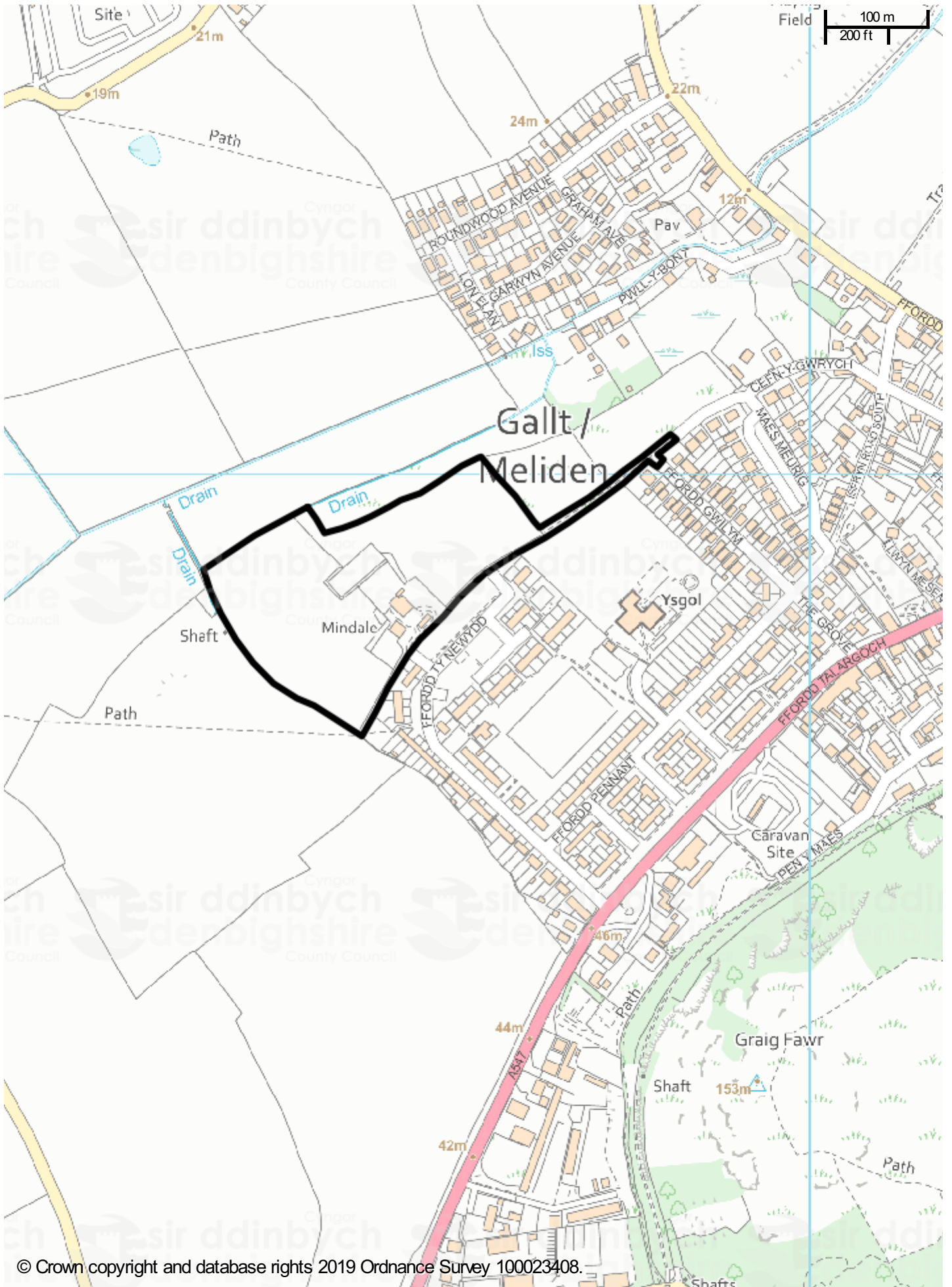


# APPENDIX 1

Officer report on application 43/2018/0750, as presented to September 4<sup>th</sup> 2019 Planning Committee



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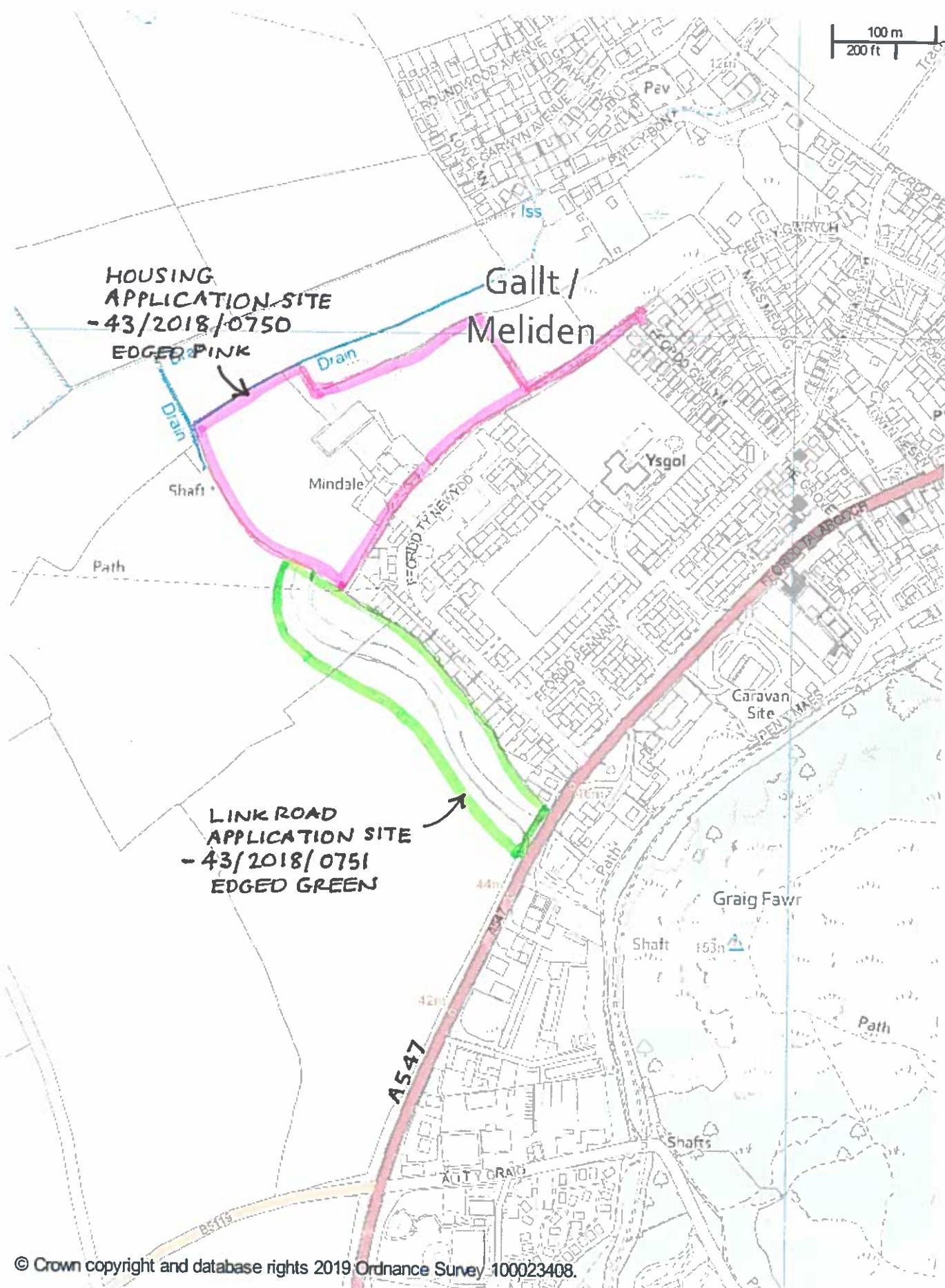
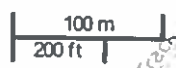
43/2018/0750

