

PROTOCOL I'R PWYLLGOR CYNLLUNIO

Mae'r canlynol yn nodi'r dull yn ôl pa un y bydd Cadeirydd y Pwyllgor Cynllunio yn cynnal y Pwyllgor Cynllunio er mwyn eglurder, cysondeb, a thegwch yn y gweithrediadau.

Wrth ategu'r protocol a'i amcanion, pwysleisiodd y Cyngor bod rhaid i'r Aelodau beidio â lobïo ei gilydd cyn Pwyllgor. Mae gallu rhai nad ydynt yn Aelodau o'r Pwyllgor i siarad gyda chaniatâd y Cadeirydd yn darparu peirianwaith digonol i bob barn gael ei mynegi yn y cyfarfod.

1. Bydd y Cadeirydd yn agor y gweithrediadau am 9.30 a.m. ac yn croesawu pawb i'r Pwyllgor Cynllunio.
2. Bydd Swyddogion yn hysbysu'r Pwyllgor o unrhyw newidiadau i sylwedd yr agenda neu ei threfn yn cynnwys siarad cyhoeddus, gohiriadau ac eitemau a dynnwyd yn ôl. Bydd hyn yn cael ei ategu gan yr Adroddiad Adendwm – Llythyrau Hwyr a Newidiadau ("y daflen las").
3. Bydd unrhyw gais i geisiadau gael eu symud ymlaen i ddechrau'r cyfarfod yn cael ei gynnig gan Aelodau, ac yn amodol ar eilydd, bydd yn destun pleidlais.
4. Bydd ceisiadau sy'n cynnwys siaradwyr cyhoeddus yn cael eu hystyried ar ddechrau'r agenda fel arfer.
5. Bydd ceisiadau gyda siaradwyr cyhoeddus yn cael eu hystyried cyn y rheini heb siaradwyr fel arfer.
6. Y canlynol fydd trefn y drafodaeth ar bob eitem (cais cynllunio neu adroddiad gorfodi) cyn yr agenda:
 - i) Siaradwyr cyhoeddus yn erbyn ac o blaid i siarad yn unol â'r protocol siarad cyhoeddus.
 - ii) Y Cadeirydd i ofyn am gynigydd ac eilydd i'r argymhelliad neu am unrhyw gynigion eraill.
 - iii) Bydd Swyddogion yn cyflwyno'r eitem gan nodi'r prif faterion cynllunio, yn cynnwys cyfeirio at arddangosfeydd gweledol.
 - iv) Os bydd cynnig i ohirio ar gyfer Panel Archwilio Safle gan yr Aelodau yn cael ei gynnig a'i eilio, mae pa un a yw Panel Archwilio Safle i'w gynnal a'r rhesymau cynllunio dros banel o'r fath i'w trafod yn gyntaf. Mae hyn yn y cyd-destun y dylai'r cais am Banel Archwilio Safle fod ymlaen llaw i'r Pwyllgor Cynllunio fel arfer fel y nodir yn y Canllawiau i Baneli Archwilio Safle.

- v) Os bu unrhyw gais yn destun Panel Archwilio Safle blaenorol, bydd y Cadeirydd yn gwahodd yr Aelodau hynny a'i mynychodd, yn cynnwys Aelod y Ward, i siarad yn gyntaf, cyn Aelodau eraill.
- vi) Gyda cheisiadau eraill, byddir yn gwahodd Aelod y Ward i siarad yn gyntaf.
- vii) Bydd Aelodau'n cael eu cyfyngu i bum munud o siarad ar y mwyaf yn unol â'r rheolau sefydlog.
- viii) Unwaith y mae Aelod wedi siarad, nid yw'r Aelod i siarad eto oni bai ei fod yn gofyn am eglurhad ar bwynt sy'n codi o'r drafodaeth a hynny dim ond unwaith y bydd yr holl Aelodau eraill wedi cael y cyfle i siarad a gyda chytundeb y Cadeirydd.
- ix) Yn dilyn y drafodaeth bydd y Cadeirydd yn gofyn i Swyddogion ymateb i unrhyw gwestiynau a chrynhoi unrhyw faterion sy'n codi o'r drafodaeth, yn cynnwys cyngor ar benderfyniad posibl sy'n groes i argymhelliad y Swyddogion.
- x) Bydd y Cadeirydd yn ei gwneud hi'n glir fod y drafodaeth wedi'i chloi a bod y pleidleisio i ddechrau. Ni chaniateir unrhyw drafodaeth neu gwestiynau pellach ar yr eitem. Bydd y Swyddogion yn paratoi'r system bleidleisio electronig ac yn dweud wrth y Cadeirydd pryd gall y pleidleisio ddechrau.
- xi) Bydd y Cadeirydd yn rhoi unrhyw gynigion i bleidlais. Mae'r system bleidleisio electronig yn caniatáu 15 eiliad i'r pleidleisio ddigwydd a rhaid i'r Aelodau fwrw eu pleidlais yn ystod yr amser hwnnw.
- xii) Ni fydd y Cadeirydd yn goddef unrhyw ymyriadau gan Aelodau heb ei gytundeb na sgysiau clywadwy rhwng Aelodau neu Swyddogion nad ydynt yn ffurfio rhan o'r drafodaeth.
- xiii) Bydd peidio â chadw at y protocol uchod yn arwain yn y lle cyntaf at rybudd gan y Cadeirydd. Gall methiant pellach arwain at gynnig o dan Reol Sefydlog 18.3 nad yw'r aelod i'w glywed ymhellach, gan arwain yn y pen draw at gynnig o dan Reol Sefydlog 18.4 fod yr aelod i adael y cyfarfod os digwydd y bydd yr ymddygiad amhriodol yn parhau.
- xiv) Bydd y Cadeirydd yn datgan y penderfyniad yn glir unwaith y gwneir y penderfyniad.

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

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

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

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

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

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ITEM NO: 1

WARD NO: Denbigh Lower

APPLICATION NO: 01/2007/1444/ PF

PROPOSAL: Redevelopment of site by way of mixed use development comprising 11,212 sq.m (gross internal area) of Class A1 retail floorspace, 504 sq.m (gross internal area) of Class A3 retail floorspace, public open space, internal roads and footways, associated car parking spaces, associated ancillary facilities and comprehensive hard and soft landscaping

LOCATION: Former Kwik Save Site Station Yard Denbigh

APPLICANT: Cathco Property Group Ltd.

CONSTRAINTS: C2 Flood Zone
Conservation Area

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

CONSULTATION RESPONSES:

The application was originally submitted in October 2007. Revised plans were forwarded in June 2008 (relating to the smaller units on Vale Street/Station Road), and in August 2008 (relating to the opening of the access onto Colomendy Industrial Estate for use by customers' vehicles as well as service vehicles). These have been the subject of reconsultation. The report indicates the plans to which the respective consultee responses relate, where relevant:

DENBIGH TOWN COUNCIL

(Comments are on the June 2008 revisions: Comments are awaited on August 2008 reconsultation)

"Whilst not wishing to object to the application would wish to refer you to the observations on the original application and would still wish to put forward the following observations/concern, namely:

There appears still to be only one public access road to the site. The Council understands that the proposal is for the public to use Grove Road and Station Road. Both of these roads feed into the main road through the town, namely Vale Street, which in turn meets up with the Ruthin/Rhyl roads at the Townsend traffic lights controlled junction. The distance between this junction and the Station Road / Vale Street junction is very short and that particular stretch of road already suffers from traffic congestion.

The additional flow of traffic expected from the new retail park will inevitably exacerbate the problem. The town council would urge that consideration be given to providing an additional access road in order to alleviate an already congested junction. It is suggested that consideration be given to upgrading the proposed access road for goods vehicles from the Colomendy Industrial Estate for use by the public".

DENBIGH CIVIC SOCIETY

(Comments are on the June 2008 revisions)

Retain concerns over the 'half hearted weak designs' of the shops fronting Vale

Street, the elements which impinge on Vale Street and Station Road, and the blocking off of the access from Rhyl Road. Accept there are improvements from the original detailing, but feel the siting of the Vale Street/Station Road units should mirror the line of other buildings, and the opportunity to enhance the feeling of enclosure is missed, the shops there are an attempt at “fitting in using dull architectural details which do not show quality of design that befits this important street”. Should retain the Rhyl Road vehicle access, and provide footpath and cycle links from Cae Fron. Suggest scheme is of regional importance and Design Commission for Wales should be involved.

ENVIRONMENT AGENCY WALES

The Environment Agency have drawn attention to the location of part of the site in a C2 flood Zone on the Development Advice Maps which accompany TAN 15 – Development and Flood Risk, hence the County Council would need to determine whether development meets the TAN’s ‘Justification tests and an adequate Flood Consequence Assessment (FCA) is required to determine the acceptability of proposals. The applicants have submitted FCA information and EAW have confirmed they are satisfied that this demonstrates the consequences of flooding can be acceptably managed.

Arrangements would need to be made to divert or protect a surface water culvert which runs through the site.

A range of conditions would need to be included if permission was granted, to deal with potential contamination issues, contamination issues, and surface water drainage arrangements.

DENBIGHSHIRE HEAD OF TRANSPORT AND INFRASTRUCTURE

Highways officers have engaged in dialogue with the applicants and their transport/Highways consultants prior to and following submission of the application. The main issues have been the acceptability of the detailing of the junction arrangements and highway improvements in the Vale Street – Station Road – Grove Road area, and whether the proposed new entrance off Colomendy Industrial Estate should be open to customers’ vehicles to ease the potential congestion along Vale Street.

The highways case officer is therefore supportive of the proposed amendments to open the ‘secondary’ access for customers to the north, subject to agreement on detailing. There remains preference for a signal controlled junction at the Station Road – Vale Street junction to ensure traffic flow and suitable pedestrian crossing arrangements, whilst accepting this would impact on existing on-street parking which serves shops on Vale Street. A condition could be imposed to require further approval of this arrangement. Other points of detail would need to be approved at a later stage, including junction radius, footway and lay by / parking bay dimensions, the alignment of approaches to the Grove Road – Station Road roundabout, and the location of the central island of the roundabout, pedestrian crossing arrangements treatment of existing access points, provision for access by buses to the site, relocation of an existing bus stop on Vale Street, and the submission of a suitable safety audit of the arrangements.

Other general comments include:

- The provision of the Colomendy link to separate service vehicles from customers is welcomed as this would keep HGVs and refuse vehicles away from the busy junctions on Vale Street/Station Road.

- There is ample off-street parking for the proposed development. Secure facilities should be provided for cyclists.
- There is provision for a public transport link within the site (bus stop), but there is a need for a shelter and modifications may be required to the layout to allow larger buses to manoeuvre through the site.
- There are good pedestrian routes through the site, but the main store is over 100 metres from the nearest bus stop, and the walkways should be covered across the main store car park.
- There should be a requirement to clear/improve the Public Footpath link to the Spencer Trading Estate.
- A Green Travel Plan will need to be drawn up, implemented, and monitored.

DENBIGHSHIRE FOOTPATHS OFFICER

Public Footpath 10 crosses the northern part of the site and may need diverting as a result. Would require the inclusion of a condition to secure agreement to detailing/diversion prior to commencement of development, along with measures for ensuring public safety whilst crossing the road, and access where feasible for persons with disability.

DENBIGHSHIRE PUBLIC PROTECTION MANAGER

Would require appropriate consideration of measures to address potential contamination on the site.

DENBIGHSHIRE LANDSCAPE ARCHITECT

Has concerns over the potential impact of incursion into the field to the west of the current site, and over the level of landscaping within the site, all of which requires strong planting.

DENBIGHSHIRE PRINCIPAL COUNTRYSIDE OFFICER

No objections to the proposed removal of small trees. Most tend to be small or medium sized self-sown specimens, often poor in form and condition, although one or two mature specimens merit retention. There is opportunity for a high quality landscaping scheme for the whole site.

DENBIGHSHIRE ARCHAEOLOGIST

Accepts the application is likely to have low impact on the known archaeological resource, and that the railway development itself would have had an impact on any archaeological remains, although its remains now form part of the archaeological resource. Recommends any permission includes an archaeological watching brief; and that a geophysical survey be undertaken of the field to the west.

DENBIGHSHIRE CONSERVATION ARCHITECT (Project Manager – Denbigh and Rhyl THI)

Comments only on the parts of the development within or immediately adjacent to the Conservation Area. Considers the revised plans for the Vale Street units are of a more traditional appearance with an acceptable roofline. The quality of the development will depend on the detail, and conditions should be included to control use of materials and signage. Proposals to widen Vale Street and to alter the Station Road junction are broadly acceptable and would have minimal impact on the historic street pattern. Overall the proposals as they relate to the Conservation Area will improve a currently unattractive site facing Vale Street and Station Road, without affecting its general character and appearance

unacceptably, subject to approval of detail.

DENBIGHSHIRE ECOLOGIST

No response received.

DWR CYMRU/WELSH WATER

Draw attention to the location of water mains in the area, and require that no structure should be located within 3 metres of the centre line of the pipes. Requires separation of foul and surface water drainage systems.

CLWYD POWYS ARCHAEOLOGICAL TRUST

Note the site is on the outer edge of the medieval historic core of Denbigh, within 80 metres of archaeological remains identified at Denbigh Friary. There is unknown potential for archaeology of medieval/post medieval date, particularly close to the street frontage where demolition is proposed. Recommend provision be made through condition for the presence of an archaeologist during site works.

RESPONSE TO PUBLICITY:

The responses are split into 'for' and 'against' the proposals, and these are separated in the following list. Some of the individuals included in the 'against' list actually express support for the principle of the scheme, but have reservations over particular points of detail.

Representations against the application:

1. G. S. Maudsley, 10 Machno Place, Denbigh
2. R. Williams, 10 Maes Y Coed, Denbigh (via e-mail)
3. Dr. T. B. Webb, Nonesuch, Park Street, Denbigh
4. P. Hughes, The Garage, Grove Road, Denbigh
5. S. Matthews, Fron House, Maes Y Coed, Denbigh
6. N. & A. Houghton, 25 Castle View, Denbigh
7. E. Jones & Son (Denbigh) Ltd., Druid Buildings, Highgate, Denbigh
8. A. Dent, 104, Vale Street, Denbigh
9. G. Lloyd-Davies, Foel Gaer, 49, Rhyl Road, Denbigh
10. Dr. Atkinson, 49, Beacon's Hill, Denbigh
11. J. Kite, 126 Vale Street, Denbigh
12. P Harrison, 29 Rhyl Road, Denbigh
13. H Moore, 60 Vale Street, Denbigh

The main points raised in the above letters of objection to the application are:

Highways issues

Concerns over impact of traffic on already congested area given high volume of traffic using existing approach roads (Vale Street/Rhyl Road/Station Road/Grove Road); existing problems of on-street parking, causing congestion and blocking visibility; high number of pedestrians use roads in vicinity, with schools on Rhyl Road; traffic lights would encourage motorists to use 'rat runs' down minor roads; no delivery parking on Vale Street for smaller shop units; plans do not show accurately the access to property on Vale Street opposite the Station Road junction; traffic generation figures seem questionable and underestimate the likely increase in volume; loss of parking spaces on Vale Street would affect small shops and home owners there; traffic should be split between Station Road entrance and Colomendy entrance; lack of clarity over proposals for land to the rear of Fron Terrace (Rhyl Road).

Amenity issues

Concerns over noise/disturbance from delivery vehicles, plant and machinery, and

refridgerated vehicles being parked overnight near houses; potential impact of lighting of delivery areas and the rest of the site; potential nuisance from new pedestrian links to the site (e.g. Castle View); difficult to determine potential impact from proposed Coach park; loss of privacy from overlooking; general negative impact on Vale Street properties (residential and commercial) from increased congestion; lack of information on proposals for boundary fencing and walls/concerns over level changes between main store and rear of Castle View properties.

No need for further retail developments

Impact on Morrisons and other stores in Denbigh and Ruthin; impact on town centre shops; limited spin off benefits for in terms of jobs for town; more general adverse effect on town as a tourist attraction; development is contrary to Unitary Plan policy for Denbigh; need new site for replacement of Beech House Surgery.

Design/appearance

Adverse impact on character of town, conservation area; loss of old water tower.

Wildlife impact

Limited information on potential effects.

Loss of old cottages

Other matters of a private legal nature, relating to land ownership:

Impact on existing business on site – Applicants do not own existing garage premises operating within the site (letter 4).

Use of land at Maes y Coed – site includes land which may have been used by local residents.

In addition to the letters referred to above:

1. The Authority has received a photocopy version of the same letter of objection, signed and sent in separately by a total of 83 persons with addresses throughout the town, Henllan, Llanefydd, Cerrigydrudion, Prion and Llanfair T.H. A further 6 copies of the same letter have been received with signatures but no addresses.
2. A letter from Mr. H. Lloyd, 43, Grove Road, Denbigh was signed by 8 residents of adjoining properties on Grove Road. The letter requests provision of a suitable boundary wall between the site and adjacent residential properties, consideration for residents parking spaces (similar to that proposed for Maes y Coed Road), and adequate protection from noise.
3. A submission has been received from Peacock and Smith Ltd., acting for Wm Morrison Supermarket plc, including a 13 page report detailing objections to the proposals on planning policy and retail impact grounds. The basis of the response is:-
 - a. The site is outside the defined town centre
 - b. The submission does not demonstrate there is a need for a retail scheme of the scale and size proposed. There is insufficient convenience or comparison capacity to accommodate the development. The impact on other convenience and comparison facilities in the town centre would be significant and could result in closures, reducing further the vitality and viability of the town centre.
 - c. The proposals are therefore contrary to national and local planning policies seeking to promote town centres and only allow out of centre locations

where there is a demonstrable need.

d.

Representations in support of the development:

1. D. G. Owen, 18, Bryn Seion
2. R. G. Thorley, Pen y Banc Cottage, Llawnt, Denbigh

The main points raised in support of the application are:

Redevelopment benefits – Area is a complete eyesore

Greater customer choice

Sustainability benefits – Saves Denbigh people from travelling to Rhyl/Ruthin, Chester/Wrexham : would encourage improvements to public transport into town.

Additional jobs/income for the town – Spin off benefits should not be ignored.

Development is compatible with planning policy – Unitary Plan policies RET 3 and RET 4.

Letter 1 above draws attention to an acknowledgement from the County Council of receipt of a letter of objection to the proposals (one of the 83 photocopied letters referred to previously), which was signed in his name and with his address. The individual points out that he did not put his name and address on the letter and does not agree with the letter, and he believes the redevelopment would be good for Denbigh and create more jobs.

EXPIRY DATE OF APPLICATION: 04/09/2008

PLANNING ASSESSMENT:

THE PROPOSAL:

1. The application involves a significant redevelopment of the former Station Yard/Kwiksave site, in Denbigh. The extent of the site, the layout plan and basic details of elements of the scheme are included in the plans at the front of the report.
2. The application forming the subject of this report is a full planning application for the erection of a major retail store and other retail units, a small A3 unit, with associated developments. There is a separate application for Conservation Area Consent (No. 1/2007/1445/CA), which is required to demolish those buildings which are located within a small part of the site on Vale Street that lies within the Denbigh Conservation Area (i.e. the old buildings forming the former Dairy premises).
3. The site includes land formerly used in connection with the Kwiksave Store, the Wool Producers of Wales, Allits Motors, an old dairy, the Station Yard/bridge abutment, and there is an existing garage business operating within the site. It extends into the fields to the west of the Kwiksave car park. Vehicular access into the site is currently possible from Station Road, and from a one way "in" road off Rhyl Road. The site provides access to Green Fingers Garden Centre business, immediately to the north of the old Kwiks store building.

4. The area around the site is in a mixture of uses. The extensive Colomendy Industrial Estate and Spencer Business Park lies to the north; residential properties at Castle View, Albert Road, Maes y Coed are to the east, along with a number of business premises in the area around the old gasworks. There are residential, commercial and business premises on Vale Street, Station Road, and Grove Road, Theatr Twm o'r Nant on Station Road, and open fields to the west.
5. The proposals involve:
 - i) The demolition of the existing Kwiks/Somerfield retail store complex (which contains Motorworld, Pets First and Diskos outlets), the Wool Producers of Wales premises and a number of buildings including Burrows Machinery and Equipment (former Allits Motors), the Dairy/depot on Vale Street, a repair garage and buildings including a former water tower which served the old railway.
 - ii) The development of 11,212sqm of A1 Retail floorspace (gross internal) and a 504m² A3 Restaurant/Bar unit. The A1 retail floorspace would comprise:-
 - a) A 4558sqm (gross internal floorspace) large format foodstore, to be operated by Tesco. This would be Unit 17 at the north end of the site.
 - b) 3771sqm retail floorspace in 7 no. retail units in the south west corner of the site. Units 10 and 11 would be 'convenience goods' floorspace, and Units 12-16 would be 'comparison goods' floorspace.
 - c) 2883sqm retail floorspace in 7 no. smaller retail units at the southern end of the site
 - d) A 504sqm A3 restaurant/bar located at the bottom of Vale Street, by the bridge abutment. This is referred to as Unit 1, on the plans.
 - iii) The provision of a total of 599 parking spaces, with ancillary servicing and storage areas. The parking provision includes:-
 - a) 50 spaces for use by Green Fingers Garden Centre
 - b) 321 spaces for the Tesco Store
 - c) 228 spaces for the smaller retail units
 - iv) In terms of access, the main 'public' entrance would be from Station Road, with a secondary vehicle access from a new link to the Colomendy estate to the north. The smaller lower level units (1-8) would be serviced from a loading area to the east of Unit 8, accessed off the Station Road entrance. The existing Rhyl Road entrance would be made pedestrian only. Pedestrian routes are proposed to enable ease of access from Vale Street, and from Rhyl Road via Albert Road and the existing vehicular entrance. Site levels rise some 4.5 metres from the Vale Street (southern) end, to the Garden Centre at the northern end.

Provision for a coach parking area is shown at the point where the vehicle access from Rhyl Road would be closed off. The facility is indicated as a 'layover facility for tour groups visiting the town'. Parking spaces would be provided for residents of Maes y Coed Road as part of the remodelling of the area to the south of these dwellings.

- v) The provision of a bus stop facility within the site, and a taxi pick up point close to the main store.
6. For the record, the application is accompanied by a range of detailed documents and plans, including:
- Environmental Impact Assessment
 - Design Statement
 - Access Statement
 - Retail assessment
 - Transport assessment (and related Road Safety Audit)
 - Planning Statement

These documents contain a great deal of technical information and the report can only refer to the main contents. The documents have been sent out to relevant consultees for comment, and they are all available for inspection prior to the Committee.

7. The submission refers to a number of points of relevance to the proposals and sets out the applicant's stance on key issues:
- i) The Kwiksave foodstore traded from 2,670sqm gross floorspace. This establishes the principle of convenience retailing on the site and the relevant tests of need, etc. should only apply to the 'uplift' in floorspace. The retail assessment demonstrates quantitative and qualitative need for the proposed floorspace, there are no alternative sites available, and there will be a positive effect on the viability and vitality of the town.
 - ii) The site lies approximately 320m from the town centre retail boundary as shown on the Unitary Plan proposals map, and is considered an 'edge of centre' location for retail planning purposes.
 - iii) The majority of the redevelopment would be on 'previously developed land'.
 - iv) Part of the site (Old Station sidings) is shown in the Unitary Plan as a 'housing commitment' by virtue of a permission for residential development at the time of preparation of that document (2002). This permission has since expired.
 - v) A section of the site forms part of a protected recreational area at Caer Fron, which lies outside the town development boundary.
 - vi) A small part of the site on Vale Street lies within the 'extended' town Conservation Area – including the former dairy and the former railway bridge abutment. It is proposed to retain the abutment.
 - vii) There would be a dedicated recycling facility within the site.
 - viii) The scheme has been developed with regard to relevant planning policies and guidance, and the proposals are considered acceptable in relation to the key considerations, in particular consistency with policies/guidance relating to retail impact, transport implications, and relevant environmental issues (flooding, conservation). Taking account of the Unitary Plan, the benefit of the proposals are considered to offset the loss of a small area of open space, and would bring about a recognisable gain for the town, making "efficient use of a large derelict and unsightly area, in accordance with the principles of

sustainable development”.

8. The layout has been revised since submission in October 2007, and relevant consultees have been offered opportunity for further comment. Local residents have been offered the same opportunity to view the plans and to make representations.
9. Factually, as referred to previously, the majority of the site lies within the development boundary of Denbigh as shown on the Unitary Plan proposals map. The nearest part of the town centre retail boundary is at Post Office Lane, in excess of 300 metres to the south west. The southern part of the site (the old railway sidings and sheds) has previously been the subject of a permission for housing development in 1997 and was shown in the Unitary Plan as a housing commitment, as that permission was still valid at the time the plan was published. The permission has never been implemented and has long since expired. A strip of land along the western side of the application site, measuring approximately 50 metres wide by 150 metres long, which would allow for creation of the secondary access from the Colomendy Estate and for a larger car park area for the main retail store, is outside the development boundary and is the subject of Policy REC 3, which safeguards informal open space. The extent of incursion into the REC 3 area is shown on the plan at the front of the report.
10. The development of an area of land outside the development boundary, protected by Policy REC 3 would represent a departure from the policies of the Unitary Plan, and the application has been advertised in the local press and on site accordingly. Whilst it is a matter for the Committee to assess whether conflict with the Plan is outweighed by other factors (policies and material planning considerations), Members should be aware that in these circumstances, the event that the Committee resolves to grant permission, the application would have to be referred to Full Council for final determination, in accordance with the requirements of the current Scheme of Delegation. In addition, as the gross retail floorspace exceeds 10,000 square metres, and is a departure from the Unitary Plan, it would also be necessary to refer the application to the Welsh Assembly Government in accordance with advice in Technical Advice Note 3 – Retailing and Town Centres, to allow them opportunity to consider whether the proposals prejudice the implementation of the Development Plan’s policies, and whether to authorise the County Council to determine the application.

For members’ information, the site forms part of a larger area at Cae Fron which has been submitted as a ‘Candidate site’ for a mixed development area following the initial work on the Local Development Plan.

RELEVANT PLANNING HISTORY:

11. There have been a considerable number of applications submitted over time in relation to the different parts of the site. The ones of particular relevance are:

Kwiksave site

2/1123 (Denbigh Borough).

Development of land by the erection of a supermarket, construction of access and parking spaces (outline application) – GRANTED 13/1/1972 (Kwiksave store)

1/3067 (Glyndwr)

Development of land by erection of 3 storey block comprising 18 dwellings – GRANTED – 9/1/1979

Old Station Yard

1/12,690 (Glyndwr).
Development of land for residential purposes – GRANTED – 30/9/1993

1/12,691 (Glyndwr)
Development of land for retail purposes – GRANTED – 39/9/1993

1/671/96 (Denbighshire)
Erection of 41 dwellings, service roads, drainage and demolition – GRANTED – 12/3/1997

Wool Producers of Wales

1/10392 (Glyndwr)
Construction of a double span building for use as a warehouse – GRANTED – 02/10/1989

PLANNING POLICIES AND GUIDANCE:

12. DENBIGHSHIRE UNITARY DEVELOPMENT PLAN (adopted 3rd July 2002)

Policy STRAT 1	-	General
Policy STRAT 5	-	Design
Policy STRAT 6	-	Location
Policy STRAT 7	-	Environment
Policy STRAT 10	-	Town Centres
Policy STRAT 11	-	Regeneration
Policy STRAT 13	-	New Development
Policy STRAT 14	-	Highways
Policy GEN 1	-	Development Within Development Boundaries
Policy GEN 3	-	Development Outside Development Boundaries
Policy GEN 6	-	Development Control Requirements
Policy GEN 9	-	Environmental Assessment/Statement
Policy ENV 1	-	Protection of the Natural Environment
Policy ENV 7	-	Landscape/Townscape Features
Policy CON 5	-	Development within Conservation Areas
Policy CON 6	-	Development Adjacent to Conservation Areas
Policy CON 7	-	Demolition in Conservation Areas
Policy CON 11	-	Areas of Archaeological Importance
Policy RET 1	-	Town and District Centres
Policy RET 3	-	Retailing and Town Centres
Policy RET 4	-	Non-Food Retail Stores or Warehouses
Policy RET 7	-	Fringe Areas Adjacent to Town & District Centres
Policy TRA 6	-	Impact of New Development on Traffic Flows
Policy TRA 7	-	Road Design
Policy TRA 8	-	Transport Requirements in Major Developments
Policy TRA 9	-	Parking and Servicing Provision
Policy REC 3	-	Open Space/Recreation Allocations
Policy ENP 6	-	Flooding
Policy ENP 8	-	Contaminated Land

SUPPLEMENTARY PLANNING GUIDANCE

SPG 13	-	Conservation Areas
SPG 15	-	Archaeology
SPG 18	-	Nature Conservation & Species Protection
SPG 21	-	Parking requirements in New Developments

WELSH ASSEMBLY POLICY/GUIDANCE

Planning Policy Wales 2002

Technical Advice Note 4 – Retailing and Town Centres 1996

Ministerial Interim Planning Policy Statement 2/2005 – Planning for Retailing and Town Centres
Technical Advice Note 5 – Nature Conservation and Planning 1996
Technical Advice Note 12 – Design
Technical Advice Note 11 – Noise 1997
Technical Advice Note 15 – Development and Flood Risk 2004
Technical Advice Note 18 – Transport 2007

MAIN PLANNING CONSIDERATIONS:

13. The main considerations are:-

- i) Principle of development
- ii) Retail impact issues – including the impact on the viability/vitality of the town centre
- iii) Highway impact
- iv) Amenity impact (proximity to dwellings, noise/disturbance)
- v) Design and appearance
- vi) Flooding/drainage
- vii) Loss of area of protected open space outside development boundary
- viii) Archaeology/ecology
- ix) Potential planning gains from the development

14. In relation to the main considerations noted in paragraph 13;

- i) Principle of development

The majority of the site lies within the development boundary, although a section on the western side extends beyond the boundary and onto land safeguarded as open space by policy REC 3 of the Unitary Plan. Part of the site (southern end) is shown as a housing allocation in the Unitary Plan proposals but this is no longer relevant as the permission which was in existence at the time the plan was adopted has now expired.

