

PWYLLGOR CYNLLUNIO
CYFARFOD: 14 eg Ebrill 2010
Eitem: 2

PLANNING COMMITTEE
MEETING – 14th April 2010
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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ENFORCEMENT ITEM

ENF/2010/00011 Unauthorised development – fencing and boundary wall of oil tank enclosure in excess of one metre in height adjacent to a highway
1, St Asaph Road, Dyserth

ITEM NO: 1

WARD NO: Denbigh Lower

APPLICATION NO: 01/2010/0046/ PF

PROPOSAL: Change of use from fish and chip shop to hand car wash facility

LOCATION: Former Abbey Garage Rhyl Road Denbigh

APPLICANT: Mr Arshed Abdurahhan

CONSTRAINTS: Town Heritage Area
C2 Flood Zone
EA Floodmap Zone 2
Conservation Area
Article 4 Direction

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

CONSULTATION RESPONSES

DENBIGH TOWN COUNCIL

"I am instructed to write to inform you that the town council whilst not wishing to object to the planning application would wish to raise a concern with regard to the flow of traffic in the area, in particular to ensure than sufficient car parking is available on site to prevent a tail back of traffic entering on to the site from the main road".

WELSH WATER

Awaiting response.

ENVIRONMENT AGENCY

No objection subject to conditions.

DENBIGHSHIRE COUNTY COUNCIL CONSULTEES:

- DCC HEAD OF TRANSPORT AND INFRASTRUCTURE

'Object for the following reason, the proposed development does not make adequate provision for the parking and manoeuvring of vehicles within the site and would therefore be likely to result in vehicles parking on highway with a consequent risk of additional danger to all users of the road and the interference with the free flow of traffic'.

- DCC CONSERVATION OFFICER / THI MANAGER

Limited detail in application, subject to condition would have no real impact on Conservation Area.

RESPONSE TO PUBLICITY:

Representations received from:

Mr. T. Tynan, 22, Abbey Road, Denbigh (via e-mail)

Mrs. N.M.V. Hunt, Berwyn, 20 Abbey Road, Denbigh

Summary of objections: -

Highway safety, access issues.
Limited information in application re. hours, drainage, waste disposal.

MEMBERS' COMMENTS:

None.

EXPIRY DATE OF APPLICATION: 14/03/2010

REASONS FOR DELAY IN DECISION:

- Timing receipt of representations

PLANNING ASSESSMENT:

THE PROPOSAL:

1.1 Outline of application

- 1.1.1 The application seeks permission for change of use of a former chip shop/petrol filling station/car sales site to a 'hand car wash facility'.
- 1.1.2 Limited information has been submitted with the application; a plan showing the access and exit and access statement referring to no changes to the existing access arrangements.
- 1.1.3 Since submission of this application the use as a hand car wash has commenced. Therefore this application is for retrospective permission.

1.2 Description of site and surroundings

- 1.2.1 The site prior to being a chip shop was a petrol filling station/car sales site at the junction of Rhyl Road and Abbey Road. The building is a single-storey detached building with an unusual concrete canopy projecting forwards over the forecourt.
- 1.2.2 To the north and east of the site lies a storage/commercial building and yard. Residential properties lie to the south on the opposite side of Abbey Road and to the west on the opposite side of Rhyl Road, where there are also a number of commercial uses. Abbey Road leads down to the former Carmelite Friars, which is a listed building and a scheduled ancient monument.

1.3 Relevant planning constraints/considerations

- 1.3.1 The site lies within the development boundary of Denbigh and the designated Conservation Area.

1.4 Relevant planning history

- 1.4.1 This site had permission for change of use from petrol filling station to chip shop in 2008.

2. DETAILS OF PLANNING HISTORY:

- 2.1 01/2008/134 Change of use from petrol filling station to Class A3 chip shop/hot-food takeaway. Granted 07/04/2008

3. RELEVANT POLICIES AND GUIDANCE:

The main planning policies and guidance are considered to be:

3.1 DENBIGHSHIRE UNITARY DEVELOPMENT PLAN

- Policy GEN 6 - Development Control Requirements
- Policy CON 5 - Development within Conservation Areas
- Policy TRA 6 - Impact of New Development on Traffic Flows
- Policy TRA 9 - Parking and Servicing Provision

3.2 SUPPLEMENTARY PLANNING GUIDANCE
SPG 21 - Parking

3.3 NATIONAL GUIDANCE
Planning Policy Wales 2002

4. MAIN PLANNING CONSIDERATIONS:

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

- 4.1.1 Principle of development
- 4.1.2 Residential amenity impact
- 4.1.3 Visual Impact / Impact on Conservation Area
- 4.1.4 Highway safety

4.2 In relation to the main planning considerations:

4.2.1 Principle

The site is outside the defined town centre has no specific allocation within the Unitary Development Plan. Policies GEN6 recognise that development, needs to be considered against amenity, environmental, highway, parking and drainage impacts, including where the principle is acceptable. These impacts will now be considered below.

4.2.2 Residential amenity

Policy GEN 6 sets out the general requirement to assess the impact of development on the amenity of local residents, including from increased activity, disturbance and noise.

The nearest residential properties to the unit lie on the opposite sides of Abbey Road and Rhyl Road. It is acknowledged that there would be a degree of noise and disturbance from the use. However, given the distances involved and extant use of the site it is not considered there are strong amenity grounds for refusal.

4.2.3 Visual impact

The main policy that refers to scale, landscape and visual impact is GEN 6. Policy CON 5 is also relevant as the site is located within the Conservation area, this policy seeks to ensure that developments cause no harm to the conservation area. Given that there are no external changes proposed and that the Project Manager for the THI does not object, the application is not adjudged to cause any harm to the designation.

4.2.4 Highway/access impacts

The main policies relevant to assessment of highway impact are TRA 6 and TRA 9. TRA 6 permits new development provided there is no unacceptable impact on the safe and free flow of traffic and the capacity of and traffic conditions on the surrounding road network are satisfactory. TRA 9 requires adequate provision within a site for parking and servicing. GEN 6 contains a number of tests including in (vii) a requirement that development does not have an unacceptable effect on the local highway network.

Highways officers have objected to the proposal, they have stated that due to the nature and operation involved in a hand car wash and the lack of space within the site, vehicles were likely to queue on the public highway for the service. Although the site operated as a filling station prior to the chip shop, the nature of both these uses is slightly different to the proposed use. The hand car wash is a labour intensive use, one car can only be washed at a time which would lead to queuing to wait for the service. The vehicles queuing cannot be accommodated on the site therefore likely to overspill onto the road, giving rise to traffic congestion. Furthermore, as there are current

parking problems on this section of Rhyl Road causing interference with the free flow of traffic, this is likely to worsen the situation.

5. SUMMARY AND CONCLUSIONS:

Having considered the proposal under the relevant policies, it is considered that the proposal is not acceptable in terms of highway safety therefore is recommended for refusal.

RECOMMENDATION: REFUSE- for the following reasons:

1. It is the opinion of the Local Planning Authority that the change of use of the site to a hand car wash facility is not acceptable. The proposed development does not make adequate provision for the parking and manoeuvring of vehicles within the site and would therefore be likely to result in vehicles parking on the highway, in a location which currently experiences traffic congestion, with a consequent risk of additional danger to all users of the road and the interference with the free flow of traffic. The proposal is contrary to criterion i) of policy TRA 6 and vii) of policy GEN 6 of the Unitary Development Plan.

NOTES TO APPLICANT:

None

PLANNING ENFORCEMENT REPORT

REFERENCE: ENF/2010/00010

LOCATION: Abbey Garage, Rhyl Road, Denbigh

INFRINGEMENT: Unauthorised Change of Use – Fish and Chip Shop to Hand Car Wash Operation

RELEVANT PLANNING POLICIES AND GUIDANCE

DENBIGHSHIRE UNITARY DEVELOPMENT PLAN
Policy GEN 6 - Development Control Requirements
Policy TRA 6 - Impact of New Development on Traffic Flows
Policy TRA 9 - Parking and Servicing Provision

SUPPLEMENTARY PLANNING GUIDANCE

SPG 21 - Parking

GOVERNMENT GUIDANCE

Planning Policy (Wales) – 2002
Technical Advice Note (Wales) 9 – Enforcement of Planning Control

HUMAN RIGHTS CONSIDERATIONS

The Human Rights Act 1998 is taken into account when considering taking enforcement action against breaches of planning control. In this instance the matter under consideration is whether the owner of land has a right to operate a hand car wash business, which would ordinarily require planning permission for a change of use, without the required Local Planning Authority approval. The general public interest outweighs any rights claimed by the land owner in this case. No specific human rights issues have been raised by the land owner or any other interested party.

1. BACKGROUND INFORMATION

- 1.1 In relation to the land in question, on the 7 April 2008, planning permission was granted for a change of use from petrol filling station to Class A3 fish and chip shop/hot-food takeaway; code 01/2008/0134/PF refers.
- 1.2 On the 18 January 2010, an application for planning permission for a further change of use to a hand car wash facility was received by the Local Planning Authority; code 01/2010/0046/PF refers.
- 1.3 As a result of a complaint by a member of the public, a site visit was undertaken by a Planning Compliance Officer on the 9 February 2010, which revealed that a hand car wash business was then operating on the site. The application had not been determined at that stage and consequently the new use of the land represented a breach of planning control.
- 1.4 Ownership of the land was revealed by an application to the Land Registry and on the 15 February 2010, a letter was forwarded to the land owners outlining that as the application for planning permission had not been determined, the recently

commenced hand car wash operation was unauthorised and should cease immediately.

- 1.5 On the 5 March 2010, the operator of the car wash attended at the Planning Services Offices, Caledfryn, Denbigh. He was advised by a Planning Compliance Officer that the hand car wash operation was unauthorised and would be until appropriate planning permission was approved. He was also advised that the hand car wash operation should cease.
- 1.6 The unauthorised use continued and in preparation for pursuing formal enforcement action, on the 17 March 2010, a Notice under Section 330 of the Town and Country Planning Act 1990 was served on the owners. The Notice comprised a questionnaire seeking information around land ownership and interests and use. The questionnaire was duly completed and returned to the Local Planning Authority on the 24 March 2010.
- 1.7 The application for planning permission is to be considered by the Planning Committee on the 14 April 2010; the planning officer dealing with the case recommends refusal.

2. REASONS FOR ISSUING AN ENFORCEMENT NOTICE

- 2.1 The unauthorised use has commenced within the last ten years.
- 2.2 It is considered that due to the potentially intensive nature of the hand car wash operation, combined with a lack of space within the site, vehicles are likely to queue on the public highway waiting for the service. Although the site operated as a petrol filling station and prior to this a fish and chip shop, the nature of both these uses is slightly different to the hand car wash use. The hand car wash is a labour intensive use; only one car can be washed at a time, which could lead to a queue of vehicles waiting for the service. The vehicles queuing cannot be accommodated on the site and are therefore likely to overspill onto the highway, giving rise to traffic congestion.

Furthermore, as vehicle parking on this section of Rhyl Road already causes interference with the free flow of traffic, a hand car wash operation on this site is likely to create additional difficulties. Consequently this is contrary to Policies GEN 6 (vii), TRA 6 and TRA 9.

- 2.3 Despite appropriate advice and warnings, the hand car wash operation has continued indicating that the land owner will not voluntarily cease the unauthorised use.
- 2.4 The use of conditions as part of any grant of planning permission for the continuation of the hand car wash operation could not overcome the above objections.

3. RECOMMENDATION

- 3.1 That authorisation be granted for the following:
 - (i) Serve an enforcement notice to secure the cessation of the unauthorised use of the land for a hand car wash operation. (Compliance forthwith)
 - (ii) Instigate prosecution proceedings or other appropriate action under the Planning Acts against the person or persons upon whom any enforcement notice, or other such notice is served, should they fail to comply with the requirements thereof.

ITEM NO: 2

WARD NO: Llangollen

APPLICATION NO: 03/2010/0082/ PF

PROPOSAL: Use of void space in completed basement of Plas Derwen for 1 no. apartment

LOCATION: Plas Derwen Abbey Road Llangollen

APPLICANT: Belgrave Homes (Llangollen) Ltd.

