

Date - 12th October 2016

ADDENDUM REPORT BY HEAD OF PLANNING AND PUBLIC PROTECTION

AGENDA ORDER, LATE INFORMATION AND AMENDMENTS TO PLANNING COMMITTEE REPORTS

The following sheets are an addendum to the main agenda for the Committee. They set out the order in which items will be taken, subject to the discretion of the Chair, and they provide a summary of information received since the completion of the reports, and matters of relevance to individual items which should be taken into account prior to their consideration.

Where requests for public speaking on individual planning applications have been made, those applications will normally be dealt with at the start of that part of the meeting.

AGENDA FOR THE MEETING

1. APOLOGIES
2. DECLARATIONS OF INTEREST (Pages 9 - 10)
3. URGENT MATTERS AS AGREED BY THE CHAIR
4. MINUTES (Pages 11- 20)

APPLICATIONS FOR PERMISSION FOR DEVELOPMENT
(Item numbers 5 – 9))

ORDER OF APPLICATIONS

PART 1

	Application no.	Location	Page
Public Speaker items			
5	10/2016/0664	Tal Y Bidwal Bach, Bryneglwys, Corwen	23
7	18/2016/0224	Cwm Tawel, Llandyrnog, Denbigh	49
8	42/2016/0223	Mount House, Dyserth, Rhyl	71
9	42/2016/0322	Mount House, Dyserth, Rhyl	93
10	SPECIAL REPORT	Mount House, Dyserth, Rhyl	105
Other items			
6	15/2016/0828	19, Maes Ial, Llanarmon Yn Ial, Mold	37

PUBLIC SPEAKER ITEMS

ITEM No 5 Page 23	Code no. 10/2016/0664 Location - Tal Y Bidwal Bach, Bryneglwys, Corwen Proposal - Installation of roof windows in connection with loft conversion
<p>LOCAL MEMBER: Councillor Hugh Evans</p> <p>OFFICER RECOMMENDATION IS TO GRANT</p> <p>Public Speaker: Against – Mr. Morley Public Speaker: For – Mr Lockert</p> <hr/> <p>ADDITIONAL PLAN Members are referred to the plan on the YELLOW sheet which shows the relationship between Tal y bidwal Bach and the adjacent property Heulfryn Bach.</p> <p>OFFICER NOTES For clarification, the proposed rooflight windows scale off the submitted plans at approximately 2.4m by 2.7m . Officers are suggesting it would be in order to attach a condition to any permission requiring the cills of all the rooflight windows to be installed at a minimum of 1.7m above the finished internal floor level, to mitigate any reasonable potential for overlooking of the private garden area of Heulfren Bach.</p> <p>Suggested new condition: 3. Notwithstanding the submitted plans, the cill height of all of the rooflight windows shall be set at a minimum of 1.7m above the finished internal floor level of the rooms in the roofspace.</p> <p>Reason: To minimize the potential for overlooking of the private garden and dwelling at Heulfryn Bach</p>	

ITEM No 7 Page 49	Code no. 18/2016/0224 Location - Cwm Tawel, Llandyrnog, Denbigh Proposal - Development of 0.68ha of land for the erection of 18 dwellings (outline application including details of access and layout)
<p>LOCAL MEMBER: Councillor Merfyn Parry (c)</p> <p>OFFICER RECOMMENDATION IS TO REFUSE</p> <p>Public Speaker: For – Shan Wyn Jones</p> <hr/> <p>ADDITIONAL PLAN Members are referred to the plan on the WHITE coloured sheet, which is the correct version of the site layout plan</p> <p>OFFICER NOTES</p>	

The final paragraph under section 4.2.8 in the Officer report - relating to affordable housing - is not the intended version. This should be replaced with the following paragraphs:

Section 4.3.1 of the report deals with the principle of the development and the affordable housing issue. The Strategic Planning and Housing Section have commented that whilst the Local Housing Market Assessment (LHMA) has identified a need for 1 and 2 bed units in Llandyrnog, the scheme submitted is predominantly for 3 and 4 bed units with only 6 units being 2 bed. It is not considered that the proposal seeks to meet affordable local housing need as the range of house types does not reflect the evidence of affordable housing need in the village as identified in LHMA and required by policy BSC8. Officers are not of the opinion that evidence has been submitted that the proposal would meet local affordable housing need to a degree that would warrant a departure from the adopted Local Development Plan.