The retail policies in the Unitary Plan set out specific tests for proposals, and allow for development where these are met. The particular type of development may therefore be acceptable subject to due consideration of the tests in the policies. There is related Assembly Guidance in Ministerial interim Planning Policy Statement 2/2005 on Retail development which also has to be given proper weight. The specific issues relating to retail impact are dealt with in detail in the following section.

General environmental considerations assume some significance here, and it is clear from the responses to the application that careful regard needs to be given to highways, amenity, flooding/drainage, contamination and general design issues. Unitary plan policies and related guidance again set out specific tests to be applied to determine the acceptability of proposals.

The fact that part of the site is outside the development boundary, and forms part of a safeguarded open space means that the proposals have to be considered as a departure from the Unitary Plan. This does not mean the application has automatically to be refused permission, but if it is to be considered for grant, then it is necessary to justify such a stance on the basis of appropriate weighing of planning policies and other material considerations which may presume in favour of the development. The following sections of the report deal with each of the main issues in turn.

ii) Retail impact issues – including impact on vitality and viability of the town

The application provides information relevant to UDP policies TAN 4 and Ministerial Policy tests, on the impact of retail / non retail stores on sites on the edge of town centres. The conclusions of the applicant's retail consultants report is that the development accords with national and local retail planning policies as it meets the key tests relating to quantitative and qualitative need, the trading impact on the town and locality, and the sequential approach to site selection.

The main planning policy and guidance relevant to retail impact are RET 1, 3, 4 and 7, TAN 4 and Ministerial Statement 2/2005 dealing with Planning, Retailing and Town Centres.

There are objections from private individuals, and a detailed submission on behalf of an existing retail store in the town, summarised in the Response to Publicity section of the report. This report challenges the conclusions of the applicants retail assessment and considers the submission fails to meet the requirements of policy and guidance; in particular as it is not considered to demonstrate a need for a retail scheme of this scale and size, there is insufficient convenience or comparison capacity to accommodate the development, and the impact on other convenience and comparison facilities in the town centre would be significant and impact on the vitality and viability of the town centre.

In order to obtain a suitable appraisal of the situation, officers have commissioned an independent review of the submission by Roger Tym and Partners, who have previously undertaken similar work for the Council on Retail Assessments. Having regard to the proposals, the retail assessment and current policy and guidance, the conclusions of Roger Tym are that in relation to:

- a) The requirements of Ministerial Interim Planning Policy Statement 2/2005 (the most up to date WAG statement of policy on Retailing and Town Centres) – the application satisfies the 'sequential' test, and refusal on 'scale' grounds is not justified. The position in relation to the 'need' test is finely balanced, and there is partial failure of the 'trade impact' test.
- b) Other material considerations
Regeneration and employment benefits are capable of being material considerations (MIPPs para.10.3.4), and the proposed retail use would be likely to deliver benefits in terms of making better use of underused site close to the town centre, as well as resulting in a net increase in employment.
- c) Whether the application is in accordance with the development plan
The proposals would have potential convenience trade impacts on Denbigh Town Centre and therefore a potentially detrimental effect on vitality and viability of the centre, hence only partly complies with policies RET 1, and 7; the foodstore component does not satisfy RET 3, the comparison trade impacts would be small scale and short term and complies with RET 4. The conclusions on planning policy issues is that the application is not "fully in accordance with the plan".
- d) The overall conclusion from Roger Tym is that -
There are factors to balance in favour, and against the proposals.

The matters which are of concern include the possibility that there is likely to be insufficient convenience expenditure to support the turnover requirements of the proposed convenience floorspace, and they are not persuaded there is a qualitative need for a second food superstore in Denbigh given the relatively small size of the town and the catchment area. Allied to the apparent lack of qualitative need, they have concerns in relation to the potentially significant trade impacts on individual stores in the town centre area as a whole, and in particular Morrisons.

Conversely, Roger Tym accept that on balance there may be sufficient quantitative need for the proposed comparison floorspace, and they agree that there is scope to enhance the quality of the town's non food retail offer. There is a low level of retail retention across the catchment area and the scheme would help to claw back expenditure which presently leaks out of the catchment, and this accords with the national policy objective on reducing the need to travel.

Ultimately, Roger Tym's summary is that "whilst we have significant concerns in relation to the proposed foodstore, the comparison retail element of the proposed scheme would represent a welcome addition to Denbigh's retail offer. Taking all of the foregoing factors into account, whilst consideration of the application is finely balanced, we conclude that the scheme as a whole should probably be supported".

The applicants' agents have responded to the Roger Tym review and draw attention to points of detail/interpretation which reinforce their own conclusions over the acceptability of the development. They have also confirmed agreement to the inclusion of a condition precluding the opening of a post office or pharmacy opening within the main retail store.

Overall, there is little doubt from the Roger Tym assessment that there would be potential trade impact on the town, and there are conflicts with elements of retail planning policies and guidance. The conclusion is that there are benefits from the redevelopment which can outweigh the harm, but the issues are clearly finely balanced, and require very careful weighing up.

iii) Highway impact

There are a range of highways issues relevant to the application. This includes the acceptability of the proposed customer/service vehicle, and pedestrian access arrangements, the capability of the road network to accommodate the likely usage, the adequacy of car parking provision, and the accessibility of the site by a variety of modes of transport.

The main planning policies and guidance relevant to the highways impact of proposals are TRA 6, 7, 8 and 9, GEN 6, SPG 21 and TAN 18. These all seek to ensure new developments are served by adequate access arrangements without causing detriment to existing and future road users.

The applicant's highways consultants have undertaken detailed modelling of traffic flows and have investigated different options for highway layout and junction arrangements around the main Station Road / Vale Street entrance.

They are satisfied that the highways have adequate capacity to handle the anticipated traffic generated. Their preferred option is for a roundabout at the main entrance at the junction of Station Road and Grove Road, and a remodelled junction linking Station Road and Vale Street, with associated

improvements including the widening of Vale Street. These are shown on the plan at the front of the report. The applicants do not consider on highway grounds that secondary 'customer' access is necessary via the proposed northern link to Colomendy, but have allowed for this possibility to recognise concerns from the highway officer.

The highways officer raises no objection on highway capacity grounds, or to the provision for parking within the site. He supports the creation of the secondary access for customer vehicles via the northerly link to Colomendy as this would reduce pressure on the Vale Street area; and likewise supports the intention to use the northerly link as the main service vehicle access to the main retail store and 'central area' units. Whilst acknowledging the applicants case for a 'roundabout' and junction arrangement at Station Road, Vale Street, and local concerns over loss of on street parking on Vale Street, he retains a preference for a traffic light controlled junction to ease flow of traffic and the safe crossing of pedestrians.

Whilst fully appreciating local concerns over the highway implications of the development, it is clear that there are no 'technical' objections from the highway officer on basic road capacity grounds. Revisions to the secondary access to Colomendy to allow access by customer vehicles address basic concerns of the Town Council, objectors, and the highway officer. The precise details of the Vale Street – Station Road junction can be reserved for further approval, allowing the respective highway consultants to develop a solution which secures the best outcome for pedestrians, road users and local businesses affected by the arrangements.

Taking all factors into account – not least local concerns over the 'impact of additional traffic on the highway network – it is clear that there can be no 'ideal' highway solution which will satisfy all parties here. However, on the basis that there is no overriding concern over highway capacity, it is suggested that in order to progress matters, the precise detailing of the Vale Street – Station Road – Grove Road junctions and associated improvements can be reserved for future approval, as this would enable the respective highway experts opportunity to conclude their detailed dialogue with interested parties.

iv) Amenity impact

There a number of potential amenity impacts from a major development on a site which is bordered by residential development on the eastern and south/south western boundaries.

There are general policies in the Unitary Plan which oblige due consideration of the effect on local residents, in particular GEN 6, which requires assessment of impact on the locality from additional activity, disturbance, noise, dust, community safety, etc.

Responses from local residents suggest the main amenity impacts to be considered are potential noise and disturbance from the proposed uses, and in particular the movement of service vehicles and operation of refrigeration/plant equipment in and around the main store and retail units. The respective service yards would be located in close proximity to properties on Castle View and Machno Place. The proposals are to install specialist acoustic fences around the service yards, which would assist in 'dampening' the transference of noise, and also act as visual screens to lights and lorries. In commenting on this issue, it is inevitable that some regard has to be given to the fact that there is already a retail store at the north end of the site with

no planning controls over the hours of deliveries, and there is no screening of any description between the store and residential properties to the east. In this context the application offers a positive opportunity to impose strict limits on the hours of deliveries, the construction of acoustic fences, noise limitations in relation to plant and machinery and restrictions on parking of refrigerated lorries, which would be a clear improvement on the existing situation at that end of the site. In relation to the Machno Place / Grove Road properties, the main delivery / service entrance to the Wool Producers business are immediately adjacent to existing dwellings off Grove Road, and the proposals offer a real potential for improvement here: in particular as the service access to the new retail units would be from the Colomendy direction and would be masked from the majority of dwellings by the position of Unit 10 and 11. Due attention would still however be necessary to the detailing of the acoustic fencing around the main delivery yard for units 10-16, and to the imposition of the same basic controls over hours of delivery, noise limits on plant, given the proximity of the Machno Place dwellings.

Subject to the imposition of suitable controls, it is not considered there would be significant visual amenity impacts for local residents from the development, taking due account of the location and type of existing buildings on the site, the detailing of the proposed stores / retail units, and the respective distances between properties. There is limited tree cover across the site, and the proposals offer an opportunity to significantly improve the quality of planting, and it creates the potential for more substantial natural screening along many of the site boundaries. The development would involve the loss of the small water tower building associated with the railway, but it has been agreed that the stone can be saved and used in the construction of the feature tower on Unit 11, with suitable interpretive information to recognise the link with railway era. Careful attention will be necessary to changes to site levels around the main store building, to ensure impact on nearby residential properties is minimised, e.g. by controlling levels, detailing of retaining wall, etc.

Consideration would need to be given to suitable controls over demolition works if a permission were to be granted, to protect local residents' interests. The proximity to dwellings at Grove Road, Vale Street, and in the Castle View / Maes y Coed Road area requires careful attention to dust suppression (particularly in view of the potential for the presence of contaminated materials), to hours of work and general organisation of construction activity (wheel washes, location of compounds, storage of material, etc).

It is suggested that having regard to what is already present on the site, and the particular detailing of the development, the amenity impacts on local residents would not be unacceptable in terms of the planning policy considerations, and what impacts would arise can be further mitigated by conditions.

v) Design and appearance

The scheme involves the removal of a range of buildings of varying quality in an area which is in a run down condition, and in need of regeneration. The approach to the new development is to introduce a 'modern' form of design for the main retail store and the larger retail units, and a more traditional styling for the units on Vale Street / Station Road.

The main planning policies and guidance are ENV 7, GEN 6, and the policies relating to conservation areas, CON 5, 6 and 7, SPG 13 and TAN 12 Design.

Consultee responses contain limited comments on the detailing of the main store and the larger retail units (nos. 10-16). These are designed as relatively contemporary buildings, which would seem an acceptable approach in the context of the mixed style of development in the vicinity (Industrial buildings to the north at Colomendy and Spencer estates, housing of varying styles to the east, business units and the builders yard at Townsend).

The main interest is in the detailing of the smaller Vale Street / Station Road retail units, which would be sited in part within, and adjacent to the extended Conservation Area, and in a very prominent location at the bottom of Vale Street – the main highway into the town centre from the north, south and east. The plans for these units have been revised following responses from consultees and the County Conservation Officer, to take account of concerns over the detailing and to retain the footpath link into the site alongside the railway abutment close to the existing traffic lights. The Conservation Officer is now satisfied that the overall form of this part of the development is acceptable, although there is further work necessary to refine the use of external materials, window detailing, etc to ensure it respects the character of the immediate area. Hence, with respect to the comments of the Civic Society, it is considered the plans merit support subject to careful refinement of the detailing.

vi) Flooding / drainage issues

The location of part of the site in a C2 flood zone in the Development Advice Maps produced with TAN 15 – Development and Flood Risk has obliged the submission of detailed technical information by the applicants and the involvement of the Environment Agency Wales.

The applicable planning policies and guidance are ENP 6 and GEN 6 and TAN 15 – Development and Flood Risk.

The applicants' consultants have furnished the Environment Agency with information to address the C2 flood zone issue, and the potential impact on main surface water drains which cross the site. The Agency has indicated they are satisfied the consequences of flooding can be acceptably managed, and that a range of conditions would need to be imposed to safeguard the existing surface water drains. Welsh Water / Dwr Cymru would also seek the imposition of conditions to protect foul water sewers and Water mains in the vicinity.

In situations where development is proposed in a location in a C2 Flood zone, TAN 15 obliges the local planning authority to apply specific 'tests' to determine whether proposals are 'justified', and hence whether they are acceptable in principle, before they fall to be assessed in terms of technical acceptability in relation to flood consequences and mitigation. The tests in TAN 15, S.6.2 suggest development will only be justified if it can be demonstrated that:

- " i. Its location in zone C is necessary to assist, or be part of a local authority regeneration initiative or a local authority strategy required to sustain and existing settlement; **or,***
- ii. Its location in zone C is necessary to contribute to key employment objectives supported by the local authority, and other key partners, to sustain an existing settlement or region;*
and,

- iii. *It concurs with the aims of PPW and meets the definition of previously developed land (PPW fig 2.1); and,*
- iv. *The potential consequences of a flooding event for the particular type of development have been considered, and in terms of the criteria contained in section 5 and 7 and appendix 1 found to be acceptable,”*

It is officers opinion that the development clearly meets the key justification tests, and that with regard to the technical issue of flood risk the EAW are satisfied the risks can be adequately mitigated. Subject to the inclusion of conditions outlined by EAW and Dwr Cymru / Welsh Water, the proposals are considered acceptable in respect of flooding and drainage impacts.

- vii) Loss of protected open space / development outside development boundary
The proposals represent a departure from the policies of the Unitary Plan as a 50mx150m strip of land on the western side of the site is outside the development boundary, and involves the loss of an area of land protected by policy REC 3 of the plan.

The main policies relevant to this issue are GEN 3 and REC 3. Policy GEN 3 states development will not be permitted outside development boundaries, but indicates potential exceptions where such development may be justified, for example, to meet the plan's objectives of regenerating and diversifying the countryside. REC 3 safeguards the Cae Fron open area from development as an area of informal recreational open space. The general principle here is to exercise control over new development so it does not intrude unacceptability into the countryside and adversely impact on important recreation land.

In acknowledging the important principles here, it is respectfully suggested that the particular circumstances which apply provide a reasoned justification to consider supporting the development. The area of land outside the development boundary is relatively small (approx 50m x 150m) and is required to provide a key secondary access to the site from the Colomendy Estate, to allow use by customers and service vehicles, to save them driving into the town centre. The access offers a potential vehicular route into the Cae Fron land, which will be essential if it is considered for future business/commercial/residential use. The actual loss of recreational land, compared to the size of the whole Cae Fron area is minimal, and would not prejudice its status or effectiveness for use as an informal recreation area. The development which the land would make a considerable contribution to the regeneration of this part of the town, and its future economy.

- viii) Archaeology / ecology
The site lies on the outer edge of the medieval historic core of the town and close to Denbigh Friary where there has been considerable archaeological interest. The Archaeological evaluation has been redrafted following the original response of the County Archaeologist. There are limited ecological impacts anticipated from the development. The relevant policies and guidance are CON 11, ENV 6, SPG 15 and TAN 5.

It is considered that adequate opportunity can be afforded for supervision and recording of items of any archaeological interest during site clearance works, through inclusion of a condition obliging the presence of an archaeologist.

ix) Potential planning gains

Members may appreciate that in progressing major applications of this nature, it is normal for officers to negotiate with applicants/developers on a 'without prejudice' basis potential additional benefits from a scheme which can be secured through a separate Section 106 legal agreement. Such 'benefits' have to relate reasonably to the development, and can not be imposed through planning conditions as they normally involve off-site development or financial contributions. These potential gains can be placed in the balance when weighing up the merits of the application in relation to conflict or compliance with planning policy and guidance.

In this instance, the developers have indicated a willingness to enter into a Section 106 agreement which would provide for future access to the Cae Fron land off the Colomendy 'link', a contribution to the bus service to the town centre, the inclusion of suitable interpretation facilities for the history of the site, a Green Travel Plan, use of car park by Twm o'r Nant and local residents, and improvements to the public footpath link to the Spencer estate.

SUMMARY AND CONCLUSIONS:

15. This is a major planning proposal involving the redevelopment of land forming part of the former Station Yard in Denbigh. The site is occupied by the old Kwiksave Store, and by a number of small business premises including the Wool Producers of Wales. The scheme proposes a main retail store, with separate retail units in two independent blocks of development. The main customer access to the site is proposed from Station Road, with associated alterations and improvements to the road network on Station Road and Vale Street. A secondary access is proposed off the Colomendy Industrial Estate, which would serve as the main route for service vehicles to the main store and the retail units in the centre of the site. A section of the site at Cae Fron is outside the development boundary. The application is accompanied by lengthy technical information, including an Environmental Statement.

The application has been advertised as a departure from the Unitary Development Plan as a consequence of the inclusion of land outside the development boundary.

The report outlines the basis of responses to the proposals, and deals with the main issues in some detail. There are conflicts with elements of planning policies and guidance, including those relating to retail impact and development outside the town boundary. There are detailed highway design, drainage and amenity considerations to address. In officers' opinion, the determination rests on a careful weighing up of the negative and positive impacts which could arise.

In officers' opinion, the planning merits are finely balanced here. The potential retail impact on the town is a clear concern. However, there are clear regeneration benefits which would arise from a modern retail led redevelopment of a run down contaminated commercial/industrial area, and consultation responses raise no significant 'technical' objections in respect of highways, drainage or visual/residential amenity. The recommendation is ultimately for the grant of permission, subject to controls over detailed elements of the scheme, on the basis that the overall benefits to the town outweigh the retail impact concerns and the minor incursion into the Cae Fron fields.

Ultimately, the recommendation is to grant planning permission, having due regard to the policy concerns, the potential impacts of the development, and the significant gains and regeneration benefits the scheme offers for the town. The

view is taken that the development would make an essential contribution to upgrading a run down area of the town, and that the potential disbenefits can be outweighed by the overall gains for residents from a modern retail led development in this location.

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

The recommendation is subject to the following:-

- i) - The completion of a Section 106 Obligation to secure the following:
 - Future vehicular access to the Cae Fron Recreational Land
 - Contribution to the running of the bus service to the town centre (annual payment of £70,000 for 5 years, or such suitable alternative as agreed by Denbighshire County Council)
 - Interpretation facilities within the site for the history of the railway and the promotion of the town
 - A Green Travel Plan
 - Use of the main car park by Twm or Nant and local residents.
 - Improvement to the public footpath running to the Spencer Estate
 - Inclusion of public art within the open areas of the site

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

- ii) Referral of the application to Full Council for determination if the Planning Committee resolves to grant permission, as the proposals represent a departure from the policies of the Unitary Development Plan.
- iii) Notification of the resolution to grant permission to Welsh Assembly Government, in accordance with TAN 4 (departure application; development exceeding 10,000sq. metres), and confirmation from WAG that the Council can determine the application.
- iv) Compliance with the following conditions:-

RECOMMENDATION: GRANT subject to the following conditions:

1. The development hereby permitted shall be begun before the expiration of five years from the date of this permission.
2. No development shall be permitted to commence until the written approval of the local planning authority has been obtained to the proposed programme of construction/phasing of development including the sequence of completion of building works, and associated parking and access arrangements.

IN RELATION TO THE BUILDINGS

3. No works shall be permitted to commence on the external faces of the walls or the roofs of the buildings until the written approval of the local planning authority has been obtained to colour and type of the materials to be used, including any stonework, brickwork and mortar mix, render, composite wall panels, support columns and roof sheets; in connection with which, samples shall be provided for inspection by officers of the authority. The development shall be carried out strictly in accordance with the details approved under

this condition.

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

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

6. None of the retail units or the A3 unit shall be permitted to open until the written approval of the local planning authority has been obtained to the proposed hours of trading and the hours for deliveries of goods thereto.

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

UNIT	GROSS INTERNAL FLOORSPACE	NET FLOORSPACE		CLASS A3
		CONVENIENCE GOODS	COMPARISON GOODS	
	sq.m	sq.m	sq.m	
1.	504	-	-	504
2.	550	-	440	-
3.	600	-	480	-
4.	762	-	610	-
5.	244	171	-	-
6.	241	169	-	-
7.	241	-	193	-
8.	245	-	196	-
9.	-	-	-	-
10&11	1,497	1,048	-	-
12.	455	-	364	-
13.	455	-	364	-
14.	455	-	364	-
15.	455	-	364	-
16.	454	-	363	-
17.	4,558	1,812	1,367	-

In relation to the Unit 17 foodstore, the net retail floorspace shall not exceed 60% of the gross internal ground floor area (i.e. 2735sqm) and of the 2735sqm, no more than 70% shall be used for the sale of convenience goods (1914sqm), other than with the formal written permission of the local planning authority.

8. No floor area within any of the buildings shall be increased beyond that shown on the approved plans by the construction of internal floors, and the unit 17 foodstore shall not be subdivided into separate retailing units at any time, other than with the permission of the local planning authority.

9. There shall be no pharmacy or post office facility within any of the buildings other than with the formal permission of the local planning authority.

10. Notwithstanding the submitted plans, the detailing of the feature tower on Units 10/11 shall not be as shown on drawing no. 6495/L (00)/77a), but shall be in accordance with such details as may be submitted to and are approved in writing by the local planning authority prior to the commencement of development thereon, to include for the use of stone from the demolished water tower as an external wall material, and a suitable interpretive board or feature to recognise and interpret the railway history of the site.

11. No works shall be permitted to commence on the demolition of the stone water tower

until a full photographic record has been made and the written approval of the local planning authority has been obtained to proposals for the storage of the stone for use in the construction of the Unit 10/11 feature tower, in accordance with Condition 10 of this permission. A copy of the photographic survey shall be deposited with the local planning authority within 1 month of being completed.

IN RELATION TO HIGHWAY/ACCESS MATTERS

12. Notwithstanding the contents of the submitted plans, the precise detailing of the junction layouts and highway improvements in the Vale Street - Station Road - Grove Road area and the layout of the secondary access to Colomendy Industrial Estate, shall not be as shown, and no development shall be permitted to commence until the written approval of the local planning authority has been obtained to the final arrangements, to include layout, design, levels, construction, drainage, street lighting, footway and pedestrian crossing arrangements, the provision for circulation of buses within the site, the relocation of the bus stop on Vale Street, provision for safe passage of cyclists, signage, the treatment of public footpath 10, the recycling facility, the link between the service road and the car park, and a suitable safety audit. The development shall be carried out strictly in accordance with the plans as are approved under this condition.

13. No development shall be permitted to commence on the reconfiguration of the area around Maes y Coed Road to the rear of 19-31 Rhyl Road, and the existing site access off Rhyl Road, until the written approval of the local planning authority has been obtained to the precise treatment of all the land shown within the application site, including hard and soft landscaping, walls and fences.

14. Notwithstanding the details on the submitted layout plans, no development shall be permitted to commence until the written approval of the Local Planning Authority has been obtained to the finished floor levels of all the buildings, the final levels of the car park areas and associated roads and retaining walls/fences.

15. Prior to the commencement of any of the development hereby permitted, a phasing programme and methodology for the carrying out of construction works including off-site highway works, hours of operation, noise mitigation measures, and routing of construction traffic shall be submitted to and approved in writing with the Local planning Authority.

16. Provision shall be made for cycle parking within the development prior to the commencement of use of any retail floorspace in accordance with details to be submitted to and agreed by the Local Planning Authority.

17. None of the units hereby approved shall be brought into use until the approved access, parking and servicing arrangements have been completed, in accordance with the approved plans and conditions.

18. No development shall be permitted to commence until the written approval of the local planning authority has been obtained to a detailed Green Travel Plan including proposals for implementation of the Plan.

19. No development shall be permitted to commence until the formal written approval of the local planning authority has been obtained to the arrangements for securing the protection of Public Footpath No 10, including a safe means of crossing the service road, for members of the public, ensuring a suitable provision for persons with disability.

IN RELATION TO GENERAL SITE LAYOUT/DETAILING

20. With the exception of the service delivery yards, there shall be no external storage of goods, crates or any items relating to the delivery or collection of goods from any of the units on any part of the application site.

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

22. Notwithstanding the submitted details, no development shall be permitted to commence until the written approval of the local planning authority has been obtained to the detailing of:

(a) The retaining wall along the western (Cae Fron) boundary, including materials, planting,

the type of boundary fencing and associated replacement hedgerow planting along the boundary.

(b) All boundary and retaining walls and fences, including the acoustic fencing around the service yards, their precise position, proposed materials, heights and finishes.

(c) The surfacing material to be used on all footways, access roads, parking areas

(d) A proposed bus shelter, to be constructed in conjunction with the bus stop

(e) The treatment of the area immediately to the east of Units 1 and 8, including the footway link from Vale Street, the service yard and former railway viaduct / abutment

(f) The pedestrian walkway shelter

(g) The area around the Maes y Coed Road / Coach Parking area

(h) The area around the Grove Road properties, including the arrangements for blocking off public access to the area,

(i) The area immediately to the west of no's 24 - 36 Castle View (retaining walls, planting).

All details approved under this permission and condition 22 in relation to the approved hard and soft landscaping, shall be completed prior to the bringing into use of any of the proposed retail units, and any trees or plants which, within a period of 5 years from being planted die, are removed or become seriously damaged or replaced in the next planting season with others of similar size and species.

23. Notwithstanding the submitted plans, the detailed treatment of the area including the former railway viaduct/abutment and the adjacent service yard for units 1-8 shall be submitted for the further consideration and approval of the Local planning authority. The development shall only proceed in accordance with the details approved under this condition and none of the units 1-8 shall be brought into use until the approved works have been completed.

IN RELATION TO SITE CONTAMINATION/DRAINAGE MATTERS

24. Prior to the commencement of development approved by this planning permission (or such other date or stage in development as may be agreed in writing with the Local Planning Authority), 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:

(a) A preliminary risk assessment which has identified:

- all previous uses
- potential contaminants associated with those uses
- a conceptual model of the site indicating sources, pathways and receptors
- potentially unacceptable risks arising from contamination at the site

(b) A site investigation scheme based on (a) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.

(c) The site investigation results and the details risk assessment (b) 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.

(d) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in (c) 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.

25. Inspection manholes shall be provided and clearly identified on foul and surface water drainage systems, in accordance with a scheme to be submitted to and approved by the Local Planning Authority.

26. Any facilities for the storage of oils, fuels or chemicals shall be sited on impervious bases and surrounded by impervious bund walls. The volume of the bunded compound should be at least equivalent to the capacity of the tank plus 10%. If there is multiple tankage, the compound should be at least equivalent to the capacity of the largest tank, or the combined

capacity of interconnected tanks, plus capacity 10%. All filling points, vents, gauges and sight glasses must be located within the bund. The drainage system of the bund shall be sealed with no discharge to any watercourse, land or underground strata. Associated pipework should be located above ground and protected from accidental damage. All filling points and tank overflow pipe outlets should be detailed to discharge downwards into the bund.

27. Surface water drainage from hardstanding areas that accept deliveries of chemicals, oils and food substances or storage of said substances and waste skips shall be directed to the foul sewer.

28. There shall be no discharge of foul or contaminated drainage from the site into either groundwater or any surface waters, whether direct or via soakaways. Prior to being discharged into any watercourse, surface water sewer or soakaway system, all surface water drainage from parking areas and hardstandings shall be passed through an oil interceptor designed and constructed to have a capacity and details compatible with the site being drained. Roof water shall not pass through the interceptor.

29. All foul water, and land drainage discharges shall be drained separately from the site, and no surface water or land drainage shall be allowed to connect directly or indirectly to the public sewerage system without the written approval of the local planning authority.

30. No development shall commence until the approval of the local planning authority has been obtained to a scheme for the comprehensive and integrated drainage of the site showing how foul water, surface water and land drainage will be dealt with.

31. The proposed development site is crossed by a public sewer with the approximate position being marked on the attached Statutory Public Sewer Record. Under the Water Industry Act 1991, no part of any buildings shall be permitted within 3 metres either side of the centreline of the public sewer which crosses the site.

32. Prior to occupation of any part of the permitted development, a certification 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 certification 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.

33. 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 a final report demonstrating the decision to cease monitoring shall be submitted to and approved in writing by the local planning authority.

34. 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, an amendment to the remediation strategy detailing how this unsuspected contamination shall be dealt with.

35. No infiltration of surface water drainage into the ground shall be permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to controlled waters.

36. Piling or any other foundation designs using penetrative methods shall not be permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to groundwater. The development shall be carried out in accordance with the approved details.

OTHER GENERAL MATTERS

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

38. No external sound amplification systems shall be permitted at any time without the formal written approval of the local planning authority.
39. No development works of any kind shall begin until the presence of a contracted archaeologist has been secured on-site according to the prescriptions set out in a curatorial design brief and approved in writing by the Local Planning Authority. Access, at any reasonable time, shall be given to this archaeologist to enable the observations and recording of any archaeological remains uncovered during the site clearance and early stages of development. A report of any archaeological records made must be deposited with the County Sites and Monuments Record, Clwyd-Powys Archaeological Trust, 7a Church Street, Welshpool, Powys. SY21 7DL (01938 553670) within one month of the completion of this work with a summary of records sent to the Local Planning Authority at the same time.
40. No development shall be permitted to commence until there has been undertaken a geophysical survey of the Cae Fron field proposed for the Colomendy link road and part of the main store car park, to identify the archaeological potential of that area, and the survey, its archaeological interpretation and any proposals to record and observe site works, have been submitted to and approved in writing by the Local Planning Authority.

