

# Agenda Annex

## PLANNING COMMITTEE

Date - 12<sup>th</sup> April 2017

### 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 - 24)

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

#### ORDER OF APPLICATIONS

#### PART 1

	Application no.	Location	Page
<b>Public Speaker items</b>			
<b>5</b>	11/2016/1258	Land at Tyn y Celyn, Clocaenog	25
<b>7</b>	30/2016/1252	Land adjacent carp lake, Llanerch Park, St Asaph	49
<b>8</b>	43/2016/0600	Mindale Farm, Meliden	65
<b>Other items</b>			
<b>6</b>	27/2017/1057	Tan y Fron Farm, Eglwyseg, Llangollen	41
<b>9</b>	45/2017/0048	1 South Drive, Rhyl	151

## PUBLIC SPEAKER ITEMS

<b>ITEM No 5</b> Page 25	<p><b>Code no.</b> 11/2016/1258</p> <p><b>Location</b> Land at Tyn y Celyn, Clocaenog, Ruthin</p> <p><b>Proposal</b> Development of 0.09 hectares of land by the erection of a rural enterprise dwelling, formation of a new vehicular access and installation of a septic tank (outline application including access) (resubmission)</p>
<p><b>LOCAL MEMBER:</b> Councillor Eryl Williams</p> <p><b>OFFICER RECOMMENDATION IS TO REFUSE</b></p> <p><b>Public Speaker: For – Karen Anthony (agent)</b></p> <p>-----</p> <p><b>No late information</b></p>	

<b>ITEM No 7</b> Page 49	<p><b>Code no.</b> 30/2016/1252</p> <p><b>Location</b> Land adjacent carp lake, Llanerch Park, St Asaph</p> <p><b>Proposal</b> Change of use of land for the siting of 6 holiday yurts, construction of ancillary building and parking, and new treatment plant</p>
<p><b>LOCAL MEMBER:</b> Councillor Meirick Lloyd Davies (c )</p> <p><b>OFFICER RECOMMENDATION IS TO GRANT</b></p> <p><b>Public Speaker: Against – Stephen Boyd</b></p> <p>-----</p> <p><b>ADDITIONAL PLAN</b>                  Members are referred to the WHITE coloured sheet. The plan shows the location and route of the two access roads from the A525 referred to in the report.</p> <p><b>LATE REPRESENTATIONS</b>                  Private individuals:                  In objection, from:                  C. Taylor, 4 Llanerch Crossing, St. Asaph</p> <p>Summary of representations:                  No objection to the yurt development in itself.                  Significant concerns about the proposed use of Llannerch Crossing as an access route, both for construction traffic and for ongoing commercial use of the site. Sections in front of numbers 4 and 5 Llannerch Crossing are privately owned by the owners of those properties. Concerns over maintenance of the lane and implications for owners, reduction in privacy and increase in road dust. The alternative access route is wider and surfaced and should be signposted as the preferred route both for construction traffic and for holiday visitors, and any permission should be conditioned accordingly.</p>	

**OFFICER NOTES**

Suggested new condition:

9. An up to date register shall be kept of the names of the persons occupying the yurts, containing proof of their main home addresses, and, where relevant, the date of their arrival and departure from the site. The register shall be made available for inspection on request by the Local Planning Authority.

Reason : In order that the Local Planning Authority can monitor the use and ensure the yurts are being used for holiday purposes and not as someone’s main or sole residence.

<p><b>ITEM No 8</b> Page 65</p>	<p><b>Code no.</b> 43/2016/0600</p> <p><b>Location</b> Mindale Farm, off Ffordd Hendre and Ffordd Gwilym, Meliden, Prestatyn</p> <p><b>Proposal</b> Demolition of existing dwelling and outbuildings, erection of 133 dwellings, construction of approach road, internal estate roads, sewers, SUDS drainage and open spaces, strategic and hard / soft landscaping, and ancillary works.</p>
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**LOCAL MEMBER:** Councillor Peter Evans (c )

**OFFICER RECOMMENDATION IS TO GRANT**

**Public Speaker: Against – Bob Paterson**

**Public Speaker: For – Nicola Roberts (Penrhyn Homes)**

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**LATE REPRESENTATIONS**

**From Consultees:**

Prestatyn Town Council

“Objection

Cllr B. Paterson, Ward Councillor submitted a comprehensive report on the flawed revised transport assessment and foul/surface water layout. Committee concurred with objections raised by local Member and requested that copies of his comments dated 14.03.17 and 21.03.17 be forwarded to Denbighshire County Council Planning Department. Reference was also made to previous illegal tree felling by landowner and National Resources Wales (enforcement body) requirement for extensive replanting of trees on site.”

