

Y WEITHDREFN BLEIDLEISIO

Atgoffir yr Aelodau o'r drefn ar gyfer bwrw eu pleidlais i ganiatáu neu i wrthod cais cynllunio. Bydd y Cadeirydd yn egluro'r weithdrefn sydd i'w dilyn.

Unwaith y bydd y sgriniau arddangos yn y Siambr wedi'u clirio yn barod ar gyfer y bleidlais a'r sgrîn bleidleisio'n ymddangos, bydd gan Gynghorwyr 10 eiliad i gofnodi'u pleidlais fel a ganlyn:
Ar y bysellfwrdd pleidleisio gwasgwch

+	i GANIATÁU caniatâd
-	i WRTHOD caniatâd
0	i YMATAL rhag pleidleisio

PWYLLGOR CYNLLUNIO
CYFARFOD: 11 fed Mai 2011
Eitem: 7

PLANNING COMMITTEE
MEETING – 11th May 2011
Agenda Item: 7

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

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

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

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

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

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ITEM NO: 1
WARD NO: Denbigh Upper / Henllan
APPLICATION NO: 01/2011/0335/ PC
PROPOSAL: Retention of replacement front door
LOCATION: 17 Lenten Pool Denbigh
APPLICANT: Cymdeithas Tai Clwyd Cyf
CONSTRAINTS: C2 Flood Zone
Town Heritage Area
Conservation Area
Article 4 Direction
PUBLICITY UNDERTAKEN: Site Notice - Yes
Press Notice - Yes
Neighbour letters - Yes

CONSULTATION RESPONSES:

DENBIGH TOWN COUNCIL

"The Town Council would wish to draw attention to the fact that what is proposed is located within the Denbigh Conservation Area"

DENBIGHSHIRE COUNTY COUNCIL CONSULTEES

CONSERVATION ARCHITECT

Object as uPVC not acceptable in Denbigh Conservation Area. Approval would set harmful precedent.

RESPONSE TO PUBLICITY:

None

EXPIRY DATE OF APPLICATION: 29/05/2011

PLANNING ASSESSMENT:

1. THE PROPOSAL:

1.1 Summary of proposals

1.1.1 The proposal is for the retention of a white uPVC front door at 17 Holland Villas, Lenten Pool, Denbigh.

1.1.2 The frontage of the dwelling is separated from the adjacent public footpath and highway by a small front garden. Boundary treatments to the front comprise of a dwarf wall and black metal railings.

1.2 Description of site and surroundings

1.2.1 The property is a residential terraced property within the Denbigh Conservation Area and the Denbigh Townscape Heritage Initiative Area.

1.3 Relevant planning constraints/considerations

1.3.1 The property is located within the development boundary of Denbigh and within the Denbigh Conservation Area. Permitted development rights for

householders were removed in the Denbigh Conservation Area in 2001 through a direction under Article 4(2) of the General Permitted Development Order 1995. This direction afforded control over development to householder development that would otherwise be 'permitted development'.

1.4 Relevant planning history

1.4.1 Installation of uPVC windows at the property was subject to an enforcement investigation. No breach was found as installation pre dated the 2001 Article 4(2) direction.

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 2007 enforcement investigation into the insertion of uPVC windows. No breach due to installation pre dating 2001 article 4(2) direction.

2.2 2011 enforcement investigation into the installation of uPVC front door. Breach due to restrictions on householder 'permitted development rights within the Denbigh Conservation Area.

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 1 - Development within Development Boundaries

Policy GEN 6 - Development Control Requirements

Policy CON 5 - Development within Conservation Areas

Policy CON 9 - Article 4 Directions (restrictions of permitted development rights)

3.2 Supplementary Planning Guidance

SPG 13 - Conservation Areas

3.3 GOVERNMENT GUIDANCE

Planning Policy Wales (February 2011)

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

4.2 In relation to the main planning considerations:

4.2.1 Principle

The development relates to alterations to an existing building within a town boundary and would normally be acceptable in principle, subject to the detailing being compliant with other development plan policies.

4.2.2 Visual impact

Policy CON 5 requires within a Conservation Area that development must preserve or enhance the character or appearance of the designated area. Policy CON 9 sets out the purpose of Article 4 directions to restrict permitted development rights.

The application site is within a designated Conservation Area where additional control of householder development has been acquired through the removal of permitted development rights. The Conservation Architect has raised concerns about the appropriateness of development of this type in this location. Additionally concerns have been raised over the harmful precedent that would be set should permission be granted.

It is considered that the development fails to preserve or enhance the character or appearance of the designated Conservation Area. The removal of householder permitted development rights through an Article 4 direction is intended to prevent individual alterations of this type which would be likely to cause significant damage if widespread. For these reasons it is considered that the introduction of a modern plastic door has an unacceptable impact on the Conservation Area, and should not be supported.

5. SUMMARY AND CONCLUSIONS:

5.1 It is considered that the development is unacceptable within the Denbigh Conservation Area and approving applications of this type would set a precedent which would be cumulatively harmful to the character of the Conservation Area as a whole.

RECOMMENDATION: REFUSE - for the following reason:-

1. In the opinion of the Local Planning Authority the installation of a uPVC door to the front of the property has a detrimental impact on the character and appearance of the Conservation Area, in conflict with Policy CON 5 of the Denbighshire Unitary Development Plan and advice set out in Supplementary Guidance Note 13 Conservation Areas. It is also considered that the grant of permission would make it difficult to resist similar proposals elsewhere in the locality, to the further detriment of the character of the Conservation Area.

NOTES TO APPLICANT:

None

ENFORCEMENT REPORT FOLLOWS

PLANNING ENFORCEMENT REPORT

REFERENCE: ENF/2011/00002

LOCATION: 17 Lenten Pool Denbigh

INFRINGEMENT: Unauthorised development - installation of uPVC door in Article 4 Area

RELEVANT PLANNING POLICIES AND GUIDANCE

DENBGHSHIRE UNITARY DEVELOPMENT PLAN
Policy GEN 1 – Development within Development Boundaries
Policy GEN 6 – Development Control Requirements
Policy CON 5 – Development within Conservation Areas
Policy CON 9 – Article 4 Directions
SPG 13 – Conservation Areas

GOVERNMENT GUIDANCE

Planning Policy Wales 2002
Technical Advice Note (Wales) 9: Enforcement of Planning Control
Circular 61/96 Planning and the Historic Environment

HUMAN RIGHTS CONSIDERATIONS

The Human Rights Act 1998 is taken into account when considering taking enforcement action against unauthorised alterations to residential premises within a Conservation Area. In this instance, the matter under consideration relates to the rights of an owner of a residential property to install a uPVC replacement door of modern materials and design and the impact that such development has on the character and appearance of the Conservation Area. It is considered that such development is not in the general public interest which outweighs the rights of the owner.

No specific human rights issues have been raised by the owner of the dwelling or any other interested party.

1. BACKGROUND INFORMATION

17 Lenten Pool, Denbigh is a terraced single residential property located within the Denbigh Conservation Area. The property is fully residential and therefore falls within Class C3.

The site lies within the Denbigh Conservation Area and within the area covered by a Direction under Article 4(2) of the Town and Country Planning (General Permitted Development) Order 1995. This direction effectively took away householder permitted development rights for all dwelling houses located within the Conservation Area. The effect of the Direction is that planning permission is now required for any development previously permitted by Schedule 2, Part 1, 2 and 31 of the General Permitted Development Order 1995, where the works front a highway or open space.

On the 11 February 2011, a complaint was received that a new front door of uPVC material had been installed at 17 Lenten Pool, Denbigh. A site visit was undertaken the same day by a Planning Compliance Officer, who was able to verify the report.

There is no planning permission in place to authorise the development, nor has an application for planning permission been submitted, as required under the Town and Country Planning Act 1990 and Article 4(2) of the Town and Country Planning (General Permitted Development) Order 1995.

The Planning Compliance Officer made contact with the property owners and provided appropriate guidance. The owners resolved to submit an application for retrospective planning permission for the installation of a new front door of uPVC material. The application code reference 01/2011/0335/PC was submitted on the 15 March 2011, but not validated until the 4 April 2011.

The application has been considered by a Planning Officer and it consequently appears before the Planning Committee with a recommendation for refusal.

2. REASONS FOR ISSUING AN ENFORCEMENT NOTICE

The unauthorised development has been carried out within the last four years.

The use of contemporary uPVC materials for front doors within the Denbigh Conservation Area is out of character with the predominant use of traditional materials in a Conservation Area and consequently has a detrimental impact on the appearance of the building and the character of the Conservation Area.

The use of modern uPVC materials on the building is in conflict with Policies GEN 6 and CON 5 of the Denbighshire Unitary Development Plan, SPG 12 and 13 of the Unitary Development Plan and Circular 61/96.

The use of conditions as part of any grant of planning permission for the retention of the unauthorised front door, would not remove these objections.

3. RECOMMENDATION

That authorisation be granted for the following:

- (i) Serve an Enforcement Notice to secure the removal of the unauthorised uPVC front door and its replacement with a traditional timber panelled door meeting the approval of the Local Planning Authority.
- (ii) Instigate prosecution proceedings, or the appropriate action under the Planning Acts against the person, or persons upon whom any Enforcement Notice, or other such Notice is served, or against whom legal action is taken should they fail to comply with the requirements of the Enforcement Notice.

ITEM NO: 2

WARD NO: Llangollen

APPLICATION NO: 03/2009/1535/ PC

PROPOSAL: Retention of single storey bungalow (mobile home) as site managers accommodation

LOCATION: White Water Country Park Berwyn Street Llangollen

APPLICANT: Mr Matthew Fletcher

CONSTRAINTS: World Heritage Site Buffer

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

CONSULTATION RESPONSES:

LLANGOLLEN TOWN COUNCIL

"Members raised no objections to this application".

COUNTRYSIDE COUNCIL FOR WALES

No objections, but recommend conditions to reduce potential impacts, including restrictions on works within the boundary of the SSSI and SAC.

CADW (Ancient Monuments Section) (original response)

(Comment only on aspects relating to scheduled monuments or Registered Historic Landscapes, Parks and Gardens).

Note the proposal is in the vicinity of the scheduled ancient monument of Pontcysyllte Aqueduct and Canal, but given the grant of permission for the log cabin development, retention of the bungalow would not appear to be of a scale or nature of building to impose a significant adverse impact on the World Heritage site and scheduled ancient monument. The Authority should be satisfied that views toward and from the World Heritage site are not compromised, and should assess impacts on the historic landscape of the Pontcysyllte Aqueduct and Canal and World Heritage Site and the Vale of Llangollen, which is included in the Register of Landscapes of Historic Interest in Wales.

DENBIGHSHIRE COUNTY COUNCIL CONSULTEES

ECOLOGIST

No objection, but if permission granted, conditions should be attached to control external lighting, and to improve screen planting along the river bank.

RESPONSE TO PUBLICITY: (All relate to the original submission unless indicated otherwise)

Letters of representation received from:

Mr. C. Davies, ECO Leisure Ltd., The New Enterprise Centre, Lytham Road, Blackpool (via e-mail)

P. Lloyd, PLPlanning, Commodore House, 51, Conway Road, Colwyn Bay (on behalf of LPA Receivers of Whitewater Country Park).

The main points raised are:-

Principle of development

- Applicant does not control land necessary to implement extant planning permissions, hence there is no basis at this stage to justify living on the site to construct or manage the completed development/there is no functioning rural enterprise in existence capable of being managed by the applicant/development is in open countryside and sporadic/retention of the unit would reduce the number of tourist units and create a potentially conflicting user detrimental to the implementation of the consented scheme.

- Site development is not imminent and there is no reason to believe it would be managed from a mobile home on the site proposed/there may be a need when the holiday site is developed and operational but this should be based in one of the log cabins close to the entrance/the application site is totally inappropriate.

Planning policy conflict

- In absence of any essential need, contrary to principles in Unitary plan policies GEN 3, GEN 4, HSG 6, WAG policy statement 1/2006 (Housing) and TAN 6/design is contrary to GEN 6 and MIPPS 01/2008 Design

Design/Landscape impact

- Appearance contrasts starkly with high quality of log cabin units/visually jarring from A5 and River Dee.

Unauthorised development

- Mobile home is unauthorised/has been illegally erected on one of the plots granted permission for a log home/is already the subject of Enforcement Action/application is a further delaying tactic.

EXPIRY DATE OF APPLICATION: 30/05/2011

PLANNING ASSESSMENT:

1. THE PROPOSAL:

1.1 Summary of proposals

- 1.1.1 The application is being referred to the Committee for determination for a second time, as the Planning Inspectorate have declined to administer an appeal lodged against a refusal of permission at Planning Committee in January 2011. The detailed background to this situation is set out in section 1.5 following.
- 1.1.2 The application seeks retrospective planning permission to retain a sectional unit as accommodation for a site warden/manager in connection with a partly constructed log cabin development. The site is referred to as Whitewaters Country Park and is located in open countryside north of Llangollen town.
- 1.1.3 The unit is situated approximately 40 metres to the north east of the White Waters Country Hotel (formerly known as Eirianfa), and within 20 metres of the west bank of the River Dee. (See plan at the front of the report).
- 1.1.4 The application forms describe the proposal as:-
"Application in retrospect to retain a single storey bungalow (mobile home) as a domestic residence/site manager's accommodation". The forms confirm the use was started in December 2003, and that the current use of the site is 'residential plot within country park estate used for holiday (camping and

caravans)".

1.1.5 The application is submitted on behalf of the applicant, Mr. Matthew Fletcher. The submitted site layout plan shows the 'red line' defining the application site drawn around the accommodation unit (which is shown as unit 36) and the plan edges in blue (in the same ownership) land encompassing log cabins numbered 10, 11, part of 18, 29, and 31 i.e. excluding the remainder of the log cabin site and the White Water Country Hotel. There is a second plan in the submission (Land Registry plan) showing land in the ownership of Mr. & Mrs. R. Fletcher, which are the areas edged red and blue on the site location plan. The planning application contains a Certificate B confirming formal notice has been served on Mr. R. R. Fletcher as owner in connection with the submission. The Country Hotel is in entirely separate ownership.

1.1.6 The plans show a unit described as a 'Park Home' measuring some 18 metres long x 6 metres wide with a 3m x 3.5m conservatory at one end and a decking area at the rear. The plans indicate the unit contains 4 bedrooms, a lounge, dining room, kitchen, utility and bathroom. Its appearance resembles a bungalow with white finished textured cladding on the external walls, slate grey interlocking steel tiles, and a surrounding picket fence.

1.1.7 The application is accompanied by two supporting statements:

- a) A Statement of Need for a site warden/manager's residence at the White Waters Country Park
- b) A Design and Access Statement (revised April 2011).

1.1.8 The main points in a), the Statement of Need are as follows:-

- The White Waters Country Park was formerly known as Eirianfa Holiday Park
- The Country Park is set in 3.5 acres of gardens established 20 years ago.
- The proposed development is to erect 35 luxury log cabins/homes with infrastructure; providing year round accommodation (for able and disabled persons) which is short in Llangollen
 - There are facilities for canoeing and fishing on the river
 - Other sites in the area are seasonal and have on site managers to offer daily assistance and emergency cover to holiday makers in need; there is a necessity for a full time warden, to provide the level of service required.
 - Work on the log cabin development was started in April 2007 and was due to be completed in 2008, but legal issues have arisen and set back the overall development in excess of 2 years.
 - The reasons for the provision/retention of the warden's accommodation are:
 - to provide security from theft and damage to material on site during the construction period;
 - On completion of the construction phase, to provide an active reception for multiple changeover times and days; to book clients in and out and provide assistance to less able/disabled clients; to provide a presence to cover maintenance of the units, fences, roads, lighting, drainage, river frontage, discourage poaching, provide a cleaning/linen service, accept deliveries, etc.
 - It is accepted that it was remiss of the owners to pre-empt the development by demolishing the former Warden's residence and erecting the replacement, but this was in ignorance of the Planning Act.

