

To: Members of the Planning Committee    Date: 5 May 2015  
Direct Dial: 01824 712568  
e-mail: dcc\_admin@denbighshire.gov.uk

Dear Councillor

You are invited to attend a meeting of the **PLANNING COMMITTEE** to be held at **9.30 am** on **WEDNESDAY, 13 MAY 2015** in the **COUNCIL CHAMBER, COUNTY HALL, RUTHIN.**

Yours sincerely

G Williams  
Head of Legal and Democratic Services

## **AGENDA**

### **1 APOLOGIES**

### **2 DECLARATIONS OF INTEREST (Pages 9 - 10)**

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

### **3 APPOINTMENT OF CHAIR**

To appoint a Chair of the Planning Committee for the 2015/16 municipal year.

### **4 APPOINTMENT OF VICE CHAIR**

To appoint a Vice Chair of the Planning Committee for the 2015/16 municipal year.

### **5 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.

### **6 MINUTES (Pages 11 - 16)**

To confirm the accuracy of the minutes of the Planning Committee meeting held on 15 April 2015 (copy attached).

## **APPLICATIONS FOR PERMISSION FOR DEVELOPMENT (ITEMS 7 - 9) -**

### **7 APPLICATION NO. 03/2015/0340/PS - BERWYN WORKS, BERWYN STREET, LLANGOLLEN (Pages 17 - 30)**

To consider an application for removal of conditions imposed on planning permission 03/2012/1407/PS for food store development at Berwyn Works, Berwyn Street, Llangollen (copy attached).

### **8 APPLICATION NO. 43/2015/0220/PF - LAND AT 1 BOSWORTH GROVE, PRESTATYN (Pages 31 - 42)**

To consider an application for erection of detached garage (partly in retrospect) at land at 1 Bosworth Grove, Prestatyn (copy attached).

### **9 APPLICATION NO. 45/2015/0316/PF - 23 LYNTON WALK, RHYL (Pages 43 - 56)**

To consider an application for erection of single storey and two storey extensions to rear at 23 Lynton Walk, Rhyl (copy attached).

### **10 PLANNING ENFORCEMENT REPORT - GOLYGFA, LLWYN Y RHOS, LLANRHAEADR, DENBIGH (Pages 57 - 62)**

To consider a planning enforcement report regarding an infringement relating to fencing in excess of the permitted development limit at Golygfa, Llwyn y Rhos, Llanrhaeadr (copy attached).

### **11 RE-USE AND ADAPTATION OF RURAL BUILDINGS SUPPLEMENTARY PLANNING GUIDANCE - ADOPTION (Pages 63 - 92)**

To consider a report recommending adoption of the final Supplementary Planning Guidance on Re-use and Adaptation of Rural Buildings as amended, for use in the determination of planning applications (copy attached).

## **MEMBERSHIP**

### **Councillors**

Ian Armstrong  
Raymond Bartley  
Joan Butterfield  
Jeanette Chamberlain-Jones  
Bill Cowie  
Ann Davies  
Meirick Davies  
Richard Davies

Win Mullen-James  
Bob Murray  
Peter Owen  
Dewi Owens  
Merfyn Parry  
Paul Penlington  
Pete Prendergast  
Arwel Roberts

Stuart Davies  
Peter Evans  
Huw Hilditch-Roberts  
Rhys Hughes  
Alice Jones  
Pat Jones  
Barry Mellor

David Simmons  
Bill Tasker  
Julian Thompson-Hill  
Joe Welch  
Cefyn Williams  
Cheryl Williams  
Huw Williams

**COPIES TO:**

All Councillors for information  
Press and Libraries  
Town and Community Councils

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## **WELCOME TO DENBIGHSHIRE COUNTY COUNCIL'S PLANNING COMMITTEE**

### **HOW THE MEETING WILL BE CONDUCTED**

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 matters relevant to the meeting.

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 may 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 at the start of a debate on an item to constitute quorum and to allow a 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 location and basis of the proposal, the relevant local Members for the area, and the Officer recommendation.

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 for deferral, before any public speaking or debate on that item.

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. The Chair will remind speakers they have a maximum of 3 minutes to address the Committee. Public speaking is subject to a separate protocol.

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

Prior to any debate, the Chair may invite Officers to provide a brief introduction to an item where this is considered to be worthwhile in view of the nature of the application.

There are display screens in the Council Chamber which are used to show photographs, or plans submitted with applications. The photographs are taken by Officers to give Members a general impression of a site and its surroundings, and are not intended to present a case for or against a proposal.

The Chair will announce that the item is open for debate and offer Members opportunity to speak and to make propositions on the item.

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/they wish to do so.

Members are normally limited to a maximum of five minutes speaking time, 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.

Prior to proceeding to the vote, the Chair will invite or seek clarification of propositions and seconders for propositions for or against the Officer recommendation, or any other resolutions including amendments to propositions. Where a proposition is made contrary to the Officer recommendation, the Chair will seek clarification of the planning reason (s) for that proposition, in order that this may be recorded in the Minutes of the meeting. The Chair may request comment from the Legal and Planning Officer on the validity of the stated reason(s).

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. If necessary, further clarification may be sought of amendments, new or additional conditions and reasons for refusal, 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 and Officers will clarify the procedure to be followed. The names of each voting Member will be called out and each Member will announce whether their vote is to grant, to refuse, or to abstain. Officers will announce the outcome of the vote on the item.

If a vote is to proceed in the normal manner via the electronic voting system, the Chair will ask Officers to set up the voting screen(s) in the Chamber, and when requested, Members must record their votes by pressing the appropriate button (see following sheet).

Members have 10 seconds to record their votes once the voting screen is displayed, unless advised otherwise by Officers.

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

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

Where the formal resolution of the Committee is contrary to Officer recommendation, the Chair will request Members to agree the process through which planning conditions or reasons for refusal are to be drafted, in order to release the Decision Certificate (e.g. delegating authority to the Planning Officer, to the Planning Officer in liaison with Local Members, or by referral back to Planning Committee for ratification).

# PLANNING COMMITTEE

## VOTING PROCEDURE

Members are reminded of the procedure when casting their vote. 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

<b>+</b>	To <b>GRANT</b> Planning Permission
<b>-</b>	To <b>REFUSE</b> Planning Permission
<b>0</b>	to <b>ABSTAIN</b> from voting

Or in the case of Enforcement items:

<b>+</b>	To <b>AUTHORISE</b> Enforcement Action
<b>-</b>	To <b>REFUSE TO AUTHORISE</b> Enforcement Action
<b>0</b>	to <b>ABSTAIN</b> from voting

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## LOCAL GOVERNMENT ACT 2000

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### Code of Conduct for Members

### DISCLOSURE AND REGISTRATION OF INTERESTS

I, *(name)*

a \*member/co-opted member of  
*(\*please delete as appropriate)*

**Denbighshire County Council**

**CONFIRM** that I have declared a \***personal / personal and prejudicial** interest not previously declared in accordance with the provisions of Part III of the Council's Code of Conduct for Members, in respect of the following:-  
*(\*please delete as appropriate)*

Date of Disclosure:

Committee *(please specify)*:

Agenda Item No.

Subject Matter:

Nature of Interest:

*(See the note below)\**

Signed

Date

\*Note: Please provide sufficient detail e.g. 'I am the owner of land adjacent to the application for planning permission made by Mr Jones', or 'My husband / wife is an employee of the company which has made an application for financial assistance'.

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## PLANNING COMMITTEE

Minutes of a meeting of the Planning Committee held in the Council Chamber, County Hall, Ruthin on Wednesday, 15 April 2015 at 9.30 am.

### PRESENT

Councillors Ian Armstrong, Raymond Bartley (Chair), Joan Butterfield, Jeanette Chamberlain-Jones, Ann Davies, Meirick Davies, Richard Davies, Stuart Davies, Peter Evans, Huw Hilditch-Roberts, Rhys Hughes, Alice Jones, Pat Jones, Barry Mellor, Win Mullen-James, Bob Murray, Peter Owen, Merfyn Parry, Paul Penlington, Pete Prendergast, Arwel Roberts, David Simmons, David Smith, Bill Tasker, Joe Welch, Cefyn Williams, Cheryl Williams and Huw Williams

Councillor David Smith, Lead Member for Public Realm attended for agenda items 7 – 9.

### ALSO PRESENT

Head of Planning and Public Protection (GB); Principal Solicitor – Planning and Highways (SC); Development Management Manager (PM); Planning Officer (DR); Planning & Public Protection Policy Manager (AL); Senior Planning Officer (LG) and Committee Administrator (KEJ)

#### 1 APOLOGIES

Councillors Bill Cowie, Dewi Owens and Julian Thompson-Hill

The Chair welcomed Councillor Pete Prendergast to his first meeting of the Planning Committee. Councillor Prendergast was to replace the late Councillor McCarroll on the committee following completion of the necessary training.

#### 2 DECLARATIONS OF INTEREST

No declaration of personal or prejudicial interest had been raised.

Councillor Cefyn Williams questioned the practice of issuing declaration of interest forms at every meeting and the Chair agreed to take the matter up with officers.

#### 3 URGENT MATTERS AS AGREED BY THE CHAIR

No urgent matters had been raised.

#### 4 MINUTES

The minutes of the Planning Committee's meeting held on 18 March 2015 were submitted.

**RESOLVED** that the minutes of the meeting held on 18 March 2015 be approved as a correct record.

## **APPLICATIONS FOR PERMISSION FOR DEVELOPMENT (ITEMS 5 & 6) -**

Applications received requiring determination by the committee were submitted together with associated documentation. Reference was also made to late supplementary information (blue sheets) received since publication of the agenda which related to particular reports.

### **5 APPLICATION NO. 01/2014/0063/PF - 3A, 3, 5 LENTEN POOL, DENBIGH**

An application was submitted for conversion and alterations to existing dwellings and commercial unit to a Class C2 Residential Care Home at 3A, 3 and 5 Lenten Pool, Denbigh.

#### **Public Speakers –**

Mr. D. Lewis (**For**) – spoke in favour of the application citing positive benefits to the mental health needs of individual residents and fostering independent living.

**General Debate** – The Chair reported that Councillor Colin Hughes (Local Member) supported the officer recommendation to grant. Officers responded to questions advising that existing use was two Class C3 dwelling units and one A1 retail unit. The scheme had not yet been registered but the Care and Social Services Inspectorate Wales considered the number of flats submitted generally acceptable.

**Proposal** – Councillor Win Mullen-James proposed the officer recommendations to grant, seconded by Councillor Richard Davies.

#### **VOTE:**

GRANT – 25

REFUSE – 0

ABSTAIN – 0

**RESOLVED** that permission be **GRANTED** in accordance with officer recommendations as detailed within the report.

### **6 APPLICATION NO. 10/2014/1168/PFT - HAFOTTY WEN, CORWEN**

A report was submitted seeking approval of suggested planning conditions to be attached to the Certificate of Decision for planning in respect of the erection of a single wind turbine of up to 250kw output, maximum blade tip height 48cm, and associated development comprising construction of access track, hardstanding, borrow pit, grid connection and switchroom at Hafotty Wen, Corwen. Conditional planning permission had been granted by the committee in March 2015.

**General Debate** – Planning officers believed the draft conditions as detailed within the report to be reasonable and necessary in relation to the application and covered standard matters relevant to wind turbine applications, including noise. Councillor Stuart Davies referred to the electricity control cables and queried the distance to

the substation. Officers advised they had no detail of the grid connection element which would be subject to separate consent.

**Proposal** – Councillor Stuart Davies proposed the officer recommendations, seconded by Councillor Win Mullen-James.

**VOTE:**

FOR – 25

AGAINST – 0

ABSTAIN – 0

**RESOLVED** that the conditions and notes to the applicant as set out in section 3 of the report be approved for inclusion on the Certificate of Decision for planning application 10/2014/1168.

**7 ADVERTISEMENTS SUPPLEMENTARY PLANNING GUIDANCE - ADOPTION OF FINAL DOCUMENT**

Councillor David Smith, Lead Member for Public Realm introduced the report recommending adoption of the final Supplementary Planning Guidance (SPG) on Advertisements for use in the determination of planning applications. He provided some context to the report and explained the different stages in the process before final adoption of SPG documents by the Planning Committee.

Members were reminded that the report had been deferred by the committee in March 2015 pending feedback from Communities Scrutiny Committee. The consultation exercise had resulted in minor changes as highlighted in the final SPG document which included reference to the work of the Highways department and improvements to the layout. Recommendations from Communities Scrutiny Committee had also resulted in minor amendments, including deletion of Appendix C in order to prevent confusion between planning and highways guidance in relation to unauthorised signs on highway land.

Members discussed with officers the regulation of particular activities and whether they constituted planning or highway matters requiring consent or enforcement including problems associated with the siting of 'A' boards, flyposting and forecourt trading. The need for a consistent approach to those issues was also highlighted. Officers emphasised the purpose of the SPG document to provide guidance on the types of advertisements requiring consent. Issues of concern raised by members including obstruction, highway/pedestrian safety and displaying of goods would need to be dealt with separately and officers agreed to liaise with highway and planning colleagues on particular issues in that regard. Each case would need to be assessed on its own merits and officers were keen to work with businesses concerned to reach a positive outcome. Councillor Huw Hilditch-Roberts, Chair of Communities Scrutiny Committee reported that the policy relating to the removal of unauthorised signs from highway land had been subject to scrutiny. Outcomes included an amendment to the policy guidance to incorporate the involvement of local members in the process together with an enforcement flow chart designed to improve consistency. Once finalised the flow chart could be shared with members.

Councillor Meirick Davies asked that a more appropriate word be used for the Welsh translation of 'fascia' in the Welsh SPG document.

**Proposal** – Councillor Meirick Davies proposed the officer recommendations as detailed within the report, seconded by Councillor Cefyn Williams.

**VOTE:**

FOR – 25

ABSTAIN – 0

AGAINST – 0

**RESOLVED** that members adopt the final Supplementary Planning Guidance on Advertisements for use in the determination of planning applications (as detailed in Appendix A to the report).

## **8 HOT FOOD TAKEAWAYS SUPPLEMENTARY PLANNING GUIDANCE - ADOPTION OF FINAL DOCUMENT**

The Planning & Public Protection Policy Manager submitted a report recommending adoption of the final Supplementary Planning Guidance (SPG) on Hot Food Takeaways for use in the determination of planning applications. Following a request from Councillor Cefyn Williams officers agreed that a more appropriate word be used for the Welsh translation 'takeaway' in the Welsh SPG document.

A twelve week consultation had been carried out and a summary of the four representations received together with the Council's response had been included as an appendix to the report. No changes had been proposed to the draft SPG as a result of the responses received. It was clarified that applications for restaurants/cafes with a takeaway element would need to be considered on their own merits taking into account the operational split between 'eat in' and 'take out'.

Members considered the report and merits of the draft SPG document. Concerns were raised regarding the proposal to introduce a 400 metre restriction on hot-food takeaways near schools, particularly as a number of schools were located close to town centres, and it was acknowledged that schools had their own policies on whether to allow pupils to leave the school grounds during lunchtime. Councillors Rhys Hughes and Stuart Davies did not support that element of the proposal in light of the potential detrimental impact on Llangollen and the local business economy and those concerns were shared by Councillor Huw Hilditch-Roberts about Ruthin. Officers clarified that that the SPG was not a policy document but provided guidance and advised that each case would be treated on its own merits and there may be circumstances where this measure was not appropriate. The reasoning behind the proposed restriction to help tackle the problem of childhood obesity was also reiterated. However members felt the proposal was too restrictive on both new and existing businesses which may wish to diversify and contrary to the message that Denbighshire was open for business. They also considered the proposal would stifle healthy competition between businesses and remove individuals' right to choose. During further debate there was a general consensus that the proposed restriction on new hot food takeaways should be removed from the SPG document.

**Proposal** – Councillor Win Mullen-James proposed, seconded by Councillor Rhys Hughes, that paragraph 5.2 relating to the 400 metre restriction near schools be removed from the SPG document.

**VOTE:**

FOR (REMOVAL) – 25

AGAINST (REMOVAL) – 1

ABSTAIN – 0

The committee then voted on the officer recommendation to adopt the SPG document, subject to the removal of paragraph 5.2.

**VOTE:**

FOR – 26

AGAINST – 0

ABSTAIN – 0

**RESOLVED** that, subject to removal of paragraph 5.2, members adopt the final Supplementary Planning Guidance on Hot Food Takeaways for use in the determination of planning applications (as detailed in Appendix 1 to the report).

## **9 SITE DEVELOPMENT BRIEF 'RHUDDLAN TRIANGLE' - ADOPTION OF FINAL DOCUMENT**

The Planning & Public Protection Policy Manager (P&PPPM) submitted a report recommending adoption of the draft Site Development Brief (SDB) 'Rhuddlan Triangle' including proposed document amendments, for the determination of planning applications and planning appeals. The committee had approved the draft SDB for consultation in November 2014.

The consultation process had included two well attended drop-in sessions at Rhuddlan Library with local people being largely supportive. A summary of the representations received together with the Council's response had been included as an appendix to the report. In responding to those representations a number of amendments had been proposed which had been highlighted in the final document.

Councillor Ann Davies (Local Member) thanked officers for the report and welcomed the SDB as a means of improving the visual appearance of the town and attracting new business to the area. Councillor Arwel Roberts (Local Member) also spoke in favour of the SDB but highlighted the risk of flooding associated with the area and the need for traffic management if the site was to be developed including easing congestion, road improvements and access to the site. Councillor Alice Jones added that the impact on the agricultural industry as a result of the increase in traffic and heavy goods vehicles should also be taken into account. The P&PPPM confirmed changes to the draft SDB to reflect the latest guidance on flood risk which had been made clear within the document. She reported upon the traffic problems raised during the consultation process and mitigation measures being considered. The traffic generated was dependent on the proposed uses on the site and financial contributions may be sought to mitigate any impact. A transport assessment would also be required to accompany any proposals.

**Proposal** – Councillor Ann Davies proposed the officer recommendation to adopt the document, seconded by Councillor Peter Owen.

**VOTE:**

FOR – 26

AGAINST – 0

ABSTAIN – 0

**RESOLVED** that members adopt the draft Site Development Brief ‘Rhuddlan Triangle’, attached as Appendix 1 to the report, including proposed document amendments, for the determination of planning applications and planning appeals.

