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PLANNING COMMITTEE
MEETING – 30th September 2009
Agenda Item: 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: Rhuddlan

APPLICATION NO: 44/2008/0566/ PF

PROPOSAL: Erection of 10 no. dwellings and construction of new vehicular/pedestrian access

LOCATION: Land Accessed Off Rhyl Road Adjoining Rhuddlan Cemetery New Road Rhuddlan Rhyl

APPLICANT: Mr. Chris White K and C Group Ltd.

CONSTRAINTS:

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

CONSULTATION RESPONSES:**RHUDDLAN TOWN COUNCIL**

'Recommended for refusal because it is contrary to Policy HSG 10 of the UDP.'

COUNTRYSIDE COUNCIL FOR WALES

No objection, subject to conditions to ensure implementation of ecology report conclusions and recommendations, including the submission of a detailed Reasonable Avoidance Measures Scheme and SUDS scheme.

DENBIGHSHIRE COUNTY COUNCIL CONSULTEES:**DRAINAGE ENGINEER**

Is unaware of any problems with this site and suggests measures to satisfy relevant legislation e.g. attenuation flows; separate systems.

HOUSING SERVICES

Highlights that the priority of the Affordable Housing Officer is to secure housing to meet the demand in Denbighshire. The current waiting list for Rhuddlan shows a strong need for houses.

Comments on a number of points:

- Advises that the application for 10 properties is a good prospect strategically in meeting the housing requirement for the town of Rhuddlan.
- The town has recently benefited from 6 affordable apartments which have proved difficult to sell, although they have been of very good quality and sold at a reasonable price. The town has also benefited from commuted sum funding which has been used as Homebuy loans to enable 3 families to purchase 3 affordable open market houses.
- Rhuddlan has lost a significant number of council houses through the Right to Buy since 1996 and of 46 properties sold, 91.3% of these were houses.
- The need on our waiting lists shows 1059 people registered (507 being for 2/3 bed houses).
- Should planning permission be granted for this scheme, a local RSL would be applying for Social Housing Grant to enable the properties to be both rented and sold by various affordable methods. The site would not be wholly rented which has been a concern of the local residents. The Authority and Housing Association would be looking to sell most of these properties via flexible purchase options including shared ownership.

- This will enable people on lower incomes to become Homeowners. Any prospective tenants and purchasers would have to meet strict criteria to access these properties including a five year local connection.
- If grant funded, the properties would have to meet the Welsh Assembly's Housing Quality Standards and the properties would be built to their strict standard requirements.
- The properties would be managed by a local RSL and would be a mixture of 2/3 bed houses to supply the demand for families, adding to a sustainable community, rather than apartments which are not a priority and do not add to a social mix.

HEAD OF HIGHWAYS AND INFRASTRUCTURE

Following discussions with the agent, raised no objections subject to conditions.

COUNTY ECOLOGIST

No objection, subject to further details of the great crested newt mitigation measures (listed in the species report), including how the measures will be overseen and monitored by a licensed ecologist and actual timing of measures. Suggests the applicant seeks CCW's advice regarding protected species licence, and landscaping/hedging to utilise native species.

PRINCIPAL PARKS, PLAY GROUNDS AND PLAYING FIELDS OFFICER

In the circumstances, suggests a commuted sum approach in lieu of on site open space. Points to a shortage of open space in Rhuddlan which would benefit from this approach. Details of site planting need to be conditioned.

RESPONSE TO PUBLICITY:

Letters of representation received from:

G & J P Davies, Haulfre, Rhyl Road, Rhuddlan
 T A Merchant and A J Whitehouse, Berthen, Rhyl Road, Rhuddlan
 M Gibson, Wayside, Rhyl Road, Rhuddlan
 P D & J Bradford, Hillary, Rhyl Road, Rhuddlan
 Mr & Mrs Fisher-Jones, Ardwyn, Rhyl Road, Rhuddlan
 J Williams, Marl, Rhyl Road, Rhuddlan
 J Weston, Coed Y Brain, Rhyl Road, Rhuddlan
 Mrs. L. N. Rowlands, Springfield, Ffordd Rhyl, Rhuddlan

Summary of planning based representations:

Affordable housing – clustering together; against grouping of affordable housing; greater social benefits for affordable housing on all developments, than grouping on one site; moving affordable housing from one site to another; affordable housing should be spread out to avoid a 'ghetto'; various questions concerning affordability – by whom and how much;; will they be exclusively for locals?; need to keep youngsters in the locality;

Highways – vehicular entrance narrow; increase in traffic detrimental to road safety' existing access already difficult;

Drainage – queries regarding capacity; site conditions indicate a possible drainage problem.

EXPIRY DATE OF APPLICATION: 10/12/2008

REASONS FOR DELAY IN DECISION:

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

PLANNING ASSESSMENT:

1. THE PROPOSAL:

1.1 Outline of application

- 1.1.1 The proposal is for full planning permission to erect 10 no. two storey houses, which include two pairs of semi detached houses and the remaining 6 dwellings are in two staggered rows of three dwellings. 5 dwellings include 2 bedrooms (Plots 1 – 5) 5 dwellings include 3 bedrooms (plots 6-10). The site area is approximately 0.54 hectares.
- 1.1.2 The proposal also includes alterations to the junction of the existing access on to Rhyl Road and widening the width of the existing road (from the main Rhyl Road entrance) which serves the site and adjacent areas. This involves utilising part of the existing garden area of an end of terrace property fronting onto Rhyl Road, known as Rhydwen. The proposal also involves the removal trees within the site.
- 1.1.3 The application includes a Supporting Statement; Design Statement; Affordable Housing Questionnaire and Protected Species Report. Briefly, these documents include;
- The statement (prepared by Jones & Redfearn, Chartered Surveyors) in support of the Transfer of affordable housing from the applicants K & C development site – Castlefields – to this site and outlines 8 reasons, including costs; social and site specific considerations.
 - A Design statement, which describes the site context, noting its proximity to residential and commercial buildings; key objectives for the scheme; adopting the existing building line of Rhyl Road. Reference is also made to inclusive design; highways; landscaping and design features. External materials to include brick walls and concrete tiled roofs.
 - The Affordable Housing questionnaire indicating initially that all 10 houses were to be affordable units - transferred from another development site (– Castlefields- with details of the tenure to be confirmed by Cymdeithas Tai Clwyd. The agents have since confirmed 7 out of the 10 houses are to be provided for affordable housing.
 - A Protected Species report, which highlights the presence of great crested newts within land that appears to be within the Rhuddlan Golf Course (further east). The report, although concluding the low potential for newts to leave this area and negotiate their way to the application site is low, Reasonable Avoidance Measures should be used, more so as a precautionary measure. Measures could for example include temporary amphibian fencing. Additionally, guidelines concerning licensing requirements may also need further work with CCW. The report also highlights consideration to be given to a Sustainable Urban Drainage Scheme.

1.2 Description of site and surroundings

- 1.2.1 The application site comprises approx. 0.2 hectares of overgrown scrub. It is a relatively level ground area, located to the north west of Rhuddlan Cemetery and to the rear of properties fronting Rhyl Road. An existing

vehicular access serves the site – from Rhyl Road, which serves the rear of the residential properties, the Multi Use Games Area (MUGA) which is located to the south east of the application site, and the remainder of the playing fields.

1.2.2 Properties fronting Rhyl Road, to the west of the site, are 2 storey, predominantly brick built properties, many of which have detached garages located at the end of the rear gardens, and accessed via the lane off Rhyl Road. To the eastern boundary of the site are modestly sized, single storey dwellings, with vehicular access onto New Road, positioned on relatively higher ground level.

1.2.3 The site includes, predominantly on the boundary, a mix of mature, semi mature and small trees.

1.3 Relevant planning constraints/considerations

1.3.1 The site lies within the defined development boundary for Rhuddlan.

1.4 Relevant planning history

1.4.1 Members may recall consideration of a previous planning application for two apartment blocks comprising 16 apartments and alterations to existing vehicular access, at the September 2006 Planning Committee. The Committee resolved to approve the proposal subject to the completion of an obligation under Section 106 of the Planning Act to secure the provision of 5 affordable units, and payment of a commuted sum in lieu of open space provision within the site.

1.4.2 It is understood that the applicant involved with this previous planning application is no longer involved with the site ownership and the planning application.

1.4.3 There are only limited differences with the extent of land involved with the current and previous proposals. The current application site now includes Rhydwen, the end terrace house, adjoining the vehicular access point to the site.

1.5 Development/changes since original submission

1.5.1 Initially, the application was submitted on the basis of all 10 dwellings as affordable housing units. The proposal for affordable housing units was linked to another, separate development site at Rhuddlan, namely Castlefields. It included units as 'off site' provision of affordable housing on the Castlefields development.

1.5.2 During the progression of the application, the agents for the application have confirmed that the application should be dealt with as a 'stand alone' application i.e. detached from any links with the Castlefields site.

1.5.3 Further clarification concerning the extent /details of landownership resulted in a requirement for service of additional legal and planning notices including with the Rhuddlan Town Council as owner of part of the lane/highway to/from the site.

1.5.4 Additional plan revisions including highway detailing and plot relationship and layout have resulted in additional re-consultations. The number of affordable units has decreased – and is now for 7 units not 10 as initially submitted.

- 1.5.5 The applicant's agent has raised the possibility of offering a unilateral undertaking under S106 of the Planning Act to cover the affordable provision, or any other matter.

1.6 Other relevant background information

- 1.6.1 In relation to the Castlefields site, a previous planning application (44/2008/0569/PF) sought to amend the consent for 38 dwellings in detached, terraced and apartment formats, previously approved in application under code no. 42/2005/0081/PF, to allow provision of 10 no. affordable housing units to be transferred off-site. This part of the application was refused in November 2008 for the following reason :

“The Local Planning Authority considers that, based on the information and details submitted, the proposal is contrary to the aims of national guidance in TAN 2. Affordable Housing; Ministerial Interim Planning Policy Statement 01/2006 Housing ; together with the adopted Denbighshire Unitary Development Plan Policy HSG 10 and accompanying Supplementary Planning Guidance 22 - Affordable Housing in New Developments (adopted 26 July 2005) - in that, where affordable housing needs exist within development boundaries, individual developments of the scale proposed should provide an appropriate and well- integrated mix of housing types and tenures on site, to achieve a mixed and sustainable community. With regard to current housing need for the Rhuddlan Community, it is not considered there is justification for the provision 'off-site ' affordable housing units, as an acceptable alternative to on-site provision. The proposal is considered likely to encourage other similar proposals for off-site provision establishing an unacceptable precedent “

- 1.6.2 The time period for submitting an appeal against this refusal has now passed.
- 1.6.3 The second part of the planning application included a substitution of house type on plot 1, which was approved.
- 1.6.4 There is a current undetermined planning application for development at the Castlefields site (Code 44/2009/0996/PF) for the following proposal: Amendment to development of 38 dwellings previously approved under Code No. 44/2005/0081/PF to allow provision of 6 no. affordable housing units to be transferred off site and 4 no. affordable housing units to remain on site on plots 12, 13, 16 & 17 on former Abbey Nurseries.
- 1.6.5 The application has to be dealt with on it's own merits.

