

To: Chair and Members of the Planning Committee

Date: 9 January 2018

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Dear Councillor

You are invited to attend a meeting of the **PLANNING COMMITTEE** to be held at **9.30 am** on **WEDNESDAY, 17 JANUARY 2018** 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 7 - 8)

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

3 URGENT MATTERS AS AGREED BY THE CHAIR

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

4 MINUTES (Pages 9 - 20)

To confirm the accuracy of the minutes of the Planning Committee meeting held on the 13 December 2017 (copy attached).

APPLICATIONS FOR PERMISSION FOR DEVELOPMENT (ITEMS 5 - 7) -

5 APPLICATION NO. 20/2017/1068/ AC - LAND WEST OF WREXHAM ROAD, LLANFAIR DYFFRYN CLWYD, RUTHIN (Pages 21 - 36)

To consider an application for details of the phasing plan submitted in accordance with condition 3 of planning permission code no. 20/2016/1137 at land west of Wrexham Road, Llanfair Dyffryn Clwyd, Ruthin (copy attached).

6 APPLICATION NO. 43/2017/1147/ PF - 39-41, HIGH STREET, PRESTATYN (Pages 37 - 56)

To consider an application for the change of use from A2 to A3 (Hot Food Takeaway) and associated works at 39-41, High Street, Prestatyn (copy attached).

7 APPLICATION NO. 43/2017/1160/ AD - 39-41, HIGH STREET, PRESTATYN (Pages 57 - 68)

To consider an application for the display of 2 no. externally illuminated fascia signs and 1 no. externally illuminated hanging sign at 39-41, High Street. Prestatyn (copy attached).

8 INFORMATION REPORT: PLANNING APPEAL DECISIONS (Pages 69 - 86)

To receive an information report outlining the recent decisions issued by the Planning Inspectorate on appeals against decisions of the County Council at two major residential development proposals in Denbigh and Meliden (copy attached).

MEMBERSHIP

Councillors

Joe Welch (Chair)

Alan James (Vice-Chair)

Ellie Chard
Ann Davies
Meirick Davies
Peter Evans
Brian Jones
Huw Jones
Pat Jones
Tina Jones
Gwyneth Kensler

Christine Marston
Bob Murray
Merfyn Parry
Peter Scott
Tony Thomas
Julian Thompson-Hill
Emrys Wynne
Mark Young

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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 21 elected Members. In accordance with protocol, 11 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

ELECTRONIC VOTING PROCEDURE

Members are reminded of the procedure when using the electronic voting system to cast their vote.

Unless otherwise advised by the Chair or Officers, 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:

When voting on **applications**, on the voting keyboard, press

- 1** - to **GRANT / APPROVE** the application
- 2** – to **ABSTAIN** from voting on the application
- 3** – to **REFUSE** the application

When voting on **special reports and enforcement items**, on the voting keyboard, press

- 1** - to **ACCEPT THE OFFICER RECOMMENDATION**
- 2** - to **ABSTAIN** from voting on the recommendation
- 3** - to **NOT ACCEPT THE OFFICER RECOMMENDATION**

In the event of problems with the electronic voting system, the Chair or Officers will advise on the procedures to be followed.

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LOCAL GOVERNMENT ACT 2000

Code of Conduct for Members

DISCLOSURE AND REGISTRATION OF INTERESTS

I, (<i>name</i>)	<input type="text"/>
a *member/co-opted member of <i>(*please delete as appropriate)</i>	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:- <i>(*please delete as appropriate)</i>	
Date of Disclosure:	<input type="text"/>
Committee (<i>please specify</i>):	<input type="text"/>
Agenda Item No.	<input type="text"/>
Subject Matter:	<input type="text"/>
Nature of Interest: <i>(See the note below)*</i>	<input type="text"/>
Signed	<input type="text"/>
Date	<input type="text"/>

*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, 13 December 2017 at 9.30 am.

PRESENT

Councillors Ellie Chard, Ann Davies, Meirick Davies, Peter Evans, Alan James (Vice-Chair), Brian Jones, Huw Jones, Pat Jones, Tina Jones, Gwyneth Kensler, Christine Marston, Bob Murray, Merfyn Parry, Peter Scott, Tony Thomas, Julian Thompson-Hill, Joe Welch (Chair), Emrys Wynne and Mark Young

Observers: Councillor Mabon ap Gwynfor, Pete Prendergast and Huw Williams

ALSO PRESENT

Team Leader – Places Team (SC), Development Manager (PM), Principal Planning Officer (IW), Planning Officer (PG), Senior Engineer – Highways (MP), and Committee Administrator (SJ)

1 APOLOGIES

None

2 DECLARATIONS OF INTEREST

Councillor Gwyneth Kensler – Personal and Prejudicial Interest – Agenda items 5 and 6.

Councillor Meirick Lloyd Davies – Personal Interest – Agenda item 12

Councillor Huw Jones – Personal Interest – Agenda item 7

Councillor Mabon AP Gwynfor – Personal Interest – Agenda item 7

3 URGENT MATTERS AS AGREED BY THE CHAIR

No urgent matters.

4 MINUTES

The minutes of the Planning Committee meeting held on 15 November, 2017 were submitted.

RESOLVED that the minutes of the meeting held on 15 November 2017 be approved as a correct record.

APPLICATIONS FOR PERMISSION FOR DEVELOPMENT (ITEMS 5-14)

Applications received requiring determination by the Committee were submitted together with associated documentation. Reference was also made to late supplementary information received since publication of the Agenda which related to particular applications. In order to accommodate public speaking requests, it was agreed to vary

the Agenda order of applications accordingly.

5 APPLICATION NO. 21/2017/0957- 4 BRYN ARTRO AVENUE, LLANFERRES, MOLD

An application was submitted for the erection of replacement dwelling at 4 Bryn Artro Avenue, Llanferres, Mold.

Public Speaker –

Mr Bob Barton (**Against**) – stated he had been a member of Llanferres Community Council and had been present at the Community meeting when this planning application had been discussed. Mr Barton informed the committee he had previously served on the Planning Committee during 2004-2008 and had recently attended a Planning Aid Wales course to refresh his training. Mr Barton informed members he had quoted the Residential Development SPG in his letter of objection but this was not included on the blue information sheets. He concluded that he felt 300mm gap was inadequate. From his previous training the importance of leaving a 1m gap to allow adequate room for emergency services to have access and manoeuvre had been adopted.

General Debate - In the absence of the Local member Councillor Martyn Holland, Councillor Julian Thompson-Hill stated the local member had no objection to the application stating ideally he would have liked to see the 750mm distance between the properties run the length of the dwellings, but appreciates the ex-stamp planning was in place.

Councillor Meirick Lloyd Davies stated the rear of the property the distance at the rear door was currently 950mm and asked officers if it could be increased to 1m, for better access to the rear entrance to the property.

The Development Officer highlighted information on the blue sheet, guiding members to information regarding previous approved planning permission at the same site. The Development Officer informed members that officers were satisfied with the application as it was proposed.

Proposal – Councillor Peter Evans proposed, seconded by Councillor Bob Murray that the application be granted in accordance with officer recommendation.

VOTE:

GRANT – 19

REFUSE – 0

ABSTAIN – 0

RESOLVED that permission be **GRANTED** in accordance with officer recommendation as stipulated in the report.

6 APPLICATION NO. 46/2017/0944- QUEENSLAND HOUSE, THE ROE, ST ASAPH

An application was submitted for the retention of existing sheds used as a workshop (B1 light industrial use) and for personal use at Queensland House, The Roe, St Asaph.

Public Speaker –

Mr Philip Hellyer (**For**) – stated he was representing his son Mr Peter Hellyer the applicant. He explained Mr Peter Hellyer has no plans to expand his business from what already exists. Activities that took place at the site generate minimal noise and for short periods of time. A noise management plan would be obtained in the requested time scale and in support of this, noise insulation would be investigated by the applicant. No painting work was carried out at the premises. The agreed hours of working will be adhered too. Exceptional circumstances to carry out work on Sundays and bank holidays had been requested for customers who may be travelling a distance.

General Debate – The Local Member, Councillor Peter Scott, put forward his views in supporting the application. It was explained to members that objections from the city Council have dispersed with no members of the public in objection to the application. The addition of a tenth condition and amendments to the application conditions following a site visit had been proposed to be included in the application. Councillor Peter Scott stated he had no objection in the application subject to all conditions being met.

Councillor Meirick Lloyd Davies, stated following the site visit he was happy to support the application.

The Development Manager clarified to members that the condition was for work to be carried out between Mondays to Saturday 08:00-18:00 hours of trade.

Proposal – Councillor Peter Scott proposed, seconded by Councillor Meirick Lloyd Davies that the application be granted in accordance with officer recommendation subject to the additional conditions.

VOTE:

GRANT – 18

REFUSE – 0

ABSTAIN – 1

RESOLVED that permission be **GRANTED** in accordance with officer recommendation subject to the conditions imposed.

7 APPLICATION NO. 23/2016/1218- CAER MYNYDD CARAVAN PARK, SARON, DENBIGH

Councillor Meirick Lloyd Davies declared a personal interest as he had family buried in Saron Chapel Cemetery and had historic connections to the village.

At this junction, the Chair Councillor Joe Welch stated as Local Member of the application he would be speaking regarding the proposal. He decided he would vacate the Chair for this application.

The Vice-Chair, Councillor Alan James took over the Chair of the Planning Committee for this one item.

An application was submitted for the extension of existing Holiday Park to allow for the siting of 35 Static Holiday Caravans in lieu of 41 Mixed Touring Pitches with the relinquishing of the northern element of the park, at Caer Mynydd Caravan Park, Saron, Denbigh.

Public Speaker – Mr Philip Jones (**For**) stated he was the applicant's agent. He informed Members the park has been in place for nearly 50 years and benefits the local economy, it was the opinion of the applicant the proposal would benefit the local area. The applicant stated a Visual Impact assessment had been completed. The applicant stated that additional landscaping would be incorporated if approved to aid in improving the visual impact. He also stated the applicant was aware of the conditions that had been imposed to the application and would adhere to comply, if the application was approved.

General Debate - The Local Member, Councillor Joe Welch, introduced the report stating the application had been in discussion for a period of time. Councillor Welch emphasised the surrender of the Northern side of the park moving the business away from local residents. The Community Council and residents of Saron expressed concerns regarding the running of the Park, noise levels, drainage issues and that the Park being used for residential use. Councillor Welch referred to Policy PSE12 regarding changing the use of sites, with a negative opinion of changing a touring sites to a static site.

Councillor Christine Marston stated that having attending the site, the spread out nature of the site would benefit from having all caravans on one site away from the village.

The Development Officer made reference to the Condition 12 and 13 on the blue information sheet which accommodated Natural Resources Wales Comments. The Officer explained that drainage would have to be completed prior to the siting of a static caravan. Discussion with the owners of the Parks to place ownership back on the Park to maintain record of individual's duration of stay at the park. Officers will communicate with our partners to ensure other organisations are aware of individuals who may be using the caravan site as permanent residency. With regard to policy PSE12 the policy purpose included protecting the natural landscape and visual impact. Officers felt the level of landscaping proposed was of a satisfactory level. Members were informed that if planning is approved the Licence holder would have to apply for a new licence.

Proposal – Councillor Ellie Chard proposed, seconded by Councillor Pat Jones that the application be granted in accordance with officer recommendation with the inclusion of the conditions and to endeavour to bring to Committee any information regarding the drainage at site.

VOTE:
GRANT – 14
REFUSE – 0
ABSTAIN – 2

***RESOLVED**, that permission be **GRANTED** in accordance with officer recommendation with the inclusion of the additional conditions and a drainage report brought back to planning Committee.*

At this juncture (10.45 a.m.) there was a 15 minute break.

The meeting reconvened at 11.00 a.m.

At this juncture, the Chair Councillor Joe Welch retook his seat to continue with the remainder of the meeting.

8 APPLICATION NO. 01/2017/0901 - DENBIGH MUSEUM, GROVE ROAD, DENBIGH

[As applicant, Councillor Gwyneth Kensler declared a personal and prejudicial interest in this item and left the meeting during consideration of the application]

An application was submitted for alternations and extension to form new entrances together with ancillary works including new signage and the demolition of external stairs for Denbigh Museum, Grove Road Denbigh.

Proposal - Councillor Merfyn Parry proposed the officer recommendations to grant the application, seconded by Councillor Alan James.

VOTE:
GRANT – 15
REFUSE – 0
ABSTAIN – 0

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

9 APPLICATION NO. 01/2017/0902- DENBIGH MUSEUM, GROVE ROAD, DENBIGH

[As applicant, Councillor Gwyneth Kensler declared a personal and prejudicial interest in this item and left the meeting during consideration of the application]

An application was submitted for the Conservation are consent for the demolition of external stairs at Denbigh Museum, Grove Road, Denbigh.

