



To: Members of the Planning Committee Date: 12 July 2012
Direct Dial: 01824 712568
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Dear Councillor

You are invited to attend a meeting of the **PLANNING COMMITTEE** to be held at **9.30 am** on **WEDNESDAY, 18 JULY 2012** in the **COUNCIL CHAMBER, COUNTY HALL, RUTHIN.**

Yours sincerely

G Williams
Head of Legal and Democratic Services

AGENDA

1 APOLOGIES

2 DECLARATIONS OF INTEREST

Members to declare any personal or prejudicial interests in any business identified to be considered at this meeting.

3 URGENT MATTERS AS AGREED BY THE CHAIR

Notice of items which, in the opinion of the Chair, should be considered at the meeting as a matter of urgency pursuant to Section 100B(4) of the Local Government Act, 1972.

4 MINUTES (Pages 5 - 40)

To confirm the accuracy of the minutes of the:

- (i) Planning Committee meeting held on the 30 May 2012 (copy attached); and
- (ii) Planning Committee meeting held on the 20 June 2012 (copy attached).

5 APPLICATIONS FOR PERMISSION FOR DEVELOPMENT (Pages 41 - 106)

To consider applications for permission for development (copies attached).

6 REPORT ON THE OUTCOME OF A PLANNING APPEAL - MAES Y CASTELL, ABBEY ROAD, RHUDDLAN (FOR INFORMATION) (Pages 107 - 116)

An information report on the outcome of a Planning Appeal relating to application 44.2011/0508/OB – modification of Section 106 Obligation, Maes y Castell, Abbey Road, Rhuddlan (copy attached).

MEMBERSHIP

Councillors

Ian Armstrong
Brian Blakeley
Joan Butterfield
William Cowie
Ann Davies
James Davies
Meirick Davies
Richard Davies
Stuart Davies
Bobby Feeley
Carys Guy-Davies
Huw Hilditch-Roberts
Colin Hughes
Rhys Hughes
Alice Jones

Pat Jones
Margaret McCarroll
Win Mullen-James
Bob Murray
Peter Owen
Dewi Owens
Merfyn Parry
Arwel Roberts
David Simmons
Bill Tasker
Julian Thompson-Hill
Joe Welch
Cefyn Williams
Cheryl Williams
Huw Williams

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WELCOME TO DENBIGHSHIRE COUNTY COUNCIL'S PLANNING COMMITTEE

HOW THE MEETING WILL BE CONDUCTED

The note outlines the manner in which the meeting is likely to be run.

Unless the Chair of the Committee advises to the contrary, the order in which the main items will be taken will follow the agenda set out at the front of this report.

General introduction

The Chair will open the meeting at 9.30am and welcome everyone to the Planning Committee.

The Chair will ask if there are any apologies for absence and declarations of interest.

The Chair will invite Officers to make a brief introduction to items on the agenda.

Officers will outline as appropriate items which will be subject to public speaking, requests for deferral, withdrawals, special reports, and any Part 2 items where the press and public will be excluded. Reference will be made to additional information circulated in the Council Chamber prior to the start of the meeting, including the late representations/amendments summary sheets (blue sheets) and any supplementary or revised plans relating to items for consideration.

The 'Blue Sheets' contain important information, including a summary of material received in relation to items on the agenda between the completion of the main reports and the day before the meeting. The sheets also set out the proposed running order on planning applications, to take account of public speaking requests.

In relation to the running order of items, any Members seeking to bring forward consideration of an item will be expected to make such a request immediately following the officer's introduction. Any such request must be made as a formal proposal and will be subject to a vote.

The Planning Committee consists of 30 elected Members. In accordance with protocol, 15 Members must be present to constitute quorum and to allow an item to be considered and vote to be taken.

County Council Members who are not elected onto Planning Committee may attend the meeting and speak on an item, but are not able to make a proposal to grant or refuse, or to vote.

CONSIDERING PLANNING APPLICATIONS

The sequence to be followed

The Chair will announce the item which is to be dealt with next. In relation to planning applications, reference will be made to the application number, the basis of the proposal, and the location.

If there are public speakers on an item, the Chair will invite them to address the Committee. Where there are speakers against and for a proposal, the speaker against will be asked to go first. Public speaking is subject to a separate protocol.

Where appropriate, the Chair will offer the opportunity for Members to read any late information on the item on the 'Blue Sheets' before proceeding.

If any Member is minded to propose deferral of an item, including to allow for the site to be visited by a Site Inspection Panel, the request should be made, with the planning reason. Opportunity will be given for debate on the request, and a vote shall be taken to determine the course of action.

The Chair will seek propositions and seconders for or against the officer recommendation, or any other resolutions.

The Chair will invite officers to provide a brief introduction to the item where this is considered to be worthwhile in view of the nature of the application.

If any application has been subject to a Site Inspection Panel prior to the Committee, the Chair will normally invite those Members who attended, including the local member, to speak first.

On all other applications, the Chair will permit the local member(s) to speak first, should he/she wish to do so.

Members are normally limited to a maximum of five minutes speaking, and the Chair will conduct the debate in accordance with Standing Orders.

Once a member has spoken, he/she should not speak again unless seeking clarification of points arising in debate, and then only once all other Members have had the opportunity to speak, and with the agreement of the Chair.

At the conclusion of Members debate, the Chair will ask officers to respond as appropriate to questions and points raised, including advice on any resolution in conflict with the recommendation.

The Chair will announce when the debate is closed, and that voting is to follow.

The voting procedure

Before requesting Members to vote, the Chair will announce what resolutions have been made and how the vote is to proceed. Clarification of resolutions, amendments, additional conditions and reasons for refusal may be sought so there is no ambiguity over what the Committee is voting for or against.

If any member requests a Recorded Vote, this must be dealt with first in accordance with Standing Orders. The Chair will clarify the procedure to be followed.

When the Chair is satisfied that the vote can proceed, this will be conducted through the electronic voting system. The Chair will request officers to set up the voting screen(s) in the Chamber, and members must vote once the voting screen appears.

Members have 10 seconds to record their votes once the voting screen is displayed.

On failure of the electronic voting system, the vote may be conducted by a show of hands. The Chair will clarify the procedure to be followed.

On conclusion of the vote, the Chair will announce the decision on the item

PLANNING COMMITTEE

VOTING PROCEDURE

Members are reminded of the procedure when casting their vote to grant or refuse a planning application. The Chair or Officers will clarify the procedure to be followed as necessary.

Once the display screens in the Chamber have been cleared in preparation for the vote and the voting screen appears, Councillors have 10 seconds to record their vote as follows:

On the voting keyboard press the

+	to GRANT permission
-	to REFUSE permission
0	to ABSTAIN from voting

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PLANNING COMMITTEE

Minutes of the meeting of the Planning Committee held in the Council Chamber, County Hall, Ruthin on Wednesday 30th May 2012 at 9.30am.

PRESENT

Councillors I W Armstrong, B Blakeley, J A Butterfield, J A Davies, M LI Davies, R J Davies, S A Davies, R L Feeley, H Hilditch-Roberts, T R Hughes, E A Jones, P M Jones, G M Kensler (observer), M McCarroll, W M Mullen-James, R M Murray, P W Owen, D Owens, T M Parry, A Roberts, D Simmons, J Thompson-Hill, J S Welch, C H Williams, C L Williams and H O Williams.

ALSO PRESENT

Head of Planning Regeneration & Regulatory Services (G Boase), Development Control Manager (Paul Mead), Principal Planning Officer (Ian Weaver), Principal Solicitor - Planning and Highways (Susan Cordiner), Team Leader (Gwen Butler), Customer Services Officer (Judith Williams) Translator (Catrin Gilkes).

for part of the meeting, Highways Officer (Mike Parker), Renewable Energy Planning Officer (Denise Shaw)

1 APOLOGIES

Apologies for absence were received from Councillor J M Davies.

2 DECLARATIONS OF INTEREST

Councillor T R Hughes declared an interest in application 27/2012/0009/PF (Tan y Fron Farm, Tan Y Fron Lane, Eglwyseg, Llangollen).

Councillor E A Jones declared an interest in item 10 (Burbo Bank Windfarm Extension - Major Infrastructure Project).

3 URGENT ITEMS: None

4 APPOINTMENT OF CHAIR

Nominations were sought for the position of Chair of Planning Committee.

Councillor Dewi Owens was nominated by Councillor Julian Thompson-Hill and seconded by Councillor Stuart Davies.

Councillor Meirick Lloyd Davies was nominated by Councillor Cefyn Williams and seconded by Councillor Rhys Hughes.

Councillor Win Mullen-James was nominated by Councillor Joan Butterfield and seconded by Councillor Bob Murray.

The candidates addressed the committee and a secret ballot was conducted.

After round 1 of the ballot , Councillor Meirick Lloyd Davies was eliminated.

A second ballot was conducted and resulted in the following:

11 votes to Councillor Dewi Owens
10 votes to Councillor Win Mullen-James
3 abstentions and one blank vote

In accordance with the constitution Councillor Dewi Owens was duly elected Chair of Planning Committee for the ensuing year.

5 APPOINTMENT OF VICE CHAIR

Nominations were sought for the position of Vice Chair of Planning Committee.

Councillor Meirick Lloyd Davies was nominated by Councillor Cefyn Williams and seconded by Councillor Huw Hilditch-Roberts.

Councillor Win Mullen-James was nominated by Councillor Joan Butterfield and seconded by Councillor Bob Murray.

A secret ballot was conducted.

13 votes for Councillor Meirick Lloyd Davies
11 votes for Councillor Win Millen-James
There was 1 abstention

Councillor Meirick Lloyd Davies was duly elected vice-chair of Planning Committee for the ensuing year.

6 MINUTES OF THE MEETING HELD ON 18th APRIL 2012

These were agreed as a true record.

At this point the electronic voting system was tested. As it was found not to be registering all votes cast it was decided that voting in the meeting today would be by means of a show of hands, unless a Recorded Vote was requested.

Paul Mead (Development Control Manager) explained that 4 members of Committee had not yet fulfilled the training requirements and would therefore not be eligible to vote.

Training for those Members had been arranged and will take place before the next Planning Committee.

7 APPLICATIONS FOR PERMISSION FOR DEVELOPMENT

The report by the Head of Planning, Regeneration and Regulatory Services (previously circulated) was submitted enumerating applications submitted and requiring determination by the Committee.

RESOLVED that:-

- (a) *the recommendations of the Officers, as contained within the report submitted, be confirmed and planning consents or refusals as the case may be, be issued as appropriate under the Town and Country Planning (General Permitted Development) Order 1995, Planning and Compensation Act 1991, Town and Country Planning Advertisements Regulations 1991 and/or Planning (Listed Buildings and Conservation Areas) Act 1990 to the proposals comprising the following applications subject to the conditions enumerated in the schedule submitted:-*

Application No: 02/2012/0241/PF

Location: Land at (Part garden of) Llys Deri Bryn Goodman, Ruthin

Description: Alterations to vehicular access previously granted under Code No. 02/2011/0167 to serve existing dwelling and proposed new dwelling.

The following additional letters of representation were reported:

- Mr B Owen (on behalf of Mr and Mrs Ayiar, neighbours)

Officers requested deferral of this item in order to clarify issues of ownership and the level of detail submitted.

Councillor R L Feeley proposed this item be deferred and a site visit takes place prior to the next planning committee meeting

This was seconded by Councillor H Hilditch-Roberts.

On a show of hands this was carried.

RESOLVED therefore that this item be ***DEFERRED***

Application No: 23/2011/1144/PF

Location: Bryn Morfydd, Llanrhaeadr YC, Denbigh

Description: Layout and siting of 42 no. holiday lodges, reception and temporary warden's accommodation including associated facilities, parking, landscaping and infrastructure.

Additional information from the applicants' agent was reported.

Public Speakers: Matthew Jones (in favour)

Matthew Jones referred to the history of the Bryn Morfydd and its heyday during the 1960-70s. Fashions changed and the hotel and golf course have now closed down.

Mr Jones explained that during discussions with planning officers he was encouraged to retain the tourism use. This proposal would take advantage of the boom in "staycations" and would reuse part of the redundant golf course. The scheme was for low density, timber clad buildings, which would not be residential.

Development Control Manager, Paul Mead, gave a brief introduction and explained that National Guidance and the Denbighshire Unitary Development Plan encourage suitable tourism projects. This site has a previous leisure/tourism use. Officers considered this proposal to be acceptable. He referred to recent refusals for lodges at other sites but advised that this was not high grade agricultural land and the proposed density of 3.5 per hectare is low and provided sufficient amenity space.

Councillor Joe Welch said that the main building of Bryn Morfydd needed renovation and this development would help fund it. He had spoken to constituents who had raised concerns about additional traffic and light pollution and the potential for a permanent residential use to emerge. While sympathising, Councillor Welch felt that conditions would prevent permanent residential use, the traffic would be more than present but less than to the hotel during its heyday. He also referred to spotlights on the hotel which were more powerful than any lights proposed for the holiday lodges.

He felt the proposal would be a boost to tourism which would benefit local businesses.

Councillor Alice Jones asked for evidence that the land quality was not high grade agricultural land.

Councillor Meirick Lloyd Davies raised concerns about the occupancy condition.

Development Control Manager, Paul Mead, explained that the golf course had been partly returned to grazing land and as it has been a leisure use, it would be acceptable to use it as such again.

With regard to the occupancy conditions, Mr Mead agreed that it was not desirable for a dual accommodation on site and was keen that the warden be accommodated in the Bryn Morfydd. Condition 17 covered this, but it could be strengthened.

Proposals:

**Councillor B Blakeley proposed that permission be GRANTED.
This was seconded by Councillor J Butterfield.**

On a show of hands, this was carried .

PERMISSION WAS THEREFORE GRANTED

Subject to:

Suggested Amendment to Condition 4

Add at the end of the condition - final line, ".....boundary as agreed, and shall provide for the renovation / reinstatement of the stone wall along the public highway running along the eastern boundary of the site."

Revised wording of Condition 17:

17. Before any works commence on site, a phasing strategy and plan shall be submitted to and agreed in writing by the Local Planning Authority. The strategy shall include details of the timing of the removal of the warden's temporary accommodation unit within 3 years of the first occupation of that unit and the phased renovation of the former Bryn Morfydd hotel buildings. Only those details subsequently agreed shall be implemented thereafter.

Application No: 27/2012/0009/PF

Location: Tan y Fron Farm, Tan Y Fron Lane, Eglwyseg, Llangollen

Description: Erection of an agricultural building for the storing of fodder and housing livestock.

Councillor T R Hughes declared an interest in this application and left the Chamber during consideration thereof.

There was no debate on this item.

Proposals:

Following a proposal to GRANT permission, duly seconded, on a show of hands this was carried unanimously.

PERMISSION WAS THEREFORE GRANTED

Subject to Amended Condition 4

Delete "occupation of the first unit" and replace with "proposed building is first brought into use".

Application No: 43/2012/0143/TP

Location: 20c Bryntirion Drive, Prestatyn

Description: Felling of 2 no. Sycamore trees numbered T41 and T43 and crown reduction by 25 per cent of 2 no. Sycamore trees numbered T40 and T42 on the plan annexed to the Borough of Rhuddlan (Woodland Park, Prestatyn) Tree Preservation Order No. 3 1985 and replanting with British species, i.e. Silver Birch.

Councillor J Thompson-Hill supported the Town Council in objecting to removal of these trees on aesthetic grounds not safety. He felt it would have a negative impact on the area.

Development Control Manager, Paul Mead replied that if a Preserved Tree was dying or diseased, consent is not needed to remove it. In this case consent is needed. He advised that an arboriculture report supported the view that topping or felling would allow more light to the garden to help other trees flourish.

Proposals:

**Councillor J Butterfield proposed that consent be granted
This was seconded by Councillor Peter Owen**

On a show of hands this was carried:

15 votes in favour

3 votes against

0 Abstentions

PERMISSION WAS THEREFORE GRANTED

Application No: 45/2011/1048/PF

Location: Land at Cefndy Trading Estate, Ffordd Derwen and Cefndy Road, Rhyl

Description: Development of 1.35ha of land by the erection of 24 no. dwellings including landscaping, open space and access and erection of a 1,299 sqm commercial unit including parking, servicing and access.

Officers confirmed the usable open space is 1582 sqm not 929sqm as set out in the report.

Members made the following queries to the officers:

- the stages of highway works proposed
- the reason for water being discharged into Brickfield Ponds
- Whether revenue for allowing the discharge could fund work on Rhyl Cut
- How the affordable housing units will be safeguarded
- Whether a flood assessment had been carried out

Highways Officer, M Parker replied that a Bond would be required to ensure the funding was available to construct the vehicular access

Development Control Manager, Paul Mead explained that sustainable drainage was necessary and Brickfield Pond was available. The Property Section would discuss rights and require payment which could be used to fund improvements to Rhyl Cut.

Councillor Butterfield expected that would have to be discussed at Local Members Forum.

Paul Mead also advised that the Environment Agency were content that the proposed bund would protect the area from flooding. The Affordable Housing funding proposed is for 7 housing units and will be the subject of a S106 Agreement.

Councillor M Parry referred to Parc Tyn Llan Estate in Llandyrnog where a Highways Bond had been drawn up but the Community Council had encountered difficulties in getting the work done after the developer became bankrupt.

Councillor B Blakeley was concerned foul water may discharge into Brickfield Pond or Rhyl Cut.

Paul Mead explained that Welsh Water were happy there was sufficient capacity to cope with the sewage. Mike Parker Highways Officer agreed with Councillor Parry about problems at the estate in his ward but said they had learned lessons from the Llandyrnog Bond. The Highways Officers will ensure

the work is done as soon as possible, although the final wearing course will have to wait until all utilities have been installed to each new house.

Paul Mead reiterated that the Environment Agency was satisfied but a flood consequences report is needed. The coastal defences would help prevent flooding to the rest of Rhyl.

G Boase, Head of Planning, stated that the Affordable Housing would be built first and reminded Committee of Denbighshire's good record in providing Affordable Housing. Further concerns about Brickfield Ponds would be raised with relevant departments.

Councillors continued to raise concerns about the issue of developers failing to providing Affordable Housing, but officers were reassured that this will not be an issue in this case .

**Councillor M McCarroll proposed that permission be Granted
This was seconded by Councillor Ian Armstrong**

On a show of hands this was carried unanimously

PERMISSION WAS THEREFORE GRANTED

Subject to:

the completion of an obligation under s.106 of the Town and Country Planning Act 1990 within 12 months of the resolution of this Committee to secure:

- a) The provision of 7 affordable housing units and the retention of these for affordable purposes
- b) The paying of a commuted sum for the provision of off-site open space and children's play areas.
- c) The provision and maintenance of on-site play areas.
- d) The retention and maintenance of a flood mitigation wall as shown in the approved plans.

The Certificate of Decision would only be released on completion of the legal obligation. Should such an obligation not be completed within 12 months of this Committee resolution, the application would be represented to Planning Committee and determined in accordance with the Policies applicable at that time, should material circumstances change.

Application No: 46/2012/0333/PC

Location: Field No. 6105, Bryntirion Farm, Rhualt, St Asaph

Description: Continuation of use of land as ancillary play area to main dwelling and retention of tree house (retrospective application).

An additional plan was circulated showing the extent of the residential curtilage.

Development Control Manager, Paul Mead explained the background to this application, The property is within the Clwydian Range Area Of Outstanding Natural Beauty and that a tree house had been erected in an area which was not part of the domestic curtilage. The Joint Advisory Committee of the AONB had objected to this development.

Members queried the make up of the AONB Joint Advisory Committee and while some Councillors advised that they were members of the committee, it was made up of a number of bodies with an interest in the countryside.

Councillor Alice Jones asked if the property was a working farm.

Paul Mead referred to the additional plan circulated. The property was not large in farming terms. Planning permission had been granted for retention of garages, kennels, gates and cctv cameras and an increase to the residential curtilage.

The tree house has been built 70m from the dwelling but there was sufficient space within the domestic garden for it.

In response to questions, Paul Mead confirmed that, if refused, the tree house could be moved to the garden without further permission.

G Boase, Head of Planning gave a clear direction that as this development is outside the dwelling unit and within the AONB it should be refused.

A proposal to REFUSE was duly seconded

**On being put to the vote this was carried
3 abstained and 1 voted against**

PERMISSION WAS THEREFORE REFUSED

Application No: 47/2012/0368/PC

Location: Bryntirion, Rhualt, St Asaph

Description: Erection of building to house water storage tank
(retrospective application).

Principal Planning Officer, Ian Weaver explained that this water tank was to serve the lambing shed nearby. It was not visually obtrusive.

Proposals:

**Councillor B Blakeley proposed that permission be GRANTED
This was seconded by Councillor Stuart Davies**

**On a show of hands this was carried
(Councillors Rhys Hughes and Merfyn Parry abstained)**

PERMISSION WAS THEREFORE GRANTED

8 PLANNING APPEAL: ST DAVID'S RESIDENTIAL HOME, EAST PARADE, RHYL

Development Control Manager, Paul Mead explained the background to this case. Planning permission was refused by Committee in September 2011.

An appeal has now been lodged and will be heard by way of an informal hearing on Tuesday 19th June 2012.

As the officer recommendation was to grant permission, a request was being made for a representative of Planning Committee to give evidence at the Hearing in accordance with paragraph 9.3 of the Planning Appeals and Member Involvement Protocol.

In response to Members' questions, Officers advised that it was not possible for committee to reconsider the application, and although it was an "informal" hearing it would be conducted in a formal manner by the appeal Inspector. It was suggested that it would be advisable for an experienced Member to attend.

It was proposed that Councillors Ian Armstrong and David Simmons or Win Mullen-James attend on behalf of Planning Committee.
This was Carried

9 MAJOR INFRASTRUCTURE PROJECTS UPDATE REPORT

This report was for information

Denise Shaw (Renewable Energy Officer) explained that the Localism Act 2011 abolished the Infrastructure Planning Commission. The decision making power on larger power stations, off shore windfarms and high voltage overhead lines now rested with the Planning Inspectorate.

Following a number of questions from Members, Ms Shaw offered to contact them to discuss individual issues.

Resolved that this report be received for information.

10 BURBO BANK WINDFARM EXTENSION MAJOR INFRASTRUCTURE PROJECT

(Councillor Alice Jones declared an interest in this item and left the Chamber during consideration thereof).

Denise Shaw (Renewable Energy Officer) introduced this item and explained that it was necessary to respond to consultation received and sought Committee's views.

Members asked a number of questions:

- How would Wales benefit from income generated off shore, in English waters.
(Denise Shaw explained this was not something the authority could comment on, but communities could apply for benefit).
- Electricity Cables are coming on shore at Prestatyn, how will the cables get to St Asaph; what was the exact route; was there a better entry point (e.g. Foryd Harbour); who defined the entry point.
(Denise Shaw advised that the cables will go underground, but the exact route had not yet been defined. The entry point would be refined by an Environmental Assessment of the geology of the sea bed to identify the best route).
- Which substation would be used at St Asaph Business Park; why not connect to The National Grid at Prestatyn to minimise disruption.
(Denise Shaw stated that a new substation is to be erected near the existing development for the Gwynt y Mor output, at St Asaph/Glascoed Road).

RESOLVED: *Members agreed to the Consultation response as detailed in the submitted report, and agreed to this being submitted to DONG Energy as the Council's response to the formal pre-application consultation in order to meet the timescale directed by the developer.*

11 **PROTOCOL FOR MEMBER TRAINING - VERSION 2**

Submitted: Report detailing the proposed changes to the Protocol for Member Training and seeking approval for the changes.

Changes included recognition for regular attendance at Committee and for work defending planning appeals.

Following questions by Members regarding the level of support given to Members attending appeals; compliments were paid to the officers for the recent training given.

It was

RESOLVED *that Committee approve the suggested changes to the Protocol for Member training.*

12 **UPDATED SCHEME OF DELEGATION - VERSION 4**

Submitted: Minor amendments to the Scheme of Delegation to include issues related to Major Infrastructure Projects. The update also changed the mechanism for reviewing significant departures or decisions where there was a risk of costs awarded against the Council at appeal, legal challenge or Ombudsman investigation. These decisions would be reviewed by Planning Committee, not full Council.

RESOLVED that the updated Scheme of Delegation (Version 4) be approved.

The meeting closed at 12.45 p.m.

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PLANNING COMMITTEE

Minutes of the meeting of the Planning Committee held in the Council Chamber, County Hall, Ruthin on Wednesday 20th June 2012 at 9.30am.

PRESENT

Councillors D Owens (Chair) I W Armstrong, B Blakeley, J A Butterfield, W L Cowie, J.M. Davies M LI Davies, R J Davies, R L Feeley, C. L. Guy-Davies, H Hilditch-Roberts, C. Hughes, , P M Jones, M McCarroll, W M Mullen-James, R M Murray, P W Owen, A Roberts, W.N. Tasker, J Thompson-Hill, C H Williams, and C L Williams.

ALSO PRESENT

Development Control Manager (Paul Mead), Principal Planning Officer (Ian Weaver), Principal Solicitor - Planning and Highways (Susan Cordiner), Team Leader (Gwen Butler), Customer Services Officer (Judith Williams) and Translator (Catrin Gilkes).

1 APOLOGIES

Apologies for absence were received from Councillor J.A. Davies, E.A. Jones, T M Parry. D Simmons, J S Welch and H O Williams
Also apologies from Graham Boase, Head of Planning Regeneration and Regulatory Services

2 DECLARATIONS OF INTEREST

Councillor M. Lloyd Davies declared an interest in application 46/2011/0998/PC (Rhosfryn, 9 Chester Street, St Asaph) and the associated enforcement report.

3 URGENT ITEMS:

PLANNING APPEAL APPLICATION 01/2011/0621/ PF

Siting of 20 holiday lodges with associated access, parking and installation of a sewage treatment plant

THE GLYN, LLEWENI PARC, DENBIGH

4 APPLICATIONS FOR PERMISSION FOR DEVELOPMENT

The report by the Head of Planning, Regeneration and Regulatory Services (previously circulated) was submitted enumerating applications submitted and requiring determination by the Committee.

RESOLVED that:-

- (a) *the recommendations of the Officers, as contained within the report submitted, be confirmed and planning consents or refusals as the case may be, be issued as appropriate under the Town and Country Planning (General Permitted Development) Order 1995, Planning and Compensation Act 1991, Town and Country Planning Advertisements Regulations 1991 and/or Planning (Listed Buildings and Conservation Areas) Act 1990 to the proposals comprising the following applications subject to the conditions enumerated in the schedule submitted:-*

Application No: 02/2012/0241/PF

Location: Land at (part garden of) Llys Deri Bryn
Goodman Ruthin

Description: Alterations to vehicular access previously granted under Code No. 02/2011/0167 to serve existing dwelling and proposed new dwelling.

The following additional information was reported on the Late Information report circulated at the meeting:

- Letter in objection received from Mr B Owen (on behalf of Mr. & Mrs. Aiyar, Oaklea, Bryn Goodman Ruthin)
- The Applicant's agent reporting the attempts to negotiate a resolution.
- A report of a Site Visit which took place on Monday 18th June 2012

Councillor R L Feeley was not happy to accept the recommendation to grant. She felt the original access position was better.