CONSTRAINTS: World Heritage Site Buffer
Canal Consultation Zone

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

CONSULTATION RESPONSES:

LLANGOLLEN TOWN COUNCIL

"Members raised objections to this application on the basis that this would mean a reduction in overall parking spaces in a development where it was most likely to require additional parking to that already provided."

LLANGOLLEN CIVIC SOCIETY

Oppose the application. Consider as the location and cost of apartments would suggest most if not all would be 2 car families, the reduced number of parking spaces (28) is not sufficient for 21 apartments, when there is no other off road parking available. Also object on environmental grounds as neither the kitchen or study have any natural light.

BRITISH WATERWAYS

No objections.

DENBIGHSHIRE COUNTY COUNCIL CONSULTEES

CONSERVATION ARCHITECT

Site is not in a conservation area. Setting of nearest listed building (Fron Deg) is unaffected. External alterations are very modest and will have no impact on the setting of the World Heritage Site.

HEAD OF TRANSPORT AND INFRASTRUCTURE

No objection in principle but would not be supportive of further applications which would reduce the off street parking associated with the development

RESPONSE TO PUBLICITY:

Letters of representation received from:

Mr. A. Found, Gardd Gerrig, Abbey Road, Llangollen (via e-mail)

A. Roberts and M Molloy, Fron Deg, Abbey Road, Llangollen

Summary of planning based representations:

Parking implications

Space should remain available for parking, if only to give extra capacity for visitors / parking along the road has been a continuous problem here and should be alleviated in the future/apartments likely to be occupied by couples with 2 cars, so provision is inadequate,

Principle

If additional unit had been part of original plans, objections would have been raised.

EXPIRY DATE OF APPLICATION: 22/04/2010

PLANNING ASSESSMENT:

1. THE PROPOSAL:

1.1 Summary of proposals

- 1.1.1 The application seeks full planning permission to retain what has been used a 'show unit' at the basement level of a redevelopment scheme on the site of the former Bryn Derwen Hotel, as an additional one bedroom apartment.
- 1.1.2 The plans show a unit of some 125 square metres floorspace, containing one bedroom with an en-suite bathroom, lounge, kitchen, dining room and study. External access is shown at the side of Block A, and into the parking area.
- 1.1.3 Detailed plans of the redevelopment scheme were approved in 2006 and were for a total of 20 two bed apartments with a parking area for 36 vehicles at basement level, accessed off a single entrance onto Abbey Road. This development would therefore increase the total number of apartments to 21, and would involve the reduction in the number of parking spaces in the basement area to 32, as shown on the plans.
- 1.1.4 The development has been in progress over some time, but is nearing completion at the date of preparing this report (March 2010). The unit was set up in the basement level of Block A (the north end of the site) at an early stage in the development, and was the subject of investigation, as it was not authorised by the main permission. The developers indicated at the time that this was proposed for the purposes of 'sales and marketing', and accepted its planning status would need to be resolved prior to completion of the scheme.
- 1.1.5 The application documents include a Design and Access Statement which contains commentary on the background and the planning considerations relevant to the application. The main points are:
 - The space has been used as a sales and marketing suite during construction.
 - Now construction is complete, "...its retention as an apartment would make more efficient and effective use of the floorspace than approved under application no 03/2004/0720, and 03/2005/0693, and would provide the developer with another saleable unit which would be beneficial to the purpose and viability of the scheme".
 - The main fenestration is visible along the front elevation allowing ample natural light to penetrate the basement. The unit is not visible to the rear due to the sloping nature of the ground, and the side elevation is only partially visible.
 - The western corner of the approved development included an internal void space, which does not make efficient and effective use of floorspace.
 - Now construction is complete, the sales and marketing suite is no longer required, and for it to revert to a void when it is demonstrable that it can form a residential unit would result in inefficient use of the vacant floorspace.
 - The physical alterations to the development are minimal and complement

the approved design. There is ramped access to the unit.

1.2 Description of site and surroundings

1.2.1 The application relates to part of a larger development of apartments nearing completion. The site itself lies to the east of the A542 road (Abbey Road) as it runs north out of Llangollen town, and is part of a string of development on that side of the road looking out over the Llangollen canal, the railway, and the River Dee to the west.

1.3 Relevant planning constraints/considerations

1.3.1 The site is outside the development boundary of Llangollen, within the Area of Outstanding Beauty, and the buffer zone of the Pontcysyllte Aqueduct and Canal World Heritage site.

1.4 Relevant planning history

1.4.1 Outline permission for the demolition of the former Bryn Derwen Hotel and the redevelopment of the land by way of 20 apartments was granted in 2005, and the detailed plans of the scheme were approved in 2006.

1.4.2 Applications seeking approval of a treatment tank for handling the foul drainage were refused by the Council in October 2008 but an appeal into the refusal was subsequently upheld in July 2009 by the Planning Inspectorate, following a Hearing. The treatment tank has been installed.

1.5 Developments/changes since the original submission

1.5.1 The application is reported to committee at the request of one of the local members to allow due consideration of the impact on parking and congestion on Abbey Road, and the issue of over intensification of development.

1.6 Other relevant background information

1.6.1 The applicant's agent has responded on the parking issues to point out that the proposals for a ratio of 1.5 spaces for each apartment, with 3 spaces for visitors is appropriate for a development of this form. It is stated that the developer's approach is to include specific parking spaces in each sale contract so that incoming residents know whether they have 1 or 2 spaces, and which spaces they are; and therefore, any resident requiring more than the specific spaces available to them is unlikely to buy into the development.

2. DETAILS OF PLANNING HISTORY:

2.1

03/2004/0720/PO

Demolition of existing hotel and dwelling and redevelopment of land by the erection of 20 residential apartments and alterations to existing vehicular access (outline application)

GRANTED – 25/08/2005

03/2005/0693/PR

Details of siting, design, external appearance, means of access and landscaping for development of 20 apartments granted outline planning permission under Code No. 03/2004/0720/PO

APPROVED – 06/09/2006

03/2005/0702/PS

Variation of Condition 9 of outline planning permission for redevelopment of land by the erection of 20 apartments (Code No. 03/2004/0720/PO), to allow for alternative arrangements acceptable to the Local Planning Authority for the provision of 4 affordable housing units in Llangollen

GRANTED – 28/09/2005

03/2008/0918

Installation of foul and surface water drainage plant.

REFUSED – 01/10/2008

GRANTED ON APPEAL – 01/07/2009

3. RELEVANT POLICIES AND GUIDANCE:

As the 20 unit development is nearing completion, it is suggested the main planning issues here relate to the acceptability of the ‘additional’ impacts of a proposed 1 bedroom apartment within the framework of a consented building, hence the main planning policies/guidance are:

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

Policy GEN 6	-	Development Control requirements
Policy TRA 9	-	Parking and Servicing provision
Policy ENP 4	-	Foul and Surface Water drainage

3.2 WELSH ASSEMBLY GOVERNMENT POLICY & GUIDANCE

Planning Policy Wales

TAN 12 - Design

4. MAIN PLANNING CONSIDERATIONS:

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

- 4.1.1 Principle
- 4.1.2 Impact on residential amenity
- 4.1.3 Design / Impact on visual amenity
- 4.1.4 Overdevelopment
- 4.1.5 Parking / access
- 4.1.6 Drainage
- 4.1.7 Affordable housing considerations
- 4.1.8 World Heritage Site Buffer Zone impact

4.2 In relation to the main planning considerations:

4.2.1 Principle

The principle of an apartment development at Plas Derwen has already been accepted by the Council in permitting the scheme of 20 units in 2005 and 2006. The application is not an opportunity to revisit the basis of this previously approved redevelopment, which is approaching completion.

Officers suggest the key considerations relate to matters of detail and whether the addition of a single apartment is acceptable in terms of impact on the amenities of the locality (effect on nearby residential property and visual impact), the adequacy of parking arrangements to serve the development and whether there are any additional issues likely to arise on the drainage arrangements. These matters are reviewed in the following sections.

4.2.2 Impact on residential amenity

Policy GEN 5 (v) of the Unitary Plan requires due consideration of the impact of development on the amenity of local residents.

The proposed apartment is located at the northern end of the Plas Derwen development, hence would be closest to the existing long established dwelling at Is Coed. The respective side walls of Is Coed and the Block A unit which would contain the proposed additional apartment are set some 10 metres apart, as can be seen from the site plan at the front of the report. A substantial screen fence is being erected along the site boundary between Is

Coed and Plas Derwen. The proposed apartment is at 'basement' level in the Plas Derwen development, meaning its floor level is set well below that of Is Coed. There is one high level window on the side of the proposed apartment which would be obscured from view from the garden of Is Coed by virtue of the screen fence.

It is not considered therefore that the proposed unit would have additional adverse impacts on the amenities of occupiers of Is Coed, particularly given the fact that the approved development includes apartments at 1st, 2nd and 3rd floor level immediately above the proposed apartment. The apartment would be sufficiently distant from other residential properties not to have any impacts on them.

4.2.3 Design/impact on visual amenity

The need to take account of design considerations and visual amenity impacts are set out in Policy GEN 6.

The plans at the front of the report illustrate the detailing of the apartment. These show the insertion of full length windows on the front (Abbey Road) elevation, and a side entrance door. The external materials are as approved for the main development, with a grey stone faced block on the front at basement level, and white painted render on the side and from first floor level and above.

In officers' opinion, the design detailing specific to the additional units are in keeping with the 'modern' detailing of the remainder of the development, and in this context are considered appropriate to the locality. There are not considered to be any issues of impact on the local landscape arising from the additional apartment.

4.2.4 Overdevelopment of site

Considerations relevant to the issue of overdevelopment are contained within Policy GEN 6(i) of the Unitary Plan. This requires development to respect the site and surroundings in terms of siting, layout, scale, form and design density, materials, aspect, microclimate, and intensity of use of land/buildings and spaces between buildings.

Overdevelopment is a term normally applied to circumstances where proposals result in unacceptably cramped development, where buildings take up a high proportion of a site area, leading to unreasonably small amenity spaces around dwellings, and reduce distances around and between properties to levels where physical relationships become inappropriate, or other adverse impacts result.

Whilst respecting concerns over the implications of introducing a single additional apartment here, officers would not consider the particular proposals would lead to an overdevelopment of the site. The application does not involve the physical extension of the building previously approved, simply the use of part of that structure at basement level, hence there would be no new issues of intensity of use of the plot or more cramped physical relationships with adjacent property. Matters such as parking implications are reviewed separately below.

4.2.5 Parking/access

Policies TRA 9 and GEN 6 oblige due consideration of the adequacy of parking arrangements in association with new development.

The approved plans for the 20 apartment development included a total of 36

parking spaces at basement level. This ratio of parking spaces to the number of apartments was considered adequate by the Head of Transport and Infrastructure. The proposed additional apartment takes up a section of the basement level reducing the number of parking spaces to 32 as shown on the plans. The 'total' development would therefore involve 21 apartments and 32 parking spaces.

With due respect to concerns expressed over the matter, the Head of Transport and Infrastructure remains of the opinion that the level of parking provision is appropriate for a development of 21 apartments in this location, representing a standard of 1.5 spaces for each apartment.

4.2.6 Drainage

Policy ENP 4 requires satisfactory arrangements for foul and surface water disposal.

The foul drainage system from the proposed additional apartment would connect to the approved system for the rest of the development, feeding to the treatment tank granted permission on appeal in July 2009. There would be no additional surface water arising from the creation of this apartment.

The details submitted with the application for the installed treatment tank confirmed the system was designed to deal with the treatment needs of a development of 21 units, so would be adequate to cope with the additional discharge from the proposed apartment. It is therefore not considered the proposal raises any new drainage issues.

4.2.7 Affordable housing

Affordable housing issues have been dealt with previously through the mechanism of a Section 106 legal agreement, and the requirement for a committed sum payment. It is not considered the application raises any new issues with regard to this matter.

4.2.8 World Heritage Site Buffer Zone impacts

The designation of the Llangollen canal as a World Heritage Site obliges due consideration of the potential impact of new development on the setting of the canal.

In this instance, as the new apartment would be created entirely within the structure of a previously approved development, it is not considered there are any additional, or adverse impacts likely on the setting of the canal.

