

PWYLLGOR CYNLLUNIO
CYFARFOD: 29 Gorffennaf 2009
Eitem Agenda: 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: Denbigh Upper / Henllan

APPLICATION NO: 01/2004/0787/ PO

PROPOSAL: Development of 0.6ha of land for residential purposes (outline application with all matters reserved)

LOCATION: Land Adjoining St.Joseph's Church Bryn Stanley Denbigh

APPLICANT: Diocese Of Wrexham

CONSTRAINTS: Public Footpath / Bridleway

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

CONSULTATION RESPONSES:**DENBIGH TOWN COUNCIL**

"I am instructed to write to inform you that the Town Council whilst not wishing to object to the planning application would wish to put forward the following observations and concerns:

- Visibility at the junction of Bryn Stanley and Lon Llewelyn – the Council would wish to suggest that visibility be improved by pushing back and reducing the size of the wall located at the junction.
- For the benefit of the residents of Bryn Stanley that some form of control of construction traffic during the construction stage be introduced.
- Concerns expressed at the increase in traffic through Bryn Stanley caused by the development".

WELSH WATER/DWR CYMRU

Recommends imposition of standard conditions relating to details of foul and surface water drainage. No problems envisaged with sewage treatment works for foul discharge from the site.

DENBIGHSHIRE COUNTY COUNCIL HEAD OF TRANSPORT AND INFRASTRUCTURE

No objection subject to conditions, including improved visibility splay onto Lon Llewelyn

DENBIGHSHIRE AFFORDABLE HOUSING OFFICER

Confirms current demand for 2 bed houses and need to ensure appropriate level of affordable provision with the scheme.

RESPONSE TO PUBLICITY:

Letter of representations received from:

Mr A Waterfield - 13 Bryn Stanley, Denbigh

Summary of planning based representation:-

In objection to the application -

- i) Impact on infrastructure -
Highways – congested roads in locality

- ii) Impact on landscape and wildlife
- iii) Noise and disturbance
- iv) Impact on unique character of Bryn Stanley (design and character)
- v) Impact on outlook/view from existing properties

EXPIRY DATE OF APPLICATION: 21/07/2009

REASONS FOR DELAY IN DECISION:

- Request from agents to reconsider approach to means of securing affordable housing and open space

PLANNING ASSESSMENT:

THE PROPOSAL:

1. Outline of application

- i) This is an outline application seeking permission to establish the principle of residential development on a 0.6 hectare site at Bryn Stanley.
- ii) The application identifies solely the extent of the site, and does not seek approval of any detailed matters such as access, siting and design of buildings, layout etc. These would need to form the subject of a separate application if outline permission is granted.
- iii) The application was originally submitted in June 2004 and was the subject of a resolution by planning committee in September 2004 to grant permission, subject to the completion of a Section 106 agreement to secure provision of affordable housing and open space (See sections following).
- iv) The applicant's agent has recently forwarded a 5 page supporting statement outlining the reasons for now seeking the Committee's reconsideration of the application. This is effectively a request to address the issues of affordable housing and open space provision by way of appropriately worded planning conditions rather than a legal agreement. The statement outlines the case that the proposal remains in compliance with planning policy, being within the town development boundary, and it contains comment on basic approaches to design, access, affordable housing and open space provision.

2. Description of site and surroundings

- i) The site is an open parcel of land at the southern end of the town, located immediately to the south east of the housing estate at Bryn Stanley. The Church of St. Joseph's lies to the north, and the cul-de-sac at Bron Castell to the east. Land to the south consists of open fields between the town and buildings which were formerly part of the North Wales Hospital complex.
- ii) The field slopes gently down to the south east. It is fenced off from Bryn Stanley and is overgrown, with hedgerows along the southern boundary.
- iii) Development at Bryn Stanley consists of a mix of styles, with primarily 2 storey units. Bron Castell has a mix of houses and bungalows.

3. Relevant planning constraints/considerations

- i) The application site is within the development boundary of the town, and is shown in the Unitary Plan as a 'housing commitment', allocated on the

proposals map.

4. Relevant planning history

- i) The current application was submitted in June 2004.

A full planning application for 25 dwellings was submitted in August 2006 and was considered at Planning Committee in September 2007. The Committee resolved to grant permission subject to a legal agreement to secure the financial arrangements for provision of affordable housing and open space provision and maintenance. The legal agreement has not been completed by the applicants and officers believe it is unlikely this will now be pursued.

5. Developments since the original submission

- i) The situation here has been complicated by the submission of the full planning application for 25 dwellings, which seems to have contributed to delays in progress on the completion of the legal agreement on this outline application, following consideration at Planning Committee in September 2004.
- ii) As the 25 dwelling scheme seems unlikely to proceed, the agent on the outline application has sought to revive and progress this application. He has reviewed the submission and the approach now adopted by the County Council and the Planning Inspectorate on outline applications, in respect of securing affordable housing and open space provision, and is respectfully requesting the Council to consider dealing with these matters by way of planning conditions rather than a legal agreement. He has pointed to recent examples of such conditions used by local planning authorities and the Planning Inspectorate.
- iii) The agent has reaffirmed a willingness to accept the requirement for affordable housing and open space in accordance with the Council's policies.

6. Other relevant background information

- i) A fresh consultation and publicity exercise has been undertaken to advise interested parties of the applicant/agent's request for the reconsideration of the application. The responses referred to elsewhere in the report are in relation to this recent reconsultation.

RELEVANT PLANNING HISTORY:

7. 01/2006/0961/PF
25 dwellings, construction of new pedestrian and vehicular access to the site and alterations to existing access/visibility splay at Lon Llewelyn.

Planning Committee resolved to grant permission subject to completion of legal agreement in September 2007. Agreement not signed at time of preparing this report

PLANNING POLICIES AND GUIDANCE:

8. DENBIGHSHIRE COUNTY COUNCIL UNITARY DEVELOPMENT PLAN
Strategic policies
STRAT 15 - Housing

General settlement and development considerations
GEN 1 - Development within development boundaries
GEN 6 - Development control requirements
GEN 8 - Planning obligations

- HSG 2 - Housing development in main centres
- HSG 10 - Affordable housing within development boundaries
- REC 2 - Amenity and recreational open space requirements in new development
- TRA 6 - Impact of new development on traffic flows
- TRA 9 - Parking and servicing provision
- ENV 1 - Protection of the nature environment
- ENV 6 - Species protection

- SPG 4 - Recreational open space
- SPG 22 - Affordable housing in new developments

Welsh Assembly Government
 Planning Policy Wales 2002 as amended by Ministerial Statements

Technical Advice Notes
 TAN 2 - Planning and Affordable Housing

Ministerial Planning Policy Statements
 Circular 35/05 – The use of conditions in planning permissions

MAIN PLANNING CONSIDERATIONS:

9.

The main issues are considered to be:-

- i) Principle of development
- ii) Amenity impact
- iii) Highways
- iv) Affordable housing
- v) Open space
- vi) Ecological impact

10. In relation to the main issues:

i) Principle of development

The main Unitary Development Plan Policies relevant to the principle of the development are STRAT 15 and GEN 1. These policies seek to make provision for new housing in a range of locations, concentrating development within the boundaries of defined settlements. HSG 2 seeks to direct most housing development to main centres, including Denbigh. The site is within the development boundary of Denbigh and is shown as a 'housing commitment' on the proposals map for the town.

The application has been considered previously by the Committee in 2004 when the principle of a residential development was accepted. As there have been no material changes in policy or circumstances since this time, the principle of the development would still be in accordance with the provisions of the Unitary Plan. The only new matters to address are the mechanisms for ensuring provision of affordable housing and open space.

ii) Amenity impact

The general requirements to assess the acceptability of a new housing development are set out in GEN 6. As this is purely an outline application, it is not possible to draw any conclusions on the impact on the character of Bryn Stanley or immediately adjacent development, nor on the privacy/amenity of residents. These matters properly fall for consideration at detailed plan stage, when the Council can assess the acceptability proposals for dwelling types, design, and their relationship with adjoining development.

iii) Highways

The main Unitary Plan policies relating to the highway impact of new developments are TRA 6, TRA 9, and GEN 6. These require due consideration of impacts on the safe and free flow of traffic, the capacity and condition of the highway network, and the adequacy of parking and servicing provision. The Council's Highway Officers raise no objections to the application, subject to conditions.

With due respect to the comments of the Town Council and the objector, it is not considered the scale of development would lead to unacceptable problems on the highway network. It is acknowledged that the visibility to the east at the point of entry of Bryn Stanley onto Lon Llewelyn is restricted, and as this land is within the control of the applicants (Church), it is possible to incorporate a condition to oblige improvements as part of any permission.

iv) Affordable housing

The requirement for provision of affordable housing in connection with housing developments within development boundaries is set out in Policy HSG 10 of the Unitary Plan, supplemented by guidance in SPG 22 – Affordable Housing in New Development.

There is no argument here from the applicant's agent over the principle of providing affordable housing. The issue to resolve is whether the Council is happy to impose its controls through the use of a suitably worded condition on an outline permission, rather than through a Section 106 legal agreement. Officers take the view that the use of a 'standard' form of planning condition, as worded by the Planning Inspectorate on appeal decisions over the last year or so, would be acceptable as a means of establishing the requirement for an agreed level of affordable housing prior to the commencement of development, or within the submission of a reserved matters application. The benefit of taking this route is that there is substantially less delay in the release of permissions, less need for formal legal procedure, and it allows the Council to deal directly with future developers of a site over the detailed arrangements for provision.

v) Open space provision

Policy REC 2 and SPG 4 set out the requirement for provision of amenity and recreational space in new residential development.

The applicant's agent has asked for the Council to adopt the same approach to securing provision of open space as for affordable housing on this outline application, i.e. by way of a similar type of planning condition rather than a legal agreement.

Again, it would be officers' opinion that an enforceable condition relating to the provision of open space can be attached to any permission, to secure the requirements of policy and guidance.

vi) Ecological impact

Policies ENV 1 and ENV 6 require due consideration and protection of the natural environment, including landscape character and the biodiversity of an area, including ensuring there is no harm to protected species.

The applicant's agent has drawn attention to the nature of the application site, which has been a maintained 'open' field for many years, with no buildings, ponds or trees present. Whilst accepting the existence of hedgerows along the southern boundary, the agent has advised there is little evidence to suggest the presence of protected species.

In the context outlined, it is not considered there are protected species issues to address here. It would be wholly reasonable to suggest the retention of boundary hedgerows within the applicant's ownership, to ensure no detriment to wildlife interests therein.

SUMMARY AND CONCLUSIONS:

11. The site lies within the town development boundary. It has been the subject of both outline and full planning applications for residential development in recent years, and the Planning Committee has resolved to grant permission subject to the completion of legal agreements to secure affordable housing and open space provision. There have been recent changes in approach by the Planning Inspectorate and the County Council in accepting the principle of conditioning outline planning consents to secure affordable housing and open space provision, rather than oblige the applicant and Council to go through the mechanics of a legal agreement under Section 106 of the Planning Act. Officers are satisfied that this is a case where it would be reasonable to grant an outline consent with conditions to cover these matters.
12. Concerns over impacts on existing development are acknowledged. Many of these can only be assessed properly at detailed plan stage. Any developer would need to demonstrate the specific proposals for dwelling types, layouts, design, etc., are acceptable in their local context as part of a reserved matters submission.

RECOMMENDATION: GRANT- subject to the following conditions:-

1. Approval of the details of the siting, design and external appearance of the building(s), the means of access thereto and the landscaping of the site (hereinafter called "the reserved matters") shall be obtained from the Local Planning Authority in writing before the commencement of any development.
2. The development hereby permitted shall be begun either before the expiration of five years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.
3. Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.
4. **PRE-COMMENCEMENT CONDITION**
The development shall not begin until a scheme for the provision of affordable housing as part of the development has been submitted to and approved in writing by the Local Planning Authority. The affordable housing shall be provided in accordance with the approved scheme and shall meet the definition of affordable housing in Annex B of TAN 2 : Planning & Affordable Housing (2006) or any future guidance that replaces it. The scheme shall include:
 - i. the numbers, type, tenure and location on the site of the affordable housing provision to be made which shall consist of not less than 30% of housing units/bed spaces;
 - ii. the timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing;
 - iii. the arrangements for the transfer of the affordable housing to an affordable housing provider (or the management of the affordable housing);
 - iv. the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and
 - v. the occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.
5. No development shall be permitted to take place until the written approval of the Local Planning Authority has been obtained to the detailed arrangements for the provision for amenity and open space within the site in accordance with the Council's policies and guidance.

6. Foul water and surface water discharges shall be drained separately from the site.
7. 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.
8. Land drainage run-off shall not be permitted to discharge, either directly or indirectly, into the public sewerage system.
9. No development shall commence until the developer has prepared a scheme for the comprehensive and integrated drainage of the site showing how foul water, surface water and land drainage will be dealt with and this has been approved in writing by the Local Planning Authority in liaison with Dwr Cymru Welsh Water's Network Development Consultants.
10. The detailed layout, design, means of traffic calming, signing, drainage and construction of the internal estate road shall be submitted to and approved by the Local Planning Authority prior to the commencement of any site works.
11. A visibility splay of 2.4m x 70m shall be provided at the junction of Lon Llewelyn and Bryn Stanley and shall be completed before the first house is occupied.

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

1. To comply with the provisions of Section 91 of the Town and Country Planning Act 1990.
2. To comply with the provisions of Section 92 of the Town and Country Planning Act 1990.
3. To comply with the provisions of Section 92 of the Town and Country Planning Act 1990.
4. In order to ensure an adequate supply of affordable housing in accordance with planning policies HSG 10 of the Denbighshire Unitary Development Plan.
5. To secure the provision of open space in accordance with the Council's policies, for the benefit of occupiers of dwellings on the site.
6. To protect the integrity of the public sewerage system.
7. 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.
8. To prevent hydraulic overload of the public sewerage system and pollution of the environment.
9. To ensure that effective drainage facilities are provided for the proposed development, and that no adverse impact occurs to the environment or the existing public sewerage system.
10. To ensure that the estate road system is constructed to a standard suitable for adoption and in the interests of traffic safety, is capable of catering for the amount of traffic that is likely to be generated by the proposal.
11. To ensure that adequate visibility is provided at the point of access to the highway in the interest of traffic safety.

NOTES TO APPLICANT:

In relation to water supply:

The developer is advised to contact Welsh Water/Dwr Cymru's New Connections Design Department, Players Industrial Estate, Swansea, SA6 5BQ, to discuss this prior to the commencement of any site work. Telephone 0800 9172652 for further information on this matter.

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

The proposed development is crossed by a trunk/distribution watermain, the approximate position being shown on the attached plan. Under the Water Industry Act 1991 Dwr Cymru Welsh Water has rights of access to its apparatus at all times. It may be possible for this

watermain to be diverted under Section 185 of the Water Industry Act 1991, the cost of which will be re-charged to the developer.
Your attention is drawn to the attached Highway Supplementary Notes Nos. 1, 2, 3, 4, 5 & 10.
Your attention is drawn to the attached Part N form (New Road and Street Works Act 1991).

ITEM NO: 2

WARD NO: Ruthin

APPLICATION NO: 02/2008/0592/ PF

PROPOSAL: Demolition of existing garages and erection of 3 no. dwellings

LOCATION: Land to rear of Royal Oak 51 Clwyd Street Ruthin

APPLICANT: Robin Llwyd Ab Owain

CONSTRAINTS: B Flood Zone
PROW
PD Removed
Listed Building
Conservation Area

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

CONSULTATION RESPONSES:

INITIAL PLANS - 4 DWELLING UNITS

RUTHIN TOWN/ COUNCIL

"OBJECTS

- detrimental to the character of the Conservation Area.
- detrimental to the Mediaeval Town and Burgage plots.
- over-intensification re habitable use
- inadequate access for scale of development.

The proposed development is both detrimental to the character and appreciation of the Mediaeval Townscape and leads to over-intensification and access problems.

The character of this area has already been impacted by the properties already built near the Mill and the old Star Barn - any further development will have a detrimental impact on the character of this area of town and in particular the relationship between the town and the Castle / Cunning Green.

The properties on Clwyd Street form part of the Mediaeval street pattern with traditional Burgage plots extending as a long and narrow plot back from the road. The appreciation of this pattern is severely compromised as new buildings are built on the open land to their rear.

In accordance with our comments on the Local Development Plan, we believe the town has more than adequate building development land for its foreseeable future. There are numerous other 'brownfield' or disused sites that would benefit from being developed and to allow more buildings on the remaining unbuilt areas of the burgage plots would be doing the town a historical disservice, allowing further over intensification with development that destroys for ever the mediaeval urban grain and townscape which is rightly protected as a Conservation area.

The Town Council has, since 2002, expressed concern about developments of Burgage garden plots and that past proposals should not be seen as a precedent.'

DCC CONSERVATION ARCHITECT

No objections to the proposal in principle, but requires design amendments, given the architectural and historic context, and the need to preserve and enhance the Conservation Area and the setting of the listed buildings. Highlights the need to take local references on floor to ceiling heights, ridge heights, dormer styles, eaves and verge and joinery details etc.

Advises of meetings regarding possible alterations to the Royal Oak (with the owner), and suggests the possibility of a management plan approach to the whole site. “

DCC ARCHAEOLOGIST

The site lies within the medieval town of Ruthin which developed from the 13th century onwards. A watching brief has been undertaken on adjacent land (land behind the Star,) revealing medieval and post medieval deposits. As the site close to the castle, the medieval mill and other possible medieval features requests a pre-determination evaluation in the area proposed for construction – with evaluation trenches excavated across the proposed footprint of the structures. This would allow excavation to identify the nature, date and extent of any archaeology present (in line with planning policy guidance).

Further to the submission of an archaeological report and, working with CPAT, confirms that the structural design proposed is acceptable, with no objections to the application, subject to an archaeological watching brief condition.

DDC TREE CONSULTANT

No objections on the basis that the proposal involves limited tree loss - three fruit trees and two goat willows. The proposal should provide additional tree planting.

DCC HEAD OF TRANSPORT & INFRASTRUCTURE

No objection subject to standard condition (requirement for laying out of car parking accommodation). Notes that – based on TRICS- the proposed development would generate up to 32 trips per day, which is higher than the existing flow suggested in the submission. However, the difference is minimal and the use of the access by vehicular traffic is not disputed.

Mentions that the existing vehicular access by means of a covered way is unsuitable for fire appliances. Advises that , based on pump appliances requiring access to within 45 metres of a dwelling, the views of the Chief Fire Officer and Building Control Officer are sought.

DCC HEAD OF HOUSING

Accepts the provision of 1 affordable property for this scheme. Highlights that, if the applicant intends to manage via a private rented approach, a number of criteria involved:

- To have a proven Management Company or to create one
- To provide details of how maintenance will be provided
- To provide details of maintenance costs (affordable)
- To provide details of how rent increases will be controlled (affordable)
- To provide 3 open market rents (for rental) and sale evaluations (for LCHO) in the affordable property(ies) – This is to calculate a re-sale or rental price.
- Denbighshire County Council to provide tenants from the affordable housing register or waiting lists.
- Initial rent levels to be set by Denbighshire County Council and should be no more than 25% of gross earnings (as set out by the Local Housing Market Assessment Guidance).

Otherwise the property can be sold as LCHO. The local income for Ruthin is £29,247 which x by 3 is the price of the affordable property (£87,741). This is subject to change with new details for 2009 and could increase or decrease.

The property being a 3 bedroom unit must have a minimum space standard not below 80 m2.

The applicant, whether rented or purchased will be allocated from the low cost housing list.

The demand for Ruthin is high with 484 registered on the Social Housing List and 25 on the Affordable Housing Register.

DCC ECOLOGIST

In respect of the protected species report, advises that the detached slated-roof single garage has the greatest potential for bats. Suggests that any contractors should follow precautionary procedures when dismantling the buildings (i.e. when removing ridge tiles, slates, purlins features etc), to ensure that any torpid or hibernating bats are not affected, and if uncovered at any time during the works, works should stop and further advice sought from the licensed bat surveyor or CCW. Additionally, highlights the need to ensure that nesting birds are not affected.

RUTHIN AND DISTRICT CIVIC ASSOCIATION

The Committee is not happy with the proposal, noting ;

- Loss of green space within the town a serious consideration, with future residents loosing the use of large gardens.
- Access to the smaller plot (*rear of 47-49 Clwyd Street*) inadequate – through a narrow passageway
- Vehicular access to the other site (*rear of 51 Clwyd Street*), currently serving existing garages, is not considered a good access for the proposed houses. But , notes that this is preferable to the sole access proposed for the smaller plot , and should planning permission be granted, that the two plots should be considered together, with both gaining access by this vehicular access
- Sensitive site – a high standard of design and use of sympathetic building materials – although not visible from Clwyd Street, very conspicuous from the well used Cuning Green path.

THE COUNTRYSIDE COUNCIL FOR WALES

Advises that points highlighted in Sections 8 & 9 (in the event of bat findings) of the Protected Species Survey Report should be noted.

WELSH WATER

No objections, subject to standard conditions regarding separation of foul and surface water, with standard notes.

CLWYD POWYS ARCHAEOLOGICAL TRUST –

Advises that given that the proposal falls '*in an area of high archaeological activity*' ,*with the* adjoining site having been subject to a prior watching brief, a pre-determination archaeological assessment and evaluation is necessary.

Further to a structural engineers report and proposals for a foundation design, confirms that a raft and pile design has been approved and that should minimise the impact on the archaeological remains at this site. As a precautionary measure advise the need for a watching brief condition, so that the insertion of the raft design can be monitored and to monitor reduction of ground levels in the area of the existing sheds/garages which could not be evaluated. The latter area is likely to have archaeology at a more shallow depth than under the houses to the south as the topsoil becomes progressively thinner to the north i.e. towards Clwyd Street.

ENVIRONEMENT AGENCY

No comments.

CHIEF FIRE OFFICER

Access for fire appliances – Approved document B, Building Regulation 2000 states that there should be vehicle access for a pumping appliance to within 45m of all points within the dwelling. Dwellings 3 and 4 appear to exceed this distance.

General fire safety – the provision of domestic sprinklers in all properties is considered. Advises that legislation will make this a compulsory requirement on all new domestic dwellings in Wales

ROYAL COMMISSION ON ANCIENT AND HISTORIC MONUMENTS OF WALES

Response awaited.

RESPONSE TO PUBLICITY:

Letters of representation received from:

In objection:

Mrs. V. Battersby, The Star Barn, 59, Clwyd Street, Ruthin
Sophie Webb, 3 Cwrt Seren, Ruthin. LL15 1HE
G. Teeson, 2, Cwrt Seren, Clwyd St., Ruthin
Brynle Williams AM, National Assembly for Wales Cardiff
Councillor E. H. Downs, The Gate House, 59a, Clwyd Street
D.C.F. Peers & A.G. Peers, 1 Cwrt Seren, Clwyd St., Ruthin

Summary of planning based representations:

Over intensive development – the area already well developed; with inappropriate density – too high; cumulative effect of additional housing

Archaeological - will detract its visual integrity; views affected of Ruthin Castle Walls; implications for any archaeological associations compromised with new building works,

Access and Highways – use of the hazardous alley way would increase traffic problems onto busy highway; limited visibility onto Clwyd Street.; difficulties for emergency vehicles to the site; no plans for allocated parking; queries relating to what access provision is actually intended.

Conservation area – would detract from the historical character; not in keeping with other properties in the area; cumulative impact with other applications detrimental to townscape

Public footpath - Cuning Green path - would be encroached; view to/from path obliterated

Planning policies – contrary to planning policies.

Construction practicalities – difficult to access the site without damaging the listed buildings. Positioning of skips questioned.

Size and scale – twice the size of the existing houses, Cae Seren

Overlooking – onto a private space with 1-3 Cae Seren

Trees – contains trees from the original orchard in the area

Historical – site includes old building – including 4th oldest building in Wales

Housing – enough housing plots already available in Ruthin – empty plots at Glasdir.

Amenity – increased light and noise.

In Support::

Miss Ceri Jones, Star Barn, Cwrt Seren, Rhuthun. LL15 1hh

G Bal, 45 Clwyd Street, Ruthin. LL15 1HH

W. R. & L. Jones, 25 Clwyd Street, Rhuthun. LL15 1HH

Summary of planning based representations:

Housing – brings in benefits to the locality; suitable for older people to walk/access to shops

Public footpath - Cuning Green path – will keep an eye of the path

Historical context – in keeping with the historic town

Security - good for security of other houses in the area.