Principal Planning Officer Ian Weaver reported on the site visit and explained the background to the application. Permission was granted for a new dwelling now under construction but there was a dispute over land ownership so an application was submitted to alter the access arrangements. The proposal would result in the removal of a 2m length of beech hedge. He admitted his view was the previously agreed arrangement was preferable but it was necessary to deal with the application as it stands. There had been no objection from Highways as it is not uncommon to have shared access. The loss of hedge was not unreasonable, and there was little to refuse permission on.

Councillor Feeley did not think the situation was acceptable.

Councillor M. Ll. Davies had been unable to attend the Site Visit so had been to the site himself that morning. He felt it may prove a problem when the houses are sold but it was an issue for the vendor, not the Planning Committee.

Councillor M. Ll. Davies proposed that permission be GRANTED this was seconded by Councillor Brian Blakely.

VOTE: 21 voted to GRANT
1 voted to REFUSE
there were no abstentions

PERMISSION WAS THEREFORE GRANTED

Subject to:

No further objections not already covered by the report being received by 22nd June 2012.

Revise condition 8 as below:

8. No gates, fences, walls or other means of enclosure or permanent obstruction to the use of the access / turning area hereby approved shall be permitted at any time, other than with the prior written approval of the Local Planning Authority.

Reason: To ensure the access and turning areas are kept free of obstruction, to allow ease of movement of vehicles seeking access to and from the properties.

Add note to applicant :

The Authority has been made aware of third party representation over land ownership issues in the vicinity of the application site. The Authority can play no part in resolution of ownership disputes, but you are advised to ensure that the permission is capable of implementation on land in the applicant's control.

Application No: 20/2011/1138/PF

Location: Land at Tyn Y Celyn Llanfair Dyffryn Clwyd
Ruthin

Description: Demolition of two redundant stone buildings and
erection of an agricultural workers dwelling

THIS APPLICATION WAS WITHDRAWN BY THE APPLICANT'S AGENT ON
19TH JUNE 2012

Application No: 24/2012/0127/PC

Location: **Bod Ynys Rhewl Ruthin**

Description: Construction of a circular slurry store - amended details (retrospective application)

Councillor Cheryl Williams wished it to be noted that she was not the Cheryl Williams who had written in objecting to this development.

The following additional information was reported on the Late Information report circulated at the meeting:

- Letters in objection received contained the following points:
Application was invalid
Unacceptable visual impact
Unacceptable impact on residential amenity
- Communication from Councillor M Parry requesting the application be deferred
- Officers comment on DEFRA's recommendation on the distance from residential property

Councillor Colin Hughes referred to Councillor Merfyn Parry's reported request to defer consideration of this item and asked for officers' opinion. Officers advised that there were no sound reasons to defer – the application had been deferred prior to the Local Elections, there had been a site visit and further information had been sought. The Council were at risk of an appeal against Non Determination which would mean that Planning Inspectorate would make the decision. The Ombudsman's office could take a detrimental view of a further deferral when making a judgement on the complaint they have received.

Public Speakers:

Mr E Jones (Against)

Mr E Jones is a neighbour of the property and objected to the siting of the tank. He felt there is an unacceptable visual impact and screening or painting it would not help. He also objected to the smells emanating from the tank which he felt would not be helped by the odour management proposal. He said the tank should be moved and have a lid installed.

Mr Dewi Roberts (in favour)

Mr Dewi Roberts is the tenant farmer of Bod Ynys. He was obliged to install a new slurry store to comply with new Nitrate Vulnerable Zone rules. He had planning permission for a 23m diameter tank and there had been no objection. When ordering this tank, rumours were circulating that larger tanks would soon be needed so he took the decision to install a larger one. He thought it would be an advantage to all as it would not need to be emptied so often, so reducing odour when the slurry is disturbed. He was happy to screen the tank and paint it. He pointed out that it was only 25m from the old tank so felt the odours would be no worse.

Development Control Manager Paul Mead advised committee that permission had already been given for a slurry store but a larger one was built. An amended application was submitted to regularise the situation. The item had been deferred previously and held up because of additional plans being received which required a further consultation period. This store is necessary for NVZ legislation and the Environment Agency has no objection.

The following questions were raised by Members:

Councillor Win Mullen James asked how feasible it would be to install a lid on the tank.

Councillor Joan Butterfield asked for a report on the site visit:

Councillor Huw Hilditch –Roberts asked for clarification on the planning issues as opposed to environmental issues.

Councillor Colin Hughes was surprised the previous application had been determined by officers under delegated powers and asked if the site visit had been in relation to the slurry store or the new agricultural buildings.

Planning Officer David Roberts answered.

- The site visit was undertaken at the same time an application for outbuildings was being determined but was for the consideration of the slurry store application. The notes of the site visit meeting were detailed in the committee report.
- He advised committee they should determine the application as it stood, (without a lid) but officers could explore the possibility of the applicant installing a lid at a future point.
- The previous application had been dealt with under Delegated Powers as there had been no objection to it.
- Environmental issues – it has been requested that the tank is filled from the bottom to retain a crust on top of the slurry, this would reduce odours. The NVZ regulations require 6 or 7 months worth of storage and this tank is acceptable but not too big.

- The Environment Agency has its own regulations and requires protection of water courses. Working farms must have slurry stores. In this case it is far enough away from properties and will be screened.

The Chair queried the Scheme of Delegation in relation to how the original planning application was dealt with. Paul Mead, Development Control Manager explained that this was not relevant to the assessment of the current proposal but that the original application had been dealt with in accordance with the Delegation Scheme

Proposals:

Councillor B Blakely proposed this item to be GRANTED

This was seconded by Councillor J Thompson Hill

VOTE:

18 voted to GRANT

3 voted to REFUSE

1 Abstained

PERMISSION WAS THEREFORE GRANTED

Subject to:

Revised Condition 1

1. The external faces of the concrete panels of the store hereby approved shall be painted in a dark green colour no later than the 30th September 2012. The actual colour shall be as may be agreed in writing by the Local Planning Authority prior to any painting taking place, and the panels of the store shall be maintained in the agreed colour at all times.

Revised Condition 3

3. Notwithstanding the submitted details, the slurry tank shall not be permitted to continue to operate after 30th September 2012 other than in accordance with an Odour Management Plan, the details of which shall be submitted to be approved in writing by the Local Planning Authority, and shall include for the means of minimizing release of odour from the tank during the process of filling, storage and emptying slurry. The tank shall operate in accordance with the approved plan at all times thereafter.
Reason: To ensure reasonable mitigation for release of odour in connection with the operation of the slurry tank, in the interests of residential amenity.

Note to applicant

You are reminded of the need to ensure early submission of the details required by Conditions 1 and 3 of this permission, and the completion of the development in accordance with such details as are subsequently approved by the Council no later than 30th September 2012.

Application No: 24/2012/0382/PF

Location: OS Parcel No. 8912 near Glanynys Llanynys
Denbigh

Description: Relocation of 2 No. existing field shelters, erection
of new implement/food store (Partly in retrospect)

The following additional information was reported on the Late Information report
circulated at the meeting:

V Kalities, Glanynys Bach, Llanynys
Mr & Mrs H J Varney, Glanynys, Llanynys
A & B Isaac, Tai Newydd, Llanynys (unsigned)
J Beasley, Glyn Cottage, Llanynys (unsigned)

There was no debate on this item

Councillor J Butterfield proposed permission be GRANTED
This was seconded by Councillor Brian Blakely

VOTE:
22 voted to GRANT
0 voted to REFUSE
0 Abstained

PERMISSION WAS THEREFORE GRANTED

Application No: 45/2012/0383/PFRE

Location: Rhyl High School And Leisure Centre 86 Grange Road Rhyl

Description: Installation of self-contained biomass heating system with external silo facility for heating the the leisure centre and swimming pool

Councillor Win Mullen Jones asked how deliveries would be made to site and Councillor J Butterfield was concerned about the cost.

Development Control Manager Paul Mead advised that the present access arrangements were adequate and it was not for planning committee to discuss future potential dangers. This heating system would heat the leisure centre. Councillor M Ll. Davies asked why preferred suppliers were identified in the report.

Development Control Manager Paul Mead said that was a quote from the Design and Access Statement supplied with the application.

Councillor B Blakely proposed that permission be GRANTED
This was seconded by Councillor Cheryl Williams.
on being put to the vote

22 voted to GRANT
0 voted to REFUSE
0 Abstained

PERMISSION WAS THEREFORE GRANTED

Subject to:

Revision to Condition 3

3. The height of the flue shall be as shown on the approved plans and any variation shall require a fresh planning application.

Revision to Condition 4

Please add at end

The development shall be carried out strictly in accordance with the details approved in relation to this condition

Application No: 46/2011/0998/PC

Location: Rosfryn 9 Chester Street St. Asaph

Description: Retention of conservatory, alterations to kitchen roof at rear and re-rendering of front of dwelling

Councillor M Lloyd Davies declared an interest in this application and left the Chamber during consideration thereof.

There was no debate on this item

**Councillor Bill Cowie proposed this be REFUSED
Seconded by Councillor Huw Hilditch Roberts**

**VOTE:
2 voted to GRANT
17 voted to REFUSE
1 Abstained**

PERMISSION WAS THEREFORE REFUSED

Application No: 46/2011/0998/PC

**Location: Rosfryn 9 Chester Street St. Asaph
Enforcement Report –**

Description: Unauthorised development – erection of extension

Councillor M Lloyd Davies declared an interest in this item and left the Chamber during consideration thereof.

Officers requested authorisation to take enforcement action to remove the unauthorised extension, allowing a six month compliance period.

Councillor J Thompson Hill proposed that authorisation be given

This was seconded by Councillor Bill Cowie

**On being put to the vote
18 voted to authorise enforcement action
0 voted against it.**

RESOLVED THEREFORE:

That authorisation be granted for the following:

- (i) Serve an Enforcement Notice to secure the removal of the unauthorised extension within a period of 6 months
- (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.

8 PLANNING APPEAL: The Glyn, Lleweni Parc, Denbigh

Circulated; report by the Head of Planning, Regeneration and Regulatory Services, advising that an appeal had been submitted to The Planning Inspectorate against the refusal of permission to site 20 lodges at The Glyn, Lleweni Parc, Denbigh.

Development Control Manager, Paul Mead explained the background to this case and stated that planning permission had been refused by Committee in April 2012, just prior to the local elections.

The appeal is to be heard by way of an Informal Hearing on Tuesday 18th September 2012.

As the officer's recommendation was to grant permission, a request was being made for two representatives of Planning Committee to give evidence at the Hearing in accordance with paragraph 9.3 of the Planning Appeals and Member Involvement Protocol. Officers also requested authorisation to appoint a planning consultant to assist in the preparation and presentation of the case at the hearing

It was acknowledged that Councillor Ray Bartley (local member) would not be able to attend the appeal due to other commitments so Members requested that those Councillors who voted to refuse permission in April be identified. This was formally agreed by those present

Officers advised that, of those Councillors who are still Members of Committee, the following voted to refuse permission:

Councillors Ian Armstrong, Brian Blakeley, Joan Butterfield, Meirick Lloyd-Davies, Colin Hughes, and Cefyn Williams

Councillor Colin Hughes was unsure of his eligibility as his new employment in tourism may prove to be a conflict of interest but Members felt it was important to appoint a local representative.

It was proposed that Councillors M. Lloyd Davies and Colin Hughes be nominated to represent the committee at the appeal hearing.

Councillor Richard Davies (the new local member for the ward of Denbigh Lower) would attend as an observer.

This was duly Carried

It was further agreed to appoint a planning consultant to assist in the preparation and presentation of the case.

THE MEETING CLOSED AT 10:50 am

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**DENBIGHSHIRE COUNTY COUNCIL
PLANNING COMMITTEE 18th July 2012
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3	25/2012/0445/PF T	Wern Uchaf Nantglyn Denbigh Installation of a 10kw wind turbine on a 15m tower for domestic use	65
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Graham Boase
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Denbighshire LL16 3RJ

Tel: 01824 706800 Fax: 01824 706709

Heading:
01/2012/0680
64 Park Street
Denbigh

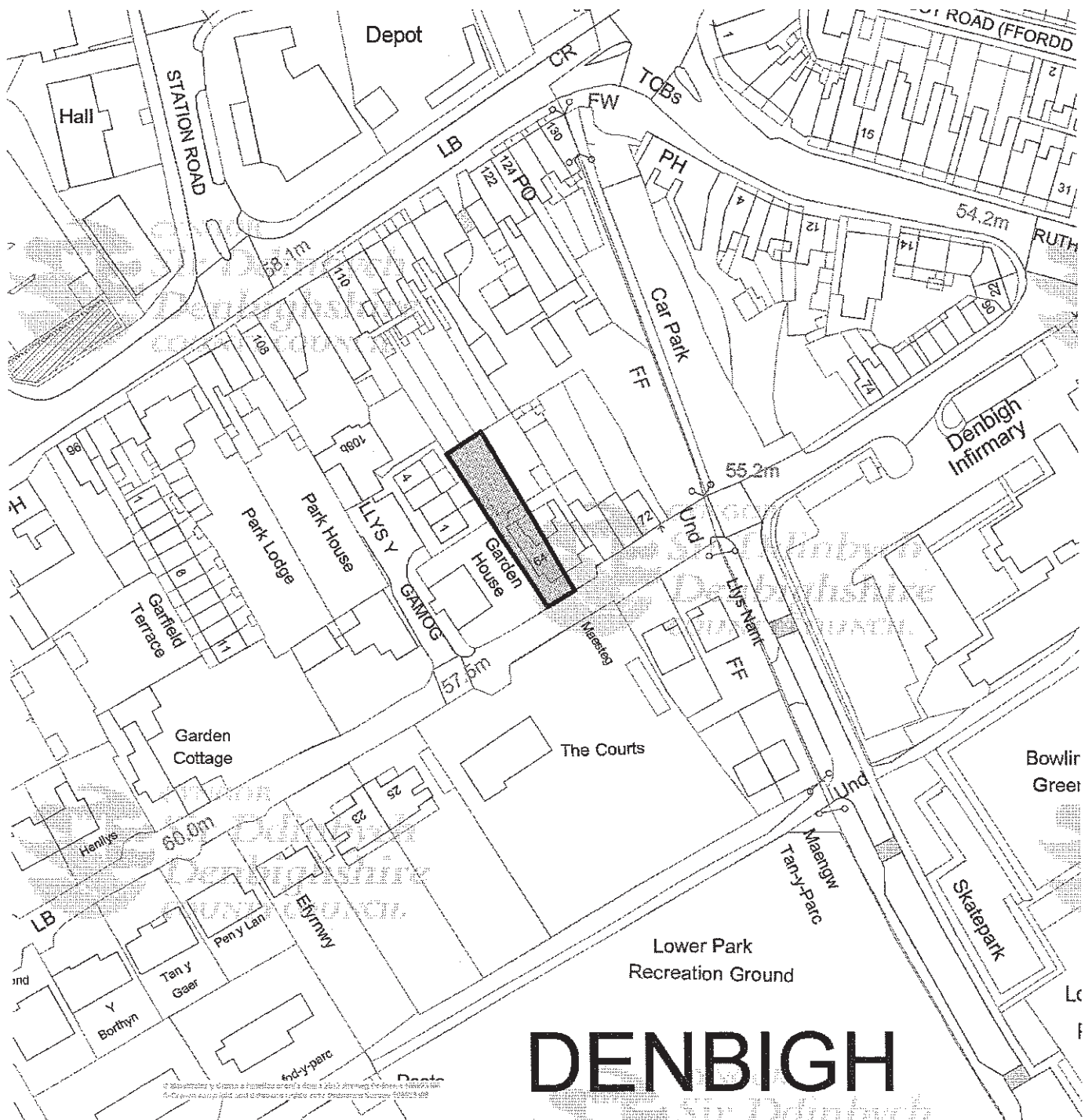
 Application Site

Date 3/7/2012
Centre = 305765 E 366347 N

Scale 1/1250



This plan is intended solely to give an indication of the LOCATION of the application site which forms the subject of the accompanying report. It does not form any part of the application documents, and should not be taken as representative of the proposals to be considered, which are available for inspection prior to the meeting.



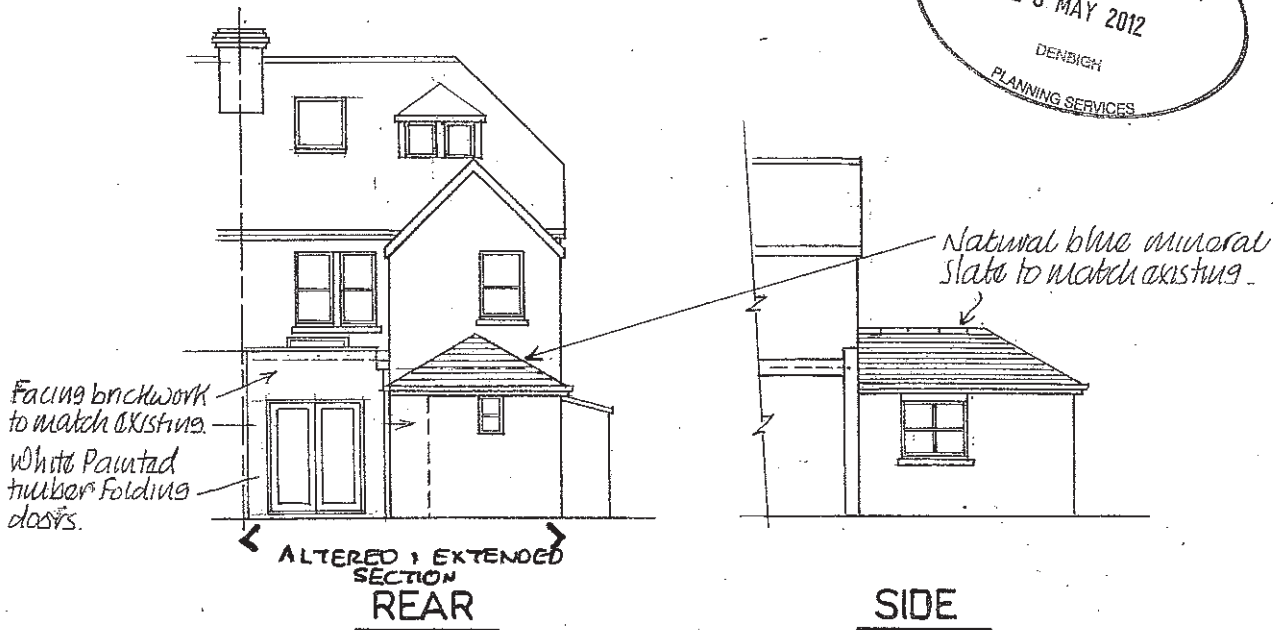
DENBIGH

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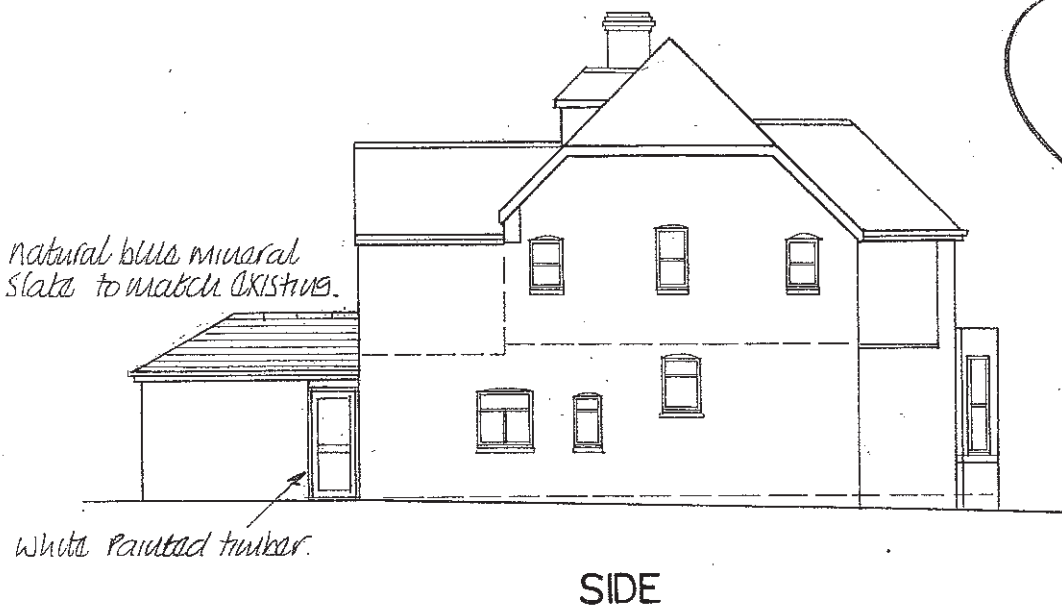
ELEVATIONS

PROPOSED



01/2012/08007/PF

PROPOSED

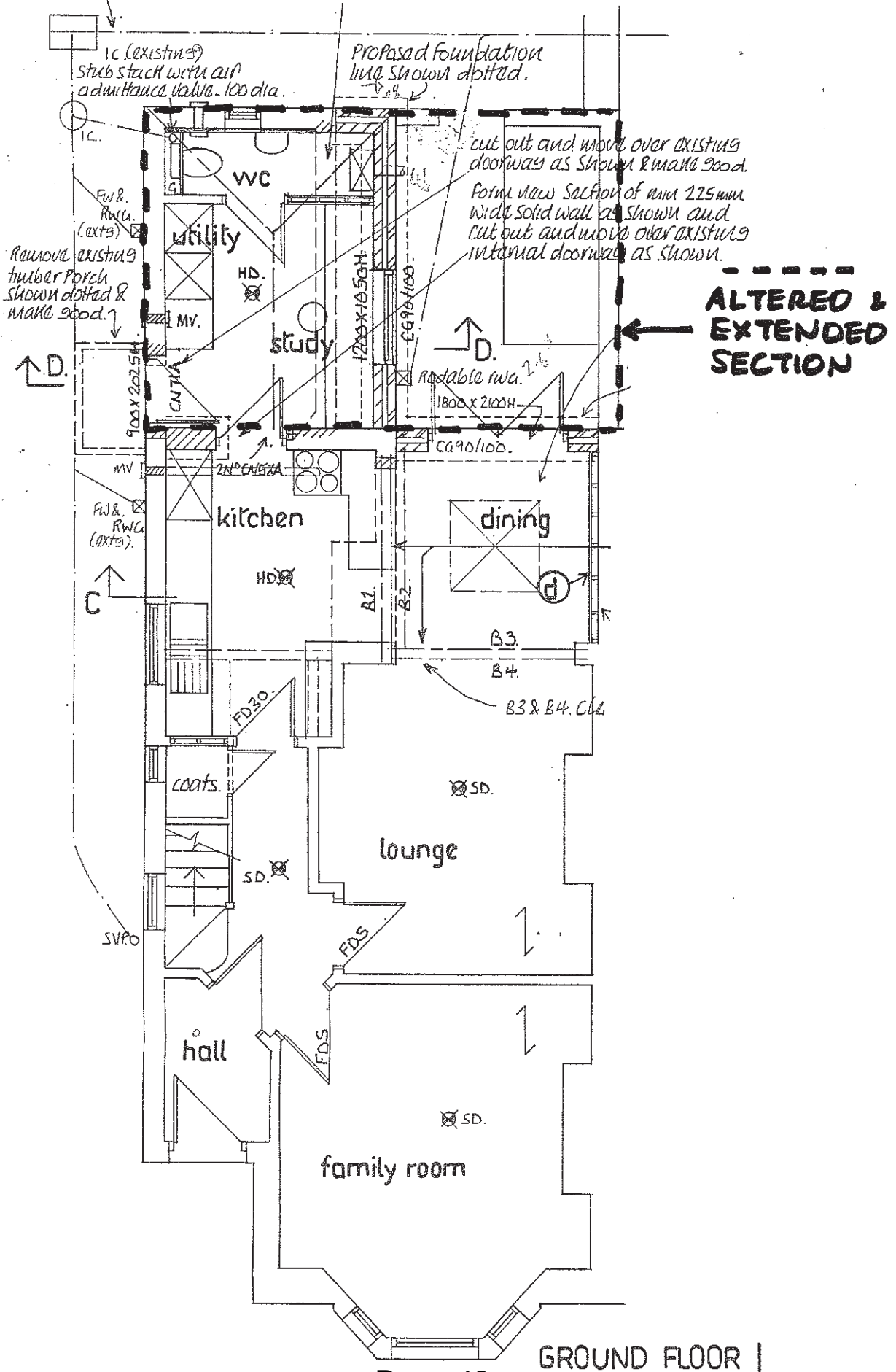


01/2012/08007/PF

GROUND FLOOR PLAN

assumed line of existing combined drain.

Remove existing side wall of existing structure shown dotted and construct new extension as shown, with complete new roof structure all as shown and described on section.



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ITEM NO: 1

WARD NO: Denbigh Central

APPLICATION NO: 01/2012/0680/ PF

PROPOSAL: Erection of 2 no. single storey extensions to rear of dwelling

LOCATION: 64 Park Street Denbigh

APPLICANT: Mrs Glesni Owen

CONSTRAINTS: Town Heritage Area
Conservation Area

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

**REASON(S) APPLICATION REPORTED TO COMMITTEE:
Scheme of Delegation Part 2**

- Application submitted by Member of Staff of the Service

CONSULTATION RESPONSES:
DENBIGH TOWN COUNCIL- No objection.

RESPONSE TO PUBLICITY: None

EXPIRY DATE OF APPLICATION: 22/07/12

REASONS FOR DELAY IN DECISION: None applicable.

PLANNING ASSESSMENT:

1. THE PROPOSAL:

1.1 Summary of proposals

- 1.1.1 The application proposes extensions to the dwelling at no. 64 Park Street in Denbigh. The extensions would comprise of:
- A single storey pitched roof extension to the rear western side, replacing the existing side wall of the kitchen and pantry. Measuring 0.8 metres in width, and 4 metres in depth with an overall height of 3.5 metres, the extension would comprise of a wc, utility and study.
 - A single storey flat roof extension on the rear eastern side, projecting 2.8 metres, 2.6 metres in width, with an overall height of 3 metres. The extension would infill an area between the neighbouring dwellings rear extension and the existing kitchen and pantry. The extension would comprise an extended dining room.
- 1.1.2 The extensions would be finished in materials to match the existing dwelling, i.e. facing bricks and natural slate roof. An outline of the proposals are shown

on the plans at the front of the report.

1.2 Description of site and surroundings

- 1.2.1 No. 64 is located on Park Street, a primarily residential area comprising a mix of dwelling types to the east of Denbigh town centre.
- 1.2.2 The semi-detached dwelling (with third floor rooms in the roofspace), is constructed of red brick with a slate roof. The attached dwelling to the east has had a similar extension to the proposed eastern side.
- 1.2.3 The dwelling has a well contained garden area, bounded to the west by a high stone wall and to the east by a low brick wall.

1.3 Relevant planning constraints/considerations

- 1.3.1 The site is located within the development boundary of Denbigh, and the Denbigh Conservation Area.

1.4 Relevant planning history

- 1.4.1 None.

1.5 Developments/changes since the original submission

- 1.5.1 None.

1.6 Other relevant background information

- 1.6.1 As noted the application is reported to Committee as the applicant is an officer of Denbighshire's Planning and Public Protection Service.