5. SUMMARY AND CONCLUSIONS:

5.1 The proposals involve the creation of a 1 bed apartment wholly within the framework of a building containing 20 apartments, which is nearing completion following the approval of detailed plans in 2006. In officers' opinion the physical detailing of the apartment are acceptable, and would not result in adverse impact on neighbouring properties. Highways Officers consider the level of parking provision in the basement are (32 spaces) would be adequate to service the total of 21 apartments which would comprise the development.

RECOMMENDATION: - GRANT

No conditions imposed.

NOTES TO APPLICANT:

Highway Supplementary Notes 1,3,4,5 and 10

ITEM NO: 3

WARD NO: Bodelwyddan

APPLICATION NO: 40/2009/1450/ PF

PROPOSAL: Extension of residential curtilage and erection of detached garage and timber store

LOCATION: The Anchorage Nant Y Faenol Road Bodelwyddan Rhyl

APPLICANT: A Gizzi

CONSTRAINTS:

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

CONSULTATION RESPONSES:

BODELWYDDAN TOWN COUNCIL:

"There is insufficient drainage to prevent the flooding of the grounds of the premises and the surrounding road."

ENVIRONMENT AGENCY:

No objections. Given the scale and nature of the proposal an FCA is not required. It is requested, however, that surface water be dealt with utilising a SuDS method.

DWR CYMRU:

Waiting response at time of writing

RESPONSE TO PUBLICITY:

None received

EXPIRY DATE OF APPLICATION: 16/03/2010**REASONS FOR DELAY IN DECISION (where applicable):**

- delay in receipt of key consultation response(s)

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

- 1.1.1 Full planning permission is sought for the extension to residential curtilage. It is proposed to add an area measuring approximately 24m x 10m (240 square metres) to the existing garden area of The Anchorage.
- 1.1.2 Within the proposed new garden area, it is proposed to erect a block and render garage with integral wood store. The front elevation of the garage store would be 6.9 metres wide, and would project back 5.5 metres. The ridge is proposed to be 4 metres high. It would be sited approximately 26 metres south of the house and sit parallel to the road.

1.2 Description of site and surroundings

1.2.1 The site is located on Nant Y Faenol Road, Bodelwyddan. Immediately to the north of the site is the dwelling, Woodlands. The road is tree lined, with open fields to the rear of the trees. Soon after passing the site in a southerly direction, the road peters and culminates where the A55 crosses its path.

1.2.2 The existing curtilage measures approximately 41 metres by 13 metres (533 square metres)

1.3 Relevant planning constraints/considerations

1.3.1 The site is located partially within a C2 Flood-zone.

1.4 Relevant planning history

1.4.1 None

1.5 Developments/changes since the original submission

1.5.1 None

1.6 Other relevant background information

1.6.1 None

2. DETAILS OF PLANNING HISTORY:

2.1 Replacement dwelling – 40/1999/0926/PF GRANTED 24th February 2000; no conditions of relevance to this proposal.

3. RELEVANT POLICIES AND GUIDANCE:

The main planning policies and guidance are considered to be:

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

Policy GEN 6 – Development Control Requirements

Policy HSG 16 – Extensions to Domestic Gardens

Policy ENP 6 – Flooding

3.2 Supplementary Planning Guidance

SPG 24 – A Design Guide for Householder Development

3.3 GOVERNMENT GUIDANCE

Planning Policy Wales March 2002

TAN 15 – Development and Flood Risk

TAN 22 – Design

4. MAIN PLANNING CONSIDERATIONS:

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

4.1.1 Principle

4.1.2 Visual impact

4.1.3 Residential amenity

4.1.4 Flooding

4.2 In relation to the main planning considerations:

4.2.1 Principle

The principle of extending the residential curtilage of the dwelling is governed by Policy HSG 16 which requires such proposals to, respect the character of the countryside, not constitute ribbon development, and to not lead to unacceptable further development outside of the new boundary. The amount of new garden area should be limited to not more than the existing and should have a clearly defined boundary. With regard to this it is noted that the

amount of new garden area is less than the existing and the boundary is clearly defined by trees and the highway verge. It is considered that in principle the proposal is acceptable. The proposal complies with Policy HSG 16.

The intention to provide a garage/wood store is considered reasonable as the dwelling has, at present no outside storage. The proposal is considered acceptable in principle, subject to a detailed assessment of its impact upon the amenity of the area as per the requirements of GEN 6.

4.2.2 Impact on visual amenity

Policies GEN 6 and HSG 16 aim to protect the visual amenity of an area from harmful forms of development. The proposed additional curtilage is not considered excessive, being significantly smaller in area than the existing curtilage. It is noted that the proposed total curtilage size and layout would be similar to that of other dwellings in the area (most notably the immediate neighbouring property, Woodlands), and so is unlikely to adversely affect the appearance of the area. The new garden area would have a clearly defined boundary of trees and wire fencing, separating it from the adjacent farmland.

With regard to the garage/store it is considered that the scale, form and design acceptable in this location and would not appear incongruous within the area. The proposed materials would match the dwelling and overall reflects the character of the dwelling it would serve. It is therefore considered unlikely to have a detrimental impact upon the appearance of the area and is compliant with the requirements of GEN 6, and HSG 16.

4.2.3 Impact upon residential amenity

As a result of the isolated location it is considered that the proposal would have a limited impact upon the residential amenity of the area. The proposal would not constitute overdevelopment of the site. In terms of residential amenity considerations, the proposal is considered acceptable and compliant with policy GEN 6.

4.2.4 Flooding

Policy ENP 6 seeks to prohibit development which would result in an unacceptable risk of flooding. The site is located within an area defined by the Environment Agency as being at 1 in 1000 year risk of major flooding. With regard to TAN 15, it is noted that the building would serve a residential premise, but in itself is not habitable. Therefore it is considered that the proposal does not constitute a highly vulnerable form of development as defined by TAN 15. The Environment Agency has stated that they are satisfied that the proposal does not present a significant risk to flooding and would not conflict with the aims of TAN 15. It has been requested however, that best practice advice is followed in the construction of the building and that surface water run off is dealt with utilising SuDS methodology. It is considered that given the risk level, the scale of the proposal and the undeveloped character of the surrounding area, the proposal is unlikely to result in an unacceptable risk of flooding. The proposal is therefore considered to be compliant with policy ENP 6 and TAN 15.

5. SUMMARY AND CONCLUSIONS:

5.1 It is considered that the proposal complies with planning policy.

RECOMMENDATION: GRANT - subject to the following conditions:-

1. The development hereby permitted shall be begun before the expiration of five years from the date of this permission.
2. The materials and finishes of the external surfaces of the walls and roof of the building hereby permitted shall be of the same texture, type and colour as those on external walls and the roof of the existing building.
3. Notwithstanding the provisions of Class E of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification) no development permitted by the said Classes shall be carried out without further grant of planning permission of the Local Planning Authority.
4. Prior to the commencement of development, full details of the method of dealing with surface water run off shall be submitted to and approved in writing by the Local Planning Authority, and those details as approved shall be implemented before the building hereby approved is brought into use
5. The garage hereby approved shall only be used as ancillary to the dwelling The Anchorage and not as additional accommodation nor for commercial/ industrial purposes unless further grant of planning permission by the Local Planning Authority.

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

1. To comply with the provisions of Section 91 of the Town and Country Planning Act 1990.
2. In the interests of visual amenity.
3. In the interests of residential and/or visual amenity.
4. To ensure proper drainage of the site.
5. In the interest of residential amenity and preserving the character of the area

NOTES TO APPLICANT:

The Environment Agency suggests that you utilise flood proofing techniques and mitigation measures in the construction of the dwelling due to its location within/close to a flood risk zone taking into account advice within the ODPM publication "Preparing for floods: Interim guidance for improving the flood resistance of domestic and small business properties". (www.odpm.gov.uk)

You are advised to contact the Environment Agency to discuss the requirements of condition 4 of the attached permission.

ITEM NO: 4

WARD NO: Prestatyn Central

APPLICATION NO: 43/2008/0039/ PF

PROPOSAL: Renewal of Application Ref. No. 43/1999/0634/PF comprising construction of all-weather pitch together with associated floodlights, fencing, car parking and drainage scheme

LOCATION: Prestatyn High School, 2 Princes Avenue Prestatyn

APPLICANT: Denbighshire County Council Countryside And Leisure Services

CONSTRAINTS: Area Of High. Arch. Interest
Article 4 Direction
Appeal Site

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

CONSULTATION RESPONSES

PRESTATYN TOWN COUNCIL

"No objection. Concerns raised about the length of site opening, floodlighting and potential noise disturbance to residents"

WELSH WATER

No objection to original consultation, awaiting response to reconsultation.

ENVIRONMENT AGENCY

Awaiting response to reconsultation.

DENBIGHSHIRE COUNTY COUNCIL CONSULTEES:

- DCC HEAD OF TRANSPORT AND INFRASTRUCTURE

'No objection, subject to inclusion of conditions as per previous permission relating to access and parking'.

- DCC PUBLIC PROTECTION-

No objections, Officers have considered the Mouchel report and accept its findings. Recommend conditions attached as per original permission with reduction in hours of operation at the weekend.

- DCC COUNTY ARCHAEOLOGIST

Recommends contracted watching brief condition as per previous permission.

RESPONSE TO PUBLICITY:

Representations received from:

Objections (* denotes representation received for most recent consultation)

Mr R. & B.A. Bradley, 11 Gordon Avenue, Prestatyn *

P. J. LL. & C. Blythin, 10 The Dell, Prestatyn

Mr D. Cooper, 8 Maes Tegid, Prestatyn (by email) *

Mr & Mrs P. Gath, 5 David's Close, Prestatyn *

Mr T. Jones, 82 Meliden Road, Prestatyn *

V. G. Simmonds, Hafod Elwy, 78 Meliden Road, Prestatyn *
Mr A Tomlinson, 6 Princes Avenue, Prestatyn *
Mr R. Wilcock, 15 Gordon Ave, Prestatyn *(by email)
Mr S. Williams, 17 Gordon Avenue, Prestatyn
Chris Ruane MP (by email)

Summary of planning based representations: -
Amenity impact, increased noise and disturbance.
Amenity impact of floodlighting.
Increased likelihood of anti-social behaviour and litter.
Highways safety impact. Parking on roads, increased traffic and obstruction of driveways.
Flooding/ Drainage issues. Possibility of flooding unless adequate drainage is provided, need to take into account propensity for flood events and ground conditions of existing field.
Loss of green area/open space/playing fields for residents and school pupils, proposal discriminates against pupils and public wanting to play other sports.
Other more suitable sites available locally.
Bund and tree planting will take years to establish and therefore will be ineffective.
Also deciduous trees are inappropriate owing to lack of winter cover.
Cost of project.
Lack of information regarding future maintenance.

MEMBERS' COMMENTS:

None.

EXPIRY DATE OF APPLICATION: 09/03/2008

REASONS FOR DELAY IN DECISION:

- Additional information required from applicant

PLANNING ASSESSMENT:

THE PROPOSAL:

5.1 Outline of application

- 5.1.1 The application seeks to renew the planning permission granted to Denbighshire County Council on 31/01/2003 for the construction of an all weather pitch with associated fencing, floodlighting and car parking at Prestatyn High School.
- 5.1.2 The proposal involves the following main elements:
- All weather pitch measuring 102m x 64m and bounded by mesh fencing to a height of between 3 and 4.5m.
 - 8 no. 16m high lighting columns proposed beyond the fence perimeter to provide illumination to the pitch.
 - 2m high bunding to the north and south of the pitch on top of which would be planted a mix of 76 trees (3m high standards of field maple, ash, rowan and whitebeam).
 - 2.5m high "acoustic barrier fence" proposed at southern and northern ends of the pitch between the pitch fencing and the bunding.
 - Parking area for 10 no. cars with a 2 to 3m wide footway/vehicular/disabled access route from the car parking area to the main access gate to the enclosed pitch.
- 5.1.3 The pitch is proposed to be sited to the eastern end of the existing playing field. The pitch would be sited at around 12m above Ordinance Datum with

cross sections indicating an element of cutting into the playing field at the upper eastern end and filling with material to the western end. This would result in the finished level of the pitch being some 2m above existing ground level at the north western corner. The boundary fencing is proposed to be constructed of green PVC coated weldmesh supported by straining posts and straining wires. A pedestrian access gate and emergency vehicle/disabled access gate will be provided to the southwest corner together with an additional pedestrian access gate to the northeast corner.