Amenity – would improve the gardens – unused for many years

Car parking – two large Council car parks nearby

REVISED PLANS – 3 DWELLING UNITS

CONSULTATION RESPONSES;

RUTHIN TOWN/ COUNCIL

Awaiting response

DCC CONSERVATION ARCHITECT

On the basis of the submitted justification and additional revised details, no objections subject to conditions

DCC ARCHAEOLOGIST -

Awaiting response

DCC HEAD OF TRANSPORT & INFRASTRUCTURE

Awaiting response

DCC HEAD OF HOUSING

Awaiting response

RUTHIN AND DISTRICT CIVIC ASSOCIATION

Awaiting response

CLWYD POWYS ARCHAEOLOGICAL TRUST

Awaiting response

CHIEF FIRE OFFICER

Awaiting response

ROYAL COMMISSION ON ANCIENT AND HISTORIC MONUMENTS OF WALES

Awaiting response

REPRESENTATIONS RECEIVED;

Awaiting response

EXPIRY DATE OF APPLICATION: 12/03/2009

REASONS FOR DELAY IN DECISION:

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

PLANNING ASSESSMENT:

THE PROPOSAL:

1. Outline of application

The proposal is a full planning application involving the limited demolition of existing buildings and the erection of three 2 storey dwellings, including one detached and a pair of semi-detached, located at the rear of 51 Clwyd Street, utilising the existing vehicular access point, via Clwyd Street.

The initial submission was a scheme for four dwellings. Following discussions on a range of issues, the proposal has been amended, to include a reduction in dwelling numbers and a different layout. Plans attached to this report show the initial and amended scheme.

Proposed external materials include slate roof and local stone; timber and render walls, with painted timber doors and windows.

The application includes a Design and Access Statement (with an addendum); a Protected Species Survey and Affordable Housing Questionnaire. The Design and Access Statement comments that that amended proposal takes into consideration the historical context of the site and locality, and is influenced by the adjoining buildings, with design and use of materials to reflect discussions with the Conservation Officer. The Protected Species survey indicates no evidence of bats, but has possible potential. There is no potential for Newts presence. The Affordable Housing Questionnaire indicates one unit for private rented accommodation.

2. Description of site and surroundings

It is understood that the buildings currently on site are all garages. There is a long garden area, with five relatively small sized trees situated on the southerly half of the garden area. The existing buildings are of timber/fibre cement construction; a detached building with stone walls and a slate roof, and attached lean-to- garages with a large expanse of corrugated roofing, with cement render on the south facing, gable elevation. 51 Clwyd Street , the main building, is now vacant, but was previously used as a dwellinghouse, with an element of bed and breakfast accommodation.

The site is relatively level, with post and wire fencing along the southern boundary, which lies adjacent to the public footpath, known as Cuning Green.

The majority of the remaining, existing building is two and part three storey, with slate roofs and white render on the majority of the elevations, with the exception of the Clwyd Street elevation.

An existing vehicular access serves the site – through an ‘alley way ‘ which separates 51 Clwyd Street and the adjoining property 53, Clwyd Street, to the west.

A converted, stone and slate roof residential barn lies midway along the westerly boundary, with a new residential terrace (1-3 Cae Seren) further to the south. The

terraced properties, 47-49 Clwyd Street, with associated land and buildings, lie to the east.

3. Relevant planning constraints/considerations

The site lies within the Ruthin Conservation area.

The site includes the main principal listed buildings, property number 51 Clwyd Street, which is Grade II* listed, primarily for its medieval cruck framed hall features. The buildings proposed for demolition are defined as being 'deemed listed' in legal terms, given their association, age and purpose. A separate listed building consent application is necessary for demolition works. A report on the concurrent listed building application (02/2009/0446 /LB – Demolition of garages and erection of 3 dwellings) follows on this Planning Committee agenda.

The southern boundary of the site lies close to the edge of the defined development boundary for Ruthin. The Cuning Green public footpath runs further south above the site boundary, on its route from Mill Street to Castle Street, alongside the Castle Walls. The Castle Walls represent a feature of the Ruthin Castle Scheduled Ancient Monument, which also includes a Registered Historic Park & Garden.

RELEVANT PLANNING HISTORY:

4. 02/2009/0446/LB. - Demolition of existing garages and erection of 3 dwellings - PENDING
02/ 2008/1179 - Listed Building application for internal alterations to create guest house and display of signage to front elevation - WITHDRAWN 0/01/2009
02/2008/1178 - Change of Use from flats to Guest House - WITHDRAWN 20/01/2009

Adjoining sites

47-49 Clwyd Street:

- 02/2008/0432/PF - Demolition of existing building and erection of 2no. dwellings – WITHDRAWN 30/05/08
02/2009/0477/LB – Demolition of part of existing building and erection of 2 no. dwellings - PENDING

Land and building to the rear of the Star Inn

- 02/2002/086/LB - Conversion of existing building into two units - GRANTED 15/01/2003
02/2002/0800 - (1) Conversion of existing building into two units (2) Erection of bungalow - GRANTED 01/10/2002
02/2004/ 0848 - Erection of 3 no. terraced houses (amended details to those previously approved under code no. 02/2002/0800/PF - GRANTED 12/05/2006

PLANNING POLICIES AND GUIDANCE:

5. DENBIGHSHIRE UNITARY DEVELOPMENT PLAN (adopted 3rd July 2002)
Policy GEN 1 Development within Development Boundaries
Policy GEN2 – Development of un-annotated land
Policy GEN6 – Development control requirements
Policy Gen 10 Supplementary Planning Guidance
Policy ENV 7 - Landscape/Townscape features
Policy CON5 – Development in conservation areas
Policy CON11 – Development at scheduled ancient monument
Policy ENP 4 - Foul and Surface Water drainage
Policy TRA 9 – Parking and Servicing Provision
Policy HSG 2 - Housing Development in Main Centres

Supplementary Planning Guidance
SPG 2 – Landscaping
SPG 6 – Trees and development
SPG 13 – Conservation Areas
SPG 14 – Listed Buildings
SPG 15 – Archaeology
SPG 21 – Parking requirements in new developments
SPG 25 – Residential Development Design Guide

GOVERNMENT GUIDANCE

Planning Policy Wales (March 2002) (as amended via MIPPS)

Technical Advice Notes;

12 Design
18 Transport

Circular 60/96 Planning and the Historic Environment ;Archaeology.
Circular 61/96 Planning and the Historic Environment: Historic Buildings and Conservation Areas
Circular 35/95 – The Use of Conditions in Planning Permissions
Circular 23/01 New Guidance for Local Planning Authorities on European Protected Species and Changes in licensing procedures.
The Conservation (Natural Habitats, &c) Regulations 1994 (as amended) - Regulation 3 (4)

MAIN PLANNING CONSIDERATIONS:

6. The main considerations in this case are:-

- i) Principle of development
- ii) Protected Species
- iii) Impact on character and appearance of conservation area
- iv) Impact on residential amenity
- v) Highway, parking and traffic
- vi) Archaeology
- vii) Trees and Landscape
- viii) Access for all
- ix) Affordable Housing

7. In relation to the main considerations:

- i) Principle of development
The site lies within the defined development boundary, on land which would be described as 'previously developed land', under Planning Policy Wales. The principle of residential development is considered acceptable, subject to tests of planning policy and site specific considerations listed under points ii) –ix).
- ii) 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.

In this case, a Protected Species survey has been submitted. Both the Countryside Council for Wales and the County Ecologist accept the conclusions, and recommend a precautionary approach in the event of a

potential bat presence. The proposal is therefore considered to comply with the policies and guidance, in terms of protected species.

iii) Impact on character and appearance of conservation area

The site is viewed predominantly from the rear, south side, with no impact likely on the main, Clwyd Street, streetscape. In this case, any new development needs to pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area.

In Officers opinion, the initial scheme for the site involving 4 houses required reconsideration with an emphasis on achieving conservation aims and objectives. Further discussions with Officers has resulted in the submission of revised proposal.

In relation to the Town Council comments on the impact on the Conservation Area, the County Conservation Officer is aware of the issues raised and considers that the proposal will not result in significant effect on the conservation area, the historic importance of the locality and the Town.

The Conservation Officer has confirmed that the current scheme is acceptable subject to conditions. An opportunity exists to control the whole site by way of a conservation management approach, which could also be conditioned, should planning permission be granted. The proposal therefore complies with the basic requirements of Circular 61/96, Policy CON 5 and SPG 13.

iv) Impact on residential amenity

The scheme would not result in any overlooking in relation to existing/adjacent properties and is proportional in scale, massing, siting and height. Adequate amenity space is provided for each plot. The proposal complies with the aims of GEN 6.

v) Highway/parking and traffic

The site is within easy walking distance to services, including public car parks and public transport, thereby being accessible and sustainable from a basic planning policy perspective.

Clwyd Street has parking restrictions along much of its length. The Head of Transport and Infrastructure is aware of the parking situation along Clwyd Street and in the locality, including objections raised with this current proposal, and having considered all the issues, raises no objections. Sufficient parking and amenity areas is available/retained for the use of the existing property, 51 Clwyd Street.

In order to minimise disturbance and damage to conservation and listed building features, the agent has agreed to provide a management plan to facilitate and describe a methodology for the movement of materials involved at construction stage. This could also be conditioned, in the event of a planning permission being granted.

vi) Archaeology

Both the County Archaeologist and Clwyd Powys Archaeological Trust have concluded on the results of a pre-determination evaluation, following archaeological on site excavation works. An agreed foundation design approach has been established.

In terms of the Town Council comments on the impact on the archaeological implications, the County Archaeologist is aware of the issues raised, and considers that the proposal will not give rise to a significant effect on the

archaeological importance of the locality or Town.

In line with the responses of both the County Archaeologist and CPAT, a precautionary watching brief condition should be included to allow possible and additional opportunity to observe and record works.

vii) Trees and Landscape

The plans indicate existing trees along the southern boundary would remain. In line with planning policy and SPG 6, in order to safeguard their contribution to the locality, their retention should be safeguarded by conditions.

viii) 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 contain limited commentary on inclusive design. Further details can be required by inclusion of conditions, should planning permission be granted.

ix) Affordable Housing

The initial plans and details relate to four dwellings. During the consideration of this proposal it was apparent that site specific issues have arisen, in particular in relation to archaeology and design. This has resulted in additional costs and changes to the proposal. The intention at the initial stage was to include 1 (out of the 4 units) for private rented accommodation.

At the time of writing this report further details are awaited to assess issues concerning the site's viability, and the justification to continue to include one affordable housing on the site. This may involve further discussions with the Councils Housing and Property Services colleagues.

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

	1 bed flat	1 bed. House	2 bed. bungalow	2 bed. flat	2bed . house	2 bed. bungalow	3.bed . house.	3 bed. bungalow	4 or more bed. house	TOTAL
General	152	8	11	13	159	7	99	3	22	474
Sheltered	36	0	39	28	0	32	0	0	0	135
TOTAL										609

The average annual income for Ruthin is £29,777.00.

The proposed floorspace area equates to the Design Quality Standards

In the absence of site viability details, the proposal will need to include one affordable housing unit. This can be conditioned to ensure appropriate legal mechanisms, including management controls.

SUMMARY AND CONCLUSIONS:

8. With respect to the individual and Town Council objections, all developments are assessed according to their individual merits; each one involving a different set of site specific and planning policy issues. It is considered that the scheme, subject to conditions, addresses previous concerns, would not lead to detrimental impact on the conservation area or have archaeological implications. There are other schemes in the locality, in particular, land to the rear of the Star, which have been considered acceptable, where similar conservation and archaeological issues have arisen. Overall, it is considered that the revised proposal would result in a sympathetic re-development in this location, involving an opportunity to provide an overall management approach to this sensitive site, with sympathetic development in lieu of existing, relatively poor quality buildings.

RECOMMENDATION: - GRANT - subject to the following conditions.

1. The development hereby permitted shall be begun before the expiration of five years from the date of this permission.
2. **PRE-COMMENCEMENT CONDITION**
The development shall not begin until a scheme for the provision of affordable housing as part of the development has been submitted to and approved in writing by the Local Planning Authority. The affordable housing shall be provided in accordance with the approved scheme and shall meet the definition of affordable housing in Annex B of TAN 2 : Planning & Affordable Housing (2006) or any future guidance that replaces it. The scheme shall include:
 - i. the numbers, type, tenure and location on the site of the affordable housing provision to be made which shall consist of not less than X% of housing units/bed spaces;
 - ii. the timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing;
 - iii. the arrangements for the transfer of the affordable housing to an affordable housing provider (or the management of the affordable housing) (if no RSL involved);
 - iv. the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and
 - v. the occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.
3. No demolition shall take place before a contract for carrying out the works of redevelopment on the site has been made and listed building consent has been granted.
4. No demolition shall take place before a contract for carrying out the works of redevelopment on the site has been made and all reserved matters have been approved for the redevelopment for which the contract provides.
5. **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.
6. **PRE-COMMENCEMENT CONDITION**
Before the development hereby permitted is commenced a scheme indicating the provision to be made for disabled people to gain access to the building shall be submitted to and approved in writing by the Local Planning Authority. The agreed scheme shall be implemented before the development hereby permitted is first brought into use
7. **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.

8. Unless otherwise agreed in writing by the Local Planning Authority, all rainwater goods shall be in cast iron and painted black or other agreed colour.

9. The materials and finishes of the external surfaces of the roof of the development hereby permitted shall be of the same texture, type and colour as those on the roof of the existing buildings.

10. 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.

11. No windows or doors shall be installed until detailed scaled plans and elevations (1:20 scale) have been submitted to and approved in writing by the Local Planning Authority showing the proposed frame material, finish and sectional profile, the subdivision of the fixed lights and method of opening the windows, the nature of the glazing, details of the beading and puttying, and the extent of recess of the frames in the openings.

12. Prior to the commencement of development section details of porches 1:20 shall be submitted to and approved in writing by the Local Planning Authority and implemented in accordance with the agreed detail.

13. Prior to the commencement of development a conservation management plan for the site, as defined within the area marked red on the submitted plan, shall be submitted to and approved in writing by the Local Planning Authority and implemented in accordance with the agreed timescales.

14. The developer shall ensure that a suitably qualified archaeological contractor is present during the undertaking of any ground works in the development area, so that an archaeological watching brief can be conducted. The archaeological watching brief will be undertaken to the standards laid down by the Institute of Field Archaeologists. The Local Planning Authority will be informed in writing, at least two weeks prior to the commencement of the development, of the name of the said archaeological contractor. A copy of the watching brief report shall be submitted to the Local Planning Authority and the Curatorial Section of the Clwyd-Powys Archaeological Trust within two months of the fieldwork being completed.

15. The site shall not provide direct means of access to or from any adjoining dwelling or commercial properties.

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

17. 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.

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

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

1. To comply with the provisions of Section 91 of the Town and Country Planning Act 1990.
2. In order to ensure an adequate supply of affordable housing in accordance with planning policies HSG 10 of the Denbighshire Unitary Development Plan.
3. In the interests of the character and appearance of the Conservation Area.

4. In the interests of the character and appearance of the Conservation Area.
5. To ensure that the development involves a sustainable approach.
6. To ensure suitable access for the disabled to the building.
7. To ensure in the interests of visual amenity a satisfactory standard of landscaping in conjunction with the development.
8. To respect the character and appearance of the building.
9. In the interests of visual amenity.
10. In the interests of visual amenity.
11. To ensure the fenestration respects the character of the existing building.
12. In the interests of safeguarding the character and appearance of the conservation area and adjacent listed buildings.

13. In the interests of safeguarding the character and appearance of the conservation area and adjacent listed buildings.

14. In the interests of archaeological investigation and recording.
15. In the interests of the amenities of the locality.
16. To protect the integrity of the public sewerage system.
17. 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.
18. To prevent hydraulic overload of the public sewerage system and pollution of the environment

NOTES TO APPLICANT:

You are advised that all windows and doors to be recessed into opening by 75mm if possible, otherwise a min of 50mm and painted to an agreed colour. This should be detailed as requested in condition 11.

In relation to protected species, you are advised to undertake a precautionary approach, as concluded within the protected species report accompanying this planning application.

Building Regulations Consent is likely to involve a 'water sprinkling system' as part of the development. You should include details of this approach into the Conservation Management plan, requested in condition 13 attached to this permission.

ITEM NO: 3

WARD NO: Ruthin

APPLICATION NO: 02/2009/0446/ LB

PROPOSAL: Dymchwel modurdai presennol a codi 3 ty annedd (cais Adeilad Rhestredig)/ Demolition of existing garages and erection of 3 no. dwellings (Listed Building application)

LOCATION: Land to rear of Royal Oak 51 Clwyd Street Ruthin

APPLICANT: Mr Robin Llwyd Ab Owain

CONSTRAINTS: B Flood Zone
PROW
PD Removed
Listed Building
Conservation Area

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

CONSULTATION RESPONSES:

INITIAL PLANS – 4 DWELLING UNITS

RUTHIN TOWN COUNCIL -

"OBJECTS

REASONS: detrimental to the character of the Conservation Area; detrimental to the Mediaeval Town and burgage plots; over-intensification re habitable use and inadequate access for scale of development.

The proposed development is both detrimental to the character and appreciation of the Mediaeval Townscape and leads to over-intensification and access problems.

The character of this area has already been impacted by the properties already built near the Mill and the old Star Barn - any further development will have a detrimental impact on the character of this area of town and in particular the relationship between the town and the Castle / Cuning Green.

The properties on Clwyd Street form part of the Mediaeval street pattern with traditional burgage plots extending as a long and narrow plot back from the road. The appreciation of this pattern is severely compromised as new buildings are built on the open land to their rear.

In accordance with our comments on the Local Development Plan, we believe the town has more than adequate building development land for its foreseeable future. There are numerous other 'brownfield' or disused sites that would benefit from being developed and to allow more buildings on the remaining unbuilt areas of the burgage plots would be doing the town a historical disservice, allowing further over intensification with development that destroys for ever the mediaeval urban grain and townscape which is rightly protected as a conservation area.

The Town Council has, since 2002, expressed concern about developments of burgage garden plots and that past proposals should not be seen as a precedent."

DENBIGHSHIRE COUNTY COUNCIL CONSERVATION ARCHITECT
Awaiting response.

CLWYD POWYS ARCHAEOLOGICAL TRUST

No objections to the demolition of the existing structure. Highlights agreement on a foundation design approach (utilising a raft) which will preserve the archaeology, particularly plots 3 & 4. Advises of the need to include a watching brief condition, to record/monitor archaeological features.

ROYAL COMMISSION ON THE ANCIENT AND HISTORICAL MONUMENTS OF WALES (consulted on the request of the County Conservation Officer) – In highlighting that their role is to comment only on the historical significance and context of a monument or structure, and on the adequacy of otherwise of the record, notes that the buildings proposed for demolition are structures of special historical or architectural interest. Advises that if consent is granted, a special record will not be necessary. However, notes that 51 Clwyd Street is an important late medieval hall and an archaeological watching brief may be desirable.

RESPONSE TO PUBLICITY:

Letters of representation received from:
Mrs. V. Battersby, The Star Barn, 59, Clwyd Street, Ruthin
Ms. D. Peers, 1 Cwrt Seren, Clwyd Street, Ruthin

Objections:

The majority of the objections are planning related and covered in the accompanying planning committee report on the agenda, under code no 02/2008/0592/PF

Summary of listed building based representations:

Historical – ancient burghage plots should be safeguarded; proximity to Castle ; does not enhance or preserve the historical setting.

REVISED PLANS – 3 DWELLIING UNITS

RUTHIN TOWN COUNCIL
Awaiting response

DENBIGHSHIRE COUNTY COUNCIL CONSERVATION ARCHITECT
No objection to amended scheme

CLWYD POWYS ARCHAEOLOGICAL TRUST
Awaiting response

ROYAL COMMISSION ON THE ANCIENT AND HISTORICAL MONUMENTS OF WALES
Awaiting response

RESPONSE TO PUBLICITY:

Awaiting response

EXPIRY DATE OF APPLICATION: 11/06/2009

REASONS FOR DELAY IN DECISION:

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

**PLANNING ASSESSMENT:
THE PROPOSAL:**

1. Outline of application

This application is a listed building consent application for works in connection with a proposal involving demolition of buildings and garden walls, located at the rear of 51 Clwyd Street to create three residential units, both two storey in height. The respective planning application (code 02/2008/0592/ PF) is also on the Planning committee Agenda. The recommendation on this listed building application is based solely on the merits of the listed building issues relevant to the proposal.

Proposed external materials include slate roof and local stone; timber and render walls, with painted timber doors and windows. Illustrations accompanying the application indicate a new stone wall along the southern boundary.

The application includes a Design Statement (with addendum) which highlights the justification for the proposals, in particular the case for partial demolition. Briefly, the justification refers to the following:-

- i) Refers to the archaeological context of the site, with Roman archaeological artefacts. This involved a different design approach, with the foundation design approved via Clwyd Powys Archaeological Trust
- ii) 1874 map illustrates further site sub – division, including the buildings to be demolished.
- iii) Visual impact of the site carefully considered within the context of the existing nature/style of buildings as existing.
- iv) The site has been visited by the County Conservation Architect. And RCAHMMW – both commenting that the buildings to be demolished were of no historic or architectural interest to the area or surrounding buildings.
- v) The scheme redesigned having regard to the concerns expressed and the contents of planning policies and the Ruthin Town Conservation Area Appraisal.
- vi) View from Cuning Green improved, creating a stepped down ridge level approach from the old Gaol down towards the site boundary, creating courtyard development, in keeping with the locality.
- vii) Materials and details to reflect local character.

2. Description of site and surroundings and relevant planning constraints/considerations

A detailed description is provided on the accompanying planning application report on the agenda. The site includes the main principal listed buildings, 51 Clwyd Street., which is listed primarily for its Medieval cruck frame interest and group value with surrounding listed buildings in Clwyd Street. The application buildings and walls are defined as being 'deemed listed, in legal terms, with the main listed building for the site, given their association, age and purpose in this case.

This separate listed building consent application is necessary for works which affect the character and appearance of the building, given that the works involve demolition works on the site.

RELEVANT PLANNING HISTORY:

3. 51 Clwyd Street.

02/2008/ 0592PF – Demolition of existing garages and erection of 3 dwellings - PENDING

02/2008/1179 LB – Listed building consent for internal alterations to create guest house and display of signage on front elevation - WITHDRAWN 20/01/09

02/2008/1178 - Change of use of flats to Guest House - WITHDRAWN 20/01/09

Adjoining site

02/2008/0432/PF - Demolition of existing building and erection of 2no. dwellings -

WITHDRAWN 30/05/08

02/2008/1153/PF – Demolition of part of existing building and erection of 2 no. dwellings - PENDING

02/2008/0477/LB - Demolition of part of existing building and erection of 2 no. dwellings - PENDING

PLANNING POLICIES AND GUIDANCE:

4. DENBIGHSHIRE UNITARY DEVELOPMENT PLAN (adopted 3rd July 2002)
Policy Gen 10 Supplementary Planning Guidance

Supplementary Planning Guidance :

SPG 14 – Listed Buildings

SPG 25 – Residential Development Design Guide

GOVERNMENT GUIDANCE

Planning Policy Wales (March 2002) (as amended via MIPPS)

Technical Advice Notes;

12 Design

Circular 61/96 Planning and the Historic Environment: Historic Buildings and Conservation Areas

MAIN PLANNING CONSIDERATIONS:

5. The main considerations in this case are:

i) The effect on the character and appearance of the listed building

6. In relation to the main considerations:-

i) The initial planning application has been amended following concerns on various points. Informal discussions with the County Conservation Officer indicates a general acceptance to the revised scheme and the justification for the proposal in this case, on the basis that the revised scheme is a significant improvement on the original scheme involving 4 houses for the site. Provided suitable conditions are included, the character and appearance of the area can be retained and enhanced. Use The proposals are considered to meet the key tests in Circular 61/96 and there is an acceptable 'redevelopment' scheme in the accompanying planning application.

SUMMARY AND CONCLUSIONS:

7. With respect to the Town Council's objections, assessment of the listed building merits of the scheme involve a different set of criteria and planning policy issues to that of the respective planning application scheme. The County Conservation Officer is aware of the Town Council concerns, and considers having regard to the justification and the limited implications involved, there are no grounds to refuse the revised proposal for the site. The proposal is considered to accord with the planning policy and advice listed in this report.

8. The recommendation is to GRANT listed building consent subject to a number of conditions which follow, and to referral of the application to CADW, to determine whether to authorise the County Council to grant consent.

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

1. The works hereby permitted shall be begun before the expiration of five years from the date of this consent.
2. No demolition shall take place before a contract for carrying out the works of redevelopment on the site has been made and full planning permission has been granted.
3. Unless otherwise agreed in writing by the Local Planning Authority, all rainwater goods shall be in cast iron and painted black.
4. All stonework proposed for use in the construction of the building(s)/walls shall be local natural limestone of uniform colour to match the existing building(s)/walls in texture, type, colour, mortar and pointing.
5. The materials to be used on the roof of the building(s) shall be blue/grey natural mineral slate of uniform colour and texture.