**10 FORMER NORTH WALES HOSPITAL, DENBIGH - INFORMATION REPORT**

An information report was submitted, as requested by the committee in March 2015, updating members on the developments at the North Wales Hospital site.

The Chair reported that the Inspector’s decision on the inquiry into the objection to the Compulsory Purchase Order was still awaited and he asked the committee to accept the report without comment.

**RESOLVED** that the information report be accepted.

**11 S106 UPDATE REPORT - POOL PARK COMPLEX, RUTHIN**

An information report was submitted updating members in relation to progress of the Section 106 Agreement for the Pool Park Complex, Ruthin. Recent photographs of the site had also been provided as requested by members.

The committee granted planning permission for the development in September 2013. Draft terms of a S106 agreement had now been agreed with safeguards to ensure works were carried out to the listed buildings at the earliest opportunity in accordance with phasing of the development.

Councillor Meirick Davies thanked officers for the update. He felt the committee should periodically review progress in such cases to ensure no undue delay. The Planning Officer agreed there may be merit in reporting cases back to members for information or review. Councillor Alice Jones highlighted the importance of recording the buildings’ architecture and history for posterity and assurances were provided that a photographic record was required as part of the restoration and conversion scheme. The Chair advised that he would make enquiries to the North Wales Hospital Archives regarding other records of the complex.

**RESOLVED** that the information report be accepted.

The meeting concluded at 10.45 a.m.



# Agenda Item 7

**WARD :** Llangollen

**WARD MEMBER(S):** Cllr Rhys Hughes (c)  
Cllr Stuart Davies (c)

**APPLICATION NO:** 03/2015/0340/ PS

**PROPOSAL:** Removal of conditions imposed on planning permission 03/2012/1407/PS for foodstore development:  
Conditions 18 and 19 - to remove conditions requiring compliance with BREEAM standards, as these are no longer required in Wales  
Condition 45 - to remove restriction on the development of land below 84.6M AOD, as no areas are within a flood zone

**LOCATION:** Berwyn Works Berwyn Street Llangollen

**APPLICANT:** MrJames Ellis J Ross Developments

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Heading:

REFERENCE NO. 03/2015/0340  
BERWYN WORKS,  
BERWYN STREET, LLANGOLLEN

Graham Boase  
Head of Planning & Public Protection  
Denbighshire County Council  
Caledfryn  
Smithfield Road  
Denbigh  
Denbighshire LL16 3RJ  
Tel: 01824 706800 Fax: 01824 706709

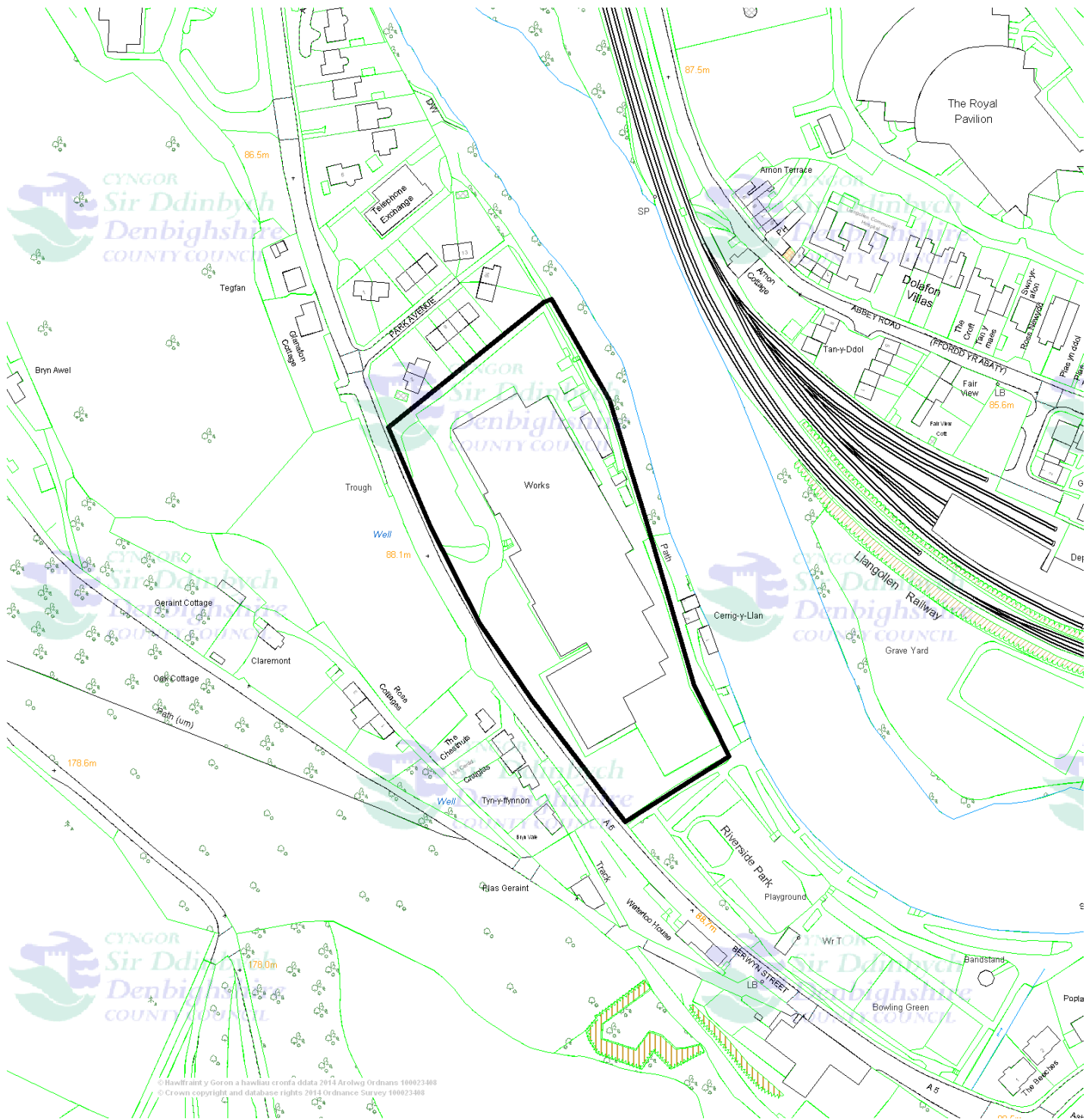
 Application Site



Date 27/4/2015  
Centre = 320977 E 342236 N

Scale 1/2500

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.





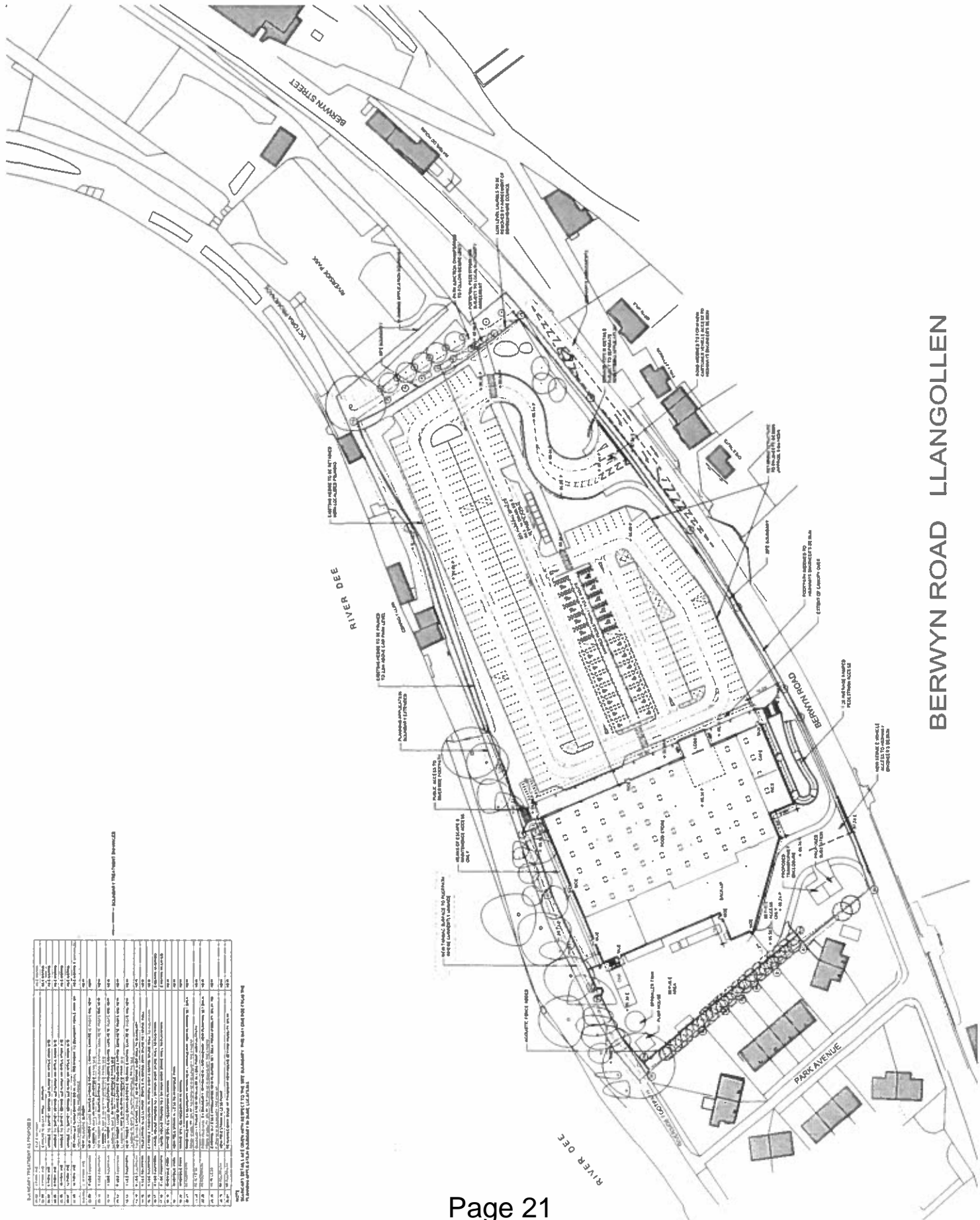
# FOODSTORE LAYOUT

Mountford Pigott  
 1881-1901-C  
 1:500 @ A1  
 10.11

EXISTING TREES AND HEDGES SHOWN  
 IN THIS PLAN ARE TO REMAIN UNLESS  
 OTHERWISE STATED OTHERWISE  
 SEE DRAWING 1881-1901-C



- KEY:
- EXISTING TREES AND HEDGES
  - PROPOSED TREES AND HEDGES
  - PROPOSED DRIVEWAYS
  - PROPOSED FOOTPATHS
  - PROPOSED CARPARK
  - PROPOSED BUILDINGS
  - PROPOSED LANDSCAPING



BERWYN ROAD LLANGOLLEN



**WARD :** Llangollen

**WARD MEMBER(S):** Cllr Rhys Hughes (c)  
Cllr Stuart Davies (c)

**APPLICATION NO:** 03/2015/0340/ PS

**PROPOSAL:** Removal of conditions imposed on planning permission 03/2012/1407/PS for foodstore development:  
Conditions 18 and 19 - to remove conditions requiring compliance with BREEAM standards, as these are no longer required in Wales  
Condition 45 - to remove restriction on the development of land below 84.6M AOD, as no areas are within a flood zone

**LOCATION:** Berwyn Works Berwyn Street Llangollen

**APPLICANT:** MrJames Ellis J Ross Developments

**CONSTRAINTS:** None

**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:**

**LLANGOLLEN TOWN COMMUNITY COUNCIL**

In relation to conditions 18 and 19 - "Members noted that compliance with BREEAM standards was no longer a requirement in Wales but objected to the removal of the condition on grounds that the development should still be subject to the highest standards of sustainable design, construction and operation".

In relation to Condition 45 – "...as no areas are within a flood zone, Members had no objections to the removal of this condition".

**NATURAL RESOURCES WALES**

Are satisfied that the applicants have demonstrated the proposed raising of the car park at the southern end will not result in increased flood risk elsewhere. Have no objection to the modification / withdrawal of Condition 45.

**RESPONSE TO PUBLICITY:**

None at the time of preparing the report.

**EXPIRY DATE OF APPLICATION:**

04/06/2015

**PLANNING ASSESSMENT:**

**1. THE PROPOSAL:**

1.1 Summary of proposals

1.1.1 The application seeks the Council's agreement to the removal of 3 conditions imposed on a planning permission granted at Planning Committee in December 2012 involving the development of a Use Class A1 foodstore on the site of the Dobson and Crowther factory site, under Code No.03/2012/1407/PF.

1.1.2 The application effectively requires separate decisions by the local planning authority, as the proposals relate to removal of different conditions on the foodstore permission.

1.1.3 Section 4 of the report sets out the details of each of the requests for removal. In summary, the application seeks the following:-

Conditions 18 and 19 – to remove the requirement for compliance with BREEAM construction standards in the foodstore development.

Condition 45 – to remove the restriction on the development of land below 84.6m AOD.

1.1.4 The application is submitted by J. Ross Developments. It contains a short statement on the grounds on which the removal of the conditions are sought;

- In relation to Conditions 18 and 19 – 'BREEAM has been removed as a requirement from Welsh Government Policy. It is proposed to remove these conditions as they are no longer in line with current planning policy for Wales'.
- In relation to Condition 45 – 'refers to areas that may flood, NRW have confirmed that no areas of the site are within the flood zone and so the condition is not correct and needs to be removed'.

## 1.2 Description of site and surroundings

1.2.1 The site has been occupied until recently by the former Dobson and Crowther Works, on Berwyn Road, Llangollen. It is located some 500 metres to the north west of the A5 traffic lights in the centre of Llangollen, immediately north west of the Riverside Park. It extends to some 1.6 hectares.

1.2.2 At the time of drafting this report, demolition works are well advanced on the old print works buildings in preparation for the erection of the foodstore building and its associated access, parking and servicing. Dobson and Crowther have now relocated into a purpose built factory at Cilmedw.

1.2.3 There are dwellings adjacent to the site at Park Avenue to the north, on higher ground to the west of the A5, and between the site and the River Dee to the east. The Riverside Park contains a small café/snack bar kiosk.

## 1.3 Relevant planning constraints/considerations

1.3.1 The site is within the development boundary for Llangollen shown on the Local Development Plan proposals map. There is no specific use allocation for the site on the proposals map.

1.3.2 Llangollen lies within the recent extended Clwydian Range and Dee Valley Area of Outstanding Natural Beauty (AONB). The site is within the Buffer Zone of the Pontcysyllte Aqueduct and Canal World Heritage site (WHS), within the River Dee and Bala Lake Special Area of Conservation, and the historic landscape of the Vale of Llangollen.

## 1.4 Relevant planning history



- 1.4.1 Prior to the submission of the 2012 application for the foodstore development (referred to below), the only records relate to the printing works, so are not of relevance to the current application.
- 1.4.2 Application 03/2012/0030/PF for the development of a foodstore was granted planning permission at Planning Committee in September 2012. The permission contained a range of conditions.
- 1.4.3 An application seeking the variation of 5 of the conditions imposed on 03/2012/0030 was submitted in October 2012, and dealt with under code no. 03/2012/1407. These variations were approved at Planning Committee in December 2012. This necessitated the effective 're-issue' of the Certificate of Decision for the foodstore development, and this is now the permission which the developers are seeking to implement.
- 1.4.4 The developers have submitted a number of detailed proposals for approval in connection with conditions on the December 2012 permission, in preparation for the demolition of the old print works buildings and the carrying out of the works associated with the foodstore.

#### 1.5 Developments/changes since the original submission

- 1.5.1 None.

#### 1.6 Other relevant background information

- 1.6.1 In relation to a planning consent, legislation permits applicants to lodge an appeal to the Planning Inspectorate against conditions imposed (within 6 months of the date of grant), or to submit applications to vary or delete conditions (under Section 73 of the 1990 Planning Act). The applicants have submitted the current application under Section 73.
- 1.6.2 Procedurally, Officers suggest the application has to be determined in 3 separate parts, i.e. each request for a variation has to be determined independently and either granted or refused (and if refused, with a land use planning reason capable of being defended at any subsequent appeal which could follow to the Planning Inspectorate).
- 1.6.3 The application is not an opportunity to re-visit the principle or detailing of the foodstore development or conditions other than those on which variations are now sought. The considerations have to be applied purely to the specific variations sought to the conditions specified in the submission.

## 2. **DETAILS OF PLANNING HISTORY:**

### 2.1 03/2012/0030/PF

Demolition of existing printing works, erection of Use Class A1 foodstore with associated access, parking, servicing, landscaping, surface water attenuation system, and construction of new vehicular and pedestrian accesses – GRANTED 23/10/2012. The permission was subject to a number of conditions requiring submission of further details and to restrictions on the use. The ones relevant to the application are quoted in the following sections of the report.

### 2.2 03/2012/1407/PS

Proposed variation of conditions attached to planning permission 03/2012/0030/PF for Use Class A1 foodstore :

- Condition 8d : in relation to the restriction on the provision of a cafe facility within the store, to delete this requirement;

GRANTED

- Condition 13b : in relation to noise emissions, to vary the restrictions on permitted levels;

GRANTED

- Condition 16 : in relation to measures to be taken in the event of noise emissions exceeding permitted levels, to vary the arrangements for investigation and implementation of mitigation;  
REFUSED

- Condition 19 : in relation to the need to submit a Certificate of Compliance with BREEAM standards before trading commences, to require the submission within 12 months of the store opening;  
GRANTED

- Condition 21 : in relation to the provision of an additional pedestrian access into the site, to revise the wording of the condition to refer to a revised or additional pedestrian access.  
GRANTED

Date of decision : 19/12/2012

### **3. RELEVANT POLICIES AND GUIDANCE:**

3.1 The main planning policies and guidance are considered to be:  
Denbighshire Local Development Plan (adopted 4<sup>th</sup> June 2013)  
**Policy RD1** – Sustainable development and good standard design

3.2 Government Policy / Guidance  
Planning Policy Wales Edition 7 2014

TAN 12: Design July 2014

3.3 Other material considerations:

Welsh Government Dear Chief Planning Officer Letter 31/07/2014 introducing the changes to Planning Policy Wales and guidance on sustainable buildings dated 31 July 2014.