- 5.1.4 The lighting would comprise 8 no. 16m high columns with each column providing 2 or 3 no. floodlights (20 lights in total – 3 lights to the 4 corner columns and 2 lights to the 4 side columns).
- 5.1.5 The car parking area would be taken off an existing car park at the David's Close entrance to the school. A new footway and access route would link this car park with the main entrance to the pitch. The applicants indicate that additional parking including coach parking would be available at the main entrance to the school/sports centre on Princes Avenue. There is also an area indicated for overspill parking adjacent to the tennis courts on the western side of the school complex.
- 5.1.6 The drainage system proposed is a series of land drainage pipes under and adjacent to the pitch leading to a hydrocell facility. This facility would act as a control on the flow of water entering the public drainage system, set in consultation with drainage bodies at 3 litres per second. It would incorporate a tank capable of storing some 164m³ of water, which would come into play during heavy rainfall. The water would be released by the hydrobrake at 3 litres per second. The system has been designed to deal with a 1 in 30 year return period. In addition to the above a fin drain would be provided at the foot of the road embankment to the east of the pitch to disperse water from the slope via french drains on the existing playing field.
- 5.1.7 As with the original permission the intention is that the facility would be used by the school and when not in use by the school would be managed by the Leisure Centre who would also control the operations of floodlights. It is indicated that use of the floodlights would cease around 9.30 p.m. The existing CCTV system serving the school would be utilised and monitored by Leisure Centre staff.

5.2 Description of site and surroundings

- 5.2.1 The application site comprises part of the existing playing field at Prestatyn High. The proposed facility would be located at the eastern end of the site adjacent to Meliden Road and the Prestatyn/Dyserth Walkway with the embankment to the road, bridge and Walkway immediately to the east.
- 5.2.2 Apart from Prestatyn High School, the character of the area is predominantly residential, with a mix of two storey dwellings and bungalows.

5.3 Relevant planning constraints/considerations

- 5.3.1 The site lies within the development boundary of Prestatyn as defined in the Unitary Development Plan on a school playing field designated as a REC 1 area.

5.4 Relevant planning history

- 5.4.1 This application seeks renewal of a planning permission granted in 2003.

5.5 Developments/changes since the original submission

5.5.1 Members may note that this application has been ongoing for some time. The application for renewal was originally submitted in 2008. However having made an initial assessment of the application, Officers considered more information was required on the environmental impact of the proposal. Whilst the scheme did not require a full 'Environmental Impact Assessment' (EIA), it was deemed necessary to request a brief 'Environmental Report'. This was to ensure all environmental impacts of the proposal (particularly with regard to the floodlighting and noise impact) were considered in light of most recent guidance. This report was carried out by specialist consultants on behalf of Denbighshire County Council and submitted for consideration on 14th January. On receipt of this additional information reconsultations were undertaken and Officers have now been able to fully assess the proposal.

6. DETAILS OF PLANNING HISTORY:

6.1 43/1999/0634/pf Construction of all-weather pitch together with associated floodlights, fencing and car-parking (amended proposals including revised drainage scheme).
Granted 31/01/2003

7. RELEVANT POLICIES AND GUIDANCE:

The main planning policies and guidance are considered to be:

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

STRAT 1 - General
STRAT 6 - Location
STRAT 7 - Environment
STRAT 9 - Tourism
STRAT 13 - New development
Policy GEN 3 - Development Outside Development Boundaries
Policy GEN 6 - Development Control Requirements
Policy ENV 1 - Protection of the Natural Environment
Policy ENV 7 - Landscape/Townscape features
Policy ENP 4 - Foul and Surface Water Drainage
Policy TSM 1 - Tourism Development
Policy TSM 5 - Rural Tourism
Policy TSM 9 - Static caravan and chalet development
Policy TRA 6 - Impact of New Development on Traffic Flows
Policy TRA 9 - Parking and Servicing Provision

GEN 1 - Development within development boundaries
GEN 6 - Development control requirements
CON 11 - Areas of Archaeological Importance
REC 1 - Protection of existing open space
REC 4 - Recreation facilities within development boundaries
TRA 6 - Impact of new development on traffic flows
TRA 9 - Parking and servicing provision

Supplementary Planning Guidance

SPG 2 - Landscaping in New Developments
SPG 6 - Trees and Development
SPG 8 - Access for All
SPG 21 - Parking

7.2 GOVERNMENT GUIDANCE

Planning Policy Wales 2002

TAN 11 - Noise

TAN 16 - Sport, Recreation and Open Space
TAN 18 - Transport

8. MAIN PLANNING CONSIDERATIONS:

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

- 8.1.1 Principle of development
- 8.1.2 Impact on the playing field and open space
- 8.1.3 Residential amenity impact
- 8.1.4 Visual impact
- 8.1.5 Highway safety
- 8.1.6 Drainage
- 8.1.7 Archaeology

8.2 In relation to the main planning considerations:

8.2.1 Principle

It is noted that the application is for a renewal of a previously granted scheme. The principle of the proposal was therefore considered acceptable in 2003, which is the same development plan period. In terms of the development plan, the application site lies within the settlement limits of Prestatyn as defined in the Denbighshire Unitary Development Plan on a school playing field site protected by Policy REC1 of the UDP. Policies GEN1 and REC4 support the principle of development including recreation/leisure proposals within the defined settlements. Policy REC1 of the UDP seeks to protect open space. A new all weather playing surface would not conflict with this policy in that it would retain and enhance the recreational asset. Therefore, it is considered the principle of an all weather pitch remains acceptable.

Policies GEN6 and REC4 of the UDP and Planning Policy Wales and TAN16 recognise that development, including new recreation facilities, need to be considered against amenity, environmental, highway, parking and drainage impacts, including where the principle is acceptable. These impacts will now be considered below.

8.2.2 Impact on the playing fields and open space

The site proposed to be developed for the all weather pitch presently comprises part of the grassed school playing field and is used for football, hockey, athletics and cricket and during school time. The proposal would lead to the loss of these formal and informal recreation facilities. However, it is recognised that development of facilities which are capable of multiple or intensive use should be encouraged (Planning Policy Wales and TAN 16). It is considered that the provision of a facility, which would enable intensive use, would more than offset the loss of the portion of school playing field and there would be no conflict with relevant policies, which protect existing open space, including Policy REC1 of the Unitary Development Plan. A triangular area of the school playing field in the corner by David's Close would be developed for car parking. However, these works would not encroach onto the adjacent football pitch or athletics facilities and would not detract from the use of the playing field as a whole.

8.2.3 Residential amenity

Policy GEN 6 sets out the general requirement to assess the impact of development on the amenity of local residents, including from increased activity, disturbance and noise.

The proposals would lead to additional activity on the site and allow for activities to take place during the evenings due to the floodlighting facilities. It is accepted that this will lead to additional noise and disturbance to residential

properties adjacent to the playing field, particularly those in the immediate vicinity of the proposed pitch, including 78 Meliden Road and 22 and 27 The Dell. For example the flank wall of 78 Meliden Road which contains windows to main living and bedrooms is some 24m from the fence perimeter of the facility. There would be a minimum distance of some 15m between the fence perimeter and the rear north-western corner of the garden. No. 27 The Dell, which has mainly secondary windows in its southern flank elevation, would be a minimum of some 23m from the fenced perimeter with the side boundary of the rear garden being a minimum of 13m from the northeast corner of the pitch. No. 22 The Dell would be some 35m from the fence perimeter with the side garden boundary being a minimum of some 26m from the pitch. Existing hedging and fencing to these residential boundaries would be reinforced by the proposed bunding and plating to the northern and southern ends of the pitch, and the acoustic fencing at either end of the pitch. It is considered that this mitigation together with control on the hours of use, restriction on the use of back boards (as suggested by the Head of Public Protection) and the availability of management and security from the Sports Centre would assist in reducing the real and perceived impact of the facility on the neighbours in terms of the activity, noise and disturbance.

The siting of the proposed car parking area would allow screening from the nearest property, 5 David's Close. It is not considered that the additional coming and goings of vehicles and their occupants would materially impact on neighbouring residential properties given the existing use of the school site as a sports centre and for other evening activities.

A further significant amenity issue is the impact of the floodlighting in terms of both residential and visual amenity. A full floodlighting scheme has been submitted comprising 8 no. 16m high floodlights, each floodlight to accommodate 2 or 3 no flat glass floodlights on each column – described as 20 no., 2000 watt metal halide floodlights. The floodlighting scheme has been subject to consideration by W S Atkins Consultants Ltd, Lighting Consultants. W S Atkins confirm that the scheme meets the environmental requirements of the Institute of Lighting Engineers for Zone E3. W S Atkins conclude “that the scheme at present complies with all environmental requirements and utilises the latest low glare asymmetrical lanterns and as a whole is a good design”. Lighting levels would be 300 LUX at full lighting and 200 LUX at reduced lighting (all corner lights on and 1 light only on central poles). The horizontal and vertical illuminous values fall within Zone E3 requirements. The floodlight columns would be nearest to 78 Meliden Road and 27 The Dell, the south east corner column being some 26m from 78 Meliden Road with the north east corner column being 25m from 27 The Dell although closer to the property boundaries in both cases (20m and 7m respectively).

Whilst it is accepted that the floodlighting proposals would have an impact on residential amenity it is considered that the scheme as now submitted, meets recognised technical requirements and has been scrutinised by independent lighting consultants, as satisfactory. Conditions would be imposed to limit the hours that the floodlights would operate and also to ensure that the scheme followed the detailed specification submitted with the application.

The concerns from local residents over the amenity impact of the development are understandable. However taking into account the above and having regard to relevant policies including Policy GEN6 of the Unitary Development Plan, advice within TAN11 and the response of the Head of Public Protection it is considered that on balance the impact on neighbours

would not be so detrimental as to justify refusal subject to the imposition of planning conditions.

Visual impact

The main policy that refers to scale, landscape and visual impact is GEN 6. There would also be a visual impact from the provision of the pitch, fencing and floodlighting. The development would be seen from nearby residential properties and public viewpoints, particularly on Meliden Road and on the Prestatyn/Dyserth Walkway. Visual impact would be reduced having regard to the existence of the embankment containing mature trees to Meliden Road, the road itself being some 2-4m above the level of the proposed pitch. Vegetation on Meliden Road would lie between the Walkway and the proposed pitch. Thus the pitch itself would be either set below or screened from the nearest public viewpoints and there would also be the mitigating affects of the embankment when the proposal would be viewed from dwellings to the south in Gordon Avenue, David's Close and Maes Tegid. The greatest impact on residential property would be on 78 Meliden Road and 22 and 27 the Dell. As referred to above, mitigation in the form of fencing, bunding and tree planting added to existing boundary treatment would reduce the impact. The use of green mesh to the fencing would aid its assimilation into the landscape. In conclusion, it is not considered the fencing and floodlight columns would have so severe an impact to justify refusal.

8.2.4 Highway/access impacts

The main policies relevant to assessment of highway impact are TRA 6 and TRA 9. TRA 6 permits new development provided there is no unacceptable impact on the safe and free flow of traffic and the capacity of and traffic conditions on the surrounding road network are satisfactory. TRA 9 requires adequate provision within a site for parking and servicing. GEN 6 contains a number of tests including in (vii) a requirement that development does not have an unacceptable effect on the local highway network. Highways Officers are satisfied that the existing access can accommodate additional users without detriment to highway safety. Highways Officers have recommended conditions relating to

Use of the facility by the public would generally be outside of school hours and therefore not intensify the use of the network at peak hours but would increase the use during non peak periods such as the evenings and weekends.

8.2.5 Drainage

Drainage considerations are contained in policies ENP 4 and GEN 6. The requirement is to ensure new development has no unacceptable impacts on the locality from foul or surface water drainage.

