

**PWYLLGOR CYNLLUNIO**  
**CYFARFOD: 17eg Mehefin 2009**  
**Eitem: 2**

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

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

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

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

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

**DENBIGHSHIRE COUNTY COUNCIL  
PLANNING COMMITTEE  
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**ITEM NO:** 1

**WARD NO:** Llandyrnog

**APPLICATION NO:** 24/2008/0149/ PR

**PROPOSAL:** Details of layout, scale, external appearance, means of access and landscaping of 11 no. dwellings submitted in accordance with condition no. 1 of outline planning permission code no. 24/2004/0873/PO

**LOCATION:** Land Adjoining Hafod Ynys Rhewl Ruthin

**APPLICANT:** Wraysbury Homes Ltd.

**CONSTRAINTS:** C2 Flood Zone

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

**CONSULTATION RESPONSES:**Initial Plans

LLANYNYS COMMUNITY COUNCIL

‘The Council has no objections to the above planning application and plans.’

(In respect of the Section 106 agreement)

‘As long that the Section 106 criteria is met on the above planning application this Council has no objections to the above planning application and plans.’

Amended Plans

‘The Council has no objections to the above planning application and plans.’

## ENVIRONMENT AGENCY

No objections, on the basis that the updated EA flood zone maps indicate that the site is not within the 1 in 1000 or 1 in 100 year flood zones, and flood risk to the site is considered to be minimal. Previous conditions relating to the need for floor levels to be set at a particular Ordnance Datum are not now required.

## WELSH WATER

Standard advice regarding conditions and notes for separate foul and surface water drainage, including a comprehensive/integrated drainage system for the site.

## DENBIGHSHIRE CC HEAD OF TRANSPORT AND INFRASTRUCTURE

No objections subject to 4 conditions, including a revised car parking layout.

Advises that Public Footpath no 18 abuts the development site and requires advisory notes concerning protection and guidance during development.

## DENBIGHSHIRE CC PRINCIPAL PARKS, PLAYGROUNDS &amp; PLAYING FIELDS OFFICER

- Rhewl community is short of approximately 0.87ha. of open space, based on 2001 Population Census. Considers that the development can create sufficient open space.
- Considers that off site commuted sum provision can, potentially be made, subject to safe routes made for on site residents/ children to access the existing facilities safely, without causing highway hazard in the area.

- Whilst recognising that the agents state that the school will not be affected, is concerned about the potential loss of playground facilities in the school, which should be monitored and taken into account if necessary.
- Suggests that retained trees require a full survey, with any remedial action taken before the development begins and their safety ensured including development.
- Any open space on the site should be clearly identified, and whether it is to be adopted by DCC – with appropriate commuted sums required for ongoing maintenance.

DENBIGHSHIRE CC CONSERVATION OFFICER –  
Initial response

Expressed concerns on the basis that the character of Rhewl as an unspoilt historic hamlet/village with a strong cohesive character, requires new development to blend in well with other buildings. There are several listed and historic buildings nearby, notably The Chapel, Hafodynys, The Old School House, Rhewl School, Yr Esgobty etc.

The main objections relate to:

- Layout: & scale : slab level difference between front and rear of the site- appears to be 700mm not 1 metre, as stated; Plot house types for 4,5, 6,7 and 8 Type M, Q and V are massive and bulky with unbroken rooflines- with no chimneys –which are traditional features , which assist new developments to blend in.
- External Appearance: challenges the design statement assertion that that there is a “wide variety” of village vernacular language, and proposed use of a “palette” of materials to reflect the site context. Notes the strong cohesive character in the historic village is derived from the almost ubiquitous use of the light grey limestone and natural slate roofs, with some examples of lime washed stone and also of grey render and very limited use of brick confined to window and door arches. The exception to this is the terrace development, further west.

Suggests that materials to be used – for house walls and boundary walls - should be a grey stone (natural or man made), grey render and slate (natural or man made) to blend in with the village as a whole and the setting of the Listed Hafodynys and The Chapel in particular.

- Access and Landscaping: Notes the desirable, rural village feature of the stone boundary wall and grass verge at the front of the site, and is concerned at the inappropriate replacement of the existing grass verge. The 2metre footpaths within the cul de sac appears excessive, providing very urban over engineered appearance. Suggest a single 1.5 metre footpath, demarcated by a different coloured paviour rather than a raised footpath.

Amended plans response

Basic concerns/objections remain valid – the scale, bulk, external appearance, materials, access and landscaping have not been amended.

Confirms that the curved stone gate entrance to Hafodynys are part of the land belonging to Hafodynys; have been since before July 1948 and are therefore Listed. The length of wall on either side of the curved gateway gives context to the gates and as much of this as possible should be retained.

Describes Rhewl, centred upon the school, school house, Hafodynys and the chapel, as having an unspoilt, cohesive rural character with buildings of historic scale, narrow lanes with grass verges and stone walling, with the potential to be a compact

conservation area. Is concerned the development, in design and layout, is completely out of character, affecting the setting of the Listed and historic buildings

#### DENBIGHSHIRE CC ARCHAEOLOGIST

No objection, subject to a condition for an archaeological watching brief.

#### DENBIGHSHIRE CC ECOLOGIST

Advises that some of the trees for removal may have bat roosts, and the applicant should demonstrate consideration of the Habitat Regulations requirements. Queries need for removal of trees.

#### DENBIGHSHIRE CC AFFORDABLE HOUSING OFFICER

##### Initial plans :

Is aware of a covenant which restricts the development to 11 units. The Council's affordables policy density requirement of 30 units per hectare would interpret to a development of 18 units for the purposes of calculating the affordable requirement for the site, which would therefore be 5 units.

After discussions with the local RSL, has advised that:

- A Rural Housing Enabler (RHE) survey was undertaken in May 2005. There were 268 households on the electoral register and a questionnaire was posted to each household. Two additional questionnaires were requested by people who were keen to return to the Llanynys area making a total of 270 questionnaires sent out. 12.5% of households that responded to the survey identified themselves as being in need of affordable housing. Of these: 2 needed to rent, 5 needed to buy/shared ownership Households in need: 3 x families, 2 x couples, 2 x single people. 2 needed to move within 1-3 years, 4 needed to move within 3-5 years. The 7 households in need were asked how they would pay for the new accommodation. 2 households intended to rent properties from Local Authority or Housing Association and 5 households wanted to purchase properties through a shared ownership scheme.
- Tai Clwyd already has a small estate in Rhewl, Rhyd y Byll that tends to cater for the local needs.
- The waiting list for social housing in Rhewl has 30 people listed but only 2 from the immediate area (Local Connection).
- Clwyd Alyn Housing have previously been refused planning - they were unable to show a need in the area. The RHE report was instigated by this problem.
- 1 person on the LCHO Register – (need to target area).
- The RSL's would struggle to find buyers for 5 LCHO or even rented or shared ownership.
- The offer of 2 affordable units and an adapted bungalow is a good offer as adapted properties are rarely built.
- People on the transfer list / housing list for adapted properties for the area and in particular a priority case from Ruthin.
- There are approximately 9 properties for sale in Rhewl. All are detached and range from a 3 bed detached for £445k to a 4 bed detached for £210k. This would be out of the price range for the average person living in Rhewl.
- There are currently 22 council properties in Rhewl. 7 have been sold.
- The current waiting list figures may not accurately reflect the actual need for socially rented property.
- RHE report includes many comments, with many people are in favour of affordable housing in the village as long as the local connection applies.

#### DENBIGHSHIRE CC CONSULTANT TREE SPECIALIST

The trees on the road frontage and along the boundary of Hafodynys contribute significantly to the visual amenity of the area, and merit careful management and protection. Makes specific suggestions for retaining a mature lime tree and hawthorns, cutting back other trees, and protecting trees during construction.

#### RESPONSE TO PUBLICITY:

- i) Mr. & Mrs. E. Jones, Hafod Ynys, Rhewl
- ii) Mr. M. Denman, Chair, Governing Body, Ysgol Rhewl. Refers to previous issues raised at outline stage. The Governing Body of the school supports the proposal subject to:- provision of footways both sides of the road (site is opposite entrance to school);provision of a parking area for the school (development would limit the possibility of on-street parking- relocation of play equipment (would have to be moved to allow a footway to be constructed on the school side of the road); provision of social/affordable housing.

The basis of objections/concerns are:

Impact on Trees – drawings do not include existing trees on boundary with Hafodynys; soakaways and services will damage tree boundary roots. Independent tree survey highlights a number of tree issues for the site and adjacent property, Hafodynys

Access/ highways - access arrangements should avoid danger for the pupils and others to the school.- this development presumes that this achieved by the creation of parking spaces for members of schools staff and visitors; use of part of the playground of the school could be used to improve the road width/ improve access arrangements, has not been the subject of a formal approach to the school.

Affordable and local housing - need to ensure that the development includes affordable housing so as to meet local need.

#### **Other matters**

Legal covenant exists on the land, with a restriction not to build more than 11 dwellings.

Application boundary – that the revised plan removes land in the ownership of Hafod Ynys ( along the highway side) ; highlights the purchase agreement precludes no part of Hafodynys to be offered as part of development proposals; inaccuracies in application statement and submitted plans ( initial plans).

**EXPIRY DATE OF APPLICATION: 28/04/2008**

#### **REASONS FOR DELAY IN DECISION:**

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

#### **PLANNING ASSESSMENT:**

##### Outline of application

The application is submitted for the Planning Committee's consideration, at the request of the Local Member to allow consideration of a range of issues including affordable housing provision.

1. The proposal is submitted on the basis of a reserved matters application, following an outline planning permission granted in 2006 under code number 24/2004/0873/PO.
2. The plans include a new vehicular access point from the adjoining highway (Llanynys Road), two pairs of semi-detached two storey houses, seven detached two storey properties, and a school parking area. The proposal involves a cul-de-sac layout, with five of the seven detached properties with accesses from the turning head of the cul-de-sac. A new stone wall and a footway is proposed along the site frontage.

The plan accompanying this report includes the proposed site layout.

3. The application forms indicate works proposed to existing trees, with surface water disposal to include run off from roofs- soakaways run off from highway – mains drains or permeable surfacing ( to be agreed) and main sewers for foul sewage. External materials on the dwellings would include facing brickwork and render.
4. During the progression of the application , additional information has been included in the form of:
  - i) Affordable housing questionnaire
  - ii) Design and supporting statement
  - iii) Planning support statement
  - iv) Progress Statement
5. The Affordable Housing questionnaire identifies 3 no units for affordable housing , as 2 no. 2bedroomed houses and 1 no. 4 bedroomed house, as shared ownership. (Although the submission has been revised and now proposes 4 affordable units).
6. The Design and access statement acknowledges the site constraints and character of the locality. Information is provided to demonstrate inclusive design and provision of access for persons with disability. It includes reference to initial pre- application discussions concerning means of access, footpath provision and open space provision. It mentions consideration given to a mixed development in terms of size and provision of accommodation; and front of the site designed to reflect the cottage aesthetic of the village, with a gradual increase in height of dwellings through the site towards the east. It confirms that no on site open space to be provided, with a commuted sum in lieu. It highlights that the mature trees within and along the site boundaries will remain, with only 3 of the smaller trees and a 5 m section of hedgerow removed; and that, where possible, dwellings are sited as far away form the spread of the tree crown.
7. The Planning Support Statement (submitted by a separate consultant) draws attention to the following:
  - i) The application is a reserved matters application.
  - ii) The economic situation of the current housing market, obliges the planning authority to be responsive to the difficulties facing developers.
  - iii) The onerous wording and requirements of the outline conditions – especially conditions for affordable housing and open space.
  - iv) The site and adjacent buildings create a number of constraints on development.
  - v) There is no requirement to link the two outline planning applications (i.e. land to the rear of Hafodynys and the current site).
  - vi) A total of 4 affordable units – out of 11 units for the site – are proposed by the applicants.

- vii) A development appraisal to demonstrate the financial context for the scheme.
  - viii) A commuted sum payment is offered for open space.
  - ix) Tree protection measures are included.
  - x) Protected species issues have not been raised.
8. The Progress Statement includes reference to existing Access issues; access around the development – to include a new 2 m wide pedestrian footpath from the Chapel along the site and on past Hafodynys to connect to the existing footpath.; provision of a new school car park; access into and from the development, noting site topography reasonably level to all parts of the development, with a 2 m wide pedestrian footpath within the site.; access to individual dwellings, noting each individual dwelling to include 2 car parking spaces, with several 'of them having sufficient room to accommodate wider space if required'. In plots 1 and 2 – where parking not located immediately adjacent to dwellings – 2 m wide footpaths will provide access to main entrances; maintenance of access features. It concludes that the proposal will improve the existing access adjacent to the site; help alleviate existing access problems associated with the school, and will allow equal access around and from the development.

#### Description of site and surroundings

9. The site is a relatively flat green field located opposite the village Primary School, between the 'listed' Chapel House and Manse, and Hafodynys, a substantial Georgian 'listed' property with access off the Llanynys Road. Public Footpath 18 abuts the southern boundary of the site, runs past the Chapel House, Cemetery and continues further north, through the adjoining pasture land. There are mature hedgerows and trees along part of the site boundaries, notably along Llanynys Road, in particular a mature lime tree. There are mature trees adjoining the boundary with Hafodynys, and many mature trees and hedgerows in the immediate locality.
10. There are presently no footways along this part of the Llanynys Road. There is currently an attractive, traditional stone wall, with grass verge along the site frontage.

#### Relevant planning considerations/constraints

11. Members familiar with the site and the outline planning application, may recall the original report submitted to the November 2006 Planning Committee. The submission of the outline planning application in 2004 coincided with the publication of the Welsh Assembly's TAN 15 Note on Development and Flood risk. This resulted in the application remaining pending for a lengthy time period, and required a detailed assessment of potential flood risk issues. The Environment Agency eventually confirmed no objections to residential development, subject to the inclusion of conditions relating to floor levels and detailing of the surface water drainage system.
12. During the course of the outline application dialogue between highway officers, the applicant's agents and the school representatives, a consensus was reached over the provision of footways on both sides of the road and an off street parking area for school use. It was concluded that this would lead to a considerable improvement on the current situation, which involves the occurrence of random parking along the road, which narrows in width and forces pedestrians and cycle users, to use the road close to the school.