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# PLAN SHOWING LOCATION OF HOUSING SITE AND LINK ROAD



**HOUSING APPLICATION SITE**  
- 43/2018/0750  
EDGED PINK

**Galt / Meliden**

**LINK ROAD APPLICATION SITE**  
- 43/2018/0751  
EDGED GREEN

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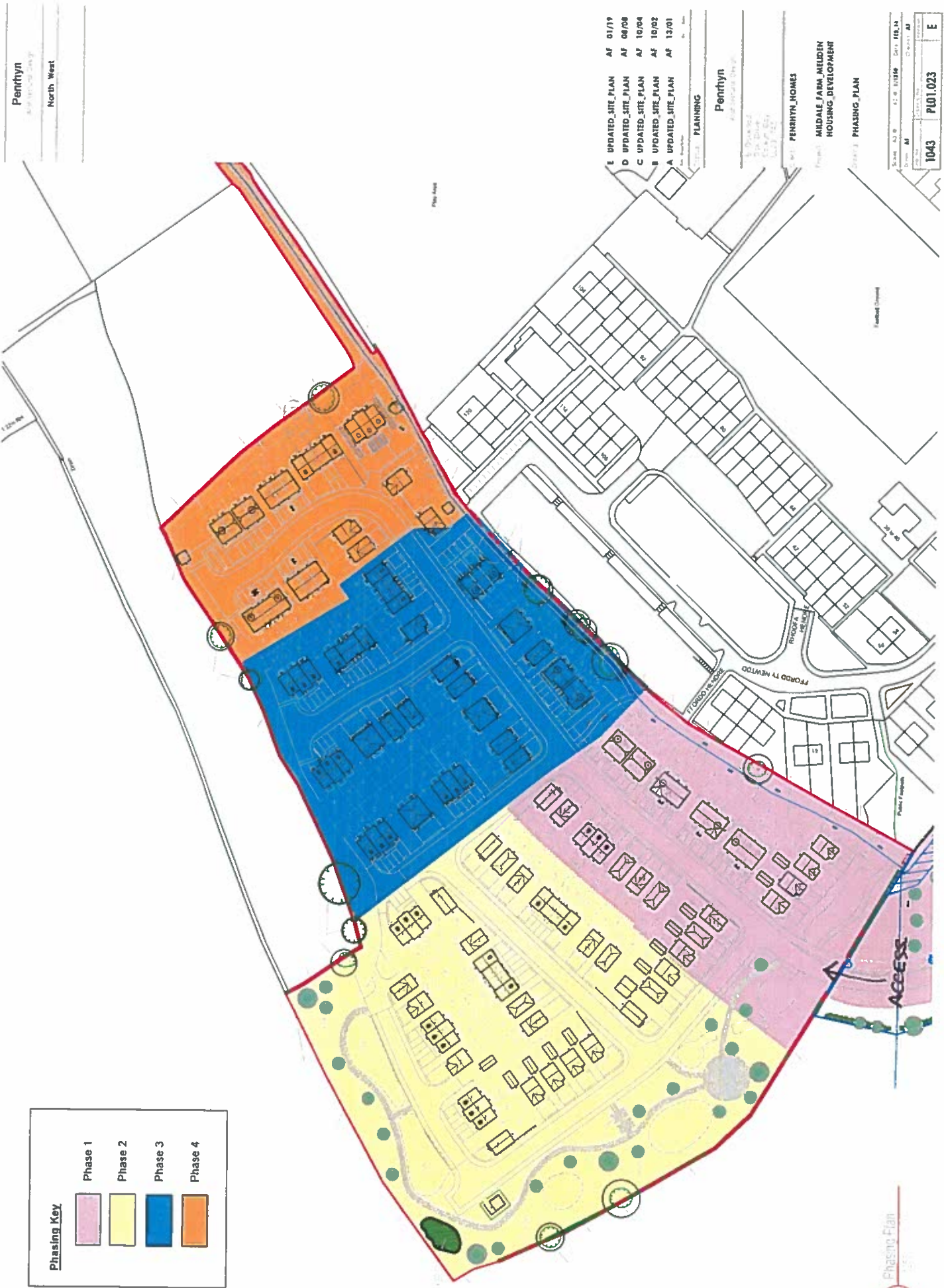


# SITE LAYOUT PLAN






# PHASING PLAN



**Phasing Key**

	Phase 1
	Phase 2
	Phase 3
	Phase 4

E	UPDATED SITE PLAN	AF	01/19
D	UPDATED SITE PLAN	AF	08/08
C	UPDATED SITE PLAN	AF	10/04
B	UPDATED SITE PLAN	AF	10/02
A	UPDATED SITE PLAN	AS	13/01