The issue of drainage was a concern in the previous application. Investigations indicated that ground conditions would not be suitable for soakaways therefore alternative method of drainage were proposed. Whilst concerns continue to be expressed by residents, particularly taking into account increasing storminess and ground conditions the proposal is considered acceptable by an independent drainage consultant and there is no objection from the relevant consultees. Indeed the proposal would have the effect of removing rainfall from the part of the playing field to be covered by the all weather pitch and providing improved field drainage at the bottom of the bank, which would be likely to result in an overall improvement.

8.2.6 Access for All

Policy GEN 6 sets a requirement to consider the access needs for persons

with disability, and is supported by strong Assembly backing to ensure adequate provision for inclusive design. It is considered the proposals show reasonable measures can be introduced to meet with the requirements of policy and guidance.

8.2.7 Archaeology

The site lies within an area of archaeological interest/importance and Policy CON11 of the UDP applies. In this instance, given the evidence of limited finds during previous excavations at the school site it is considered that a contracted archaeological watching brief condition would ensure that archaeological considerations would be taken into account.

9. SUMMARY AND CONCLUSIONS:

9.1 Having considered the proposal under the relevant policies, it is considered that the proposal is acceptable within the terms of these policies and therefore is recommended for grant. It must be remembered that the principle of such a facility has been established in 2005. It is not considered there have been any material changes in circumstances since that time which would warrant a different stance being taken now.

RECOMMENDATION: - GRANT subject to the following conditions:

1. The development hereby permitted shall be begun before the expiration of five years from the date of this permission.
2. No development 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 within 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. The drainage scheme forming part of this application shall be operational concurrently with the completion of the all-weather pitch. The flows of water to the public surface water sewer shall at no time exceed 3 litres per second.
4. Details of screening and planting scheme for the area between 5 Davids Close and the car park shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development. All planting, and screening comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the commencement of the development and any trees or plants which, within a period of five years of the development, die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species. All planted areas shall be protected by fencing for the five year period.
5. The development hereby permitted shall not be brought into use until the parking spaces, footway, vehicular/disabled access, access barrier and bollards indicated on the proposed layout drawing no. P1/96010/D/03C have been constructed, surfaced, laid out and are available for use.
6. Provision shall be made for cycle parking prior to the commencement of the development in accordance with details to be submitted to and approved in writing by the Local Planning Authority.
7. No solid boards shall be provided to the base of the fencing.
8. The fencing shall be coloured dark green and shall be erected to the following heights: 3.5m to the side boundaries and part end boundaries; 4.5m to the centre end boundaries to the rear of the goals (25m length).
9. The pitch shall be used and the floodlights operated between the following hours only

- 09.00 hours to 21.30 hours Monday to Fridays, 09.00 hours to 17.30 hours on Saturdays, and 10.00 hours to 17.30 hours on Sundays and Bank Holidays.

10. The pitch, access way and car parking area shall be lit and monitored by CCTV at all times in accordance with details to be submitted to and approved in writing by the Local Planning Authority.

11. The lighting levels produced by the floodlighting system shall at no time exceed those levels shown on the details forming part of the application.

12. The use of the lights at the maximum permissible levels agreed as part of this permission (300 lux), being within CIBS and ILE Zone E3, shall only be permitted for up to a maximum of 6 hours in any seven day period and at all other times when the floodlights are in use, the lighting shall be restricted to levels within CIBS and ILE Zone E2 (200 lux). A detailed log shall be kept at all times recording the length of time the lights are used at levels above ILE Zone E2 limits, and such records shall be available for inspection on request by the Local Planning Authority.

13. The type of lanterns to be used on the floodlight columns shall be 2000 watt ultra low glare flat glass lanterns. No more than 20 lanterns shall be utilised. Each lantern shall be provided with shielding to prevent light sources being directly visible to drivers of vehicles on Meliden Road, the A547 (prior to the floodlights becoming operational), in accordance with the details to be agreed in writing with the Local Planning Authority.

14. Apart from in the course of testing the lighting systems, none of the floodlights shall be operated before the written confirmation of the Local Planning Authority has been obtained that the lighting system has been completed satisfactorily, to operate within the limits approved as per 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.
2. In the interests of archaeological investigation and recording.
3. To ensure satisfactory drainage to prevent flooding.
4. To ensure a satisfactory standard of development, in the interests of visual amenity.
5. In the interests of highway safety and amenity.
6. To ensure provision is made for cycle parking.
7. In the interests of residential amenity.
8. In the interests of visual and residential amenity.
9. In the interests of crime prevention.
10. In the interests of visual and residential amenity.
11. In the interests of residential and visual amenity.
12. In the interests of residential and visual amenity.
13. In the interests of residential and visual amenity and highway safety.
14. In the interests of residential and visual amenity.

NOTES TO APPLICANT:

None

SES

ITEM NO: 5

WARD NO: Prestatyn Meliden

APPLICATION NO: 43/2009/1600/ PF

PROPOSAL: Demolition of existing clubhouse & bungalow, erection of replacement clubhouse & 2 No. detached dwellings and alterations to existing vehicular access

LOCATION: St. Melyd Golf Club The Paddock Prestatyn

APPLICANT: St. Melyd Golf Club

CONSTRAINTS: Green Barrier
PROW
Previous Mining Area
Article 4 Direction

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

CONSULTATION RESPONSES:

PRESTATYN TOWN COUNCIL
No objection.

TREE CONSULTANT
No objection.

DWR CYMRU/WELSH WATER
No objection subject to standard conditions relating to separate foul and surface water systems.

DENBIGHSHIRE COUNTY COUNCIL CONSULTEES

HEAD OF TRANSPORT AND INFRASTRUCTURE
No objection subject to condition in relation to loading, unloading, parking and turning of vehicles within the site

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

VALUATION AND PROPERTY MANAGER
No response received

RESPONSE TO PUBLICITY:

Letters of representation received from:
Mr & Mrs Derek Rickards, 3 The Paddock, Prestatyn
Mr & Mrs A C Rogers, 8 The Paddock, Prestatyn
Mr & Mrs Lee, 1 The Paddock, Prestatyn
Mr & Mrs L J Mulhearn, 6 The Paddock, Prestatyn
Ann Jones AM (via e-mail)

R. J. Beckinsale, 1, Llys Eirlys, Park View, Rhyl
Ms S Drew, Prestatyn & District Env. Assoc., 1, Oldgate Rd., Prestatyn

Summary of planning based representations:

Encroachment of development into Green Barrier

New development for a club house should be within the designated development boundary and not encroach into a green barrier

Impact on visual amenity

Visual approach from the main road will be adversely impacted. Dwellings out of character with The Paddock and surrounding area.

Impact on residential amenity

The clubhouse will overlook the backs of the properties to the south side of The Paddock.

Impact on public footpath

Concerns that Public Right of Way leading to Offa's Dyke will be adversely affected

Affordable Housing Policy

Concerns relating to future residential development of the car parking/green keepers area, application attempting to avoid providing affordable housing.

Sufficiency of car parking area and access road

Reduced car parking/turning area at the golf club would have an adverse impact on The Paddock, resulting in vehicles parking off site and causing congestion.

EXPIRY DATE OF APPLICATION: 05/05/2010

PLANNING ASSESSMENT:

1. THE PROPOSAL:

1.1 Summary of proposals

- 1.1.1 The proposal is a full planning application for the demolition of the existing clubhouse and a warden's bungalow, and erection of a replacement club house, 2 no. detached dwellings and alterations to the existing vehicular access at St Melyd Golf Club.
- 1.1.2 It is proposed to re-build the clubhouse in the form of a single storey building to be sited further south than the existing clubhouse, encroaching into the main golf course site and within the green barrier. The new clubhouse will be constructed in brick and render under a slate grey tiled roof. It would have a floor area of approx 478 square metres and provide a range of facilities including toilet and shower facilities, office and meeting room and a lounge, bar, dining area and snooker room with associated kitchen and storage area. Plan A at the front of this report shows the proposed clubhouse.
- 1.1.3 To the north of the new clubhouse it is proposed to develop 2 no. detached dwellings on an area of land measuring approx 0.09ha. These dwellings would be sited to front The Paddock. The dwellings are indicated on the submitted plans as follows:-

Plot 1 – sited to the north of the site

- A detached 3 bed dormer bungalow with integral garage

Plot 2 – sited to the south of Plot 1

- A detached 4 bed two storey property with detached garage

1.1.4 In between the proposed dwellings and the new clubhouse it is proposed to re-develop an 84 space car parking area for the golf club, with an open hardstanding area for buggy parking and green keeper storage. In between the dwellings and the car park it is proposed to provide a 2.2m wide landscaped strip. Vehicular access to the dwellings and the car park will be via The Paddock with each dwelling provided with its own front driveway. Plan A at the front of this report shows the proposed layout.

1.2 Description of site and surroundings

1.2.1 St Melyd Golf Club is located to the north of the village of Meliden. The site lies to the east end of a residential cul de sac known as The Paddock containing mainly single storey detached bungalow properties. To the north of The Paddock are further large, detached dwellings which front onto Meliden Road. To the south and east of the site is the golf course area which forms a Green Barrier between Prestatyn and Meliden.

1.2.2 The Prestatyn/Dyserth walkway skirts the site to the east and is formally designated as a Recreational Route. Public Footpath No. 11 runs across the car park area of the golf club. St Melyd is a private golf club which is open to the public.

1.3 Relevant planning constraints/considerations

1.3.1 The site lies partly within the development boundary of Prestatyn and partly within a green barrier. A public footpath crosses the application site.

1.4 Relevant planning history

1.4.1 The application is a re-submission following a refusal of permission in 2009. The previous application and reason it was refused is outlined at para 2.1 below.

1.5 Developments/changes since the original submission

1.5.1 The plans have been amended to provide a larger car parking area for the proposed clubhouse and the scale and design of the property proposed at plot 2 has been amended. A full re-consultations exercise has been carried out.

1.6 Other relevant background information

1.6.1 None

2. DETAILS OF PLANNING HISTORY:

2.1 43/2007/0662/PF

Demolition of existing clubhouse, erection of replacement clubhouse and, erection of 4 no. detached dwellings and alterations to existing vehicular access REFUSED 17TH June, 2009 for the following reason:

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

SPG 22 - Affordable Housing in New Development which seek to secure on-site affordable housing as a priority within such schemes.

3. RELEVANT POLICIES AND GUIDANCE:

The main planning policies and guidance are considered to be:

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

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

3.2 Supplementary Planning Guidance

- SPG 21: Parking Requirements in New Developments
- SPG 22: Affordable Housing in New Developments

3.3 GOVERNMENT GUIDANCE

- Planning Policy Wales (March 2002)

4. MAIN PLANNING CONSIDERATIONS:

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

- 4.1.1 Principle
- 4.1.2 Impact on visual amenity/green barrier
- 4.1.3 Impact on residential amenity
- 4.1.4 Impact on highway safety/footpath
- 4.1.5 Affordable Housing

4.2 In relation to the main planning considerations:

4.2.1 Principle

The main Unitary Development Plan policies relevant are policies GEN 1 and GEN 5. Policy GEN 1 states that new development will, in principle, be allowed provided that it conforms with other policies in the Plan, material planning considerations and detailed development control criteria. Policy GEN 5 which relates to development within green barriers, states that development will only be permitted provided that the open character and appearance of the land is not prejudiced. For the purposes of the planning assessment it is considered necessary to separate the proposed housing and the clubhouse.

- 4.2.2 Housing – The site is located predominantly within the development boundary of Prestatyn. The proposed 2 no. dwellings are shown to be sited within the development boundary. As such, the principle of housing development in this location is acceptable subject to the compliance of the scheme with other development control considerations.

4.2.3 Clubhouse – The proposed new clubhouse would be sited some 20 m further south than the existing. As the existing clubhouse's back wall sits right on the boundary with the development boundary and Green Barrier this would mean the new single storey structure would be outside of the development boundary and fully within the designated Green Barrier. Policy GEN 5 outlines the purpose of Green Barrier designations and states that development within them will only be permitted provided that the open character and appearance of the land is not prejudiced. The proposed clubhouse is single storey and its scale and design is considered acceptable. The encroachment of the clubhouse, given its intended use, its modest height/scale and its siting is not considered to unduly harm the Green Barrier designation or its character. Trees will screen the development from view from many vantage points at a lower level and based on the low roof level proposed the impact from higher ground will be minimal. In this respect it is not considered a reason for refusal based on the impact the new clubhouse would have on the Green Barrier could be justified.