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 CON 5 Development within Conservation Areas
 - Policy HSG 12 Extensions to Dwellings

3.2 **Supplementary Planning Guidance**

- SPG Note No. 1 Extensions to Dwellings
- SPG Note No. 24 Householder Development Design Guide

3.3 GOVERNMENT GUIDANCE

- Planning Policy Wales Edition 4

4. **MAIN PLANNING CONSIDERATIONS:**

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

- 4.1.1 Principle
- 4.1.2 Detailed design and impact on visual amenity

- 4.2 In relation to the main planning considerations:

- 4.2.1 Principle
The principle of extensions to existing dwellings is generally acceptable in terms of current policies, subject to consideration of detailing and impacts.

HSG 12 relates specifically to extensions to dwellings and recognises householders have the right to alter and extend their dwellings providing they

meet criteria relating to; size/scale, character, amenity considerations and do not result in overdevelopment of the site.

Policy GEN 6 contains a wide range of general development control amenity considerations geared at ensuring a high standard of development with minimal impacts.

SPG 24 offers basic advice on the principles to be adopted when designing domestic extensions and related developments.

CON 5 is also of relevance as the site is located in the conservation area.

This policy allows development which preserves or enhances the character or appearance of the conservation area. The explanation to the policy requires that applications demonstrate how the development proposal fits in with the essential character and appearance of a conservation area.

The assessment of the detailed impacts of the proposed extensions are set out in the following section:

4.2.2 Detailed design and impact on visual amenity

Scale and form – Test i) of Policy HSG 12 requires extensions to dwellings to be subordinate in scale and form to the original dwelling.

The application comprises of two small single storey extensions to the rear of the dwelling. The combined footprint of the extensions would be less than the original dwelling.

The proposal is therefore considered to comply with test i) of policy HSG 12 and advice in SPG no. 24.

Design and Materials – Test ii) of Policy HSG 12 requires extensions to dwellings to be sympathetic to the original dwelling and character of the area in terms of design and materials. CON 5 is also of relevance as the site is located in the conservation area.

The more visible extension brick extension is proposed with a pitched slate roof. These materials and their use in the design of the proposal reflect the existing character and materials of the dwelling. The flat roof section would be hidden behind a parapet wall constructed of matching brickwork, and would also be in sympathy with the rest of the dwelling and adjacent development.

The proposal is therefore considered to comply with test ii) of HSG 12 and would not conflict with the aims of policy CON 5.

Amenity of area and dwelling – Test iii) of Policy HSG 12 seeks to ensure that proposals to extend dwellings do not harm the amenity of the area by way of loss of privacy or light to neighbouring dwellings.

The single storey extensions would be to the rear of the dwelling. Windows are proposed on the east and north side. There is an existing east side window, which would be retained to serve a study.

Neighbours are unlikely to be affected by this proposal owing to the single storey nature of the extensions and existing boundary treatments. Furthermore as the dwelling to the east has an existing rear extension, similar to the proposed flat roof extension which would not result in a loss of amenity for the adjacent occupiers. No objections have been received from the neighbours.

Over development – Test iv) of HSG 12 states that proposals should not result in an overdevelopment of the site.

As mentioned above, the two rear extensions would have a small footprint and the dwelling would retain a significant amount of private amenity space in the rear garden (over 180 sq metres), with additional space to the front (albeit more open). This more than meets the standards set out in Supplementary Planning Guidance Note No. 1 (para. 8.6) which requires at least 70 sq metres of amenity space for a larger dwelling.

The proposal is not considered to be an over development of the site, with sufficient amenity space remaining for the proposed occupiers, complying with test iv) of HSG 12.

5. SUMMARY AND CONCLUSIONS:

5.1 The proposal is considered acceptable under the relevant polices and is therefore recommended for grant.

RECOMMENDATION: - GRANT subject to the following conditions:-

1. The development hereby permitted shall be begun before the expiration of five years from the date of this permission.
2. The materials and finishes of the external surfaces of the walls and roof of the building hereby permitted shall be of the same texture, type and colour as those on external walls and the roof of the existing building.

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

1. To comply with the provisions of Section 91 of the Town and Country Planning Act 1990.
2. In the interests of visual amenity.

NOTES TO APPLICANT:

None



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Tel: 01824 706800 Fax: 01824 706709

Heading:

18/2012/0481/PF
 Land between Canol y Wern
 & Capel y Dyffryn, Llandymnog

2

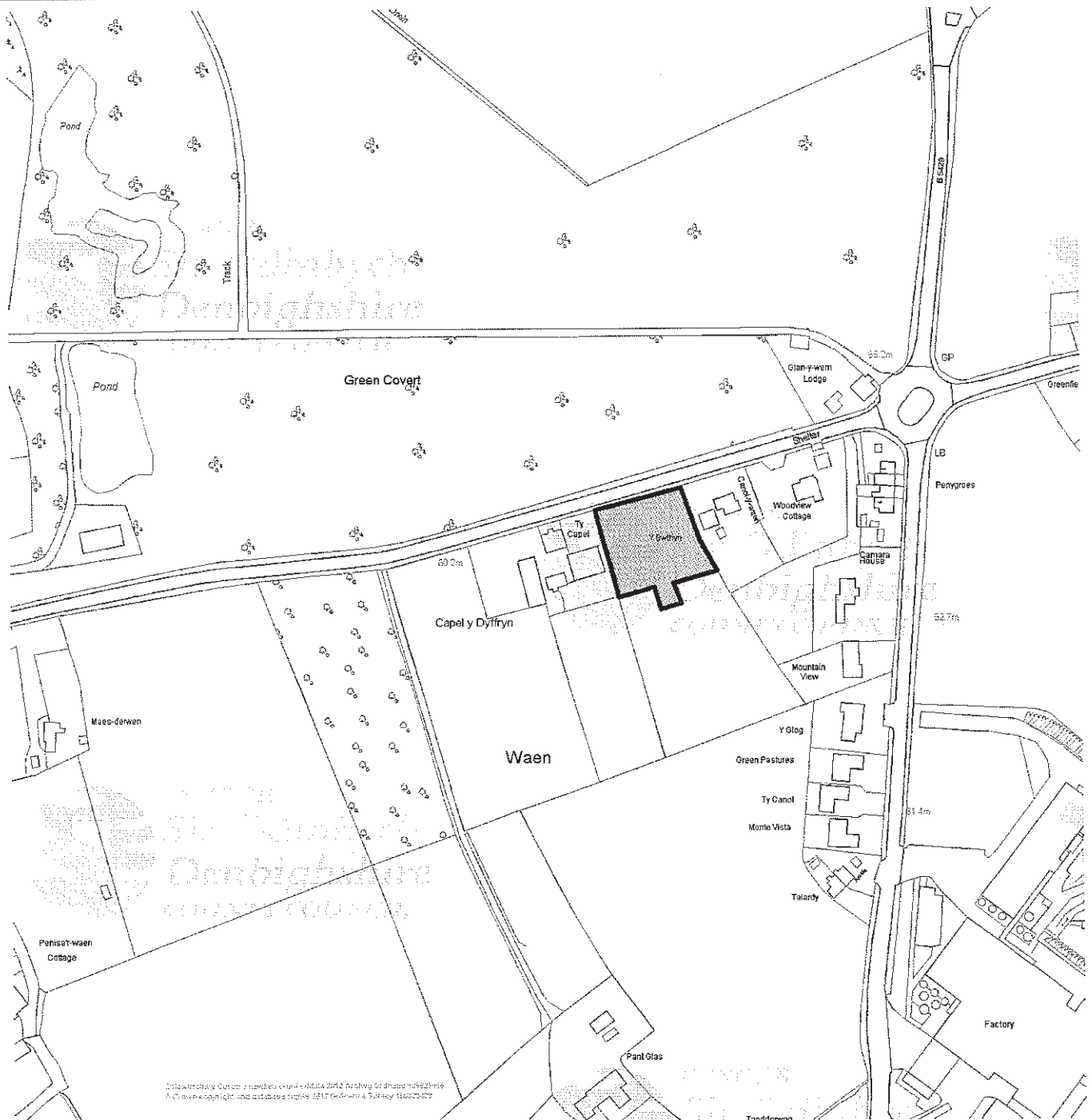
 Application Site



Date 3/7/2012
 Centre = 310731 E 365843 N

Scale 1/2500

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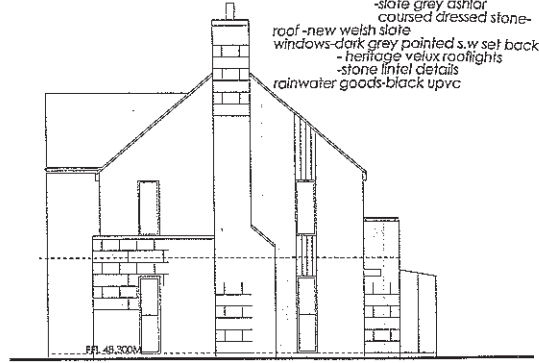
ELEVATION PLANS

PLOT 1

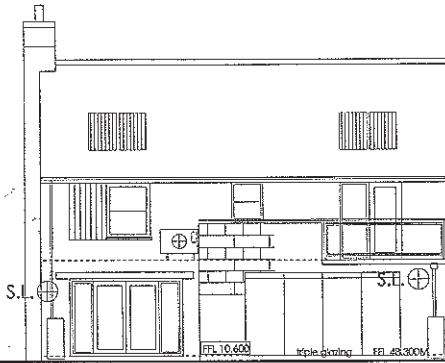
external finishes:
 external walls - white/off grey smooth render
 - raised render window surrounds
 - slate grey ashlar
 - coursed dressed stone-
 roof - new welsh slate
 windows - dark grey painted s.w set back in reveal
 - heritage velux rooflights
 - stone lintel details
 rainwater goods - black upvc



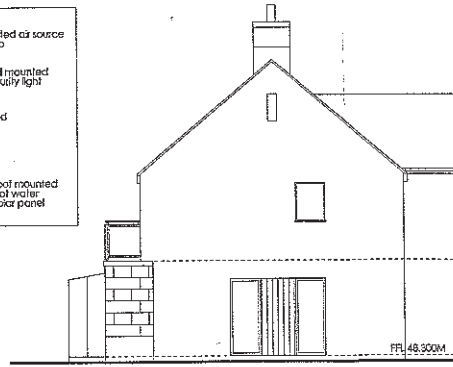
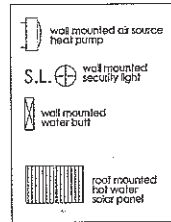
PROPOSED FRONT ELEVATION



PROPOSED SIDE ELEVATION



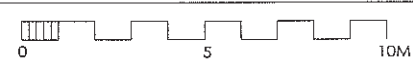
PROPOSED REAR ELEVATION



PROPOSED SIDE ELEVATION



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PROPOSED RESIDENTIAL DEVELOPMENT CAPEL DYFFRYN LLANDYRNOG	PLANNING NUMBER	SCALE	DATE
CARRINGTON-STYES PLOT 1 DESIGN	D-1036-9-11-PL05A	1:100 @a3	0112
TOWNSCAPE JONES ARCHITECTS		DENBIGH 01748 87169 www.townscapejones.com	

PLOT 2

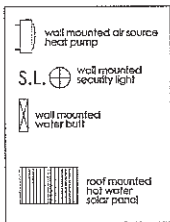
external finishes:
 external walls - white/off grey smooth render
 - raised render window surrounds
 - slate grey ashlar
 - coursed dressed stone-
 roof - new welsh slate
 windows - dark grey painted s.w set back in reveal
 - heritage velux rooflights
 - stone lintel details
 rainwater goods - black upvc



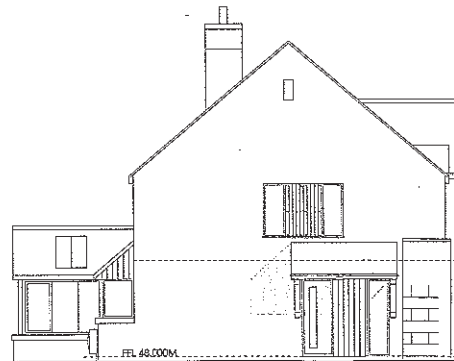
PROPOSED FRONT ELEVATION



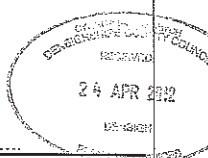
PROPOSED SIDE ELEVATION



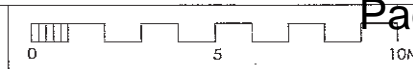
PROPOSED REAR ELEVATION



PROPOSED SIDE ELEVATION

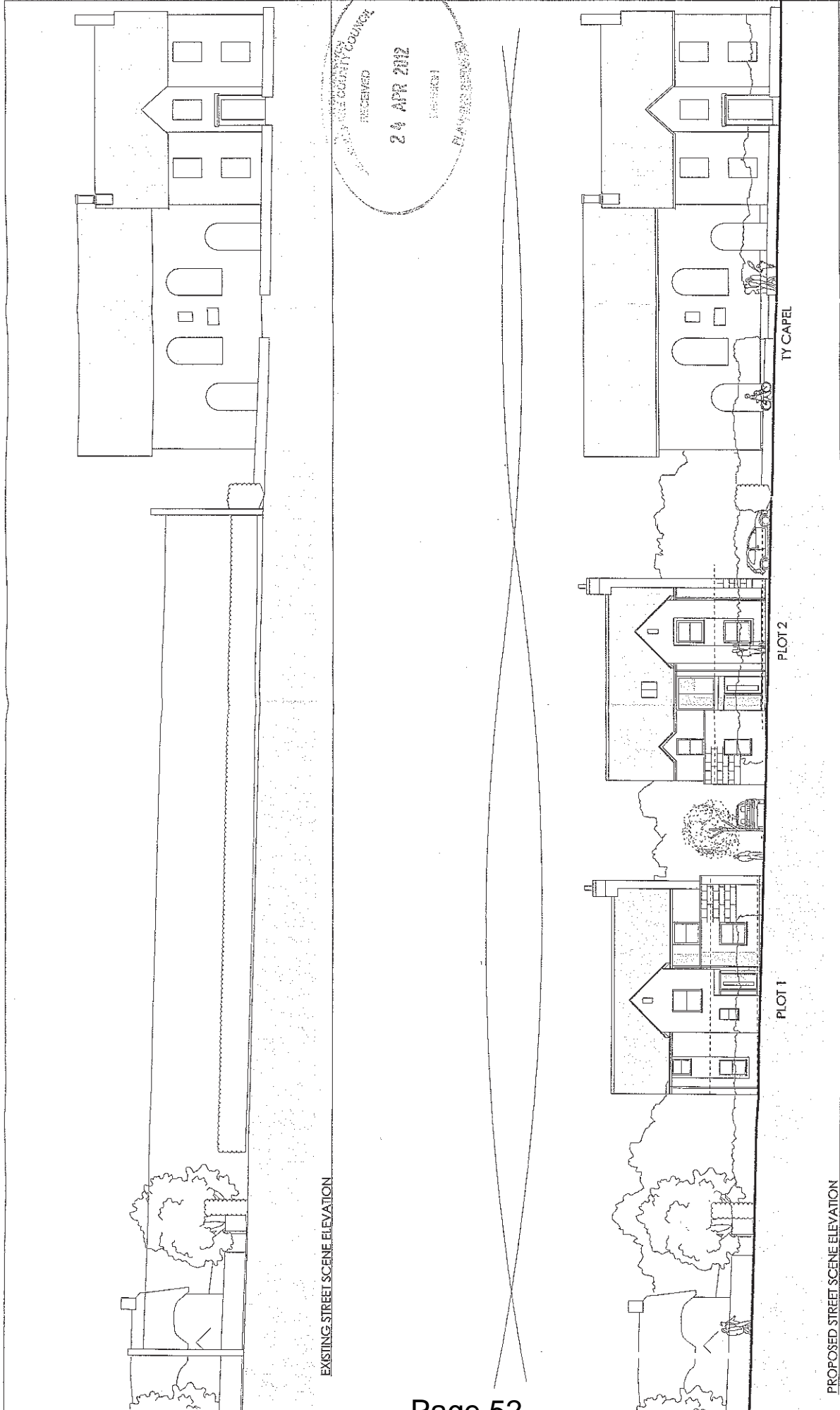


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PROPOSED RESIDENTIAL DEVELOPMENT CAPEL DYFFRYN LLANDYRNOG	PLANNING NUMBER	SCALE	DATE
CARRINGTON-STYES PLOT 1 DESIGN	D-1036-9-11-PL07A	1:100 @a3	1211
TOWNSCAPE JONES ARCHITECTS		DENBIGH 01748 87169 www.townscapejones.com	

STREET ELEVATION



EXISTING STREET SCENE ELEVATION

PROPOSED STREET SCENE ELEVATION

RECEIVED
 24 APR 2012
 10:58 AM
 CARRINGTON'S

<p>tanmaster jones architects</p> <p>tanmaster@jonesarchitects.com 01745 871789 www.tanmasterjones.com</p>	<p>DRAWING NUMBER D-1036-9-1-1-F108</p>	<p>SCALE 1:200 @G3</p>	<p>DATE 12/1</p>
	<p>PROPOSED RESIDENTIAL DEVELOPMENT CAPEL D'YFERYN LANDYNOG CARRINGTON'S</p>		
<p>SCHEMATIC ELEVATIONS</p>		<p>UJA</p>	
<p>tanmaster jones architects</p>		<p>10M</p>	
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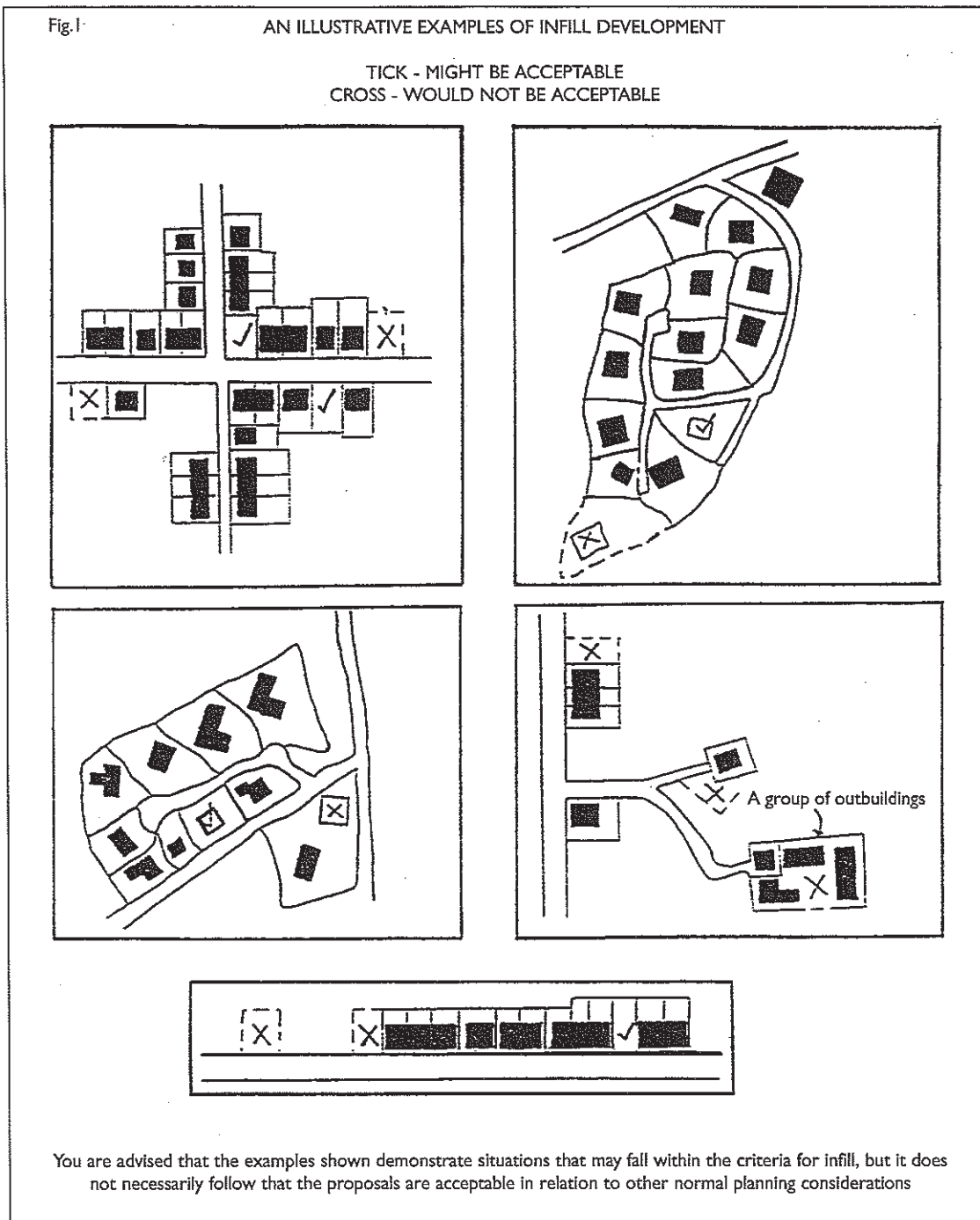
EXTRACT FROM
SPG 10

6 ACCEPTABLE DEVELOPMENT EXAMPLES

6.1 Examples of what may be considered to be acceptable infill in a recognisable group of houses in the open countryside, are set out in Figure 1.

7 UNACCEPTABLE DEVELOPMENT EXAMPLES

7.1 Development is NOT ACCEPTABLE in a sporadically sited, loosely related spread of dwellings or outbuildings/other buildings in the open countryside or where the development constitutes the extension of a ribbon form of development. Examples of what is considered to be an unrecognisable group of houses in the open countryside, and also unacceptable infill development, are set out in Figure 1.



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ITEM NO: 2

WARD NO: Llandyrnog

APPLICATION NO: 18/2012/0481/ PF

PROPOSAL: Erection of 2 no. detached dwellings, construction of a new vehicular access and installation of a sewage treatment plant (site area 0.16ha)

LOCATION: Land between Canol Y Waen and Capel Y Dyffryn Llandyrnog Denbigh

APPLICANT: Mr & Mrs G Carrington-Sykes

CONSTRAINTS:

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

REASON(S) APPLICATION REPORTED TO COMMITTEE:
Scheme of Delegation Part 2

- Recommendation to grant – Community Council objection

CONSULTATION RESPONSES:

LLANDYRNOG COMMUNITY COUNCIL:

“Members wish to object to the application on the following grounds:

1. HSG 5 allows developments within small gaps of an infill type - this is an individual parcel of land which happens to have a road frontage.
2. The development would result in a perpetuation of existing ribbon development.
3. The overall appearance of the two substantial size houses is totally out of scale size and character of the adjacent properties.
4. Infill should only be considered if there are a group of six or more dwellings - it is not felt there are six dwellings in this group - Ty Capel, the Chapel y Bwthyn, Canol y Waen - this is however open to interpretation as to whether the properties facing B5429 form part of the group.
5. Any development will detract from overall appearance of the adjoining grade 2 listed building.
6. The development will lead to the loss of good agricultural land.

The National Planning Guidance does allow strictly controlled opportunities in rural areas however it goes on to suggest that this be restricted to infill capable of one unit in small infill plots. Members felt that granting this application would set a very dangerous precedent.”

WELSH WATER:
No objections.

ENVIRONMENT AGENCY:
No objections.

DENBIGHSHIRE COUNTY COUNCIL CONSULTEES:

SENIOR CONSERVATION ARCHITECT:

The Senior Conservation Architect has advised the Case Officer that the proposal is acceptable in terms of its overall massing, scale and layout in relation to the surrounding properties and adjacent listed building. It would, however, be preferable to see more simplified detailing on the front elevations.

BIODIVERSITY OFFICER:

There is a Great Crested Newt site recorded on an adjacent site. Will advise further on the scheme of mitigation measures put forward by the applicant.

HEAD OF HIGHWAYS AND INFRASTRUCTURE:

No objections

RESPONSE TO PUBLICITY:

In objection

Representations received from:

Mr. C. Jones, Y Bwthyn, Waen Crossing, Llandyrnog
Ms. D. L. Jones, Y Bwthyn, Waen Crossroads, Llandyrnog
T. Roberts, Ysg. Capel y Dyffryn, Glanywern Bennett, Llandyrnog

Summary of planning based representations:

- Impact upon visual amenity and setting of listed building (Capel Dyffryn and Ty Capel)
- Loss of wildlife habitat – hedgerows/newts habitat
- Principle – land not in development plan/not infill/precedent
- Design – the ridges are too high
- Drainage/hydrology

EXPIRY DATE OF APPLICATION: 18/06/2012

REASONS FOR DELAY IN DECISION (where applicable):

- delay in receipt of key consultation response(s)

PLANNING ASSESSMENT:

1. THE PROPOSAL:

1.1 Summary of proposals

- 1.1.1 Full planning permission is sought for the erection of 2 detached dwellings, construction of a new vehicular access, and installation of a sewage treatment plant.
- 1.1.2 The proposed dwellings would be two storeys in height, featuring slate pitched roofs and front projecting gables similar in style to Ty Capel y Dyffryn, which is immediately adjacent to the site.
- 1.1.3 The dwelling on plot 1 would have a footprint of 11 metres by 7 metres, and the dwelling on Plot 2 would have a footprint of 10 metres by 8 metres.
- 1.1.4 The dwellings would be set back into the site, approximately 14 metres from the edge of the highway. Parking and garden areas are proposed to the front of the dwellings. The proposed new vehicular access is shown to access the site centrally, before splitting to serve both dwellings.
- 1.1.5 A separation distance of 11 metres is proposed between the side elevations of Plot 1 and Y Bwthyn, and this would include the retained access track to the field at the rear of the site. Between Plot 1 and Plot 2, a separation distance of 5 metres is proposed, whilst between Plot 2 and Capel Y Dyffryn the gap would be 7 metres. (See plan at the front of the report).

- 1.1.6 The proposed sewage treatment plant would be located to the rear of the dwellings.
- 1.1.7 The application is accompanied by a Design and Access Statement, and Code for Sustainable Homes Pre Assessment Report which demonstrates the proposed dwelling would meet level 3 of the Code for Sustainable Homes.

1.2 Description of site and surroundings

- 1.2.1 The site is currently flat agricultural land which it is understood is used occasionally for grazing. It has a road frontage onto Whitchurch Road, which links Llandyrnog and Denbigh and it is located approximately 110 metres west of the B5429 roundabout.
- 1.2.2 The site measures approximately 37 metres by 38 metres with its boundaries defined by mature hedgerows to the front and sides. These are, in places, supplemented with mature trees along the eastern boundary. Surrounding the site to the east and west are residential properties and a chapel. Opposite the site to the north, and across the road, is an area of woodland.

1.3 Relevant planning constraints/considerations

- 1.3.1 As commented upon by Llandyrnog Community Council, the site is within an area of good agricultural quality land. However, officers would confirm that the 1966 Provisional Agricultural Land Classification Map does not include the site within the Grade 1 notation but instead includes it within the boundary of 'land predominantly in urban use', along with the string of development along the B5429 out of Llandyrnog and along the Denbigh Road.
- 1.3.2 The adjacent dwelling Ty Capel Y Dyffryn, and the associated Chapel are Grade II listed buildings.

