

Heading:

REFERENCE 01/2014/0705/PF  
LAND BETWEEN ST DAVIDS CHURCH,  
ST DAVIDS LANE AND BROOKHOUSE RD, DENBIGH

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

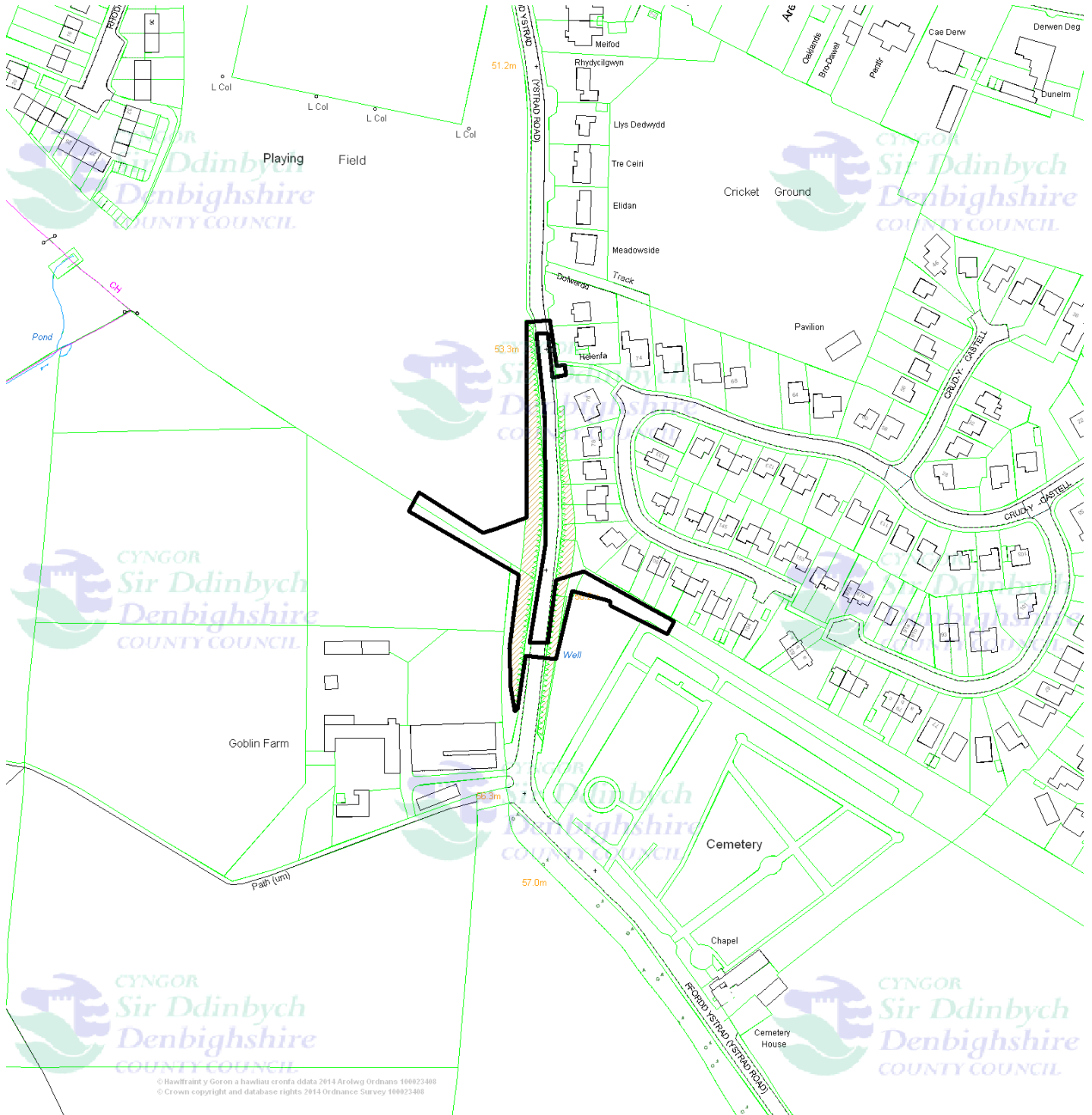
 Application Site



Date 3/2/2015  
Centre = 306202 E 365933 N

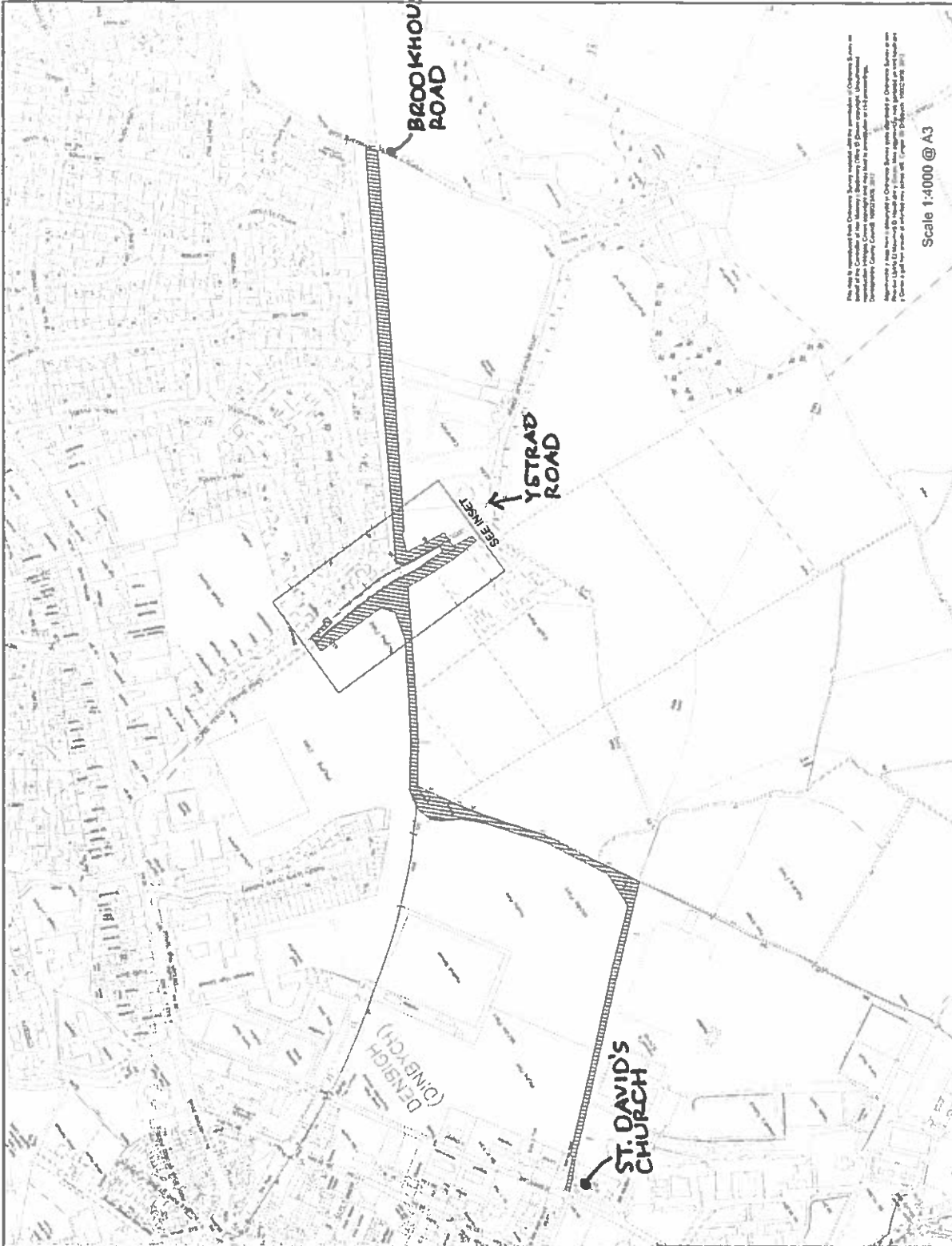
Scale 1/2500

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



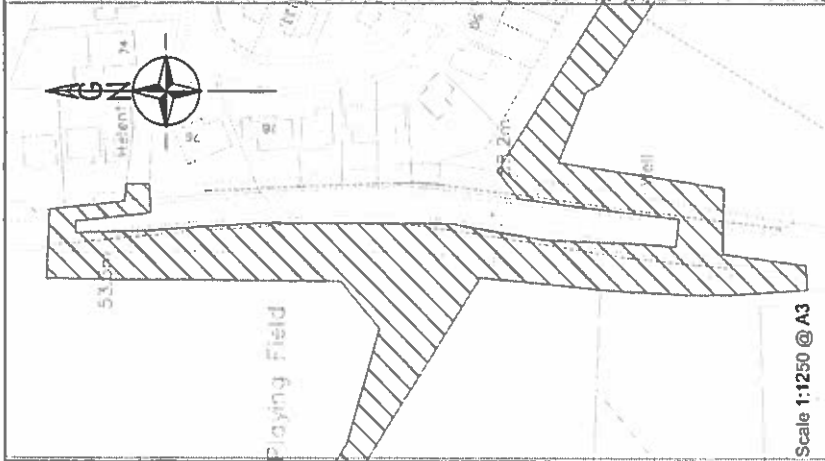


# ROUTE OF CYCLEWAY



This route is intended to be a cycleway route, not a road. It is intended to be used by cyclists and is not intended to be used by motor vehicles. It is intended to be used by cyclists and is not intended to be used by motor vehicles. It is intended to be used by cyclists and is not intended to be used by motor vehicles.