4.2.4 Impact on visual amenity/green barrier

The main Unitary Development Plan policies relevant are policies GEN 5 and GEN 6. Policy GEN 5 relating to development within green barriers and GEN 6 which requires assessment of visual impact.

Housing – From a visual perspective the site sits at the head of a cul de sac of mixed dwelling styles. Whilst bungalows are the predominant type there are some two storey, dormer style dwellings on The Paddock. As the proposed dwellings are orientated differently to those on The Paddock it can be considered that the dormer design proposed at plot 1 and the 2 storey design proposed at plot 2 are not incongruous in this location. The siting, size, scale and design of the 2 housing units is considered acceptable in this location and would not cause any significant detrimental impact to the visual amenities of the site or surroundings. This would be in compliance with adopted policies relating to new dwellings within development boundaries.

4.2.5 Clubhouse – The new clubhouse would be sited further away from existing dwellings on The Paddock than the existing. It has a single storey design which, given existing trees in and around the site, will minimise its visual impact. It is not considered that its encroachment into the Green Barrier alone would warrant refusal as the open character and appearance of the site and area generally will not be significantly affected. It is not considered that the design, height and scale of the proposed clubhouse would impact significantly on the visual amenities of the site and surroundings and this is in compliance with Policy GEN 5 and GEN 6.

4.2.6 Impact on residential amenity

The main Unitary Development Plan policy relevant is Policy GEN 6 which obliges consideration of the effect of new development on residential amenity.

It is not considered that the proposed housing or the clubhouse would have any significant impact upon nearby residential amenity. The location of the 2 no. plots are such that sufficient space would remain between existing and proposed dwellings. Their size and scale should not have any direct impact upon nearby habitable room windows of existing properties. The new clubhouse is sited further away from dwellings on The Paddock than the existing. It is not considered that this building itself would have any detrimental impact upon nearby residential amenity. The potential increased use of the site with the new clubhouse would also have limited impact upon nearby residential amenity. Sufficient parking areas are shown on site to

avoid any on street parking on The Paddock.

4.2.7 Impact on highway safety/footpath

The main Unitary Development Plan policy relevant is policy TRA 9 and TRA 10. Policy TRA 9 requires new development to make adequate parking, servicing and manoeuvring facilities whilst Policy TRA 10 requires careful assessment of the impact new development will have on a public right of way.

The existing vehicular access is to be widened to 7m, with a 6m wide access road to the clubhouse car park and an access off it to serve the proposed dwellings. A total of 84 on site parking spaces is proposed for the golf club. The Head of Highways has raised no objection to the proposal from a highway safety point of view. Public Footpath no 11 crosses the site and therefore in the event that planning permission is granted the applicant must ensure the footpath is protected, in the event that it is necessary to temporarily close the path during construction works, permission will be required from the Head of Highways.

4.2.8 Affordable Housing

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

The proposal involves the erection of 2 no. dwellings within the development boundary on a plot of land measuring 0.09ha. This area of land proposed for residential development forms only part of the application site area. The overall site area totals 0.625ha. Having liaised with colleagues in Housing and having regard to the approach taken previously on mixed use proposals it is considered that the requirement for affordable housing could only be applied on the part of the site where housing can be accommodated. In this instance this is within the development boundary and only on 0.09ha of land. This approach to the affordable housing policy is considered appropriate given the mixed use nature of the site. Therefore, under the provisions of adopted policy and guidance relating to affordable housing there would not be a requirement to provide any affordable housing on site.

Concerns have been expressed relating to the affordable housing policy. In particular, the potential for future applications for further housing development to be submitted which could be seen as an attempt to circumvent the Councils affordable housing policy. Should an application for further residential development be forthcoming, the application would be assessed on its own merits having regard to the adopted planning policies and guidance at that time. Consideration would be given to the planning history and indeed whether the proposal has attempted to circumvent the policy.

5. SUMMARY AND CONCLUSIONS:

5.1 The proposed new clubhouse encroaches outside the development boundary of Prestatyn and into the designated Green Barrier. However, the siting, size, scale and design of the building would not significantly impact upon the open character of the Green Barrier and would not harm the visual or residential amenities of the area. There would be no unacceptable impact on highway safety. There is no policy requirement to provide affordable housing and the 2 no. plots are considered acceptable in this location on terms of their design and siting.

RECOMMENDATION: - GRANT subject to the following conditions:-

1. The development hereby permitted shall be begun before the expiration of five years from the date of this permission.
2. **PRE-COMMENCEMENT**
Prior to the commencement of the development, the written approval of the Local Planning Authority shall be obtained in respect of the walls and roof materials to be used for the development hereby permitted and no materials other than those approved shall be used.
3. **PRE-COMMENCEMENT CONDITION**
No development shall take place until there has been submitted to, and approved in writing by, the Local Planning Authority, a detailed scheme of hard and soft landscaping for the site, and such scheme shall include details of:
 - (a) all existing trees, hedgerows and other vegetation on the land, details of any to be retained, and measures for their protection in the course of development.
 - (b) proposed new trees, hedgerows, shrubs or vegetation, including confirmation of species, numbers, and location and the proposed timing of the planting;
 - (c) proposed materials to be used on the driveway(s), paths and other hard surfaced areas;
 - (d) proposed earthworks, grading and mounding of land and changes in levels, final contours and the relationship of proposed mounding to existing vegetation and surrounding landform;
 - (e) Proposed positions, design, materials and type of boundary treatment.
4. **PRE-COMMENCEMENT CONDITION**
Prior to the commencement of the development full details of the alteration to the vehicular footway crossing shall be submitted to and approved in writing by the Local Planning Authority and the access shall be completed prior to any part of the development being brought into use.
5. 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 proposed development being brought into use.
6. Foul and surface water discharges shall be drained separately from the site.
7. No surface water or land drainage run off shall allowed to connect, either directly or indirectly, to the public sewerage system unless otherwise agreed in writing by the Local Planning Authority.
8. Grease traps shall be installed on the drainage system prior to the commencement of the use hereby permitted to prevent the discharge of grease into the public sewer and the grease trap shall be maintained at all times thereafter.
9. 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.
10. All screen walls and/or fences relating to the dwellings shall be erected before the dwellings are occupied or completed, whichever is the sooner.

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

1. To comply with the provisions of Section 91 of the Town and Country Planning Act 1990.
2. In the interests of visual amenity.
3. To ensure in the interests of visual amenity a satisfactory standard of landscaping in conjunction with the development.
4. To ensure the formation of a safe and satisfactory access.
5. To provide for the loading, unloading, parking and turning of vehicles clear of the

highway and to ensure that reversing by vehicles into or from the highway is rendered unnecessary in the interest of traffic safety.

6. To protect the integrity of the public sewerage system.
7. To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and to ensure no detriment to the environment.
8. To ensure the proper drainage of the site and to minimise the risk of pollution.
9. To ensure a satisfactory standard of development, in the interests of visual amenity.
10. In the interests of residential and 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). Your attention is drawn to the attached notes relating to applications for consent to construct a vehicular crossing over a footway / verge under Section 184 of the Highways Act 1980. Public Footpath 11 (Prestatyn Community) crosses the development area and therefore you are advised of the following:

- (i) There is no diminution in the width of the right of way available for use by members of the public.
- (ii) No building materials are stored on the right of way.
- (iii) No damage or substantial alteration, either temporary or permanent, is caused to the surface of the right of way.
- (iv) Vehicle movements are arranged so as not to interfere with the public's use of the way.
- (v) No additional barriers (e.g. gates) are placed across the right of way, of either a temporary or permanent nature.
- (vi) No wildlife fencing or other ecological protection features associated with wildlife mitigation measures are placed across the right or allowed to interfere with the right of way.
- (viii) The safety of members of the public using the right of way is ensured at all times.

If the applicant wishes to temporarily close the Path, he/she will need to apply for a temporary closure at least 6 weeks prior to the event. Please contact Paul Owen or Tania Evans on 01824 706872/2963 for further details.

Your attention is drawn to the following Welsh Water Advisory Notes:-

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

WATER SUPPLY

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

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

ITEM NO: 6

WARD NO: Rhyl South West

APPLICATION NO: 45/2009/1630/ PF

PROPOSAL: Change of use of redundant post office to hot-food takeaway with new entrance door and window

LOCATION: Former Post Office Counters Ltd 105 Grange Road Rhyl

APPLICANT: Mr Barry McDowell

CONSTRAINTS: Article 4 Direction
Groundwater Vulnerability 1
CLB-Class B Road

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

CONSULTATION RESPONSES:

RHYL TOWN COUNCIL – ‘No objections’.

DENBISHSHIRE COUNTY COUNCIL CONSULTEESPUBLIC PROTECTION OFFICER –

Has concerns due to the lack of information in relation to both noise and odour emissions. Notes that the noise level from the fan stated as 45dBA at 3 m, and due to the close proximity of neighbouring property, this would cause a level greater than the World Health Organisation guidelines values, and queries any planned acoustic enclosure for the fan housing. Notes no information regarding type of odour abatement to be used.

Suggests the inclusion of conditions, in the absence of details.

HEAD OF HIGHWAYS AND TRANSPORTATION -

Objects on the basis that the increase in traffic generated by the proposal would be contrary to through traffic interests generally and a likely source of danger to all road users. Notes the presence of a lay by in front of the shops, in which vehicles park in an echelon pattern, resulting in vehicles reversing back into the carriageway. Highlights that this problem is compounded by the proximity of the layby to the Pendyffryn Road and Pendyffryn Road junctions with Grange Road. Concerned that a chip shop would exacerbate the existing problems resulting in an increase of vehicles using the lay-by.

COMMUNITY SAFETY – At time of writing the report, no response submitted

NORTH WALES POLICE AUTHORITY - At time of writing the report, no response submitted

RESPONSE TO PUBLICITY:

Letters of representation received from:

Mrs Lanaley, 99 Grange Road, Rhyl

J. Rhodes, Jan & Julie's Fish Bar, 112, Grange Road, Rhyl

J. Rhodes, Jan & Julie's Fish Bar, 112, Grange Road, Rhy including Petition

E. Grayson c/o Jan & Julie's Fish Bar, 112, Grange Road, Rhyl
Mrs. K. Battanbee c/o Jan & Julie's Fish Bar, 112, Grange Road, Rhyl
Chris and Stacey Harms, 110 Grange Road and owners of Buttees Sandwich Bar
Elfyn Jones, Sun of Beach, 101 Grange Road, Rhyl

3 Petition documents:
368 names and addresses.
228 names and addresses
80 names and addresses

Summary of planning based representations:

Anti social behaviour – concerns over potential impact use would have , especially late at night.

Highways – number of people park on the zig –zags, causing existing parking problems

Number of premises; economics and Employment - sufficient numbers of food premises exist; proposal likely to cause further, local trade difficulties. – loss of 16 jobs and accommodation;

Fumes and noise: concerns over potential impact on nearby business premises and residential properties;

EXPIRY DATE OF APPLICATION: 24/02/2010

REASONS FOR DELAY IN DECISION None :

- additional information required from applicant

PLANNING ASSESSMENT:

1. THE PROPOSAL:

1.1 Outline of application

The application involves a change of use of a vacant, former post office building, to a hot food take away, including provision of a new front entrance door.

The application includes a Design and Access Statement (Revised), which highlights, briefly, the following;

- Character – located adjacent to dwellings, flats and shops; buildings of traditional and varying construction; staggered with frontages set back from the highway. Footprint area of 35 sqm involved; external elevations to remain with the exception of the rear extract system and new access door; designated off street parking serving the surrounding shops
- Access –refers to related legislation; highlights that access arrangements for pedestrians are direct from the pavement and will remain as existing and advises of a number of points against the construction of permanent access improvements works- concluding that, ' On balance therefore it has been decided to retain the existing arrangement.'
- Community safety – highlighting natural surveillance and proximity of other buildings and street lighting
- Sustainability – highlights use of energy and source of materials; waste from the use to be collected by the local authority; details of extraction of fumes etc to be provided as part of the application.; DB noise ratings to be provided as part of the planning application.; control of noise from customers can be controlled by the shop owners and the police.
- Movement – site is 0.5 miles from the main town shops, police station and public houses

- Social, Economic and Physical context – proposal close to the town and services and facilities; makes use of an existing building and low conversion costs; employment safeguarded; benefits to the community and visitors

The overall floor area, including counter and serving area, totals approx. 34 square metres.