- The request is to permit the continued use of the unit until completion of the first phase of the development : the commencement of which is stated as due in early summer 2010 with a backstop for completion within 3 years; at which time the temporary unit will be removed and replaced with one of a new design.

The Statement contains a letter from Hoseasons Holiday Ltd., which refers to the advantages of managers' accommodation on a new site in offering support for clients.

1.1.9 The main points in the Design and Access Statement are:-

- Accessibility - the site has a good access to the A5, which links to nearby towns and Llangollen, via car, bus and footpaths; the unit has ramped access compliant with Building Regulations; and as the unit is for a site manager, this would reduce the need for travel from elsewhere.
- Environmental Sustainability – the building is insulated to standards above the minimum requirement of the Building Regulations; foul drainage is as existing (septic tank) and surface water drains to the river.
- Character – the development is well screened, sits well in the landscape and has no impact on adjoining land or properties; is within an approved development of buildings of similar size and height; and will be replaced by a more sympathetic building when the rest of the development is completed.
- Community Safety – the main reason for the development is to provide long term security for the chalet development; and surveillance of the site in the short term as it is in danger of trespass and occupation by travellers.
- Movement to and from , and within the site – already referred to; site has a good access, in easy reach of Llangollen, accessible by different modes of transport.

1.2 Description of site and surroundings

- 1.2.1 The unit is sited on land which was formerly part of the grounds of Eirianfa, a substantial late Victorian property in open countryside between the A5 trunk road and the River Dee, some 600 metres to the north of the Wild Pheasant Hotel on the outskirts of Llangollen.
- 1.2.2 Vehicular access to the site is off the A5 via an existing entrance some 80 metres north of the White Waters Country Hotel. The accommodation unit is then accessed via a track which branches off down to the east.
- 1.2.3 The unit is located on a flat area immediately above the bank leading down to the River Dee, and it is at a slightly lower level than the Country Hotel. There are a number of trees along the western bank of the River Dee, which slopes sharply down to the east from the site
- 1.2.4 At the date of the Case Officer's original site visit (December 2010) it was noted that the following were present on the site.

- The White Water Country Hotel (separate ownership)
- The unit forming the subject of the current application
- The toilet block serving the site
- A log cabin on what appears to have been plot 3 of the 1993 consent for 6 log cabins
- An advertisement hoarding at the site entrance stating “For Sale – holiday lodge development site with planning consent for 30 log cabins”.

Attention was also drawn to the concrete slabs (bases) of the 5 other units which were subject to the 1993 consent, and the foundation of one of the log cabin units granted in 2003, but these could not be seen because of snow cover at the time of the visit.

1.3 Relevant planning constraints/considerations

- 1.3.1 The application site is in open countryside outside the development boundary of Llangollen town, as included in the Unitary Development Plan. It lies within the Area of Outstanding Beauty in the UDP, (currently under consideration for upgrade to AONB status) within the Buffer Zone of the Llangollen Canal World Heritage Site, and the Vale of Llangollen Historic Landscape. The River Dee forms part of a Special Area of Conservation.

1.4 Relevant planning history

- 1.4.1 There has been a long history of applications relating to this site, which until recent years formed part of the grounds of the former country house at Eirianfa. The history is of relevance to some of the considerations on the application.
- 1.4.2 It is understood that Eirianfa was used until the mid 1980's as a community home/school for adolescent boys, when it was known as Berwyn College. A planning consent in 1985 permitted use as a college for mentally handicapped persons.
- 1.4.3 From the early 1990's, proposals have been granted permission for the development/expansion of the main building at Eirianfa as a Hotel/leisure facility, linked to the use of surrounding land as a touring caravan halt, and the development of self-catering holiday units.
- 1.4.4 Permission was granted on appeal in 1991 for a hotel, 20 bed extension and associated facilities at Eirianfa, an overnight caravan halt for touring caravans, and lettable self-catering cottages and chalets. Details of the development were approved in 1993. The layout plan showing the location of the 6 log cabins is included at the front of the report. The applicant and owner of the land was Mr. R. Fletcher. Officers understand this permission was taken up in the form of the touring caravan use, the erection of the log cabin on plot 3, the laying of the bases of the other 5 units, and the erection of the toilet block.
- 1.4.5 A subsequent outline permission was granted in 2001 for a development involving the refurbishment of Eirianfa as an administrative centre for the site with a bar/restaurant, 4 catering units, swimming pool and fitness centre, and 30 units of tourist accommodation. This application encompassed the whole site involved in the 1991 and 1993 permissions. Detailed plans of the log cabin development, showing a total of 36 units (presumably incorporating 6 units from the 1993 permission) were approved in 2003. The applicant and owner of the land was Mr. R. Fletcher. Officers confirmed this permission

was commenced through works on the plot 7 log cabin in 2007.

- 1.4.6 An application was submitted on behalf of Mr. R. Fletcher in 2004 for a Certificate of Lawfulness of Existing Use for an old classroom block as a dwelling. File records indicate this was an old timber structure in the approximate location of what are shown as log cabin units 10 and 11 on the 2003 layout plan. It is understood this unit was removed in 2007 and that there is now no legal basis to support a 'replacement' on that site on the back of the Lawful Use certificate.
- 1.4.7 Matters have become somewhat complicated in recent years following a split in the ownership of the original Eirianfa site. Officers understand the main building (now named the White Waters Country Hotel) has been sold on and is in separate ownership, with no connection with the log cabin development. It is understood there have been legal issues impacting on the remaining part of the site in the ownership of Mr. R. Fletcher, such that the site layout plan on the planning application edges only the application site in red (for the warden/manager's unit) and land encompassing only 6 of the log cabin plots in blue (being land in the control of the applicant). The relevance or otherwise of these matters is covered later in the report in para.4.2.1.
- 1.4.8 The submission indicates the living unit forming the subject of the application has been present since 2003, and it is currently occupied by the applicant. Members may recall a report to the September 2007 Committee where it was resolved to take Enforcement Action to secure the removal of the unit. The Notice was served in October 2007 and required removal by the end of November 2008; although this was subsequently extended by 12 months to November 2009, and action has been held in abeyance following the submission of the current application in November 2009.

1.5 Developments/changes since the original submission

- 1.5.1 The application was submitted in November 2009. Further information was requested to allow the application to be progressed, and it was sent out for consultation in February 2010 on receipt of an additional Design and Access Statement. Further information confirming the location of the septic tank was received in March 2010.
- 1.5.2 There have been exchanges since this time with the agent and applicant, including over the relevance or otherwise of control over land where the log cabins are proposed. This matter is covered in Section 4.2.1 of the report.
- 1.5.3 Members may recall considering the application at the January 2011 Committee. The officer recommendation was to REFUSE PERMISSION on two grounds, relating to the principle of the development and the visual impact of the unit. The Committee accepted the recommendation.
- 1.5.4 The applicant subsequently lodged documents with the Planning Inspectorate, to commence the appeal process. Officials at the Planning Inspectorate then confirmed that following assessment of the submission, they did not consider the contents of the applicant's Design and Access Statement (a mandatory part of most types of application) complied with the requirements of legislation introduced in mid 2009. They consequently deemed the appeal to be invalid and could not be accepted.

The Inspectorate has therefore effectively passed the application back to the County Council to administer.

- 1.5.5 In the circumstances, whilst officers consider the Inspectorate's stance is somewhat inflexible having regard to the particular background and type of application, it has to be respected, and the January resolution of the Committee is therefore of 'no effect'. The appellant has engaged a new agent and has taken the opportunity to 'resubmit' the application with a revised Design and Access Statement having regard to the 2009 legislation and the Inspectorate's response on the contents of the original Statement.
- 1.5.6 Following the submission of the new Design and Access Statement, a reconsultation exercise has been undertaken with the Town Council and all original consultees.

1.6 Other relevant background information

- 1.6.1 None.

2. DETAILS OF PLANNING HISTORY:

2.1 3/117 - Development of land by the erection of 23 log cabin style chalets – REFUSED – 22/09/1974.

3/933 - Erection of 3 re-locatable classroom units – GRANTED – 24/11/1975

3/3160 - Closure of 2 existing accesses and construction of 1 combined access – GRANTED – 05/12/1978

3/3161 - Development of land by the erection of a covered swimming pool and gymnasium – GRANTED – 05/12/1978

3/3164 - Permanent use of Eirianfa as a therapeutic community home for adolescents – GRANTED – 05/12/1978

3/5257 - Change of use from therapeutic home to craft centre – GRANTED – 08/09/1981

3/7522 - Change of use from community home to college for mentally handicapped – GRANTED – 02/08/1985

3/11,270 - Outline permission GRANTED 21/6/1991 on appeal - Leisure facilities incl. provision of caravan site, toilet block, 6 log cabins, septic tank and alterations to existing vehicular access

3/13,272 – Details of 6 Log Units and Toilet Block – GRANTED 01/06/1993

3/14,301 – Substitution of Cabin For Previously Approved Log Cabin Plot 3, Eirianfa Tourist Site – GRANTED 30/11/1994

03/2000/0028 (Outline application) – Proposed development comprising of 30 buildings providing tourist accommodation, the refurbishment of Eirianfa to provide an administrative centre for the site, a bar/restaurant and four self catering units, and a new building providing a swimming pool and fitness centre with public access – GRANTED – 18/04/2001

03/2003/1196 – Details of development comprising 30 no. buildings providing tourist accommodation and amendments to 4 no. buildings previously approved for tourist accommodation, the refurbishment of 'Eirianfa' to provide an administrative centre, a bar/restaurant and four self catering units and extension to provide swimming pool and fitness centre in accordance with outline planning permission code no.

03/2001/0028 – approved – 13/11/2003

03/20040133/LE – Lawful Use Certificate application for the use of a former classroom block as a dwelling – GRANTED 17/12/2004

03/2004/1147 – Details of sitings of units 15, 16, 18, 30, 31 and 32 in accordance with condition 2 of 03/2003/1196 – APPROVED – 16/11/2004

03/2006/0331 – Details of landscaping submitted in accordance with condition no. 7 of planning permission code no. 03/2003/1196/PR – APPROVED – 08/05/2006

03/2006/0332 – Variation of condition no. 3 of planning permission code no. 03/2001/0028/PO to allow further 12 month period for commencement – GRANTED – 12/04/2006

Related Enforcement

- **Enforcement Notice served on 26 October 2007** requiring the removal of the unauthorised mobile unit and attached conservatory from the land. Notice took effect 30 November 2007 requiring compliance within 12 months.
- **Enforcement Notice period of compliance extended** for a further 12 months until 30 November 2009.

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 7 - Environment
- Policy STRAT 6 - Location
- Policy STRAT 13 - New Development
- Policy GEN 3 - Development outside development boundaries
- Policy GEN 4 - Scattered development outside development boundaries
- Policy GEN 6 - Development Control requirements
- Policy ENV 1 - Protection of the natural environment
- Policy ENV 2 - Development affecting the AONB/AOB
- Policy ENV 5 - Sites of local conservation importance
- Policy ENV 6 - Species protection
- Policy ENV 7 - Landscape/townscape features
- Policy HSG 6 - New dwellings in the open countryside
- Policy TRA 6 - Impact of new development on traffic flows
- Policy TRA 9 - Parking and servicing provision

3.2 Supplementary Planning Guidance

- SPG No. 8 - Access for All

3.3 GOVERNMENT GUIDANCE

Planning Policy Wales 2011 4th Edition

MIPPS 01/2006 – Housing

01/2008 – Good design

TAN 6 - Agricultural and Rural Development

- TAN 12 - Design
- TAN 22 - Sustainable Buildings

4. MAIN PLANNING CONSIDERATIONS:

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

- 4.1.1 Principle
- 4.1.2 Highway/access
- 4.1.3 Design/Landscape/visual impact
- 4.1.4 Impact on World Heritage Site Buffer Zone
- 4.1.5 Ecology
- 4.1.6 Sustainability/Access for all
- 4.1.7 Lawful Use issue on nearby site

4.2 In relation to the main planning considerations:

4.2.1 Principle

In setting out the basic considerations which may be relevant to the determination, officers suggest it is critical initially to establish what exactly is the subject of the application.

As presented, the submission seeks retrospective permission for a dwelling unit in the form of a 4 part 'sectional' structure. It is stated that the unit is needed for a manager/warden to supervise the construction and running of the log cabin site on adjacent land, and there is reference to it being required until the completion of the 'first phase' of the development, which is indicated as being within 3 years, when it will be removed and replaced with one of a new design. The type of unit does not conform to the definition of a caravan. In terms of planning policy and guidance, officers believe the most relevant are therefore ones relating to the provision of new dwellings in the countryside, since the structure is in effect a permanent living unit, and the stated intention is to retain it or a replacement unit of new design in a few years time.

Unitary Development Plan policies

In respect of the principle of the development, the Unitary Plan's main policies are GEN 3 and HSG 6. GEN 3 is the Plan's policy relating to development outside development boundaries and does not permit housing other than for exceptions such as farm or forestry workers, infill development, conversions, affordable housing exceptions, and replacement dwellings. HSG 6 is the more specific policy which relates to new dwellings in the open countryside, and permits development only where it is 'essential' to have an agricultural or forestry worker who must live at or close to a place of work rather than in a nearby dwelling or settlement. The principles of HSG 6 are broadly applicable to any rural dwelling proposed. The policy contains 6 tests including a requirement to assess availability of existing properties in the locality, demonstration of a functional and financial need for a dwelling, and the acceptability of the detailing of any development with regard to the design and landscape impact.

Welsh Assembly Government policy and guidance

There is more recent guidance in Planning Policy Wales 2011 (PPW) and Technical Advice Note 6 (TAN 6) 2010 on considerations to be given to proposals for permanent or temporary rural enterprise dwellings, i.e. new isolated residential development in the open countryside.

The basis of the Assembly's guidance is that isolated new homes require special justification, and that they should be essential to enable rural enterprise workers to live at or close to their place of work in the absence of

nearby accommodation. S.9.3.6 of PPW requires that “All applications for new ‘rural enterprise’ dwellings should be carefully examined to ensure that there is genuine need. It will be important to establish whether the rural enterprise is operating as a business and will continue to operate for a reasonable length of time”. PPW defers to TAN 6 for further guidance on the matters to be assessed to determine whether a rural dwelling is justified.

TAN 6 states in 4.31 that ‘qualifying rural enterprises’ include tourism and leisure enterprises. As the consented log cabin development is not in place, the tests set in 4.61 for new dwellings on new enterprises appear to be most relevant, and require, in order to determine whether a new dwelling is essential to support an enterprise, that specific criteria area met:

”4.6.1 If it is considered that a new dwelling will be essential to support a new rural enterprise, it should satisfy the following criteria:

- a. clear evidence of a firm intention and ability to develop the rural enterprise concerned (significant investment in new buildings and equipment is often a good indication of intentions);*
- b. clear evidence that the new enterprise needs to be established at the proposed location and that it cannot be accommodated at another suitable site where a dwelling is likely to be available;*
- c. clear evidence that the proposed enterprise has been planned on a sound financial basis;*
- d. there is a clearly established functional need and that need relates to a full-time worker, and does not relate to a part-time requirement;*
- e. the functional need could not be fulfilled by another dwelling or by converting an existing suitable building on the enterprise, or any other existing accommodation in the locality which is suitable and available for occupation by the workers concerned; and*
- f. other normal planning requirements, for example siting and access, are satisfied”.*

The ‘robust evidence’ referred to in TAN 6, which is required to support applications is in the form of a ‘Rural Enterprise dwelling appraisal’, which is expected to satisfy the following criteria (S.4.6.1).

- The *functional test* to provide evidence of whether there is a need for a resident worker for the proper functioning of the enterprise. (See paragraph 4.8.1).
- The *time test* to provide evidence of the labour requirement for the work who is working on the justifying enterprise. (See paragraph 4.9.1).
- The *financial test* to provide evidence of the economic sustainability of the justifying enterprise and identify the size of dwelling that the enterprise can sustain, ensuring that the size of the dwelling is commensurate with its functional need and financial justification. (See paragraphs 4.10.1 – 4.10.3).
- The *other dwellings test* to identify whether there is an existing dwelling or building suitable for conversion on the enterprise or dwelling in the locality that could meet the identified functional need. (See paragraphs 4.11.1 – 4.11.2).
- The *Other normal planning requirements test* to demonstrate that the dwelling is suitably located to fulfil its identified need and to minimise impact on the wider environment. (See paragraphs 4.12.1 – 4.12.2).