**PLANNING**

**Penthyn**

**PENTHYN HOMES**

**MIDDLE FARM MELDIN HOUSING DEVELOPMENT**

**PHASING PLAN**

Scale: AS 1" = 60' 0"

Date: FEB. 19, 2019

Drawn: AF

Checked: AF

Project No: 1043

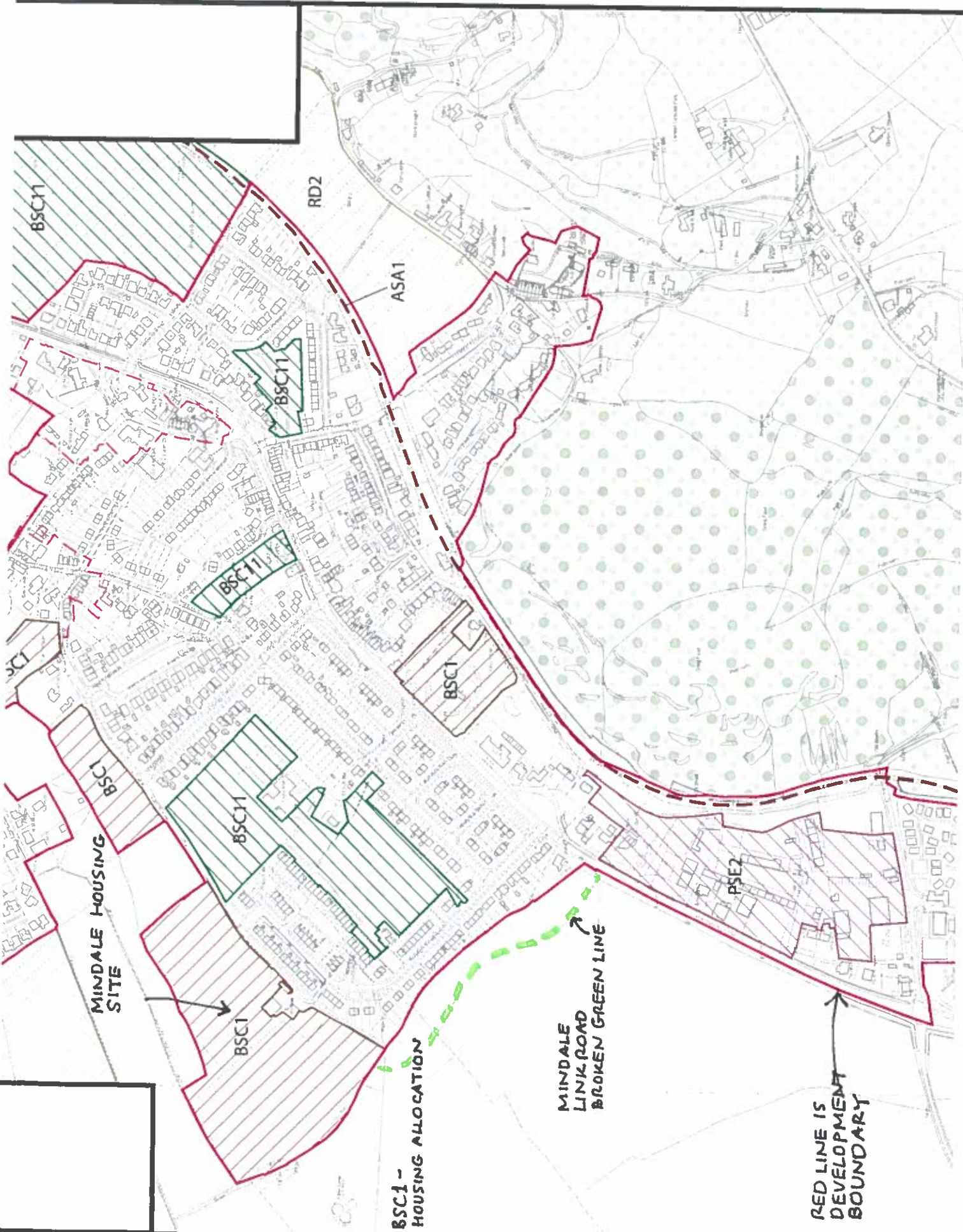
Plan No: PU01.023

Sheet: E





EXTRACT FROM L.D.P.  
PROPOSALS MAP  
FOR MELIDEN



MINDALE HOUSING SITE

BSC1 - HOUSING ALLOCATION

MINDALE LINK ROAD BROKEN GREEN LINE

RED LINE IS DEVELOPMENT BOUNDARY







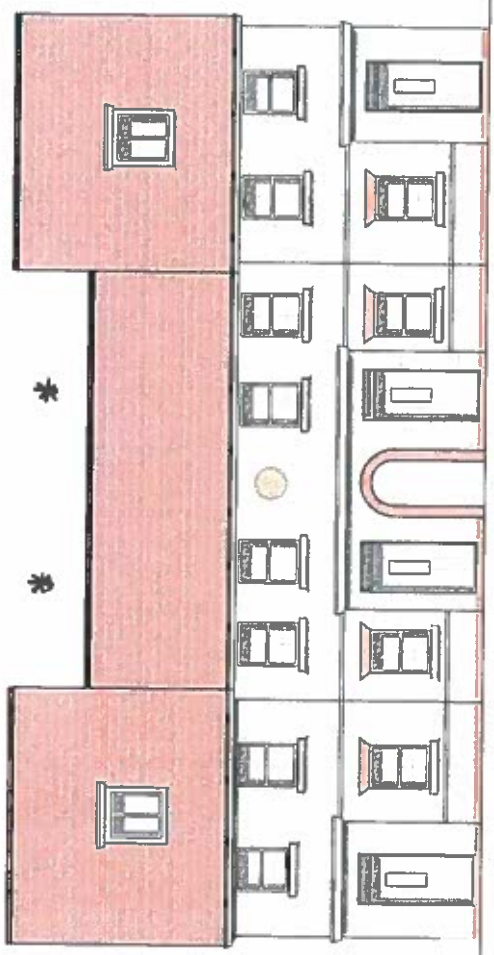




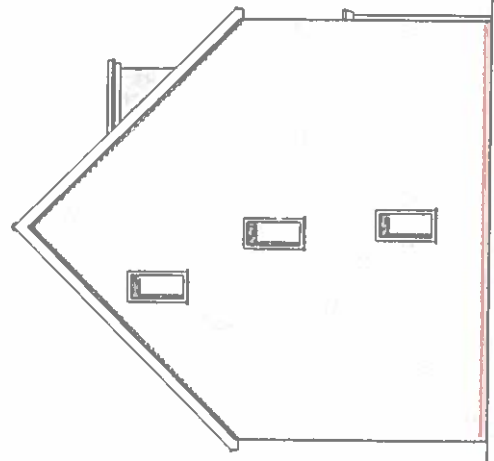