1.4 Relevant planning history

- 1.4.1 An initial outline application was made in 2010, but owing to the site's position close to listed buildings it was felt that the application should be made with all details being submitted for consideration. The 2010 application was subsequently withdrawn.

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 18/2010/0613/PO – Development of 0.16ha of land by the erection of 2 no detached dwellings, construction of new vehicular access and installation of package treatment plant. Outline including access, layout and scale. WITHDRAWN 1/10/2010

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 GEN 3 – Development Outside Development Boundaries
Policy GEN 6 – Development Control Requirements
Policy HSG 5 – Groups of Houses in the open Countryside
Policy CON 1 – The Setting of Listed Buildings
Policy ENV 6 – Species Protection
Policy ENV 11 – Safeguarding of High Quality Agricultural Land
Policy TRA 6 – Impact of New Development on Traffic Flows

3.2 SUPPLEMENTARY PLANNING GUIDANCE:

Supplementary Planning Guidance 10: Infill Housing in the Countryside
Supplementary Planning Guidance 18: Nature Conservation and Species Protection
Supplementary Planning Guidance 24: Design Guide For Householder Development
Supplementary Planning Guidance 25: Residential Development Design Guide

3.3 GOVERNMENT GUIDANCE

Planning Policy Wales 4 (February 2011)
Technical Advice Note 5 – Nature Conservation and Planning (2009)
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 and setting of listed building
- 4.1.3 Impact on residential amenity
- 4.1.4 Impact upon biodiversity
- 4.1.5 Impact upon highway safety
- 4.1.6 Design and Access/Sustainability Code/Access for All
- 4.1.7 Agricultural Land Quality

4.2 In relation to the main planning considerations:

4.2.1 Principle:

Policy GEN 3 allows for certain categories of development outside of development boundaries. In accordance with Policy HSG 5 infill development of *one or two* housing units may be permitted within a clearly identifiable group of dwellings in the open countryside. Infill developments may be permitted provided that it is a small gap between buildings in a continuously developed frontage; it does not result in ribbon development; and is of a comparable scale and size and is sited so as to respect adjacent properties in the locality. This policy is augmented by Supplementary Planning Guidance Note No. 10 Infill Housing in the Open Countryside.

With regard to the Community Council's concerns over the principle of 'infill' development:

- The first test of the infill policy (criteria i) relates to a small gap between buildings within a continuously developed frontage, and SPG 10 refers specifically to a clearly identifiable group being of 6 or more residential units. In this case the site is considered to sit within a continually developed frontage made up of more than 6 dwellings which form a clearly identifiable group. It is suggested that the dwellings along the B5429 are to be counted along with Woodview Cottage, Canol Y Waen, Y Bwthyn, and Ty Capel Y Dyffryn as they are clearly related visually. (See the pan at the front of the report).

-The second test of the policy (criteria (ii)) refers to ribbon development. It is not considered that the proposal would in itself result in ribbon development given that the site is not at the end of a line of dwellings, but between existing

dwellings. Reference is made to the examples in Supplementary Planning Guidance Note 10 which show similar examples to the case in question as being acceptable. (See front of report)

-The third test (criteria (iii)) refers to a small gap of comparable scale, character and size to the surrounding properties. It is considered the site frontage is comparable to the adjacent frontages, and that the plot sizes proposed are not dissimilar to those in the immediate vicinity.

It is considered, given the tests of Policy HSG 5 and the accompanying guidance in Supplementary Planning Guidance Note 10, that the development of this site, within an existing group of dwellings is acceptable in principle as infill, subject to an assessment of impacts as set out below.

4.2.2 Impact on visual amenity:

Policy GEN 6 includes criteria which aim to safeguard the visual amenity of areas and to ensure that development is not allowed which is out of character with the established character of the immediate vicinity. Policy CON 1 requires development adjacent to listed buildings to preserve the setting of the listed building, where the setting is an integral part of the character of the building. Whilst this is still clearly a consideration in this application, it is considered that the site does not, in itself, form an essential part of the character of Ty Capel Y Dyffryn and Capel Y Dyffryn in that the site is not within the curtilage of the listed buildings.

The area is characterised by a mixed form of development, ranging from listed buildings (Ty Capel Y Dyffryn), a small thatched cottage (Y Bwthyn) to modern two storey red brick dwelling (Woodland cottage). Materials used in the area range from brick to render, and fenestration can be seen to be both traditional and modern. Most influential to the character of the area are, however, Ty Capel Y Dyffryn and Capel Y Dyffryn. The design of the proposed dwellings seeks to step the height and scale of development down from Capel Y Dyffryn, to the lower and smaller scale of Y Bwthyn. The dwellings feature details which mirror the appearance of the listed buildings. A submitted street scene elevation (at the front of this report) indicates how the proposed dwellings would relate to the surrounding development. The Council's Conservation Architect is of the view that the design of the dwellings is acceptable in terms of their impact upon the listed buildings and character of the area, subject to materials and fenestration being controlled.

With regard to the submitted details, it is considered that the proposal, featuring dwellings set back within the site to avoid dominating the adjacent buildings, would not appear an intrusive feature within the area. It is considered therefore that, with respect to the comments of the Community Council and local concerns, the proposed dwellings would be unlikely to harm the character and appearance of the area, subject to control over the materials and fenestration. The proposal is therefore considered acceptable in terms of its impact upon the visual amenity of the area and is compliant with the requirements of Policy GEN 6 and CON 1.

4.2.3 Impact upon 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, and SPG 7 expands upon this.

The main windows in the proposed dwelling face towards the highway and the open field to the rear. The separation distances between the proposed dwellings and existing dwellings are, 11 metres between the side elevations of Y Bwthyn and Plot 1, (including the retained access track to the field at the rear of the site), 5 metres is proposed between Plot 1 and Plot 2, and 7 metres between Plot 2 and Ty Capel (which is not a dwelling). Some side windows are proposed to the new dwellings, but given the orientation/siting of the dwellings and the absence of side windows on the existing dwellings, they would not look directly towards each other. Both of the proposed dwellings would have external amenity space in excess of 250 square metres.

It is considered, based on the recommendations in SPG 1 and SPG 24 that there is sufficient distance to avoid any unreasonable loss of amenity to the occupiers of the neighbouring properties. Similarly, given the distances, orientation of buildings, location of windows, boundary treatments and changes in levels, it is not considered that the proposal would have a detrimental impact on the residential amenity of the neighbouring dwellings.

4.2.4 Impact upon biodiversity

Policy ENV 6, Species Protection, aims to ensure that proposals for new development do not detrimentally harm any protected species, or their habitat. Welsh Government policies/guidance in Planning Policy Wales 4 and TAN 5 set out clear requirements to consider the implications of development on protected species.

Concern has been expressed locally in respect of the impact upon great crested newts and other wildlife. There is a recorded Great Crested Newt within a neighbouring garden. It has also been suggested that the loss of 9m of hedgerow to create the new access would result in a loss of valuable habitat for wildlife. It is not proposed to remove any trees from the site. The County Council Biodiversity Officer has examined the proposal and the suggested mitigation measures and concludes that the development of this site is unlikely to have a detrimental impact upon the favourable conservation status of any protected species.

On the basis of the information submitted, and the specific responses of the Biodiversity Officer and the Countryside Council for Wales, it is considered that, with respect to the particular concerns raised, the development of this site, as now proposed, is unlikely to result in a detrimental impact upon protected species. The proposal is therefore not in conflict with policy ENV 6 Species Protection.

4.2.5 Impact upon highway safety

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 involves creating a new access into the site. Within the site, parking and turning areas would be created. The proposal has been considered by the Highway Officers, who have not raised an objection to the proposal.

It is considered, based on the Highway Officer's response, that the proposal is acceptable in terms of its impact upon highway safety, and meets policy requirements for the provision of parking. The proposal is therefore unlikely to result in a detrimental impact on highway safety. To help ensure this, it is considered not unreasonable to impose a planning condition requiring the proposed access and parking is laid out strictly in accordance with the submitted plans in the interest of securing a high quality and safe form of development. The proposal is considered to meet the requirements of TRA 6 and GEN 6.

4.2.6 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 can be included to ensure the development is carried out in accordance with the requirements of Sustainability Code guidance.

4.2.7 Agricultural Land Quality

Strategic and detailed policies of the Unitary Plan (STRAT 1, 7; ENV 11) and Planning Policy Wales seek to protect high quality agricultural land from 'permanent' forms of development unless there is an overriding need. ENV 11 looks to resist unacceptable permanent loss of agricultural land of grades 1, 2, and 3a, except where overriding need exists, and land of lower quality is not available, or lower grade land has other specific statutory protection.

As commented upon by Llandyrnog Community Council, the site is within an area of good agricultural quality land. However, officers would confirm that the 1966 Provisional Agricultural Land Classification Map does not include the site within the Grade 1 notation but instead includes it within the boundary of 'land predominantly in urban use', along with the string of development along the B5429 out of Llandyrnog and along the Denbigh Road.

In recognising the agricultural land quality issue, it is material here that the part of the site to be developed is located between existing development, and accordingly the site is excluded from the Grade 1 notation. It is considered therefore that the proposal does not conflict with Policy ENV 11.

5 SUMMARY AND CONCLUSIONS:

5.2 With regard to the material planning considerations, it is considered that with respect to the representations, the proposal complies with adopted planning policies, and it is therefore recommended that planning permission be granted.

RECOMMENDATION: GRANT subject to following conditions:

1. The development hereby permitted shall be begun before the expiration of five years from the date of this permission.
2. **PRE-COMMENCEMENT CONDITION**
No external wall or roof materials shall be applied until the written approval of the Local

Planning Authority has been obtained to the proposed materials to be used for the external surfaces of the [walls [and roof(s)] of the development hereby permitted and no materials other than those approved shall be used.

3. The access shall be laid out in accordance with the approved plan and completed to the satisfaction of the Local Planning Authority before any works commence on site.

4. Facilities shall be provided and retained within the site for the parking and turning of vehicles in accordance with the approved plan and shall be completed prior to the proposed development being brought into use.

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 (including the grass-crete area);

(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 new dwellings hereby permitted shall be constructed to achieve a minimum Code for Sustainable Homes Level 3 and achieve a minimum of 1 credit under category 'Ene1 - Dwelling Emission Rate' in accordance with the requirements of the Code for Sustainable Homes: Technical Guide November 2010. The development shall be carried out entirely in accordance with the approved assessment and certification.

12. Construction of the dwellings 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 1 credit under 'Ene1 - Dwelling Emission Rate', has been achieved for those dwellings or house types in accordance with the requirements of the Code for Sustainable Homes: Technical Guide November 2010.

13. Prior to the occupation of the dwellings 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 1 credit under 'Ene1 - Dwelling Emission Rate', has been achieved for that dwelling in accordance with the requirements of the Code for Sustainable Homes: Technical Guide November 2010.

14. Notwithstanding the provisions of Class(es) A, B, C, D, E, F, G, of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification) no development permitted by the said Classes shall be carried out without further grant of planning permission of the Local Planning Authority.

15. 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 prior to their installation, and the development shall only proceed in accordance with those details as approved.

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

1. To comply with the provisions of Section 91 of the Town and Country Planning Act 1990.
2. In the interests of visual amenity.
3. In the interests of the free and safe movement of all users of the highway and to ensure the formation of a safe and satisfactory access.
4. 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.
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 comply with the provisions of TAN 22: Planning for Sustainable Buildings.
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. In the interests of ensuring that no inappropriate additional development takes place at a later date which may have a detrimental impact upon the character of the adjacent listed buildings.
15. In the interest of visual amenity.

NOTES TO APPLICANT:

None

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CYNGOR
Sir Ddinbych
Denbighshire
COUNTY COUNCIL

Graham Boase
Head of Planning & Public Protection
Denbighshire County Council
Caledfryn
Smithfield Road
Denbigh
Denbighshire LL16 3RJ

Tel: 01824 706800 Fax: 01824 706709

Heading:

25/2012/0445/PFT
Wern Uchaf
Nantglyn

3



Application Site



Date 3/7/2012

Scale 1/2500

Centre = 298241 E 360037 N

This plan is intended solely to give an indication of the LOCATION of the application site which forms the subject of the accompanying report. It does not form any part of the application documents, and should not be taken as representative of the proposals to be considered, which are available for inspection prior to the meeting.

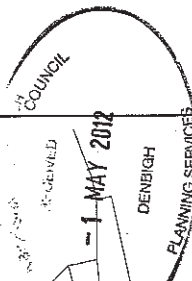


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25. 2012.01.01

SITE PLAN

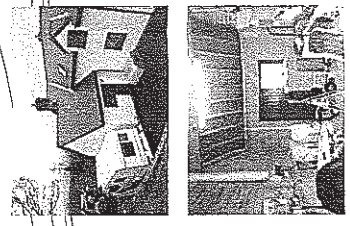


© The drawings and the building would be used for the purposes of the development and the drawings will be accepted for amendments made by other persons.

The Contractor to erect and verify building and its components, levels and positions, shall be responsible for ensuring that the building is in accordance with the specifications, drawings and instructions. The Contractor shall be liable for any errors or omissions in the drawings, and shall be liable for any damage to the building or other structures or for any loss or injury to any person.

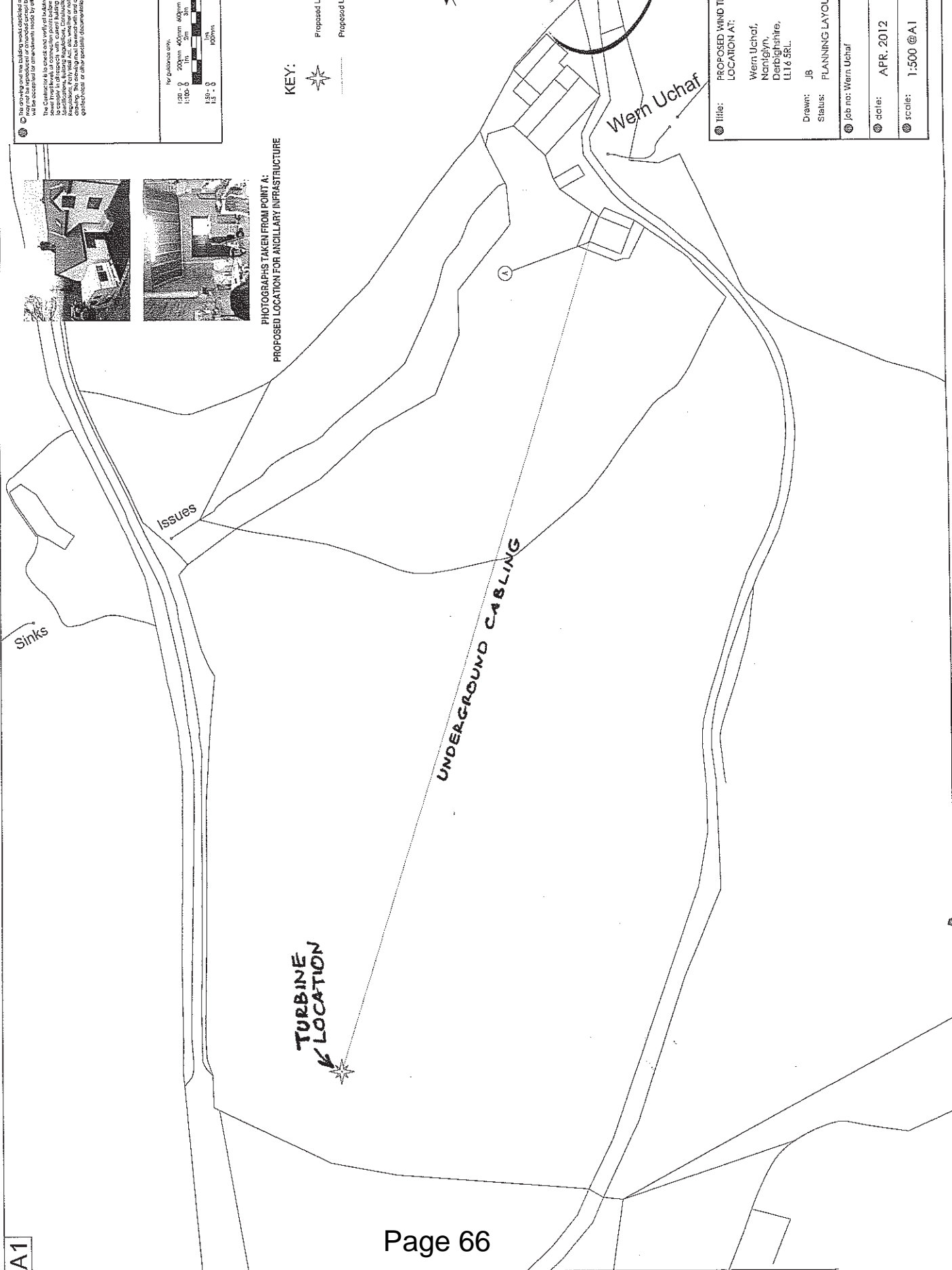
For guidance only:

1:100	10m
1:200	20m
1:500	50m
1:1000	100m



PHOTOGRAPHS TAKEN FROM POINT A:
PROPOSED LOCATION FOR ANCILLARY INFRASTRUCTURE

- KEY:
- ★ Proposed Location of Wind Turbine
 - Proposed Underground Cabling

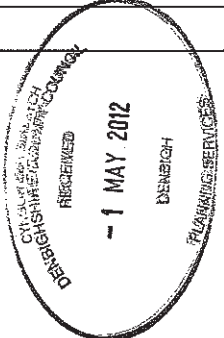


Title: PROPOSED WIND TURBINE LOCATION AT: Wern Uchar, Nantglyn, Denbighshire, LL16 5RL.	Drawn: JB
Status: PLANNING LAYOUT	Status: e-first Surveyor
Job no: Wern Uchar	drawing no: 005a
date: APR. 2012	
scale: 1:500 @A1	

A1

DETAIL OF TURBINE

14 The drawing and the building work described are the copyright of the client and will be accepted for approval with certain conditions. The Client agrees to indemnify the Contractor for any and all claims, damages, losses and expenses, including reasonable legal costs, arising from the use of the drawings. The Contractor shall be responsible for obtaining all necessary planning, building regulations, construction, design & construction, and other permits and approvals for the work. It is the Contractor's responsibility to ensure that the drawings are used in accordance with the terms and conditions of the contract and that any necessary amendments are made to the drawings in accordance with the contract documents.



Call Drawing by:
Design Work:
t: 09538 44472
w: www.e-first.co.uk
e: enquiries@e-first.co.uk

Project: Wern Uchaf

Title: Proposed 15m Small
Scale Wind Turbine

Drawn: JB

Status: Layout

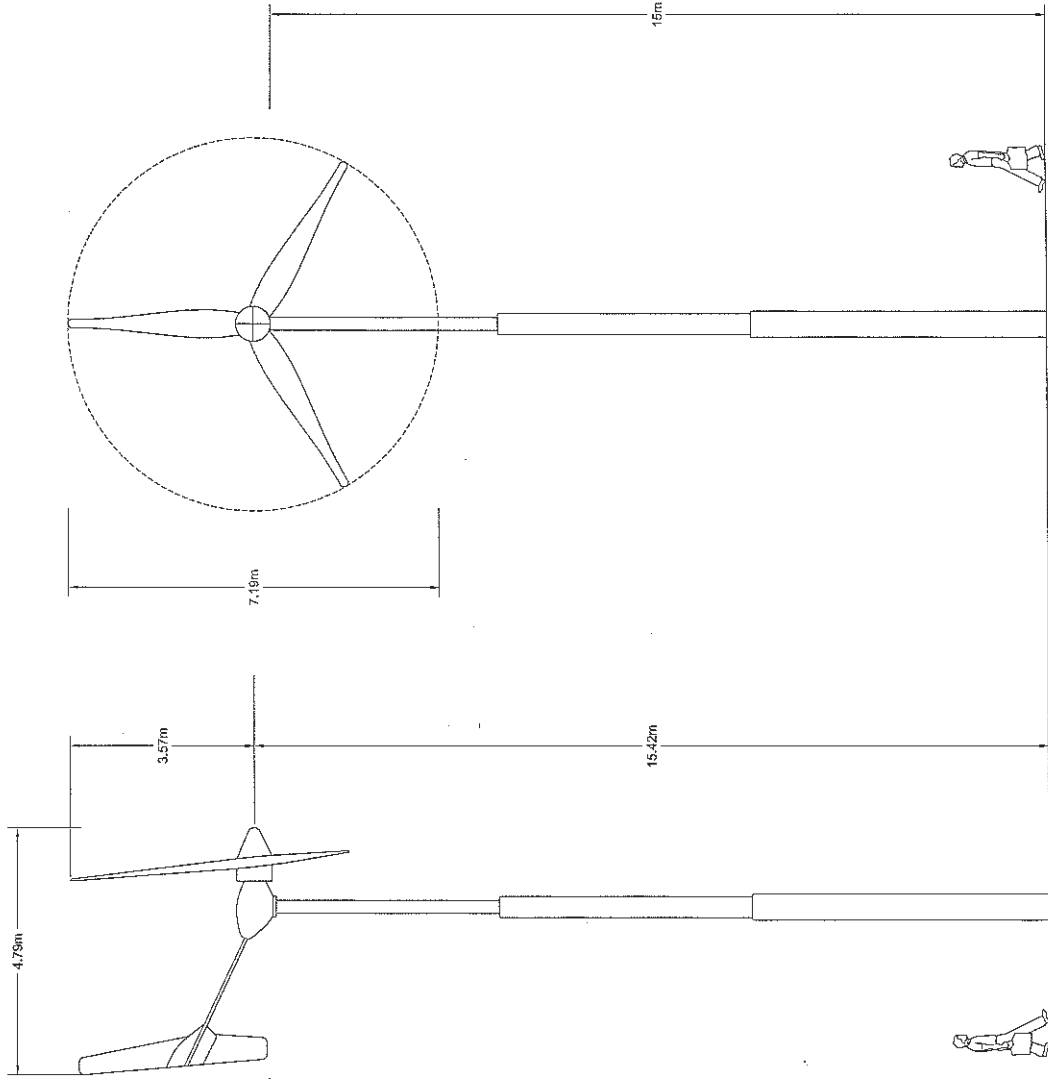
job no: 001

date: Apr. 2012

scale: 1:100 @A3

drawing no:

08



A3

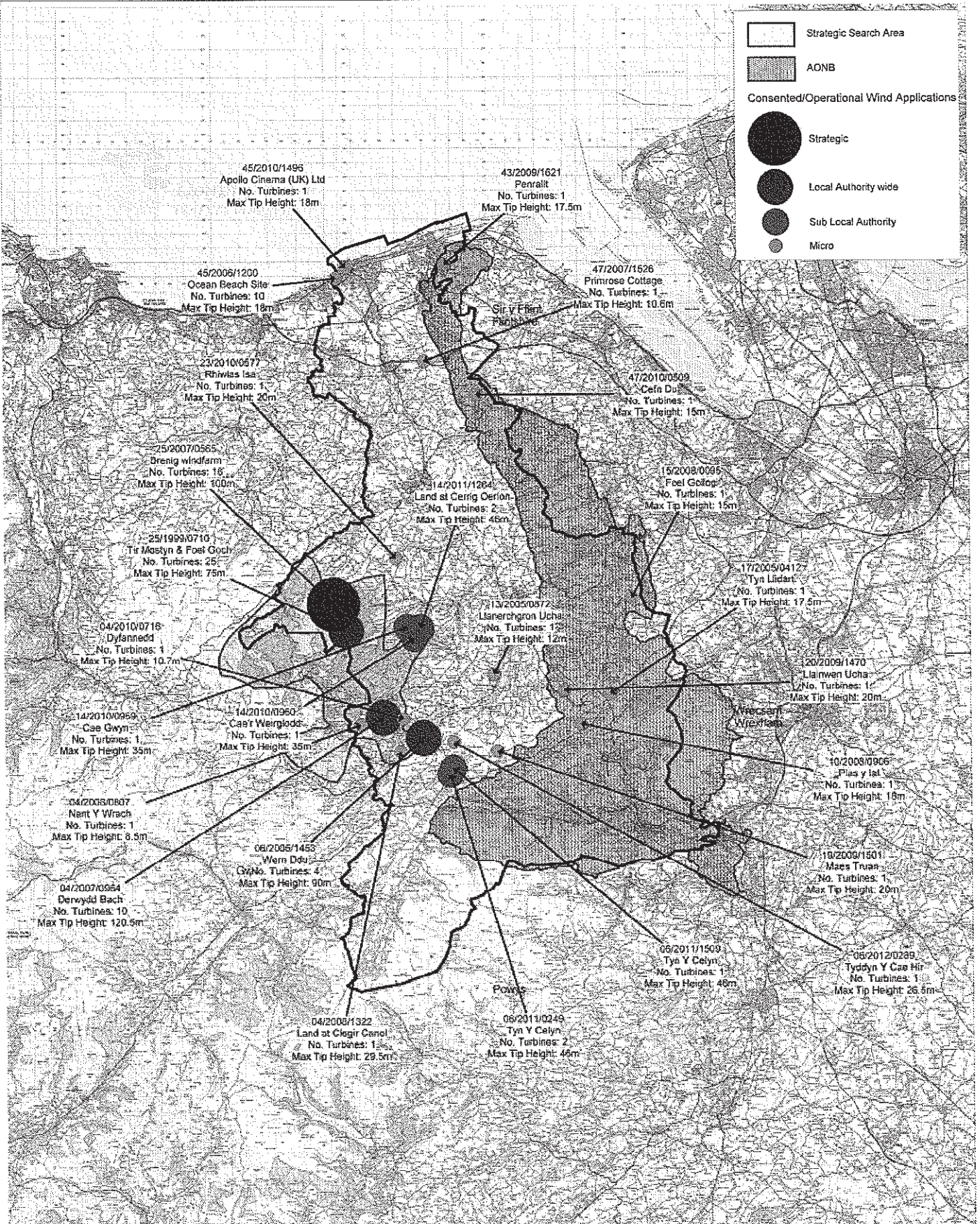


Consented/Operational Wind Applications as of 1st June 2012

Scale: 1:250000
Date: 01/06/2012
Map Sheet:



Environment Directorate



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ITEM NO: 3

WARD NO: Llanrhaeadr Yng Nghinmeirch

APPLICATION NO: 25/2012/0445/ PFT

PROPOSAL: Installation of a 10kw wind turbine on a 15m tower for domestic use

LOCATION: Wern Uchaf Nantglyn Denbigh

APPLICANT: Mr Ken Howatson

CONSTRAINTS:

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

REASON(S) APPLICATION REPORTED TO COMMITTEE:
Scheme of Delegation Part 2

- Recommendation to grant / approve – Town / Community Council objection

CONSULTATION RESPONSES:

NANTGLYN COMMUNITY COUNCIL

“Nantglyn Community Council held a public meeting on Thursday 14 June to permit the community to comment on the planning application for a Small Scale Domestic Wind Turbine at Wern Uchaf, Nantglyn. This meeting was called in view of past interest in the community in Wind Turbines.

The primary concern expressed was about noise levels made by these small turbines and the quality of the sound produced. The location of this specific turbine will reduce its impact but it was felt that this must be kept under review and the machinery maintained to prevent increases in sound produced by worn parts. It was drawn to our attention that noise problems developing in a similar size turbine in a village close by had resulted in its removal.