2. RELEVANT PLANNING HISTORY:

- 2.1 Code 44/2006/0078/PF – Erection of 2 apartment block comprising 16 apartments and alterations to existing vehicular access - PENDING

3. PLANNING POLICIES AND GUIDANCE:

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

Policy STRAT 1	RESOURCES General
Policy STRAT 5	ENVIRONMENT Design
Policy STRAT 7	Environment
Policy STRAT 8	ECONOMY Employment

Policy STRAT 11	Regeneration TRANSPORT
Policy STRAT 12	General
Policy STRAT 13	New Development SOCIAL/COMMUNITY
Policy STRAT 15	Housing
Policy STRAT 16	Community Facilities & Benefits

General Policies

Policy GEN 1 - Development within development boundaries
 Policy GEN 2 - Development of unannotated Land
 Policy GEN 6 - Development Control Requirements
 Policy GEN 8 – Planning Obligations
 Policy GEN 10 – Supplementary Planning Guidance
 Policy ENV 6 - Species Protection
 Policy ENV 7 - Landscape/Townscape Features
 Policy ENP 1 - Pollution
 Policy ENP 4 - Foul and Surface Water Drainage
 Policy HSG 3 - Housing Development in main villages.
 Policy HSG 10 - Affordable Housing in Development Boundaries
 Policy REC 2 - Amenity & Recreational open space requirements in new developments
 Policy TRA 6 - Impact of new development on traffic flows

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

Supplementary Planning Guidance

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

Other Relevant Council publications/documents

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

GOVERNMENT GUIDANCE

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

Circular 35/05 – The Use of conditions in planning permissions
 Circular 13/97 – Planning Obligations

4. MAIN PLANNING CONSIDERATIONS:

4.1 The main issues in this case are considered to be:

4.1.1 Principle of development and fallback position

- 4.1.2 Impact on amenity and privacy.
- 4.1.3 Design
- 4.1.4 Drainage
- 4.1.5 Highways, including parking and sustainability
- 4.1.6 Protected species
- 4.1.7 Affordable housing.
- 4.1.8 Open Space
- 4.1.9 Landscaping
- 4.1.10 Inclusive design

4.2 In relation to the main considerations noted above:

4.2.1 Principle of development and fall back position

The site lies within the current development boundary for Rhuddlan, and is 'Un-Annotated' land in the proposals map in the Unitary Plan. The principle of development has previously been established with the grant of full planning permission, subject to a 106 obligation.

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

It is to be noted that subject to the completion of a 106 legal obligation, the Committee has resolved to grant permission for 16 flats on the site. The principle of residential development has therefore been established here.

4.2.2 Impact on amenity and privacy

Planning policy GEN 6 seeks to safeguard sufficient privacy and amenity levels for occupiers of existing and new properties.

Having regard to the revised details, the layout and design would achieve acceptable distances and relationships between existing and proposed dwellings, with dwellings orientated to maximise daylight penetration and sufficient garden areas for all units. There also remains sufficient garden area for the property directly fronting onto Rhyl Road – Rhydwen – which includes a reduced garden to enable road widening works. The proposal is considered to achieve the aims of GEN 6.

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

4.2.3 Design

GEN 6, SPG 14 and 25 highlight relevant design considerations with development proposals, together with TAN 12.

The submitted Design Statement makes reference to key design and vision objectives. In the context of the previous planning application for 16 flats on the site, the size, scale and design involved with this new application is considered to represent a more acceptable design approach for the site. With the use of appropriate external materials and sympathetic landscaping, there would be limited visual impact on the locality.

4.2.4 Drainage

Policies GEN 6 criteria x) ; ENP 1 Pollution, criteria i) ; ENP 4 – Foul and Surface Water Drainage, together with policy ENP 6 – Flooding, seek to control and avoid unacceptable harm to the environment /locality in terms of water and drainage implications. ENP 4 highlights that development will not

be permitted unless satisfactory arrangements can be made for the disposal of foul sewage and surface water.

The application forms indicate the proposal is to construct a combined surface / foul system.

Welsh Water raised no objections to the previous application, subject to the inclusion of conditions requiring separate foul surface water systems. The Council's Drainage Engineers are of the same view. It is understood that there is a possibility that separate, private drainage systems may exist on the land, serving adjacent residential properties. This is considered to represent a private matter more appropriately resolved between respective parties.

In light of this background, the proposal is considered to comply with policies ENP 1 – Pollution and Policy ENP 4 - Foul and Surface Water Drainage.

4.2.5 Highways, including parking and sustainability

GEN 6 and TRA 6 requires consideration of highway and parking safety. The site is considered to be 'sustainable' with regard to proximity to local services, public transport, and density, and the development would be in line with government approach to maximising the sustainable use of land. Given this context minimum parking requirements could be justified with an emphasis on non car modes of travelling, including cycling and walking.

Highways and car parking considerations were reviewed in detail with the previous planning application for 16 flats for the site., and considered acceptable by the Highways Officer. The current planning application includes the same highway works and improvements as the previous application – essentially to increase the width to 4.5m to accommodate two-way flow traffic. Revised plans have been submitted to address Highways issues. It is considered as with the previous planning application, that the proposal would have limited highway implications, providing an opportunity to increase visibility onto Rhyl Road.

4.2.6 Nature conservation and protected species

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

In this case, both the Countryside Council for Wales and County Ecologist have highlighted the potential for Great Crested Newts, given existing habitats and recorded presence in the locality adjoining. The species report provides sufficient information to confirm that suitable Reasonable Avoidance Measures can be conditioned. The proposal therefore complies with the policies and guidance relating to protected species.

4.2.7 Affordable Housing – National and local policy

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

Local Connections Policy; and underpinned by Housing Need Surveys. The stress is on provision of Affordable Housing within development sites.

The scheme accepted by Planning Committee in 2006 for 5 affordable units. The number was based on application of the relevant criteria relating to land area and average density in SPG 22. The proposal here is for 7 affordables, on plots 1, 2, 6, 7, 8, 9 and 10. In officers' opinion, having regard to the comments of the Housing Officers, and the basis of policy and guidance, the minor additional provision on this site is an acceptable revision. The design/detailing of the affordable units do not differ from the open market units. On the basis that this application should be determined on its own merits and not complicated by any form of 'trade off' with the affordable provision on the Castlefields site, it is considered the proposals for 7 affordable units are wholly acceptable.

4.2.8 Open space

Policy REC 2 of the Unitary Development Plan requires, where appropriate, that new development should provide landscaped amenity areas on developments of 10 or more units. The proposal indicates small areas which could provide limited amenity space. However, the proposal does not include provision for an open space area within the site. As with the previous planning application for the site, given the location of the site and the proximity to open space areas in the village, a commuted sum approach is considered reasonable.

It is considered a commuted sum payment can be dealt with by way of a Section 106 obligation tied to any permission. A commuted sum would be an appropriate method to improve facilities off site in the area.

4.2.9 Landscaping

The submission includes limited landscaping details. In light of the site's location and the response of The Council's Parks and Gardens Officers, sensitive and appropriate boundary details are essential, and can be covered by condition. Although the proposal involves the removal of on site trees, these have previously been acknowledged as of no significant visual value.

4.2.10 Inclusive design

Members will be aware that Access Statements are now 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 application details show a positive approach to inclusive design, respecting the Welsh Assembly approach for residential development quality standards. The proposal is considered to acceptable in this respect.

5. SUMMARY AND CONCLUSIONS:

5.1 Having due regard to the issues, it is considered of some significance here that the previous scheme established the principle of residential development for this site. The current scheme for 10 houses is considered acceptable and worthy of support. With respect to the numbers of affordable housing units involved and the Town Council comments, current planning policy allows the Council to support a higher proportion of affordable units, on the basis of sound evidence and need. It is considered the evidence exists in this case, and that the affordable housing provision is compliant

with current policy and guidance.

5.2 The recommendation is subject to the completion of an agreement under Section 106 of the Planning Act 1990 to secure the following:

- In relation to open space provision, the payment of £33,957.60 (off site provision £20,671.20, maintenance £13,286.40) subject to inflation.
- In relation to affordable housing, the provision of 7 affordable units and their retention thereafter for affordable housing purposes for local needs.

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

RECOMMENDATION: GRANT - subject to the following conditions:-

1. The development hereby permitted shall be begun before the expiration of five years from the date of this permission.
2. **PRE-COMMENCEMENT CONDITION**
The detailed layout, design, means of traffic calming, signing, drainage construction and lighting of the access and internal estate road shall be submitted to and approved by the Local Planning Authority prior to the commencement of any site works.
3. None of the dwellings hereby approved shall be occupied until the roads and pavements have been constructed to base coat level.
4. Facilities shall be provided and retained within the site for the loading/ unloading, parking and turning of vehicles in accordance with the approved plan and which shall be completed prior to the development being brought into use.
5. The highways works shall be completed to wearing course level before the last dwelling is occupied.
6. No part of the development shall be brought into use until the works for disposal of foul and surface water drainage have been provided in accordance with the approved plans.
7. All foul drainage shall be directed to a foul sewerage system and all surface water drainage to a surface water system unless otherwise agreed by the Local Planning Authority.
8. There shall be no discharge of surface water to the combined sewer system.
9. **PRE-COMMENCEMENT CONDITION**
No building hereby permitted shall be occupied until surface water drainage works have been implemented in accordance with details that have been submitted to and approved in writing by the Local Planning Authority. Before these details are submitted an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system in accordance with the principles set out in TAN 15, and the results of the assessment provided to the Local Planning Authority. Where a sustainable drainage scheme is to be provided, the submitted details shall:
 - i. provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
 - ii. include a timetable for its implementation; and specify the responsibilities of each party for the implementation of the SUDS scheme, and
 - iii. provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory

- undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.
10. **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.
 11. **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.
 12. **PRE-COMMENCEMENT CONDITION**
Prior to the commencement of development the following details shall be submitted to and approved in writing by the Local Planning Authority:
 - Additional newt mitigation detail
 - Timing of works on site

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

1. To comply with the provisions of Section 91 of the Town and Country Planning Act 1990.
2. To ensure that the estate road system is constructed to adoption standards 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.
3. In the interest of highway safety and to ensure the development is served by a satisfactory form of access prior to completion of the service road.
4. To provide for the loading/ unloading, parking and turning of vehicles and to ensure that reversing by vehicles into or from the highway is rendered unnecessary in the interest of traffic safety.
5. In the interests of traffic safety.
6. To ensure proper drainage of the site.
7. To ensure the proper drainage of the site and to minimise the risk of pollution.
8. There is insufficient capacity in the existing drainage system to cater for additional surface water flow.
9. To ensure proper drainage and maintenance of the site.
10. To ensure in the interests of visual amenity a satisfactory standard of landscaping in conjunction with the development.
11. In the interests of visual amenity.
12. In the interests of safeguarding potential adverse affects on adjacent Great Crested Newts.

