 no. dwelling and construction of a new vehicular access (site area 0.08ha)

LOCATION: Land at Trefnant Isa fronting Ffordd Pen Y Maes, Parc Grosvenor Trefnant Denbigh

APPLICANT: Mrs C Hirst

CONSTRAINTS:

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

CONSULTATION RESPONSES:

TREFNANT COMMUNITY COUNCIL

“The Members would like to point out that planning permission on this site has previously been refused due to the wildlife on the site, in particular the great crested newts. They would like to know on what grounds this current application addresses these previous concerns”

COUNTRYSIDE COUNCIL FOR WALES (CCW)

No objection. Consider that the applicant has submitted sufficient information to demonstrate the proposal will not be detrimental to the maintenance of the favourable conservation status of the great crested newt population present within the environs of the application site. CCW's view takes into account issues such as habitat connectivity and continued availability of potential newt foraging habitats. However, it is advised that any consent is subject to conditions relating to the mitigation methods and the long term management of the site in relation to the great crested newts.

DWR CYMRU/WELSH WATER

No objection.

DENBIGHSHIRE COUNTY COUNCIL CONSULTEES

HEAD OF HIGHWAYS AND INFRASTRUCTURE

No objections subject to conditions relating to the provision of parking and turning areas.

BIODIVERSITY OFFICER

No objections. A Favourable Conservation Status (FCS) Article 16 form has been completed and the proposal is considered to meet the 3 tests of derogation. In line with the CCW's comments, suggests conditions relating to mitigation methods and the long term management of the site.

RESPONSE TO PUBLICITY:

Letters of representation received from:

T.T. & G.E. Roberts, Bronant, Trefnant
J.C. Williams, Trefnant Isa, Parc Bach, Trefnant
D.A. Briston, 3, Ffordd Pen-y-Coed, Trefnant
Mrs. J. Ryding, Ty Nant, 6, Parc Bach, Trefnant
Mrs. C.E. Higginson, Springwood, 1, Ffordd Pen y Maes, Trefnant
A. Thomas, Springwood, 1, Ffordd Pen y Maes, Trefnant
Mr. J. Ryding, Ty Nant, 6, Parc Bach, Trefnant
Mr. K. Armstrong-Braun, Envirowatch UK, Amazonia

Summary of planning based representations:

Ecology:

- Detrimental impact upon the favourable conservation status of a European protected species through loss of foraging land, habitat land and creation of a barrier to newt movement through the site.

Visual Impact:

- The design is not in keeping with the character of the area; too modern in design, too much glazing, does not look like anything else in the area.

Land Stability:

- The proposal could lead to land stability problems, and subsidence of neighbouring dwellings. Insufficient detail has been provided as part of the application.

Residential Amenity:

- Detrimental impact upon the amenity of neighbouring dwellings through the loss of privacy; too close to other dwellings, the proposed dwelling would overlook the private amenity area of neighbouring dwellings.

Planning History:

- The site has already been the subject of two planning applications, both of which were refused on the grounds of impact upon protected species, and both subsequently dismissed on appeal.

Highway Safety:

- The proposal would result in a loss of highway safety by exacerbating the problem of on road parking.

EXPIRY DATE OF APPLICATION: 30/10/2011

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
- 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 proposal seeks full planning permission for the erection of a single dwelling and the construction of a new vehicular access, on a plot within the development boundary of Trefnant.

- 1.1.2 The dwelling would be constructed along the southern boundary of the site with an 'L-shaped' footprint measuring approximately 7 metres by 18 metres. Internally there would be 3 bedrooms on the ground floor, and a dining area, kitchen, lounge and home office on the first floor. A car port is proposed on the western elevation, and there would be a car parking area in front of the dwelling.
- 1.1.3 The design looks to take advantage of the levels of the site by building the majority of the dwelling into the ground, to create a 'semi-subterranean' unit. A green-roof would be incorporated on the main part of the building, whilst the carport roof would feature photovoltaic panels. External wall materials for the front and side elevations would be hardwood such as cedar. Fascia and fenestration treatments would be grey aluminium and the doors would be oak.
- 1.1.4 A hard-standing around the dwelling is proposed to be constructed using a 'turf-stone' concrete grid to allow grass to grow through and create a semi grass land characteristic. As the site is sloping and the proposal involves cutting into the slope, it is proposed to utilise 'crib-lock' walling to manage the changes in levels that would occur. The 'crib-lock' walling would be planted with suitable species. Plans of the proposed dwelling can be seen at the front of this report.
- 1.1.5 The proposal includes new boundary treatments, an underground tank for rainwater harvesting, a newt pond, outdoor drying area, and garden amenity space.
- 1.1.6 The application is accompanied by a Design and Access Statement, and Code for Sustainable Homes Pre Assessment Report which demonstrates the proposed dwelling would meet level 3 of the Code for Sustainable Homes. Given the site's location in close proximity to populations of Great Crested Newts, an environmental statement has also been submitted. This concludes that the proposal would not have a detrimental impact upon the favourable conservation status of great crested newts.

1.2 Description of site and surroundings

- 1.2.1 The site is currently overgrown grassland/scrub land with a road frontage onto Ffordd Pen Y Maes. The site boundaries are defined by wire mesh fencing. There are, however, some mature trees located to the north-west and south west corners of the site.
- 1.2.2 Surrounding the site to the east, west and south are residential properties. The site is seen in this context and visually forms a vacant plot within an otherwise developed area. Opposite the site to the north, and across the road, is an area of open grassland and the rear of dwellings on Ffordd Pen Y Coed.
- 1.2.3 As mentioned previously, the site slopes up from road level, to the level of the gardens to the rear of dwellings on Parc Bach, a rise of approximately 5.5 metres.

1.3 Relevant planning constraints/considerations

- 1.3.1 The site is within the development boundary of Trefnant on the Unitary Development Plan's proposals map. Trefnant is a main village in the Unitary Development Plan.
- 1.3.2 The site is located in close proximity to a pond at Bronant (approximately 15 metres to the west of the site), and other ponds likely to support a great crested newt population. Therefore, under the provisions of the European Habitats and Species Directive 1992 (European Union Directive on the Conservation of Natural Habitats and of Wild Fauna and Flora [92/43/EEC] - The Habitats and Species Directive) and The Conservation of Habitats and Species Regulations 2010 (as amended), special consideration has to be

given to the safeguarding of the Favourable Conservation Status (FCS) of great crested newts.