The following paragraphs in TAN 6 offer further guidance on the tests and are touched on in subsequent sections of the report.

In applying the tests of general principle in PPW, TAN 6 (4.6.1) and HSG 6 to the information provided with the application, officers would comment as follows:-

- a) *Evidence of a firm intention and ability to develop the rural enterprise.* Factually, it is understood works were carried out in 2007 to commence the planning consent for the log cabin development approved in 2003, by way of the laying of a concrete base for the unit 7 cabin. Officers confirmed at that time that these works were a lawful start of development, and the remainder of the log cabin scheme can still be completed, in accordance with the 2003 approval. However, all that exists on the site at the time of preparing this report is part of the base of the plot 7 unit, the log cabin on plot 3 of the 1993 approval, the toilet block, and the other 5 bases of the 1993 approval. The current application indicates the intention to complete the development of 30 log cabins, and although it refers to a 'first phase' of development with a 'backstop of completion within three years', the number of cabins in this phase is not stated.

It is also relevant as background that the site forming the subject of the main permission for the tourist/leisure development has been 'split' since the grant of the consent in 2001/2003, and the White Waters Country Hotel is now a separate planning unit. The 'coloured up' plans with the current application show only the current application site for the manager's living unit, and land encompassing a further 4 or 5 log cabins as within the same ownership. Correspondence on the file indicates there have been ongoing legal issues with respect to the remainder of the log cabin site, and the Council's Legal Officer has advised the applicant in correspondence that on the information furnished it is unclear how they can manage and control the 30+ units referred to.

Having regard to the above, and the tests of TAN 6, and with respect to the applicant's case, it would appear there is currently some question over the ability of the applicant to develop the whole enterprise, and there is no clear evidence with the submission of a commencement or completion date for the scheme, any indication of the extent of investment in the proposed log cabins, or infrastructure development to show a clear intent to complete the development.

- b) *Evidence that the enterprise needs to be established at this location or another site where a dwelling may be available.*

This 'test' in TAN 6 is less relevant to the circumstances at the site, as the need for a manager's accommodation is based primarily on the proposed take up of a part implemented planning consent for a log cabin development. The Authority has previously approved the principle of a tourist/recreation use at this site, so there can be no challenge to the location of the log cabin development itself. Issues over the actual location of the manager's accommodation unit are dealt with in sub paragraph d) following.

- c) *Evidence that the proposed enterprise has been planned on a sound financial basis.*

There is no financial information with the application to allow assessment of the financial viability of the enterprise, its ability to remain economically sustainable for a reasonable period, or its ability to sustain a full time

manager.

- *d) A clearly established functional need, for a full time worker.*

There is no detailed 'man hours' information with the submission to clarify the labour requirements which may be associated with a manager/warden running a log cabin site, including what may be essential 'out of hours' duties. The supporting statements simply refer to the 'need' for on site presence at construction stage for security reasons, and then as an ongoing security/management/servicing presence when the site is developed. There is mention of the offer of an 'emergency service' and an all year presence to maintain the river bank, facilitate access, discourage poaching and manage fishing rights, and to an ongoing need for a maintenance, cleaning and linen service which will be called upon 24/7.

On the basis of the information provided, and with the uncertainties over the number of log cabins which may be constructed and when, it is difficult to conclude that a case is made for a full time residential presence.

Respectfully, the duties outlined once log cabins are in place do not make a compelling argument that someone has to be on hand day and night to deal with an emergency which may threaten the continued viability and existence of the enterprise without immediate attention.

On the issue of a security presence at construction stage, it would be normal to expect any developer to introduce routine measures at a building site, e.g. secure site compounds, alarm systems, patrols, etc., to effect reasonable security. To consent to a dwelling unit to oversee construction works would set a clear precedent, and in officers' opinion could not be justified.

- *e) The functional need could not be fulfilled by another dwelling, or by conversion of a suitable building on the enterprise; or otherwise by way of any other existing accommodation in the locality which may be suitable and available.*

There is no evaluation in the submission of any other options which may have been considered for the provision of a manager's living unit, either on the site, or in the locality.

It seems on the face of things that the 'need' for the manager's accommodation has come about as a result of the split in ownership of the site, which has effectively deprived the log cabin site of what was its approved 'hub' administrative centre, approved as part of the 2001/2003 consents within the old Eirianfa buildings (now the White Waters Country Hotel). This complex was in an ideal location at the entrance to the site off the A5 to act as the manager's accommodation, and the book in/reception and servicing facility for the whole tourism and leisure use, with ample parking spaces around it for clients. Its use as the centre for the development would also have been consistent with planning policies seeking to re-use existing buildings in open countryside. There are no other buildings on the land shown as within the same control in the application documents, which could potentially be used for the purpose of a manager's living unit.

It is respectfully questioned whether it is reasonable in principle to consent to what in effect is a second unit of living accommodation within the originally consented leisure site, given the owner's decision to subdivide the planning unit, and by so doing create the 'need' for another dwelling. Also, given the uncertainty over the ability and firmness of proposals to develop the whole log cabin site, it would seem inappropriate in principle to consent to a living unit in

connection with an indeterminate number of log cabins, as this may be seen to be encouraging the further subdivision of the site, and opening the door to future similar applications for residential units from owners of different parts of the site to offer the same 'on site' presence.

Locationally, it also has to be questioned, even if a need was justified for a manager's living unit, whether the position of the unit is actually appropriate to serve as a functional centre for the log cabin site. It can be readily seen from the plan at the front of the report that the unit is situated at the end of a cul-de-sac road off the main track serving the log cabin site, some 100 metres from the A5 entrance to the site. Its position just above the River Dee is below the level of most of the proposed log cabins, and it would not appear to be well suited to perform a role as a security presence, or a logical booking in office or service centre for visitors to the site. Additionally, it is to be noted from the floor plans of the manager's unit that there is no provision for a reception/office/laundry facility within the structure, and the site plan makes no provision for the parking or turning of visitors vehicles around the unit.

- *f) Other normal planning requirements*

These tests are dealt with in the following sections of the report.

Overall, from the application of the TAN 6 tests to the particular circumstances, and with regard to the information in support of the application; officers do not consider the case is made for a living unit on this site, either on a permanent or temporary basis.

4.2.2 Highways/access

Policies GEN 6, TRA 6 and TRA 9 of the Unitary Plan oblige due consideration of the highway impacts of development.

In this case, it is not considered the volume of traffic from a single living unit give rise to any adverse highway or access impacts. The development has to be viewed in the context of the approved 'larger' tourist/recreation use at White Waters, involving the Hotel and the log cabin site, which have been deemed acceptable on highway grounds previously by the County Council and Welsh Office/Assembly Highways officers.

4.2.3 Design/Landscape and visual impact

The Unitary Plan's main policies requiring assessment of landscape and visual impact are STRAT 7, GEN 6, ENV 1, ENV 2, and ENV 7. The policies seek to safeguard the special character of the County's natural environment, including its landscape quality. ENV 2 deals with development affecting the Area of Outstanding Beauty. There is a general requirement in Assembly policy/guidance (PPW and TAN 12 Design) to secure the delivery of high quality design in new development.

The application seeks to retain a white walled single storey structure on a plot perched above the River Dee. The site is within an Area of Outstanding Beauty (UDP designation and under consideration for upgrade to AONB status), the Buffer Zone of the Pontcysyllte Aqueduct and Llangollen canal World Heritage Site, and within the Vale of Llangollen Landscape of Historic Interest in Wales. It is visible from public view from the A5, locations on the east side of the River Dee, Llangollen Railway, Llangollen Canal and higher ground above Pentrefelin. The site is within the Vale of Llangollen character area in the LANDMAP study, where the Visual and Sensory Aspect is noted

as Outstanding, as a 'low valley with mosaic of woodland and pasture'.

The natural environment in the vicinity of the site is of a high quality, reflected in the designations referred to in the preceding paragraph. The white painted unit stands out somewhat starkly – particularly in the winter months – as there are breaks in the tree cover, and it gives the impression of a modern housing estate bungalow, with a conservatory and a decking area. Whilst it is recognised that the physical impact could be reduced by a more appropriate external colour, in officers' opinion, this is an inappropriate development in such a sensitive area in open countryside, and appears at odds with the more 'natural' wood finish proposed for the log cabins which would surround it, if the remainder of the development were to proceed.

4.2.4 World Heritage Site Buffer Zone Impact

The application site lies within the Buffer Zone of the Pontcysyllte Aqueduct and Llangollen Canal World Heritage Site. This designation was confirmed in 2009, and related legislation obliges the Authority to have regard to the potential impact of development on the surrounding area which forms part of the setting of the heritage asset. There are currently no Unitary Plan policies of direct relevance to the World Heritage Site, but there is a general requirement in STRAT 7 to safeguard the County's built heritage.

The accommodation unit lies some 200 metres to the west of the Llangollen canal and is visible from the canal towpath. CADW's Ancient Monuments section has suggested that given the log cabin permission, the scale of the bungalow would not appear to be of a scale or nature to impose a significant adverse impact on the WHS, but they do defer to Denbighshire to conclude whether views towards and from the WHS are not compromised, and to assess impacts on the Ancient Monument and the Landscape of Historic Interest.

Purely in relation to the World Heritage Site Buffer Zone, officers conclusion is that with respect to CADW's observations, a white rendered bungalow structure visible at relatively close distance is a negative visual feature, which impacts on the Buffer Zone and on the setting of the canal.

4.2.5 Ecology

The general requirement to consider the impact of development on ecological interests is set out in the strategic policies of the Unitary Plan, STRAT 1 – General, STRAT 7 – Environment and in the Part 2 policies ENV 6 and GEN 6. These establish a basic obligation to protect and enhance the biodiversity of the County, and support national policy, guidance in Planning Policy Wales and TAN 5, SPG 18, as well as Legislation relating to the safeguarding of protected species.

This is an instance where the living unit has been in situ for a number of years, within a site with a permission for a log cabin development. Its retention does not seem likely to give rise to any new ecological issues, (e.g. tree removal, interference with wildlife, etc), so it is not considered there is any direct conflict with the abovementioned policies and guidelines.

4.2.6 Design and Access/Sustainability Code/Access for All

Guidance in TAN 12 Design and TAN 22 Sustainable Buildings oblige applicants to demonstrate the approach to a range of design considerations, including how inclusive design and standards of environmental sustainability are to be achieved. These reflect general requirements in the strategic policies of the Unitary plan STRAT 1 and 13 to ensure sustainable

development principles are embodied in schemes.

The application is accompanied by a revised Design and Access Statement which contains reference to basic consideration given to accessibility, environmental sustainability, character, community safety and movement.

It is not possible for officers to discern from the details in the submission whether relevant construction standards are achieved, although it may be possible to impose conditions in the event of permission being granted to secure the necessary standards in accordance with sustainability codes.

- 4.2.7 Lawful Use Certificate for use of former classroom as dwelling on nearby land
There is reference in the submission to a former Warden's residence in an old Classroom unit on the site. This unit was associated with the previous use of Eirianfa as an education facility, and was the subject of a lawfulness of Use application as a dwelling, in 2004. File records indicate the unit was located on what are log cabin plots 11 and 12 on the 2003 layout plan.

Factually, the County Council accepted on the basis of evidence with the 2004 application that a Certificate of Lawfulness should be granted. The statement in the current application confirm this 'Warden's Unit' was subsequently removed because of its deteriorating condition, and it is believed this was taken away in 2007. The advice of the Legal Officer is that the removal of the structure at that point terminated the Lawful use/rights to a dwelling in the particular location, and with the subsequent lapse of time, there is no entitlement to site a dwelling unit there at this point.

There was also correspondence between officers and the owner's agent in 2005 which confirmed officers' opinion that it was not possible legally to 'swap' a planning permission for a lawful use, on a different site. The letter suggests the owner had already taken the decision to site the accommodation unit forming the subject of this current application elsewhere, and the agent was seeking advice on the matter of securing its retention.

Having regard to the background, officers do not consider the lawful use issue can be of any weight in the consideration of the current application.

5. SUMMARY AND CONCLUSIONS:

- 5.1 The application seeks permission to retain an unauthorised Park Home as a residence for a site manager, in connection with a proposed log cabin development.
- 5.2 There is a complex background history, which is set out in detail in the report. Planning permissions have been granted for the development of a number of log cabins related to a central administrative/leisure facility within the old Eirianfa buildings. The ownership of the site has been split since the grant of the main permissions and there have been legal issues complicating matters over some time including the full implementation of the log cabin development. The Eirianfa building has operated as the White Water Country Hotel, and is an entirely separate business from the remainder of the site. This has effectively removed what would have served as the manager's accommodation from the related log cabin tourist development. Work commenced on the approved 2003 log cabin development in 2007. At the time of drafting this report, there is only one completed cabin on the site.
- 5.3 Officers believe the main considerations relevant to the application to retain the Park Home unit is whether there is a justifiable case for an on-site presence at construction stage, or following completion of the log cabin development. The report touches on

questions surrounding the ability of the owners to develop the whole site, and refers to current Assembly Guidance on assessment of proposals for dwellings in relation to new enterprises. On the basis of the submission, officers do not consider that the case is made to retain the unit, and there are visual/landscape concerns over its impact in an area of high landscape value.

RECOMMENDATION: REFUSE- for the following reasons:

1. The Local Planning Authority do not consider the submission or the circumstances applying make the case for the retention of a full time manager/warden's accommodation unit in this location, to offer a security presence during the proposed construction of a log cabin development, or as a centre for running the site once complete, in particular in relation to key tests for new dwellings in relation to new enterprises as outlined in Planning Policy Wales Edition 4, 2011, TAN 6 - Planning for Sustainable Communities, and in respect of Policies GEN 3 and 4 and HSG 6 in the Denbighshire Unitary Development Plan relating to residential development in open countryside. In the absence of an essential need, the proposals are considered to be unacceptable in principle and contrary to the aforementioned policies and guidance, and represent an unacceptable, sporadic development in attractive open countryside.
2. The Park Homes unit is considered to have an unacceptable visual impact in a highly sensitive location within an Area of Outstanding Beauty, the Buffer Zone of the Llangollen Canal and Pontcysyllte World Heritage Site, and the Vale of Llangollen Landscape of Historic Interest, and does not preserve or conserve the character of the landscape in those areas, contrary to Policies STRAT 7, ENV 1, 2, and 7, and GEN 6 of the Denbighshire Unitary Development Plan; and the principles of high quality design in Planning Policy Wales Edition 4, 2011 and TAN 12 Design.

NOTES TO APPLICANT:

None

ITEM NO: 3

WARD NO: Trefnant

APPLICATION NO: 30/2010/0584/ PF

PROPOSAL: Erection of 11 no. dwellings and associated works

LOCATION: Land adjacent to The Trefnant Inn Trefnant Denbigh

APPLICANT: Mr R Thomas

CONSTRAINTS: Listed Building
Conservation Area

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

CONSULTATION RESPONSES:

TREFNANT COMMUNITY COUNCIL:

"The Members object to the plans as they stand and reiterate the observations they made previously as well as making some new ones:-

1. The density on the site is out of character with the rural location. It removed an important green space within the village which will change significantly and adversely the character of the village. Members are concerned about the number of cars coming in and out of the entrance onto the road. Vision is restricted and it is very close to the school.
2. The development is very close to the Trefnant Inn. The scheme is out of scale and does not respect the curtilage of the listed building. Perhaps there should be a proper plan to repair this important landmark in the village.
3. The reduction in parking at the Inn will affect the viability of the business and could cause parking problems elsewhere in the village, which already has a parking issue. Coaches will no longer be able to part to give access to the pub.
4. The development encroaches on the pub land and will mean that the pub will become economically unviable and there will be pressure for its closure. This is the only community amenity and since the closure of the Bryn Glas Hotel the only eatery.
5. The density of the site is such that the houses are to be built too close to the mature trees on the site. These trees are significant landmarks in the village and form a critical part of the village landscape. We would like to see a proper tree root protection plan with a proper tree root protection zone in accordance with Building Standards in which no excavations can take place. The plans should be scrutinised to ensure that they show the trees in the correct location.
6. When a previous application was put forward for the site Crested newts were found but none has been mentioned in this application.
7. Members are concerned about whether the sewer and surface water drainage system can deal with extra capacity."