#### Relevant planning history

13. The outline planning permission established the means of vehicular access to the site. A number of planning conditions were attached to the outline consent, including key conditions relating to:



- **Affordable Housing**  
a scheme for the provision of affordable housing as part of the development., with details to include: i) 30% affordable housing units and the type and location; ii) timing of the construction of the affordable housing; iii) the arrangements 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.
- **Open Space**  
a scheme for the provision of open space as part of the development,with details to include arrangements to ensure the provision and maintenance of open space including the payment of commuted sums.
- **Highways and parking**  
facilities for the parking and turning of vehicles; detailed layout, design, means of traffic calming, street lighting, signing, drainage and construction of the foot ways, school car parking area, and highway improvements adjacent to the site, and relocation of the play equipment ; detailed layout, design, means of traffic calming, street lighting, signing, drainage and construction of the internal estate roads .
- **School car park area**  
The school car park shall be for the sole use of the school and shall be hard surfaced and white lined and available for use before the commencement of construction of the dwelling
- **Floor levels**  
finished floor levels of the proposed dwellings shall be set at no less than 52.2m AOD.
- **Drainage**  
a scheme for surface water drainage works , to be implemented before the construction of any impermeable surfaces draining to this system
- **Trees**  
None of the trees within the application site shall be lopped, topped, or felled withprior written approval of the Local Planning Authority.
- **Layout plan**  
The layout plan submitted with the application has been treated for illustrative purposes only and does not form part of this permission

14. In March 2007, a further outline planning application, for the erection of a single detached dwellinghouse and garage, to the rear of Hafod Ynys was submitted. This involved alterations to an existing, separate vehicular access point, to the north of Hafod Ynys. The applicant details confirmed Hafodynys as landowners. The submission did not show the current planning application site in the same ownership.

Development/changes since original submission

15. The current application was submitted in March 2008. The applicant's planning consultant has confirmed (October 2008) that a small proportion of land in the north eastern corner of the site was not transferred with the transfer of land to the applicant, (the new owner of the site). The extent of land excluded from the current detailed application amounts to some 312sq.m. or 0.034ha. The current application for reserved matters details for the site, therefore amounts to a total of 0.56 ha (compared to the 0.6ha forming the outline application site).

A separate plan attached to the front of this report identifies the planning applications and current village development boundary. The other developments

since the submission of the application are outlined in paragraphs 4-8 of the report. For the avoidance of doubt, the proposal is now for the provision of 4 affordable units.

#### Relevant background information

16. The existence of a covenant on the land, restricting the number of residential units to 11 on the site, has been brought to the attention of the Local Planning Authority. It is understood that the covenant related to a total of 0.6ha of land. The applicant's Solicitors have advised that the Covenant was imposed in August 2004 limiting the houses to be built on the site to 11 and was imposed to protect the residential amenity of Hafodynys.

The Council's Legal Service Manager confirms that restrictive covenants are private legal matters and the Council, in its role as the Local Planning Authority, should only consider relevant material planning considerations. The Covenant is not a matter which should be relevant to the merits of the proposals before the Council.

#### **RELEVANT PLANNING HISTORY:**

17. 24/2004/0873/PO – Development of 0.6 ha of land for residential purposes and car parking for school and means of access - GRANTED 8 /11/ 2006

#### Adjoining site (Hafodynys)

Development of 0.07 hectares of land for single dwelling and garage( outline application – all matters reserved for subsequent approval) - GRANTED 20/11/2007

#### **PLANNING POLICIES AND GUIDANCE:**

18. DENBIGHSHIRE UNITARY DEVELOPMENT PLAN (adopted 3<sup>rd</sup> July 2002)  
Strategic Policies

- RESOURCES
- 1 General
- ENVIRONMENT
- 5 Design
- 7 Environment
- ECONOMY
- 8 Employment
- 11 Regeneration
- TRANSPORT
- 12 General
- 13 New Development
- SOCIAL/COMMUNITY
- 15 Housing
- 16 Community Facilities & Benefits

#### General Policies

Policy GEN 1 - Development within development boundaries  
Policy GEN 2 - Development of unannotated Land  
Policy GEN 6 - Development Control Requirements  
Policy GEN 8 – Planning Obligations  
Policy GEN 10 – Supplementary Planning Guidance  
Policy ENV 6 - Species Protection  
Policy ENV 7 - Landscape/Townscape Features  
Policy CON 1 – The Setting of Listed Buildings  
Policy CON 11 – Development at Scheduled ancient monuments  
Policy ENP 1 - Pollution

Policy ENP 4 - Foul and Surface Water Drainage  
Policy ENP 6 - Flooding  
Policy HSG 3 - Housing Development in main villages.  
Policy HSG 10 - Affordable Housing in Development Boundaries  
Policy REC 2 - Amenity & Recreational open space requirements in new developments  
Policy TRA 6 - Impact of new development on traffic flows

Additional Policy – Local Connections Affordable Housing Policy adopted Summer 2007.

Supplementary Planning Guidance  
SPG 2 Landscaping  
SPG 4 Recreational Open Space  
SPG 6 Trees and Development  
SPG 8 Access for All  
SPG 14 Listed Buildings  
SPG 15 Archaeology  
SPG 18 Nature Conservation and Species Protection  
SPG 21 Parking Requirements In New Developments  
SPG 22 Affordable Housing in New Developments  
SPG 25 Residential Development Design Guide

Other Relevant Council publications/documents

Local Biodiversity Action Plan  
Denbighshire Landscape Strategy  
Access for All  
Access Statements

GOVERNMENT GUIDANCE

Planning Policy Wales (March 2002) as amended via MIPPS and circular letters  
TAN 1 Joint Housing Land Availability Studies  
TAN 2 Planning & Affordable Housing  
TAN 5 Nature Conservation and Planning  
TAN 12 Design  
TAN 15 Development and Flood Risk  
TAN 18 Transport

Circular 60/96 Planning and the Historic Environment: Archaeology  
Circular 35/05 – The Use of conditions in planning permissions

**MAIN PLANNING CONSIDERATIONS:**

19. The main issues in this case are considered to be:

- i) Principle of development
- ii) Impact on amenity and privacy.
- iii) Design
- iv) Archaeology
- v) Drainage and flooding
- vi) Highways, including parking and sustainability
- vii) Protected species
- viii) Affordable housing.
- ix) Open Space
- x) Landscaping
- xi) Access for All

20. In relation to the main considerations noted above:

i) Principle of development

The site lies within the current development boundary for the village, and is 'Un-Annotated' land in the proposals map in the Unitary Plan. The principle of development has previously been established with the grant of outline planning permission.

A development is therefore acceptable subject to site specific considerations, set out in a range of policies in the Unitary Plan.

ii) Impact on amenity and privacy.

Having regard to the details, with the exception of plot 10, the layout and design ensures acceptable distances and relationships between existing and proposed dwellings, with dwellings orientated to maximise daylight penetration and sufficient garden areas for all units. The plot 10 unit has a restricted garden area, significantly less than others and there is a potential for overlooking from the adjacent Chapel House property, to the south. This conflicts with the aims of planning policy GEN 6 in terms of safeguarding sufficient privacy and amenity levels for occupiers.

In the event of the approval of the details, adequate safeguards should also be included for arrangements during construction stage, minimising disruption to local residents. A construction method statement can be conditioned to control impacts on nearby property.

iii) Design

GEN 6, CON 1, SPG 14 and 25 highlight design considerations with development proposals, and TAN 12 deals with development adjacent to listed buildings, where the effects on the setting of these buildings needs to be assessed.

The submitted Design Statement makes no reference to planning policies, listed building implications, and TAN 12.

There are clear design concerns expressed by the Conservation Officer over the detailing of the development in this location. The applicants have been made aware of these concerns early in the planning application process. In officers' opinion, these are significant matters, in particular the size and design detailing of the units on plots at the back of the site, which and would be out of keeping in this location, forming a solid mass of development. It is not considered that the design approach here is acceptable and the submitted proposals can not be supported.

iv) Archaeology

Having regard to the consultation responses, it is clear the site has the potential for archaeological interest. SPG 15 highlights that at times archaeological remains are only discovered once development has started, and that the developers may wish to consider insuring themselves against this risk.

In accordance with planning policy and guidance there would be a need to condition an investigation here, if the proposals were approved.

v) Drainage and flooding

Policies GEN 6 criteria x) ; ENP 1 Pollution, criteria i) ; ENP 4 – Foul and Surface Water Drainage, together with policy ENP 6 – Flooding, seek to

control and avoid unacceptable harm to the environment /locality in terms of water and drainage implications. ENP 4 highlights that development will not be permitted unless satisfactory arrangements can be made for the disposal of foul sewage and surface water. ENP 6 (Flooding) highlights that certain developments may increase flooding elsewhere and physical damage to the environment. It highlights that the developer must demonstrate that successful and environmentally sympathetic measures can be taken to mitigate or alleviate such problems. The approach is supported by TAN 15.

Both the Environment Agency and Welsh Water raise no objections to the detailed proposals subject to the inclusion of conditions. In light of this, the proposal is considered to comply with policies ENP 1 – Pollution and Policy ENP 4 - Foul and Surface Water Drainage.

vi) Highways, including parking and sustainability

The site lies within a 30 mph speed restricted area, with no parking restrictions existing along the adjoining highway. A public footpath adjoins the site, along the south easterly boundary.

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

The County's Head of Transport and Infrastructure is aware of the site and locality, and the existing use, and raises no objections to the proposals.

Following dialogue with the agents, the Conservation and Highway Officers, there have been alterations to details, principally the main vehicular access point to the site, which is now considered acceptable to achieve the relevant visibility requirements. The provision of on site car parking spaces for school use is also considered acceptable.

Given the existing traffic situation, it is not considered the proposals would result in a significant increase in highway danger and traffic. The development will include on site parking spaces for all new dwellings, in accordance with SPG 21 Parking Requirements In New Developments. This also includes the provision of a cycling stand area, which could be conditioned.

vii) Nature conservation and protected species

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

In this case, the County Ecologist highlights the potential in particular for the presence of bats, given existing trees on site and adjoining. The agent is aware of these comments. A bat survey has not been submitted. Whilst it is acknowledged that if no significant works are proposed on any trees, the potential impact on the bats presence should be minimised, a protected species survey is still justified to establish a comprehensive approach for the site, include the potential for mitigation and enhancement opportunities. In

respect of bats, survey information is required to assist assessment in respect of "favourable conservation status". At present it is not considered there is sufficient information available to inform this assessment. The proposal is therefore considered in conflict with the policies and guidance, with specific reference to bats, as protected species.

viii) Affordable Housing

Members will be aware of the requirement to consider the provision of affordable housing in connection with a scheme of this nature. The context is set by Welsh Assembly Government in the Ministerial Planning Policy Statement in 2006 and TAN 2; refined in Unitary Development Plan Policy HSG 10 and the Council's related Supplementary Planning Guidance 22 Local Connections Policy; and underpinned by Housing Need Surveys.

The basis of the Council's planning policy and guidance is to secure affordable provision, subject to consideration of relevant circumstances. It is for an applicant to demonstrate why the level of provision required by the Council can not be met, and/or why it would be reasonable to adopt an alternative approach.

Applying the Council's current guidelines to the development would mean a requirement for 5 affordable units. This is derived from application of a standard density to the development (30 units/hectare) – i.e. a site of 0.56ha would accommodate 18 units, and 30% of that number of units would be 5.

The proposals are for 4 affordable units – 2 x 2 bed semi-detached, 2 x 3 bed semi detached dwellings. The respective floorspaces comply with Welsh Assembly Government guidelines.

Current figures show a general waiting list demand for 2 and 3 bed houses in the Llandyrnog Community area and an average household income of £34,000. An update Rural Housing Enabler Survey is in progress.

The applicant's agents have submitted a detailed Development Appraisal in an attempt to demonstrate the viability of the scheme, and to support their arguments for the level of affordable provision. The conclusions are that the viability of providing 5 affordable units creates financial risk and a rate of return far below the level at which any developer would be prepared to operate; even 4 units sits below the accepted gross margins expected by developers. The agent has put forward a number of points he believes should be taken into account by the Authority in considering the issue, including the effective size of the development area taking account of the school parking area; visibility requirements, and buffer zones; the density of development and the rural character of the area; and the restrictive covenant; - all of which lead to a conclusion that 4 units is an appropriate number in terms of the policy and the planning condition on the outline consent.

The Development Appraisal has been scrutinised by the Council's Valuation and Property Manager. The review recognises the 'additional' costs associated with the provision of the school parking area and playground equipment. It questions the assumptions made over market values for houses for sale and suggests the affordable units are overpriced in relation to the Council's adopted policy based on multipliers of average household income; and it suggests the scenarios ignore the requirements for Open Space and densities. The review outlines an alternative scenario providing on site open space and affordable housing in line with Council policy, and using sale values increased to £275,000 a unit, suggests a return of 9.4%.

The conclusions are that the sales value in the developer's appraisal may not be achieved; reducing the size of units and increasing the number may achieve a similar return to the 11 unit development, whilst complying with the affordable policy; but the scenario may not be viable given the current market if sales value assumptions prove to be incorrect. Risk inherent in all developments at the present time is the level of demand for units for sale. The level of return on developments may need to be reduced in the current market, but this may take time to be accepted by interested parties. The agent is aware of these conclusions.

In concluding on this matter, officers retain concerns over the justification for 4 affordable units, which is considered in conflict with current policy and guidance. It is not considered that the covenant on the land should assume weight in the determination of the proposals. There is also concern over the detailing of the affordable units which would appear clearly distinguishable from the larger market units at the rear of the site, as smaller dwellings in smaller plots.

ix) Open space

The proposals do not provide for an open space area within the site, as the applicants are arguing a case for payment of a commuted sum in lieu, given the location of the site and the proximity to open space areas in the village. Commuted sum payments would be in the order of £47,000 for an 11 dwelling scheme, and £61,000 for an 18 dwelling scheme.

The principle of a commuted sum payment towards a Community Recreation scheme is considered reasonable in this instance for a number of reasons, including the comments of the Council's Parks and Gardens Officer, the location of the site, within walking distance of the village Play Area, and the need to reflect the character and density of the conservation area. It would however seem reasonable to expect a small children's play area to be accommodated within the site, as access to the village playing field is along roads without footways. The layout makes no provision for such a plan area.

x) Landscaping

The submission includes a landscaping scheme, although some details are unclear, for example in relation to the car parking area. In light of the site's sensitivity and the need to clarify timing, phasing and maintenance responsibilities, appropriate conditions can be included to retain a suitable level of control.

xi) Access for all

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

The submitted proposals do not fully explain the adopted policy or approach to inclusive design in terms of the development plan and guidance; or how specific issues which might affect people's access to the development, are to be handled.

Having regard to the information submitted and the details required, in

particular with the new WAG document, it is not considered the proposals are acceptable as submitted.

**SUMMARY AND CONCLUSIONS:**

21. Having due regard to all the issues, officers do not consider the detailed scheme to be acceptable and worthy of support. With respect to the applicant's position, it is suggested that the affordable housing provision is not compliant with current policy and guidance, and there are significant concerns over design/layout, protected species information, and access issues.