Scale 1:4000 @ A3

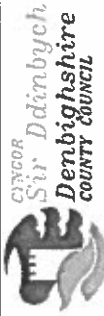


**KEY**

TOTAL PLANNING AREA =

13580m<sup>2</sup>

1.358ha



PENNAETH PRIFYRDD A GWASANAETHAU AMGYLCHEDDOL  
 HEAD OF HIGHWAYS AND ENVIRONMENTAL SERVICES  
 ADRAN PRIFYRDD A GWASANAETHAU AMGYLCHEDDOL  
 DEPARTMENT OF HIGHWAYS AND ENVIRONMENTAL SERVICES

**13102**

AS SHOWN

SJO665

BY

SJC

A Original Drawing

B Area realigned

DATE

13/6/14

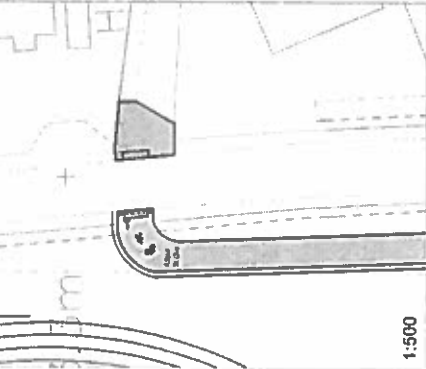
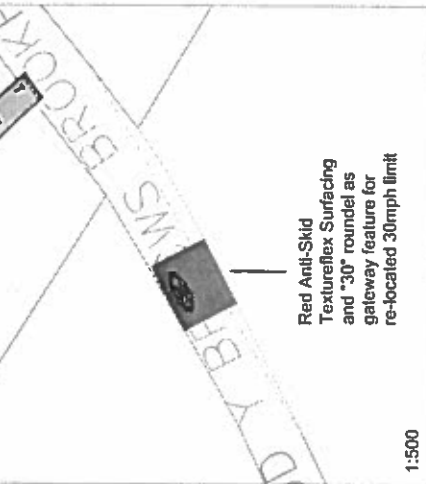
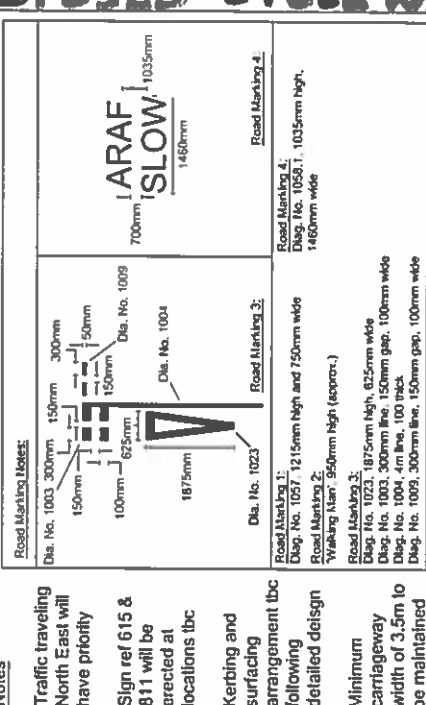
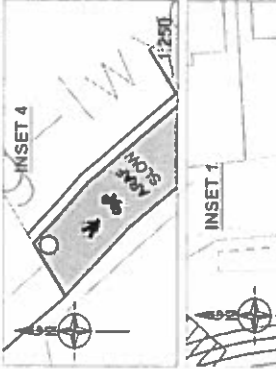
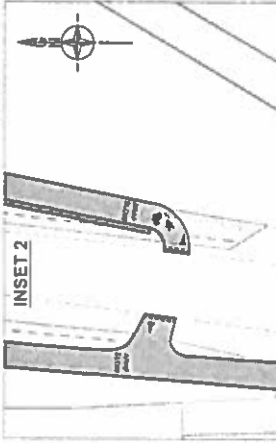
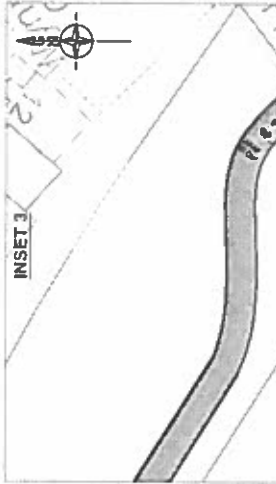
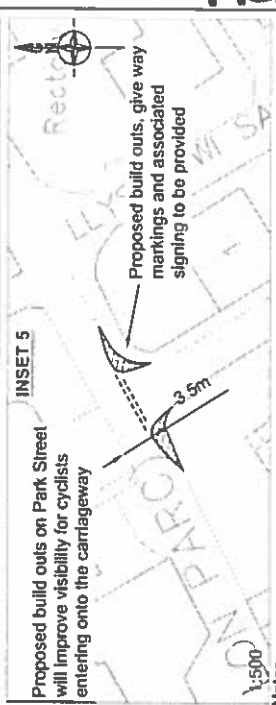
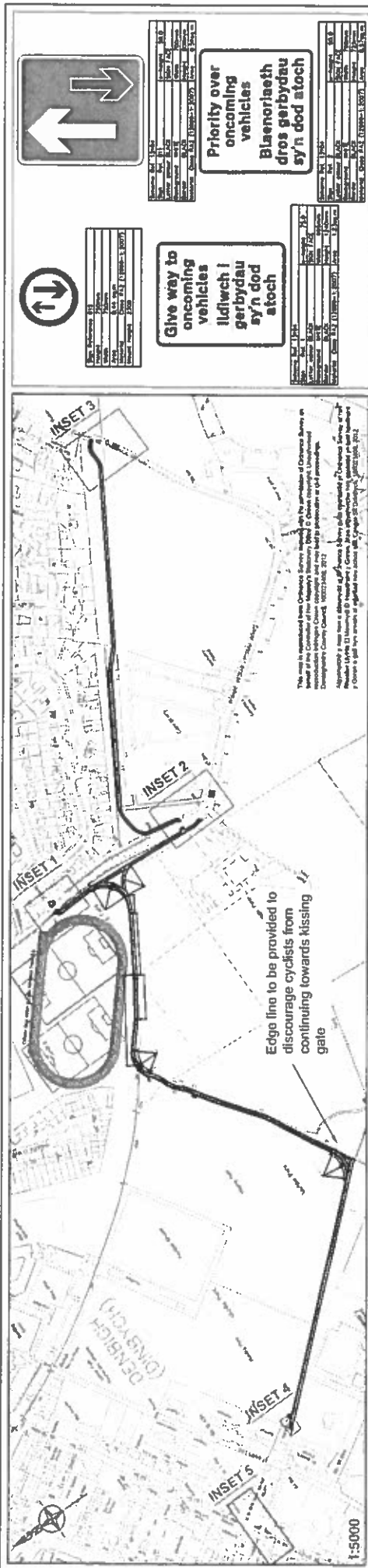
ISSUE