1.2 Description of site and surroundings

The application site comprises one unit, within a 'block ' of four, two storey , commercial units including a hairdressers, a beauty salon and Tanning unit. A semi-detached off licence and a Chemist lies further to the south east. A single, detached two storey dwelling lies further to the north. The building includes a mixture of traditional character, including natural slate roof, brick construction, with some modern pebbledash on the first floor.

The existing ground floor unit includes a relatively limited window frontage, with an entrance door served via a dual front access point with the adjoining Tanning Unit, and upper residential flats. Rear access to the unit is served via a side entrance along the northerly gable end of the building. The existing ground floor layout includes a shop area with a small counter area, and adjoining , flat roof office room to the rear. To the rear of the site lies an open grass, garden area, with the Botanical Gardens park and leisure facilities adjoining the rear boundary.

Across the road from the site lies a vacant, former newsagents shop, a 'Fish bar' , and sandwich shop.

To the front of the site and others within the block lies a lay by/pull in type arrangement, which serves the centre. The adjoining highway, Grange Road includes a double yellow line parking control, with notices advising the presence of camera surveillance in the locality. Directly opposite the site lies the junction with Pendyffryn Road.

A large number of residential properties lie within a 500 metre radius of the site, along with Rhyl High School, Rhyl Football Club and a Spar shop.

1.3 Relevant planning constraints/considerations

- 1.3.1 The site lies within the development boundary, within a Policy RET 10 area, which includes controls over the number of non – retail uses.

1.4 Relevant planning history

In relation to the adjoining property, planning permission to convert a Class A1 shop into a beauty salon was granted in 2004. In planning legislation terminology, a beauty salon is classified as a 'sui generis ' use, i.e. does not fall within a specific use class, such as a Class A1 'Shop' or Class A3 'Food and Drink', for example.

1.5 Developments/changes since the original submission

- 1.5.1 The case officer requested further details from the agent;
- the type and size of a kitchen extract system – additional details from the agent suggest facilities to the rear of the building, involving equipment onto an existing flat roof area. The equipment would include a fan mounted externally, with ductwork rising approximately 1 metre above the roof level, and noise levels of approximately 45dbA at 3 metres.
 - marketing particulars for the building - the agent includes a copy of the marketing particulars- dated January 2009, and advises that The premises were previously used as a sub post office which ceased as part of the Post office policy of sub post offices closures and the marketing of

the property has been active – other than the applicant, no other serious interest in the premises shown by any other party.

- extent of land and access to the premises - Pedestrian access reserved to the rear premises from each end, with first floor above numbers 101 and 105 Grange Road comprising a single self contained flat which has its own independent access from the recessed entrance between the two shop units and with the flat known as 103 Grange Road.

1.5.2 Other relevant background information

The initially submitted Access Statement was considered to fall short of the relevant, national legislative requirements and further details were requested.

2. DETAILS OF PLANNING HISTORY:

2.1 No recent planning history with the property.

Adjoining building/site

Code 45/2004/785 Change of use from Class A1 shop to solarium/beauty salon, 101 Grange Road Rhyl

GRANTED 17/09/2004

3. RELEVANT POLICIES AND GUIDANCE:

The main planning policies and guidance are considered to be:

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

Policy GEN 6 Development Control Requirements

Policy RET 10 – Local and Neighbourhood Shopping Centres

Policy RET 12 – Local Shops and Post Offices

Policy RET 16 - Food and Drink – Hot Food Takeaways

Policy TRA 6 – Impact of new development on Traffic flows.

Policy TRA 9 – Parking and Servicing Requirements

Supplementary Planning Guidance

8 –Access for all

11 – Hot food Takeaways

12- Shop Fronts

21 – Parking Requirements in new Developments

3.2 GOVERNMENT GUIDANCE

Planning Policy Guidance Wales 2002, as amended via MIPPS

TANs

11 Noise

12 Design

18 Transport

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

4. MAIN PLANNING CONSIDERATIONS:

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

4.1.1 Principle/policy considerations

4.1.2 Highways

4.1.3 Amenity

4.1.4 Design

- 4.1.5 Inclusive access
- 4.1.6 Other material considerations

4.2 In relation to the main planning considerations:

Principle

Policy RET 12 precludes against the changes of use of local shops and post offices only if it can be shown that the business is no longer commercially viable and all means of retaining the shop have been explored.

No evidence has been submitted to demonstrate that this proposal has reached this stage. No other planning applications have been submitted for any other change of uses to the property

Policy RET 10 - Local and Neighbourhood Shopping Centres permits the changes of use from class A1 (Retail) to other uses within local and neighbourhood centre boundaries up to a maximum of 1 in 4 units in any individual local centre provided that certain criteria area met. Additionally, in the case of hot food takeaways, it highlights that such proposals should comply with Policy RET 16. Policy RET 10 mentions that in larger centres (defined as those containing 4 units or more), a change of use from retail may be allowed , on the basis of providing a local / community service.

Currently, the number of shops in the centre includes 9 shop/units. In applying the policy threshold of 1 in 4 non A1 uses – Currently, the centres includes:

- 6no. Class A1 uses,(including 3 vacant A1 retail – with the post office)
- 1no. beauty salon (sui generis)
- 2 no. 3 use (across the road).

The existing centre therefore includes 3 out of 9 units for non A1 use, which equates to 30%.

The current proposal would include an additional non A1 use into the centre, involving a total to 4 out of the 9 units, which is over and above the policy threshold in this case. The change of use proposed does not necessarily fall within the scope/definition of a local /community service as defined in the policy justification.

Policy RET 16 supports the provision of A3 uses within town and district centres, provided certain criteria – five in total – are met. The policy is supplemented by SPG 11, which highlights the need to find beneficial use for vacant shops, and the need to safeguard the character and viability of the area. The site is not within a town or district centre –the site lies within a local centre.

Based on the policies referenced, the principle of the change of use in this case is not justified, unless other material considerations exist.

Highways

Policies TRA 6, GEN 6 criteria (vi) and (vii) and RET 16 criteria iv), as supplemented by SPG 11, highlights the need to provide safe and convenient access to avoid unacceptable effect on the local highway network and avoiding unsatisfactory highway movements. TAN 18 reinforces the need to ensure that within mixed use locations, priority should be given to maximising the opportunities for creating safe, attractive and accessible pedestrian environments. Local authorities should consider schemes, which reduce the impact of vehicles and reallocate road space to encourage walking and cycling and give priority to public transport.

Concerns have been raised by the Highway Engineers, given in particular the importance of Grange Road as a primary traffic route in the locality. It is not considered that there would be any conditions which could mitigate against the potential adverse

impact on highway safety in this case. Consequently, the proposal would conflict with the policy aims.

Amenity

Denbighshire Unitary Development Policies GEN 6, RET 12 and RET 16 along with advice contained in SPG 11, and TAN 11, requires proposals not to unacceptably affect the amenity of local residents, other land and property users or characteristics of the locality in terms of a range of factors/issues. These factors include noise, fumes and dust.

The Council's Pollution Control Officer highlights concerns regarding the lack of information in terms of noise and fume implications. Objections submitted also highlight the sensitivity of the proposed change of use and the relationship with nearby, existing residential properties. Additionally, no details of rubbish storage areas are detailed.

Based on the information submitted, and assessing the impact on the surrounding residential and commercial properties, it would be difficult to conclude that minimal implications would be incurred. Whilst planning conditions could be considered to overcome any potential issues, in this particular case, and to ensure a proper planning assessment of the proposal, the level of information should not be considered in isolation from this initial planning assessment stage.

In light of the information submitted, and given the concerns noted by the Council's Pollution Control Officer, the proposal would conflict with the policies referenced.

Design

Denbighshire Unitary Development policy GEN 6, SPG 12 and advice contained in TAN 12 requires careful attention to design factors in any proposal. Given the limited extent of works identified for the front elevation in this case, it would be difficult to raise any significant concerns regarding the effect on the building or townscape. Consequently, the proposal would accord with the design aims of the policy and guidance.

Inclusive access

The proposal requires an 'Access Statement' to form part of the planning assessment. The approach is outlined in TAN 18 Transport and policy GEN 6 criteria vii), which outlines the need to provide proposals with a safe and convenient access provision for persons with disabilities. These are supplemented by SPG 8 and the Council's 'Planning and Inclusive Design' document.

The applicant's agent was advised to review the initially submitted document, to have regard to the legislative, mandatory requirements relating to 'Access' issues. In a revised statement, the agent highlights a number of factors which provide obstacles to providing a fully, inclusive approach. Briefly, these include:

- pavement maintenance responsibility of the local authority for an acceptable standard for wheelchair use;
- assistance for disabled can be provided as and when required subject to occupancy;
- step up from the pavement to the shop is 200mm ' which will not prevent wheelchair access although assistance will be available if required';
- consideration given to providing an external or internal ramp to assist with access – an external ramp would involve construction over the existing pavement and a protective rail – this land is not in the control of the applicant but the Local Authority, with difficulties of pavement obstruction and maintenance issues;

- an internal ramp would take up valuable internal space to the detriment of the commercial viability of the unit; reducing all the internal floor level would also affect existing damp coursing and would not be practical.

However, the obstacle factors outlined are not considered insurmountable in this case, and do not negate the need to factor and design in all the relevant, basic features at this initial, proposal stage.

Whilst planning conditions to include further details could be conditioned, the extent of potential works involved, including land in the Council's control, means it would be difficult to include an appropriate condition which would meet the tests of Circular 35/95 in this case.

Other material considerations

The Local Planning Authority has taken into consideration the need to have a flexible attitude with respect to a re-use of the building where it might contribute to the preservation /enhancement of the building/townscape, as outlined in Planning Policy Wales. However, given the proposal under consideration, the change of use should not be encouraged to the detriment of other, material considerations in this case.

Section 17 of the Crime and Disorder Act has been taken into consideration, and includes Anti Social Behaviour implications. At the time of writing the report, no evidence exist which would substantiate concerns on this issue in this case.

5. SUMMARY AND CONCLUSIONS:

5.1 Within the context of policies RET 10 – Local and Neighbourhood Shopping Centres and RET 12 – Local Shops and Post Offices, the proposal would incur a change of use of a local shop and provide an additional non A1 use into a local , neighbourhood area, contrary to the policy approach. The principle of the change of use cannot be established in this case. The proposal would incur additional traffic problems, and likely adverse amenity implications for the locality, by way of additional disturbances. Furthermore, the proposal does not include appropriate measures to provide for an inclusive access approach.

RECOMMENDATION: -REFUSE for the following reasons:-

- 1 Based on the information submitted, the Local Planning Authority is of the opinion that the proposal is contrary to the aims of Denbighshire Unitary Development Plan policies RET 10, RET 12 and RET 16, in that insufficient information has been provided to justify the loss of an existing local facility in an established retail parade. It is considered that the presence of a further non – retail use in the form of a an A3 hot food takeaway would lead to a clustering of non –retail use in the local centre contrary to the aims of the aforementioned policies.
- 2 The proposal could give rise to an increase in traffic generation at a site with a layby parking arrangement close to a busy road junction. This could lead to increased parking congestion and the potential for vehicles reversing into the carriageway. The proposal would therefore be contrary to through traffic interests generally and a likely source of danger to all road users, contrary to the aims of Denbighshire Unitary Development Plan Policies TRA 6, GEN 6 criteria (vi) and (vii) and RET 16 criteria iv), as supplemented by SPG 11, which seeks to avoid and minimise traffic generation and associated problems.
- 3 Based on the information submitted, the Local Planning Authority considers that the proposal is likely to incur additional noise and odour emissions, contrary to the aims of Denbighshire Unitary development Plan policies GEN 6 criteria v), together with RET 12 criteria ii) c) , together with RET 16 criteria iii) ,as supplemented by SPG 11, and TAN 11,

which seeks to avoid unacceptable adverse affects on the existing amenity of local resident and characteristics of the locality.