The second objection raised was the issue of whether this was a commercial or domestic project. If the turbine is being paid for and installed by a company set up to generate electricity using wind power it was suggested that it should be considered as a commercial venture and application considered as such. On the other hand the use of a proportion of the electricity on site and the size of the turbine suggest it is a domestic scale piece of equipment. It was felt that the granting of permission for this turbine should preclude subsequent applications for further turbines on the same farm.

The final concern was one of precedents. It was agreed I think by all there, that this is a unique location and that few others sites in the parish would meet the criteria. Hence, whilst not wishing to prevent the current proposal we did not wish this to be seen as supporting any subsequent proposal.”

COUNTRYSIDE COUNCIL FOR WALES (CCW)
No objection.

ROYAL SOCIETY FOR THE PROTECTION OF BIRDS
No response received.

NATS (EN ROUTE) PUBLIC LIMITED COMPANY (NERL)
No safeguarding objection.

MINISTRY OF DEFENCE
No objection.

AIRBUS
No aerodrome safeguarding objection.

DENBIGHSHIRE COUNTY COUNCIL CONSULTEES

TECHNICAL OFFICER (POLLUTION)

If the application is approved, planning conditions to control noise impacts should be applied in order to safeguard the amenity of local residents.

BIODIVERSITY OFFICER

No objection. Turbine is to be situated a sufficient distance from any features that could be used by bats, and due to small size of turbine does not anticipate any impacts on birds.

RESPONSE TO PUBLICITY:

No representations received as a result of the public consultation:

EXPIRY DATE OF APPLICATION: 25/06/2012

REASONS FOR DELAY IN DECISION (where applicable):

- delay in receipt of key consultation response(s)

PLANNING ASSESSMENT:

1. THE PROPOSAL:

1.1 Summary of proposals

- 1.1.1 The proposal is to erect a single XZERES 442SR 10kW wind turbine on agricultural land at Wern Uchaf, Nantglyn. The aim of the turbine is to provide electricity for domestic purposes. The application submission includes the following documents:
 - Design and Access Statement (DAS)
 - Feasibility Study
 - XZERES 442SR Wind Turbine – Planning Support Document
 - Location, Site and Elevation Plans
- 1.1.2 The turbine would be mounted on a grey 15m galvanized steel monopole tower. The proposed 3 blade rotor has a diameter of 7.2m and a maximum tip height of 19m. The blades would be white with grey edging. The turbine has a tail-vane which would be no longer than 5m.
- 1.1.3 No new access tracks are proposed; the field where the turbine is to be sited can be accessed via a farm gate off the A543. The gateway to the field has a standard gate suitable for large farm vehicles and the contractor can supply and install the turbine over a 3-5 day period.
- 1.1.4 The turbine would be connected to the electricity distribution grid via the existing grid connection at Wern Uchaf, which is housed within the existing domestic garage. No additional ancillary buildings to house meter/control equipment are proposed. The necessary cabling for the turbine will be laid in an underground trench approx. 540m in length which will run in a straight line from the turbine back to the domestic garage.

1.2 Description of site and surroundings

- 1.2.1 The site is in a rural upland location within open countryside approximately 3km to the south west of the village of Nantglyn. Gorsedd Bran commercial

woodland lies immediately to the west of the A543 which forms the western boundary of the agricultural field in which the turbine would be sited.

- 1.2.2 Wern Uchaf is an isolated farm complex and the turbine would be sited in an agricultural field approximately 260 metres to the south of the main farmhouse. The nearest residential properties are Nant Gwyn approximately 560m to the north east, Hafodwen approximately 800m to the east, and Rhiwiau approximately 1km to the north east.

1.3 Relevant planning constraints/considerations

- 1.3.1 In planning policy terms the site lies in the open countryside and is not affected by any statutory landscape of nature conservation designations.
- 1.3.2 The site lies within the Clocaenog Forest Strategic Search Area (SSA). In accordance with TAN8, large scale wind farm development in Wales should be directed to within SSA boundaries.
- 1.3.3 The operational Tir Mostyn windfarm and the consented Llyn Brenig windfarm are approximately 2.5km and 2km to the south east of the application site.
- 1.3.4 Gorsedd Bran Round Barrows Scheduled Ancient Monument lying approximately 750m to the west. The north-eastern boundary of the Mynydd Hiraethog (Denbigh Moors) SSSI and Historic Landscape is approximately 500m to the west of the site. A Public Right of Way runs approximately 220 metres to the north, however there are no rights of way that affect the application site.
- 1.3.5 The Denbighshire Landscape Strategy shows the application site lies within the north western section of the Denbigh and Derwen Hills LANDMAP Character Area which is defined as hill and scarp slopes with enclosed pasture. This is within 100m of the boundary with the adjoining Llyn Brenig and Moorland / Forest LANDMAP Character Area. which is defined as exposed upland moorland, wooded upland and plateau.

1.4 Relevant planning history

- 1.4.1 The application site is immediately adjacent to the refused Gorsedd Bran windfarm site, and approximately 2.5km to the north west of the operational Tir Mostyn windfarm and 2km to the north west of the consented Brenig windfarm.

1.5 Developments/changes since the original submission

- 1.5.1 None

1.6 Other relevant background information

- 1.6.1 Wind turbines of this scale are eligible for Feed-in Tariffs (FITs), which is a government backed financial incentive designed to encourage renewable electricity generation.
- 1.6.2 To date, a total of 87 wind turbines have been granted planning permission within the County. There is a map of all consented / operational wind turbine development in the County as at 1 June 2012 at the front of this report.

2. **DETAILS OF PLANNING HISTORY:**

- 2.1.1 25/2007/0642 (Gorsedd Bran windfarm). Application for the construction of 13 wind turbine generators (up to 125m in overall height) c/w electrical control room & compound area, new and improved access tracks, underground cabling, 80m anemometry mast, ancillary works and equipment; temporary construction works; new vehicular access from the minor country road; removal of conifer fores. 2.5-3MW turbines, at Gorsedd Bran, Nantglyn. refused at Planning Committee 02/04/08 and dismissed at Appeal 18/11/09.

Legal Challenge dismissed by Court of Appeal in December 2010. The reasons for refusal which were upheld at Appeal were unacceptable landscape and visual impacts (incl. cumulative impacts) and unacceptable cumulative noise impacts when considered in combination with the Tir Mostyn windfarm.

- 2.1.2 25/1999/0710 (Tir Mostyn windfarm). Application for the development of a windfarm consisting of 25 turbines (49m tower, 52m rotor diameter), 2 met masts (40m) and associated works. 850kW turbines at Tir Mostyn, Nantglyn. Called in and granted by Welsh Government 19/12/2002.
- 2.1.3 25/2007/0565 (Brenig windfarm). Application for the construction and operation of a wind farm comprising of sixteen wind turbines with a maximum tip height not exceeding 100m, along with transformers, access tracks, on-site switchgear and metering building, two anemometry towers and associated construction and operational infrastructure (max capacity will not exceed 50MW) at Llyn Brenig, Nantglyn. Granted at Planning Committee 06/04/09.

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 2 Energy
- Policy STRAT5 Design
- Policy STRAT 7 Environment
- Policy GEN 3 Development Outside Development Boundaries
- Policy GEN 6 Development Control Requirements
- Policy ENV 1 Protection of the Natural Environment
- Policy MEW 8 Renewable Energy
- Policy MEW 10 Wind Power

3.2 GOVERNMENT POLICY GUIDANCE

- Planning Policy Wales (PPW Edition 4, February 2011)
- TAN 8 Planning for Renewable Energy (2005)
- TAN 5 Nature Conservation and Planning (2009)
- TAN 6 Planning for Sustainable Rural Communities (2010)
- TAN 11 Noise (1997)

WELSH GOVERNMENT PRACTICE GUIDANCE

Planning Implications Of Renewable And Low Carbon Energy (Practice Guidance 2011)

3.3 Other material considerations

Denbighshire Landscape Strategy (2003) / LANDMAP

4. MAIN PLANNING CONSIDERATIONS:

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

- 4.1.1 Principle
- 4.1.2 Context for the development
- 4.1.3 Landscape and visual impact, including cumulative effects of / with other wind turbines
- 4.1.4 Biodiversity and nature conservation
- 4.1.5 Noise and amenity
- 4.1.6 Aviation

4.2 In relation to the main planning considerations:

4.2.1 Principle

Welsh Government policy and guidance

The UK is subject to the EU Renewable Energy Directive, which includes a target of generating 15% of the UK's total energy demand from renewable energy sources by 2020. Planning Policy Wales (PPW) reaffirms UK and national energy strategies and the Welsh Government is committed to playing its part. PPW refers to the Welsh Government's Energy Policy Statement (2010) and recognises that wind energy generation remains the most commercially viable form of renewable energy in Wales. As illustrated in PPW, the total capacity for energy generation from onshore wind by 2020/2025 is estimated at 2GW.

For planning purposes, PPW defines the following renewable and low carbon energy scales, which is of relevance to the application before Committee:

Scale of development	Threshold (Electricity and heat)
Strategic	Over 25 MW for onshore wind and over 50 MW for all other technologies
Local Authority - Wide	Between 5MW and 25 MW for onshore wind and between 5 MW and 50MW for all other technologies
Sub local authority	Between 50kW and 5MW
Micro	Below 50kW

This application therefore falls within the 'micro' scale of development in PPW. Micro scale renewable energy projects are considered acceptable developments in principle in all parts of Wales subject to the assessment of site specific impacts.

TAN 8 supplements PPW and provides technical advice and guidance on renewable energy projects; TAN 8 introduced the principle of spatial planning for the delivery of energy policy and identifies 7 Strategic Search Areas (SSAs) where large scale onshore wind developments should be concentrated.

The principle of wind energy development within SSAs is therefore established, subject to the assessment of localised and cumulative impacts.

Denbighshire Unitary Development Plan (UDP) Policies

The strategic policies contained in the UDP promote a sustainable approach to development, with STRAT 2 supporting the principle of generating energy from renewable sources so far as they are compatible with the Plan's policies.

UDP Policy MEW 8 supports renewable energy development in principle, provided that proposals do not give rise to unacceptable effects on the environmental quality of the locality. Policy MEW 10 is a criteria based policy which specifically deals with wind power developments. It states that wind turbine development will be permitted subject to compliance with the policy criteria.

Policy GEN 6 refers to general development control requirements which applies to all development proposals and ENV 1 relates to the protection of the natural environment. It states "*Development must be designed to maintain or enhance the landscape character of the countryside and biodiversity of the natural environment*".

Taken together, the policies contained in the UDP provide support in principle for renewable energy development subject to the detailed assessment of localised impacts, taking into account the cumulative impact and spread of wind turbine development of varying scales throughout the County.

4.2.2 Context for the development

When determining planning applications for renewable energy development, PPW requires local planning authorities take into account a range of factors including the

contribution a proposal will play in meeting identified targets for renewable energy generation, including the contribution to cutting greenhouse gas emissions.

Therefore the benefits of the scheme in terms of offsetting the electricity demand of farm and the contribution to renewable energy generation targets need to be carefully weighed against any adverse impacts associated with this development.

The applicant wishes to install the turbine to provide renewable electricity for the farmhouse and for daily farm operations. The turbine proposed has a rated generation capacity of 10kW, and therefore falls within the definition of a micro turbine, and is considered to be of an acceptable size for a domestic turbine.

Furthermore, the turbine will be connected to the grid via the existing single phase supply at the farmhouse, and the electricity generated will therefore preferentially be used on-site; any surplus electricity will be exported to the grid.

In conclusion, given the generating capacity of the turbine and the grid connection arrangement ensuring the electricity generated is preferentially used on site, Officers are satisfied that the proposed turbine is of an acceptable scale for domestic purposes.

4.2.3 Impact on landscape and visual amenity, including cumulative implications

Detailed Unitary Development Plan policies relevant to the visual and landscape impact associated with wind energy development are policy GEN 6 and policy MEW 10. GEN 6 requires consideration of ii) *the effect of development on the form and character of surrounding landscape*; iii) *the effect on prominent views into, out of, or across any area of open countryside*; iv) *incorporating existing landscape features and taking account of site contours and changes in levels and avoids prominent skylines*; and v) *the impact on residential amenity*.

MEW 10 (iii) *requires that proposals do not unacceptably harm the character and appearance of the landscape*, (viii) *requires that proposals would not lead to an unacceptable cumulative visual impact in an area where zones of visibility (with other wind turbine development) overlap, and that particular attention will be paid to the potential proliferation of such developments in any one area*; and vii) *the proposal does not cause unacceptable harm to the enjoyment of the landscape*.

PPW and TAN 8 provide the strategic policy framework for assessing wind energy development and contain some specific guidance on the detailed consideration of landscape and visual impact to assist local planning authorities determine planning applications. TAN8 Annex D states that within SSAs, the implicit objective is to accept landscape change i.e. a significant change in landscape character from wind turbine development. However, given the increasing number of consented wind turbine developments within and on the periphery of the SSA, it is imperative that cumulative effects are fully considered when planning applications are assessed.

The Denbighshire Landscape Strategy is based on the LANDMAP study, which provides useful background material on the essential characteristics and quality of the landscape of the County. The application site lies on the western edge of the "Denbigh and Derwen Hills" Character Area where the Visual and Sensory evaluation is identified as 'High'.

A landscape impact assessment has not been submitted with the application, but given the scale of the development, Officers do not feel it is necessary in this instance given that the site is not affected by a statutory or local landscape designation.

The application site is not within a designated landscape area nor it is within a landscape classified as having an 'outstanding' overall evaluation in LANDMAP. The application site is more than 500m from the Mynydd Hiraethog (West Denbigh Moors)

Historic Landscape and is separated from it by a belt of conifer trees which will act as a screen. CCW have raised no objection to the application in terms of its impact on the Historic Landscape.

When viewing the application site from the north and from the east (including views from Nantglyn village and from neighbouring properties) the turbine would be viewed against the woodland backdrop, which Officers consider would lessen the visual impact. Furthermore, the turbine would be located in a field which is adjacent to the main farmhouse, and Officers feel that the turbine would therefore appear to be well related to the main farm complex, rather than appearing as an isolated turbine in open countryside. The nearest residential property is over 500m from the site, and it is not considered that the proposed turbine would have any unacceptable adverse impacts on the visual amenity of neighbours.

The proposed turbine is small in scale, with a maximum tip height of 19m. The turbine would be over 2km away from the Tir Mostyn windfarm and the consented Brenig windfarm, and whilst the Tir Mostyn windfarm is clearly visible from the application site, given the size and scale of the turbine proposed it is not considered that the development would give rise to unacceptable cumulative landscape impacts when considered in combination with other wind energy development in the vicinity.

In concluding on the issue of landscape and visual impact, Officers consider the proposal would not give rise to adverse cumulative impacts, and any potential negative visual impacts will be mitigated by the scale of the development and the proximity of the site to the area of woodland to the west. Officers therefore consider the proposal accords with UDP policies GEN6 i), iii), v) and MEW10 vii), viii).

4.2.4 Biodiversity and nature conservation

The general requirement to consider the impact of development on biodiversity interests is set out in PPW Chapter 5, TAN 5, UDP policies STRAT 1, STRAT 7, GEN 6 and ENV 6 and SPG 18. Specific to wind turbine development is policy MEW 10 criterion x) which states that wind turbine development will be permitted provided that *'There is no unacceptable effect on nature conservation.'* Policy ENV 6 deals with species protection and states *'development which would unacceptably harm species given special protection by law will not be permitted unless appropriate steps can be taken to secure their protection'*.

Both CCW and the Council's Biodiversity Officer have no objection to the proposal.

The application site is agricultural land which is outside of any statutory or local nature conservation designation and as the proposed turbine would be positioned away from linear features, it is unlikely to have an adverse impact on bats. Due to the small size of the turbine, it is also unlikely that the proposed development would have any adverse impact on birds. No alterations or amendments to the site access are proposed, and it is considered unlikely that any trees or hedgerows would be damaged during the construction phase.

In Officers' opinion it is reasonable to conclude that the proposal would not have any adverse impacts on biodiversity and nature conservation interests, and therefore does not conflict with policy ENV 6 and MEW 10 criterion x).

4.2.5 Noise and amenity

Policy GEN 6 and MEW 10 seek to ensure development does not impact on residential amenity. The latter requires that particular consideration has to be given to noise and shadow flicker. TAN 11 relates to the assessment of noise in relation to development proposals. The general guidance is that local planning authorities should ensure noise-generating development does not cause an unacceptable degree of disturbance, but in some instances it may be acceptable to allow noise-generating activities near to noise sensitive receptors.

ETSU-R-97 is industry standard for the Assessment and Rating of Noise from Wind Farms. It is important to ensure that predicated operational noise levels fall within the established limits of ETSU-R-97. For single turbines ESTU-R-97 proposes that a simplified noise condition may be suitable and recommends that noise is limited to an $LA_{90,10min}$ of 35dB (A) up to wind speed of 10m/s at 10m height and considers that this condition alone would offer sufficient protection of amenity, and background noise surveys would be unnecessary.

The nearest residential property is over 500 metres away from the application site. Site specific noise assessments have not been carried out, however the Council's Technical Officer (Pollution) is satisfied that planning conditions can be imposed to ensure the noise generated by the wind turbine would not have an unacceptable impact on the amenity of neighbouring dwellings.

The incidence of shadow flicker depends on the position of the sun in the sky. It only occurs at certain times and tends to only affect nearby buildings within 130 degrees either side of north which are within 10 rotor diameters of a turbine. The likelihood of shadow flicker occurring and the duration of such an effect depends on a range of factors, including the time of the year, the size of the turbine, the direction and speed of the wind and the relative cloud cover.

The proposed turbine has a blade diameter of 7.2m and therefore shadow flicker may occur within 72m of the proposed turbine. Given that there are no properties (not even the applicant's property) within 10 rotor diameters of the turbine, it is highly unlikely that shadow flicker would occur. However, as a precautionary measure, a condition can be imposed to ensure any incidence of shadow flicker experienced by nearby properties can be controlled.

Subject to the inclusion of conditions, it is reasonable to conclude that the proposal would comply with policy GEN 6 criterion v) and MEW 10 criterion iv) and v).

4.2.6 Communication and aviation

In certain locations wind turbines can affect communication and aviation infrastructure which may also need to be addressed. Airbus, who operate Hawarden Airport, the NATS (en route) public limited company (who are responsible for civilian en-route air traffic control over the UK) and the Ministry of Defence have been consulted on this application.

No objections have been raised by the aviation authorities and therefore Officers are satisfied that the proposal will not have any adverse effects on communication and aviation infrastructure.

5. SUMMARY AND CONCLUSIONS:

- 5.1 With regards to the above considerations, it is concluded that the proposal would not give rise to unacceptable adverse impacts on the locality, nor would it result in any adverse cumulative impacts when viewed in combination with the existing wind energy developments in the Clocaenog Forest Strategic Search Area. It is therefore recommended that planning permission is granted.

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

The Conditions are:

1. The development hereby permitted shall be begun before the expiration of five years from the date of this permission.
2. The planning permission shall be for a period of 25 years from the date of the first generation of electricity from the turbines. Written confirmation of the date of the first generation of electricity from the development shall be provided to the Planning Authority no later than 1 calendar month after the event.
3. The location of the turbine shall be in the position indicated on the approved plans.

4. This permission relates solely to the erection of a 3 bladed wind turbine as described in the application plans and drawings with a maximum height to blade tip of 19m from original ground level.
5. The finish of the turbine tower, hub and blades shall be semi-matt, the colour of the tower shall be grey and the colour of the hub and blades shall be white with grey edging.
6. No new external ancillary equipment required in connection with the operation of the turbine, such as metering boxes, switchgear and overhead lines and poles shall be permitted without the prior written approval of the Local Planning Authority.
7. No part of the development shall display any name, logo, sign, advertisement or means of illumination other without the prior written approval of the Local Planning Authority.
8. In the event that the turbine is non-operational for a continuous period of 6 months, it shall be removed from the site and the land restored to its former condition/use within 3 months.
9. Noise from the turbines shall not exceed $35\text{dB}_{\text{LA90,10min}}$ for wind speeds of up to 10m/s at 10m height when cumulatively measured freefield at the nearest noise sensitive receptor in accordance with ETSU-R-97.
10. If justified complaints of noise nuisance are received by Denbighshire County Council the applicant shall employ a suitably qualified acoustic consultant to undertake a noise assessment. The purpose of the investigation will be to ensure that condition 9 is being complied with, but if this is found not to be the case, then it should recommend mitigation measures that will ensure compliance and these should then be implemented by the applicant. A copy of the report shall be submitted to the Local Authority within 14 days of its completion.
11. The applicant shall temporarily turn the turbine off (braked to stop the rotors) to facilitate noise investigations being undertaken in nearby locations, when requested in writing by the Local Authority. This will be necessary to aid cumulative impact and complaint investigations should they be necessary.
12. If justified complaints of shadow flicker are received by Denbighshire County Council, any turbine producing shadow flicker at any occupied dwelling which existed or was consented at the time that this permission was granted shall be shut down and the blades remain stationary until the conditions causing those shadow flicker effects have passed.
13. No later than 12 months before the expiry of the 25 year operational period of this permission, a scheme for the restoration of the site, including the dismantling and removal of all elements above ground level, and the removal of turbine bases to a depth of 1.0m, shall be submitted for the consideration of the Local Planning Authority. The scheme approved in writing by the Local Planning Authority shall be carried out and completed within 12 months from the date that the planning permission hereby granted expires.

The reasons for the conditions are:

1. To comply with the provisions of Section 91 of the Town and Country Planning Act 1990.
2. For the avoidance of doubt and in order that the Local Planning Authority retains control over the longer term uses of the land.
3. For the avoidance of doubt.
4. For the avoidance of doubt and in the interests of visual amenity.
5. For the avoidance of doubt and in the interests of visual amenity.
6. In the interests of visual amenity.
7. In the interests of visual amenity.
8. In the interests of visual amenity.
9. In the interests of the amenities of occupiers of residential property in the locality.
10. To ensure adequate measures are in place to monitor and assess noise from the turbines in the event of complaints, in the interests of occupiers of residential property in the locality.
11. To ensure adequate measures are in place to monitor and assess noise from the turbines in the event of complaints, in the interests of occupiers of residential property in the locality.
12. In the interests of the amenities of occupiers of residential property in the locality.
13. To ensure the long term reinstatement of the site, in the interests of visual amenity.



CYNGOR
Sir Ddinbych
Denbighshire
COUNTY COUNCIL

Graham Boase
Head of Planning & Public Protection
Denbighshire County Council
Caledfryn
Smithfield Road
Denbigh
Denbighshire LL16 3RJ

Tel: 01824 706800 Fax: 01824 706709

Heading:

27/2012/0211/PF
Hen Pandy Barn, Tan y Fron Farm,
Llangollen

4



Application Site

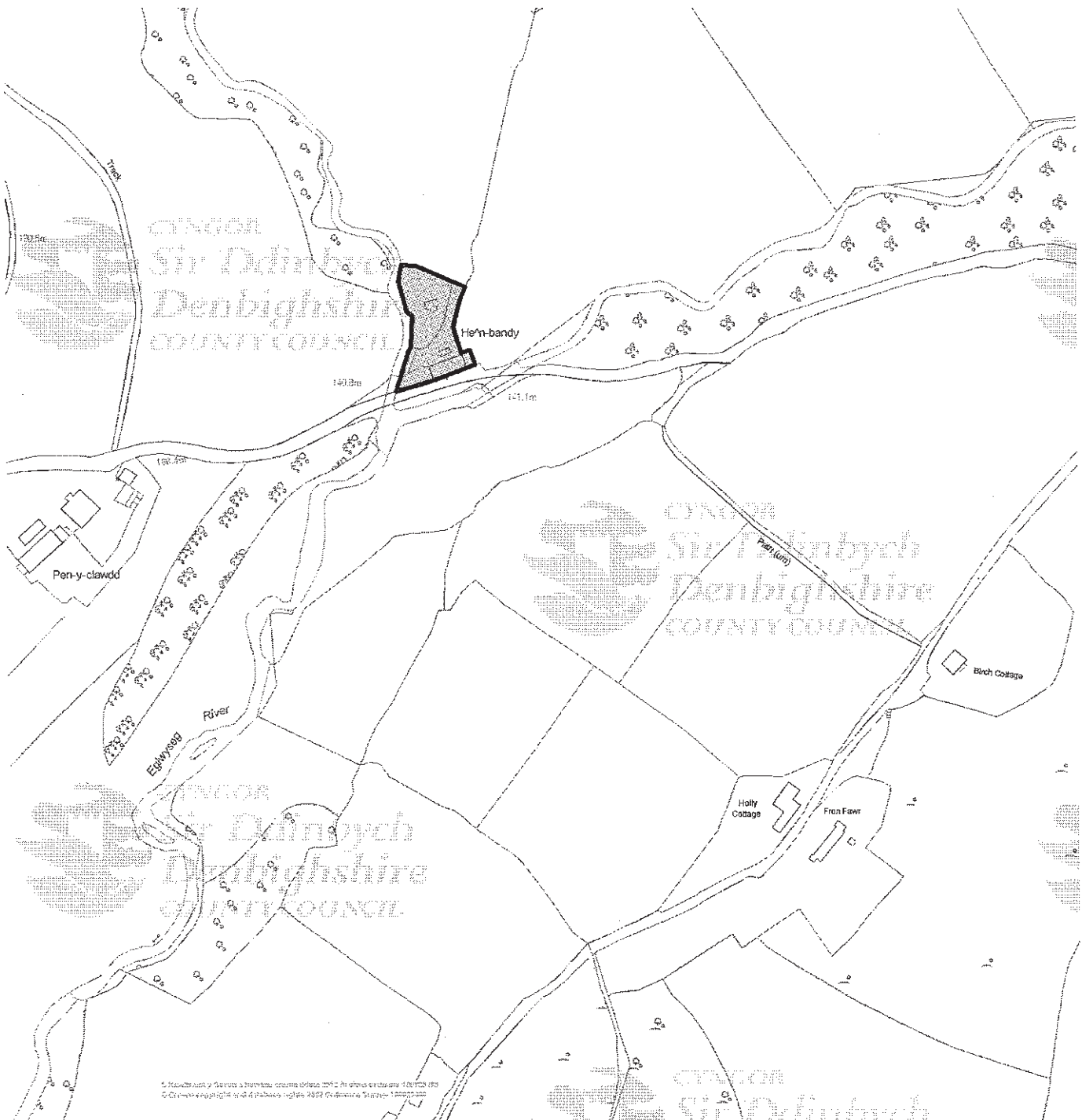


Date 3/7/2012

Scale 1/2500

Centre = 320513 E 345697 N

This plan is intended solely to give an indication of the LOCATION of the application site which forms the subject of the accompanying report. It does not form any part of the application documents, and should not be taken as representative of the proposals to be considered, which are available for inspection prior to the meeting.