13/6/14

VALE OF CLWYD CYCLEWAY TOWNSEND TO PENTRE LLANRHAELADR
General Arrangement Planning Boundary
Scale 1:4000 @ A3



# DETAILS OF SECTIONS OF PROPOSED CYCLEWAY



**Notes**

Traffic traveling North East will have priority

Sign ref 615 & 811 will be erected at locations tbc

Kerbing and surfacing arrangement tbc following detailed design

Minimum carriageway width of 3.5m to be maintained

<p><b>Denbighshire COUNTY COUNCIL</b></p> <p>PENNAETH PRIFFYRDD A GWASANAETHAU AMGYLCHEDDOL HEAD OF HIGHWAYS AND ENVIRONMENTAL SERVICES ADRAN PRIFFYRDD A GWASANAETHAU AMGYLCHEDDOL DEPARTMENT OF HIGHWAYS AND ENVIRONMENTAL SERVICES</p>		<p><b>Key</b></p> <ul style="list-style-type: none"> <li>Planned Route</li> <li>Area Shared Usage</li> <li>Detail Inset</li> </ul>	<p><b>13102</b></p> <p>AS SHOWN @ A3</p> <p>SJ0665</p> <p>EP</p>	<p><b>PLANNING</b></p> <p>09/12/14</p>
<p>VALE OF CLWYD ACTIVE TRAVEL ROUTE TOWNSEND TO PENTRE LLANRHAEDR</p>		<p>TRAFFIC SIGNS &amp; ROADMARKINGS</p>	<p>H1/13102/D/33C</p>	<p>H1/13102/D/33C</p>



**WARD :** Denbigh Lower

**WARD MEMBER(S):** Cllr Ray Bartley  
Cllr Richard Davies

**APPLICATION NO:** 01/2014/0705/ PF

**PROPOSAL:** Construction of a multi-user active travel route

**LOCATION:** Land between St Davids Church, St Davids Lane and Brookhouse Road Denbigh

**APPLICANT:** Traffic & Transportation, Denbighshire County Council

**CONSTRAINTS:** None

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

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

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

**CONSULTATION RESPONSES:**

DENBIGH TOWN COUNCIL:

*Response to initial consultation:*

“Following considerable deliberation and a recorded vote it was resolved that the council would wish to object to the application. The objection is based on a report prepared by the council’s planning sub-committee following the site visit on the 15<sup>th</sup> instant:

The sub committee has serious concerns with the proposed route.

1. The route picks up the track following a turning off Park Street into Cow’s Lane. On either side of the lane there are very high walls. Visibility is very poor for any cyclist or any other vehicle entering or exiting it also.

Further along the same problem occurs with St David’s Lane

2. The entrance to the Old Rectory would prove a further problem for any cyclist wishing to join St David’s Lane from the field path as the entrance is long and unseen from the path.
3. The proposed ramps either side of the bridge would need to be gated in such a way as to slow any cyclist down.

However we found the traffic to be busy, heavy vehicles at times and of great concern. One side of the bridge the speed limit is 30mph while on the other it is 60mph. No amount of trees and bushes removed will make it a lesser hazard.

There is no way that any vehicle coming from the cemetery (Brookhouse) road will have slowed down sufficiently to be 30mph. Visibility will remain poor. The further problem is the farm entrance close to the bridge. Large vehicles will be exiting and turning to go over the bridge.

As the gated ramps are on one side of the brow of the bridge we believe it will be an accident waiting to happen – due to poor visibility for vehicles approaching from the Ruthin Road side.

4. The path at the end of the cemetery would have fence railings. However we found the use of this path to be inappropriate. Local residents had no knowledge of this proposal and were greatly upset at this idea. We believe it is entirely unsuitable. Should a Service be performed at a grave when cyclists are passing it would disturb mourners and any visitors. As a result we would object strongly on the use of the cemetery path.

The cemetery path would lead to one further created through the field (owned by DCC). This would then join Brookhouse Road via a gate. However this is another area of poor visibility.

The sub committee concluded that it would object strongly against the cycle track proposal due to the Health and Safety issues and the distress it would cause with the use of the cemetery path.

(The Town Council has been re-consulted on revised plans and any further comments will be reported in the late information sheets)

#### NATURAL RESOURCES WALES:

No objections subject to a precautionary planning condition relating to potential for unforeseen ground contamination, and requiring further mitigation measures to be approved if such unforeseen ground contamination is discovered during construction.

#### DENBIGHSHIRE COUNTY COUNCIL CONSULTEES – Head of Highways and Infrastructure

- Highways Officer: responded with no objections to the initial consultation, subject to further details of the junctions with Brookhouse Road and Ystrad Road being submitted and approved in writing prior to that work commencing. At the time of writing the response to the re-consultation is still awaited, and will be reported on the late representations sheets
- Footpaths Officer: the Public Rights of Way Unit fully supports the application.