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

1. To comply with the provisions of the 1990 Listed Buildings Act.
2. In the interests of the character and appearance of the Conservation Area.
3. To respect the character and appearance of the building.
4. In the interests of visual amenity.
5. In the interests of visual amenity.

NOTES TO APPLICANT:

None

English translation follows on page 35

SWJ

EITEM RHIF: 4

WARD: Rhuthun

RHIF Y CAIS: 02/2008/1153/ PF

CYNNIG: Dymchwel rhan o'r adeilad presennol a chodi 2 dŷ annedd

LLEOLIAD: Tir y tu ôl i 47/49 Stryd Clwyd, Rhuthun

YMGEISYDD: Mr Robin Owain Lloydus Ltd

CYFYNGIADAU: Hawl tramwy cyhoeddus
Parth Gorlifo B
Adeilad Rhestredig
Ardal Gadwraeth

CYHOEDDUSRWYDD: Hysbysiad ar y safle - ✓
Hysbysiad yn y wasg - ✓
Llythyrau oddi wrth gymdogion - ✓

YMATEBION I'R YMGYNGHORIAD:

CYNGOR TREF RHUTHUN
YN GWRTHWYNEBU -

- niweidiol i gymeriad yr Ardal Gadwraeth.
- niweidiol i'r Dref Ganoloesol a thiroedd bwrddais.
- gor-ddwysáu o ran defnydd preswyl.
- mynediad annigonol ar gyfer graddfa'r datblygiad.

Mae'r datblygiad arfaethedig yn andwyol i gymeriad a gwerthfawrogiad y treflun canoloesol ac mae'n arwain at or-ddwysáu a phroblemau mynediad.

Effeithwyd ar gymeriad yr ardal hon eisoes gan yr eiddo a adeiladwyd eisoes ger y Felin a hen sgubor tafarn y Star – bydd unrhyw ddatblygiad pellach yn cael effaith niweidiol ar gymeriad y rhan hon o'r dref, ac yn enwedig y berthynas rhwng y dref a'r Castell / Cuning Green.

Mae'r eiddo ar Stryd Clwyd yn ffurfio rhan o'r patrwm stryd canoloesol gyda thiroedd bwrddais traddodiadol yn ymestyn fel plotiau hir a chul yn ôl o'r ffordd. Mae gwerthfawrogiad y patrwm hwn yn cael ei gyfaddawdu'n ddifrifol wrth i adeiladau newydd gael eu hadeiladu ar dir agored y tu ôl iddynt.

Yn unol â'n sylwadau ar y Cynllun Datblygu Lleol, credwn fod gan y dref fwy na digon o dir datblygu adeiladu ar gyfer y dyfodol rhagweladwy. Mae nifer o safleoedd 'tir llwyd' a safleoedd nad ydynt yn cael eu defnyddio a fyddai'n elwa o gael eu datblygu, a byddai caniatáu rhagor o adeiladau ar yr ardaloedd heb adeiladau arnynt sy'n weddill yn y tiroedd bwrddais yn gwneud cam â'r dref, yn caniatáu rhagor o or-ddwysáu gyda datblygiad sy'n dinistrio'r graen trefol canoloesol a'r treflun sydd wedi'i warchod fel Ardal Gadwraeth.

Mae'r Cyngor Tref wedi mynegi pryder ynghylch datblygu gerddi tiroedd bwrddais ers 2002, ac ni ddylid ystyried cynigion blaenorol fel cynsail.

SWYDDOG HAWLIAU TRAMWY CYHOEDDUS CYNGOR SIR DDINBYCH

Mae Hawl Tramwy Cyhoeddus Llwybr Cyhoeddus Rhif 29 nesaf at yr ardal ddatblygu arfaethedig, ac mae'r llwybr cywir ar y ddaear yn dilyn llwybr a adwaenir fel y Cuning Green.

ARCHEOLEGYDD CYNGOR SIR DDINBYCH

Yn nodi bod y safle yng nghraidd tref ganoloesol Rhuthun, gyda'r potensial i archeoleg pwysig fod yn bresennol yn gysylltiedig â rhannau cynharach o'r dref. Fodd bynnag, mae'n nodi oherwydd bod y datblygiad ar safle strwythur sydd i'w ddymchwel nad oes unrhyw wrthwynebiad cyn belled bod amod Briff Gwyllo yn cael ei osod, pe rhoddid caniatâd.

PENNAETH TRAFNIDIAETH AC ISADEILEDD CYNGOR SIR DDINBYCH

Yn nodi bod y cynnig yn debyg i gais blaenorol yn gynnar yn 2008 a dynnwyd yn ôl. Ni wnaeth yr Awdurdod Priffyrdd nodi unrhyw wrthwynebiadau bryd hynny ac mae'r un peth yn wir ar gyfer y cais hwn.

PENSAER CADWRAETH CYNGOR SIR DDINBYCH

Mae'n ystyried bod y cynnig hwn yn welliant o'i gymharu gyda'r cais a dynnwyd yn ôl, ar y sail bod ffurf y to wedi'i symleiddio a bod ei uchder wedi gostwng o 6.5 metr i 5.7 metr gyda'r ystafelloedd gwely llawr cyntaf yn ngwagle'r atig gyda ffenestri 'dormer', gan roi ymdeimlad o fwthyn. Cedwir gweddillion yr adeilad cerrig presennol a dangos y gwaith cerrig, heb fawr ddim agoriadau newydd. Mae o blaid defnyddio cladin pren i'r lloriau uchaf oherwydd ei bod yn ddymunol dangos gymaint o'r waliau cerrig ag y bo modd, a byddai'n anatyniadol ceisio priodwedu'r rendr uwchben gyda'r cerrig islaw. Dim gwrthwynebiad yn amodol ar osod amodau yn ymwneud â manylion neu samplau o: llechen a chrib y to; ymylon; y bondo; y cladin pren a lliw'r paent a'r gorffeniad; mortar calch a phwyntio; pibellau a nwyddau dŵr glaw; pren a saerniaeth y drysau a'r ffenestri a'u lliw; cymysgedd, gweadedd, lliw a gorffeniad y rendr; manylion 'dormer'.

ECOLEGYDD CYNGOR SIR DDINBYCH

Yn cynghori y dylai'r ymgeisydd ofyn i'r contractwyr fod yn hynod o ofalus wrth ddymchwel yr adeiladau h.y. wrth dynnu nodweddion megis crib y to, llechi, trawstiau ac ati i sicrhau nad yw'n effeithio ar unrhyw ystumod disymud neu sy'n gaeafgysgu, ac os ydynt yn dod o hyd i unrhyw rai ar unrhyw adeg yn ystod y gwaith, yna dylid rhoi'r gorau i'r gwaith a gofyn am ragor o gyngor gan y syrfeiwyr ystumod trwyddedig neu Gyngor Cefn Gwlad Cymru. Yn ychwanegol, dylid sicrhau nas effeithir ar adar sy'n nythu (yn unol ag adroddiad yr ymgynghorydd).

CYMDEITHAS DDINESIG RHUTHUN A'R CYFFINIAU

Yn nodi nad yw'r gymdeithas yn fodlon gyda'r cynnig, gan ddatgan:

- Colli gwagle gwyrdd yn y dref yn ystyriaeth ddifriol, gyda trigolion y dyfodol yn colli'r defnydd o erddi mawr.
- Mynediad i'r plot llai (*y tu ôl i 47-49 Stryd Clwyd*) yn annigonol – drwy dramwyfa gul
- Mynediad i gerbydau i'r safle arall (*y tu ôl i 51 Stryd Clwyd*), yn gwasanaethu'r garejis presennol ar hyn o bryd. Ni ystyrir hwn yn ffordd fynedfa dda i'r tai arfaethedig. Ond noda bod hyn yn fwy ffafriol na'r unig fynediad arfaethedig i'r plot llai, a phetai caniatâd cynllunio yn cael ei roi, y dylid ystyried y ddau blot gyda'i gilydd, gyda mynediad i'r ddau drwy gyfrwng y mynediad hwn i gerbydau.
- Safle sensitif – dyluniad o safon uchel a defnyddio deunyddiau adeiladau addas – er nad yw'n weladwy o Stryd Clwyd mae'n amlwg iawn o lwybr y Cuning Green sy'n cael ei ddefnyddio gan lawer o bobl.

ASIANTAETH YR AMGYLCHEDD

Dim sylwadau.

DŴR CYMRU

Yn argymhell amodau safonol ynghylch gwahanu dŵr arwyneb a dŵr budr, gyda nodiadau cynghori i'w rhoi ynghlwm.

YMDDIRIEDOLAETH ARCHEOLEGOL CLWYD POWYS

Yn nodi bod y safle yng nghraidd hanesyddol Rhuthun ganoloesol, yn agos at du ôl strylun canoloesol ac ôl-ganoloesol a rhagwelir ei fod yn cadw archeoleg dan yr wyneb yn gysylltiedig â strwythur blaenorol, dyddodion/artefactau cysylltiedig o bob cyfnod. Fodd bynnag, yn nodi y bydd yr adeilad newydd yn cael ei adeilad yn gyfangwbl ar 'ôl troed' y strwythur presennol i'w ddymchwel – yn wahanol i'r safle y tu ôl i'r plot drws nesaf, 51 Stryd Clwyd – ac felly mae'n bosibl bod y tir wedi'i chwalu yn sylweddol yn y gorffennol a bod integriti yr archeoleg cadwedig wedi'i leihau. Argymhellir bod contractwr archeolegol ar y safle yn ystod trin yr uwchbridd, torri'r sylfeini, a chloddio ffosydd i'r pibellau gwasanaethu er mwyn cofnodi unrhyw nodweddion archeolegol.

CYNGOR CEFN GWLAD CYMRU

Dim gwrthwynebiadau i'r cynnig, ond yn tynnu sylw at Adrannau 8 a 9 yr Arolwg Rhywogaethau a Warchodir.

YMATEB I'R CYHOEDDUSRWYDD:

Derbyniwyd llythyr sylwadau oddi wrth:
Brynle Williams, Aelod Cynulliad Gogledd Cymru

Crynodeb o'r sylwadau yn seiliedig ar ystyriaethau cynllunio:

Cymeriad – deallir bod y mynediad presennol i'r safle drwy dramwyfa gul, oddeutu 6 troedfedd o uchder, a bod y datblygwr yn bwriadu dymchwel eiddo arall i agor y mynediad. Dylid ystyried pwysigrwydd pensaernïol yr adeilad penodol hwn.

Dwysedd a pharcio – o gofio'r cynnig ar gyfer y safle drws nesaf, ac nad oes lle parcio i gyd-fynd â'r ailddatblygiad, bydd y cynnig yn gwaethygu problemau parcio ar y stryd i drigolion a siopau lleol.

DYDDIAD DARFOD Y CAIS: 11/03/2009

Y RHESYMAU AM OEDI CYN GWNEUD PENDERFYNIAD:

- amseriad derbyn sylwadau
- oedi cyn derbyn ymateb(ion) ymgynghori allweddol
- gwybodaeth ychwanegol yn ofynnol gan yr ymgeisydd

ASESIAD CYNLLUNIO:

Y CYNNIG:

1. Amlinelliad o'r cais

Mae'r cynnig yn gais cynllunio llawn ar gyfer dymchwel rhan ac addasiadau i adeilad deulawr/unllawr yn rhannol, steil modern, a leolir y tu ôl i 47-49 Stryd Clwyd yn ddwy uned breswyl, gyda'r unedau yn rhai deulawr. Bydd rhan o'r adeilad unllawr presennol yn aros fel ag y mae, gan barhau i ddarparu llwybr mynediad i gerddwyr i ardal yr ardd gefn.

Mae'r deunyddiau allanol arfaethedig yn cynnwys to llechi a cherrig lleol; waliau pren a rendr, gyda drysau a ffenestri pren wedi'u paentio, a dim newidiadau i nodweddion presennol y ffiniau.

Mae'r cais yn cynnwys Datganiad Dylunio a Mynediad ac Arolwg Rhywogaethau a Warchodir. Dywed y Datganiad Dylunio a Mynediad y dylanwadwyd ar y cynlluniau gan yr adeiladau cyfagos, gyda'r waliau cerrig presennol yn cael eu cadw a'r to a'r wal allanol wedi'u dylunio i adlewyrchu'r trafodaethau gyda'r Swyddog Cadwraeth. Dywed yr asiant nad yw'r cynllun arfaethedig yn cynnwys

mynediad i gerbydau, felly mae'r mynediad i'r safle yn parhau fel ag y mae ar hyn o bryd, drwy dramwyfa i gerddwyr o Stryd Clwyd. Dengys yr Arolwg Rhywogaethau a Warchodir nad oes tystiolaeth o ystumod yn yr adeilad a bod yr adeilad yn anaddas i ystumod yn gyffredinol ac nad oes potensial am bresenoldeb madfallod.

2. Disgrifiad o'r safle a'r ardal amgylchynol

Deellir bod yr adeilad wedi'i ddefnyddio fel stiwdio artist yn flaenorol. Mae'n cynnwys wyneb-wedd arwyddocaol sy'n wynebu'r de, gydag ardal balconi uwchben, gyda tho ffelt ar oleddf ar y rhan fwyaf o arwynebedd y llawr uchaf a llechi naturiol ar weddill y to ar y rhan unllawr.

Mae'r eiddo yn cynnwys ardal gardd hi, gyda choed aeddfed ar hyd rhan o'r ffin deheuol. Mae llwybr cyhoeddus, a adwaenir fel y Cuning Green, wrth ymyl y ffin deheuol.

3. Ystyriaethau/cyfyngiadau cynllun perthnasol

Mae'r safle yn rhan o Ardal Gadwraeth Rhuthun, yn rhan de orllewinol o ardal a ddisgrifir fel 'canol tref Rhuthun yn cynnwys yr holl brif ffyrdd yn deillio o'r sgwâr', yn nodedig fel '*craidd hanesyddol Rhuthun ac mae'n cynnwys enghreifftau o adeiladau o'r bedwaredd ganrif ar ddeg i'r presennol. Yr amrywiaeth yma sy'n cyfrannu mor arwyddocaol i gymeriad yr Ardal Gadwraeth ond sy'n gwneud arfarniad o'r cymeriad mor anodd. Er gwaethaf yn amrywiaeth, yn gyffredinol mae'r adeiladau yn cyd-fodoli mewn harmoni*' (o Arfarniad Cymeriad Ardal Tref Rhuthun).

Mae'r safle yn cynnwys y prif adeiladau rhestredig, eiddo rhifau 47/49 Stryd Clwyd. Street. Mae'r rhain wedi eu rhestru yn bennaf oherwydd eu diddordeb arbennig fel adeilad ffrâm bren o'r 16-17 ganrif, gyda chymeriad allanol a gwerth grŵp diweddarach y bedwaredd ganrif ar bymtheg gyda'r adeiladau rhestredig amgylchynol yn Stryd Clwyd. Mae'r adeilad dan sylw yn y cais yn cael ei ddiffinio fel 'rhestredig, mewn termau cyfreithiol, gyda'r prif adeilad rhestredig ar y safle, oherwydd eu cysylltiad, oedran a phwrpas yn yr achos hwn'. Mae cais caniatâd adeilad rhestredig ar wahân yn angenrheidiol ar gyfer gwaith sy'n effeithio ar gymeriad ac ymddangosiad yr adeilad. Mae adroddiad ar y cais adeilad rhestredig cysylltiedig (02/2009/0477/LB – Dymchwel rhan o'r adeilad presennol ac adeiladu 2 dŷ annedd) yn dilyn ar agenda'r Pwyllgor Cynllunio hwn.

I'r dwyrain o safle'r cynnig saif gardd/ardal amwynder 45 Stryd Clwyd. I'r gorllewin mae ardal gardd bresennol 51 Stryd Clwyd. Mae'r ddau adeilad yma wedi'u rhestru yn unigol. Cyflwynir cais cynllunio a chais caniatâd adeilad rhestredig ar wahân ar gyfer y cynlluniau arfaethedig yn 51 Stryd Clwyd, dan gyfeirnod cais cynllunio 02/2008/ 0592PF a chais caniatâd adeilad rhestredig 02/2009/0446/LB. Mae adroddiadau eraill ar yr agend yn ymwneud â'r cynigion hyn.

Mae ffin deheuol y safle yn agos at ymyl ffin datblygu diffiniedig tref Rhuthun. Mae llwybr cyhoeddus y Cuning Green yn mynd ymhellach i'r de uwchben ffin y safle, ar ei lwybr o Stryd y Felin i Stryd y Castell wrth ochr Muriau'r Castell. Mae Muriau'r Castell yn cynrychioli nodwedd o Heneb Rhestredig Castell Rhuthun, sydd hefyd yn cynnwys Parc a Gardd Hanesyddol Cofrestredig.

4. Hanes cynllunio perthnasol

Bu un cais blaenorol am 2 dŷ annedd ar y safle, a ysgogodd bryderon gan Swyddog Cadwraeth y Sir. Arweiniodd hyn at dynnu'r cais yn ôl a chynnal rhagor o drafodaethau gyda'r Swyddog Cadwraeth a'r swyddogion Cynllunio, gan ddeillio yn y cais presennol, a chais ar wahân am ganiatâd adeilad rhestredig.

HANES CYNLLUNIO PERTHNASOL:

5. 02/2008/0432/PF - Dymchwel yr adeilad presennol ac adeiladu 2 dŷ annedd

TYNNWYD YN ÔL 30/05/08

02/2009/0477/LB – Dymchwel rhan o'r adeilad presennol ac adeiladu dŷ annedd
– DISGWYL PENDERFYNIAD

Safle drws nesaf – 51 Stryd Clwyd

02/2008/ 0592PF – Dymchwel y garejis presennol ac adeiladu 3 tŷ annedd –
DISGWYL PENDERFYNIAD

02/2009/0446/LB. - Dymchwel y garejis presennol ac adeiladu 3 tŷ annedd -
DISGWYL PENDERFYNIAD

02/2008/1179 LB – Caniatâd adeilad rhestredig ar gyfer addasiadau mewnol i
greu gwesty bach ac arddangos arwydd ar y blaenlun.

TYNNWYD YN ÔL 20/01/09

02/2008/1178 – Newid defnydd fflatiau yn westy bach.

TYNNWYD YN ÔL 20/01/09

POLISIŌU A CHANLLAWIAU CYNLLUNIO:

6. CYNLLUN DATBLYGU UNEDOL SIR DDINBYCH (a fabwysiadwyd ar 3

Gorffennaf 2002)

Polisi GEN 1 – Datblygiadau o fewn Ffiniau Datblygu

Polisi GEN2 – Datblygiad tir heb ei anodi

Polisi GEN6 – Gofynion rheoli datblygu

Polisi Gen 10 – Canllawiau Cynllunio Atodol

Polisi ENV 7 – Nodweddion Tirlun/Treflun

Polisi CON5 – Datblygiad mewn ardaloedd cadwraeth

Polisi CON11 – Datblygiad heneb rhestredig

Polisi ENP 4 - Draenio Dŵr Arwyneb a Dŵr Budr

Polisi TRA 9 – Darpariaeth Parcio a Gwasanaethu

Polisi HSG 2 – Datblygiad Tai yn y Prif Ganolfannau

Canllawiau Cynllunio Atodol

CCA 2 – Tirlunio

CCA 6 – Coed a datblygiadau

CCA 13 – Ardaloedd Cadwraeth

CCA 14 – Adeiladau Rhestredig

CCA 15 – Archeoleg

CCA 21 – Gofynion parcio mewn datblygiadau newydd

CCA 25 – Canllaw Dylunio Datblygiad Preswyl

CANLLAWIAU'R LLYWODRAETH

Polisi Cynllunio Cymru (Mawrth 2002) (fel y'i diwygiwyd gan Ddatganiad Polisi
Cynllunio Interim y Gweinidog)

Nodiadau Cyngor Technegol:

12 Dylunio

18 Trafnidiaeth

Cylchlythyr 60/96 Cynllunio a'r Amgylchedd Hanesyddol: Archeoleg

Cylchlythyr 61/96 Cynllunio a'r Amgylchedd Hanesyddol: Adeiladau Hanesyddol ac
Ardaloedd Cadwraeth

Cylchlythyr 35/95 – Defnyddio Amodau mewn Caniatâd Cynllunio

Cylchlythyr 23/01 Canllawiau Newydd i Awdurdodau Cynllunio Lleol ar

Rywogaethau a Warchodir gan Ewrop a newidiadau yn y gweithdrefnau trwyddedu

Rheoliadau Cadwraeth (Cynefinoedd Naturiol ac ati) 1994 (fel y'i diwygiwyd) –

Rheoliad 3 (4)

Y PRIF YSTYRIAETHAU CYNLLUNIO:

7. Y prif ystyriaethau yn yr achos hwn yw:

- a. Egwyddor datblygu
- b. Rhywogaethau a Warchodir
- c. Effaith ar gymeriad ac ymddangosiad ardal gadwraeth
- d. Effaith ar amwynder preswyl
- e. Y briffordd, parcio a thraffig
- f. Archeoleg
- g. Coed a'r tirlun
- h. Mynediad i bawb

8. Mewn perthynas â'r prif ystyriaethau ym mharagraff 7:

a. Egwyddor datblygu

Saif y safle y tu mewn i'r ffin datblygu diffniedig. Mae'n cynnwys elfen o adeiladu o'r newydd gydag adeilad presennol, ac felly byddai'n cael ei ddisgrifio fel 'tir a ddatblygwyd yn flaenorol' yn ôl Polisi Cynllunio Cymru. Ystyrir bod yr egwyddor o ddatblygiad preswyl yn dderbyniol, yn ddarostyngedig i brofion polisi cynllunio ac ystyriaethau penodol i'r safle a restrir dan bwyntiau ii) – viii).

b. Rhywogaethau a Warchodir

Mae'r fframwaith polisi cynllunio a deddfwriaethol presennol yn gosod gofyniad caeth ar yr awdurdod cynllunio lleol i ystyried yr effaith potensial ar fywyd gwyllt, a rhywogaethau a warchodir yn benodol. (Polisi Cynllunio Cymru: Rheoliadau Cynefinoedd; Polisi Cynllun Datblygu Unedol a Chanllawiau Atodol). Byrdwn y ddeddfwriaeth yw, lle bo sail i amau bod Rhywogaeth a Warchodir gan Ewrop yn bresennol, dylid sefydlu a ydynt yn bresennol cyn rhoi'r caniatâd; a'i bod yn amhriodol rhoi caniatâd yn ddarostyngedig i amod y cynhelir arolwg rhywogaethau a warchodir.

Yn yr achos hwn cyflwynwyd Arolwg Rhywogaethau a Warchodir. Mae Ecolegydd y Sir yn derbyn y casgliadau, ac yn argymhell amod i ddarparu cyfoethogiadau bioamrywiaeth. Felly ystyrir bod y cais yn cydymffurfio gyda'r polisiau a'r canllawiau o ran rhywogaethau a warchodir.

c. Effaith ar gymeriad ac ymddangosiad ardal gadwraeth

Gwelir y safle yn bennaf o'r cefn, yr ochr ddeheuol, heb unrhyw effaith yn debygol ar y prif strydlun yn Stryd Clwyd. Yn yr achos hwn mae angen i unrhyw ddatblygiad newydd dalu sylw arbennig ei bod yn ddymuno cadw neu gyfoethogi cymeriad neu ymddangosiad ardal gadwraeth.

Nid oedd y cynllun blaenorol am 2 dŷ ar y safle, a dynnwyd yn ôl, yn bodloni'r egwyddorion cadwraeth hyn. Ym marn y swyddogion mae'r cynllun presennol yn ymdrin â'r pryderon blaenorol ac yn haeddu cefnogaeth.

O ran sylwadau'r Cyngor Tref ar yr effaith ar yr Ardal Gadwraeth, mae Swyddog Cadwraeth y Sir yn ymwybodol o'r materion a godwyd ac mae'n ystyried na fydd y cynnig yn arwain at effaith arwyddocaol ar yr ardal gadwraeth, pwysigrwydd hanesyddol yr ardal a'r dref yn yr achos penodol hwn.

