

To: Chair and Members of the Planning Committee

Date: 29 August 2024

Direct Dial: 01824 712589

e-mail: democratic@denbighshire.gov.uk

Dear Councillor

You are invited to attend a meeting of the **PLANNING COMMITTEE** to be held at **9.30 AM** on **WEDNESDAY, 4 SEPTEMBER 2024** in **COUNCIL CHAMBER, COUNTY HALL, RUTHIN AND BY VIDEO CONFERENCE.**

Yours sincerely

G Williams
Monitoring Officer

AGENDA

1 APOLOGIES

2 DECLARATIONS OF INTEREST (Pages 5 - 6)

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 7 - 16)

To confirm the accuracy of the minutes of the Planning Committee meeting held on the 17 July 2024 (copy attached).

APPLICATIONS FOR PERMISSION FOR DEVELOPMENT (ITEMS 5 - 6)

5 APPLICATION NO. 15/2023/0029 BURLEY HILL GARAGE, ERYRYS
(Pages 17 - 44)

To consider an application for the change of use of land for the parking of 3 no. coaches on existing tarmacked area (retrospective application) at Burley Hill Garage, Eryrys (copy attached).

6 APPLICATION NO. 41/2024/0115/PF THE WARREN, BODFARI (Pages 45 - 78)

To consider an application for the erection of a rural enterprise dwelling, installation of a septic tank and associated works at The Warren, Bodfari (copy attached).

INFORMATION REPORT

7 INFORMATION REPORT - KYNSAL HOUSE APPEAL DECISION SUMMARY (45/2021/0516) (Pages 79 - 94)

MEMBERSHIP

Councillors

Councillor Mark Young (Chair)

Councillor Alan James (Vice-Chair)

Michelle Blakeley-Walker
Ellie Chard
Karen Edwards
Gwyneth Ellis
James Elson
Chris Evans
Justine Evans
Jon Harland
Huw Hilditch-Roberts
Delyth Jones

Julie Matthews
Terry Mendies
Raj Metri
Merfyn Parry
Arwel Roberts
Gareth Sandilands
Andrea Tomlin
Cheryl Williams
Elfed Williams

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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 where we have received 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 prior to the start of the meeting, including the late representations/amendments summary sheets ('Late Sheets') and any supplementary or revised plans relating to items for consideration.

The Late 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.

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 currently 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 a quorum and to allow a vote to be taken.

County Council Members who are not elected onto the 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.

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

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 Officers 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 motions 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.

Members attending via Zoom

The voting will proceed with the Chair going around all the Planning Committee members eligible to vote to ask for their verbal "For", "Against" or "Abstain" vote. The votes will be marked down.

Members attending in person in the Chamber

The Members will use the electronic voting system and the result will be read out by the Chair.

Final Result

The Chair will add up the votes and will announce whether the application has been approved or refused.

LOCAL GOVERNMENT ACT 2000

Code of Conduct for Members

DISCLOSURE AND REGISTRATION OF INTERESTS

I, *(name)*

a *member/co-opted member of

*(*please delete as appropriate)*

Denbighshire County Council

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

*(*please delete as appropriate)*

Date of Disclosure:

Committee *(please specify)*:

Agenda Item No.

Subject Matter:

Nature of Interest:

*(See the note below)**

Signed

Date

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

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PLANNING COMMITTEE

Minutes of the Planning Committee meeting held in Council Chamber County Hall and by video conference on 17 July 2024 at 9.30am.

PRESENT

Councillors Michelle Blakely- Walker, Ellie Chard, Karen Edwards, Gwyneth Ellis, James Elson, Jon Harland, Huw Hilditch-Roberts, Alan James, Delyth Jones, Julie Matthews, Terry Mendies, Arwel Roberts, Gareth Sandilands, Andrea Tomlin, Cheryl Williams and Mark Young (Chair)

ALSO PRESENT

Legal Advisor (CL), Development Manager (PM), Principal Planning Officer (PG), Head of Planning, Public Protection and Countryside Services (EJ) Senior Engineer (MP), Traffic, Parking and road Safety Manager (MJ), Zoom Host (SW) and Committee Administrator (NH)

Public Speaker – Huw Edwards (applicant) Item 6

Public Speaker – Saul Page (resident) Item 7

Public Speaker - Endaf Roberts (agent) Item 7

Public Speaker – Steve Grimster (agent) Item 8

Local Member – Councillor Hugh Evans was in attendance for agenda item - 5

Local Member – Councillor Peter Scott was in attendance for agenda item – 7

Local Member – Councillor Pauline Edwards was in attendance for item - 8

1. APOLOGIES

Apologies for absence were received from Councillors Chris Evans, Merfyn Parry and Elfed Williams.

2. DECLARATIONS OF INTERESTS

Councillor James Elson declared a personal interest in agenda item 5 as his stepson worked for Jones Brothers.

Councillor Gwyneth Ellis declared a personal interest in agenda item 6 as her dogs attended day care at the application site.

Councillor Huw Hilditch-Roberts declared a personal interest in agenda item 6 as the applicant's daughter was in the same class in school as his daughter.

3. URGENT MATTERS AS AGREED BY THE CHAIR

No items of an urgent nature had been raised with the Chair prior to the commencement of the meeting.

4. MINUTES OF THE LAST MEETING

The minutes of the Planning Committee meeting held on the 19 June 2024 were submitted. It was:

RESOLVED: *that the minutes of the meeting held on the 19 June 2024 be received and approved as a true and correct record of the proceedings.*

APPLICATIONS FOR PERMISSION FOR DEVELOPMENT (ITEMS 5- 8)

Applications received requiring determination by the committee were submitted together with associated documentation. Reference was also made to late supplementary information (blue sheets) received since publication of the agenda which related to particular applications. In order to accommodate public speaking requests it was agreed to vary the agenda order of applications accordingly.

5. APPLICATION NO. 19/2022/0783/ PC – TYN Y MYNYDD, LLANELIDAN RUTHIN, LL15 2LG

An application was submitted for the change of use of agricultural building and land to canine day care and boarding, erection of site office, installation of a cess pit and associated works (retrospective application).

Public Speaker – Huw Edwards (For) there was a great need for this facility locally. Recommendations from Officers had already been acted upon and guidance had been followed such as adding rock wall insulation in areas which were likely to echo noise. Changes within the Business and Management Plan had also been implemented in relation to noise mitigation, this ranged from additional screening in closures and greater staff awareness.

The business was a family business and employed three full time members of staff and numerous part time staff when needed as well as being an active supporter of the Denbighshire Work Start Scheme. The business also catered for individuals with Special Educational Needs.

Currently there were one thousand dogs registered under the canine day care and boarding business with many customers relying heavily on the service that was provided.

There were many benefits to the dogs using the facility including exercise and socialisation. All dogs were screened before they were allowed to attend, and aggressive dogs were not permitted to attend.

General debate –

Local Member Councillor Hugh Evans welcomed the detailed information on the background of the business within the application. The previous objections to the application had been addressed and he fully supported the application.

Councillor Andrea Tomlin sought clarity on the retrospective element of the application questioning if the retrospective element had favoured the applicant and residents with more checks and balances being undertaken than if it was an original application. The Development Manager clarified that this issue was raised frequently when people submitted retrospective applications. There was nothing in legislation or planning law that stated retrospective applications were illegal. There had been conversations with Welsh Government and the UK Government around changing the legislation in terms of planning fees and increasing them. This may act as a deterrent to applicants and encourage them to go through the planning application process already in place. Officers would update members if the legislation changed.

Proposal – Councillor Andrea Tomlin proposed that the application be granted in accordance with officer recommendation, **SECONDED** by Councillor Alan James.

Vote –

For – 16

Against – 0

Abstain – 0

RESOLVED: that the application be **GRANTED** in accordance with the officer recommendation.

6. APPLICATION NO. 40/2023/0627/ PF – LAND AT BRYN MORFA, BODELWYDDAN, RHYL

An application was submitted for the demolition of dwelling and erection of 31 new affordable dwellings including new vehicular access, internal access road and associated works.

Public Speaker – Saul Page (against) living on the street for 7 years there were many concerns about the application that had been submitted for the green land neighbouring the existing residential area.

Objections against the application were as follows –

- The loss of green land.

- There was the potential for house prices to drop as the street would no longer be a cul-de-sac.
- Damage to vehicles was a concern with the increase in traffic due to the narrow street.
- Concerns regarding safety of children playing outside as the street would become a through road to the new development with the increase of construction vehicles during the works.
- Children being forced to play inside, limiting outdoor access.

To conclude, the Committee were implored to visit the site to see how the influx of traffic would impact the narrow street before a decision on the development was made.

Public Speaker – Endaf Roberts (for) there was an affordable housing need in Denbighshire and the current un-met demand was leading to residents living in hotels.

This application would contribute to providing affordable homes in Denbighshire. The site was in a highly sustainable area within Bodelwyddan with public transport connections. The site was currently in private ownership with no public access. The dwellings in the proposal ranged from 1-bedroom properties to larger family homes which would directly address the need.

The applicant had provided additional information on agricultural land matters, highways and ecological requirements.

It was noted that highways issues had been highlighted as a concern and members were reminded that a similar marketing scheme on the same site where car ownership would be expected to be far higher than this proposal had not been refused on highways grounds.

The site was in a sustainable location and delivered a type and mix of housing that was desperately needed in the area.

It was kindly requested that planning permission be granted for the application to allow a part of the housing crisis in the area to be addressed.

General debate –

Local member, Councillor Raj Metri stated that he understood the concerns of residents however, the population was growing and the need for housing was increasing.

The Chair requested information from officers on the application being outside of the Local Development Plan (LDP) and why the application was accepted

to come to Planning Committee and on the highway concerns that had been raised.

The Principal Planning Officer explained that the site was not in the LDP and was outside the development boundary. Within the adopted LDP there was an exceptions policy (policy BSC8) which allowed for dwellings outside of the LDP boundary if the application highlighted the need for affordable housing. 55% of households in the Bodelwyddan area could not afford to rent or buy a property and for these reasons officers recommended that the application was granted.

The Senior Engineer for Development Control, Traffic, Parking and Road Safety informed the Committee that the proposal was for 31 residential units and the site would be accessed directly from Bryn Morfa cul-de-sac which currently served approximately 40 residential properties. Bryn Morfa Street was approximately 6m wide with footpaths on both sides meeting Ronalds Way at a priority-controlled junction. A transport statement had been provided within the application. The peak am and pm inflows to the development had been calculated as 4 and 15 vehicles respectively and peak am and pm outflows as being 15 and 7 respectively. A construction Traffic Management Plan would be in place prior to construction commencing. It was felt that the nature and scale of the proposed development was unlikely to produce a detrimental volume of traffic.

Councillor Jon Harland stated that he understood that there was a need for housing, but this site was not suitable. Grassland and shrubs would be destroyed and there was already a carbon shortage.

Proposal - Councillor Jon Harland proposed that the application be refused **SECONDED** by Councillor Arwel Roberts.

Vote –

For- 4

Against – 12

Abstain – 0

Councillor Huw Hilditch-Roberts recognised the housing shortage within the area and stated that officers had undertaken work to protect the environmental element of the application.

The Development Manager informed the Committee that the Planning Team had liaised with County Ecologist with regards to protecting different levels of Biodiversity. On balance the need for additional housing outweighed some of the considerations regarding green spaces and it was for the Committee to make an informed decision.

Proposal –

Councillor Huw Hilditch- Roberts proposed that the application be granted in accordance with officer recommendation, **SECONDED** by Councillor Alan James.

Vote –

For- 12

Against – 4

Abstain – 0

RESOLVED: that the application be **GRANTED** in accordance with officer recommendation.

7. APPLICATION NO. 46/2023/0719/ PF – NEW VISION BUSINESS PARK. GLASCOED ROAD, ST ASAPH LL17 0LP

An application was submitted for the erection of 2 commercial units including the formation of parking, landscaping and associated works.

Public Speaker – Steve Grimster (for) as documented by Officers, the land in question had long been allocated for B1 office use in the LDP, forming part of St Asaph Business Park. The land first secured planning permission for office use in 2006, which had been extended thereafter.

Whilst some office space had been delivered on the adjoining land, the applicant had been unable to find an occupier for the remainder of their development known as New Vision Business Park. This was not for the want of trying. The covid pandemic had further reduced the demand for office space, owing to increased flexible working.

18 years on from the first grant of planning permission on the site, the applicant was approached by an end user seeking a new, modern and purpose-built facility specifically in St Asaph, to provide clinical, medical and cosmetic treatments as a D1 use.

To this end, the following observations were given:

- The Council accepted that the land in question had been marketed appropriately, and that there was no interest in the land for the consented use.
- The LDP and the policies contained within were now time-expired, covering the period up to 2021. However, in the absence of a Replacement LDP, they remained the basis for decision-making, offering limited flexibility for alternative uses to be considered on the site when evidently there was no demand for the allocated B1 use. This approach could lead to the proposed investment and 30-50 jobs going outside of the County;
- The applicant asked for a pragmatic view when considering the availability of other land and buildings. The end user specifically wants to be in Denbighshire, close to Glan Clwyd Hospital to support NHS services, and the highway network to serve the County's residents. They did not want to be in Flintshire or Conwy; an assessment of available land and buildings in those Counties was considered excessive and could again steer investment outside Denbighshire;

- On this matter, the applicant was aware that the Council did not apply sequential test considerations when approving a retrospective application for a change of use from B1 to D1 at Ruthin Business Park back in January. It is unclear why a different approach to the sequential test was now being applied. However, it does demonstrate that B1 and D1 uses can co-exist on a Business Park;
- Accessibility-wise it was accepted that there would be a degree of reliance on the private carpark. That was no different to the consented B1 use. Locationally, the site was the closest to St Asaph, only 1 mile from the development limits. There was an hourly bus service, and visitors would be able to wait inside the building before returning to their destination. For the end user, there was a balance to be struck between proximity to St Asaph, the Hospital and the A55.

The package of economic, social and health benefits on offer would be significant, without any unacceptable environmental impacts. There were no technical grounds for refusal.

General debate –

Local member Councillor Peter Scott stated that this application was a great opportunity to bring 30-50 professional jobs to the area and provide a much-needed dentistry service. A new Active Travel Route was being developed on Green Gates East and Green Gates West which would connect the Business Park site to St Asaph. It was felt that this application would be an asset to St Asaph.

The Development Manager understood the local members comments and explained the officer's recommendation to refuse the application was based on Officers approach to other alternative use applications on the Business Park. D1 was a category within the planning use classes order dealing with non-residential institutions including medical or health services. The application was purely dealing with a category D1 use, with the building of a new structure that was going to contain D1 usage.

Councillor Andrea Tomlin stated that she would recommend the Committee grant the application with an additional condition on the D1 category, restricting the use for medical and health services only.

Proposal – Councillor Andrea Tomlin proposed that the application be granted against offer recommendation with an additional condition for restricted D1 use, SEONDED by Councillor Karen Edwards.

Vote –

For – 16

Against – 0

Abstain - 0

RESOLVED: that the application be GRANTED against officer recommendation with an additional condition for restricted D1 use.

8. APPLICATION NO. 01/2020/0315/ PF – FORMER NORTH WALES HOSPITAL

An application was submitted for the conversion, restoration, part demolition and adaptation of main range listed buildings to residential use (34 dwellings); demolition of Nurses Homes, Mortuary, Isolation ward, Aled ward and former gasworks building; and development of land within the hospital grounds for mixed use enabling development including up to 300 no. residential units and up to 1114 square metres of business units; siting of Denbigh Cricket Club; and construction of access, drainage and associated works.

The Chair referred members to the officer notes detailed in the supplementary papers.

The Development Manager gave a brief background to the application to the Committee.

The planning application was originally presented and discussed by Denbighshire County Council Planning Committee on Wednesday 8 September 2021 and planning permission was granted subject to the details of the legal agreement and planning conditions returning to Planning Committee for further decision. Members would be aware that this was a major project for Denbigh and Denbighshire County. The site contained a listed building of national importance, and this building was proposed to be restored and converted as part of the proposal. The Project involved enabling developments which involves building houses within the grounds in order to support the restoration and conversion of the main listed building. A significant amount of Public Sector funding was needed to be generated in order to make the project viable and funding had been one of the main reasons for the delays since September 2021. There were many legislative controls which needed to be taken into consideration which involved conversations with National Resources Wales (NRW), County Ecologist and the Highways Team in order to ensure that the project could be delivered taking into account timings and the impacts on Denbigh and the surrounding areas.

Finally with any planning legal agreement there needed to be agreement between the developer and the authority and officers felt that this level of agreement had been reached and were confident with the level of detail they have regarding timings and delivery made the scheme viable.

General debate –

Local member Councillor Delyth Jones thanked officers for their work on this application on the Section 106 agreement. Referring to the item being deferred from the Planning Committees May 2024 meeting, clarity was sought on whether the Legal Department were content with the conditions now

included within the application. Reference was made to the Biodiversity and Conservation elements of the application, and it was highlighted that they were crucial to the success of this project being delivered. Clarity on the Aled Ward building being kept during the construction phase was requested. Questions were raised regarding who would have responsibility for the site and concerns regarding funding being available were also raised and clarity on transport and Active Travel routes to the site were asked for.

The Development Manager explained how Ecological and Biodiversity would be managed on the site and how it was one of the biggest issues facing the project. Close work was continuing with NRW regarding the licensing process having regard to the proposed tranches of mitigation set out in the proposals.

The proposal from the developer currently was to demolish the Aled Ward however, due to this development taking 10 -15 years to complete the Aled Ward was included in the phasing of the project to allow for every opportunity for it to be retained.

