

Heading:

REFERENCE NO. 16/2015/0271/AC  
LLANBEDR HALL, LLANBEDR DC  
RUTHIN

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 Application Site

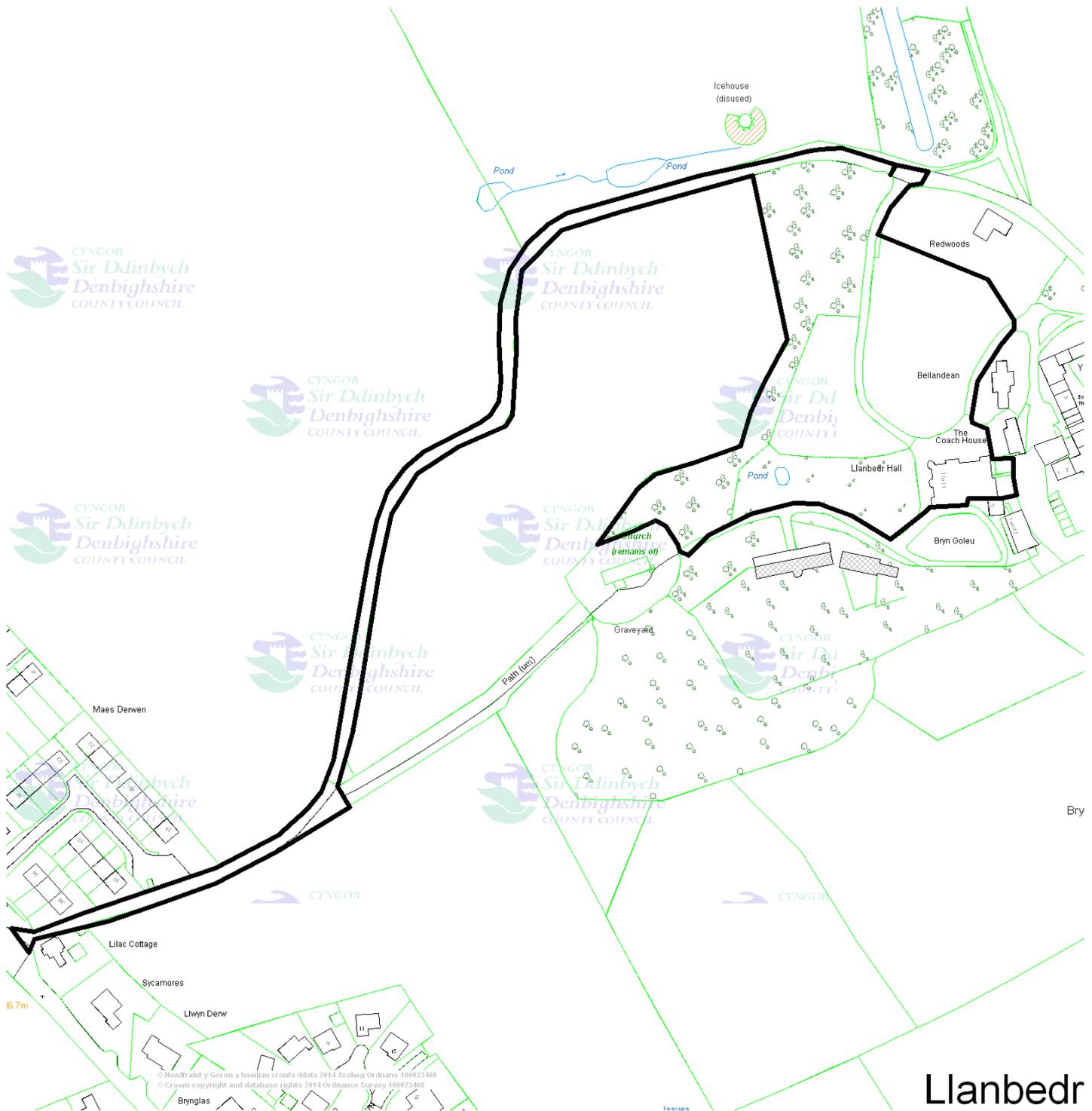


Date 28/5/2015

Scale 1/2500

Centre = 314499 E 359821 N

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



**Llanbedr**







**WARD :** Llanbedr Dyffryn Clwyd / Llangynhafal

**WARD MEMBER(S):** Cllr Huw Williams (c)

**APPLICATION NO:** 16/2015/0271/PS

**PROPOSAL:** Deletion of condition no. 11 (requiring the provision of affordable housing) of planning permission code no. 16/2014/1020