Conservation Architect:  
No objections

Archaeologist:  
No objections subject to a watching brief being conditioned to ensure that any archaeology that may be discovered during construction is recorded.

Ecologist:  
No objections subject to conditions/advisory notes relating to the removal of hedgerows and trees.

Development Plan and Policy Section:  
No objections

Senior Flood Engineer:  
No objections

#### RESPONSE TO PUBLICITY:

##### In objection

Representations received from:

Mrs C Roberts, St Davids House, St Davids Lane, Denbigh  
S. Price, 104, Crud y Castell, Denbigh  
Mr Michael E. Lavers - Trem-y-Foel, St. David's Lane, Denbigh



D. & P. Cairns, 24, Hilary Close, Myddleton Park, Denbigh  
 Elfed and Llinos Evans, 75 Crud y Castell, Denbigh  
 Mr & Mrs E Hughes - Hafod Y Parc, St. Davids Lane, Denbigh  
 R T Cronin - Cilgoed, St Davids Lane, Denbigh  
 Mr. J.P.Meakin & Miss R.E. Hughes - 83A Crud Y Castell, Denbigh  
 Mrs Mary E. Jones - Garreg Lwyd, St Davids Lane, Denbigh  
 R. Braund, 58, Park Street, Denbigh  
 Mr & Mrs W Williams - 22 Hilary Close, Denbigh  
 Mr D & Mrs S Garnsey - 52 Crud Y Castell, Denbigh  
 Avril & Aldham Roberts - Parciau, St Davids Lane, Denbigh  
 Kevin & Ruth Ringer - 24 Marcella's Court, Denbigh  
 Shan Yale - 90 Crud Y Castell, Denbigh  
 Leah Williams - 92 Crud Y Castell, Denbigh  
 Huw A Jones - 83B Crud Y Castell, Denbigh  
 Mr Michael Hughes - 100 Crud Y Castell, Denbigh  
 Shane & Cathy Price - 104 Crud Y Castell, Denbigh  
 E. Jones - 102 Crud Y Castell, Denbigh  
 R.M Barnett - 98 Crud Y Castell, Denbigh  
 Mr & Mrs Wynne, 83C Crud Y Castell, Denbigh  
 Ian Evans, 26 Hilary Close Denbigh  
 P Ringer, 24 Marcella's Court, Denbigh  
~~Ann Jones AM~~ **N.B. Did not personally object but passed on objections**  
 A. E. Roberts, Parciau, St. David's Lane, Denbigh **from constituents.**  
 M. E. Jones - Garreg Lwyd, St Davids Lane, Denbigh  
 D & P Cairns - 24 Hilary Close, Myddleton Park, Denbigh  
 Dwynwen Williams, 4 Llys Merddyn, Llanfairpwll  
 Ronald Jones, 82 Bishops Walk, St Asaph  
 Gwenda Jones, 18 Hilary Close, Denbigh,  
 Mrs. D. Roberts - Brookfields, Brookhouse Lane, Denbigh

Summary of planning based representations in objection:

- Impact on highway safety due to poor visibility at Ystrad Road and Brookhouse Road, narrowing of the highway at Brookhouse Road, and connecting to an existing highway network which is too narrow to accommodate additional users.
- Impact upon residential amenity by way of loss of privacy and additional disturbance.
- Fear of crime and increase in anti social behaviour.
- Contaminated land resulting from the former use of elements of the route being a former railway track bed.
- Impact upon visual amenity due to the path passing through open country side and the engineering operations required to manage the levels.
- Impact on historic environment/archaeology with particular reference to the conservation area in St Davids Lane, and potential remains of the Clwydian roman road.

Other matters:

Comments have also been received in relation the route option, the cost of the project, who would be funding the project, and the morality of introducing a right of way into the cemetery. It is Officers opinion that such matters are not material planning considerations and should not be taken into account when determining this application

In support

Representations received from:

J. Jones, 19, Bishops Walk, St. Asaph  
 John Holiday, 7 Mold Road, Mynydd Isa, Mold  
 Guto Lloyd-Davies, Foel Gaer, Rhyl Rod, Denbigh  
 Peter Williams, Willaston, Neston, Cheshire

Alun Pugh, Ty Coch, Brynrefail, Gwynedd  
M. & C. Ringer, 38, Ffordd Colomendy, Denbigh  
R. Spilsbury, 2 Lark Hill, Fernbrook Road, Penmaenmawr  
A. Thompson, 27, Bryn Teg, Denbigh  
J. Chapple, 17, Lon Ceiriog, Denbigh  
K. Bailey, Red Hill, Mount Road, St. Asaph  
A. Overson, Melyd Cycling Club, Homewood, 1, Cambrian Drive, Prestatyn  
C. Wynne, 25, Accar y Forwyn, Denbigh  
J. Mather, 11, Bro Madog, Llanelian, Colwyn Bay  
Chris Ruane MP  
Barbara Manley, 20 Park Street, Denbigh LL16 3DB  
Mr Tony Crimes, 30 Love Lane, Denbigh  
M. Roberts, 50 Ffordd Colomendy, Denbigh  
G. Davies Edwards, Argraig, Tan y Gwalia, Dinbych

Summary of planning based representations in support:  
General support of the principle of the development.

**EXPIRY DATE OF APPLICATION: 13/8/14**

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

- timing of receipt of representations
- delay in receipt of key consultation response(s)
- additional information required from applicant
- protracted negotiations resulting in amended plans
- 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 Planning permission is sought for the construction of what is described as a 'multi-user active travel route' to link St Davids Lane and Brookhouse Road, Denbigh.
- 1.1.2 The submitted Design and Access Statement states that the path would provide a traffic free route for walkers, cyclists, and wheelchair users and would be the first phase of the proposed Active Travel Route in the Denbigh area.
- 1.1.3 The path would vary in width between 2.5m and 3.0m, and would be formed by clearing vegetation and topsoil, and the laying of a stone sub-base followed by a sealed tarmac surface.
- 1.1.4 The route would start where an existing public footpath joins St Davids Lane. It would then proceed for approximately 340 metres in an easterly direction, skirting the southern edge of Middle Parc playing fields. At this point the existing public footpath continues easterly whilst the proposed multi-user active travel route would turn northwards for 300 metres and follow the eastern boundary of Middle Parc playing fields. After crossing over a stream (using the proposed new bridge), the route would again swing eastwards and continue for approximately 250 metres along the southern limit of Denbigh High School playing fields. Upon the approach to Ystrad Road, the route splits into two – to head north to form a junction with Ystrad road and provide access to Crud Y Castell, and to head south towards Goblin Farm to provide a crossing point over Ystrad Road into the cemetery, where it is proposed to continue the route in an easterly direction along the northern boundary of Denbigh cemetery, and along the disused railway line, until the route meets Brookhouse Road where it would terminate.
- 1.1.5 The planning application proposes a range of fencing (1.8m close boarding and 1.2metre bow top in particular) in various locations along the route, a bridge to cross

the stream mentioned above and landscaping. Retaining structures and embankments are proposed to facilitate the changes in levels required to form the junction with Ystrad Road. A highway 'build out' is proposed to achieve the junction between the route and Brookhouse Road.