Proposal – Councillor Ellie Chard proposed the officer recommendations to grant the application, seconded by Councillor Pat Jones.

VOTE:
GRANT – 15

REFUSE – 0
ABSTAIN – 0

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

10 APPLICATION NO. 08/2017/0896- LAND AT (PART GARDEN OF) PEN Y DALAR, GODRER COED, CYNWYD, CORWEN

Councillor Huw Jones declared a Personal interest in this agenda item as members of his family had submitted objections to the application. Councillor Jones decided he did not wish to take part in the debate and excused himself for this agenda item. Councillor Mabon ap Gwynfor, Local member declared a personal interest as he had worked with the applicant.

An application was submitted for the erection of 1 no. dwelling and associated works at Pen Y Dalar (part garden), Godrer Coed Cynwyd, Corwen.

General debate - the Local Member, Councillor Mabon ap Gwynfor stated he was in support of the application as housing in the village is highly sought of. He acknowledged the objections received regarding the application. In his opinion the development of an additional dwelling would benefit local residents.

Proposal – Councillor Gwyneth Kensler proposed the officer recommendations to grant the application, seconded by Councillor Ellie Chard.

VOTE:
GRANT – 15
REFUSE – 0
ABSTAIN – 0

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

11 APPLICATION NO. 15/2017/0809- LAND SOUTH OF AND INCLUDING PARC FARM CARAVAN PARK, GRAIANRHYD ROAD, LLANARMON-YN-IAL, MOLD

An application was submitted for a variation of condition no.3 of planning permission code no. 15/2011/0651, to allow alternative static caravan units to be sited at the Land south of and including Parc Farm Caravan Park, Graianrhyd Road, Llanarmon- Yn-Ial, Mold.

General debate- Councillor Julian Thompson- Hill on behalf of local member Martyn Holland introduced the application. He stated the local member had no objection in the application and was happy to support the variation.

Councillor Gwyneth Kensler requested that the word 'Current' be included in the variation of condition in line with Officer Recommendation.

Proposal - Councillor Julian Thompson-Hill proposed the officer recommendation with the inclusion of the word 'current' in the condition to the application. The proposal was seconded by Councillor Alan James.

VOTE:

GRANT – 16

REFUSE – 0

ABSTAIN – 0

RESOLVED that permission be **GRANTED** in accordance with officer recommendations with the inclusion of 'Current' in the variation of condition no. 3 as stipulated within the report.

12 APPLICATION NO. 15/2017/0893- PARC FARM HOLIDAY PARK, LLANARMON YN IAL, MOLD

An application was submitted for the erection of a boundary wall with inset sign and display area at Parc Farm Holiday Park, Llanarmon Yn Ial, Mold.

General debate- Councillor Julian Thompson- Hill on behalf of local member Martyn Holland introduced the application. He stated Councillor Holland had concerns the signage on the application was too large for the nature of this development.

Councillor Merfyn Parry stated he had no concerns on the application, however asked that the sign be made bilingual with the same sized fonts used.

Councillor Christine Marston questioned the site of the proposed signage. She asked if the sign was at the entrance or slightly away from the property.

The Development Officer confirmed the font size of the signage could be included as a condition to the application. Officers stated they were satisfied both from a visual and a highway perspective the application would have no negative implication. Clarification was given that the sign was 150m away from the entrance to the site.

It was confirmed that if the application was refused, the concerns of members regarding visual impairment could be used as the reason for refusal.

Proposal - Councillor Gwyneth Kensler proposed, seconded by Councillor Ellie Chard that the application be granted but with an additional condition which stated that the fonts in both Welsh and English be exactly the same size.

VOTE:

GRANT – 14

REFUSE – 2

ABSTAIN – 0

RESOLVED that permission be **GRANTED** in accordance with the officer recommendation subject to the additional condition:
The bilingual signage to be of equal font size.

13 APPLICATION NO. 20/2017/0819- GLEBE LAND OPPOSITE BRON Y CLWYD, LLANFAIR DYFFRYN CLWYD, RUTHIN

An application was submitted for the development of 1.24ha of land by the erection of a new primary school including external play areas, habitat area, formation of new vehicular access, car park with drop off area, landscaping, bin store, LPG and sprinkler tanks at Glebe Land opposite Bron Y Clwyd, Llanfair Dyffryn Clwyd, Ruthin.

General Debate – Councillor Julian Thompson-Hill gave apologies of Local Member Hugh Evans and introduced the application to members. Councillor Thompson- Hill stated that the Local Member would have been speaking in favour of the proposal.

Councillor Huw Jones questioned the reasoning why LPG had been requested as part of the application. Councillor Gwyneth Kensler proposed the use of renewable energy sources to supply energy should be adopted where possible.

Members agreed the need for the school in the area and the need to provide a safe route for pedestrians to access the school.

The Development Officer confirmed that within the local facility there is no mains gas. Communication is ongoing with departments and contractors regarding gas in the area. With regard to the use of renewable energy resources the officer said feedback to Education and design departments would ensue members concerns were heard.

Proposal - Councillor Emrys Wynne proposed, seconded by Councillor Alan James that the application be granted in accordance with officer recommendation.

VOTE:

GRANT – 16

REFUSE – 0

ABSTAIN – 0

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

14 APPLICATION NO. 45/2017/1029- LAND AT GREENFIELD PLACE, RHYL

An application for a variation of condition no.6 of planning permission code no. 45/2001/0562 to allow 2 hour free parking period followed by charging.

General Debate – Local Member Pat Jones and Pete Prendergast expressed objections against the introduction of charging consumers. Both Councillor's felt that 2 hours would not be long enough and a 3 hour free stay should be adopted. Local residents oppose the application.

Proposal – Councillor Pat Jones proposed to refuse the application, seconded by Councillor Bob Murray as it would be detrimental to Rhyl Town Centre and sever links to the town.

The Development Officer made reference to the appeal in place with the recent application refusal to charge at the site. If this application is refused for the same reasons as the previous application the applicant can appeal this proposal decision.

VOTE:

GRANT – 8

REFUSE – 7

ABSTAIN – 1

RESOLVED that permission be **GRANTED** in accordance with the officer recommendation as stipulated in the report.

15 REPORT TO SEEK A RESOLUTION ON THE PLANNING CONDITIONS TO BE ATTACHED TO PLANNING APPLICATION NO. 16/2017/0628

A report was submitted seeking a resolution on planning conditions to be attached to planning application no. 16/2017/0628.

Proposal- Councillor Mark Young proposed officers suggested conditions to be attached to the planning application, seconded by Councillor Merfyn Parry.

VOTE:

GRANT – 15

REFUSE – 0

ABSTAIN – 0

RESOLVED that – the suggested Conditions be attached to Planning application 16/2017/0628 as stipulated in the report.

16 MEMBER/OFFICER PROTOCOL - COMMUNICATION ON MAJOR APPLICATIONS

A report was submitted introducing the internal protocol document for the handling of major development proposals within the County.

The Development Officer clarified that the major planning applications can be complicated, the new protocol document was designed to give Officers and Members a consistent approach to communication, which can be amended as required.

Councillor Huw Jones stated in his experience the protocol had been used successfully. Councillor Jones asked Officers how the protocol document would be made available to members and Officers.

Councillor Gwyneth Kensler raised concerns regarding how a decision on NMA was taken in Councillor Kessler's opinion change is key to the development.

The Development Officer informed members if a decision was made today, a link to all members would be sent and a link online would be made available. Training would be provided to Members in a future formal member training session.

Clarification that specific criteria within planning legislation for what would be a Non Material Amendment to a planning application was given. Communication with Local Members regarding Non Material Amendment applications would take place illustrating the proposal and asking for agreement regarding a NMA.

The protocol is in place to encourage communication between officers and Local Members at the earliest stage right through the application stage until the end of the development. Members can refer to the protocol to bring questions and concerns to officers.

Following a unanimous show of hands, it was

RESOLVED that, the contents of the protocol document be noted and the protocol document for use of major development proposals be implemented with immediate effect.

17 IMPLICATIONS OF TAN 20 : PLANNING AND THE WELSH LANGUAGE - IN RELATION TO THE CONSIDERATION OF PLANNING APPLICATIONS

A report was submitted to update members on issues in relation to the consideration of planning applications from the publication of Welsh Government's Technical Advice Note 20 (TAN20): Planning and the Welsh Language in October 2017.

The Principal Planning Officer introduced the report updating members on issues arising in relation to the consideration of planning applications from the publication of Welsh Government's Technical Advice Note 20 (TAN 20): Planning and the Welsh Language in October 2017.

Officers believe the introduction of TAN 20 will have an impact on the implementation of the policy in the current development plan. In many ways it is contrary to the current policy RD5. The Principal Planning officer explained the report is trying to highlight that Welsh Government believed that when assessing applications within development boundaries sites on allocated sites there would be no requirement for a Welsh Language assessment to be carried out, an assessment would have been carried out by the authority in line with the Local Development Plan (LDP) allocation in the form of a sustainability assessment. With applications that are not within an allocated site a Welsh Language assessment would still be required.

Councillor Emrys Wynne stated he felt that the Council Policy would be superior to the TAN 20 policy set out by Welsh Government. Expressing he felt inconsistencies could be observed within the Welsh Governments proposal.

The Development Officer informed members on applications not in an allocated sites or within the development boundary with more than 10 dwellings then both TAN 20 and our policy would take place to complete assessments. Communication with developers will still take place to enhance the Welsh Language when making planning applications. When reviewing the new LDP plan members could align the plan to work alongside TAN 20 including any updates members requested.

Councillor Emrys Wynne asked that a condition be imposed that when reviewing the LDP members debate TAN 20.

Proposal - Councillor Peter Evans proposed, seconded by Councillor Alan James the report contents be noted and approved the approach to assessment of impacts of planning applications on the Welsh Language be undertaken in accordance of TAN 20 pending further debate and review of the LDP and policy RD5.

VOTE:

GRANT – 15

REFUSE – 0

ABSTAIN - 0

***RESOLVED** that, the contents of the report be noted, that TAN 20 be implemented with further debate when reviewing the LDP and Policy RD5.*

18 ROYAL TOWN PLANNING INSTITUTE (RTPI) WALES PLANNING AWARD 2017

An information report was submitted to inform Planning Committee to the news that, at the Royal Town Planning Institute Cymru annual dinner, the new Rhyl High School project won the prestigious Wales Planning Award for 2017.

The Chair praised officers involved in the project and offered his Congratulations on the award.

***RESOLVED** that Members noted the contents of the report.*

At this juncture, Councillor Merfyn Parry raised concerns regarding the recent Brookhouse development appeal. He stated a lot of work had been undertaken regarding the proposal. Councillor Parry asked if members could question the outcome of the appeal.

The Development Officer, informed members we can challenge the inspectorate's decision but has to be a point of law. We can challenge the costs, we scrutinize the proposal for costs to come to an agreement. If an agreement cannot be made we can present the case to the Senior Court Costs Claim Officer to investigate the costs claim. Planning Officers will bring a detailed report back to the Planning Committee to discuss and scrutinize.

The Chair wished officers and members a merry Christmas and all the best for the New Year.

The meeting concluded at 12.35 p.m.