Mae'r Swyddog Cadwraeth wedi cadarnhau bod y cynllun presennol yn dderbyniol, yn ddarostyngedig i osod amodau. Felly mae'r cynnig yn cydymffurfio gyda gofynion sylfaenol Cylchlythyr 61/96, Polisi CON 5 a

CCA 13.

d. Effaith ar amwynder preswyl

Ni fyddai'r cynllun yn arwain at unrhyw edrych dros eiddo eraill mewn perthynas ag eiddo presennol/cyfagos ac mae'n gyfrannol o ran graddfa, mas, lleoliad ac uchder. Darperir gwagle amwynder digonol ar gyfer pob plot. Mae'r cynnig yn cydymffurfio gyda amcanion polisi GEN 6.

e. Y briffordd, parcio a thraffig

Saif y safle o fewn pellter cerdded hawdd i wasanaethau, yn cynnwys meysydd parcio cyhoeddus a chludiant cyhoeddus, ac felly mae'n hygyrch ac yn gynaliadwy o bersbectif polisi cynllunio sylfaenol.

Mae cyfyngiadau parcio mewn grym ar hyd y rhan fwyaf o Stryd Clwyd. Fel gyda'r cais blaenorol am ddwy uned, mae'r Pennaeth Trafnidiaeth ac Isadeiledd yn ymwybodol o'r sefyllfa parcio ar hyd Stryd Clwyd ac yn y gymdogaeth, yn cynnwys gwrthwynebiadau a godwyd yn erbyn y cynnig hwn, ac ar ôl ystyried yr holl faterion, nid yw'n cyflwyno unrhyw wrthwynebiad.

Er mwyn lleihau'r difrod a'r amharu ar nodweddion cadwraeth ac adeiladau rhestredig mae'r asiant wedi cytuno i ddarparu cynllun rheolaeth i hwyluso hyn, a disgrifio methodoleg ar gyfer symud deunyddiau yn ystod y cam adeiladu. Gellid rhoi hyn fel amod, yn achos rhoi caniatâd cynllunio.

f. Archeoleg

Mae Archeolegydd y Sir ac Ymddiriedolaeth Archeolegol Clwyd Powys wedi tynnu sylw at sensitifrwydd potensial y safle. Mae CCA 15 yn nodi weithiau y darganfyddir gweddillion archeoleg yn unig wedi i'r datblygiad ddechrau, ac y gallai datblygwyr ddymuno yswirio eu hunain yn erbyn y risg o golled.

O ran sylwadau'r Cyngor Tref ar yr effaith ar ystyriaethau archeolegol, mae Archeolegydd y Sir yn ymwybodol o'r materion a godwyd, ac ystyria na fydd y cynnig yn achosi effaith arwyddocaol ar bwysigrwydd archeolegol y gymdogaeth na'r dref.

Yn unol ag ymatebion Archeolegydd y Sir ac Ymddiriedolaeth Archeolegol Clwyd Powys, dylid cynnwys amod briff gwyllo er mwyn caniatáu cyfle addas i arsylwi a chofnodi'r gwaith.

g. Coed a'r Tirlun

Mae'r cynlluniau yn dangos y byddai'r coed sy'n bodoli eisoes ar hyd y ffin deheuol yn cael eu cadw. Yn unol â pholisi cynllunio a CCA 6, er mwyn diogelu eu cyfraniad i'r gymdogaeth, dylid gwarchod eu cadw drwy osod amodau.

h. Mynediad i bawb

Bydd yr Aelodau yn ymwybodol fod Datganiadau Mynediad yn orfodol ar gyfer y rhan fwyaf o geisiadau cynllunio, ac mae'n rhaid i faterion mynediad ffurfio rhan o asesiad cynllunio. Amlinellir y dull o wneud hyn y Nodyn Cyngori Technegol 18 Trafnidiaeth, a Pholisi GEN 6, sy'n nodi'r angen i ddarparu mynediad diogel a chyfleus i bobl ag anableddau. Mae CCA 8 'Mynediad i Bawb' yn ategu'r polisi hwn, ynghyd â CCA 25 'Canllaw Dylunio Datblygiad Preswyl' a dogfen y Cyngor 'Cynllunio a Dylunio Cynhwysol'.

Mae'r cynigion a gyflwynwyd yn cynnwys sylwadau cyfyngedig ar ddyluniad cynhwysol. Gellid ei gwneud yn ofynnol cyflwyno rhagor o

fanylion drwy gynnwys amod i'r perwyl hynny, pe rhoddid caniatâd cynllunio.

CRYNODEB A CHASGLIADAU:

9. O ran gwrthwynebiadau unigol a'r Cyngor Tref, asesir pob datblygiad yn unol â'i rinweddau ei hun; gyda phob un yn anorfod yn cynnwys set wahanol o faterion polisi cynllunio a materion penodol i'r safle. Ystyrir bod y cynllun hwn, yn ddarostyngedig i amodau, yn ymdrin â'r pryderon blaenorol, ac na fyddai'n arwain at effaith niweidiol ar yr ardal gadwraeth nac yn golygu goblygiadau archeolegol. Mae cynlluniau eraill yn y gymdogaeth wedi'u derbyn lle bo materion cadwraeth ac archeolegol tebyg wedi eu crybwyll. Yn gyffredinol canlyniad y cynllun arfaethedig fyddai aiddatblygiad cydweddus yn y lleoliad hwn, yn cynnwys dymchwel rhan o'r adeilad yn unig, ac ychwanegiad bach o ran maint arwynebedd y llawr, yn lle adeilad ag ansawdd dylunio gwael.

ARGYMHELLIAD - CANIATÁU – yn ddarostyngedig i'r amodau isod:-

1. Bod y gwaith a ganiateir drwy hyn yn dechrau cyn pen diwedd pum mlynedd o ddyddiad y caniatâd hwn.
2. Bod y deunyddiau i'w defnyddio ar do'r adeilad(au) yn llechen las/lwyd o liw a gwadedd unffurf.
3. Ni ddylid torri na thocio unrhyw goed na gwrychoedd yn safle'r cais heb ganiatâd ysgrifenedig o flaen llaw gan yr Awdurdod Cynllunio Lleol. Dylid adnewyddu'r rhai a dynnir ymaith heb ganiatâd neu sy'n marw neu'n cael eu difrodi yn ddifrifol neu eu heintio yn ddifrifol ymheng pum mlynedd o ddyddiad cwblhau'r datblygiad gyda phlanhigion coed neu gwrych o'r fath faint a rhywogaeth at y cytunir arnynt yn ysgrifenedig gan yr Awdurdod Cynllunio Lleol.
4. Allyriadau dŵr arwyneb a dŵr budr i'w draenio o'r safle ar wahân.
5. Ni ddylid caniatáu i unrhyw ddŵr arwyneb gysylltu, yn uniongyrchol nac yn uniongyrchol, gyda'r system garthffosiaeth gyhoeddus onibai y cymeradwyr hynny yn ysgrifenedig gan yr Awdurdod Cynllunio Lleol.
6. Ni ddylid caniatáu i ddŵr ffo draeniad tir allyrru, un ai'n uniongyrchol neu'n anuniongyrchol, i'r system garthffosiaeth gyhoeddus.
7. Dylai'r datblygwr sicrhau bod contractwr archeolegol â chymwysterau addas yn bresennol wrth wneud unrhyw waith cloddio tir yn yr ardal ddatblygu, fel y gellir cynnal Briff Gwylio archeolegol. Rhaid cynnal y briff gwylio archeolegol i'r safonau a nodir gan y Sefydliad Archeolgyr Maes (Institute of Field Archaeologists). Dylid hysbysu'r Awdurdod Cynllunio Lleol yn ysgrifenedig, o leiaf bythefnos cyn dechrau'r gwaith datblygu, am enw'r contractwr archeolegol. Rhaid cyflwyno copi o'r adroddiad briff gwylio i'r Awdurdod Cynllunio Lleol ac Adran Curador Ymddiriedolaeth Archeolegol Clwyd Powys cyn pen deufis o gwblhau'r gwaith maes.
8. Ni ddylid dechrau unrhyw waith datblygu nes bo'r manylion isod wedi'u cyflwyno ac y cytunwyd arnynt yn ysgrifenedig gan yr Awdurdod Cynllunio Lleol: :
 - i) Manylion a samplau llechi'r to a chrib y to;
 - ii) Cynllun a darluniadau i raddfa yn nodi manylion yr ymylon, y bondo, saerniaeth a lliw y drysau a'r ffenestri a manylion 'dormer';
 - iii) Y cladin pren a lliw'r paent a'r gorffeniad;
 - iv) Y mortar calch ac ailbwyntio;
 - v) Pibellau a nwyddau dŵr glaw;
 - vi) Cymysgedd, gwadedd, lliw a gorffeniad y rendr;
 - vii) Lefelau'r llawr gorffenedig
 - (viii) Cynllun rheolaeth ar gyfer cyflenwi ac adeiladu gyda'r deunyddiau dan sylw.A bod y datblygiad yn cael ei gwblhau yn unol â'r manylion cytunedig.

9. AMOD CYN DECHRAU

Cyn dechrau ar y datblygiad a ganiateir drwy hyn bod cynllun yn dangos y ddarpariaeth i bobl anabl gael mynediad i'r adeilad yn cael ei gyflwyno a'i gymeradwyo'n ysgrifenedig gan yr

Awdurdod Cynllunio Lleol. Rhaid i'r cynllun cytunedig fod yn weithredol cyn bo'r datblygiad a ganiateir drwy hyn yn cael ei ddefnyddio.

10. AMOD CYN DECHRAU

Cyn dechrau unrhyw waith dymchwel ar y safle, rhaid cyflwyno'r manylion isod i'w cymeradwyo gan yr Awdurdod Cynllunio Lleol:

- i. arolwg o'r holl ddeunyddiau adeiladau presennol
- ii. y potensial i ailddefnyddio ac ailgylchu'r deunyddiau hynny i'w hymgorffori mewn datblygiad adnewyddu cytunedig ar y safle, a
- iii. lle bo'n berthnasol, derbynnydd y deunyddiau adeiladau sy'n weddill. Bydd yr arolwg cymeradwy yn ffurfio rhan o'r contract adeiladu y cytunir arno ar gyfer datblygiad adeiladu newydd ar y safle, gyda chopi ohono i'w gyflwyno i'r Awdurdod Cynllunio Lleol at ddibenion cadw cofnodion.

Y rheswm/rhesymau am yr amodau yw:-

1. Cydymffurfio gyda darpariaethau Adran 91 Deddf Gwlad a Thref 1990.
2. Er budd amwynder gweledol.
3. Er mwyn diogelu'r coed a'r gwrychoedd sy'n bodoli ar y safle eisoes, er budd amwynder gweledol yr ardal.
4. Er mwyn diogelu integriti y system garthffosiaeth gyhoeddus.
5. Er mwyn atal gorlwytho hydrologig y system garthffosiaeth gyhoeddus, i warchod iechyd a diogelwch preswylwyr presennol a sicrhau peidio â niweidio'r amgylchedd.
6. Er mwyn atal gorlwytho hydrologig y system garthffosiaeth gyhoeddus a llygru'r amgylchedd.
7. Er budd ymchwiliad a chofnodi archeolegol.
8. Er budd cadw a chyfoethogi cymeriad yr ardal gadwraeth ac amwynderau'r gymdogaeth.
9. Er mwyn sicrhau mynediad addas i'r adeilad i'r anabl.
10. Er mwyn sicrhau bod y datblygiad yn defnyddio dull cynaliadwy.

NODIADAU I'R YMGEISYDD:

Os oes angen cysylltiad gyda'r system garthffosiaeth gyhoeddus, cynghorir y datblygwr i gysylltu gydag Ymgynghorwyr Datblygu Dŵr Cymru Welsh Water ar 01443 331155. Fe'ch atgoffir drwy hyn fod y gwaith y mae'r caniatâd yma yn berthynol iddo hefyd yn galw am Ganiatâd Adeilad Rhestredig ac nad yw'n dilyn o angenrhaidd y bydd Caniatâd o'r fath yn cael ei roi. Mae'n drosedd cynnal gwaith dymchwel neu unrhyw weithrediadau eraill sy'n effeithio ar gymeriad adeilad rhestredig (yn cynnwys addasiadau mewnol) heb gael Caniatâd Adeilad Rhestredig; felly ni ddylid cyflawni unrhyw waith o'r fath nes bo Caniatâd Adeilad Rhestredig wedi'i roi.

SWJ

ITEM NO:	4
WARD NO:	Ruthin
APPLICATION NO:	02/2008/1153/ PF
PROPOSAL:	Demolition of part of existing building and erection of 2 no. dwellings
LOCATION:	Land to rear of 47/49 Clwyd Street Ruthin
APPLICANT:	Mr Robin Owain Lloydus Ltd

CONSTRAINTS: PROW
B Flood Zone
Listed Building
Conservation Area

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

CONSULTATION RESPONSES:

RUTHIN TOWN COUNCIL

“OBJECT -

- detrimental to the character of the Conservation Area.
- detrimental to the Mediaeval Town and Burgage plots.
- over-intensification re habitable use
- inadequate access for scale of development.

The proposed development is both detrimental to the character and appreciation of the Mediaeval Townscape and leads to over-intensification and access problems.

The character of this area has already been impacted by the properties already built near the Mill and the old Star Barn - any further development will have a detrimental impact on the character of this area of town and in particular the relationship between the town and the Castle / Cuning Green.

The properties on Clwyd Street form part of the Mediaeval street pattern with traditional Burgage plots extending as a long and narrow plot back from the road. The appreciation of this pattern is severely compromised as new buildings are built on the open land to their rear.

In accordance with our comments on the Local Development Plan, we believe the town has more than adequate building development land for its foreseeable future. There are numerous other 'brownfield' or disused sites that would benefit from being developed and to allow more buildings on the remaining unbuilt areas of the burgage plots would be doing the town a historical disservice, allowing further over intensification with development that destroys for ever the mediaeval urban grain and townscape which is rightly protected as a Conservation area.

The Town Council has, since 2002, expressed concern about developments of Burgage garden plots and that past proposals should not be seen as a precedent.

DENBIGHSHIRE COUNTY COUNCIL PUBLIC RIGHTS OF WAY OFFICER
Public Rights of Way Public Footpath No 29 abuts the proposed development area, and the correct line on the ground follows a Path known as Cuning Green.

DENBIGHSHIRE COUNTY COUNCIL ARCHAEOLOGIST
Notes that the site is within the core of the Medieval Town of Ruthin, with the potential for important archaeology to be present relating to earlier phases of the town. However, highlights that given that the development is on the site of a structure which is to be demolished, there are no objections provided that a Watching Brief condition is attached, in the event of any permission.

DENBIGHSHIRE COUNTY COUNCIL HEAD OF TRANSPORT AND
INFRASTRUCTURE

Notes that the proposal is similar to a previous application in early 2008 which was withdrawn. At that time the Highway Authority did not raise any objections and the same applies to this proposal.

DENBIGHSHIRE COUNTY COUNCIL CONSERVATION ARCHITECT

Considers that the proposal is an improvement on the one which was withdrawn, on the basis that the roof form is simplified and its height has been dropped from 6.5 metres to 5.7metres with the first floor bedrooms in the loft space with dormer windows, giving a 'cottage feel'. The remains of the existing stone building are retained and exposed with few new openings. Advocates the use of timber cladding to the upper floors because it was desirable to expose as much of the stone walling as possible and it would be unattractive to try and marry the render above to the stone below. No objection subject to conditions relating to details of or samples of:

Roof slate and ridges; Verges; eaves; Timber cladding and paint colour and finish; Lime mortar and repointing; Rainwatergoods; Window and door joinery and colour; Render mix, texture, colour and finish; Dormer details

DENBIGHSHIRE COUNTY COUNCIL ECOLOGIST

Advises that the applicant should request contractors to follow precautionary procedures when dismantling the buildings i.e. when removing such features as ridge tiles, slates, purlins etc, to ensure that any torpid or hibernating bats are not affected, and if uncovered at any time during the works, then works should stop and further advice sought from the licensed bat surveyor or CCW. Additionally, Should ensure that nesting birds are not affected (as consultant's report).

RUTHIN AND DISTRICT CIVIC ASSOCIATION

Highlights that the committee is not happy with the proposal, noting ;

- Loss of green space within the town a serious consideration, with future residents loosing the use of large gardens.
- Access to the smaller plot (*rear of 47-49 Clwyd Street*) inadequate – through a narrow passageway
- Vehicular access to the other site (*rear of 51 Clwyd Street*), currently serving existing garages, is not considered a good access for the proposed houses. But , notes that this is preferable to the sole access proposed for the smaller plot , and should planning permission be granted, that the two plots should be considered together, with both gaining access by this vehicular access
- Sensitive site – a high standard of design and use of sympathetic building materials – although not visible from Clwyd Street, very conspicuous from the well used Cuning Green path.

ENVIRONMENT AGENCY

No comments.

WELSH WATER

Recommends standard conditions regarding separation of foul and surface water, with advisory notes to be attached.

CLWYD POWYS ARCHAEOLOGICAL TRUST – Notes that the site lies within the medieval historic core of Ruthin, near to the rear of a known late medieval and post medieval street frontage and is anticipated to retain sub surface archaeology relating to prior structure, associated deposits/artefacts of all periods. Notes that however – unlike the site behind the adjoining plot, 51 Clwyd Street – the new building will be erected wholly on the footprint of the existing structure to be demolished, and that the ground may therefore have been significantly disturbed in the past and the integrity of the preserved archaeology may have been reduced. Recommends presence of an on site archaeological contractor during top soiling, foundation trench cutting service trench excavation works in order to record any archaeological features.

THE COUNTRYSIDE COUNCIL FOR WALES

No objections to the proposal, but draw attention to Sections 8 & 9 of the Protected Species Survey.

RESPONSE TO PUBLICITY:

Letter of representation received from:
Brynle Williams, Assembly Member for North Wales

Summary of planning based representations:

Character – it is understood that present access to the site is through a narrow alleyway, with a height of approx 6 foot and the developer intends to demolish another property to open up the access. Consideration should be given to the architectural importance of this particular building.

Density & parking – given adjacent proposal and no parking to accompany the redevelopment, the proposal will exacerbate on street parking issues for local residents and shops.

EXPIRY DATE OF APPLICATION: 11/03/2009

REASONS FOR DELAY IN DECISION:

- timing of receipt of representations
- delay in receipt of key consultation response(s)
- additional information required from applicant

PLANNING ASSESSMENT:

THE PROPOSAL:

5. Outline of application

The proposal is a full planning application for the part demolition and alterations to an existing modern style part two storey/single storey building located at the rear of 47-49 Clwyd Street into two residential units, both two storey in height. Part of the existing single storey section is to remain as existing, continuing to provide a pedestrian access route to the rear garden area(s).

Proposed external materials include slate roof and local stone; timber and render walls, with painted timber doors and windows, and no changes to existing boundary features.

The application includes a Design and Access Statement and a Protected Species Survey. The Design and Access Statement comments that the proposal has been influenced by the adjoining buildings, with existing stone walls retained and the roof and external wall designed to reflect discussions with the Conservation Officer. The agent states that the proposal does not include vehicular access, hence access to the site remains as existing, through a pedestrian alleyway from Clwyd Street. The Protected Species survey indicates no evidence of bats in the building and that the building is generally unsuitable for bats and there is no potential for Newts presence.

6. Description of site and surroundings

It is understood that the previous use of the building was a former artist's studio. It includes a significant south facing elevation with upper balcony area, with a sloping, felt, roof for the majority of the upper floor area and natural slate on the remainder of the single storey roof.

The property includes a long garden area, with mature trees along part of the southern boundary. A public footpath, known as Cuning Green, lies adjacent to the southern boundary.

7. Relevant planning constraints/considerations

The site lies within the Ruthin Conservation area, within the south westerly part of an area described as 'Ruthin Town centre including all the principle roads radiating

form the square', notable for being the ' *historic core of Ruthin and as such has examples of buildings from the 14th Century to the present day. It is this diversity which contributes so significantly to the character of the Conservation Area but which makes a character appraisal so difficult. Despite the diversity generally the buildings co- exist in harmony.* (extract form Ruthin Town Character Area Appraisal).

The site includes the main principal listed buildings, property numbers 47/49 Clwyd Street.. These are listed primarily for their special interest as a C16 -17 timber framed building, with later c19 exterior character and group value with surrounding listed buildings in Clwyd Street. The application building is defined as being 'deemed listed, in legal terms, with the main listed building for the site, given their association, age and purpose in this case. A separate listed building consent application is necessary for works which affect the character and appearance of the building, a report on the concurrent listed building application (02/2009/0477/LB – Demolition of part of existing building and erection of 2 no. dwellings) follows on this Planning Committee agenda.

To the east of the proposal lies garden/amenity area of 45 Clwyd Street. To the west is the existing garden area with 51 Clwyd Street. Both of these buildings are separately listed. A separate planning and listed building consent application is submitted for the proposals at 51 Clwyd Street, involving the development of 3 dwellings, under planning application code 02/2008/0592/PF and listed building code.02/2009/0446/LB. There are separate reports on the agenda for these proposals.

The southern boundary of the site lies close to the edge of the defined development boundary for Ruthin. The Cunning Green public footpath runs further south above the site boundary, on its route from Mill Street to Castle Street, alongside the Castle Walls. The Castle Walls represent a feature of the Ruthin Castle Scheduled Ancient Monument, which also includes a Registered Historic Park & Garden.

8. Relevant planning history

There has been one previous application on the site for 2 dwellings, which generated concerns from the County Conservation Officer. This resulted in the application being withdrawn and further discussions were held with both the Conservation and Planning Officers, culminating in this current application, and a separate listed building consent.

RELEVANT PLANNING HISTORY:

9. 02/2008/0432/PF - Demolition of existing building and erection of 2no. dwellings - WITHDRAWN 30/05/08

02/2009/0477/LB – Demolition of part of existing building and erection of 2 no. dwellings - PENDING

Adjoining site – 51 Clwyd Street.

02/2008/ 0592PF – Demolition of existing garages and erection of 3 dwellings - PENDING

02/2009/0446/LB. - Demolition of existing garages and erection of 3 dwellings - PENDING

02/2008/1179 LB – Listed building consent for internal alterations to create guest house and display of signage on front elevation.
WITHDRAWN 20/01/09

02/2008/1178 - Change of use of flats to Guest House

WITHDRAWN 20/01/09

PLANNING POLICIES AND GUIDANCE:

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

Policy GEN 1 Development within Development Boundaries

Policy GEN2 – Development of un-annotated land

Policy GEN6 – Development control requirements

Policy Gen 10 Supplementary Planning Guidance

Policy ENV 7 - Landscape/Townscape features

Policy CON5 – Development in conservation areas

Policy CON11 – Development at scheduled ancient monument

Policy ENP 4 Foul and Surface Water drainage

Policy TRA 9 – Parking and Servicing Provision

Policy HSG 2 - Housing Development in Main Centres

Supplementary Planning Guidance

SPG 2 – Landscaping

SPG 6 – Trees and development

SPG 13 – Conservation Areas

SPG 14 – Listed Buildings

SPG 15 – Archaeology

SPG 21 – Parking requirements in new developments

SPG 25 – Residential Development Design Guide

GOVERNMENT GUIDANCE

Planning Policy Wales (March 2002) (as amended via MIPPS)

Technical Advice Notes;

12 Design

18 Transport

Circular 60/96 Planning and the Historic Environment ;Archaeology.

Circular 61/96 Planning and the Historic Environment: Historic Buildings and Conservation Areas

Circular 35/95 – The Use of Conditions in Planning Permissions

Circular 23/01 New Guidance for Local Planning Authorities on European Protected Species and Changes in licensing procedures.

The Conservation (Natural Habitats, &c) Regulations 1994 (as amended) - Regulation 3 (4)

MAIN PLANNING CONSIDERATIONS:

11. The main considerations in this case are:

- i) Principle of development
- ii) Protected Species
- iii) Impact on character and appearance of conservation area
- iv) Impact on residential amenity
- v) Highway, parking and traffic
- vi) Archaeology
- vii) Trees and Landscape
- viii) Access for all

12. In relation to the main considerations in paragraph 7:

- i) Principle of development
The site lies within the defined development boundary. It includes an element of new build with an existing building, and hence would be described as 'previously developed land', under Planning Policy Wales. The principle of

residential development is considered acceptable, subject to tests of planning policy and site specific considerations listed under points ii) – viii).

ii) 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, a Protected Species survey has been submitted. The County Ecologist accepts the conclusions, and recommends a condition to provide biodiversity enhancements. The proposal is therefore considered to comply with the policies and guidance, in terms of protected species.

iii) Impact on character and appearance of conservation area

The site is viewed predominantly from the rear, south side, with no impact likely on the main, Clwyd Street, streetscape. In this case, any new development needs to pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area.

The previous 'withdrawn ' scheme for 2 houses for the site did not meet these conservation principles. In officers opinion the current scheme addresses previous concerns and merits support.

In terms of the Town Council comments on the impact on the Conservation Area, the County Conservation Officer is aware of the issues raised and considers that the proposal will not result in significant effect on the conservation area, the historic importance of the locality and the Town in this particular case.