NRW were keen for a responsible authority (DCC) to look after and manage the site and detailed discussions had taken place with Countryside Services in relation to how this could be implemented.

The Traffic, Parking and Road Safety Manager stated that Denbighshire had the funding to assist with some off-site highway alterations however, it needed to be spent by the end of December 2024. Relating to highway safety implications, a traffic assessment had been previously undertaken and it was felt that this was adequate to deal with the increases of traffic at junctions in the future. Bus routes/ stops were not linked well to the town of Denbigh currently however, the developer had suggested opportunities to provide a stop within the site in the future.

Members questioned the certainty of resources being available within the Council for the project under the current economic climate. The Head of Planning, Public Protection and Countryside Services stated that this project was seen as a high priority for the region and public funding had been earmarked for the scheme. The ongoing ecological management of the site would be a priority for the Council's Countryside Services and a Liaison Committee was in the process of being created which would be very beneficial.

Councillor Gwyneth Ellis highlighted discrepancies between the recommendation in the report and the recommendation in the late representation sheets. The Development Manager clarified that the recommendation stated within the late representation sheets was the recommendation that members would be voting on.

Proposal – Councillor Gareth Sandilands proposed that the application be granted in accordance with officer recommendation, **SECONDED** by Councillor Cheryl Williams.

Vote –

For – 16

Against – 0

Abstain – 0

RESOLVED: *that the application be GRANTED in accordance with officer recommendation.*

Meeting concluded: 11.50am

Agenda Item 5

Paul Griffin

WARD: Alyn Valley

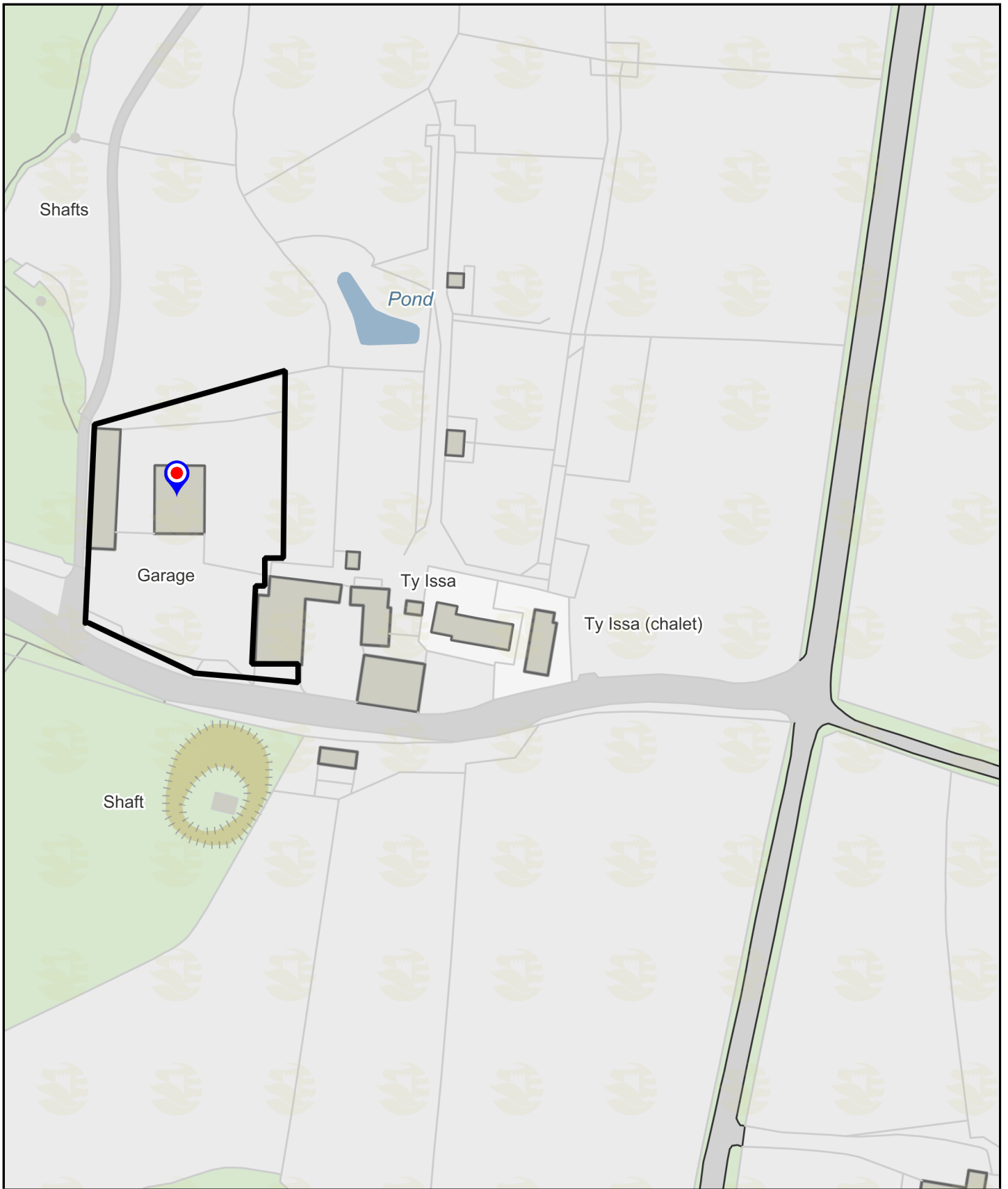
WARD MEMBER: Councillor Terry Mendies (c)

APPLICATION NO: 15/2023/0029/PC

PROPOSAL: Change of use of land for the parking of 3 no. coaches on existing tarmacked area (retrospective application)

LOCATION: Burley Hill Garage, Eryrys, Mold, CH7 4DD

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15-2023-0029



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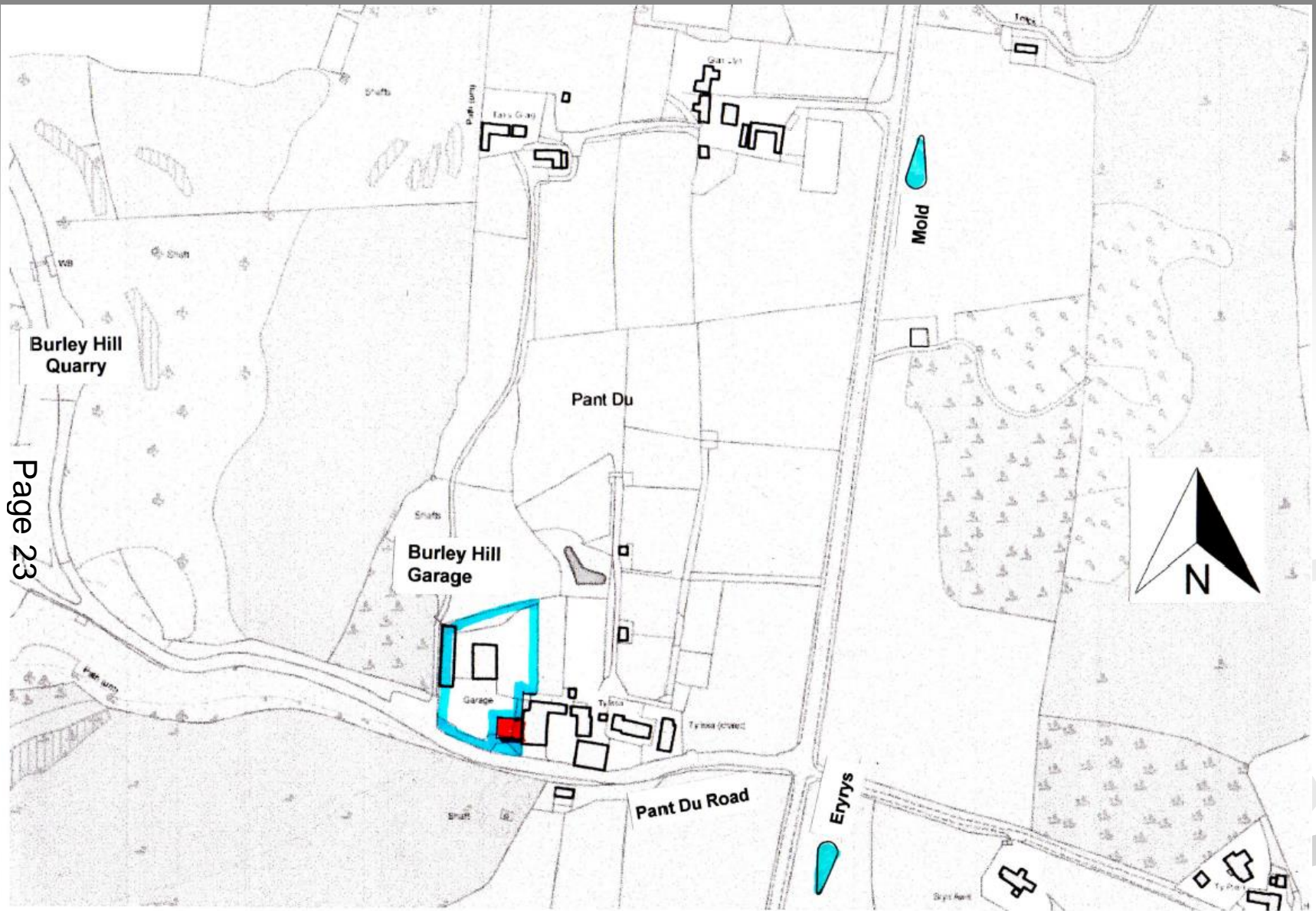
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15/2023/0029/PC

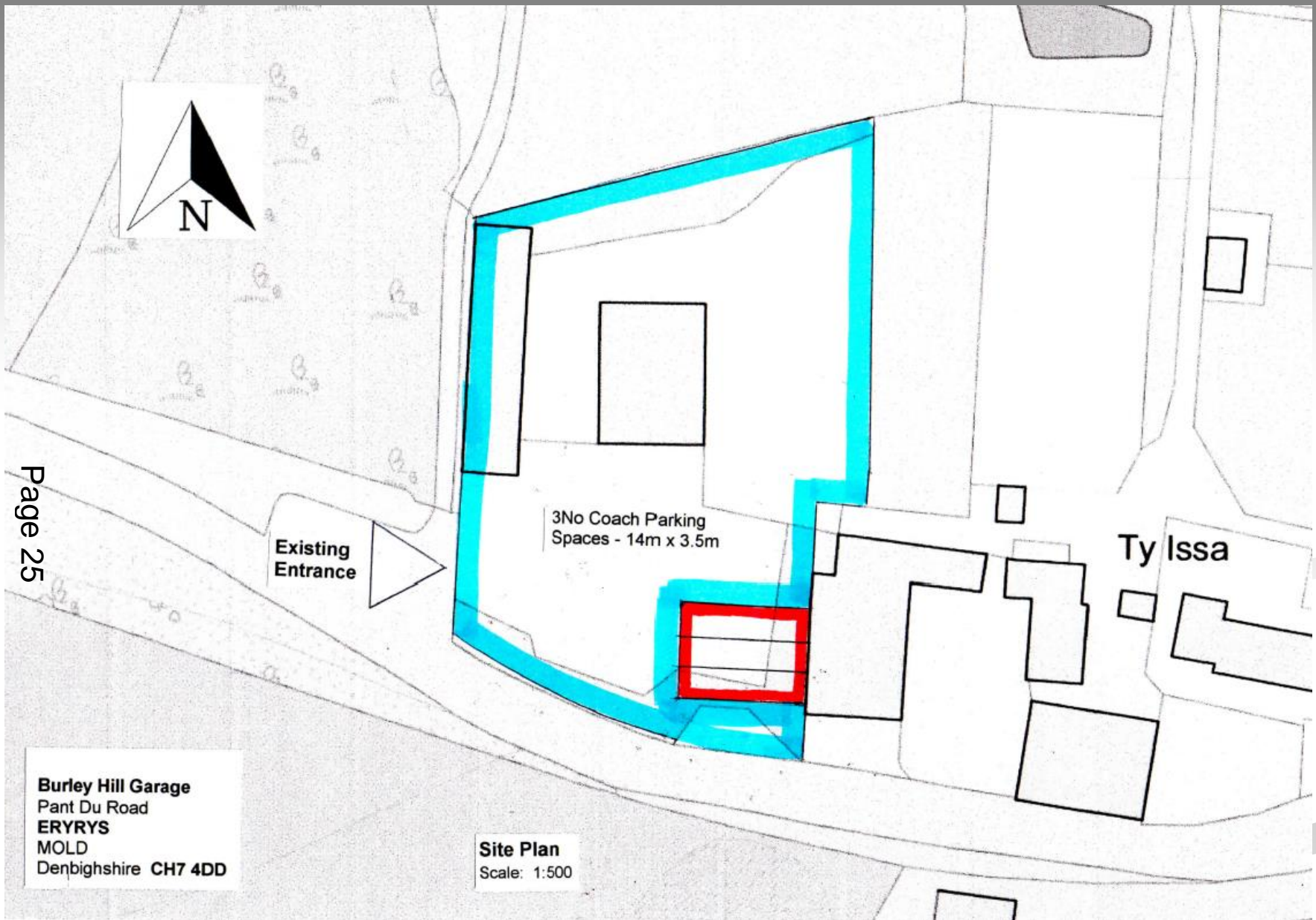
Burley Hill Garage, Eryrys

Page 21

**Change of use of land for the parking of 3
no. coaches on existing tarmacked area
(retrospective application)**



Location plan



Page 25

Burley Hill Garage
Pant Du Road
ERYRYS
MOLD
Denbighshire CH7 4DD

Site Plan
Scale: 1:500

Site plan



View of site



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Access road (looking west)



Access road (looking east)



Adjacent storage buildings and cafe

WARD : Alyn Valley

WARD MEMBER(S): Councillor Terry Mendies (c)

APPLICATION NO: 15/2023/0029/PC

PROPOSAL: Change of use of land for the parking of 3 no. coaches on existing tarmacked area (retrospective application)

LOCATION: Burley Hill Garage, Eryrys, Mold, CH7 4DD

APPLICANT: Daniel Keane, Keane's Coaches

CONSTRAINTS: PROW / Phosphorus Sensitive - SACAONB

PUBLICITY UNDERTAKEN: Site Notice
Press Notice
Neighbour letters

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

- Recommendation to grant / approve – 4 or more objections received

CONSULTATION RESPONSES:

LLANARMON YN IAL COMMUNITY COUNCIL:

“Council thought the garage had always been used for vehicles and commercial vehicles use; didn't really feel it was a change of use. Although, we do not have details of the neighbour's current objections. No Objection.”

**CLWYDIAN RANGE AND DEE VALLEY AREA OF OUTSTANDING NATURAL BEAUTY
JOINT ADVISORY COMMITTEE:**

“The site appears to have an established use for the parking of HGV's and an existing visual presence within the AONB. The Joint Committee do not therefore object in principle to this application.

However, given its location some degree of control over the intensification of use would be beneficial, as a proliferation of parking across the whole site could prove detrimental to the character and appearance of the AONB.

You may therefore wish to consider a personal permission with a restriction on numbers to no more than 3 coaches to be parked specifically in the area shown on the submitted site plan. Whilst the site is relatively well screened there are gaps which again could be addressed via an appropriate planting condition.”

DENBIGHSHIRE COUNTY COUNCIL CONSULTEES –

Traffic, Parking and Road Safety:

- Highways Officer: No objection

Public Protection Officer:

Requests that a noise assessment is provided

RE-CONSULTATION RESPONSES (following submission of noise assessment)

Public Protection Officer:

“The noise impact assessment has been completed by a suitable qualified professional consultant in accordance with the most relevant current guidance and standards.

With the benefit of local knowledge, I would disagree with consultants’ assumption that the night time decibel (dB) level would be 25dB, I believe it is more likely to be around 20dB, however not withstanding this difference the overall conclusion would remain the same and the proposed coaches should not have a detrimental impact on the neighbouring property with the engines running within the application site as measured.”

RESPONSE TO PUBLICITY:

In objection

Representations received from:

Andrew Edwards, The Annese, Ty Isa, Pant Du Road, Eryrys Lesley Phillips, Ty Isa, Pant Du, Eryrys
Roy Kendrick, Ty Isa, Pant Du Road Julie Wynne, The White House, Pant Du Road, Eryrys
Richard Haggerty, Glan Llyn, Pant Du Road, Mold.

Summary of planning based representations in objection:

Impact on residential amenity – concerns raised by residents about the impact on their amenity by way of noise and disturbance from the bus engines.

Impact on highway safety – concerns raised regarding the suitability of the adjacent local highway for use by buses.

Impact on character of the AONB – concerns raised that the activities at the site harm the peaceful character of the AONB.

Impact on well-being of horses – concerns raised that the fumes from the vehicles will be harmful to the horses kept on the adjacent site.

In support

Representations received from:

Sarah Jones, 1 The Firs Mold
Ryan Williams, 59 Poppy Field Road, Northop Hall, Mold
James Masters-Read 16 Ffordd Powys Rhis Wrexham
Daniel Pitman, 3 Second Avenue, Llay, Wrexham
John Morris 1 Tulip Avenue, Birkenhead
Zoe Smith, The Online Marketing Co., Flint
Martin Dudley, 47 Brook Road, Shotton, Deeside
Eifion Williams, 18 Glaslyn Street, Porthmadog
Simon Wade, 8 Raleigh Road, Leasowe

EXPIRY DATE OF APPLICATION: 19/03/2023

EXTENSION OF TIME AGREED: 04/09/24

REASONS FOR DELAY IN DECISION (where applicable):

- additional information required from applicant
- re-consultations / further publicity necessary on amended plans and / or additional information
- awaiting consideration by Committee

PLANNING ASSESSMENT:

1. THE PROPOSAL:

1.1 Summary of proposals

- 1.1.1 Retrospective planning permission is sought for the continued use of an area of existing tarmac to be used to park 3 buses/coaches. The applicants have requested that they are able to enter and leave the site 24 hours a day as they often provide rail replacement services which can be needed at any time of day or night.