DWR CYMRU:

No objections subject to conditions to deal with foul and surface water.

ENVIRONMENT AGENCY:

No objections

COUNTRYSIDE COUNCIL FOR WALES:

No objections

DENBIGHSHIRE COUNTY COUNCIL CONSULTEES:

DEVELOPMENT PLAN & POLICY SECTION:

Officers have advised that Trefnant already benefits from a good supply of public open space, and as such there is not a great demand for additional open space within the village. The proposal to pay a commuted sum for the improvement of existing facilities would be acceptable, especially given the close proximity of the site to the existing facility on Post Office Terrace.

CONSERVATION ARCHITECT:

No objections subject to conditions regarding finishing details

BIODIVERSITY OFFICER:

No objections; the applicant should be made aware of the need to follow best practice guidance in relation to protected species.

AFFORDABLE HOUSING OFFICER:

Confirms that there is a need within Trefnant for affordable 2 bed houses, and agrees with the provision of 3x2 bed houses in this scheme.

LAND DRAINAGE UNIT:

No objection.

HEAD OF TRANSPORT AND INFRASTRUCTURE:

No objections subject to conditions and advisory notes. Some concern expressed regarding the feasibility of the proposed method of surface water drainage.

PUBLIC PROTECTION:

Response to be reported.

RESPONSE TO PUBLICITY:

Letters of representation received from:

Mr. & Mrs. J. Collins, Glascoed, Mold Road, Bodfari

T. & M. Serge, Rhiwlas, Henllan Road, Trefnant

G. Jones & A. Collins, Y Berllan Bach, Henllan Road, Trefnant

Voilet, Elfed & Mark Hughes, Arfryn, Trefnant LL16 5UF

E M Davies, Bryntirion, Henllan Road, Trefnant

EP & MA Carey, The Chase, 2 Bryn Dyffryn, Trefnant

Ms. A. J. Roberts, The Old Post Office House, Bodfari Road, Trefnant

C. Spencer, Staghouse, Trefnant

Mr. N. Williams, Gwilfa, Trefnant

Mr. & Mrs. Ashton, Cartref Coch, Trefnant

Mrs. N. Jones, Tan Llan, Henllan Road, Trefnant

John Marc Hughes, Arfryn, Trefnant

Summary of planning based representations:

Residential Amenity:

Impact upon residential amenity by loss of privacy, light, and additional noise.

Highway Impact:

The highway infrastructure could not cope with the additional vehicles, the access is not suitable for the proposed level of use. The access is too close to the traffic lights, and does not have sufficient visibility in a westward direction. The loss of car parking spaces for the public house would result in parking problems elsewhere in the village.

Ecological Impact:

The development could have a negative impact upon protected species, and may have a detrimental impact upon mature trees within the site.

Drainage:

The drainage systems in the area could not cope with the additional load.

Visual Amenity:

The proposal would appear visually intrusive adjacent to a listed building (The Trefnant Inn) and nearby conservation area.

EXPIRY DATE OF APPLICATION: 12/05/2011

REASONS FOR DELAY IN DECISION (where applicable):

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

PLANNING ASSESSMENT:

1. THE PROPOSAL:

1.1 Summary of proposals

- 1.1.1 Permission is sought for the erection of 11 dwellings and associated works on 0.49ha of land adjacent to the Trefnant Inn, Trefnant. Three, two bed dwellings are proposed to be affordable, and would be sold as Low Cost Home Ownership.
- 1.1.2 The associated works include alterations to the existing access onto the B5428 and the creation of a pedestrian link to the village centre, which can be seen on the site plan at the front of the report.
- 1.1.3 The proposed dwellings would be a mixture of two storey semi detached, detached and terrace houses, offering a mix of bedroom numbers.
- 1.1.4 The application is accompanied by a Design and Access Statement, a Code for Sustainable Homes pre-assessment report, and an Ecological Assessment.

1.2 Description of site and surroundings

- 1.2.1 The site is located to the southern edge of the village of Trefnant, adjacent to the Trefnant Inn, which is a grade II listed building. Along the eastern boundary of the site is the A525. Access to the site is from the northern side, off the B5428. The access point to the site is approximately 40 metres west of the traffic lights in the centre of Trefnant.
- 1.2.2 Development in the surrounding area is generally residential, with a mix of designs and materials. There are also commercial and community uses within

the vicinity; a public house, newsagents, fish and chip shop, village hall and primary school.

- 1.2.3 The site is currently used, in part, as informal parking for the Trefnant Inn. The remainder of the site is scrub/grassland which appears to have no formal use allocated to it.
- 1.2.4 The site boundaries are generally defined by existing planting – some mature native species such as ash and oak trees and hedgerows. The boundary to the north-west is a 3 metre high leylandii hedge. The boundary along the A525 is a combination of low stone wall and hedgerow.
- 1.2.5 To the south of the site is the dwelling The Chase (approximately 10 metres from the south western tip of the site boundary) whilst to the north is the dwelling Hafan Wen (approximately 7 metres from the northern boundary of the site).

1.3 Relevant planning constraints/considerations

- 1.3.1 The site is located within the development boundary of Trefnant, and abuts the southern edge of the village's conservation area. There is no specific use allocation on the site.
- 1.3.2 Immediately to the north of the site is the Trefnant Inn, a grade II listed building.

1.4 Relevant planning history

- 1.4.1 The site has been subject to two previous planning applications for residential development; one in 2003 and another in 2004. On both occasions these applications were withdrawn owing to insufficient information being available as to the likely impacts upon protected species.

1.5 Developments/changes since the original submission

- 1.5.1 Since the original submission was made in May 2010, additional information/amendments regarding the relationship between the proposed development and the listed building, the proposed alterations to the access and the proposed method of dealing with surface water and foul drainage has been submitted.

1.6 Other relevant background information

- 1.6.1 None

2. **DETAILS OF PLANNING HISTORY:**

2.1 30/2004/0704/PO - Development of 0.26 ha of land by erection of 6 dwellings and formation of new vehicular access through public house car park (outline application). WITHDRAWN 29th July 2005.

30/2003/0645/PO - Development of 0.24 ha of land by erection of 5 No. dwellings and construction of new vehicular access (Outline application). WITHDRAWN 16th October 2003.

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 15 - Housing
- Policy HSG 3 - Housing Development in Main Villages
- Policy GEN 1 - Development within Development Boundaries
- Policy GEN 6 - Development Control Requirements
- Policy CON 1 - The Setting of Listed Buildings
- Policy CON 6 - Development Adjacent to Conservation Areas
- Policy HSG 10 - Affordable Housing within Development Boundaries
- Policy TRA 6 - Impact of New Development on Traffic Flows
- Policy TRA 9 - Parking & Servicing Provision
- Policy REC 2 - Amenity & Recreational Open Space Requirements in New Developments
- Policy ENP 4 - Foul and Surface Water Drainage
- Policy ENV 6 - Species Protection
- Policy CF 1 – Community Facilities

3.2 SUPPLEMENTARY PLANNING GUIDANCE

- Supplementary Planning Guidance 4: Recreational Public Open Space
- Supplementary Planning Guidance 21: Parking Requirements in New Developments
- Supplementary Planning Guidance 22: Affordable Housing in New Developments
- Supplementary Planning Guidance 24: Design Guide For Householder Development
- Supplementary Planning Guidance 25: Residential Development Design Guide

3.3 GOVERNMENT GUIDANCE

- Planning Policy Wales (Edition 4 February 2011)
- Technical Advice Note 2 – Planning and Affordable Housing (2006)
- Technical Advice Note 12 – Design (2009)
- Technical Advice Note 18 – Transport (2007)
- Technical Advice Note 22 – Sustainable Buildings (2010)

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 - conservation area and setting of listed building
- 4.1.3 Impact on residential amenity
- 4.1.4 Highways, Access and Parking
- 4.1.5 Ecology
- 4.1.6 Drainage
- 4.1.7 Affordable Housing
- 4.1.8 Open Space
- 4.1.9 Design and Access/Sustainability Code/Access for All

4.2 In relation to the main planning considerations:

4.2.1 Principle.

The main Unitary Development Plan Policies relevant to the principle of the development are STRAT 15 and GEN 1. These policies seek to make provision for new housing in a range of locations, concentrating development within the boundaries of defined settlements. HSG 3 seeks to direct most housing developments outside main centres, to main villages, including Trefnant. The site is within the development boundary of Trefnant, where the principle of new housing development would be acceptable subject to consideration against other policies and a detailed assessment of the potential impacts.

4.2.2 Impact on visual amenity – Conservation Area and setting of listed building.

Policy GEN 6 includes criteria which aim to safeguard the visual amenity of areas. In this location, adjacent to a conservation area and listed building, the requirements of Policies CON 6 and CON 1 are also relevant. These policies add additional emphasis to the need to safeguard the visual appearance and character of the area.

Detailed street scene elevations and cross sections have been submitted to demonstrate the relationship between the development and the surrounding area. Although the ridge height of the proposed terraced dwellings is higher than that of Trefnant Inn, it is considered that the distance between the two buildings is sufficient to avoid the terrace being over dominant. It is considered that the building types would sit appropriately within the village fabric and wider conservation area. The proposed materials are considered complimentary to the character of area. Additional details would be required regarding boundary treatments and final fenestration details. It is considered that these details can be adequately dealt with through the imposition of conditions.

With regard to the submitted details, and the requirements of Policies GEN 6, CON 1 and CON 6, it is considered that concerns expressed by the Community Council and private individuals, to the proposals would be acceptable in terms of impact upon the visual amenity of the area and the adjacent conservation area. It is not considered that proposal would have a negative impact upon the setting of the Trefnant Inn, a grade II listed building.

4.2.3 Impact on residential amenity

There is a general requirement to ensure that new development does not detrimentally affect the amenity of neighbouring properties by way of, amongst other things, over dominance and loss of privacy. This requirement is embodied within Policy GEN 6. Additional guidance on how this can be achieved is contained in Supplementary Planning Guidance Notes 24 and 25. Policy GEN 6 also requires new residential development to provide a reasonable amount of amenity space for future occupants.

The layout of the site has been designed having regard to the siting of existing development which surrounds the site. This demonstrates that adequate separation distances between existing and proposed properties, would be achieved. The house types proposed have also been designed to minimise the impact on neighbouring properties, with main windows located on principal elevations to avoid overlooking. The properties have been orientated to provide greater levels of security and amenity to enable benefits to both current and proposed inhabitants. The development provides properties with acceptable amenity levels including front and rear amenity areas, and off street parking, and it is considered that an acceptable level of amenity would be afforded to future occupiers of the dwellings. In this respect, the development is considered to be acceptable in terms of Supplementary Planning Guidance and the general amenity considerations in Policy GEN 6 of the Unitary Development Plan.

Any scheme of this size will clearly have some degree of impact upon the levels of amenity currently experienced by existing residents, who have been used to a vacant area of land for some years. However, having regard to the above points and the compliance with SPG and the criteria of Policy GEN 6, the amenity impact would not be such as to warrant refusal of the application.

4.2.4 Highways, Access and Parking

Policies TRA 6 Impact of New Development on Traffic Flows, TRA 9 Parking & Servicing Provision and GEN 6 Development Control requirements, only permit proposals for development where there is adequate parking and servicing provision and there would not be a detrimental impact upon the safe and free flow of traffic on the highway.

The proposal would utilise an existing access onto the B5428, which currently serves the public house car park. The B5428 is subject to a 30mph speed limit in this location. The proposed layout of the access would achieve visibility splays of 35m to the north east towards the traffic lights, and 32m southwest offset 2.4 metres into the site. These details have been agreed in principle by the Highway Officers based on guidance contained in TAN 18 and Manual for Streets 2.

Concern has been raised by local residents and the Community Council that the access is not adequate for the proposed level of development. However, in the absence of an objection from the Head of Transport and Infrastructure, the existing use of the access, and the nature of the highway in this location, it is considered that a refusal on highway grounds alone would be difficult to sustain.

Concern has also been raised by the Community Council that the loss of parking for the public house would result in parking problems elsewhere within the village. In respect of this concern reference is made to the adopted parking standards which require 1 parking space per 4m² floor space, which equates to 16 spaces being required. However, this figure is a guide maximum, and not prescriptive. Taking into account the location within the village centre, close to good public transport routes, and a large supply of housing within walking distance, it is not considered that this maximum figure should be applied, and the provision of 11 spaces for the public house is considered sufficient. With regard to concerns that the development may impact upon the viability of the public house, it is considered that the additional housing may improve the viability of the public house by way of providing additional trade.

Additional alterations to the existing access would include the improvement of the pedestrian links between the site entrance and the village centre by way of re-grading and resurfacing the existing public footpath. This is considered likely to bring about benefits for the community.

It is considered that the proposal is broadly acceptable in terms of its impact upon highway safety, and meets policy requirements for the provision of parking. It is however considered necessary to impose a planning condition requiring the submission of full detailed plans for the proposed access and footpath works in the interest of securing a high quality and safe from of development.

4.2.5 Ecology

Policy ENV 6, Species Protection, aims to ensure that proposals for new development do not detrimentally harm any protected species, or their habitat.

The site in question is within an area which is known to potentially support great crested newts. Indeed, previous applications for the development of this site have been withdrawn owing to insufficient information to determine impacts. The agents for the current application have investigated this matter

and state in the submitted Design and Access Statement that whilst there is a population of great crested newts within the wider area, none have ever been found on this site. This statement is supported by the submitted ecological report which concludes there were no protected species within the site. The ecological report suggests that the main ecological issue on this site is that of wild birds and their habitat within mature trees and hedgerows. Mitigation measures have been suggested. The submitted details and survey have been considered by the Countryside Council for Wales, and the County Council Biodiversity Officer. Neither body have raised an objection to the proposal.

However, with regard to the comments of the Community Council and the potential presence of transitory great crested newts in the locality, it is considered prudent to advise the developers of the need to follow best practice procedures in case newts are found on the site during construction. This would require the cessation of works and CCW to be contacted immediately. It is therefore considered that the development of this site is unlikely to result in a detrimental impact upon protected species and is therefore compliant with policy ENV 6 Species Protection.

4.2.6 Drainage

Policy ENP 4, Foul and Surface Water Drainage, only permits development where it is demonstrated that satisfactory arrangements can be made for the disposal of foul sewage and surface water.

As part of the application, details of the proposed method of disposal of foul and surface water have been submitted. The functionality of these details has been queried by the Highway Officer, and some local residents. The concerns relate primarily to the adequacy of the private gully system to which surface water is proposed to be channelled, and the capacity of the highway surface water system to cope with the potential additional surface water. These concerns have been relayed to the agent, who has responded that there are a number of alternative options available. One such option would be to take the surface water between plots 3 and 4 and connect to the highway surface water system which runs south of Cartref Coch, through County Council land.

With regard to the disposal of foul sewage, it is noted that Welsh Water have not raised an objection to the proposal and that the scheme as submitted is acceptable subject to no surface water being drained into the foul water system.

It is considered, that given the small size of the site, and the various potential routes for disposing of surface water run off, that the scheme is acceptable. However, final details of the proposed method of disposing of surface water will be required. It is noted that the Environment Agency, Welsh Water and Land Drainage Unit have not raised an objection to the scheme. The proposal is therefore considered compliant with Policy ENP 4 and acceptable in terms of drainage.