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Agenda Item 5

WARD : Llanfair Dyffryn Clwyd / Gwyddelwern

WARD MEMBER(S): Cllr Huw Williams

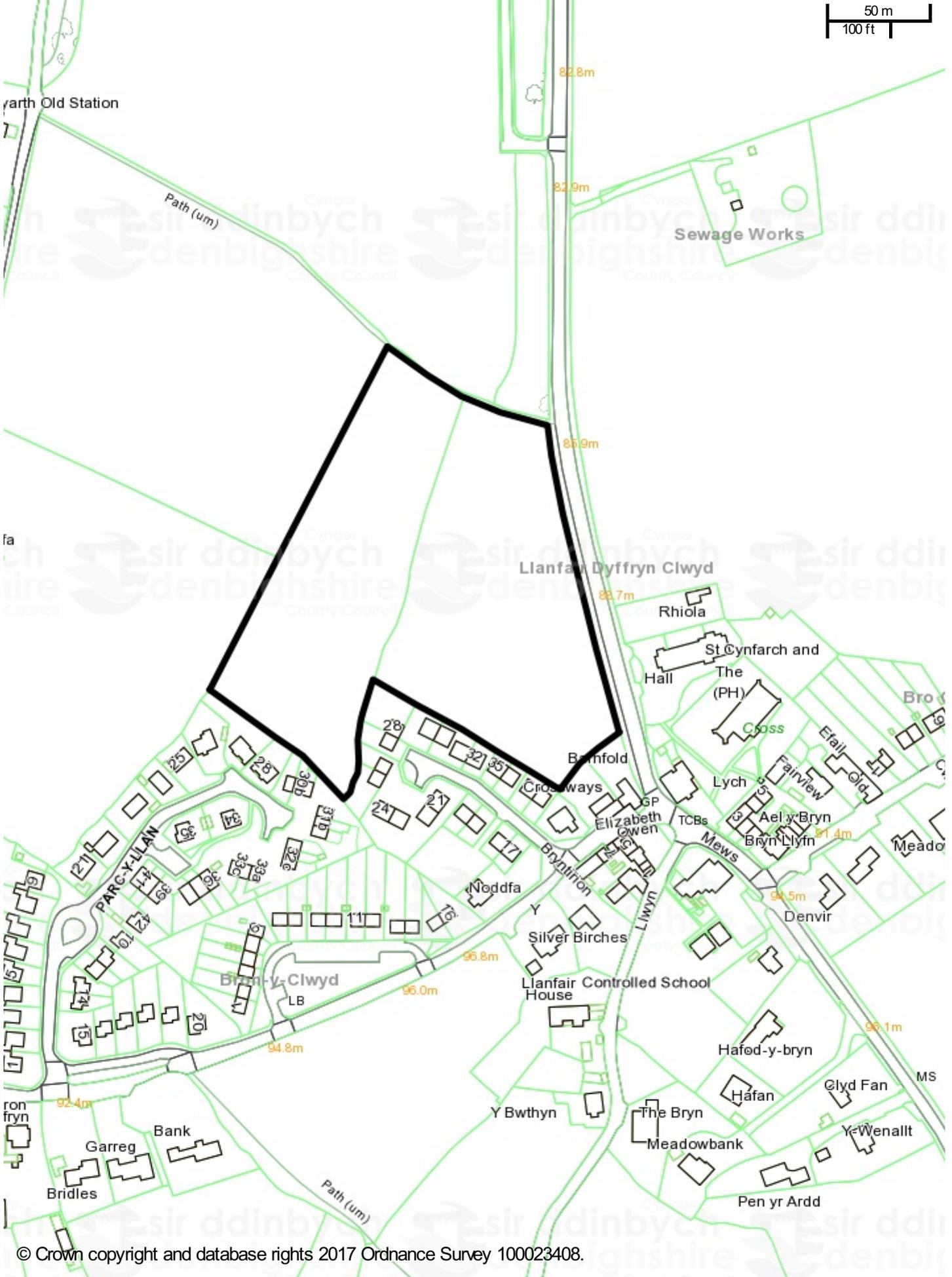
APPLICATION NO: 20/2017/1068/ AC

PROPOSAL: Details of phasing plan submitted in accordance with condition no 3 of planning permission code no. 20/2016/1137

LOCATION: Land West of Wrexham Road Llanfair Dyffryn Clwyd Ruthin

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20/2017/1068

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WARD : Llanfair Dyffryn Clwyd / Gwyddelwern

WARD MEMBER(S): Cllr Huw Williams

APPLICATION NO: 20/2017/1068/ AC

PROPOSAL: Details of phasing plan submitted in accordance with condition no 3 of planning permission code no. 20/2016/1137

LOCATION: Land West of Wrexham Road Llanfair Dyffryn Clwyd Ruthin

APPLICANT: MrGoronwy OwenPure Residential And Commercial Ltd.

CONSTRAINTS: Tree Preservation Order
PROW

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

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

- Member request for referral to Committee

CONSULTATION RESPONSES:

LLANFAIR DYFFRYN CLWYD COMMUNITY COUNCIL

“Members expressed concern that there was no timetable and firm date for commencement of work on the site, and whether work will be carried out over seven or five days in a week. The Council is also seeking an assurance that the A525 highway will be kept clean during this period. Members would appreciate notification/confirmation about the timetable as soon as possible please.”

DENBIGHSHIRE COUNTY COUNCIL CONSULTEES –

Head of Highways and Infrastructure

- Highways Officer
No objection

RESPONSE TO PUBLICITY:

N/A

EXPIRY DATE OF APPLICATION: 17/01/2018

PLANNING ASSESSMENT:

1. THE PROPOSAL:

1.1 Summary of proposals

- 1.1.1 This application seeks discharge of a condition imposed on planning permission ref 20/2016/1137 which relates to the phasing of the development of 63 dwellings on land off Wrexham Road in Llanfair Dyffryn Clwyd.
- 1.1.2 Members resolved to grant planning permission for the residential development at Planning Committee in June 2017. The full planning permission was subsequently

issued in October 2017 on completion of a legal agreement which secured the provision of affordable housing and also a commuted sum payment towards the provision of affordable housing. Members requested the phasing details be reported for consideration by the Committee.

1.1.3 Condition 3 of the planning permission required submission and approval of a phasing plan for the development. It was worded as follows:

“No development shall be permitted to commence on the construction of the dwellings until a phasing plan has been submitted to and approved in writing by the Local Planning Authority. The development shall proceed in accordance with such details.”

The reason for the condition was: “To enable the Local Planning Authority to control the level of development in the area.”

1.1.4 The submission contains the phasing plan below (a full size copy provided at the front of this report) along with a statement which sets out how the development of the site will be phased:



The details within the submission are outlined below:

Phase 1:

Within this phase a temporary welfare, compound and car park will be set up in the location shown above in **green**.

Phase 1 works include the formation of the access road in the site from Wrexham Road along with the essential infrastructure works required to service the site. This includes a new drainage scheme including diversions and attenuated storage facility, new water mains, new power supplies including diversion of overhead cables, a new substation, installation of underground LPG gas tanks and distribution pipework and the installation of BT network.

Phase 2:

Within this phase the welfare, compound and car park will be moved to the location shown above in **blue**.

Phase 2 works are indicated above in **red** and consist of constructing the dwellings at plots 1 to 22 and plots 56 to 63, a total of 30 dwellings.

Plots 4,5,6, 7 and 22 are affordable housing units and will be completed and available within this phase. These units are 2 and 3 bed houses with plot 22 being a 2 bed bungalow..

The large area of open space to the north of the site will be also be completed (details yet to be agreed).

The link footpath to Bron y Clwyd will be made available for public use at completion of this phase.

Phase 3:

The welfare, compound and car park will remain at the location shown in **blue** above.

Phase 3 works are indicated above in **yellow** and consist of constructing the remaining 33 dwellings at plots 23 to 55.

Plot 23 is an affordable housing unit and will be completed and available within this phase. This units is a 2 bed bungalow.

Upon completion of the construction works, the remaining area of open space shown in **blue** to the south of the site be completed (details yet to be agreed).

Off- site highway works which includes a crossing and relocation of speed restrictions will be completed before the 1st property is occupied. The remainder of the estate roads and services will be installed as the next phase of the development is being progressed and built out.

1.2 Description of site and surroundings

- 1.2.1 The application site is comprised of 2 field parcels extending to 2.6 hectares of agricultural land. It is located on the edge of the village of Llanfair Dyffryn Clwyd, to the west of the A525 Ruthin - Wrexham Road, which runs through the village.
- 1.2.2 With the exception of a field gate to the northern end of the site, there is no current vehicular access to the site.
- 1.2.3 Most of the other site boundaries are formed by long established hedgerows with some trees. Along the site frontage with Wrexham Road there is hedgerow with a linear group of mature trees.
- 1.2.4 Land levels fall generally down from south to north, and rise from west to east, the highest part of the site being the far south eastern corner of the site adjacent to the property 'Barnfold'.
- 1.2.5 To the north of the site is a public footpath and ditch running along the entire northern boundary with a woodland and open countryside beyond; to the eastern boundary of the site is Wrexham Road; to the south are existing residential properties within the centre of the village, and existing housing estates/streets of Bron y Clwyd and Parc y Llan; to the western boundary is open agricultural land which slopes down away from the site.

1.3 Relevant planning constraints/considerations

1.3.1 The site is located within the development boundary of Llanfair Dyffryn Clwyd and is allocated for housing and open space in the adopted Denbighshire Local Development Plan.

1.3.2 Llanfair Dyffryn Clwyd is located within the Vale of Clwyd Historic Landscape.

1.4 Relevant planning history

1.4.1 Full planning permission was granted for the erection of 63 dwellings in October 2017.

1.5 Developments/changes since the original submission

1.5.1 None

1.6 Other relevant background information

1.6.1 The considerations to be given to the application for approval of condition 3 have to relate solely to the matters which are relevant to the phasing of the development. The application is not an opportunity to reconsider or challenge the principles of developing the land or other detailing of the housing scheme.

2. DETAILS OF PLANNING HISTORY:

2.1 20/2016/1137/PF Erection of 63 dwellings with formation of new vehicular access and associated works. GRANTED 23rd October, 2017 upon completion of the legal agreement.

3. RELEVANT POLICIES AND GUIDANCE:

3.1 The main planning policies and guidance are considered to be:
Denbighshire Local Development Plan (adopted 4th June 2013)

Policy RD1 – Sustainable development and good standard design

Policy RD5 – The Welsh language and the social and cultural fabric of communities

Policy BSC1 – Growth Strategy for Denbighshire

Policy BSC3 – Securing infrastructure contributions from Development

Policy BSC4 – Affordable Housing

Policy BSC10 – Gypsy and traveller sites

Policy BSC11 – Recreation and open space

Policy VOE1 - Key areas of importance

Policy VOE5 – Conservation of natural resources

Policy VOE6 – Water management

Policy ASA3 – Parking standards

Supplementary Planning Guidance

Supplementary Planning Guidance: Recreational Public Open Space

Supplementary Planning Guidance: Access for All

Supplementary Planning Guidance: Planning Obligations

Supplementary Planning Guidance: Affordable Housing in New Developments

3.2 Government Policy / Guidance

TAN 1 Joint Housing Land Availability Studies

TAN 2 Planning and Affordable Housing

TAN 5 Nature Conservation and Planning

TAN 12 Design

TAN 18 Transport

TAN 20 The Welsh language

WGC 16/2014 The Use of Planning Conditions for Development Management

4. MAIN PLANNING CONSIDERATIONS:

In terms of general guidance on matters relevant to the consideration of a planning application, Planning Policy Wales Edition 9, 2016 (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' (PPW section 3.1.3). 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 (PPW section 3.1.4).

Development Management Manual 2016 states that material considerations 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 (DMM section 9.4).

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 for approval of are considered to be:

- 4.1.1 Highway Considerations
- 4.1.2 Delivery of affordable housing
- 4.1.3 Delivery of open space
- 4.1.4 Visual amenity Impact
- 4.1.5 Residential amenity Impact

4.2 In relation to the main planning considerations :

- 4.2.1 Highway Considerations
Local Development Plan Policy RD 1 tests (vii) and (viii) oblige provision of safe and convenient access for a range of users, together with adequate parking, services and manoeuvring space; and consideration of the impact of development on the local highway network. Policy ASA 2 requires consideration of the need for measures to improve public transport, walking or cycling infrastructure in connection with a development. Policy ASA 3 requires adequate parking spaces for cars and bicycles in connection with development proposals, and outlines considerations to be given to factors relevant to the application of standards. These policies reflect general principles set out in Planning Policy Wales (Section 8) and TAN 18 – Transport, in support of sustainable development.

The approved scheme is for a single vehicular access point off Wrexham Road with a new pedestrian link to the existing right of way to the north of the site. A new pedestrian link between the new vehicular access into the development and the new pedestrian access point to the south of the development boundary will also be provided. A pedestrian link has been identified which will provide a direct route for pedestrians between the new residential development and the existing Bron Y Clwyd estate linking through to the new school in the village. A pedestrian crossing point located at the southerly access point will provide pedestrians with a means of crossing the A525. The existing 30mph speed limit and associated street lighting will be moved further out of the village to the north, specific details of which will be agreed with the Council's Traffic Section.

The proposed Phase 1 works include the formation of the access road in the site from Wrexham Road along with the essential infrastructure works required to service the site. A Section 38 Highway agreement is required.

Highways Officers have raised no objection to the proposed phasing plan and the

phasing of the development works in respect of highway matters is considered acceptable.

4.2.2 Delivery of affordable housing

Local Development Plan Policy BSC 4 seeks to ensure that all developments of 3 or more residential units provide a minimum of 10% affordable housing. Developments of 10 or more are expected to make on site provision and development of less than 10 residential units are expected to make provision by way of a financial contribution.

A legal agreement has been completed and confirms the provision of 6 affordable housing units on site, plots 4,5,6,7, 22 and 23 which provides 2 and 3 bed houses and bungalows. 5 of the 6 units will be provided within Phase 1, and the final unit in Phase 2.