1.2 Other relevant information/supporting documents in the application

- 1.2.1 The application is accompanied by a Noise Assessment report which assesses the impact of noise levels of buses with engines running within the site on nearby residential properties.

1.3 Description of site and surroundings

- 1.3.1 The site is located in open countryside some 1.5km north of Eryrys. It is accessed via a metalled by-way (open to all traffic), which links to the C-class road some 160m to the east of the site, and serves Burley Hill Quarry to the north-west of the site.
- 1.3.2 Immediately to the east of the site is a stable/agricultural storage building. Beyond the stable is a large sheet steel shed which appears to be in use as a café.
- 1.3.3 The nearest dwelling to the site is Ty Isa, which is approximately 65 metres from the site and separated from the site by storage buildings and café building. It is understood a stable building is located to the rear of the storage buildings.
- 1.3.4 The site is located in the corner of a larger site which is used as parking and storage for the adjacent mechanics business.
- 1.3.5 The site is enclosed by wire fencing and sporadic planting/overgrown scrub.

1.4 Relevant planning constraints/considerations

- 1.4.1 The site is in the open countryside for planning purposes and is within the designated National Landscape/AONB.

1.5 Relevant planning history

- 1.5.1 The site (including the on-site building) benefits from planning permission to be used for agricultural and commercial vehicle repairs, servicing parking and storage.
- 1.5.2 The permission was granted in 1994, and the use was limited by planning condition to the operational hours of 0800 – 1800 (Monday to Friday) and 0800 – 1300 (Saturdays), with no operations on Sundays or on public holidays.
- 1.5.3 The operational hours were later varied through a variation of condition which allowed repair and maintenance activities within the existing building on site to be carried out 24 hours a day, but prevented the driving of vehicles in and out of the building outside of the hours 0800 – 1800 (Monday to Friday) and 0800 – 1300 (Saturdays), with no operations on Sundays or on public holidays. It does not prevent the manoeuvring

of vehicles within the parking areas outside as the condition is specifically worded as follows:

1 (b) No vehicles to be repaired or serviced shall be driven into or out of the garage building outside the existing permitted hours and days of operation

The variation of condition also imposed the following restriction:

1 (c) None of the activities carried out outside the existing permitted hours and days shall be permitted to generate noise levels which exceed the following criteria, when measured in accordance with the methodology contained in BS 4142 (1997) at any point on the boundary of the site:

- (i) 35 dB LAeq (5min) (freefield) for any period of 5 minutes;*
- (ii) A maximum noise level of 45 dB(A) (fast) (freefield)*

1.6 Developments/changes since the original submission

- 1.6.1 At the request of public protection officer's a noise assessment report has been submitted to support the application.

1.7 Other relevant background information

- 1.7.1 The application has been submitted as a result of investigations by Enforcement Officers.
- 1.7.2 It is noted that there are still potentially some breaches of planning control on the site which sit outside of the control of this planning application. However, members are advised that these are not a material consideration in determining this application and can be dealt with separately. Members are advised to consider this application solely on the basis of what is being asked for – the parking of 3 coaches/buses on the site.

2. **DETAILS OF PLANNING HISTORY:**

- 2.1 25/13934 – Use of existing buildings for agricultural and commercial vehicle repairs, servicing, parking and storage. GRANTED 30/3/94
- 2.2 15/2002/0615/PS – Variation of condition 2 on planning permission 25/13934 relating to hours of operation of agricultural and commercial vehicle garage to permit 24 hour operation within the building only, using specified plant and machinery (permitted hours of use 0800 – 1800 Monday to Friday, 0800 – 1300 Saturdays, no operations on Sundays or public holidays. GRANTED 6/9/2002

3. **RELEVANT POLICIES AND GUIDANCE:**

The main planning policies and guidance are considered to be:

Local Policy/Guidance

Denbighshire Local Development Plan (adopted 4th June 2013)

Policy PSE5 – Rural economy

Policy VOE2 – Area of Outstanding Natural Beauty and Area of Outstanding Beauty

Policy ASA3 – Parking standards

Supplementary Planning Guidance

Supplementary Planning Guidance Note: Clwydian Range and Dee Valley Area of Outstanding Natural Beauty

Supplementary Planning Guidance Note: Trees & Landscaping

Government Policy / Guidance

Planning Policy Wales (Edition 12, 2024)
Development Control Manual November 2016
Future Wales – The National Plan 2040

Technical Advice Notes

TAN 6 Planning for Sustainable Rural Communities (2010)
TAN 11 Noise (1997)

4. MAIN PLANNING CONSIDERATIONS:

In terms of general guidance on matters relevant to the consideration of a planning application, Section 9.1.2 of the Development Management Manual (DMM) confirms the requirement that planning applications 'must be determined in accordance with the approved or adopted development plan for the area, unless material considerations indicate otherwise'. It 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.

The DMM further 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 (Section 9.4).

The DMM has to be considered in conjunction with Planning Policy Wales (Edition 12, 2024) and other relevant legislation.

Denbighshire County Council declared a climate change and ecological emergency in July 2019. In October 2020 the Council approved an amendment of its Constitution so that all decisions of the Council now have regard to tackling climate and ecological change as well as having regard to the sustainable development principles and the well-being of future generations.

The Council aims to become a Net Carbon Zero Council and an Ecologically Positive Council by 31 March 2030. Its goal and priorities are set out in its Climate and Ecological Change Strategy 2021/22 to 2029/30. The actions, projects and priorities in the Strategy directly relate to council owned and controlled assets and services. One priority of the Strategy is to promote the existing policies within the Local Development Plan (LDP) 2006 to 2021 and Supplementary Planning Guidance (SPG) which contribute to environmentally responsible development. In preparing these reports to determine planning applications we therefore highlight the LDP 2006 to 2021 and appropriate SPG. Applications that are determined in accordance with the LDP 2006 to 2021 are environmentally responsible developments.

Planning applications are assessed in accordance with statutory requirements including The Environment (Wales) Act 2016, national policy (Future Wales, PPW 12) and local policy (LDP 2006 to 2021) and therefore they are assessed with regard to tackling climate and ecological change which is a material consideration.

The following paragraphs in Section 4 of the report therefore refer to all statutory requirements, policies and material planning considerations which are considered to be of relevance to the proposal.

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

- 4.1.1 Principle
- 4.1.2 Visual amenity
- 4.1.3 Residential amenity
- 4.1.4 Highways (including access and parking)

4.2 In relation to the main planning considerations:

4.2.1 Principle

In terms of the national planning policy context, Planning Policy Wales (PPW 12) Section 3.60 states that development in the countryside should be located within and adjoining those settlements where it can be best be accommodated in terms of infrastructure, access and habitat and landscape conservation. It also advises that new building in the open countryside away from existing settlements or areas allocated for development in development plans must continue to be strictly controlled. All new development should be of a scale and design that respects the character of the surrounding area.

Paragraph 3.38 of PPW 12 states that “*The countryside is a dynamic and multi-purpose resource. In line with sustainable development and the national planning principles and in contributing towards placemaking outcomes, it must be conserved and, where possible, enhanced for the sake of its ecological, geological, physiographic, historical, archaeological, cultural and agricultural value and for its landscape and natural resources*”.

National policy therefore restricts new building outside development boundaries unless it is justified as an exception to the policy of restraint.

Policy PSE 5 states that in order to help to sustain the rural economy, tourism and commercial development, including agricultural diversification, will be supported throughout the County subject to detailed criteria, which include making a significant contribution to sustainable development and recognising the special status of the Area of Outstanding Natural Beauty/Area of Outstanding Beauty.

The justification to Policy PSE 5 establishes the need to sustain rural employment throughout the County is recognised and relevant considerations relating to sustainability and minimising environmental concerns are identified. The benefits could include provision of local employment opportunities, use of locally sustainable sources for any raw materials, scope to sell local produce, and provision of services to local communities.

The proposal relates to the use of part of a site for the parking of three buses/coaches. The site benefits from extant planning permission to be used as parking in association with the adjacent mechanic's garage and as such is classed as previously developed land/brownfield land.

The proposal would help support wider employment opportunities within the locality/region.

Given the broad support offered by Policy PSE 5 for economic/commercial development in rural areas, Officers can see little reason to object to the proposal on policy grounds. The existing use of the site also adds further support to the principle of development. Therefore, Officers consider that the proposal is acceptable in principle

4.2.2 Visual amenity and Impact on Area of Outstanding Natural Beauty

The Development Management Manual advises at paragraph 9.4.3 that material considerations must be fairly and reasonably related to the development concerned, and 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; and the effects of a development on, for example, health, public safety and crime. The visual amenity and landscape impacts of development should therefore be regarded as a potential material consideration.

Planning Policy Wales (Edition 12, 2024) at para 6.3.3 states ‘All the landscapes of Wales are valued for their intrinsic contribution to a sense of place, and local authorities should protect and enhance their special characteristics, whilst paying due

regard to the social, economic, environmental and cultural benefits they provide, and to their role in creating valued places.'

Policy VOE 2 requires assessment of the impact of development within or affecting the AONB and AOB and indicates that this should be resisted where it would cause unacceptable harm to the character and appearance of the landscape and the reasons for designation.

This reflects guidance in Planning Policy Wales (Edition 12, 2024) which requires planning authorities to give great weight to conserving and enhancing the natural beauty of AONBs, and should have regard to the wildlife, cultural heritage and social and economic well-being of the areas. The special qualities of designated areas should be given weight in the development management process. Proposals in AONBs must be carefully assessed to ensure that their effects on those features which the designation is intended to protect are acceptable. The contribution that development makes to the sustainable management of the designated area must be considered.

Supplementary Planning Guidance (SPG) has been developed – 'The Clwydian Range and Dee Valley Area of Outstanding Natural Beauty (AONB)' along with a specific SPG for lighting in the AONB - 'Planning for Dark Skies'. The SPG's provide guidance and advice on design and lighting principles which should be followed to assist new development proposals in the area.

The site is currently used for the parking of vehicles waiting to be serviced in the garage. Its use for the parking of buses/coaches is not considered to raise any impacts on the visual amenity of the area or wider AONB than the existing situation. However, there is scope for the boundary of the site adjacent to the road to be improved by way of additional planting. This can be controlled by imposing a suitably worded planning condition.

In officer's opinion the proposal is considered acceptable in terms of its impact on the visual amenity of the area and the character of the AONB.

4.2.3 Residential amenity

The Development Management Manual advises at paragraph 9.4.3 that material considerations must be fairly and reasonably related to the development concerned, and 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; and the effects of a development on, for example, health, public safety and crime. The residential amenity impacts of development should therefore be regarded as a potential material consideration. Planning Policy 12 stresses that the impact of noise on the amenity of an area and its residents is a material planning consideration.

A number of responses have been received from members of the public raising concern that the use of the site for buses is having a detrimental impact on their residential amenity.

The proposal is for the use of part of an existing parking area (serving a mechanics business) for the parking of 3 buses. The applicant has requested that the buses are allowed to enter and leave the site at any time of the day or night. Accordingly, Public Protection Officers requested that a noise assessment be provided to demonstrate what the noise levels of the buses (with engines running) within the site would be during the night-time, and what the level would be at the nearest residential property.

The submitted noise report assesses the background noise levels at the site, and the noise levels of a worst-case scenario of 4 buses starting at the same time, and stopping at the same time; with their engines approximately 72metres from the nearest dwelling. The night time impact on the nearest dwelling has been assessed

on the assumption of the occupants being inside their dwelling with a window open. The result is that the internal noise level at the nearest dwelling would be around 4db increase – which the relevant British Standard relating to noise classified as being a 'low' impact.

The Noise Assessment report has been reviewed by the Councils Public Protection Officer, who advises that it has been carried out by a suitably qualified person, and that it takes sufficient variables and scenarios so as to give a reasonably accurate conclusion.

Officers have also considered the extant planning permissions on the site. It is noted that the previous (and extant) permission does not specifically restrict the manoeuvring of vehicles within the site at any time of the day or night – it only prevents them from being driven into/out of the building. The proposal does not therefore differ significantly from what is already permitted on site.

In conclusion, having regard to the planning history of the site, the submitted Noise Assessment and the comments of the Councils Public Protection Officer, Officers consider that the proposal is not likely to have a detrimental effect on the amenity of nearby residents and a condition restricting the hours of operation (in relation to three buses) is not necessary. If a noise issue were to arise, then the Council would be able to take action under the Statutory Nuisance legislation. Therefore, Officers conclude that the proposal is not unacceptable in terms of its impact upon the amenity of residents.

4.2.4 Highways (including access and parking)

The Development Management Manual advises at paragraph 9.4.3 that material considerations must be fairly and reasonably related to the development concerned, and 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; and the effects of a development on, for example, health, public safety and crime. The highway impacts of development should therefore be regarded as a potential material consideration.

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 (PPW 12) and TAN 18 – Transport, in support of sustainable development.

The proposal is for the use of part of the site for the parking of 3 buses/coaches. The site is already in use for the parking of vehicles for the adjacent mechanics business.

Concern has been raised locally regarding the suitability of the access roads for the proposed use. However, the Highway Officer does not raise an objection to the proposal.

In Officers opinion the proposed use would not result in a material increase in the number of vehicles entering or leaving the site. Given the 'no objections' response from the Highway Authority and the existing use of the site, it is not considered that the proposal would result in an unacceptable impact on the adjacent highway.

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 taken into account the requirements of Section 3 'Well-being duties on public bodies' and Section 5 'The Sustainable Development Principles' of the Well-being of Future Generations (Wales) Act 2015. The recommendation is made in accordance with the Act's sustainable development principle through its contribution towards Welsh Governments well-being objective of supporting safe, cohesive and resilient communities. 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.

Equality Act 2010

The Equality Act 2010 identifies a number of 'protected characteristics', namely age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; sexual orientation. A public authority must, in the exercise of its functions, have due regard to advancing equality.

Having due regard to advancing equality involves:

- removing or minimising disadvantages suffered by people due to their protected characteristics;
- taking steps to meet the needs of people from protected groups where these differ from the need of other people; and
- encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low.

The above duty has been given due consideration in the determination of this application. It is considered that the proposed development does not have any significant implications for, or effect on, persons who share a protected characteristic, over and above any other person.

5. SUMMARY AND CONCLUSIONS:

- 5.1 Officers consider that the key consideration in determining this application is the impact of the use on the amenity of the neighbouring dwellings. It is noted that the existing planning controls in place on the site do not specifically prevent vehicle movements into and out of the site at any time (only into and out of the building) and that this represents a fall-back position.
- 5.2 Alongside this, the results of the noise assessment which shows that vehicle noise would be unlikely to have an unacceptable impact upon the residential amenity of neighbouring properties indicates that a condition restricting the hours that vehicles can enter and leave the 'bus yard' is not necessary. It is noted that should a noise problem arise, then there is statutory noise legislation which can be used to address the matter.
- 5.3 Officers therefore consider that based on the existing use of the site, the planning history of the site, and the results of the noise assessment, the proposal is acceptable in principle and in its impacts upon the amenity of the area.

RECOMMENDATION: GRANT - 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 this permission
 - (i) Site plan received 17 January 2023
 - (ii) Location plan received 17 January 2023
 - (iii) Design, Access and Viability Statement received 17 January 2023
 - (iv) Noise Assessment received 30 October 2023

2. All buses parked within the site shall be parked 'front on' to the eastern boundary.
3. Within one month of the date of the permission, a detailed scheme of soft landscaping for the southern and eastern boundary of the site. The scheme shall be designed to deliver a net benefit for biodiversity and to improve the appearance of the site. The scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of:
 - (a) all existing trees, hedgerows and other vegetation on the land, details of any to be retained, and measures for their protection in the course of development.
 - (b) proposed new trees, hedgerows, shrubs or vegetation, including confirmation of species, numbers, and location and the proposed timing of the planting and only feature species of known benefit to wildlife.
4. All planting comprised in the approved details of landscaping shall be carried out no later than the first planting and seeding season following the commencement of development. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless otherwise agreed in writing.