TYPICAL 2 BED UNIT  
\* STARRED

Pentryn

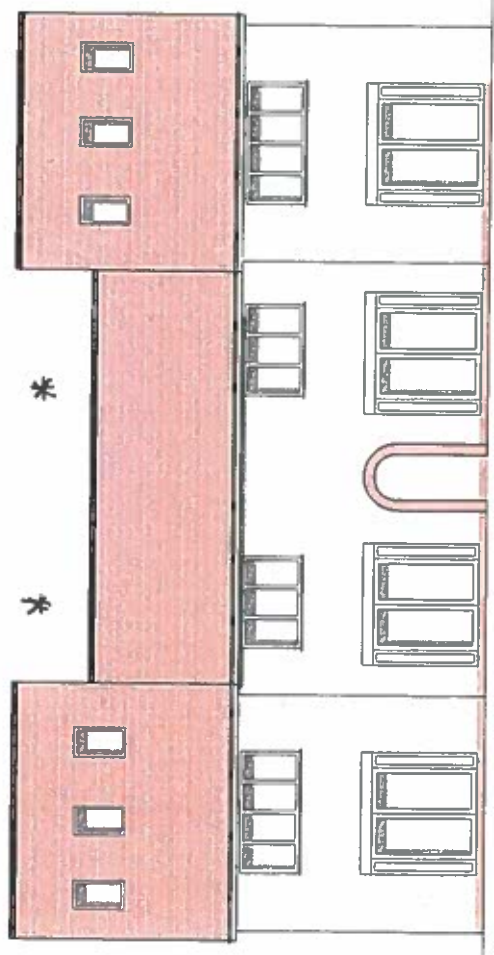
North West



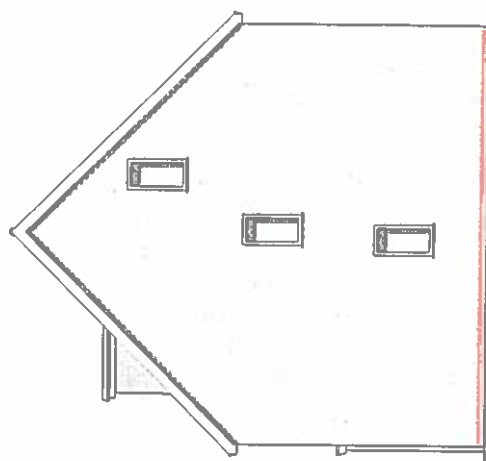
1 Front Elevation A



2 Sub Elevation C



1 Front Elevation B



4 Sub Elevation D

A AMENDED HOUSE TYPE AF 13/01

PLANNING

Pentryn

PENTRYN HOMES

MIDDLE FARM, MELDEN HOUSING DEVELOPMENT

THE ASHCROFT & FENDALE ELEVATIONS

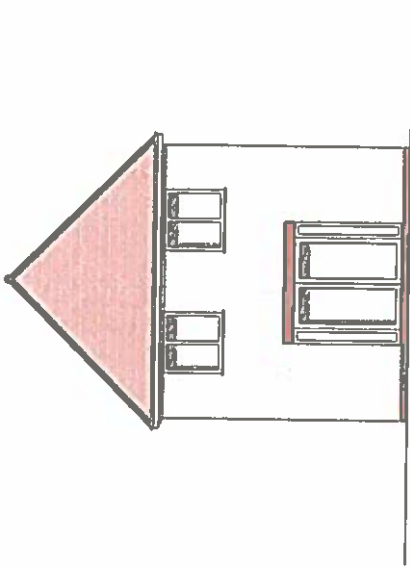
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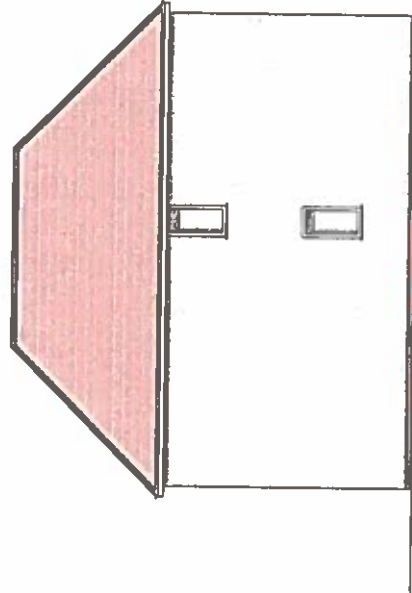
# TYPICAL 3 BEDROOM UNIT