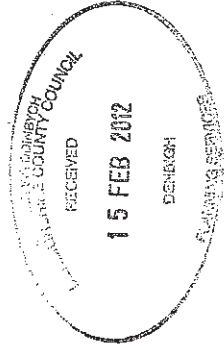
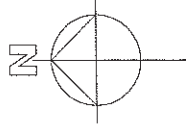


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27 / 2012 / 07111 / P F

Construction Drawings must comply with the Building Regulations. It is the responsibility of the client to ensure that the drawings are submitted in accordance with the necessary procedures and technical standards. Where necessary, a professional engineer or architect must be consulted to ensure that the drawings are in accordance with the necessary procedures and technical standards. The drawings are submitted on the understanding that the client is responsible for ensuring that the drawings are in accordance with the necessary procedures and technical standards. The drawings are submitted on the understanding that the client is responsible for ensuring that the drawings are in accordance with the necessary procedures and technical standards.



A. For Approval For Construction
 B. For Tender
 C. As Built
 D. As Built



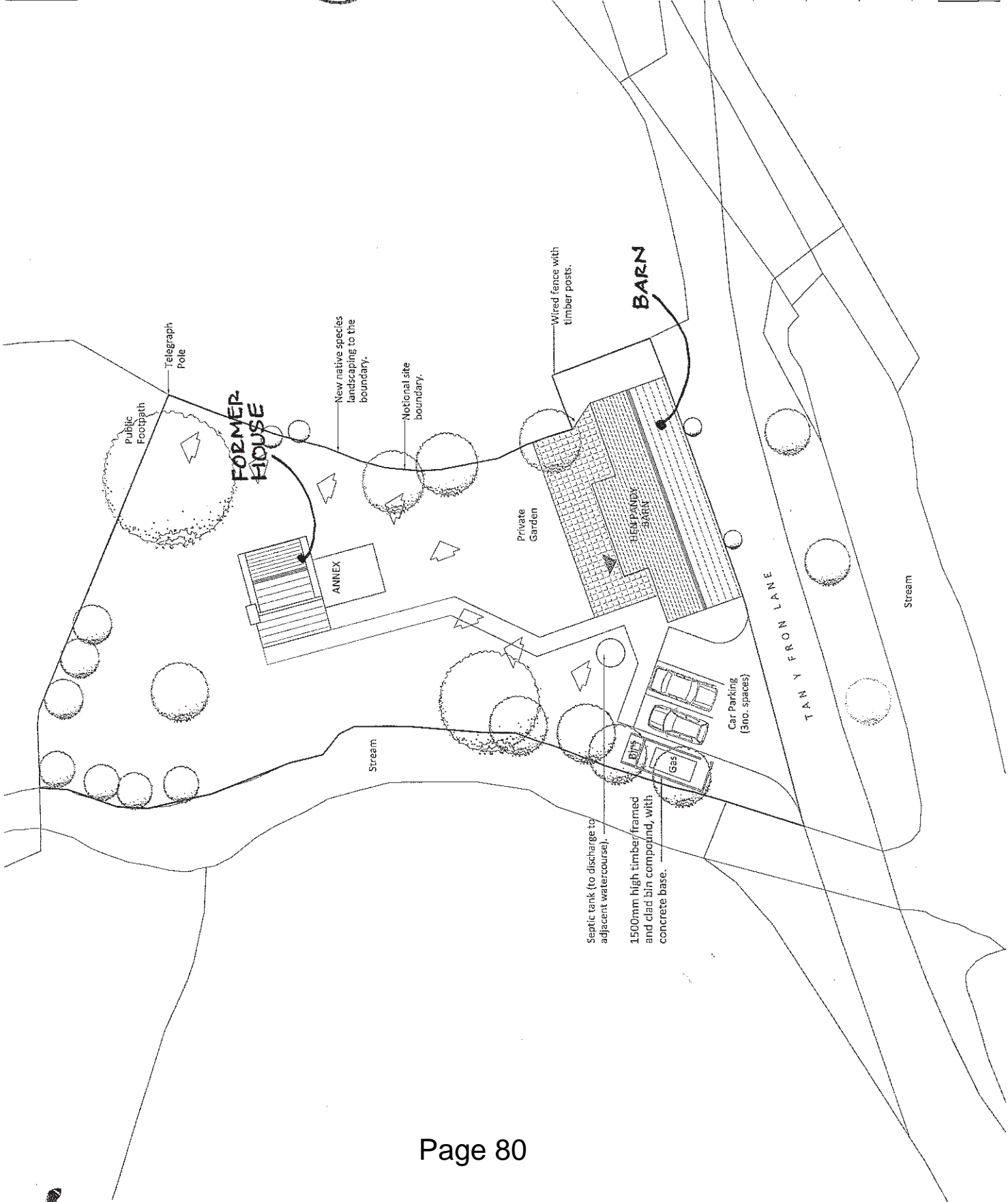
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SITE PLAN

CLIENT: MR & MRS T RHYS HUGHES
 PROJECT: HEN PANDY BARN
 EXTENSIONS & ALTERATIONS
 DRAWING TITLE: PROPOSED SITE PLAN

DATE	11.11	SHEET	01	MARK	DJ	CHECKED	
DRAWN BY	N1436	PROJECT NO.	PR.01	SCALE		REV	A
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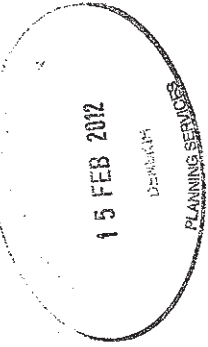


Construction (Design and Management) Regulations

Design team assessments are carried out throughout the design process. As the design develops, the team will identify any areas where the design is likely to be affected by the regulations. The design team will ensure that all areas of the design are covered by the regulations and will ensure that all areas are covered by the regulations and will ensure that all areas are covered by the regulations.

Materials:

- Walls: Natural random rubble stone & paint finished render.
- Roof: Selected second hand natural slate with matching ridge tiles.
- Windows: Stained double glazed timber window units and rooflights.
- Doors: Stained timber doorsets.
- Rainwater Goods: Black UPVC downpipes and gutters.



Received Planning Application from Planning Authority
 15/2/12
 Date
 By: Clerk
 For Approval FOR APPROVAL FOR CONSTRUCTION AS BUILT



lawray architects
 architects

Polly Hovels, 75, The Old School, Walsingham, Norfolk, NR35 7YU
 Tel: 01753 826400
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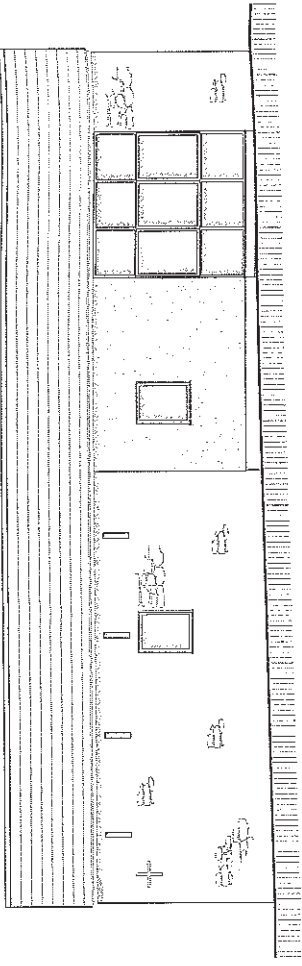
Also at Chelms and London

PROPOSALS FOR BARN

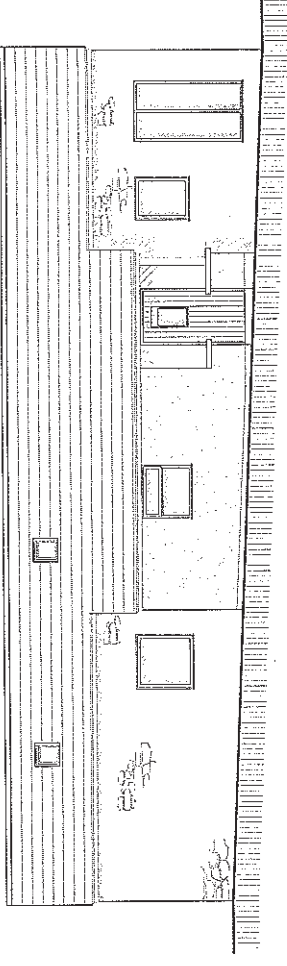
DATE: 11.11.11 SCALE: 1:50

CLIENT: MR & MRS T RHYS HUGHES
PROJECT: HEN PANDY BARN EXTENSIONS & ALTERATIONS
DESCRIPTION: PROPOSED PLAN & ELEVATIONS TO BARN
DRAWING NO: N1436
REF: PR.02
DATE: 11.11.11
BY: [Signature]
FOR: [Signature]

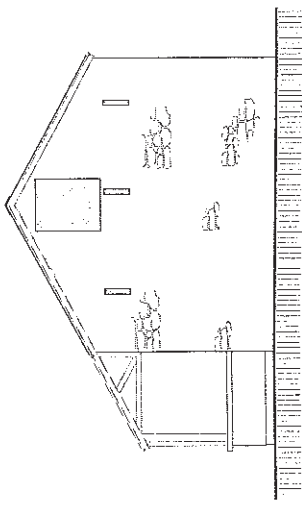
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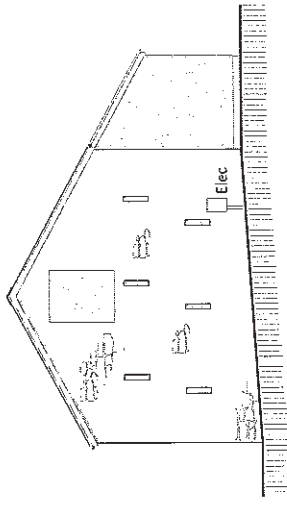
FRONT ELEVATION (SOUTH)



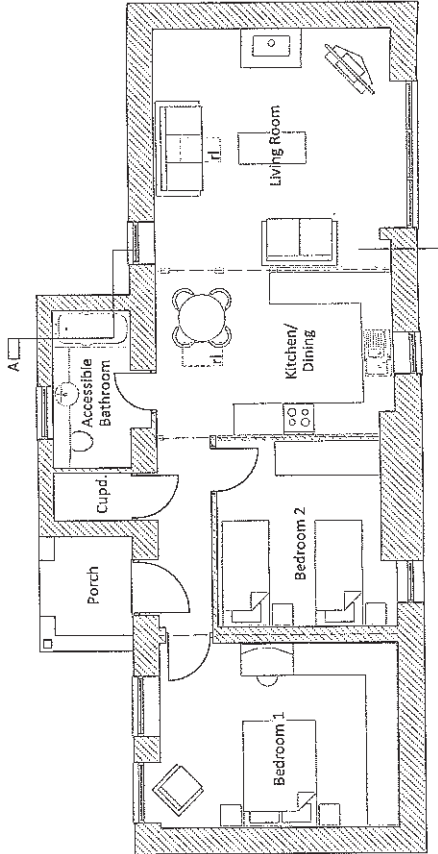
REAR ELEVATION (NORTH)



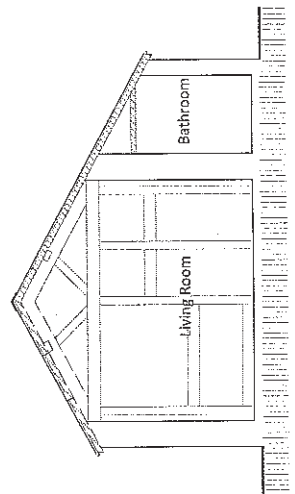
SIDE ELEVATION (WEST)



SIDE ELEVATION (EAST)



PLAN

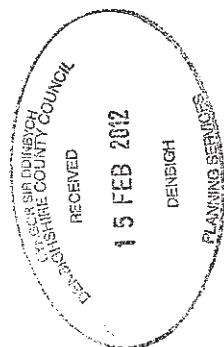


SECTION A-A

Design and construction documents are prepared by Lawry Architects and Associates, Inc. under the supervision of a registered professional architect. The design and construction documents are prepared in accordance with the applicable building codes, regulations, and standards of practice. The design and construction documents are prepared in accordance with the applicable building codes, regulations, and standards of practice. The design and construction documents are prepared in accordance with the applicable building codes, regulations, and standards of practice.

Materials:

- Walls: Natural random rubble stone & paint finished render.
- Roof: Selected second hand natural slate with matching ridge tiles.
- Windows: Stained double glazed timber window units and rooflights.
- Doors: Stained timber doorsets.
- Rainwater Goods: Black UPVC downpipes and gutters.



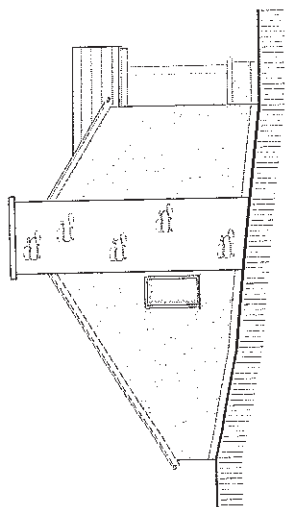
Accepted for Planning Determination Following Authority
 Date: 15 FEB 2012
 By: DMJ
 FOR APPROVAL FOR CONSTRUCTION
 FOR TENDER AS BUILT



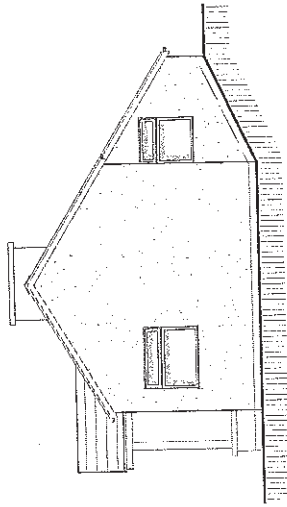
Lawry Architects and Associates
 100 Church Street, Wrexham, LL13 7LJ
 Tel: 01978 371000
 www.lawry.co.uk
 e:info@lawryarchitects.co.uk
 A/R: at Cardiff and London

PROPOSALS FOR FORMER HOUSE

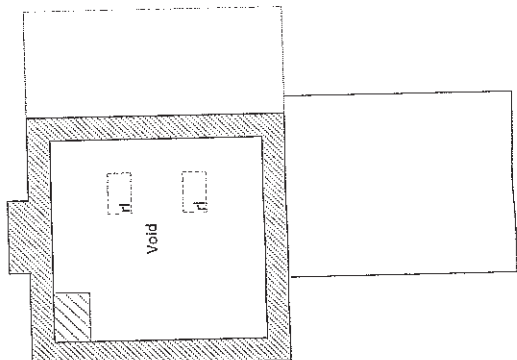
CLIENT: MR & MRS T RHYNS HUGHES
JOB TITLE: HEN PANDY HOUSE EXTENSIONS & ALTERATIONS
DRAWING NO: PR.03
DATE: 11.11
SCALE: 1:50
PROJECT NO: N1437
PROPOSED PLAN & ELEVATIONS TO ANNEX



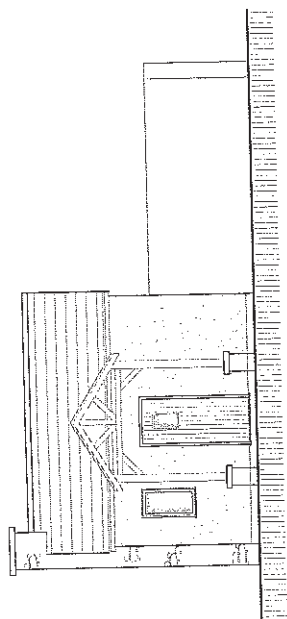
SIDE ELEVATION (NORTH WEST)



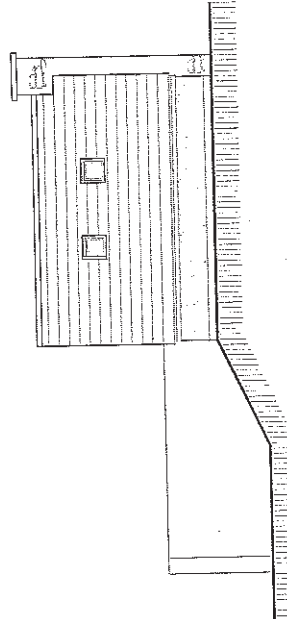
SIDE ELEVATION (SOUTH EAST)



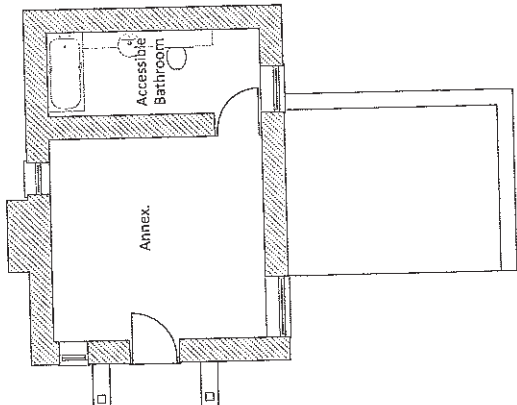
FIRST FLOOR PLAN



FRONT ELEVATION (SOUTH WEST)



REAR ELEVATION (NORTH EAST)



GROUND FLOOR PLAN

ITEM NO: 4

WARD NO: Llangollen

APPLICATION NO: 27/2012/0211/ PF

PROPOSAL: Adaptations to and conversion of existing barn and derelict house to form new dwelling and annex and installation of new septic tank

LOCATION: Hen Pandy Barn Tan y Fron Farm Tan Y Fron Lane Eglwyseg Llangollen

APPLICANT: Mr Rhys Hughes

CONSTRAINTS: C2 Flood Zone
PROW
AONB

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

**REASON(S) APPLICATION REPORTED TO COMMITTEE:
Scheme of Delegation Part 2**

- Application submitted on behalf of County Councillor

CONSULTATION RESPONSES:

LLANTYSILIO COMMUNITY COUNCIL-
"No objection".

COUNTRYSIDE COUNCIL FOR WALES (CCW)-
No objection.

CLWYD POWYS ARCHAEOLOGICAL TRUST-
No objection, subject to the submission of a photo survey for archaeological records.

ENVIRONMENT AGENCY WALES-
No objection, subject to conditions relating to finished floor levels.

DENBIGHSHIRE COUNTY COUNCIL CONSULTEES-
BIODIVERSITY OFFICER-
No objection.

BUILDING CONTROL OFFICER-
Reply awaited at time of drafting report.

HEAD OF HIGHWAYS AND INFRASTRUCTURE-
No objection.

RESPONSE TO PUBLICITY: None

EXPIRY DATE OF APPLICATION: 06/05/2012

REASONS FOR DELAY IN DECISION (where applicable):

- None

PLANNING ASSESSMENT:

1. THE PROPOSAL:

1.1 Summary of proposals

- 1.1.1 The proposal is for the conversion of an outbuilding and a derelict dwelling at Hen Pandy, Tan Y Fron Lane, Eglwysseg.
- 1.1.2 The application proposes the conversion of the outbuilding to a two bedroom dwelling and the conversion of the derelict dwelling 20 metres to the north to a one room annex, with an accessible bathroom.
- 1.1.3 Alterations proposed to facilitate the conversions would be the re-roofing of both buildings, creation of some new openings, and internal remodelling. A small single storey lean-to extension is proposed to be added to the north elevation of the outbuilding to accommodate a porch and wc.
- 1.1.4 It is proposed that the area to the north of the outbuilding would provide amenity space, and parking for the unit would be to the west. Vehicular access is as existing off Tan Y Fron Lane. (See site plan at the front of the report).
- 1.1.5 The application is accompanied by a detailed structural report and design and access statement (DAS), which comments on the adequacy and suitability of the outbuilding for the scheme of conversion. An ecological survey has also been submitted in support of the application.

1.2 Description of site and surroundings

- 1.2.1 Sited on a small former agricultural complex located to the south of Pentredwr, the former outbuilding abuts the road and the derelict house is located to the north of the site.
- 1.2.2 Vehicular access to the site is off a minor road Tan Y Fron Lane which runs east of the A542 south of the Horseshoe Pass. The site is approximately 400 metres off the A road. A public footpath runs through the site.
- 1.2.3 The site is located in a valley, and is bounded to the west by a stream.

1.3 Relevant planning constraints/considerations

- 1.3.1 The site is located in the open countryside, outside of any defined development boundary. The area is within the recently extended Area of Outstanding Natural Beauty.

1.4 Relevant planning history

- 1.4.1 The proposal was originally submitted in late 2011 as two separate planning applications, but was withdrawn to allow for resolution of flood risk issues and resubmitted as one proposal.

1.5 Developments/changes since the original submission

- 1.5.1 Additional ecological information has been sought on the request of Countryside Council for Wales following the initial submission.
- 1.5.2 Additional flood risk information has been sought on the request of the Environment Agency Wales following the initial consultation.

1.6 Other relevant background information

- 1.6.1 The application is being considered by Planning Committee as the applicant is a County Councillor.

2. DETAILS OF PLANNING HISTORY:

2.1 27/2011/0489 Conversion of existing barn into single dwelling with associated external works, formation of vehicular access and installation of new septic tank. Withdrawn 28/07/2011

2.2 27/2011/0490 Change of use, extension to and conversion of barn to form holiday-let unit, construction of new vehicular access and installation of new sewage treatment plant. Withdrawn 28/07/2011.

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 HSG 9 – Residential conversion of rural buildings to dwellings

Policy ENP 6 - Flooding

Policy ENV 2 – Development affecting the AONB/ AOB

Policy ENV 6 – Species Protection

3.2 Supplementary Planning Guidance

Supplementary Planning Guidance Note No. 16 – Conversion of Rural Buildings

3.3 GOVERNMENT GUIDANCE

Planning Policy Wales Edition 4

TAN 15 Development and Floodrisk

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

4.1.4 Highways Safety

4.1.5 Ecological Impact

4.1.6 Floodrisk

4.2 In relation to the main planning considerations:

4.2.1 Principle

Policy GEN 3 relates to development outside development boundaries and states that residential development will not be permitted apart from some exceptions, the most relevant being the conversion and reuse of vacant rural buildings. Policy HSG 9 of the adopted Unitary Development Plan, relates specifically to the residential conversion of rural buildings to dwellings. This policy allows for the conversion of rural buildings where the building is structurally sound and capable of conversion without major or complete reconstruction. SPG 16 provides further advice on these requirements and states amongst other things that buildings should not be so derelict that they could only be brought into use by substantial rebuilding.

In terms of Policy HSG 9 the Design and Access Statement submitted with the application refers to the business use test, (which the Council has resolved not to apply) but it is suggested in any event that the buildings are unsuitable for employment uses. The buildings are considered to be structurally sound and capable of conversion. The conversions will not have an unacceptable impact on the character of the buildings and the character and appearance of the countryside. The site is well contained and has an adequate curtilage with suitable boundary treatment.

4.2.2 Impact on visual amenity

The main policy that refers to scale, landscape and visual impact is GEN 6.

Policy HSG 9 also refers to the character of the buildings and area. As the site is located in the AONB policy ENV 2 is also relevant, and seeks to ensure development does not have an unacceptable impact on the character of the area.

The most notable alteration is the removal of the roofs and their replacement with slate. A small lean-to extension is also proposed to be added to the north elevation of the barn, and an open porch would be added to the annex.

In terms of visual appearance, the proposals will retain the scale and form of the buildings with minimal alterations to facilitate the conversions, which is in line with the general thrust of policy HSG 9. The cumulative impacts of the alterations are not considered excessive; the resulting dwelling would be in keeping with surrounding buildings and not appear out of character in the AONB. It is considered that the sympathetic conversion would preserve the building from further degradation, and that complies with Policy HSG 9.

4.2.3 Residential Amenity

Policy GEN 6 sets specific tests to be applied to amenity of impacts of development. Policy HSG 9 also refers to amenity impacts.

There are no immediate neighbours to the site. Amenity space is proposed for the conversion and the annex is located within this curtilage.

It is considered the proposal would not raise any conflicts with policy in terms of the amenity of existing or proposed occupiers.

4.2.4 Highways

Policy GEN 6 criteria (vii) permits development where it does not have an unacceptable effect on the local highway network.

No alterations are proposed to the existing access points and parking will be provided on site. The public footpath will not be affected and a note can be attached to ensure it is not obstructed when works commence.

Considering the scale of the existing movements connected with the agricultural use, and potential as a result of the conversions, it is considered the proposal would not raise any conflicts with policy.

4.2.5 Ecological impact

Policy ENV 6 seeks to ensure that wildlife and bio-diversity are not negatively affected as a result of development.

A Bat and Bird survey has been submitted with the application. The survey found no evidence of bats or barn owls currently using the outbuildings although the building was considered to have good potential to support bats. Swallows were found to have nested in the building in the past.

In the absence of any protected species it is considered that the ecological impacts of the proposal are acceptable. It is considered prudent however to attach a condition to ensure works are carried out in accordance with the recommendations of the Bat and Bird Survey and a note to applicant to advise that all contractors follow a code of best practice.

4.2.6 Floodrisk

Policy ENP 6 requires that development does not result in an unacceptable risk from flooding. TAN 15 Development and Floodrisk also provides guidance to the Local Planning Authority when dealing with development in flood risk areas.

The site is located in a zone C2 as defined by the development advice maps of TAN 15 Development and Floodrisk. An FCA has been submitted to justify the development and the Environment Agency have considered this and raised no objection subject to the applicant being advised to install flood proofing measures.

Provided that the applicant is advised to install flood proofing measures it is considered the proposals are acceptable in relation to flood risk.

5. SUMMARY AND CONCLUSIONS:

5.1 The proposal is considered acceptable under the terms of the relevant policies therefore recommended for grant.

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

1. The development hereby permitted shall be begun before the expiration of five years from the date of this permission.
2. Prior to the commencement of the development, the written approval of the Local Planning Authority shall be obtained in respect of the proposed new sections of walls and roof materials to be used for the development hereby permitted and no materials other than those approved shall be used. The stone used shall be to match that on the existing building and the roof material shall be blue/ grey slate.
3. No development shall take place until there has been submitted to, and approved in writing by, the Local Planning Authority, a detailed scheme of hard and soft landscaping for the site, and such scheme shall include details of:
 - (a) all existing trees, hedgerows and other vegetation on the land, details of any to be retained, and measures for their protection in the course of development.
 - (b) proposed new trees, hedgerows, shrubs or vegetation, including confirmation of species, numbers, and location and the proposed timing of the planting;
 - (c) proposed materials to be used on the driveway(s), paths and other hard surfaced areas;
 - (d) proposed earthworks, grading and mounding of land and changes in levels, final contours and the relationship of proposed mounding to existing vegetation and surrounding landform;
 - (e) Proposed positions, design, materials and type of boundary treatment.
4. 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.
5. 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.
6. Development shall not begin until an appropriate photographic survey of the existing buildings on the site has been carried out in accordance with details to be submitted to, and approved in writing by the Local Planning Authority. The resulting photographs should be forwarded on a CD or DVD to the Local Planning Authority and the Development Control Archaeologist, Clwyd-Powys Archaeological Trust, 41 Broad Street, Welshpool, Powys, SY21 7RR. Tel. 01938 553670.
7. Notwithstanding the provisions of Classes A, B, C, D and E of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification) no development permitted

by the said Classes shall be carried out without further grant of planning permission of the Local Planning Authority.

8. The development shall be carried out in accordance with the details submitted in the Bat and Bird mitigation reports and drawings.

9. Facilities shall be provided and retained within the site for the parking of vehicles in accordance with the approved plans, and shall be completed prior to the development being brought into use.