**LOCATION:** Llanbedr Hall Llanbedr DC Ruthin

**APPLICANT:** Mr Rod Cox

**CONSTRAINTS:** Tree Preservation Order  
AONB

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

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

- Recommendation to grant – Community Council objection.

**CONSULTATION RESPONSES:**

LLANBEDR DC COMMUNITY COUNCIL –

“The Members of Llanbedr DC Community Council oppose the removal of the above planning condition as there is a proven need for ‘Affordable Housing’ within the Community of Llanbedr DC.”

**RESPONSE TO PUBLICITY:**

In objection:

Mr. G. Alford, 17, Tan y Bryn, Llanbedr DC – Objection.

Summary of planning based representations in objection:

The adopted LDP Policy BSC 3 requires the provision of affordable housing.

**EXPIRY DATE OF APPLICATION: 03/06/2015**

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

- Awaiting consideration by Committee

**PLANNING ASSESSMENT:**

**1. THE PROPOSAL:**

**1.1 Summary of proposals**

1.1.1 The application follows the grant of permission at Planning Committee in January 2015 for the demolition of Llanbedr Hall and the erection of 9 dwellings and associated works (ref. 16/2014/1020).

1.1.2 Condition 11 of the January 2015 consent was imposed at the request of Members at Planning Committee, and states as follows:

*“No development shall be permitted to commence until the written approval of the Local Planning Authority has been obtained to arrangements for the provision of affordable housing in connection with the development in accordance with the Council’s policies and guidance.”*

1.1.3 The reason stated for the inclusion of Condition 11 reads:

*“In order to secure provision of affordable housing in connection with the development.”*

1.1.4 Condition 11 was not recommended for inclusion by Officers, as it was not considered reasonable in the circumstances to oblige provision of affordable housing to a scheme involving the replacement of a Hall containing 11 / 12 flats.

1.1.5 The applicants have submitted information in support of the application to remove Condition 11, in a Design and Access Statement. The Summary section of the Statement states as below in relation to the application :

*“Prior to the submission of the application, the site had undergone numerous pre-application consultations - both with the local planning authority and by means of community consultations. The principle of the development had been discussed at length with both development control officers and planning policy. The application was accepted that the principles entailed in this proposal can be deemed acceptable under local and national planning policy by its recommendation of approval without this unreasonable condition.*

*Appendix 2 of this statement details the committee report and in officers opinion there was no requirement for the contribution to affordable housing. This scheme was not designed to include affordable housing into the deliverable viability and therefore would not go ahead on this basis.*

*The planning condition should be removed as there is no requirement from the replacement dwelling policy RD4 to provide affordable housing and nor was it considered appropriate by officers to impose such a condition. Further to this, the provision of affordable housing within the scheme would not be viable.”*

## 1.2 Description of site and surroundings

1.2.1 Llanbedr Hall is a late Victorian building set in landscaped grounds. The front part of the hall is constructed in buff brick with red brick detailing and a steeply hipped slate roof, and incorporates a corner tower along with gabled and dormer features.

1.2.2 The rear part of the hall is a predominantly two storey rendered structure with slate pitched roof. The hall benefits from substantial formal landscaped gardens to the front (west) with a coach yard and mix of dwelling types immediately to the rear (east). Other more isolated dwellings lie to the north and along the back drive to the main hall.

1.2.3 The main hall has been altered over the years with a number of developments taking place. There are a number of mature trees within the grounds which are protected by a Tree Preservation Order.