NOTES TO APPLICANT:

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

The Highway Authority advise that there will be a need for a Section 278 Agreement under the Highways Act to be entered into prior to the commencement of the development.

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

You are advised to liaise with the Countryside Council for Wales and the County Ecologist with a view to complying with any relevant Great Crested Newts licencing requirements.

The landscaping details required shall include habitat suitable for great crested newt. Details included for additional newt mitigation measures should also include how the measures will be overseen and monitored by a licensed ecologist and actual timing of measures.

ITEM NO: 2

WARD NO: Rhyl South East

APPLICATION NO: 45/2009/0750/ PF

PROPOSAL: Substitution of house types on Plots 1-8, 12-40, 57-61, 103-111 & 144
(Amendments to previously approved scheme for Phase 1 ref
45/2007/1233/PR)

LOCATION: Land at Rhyl south-east Aberkinsey Park Estate - Phase I Dyserth Road
Rhyl

APPLICANT: Anwyl Construction Company Ltd.

CONSTRAINTS: Section 106

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

CONSULTATION RESPONSES:

RHYL TOWN COUNCIL

"Objection for the following reasons: The proposed change in house type is likely to lead to a significant percentage increase and grouping of social housing within the phase 1 development which the Town Council believes will be contrary to the previously stated policy which requires social housing to be "pepper potted".

DENBIGHSHIRE COUNTY COUNCIL CONSULTEES:

HEAD OF HOUSING SERVICES

No objection, considers the revised scheme constitutes a more preferable mix. The affordable units are still well integrated within the site and the number of units is still the same.

RESPONSE TO PUBLICITY:

Letters of representation received from:

Mr. Tunnicliff, 122 Dyserth Road, Rhyl

Mair Roberts, 40, Ffordd Anwyl, Rhyl

Matthew Wright - Conservative Parliamentary Candidate (via e-mail)

Mr. R. A. Ashton, 1, Llys Cadnant, Park View Estate (via e-mail)

Summary of planning based representations:

Drainage and flooding concerns

Traffic congestion concerns

EXPIRY DATE OF APPLICATION: 18/08/2009

REASONS FOR DELAY IN DECISION:

- timing of receipt of representations

PLANNING ASSESSMENT:

1. THE PROPOSAL:

1.1 Outline of application

- 1.1.1 This is a full application proposing the substitution of house types on Plots 1-8, 12-40, 57-61, 103-111 & 144, which are amendments to a previously approved scheme for Phase 1 Ref 45/2007/1233/PR, approved on 29th April, 2008.
- 1.1.2 The Aberkinsey Park development site will be developed in 3 phases; Phase 1 is located to the north west of the larger site and comprises a total of 149 dwellings, Local Equipped Play Area (LEAP) for younger children, Neighbourhood Equipped Play Area (NEAP) for older children with associated landscaping and highway works, which include the realignment of Dyserth Road and an internal link road. (See map at front of report).
- 1.1.3 This application relates solely to the substitution of house types on previously approved Plots 1-8, 12-40, 57-61, 103-111 & 144. The principle of the development is long established, detailed approvals have been given to the scheme and issues relating to highways and drainage are not relevant to this application.

1.2 Description of site and surroundings

- 1.2.1 The site is located on the eastern edge of Rhyl about 2.5 miles south east of the town centre. The site stretches from Dyserth Road in the north to Bro Deg in the south, and includes the Aberkinsey Stream, which is a central feature of the site. The land to the north, west and south west of the site is built up, with the land to the east and north east forming open countryside.

1.3 Relevant planning constraints/considerations

- 1.3.1 The site is within the development boundary of Rhyl and is a Mixed Major Development Area as defined in the Unitary Development Plan.

1.4 Relevant planning history

- 1.4.1 Outline planning permission for the development of the Rhyl South East/Aberkinsey Park for residential development with associated open space, school, community centre and means of access was approved in 2006 with a Section 106 agreement in place. In 2007, the reserved matters for phase 1 were submitted providing details of 149 dwellings, landscaping, access roads and associated works. This was approved in April 2008.

1.5 Development/changes since original submission

- 1.5.1 None

1.6 Other relevant background information

- 1.6.1 A number of planning conditions on the original outline planning permission have been approved with some currently under consideration.

2. RELEVANT PLANNING HISTORY:

- 2.1 45/2004/1376/PO –Development of 17.68 ha of land for residential development with associated open space, school, community centre and means of access (outline application)
GRANTED 22nd November 2006 with Section 106 agreement.

45/2007/1233/PR - Details of phase 1 development including siting, design and external appearance of 149 dwellings, landscaping, access roads and associated works submitted in accordance with condition no's 1 and 7 of outline planning

permission code no. 45/2004/1376/PO - APPROVED 29th April, 2008

3. PLANNING POLICIES AND GUIDANCE:

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

Supplementary Planning Guidance 25 - Residential Development Design Guide

GOVERNMENT GUIDANCE

TAN 12: Design

4. MAIN PLANNING CONSIDERATIONS:

4.1 The main issues are considered to be:-

- 4.1.1 Residential Amenity
- 4.1.2 Visual Amenity
- 4.1.3 Affordable Housing

4.2 In relation to the main considerations:

4.2.1 Residential Amenity

The main policy relevant to considerations of residential amenity is Policy GEN 6. The dwellings within phase 1 would be located to the north eastern part of the site. The only existing residential development affected by phase 1 are properties on Dyserth Road, Pen y Llys and opposite at Maes y Gog. The 149 dwellings approved within phase 1 comprise a mixture of 2 and 3 storey dwellings of varying sizes and designs. This application proposes the substitution of 52 house types with a mix of 2 and 3 storey dwellings providing 2, 3, 4 and 5 bed properties of varying sizes and designs. The changes proposed to the dwellings included within this application would not adversely impact upon the amenities of existing residents. The changes proposed to the house types would not result in any significant changes to the relationship of the dwellings within phase 1 to existing dwellings, which has been assessed previously as acceptable, and approved within the reserved matters application in 2008.

In relation to the amenities of future occupiers of the 52 dwellings which are the subject of this application, it is considered that the design and layout of the dwellings complies with the overall principles of the masterplan, TAN 12 and SPG 25, contributing to a high quality development and living environment.

4.2.2 Visual amenity

Visual amenity considerations are one of the tests of Policy GEN 6. The dwellings within phase 1 comprise a mix of 2 and 3 storey dwellings. This application proposes some changes to the size and design of 52 of the 149 approved dwellings. In design terms the revised housetype details are considered acceptable and in keeping with the detailing of other dwellings within the phase. There would be no adverse impact on the visual amenities of the area.

4.2.3 Affordable Housing

Within the approved details for phase 1, 26 of the 149 dwellings were to be provided as affordable housing units. The affordable units were to be provided within 2 clusters, one with 17 units and one with 9 units. The units are 2,3 and 4 bed dwellings in the form of detached, semi detached and terraced properties and apartments. The location of the larger cluster remains the same but the smaller cluster of 9 units has been moved slightly further south within the site, but no closer to the larger cluster than already approved.

The Head of Housing has raised no objection to the changes proposed to the house types and considers the changes offer a better mix than previously approved. Members are referred to the plan at the front of the report.

Rhyl Town Council have raised an objection to this application, on grounds that the changes would lead to a significant percentage increase and grouping of social housing within the phase 1 development, which they consider will be contrary to the previously stated policy which requires social housing to be "pepper potted". As noted previously, there are no significant changes proposed to the affordable housing provision from what has been approved previously. There are 2 clusters of affordable houses being provided within this phase, and within phase 2 and 3 additional affordable housing will be provided. In terms of "pepper potted", having regard to the layout of the whole site, officers consider the affordable homes would be spread in an appropriate manner.

5. SUMMARY AND CONCLUSIONS:

5.1 It is not considered there would be any adverse impact on residential or visual amenity. The distribution of the affordable housing provided within the site is considered acceptable.

RECOMMENDATION: - GRANT subject to the following conditions:-

1. The development hereby permitted shall be begun before the expiration of five years from the date of this permission.
2. **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: 3

WARD NO: St Asaph East

APPLICATION NO: 46/2009/0022/ PF

PROPOSAL: Erection of new dwelling (resubmission)

LOCATION: Land between Hulmehurst and Pant yr Afon Lower Street St. Asaph

APPLICANT: Mr Nigel Gizzi

CONSTRAINTS: C1 Flood Zone
Conservation Area

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

CONSULTATION RESPONSES:

ST ASAPH TOWN COUNCIL

"No objection, however the Council continues to be concerned at the lack of traffic management/off street parking on the area"

ENVIRONMENT AGENCY

No objection

CLWYD POWYS ARCHAEOLOGICAL TRUST

No objection subject to the inclusion of an archaeological watching brief condition

DWR CYMRU WELSH WATER

No objection

DENBIGHSHIRE COUNTY COUNCIL CONSULTEES:

HEAD OF TRANSPORT & INFRASTRUCTURE

No objection subject to the inclusion of a condition ensuring retention of parking facilities

COUNTY ARCHAEOLOGIST

No objection subject to the inclusion of an archaeological watching brief condition

RESPONSE TO PUBLICITY:

Letters in objection:

Elaine Jones, 3 The Chapel, Gemig Street, St Asaph LL17 0RY

Jane Morgan, Myrtle House, Lower St., St. Asaph (petition with 40 signatures)

H. Newby & C. Lambert, Hulmehurst, Lower St., St. Asaph

Ms. D. Roberts, Pant yr Afon, Lower St., St. Asaph

Summary of planning based objections:

Highways – the road is very narrow and further development will result in an increase in traffic and add to the existing parking problems that already exist in the area

An objector has also raised private legal and civil issues with regard to landownership, rights of access and impact on the stability of the adjacent property.