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

1. To comply with the provisions of Section 91 of the Town & Country Planning Act 1990.
2. To ensure the development is carried out in a coordinated manner and the retail units are served by an adequate highway network and parking provision.
3. In the interests of visual amenity.
4. In the interests of the occupiers of nearby residential property.
5. In the interests of the amenities of occupiers of nearby residential property.
6. In the interests of the amenities of occupiers of nearby residential properties.
7. In order than the local planning authority retains control over the use of the floorspace, in the interests of the viability of the town centre.
8. In order than the local planning authority retains control over the use of the floorspace in the interests of the vitality and viability of the town.
9. The operation of a pharmacy and post office within the site is considered likely to be prejudicial to the provision of that service in existing locations in the town.
10. In order that the scheme retains a suitable reminder of the history of the Station Yard site.
11. To ensure the retention of the stone for use in the scheme and that a proper record is retained of the last remaining freestanding building associated with the railway.
12. To ensure the most appropriate arrangements are achieved in the interests of the safety and free flow of traffic and pedestrians.
13. For the avoidance of doubt and in the interests of the occupiers of surrounding residential property.
14. In the interests of the amenities of occupiers of nearby residential property, and visual amenity.
15. In the interests of the amenities of occupiers of residential property in the locality.
16. To ensure adequate provision for the safe parking of cycles.
17. To ensure the access and development is served by adequate access and parking.
18. In the interests of sustainability.
19. To safeguard the Public Right of Way, and to meet the requirement of the Disabled Discrimination Act.
20. In the interests of visual amenity.
21. To ensure adequate provision for access for persons with disability in connection with the development.
22. In the interests of visual amenity, the amenities of occupiers of nearby residential

properties, and the convenience of users of the site.

23. In the interests of visual amenity.
24. Environment Agency Wales considers that the controlled waters at this site are of high environmental sensitivity because contamination is strongly suspected in an area where a major aquifer is present.
25. To enable discharges from individual premises or buildings to be inspected and sampled.
26. To prevent pollution of the water environment.
27. To prevent pollution of Controlled Waters.
28. To prevent pollution of the water environment.
29. To protect the integrity of the public sewerage system, and to prevent hydraulic overload of the system.
30. To ensure that effective drainage facilities are provided for the proposed development, and that no adverse impact occurs to the environment of the existing public sewerage system.
31. To protect the integrity of the public sewer and avoid damage thereto.
32. 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.
33. 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.
34. 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.
35. There is an increased potential for pollution of controlled waters from inappropriately located systems such as soakaways, unsealed porous pavement systems or infiltration basins.
36. There is an increased potential for pollution of controlled water from inappropriate methods of piling.
37. In the interests of residential amenity.
38. In the interests of residential amenity.
39. To ensure suitable opportunity for archaeological investigation and recording.
40. To ensure suitable opportunity for archaeological investigation and recording.

NOTES TO APPLICANT:

In relation to the detailing of the highway arrangements you are advised to contact the case officer Medwyn Williams on 01824 706890 to agree a suitable approach.

In relation to Condition's No. 12 & 19 you are advised to contact the County Council's Public Rights of Way section on 01824 706923 or 706872 to clarify the need for formal diversion procedures, as the Footpaths Officers advise a minimum period of 12 months will need to be set aside for this process before works affecting the path can commence.

In relation to Conditions 13 & 14 you are advised to contact the Development Control Case Officer to discuss details of the treatment of areas close to existing properties, in particular to minimise the impact of retaining walls, fences, and any changes in site levels (e.g. floor level of main store, car park levels and retaining walls proposed close to the boundary with Castle View properties). All efforts should be made to drop the finished floor level of the store and proposed site levels in that area.

Your attention is drawn to the following advisory notes from Dwr Cymru / Welsh Water:

The proposed development site is crossed by a public sewer with the approximate position

being marked on the attached Statutory Public Sewer Record. Under the Water Industry Act 1991 Dwr Cymru Welsh Water has rights of access to its apparatus at all times. No part of the building will be permitted within 3 metres either side of the centreline of the public sewer.

Reason: To protect the integrity of the public sewer and avoid damage thereto.

Advisory Notes

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

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 levels 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.

The developer is advised to contact Welsh Water / Dwr Cymru's New Connections Design Department, Players Industrial Estate, Clydach, Swansea, SA6 5BQ, to discuss this prior to the commencement of any site work. Telephone 01792 841000 for further information on this matter.

The proposed development is crossed by a trunk/distribution watermain, the approximate position being shown on the attached plan. Under the Water Industry Act 1991 Dwr Cymru Welsh Water has rights of access to its apparatus at all times and there are specific Conditions for Development near Watermains. It may be possible for this watermain to be diverted under Section 185 of the Water Industry Act 1991, the cost of which will be re-charged to the developer.

You are advised that the recovery, treatment and disposal of contaminated soils and groundwater is regulated by water legislation and requires a Waste Management Licence or Pollution Prevention and Control permit.

Treatment of contaminated soil by mobile plant requires a mobile treatment licence. Soil may be re-used on-site as part of a soil recovery operations by registering a waste management licence exemption with the Environment Agency or by obtaining a Waste Management Licence.

Developers should ensure that all contaminated materials are adequately characterised both chemically and physically, and that the permitted 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.

It is recommended that developers should refer to the Environment Agency's:

- remediation position statements outlining its regulatory position on remediation processes
- guidance on the Definition of Waste: developing greenfield and brownfield sites for assisting those involved with construction work in deciding whether or not they are handling waste.
- 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:

- (i) Duty of Care Regulations 1991

- (ii) Hazardous Waste (England and Wales) Regulations 2005
- (iii) Waste Management Licensing Regulations 1994 (as amended)
- (iv) Pollution Prevention and Control Regulations (England and Wales) 2000
- (v) Landfill (England and Wales) Regulations 2002

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.

Dwr Cymru / Welsh Water have advised that the development of the site with water main located as shown on the attached plan will involve certain conditions which must be strictly adhered to. These are:-

1. No structure is to be sited within a minimum distance of 3 metres from the centre line of the pipe. The pipeline must therefore be located and marked up accurately at an early stage so that the Developer or others understand clearly the limits to which they are confined with respect of the Company's apparatus. Arrangements can be made for Company staff to trace and peg out such water mains on request of the Developer.
2. Adequate precautions are to be taken to ensure the protection of the water main during the course of site development.
3. If heavy earthmoving machinery is to be employed, then the routes to be used in moving plant around the site should be clearly indicated. Suitable ramps or other protection will need to be provided to protect the water main from heavy plant.
4. The water main is to be kept free from all temporary buildings, building material and spoil heaps etc.
5. The existing ground cover on the water main should not be increased or decreased.
6. All chambers, covers, manholes etc. are to be preserved in their present position.
7. Access to the Company's apparatus must be maintained at all times for inspection and maintenance purposes and must not be restricted in any way as a result of the development.
8. No work is to be carried out before Dwr Cymru / Welsh Water has approved the final plans and sections.

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

ITEM NO: 2

WARD NO: Ruthin

APPLICATION NO: 02/2007/1179/ PF

PROPOSAL: Proposed erection of additional extra care units in connection with existing home, involving the erection of: A) Unit of 17 flats, of 3 storey height, with a 2 storey section at Troed Y Rhiw end of site B) Unit of 4 flats, of 2 storey height in place of The Bungalow; along with associated site works to increase number of parking spaces to 58, landscaping/planting

LOCATION: Awelon Extra Care Home School Road Ruthin

APPLICANT: Mr Bryn Davies Cymdeithas Tai Clwyd

CONSTRAINTS: Conservation Area

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

CONSULTATION RESPONSES:

RUTHIN TOWN COUNCIL

The Town Council originally offered no objections to the proposals. Following a reconsultation on amended plans in June 2008, the Town Council wrote in to object on the following grounds: "Overintensification, overlooking other properties, and traffic and highway issues due to the narrowness of School Lane".

The Town Council were offered a further opportunity to comment on amendments to the unit replacing The Bungalow, and their comments were again as follows: "Object for the following reasons: over-intensification, overlooking other properties and traffic and highway safety issues due to narrowness of School Lane."

HEAD OF TRANSPORT AND INFRASTRUCTURE

No objection subject to conditions

CLWYD POWYS ARCHAEOLOGICAL TRUST

No objections

ENVIRONMENT AGENCY

No objections

CONSERVATION OFFICER

The amendments to the scheme have generally improved the appearance to the proposal. However, the "dead" frontage onto School road still causes some concern as it creates an unwelcoming and foreboding street scene. It is noted that the conservation area boundary in this part of Ruthin is overdue for a review.

DWR CYMRU/WELSH WATER

No Objections

RESPONSE TO PUBLICITY:

Letters of representation received from:

1. G M Griffiths, 5 Troed Y Rhiw, Ruthin

2. E.W. & A. Evans, 4, Troed y Rhiw, Ruthin
3. Mr. & Mrs. D. Williams, Fives Court, School Road, Ruthin
4. Mr. P. Edwards, Golygfa, 12, Troed y Rhiw, Ruthin
5. Helen Dumbalton, Abbeyfield Ruthin & District Society Ltd.
6. Mrs. E. Morris, Menlli, 11, Troed y Rhiw
7. L M Dykins, 9 Troed y Rhiw, Ruthin

Summary of planning based representations:

- i) Impact upon residential amenity
- ii) Impact upon highway
- iii) Over development of site
- iv) Impact upon visual amenity of the area
- v) Impact of drainage proposals (soakaways) on adjacent property.

EXPIRY DATE OF APPLICATION: 29/07/2008

REASONS FOR DELAY IN DECISION:

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

PLANNING ASSESSMENT:

THE PROPOSAL:

1. Members may recall that consideration of the application was deferred at the July 2008 meeting of the Committee to allow a formal re-consultation exercise on amended plans relating to the unit proposed in place of The Bungalow, on School Road.
2. The site is located within the Ruthin Town Development Boundary and Conservation Area. It is accessed via School Road, and extends to Park Road to the north. The site is currently occupied by an existing nursing/care home which is two storey and flat roofed in design. There is also an unoccupied bungalow within the site.
3. Surrounding the site there are a mix of uses including residential, care/nursing home, a cemetery and ambulance station. The surrounding buildings including Awelon itself are generally of a mixed and undistinguished character. The site is not significantly landscaped and is readily visible from public views in the locality.
4. Permission is sought to expand the nursing/care home by way of two new buildings : one being a 2 storey unit containing 4 flats in place of The Bungalow on School Road, and the other being a mainly 3 storey unit containing 17 flats between the existing main buildings and Park Road. The larger unit drops down to 2 storey height at its eastern end nearest to the boundary with Troed y Rhiw properties.
5. The scheme is intended to provide secure accommodation with an element of independence for elderly people. The scheme represents a model of care as adopted by Denbighshire County Council. The scheme is a joint venture between Denbighshire County Council and Cymdeithas Tai Clwyd.
6. Within the site additional parking would be provided with the total number of spaces of 58.

7. The application was subject to a site inspection panel meeting at 3.45 p.m. on Friday 25th July 2008.

In attendance were:

CHAIR - Cllr M LI Davies
VICE CHAIR - Cllr P Owen
LOCAL MEMBER(S) - Cllrs B Feeley, M Jones, D Smith

COMMUNITY COUNCIL - Cllr Gavin Harris

The officer present was - Mr Ian Weaver

At the site inspection panel meeting, Members considered the following matters:

1. The location of the premises relative to adjacent dwellings at Troed y Rhiw and at School Road, Abbeyfield House, and Park Road (A494). Members were aware of the presence of the site within the Ruthin Conservation Area.
2. The detailing of the existing building complex and development in the locality.
3. The detailing of the proposed new buildings, and the location of additional parking spaces.
4. The basis of representations and consultee responses, the potential impact on residential property and the visual impact from Park Road.

In relation to the matters outlined; Members noted:

1. The respective distances of the proposed main block to Park Road, and properties on Troed y Rhiw and School Road.
2. The existing main buildings included two storey flat roof structures, with buff facing bricks on the external walls.
3. The proposals were to erect two separate buildings. The main building with 17 flats would be of 2 and 3 storey height, close to Park Road and the rear of 12 Troed y Rhiw. The section nearest No. 12 would be 2 storey, with a blank side elevation some 12.5 metres from the rear wall of No. 12. There would be pitched slated roofs and the proposal was to use a mix of facing bricks, render, and cedar boarding on the external walls with the elevations facing No. 12 incorporating a 'living green wall', i.e. a form of trellis with climbing plants. The smaller building in place of an existing bungalow along School Road, would contain 4 flats and would be of 2 storey height, with pitched roofs and render and horizontal boarding on the external walls. The additional parking spaces would be spread in different locations throughout the site, increasing the numbers to 58.
4. The size of the proposed new buildings and the relationship to Troed y Rhiw and School Road properties, along with the potential visual impact from the trunk road (A494).

RELEVANT PLANNING HISTORY:

8. None

PLANNING POLICIES AND GUIDANCE:

9. DENBIGHSHIRE UNITARY DEVELOPMENT PLAN (adopted 3rd July 2002)
Policy GEN 6 – Development Control Requirements
Policy GEN 1 – Development within Development Boundaries
Policy TRA 9 – Parking and Servicing Provision
Policy CF1 – Community Facilities
Policy CON 2 – Development Affecting Conservation Area
Policy HSG 2 – Housing Development in Main Centres
Policy REC 2 – Amenity and recreational open space requirements in new developments

SUPPLEMENTARY PLANNING GUIDANCE

SPG 21 – Parking requirements in new developments – September 2004

SPG – Residential standards for new development

Planning Policy Wales (para 2.7, 3.1 to 11.3) – March 2002

TAN 12 – Design 2002

MAIN PLANNING CONSIDERATIONS:

10.

- i) The principle of the development
- ii) Impact on residential amenity
- iii) Impact on visual amenity/conservation area
- iv) Highway considerations
- v) Open space requirements

11. In relation to the main considerations

i) Principle of development:

In terms of the principle, the site is within the town boundary where planning policies permit appropriate and sustainable development which meet identifiable needs. The proposal is for an extra care housing scheme which is comparable to and compatible with the existing use within the site. It is considered acceptable in principle subject to normal planning considerations.

ii) Impact upon residential amenity:

The proposed expansion would take the development closer to the boundaries of the site – the 17 flat unit to the north of the site close to the Park Road boundary, and the 4 flat unit replacing The Bungalow on School Road. The majority of neighbouring residential properties back on to the eastern edge of the site and have existing views of Awelon Care Home.

Specific concern has been expressed over the relationship between the 17 flat unit and 12 Troed Y Rhiw (Golygfa) and between the 4 flat 2 storey unit and 5, Troed y Rhiw and Fives Court. In officers' view, the revisions to the scheme have sought to address the concerns over impact on the adjacent property. The eastern end of the 17 flat unit has been dropped to 2 storey height with a blank gable end to be detailed as a 'living green wall' (i.e. the wall is to have climbing plants to soften the visual impact). The distance from the gable wall to the rear wall of No. 12 Troed y Rhiw would be approximately 12.5 metres. Additional landscaping would help to further limit any perception of overbearing development. It is not considered that the 4 flat 2 storey unit would have an unacceptable impact on No. 5, Troed y Rhiw or Fives Court, given the distances involved.

Tai Clwyd have been made aware of concerns over impact on adjacent property. They have advised that further revisions to the scheme are not practical in that:-

- a) A reduction in the number of flats would threaten the viability of the scheme.
- b) Reducing floor levels in the 17 flat unit is not feasible, as this is linked with the existing building, and there are basic requirements to achieve level access.
- c) Relocating the 17 flat unit further west would not work as this would cut off the main aspect from existing bedrooms and basic amenity distances could not be achieved between rooms in the existing and proposed unit.

The proposal is considered overall to be acceptable from a residential amenity point of view, given the relationship, orientation and scale of building relative to surrounding buildings.

iii) Impact upon visual amenity/conservation area:

The proposal involves the introduction of a contemporary style of building in an area characterised by other modern buildings of limited design quality. Within the context of the site and the surrounding area the proposal is considered acceptable. Much of the existing flat roof building would effectively become screened from view by the newer development. The 17 flat unit features a split level roof line which would help to create interest in the street scene. Whilst it is acknowledged that the scheme involves a considerable intensification of development, it is considered that this is inevitable given the space available within the site, and would create a landmark building within the street scene.

Planning Policy Wales states that the design process should promote the efficient use of resources including land and that good design is important for the success of relatively compact mixed use developments, is essential to ensure that areas, particularly those where higher density takes place, offer high environmental quality.

The integrated approach to the development in terms of the mixed uses is also considered acceptable complying with design guidance, PPW/TAN, reducing the need for residents to travel with complementary services located on site.

It is considered that in the context of the site and surrounding area, the proposed scheme is acceptable in terms of visual amenity. It is not considered that the proposal would be detrimental to the conservation area, and given the overall character of the existing buildings the proposal would bring about an improvement to the area.

iv) Highway considerations:

In terms of highway considerations, the proposal is to provide a total of 36 additional vehicle spaces giving a total on site parking of 58. Policy TRA 9 and SPG 21 on parking currently aim to reduce the need to travel by car and to support sustainable travel options. Car parking standards can be reduced in town centre locations and SPG type standards should be expressed as maximum standards. In town centre locations such as this, with the current parking arrangements, the proposed use by elderly persons, and the integrated nature of the development reducing the need for travel to facilities in the town, it would be in order to accept the proposal as compatible with the requirements of the SPG and planning policies. The Highway officers have not offered any objection to the scheme. A condition can be included to control construction traffic arrangements.

v) Open space requirements:

Within the site there would be little open space available, and so a commuted sum payment is considered acceptable in this instance. In calculating the sum, the nature of the occupancy must be taken into account and it would be reasonable to apply a lower level of occupancy than the standard of 3 persons per unit. It is stated that the proposed level of occupancy would be 32 residents. A commuted sum has been calculated based on this occupancy rate. No children's play area/equipment is required as the residents will be elderly. A commuted sum of £19,225 will be required.

vi) Drainage

There are neighbour concerns over potential smell and seepage of contaminated water from the site. The forms and plans confirm foul water is to be directed to existing main piped sewer system. Surface water from the roofs would be directed to an attenuation tank and soakaways. There are separate controls under the Building regulations to ensure the acceptability of the soakaway system. There should be no smell associated with the storage and percolation of surface water.

SUMMARY AND CONCLUSIONS:

12. The proposal is considered acceptable in principle, in design and amenity terms and in respect of highway arrangements and open space contributions.
13. The recommendation is subject to the completion of a Section 106 obligation to secure the payment of the commuted sum of £19,225 in lieu of on-site provision of open space. The obligation should be completed within 12 months of the date of the Committee and on failure to complete, the application would be reported back to the Committee and considered against policies and guidance applicable at that time.

RECOMMENDATION: GRANT- subject to the following conditions:-

1. The development hereby permitted shall be begun before the expiration of five years from the date of this permission.
2. No development shall be permitted to commence on the construction of any buildings until the written approval of the Local Planning Authority has been obtained to the proposed materials and colours to be used on the external surfaces of all walls including window frames and surrounds and doors, and no materials other than those approved shall be used.
3. The flats hereby approved shall be occupied solely by person(s) aged 55 years or over, unless otherwise agreed in writing by the Local Planning Authority.
4. Facilities shall be provided and retained within the site for the parking and turning of vehicles in accordance with the approved plan and which shall be completed prior to the proposed development being brought into use.
5. No development shall take place until there has been submitted to, and approved in writing by, the Local Planning Authority, a detailed scheme of hard and soft landscaping for the site, and such scheme shall include details of:
 - (a) all existing trees, hedgerows and other vegetation on the land, details of any to be retained, and measures for their protection in the course of development.
 - (b) proposed new trees, hedgerows, shrubs or vegetation, including confirmation of species, numbers, and location and the proposed timing of the planting;
 - (c) proposed materials to be used on the driveway(s), paths and other hard surfaced areas;
 - (d) proposed earthworks, grading and mounding of land and changes in levels, final contours and the relationship of proposed mounding to existing vegetation and surrounding landform;
 - (e) Proposed positions, design, materials and type of boundary treatment.
6. All planting, seeding, turfing, fencing, walling or other treatment comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the completion of the development and any trees or plants which, within a period of five years of the development, die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
7. No works of construction shall be permitted to commence until the written approval of the Local Planning Authority has been obtained to a detailed construction method statement, to include proposals for the routing of construction vehicles within the site, the location of any

site compound, proposals for soil stripping and storage, surface water drainage, and the timing of construction works.

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 order to justify departing from the normal requirements of Policy REC 2 of the adopted Denbighshire Unitary Development Plan in that the scheme as permitted lacks provision of on site play space and addresses Community Recreational Open Space requirements by means of a commuted sum based on reduced occupancy rates.
4. To provide for the parking of vehicles clear of the highway and to ensure that reversing by vehicles into or from the highway is rendered unnecessary in the interest of traffic safety.
5. To ensure in the interests of visual amenity a satisfactory standard of landscaping in conjunction with the development.
6. To ensure a satisfactory standard of development, in the interests of visual amenity.
7. To ensure proper controls over the matters referred to, to minimise the impact of site works on adjacent residential properties.

NOTES TO APPLICANT:

Your attention is drawn to the attached Highway Supplementary Notes Nos. 1, 3, 4, 5 & 10.

Your attention is drawn to the attached Part N form (New Road and Street Works Act 1991).

ITEM NO: 3

WARD NO: Efenechtyd

APPLICATION NO: 12/2008/0692/ PO

PROPOSAL: Development of 0.01ha of land by the erection of 1no. dwelling (outline application including means of access, all other matters reserved)

LOCATION: Land between Benedict House and Tan y Llan Derwen Corwen

APPLICANT: Mr A V Jones

CONSTRAINTS: PROW

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

CONSULTATION RESPONSES:

DERWEN COMMUNITY COUNCIL

Object

"This Council has the following observations to the above planning application and plans:-

- i) The highway access is at an angle (i.e. not square) which means access is only available from one direction which is considered dangerous because of visibility and vehicles will have to reserve into or out of the property.*
- ii) The infill is not in line with the other properties within the vicinity.*
- lii) The existing Public Footpath should be retained.*
- iv) The public access to the existing public well should be retained."*

HEAD OF TRANSPORT & INFRASTRUCTURE

No Objections

SENIOR SCIENTIFIC SERVICES OFFICER

No Objection

FOOTPATHS OFFICER

No Objection

WELSH WATER

No objection

RESPONSE TO PUBLICITY:

Letters of representation received from:

1. E. D. Turner, Tan-y-Graig, Derwen
2. S. J. Harber, Tan y Llan, Derwen (via e-mail)

Summary of planning based representations:

- i) Visual appearance
- ii) Impact on privacy
- iii) Concerns over rights of access

EXPIRY DATE OF APPLICATION: 10/08/2008

REASON FOR DELAY:

- Timing of receipt of objections
- Awaiting determination by Committee

PLANNING ASSESSMENT:

THE PROPOSAL:

1. The application is seeking outline permission for the development of 0.1ha of land by the erection of one dwelling. The application includes details of access, and all other matters are reserved.
2. Access is proposed off the road running through the centre of Derwen, via an existing vehicular right of way located to the north west of the application site and opposite Church House. The land is currently agricultural grass land. Space will be provided on site for at least 2 cars to park.
3. In the area around the site there are different styles of dwellings, with a predominance of detached dwellings. Tan y Llan is a detached bungalow, Benedict House, Tan Y Graig and Gwylfa all being two storey. There is a mix of materials used on external walls, including red brick and render. The proposed access track runs along the side of the dwellings of Tan y Graig and Gwylfa.
4. Derwen is not classified as a village for development purposes in the Unitary Plan. Outside identified villages, the policies of the Unitary plan allow for residential development only where this is 'infill' and meets the tests of Policy HSG 5, where development is essential to meet a defined agricultural need (HSG 6), and where it is proposed for affordable purposes and meets the tests of HSG 11.
5. The applicant's supporting statement refers to the site as an infill plot between an identified group of dwellings.

RELEVANT PLANNING HISTORY:

6. None.

PLANNING POLICIES AND GUIDANCE:

7. DENBIGSHIRE UNITARY DEVELOPMENT PLAN (adopted 3rd July 2003)
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

MAIN PLANNING CONSIDERATIONS:

8. The main issues are considered to be:-
 - i) The Principle
 - ii) Highways
 - iii) Drainage
9. In relation to the main issues:-
 - i) The Principle
The most relevant policy to the determination is HSG 5. This states that infill development of one or two housing units are acceptable within a clearly

identifiable group providing that the proposal comprises the infilling of a small gap between buildings within a continuously developed frontage, where development would not result in a ribbon development, and the size and scale is comparable to adjoining properties.

The additional explanation to the policy states that a group of houses must contain six or more dwellings, a group of houses must not be interspersed by individual parcels and must form a continuous line of built up residential frontages or a focus of dwelling units on an identifiable crossroads or cul-de-sac.

In applying the policy to the specific circumstances, this is considered to clearly form a 'small gap' in a continuous line of residential frontages. The proposal is of a comparable scale and size to adjacent properties and is sited so as to respect adjacent properties and the locality. There is a clearly identifiable group of more than 6 dwellings.

ii) Highways

Concerns have been raised from objectors to the suitability of the access on to a bend in the highway and the implications on highway safety. The highways officers have raised no objections to the proposal subject to the inclusion of certain conditions. The proposal is considered to comply with Policy TRA 6 in that it will not have a detrimental effect on the free and safe flow of traffic.

iii) Drainage / Water supply

A spring / well which forms a private water supply for the dwelling of Pentre Derwen is situated very close to the proposed driveway of the proposed dwelling. Conditions can be attached to safeguard this supply. Welsh Water have raised no objections to the proposal subject to the inclusion of relevant conditions.

SUMMARY AND CONCLUSIONS:

10. The proposal is considered acceptable and is recommended for approval.

RECOMMENDATION: GRANT - subject to the following conditions:-

1. Approval of the details of the siting, design and external appearance and landscaping of the building(s), and the landscaping of the site (hereinafter called "the reserved matters") shall be obtained from the Local Planning Authority in writing before the commencement of any development.
2. Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.
3. The development hereby permitted shall be begun either before the expiration of five years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.
4. No work shall be permitted to commence on the development until an assessment of the potential impact on the nearby well / spring has been submitted to and approved in writing by the Local Planning Authority; details to include the catchment area of the water to the well / spring, and means of mitigating any impact on the water supply from the well / spring.
5. 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 development being brought into use.
6. The entrance gates shall be set back a minimum of 5.0m distance from the edge of the adjoining carriageway and shall open inwards to the site.
7. Foul water and surface discharges shall be drained separately from the site.

8. 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.
9. Land drainage run off shall not be permitted to discharge, either directly or indirectly, into the public sewerage system.
10. The proposed development site is crossed by a public sewer with the approximate position being marked on the attached statutory public Sewer Record. Under the Water Industry Act 1991 Dwr Cymru Welsh Water has rights of access to its apparatus at all times. No part of the building will be permitted within 3 meters either side of the centreline of the public sewer.

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 comply with the provisions of Section 92 of the Town and Country Planning Act 1990.
3. To comply with the provisions of Section 92 of the Town and Country Planning Act 1990.
4. To ensure that there is sufficient protection of the well / spring and that the water is secured from pollution and disturbance.
5. 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.
6. To provide for the parking of vehicles clear of the highway.
7. To protect the integrity of the public sewerage system.
8. To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no detriment to the environment.
9. To prevent hydraulic overload of the public sewerage system and pollution of the environment.
10. To protect the integrity of the public sewer and avoid damage thereto.

NOTES TO APPLICANT:

If a connection is required to the public sewerage system, the developer is advised to contact Dwr Cymru Welsh Water's Network Development Consultants on 01443 331155.
Your attention is drawn to the attached Highway Supplementary Notes Nos. 1, 2, 3, 4, 5 & 10.

ITEM NO: 4

WARD NO: Llanarmon Yn Ial / Llandegla

APPLICATION NO: 15/2008/0542/ PF

PROPOSAL: Structural repairs to Airey PRC house types. Replacement of pre-cast concrete cladding panels and structural pre-cast concrete column with brick cladding

LOCATION: 3 and 4 Maes Garmon Llanarmon-Yn-Ial Mold

APPLICANT: Denbighshire County Council

CONSTRAINTS: AONB

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

CONSULTATION RESPONSES:

LLANARMON YN IAL COMMUNITY COUNCIL

No response received to amended plans, re-consultations sent 27th June 2008

AONB JOINT ADVISORY COMMITTEE

'The JAC is very disappointed to note that two adjoining houses have already been clad in brick without any consultation with the Committee. The elevations of the surrounding houses in this location are either render or stone. There is also a Denbighshire stone bus shelter at the entrance to the site. It is imperative to keep the character of this traditional village in the AONB. Therefore, the elevations of 3 and 4 Maes Garmon must be finished in white render not brick. The Committee also requests that the brick facing on the adjoining properties be rendered to retain the character and appearance of this village in the AONB.

RESPONSE TO PUBLICITY:

None recieved

EXPIRY DATE OF APPLICATION: 14/08/2008

REASON FOR DELAY IN DECISION :

- timing receipt of representations

PLANNING ASSESSMENT:**THE PROPOSAL:**

1. The application relates to a pair of semi-detached properties standing in the middle a run of three pairs of the original Airey house types. Both of the houses are Council owned and the site lies within the Development Boundary and within the AONB. A pair of existing houses (nos. 1 and 2) have already been refurbished and clad in brickwork which has resulted in an attractive and improved visual appearance.
2. The application is aimed at renovating the standard pre-cast Airey house types which are currently finished with concrete panels and columns and upgrading them using more modern materials with insulation and a brick finish. No increase in

width, height or depth of the houses will be required.