In relation to Field 1 (within the development boundary): The site area is approximately 0.3ha. By applying the Local Development Plan density of 35 dwellings per hectare in Policy RD1, 11 dwellings would be required on this part of the site. On developments of 10 or more units, a minimum of 10% affordable housing is required and therefore 1 Affordable housing unit would be required on site and potentially a financial contribution to meet the 0.1 proportion remaining.

In relation to Field 2 (outside the development boundary): The site area is approx. 0.38ha. By applying the density figure, 13 dwellings would be required on this part of the site. Policy BSC 8 Rural Exception Sites supports affordable housing development as an exception to normal policy provided it meets a number of tests and therefore the part of the site outside the development boundary should provide 13 affordable units.

Based on these basic calculations, a total of 14 affordable housing units would be required for Field 1 and 2. 6 affordable units are proposed across the whole site as part of the application..

In relation to Items 8, 9 & 10

Members are asked to note that Judicial Review proceedings (which will be explained verbally at Committee by the Legal Officer) have been brought against the Council in respect of the decision by Planning Committee on 17th February 2016 not to revoke the outline planning permission under planning permission 42/2016/0223 which are due to be heard on 8th December 2016. Nelsons, the Solicitors acting for the Claimant Mrs J Walters (owner of two properties neighbouring the site) who have had sight of the Committee reports and been invited to comment on them, have requested that the letter (dated 6th October) and that their court bundle be circulated to Members. Most of the documents in the bundle will have been seen previously by Members but a copy of the Claimant's Statement of Facts and Grounds are included in the attached documents – Members are requested to read through this document as it sets out the claimant's case/grounds of challenge which will be summarised at Planning Committee. Members will be allowed an opportunity to read the papers at Planning Committee but it is important that these are read in advance if possible). For ease of reference, the representations in the letter of 6th October are set out in the late reps below.

ITEM No 8
Page 71

Code no. 42/2016/0223
Location - **Mount House, Dyserth, Rhyl**
Proposal - Details of layout, scale, appearance and landscaping of dwelling submitted in accordance with condition no. 1 of outline planning permission code no. 42/2012/1638

LOCAL MEMBER: Councillor David Gwyn Williams

OFFICER RECOMMENDATION IS TO APPROVE

Public Speaker: Against – Mr Guy Evans

Public Speaker: For – Mr Rhys Davies

LATE REPRESENTATIONS

Private individuals:

In objection, from:

Guy D. Evans, Cassidy and Ashton – on behalf of Mrs J. Walters.

Summary of representations:

Application should not be determined. Consideration of the disposal of surface water remains outstanding. Approval of the current application would allow the development to commence. No details of a drainage strategy have been submitted for consideration at outline stage. Surface water strategy is fundamental having regard to local conditions and area of hardstanding proposed.

Further correspondence has been received from Nelsons Solicitors, also acting on behalf of Mrs. J Walters. The application should not be determined pending determination of Judicial Review proceedings issued by their client in respect of the decision, made by Planning Committee on 17th February, not to revoke the outline planning permission. The application is listed for a rolled up hearing on 8th December 2016. If the application for Judicial Review is successful the outline planning permission will fall away and consideration of this application should be adjourned. Instructions will be sought to obtain an injunction to prevent consideration of this application until after the hearing if an adjournment is not agreed. Consideration of reserved matters will add to the applicant's costs to date.

OFFICER NOTES

In response to the representation that the reserved matters application should not be determined having regard to the surface water disposal issue:

The application in front of the Authority seeks the approval of specific details as required by the terms of Condition 1 of the outline planning permission, 42/2012/1638. These 'reserved matters' are the layout, scale, appearance and landscaping of the development. Officers do not consider it to be within the scope of the Authority when dealing with an application seeking approval of these particular matters to oblige submission of a drainage strategy / system. The report on the item explains that the outline application proposed foul water to be drained to an existing septic tank, and surface water to soakaways. No planning condition was imposed on the outline permission requiring the submission of further details of the drainage systems, and it is not considered reasonable to impose a condition at reserved matters stage requiring submission of such details

For the record, there are controls at Building Regulations stage on the disposal of roofwater by way of soakaways.

In response to the representation that the reserved matter application should not be put to Committee for determination before related Judicial Review proceedings are concluded:

Judicial Review proceedings have been issued as above. There is no Order in place to prevent consideration of this application. Their client (claimant) has no basis to seek an Injunction.

The applicant has a pending reserved matters application which the Council must determine. It is accepted that if outline planning permission is revoked reserved matters fall away. However reserved matters are not the planning permission and there is no legal principle why these cannot be determined. Any costs incurred by the applicant have largely been incurred to date and will not increase any compensation payable to him.