(Councillor Paterson’s representations are in the form of a 2 page summary referred to below, and a 7 page supplement with extracts from the application documents, google maps/ street extracts to highlight the main points, which can be viewed on the website)

Cllr B Paterson’s 2 page summary:-

“This is a planning application that currently has over 170 documents.

The Revised Transport Assessment.

This document quotes the Denbighshire LDP in that it says ‘Denbighshire is recognised as being predominantly a car dependent county due to its rural nature, and the LDP objectives stress the need for improvement of facilities to promote sustainable forms of transport and address this car dependence.’ They also state ‘Good pedestrian connectivity between the proposed residential development and the surrounding area is a key component of the development access strategy. This is to be converted into practice by a combination of:

- Well designed on-site development layout that recognises pedestrian desire lines and provides enabling pedestrian facilities (eg footways, roads that discourage high speeds, a sense of place that is safe for pedestrians fostered by the layout of buildings, etc), and
- Pedestrian links between the Site and the surrounding area.

To help them push this they will say things that are not true, for example on page 15 it states that 'All the key services (shops, schools, leisure facilities) in Meliden village are within 500 metres of the site, and the whole village is within the wider 2km catchment.' This is a total deception, The shop is 600m, the nearest Bus Stop is 560m, the chemist, post office, Doctors Surgery, Leisure facility and community centre are 890m. The church and Restauarant even further.

In assessing the useage of cars, walking and public transport the transport assessment has made a number of observations and used a number of sites throughout the UK to create the trip parameters used to generate the trip rates for this development. I have looked at the first 7 of these sites and geographically they bear no resemblance to this development and the area in which it is set. Most of these developments gave direct pedestrian access to main roads, so how can this be comparable? Also the local traffic surveys were taken in January 2016, firstly the quietest time of the year and secondly over a year old, the popularity and growth of Prestatyn recently, and in the future, the new Lidl etc. means that the traffic is constantly increasing.

When the above matters are taken into account and a number of mistakes within the 333 page document which include- , but there are more.

Section 1.1 This still states a development of 136 houses, and in the last paragraphs refers to Chapter 9, which does not exist.

Sections 4.1 /4.3 The number of houses has not been updated.

Section 5.2 States that the access road has pavement on both sides, not shown on plans. 5.6 Refers to cycle facilities being in Chapter 5, they are in 6.

Section 7.5 The report neglects to mention the 15 other properties with planning permission on Ffordd Talargoch, 7 at the old garden centre and 8 behind the car sales, the Meliden Shed development, the new housing development opposite Rhuddlan golf course, the increasing promotion of Prestatyn as a tourist destination and retail developments such as the new Lidl store.

Whilst I accept that a number of these errors are not critical they do raise questions over the credibility of the whole document, there are a number of the errors pointed out that seem to be a deliberate attempt to mislead people who are reading it. To this end I feel that it is incumbent on DCC Planning to ensure the accuracy of this document.

Foul and Surface Water layout. This document conveniently seems to miss out the surface water system that is currently taking surface drains from Ffordd ty Newydd and the rest of the current estate. It is my understanding that at the moment this runs into the field, were this development go ahead this would not be able to happen because of the hard landscaping that would be created.

There is a public response from the owner of the nature reserve land that casts doubt over the boundary of the access road, it would seem that this is in the hand of legal representation.

NRW have also been in contact with the current landowner concerning the ilegal felling of trees prior to this application, this means that there is an order in place which calls on the landowner to plant 50 broad leaf trees as replacements for those removed, I believe that this order transfers with any sale of the land.

Until these arguments are settled I do not believe any planning matters can be realistically determined as they will have a direct impact on the space required for the access road and pavement."

North Wales Police Designing Out Crime Officer

Reiterates points in his original response in relation to the detailing of the scheme.