10. The annex accommodation shall be used in connection with the converted dwelling only. The annex shall not be used for any trade of business and shall not be used as an independent unit of residential accommodation.

11. Finished floor levels shall be set to a minimum of 143.05m above Ordinance Datum.

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

1. To comply with the provisions of Section 91 of the Town and Country Planning Act 1990.
2. In the interests of visual amenity.
3. To ensure in the interests of visual amenity a satisfactory standard of landscaping in conjunction with the development.
4. To ensure a satisfactory standard of development, in the interests of visual amenity.
5. In order to ensure that trees and hedges to be retained are not damaged by building or engineering works.
6. In the interests of investigation and recording of historic/listed buildings.
7. In the interests of residential and/or visual amenity.
8. In the interest of safeguarding the conservation of protected species.
9. To provide for the parking of vehicles clear of the highway.
10. In the interests of residential amenity.
11. To reduce the risk of flooding to the proposed development.

NOTES TO APPLICANT:

Condition No. 6 of this permission requires the carrying out of a photographic survey. The applicant is expected to pay for and complete the photographic survey. Professional photographers may be used where access to a camera or technical difficulties are encountered but the applicant should be aware that this will significantly increase the cost of the survey.

Photographs should be taken using a digital camera with a minimum resolution of 4 megapixels and preferably 8 megapixels or more.

Photographs should be taken at the highest jpeg resolution setting available on the camera (usually Fine or Super Fine). The saved photographs must be copied onto a good quality branded CD or DVD disk in the jpeg/jpg file format.

Note: Digital photographs presented on normal paper or photographic paper will not be accepted as they are not archivally stable in the long term.

The use of a standard flashgun is recommended indoors to light the interior views.

If available a measured scale should be placed within each but this is not essential.

Photographs should be taken of all exterior and interior wall elevations which are affected by the development together with photographs of interior roof detail where this is altered. Features of particular interest (e.g. obvious differences in wall makeup, windows and doors whether blocked up or not, fireplaces, timber framing, stairwells, cellars) should also be fully photographed.

The applicant should indicate where the views taken are positioned on an architect's floor

plan of the building. Location reference numbers on the plan/s should utilise the digital photo numbers from the camera for cross reference purposes.

The applicant must check the photos at the application site to ensure there are no blurred or poorly lit images. If some images are blurred, please increase the speed at which the exposures are taken (1/125 is a good minimum) and re-take the images. If images are poorly lit please check your flash is working and/or increase the aperture. Setting the camera ISO at 200 or 400 will also allow higher shutter speeds to be used in dimly lit locations.

The photographs should then be sent to: Mark Walters, Development Control Section, Clwyd-Powys Archaeological Trust, 7A Church Street, Welshpool, Powys, SY21 7DL (Tel: 01938 553670). CPAT will confirm receipt of your photographs and inform the planning authority that the condition has been satisfied.

Your attention is drawn to the attached notes:- 'Suggestions for bat friendly features to be incorporated into buildings'.

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CYNGOR
Sir Ddinbych
Denbighshire
COUNTY COUNCIL

Heading:

43/2012/0504/PF
Plot 11, Melyd Avenue
Prestatyn

5

Graham Boase
Head of Planning & Public Protection
Denbighshire County Council
Caledfryn
Smithfield Road
Denbigh
Denbighshire LL16 3RJ



Application Site



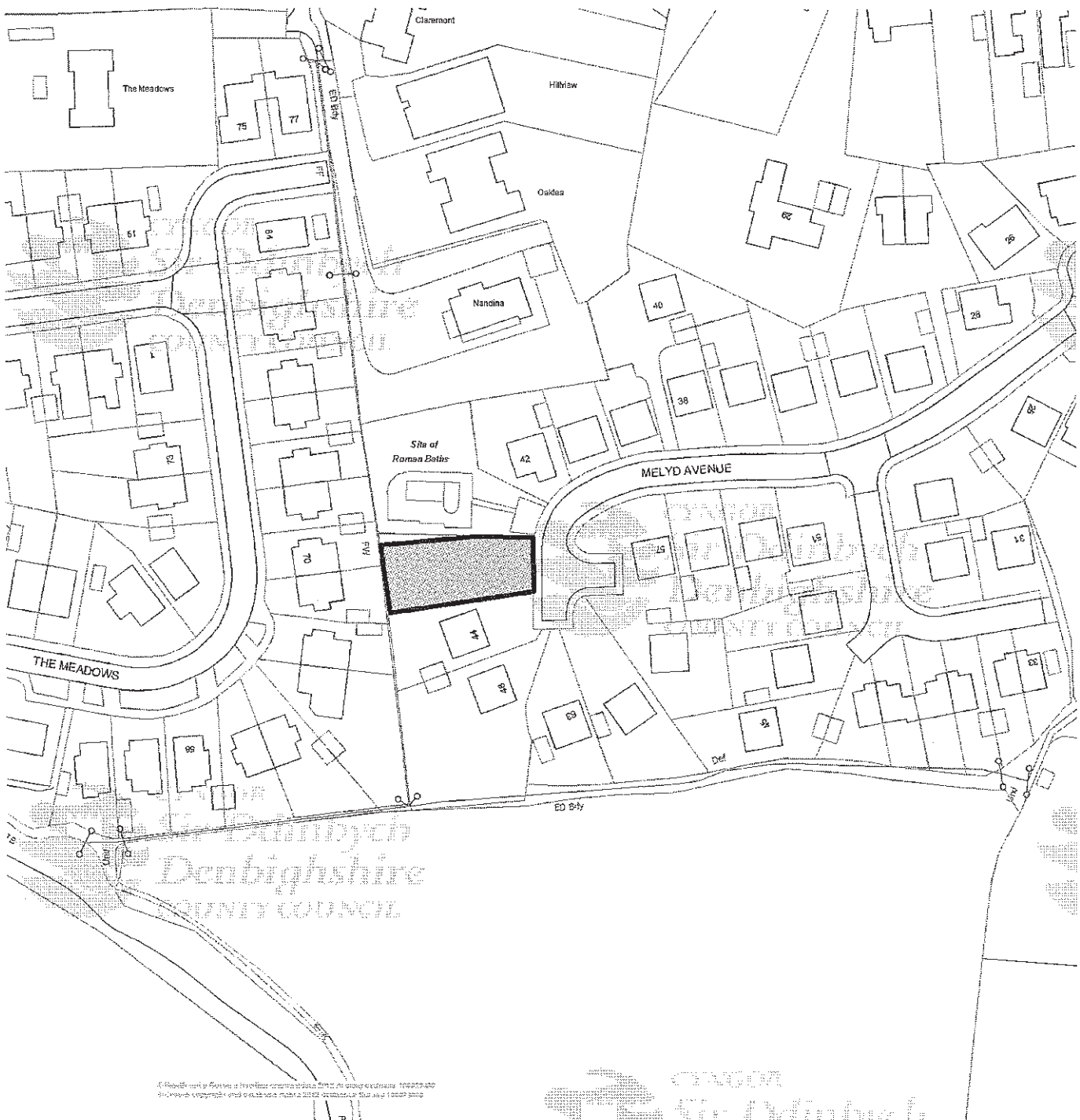
Date 3/7/2012

Scale 1/1250

Centre = 306235 E 381736 N

This plan is intended solely to give an indication of the LOCATION of the application site which forms the subject of the accompanying report. It does not form any part of the application documents, and should not be taken as representative of the proposals to be considered, which are available for inspection prior to the meeting.

Tel: 01824 706800 Fax: 01824 706709

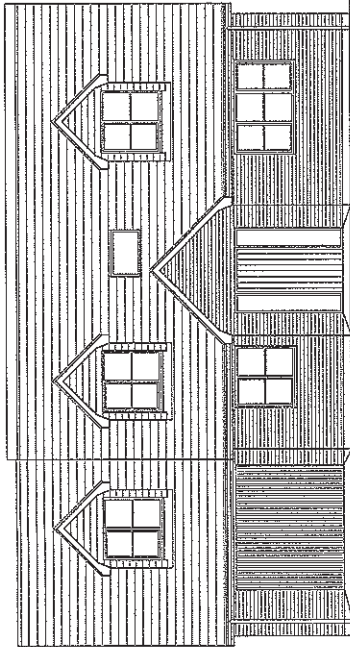


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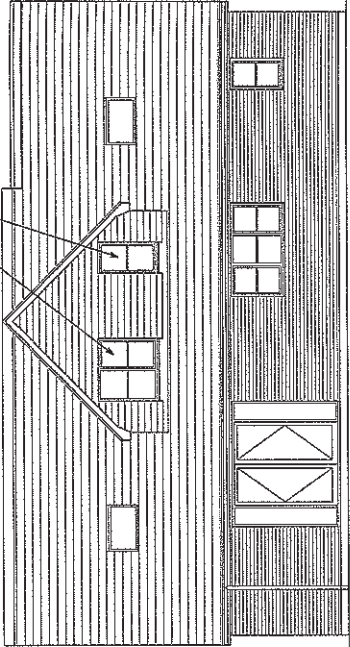
43 / 2012 / 05040 R P

REVISED PLAN

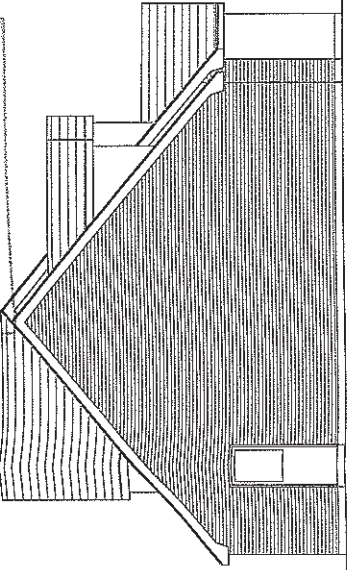
Windows to rear dormer (bedroom and en-suite) to be obscure glass



Front elevation



Rear elevation



Side elevation

Finishes:
 Walling in facing brick to match in colour and texture the adjoining houses.
 Roof:
 masonry dark grey plain concrete tiles to match adjoining houses.
 Soffits and fascias:
 White UPVC
 Doors and windows:
 White UPVC double glazed.
 Rainwater goods:
 White plastic.

PROPOSED FLOOR & ELEVATION PLANS

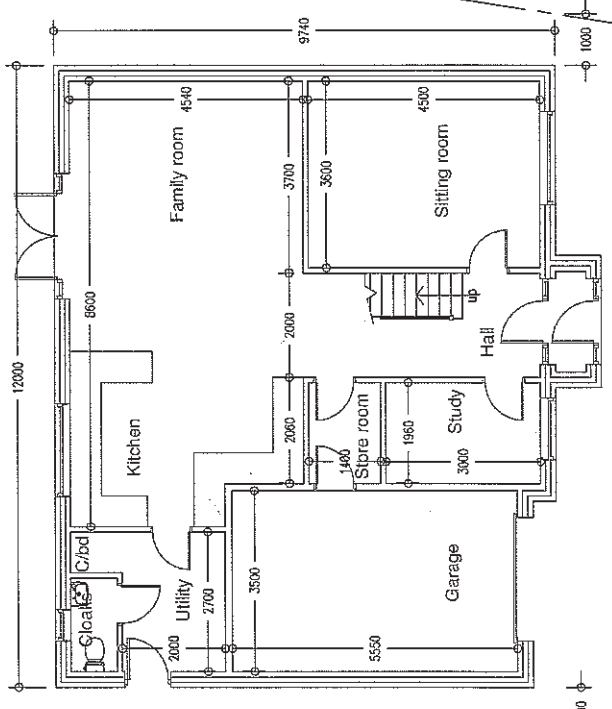
RECEIVED
 31 MAY 2012
 DENBIGH
 PLANNING SERVICES
 DENBIGH COUNTY COUNCIL

A garage set back 450mm
 May 2012

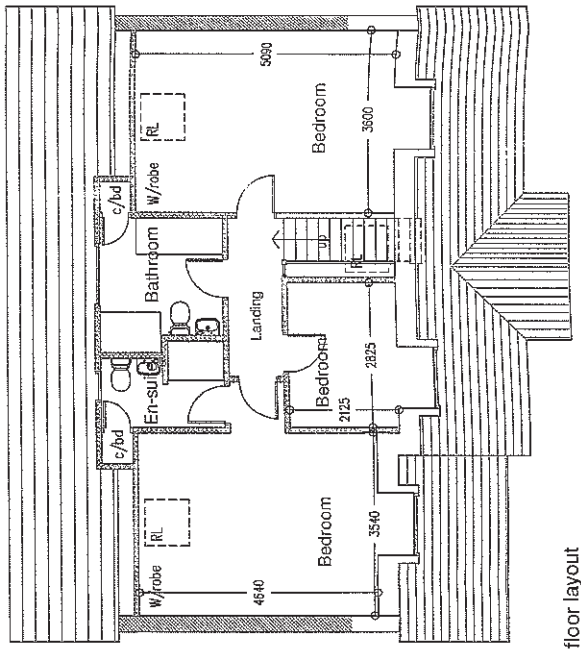
AS PROPOSED

New dwelling
 Plot 11, Melyd Avenue, Prestatyn
 SCALE 1:100 @ A3
 DATE April 2012
 LAWRENCE PARRY ASSOCIATES
 HILL HOUSE, HILLSIDE, PRESTATYN.
 01745 854945
 DRWG. No 3821/03A

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Ground floor layout



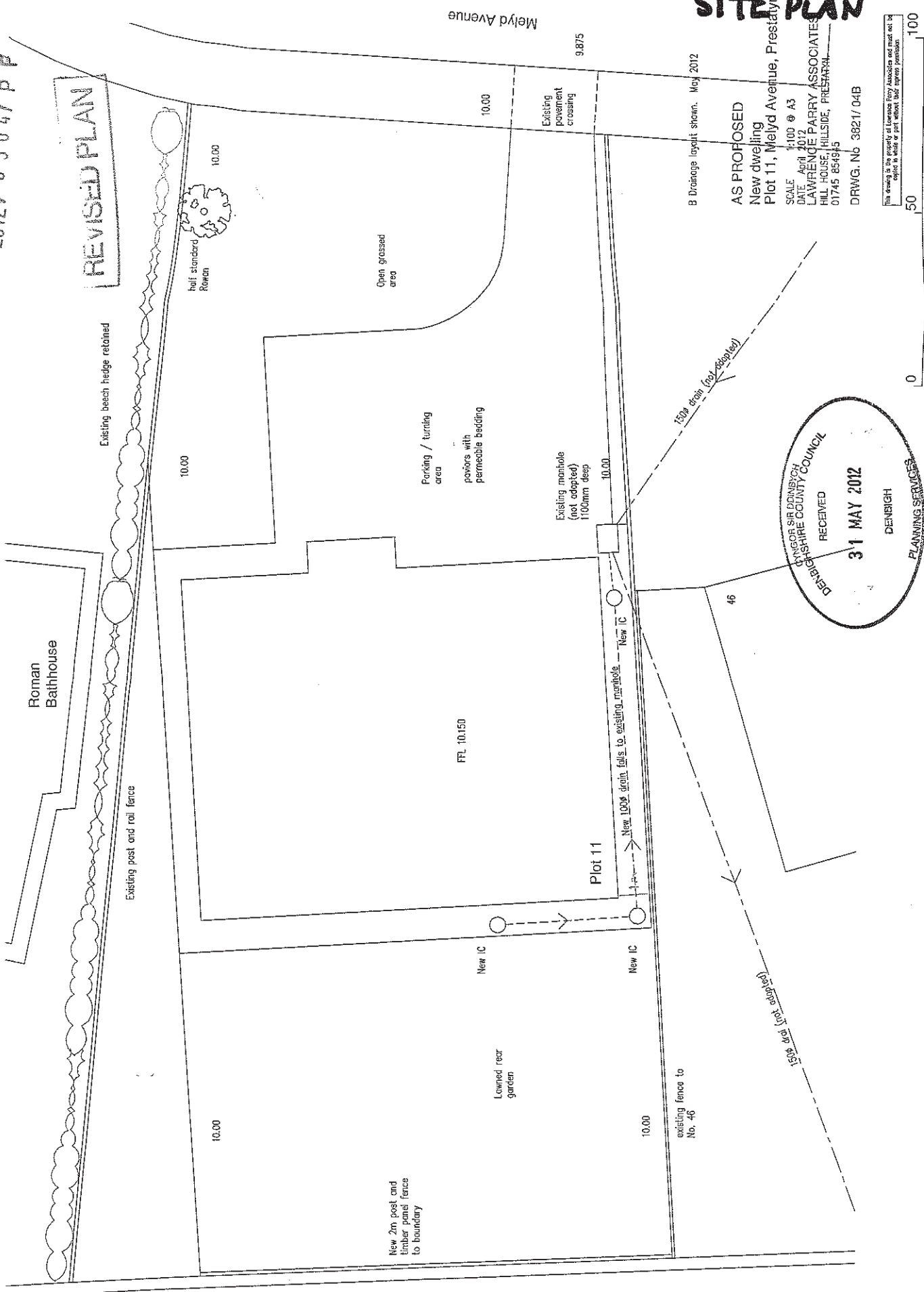
First floor layout

50 100

43/2012/0504/PF

REVISED PLAN

PROPOSED SITE PLAN



B Drainage layout shown. May 2012

AS PROPOSED
New dwelling
Plot 11, Melyd Avenue, Prestatyn.

SCALE 1:100 @ A3
DATE April 2012
LAWRENCE PARRY ASSOCIATES
HILL HOUSE, HILLSIDE, PRESTATYN
01745 854945

DRWG. No 3821/04B

RECEIVED
31 MAY 2012
DENBIGH
PLANNING SERVICES

FOR MR SIR DENBYCH
DENBIGHSHIRE COUNTY COUNCIL

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43/2005/0912/PF


30/08/08 30/08/08

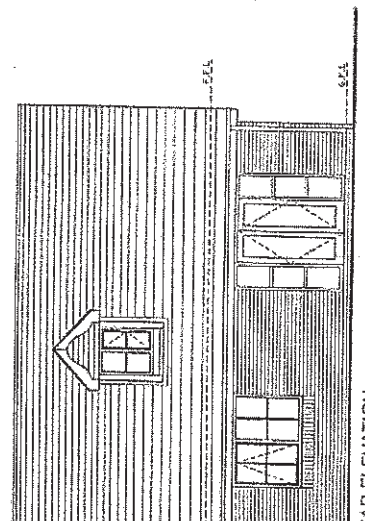
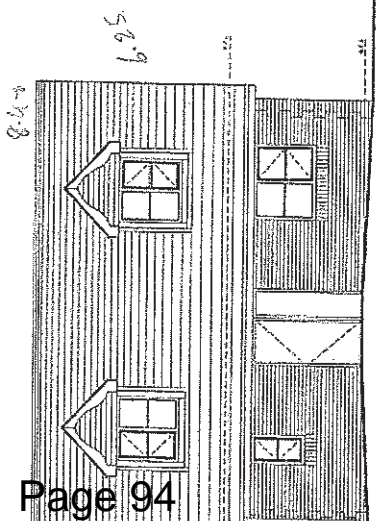
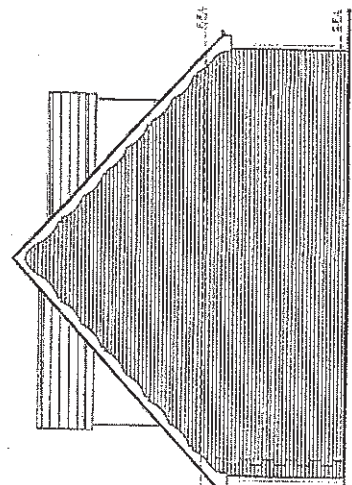
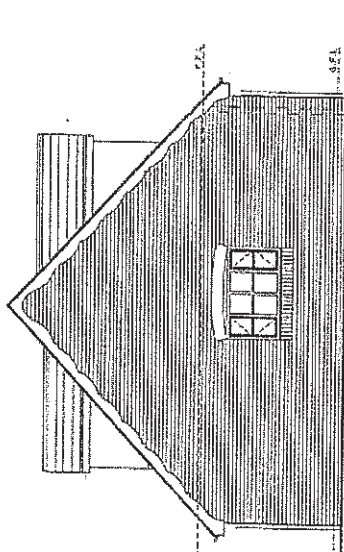
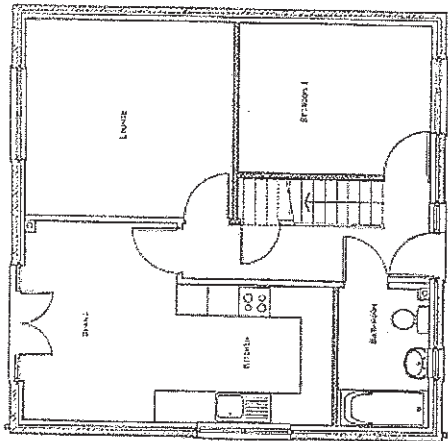
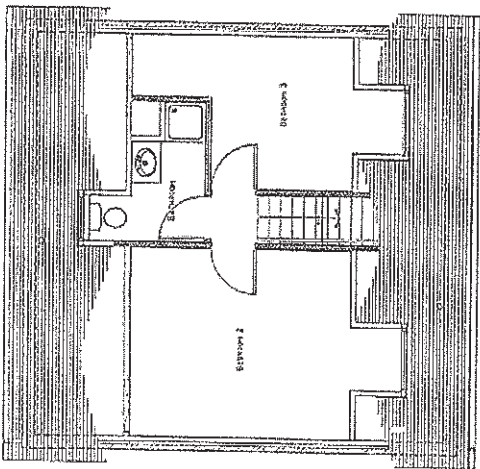
14 JUL 2008

24 MAY 2011
DEVELOPMENT
PLANNING SERVICES

PREVIOUSLY APPROVED DWELLING JULY 2011 - ELEVATIONS & FLOOR PLANS

A3

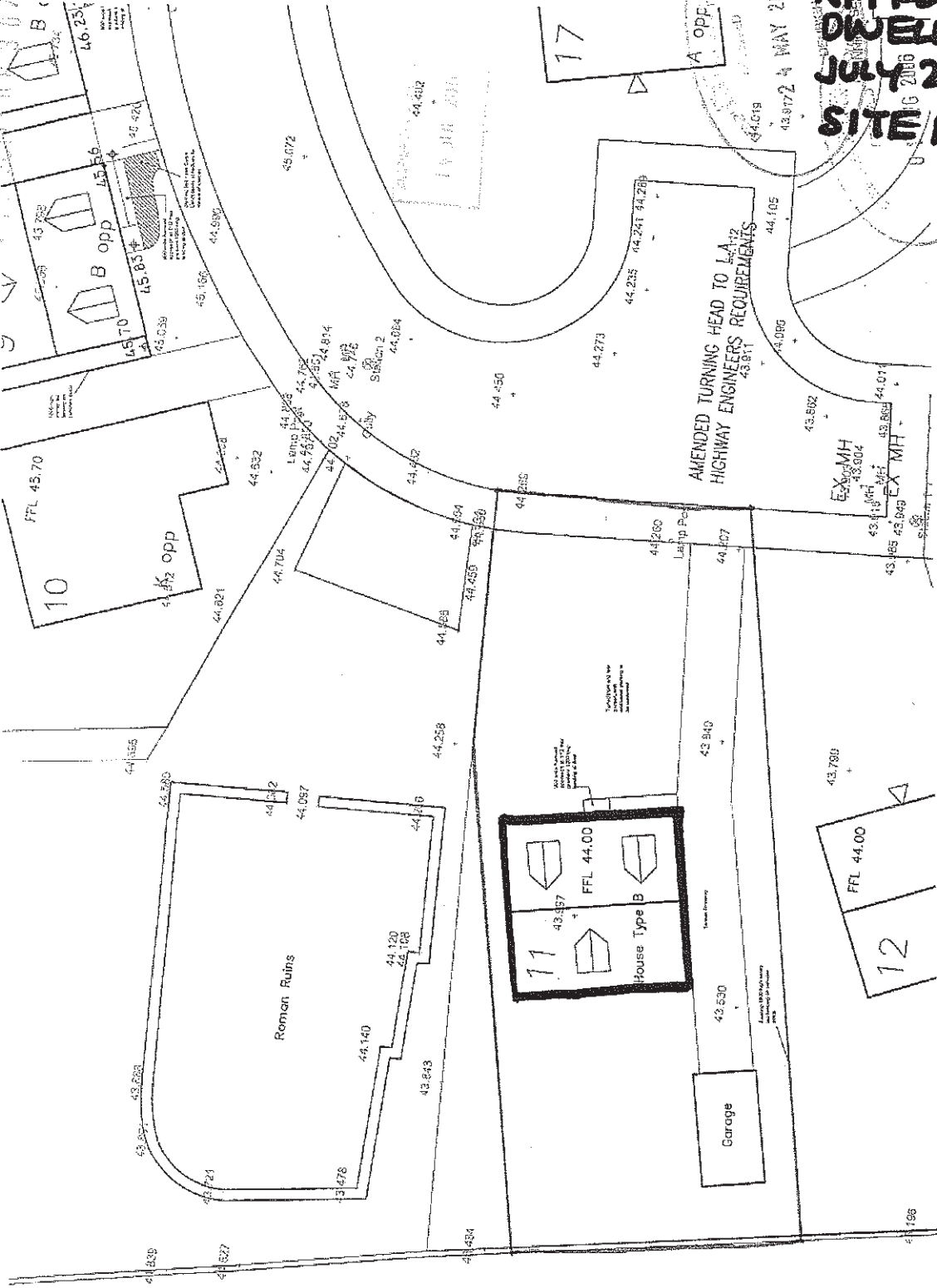
	
Client	HEALEY HOMES LTD
Project	PILOT 11 MELYD AVENUE PRESTATYN
Drawn	PLANS AND ELEVATIONS
Checked by	VS07-11A
Issue	01
Date	01 JUL 2011
Scale	1:100
Drawn	CH/AG/DA
Checked	VS
Project	01



3 3 2003 / 09 12 2006

PREVIOUSLY APPROVED DWELLING JULY 2011 SITE PLAN

A3



APL	
Client	HEALEY HOMES LTD
Drawing No	W807 - 115
Revision	Revision
Date	MAY 2006
Scale	1:200 @ A3
Drawn	JR
Checked	
Contract	PLOT 11
Drawn	MELYD AVENUE PRESTATYN
Checked	SITE LAYOUT

CERTIFY BUILDINGS STAFFORDS PARISH COUNCIL MANCHESTER M3 2DD TEL: 0161 214 4370 FAX: 0161 214 4371 e-mail: MANCHESTER@COUNCIL.CER

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ITEM NO: 5

WARD NO: Prestatyn Central

APPLICATION NO: 43/2012/0504/ PF

PROPOSAL: Erection of a detached dwelling

LOCATION: Plot 11 Melyd Avenue Prestatyn

APPLICANT: Mr & Mrs Darren Hickman

CONSTRAINTS: Scheduled Ancient Monument
B Flood Zone

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

REASON(S) APPLICATION REPORTED TO COMMITTEE:

Scheme of Delegation Part 2

- Recommendation to grant – 4 or more objections received
- Recommendation to grant – Town / Community Council objection

CONSULTATION RESPONSES:

PRESTATYN TOWN COUNCIL

“Committee would reiterate its previous unanimous objection:-

Committee was informed of past history associated with the site that adjoins a nationally recognised Roman Bathhouse. A number of residents has also submitted objections and a petition to Denbighshire County Council Planning Authority.