**RECOMMENDATION: - REFUSE** for the following reasons

1. The scheme does not make adequate provision for affordable housing, in conflict with the requirements of planning Policy HSG 10 of the Denbighshire Unitary Development Plan, Supplementary Planning Guidance 22 - Affordable Housing in New Developments; and the affordable units proposed would not appear fully integrated with the rest of the development, contrary to the objectives of HSG 10 and SPG 22.
2. In the opinion of the Local Planning Authority, the design of dwellings and layout of the development are inappropriate in this location, in particular the siting of substantial dwellings in close proximity to one another at the head of the cul-de-sac, which would create a dominating and unacceptable impression, out of character with development in the locality, in an edge of village location close to listed buildings, and there is potential for unacceptable overlooking in relation to the plot 10 dwelling, contrary to Policies GEN 6 and CON 1 of the Unitary Development Plan, the principles in TAN 12 - Design, and the Council's Supplementary Planning Guidance 14 and 25.
3. In the absence of a comprehensive habitat and species mitigation and compensation scheme, in particular relating to bat species, the Local Planning Authority considers the proposal is in conflict with the aims of Planning Policy Wales, Technical Advice Note 5 and Unitary Development Plan Policies STRAT 1 (criterion v), STRAT 7 (criterion iii), GEN 6 (criterion 11), ENV 1, ENV 6, and guidance contained in Supplementary Planning Guidance 6. These policies and guidance aim to protect and enhance nature conservation and promote biodiversity in particular seeking to conserve the status of a European Protected Species. The application does not provide sufficient information to demonstrate adequate measures for such protection and enhancement.
4. The development fails to make provision for a children's play area which is considered an essential on site feature in connection with a development of this scale, in this location, and is contrary to the requirements of Policy REC 2 of the Unitary Development Plan, and the Council's Supplementary Planning Guidance 4.
5. In the opinion of the Local Planning Authority, the submission does not demonstrate an acceptable approach to inclusive design and how the development would be accessible for persons with disability, contrary to the principles in TAN 18 : Transport and general guidance in the Council's Supplementary Guidance 8 - Access for All and 25 - Residential Development Guide.

**NOTES TO APPLICANT:**

None



**ITEM NO:** 2

**WARD NO:** Prestatyn Meliden

**APPLICATION NO:** 43/2007/0662/ PF

**PROPOSAL:** Demolition of existing clubhouse, erection of replacement clubhouse and, erection of 4 no. detached dwellings and alterations to existing vehicular access

**LOCATION:** St. Melyd Golf Club The Paddock Prestatyn

**APPLICANT:** St. Melyd Golf Club

**CONSTRAINTS:** Footpath  
Article 4 Direction

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

**CONSULTATION RESPONSES:**

**PRESTATYN TOWN COUNCIL**

"Observation – The affordable housing requirement of this development should be provided on site."

**TREE CONSULTANT**

No objection.

**DENBIGHSHIRE COUNTY COUNCIL HEAD OF TRANSPORT AND INFRASTRUCTURE**

No objection subject to condition to secure on-site parking facilities as shown on plan.

**DENBIGHSHIRE COUNTY COUNCIL HEAD OF HOUSING SERVICES**

Insufficient justification has been submitted to show that affordable housing cannot be provided on site.

**DENBIGHSHIRE COUNTY COUNCIL FOOTPATHS OFFICER**

Public Footpath No. 11 will need to be formally diverted prior to development.

**DWR CYMRU/WELSH WATER**

No objection subject to standard conditions relating to separate foul and surface water systems.

**VALUATION AND PROPERTY MANAGER**

The money required to develop the new clubhouse, having regard to financial statements submitted, would not enable an affordable unit to be provided. However, this appears in conflict with policy based on price paid for land.

**RESPONSE TO PUBLICITY:**

Letters of representation were received from:

On original submission

1. Mr & Mrs D Rickards, 3 The Paddock, Prestatyn. LL19 8NB. (x2)
2. Mr J Williams, 1A The Paddock, Prestatyn. LL19 8NB. (x2)

3. Mr & Mrs P Edwards, 7 The Paddock, Prestatyn. LL19 8NB. (x2)
4. Mr & Mrs M C Lee, 1 The Paddock, Prestatyn. LL19 8NB. (x2)
5. Mr & Mrs A Rogers, 8 The Paddock, Prestatyn. LL19 8NB. (x2)
6. Mrs M Millward, 10 The Paddock, Prestatyn. LL19 8NB.
7. Mr. & Mrs. L. Mulhearn, 6 The Paddock, Prestatyn

On revised submission

1. Mr A Hogg, 26 Calthorpe Drive, Prestatyn
2. Paul Roberts, 96 Fforddisa, Prestatyn
3. Mr & Mrs D Richards, 3 The Paddock, Prestatyn
4. Mr & Mrs Rogers, 8 The Paddock, Prestatyn
5. Mr & Mrs Mulhearn, 6 The Paddock, Prestatyn
6. Mr & Mrs Lee, 1 The Paddock, Prestatyn

On further revised scheme involving reduction in size of clubhouse and commuted sum for affordable housing:-

1. Mr and Mrs D Rickards, 3 The Paddock, Prestatyn
2. Mr and Mrs M.C.Lee, 1 The Paddock, Prestatyn

Summary of planning based representations:

- ii) Concerns over sufficiency of parking
- iii) Concerns over size and scale of proposed dwellings (original and revised scheme)
- iv) Concerns over impact on footpath
- v) Concerns over encroachment of development into Green Barrier
- vi) Concerns over deliverability of affordable housing option

**EXPIRY DATE OF APPLICATION: 17/12/2008**

**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 / or additional information

**PLANNING ASSESSMENT:**

**THE PROPOSAL:**

1. Members may recall that this application was deferred from the 18<sup>th</sup> February 2009 Planning Committee to allow for officers to discuss the affordable housing element of the scheme with the applicant. The site area and number of dwellings proposed triggers the Council's affordable housing policy. The applicants are suggesting that they deal with the provision of affordable housing by way of an off-site unit at the Tip Lane development (if that scheme is progressed) or by way of a commuted sum. Both options would need to be dealt with by way of a Section 106 legal agreement.
2. Since the time of the previous deferral Officers have met with the applicant resulting in revised plans being submitted for the proposed replacement clubhouse and the formal offer of a commuted sum to deal with affordable housing should the unit at Tip Lane prove not to be feasible. These issues are dealt with later on in this report.
3. The application site is located to the north of the village of Meliden and consists of the clubhouse and parking area associated with St Melyd Golf Club. The site lies

to the east end of a residential cul de sac known as The Paddock containing mainly single storey detached bungalow properties.

4. To the north of The Paddock are further large, detached dwellings which front onto Meliden Road. To the south and east of the site is the golf course area which forms a Green Barrier between the small development boundary of The Paddock and the main Meliden village boundary. The Prestatyn/Dyserth walkway skirts the site to the east and is formally designated as a Recreational Route. Public Footpath No. 11 runs across the car park area of the golf club. St Melyd is a private golf club which is open to the public.
5. Full planning permission is sought to demolish the buildings on the existing car park area which include the existing single storey clubhouse building and small detached warden's accommodation unit. It is now proposed (following the recent submission of revised plans) to erect a new single storey clubhouse building to be sited further south than the existing, encroaching into the main golf course site and within the green barrier. The new clubhouse will be constructed in brick and render under a slate grey tiled roof. The new clubhouse building has obviously been reduced in height from its proposed two storey to single storey design.
6. To the north of the new clubhouse it is proposed to develop 4 no. detached dwellings. These dwellings would be sited to front / face towards The Paddock with rear gardens backing onto the Prestatyn / Dyserth walkway to the east. The dwellings are indicated on the submitted plans as follows:-  
  
Plot 1 – sited to the north of the site
  - Detached 2 storey dormer style dwelling (3 bed)  
Plot 2 and 3 – sited to the south of Plot 1
  - Detached full 2 storey dwelling (5 bed)  
Plot 4 – sited to the south of Plot 3
  - Detached full 2 storey dwelling (4 bed)
7. Between the proposed dwellings and the new clubhouse it is proposed to develop a 64 space car parking area for the golf club. Vehicular access to the dwellings and the car park will be via The Paddock with each dwelling enjoying its own front driveway off a small private drive.
8. The applicants have submitted a variety of supporting information with the application at various stages of the assessment. Initially the applicants had explained that the erection of the 4 no. dwellings was to enable the erection of the new clubhouse. They had not offered the required affordable housing unit with this scheme as they had agreed the financial gains from the residential element were being used to subsidise the new clubhouse. Supporting information was submitted which highlighted the plight of the Golf Club, the poor physical state of the clubhouse and the need to develop the 4no. dwellings in order to safeguard the future of the club itself. Following further negotiations with the applicant they have now offered an off-site affordable housing unit. This affordable unit is proposed to be provided at the Tip Lane residential development site, a scheme with a resolution to grant planning permission subject to a Section 106 legal agreement. As no planning permission currently exists at Tip Lane the applicants have also suggested they offer a commuted sum to deal with the affordable housing provision.

## RELEVANT PLANNING HISTORY:

9. None relevant to this proposal.

## PLANNING POLICIES AND GUIDANCE:

10. DENBIGHSHIRE UNITARY DEVELOPMENT PLAN (adopted 3<sup>rd</sup> July 2002)

Policy STRAT 1 – General  
Policy STRAT 6 – Location  
Policy STRAT 7 – Environment  
Policy STRAT 15 – Housing  
Policy STRAT 16 – Community Facilities and Benefits  
Policy GEN 1 – Development within Development Boundaries  
Policy GEN 5 – Green Barriers  
Policy GEN 6 – Development Control Requirements  
Policy GEN 8 – Planning Obligations  
Policy ENP 4 – Foul and Surface Water Drainage  
Policy HSG 3 – Housing Development in Main Villages  
Policy HSG 10 – Affordable Housing within Development Boundaries  
Policy REC 1 – Protection of Existing Open Space  
Policy REC 7 – Golf Developments  
Policy REC 8 – Recreational Routes  
Policy TRA 9 – Parking and Servicing Provision  
Policy TRA 10 – Public Rights of Way

Supplementary Planning Guidance  
SPG 22 – Affordable Housing

GOVERNMENT GUIDANCE  
Planning Policy Wales, March 2002

## MAIN PLANNING CONSIDERATIONS:

- 11.
- i) Principle of development in this location
  - ii) Impact on visual amenity / Green Barrier
  - iii) Impact on residential amenity.
  - iv) Impact on highway safety / footpath
  - v) Affordable Housing issue
12. In relation to the points identified in paragraph 9 above:
- i) Principle of development
    - a) Housing – The site is located predominantly within the settlement boundary of the village of Meliden. The proposed 4 no. dwellings are shown to be sited within the development boundary. As such, the principle of housing development in this location is acceptable subject to the compliance of the scheme with other considerations.
    - b) Clubhouse – The proposed new clubhouse would be sited some 9 – 10 m further south than the existing. As the existing clubhouse's back wall sits right on the boundary with the development boundary and Green Barrier this would mean the new single storey structure would be outside of the development boundary and fully within the designated Green Barrier. Policy GEN 5 outlines the purpose of Green Barrier designations and states that development within them will only be permitted provided that the open character and appearance of the land is not prejudiced. Having now reduced the clubhouse to single storey it is not considered that its scale or design would unduly harm the open character of the golf course or the area.

Trees will screen the development from view from many vantage points at a lower level and based on the lower roof level the impact from higher ground will be minimal. In this respect it is not considered a reason for refusal based on the impact the new clubhouse would have on the Green Barrier could be justified.

ii) Impact on visual amenity / Green Barrier

- a) Housing – The siting, size, scale and design of the housing has been discussed at length with Officers. Amendments have been made to Plot 1 closest to No. 7 The Paddock in order to minimise any impact on that dwelling. From a visual perspective the site sits at the head of a cul de sac of mixed dwelling styles. Whilst bungalows are the predominant type there are some two storey, dormer style dwellings on The Paddock. As the proposed dwellings are orientated differently to those on The Paddock it can be agreed that the 2 storey and dormer designs are not too incongruous in this location. It is not considered that the dwellings proposed would cause any significantly detrimental impact to the visual amenities of the site or surroundings. This would be in compliance with adopted policies relating to new dwellings within development boundaries.
- b) Clubhouse – The new clubhouse would be sited further away from existing dwellings on The Paddock than the existing. It now has a single storey design which, given existing trees in and around the site, will minimise its visual impact. It is not considered that its encroachment into the Green Barrier alone would warrant refusal as the open character and appearance of the site and area generally will not be significantly affected. It is not considered that the design, height and scale of the proposed clubhouse would impact significantly on the visual amenities of the site and surroundings and this is in compliance with Policy GEN 5 and GEN 6.

iii) Impact on residential amenity

It is not considered that the proposed housing or the clubhouse would have any significant impact upon nearby residential amenity. The location of the 4 no. plots are such that sufficient space would remain between dwellings and their size and scale should not have any direct impact upon nearby habitable room windows. The new clubhouse is sited further away from dwellings on The Paddock as the existing. It is not considered that this building itself would have any detrimental impact upon nearby residential amenity. The potential increased use of the site with the new clubhouse would also have limited impact upon nearby residential amenity. Sufficient parking areas are shown on site to avoid any on street parking on The Paddock.

iv) Impact on highway safety / footpath

The proposal provides sufficient on site parking provision and highway engineers have raised no objection to the proposal from a highway safety point of view.

v) Affordable Housing Issue

The proposal involves the erection of 4 no. dwellings within the development boundary. Under the provisions of adopted policy and guidance relating to affordable housing there would be a requirement to provide a minimum of 1 no. affordable unit with this scheme. The applicant proposes to provide this unit off-site or by way of a commuted sum. SPG 22 encourages affordable housing to be integrated into development on site in the first instance and as a priority. If justification can be provided the Council can consider a suitable

off-site provision. In this instance the applicant suggests the transfer of the affordable housing provision onto a site where, at present, there is no valid planning permission. It is acknowledged that there is a resolution to grant permission for dwellings on Tip Lane but until such time as the Section 106 agreement is signed it would not be feasible or legal to transfer affordable housing provision from this site onto that one. The provision of a commuted sum to deal with affordable housing is a last resort and needs to be fully justified. As such, it is not considered that the proposal complies with our adopted policies and guidance as the scheme does not make provision for affordable housing. Further, the applicant has not given sufficient justification as to why affordable housing could not be provided on site.

**SUMMARY AND CONCLUSIONS:**

13. The scheme fails to make adequate provision for affordable housing which is contrary to adopted policies and guidance of the Council. The proposed new clubhouse encroaches outside the development boundary of Meliden and into the designated Green Barrier. However, the lower roof height and size of the building now means that the clubhouse would not significantly impact upon the open character of the Green Barrier and would not harm the visual or residential amenities of the area.