Penrhyn

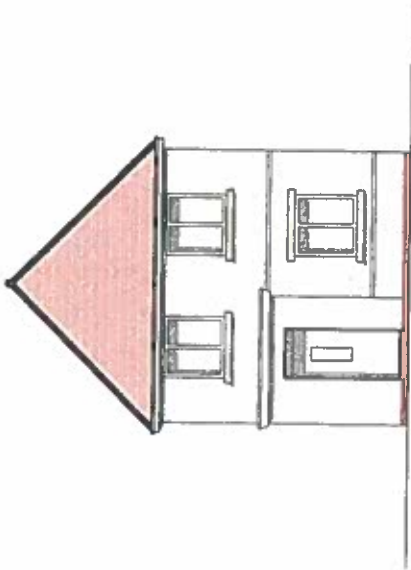
North West



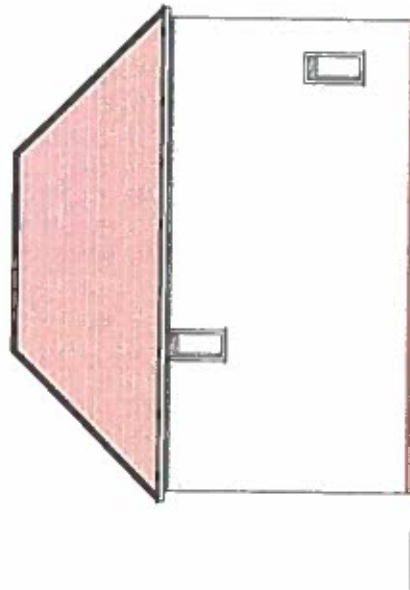
2 Rear Elevation B



4 Side Elevation D



1 Front Elevation A



3 Side Elevation C

**PLEASE NOTE:-**  
Plot 98 side Windows on Elevation D to be Fixed Windows with No openers

A NOTE ADDED AS 14/19

PLANNING

Penrhyn

PENRHYN\_HOMES

MIDDLE FARM, MELDEN HOUSING DEVELOPMENT

THE FIMFIELD ELEVATIONS

1043	PI01.012.1	A
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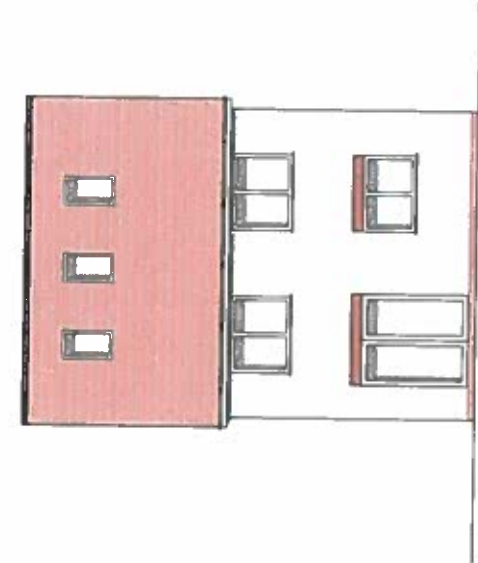




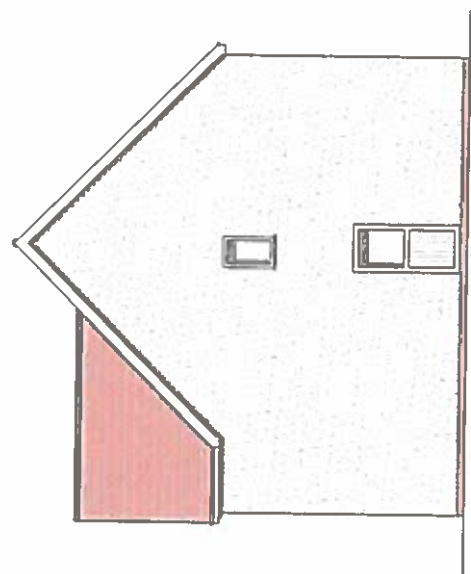
# TYPICAL 4 BEDROOM UNIT

Penthyrn  
 North West

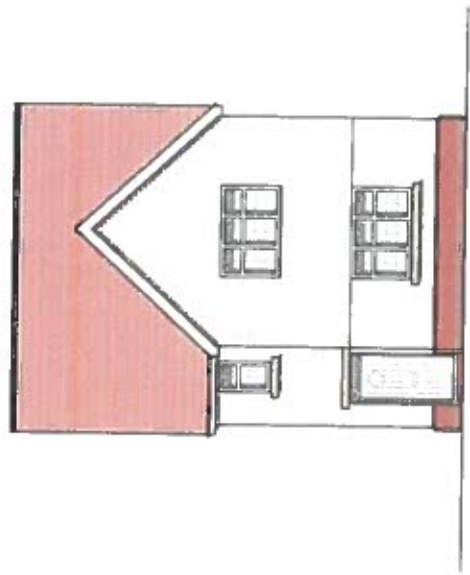
B NOTES ADDED AF 14/01  
 A AMENDED ELEVATION AF 11/01  
 PLANNING  
 Penthyrn  
 FENNHYRN HOMES  
 MIDDLE FARM MELDEN HOUSING DEVELOPMENT  
 THE OAKWOOD 1 ELEVATIONS  
 1043 PLOT.006.2 B



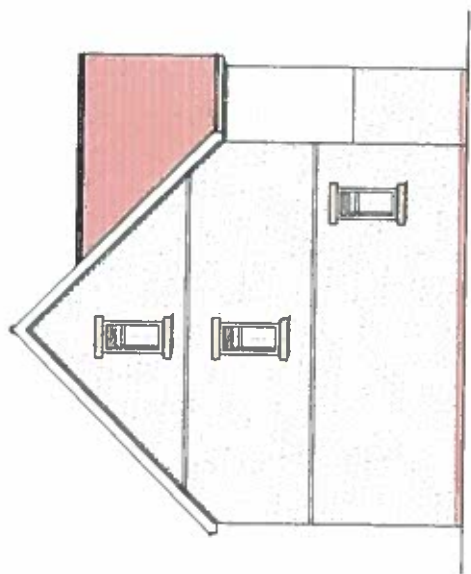
2 The Oakwood 1 Rear Elevation B



4 The Oakwood 1 Side Elevation D



1 The Oakwood 1 Front Elevation A



3 The Oakwood 1 Side Elevation C

PLEASE NOTE:-  
 Plot 88 & 106 Side Windows  
 on Elevation C to be Fixed  
 Windows with No openers



**WARD :** Meliden

**WARD MEMBER:** Councillor Peter Evans (c )

**APPLICATION NO:** 43/2018/0750/PF

**PROPOSAL:** Demolition of existing dwelling and outbuildings, erection of 133 dwellings, construction of internal estate roads, sewers, SUDS drainage and open spaces, strategic and hard/soft landscaping and ancillary works, in association with application 43/2018/0751 for new link road to Ffordd Talargoch (A547)

**LOCATION:** Land to the north, west and east of Mindale Farm, Ffordd Hendre, Meliden, Prestatyn

**APPLICANT:** Mr R. A. Roberts, Penrhyn Ltd

**CONSTRAINTS:** PROW  
Article 4 Direction

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

**CONSULTATION RESPONSES:**

**PRESTATYN TOWN COUNCIL**

Original response

“Unanimous Objection. Inadequate highways access/egress, poor link road and outdated traffic count figures. Insufficient number and cost of affordable housing. Over intensification and adverse impact upon existing character and wellbeing of community. Lack of public service infrastructure re; medical provision, schools, sewerage and surface water drainage, roads, poor public transport network. Problems of disability access.”