3. The application is a resubmission of a scheme previously refused by Planning Committee. The amendment was suggested by members and is the omission of the render finish and replacement with brick.

RELEVANT PLANNING HISTORY:

4. 15/2007/676/PF Refused by Planning Committee 19/03/2008 for the following reason:

It is the opinion of the Local Planning Authority that the proposed render finish to the properties would be out of keeping with the site and surroundings contrary to criteria i) of Policy GEN 6 of the Denbighshire Unitary Development Plan.

PLANNING POLICIES AND GUIDANCE:

5. DENBIGHSHIRE UNITARY DEVELOPMENT PLAN
Policy GEN 6 - Development Control Requirements
Policy ENV 2 - Development affecting the AONB

GOVERNMENT GUIDANCE
Planning Policy Wales March 2002

MAIN PLANNING CONSIDERATIONS:

6. The main issues are considered to be:
 - i) Visual appearance
 - ii) Impact on adjacent occupier
 - iii) Impact on the AONB
7. In relation to the considerations as noted in paragraph 6:
 - i) Visual appearance
The changes proposed are considered to have a positive visual impact via the replacement of the somewhat unsightly concrete sections on the Airey Houses. The precedent for the external finish to be applied to the houses has already been established by the works undertaken to nos. 1 and 2 Maes Garmon where the cladding has been already been replaced by brickwork. It is therefore considered that it would be appropriate for the finish applied to the subject houses to be of the same form and appearance in the interests of the visual amenities of the street scene.
 - ii) Impact on adjacent occupiers
The works propose no changes to the properties other than upgrading their appearance and as such no additional overlooking or loss of amenity would result.
 - iii) Impact on the AONB
Policy ENV 2 requires development not to detract from the appearance of the AONB. Whilst the comments of the AONB JAC are noted, the precedent has been set for this type of development on the adjacent dwellings, as such it would be difficult to resist this application. With due respect to the JAC's comments, the Local Planning Authority cannot require that the brickwork on the adjacent properties is removed and the dwellings rendered. The proposal to be determined is considered to be acceptable and would not result in any harm to the character and appearance of the village or the AONB.

SUMMARY AND CONCLUSIONS:

8. The application is considered acceptable and recommended to be granted.

RECOMMENDATION: GRANT- subject to the following conditions:-

1. The development hereby permitted shall be begun before the expiration of five years from the date of this permission.
2. No external wall or roof materials shall be applied until the written approval of the Local Planning Authority has been obtained to the proposed materials to be used for the external surfaces of the walls of the development hereby permitted and no materials other than those approved shall be used.

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.

NOTES TO APPLICANT: None

ITEM NO:	5
WARD NO:	Llanbedr Dyffryn Clwyd / Llangynhafal
APPLICATION NO:	16/2007/1232/ PF
PROPOSAL:	Erection of 8 no dwellings and construction of new vehicular and pedestrian access (site area 0.66 ha)
LOCATION:	Land Adjacent To Bryn Derw Llanbedr Dyffryn Clwyd Ruthin
APPLICANT:	Orchard Grove Developments Ltd.
CONSTRAINTS:	AONB
PUBLICITY UNDERTAKEN:	Site Notice - Yes Press Notice - Yes Neighbour letters - Yes

CONSULTATION RESPONSES:

LLANBEDR /COMMUNITY COUNCIL –

Original Plans

"I have been instructed by the Community Council to register in the strongest possible terms our concerns about the above planning application.

We have 2 concerns about the site itself:

- a. The neighbouring property, Hollybank is some 10' lower than the proposed semi-detached buildings. Because of the proximity to Hollybank we are concerned about ground stabilisation and suggest that a property ground survey be carried out before any consent is granted.
- b. Again, because Hollybank is significantly lower than the proposed semi-detached dwellings we are concerned that there will be unreasonable loss of privacy and degradation of quality of life for the occupants.

Our main concerns however are for road safety. The area of Tan Yr Unto bends is a well-known accident blackspot. The record of accidents in this area alone should dictate that the creation of further hazards must be avoided at all costs. Community Councillors were unanimous in their opposition to the creation of the proposed entrance/exit to the proposed building site. They were surprised to learn that Highways Department and the Trunk Road Agency appear to have indicated some prior agreement to the proposed entrance/exit, given the number of risk factors at stake:

- a. The section of the A494 in question, above Tan Yr Unto bends, is prone to heavy surface water run-off from the hills above, which overloads the inadequate and frequently blocked drainage. This is a significant hazard for braking vehicles.
- b. Night visibility on that part of the A494 is poor and vehicles turning in front of the proposed access pose a threat.
- c. Recent accident history reveals that an oil tanker and a 12-wheel laden truck, together with a number of cars and motorcycles have all crashed off the road at Tan Yr Unto after failing to negotiate the bends. These accidents were all

caused by excessive speed which indicates they were already speeding too fast for road conditions past the location of the proposed access.

- d. There is no pedestrian footpath along this stretch of the A494. It is impossible to walk along the A494 safely. This means that all access to and from the site will be by private vehicles. Given normal lifestyle considerations and the number of bedrooms in the proposed family homes we must expect around 20 cars, plus normal commercial, visiting and service vehicles to use the proposed access daily. This will create a high number of turnings in front of the site. We consider this to be an unacceptable risk.
- e. The stretch of A494 from far above Tan Yr Unto, through the bends and downhill to the Griffin Inn is considered too dangerous for local bus services to stop and pick up/drop off. This is an indication of the high risks involved along this stretch of the road. How then can it be acceptable to allow turning vehicles on the same stretch of road?
- f. We consider it a real danger that, in common with normal practice, there will be no warning sign of the private access road joining the main highway. Drivers will be focused on the bends ahead rather than joining traffic.
- g. Vehicles exiting the proposed access road and turning Right (uphill) will be joining a flow of traffic accelerating hard after slowing through the bends.
- h. The uphill stretch of A494 immediately above the bends is one of only 2 safe stretches for overtaking slow, heavy traffic. Traffic from the proposed access road will pose a high risk for overtaking vehicles, already frustrated by a long wait because of the gradient.
- i. It is no secret that the A494 has a high level of speeding motorcycles. Records will show that a number drive too fast into the bends (hence the crashes in to the gravel pit). Local knowledge tells that many motorcyclists, often in groups, race out of Tan Yr Unto bends accelerating hard uphill, at speeds up to 80 mph in either direction. They are a dangerous menace for any vehicle using the proposed access.
- j. Vehicles turning Right into the proposed access will inevitably hold up and frequently halt the uphill flow of traffic, whilst waiting for a safe turning break in the downhill traffic. Given the high density of heavy goods vehicles on this main trunk road, together with the urge to overtake slow traffic, after the bends, we believe there is a high risk of overtaking vehicles crashing from behind into cars turning Right.

To conclude, we believe that creation of an access road direct onto the A494 in this area is fraught with danger. We take the view that to create a considerably higher risk of accidents than exists at the blackspot already is nothing short of irresponsible. Planners should be looking to improve road safety rather than add to the risks. It is the cumulative effect of the dangers highlighted that compel us to oppose the plans. We must ask you to re-consider the road safety aspects of this planning application. This Community Council is totally opposed to the existing plans for the proposed development, mainly on road safety grounds. We urge you to take full note of our observations and strength of opposition.”

Amended Plans

The further comments of the Community council are awaited on revised plans. It is understood that the Community Council have no meetings in August.

PRINCIPAL COUNTRYSIDE OFFICER

Objections to the proposal, and suggests a condition to protect the mature oak tree on the roadside boundary throughout construction period.

WELSH ASSEMBLY GOVERNMENT – TRANSPORT

Directs that any planning permission shall include 7 conditions;

- i) Visibility splays 2.4 metres by 120 metres shall be constructed either side of the access and maintained clear of any obstruction greater than 1.05 metres in height.
- ii) The access road shall be at right angles to the trunk road carriageway for a distance of at least 5 metres over which it shall not exceed a gradient of 1:40
- iii) The access road shall have entry and exit radii of 6 metres and the access shall be constructed to appropriate standards with either concrete or bituminous surfacing for at least the first 5 metres from the edge of the trunk road carriageway
- iv) There shall be no other new vehicular or pedestrian access from the development to the trunk road.
- v) Adequate provision shall be made within the development site to enable vehicles to turn around so that they can enter and leave the site in a forward gear.
- vi) The new junction and visibility requirements shall be substantially complete and suitable for use prior to commencement of any other work associated with the development
- vii) The proposed access shall be completed to the satisfaction of the Local Planning Authority before the proposed development is brought into use.

Additionally, notes to applicant should also be included, covering various detailed procedural and technical matters including engineering drawings; signs; construction stage matters.

Additional comments on additional/revised plan;

With the submission of a plan detailing the required visibility splays WAG confirm that the details (drawing ref 4800/ID) comply with conditions i-v as detailed above,

DENBIGHSHIRE COUNTY COUNCIL CONTAMINATED LAND OFFICER

Advises that there are no historical land uses to suggest presence of contamination, but recommends a condition to deal with unexpected land contamination, as a precautionary approach.

DENBIGHSHIRE COUNTY COUNCIL ARCHAEOLOGIST

Whilst evidence for prehistoric activity exists in the wider area, there is none for the proposed development site. However, given the proposal, a watching brief condition should be included.

CLWYDIAN RANGE AREA OF OUTSTANDING NATURAL BEAUTY JOINT ADVISORY COMMITTEE

“The JAC welcomes the proposed changes to building materials to incorporate natural slate, random coursed local stone and render, and clear proposals to protect the existing mature tree and hedge on the A494. However, the JAC still has some concerns about the design of the proposed dwellings, notably in respect of the hipped roof design. A more traditional approach incorporating conventional gables would be more sympathetic to the character of development in the AONB. In addition, the JAC would question the intention to lop/top the tree screen along the western boundary and consider that this proposal should be reassessed.”

DENBIGHSHIRE COUNTY COUNCIL ECOLOGIST

No comments, subject to a condition to safeguard the mature site frontage tree.

WELSH WATER

Requires conditions to secure separate foul and surface water discharges.

DENBIGHSHIRE COUNTY COUNCIL HOUSING SERVICES

Happy to accept the 4 affordable housing units, as identified on proposed plans.

Advises that negotiations with the developer concerning topographical constraints and size of the site resulted in the reduction in the total amount of dwelling units for the site and therefore the amount of affordable provision.

Currently – July 2008 – the low cost price would be £104,505. It is understood that the developer is in discussions with a Registered Social Landlord in terms of the property tenure being socially rented (the preferred option in this case.) There are 59 people on the social housing list, with the greatest need for 2 bedroom houses.

Discussions have confirmed that the 2 bed units must be 70 m² or above and materials and quality consistent with on site open market dwellings.

HEAD OF TRANSPORT AND INFRASTRUCTURE

No comments in relation to the access as the Welsh Assembly government have responded. In relation to the internal estate road, there are no objections subject to the inclusion of standard conditions.

RESPONSE TO PUBLICITY:

Objections received from:

1. Robert Winstanley, Henllys, Llanbedr DC
2. Mr & Mrs R Roberts, Coedfa, Llanbedr DC
3. Arthur Dalrymple, Fron Deg, Llanbedr DC
4. S D Mountford, Hollybank, Llanbedr DC
5. David W & Judith A Riches, Bryn Golygfa, Llanbedr DC
6. J. & S. Askins, Hillcrest, Llanbedr D.C.
7. Mr. & Mrs. R. W. Roberts, Coedfa (via e-mail)
8. Sian Williams, Llwyn Dedwydd (via e-mail)

The basis of objections include comments received on both the initial, additional / revised plans.

Highways and access

Existing highway – very hazardous; number of accidents; volume of traffic increased over years; continuous overtaking; dangerous night/light conditions; exacerbate existing surface water problems; increase in number of accidents on road.

Position - new access positioned on dangerous stretch of highway used for overtaking;

Speed - Existing speed limit of 40mph rarely enforced; should consider reducing to 30 mph – with double white lines

Number of houses – will involve approximately 24 cars resulting in additional highway danger.

Construction traffic – additional problem for highway users.

Pedestrians – currently no footway, but the proposal should provide a pedestrian walkway along the A494 – providing safe walking to schools and services.

In conforming with Highways standards – existing property owners would be required to cut down trees.

An alternative access arrangement has been agreed with the Welsh Assembly Trunk Road, from the existing Bryn Derw access point (referring to provision for 3 existing dwellings and 2 proposed).

Reference to previous planning refusals; permissions and conditions controlling access arrangements onto the Trunk Road locally.

Reference to 1994 Director of Highway comments/description of the character of the highway – highlighting traffic increased since then.
Unable to ascertain current traffic flow records

Affordable Housing

Confusion over numbers proposed
Obligation would remain unfulfilled by the developer.

Development Boundary

Unsure of status of the whole site in relation to the Llanbedr development Boundary.

Area of Outstanding Natural Beauty

Proposal would affect the essential character of the area, impacting on views into the site.

Amenity/privacy

Differences in land levels between adjacent properties and application site will affect existing privacy levels; adverse views into blank wall.

Councillor P Dobb has asked that due consideration is given to detailed highway impacts on ground stability issues.

EXPIRY DATE OF APPLICATION: 08/09/2008

REASONS FOR DELAY IN DECISION:

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

PLANNING ASSESSMENT:

THE PROPOSAL:

1. The proposal is a full application for the erection of 8 dwellings and the creation of a new vehicular access point from the adjoining A494 Trunk Road. The site lies at the easterly edge of the village, with the A494 running north-south along the easterly boundary. It is within the Clwydian Range Area of Outstanding Natural Beauty.
2. The proposals are for 4 semi detached houses (two with detached garages) and 4 detached houses; all two storey in height. Drainage would be by way of soakaways for surface water and by connection to the foul sewer.
3. Residential properties surround the site, which is presently laid down to grass/pasture. To the south of the application site, separated by a boundary of mixed trees and shrubbery, lies the detached property, Bryn Derw. . A detached property Henllys lies to the east. Adjoining the northerly boundary is a bungalow, Hollybank and opposite the site, to the north east, along the A494, is Coedfa.
4. The site is bounded by mature hedgerows and there is an Oak tree on the easterly (A494) boundary.
5. The following documents are included with the application;
 - Ecological Assessment
 - Archaeological Assessment
 - Design Statement (Revised)

6. The Ecological Assessment is comprehensive, providing full details of site features and takes in a wider survey area. It confirms that the site is an improved grassland field bordered by mature hedgerows, with a mature Oak tree located on the eastern site boundary. It highlights that the hedgerows should be retained as habitat features and Oak trees have the potential to support roosting bats.
7. The Archaeological Assessment notes the site is in close proximity to the historic core of Llanbedr Dyffryn Clwyd and below the Clwydian range of hill forts. The assessment confirms that documentary evidence has revealed no archaeological evidence directly related to the application site, and indicates that the application site has been used solely for agricultural purposes for the past two centuries, at least. However, it is highlighted that the proposal may have the potential to reveal unknown remains and deposits.
8. The Design Statement recognises the site's location within the AONB; and emphasises a number of points; the scheme has a mix of 3 different dwelling types; the sloping topography; understanding neighbouring property styles/design; proposes use of natural slate on roofs, with smooth render and stone porches; use of a landscape plan to include native hedgerows; and contribution to biodiversity features; and the proposed mix of 50% open market and 50% affordable units.

RELEVANT PLANNING HISTORY:

9. 16/2006/0630/PF Erection of 2 no. detached dwellings and garages and alterations to existing vehicular access - WITHDRAWN 20/09/2006

PLANNING POLICIES AND GUIDANCE:

10. DENBIGHSHIRE UNITARY DEVELOPMENT PLAN (adopted 3rd July 2002)

Policy STRAT 1 – General
 Policy STRAT 5 – Design
 Policy STRAT 6 – Location
 Policy STRAT 7 – Environment
 Policy STRAT 13 - New Development
 Policy STRAT 15 – Housing
 Policy GEN 1 – Development within development boundaries
 Policy GEN 2- Development of Un-annoted land
 Policy GEN 6 - Development Control requirements
 Policy GEN 8 – Planning Obligations
 Policy GEN 9 – Environmental Assessment/Statement
 Policy GEN 10 – Supplementary Planning Guidance
 Policy ENV 1 – Protection of the Natural Environment
 Policy ENV 2 – Development affecting the AONB/AOB
 Policy ENV 6 – Species Protection
 Policy ENV 7 – Landscape/Townscape Features
 Policy CON 11 – Areas of Archaeological importance
 Policy ENP 4- Foul and surface water drainage
 Policy ENP 7 – Unstable Land
 Policy ENP 8 – Contaminated land
 Policy HSG 4 – Housing development in villages
 Policy HSG 10 – Affordable Housing within development boundaries
 Policy TRA 6 – Impact of New Development on Traffic Flows
 Policy TRA 9 – Parking and Servicing Provision

Supplementary Planning Guidance
 SPG 6 – Trees and Development
 SPG 15 – Archaeology
 SPG 18 – Nature Conservation and Species protection
 SPG 21- Parking

SPG 22 – Affordable Housing
SPG 25 – Residential Development Design Guide

GOVERNMENT GUIDANCE
Planning Policy Wales, March 2002
MIPPS – Housing 2006
MIPPS – Planning for Good Design – 01/2008

Technical Advice Notes
TAN 2 – Planning and affordable housing June 2006
TAN 5- Nature Conservation
TAN 12 – Design
TAN 18 – Transport

Circulars;
60/96 – Archaeology

Other Council documents
AONB Management Plan

MAIN PLANNING CONSIDERATIONS:

- 11.
- i) Principle
 - ii) Design
 - iii) Affordable Housing
 - iv) Archaeology
 - v) Highways
 - vi) Protected Species
 - vii) Contaminated Land
 - viii) Drainage
 - ix) Amenity and privacy impact
12. In relation to the main planning considerations in paragraph 11 above:
- i) Principle
The site is positioned within the development boundary for Llanbedr. The principle of residential development would be acceptable subject to consideration of site specific and other policy tests.
 - ii) Design
The predominant roof material in the immediate locality includes natural slate, with wall materials generally of pebbledash and stone. House types vary from the small, traditional, terraced properties of Ty'n Y Groes; a detached, modern dwelling at Fedw'r Waun, and a mixture of other, pre-war designs, further east, including a detached dormer bungalow Ardwyn, and Bryn Derw, a Georgian style property.

The proposed dwellings are substantial, and the design detailing seeks to incorporate common features across the 3 house types, i.e. use of strong vertical emphasis with the windows, use of natural stone and render on the walls, and natural mineral slates on the roofs. These are considered acceptable in the context of the development in the locality and the AONB.
 - iii) Affordable Housing
Whilst the site area is 0.6 ha, the steep slope and land take for the access make a substantial proportion undevelopable. The approach to affordable provision has been discussed with officers of the planning, highways, and housing section, and it has been agreed that as a total of 8 dwellings can be

accommodated, 50% (i.e. 4 units) would be offered as affordables, for social rental.

The submitted affordable housing questionnaire and other information confirms the following:

Plot No. for affordables	1-4
Tenure	Social rented
House type	Semi-detached House
No. of bedrooms	3
Floor area	82 m ²
Timing of AH availability in relation to market value units	Unknown
Details of Housing Association contacts/discussions.	Tentative discussions held with RSL.

The floorspace area of affordable units complies with the Design Quality Requirements set by WAG.

The current available waiting list (August 2008) indicates the following details for Llanbedr Community:

	1 bed flat	1 bed. House.	2 bed. bungalow	2 bed. flat	2bed. house	2 bed. bungalow	3.bed. house.	3 bed. bungalow	4 or more bed. house	TOTAL
General	2	1	1	15	11	1	7	0	1	49
Sheltered	8	0	7	9	0	7	0	0	0	31
TOTAL										80

The Council's Affordable Housing Officer is happy with this approach, which brings an acceptable number of units forward.

iv) Archaeology

There are no objections from the County Archaeologist. A watching brief condition can be included in line with planning policy CON 11, SPG 15 and Circular 60/96 – Archaeology

v) Highways

The proposed access to the site lies within a 40mph limit. There is a 78 metre main highway frontage onto the A494.

Provision of a new access will involve the removal of a small section of the existing site frontage hedge. The required highway visibility distances can be achieved and are identified on the proposed site layout plan.

The application has clearly generated concerns over the highway implications.

Both the County Highways Officer and Welsh Assembly Government are aware of local concerns, in particular that of the Community Council. In response to the highways issues raised, the Welsh Assembly Highways Officer has commented as follows:

'Fundamentally the actual access point is on a predominantly straight section of road within a 40 mph speed limit. The access is located far enough from the bend to meet the required highway standards in terms of forward visibility along the road and the application has been conditioned to meet adequate visibility standards from the access.

The Trunk Road Authority introduced the speed limits in recognition of the traffic conditions at Llanbedr DC in order to improve safety. As the Community Council is aware, this wasn't in itself straight forward due to objections raised in response to the these proposals.

The issues associated with the traffic manoeuvres described in the letter were all considered in the making of the speed limit orders and the associated signing and road markings.

The introduction of a speed limit does change the criteria for a section of road. The road environment appropriate for a 40 mph road is stated as having a high number of bends, junctions or accesses. The visibility requirements are also reduced for a 40 mph speed limit and the existing proposal meets these criteria and therefore there are no grounds for refusing a new access in respect to this. In addition, whilst this is a new access there are already several accesses along this section of road.

The visibility distances are set in relation to the speed limit. The whole basis of the visibility standards are to ensure that drivers on the main road and the access are able to see potential hazards (e.g. overtaking vehicle, right turning vehicle etc. as described) in time to slow down or stop comfortably before reaching it. The Trunk Road Authority would be judged as unreasonable if conditions above the required standards were conditioned.

A drainage scheme for this section of the trunk road is currently in development by the Trunk Road Authority and is awaiting the successful allocation of funding.

With regard to night time visibility the road is outside the criteria for providing street lighting, especially in relation to the Clwyd AONB. Again, in this respect the access is no different to the many other access along the unlit rural network.

In relation to the number of turning movements, these govern the standard of the access required. A development of this size falls well below the criteria for a more complex access arrangement, e.g. right turn lane.

Whilst measures have been implemented within Llanbedr DC to tackle speeding, excess speeding such motorcyclist as described can only be

dealt with as a police enforcement issue. Such hazards exist on various parts of the network and Arrive Alive are actively pursuing this. ‘

Whilst acknowledging concerns over the highway implications, officers would not consider, having regard to the scale of development and the response of the Assembly Highways officer, that permission should be refused. Matters of detail relating to the construction of the access, visibility splays, and measures to ensure the stability of the A494 along the site frontage could be covered by condition if a permission were to be granted.

- vi) Protected Species
The Ecological report has been assessed by the Countryside Council for Wales, the County Ecologist and the Principal Countryside Officer. Subject to the inclusion of conditions, to secure the retention of the mature Oak tree on the eastern boundary, and measures to encourage native habitats site landscaping , the proposal is considered to be acceptable and in line with policy and guidance.
- vii) Contaminated Land
Comments received from the Contaminated Land Officer are noted and the relevant matters can be controlled through appropriate conditions.
- viii) Drainage
With respect to local concerns, highway drainage issues can be controlled as part of any permission.

Additionally, there are other controlling measures in relation to site drainage which are enforced by the Environment Agency and Building Control.

- ix) Amenity and privacy
With due respect to the comments of the Community Council, the layout has been designed to ensure adequate distances between existing and proposed dwellings to retain proper levels of privacy and amenity, taking due account of site levels. Landscaping and planting would assist in modifying the impact of the new development.

There are adequate controls through the Building Regulation process to ensure proper foundation designs are adopted for each dwelling, to take account of any ground stability issues.

SUMMARY AND CONCLUSIONS:

13. The site lies within the development boundary and the basic layout and detailing of the development are considered acceptable. There are local concerns over highway impact, but the Assembly Highways Officers do not consider the impacts merit refusal of permission. The recommendation is therefore for the grant of permission.

The recommendation is subject to the completion of an obligation under Section 106 of the 1990 Planning Act to secure;

- The provision of one (1 no) affordable house (AH), identified as PLOT 3 on site, initially for private rented housing; fall back for RSL social rent and then low cost market
- The provision of PLOT 3 AH constructed and completed first, within the first phase development, and the second phase completed after completion of plot 3 and the first phase.

The permission would only be released on completion of the Obligation. The Obligation must be completed within 12 months of the date of the resolution by the Committee to grant permission; otherwise the application will be reported back to the Committee and determined against relevant policies and guidance at that time.

RECOMMENDATION: GRANT- subject to the following conditions:-

1. The development hereby permitted shall be begun before the expiration of five years from the date of this permission.
2. No works shall be permitted to commence on the external walls and roofs of any of the dwellings until the written approval of the Local Planning Authority has been obtained to the type of stone and mortar mix, and the type, colour, and texture of render.
3. The new junction and visibility requirements shall be complete and suitable for use prior to commencement of any other work associated with the development.
4. The proposed access onto the A494, the estate road, turning areas and driveways shall be completed before any of the dwellings are brought into use.
5. The detailed layout, design, signing, drainage, street lighting and construction of the internal estate road shall be submitted to and approved by the Local Planning Authority prior to the commencement of any site works.
6. The car parking spaces for each plot shall be laid out and constructed strictly in accordance with the approved plans prior to the occupation of the units to which they relate.
7. Foul and surface water discharges shall be drained separately from the site.
8. No surface water shall be allowed to connect either directly or indirectly to the public sewerage system.
9. Land drainage runoff shall not be permitted to discharge, either directly or indirectly into the public sewerage system.
10. No work shall be permitted to be carried out on the lopping, topping, or felling of the oak tree on the eastern boundary other than with the prior written approval of the Local Planning Authority.
11. 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.
12. No development works of any kind shall begin until the presence of a contracted archaeologist has been secured on site, at the developer's expense, according to the prescriptions set out in a curatorial design brief approved in writing by the Local Planning Authority. Access, at any reasonable time, shall be given to this archaeologist to enable the observations and recording of any archaeological remains uncovered during the early stages of development. A report of any archaeological records made must be deposited with County Sites and Monuments Record, Clwyd-Powys Archaeological Trust, 7a Church Street, Welshpool, Powys, SY21 7DL (01938-553670) within one month of the completion of this work with a summary of records sent to the Local Planning Authority at the same time.

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 traffic on the adjacent highway and to ensure the formation of a safe and satisfactory access.
4. In the interests of free and safe movement of traffic on the adjacent highway and to ensure the formation of a safe and satisfactory access road.
5. To ensure the formation of a safe and satisfactory access road.
6. To provide for the loading, unloading and parking of vehicles clear of the highway.

7. To ensure the development is properly drained and to avoid overloading the existing sewer system.
8. To ensure the development is properly drained and to avoid overloading the existing sewer system.
9. To ensure the development is properly drained and to avoid overloading the existing sewer system.
10. In the interests of the visual amenity.
11. In the interests of visual amenity.
12. In the interests of archaeological investigation and recording.

NOTES TO APPLICANT:

The Assembly's Highways Section draw attention to the following:

1. the applicant will need to submit engineering drawings for the access, visibility splays and construction details for approval prior to works commencing on site.
2. Any works undertaken within or forming part of the highway shall meet the requirements of Section 184 of the Highways Act 1980 and shall only be commenced with the specific agreement of the Highway Authority.
3. The Applicant shall agree with the Highway Authority the relocation of the existing road traffic signs clear of the visibility splays.
4. No drainage from the development site shall be connected to or allowed to discharge onto the trunk road drainage system, and the proposed junction shall be constructed such that the access road does not drain onto the trunk road.
5. The Applicant shall agree with the Highway Authority a system of temporary road signing in accordance with Chapter 8 of the Traffic Signs Manual and the New Roads and Street Works Act 1991.
6. The Applicant shall take due care and attention to avoid the deposit of mud on the road from construction vehicles using the access.

Your attention is drawn to the attached Highway Supplementary Notes Nos. 1, 3, 4, 5 & 10.

Your attention is drawn to the attached Part N form (New Road and Street Works Act 1991).

You are advised that a suitable legal agreement will be required in relation to the internal estate road and they should contact the Highway Authority at an early stage.

ITEM NO: 6

WARD NO: Prestatyn Meliden

APPLICATION NO: 43/2007/0714/ PO

PROPOSAL: Development of 1.0 ha of land for residential development and construction of new vehicular access (outline application)

LOCATION: Plas Deva Caravan Park 117 Ffordd Talargoch Meliden Prestatyn

APPLICANT: Adelaide Davies

CONSTRAINTS: Article 4 Direction
Public Footpath

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

CONSULTATION RESPONSES:

PRESTATYN TOWN COUNCIL
'No objection'

HEAD OF TRANSPORT AND INFRASTRUCTURE
No objection subject to conditions.

PRINCIPAL COUNTRYSIDE OFFICER
The report is comprehensive and the findings and recommendations are a fair assessment of the situation. It should be used as a guide to an acceptable design and layout. The design should include suitable planting and replanting proposals.

COUNTY ECOLOGIST
Awaiting response on additional information

FOOTPATHS OFFICER
No objection

AFFORDABLE HOUSING OFFICER
The demand in this area is high for affordable units, with 41 on the LCHO register and 2963 on the social housing list. On the density of 30 x 1.0 ha, we would be looking for 9 affordable units of 2 and 3 bedroom properties and there is quite a high demand for 2 bed flats. The price of the LCHO properties would be £74, 100. There is a possibility of RSL interest and SHG funding which could be determined after planning permission has been received.