The reasons for the conditions are:

1. For the avoidance of doubt and to ensure a satisfactory standard of development.
2. In the interest of residential amenity.
3. In the interest of biodiversity and visual amenity.
4. In the interest of biodiversity and visual amenity

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Agenda Item 6

Sarah Stubbs

WARD : Tremeirchion

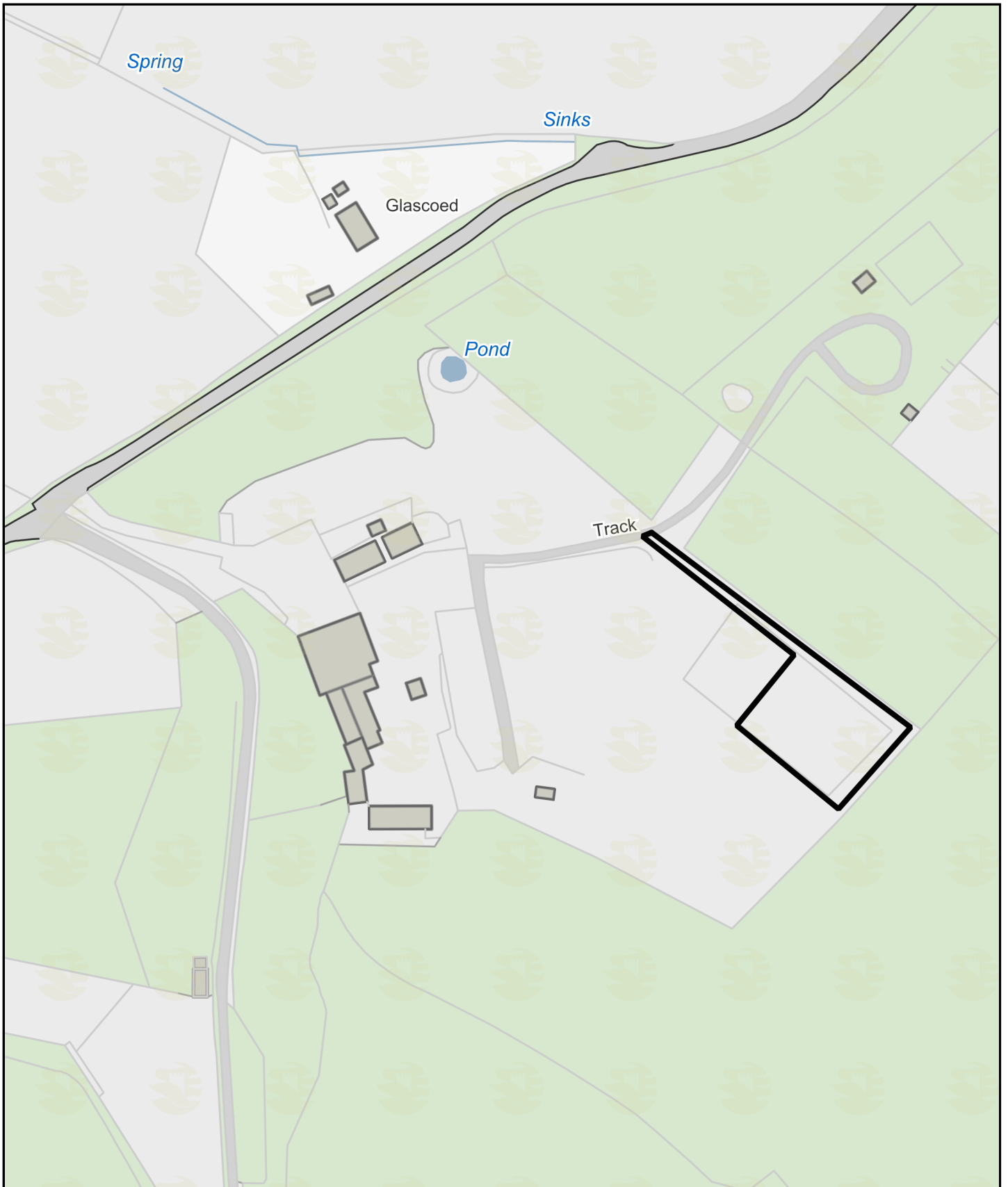
WARD MEMBER(S): Cllr Robert Chris Evans (c)

APPLICATION NO: 41/2024/0115/ PF

PROPOSAL: Erection of a rural enterprise dwelling, installation of a septic tank and associated works

LOCATION: The Warren, Bodfari, Denbigh, LL16 4DT

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41-2024-0115



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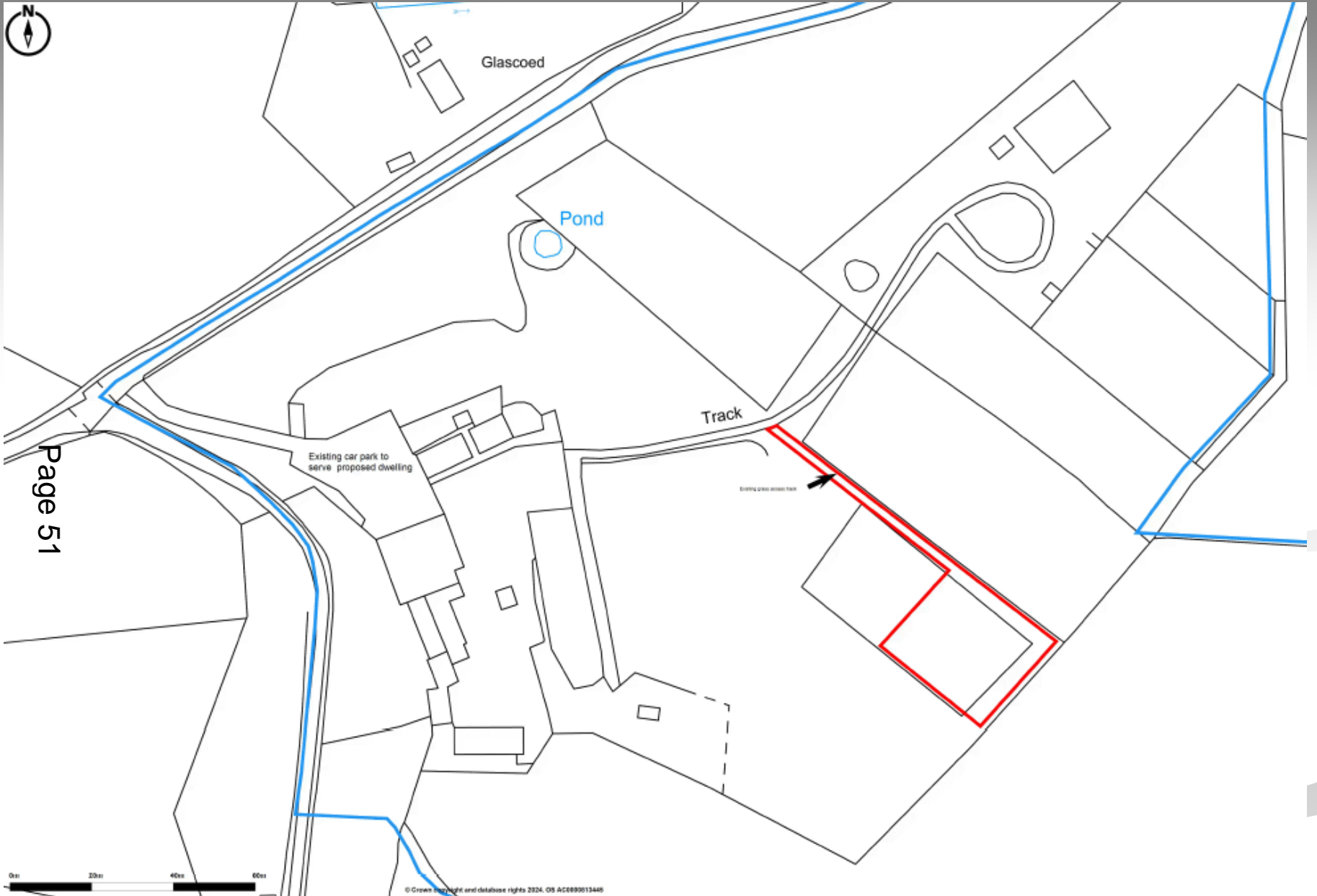
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41/2024/0115/PF – The Warren, Bodfari

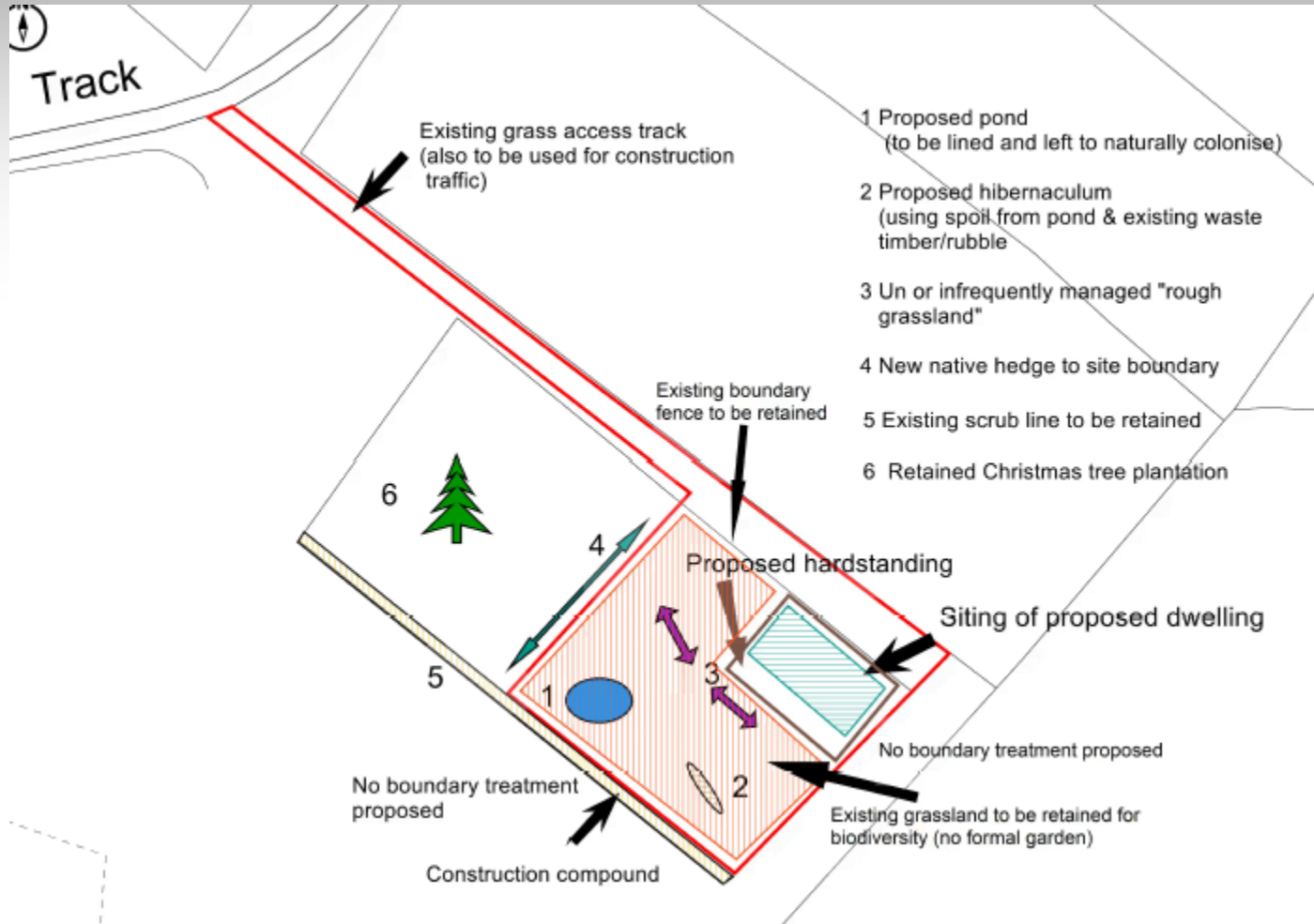
Page 10

**Erection of a rural enterprise dwelling,
installation of a septic tank and
associated works**



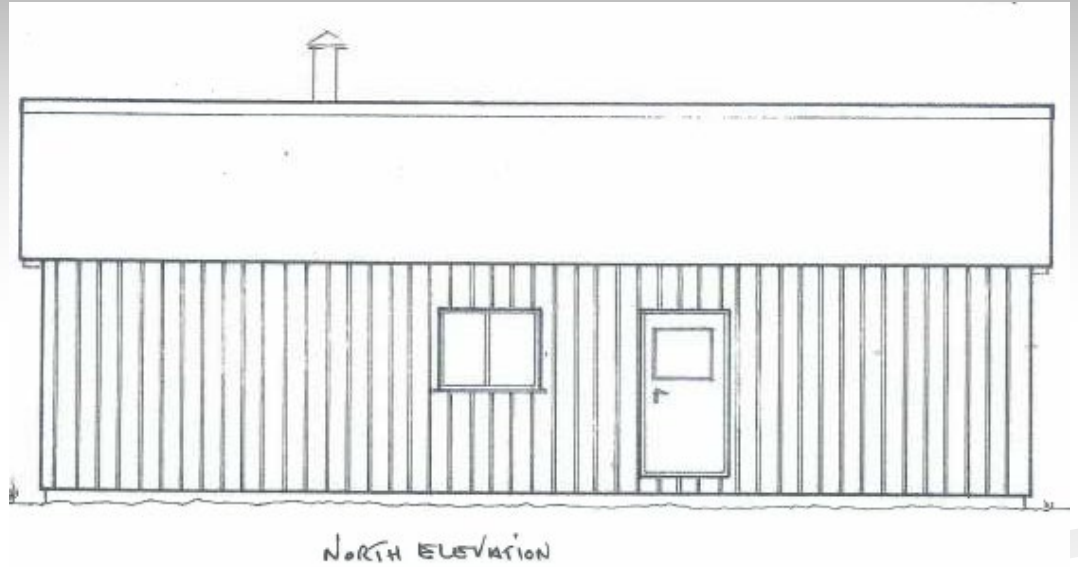
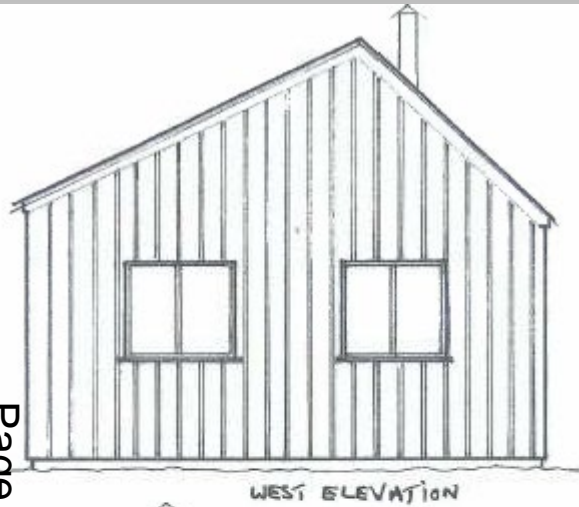
Location plan

Proposed site plan



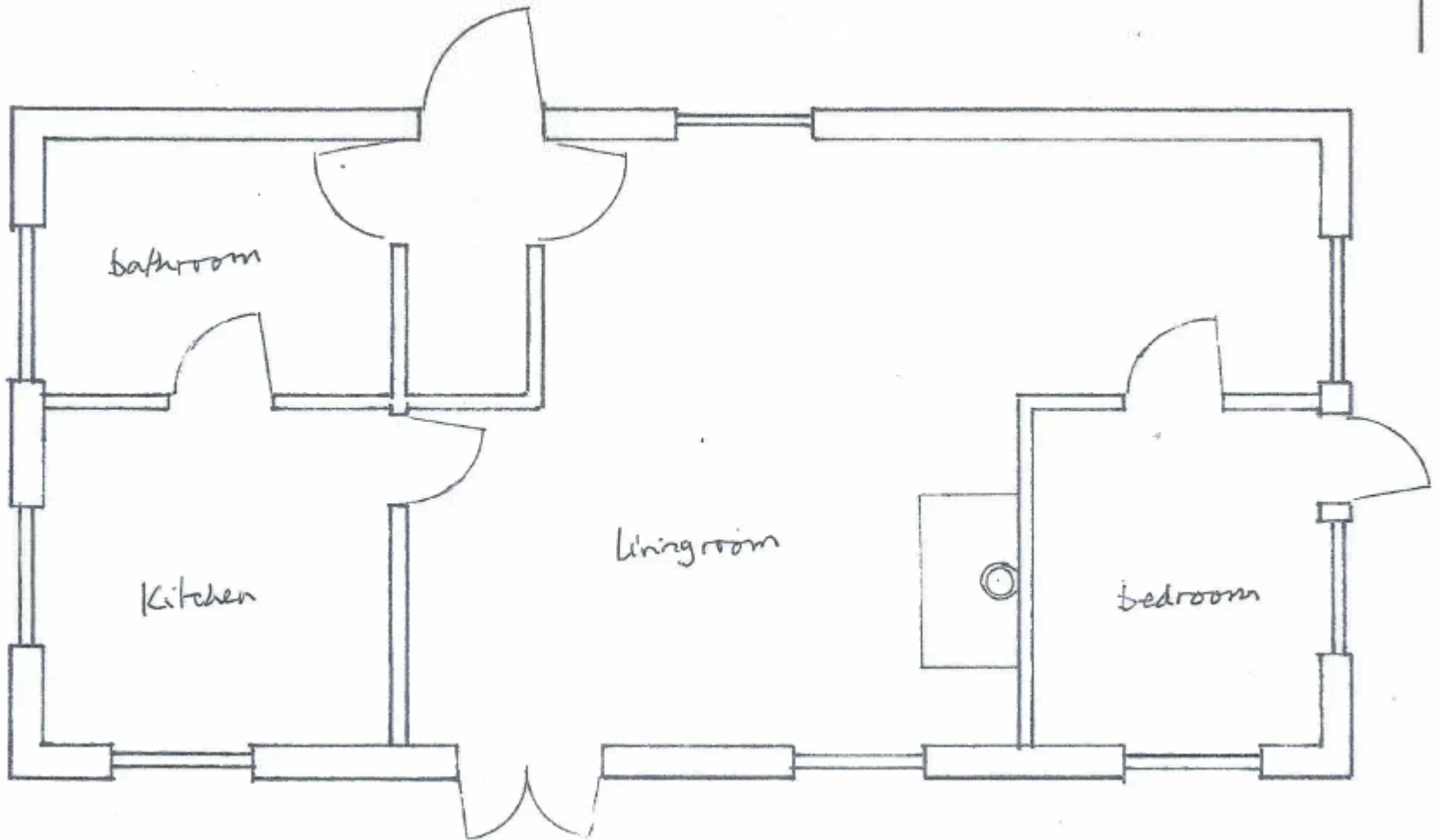
Elevations of proposed dwelling

Page 55



Floor plan of proposed dwelling

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Site photographs



Some existing buildings at The Warren

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WARD : Tremeirchion

WARD MEMBER(S): Cllr Robert Chris Evans (c)

APPLICATION NO: 41/2024/0115/ PF

PROPOSAL: Erection of a rural enterprise dwelling, installation of a septic tank and associated works

LOCATION: The Warren, Bodfari, Denbigh, LL16 4DT

APPLICANT: Mr Rod Waterfield

CONSTRAINTS: AONB

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

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

- Member request for referral to Committee

CONSULTATION RESPONSES:

BODFARI COMMUNITY COUNCIL

“ Support - the supporting documentation to this application is thorough and the planned dwelling is secluded and will therefore have no visual impact”

**CLWYDIAN RANGE AND DEE VALLEY AREA OF OUTSTANDING NATURAL BEAUTY
JOINT ADVISORY COMMITTEE**

National and local planning policy allows for the principle of a Rural Enterprise Dwelling subject to the criteria set out in TAN 6 and the adopted Denbighshire SPG note. The existing enterprise is well established and the supporting evidence robustly demonstrates adherence with both the required functional and financial tests to justify an essential need. The principle of a dwelling based upon this evidence is therefore accepted in this location.