*Response to additional information*

**“OBJECTION**

*Committee feel traffic measurement data needs to be updated to reflect latest position e.g. 61 new properties in adjoining Dyserth Community Council area with links to A547.*

*Increased traffic flow to Prestatyn due to retail park, multi store development, and town regeneration initiatives.*



*Future Generation of Wales Act 2015 confirms there is a need for community considerations, Local authority and residents meetings have concluded size and scale of proposed development will overwhelm the existing historic Meliden village community.*

*Local Development Plan is currently under review and may lead to changes in land allocation.*

*Recent removal of bus services from Ffordd Penrhwyfya that serves proposed site is partly due to poor/narrow highway and traffic congestion. The new development will exacerbate this situation.*

*Surface water and flash flooding of downstream property is of major concern following recent incidents. The natural retention of surface water by agricultural land will be lost. There is evidence that downstream surface water flow is already at capacity with some flash flooding at peak flow times.*

*Lack of adequate public service infrastructure re: medical and dental provision, schools, drainage systems, highways, public transport. Services are currently already under strain due to ongoing public sector finance and resource constraints.*

*Topography of site may cause problems for people with impaired mobility. Limited emergency vehicle access routes to proposed site.”*

#### DYSERTH COMMUNITY COUNCIL

“Providing that the application complies with planning policy, then no objections raised. However, concerns are expressed in relation to the increase of traffic using the A5151 Dyserth High Street, the B5119 Waterfall Road, together with the Allt Y Graig junction on the outskirts of Trelawnyd at Bryniau - which travels to the adjoining junction of the A547 just prior to Ffordd Talargoch – whereby this narrow road will be used as a short cut.”

#### NATURAL RESOURCES WALES (NRW)

##### Original response

NRW indicated that a number of conditions would need to be attached in relation to ecological matters if a permission is being considered. With regard to flooding and surface water drainage, deferred to the Council's Lead Local Flood Officers for comment. Made a range of suggestions in relation to the detailing of the ponds within the Public Open space area and suggested consideration needed to be given to redesigning this. Raised no objections on AONB / landscape grounds

##### *Response to additional information*

*NRW recommend permission should only be granted if conditions are attached.*

*The conditions are required to cover the following:*

- *a mitigation report which reflects the provisions of the Ecological Addendum and Ecological Compliance Audit submissions (the components of which should be included in the provisions of a Section 106 agreement)*
- *a Construction Environmental Management Plan*
- *a Landscape Implementation Plan*
- *a Landscape Management Plan*
- *an ecological compliance audit (ECA) scheme*
- *a Construction Environmental Management Plan (CEMP)*

*In relation to flood risk, confirm that no advice is provided on surface water flood risk or any localised flood risk issues along with surface water drainage arrangements, in connection with which the Council's Officers as Lead Local Flood Authority should be consulted.*

## DWR CYMRU WELSH WATER

### Original response

Raised no objections to the proposals having regard to impact on their assets, sewage treatment and water supply. Requested inclusion of Conditions and Advisory Notes within any consent.

### *Response to additional information*

*Have nothing to add to original comments.*

## CLWYD POWYS ARCHAEOLOGICAL TRUST

### Original response

Advised that an archaeological watching brief will be required due to the potential for previously unrecorded sub-surface archaeology of prehistoric and later date and in accordance with the mitigation stated in the archaeological assessment report. Suggested a suitable condition be attached to facilitate the contracted watching brief, and a guidance note for the applicant on how to commission archaeological works.

### *Response to additional information*

*The amendments do not alter previous advice which recommended a watching brief condition to cover the initial stripping of the access roads and other ground preparation works. This advice follows on from the recommendations given in the Aeon Archaeology assessment report. Refer to previous correspondence for appropriate conditions.*

## CLWYDIAN RANGE AND DEE VALLEY AONB JOINT COMMITTEE

### Original response

"The Joint Committee notes that the land is allocated for residential development in the LDP with the principle of development further established as a result of the recent appeal decision (Code No 43/2016/0600).

Although outside the AONB, the site is considered to be within the setting of the protected landscape because of the potential impact on views from the higher ground of the AONB to the south and east, notably Graig Fawr. This has been recognised in the DAS accompanying the application and the approach to landscaping, notably the landscaped linear open space along the open countryside edge of much of the site, including retention of existing trees and landscape features, will assist in integrating the site into the wider landscape. Subject to implementation of a comprehensive landscaping scheme comprising native local species, including arrangements for long term management of the open space areas, the Joint Committee does not consider the development will cause unacceptable harm to the setting of the AONB.

The committee would suggest that the landscaping should be carried out at the earliest opportunity, some possibly in advance of the main construction phase, and should include semi-mature trees to ensure that the desired landscape mitigation is in place as quickly as possible. Further details of the proposed lighting scheme will be required to ensure that it is designed to conserve the AONB's dark skies."

### *Response to additional information*

*"The Joint Committee has no further comments to add to their earlier response."*

## NORTH WALES POLICE DESIGNING OUT CRIME OFFICER

### *Response to latest plans*

*Expresses concern at pathways to the rear of the dwellings on plots 67 and 93, which are considered to increase the risk of burglaries to properties backing onto it. If unavoidable, pathways should be securely gated as appropriate.*

#### CAMPAIGN FOR THE PROTECTION OF RURAL WALES

No response received

#### NORTH WALES WILDLIFE TRUST

No response received

#### BETSI CADWALLADR UNIVERSITY HEALTH BOARD

No response received

#### WALES AND WEST UTILITIES

Draw attention to the location of utility company apparatus in the locality and the need to communicate with them if proposals may affect this apparatus.

#### DENBIGHSHIRE COUNTY COUNCIL CONSULTEES –

##### **Head of Highways and Infrastructure**

- Highways Officer

In response to the original submission, requested clarification of a number of details relating to highway layout, treatment of existing surface water drains, the emergency access, and Safety Audits.