The Council's Housing Strategy Officer was involved in the drafting of the legal agreement and is satisfied with the affordable housing arrangements in terms of its phasing within the development.

4.2.3 Delivery of open space

Local Development Plan Policy BSC 3 seeks to ensure, where relevant, infrastructure contributions from development. Policy BSC 11 requires proposals for all new residential development to make a contribution to recreation and open space either on site, or by provision of a commuted sum. Commuted sums in lieu of open space will only be accepted where the full requirement for open space would mean that the proposed development was financially unviable or it is impractical to provide the full requirement for open space on site.

The development scheme has 2 main areas of open space on the site. One area is located to the northern end of the site and has the public footpath running along its boundary. This area of open space will be completed as part of phase 2. The second area is to the southern end of the site adjoining 28/29 Bron y Clwyd, which will be the site welfare compound and car park area during phase 2 and 3 works and will be completed as open space once the construction works have been fully completed.

4.2.4 Visual amenity Impact

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 are matters relevant to the visual impact of development; test (vi) requires that development does not unacceptably affect prominent public views into, out of, or across any settlement or area of open countryside; test (vi) requires the incorporation of existing landscape or other features, takes account of site contours, and changes in levels and prominent skylines; and test (xiii) requires the incorporation of suitable landscaping measures to protect and enhance development in its local context.

It is not considered that there are any visual amenity concerns in relation to the phasing and site set up proposed.

4.2.5 Residential amenity Impact

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.

Concerns were raised during debate at the Planning Committee meeting in June 2017 in relation to the impact of the development, primarily during construction works, on the elderly residents living in the dwellings on Bron y Clwyd.

The phasing plan proposes to construct the bungalows that back on to Bron y Clwyd within Phase 1 and the developer expects that the interest in these dwellings will be high, as they are primarily 2 and 3 bed properties ideal as 'starter' homes. It is not expected that there would be a prolonged period of construction works to be taking place to the rear of Bron y Clwyd and in relation to the site welfare, compound and car park in the blue area, the Construction Management Plan (submitted separately) will ensure the amenity of existing residents is protected during construction works.

Community Council comments

The Community Council have expressed concern that there is no timetable and firm date for commencement of work on the site, and whether work will be carried out over seven or five days in a week.

In relation to the timetable and commencement date, with respect, it is not reasonable for the Local Planning Authority to request this information within a phasing condition. In accordance with the Development Management Procedure Order 2016 the developer is required to formally notify the Local Planning Authority of its intention to start on site and also place a notice on site providing an intended start date.

The hours it is intended to work on site is not a matter covered by this condition, which seeks approval of the phasing of development. A number of planning conditions are attached to the planning permission and include a Construction Method Statement, and amongst many other details the hours of operation are provided within this Statement. At the time of writing this report, the Construction Method Statement has not been approved and elements of the statement are under discussion with the developer in liaison with the Council's Pollution Control Officer.

The Community Council also seeks assurance that the A525 highway will be kept clean during this period. This is a matter for the separate Construction Method Statement which sets out all managements issues such as this.

Other matters

Well – being of Future Generations (Wales) Act 2015

The Well-being of Future Generations (Wales) Act 2015 imposes a duty on the Council not only to carry out sustainable development, but also to take reasonable steps in exercising its functions to meet its sustainable development (or well-being) objectives. The Act sets a requirement to demonstrate in relation to each application determined, how the development complies with the Act.

The report on this application has been drafted with regard to the Council's duty and the "sustainable development principle", as set out in the 2015 Act. The recommendation takes account of the requirement to ensure that present needs are met without compromising the ability of future generations to meet their own needs. It is therefore considered that there would be no significant or unacceptable impact upon the achievement of well-being objectives as a result of the proposed recommendation.

5. SUMMARY AND CONCLUSIONS:

5.1 The phasing details are considered acceptable and it is recommended the condition be approved.

RECOMMENDATION: APPROVE- subject to the following conditions:-

1. The development hereby permitted shall be carried out in strict accordance with details shown on the following submitted plans and documents unless specified as otherwise within any other condition pursuant to the permission
(i) Phasing Details received 21 November 2017

- (ii) Phasing Plan received 3 November 2017
- (iii) Location Plan received 3 November 2017

The reason for the condition is :-

1. For the avoidance of doubt and to ensure a satisfactory standard of development.

NOTES TO APPLICANT:

None

Agenda Item 6

WARD : Prestatyn East

WARD MEMBER(S): Cllr Anton Sampson
Cllr Julian Thompson-Hill (c)

APPLICATION NO: 43/2017/1147/ PF

PROPOSAL: Change of use from A2 to A3 (Hot Food Takeaway) and associated works

LOCATION: 39-41 High Street Prestatyn

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43/2017/1147

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WARD : Prestatyn East

WARD MEMBER(S): Cllr Anton Sampson
Cllr Julian Thompson-Hill (c)

APPLICATION NO: 43/2017/1147/ PF

PROPOSAL: Change of use from A2 to A3 (Hot Food Takeaway) and associated works

LOCATION: 39-41 High Street Prestatyn

APPLICANT: Domino's Pizza UK & Ireland

CONSTRAINTS: Conservation Area
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 / Community Council objection

CONSULTATION RESPONSES:

PRESTATYN TOWN COUNCIL -

“Objection-

Development within conservation area and contrary to the Local Development Plan
Potential littering and anti-social behaviour. Over intensification of A3 fast food outlets.
Corporate signage would not be compatible with conservation area status.”

DENBIGHSHIRE COUNTY COUNCIL CONSULTEES –

Pollution Control Officer

The officer has advised that any potential issues relating to noise and odour can be addressed with the imposition of conditions.

RESPONSE TO PUBLICITY:

In support

K. White by email.

Summary of support:

In support of a vacant property on the High Street being brought back into use.
Additional jobs created must be a positive for the area.

EXPIRY DATE OF APPLICATION: 29/01/2018

REASONS FOR DELAY IN DECISION (where applicable):

N/A

PLANNING ASSESSMENT:

1. THE PROPOSAL:

1.1 Summary of proposals

- 1.1.1 The proposal is for the change of use of no. 39-41 High Street, Prestatyn, from Use Class A2 professional and financial services to an A3 hot food takeaway use.
- 1.1.2 The submitted documents indicate that the internal works proposed relate to changing the back of the property into a cold store room and office area with staff toilets, central storage area and oven location and food is to be sold from the existing shop front. Food to be prepared will be primarily pizzas.
- 1.1.3 Extraction equipment will be located at the rear of the property.
- 1.1.4 There are alterations proposed to the exterior of the property. These include: a new fresh air intake system to the side elevation, a new door where the existing door has been blocked up, all windows and doors to the rear to be blocked up, removal of 4 sky lights, an air conditioning unit and cold room compressor to the rear, an oven extractor to the rear and alterations to the appearance of the front of the unit. The details are shown on the plans at the front of the report.
- 1.1.5 The proposed opening times are 11am to 12 midnight Sunday to Thursday and 11am to 1am Friday and Saturday.
- 1.1.6 The application advises the new use aims to provide approximately 20 new jobs.

1.2 Description of site and surroundings

- 1.2.1 The property is located on the eastern side of High Street, in the Town Centre of Prestatyn.
- 1.2.2 The unit was formally occupied by the Yorkshire Building Society until early 2017 and is currently vacant.
- 1.2.3 Pedestrian access is gained to the unit from the High Street. There is vehicular and pedestrian access to the site off Church Lane to the rear.
- 1.2.4 There is staff/ delivery parking at the rear of the property for 5 -6 vehicles.
- 1.2.5 The local bus station is 100m from the site on the B5120 and the train station is approximately 135m from the site.
- 1.2.6 To the south of the site is a two storey Arts Centre with Cinema and restaurant. To the east is the recently developed retail scheme (Parc Prestatyn). To the north is a two-storey property occupied by HSBC Bank (Class A2 use) at ground floor level and a Dental Surgery on the first floor. To the west, on the opposite side of the High Street, are a number of retail units.
- 1.2.7 From observation at the time of the case officer's site visit, there were some 7 takeaway shops on the High Street, none of which serve pizza as their main product.

1.3 Relevant planning constraints/considerations

- 1.3.1 The site lies within the designated development boundary of Prestatyn as defined in the Local Development Plan.
- 1.3.2 It is within the defined Town Centre Boundary and the Prestatyn High Street Conservation Area.
- 1.3.3 Like most properties in this area, the site lies within the TAN 15 Flood Zone C1.

1.4 Relevant planning history

1.4.1 The unit has been previously used as an A2 professional and financial services with the adjacent Dental Surgery occupying the upper floors.

1.5 Developments/changes since the original submission

1.5.1 None.

1.6 Other relevant background information

1.6.1 The number of service outlets (incl. banks, hairdressers, restaurants) in Prestatyn Town Centre has not changed drastically in 10 years with numbers ranging from 68 in 2006 up to 76 in 2016 (Town Centre Survey, 2016).

2. **DETAILS OF PLANNING HISTORY:**

2.1 No relevant application history.

3. **RELEVANT POLICIES AND GUIDANCE:**

The main planning policies and guidance are considered to be:

3.1 Denbighshire Local Development Plan (adopted 4th June 2013)

Policy RD1 – Sustainable development and good standard design

Policy PSE8 – Development within town centres

Policy VOE1 – Key Areas of Importance

3.2 Supplementary Planning Guidance

SPG Hot Food Takeaways

SPG Conservation Areas

3.3 Government Policy / Guidance

Planning Policy Wales (Edition 9) November 2016

Development Control Manual November 2016

Technical Advice Note 4: Retail and Commercial Development

4. **MAIN PLANNING CONSIDERATIONS:**

In terms of general guidance on matters relevant to the consideration of a planning application, Planning Policy Wales Edition 9, 2016 (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' (PPW section 3.1.3). 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 (PPW section 3.1.4).

Development Management Manual 2016 states that material considerations 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 (DMM section 9.4).

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 / impact on Conservation Area

- 4.1.3 Residential amenity
- 4.1.4 Highway impacts
- 4.1.5 Crime and disorder

4.2 In relation to the main planning considerations:

4.2.1 Principle

PPW and TANs offer broad support for the development of the local economy. Policy PSE 8 relates to development within town centres. It seeks to ensure that development proposals enhance the vitality and viability of town centres and that they do not result in an unacceptable imbalance of retail and non retail uses.

The Council's SPG Hot food takeaways also seeks to ensure that there is not an over concentration of hot food takeaways in one area, and refers to problems such over concentrations can cause, including dead frontages in the day time etc.

Factually, the site is within the development boundary of Prestatyn, and within the defined Town centre boundary.

The Town Council have expressed objections on the basis of the proposal giving rise to an over intensification of A3 fast food outlets, contrary to the local development plan.

A private individual representation has been received in support of a vacant property on the High Street being brought back into use and the creation of additional jobs will be a positive for the area.

In noting the comments of the Town Council, in relation to Policy PSE 8, it is clear from observation that there is a mix of commercial and business uses in the immediate locality with A3 uses in the vicinity on the High Street. Having regard to the actual number of A3 fast food outlets in the centre relative to the number of other shops and businesses, however, it is not considered that the proposal would lead to an unacceptable imbalance through the introduction of an A3 use in this property, representing an over intensification sufficient to justify refusing permission. There is a positive aspect to the application in that it is introducing this use to a vacant unit and would generate employment. It is considered that the proposed change of use would not pose any conflict with the main policy relating to retail uses in the town centre.

4.2.2 Visual amenity / impact on Conservation Area

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 land / buildings and spaces between buildings, which are matters relevant to the visual impact of development.

Local Development Plan Policy VOE 1 seeks to protect sites of built heritage from development that would adversely affect them. Planning Policy Wales (Section 6), stresses the importance of protecting the historic environment, and in relation to Conservation Areas, to ensure they are protected or enhanced, while at the same time remaining alive and prosperous, avoiding unnecessarily detailed controls. The basic objective is therefore to preserve or enhance the character and appearance of a Conservation Area, or its setting.

The Town Council have referred to development within a conservation area as a basis of objection. There are no other objections raised on this ground.

In respecting the comments of the Town Council, it is difficult to see what detrimental impact this particular proposal would have on visual amenity or the character and appearance of the Conservation Area.

Relatively minor physical alterations are proposed to the side and rear elevations of the building to facilitate the change of use and these will have minimal impact on the

appearance of the property from the high street. The shopfront will remain as existing (PPC Aluminium) but will be sprayed grey with both sides of the door fitted with full height tubular pull handles. A separate application has been made for signage.

The proposals are considered acceptable in relation to visual amenity and the Conservation Area.