EXPIRY DATE OF APPLICATION: 22/07/2009

REASONS FOR DELAY IN DECISION:

- timing of receipt of representations

PLANNING ASSESSMENT:

1. THE PROPOSAL:

1.1 Outline of application

This is a full application for the erection of a dwelling on a plot measuring 0.016ha. The main elements are:

- A three storey dwelling measuring 7.3m by 8.2m with a ridge height of 8.7m
- Use of an existing vehicular access off Gemig Street to the rear of the property with space for 1 car
- Use of render finish to the walls and slate on the roof
- Formation of a new front boundary wall

1.2 Description of site and surroundings

The application site is a level, vacant and overgrown plot of land which fronts Lower Street. Abutting both sides are the residential properties of Hulmehurst and Pant yr Afon, with residential properties opposite on Lower Street and to the rear which front Gemig Street. It is understood that the site was used for commercial activity until 1994, however no further information has been provided or is available to establish exactly what this use was.

1.3 Relevant planning constraints/considerations

The site is located within the development boundary of St Asaph and within a designated Conservation Area.

1.4 Relevant planning history

None

2. RELEVANT PLANNING HISTORY:

2.1 43/2008/0023/PF Erection of a new dwelling

WITHDRAWN 11th February, 2008 to reassess archaeological requirements

3. PLANNING POLICIES AND GUIDANCE:

3.1 The main policies and guidance considered to be of relevance to the application are:

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

Policy GEN 6 Development Control Requirements
Policy CON 5 Development Within Conservation Areas
Policy CON 11 Areas of Archaeological Importance
Policy ENP 6 Flooding
Policy TRA 6 Impact of new development on traffic flows

3.3 SUPPLEMENTARY PLANNING GUIDANCE

SPG - 13 Conservation Areas
SPG - 15 Archaeology
SPG- 21 Parking Requirements in New Developments

3.4 GOVERNMENT GUIDANCE

TAN 15: Development & Flood Risk

4. MAIN PLANNING CONSIDERATIONS:

4.1 The main issues are considered to be:-

- 4.1.1 Principle of development
- 4.1.2 Residential amenity
- 4.1.3 Visual amenity and impact on the character and appearance of the Conservation Area
- 4.1.4 Highway Issues
- 4.1.5 Archaeology
- 4.1.6 Flood Risk

4.2 In relation to the main planning considerations:

4.2.1 Principle of development

The application site is located within the development boundary of St Asaph where the principle of residential development is considered acceptable subject to compliance with all other relevant planning policies.

4.2.2 Residential amenity

The main policy relevant to considerations of residential amenity is Policy GEN 6. The dwelling proposed is a detached three storey property, providing 3 bedrooms with pedestrian access of Lower Street and a vehicular access off Gemig Street leading to the rear of the property. A rear amenity space of approx 62 square metres would be provided and a car parking space with a turning area. There would be a 1m gap on either side of the proposed dwelling with its neighbours at Hulmehurst and Pant yr Afon which is comparable with the general pattern of development in this area.

Within the side elevations of the property, windows would be inserted to serve an en-suite, cloak room and hall and therefore it is not considered that any amenity issues would arise. Within the rear elevation it is proposed to insert a bedroom and an en suite window at first floor level and a further en suite window at second floor level. There is a distance of approx 9.2m to the rear boundary with 3, The Chapel and there is currently limited screening along this boundary. Within the front elevation fronting Lower Street there would be 2 first floor windows serving a bedroom and en suite which would directly face existing properties opposite on Lower Street. Having regard to the general pattern of existing development in this area and the siting and design of the dwelling proposed, it is not considered that there would be any adverse impact on the amenities of existing residents in the area. The dwelling itself would provide an acceptable standard of amenity with sufficient amenity space and car parking space and turning facilities.

4.2.3 Visual amenity and impact on the character and appearance of the Conservation Area

The main policy relevant to considerations of visual amenity and impact on the character and appearance of Conservation Areas are Policies GEN 6 and CON 5. The dwelling proposed comprises a 3 storey detached property of a comparable size, scale and design to existing dwellings in the area. The dwelling would be finished with render and a slate roof, with timber windows and detailing with is featured within the area. The Conservation Officer has raised no objection to the proposal subject to specific conditions to control the final detailing. The detailed design of the dwelling is considered acceptable and it is not considered that there would be any adverse impact on the visual amenities of the area. With conditions to ensure appropriate final details it is not considered that the proposal would result in any adverse impact on the

character and appearance of the Conservation Area.

4.2.4 Highway Issues

The main policy relevant to considerations of highways issues is Policy TRA 6. The dwelling would have a pedestrian access off Lower Street and vehicular access would be achieved from an existing access off Gemig Street. The access off Gemig Street runs along the rear of Hulmehurst and is approximately 2.2m in width. It is proposed to propose a car parking space within the site and space to turn a car so that it can leave in a forward gear. Local residents have raised concerns regarding the narrowness of roads in the area and consider that further development will result in an increase in traffic, augmenting the existing parking problems that already exist in the area. The Head of Highways has raised no objection to the proposal, which is to use an existing access to serve a single dwelling, with off street parking and turning space provided. It is to be noted many properties within this area do not have off street parking and that there are parking issues in the locality, however, it is not considered that the particular proposal would lead to further problems and would not result in any adverse impact on highway safety.

4.2.5 Archaeology

The main policy relevant to considerations of Archaeology is Policy CON 11. The application has been accompanied by an Archaeological Evaluation. The County Archaeologist and Clwyd Powys Archaeological Trust have raised no objection to the proposal subject to the imposition of a watching brief condition which would require the presence of a contracted archaeologist on site in accordance with a brief to be submitted and approved prior to the commencement of any development on site. There are no objections to the proposal on archaeological grounds.

4.2.6 Flood Risk

The main policy relevant to considerations of flood risk is Policy ENP 6. The site is located within a Zone C1 flood risk area as defined by the development advice maps contained within TAN 15 Development & Flood Risk. However, in this instance the Environment Agency have agreed that a Flood Risk Assessment is not required as the site is not located within the Agency's flood zone maps which are updated on a regular basis. These maps indicate that the site is outside both the 1 in 1000 and 1 in 100 year flood zones and the Agency have raised no objections to the proposal. There are no planning grounds of objections to the proposal on flood risk.

5. SUMMARY AND CONCLUSIONS:

- 5.1 It is considered that the principle of the development is acceptable. It is not considered that there would be an adverse impact on residential amenity or on visual amenity, and the character and appearance of the Conservation Area. It is not considered that there would be any adverse impact on highway safety or additional impact on existing parking problems within the area. It is not considered that there would be any adverse impact on the archaeology of the site or on flood risk.

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**
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.

3. 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.
4. **PRE-COMMENCEMENT CONDITION**
Prior to the commencement of the development details of the render, render banding, brick lintels, stone cills, slate, terracotta ridge tiles, brick, chimney pots, timber for bargeboard, porch and paint finishes shall be submitted to and approved in writing by the Local Planning Authority and the development shall only proceed in strict accordance with the approved details.
5. **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.
6. All planting, seeding, turfing, fencing, walling or other treatment comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the completion of the development and any trees or plants which, within a period of five years of the development, die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
7. Facilities shall be provided and retained within the site for the loading/ unloading, parking and turning of vehicles in accordance with the approved plan and which shall be completed prior to the development being brought into use.
8. Foul water and surface water discharges shall be drained separately from the site.
9. No surface water or land drainage run-off shall be allowed to connect, either directly or indirectly, to the public sewerage system unless otherwise agreed in writing by the Local Planning Authority.
10. Notwithstanding the provisions of Classes A, B, C, D and E of Part 1 of Schedule 2 and Part 40 of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification) no development permitted by the said Classes shall be carried out without further grant of planning permission of the Local Planning Authority.

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 archaeological investigation and recording.
3. To ensure the fenestration respects the character of the existing building.
4. In the interest of the character and appearance of the Conservation Area.
5. To ensure in the interests of visual amenity a satisfactory standard of landscaping in conjunction with the development.
6. To ensure a satisfactory standard of development, in the interests of visual amenity.
7. To provide for the loading/ unloading, parking and turning of vehicles and to ensure that reversing by vehicles into or from the highway is rendered unnecessary in the interest of traffic safety.
8. To protect the integrity of the public sewerage system.
9. 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.
10. In the interests of residential and/or visual amenity.

NOTES TO APPLICANT:

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

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

ITEM NO: 4

WARD NO: Tremeirchion

APPLICATION NO: 47/2009/0872/ PF

PROPOSAL: Erection of two-storey and single-storey pitched-roof extensions to existing dwelling

LOCATION: Pen Y Waen Waen St. Asaph

APPLICANT: Mr & Mrs D A P Jones

CONSTRAINTS:

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

CONSULTATION RESPONSES:

TREMEIRCHION COMMUNITY COUNCIL

Object - " With reference to the Supplementary Planning guidance No.1 para 8.2"

RESPONSE TO PUBLICITY:

None

EXPIRY DATE OF APPLICATION: 06/09/2009**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:**1. THE PROPOSAL:****1.1 Outline of application**

1.1.1 The application is for the erection of a two storey and single storey pitched roof extension with a new porch on a dwelling at Pen y Waen, St. Asaph. The two storey element of the proposal would be situated on the south (side) elevation of the property, measuring 6.5m in height (to the ridgeline) and 6.3m by 4.5m. To make way for this two storey element, an existing single storey kitchen and bathroom would be demolished. A single storey garage would be located on the north (side elevation) facing the main road to measure 2.8m by 4.4m, with a ridge height of 4.5m. The porch would measure 1.5m by 2.7m, with a ridge height of 3.2m. The total floor space would be approximately 200m² .

1.2 Description of site and surroundings

1.2.1 Pen y Waen is a two storey white rendered dwelling located in the open countryside. The property is bounded by a mixture of stone walls and trees/shrubs. Building works are ongoing on the adjacent building following planning approval in late 2008 for a residential barn conversion. The total

floor space of the existing dwelling is approximately 150m² .

1.3 Relevant planning constraints/considerations

1.3.1 None.

1.4 Relevant planning history

1.4.1 Planning permission has been recently granted in early January 2009 for the residential conversion of an attached out building to Pen y Waen.