Welsh Government CL-03-14 Planning for Sustainable Buildings – clarification on the national Planning for Sustainable Buildings policy letter dated 05 June 2014

Opinion of Max Hampton, Welsh Government Planning Manager on planning applications of this nature received 29/10/2014: "I do not believe it is possible to link the Building Regulations and Development Management processes as they are two separate regulatory functions and, given this, we accept that during this transitional period there may be some instances where development proposals will have the CfSH requirement removed and not have to comply with the 2014 Building Regulations."

3.4 The overarching advice for Local Planning Authorities on the use of conditions in planning permissions is contained in Welsh Office Circular 35/95. Circular 35/95 is a significant consideration in the context of the current application, as it sets basic tests which have been set down from the Courts for the validity of planning conditions. For Members' information, the Circular advises that as a matter of policy, conditions should only be imposed where they satisfy all of the following tests:-

- (i) necessary;
- (ii) relevant to planning;
- (iii) relevant to the development to be permitted;
- (iv) enforceable;
- (v) precise; and
- (vi) reasonable in all other respects

3.5 The relevance of the tests set out in Circular 35/95 cannot be understated as the Council has to apply them both when granting planning permission and when considering applications such as this to delete conditions imposed on an existing permission.

### **4. MAIN PLANNING CONSIDERATIONS**

In terms of general guidance on matters relevant to the consideration of a planning application, Planning Policy Wales Edition 7, 2014 (PPW) confirms the requirement that planning applications 'should be determined in accordance with the approved or adopted

development plan for the area, unless material considerations indicate otherwise' (Section 3.1.2). PPW advises that material considerations must be relevant to the regulation of the development and use of land in the public interest, and fairly and reasonably relate to the development concerned., and that these can include the number, size, layout, design and appearance of buildings, the means of access, landscaping, service availability and the impact on the neighbourhood and on the environment (Sections 3.1.3 and 3.1.4).

The following paragraphs in Section 4 of the report therefore refer to the policies of the Denbighshire Local Development Plan, and to the material planning considerations outlined above which are considered to be of relevance to the applications. The report deals with conditions 18 and 19 together as they involve the same issues in relation to application of national standards of construction, and takes condition 45 separately as it involves a wholly different issue.

The proposals for removal of the conditions are taken as follows :

#### **4.1 Conditions 18 and 19**

4.1.1 Condition 18 as worded on the planning permission states as follows:-

*'No works of construction shall be permitted on the foodstore building hereby permitted until an 'Interim Certificate' has been submitted to the Local Planning Authority, certifying that a minimum BREEAM overall very good rating and a minimum of 6 credits under Ene 1 -Reduction of CO2 Emissions can be achieved for that building in accordance with the requirements of BREEAM in force at the time of the grant of this permission.'*

The stated Reason for the condition was - 'To ensure relevant Sustainability Code standards are met in connection with the building.'

4.1.2 Condition 19 as worded on the planning permission states as follows:-

*'A "Final Certificate" shall be submitted to the Local Planning Authority within twelve months of the store opening, certifying that a minimum (BREEAM) overall very good rating and a minimum of 6 credits under Ene 1 – Reduction of CO2 'Emissions' has been achieved for that building in accordance with the requirements BREEAM in force at the time of the grant of this permission.'*

The stated Reason for the condition was - 'To ensure relevant Sustainability Code standards are met in connection with the building'

#### **Background:**

4.1.3 Conditions 18 and 19 were imposed on the permission for the foodstore in late 2012, in accordance with national guidance applying *at that time* to all Local Planning Authorities in Wales, as contained in Welsh Government's Technical Advice Note 22 (TAN 22) and section 4.12 of Planning Policy Wales (PPW).

4.1.4 Planning Policy Wales introduced Welsh Government's push for sustainability in the planning process and was developed in TAN 22 (introduced in June 2010) which set out a basic planning policy expectation that new forms of development should achieve certain standards of construction, in respect of minimum sustainable building standards (design, construction, and use of materials) and within these standards, a minimum carbon emission level. The guidance placed an expectation on local planning authorities to secure the relevant standards in new residential development and non residential development above a certain threshold, through imposition of planning conditions. In relation to dwellings, the requirements were in the form of a Code for Sustainable Homes, and in relation to non residential buildings, in the form of assessment under what were referred to as BREEAM (Building Research Establishment Methodology) Standards. Local Planning Authorities were expected to impose conditions on planning consents to oblige construction in accordance with the

relevant technical standards, including post-construction confirmation that such standards had been met. The wording of Conditions 18 and 19 imposed on the foodstore permission was therefore based on suggested contents in the June 2010 version of TAN 22.

- 4.1.5 Significantly, Welsh Government have since reviewed the national planning policy requirements for sustainable building standards being secured through the planning process, as outlined above in Planning Policy Wales and TAN 22: Planning for Sustainable Buildings. The decision was taken in 2014 to remove the sustainability requirements from PPW, and TAN 22 was cancelled. Fundamentally, it was considered that changes to the Building Regulations in 2014 would adequately address the energy and carbon performance of buildings, avoiding the need for duplication through the planning process. In the context of the foodstore conditions, new guidance in Technical Advice Note 12; Design (July 2014) sets out the relevant construction standards which now have to be met to comply with the Building Regulations. TAN 12 5.4.7 states the level of carbon reduction expected will be determined by the minimum required by Building Regulations (Part L); Appendix 3 (Sources and Further Information) lists Welsh Government (2014) Building Regulations – Part L (Conservation of Fuel and Power). These require compliance with stricter standards, for example in terms of thermal performance.
- 4.1.6 It is clear from the above that there is no longer a requirement for Local Planning Authorities to administer the sustainability requirements previously set out in PPW and TAN 22, as this is now a matter for consideration and enforcement in relation to the wholly separate Building Regulation process.

Assessment:

- 4.1.7 The relevant policy and guidance in relation to Conditions 18 and 19 are considered to be:-  
Denbighshire Local Development Plan  
**Policy RD1** – Sustainable development and good standard design  
  
Planning Policy Wales Edition 7 2014  
TAN 12: Design July 2014

Welsh Office Circular 35/95 – The use of conditions in planning permissions

- 4.1.8 In respecting the comments of the Town Council, having due regard to the significant changes to Welsh Government policy since the grant of planning permission, the general guidance in relation to the use of planning conditions, and the fact that the development has to comply with the new, more up to date sustainable building requirements of the 2014 Building Regulations, it is considered wholly unreasonable to refuse to consent to the removal of conditions 18 and 19. In an appeal situation, it is suggested the Council would be open to cost claims for ignoring changes in Welsh Government guidance as there are now no Sustainability Code or BREEAM requirements relevant to planning legislation.

**Recommendation 1**

That the Committee GRANT the application to remove Conditions 18 and 19.

**4.2 Condition 45**

- 4.2.1 Condition 45 as worded on the planning permission states as follows:-  
*“There shall be no development or raising of ground levels on land currently within 0.1% floodplain i.e. land below 84.6m AOD”.*  
The stated reason for the condition was – ‘In order to reduce the risk of flooding to the development and ensure no increase in flood risk to third parties’.

Background:

4.2.2 Condition 45 was imposed on the 2012 permission at the request of Natural Resources Wales, having regard to the information provided with the application and available flood data. The applicants have now submitted further information including interpolation of water levels, to demonstrate their proposals will not result in increased flood risk elsewhere.

Assessment:

4.2.3 The relevant policy and guidance in relation to Condition 45 is considered to be:-  
Denbighshire Local Development Plan  
**Policy RD1** – Sustainable development and good standard design

Planning Policy Wales Edition 7 2014  
TAN 15: Development and Flood Risk

Welsh Office Circular 35/95 - The use of conditions in planning permissions

4.2.4 Natural Resources Wales have advised that they are satisfied that the information provided indicates the proposed land raising of the car park at the southern end of the site will not result in increased flood risk elsewhere, and have no objection to the proposed removal of the condition.

4.2.5 Officers consider the comments of Natural Resources Wales to be critical to the determination of this element of the application and that it would be in order to agree to the removal of Condition 45.

**Recommendation 2**

That the Committee GRANT the application to remove Condition 45.

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# Agenda Item 8

**WARD :** Prestatyn East

**WARD MEMBER(S):** Cllr James Davies  
Cllr Julian Thompson-Hill (c)

**APPLICATION NO:** 43/2015/0220/ PF

**PROPOSAL:** Erection of detached garage (partly in retrospect)

**LOCATION:** Land at 1 Bosworth Grove Prestatyn

**APPLICANT:** MrArthur Dean

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Heading:

REFERENCE NO. 43/2015/0220  
LAND AT 1 BOSWORTH GROVE  
PRESTATYN

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

Tel: 01824 706800 Fax: 01824 706709

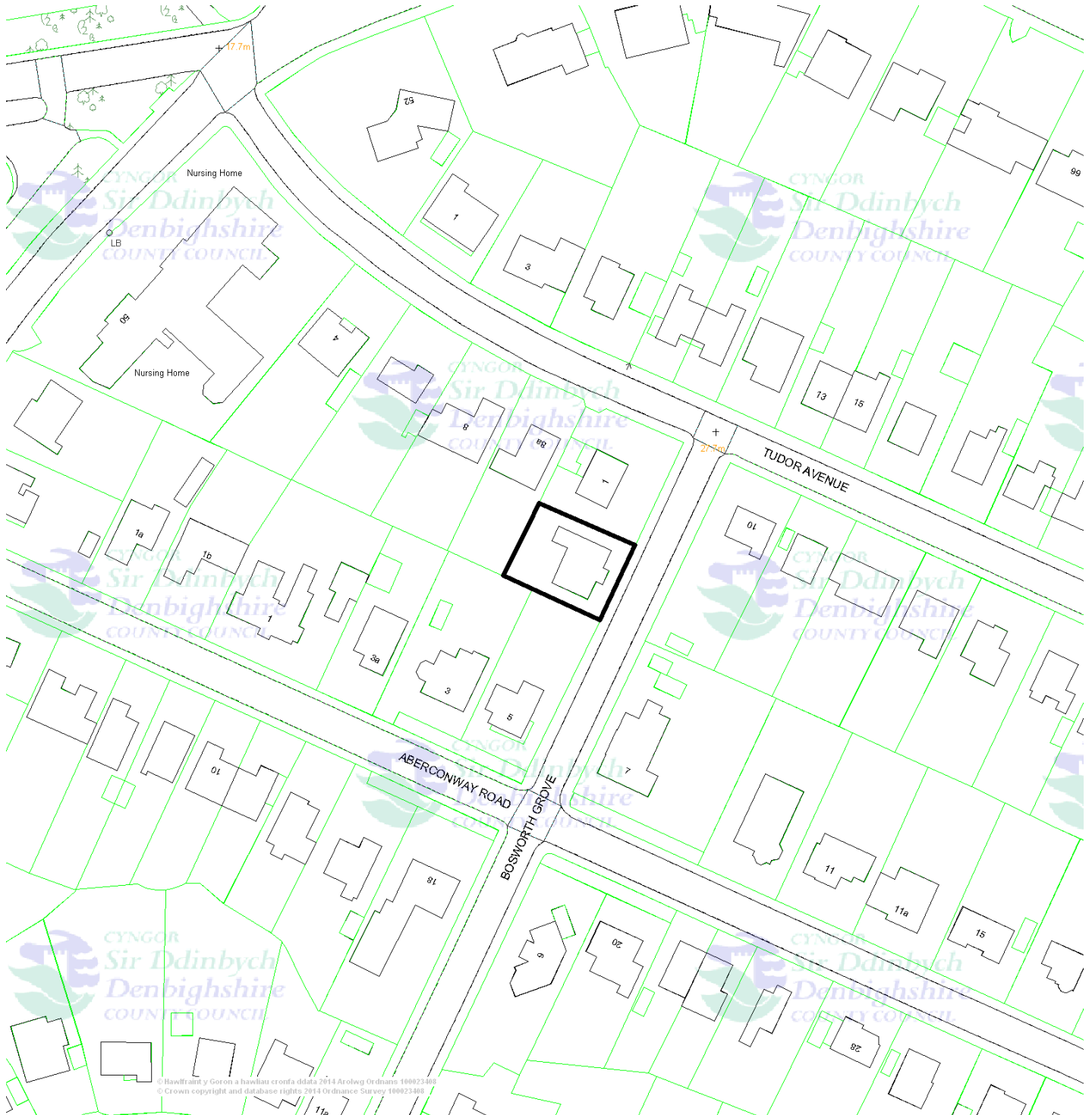
 Application Site



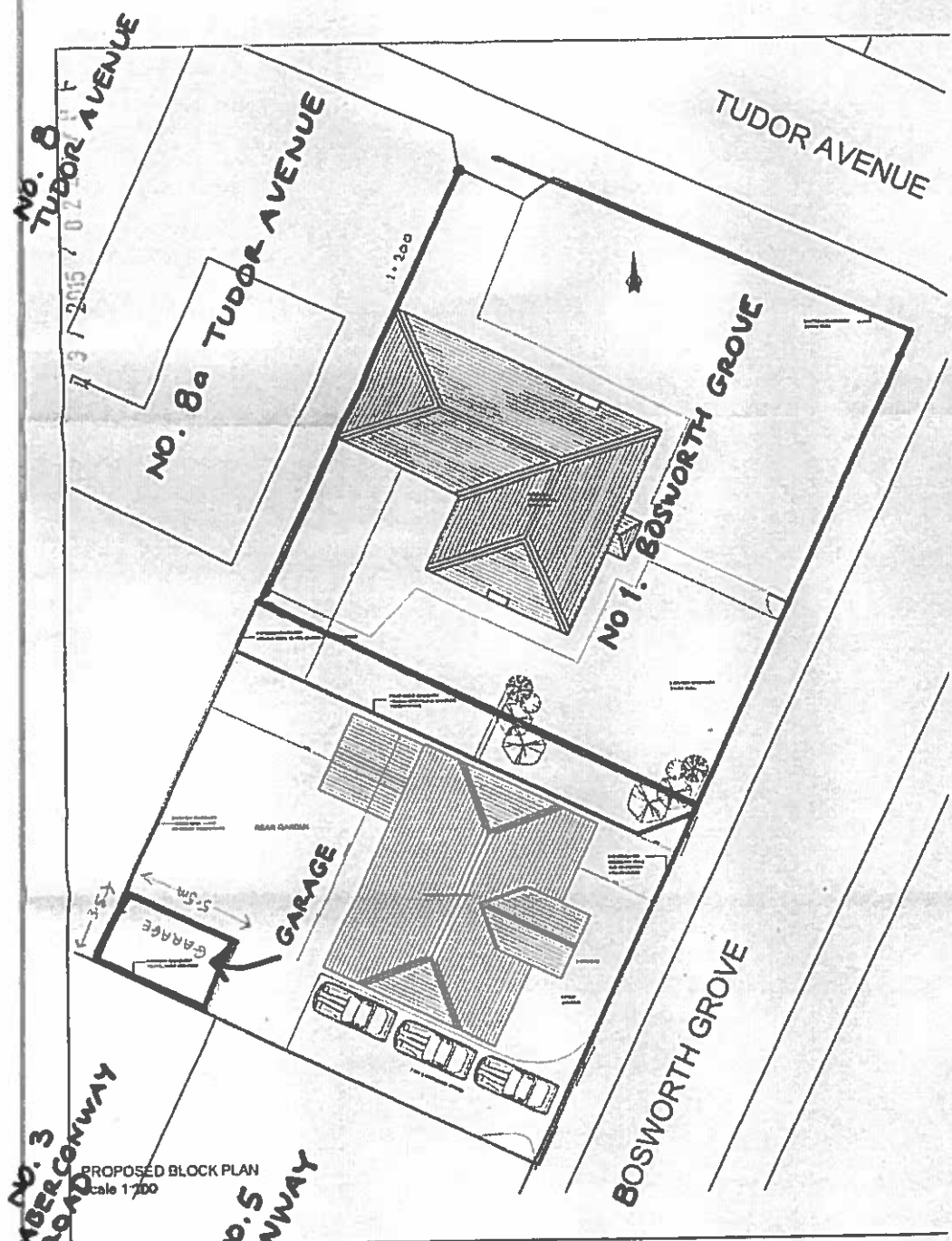
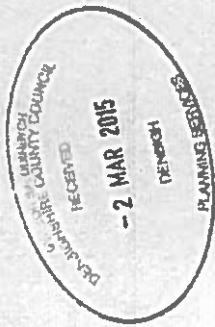
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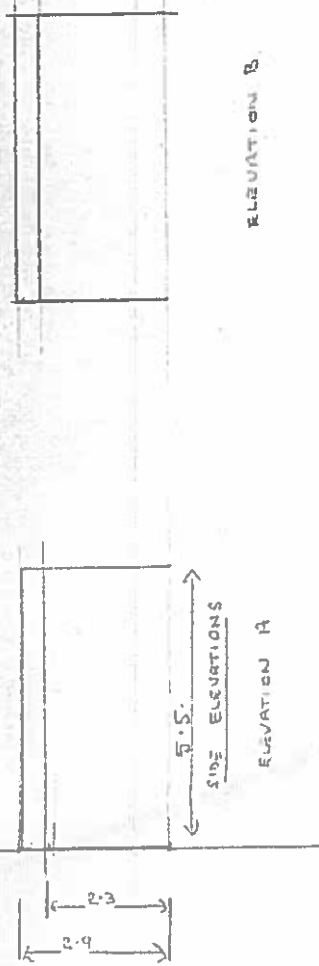
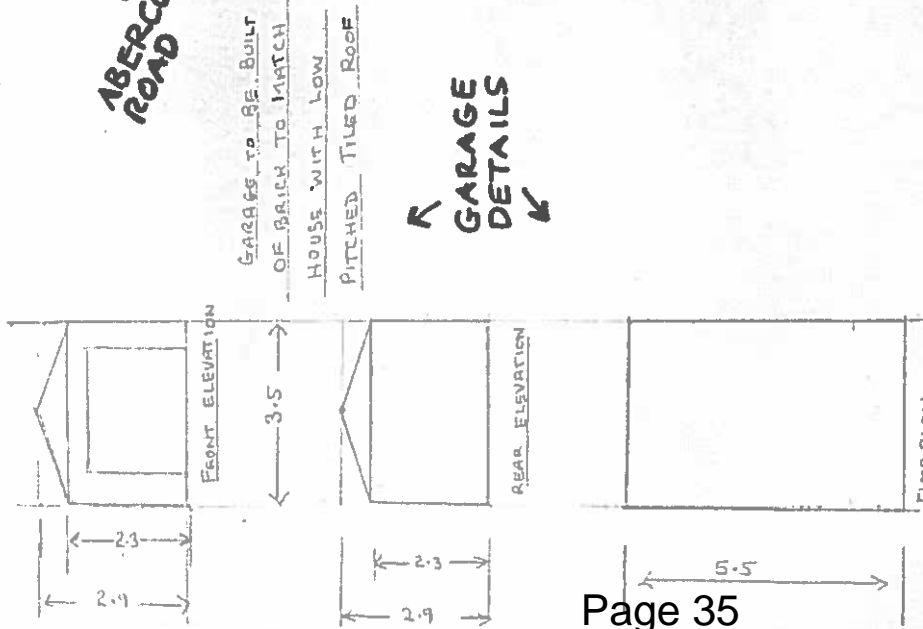
This plan is intended solely to give an indication of the LOCATION of the application site which forms the subject of the accompanying report. It does not form any part of the application documents, and should not be taken as representative of the proposals to be considered, which are available for inspection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