4.2.3 Residential amenity

Policy RD 1 sets specific tests to be applied to amenity impacts of development. Proposals for development should comply with these tests.

There are no residential amenity objections in relation to the application.

There is the potential for odour to impact upon neighbouring properties from an A3 use. However, it is to be noted that there is no residential use above the unit as the upper floors are occupied by a Dental Surgery. There are very few residential properties on the High Street as most properties are commercial. The nearest residential units are number 4 to the north and number 69 to the south, both of which are not in close proximity to the site. The area behind the site is the recent Parc Prestatyn development and on the opposite side of the road are commercial properties with the bus station behind.

Details of the extraction system have been provided, and the application form states it is proposed to operate from 11am to 12 midnight Sunday to Thursday and 11am to 1am Friday and Saturday.

Having regard to the location of the proposed development in the town centre where there are a mix of uses, and in relation to the existing site and neighbouring properties, it is considered that the proposals would not have an unacceptable impact on residential amenity.

4.2.4 Highways, access and parking

Tests vii. And viii of Policy RD1 of the LDP require assessment of the impact of development on the local highway network, including consideration of congestion, danger and nuisance arising from traffic generated.

There are no representations raising matters relating to the highway implications of the application.

The property is on the main high street of one of the County's coastal towns. There is restricted on street parking in the area and there are town centre car parks and public transport links close to the site. It is not anticipated that the use would give rise to significant pedestrian movements, or localised difficulties from customers arriving in town by car. It is understood the company involved rely heavily on home delivery service, and would use the 5-6 car parking spaces at the rear of the site for the delivery vehicles parking and some staff parking.

It is therefore considered unlikely that the proposal will cause unacceptable parking/traffic problems.

4.2.5 Crime and disorder

Test xii of Policy RD1 requires the assessment of personal and community safety and security in the design and layout of development and public/private spaces and regard is had to implications for crime and disorder.

Comments have been received from the Town Council regarding anti-social behaviour. No other representations have been received which raise this concern.

Whilst there are often concerns over the potential for late night anti social behaviour around takeaway premises, there is no specific evidence from the Town Council to suggest that the High Street is currently a hotspot for crime and disorder, or that the use of the particular property by a pizza company would give rise to additional crime and disorder to a degree which could justify refusal of permission. The Case Officer has been advised by the Community Safety Officer that it is considered the opening of an additional takeaway will have not exacerbate any antisocial behaviour which may already exist in the area.

In Officers opinion, the proposal does not conflict with Policy RD1.

The Town Council have also raised the issue of potential littering. In recognising the concern, Officers suggest it would be unreasonable to refuse planning permission on this basis as it is possible to condition any permission to require suitable provision of litter bins.

Other matters

Use of corporate signage

The Town Council's objection includes reference to the use of corporate signage not being compatible with conservation area status. This matter is not of relevance to the merits of this planning application, and is dealt with separately in relation to the following item on the agenda reference 43/2017/1160 which relates to the advertisement consent application for the signs.

Well – being of Future Generations (Wales) Act 2015

The Well-being of Future Generations (Wales) Act 2015 imposes a duty on the Council not only to carry out sustainable development, but also to take reasonable steps in exercising its functions to meet its sustainable development (or well-being) objectives. The Act sets a requirement to demonstrate in relation to each application determined, how the development complies with the Act.

The report on this application has been drafted with regard to the Council's duty and the "sustainable development principle", as set out in the 2015 Act. The recommendation takes account of the requirement to ensure that present needs are met without compromising the ability of future generations to meet their own needs. It is therefore considered that there would be no significant or unacceptable impact upon the achievement of well-being objectives as a result of the proposed recommendation.

5. SUMMARY AND CONCLUSIONS:

5.1 With respect to the Town Council's comments, it is Officers' opinion that the proposal is not unacceptable in principle. It is not likely to give rise to an over intensification of A3 uses and would not have a significant impact on the visual or residential amenity of the area and the Conservation Area.

RECOMMENDATION: GRANT- subject to the following conditions:-

1. The development to which this permission relates shall be begun no later than 17th January 2023
2. The development hereby permitted shall be carried out in strict accordance with details shown on the following submitted plans and documents unless specified as otherwise within any other condition pursuant to this permission:
 - (i) Proposed Elevations (Drawing No. B9957-AEW-PJ001524-XX-DR-0004) - Received 29 November 2017
 - (ii) Proposed Floor Plans (Drawing No. B9957-AEW-PJ001524-XX-DR-0003) - Received 29 November 2017
 - (iii) Existing Elevations (Drawing No. B9957-AEW-PJ001524-XX-DR-0002) - Received 29 November 2017

- (iv) Existing Floor Plans (Drawing No. B9957-AEW-PJ001524-XX-DR-0001) - Received 29 November 2017
 - (v) Proposed Site Plan (Drawing No. B9957-AEW-PJ001524-XX-DR-0006) - Received 29 November 2017
 - (vi) Location Plan (Drawing No. B9957-AEW-PJ001524-XX-DR-0005) - Received 29 November 2017
3. The use hereby permitted shall not be commenced until the written approval of the Local Planning Authority has been obtained to details of odour abatement arrangements and the arrangements have been implemented. The odour abatement equipment shall be retained and used at all times thereafter.
 4. The use hereby permitted shall not be permitted to operate until the written approval of the Local Planning Authority has been obtained to arrangements for the disposal of litter, and those arrangements have been implemented. The facilities shall be retained at all times the use operates thereafter.
 5. The A3 use shall not be open for customers outside the hours of 11am to 12 midnight Sunday to Thursday and 11am to 1am Friday and Saturday.
 6. Deliveries shall not be taken at or dispatched from the site, including the handling and collection of waste outside the hours of 11am to 12 midnight Sunday to Thursday and 11am to 1am Friday and Saturday, and any waste arising from the cleaning of the premises in the evening shall be stored within the site for removal the following morning.
 7. Noise emissions arising from extraction / ventilation / refrigeration equipment or mechanical plant and equipment shall not exceed 42dB(A)eq, 5min at the façade of any noise sensitive premises at any time.
 8. In the event of complaints to the Local Planning Authority over noise attributable to the operation of the business, and after they have been initially investigated by the Authority to assess that there is a potential for breach of condition 7:
 - a. The Authority shall notify the applicants in writing of the complaint;
 - b. Within one month of notification by the Authority, the applicants shall organise, at their own expense, a noise assessment by independent acoustic consultants, in accordance with a brief to be set by the Authority, to establish whether the terms of Condition 7 are being met, to identify the source of any noise which may be giving rise to complaint, and to put forward measures for addressing/mitigating noise so that the levels set in Condition 7 are met, including the timing of implementation of the measures;
 - c. A copy of the noise assessment undertaken in accordance with b. shall be submitted to the Authority no later than two months from the date of notification in a.
 9. In the event that a noise assessment carried out in accordance with Condition 8 identifies noise exceeding the levels set in Condition 7:
 - a. Specific mitigation measures as set out in the assessment, or such other alternative means of addressing the source(s) of noise as are submitted for the consideration and approval of the Local Planning Authority, shall be implemented in accordance with a timescale to be agreed in writing with the Authority;
 - b. The applicants shall organise, at their own expense, a noise assessment by independent acoustic consultants, in accordance with a brief to be set by the Authority, of noise levels at an agreed noise sensitive facade for a period to be agreed with the Authority, once the approved mitigation measures have been implemented, to determine whether the requirements of Condition 7 are being met;
 - c. A copy of the findings of the further noise monitoring undertaken in accordance with b. shall be submitted to the Authority within 7 days of completion
 10. In the event that the noise monitoring required by Conditions 8 and 9 of this permission confirms that noise levels remain in excess of those set in Condition 7, the item(s) of plant, equipment, activities, etc. identified as giving rise to the problems shall not be permitted to continue to operate until alternative mitigation measures are approved in writing by the Local Planning Authority, the measures as approved are implemented, the same noise monitoring arrangements as set out in Condition 9 b and c are undertaken, and the written approval of the Authority is obtained to the continued operation of the particular plant, equipment, activities, etc.

The reasons for the conditions are:-

1. To comply with the provisions of Section 91 of the Town and Country Planning Act 1990.

2. For the avoidance of doubt and to ensure a satisfactory standard of development.
3. In the interests of residential amenity.
4. In the interests of the amenity of the locality.
5. In the interests of the amenities of occupiers of property in the vicinity of the site.
6. In the interests of the amenities of occupiers of property in the vicinity of the site.
7. In the interests of the amenities of occupiers / users of nearby properties.
8. In order that appropriate steps are put in place to investigate and mitigate noise complaints, in the interests of the amenities of occupiers / users of nearby properties.
9. In order that appropriate steps are put in place to investigate and mitigate noise complaints, in the interests of the amenities of occupiers / users of nearby properties.
10. In order that appropriate steps are put in place to investigate and mitigate noise complaints, in the interests of the amenities of occupiers / users of nearby properties.

NOTES TO APPLICANT:

You are reminded of the requirement to contact the Food Safety and Licensing Teams for the relevant approvals under their legislation.

Defra Guidance on the Control of Odour and Noise from Commercial Kitchen Exhaust Systems document is available at

[https://www.gov.uk/government/publications/guidance-on-the-control-of-odourand-](https://www.gov.uk/government/publications/guidance-on-the-control-of-odourand-noise-from-commercial-kitchen-exhaust)

1. [noise-from-commercial-kitchen-exhaust](https://www.gov.uk/government/publications/guidance-on-the-control-of-odourand-noise-from-commercial-kitchen-exhaust)

2. Grease traps shall be installed on the drainage system serving the development prior to the commencement of the use hereby permitted to prevent the discharge of grease into the public sewer. The grease traps shall be retained at all times thereafter.

Reason: To reduce the risk of pollution to the water environment.

Please be advised that a licence will be required for the premises to open beyond 11pm.

Agenda Item 7

WARD : Prestatyn East

WARD MEMBER(S): Cllr Anton Sampson
Cllr Julian Thompson Hill (c)

APPLICATION NO: 43/2017/1160/ AD

PROPOSAL: Display of 2 no. externally illuminated fascia signs and 1 no. externally illuminated hanging sign

LOCATION: 39-41 High Street Prestatyn

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43/2017/1160

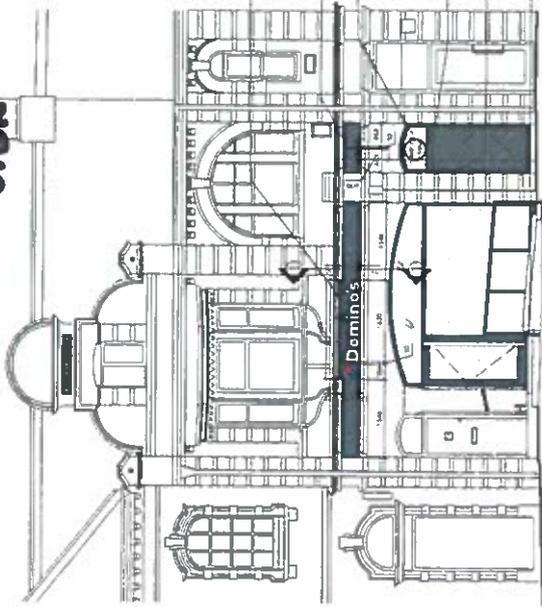
Scale: 1:1250

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PROPOSED SIGNS ELEVATION PLAN

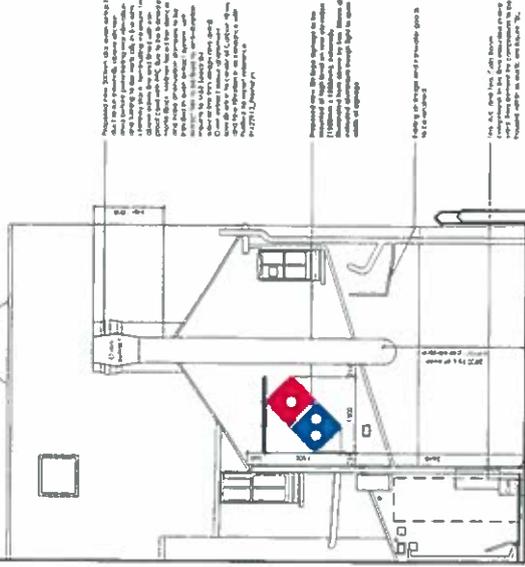
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Scale 1:50

FASCIA SIGN



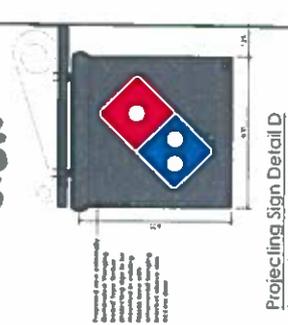
Proposed Elevation A
Scale 1:50

GABLE SIGN



Proposed Elevation B
Scale 1:50

HANGING SIGN



Projecting Sign Detail D
Scale 1:10

NOTES

- All dimensions are in millimeters unless otherwise stated.
- Materials shall be as specified in the schedule of materials.
- Work shall be in accordance with the current edition of the Building Code of Australia.
- The contractor shall be responsible for obtaining all necessary permits and approvals.
- The contractor shall be responsible for the structural integrity of the signs.
- The contractor shall be responsible for the safety of the signs.
- The contractor shall be responsible for the maintenance of the signs.
- The contractor shall be responsible for the removal of the signs.