- 1.1.6 An independent road safety audit has been submitted as part of the application which highlights possible safety issues with the route, and makes suggestions to deal with these issues.
- 1.1.7 Prior to the submission of the application the applicants sought to ensure the community was involved in the project.
- 1.1.8 The Design and Access Statement (DAS) highlights that since 2012 a Community Travel Group (CTG) has been in place to help steer the project and lead the consultation process. The CTG consists of all Denbigh Councillors, the member for Llanrhaeadr, Denbighshire CC Countryside Officers, Denbighshire CC Highway Officers, Sustrans, Cymdeithas Tai Clwyd (Community Development) and Denbighshire Community Volunteers.
- 1.1.9 The DAS further informs that between February and April 2013 a community consultation took place and details were posted to approximately 7300 addresses in the LL16 postcode area. The consultation process included a questionnaire and a community drop in session.
- 1.1.10 It is understood that the route now submitted for consideration was the result of the community consultation exercise, which produced a 10% response (700 responses).
- 1.1.11 The route is shown on plans attached to the front of this report.

## 1.2 Description of site and surroundings

- 1.2.1 From the St Davids Lane end, the route would be accessed via a network of roads, including Park Street, Cow Lane and St Davids Lane. The area here is characterised by residential uses, the dwellings being a variety of designs and ages indicative of the areas status as a conservation area.
- 1.2.2 As the route leaves the conservation area, it follows the edge of a playing field. To the north of the route is open sports pitches, whilst the southern edge would be defined by an existing mature hedgerow interspersed with mature trees. The character of the area surrounding the route remains much like this until it arrives at Ystrad Road.
- 1.2.3 Once across Ystrad Road the route enters the cemetery and continues along the northern boundary of the cemetery with two storey dwellings to the north. On exiting the cemetery at its north east corner, the route enters a strip of grassland which again has two storey dwellings to the north. The route remains like this until it terminates at the junction with Brookhouse Road.

## 1.3 Relevant planning constraints/considerations

- 1.3.1 In the main, the proposed route follows the edge of the Denbigh Development boundary, the main exception being where the route crosses 'open countryside' between the existing footpath and where the route joins the southern edge of the Denbigh High School playing field. In this location the route runs through an area allocated for recreation and open space.
- 1.3.2 The western end of the route is located within the Denbigh Conservation Area, where there is also the potential for archaeological artefacts to be present.
- 1.3.3 As the route proceeds along the boundary between Middle Parc fields and St Davids House, there are a number of mature trees (limes) that are protected by tree preservation orders. Along the route there are a number of other trees of merit, although not protected by tree preservation orders.
- 1.3.4 The eastern element of the route follows part of the former Denbigh - Ruthin railway line. Although the route has been disused for many years, and has long since been in filled in places with inert material, there is still the potential for contamination to exist.

## 1.4 Relevant planning history

- 1.4.1 None of direct relevance to the particular proposals.

### 1.5 Developments/changes since the original submission

- 1.5.1 The application was originally submitted in June 2014. Following the statutory consultation process the applicants prepared additional material in support of the application and provided additional detail in respect of the nature of the proposal and how certain impacts would be managed. Particular attention was given to the impacts upon the protected trees, and how the junctions with Ystrad Road and Brookhouse Road may be managed.
- 1.5.2 An independent Safety Audit of the proposed route has been commissioned and submitted in support of the application.

### 1.6 Other relevant background information

- 1.6.1 None

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

- 2.1 None

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

The main planning policies and guidance are considered to be:  
Denbighshire Local Development Plan (adopted 4<sup>th</sup> June 2013)  
**Policy RD1** – Sustainable development and good standard design  
**Policy RD2** – Green Barriers  
**Policy BSC11** – Recreation and open space  
**Policy VOE1** - Key areas of importance  
**Policy ASA1** – New transport infrastructure

### 3.1 Government Policy / Guidance

Planning Policy Wales Edition 7 July 2014  
Technical Advice Note 10: Tree Preservation Orders  
Technical Advice Note 18: Transport

Circular 60/96 – Planning and the Historic Environment: Archaeology  
Circular 61/96 – Planning and the Historic Environment: Historic buildings and conservation areas.

### 3.2 Other material considerations

North Wales Regional Transport Plan:

The plan highlights the concerns over carbon emissions from the existing transport network, and makes recommendations regarding the positive measures of introducing a sustainable transport network. It identifies the problems that there is a public perception of a lack of public footpaths between key settlements. It also sets the Welsh Governments aim of providing a better transport system for those households (currently a quarter of all Welsh households) who rely on public transport, walking or cycling because they do not have a car. It further states that to improve local transport cycle routes on an all Wales basis will be enhanced and linked up.

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

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

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

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

- 4.1.1 Principle
- 4.1.2 Visual amenity including conservation area impact
- 4.1.3 Conservation area
- 4.1.4 Residential amenity and amenity of neighbouring uses
- 4.1.5 Biodiversity (including trees)
- 4.1.6 Drainage (including flooding)
- 4.1.7 Highways
- 4.1.8 Archaeology
- 4.1.9 Open Space
- 4.1.10 Fear of crime
- 4.1.11 Contaminated land

4.2 In relation to the main planning considerations:

4.2.1 Principle

The proposal relates to the provision of new transport infrastructure. Policy ASA 1, New Transport Infrastructure states new transport infrastructure will be supported provided that there is an economic/social justification, there are no unacceptable impacts upon the surrounding area or environment, provision is made for safe access by all users including cyclists, pedestrians, and the mobility impaired. Policy ASA 1 specifically states that the Council will support projects, measures or actions identified in the North Wales Regional Transport Plan, the use of suitable disused railway lines as recreational routes, and the extension/improvement of cycle and walking networks in the county. In addition the proposed route is wholly within the south Denbigh Green Barrier. Policy RD 2 only permits development within the green barrier if the open character and appearance of the land is not prejudiced.

The proposal has been submitted by the County Council Highway Section in response to the requirements of the North Wales Regional Transport Agenda, the Welsh Government's aim to improve active travel routes, and to contribute to the County Council's ambition to link rural communities to the rural service centre of Denbigh and to reduce the need to travel. It is noted that the proposed route in part utilises a disused railway line, and is to serve walkers, cyclists and the mobility impaired. In relation to the Green Barrier, it is noted that its primary function is to reinforce the separation of neighbouring settlements by protecting the open character of the area. In this location and given the nature of the proposal it is not considered that the open character and appearance of the land would be prejudiced.

It is considered that the proposal accords with the principles in Policy ASA1 and with local, regional and national aims in respect of providing a sustainable, active travel route which can contribute to the overarching aim of reducing Co2 emissions. The proposal does not conflict with the intentions of Policy RD 2, Green Barriers. The proposal is therefore considered acceptable in principle. Assessment of the associated impacts follows.