WELSH WATER
No objection

CONTAMINATED LAND OFFICER
The proposed development is in an area of historic lead mining where previous studies have shown extremely elevated levels of lead which may pose a risk to human health. Any granting of permission should include conditions and notes to applicant to deal with this.

ENVIRONMENT AGENCY
No objection

COUNTRYSIDE COUNCIL FOR WAELS (CCW)
Awaiting response on additional information

RESPONSE TO PUBLICITY:

Representations received from the following:

1. Mr & Mrs Rawlinson, 3 Tan Y Maes, Prestatyn LL19 8RA
2. Mr M J Rawlinson, 3 Tan y Maes, Meliden, Prestatyn
3. Mr. C. K. Barratt, 111 Ffordd Talargoch, Meliden, Prestatyn

Summary of planning based representations:

In objection (3 letters):

- vii) Highway safety – access directly off Ffordd Talargoch, opposite bus stop and not far from a pedestrian crossing. The access proposed to be closed would appear to be safer than that being formed
- viii) Overloading of public utilities – gas, sewerage, electricity and water supply as a result of the development.
- ix) Stone wall to the front of the site should be retained at all costs
- x) Need to provide affordable housing on this site
- xi) Contaminated land

EXPIRY DATE OF APPLICATION: 01/04/2008

REASONS FOR DELAY IN DECISION:

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

PLANNING ASSESSMENT:

THE PROPOSAL:

1. The proposal seeks outline permission for residential development with means of access only to be agreed at this stage. It is proposed that the existing dwelling will be demolished and a new access formed directly off Ffordd Talargoch, nearly opposite no 86 Ffordd Talargoch. The existing access to the site between Prestatyn Car Sales will be closed up and that serving the dwelling known as Gwrych Mount to the rear of the site but not included within or within land ownership will also be retained as part of the development.
2. The application site is in the development boundary of the village of Meliden and extends to 1.0ha in area. The site is currently vacant, formerly used as a caravan park with access directly off Ffordd Talargoch to the front west corner of the site and Prestatyn Car Sales next door. The site is bound to the rear by the Prestatyn Dyserth Walkway with Graig Fawr Site of Special Scientific Interest (SSSI) and the Clwydian Range AONB beyond. To the front of the site is a stone wall bounding the pavement and Ffordd Talargoch, the County wildlife site of Prestatyn – Dyserth Walkway to the west and residential development beyond to the east.

3. The site is on a series of flat terraces sloping upwards towards the rear of the site from Ffordd Talargoch. The site has number of TPO trees present within its boundaries and a derelict two storey building formerly used as a dwelling in connection with the use of the site as a caravan park.
4. The application includes the following information:
 - i) Affordable housing questionnaire
 - ii) Tree and bat survey which identifies those trees to be retained (T6, 7, 8, 15, 25, 28, and 37), those unsuitable for retention due to poor condition (T12, 22, 33, 42 and 44), those to be retained for their fair good condition, amenity value and form (T1, 2, 3, 4, 5, 14, 19, 26, 27, 29, 30, 38, 40, 41, 47, 50, and 51) and those deemed to be unimportant for their form and condition (T9, 10, 11, 17, 18, 20, 21, 23, 24, 31, 32, 34, 35, 36, G39, 43, 45, 46, 49, 52 and 53). Of these trees, 6 are proposed to be felled and the others managed in accordance with the recommendations of the report. The report also identifies the potential for the trees to be a habitat for bats.
 - iii) Protected species survey including bats, birds, badgers and reptiles as well as rare plants including Spring Sandwort and Nottingham Catchfly. The report concludes that bats are present on the site but that there is no record of reptiles or badgers at the time of the survey, and no protected plants on the site.

RELEVANT PLANNING HISTORY:

5. There have been a number of applications relating to the caravan site but none of direct relevance to the current application

PLANNING POLICIES AND GUIDANCE:

6. DENBIGHSHIRE UNITARY DEVELOPMENT PLAN (adopted 3rd July 2002)

Policy STRAT1 – General
 Policy STRAT6 – Location
 Policy STRAT11 – Regeneration
 Policy GEN1 – Development within development boundaries
 Policy GEN6 – Development control requirements
 Policy ENV1 – Protection of the natural environment
 Policy ENV2 – Development affecting the AONB / AOB
 Policy ENV4 – International/ national sites of nature conservation value
 Policy ENV5 – Sites of local conservation importance
 Policy ENV6 – Species protection
 Policy ENV7 – Landscape / townscape features
 Policy ENP4 – Foul and surface water drainage
 Policy ENP8 – Contaminated land
 Policy HSG2 – Housing development in main villages
 Policy HSG10 – Affordable housing within development boundaries
 Policy REC2 – Amenity and recreational open space in new developments
 Policy REC8 – Recreational routes
 Policy TRA6 – Impact of new development on traffic flows
 Policy TRA9 – Parking and servicing provision

Policy SPG4 – Recreational public open space
 Policy SPG6 – Trees and development
 Policy SPG18 – Nature conservation and species protection
 Policy SPG21 – Parking requirements in new developments
 Policy SPG22 – Affordable housing

NATIONAL PLANNING POLICY AND GUIDANCE

Planning Policy Wales (PPW) March 2002

TAN2 – Planning and affordable housing (June 2006)

Draft TAN5 – Nature conservation and planning (January 2006)

TAN10 – Tree preservation orders (1997)

TAN18 – Transport (March 2007)

MAIN PLANNING CONSIDERATIONS:

7.
 - i) Principle
 - ii) Impact on visual amenity / trees / AONB
 - iii) Protected species and impact on nature conservation
 - iv) Impact on Prestatyn – Dyserth walkway
 - v) Highways
 - vi) Contaminated land
 - vii) Affordable housing
 - viii) Open space
 - ix) Drainage
8. In relation to the main planning considerations as noted above:
 - i) Principle:

The application site is in the development boundary of the main village of Meliden and is currently vacant and underused land which by definition in PPW is classed as previously developed land. In relation to both national and planning policy objectives, the reuse of vacant and underused land within development boundaries is acceptable subject to the consideration of site specific issues as identified and discussed below. In principle, the development of land for residential purposes is acceptable and is in accordance with policy STRAT1, STRAT6 and GEN1 of the Denbighshire UPD.
 - ii) Impact on visual amenity / trees / AONB:

The site contains a number of TPO trees which contribute to the visual amenity of this area of the village. The Clwydian Range AONB is also located directly to the rear of the application site. A tree report has been submitted as part of the application which identifies all the TPO trees on the site and the visual contribution, form and condition of the trees as well as recommendations for those that are diseased or dying. The Principal Countryside Officer has seen the report and comments that it is comprehensive and makes a fair assessment of the trees on the site. Subject to the recommendations of the report being implemented as part of the development, the report can be used to inform the design and the layout of any future development on the site. The proposal is not considered likely to have any adverse impact on the AONB. The proposal is considered to be in accordance with policy ENV1, ENV2 and ENV7.
 - iii) Protected species and impact on nature conservation:

The dwelling on site is proposed to be demolished as part of the proposal and given the context of the site – trees, redundant building and the topography and landscape to the rear, there is a likelihood that bats, birds, reptiles and badgers are present. Both CCW and the County Ecologist have requested that a protected species survey is carried out to inform of the presence of any species on the site and any mitigation measures needed. Bats have been

found in the dwelling but there is no sign of any reptiles or badgers on the site. The comments from the County Ecologist and CCW on the additional ecological information has not been received at the time of writing this report but in relation to policy ENV6 of the Denbighshire UDP and advice in the revised draft TAN5, it is not likely that the development will have any adverse impact on the species present on this site. The Graig Fawr SSSI is located directly to the rear of the site and the Prestatyn - Dyserth Walkway county wildlife site lies to the west of the application site. No spring sandwort or Nottingham Catchfly have been identified on the application site.

- iv) Impact on Prestatyn – Dyserth Walkway:
The Prestatyn Dyserth Walkway is located directly to the rear of the site. The proposal will have no adverse impact on this recreational route.
- v) Highways:
Existing access to the site is via a single lane track off Ffordd Talargoch between the west corner of the application site and Prestatyn Car Sales site. It is proposed to close up the existing access that leads from this track to enable a new access to be formed directly off Ffordd Talargoch, nearly opposite no 86 Ffordd Talargoch. There is also another access off Ffordd Talargoch through the site which serves the dwelling known as Gwrych Mount (outside the application site) which is proposed to be retained as part of the development. The highways section has been consulted as part of the application and there are no objections to the proposed access in this location subject to conditions. The proposal is considered to be in accordance with policy TRA6 of the Denbighshire UDP
- vi) Contaminated land:
The site is located in an area known for its historical mining activity. The contaminated land officer advises conditions to deal with the presence of contaminated land which is in accordance with policy ENP8 of the Denbighshire UDP.
- vii) Affordable housing:
Policy HSG10 of the Denbighshire UDP and SPG22 are applicable to this development in relation to the need to provide affordable housing. Given that this application is for outline permission with means of access only to be agreed at this stage, the exact number, location, type, tenure and timing etc of the affordable housing can be covered by a condition requiring approval of arrangements as part of any application for reserved matters..
- viii) Open space:
Policy REC2 and SPG4 are applicable in relation to the provision of open space and state that any development proposal for the erection of 10 dwellings or more will require open space provision or a contribution to be negotiated. Again this can be covered by a planning condition at this stage in order for the exact provision to be agreed at the reserved matters stage as no details of dwelling numbers have been provided as part of the outline application but given the site area, more than 10 dwellings could be accommodated on this site.
- ix) Drainage:
Concerns have been raised from neighbours in relation to the capacity of the sewerage system in this location to cater for any increase in foul waste as part of this development. It is proposed to connect the foul drainage to the public sewer and provide soakaways on the site for the disposal of rain water. Welsh Water have been consulted as part of the planning application and

raise no objections to the proposed development. The proposal would be in accordance with policy ENP4 of the Denbighshire UDP.

SUMMARY AND CONCLUSIONS:

9. The proposal is to develop 1.0ha of land for residential purposes on currently underused and vacant land within the development boundary of Meliden. At this stage the proposal is for outline permission with means of access only to be agreed. Highways raise no objections to the proposed development and issues in relation to trees, protected species and nature conservation have been addressed. No objections are raised on drainage grounds and issues in relation to contaminated land, affordable housing and open space can be dealt with via suitably worded planning conditions.

RECOMMENDATION: GRANT- subject to the following conditions:-

1. Approval of the details of the siting, design and external appearance of the building(s), and the landscaping of the site (hereinafter called "the reserved matters") shall be obtained from the Local Planning Authority in writing before the commencement of any development.
2. Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.
3. The development hereby permitted shall be begun either before the expiration of five years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.
4. All planting, seeding, turfing, fencing, walling or other treatment comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons [following the occupation of the dwelling/completion of the development/commencement of the development/next planting and seeding season] 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. 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.
6. 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.
7. The recommendations contained in the tree report by Stephen Cutmore, Tree Care Specialist dated received by the Local Planning Authority on the 6th September 2007 shall be fully implemented prior to the commencement of development on site and further investigations of T10 shall be made and the details of the investigations and the proposals therefore shall be submitted to and approved in writing by the Local Planning Authority.
8. The recommendations of the protected species survey carried out by ecological design consultants and dated June 2008 (dated received by the Local Planning Authority on the 8th August 2008) shall be implemented as part of this permission. The recommendations in relation to the flora and fauna shall be detailed as part of any application for reserved matters and shall include details of the timings of the works for the demolition of the dwelling, works to the trees and the timing and design of the methods of providing access to and from

any new dwellings on the site for bat and bird species.

9. No work shall be permitted to commence until there has been a phased investigation carried out over the entire site to ascertain whether the land is contaminated, and whether the development may impact on controlled surface waters or groundwater. Such investigation should consist of a desk study to include water monitoring data, and if deemed necessary within the said study, a comprehensive site investigation should be carried out in accordance with CLR11 (Model procedures for the Management of Land Contamination) and BS:10175:2001 (The investigation of Potentially Contaminated Sites). The contents of each survey and its conclusions shall be submitted to the Local Planning Authority for assessment.

10. In the event that the site survey required by condition 9 of this permission reveals the presence of hazards from contamination, no development shall be permitted to commence until there has been submitted to and approved in writing by the Local Planning Authority a detailed site specific risk assessment to identify risks to water resources, surrounding land and property, wildlife, building materials, future users of the site and any other persons. Such risk assessment should also include details of addressing the risk, specific measures for decontaminating the site and dealing with any unsuspected contamination which becomes evident during the development of the site.

11. No dwellings shall be occupied until a verification report prepared by an independent and suitably experienced third party has been submitted to and approved in writing by the Local Planning Authority to show that the remedial works approved in Condition 10 have been satisfactorily carried out.

12. The development shall not begin until the formal written approval of the Local Planning Authority has been obtained to a scheme for the provision of affordable housing as part of the development. Such details shall include:

- a. 30% affordable housing units and the type and location to be determined;
- b. timing of the construction of the affordable housing;
- c. the arrangement to ensure that such provision is affordable for both initial and subsequent occupiers of the affordable housing; and the occupancy criteria to be used for determining the identity of prospective and successive occupiers of the affordable housing, and the means by which such occupancy criteria shall be enforced.

13. No development shall be permitted to commence until the formal written approval of the Local Planning Authority has been obtained to a scheme for the provision and maintenance of open space in accordance with the policies of the Local Planning Authority.

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

15. No surface water shall be allowed to connect either directly or indirectly to the public sewerage system unless otherwise agreed in writing by the Local Planning Authority.

16. Land drainage runoff shall not be permitted to discharge either directly or indirectly into the public sewerage system.

17. No development shall commence until the developer has prepared a scheme for the comprehensive drainage of the site showing how foul water, surface water and land drainage will be dealt with in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority in liaison with Dwr Cymru Welsh Water's Network Development Consultant.

18. Facilities shall be provided and retained within the site for the loading, unloading parking and turning of vehicles in accordance with the scheme to be agreed in writing by the Local Planning Authority before any work starts on site.

19. Full details of the proposed vehicular access as indicated on the approved drawing, shall be submitted to and approved in writing by the Local Planning Authority before any works start on site. The details to be approved shall including the detailed design, bus stop relocation, construction, street lighting, drainage and the works shall be fully constructed in accordance as the approved details before any work starts on the dwellings.

20. The detailed layout, design, means of traffic calming, signing, drainage and construction of the internal estate road shall be submitted to and approved by the Local Planning Authority in consultation with the Highway Authority prior to the commencement of any site works.

21. Vehicular access to the adjoining highway shall be limited to the new access shown on the approved plan and the existing access on the south west of the site shall be permanently closed to the satisfaction of the Local Planning Authority when the new access is brought into use.

22. The visibility splays shown on the approved plan shall at all times be kept free of any planting, tree or shrub growth, or any other obstruction in excess of 1.05 metres above the level of the adjoining carriageway.

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

1. The application is for outline permission with details of means of access only.
2. To comply with the provisions of Section 92 of the Town and Country Planning Act 1990.
3. To comply with the provisions of Section 92 of the Town and Country Planning Act 1990.
4. To ensure a satisfactory standard of development, in the interests of visual amenity.
5. To safeguard the existing trees and hedges on the site, in the interests of the visual amenities of the locality.
6. In order to ensure that trees and hedges to be retained are not damaged by building or engineering works.
7. In the interests of the visual amenity of the area and in order to secure the proper management of the trees on the site.
8. In the interests of protected species and biodiversity on the site.
9. To ensure that the extent of contamination is established and that adequate steps are taken to deal with the contamination.
10. To ensure that the extent of contamination is established and that adequate steps are taken to deal with the contamination.
11. To ensure that the extent of contamination is established and that adequate steps are taken to deal with the contamination.
12. In order to ensure an adequate supply of affordable housing in accordance with planning policies HSG 10 of the Unitary Development Plan.
13. In order to ensure an adequate provision of open space in accordance with planning policy REC 2 of the Unitary Development Plan.
14. To protect the integrity of the public sewerage system.
15. To prevent Hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and to ensure no detriment to the environment.
16. To prevent hydraulic overload of the public sewerage system and pollution of the environment.
17. To ensure that effective drainage facilities are provided for the proposed development and that no adverse impact occurs to the environment or the existing public sewerage system.
18. 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.
19. In the interests of the free and safe movement of all user of the highway and to ensure the formation of a safe and satisfactory access.
20. To ensure that the estate road system is constructed to a standard suitable for adoption and, in the interests of traffic safety, is capable of catering for the amount of traffic that is likely to be generated by the proposal.
21. It is considered that the proposed access is adequate for the purpose of the proposed development.
22. To ensure that adequate visibility is provided at the proposed point of access to the highway.

NOTES TO APPLICANT:

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

Sewerage 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 contributions 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.

The proposed development is crossed by a trunk/distribution watermain, the approximate position being shown on the attached plan. Under the Water Industry Act 1991 Dwr Cymru Welsh Water has rights of access to its apparatus at all times. I enclose our Conditions for Development near Watermains. It may be possible for this watermain to be diverted under Section 185 of the Water Industry Act 1991, the cost of which will be re-charged to the Developer.

Rights of Way

You are advised to contact Adrian Walls of the Rights of Way section in relation to the public footpath no. 18 that crosses the site. Adrian can be contacted on 01824 706871.

Protected Species

Bats are known to be present on the site and you are reminded of the need to apply for a license to disturb these species. Further information can be obtained from the Countryside Council for Wales - 01352 706600 or the County Ecologist - 01824 708263.

The applicants attention is drawn to the following attached notes:

- i) Highway Supplementary Notes No's 1, 3, 4, 5 & 10
- ii) New Roads and Street Works Act 1991 - Part N Form
- iii) Denbighshire County Council Specification for Road Construction.
- iv) Denbighshire County Council General Notes for Highway Lighting Installations.
- v) Denbighshire County Council's General Requirements for Traffic Signs and Road Markings.

ITEM NO: 7

WARD NO: Prestatyn North

APPLICATION NO: 43/2008/0268/ PF

PROPOSAL: Demolition of existing attached garage and erection of two-storey pitched-roof extension to side to convert to 2 No self-contained flats and erection of detached double garage

LOCATION: 7 (including land adjoining 6) Gwelfryn Prestatyn

APPLICANT: Millar Estates

CONSTRAINTS: Article 4 Direction

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

CONSULTATION RESPONSES:

PRESTATYN TOWN COUNCIL-
'No objection'

HEAD OF TRANSPORT AND INFRASTRUCTURE-
No objection, subject to conditions

WELSH WATER / DWR CYMRU –
No objection

ENVIRONMENT AGENCY WALES-
No objection, subject to conditions

RESPONSE TO PUBLICITY:

Letters of representation were received from:

1. Mr. & Mrs. T. Nelson, 5 Gwelfryn, Prestatyn
2. Mrs. J. Lewis, 6 Gwelfryn, Prestatyn
3. Primary sender on Petition, Julie Lewis, 6 Gwelfryn, Prestatyn

Summary of representations:

- i) Noise and disturbance during building works
- ii) Impact on amenity of adjacent occupier
- iii) Overdevelopment
- iv) Highway safety

EXPIRY DATE OF APPLICATION: 18/08/2008

PLANNING ASSESSMENT:**THE PROPOSAL:**

1. The proposal is for the conversion of 7 Gwelfryn into 2 no. self contained flats including alterations and extension, demolition of existing attached garage and erection of a detached double garage.
2. Replacing the existing single storey garage, the two storey side extension is set back 0.25m and projects 3.6m to the east. It runs along the side elevation and

projects a further 3.2m to the south (rear). The ridge line is set down by 0.4m from the existing and a dormer feature would be introduced on the front elevation. Windows are proposed on all elevations. Sited in the rear curtilage in the eastern corner of the site the proposed double garage measures 7.85m by 6m, with an overall height of 4.65m.

3. The extension facilitates the conversion into 2 no. self contained flats. Both flats comprise 2 bedrooms, bathroom, lounge and kitchen on the ground floor. Access to the ground floor flat is from the front and to the first floor flat from the rear. A patio area is proposed to the rear for each flat, the area to the east will be paved as a driveway to the garage.
4. Gwelfryn is a cul de sac of 44 units off Sandy Lane in north west Prestatyn. The brick and render built estate comprises of a mix of semi detached dwellings and flats. No. 6 is located in the south eastern corner of the estate, it has a large garden which is bounded on the south by the Chester to Holyhead railway line. Compared to the surrounding properties the garden stretching 26m along the railway line is unique on the estate. Access is via a 2.5m wide entrance point off the distributor road on a 90 degree bend, this 2.5m access point serves no. 6 and no. 7 by opening out into their respective driveways.

RELEVANT PLANNING HISTORY:

5. 2/PRE/64/88 – Detached dwelling: Refused. 29 March 1988
Reasons for refusal cited the impact on the amenity of adjacent occupiers and the awkward siting which would lead to unsatisfactory environment for potential occupiers.

2/PRE/355/89 – Detached dwelling: Refused and Dismissed on appeal P15/542 12 March 1990.

The Inspectors report referred to the site's juxtaposition with the adjacent residential development which would look cramped and incongruous within the development, and the proposed dwelling would cause demonstrable harm to the amenities of adjoining residents.

43/2005/0627/ PO – Development of 0.036 ha of land by the erection of 1 dwelling (outline application): Withdrawn 26 July 2005

Concerns expressed regarding the impact of the proposal on adjacent occupiers, the unsatisfactory access arrangements, and an objection from the Environment Agency relating to flood risk.

43/2005/1396- Development of 0.04ha of land by the erection of 1 No. dwelling and alterations to existing vehicular access (outline application) Refused 28/12/2005 Appeal Dismissed 10/10/06 Concerns expressed regarding the impact of the proposal on adjacent occupiers.

43/2006/0754- Development of 0.04ha of land by the erection of 1 No. dwelling and alterations to existing vehicular access (outline application) Refused 02/08/06
Reasons for refusal:

1. 'It is considered that the development of the site in the manner proposed will result in a loss of privacy and amenity to the adjacent occupiers. As such, the application is unacceptable and is contrary to Policy GEN 6 (i) and (v) of the Denbighshire Unitary Development Plan'.
2. 'The proposal would result in the loss of vehicle parking facilities and would therefore encourage parking on the highway, with the consequent risk of additional danger to all users of the road and interference with the free flow of traffic. As such, the application is unacceptable and is contrary to Policy GEN

6 (vi) and (vii) and Policy TRA 6 of the Denbighshire Unitary Development Plan'.

PLANNING POLICIES AND GUIDANCE:

6. DENBIGHSHIRE UNITARY DEVELOPMENT PLAN (adopted 3rd July 2003)
Policy GEN 6 Development Control Criteria
Policy HSG 13 Subdivision of Existing Premises to Self-Contained Flat

MAIN PLANNING CONSIDERATIONS:

7. The main issues are considered to be:
- i) Principle and Planning History
 - ii) Visual Amenity
 - iii) Residential Amenity
 - iv) Highway Safety
8. In relation to the main planning considerations in paragraph 7 above:
- i) Principle and Planning History
Policy HSG 13 permits the subdivision of premises into self contained flats subject to criteria relating to character of the area and the premises, highway impact and the provision of adequate bin stores and clothes drying areas. The proposal is considered to meet the requirements of this policy. The specific elements are explored in the planning considerations below. Policy GEN 6 permits development subject to general development control criteria that are similar to the criteria of HSG 13.

Whilst there has been planning refusals on the site previously the applications were made for new residential development in the rear garden, which is the area now proposed for the garage. This application is of a different character and scale to the previous applications, and the planning history is of more limited relevance to this case.

- ii) Visual Amenity
The principle of self-contained flats in this area is established as there is a mix of dwelling types, including flats in the Gwelfryn development. The proposed extension is considered acceptable and will not impact on the character and appearance of the dwelling and the area. The ridgeline is set down and the front elevation of the extension set back from the original, in keeping with the SPG extension guidance, furthermore the dormer introduces a feature of interest in the extension. Proposed materials reflect the existing dwelling and the surrounding area. The garage is located to the rear; as such it will not impact on the streetscene.
- iii) Residential Amenity
The proposed extension and alterations will not impact on the privacy and amenity of the adjacent occupiers. Whilst an additional residential unit is being introduced, it is considered that owing to the uniquely larger site area that the additional unit can be accommodated. There is adequate space on the site for a private patio area for both flats, and large open garden area and driveway. Clothes drying, bin stores and amenity areas can be provided in keeping with policy criteria, and a condition can be attached to ensure provision.

There is 7m between the side elevation of No. 6 and No. 7 Gwelfryn. Owing to the orientation of No. 7 and the siting of the extension it is not considered that the amenity of adjacent occupiers would be adversely affected by the

proposal.

iv) Highways Safety

The area to the front of No. 7 is proposed to be paved for parking, with additional parking space and driveway to the rear. On this basis the Highways Officers have raised no objection to the proposal and consider that the site can accommodate the additional traffic without impacting on highway safety.

SUMMARY AND CONCLUSIONS:

9. The proposal is considered acceptable and is recommended for grant.

RECOMMENDATION: GRANT- subject to the following conditions:-

1. The development hereby permitted shall be begun before the expiration of five years from the date of this permission.
2. The materials and finishes of the external surfaces of the walls and roof of the building hereby permitted shall be of the same texture, type and colour as those on external walls and the roof of the existing building.
3. Facilities shall be provided and retained within the site for the parking of vehicles in accordance with a scheme to be agreed with the Local Planning Authority and which shall be completed prior to the proposed development being brought into use.
4. The extended parking area outside No. 7 shall be paved with a concrete or bituminous material or as otherwise agreed in writing by the Local Planning Authority and shall be completed prior to the development being brought into use.
5. No development shall be permitted to commence until the written approval of the Local Planning Authority has been obtained to the finished floor level of the extension, which should be a minimum of 300mm above the existing ground level.
6. None of the flats hereby permitted shall be occupied until provision has been made within the site for enclosed bin stores and drying areas, in accordance with details which have been submitted to and approved in writing by the Local Planning Authority.

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

1. To comply with the provisions of Section 91 of the Town and Country Planning Act 1990.
2. In the interests of visual amenity.
3. To provide for the parking of vehicles clear of the highway in the interest of traffic safety.
4. To ensure that no deleterious material is carried onto the highway.
5. To reduce the risk of flooding from surface water and protect the property from the effects of tidal flood following a breach of defences.
6. To ensure the units are serviced by adequate storage and drying facilities in the interests of visual and residential amenity.

NOTES TO APPLICANT:

Your attention is drawn to the attached Highway Supplementary Notes Nos. 1, 3, 4, 5 & 10.

ITEM NO: 8

WARD NO: Rhuddlan

APPLICATION NO: 44/2008/0626/ TP

PROPOSAL: Felling of 1 sycamore tree and crown reduction by 25 per cent of 1 sycamore tree included in Area G1 on the plan annexed to the Denbighshire County Council (Tir Morfa, Rhuddlan) Tree Preservation Order No. 1, 2004

LOCATION: 7 Tirionfa Rhuddlan Rhyl

APPLICANT: Mr & Mrs Hogg

CONSTRAINTS: Tree Preservation Order
Section 106

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

CONSULTATION RESPONSES:

RHUDDLAN TOWN COUNCIL

Objection "the developer and the owner of the property were aware of the existence of the tree (protected) before the property was built."

TREE CONSULTANT – FARMING AND WILDLIFE ADVISORY GROUP

Recommends approval as the application appears reasonable.

RESPONSE TO PUBLICITY:

None

EXPIRY DATE OF APPLICATION: 20/08/2008**PLANNING ASSESSMENT:****THE PROPOSAL:**

1. No.7 Tirionfa is one of many recently constructed dwellings situated on land to the east of Rhuddlan, bounded at the rear by the A547. Tree Preservation Order No.1, 2004 relates to all of the trees within the developed site including the trees within the curtilage of No.7 Tirionfa.
2. The application seeks to remove a sycamore tree which is of poor form and leans towards the dwelling. It is also proposed to carry out a crown reduction of 25% of a second sycamore tree to allow additional light to enter the garden and the rear of the dwelling.
3. The applicant does not intend to replace the tree to be felled, as it is close to the tree on which reduction works are proposed, and the removal would bring about a benefit to the retained tree.

RELEVANT PLANNING HISTORY:

4. 44/2004/1644/TP – Crown reduction works to trees GRANTED 07/03/2005

44/2005/1316/TP – Felling of 1 cherry and 5 sycamore trees GRANTED
20/12/2005

44/2007/654/TP – 9 Tirionfa - Crown lift, crown thin and/or selective branch
removal to 9 trees and felling of 2 trees (2 No. replacements) GRANTED
28/08/2007

44/2007/0751/TP – 6 Tirionfa - Felling of 2 No. sycamore trees (2 No.
replacements) GRANTED 28/08/2007

44/2008/0100/TP – 15 Tirionfa - Crown reduction of horse chestnut tree
GRANTED 19/03/2008

PLANNING POLICIES AND GUIDANCE:

5. DENBIGHSHIRE UNITARY DEVELOPMENT PLAN (adopted 3rd July 2002)
Policy GEN 6 – Development Control Requirements
Policy ENV 7 – Landscape / Townscape features

MAIN PLANNING CONSIDERATIONS:

6. The main issue is considered to be:
 - i) Impact on visual amenity
7. In relation to the main issues:-
 - i) Impact on visual amenity
Considering the sycamore tree to be felled is of poor form and the crown
reduction will enhance the appearance of the second sycamore tree, it is
concluded the proposal will not have a detrimental effect on visual amenity in
the area.

SUMMARY AND CONCLUSIONS:

8. The tree to be felled is of poor form and its lean could present future health and
safety risks, both of which have been confirmed by the tree consultant. In addition
as the crown reduction of the second tree will enhance its appearance as well as
allowing more light to enter the dwelling it is concluded the proposal is acceptable,
and it is recommended for approval.

RECOMMENDATION: GRANT- subject to the following conditions:-

1. All works shall be carried out by a competent tree surgeon in accordance with British
Standard Recommendations for Tree Work BS 3998, 1989.