DESIGN HAZARD IDENTIFICATION

- Identify the hazards associated with the proposed signs.
- Assess the risk of each hazard.
- Develop measures to control the risk of each hazard.
- Implement the measures to control the risk of each hazard.
- Review the measures to control the risk of each hazard.

Item	Description	Priority	Responsible Party
1	Structural integrity of the signs	High	Structural Engineer
2	Safety of the signs	High	Structural Engineer
3	Maintenance of the signs	Medium	Signage Contractor
4	Removal of the signs	Medium	Signage Contractor

Proposed Signage Schedule

Type	Description	Material	Size	Quantity
Fascia Sign	Projecting fascia sign with logo	Aluminum Composite Panel (ACP)	1.5m x 0.5m	1
Gable Sign	Gable end sign with logo	Aluminum Composite Panel (ACP)	1.5m x 0.5m	1
Hanging Sign	Hanging sign with logo	Aluminum Composite Panel (ACP)	1.5m x 0.5m	1

Fascia Section Detail 1-1



Key Plan

Proposed Elevation C
Scale 1:50

Proposed Elevations

WARD : Prestatyn East

WARD MEMBER(S): Cllr Anton Sampson
Cllr Julian Thompson Hill (c)

APPLICATION NO: 43/2017/1160/ AD

PROPOSAL: Display of 2 no. externally illuminated fascia signs and 1 no. externally illuminated hanging sign

LOCATION: 39-41 High Street Prestatyn

APPLICANT: MrTalib Al-Khadimi

CONSTRAINTS: Conservation Area
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 / Community Council objection

CONSULTATION RESPONSES:

PRESTATYN TOWN COUNCIL-

“Objection-

Corporate signage not compatible with conservation area status”

RESPONSE TO PUBLICITY:

None

EXPIRY DATE OF APPLICATION: 29/01/2018

REASONS FOR DELAY IN DECISION (where applicable):

N/A

PLANNING ASSESSMENT:

1. THE PROPOSAL:

1.1 Summary of proposals

1.1.1. The application is for consent to 2 externally illuminated fascia signs and 1 externally illuminated hanging sign at 39-41 High Street, Prestatyn.

1.1.2. The signs are in connection with the proposed new Dominos shop which is the subject of the previous application on the agenda, reference 43/2017/1147, relating to the change of use of the property to an A3 food and drink shop.

1.1.3. The plans at the front of the report illustrate the details of the signs.

1.1.4. In summary, the proposals involve:

- one externally illuminated fascia sign to replace the original signage on the front elevation. It would display the name of the business in text form and the logo. It would be 0.3m in height with a width of 1.97m. The background colour on the sign is Traffic Grey, with the Company name in white lettering, and the company 'domino's' logo alongside.
- The second externally illuminated sign would be located on the gable elevation visible to pedestrians and vehicles travelling up the High Street. It would display only the logo and have no text. It would have a height of 1.5m and a width of 1.5m and a depth of 0.10m
- The externally illuminated hanging sign would display the logo and no text. It would be made of timber and have a height of 0.6m, a width of 0.6m and a depth of 0.05m. It would be 2.3m above the ground level and would project to a maximum of 1m from the face of the building.
- The illuminance levels for the signs would be 200 cd/m.

1.2 Description of site and surroundings

1.2.1 The property is located on the eastern side of High Street, in the Town Centre of Prestatyn.

1.2.2 To the south of the site is a two storey Arts Centre with Cinema and restaurant. To the east is the recently developed retail scheme (Parc Prestatyn). To the north is a two-storey property occupied by HSBC Bank (Class A2 use) at ground floor level and a Dental Surgery on the first floor. To the west, on the opposite side of the High Street, are a number of retail units.

1.3 Relevant planning constraints/considerations

1.3.1 The site is within the development boundary of Prestatyn defined in Local Development Plan.

1.3.1 It is within the defined Town Centre Boundary and the Prestatyn High Street Conservation Area.

1.3 Relevant planning history

1.3.2 The unit was previously used as A2 professional and financial services with the adjacent Dental Surgery occupying the upper floors.

1.4 Developments/changes since the original submission

1.5.1 None.

1.5 Other relevant background information

1.6.1 None.

2 DETAILS OF PLANNING HISTORY:

No relevant history

3 RELEVANT POLICIES AND GUIDANCE:

Denbighshire County Council
Supplementary Planning Guidance
 SPG Advertisements

National Legislation

The Town and Country Planning (Control of Advertisements) Regulations 1992
 Planning Policy Wales (Edition 9) November 2016
 Development Control Manual November 2016
 TAN 7 – Outdoor Advertisement Control

4 MAIN PLANNING CONSIDERATIONS:

The Control of Advertisement Regulations and Technical Advice Note 7, Outdoor Advertisements outline what the Local Planning Authority can take into account when determining an application for advertisement consent. Whilst the general approach to dealing with advertisement applications is similar to the process of dealing with planning applications, the display of outdoor advertisements can only be controlled in the interests of amenity and public safety. Additionally, it is accepted that anyone proposing to display an advertisement needs that advertisement in that particular location, whether for commercial or other reasons, so need for a sign is not a ground to consider granting or refusing to grant an advert application.

The following paragraphs in Section 4 of the report therefore refer to the context within which Advertisement applications have to be considered, and where relevant, to policies of the Denbighshire Local Development Plan, and to any other material planning considerations.

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

4.1.1 Principle

4.1.2 Amenity

4.1.3 Public Safety

4.2 In relation to the main planning considerations:

4.2.1 Principle

Advertisement regulations permit the display of advertisements, but set out the scope of powers of control for Local Planning Authorities where consent is required in order to ensure advertisements do not have unacceptable impacts. As noted, the regulations restrict considerations to impact on the amenity of the locality and public safety. The Local Planning Authority can only assess applications against these criteria, and not in respect of matters such as the reason for selecting a particular site.

SPG 'Advertisements' states fascia signs in Conservation Areas should be painted not internally illuminated and advertising within Conservation Areas is expected to meet high standards in terms of location, size, design especially in terms of materials used.

TAN 7- 'Outdoor Advertisement Control' states 'where an area is designated as a conservation area '... special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area' in the exercise of any of the provisions of the Planning Acts. This includes the control of outdoor advertisements.'

Having regard to the above, it is clear that the principle of displaying advertisements is acceptable subject to due consideration of the amenity and public safety impacts, which are reviewed below in respect of the particular application.

4.2.2 Amenity

In relation to the 'amenity' considerations referred to in the advertisement regulations, material factors cited include 'the general characteristics of the locality, including the presence of any feature of historic, architectural, cultural or similar interest, disregarding, if they see fit, any advertisement being displayed there'. SPG 'Advertisements' specifically states that the use of traditional materials with individual lettering proud of the fascia using subtle colouring would be encouraged.

The Town Council have raised concerns in relation to the compatibility of the corporate signage with the Prestatyn Conservation Area.

In respecting the comments of the Town Council, it not considered reasonable to oppose the signage proposed simply on the basis of use of a corporate approach,

as this is not a specific 'amenity' consideration. Having due regard to the actual detailing of the signs, it is Officers' opinion that the approach to the advertisement of the property is particularly sensitive and wholly appropriate in a Conservation area location. It is suggested that the size of the signs is modest and that the use of colours and materials is in keeping with the building and those in the vicinity.

4.2.3 Public Safety

The Advertisement Regulations and TAN 7 advise that when determining an application for advertisement consent, the Authority should assess the impact on public safety. This can involve the safety of any person who may use a road, etc; and whether 'the display of advertisements is likely to obscure, or hinder the ready interpretation of, and any road traffic sign, railway signal or aid to navigation by water or air'.

There are no representations in relation to the public safety impacts of the signs proposed.

Having regard to the detailing of the signage proposed, it is not considered that the proposal would have any public safety implications. The hanging sign would be located 2.3m above ground level and none of the signs feature any text likely to distract drivers. It is considered that the proposal is acceptable and would not result in any impact on public safety.

5 **SUMMARY AND CONCLUSIONS:**

5.1 Taking account of the above and the comments from the Town Council, it is concluded that the proposal would have no detrimental impact on amenity, including the Conservation Area, and there are no public safety concerns. The proposal is therefore deemed acceptable and it is recommended that Advertisement Consent be granted.

RECOMMENDATION: GRANT- subject to the following conditions:-

1. The consent hereby granted relates to the following plans and drawings:
 - (i) Existing elevations received 5 December
 - (ii) Proposed elevations received 5 December 2017
 - (iii) Location plan received 5 December 2017

The reasons for the conditions are:-

1. For the avoidance of doubt.

NOTES TO APPLICANT:

Please note express consent is granted under the Town and Country Planning (Control of Advertisements) Regulations 1992 (advertisement regulations) and the permission granted is subject to a time limit of 5 years from the date of the grant of this permission. Please also note the standard conditions that apply :

**PLANNING COMMITTEE
17th JANUARY 2018**

INFORMATION REPORT BY THE HEAD OF PLANNING AND PUBLIC PROTECTION

PLANNING APPEAL DECISIONS

1. CAE TOPYN, DENBIGH

2. MINDALE FARM, MELIDEN

1. PURPOSE OF REPORT

1.1 This item provides members with information on recent planning appeal decisions received from the Planning Inspectorate on two major residential development proposals in Denbigh and Meliden.

2. CONTENTS

2.1 The two reports follow a similar format in setting out the background to the respective applications, the decision of Planning Committee to refuse permission, the appeal processes and a summary of the Planning Inspectors' decisions.

2.2 For reference, copies of the appeal decisions are attached as appendices at the end of each report.

3. RECOMMENDATION

That the report be received for information.

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RESIDENTIAL DEVELOPMENT AT CAE TOPYN, DENBIGH

Planning applicataion 01/2016/0374

1. Background to the decision

- 1.1. Planning permission was sought for the development of land by way of 75 dwellings. The site was allocated for housing in the adopted Denbighshire Local Development Plan (2013).
- 1.2. The application was made in full, and was accompanied by a range of technical reports – a Transport Assessment, Drainage Report, and Community Linguistic Impact Assessment.
- 1.3. Consultations were undertaken with the Highway Officer, Drainage Engineer, Conservation Architect, Ecologist, Housing, Archaeologist etc.. None of the 'technical' consultees raised objection to the proposal.
- 1.4. As part of the process, over 120 addresses were also consulted, site notices were posted around the site and the application was advertised in the press. Responses were received from approximately 50 different addresses. The Town Council also raised an objection to the application.
- 1.5. The objections received in the main focussed on the following issues:
 - No need for the development;
 - Too dense a development;
 - Detrimental impact upon important views of adjacent church/visual amenity;
 - Lack of education contributions;
 - Insufficient highway infrastructure to accommodate the development;
 - Detrimental impact upon amenity of adjacent chapel/parking;
 - Insufficient open space on site; and,
 - That the proposals did not fully comply with the adopted Site Development Brief.
- 1.6. Prior to presenting the application to committee, Officers held a number of meetings with local members to discuss the issues.
- 1.7. The application was presented to Planning Committee for consideration in March 2017. The Officer report outlined the material considerations to Members along with an assessment of technical documents. The report advised on the weighting that should be afforded to adopted planning policies and the adopted Site Development Brief.
- 1.8. The report concluded that there was limited evidence to indicate that the proposal was unacceptable and recommended that permission should be granted, subject to the imposition of conditions and the signing of a legal agreement to secure affordable housing, open space, and highway

improvements.