The Conservation Officer has confirmed that the current scheme is acceptable subject to conditions. The proposal therefore complies with the basic requirements of Circular 61/96, Policy CON 5 and SPG 13.

iv) Impact on residential amenity

The scheme would not result in any overlooking in relation to existing/adjacent properties and is proportional in scale, massing, siting and height. Adequate amenity space is provided for each plot. The proposal complies with the aims of GEN 6 policy.

v) Highway/parking and traffic

The site is within easy walking distance to services, including public car parks and public transport, thereby being accessible and sustainable from a basic planning policy perspective.

Clwyd Street has parking restrictions along much of its length. As with the previous application for two units, the Head of Transport and Infrastructure is aware of the parking situation along Clwyd Street and in the locality, including objections raised with this current proposal, and having considered all the issues, raises no objections.

In order to minimise disturbance and damage to conservation and listed building features, the agent has agreed to provide a management plan to facilitate and describe a methodology for the movement of materials involved at construction stage. This could also be conditioned, in the event of a

planning permission.

vi) Archaeology

Both the County Archaeologist and Clwyd Powys Archaeological Trust have highlighted the potential sensitivity of the site. SPG 15 highlights that at times, archaeological remains are only discovered once development has started, and that developers may wish to consider insuring themselves against the risk of loss.

In terms of the Town Council comments on the impact on the archaeological implications, the County Archaeologist is aware of the issues raised, and considers that the proposal will not give rise to a significant effect on the archaeological importance of the locality or Town.

In line with the responses of both the County Archaeologist and CPAT, a watching brief condition should be included to allow suitable opportunity to observe and record works.

vii) Trees and Landscape

The plans indicate existing trees along the southern boundary would remain. In line with planning policy and SPG 6, in order to safeguard their contribution to the locality, their retention should be safeguarded by conditions.

viii) 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 contain limited commentary on inclusive design. Further details could be required by inclusion of conditions, should planning permission be granted.

SUMMARY AND CONCLUSIONS:

13. With respect to the individual and Town Council objections, all developments are assessed according to their individual merits; each one involving a different set of site specific and planning policy issues. It is considered that the scheme, subject to conditions, addresses previous concerns, would not lead to detrimental impact on the conservation area or have archaeological implications. There are other schemes in the locality which have been accepted where similar conservation and archaeological issues have arisen. Overall, the proposal would result in a sympathetic re-development in this location, involving only partial demolition and a modest sized additional floor area, in place of a poor quality building.

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

1. The development hereby permitted shall be begun before the expiration of five years from the date of this permission.
2. The materials to be used on the roof of the building(s) shall be blue/grey natural mineral slate of uniform colour and texture.
3. 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.

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 developer shall ensure that a suitably qualified archaeological contractor is present during the undertaking of any ground works in the development area, so that an archaeological watching brief can be conducted. The archaeological watching brief will be undertaken to the standards laid down by the Institute of Field Archaeologists. The Local Planning Authority will be informed in writing, at least two weeks prior to the commencement of the development, of the name of the said archaeological contractor. A copy of the watching brief report shall be submitted to the Local Planning Authority and the Curatorial Section of the Clwyd-Powys Archaeological Trust within two months of the fieldwork being completed.
8. No development shall commence until the following details have been submitted to and agreed in writing by the Local Planning Authority:

- i) Details and samples of roof slate and ridges;
 - ii) Plan and scaled drawings for details of verges; eaves, window and door joinery and colour; dormer details
 - iii) Timber cladding and paint colour and finish;
 - iv) Lime mortar and repointing;
 - v) Rainwatergoods;
 - vi) Render mix, texture, colour and finish;
 - vii) Finished floor levels
 - (viii) Management plan for the delivery and construction of materials involved.
- And the development completed in accordance with the agreed details.

9. PRE-COMMENCEMENT CONDITION

Before the development hereby permitted is commenced a scheme indicating the provision to be made for disabled people to gain access to the building shall be submitted to and approved in writing by the Local Planning Authority. The agreed scheme shall be implemented before the development hereby permitted is first brought into use

10. 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.

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

1. To comply with the provisions of Section 91 of the Town and Country Planning Act 1990.
2. In the interests of visual amenity.
3. To safeguard the existing trees and hedges on the site, in the interests of the visual amenities of the locality.
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 archaeological investigation and recording.
8. In the interests of preserving and enhancing the character of the conservation area and the amenities of the locality.
9. To ensure suitable access for the disabled to the building.
10. To ensure that the development involves a sustainable approach.

NOTES TO APPLICANT:

If a connection is required to the public sewerage system, the developer is advised to contact Dwr Cymru Welsh Water's Network Development Consultants on 01443 331155. You are hereby reminded that the works to which this permission relates also require Listed Building Consent and that it does not necessarily follow that such Consent will be granted. It is a criminal offence for demolition works or other operations affecting the character of a listed building (including internal alterations) to be carried out without Listed Building Consent; no such works should therefore be carried out until Listed Building Consent has also been granted.

EITEM RHIF:	5
WARD:	Rhuthun
RHIF Y CAIS:	02/2009/0477/ LB
CYNNIG:	Rhan ddymchwel yr adeilad presennol a chodi 2 dŷ annedd (cais Adeilad Rhestredig)
LLEOLIAD:	Tir y tu ôl i 47/49 Stryd Clwyd, Rhuthun
YMGEISYDD:	Mr Robin Llwyd ab Owain
CYFYNGIADAU:	Ardal Gadwraeth
CYHOEDDUSRWYDD:	Hysbysiad ar y safle - ✓ Hysbysiad yn y wasg - ✓ Llythyrau oddi wrth gymdogion - ✓

YMATEBION I'R YMGYNGHORIAD:

CYNGOR TREF RHUTHUN
YN GWRTHWYNEBU

- niweidiol i gymeriad yr Ardal Gadwraeth.
- niweidiol i'r Dref Ganoloesol a thiroedd bwrtais.
- gor-ddwysáu o ran defnydd preswyl.
- mynediad annigonol ar gyfer graddfa'r datblygiad.

Mae'r datblygiad arfaethedig yn andwyol i gymeriad a gwerthfawrogiad y treflun canoloesol ac mae'n arwain at or-ddwysáu a phroblemau mynediad.

Effeithwyd ar gymeriad yr ardal hon eisoes gan yr eiddo a adeiladwyd eisoes ger y Felin a hen sgubor tafarn y Star – bydd unrhyw ddatblygiad pellach yn cael effaith niweidiol ar gymeriad y rhan hon o'r dref, ac yn enwedig y berthynas rhwng y dref a'r Castell / Cunning Green.

Mae'r eiddo ar Stryd Clwyd yn ffurfio rhan o'r patrwm stryd canoloesol gyda thiroedd bwrtais traddodiadol yn ymestyn fel plotiau hir a chul yn ôl o'r ffordd. Mae gwerthfawrogiad y patrwm hwn yn cael ei gyfaddawdu'n ddifrifol wrth i adeiladau newydd gael eu hadeiladu ar dir agored y tu ôl iddynt.

Yn unol â'n sylwadau ar y Cynllun Datblygu Lleol, credwn fod gan y dref fwy na digon o dir datblygu adeiladu ar gyfer y dyfodol rhagweladwy. Mae nifer o safleoedd 'tir llwyd' a safleoedd nad ydynt yn cael eu defnyddio a fyddai'n elwa o gael eu datblygu, a byddai caniatáu rhagor o adeiladau ar yr ardaloedd heb adeiladau arnynt sy'n weddill yn y tiroedd bwrtais yn gwneud cam â'r dref, yn caniatáu rhagor o or-ddwysáu gyda datblygiad sy'n dinistrio'r graen trefol canoloesol a'r treflun sydd wedi'i warchod fel Ardal Gadwraeth.

Mae'r Cyngor Tref wedi mynegi pryder ynghylch datblygu gerddi tiroedd bwrtais ers 2002, ac ni ddylid ystyried cynigion blaenorol fel cynsail.

PENSAER CADWRAETH CYNGOR SIR DDINBYCH

Dim gwrthwynebiadau, yn dilyn trafodaethau cyn cyflwyno'r cais, yn amodol ar osod amodau.

YMDDIRIEDOLAETH ARCHEOLEGOL CLWYD POWYS

Dim gwrthynebiadau i ddymchwel y strwythur sy'n bodoli eisoes. Yn tynnu sylw at gyngor blaenorol mewn perthynas â'r cais cynllunio ar gyfer y gwaith – sef amod i fonitro'r gwaith ar y safle.

COMISIWN BRENHINOL HENEBION CYMRU

(ymgyngorwyd gyda'r corff hwn ar gais Swyddog Cadwraeth y Sir) – Wrth dynnu sylw at y ffaith mai ei rôl yw gwneud sylwadau ar arwyddocad hanesyddol a chyd-destun heneb neu strwythur, a digonoldeb y cofnod neu fel arall, noda fod yr adeiladau i'w dymchwel yn strwythurau o ddi-ddordeb hanesyddol neu bensaernïol arbennig. Cyngorir, os rhoir caniatâd, y dylid gwneud cofnod arbennig ohonynt. Yn ychwanegol, gallai asesiad archeolegol fod yn briodol, o ystyried ei leoliad yn y bwrdeistref canoloesol.

YMATEB I'R CYHOEDDUSRWYDD:

Dim ymateb penodol i'r cais adeilad rhestredig.

DYDDIAD DARFOD Y CAIS: 22/06/2009

Y RHESYMAU AM OEDI CYN GWNEUD PENDERFYNIAD:

- amseriad derbyn sylwadau
- oedi cyn derbyn ymateb(ion) ymgynghori allweddol
- gwybodaeth ychwanegol yn ofynnol gan yr ymgeisydd

ASESIAD CYNLLUNIO:

Y CYNNIG:

1. Amlinelliad o'r cais

Mae'r cais hwn yn gais am ganiatâd adeilad rhestredig i wneud gwaith yn gysylltiedig â chynnig arfaethedig yn cynnwys dymchwel rhan o'r adeilad ac addasiadau i'r steil modern sy'n bodoli yn yr adeilad deulawr/unllawr yn rhannol a leolir y tu ôl i 47-49 Stryd Clwyd i greu dwy uned breswyl, y ddwy yn unedau deulawr. Mae rhannau o'r adeilad unllawr presennol i barhau fel y maent ar hyn o bryd. Mae'r cais cynllunio perthnasol (cyfeirnod 02/2008/1153/PF) ar agenda'r Pwyllgor Cynllunio hefyd. Mae'r argymhelliad ar gyfer y cais adeilad rhestredig hwn wedi'i seilio ar rinweddau'r materion adeilad rhestredig sy'n berthnasol i'r cais yn unig.

Mae'r deunyddiau allanol arfaethedig yn cynnwys to llechi a cherrig lleol; waliau pren a rendr, gyda ffenestri a drysau pren wedi'u paentio, a dim newidiadau i fanylion y ffiniau presennol.

Mae'r cais yn cynnwys Datganiad Dylunio (gydag adendwm) sy'n manylu'r cyfiawnhad am y cynigion, yn enwedig yr achos o blaid dymchwel rhan o'r adeilad presennol. Mae'r cyfiawnhad yn cyfeirio at:-

'Wrth ystyried y defnydd gorau o'r safle, roedd yr adeilad/ystafell gardd ar y llawr cyntaf yn peri problem. Mae'n amlwg nad yw'r adeilad presennol o'r un cyfnod â'r adeiladau amgylchynol. Mater o farn yw nad yw ei olwg yn cydweddu â'r hyn sydd o'i amgylch.

Er mwyn gwneud y defnydd gorau o'r safle penderfynwyd dymchwel hanner uchaf modern yr adeilad ac ymestyn y waliau cerrig presennol i greu dau dŷ annedd.

Felly gwnaethom gynnal trafodaethau gyda'r Swyddog Cynllunio a'r Swyddog Cadwraeth bryd hynny. Yn dilyn yr ymgynghoriad hwn argymhellodd y swyddogion rai newidiadau yr oeddynt yn eu hystyried yn welliannau angenrheidiol i'w galluogi i gymeradwyo'r cynllun.

Yn dilyn hyn diwygwyd y cynllun er boddhad y Swyddogion Cynllunio ar y pryd a'i gyflwyno gerbron y Cyngor – dyma'r cynllun presennol i'w ystyried.

Ers hynny mae Phil Ebbrell, Pensaer Cadwraeth y Sir, a Geoff Ward o Gomisiwn Brenhinol Henebion Cymru, wedi ymweld â'r safle, gyda'r ddau yn datgan nad oedd diddordeb hanesyddol na phensaernïol i'r ardal na'r adeiladau eraill yn y cwrtîl o ran y rhan o'r adeilad y bwriedir ei ddymchwel.'

2. Disgrifiad o'r safle a'r ardal amgylchynol a'r ystyriaethau/cyfyngiadau cynllunio perthnasol

Darperir disgrifiad manwl yn yr adroddiad cais cynllunio cysylltiedig ar yr agenda. Mae'r safle yn cynnwys y prif adeiladau rhestredig, eiddo rhif 47/49 Stryd Clwyd. Mae'r rhain wedi eu rhestru yn bennaf oherwydd eu diddordeb arbennig fel adeilad ffrâm bren o'r 16-17 ganrif, gyda chymeriad allanol a gwerth grŵp diweddarach y bedwaredd ganrif ar bymtheg gyda'r adeiladau rhestredig amgylchynol yn Stryd Clwyd. Mae'r adeilad dan sylw yn y cais yn cael ei ddiffinio fel 'rhestredig, mewn termau cyfreithiol, gyda'r prif adeilad rhestredig ar y safle, oherwydd eu cysylltiad, oedran a phwrpas yn yr achos hwn'.

Mae caniatâd rhestredig ar wahân yn angenrheidiol ar gyfer unrhyw waith sy'n effeithio ar gymeriad ac ymddangosiad yr adeilad, o gofio bod y gwaith arfaethedig yn cynnwys dymchwel rhan ac addasiadau i'r adeilad presennol.

3. Hanes cynllunio perthnasol

Yn dilyn trafodaeth gyda Swyddog Cadwraeth y Sir, tynnwyd y cais blaenorol yn ôl a chynhaliwyd rhagor o drafodaethau gyda'r Swyddog Cadwraeth a'r Swyddog Cynllunio, gan arwain at y cais adeilad rhestredig hwn, a chais cynllunio ar wahân.

HANES CYNLLUNIO PERTHNASOL:

02/2008/0432/PF – Dymchwel yr adeilad presennol ac adeiladu 2 dŷ annedd
TYNNWYD YN ÔL 30/05/08

02/2008/1153/PF – Dymchwel rhan o'r adeilad presennol ac adeiladu dŷ annedd
- DISGWYL

PENDERFYNIAD

Safle drws nesaf – 51 Stryd Clwyd

02/2008/ 0592PF – Dymchwel y garejis presennol ac adeiladu 3 tŷ annedd -
DISGWYL PENDERFYNIAD

02/2009/0446/LB. - Dymchwel y garejis presennol ac adeiladu 3 tŷ annedd –
DISGWYL PENDERFYNIAD

02/2008/1179 LB – Caniatâd adeilad rhestredig ar gyfer addasiadau mewnol i greu gwesty bach ac arddangos arwydd ar y blaenlun.
TYNNWYD YN ÔL 20/01/09

02/2008/1178 – Newid defnydd fflatiau yn westy bach.
TYNNWYD YN ÔL 20/01/09

POLISIŌ A CHANLLAWIAU CYNLLUNIO

4. CYNLLUN DATBLYGU UNEDOL SIR DDINBYCH (a fabwysiadwyd ar 3 Gorffennaf 2002)
Polisi Gen 10 Canllawiau Cynllunio Atodol

Canllawiau Cynllunio Atodol:
CCA 14 – Adeiladau Rhestredig
CCA 25 – Canllaw Dylunio Datblygiad Preswyl

CANLLAWIAU'R LLYWODRAETH

Polisi Cynllunio Cymru (Mawrth 2002) (fel y'i diwygiwyd gan Ddatganiad Polisi Cynllunio Interim y Gweinidog)
Nodiadau Cyngor Technegol:
12 Dylunio

Cylchlythyr 61/96 Cynllunio a'r Amgylchedd Hanesyddol: Adeiladau Hanesyddol ac Ardaloedd Cadwraeth

Y PRIF YSTYRIAETHAU CYNLLUNIO:

5. Y prif ystyriaethau yn yr achos hwn yw:

i) Yr effaith ar gymeriad ac ymddangosiad adeilad rhestredig

Mae Swyddog Cadwraeth y Sir yn derbyn y cyfiawnhad o ran y cais yn yr achos hwn, ar y sail bod y cynllun yn cynnwys cadw rhannau hynaf yr adeilad, cyn belled ag y cyflwynir amodau addas. Ystyrir bod y cynigion yn bodloni'r prif brofion yng Nghylchlythyr 61/96 a bod cynllun 'ailldatblygu' derbyniol yn y cais cynllunio.

CRYNODEB A CHASGLIADAU:

6. Yng nghyswllt gwrthwynebiadau'r Cyngor Tref, mae asesu rhinweddau adeilad rhestredig y cynllun yn ymwneud â set o feini prawf a materion polisi cynllunio gwahanol i'r rhai yn ymwneud â'r cynllun cais cynllunio perthnasol. Mae Swyddog Cadwraeth y Sir yn ymwybodol o bryderon y Cyngor Sir, ac mae'n ystyried, o gofio'r cyfiawnhad a'r goblygiadau cyfyngedig, nad oes unrhyw sail i wrthod y cynnig ar gyfer y safle. Ystyriwyd y cynnig yn unol â'r polisi a'r cyngor cynllunio a restrir yn yr adroddiad hwn.

7. Yr argymhelliad yw CANIATÁU caniatâd adeilad rhestredig yn ddarostyngedig i nifer o amodau, a nodir isod, a chyfeirio'r cais i CADW, i benderfynu p'un ai y dylid awdurdodi'r Cyngor Sir i roi caniatâd.

ARGYMHELLIAD: - CANIATÁU – yn ddarostyngedig i'r amodau isod:-

1. Bod y gwaith a ganiateir drwy hyn yn dechrau cyn pen diwedd pum mlynedd o ddyddiad y caniatâd hwn.
2. Ni ddylid gwneud unrhyw waith dymchwel nes bod contract ar gyfer cyflawni'r gwaith ailldatblygu ar y safle wedi'i lunio a chaniatâd cynllunio llawn wedi'i roi.
3. Onibai y cytunir fel arall yn ysgrifenedig gan yr Awdurdod Cynllunio Lleol, bydd yr holl bibellau a nwyddau dŵr glaw yn rhai haearn bwrw ac wedi'u paentio'n ddu.
4. Ni ddylid ymgymryd ag unrhyw waith nes eich bod chi wedi hysbysu Comisiwn Brenhinol Henebion Cymru eich bod wedi derbyn y caniatâd hwn a bod mynediad rhesymol i'r adeilad ar gyfer aelodau neu swyddogion y Comisiwn Brenhinol am gyfnod heb fod yn llai na mis yn dilyn hysbysiad o'r fath at ddiben ei gofnodi, neu bod Ysgrifennydd y Comisiwn Brenhinol, neu swyddog arall yn gweithredu ar ei ran, wedi nodi yn ysgrifenedig eu bod wedi cwblhau eu gwaith cofnodi'r adeilad neu nad ydynt yn dymuno ei gofnodi.
5. Bod yr holl waith cerrig arfaethedig i'w ddefnyddio wrth adeiladu'r adeilad/waliau yn galchfaen naturiol lleol o liw unffurf i gydweddu gyda'r adeilad/waliau presennol o ran gweadedd, math, lliw, mortar a phwyntio.
6. Y deunyddiau i'w defnyddio ar do'r adeilad fydd llechen las/lwyd naturiol gyda lliw/gweadedd unffurf.

Y rheswm/rhesymau am yr amod(au) yw:-

1. Cydymffurfio gyda darpariaethau Deddf Adeiladau Rhestredig 1990.
2. Er budd cymeriad ac ymddangosiad yr Ardal Gadwraeth.

3. Parchu cymeriad a golwg yr adeilad.
5. Er budd amwynder gweledol.
6. Er budd amwynder gweledol.

NODIADAU I'R YMGEISYDD: Dim

SWJ

ITEM NO: 5

WARD NO: Ruthin

APPLICATION NO: 02/2009/0477/ LB

PROPOSAL: Demolition of part of existing building and erection of 2 no. dwellings (Listed Building application)

LOCATION: Land to rear of 47/49 Clwyd Street Ruthin

APPLICANT: Mr Robin Llwyd Ab Owain

CONSTRAINTS: Conservation Area

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

CONSULTATION RESPONSES:

RUTHIN TOWN COUNCIL

"OBJECTS

- detrimental to the character of the Conservation Area.
- detrimental to the Mediaeval Town and Burgage plots.
- over-intensification re habitable use
- inadequate access for scale of development.

The proposed development is both detrimental to the character and appreciation of the Mediaeval Townscape and leads to over-intensification and access problems.

The character of this area has already been impacted by the properties already built near the Mill and the old Star Barn - any further development will have a detrimental impact on the character of this area of town and in particular the relationship between the town and the Castle / Cuning Green.

The properties on Clwyd Street form part of the Mediaeval street pattern with traditional Burgage plots extending as a long and narrow plot back from the road. The appreciation of this pattern is severely compromised as new buildings are built on the open land to their rear.

In accordance with our comments on the Local Development Plan, we believe the town has more than adequate building development land for its foreseeable future. There are numerous other 'brownfield' or disused sites that would benefit from being developed and to allow more buildings on the remaining unbuilt areas of the burgage plots would be doing the town a historical disservice, allowing further over intensification with development that destroys for ever the mediaeval urban grain and townscape which is rightly protected as a Conservation area.

The Town Council has, since 2002, expressed concern about developments of Burgage garden plots and that past proposals should not be seen as a precedent".

DENBIGHSHIRE COUNTY COUNCIL CONSERVATION ARCHITECT

No objections, following pre-application discussions, subject to conditions.

CLWYD POWYS ARCHAEOLOGICAL TRUST

No objections to the demolition of the existing structure. Highlights previous advice in relation to the planning application for the works – namely a condition to monitor works on site.

ROYAL COMMISSION ON THE ANCIENT AND HISTORICAL MONUMENTS OF WALES (consulted on the request of the County Conservation Officer) – In highlighting that their role is to comment only on the historical significance and context of a monument or structure, and on the adequacy of otherwise of the record, notes that the buildings proposed for demolition are structures of special historical or architectural interest. Advises that if consent is granted, a special record should be made of them. Additionally, an archaeological assessment may be appropriate, given it's location within the medieval borough.

RESPONSE TO PUBLICITY:

None specific to the listed building application

EXPIRY DATE OF APPLICATION: 22/06/2009

REASONS FOR DELAY IN DECISION:

- timing of receipt of representations
- delay in receipt of key consultation response(s)
- additional information required from applicant

PLANNING ASSESSMENT:

THE PROPOSAL:

8. Outline of application

This application is a listed building consent application for works in connection with a proposal involving part demolition and alterations to the existing modern style part two storey/single storey building located at the rear of 47-49 Clwyd Street to create two residential units, both two storey in height. Parts of the existing single storey building are to remain as existing. The respective planning application (code 02/2008/1153/PF) is also on the Planning committee Agenda. The recommendation on this listed building application is based solely on the merits of the listed building issues relevant to the proposal.

Proposed external materials include slate roof and local stone; timber and render walls, with painted timber doors and windows, and no changes to existing boundary details.

The application includes a Design Statement (with addendum) which highlights the justification for the proposals, in particular the case for partial demolition. The justification refers to the following:-

'In considering the best use of the site, the building/first floor garden room were problematic. It is obvious that the existing building is not of the same period as the surrounding buildings. It is a matter of opinion that its appearance is not in keeping with its surroundings.

In order to make the best use of the site, it was decided to demolish the modern upper half of the building and to extend the existing stone walls to create 2 no. dwellings.

Consequently, we entered into discussions with the Planning Officer and Conservation Officer at the time. Following this consultation, the officers recommended some changes which they considered a necessary improvement to enable them to approve the scheme.

Following this, the scheme was amended to the satisfaction of the Planning Officers at the time and submitted to the Council - this is the current scheme under consideration.

The site has subsequently been visited by Phil Ebbrell, County Conservation Architect and also Geoff Ward of the RCAHMW who both commented that the proposed building to be partly demolished was of no historic or architectural interest to the area or surrounding buildings within the curtilage.'

9. Description of site and surroundings and relevant planning constraints/considerations

A detailed description is provided on the accompanying planning application report on the agenda. The site includes the main principal listed buildings, property numbers 47/49 Clwyd Street. These are listed primarily for their special interest as a C16-17 timber framed building, with later C19 exterior character and group value with surrounding listed buildings in Clwyd Street. The application building is defined as being 'deemed listed, in legal terms, with the main listed building for the site, given their association, age and purpose in this case.