1.4 Relevant planning history

- 1.4.1 The site has been subject to three previous applications for residential development. The first of these was withdrawn, and the following two were both refused on the grounds of impact upon a European protected species. Both refusals were appealed and subsequently dismissed by the Planning Inspectorate.
- 1.4.2 The first refusal to grant full planning permission for the development of this site was issued in 2001 on the basis that the proposal was contrary to Regulation 3(4) of the Conservation (Natural Habitats) Regulations 1994, because it was considered satisfactory development alternatives existed, the favourable conservation status of great crested newts would not be safeguarded, and the development would not be in the interests of public health or safety, nor overriding public interest.
- 1.4.3 In the following appeal decision (April 2002), the Inspector commented that the wording of the Local Planning Authority's refusal confused the two separate procedures of determining planning decisions and issuing licences under regulation 44 of the Conservation (Natural Habitats &c) Regulations 1994. Nevertheless, the Inspector dismissed the appeal on the practical grounds that the nature of development proposed at that time would compromise the existing role and habitat of the site by creating an effective barrier across the site. Such obstruction to movement of great crested newts between the pond at Bronant and other possible habitat sites in the locality was considered to be harmful to the maintenance of the favourable conservation status of that species.
- 1.4.4 It is relevant to the situation that the Appeal Inspector did not consider the site un-developable, but that the starting point of any scheme should be that of ensuring the favourable conservation status of the protected species present.
- 1.4.5 Following the dismissal of that appeal, the applicants submitted an outline application in 2005 for the development of the site by way of a single dwelling. This was again refused, for similar reasons to the previous application, with the addition that the submission had not demonstrated how the siting or form of the development could leave adequate scope to incorporate measures that would satisfactorily maintain the habitat, role, and value of the site for the local population of great crested newts.
- 1.4.6 At appeal, the Planning Inspectorate again supported the Local Planning Authority's refusal. The Inspector's decision highlighted that in instances where it is possible a derogation license would be required, the Local Planning Authority must satisfy itself that the three tests of derogation can be met *prior* to granting planning permission. In the case of the 2005 application, it was considered that this had not been demonstrated. The lack of detail regarding the design, form and siting of the dwelling meant that to condition mitigation measures would potentially have precluded a dwelling being built on the site. In addition, the Inspector did not consider the appellant's claim that the site would provide affordable housing was in the interest of overriding public interest, as it was not demonstrated that there was no satisfactory alternative to the development of this site, as there were other sites within the area which could provide affordable housing. The proposal did not, in this instance, meet the derogation test. For these reasons the Inspector dismissed the appeal.
- 1.4.7 The history of the previous planning applications and appeal decisions suggest that the site is likely to be used by great crested newts for foraging and movement between other possible sites. However, it should be noted that

this conclusion was based on conjecture by the Inspector, on the relationship of the site to known great crested newt habitat areas, and not on the results of site surveys. Surveys to date have never identified the presence of newts on the application site.

- 1.4.8 The two Inspector's decisions suggest that if the site is to be developed, then a submission should include full details of mitigation measures. Any dwelling should be designed around these measures, with the proposal overall needing to demonstrate that it meets the three tests of derogation as set out in relevant regulations and directives.

1.5 Developments/changes since the original submission

- 1.5.1 Following concern expressed by neighbouring residents, information relating to land stability has been submitted by the applicant's agents to assess any potential implications of the development on land stability or neighbouring properties.

1.6 Other relevant background information

- 1.6.1 None

2. DETAILS OF PLANNING HISTORY:

- 2.1.1 30/2001/0038/PF – Erection of 1 no. dwelling and construction of new vehicular access. REFUSED under delegated powers 6th September 2001. Appeal dismissed 4th April 2002
- 2.1.2 30/2005/0326/PO – Development of 0.09ha of land by the erection of 1 no. dwelling and construction of new vehicular access (outline application, all matters reserved). REFUSED under delegated powers 8th June 2005. Appeal dismissed 25th April 2006.

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 – Development in Main Villages
- Policy ENV 6 – Species Protection
- Policy TRA 6 – Impact of New Development on Traffic Flows

3.2 SUPPLEMENTARY PLANNING GUIDANCE

- Supplementary Planning Guidance 18: Nature Conservation and Species Protection
- Supplementary Planning Guidance 24: Design Guide For Householder Development
- Supplementary Planning Guidance 25: Residential Development Design Guide

3.3 GOVERNMENT GUIDANCE

- Planning Policy Wales 4 (February 2011)
- Technical Advice Note 5 – Nature Conservation and Planning (2009)
- Technical Advice Note 12 – Design (2009)
- Technical Advice Note 18 – Transport (2007)
- Technical Advice Note 22 – Sustainable Buildings (2010)

Wildlife and Countryside Act 1981 (as amended)

Conservation of Habitats and Species Regulations 2010 (as amended)

4. MAIN PLANNING CONSIDERATIONS:

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

- 4.1.1 Principle
- 4.1.2 Impact on visual amenity
- 4.1.3 Impact on residential amenity
- 4.1.4 Impact upon protected species
- 4.1.5 Impact upon highway safety
- 4.1.6 Impact on land stability
- 4.1.7 Design and Access/Sustainability Code/Access for All

4.2 In relation to the main planning considerations:

4.2.1 Principle:

The main Unitary Development Plan Policies relevant to the principle of the development are STRAT 15 and GEN 1. These policies seek to make provision for new housing in a range of locations, concentrating development within the boundaries of defined settlements. HSG 3 seeks to direct most housing developments outside main centres, to main villages, including Trefnant.

The site is within the development boundary of Trefnant, where the principle of new housing development would be acceptable subject to consideration against other policies and a detailed assessment of the potential impacts.

4.2.2 Impact on visual amenity:

Policy GEN 6 includes criteria which aim to safeguard the visual amenity of areas and to ensure that development is not allowed which is out of character with the established character of the immediate vicinity.

The area is characterised by a mixed form of generally modern development, with the exception of a red brick dwelling, Trefnant Isa, which is immediately adjacent to the south east of the site. In terms of form, a range of house types can be seen from the application site, including two storey and single storey dwellings. Materials commonly used in the area range from brick to render, and fenestration can be seen to be both traditional and modern. Of particular note is the modern fenestration which can be seen on the rear of 9 Parc Bach. There are local concerns over the design and potential visual impact of the dwelling.