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

1. In the interests of good arboricultural practice.

NOTES TO APPLICANT:

None

ITEM NO: 9
WARD NO: Rhyl West
APPLICATION NO: 45/2007/1176/ PF
PROPOSAL: Change of use of 1st and 2nd floor offices to 4 no. self-contained flats
LOCATION: 1a Wellington Road Rhyl
APPLICANT: Vista Estates Ltd.
CONSTRAINTS: C1 Flood Zone
Town Heritage Area
Conservation Area
Article 4 Direction
PUBLICITY UNDERTAKEN: Site Notice - No Press Notice - No Neighbour letters - Yes

CONSULTATION RESPONSES:

RHYL TOWN COUNCIL

"No objection"

CONSERVATION OFFICER

No objection

ENVIRONMENT AGENCY

No objection

DWR CYMRU WELSH WATER

No Objection

HEAD OF HOUSING SERVICES

No objection

RESPONSE TO PUBLICITY:

None

EXPIRY DATE OF APPLICATION: 16/12/2007

REASONS FOR DELAY IN DECISION:

- additional information required from applicant
- protracted negotiations

PLANNING ASSESSMENT:

THE PROPOSAL:

1. The application site comprises the vacant upper floors above retail units on the corner of Wellington Road with Rhyl High Street. The upper floors were formerly offices but have been vacant for 5 years, with all of the windows having been boarded up. The property is a traditional 3 storey property located within a designated Conservation Area.

2. The proposal is a full application for the change of use of the first and second floors from offices to 4 no. self contained flats. The units proposed would be 1 bed roomed units with access off a single doorway off Wellington Road.
3. The application is reported to Committee as the proposed arrangements for the payment of a commuted sum in lieu of on site provision of affordable housing would involve a relaxation of the guidance in the current Supplementary Planning Guidance Note 22 on Affordable Housing.

RELEVANT PLANNING HISTORY:

4. None

PLANNING POLICIES AND GUIDANCE:

5. DENBIGHSHIRE UNITARY DEVELOPMENT PLAN (adopted 3rd July 2002)
 - Policy STRAT 11 Regeneration
 - Policy GEN 1 Development within Development Boundaries
 - Policy GEN 6 Development Control Requirements
 - Policy CON 5 Development within Conservation Areas
 - Policy ENP 6 Flooding
 - Policy HSG 10 Affordable Housing within Development Boundaries
 - Policy HSG 13 Subdivision of existing premises to self contained flats
 - Policy RET 1 Town & District Centres
 - Policy RET 15 Upper floors of commercial premises

Supplementary Planning Guidance 22: Affordable Housing in New Developments

TAN 2: Planning & Affordable Housing (2006)

TAN 15: Development & Flood Risk (2004)

MAIN PLANNING CONSIDERATIONS:

6. The main issues are considered to be:
 - iv) Principle of development
 - v) Impact on residential amenity
 - vi) Impact on visual amenity/Conservation Area
 - vii) Flooding
 - viii) Affordable Housing
7. In relation to the main planning considerations:
 - i) Principle of development
The site is located within the town and district centre of Rhyl. Policy RET 15 supports the beneficial economic use of upper floors of property on town and district centres subject to general amenity considerations, townscape visual or town scheme considerations and highway, servicing and parking considerations. The residential use of upper floors should be assessed against Policy HSG 13. Assessed against this policy, it is considered that the principle of residential use is acceptable.
 - ii) Residential Amenity
The proposal is to provide 4 no 1 bed units. 2 units would have a floor area of 44 sq m and 2 with a floor area of 49 sq m. Each unit would be self contained, and as the property has no external space, residents would have access to internal bin stores, located to the side of the communal stairway to the rear on each floor. There are no off street parking facilities available, however the site is located within the town centre of Rhyl within close proximity to the bus and train station. Provision of on-site parking is not feasible and in this location it is not considered necessary given that car ownership levels are likely to be

limited, public car parks are located nearby, and it is a town centre location close to sustainable transport options. It is considered that an acceptable level of amenity would be afforded for future occupiers of the units.

iii) Visual Amenity/Conservation Area

The site is located within a designated Conservation Area. It is not proposed to make any external alterations to the building, other than general repair work to the existing sliding sash windows, chimneys, rainwater goods and roof covering. The Conservation Officer has raised no objection to the proposal. The repairs/renovations proposed to the external appearance of the building are considered appropriate and would retain the characteristics of the building, which is an attractive building with traditional features. The site is located on a prominent corner site within the town centre and the proposal to make positive use of the building, retaining these traditional features and characteristics of the building, is supported.

iv) Flooding

The property is located within a Zone C1 floodplain as defined by the development advice maps of TAN 15: Development and Flood Risk. The application site comprises the upper floors of the property and therefore the Environment Agency has raised no objection to the development on flood risk grounds as there would be no direct flood risk to the flats themselves.

v) Affordable Housing

In accordance with the Council's policy, 1 affordable housing unit is required within this development. However, given the amount of low cost units of accommodation in this part of Rhyl, the Council began work on Interim Planning Guidance (IPG) which would supersede the current SPG and allow a relaxation on the provision of affordable housing units. Instead, the aim would be to require a financial contribution from the developers to a regeneration fund for West Rhyl. The applicant has offered a payment of £8,000 per unit which in this case equates to £32,000, which would be paid into the regeneration pot and the 4 no 1 bed units could be sold on the open market. This approach is considered acceptable having regard to the high amount of low cost units and the emerging IPG. A Section 106 legal agreement would be required to secure the necessary arrangements are in place.

SUMMARY AND CONCLUSIONS:

7. The principle of the development is considered acceptable with no adverse impact on residential or visual amenity. The scheme would represent an improvement to the character and appearance of the Conservation Area. There would be risk of flooding. The approach to the Councils affordable housing policy and the offer to contribute to the regeneration fund is considered acceptable.

The recommendation is subject to the completion of an obligation under Section 106 of the 1990 Planning Act to secure the payment of £32,000, to be paid into the regeneration fund for West Rhyl.

The Certificate of Decision would only be released on completion of the legal obligation. The application would be represented to the Committee and determined in accordance with the policies of the Council applicable at that time, should material circumstances change beyond a period of 12 months after this Committee.

RECOMMENDATION: - GRANT subject to the following conditions:

1. The development hereby permitted shall be begun before the expiration of five years from the date of this permission.
2. No development shall commence until the written approval of the Local Planning Authority has been obtained to the precise detailing of the type, materials and finish of the fenestration for the development.

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

1. To comply with the provisions of Section 91 of the Town and Country Planning Act 1990.
2. To ensure the details are satisfactory in relation to the character and appearance of the building

NOTES TO APPLICANT: None

ITEM NO: 10

WARD NO: Rhyl South East

APPLICATION NO: 45/2008/0442/ PF

PROPOSAL: Construction of footway/cycleway

LOCATION: Land rear of 50-56 adjoining 48 Thornley Avenue Rhyl

APPLICANT: Denbighshire County Council Head Of Transport & Infrastructure

CONSTRAINTS: PROW
Groundwater Vulnerability 1
Groundwater Vulnerability 2
Article 4 Direction

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

CONSULTATION RESPONSES:

RHYL TOWN COUNCIL

"No objection subject to consultation with adjoining property owners/ occupiers including resolution of issues relating to access to neighbouring properties."

TRANSPORT & INFRASTRUCTURE

No objection subject to the inclusion of conditions

HIGHWAYS AUTHORITY

No objection subject to the inclusion of conditions

RESPONSE TO PUBLICITY:

Letters of representation were received from:

1. Janette Tomes, 50-58 Thornley Avenue, Rhyl
2. Hari & Eunice Hughes, 37 Handsworth Crescent, Rhyl, LL18 4HP

Summary of planning based representations:

- i) Increased anti-social behaviour

EXPIRY DATE OF APPLICATION: 16/06/2008**REASONS FOR DELAY IN DECISION:**

- Timing of receipt of representations

PLANNING ASSESSMENT:**THE PROPOSAL:**

1. Consideration of the application was deferred at the July 2008 Committee to allow for a Site Inspection panel to visit the site, to assess the details of the proposals. The site panel took place after the completion of this report. The notes of the site panel will be included on the Late Representations sheet circulated prior to the

Committee meeting.

2. Permission is sought for the construction of a foot/ cycleway on land between 48 and 50-58 Thornley Avenue. The proposed footway/cycleway measures 2.5m in width with an asphalt surface, bounded by 1.8m high steel palisade fencing. Access to the foot/ cycleway will be gained from Thornley Avenue from the south and will join an existing cycleway network to the north which runs along the rear of the dwellings on Handsworth Crescent. Bollards are proposed at the entrance/ exit at Thornley Avenue.
3. The application site is located in south east Rhyl and forms part of a car park which currently services no's. 50 – 74 Thornley Avenue.

RELEVANT PLANNING HISTORY:

4. None.

PLANNING POLICIES AND GUIDANCE:

5. DENBIGHSHIRE UNITARY DEVELOPMENT PLAN (adopted 3rd July 2002)
 - Policy GEN 6 – Development control requirements
 - Policy TRA 11 – Walking and cycling routes
 - Policy REC 1 – Protection of existing open space
 - Policy REC 4 – Recreation facilities within development boundaries

GOVERNMENT GUIDANCE

Planning Policy Wales, March 2002

TAN 18 – Transport

MAIN PLANNING CONSIDERATIONS:

6. The main issues are considered to be:
 - i) Principle of proposal
 - ii) Impact upon amenity
7. In relation to the main planning considerations above:
 - i) Principle of the proposal

The application site is located within the development boundary. The relevant policy criteria contained in the Unitary Development Plan of GEN 6, REC 1 and REC 4 apply to the proposal. The development of the link cycle/footway will encourage walking and cycling within the area and increase access to community facilities. The proposal will enhance the area and will help to realise objectives set by the both the Council and the Government in terms of increased cycling/ walking, thus complying with REC 4 of the Denbighshire Unitary Development Plan. The principle of the proposal is considered acceptable and the proposal complies with Policies GEN 6 criteria i), v) and vi) and REC 1 criterion iii) of the Denbighshire Unitary Development Plan.
 - ii) Impact upon amenity

Whilst it is accepted that the proposal may increase the amount of pedestrian and cycle traffic through the area, given the nature of the proposed use, the distances to the dwellings and the existing network of paths and pattern of development surrounding the application site it is not considered that residential amenity will be adversely affected.

SUMMARY AND CONCLUSIONS:

8. The proposal complies with policy and is recommended for approval.

RECOMMENDATION: -GRANT subject to the following conditions:-

1. The development hereby permitted shall be begun before the expiration of five years from the date of this permission.
2. The detailed layout, design, signing, drainage and construction of the footway/cycleway shall be submitted to and approved by the Local Planning Authority in consultation with the Highway Authority prior to the commencement of any site works.

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 that the footway/cycleway is constructed to a standard suitable for adoption and, in the interests of traffic safety, is capable of catering for the amount of traffic that is likely to be generated by the proposal.

NOTES TO APPLICANT:

Please be advised of the following:

- There is no diminution in the width of the right of way
- No building materials are stored on the right of way
- No damage to the surface, temporary or permanent. If the surface is to be altered, a licence will be required.
- Vehicle movements should not interfere with the public's use of the way
- No additional barriers are placed across the right of way, of either temporary or permanent nature
- The safety of members of the public using the right of way is ensured at all times

ITEM NO: 11

WARD NO: Rhyl South

APPLICATION NO: 45/2008/0601/ PF

PROPOSAL: Temporary change of use of existing offices to education facility until August 2011

LOCATION: Former Children's Resource Centre - South Meadow Cefndy Road Rhyl

APPLICANT: Denbighshire County Council Director Of Lifelong Learning

CONSTRAINTS:

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

CONSULTATION RESPONSES:

RHYL TOWN COUNCIL
"Received".

ENVIRONMENT AGENCY

Consider that the submitted Flood Risk Assessment shows that the risks and consequences of flooding could be acceptably managed in accordance with criteria set out in TAN15 and therefore no objection is raised to the proposal.

HEAD OF TRANSPORT AND INFRASTRUCTURE

No objections.

RESPONSE TO PUBLICITY:

Letters of representation received from:

1. Anwyl Construction Company Ltd

Summary of planning based representations:

- i) No objection.

MEMBERS' COMMENTS:

None.

EXPIRY DATE OF APPLICATION: 26/08/2008

PLANNING ASSESSMENT:**THE PROPOSAL:**

1. The subject property is a vacant office building which was last occupied by the Council's Social Services Department, with a car park to the frontage capable of accommodating 22 cars. The building is predominantly single-storey and stands in a corner plot at the road junction of Cefndy Road and the industrial estate road leading to the employment area to the east. The property lies within an area designated as a Main Employment Area under Policy EMP 2 of the UDP and has abutting commercial/office uses to the north and east.
2. The application seeks to change the use of the building from its current permitted use as offices (Use Class B1) to an education facility (Use Class D1) for a temporary period of three years until August 2011. The Pupil Referral Unit is part

of the Council's Behaviour Support Service and is an element of the LEAs strategy for managing social, emotional and behavioural difficulties in children and young people across the county.

3. The application is accompanied by a written justification which states that the Pupil Unit concerned was until recently located in a former catholic primary school (St Winifrides) in St Asaph but that this building was recognised as being unfit for use with children and the diocese also refused to extend the lease of the building beyond July 2008. Several alternative sites for the use have been assessed but only the subject property is considered to be suitable as it requires minimal alterations to accommodate the use.
4. The temporary nature of the proposal is made retrospectively due to the immediate need for the relocation of the resource into a new building. It is suggested that during the three year period applied for the Council will undertake a study of the services and facilities before establishing a long term base for the Unit.
5. The prevention of pupils absconding is an ongoing challenge, and the security of the building has been improved with the adaptation of an existing entry system with additional locks and keypads as necessary. Externally, security has been added to the rear of the building in the form of 2.4 metres high palisade fencing around two areas utilised as a grassed recreational area and a hard play area. The fencing is unpainted and is typical of security fences found around employment areas.

RELEVANT PLANNING HISTORY:

6. The unit has an extensive planning history relating to its construction and changes to its appearance, none of which are of particular relevance to the current submission.

PLANNING POLICIES AND GUIDANCE:

7. DENBIGHSHIRE UNITARY DEVELOPMENT PLAN (adopted 3rd July 2003)
Policy GEN 6 – Development Control Requirements
Policy EMP 2 – Main Employment Areas

GOVERNMENT GUIDANCE
Planning Policy Wales March 2002

MAIN PLANNING CONSIDERATIONS:

8.
 - i) Principle
 - ii) Impact on nearby occupiers
 - iii) Visual appearance
9. In relation to the considerations as noted in paragraph 8:
 - i) Principle
Policy EMP 2 of the UDP allows for development within Use Classes B1, B2 and B8 uses along with other outlets which provide a wholesale service to the public. The explanation to this policy seeks to ensure that main employment areas are retained for their primary use and not retail or commercial uses i.e. A1, A2 or A3 uses. There is no specific policy within the UDP which allocates any land or buildings for Use Class D2 uses with policies of the Community Facilities section of the UDP seeking mainly to retain existing school and community use sites. As such, the main issue is whether the principle of the occupation of the building for the use proposed for the three year period sought would be harmful to the overall function of the main employment area. Given that the use of the building is a semi-office type use, that there are a

number of other vacant units in the locality, and that the use proposed relates to an important function for the Council, it is not considered that the use of the building as proposed would be harmful to the employment area to justify a refusal of permission in respect of Policy EMP 2.

- ii) Impact on nearby occupiers
As the other buildings in the locality are in commercial or employment use, it is not adjudged that the use of the unit as proposed would be harmful to nearby occupiers.
- iii) Visual appearance
The erection of the fencing to the rear is the main change proposed to the site, and is typical of security measures for employment purpose units. As such, this aspect is also considered acceptable.

SUMMARY AND CONCLUSIONS:

- 10. The application is considered acceptable and is recommended to be granted subject to appropriate conditions.

RECOMMENDATION: GRANT- subject to the following conditions:-

- 1. The development hereby permitted shall be begun before the expiration of five years from the date of this permission.
- 2. The use hereby permitted shall cease on or before 31 August 2011.

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. As the use of the building is not for employment purposes as defined by Use Classes B1, B2 and B8 and its long term loss as an employment resource may be harmful to the overall function of the Main Employment Area as defined by Policy EMP 2 of the Denbighshire Unitary Development Plan.

NOTES TO APPLICANT:

None

ITEM NO: 12

WARD NO: Rhyl West

APPLICATION NO: 45/2008/0605/ PF

PROPOSAL: Erection of two-storey flat-roofed extension at rear of premises

LOCATION: 63 Wellington Road Rhyl

APPLICANT: Messrs A & R Gizzi Properties

CONSTRAINTS: C1 Flood Zone
Article 4 Direction

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

CONSULTATION RESPONSES:

RHYL TOWN COUNCIL

"Object on the grounds of an over-intensification of the site."

ENVIRONMENT AGENCY

Note that the site lies within zone C1, but raise no objection given the nature of the proposal and the existing uses.

HIGHWAY AUTHORITY

No objection.

RESPONSE TO PUBLICITY:

Letters of representations received from:

1. Mrs Donahue, 4 Elwy Street, Rhyl
2. Mr Morris, 6 Elwy Street, Rhyl

Summary of planning based representations:

- i) Loss of light;
- ii) Loss of privacy;
- iii) A previous similar scheme was refused.

MEMBERS' COMMENTS:

None.

EXPIRY DATE OF APPLICATION: 10/08/2008**PLANNING ASSESSMENT:****THE PROPOSAL:**

1. The property is a two-storey commercial property which currently has a ground floor retail unit with two bedrooms shown on the existing layout plan above. However, as access to the first floor is via an internal staircase which is indicated to rise into one of the bedrooms it is considered that the more likely current use is for storage only. The property has a rear yard area which measures 12.5 metres by 4 metres, and is abutted to each side by other commercial properties and to the rear by residential properties which front onto Elwy Street. The rear yard of the

property is abutted to the north east by a solid brick wall on the adjoining commercial property which has no openings, and to the south west by a commercial property which has a single storey extension upon which there are opening windows. The residential properties have their rear yard areas adjacent to the south east boundary of the subject site and the nearest dwelling (no. 4) has habitable room windows facing the site. A 1.8 metre high wall forms the boundary to the residential properties.

2. The application follows the previous granting of consent for a similar extension above an existing single-storey element at the adjacent property (no. 65) and the consent issued for a single-storey extension to the rear of the subject property. All of the planning history of the site and its neighbour is examined in further detail in the relevant section of this report.
3. The current application proposes to effectively add a first floor above the single-storey extension which was already been granted although not as yet commenced at the site. The extension will include an enlarged area for the shop on the ground floor with an ancillary wc, and two rear access doors with one leading into the rear of the shop and the other accessing an internal staircase leading up to the first floor. The first floor of the extension will provide a lounge and kitchen area which will adjoin a bathroom and bedroom within the existing part of the building to the front and form a self-contained unit.
4. The extension has a width of 4.4 metres and a depth of 9.8 metres for the ground floor, with the main part of the rear wall of the first floor set back from the rear wall of the ground floor extension by 2.5 metres. The roof over the extension is flat, and has two roof lights set into a single angled wall to the rear, with a parapet wall of 1.1 metres along the rear of the extension which seeks to eliminate any downward overlooking. The first floor also has a side facing secondary window for the lounge.

RELEVANT PLANNING HISTORY:

5. 45/2004/0173/PF - Erection of two-storey pitched roof extension at rear of no. 63: Refused March 2004 on the grounds of the overlooking of residents to the rear of the site and an overdevelopment of the site.

45/2004/1481/PF – Single-storey flat-roofed extension at rear of no. 63: Granted January 2005.

45/2006/1285/PF – First-floor rear extension to no. 65: Refused January 2007 on the grounds of harm to adjacent occupiers, lack of natural light into the main habitable room and precedent.

45/2007/0558/PF – First-floor rear extension to no. 65: Granted June 2007 on the basis that the revised design eliminated the overlooking of the properties to the rear via the use of the roof lights and parapet wall.

PLANNING POLICIES AND GUIDANCE:

6. **Denbighshire Unitary Development Plan (adopted 3rd July 2003)**
 - Policy GEN 1 – Development within Development Boundaries
 - Policy GEN 6 – Development Control Requirements
 - Policy HSG 13 – Sub-division of existing premises into self-contained flats
 - Policy RET 15 – Upper floor uses in Commercial Premises
- GOVERNMENT GUIDANCE
Planning Policy Wales March 2002
Ministerial Interim Planning Policy Statement 01/2006 Housing

MAIN PLANNING CONSIDERATIONS:

7.
 - i) Principle
 - ii) Visual appearance
 - iii) Impact on the privacy and amenity of nearby occupiers

8. In relation to the considerations as noted in paragraph 8:
 - i) Principle
In terms of principle, Policy RET 15 allows for beneficial economic use of upper floors of properties within the town centre, and Policy HSG 13 permits the sub-division of premises into self-contained units subject to certain criteria. As such, the principle of the development is considered to be acceptable.

 - ii) Visual appearance
The design of the extension is not considered sufficiently harmful to justify a refusal. Consent has been granted at the adjoining unit (no. 65) for a mirror-image of the same extension.

 - iii) Impact on the privacy and amenity of nearby occupiers
The comments made by the residential occupiers to the rear and the Town Council are noted. However given that the precedent for this form of development has already been established by the consent at the adjoining property, it is not considered that a refusal on the grounds of loss of privacy/amenity and over-intensification of the use of the site could be substantiated and defended at appeal.

SUMMARY AND CONCLUSIONS:

9. On balance, the application is acceptable on the basis that a similar extension has already been allowed at the adjacent unit and that the arrangement of the roof lights and parapet wall will preclude any downward overlooking into the residential properties to the rear.

RECOMMENDATION : GRANT - subject to the following conditions:-

1. The development hereby permitted shall be begun before the expiration of five years from the date of this permission.
2. The materials and finishes of the external surfaces of the walls and roof of the building hereby permitted shall be of the same texture, type and colour as those on external walls and the roof of the existing building.
3. None of the flats hereby permitted shall be occupied until provision has been made within the site for enclosed bin stores and drying areas, in accordance with details which have been submitted to and approved in writing by the Local Planning Authority.
4. The roof area of the extension hereby permitted shall not be used as a balcony, roof garden or similar amenity area without the grant of further specific permission from the Local Planning Authority.

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

1. To comply with the provisions of Section 91 of the Town and Country Planning Act 1990.
2. In the interests of visual amenity.
3. To ensure the units are serviced by adequate storage and drying facilities in the interests of visual and residential amenity.
4. In the interests of the privacy/amenity of the occupiers of nearby properties.

NOTES TO APPLICANT: None

ITEM NO: 13

WARD NO: Rhyl West

APPLICATION NO: 45/2008/0713/ PF

PROPOSAL: Construction of pitched-roof over existing flat-roofed area to create 1no. self-contained flat

LOCATION: 21 Marlborough Grove Rhyl

APPLICANT: Mr A Brooks

CONSTRAINTS: Article 4 Direction

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

CONSULTATION RESPONSES:

RHYL TOWN COUNCIL

"Object. The application would lead to an over-intensification of the site and increased density."

ENVIRONMENT AGENCY

Note that the proposal results in an additional residential unit, but as it is located on the second floor an FCA is not considered to be required.

TRANSPORT AND INFRASTRUCTURE

No objection.

RESPONSE TO PUBLICITY:

None.

EXPIRY DATE OF APPLICATION: 20/08/2008**PLANNING ASSESSMENT:****THE PROPOSAL:**

1. The property is a detached two-storey flat-roofed property occupying a corner plot at the junction of Marlborough Grove and Sydenham Avenue. The property has an alleyway running to another side and has side gable and rear gardens of properties on Sydenham Avenue to the rear. The unit contains four self-contained two-bedroom flats, with the two on the ground floor having the benefit of a small parking/amenity space to the rear.
2. The application proposes to add a new gable-ended roof over the existing flat roof which will serve to increase the maximum height of the property from 7.0 metres up to 11.0 metres at the ridge. The roof will have windows in both of the gable ends along with three roof lights which will enable an additional two-bedroom flat to be created in the roof space. Part of the flat roof fronting Sydenham Avenue will be retained to act as a roof terrace for the property. In addition, a small section of flat roof fronting Marlborough Grove is retained and annotated as an area for drying of clothes for the two first floor units.

RELEVANT PLANNING HISTORY:

3. The property has been subject to a number of applications since its original construction as a restaurant with two flats above, the most recent of which (45/1999/0467/PF) allowed the conversion of the ground floor into two self-contained flats.

PLANNING POLICIES AND GUIDANCE:

4. DENBIGHSHIRE UNITARY DEVELOPMENT PLAN (adopted 3rd July 2003)
Policy GEN 1 – Development within Development Boundaries
Policy GEN 6 – Development Control Requirements
Policy HSG 15 – Residential Conversions in East and West Rhyl

GOVERNMENT GUIDANCE

Planning Policy Wales March 2002

Ministerial Interim Planning Policy Statement 01/2006

MAIN PLANNING CONSIDERATIONS:

5. The main issues raised by the proposal are:
 - i) Principle
 - ii) Visual appearance
 - iii) Impact on the privacy and amenity of nearby occupiers
 - iv) Parking

6. In relation to the main planning considerations in paragraph 5:
 - i) Principle
In terms of principle, Policy HSG 15 allows for 'conversions' subject to the proposal being acceptable in respect of layout and drying areas. Although the creation of the new unit is strictly speaking a new build scheme rather than a conversion, the layout is considered to be acceptable and the retained roof terrace provides a degree of amenity and drying area. The scheme is therefore acceptable in principle.

 - ii) Visual appearance
The existing building is taller than a traditional residential property due to its original commercial ground floor use, and its flat roof is set slightly higher than the adjacent eaves heights for pitched-roof properties along the road. The current property with its pebble-dashed walls and flat roof serves to detract from the general quality of development in the locality. It is common in the area for the end units which occupy corner plots at road junctions to be higher than the main street and to contain an additional floor of accommodation, including the units at the other end of Marlborough Grove at the junction with Sandringham Avenue. As such, it is considered that the addition of a pitched roof to the property will not detract from its visual appearance and will serve to improve its current utilitarian appearance. With respect to the comments of the Town Council, it is not considered the development would lead to an unacceptable overdevelopment.

 - iii) Impact on the privacy and amenity of nearby occupiers
The windows in the gable ends will not overlook any adjacent dwellings and the two areas of flat roof retained on the building front the roads. It is accepted that the 4 metres increase in maximum height will make the building more prominent when viewed from the rear gardens of the nearby houses, but as the eaves height stays the same it is only the centre ridge which will be more obvious. Therefore, the proposal is not adjudged to be sufficiently harmful to adjacent occupiers to justify a refusal.

iv) Parking

The scheme does not provide for any additional parking, but the vast majority of houses in the vicinity do not have any off-street parking and no objection is raised by the Highway Officer.

SUMMARY AND CONCLUSIONS:

7. The application is acceptable and is recommended to be granted.

RECOMMENDATION: GRANT- subject to the following conditions:-

1. The development hereby permitted shall be begun before the expiration of five years from the date of this permission.
2. No external wall or roof materials shall be applied until the written approval of the Local Planning Authority has been obtained to the proposed materials to be used for the external surfaces of the walls and roof(s) of the development hereby permitted and no materials other than those approved shall be used.
3. None of the flats hereby permitted shall be occupied until provision has been made within the site for enclosed bin stores and drying areas, in accordance with details which have been submitted to and approved in writing by the Local Planning Authority.

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

1. To comply with the provisions of Section 91 of the Town and Country Planning Act 1990.
2. In the interests of visual amenity.
3. To ensure the units are serviced by adequate storage and drying facilities in the interests of visual and residential amenity.

NOTES TO APPLICANT:

None

ITEM NO: 14

WARD NO: St Asaph West

APPLICATION NO: 46/2008/0337/ PO

PROPOSAL: Demolition of existing garage, and development of 0.27ha of land by the erection of 44 no. residential retirement apartments and alterations to existing vehicular access (outline application for siting, design and external appearance of buildings and means of access)

LOCATION: Clwyd Garage The Roe St. Asaph

APPLICANT: Muller Property Holdings Ltd.

CONSTRAINTS: C1 Flood Zone

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

CONSULTATION RESPONSES:**ST ASAPH TOWN COUNCIL**

"No objection. The Council did however again express concern at the effect the proposed development would have on service provision in the area, particularly health care."

ENVIRONMENT AGENCY WALES

Site lies within a C1 flood zone. Confirm that having considered the Flood Consequences Assessment submitted in support of the application, the risks and consequences of flooding could be acceptably managed in accordance with the criteria in TAN 15. Consequently, EAW have no objection to the development, subject to the inclusion of a condition on any permission requiring finished floor levels to be set at a minimum of 14.7m AOD. Notes should also be added to encourage the inclusion of flood proof construction techniques to minimise the impact of any inundation event.

WELSH WATER/DWR CYMRU

Request addition of conditions if permission is granted, relating to details of foul and surface water drainage systems, which should be separated, with no surface water or land drainage being allowed to enter the foul system.

COUNTY CONSERVATION ARCHITECT

Scale and bulk of scheme is suitable to the context, as Edwardian properties opposite are 3 storey high. Use of limestone and slate is common and would help assimilate development. Render should be coloured to reflect the buff bricks of the Edwardian houses, and any brickwork should respect that on the side walls of the Edwardian terrace.

HEAD OF TRANSPORT & INFRASTRUCTURE

No objection subject to inclusion of conditions to deal with parking/turning within the site, and the extension of parking restrictions on The Roe and Heol Esgob.