SCALE 1-100





**WARD :** Prestatyn East

**WARD MEMBER(S):** Cllr James Davies  
Cllr Julian Thompson-Hill (c)

**APPLICATION NO:** 43/2015/0220/ PF

**PROPOSAL:** Erection of detached garage (partly in retrospect)

**LOCATION:** Land at 1 Bosworth Grove Prestatyn

**APPLICANT:** MrArthur Dean

**PUBLICITY UNDERTAKEN:** Site Notice – No  
Press Notice –  
NoNeighbour letters - Yes

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

- Member request for referral to Committee

**CONSULTATION RESPONSES:**  
PRESTATYN TOWN COUNCIL “No objection”

**RESPONSE TO PUBLICITY:**

In objection

Representations received from:  
J. Jones, 8, Tudor Avenue, Prestatyn

Summary of planning based representations in objection:

- The garage would be right against boundary fence. Fence in neighbours garden is approx, 1.8m in height. The garage is already under construction, and the wall as built is already 1m above the top of the fence, and once the roof is erected it would be approximately 3.8m above ground level, which would result in the structure being overbearing.
- Concern regarding the provision for rain water drainage.
- Background to development on this site is relevant. Following a number of refusals, the current 3 storey house was granted and it has little free ground space around, which is being further reduced by the proposed garage.
- The house and surrounding area are still not finished and the property remains unoccupied.

**EXPIRY DATE OF APPLICATION: 26/04/2015**

**REASONS FOR DELAY IN DECISION (where applicable):**

- awaiting consideration by Committee

**PLANNING ASSESSMENT:**

**1. THE PROPOSAL:**

1.1 Summary of proposals

- 1.1.1 The proposal is for a single storey detached pitched roof garage to the side and rear of a new build detached dwelling, which is nearing completion of construction. Construction of the garage has been commenced.

- 1.1.2 The garage would be 3.5metres wide by 5.5metres in length. The eaves height would be 2.3metres and the ridge height would be 2.9metres above the garden level of the plot.
- 1.1.3 The garage would be sited in the rear corner of the plot, and would be adjacent to the boundary with no. 8a Tudor Avenue and 3 Aberconway Road. The location and relationship between properties can best be appreciated from the plan at the front of the report.

#### 1.2 Description of site and surroundings

- 1.2.1 The site is within the residential curtilage of a new build detached dwelling along Bosworth Grove, Prestatyn which nearing completion of construction. There are long established residential properties to the side and rear.
- 1.2.2 Land levels on the site are slightly higher than those to the north west on Tudor Avenue..

#### 1.3 Relevant planning constraints/considerations

- 1.3.1 The site is within Prestatyn development boundary as defined in the Denbighshire Local Development Plan.

#### 1.4 Relevant planning history

- 1.4.1 Several planning applications have been submitted for the development of the site for the erection of a dwelling since 1973. The permission which has been implemented was granted in 2005 and was for the erection of a 4-bedroom dwelling and construction of new vehicular and pedestrian access. No garage was shown on these plans.
- 1.4.2 The 2005 permission restricts permitted development rights and the applicant cannot install any additional windows or extend the dwelling or alter the roof without planning permission.
- 1.4.3 Permitted development rights allowing for the erection of outbuildings and other ancillary structures including garages were not restricted by condition, therefore the applicant can erect outbuildings and ancillary structures under Class E of the householder permitted development rights without the need for applying for planning permission once the dwelling is occupied.

#### 1.5 Developments/changes since the original submission

- 1.5.1 None.

#### 1.6 Other relevant background information

- 1.6.1 As stated in section 1.4 above, the grant of planning permission for a detached dwelling in 2005 did not remove permitted development rights for the erection of outbuildings within the residential curtilage and therefore once the dwelling is occupied, the applicant could erect an ancillary building in this location under permitted development rights.
- 1.6.2 The proposed garage is within 2metres of the boundary and therefore under permitted development rights, the applicant could erect a garage with a height of 2.5metres in this location without the need for planning permission once the dwelling is occupied. The proposed garage has a height of 2.9metres and is therefore 0.4metres (1foot 4inches) higher than what could be constructed under permitted development rights in.

## **2. DETAILS OF PLANNING HISTORY:**

- 2.1 PRE/475/76: Erection of a detached bungalow. Granted 03/08/1973
- 2.2 2/PRE/0177/90/P: Two Storey Dwelling. Refused 17/07/1990
- 2.3 43/2004/0595 Development of 0.03 ha of land by erection of 1 dwelling and construction of new vehicular/pedestrian access (Outline application) Granted 01/09/2004
- 2.4 43/2004/1632: Erection of detached 4-bedroom dwelling and construction of new vehicular and pedestrian access. Granted 20/04/2005
- 2.5 43/2005/1117: Erection of detached 4-bedroom dwelling and construction of new vehicular and pedestrian access (amendment to Application Ref. No. 43/2004/1632/PF) Granted 23/11/2005.

### 3. RELEVANT POLICIES AND GUIDANCE:

The main planning policies and guidance are considered to be:

#### 3.1 Denbighshire Local Development Plan (adopted 4<sup>th</sup> June 2013)

Policy RD 1 - Sustainable Development and Good Standard Design

Policy RD 3 - Extensions and Alterations to Dwellings

#### 3.2 Supplementary Planning Guidance

Extensions to Dwellings SPG

Householder Development Design Guide SPG

Residential Space Standards SPG

#### 3.3 Government Policy / Guidance

Planning Policy Wales Edition 7 July 2014

### 4. MAIN PLANNING CONSIDERATIONS:

In terms of general guidance on matters relevant to the consideration of a planning application, Planning Policy Wales Edition 7, July 2014 (PPW) confirms the requirement that planning applications 'should be determined in accordance with the approved or adopted development plan for the area, unless material considerations indicate otherwise' (Section 3.1.2). PPW advises that material considerations must be relevant to the regulation of the development and use of land in the public interest, and fairly and reasonably relate to the development concerned., and that these can include the number, size, layout, design and appearance of buildings, the means of access, landscaping, service availability and the impact on the neighbourhood and on the environment (Sections 3.1.3 and 3.1.4).

The following paragraphs in Section 4 of the report therefore refer to the policies of the Denbighshire Local Development Plan, and to the material planning considerations which are considered to be of relevance to the proposal.

4.1 The main land use planning issues in relation to the application are considered to be:

4.1.1 Principle

4.1.2 Visual Amenity

4.1.3 Residential Amenity

4.1.4 Other matters

4.2 In relation to the main planning considerations:

4.2.1 Principle

Policy RD 3 advises that the extension or alterations to dwellings will be supported subject to compliance with detailed criteria. Extensions and alterations to dwellings are therefore considered acceptable in principle.

4.2.2 Visual Amenity

PPW paragraph 4.11.9 states that the visual appearance and scale of development and its relationship to its surroundings and context are material planning considerations when assessing planning applications. Criteria i) of Policy RD 1 requires that development respects the site and surroundings in terms of siting, layout, scale, form, character, design, materials, aspect, micro-climate and intensity of use of land/buildings and spaces around and between buildings. Criteria i) of Policy RD 3 the scale and form of the proposed extension or alteration is subordinate to the original dwelling, or the dwelling as it was 20 years before the planning application is made. Criteria ii) of Policy RD 3 requires that a proposals are sympathetic in design, scale, massing and materials to the character and appearance of the existing building.

The proposed garage would a detached single storey structure which would be situated in the rear corner of the plot. Whilst it would visible when passing the

driveway from along Bosworth Grove, it would be clearly subordinate in scale to the main dwelling house and would not be of a size that would result in an adverse impact to visual amenity.

Having regard to the design, siting, scale, massing and materials of the proposed extension, in relation to the character and appearance of the dwelling itself, the locality and landscape, it is considered the proposals would not have an unacceptable impact on visual amenity and would therefore be in general compliance with the policies.

#### 4.2.3 Residential Amenity

Test vi) of Policy RD 1 requires that proposals do not unacceptably affect the amenity of local residents and land users and provide satisfactory amenity standards itself. Test iii) of Policy RD 3 requires that a proposal does not represent an overdevelopment of the site, to ensure that sufficient external amenity space is retained. The Extensions to Dwellings SPG states that no more than 75% of a residential curtilage should be covered by buildings and that 40m<sup>2</sup> of amenity space is provided. The Residential Space Standards SPG specifies that 40m<sup>2</sup> of private external amenity space should be provided as a minimum standard for residential dwellings.

With regards to the impact of the proposal on the residential amenity, the Householder Development Design Guide SPG states that garages should not impact detrimentally on the space about buildings and should be designed to take into account access and parking. Garages should not be over dominant in relation to the existing and surrounding properties.

A neighbour objection has been received which has raised concerns regarding the overbearing impact of the development when viewed from neighbours properties. The neighbour objection also notes there is already limited outdoor space serving the property, and the proposed garage would reduce this further.

As noted previously, permitted development rights for the construction of outbuildings and ancillary structures including garages have not been removed for this site, and therefore a garage with a height of 2.5metres could be built in this location under permitted development rights once the dwelling is occupied. The garage proposed has a height of 2.9metres, and is therefore 0.4metres higher than what could be constructed under permitted development rights. Officers consider this to be a material consideration in the assessment of the merits of the application.

The garage is proposed in the corner of the rear garden area, and the plans show that parking provision for 3 cars would still be retained within the residential curtilage. As a result of the proposed development, more than 40m<sup>2</sup> of private external amenity space would be retained and less than 75% of the site would be covered by buildings. Sufficient garden and parking space would therefore remain to serve the property, and the proposal would not compromise the amenity of future occupiers of the property.

The proposed garage would be built in the corner of the rear garden and would be immediately adjacent to the rear garden boundaries of 8a Tudor Avenue and 3 Aberconway Road. The garage would also be close to the rear garden boundary of 5 Aberconwy Road.

The garage would back on to the corner of the rear garden of 8a Tudor Avenue, and would be approximately 16m from the rear elevation of this house. The garage would also back on to the corner of rear garden of 3 Aberconwy Avenue and the garage would be approximately 17m from the rear elevation of this house.

On the site visit, Officers observed a conifer tree in the corner of the rear garden of 8a Tudor Avenue and a greenhouse structure in the rear garden of 3 Aberconway



Aveune close to the site boundary. It was also noted that the ground levels in the rear garden area of 8a Tudor Avenue appear to be slightly lower than the ground levels of the application site, and therefore the ridge height of the proposed garage would appear to be higher than the 2.9m when viewed from the garden of 8a Tudor Avenue.

In respecting the basis of the neighbour objection, given the separation distances between neighbouring properties and the proposed garage, and the depth of neighbouring rear garden areas, Officers do not consider the development would overshadow neighbouring dwellings or significantly overshadow neighbouring garden areas.

Whilst the garage would be visible from the rear garden areas of neighbouring properties and there appears to be a slight difference in ground levels between the application site and neighbouring rear gardens, given the depth of neighbouring rear gardens and the height, size and scale of the proposed garage, Officers do not consider the development would have an overbearing impact on neighbouring properties to the degree that it would unacceptably spoil their quiet enjoyment of private rear garden areas. Officers also consider the existing conifer tree in the rear garden of 8a Tudor Avenue and the greenhouse structure in the rear garden of 3 Aberconway Avenue would help to screen views of the proposed garage.

In conclusion, having regard to the scale, location and design of the proposed development, Officers consider the proposed garage would not have an unacceptable impact on residential amenity, and would therefore be in general compliance with the policies listed above.

#### 4.2.4 Other matters

With regard to the neighbour concerns over the rainwater disposal, this could be dealt with by imposition of a suitable condition if planning permission is granted. It is likely that the drainage would connect to a soakaway in the rear garden of the property.

## 5. SUMMARY AND CONCLUSIONS:

- 5.1 The proposal is for a detached single storey pitched roof garage which would be sited close to the rear garden boundary shared with neighbouring properties.
- 5.2 Whilst the garage would be visible from the rear gardens of neighbouring properties, having regard to the size, scale and location of the proposed development, Officers do not consider the proposed development would unacceptably overshadow neighbouring properties or garden areas and do not consider it would have an overbearing impact when viewed from neighbouring properties.
- 5.3 The proposal is therefore considered to be acceptable and is recommended for grant.

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

1. The development to which this permission relates shall be begun no later than the expiration of five years beginning with the date of this permission.
2. The garage shall not be permitted to be brought into use until the written approval of the Local Planning Authority has been obtained for the details of the means of capturing and disposing of roof water from the garage, and the approved details have been implemented.

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 order that appropriate arrangements are made for the disposal of roof water.

## NOTES TO APPLICANT:

None

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# Agenda Item 9

**WARD :** Rhyl East

**WARD MEMBER(S):** Cllr Barry Mellor (c)  
Cllr David Simmons (c)

**APPLICATION NO:** 45/2015/0316/ PF

**PROPOSAL:** Erection of single storey and two storey extensions to rear

**LOCATION:** 23 Lynton Walk Rhyl

**APPLICANT:** Mr C & Mrs H Bollen

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Heading:

REFERENCE NO. 45/2015/0316

23 LYNTON WALK

RHYL

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

Tel: 01824 706800 Fax: 01824 706709

 Application Site

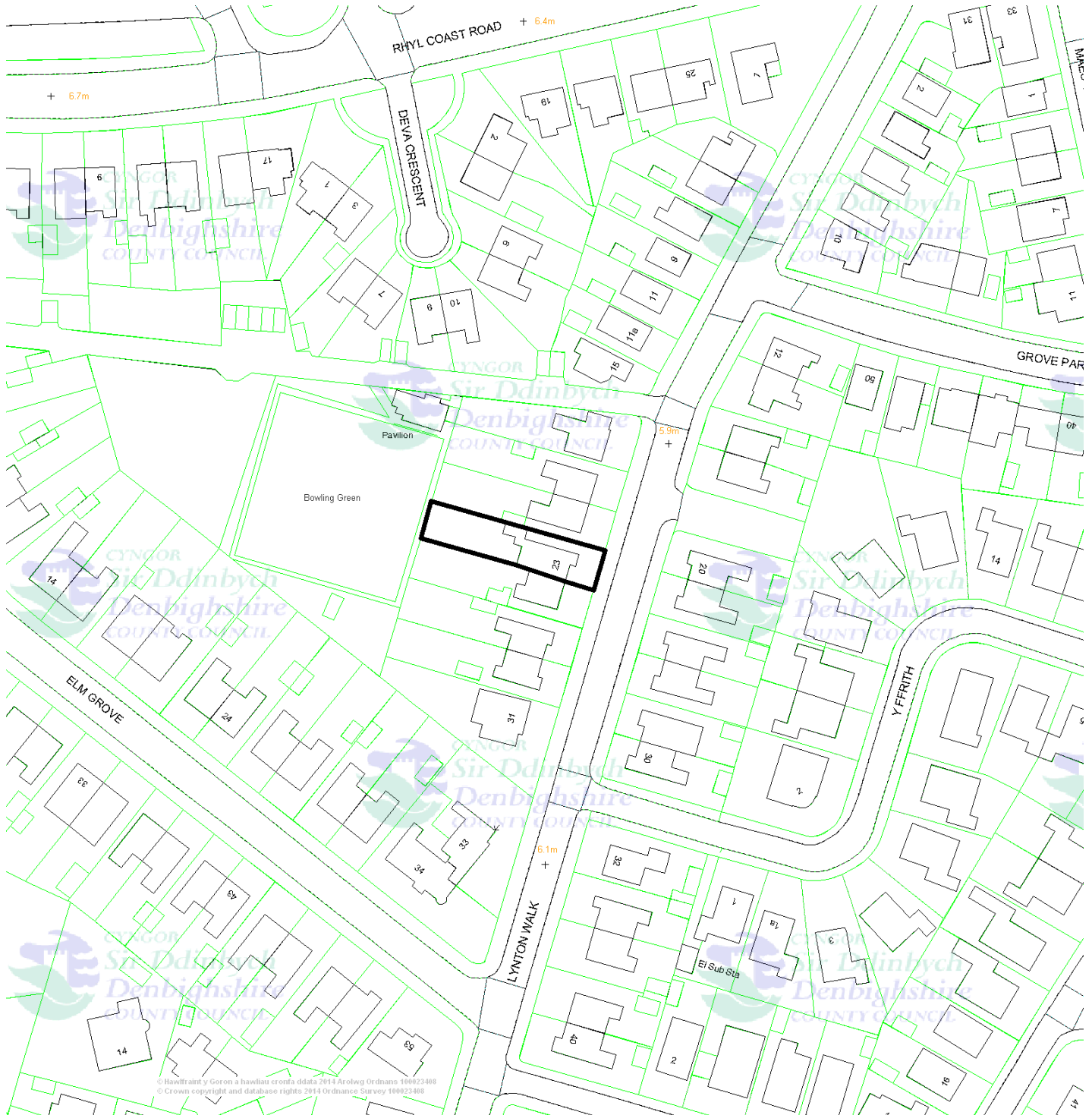


Date 27/4/2015

Scale 1/1250

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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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# PROPOSED PLANS

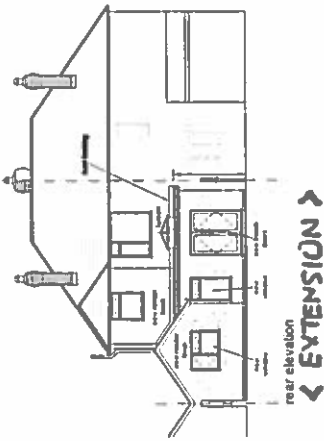
Client  
 Mr C. & Mrs. H. Bolen,  
 23 Lynton Walk,  
 Rhyl,  
 Denbighshire.