4.2.2 Visual amenity:

Local Development Plan Policy RD 1 test (i) requires due regard to issues of siting, layout, form, character, design, materials, aspect, microclimate and intensity of use of land / buildings and spaces between buildings, which are matters relevant to the visual impact of development; test (vi) requires that development does not unacceptably affect prominent public views into, out of, or across any settlement or area of open countryside; test (vi) requires the incorporation of existing landscape or other features, takes account of site contours, and changes in levels and prominent

skylines; and test (xiii) requires the incorporation of suitable landscaping measures to protect and enhance development in its local context.

Comments have been received from residents that the proposal would have a detrimental impact upon the character and appearance of the area. The proposal would involve the laying a tarmac strip approximately 3 metres wide along established boundaries.

In terms of detail, in order to set the context, the first section would be along the southern boundary of Middle Parc playing field, and would involve the widening of an existing tarmac right of way. The path would then follow a mature field boundary along the eastern boundary of Middle Parc playing field before heading east along the edge of Denbigh High School Playing fields. The character of the area for this section of the route is open maintained recreational grass playing fields. As the route approaches Ystrad Road the level of the land will have to be engineered to achieve the change in levels to reach Ystrad Road. Trees along the route from St Davids Lane to Ystrad Road are a noticeable feature, and the applicant proposes to retain the trees and hedgerows where possible. Some trees and hedges will need to be removed at the point where the route enters Denbigh High School playing field from Middle Parc field so as to improve visibility for users of the route. Similarly, hedgerow will need to be removed from the northern junction with Ystrad Road, and a number of trees from the southern junction with Ystrad Road to improve visibility. Following the junction with Ystrad Road the route would enter the cemetery where a number of trees would need to be removed to allow it to follow the western boundary of the cemetery before descending in and crossing open grass land and connecting with the existing tarmac service road along the northern boundary of the cemetery. In this location additional planting is proposed so as to offer some additional screening from the dwellings to the north and cemetery to the south and to soften the appearance of the existing palisade fencing in this location. After the route departs the cemetery at its north eastern corner it enters a strip of grassland with no formal use. The route would follow the southern boundary of this strip of land. A 1.8metre high close boarded fence is proposed along the northern edge of the route in this location. The route then terminates with its junction with Brookhouse Road.

The main visual impact of the proposal is the laying of a 3 metre wide strip of tarmac. It is considered that as the route traverses well maintained 'urbanised' grass land circumnavigating playing fields and utilising existing tracks in the cemetery in the main the appearance of a 3metre path would not appear incongruous or excessively intrusive into the character of the area. The loss of a limited amount of trees and hedgerows is unfortunate but to an extent unavoidable in constructing a project of this nature which is acceptable in principle. It is noted that additional planting is proposed where possible and this would offset the impact that the losses would have. With regard to the proposed 1.8m close boarded fence along the eastern section (to the rear of Hilarys Close and Marcellas Court), it is considered that this may appear as a harsh feature within its context. Whilst it is acknowledged that there may be other reasons for erecting such a fence in this location, and its appearance may be softened through landscaping, it is considered that further consideration of detailing is required in this area.

It is considered that overall the proposal would be acceptable in terms of its impact upon the visual amenity of the area, subject to suitably worded planning conditions being imposed to secure the replacement planting/landscaping and further detailing of boundary treatments to the eastern section of the route. With respect to the comments of the objectors, the proposal is not considered to conflict with the requirements of policy RD 1 in respect of its impact upon the visual amenity of the area.

#### 4.2.3 Conservation area:

Local Development Plan Policy VOE 1 seeks to protect sites of built heritage from development that would adversely affect them. Planning Policy Wales (Section 6),

stresses the importance of protecting the historic environment, and in relation to Conservation Areas, to ensure they are protected or enhanced, while at the same time remaining alive and prosperous, avoiding unnecessarily detailed controls. The basic objective is therefore to preserve or enhance the character and appearance of a Conservation Area, or its setting.

Concern has been raised by residents that the proposal to widen the existing footpath at the St Davids Lane end of the route would have a detrimental impact upon the character of the Conservation Area. The Conservation Architect has responded that only the start of the route is within the Conservation Area, and in this location the laying of additional tarmac would be acceptable provided it was neutral in appearance.

Given the existing character of the area, the limited amount of pathway that is proposed within the Conservation Area and the comments of the Conservation Architect, it is not considered that there would be any unreasonable impact on this area. It is considered that the proposal complies with the requirements of Policy VOE 1 and circular 61/96 and would not have a detrimental impact upon the character of the conservation area.

#### 4.2.4 Residential and other land users amenity

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

Concern has been raised by local residents that the proximity of the route to dwellings would result in a loss of privacy for them and additional unacceptable disturbance through increased noise and activity from users of the path. Concern has also been expressed regarding users of the route not showing consideration those who may be attending a funeral in the cemetery, or visiting graves and that the proposal would therefore have a detrimental impact upon the amenity of the users of the cemetery.

In terms of detail, the proposed route runs close to properties on St Davids Lane, where it goes between St Davids House and Garreg Llwyd. The eastern section of the route runs approximately 16 to 25 metres (variable) from the rear of houses on Crud Y Castell and utilises an existing road around the cemetery. Additional planting is proposed along the boundary with the dwellings and the route. Further on the proposed route is approximately 20 to 25 metres from the rear of dwellings on Hilary Close and Marcellas Court. A 1.8m close boarded fence is proposed along the route in this location.

In consideration of the impacts of a right of way in this location and its impact upon the amenity of adjacent residents it is suggested regard should be given to the 'normal' relationship between footpaths/roads and dwellings. In Officers' opinion it is hard to draw a distinction between a footpath running to the front of a dwelling and a path some 15 to 25 metres to the rear in terms of its likely use impacting upon the amenity of a dwelling. It is noted that additional screening and planting is proposed in these locations which would further mitigate against any potential impacts. Whilst it cannot be absolutely guaranteed that there would never be any disturbance (as there may always be a minority of individuals that act in an anti social manner), the vast majority of users of a path such as what is proposed are likely to conduct their selves in a reasonable manner. With regard to the dwellings on St Davids Lane (and further away such as on Park Street), it should be noted that the area is already in use by the members of the public as it is an existing part of the public high infrastructure.

The issues are considered similar in relation to the impact upon the peacefulness of the cemetery. The potential for a proposal such as this to have a quantifiable and significantly detrimental impact upon the amenity of adjacent dwellings and land users is so limited that in Officers opinion it would not be sufficient to sustain a refusal.

#### 4.2.5 Biodiversity (including trees)

Local Development Plan Policy RD 1 test (iii) requires development to protect and where possible to enhance the local natural and historic environment. 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 (Section 5.2), current legislation and SPG 18 – Nature Conservation and Species Protection, which 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.