2. DETAILS OF PLANNING HISTORY

2.1 47/2008/1264/PF

Conversion of existing outbuildings into 1 no. dwelling, alterations to existing vehicular access and installation of new septic tank
GRANTED - 08/01/2009

3. PLANNING POLICIES AND GUIDANCE:

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

Policy HSG 12- Extensions to dwellings
Policy GEN 6 Development Control Requirements

3.2 SUPPLEMENTARY PLANNING GUIDANCE

SPG No.1- Extensions to dwellings
SPG No.24- Household Development Design Guide

4. MAIN PLANNING CONSIDERATIONS:

4.1 The main issues are considered to be:

- 4.1.1 Principle of development
- 4.1.2 Detailed design and impacts

4.2 In relation to the main considerations

4.2.1 Principle

The principle of extending existing dwellings is acceptable in relation to the policies of the Unitary Development Plan and Supplementary Planning Guidance Note No.24- Householder Development Design Guide. The main UDP policies are HSG 12 and GEN 6. HSG 12 permits extensions to dwelling subject to 4 tests- requiring assessment of the acceptability of scale and form; design and materials; the impact on the character, appearance and amenity standards of the dwelling and its immediate locality; and whether the proposal represents overdevelopment of the site. GEN 6 contains a wide range of general development control amenity considerations geared at ensuring a high standard of development with minimal impacts. SPG 24 offers basic advice on the principles to be adopted when designing domestic extensions and related developments. The assessment of impacts is set out in the following section.

4.2.2 Detailed design and impacts

Scale and form

In terms of volume and footprint the proposal is subordinate to the existing dwelling. The total floor space increases from 150m² to 200m². Following the submission of a revised plan, the ridge line of the proposed two storey element has been dropped to below that of the existing dwelling, which follows best practice as outlined in SPG No.1 paragraph 8.2 and figure 3. In officers' opinion, this addresses the particular concerns of the Community Council, over new development being subsidiary to the original.

Design and materials

Materials proposed are to match the existing dwelling through use of painted

brick walls, slate roof, timber stained windows and doors. The design is considered sympathetic to the existing dwelling with window proportions and spacing similar to existing.

Impact on character, appearance and amenity standards of existing dwelling

The extensions are considered to be of a subordinate scale, sympathetic design and appropriate materials. The proposal would not harm the visual or residential amenity of the unit to be created by conversion.

Impact on character, appearance and amenity standards of the locality

Having regard to the impact on the recently approved barn conversion scheme adjoining the property, it is adjudged that the scheme would not materially harm residential amenity. The proposed single storey garage would not result in overshadowing of windows on the south and east elevation of the adjoining proposed barn conversion.

There would be an adequate distance between windows proposed on the rear elevation of the two storey element, and windows to be installed on the side elevation of the barn conversion, so no material loss of privacy would occur. A boundary treatment proposed as part of planning ref no. 47/2008/1264 will also ensure privacy is maintained between both properties.

Overdevelopment of the site

The site is of a large enough size to ensure the proposal does not constitute over development.

5. SUMMARY AND CONCLUSIONS:

5.1 It is considered the proposal meets the relevant policy tests, and is therefore recommended for approval.

RECOMMENDATION: - GRANT subject to the following conditions:-

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

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.

NOTES TO APPLICANT:

None

ITEM NO: 5

WARD NO: Llangollen

APPLICATION NO: 03/2009/0416/ PC

PROPOSAL: Change of use of holiday accommodation unit to residential dwelling (retrospective application)

LOCATION: Pen Y Bryn Barn Holyhead Road Llangollen

APPLICANT: Mr Robert Jones

CONSTRAINTS:

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

CONSULTATION RESPONSES:

LLANGOLLEN TOWN COUNCIL

"Members objected to this application on the basis that it has been a blatant attempt to circumvent the normal planning process by obtaining permission for residential accommodation outside the development boundary."

RESPONSE TO PUBLICITY: None**EXPIRY DATE OF APPLICATION:** 01/06/2009**REASONS FOR DELAY IN DECISION:**

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

PLANNING ASSESSMENT:**1. THE PROPOSAL:**1.1 Outline of application

- 1.1.1 The application involves the change of use of a detached building constructed as an agricultural building in 2003, to a permanent residential dwelling. The application forms state that the proposal is for a "change of use from holiday accommodation unit to full residential use", and that the change of use has already started.

The plans show the proposal to convert the building to a 3 bedroom unit. The forms refer to an existing septic tank.

1.2 Description of site and surroundings

- 1.2.1 The building is part single/two storey with rendered walls and slate roof. It is located some 1km to the south east of Llangollen, on the southern edge of the Dee valley. Vehicular access to the site is via a single lane highway and private lane, which also serves Pen Y Bryn farm, 100 metres to the west. Pen Y Bryn farm is in separate ownership to the application site.
- 1.2.2 The application site is in planning terms, in the open countryside. A field area (owned by the applicant) lies to the north of the site, which straddles the county highway. A detached property (Pen Y Rhagfryn) lies along this

highway, some 100 metres north east of the application building. To the east is a trackway, which is understood to serve another detached property – Pen Y Gryn, and a field outside the ownership of the applicant.

- 1.2.3 To the south of the application site are further fields, with an area of dense woodland (covered by a Tree Preservation Order) further to the south, and further fields and Pen Y Bryn farm to the west.

1.3 Relevant planning constraints/considerations

- 1.3.1 The site lies in the Area of Natural Beauty, the Vale of Llangollen and Eglwyseg Historic Landscape and the Pontcysyllte World Heritage Zone. A public footpath runs some 150 metres to the east of the application site, starting/ending at the point of access with the private lane leading to/from the site.

1.4 Relevant planning history

- 1.4.1 The section following details the planning history of the site.
- 1.4.2 Of relevance to this application is the permission granted for the demolition of an existing outbuilding and erection of a replacement outbuilding on the application site on the 27 March 2002, under code number 03/2002/0037. Plan A in this report shows the details approved with this 2002 permission. The submitted plans illustrate the replacement building was to contain three loose boxes and a store, with a 'loft' area above one of the loose boxes. The application forms indicated that foul water disposal was not applicable. At the time, the landownership included Pen Y Bryn farm and surrounding fields. The Officer's Planning Committee report in March 2002 outlined a number of detailed questions raised in the progression of the application, relating to the agricultural background/need for the replacement building and its locational requirements and justification. On the basis of the information provided it was suggested that if Members were concerned that the grant of planning permission could lead to a potential for circumventing established planning policy for it to be subsequently used as a dwelling unit, that the use of the building could be restricted by the imposition of a planning condition to limit use to agricultural purposes. On this basis, planning permission was granted, subject to conditions restricting the use of the replacement/ new building to agricultural purposes only, and the demolition of the existing building – to the north west of the Pen Y Bryn dwelling.
- 1.4.3 Following the receipt of a complaint in January 2004, a Planning Compliance Officer site visit revealed that the building had not been built in accordance with the approved plans and that the building was not being used for agricultural purposes. Information received from the applicant's agent (May 2004) confirmed that the building was 'Not yet completed' and that in Spring 2003 the building was used for 'storage of agricultural fodder and implements'.
- 1.4.4 In June 2004, a new planning application was submitted (Code 03/2004/0872//PF) for the 'change of use and alterations to existing agricultural building to provide office and store'. The application forms indicated that there was no foul sewerage system applicable to the proposal. The plans submitted included one floor plan for ground floor use with 2 separate areas for office and storage use. The extent of landholding with this application differed from the previous planning application for the agricultural building in that the Pen Y Bryn farm complex did not form part of the applicants' ownership. The case officer's report commented that the previously approved agricultural use had not been implemented. Planning

permission for the office and store use was granted in October 2004.

- 1.4.5 In September 2006 a new planning application, Code 03/2006/1141/PF was submitted for the "change of use of contractor's office and stores to form a dwelling".
- 1.4.6 The application forms indicated the use of an existing septic tank system. An accompanying letter from Wingetts Estate Agents advised that the location of the property, approached by a narrow lane and long private drive is *'comparatively remote and as such we would anticipate, having marketed similar property previously in this area, that there is no demand for commercial use'*.
- 1.4.7 The applicant's supporting letter confirmed that the farm house had been sold and outlined a desire to live in this location as a consequence of illness and a wish to live near his family. The application was withdrawn by the applicant in November 2006.
- 1.4.8 In August 2007, a further application was submitted for the 'change of use from contractor's office and store to form holiday accommodation unit'. An accompanying letter from Wingetts advised that the property had been marketed, with a copy of the details attached. The details highlight the property as purpose built detached office/store; two storey accommodation (143 sqm); located in open countryside and 1.5 miles east of Llangollen and includes a septic tank. During the course of considering this application further information was sought from the applicant on what uses the building had actually been put to, as it was considered relevant to the assessment of the merits of the application.
- 1.4.9 On the basis of the information subsequently submitted, planning permission was granted for holiday use, subject to a condition precluding permanent residential use, in March 2008.
- 1.4.10 The current application for conversion to a dwelling was submitted approximately one year after the planning permission granted for holiday use. The details of the 'proposed' dwelling are shown in Plan B.

1.5 Development/changes since original submission

- 1.5.1 Site visits have revealed a number of planning issues requiring further investigation at and around the building, including the use of the adjoining field; the positioning and use of a storage container; diesel tank; the existing use of the property and drainage systems. The applicant has advised that at no point has Pen Y Bryn been used as a main residence for his family.'
- 1.5.2 The information to hand suggests the use of the site, including an adjoining field area, have been in connection with permanent residential use and not holiday use.
- 1.5.3 There is a separate Enforcement report relating to the property on the agenda.

1.6 Other relevant background information

- 1.6.1 The Council received a Building Regulation Notice for Change of Use from office/stores to holiday accommodation unit in September 2008. A completion certificate was issued on the 24 November 2008. Details of drainage systems were given as 'existing septic tank' on that application.

2. RELEVANT PLANNING HISTORY:

Code 03/1057

Demolition of outbuildings and erection of stable block with toilet facilities and flat accommodation for Pony Trekking Guide, construction of Septic tank and formation of car park, Pen Y Bryn Farm, Llangollen (permission relates to buildings at and around the main farm at Pen y Bryn, not the site of the building in question)
GRANTED - 09/12/1975

Code 03/2002/0037/PF -

Demolition of existing outbuildings and erection of replacement outbuilding -
GRANTED - 27/03/2002

Code 03/2004/0872//PF

Change of use and alterations to existing agricultural building to provide office and store
GRANTED - 27/10/2004

Code 03/2006/1141/PF

Change of use contractor's office and store to a single dwelling
WITHDRAWN - 18/1/2006

Code 03/2007/1049/PF

Change of use of contractor's office and store to form holiday accommodation unit
GRANTED - 19/03/2008

ENFORCMENT REFERENCES

ENF 2004/00025

Compliance with Planning permission to build agricultural building.