Project Ref  
 Proposed Single Storey and Two  
 Storey Extensions incorporating  
 associated work.

Proposed Plans and Elevations

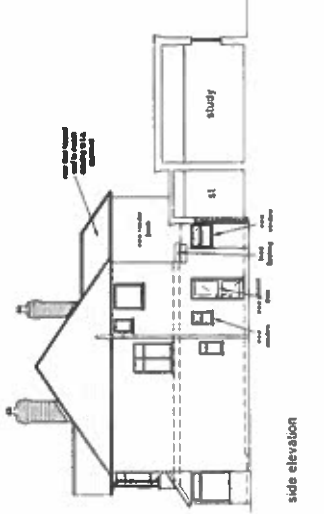
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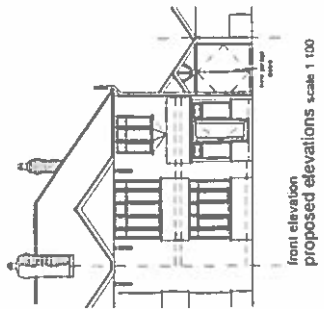
rear elevation

← EXTENSION →



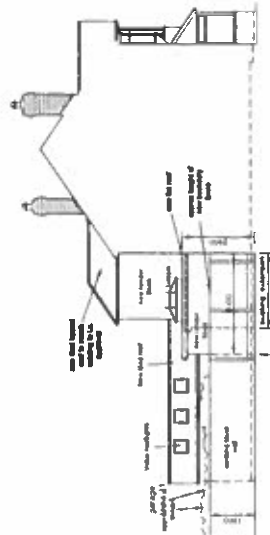
side elevation

← EXTENSION →



front elevation

← EXTENSION →



side elevation

← EXTENSION →

proposed elevations scale 1:100

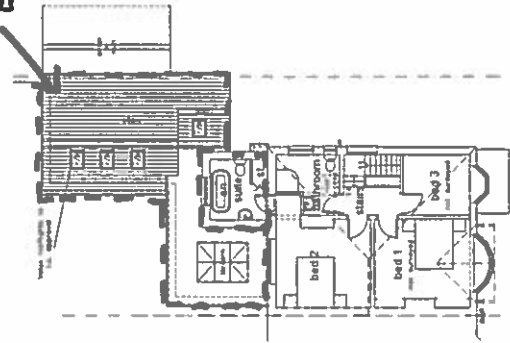


proposed section scale 1:50

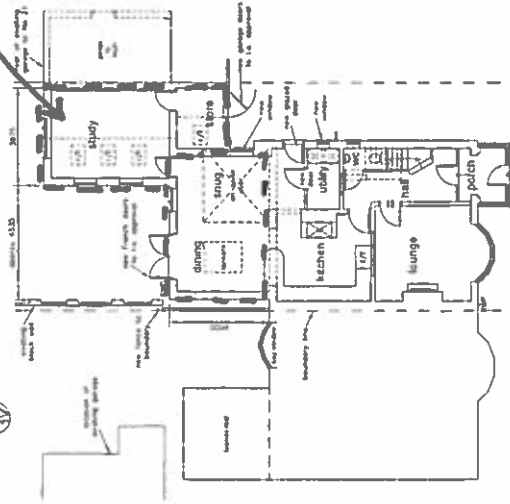
materials: clay tile and ridge tiles to match existing to the base as retained in LA Planning approval.  
 the roof with clay ridge tiles to ground floor extension to garage in LA Planning approval.  
 flat roof extension to match existing in LA Planning approval.  
 pitched facade and large porch to match existing in LA Planning approval.  
 half round recessed gutters and circular downpipes to match existing in LA Planning approval.  
 double doors to match existing in LA Planning approval.  
 white uPVC double glazed windows and doors to match existing in LA Planning approval.  
 white uPVC double glazed lantern to LA Planning approval.  
 lead flashings to substrate.

EXTENSION

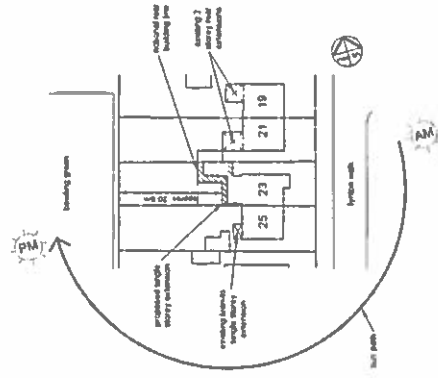
EXTENSION



proposed first floor plan scale 1:100



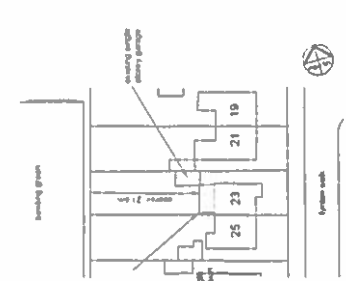
proposed ground floor plan scale 1:100



proposed site block plan scale 1:500



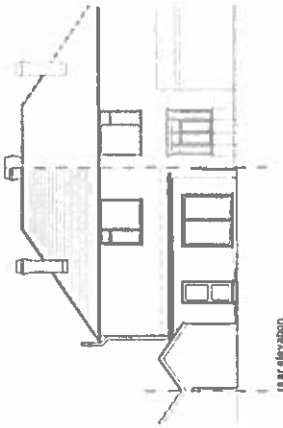




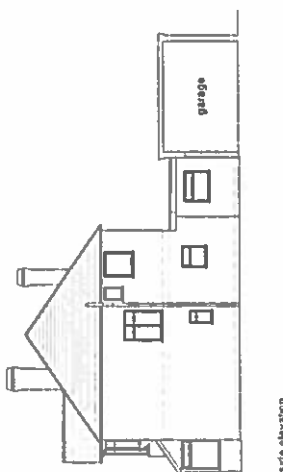
location plan scale 1:1250



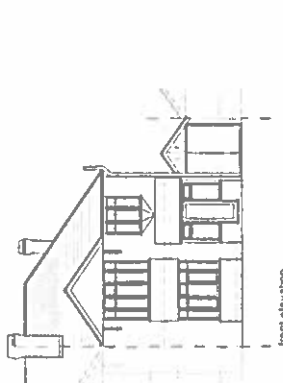
site block plan scale 1:500



front elevation



side elevation

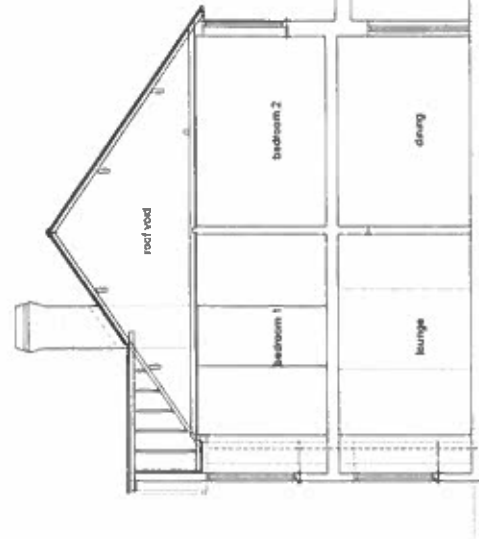


rear elevation

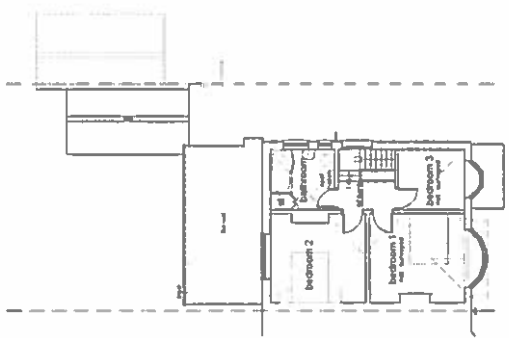
**materials:**  
 All new masonry to be red brick. All roof tiles to be red. All roof trusses to be timber. All roof insulation to be mineral wool. All roof and ceiling to be plastered. All roof and ceiling to be finished with white emulsion paint. All roof and ceiling to be finished with white emulsion paint. All roof and ceiling to be finished with white emulsion paint. All roof and ceiling to be finished with white emulsion paint.

location plan scale 1:1250

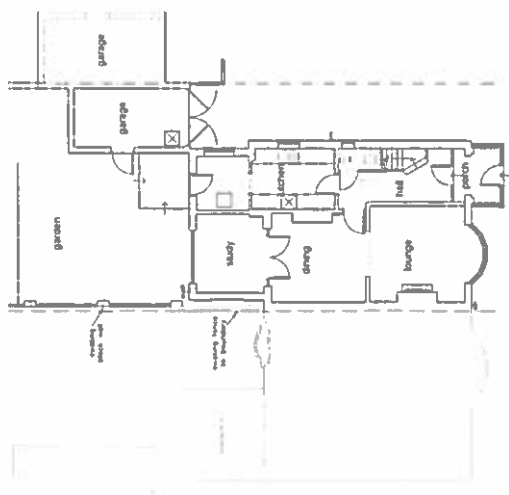
site block plan scale 1:500



existing section scale 1:50



existing first floor plan scale 1:100



existing ground floor plan scale 1:100

# EXISTING PLANS

0. 173215. No. 1122 number added  
 4. 173215. No. 1122 number added

Client  
 Mr C. & Mrs. H. Bollen,  
 23 Lynton Walk,  
 Rhyl,  
 Denbighshire.

Project title  
 Proposed Single Storey and First Floor  
 Extensions incorporating associated  
 works.

Drawings  
 EXISTING PLANS AND ELEVATIONS

Scale  
 1:1250  
 1:500  
 1:100  
 1:50





**WARD :** Rhyl East

**WARD MEMBER(S):** Cllr Barry Mellor (c)  
Cllr David Simmons (c)

**APPLICATION NO:** 45/2015/0316/ PF

**PROPOSAL:** Erection of single storey and two storey extensions to rear

**LOCATION:** 23 Lynton Walk Rhyl

**APPLICANT:** MrC & Mrs H Bollen

**CONSTRAINTS:** Article 4 Direction

**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 / approve – Town Council objection

**CONSULTATION RESPONSES:**

RHYL TOWN COUNCIL

“Object on the grounds of over intensification as per decision notice 45/2014/1071/PF”

**RESPONSE TO PUBLICITY:** None.

**EXPIRY DATE OF APPLICATION:** 17/05/2015

**REASONS FOR DELAY IN DECISION (where applicable):** N/A

**PLANNING ASSESSMENT:**

**1. THE PROPOSAL:**

1.1 Summary of proposals

1.1.1 Planning permission is sought for the erection of extensions at no. 23 Lynton Walk in Rhyl.

1.1.2 The application comprises of three linked elements, a rear flat roof extension, a rear two storey extension and a rear pitched roof extension.

1.1.3 The extensions would replace the existing single storey rear additions to the dwelling and a garage at the rear of the site.

1.1.4 The single storey section would project 4 metres from the rear of the dwelling on the southern side, and run along the depth of the dwelling. The pitched roof extension on the northern side would extend to a further 5 metres. The two storey rear extension is proposed on the middle section of the dwelling over the existing rear flat roof snug. The extension would comprise of a dining room, snug, store, study and an en suite on the first floor.

1.1.5 The proposals are illustrated on the plans at the front of the report.

1.2 Description of site and surroundings

- 1.2.1 The two-storey semi-detached dwelling is sited within a road of similar properties, many of which have been subject to extensions and alterations to their rear and side elevations.
- 1.2.2 The dwelling is finished with pebble dashed walls with a tiled roof and has its rear garden area bounded by 2 metre fencing to each side, with a wall to the rear beyond which lies a Bowling Green.
- 1.2.3 The dwelling has had previous extensions in the form of a single-storey flat-roofed rear addition which has a depth of 3.0 metres and a height of 2.7 metres, linking to the former detached garage outbuilding in the rear garden adjacent to the northern boundary.
- 1.2.4 The adjoining property at no. 25 Lynton Walk has not been subject to any rear extensions and retains its original rear outbuilding.
- 1.2.5 The dwelling is located in a primarily residential area located to the east of Rhyl town centre.

### 1.3 Relevant planning constraints/considerations

- 1.3.1 The site is located within the development boundary of Rhyl.

### 1.4 Relevant planning history

- 1.4.1 Planning permission was refused previously in 2014 for two rear extensions to the dwelling. Both previous refusals related to extensions of at least 7 metres length to the rear of the dwelling, on grounds that the extent of projection would have an unacceptable impact on occupiers of no. 25 Lynton Walk.

### 1.5 Developments/changes since the original submission

- 1.5.1 None.

### 1.6 Other relevant background information

- 1.6.1 The application has been submitted to address the previous reasons for refusal. The level of projection to the rear has been reduced and a flat roof is proposed instead of the pitched roof on the southern side.

## 2. **DETAILS OF PLANNING HISTORY:**

- 2.1 Planning Ref 2/RYL/0046/88/P - Kitchen and dining room extension: Granted 19/04/1988.
- 2.2 Planning Ref 45/2014/0195/PF - Erection of single-storey pitched-roof extension and first-floor pitched-roof extension over existing flat roof at rear of dwelling. Refused 31/03/2014 under delegated powers for the following reason: "It is the opinion of the Local Planning Authority that the proposed extension would, by virtue of its projection in close proximity to the side boundary of the adjoining property, have an unacceptable impact on the residential amenity and privacy of the occupiers of the adjacent dwelling at 25 Lynton Walk, therefore contrary to Criteria i) and vi) of Policy RD 1 of the Denbighshire Local Development Plan and the Council's adopted Supplementary Planning Guidance Note No. 1 "Extensions to Dwellings".
- 2.3 Planning Ref 45/2014/1071/ PF - Erection of single-storey pitched-roof extension and first-floor pitched-roof extension over existing flat roof at rear of dwelling. Refused 14/11/2014 under delegated powers for the following reason: "It is the opinion of the Local Planning Authority that the proposed extension would, by virtue of its projection and height, in close proximity to the side boundary of the adjoining property, have an unacceptable impact on the residential amenity of occupiers of the adjacent dwelling at 25 Lynton Walk due to an overbearing relationship, and is therefore contrary to Criteria i) and vi) of Policy RD 1 of the Denbighshire Local Development Plan and the Council's adopted Supplementary Planning Guidance Note No. 1 Extensions to Dwellings".

### 3. RELEVANT POLICIES AND GUIDANCE:

The main planning policies and guidance are considered to be:

#### 3.1 Denbighshire Local Development Plan (adopted 4<sup>th</sup> June 2013)

- Policy RD 1 – Sustainable Development and Good Standard of Design
- Policy RD 3 – Extensions and alterations to dwellings

#### 3.2 Supplementary Planning Guidance

- SPG 1 – Extensions to Dwellings
- SPG 7 – Residential Space Standards
- SPG 24 – Householder Development Design Guide

#### 3.3 Government Policy / Guidance

- Planning Policy Wales Edition 5 November 2012
- Technical Advice Note 12 – Design (2009)

#### 3.4 Other material considerations

None.

### 4. MAIN PLANNING CONSIDERATIONS:

In terms of general guidance on matters relevant to the consideration of a planning application, Planning Policy Wales Edition 7, 2014 (PPW) confirms the requirement that planning applications 'should be determined in accordance with the approved or adopted development plan for the area, unless material considerations indicate otherwise' (Section 3.1.2). PPW advises that material considerations must be relevant to the regulation of the development and use of land in the public interest, and fairly and reasonably relate to the development concerned., and that these can include the number, size, layout, design and appearance of buildings, the means of access, landscaping, service availability and the impact on the neighbourhood and on the environment (Sections 3.1.3 and 3.1.4).

The following paragraphs in Section 4 of the report therefore refer to the policies of the Denbighshire Local Development Plan, and to the material planning considerations which are considered to be of relevance to the proposal.

#### 4.1 The main land use planning issues in relation to the application are considered to be:

- 4.1.1 Principle
- 4.1.2 Visual amenity
- 4.1.3 Residential 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. Policy RD 3 relates specifically to extensions to dwellings and permits extensions subject to the acceptability of scale and form; design and materials; the impact upon character, appearance, and amenity standards of the dwelling and its immediate locality; and whether the proposal represents overdevelopment of the site. SPG 1 and SPG 24 offer basic advice on the principles to be adopted when designing domestic extensions and related developments. The assessment of impacts is set out in the following sections.

##### 4.2.2 Visual amenity

Criteria i) of Policy RD 1 requires that development respects the site and surroundings in terms of siting, layout, scale, form, character, design, materials, aspect, micro-climate and intensity of use of land/buildings and spaces around and between buildings. Criteria i) of Policy RD 3 the scale and form of the proposed extension or alteration is subordinate to the original dwelling, or the dwelling as it was 20 years before the planning application is made. Criteria ii) of Policy RD 3 requires

that a proposals are sympathetic in design, scale, massing and materials to the character and appearance of the existing building.

The application proposes extensions to the rear of the dwelling which would have a footprint of approximately 40 sq metres. The original dwelling footprint is 60 sq metres. The majority of the extensions would be single storey, the two storey section would be set down from the original roof line by 1.8 metres. The plans show a new boundary fence to be erected on the southern side of the site. There would be a garden depth of 15 metres remaining if the extensions are permitted, with a total area of 120 sq metres.