#### **From Private individuals:**

- James Davies MP, 198 High Street, Prestatyn, Denbighshire

#### **Summary of Representation from MP James Davies**

Responses from stakeholders reflect there are still significant concerns with what is proposed:

Highways - the topography of the access and egress; the predicted increase in the volume of traffic; the fact that a residential area will be used as the main ingress for large construction vehicles;

General impact on the area - over intensification of the site in the context of a village setting; difficult access to public services and public transport;

Drainage - flooding concerns;

Reduction of agricultural land;

Impact on biodiversity.

Results of a residential survey concluded that 95% of those surveyed were against the development.

### **Separate Petition**

- A petition signed by 54 persons was handed in on 11/03/2017, requesting that Committee vote to reject the proposal 'until the attached objections (reference Roger Hamilton 19/03/2017) have been recognised and satisfactorily responded to'.

The document attached is a 2 page email sent to the Council previously by Mr Hamilton in response to the revised application, reiterating objections based on the amount of development, its impact on the village and local services; noting inaccuracies / errors in the Transport Assessment, and commenting on the details of the proposed access road - which are considered unacceptable.

### **From the applicants' agent and their consultants**

In relation to comments over the hydrology:

It is stated there is an existing ditch on the boundary between the nature reserve and the development site which intercepts any overland flow into the nature reserve. The site is also predominately clay and therefore combined with the topography it is assumed that the ground water flow from the site would be minimal; the new link road along the southern boundary could have a minor non harmful effect on the hydrology for the site but this would be minimal and a system to intercept the new surface has been designed so as to ensure no possible run off to affect the neighbour.

In relation to the detailed points raised in the report from Councillor Bob Paterson, the applicant's consultants have provided a 4 page email setting out / clarifying the basis of the proposals, referring to the following:

- Use of standard dimensions for access roads, corner radii, footways and visibility splays, as contained in the Manual for Streets
- Guidelines used for gradients of roads and footways, which are considered acceptable
- Walking distances to facilities, which are considered to be within suggested limits in The Institute of Highways and Transportation publication 'Guidelines for providing Journeys on Foot' (1000m, and a preferred maximum of 2000m)
- The sites selected in the TRICS analysis, which were chosen as they have similar characteristics as to the proposed site as described in the Transport Assessment; selecting residential sites in the Wales Region only returns lower trip generation figures, and improves the modelling results for the junctions assessed.
- Traffic surveys taken in January, which were carried out during term time during a period when most people were at work; and when assessing the AM and PM peak periods, January typically has higher flows than other months.
- Surface water run off on adjacent land, which should be managed by adjacent landowners, but as part of the development of the scheme, any currently unidentified drains would be investigated, and appropriate measures would be taken to manage discharges which may affect the site.
- In accordance with NRW and DCC requirements, runoff to watercourses will be restricted to existing Greenfield runoff rates for the site in its current form. With the attenuation structures proposed, there will be no increased burden on existing watercourses.

### **SITE INSPECTION PANEL REPORT**

The application was subject to a Site Inspection Panel meeting at 3p.m. on Thursday April 6th, 2017

In attendance were:

CHAIR – Councillor Joseph Welch

VICE CHAIR – Councillor Bill Cowie

LOCAL MEMBER: Councillor Peter Evans

#### GROUP REPRESENTATIVES

CONSERVATIVE – Councillor Anton Sampson

INDEPENDENT - No additional representative

LABOUR – Not represented

PLAID CYMRU – Councillor Arwel Roberts

COMMUNITY COUNCIL – Councillor Bob Paterson

Also present as an observer was Councillor Hugh Irving.

The Officers present were Mr Ian Weaver (Development Management) and Mr. Mike Parker (Highways)

The reason for calling the site panel, as outlined by the Local Member, was to allow opportunity to assess the potential impact of the development on the village and its infrastructure.

At the Site Inspection Panel meeting, Members considered the following matters:

1. The character of the area in which the development was proposed, including the highway network.
2. The detailing of the proposed development, other background information, and the basis of responses to the application.

In relation to the matters outlined:

1. In the course of the meeting, Members were invited to walk along existing roads in the vicinity of the site to appreciate the location of facilities, the characteristics of the highway network and the relationship with the development proposed, including the A547. Reference was made to other sites with planning consent and those allocated in the Development Plan.
2. Members walked along the route of the proposed new access road off Ffordd Gwilym, and into the main part of the site at Mindale Farm. The planning officer explained the basis of the proposals for the 133 dwellings and the associated access and drainage arrangements, the planning designations in the area and the substance of responses received on the application.
3. A number of questions were raised in relation to the detailing of the development, in particular with regard to the highway and drainage proposals. Comments were made over the Development Plan allocation process and the number of other potential housing sites in the area, the use of agricultural land, the loss of trees, impacts on the nearby wildlife site, and land ownership issues. The Highway Officer offered clarification of the access and drainage detailing.