PRINCIPAL PARKS / PLAYGROUNDS AND PLAYING FIELDS OFFICER

Accepts in light of the details of the development that on-site open space provision is not necessary, although amenity space is required for residents' use. Commuted sum payments should be determined in relation to planning policy and Supplementary

Planning Guidance.

AFFORDABLE HOUSING OFFICER

Confirms there is clear evidence of need for affordable housing in the area. On the basis of the Supplementary Guidance, the requirement would be 13 affordable units. The calculated commuted sum would be £716,000 based on a split of 7 x 1 bed and 6 x 2 bed units. Accepts viability issues have to be taken into account in determining the case for payment of commuted sums.

RESPONSE TO PUBLICITY:

Letters of representation were received from:

1. S Underwood, 46 Ashley Court, St Asaph. LL17 0PG.
2. Mr & Mrs J Vaughan, Danesford, 1 Keens Road, St Asaph. LL17 0PR
3. B & E J Powell, Bod Hyfryd, Heol Esgob, St Asaph
4. N Shorter, Glennydd, The Roe, St Asaph. LL17 0LU
5. Mr. M. Rushton, Lyndhurst, The Roe, St. Asaph

Summary of planning based representations.

Principle - General support for change of use from commercial to residential / confusion over who development is proposed for ((over 55's / retirement homes / sheltered accommodation).

Access / parking - Concerns over obstruction to visibility at site entrance from parked vehicles at nearby care centre / inadequate parking for residents and visitors / traffic figures seem to underplay likely movements.

Flooding - Is development in a flood area acceptable

Amenity impact - Development would overlook adjacent private gardens / would introduce additional security risk by opening adjacent property to view / need for adequate screen walls, fences and additional planting to address concerns / development would result in loss of afternoon sunlight to nearby property in the winter.

Design / appearance - Support change to traditional design / concerns over size / scale of development and negative impact on The Roe / out of context with other property and adjacent conservation area.

Impact on local services - Concerns over impact on dental and medical practices.

Absence of open space - No open area for residents.

EXPIRY DATE OF APPLICATION: 04/06/2008

REASONS FOR DELAY IN DECISION:

- re-consultations / further publicity necessary on amended plans and / or additional information
- detailed investigation of affordable housing and open space issues

PLANNING ASSESSMENT:

THE PROPOSAL:

1. The application is for outline planning permission to redevelop a 0.27ha site which has been occupied by the Clwyd Garage business on The Roe, St Asaph. It seeks the approval of the siting design, and external appearance of the buildings and the means of access, and reserves landscaping for future approval. The main

elements of the scheme are:

- i) The demolition of the existing buildings.
- ii) The erection of a building containing 44 'sheltered accommodation apartments' including a warden's flat (26 x 1 bed units and 18 x 2 bed units). The building would be 'L' shaped, of 3 storey height, but dropping down to 2 storey at either 'end' nearest to No. 1 Heol Esgob, and Merllyn Terrace on The Roe. The building would be constructed with a traditional pitched slated roof, with external wall materials including natural limestone, render and facing brick.
- iii) The provision of 25 off street parking spaces in the area to the rear of the main building, with a single point of access onto The Roe.
- iv) The provision of a small amenity area at the rear of the main building.

The layout plan and elevational details are included at the front of the report.

2. The site lies within the development boundary of St Asaph, in the Unitary Development Plan. Clwyd Garage has been used as a car sales / showroom, an MOT facility and a car body repairs workshop. These activities have been carried out from a range of buildings of varying designs, with access off The Roe.
3. The site was the subject of an application to erect 30 apartments and a retail store in 2007. This was refused at the February 2008 planning committee on the basis of inadequate provision for affordable housing and open space, and the unacceptable design of the buildings. (see planning history). The applicants have appealed against this refusal to the Planning Inspectorate. A Public Inquiry was originally scheduled for mid August 2008, but has been put into abeyance for 3 months to await the outcome of the current application.
4. The application forming the subject of the report is submitted in outline form and is for a purely 'residential' scheme, eliminating the retail/store previously proposed. It is accompanied by a number of detailed documents dealing with different elements of the proposals:
 - i) A Design and Access Statement, dealing with the design principles and specific Access issues.
 - ii) An affordable housing questionnaire, outlining the proposal to offer a commuted sum payment of £144,000 in lieu of on site provision of affordable housing, and the reasons why on site provision of affordable housing is not considered appropriate as part of a retirement scheme.
 - iii) A Flood Consequences Assessment.
 - iv) A Transport Statement.
 - v) A draft 'Unilateral Undertaking' under Section 106 of the Planning Act setting out the applicants offer in respect of the commuted sum payment.
 - vi) A detailed Development Appraisal / Viability assessment, setting out the development costs, returns, land value and profitability, to allow assessment of the ability of the scheme to sustain a contribution to commuted sum payments.
5. A further detailed submission was received in early July 2008 in the form of a 29 page Planning Statement from Armstrong Burton Planning. This deals with the range of issues considered key to the determination, and concludes:
 - i) the redevelopment benefits from removing a non conforming use are a material consideration weighing in favour of a permission.
 - ii) the design is now 'more traditional' and addresses previous concerns, being high quality, in accord with policy and reflective of local characteristics.

- iii) the current economic situation and significant on site costs impact significantly on the ability of the developer to offer financial planning contributions:-
 - a) the planning statement demonstrates that there is no policy basis to seek contribution towards public open space or the provision of children's play space (based on the Council's own survey data);
 - b) there are extensive development costs and viability concerns which provide evidence that indicate no affordable housing should be requested from the scheme. Notwithstanding this, and on a 'without prejudice' basis, the applicants are willing to provide contributions towards off site provision of affordable housing – and the maximum sum is £144,000.
- iv) flooding, drainage and transport issues have been considered and impacts are acceptable.
- v) the proposals are considered to be in accordance with Unitary plan policy and relevant guidance.

RELEVANT PLANNING HISTORY:

- 6. There have been a number of applications relating to the operation of the garage, showroom and filling station, but the only one of direct relevance to the residential/retail uses now proposed is:-

46/2007/0781/PF

Demolition of existing garage, erection of 30 no. Apartments and retail store and construction of new vehicular and pedestrian access (site area 0.27ha)

Refused – 20/02/2008 for following reasons:

1. In the opinion of the Local Planning Authority the scheme does not make satisfactory provision for affordable housing or open space, contrary to policies HSG 10 and REC 2 of the Denbighshire Unitary Development Plan, related Supplementary Planning Guidance Note No. 22 – Affordable Housing in New Developments, and Note No. 4 – Recreational Public Open Space, and advice in Welsh Assembly Government Technical Advice Note 2 – Planning and Affordable Housing.

2. It is the opinion of the Local Planning Authority that the design and size of the proposed buildings would be unacceptable and out of keeping with the character of existing development in the locality, and would have a detrimental impact on the views into and out of the adjacent Conservation Area, on a major route into the Cathedral city. The proposals are considered contrary to Policy CON 6 and GEN 6 (i) and (ii) of the Denbighshire Unitary Development Plan”.

A subsequent appeal against the refusal is being held in abeyance for 3 months to await the outcome of the current application.

PLANNING POLICIES AND GUIDANCE:

- 7. DENBIGHSHIRE UNITARY DEVELOPMENT PLAN (adopted 3rd July 2002)
 - Strategic Policies 1, 2, 5, 6, 8, 10 & 11
 - Policy GEN 1 - Development Within Development Boundaries
 - Policy GEN 6 - Development Control Requirements
 - Policy GEN 8 - Planning Obligations
 - Policy GEN 10 - Supplementary Planning Guidance
 - Policy ENP 1 - Pollution
 - Policy ENP 4 - Foul and Surface Water Drainage
 - Policy ENP 6 - Flooding
 - Policy ENP 8 - Contaminated Land

- Policy HSG 2 - Housing Development in Main Centres
- Policy HSG 10 - Affordable Housing Within Development Boundaries
- Policy REC 2 - Amenity and Recreational Open Space Requirements in New Developments
- Policy REC 4 - Recreation facilities within Development Boundaries
- Policy TRA 6 - Impact of New Development on Traffic Flows
- Policy TRA 7 - Road Design
- Policy TRA 8 - Transport Requirements in Major Developments

Supplementary Planning Guidance

- SPG 4 - Open Space Requirements
- SPG 8 - Access for All
- SPG 21 - Parking
- SPG 22 - Affordable Housing

GOVERNMENT GUIDANCE

Planning Policy Wales March 2002

TAN 2 - Planning and Affordable Housing 2006

TAN 12 - Design 2002

TAN 15 - Development and Flood Risk 2004

TAN 18 - Transport March 2007

Welsh Office Circular 13/97

Ministerial Interim Planning Policy Statement 1/2006 - Housing

MAIN PLANNING CONSIDERATIONS:

8. The main considerations are:-

- i) The principle of the development.
- ii) The capacity of the highway network and impact on highway safety.
- iii) Design/visual impact.
- iv) Impact on residential amenity.
- v) Flood and drainage issues.
- vi) Contamination issues.
- vii) Affordable housing and open space issues.

9. In relation to the main considerations:-

- i) Principle of the development
The site lies within the development boundary of St. Asaph in the Unitary Development Plan, and would be considered a 'brownfield' site or Previously Developed Land, being occupied by a long established garage business. Whilst the loss of an employment use is regrettable, having regard to the existing use of the premises, and the fact there are no use designations within the Unitary Plan for the site, the principle of a residential development with regeneration benefits would be acceptable. The specific impacts are assessed in the following paragraphs.
- ii) Highway issues
The application includes a detailed Transport Assessment by Sanderson Associates. The Highways officers have assessed the proposals and raise no objections subject to inclusion of conditions, including a requirement for extension of existing parking restrictions on adjacent highways. It is considered, with respect to the concerns expressed, that the parking/access arrangements are acceptable to accommodate the development, and that the highway network is capable of accommodating the scale of development proposed, in accordance with Unitary Plan policies TRA 6 and 9. The level of

parking provision for a sheltered housing scheme (25 spaces) would be compliant with the guidance in SPG 21 (1 space / 2 units, 1 space / resident staff)

particularly given the location near the town centre and accessibility to public transport.

iii) Design / Visual Impact

The 'L' shaped building would be located at a busy road junction, alongside the A525, which forms the main highway route through St Asaph, so it would be visible at a focal point to all residents and visitors using the road. The site is outside of, but immediately bordering the town's Conservation Area. The design approach adopted to the scheme is completely different to that on the previously refused application, which was for a building of 'modern' detailing, and was considered to be inappropriate in the context of the locality. The current scheme includes for the use of materials traditional to the area, with limestone, render and brickwork on the walls, and the form is more sympathetic to the character of surrounding development. The Conservation Officer concludes that the scale and bulk of the scheme is suitable to the area, and in particular the 3 storey Edwardian properties on the opposite side of The Roe (within the Conservation Area). Again, with respect to local concerns, it is considered that the design and visual impact would be acceptable, respecting local styles and would result in a development of some visual interest, all subject to control over the type of materials to be used. The proposals are considered to be compliant with Unitary Plan policies, in particular GEN 6, and with TAN 12 – Design.

iv) Residential Amenity

With due respect to concerns over the impact of the building, the development has been designed to take account of the relationship with adjacent residential property, dropping to 2 storey height where it approaches existing dwellings on Heol Esgob and at Merllyn Terrace, and ensuring that proper distances are maintained between proposed units and existing dwellings/gardens, to retain levels of privacy and amenity. Due attention would be necessary to the detailing of measures to limit the impact of activity in the parking areas for the flats on nearby residential properties, which can be dealt with by condition (improved boundary screening/landscaping etc) to ensure the amenity impacts outlined in Unitary Plan policy GEN 6 are suitably mitigated.

v) Flood Risk

The site lies within what is shown as a C1 Flood Zone on the Development Advice Maps produced in conjunction with TAN 15 (Development and Flood Risk). There are specific justification tests in TAN 15 which need to be applied to determine initially whether the principle of development is acceptable in C1 zones. In this case it is considered the principle can be supported as the proposals support the authority's policies to secure regeneration, and the site clearly meets with the definition of previously developed land.

In respect of the requirement to address flood risk, detailed dialogue has taken place on the previous application between consultants acting for the applicants, and the Environment Agency Wales over the matter of flood risk. A detailed Flood Consequences Assessment has been undertaken, and has been submitted with the current application. Following evaluation of this information provided by the applicants' consultants, the Environment Agency has confirmed that the consequences of flooding can be acceptably managed and there are no objections, subject to floor levels of buildings being set at a

particular level.

vi) Contamination issues

There are potential contamination problems arising from the existing and previous uses of the garage site, in particular with the presence of fuel tanks. It would be necessary to condition any permission to require a full survey of the site and details of measures/mitigation necessary to address contaminants present, to enable the development to proceed.

vii) Affordable housing and open space issues

Having due regard to the background here, it is suggested these remain key issues on the application. Officers have sought through involvement of the District Valuer Service to obtain an independent assessment of the financial viability of the scheme, and its ability to sustain contributions to affordable housing and open space. There has been detailed dialogue and meetings with the applicants and their advisors to clarify principles and respective positions over the application of planning policy and guidance.

The applicants position

The applicants have submitted a volume of supporting information to establish their position over the provision for affordable housing and open space in connection with the scheme. They acknowledge national and local policy and guidance in relation to these matters, but ultimately, with regard to the main considerations, suggest there are reasonable grounds to contest insistence on full provision. Their basic points are as follows: (officer summary) in relation to:

i) The provision of affordable housing:

- a) Leaving aside initially the impact of viability the affordable requirement, on site provision as part of a retirement/sheltered scheme is likely to be opposed by RSL's as there would be mixed tenure buildings (market and affordable units) and there would be a number of related difficulties (co-existence of elderly people under different housing tenure, sharing the same facilities; creating a divisive community, fostering resentment, creating management problems; the payment of service charges for on-site/commercial care facilities may not be feasible for occupiers of affordable units). Hence if there was a case for affordable provision, this should be in the form of a commuted sum payment.
- b) The County Council's Unitary Plan and SPG confirm the requirement to seek affordable housing, in the preferred form of on site provision, but accept the process is subject to negotiation, and that where there is evidence to demonstrate the 30% level of provision is not justified, an alternative provision may be preferable, and where the scheme would not be viable with an affordable requirement, then the Council should take a flexible view.
- c) The detailed viability assessment undertaken establishes, having due regard to all costs and returns, that the net return to the developer would be 10% before overheads and tax. This is considered to be a margin below that accepted by all main regional residential developers in normal market conditions.
- d) The conclusion is that there is no scope for the applicant to offer any financial planning contributions. However, without prejudice, the applicants have expressed willingness to provide a contribution to affordable housing in the form of a maximum commuted sum of £144,000 towards off site provision.

- ii) The provision of open space
 - a) Unitary Plan Policy REC 2 sets out the requirement for provision of open space in conjunction with new residential development. Where the provision can not meet the required standard on site, then there is an expectation for a financial contribution to be made in accordance with County Standards. The justification to the policy makes it clear that sheltered housing schemes should not be expected to make provision for children's play space, hence any requests for contributions should exclude a children's play space requirement.
 - b) SPG 4 amplifies the Unitary Plan policy. The SPG indicates that where residential developments in excess of 10 units are proposed, and a deficiency in open space provision has been identified, open space is expected to be provided in accordance with the County Standards. The 1999 survey to inform the UDP preparation confirmed that St Asaph has an overall surplus of open space (Community Recreational Open Space-CROS). The argument is therefore that there is no policy basis for requesting any public open space in connection with this development, either on site, or commuted sums for off site open space.
 - c) Calculations for payment of commuted sums in the Council's Open Space Calculator is based on the number and type of occupants, and applies a standard household size occupancy of 3 persons. In this case the Council have initially suggested an occupancy of 2 persons and a commuted sum provision which includes provision for CROS and children's play, which would be considered inappropriate and contrary to policy based on the reasoning above. The majority occupancy is suggested at one person per unit.
 - d) Provision for children's play space is not justified in a sheltered elderly persons housing scheme, a stance supported in Circular 13/97.
 - e) Any planning obligation should be provided to meet the needs of the development itself, and should not be used to resolve existing deficiencies elsewhere.
 - f) The conclusion is that there is no policy justification or requirement for a contribution towards Public Open Space, or equipped children's play space. The developer's initial offer of a £30,000 commuted sum for open space was made without full and proper assessment of the background. There have also been significant additional costs in relation to the planning appeal and these also impact on the financial viability of the scheme. The £30,000 identified in the viability assessment as contribution to Open Space is not considered to be justified, and is consequently no longer on offer.

The County Council's position

In relation to:-

- i) The provision of affordable housing:
 - a) Unitary Plan Policy HSG 10 sets a requirement for the provision of affordable housing on sites within development boundaries, where a demonstrable need exists. The policy is supplemented through SPG 22 : Affordable Housing, which outlines how affordable housing is to be delivered in new residential development. The approach reflects WAG guidance in TAN 2 and Ministerial Planning Policy Statements in 2006, which contain a strong presumption that affordable housing is provided on application sites.

- b) The housing officers confirm there is a demonstrable need for affordable housing in St. Asaph. Based on the current SPG policy, the requirement on a 44 unit scheme would be 13 apartments.
- c) The SPG sets out a preference for on-site provision, but accepts the need to adopt a flexible approach dependent on circumstances. It encourages negotiation with developers and indicates that where it can be demonstrated a scheme is unviable as a direct result of affordable provision, then a 'sensible approach' will be adopted, which may include reducing or waiving such provision.
- d) In officers' opinion, in the first instance, the particular type of development proposed does not lend itself to on-site provision of affordable units. This would be a single building for elderly persons with shared facilities for residents in central areas. Mixed tenure buildings, i.e. market and affordable units are largely unpopular with Registered Social Landlords for management reasons, and the likely service charges may make units unaffordable. It is suggested that if there is a case for affordable provision, this would be acceptable in the form of a commuted sum payment.
- e) Based on SPG policy, and a split of the 13 apartments into 7 x 1 bed and 6 x 2 bed, the housing officer calculates the commuted sum payment would be in the order of £716,000.
- f) Ultimately, it is suggested that the issue turns on the viability of the scheme, and whether, having proper regard to the financial appraisal, this demonstrates whether the development could reasonably sustain a commuted sum payment. If it can not, it may not be realistic for the authority to insist on a full contribution.
- g) The District Valuer Service has carried out a thorough review of the applicant's 'Development Appraisal' and in respect of the conclusions on the main development costs and value, there is little dispute over the figures. The only substantive point at issue is significance of the 'high' land acquisition price agreed for the site in 2006, and whether this genuinely reflected the requirement for affordable provision, as it is significantly higher than the current development value and severely impacts on the viability of the scheme and the ability to sustain an affordable contribution. The Authority has to ensure that the availability of Section 106 commuted sum moneys for affordable housing is not at the discretion of a vendor or purchaser of a site.

In response to concerns over the consideration given to the affordable housing requirement and the impact of the acquisition price, the applicants and their planning consultant have set out in detail the sequence through which the negotiation process for the site has passed. They have clarified that:

- i) The initial price offer included 30% provision for affordable housing units to be offered on a shared ownership basis to an RSL at the relevant discounted market value : with a 17% developer's return at the contract land value.
- ii) There is some sympathy with the District Valuer's arguments over land value, if all land transactions could be negotiated in a short space of time. In this particular case, due consideration has to be given to the fact that Muller have been in negotiations for the site since 2005, and an agreed fixed offer which is the subject of a contract was based on the viability situation in June 2006. This matter should not give rise to objection from the District Valuer or local authority.
- iii) Since 2006 there has been a significant fall in the residential market, and land values for apartment schemes have fallen by up to 30%. Attempts have been

made to renegotiate the land value, but the vendors do not have to sell, and receive an attractive income from the existing use.

- iv) The scheme has been revised to a retirement concept and the developer's margins have been reduced, all in an attempt to make the project work. The offer of a £144,000 contribution can not be increased, based on the DV's own assessment with the contract land value, and the scheme would be unviable at this level.
- v) Notwithstanding the viability issues, due account needs to be taken of the significant benefits from the redevelopment of the site, as a material consideration to weigh in favour of the grant of permission (visual amenity improvements, removal of non-conforming use, remediation of a contaminated site, provision of an assisted living/close care scheme to meet existing housing needs).

Having regard to the background facts, officers conclusion is that it would be unreasonable at this stage to recommend refusal based on inadequate affordable provision. Whilst noting the comments of the District Valuer over the implications of the high land acquisition price, due recognition has to be given to the developer's position having negotiated and secured a deal in 2006, and the fact that there will be few instances where the particular circumstances could be repeated to set a precedent (i.e. contractual agreement in 2006, lengthy delay in securing planning consent, significant fall in the housing market and land value). On the basis of the information in front of the authority, there are clear questions over the viability of the scheme and its ability to sustain an affordable contribution anywhere near the £716,000 calculated against 13 units. Officer's view is that the £144,000 offer for affordables should be accepted as a positive benefit from the scheme in present circumstances.

- ii) The provision of open space:-
 - a) Unitary Plan policy REC 2 outlines a requirement for amenity and recreational open space in new housing developments of more than 10 units. The policy is amplified in SPG 4 – Recreational Open Space. There is no requirement for children's play space in sheltered housing schemes. The SPG states open space is only required where a deficiency in provision is identified.
 - b) There is a need for adequate amenity space on the site to serve a basic demand from residents for sitting out/relaxing. This is poorly detailed on the submitted plans, but as landscaping is reserved matter it is possible to deal with this at a future stage.
 - c) The 1999 survey which informed Unitary Plan policy REC 2 pointed to an overall surplus of community recreational open space (CROS) in St. Asaph, and the Development Plan section are not aware of any subsequent publicly available survey which would contradict that conclusion. In the absence of evidence to the contrary, this would suggest there is no basis within planning policy for provision of community recreational open space on site, or by way of commuted sum payment.

Other matters raised.

With due respect to the comments of the Town Council, it would not be appropriate to withhold permission on the basis of potential impact of a single development on the level of service provision in the town.

SUMMARY AND CONCLUSIONS:

10. The development is acceptable in principle and in terms of a range of land use planning considerations. The main issues are whether there is a case to oblige affordable housing and open space provision.

In officers' opinion, the particular circumstances would not justify on-site provision of affordable housing, and commuted sum payment would be a satisfactory alternative. However, when assessing the extent of contributions, the viability of a development is a material consideration. In this instance, it is suggested the detailed financial appraisals point to a marginally viable scheme and do not support a case for a commuted sum for affordable provision above the offer of £144,000.

In respect of open space provision, it is considered that on the basis of available survey information, there is a surplus of Community Recreational Open Space in St Asaph and there is no planning policy justification for provision in connection with the development.

There are significant regeneration and redevelopment gains to weigh in favour of the application.

The recommendation is subject to the completion of a Section 106 agreement/Unilateral Undertaking within 12 months of the date of the Committee to secure the payment of £144,000 as a contribution to the off-site provision of affordable housing. The Certificate of Decision would only be released on the completion of the legal agreement and on failure to compete within the period, the application would be reported back to the Committee for reconsideration against policies and guidance applicable at that time.

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

1. Approval of the details of the landscaping of the site (hereinafter called "the reserved matter") shall be obtained from the Local Planning Authority in writing before the commencement of any development.
2. Application for approval of the reserved matter shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.
3. The development hereby permitted shall be begun either before the expiration of five years from the date of this permission, or before the expiration of two years from the date of approval of the reserved matter, whichever is the later.
4. No development shall be permitted to commence until the written approval of the Local Planning Authority has been obtained to the precise materials to be used on the external walls and the roofs of the buildings.
5. The detailing of the external amenity areas shall not be as shown on the submitted plans, but shall be in accordance with such detailed plans as are submitted to, and are approved in writing by the Local Planning Authority prior to the occupation of any of the apartments.
6. No development shall be permitted to commence until the existing parking restrictions on The Roe and Heol Esgob have been extended in accordance with such detail as is agreed in writing by the Local Planning Authority; and the approved arrangements shall be completed before the occupation of any of the apartments.
7. None of the apartments shall be occupied until the completion of the approved access, car parking, boundary walls and fences.
8. Notwithstanding the submitted details, no development shall be permitted to commence until the written approval of the Local Planning Authority has been obtained to the detailing of the boundary walls and fencing, and related planting.

9. The car parking area shown on the approved plan shall be kept available for that purpose at all times.
10. The finished floor levels shall be set at a minimum of 14.7m AOD unless otherwise agreed in writing by the Local Planning Authority prior to the commencement of development.
11. No development shall commence until a scheme for the provision and implementation of a surface water regulation system has been submitted to and approved in writing by the Local Planning Authority. Such scheme shall be implemented prior to the construction of any impermeable surfaces draining to the system unless otherwise agreed in writing by the Local Planning Authority.
12. All foul, surface water and land drainage discharges shall be drained separately from the site, and no surface water or land drainage shall be allowed to connect directly or indirectly to the public sewerage system without the written approval of the Local Planning Authority.
13. No demolition or new building works shall be permitted to commence until a scheme to deal with any contamination of the site and buildings has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include an investigation and assessment to identify the extent of contamination and the measures to be taken to avoid risk to the public, buildings and environment when the site is developed.
14. In the event that the scheme required by Condition 13 of this permission reveals the presence of any contaminated or hazardous material, no demolition or building works shall be permitted to commence until there has been submitted to the Local Planning Authority a detailed site specific risk assessment to identify risks to water resources, surrounding land and property, wildlife, building materials and future users of the site, and any other persons; and the written approval of the Local Planning Authority has been obtained to detailed proposals for addressing the risks, specific measures for decontaminating the site and dealing with any unsuspected hazardous material or contamination which becomes evident during the development of the site. The development shall be carried out strictly in compliance with the details measures approved by the Local Planning Authority.
15. In the event that any areas of unexpected contamination become evident in the course of demolition or construction works, all works in the vicinity of that contamination shall be suspended immediately, and the Local Planning Authority shall be notified within 24 hours. No work shall be permitted to continue in the affected area until the written agreement of the Local Planning Authority has been obtained to details of the measures proposed to remove or contain any hazard presented by the contaminants, and the method of rendering harmless such contamination. The development shall only be permitted to proceed in accordance with the details approved.

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 comply with the provisions of Section 92 of the Town and Country Planning Act 1990.
3. To comply with the provisions of Section 92 of the Town and Country Planning Act 1990.
4. In the interests of visual amenity.
5. To ensure the provision of adequate amenity space for residents.
6. In the interests of the safety and free flow of traffic on the adjoining highways.
7. In the interests of highway safety, and the amenities of occupiers of adjacent property.
8. In the interests of visual amenity and the amenities of occupiers of adjacent residential property.
9. To ensure adequate facilities are retained for parking off the A525 and Heol Esgob.
10. To minimise flood risk.

11. To prevent the increased risk of flooding by ensuring the provision of a satisfactory means of surface water disposal.
12. To protect the integrity of the public sewerage system, and to prevent hydraulic overload of the system.
13. To ensure suitable safeguards are in place to establish the presence of hazardous or contaminated material, and to protect the intensity of existing residents and potential uses of the land.
14. To ensure suitable safeguards are in place to establish the presence of hazardous or contaminated material, and to protect the intensity of existing residents and potential uses of the land.
15. To ensure suitable safeguards are in place to establish the presence of hazardous or contaminated material, and to protect the intensity of existing residents and potential uses of the land.

NOTES TO APPLICANT:

Your attention is drawn to the attached Highway Supplementary Notes Nos. 1, 3, 4, 5 & 10. Your attention is drawn to the attached Part N form (New Road and Street Works Act 1991). 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 encouraged to include proper floodproof construction techniques in the detailed design of the development to minimise the impact of any inundation event. You should contact Environment Agency Wales for information and advice on this matter.