**RECOMMENDATION: REFUSE-** for the following reasons:-

1. The Council does not consider that adequate justification has been provided to show why affordable housing could not be provided on site. The off-site offer relates to a site which does not have planning permission at the time of this assessment and the offer of a commuted sum to deal with affordable housing should only be used as a last resort. As such the proposed scheme is in direct conflict with Policy HSG 10 of the Denbighshire Unitary Development Plan and guidance contained within SPG 22 - Affordable Housing in New Development which seek to secure on-site affordable housing as a priority within such schemes.

**NOTES TO APPLICANT:**

None

**ITEM NO:** 3

**WARD NO:** Prestatyn Central

**APPLICATION NO:** 43/2009/0052/ PF

**PROPOSAL:** Erection of 1 no. dwelling and construction of new vehicular access (revised proposal to that previously approved under application code no. 43/2007/1134/PO)

**LOCATION:** Land between Greycote and Highfield Bishopswood Road Prestatyn

**APPLICANT:** Mr John Sutherland

**CONSTRAINTS:** Tree Preservation Order  
Previous Mining Area  
Article 4 Direction

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

**CONSULTATION RESPONSES:**

PRESTATYN TOWN COUNCIL:

“Object. Proposal is contrary to Council policy on new development pending confirmation that existing drainage systems can cope with additional loads from Welsh Water and Environment.”

DENBIGHSHIRE COUNTY COUNCIL HEAD OF HIGHWAYS AND INFRASTRUCTURE:

No objections subject to conditions.

DENBIGHSHIRE COUNTY COUNCIL TREE CONSULTANT:

No objections subject to adequate mitigation measures to protect the trees along Bishopswood Road.

**RESPONSE TO PUBLICITY:**

Responses received from:

Mrs. E. Davies, 27, Orme View Drive, Prestatyn

Miss P.S. Richardson, 25, Orme View Drive, Prestatyn

Summary of comments:

- Concerns over highways, impact on trees, loss of privacy, impact upon AONB

**EXPIRY DATE OF APPLICATION: 22/03/2009**

**REASONS FOR DELAY IN DECISION:**

- timing of receipt of representations
- additional information required from applicant

## **PLANNING ASSESSMENT:**

### **THE PROPOSAL:**

1. Outline of application:

Full planning permission is sought for development of 1.14ha of land by the erection of a two storey dwelling and the creation of a new vehicular access off Bishopswood Road. The main elements are:

  - i) Two storey house measuring 15.4 metres by 11 metres with a ridge height of 7.8 metres, and set back approximately 9 metres from the boundary with the back garden of dwellings on Orme View Drive, offering a 5 metre root protecting area of the trees on this boundary;
  - ii) Walls to be a mixture of white render and natural cedar cladding and a slate roof;
  - iii) Elevated parking platform between the dwelling and Bishopswood Road; and
  - iv) First floor terraces looking out towards the sea.
2. Description of site and surroundings

The site is currently vacant overgrown land which is located adjacent to Bishopswood Road. To the west of the site are the dwellings on Orme View Drive whilst to the north and south are the large detached dwellings of Greycote and Highfield. East and opposite the site is a single storey dwelling called Rock Cottage.
3. The area is characterised by detached two storey dwellings in spacious plots with views across Prestatyn to the sea. The site has a sloping topography, rising up from west to east. This slope continues across Bishopswood Road. The site is consequently elevated above the dwellings on Orme View Drive, and below Rock Cottage. It is bounded on its eastern frontage (along Bishopswood Road) by a mix of semi mature trees and woodland growth. The western boundary (backing onto the rear of dwellings on Orme View Drive) is also planted with trees, some of which are subject to Tree Preservation Orders. The north and south boundaries, (to Greycote and Highfield respectively) are again identified by planting and overgrown woodland type growth.
4. Relevant planning constraints/considerations

The site is located within the Prestatyn development boundary as defined in the adopted Denbighshire Unitary Development Plan. It is also adjacent to, but not within, the Area of Outstanding Natural Beauty, and an SSSI.
5. Relevant planning history

Outline permission for a dwelling has twice been sought and refused on this site. The most recent refusal in November 2007, was on the grounds of inadequate access, impact upon residential amenity of dwellings on Orme View Drive and lack of affordable housing. This decision was appealed and the appeal was allowed in June 2008. The extent of the current site is the same as the one forming the subject of the November 2007 refusal and the successful appeal.

### **RELEVANT PLANNING HISTORY:**

6. 43/2000/0657/PO – Development of 0.145 ha of land by erection of 2 No. dwellings with detached garages and construction of vehicular access (Outline application). REFUSED 2000

Appeal against decision of 43/2000/0657/PO – DISMISSED on highway grounds and concerns over amenity to residents of Orme View Drive.



43/2006/0640/PO - Development of 0.15 hectares of land by erection of 1 dwelling and construction of new vehicular access (Outline application) REFUSED 2006:

1. Bishopswood Road is a narrow unclassified road which is considered substandard in width and junction to serve as a means of access to further residential development. Therefore the proposal is contrary to criteria vi) and vii) of Gen 6 and criterion ii) of Tra 6 of the Denbighshire Unitary Development Plan and advice as contained in Planning Policy Wales Para. 8.7.1.
2. The siting of the development in close proximity to the western boundary and rear amenity space of the dwellings at a lower level on Ormeview Drive would be harmful to their residential amenity. The proposal is therefore contrary to policies Criteria i) and v) Gen 6 of the Denbighshire Unitary Development Plan and advice as contained Planning Policy Wales March 2002, para 9.3.3

43/2007/1134/PO – Development of 0.15 hectares of land by erection of 1 dwelling and construction of new vehicular access (Outline application) REFUSED 15<sup>th</sup> November 2007:

1. Bishopswood Road is a narrow unclassified road which is considered substandard in width and junction to serve as a means of access to further residential development. In addition the proposed realignment of the access and the resulting gradient will make it difficult for those with mobility impairments to gain access to and from the site. The proposal is therefore contrary to criteria vi) and vii) of policy GEN 6, criterion ii) of policy TRA 6 of the Denbighshire Unitary Development Plan, advice contained in section 5.1 - 5.3 of TAN 18 - Transport and Para. 8.7.1 of Planning Policy Wales.
2. The indicative siting of the development in close proximity to the western boundary and rear amenity space of the dwellings at a lower level on Orme View Drive would be harmful to their residential amenity due to the potential loss of trees, and overlooking. The proposal is therefore contrary to criteria i) and v) of policy GEN6 of the Denbighshire Unitary Development Plan.
3. The application site is in excess of the 0.1ha site threshold above which the County Council requires the provision of affordable housing and in the absence of adequate information to address this matter, the proposal fails to comply with policy HSG10 of the Denbighshire Unitary Development Plan, and the adopted Supplementary Planning Guidance Note number 22 on Affordable Housing.

Appeal against decision of 43/2007/1134/PO – ALLOWED – 17<sup>th</sup> June, 2008

The inspector reasoned that the increase in traffic on Bishopswood Road caused by an additional dwelling would be limited to a degree that it would not result in a material harm to highway safety. With regard to the proposal impacting upon the living conditions of dwellings on Orme View Drive, the Inspector noted that there was already a potential for some overlooking, and that with careful screening and design a dwelling in this location would not harm the amenity of dwellings on Orme View Drive. He further commented that a dwelling on this site was likely to have long ranging views above Orme View Drive and would not materially overlook their rear gardens. The final reason for refusal, lack of affordable housing, was disregarded by the inspector on the grounds that adopted policies and guidance acknowledged that there were certain scenarios when the requirement for affordable housing could be waived. This exception was justified in this instance on the

grounds that to develop this site with more than 1 dwelling would result in a form of development that would be cramped and out of character with the surrounding area.

**PLANNING POLICIES AND GUIDANCE:**

7. DENBIGHSHIRE UNITARY DEVELOPMENT PLAN (adopted 3<sup>rd</sup> July 2002)

Policy GEN1 – Development within development boundaries

Policy GEN6 – Development control requirements

Policy TRA6 - Impact of new development on traffic flows

Policy HSG10 – Affordable housing within development boundaries

SPG6 – Trees

SPG22 – Affordable housing

**MAIN PLANNING CONSIDERATIONS:**

8.

- i) Principle of development
- ii) Impact upon residential amenity
- iii) Impact upon visual amenity
- iv) Impact upon highways
- v) Impact upon trees

9. In relation to the main considerations:

i) Principle of development:

The site is located within the town development boundary and is therefore acceptable in principle. Previous reasons for refusal were overturned by the Planning Inspectorate in June 2008.

ii) Impact upon residential amenity:

Concerns have been raised by residents of Orme View Drive that the proposal will result in an unacceptable loss of privacy by way of overlooking caused by the terraces on the rear elevation. The distance between the rear elevation of the proposed dwelling and the rear of number 25 Orme View Drive is approximately 21 metres. The ground floor of the proposed dwelling would be 0.3 metres lower than the ridge of 25 Orme View Terrace. It is considered that sufficient distance would exist on both a horizontal and vertical plane to avoid unacceptable levels of overlooking. The comments of the Inspector in the most recent appeal case are also relevant in referring to "the relationship between the proposed dwelling and those on Orme View Drive would be broadly comparable to that between both Greycote and Highfield and other dwellings on Orme View Drive, and there is no evidence that this has resulted in harm to residential living conditions." In addition, the screening that both exists and is proposed will further help reduce the perception of overlooking. This is also applicable to the amenity of Greycote, although the potential for overlooking in a northerly direction is limited to only one window which serves a bedroom/study. It is considered that this application would not materially impact upon the living conditions of neighbouring properties.

iii) Impact upon visual amenity:

The design of the dwelling and choice of materials is considered to compliment the character of the area. When viewed from Bishopswood Road the dwelling would give the appearance of a single storey dwelling which mirrors Rock Cottage opposite, whilst when viewed from the rear it would be

two storey in design. It would feature a low sloping roof from lower ground floor to upper ground floor which helps soften the dwelling into the sloping topography, and limit its visual impact. The proposal is considered acceptable in terms of its appearance.

iv) Impact upon highway safety:

The proposal as submitted was subject to pre-application consultation with the Highway officers. No objection has been raised by the Highway section. The comments of the Planning Inspector clearly indicates that Bishopswood Road is capable of accommodating an additional dwelling. The scheme is unlikely to be detrimental to highway safety and is therefore considered acceptable.

v) Impact upon trees/Wildlife:

It is noted that some trees would be removed in order to create the access to the parking area. It is important that the tree lined character of Bishopswood Road is maintained and so mitigation measures, and additional planting should be secured elsewhere within the site. Opportunity exists on other boundaries for additional planting and this could be secured through condition. It is not considered that concerns relating to trees on the site are sufficient to warrant a refusal. It is considered appropriate to attach a condition which requires the site to be surveyed for wildlife interest and possible mitigation measures.

**SUMMARY AND CONCLUSIONS:**

10. It is considered, with regard to the background history and the detailing that the application complies with planning policy, and is therefore recommended for grant.

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

1. The development hereby permitted shall be begun before the expiration of five years from the date of this permission.
2. **PRE-COMMENCEMENT**  
Prior to the commencement of the development, the written approval of the Local Planning Authority shall be obtained in respect of the walls and roof materials to be used for the development hereby permitted and no materials other than those approved shall be used.
3. The access shall be laid out and constructed strictly in accordance with the submitted plan.
4. The car parking accommodation shall be laid out and constructed strictly in accordance with the submitted plan and completed to the satisfaction of the Local Planning Authority before the use hereby permitted is commenced and shall thereafter be kept available for that purpose at all times.
5. The proposed access shall have a visibility splay of 22m x 2.4m in both directions measured along the nearside edge of the carriageway overland within the control of the applicant and/or the Highway Authority and within which there shall be no obstruction in excess of 1.0m in height.
6. **PRE-COMMENCEMENT CONDITION**  
No development shall take place until there has been submitted to, and approved in writing by, the Local Planning Authority, a detailed scheme of hard and soft landscaping for the site, and such scheme shall include details of:
  - (a) all existing trees, hedgerows and other vegetation on the land, details of any to be retained, and measures for their protection in the course of development.
  - (b) proposed new trees, hedgerows, shrubs or vegetation, including confirmation of species, numbers, and location and the proposed timing of the planting;
  - (c) proposed materials to be used on the driveway(s), paths and other hard surfaced areas;

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

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

7. All planting, seeding, turfing, fencing, walling or other treatment comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the completion of the development and any trees or plants which, within a period of five years of the development, die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

8. No development shall take place until a schedule of landscape maintenance for a minimum period of five years has been submitted to and approved in writing by the Local Planning Authority. The schedule shall include details of the arrangements for its implementation and development shall be carried out in strict accordance with the approved schedule.

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

10. Prior to commencement of development on site a habitat survey shall be carried out using specialist consultants at an appropriate time of year and development shall only proceed following the submission and approval of details including any mitigation measures considered necessary to address conflicts with protected species etc., 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. In the interest of the free and safe movement of traffic on the adjacent highway and to ensure the formation of a safe and satisfactory access.

4. To provide for the loading, unloading, turning, and parking of vehicles clear of the highway.

5. To ensure that adequate visibility is provided at the point of access to the highway.

6. To ensure in the interests of visual amenity a satisfactory standard of landscaping in conjunction with the development.

7. To ensure a satisfactory standard of development, in the interests of visual amenity.

8. To ensure the areas concerned are maintained at all times in the interests of amenity.

9. In the interests of residential and/or visual amenity.

10. In the interest of mammal and bird protection under the provisions of the Wildlife and Countryside Act 1981 and the EC Habitat and Species Directive Regulations 1994 and the Badger Act 1992.

#### **NOTES TO APPLICANT:**

Where any species listed under Schedules 2 and 4 of The Conservation (Natural Habitats & C) (Amended) Regulations 2007 is present on the site in respect of which this permission is hereby granted, no works of site clearance, demolition or construction shall take place in pursuance of this permission unless a licence to disturb any such species has been granted in accordance with the aforementioned Regulations and a copy thereof has been produced to the Local Planning Authority. REASON: To ensure the protection of species listed under the Habitat Regulations 1994

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

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.