4.2.7 Affordable Housing

The requirement for provision of affordable housing in connection with housing developments within development boundaries is set out in Policy HSG 10 of the Unitary Plan, supplemented by guidance in SPG 22 – Affordable Housing in New Development. The thresholds for provision are sites of 0.1 hectare or more and/or where more than 3 units are proposed. In this instance 11 dwellings are proposed in total, 30% of which are required to

be affordable.

The applicants have confirmed the intention to make 3 of the units available for affordable purposes. These would be 2 bed dwellings on plots 1 – 3 inclusive on the proposed site layout. The proposal has been examined by the Affordable Housing Officer who has confirmed that the waiting list need for affordable houses in Trefnant is for 2/3bed houses.

The provision and amount of proposed affordable housing is therefore considered acceptable and can be secured through a Section 106 obligation. The proposal complies with the requirements of HSG 10 and SPG 22.

4.2.8 Open Space

Policy REC 2 and SPG 4 set out the requirement for provision of amenity and recreational space in new residential development. The trigger point for the requirement to provide public open space is 10 dwellings. In this instance, the proposed number of dwellings is 11.

With regard to the current scheme consideration should be given to the proximity of existing recreational space within Trefnant, the number of dwellings proposed and the trigger point for open space being required. On the opposite side of the A525 to the site is a large playing field and play area. There are good links between this and the proposed development as a safe pedestrian crossing to the play area is already in situ. Given the amount of recreational space already available within Trefnant, the location of the nearest play area to the site, and the size of the proposed development, it is not considered necessary to include an on site provision of open space. The developer has agreed to pay a commuted sum towards the improvement/enhancement of the nearby recreational facilities. These funds would be secured through a section 106 agreement.

It is considered that existing recreational space within the area can meet the needs of the proposed development. The comments of the Development Plan and Policy Section support this view. It is considered that the proposal complies with the requirement of Policy REC 2 and is acceptable in terms of its contribution to Public Open Space.

4.2.9 Design and Access/Sustainability Code/Access for All

Guidance in TAN 12 Design and TAN 22 Sustainable Buildings has introduced an obligation on applicants to demonstrate the approach to a range of design considerations, including how inclusive design and standards of environmental sustainability are to be achieved. These reflect general requirements in the strategic policies of the Unitary plan STRAT 1 and 13 to ensure sustainable development principles are embodied in schemes.

In the case of this submission, the Sustainability Code requirements of Planning Policy Wales, TAN 12 and 22 are considered to have been satisfactorily addressed. The Code for Sustainable Homes Pre Assessment Report indicates that it should be possible to achieve the required number of credits under 'Ene1 - Dwelling Emission Rate' and attain a Code Level 3 type for the development. In line with the advice contained in TAN 22, suitably worded conditions are proposed to ensure the development is carried out in accordance with the requirements of Sustainability Code.

5. SUMMARY AND CONCLUSIONS:

5.1 The site is within the development boundary and has no specific policy designation. The proposals are considered to show a suitably designed development, and subject to control over detailing, it would be acceptable adjacent to a listed building and conservation area. The density of development would not lead to unacceptable relationship with existing properties and the spaces between existing and proposed dwellings, garden areas proposed and the general layout meet policy criteria and supplementary guidance/standards for residential development. The alterations proposed to the access are considered acceptable with sufficient off street parking to be provided within the site. Drainage arrangements are considered acceptable subject to the agreement of final details. The proposed dwellings meet the requirements of the Code for Sustainable Homes.

The recommendation is subject to the completion of an obligation under Section 106 of the 1990 Planning Act within 12 months of the date of resolution by the committee to secure

- (a) The provision of 3 affordable housing units and the retention of these units for affordable purposes
- (a) The payment of a commuted sum for improvement/maintenance of existing open space within the community of £36,769.92 apportioned as follows:

CROS Off Site Provision Costs	£10,992.96
CROS Off Site Maintenance Costs	£11,515.68
Childs Play Area Off Site Maintenance Costs	£3,838.56
Childs Play Area Off Site Provision	£10,422.72

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

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

1. The development hereby permitted shall be begun before the expiration of five years from the date of this permission.
2. **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. Facilities shall be provided and retained within the site and the Trefnant Inn Public House for the loading, unloading parking and turning of vehicles in accordance with the approved plan and which shall be completed prior to the development being brought into use.
4. Full details of the internal estate road, the new footway adjacent to the Trefnant Inn and associated highway works as indicated on the approved plan shall be submitted to and approved in writing by the Local Planning Authority before any works start on site. The details to be approved shall include the detailed design, construction, street lighting, and drainage. The approved highway improvement works shall be fully constructed in accordance as the approved details before any dwelling is occupied.
5. Notwithstanding the provisions 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 windows additional to those shown on the approved plans shall be inserted at any time in the dwelling hereby permitted, unless otherwise agreed in writing by the Local Planning Authority.

6. PRE-COMMENCEMENT CONDITION

No development shall take place until there has been submitted to, and approved in writing by, the Local Planning Authority, a detailed scheme of hard and soft landscaping for the site, and such scheme shall include details of:

- (a) all existing trees, hedgerows and other vegetation on the land, details of any to be retained, and measures for their protection in the course of development.
- (b) proposed new trees, hedgerows, shrubs or vegetation, including confirmation of species, numbers, and location and the proposed timing of the planting;
- (c) proposed materials to be used on the driveway(s), paths and other hard surfaced areas;
- (d) proposed earthworks, grading and mounding of land and changes in levels, final contours and the relationship of proposed mounding to existing vegetation and surrounding landform;
- (e) Proposed positions, design, materials and type of boundary treatment.

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

8. No trees or hedges within the application site shall be felled, lopped or topped without the prior written consent of the Local Planning Authority. Those removed without consent or which die or are severely damaged or become seriously diseased within five years of the completion of the development shall be replaced with trees or hedgerow plants of such size and species to be agreed in writing by the Local Planning Authority.

9. All trees and hedges to be retained as part of the development hereby permitted shall be protected during site clearance and construction work by 1 metre high fencing erected 1 metre outside the outermost limits of the branch spread, or in accordance with an alternative scheme agreed in writing by the Local Planning Authority; no construction materials or articles of any description shall be burnt or placed on the ground that lies between a tree trunk or hedgerow and such fencing, nor within these areas shall the existing ground level be raised or lowered, or any trenches or pipe runs excavated, without prior written consent of the Local Planning Authority.

10. All foul drainage shall be directed to a foul sewerage system and all surface water drainage to a surface water system unless otherwise agreed by the Local Planning Authority.

11. The fenestration detailing shall not be as shown on the submitted plans but shall be in accordance with such detailed plans as may be submitted and approved in writing by the Local Planning Authority.

12. Each new dwelling hereby permitted shall be constructed to achieve a minimum Code for Sustainable Homes [Level 3] and achieve a minimum of [6 credits] under category 'Ene1 - Dwelling Emission Rate' in accordance with the requirements of the Code for Sustainable Homes: Technical Guide [May 2009]. The development shall be carried out entirely in accordance with the approved assessment and certification.

13. Construction of any dwelling hereby permitted shall not begin until an 'Interim Certificate' has been submitted to the Local Planning Authority, certifying that a minimum Code for Sustainable Homes [Level 3] and a minimum of [6 credits] under 'Ene1 - Dwelling Emission Rate', has been achieved for that individual dwelling or house type in accordance with the requirements of the Code for Sustainable Homes: Technical Guide [May 2009].

14. Prior to the occupation of the individual dwelling hereby permitted, a Code for Sustainable Homes 'Final Certificate' shall be submitted to the Local Planning Authority certifying that a minimum Code for Sustainable Homes [Level 3] and a minimum of [6 credits] under 'Ene1 - Dwelling Emission Rate', has been achieved for that dwelling in accordance with the requirements of the Code for Sustainable Homes: Technical Guide [May 2009].

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

1. To comply with the provisions of Section 91 of the Town and Country Planning Act 1990.
2. In the interests of visual amenity.
3. To provide for the parking and turning of vehicles clear of the highway and to ensure that reversing by vehicles into or from the highway is rendered unnecessary in the interest of traffic safety.
4. In the interests of the free and safe movement of all users of the highway and to ensure the formation of a safe and satisfactory access.
5. To maintain a reasonable standard of privacy in adjoining dwellings and gardens in the interests of amenity
6. To ensure in the interests of visual amenity a satisfactory standard of landscaping in conjunction with the development.
7. To ensure a satisfactory standard of development, in the interests of visual amenity.
8. To safeguard the existing trees and hedges on the site, in the interests of the visual amenities of the locality.
9. In order to ensure that trees and hedges to be retained are not damaged by building or engineering works.
10. To ensure the proper drainage of the site and to minimise the risk of pollution.
11. To ensure the details are satisfactory in relation to the character and appearance of the building
12. To comply with the provisions of TAN 22: Planning for Sustainable Buildings.
13. To comply with the provisions of TAN 22: Planning for Sustainable Buildings.
14. To comply with the provisions of TAN 22: Planning for Sustainable Buildings.

NOTES TO APPLICANT:

Your attention is drawn to the attached Highway Documents:-

- i) Highways notes 1,2,3,4,5 and 10
- ii) New roads and street works act 1991 Part N form
- iii) DCC Specification for road construction
- iv) DCC general notes for highway lighting installations
- v) DCC General requirements for Traffic signs and road markings

You are advised that there is the potential for a number of protected species to become present on the site during the course of clearance and construction. You are requested to follow best practice guidance in respect of this, and should any protected species be discovered during work, then all work must cease and the Countryside Council for Wales be contacted immediately.

ITEM NO: 4

WARD NO: Bodelwyddan

APPLICATION NO: 40/2009/1622/ PC

PROPOSAL: Continuation of use of part of agricultural land as commercial vehicular storage in connection with off-site business and part of land as winter storage of caravans. Retention of front boundary fence.

LOCATION: Dolafon Rhyl Road St. Asaph

APPLICANT: Mrs J Farnworth

CONSTRAINTS: C2 Flood Zone

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

CONSULTATION RESPONSES:

BODELWYDDAN TOWN COUNCIL

' The Town Council have viewed the plans and make the following comments:- A hedge/quick growing conifers or fence should be erected to screen from view the storage of caravans from the road.'

ENVIRONMENT AGENCY

Considers the proposals acceptable in terms of flood risk as they will not increase flood risk to third parties. Suggest that the applicant should be made aware of the potential flood risks to the site, and that any caravans stored on the site in winter should, if practical, be tethered down to minimise the risk of them floating down stream.

DENBIGHSHIRE COUNTY COUNCIL CONSULTEES

HEAD OF TRANSPORT AND INFRASTRUCTURE

Object for the following reason:

' The slowing down and turning of traffic will adversely affect the free flow of traffic on the highway'

PLANNING AND PUBLIC PROTECTION- POLLUTION CONTROL OFFICER

Response to be reported

RESPONSE TO PUBLICITY:

Letters of representation received from:

Mr. C. Marriott (via e-mail)

Objects to the application

Summary of planning based representations:

Policy Conflict

Contrary to UDP Policy EMP 5.

Visual impact.

Highway safety.

Scale/nature of use

The scale and nature of the proposed use is incompatible and out of character with a predominantly open rural character area.

EXPIRY DATE OF APPLICATION: 28/03/2010

REASONS FOR DELAY IN DECISION (where applicable):

- additional information required from applicant

PLANNING ASSESSMENT:

1. THE PROPOSAL:

1.1 Summary of proposals

- 1.1.1 Retrospective planning permission is sought to continue the use of land for the storage of commercial vehicles in connection with an off-site business involving the winter storage of caravans, siting of two metal storage containers, and the retention of a front boundary fence.
- 1.1.2 The commercial vehicles being stored at the site are in connection with an off site firm called 'Prestige Removals', a company that specialises in deliveries, light haulage and removal which is based in Rhyl.
- 1.1.3 The applicant has clarified that four 'Luton' vans are stored at the site, and on days when they are required, they normally leave the site by 08:30 and do not return until 18:00.
- 1.1.4 Three static and six touring caravans are currently being parked at the site. The three static caravans are labelled A, B, C on the plan attached to the front of the report.
- 1.1.5 It has been confirmed that caravan A is being used as temporary accommodation for the applicant, caravan B is being used to store furniture in connection with the removal business, whilst caravan C is being stored inside the existing farm outbuilding.
- 1.1.6 The fence to the front of the site measures 2.5m in height and is roughly 30m in length abutting the A525.

1.2 Description of site and surroundings

- 1.2.1 Dolafofn is located to the immediate west of the A525 Rhuddlan-St. Asaph Road, and is surrounded by fields to the north, south and east.
- 1.2.2 The site is bounded by a high wooden panel fence to the front, whilst the remaining sides are bounded by post and wire fencing.
- 1.2.3 To the rear of the site is a public footpath which follows the River Elwy.
- 1.2.4 The surrounding area is characterised by sporadic farm complexes abutting the A525, interspersed by open fields.

1.3 Relevant planning constraints/considerations

1.3.1 The site is located in the open countryside outside any defined development boundary in the Unitary Plan.

1.4 Relevant planning history

1.4.1 None

1.5 Developments/changes since the original submission

1.5.1 A revised plan to reflect an altered layout to the scheme has been submitted.

1.6 Other relevant background information

1.6.1 A Planning Enforcement Report in relation to the proposal is also on the agenda of the Planning Committee.

2. DETAILS OF PLANNING HISTORY:

2.1 None.

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 3 Development outside development boundaries

Policy GEN 6 Development control requirements

Policy TSM 13 Winter storage of caravans

Policy EMP 5 Small scale employment development outside development boundaries

Policy TRA 6 Impact of new development on traffic flows

3.2 GOVERNMENT GUIDANCE

Planning Policy Wales, edition 3, July 2010

4. MAIN PLANNING CONSIDERATIONS:

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

4.1.1 Principle

4.1.2 Visual and landscape impact

4.1.3 Impact on highway safety

4.1.4 Impact on surrounding amenity

4.2 In relation to the main planning considerations:

4.2.1 Principle

Policy GEN 3 seeks to limit development outside development boundaries to exceptional circumstances. The exceptions include development in connection with the diversification of the rural economy.

Policy TSM 13 is the policy most relevant to the winter storage of caravans. The policy permits the winter storage of caravans provided that; the site is small scale and inconspicuous; the caravans are vacant and not in use; and there is no unacceptable impact on the surrounding landscape. The visual and landscape impact is assessed in the sections below.

Policy EMP 5 is the policy most relevant to the storage of haulage vehicles, and the use of metal storage containers. This policy permits small scale employment outside development boundaries provided that the proposal involves converting an existing building on the site. As the proposal does not utilise an existing building on the site, there is a question whether the proposal is acceptable in the principle.

4.2.2 Impact on visual amenity

Policy GEN 6 part i) seeks to ensure that development respects the site and surroundings in terms of siting, layout and design, whilst TSM 13 seeks to ensure a site for storing caravans is small scale and inconspicuous.

The site is visible from the northern approach along the heavily trafficked A525, and from a public footpath to the rear of the site. The rear boundary of the site is defined by simple low post and wire fencing. The Town Council have raised no objections to the proposal subject to screening to the front of the site, although an individual objection has been received on the basis of visual impact.

Retention of the front boundary is sought as part of the application, and it is not considered this element unacceptably harms the visual amenity of the surrounding area. However, officers consider the site is located in a conspicuous location, being visible from public vantage points from the northern section of the A525, and particularly, from the footpath to the rear of the site. It is considered the introduction of large removal vans, caravans and metal storage containers are conspicuous, out of character and visually harmful to the character of the surrounding countryside. It is also considered that this harmful visual impact could not be reduced to an acceptable level by screening/landscape condition(s). The proposal is therefore considered contrary to policy TSM 13 parts i), iii) and GEN 6 part i).

4.2.3 Impact on highway safety

Policy TRA 6 seeks to ensure that development does not unacceptably affect the safe and free flow of traffic and that the capacity and traffic conditions on the surrounding road network are satisfactory.

Comings and goings at the site as noted above, have increased as a result of the proposal. Access is to the front of the site on to the A525, off an existing lay by.