With regard to the submitted details, it is considered that whilst showing a clearly 'modern' approach to design, owing to the mix of dwelling types and designs in the area, and the fact that the proposed dwelling would be set down into the slope of the site, with sensitive materials being utilised, and appropriate landscaping, the dwelling would not appear an intrusive feature within the area. It is considered therefore that, with respect to local concerns, the proposed dwelling would be unlikely to harm the character and appearance of the area. The proposal is therefore considered acceptable in terms of its impact upon the visual amenity of the area and is compliant with the requirements of Policy GEN 6.

4.2.3 Impact upon residential amenity:

There is a general requirement to ensure that new development does not detrimentally affect the amenity of neighbouring properties by way of, amongst other things, over dominance and loss of privacy. This requirement is embodied within Policy GEN 6. Additional guidance on how this can be achieved is contained in Supplementary Planning Guidance Notes 24 and 25. Policy GEN 6 also requires new residential development to provide a reasonable amount of amenity space for future occupants.

The main windows in the proposed dwelling face towards the highway, and the open space beyond. The distance to 1 Ffordd Pen Y Maes is approximately 18 metres, and within the facing side elevation of 1 Ffordd Pen Y Maes there is only one window, which is not a principal window. The dwellings to the rear of the site, on Parc Bach, are all single storey and on higher ground. They would be screened off from the proposed dwelling by fencing. To the south east of the site is the dwelling Trefnant Isa, which, again, is orientated away from the principal windows of the proposed dwelling.

It is considered, based on the recommendations in SPG 1, and 24 that there is sufficient distance to avoid any unreasonable loss of amenity to the occupiers of 1 Ffordd Pen Y Maes. Similarly, given the distances, orientation of buildings, location of windows, boundary treatments and changes in levels, it is not considered that the proposal would have a detrimental impact on the residential amenity of dwellings which back onto the site from Parc Bach, or the dwelling Trefnant Isa.

4.2.4 Impact upon protected species

Policy ENV 6, Species Protection, aims to ensure that proposals for new development do not detrimentally harm any protected species, or their habitat. Regulation 9(1) and 9(5) of the Conservation of Habitats and Species Regulations 2010 (as amended) requires Local Planning Authorities/public bodies, in exercising their functions, to have regard to, and ensure compliance with the provisions of the 1992 'Habitats' Directive (92/43/EEC). Welsh Government policies/guidance in Planning Policy Wales 4 and TAN 5 set out clear requirements to consider the implications of development on protected species.

Concern has been expressed locally in respect of the impact upon great crested newts. It has been suggested that the site is a valuable corridor for newts to move from the pond at Bronant to other areas of habitat. Local residents suggest that to develop the site in the manner proposed would stop the movement of newts through the site, by creating a physical barrier, removing habitat/ foraging ground, and creating pitfall traps such as rain water gullies.

The site in question is within an area which is known to potentially support great crested newts and previous applications for the development of this site have been refused owing to insufficient information to determine impacts. The agents for the current application have investigated this matter and state in the submitted Ecology Report that whilst there is a population of great crested newts within the wider area, none have ever been found on this site. However, the site is within a high pond density landscape, known to support great crested newts. The possibility that the site is used by newts is not disputed.

Following negotiations with CCW and the County Council's Biodiversity Officer the applicant's agents have designed a proposal which focuses on the status of the site as a 'wildlife corridor' and foraging ground for great crested newts (their presence recorded at a nearby pond in the grounds of the dwelling Bronant), and uses this as the main influence on the design concept. This includes sinking the dwelling partially into the site and creating a 'green roof' which would continue the higher ground level over the dwelling, and provide continued area of foraging for newts. In addition the site would be landscaped in such a manner as to still allow great crested newts to pass through the site, and offer foraging ground.

As referred to earlier, in considering the grant of planning permission, the Council must give effect to relevant legislation/guidance and test whether the disturbance of the protected species is required for the purpose of “preserving public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance of the environment.” In this respect the County Council’s Biodiversity Officer has completed an Article 16 Derogation Form to inform the Council’s decision. The conclusion of that exercise is that the application passes the three tests of derogation for the following reasons:

- The first test of derogation is whether a proposal is in the interest of overriding public interest. In this case the site is within the development boundary of Trefnant, the proposed building is based on the integration of sustainable building techniques in line with TAN 22, the site is currently unoccupied and unmanaged and detracts from the local amenity/appearance of the area, and the development will help to support local shops and facilities.
- The second derogation test examines alternative options. In this case the alternative to developing this site would be to do nothing. Having regard to the comments of the Biodiversity Officer and CCW, this is not considered satisfactory as it is likely to result in further degradation of the site through the continuation of fly-tipping and removal of top-soil, which would reduce the quality of the habitat for great crested newts. Development of the site is likely to stop this and provide protection from degradation.
- The third test of derogation assesses the impact of the development on the favourable conservation status of the protected species. In this instance the proposal is considered to allow the site to continue to act as a stepping stone between other sites, and is compliant with Article 10 of the Habitats Directive. A scheme of mitigation methods have been proposed and agreed with CCW and the County Council’s biodiversity officer, so that if development were permitted, it would not be detrimental to the maintenance of the population species concerned.

In support of the Biodiversity Officer’s assessment, CCW have confirmed that adequate information has been submitted and that the proposal therefore meets the Habitat Regulations derogation tests, subject to the imposition of relevant conditions.

On the basis of the information submitted, and the specific responses of CCW and the Biodiversity Officer, it is considered that, with respect to the particular concerns raised, the development of this site, as now proposed, is unlikely to result in a detrimental impact upon protected species. The proposal is therefore not in conflict with policy ENV 6 Species Protection, and the relevant legislation and guidance.

4.2.5 Impact upon highway safety

Policies TRA 6 Impact of New Development on Traffic Flows, TRA 9 Parking & Servicing Provision and GEN 6 Development Control requirements, only permit proposals for development where there is adequate parking and servicing provision and there would not be a detrimental impact upon the safe and free flow of traffic on the highway.

The proposal involves creating a new access into the site. Within the site, parking and turning areas would be created. Concern has been raised locally that an additional dwelling in this location would exacerbate problems of on road parking. The proposal has been considered by the Highway Officers, who have not raised an objection to the proposal.

It is considered, based on the Highway Officer's response, that the proposal is acceptable in terms of its impact upon highway safety, and meets policy requirements for the provision of parking. The proposal is therefore unlikely to result in an increase in on road parking in the area. To help ensure this, it is considered not unreasonable to impose a planning condition requiring the proposed access and parking is laid out strictly in accordance with the submitted plans in the interest of securing a high quality and safe form of development.