The current proposals are out of scale and keeping with surrounding property due to significant size.

There are concerns over adequacy of infrastructure including mains sewerage system. The plot should remain as public open space due to the limited provision in this area. It is hoped that the site can be utilised to enhance and support the adjoining open Roman Bathhouse site.

CLWYD POWYS ARCHAEOLOGICAL TRUST

No objection, subject to condition for watching brief.

ENVIRONMENT AGENCY WALES

No objection.

WELSH WATER / DWR CYRMU

No objection.

DENBIGHSHIRE COUNTY COUNCIL CONSULTEES

COUNTY ARCHAEOLOGIST

No objection.

HEAD OF HIGHWAYS AND INFRASTRUCTURE

No objection, subject to condition requiring the completion of parking spaces within plot.

RESPONSE TO PUBLICITY:

In objection

Representations received from:

Ms. E. Wares, 46, Melyd Avenue, Prestatyn

G.W. & J.Evans, 70, The Meadows, Prestatyn

M. & A. Lynch, 44, Melyd Avenue, Prestatyn

G.& M.E. Davies, 42, Melyd Avenue, Prestatyn

Petition containing 27 signatures submitted by M Lynch, 44 Melyd Avenue, Prestatyn

Summary of planning based representations:

Visual amenity- Scale and design of dwelling out of keeping with surrounding dwellings/ previous consent was sympathetic/inappropriate dormer and garage features.

Archaeology- Implications of development on adjacent Roman Bathhouse site.

Amenity- overbearing impact on adjacent occupiers.

EXPIRY DATE OF APPLICATION: 19/06/2012

REASONS FOR DELAY IN DECISION (where applicable):

- 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 application seeks full planning permission for the erection of a dwelling on Plot 11 Melyd Avenue, Prestatyn.
- 1.1.2 A dormer bungalow with integral garage is proposed to be sited centrally on the plot with an amenity area to the west (rear). Access is proposed on the eastern side of the site as existing. Parking is proposed to the eastern side of the dwelling. (See the plan at the front of the report).
- 1.1.3 The dwelling would comprise of three bedrooms and living accommodation. Materials proposed are facing brick, tiled roof, and upvc windows, doors and rainwater goods.
- 1.1.4 The site plans show the existing boundary treatments on the north and south side of the site to be retained. A 2 metre panel fence would be the preferred boundary treatment to the rear.
- 1.1.5 The application submission includes the following documents:
 - Design and Access Statement (DAS) which refers to the site context and constraints, accessibility, character, community safety and environmental sustainability.
 - Information on how this proposal aims to achieve Code Level 3 of the Code for Sustainable Homes.

1.2 Description of site and surroundings

- 1.2.1 The site is located in a primarily residential area, at the western end of the cul de sac of Melyd Avenue.
- 1.2.2 The Melyd Avenue residential development comprises of bungalows, dormer features within roof areas and two storey dwellings.
- 1.2.3 The application site is bounded to the north by the Roman Baths and to the south by a dormer bungalow (number 44 Melyd Avenue). The dwellings to the west are bungalows on The Meadows.

1.2.4 It is a relatively flat site, the adjacent dwellings are on the same level and the dwellings to the south are sited at a slightly lower level.

1.3 Relevant planning constraints/considerations

1.3.1 The site is located within the development boundary of Prestatyn. A Roman Bathhouse, which is a Scheduled Ancient Monument is located to the north of the site.

1.4 Relevant planning history

1.4.1 Full planning permission for the development of one dwelling on this site was granted by Planning Committee in November 2006. A subsequent application was made to renew this planning permission in 2011 and granted under delegated powers. The permitted dwelling is a similar design to the neighbouring dwelling to the south.

1.5 Developments/changes since the original submission

1.5.1 The design of the dwelling has been amended to take account concerns of the objectors in terms of scale and mass. The dwelling has also been re-sited to take into account the existence of a drain crossing the site.

1.6 Other relevant background information

1.6.1 None.

2. DETAILS OF PLANNING HISTORY:

2.1 2/PRE/392/78 Residential Development – Granted 11th June 1980.

2.2 43/2006/981/PC Erection of 8 no. dwellings (amendments to dwelling design) Granted 30th October 2003.

2.3 43/2003/1389/PF Erection of 19 dwellings (amendments to house types) and construction of a balancing pond. Granted 26 March 2003.

2.4 43/2006/912 Erection of dwelling on Plot 11. Granted 08/11/2006 Decision made by Planning Committee.

2.5 43/2011/0630/ PF Erection of detached dwelling and garage (renewal of planning permission code no. 43/2006/0912) Granted 14/07/2011 Decision made under Delegated Powers.

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 HSG 2 Housing Development in Main Centres
Policy TRA 6 Impact of New Development on Traffic Flows
Policy TRA 9 Parking and Servicing Provision
Policy CON 11 Areas of Archaeological Importance

3.2 SUPPLEMENTARY PLANNING GUIDANCE

SPG 21 Parking provision in new developments
SPG 26 Residential Space standards

3.3 GOVERNMENT GUIDANCE

Planning Policy Wales Edition 4
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 Visual and landscape impact
- 4.1.3 Amenity impact
- 4.1.4 Highway safety impact
- 4.1.5 Archaeology
- 4.1.6 Sustainable buildings

4.2 In relation to the main planning considerations:

4.2.1 Principle

The principle of residential development on the plot accords with Policy GEN 1, as the site is located within the development boundary of Prestatyn, where the principle of residential development is acceptable. The planning history is also relevant as the site has had the benefit of outline planning permission granted on appeal in 2006 and 2011, under the same planning policy framework.

Policy GEN 6 must be applied to assess the detailed impacts of this full planning application, and the detailed issues are considered under these policies as set out below

4.2.2 Impact on visual amenity

Policy GEN 6 contains general considerations to be given to the visual impacts of new development.

A dormer bungalow is proposed, with a brick finish and tiled roof. Three small dormer windows are proposed to the front and one with two windows to the rear. On the cul de sac immediately south and east of the proposed dwelling there are four identical dwellings, there is a mix of dwelling styles and types in the wider residential area.

In Officers opinion whilst fully respecting the basis of the objections raised, the nature of surrounding development and similarity of the design and detailing to that of existing dwellings means a dormer bungalow can be accommodated on the site without detriment to the visual amenity of the area. As mentioned above there are similar dwellings to the south and east, this plot is on the west side and is south of the Roman Bathhouse. The dwelling can therefore be considered to 'round off' the bungalow development. Furthermore the dwelling to the north of Bathhouse is a bungalow with an attached conservatory. It is considered that there are no sound planning reasons to insist the dwelling be identical to the surrounding dwellings or to resist the proposed design.

It is not considered the proposal would conflict with tests of GEN 6 relating to visual amenity.

4.2.3 Impact on residential amenity

Policy GEN 6 sets specific tests to be applied to amenity impacts of development.

The proposed dwelling would be 3.6 metres wider and 0.25 metres higher than the originally approved dwelling. The plans show that the dwelling can be accommodated on the site with adequate amenity space, and parking/turning. Windows are proposed on the front and rear elevations. There is screening proposed on the rear boundary with a minimal height of 2 metres, and it is intended to retain the existing boundary treatment on the side boundaries.

As the application proposes a dormer bungalow, which would be sited centrally on the plot, where there is adequate separation and boundary screening, it is considered that the proposal would not result in a significant loss of amenity for adjacent occupiers by virtue of loss of light or overlooking. The rear dormer contains two bathroom windows, which would be obscure glazed and have limited outlook, which would not result in overlooking of the dwellings to the rear.

It is not considered the proposal would conflict with GEN 6 criteria relating to residential amenity.

4.2.4 Impact on highways safety

Policy GEN 6 and TRA 6 and TRA 9 require consideration of access and highway safety issues.

The proposal includes off road parking to the east of the site, and the dwelling would utilise an existing pavement crossing. Highways Officers have raised no objection to the proposal subject to the inclusion of planning conditions to control the retention of the parking area.

It is not considered there are policy conflicts relating to access and highway safety. The proposal complies with Policy GEN 6, Policy TRA 6 and Policy TRA 9.

4.2.5 Archaeology

Policy CON 11 requires consideration of the archaeological impacts of development prior to a decision being made.

Owing to the location of the site adjacent to the Roman Bathhouse, there may be potential for the site to have some archaeological significance. The site was subject to an archaeological pre-determination evaluation in 2006 and no significant finds were discovered. CPAT have requested a condition be attached to any permission to evaluate the archaeological significance of the site prior to the commencement of development.

It is considered that attaching a condition to any consent to allow a programme of archaeological work would ensure that the archaeological interests are adequately covered.

4.2.6 Sustainable buildings

Planning Policy Wales requires that all new dwellings meet Code Level 3 of the Code for Sustainable Homes and achieve at least 1 credit under ENE 1.

A full Code for Sustainable Homes Assessment has been submitted with the planning application which demonstrates the Code requirements can be met. The proposal is actually set to achieve Code Level 3 and achieve 1 credit under ENE 1.

It is considered the information provided demonstrates that the proposal could meet the relevant sustainable buildings policy requirement.

4.2.7 Other matters

The Town Council have raised points relating to the preferred use of the land, but Officers would respectfully advise that this is not a relevant consideration. The site has had the benefit of planning permission for residential development, and the 2011 permission is still capable of implementation.

5. SUMMARY AND CONCLUSIONS:

5.1 The proposal is considered acceptable under the relevant policies and therefore recommended for grant.

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

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

2. **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.

3. 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 occupation of the dwelling 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.

4. **PRE-COMMENCEMENT CONDITION**

Prior to the commencement of the development, the written approval of the Local Planning Authority shall be obtained in respect of the wall, roof, rainwater goods and windows to be used for the development hereby permitted and no materials other than those approved shall be used.

5. No development shall take place within the application area until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted to the applicant and approved in writing by the local planning authority. The archaeological work will be undertaken to the standards laid down by the Institute for Archaeologists. On completion of site work and any post-excavation analysis a report on the investigation will be submitted for approval to the Local Planning Authority and the Development Control Archaeologist, Clwyd-Powys Archaeological Trust, 41 Broad Street, Welshpool, Powys, SY21 7RR. tel: 01938 553670.

6. Construction of the 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 1 credit under 'Ene1 - Dwelling Emission Rate', has been achieved for the dwelling in accordance with the requirements of the Code for Sustainable Homes: Technical Guide 22 November 2010.

7. The dwelling hereby permitted shall be constructed to achieve a minimum Code for Sustainable Homes Level 3 and achieve a minimum of 1 credit under category 'Ene1- Dwelling Emission Rate' in accordance with the requirements of the Code for Sustainable Homes: Technical Guide 22 November 2010. The development shall be carried out entirely in accordance with the approved assessment and certification.

8. Prior to the occupation of the 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 1 credit under 'Ene1 - Dwelling Emission Rate', has been achieved for that dwelling in accordance with the requirements of the Code for Sustainable Homes: Technical Guide 22 November 2010.

9. **PRE-COMMENCEMENT CONDITION**

The access shall be laid out in accordance with the approved plan and completed to the satisfaction of the Local Planning Authority before any works commence on site.

10. Facilities shall be provided and retained within the site for the loading/ unloading, parking and turning facilities 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 ensure in the interests of visual amenity a satisfactory standard of landscaping in conjunction with the development.
3. To ensure a satisfactory standard of development, in the interests of visual amenity.
4. In the interests of visual amenity.
5. In the interests of investigation and recording of historic/listed buildings.
6. To comply with the provisions of TAN 22: Planning for Sustainable Buildings.
7. To comply with the provisions of TAN 22: Planning for Sustainable Buildings.
8. To comply with the provisions of TAN 22: Planning for Sustainable Buildings.
9. In the interest of the free and safe movement of traffic on the adjacent highway and to ensure the formation of a safe and satisfactory access.
10. 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:

None

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REPORT BY THE HEAD OF PLANNING, REGENERATION AND REGULATORY SERVICES

OUTCOME OF PLANNING APPEAL

MODIFICATION OF SECTION 106 OBLIGATION RELATING TO THE PROVISION OF AFFORDABLE HOUSING, INVOLVING PAYMENT OF A COMMUTED SUM TOTAL OF £115,400

MAES Y CASTELL, ABBEY ROAD, RHUDDLAN, LL18 5RJ

APPLICATION 44/2011/0508/OB

1 PURPOSE OF REPORT

- 1.1 This report relates to the outcome of a planning appeal which was decided at an Informal Hearing on 6 March 2012. The appeal was dismissed and the claim for costs made by the appellant was also dismissed.
- 1.2 This report provides Members with the feedback on the decision taken on the appeal, along with comments on the primary issues raised by the case.

2 BACKGROUND

- 2.1 The appeal arose from the decision taken by the Planning Committee in September 2011 to refuse the application which sought to modify an existing Section 106 Agreement by the replacement of the agreed affordable housing provision of 10 on-site apartments with a commuted sum payment of £115,400. The Section 106 Agreement relates to a planning permission for 38 dwellings which was granted by the Council in January 2006 and required the provision of 10 affordable units in the form of apartments within a single block. Although the development was commenced in February 2006, only 17 of the 38 dwellings (45%) have been constructed. The trigger point within the Section 106 Agreement for the provision of the affordable units is when 70% of units have been constructed.
- 2.2 The application sought to change the approach to the provision of affordable housing in connection with the development from the construction of 10 units on-site to a financial contribution to the Council of £115,400 to facilitate off-site provision. Negotiations were held with

the applicants and the figure of £115,400 referred to in the description of development was calculated by a sum of £28,850 for 4 off-site affordable units.

- 2.3 As Members may recall, the application was first presented to the Planning Committee in July 2011 recommended to be granted by Officers, but was deferred from this committee to allow for further analysis. The application was then debated by the September 2011 Planning Committee with the Officer recommendation remaining to grant and endorsed by a Counsel opinion which had been obtained, but was refused for the following reason:

'In the opinion of the Local Planning Authority, the modification sought would be contrary to the aims of the Council's Affordable Housing Policy guidelines in its Unitary Development Plan (HSG 10) and its Supplementary Planning Guidance Note 22 – Affordable Housing in New Developments, which seek the provision of affordable housing units within a development site unless there is evidence to justify an alternative approach. In this case the Council do not consider the case is made to either justify the option of payment of a commuted sum in lieu of on site provision, or to the sum forming the subject of the modification based on a level of provision below the 10 units originally proposed as part of the development.'

3 PLANNING POLICIES AND GUIDANCE

- 3.1 In respect of local planning policies, the key UDP policy referred to by the Council during the appeal was Policy HSG 10 along with SPG 22, and Members will be aware that Paragraph 5.1 of SPG 22 states that unless there is evidence to the contrary a 30% on-site provision will normally be sought. In the case of the appeal proposal, a total of 10 units out of the 38 granted equates to a 26% provision which was marginally below the 30% target figure due to the manner in which the provision was proposed i.e. within a single block of 10 apartments.
- 3.2 Paragraph 5.5 of SPG 22 allows for alternative off-site provision where it can be shown that: on-site provision is unfeasible; off-site provision would be better to meet the overall local housing needs; or when planning, housing or regeneration objectives would be better served by off-site provision. Paragraph 5.6 of SPG 22 sets out factors to consider where and when off-site provision may be acceptable, one of which is where it has been demonstrated that the application site has serious problems regarding its economic viability without affordable housing and that with affordable housing the development is economically unviable. It was this aspect that the appellants sought to focus on during the discussions with officers during the determination of the application, and also placed great emphasis on during the appeal hearing.
- 3.3 In terms of national guidance published by the Assembly, the appellants utilised the WAG Practice Guidance (2008) and Guidance Update (2009) on the subject of delivering affordable housing using Section 106 Agreements. In particular, Section 4 of the 2009 guidance update relates to

circumstances in which adverse viability is an issue and was therefore of the most relevance to the issue given that the appellants were basing their case on the changes in market conditions since the original Section 106 Agreement in 2006. The Council's case at the hearing when upholding the reason for refusal was that whilst the Council had taken full account of the 2008 and 2009 guidance, it did not believe that the scheme is unviable with the original on-site provision of 10 units out of the 38 dwellings allowed.

4 PRINCIPAL ISSUES FOR THE APPEAL HEARING

4.1 In essence, the appellants based their case on the changes to market and economic conditions since the original 2006 consent which they believed meant that the valuation figure for the sales of apartments had declined significantly and that the demand of apartments had also fallen with the focus shifting to providing houses. The appellants provided evidence via their appointed valuation consultant that the original expected figure of £120,000 per apartment sale had fallen to between £95,000 and £100,000. This meant that the overall developer's profit would fall from the expected 20% level down to 13% and as such the development of the remainder of the site in the form granted was no longer economically viable and the sum of £115,400 towards off-site provision was the only way in which the development could be completed. (NB: It should also be noted that the appellants sought to reduce this figure down to £75,400 on the basis of falling sales values but this was not accepted by the Inspector as it was not stated in the description of the proposed development.)

4.2 The crux of the Council's case was that the market value of apartments put forward by the appellants was too low and evidence was presented by the valuation consultant appointed by the Council to show that recent purchases of comparable apartments in the locality had taken place at values of between £118,000 and £135,000, the highest of which was achieved at the adjacent flat development of Abbey Court in Rhuddlan. The Council also suggested that the developer's profit figure of 20% sought by the appellants was too high for the current market conditions and that the 13% figure which was put forward in the appellant's own evidence demonstrated that the scheme remained viable irrespective of their 'desired' figure of 20%. It was also argued that the recent sales of apartments demonstrated that a market for this form of accommodation still existed. The Council also argued that the potential for an alternative form of on-site provision had not been explored.

5 THE INSPECTOR'S DECISION

5.1 The Inspector adjudged that the main issue for the case was whether the original Section 106 Agreement continued to serve a useful purpose and, if so, whether that purpose would still be served by the proposed modification sought by the appellants.

- 5.2 The Inspector assessed that on the basis of the evidence put forward that if the scheme was completed as originally granted permission then the development as a whole would yield a profit of between 13% (£583,822) as put forward by the appellants and 20% (£783,822) as put forward by the Council based on their respective valuations of the sales values for the apartments. Accordingly, the Inspector concluded that such a profit would still be comparable with, or indeed better than, the level of profitability enjoyed by some sectors of the economy and therefore the development remained economically viable with the 10 affordable units being delivered on-site as originally required by the Section 106 Agreement.
- 5.3 The Inspector also commented that the provision of affordable housing should be subsidised from the profit resulting from the whole development and not just a part of it. This was a reflection of the manner in which the appellants had sought to argue the case relating solely to the viability of the apartments, rather than paying sufficient regard to the values of the property sales across the site which included their own figures showing house sales of up to £475,000 for the larger detached houses. The Council stated in the hearing that such values were at the peak of the property market before the decline but must be included in the calculations for the overall site viability and the Inspector paid due regard to this in his decision.
- 5.4 In respect of the form of affordable units, i.e. as apartments, the Inspector noted that there may be limited open market demand for this type of accommodation and this may lead to the need to seek a modification of the planning permission in respect of the revision of the apartments to another form of accommodation, but he noted that the appellants had not even considered this possibility. Even if the form of provision were to change, the Inspector concluded that he saw no reason why this could not still include an element of affordable housing as required.
- 5.5 The appellants suggested during the hearing that if the appeal were dismissed then they would abandon the remainder of the development. The Inspector's response in his decision to this was that such a stated intent did not outweigh the strong policy presumption in favour of on-site provision given his previous conclusion that the development remained economically viable with the provision as originally required by the Section 106 Agreement.
- 5.6 The Inspector also noted the reference made by the appellants that the dismissal of the appeal could result in the development of The Orchards site being postponed as a knock-on effect, but adjudged that the development of this other site in Rhuddlan had no bearing on the subject appeal as the two sites were not linked in any way.
- 5.7 On one further point, the Inspector noted the appellants' reference to the Counsel's opinion on the matter which had been obtained by the Council between the July 2011 and September 2011 Planning Committees that suggested that a refusal of consent could not be upheld at an appeal. However, the Inspector correctly stated that this opinion was provided at a time when there was a lack of proper professional evidence to support the reason for refusal and that had the evidence

produced by the appointed consultants at the hearing been available to Counsel then the advice could well have been quite different.

5.8 As an overall conclusion, the Inspector was not convinced of the need for affordable housing in the form of apartments in Rhuddlan but adjudged that the Section 106 Agreement continued to serve a useful purpose in terms of requiring the appellants to provide affordable housing at the site. The Inspector dismissed the proposition that the commuted sum offered as an alternative could serve the purpose of providing affordable housing equally well as the required on-site provision.

5.9 On the matter of costs, at the hearing the appellants submitted an application for their costs to be awarded based on the unreasonable behaviour of the Council in the form of the Planning Committee whose Members were perceived as disregarding their own officer's recommendation to grant consent and the Counsel opinion obtained which endorsed this recommendation. In assessing this claim, the Inspector acknowledged the points raised by the appellants but stated that for costs to be awarded it must be shown that the Council have not presented evidence to substantiate the reason for refusal in the appeal proceedings. Given that the Council was able to produce relevant and compelling evidence to support the case, the Inspector concluded that the application for costs was dismissed as no unreasonable behaviour had occurred at the appeal.

6 ISSUES ARISING FROM THE APPEAL

6.1 It is considered that the following primary issues are worthy of note and consideration for future such proposals as this, given that the appeal decision was seen as something of a landmark case which could have opened up a number of long-standing Section 106 Agreements for debate if the appeal had been allowed.

Form of On-Site Provision

6.2 Overall, the Inspector decided that whilst the provision of 10 affordable apartments at the site was perhaps not ideal in respect of the form of accommodation given the current market demand and the identified need for more houses, he concluded that the substitution of such on-site provision in the form of a commuted sum was not the way forward. Indeed, he noted very clearly that the appellants had not sought to review any alternative form of on-site provision in place of the approved apartments.

6.3 For example, based upon the appellant's own build cost figures as put forward for the appeal, a two-bedroom town house would be cheaper to build than a two-bedroom apartment and these would have a market value at least equal to that of apartments if not better. It is therefore considered that the lack of such exploration of an alternative solution such as smaller houses either in terraced or semi-detached form was a matter which should have been fully analysed by

the appellants before proceeding to an appeal given that a solution may have been found which was agreeable to both the developer and the Council.

Off-Site Commuted Sum

6.4 Planning policies at both a local level and at national level allow for the use of a commuted sum payment towards off-site provision in place of on-site provision only where extenuating circumstances can be proven to exist, and indeed the officer recommendation to grant permission for the subject application was based on this premise. However, the Inspector concluded for this case that on-site provision remained entirely achievable, albeit perhaps in an alternative form, and as such the acceptability of an off-site commuted sum must be seen as the last possible course of action once all alternatives for on-site provision have been exhausted.

6.5 It is therefore too simplistic for the appellants to have suggested that the drastic reduction in the level of provision down from 10 units to only 4 units and the provision of this via an off-site commuted sum was the only way forward as not all possibilities had been explored to evaluate whether on-site provision can be achieved in a different form of accommodation, if indeed it can be shown that the market dictates that apartments are not suitable.

Level of Developer's Profit

6.6 Developer's profit reflects the risk inherent in any development scheme and it is not the role of the Council to grant or amend a planning permission on the basis that the permission seeks to improve or maximise the developer's profit. If, as in the appeal case, the market should move during a development period it also does not fall upon the Council to override the policy and guidance with the sole aim of maintaining a certain level of profit for the developer. The Inspector was very clear on this point that the level of profit for the scheme was substantial and better than many other market sectors at the current time irrespective of whether a figure of 20% or 13% was achieved. The assessment of the matter of developer's profit is therefore not a matter in which the Council should become embroiled, with the more important issue being whether a scheme remains economically viable with the affordable housing provision on the site.

Piecemeal Consideration

6.7 In this case the appellants sought to establish that because of a downturn in the market and property values that this development was no longer viable. In particular, the appellants suggested that the affordable housing element of the development made the scheme unviable but much of their evidence was based on the cost of the land for the apartments along with the cost of building the apartment blocks and their end sales values. The principle for affordable housing provision is set out very clearly in both the relevant policy and the SPG that the policy applies to the whole site rather than any piecemeal part of it and as such the provision of the affordable housing should be subsidised from the profit from the whole scheme, i.e. both houses and apartments, when judging the viability of the site. Given the substantial sums received for the

detached houses, the profit from the whole site clearly shows that the provision of affordable units on-site remains economically viable as stated by the Inspector.

Market Values

- 6.8 The Inspector accepted in his decision that he could not categorically conclude whether the values of comparable apartment units put forward by the appellant at around £95,000 or by the Council at around £125,000 was correct. However, he could reasonably conclude that the true value was somewhere within this range and at either end of the range the development remained economically viable be it with a developer's profit of 20% or at 13% or somewhere in between. As such, it is considered that the Council need not become engaged in any elongated debate about specific valuations of comparable properties but should rather focus on the overall economic viability of a scheme which includes affordable provision. For this case, the Inspector was more than satisfied that the development of the site was economically viable irrespective of the final end values of the units.

Abandonment

- 6.9 The appellant's warning that the remainder of the site would not be developed if the appeal were dismissed, as made repeatedly during the appeal hearing, was rebutted by the Inspector in his decision as a matter which did not carry sufficient weight given the failure of the appellants to adequately investigate any alternative forms of on-site provision. Accordingly, such a suggestion should be given little credence for any future site considerations.

7 CONCLUSION

- 7.1 There were a number of factors for consideration relating to what was a complex appeal hearing including issues relating to valuation, piecemeal development, alternative forms of provision, level of profit, abandonment, current economic conditions, and planning policies. However, what became very clear throughout the process and as concluded by the Inspector was that the manner in which the supporting information was presented by the appellants was somewhat selective as it sought to focus on the worst possible scenario for property values and lack of demand for apartments as well as reviewing the development of the apartments via a piecemeal approach which failed to take full account of the level of profit made by the scheme as a whole. It is therefore perhaps not surprising that the original recommendation for the application and the Counsel opinion suggested that the proposed amendment to the Section 106 Agreement was acceptable given the circumstances put forward by the appellants.

- 7.2 However, once the case presented by the appellants was scrutinised in-depth by the independent valuation and planning consultants it was evident that the matter was far from clear and that a compelling argument could be made that the Section 106 Agreement should remain unmodified and that the affordable housing requirement on-site remained economically viable. This is borne

out by the decision to dismiss the appeal and the conclusions set out in the decision letter by the Inspector.

- 7.3 In terms of a way forward for scrutinising any further such proposals it is suggested that the Council may wish to investigate the potential of utilising an independent specialised consultant to provide a view on any financial evidence put forward, perhaps on a similar basis to that offered by ACAS for worker's dwellings proposals for a fixed fee payable by the applicant. One other possibility may be to review the potential for an officer with a valuation/planning background to be responsible for dealing with new and/or proposals to vary Section 106 Agreements given that such legal agreements are becoming ever more common for a variety of matters. The use of a specialised officer may prove very worthwhile as such expertise would potentially avoid appeals. It may also be feasible for such an officer to create a template for a detailed financial appraisal to include the areas which need to be covered in order to avoid any ambiguity in future cases.