**ITEM NO:** 4

**WARD NO:** Rhyl South West

**APPLICATION NO:** 45/2007/1043/ PF

**PROPOSAL:** Development of 1.35ha of land by the demolition of existing buildings, erection of 41 no. affordable dwellings including block of 6 apartments for independent living, 1 no. commercial unit and construction of a new vehicular/pedestrian access

**LOCATION:** Land at Cefndy Trading Estate, Ffordd Derwen and Cefndy Road Rhyl

**APPLICANT:** Anwyl Construction Co. Ltd.

**CONSTRAINTS:** C1 Flood Zone  
Tree Preservation Order  
Article 4 Direction

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

**CONSULTATION RESPONSES:****RHYL TOWN COUNCIL**

'Defer for information relating to the proposed Assisted Living Accommodation and impact on local community but advise the Denbighshire County Council of concerns over the number of affordable homes being designated for one development contrary to previous policy that Affordable Housing should be "pepper potted" in private developments. The Town Council would also request that should the development proceed as indicated the affordable housing proposed should not be used to remove the need for affordable housing to be provided in future developments'.

**ENVIRONMENT AGENCY**

No objection subject to floor levels being set to protect development from flooding and a scheme of surface water drainage being submitted.

**TREE CONSULTANT**

No objection.

**DENBIGHSHIRE COUNTY COUNCIL HEAD OF HOUSING SERVICES**

Welcome the affordable dwellings but has strong concerns over the proposed layout.

**DENBIGHSHIRE COUNTY COUNCIL MAINTENANCE OFFICER (OPEN SPACE)**

Scheme does not make provision for adequate on-site open space and density of dwellings would exacerbate this deficiency.

**DENBIGHSHIRE COUNTY COUNCIL CONTAMINATED LAND OFFICER**

Potential for contamination to be present given industrial nature of site, therefore, suggest conditions to deal with this.

**RHYL ENVIRONMENTAL ASSOCIATION**

Raises concerns over use of designated employment land for housing. This may put pressure on greenfield sites in the future. Concerns over lack of open space on site

and poor landscaping scheme. The density proposed would spoil the appearance of this part of Rhyl.

DENBIGHSHIRE COUNTY COUNCIL HEAD OF DEVELOPMENT SERVICES  
Supports the principle of providing new commercial development providing the redevelopment for solely commercial purposes is not economically viable. An appraisal would need to justify this number of dwellings.

DENBIGHSHIRE COUNTY COUNCIL HEAD OF TRANSPORT AND INFRASTRUCTURE  
No objection subject to conditions and legal agreement for change to parking restrictions on Ffordd Derwen.

WELSH WATER  
No objection subject to conditions relating to foul and surface water being drained separately from the site and other surface water controls.

**RESPONSE TO PUBLICITY:**

- (i) Mrs C Stringer, 22 Golden Grove, Rhyl
- (ii) Mrs. B. Smith, 95, Ffordd Derwen, Rhyl (via e-mail)
- (iii) Mr. P. Wellington - Rhyl Environmental Association (via e-mail)
- (iv) Ian Meredith, 26 Golden Grove, Rhyl
- (v) Gaynor Gray, 28 Golden Grove, Rhyl
- (vi) W L Evans & R Evans, 30 Golden Grove, Rhyl
- (vii) Mr R J Beckinsale, 1 Llys Eirlys, Park View, Rhyl

Summary of Planning Based Responses

- (i) Concern over development of housing on designated employment site
- (ii) Concern over location of affordable dwellings close to commercial premises
- (iii) Concern over lack of open space
- (iv) Concern over density of residential development
- (v) Concerns over highway safety

(Some concerns were raised in relation to the safety of some trees on the site; however, the developer removed these trees during the course of the application to the satisfaction of residents).

**EXPIRY DATE OF APPLICATION: 19/12/2007**

**REASONS FOR DELAY IN DECISION:**

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

**PLANNING ASSESSMENT:**

**THE PROPOSAL:**

1. The application site consists of 1.35ha of land within the development boundary of Rhyl. The previously developed land is situated to the north-west end of Ffordd Derwen and contains factory buildings authorised for Class B1 light industrial use. The site has historically been used for commercial purposes and this is reflected in its Unitary Development Plan designation for employment use (Policy EMP 2).

2. The site is situated amongst industrial and commercial premises to the north and west with the residential areas of Golden Grove and Meredith Crescent to the south and east respectively. Further to the west beyond the commercial starter units of the Pinfold Workshops and the recently developed Travis Perkins builder's merchants is the Brickfield Pond.
3. Full planning permission is sought for the demolition of the existing factory units on the site and the redevelopment of the 1.35ha site with a 924sq.m. business unit and 41 no. affordable dwellings to include a block of 6 apartments for persons for independent living with ancillary common room and staff accommodation. The business unit is proposed to be located to the north of the site and accessed off Cefndy Road. At a height of 6m the unit would provide 8 no. car parking spaces with an area retained for future expansion. Plan A at the front of this report highlights the business unit proposal.
4. The residential element of the scheme would be accessed via a new access point off Ffordd Derwen and would consist of 41 no. affordable dwellings set out as below:-

8 no. 2 storey, 2 bed, 4 person semi-detached dwellings  
 3 no. 2 storey, 4 bed, 7 person detached dwellings  
 24 no. 2 storey, 3 bed, 5 person semi-detached dwellings  
 6 no. 2 storey, 2 bed apartments to include communal area and staff accommodation

The 6 no. apartment block would be located to the north of the site abutting the adjacent Thorpe Bros. Commercial units with 1092sq.m. of public open space shown also on the northern part of the site between the proposed business unit and some of the residential dwellings. Plan B at the front of this report shows the proposed layout of the scheme.

5. The application has been the subject of much discussion between officers and the applicants with detailed supporting information being provided. Some of this supporting information (financial viability) has been the subject of separate consultation with the District Valuer Service. The supporting information is outlined below.

#### Affordable Housing

The proposed 100% affordable housing scheme has been developed with the general support of Denbighshire's Housing Department and Wales and West Housing Association. The 41 no. affordable dwellings meet DQR/Lifetime Homes standard at Code for Sustainable Homes Level 3. The apartments meet an acute need for independent living as part of the Council's Supported Persons Programme – which has been difficult to locate.

#### Public Open Space

A children's play area would be provided on site which complies with the approved planning policy standard. The Community Recreational Open Space (CROS) would be provided by way of a commuted sum on the basis that:-

- (i) There is adequate CROS close by
- (ii) On-site provision would alter the development appraisals and make the scheme unviable.

#### Development Appraisal

Financial information pertaining to land purchase value, build cost and sales value (on 30% affordable scheme, not 100% affordable scheme) was submitted to the

District Valuer Service for assessment. This exercise is an attempt to show that the delivery of a single-business unit could only be economically viable by allowing the build and sale of some 41 no. dwellings.

The applicant furnished the District Valuer with all the necessary information to show the number of dwellings proposed (on original 70-30 affordable split) would be the minimum to enable the provision of a business unit of the size shown.

The above supporting information will be examined later in this report.

#### **RELEVANT PLANNING HISTORY:**

6. The site has been used for industrial purposes since the 1950's with a pickle factory shown on records dating back to 1950. Since then there have been a number of related factory/industrial extensions which have been granted planning permission.

#### **PLANNING POLICIES AND GUIDANCE:**

7. DENBIGHSHIRE UNITARY DEVELOPMENT PLAN (adopted 3<sup>rd</sup> July 2002)
  - Policy STRAT 1 - General
  - Policy STRAT 5 - Design
  - Policy STRAT 6 - Location
  - Policy STRAT 8 - Employment
  - Policy STRAT 15 - Housing
  - Policy GEN 1 - Development within Development Boundaries
  - Policy GEN 6 - Development Control Requirements
  - Policy HSG 10 - Affordable housing within development boundaries
  - Policy EMP 2 - Main Employment Areas
  - Policy EMP 10 - Protection of employment land/buildings
  - Policy REC 2 - Open Space requirements in new developments

#### Government Guidance

Planning Policy Wales, March 2002

#### **MAIN PLANNING CONSIDERATIONS:**

8. The main planning considerations are:-
  - i) Principle of proposed uses on the site having regard to adopted policies
  - ii) Impact on residential amenity (existing dwellings/proposed dwellings)
  - iii) Layout and open space
  - iv) Affordable housing
  - v) Impact on visual amenity
  - vi) Impact on highway safety
  - vii) Drainage issues
  - viii) Contamination Issues
9. In relation to the points identified in paragraph 8 above:-
  - i) Principle of proposed uses having regard to adopted policies

The site has been used for commercial/industrial purposes since the 1950's and its site designation within the adopted Unitary Development Plan is reflective of its historical employment purpose. It is acknowledged that in more recent years the variety of warehouses, workshops, office buildings and stores have not been used to full capacity. The applicants contend that due to the poor physical state of these buildings on site and their continued under use it would be preferable, in employment terms, to demolish the buildings



and replace them with one purpose built business unit.

The site is allocated for employment purposes in the Unitary Development Plan (Policy EMP 2) and as such the principle of replacing existing industrial buildings with a new industrial/business unit is acceptable. The applicants contend, however, that to deliver this new business unit the remainder of the site (some 75%) would need to be developed for residential purposes. The key assessment in this application is, therefore, whether this allocated employment site should allow some 75% of it to be lost for residential purposes in order to replace existing business buildings with 1 no. new one.

Whilst officers acknowledge that the financial appraisal submitted may show that the cost of purchasing this site, demolition costs, rebuild costs and then the eventual provision and sale of housing (albeit now to a Housing Association as a 100% affordable scheme) shows that only this number of dwellings proposed could deliver a business unit, this alone does not make the application acceptable. Officers do not consider that the provision of housing, at the level proposed, on an allocated employment site meets with the intentions of the strategic and employment policies of the Unitary Development Plan and for this reason the proposal should be refused. Recent work undertaken on the Local Development Plan has shown that Rhyl would have limited future sites for employment purposes. Such a 1.35ha site in this historically employment based location should be retained for such uses.

The applicant would be prepared to undertake groundworks and to market the proposed business unit to find an occupier; however, it is not considered that this gesture on an already allocated and previously well used employment site warrants the construction of 41 no. dwellings on over 75% of the site. The applicant argues that employment across the whole site is not realistic now, or in the future. This assumption is premature and it is considered that the Local Development Plan process would be the best forum to test this and not the current adopted Unitary Development Plan site designation.

ii) Impact on residential amenity for existing dwellings

The submitted layout plan shows the 924sq.m. business unit located to the north part of the site some 30m from the closest existing residential dwelling on Meredith Crescent. As a designated employment site which has historically operated in proximity to residential dwellings it is not considered that any new business unit in the location shown would cause any detriment to existing levels of residential amenity.

The proposed housing layout shows dwellings located to front onto Ffordd Derwen as well as back onto existing dwellings on Golden Grove and Meredith Crescent. The 6 no. apartment block and other semi-detached dwellings are shown to back onto the existing/proposed commercial site to the north. It is not considered that the proposed housing, as shown, would have any significantly detrimental impact on existing residential properties on Golden Grove or Meredith Crescent.

Impact on residential amenity for proposed dwellings

The submitted layout shows the 6 no. apartment block and the side of plot 23 within 12m of the proposed new business unit. The 6 no. apartment block is actually shown to be some 4.5m from the rear of an existing industrial building on the adjacent site to the north. Further, Plot 28 (a 4 bed 7 person dwelling) is shown sited some 8m from the apartment block with limited garden space provided.

In general the housing layout is considered cramped, lacking in open space and would result in a living environment for future occupiers which is unacceptable so close to existing/proposed business/industrial uses. As a 100% affordable scheme catering for families with children it is considered that the layout and spacing of dwellings would not provide an adequate future living environment for potential occupiers. This would be in direct conflict with the objectives of Chapter 9 of Planning Policy Wales which seeks to avoid large housing areas of monotonous character putting greater emphasis on quality and designing places for people.

iii) Layout and Open Space

As mentioned above, the housing layout as submitted appears contrived and would be in direct conflict with the advice given in Planning Policy Wales and policies within the adopted Unitary Development Plan which seek to ensure quality layouts providing a good living environment for future occupiers. Some 1092sq.m of public open space is to be provided, however, this is shown to be located at the far north corner of the site used as a buffer between dwellings and the business unit. No community recreational open space (CROS) is to be provided in the scheme with many of the private garden areas for the dwellings only just meeting the minimum standard for housing associations. It is not considered that a commuted sum for this required open space is acceptable in this instance. Given the proximity of nearby industrial premises, the nature and possible future occupation of this 100% affordable housing scheme and the density of the housing layout the scheme requires less dwellings and more open space. The layout and provision of open space would not comply with the intentions of Policy REC 2 or guidance given in SPG 4. It is not considered that a commuted sum would benefit the future occupiers of this site or the immediate area and this is acknowledged by the Council's own Leisure Services section who feel young children would have to walk from this site along busy urban routes to get to an existing play area.

iv) Affordable housing

The proposal involves the provision of a 100% affordable housing scheme. Denbighshire County Council's adopted policy and guidance requires a minimum of 30% affordable housing on schemes of 3 or more dwellings. Whilst it is acknowledged that a fully affordable scheme of housing may be acceptable on certain sites and that the provision of this amount of affordable dwellings would be welcomed in housing need terms, in planning terms an assessment needs to be made as to whether the scheme fully complies with adopted policies and guidance. The general site layout principles for affordable housing contained within Planning Policy Wales and our adopted Supplementary Planning Guidance encourage a reasonable mix and balance of house types and size to cater for a range of housing needs. As such to facilitate a greater social mix affordable houses should be dispersed around a housing site and not concentrated in one large area.

It is considered that having regard to the issues raised above in the sections on principles, residential amenity, layout and open space that the proposed full affordable scheme in this location does not meet the intentions of Planning Policy Wales or Denbighshire's own policy and guidance.

v) Impact on visual amenity

The scheme as shown including the business unit is not considered to impact significantly on the existing visual amenity levels of the site or surroundings. The scale and massing of buildings would not form an unduly prominent

feature in this semi-commercial location.

vi) Impact on highway safety

The site is designated for employment purposes and has historically been used for that purpose. Highway Engineers have not raised any concerns in respect to the proposed highway implications of this housing/business scheme. Subject to conditions and a legal agreement to change parking restrictions on Ffordd Derwen, the scheme is acceptable in highways terms.

vii) Drainage Issues

Dwr Cymru/Welsh Water has not raised any concerns in relation to the land drainage for this proposed scheme. Subject to standard conditions the proposal is acceptable in this regard.

viii) Contamination Issues

As a historic industrial site one must have regard to the possibility of land contamination. The specialist consultee on this subject suggests that a detailed site investigation should be carried out prior to any work starting on this scheme and risk assessments should be fully adhered to. It is suggested that planning conditions could deal with this issue adequately.