4.2.6 Impact upon land stability

Criteria x) of Policy GEN 6 states that development proposals should satisfy physical environmental considerations relating to land stability. Planning Policy Wales 4 states that in determining applications where land stability may be an issue, Local Planning Authorities should take into account the potential hazards associated with unstable land.

Concern has been raised by neighbouring residents as to the impact of the engineering works required to implement the proposal upon the stability of the land and their properties. It has also been suggested that there is already some land slippage occurring on the site, although no evidence of this has been provided. In response to the concerns raised, the applicant's agent has commissioned and submitted information as to the likelihood of the proposed development having a detrimental impact upon the stability of the adjacent land, which they conclude is limited. It is noted that the information submitted does not include details of the geo strata of the site.

Concerns over the potential impact of new development on the stability of the land and adjacent property are acknowledged. Whilst there is no clear evidence of a history of unstable land in this location, the Council has a responsibility to ensure building works do not give rise to problems of this nature, and has dual controls through planning and building control functions over the detailing of development, to deal with potential land stability issues. It is suggested that conditions can be attached to any permission requiring submission and approval of the details showing the extent of excavation, the means of supporting the ground, and the proposals for constructing the dwelling and the crib-lock walls. A properly constructed development would seem likely to assure the future stability of the land rather than place it at any increased risk of subsidence. In accordance with advice in Planning Policy Wales, applicants would need to be advised of their own legal responsibilities/liabilities for ensuring development is undertaken in a safe manner. In terms of the issue of land stability, subject to the inclusion of conditions, it is considered that the development is not in conflict with the Unitary Plan policies or Planning Policy Wales.

4.2.7 Design and Access/Sustainability Code/Access for All

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

In the case of this submission, the Sustainability Code requirements of Planning Policy Wales, TAN 12 and 22 are considered to have been satisfactorily addressed. The Code for Sustainable Homes Pre Assessment Report indicates that it should be possible to achieve the required number of credits under 'Ene1 - Dwelling Emission Rate' and attain a Code Level 3 type for the development. In line with the advice contained in TAN 22, suitably worded conditions can be included to ensure the development is carried out in accordance with the requirements of Sustainability Code guidance.

SUMMARY AND CONCLUSIONS:

- 4.3 It is clear from the previous Inspector's decisions that the fundamental issue determining the acceptability of the development of this site is the protection of great crested newts. In both previous refusals the Inspectorate stressed the importance of identifying how much of the site would be lost to the footprint of any building, and that mitigation measures should be known in advance. In all other respects the Inspectorate did not raise any significant concerns over the development of the site, hence that subject to the protection of great crested newts being adequately addressed, the site is capable of being developed.
- 4.4 The application now being considered has sought to address these issues and has been subject to consultation. Key responses from the Countryside Council for Wales and County Council Biodiversity officer, advise that the proposal is unlikely to have an adverse impact upon the favourable conservation status of great crested newts (or any European protected species).
- 4.5 With regard to other material considerations, it is considered that with respect to the representations, the proposal complies with adopted planning policies, and it is therefore recommended that planning permission be granted.

RECOMMENDATION: GRANT subject to following conditions:

- 1. The development hereby permitted shall be begun before the expiration of five years from the date of this permission.
- 2. **PRE-COMMENCEMENT CONDITION**
Prior to the commencement of the development, the written approval of the Local Planning Authority shall be obtained in respect of the walls and 'green-roof' system to be used for the development hereby permitted and no materials other than those approved shall be used.
- 3. The access shall be laid out in accordance with the approved plan and completed to the satisfaction of the Local Planning Authority before any works commence on site.
- 4. Facilities shall be provided and retained within the site for the parking and turning of vehicles in accordance with the approved plan and shall be completed prior to the proposed development being brought into use.
- 5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that order with or without modification) no windows additional to those shown on the approved plans shall be inserted at any time in the dwelling hereby permitted, unless otherwise agreed in writing by the Local Planning Authority.
- 6. **PRE-COMMENCEMENT CONDITION**
No development shall take place until there has been submitted to, and approved in writing by, the Local Planning Authority, a detailed scheme of hard and soft landscaping for the site, and such scheme shall include details of:
 - (a) all existing trees, hedgerows and other vegetation on the land, details of any to be retained, and measures for their protection in the course of development.
 - (b) proposed new trees, hedgerows, shrubs or vegetation, including confirmation of species, numbers, and location and the proposed timing of the planting;
 - (c) proposed materials to be used on the driveway(s), paths and other hard surfaced areas (including the grass-crete area);
 - (d) proposed earthworks, grading and mounding of land and changes in levels, final

contours and the relationship of proposed mounding to existing vegetation and surrounding landform;

(e) Proposed positions, design, materials and type of boundary treatment.

7. 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.

8. No trees or hedges within the application site shall be felled, lopped or topped without the prior written consent of the Local Planning Authority. Those removed without consent or which die or are severely damaged or become seriously diseased within five years of the completion of the development shall be replaced with trees or hedgerow plants of such size and species to be agreed in writing by the Local Planning Authority.

9. All trees and hedges to be retained as part of the development hereby permitted shall be protected during site clearance and construction work by 1 metre high fencing erected 1 metre outside the outermost limits of the branch spread, or in accordance with an alternative scheme agreed in writing by the Local Planning Authority; no construction materials or articles of any description shall be burnt or placed on the ground that lies between a tree trunk or hedgerow and such fencing, nor within these areas shall the existing ground level be raised or lowered, or any trenches or pipe runs excavated, without prior written consent of the Local Planning Authority.

10. All foul drainage shall be directed to a foul sewerage system and all surface water drainage to a surface water system unless otherwise agreed by the Local Planning Authority.

11. The new 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 - Dwelling Emission Rate' in accordance with the requirements of the Code for Sustainable Homes: Technical Guide November 2010. The development shall be carried out entirely in accordance with the approved assessment and certification.

12. 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', has been achieved for that individual dwelling or house type in accordance with the requirements of the Code for Sustainable Homes: Technical Guide November 2010.

13. 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 - Dwelling Emission Rate', has been achieved for that dwelling in accordance with the requirements of the Code for Sustainable Homes: Technical Guide November 2010.