- 4 Based on the information submitted, the proposal fails to take an inclusive access approach, contrary to the aims of national guidance, in particular TAN 18 Transport , and Denbighshire Unitary Development Plan policy GEN 6 criteria vii), which outlines the need to provide proposals with a safe and convenient access provision for persons with a range of disabilities.

ITEM NO: 7

WARD NO: Rhyl East

APPLICATION NO: 45/2010/0081/ PF

PROPOSAL: Change of use of part of second-floor flat to form extension to ground-floor day nursery to allow increase in the nursery placements to 46 and an increase in the number of children in the external play area to 16

LOCATION: 37 Marine Drive Rhyl

APPLICANT: Mr Anthony Thomas

CONSTRAINTS: Article 4 Direction

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

CONSULTATION RESPONSES:

RHYL TOWN COUNCIL
"No objection"

DENBIGHSHIRE COUNTY COUNCIL CONSULTEES:

- DCC Head of Transport & Infrastructure
No objection to the proposals, subject to a condition to restrict the number of children to 46.
- DCC Head of Public Protection
No objection.

RESPONSE TO PUBLICITY:

Representation received from:
Mr and Mrs Jackson, 39 Marine Drive, Rhyl

Summary of planning based representations:
Impact on amenity from increased noise and disturbance
Highways implications of increase, including parking problems

EXPIRY DATE OF APPLICATION: 25/03/10

PLANNING ASSESSMENT:**THE PROPOSAL:**5.1 Outline of application

- 5.1.1 The application for 'Beach House Day Nursery', 37 Marine Drive comprises three elements;
- change of use of part of the second floor flat to form an extension to the ground floor day nursery
 - increase the number of children from 40 to 46
 - increase the number of children allowed to play in the external play area at any time to 16.

5.2 Description of site and surroundings

5.2.1 The proposal relates to a property used as a day nursery with a condition restricting the number of children to 40. There is also a planning condition on the site restricting the number of children 'playing outdoors in the rear garden area to 10 children at any time.

5.2.2 The large detached property comprises the nursery and residential unit above is served by a vehicular access off an unadopted road off Marine Drive. The 26m long rear yard is bounded by a 2m high wall on the western side and by outbuildings and a wall on the eastern side. The access to the rear car-parking is at the south-western corner of the site. There is an existing garage in the south-eastern corner of the site.

5.2.3 The property to the east is a B&B, there are dwellings to the west and the south.

5.3 Relevant planning constraints/considerations

5.3.1 The site lies within the Development Boundary of Rhyl, it front the Promenade, which is a classified Road with some parking restrictions.

5.4 Relevant planning history

5.4.1 The former dwelling has the benefit of planning permission for use as a children's nursery since 2006, subsequent applications have been received to increase the number of children at the nursery, see below for details.

5.5 Other matters

5.5.1 Cllr Diane Hannam has requested that the application be determined by Planning Committee to consider the residential amenity and highways implications of the development.

6. **DETAILS OF PLANNING HISTORY:**

6.1.1 45/2006/868/PF - Change of use of ground floor flat to children's day nursery for 25 children with living accommodation over. - Granted 04/10/06

45/2007/302/PF - Variation of Condition No. 2 on Planning Permission Ref No. 45/2006/0868/PF to allow increase in number of children from 25 to 32. Granted 01/08/2007

45/2008/822- Erection of conservatory to rear of existing day nursery and variation of Condition No. 1 on planning permission Ref. No. 45/2007/0302 to read:- "No more than 40 children shall be accommodated at the children's day nursery at any one time". Granted 13/10/2008

7. **RELEVANT POLICIES AND GUIDANCE:**

The main planning policies and guidance are considered to be:

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

- | | | |
|--------------|---|--|
| Policy GEN 6 | - | Development Control Requirements |
| Policy CF1 | - | Community Facilities |
| Policy TRA 6 | - | Impact of New Development on Traffic Flows |
| Policy TRA 9 | - | Parking and Servicing Provision |

7.2 SUPPLEMENTARY PLANNING GUIDANCE

- | | | |
|--------|---|---------------------|
| SPG 21 | - | Parking |
| SPG 3 | - | Children's Day Care |

7.3 GOVERNMENT GUIDANCE

8. MAIN PLANNING CONSIDERATIONS:

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

- 8.1.1 Principle of development
- 8.1.2 Residential amenity
- 8.1.3 Highway/access impact

8.2 In relation to the main planning considerations:

8.2.1 Principle

The policies of most relevance to this proposal are GEN 6 Development Control Requirements, CF1 Community Facilities and SPG 3 Children's Day Care. The application included three elements, which are linked with the aim of intensifying the overall use of the site.

The purpose of the change of use of part of the first floor is to facilitate an increase in the ground floor nursery area, as the nursery is an established use this in itself is unlikely to result in any harmful impacts. However the purpose of the extension of the ground floor nursery floor area is specifically to increase the floor space of the nursery to cater for a greater number of children (40 to 46). The proposal also seeks to increase the number of children 'playing out' in the garden area at any one time (10 to 160). As such the main issues to consider are; the amenity impact of the intensified use and the highways impact, these issues are discussed below.

The nursery is an established use, which has been operating since late 2006. The planning section is not aware that any complaints have been received, or concerns raised at any time other than during the previous application process.

8.2.2 Residential amenity

The nursery is a weekday, daytime use and whilst the increase in numbers attending the nursery from 40 to 46 children is unlikely to generate more excessive noise levels than existing.

The increase in 'playing out' numbers from 10 to 16 is also considered. To ascertain the noise impact of this increase the Environmental Health Officers of the Council have undertaken some monitoring on the site. They have advised that there is no appreciable difference in the noise levels obtained. On this basis it would be difficult to resist the increase in numbers 'playing out' to 16 children at any one time.

8.2.3 Highway/access impacts

The main policies relevant to assessment of highway impact are TRA 6 and TRA 9. TRA 6 permits development provided there is no unacceptable impact on the safe and free flow of traffic and the capacity of and traffic conditions on the surrounding road network are satisfactory. TRA 9 requires adequate provision within a site for parking and servicing. GEN 6 contains a number of tests including in (vii) a requirement that development does not have an unacceptable effect on the local highway network.

Highways Officers have undertaken a survey and are satisfied that the increase in numbers can be accommodated on the site. It is considered that the parking to the rear and parking at the front remains adequate for an intensified use, and the related picking up and dropping off would not impact on highway safety or lead to a proliferation of parking on the highway. As per the Highway Officers recommendation a condition can be attached to control the number of children using the nursery to 46.

Policy GEN 6 sets out the general requirement to assess the impact of development on the amenity of local residents, including from increased activity, disturbance and noise.

9. SUMMARY AND CONCLUSIONS:

9.1 Having considered the proposal under the relevant policies, it is considered that the proposal is acceptable within the terms of these policies and therefore is recommended for grant.

RECOMMENDATION: - GRANT subject to the following conditions:-

1. The development hereby permitted shall be begun before the expiration of five years from the date of this permission.
2. No more than 46 children shall be accommodated at the children's day nursery at any one time.
3. No more than 16 children shall be outside in the rear garden area of the premises at any one time.

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

1. To comply with the provisions of Section 91 of the Town and Country Planning Act 1990.
2. In the interest of residential amenity and highway safety.
3. In the interests of the amenity of occupiers of nearby residential property.

NOTES TO APPLICANT:

None

PWYLLGOR CYNLLUNIO
CYFARFOD: 14eg Ebrill 2010
Eitem: 3

PLANNING COMMITTEE
MEETING: 14th April 2010
Agenda Item: 3

MATERION GORFODI

- (i) **ENF/ 2010/00011 :**
1 Ffordd Llanelwy, Dyserth
Datblygiad heb awdurdod – ffens a mur terfyn o amgylch tanc
olew, yn fwy na medr o uchder yn cyffinio'r briffordd

PLANNING ENFORCEMENT REPORT

REFERENCE: ENF/2010/00011

LOCATION: 1 St Asaph Road, Dyserth

INFRINGEMENT: Unauthorised development – fencing and boundary wall of oil tank enclosure in excess of one metre in height adjacent to a highway

RELEVANT PLANNING POLICIES AND GUIDANCE

DENBIGHSHIRE UNITARY DEVELOPMENT PLAN
Policy GEN 6 – Development Control Requirements
Supplementary Planning Guidance Note 2 - Landscaping

GOVERNMENT GUIDANCE

Planning Policy (Wales) – 2002
Technical Advice Note (Wales) 9 – Enforcement of Planning Control

HUMAN RIGHTS CONSIDERATIONS

The Human Rights Act 1998 is taken into account when considering taking enforcement action against breaches of planning control. In this instance the matter under consideration is whether the owner of land has a right to erect fencing and the boundary wall of an oil tank enclosure, above one metre in height adjacent to a highway, which would require planning permission, without the required Local Planning Authority approval. The general public interest outweighs any rights claimed by the land owner in this case. No specific human rights issues have been raised by the land owner or any other interested party.

1. BACKGROUND INFORMATION

- 1.1 On the 8 February 2007, planning permission was granted for the '*erection of a two-storey pitched roof extension at the rear of the dwelling*' in respect of the residential property at 1 St Asaph Road, Dyserth; code 42/2007/0029/PF refers.
- 1.2 A site visit was undertaken by a Planning Compliance Officer on the 2 June 2009, which revealed that during the subsequent refurbishment of this property a series of concrete fence posts, in excess of one metre in height, were erected along the boundary of the property with Cwm Road. The fencing is incomplete with only one wood fence panel having been inserted within the concrete posts; the panel itself also in excess of one metre in height. Further to this, a block built enclosure has also been erected to house and protect a heating oil tank. The enclosure is sited adjacent to the property boundary with Cwm Road and the outer most wall is located on the boundary line and is also in excess of one metre in height.
- 1.3 The outer boundary wall of the block built enclosure, nor the fencing, were approved under planning permission code 42/2007/0029/PF; both fall outside Permitted Development Rights and are consequently unauthorised and in breach of planning control. The overall height of the fencing and block built boundary wall varies between 2.1 metres and 2.2 metres in height along their length.

- 1.4 On the 15 June 2009, a letter was forwarded to the owner of this property outlining the breaches of planning control and options open to the owner on how to regularise the situation.
- 1.5 As no response was received to this letter, a reminder was forwarded to the owner on the 15 July 2009.
- 1.6 On the 17 July 2009, the owner contacted Planning Services by telephone when the situation was discussed; the owner appearing intent on resolving the breaches by amending the works in order to comply with Permitted Development Rights. Arrangements were made for a site visit during August 2009 with the owner's contractor to identify the issues first hand and agree a way forward to regularise the situation. This meeting was postponed due to the unavailability of the contractor.
- 1.7 Further promises to arrange site visits have been made by the owner, which have been unfulfilled.
- 1.8 A further site visit was undertaken by a Planning Compliance Officer on the 16 March 2010; the structures remained in situ; no attempt has been made to amend the structures.

2. REASONS FOR ISSUING AN ENFORCEMENT NOTICE

- 2.1 The development has taken place within the last four years.
- 2.2 It is considered that the fencing and block built boundary wall do not respect the site with regard to scale, design and materials and are therefore contrary to criteria (i) and (xii) of Policy GEN 6 – Development Control Requirements and SPG Note 2 – Landscaping.
- 2.3 By his continued inaction it is considered that the land owner has indicated that he will not voluntarily remove the unauthorised structures.
- 2.4 The use of conditions as part of any grant of planning permission for the retention of the fencing and block built boundary wall could not overcome these objections.

3. RECOMMENDATION

- 3.1 That authorisation be granted for the following:
 - (i) Serve an enforcement notice to secure the removal of the unauthorised fencing and block built boundary wall. (Compliance 3 months)
 - (ii) Instigate prosecution proceedings or other appropriate action under the Planning Acts against the person or persons upon whom any enforcement notice, or other such notice is served, should they fail to comply with the requirements thereof.