#### **LATE/ADDITIONAL OFFICER COMMENTS**

##### **In response to a question at the site panel meeting**

The application before the Committee is for 133 dwellings, as shown on the revised plans submitted in February 2017, which formed the subject of reconsultation with the Town Council, consultees and private individuals.

##### **Correction to paragraph 1.1.3 of the Officer report**

The mix of dwelling types should read - 6 x 4 bed units, 79 x 3 bed units, and 48 x 2 bed units.

##### **In relation to the comments of Prestatyn Town Council, Cllr Paterson, and private individuals:**

The technical documents submitted with the application have been considered by consultees who will have made their own judgement on the adequacy and accuracy or otherwise of the contents, in concluding on the acceptability of the proposals.

In respect of highway considerations, tree felling carried out prior to submission of the application, landownership matters and drainage details, these are all dealt with in the Officer report.

- The Highway Officers have given detailed consideration to the technical documents and to the submitted plans in making their recommendations on the application. They have confirmed the traffic assessment is based on the morning and afternoon peak hours, and analysis of data from our permanent traffic counters in the area indicated that there is little seasonal variation in peak hour traffic and the peak hours in January are actually amongst the highest in the year. They advise the trip rates used are at a level that would be expected for this type of development, and the junction analyses undertaken demonstrate that adequate spare junction capacity exists.
- Natural Resources Wales have not objected to the grant of permission and are requesting the matter of replacement planting is dealt with through the imposition of a suitable planning condition if permission is granted.
- The legal officer has confirmed it is not appropriate to delay consideration of the application in order to 'resolve' disputes over ownership.
- The detailing of the drainage system can be controlled adequately through planning conditions if a permission were to be considered.

**Suggested additional / revised Note(s) to Applicant**

The North Wales Police Designing Out Crime Officer has advised if the affordable units are to be managed by a Housing Association, there needs to be a Secured By Design application since these are covered by Design Quality Requirements.

You are advised that a grant of planning permission does not convey any judgement from the Council on landownership claims in respect of land involved in the development, and does not convey to the applicant the right to carry out development or to gain access across land which may be in third party ownership. It is the applicant's responsibility to ensure that he can implement a planning permission without infringing property rights.

## OTHER ITEMS

<p><b>ITEM No 6</b> Page 49</p>	<p><b>Code no.</b> 27/2017/0157</p> <p><b>Location</b> Tan y Fron Farm, Tan y Fron Lane, Eglwyseg, Llangollen</p> <p><b>Proposal</b> Details of landscaping submitted in accordance with condition no. 2 of planning permission code no. 27/2012/0009/PF.</p>
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**LOCAL MEMBERS:** Councillors Stuart Davies (c ) and Rhys Hughes (c )

**OFFICER RECOMMENDATION IS TO APPROVE**

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**No late information**

<p><b>ITEM No 9</b> Page 151</p>	<p><b>Code no.</b> 45/2017/0048</p> <p><b>Location</b> 1 South Drive, Rhyl</p> <p><b>Proposal</b> Formation of new vehicular access and erection of new fence/wall (Partly Retrospective Application)</p>
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<p><b>LOCAL MEMBERS:</b> Councillors Jeanette Chamberlain-Jones (c ) and Cheryl Williams</p> <p><b>OFFICER RECOMMENDATION IS TO GRANT</b></p> <p>-----</p> <p><b>No late information</b></p>	

## SPECIAL REPORT

### ITEM 10

A report providing officer guidance on suggested reasons for refusal on Planning Application Ref 01/2016/0374/PF for the erection of 75 dwellings, together with associated roads, open space and related works on Land at Cae Topyn, off Old Ruthin Road, Ffordd Eglwyswen, Denbigh

### LATE REPRESENTATIONS

From Mr. M. Gilbert, on behalf of the applicants

In relation to the requirement for a contribution to education:

“Your SPG in relation to planning obligations is absolutely clear in indicating that the assessment of whether there is justification for an education contribution should be based on the capacity of schools (para 13.2). At your last Committee Members appeared to place weight on the potential to extract money from developers in order to improve educational facilities in a general sense, whilst it is true, as para 13.3 confirms, that any moneys received might be used for, amongst other things, the improvement of playing fields, that is in the context of improving the capacity of the schools and not in relation to a general aspiration to improve facilities (which, we assume, meet all relevant National standards for education and, if they do not, then it is not our Clients responsibility to address the matter), therefore, the Committee’s approach to this matter was, with respect, misplaced.