14. PRE-COMMENCEMENT CONDITION

Prior to the commencement of development the following details shall be submitted to and approved in writing by the Local Planning Authority, and the development shall only proceed in strict accordance with those approved details:

i) Submission and implementation of a mitigation/avoidance scheme, including the submission of reasonable avoidance measures (RAMS);

ii) Submission and implementation of a compliance audit scheme, including performance indicators; and

Implementation of specified habitat creation/enhancement.

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

16. Notwithstanding the provisions of Class(es) A of Part 2 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification) no development permitted by the said

Classes shall be carried out without further grant of planning permission of the Local Planning Authority.

17. Notwithstanding the provisions of Class(es) A, B, C, D, E of Part 40 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification) no development permitted by the said Classes shall be carried out without further grant of planning permission of the Local Planning Authority.

18. **PRE-COMMENCEMENT CONDITION**

No development shall be permitted to commence on site until there has been submitted to and approved in writing by the Local Planning Authority;

a) A detailed site investigation to establish the ground conditions and existing levels; Detailed plans showing the full extent of excavation works, the means of supporting the land during construction work, the proposed construction of the retaining walls for the dwelling and crib-lock walls, and final levels 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 the interests of visual amenity.
3. In the interests of the free and safe movement of all users of the highway and to ensure the formation of a safe and satisfactory access.
4. To provide for the parking and turning of vehicles clear of the highway and to ensure that reversing by vehicles into or from the highway is rendered unnecessary in the interest of traffic safety.
5. To maintain a reasonable standard of privacy in adjoining dwellings and gardens in the interests of amenity
6. To ensure in the interests of visual amenity a satisfactory standard of landscaping in conjunction with the development.
7. To ensure a satisfactory standard of development, in the interests of visual amenity.
8. To safeguard the existing trees and hedges on the site, in the interests of the visual amenities of the locality.
9. In order to ensure that trees and hedges to be retained are not damaged by building or engineering works.
10. To ensure the proper drainage of the site and to minimise the risk of pollution.
11. To comply with the provisions of TAN 22: Planning for Sustainable Buildings.
12. To comply with the provisions of TAN 22: Planning for Sustainable Buildings.
13. To comply with the provisions of TAN 22: Planning for Sustainable Buildings.
14. In the interests of safeguarding the conservation of protected species.
15. In the interests of ensuring that no additional development takes place at a later date which may have a detrimental impact upon the favourable conservation status of the local great crested newt population through the piecemeal erosion of habitat.
16. In the interests of ensuring that no additional development takes place at a later date which may have a detrimental impact upon the favourable conservation status of the local great crested newt population through the piecemeal erosion of habitat.
17. In the interests of ensuring that no additional development takes place at a later date which may have a detrimental impact upon the favourable conservation status of the local great crested newt population through the piecemeal erosion of habitat.
18. In the interests of land stability and safety.

NOTES TO APPLICANT:

Your attention is drawn to the attached Highway Supplementary Notes Nos. 1, 2, 3, 4, 5 & 10. Your attention is drawn to the attached Part N form (New Road and Street Works Act 1991). Your attention is drawn to the attached notes relating to applications for consent to construct

a vehicular crossing over a footway / verge under Section 184 of the Highways Act 1980. You are advised that there is the potential for protected species to become present on the site during the course of clearance and construction. You are requested to follow best practice guidance in respect of this, and should any protected species be discovered during work, then all work must cease and the Countryside Council for Wales be contacted immediately. You are advised that full responsibility and the subsequent liability for the safe development and secure occupancy of the site rests with the developer/and or landowner, in line with advice as contained in Planning Policy Wales.

ITEM NO: 8

WARD NO: Dyserth

APPLICATION NO: 42/2011/1146/ PS

PROPOSAL: Variation of Condition No. 3 of planning permission code no. 42/2011/0652 to allow the use of the shelter until 0100hrs

LOCATION: Bodunig Inn High Street Dyserth Rhyl

APPLICANT: Mr Aboulhamit Colakoglu

CONSTRAINTS:

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

CONSULTATION RESPONSES:

DYSERTH TOWN COUNCIL

“Object on the grounds of unacceptable intrusion on the neighbourhood - (the Council has already received several complaints relating to noise from the shelter late at night)”

RESPONSE TO PUBLICITY: None**EXPIRY DATE OF APPLICATION:** 12/12/2011**PLANNING ASSESSMENT:****5. THE PROPOSAL:**5.1 Summary of proposals

5.1.1 The proposal relates to restrictions placed on the hours of use of a smoking shelter at the Bodunig Inn in Dyserth. It seeks the variation of planning condition no.3 of planning permission 42/2011/0652/PF to allow the use of the previously permitted smoking shelter until 0100hrs. The use of the shelter is currently restricted to 2300hrs.

5.1.2 The applicant has advised that the extended hours of opening are required because;

- To prevent smokers using the footpath to the front of the premises (High Street) which causes an obstruction and potential hazard as it prevents pedestrians using the pavement on the High Street.
- Disturbance can be minimised through notices and control from the landlord
- The condition only serves to move the noise from the side to the front of the premises
- The entrance to the smoking shelter is further away from sound amplification equipment inside the public house which can be used until 0300hrs, than the main entrance onto the High Street. Current restrictions mean that there is a significant increase in the frequency of people exiting and entering from the front of the premises. This causes increased disturbance due to the increased use of an entrance that is closer to sound amplification equipment.

5.2 Description of site and surroundings

- 5.2.1 The shelter serves an established public house located on the High Street in Dyserth.
- 5.2.2 The existing smoking shelter is located to the side/west elevation of the public house (see plan at the front of the report). The site is bounded on three sides by residential properties.
- 5.2.3 The smoking shelter is located approximately 3m away from the boundary of the closest residential property, Bryn Oswald, and approximately 16m away from the dwelling itself.

5.3 Relevant planning constraints/considerations

- 5.3.1 A condition was placed on the permission for the existing smoking shelter, to restrict the use to between 1100hrs and 2300hrs. The reason for the condition was to protect the residential amenity of the dwellings nearby.
- 5.3.2 To the front on the opposite side of High Street is a designated Local and Neighbourhood Centre (Policy RET10).

5.4 Relevant planning history

- 5.4.1 The smoking shelter was granted conditional permission under reference 42/2011/0652/PF, under delegated powers, on 28/06/2011.

5.5 Developments/changes since the original submission

- 5.5.1 None

5.6 Other relevant background information

- 5.6.1 Councillor Peter Owen has contacted officers to request that the application be heard by Planning Committee due to public safety issues.