#### **SUMMARY AND CONCLUSIONS:**

10. The application site is located within an Employment Area (EMP2) as shown within the adopted Unitary Development Plan. Policies within the Unitary Development Plan (EMP 10) and Government guidance seek to protect such employment sites and uses. The developer argues that the viability and long term prospects for the site to be used for employment purposes have been demonstrated within submitted appraisal documents. Notwithstanding the financial information, it is considered unacceptable to allow this amount of housing on an allocated employment site in order to secure the groundworks and a marketing strategy for a single business unit. Furthermore, the layout of the 100% affordable scheme, its proximity to nearby industrial buildings and lack of open space would lead to an unacceptable living environment for the future occupiers. This would be contrary to Housing guidance within Planning Policy Wales and that contained within Denbighshire's Supplementary Planning Guidance which seek to promote good quality housing schemes which encourage safe and sustainable communities.

#### **RECOMMENDATION: REFUSE-** subject to the following conditions:-

1. It is considered that the proposed level of housing indicated on this allocated employment site is unacceptable and is contrary to Policy EMP 10 of the Denbighshire Unitary Development Plan along with guidance contained within Planning Policy Wales which seek to prevent the loss of employment sites to other uses. The Council consider that this long established employment site will contribute towards the future employment needs of Rhyl and that to allow such a loss to housing would set an unwanted precedent for the further encroachment of housing onto designated employment sites.
2. It is considered that the layout of the housing element of the scheme, the proximity of dwellings to existing and proposed industrial uses and the lack of community recreational open space results in a cramped form of development which would create an inadequate level of residential amenity for the future occupants of the site. This is in direct conflict with criteria i, and v, of Policy GEN 6, Policy REC 2 and SPG 4 of the Denbighshire Unitary Development Plan along with guidance contained within Chapters 9 and 11 of Planning Policy Wales.
3. It is considered that the provision of this amount of affordable dwellings in one block is contrary to the site layout principles contained within the Council's adopted Supplementary Planning Guidance on Affordable Housing in New Developments (SPG 22) along with

guidance contained within Chapter 9 of Planning Policy Wales. The provision of 41 no. dwellings in one block is contrary to the aim of facilitating a greater social mix with affordable dwellings dispersed about a site preferably in clusters.

**NOTES TO APPLICANT:**

None

**ITEM NO:** 5

**WARD NO:** Tremeirchion

**APPLICATION NO:** 47/2009/0426/ PF

**PROPOSAL:** Continuation of use of land as garden and erection of summer-house for use as garden room/playroom (partly in retrospect)

**LOCATION:** 7 Hen Afon Tremeirchion St. Asaph

**APPLICANT:** Mr & Mrs A Lewis

**CONSTRAINTS:** Wildlife Site  
Groundwater Vulnerability 1  
AONB

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

**CONSULTATION RESPONSES:**

TREMEIRCHION COMMUNITY COUNCIL

Object for the following reasons:

- "a) Due to the size and positioning of the summerhouse this application will have an overbearing impact on the adjoining properties.*
- b) Because of its size this application will impinge on the AONB landscape*
- c) The need for electricity and water supply gives rise to question the purpose*

*However Councillors have no objection to the continuation of use of land as a garden."*

AONB JOINT ADVISORY COMMITTEE

"The JAC deplores the retrospective element of this application and would normally have objected to the principle of extending this garden and associated domestic structures into the prominent open hillside to the rear of Hen Afon.

However, it is noted that the properties either side of the application site and others at Hen Afon have already extended their gardens and that Certificates of Lawfulness have been issued in 2005 for use of land to the rear of a number of the properties as an extension to their residential curtilage. In these circumstances it would be unfair to object in principle to this change of use.

Whilst acknowledging the change of use in principle, the JAC has concerns about the details of the proposals. In particular, the concrete fence along the rear boundary is visually intrusive in the rural scene and should be replaced by a boundary more sympathetic to the AONB such as a local stone wall or traditional hedge made up of indigenous local species. The location of the summer house and decked area at the highest and most prominent part of the extended garden is also inappropriate and it should be relocated to a less conspicuous position screened by the existing dwelling.

Finally, given the prominence of the site the JAC considers that normal residential permitted development rights on this land should be withdrawn by condition".

**RESPONSE TO PUBLICITY:**

None.

**EXPIRY DATE OF APPLICATION: 18/06/2009**

**PLANNING ASSESSMENT:**

**THE PROPOSAL:**

1. *Outline of application*

Planning permission is sought for the continued use of land as a domestic garden and the erection of a summerhouse to the rear of 7 Hen Afon, Tremeirchion. It is understood the land has been purchased from the County Council.

2. The extended garden is situated to the rear of 7 Hen Afon and measures approximately 27.5m by 7.5m and slopes steeply up from south to north. The proposed summerhouse would be situated at the northern end of the extended garden, to measure 2.5m in height (to the ridgeline), 4m in width and 4.5m in length, with a new decking area to the front and hedgerow/landscaping to provide screening. The proposed summerhouse would be painted forest green to blend in with the surrounding landscape.

*Description of site and surroundings*

3. No.7 is a semi detached dwelling with red brick walls and a tiled roof. The property is located just outside the main village of Tremeirchion, surrounded by residential properties to the immediate east and west, a wooded area to the north, and open field to the south.

*Relevant planning constraints/considerations*

4. The site is within the Clwydian Range AONB.

**RELEVANT PLANNING HISTORY:**

5. There is no previous planning history at the property. Separate consents have been obtained for the retention of land used as an extension to the residential curtilage at No's 1 and 2 Hen Afon in 2006 and 2005 respectively.

**PLANNING POLICIES AND GUIDANCE:**

6. DENBIGHSHIRE UNITARY DEVELOPMENT PLAN (adopted 3<sup>rd</sup> July 2002)  
Policy GEN 6- Development control requirements  
Policy ENV 2- Development affecting the AONB  
Policy HSG 16- Extensions to domestic gardens

**MAIN PLANNING CONSIDERATIONS:**

7. The main issues are considered to be:

- i) The principle
- ii) Impact on the AONB/visual amenity
- iii) Impact on residential amenity

8. In relation to the main considerations:

- i) The principle

Policy HSG 16 allows for extensions to domestic gardens subject to certain tests. These require that the proposal would not have an unacceptable impact on the appearance of the open countryside; constitute ribbon development; lead to the potential of further unacceptable development; or adversely affect historic or important landscape features. The proposal may therefore be acceptable in principle, dependent on assessment against these tests.

ii) Impact on the AONB/visual amenity

The comments from the AONB committee and Tremeirchion Community Council are acknowledged. The proposed summerhouse would be located to the rear of the dwelling, would incorporate appropriate screening and would have a forest green painted finish. This would help the proposal assimilate into the surrounding landscape. There is an example of a summerhouse painted green on the adjacent property, which has blended it successfully into the hillside. The walls are concrete 'stone effect' panels approximately 1m high with trellis battens on top. These do stand out against the dark background when viewed from distance and it is considered reasonable to condition an alternative treatment to modify their impact, if permission is granted. Overall, subject to the imposition of conditions, it is adjudged the scheme would have no adverse impact on the AONB, complying with the key tests of policy ENV 2.

iii) Impact on residential amenity

The summerhouse would be situated a reasonable distance away from nearby dwellings (approximately 56m), and would be appropriately screened to prevent any overlooking. To cover concerns from the Community Council regarding the purpose of the proposal, a condition can be attached to ensure the summerhouse remains ancillary and incidental to the enjoyment of the original dwelling house.

**SUMMARY AND CONCLUSIONS:**

9. It is considered the proposal accords with the relevant policies, and is therefore 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 summerhouse hereby permitted shall remain ancillary to the dwellinghouse known as No. 7 Hen Afon, and shall remain so at all times.
3. The approved details of the proposed hedgerow scheme shall be carried out in the first planting and seeding seasons following the completion of the summerhouse and should be retained thereafter. Should the hedgerow die, be removed or become seriously damaged or diseased, then it shall be replaced in the next planting season with a hedgerow of a similar size and species.
4. The external faces of the concrete panel walls shall not be as constructed, but shall be finished in accordance with such detailing as is approved in writing by the Local Planning Authority within 3 months of the date of this permission, no later than 30th September 2009.

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

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

**NOTES TO APPLICANT:**

For your information; outstanding planning permissions for the extension of domestic gardens in adjacent properties have been brought to the attention of the planning enforcement team.

**ITEM NO:** 6

**WARD NO:** St Asaph West

**APPLICATION NO:** 46/2009/0443/ PF

**PROPOSAL:** Demolition of existing scout hut, erection of 2 no. detached bungalows, alterations to existing vehicular access & associated works

**LOCATION:** Scout Hut Penrhewl St. Asaph

**APPLICANT:** Mr Hugh Evans GAM Construction Ltd

**CONSTRAINTS:** C1 Flood Zone  
PROW

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

**CONSULTATION RESPONSES:**

St. ASAPH TOWN/ COUNCIL  
'No objection'.

DCC HIGHWAYS & TRANSPORTATION (ACCESS OFFICER  
Advises that Public Footpath No 24 abuts the site, with standard advisory notes to be attached.

ENVIRONMENT AGENCY  
Advises that whilst the site lies within a C1 zone, the updated EA flood zone maps indicate that the site is not within either the 1 in 1000 or 1 in 100 year flood zone. Therefore the risk is considered minimal, and there are no objections.

WELSH WATER  
Suggests the inclusion of standard conditions serving separate drainage systems for foul and surface water systems.

DCC HEAD OF TRANSPORT & INFRASTRUCTURE  
No objection, subject to standard conditions and notes.

DCC COUNTY ECOLOGIST  
In response to the Protected Species Survey, suggests that the report's recommendations for positive bat and bird features for the building design be conditioned.

**RESPONSE TO PUBLICITY:**

- (i) Mr. & Mrs. G.M. Roberts, 5, Deans Walk (via e-mail)
- (ii) S. & M. Hughes & L. Mills, "Inglenook", Pen Rhewl, St. Asaph
- (iii) K. McCormack, Tegfan, Penrhewl, St. Asaph
- (iv) L. Mills, Penrhewl Villa, Penrhewl

Summary of planning based representations:  
hazardous material -asbestos potential with potential health implications.



Amenities – loss of privacy and overlooking potential; excessive noise; disturbance during construction period; excess dirt and dust during construction stage.

Highway – obstruction by extra traffic and visitors

Other issues - Will cables be underground; builders' compound and associated machinery storage causing disturbances.

**EXPIRY DATE OF APPLICATION:** 30/07/06

**REASONS FOR DELAY:**

- Timing of receipt of representations

**PLANNING ASSESSMENT:**

**THE PROPOSAL:**

1. The proposal, is a full planning application, which seeks to demolish the existing ,well established scout hut property and provide two detached bungalows, with minor alterations to an existing vehicular access point. An existing pedestrian point lies at the south corner.
2. The site lies at the junction point of Llwyn Elwy and T road which serves a limited number of residential properties further to the north and west of the site. A stone boundary wall runs along the road frontage. A public footpath lies along the road, along the site frontage. The existing Scout building, essentially single storey lies at the western end of the site, with mature evergreens along part of the westerly boundary. A mixture of external wall materials exist – roughcast, unpainted render, timber slats, timber wooden slats, felt roofs. Existing ground level is relatively flat within the site. The site level is raised in comparison to the adjoining highway.
3. To the south of the site lies the semi – detached, two storey , brick and slate West View; to the south west lies the detached bungalow, 23 Heol Clwyd, with the detached dormer style bungalow Inglenook to the west and detached bungalow , Tegfan, to the north west. The locality includes a mixture of building styles and design. Across the highway from the site, to the north lies the detached properties along Dean's Walk. The proposal is for the use of facing brick and render , with natural mineral slate., with a design similar in style/approach to others in the immediate locality.
4. The application includes an accompanying "Access Statement" and Protected Species Report. The Access statement includes reference to ramps; gradients and accessible provisions to disabled/wheelchair bound to/form and within the site. The protected species recorded no evidence of use by bats; with a sparrow nest located on the eastern gable/southern elevation. The report recommendations suggest positive biodiversity features should be included in the building design, and monitoring of the nest, ensuring demolition works after young birds have fledged.

**RELEVANT PLANNING HISTORY:**

5. No recent history.

**PLANNING POLICIES AND GUIDANCE:**

6. DENBIGHSHIRE UNITARY DEVELOPMENT PLAN (ADPOTED 3<sup>RD</sup> JULY 2002)  
Policy STRAT 1 – General  
Policy STRAT 5 – Design  
Policy STRAT 6 – Location  
Policy GEN 1 – Development within Development Boundaries  
Policy GEN 2 – Development of un-annotated land  
Policy GEN 7 – Development Control Requirements  
Policy HSG 2- Housing Developments in Main Centres

Policy ENV 1 – Protection of the Natural Environment  
Policy ENV 6 – Species Protection  
Policy ENV 7 – Landscape/Townscape features  
Policy ENP 4 – Foul and Surface Water Drainage  
Policy ENP 8- Contaminated Land  
Policy TRA 6- Impact of New Development on traffic flows  
Policy TRA 9 – Parking and Servicing provision  
Policy TRA 10 – Public Rights of Way

Supplementary Planning Guidance Notes:

- 2 - Landscaping
- 6 - Trees and Development
- 8 - Access for All
- 18 - Nature Conservation and Species Protection
- 21 - Parking
- 25 - Residential Development

#### GOVERNMENT GUIDANCE

Planning Policy Wales – March 2002 ( as amended via MIPPS)  
TAN 5 – Nature Conservation and Planning  
TAN 12 – Design  
TAN 15 – Flooding and Development  
TAN 18 – Transport  
TAN 21 - Waste

#### MAIN PLANNING CONSIDERATIONS:

7. The main considerations are:-

- i) Principle of development
- ii) Impact on residential amenities
- iii) Design
- iv) Highways
- v) Drainage
- vi) Protected Species implications
- vii) Trees and landscaping
- viii) Flooding

8. With regard to the main considerations:

i) Principle of development

The site lies within the defined development boundary, where the principle of development may be acceptable, subject to other site specific and planning policy considerations – to comply with the general sustainable approach of STRAT 1 and GEN 2 , i.e. maximising the use of underused land and buildings.

ii) Impact on residential amenities

Given the orientation of the proposed dwellings, and details of finished floor and site levels together with the fenestration details, the proposal would basically repeat the existing relationship and footprint in particular for plot 2, with neighbouring properties. The dwellings would not bring about any direct overlooking onto the adjacent residential properties.

With reference to site levels, the existing building floor level is shown as 50.00, with a ridge height of 53.90; the neighbouring bungalow 23 Heol Clwyd with a finished floor level of 50.60 and ridge level of 55.50. The proposed plans indicate finished floor levels of 50.10 for each plot with ridge

height of 54.80.

Sufficient amenity areas and distances between each plots are provided for.