MATERION GORFODAETH

- (i) **ENF/ 2007/00100**
The Retreat, Llanelwy

Newid defnydd o dir amaethyddol i storio carafannau heb awdurdod

- (ii) **ENF/2008/00079:**
Tir Ger Gors Wen, Llanynys, Dinbych

Adeiladau a newid defnydd tir ar gyfer ystablau ceffylau heb awdurdod

- (iii) **ENF/2008/00080 :**
2 The Grove Prestatyn

Ffens heb Awdurdod

Heading:

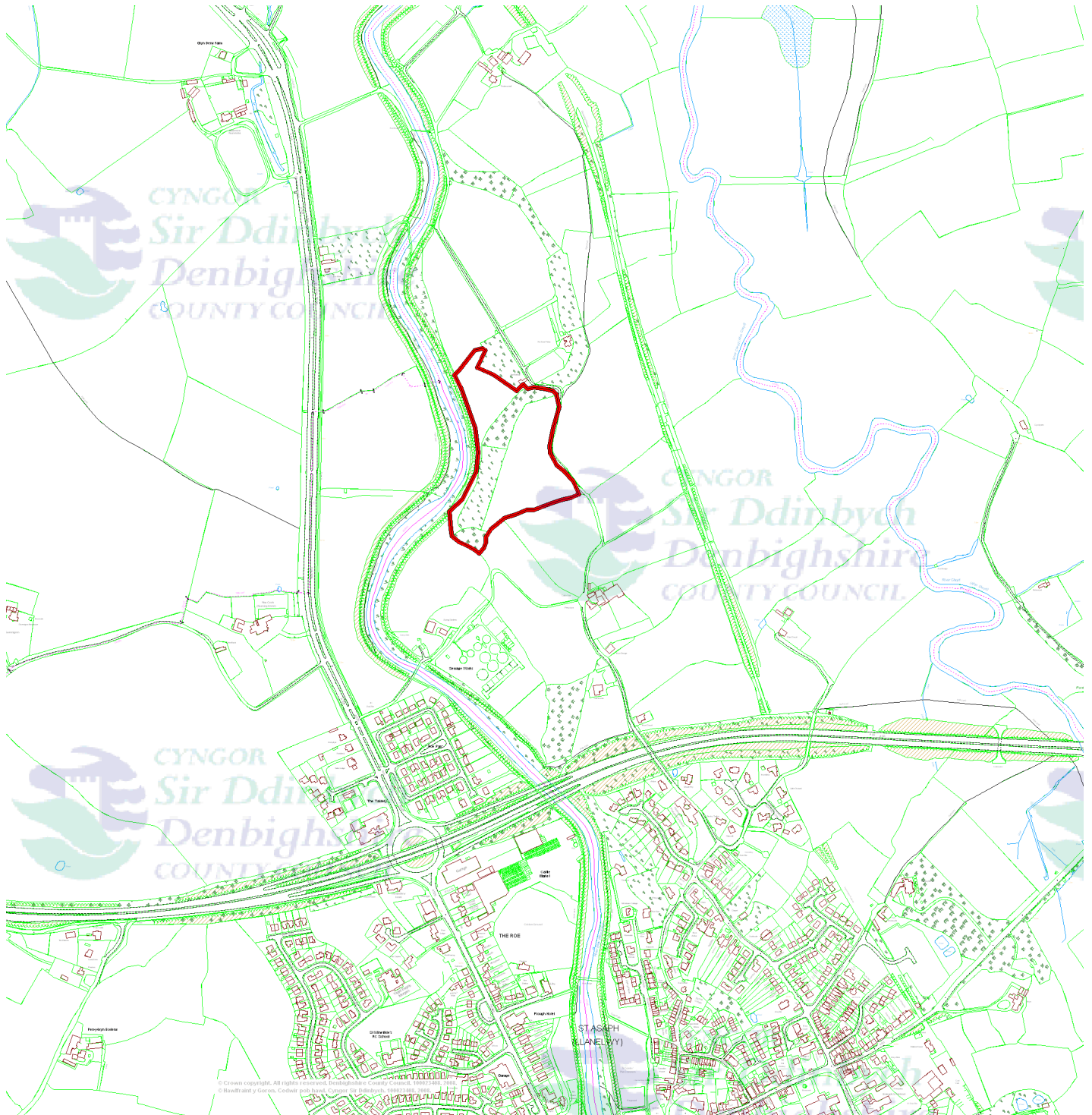
ENF/2007/00100
LAND ADJACENT TO
THE RETREAT, MOUNT ROAD, ST. ASAPH

Graham Boase
Head of Planning & Public Protection
Denbighshire County Council
Caledfryn
Smithfield Road
Denbigh
Denbighshire LL16 3RJ
Tel: 01824 706800 Fax: 01824 706709



Date 21/8/2008
Centre = 303419 E 375268 N

Scale 1/10000



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ADRODDIAD GORFODAETH CYNLLUNIO

CYF: ENF/2007/00100

LLEOLIAD: Tir ger The Retreat, Mount Road, Llanelwy

**TRAMGWYDDIA
D:** Newid Defnydd heb ei Awdurdodi o Dir Amaethyddol i Storfa
Carafannau

POLISIŌ A CHANLLAWIAU CYNLLUNIO PERTHNASOL

CYNLLUN DATBLYGU UNEDOL SIR DDINBYCH

Polisi GEN 6	-	Gofynion Rheoli Datblygu
Polisi ENV 1	-	Amddiffyn yr Amgylchedd Naturiol
Polisi TSM 9 Chalets	-	Datblygiadau Carafannau Sefydlog a
Polisi TSM13	-	Storio Carafannau dros y Gaeaf
Nodyn SPG 20 Chalets	-	Datblygiadau Carafannau Sefydlog a

CANLLAWIAU'R LLYWODRAETH
Polisi Cynllunio Cymru - Mawrth 2002

YSTYRIAETHAU HAWLIAU DYNOL

Talwyd sylw at ddarpariaethau'r Ddeddf Hawliau Dynol 1998 wrth ystyried cymryd camau gorfodaeth mewn perthynas â storio carafannau heb awdurdod. Yn yr achos hwn mae'r mater dan ystyriaeth yn berthnasol i hawliau tirfeddiannwr i gadw carafannau ar dir amaethyddol heb yr awdurdod gofynnol i wneud felly. Mae'r hawliau hyn yn cael eu gorbwyso gan ddi-ddordeb y cyhoedd yn gyffredinol a'r angen i cadw'r amgylchedd naturiol.

1. GWYBODAETH GEFNDIR

- 1.1 Mae'r tir o dan sylw rhwng yr eiddo a adnabyddir fel The Retreat, Mount Road, Llanelwy ac Afon Elwy. Mae'n dir amaethyddol a ddefnyddiwyd yn ddiweddar i bori defaid.
- 1.2 Ar 13 Awst 2007, derbyniodd y Gwasanaethau Cynllunio gŵyn ddi-enw yn honni fod nifer o garafannau a chyfarpar ar gyfer diddori plant wedi'u gweld ar y tir a grybwyllir uchod. Cafodd hynny'i gadarnhau gan Swyddog Cydymffurfio Cynllunio yn ystod ymweliad safle ar 23 Awst 2007 pan gafwyd cyfarfod gyda chynrychiolydd y tirfeddiannwr. Deallir, er bod y carafannau yn cael eu cadw'n bennaf ar y tir, mai ond yn achlysurol iawn y maen nhw'n cael eu ddefnyddio a hynny yn yn ystod ymweliadau teuluol. Cynghorwyd y cynrychiolydd i symud y carafannau a chafodd hynny ei cadarnhau'n ysgrifenedig yn ddiweddarach.
- 1.3 Trefnodd y tirfeddiannwr i fynychu Cymhorthfa Cynllunio i ofyn am gyngor, ond ni ddaeth yno.

- 1.4 Arhosodd y carafannau ar y safle ac ar 29 Tachwedd 2007 cyflwynwyd Rhybudd Adran 330 ar y tirfeddiannwr yn gofyn yn ffurfiol am fanylion perchnogaeth y tir. Cafodd holiadur ynghlwm wrth y Rhybudd ei gwblhau a'i ddychwelyd a rhoddwyd sicrwydd y byddai'r carafannau'n cael eu symud ar ôl i'r tir sychu a phan fyddai'n bosibl eu symud.
- 1.5 Ar 31 Gorffennaf 2008, gwelwyd yn ystod ymweliad safle arall nad oedd y carafannau wedi'u symud. Mae dwy garafan sefydlog ar y tir, dwy garafan o fath teithiol, un ôl gerbyd, un cerbyd modur a nifer o eitemau ar gyfer difyrru plant. Doedd dim tystiolaeth fod y carafannau cael eu defnyddio ar gyfer gwyliau yn ystod unrhyw ymweliad safle, sy'n ategu honiad y perchennog mai ond yn achlysurol iawn yn ystod ymweliadau teuluol y mae'r carafannau sy'n cael eu cadw ar y tir yn cael eu defnyddio.

2. Y RHESYMAU DROS GYFLWYNO RHYBUDD GORFODAETH

- 2.1 Dechreuodd y defnydd o'r tir heb awdurdod yn ystod y deng mlynedd diwethaf.
- 2.2 Mae'r tirfeddiannwr yn cadw pedair carafan a nifer o eitemau ar gyfer diddori plant ar dir amaethyddol. Mae hynny'n dangos defnydd cadw heb awdurdod ac nid yw'n cynnal nac yn gwella cymeriad tirlun y cefn gwlad ac felly'n groes i Bolisi ENV 1. Mae'r mynediad gwael i'r safle o lôn di-ddosbarth yn cael ei gymhlethu gan y ffaith fod y safle ger Afon Elwy ac chan fod y tir yn aml yn wlyb mae'n anodd os nad yn amhosibl ar adegau symud y carafannau. Mae hynny felly'n groes i Bolisiau TSM 9 ac 13. Er fod y safle'n cael ei sgrinio'n eithaf da, mae'n weladwy o'r llwybr troed sy'n rhedeg ar lan gorllewinol Afon Elwy ac mae i'w gweld hefyd o'r ffordd di-ddosbarth sy'n gwasanaethu'r safle. Ystyrir fod y defnydd heb awdurdod yn effeithio'n annerbyniol ar ffurf a chymeriad y tirlun o amgylch ac felly mae Polisi GEN 6 hefyd yn cael ei dorri.
- 2.3 Ni fyddai gosod amodau cynllunio fel rhan o ganiatáu unrhyw gais cynllunio yn goresgyn y gwrthwynebiadau a amlygir.
- 2.4 Mae'r perchennog wedi gwrthod symud y carafannau.

3. ARGYMHELLIAD

- 3.1 Awdurdodi'r canlynol:
 - (i) Cyflwyno Rhybudd Gorfodaeth i beidio â storio heb awdurdod a sicrhau fod y ddwy garafan sefydlog ar y tir, y ddwy garafan o fath teithiol, un ôl gerbyd, un cerbyd modur a nifer o eitemau ar gyfer difyrru plant yn cael eu symud.
 - (ii) Cychwyn ar drefniadau erlyn, neu weithredu'n addas fel arall o dan y Ddeddf Gynllunio, yn erbyn unrhyw berson neu bersonau y cyflwynir y Rhybudd Gorfodaeth iddynt, neu y cyflwynir unrhyw Rybudd arall iddynt, neu y cymerir achos cyfreithiol yn eu herbyn os na fyddant yn cydymffurfio gyda gofynion y Rhybudd Gorfodaeth.
 - (iii) Cyfnod cydymffurfio o 4 mis.

Heading:

ENF/2008/00079

LAND ADJACENT TO GORS WEN,

LLANYNYS, LL16 4LH

Graham Boase
Head of Planning & Public Protection
Denbighshire County Council

Caledfryn
Smithfield Road
Denbigh

Denbighshire LL16 3RJ

Tel: 01824 706800

Fax: 01824 706709



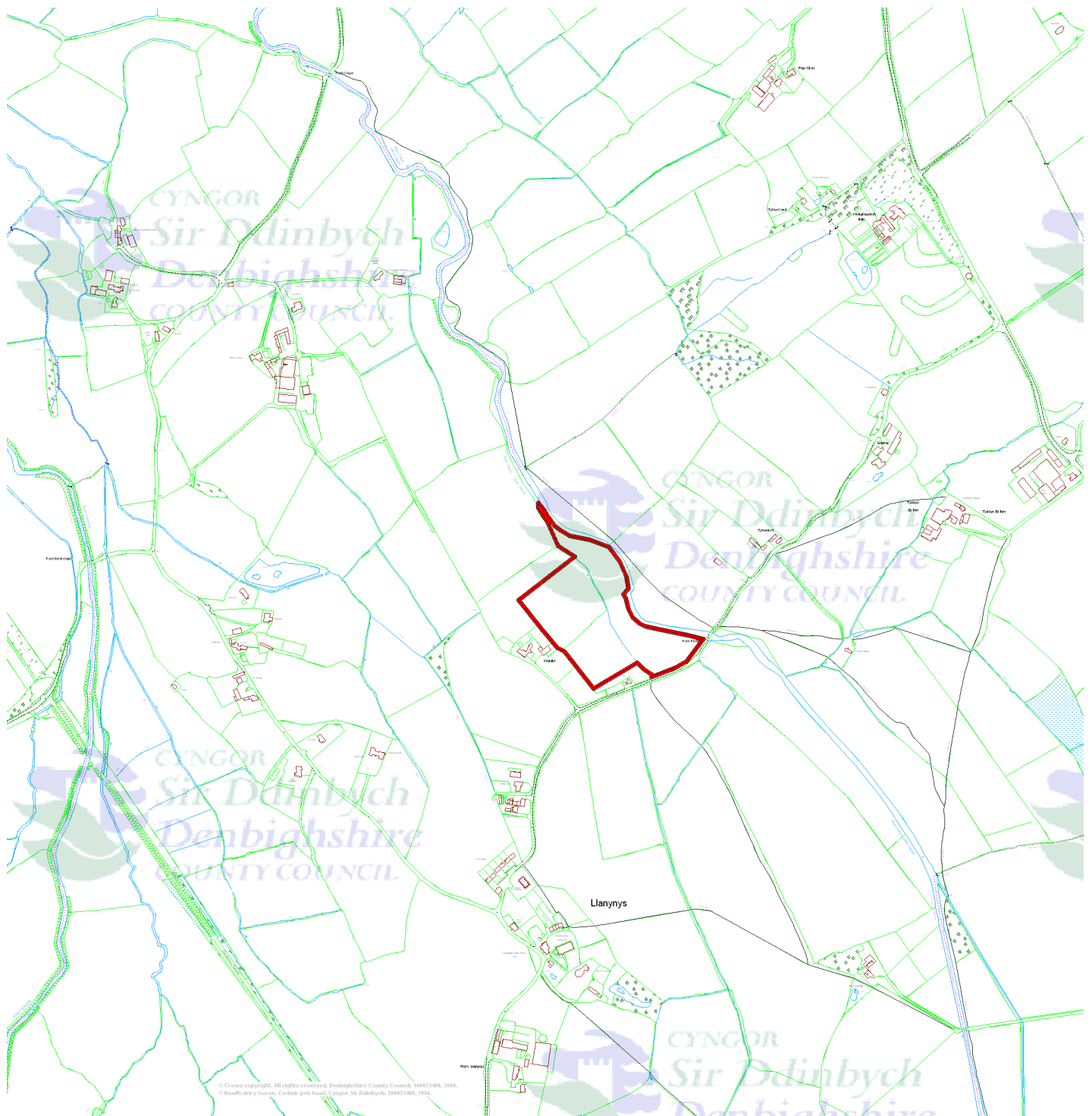
The Site



Date 20/8/2008

Scale 1/10000

Centre = 310285 E 363350 N



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ADRODDIAD GORFODAETH CYNLLUNIO

CYF: ENF/2008/00079

LLEOLIAD: Tir Ger Gors Wen, Llanynys, Dinbych

TRAMGWYDDIAD: (1) Defnyddio tir amaethyddol i gadw ceffylau
(2) Codi 3 adeilad / stablau
(3) Adeiladu llawr caled, man parcio a phadog caeedig

POLISIÂU A CHANLLAWIAU CYNLLUNIO PERTHNASOL

CYNLLUN DATBLYGU UNEDOL SIR DDINBYCH

Polisi REC 5 –Adnoddau Hamdden y Tu Allan i Ffiniau Ddatblygu

Polisi GEN 3 –Datblygu y Tu Allan i Ffiniau Ddatblygu

Polisi GEN 6 – Gofynion Rheoli Datblygu

Canllaw'r Llywodraeth - Polisi Cynllunio Cymru Mawrth 2002

Nodyn Cyngor Technegol (Cymru) 9 – Gorfodi Rheolaeth Cynllunio

YSTYRIAETHAU HAWLIAU DYNOL

Talwyd sylw at ddarpariaethau'r Ddeddf Hawliau Dynol 1998 wrth ystyried cymryd camau gorfodaeth yn erbyn datblygiad heb ei awdurdodi ar dir a materion cysylltiedig. Yn yr achos yma, mae'r materion yn berthnasol i hawliau perchennog tir amaethyddol, heb awdurdod oddi wrth yr awdurdod cynllunio lleol, i ddefnyddio'r tir ar gyfer y gweithgaredd an-amaethyddol o gadw ceffylau ac ymhellach, i godi adeiladau / stablau ac adeiladu llawr caled, man parcio a phadog caeedig arno.

Nid yw hawliau'r perchennog yn y sefyllfa hon yn gorbwyso hawliau'r Awdurdod Cynllunio Lleol i warchod mwynder yr ardal. Ni chodwyd materion hawliau dynol yn yr achos hwn.

1. GWYBODAETH GEFNDIR

1.1 Mae'r safle'n gae amaethyddol i'r gogledd o'r ffordd ac yn ymestyn 350 metr i mewn i'r safle ac yn 150 metr o led ar ei letaf. Ar derfyn gorllewinol y safle mae aneddeleoedd trigiannol Gors Wen a Wuraïn ac i'r dwyrain mae Afon Clwyd. Ymhellach mae caeau agored i'r gogledd a'r de o'r safle, sydd mewn safle wledig y tu allan i unrhyw Ffiniau Datblygu, fel y'u diffinnir yn y Polisi Datblygu Unedol a fabwysiadwyd.

1.2 Ymchwiliwyd i'r honiadau o dorri rheolaeth cynllunio gan Swyddog Cydymffurfio Cynllunio ym mis Ionawr 2008 ac aseswyd fod y toriadau canlynol wedi digwydd:

- (i) Newid Defnydd o dir amaethyddol i gadw ceffylau
- (ii) Codi 3 adeilad / stablau
- (iii) Adeiladu llawr caled, man parcio a phadog caeedig

- 1.3 Cafwyd trafodaethau gyda'r perchennog. Er mwyn ceisio rheoleiddio'r toriadau o reolaeth cynllunio ac yn y gobaith o gael caniatâd i gadw'r defnydd a'r datblygiad heb ei awdurdodi ar y tir, dewisodd y perchennog gyflwyno ôl gais ym mis Mawrth 2008.
- 1.4 Fel rhan o'r broses ymgeisio, ymgynghorwyd â'r cymdogion yn Gors Wen, Wurain, Tŷ Gwyn a Tŷ Gwyn Bach. Yn ogystal, ymgynghorwyd â Chyngor Cymuned Llanynys ac roedd y cynlluniau ar gael i'w gweld yn Llyfrgell Rhuthun. Ni chafwyd unrhyw ymateb yn ystod y cyfnod ymgynghori.

2. Y RHESYMAU DROS GYFLWYNO RHYBUDD GORFODAETH

2.1 Cafodd yr ôl gais cynllunio rhif 24/2008/0338/PC ei WRTHOD ar 3 Gorffennaf 2008.

2.2 Mae'r newid yn nefnydd y tir a'r datblygu arno'n groes i'r polisiau canlynol sydd yng Nghynllun Datblygu Unedol 1996 mabwysiedig Sir Ddinbych a'r cyngor sydd ym Mholisi Cynllunio Cymru 2002:-

- (i) **Polisi REC 5** :- nad yw'n caniatáu datblygu adnoddau hamdden y tu allan i ffiniau datblygu oni bai nad oes unrhyw safleoedd addas amgen ar gael o fewn y ffiniau datblygu ac nad achosir unrhyw niwed i'r tirlun, tir amaethyddol nac i'r rhwydwaith priffyrdd lleol. Mae'r polisi'n ychwanegu y dylai unrhyw adeilad fod yn agos at adeiladau presennol ac yn cydweddu â'r tirlun. Felly, ystyriwyd fod y cais yn anaddas oherwydd:
- (a) Nad oedd wedi dangos nad oedd unrhyw safleoedd addas eraill o fewn y ffiniau datblygu.
- (b) Nid yw'r adeiladau newydd yn cydweddu â'r tirlun o ran eu safle, maint, ymddangosiad, dyluniad a'r defnyddiau a ddefnyddiwyd a'u bod yn achosi niwed gweledol i gymeriad gwledig y lleoliad hwn.
- (c) Mae'r adeiladau newydd wedi'u codi mewn man amlwg ac unig, ymhell oddi wrth yr adeiladau presennol ac yn agos at y ffordd.
- (ii) **Polisi GEN 3** :- sydd ond yn caniatáu datblygu y tu allan i Ffiniau Datblygu mewn amgylchiadau eithriadol. Felly, ystyriwyd fod y cais yn anaddas gan fod y safle y tu allan i unrhyw ffiniau datblygu diffiniedig ac nid yw o fewn unrhyw eithriad sy'n gynnwysedig ym Mholisi GEN 3.
- (iii) **Polisi GEN 6** :- sy'n ceisio sicrhau fod datblygiadau o safon uchel ac yn effeithio'r lleiaf posibl. Felly, ystyriwyd fod y cais yn anaddas o ran newid defnydd tir, maint a graddfeydd yr adeiladau, eu dyluniad, y defnyddiau a ddefnyddiwyd a'u heffaith ar fwynder gweledol y lleoliad gwledig.

3. ARGYMHELLIAD

Awdurdodi cyflwyno Rhybudd Gorfodaeth gyda chyfnod cydymffurfio o 6 mis yn gorchymyn gwaredu oddi ar y tir yr adeiladau stabl, y man parcio a adeiladwyd a'r padog amgaeedig sy'n cael ei ddefnyddio mewn cysylltiad â chadw ceffylau heb awdurdod a gorchymyn dychwelyd y tir at ddefnydd amaethyddol yn unig a'i adfer i'w gyflwr blaenorol fel cae amaethyddol yn cael ei bori.

Dechrau ar achos erlyn os bydd unrhyw berson mae'r Rhybudd wedi'i gyflwyno iddo / iddi yn methu neu'n gwrthod cydymffurfio â darpariaethau'r Rhybudd.

Heading:

ENF/2008/00080
2 The Grove
Prestatyn, LL19 8LB

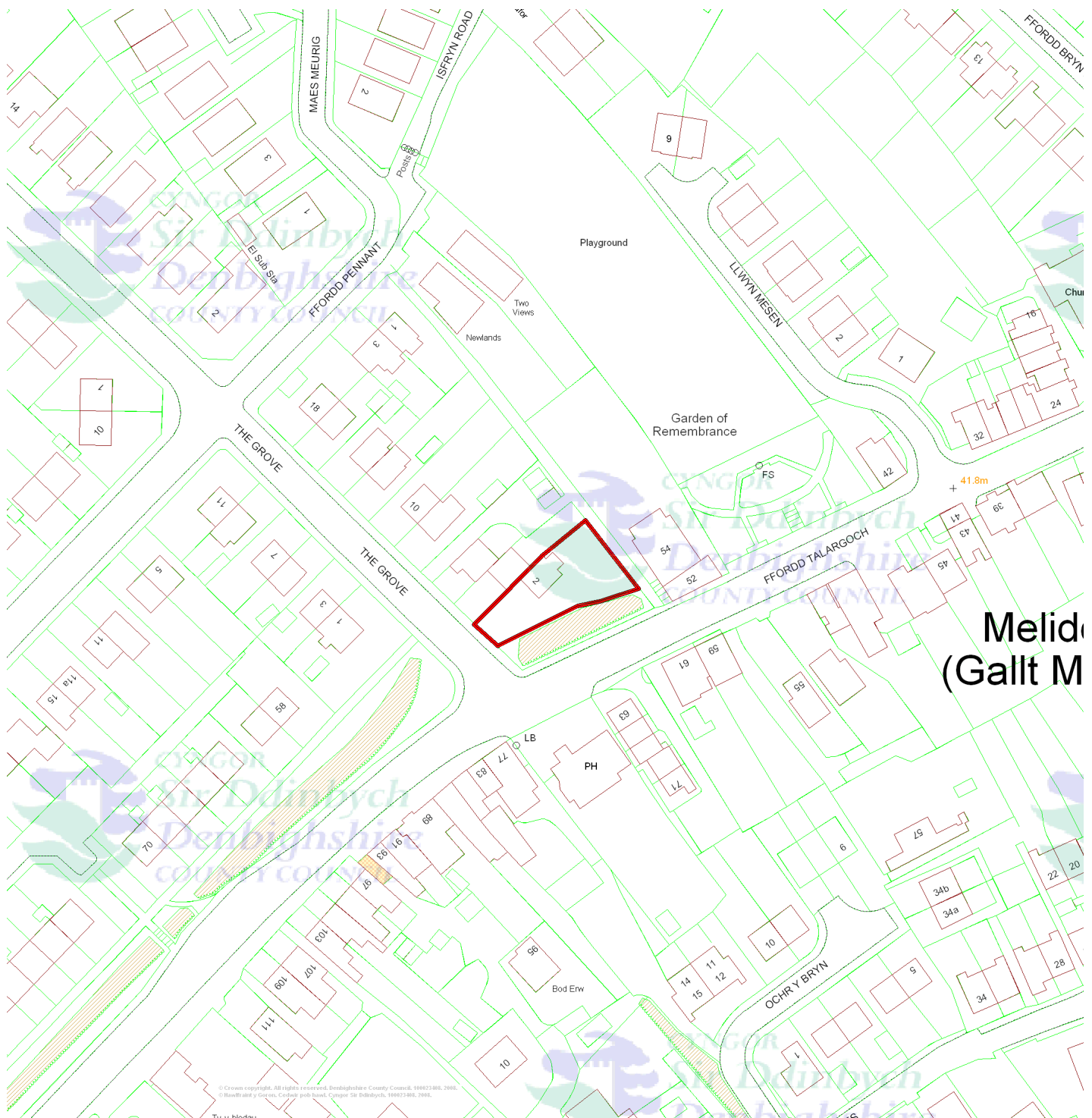
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 The Site



Date 20/8/2008
Centre = 306054 E 380847 N

Scale 1/1250



**Melid
(Gallt M**

ADRODDIAD GORFODAETH CYNLLUNIO

CYF: ENF/2008/00080
LLEOLIAD: 2 The Grove Prestatyn
TRAMGWYDDIA Datblygiad Heb Awdurdod – Codi Ffens
D:

POLISIÂU A CHANLLAWIAU CYNLLUNIO PERTHNASOL

CYNLLUN DATBLYGU UNEDOL SIR DDINBYCH
Polisi GEN 6 –

Gofynion Rheoli Datblygu

Polisi ENF 7 – Nodweddion Tirlunio / Treflunio
Polisi HSG 12 – Estyniadau i Aneddleoedd

CANLLAW CYNLLUNIO YCHWANEGOL
Rhif 1 – Estyniadau i Aneddleoedd

CANLLAW LLYWODRAETH GANOL
Polisi Cynllunio Cymru - Mawrth 2002
Nodyn Cyngor Technegol (Cymru) 9 – Gorfodi Rheolaeth Cynllunio

YSTYRIAETHAU HAWLIAU DYNOL

Talwyd sylw at ddarpariaethau'r Ddeddf Hawliau Dynol 1998 wrth ystyried cymryd camau gorfodaeth yn erbyn datblygiad heb ei awdurdodi ar dir a materion cysylltiedig. Yn yr achos yma, yr hyn sy'n cael ei ystyried yw hawl unigolyn i gael ffens dros 2 metr o uchder, a darn arall o ffens 1 metr o uchder gerllaw priffordd. Mae'n rhaid pwysu a mesur yr hawliau hyn yn erbyn y polisiâu perthnasol sy'n ceisio sicrhau nad yw datblygiadau'n niweidio mwynder trigiannol.

Ni chodwyd unrhyw faterion hawliau dynol gan berchennog y tir na chan unrhyw barti arall gyda diddordeb yn y mater hwn.

1. GWYBODAETH GEFNDIR

- 1.1 Mae'r safle ar lain o dir ar gornel The Grove a Ffordd Talargoch ym mhentref Meliden. Mae'r eiddo'n dŷ pâr dau lawr trigiannol. Yng nghefn yr eiddo mae llwybr troed cyhoeddus sy'n arwain o Ffordd Talargoch i Ffordd Pennant, sy'n gyfystyr â phriffordd. Ar yr ochr arall i'r llwybr troed mae dau drigfan. Mae pellter o 4.5 metr rhwng yr eiddo yma a rhan ddwyreiniol y ffens. Rhwng yr eiddo a Ffordd Talargoch mae llain las saith metr o led sy'n cael ei chynnal yn gyhoeddus. Mae'r eiddo ar lefel is na Ffordd Talargoch.
- 1.2 Ym mis Gorffennaf 2008, derbyniodd Swyddog y Cyngor gwynion oddi wrth drigolion lleol fod panel o ffens bren dros 2 metr o uchder wedi'i godi ar ffiniau Deheuol a Dwyreiniol yr eiddo a'i fod yn niweidiol i'w mwynder trigiannol gan fod y ffens mor uchel ac mor agos at eu heiddo. Mae uchder y ffens yn amrywio oherwydd bod y tir

ble mae'r ffens wedi'i chodi'n anwastad. Yn y man uchaf mae uchder y ffens yn 2.4 metr.

- 1.3 Ni roddwyd unrhyw ganiatâd cynllunio penodol ar gyfer codi'r ffens ar hyd y terfynau Deheuol a Dwyreiniol.
- 1.4 Cysylltwyd â'r tîrffeddiannwr a rhoddwyd y dewis o ostwng uchder y ffens neu gyflwyno cais cynllunio. Ni chafwyd unrhyw ymateb gan y tîrffeddiannwr.
- 1.5 Er na chyflwynwyd unrhyw ôl gais cynllunio ar gyfer y datblygiad yma, ystyrir mai'r argymhelliad i unrhyw gais cynllunio fyddai ei wrthod oherwydd y niwed i fwynder trigiannol y cymdogion ger y terfyn Deheuol.
- 1.6 Felly gofynnir i'r Aelodau awdurdodi gweithredu gorfodaeth er mwyn cael gwared ar y ffens.

2. Y RHESYMAU DROS GYFLWYNO RHYBUDD GORFODAETH

- 2.1 Mae'r datblygiad heb awdurdod wedi digwydd o fewn y pedair blynedd diwethaf.
- 2.2 Mae codi'r ffens wedi cael effaith niweidiol ar fwynder trigiannol y cymdogion i'r De o'r eiddo oherwydd ei maint sy'n groes i Bolisiau GEN6 a ENV7 y Cynllun Datblygu Unedol.
- 2.3 Ni fyddai gosod amodau fel rhan o ganiatâd cynllunio ar gyfer y defnydd a'r gwaith heb ei awdurdodi yn goresgyn y gwrthwynebiadau hyn.

3. ARGYMHELLIAD

- 3.1 Awdurdodi'r canlynol:
 - (i) Cyflwyno Rhybudd Gorfodaeth i sicrhau y tynnir y ffens.
 - (ii) Cychwyn ar drefniadau erlyn, neu weithredu'n addas fel arall o dan y Ddeddf Gynllunio, yn erbyn unrhyw berson neu bersonau y cyflwynir y Rhybudd Gorfodaeth iddynt, neu y cymerir achos cyfreithiol yn eu herbyn os na fyddant yn cydymffurfio gyda gofynion y Rhybudd Gorfodaeth.