6. DETAILS OF PLANNING HISTORY:

- 6.1 42/2011/0652 - Erection of shelter at side of premises. Granted permission under delegated powers 28/06/2011.

7. RELEVANT POLICIES AND GUIDANCE:

The main planning policies and guidance are considered to be:

- 7.1 DENBIGHSHIRE UNITARY DEVELOPMENT PLAN (adopted 3rd July 2002)
 - Policy GEN 1 - Development within Development Boundaries
 - Policy GEN 6 - Development Control Requirements

7.2 GOVERNMENT GUIDANCE

- Planning Policy Wales (February 2011)
- Technical Advice Note 11 - Noise (1997)

8. MAIN PLANNING CONSIDERATIONS:

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

- 8.1.1 Principle
- 8.1.2 Impact on residential amenity

8.2 In relation to the main planning considerations:

- 8.2.1 Principle
The principle of erecting a smoking shelter has been accepted by the grant of

the previous permission. The condition that is proposed to be varied was considered to be necessary to ensure that the development was acceptable in relation to the impact on the residential amenity of the locality. The key consideration here is whether the use of the shelter would be acceptable should the condition be varied to allow the hours of use to be extended. This assessment is made below having regard to the relevant Unitary Development Plan policies.

8.2.2 Impact on residential amenity

Criteria v) of Policy GEN 6 requires that development does not unacceptably affect the amenity of local residents.

It is proposed to vary the condition restricting the hours of use the smoking shelter. The smoking shelter was granted conditional permission for use between the hours of 1100hrs and 2300hrs. This restriction was placed to ensure that the proposed use would be acceptable in relation to the residential amenity of dwellings in the locality. The proposal is to extend the times of use between 1100hrs and 0100hrs. Supporting information submitted with the application states that the premises are licensed to 0300hrs. The information submitted argues that the extension to times of use is required for the reasons set out in 1.1.2.

Welsh Office Circular 35/95 sets out the tests which planning conditions should comply with. i.e that conditions attached to planning permissions must be necessary, relevant to planning, relevant to the development to be permitted, enforceable, precise and reasonable. It is considered that the original condition complies with these tests, since it sought reasonably to control use of a shelter close to residential properties in the interest of occupiers.

The condition attached to the original permission was imposed in order to ensure the impact on the residential amenity of the locality was limited. The smoking shelter that has been permitted provides a shelter/seating area in which customers of the public house can congregate. Submitted information suggests that the restriction of hours of use means smokers use an area to the front of the property after 2300hrs. As the area to the front of the property is not a formalised sheltered seating area it is considered that the intensity of use of this area is likely to be significantly less. The shelter to the side creates an external space which is used by a greater number of people for an increased amount of time due to the provision of seating and shelter from adverse weather conditions. It is considered that the existence of a shelter and seating area is likely to mean more people use such external areas for an increased period of time, and in turn means a greater degree of disturbance by virtue of increased noise levels.

Concerns have been raised in relation to the use of the pavement to the front of the property. Officers advise that they are liaising with licensing and community safety officers in order to address the potential hazard being caused. It is also noted that the application is for the use to be extended to 0100hrs despite the existing licence running to 0300hrs, therefore this application would not fully restrict customers using the area to the front of the premises in any case. This application, therefore, is not the correct forum to deal with this issue.

For the purpose of assessing the impact of noise, TAN 11 suggests a distinction should be made between day time and night time, and that night time is classified as 2300hrs to 0700hrs. In this context it is considered that

the impact of noise generation after 2300hrs is a material consideration and that the impact of noise generated from the use of the smoking shelter after 2300hrs is likely to be greater than during the daytime, as the disturbance caused to residents nearby at night time will be greater due to there being significantly less ambient/background noise, and that it would be appropriate to continue to restrict the use of the shelter to 2300hrs as an extension beyond this would be likely to have an unacceptable impact on occupiers of adjacent dwellings. The proposal is therefore considered unacceptable in relation to the requirements of criteria v) of policy GEN 6.

9. SUMMARY AND CONCLUSIONS:

9.1 It is considered that the existing condition is necessary to prevent unacceptable night time disturbance to occupiers of adjoining properties. The associated disturbance with extended hours of usage would be likely to have an unacceptable impact on residential amenity, as indicated by the Community Council. It is therefore recommended that the request to vary the condition is refused.

RECOMMENDATION: REFUSE TO VARY CONDITION - for the following reason:-

1. In the opinion of the Local Planning Authority the variation of the condition to allow the use of the smoking shelter between 2300hrs and 0100hrs close to private dwellings, by virtue of increased noise levels and associated disturbance would have an unacceptable impact on the residential amenity of occupiers of those dwellings, in conflict with criteria v) of Policy GEN6 of the Denbighshire Unitary Development Plan and advice set out in Technical Advice Note 11 Noise.

NOTES TO APPLICANT:

None

ITEM NO: 9

WARD NO: Rhyl East

APPLICATION NO: 45/2011/0717/ PC

PROPOSAL: Retention of car parking area for a temporary period of 5 years for use by staff of adjoining Council Offices

LOCATION: 58 Brighton Road Rhyl

APPLICANT: Denbighshire County Council

CONSTRAINTS: Tree Preservation Order
Article 4 Direction

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

CONSULTATION RESPONSES:

RHYL TOWN/ COUNCIL - 'Object unless the application is amended to provide:-

1. That Members of public visiting the Offices are permitted to park within the car park
2. That the Car park is available for public use on weekends and Bank Holidays.'

DENBIGHSHIRE COUNTY COUNCIL CONSULTEES

HEAD OF HIGHWAYS AND INFRASTRUCTURE – No objection

ARBORICULTURAL CONSULTANT - Recommends that the plantation quotation relating to replacement trees should include containerised stock, and that the proposed works to the existing trees are essential safety work.

RESPONSE TO PUBLICITY: None

EXPIRY DATE OF APPLICATION: 17/10/2011

REASONS FOR DELAY IN DECISION (where applicable):

- additional information required from applicant
- 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 to use land as a car parking area for an additional 27 spaces, for a temporary period of five years, for the use of the existing staff of the adjoining Council Offices on Brighton Road. The area was previously occupied by an office building, demolished in early 2011.