The proposal has the potential to impact upon protected species through the removal of trees and hedgerows and on the biodiversity of the area through the importation of materials as part of any engineering works. The County Council Biodiversity Officer has commented on the application and does not raise any objections. However, precautionary conditions/advisory notes have been suggested in relation to the timing of the removal of any trees, and the importation of any materials. Similarly NRW have not raised an objection in this regard. There are a number of trees adjacent to the St Davids Lane section of the route that are subject to Tree Preservation Orders. The applicant has commissioned an arboricultural report into the potential impacts of the works on these trees, as well as the other non-protected trees. Construction methods have been recommended which advise on how to implement the proposal without impacting upon the health of the trees.

On the basis of the response from the County Council Biodiversity Officer it is not considered that the proposal would have an adverse impact on the favourable conservation status of any protected species, or the biodiversity of the area, subject to conditions/advisory notes. Similarly the proposals relating to the construction methods are considered acceptable in relation to the protection of trees within the area, and it is not considered that the protected trees within the grounds of St Davids House would be detrimentally affected by the works. In terms of biodiversity and impact upon trees, the proposal is considered acceptable.

#### 4.2.6 Drainage (including flooding)

Local Development Plan Policy RD 1 test (xi) requires that development satisfies physical or natural environmental considerations relating to drainage and liability to flooding. Planning Policy Wales Section 13.2 identifies flood risk as a material consideration in planning and along with TAN 15 – Development and Flood Risk, provides a detailed framework within which risks arising from different sources of flooding should be assessed.

The proposal involves the creation of a hard surface where currently the ground is permeable and involves the construction of a bridge across a small stream which is understood to flow towards drainage pools for Denbigh. Accordingly the County Council Flood Engineer has been consulted along with NRW. Neither has raised an objection in this regard.

On the basis of the responses of the Senior Flood Engineer and NRW it is not considered that the proposal would conflict with the aims of Policy RD 1 or TAN 15 in respect of flooding/drainage.



#### 4.2.7 Highways

Local Development Plan Policy RD 1 tests (vii) and (viii) oblige provision of safe and convenient access for a range of users and consideration of the impact of development on the local highway network. This reflects general principles set out in Planning Policy Wales (Section 8) and TAN 18 – Transport, in support of sustainable development.

Concern has been raised locally regarding the safety of the route at the points where it joins/crosses public highways. Particular reference has been made to the junction with St Davids Lane and how the route interfaces with the driveway with St Davids House, the junction and achievable visibility where the route crosses Ystrad Road, and the achievable visibility and impact upon road width where the route joins Brookhouse Road. Concern has also been raised in relation to the wider impacts of the proposal on highway safety of the surrounding highway infrastructure on Brookhouse Road, Park Street and Cow Lane.

An independent road safety audit has been commissioned by the applicants and submitted as part of the application. This document identifies potential problems with the route and makes recommendations to overcome the problems. These recommendations have been incorporated in the revised plan and include a 3 metre railing to separate vehicles exiting St Davids House and the path to allow increased visibility, improved visibility at the Ystrad Road Junctions, bollards proposed at the Ystrad Road junctions, build out at the Brookhouse Road junctions. These proposals have been examined by the Highway Officers and no objection has been raised.

Where the problems fall outside the control of this planning application (i.e. on the public highway where it is within the remit of the Highway Section to carry out works without the need for planning permission) the proposed recommendations have been shown nevertheless in order to demonstrate how potential problems would be dealt with. Most notably this is the 'build out' into Park Street which seeks to slow traffic down and improve visibility for cyclists exiting from Cow Lane onto Park Street. Additional warning signage and alterations to speed limits are also proposed. However, these elements fall outside the control of the Local Planning Authority and are within the remit of the Highway Section.

Whilst the concerns of residents are duly noted, it is considered that significant weight should be given to the views of the Highway Officers who are ultimately responsible for ensuring that public highways are constructed to nationally adopted standards in the interest of the safe and free flow of traffic. With regard to the details submitted, including the road safety audit and in the absence of an objection from the Highway Section, it is considered that the proposal is not unacceptable in terms of highway safety, and the safety of users of the route. The proposal is considered to comply with Policy RD 1 and TAN 18 in this respect.

#### 4.2.8 Archaeology

Local Development Plan Policy RD 1 test (iii) requires development to protect and where possible to enhance the local natural and historic environment. Planning Policy Wales (Section 6.5) sets out a range of considerations to be given to the assessment of archaeological issues, including approaches to recording and investigating potential remains in conjunction with new development. Welsh Office Circular 60/96 provided earlier advice on the importance of archaeological matters in the planning process, stressing the need for due assessment of the nature and importance of any features and their setting.

The St Davids Lane element of the proposal is located within the Conservation Area and is considered to be a historically important environment. Comments have been received suggesting that the proposal would have a detrimental impact upon the archaeology of the Clwydian Roman road. The proposal would involve the removal of some top layers of soil and therefore has the potential to impact upon any archaeology that may be present. The County Council Archaeologist has been

consulted on this application and raises no objections subject to a condition requiring an archaeological watching brief, should it be granted, such that any archaeology discovered during construction works is preserved by record.

On the basis of the response from the County Council Archaeologist, it is considered that any potential impact upon archaeology can be dealt with through a suitably worded planning condition. The proposal therefore is acceptable in terms of its impact upon archaeology.

#### 4.2.9 Open Space

Policy BSC 11 seeks to protect existing recreation, public open space and amenity green space. Development that would result in the loss of such land with recreational and amenity value will only be permitted where alternative outdoor provision of equivalent or greater community benefit is provided.

Comments have been received from local residents that the proposed track would impinge upon the use of the school playing fields, resulting in the need to relocate the running track and the loss of the discus throwing area. Comments have also been received in relation to loss of the existing amenity value of the grassland to the rear of Hilary Close and Marcellas Court which is currently used by residents as an informal play area for children. The proposal would result in the loss of approximately a 3 metre wide strip of land along the edge of Middle Parc and Denbigh High School playing fields as well as grassland at the eastern end of the proposed route.

In Officers opinion, it is not considered that the proposed development would result in an unacceptable loss of existing recreational land. Whilst it is acknowledged that part of the existing recreational open space would be used to create the track, the amount is insignificant, and the proposed track would in itself provide a recreational facility. Whilst noting that the land is in the ownership of the County Council and that its current use by neighbours is through an agreement between the County Council Property Services and the residents, respectfully, consideration of the planning application should not be affected by a private agreement. It is not considered that the proposal would result in a loss of recreation, public open space or amenity green space. The proposal is considered to be in accordance with the aims of Policy BSC 11.

#### 4.2.10 Fear of crime

Local Development Plan Policy RD 1 test (xii) requires account to be taken of personal and community safety and security in the design and layout of development and public and private spaces, and to have regard to implications for crime and disorder. This reflects general advice in Planning Policy Wales (Section 3.1), the Crime and Disorder Act 1998 and subsequent good practice guide that the effects of a development on crime is a potential material consideration a planning authority should consider when exercising its functions.

A number of residents are concerned that the introduction of a track for unrestricted public access will result in an increase in crime within the area, with increased ease of access for criminals to the rear of dwellings on Crud Y Castell, Hilary Close and Marcella Court being cited along with the fear of anti social behaviour. Reference has been made to anti social behaviour occurring elsewhere in the County on public rights of way.