- Response to additional information

“The site was previously subject of a planning appeal dated 13th October 2017 and was deemed unacceptable in terms of highway visibility at the access into the site from Ffordd Gwilym, emergency access and insufficient evidence to demonstrate the scheme would not give rise to flooding.

Highways Officers have given consideration to the following elements of the proposals;

- Capacity of existing network
- Accessibility
- Site access
- Site Layout
- Parking

The following information has been reviewed as part of the assessment of the proposals;

- Site Plans
- Transport Assessment

##### Capacity of Existing Network

Criteria viii) of Policy RD 1 advises that proposals should not have an unacceptable effect on the local highway network as a result of congestion, danger and nuisance arising from traffic generated and incorporates traffic management/calming measures where necessary and appropriate.

This is covered in my report for planning application 43/2018/0751 - Construction of new road (approximately 400m in length) from Ffordd Talargoch (A547) to land at Mindale Farm,

in association with application 43/2018/0750 for residential development on housing land allocation.

Extract from response on 43/2018/0751 :

Criteria viii) of Policy RD 1 advises that proposals should not have an unacceptable effect on the local highway network as a result of congestion, danger and nuisance arising from traffic generated and incorporates traffic management/calming measures where necessary and appropriate.

In the previous appeal decision the inspector accepted that the A547/The Grove junction could accommodate the new development and all the existing housing using this junction, the proposed access off the A547 further south would now only serve the new housing development and would have considerably less traffic than the previous proposed access. The Transport Assessment has also been updated to include the committed, allocated and recently approved development sites, Denbighshire County Council provided this list, it has been demonstrated that the new access will operate safely within capacity. Taking the previous appeal inspectors comments into account, which is a material planning consideration there would be no reason that could be sustained at any future planning appeal to refuse the proposed access onto the A547.

#### Accessibility

At 8.7.1 Planning Policy Wales (PPW) specifies that when local planning authorities determine planning applications they should take account of the accessibility of a site by a range of different transport modes. TAN 18 at 6.2 states that walking should be promoted as the main mode of transport for shorter trips. Section 6.2 goes on to specify that when determining planning applications local planning authorities should;

- ensure that new development encourages walking as a prime means for local journeys by giving careful consideration to location, access arrangements and design, including the siting of buildings close to the main footway, public transport stops and pedestrian desire lines;
- ensure that pedestrian routes provide a safe and fully inclusive pedestrian environment, particularly for routes to primary schools;
- ensure the adoption of suitable measures, such as wide pavements, adequate lighting, pedestrian friendly desire lines and road crossings, and traffic calming;

Policy RD1 of the LDP states that development should provide safe and convenient access for disabled people, pedestrians and cyclists. Policy ASA 2 of the LDP identifies that schemes may be required to provide or contribute to the following;

- Capacity improvements or connection to the cycle network;
- Provision of walking and cycling links with public transport facilities;
- Improvement of public transport services

The site would be accessed via a 6m carriageway on the main access route from the A547 Ffordd Talargoch and a 3m shared use footway cycleway which would link into the existing cycle network on the A547, links would also be provided onto Ffordd Hendre/Ffordd Ty Newydd which would also be used as an emergency access, this was a requirement of the previous appeal and the applicant has agreed to put this in. As part of the scheme the existing public right of way running through the site will be upgraded and this will link into Ffordd Gwilym with the detailed design to be agreed, this would be covered by a suitably worded planning condition. Concerns were raised previously regarding the distance of the



site to local facilities and services however the planning inspector found them easily accessible in their walk around the local area and with the improvements proposed it is considered the site is accessible.

### Site Access

Criteria vii) of Policy RD 1 of the Denbighshire Local Development Plan (LDP) requires that developments provide safe and convenient access for disabled people, pedestrians, cyclists, vehicles and emergency vehicles. In order to comply with this requirement site accesses should meet relevant standards. Technical Advice Note 18: Transport (TAN 18) specifies at 5.11 that new junctions must have adequate visibility and identifies Annex B as providing further advice on required standards.

This is covered in my report for planning application 43/2018/0751 - Construction of new road (approximately 400m in length) from Ffordd Talargoch (A547) to land at Mindale Farm, in association with application 43/2018/0750 for residential development on housing land allocation.

Extract from response on 43/2018/0751 :

Criteria vii) of Policy RD 1 of the Denbighshire Local Development Plan (LDP) requires that developments provide safe and convenient access for disabled people, pedestrians, cyclists, vehicles and emergency vehicles. In order to comply with this requirement site accesses should meet relevant standards. Technical Advice Note 18: Transport (TAN 18) specifies at 5.11 that new junctions must have adequate visibility and identifies Annex B as providing further advice on required standards.

A new site access is proposed off the A547, including the relocating of the existing speed limit in the south direction, the access would cross an existing footway/cycleway and would include suitable tactile paving. The visibility splays proposed are 2.4m x 120m in both directions and would comply with Tan 18 and therefore it is considered the access is acceptable in highway terms.

### Site Layout

Criteria vii) of Policy RD1 of the LDP states that development should provide safe and convenient access for disabled people, pedestrians, cyclists, vehicles and emergency vehicles together with adequate parking, services and manoeuvring space.

Specific design guidance is contained within the following documents;

- Manual for Streets
- Denbighshire County Council Highways and Infrastructure: Minimum Specification for the Construction of Roads Serving Residential Development and Industrial Estates
- Denbighshire County Council: Specification for Highway Lighting Installations
- Denbighshire County Council: General Requirement for Traffic Signs and Road Markings

Having regard to the details provided and guidance identified above, it is considered that the on-site highways arrangements are acceptable.

### Parking

Policy ASA 3 requires that development proposals, including changes of use, will be expected to provide appropriate parking spaces for cars and bicycles. Supplementary Planning Guidance Note: Parking Requirements in New Developments (Parking SPG) identifies the required standards.

Policy ASA 3 also identifies circumstances that will be given consideration when determining parking provision. These circumstances are;

- The site is located within a high-densely populated area;
- Access to and availability of public transport is secured;
- Parking is available within reasonable distance of the site;
- Alternative forms of transport are available in the area

The proposed parking arrangements are compliant with the standards set out in the Parking SPG 21 and are therefore considered acceptable.