The information in relation to school capacity in Denbigh could not be clearer, in both this current Committee report and in the report to the March Committee, there is no capacity issue and, therefore, no basis for seeking a contribution.

Nevertheless, your report suggests that Members might be able to ‘run’ an education argument at an appeal as a matter for discussion when conditions/legal agreements are being discussed and thereby pursue the matter without a significant risk of costs being awarded against the Council. I make my Client’s position on this clear as follows. The Council is we understand seeking a very substantial contribution in relation to education for which there is no planning justification. Irrespective of whether the matter is addressed through a reason for refusal or arises for discussion in relation to a planning obligation, it will be my Client’s intention to provide detailed evidence to rebut the need for any such contribution and I make clear now our full intention to apply for costs in relation to this matter should it be raised as an area of dispute at any appeal.

We hope the Council will conclude that there is no requirement for an education contribution.

Finally, whilst I note that the resolution to refuse planning permission is in place, having regard to the latest report it is now even more clear that a refusal would be unreasonable, it is not too late for the



Committee to reverse its decision and grant planning permission and I hope that, on reflection, it will do this.”

#### LATE/ADDITIONAL OFFICER COMMENT

Having regard to section 2.2 of the main report and the comments of the agent on behalf of the applicants contained in this late sheet, Officers would comment as follows:

Whilst it is accepted that issues have been raised within the adopted Site Development Brief (SDB) pertaining to capacity in **year groups** of local schools, further clarification has been sought from Education Services colleagues.

Education Services colleagues accept that available spaces in schools per year group can change on a daily basis. As such, it will always be very difficult to try to link pupil generation from residential developments (which could run over a number of years) to potential predicted availability of spaces in year groups at that time. Education Services colleagues have confirmed that they cannot predict there will be any issue with capacity in any relevant Secondary School. Education Services colleagues have, however, provided some data based on a predicted Foundation Phase and Key Stage 2 split for Primary Schools in the Denbigh Area. This is shown in the table below:

Foundation Phase	Admission number for Sept 2017	On roll Foundation phase (September 2016)	Foundation phase capacity (Admission number x 3)	Surplus places	Maximum Likely Demand*
Ysgol Y Parc (English)	48	154	144	-10	6
Ysgol Twm o'r Nant (Welsh)	40	149	160	11	3

KS2	Admission number for Sept 2017	On roll KS2 (September 2016)	KS2 capacity (Admission number x 4)	Surplus places	Maximum Likely Demand*
Ysgol Frongoch (English)	55	206	220	14	7
Ysgol Twm o'r Nant (Welsh)	40	149	160	11	5

*\*Maximum likely demand calculated based on the maximum number of pupils generated when using various options for splitting pupils by language and Key stage*

This table above shows that, should Members wish to argue a financial contribution for education provision is required from the development, as set out in the adopted SDB, it is the potential demand created from the 6 predicted pupils at the Foundation Phase at Ysgol Y Parc (English) which may be most relevant. It should be stressed, however, that these figures would likely have changed at the time of any appeal and may, or may not be arguable at that time. Members should also note that, using the relevant SPG formula for calculating contributions, these 6 primary places would result in the following contribution:

6 pupils x £16,000 per pupil = **£96,000**

Officers feel obliged to stress that any potential education contribution would need to be requested from the applicant on a formal basis within any subsequent appeal. This request would have to be evidenced, in terms of any lack of capacity in relevant schools, at that time. Officers further stress that, given the difficulties in accurately calculating capacity and the lack of clear evidence at the time of dealing with this planning application a reason for refusal would be difficult to justify. (See para 2.2.10 of main report)

Having regard to the above the contents and conclusions of the main report still apply, as does Recommendation (B) at para 4.1.2.

## **ADDITIONAL ITEMS**

### **JUDICIAL REVIEW IN RELATION TO THE MOUNT, BRYNIAU**

A verbal update from the Development Manager

### **PLANNING COMMITTEE COMPOSITION**

A verbal update from the Legal Officer