In Officers opinion the extension would clearly be subordinate to the original dwelling and the scale and massing takes into account its design and form, reflecting its features and materials. The recommended garden depth of 6 metres would be achieved if the extension is permitted, and the garden size would be substantially over the minimum standard. For these reasons and with respect to the Town Councils concerns, it is not considered that the proposal would result in an over intensification of development on the site. It is considered that the proposal would comply with the tests of Policy RD1 and Policy RD 3 and advice within the supplementary planning guidance.

#### 4.2.3 Residential amenity

Local Development Plan Policy RD 1 test (i) requires due regard to issues of siting, layout, form, character, design, materials, aspect, microclimate and intensity of use of land / buildings and spaces between buildings, which touch on the potential for impact on residential amenity; test (vi) sets the requirement to assess the impact of development on the amenities of local residents, other land and property users, or characteristics of the locality, in terms of increased activity, disturbance, noise, dust, fumes, litter, drainage, light pollution, etc.

The side of the extension would be set 0.4 metres off the boundary of the dwelling to the south, and it would project 4 metres to the rear and would have an overall height of 2.9 metres. There is also a new 2 metre boundary fence proposed between the dwelling and the attached dwelling. Rear windows are proposed in the ground and first floor. The study area of the extension would replace the existing garage.

Previous applications have been resisted on the basis of the impact on the attached dwelling to the south, although it is noted that there is a rear extension on the existing dwelling which is 1 metre smaller than the proposed extension and a 2 metre high boundary fence. Considering the scale of the proposed extension which would only project 1 metre further to the rear on the southern boundary, and the proposed boundary treatment in relation to neighbouring dwellings, it is not considered the extensions would result in an overbearing impact or a loss of light for adjacent occupiers. There are no objections from the neighbouring properties to the application. There is adequate spacing to the boundary and a garage in the rear curtilage of the dwelling to the north which would limit amenity impacts. The proposal is therefore considered to comply with test iii) of Policy RD 3.

## 5. SUMMARY AND CONCLUSIONS:

5.1 It is the opinion of Officers that the proposal complies with the relevant planning policies and with respect to the comments of the Town Council, Officers do not consider there are grounds to justify a refusal of permission in this instance.

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

1. The development to which this permission relates shall be begun no later than the expiration of five years beginning with the date of this permission.
2. The materials and finishes of the external surfaces of the walls and roof of the building hereby permitted shall be of the same texture, type and colour as those on external walls and the roof of the existing building.
3. Notwithstanding the provisions of 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 extension hereby permitted, unless otherwise agreed in writing by the Local Planning Authority.

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

1. To comply with the provisions of Section 91 of the Town and Country Planning Act 1990.
2. In the interests of visual amenity.
3. To maintain a reasonable standard of privacy in adjoining dwellings and gardens in the interests of amenity

**NOTES TO APPLICANT:**

WELSH WATER Note to Applicant:

Dwr Cymru Welsh Water have advised that some public sewers and lateral drains may not be recorded on their maps of public sewers because they were originally privately owned and were transferred into public ownership by nature of the Water Industry (Schemes of Adoption of Private Sewers) Regulations 2011. The presence of such assets may affect the proposal. In order to assist Dwr Cymru Welsh Water in dealing with the proposal they request you contact their Operations Contact Centre on 0800 085 3968 to establish the location and status of the sewer. Under the Water Industry Act 1991 Dwr Cymru Welsh Water has rights of access to its apparatus at all times.

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## PLANNING ENFORCEMENT REPORT

**REFERENCE:** ENF/2015/00006

**LOCATION:** Golygfa, Llwyn y Rhos, Llanrhaeadr, Denbigh

**INFRINGEMENT:** Fencing in excess of permitted development limit – 2 metres

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Heading:

ENF/2015/00006

Golygfa and Ty Maen, Llwyn y Rhos,

Llanrhaeadr, Denbigh LL16 4NH

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

Tel: 01824 706800 Fax: 01824 706709



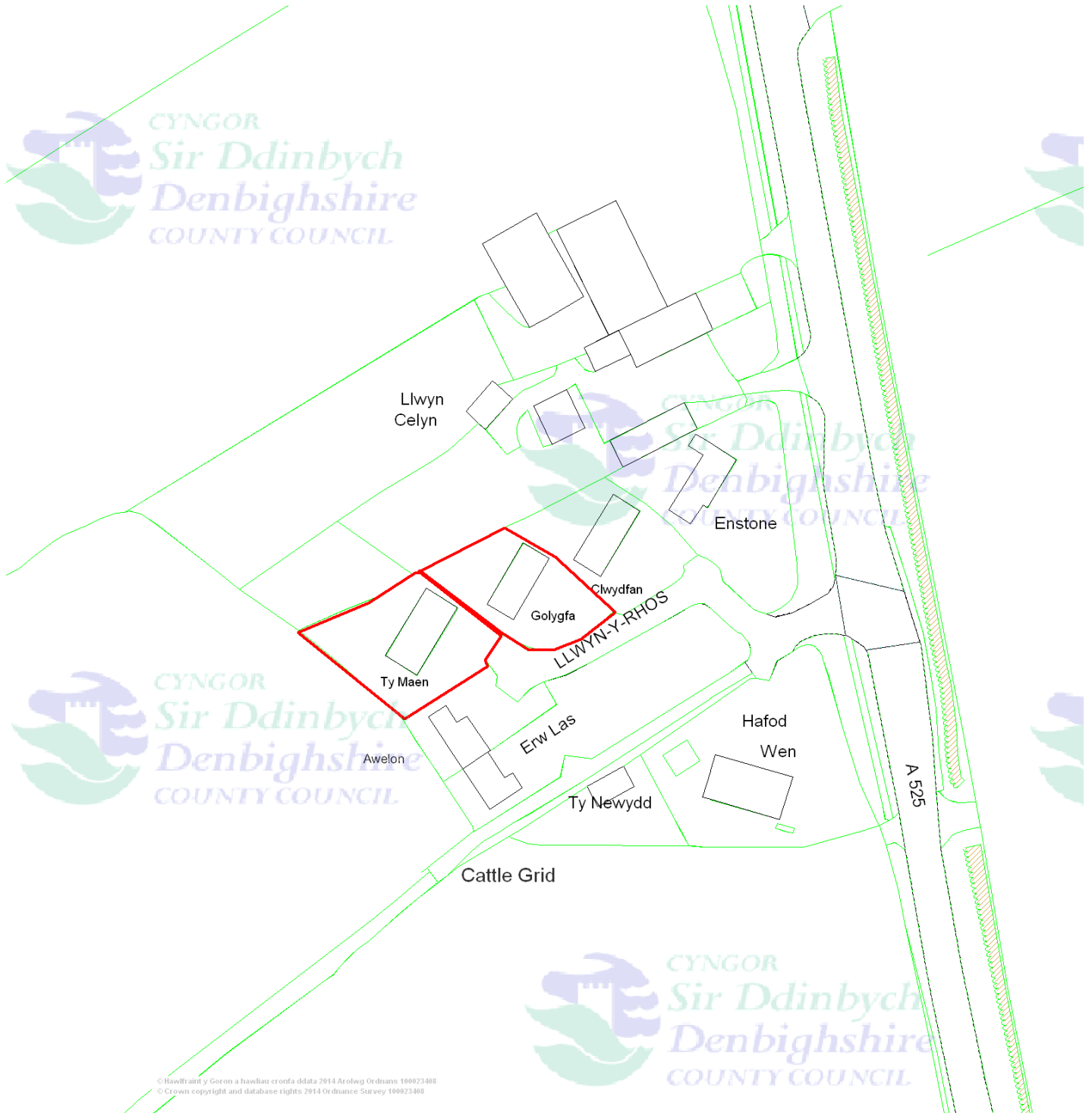
The Site



Date 22/4/2015

Scale 1/1250

Centre = 307964 E 364059 N



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## **PLANNING ENFORCEMENT REPORT**

**REFERENCE:** ENF/2015/00006

**LOCATION:** Golygfa, Llwyn y Rhos, Llanrhaeadr, Denbigh

**INFRINGEMENT:** Fencing in excess of permitted development limit – 2 metres

### **RELEVANT PLANNING POLICIES AND GUIDANCE**

Policy RD 1 – Sustainable Development and Good Standard Design

#### GOVERNMENT GUIDANCE

Planning Policy Wales 2002

Technical Advice Note (Wales) 9: Enforcement of Planning Control

#### HUMAN RIGHTS CONSIDERATIONS

The provisions of the Human Rights Act 1998 are taken into account when considering taking enforcement action against unauthorised development. In this instance the matter in question relates to the right of the owner of land to erect fencing as a boundary treatment in excess of the 2 metre limit afforded under Permitted Development Rights. When balanced against the general public interest, the lack of impact that the development has on the amenity of the area does not justify intervention by the Local Planning Authority. No specific human rights issues have been raised by the owner of the property or any other interested party.

### **1. BACKGROUND INFORMATION**

- 1.1 Golygfa and Ty Maen are neighbouring bungalow type properties situated in a small cul de sac known as Llwyn y Rhos, near Llanrhaeadr. Llwyn y Rhos has direct access to the A525 Denbigh to Ruthin road, to the north of Llanrhaeadr.
- 1.2 There is a history of complaint and counter-complaint by the owners of each property.
- 1.3 During December 2014, the owner of Ty Maen lodged a complaint to the effect that the neighbour at Golygfa had erected boundary fencing in excess of the 2 metre limit afforded by Permitted Development Rights.
- 1.4 On the 11 December 2014, a Planning Compliance Officer undertook a site visit. This revealed that the owners of Golygfa had erected timber lap fencing panels immediately adjacent to similar fencing erected by the owner of Ty Maen. However, the new fencing was slightly higher and could be seen extending above that at Ty Maen. There was also a section of slightly higher plastic coated wire open mesh fencing, which appeared to be restraining a hedge in Golygfa's garden adjacent to the boundary. Both the new timber and wire fencing exceeded 2 metres in height and therefore required planning permission. The hedge is not development, and as such does not require planning permission. The fact that the hedge is over 2m high, does not constitute a breach of planning control
- 1.4 On the 23 December 2014, a letter was forwarded to the owners of Golygfa which outlined there was a breach of planning control and they were advised to submit a retrospective planning application in an attempt to regularise matters. To date no such application has been submitted.

## **2. REASONS FOR NOT PURSUING ENFORCEMENT ACTION**

- 2.1 On the 27 March 2015, a further site visit was undertaken by a planning officer, the Local Member and the local MP.
- 2.2 In relation to the timber lap fencing it is 2.2 metres in height and therefore only 20cm (200mm), above the permitted development height. Having regard to Technical Advice Note (TAN) 9 produced by the Welsh Government, it is proposed that no further action be taken against this breach of planning control. The fence is only marginally over the 2 metre limit and has no significant detrimental impact on the amenities of Ty Maen. In Officers view it would be unreasonable to serve an enforcement notice solely to remedy the breach in the absence of a valid planning permission. It is therefore considered not expedient to take enforcement action.
- 2.3 The small strip of plastic coated wire open mesh fencing, situated between the hedge and the boundary between the two properties, exceeds the height of the timber fencing, but not the hedge. There are some metal 'holders' attached to the wire mesh fence. The 'holders' and the wire mesh fence are clearly visible from Ty Maen, although set against the back drop of the adjacent hedge. The wire mesh fence clearly exceeds 2 metres in height and therefore also requires planning permission. Again having regard to TAN 9, it is proposed that no further action be taken against this breach of planning control. Whilst the fence exceeds the 2 metre limit, it has no significant detrimental impact on the amenities of Ty Maen given its limited length and the fact that it is viewed against the back drop of the hedge. In Officers view it would be unreasonable to serve an enforcement notice solely to remedy the breach in the absence of a valid planning permission. It is therefore not expedient to take enforcement action.
- 2.4 The Local Member and MP have been advised of the conclusions reached by the Officers. The Local MP disagrees with those conclusions and considers that enforcement action is justified and should be taken. The Local Member has requested that the matter be considered by Planning Committee.

## **3. RECOMMENDATION**

- 3.1 It appears that the owner of Golygfa have breached planning control by erecting boundary treatment between the two properties that exceeds 2 metres in height and therefore requires planning permission, but for which no permission has been sought or granted. However, in accordance with the advice contained in TAN 9, as it is considered that these breaches of planning control are minor and have no significant impact upon the amenities of Ty Maen, approval is sought to take no further action on the basis that it cannot be justified.

**Report To:** Planning Committee

**Date of Meeting:** 13<sup>th</sup> May 2015

**Lead Member / Officer:** Cllr David Smith / Angela Loftus

**Report Author:** Angela Loftus, Strategic Planning & Housing Manager

**Title:** Re-use and Adaptation of Rural Buildings Supplementary Planning Guidance – Adoption

---

## **1. What is the report about?**

- 1.1 This report summarises responses from the consultation on the draft SPG Re-use and Adaptation of Rural Buildings and recommends adoption with modifications enabling the guidance to be used in the determination of planning applications.

## **2. What is the reason for making this report?**

- 2.1. Following the adoption of the Denbighshire Local Development Plan (LDP), an updated SPG on re-use and adaptation of rural buildings is required in order to provide further guidance for developers, Officers and Members. A final copy of the SPG is attached as Appendix 1 to this report.

## **3. What are the recommendations?**

- 3.1. That Members adopt the final SPG on Re-use and Adaptation of Rural Buildings as amended, for use in the determination of planning applications.

## **4. Report details**

- 4.1. Following the adoption of the LDP on 4<sup>th</sup> June 2013, Council agreed to carry forward the existing series of SPGs, including SPG 16 – Conversion of Rural Buildings. However, given the significant differences between the previous Unitary Development Plan (UDP) and LDP policies relating to conversion of rural buildings and the need for further guidance, it is necessary to produce an updated SPG on this topic. When adopted, the SPG will be a material planning consideration when assessing planning applications.
- 4.2. The SPG supplements the LDP policies on conversion of buildings from agricultural, commercial or community uses (mainly policies PSE 4, PSE 10 and BSC 12) by providing further detail on what uses may be acceptable for converted buildings, details of the marketing tests required and design guidance.

- 4.4 The SPG was subject to public consultation for 8 weeks between 3<sup>rd</sup> March and 28<sup>th</sup> April 2014. A consultation report detailing the results of the consultation and responses received is attached as Appendix 2 to this report.
- 4.5 The key issues arising from the consultation were:
- Concerns over viability of converting for any uses other than market housing.
  - General support from many for 12 month marketing period, one felt it should be longer, one shorter.
  - Extra reference should be made to sensitive landscape and archaeological areas.
  - Agreement that extensions should be subordinate to original buildings.
- 4.6 A number of changes are proposed to the SPG in response to the comments received and these are shown in the version attached as Appendix 1. Deleted text is shown as a strike-through and new text is highlighted.
- 4.7 In response to Members' concerns about affordable housing, an Affordable Housing Task and Finish Group was established to look at a variety of issues relating to affordable housing. This included the affordable housing restriction in relation to conversions and the Group has recommended that planning policies should be changed to allow for the conversion of rural buildings to market housing. This would be a change in policy from the stance in the adopted LDP and this policy will require amendment on review. There is currently no mechanism to amend policies in the LDP other than through a full review of the entire plan. Welsh Government is considering an amendment to allow partial plan reviews but this has not been confirmed to date. As an interim arrangement, it is proposed to amend the SPG to allow for the conversion of rural buildings for market housing if it can be demonstrated that the building has been marketed for economic use, without success and that conversion for affordable housing would not be viable.
- 4.8 The LDP Members Steering Group have discussed the consultation responses received and were supportive of the changes proposed. Both the LDP Steering Group and relevant Lead Members requested that the revised SPG should be reported to Planning Committee at the earliest opportunity to enable the revised SPG to be adopted and the amended guidance on the re-use of rural buildings applied as soon as possible.
- 4.9 In summary, the key changes proposed are:
- To allow for conversion to market housing provided that it can be demonstrated that the building has been marketed for economic use (without success) and that conversion to affordable housing would not be viable.
  - Amendments to the guidance relating to the existing structure and removal of the requirement to undertake a structural survey
  - Clarification that the Council would consider conversion to holiday accommodation to be an economic use.



- Addition of a requirement to undertake web-based marketing as part of the marketing exercise for business use.
- Clarification that any extensions required should be subordinate to the original building.

## **5 How does the decision contribute to the Corporate Priorities?**

5.1. *Corporate Priorities 2012-17.* The SPG will contribute positively to the following proposed corporate priority:

- Developing the local economy – Providing further guidance on the LDP policy requirements will significantly contribute towards securing and delivering rural employment opportunities throughout the County.
- Ensuring access to good quality housing – Adopting the amended guidance will enable the provision of additional affordable and market housing in the rural area.

## **6 What will it cost and how will it affect other services?**

6.1. Adopting the SPG is not anticipated to create any additional cost.

## **7 What are the main conclusions of the Equality Impact Assessment (EqIA) undertaken on the decision? The completed EqIA template should be attached as an appendix to the report.**

7.1 An EqIA is not considered necessary for this decision. The principle of converting rural buildings has been established through adoption of the LDP. The SPG provides further guidance on this. The LDP underwent a full EqIA in May 2011.

## **8 What consultations have been carried out with Scrutiny and others?**

8.1 Internal consultation has been carried out with the LDP Members Steering Group, relevant Lead Members, officers in the Development Management Section, County Conservation Officer and County Ecologist and amendments made. The LDP Members Steering Group have discussed the consultation responses received at their meeting on 23<sup>rd</sup> April 2015 and were supportive of the changes proposed.

## **9 Chief Finance Officer Statement**

9.1 Any costs associated with the guidance should be contained within existing budgets and therefore there are no obvious financial implications contained in the report.

## **10 What risks are there and is there anything we can do to reduce them?**

10.1 In the absence of up-to-date guidance there is a risk the Council will be unable to effectively operate the LDP policy. This would result in a failure to secure

employment, commercial or community uses for rural buildings or additional affordable and market housing in rural areas. The current conversion of rural buildings SPG relates to the previous UDP policy, which is significantly different to the LDP policy, and therefore cannot be relied upon to provide sufficient planning guidance in the long-term. The adoption of a new conversion of rural buildings SPG has been identified as a priority by the LDP Members Steering Group.