Separate listed building consent application is necessary for works which affect the character and appearance of the building, given that the works involve partial demolition and alterations to the existing building.

10. Relevant planning history

Following dialogue with the County Conservation Officer, the previous application was withdrawn and further discussions were held with both the Conservation Officer and the Planning Officer, culminating in this current listed building application, and a separate planning application.

RELEVANT PLANNING HISTORY:

11. 02/2008/0432/PF - Demolition of existing building and erection of 2no. dwellings - WITHDRAWN 30/05/08

02/2008/1153/PF – Demolition of part of existing building and erection of 2 no. dwellings - PENDING

Adjoining site – 51 Clwyd Street.

02/2008/ 0592PF – Demolition of existing garages and erection of 3 dwellings - PENDING

02/2009/0446/LB. - Demolition of existing garages and erection of 3 dwellings - PENDING

PLANNING POLICIES AND GUIDANCE:

12. DENBIGHSHIRE UNITARY DEVELOPMENT PLAN (adopted 3rd July 2002)
Policy Gen 10 Supplementary Planning Guidance

Supplementary Planning Guidance :
SPG 14 – Listed Buildings
SPG 25 – Residential Development Design Guide

GOVERNMENT GUIDANCE
Planning Policy Wales (March 2002) (as amended via MIPPS)
Technical Advice Notes;
12 Design

Circular 61/96 Planning and the Historic Environment: Historic Buildings and Conservation Areas

MAIN PLANNING CONSIDERATIONS:

13. The main considerations in this case are:

- i) The effect on the character and appearance of the listed building
- ii) The County Conservation Officer accepts the justification for the proposal in this case, on the basis that the scheme involves the retention of the older parts of the building, provided suitable conditions are included. The proposals are considered to meet the key tests in Circular 61/96 and there is an acceptable 'redevelopment' scheme in the accompanying planning application.

SUMMARY AND CONCLUSIONS:

14. With respect to the Town Council's objections, assessment of listed building merits of the scheme involves a different set of criteria and planning policy issues to that of the respective planning application scheme. The County Conservation Officer is aware of the Town Council concerns, and considers having regard to the justification and the limited implications involved, there are no grounds to refuse the proposal for the site. The proposal is considered in accord with the planning policy and advice listed in this report.

15. The recommendation is to GRANT listed building consent subject to a number of conditions which follow, and to referral of the application to CADW, to determine whether to authorise the County Council to grant consent.

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

1. The works hereby permitted shall be begun before the expiration of five years from the date of this consent.
2. No demolition shall take place before a contract for carrying out the works of redevelopment on the site has been made and full planning permission has been granted.
3. Unless otherwise agreed in writing by the Local Planning Authority, all rainwater goods shall be in cast iron and painted black.
4. No works shall be undertaken until the Royal Commission on the Ancient and Historical Monuments of Wales has been notified by you of this grant of consent and, for a period of not less than one month following such notification, reasonable access to the building has been made available to members or officers of the Royal Commission for the purpose of recording it, or the Secretary of the Royal Commission, or another officer of theirs with authority to act on their behalf, has stated in writing that they have completed their recording of the building or that they do not wish to record it.
5. All stonework proposed for use in the construction of the building(s)/walls shall be local natural limestone of uniform colour to match the existing building(s)/walls in texture, type, colour, mortar and pointing.
6. The materials to be used on the roof of the building(s) shall be blue/grey natural mineral slate of uniform colour and texture.

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

1. To comply with the provisions of the 1990 Listed Buildings Act.
2. In the interests of the character and appearance of the Conservation Area.
3. To respect the character and appearance of the building.
5. In the interests of visual amenity.
6. In the interests of visual amenity.

NOTES TO APPLICANT:

None

ITEM NO: 6

WARD NO: Ruthin

APPLICATION NO: 02/2009/0619/ PF

PROPOSAL: Amendment to planning permission for golf driving range granted permission under Code no. 02/2008/0882/PF, to include for golf driving range, 9 bay building, floodlighting, boundary fencing and golf development area, comprising 5 hole/ 9 tee short play practice area

LOCATION: Llanfwrog Community Centre Mwrog Street Ruthin

APPLICANT: Llanfwrog Community Association

CONSTRAINTS: Conservation Area
Within 67m Of Trunk Road

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

CONSULTATION RESPONSES:

RUTHIN TOWN COUNCIL

Awaiting response

DENBIGHSHIRE HEAD OF TRANSPORT & INFRASTRUCTURE

No objection

DENBIGHSHIRE HEAD OF PUBLIC PROTECTION

No objection subject to conditions as per original consent.

COUNTY ARCHEOLOGIST

Awaiting response

COUNTY ECOLOGIST

Awaiting response

ENVIRONMENT AGENCY WALES

No objection

CADW

Awaiting response

RUTHIN AND DISTRICT CIVIC ASSOCIATION

Awaiting response

HISTORIC PARKS AND GARDENS TRUST-

Objection, owing to impact on landscape and essential setting of Ruthin Castle.

RESPONSE TO PUBLICITY:

None.

EXPIRY DATE OF APPLICATION: 02/08/2009**PLANNING ASSESSMENT:**

THE PROPOSAL:

1. Outline of application

The application proposes an amendment to the previously approved golf driving range development to the south west of the Tennis Centre off Lon Fawr in Ruthin.

The amendment proposes the inclusion of a 'Golf Development Area', this comprises 6 greens with 9 tees. The greens have an 8m radius and will be cut slightly shorter than surrounding grass. No flags, or raised areas are proposed, the development area does not require any alteration to the existing ground levels.

As approved the range measures 60m in width on the northern end, opening out to a width of 170m at the southern side, and 250m in length. Proposed on the northern end of the site is a 9 bay driving range building, with attached timber clad ball booth. A sloping green/sedum roof construction is proposed with an open elevation to the southern side. Spot flood-lighting will be attached to the eaves of the southern elevation which will light the driving range. A 1.2 post and rail fence with some landscaping is proposed on the eastern boundary of the site. The plans also indicate that some additional landscaping is proposed on the north east and west boundaries of the site.

A supporting statement has been submitted with the application which refers to the following:

- i) The amendment is required to enable younger players to develop their game.
- ii) It will be used 9.00 to 11.30 in the morning, weekends or weekdays.
- iii) The development area is proposed to accommodate coaching of juniors and women, as funding has been secured for a professional coach for these users.

2. Description of site and surroundings

The application site currently comprises of a football field and open agricultural land. The site is flat at the northern end and slopes gently to the south west.

3. Relevant planning constraints/considerations

The site lies outside the Development Boundary of Ruthin, within a Green Barrier and a Local Landscape Area, and is within an area shown as the 'essential setting' to the historic parkland and gardens of Ruthin Castle in the CADW/ICOMOS Register of Historic Parks and Gardens for Wales. The parkland and gardens have a Grade 2 designation in this Register. (ICOMOS is the International Council on Monuments and Sites, which collaborated with the CCW and CADW to produce the Register in 1995, which identifies parts of the historic environment of the Country which should be protected).

4. Relevant planning history

Llanfwrog Community Association rent the application site from Denbighshire County Council. The Community Association are responsible for the Tennis Centre and sports pitches which have been developed since the original grant of permission in 2006. The golf driving range development was approved in March 2009.

RELEVANT PLANNING HISTORY:

5. 02/2003/0813/PF Development of land by the construction of a new tennis centre, incorporating 6 tennis courts with associated floodlights and fencing, erection of clubhouse/community building, new parking areas and two new pedestrian/vehicular accesses and associated highway works - GRANTED 30/01/2006
- 02/2006/0796 Change of use of agricultural land to playing fields, construction of new parking area and access, and extension to existing parking area – GRANTED

23/05/2007

02/2008/882 Development of golf driving range including 9 bay building floodlighting and boundary fencing - GRANTED 18/03/09

PLANNING POLICIES AND GUIDANCE:

6. **Denbighshire Unitary Development Plan**

Policy GEN 5	Green Barriers
Policy GEN 6	Development Control Requirements
Policy ENV 3	Local Landscape Areas
Policy ENV 7	Landscape and Townscape Features
Policy CON 12	Historic Landscapes, Parks and Gardens
Policy CF1	Community Facilities – general
Policy CF 4	Community Facilities
Policy REC 5	Recreation Facilities outside development boundaries
Policy REC 7	Golf Developments

ASSEMBLY GUIDANCE

Planning Policy Wales March 2002

TAN 16 Sport and Recreation

MAIN PLANNING CONSIDERATIONS:

7. The main issues are considered to be:

- i) Principle
- ii) Provision of community facilities
- iii) Impact on the character of the area
- iv) Highway and parking issues
- v) Layout and design issues
- vi) Amenity issues
- vii) Accessibility issues

8. In relation to the main considerations:

- i) Principle
The relevant planning policies relating to the development are; GEN 5 Green Barriers, GEN 6 Development Control Requirements, ENV 3 Local Landscape Areas, CON 12 Historic Landscapes, Parks and Gardens, CF1 Community Facilities- General, CF 4 Community Facilities, REC 5 Recreation Facilities and REC 7 Golf Developments. These policies allow for suitable recreational development and indeed golf related developments, subject to tests.

Members will recall that the original application for the driving range was granted by Planning Committee in March, thus the principle of the land use has been established in this location. This application seeks to include the 'golf development area' within the scheme. The main issues to consider in assessing the amendment are outlined below.

- ii) Provision of community facilities
Policy CF1 in the Unitary Development Plan relates to the provision of new and improved community facilities and states these will be permitted provided they are located so as to serve the local population, are accessible to non car users, and wherever possible should be within development boundaries and reuse existing vacant or underused buildings. REC 5 relates to the provision of recreation facilities outside development boundaries and states such development will only be permitted where there are no alternative suitable sites available within development boundaries and there would be no unacceptable harm to the landscape (including historically important

landscapes), the highway network; and new buildings/structures should be sited close to existing buildings and blend into the landscape in terms of design, materials and landscaping. REC 7 relates specifically to golf developments and states that development will only be permitted where the development does not harm; the character and appearance of the landscape especially historic landscapes, areas of nature conservation, the safety of the public, residential amenity especially through the use of floodlighting, the best and most versatile agricultural land, and areas of historic, architectural or archaeological importance. Furthermore any new buildings should be sited close to existing buildings and blend into the landscape in terms of design, siting, materials and landscaping and access shall be provided and not impact on the local highway network.

It was acknowledged that originally parts of the proposal did not fit comfortably with elements of the policies referred to primarily; the location outside the development boundary on the western edge of Ruthin, where is only a limited public transport service. However the principle has now been established. The applicants have advised there is a need to provide an area on site for developing players 'short game', and this is not considered to be a significant departure from the nature of the original approval.

iii) Impact on the character of the area

The proposed development would be located on land designated as part of the 'essential setting' of the Grade 2 historic parkland and gardens of Ruthin Castle in the CADW/ICOMOS Register of Historic Parks and Gardens for Wales. Policy CON 12 of the Unitary Development Plan relates to proposals affecting historic landscapes, parks and gardens, and states that development will not be permitted which would unacceptably harm the character of such features or their essential setting. Planning Policy Wales March 2002 states local planning authorities should protect parks and gardens and their settings on the first part of the Register. Advice in para. 6.5 23 of Planning Policy Wales is that the effect of a proposed development on a park or garden contained in the Register, or on the setting of such a park or garden may be a material consideration in the determination of a planning application.

In assessing the impact on the historic park and garden it is the Officers view that the development will have an impact on the Essential Setting of Ruthin Castle. However as the principle of the use has been established the assessment being made in this application is whether the 'golf development area' would have any greater impact on the character of the area than the approved driving range. On balance it is considered that the 'development areas' will have no greater impact owing to the unobtrusive nature of the tees and holes and the scale of proposed use.

In terms of the impact on the Green Barrier and Local Landscape Area, the proposed amendment is not considered significantly different to the original approval.

iv) Highway and parking issues

The Head of Transport has raised no objection to the application. It is not considered that the inclusion of the 'golf development area' will create any significantly greater impact on the local highway network owing to the limited nature of the proposed use.

v) Layout and design issues

The main planning policy relevant to matters of layout is Policy GEN 6 which requires developments to respect their site and surroundings in terms of; siting, layout, scale, form and design. These issues are considered in

conjunction with the landscape impact mentioned above. The proposed amendment is considered acceptable in design terms and will not appear out of keeping with surrounding development.

vi) Amenity issues

Policy GEN 6 relates to the effect of development on the amenity of local residents by way of increased activity, disturbance and noise. The conditions attached to the original planning permission for the driving range are suggested to be attached to this permission to protect the amenity of adjacent occupiers.

vii) Accessibility issues

The agents have confirmed their intention to ensure the facility would be accessible for use by persons with disability. If permission were to be granted it would be possible to include a condition obliging further details of how accessibility can be enhanced.

SUMMARY AND CONCLUSIONS:

9. The report attempts to evaluate key planning considerations of relevance to this case. A key consideration is that the golf driving range development has been granted permission; this application seeks to amend this permission by the addition of the golf development area.
10. As acknowledged previously there are elements of the proposals which pose potential conflict with policies seeking to protect the character of the high quality landscape in this location, which is a Green Barrier and Local Landscape Area, and forms part of the 'essential setting' of the Ruthin Castle historic park. The intensification of the leisure use on the eastern side of Lon Fawr, encroaching into an open pastoral landscape, suggests there will be a degree of dilution of the existing character.
11. As mentioned above where there is some conflict with policies of the Development Plan, the grant of permission should only be considered where other material planning considerations show why the plan should not prevail. In this case the other material considerations which can be weighed in favour of the grant of permission include the existing leisure developments on the site, the planning history, the presence of a Community Centre, the existence of a need for this type of facility in the town, the funding available from the Ryder Cup Legacy Fund to develop the facility, and the availability of planning controls over future ancillary developments such as fencing, lighting and landscaping.
12. It is the opinion of Officers that, on balance, the planning policy and landscape considerations can be outweighed by a clear community benefit from a recreational use. Therefore it is recommended that permission be granted subject to conditions.

RECOMMENDATION: GRANT - subject to the following conditions:-

1. The development hereby permitted shall be begun before the expiration of five years from the date of this permission.
2. None of the development or uses hereby approved shall be permitted to commence until the written approval of the local planning authority has been obtained to details of the hard and soft landscaping of the site, including the proposed boundary fencing, any safety fencing, the final levels, surfacing pedestrian footway, direction signage for users of the facility, and the timing of the completion of these works. The development shall be completed strictly in accordance with the details approved prior to the bringing into use of the golf driving range.

3. Any trees or shrubs planted in accordance with Condition 2, which within a period of 5 years from planting die, become diseased or are removed, shall be replaced with specimens of similar species and size in the next planting season.
4. Prior to the first use of any lighting further details of the types, levels of luminance, hooding and baffles shall be submitted to and approved in writing by the Local Planning Authority. Only those details subsequently approved shall be used thereafter.
5. There shall be no activities at the site outside the following hours: 0830 hrs - 2100 hrs on any day and all lighting permitted by Condition 4 above shall only be operational between 0830 hrs - 2000 hrs on any day.
6. There shall be no fencing, protective netting, advertisement boards, flagpoles, distance markers, spectator terracing, ancillary shelters or buildings erected on any part of the application site other than with the prior written approval of the Local Planning Authority.
7. No development shall be permitted to commence until the written approval of the Local Planning Authority has been obtained to a detailed access statement and associated plans demonstrating the provision to be made for suitable means of access to and from the parking areas, centre building, and pitches for persons with disability.
8. Notwithstanding the submitted details, no levelling or recontouring of the land shall be permitted to take place other than with the written approval of the local planning authority to the precise details, and such works shall only be carried out in strict accordance with the plans approved in relation to this condition.
9. **PRE-COMMENCEMENT CONDITION**
No development works of any kind shall begin until the presence of a contracted archaeologist has been secured on-site according to the prescriptions set out in a curatorial design brief and approved in writing by the Local Planning Authority. Access, at any reasonable time, shall be given to this archaeologist to enable the observations and recording of any archaeological remains uncovered during the early stages of development. A report of any archaeological records made must be deposited with the County Sites and Monuments Record, Clwyd-Powys Archaeological Trust, 7a Church Street, Welshpool, Powys, SY21 7DL (01938-553670) within one month of the completion of this work with a summary of records sent to the Local Planning Authority at the same time.

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

1. To comply with the provisions of Section 91 of the Town and Country Planning Act 1990.
2. In the interests of visual amenity.
3. In the interests of visual amenity.
4. In the interests of visual amenity.
5. In the interests of residential and visual amenity.
6. In the interests of visual amenity.
7. To ensure suitable arrangements for access for disabled persons.
8. In the interests of visual amenity and to ensure the development does not have any adverse impact on the character of the essential setting of the Ruthin Castle Park and Garden.
9. In the interests of archaeological investigation and recording.

NOTES TO APPLICANT:

It is suggested that you give consideration to the planting of trees or alternative natural landscape features to serve as distance markers for the range.

ITEM NO: 7

WARD NO: Prestatyn North

APPLICATION NO: 43/2008/1250/ PC

PROPOSAL: Retention of 1.1m diameter satellite dish to front of dwelling (Retrospective application)

LOCATION: 166 Victoria Road Prestatyn

APPLICANT: Mr Daniel Vaduaa

CONSTRAINTS: Article 4 Direction

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

CONSULTATION RESPONSES:

PRESTATYN TOWN COUNCIL:

"Objection. Development is too large for this location and intrusive to street scene"

RESPONSE TO PUBLICITY:

Letters of representation received from:
B. Simcock, 16, Awelon Mor, Prestatyn

Summary of planning based representations:

- If the dish were visible to 16 Awelon Mor then they would object strongly as it is an eye sore.

EXPIRY DATE OF APPLICATION: 11/06/2009**REASONS FOR DELAY IN DECISION:**

- delay in receipt of key consultation response(s)

PLANNING ASSESSMENT:**THE PROPOSAL:**1. Outline of application

Retrospective permission is sought for the retention of a 1.1m diameter, grey, satellite dish which is located on the front elevation of 166 Victoria Road, Prestatyn. The dish is bracketed on to the wall and projects approximately 400mm, with the antennae projecting further.

2. Description of site and surroundings

The site is located within the development boundary of Prestatyn and is clearly visible from Victoria Road – a main road which links Rhyl and Prestatyn. The area is characterised by semi detached dwellings of modern appearance. To the south of the site is a large open area of grass which separates the residential properties from Victoria Road.

Within the immediate vicinity other satellite dishes can be observed, although these are of the smaller type (approximately 500mm diameter).

3. Relevant planning constraints/considerations
The application form states that the dish is required as the occupants of the house are Romanian Nationals who need this size of dish to enable them to receive Romanian TV channels and therefore provides a link to their own language and culture.
4. Relevant planning history
The application has been submitted following investigation by the councils Planning Compliance Section.

RELEVANT PLANNING HISTORY:

5. None

PLANNING POLICIES AND GUIDANCE:

6. DENBIGHSHIRE UNITARY DEVELOPMENT PLAN (adopted 3rd July 2002)
Policy GEN 6 – Development Control Requirements

GOVERNMENT GUIDANCE
Planning Policy Wales (March 2002)

MAIN PLANNING CONSIDERATIONS:

7. The main planning considerations are:
 - i) Impact upon visual amenity
 - ii) Impact upon residential amenity
8. In relation to the considerations above:
 - i) Impact upon visual amenity
The dish is sited approximately mid way up the front elevation of the dwelling and is between the ground floor window and main entrance door. When viewed straight on, the dish appears to partially obscure the corners of both the door and window resulting in visual discord. The size of the dish is such that it appears to dominate the front elevation of the building, detracting from the balanced and symmetrical design of the dwelling(s).
 - ii) Impact upon residential amenity
It is not considered that the dish has any significant impact upon the amenity of the neighbouring dwellings.

SUMMARY AND CONCLUSIONS:

The dish is in a prominent location, both in terms of its siting upon the house, and within the context of the street scene. Whilst other dishes in the area are acknowledged, the size and scale of these dishes are significantly smaller and benefit from consent granted in the Town and Country Planning (General Permitted Development) Order 1995.

It is therefore concluded that the satellite dish in question conflicts with general development control considerations as detailed in Policy GEN 6 and is recommended for refusal, and enforcement action to seek its removal. Government guidance makes it clear that personal circumstances of applicants cannot be taken into account when

determining planning proposals. The visual impact of the dish must outweigh the needs of the applicants in this instance

RECOMMENDATION: REFUSE - for the following reasons:-

The satellite dish does not respect the site and surroundings in terms of its siting, scale and size. It is an over dominant addition to the front elevation of 166 Victoria Road in a prominent location within the street resulting in a harmful impact upon the visual amenity of the area. It is therefore considered to be contrary to criteria i) and ii) of Policy GEN 6 of the adopted Denbighshire Unitary Development Plan.

NOTES TO APPLICANT: None

ENFORCEMENT REPORT FOLLOWS

PLANNING ENFORCEMENT REPORT

REFERENCE: ENF/2009/00026
LOCATION: 166 Victoria Road Prestatyn
INFRINGEMENT: Unauthorised installation of Satellite Dish on residential property (front wall)

RELEVANT PLANNING POLICIES AND GUIDANCE

DENBIGHSHIRE UNITARY DEVELOPMENT PLAN (adopted 3rd July 2002)
Policy GEN 6 – Development Control Requirements

HUMAN RIGHTS CONSIDERATIONS

The Human Rights Act 1998 is taken into account when considering taking enforcement action in relation to unauthorised development. In this case the matter under consideration relates to the rights of the land owner to erect a satellite dish 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

2. In August 2008, the planning department received a complaint that a grey coloured satellite dish with a diameter of 1100mm, had been placed on the first floor, front elevation of a residential dwelling, 166 Victoria Road, in Prestatyn. An officer visited the property and saw that the dish was bracketed on to the wall and projected out approximately 400mm, with the antennae projecting further.
3. Under Part 25 Other Telecommunications Development Class B of the Town and Country (General Permitted Development Order) 1995, a satellite dish would need to have a diameter of no greater than 900mm to be considered permitted development.
4. The site is located within the development boundary of Prestatyn (Policy GEN1) and is clearly visible from Victoria Road – the main coastal road which links Rhyl and Prestatyn. The area is characterised by semi detached dwellings of modern appearance. To the south of the site is a large open area of grass which separates the residential properties from Victoria Road.
5. Within the immediate vicinity other satellite dishes can be observed, although these are of the smaller type (approximately 500mm diameter). These dishes have deemed consent under Part 25 Other Telecommunications Development Class B of the Town and Country (General Permitted Development Order) 1995.
6. After a delay caused by language barriers, the applicant was contacted and told to remove the satellite dish. The applicant said that the dish was essential in order to receive television from their home nation of Romania. The applicant was told therefore to submit an application in order to attempt to regularise the breach of planning. This planning application has been determined for refusal, due to the size of the satellite dish being overbearing and conflicting with general development control considerations as detailed in Policy GEN 6 (i) and (ii)

2. REASONS FOR ISSUING AN ENFORCEMENT NOTICE

- 2.1 The unauthorised development has occurred within the last four years.
- 2.1 The site is located within a residential area and the erection of the satellite dish is detrimental to the residential visual amenity of the area due to the overbearing size of the satellite dish.
- 2.2 The unauthorised development is therefore contrary to the provisions of Policies GEN 6 (i) and GEN 6 (ii) of the adopted unitary development plan.
- 2.3 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 That authorisation is granted for the following:
 - (i) Serve an Enforcement Notice to secure the removal of the satellite dish.
 - (ii) 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.
- 3.2 PERIOD OF COMPLIANCE: 3 Months

ITEM NO: 8

WARD NO: Prestatyn East

APPLICATION NO: 43/2009/0365/ PF

PROPOSAL: Construction of new stand and toilet facilities

LOCATION: Prestatyn Football Club Bastion Gardens Prestatyn

APPLICANT: Mr Tony Thackeray

CONSTRAINTS: C2 Flood Zone
C1 Flood Zone
Groundwater Vulnerability 1
Article 4 Direction

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

CONSULTATION RESPONSES:
PRESTATYN TOWN COUNCIL:
"No objections"

RESPONSE TO PUBLICITY:
Letters of representation received:

In objection:
I. Poole, 43, Bastion Gardens (via e-mail)
R W Astley, 11 Bastion Gardens
Bastion Gardens residents (petition signed by occupiers of 10 properties)

Summary of representations:

- Is the need fully justified?
- Impact upon amenity of neighbours/loss of privacy

In support:
Mr. S. Fitton (Prestatyn F.C. Supporters; 104 signatures) 39, Ffordd Talargoch

The proposal is essential for the club to progress further in the Welsh Premier League.