In terms of the detail, the proposed building has been sensitively designed to ensure that it takes account of the surrounding area. The dwelling is quite modest in scale and proportions and the siting, design, layout and use of materials will help assimilate the development into its surroundings. The Joint Committee is satisfied that the proposed development will not cause unacceptable harm to the character and appearance of the landscape and accords with LDP policy VOE 2

Subject to an appropriate occupancy condition tying the dwelling to the existing business the Joint Committee raise no objections.

NATURAL RESOURCES WALES

No objections

DWR CYMRU / WELSH WATER

No comments

READING AGRICULTURAL CONSULTANTS (RAC) Dated 15/03/2024

The proposal before the Council is for the erection of a permanent rural worker's dwelling which will be occupied by a full time worker employed by Warren Woods Ltd, and as such the rural worker's dwelling will be occupied by a full-time worker employed in the applicants' rural business.

RAC does not consider that the labour requirements of Warren Woods Ltd amount to an essential need for a full-time rural worker to reside on site. The labour requirement for opening and closing tasks at the site have been met for a number of years by Rod Waterfield who lives 6 miles from the application site. No details of emergencies, unforeseen incidents or numbers of livestock and types of horticultural crops requiring an on-site presence have been provided.

The confidential Balance Sheets provided demonstrate that the applicants' business is viable and sustainable now and likely to remain so in the long term however RAC have not had sight of the Profit and Loss Accounts that would show the rent, labour and other income and expenses for Warren Woods Ltd.

There are likely to be other suitable and available dwellings in the locality (within three miles) that can meet the opening and closing requirements of the applicant's rural business.

Overall, RAC would conclude that the applicant's proposal is not compliant with TAN 6 or with Policy PSE 5 of the Denbighshire County Council Local Development.

DENBIGHSHIRE COUNTY COUNCIL CONSULTEES –

- Footpaths Officer
There are no public rights of way crossing the site. Path 10 runs from a point on the opposite side of the road to the site entrance and it would therefore appear the proposal will not impact on any public rights of way.

RE-CONSULTATION RESPONSES

BODFARI COMMUNITY COUNCIL

"No objection to the revised planning documents because as well as owning the site, all plans will be carried out well within the curtilage".

NATURAL RESOURCES WALES

No further comments

DWR CYMRU / WELSH WATER

No comments

READING AGRICULTURAL CONSULTANTS (RAC) Dated 20th May 2024 in response to the submission of additional information

The proposal before the Council is for the erection of a permanent rural worker's dwelling which will be occupied by a full time worker employed by Warren Woods Ltd, and as such the rural worker's dwelling will be occupied by a full-time worker employed in the applicants' rural business.

RAC does not consider that the labour requirements of Warren Woods Ltd amount to an essential need for a full-time rural worker to reside on site. The labour requirement for opening and closing tasks at the site have been met for a number of years by Rod Waterfield who lives 6 miles from the application site. The essential need for a labour requirement relating to animal welfare and crop protection are currently considered minimal and the number of livestock on site and area of crops grown under polytunnels remain unknown.

The confidential Balance Sheets provided demonstrate that the applicants' business is viable and sustainable now and likely to remain so in the long term however RAC have not had sight of the Profit and Loss Accounts that would show the rent, labour and other income and expenses for Warren Woods Ltd.

There are likely to be other suitable and available dwellings in the locality (within three miles) that can meet the opening and closing requirements of the applicant's rural business.

Overall, RAC would conclude that the applicant's proposal is not compliant with TAN 6 or with Policy PSE 5 of the Denbighshire County Council Local Development.

DENBIGHSHIRE COUNTY COUNCIL CONSULTEES –
Traffic, Parking and Road Safety:
Highways Officer
No objection

Ecology Officer
No objection subject to the inclusion of conditions

RESPONSE TO PUBLICITY:

In objection

Representation received from:
Alan Williams, 6 Bro Lleweni, Bodfari

Summary of planning based representations in objection:

The proposal does not comply with Technical Advice Note (TAN) 6: Planning for Sustainable Rural Communities and the related practice guidance with regard to the requirements for rural enterprise dwelling appraisals that state that applications for rural enterprise dwellings must only be permitted where the rural enterprise dwelling appraisal provides conclusive evidence of the need for the dwelling.

EXPIRY DATE OF APPLICATION: 04/09/2024

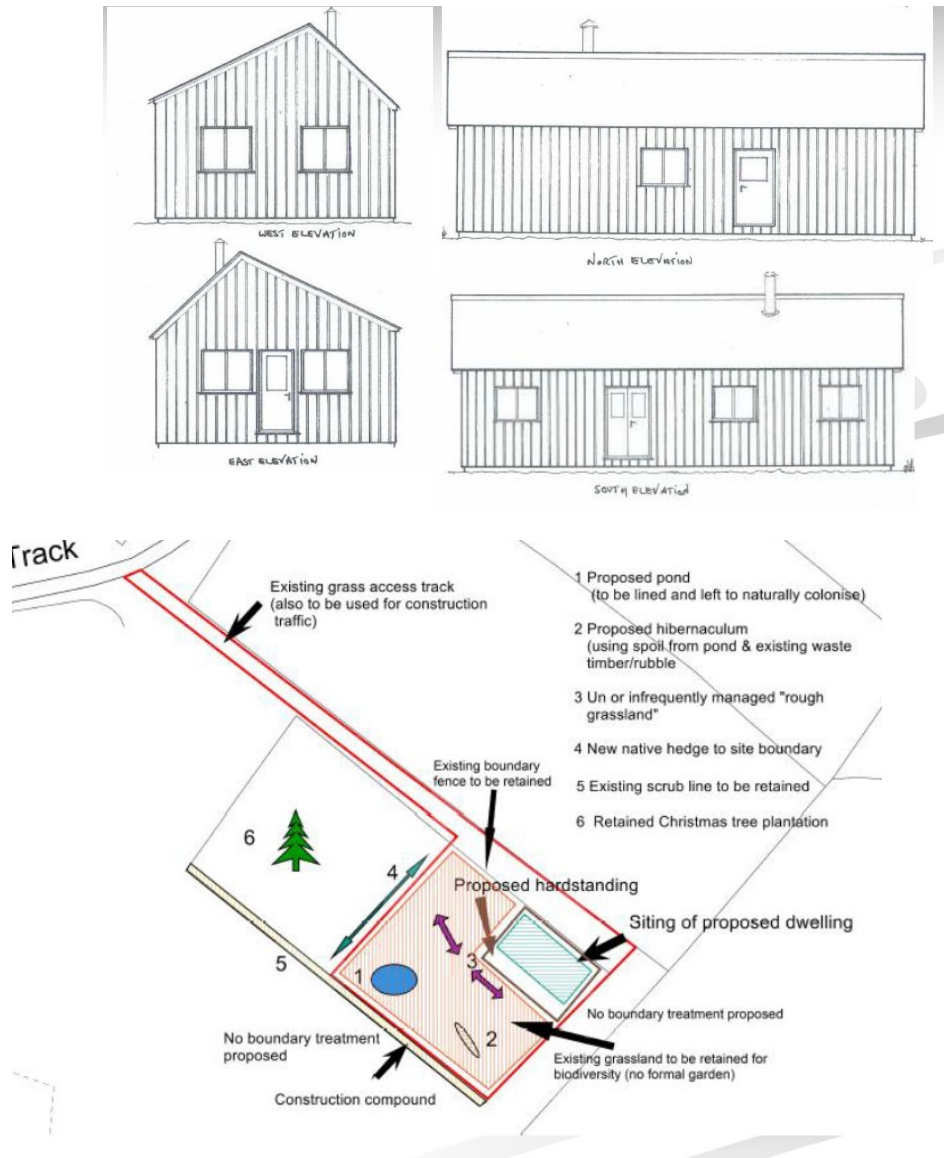
PLANNING ASSESSMENT:

1. THE PROPOSAL:

1.1 Summary of proposal

- 1.1.1 Full planning permission is sought for the erection of a rural enterprise dwelling, installation of a septic tank and associated works at The Warren, Bodfari.
- 1.1.2 There are currently no dwellings on the site.
- 1.1.3 The dwelling would be located on an area of land approx. 0.08ha in area in the south east corner of The Warren which is associated with a mixed use of woodland based education and training, forestry and a landscape contractors business.
- 1.1.4 A single storey dwelling is proposed measuring approx. 6m by 12m to a height of 4.8m. The dwelling would provide 70sq metres of floor space consisting of a living room, bedroom, bathroom and kitchen. The dwelling would be constructed with a larch timber frame with larch cladding and a box profiled roof in juniper green. Proposed elevations and site layout details are shown below.
- 1.1.5 The submission explains that all materials will be locally sourced and the intention to achieve a high energy rating, utilising natural insulation materials such as sheep wool.

1.1.6 There would be no change to existing access arrangements.



1.2 Other relevant information/supporting documents in the application

1.2.1 A Rural Enterprise Dwelling Appraisal and accounts have been submitted.

1.2.2 A Planning, Green Infrastructure, Design and Access Statement has been submitted along with an ecological appraisal.

1.2.3 The Statement explains the current land uses at The Warren: -

Bodfari Environmental operate a woodland management and environmental contracting business from the site and employ an equivalent of 5 full time posts

Warren Woods Ltd who provide the social prescribing and traditional craft courses. The Woodland Skills Centre currently employs 2 full time and 6 part time staff.

A Heritage Orchard with over 60 trees

14 allotments

A medicinal herb garden

A small farm including 3 polytunnels and a market garden which are worked by the people attending the social prescribing programmes

Horticulture Wales

Training courses for Wellbeing in Nature Practitioner, Focus on Forestry First and National Botanic Garden of Wales and First Aid courses for those working in the outdoors.

A Certified Caravan Site.

1.3 Description of site and surroundings

- 1.3.1 The Warren is located in the open countryside some 1.5km to the north east of the village of Bodfari. Access is via a Class C County road which links to the A541 Mold Road.
- 1.3.2 The land at The Warren extends to 50 acres, 24 hectares. The use of the site is mixed, comprising land used for woodland based education and training, forestry and a landscape contractors business.
- 1.3.3 The site is surrounded by woodland and scrub.
- 1.3.4 The nearest properties to the site are Glascoed to the north (approx. 180m away), Warren House to the south (approx. 240m away) and Argoed House to the north west (approx. 360m away).

1.4 Relevant planning constraints/considerations

- 1.4.1 The site is located in the open countryside beyond any development boundaries within the Local Development Plan.
- 1.4.2 The site is located within the Clwydian Range and Dee Valley Area of Outstanding Natural Beauty (AONB).

1.5 Relevant planning history

- 1.5.1 Planning permission for a single dwelling was refused and dismissed on appeal in 1999. The appeal was determined on the basis that it was for a forestry workers dwelling and the key issue was whether there was sufficient justification on forestry grounds for the proposed dwelling.
- 1.5.2 The conclusion of the Planning Inspector was there was insufficient functional need for the proposed dwelling on forestry grounds alone to outweigh the normal policy objections to new dwellings in the open countryside.

1.6 Developments/changes since the original submission

- 1.6.1 Further information submitted in response to Reading Agricultural Consultants original response submitted as follows: -

It is stated that no details of the type of livestock or numbers on site or area of crops within the polytunnels have been provided.

The livestock (pigs and chickens) are there as part of the Community Support programs which are run for adults and children with additional needs. Warren Woods have groups in on every week day, apart from Bank Holidays, for 50 weeks a year. The livestock needs to be checked and fed on all other days and outside of the hours

which the support programmes currently operate (Monday to Friday 9.30am to 4.00pm).

There are 2 allotments, a market garden and 3 poly tunnels which are used by the Community Support groups for a variety of purposes : growing fruit and veg which they take home or cook on site as part of their activities; to produce "surplus" food for sale to the public or to be donated to local food banks; to grow plants for sale; to grow wildflower plants for Denbighshire Countryside Services as part of the County's Roadside Verge Wildflower Programme; to grow plants to be donated to local schools and community groups; to grow heritage fruit trees for sale. These activities are to provide meaningful work situations for the people who attend the Centre which also benefit the wider community. The allotments, polytunnels and market garden need to be checked and watered on the days when the Community Support groups are not at the Centre (about 150 days a year) and outside of the hours which the support programmes operate (see above). The labour requirement for the operations also needs to include the social prescribing programmes.

In terms of out of hours emergencies, Rod Waterfield, for the last 20 years has been on site all day every day of the year. He has been able to deal with issues as they arise. These include dealing with issues relating to the caravan site such as fuses being tripped when they are overloaded, being able to provide first aid when needed, dealing with the situation when power or water fails, dealing with any storm damage and generally making sure that the site is secure.

I would like to provide further clarification of the duties of the "site manager" for which there already is or could be payment and the hours through a year. In brief

- opening up and closing buildings and workshops on weekdays - 2 hours a day, 5 days a week, 50 weeks a year - 500 hours
- cleaning all buildings twice a week - 2 hours a week, 50 weeks a year - 100 hours
- checking on stock levels of consumables and doing routine maintenance on the buildings - 100 hours
- opening up buildings and workshops for courses at weekends, greeting tutors and students, ensuring that there is tea, coffee and milk, taking any course fees that are outstanding, clearing up at the end of the day so that the buildings are ready for the next day - 80 days a year - 3 hours a day - 240 hours
- supporting groups who have booked to run courses - at the Forest School sites or in the buildings - which may include taking water and firewood to the sites - 100 days - 2 hours - 200 hours
- caravan site - being available to meet people who arrive, show them the facilities and take fees - 200 occasions - 1 hour - 200 hours
- caravan site - grass cutting etc - 50 hours
- checking and feeding livestock, checking and watering polytunnels - 150 days - 2 hours a day - 300 hours
- checking and dealing with routine site maintenance - litter, recycling, hedges, plants etc - 100 hours

This amounts to about 1790 hours a year but split into small items and spread over all 365 days.

RAC states that it is not possible to comment on the rental payment from Warren Woods Ltd to the Waterfield Family Trust, labour costs or the income or other expenses for the enterprise. To provide further clarification, the funding of this post comes from different sources. Warren Woods Ltd pays the Family Trust, which owns the site, around £15,000 a year as rent, part of which covers the expenses of this post. They also pay £50 a day per group for someone to be on duty for the courses that run at weekends - a total of about £4000 a year - all of which goes to fund this post. The Family Trust charges external groups who use the buildings, woodlands and Forest School sites a daily fee of £40-£50 - an annual total of around £5000, part

of which funds this post. The annual income from the caravan site is about £5000, part of which funds this post.

RAC considers that in order for a farming business to demonstrate viability, it should be generating profits sufficient to provide a return on the capital invested – in agriculture a figure of 2.5% is usually cited; reward the owner for any unpaid labour a notional return on land and provide for the build cost of the proposed dwelling. However, the enterprise at The Warren is not a traditional farm with 1 owner and a labour force solely employed in farming. It is a much more complex situation. It has already been explained that the established rural enterprise has social, environmental and sustainable objectives. There are 2 organisations who operate from the land, Bodfari Environmental Lys and Warren Woods trading as Woodland Skills Centre.

RAC seems to consider that the only role of the person whom would occupy the rural enterprise dwelling is to open and close the site at the beginning and end of day. This is totally incorrect as can be seen from the figures given above. This accounts for only part of the hours per year. As has been explained, the social prescribing programmes do not operate 24 hours a day for 7 days a week. The need to maintain, care for and feed crops and livestock does not stop once the programmes have finished for the day Monday to Friday. If these needs are not met, the viability of the enterprise would be compromised.

- 1.6.2 The submission of amended existing and proposed site plan to include details of boundary treatments, along with some photographs and plans of existing buildings on the site.

1.7 Other relevant background information

- 1.7.1 None

2. DETAILS OF PLANNING HISTORY:

- 2.1 41/31/98 – Development of 0.2 hectares of land by the erection of a single dwelling house and means of access and installation of septic tank (outline application) REFUSED 12/02/1998.