The A525 is a busy dual carriageway road with a 70mph speed limit. Large vehicles would be entering and leaving the site in the early morning and late afternoon. Highway Officers have objected to the application on the basis that these comings and goings unacceptably affect the free flow of traffic on the highway. It is considered that the proposal has led to an unacceptable impact on the surrounding Highway network, and therefore the proposal is contrary to policy TRA 6 part i).

4.2.4 Impact on surrounding amenity

Policy GEN 6 part v) seeks to ensure that development does not unacceptably harm the amenity of surrounding occupiers by way of increased activity or disturbances.

The proposal is in an isolated location, with no nearby dwellings.

Officers consider that the impact on surrounding amenity would be minimal. The proposal therefore accords with policy GEN 6 part v).

5. SUMMARY AND CONCLUSIONS:

5.1 Officers consider that the principle of using the site for the storage of haulage vehicles and containers to be unacceptable with regard to policy EMP 5. These vehicles, alongside the winter storage of caravans and siting of metal containers, are considered to unacceptably harm the appearance and character of the surrounding

area, and lead to highway safety problems on the A525, contrary to policy TSM 13 parts i), iii), GEN 6 part i), and policy TRA 6 parts I and ii).

RECOMMENDATION: REFUSE- for the following reasons:-

1. It is the opinion of the Local Planning Authority that the proposed storage of carvans and storage of haulage vehicles and metal containers, in a highly visible location would have an adverse impact upon the visual amenities of this countryside location. The proposal is therefore contrary to Unitary Development Plan policies TSM 13 and criteria i) of policy GEN 6.
2. It is the opinion of the Local Planning Authority that the additional use of the access by slow moving traffic is likely to have an unacceptable impact on the free flow of traffic on the adjoining highway. The proposal is therefore contrary Unitary Development Plan policy TRA 6 part i).

NOTES TO APPLICANT:

None

ITEM NO:	5
WARD NO:	Prestatyn North
APPLICATION NO:	43/2010/1069/ PO
PROPOSAL:	Development of 0.045 hectares of land by erection of 2 No. dwellings and demolition of former bakehouse (Outline application - all matters reserved)
LOCATION:	Land rear of 91 Victoria Road adjacent to 3 Victoria Park Avenue Prestatyn
APPLICANT:	Mrs Joan Drinkwater
CONSTRAINTS:	C1 Flood Zone
PUBLICITY UNDERTAKEN:	Article 4 Direction Site Notice - No Press Notice - No Neighbour letters - Yes

CONSULTATION RESPONSES:

PRESTATYN TOWN COUNCIL – ‘Concerns about vehicular access and there should also be sufficient off road parking on site to accommodate residents.

Bakehouse should be preserved and incorporated into development. Development would lead to loss of retail land.’

WELSH WATER – No objections, subject to standard conditions regarding separation of foul and surface water.

COUNTRYSIDE COUNCIL FOR WALES – No objections, subject to the recommendations in the protected species report being followed in relation to a precautionary approach and avoiding development in the bird nesting season.

ENVIRONMENT AGENCY - Confirms that the revised Flood Consequences Assessment meets TAN 15 requirements. Suggests that, a condition on finished floor level to manage the consequences of flooding, and that account should be taken of:

- DCC's Strategic Flood Consequences Assessment which indicates that in a ‘breach’ event there could be velocities of floodwater in the vicinity of the site in excess of 0.45m/s.
- Consultation with other professional bodies on matters such as emergency plans, procedures and measures to address structural damage.
- Possibility that surface water drainage from new development can, if not properly controlled, significantly increases the frequency and size of floods in drainage systems that receive the surface water drainage. The use of SUDS helps to achieve any attenuation of surface waters on site and if SuDS cannot be implemented, a conventional drainage system will need to improve on the current situation.

In relation to the information relating to the use of soakaways for surface water, the Agency has no objections.

DENBIGHSHIRE COUNTY COUNCIL CONSULTEES

HEAD OF HIGHWAYS AND INFRASTRUCTURE – No objections, subject to standard conditions.

COUNTY ARCHAEOLOGIST – Comments that there exists no information which would require archaeological works to be undertaken.

CONSERVATION ARCHITECT – In responding to the Town Council comments, confirms no conservation interests in this case, noting that there is no policy to protect buildings of local interest in the UDP. Suggests that whilst there may be a potential to accommodate the bakehouse building within a scheme, that this may probably curtail development.

SENIOR BIODIVERSITY OFFICER – No objection to the application, provided the recommendations in the protected species report are followed (precautionary approach and avoiding the bird nesting season).

JOINT EMERGENCY PLANNING SECTION - No objections, given Environment Agency response, and following discussions with the case officer, agrees to a suggestion to include a condition in relation to the Environment Agency floodline, as this would help inform future residents of impending flood risk.

DRAINAGE ENGINEER – To be reported.

RESPONSE TO PUBLICITY:

Letters of representation received from:
Mrs H P Jones, 3 Victoria Park, Prestatyn

Summary of planning based representations:
Amenity – overlooking;

Highways – proposal will add to existing highway parking problems.

Others – loss of light.

EXPIRY DATE OF APPLICATION: 18/10/2010

REASONS FOR DELAY IN DECISION (where applicable):

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

PLANNING ASSESSMENT:

1. THE PROPOSAL:

1.1 Summary of proposals

- 1.1.1 The proposal is an outline planning application for residential development, with all matters reserved, involving a rectangular area of land, measuring approximately 19 metres by 22 metres.

- 1.1.2 An indicative site layout plan suggests ideas for semi – detached dwellings with vehicular access off Victoria Park Avenue, with rear gardens on the easterly half of the site.
- 1.1.3 The application submission includes the following documents;
- A Design and Access statement – refers to Design and access development plan policies; character; context; economic; community safety; environmental sustainability; movement to, within and from the development.
 - A protected species survey – concluding that no evidence of bats exists, and advises of the need for a precautionary approach, in the event of potential bat findings.
 - A flood consequences assessment report (FCA) – The detailed report acknowledges that the site lies within a C1 flood zone, which are areas served by significant infrastructure, including flood defences. It advises that current mapping information indicates that the site lies within a tidal/fluvial area. The report concludes that the site remains flood free for 0.5% tidal and 1.0% fluvial event. In the event of more extreme circumstances, the risk of shallow depth of flood water exists. Reference is given to the location of the Prestatyn Gutter watercourse. The report concludes with a number of mitigation factors to reduce the impact and any future inundation in the vicinity of the site, highlighting the risks to both people and property can be managed. One of the mitigation measures includes floor levels raised to no lower than 5.80 AOD. The existing site levels are identified as between 5.12 – 5.25 OD.

1.2 Description of site and surroundings

- 1.2.1 The site is relatively level and lies between the rear of 91 Victoria Road and 3 Victoria Park Avenue. It is understood that the land previously formed part garden and part yard for the retail premises on Victoria Road, with the bakehouse building used in conjunction with the retail use.
- 1.2.2 An existing vehicular access serves the site. A brick and slate, two storey bakehouse building adjoins the north – easterly corner of the site, to the rear of 85/87 Victoria Road. This is intended to be demolished. A low, breeze block boundary wall runs along the site frontage with Victoria Park Avenue.
- 1.2.3 The locality includes a mixture of properties – with two storey properties, including commercial properties along Victoria Road, and single storey/dormer style properties along Victoria Park Avenue. Adjacent properties have red roof tiles, with white render/pebble dash and brick detailing.

1.3 Relevant planning constraints/considerations

- 1.3.1 The site lies within the defined development boundary for Prestatyn, and within a C1 flood zone, as defined by the WAG guidance. The site adjoins a Local Neighbourhood Centre, where policy RET 10 applies.

1.4 Relevant planning history

- 1.4.1 Planning permission has previously been granted for residential development of part of the land in 2000.

1.5 Developments/changes since the original submission

- 1.5.1 Following consultation responses, the agent submitted a protected species report and a Flood Consequences Survey. During the course of the application, the Environment Agency has objected to Flood Consequences

Assessment Reports submitted as part of the application. The current FCA is a third and revised version. Additionally, soakaway porosity test results have been submitted. The results indicate that the site is capable of accommodating a soakaway.

1.6 Other relevant background information

1.6.1 None

2. DETAILS OF PLANNING HISTORY:

The most recent planning records include the following;

2.1 02/PRE /0309/87/P Residential development GRANTED 20/10/1987

2.2 43/1999/0903 Residential development of 0.025 ha of land at rear fronting Victoria Park Avenue, and construction of new vehicular access (outline application)
GRANTED 24/02/2000

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)

Strategic Policies

1,5,7,8,11,12,13,15,16

General Policies

Policy GEN 1 - Development within development boundaries

Policy GEN 2 - Development of unannotated Land

Policy GEN 6 - Development Control Requirements

Policy GEN 8 – Planning Obligations

Policy GEN 10 – Supplementary Planning Guidance

Policy ENV1 – Protection of the Natural Environment

Policy ENV 6 - Species Protection

Policy ENV 7 - Landscape/Townscape Features

Policy ENP 1 - Pollution

Policy ENP 4 - Foul and Surface Water Drainage

Policy CON 11 – Areas of Archaeological Importance

Policy HSG 2 - Housing Development in main centres.

Policy HSG 10 - Affordable Housing in Development Boundaries

Policy TRA 6 - Impact of new development on traffic flows

Supplementary Planning Guidance

SPG 2 - Landscaping

SPG 8 - Access for All

SPG 15 – Archaeology

SPG 18 -Nature Conservation and Species Protection

SPG 21 - Parking Requirements in New Developments

SPG 22 - Affordable Housing in New Developments

SPG 25 - Residential Development Design Guide

SPG - Residential Space Standards.

Other Relevant Council publications/documents

Local Biodiversity Action Plan

Access for All

Access Statements

GOVERNMENT GUIDANCE
Planning Policy Wales 2010
TAN 1 Joint Housing Land Availability Studies
TAN 5 Nature Conservation and Planning
TAN 15 Development and Flood Risk.
TAN 12 Design (as supplemented)
TAN 18 Transport
TAN21 Waste

Circulars:

35/05 – The Use of conditions in planning permissions
95 – Planning and the Historic Environment

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 Highways
- 4.1.4 Flooding and Drainage
- 4.1.5 Nature conservation
- 4.1.6 Amenity
- 4.1.7 Inclusive access
- 4.1.8 Sustainable Building
- 4.1.9 Archaeology

4.2 In relation to the main planning considerations:

- 4.2.1 Principle – including any changes in planning policy, and flood risk issue.
The main policy relevant to the principle of housing development in Main Centres is HSG 2, which seeks to locate new housing within identified development boundaries.

The site lies within the current development boundary for Prestatyn, and is 'Un-Annotated' land in the proposals map in the Unitary Plan.

The principle of residential development has been accepted under planning permission code 43/1999/0903, granted in 2000. There are no planning policies which identify this land for a specific use.

The principle of residential development is therefore considered acceptable. However, any proposal would have to be subject to site specific considerations, set out in a range of national and local planning policies, including changes in circumstances since the previous approval. One of the main changes since the previous approval includes the site having been identified by the Environment Agency as one which lies within a flood zone.

Principle taking into account flood risk issue.

The proposed housing site location is within the Flood Risk C Zone area. All residential premises are classified as 'highly vulnerable development', and should not be permitted. In this case in a C1 flood zone Para 6, TAN 15 requires that a proposal is 'justified' in such a location and that there is a full consideration of the acceptability of consequences. The proposal can only be justified if it can be adjudged to satisfy all the requirements of paragraph 6, in that;

- a) *It assists/forms part of a Local Authority regeneration initiative or a local authority strategy required to sustain an existing settlement, **or***
- b) *It contributes to key employment objectives in an existing settlement, **and***
- c) *It concurs with the definition of previously developed land, and*
- d) *The potential consequences of flooding have been considered in line with required criteria.*

With reference to the justification tests, and on the basis of the information/details submitted:

- a) the proposal assists with a key strategy, namely the Unitary Development Plan's emphasis on a coherent and sustainable approach to develop key sites and to achieve identified social and community objectives and initiatives;
- b) The area meets the definition of previously developed land.
- c) In relation to flooding consequences, it is accepted that the development would meet the relevant tests.
- d) The flooding consequences have been considered (see 4.2.4)

The principle of residential development is considered to meet the key tests of TAN 15. Other planning policy and specific site issues are reviewed in the following paragraphs.

4.2.2 Impact on visual amenity

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

The application is submitted in outline only, with all matters reserved. Generally, in assessing other types of applications, such as reserved details and full applications, the main factors in relation to design relate to the potential effect on the street scene, landscape and adjoining conservation area, in terms of size, scale and materials. As the plans are indicative at this stage, the issues of design are more appropriately considered at reserved matters stage.

In respect of the Town Council's comments on the bakehouse, the response of the Council's Conservation Officer suggests that its retention would be difficult to justify. Additionally, the previous planning permission for the site (code 43/1999/0903/PO) included a condition which required the demolition of the bakehouse building. However, in the event of the approval of this outline application, Officers consider that a condition which would request a building audit, with an emphasis on recycling of on site building materials, could be included.

Additionally, a note to applicant could be attached, highlighting that the plans are indicative only and do not bind the Council to a final design approach for the site

4.2.3 Highways

GEN 6 and TRA 6 require consideration of highway and parking safety. SPG 21 sets out maximum parking requirements in new developments. It advises for 2 bedroomed dwellings 2 car spaces per unit and, for 3 & 4 bedroomed units 3 car spaces per unit.

The proposed layout indicates an indicative layout only, including car parking spaces.

The site is considered to be 'sustainable' with regard to proximity to local services, public transport, and density, and the development would be in line with the government's approach to maximising the sustainable use of land.

In terms of the Town Council comments, provided the Highway officer's comments and conditions are taken on board, it is not considered that this outline proposal would raise any highway conflicts. Conditions could be included to ensure control over the point of access. Full details would need to be assessed at detailed design stage.

4.2.4 Flooding and Drainage

Unitary Development Plan Policy STRAT 7 highlights the need to take account of physical or natural environment considerations. Policies GEN 6 criteria x) ; ENP 1 Pollution, criteria i) ; ENP 4 – Foul and Surface Water Drainage, together with policy ENP 6 – Flooding, seek to control and avoid unacceptable harm to the environment /locality in terms of water, drainage and flood implications.

Welsh Water have no objections to the application, subject to the inclusion of conditions, requiring construction of separate foul and surface water systems, an approach supported by the Council's Drainage Engineers.

In respect of flooding, in line with TAN 15 advice, the proposal is considered, as outlined earlier in the report (i) Principle) to satisfy the main justification tests. It follows that the proposal would comply with policies GEN 6, criteria (x) and ENP 6.

In light of this background, the proposal is not considered to conflict with the current planning policies regarding drainage and flooding, provided that specific conditions are included, including control of floor level and relevant drainage arrangements.

In the event of planning permission being granted, a note to applicant could also be attached highlighting the need to take on board a Sustainable Urban drainage approach to the site.

4.2.5 Nature conservation

The current legislative and planning policy framework sets a strict requirement on the local planning authority to take into account the potential impact on wildlife and in particular protected species. (Policies ENV 1, ENV 6, ENV 8 and GEN 6; Planning Policy Wales: Habitat Regulations 2010; Unitary Plan Policy and Supplementary Guidance). Significantly, where there are grounds for suspecting the presence of European Protected Species, their presence should be established before the grant of permission.

As both the Countryside Council for Wales and County Ecologist accepts the findings of the Ecology report, it is reasonable to conclude that the proposal would have no significant effect on protected species.

The proposal is therefore considered to comply with the policies and guidance relating to protected species.

A note to applicant can be included, in the event of planning permission being granted, to highlight the need to take a precautionary approach and to liaise with the Countryside Council for Wales, WAG, and the County Ecologist in

respect of complying with any potential WAG protected species licence requirements.