03/2008/00567

Breach of conditions – 2 & 3 of planning permission code 03/2007/1049/PF

03/2009/00035

Residential use of holiday let; unauthorised storage of container/trailer;
unauthorised creation of curtilage; septic tank; diesel tank

3. PLANNING POLICIES AND GUIDANCE:

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

Policy GEN3	–	Development outside development boundaries
Policy GEN6	–	Development control requirements
Policy ENV 1	-	Protection of the Natural Environment
Policy ENV 2	-	Development affecting the AONB/AOB
Policy ENV 7	-	Landscape/Townscape features
Policy TRA 9	-	Parking and Servicing provision
Policy HSG9	–	Residential conversion of rural buildings to dwellings
Policy EMP 13	-	Agricultural Development
Policy TSM 5	–	Rural Tourism
Policy TSM 15	–	Self Serviced Tourism Accommodation
Policy CON 12	–	Historic Landscapes, Parks and Gardens

3.2 Supplementary Planning Guidance

SPG 2 – Landscaping

SPG 6 – Trees and Development

SPG 8- Access for All

SPG 16 – Conversion of rural buildings

3.3 GOVERNMENT GUIDANCE

Planning Policy Wales March 2002 (as amended via MIPPS documents)
TAN 6 Agricultural and Rural Development
TAN 12 Design – With Inclusive Design amendments

3.4 Statutory Instruments and Circulars

Other related documents
Denbighshire Landscape Strategy 2003

4. MAIN PLANNING CONSIDERATIONS:

4.1 The main issues are considered to be:

- 4.1.1 Principle
- 4.1.2 Visual and landscape impact
- 4.1.3 Inclusive design
- 4.1.4 Other material considerations

4.2 In relation to the main planning considerations:

4.2.1 Principle

The site lies in the open countryside where the principle of constructing new buildings or converting buildings is strictly controlled through UDP policies GEN 3, EMP 13, and HSG 9. Policy GEN 3 contains a presumption against development outside development boundaries other than in exceptional cases; EMP 13 is related specifically to agricultural development and the needs of farm enterprises; HSG 9 relates to the conversion and reuse of rural buildings, and is supplemented by SPG 16 Conversion of Rural Buildings and is aimed primarily at traditional and/or well established rural buildings and uses connected with rural diversification. In officers' opinion, none of the main policies referred to deal directly with proposals for the 'conversion' of newly built agricultural buildings to dwellings.

4.2.2 Impact on visual amenity

Policy ENV 2 aims to avoid development which causes unacceptable harm to the character and appearance of the landscape. CON 12 does not allow developments which would unacceptably harm the character of a historic landscape or its setting. The character of this part of the Historic Landscape includes steeply sloping land on the valley slopes on the southern side of the valley; broadleaved woodland and scrub; with small irregular fields predominantly in grazing; a variety of field boundaries and a dispersed pattern of farms and cottages. The area also forms part of the buffer zone for the recently designated Pontcysyllte World Heritage Site.

The site can be viewed from the public highway and nearby public footpaths; and limited vantage points.

In the context of this open countryside location, planning policy and historic landscape objectives, the introduction of a permanent residential use, with associated paraphernalia, domestic trappings and activities could give rise to unacceptable visual harm.

4.2.3 Inclusive design

Policy GEN 6 outlines the requirement to consider the access needs of persons with disability, a matter of increasing relevance with the Assembly's drive to ensure the adequacy of inclusive design. The access statement indicates a positive approach to inclusive design, generally consistent with policy guidance.

4.2.4 Other material considerations

Members will appreciate that the history of development can be a significant material consideration in the assessment of an application. The application relates to the use of a building erected following the grant of planning permission in 2002 for a replacement agricultural outbuilding. That permission conditioned use to agricultural purposes only. Planning records show there is some doubt whether the building was ever used for the purposes applied for, or subsequently as an office/store, as permitted in 2004. Investigations over the use in recent times suggest there is also doubt over the take up of the holiday accommodation use permitted in 2008.

Having regard to the planning history, officers have some concerns here over the pattern of planning applications and share the sentiments of the Town Council over the circumventing of the process. Most careful consideration needs to be given to the implications of granting permission for a dwelling use in a building in open countryside, constructed as recently as 2003, on the premise that it was a replacement agricultural building. There is a significant precedent issue to address here.

Whilst respecting the applicant's desires to live in the locality, it is not considered appropriate in the circumstances to consider the basic principle of 'conversion' to a dwelling to be acceptable here.

5. SUMMARY AND CONCLUSIONS:

5.1 The application relates to the use of a relatively new building, initially approved in 2002 as a replacement agricultural outbuilding to serve Pen Y Bryn Farm. Subsequent planning permissions for office and holiday units were granted on the basis of rural diversification policies, and there is some doubt whether any of these permitted uses have actually been taken up. The grant of this permission would set a potentially significant precedent undermining basic principles of rural area planning.

5.2 Should Planning Committee adopt the recommendation, members attention is drawn to an accompanying Enforcement Report on the Agenda.

RECOMMENDATION: - REFUSE for the following reasons:-

The reasons are:-

1. The Local Planning Authority does not consider it appropriate to consent to the use of a building constructed as recently as 2003 as a replacement agricultural building, to a permanent dwelling, on the basis that this would create a significant precedent and a clear loophole in the application of planning policy, which seeks to restrict new development in open countryside. It is considered the grant of permission would convey approval to a step by step circumventing of Unitary Development Plan Policies GEN 3, EMP 13 and HSG 9 creating obvious pressures for similar 'conversions' of recently built agricultural buildings.
2. The Local Planning Authority consider that the use of the building and surrounding curtilage for permanent residential use would lead to additional domestic trappings likely to have an adverse impact on the attractive local landscape, being within an Area of Outstanding Beauty, and Historic Landscape and World Heritage Zone, contrary to Unitary Plan Policies ENV 2 and CON 12.

NOTES TO APPLICANT:

None

ITEM NO: 6

WARD NO: Llanarmon Yn Ial / Llandegla

APPLICATION NO: 15/2009/0147/ PF

PROPOSAL: Construction of new vehicular access

LOCATION: Cam Yr Alyn Llandegla Road Llanarmon-Yn-Ial Mold

APPLICANT: Mr John Keenan

CONSTRAINTS: AONB

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

CONSULTATION RESPONSES:**LLANARMON YN IAL COMMUNITY COUNCIL**

"Object to the proposal. It is a fast road this opening would give a presidency for other dwellings (once built) to apply. It would mean the removal of a hedge and is felt not to be necessary. However, the council would support a pedestrian access".

AONB COMMITTEE

" The JAC welcomes the additional information which shows a much reduced impact on the existing trees and hedges along this attractive country lane. The loss of rural character and the detrimental impact on important views of the Conservation Area are also consequently reduced, and the proposal to plant and maintain a traditional replacement hedgerow is supported. Providing the Arboricultural Officer is satisfied with the revised proposals the JAC withdraws its previous in principle objection to the scheme. However, the JAC would lend its support to the Conservation Officer's advice in relation to local stone boundary walls to be constructed as part of the new access".

LLANARMON & DISTRICT CONSERVATION SOCIETY

Concerned over highway safety, unnecessary distraction of hedgerow and impact on visual amenity at the entrance to the village, and question why a second access is necessary to serve the property.

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

No objection subject to the inclusion of conditions.

CONSERVATION ARCHITECT

No objection subject to the inclusion of conditions

COUNTY ECOLOGIST

Notes the 40m section of hedgerow contains a mixture of native shrub species, and as of such any replanting should seek to re-create this native mixed species hedge

RESPONSE TO PUBLICITY:

Letters of representation received from:
Mr. P. Crawford, Ellerslie, Llanarmon-yn-Ial
Mr. I. Crawford, Ellerslie, Llanarmon-yn-Ial
Ms. G. Crawford, Ellerslie, Llanarmon-yn-Ial

Summary of planning based representations:
- Highway safety concerns
- Visual impact on views into the conservation area

EXPIRY DATE OF APPLICATION: 01/09/2009

REASONS FOR DELAY IN DECISION:

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

PLANNING ASSESSMENT:

1. THE PROPOSAL:

1.1 Outline of application

- 1.1.1 Planning permission is sought for the creation of a new vehicular access to serve an existing dwelling. The new access would comprise of a 13m wide opening onto the B 5431 with a 120m visibility splay running along the road south of Cam yr Alyn. The visibility requirement obliges removal of 40m of existing hedgerow and ensuring the height of replaced hedgerow within the splay would not exceed 1m. The remaining 80m of the splay would not involve any removal of hedgerow/foilage. The access itself would narrow to 3m further in to the site, and would be surfaced in tarmac.
- 1.1.2 It is understood the access is proposed to provide the dwelling with its own dedicated entrance onto the road as the current access is shared with the adjacent property, and as a right of way.

1.2 Description of site and surroundings

- 1.2.1 Cam yr Alyn is a two storey detached dwelling located in the village of Llanarmon yn Ial, surrounded by dwellings of a similar style. The dwelling is served by an existing vehicular access off the B5431 which runs from the south and also serves the property Erw Goed (illustrated on the plan at the front of the report). As the B5431 enters the village from Llandegla it is characterised by high embankments and tree/hedgerow cover on both sides, broken by occasional access points to existing dwellings. The boundary of the Conservation Area runs on the opposite (eastern) side of the B5431.

1.3 Relevant planning constraints/considerations

- 1.3.1 The property is just outside the Llanarmon yn Ial conservation area, and is within the Area Of Outstanding Natural Beauty

1.4 Relevant planning history

- 1.4.1 None.

1.5 Developments since the submission of the application

- 1.5.1 There has been dialogue with the applicant / agent over the detailing of the access and attempts have been made to clarify and reduce the impact of the proposals on trees/hedgerows.

2. PLANNING POLICIES AND GUIDANCE:

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

Policy GEN 6- Development control requirements

Policy ENV 2- Development affecting the AONB

Policy CON 6- Development adjacent to conservation areas

3. MAIN PLANNING CONSIDERATIONS:

3.1 The main issues are considered to be:

3.1.1 Impact on visual amenity/adjacent to conservation area

3.1.2 Impact on highway safety

3.2 In relation to the main planning considerations:

3.2.1 Impact on visual amenity/adjacent conservation area

Policy CON 6 permits applications adjacent to conservation areas that do not detrimentally affect important views into and out of the conservation area, whilst policy GEN part iii) seeks to ensure development does not harm prominent public views.

Following the submission of additional details, the AONB sub committee and the Conservation Officer have no objections. Whilst observations from the Community Council are acknowledged, the proposal is to carry out replacement hedgerow/boundary planting as part of the proposal. Conditions can be imposed to ensure no works to the remaining trees, and the detailing with regards to surface material and walls to be used around the access.

3.2.2 Impact on highway safety

Policy GEN 6 part vii) permits development which would not have an unacceptable effect on the local highway network. The visibility splay and the access meet the requirements of the Highway Officer, subject to the inclusion of standard conditions. The proposal is considered to accord with policy GEN 6 part vii).

4. SUMMARY AND CONCLUSIONS:

4.1 Whilst accepting local concerns over the highway and visual impacts of a new access, the proposals are considered acceptable and are therefore recommended for approval.