41/451/98 - Development of 0.2 hectares of land by the erection of a single dwelling house and means of access and installation of septic tank (outline application) – REFUSED and DISMISSED AT APPEAL 02/07/99

41/2002/0808 - Retention of hardstanding, and earth bund and continued use of land for mixed forestry-related uses incorporating storage of machinery/materials in connection with Landscape Contractor's business, timber storage, cutting, bagging & storage of fuelwood, charcoal production, tree nursery, coppice crafts, and woodland-based education and training. Erection of polytunnel. (Retrospective application). GRANTED 23/04/2003

41/2009/0016 Variation of Conditions No. 9 & 10 of planning permission Ref. No. 41/2002/0808/PC to allow storage of timber up to 300 tonnes (from 200 tonnes) and 12 deliveries annually (from 8). RREFUED 25/03/2009

41/2010/1177/PF Erection of a detached building to provide classroom, office, kitchen and WC and installation of new septic tank; and retention of use for woodland based education and training centre for up to 200 days per year and 2 no. forest school structures in woodland known as The Warren GRANTED 15/6/2011

41/2015/1229/PS Variation of condition number 2(a) of planning permission 41/2010/1177/PF restricting woodland based education and training centre use to a maximum of 300 days in any calendar year APPROVED 22/6/2016

41/2016/0027/PF Erection of classroom, store, wc and creation of passing places GRANTED 24/5/2016

3. RELEVANT POLICIES AND GUIDANCE:

The main planning policies and guidance are considered to be:

Local Policy/Guidance

Denbighshire Local Development Plan (adopted 4th June 2013)

Policy PSE5 – Rural economy

Policy VOE2 – Area of Outstanding Natural Beauty and Area of Outstanding Beauty

Policy VOE5 – Conservation of natural resources

Policy ASA3 – Parking standards

Supplementary Planning Guidance

Supplementary Planning Guidance Note: Agricultural and Forestry Workers Dwellings

Supplementary Planning Guidance Note: Clwydian Range and Dee Valley Area of Outstanding Natural Beauty

Supplementary Planning Guidance Note: Planning for Dark Skies – SPG for lighting in the [Clwydian Range and Dee Valley Area of Outstanding Natural Beauty](#)

Supplementary Planning Guidance Note: Conservation and Enhancement of Biodiversity

Supplementary Planning Guidance Note: Llangollen - Town Centre Design Guide

Supplementary Planning Guidance Note: Parking Requirements In New Developments

Supplementary Planning Guidance Note: Residential Space Standards

Supplementary Planning Guidance Note: Trees & Landscaping

Government Policy / Guidance

Planning Policy Wales (Edition 12, 2024)

Development Control Manual November 2016

Future Wales – The National Plan 2040

Technical Advice Notes

TAN 5 Nature Conservation and Planning (2009)

TAN 6 Planning for Sustainable Rural Communities (2010) and Practice Guidance Note for

TAN 6 Rural Enterprise Dwellings.

TAN 12 Design (2016)

4. MAIN PLANNING CONSIDERATIONS:

In terms of general guidance on matters relevant to the consideration of a planning application, Section 9.1.2 of the Development Management Manual (DMM) confirms the requirement that planning applications 'must be determined in accordance with the approved or adopted development plan for the area, unless material considerations indicate otherwise'. It 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.

The DMM further 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 (Section 9.4).

The DMM has to be considered in conjunction with Planning Policy Wales (Edition 12, 2024) and other relevant legislation.

Denbighshire County Council declared a climate change and ecological emergency in July 2019. In October 2020 the Council approved an amendment of its Constitution so that all decisions of the Council now have regard to tackling climate and ecological change as well as having regard to the sustainable development principles and the well-being of future generations.

The Council aims to become a Net Carbon Zero Council and an Ecologically Positive Council by 31 March 2030. Its goal and priorities are set out in its Climate and Ecological Change Strategy

2021/22 to 2029/30. The actions, projects and priorities in the Strategy directly relate to council owned and controlled assets and services. One priority of the Strategy is to promote the existing policies within the Local Development Plan (LDP) 2006 to 2021 and Supplementary Planning Guidance (SPG) which contribute to environmentally responsible development. In preparing these reports to determine planning applications we therefore highlight the LDP 2006 to 2021 and appropriate SPG. Applications that are determined in accordance with the LDP 2006 to 2021 are environmentally responsible developments.

Planning applications are assessed in accordance with statutory requirements including The Environment (Wales) Act 2016, national policy (Future Wales, PPW 12) and local policy (LDP 2006 to 2021) and therefore they are assessed with regard to tackling climate and ecological change which is a material consideration.

The following paragraphs in Section 4 of the report therefore refer to all statutory requirements, policies and 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/landscape
- 4.1.3 Residential amenity
- 4.1.4 Ecology
- 4.1.5 Drainage (including flooding)
- 4.1.6 Highways (including access and parking)

4.2 In relation to the main planning considerations:

4.2.1 Principle

Planning Policy Wales has limited content relevant to the consideration of rural enterprise dwelling applications. Paragraph 3.60 states that *Development in the countryside should be located within and adjoining those settlements where it can best be accommodated in terms of infrastructure, access, habitat and landscape conservation. Infilling or minor extensions to existing settlements may be acceptable, in particular where they meet a local need for affordable housing or it can be demonstrated that the proposal will increase local economic activity. However, new building in the open countryside away from existing settlements or areas allocated for development in development plans must continue to be strictly controlled. All new development should be of a scale and design that respects the character of the surrounding area.*

Technical Advice Note 6 (TAN6) is the key Welsh Government document of relevance to the considerations to be given to applications for agricultural workers dwelling applications. Section 4.3 deals with rural enterprise dwellings and states as follows: *“One of the few circumstances in which new isolated residential development in the open countryside may be justified is when accommodation is required to enable rural enterprise workers to live at, or close to, their place of work. Whether this is essential in any particular case will depend on the needs of the rural enterprise concerned and not on the personal preference or circumstances of any of the individuals involved. Applications for planning permission for new rural enterprise dwellings should be carefully assessed by the planning authority to ensure that a departure from the usual policy of restricting development in the open countryside can be fully justified by reference to robust supporting evidence.”*

The following sections of TAN 6 provide detailed guidance to Local Planning Authorities for the consideration of applications for new agricultural dwellings. Paragraph 4.4.1 of TAN 6 considers new dwellings on established enterprises and states:

“New permanent dwellings should only be allowed to support established rural enterprises providing:

- a. there is a clearly established existing functional need;
- b. the need relates to a full-time worker, and does not relate to a part-time requirement;
- c. the enterprise concerned has been established for at least three years, profitable for at least one of them and both the enterprise and the business need for the job, is currently financially sound, and has a clear prospect of remaining so;
- d. the functional need could not be fulfilled by another dwelling or by converting an existing suitable building already on the land holding comprising the enterprise, or any other existing accommodation in the locality which is suitable and available for occupation by the worker concerned; and
- e. other normal planning requirements, for example siting and access, are satisfied.”

Additional guidance on matters to consider is provided in Welsh Government’s Practice Guidance Note for TAN 6 Rural Enterprise Dwellings.

In summary, the Development Plan policy, Planning Policy Wales, and the contents of TAN 6 make provision for the development of rural enterprise dwellings, subject to the key tests outlined above being met. The tests are reviewed in the following sections of the report.

TAN 6 Tests for rural enterprise dwellings

In assessing the case for the dwelling in respect of the TAN 6 tests, Reading Agricultural Consultants were instructed to carry out an independent agricultural appraisal to consider whether there is sufficient justification for the dwelling on the basis of the tests set out in Technical Advice Note 6 (TAN 6).

In summary, in relation to the TAN 6 tests, the independent agricultural appraisal concludes the following:-

The Functional Need Test

The functional test is necessary to establish whether it is essential, for the proper functioning of the enterprise, for one or more workers to be readily available at most times. It should relate to unexpected situations that might arise, for which workers are needed to be on hand outside of normal working hours for the particular enterprise.

The test of functional need is based upon the *existing* operations, as emphasised in paragraph 4.41a of TAN 6:

“New permanent dwellings should only be allowed to support established rural enterprises providing:

- a. there is a clearly established existing functional need;...”

An assessment of the essential need for a rural worker to live at or near their place of work requires:

- an evaluation of the risks involved;
- the frequency and type of out-of-hours emergency that might arise;
- the scale and loss that could be incurred should that emergency situation occur;
- the potential for an on-site worker to identify the problem; and,
- the ability of that resident worker to rectify the problem.

The applicant considers the essential functional need relates to a combination of activities which require the ready presence of a worker on site at most times. Without this, the proper functioning of the existing enterprise would be prejudiced.

The application details that the Site Manager has been on site all day every day of the year for the past 20years with him dealing with any issues as they arise. The issues which can arise are detailed as relating to the caravan site (fuses tripping), providing first aid when needed, dealing with power cuts and issues with water supply, dealing with any storm damage and ensuring the site is secure.

Information has also been submitted with the application detailing these activities and the time spent on them by the Site Manager, in summary these are as follows:

1. *opening up and closing buildings and workshops on weekdays - 2 hours a day, 5 days a week, 50 weeks a year*
2. *cleaning all buildings twice a week - 2 hours a week, 50 weeks a year*
3. *checking on stock levels of consumables and doing routine maintenance on the buildings*
4. *opening up buildings and workshops for courses at weekends, greeting tutors and students, ensuring that there is tea, coffee and milk, taking any course fees that are outstanding, clearing up at the end of the day so that the buildings are ready for the next day - 80 days a year - 3 hours a day*
5. *supporting groups who have booked to run courses - at the Forest School sites or in the buildings - which may include taking water and firewood to the sites - 100 days - 2 hours*
6. *caravan site - being available to meet people who arrive, show them the facilities and take fees - 200 occasions - 1 hour*
7. *caravan site - grass cutting etc - 50 hours*
8. *checking and feeding livestock, checking and watering polytunnels - 150 days - 2 hours a day*
9. *checking and dealing with routine site maintenance - litter, recycling, hedges, plants etc*

It is not detailed how often the incidents listed above have occurred and how often they occur out of hours and therefore requiring a residential presence. RAC considers that all requirements of the site are pre-arranged with bookings in advance and therefore the opening and closing routine requirements are known.

Based on the information provided by the applicant Reading Agricultural Consultants (RAC) and Officers cannot accept that there is a functional need to live on the site.

The functional requirement test is therefore not met.

The Time test is only applied if a functional requirement is established (it will then be necessary to consider the number of workers needed to meet it, for which the scale and nature of the enterprise will be relevant).

In this case, based on the information provided RAC and Officers do not accept that there is a justified essential need for a rural worker's dwelling at The Warren.

The Financial Test

The financial test in TAN 6 requires that: *"the enterprise concerned has been established for at least three years, profitable for at least one of them and both the enterprise and the business need for the job, is currently financially sound, and has a clear prospect of remaining so;..."*

TAN 6 paragraph 4.10.2 states:

"To assess economic sustainability it will be necessary to show the business has a reasonable prospect of providing a market return for all operators for the amount of management and manual labour inputs, including the job for which the rural enterprise dwelling is being sought, for at least five years from the anticipated completion of the proposed development."

The TAN 6 Practice Guidance states that in order for a farming business to demonstrate viability, it should be generating sufficient profits to reward the owner for any unpaid labour – equivalent to the national minimum wage and provide for the build cost of the proposed dwelling.

RAC have been provided with Financial Statements for Warren Woods Ltd and considers that in order for a farming business to demonstrate viability, it should be

generating profits sufficient to provide a return on the capital invested – in agriculture a figure of 2.5% is usually cited; reward the owner for any unpaid labour – equivalent to the national minimum wage; a notional return on land and, provide for the build cost of the proposed dwelling.

The Financial Statements do not include the Profit and Loss Accounts but further information is provided in the additional supporting letter. It details that the funding of the labour costs, income and other expenses comes from different sources.

Without sight of the Profit and Loss Accounts it is still not possible for RAC to comment on the sustainability and viability of the rural business. RAC would note that the Balance Sheet (assets minus liabilities) shows an increasing profitable Members Fund which would be able to support the build costs of the proposed dwelling.

Other dwelling test

Evidence must be provided to demonstrate that there is no other dwelling(s) or buildings suitable for conversion, which are available to meet the need. If there are existing dwelling(s) on the enterprise it needs to be shown why these cannot be used to meet the needs of the enterprise for a resident worker, and why labour or residential arrangements cannot be re-organised to ensure that the existing accommodation meets the needs of the enterprise without the need for a further dwelling.

There are no existing dwellings on the site.

The Supporting information comments on properties available for sale in the immediate area and the value of historic sales.

A search of Rightmove shows two properties for sale within 1 mile of the site postcode. The two properties are a three bedroom detached house with a guide price of £595,000 or a four bedroom detached house with a guide price of £525,000. RAC would consider these beyond the affordability of a rural worker.

The applicant currently lives in Denbigh and travels approximately 6 miles to the site each day to carry out the opening and closing tasks. Without an essential need on site, RAC considers that the applicant could consider alternative dwellings slightly closer to the site with a lower sale guide price.

Other planning requirements test

Rural enterprise dwellings should satisfy the usual planning requirements in terms of design, sustainability and access. The siting of the proposed dwelling should relate closely to the activities for which there is a need. In most cases this will mean that the new dwelling should be sited in close proximity to existing buildings and in the case of dwellings for agricultural enterprises, should not be isolated from the farmstead or in locations that could encourage farm fragmentation.

Local planning authorities should resist planning applications for rural enterprise dwellings that are prominent in the landscape. Careful consideration needs to be given to minimising the environmental effects of new rural enterprise dwellings.

It remains for the LPA to consider the appropriateness of the overall size and siting of the dwelling. It should meet the needs of the enterprise but it should be capable of being affordable to those eligible for affordable housing in line with the Council's own policies.

Having regard to the proposed details, Officers consider that the design, siting, sustainability and access for the proposed dwelling is acceptable.

Conclusions:

The proposal before the Council is for the erection of a permanent rural worker's dwelling which will be occupied by a full time worker employed by Warren Woods Ltd, and as such the rural worker's dwelling will be occupied by a full-time worker employed in the applicants' rural business.

RAC does not consider that the labour requirements of Warren Woods Ltd amount to an essential need for a full-time rural worker to reside on site. The labour requirement for opening and closing tasks at the site have been met for a number of years by the applicant who lives 6 miles from the application site. The essential need for a labour requirement relating to animal welfare and crop protection are currently considered minimal and the number of livestock on site and area of crops grown under polytunnels remain unknown.

The confidential Balance Sheets provided demonstrate that the applicants' business is viable and sustainable now and likely to remain so in the long term however RAC have not had sight of the Profit and Loss Accounts that would show the rent, labour and other income and expenses for Warren Woods Ltd.

There are likely to be other suitable and available dwellings in the locality (within three miles) that can meet the opening and closing requirements of the applicant's rural business.

Overall, RAC conclude that the applicant's proposal is not compliant with TAN 6 or with Policy PSE 5 of the Denbighshire County Council Local Development.

Further assessment of the visual amenity impacts will be discussed further in the following section of the report.

4.2.2 Visual amenity/landscape

The Development Management Manual advises at paragraph 9.4.3 that material considerations must be fairly and reasonably related to the development concerned, and 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; and the effects of a development on, for example, health, public safety and crime. The visual amenity and landscape impacts of development should therefore be regarded as a potential material consideration.

The proposed dwelling would consist of a two storey three-bedroom dwelling. It would have a ridge height of 8m and eave height of 5m, and would have a width of circa 9.25m by a depth of 13m (240.5sqm). This is a relatively large dwelling. All of the rooms would comply with the minimum floor space standards set out within the Residential Space Standards Supplementary Planning Guidance Note.

The proposed materials would be larch timber cladding with a juniper green box profiled roof. Windows would be timber and all materials are specified as being sourced locally and the property built to achieve a high energy rating.

The proposed dwelling is small in scale and has been designed in a sensitive manner to take account of its local environment. The site is well screened and would not result in an adverse impact on visual amenity or the landscape of the AONB. The AONB Officer has been consulted as states "*The proposed building has been sensitively designed to ensure that it takes account of the surrounding area. The dwelling is quite modest in scale and proportions and the siting, design, layout and use of materials will help assimilate the development into its surroundings*".

Having regard to the design, siting, scale and appearance, including additional proposed landscaping, it is considered that the proposed dwelling would integrate with its surroundings. It is considered that this complies with criteria i) of Policy PSE5.

4.2.3 Residential amenity

The Development Management Manual advises at paragraph 9.4.3 that material considerations must be fairly and reasonably related to the development concerned, and 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; and the effects of a development on, for example, health, public safety and crime. The residential amenity impacts of development should therefore be regarded as a potential material consideration.

The application site is 180m away from the nearest dwelling at 'Glascoed' to the north, which is far in excess of all minimum distance standards. It is considered that there would be no unacceptable residential amenity impacts such as privacy and overlooking given the separation distance between the properties.

The proposed dwelling would comply with all of the minimum residential standards for rooms and a 1 bed property as set out in the Supplementary Planning Guidance Note for Residential Space Standards.

There is also an acceptable amount of external space although no formal garden space is proposed.

It is therefore considered that the erection of a dwelling in this location is acceptable in respect of residential amenity.

4.2.4 Ecology

Policy VOE 5 requires due assessment of potential impacts on protected species or designated sites of nature conservation, including mitigation proposals, and suggests that permission should not be granted where proposals are likely to cause significant harm to such interests.

This reflects policy and guidance in Planning Policy Wales (Edition 12, 2024) within Chapter 6 'Biodiversity and Ecological Networks', current legislation and the Conservation and Enhancement of Biodiversity SPG stress the importance of the planning system in meeting biodiversity objectives through promoting approaches to development which create new opportunities to enhance biodiversity, prevent biodiversity losses, or compensate for losses where damage is unavoidable.

Planning Policy Wales (Edition 12, 2024) sets out that "planning authorities must seek to maintain and enhance biodiversity in the exercise of their functions. This means development should not cause any significant loss of habitats or populations of species (not including non native invasive species), locally or nationally and must work alongside nature and it must provide a net benefit for biodiversity and improve, or enable the improvement, of the resilience of ecosystems" (Section 6.4.5).