1.2.4 To the south-west of the main hall is a walled garden area containing a former boiler room and glass house which has recently gained permission to be converted into a dwelling (see planning history).

1.2.5 There are public footpaths which run through and adjoin the site, including one which runs past the listed building of the remains of St Peter's Church which lies to the west of the hall.

## 1.3 Relevant planning constraints/considerations

1.3.1 The site lies outside of the development boundary for the village of Llanbedr DC and is set within the Clwydian Range and Dee Valley Area of Outstanding Natural Beauty (AONB) and the Vale of Clwyd Historic Landscape, but without any other specific

designation in the Local Development Plan. Public Footpaths 14 and 37 run through and about the site.

#### 1.4 Relevant planning history

1.4.1 Prior to the January 2015 consent issued for the redevelopment, there has been a complex planning history to the Llanbedr Hall site which is summarised as follows:

- The commercial use of the hall as a restaurant ceased sometime before 2004. This resulted in an application to convert the restaurant into 2 self-contained dwellings which was granted in 2005.
- In 2006 the Council approved a planning application for the conversion and alterations of existing flats and restaurant to create 20 self-contained flats. This permission has now lapsed.
- In 2007 the owner of the hall submitted a planning appeal under section 78 of the Town and Country Planning Act 1990 in relation to two conditions relating to highway/access matters. This appeal was allowed and the conditions were duly varied.
- Application reference 16/2009/0941/PF for the demolition of Llanbedr Hall and its replacement with 9 detached family houses set in the gardens, and the refurbishment, extension and change of use of the adjacent garages to provide 1 dwelling was assessed against the policies of the now superseded Unitary Development Plan and was refused on 15 February 2012 for the following reasons:

*“1. It is the opinion of the Local Planning Authority that the replacement of the hall in the manner proposed is in direct conflict with tests iv, v, and vi of Policy HSG 8 of the adopted Denbighshire Unitary Development Plan. Insufficient justification has been provided to show that the replacement of the hall with a substantially different type of dwelling in terms of its siting, size, scale, form, design and materials is acceptable and would not have an unacceptable effect on the landscape, and the scheme fails to show that an overall environmental improvement will be achieved.*

*2. It is the opinion of the Local Planning Authority that the residential dwellings proposed would have an unacceptable impact on the character and appearance of the site and the Area of Outstanding Natural Beauty in which it is located by reason of their size, scale and form. The proposal would neither conserve nor enhance the natural beauty of the area, in direct conflict with Policy ENV 2 of the Denbighshire Unitary Development Plan.”*

- The above decision was taken to an appeal (ref APP/R6830/A/12/2181528) which was dismissed on 28 February 2013. In arriving at his decision, the Inspector concluded in paragraph 18 of the decision letter that:

*“I have taken into account all other matters raised, including the intended design of the proposed houses to a high level of sustainability and the comments of the Design Commission for Wales in connection with an alternative proposal, but nothing outweighs the considerations that have led me to my main conclusion that the proposed development would be unacceptably harmful to the character and appearance of the area and would not conserve and enhance the natural beauty of the AONB. It would be contrary to UDP Policies GEN 3, HSG 8 and ENV 2.”*

- The 2013 appeal decision also confirmed that there was general agreement between the parties that the hall has an existing lawful use for 11/12 flats and a restaurant.

- In addition to the application site, the boiler house/glasshouse which lies to the west of the hall obtained consent at appeal on 14 October 2014 for its extension and conversion into a single dwelling.

1.4.2 The application granted in January 2015 involved the demolition of the old Hall and the erection of a single block of 9 apartments in the shape of a crescent. The permission was subject to a number of conditions. As noted above, Condition 11 was imposed at the request of Members at Committee.

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

1.5.1 None.

#### 1.6 Other relevant background information

1.6.1 In relation to a planning consent, legislation permits applicants to lodge an appeal to the Planning Inspectorate against conditions imposed (within 6 months of the date of grant), or to submit applications to vary or delete conditions (under Section 73 of the 1990 Planning Act). The applicants have submitted the current application under Section 73.