RECOMMENDATION: - GRANT subject to the following conditions:-

1. The development hereby permitted shall be begun before the expiration of five years from the date of this permission.
2. No trees other than those indicated for removal on the approved plans, 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 of such size and species to be agreed in writing with the Local Planning Authority.
3. The section of hedgerow to be replanted shall be of an indigenous species kept to maximum height of 1.05m. Any hedgerow removed without consent or which dies or is severely damaged or become seriously diseased within five years of the completion of the development shall be replaced with trees of the same size and similar indigenous species type.
4. All trees and hedges to be retained as part of the development hereby permitted shall be protected during site clearance and construction work by 1 metre high fencing erected 1 metre outside the outermost limits of the branch spread, or in accordance

with an alternative scheme agreed in writing by the Local Planning Authority; no construction materials or articles of any description shall be burnt or placed on the ground that lies between a tree trunk or hedgerow and such fencing, nor within these areas shall the existing ground level be raised or lowered, or any trenches or pipe runs excavated, without prior written consent of the Local Planning Authority.

5. The access shall be laid out in accordance with the submitted plan before it is brought into use.
6. Positive means to prevent the run off of surface water from the site to the highway shall be provided to the satisfaction of the Local Planning Authority and retained so long as the development herewith approved shall remain in use.
7. Facilities shall be provided and retained within the site for the parking and turning of vehicles in accordance with the approved plan and shall be completed before being brought into use.
8. The visibility splays shown on the approved plans shall be kept free of planting, tree shrub or growth or any obstruction in excess of 1.05 metres above the level of adjoining carriageway.
9. The surface of the access shall be paved with a concrete or bituminous material for a distance of 5.0m behind the highway boundary and the whole of the access frontage adjacent to the highway shall be reinforced with bullnose kerbs to the Highway Authority's approval before 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 safeguard the existing trees and hedges on the site, in the interests of the visual amenities of the locality.
3. In the interests of visual amenity
4. In order to ensure that trees and hedges to be retained are not damaged by building or engineering works.
5. In order to ensure that trees and hedges to be retained are not damaged by building or engineering works.
6. To ensure the formation of a safe and satisfactory access in the interest of traffic safety.
7. In the interest of highway safety and to prevent damage to the highway.
8. To provide for the parking and turning of vehicles clear of the highway and to ensure that reversing by vehicles into or from the highway is rendered unnecessary in the interest of traffic safety.
9. To ensure that adequate visibility is provided at the point of access to the highway.

NOTES TO APPLICANT:

None

ITEM NO: 7

WARD NO: Llandyrnog

APPLICATION NO: 18/2009/0565/ PF

PROPOSAL: Alterations and erection of extensions to front and side including raising of roof height, installation of dormer windows, rooflights and erection of balcony

LOCATION: The Rofft Llandyrnog Denbigh

APPLICANT: Mr Andy Whitehead

CONSTRAINTS:

PUBLICITY Site Notice - Yes

UNDERTAKEN: Press Notice - No
Neighbour letters - No

CONSULTATION RESPONSES:
LLANDYRNOG COMMUNITY COUNCIL
No objection

RESPONSE TO PUBLICITY:
None

EXPIRY DATE OF APPLICATION: 01/09/2009

REASONS FOR DELAY IN DECISION:

- timing of receipt of representations

PLANNING ASSESSMENT:

1. THE PROPOSAL:

1.1 Outline of application

- 1.1.1 The application proposes alterations and extensions to the dwelling Y Rofft; raising the ridge height by 1.2m and installation of 2 new dormers to the front roof plane and 2 no. rooflights to the rear, also a side extension projecting out 5.8m, 11.69m in width. The resulting dwelling would take an 'L' shape, 4.6m projecting forward in front of the existing dwelling). The total floor space would be approximately 250m².
- 1.1.2 The extensions and alterations would enable the creation of 4 no. first floor bedrooms, one with en suite bathroom, and an additional ground floor living area and kitchen. Two detached outhouses located to the southern side of the dwelling and the existing flat roof extension is proposed to be demolished to facilitate the extension.

1.2 Description of site and surroundings

- 1.2.1 Y Rofft is a 2 bedroom single storey bungalow located in the open countryside to the south east of Llandyrnog on the southern side of the Llangwyfan road. The .1ha site is well screened by established landscaping and the dwelling is set back from the road. Floor plans show access to limited storage space in the loft area.

1.2.2 The floor area of the original dwelling would have been some 105m², including loft space shown on the plans. The existing flat roofed side extension added some 30m², i.e. a total floor space of 135m².

1.3 Relevant planning constraints/considerations

1.3.1 The application to extend the dwelling falls to be assessed under policy HSG 12 of the Unitary Development Plan. SPG Note No. 1 and SPG Note No. 24 are also relevant.

1.4 Developments/changes since original submission

1.4.1 The original proposal has been amended since receipt in May 2009, the main change is a reduction in the size of the extension. The Agents have submitted a justification for the proposal, which refers to the removal of the existing outbuildings, a limited increase in footprint (14%) and the fact that the proposal is to accommodate a relative of the applicant.

1.5 Relevant planning history

1.5.1 It appears the dwelling has been extended in the past with the addition of a flat roof extension, which is likely to have been carried out under "permitted development" allowances.

1.6 Other Matters

1.6.1 Cllr Gwylim Evans has requested that the application be determined by Planning Committee to consider the policy implications of the development and the justification put forward by the applicant for the proposal.

2. RELEVANT PLANNING HISTORY:

None

3. PLANNING POLICIES AND GUIDANCE:

3.1 DENBIGHSHIRE UNITARY DEVELOPMENT PLAN (adopted 3rd July 2002)
Policy GEN 6 Development Control Requirements
Policy HSG 12 Extensions to Dwellings

Supplementary Planning Guidance
SPG Note No. 1 Extensions to Dwellings
SPG Note No. 24 Householder Development Design Guide

GOVERNMENT GUIDANCE
Planning Policy Wales

4. MAIN PLANNING CONSIDERATIONS:

4.1 The main issues are considered to be:

- 4.1.1 Principle
- 4.1.2 Visual Appearance
- 4.1.3 Residential Amenity

4.2 In relation to the main planning considerations:

4.2.1 Principle

Providing the proposal complies with the policies identified above, the principle of an extension to an existing dwelling is generally acceptable. HSG 12 relates specifically to extensions to dwellings and recognises householders have the right to alter and extend providing they meet the criteria relating to; size/scale, character, amenity consideration and the extensions do not result in over development of the site.

4.2.2 Visual appearance / size, scale and character

Policy HSG 12 requires extensions to be subordinate to the original dwelling; this advice is reiterated in Supplementary Planning Guidance Note No. 1. It is considered that the size and scale of the extension is not subordinate to Y Rofft and if permitted would significantly change the character of the modest bungalow.

The application proposes raising the overall ridge height from 5.2m to 6.4m. The side extension will result in an additional 6m expanse of roof on the eastern side of the dwelling and a two storey projection of 4.6m to the front when the extension is viewed from the north. Two pitched roof dormers are proposed on the eastern roof plane with a single dormer on the side extension facing north. The side elevation to the south is also proposed to be substantially altered with the additional of a balcony and French doors to the ground and first floor. The floor area would increase from 135m² to over 250m².

Notwithstanding the argument put forward by the agent in terms of overall footprint increase, policy HSG 12 requires extensions to be subordinate to the original dwelling in scale and form as well as footprint. The cumulative impact of the extensions and alterations to Y Rofft have to be considered, i.e. the raising of the ridge height and the substantial two storey front/side extension, this will substantially increase the scale and form of the existing bungalow.

Furthermore the proposal will significantly alter the character and unobtrusive nature of the simple bungalow. The proposal with its large expanse of roof and dormer windows would have a much greater visual impact and be more visible from the road than the existing dwelling.

4.2.3 Residential amenity

Due to plot size, relationship with the surrounding dwellings, and boundary treatment; the development would not impact on the residential amenity of existing or nearby occupiers.

5. SUMMARY AND CONCLUSIONS:

5.1 The proposal is not considered acceptable with the terms of HSG 12 as such it is recommended for refusal.

RECOMMENDATION: - REFUSE for the following reason:-

The reason is:-

1. It is the opinion of the Local Planning Authority that the cumulative size, scale and mass of the proposed extensions and alterations would not be subordinate in scale or form to the original dwelling, or in keeping with the character of the simple bungalow. The proposals are considered unacceptable and contrary to Policy HSG 12 criteria i) and ii) of the Denbighshire Unitary Development Plan and the Council's adopted Supplementary Planning Guidance No.1 - Extensions to dwellings, para 8.2-8.3.

NOTES TO APPLICANT:

None

PLANNING ENFORCEMENT REPORT

REFERENCE: ENF/2009/00035
LOCATION: Pen Y Bryn Barn, Holyhead Road, Llangollen
INFRINGEMENT: Unauthoriised Residential Use of Holiday Let

RELEVANT PLANNING POLICIES AND GUIDANCE

DENBIGHSHIRE UNITARY DEVELOPMENT PLAN

Policy GEN3 - Development outside development boundaries
Policy GEN6 - Development control requirements
Policy ENV1 - Protection of the Natural Environment
Policy ENV2 - Development affecting the AONB/AOB
Policy HSG9 - Residential conversion of rural buildings to dwellings

SUPPLEMENTARY GUIDANCE

SPG 16 – Conversion of rural buildings

GOVERNMENT GUIDANCE

Planning Policy Wales March 2002 (as amended MIPPS documents)

TAN 6 Agricultural and Rural Development

HUMAN RIGHTS CONSIDERATIONS

The provisions of the Human Rights Act 1988 are taken into account when considering taking enforcement action against unauthorised development, unauthorised use and other related matters.

The Act states that a person is entitled to peaceful enjoyment of his possessions. However, this does not impair the right of the State to enforce such laws as it deems necessary.

In this particular instance, matters relate to the rights of an owner of a property, without authorisation from the Local Planning Authority, to change the lawful use from holiday let to unlawful private residential use. The rights of the owner in this situation do not outweigh the rights of the local Planning Authority to protect the amenity of the area.

No human rights issues have been raised in this case.