## **11 Power to make the Decision**

### **11.1 Planning & Compulsory Purchase Act (2004).**

Draft Supplementary  
Planning Guidance:

# Re-use and adaptation of rural buildings

## **Supplementary Planning Guidance – Re-use and Adaptation of Rural Buildings**

**April 2015**

### **1. Introduction**

- 1.1 This note is one of a series of Supplementary Planning Guidance notes (SPGs) amplifying the development plan policies in a clear and concise format with the aim of improving the process, design and quality of new development. The notes are intended to offer broad guidance which will assist members of the public, Members of the Council, and officers in discussions prior to the submission of planning applications and assist officers and Members in determining planning applications.
- 1.2 The purpose of SPGs is to:
- Supplement or elaborate on adopted LDP policies
  - Take account of national guidance.

### **2. Status and stages in preparation**

- 2.1 The Council's SPG notes are not part of the adopted development plan. The Welsh Government has confirmed that following public consultation and subsequent Local Planning Authority (LPA) approval, SPG can be treated as a material planning consideration when LPAs, Planning Inspectors and the Welsh Government determine planning applications and appeals. This SPG document was formally approved for consultation by Denbighshire County Council's Planning Committee on 22nd January 2014.
- 2.2 These notes have been prepared in accordance with guidance contained in Planning Policy Wales (November 2012); Local Development Plans Wales (December 2005); Technical Advice Note 6 – Planning for Sustainable Rural Communities (July 2010).
- 2.3 This SPG provides further advice and guidance on the Council's commitment to safeguarding rural buildings for uses that contribute positively to the rural economy. It supplements adopted Denbighshire LDP policy PSE 4 ('Re-use and adaptation of rural buildings in open countryside).

### **3. Background**

- 3.1 Denbighshire has a wealth of stone built barns and other traditional rural buildings which make a contribution to the distinctiveness of the local landscape and the current and future economic needs of rural areas. National and local policies support re-use of rural buildings for purposes that contribute to the local economy and the principles of sustainable development.

- 3.2 Changes in farming practices and the decline of rural services have resulted in many older rural buildings becoming economically redundant or ill suited for their original purposes. As a result many owners need to look for new economic uses for their buildings. There is demand to convert rural buildings to residential accommodation, however, national and local planning policy presumes against the conversion of buildings to residential use where such buildings may suitably be reused for business purposes. This SPG confirms the Council's commitment to safeguarding rural buildings for purposes that contribute to the rural economy.

#### 4. Policy Considerations

##### National Policy

- 4.1 National planning guidance is contained within **Planning Policy Wales (PPW) 2014** which stresses the need to balance the protection and enhancement of the countryside with economic, social and recreational needs. PPW supports a positive approach to the conversion of rural buildings for business re-use.
- 4.2 **Technical Advice Note 6 (TAN 6) Planning for Sustainable Rural Communities (July 2010)**, states that the primary consideration when assessing planning applications for the conversion of rural buildings should be whether the nature and extent of use proposed is acceptable in planning terms. It should not normally be necessary to consider whether a building is needed any longer for its present agricultural or other purposes. However, local planning authorities should investigate the history of use where there is reasonable cause to believe that an attempt has been made to abuse the planning system by constructing new rural buildings with the benefit of permitted development rights with the intention of early conversion to another use.
- 4.3 TAN6 <http://wales.gov.uk/docs/desh/policy/100722tan6en.pdf> generally prefers business re-use over residential re-use (paras 3.5 and 3.6 refer): *'(3.5) The conversion of buildings which are currently in industrial or commercial use to dwellings may have an adverse impact on the local economy...(3.6) Whilst residential conversions have a minimal impact on the rural economy, conversions to holiday use can contribute more and may reduce pressure to use other houses in the area for holiday use.'*
- 4.4 The TAN also emphasises that conversion proposals must respect landscape and local building styles and materials.

##### Local Policy

- 4.5 The Denbighshire Local Development Plan (2006-2021) adopted 2013 sets the local planning policy context for the County.
- 4.6 Local Development Plan Policy **PSE 4 Reuse and adaptation of rural buildings in open countryside** confirms that consistent with national policy, re-use of rural buildings for economic purposes will be supported. Policy PSE 4 goes on to state that where an employment use has been demonstrated to be unviable that residential conversion to meet local affordable needs may be considered. Evidence indicates that there is a significant need for affordable housing across Denbighshire which will continue for some time. Extending the opportunity for residential conversions in the countryside for affordable housing to meet local needs provides a housing source to help meet this identified need in our rural communities. However, the Council acknowledges that in some cases conversion of rural buildings to affordable housing would not be financially viable, due to the higher costs of conversion compared to new build and provided that this can be demonstrated to be unviable conversion for market housing may be acceptable.
- 4.7 **Policy PSE 10 – Local Shops and Services**, states that the loss of local shops and services will be resisted unless it has been demonstrated that a continued commercial use is not viable, including a 12 month marketing period and examination of financial records.
- 4.8 **Policy BSC 12 – Community Facilities**, states that change of use from a community facility can be refused unless it has been demonstrated that the potential for continued use as a community facility is un-viable or unsuitable.

## 5 **Buildings that may be suitable for conversion**

- 5.1 Some rural buildings play an important role in the landscape of Denbighshire. Proposals to convert such buildings in a sensitive and well-designed manner could have a positive effect on the environment and ensure that these historic/traditional buildings are restored and serve a practical purpose into the future. As a result of their importance, conversion is recommended. Nevertheless converting a building should not lead to a loss of a facility or community service (i.e. public house, village shop etc), unless firm proof is received by the Council proving that the property has been marketed on sale and for rent at a reasonable price for a period of 12 months, which conforms with the principles of policies PSE 4, PSE 10 and BSC12 in the Local Development Plan. Buildings which could be converted for an economic, tourism or ~~affordable~~ housing use following its unsuccessful marketing for sale and for rent for their current use, include:-

- agricultural buildings
- chapels/churches
- post offices/shops
- public houses
- mills
- old schools
- vestries

NB This list is not exhaustive

## 5.2 Buildings that are unlikely to be suitable for conversion

There are some buildings/structures that are not suitable for conversion, such as the ones which are:-

- ~~Fragile in structure~~
- Ruins, i.e. with substantial sections of the walls missing or that it is in such a ruined state that only the remains of the original building can be seen, see 5.3 below
- Temporary buildings
- Buildings of non traditional construction ie corrugated sheet roofing and walls.
- In an area at risk of flooding.
- Too small in size see LDP SPG 1 Residential Space Standards
- In such remote and isolated locations which would result in unsustainable development.

## 5.3 Necessary Structural Elements

With regard to the structure and size of the building, the application will need to comply with the following criteria before it can be granted planning permission:-

- The structure of the walls needs to be ~~visible and strong~~ **intact** up to the level of the eaves.
- There must be obvious openings for doors or windows which can be used.
- The present building must be of an adequate floor area, i.e. at least 50m<sup>2</sup>.
- ~~Should the conversion work mean carrying out work to restore the roof, then it should not be necessary to re-build more than 10% of the total wall area. Should it be unnecessary to carry out work to restore the roof, then it would be acceptable for it to be necessary to re-build 20% of the total wall area.~~

## 6. The Employment/Marketing Test

- 6.1 Denbighshire County Council is committed to the retention and creation of local employment, rural services and community facilities. The Local Planning Authority, in accordance with policies PSE 4, PSE 10 and BSC12 in the Local Development Plan and national planning guidance, will not allow conversion

of such buildings to residential uses ~~for local needs affordable housing~~, unless sufficient and reasonable attempts have been made to secure a business, commercial or community use for the building depending on previous use. The Council would consider conversion to holiday accommodation or tourist facilities as an economic use.

- 6.2 Sufficient and reasonable attempts at securing a business use for a rural building will require a “marketing exercise”. It is difficult to be prescriptive about the definition of the marketing exercise as each case will be different. However the planning authority will expect a marketing exercise as a minimum to comprise:
- bi-monthly advertisement in a regional newspaper
  - advertising with a commercial property agent;
  - notifying other organisations who may have an interest in promoting the site.
- 6.3 The marketing exercise should last a minimum of 12 months. The planning authority will determine at its own discretion what timescale is “sufficient and reasonable”, following an assessment of the merits of each individual case. The example cited below is an example of the general requirements that the planning authority would expect:
- The rural building must be *actively* advertised for employment uses for a continuous period of at least 12 months starting from the date of the first advert;
  - The rural building should be *actively* marketed through a recognised and independent commercial property agent and should cover the North Wales area. This should include web-based marketing.
  - The rural building should be advertised for employment uses in an advert in a regional newspaper on a bi-monthly basis during the marketing period;
  - The applicant must, at the start of the marketing period, notify the availability of the land/buildings for employment uses to the following (please contact the planning authority for relevant contact names):
    - (a) Denbighshire County Council's Economic and Business Development unit;
    - (b) Welsh Government, Business Wales; and
    - (c) Any relevant local business associations or interest groups. ie local chambers of trade; city, town and community councils; tourism associations and local Federation of Small Business groups etc.
  - The Local Planning Authority will require evidence of the extent of the marketing including copies of all adverts (with dates), when and for how long the advert was in the agent’s window, websites etc;



- The relevant contact name at the commercial property agent must also be provided in order for the Local Planning Authority to discuss the extent of their marketing along with details of the marketing particulars.
  - At the end of the marketing period, the planning authority will require a report setting out the enquiries received, including any firm offers (conditional or unconditional) – with evidence where necessary - and the commercial property agent’s view as to the commercial viability of the site.
- 6.4 The Local Planning Authority must be satisfied that genuine attempts have been made to both:
- Actively market the property;
  - Market the property at a reasonable price for employment, commercial or community uses, having regard to the local property market and values.
- 6.5 The Local Planning Authority will require evidence of the marketing exercise to accompany the submission of any planning application for residential conversion.

**7. Conversion to residential use ~~for local needs affordable housing~~**

**i) Local needs affordable housing**

- 7.1 Residential conversions in the countryside can have a detrimental effect upon the rural character of the landscape and the local economy as well as encouraging unsustainable private car use.
- 7.2 Re-use of an existing rural building may be acceptable where it has been satisfactorily demonstrated that an economic, commercial or community use is unviable and that it will meet an identified local need for affordable housing. Occupants must have a strong local connection to the Community Council area, in accordance with the Council’s Local Connections Policy (see Affordable Housing SPG) and also have a financial need for an affordable dwelling. Applicants will be required to provide evidence in support of the proposed occupant’s local connection and financial eligibility. Further guidance on affordable housing can be found in LDP SPG Affordable Housing. **Exceptions to these requirements are set out in paragraph 7.4 below.**

**ii) Live/Work Units**

- 7.3 Live/work units are the mixed use of a property for both business and residential purposes. Provided that the predominant use of the building is retained for employment and the proposed use is not mainly residential with space for homeworking, this may be an acceptable option. The Council will seek to safeguard future use of the building through use of appropriate conditions. In order to ensure continued employment use, the grant of any planning permission will include a condition requiring the works necessary for

the establishment of the enterprise to have been completed before the residential part is occupied. In addition, a condition tying occupation of the residential accommodation to the operation of the enterprise must be imposed in order to prevent this element being sold separately. Alternatively a planning obligation may be sought to link the residential use with the business.

### **iii) Market housing**

7.4 The Council acknowledges that in some cases conversion of rural buildings to affordable housing would not be financially viable, due to the higher costs of conversion compared to new build. In such cases provided the applicant can demonstrate that conversion for affordable housing would be not viable, re-use for open market housing may be acceptable in principle, subject to compliance with other relevant policies and guidance. This would need to be demonstrated through the submission of a financial viability assessment.

## **8. Other Planning Considerations**

8.1 In addition to the guidance set out above, there will be further criteria which must be taken into consideration when determining a planning application for conversion. Some of the criteria will relate to residential affordable housing conversions only and others will refer to both residential and employment, commercial or community use conversions. Where conversion to affordable housing to meet local needs residential use is proposed, the scheme should meet the requirements of LDP SPG 1 Residential Space Standards.

8.2 In all instances the objective is to ensure that buildings to be converted are adapted sympathetically having regard to their surroundings. In the case of traditional buildings, the scheme of conversion should ensure that the original character of the building is retained. In all cases particular care should be taken over the choice of materials used, insulation and energy efficiency should also be considered as any scheme conversion.

### **8.3 Quality/Condition of Building**

Buildings should be of permanent and substantial construction and should not be so derelict that they could only be brought back into use by substantial rebuilding, tantamount to the erection of a new building.

8.4 ~~In order to establish the condition and physical suitability of a building, an independent structural engineer's report will be required. This should clearly demonstrate the structural capability of the building to accommodate the scheme proposed and be submitted with the planning application. This will benefit both the Council and applicant since if a building collapses during alteration the planning permission may not be able to be implemented.~~

## **8.5 Quality of Conversion**

Once the suitability of a building for conversion is established, then the actual details of the scheme need to be assessed. The following considerations are put forward as generally reflecting good practice. There may be individual buildings wherein the guidance may not be appropriate depending on its unique character, design, materials and construction. In such cases advice should be sought from appropriate Council officers.

### **(a) Extension/alteration**

Generally, the building should be capable of conversion without the need for extensions and alterations. Any agreed extensions must be modest in scale and subordinate to the original building. Extensions should respect the character of the original structure. The roof line should not be altered or raised and dormers will almost always be inappropriate, unless they are traditional to other buildings in the locality.

### **(b) Internal sub-division**

By the nature of their intended purposes, many buildings are open plan internally. It is inevitable, particularly for residential uses, that internal sub-division is necessary e.g. to separate kitchen, bathroom and living space or to separate office space/storage. Internal sub-division should be kept to a minimum so as to respect the internal features, space or roof structures.

### **(c) Elevational changes**

#### **(i) Windows and Doors:**

A difficulty experienced in conversion schemes is to enable sufficient natural light into a building, without the creation of a considerable amount of new openings (fenestration) which would seriously damage its existing character. Wherever possible, existing openings should be retained and new openings should be kept to a minimum. Where new windows and doors are unavoidable, they should be sympathetic in design, proportions and materials. The use of UPVC will only be acceptable where profiling or detailing is in keeping with the character of the building. All external timber should be painted rather than stained. Additional light may be achieved by the glazing of ventilation slits and sparing use on less visible roof lines of flush fitting conservation roof lights.

#### **(ii) Details:**

Existing features such as fixed machinery, arches, lintels ventilation slits etc., should be retained and incorporated into the scheme. Where openings need to be blocked up a sympathetic material should be used and recessed to emphasise the original opening. The use of timber boarding or glass may be appropriate for large openings with glazing helping to ensure sufficient natural light is available. The introduction of chimney stacks and modern or over-ornate details should be avoided. External rainwater goods should be kept to a minimum and be black finished cast-iron or aluminium.

(iii) External materials:

Existing stone/brickwork should be repointed using traditional lime based mortars and methods, and roof slates/tiles should be repaired and re-used wherever possible. In instances where new materials are necessary,(where re-use or repair is not possible) these should match the existing in terms of size, colour, texture etc. Only when the existing building features rendering and/or paint/whitewash will this form of treatment be appropriate.

**External Areas**

Notwithstanding the quality of the actual conversion scheme, considerable care must be taken with the external surroundings. The creation of a residential curtilage, boundary treatment and the introduction of residential and domestic features and materials can have a damaging effect on the character of the building and its surroundings. Bin stores etc should be sensitively located.

**(a) Curtilages**

The curtilage of a rural building should generally remain open and uncluttered. Where there is scope for private areas in residential conversions these should be screened with hedging and walls of old brick or stone and should follow existing natural or manmade boundaries such as hedge lines or farmyard boundary walls. The treatment of boundaries should reflect the building's rural character with simple post and rail fences stone / brick walls and timber gates being acceptable. The planning application should include plans clearly defining the extent of the curtilage areas and showing detailed boundary treatments.

In residential conversions, conservatories, pools, sheds, interwoven fences and ornate entrances etc., may detract from the character of the building and its setting. The incorporation of agricultural land into a building's curtilage constitutes a change of use and will require planning permission but will normally be discouraged.

**(b) Surfaces**

Modern ground surface materials such as tarmac and concrete are sometimes out of keeping with the character of traditional rural buildings, although there are instances when tarmac may be suitable. Wherever possible, existing stone sets, cobbles or other suitable/sympathetic materials should be retained or re-used and supplemented where necessary.

**(c) Landscaping**

Generally, hard landscaping will be appropriate to courtyards and soft landscaping appropriate elsewhere. Existing landscape features should be retained where possible. Planning applications should be accompanied by a fully detailed landscaping scheme.

**(d) Parking**

Parking should be in accordance with the Local Planning Authority's guidelines. Careful consideration should be given to the sensitive siting and design of car parking, in both employment and residential schemes.

Wherever possible in a residential conversion scheme, garaged cars should be incorporated within the conversion scheme, especially in buildings with former loading bays and barn doors.

**(e) Services**

Particular care needs to be given to services which can have a damaging visual effect. LP gas tanks, septic tanks etc. should be sensitively sited and well screened so as to be unobtrusive whilst electricity control boxes, alarm boxes, satellite dishes and flues etc., should be positioned on less prominent elevations.

**(f) Storage**

Some employment conversion schemes may need space for the storage of goods and materials. As with car parking, careful consideration should be given to the siting and screening of any storage areas, ensuring that there is a minimal impact upon the building and its surroundings by utilising screening through existing or new walls or through landscaping measures.

**(g) Access for Disabled People**

An inclusive design approach is recommended to incorporate facilities for disabled people in compliance with the Equalities Act 2010. Access should be in accordance with the Local Planning Authority's guidelines, Access Strategy and Approved document Part M of Building Regulations 2010 and 2013 as amended.

**8.6 Amenity/Setting of Other Buildings**

The relationship of the conversion scheme to other buildings needs to be assessed. Often there will be dwellings nearby and both these and the conversion scheme must take account of privacy and overlooking issues. Agricultural or other operations, either on the site or nearby must not result in inadequate amenity standards.