- 1.1.2 The applicant is Denbighshire County Council.
 - 1.1.3 The parking area is centrally positioned within the site, and is understood to follow the outline of the building which occupied it until demolition.
 - 1.1.4 The submission includes a Design and Access Statement which covers, in brief, accessibility and policy; character; community safety; environmental sustainability; movement to, from and within the development. The document mentions that access to the temporary extension to the car park is from the existing car park at 64 Brighton Road and through the existing vehicular access from the highway, with pedestrian access through the existing pedestrian access with the adjoining Council Offices.
 - 1.1.5 It is stated that that the additional spaces are needed to address a shortage of parking for the adjacent offices, and will also ease the on road parking of staff based in this Office, reducing inconvenience to local residents. The spaces would result in a total of 125 parking spaces, with 5 disabled bays and 7 visitor bays to serve the Brighton Road complex. The applicant has confirmed that there will not be an increase in the number of employees based at the Council Offices at 64 Brighton Road.
- 1.2 Description of site and surroundings
- 1.2.1 The site is located on the southern side of Brighton Road, bounded by Grange Road to the south and the Council Offices to the north east. Along the south westerly boundary is the main north Wales railway line. Brighton Road includes a number of predominantly older, modest sized, brick built properties along the westerly side, with newer, more modern, commercial and residential, along the easterly side.
 - 1.2.2 There are a number of trees along the boundaries of the application site. The car park has a tarmacadam surface, with an entrance barrier on the Brighton Road boundary.
 - 1.2.3 The site previously included a detached council office building, with associated vehicular activity.
- 1.3 Relevant planning constraints/considerations
- 1.3.1 Trees on the application site are subject to a formal Tree Preservation Order, dated 1952. This is a 'blanket' TPO for Rhyl and mentions a mixture of trees, predominantly along the boundary of this site.
- 1.4 Relevant planning history
- 1.4.1 A previous planning permission granted in 2007 related to the remodelling of the then existing car park area and provision of 20 new parking spaces, to be provided in the curtilage of the former Social Services building. A copy of the plan approved with this permission is included at the front of this report.
 - 1.4.2 It is understood that the Social Services' building, was demolished earlier in 2011, following the grant of demolition consent.
- 1.5 Developments/changes since the original submission
- 1.5.1 There have been discussions with the Council's Tree Consultant during the course of the application focusing on additional tree information, including suitable new planting along the road frontages.

- 1.5.2 Further clarification and additional details have been sought regarding the Design and Access Statement and the application description, resulting in a re-consultation exercise.
- 1.5.3 In response to the Town Council comments, Development Services Officers have highlighted a number of points which they consider makes it impractical to support the use of the car park at weekends by the public, essentially focusing on the overall management and control of the site; such as:-
- Who would disengage the car park barrier (which is controlled by a security fob), and who would manage the car park over a weekend (it is considered unlikely that Car Parking Services would want to take this on, and we would have to install a ticket machine)
 - There is a danger of access by travellers, and dumped cars/domestic items etc.
Additionally, the response highlights that there are visitors parking bays at the front of 64 Brighton Rd which are accessible to the public, with site staff keeping staff from parking in these bays, and plenty of parking now available.

1.6 Other relevant background information

1.6.1 None.

2. DETAILS OF PLANNING HISTORY:

2.1 The following are considered of direct relevance to the application ;

2.2 Code 45/2007/0286/PF

Extension to existing car park GRANTED under delegated powers 19/04/07

2.3 Code 45/2010/1486

Prior Notification relating to Demolition of St. Winifred's two-storey Victorian building
GRANT 07/01/2011

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, 5,6,7,11,13

Policy GEN 1 Development within development boundaries

Policy GEN 2 Development of un-annotated land

Policy GEN 6 Development Control Requirements

Policy ENV 7 Landscape/Townscape Features

Policy TRA 6 Impact of New Development on Traffic Flows.

3.2 Supplementary Planning Guidance

6 - Trees and development

21 - Parking requirements in new developments

3.3 GOVERNMENT GUIDANCE

Planning Policy Wales 2011

TANs and Circulars

TAN 10 - Tree Preservation Orders

TAN 12 - Design

36/78 Trees and Forestry (under review and part superseded by Tree Preservation Orders: A guide to the law and good practice 2000)

Town and Country Planning 1999 (Trees) Regulations

4. MAIN PLANNING CONSIDERATIONS:

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

- 4.1.1 Principle
- 4.1.2 Highway implications
- 4.1.3 Implications on the Tree Preservation Order
- 4.1.4 Amenity implications
- 4.1.5 Visual impact on the street scene
- 4.1.6 Inclusive access

4.2 In relation to the main planning considerations:

4.2.1 Principle

The site lies within the development boundary for Rhyl where the principle of this type of development would be acceptable, in accordance with STRAT 1 and GEN 1 policies. The site specific impact tests are the acceptability in relation to the detailed policies and guidance which are covered in the following paragraphs of this report.

The Town Council wish to encourage public use and not just a car parking use for Council Officers. Whilst acknowledging the context for the Town Council's comments, the Development Services Officers have drawn attention to a number of key Council site management issues, which whilst not all directly related to planning issues, are pertinent to how the Council controls the site, and make it impractical for public use.

4.2.2 Highway implications

Policies STRAT 13, GEN 6, TRA 6 require consideration of the impact of additional traffic, and parking provision. SPG 21 sets out maximum parking requirements in new developments, and includes details of the size and layout of parking spaces.

The proposal has been assessed by the County Highways Officer who has no objections.

On this basis, and given the previous use of the site, the proposal is not considered to conflict with the relevant highway policies and guidance.

4.2.3 Implications on the Tree Preservation Order

Policy ENV 7 - Landscape/Townscape Features, together with the accompanying guidance note 6 highlight the need to protect and enhance the natural environment. SPG 6 provides detailed advice regarding tree survey requirements, and that consideration should include the effect on root growth in terms of (a) physical damage to service/foundations/walls, and (b) water table/moisture content

Initially, concerns were raised in terms of the lack of clarity of proposals in respect of impacts on some of the trees on the site, and what the future management approach to the trees are. Discussions with the County's Tree Consultant resulted in additional information being provided, including additional proposals for tree planting along both the Brighton Road and Grange Road frontage. On this basis, the application details are supported and considered to comply with the main thrust of the policy and guidance

referred to.

4.2.4 Amenity Implications

Planning policies STRAT 1 and 5, together with GEN 6 seek to safeguard privacy and amenity levels for occupiers of adjacent properties.