- 1.9. The application was discussed at considerable length at Committee, with many members raising concerns. Officers responded to questions and referred members to the material considerations. The resolution of the committee, as proposed by Councillor Mark Young and seconded by Councillor Merfyn Parry, was to refuse the application, against officer recommendation. The vote was 24 to refuse, 1 to grant.
- 1.10. Members put forward 8 grounds for refusal. These were recorded in the relevant minutes as:
- Drainage/flood risk
 - Lack of Education contributions
 - Highway safety including safe routes to school/pedestrian links
 - Lack of on-site open space
 - Removal of hedgerow and ecological impact
 - Impact on welsh language
 - Density, character and scale including housing need in the locality
 - Impact of pumping station on Brookhouse Chapel.
- 1.11. At the Committee the Head of Planning and Public Protection advised that a further report would be presented to the planning committee to offer guidance on the strength of those reasons for refusal and to suggest the detailed wording of the refusal reasons.
- 1.12. The April Planning Committee considered a report with the 8 reasons for refusal as drafted by Officers, and resolved to reduce the reasons for refusal to two. These were:

1. It is the opinion of the Local Planning Authority that the proposal would result in an unacceptable impact upon highway safety as a result of: - introducing a significant number of additional vehicular movements to the locality which would exceed the capacity of the existing local transport infrastructure; - not providing adequate parking facilities for St Marcellas Church and Brookhouse Chapel; - failing to improve pedestrian linkages with Denbigh Town which would result in not creating safe routes to school; and, The proposal is therefore contrary to the adopted Site Development Brief 'Residential Development - Brookhouse Sites, Denbigh', Local Development Plan Policy RD 1 'Sustainable development and good standard design' criteria viii), Supplementary Planning Guidance 'Residential Development', Technical Advice Note 18 'Transport', and Planning Policy Wales 9.

2. It is the opinion of the Local Planning Authority that the proposal would have an unacceptable impact upon the character and amenity of the area by virtue of its density, design, and scale. The proposal is therefore contrary to the adopted Site Development Brief 'Residential Development - Brookhouse Sites, Denbigh', Local Development Plan Policy RD1 'Sustainable development and good standard design' criterion i), iii), iv), v), xiii) , Supplementary Planning Guidance 'Residential Development', the Local Market Housing Assessment and Planning

Policy Wales 9.

1.13. The decision notice was issued on 21st April 2017.

2. The Public Inquiry.

- 2.1. The applicants subsequently lodged an appeal against the refusal decision. In early May 2017 the Planning Inspectorate informed Denbighshire County Council that the appeal would be dealt with by way of a Public Inquiry. This type of planning appeal enables parties to cross-examine evidence presented and requires parties to appoint legal representation. An initial meeting was arranged between Officers and relevant Members (proposer, seconder and local Members) to agree a strategy for defending the Committee's decision.
- 2.2. Officers began arranging the defence of the refusal by appointing a Barrister to act as the Council's advocate, securing the services of an external planning consultant to represent the planning case, and engaging an external Landscape Consultant to defend the second reason for refusal which related to the impact upon visual amenity by way of design, density and scale.
- 2.3. With regard to the first reason for refusal which related to the impact upon highway safety, having failed to find a Transport consultant prepared to represent the Council and discussions with Senior Barristers at Kings Chambers, it was decided, in consultation with Councillors, to not pursue that reason. The Appellants were advised of this in May 2017. The required production of the Council's Statement of Case and expert witness evidence was done in liaison with the appointed barrister and Members. Further meetings took place, including a site meeting with the relevant Officers and expert witnesses, in order to prepare fully for the Inquiry.
- 2.4. The Public Inquiry was held in September 2017, and lasted for 2 days.
- 2.5. The Inspector heard the case from both sides, with both parties presenting expert evidence from landscape architects to argue their cases.
- 2.6. Members of the public also appeared at the Inquiry and submitted a significant amount of information including their own Transport Assessment critique. In essence, the third parties pursued the Highway reason for refusal that the Council had dropped. The inspector gave full consideration to the third party evidence.
- 2.7. As the Appellants were aware that third parties would be raising the impact on highway safety as an issue at the appeal, they decided to employ a Highway Consultant to counter third party objections and argue the case in favour of development.
- 2.8. The Inspector also considered the concerns of third parties relating to education contributions, open space provision, and drainage concerns,
- 2.9. As part of the Inquiry, a Unilateral Undertaking (a type of legal agreement) was signed by both parties that in the event of the Inspectorate allowing the appeal

would secure the agreed provision of Affordable Housing, Open Space, and Highway Improvement monies. This is a standard procedure which ensures that relevant obligations (as required by Planning Policy) on the part of the appellant would be met.

- 2.10. The Inquiry concluded with the appellant's Barrister making an application for costs against the Council, citing unreasonable behaviour on the Council's part by failing to provide evidence to justify the reason for refusal. The Council's Barrister offered a defence to this claim, citing that the Council had made the decision based on material considerations, and had not undertaken the appeal lightly.

3. The Appeal Decision

- 3.1. On 28th November 2017, the Planning Inspectorate issued a decision letter allowing the appeal, granting permission for the development of the site for 75 dwellings, together with associated roads, open space and related works.
- 3.2. The decision letter focusses on the impact the development would have on the character and amenity of the area by virtue of its scale, density and design, as that was the basis of the Council's reason for refusing the application. However, the decision letter also addresses the material planning considerations considered relevant to the application and therefore provides a full assessment of the merits of the proposal.
- 3.3. The Inspector's decision is summarised below:

Effect on character and amenity of area

- The appeal decision begins by establishing that the principle of residential development is acceptable on this allocated site. It also seeks to clarify the Council's opinion that the development is unacceptable on visual grounds and as such is, in the Council's opinion, contrary to Policy RD 1 of the LDP, and the adopted Site Development Brief.
- It identifies common ground between both parties, specifically that the landscape and visual impacts of the development would be 'localised'.
- The Inspector is clear that in allocating the site for housing, the Council will have assessed the site's suitability for housing and the spatial relationship of the site to surrounding development and the likely impact developing the site with housing would have on the surrounding landscape.
- The Inspector assesses the site from a range of different perspectives, including the main approaches to the site, with the conclusion that from distant higher ground the development would barely be noticeable, and from Whitchurch Road the site would have little prominence except from when seen from the site frontage.
- It identifies the main view of the site to be from the south, and considers that the site would be seen in the context of the existing substantial detached

properties.

- In assessing the appellant's Landscape Architect's evidence, the Inspector agrees that the effects of the development on the local landscape would at worst be 'minor adverse' and that these would improve over time with additional landscaping. The Inspector considers such effects to be entirely normal for a development site of this size, and must be judged with the site's established allocation for housing development in the LDP in mind.
- Specifically referring to the proposed density, the Inspector notes the site is allocated in the adopted Development Plan for 101 dwellings, as per the density requirement of Policy RD 1 of the LDP (35 dwellings per hectare). The inspector acknowledges that the Site Development Brief advises a lower density because of local circumstances, but comments the Site Development Brief (SDB) fails to elaborate or suggest a lower density figure. Nevertheless, he considers that the proposed 75 dwellings is substantially lower than Policy RD 1's requirements and that the proposed density does not conflict with either Policy RD 1 or Site Development Brief. Whilst noting the lower density surrounding the site, the Inspector's opinion is that this alone does not justify a low density on the appeal site, especially when the current need to make the most efficient use of land is taken into account.
- Regarding 'scale' the Inspector notes that the Council did not specifically refer to the size of any particular building, and concludes that the concern raised reflects the Council's desire to see fewer houses on the site. He considers there is no rationale for this given that the site is allocated, and that the Council only has 1.79 years of housing land supply.
- The siting of two storey dwellings on the higher part of the site would not appear out of scale with the existing 'substantial' houses on the crest of the hill.
- In considering the proposal's impact on the church and views thereof, the Inspector comments that the alternative layout suggested by the Council would result in little difference and in itself is not realistic as it fails to take into account practical planning considerations (gardens/parking for houses etc). In acknowledging that the view of the church from old Ruthin Road would be lost, he finds nothing to suggest that this view is an important or significant view in the landscape.
- Although not specifically part of the Council's case, the Inspector does consider the setting of the Listed Church, concluding that the proposal is sufficiently designed along Whitchurch Road to not have a detrimental impact upon the church, especially when considered in the light of the site being allocated for housing.
- The Council's landscape architect raised concern about the location of the open space and the wildlife corridor in relation to the scheme's layout and design. The inspector considers that the wildlife corridor is in the location suggested by the Site Development Brief, and that the open space is logically

located given its secondary purpose to provide surface water drainage.

- In concluding the section on 'Impact on Character and Amenity of the area' the Inspector states:
"Bearing in mind the established context of land allocated for housing in the LDP, I conclude that the proposal's consequences for the character and amenity of the area would be wholly acceptable. I conclude that the proposed development satisfies the requirements of LDP policy RD1 in terms of its design details; effect on the local natural and historic environment; effect on public views; response to existing landscape and other features; and landscaping measures, and therefore complies with the policy criteria relied on by the Council in support of its decision. I also find that the proposal complies with relevant SPG, and with the guidance in the SDB so far as can realistically be expected within the constraints of the site."

Highway Safety:

- Although not a matter the Council ultimately pursued, local residents did give evidence on the highway issues and so a substantial part of the appeal was taken up with considering whether the proposal was acceptable in terms of its impact upon highway safety.
- The Inspector noted that the application was submitted along with a detailed Transport Assessment, and that the Local Highway Authority raised no objections to the proposal.
- The Inspector considers that Old Ruthin Road is wide enough to accommodate the proposed traffic, and that parking on the highway that may result in restricted visibility are issues to be addressed by the Highway Authority, and are not caused by the development proposed.
- The inspector did not consider the Objectors' critique of the Transport Assessment sufficient to override the appellant's evidence. The Inspector's decision analyses traffic movements and other data submitted in detail. He was satisfied that the capacity of the roads and junctions in the surrounding area were sufficient to accommodate the additional traffic.
- Regarding the pedestrian connectivity improvements, the Inspector found that they were proportionate to the scale of development being proposed.

Drainage and flooding:

- The inspector considered concerns relating to drainage and flooding. He found no evidence to suggest that the site could not be drained using soak away techniques, and that the site was not located within a flood risk area. He also considered that the use of a condition to secure the final details of the drainage system acceptable.

Impact on Brookhouse Chapel:

- In response to concerns raised about the location of the Public Open Space and the pumping station, the Inspector found no evidence to suggest that there would be a negative impact on the Chapel.

Education Contributions:

- The inspector considered the capacity data of local schools as provided by the LEA. Contrary to the suggestions of local residents and the LEA, the Inspector concurred with Officers that need for education contributions should be based on total capacity and not on any split into English and Welsh medium provision.
- He further notes that utilising a Welsh/English split methodology is not mentioned in either the SDB or the Council's Planning Obligations SPG. Preference for Welsh or English medium education will vary on an individual basis, and that there was in any event insufficient justification to require an education contribution in this instance.

Inspector's conclusion:

- *"A number of considerations weigh positively in favour of the proposed development. The appeal site is allocated in the LDP for housing development. The plan is recently adopted and up to date. In the light of my conclusions that the scheme design is acceptable and satisfies the LDP's detailed policy requirements concerning the same, this is a powerful consideration in the planning balance given the statutory requirement that proposals be determined in accordance with the development plan, unless material considerations indicate otherwise. The proposed development will secure the provision of 75 dwellings towards the Council's identified housing needs, in circumstances where it currently has a housing land supply of just 1.79 years. In addition, 10% of the overall housing provision proposed represents affordable housing provision."*
- *"Drawing all of the foregoing together, and having taken all matters raised into account, I conclude that the proposed development, viewed in the context of the existing allocation of the site for housing, would not harm the character and amenity of the area. The proposal satisfies the requirements of LDP policy RD1 and overall is in accord with the development plan. The development adequately meets the expectations of SPG and the Site Development Brief, so far as is realistically possible within the practical development constraints of the site. There are no material considerations which indicate a determination otherwise than in accordance with the development plan."*

4. Costs Decision

4.1. At the Inquiry, the Appellants applied for costs against the Council.

4.2. The case advanced by the appellants was that:

"...the Council acted unreasonably in refusing permission for development which

ought to be permitted, in the light of the development plan and all other material considerations. The site is allocated for housing in the development plan, but the proposal was refused permission for two reasons, contrary to officer advice. Of the two stated reasons for refusal only one was pursued at the inquiry, relating to harm to the landscape; and in respect of that single remaining reason, the Council failed to produce any respectable evidence to substantiate its case.

The appellant additionally orally made the point that whilst the Council had withdrawn its earlier highways-based reason for refusal, other parties objecting to the proposal had continued to pursue these matters, amongst others. It had therefore remained necessary for the appellant to adduce professional highway and traffic evidence at the inquiry, notwithstanding the Council's change of position."

4.3. The Council's defence was that:

- It was the appellants own choice to call a Highway Witness in response to third party comments, therefore those costs weren't as a result of the Councils actions.
- The single reason for refusal pursued by the Council was a legitimate reason for refusal.
- In refusing the application the Council had regard to the relevant policies and guidance
- In defending the appeal the Council used an independent landscape witness and planning consultant
- The landscape witness maintained throughout that the scheme would result in harm to local landscape character; the Council's planning witness considered that the resultant harm would be such as to outweigh the consideration of housing supply shortfall, despite the considerable weight that should be attached to that consideration. In the light of this it is clear that the Council has not failed to substantiate its reason for refusal.