**8.7 Wildlife**

Some buildings may contain roosts for bats, owls and other nesting birds which are protected by the Conservation of Habitats and Species Regulations 2010 (as amended) and the Wildlife & Countryside Act 1981 (as amended). It is illegal to kill, injure or take most wild birds and to take damage or destroy the nest of any wild bird whilst it is in use or being built. Some species, such as the barn owl, receive further protection under the Act. In such cases, the applicant will need to undertake a pre-determination survey and Natural Resources Wales (NRW) will be consulted on the results of the survey and mitigation required. Local Development Plan policy VOE 5 Conservation of Natural Resources should be considered. Applicants are advised to contact

the County Ecologist for advice and refer to any other guidance on nature conservation and planning. It is an offence to kill, injure or disturb any bat and to damage, destroy or obstruct access to any place a bat uses for shelter or protection, even if bats are not present at the time. An offence can be committed even if the actions were unintentional. Steps can be taken in the detailed designs of roofs to provide suitable habitats and access for bats and birds and these will need to be incorporated within any scheme where the presence of these species is evident or likely. Duties in respect of birds and biodiversity should be assessed and addressed to the satisfaction of the County Ecologist and third party specialists.

#### **8.8 Heritage assets and areas of landscape sensitivity**

A significant number of the rural buildings of Denbighshire lie within the Clwydian Range and Dee valley Area of Outstanding Natural Beauty (AONB) and the Pontcysyllte Aqueduct and Canal World Heritage Site (WHS). Rural buildings are an important part of the character of these areas and a sensitive approach to conversions should be taken.

Some buildings may be listed as being of special architectural or historic interest or may fall within the curtilage of a listed building. Others may fall within conservation areas. In both cases conversions will require very careful consideration to ensure that the character, appearance and features of the buildings are retained. Where developments are being proposed under policy VOE 4 Enabling development the special circumstances which warrant consideration under this policy may override the requirements of Policies BSC 12, PSE 4 and PSE 10 and this SPG guidance. A separate application for listed building consent will be required where works are proposed to a listed building or building within the curtilage of a listed building. Where there may be archaeological interest on a site, applicants are encouraged to make early contact with the County Archaeologist and/or the Clwyd Powys Archaeological Trust.

#### **8.9 Removal of Permitted Development Rights**

In granting planning permission for residential conversions permitted development rights will be removed by the imposition of a planning condition. All subsequent alterations i.e. garages, extensions, outbuildings, sheds, alterations to the roof etc., which would normally be permitted development, will require specific planning permission. This is to avoid the loss of the building's character through a series of small changes which cumulatively could have an adverse effect.

### **9. Contacts**

Denbighshire County Council  
Planning & Public Protection  
Strategic Planning & Housing  
Caledfryn, Smithfield Road  
Denbigh LL16 3RJ

Denbighshire County Council  
Development Management  
Caledfryn  
Smithfield Road  
Denbigh LL16 3RJ

Tel: 01824 706916  
Email: [ldp@denbighshire.gov.uk](mailto:ldp@denbighshire.gov.uk)

Tel: 01824 706727  
Email: [planning@denbighshire.gov.uk](mailto:planning@denbighshire.gov.uk)

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# Report of Consultation

## Draft Supplementary Planning Guidance

### Re-use and Adaptation of Rural Buildings

#### 1 Introduction

- 1.1 This report sets out the consultation that was undertaken on the draft Supplementary Planning Guidance Re-use and Adaptation of Rural Buildings, including a summary of the responses received and how they have been taken into account by the Council.
- 1.2 The Council consulted the general public on the proposed SPG for a period of 8 weeks between 3<sup>rd</sup> March 2014 and 28<sup>th</sup> April 2014. The consultation included public notices in local papers, press releases, and a letter to all people on the Local Development Plan database, including (but not limited to): City, Town and Community Councils; Councillors; Assembly Members; Members of Parliament; adjacent local authorities, stakeholders and the general public informing them of the consultation and telling them how to respond. Copies of the document were made available on the Denbighshire website, in public libraries and Council One Stop Shops.

#### 2 Responses received

- 2.1 7 individuals and organisations responded to the consultation, including Bodfari Community Council, AONB JAC, Anwyl Construction, CPAT and CPRW. Late responses were received from Natural Resources Wales and Cllr Martyn Holland which have also been included in the report. Responses to the public consultation raised the following issues:
- General support from many for 12 month marketing period, one felt it should be longer, one shorter.
  - Extra reference should be made to sensitive landscape and archaeological areas.
  - Concerns over viability of converting for any uses other than market housing.
  - Agreement that extensions should be subordinate to original buildings.
- 2.2 Detailed consultation responses are included at the end of this report in table A.

**Table A – Consultation responses**

Representor	Comments (summary)	Council's Response	Changes proposed
Bodfari Community Council	<p>Guidance should make reference to use of suitable materials, insulation and energy efficiency.</p> <p>Town/Community Councils should be included in the list of local interest groups.</p>	<p><b>Agreed</b>, para 8.2 will be amended to include references.</p> <p><b>Agreed</b>, para 6.3 will be amended.</p>	<p>Amendments to paragraph 8.2 to refer to the use of suitable materials, insulation and energy efficiency.</p> <p>Amendments to paragraph 6.3 to refer to City/Town /Community Councils.</p>
AONB JAC	<p>Support broad thrust of policy and guidance that gives priority of seeking economic use for rural Buildings. Also concerned at loss of local shops and services.</p> <p>Para 3.1 and section 8 should make specific reference to AONB and World Heritage Site and need for extra sensitivity in these areas.</p> <p>Support proposed 12 month marketing period prior to considering other uses.</p> <p>Support principle of securing affordable housing for local people in rural areas but have concerns about viability. Suggest policy is monitored regarding delivery.</p>	<p>Support welcomed.</p> <p>Reference to be made in amended Section 8.</p> <p>Comments Noted.</p> <p>The Council acknowledges that in some cases conversion of rural buildings to affordable housing would not be financially viable, due to the higher costs of conversion compared to new build and provided that this can be demonstrated to be unviable conversion for market housing may be acceptable. It is proposed to amend</p>	<p>Amendments to Section 8 to refer to the AONB &amp; World Heritage Site</p> <p>Amendments to Section 7 to clarify that provided that conversion to affordable housing can be demonstrated to be unviable conversion for market housing may be acceptable.</p>

Representor	Comments (summary)	Council's Response	Changes proposed
	<p>Para 8.5a support that buildings should be capable of conversion without need for extension. Where extension considered should be subservient to original building.</p> <p>Concerned about deletion of requirement for building to be redundant. SPG should state that conversion of building should not give rise to need for replacement building unless fully justified.</p> <p>Para 8.6 should cross reference to SPG on residential space standards.</p> <p>Where rights of way are affected need to maintain integrity and continuity of the network should be a requirement.</p>	<p>the SPG to reflect this.</p> <p>Agreed, para 8.5a to be amended accordingly.</p> <p>A requirement for redundancy would run contrary to National policy guidance see TAN 6 Rural Economy 3.2.1. Para 3.3.2 goes on to suggest conditions relating to new agricultural buildings where former ones are converted.</p> <p>Cross references to Residential Space Standards occur throughout the document, additional mention in 8.6 not considered necessary.</p> <p>Comments noted.</p>	<p>Amendment to paragraph 8.5 (a) to clarify that any agreed extensions must be modest in scale and subordinate to the original building.</p> <p>No change proposed</p> <p>No change proposed</p> <p>No change proposed</p>
Anwyl Construction	Express concern regarding policy PSE 4 and the viability of converting for employment or affordable housing uses. Concerns over vacancy and dereliction of rural buildings as a result.	The Council acknowledges that in some cases conversion of rural buildings to affordable housing would not be financially viable, due to the higher costs of conversion compared to new build and provided that this can be demonstrated to be unviable	Amendments to Section 7 to clarify that provided that conversion to affordable housing can be demonstrated to be unviable, conversion for market housing may be acceptable.

Representor	Comments (summary)	Council's Response	Changes proposed
	Policy PSE 4 should be revised and SPG withdrawn until this happens.	conversion for market housing may be acceptable. It is proposed to amend the SPG to reflect this. LDP policies will be revised as part of the LDP review as necessary.	
Clwyd-Powys Archaeological Trust	Prospective developers should be encouraged to contact CPAT and County Archaeologist prior to submitting development proposals for older buildings.	Agreed para 8.8 should be amended to reflect this request.	Amendments to paragraph 8.8 to add: Where there may be archaeological interest on site, applicants are encouraged to make early contact with the County Archaeologist and/or CPAT.
Campaign for the Protection of Rural Wales (Clwyd Branch)	<p>Para 6.8 – agree that 12 months is an appropriate period for marketing but feel that this may need to be extended depending on economic situation prevailing at the time.</p> <p>Para 8.5 – instead of prescribed percentage for extensions, should state that they be ancillary to original building.</p> <p>Suggest including additional paragraph that where appropriate, a photographic record of original building be submitted to and approved by LPA prior to development taking place. This record to be deposited with County Sites and Monuments Record operated by CPAT.</p>	<p>Comment noted, a marketing period in excess of 12 months may be considered overly onerous.</p> <p>Agreed para 8.5a to be amended accordingly.</p> <p>This would be conditioned in relation to any appropriate planning consent.</p>	<p>No change proposed</p> <p>Amendment to paragraph 8.5 (a) to clarify that any agreed extensions must be modest in scale and subservient to the original building.</p> <p>No change proposed</p>

Representor	Comments (summary)	Council's Response	Changes proposed
Cunliffe Planning	<p>Para 5.1 – should emphasise that list suggested is not exhaustive. Suggest adding petrol filling stations; farm shops; bakeries and industrial premises.</p> <p>Para 5.2 – a large number of rural buildings are in unsustainable locations which may exclude many from consideration.</p> <p>Para 5.3 – requirements too prescriptive particularly % in last bullet point.</p> <p>Para 6.2 – requirements for marketing are too onerous, 'Other organisations' should be defined.</p> <p>Para 6.3 – 12 months considered too long, in 12 months a vacant building could fall into disrepair. Useful for the Council to specify a regional newspaper to be used. Marketing requirements unreasonable, rural location of many properties would make them unsuitable for employment, commercial or community uses. Not having to advertise a rural building for commercial purposes will aid recovery of economy.</p>	<p>The list is intended to be illustrative and not exhaustive. A statement to that effect is already included at the end of the list.</p> <p>Sustainable development is at the heart of the LDP and some buildings may be in such remote locations that they should not be considered for re-use.</p> <p>It is proposed to remove the final bullet point from paragraph 5.3, and delete paragraph 8.4 in order to provide greater flexibility. Marketing requirements are considered reasonable and achievable. The 'other' organisations are likely to vary depending on location of the development proposal and this has been left flexible.</p> <p>12 months has received support through the consultation process and has been benchmarked against other north Wales LPAs. Marketing can take place prior or concurrent to a building ceasing its current use and therefore dereliction should not arise. The County is a large one and different areas are covered by different papers depending on where</p>	<p>No change proposed</p> <p>No change proposed</p> <p>Amendment to paragraph 5.3 to remove the final bullet point &amp; deletion of paragraph 8.4</p> <p>No change proposed</p>

Representor	Comments (summary)	Council's Response	Changes proposed
	<p>Para 8.5 - % limit not appropriate, each case should be considered on its merits.</p> <p>SPG should contain pictures of successful conversions.</p> <p>Draft SPG does not help with the Council's drive to be open for business and to improve the rural economy. Viability of converting rural buildings doubtful, Denbighshire will have a legacy of dereliction. Policy PSE 4 is flawed as it is unlikely that it will be viable to convert for affordable housing.</p>	<p>the development proposal is and this has been left flexible. Agreed, para 8.5a to be amended.</p> <p>Agreed final version will have appropriate illustrations.</p> <p>The Council acknowledges that in some cases conversion of rural buildings to affordable housing would not be financially viable, due to the higher costs of conversion compared to new build and provided that this can be demonstrated to be unviable conversion for market housing may be acceptable. It is proposed to amend the SPG to reflect this. LDP policies will be monitored annually and revised as part of the LDP review as necessary.</p>	<p>Amendment to paragraph 8.5 (a) to clarify that any agreed extensions must be modest in scale and subordinate to the original building. Appropriate illustrations will be included in the final version. Amendments to Section 7 to clarify that provided that conversion to affordable housing can be demonstrated to be unviable conversion for market housing may be acceptable.</p>
Natural Resources Wales	<p>Advise that exterior design and appearance reflect local vernacular and designs.</p> <p>Include a paragraph highlighting AONB and WHS.</p> <p>Welcome para on wildlife.</p>	<p>Comments noted. Section 7 requires the retention of existing features and materials wherever possible. Reference to be made in amended para 8.8.</p> <p>Comments noted.</p>	<p>No change proposed</p> <p>Amendments to Section 8 to refer to the AONB &amp; World Heritage Site No change proposed</p>

Representor	Comments (summary)	Council's Response	Changes proposed
	<p>Suggest mentioning derogation purposes in section under bats.</p> <p>Include requirements for appropriate 'bat' friendly building design specifications.</p> <p>Proposals that have implications for nursery roosts are likely to require post project surveillance and monitoring.</p> <p>Consider mentioning there may be need to dedicate all or part of a structure specifically for use as bat roosts.</p> <p>Duties in respect of birds and biodiversity should be assessed and addressed to the satisfaction of the Council's ecological officer and third party specialists.</p>	<p>Reference is made in paragraph 8.7 to the appropriate legislation, SPG specifically on biodiversity to be produced and not necessary to duplicate here. Detailed conditions would be attached to any planning permission.</p> <p>Detailed conditions would be attached to any planning permission.</p> <p>Paragraph 8.7 to be amended accordingly.</p>	<p>No change proposed</p> <p>No change proposed</p> <p>Amendments to paragraph 8.7 to refer to duties in respect of birds and biodiversity.</p>
Cllr Martyn Holland	<p>1) Barns by their nature are often remote and most first time buyers are looking for housing in villages or towns for convenience, schools, public transport, etc.</p> <p>2) Barns cost a considerable amount of money to convert due to the fact that the fabric of the buildings is often in a poor state of repair and some can even be listed. Many barns are remote and utilities are often not on site. If a well is required to supply water these can cost a minimum of £10k to create. Because of these costs they can hardly be called affordable.</p>	<p>The Council acknowledges that in some cases conversion of rural buildings to affordable housing would not be financially viable, due to the higher costs of conversion compared to new build and provided that this can be demonstrated to be unviable conversion for market housing may be acceptable. It is proposed to amend the SPG to reflect this.</p> <p>LDP policies will be monitored annually and revised as part of the LDP review as necessary.</p>	<p>Amendments to Section 7 to clarify that provided that conversion to affordable housing can be demonstrated to be unviable conversion for market housing may be acceptable.</p>

Representor	Comments (summary)	Council's Response	Changes proposed
	<p>I totally agree with the proposed policy that closed village pubs and shops must be actively advertised as pubs and shops for a minimum of twelve months before we should consider any planning application for change of use for residential purposes. I firmly believe that they should be advertised UK wide using all types of media options.</p> <p>I do not agree with the view that they should only be advertised in Wales as I feel that it is important that these community facilities stay open not matter who runs them. This is the only way we will stop the depopulation of rural areas and in the long term protect the Welsh language. We already know from statistics that younger people are leaving Wales for better job opportunities elsewhere in the world and the loss of village amenities will only accelerate this exodus.</p>	<p>Paragraph 6.3 sets out the marketing requirements for rural buildings and it is proposed to include a requirement for web-based marketing by a commercial property agent. This would include national coverage.</p>	<p>Amend paragraph 6.3 to include reference to web-based marketing.</p>



## Appendix 3

# Conversion of Rural Buildings Supplementary Planning Guidance Adoption of final document 27/04/2015

Equality Impact Assessment

## Conversion of Rural Buildings Supplementary Planning Guidance - consultation draft

Contact: Angela Loftus

Updated: 27.04.15

### 1. What type of proposal / decision is being assessed?

Other

### 2. What is the purpose of this proposal / decision, and what change (to staff or the community) will occur as a result of its implementation?

The proposal is to adopt the draft Supplementary Planning Guidance (SPG) on conversion of rural buildings following consultation with members of the public and key stakeholders. The Supplementary Planning Guidance supports planning policies contained within the Denbighshire Local Development Plan 2006 – 2021. If adopted the Supplementary Planning Guidance will be used in the determination of relevant planning applications.

### 3. Does this proposal / decision require an equality impact assessment? If no, please explain why.

**Please note:** if the proposal will have an impact on people (staff or the community) then an equality impact assessment **must** be undertaken

No

The content of the SPG does not set policy but merely provides additional explanation and information for Members, Officers and developers in applying the policy. The LDP, including the requirement to consider the conversion of rural buildings, underwent a full EqIA in 2009. There are minor changes proposed to the draft document but it is not envisaged that they would adversely affect any of the eight protected characteristics.

**4. Please provide a summary of the steps taken, and the information used, to carry out this assessment, including any engagement undertaken**

*(Please refer to section 1 in the toolkit for guidance)*

The Denbighshire Local Development Plan (LDP) is the overarching policy document under which all SPG sit and this underwent an EqlA in 2009.

**5. Will this proposal / decision have a positive impact on any of the protected characteristics (age; disability; gender-reassignment; marriage and civil partnership; pregnancy and maternity; race; religion or belief; sex; and sexual orientation)?**

*(Please refer to section 1 in the toolkit for a description of the protected characteristics)*

No

**6. Will this proposal / decision have a disproportionate negative impact on any of the protected characteristics (age; disability; gender-reassignment; marriage and civil partnership; pregnancy and maternity; race; religion or belief; sex; and sexual orientation)?**

No

**7. Has the proposal / decision been amended to eliminate or reduce any potential disproportionate negative impact? If no, please explain why.**

No	Not required
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**8. Have you identified any further actions to address and / or monitor any potential negative impact(s)?**

No	Not required
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Action(s)	Owner	By when?

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## 9. Declaration

Every reasonable effort has been made to eliminate or reduce any potential disproportionate impact on people sharing protected characteristics. The actual impact of the proposal / decision will be reviewed at the appropriate stage.

Review Date:	05/2016
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Name of Lead Officer for Equality Impact Assessment	Date
Angela Loftus	27.4.15

**Please note you will be required to publish the outcome of the equality impact assessment if you identify a substantial likely impact.**

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