Planning Policy Wales (Edition 12, 2024) also draws attention to the contents of Section 6 of the Environment (Wales) Act 2016, which sets a duty on Local Planning Authorities to demonstrate they have taken all reasonable steps to maintain and enhance biodiversity in the exercise of their functions. It is important that biodiversity and resilience considerations are taken into account at an early stage when considering development proposals (Section 6.4.4).

Planning Policy Wales (Edition 12, 2024) includes policies relating to green infrastructure, net benefits for biodiversity and the Step-Wise Approach, protection for Sites of Special Scientific Interest (SSSI) and Trees and Woodlands.

- Green Infrastructure

A strong emphasis on taking a proactive approach to green infrastructure covering cross boundary considerations, identifying key outputs of green infrastructure

assessments and the submission of proportionate green infrastructure statements with planning applications.

- **Net Benefit for Biodiversity and the Step-wise Approach**

Clarity is provided on securing net benefit for biodiversity through the application of the step-wise approach, including the acknowledgement of off-site compensation measures as a last resort, and, the need to consider enhancement and long-term management at each step. A number of factors will affect the implementation of the step-wise approach,

pre-emptive site clearance works should not be undertaken however if this does occur its biodiversity value should be deemed to have been as it was before any site investigations or clearance took place and a net benefit for biodiversity must be achieved from that point.

- **Protection for Sites of Special Scientific Interest (SSSI)**

Protection is strengthened with increased clarity on the position for site management and exemptions for minor development necessary to maintain a 'living landscape.

- **Trees and Woodlands**

A closer alignment with the stepwise approach, along with promoting new planting as part of development based on securing the right trees in the right place.

The Development Management Manual advises at paragraph 9.4.3 that material considerations must be fairly and reasonably related to the development concerned, and 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; and the effects of a development on, for example, health, public safety and crime. The ecological impacts of development should therefore be regarded as a potential material consideration.

Future Wales – The National Plan 2040 (2021) Policy 9 advises that 'In all cases, action towards securing the maintenance and enhancement of biodiversity (to provide a net benefit), the resilience of ecosystems and green infrastructure assets must be demonstrated as part of development proposals through innovative, nature based approaches to site planning and the design of the built environment'. It is therefore recommended that these are included and form part of any planning application.

The proposal is supported by an Ecological Survey and concludes that the proposal would not have any adverse impacts. Reasonable Avoidance Measures (RAMs) are recommended within the report and concludes that provided the recommended mitigation and enhancement measures are undertaken, there should be a net gain in biodiversity, no net loss of roosting or nesting sites nor any danger of harm to any species.

Subject to the imposition of an appropriately worded conditions, it is considered that the proposals are in line with the advice contained in PPW 12 and would provide enhancement measures to increase the biodiversity opportunities at the site.

4.2.5 Drainage (including flooding)

The Development Management Manual advises at paragraph 9.4.3 that material considerations must be fairly and reasonably related to the development concerned, and 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; and the effects of a development on, for example, health, public safety and crime. The drainage and flood risk impacts of development should therefore be regarded as a potential material consideration.

The proposal is to install a new septic tank for foul drainage, details have been provided on the septic tank and appear acceptable. Soakaways are proposed for surface water drainage disposal.

The floor space of the proposed dwelling would not be in excess of 100m² however the proposed layout plan indicates a hardstanding area which may exceed this. A note to applicant would be suggested to advise the applicant that the proposal may require SuDs Approval Body (SAB) approval. SuDS is a mandatory requirement on all new developments involving more than a single dwelling or a construction area more than 100m². The applicant would have to get SAB approval separately from planning permission and construction can only begin when SAB approval and planning permission have been granted.

4.2.6 Highways (including access and parking)

The Development Management Manual advises at paragraph 9.4.3 that material considerations must be fairly and reasonably related to the development concerned, and 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; and the effects of a development on, for example, health, public safety and crime. The highway impacts of development should therefore be regarded as a potential material consideration.

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 (PPW) and TAN 18 – Transport, in support of sustainable development.

The Parking Standards in New Developments SPG sets out the maximum parking standards for new developments.

The proposal would not impact upon the existing access track used by the business and there is sufficient space within the site for parking and turning.

There are no public footpaths affected by the proposal.

The Highway and Footpath Officer raise no objections to the proposed development.

Officers would therefore conclude that the proposal would not adversely impact on highway safety and the proposal is considered to be in compliance with the policies and guidance.

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 taken into account the requirements of Section 3 'Well-being duties on public bodies' and Section 5 'The Sustainable Development Principles' of the Well-being of Future Generations (Wales) Act 2015. The recommendation is made in accordance with the Act's sustainable development principle through its contribution towards Welsh Governments well-being objective of supporting safe, cohesive and resilient communities. 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.

Equality Act 2010

The Equality Act 2010 identifies a number of 'protected characteristics', namely age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; sexual orientation. A public authority must, in the exercise of its functions, have due regard to advancing equality.

Having due regard to advancing equality involves:

- removing or minimising disadvantages suffered by people due to their protected characteristics;
- taking steps to meet the needs of people from protected groups where these differ from the need of other people; and
- encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low.

The above duty has been given due consideration in the determination of this application. It is considered that the proposed development does not have any significant implications for, or effect on, persons who share a protected characteristic, over and above any other person.

5. SUMMARY AND CONCLUSIONS:

- 5.1 The proposal is for a rural enterprise dwelling. The conclusions of the Agricultural Consultant and the Local Planning Authority against the TAN 6 tests are that the proposal is not compliant.
- 5.2 It is not considered that the labour requirements of Warren Woods Ltd amount to an essential need for a full-time rural worker to reside on site. The labour requirement for opening and closing tasks at the site have been met for a number of years by the applicant who lives 6 miles from the application site. The essential need for a labour requirement relating to animal welfare and crop protection are minimal and the number of livestock on site and area of crops grown under polytunnels remain unknown.
- 5.3 The Financial Statements do not include the Profit and Loss Accounts, without this information it is not possible to comment on the sustainability and viability of the rural business. However it is noted that the Balance Sheet (assets minus liabilities) shows an increasing profitable Members Fund which would be able to support the build costs of the proposed dwelling
- 5.4 The design, sustainability and access considerations are considered acceptable.
- 5.5 Given the above assessment of the proposal, the dwelling to accommodate an agricultural worker is not considered to be acceptable in principle as the scheme would not satisfy the tests set out in paragraph 4.4.1 of TAN 6.

RECOMMENDATION: REFUSE for the following reason:

1. It is the opinion of the Local Planning Authority that the application fails to demonstrate key tests of TAN 6 and LDP Policy PSE5 are satisfied to justify the proposed dwelling, in terms of demonstrating that there is an essential need for the dwelling. The long term financial viability of the rural business is also unclear. The proposal is therefore considered contrary to criteria iii) of Policy PSE 5 and the rural restraints policies of Planning Policy Wales (Edition 12) including the advice and guidance contained in Welsh Government Technical Advice Note (TAN) 6: Planning for Sustainable Rural Communities (2010) and the accompanying Rural Enterprise Dwellings Practice Guide (December 2011).

REPORT BY THE HEAD OF PLANNING AND PUBLIC PROTECTION AND COUNTRYSIDE SERVICES

Information report on appeal decision: 45/2021/0516/ PF - KYNSAL HOUSE, VALE ROAD, RHYL Appeal - Allowed

1. PURPOSE OF REPORT

1.1 To inform members on the recent appeal decision by PEDW for the following:

“Change of use of land and ancillary buildings to form residential Traveller site for 6 caravans, with the existing dwelling Kynsal House retained for owners / managers accommodation; including formation of internal pathways and parking, landscaping and associated works”

2. BACKGROUND

2.1 Planning permission was sought in 2022 for the:

“Change of use of land and ancillary buildings to form residential Traveller site for 6 caravans, with the existing dwelling Kynsal House retained for owners / managers accommodation; including formation of internal pathways and parking, landscaping and associated works”

2.2 Officers recommended to Planning Committee in March 2022 that planning permission should be granted for the above planning proposal. After a lengthy and full debate Members resolved to refuse planning permission against Officer recommendation. The reason for refusal was:

1. It is the opinion of the Local Planning Authority that the change of use of land site would result in an over-intensification of the use of the site. The cumulative impact of the creation of a 6 pitch site residential Traveller site alongside the dwelling on the 0.2 ha site would represent an overintense form of development in close proximity to residential properties on Knowsley Avenue which would give rise to the potential for increased disturbance and activity in the area and resulting in a detrimental impact on the health and well being of residents. As such the proposal is considered to be in conflict with criterion vi) of policy RD 1 and

criterion iv) of Policy BSC10 of the Local Development Plan Policy BSC10, which require proposals not to be detrimental to the amenity of the occupiers of adjacent properties.

2. It is the opinion of the Local Planning Authority that the proposal would formalise the increased use of an access onto Vale Road which is considered substandard. The use of the access for the scale and nature of the development proposed would result in a danger to pedestrians and road users on Vale Road contrary to criteria vii) and viii) of policy RD 1 of the Local Development Plan.

2.3 The vote was 13 to refuse planning permission, 2 to grant planning permission and 2 abstentions.

2.4 The appeal hearing was held on 30th April 2024. The decision to allow the appeal was issued on 10th July 2024, subject to the imposition of planning conditions.

2.5 As part of the decision the Inspector clarified some procedural issues, which included confirming the ownership of land in relation to the access, the acceptance of a Unilateral Undertaking legal decision, and confirming that the appellants met the Welsh Government Circular 005/2018 Planning for Gypsy, Traveller and Show-people Sites (the Circular) definition of gypsy and travellers.

2.5 A copy of the Appeal Decision is found at Appendix A of this report.

3. SUMMARY OF INSPECTORS DECISION

3.1 The inspectors decision focussed on 4 main issues:

- i) The effect of the proposal on the living conditions of neighbouring occupiers;
- ii) The effect of the proposal on highway safety;
- iii) Whether the proposal would comply with planning policy which seeks to steer highly vulnerable development away from areas at the highest risk of flooding;
- iv) Whether any identified harm would be outweighed by other material considerations.

3.2 Taking each issue in turn, the inspector concluded that:

- i) Living Conditions:

The Inspector identified that the adopted Denbighshire Local Development plan is permissive of gypsy and traveller caravan sites within or on the outskirts of established settlement boundaries with access to a range of facilities and services provided there would not be a detrimental impact on the amenity of occupants of neighbouring properties.

The inspector considered the proposed layout of the site, in relation to the site boundaries and adjacent dwellings. The inspector noted that the positioning

of the caravans within the site would not appear incongruous within the area, nor would they have unacceptable effects on users of the adjacent trading estate. In noting the open views some surrounding dwellings had across the site, the Inspector concluded that this replicated similar views between existing properties, and that the screening effect of the existing fence would prevent unacceptable overlooking issues.

The inspector examined the separation distances between the caravans and adjacent dwellings. It was identified that two of the caravans would be close to the terraced houses on Brookfield Road and fall short of the suggested SPG guidance of 21 metres separation distance between properties. However, the Inspector considered that the purpose of the suggested 21 metres separation distance was to protect privacy. In this instance although falling short of the 21 metres, the inspector concluded the available space for landscaping, the single-story nature of the caravans and the screening effect of the existing boundary treatment was sufficient to ensure there would not be an unacceptable overlooking of nearby properties.

The Inspector further concluded that there was no reason to believe that the daily activities at the site would result in unacceptable disturbance to neighbouring occupiers, particularly given the site's location within a mixed and densely developed residential and commercial area.

ii) Highway Safety:

The inspector considered the nature of traffic on Vale Road and observed the flow of traffic in the area during her mid afternoon site visit. The number of parking spaces within the site along with the turning area was considered acceptable. The visibility of the access onto Vale Road was also considered to be acceptable, and it was noted that there was no empirical evidence to support residents' anecdotal evidence of highway safety incidents. The physical nature of the access was considered to be a benefit in that it would force people access and egress the site slowly.

iii) Flood Risk:

The appeal decision identifies that the site is located entirely within a C1 flood-zone, and it was accepted at the hearing that the proposal would lead to an intensification of residential use at the appeal site (highly vulnerable development).

The Inspector accepted that the proposal would not pass tests i) or ii) of TAN 15 tests which is required to justify highly vulnerable development in C1 Flood-zones. The Inspector went onto consider the modelled flood events within the appellants Flood Consequence Assessment which demonstrated the impacts of flooding on the site would in the main be within the 'tolerable' flood levels as defined in TAN 15. However, in the 0.5% tidal/coastal flood

event, the FCA's modelling indicates that flooding of the appeal site would occur, with depths of over 2m predicted, representing significant and unacceptable risk. In regard to flood risk the inspector concluded the proposal would fail to meet the justification tests set out in TAN 15 and would fail to comply with planning policy set out in LDP Policy RD 1 and PPW which seek to steer highly vulnerable development away from areas at the highest risk of flooding

iv) Other Material Considerations:

The Inspectors decision summarises the policy requirement for local authorities to ensure that the accommodation needs of Gypsies and Travellers are properly assessed and that the identified need for pitches is met. At the hearing it was acknowledged that the latest revised draft Gypsy and Traveller Accommodation Assessment (GTAA) indicates an unmet need for up to 18 pitches. The family circumstances were considered, and the Inspectors decision concludes that the proposal would provide all the children with a settled base and would enable the older children to attend school and obtain an education. It was considered necessary to impose a planning condition to limit occupation of the site to family members and their dependents so as to ensure that the benefits identified were realised.

PLANNING BALANCE/CONCLUSION:

The Inspectors decision balances out the above consideration and states that:

- There would be no harm to amenity
- The proposal does not pass the TAN 15 tests in relation to flooding
- A refusal of permission would result in interference with the private family life and the family life of the children concerned, matters which are safeguarded by Article 8 of the European Convention on Human Rights. The lack of alternative provision would mean that refusal of permission would '*condemn the children to a roadside existence*'. The impact of refusing permission on the best interests of the children carried substantial weight in favour of allowing the appeal
- Considerable weight should be given to the existing unmet need for Gypsy and Traveller Sites in Denbighshire. This proposal would go some way to meeting that need.
- The best interests of the children are considered to be sufficiently important as to outweigh the conflict with national policy in relation to flooding.

In reaching the above conclusion and allowing the appeal, the Inspector found it necessary to impose planning conditions to deal with the following:

- Limiting the occupation to family members and their dependants

- Limiting the number of caravans on the site and to prohibit touring caravans and motorhomes
- A condition to limit access to the site
- A condition to prohibit commercial activities
- A condition requiring the submission of a lighting scheme for the site
- A condition requiring the submission of ecological enhancement.

4. RECOMMENDATION

4.1 That members note the content of the Inspectors decision.

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Appeal Decision

by N Jones BA (Hons) MSc MRTPI

an Inspector appointed by the Welsh Ministers

Decision date: 10/07/2024

Appeal reference: CAS-02030-S8W8X4

Site address: Land at Kynsal House, Vale Road, Rhyl,

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Phillip Purcell against the decision of Denbighshire County Council.
 - The application Ref 45/2021/0516/PF, dated 14 May 202, was refused by notice dated 17 March 2022.
 - The development proposed is the change of use of land and ancillary buildings to form residential traveller site for siting 6 no. static caravans, with the existing dwelling (Kynsal House) retained for owners / managers accommodation and including formation of internal pathways, parking, landscaping and associated works.
 - A hearing was held on 30 April 2024.
 - A site visit was made on 30 April 2024.
-

Decision

1. The appeal is allowed and planning permission is granted for the change of use of land and ancillary buildings to form residential traveller site for siting 6 no. static caravans, with the existing dwelling (Kynsal House) retained for owners / managers accommodation and including formation of internal pathways, parking, landscaping and associated works at Land at Kynsal House, Vale Road, Rhyl, in accordance with the terms of the application, Ref 45/2021/0516/PF, dated 14 May 2022, subject to the conditions set out in the schedule to this decision letter.

Procedural Matters

2. The Council queried whether correct certification of landownership had been undertaken with reference to unregistered land near the access to the appeal site. However, although the full extent of the access to the appeal site was omitted from the red line plan, the appellant confirmed that the access does not include that unregistered land, and the parties agreed that Kynsal House is served by an access onto Vale Road which would also be used to serve the proposed development.
3. At the time of my site visit, static caravans present at the time of the Council's decision had been removed. The appellant confirmed that the permission sought is for a proposed

development rather than retrospective planning consent, and I have considered the appeal on this basis.

4. A completed Unilateral Undertaking, including a commitment towards open space, was submitted after the hearing, and the Council given opportunity to comment.
5. Paragraph 2 of the Welsh Government's Circular 005/2018 Planning for Gypsy, Traveller and Showpeople Sites (the Circular) defines gypsies and travellers. It was confirmed at the hearing that there is no dispute between the parties that the appellant meets this definition. It was also agreed at the hearing that details regarding the personal circumstances of the appellant and his family would be exchanged in writing after the event. Interested parties were given an opportunity to comment.

Main Issues

6. The main issues are:
 - i) The effect of the proposal on the living conditions of neighbouring occupiers;
 - ii) The effect of the proposal on highway safety;
 - iii) Whether the proposal would comply with planning policy which seeks to steer highly vulnerable development away from areas at the highest risk of flooding;
 - iv) Whether any identified harm would be outweighed by other material considerations.