EXPIRY DATE OF APPLICATION: 26/05/2009

REASONS FOR DELAY IN DECISION:

- delay in receipt of key consultation response(s)

PLANNING ASSESSMENT:

THE PROPOSAL:

1. Outline of application

Permission is sought for a new stand, toilet facilities and tea bar to be located at the western side of Prestatyn Football Club's pitch. The stand would seat 496 spectators and have full facilities for disabled spectators.

The stand would be 5.5 metres deep, 4 metres high and 58 metres long. The spectator facilities would be located to the rear of the stand, which would be constructed of blockwork and metal cladding.

A supporting statement has been submitted with the application which outlines the following:

- i) Improvements are sought as the club is seeking to move to a higher football league.
- ii) The improvements would improve the appearance of the site as a whole,
- iii) The development would improve the site for players and spectators, particularly disabled fans

The stand would be sited along the western end of the pitch, therefore running at 90° to properties on Bastion Gardens.

The nearest point of the stand to any property would be 9 metres from the rear boundaries of Nos. 25/27 and 23 metres from the rear elevation of the nearest dwelling.

2. Description of site and surroundings

Prestatyn Football Club is located on land to the east of Bastion Road, to the south of the Cricket Ground. The grounds are currently accessed off Bastion Gardens, which is a residential cul-de-sac. The site comprises of a parking area on the east side, a clubhouse and changing rooms, the football pitch and a smaller training pitch (see plan at front of report).

3. Relevant planning constraints/considerations

None.

4. Relevant planning history

The Football Club have occupied the site since the 1970's, over which time there have been numerous applications for works to improve the ground, and which are reflective of the team's growing status.

Recent permissions have been granted for improvements to the football ground. These include a new amenity building (to provide club shop, canteen facilities and toilets) and improved changing rooms.

There is a second application relating to the site on the agenda, No. 43/2009/0377/PF, which relates to a TV gantry and Police Observation Post.

RELEVANT PLANNING HISTORY:

5. Various applications for alterations and improvements at the ground dating from the 1970's to present. Of relevance:

43/2008/0072/PF – Extension to existing stands, repositioning of Press Box and replacement of floodlights – GRANTED: 10/4/08

43/2008/1303/PC – Retention of TV gantry tower – WITHDRAWN: 12/2/09

43/2009/0366/PF – Amenity building – GRANTED: 18/6/09

43/2009/0376 – Alterations and extensions to clubhouse for new changing rooms, store and covered area – GRANTED: 22/5/09

PLANNING POLICIES AND GUIDANCE:

6. DENBIGHSHIRE UNITARY DEVELOPMENT PLAN (adopted 3rd July 2002)
Policy GEN1 – Development within development boundaries
Policy GEN6 – Development control requirements
Policy REC1 – Protection of existing open space
Policy CPZ 1 – Coastal Planning Zone
Policy REC4 – Recreation facilities within development boundaries

GOVERNMENT GUIDANCE

Planning Policy Wales March 2002

Planning Guidance (Wales) – TAN 11 – Noise

Planning Guidance (Wales) – TAN 16 – Sport and Recreation

MAIN PLANNING CONSIDERATIONS:

7. The main considerations are:-

- i) The principle of the development
- ii) Impact on residential amenity.
- iii) Visual impact of the development

8. In relation to the main planning considerations in paragraph 7:

- i) Principle
The application site lies within the settlement limits of Prestatyn as defined in the Unitary Development Plan on a site protected by Policy REC1 of the UDP. Policies GEN1 and REC4 of the UDP support the principle of development including recreation/leisure proposals within the defined settlements. Policy REC1 of the UDP seeks to protect open space. The proposed improvements would not conflict with this policy in that they would retain and enhance the recreational asset. Therefore, it is considered the principle is acceptable. Policies GEN6 and REC4 of the UDP and Planning Policy Wales and TAN16 recognise that development, including new recreation facilities, need to be considered against amenity impacts where the principle is acceptable.
- ii) Residential Amenity
In terms of the impact on residential amenity, the use of the site should not be intensified. Details submitted by the applicant indicate that the football pitch will not be used any more than existing, and the alterations and improvements sought should not lead to a significantly increased numbers of spectators. The scheme is merely providing improved, safer and more accessible facilities for existing spectators.

The concerns from local residents about the impact on their amenity is

understandable, but taking into account the above and having regard to relevant policies including Policy GEN6 of the Unitary Development Plan, advice within TAN11, it is considered that the impact on neighbours would not be so detrimental as to justify refusal.

iii) Visual Amenity

There would also be some visual impact from the new stand. The development would be seen from nearby residential properties (the nearest being 22 metres away from the southern elevation of the stand) and Bastion Road, however, having regard to the detailing/size, owing to the existing nature of the use and established buildings, it is not considered the new stand would have so severe an impact as to warrant a refusal.

SUMMARY AND CONCLUSIONS:

9. The proposal is considered to comply with policy and it is therefore recommended that permission be granted

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

1. The development hereby permitted shall be begun before the expiration of five years from the date of this permission.
2. **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.

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

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

NOTES TO APPLICANT:

None

ITEM NO: 9

WARD NO: Prestatyn East

APPLICATION NO: 43/2009/0377/ PF

PROPOSAL: Erection of TV camera platform and police observation post

LOCATION: Prestatyn Football Club Bastion Gardens Prestatyn

APPLICANT: Mr A Thackaray

CONSTRAINTS: C2 Flood Zone
C1 Flood Zone
Article 4 Direction

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

CONSULTATION RESPONSES:

PRESTATYN TOWN COUNCIL:

“Object. Visually detrimental and adverse impacts upon neighbouring properties. Temporary moveable side panels and adjustable elevator platform should be provided.”

PUBLIC PROTECTION:

Awaiting response.

RESPONSE TO PUBLICITY:

Letters of representation received:

In objection:

I. Poole, 43, Bastion Gardens (via e-mail)

Mrs. S. Beattie, 39, Bastion Gardens, Prestatyn

Bastion Gardens residents (petition signed by occupiers of 10 properties)

Summary of representations:

- Is the need fully justified?
- Impact upon amenity of neighbours/loss of privacy

In support:

Mr. S. Fitton (Prestatyn F.C. Supporters) 39, Ffordd Talargoch

- The proposal is essential for the club to progress further in the Welsh Premier League.

EXPIRY DATE OF APPLICATION: 26/05/2009

REASONS FOR DELAY IN DECISION:

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

PLANNING ASSESSMENT:

THE PROPOSAL:

1. Outline of application

Permission is sought for the erection of a TV camera platform and police observation post at Prestatyn Football Club, Bastion Gardens, Prestatyn.

The structure would be located adjacent to the half way line of the pitch, on the southern side of the ground, 2.4 metres from the boundary with the rear gardens of 41 and 39 Bastion Gardens. The roof of the structure would be 4 metres high on the pitch side and 3.7 metres high at the rear. Access to the internal platform would be via a galvanised steel staircase on the western side of the structure. The rear elevation would be of solid brick work and the top section of the front elevation would be glazed.

A supporting statement has been submitted with the application which outlines the following:

- Improvements are sought as the club is seeking to meet and maintain regulations set by the league.
- The camera platform/police observation post is a requirement of the Welsh Premier League.
- The platform has been designed to overcome objections raised to the temporary platform, and has been incorporated with the dug outs so as to locate it as far from the dwellings as possible.
- Whilst it is required for Police observation purposes it is pointed out that there is not a history of crowd problems at the ground or in the vicinity.

2. Description of site and surroundings

Prestatyn Football Club is located on land to the east of Bastion Road; south of the Cricket Ground. The grounds are currently accessed off Bastion Gardens, which is a residential cul-de-sac. The site comprises of a parking area on the east side, clubhouse and changing rooms, the football pitch and a smaller training pitch (see plan at front of report).

3. Relevant planning constraints/considerations

None.

4. Relevant planning history

The Football Club have occupied the site since the 1970's, over which time there have been numerous applications for works to improve the ground, and which are reflective of the Club's growing status.

Recent permissions have been granted for improvements to the football ground. These include a new amenity building (to provide club shop, canteen facilities and toilets) and improved changing rooms.

The previous item on the agenda deals with proposals for a new stand with toilets.

This application follows the expiry of a temporary permission for a TV camera platform in this approximate location. The temporary platform was constructed of scaffolding and was open sided which resulted in complaints from neighbouring properties about loss of privacy.

RELEVANT PLANNING HISTORY:

5. Various applications for alterations and improvements at the ground dating from the 1970's to present. Of relevance:

2008/0072/PF – Extension to existing stands, repositioning of Press Box and replacement of floodlights – GRANTED : 23/04/08
2008/1303/PC – Retention of TV gantry tower – WITHDRAWN – 24/2/09
2009/0366/PF – Amenity building – GRANTED: 18/06/09
2009/0376 – Alterations and extensions to clubhouse for new changing rooms, store and covered area – GRANTED: 22/05/09

PLANNING POLICIES AND GUIDANCE:

6. DENBIGHSHIRE UNITARY DEVELOPMENT PLAN (adopted 3rd July 2002)
Policy GEN1 – Development within development boundaries
Policy GEN6 – Development control requirements
Policy REC4 – Recreation facilities within development boundaries

GOVERNMENT GUIDANCE

Planning Policy Wales March 2002
Planning Guidance (Wales) – TAN 11 – Noise
Planning Guidance (Wales) – TAN 16 – Sport and Recreation

MAIN PLANNING CONSIDERATIONS:

7. The main considerations are:-

- i) The principle of the development on this site.
- ii) Impact on residential amenity.
- iii) Visual impact of the development.

8. In relation to the main planning considerations in paragraph 7 :

- i) Principle
The application site lies within the settlement limits of Prestatyn as defined in the Unitary Development Plan on a site protected by Policy REC1 of the UDP. Policies GEN1 and REC4 of the UDP support the principle of development including recreation/leisure proposals within the defined settlements. Policy REC1 of the UDP seeks to protect open space. The proposed improvements would not conflict with this policy in that it would retain and enhance the recreational asset. Therefore, it is considered the principle is acceptable. Policies GEN6 and REC4 of the UDP and Planning Policy Wales and TAN16 recognise that development, including new recreation facilities, need to be considered against amenity impacts where the principle is acceptable.
- ii) Residential Amenity
The concerns from local residents about the impact on their amenity is noted. However, consideration of the separation distances between the rear elevations of the neighbouring dwellings and the structure (9 metres to number 41 Bastion Gardens and 15 metres to 39 Bastion Gardens) in conjunction with the height of the rear of the structure (3.7 metres, 2.4 metres from the boundary) suggests that the physical impact would not be overpowering. Similarly, the detailing of the gantry is such that overlooking towards the dwellings is not likely and it is not considered that there would be a material loss of privacy as a result of this development. Given the limited

use of the structure, relating to first team home fixtures, it is not considered this intensity of use would give rise to any significant amenity loss.

iii) Visual Amenity

There would also be some visual impact from the structure. The development would be seen from nearby residential properties and Bastion Road, however owing to the existing nature of the use and established buildings it is not considered the TV camera platform and police observation post would have so severe an impact as to justify refusal. It is considered reasonable to attach a planning condition to control the materials of the development.

SUMMARY AND CONCLUSIONS:

9. The proposal is considered acceptable and it is recommended that permission be granted

RECOMMENDATION: GRANT - subject to the following conditions:-

1. The development hereby permitted shall be begun before the expiration of five years from the date of this permission.
2. Prior to the application of any external finish, full details (including the colour) of the external finish to be applied to the surfaces of the structure hereby approved shall be submitted to and agreed in writing by the Local Planning Authority and only those details as approved shall be implemented unless otherwise agreed in writing by the Local Planning Authority.
3. **PRE-COMMENCEMENT**
Prior to the commencement of the development, the written approval of the Local Planning Authority shall be obtained in respect of the roof materials to be used for the development hereby permitted and no materials other than those approved shall be used.
4. No additional windows to those shown on the approved plans shall be inserted in the structure hereby permitted without the further grant of planning permission from the local planning authority.

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

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

NOTES TO APPLICANT:

None

ITEM NO: 10

WARD NO: Rhyl West

APPLICATION NO: 45/2009/0511/ PO

PROPOSAL: Demolition of existing buildings and development of 0.29 hectares of land by erection of flats (Outline application with all matters reserved)

LOCATION: 85-90 inc. West Parade Rhyl

APPLICANT: Welsh Assembly Government Terry Stevens

CONSTRAINTS: C2 Flood Zone
C1 Flood Zone
EA Floodmap Zone 3
Article 4 Direction

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

CONSULTATION RESPONSES:

RHYL TOWN COUNCIL
"No objection."

ENVIRONMENT AGENCY WALES

No objections, having regard to the Flood Consequences Assessment, and the proposals for the site, which illustrate the intention to remove basement level accommodation, and set habitable accommodation so as to ensure no inundation in the event of total failure of the Clwyd Embankments, and there would be minimal impact associated with any waters overstepping existing coastal defences. The proposals are considered a significant betterment to the existing situation. Suggest that any permission includes conditions to ensure the flood risk has been addressed, relating to finished floor levels for habitable accommodation and underground parking, the provision of emergency access/agents routes, and a surface water regulation system.

WELSH WATER / DWR CYMRU

No objections subject to standard conditions relating to separation of foul and surface water discharges. No problems envisaged with the Waste Water Treatment Works for treatment of domestic discharges.

DENBIGHSHIRE HEAD OF TRANSPORT AND INFRASTRUCTURE

No objections subject to conditions requiring adequate visibility splays at point of access, and provision for parking/turning within the site.

DEBIGHSHIRE AFFORDABLE HOUSING OFFICER

RHYL GOING FORWARD OFFICER

Fully supports the application. The site is one of a number of blocks where redevelopment would be in line with the West Rhyl Regeneration Strategy.

RESPONSE TO PUBLICITY:

Letters of representation received from:

1. Mrs. V. Green, Apt 12, Palace Apartments 83/84/ West Parade, Rhyl
2. Dean Wilson-Laing (Solicitors), for Neatyork (Propoerties) Ltd. (propietors of 88 West Parage).

The basis of representations –

1. Amenity impact on adjacent apartments – effect on outlook
2. Policy conflict – no policies support demolition and redevelopment without housing. Proposals should be in line with West Rhyl Regeneration Strategy 2006 and development briefs should be comprehensive / 2007 draft redevelopment brief for the site has not been developed and adopted/
3. Need for permanent park in Rhyl – site has been discussed as potential for such a facility.
4. Flood Risk – TAN 15 obliges cautionary approach / C1 Flood Risk area / tests of justification for highly vulnerable development are not satisfied / submission does not refer to any impact from Environment Agency / no details of mitigation and emergency access.
5. Loss of trade / retail / leisure outlets – employment impacts.

Other matters

Deficiencies in submission. Inaccurate statements on extent of floorspace and minimising need for travel.

Lack of consultation by applicants with affected parties (including objectors).

EXPIRY DATE OF APPLICATION: 16/07/2009

REASON FOR DELAY IN DECISION:-

Awaiting Committee

PLANNING ASSESSMENT:

THE PROPOSAL:

1. Outline of application
 - i) This is an outline application seeking permission to demolish a range of buildings on West Parade between the former Palace Hotel and Sandringham Avenue, and to redevelop the site for residential purposes.
 - ii) The site extends to 0.27 hectares. The application does not seek approval of any detailed matters such as access, the siting of buildings, layout, appearance, etc., which would have to form the subject of a separate detailed application if outline permission be granted.
 - iii) The applicants are Welsh Assembly Government, who have acquired the majority of properties within the site No. 88 West Parade is currently in separate ownership and the application shows the relevant notification has been carried out with the owner/agents.
 - iv) The application contains the normal forms and basic location plan, an Access Statement, Flood Risk Assessment, and a copy of an October 2007 Development brief prepared by Nathaniel Lichfield and Partners. The Development Brief sets the basic context for the proposals and makes reference to:

- a) The redevelopment forming part of the Wider West Rhyl Regeneration Strategy, acting as a catalyst for further redevelopment in the area.
- b) The decline in tourism and the legacy of outdated attractions and underused visitor accommodation along the seafront.
- c) The ambitious proposals for redevelopment at Ocean Beach and Foryd Harbour
- d) The planning policy and guidance of relevance to the proposals
- e) Opportunities and constraints at the site
- f) Development Guidance (layout, scale, appearance, landscaping, access; requirements for incorporation of sustainability principles)

2. Description of site and surroundings

- i) The only remaining buildings on the site are nos. 87 and 88, which are in a derelict state. Nos 85/86 have been demolished. The last known uses of the buildings were:
 - a) 85-86 – The Old Harbour Gift Shop
 - b) 87 – vacant retail unit, with flats above
 - c) 88 – former Westcliffe Hotel (with basement)
 - d) 89-90 – former Haven Club Café/bar ground floor, 3 storeys above
 - e) No. 2 Sandringham Avenue – a 4 storey building with an unnumbered property of 1 ½ storey height. The main building is understood to have been a public house.
- ii) The uses and character of development on the site are reflective of the mix along West Parade, which developed as a key part of a traditional Victorian seaside resort, with 4/5 storey buildings in terraces, ground floor shops/bars/retail tourists related uses, some with flats above. Many of the units have been altered over time and the general character of the original buildings has barely been lost.
- iii) The former Palace Hotel, a 4 storey building has recently been sensitively converted to apartments. Development along Sandringham Avenue consists of semi-detached dwellings of 2 or 3 storey height, and properties on Lake Avenue are largely 2 storey dwellings.
- iv) The Ocean Beach site is some 300 metres to the west. Members will be aware that there is a planning consent in place on that site for a significant mixed use redevelopment for retail, tourist, commercial and residential uses.

3. Relevant planning constraints/considerations

- i) The site is within the development boundary for Rhyl in the Unitary Development Plan. The proposals map shows it is within the area subject to policy TSM 14, which relates to the redevelopment of Foryd Harbour / Ocean Beach. The policy supports the Council's objective to regenerate the town as a holiday resort and the importance of improving and upgrading this area. The explanation to the policy indicates proposals may be supported which widen the appeal and attraction of Rhyl as part of the regeneration of the area, subject to consideration of impacts. It also states that small scale or piecemeal proposals which may prejudice firm proposals for regeneration may be resisted on prematurity grounds.
- ii) The site is also part of a larger area subject to policy HSG 15 which seeks to control conversions involving non-self contained accommodation. The policy

would not apply to the redevelopment proposal.

4. Relevant planning history:

- i) The section's records reveal a history of minor applications relating to the properties included within the application site, most of which date back to the 1980's and before that time. There have been more recent enforcement investigations in relation to unauthorised uses and untidy land and buildings. There has been separate notification for demolition works.

5. Developments/changes since original submission

None.

6. Other relevant background information

The application follows lengthy attempts to move matters along on the site, which is in a derelict condition, with part demolished buildings and vacant land. The Welsh Assembly have recently taken the lead and are keen to progress in conjunction with redevelopment proposals at Ocean Beach.

DETAILS OF PLANNING HISTORY

7. There are no significant recent applications on the site of direct relevance to the proposals before the Council.

The main application for the Ocean Beach development was dealt with under Code No 45/2006/1200/PF. This involved 230 apartments, a hotel, assembly and leisure, business, retail, cafes, restaurants and public houses with associated parking and access arrangements. The permission was granted in November 2007.

8. PLANNING POLICIES AND GUIDANCE:

Denbighshire Unitary Development Plan (adopted July 2002)

STRAT 1	-	General
STRAT 6	-	Location
STRAT 11	-	Regeneration
GEN 1	-	Development within Development boundaries
GEN 6	-	Development Control Requirements
ENP 6	-	Flooding
HSG 2	-	Housing development in main centres
HSG 10	-	Affordable housing with development boundaries
HSG 15	-	Residential conversions in East and West Rhyl
TSM 14	-	Foryd Harbour / Ocean Beach, Rhyl
REC 2	-	Amenity and Recreational Open Space requirements in new developments
TRA 6	-	Impact of new development on traffic flows
TRA 9	-	Parking and servicing provisions
SPG 4	-	Recreational Open Space
SPG 8	-	Access for All
SPG 22	-	Affordable housing in new developments.

Welsh Assembly Government

Planning Policy Wales 2002 as amended by ministerial statements

Technical Advice Notes

TAN 2	-	Planning and affordable housing
TAN 12	-	Design

MAIN PLANNING CONSIDERATIONS:

9. The main issues are considered to be:

- i) Principle of development
- ii) Flooding
- iii) Affordable Housing
- iv) Open Space
- v) Highways
- vi) Access for all
- vii) Amenity impact

Other material considerations
Rhyl Going Forward
West Rhyl Regeneration Strategy

Other matters raised

10. In relation to the main considerations:

- i) Principle
The main Unitary Development Plan Policies relevant to the principle of the development are STRAT 1, STRAT 6, STRAT 11, GEN 1, GEN 6 and TSM 14. The strategic policies set the general theme of securing sustainable development, maximising the use of derelict/underground land and buildings, minimising the need for travel (STRAT 1) locating major development with existing settlements (STRAT 6/GEN 1) securing the regeneration of run down urban and rural areas including through redevelopment (STRAT 11); and ensuring no adverse impact on the locality (GEN6). The proposals would be generally in compliance with these policies. TSM 14 is a policy specific to the Foryd Harbour/Ocean Beach area, which extends to the application site on the Unitary Plan proposals map. This permits proposal comprising attractions, accommodation or infrastructure to redevelop the area as a 'major tourism development area' provided they meet 2 tests – i.e. they bring about an overall improvement in the tourism appeal and attraction of the area, and they include suitable assessment of impacts on the area (including economic, social, visual, traffic and general environment). The explanation to the policy highlights the firm long term objective of the Council to regenerate the town as a holiday resort and to secure the upgrading of this area to which the appeal and attraction of the town. Small scale/piecemeal proposals prejudicing firm proposals may be resisted on prematurity grounds. Taken in isolation from the recent proposals for the Ocean Beach site (which forms the majority of the TSM 14 area) and the emerging strategy for the regeneration of the town, it can be argued that the application for a purely residential development within part of TSM 14 area poses conflicts with the wording of that policy.

The application has however to be considered against relevant policy in the Unitary Plan, and in the light of other material considerations. Whilst the determination should be in accordance with the Unitary Plan, if the other material considerations indicate differently, it may be reasonable to attach weight to them to the extent that permission should be granted. In this instance the other material consideration are developments since the adoption of the Unitary Plan in 2002, including the formulation of a redevelopment strategy for Rhyl and the grant of permission for the significant

mixed use redevelopment of the main Ocean Beach site in November 2007.

Members will be aware of the development of recent key strategies for the regeneration of Rhyl, involving the County Council, Town Council, a number of external and local Organisation, Assembly Members, and MP's. The Rhyl Going Forward initiative establishes a strategic framework for the regeneration of the town, and has focused actions on key areas such as housing, physical environment and infrastructure, education and social inclusion, healthy living and business and enterprise. It commissioned the preparation of the West Rhyl Regeneration Area strategy/master plan in collaboration with Welsh Assembly Government, which set out detailed development briefs for 'Action Areas' along the seafront, including the current application site. The proposals for a redevelopment here are in line with these strategies.

Overall the view is taken that the site forms a small part of the Ocean Beach/Foryd Harbour area and the merits of its redevelopment for residential purposes should be viewed in the context of the larger mixed use proposals for the area. Hence whilst the residential proposals are not a preferred use of this site, it has to be recognised that the whole of the TSM 14 area will not be developed for tourist and recreational uses, and that the principle of limited residential use on this area can be considered acceptable as a component of that larger mixed development, being consistent with the emerging regeneration strategies for the town.

ii) Flooding

The main Unitary Plan policy relevant to the flooding issue is ENP 6, which contains a presumption against development which would result in unacceptable risk from flooding.

Specific advice is contained in TAN 15 – Development and Flood Risk, which is the Welsh Assembly's key guidance for local planning authorities on the handling of applications in flood risk areas. The relevance of TAN 15 to the application is that in a C1 Flood Zone, where 'highly vulnerable development' such as housing is proposed, it can take place subject to the application of 'justification tests' including the acceptability of the consequences of such development. In this case the proposals would seem to meet the justification tests insofar as they are part of a local authority regeneration initiative (TSM 14 and the West Rhyl regeneration Strategy) and strategy to sustain a settlement (test (i)); they concur with the aims of Planning Policy Wales and meet the definition of previously developed land; and the consequences of flooding have been assessed by the Environment Agency to offer no objections to the outline application subject to the inclusion of a range of conditions to ensure flood risks adequately addressed, which would involve control over floor levels, and agreement to emergency access and egress routes in the event of flooding. Hence with due respect to the concerns of the objectors, the view of the key technical consultee is that the development would be acceptable, involving a 'significant' betterment to the existing situation at the site, which has casement residential accommodation. Officers therefore conclude there are no grounds to resist these proposals based on the flood risk.

iii) Affordable housing

The requirement for provision of affordable housing in connection with housing developments within development boundaries is set out in policy HSG 10 of the Unitary Plan, supplemented by guidance in SPG 22 – Affordable Housing in New Development.