Concerns over the presence of asbestos in the Scout Building are duly noted. There are separate legislative controls over the means of removal and disposal of asbestos from building sites. The applicant's attention would be drawn to the need for separate consents if a permission were to be granted. A copy of the approved asbestos report could be conditioned.

iii) Design

The proposal is for facing brickwork and slate/slate substitute as external materials. The proposal lies within an area which includes render and brick. However, given the corner location, with views open to the general public, the main elevation for Plot 1 should be simplified to omit the brick quoin detailing.

The application provides an opportunity to blend the buildings in their context through combining/utilizing materials which exist on similar dwellings in the immediate vicinity. A condition could be imposed requesting further detailed treatment/finish for the elevations, ensuring that the proposal complies with policies STRAT 5 and GEN 7.

iv) Highways

The proposal involves minor works to enlarge the existing access point, and securing a reduction in stone wall along the site frontage. All parking and turning are to be included within the site. The proposal is considered acceptable by the Highways Officer and safeguards compliance with the key objectives of policies Policy TRA 6- Impact of New Development on traffic flows ; Policy TRA 9 – Parking and Servicing provision; Policy TRA 10 – Public Rights of Way

v) Drainage

The agent is aware of the conditions suggested by Welsh Water. Additionally, there are other related controls regulated by the Building Regulations Act. The proposal complies with Policy ENP 4.

vi) Protected Species Implications

In order to ensure compliance with Policy ENV 6 and the related SPG, the County Ecologist's observations can be covered by a suitably worded planning condition, should planning permission be granted.

vii) Trees & Landscaping

There is a need to consider the positive soft landscaping and biodiversity qualities of the existing trees, together with the relationship with any drainage provision. Policies ENV 4 and 7, together with SPGs 2, 6 & 18 support this view. A suitably worded condition could ensure sufficient safeguards to protect the mature evergreen trees , should planning permission be granted.

viii) Flooding

The Environmental agency confirms there are no flood risk issues here.

**SUMMARY AND CONCLUSIONS:**

9. It is considered that the points of objection do not justify a refusal of planning permission, having particular regard to the existing site condition, the relatively small scale of development and the conditions suggested.

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

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

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

3. **PRE-COMMENCEMENT CONDITION**

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

i. an audit of all existing building materials

ii. the potential re-use and recycling of those materials for incorporating into an agreed, replacement site development, and

iii. where relevant, the recipient of remaining building materials. The approved audit shall form part of the building contract agreed for new building development for the site, a copy of which shall be submitted for record purposes for the Local Planning Authority.

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

5. 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.

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

7. The existing site stone boundary wall shall remain at all times, unless prior written consent has otherwise been agreed by the Local Planning Authority.

8. **PRE-COMMENCEMENT CONDITION**

Prior to the commencement of development the following details shall be submitted to, and approved in writing by the Local Planning Authority

i. Details relating to the recommendations of the Protected Species report in relation to positive features for bats and nesting birds.

ii. Asbestos survey

iii. Revised details for Plot 1 side elevation, to include the omission of the brick quoin side detailing.

and the development shall be completed strictly in accordance with the approved details.

9. **PRE-COMMENCEMENT**

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

10. **PRE-COMMENCEMENT CONDITION**

No development shall commence until details of the design, height and materials proposed for the screen walls and/or fences shown on the layout plan have been submitted to and approved in writing by the Local Planning Authority. Such screen walls and/or fences shall be erected before the dwellings to which they relate are completed or occupied whichever is the earlier.

11. 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.

12. 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.

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

1. To comply with the provisions of Section 91 of the Town and Country Planning Act 1990.
2. To provide for the loading/ unloading, parking and turning of vehicles and to ensure that reversing by vehicles into or from the highway is rendered unnecessary in the interest of traffic safety.
3. To ensure that the development involves a sustainable approach.
4. To protect the integrity of the public sewerage system.
5. 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.
6. To prevent hydraulic overload of the public sewerage system and pollution of the environment.
7. In the interests of the visual amenities of the locality.
8. In the interests of safeguarding and enhancing nature conservation interests; in the interests of the environmental amenities of the site and locality.
9. In the interests of visual amenity.
10. In the interests of residential and visual amenity.
11. To safeguard the existing trees and hedges on the site, in the interests of the visual amenities of the locality.
12. In order to ensure that trees and hedges to be retained are not damaged by building or engineering works.

#### **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). No change to the surface of the Right of Way should be approved without consultation with the County Council. The developer should be made aware of his/her obligations not to interfere with the Public Right of Way either whilst development is in progress or once it has been completed.

In particular, the developer must ensure the following:

There is no diminution in the width of the right of way available for use by members of the public.

No building materials are stored on the right of way.

No damage or substantial alteration, either temporary or permanent, is caused to the surface of the right of way.

Vehicle movements are arranged so as not to interfere with the public's use of the way.

No additional barriers (e.g. gates) are placed across the right of way, of either a temporary or permanent nature.

No wildlife fencing or other ecological protection features associated with wildlife mitigation measures are placed across the right or allowed to interfere with the right of way.

The safety of members of the public using the right of way is ensured at all times.

If the path needs a temporary closure to ensure public safety during commencement of construction works, the applicant is required to apply for a closure order 6 weeks prior to any works commencing. For further information the developer should contact the Public Rights of Way Section on 01824 706872.

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.

**PWYLLGOR CYNLLUNIO**  
**CYFARFOD:17 eg Mehefin 2009**  
**Eitem: 3**

**PLANNING COMMITTEE**  
**MEETING: 17th June 2009**  
**Agenda Item: 3**

## **MATERION GORFODI**

- (i) **ENF/2009/00039**  
Bryn Derwen, Abbey Road, Llangollen  
Gosod tanc trin dŵr aflan a suddfan dŵr
  
- (ii) **ENF/2009/00041**  
Terfyn Hall West, Ffordd Gronant, Prestatyn  
Gwaith cloddio heb awdurdod o ardd gefn eiddo domestig
  
- (ii) **ENF/2009/00042**  
Stafford Park, Marsh Road, y Rhyl  
Troseddau:
  - 1) Codi ffens dros 2 fedr mewn uchder
  - 2) Codi ffens dros fedr o uchder yn cyffinio priffordd



CYNGOR  
**Sir Ddinbych**  
**Denbighshire**  
 COUNTY COUNCIL

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

Tel: 01824 706800 Fax: 01824 706709

Heading:

BRYN DERWEN, ABBEY ROAD,  
 LLANGOLLEN



Application Site

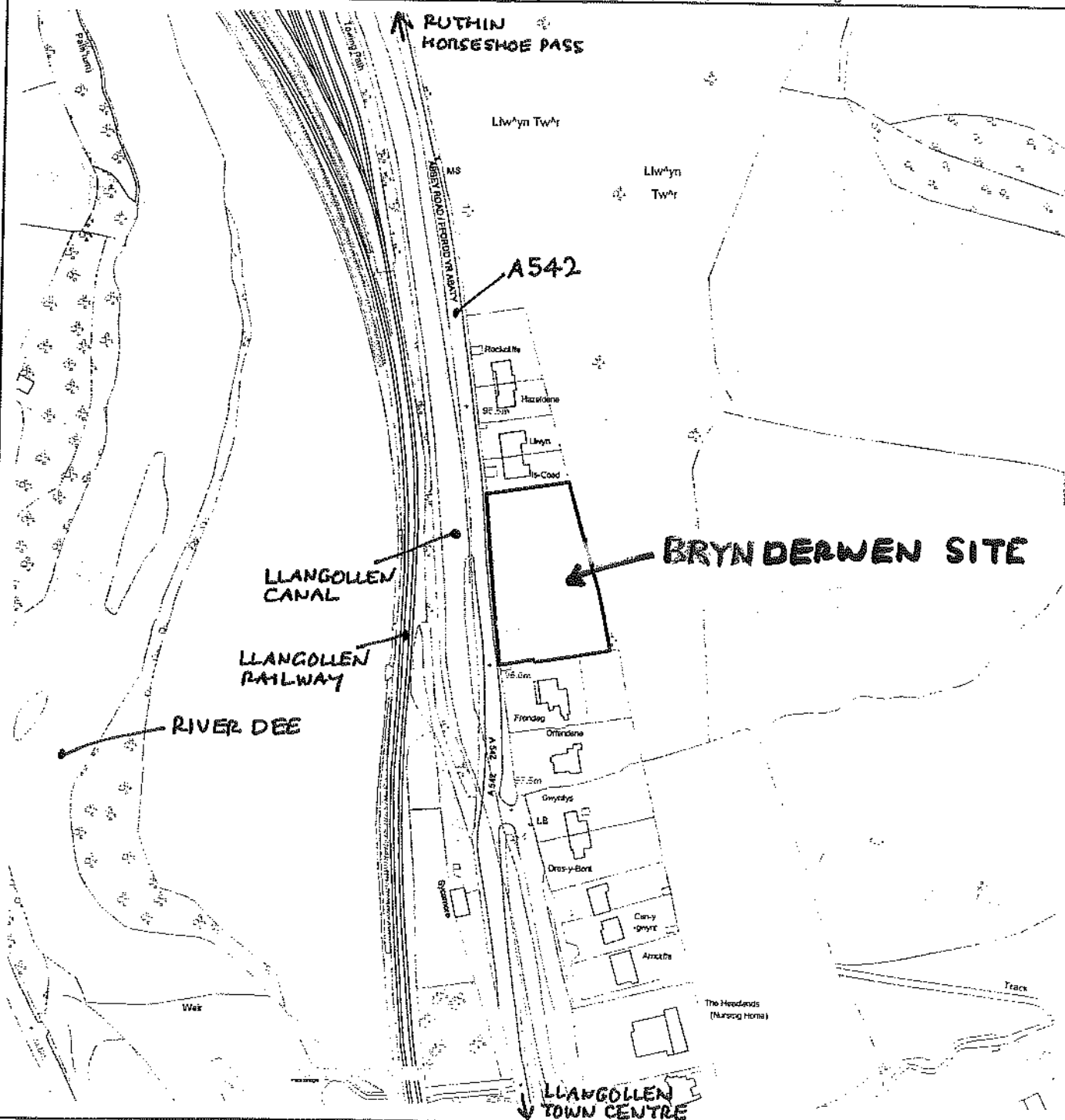


Date 17/9/2008

Scale 1/2500

Centre = 320961 E 343093 N

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



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## **PLANNING ENFORCEMENT REPORT**

**REFERENCE:** ENF/2009/00039

**LOCATION:** Bryn Derwen Hotel, Abbey Road, Llangollen

**INFRINGEMENT:** Installation of foul water treatment tank and soakaway system

### **RELEVANT PLANNING POLICIES AND GUIDANCE**

#### **DENBIGHSHIRE UNITARY DEVELOPMENT PLAN**

Policy STRAT 7 - Environment  
Policy GEN 6 - Development Control Requirements  
Policy ENV 1 - Protection of the natural environment  
Policy ENV 5 - Sites of local conservation importance  
Policy ENP 1 - Pollution  
Policy ENP 4 - Foul and Surface Water Drainage

#### **GOVERNMENT GUIDANCE**

Planning Policy Wales, March 2002 (As amended via MIPPS)  
Welsh Office Circular 10/99 – Planning Requirements in respect of the use of non-mains sewerage incorporating septic tanks in new development

#### **Technical Advice Notes**

TAN 5 - Nature Conservation and Planning  
TAN 15 - Development and Flood Risk

### **HUMAN RIGHTS CONSIDERATIONS**

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

In this particular instance, the rights of a person(s) to install a foul water treatment tank and soakaway does not outweigh the rights of the local planning authority to protect the amenities of the locality from the impacts of such development. No human rights issues have been raised in this case.

## **1. BACKGROUND INFORMATION**

- 1.1 Outline planning permission was granted for the demolition of the former Bryn Derwen Hotel, and the redevelopment of the land by the erection of 20 residential apartments in August 2005 (application 03/2004/0720/PO).
- 1.2 A reserved matters submission containing details of the 20 apartments was approved at planning committee in September 2006. (Application 03/2004/0720/PR).

- 1.3 The means of foul and surface water drainage was stated in both the outline and reserved matters applications as connection to the public sewer. The point of connection to the existing sewer is approximately 600 metres to the south of the site. A note was attached to the reserved matters approval Certificate to draw attention to the basis of the approval, and reminded the applicants that any variation would require the submission of a further planning application.
- 1.4 The redevelopment of the site has been in progress since 2007. The developers/agent sought a separate planning consent to change the means of disposal of foul and surface water, through the submission of a planning application in August 2008 for permission to install a treatment plant with a discharge into the Llangollen Canal (which runs on the opposite side of the A542 to the site). The application, Code No. 03/2008/0918/PF was refused permission at the October 2008 Planning Committee for the following reason:
- ” The proposal to install a private treatment plant to serve the development is considered contrary to Policy ENP 4 (ii) of the Denbighshire Unitary Development Plan as it has not been established that connection to the foul sewer is not feasible or that there would be no potential for pollution of the Llangollen canal”.
- 1.5 An appeal was lodged against the above refusal in early December 2008. The agent also resubmitted the application for the treatment plant, with additional supporting information, in late December 2008. The resubmitted application, Code No. 03/2008/1350/PF, was refused for the same reason as quoted in 1.4 at Planning Committee in February 2009. The planning appeal in respect of the refusal of permission took place on the 2<sup>nd</sup> June 2009, in the form of a Hearing attended by local members. The decision on the appeal is awaited at the time of drafting this report.
- 1.6 Site works had been suspended for a number of weeks during 2008, but started again in early 2009. It is understood these are nearing completion.
- 1.7 Officers of the planning section have been visiting the site to check compliance with the approved plans, primarily in respect of matters of detail on the buildings. There has been correspondence with the developers agents over a range of matters. The issue of the drainage arrangements has been raised as the development progresses towards completion.
- 1.8 In early May 2009 the developer's planning agent wrote to advise on the intentions over foul and surface water arrangements. The reply contained the following comments:-

”Your comments relating to works on the treatment tank have been noted by the development team. However, the provision of foul drainage for the site has become an issue as property cannot be sold until it is available. It is therefore intended to install the plant (at the developer's risk, of course) in order to provide the facility. The intention is to tanker the effluent off site for safe disposal at an authorised facility. This is not to pre-empt the appeal decision (one cannot do that) but if the appeal is allowed, clearly the connection to the canal outfall can be made. However, we are mindful that, if excavation on the canal bank is needed, such works will require ancient monument consent from CADW and this will take some time. We do anticipate that the only work that will be needed is repair of the exposed outfall pipe, in which case CADW inform me that this non-intrusive repair will not require consent. It may be that there is a significant delay between a favourable appeal decision and completion of the connection to the canal.