4.2.6 Amenity

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

The application is submitted in outline only, with all matters reserved for further approval. Normally, in determining other types of applications, such as reserved details and full applications, the main factors to consider in assessing amenity and privacy are whether the layout and design would achieve acceptable distances between properties, suitable amenity/garden areas and relationships between existing and proposed dwellings, having regard to site topography and orientation. As the plans are indicative at this stage, it is difficult to offer detailed comment, but the site appears capable of accommodating 2 units with adequate space to ensure proper relationships with nearby property.

In the event of the approval of the outline application, the applicant should be advised that the plan for the layout and design type (with the exception of the highway access point) may need to be reviewed to address local character. In this regard, a condition and note to applicant could be attached, highlighting that the plans are indicative only and do not bind the Council to a final design approach for the site.

4.2.7 Inclusive access

The requirement for mandatory Access Statements is outlined in TAN 12 design and TAN 18 Transport, and Policy GEN 6 which sets out the need to provide safe and convenient access for persons with disabilities. SPG 8 'Access for All' supplements this policy, together with SGP 25 'Residential Development Design Guide' and the Council's document 'Planning and Inclusive design'.

The DAS identifies a positive approach to inclusive design, respecting the Welsh Assembly approach for residential development quality standards. Detailed design issues would need to be covered at a full design stage.

4.2.8 Sustainable Building

Planning Policy Wales, TAN 12 and the recently published TAN 22 require specific standards for improving the sustainability of new buildings in order to reduce their impact on the environment and to tackle climate change. As of the 1 September 2010, all new build dwellings have to meet Code for Sustainable Homes level 3 and obtain 6 credits under issue Ene 1 – Dwelling Emission Rate.

As the application was submitted prior to the Code for Sustainable Homes requirement, the Council cannot oblige compliance. However, further assessments would be involved at the detailed design stage, and if planning permission is granted Officers consider that suitable sustainable building standards can be achieved.

4.2.9 Archaeology

GEN 6 criteria ii), CON11, together with the accompanying SPG 15 Archaeology requires consideration for potential archaeological issues.

The County Archaeologist confirms that there are no archaeological issues here. In this respect, the proposal complies with the policies and guidance.

5. SUMMARY AND CONCLUSIONS:

5.1 With due respect to the Town Council's observations, in the absence of technical highway evidence it would be difficult to justify a refusal based on traffic and parking impact, or to insist on the retention of the bakehouse, given the response of the Conservation Officer.

5.2 In light of the above assessment, officers consider it would be difficult to oppose the principle of residential development for this site, subject to a number of planning conditions and accompanying notes. Any consent should highlight that the numbers of dwellings or layout is not approved for the site.

RECOMMENDATION: - GRANT subject to the following conditions:-

1. Approval of the details of the layout, scale and appearance of the building(s), the access and landscaping of the site (hereinafter called "the reserved matters") shall be obtained from the Local Planning Authority in writing before the commencement of any development.
2. Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.
3. The development hereby permitted shall be begun either before the expiration of five years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.
4. **PRE-COMMENCEMENT CONDITION**
Prior to the commencement of any demolition works on site, the following details shall be submitted for the further approval of the Local Planning Authority:
 - i. an audit of all existing building materials
 - ii. the potential re-use and recycling of those materials for incorporating into an agreed, replacement site development, and
 - iii. where relevant, the recipient of remaining building materials. The approved audit shall form part of the building contract agreed for new building development for the site, a copy of which shall be submitted for record purposes for the Local Planning Authority.
5. There shall be no discharge of surface water to the combined sewer system.
6. Finished floor levels should be set no lower than 5.8m AOD.
7. The proposed site plan has been treated for illustrative purposes only and does not form part of this permission.
8. Facilities shall be provided and retained within the site for the loading/ unloading, parking and turning of vehicles in accordance with the approved plan and which shall be completed prior to the development being brought into use.

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

1. To comply with the provisions of Section 91 of the Town and Country Planning Act 1990.
2. To comply with the provisions of Section 92 of the Town and Country Planning Act 1990.
3. To comply with the provisions of Section 92 of the Town and Country Planning Act 1990.
4. To ensure that the development involves a sustainable approach.
5. There is insufficient capacity in the existing drainage system to cater for additional surface water flow.

6. To protect the development from flooding.
7. For the avoidance of doubt.
8. To provide for the loading/ unloading, parking and turning of vehicles and to ensure that reversing by vehicles into or from the highway is rendered unnecessary in the interest of traffic safety.

NOTES TO APPLICANT:

Highways

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

Design

You are advised that the grant of permission does not convey the Authority's approval of the number of dwellings or the layout as shown on the submitted sketch plans. You should discuss ideas for the development with the case officer prior to the submission of any detailed plans.

Protected Species

Works involving the demolition of the bakehouse should be undertaken in accordance with the submitted Protected Species report. In the event of bat findings, you should follow the guidelines outlined in the attached protocol. No further works or development proceeds should be undertaken without first contacting the CCW to confirm the significance of the matter and the need for any licensing / consents.

Code for Sustainable Homes and Flood Proofing

In order to ensure future compliance with the provisions of TAN 22 - Planning for Sustainable Buildings, any future detailed design for the site should include the detailed requirements of the Code for Sustainable Homes Assessment, and the requirements existing at the time of submission.

As part of this Assessment all flood proofing measures should be included, together with surface water disposal methods

Surface water drainage and flooding

Surface water drainage from new developments can, if not properly controlled, significantly increase the frequency and size of floods in drainage systems that receive the surface water drainage. To achieve any attenuation of surface waters on site, the Environment Agency advocates the use of Sustainable Drainage Systems (SuDS). Further information can be found in CIRIA publications C522 SuDS - Design manual for England and Wales & C523 SuDS - Best Practice Manual. You should be aware that Section 8 of TAN15 (para. 8.4) states that if SuDS cannot be implemented, a conventional drainage system will need to improve on the current situation. You are advised to contact the County Council's Property Services Section in relation to any works which may affect the southern boundary of the site abutting the Bowling Club.

ITEM NO: 6

WARD NO: Prestatyn Central

APPLICATION NO: 43/2010/1430/ PF

PROPOSAL: Refurbishment of existing tennis courts incorporating new all-weather sand-filled synthetic grass surface suitable for football, tennis & netball, proposed perimeter fencing and floodlighting

LOCATION: Prestatyn High School, 2 Princes Avenue Prestatyn

APPLICANT: Denbighshire County Council Leisure & Youth Services

CONSTRAINTS: Groundwater Vulnerability 2
Article 4 Direction

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

CONSULTATION RESPONSES:

PRESTATYN TOWN COUNCIL- NO RESPONSE RECEIVED TO RECONSULTATION

DENBIGHSHIRE COUNTY COUNCIL CONSULTEES

-COMMUNITY SAFETY SECTION (ROLY SCHWARZ)

'No issues relating to crime and disorder or community safety. There is the potential for public nuisance if the applicants intend to use the premises outside school hours'.

-HEAD OF TRANSPORT AND INFRASTRUCTURE

No objection.

-PUBLIC PROTECTION

No objection, subject to conditions relating to lighting, noise and hours of operation.

RESPONSE TO PUBLICITY (* denotes responses to original consultation):

Letters in objection:

1. K Brown, 1 Peters Close, Prestatyn
2. R. & J. Ford, 5 Peters Close, Prestatyn (e-mail)
3. S. Gardam, 3, Peters Close, Prestatyn (e-mail) *
4. P & D. Jackson, 36 Gordon Avenue, Prestatyn *
5. A Allinson, 32 Gordon Avenue, Prestatyn *
6. O Cliff, 29 Gordon Avenue, Prestatyn *

Summary of planning based representations:

- a) Principle- alternative sites preferable.
- b) Residential amenity- loss of privacy, noise and disturbance, increased activity.
- c) Drainage- existing surface water problems.
- d) Highways- parking issues.

EXPIRY DATE OF APPLICATION: 17/05/2011

REASONS FOR DELAY IN DECISION (where applicable):

- re-consultations / further publicity necessary on additional information

PLANNING ASSESSMENT:

1. THE PROPOSAL:

1.1 Summary of proposals

- 1.1.1 The application is for full planning permission for the refurbishment of existing tennis courts at Prestatyn High School.
- 1.1.2 The proposal involves the following:
- Refurbishment of existing courts by way of an all weather sand filled synthetic grass surface pitch measuring 66.5 metres by 30 metres, bounded by mesh fencing to a height of 6.5 metres.
 - Replacement of existing floodlighting columns with 6 no. 8 metre high lighting columns proposed beyond the fence perimeter to provide illumination to the pitch.
 - A 3.5 metre high acoustic barrier fence proposed along the north, south and west boundaries between the mesh fencing and site boundaries.
- 1.1.3 The intention is that the pitch would be used by the school, and when not in use by the school would be managed by the leisure centre staff who would also control the operations of floodlights. The pitch would be suitable for football, tennis and netball.
- 1.1.4 It is proposed that the use of the pitch would be permitted from 9am until 9pm with a switch off time for the floodlights at 9.30 pm Monday to Friday, and 9am until 5.00pm with a switch off time for the flood lights at 5.30pm at weekends and Bank Holidays.

1.2 Description of site and surroundings

- 1.2.1 The tennis courts are located on the western side of the high school site. The existing tarmac tennis courts are bounded by 2.5 metre mesh fencing with four floodlights serving the area, two on the west and east side.
- 1.2.2 To the east of the tennis courts are some portakabins and a parking area, and to the west and south a small area of open land to the palisade fencing boundaries. The leisure centre is located to the south of the tennis courts.
- 1.2.3 The high school site is bounded to the west by dwellings on Gordon Avenue and Peters Close and to the north by dwellings on David's Close. These dwellings are bungalows.
- 1.2.4 The school is located in a predominantly residential area. The school site occupies a site of approximately 5 hectares.

1.3 Relevant planning constraints/considerations

- 1.3.1 The school site lies within the development boundary of Prestatyn as defined in the Unitary Development Plan.

1.4 Relevant planning history

- 1.4.1 There is no planning history relating to the tennis courts.

1.5 Developments/changes since the original submission

- 1.5.1 Additional information has been sought from the Applicant to ascertain proposed noise and lighting levels. To comply with the recommendations of the noise assessment, an acoustic barrier has been included in the proposal. Re-consultations have been undertaken on the submitted noise and lighting assessments and the amended plans showing the acoustic barrier.

1.6 Other relevant background information

- 1.6.1 Members may recall there is planning history on the northern side of the school site for the development of an all weather pitch. The most recent

application for the all weather pitch remains outstanding pending resolution of issues relating to an 'Environment Report'.

- 1.6.2 It is envisaged that following consideration of this application at Planning Committee, Prestatyn High School Management and Leisure Services will make a decision on whether to pursue that application.

2. DETAILS OF PLANNING HISTORY:

- 2.1 None relating to the tennis courts.

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 1	Development within development boundaries
Policy GEN 6	Development control requirements
Policy REC 4	Recreation facilities within development boundaries
Policy TRA 6	Impact of new development on traffic flows
Policy TRA 9	Parking and servicing provision
Policy ENP 1	Pollution
Policy ENP 4	Foul and Surface Water Drainage

3.2 Supplementary Planning Guidance

SPG Note No. 8	Access for All
SPG Note No. 21	Parking

3.3 GOVERNMENT GUIDANCE

Planning Policy Wales

TAN No. 11	Noise
TAN No. 16	Sport, Recreation and Open Space
TAN No. 18	Transport

4. MAIN PLANNING CONSIDERATIONS:

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

- 4.1.1 Principle
- 4.1.2 Visual and landscape impact
- 4.1.3 Residential amenity impact
- 4.1.4 Highways Impact
- 4.1.5 Drainage

4.2 In relation to the main planning considerations:

4.2.1 Principle

In terms of the development plan, the application site lies within the settlement limits of Prestatyn as defined in the Denbighshire Unitary Development Plan. Policies GEN 1 and REC 4 support the principle of development including new and improved recreation/leisure proposals within defined settlements. It is to be noted that the application is for upgrading of an existing leisure facility at the school site.

Policies GEN 6 and REC 4 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.

In policy terms as the principle is considered acceptable. The detailed impacts are considered below.

4.2.2 Impact on visual amenity

The main policy that refers to scale, landscape and visual impact is policy GEN 6. Criterion i) of policy GEN 6 supports development that respects its surroundings.

As the size of the pitch would remain the same as the existing courts. The main differences between the proposed and existing developments would be the boundary fencing, the acoustic barrier, the new surface and two additional lighting columns. The mesh fencing around the pitch would be increased by 4 metres to 6.5 metres in height. The acoustic barrier would be sited to the east, north and south site boundaries and would be 3.5 metres in height. The acoustic barrier would have the appearance of a solid timber fence. Three floodlights would be sited on the west and east sides of the pitch.

The upgrading of the pitch would have some visual impact as described above. The development would be seen from nearby residential properties and Gordon Avenue the road to the west. There is some landscaping on the eastern boundary of the site, which mitigates views from the road, however the planting does not extend over the boundaries to the dwellings on Peters Close. As the acoustic barrier would bound part of the site, alternative boundary treatment along this boundary would not be possible. However as the development would be viewed in the context of the school site, which overall has a fairly mixed character, the likely visual impact is not considered to be unacceptable. In conclusion, it is not considered the fencing and floodlight columns would have so severe an impact to justify refusal.

4.2.3 Impact on residential amenity

Policy GEN 6 sets out the general requirement to assess the impact of development on the amenity of local residents. Criterion v) of policy GEN 6 permits development where it would not result in unacceptable impacts on amenity from increased activity, disturbance and noise. Both policies ENP 1 and REC 4 permit general development and recreational facilities subject to amenity impacts being acceptable.

The proposals would lead to additional activity on the pitch and allow for activities to take place in the evenings due to the improved facilities. It is accepted that this will lead to additional noise and disturbance to residential properties adjacent to the site. The dwellings likely to be most effected by the proposal range in distance from 11 metres to 29 metres, and these are all bungalows on Gordon Avenue, Peters Close and David's Close.

A noise assessment was submitted to address concerns over increased activity and noise. This report recommended an acoustic barrier be erected to reduce noise to acceptable levels at adjacent dwellings. Public Protection Officers have considered the noise data and are satisfied that the acoustic barrier should serve its purpose to reduce noise levels to comply with World Health Organisation guidance for noise levels in external amenity areas.

Technical information submitted in the lighting report with the application demonstrates that the proposed lighting can achieve suitable standards of light spill at adjacent dwellings. Public Protection Officers have considered this data and are satisfied that the information meets the Institute of Lighting Engineers Guidance for light pollution.

In some ways the proposal would result in an improvement on the existing situation, as there are existing older lighting columns and a 2.5 metre mesh

fence around the tennis courts. Officers have been advised the tennis courts are used regularly by the school and have unrestricted access at break times. Furthermore, there is unrestricted access in the evenings and weekends. This application offers the opportunity to upgrade the lighting to better quality modern lighting and the installation of the acoustic barrier offers some protection to adjacent occupiers from noise. Conditions can also be attached to limit the hours that the floodlights would be operated and also to ensure that the scheme follows 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 and the response of Public Protection Officers, it is considered that the impact on neighbours would not be so detrimental as to justify refusal subject to the imposition of planning conditions.

4.2.4 Highways Impact

The main policies relevant to assessment of highway impact are TRA 6 and TRA 9. Policy 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. Policy TRA 9 requires adequate provision within a site for parking and servicing. Policy 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 indicated that they have no objections to the proposal as daytime traffic movements would remain as existing and evening traffic movements would not be significant. Adequate parking is available adjacent to the pitch to accommodate visitors who are likely to visit the site through the Gordon Avenue entrance.

Considering the use of the facility by the public would generally be outside of school hours and therefore not intensify the use of the local highway network at peak hours, but would increase the use during non peak periods such as the evenings and weekends, and there is parking on site, adjacent to the pitch, the proposal is considered to comply with the relevant highways impact policies.

4.2.5 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.

It is understood the existing tarmac tennis courts have no specific drainage system, and water dissipates by soakaway. The application proposes to introduce a drainage system for the pitch which will connect to the existing surface water drainage system.