4.4. The inspector acknowledged that LPA's were not bound to adopt, or include as part of their case, the professional or technical advice given by their own officers. However, they are expected to show that they had reasonable planning grounds for taking a decision contrary to such advice and that they are able to produce relevant evidence to support their decision. If they fail to do so, costs may be awarded against the authority.

4.5. The Inspector considered that:

- The Council's case focussed heavily on the relationship to St Marcellas Church and the impact of the layout on views of that church.
- Whilst accepting the significant localised impact of the development, the inspector was not convinced that a different layout would have any less impact and that when considered in the round and context of site allocation that the proposal would result in such harm to the character and amenity of the area as to cause a conflict with policy RD1.

- The landscape evidence put forward on behalf of the Council was highly selective and did not attempt a comprehensive appraisal of landscape and visual effects in accordance with best practice guidance.
- Therefore the council did not produce evidence to substantiate its refusal.
- With reference to the Highway reason, the Inspector considered that although the Council had dropped that reason for refusal, it was still that initial unreasonable refusal of permission that triggered the need for the matter to be resolved at appeal and gave rise to the opportunity for other parties to make their own submissions on highway grounds.
- The Inspector did not find the appellants decision to call a highway witness to be excessive or disproportionate.
- The Inspector concluded that the council had failed to substantiate its reason for refusal which is viewed as unreasonable behaviour, and resulted in the appellant incurring unnecessary and wasted expense.

5. Challenging the decisions

The Appeal Decision:

- 5.1. The process for challenging the appeal decision would be through a Judicial Review at the High Court. To make a case, the Council would have to prove that the Inspector had erred in his application of planning law.
- 5.2. Having reviewed the Appeal Decision, Officers are of the opinion that the Inspector has not erred in law.

The Costs Decision:

- 5.3. Upon receipt of the detailed costs claim from Pure Residential and Commercial Ltd, Officers will scrutinise the breakdown. If it is felt that the costs are not sufficiently related to the appeal or are unreasonable, Officers will submit a revised claim to the Senior Courts Costs Office to act as arbitrators.

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RESIDENTIAL DEVELOPMENT AT MINDALE FARM, MELIDEN

Planning application 43/2016/0600

1 Background to the decision.

- 1.1. Planning permission was sought for the development of some 4.8 hectares of land by way of 133 dwellings. The site at Mindale Farm was allocated for residential development in the adopted Denbighshire Local Development Plan (2013), albeit as a late addition in the process.
- 1.2. The application was submitted for full planning permission, and was accompanied by a range of technical reports – a Transport Assessment, an Ecological Assessment, an Arboricultural Impact Assessment/ Method System, a Flood Consequence Assessment, an Archaeological Assessment, an outline drainage strategy, a Community Linguistic Statement Report and Impact Assessment, a Geophysical Survey Report, and a Water Conservation Strategy.
- 1.3. A wide range of Consultations was undertaken including with internal sections of the Council – Highways, Drainage, Conservation Architect, Ecologist, Housing, Archaeologist; and external bodies including Prestatyn Town Council, and agencies such as Natural Resources Wales, Dwr Cymru Welsh Water, the Clwyd Powys Archaeological Trust, and the North Wales Wildlife Trust.
- 1.4. In addition, neighbour letters were distributed to some 220 addresses in the vicinity of the site, site notices were posted around the site and the application was advertised in the press. Responses were received from over 40 different addresses.
- 1.5. The Town Council's responses contained detailed commentary on the adequacy of information in the transport assessment, and in relation to foul and surface water details, questioning issues of ownership and whether it was appropriate to determine the application on the basis of the submission.
- 1.6. The individual objections received in the main focussed on the following issues:
 - The principle of the development and the need for housing
 - Highway concerns
 - Flooding and drainage
 - Ecological impacts
 - Impacts on local schools and hospitals
 - Land ownership issues

- 1.7. Prior to presenting the application to committee, Officers met with the Local member to discuss the application and the issues arising. The site was visited by a Site Inspection panel before consideration at Planning Committee.
- 1.8. The application was presented to Planning Committee for consideration in April 2017. The Officers' report detailed the proposals, responses to consultation and publicity, the material considerations, and matters which had arisen in the course of progressing the application. The report advised on the Council's adopted planning policies and the Site Development Brief relating to the development of the site and an adjoining allocated site.
- 1.9. The report concluded on the basis of the responses from the key 'technical' consultees, that there were limited land use planning grounds to oppose the grant of permission, and that there were reasonable controls which could be exercised through planning conditions and a legal agreement to mitigate impacts, sufficient to merit a positive recommendation. The matters it was suggested could be dealt with through a legal agreement included off site highway improvements, and contributions to affordable housing, education provision, and mitigation of impact on the Welsh language.
- 1.10. The application was discussed at length at Committee. There were public speakers in favour and against the application. The local member provided some background history to the site, which had been included in the LDP following allocation by the Planning Inspector, who he understood had indicated that if the infrastructure was not in place, then planning permission could be refused. It was argued that the existing local infrastructure was not adequate to cope with the scale of the development, particularly in terms of highways and drainage/flooding. Prestatyn Members concurred with the comments made by the Local Member, elaborating further on those issues and their concerns regarding the impact of the development on the village and its infrastructure. The committee generally shared those concerns, which had also been raised by members who had attended the Site Inspection Panel meeting.
- 1.11. Planning Committee ultimately voted to refuse to grant permission, on grounds of the scale of the proposed development and impact on the local community, over intensification of the site in the context of the village setting and on rural green space; and on acceptable negative impact of the development on the existing highway infrastructure, including road safety concerns.
- 1.12. The reasons for refusal on the Certificate of Decision, dated 14th April, 2017 were

Reason 1

It is the opinion of the Local Planning Authority that the scale of the development would have an unacceptable impact on the character of the village and its infrastructure, and in combination with the detailing of the proposed access road, the development would give rise to unacceptable levels of peak time congestion and dangers to all road users and in particular younger pedestrians accessing the local school and nearby play facilities. This would have a negative impact on the well-being and quality of life for existing and proposed residents using the highway infrastructure. The development is considered to be contrary to the adopted Site

Development Brief 'Residential Development – 'Residential Development at Ffordd Hendre and Maes Meurig, Meliden , Local development Plan policy RD 1 'Sustainable development and good standard design' criteria vii),viii) and ix), Technical Advice Note 18 'Transport' and Planning Policy Wales 9

Reason 2

It is the opinion of the Local Planning Authority that the proposals do not adequately demonstrate that surface water run-off from the site and higher land above it can be managed without increasing the risk of additional discharge to watercourses leading to the Prestatyn Gutter, and hence increasing the potential for flooding downstream. Accordingly it is considered that the proposal fails to comply with the adopted Site Development Brief 'Residential Development at Ffordd Hendre and Maes Meurig, Meliden', LDP policy RD1 'Sustainable development and good standard design' criteria xi), Policy VOE 6 'Water Management', Technical Advice Note 15 'Development and Flood Risk' and Planning Policy Wales 9.

2. The appeal process

- 2.1. The applicants subsequently lodged an appeal against the refusal decision. The Planning Inspectorate informed Denbighshire County Council in May 2017 that the appeal was to be dealt with via the Informal hearing process. This is a method of appeal which enables both parties to debate their evidence around a table with an inspector and does not involve cross-examination with legal representation.
- 2.2. An external planning consultant was engaged to co-ordinate the appeal process. Highway and Drainage Consultants were subsequently engaged for specialist input to assist preparation of the case to defend the two reasons for refusal, and to appear at the Hearing.
- 2.3. Meetings were held with the Local member and consultants during the preparation of the Statements of Case.
- 2.4. The hearing was held in Meliden on October 4th, 2017.
- 2.5. The Inspector led the Hearing and set out what she considered to be the main issues. She invited contributions from the main parties, the Local member, and a number of private individuals in relation to the proposals. There was the routine discussion on a 'without prejudice' basis on possible conditions to be attached in the event of a permission being granted, and to matters which could be dealt with in a Section 106 Obligation (financial contributions, off - site highway improvements, etc.)
- 2.6. There was no application for costs from the appellants at the Hearing.

3. The Appeal Decision

- 3.1. The Planning Inspector's Appeal Decision was issued on October 13th, 2017.
- 3.2. The Inspector dismissed the appeal.
- 3.3. The Inspector's decision is summarised below:

The Main Issues

The Inspector considered the main issues were the effect of the development on the character of the village and the well-being of local residents with particular regard to the highway infrastructure; and whether surface water run-off from the development would give rise to flooding.

In relation to the effect on the character of the village and well-being of local residents with particular regard to the highway infrastructure

- The Inspector reviewed a wide range of issues in addressing the effect on the village and the highway implications of the development. She had regard to the proposals for the new access off Ffordd Gwilym, the nature of the approach highway network, speed limits, footway gradients, the proposed emergency access, the Transport Assessment, junction capacities, the distance from local facilities, and impacts on those facilities.
- The Inspector's conclusions were that:

The site was allocated for residential purposes in the Local Development Plan. There was no substantive evidence that local services and facilities could not accommodate future residents of the proposal, and the matter of primary school places is one which could be addressed by way of a financial contribution via a legal agreement. The development would not harm the character of the area. The local highway infrastructure could accommodate the increased traffic generated by the development without harm to highway safety.

- Whilst accepting that further detailed consideration could be given to the matters of highway visibility and the emergency access, the Inspector considered the proposal would be unacceptable in its submitted format, so concluded that on what was before the Hearing, these aspects of the development would have an unacceptable effect on the highway infrastructure, contrary to policy Planning policy wales, and TAN 18.

In relation to whether surface water run-off from the development would give rise to flooding

- The Inspector reviewed the information submitted with the planning application, including proposals for attenuation ponds, the Flood Consequences Assessment, the responses of Natural Resources Wales and other consultees and evidence submitted by the Council's consultants.
- The Inspector's conclusions on the basis of the evidence before her were that a more thorough understanding of the groundwater regime and any associated risk together with further consideration of the surface water drainage and the design of the attenuation ponds was required. She took the view that in these circumstances, and the precautionary approach outlined in TAN 15: Development and Flood Risk, that insufficient information had been submitted in order to demonstrate that the scheme would not give rise to flooding, contrary to relevant policies, TAN 15 and Planning Policy Wales.

In relation to other matters:

- In respect of land ownership issues, the inspector was satisfied that although the appellant did not own the appeal site, this did not prohibit an application being made and she was satisfied that the correct procedures in respect of the notification of persons with an interest in the land subject of the proposal were followed at application stage.
- In respect of suggestions from interested parties that there was insufficient land within the appeal site to construct the road as proposed and whether potential changes to the scheme would necessitate encroachment onto adjoining land, there was no substantive evidence that the works could not be contained within the land identified as the appeal site. Whether the Appellant has the right to develop the land in terms of its ownership is a separate legal matter.
- The development would not have an unacceptable impact on the Pwll y Bont wildlife site and ecological interests could be suitably protected.
- Although dismissing the appeal would delay the bringing forward of the site for development, the considerable weight given by TAN 1 to the need to increase housing land supply is subject to the proviso that the development would otherwise comply with national planning policies. The scheme as submitted does not meet this provision.
- A draft Unilateral Undertaking was submitted to the Inspector subsequent to the Hearing, relating to financial contributions towards off-site highway works, affordable housing, education and the Welsh language. The Inspector agreed with the Council that the obligations contained in the UU were necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development, in accord with The Community Infrastructure Levy Regulations 2010, as amended, and Circular 13/97 Planning Obligations and as required by Policy BSC 3 of the LDP. However, as there was a fundamental flaw in that the UU was not signed by all those party to it, the need for the obligations to make the development acceptable had therefore not been secured by the UU as submitted.

Inspector's conclusions:

The concluding paragraphs are quoted below:

“39. I have concluded that the development would be unacceptable in terms of highway visibility, emergency access, and insufficient evidence has been submitted to demonstrate the scheme would not give rise to flooding. For the reasons I have already given I do not consider that all these matters can be satisfactorily addressed by condition. Furthermore, the legal agreement deemed necessary to make the development acceptable is incomplete and the obligations it would provide have not been secured in full.

40. It is accepted that the need to increase housing land supply carries considerable weight in determining proposals for residential development. However, in this instance the principle of the development is already established and it is the detail of the scheme which has been found to be inadequate. On balance I consider these factors do not outweigh the concerns I have identified. For these reasons, and having had regard to all other matters raised, the appeal is dismissed.”