If the appeal is dismissed, there will be a further, quite protracted delay if a pumped sewer connection to the public foul sewer is constructed as originally proposed. The presence of the BioDisc will allow occupancy whilst this work is undertaken and it is probable that the discharge to the sewer would be of treated rather than raw effluent. An alternative in all circumstances is for the BioDisc effluent to be dealt with by means of percolation; percolation tests show this to be a practical option.

It is accepted that after the appeal is determined there may be a need for a retrospective application to deal with the outturn drainage provision”.

- 1.9 Officers were alerted by neighbours on the 12<sup>th</sup> May 2009 that excavation works were in progress in the location of the ‘proposed’ treatment tank. A treatment tank was delivered to the site on the 13<sup>th</sup> May. An officer visit on the 18<sup>th</sup> May confirmed the works were in fact in connection with a ‘revised’ proposal for a treatment tank and soakaway system with a linear trench being excavated between the apartments and the road boundary. The developer’s agent was sent a standard warning letter from the Planning Compliance section on the 20<sup>th</sup> May, drawing attention to the unauthorised development in progress, strongly advising works to stop pending the outcome of the appeal, and stressing the fact that such works were at the clients’ own risk, subject to further action unless authorisation is given.
- 1.10 The Environment Agency and British Waterways have been informed of developments in view of the proximity of the Llangollen Canal and River Dee.
- 1.11 At the time of preparing this report, no new planning application has been submitted for permission to install the treatment tank and soakaway. This development is therefore unauthorised under planning legislation. Details of the treatment tank and soakaway were submitted to the Building Regulation Section on the 18<sup>th</sup> May. These plans will be considered in relation solely to the requirements of the Building Regulations. In the event of a consent being issued under the Regulations, this does not convey a planning approval, and the development would remain unauthorised.

## **2. REASONS FOR ISSUING AN ENFORCEMENT NOTICE**

- 2.1 The installation of a new treatment tank and soakaway in connection with the development of 20 apartments constitutes an unauthorised development. The merits of the drainage system have not been subject to the relevant scrutiny of the planning process, and particularly given the proximity of the system to the road, the Llangollen Canal, and the River Dee, there is an unknown potential for pollution, contrary to the aims and objectives of planning policy ENP 4.
- 2.2 The development is approaching completion and apartments are being marketed. The use of an unauthorised foul and surface water treatment plant could give rise to pollution in the vicinity, including important waterways.

## **3. RECOMMENDATION**

- 3.1 a) That in the event of the treatment tank being brought into use to serve the development prior to the grant of any planning permission, an enforcement notice be served to secure the removal of the treatment tank and the reinstatement of the land in accordance with the approved planning documents within 2 months of the date of service of the notice.
- 3.2 To instigate prosecution proceedings where any person on whom a Notice has been served, fails or refuses to comply with the requirements of the Notice.

Heading:

ENF/2009/00041  
TERFYN HALL WEST, GRONANT ROAD  
PRESTATYN, LL19 9SW

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



Date 4/6/2009  
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**PLANNING ENFORCEMENT REPORT**

**REFERENCE:** ENF/2009/00041

**LOCATION:** Terfyn Hall West Gronant Road Prestatyn

**INFRINGEMENT:** Unauthorised excavation works from the rear garden of a residential dwelling

**RELEVANT PLANNING POLICIES AND GUIDANCE**

DENBIGHSHIRE UNITARY DEVELOPMENT PLAN  
Policy GEN 3 Development Outside Development Boundaries  
Policy GEN 6 Development control requirements

GOVERNMENT GUIDANCE  
Planning Policy Wales – March 2002

**HUMAN RIGHTS CONSIDERATIONS**

The Human Rights Act 1998 is taken into account when considering taking enforcement action in relation to unauthorised changes of use. In this case the matter under consideration relates to the rights of the occupant to carry out excavation works without the requisite authority to do so. These rights are outweighed by the general public interest and the need to exercise general development control. No claim has been made in respect of Human Rights.

**1. BACKGROUND INFORMATION**

- 1.1 Terfyn Hall West is a large semi detached property in open countryside outside of Prestatyn. The site was formerly one large country house before being separated into two residential units prior to the implementation of the planning system. The property is located off Gronant Road, on a hillside to the East of Coed Bell Cemetery, and commands views of Prestatyn Links and the Irish Sea to the North. To the rear of the property is a steep wooded hillside, covered by the Coed Bell Woods Tree Preservation Order.
- 1.2 The site is outside the development boundary for Prestatyn, and it is therefore covered by policy GEN 3 of the Unitary Development Plan. The site is also within the Area of Outstanding Natural Beauty.
- 1.3 In January 2009, the Council received a complaint that the owner of Terfyn Hall West had excavated a large section of paddock to the rear and side of the property. This land contained shrubs and small trees rising up in a southerly direction and extending westward along Gronant Road.
- 1.4 The area of land excavated is approximately 2 metres deep running for approximately 20 metres wide East to West. The height of the bank removed is approximately 3.50 metres. The estimated volume of the land removed is 70 cubic meters. The work was carried out by mechanical excavating equipment. This area of land does not form part of the garden area of the dwelling but was steep, landscaped banking.

- 1.5 The owner was contacted and advised to submit a retrospective planning application should he wish to retain this excavated land in its current state. This was received by the planning department in May, however it was invalid. Following a further site meeting with the owner of Terfyn Hall West and an officer on 22<sup>nd</sup> May 2009, the required details to validate the planning application have not been submitted.

## **2. REASONS FOR ISSUING AN ENFORCEMENT NOTICE**

- 2.1 The unauthorised development has occurred within the last four years.
- 2.2 The operational development has occurred on the boundary of the curtilage of the neighbouring property and is having negative visual and residential impact on the neighbour who fears that the excavation has destabilised their garden which lies above the excavated area. The site is located within the Area of Outstanding Natural Beauty where the primary objective would be to conserve and enhance the appearance of the area. The extent of excavation and removal of natural banking in this location is considered unacceptable and would be in direct conflict with Policy ENV2 of the Unitary Development Plan.
- 2.3 The unauthorised development is therefore contrary to the provision of Policies GEN 3 (vi) and GEN 6 (ii), (iv) and (v) of the adopted unitary development plan.
- 2.4 The use of conditions as part of any grant of planning permission for retention of the unauthorised development could not overcome these objections.

## **3. RECOMMENDATION**

- 3.1 Serve an Enforcement Notice to secure the reinstatement of the excavated land, levels and landscaping.
- 3.2 Instigate proceedings, or any other appropriate action under the Planning Acts against the person, or persons, upon whom any Enforcement Notice, or other such Notice is served, should they fail to comply with the requirements thereof.

Heading:

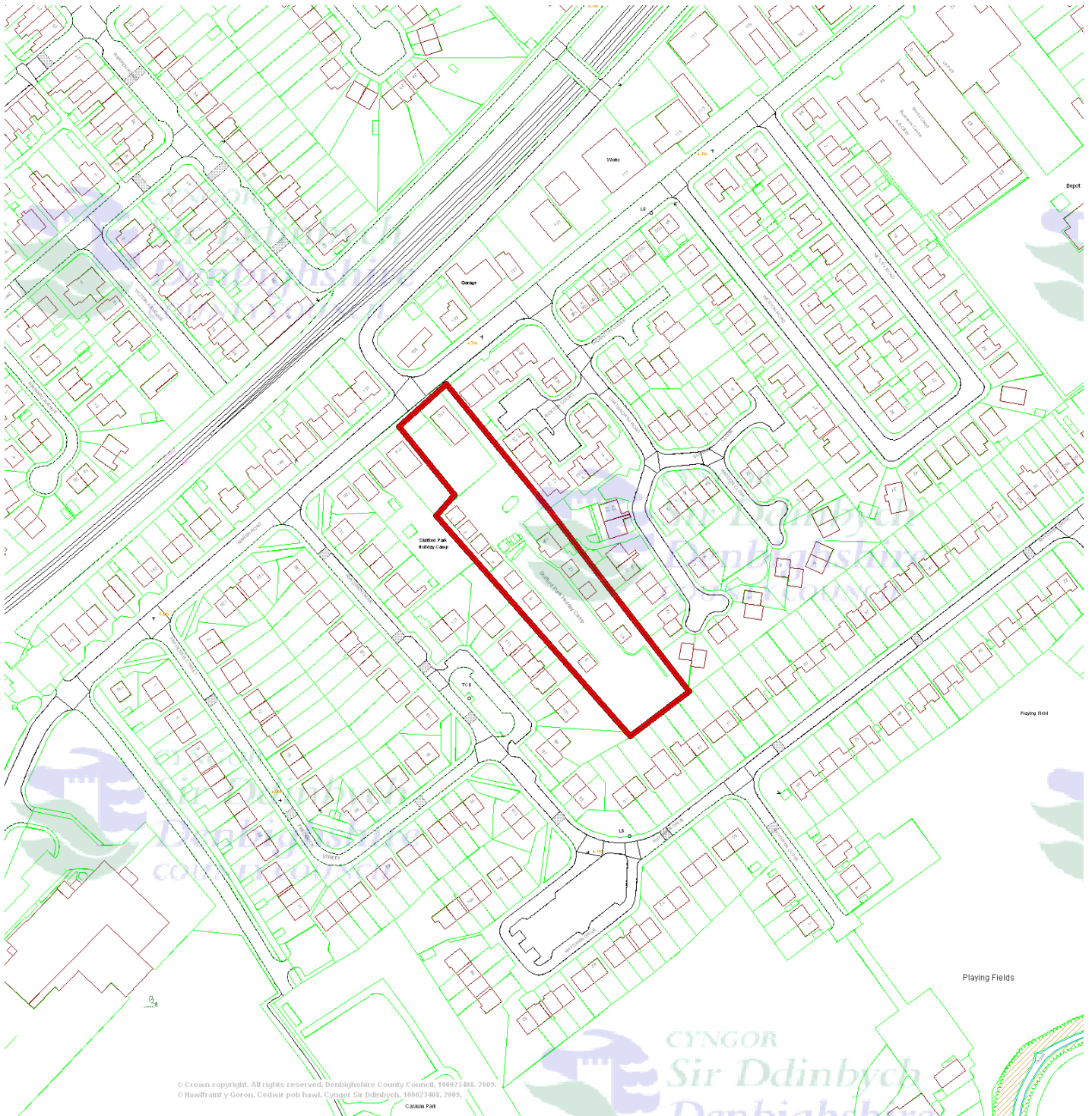
ENF/2009/00042  
STAFFORD PARK, MARSH ROAD,  
RHYL, LL18 2AH

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## **PLANNING ENFORCEMENT REPORT**

- REFERENCE:** ENF/2009/00042
- LOCATION:** Stafford Park Marsh Road Rhyl
- INFRINGEMENT:**
- 1) Unauthorised Development - Erection of a fence over 2 metres in height
  - 2) Unauthorised Development – Erection of a fence over 1 metre in height adjacent to a highway

### **RELEVANT PLANNING POLICIES AND GUIDANCE**

DENBIGHSHIRE UNITARY DEVELOPMENT PLAN  
Policy GEN 6 Development control requirements

GOVERNMENT GUIDANCE  
Planning Policy Wales – March 2002

### **HUMAN RIGHTS CONSIDERATIONS**

The Human Rights Act 1998 is taken into account when considering taking enforcement action in relation to unauthorised changes of use. In this case the matter under consideration relates to the rights of the land owner to erect fencing without the requisite authority to do so. These rights are outweighed by the general public interest and the need to exercise general development control. No claim has been made in respect of Human Rights.

## **1. BACKGROUND INFORMATION**

- 1.1 The property is a large caravan site on the South of Marsh Road, Rhyl. It has been in operation for a number of decades. The caravan site is bounded on all side by residential housing. The site is within the GEN 1 Development Boundary of Rhyl. The caravan site is accessed off Marsh Road, and this entrance borders two residential properties on Marsh Road.
- 1.2 In 2005, the caravan site was granted planning permission for the replacement of chalets with 13 residential caravans and associated landscaping and lighting (45/2004/1691). As part of this permission, condition 4 stated that the boundary fencing around the caravan site was to be replaced by a 2 metre high close boarded fence.
- 1.2 In April 2009, the Council received a complaint that two sections of fence were at an unauthorised height.
- 1.3 **INFRINGEMENT 1**  
The Western boundary of the caravan site borders a residential bungalow on Marsh Road. The close boarded fence that has been erected there is 2.20 metres high. The section of fencing, running North to South is approximately 20 metres in length, before stepping down in height to 2.00 metres. The resident feels that the fencing is obtrusive and that it has reduced his enjoyment of his garden.



## **REASONS FOR ISSUING AN ENFORCEMENT NOTICE**

- 1.4 The unauthorised development has occurred within the last four years.
- 1.5 The site is located adjacent to residential dwellings, and the height of the section of fencing along the Western boundary is detrimental to the residential and visual amenity of the residential neighbour to the West of the caravan site.
- 1.6 The unauthorised development is therefore contrary to the provision of Policies GEN 6 (i) of the adopted unitary development plan.
- 1.7 The use of conditions as part of any grant of planning permission for retention of the unauthorised use could not overcome these objections.

### **1.8 INFRINGEMENT 2**

The owner of the caravan site has erected close boarded fencing adjacent to the entrance of the caravan site on the North Western boundary with the neighbouring residential property on Marsh Road. The height of this fencing adjacent to the highway is 1.92 metres. The section of fencing, running North to South from the highway, is approximately 4 metres in length, before stepping up in height to 2.20 metres. This 4 metre long stretch of fencing, has restricted the visibility of the owners of the residential property, who now finds it difficult to exit their driveway as they are unable to see pedestrians approaching their driveway on what is a busy residential thoroughfare.

## **REASONS FOR ISSUING AN ENFORCEMENT NOTICE**

- 1.9 The unauthorised development has occurred within the last four years.
- 1.10 The site is located adjacent to a residential area, and the height of the fencing adjacent to the highway, and the Western neighbour, are detrimental to road safety. This is due to the height of the fence restricting the vision of users of the residential driveway trying to exit on to Marsh Road.
- 1.11 The unauthorised development is therefore contrary to the provision of Policies GEN 6 (i), (vi) and (vii) of the adopted unitary development plan.
- 1.12 The use of conditions as part of any grant of planning permission for retention of the unauthorised use could not overcome these objections.

## **2. RECOMMENDATION**

- 2.1 Serve an Enforcement Notice to secure the reduction in the sections of fences, so that the fencing in infringement 1, is reduced from 2.20 metres to 2.00 metres, and that the section of fencing in infringement 2 is reduced from 1.92 metres to 1.00 metres high.
- 2.2 Instigate proceedings, or any other appropriate action under the Planning Acts against the person, or persons, upon whom any Enforcement Notice, or other such Notice is served, should they fail to comply with the requirements thereof.