ITEM No 9

Page 93

Code no. 42/2016/0322

Location - **Mount House, Dyserth, Rhyl**

Proposal - Variation of condition no. 2 of outline planning permission code no. 42/2012/1638 to allow an additional 2 years for the submission of an application for approval of reserved matters and deletion of condition no's. 4 and 5 relating to code for sustainable homes

LOCAL MEMBER: Councillor David Gwyn Williams

OFFICER RECOMMENDATION IS TO REFUSE TO VARY CONDITION 2 AND TO APPROVE DELETION OF CONDITIONS 4 AND 5

Public Speaker: For - Mr Rhys Davies

LATE REPRESENTATIONS

Nelsons, Solicitors on behalf of Mrs J Walters

Invites the Council to all adjourn all matters relating to the outline planning permission and withdraw these items from the Planning Committee meeting on 12th October until after the rolled up hearing of Judicial Review proceedings issued by their client in respect of the decision, made by Planning Committee on 17th February, not to revoke the outline planning permission on 8th December 2016.

OFFICER NOTES

For the avoidance of doubt, the representation is taken to include reference to the application above as it relates to the outline planning permission which is the subject of the Judicial Review proceedings. There is no order in place to prevent determination of this application.

SPECIAL REPORT

ITEM 10

**RECOMMENDATIONS OF THE PUBLIC SERVICES OMBUDSMAN FOR WALES
FOLLOWING INVESTIGATION INTO THE COUNCIL'S HANDLING OF PLANNING
APPLICATION NO. 42/2012/1368/PO - LAND AT MOUNT HOUSE, BRYNIAU, DYSERTH**

To consider a report on the findings of the Public Services Ombudsman for Wales Report on the case, land at Mount House, Bryniau, Dyserth.

**Public Speaker: On behalf of the complainant -
Public Speaker: On behalf of the applicant – Rhys Davies**

Representations from:

Nelsons, Solicitors for Mrs J Walters (complainant to the Ombudsman)

The application should not be determined pending determination of Judicial Review proceedings issued by their client in respect of the decision, made by Planning Committee on 17th February, not to revoke the outline planning permission. The application is listed for a rolled up hearing on 8th December 2016 and consideration of this application should be adjourned.

They note that the issue of revocation is being considered on the basis of the Council's valuations of compensation payable to the various parties. This is not a planning consideration and it is inappropriate for the Planning Committee to consider a recommendation based purely on financial matters.

In any event, the figures in the report are misleading. The landowner can only claim £10,000 and the suggested amount of £25,000 payable to their client is not agreed. In addition their client's costs of the Judicial Review will be sought.

OFFICER NOTES

It is misguided to suggest that the Council should be prevented from reconsidering the revocation issue. There is no court order in place and the Council as defendant in Judicial Review proceedings should keep matters under review. This is the purpose of putting the question of revocation to Members.

Their client (claimant) has shown no basis to seek an Injunction.

The report does not simply deal with the compensation issue in the context of potential compensation to their client. Compensation is relevant to revocation and a proper reading of the report shows that it is one of a number of considerations being put before Members.

The amount of compensation is that anticipated at the time of consideration of this report based on information available to the valuer who has prepared the valuation report. It is accepted that such figures may not be agreed.

The issue of costs in litigation is a separate issue.

OTHER ITEMS

ITEM No 6 Page 37	Code no. 15/2016/0828 Location - 19, Maes Ial, Llanarmon Yn Ial, Mold Proposal - Erection of single storey extension to rear of dwelling
LOCAL MEMBER: Councillor Martyn Holland OFFICER RECOMMENDATION IS TO GRANT ----- No late information	

ITEM 11 - Page 255

'RESIDENTIAL DEVELOPMENT' SUPPLEMENTARY PLANNING GUIDANCE (SPG) - ADOPTION OF FINAL DOCUMENT

To consider a report recommending adoption of the draft SPG document 'Residential Development' in line with proposed amendments.

ITEM 12 - Page 315

DELETION OF SUPPLEMENTARY PLANNING GUIDANCE (SPG) NOTES NO. 3, 5 AND 21 –

To consider a report recommending deletion of SPG notes relating to 'Children's Day Care', 'Taxis' and 'Retail Kiosks'.

ITEM 13 – Page 353

DENBIGHSHIRE LOCAL DEVELOPMENT PLAN (LDP) 2006 - 2021: DRAFT ANNUAL MONITORING REPORT 2016

To consider a report informing members of the content of the LDP Annual Monitoring Report 2016.