Reasons

Living conditions

7. Kynsal House is a two-storey detached dwelling, facing into a large rear enclosed yard. It is located to the north of, and set back from, the A525 at Vale Road, and accessible between commercial units, which I saw during my site visit form part of a bustling mixed commercial and residential area. The Glan Aber Trading Estate adjoins the appeal site to its east, whilst housing at Brookdale Road and Knowsley Avenue adjoin to the north and west. The caravans would be located within the rear yard area, along with parking and amenity areas.
8. Denbighshire Local Development Plan (LDP) Policy BSC 10 is permissive of gypsy and traveller caravan sites within or on the outskirts of established settlement boundaries with access to a range of facilities and services, which applies in this case. Policy BSC 10 also resists development that would be detrimental to the amenity of occupiers of adjacent properties. LDP Policy RD 1 also supports proposals within development boundaries, provided, amongst other things, that they do not unacceptably affect the amenity of local residents, by virtue of, amongst other things, increased activity, noise and disturbance.
9. It was accepted at the hearing that the proposal would reflect a density of a minimum of 35 dwellings per hectare expected for residential development set out in Policy RD 1. Given the appeal site's location within a tight knit built up area, I do not consider that the number of units proposed as part of the appeal scheme would represent an overly intense development of the appeal site.
10. In terms of layout, the intended siting of caravans on the appeal site would place them close to some of its external boundaries. I saw during my site visit however that the caravan proposed to be located in the north-western corner of the appeal site, on pitch No.1, would reflect the side to boundary siting of its immediately adjoining property at No 54 Brookdale Road and so would not be incongruous. The remaining five caravans would be close to the eastern boundary but would be orientated with their narrowest elevations towards the adjoining Trading Estate and would have no unacceptable effects on users of

that site. The intended location of open spaces and parking and turning areas closest to the appeal site's western boundary would largely mirror the open aspect fronting properties at Knowsley Avenue alongside. Whilst some nearby dwellings would have open views across the appeal site from their first-floor windows, this would largely replicate similar views between existing properties within the densely developed setting of the site. The dwellings at No 16 and No 18 Knowsley Avenue face towards the site across the estate road but the intended caravans would be located at the furthest end of the appeal site and orientated with their narrowest elevation towards these properties. Given this, and the screening effect of the existing fence, there would be no unacceptable overlooking towards these dwellings.

11. The proposed caravans would be raised above ground level to mitigate flood risks and the two units which would be located close to the rear boundaries of the terraced row at Brookfield Road would fall significantly short of the separation distance of 21m between opposing windows set out in the Council's adopted Supplementary Planning Guidance 'Residential Development' (SPG). However, the SPG's guidelines on separation distances are intended to maintain adequate privacy. Given the available width to secure an appropriate landscaping scheme, as well as the screening effects of existing boundary fencing, and the single storey nature of the caravan accommodation proposed, I do not consider that there would be unacceptable overlooking of properties at Brookfield Road or their gardens as a result of the proposed development.
12. As well as suitable parking space, the site would accommodate areas of open space. Moreover, the areas between caravan pitches would be unenclosed and available for the families' use. Whilst the extent of these areas would not reach the on-site standard of open space expected by LDP Policy BSC 11, that Policy allows some flexibility in provision, including where it is demonstrated that amongst other things, it is impractical to provide the full requirement for open space on site. The Council has confirmed that there is no shortfall of open space locally, with extensive facilities within a short walking distance from the appeal site. It has also accepted that a financial contribution towards the maintenance of that open space would be appropriate in this case. Accordingly, I consider that the scheme would provide an appropriate layout.
13. There is no reason to believe that the daily activities at the site would result in unacceptable disturbance to neighbouring occupiers, particularly given the site's location within a mixed and densely developed residential and commercial area. Moreover, some of the site's intended occupiers may be periodically absent from the site travelling for work, reducing the habitual level of on-site activity, whilst a planning condition could also ensure that no inappropriate commercial activity would take place on the site. Existing 2m high timber fences would be retained on the site's external boundaries whilst a landscaping scheme would add an additional buffer between the appeal site and existing housing. Lighting would be low level and would have no unacceptable effects beyond the site's boundaries. Notwithstanding the fabric of caravans, the proposal is for 6 units to be used as permanent residences and there is no cogent evidence that this type of residential use would be inherently noisier than conventional housing. Other legislative controls exist to deal with any excessive noise amounting to a statutory nuisance.
14. I conclude that the proposal would not harm the living conditions of neighbouring occupiers and so would comply with LDP Policies BSC 10 and RD 1.

Highway Safety

15. Vale Road is a busy arterial route into Rhyl. It operates as a regular bus route and also serves local housing and commercial premises as well as four local schools. During my mid-afternoon site visit, the road accommodated a steady and continuous volume of

vehicular and pedestrian traffic, including school pupils. Whilst I acknowledge the travelling lifestyle of intended occupiers of the site, the appeal scheme would allow the opportunity of a permanent residential base and I have therefore assessed the proposal on the basis that the site would be permanently occupied.

16. The intended layout was amended at the application stage to provide turning space within the site. The caravans, as well as the existing dwelling, would be provided with designated parking spaces, and there would be additional communal parking space within the site. The appellant confirmed that no touring caravans would be kept at the appeal site, and this is a matter which could be controlled by a planning condition. Whilst local residents raise concerns about the logistics of installing static caravans on the site, the appellant confirms that once installed, the units would only require replacing when they reach the end of their design life. I consider that any disruption through installation would have only limited localised short-term effects.
17. Visibility on exiting the appeal site is impaired in both directions by commercial properties where its access meets the partially ad hoc arrangement of shared parking and pedestrian space between those properties and Vale Road. The appeal scheme would lead to an increased regular use of this access. However, the Council confirms that the access forms part of an employment allocation in the LDP at Glan Aber Trading Estate and I saw that as well as the appeal site, it serves as rear access to those adjoining commercial units, with one business utilising space alongside the access for loading and unloading goods at the time of my visit. I note residents' anecdotal evidence of highway safety incidents but there is no empirical evidence of any accidents locally and I note that the Highway Authority raises no concerns regarding the use of the access to serve the proposed development. Owing to its dog-leg alignment, and commercial use, as well as use for informal parking, I consider intended residents of the appeal site would be likely to emerge slowly from the access. Given existing parking and pedestrian activity in the commercial frontage area, I also consider that drivers and pedestrians would exercise suitable caution within that space.
18. I saw that visibility onto Vale Road from the shared parking and pedestrian space is good in both directions. Given the volume of traffic it already carries, the likely increase in traffic which would arise from the appeal proposal would represent only a small addition to the overall flow on the local highway network. Moreover, since the application was considered by the Council, the local speed limit has been reduced which would be likely to benefit highway safety for all users.
19. I acknowledge local concerns regarding a previous proposal for an access from the appeal site onto Knowsley Avenue to which the Highway Authority objected. However, the intended occupiers of the appeal proposal would utilise the existing access onto Vale Road. Whilst I saw that a dropped kerb was in place at Knowsley Avenue at the time of my site visit, access was blocked by the existing perimeter fence, and any future use could be controlled by a planning condition.
20. I conclude that the proposal would not harm highway safety and would therefore comply with LDP Policy RD 1.

Flood Risk

21. Planning Policy Wales (Edition 12) (PPW) states that planning authorities should adopt a precautionary approach of positive avoidance of development in areas of flooding from the sea or from rivers. The Council's approach to flood risk is set out in LDP Policy RD 1 which states that development proposals will be supported within development boundaries provided its criteria are met, including that it satisfies physical or natural environmental considerations relating to, amongst other things, liability to flooding.

22. The appeal site lies entirely in Zone C1 as defined by the Development Advice Map (DAM) referred to in Technical Advice Note 15: Development & Flood Risk (TAN 15). The site is within Flood Zone 3 and the TAN15 defended zone according to the Flood Map for Planning (FMfP). Notwithstanding any occasions spent by its intended residents in travelling, the appellant acknowledges that the proposal would lead to an intensification of residential use of the appeal site. All residential premises, including caravans, are defined in TAN 15 as highly vulnerable development (HVD).
23. TAN 15 advises that new development will only be justified in zones C1 and C2 if it is necessary to assist or be part of a local authority regeneration initiative or a local authority strategy required to sustain an existing settlement (test i) or necessary to contribute to key employment objectives (test ii). Neither applies here and on that basis, I need not go on to consider tests (iii) and (iv).
24. Nonetheless I will do so. The site comprises previously developed land (test iii). The final justification test requires that the potential consequences of a flooding event for the particular type of development have been considered and found to be acceptable. In most modelled flood events, including flooding risk from the adjoining watercourse at 'The Cut', the appellant's Flood Consequences Assessment (FCA) indicates that the appeal site would meet the tolerable flood levels set out in TAN 15. Even so, TAN 15 states development should be designed to be flood free during the 0.5% tidal/coastal flood (i.e. 200 to 1 chance in any year event). However, for such an event, should there be a breach of flood defences, the FCA's modelling indicates that flooding of the appeal site would occur, with depths of over 2m predicted, representing significant and unacceptable risk.
25. I conclude that the proposal would fail to meet the justification tests set out in TAN 15 and would fail to comply with planning policy set out in LDP Policy RD 1 and PPW which seek to steer highly vulnerable development away from areas at the highest risk of flooding.

Other material considerations

26. The Circular confirms that the Housing (Wales) Act 2014 places a legal duty upon local authorities to ensure that the accommodation needs of Gypsies and Travellers are properly assessed and that the identified need for pitches is met. No unmet need had been identified during preparation of the LDP. However, Policy BSC 10 also states that the Council will identify permanent and transit caravan sites for Gypsies and Travellers should an unmet need be identified. The Council acknowledges it has not allocated or delivered any sites and accepts there is an unmet need for at least 12 pitches, as identified in its published 2021 Gypsy and Traveller Accommodation Assessment (GTAA), which forms part of the evidence base for the Replacement Local Development Plan 2018-33 (RLDP). Further, at the hearing, the Council advised that the latest revised draft GTAA assessment indicates an unmet need for up to 18 pitches.
27. The RLDP is expected to address the shortfall, but a deposit plan is not expected until early 2025. At best the RLDP is likely to be examined in 2026 and adopted in 2027. Any Gypsy and Traveller sites allocated in the deposit RLDP would be subject to consultation and likely to be subject to scrutiny at examination. Accordingly, there is no likelihood that a plan led solution to the acknowledged unmet need will occur any time soon.
28. The appellant has set out his family's personal circumstances, providing details of his six children, and their respective partners and children, who would occupy the intended caravans. The adult male family members all travel for work. The appeal site offers the extended family an opportunity to live together on family-owned land, with the appellant and his wife also providing financial support to one of their daughters. In relation to the family's children, there are several of school age, as well as pre-school age children. The

proposal would provide all the children with a settled base and would enable the older children to attend school and obtain an education.

29. I have had regard to representations from a neighbouring occupier about the limited number of family members resident at Kynsal House, with other family members not currently residing at the site. However, during the hearing the appellant explained the circumstances of those family members resident in the existing dwelling. The absence of other family members was also cogently explained. As agreed by the Council, a planning condition could limit occupation of the site to family members and their dependents.

Planning Balance

30. The appeal proposal would not harm the living conditions of neighbouring occupiers or highway safety and would provide a sustainable site within a settlement boundary. It would also contribute to the maintenance of public open space in the locality. However, I afford these matters neutral weight as they would be expected of any development.

31. In relation to flood risk the proposal would not meet local and national planning policy guidance which unequivocally emphasises the need to take a precautionary approach and directs development away from areas of highest risk. Avoidance of highly vulnerable development in areas of flood risk serves the wider public interest and this policy conflict therefore weighs heavily against allowing the appeal.

32. I have taken into account the personal circumstances advanced in support of the proposal with particular regard to the fact that dismissal of the appeal would result in an interference with the private family life of the extended family group, and the family life of the children concerned, which is a matter safeguarded under Article 8 of the European Convention on Human Rights, and which includes consideration of the best interests of the children. Given the accepted lack of alternative provision, dismissing the appeal is likely to condemn the children to a roadside existence. I consider that the children's best interests would be served by a settled family base and access to education and other necessary services. This carries substantial weight in favour of allowing the appeal.

33. The existing unmet need for Gypsy and Traveller sites in Denbighshire is unlikely to be met in the foreseeable future. The appeal proposal would provide 6 residential traveller pitches which would go some way to meet that need in accordance with LDP Policy BSC 10. Bearing in mind the duty to meet the accommodation needs of Gypsies and Travellers, I afford these matters considerable weight in favour of the appeal proposal.

34. In balancing these competing considerations and their respective weight, I have taken into account whether the best interests of the children in this case outweighs conflict with national planning policy on flood risk. I acknowledge that it would not be in the best interest of children that their homes are flooded and that their lives put at risk. However, flooding at the appeal site is predicted to be within the tolerable ranges for residential use set out in national planning policy in all but extreme events with flooding levels including a breach of flood defences, calculated with regard to a 100 year residential design life with an allowance made for climate change. Given the nature of the predicted flood risk, taking into account that there are no other sites available to meet the family's needs, I consider the dangers to the children of a roadside existence are greater than from flooding and conclude that the children's best interests would be served by allowing the proposal.

Other Matter

35. The Council raises no concern that the use of the access would prejudice the employment allocation at the Glan Aber Trading Estate. Given the existing use of the access, I have no reason to reach a different conclusion.

Conditions and Obligation

36. Whilst there is no shortfall in the provision of open space, developers are expected to make a financial contribution to mitigate the increased usage of existing facilities. As the appeal proposal would likely add to the demand for and use of local facilities, I consider the submitted obligation is necessary for the proposal to comply with LDP Policy BSC 11.

37. The Council has suggested conditions which I have considered in the light of the advice within Circular 016/2014 The Use of Planning Conditions for Development Management ('the Circular'). I consider that a condition, naming family members and their resident dependents, would provide the necessary clarity to limiting the occupation of the intended development to the family group, to reflect the justification for the development to serve the best interests of the children. A condition is also necessary to limit the number of static caravans on the site to reflect the permission sought and to prohibit any touring caravans or motorhomes from being placed on the site in the interests of highway safety. A condition to prevent use of an access on the western boundary of the appeal site, including the removal of dropped kerbs in that location, is also necessary in the interests of highway safety. A condition prohibiting commercial activities is necessary to safeguard the living conditions of neighbouring occupiers, but matters related to the burning of waste and surface water drainage are covered by other legislative controls and therefore unnecessary. A condition requiring submission of a lighting scheme is also unnecessary as details have already been provided. There is no cogent evidence of protected species being present at the appeal site, but a scheme of ecological enhancement could be secured by a planning condition. Whilst the submitted drawings indicate that landscaping would be provided, the proposals are limited in species mix and a condition requiring a landscaping scheme is therefore necessary to ensure that any scheme is appropriate.

Conclusion

38. For the reasons given above, and taking all other matters into account, I conclude that the appeal should be allowed. I allow the appeal.

39. In reaching my decision I have taken into account the requirements of sections 3 and 5 of the Well-being of Future Generations (Wales) Act 2015. I consider this decision is in accordance with the Act's sustainable development principle through its contribution towards one or more of the Welsh Minister's wellbeing objectives as required by section 8 of the Act.

N Jones

Inspector

List of Documents

Appellant's draft Unilateral Undertaking

Council's written justification for an open space contribution

Schedule of Conditions

1. The development shall begin not later than five years from the date of this decision.

Reason: In accordance with the provisions of Section 91 of the Town and Country Planning Act 1990.

2. The development hereby permitted shall be carried out in accordance with details shown on the following submitted plans and documents unless specified otherwise within any other condition pursuant to this permission:

- (i) Location Plan
- (ii) Existing Site Plan (Drawing No. DG1)
- (iii) Proposed Site Plan (Drawing No. DG2 Rev B)
- (iv) Existing and Proposed Outbuilding Floor Plan (Drawing No. DG3)
- (v) Justification Statement
- (vi) Limited Flood Consequences Assessment
- (vii) Landscaping Schedule
- (viii) Lighting Bollard Specification
- (ix) Waterco Flood Consequences Assessment
- (x) Statement in Response to Consultation Responses

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

3. There shall be no more than 6 permanent static caravans on the site at any time as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968. No additional static caravans, touring caravans or motor homes shall be brought onto the site at any time.

Reason: To define the scope of the permission and in the interests of highway safety (LDP Policy RD 1).

4. The occupation of Kynsal House and the site shall only be by the following, and their resident dependents: Mr & Mrs Phillip Purcell, Joe and Bridget Doran, Patrick and Margaret Delaney, John and Hannah Purcell, Luke and Mary Price, Kathleen Purcell and John Padley, Babi Purcell.

Reason: To ensure continuation of the justification for permitting the development

5. No commercial or livery activities shall take place on the land, including the storage of materials. No more than one commercial vehicle per plot shall be kept on the land for use by the occupiers of the caravans hereby permitted, and commercial vehicles shall not exceed 3.5 tonnes in weight.

Reason: To ensure no commercial activities adversely affect the residential amenity of residents of nearby properties (LDP Policies RD 1 and BSC 10).

6. No static caravans shall be brought onto the site until a scheme for biodiversity enhancement has been submitted to and agreed in writing by the local planning authority. The development shall be carried out, and thereafter retained, in accordance with the approved details.

Reason: To enhance the site's biodiversity (Policy 9 Future Wales)

7. Notwithstanding the approved plans, no static caravans shall be brought onto the site until a scheme of hard and soft landscaping has been submitted to and approved in writing by the local planning authority. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the bringing of the first static caravan onto the site, or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

Reason: To ensure that the development hereby permitted does not have a detrimental impact on the character and appearance of the area or on the living conditions of neighbouring occupiers (LDP Policies BSC 10 and RD 1)

8. The sole means of access to the site shall be as shown on the approved plan, Proposed Site Plan (Drawing No. DG2 Rev B). Access onto Knowsley Avenue shall remain permanently closed, with the dropped kerbs removed and the raised kerbs reinstated before any static caravans are brought onto the site.

Reason: In the interests of highway safety (LDP Policy RD 1).

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