In addressing this issue, it is suggested due consideration should be given to the extent of public access existing in this area. The land to the south of Crud Y Castell is in use as a cemetery where there is a public right of access, the land to the south of Hilary Close and Marcella Court is open land that can be accessed from Brookhouse Road and the St Davids Lane part of the route is already a public right of way. It is not unreasonable to assume that the typical user of the route would not have criminal intentions and that by increasing public access along the route could actually increase natural surveillance and reduce the potential for opportunistic crime.

Officers are aware that the perception of crime may be a legitimate consideration in the assessment of the planning application, but it is a very difficult matter to determine that significant weight should be afforded to impacts likely to arise from the creation of a public right of way, without a clear evidence base. In Officers opinion, to refuse this application on fear of crime, would suggest quite clearly that it would be unreasonable for the County Council to develop rights of way anywhere for similar reasons. It is therefore considered that there is no sound basis to resist this application on fear of crime.

#### 4.2.11 Contaminated land

The need to consider the potential impact of contaminated land in relation to development proposals is contained in Chapter 13 of Planning Policy Wales, which requires planning decisions to take into account the potential hazard that contamination presents to the development itself, its occupants and the local environment; and assessment of investigation into contamination and remedial measures to deal with any contamination. Where there may be contamination issues, the Council must require details prior to determination of an application to enable the beneficial use of land. Planning permission may be granted subject to conditions where acceptable remedial measures can overcome such contamination. Otherwise, if contamination can not be overcome satisfactorily, permission should be refused.

Sections of the proposed route would be on a former railway line and there is therefore a potential for the ground to contain contaminants associated with its former use. The applicants have undertaken and submitted a desk study and preliminary ground contamination risk assessment. The report concludes that in the absence of any evidence of the former railway track or any ground materials which could be a source of contamination, 'there can be no contamination risk and no risk to the proposed development and its users'. Natural Resources Wales have been consulted on the proposal and have responded that the risk of contamination, suggesting a precautionary condition be attached to any permission to deal with any unforeseen contamination being discovered.

On the basis of the information submitted and the comments of Natural Resources Wales it is not considered likely that the proposal would be adversely affected by contaminated land. However, there is the potential during earth movements for ash, clinker or other potentially contaminated material to be encountered which would need to be assessed. The suggested condition from Natural Resources Wales is considered sufficient to deal with this issue and the proposal is therefore acceptable in respect of contaminated land.

#### 4.3 Other matters

With regard to comments received in relation the choice of route, the cost of the project, who would be funding the project, and the morality of introducing a right of way into the cemetery, it is Officers opinion that such matters are not material to the determination and should not be accorded any weight when determining this application.

### **5. SUMMARY AND CONCLUSIONS:**

5.1 Whilst respecting the comments of the Town Council and Local residents, it is considered that the proposed development is acceptable in principle, and that the potential impacts are not unacceptable in planning terms.

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

1. The development to which this permission relates shall be begun no later than the expiration of five years beginning with the date of this permission.

2. PRE-COMMENCEMENT CONDITION

- No development works of any kind shall begin until the presence of a contracted archaeologist has been secured on-site according to the prescriptions set out in a curatorial design brief and approved in writing by the Local Planning Authority. Access, at any reasonable time, shall be given to this archaeologist to enable the observations and recording of any archaeological remains uncovered during the early stages of development. A report of any archaeological records made must be deposited with the County Sites and Monuments Record, Clwyd-Powys Archaeological Trust, 41 Broad Street, Welshpool, Powys, SY21 7RR (01938-553670) within one month of the completion of this work with a summary of records sent to the Local Planning Authority at the same time.
3. In the event that any areas of unexpected contamination become evident in the course of development, all works in the vicinity of that contamination shall be suspended immediately, and the Local Planning Authority shall be notified within 24 hours. No work shall be permitted to continue in the affected area until the written agreement of the Local Planning Authority has been obtained to details of the measures proposed to remove or contain any hazard presented by the contaminants, and the method of rendering harmless such contamination. The development shall only be permitted to proceed in accordance with the details approved.
4. All planting, seeding, turfing, fencing, walling or other treatment comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the commencement of the development and any trees or plants which, within a period of five years of the development, die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
5. None of the trees or hedgerows shown on the approved plans as being retained shall be felled, lopped or topped without the prior written consent of the Local Planning Authority. Any trees or hedgerow plants which die or are severely damaged or become seriously diseased within five years of the completion of the development shall be replaced with trees or hedgerow plants of such size and species to be agreed in writing with the Local Planning Authority.
6. Notwithstanding the submitted details, further details of the boundary treatment(s) facing St Marcellas Court and Hilary Close shall be submitted to and approved in writing by the Local Planning Authority and those details as approved shall be implemented in full prior to the multi user active travel route being brought into use.
7. No removal of hedgerows, trees or shrubs shall take place between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check of vegetation for active birds' nests immediately before the vegetation is cleared and provided written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site. Any such written confirmation should be submitted to the local planning authority. Should any mature trees with features that can be used by bats need to be felled or trimmed, then a bat survey shall be undertaken by a competent ecologist and a scheme of Reasonable Avoidance Measures shall be followed during the works, which should be submitted to the local planning authority.
8. Prior to the importation of any material, a Biosecurity Risk Assessment shall be submitted to and approved in writing by the local planning authority detailing measures to minimize or remove the risk of introducing non-native plants during the construction of the project.
9. In relation to the carrying out of the works, no development shall be permitted to take place until the written approval of the Local Planning Authority has been obtained in relation to the site compound location and vehicular access including the design and construction of the access, traffic management scheme, vehicle wheel washing facilities, hours and days of operation and the management and operation of construction vehicles, the works shall be carried out strictly in accordance with the approved details.
10. Full details of the highway works adjacent to Brookhouse Road and Ystrad Road as indicated on the approved plans including the detailed design, layout, construction, street lighting, visibility splays and drainage shall be submitted to and approved in writing by the Local Planning Authority before the commencement of any site works and the works shall be completed in accordance with the approved plans before the path is brought into use.

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

1. To comply with the provisions of Section 91 of the Town and Country Planning Act 1990.
2. In the interests of archaeological investigation and recording.
3. To ensure that suitable measures are taken to deal with contaminated land in connection with the development.
4. To ensure a satisfactory standard of development, in the interests of visual amenity.
5. To safeguard the existing trees and hedges on the site, in the interests of the visual amenities of the locality.
6. In the interest of visual amenity
7. In the interest of ensuring the favourable conservation status of protected species.
8. In the interest of biodiversity.
9. In the interest of the free and safe movement of traffic on the adjacent highway and in the interests of highway safety.
10. In the interest of the free and safe movement and traffic on the adjacent highway and to ensure the formation of a safe and satisfactory access.

**NOTES TO APPLICANT:**

Your attention is drawn to the attached Highway Supplementary Notes Nos. 1, 3, 4, 5 & 10.  
Your attention is drawn to the attached Part N form (New Road and Street Works Act 1991).