1. BACKGROUND INFORMATION

- 1.1 The building known as Pen y Bryn Barn is located in open countryside, some 1km to the south east of Llangollen. A field to the north of the site is in the same ownership as the barn. Pen Y Bryn Farm, which lies 100 metres to the west of the barn was (at the time it was built), under the same ownership, but is now in separate ownership.
- 1.2 The site lies in an Area of Natural Beauty, within the Vale of Llangollen and Eglwyseg Historic Landscape and the Pontcysyllte World Heritage Zone. Full details of the planning history of the building may be found in the report also submitted to this committee which recommends **refusal** of retrospective application number 03/2009/0416/PC, which seeks to change the use of the holiday let to a dwelling*.
- 1.3 Briefly, permission had been granted in 2002 for a replacement agricultural outbuilding on land which had been part of Pen y Bryn Farm at the time of that application, but which was subsequently retained when Pen y Bryn Farm was sold. In 2004 permission was granted for change of use of the new building to office and store. In 2006 an application was submitted for change of use to a dwelling, with the owner advising in a letter that there was a need for "somewhere to live near my son & daughter... as they live close to the site it would serve the purpose". He also asked if he could have a mobile home or caravan. The application was subsequently withdrawn, when he was notified that Officers would recommend refusal. Instead, an application for change of use to holiday accommodation was submitted in August 2007 and granted in March 2008. Within approximately one year a further application was submitted for change of use to full residential (03/2009/0416/PC), referred to above at 1.2*.
- 1.4 In October 2008, the Development Control Officer drew to the attention of the Planning Compliance Officers the question of non-compliance with conditions on Planning Permission No. 03/2007/1049/PF which required inter alia that the occupancy of the barn unit was to be limited to holiday accommodation only and not as a sole or main unit of living accommodation. In addition, landscaping details had not been submitted and approved prior to commencement of the permission.
- 1.5 In January 2009 a Council Tax Officer contacted the Planning Compliance Officer to advise that an inspection suggested that the property was being used for full residential use. When a new application was submitted in April 2009 for full residential use, a pre-arranged site visit was conducted on 20 April 2009 by a Planning Compliance Officer and a Senior Planning Officer. The visit revealed a number of planning issues requiring further investigation at and around the building, including the use of the adjoining field; the positioning and use of a storage container; diesel tank, drainage systems and in particular the existing use of the property. All issues with the exception of the residential use element have been resolved since, by negotiation with the owner.
- 1.6 During the visit, Officers observed a Post Box on the wall next to the front door of the building with the owners name etched on it. The owner gave his reason for submitting his latest application as needing to change his business mortgage on the property to a domestic mortgage to reduce mortgage payments. He denied living in the property and when asked where else he lived, he informed Officers that he owned a property close by on Maesmawr Rd, known as Ogwen. This information was later found to be inaccurate, as it was his son who had owned Ogwen since 2004 and had paid Council Tax on it since. Mr and Mrs Jones Senior did not appear on the electoral roll for Ogwen. Having left the property and being parked on the main road at the end of the track to the property, the post office van was observed delivering mail to the owner at Pen y Bryn Barn. Ultimately the visit left Officers suspicious as to the actual use of the property, as the owner had failed to satisfy Officers that it was being used solely as a holiday let. The opinion was formed that it was being used for full residential use. The decision was jointly made that a Planning Contravention Notice would be served in order to obtain further information.

- 1.7 In the meantime, at a Llangollen Town Council meeting the application for change of use from holiday let to residential was considered and members objected to it on the basis that "it has been a blatant attempt to circumvent the normal planning process by obtaining permission for residential accommodation outside the development boundary".
- 1.8 A Planning Contravention Notice was served on 7 May 2009 and this was returned on 12 May 2009. Copies of utility bills had been requested which provided the following information :-
- (i) Scottish Power bills indicated that over a 6 month period the total billed was £796.75 and
 - (ii) Dee Valley Water bills indicated that over a 7 month period, the total billed was £252.

The PCN response regarding the total number of people who had let the property for a holiday was 4. As 2 of these shared the surname of the barn owner, this brought into question whether the names used were relatives. On balance, it was felt that the high usage of power and water indicated full permanent residential use of the barn and not simply holiday letting use.

- 1.9 In a telephone conversation on 11 June 2009 between a Planning Compliance Officer and the barn owner, the latter referred to 'forward bookings' he had for the holiday let. The Officer pointed out that if his current application for a residential dwelling were successful, then he would be unable to rent the property out as a holiday let to honour those alleged bookings. He responded that if he got permission then he'd live there & went on to say "I've got to live somewhere".
- 1.10 In a telephone conversation on 17 August 2009 between a Planning Compliance Officer and the barn owner, the latter complained about having to pay residential council tax after a Council Tax Assessor had carried out a spot check and found the owner sitting watching TV in the lounge with the fire on.

2. REASONS FOR ISSUING AN ENFORCEMENT NOTICE

- 2.1 On balance, consideration of the information to hand suggests that the barn has not been used for legitimate holiday letting, but has been used for unauthorised permanent residential use.
- 2.2 It is the opinion of Officers that residential use of the barn as a dwelling is in direct conflict with the main policies contained within the adopted Denbighshire Unitary Development Policy 1996 and advice contained within Planning Policy Wales. In particular, with respect to the following main planning considerations:-
- 2.2.1 **Principle** - Policy GEN 3 contains a presumption against development outside development boundaries other than in exceptional cases. It would appear that in this case an attempt has been made to create a new dwelling in the open countryside via the initial creation of an agricultural building. Policy HSG 9 relates to the conversion and re-use of rural buildings and is supplemented by SPG 16 Conversion of Rural Buildings; aimed primarily at traditional and/or well established rural buildings and uses connected with rural diversification. The planning policy and guidance emphasises that new agricultural buildings will not be suitable for residential conversion. This is also backed up by a variety of case law around the country where attempts have been made to convert newly built agricultural buildings into dwellings.

- 2.2.2 **Impact on Amenity** – Policy GEN 6 aims to ensure that development has minimum impact. Policies ENV 1 seeks to protect the Natural Environment and Policy ENV 2 aims to avoid development which causes harm to the character and appearance of the landscape in the AONB/AOB. The introduction of a permanent residential use with its associated paraphernalia, domestic trappings and activities could give rise to greater impact and unacceptable visual harm in the AOB and have an adverse impact on the Historic landscape and World Heritage Zone.
- 2.2.3 **Other material considerations** – The breach of planning control relates to the current unauthorised use of a building as a permanent dwelling, bearing in mind that it has evolved from a replacement agricultural dwelling in 2002 (with records casting doubt as whether the building was ever used for agricultural purposes), to use as an office/store in 2004 and use for holiday letting granted in 2008. Having regard to the planning history of this building, it is of considerable concern that there seems to be a pattern emerging that attempts are being made to circumvent the planning process in order to obtain a dwelling outside the development boundary in the open countryside.
- 2.3 Officers have recommended **refusal** of the current retrospective planning application number 03/2009/0416/PC for change of use from holiday let to residential dwelling. The latter report is also presented to this committee for consideration.

3. RECOMMENDATION

- 3.1 That authorisation be granted for the serving of an Enforcement Notice with a 12 month compliance period ordering the cessation of use of the barn as a dwellinghouse and returning it to its permitted holiday let use.
- 3.2 To instigate prosecution proceedings where any person on whom a Notice has been served fails or refuses to comply with the provisions of the Notice.



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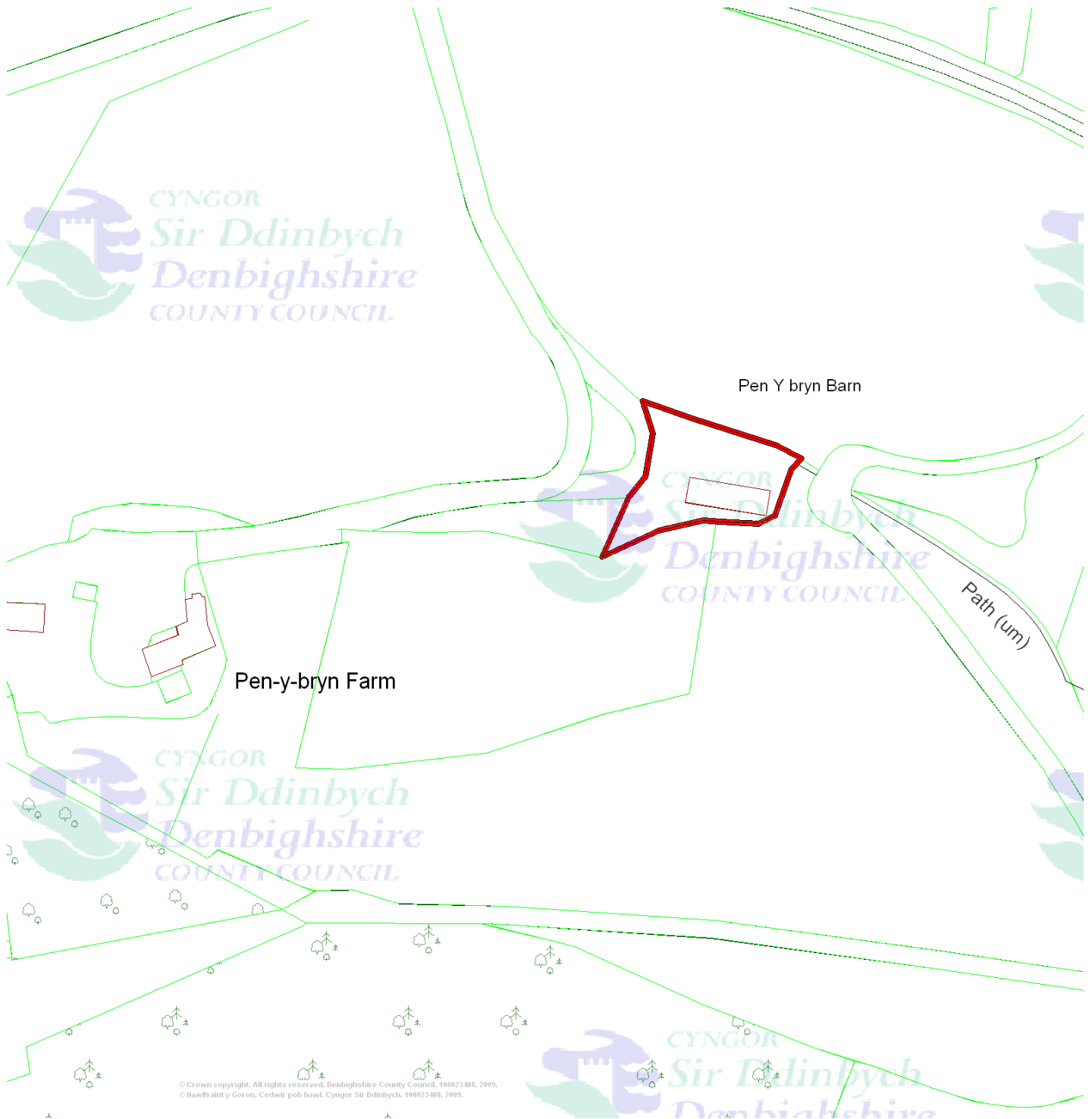
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