There is no specific mention of affordable housing provision in the submission, although there is reference to widening the housing choice through the creation of a range of apartment sizes within a high density scheme. Officers consider the approach to be encouraged to achieve a quality scheme, and issues can be adequately covered through a suitably worded planning condition if permission is granted.

iv) Open Space provision

Policy REC 2 and SPG 4 set out the requirement for provision of amenity and recreational space in new residential development. Whilst the Development Brief suggests there may be limited scope for public open space within a detailed scheme, and that private and communal spaces can be accommodated the issue is really one for resolution at detailed plan stage. It would be appropriate to condition any permission to require full details of proposals for the provision of amenity and recreational space, and it would be for the developer to design the scheme and put the case for the level of provision or alternatives to on site provision.

v) Highways

The main Unitary Plan policies relating to the highway impact of new developments are TRA 6 and 9 and GEN 6. There require due consideration of impacts on the safe and free flow of traffic, the capacity and condition of the highway network, and the adequacy of parking and servicing provisions. The Design Brief makes a number of suggestions over the access and parking arrangements, with the main vehicular access of Sandringham Road, ideas for basement level parking and rear servicing area.

The Council's Highway Officers raise no objections to the application, subject to conditions. It is considered there is adequate control through conditions over the detailing of the vehicular and pedestrian access arrangements, internal circulation and parking. The site is in a sustainable location on bus, pedestrian and cycle routes, offering good access by non car modes of transport.

vi) Access for all

The requirement to outline how the principles of inclusive design are to be incorporated into a scheme are set out in TAN 12 – Design and TAN 18 – Transport, along with Unitary Plan policy GEN 6 and Supplementary Guidance Note 8.

The submission includes an Access Statement and a Development Brief which touch on the principles to be adopted at details plan stag through design of the parking areas, pathways, access routes, signage and provision of lifts. It is considered this is acceptable at outline stage, as a full Access Statement would have to accompany any reserved matters application.

vii) Amenity impact

The general requirement to assess the acceptability of a new housing development are set out in GEN 6. As this is purely an outline application, it is not possible to draw any conclusion on the impact on the amenities of occupiers of units in the former Palace Hotel or other dwellings immediately adjacent on Sandringham Avenue or Lake Avenue. These matters properly fall for consideration at detailed plan stage, when the Council can assess the acceptability of proposals for the scale, layout, appearance and the relationship with adjoining development.

SUMMARY AND CONCLUSIONS:

11. The application proposed the removal of the remaining derelict buildings on the site, and the redevelopment by way of residential use. The proposals are considered acceptable in the context of the larger redevelopment scheme at Ocean Beach and in support of the regeneration of this part of the town, which are material factors to be weighed against conflicts with policy TSM 14 which seeks to enhance the Ocean Beach area as a tourism development area.

RECOMMENDATION: - GRANT subject to the following conditions:-

1. Approval of the details of the siting, design and external appearance of the building(s), the means of access thereto and the landscaping of the site (hereinafter called "the reserved matters") shall be obtained from the Local Planning Authority in writing before the commencement of any development.
2. The development hereby permitted shall be begun either before the expiration of five years from the date of this permission, or before the expiration of two years from the date of approval of last of the reserved matters to be approved, whichever is the later.
3. Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.
4. **PRE-COMMENCEMENT CONDITION**
the development shall not begin until the written approval of the local planning authority has been obtained to the approach to be adopted to affordable housing in connection with the development.
5. No development shall be permitted to take place until the written approval of the Local Planning Authority has been obtained to the detailed arrangements for the provision for amendment open space within the site in accordance with the Council's policies and guidance.
6. 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.
7. No surface water shall be allowed to connect, either directly or indirectly, into the public system, unless otherwise approved in writing by the Local Planning Authority.
8. Land drainage run-off shall not be permitted to discharge, either directly or indirectly, into the public sewerage system.
9. No development shall commence until the developer has prepared a scheme for the comprehensive and integrated drainage of the site showing how foul water, surface water and land drainage will be dealt with and this has been approved in writing by the Local Planning Authority in liaison with Dwr Cymru Welsh Water's Network Development Consultants.
10. Finished floor levels for all habitable accommodation to be set to a minimum of 7.5m AOD as detailed within the supporting FCA.
11. Finished floor levels of undercroft parking areas should be set to a minimum of 5m AOD as detailed within the supporting FCA. The car park must be designed to ensure free drainage in the event of an inundation event to allow and ensure the evacuation of flood waters.
12. Emergency access and egress routes as detailed within the supporting FCA must be maintained and functioning for the lifetime of the development.
13. No development approved by this permission shall be commenced until a scheme for the provision and implementation of a surface water regulation system has been submitted to and approved in writing by the Local Planning authority. Such a scheme shall be implemented prior to the construction of any impermeable surfaces draining to the system unless otherwise agreed in writing by the Local Planning Authority. Surface water generated from new impermeable surfaces must be limited to equivalent Greenfield rate for the site, the level of which to be agreed with the Agency.
14. Notwithstanding the context of the Development Brief, this has been treated for illustrative purposes only and does not form part of this permission.
15. The proposed access onto Sandringham Avenue shall have a minimum visibility splay of 2.4m x 40m in both directions measured along the nearside edge of the adjoining carriageway overland within the control of the Highway Authority and/or the Applicant and

within which there shall be no obstruction in excess of 1.05 metres in height.

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

17. Facilities shall be provided and retained within the site for secure parking of bicycles/motorcycles in accordance with a scheme to be agreed with the Local Planning Authority, and which shall be completed prior to the proposed development being brought into use.

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

1. To comply with the provisions of Section 91 of the Town and Country Planning Act 1990.
2. To comply with the provisions of Section 92 of the Town and Country Planning Act 1990.
3. To comply with the provisions of Section 92 of the Town and Country Planning Act 1990.
4. In order to ensure an appropriate approach to the matter of affordable housing.
5. To secure the provision of open space in accordance with the Council's policies, for the benefit of occupiers units on the site.
6. To protect the integrity of the public sewerage system.
7. 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.
8. To prevent hydraulic overload of the public sewerage system and pollution of the environment.
9. To ensure that effective drainage facilities are provided for the proposed development, and that no adverse impact occurs to the environment or the existing public sewerage system.
10. To minimise flood risk to the future users of the development.
11. To minimise the impact of an inundation event.
12. To minimise flood risk.
13. To prevent the increased risk of flooding on and off-site.
14. For the avoidance of doubt.
15. 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.
16. To provide for the loading, unloading and parking of vehicular clear of the highway and to ensure that reversing by vehicles into or from the highway is rendered unnecessary in the interest of traffic safety.
17. To encourage the use of sustainable alternative means of transport.

NOTES TO APPLICANT:

Prior to the development of any detailed plans for the site, you should discuss ideas on the general approach to the scheme with the Development Control Case Officer and Environment Agency Wales. The Agency are a critical consultee on any proposal, and advise that to ensure minimal impact to people and property, all users of the site should be encouraged to make full use of their Wales Flood Warning service. This will provide timely warning of any potential flood event and so allow safe evacuation of cars and personal property from undercroft parking areas to be effected.

PWYLLGOR CYNLLUNIO
CYFARFOD:29ain Gorffennaf 2009
Eitem: 3

PLANNING COMMITTEE
MEETING: 29th July 2009
Agenda Item: 3

MATERION GORFODI

- (i) **ENF/2008/00005**
Cyn safle Motor World, Marsh Road, y Rhyl.
Newid di awdurdod o faes parcio i fod yn faes parcio cymysg a lleoliad gwerthu ceir.

- (ii) **ENF/2009/00044**
Tir ar gyfer Marian Ffrith, Marian Cwm Dyserth.
Newid di awdurdod o ddefnydd o dir amaethyddol i dir defnydd cymysg a defnydd motorbeic / motor cross.

Heading:

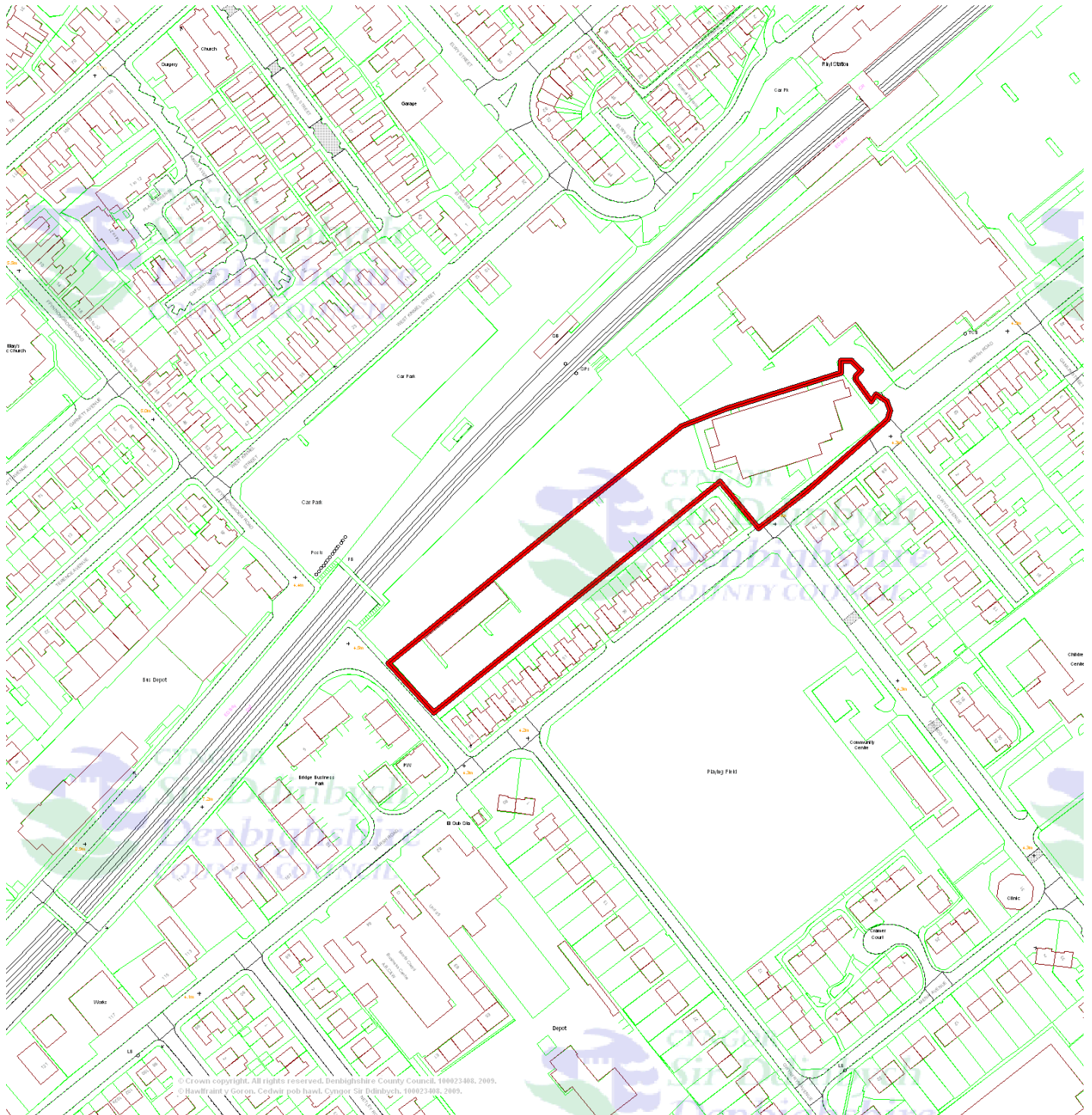
ENF/2008/00005
KWIK SAVE GROUP PLC
MARSH ROAD, RHYL, LL18 2DF

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



Date 13/7/2009
Centre = 300750 E 380944 N

Scale 1/2500



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© Hawffraint y Goron. Mae atgynhychu heb ganiatâd yn torri hawffraint y Goron a gall hyn arwain at erlyniad neu achos sifil. Cyngor Sir Ddinbych. 100023408. 2009.

PLANNING ENFORCEMENT REPORT

REFERENCE: ENF/2008/00005

LOCATION: The former Motor World site Marsh Road Rhyl

INFRINGEMENT: Unauthorised change of use of car parking area to mixed use of car park and car sales area

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 allow the sale of cars. 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 site is a large open car park off Marsh Road, Rhyl. The site is located between the Holyhead to Chester railway line to the North, and a row of residential houses to the South. The site is within the GEN 1 Development Boundary of Rhyl. To the West is an EMP 2 Main Employment Area and to the East is the RET 1 Town Centre Boundary. The car park has two access points, one is off Marsh Road opposite Ffordd Las, and the second is off the H Bridge to the West.
- 1.2 Historically the car park has served the Motor World store, which is now closed, and B and M Bargains, both buildings are located on the site.
- 1.2 In 2007, the Council received a complaint that cars were being taken to the car park and displayed for sale, often for days and weeks at a time. The site is a prominent location for motorists and pedestrians using the H Bridge. The complainants believe that people leaving their vehicles here are unscrupulous car dealers, who are avoiding the costs and responsibilities that legitimate car dealers have to comply with. The then site owners were contacted regarding this matter, they stated that they were trying to tackle the problem, and that the site was up for sale.
- 1.3 In June 2008 the site was bought by the current owners. The current owners were contacted about the problem of unauthorised car sales, and they engaged the services of a property management company to manage the site.

- 1.4 In December 2008, signs were erected around the site, warning motorists that vehicles that were left on car park faced being clamped. Although these signs deterred people from using the car park for unauthorised car sales in the short term, it did not last as the property management company did not take action against vehicles that were left there, and the unauthorised car sales returned.
- 1.5 A Council Official contacted the property management company about their lack of action. Following this the warning signs were removed all together from the site. The owners of the site were contacted, and they claimed that the signs had been removed by an unknown source. The warning signs have not been replaced, and there are no signs that any action is being taken against the owners of vehicles which are left for sale there.
- 1.6 In April and May the site was monitored by a Council Official on seven different occasions. The number of vehicles for sale ranged from two to eight.

1.7 **INFRINGEMENT**

There has been an unauthorised change of use from an ancillary car park for an A1 use, to a mixed use of an ancillary car park for an A1 use, and cars for sale on open land.

REASONS FOR ISSUING AN ENFORCEMENT NOTICE

- 1.8 The unauthorised change of use has occurred within the last ten years.
- 1.9 The site is located adjacent to the RET 1 Town Centre Boundary of Rhyl, and the use of the land for unauthorised car sales could have a detrimental impact on the commercial viability of existing authorised car dealers.
- 1.10 The unauthorised change of use is therefore contrary to the provision of Policy RET 11 – Car Showrooms and Vehicle Related Uses (iii a) of the adopted unitary development plan.
- 1.11 The sale of cars from the site is not carried out in an organised way, and there are no controls as to the number of vehicles that could be brought onto the site for sale or how long that they could be stored there. This is considered to be contrary to Policy GEN 6 (ii).
- 1.12 The site owners do not have any security measures on the site, and there are dangers, if cars are being stored unsupervised for long periods, of the cars being targets of anti social behaviour on land adjacent to residential dwellings. This is considered be contrary to Policy GEN 6 (ii).
- 1.13 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 cessation of the unauthorised change of use at the site.
- 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.
- 2.3 PERIOD FOR COMPLIANCE: 1 month

Heading:

ENF/2009/00044

LAND ADJOINING MARIAN FFRITH,

MARIAN CWM, DYSERTH, RHYL

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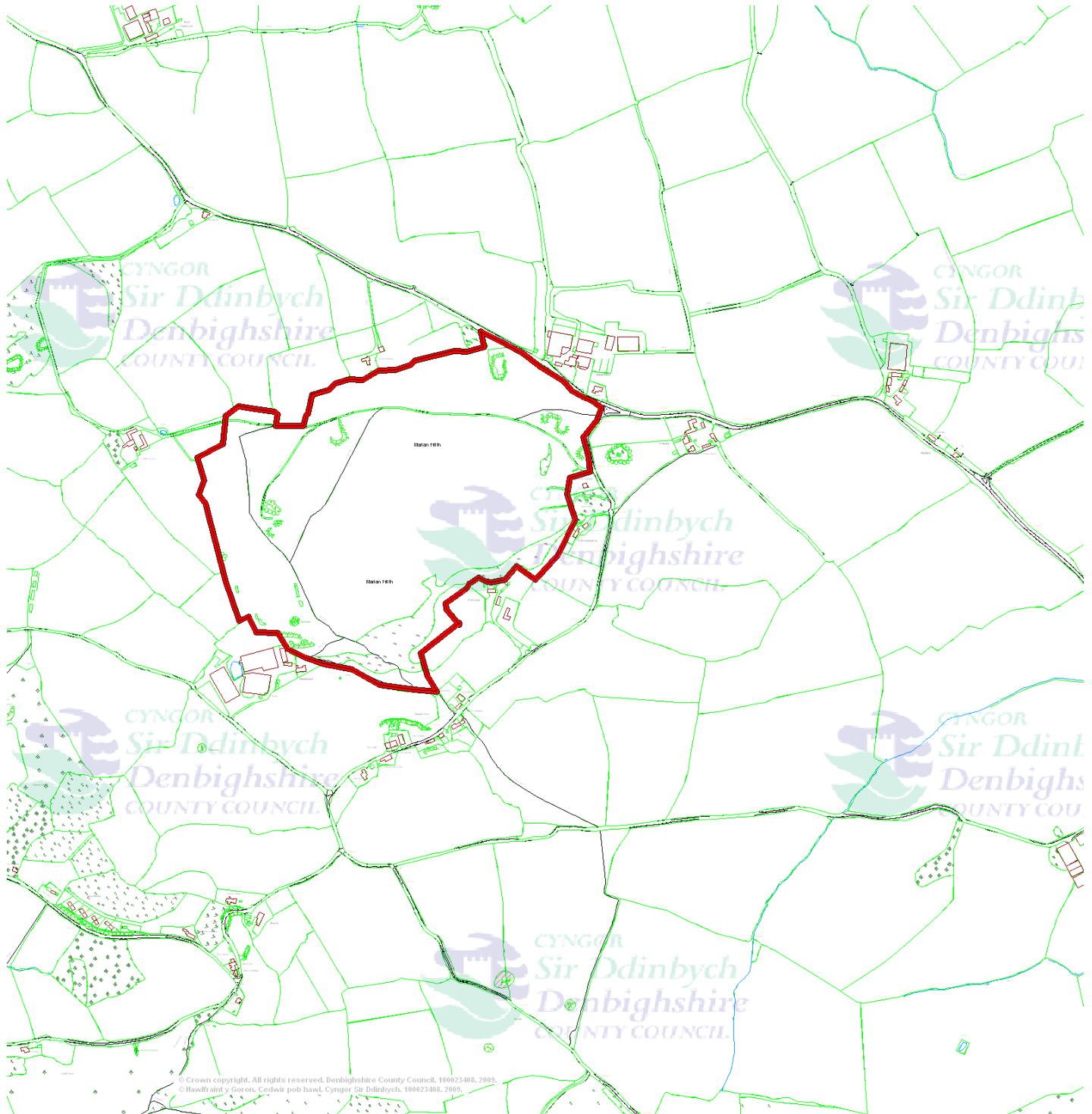
The Site



Date 13/7/2009

Scale 1/10000

Centre = 307656 E 377927 N



PLANNING ENFORCEMENT REPORT

REFERENCE: ENF/2009/00044

LOCATION: Land at Marian Ffrith, Marian Cwm, Dyserth

INFRINGEMENT: Unauthorised Change of Use – from agriculture to a mixed use of agriculture and motorcycle/motor cross use

RELEVANT PLANNING POLICIES AND GUIDANCE

DENBIGHSHIRE UNITARY DEVELOPMENT PLAN

GEN 6 – Development Control Requirements
ENV 2 – Development affecting the AONB
REC 6 – Noisy Sports

GOVERNMENT GUIDANCE

Planning Policy Wales 2002
Technical Advice Note (Wales) 9 – Enforcement of Planning Control
Technical Advice Note (Wales) 16 – Sport, Recreation and Open Space

HUMAN RIGHTS CONSIDERATIONS

The Human Rights Act 1998 is taken into account when considering taking enforcement action against planning control breaches. In this instance the matter under consideration is whether the owner of land has a right to allow the use of open land within an Area of Outstanding Natural Beauty for all forms of motorcycle scrambling and motor cross events in excess of the number of events as allowed under permitted development rights. The general public interest outweighs that of the land owner in this case. No specific human rights issues have been raised by the land owner or any other interested party.

1. BACKGROUND INFORMATION

- 1.1 On the 16 March 2009, Planning Services received a complaint in relation to the excessive use of land at Marian Ffrith, Marian Cwm, Dyserth for motor cycle scrambling and motor cross events. The land owner permits the use of the land for this type of activity, which varies from the occasional intensive organised event to the far more numerous ad hoc occasions involving a small number of motorcycles or motor cars.
- 1.2 The land falls within an Area of Outstanding Natural Beauty and borders a number of residential properties in the hamlet of Marian Cwm. The Offa's Dyke National Trail runs through the land.
- 1.3 Schedule 2, Part 4, Class B of The Town and Country Planning (General Permitted Development) Order 1995, outlines that the permitted development rights in respect

of 'motor car and motorcycle racing including trials of speed and practising for these activities' is limited to 14 days in any calendar year.

- 1.4 During the investigation of the complaint the issue was drawn to the attention of the land owner, who contended that the use complained of had taken place for a period in excess of ten years. The land owner subsequently submitted an application for a Certificate of Lawful Use, code 47/2009/0702/LE refers. **The applicant failed to provide sufficient evidence to support his claim and accordingly the application has been refused under delegated powers on**
- 1.5 A review of the planning history at this site reveals that the issue was first brought to the attention of Planning Services in 2002. However, whilst it was accepted that motorcycling activity was taking place, at that time it was determined that there was insufficient evidence to substantiate a breach of permitted development rights i.e. it could not be proved that motorcycle use took place for a period in excess of 14 days in any calendar year. Accordingly enforcement action was therefore not pursued.
- 1.6 Following receipt of the initial complaint in this particular case, several further complainants residing in the Marian Cwm area have expressed great concern at the motorcycle and occasionally motor car use on the land in question. The noise levels and indiscriminate riding on and close to footpaths have been the major concerns. The activity generally takes place at weekends and during school holidays.
- 1.7 A local resident has maintained a log of events on the land at Marian Ffrith. The log was commenced on the 22 February 2009 and up to the date upon which this report was prepared, details a total of 24 occasions when motorcycles or motor cars were used on the land; 8 occasions more than that allowed under permitted development rights in this calendar year.
- 1.8 It must be acknowledged that the land owner has permitted development rights and any enforcement action will only seek to curtail motorcycle/motor cross events on days in excess of the 14 days allowed under permitted development rights.

2. REASONS FOR ISSUING AN ENFORCEMENT NOTICE

- 2.1 The unauthorised use has commenced within the last ten years.
- 2.2 The applicant is not inclined to voluntarily cease the unauthorised use. This stance is evidenced by his attempt to regularise the current motorcycle and motor car use of the land through the submission of an application for a Certificate of Lawful Use.
- 2.3 The intensity of the unauthorised use, which takes place most weekends, and the resultant disturbance, which has an unacceptable affect upon the amenity of neighbouring residential properties, is contrary to Policy Gen 6 (i) and (v).
- 2.4 The unauthorised use detracts from the tranquillity, character and appearance of the AONB. This is an open countryside location where it is considered that a more intensive use of motorcycles for the use evidenced (above that allowed by the Town and Country Planning (General Permitted Development) Order 1995) creates an intrusive and alien form of development which harms the character of the area. It does not conserve or enhance the natural beauty of the area and is accordingly contrary to Policy ENV 2.
- 2.5 The intensity of the use of motorcycles and motor cars on the AONB land in question constitutes a 'noisy sport' and as such unacceptably affects neighbouring residential properties and the quiet enjoyment of the countryside and is therefore also contrary to Policy REC 6 (i) and (ii).

2.6 The use of conditions as part of any grant of planning permission for the continuation of the unauthorised use could not overcome these objections.

3. RECOMMENDATION

3.1 That authorisation be granted for the following:-

- i) Serve an enforcement notice to stop the unauthorised use of the land by motorcycles and motor cars in excess of permitted development rights i.e. in excess of 14 days each calendar year.
- ii) Instigate prosecution proceedings or 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.
- iii) Period for Compliance: 1 month