1.6.2 The application is not an opportunity to re-visit the principle or detailing of the development or conditions other than No. 11 as now sought. The planning considerations have to be applied purely to the application to remove Condition 11.

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

2.1 16/2004/1450/PF – Change of use from restaurant to 2 self-contained dwellings: Granted by Committee on 26 January 2005.

2.2 16/2006/0872/PF – Conversion and alterations of existing flats and restaurant to 20 self-contained flats and construction of associated parking areas: Granted by Committee on 10 October 2006.

2.3 Appeal 2042164/WF – Against Conditions 6 and 9 on the above permission: Allowed on 30 July 2007.

2.4 16/2007/1363/PO – Demolition of main hall (11 flats) and development of 0.33 ha of land by the erection of replacement building containing 11 flats and erection of 6 dwellings within grounds and alterations to existing vehicular access (outline – all matters reserved for further approval): Refused on 15 February 2012.

2.5 16/2011/0691 – Conversion and extension of the former garages into 1 dwelling with a designated bat roost in the roof void: Granted by Committee on 28 September 2011.

2.6 16/2009/0941/PF – Demolition of Llanbedr Hall and its replacement with 9 detached family houses set into the gardens, and the refurbishment, extension and change of use of the adjacent garages to provide 1 dwelling: Refused 15 February 2012.

2.7 16/2014/1020/PF - Demolition of Llanbedr Hall and the erection of 9 three-storey dwellings and associated works: Granted 21 January 2015.

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

The main planning policies and guidance are considered to be:

Denbighshire Local Development Plan (adopted 4 June 2013)

**Policy RD4** – Replacement of existing dwellings

**Policy BSC3** – Securing infrastructure contributions from Development

**Policy BSC4** – Affordable Housing

3.1 Supplementary Planning Guidance  
Affordable Housing SPG May 2014

### 3.2 Government Policy / Guidance

Planning Policy Wales Edition 7 July 2014

Technical Advice Notes

## 4. MAIN PLANNING CONSIDERATIONS:

4.1 In addition to the policies and guidance referred to in Section 3, the overarching advice for Local Planning Authorities on the use of conditions in planning permissions is contained in Welsh Office Circular 35/95. Circular 35/95 is a significant consideration in the context of the current application, as it sets basic tests which have been set down from the Courts for the validity of planning conditions. For Members' information, the Circular advises that as a matter of policy, conditions should only be imposed where they satisfy all of the following tests:-

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

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

4.2 The application seeks to remove the requirement under Condition 11 for the provision of affordable housing in connection with the 9 dwelling permission. The single issue to be addressed is whether there is a justifiable case for removing the condition, having regard to the aforementioned planning policies and other material considerations.

4.3 In drafting the report for the January 2015 meeting in relation to application 16/2015/1020, Officers provided the following commentary on the specific matter of affordable housing:

*Policy BSC3 of the local development plan sets the basic requirement for development to contribute where relevant to the provision of infrastructure including affordable housing, in line with Policy BSC 4. Policy BSC 4 relates specifically to affordable housing, and requires that all developments of three or more residential units provide a minimum of 10% affordable housing either on site on developments of 10 or more units, or by way of a financial contribution on developments of less than 10 units.*

*In respecting the intentions of the affordable housing policies, the history of the site is considered a significant factor in this instance, and it is not suggested as reasonable to oblige any affordable provision as part of the development, given the scheme proposes to replace a building containing 11/12 flats, none of which are controlled as affordable units, with a development of 9 dwellings.*

*In these circumstances, it is not considered that any contribution towards affordable housing is justified.*

4.4 Members took a contrary view to Officers at the January Committee and imposed the affordable housing condition outlined in paragraph 1.1.1 of the report.

4.5 There are objections to the removal of Condition 11 from the Community Council and a private individual. The basis of these objections is that there is proven need for affordable housing and a planning policy requirement for affordable housing in BSC3 of the local Development Plan.