The drainage arrangements are considered acceptable as they would be an improvement on the existing arrangements, therefore complying with policies ENP 4 and GEN 6.

5. SUMMARY AND CONCLUSIONS:

5.1 Having considered the proposal under the relevant policies, it is the opinion of Officers 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 the use of the pitch as a leisure facility is well established. Although there would be impacts associated with the proposal and intensified use, efforts have been made to mitigate these, hence favourable recommendation.

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 acoustic barrier fencing shall be coloured dark green and erected prior to the commencement of the use of the pitch.
3. No solid boards shall be provided to the base of the mesh fencing.
4. There shall be no additional fencing, advertisement banners and boards, flagpoles or ancillary shelters erected on any part of the application site other than with the prior written approval of the Local Planning Authority.
5. The pitch shall be used and the floodlights operated between the following hours only - 0900 hours to 2100 hours (lights out by 2130 hours) Monday to Fridays, 0900 hours to 1700 hours (lights out by 1730 hours) on Saturdays, Sundays and Bank Holidays.
6. The acoustic barrier shall be erected in accordance with the submitted details. If justifiable complaints relating to noise from the pitch are received, and noise levels exceed those referred to in the noise assessment forming part of the application, the applicant shall undertake suitable remedial measures and implement such mitigation measures as is necessary.
7. The flood lighting shall be erected in accordance with the submitted details. If justifiable complaints relating to light spill are received, and light levels exceed those referred to in the light assessment forming part of the application, the applicant shall undertake suitable remedial measures and implement such mitigation measures as is necessary.

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 and residential amenity.
3. In the interests of residential amenity.
4. In the interests of visual amenity.
5. In the interests of residential amenity.
6. In the interest of amenity to demonstrate that the proposed noise attenuation scheme is working as predicted.
7. In the interest of amenity to demonstrate that the proposed light attenuation scheme is working as predicted.

NOTES TO APPLICANT:

None

ITEM NO: 7

WARD NO: Rhyl West

APPLICATION NO: 45/2011/0220/ PF

PROPOSAL: Temporary use of land as market for sale of Class A1 (retail goods) and Class A3 (hot food and drink) on Thursdays and Saturdays (with 14 additional days in any one year)

LOCATION: Rear of Town Hall, part Market Street, part Glanglasfor and Part High Street Rhyl

APPLICANT: Denbighshire County Council

CONSTRAINTS: C1 Flood Zone
Town Heritage Area
Conservation Area
Article 4 Direction

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

CONSULTATION RESPONSES:**RHYL TOWN COUNCIL:**

The Town Clerk has advised that there are no objections to the general principle of the Market subject to imposition of planning conditions and detailed relevant market regulations. The formal response will be reported in the late representations sheet.

DENBIGHSHIRE COUNTY COUNCIL CONSULTEES:**CONSERVATION ARCHITECT:**

No objections.

HEAD OF ENVIRONMENT SERVICES (Economic Development):

No objections, but comments that appropriate market regulations will need to be imposed.

STRATEGIC REGENERATION MANAGER:

No objections, but comments that the market will need to be managed appropriately to ensure refuse is dealt with correctly, and that street furniture etc is not damaged. Notes concerns expressed about market traders potentially taking trade away from established shops.

HEAD OF HIGHWAYS AND INFRASTRUCTURE:

No objections subject to conditions and notes to applicants.

RESPONSE TO PUBLICITY:

Letters of representation received from:

Mr. R. Jones, Kinmel Park Depot, Bodelwyddan (e-mail)

Mrs. G. Williams, Aquarius, Market Street, Rhyl (e-mail)

Ms. E. Gilmore-Jones, c/o Subway, 14, High Street, Rhyl (e-mail)

D. Hockenfull, Scope, 44, High Street, Rhyl (e-mail)

Mrs. B. A. Barkley, The United Church in Rhyl
Mr. R. Sealey, 4, Market Street, Rhyl (e-mail)
Susan Vickers, Gemini (via e-mail)
Mr Nadeem Ahmad, 25 High Street, Rhyl
Miss G. Lloyd, La Duvet, 18, Sussex Street, Rhyl

Summary of planning based representations:

Impact upon vitality and viability of town centre:

Concern regarding unfair competition and that the market may result in the loss of business for established shops / in turn affecting the vitality and viability of the town centre / the stalls would block off the access and view of the shops with resultant loss of trade / the nature of the goods being sold is a source of concern in relation to competition with established shops and the legality and quality of the goods.

Impact upon visual amenity:

The market would be untidy, and result in excessive amounts of litter and damage to the streets and street furniture, resulting in a loss of visual amenity for the area.

Impact on the highway:

The market would have an unacceptable impact upon highway safety by way of additional traffic and demand for parking / the market may also hinder emergency vehicles.

EXPIRY DATE OF APPLICATION: 16/05/2011

REASONS FOR DELAY IN DECISION (where applicable):

- N/a

PLANNING ASSESSMENT:

1. THE PROPOSAL:

1.1 Summary of proposals

- 1.1.1 This is a County Council application seeking permission for the use of land in four locations within Rhyl's town centre as an open air retail market. These areas are located to the rear of Rhyl Town Hall, on the north eastern end of Market Street, on Glanglasfor, and on the northern and southern end of High Street, (but not the central part of High Street). Members are referred to the plan at the front of the report which identifies the respective locations and their extent.
- 1.1.2 It is proposed that the market would operate on Thursdays and Saturdays each week, with an additional 14 days in any calendar year reserved for additional use. Hours of operation are proposed to be 9am to 6pm.
- 1.1.3 The goods to be sold would be retail goods (an A1 planning use) and hot food and drink (an A3 use).
- 1.1.4 The application relates solely to the use of the land and does not seek permission for any temporary structures (market stalls) as such structures do not constitute development and are therefore considered beyond the control of Planning legislation.
- 1.1.5 The supporting documents outline that the Market has been established and promoted by the Rhyl Regeneration Committee and is a Community Development aimed at boosting the economy of the town. It refers to benefits

such as additional employment, opportunities for local arts and crafts to showcase products, the attraction of new visitors to the town, and the development of an 'alternative shopping experience'. It also notes the results of surveys with local traders and general support for the market, and points to the fact that the market has been operating since November 2010 with some success.

- 1.1.6 Day to day market operations would be regulated by the Council's Licensing Team who would deal with complaints and ensure Council approved 'Market Regulations' are adhered to.

1.2 Description of site and surroundings

- 1.2.1 The sites are within the town centre, where the predominant uses are generally retail and commercial. The areas are mostly pedestrianised and feature typical street furniture such as bollards, planting and seats.
- 1.2.2 Typically many of the buildings fronting onto the proposed market areas feature large display windows.

1.3 Relevant planning constraints/considerations

- 1.3.1 The areas proposed for the markets are within the development boundary of Rhyl (Policy GEN 1). They are also within the designated Town and District Centre (Policy RET 1). The sections of market proposed to the rear of the Town Hall along Market Street up to Sussex Street are in the Conservation Area (subject to policy CON 5).

1.4 Relevant planning history

- 1.4.1 None.

1.5 Developments/changes since the original submission

- 1.5.1 Following initial consultation the application has been amended to take into account existing Traffic Orders which affect the area, by removing sections of the market from Glanglasfor and Market Street.

1.6 Other relevant background information

- 1.6.1 Permission is required as the proposed use of the public highway for an open air market would exceed the 'permitted development' tolerances in current planning legislation.
- 1.6.2 Class 4 of the General Permitted Development Order (1995) allows open air markets to be held on sites for up to 14 days per year. This allowance was 'removed' in Rhyl in 1976 by way of an Article 4 Direction, which stipulated open air markets could not be held in Rhyl without the prior grant of planning permission. However, irrespective of the Article 4 Direction, the proposed use would exceed the 14 day annual allowance, and would still require permission.
- 1.6.3 Members' attention is drawn to the limits of planning control in respect of elements of proposals of this nature. For example, stall design and layout and the type of goods being sold cannot be reasonably controlled through the planning process because of their temporary and variable nature, and attempting to do so would conflict with guidance contained within Circular 11/95 'The Use of Conditions in Planning Permissions'. This stresses that

planning conditions must be necessary, reasonable, enforceable, precise and relevant to planning.

- 1.6.4 There are quite separate controls exercisable over markets through other legislation, which allows for the creation of appropriate 'Market Regulations', which are administered and enforced by the regulatory teams within the planning service. Should planning permission be granted, then the issue of detailed 'Market Regulations' would be reported to the Council's Licencing Committee.

2. DETAILS OF PLANNING HISTORY:

2.1 None

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 1 – Development Within Development Boundaries
- Policy GEN 6 – Development Control Requirements
- Policy RET 1 – Town and District Centres
- Policy RET 18 – Markets
- Policy TRA 6 – Impact of New Development on Traffic Flows

3.2 GOVERNMENT GUIDANCE

- Planning Policy Wales 4 (February 2011)
- Technical Advice Note 4 Retailing and Town Centres (November 1996)

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 the vitality and viability of the town centre
- 4.1.3 Highway impact
- 4.1.4 Visual and conservation area impact

4.2 In relation to the main planning considerations:

4.2.1 Principle:

The site is located within the development boundary of Rhyl, where the general principle of suitable commercial/retail development is acceptable. The site is within the designated town centre where Policy RET 1 is of relevance, and aims to ensure that town and district centres are the main location for retail uses, provided those retail uses are of a scale and type appropriate to the size, character and function of the centre and that there is no harm to the vitality or viability of that centre. Policy RET 18 refers specifically to markets, and permits them provided there are no negative impacts upon the retail function of town centres or amenity of areas. It is therefore considered that the proposal may be acceptable in principle, but is necessarily subject to assessment of the relevant detailed impacts.

4.2.2 Impact on the vitality and viability of the town centre:

Policy RET 1 requires retail proposals within town centres to either maintain or enhance the vitality and viability of the town centre. Policy RET 18 - Markets, emphasises this requirement and relates it specifically to street markets.

The proposal would result in several streets in Rhyl being used by market traders on two days per week. On the positive side, it is considered likely that the market would generate additional activity in the town centre from which all retailers could benefit, although, for this to be of value to retailers in adjacent shop units, care would be necessary to ensure that the location and size of the stalls do not obscure or restrict access to existing premises. As mentioned in paragraphs 1.6.3 and 1.6.4 above, these are matters which cannot be controlled directly through the planning process, but through the establishment of Market Regulations, for which different sections of the Planning and Regulatory Service are responsible.

It is considered that the market has the potential to improve the vitality and viability of Rhyl town centre in association with the adoption of appropriate Market Regulations. However in order to allow fair opportunity to assess whether the overall impact of the market would be acceptable on the town centre, Officers suggest that consideration be given to a temporary permission only. This would enable the market to operate for a limited period of time and afford the Local Authority an opportunity to monitor the impact on the vitality and viability of the centre, once patronage of the market has stabilized. In the event that it became clear the market was having a detrimental impact upon the town centre (a marked increase in the number of vacant shops for example), then the Local Planning Authority would have to take this into account if an application was to be submitted to renew the temporary permission.

It is Officers' view therefore that in the circumstances, it may be reasonable to consider granting a temporary permission for a period of 18 months to allow the trading impact of the markets to be fully assessed.

4.2.3 Highway impact:

Policy TRA 6 permits development where there would be no detrimental impact upon the safe and free flow of traffic on the highway. In addition Policy RET 18 requires proposals for markets to not result in a traffic hazard on the surrounding highway network and that there is sufficient parking available for traders and customers.

The areas in which the market is to be held are subject to Traffic Orders which prevent vehicles from being there between 10am and 5pm. It is considered the market can be run without significant conflict with these Orders, and subject to controls over the hours of trading to tie in with the Traffic Orders, it is not considered that there would be a significant impact on the safety of pedestrians. It is considered that there is sufficient parking within Rhyl town centre to accommodate the uses. The Head of Transport and Infrastructure has not raised an objection to the proposal.

It is considered that the proposal would not result in a detrimental impact upon the safety of the users of the surrounding highway network, and that the proposal is compliant with policies TRA 6 and RET 18.

4.2.4 Visual and conservation area impact:

Policy GEN 6 includes criteria which seek to preserve to the visual amenity of areas. As three of the sites are located within the conservation area, there is an additional requirement to ensure the historic character of the area is not harmed as required by policy CON 5. These requirements are again emphasised with specific reference to markets by policy RET 18.

As stated in paragraph 1.6.3 above, the specific detailing of market stalls and the layout is not a matter which the planning function can concern itself with as these are temporary and do not fall within the definition of development. However, the use of the land and the implications of that use on the appearance of the area are material considerations.

Whilst a market which draws additional shoppers to a town centre is likely to result in a noticeable increase in activity, it is considered that in this town centre location the 'hustle and bustle' associated with the market is entirely appropriate and relevant to the historic commercial centre of the town, and would not have an adverse impact on visual amenity or on the character of the Conservation Area.

It is considered that the proposal complies with planning policies GEN 6, CON 5 and RET 18, and is acceptable in terms of visual amenity and impact upon the conservation area.

5. SUMMARY AND CONCLUSIONS:

5.1 The principle of establishing a street market in Rhyl is considered acceptable with regard to current planning policies. Many of the concerns which have been raised by existing traders in Rhyl are beyond the control of the planning function, but can be dealt with satisfactorily through separate Market Regulations.

5.2 It is suggested that a temporary permission be granted to allow the impact of the use on the town centre to be monitored and fully assessed.

RECOMMENDATION: GRANT - subject to the following conditions:-

1. The use hereby permitted shall cease on or before 31 October 2010.
2. The market shall only be permitted to operate on the following basis:
 - a) Thursdays and Saturdays, between 1000 hours and 1700 hours.
 - b) A maximum total of 14 additional days in any calendar year (1 Jan - 31 Dec) , between 1000 hours and 1700 hours.
3. On all days and hours when the markets operate, the bollards in the positions annotated on the submitted plan shall be put in place to prevent vehicular access between 1000 and 1700 hours, and then shall not be permitted to remain in place outside those hours.
4. No markets shall be held other than on Thursdays and Saturdays unless a minimum of 14 days advance warning has been given in writing to the local planning authority, and the applicants or operators of the markets shall keep an up to date Register of the dates all markets are held. The Register shall be made available on request for inspection by officers of the local planning authority.
5. Within one month of the date of this permission a detailed method statement shall be submitted for approval with regard to the means of setting up and managing the 'Bollards' (physical barriers). The details shall include the following:
 - (a) The proposals for setting up, removal and management during the market hours of the Bollards (physical barriers) as shown on the approved plan dated 22/03/2011. The details shall include the type, size, colour, materials, positioning and fixing of any bollards, barriers, signs etc to be used within the public highway.
 - (b) Consultation method and proposed future arrangement and management for the exiting Pedestrian Zone permit holders and the restrictions within Areas 1 and 3 / red and green diagonal lines on the approved drawing during the hours of operation of the market.
 - (c) Proposals during the market hours for emergency access arrangements only for emergency vehicles, statutory undertakers and permit holder.

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

1. To allow the Local Planning Authority to monitor the impact of the market on the town centre.
2. For the avoidance of doubt.
3. For the avoidance of doubt and in the interests of traffic safety.
4. To ensure a suitable record is kept of the number of days the markets are held, and to ensure the requirements of condition 2 are being met.
5. In the interest of highway and pedestrian safety.

NOTES TO APPLICANT:

In accordance with the existing access restrictions on the Pedestrian Zone no vehicle other than a goods vehicle will be permitted entry to service the market stalls. Service vehicles shall be completely removed from the Pedestrian Zone before 10 a.m. and will not be permitted re-entry under any circumstances until after 5 p.m. No other type of vehicle associated with the market stalls (e.g.) will be permitted entry to the Pedestrian Zone at any time.

No service vehicles associated with the market stalls shall be permitted entry at any time to the length of High Street between its junction with Sussex Street and Market Street (Area 2/blue diagonal lines) on the approved plan which is subject to an 'Extinguishment of Vehicular Rights' Order. The setting up and removal of market stalls within this area must be undertaken manually.