Apart from the Council Offices, the nearest residential property to the site is the Bron Haul residential home, which is across Brighton Road. Having regard to the nature of the proposal and the position of this property, it would appear unlikely that the proposal would have an adverse impact on the existing level of amenities on residents, and would satisfy the aims of the policies.

4.2.5 Visual Impact on the street scene

STRAT 5 and GEN 6 obliges due consideration of the impact of new development on the locality, in particular on the street scene. TAN 12 also highlights the need to assess effects on the street scene.

On the basis of the extent and visual appearance of the proposal, and given the tree coverage along the site boundaries, limited implications on the street scene are anticipated. The proposal therefore complies with STRAT 5 and GEN 6

4.2.6 Inclusive Access

The requirement for mandatory Access Statements is outlined in TAN 12 Design and TAN 18 Transport, and Policy GEN 6 which sets out the need to provide safe and convenient access for persons with disabilities.

The submitted Design and Access Statement shows basic support for inclusive design objectives.

5. SUMMARY AND CONCLUSIONS:

5.1 The application is an opportunity to create and control a relatively minor extension to an existing Council Office parking area. Whilst acknowledging the points raised by the Town Council, all planning applications have to be treated on their planning merits. Officers consider that, with due respect, the issue of public use of a Council office car park is not material to the planning issues in this instance, and is a matter more appropriately dealt with by the Council's Sections dealing with the overall strategic management and control of sustainable parking in the town.

5.2 On the basis of the above assessment, Officers consider that the application merits support.

RECOMMENDATION: CONSENT UNDER REG 3 APPROVED,

subject to the following condition(s):-

1. The land shall cease to be used as a car park no later than 31st December 2016.
2. The tree planting submitted as part of the application details shall be implemented within 6 months of the date of this decision, and any trees which, within a period of 5 years thereafter die are removed or become seriously damaged or diseased shall be replaced in the next available planting season with others or similar size and species.
3. The visitor parking bays positioned on the existing Council Offices site shall be retained at all times.

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

1. The proposal is for a temporary use.
2. To ensure a satisfactory standard of development, in the interests of visual amenity.
3. In the interests of the highway and amenities interests of the locality.

NOTES TO APPLICANT:

None

ENFORCEMENT REPORT

ENF/2010/0095 33/35 Water Street, Rhyl

Unauthorised development – removal of original timber sash style windows and insertion of modern style uPVC windows

PLANNING ENFORCEMENT REPORT

REFERENCE: ENF/2010/00095

LOCATION: 33/35 Water Street, Rhyl

INFRINGEMENT: Unauthorised development – removal of original timber sash style windows and insertion of modern style uPVC windows

RELEVANT PLANNING POLICIES AND GUIDANCE

DENBIGHSHIRE UNITARY DEVELOPMENT PLAN

Policy GEN 6 - Development Control Requirements
Policy CON 4 - Indigenous Building Materials
Policy CON 5 - Development within Conservation Areas

Supplementary Planning Guidance Note 13 - Conservation Areas

GOVERNMENT GUIDANCE

Planning Policy (Wales) 2002

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

HUMAN RIGHTS CONSIDERATIONS

The Human Rights Act 1998 is taken into account when considering taking enforcement action against breaches of planning control. In this instance the matter under consideration is whether the owner of a property within a Conservation Area, has a right to remove original sash style windows and replace with modern windows of uPVC material, thereby creating a material change, without the required Local Planning Authority approval. The general public interest outweighs any rights which may be claimed by the land owner in this case. No specific human rights issues have been raised by the land owner or any other interested party.

1. BACKGROUND INFORMATION

- 1.1 The property in question is one of a row of Victorian terraced buildings situated on Water Street, Rhyl and lies within the Rhyl Conservation Area. The ground floor operates as a fast food take-away with residential accommodation above.
- 1.2 During 2010, the Project Manager of the Rhyl Townscape Heritage Initiative entered discussions with the owner and the leaseholder of this property towards a required refurbishment due to the dilapidated condition of the external appearance of the upper floors. The required works were of the type that would attract grant aid. However, the owner, nor the leaseholder, opted to progress the required works at that time.
- 1.3 Due to no action being taken to remedy the dilapidated state of the building, on the 26 October 2010, a planning compliance officer forwarded a letter to the owner outlining the concern regarding the untidy condition of the building and the remedial works required. The officer enclosed a Requisition for Information with each letter formally requiring details of ownership and interests in the property.

- 1.4 On the 29 October 2010, the questionnaire attached to the Requisition for Information addressed to the leaseholder, was returned completed to the Local Planning Authority.
- 1.5 On the 8 December 2010, the owner's agent contacted the DCC Project Manager of the Rhyl Townscape Heritage Initiative to advise that renovation works were to be undertaken and scaffolding had been erected to facilitate the replacement of windows. The Project Manager formally advised the agent that planning approval would be required unless the replacement windows were to be of such a material and design that the process could be described as changing 'like for like'.
- 1.6 On the 25 January 2011, a planning compliance officer visited the site which revealed that scaffolding had been erected, but no works had commenced. The officer took a photograph.
- 1.7 On the 24 May 2011, the planning compliance officer returned to the site. At this time the renovation works had been completed, which included the replacement of original sash style windows on the second floor and ornate stained glass inserts to windows on the first floor, with modern style windows of uPVC material. The officer again took a photograph.

2. REASONS FOR ISSUING AN ENFORCEMENT NOTICE

- 2.1 The unauthorised development has taken place within the last 4 years.
- 2.2 The modern replacement uPVC windows do not conform to the policy on the use of indigenous building materials for the alteration of historic buildings. This is contrary to Policy CON 4 and Policy GEN 6 (i) and (ii).
- 2.3 The change to the style and material of the windows does not preserve or enhance either the character or appearance of the Conservation Area. This is contrary to Policy CON 5 and Policy GEN 6 (i) and (ii).
- 2.4 The modern style and material of the new windows is not sympathetic to the character and appearance of the host building or the overall area. Although generally Victorian, later alterations to some adjacent buildings occurred at key periods in the history of Rhyl, typically the Edwardian era. The uPVC top hung windows do not reflect these periods. Consequently this is contrary to SPG Note 13.

3. RECOMMENDATION

- 3.1 That authorisation be granted for the following:
 - (i) Serve an Enforcement Notice to secure the replacement of the new uPVC windows with windows of a design and material meeting the approval of the Local Planning Authority.
 - (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.
 - (iii) Period for compliance 4 months.