4.6 The applicant's arguments are that there is no requirement for the contribution to affordable housing, including from the replacement dwelling policy RD4, that the scheme was not designed to include affordable housing and that provision of affordable housing within the scheme would not be viable.

4.7 The wording of the Council's policies and Supplementary Guidance setting out the requirement for affordable housing provision are important in the consideration of this application :

- Policy BSC 3 states *'where relevant, development will be expected to contribute to the provision of infrastructure....requirements arising from the development.'* It refers to the Council's priorities, which will vary depending on the nature and location of the development, and lists as one of these - *'affordable housing (in accordance with Policy BSC4)'*.

Officers' interpretation of BSC3 is that it simply sets the context for securing infrastructure contributions from development, and it makes no specific obligation for provision in connection with specific forms of development.

- Policy BSC4 is the Plan's main policy in relation to affordable housing. It states: *'All developments of three or more residential units are expected to provide a minimum of 10% affordable housing either on site on developments of 10 or more units, or by way of a financial contribution on developments of less than 10 units'*. Factually, to comply with the condition it would be necessary for the payment of a financial contribution towards off-site provision.

BSC4 goes on to clarify that all homes permitted through Policies BSC6, BSC8, BSC9 and PSE 4 will be affordable housing for local needs. In recognition of differing characteristics throughout the County, the policy states that *'negotiations to determine the actual provision of affordable housing will be based on factors outlined in the Council's Affordable Housing Supplementary Planning Guidance'*.

Policies BSC6, BSC8, BSC9, and PSE4 are not relevant to the Llanbedr Hall development.

- The May 2014 Supplementary Planning Guidance – Affordable Housing document sets out in further detail advice and guidance on how affordable housing is to be delivered on new residential schemes submitted through the planning system. Section 4.14 deals with the situation where no affordable housing provision is proposed. It states;  
*'This will only be considered in exceptional circumstances, and only once all other options have been exhausted, where:*  
\* *The planning history of the site makes it unreasonable to require affordable housing, e.g. previous planning commitments*  
\* *The proposal meets an identified, acknowledged and overriding approved regeneration aim or project in accordance with an approved Council regeneration strategy, and where the provision of affordable housing would seriously prejudice this.*  
\* *The applicant is able to demonstrate to the Council that there is no affordable housing need in the locality currently or within 5 years.*

4.8 Having regard to the background, and in respecting both the decision of Members in January 2015 and the intentions of the affordable housing policies, Officers remain of the view that the history of the site is a significant material consideration to which due weight has to be given in this instance. In this context, Officers are obliged to point out that a previous appeal in relation to developments involving the Hall in 2013 held that the existing building can be shown to lawfully contain 11/12 residential units, which have no affordable housing restriction. Consequently, as the development proposes 9 dwellings in place of 11/12 flats, it is

respectfully suggested there is no material increase in the number of residential “units” in the development granted permission, and as such it is not considered reasonable to insist on compliance with the requirements of Policies BSC 3 and BSC 4. The Supplementary Planning Guidance document makes clear that consideration can be given to proposals for no provision where the planning history makes it unreasonable to require affordable housing.

4.9 For the record, there is no submission from the applicants that the proposals are in accord with regeneration strategies or that there is no affordable need in the locality.

4.10 If the replacement dwellings policy RD4 is taken into consideration as relevant to the original decision to grant permission to replace the Hall with 9 dwellings, it is to be noted that this places no obligation for the provision of affordable housing. There are no historic planning restrictions on the units in the Hall in respect of use for affordable housing.

4.11 In these circumstances, it is not considered that any contribution towards affordable housing is justified.

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

5.1 In respecting the Committee’s decision to impose an affordable housing requirement on the development granted in January 2015, Officers suggest the planning history of the site is a significant consideration in this instance and that given the scheme as approved for 9 dwellings is to replace the 11/12 existing units in the Hall, it not considered necessary or reasonable to impose a requirement for a contribution towards affordable housing provision either on-site or off-site.

5.2 It is therefore recommended that the application to delete Condition 11 should be granted.

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

## **NOTES TO APPLICANT:**

None