Having regard to the detailed assessments above and the previous Appeal decision, Highways Officers would not object to the proposed development, subject to the inclusion of conditions to deal with the following:

#### Condition

1. Full details of the internal estate road, public rights of way improvements, emergency access, pedestrian link to Ffordd Gwylim and associated highway works as indicated on the approved plans including the detailed design, layout, construction, street lighting, signing and drainage, shall be submitted to and approved in writing by the Highway Authority before the commencement of any site works and the works shall be completed in accordance with the approved plans or as otherwise agreed in writing before any dwellings are occupied.

2. No development shall take place until a Construction Method Statement has been submitted to, and approved in writing by the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

- 1) Site compound location
- 2) Traffic management scheme
- 3) The parking of vehicles of site operatives and visitors;
- 4) Loading and unloading of plant and materials;
- 5) Storage of plant and materials used in constructing the development;
- 6) The management and operation of construction vehicles and the construction vehicle routes including access to the site
- 7) wheel washing facilities;
- 8) Measures to control the emission of dust and dirt during construction

#### Reasons

1. 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
2. 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.

## Further Advice

Please be aware that in addition to planning permission the following agreement will need to be secured in order for the highways works related to the scheme to be authorised;

### Highways Act 1980 Combined Section 38/278 Agreement

These agreements relate to the adoption of any new highways proposed and works required to existing highways which are proposed to be improved as part of the development

The applicant can contact Mike Parker on 07771504785 for further information.

The following matters shall be drawn to the applicant's attention as Advisory Notes

- I. Highway Supplementary Notes Nos. 1,2,3, 4, 5 & 10
- II. New Roads and Street Works Act 1991-Part N Form
- III. Denbighshire County Council Specification for Road Construction
- IV. Denbighshire County Council General Notes for Highway Lighting Installations.
- V. Denbighshire County Councils General Requirement for Traffic Signs and Road Markings"

### - **Drainage Consultants (Waterco)**

Waterco were engaged by the Council to undertake an assessment of the surface water drainage proposals for both the Mindale housing site and link road planning applications. The assessment brief was to determine firstly whether the additional design details address the 2017 Appeal Inspector's conclusions that insufficient information had been submitted in order to demonstrate that the scheme would not give rise to flooding, contrary to relevant policies; and secondly to advise the Planning Authority as to whether the drainage design/flooding issues have been considered in enough detail to permit development with, or without planning conditions. Particular consideration was to be given to the proposals for accommodating additional surface water run-off; and whether the development will give rise to additional risk of downstream flooding – including in the Prestatyn Gutter; and what would happen if the stormwater ponds overflow in a rainfall event above their design capacity.

The Waterco conclusion on the housing site application is as follows -

"This assessment has found no substantive reasons to refuse this application on flood risk or drainage grounds. Whilst there is certainly further works required to finalise the surface water drainage proposals for the development, there is suitable evidence provided to confirm that a viable surface water drainage scheme for the main site, which does not increase flood risk elsewhere, is achievable. Further works can therefore reasonably be conditioned, if planning permission is granted."

In relation to the housing site application, Waterco undertook a detailed review of the submitted reports and explanatory notes, including the Flood Risk Assessment; Site Investigation results; the design drawings, and surface water modelling. The review provides a series of recommendations identifying suggestions for improvement / good practice, matters which could be included in conditions, and it highlights omissions or errors that require further work and should also form conditions requiring relevant information for reassessment at detailed plan stage. These include the use of up to date methodology for calculating run-off rates, further flow and drainage detailing to deal with run off from land to

the south east, further permeability testing, information on the sizing of pipework and chambers, minor layout changes relating to the detailing of attenuation tanks close to site boundaries and the design detailing of the attenuation storage areas with reference to the landscape detailing of the ponds.

With reference to the 2017 planning appeal decision, Waterco have referred to the Inspector's concerns as numbered below, and they have commented as follows:

- “1. The presence of groundwater and its impact on the proposed development.
2. The location and capacity of proposed attenuation ponds.
3. The level and location of attenuation features relative to historic flooded areas.
4. The provision of adequate attenuation volumes throughout the development.
5. The suitability of the proposed cut-off ditch along the southern boundary.

The additional details provided as part of these revised submissions have addressed items 1-3. There is enough information to suggest that item 4 is achievable, although the attached drainage layouts and supporting calculations needed to be amended to confirm this.

Insufficient information has been provided to confirm the suitability of the proposed cut-off ditch. The supporting information suggests that whilst ground water may not be an issue, this ditch will be intercepting overland and subsurface flows from the higher ground to the south. No information is provided to quantify these flows, to confirm the sizing of this proposed cut-off ditch or to assess the capacity of the receiving water course to accept these flows. It is not thought that this is an unworkable solution, only that additional information is required to confirm its suitability.

Recommendation: Additional information to be provided during detailed design stage for the proposed cut-off drain (or ditch); including estimation of receiving flows and detailing any attenuation required such that the discharge location can accommodate any additional flow.”

In respect of concerns over the potential of increasing downstream flooding in the Prestatyn gutter, Waterco have commented that ...

“ Based on the details provided as part of these applications, it is shown that flows are to be restricted to greenfield runoff rates. Therefore, the overland flow rates into the gutter will mirror the existing arrangement up to and including the 1 in 100 year + climate change allowance events. In storm events above this frequency flows will continue to be restricted to a reduced rate until the water level exceeds either the flow control chamber cover levels or the top of the pond/basin banks. At this point it is anticipated that flows will run over ground towards the Prestatyn gutter. This should not pose a flood risk to the proposed properties. The resultant downstream flooding of other properties will be equivalent to that expected if no new properties were built at this site.”

- **Flood Risk Manager**

Has reviewed the applicant's proposals for both the development and the proposed access road, and considers the surface water design review carried out on the Council's behalf by Waterco and the response to that review by Caulmert, acting on behalf of Penrhyn Homes Limited. Is satisfied that the developer has carried out due diligence in appointing a suitably qualified and experienced consultant to carry out the surface water drainage design for the development. Moreover, whilst it is not a mandatory requirement for this particular development, the design of the system follows sustainable drainage principles, which are applauded. The design promises discharge rates from the site that are lower than greenfield runoff rates, which should result in less water entering Prestatyn Gutter than at present. For a 'design' rainfall event of 1 in 100, the information provided by the applicant suggests that there will no flooding of property within the development and no additional flooding of property beyond the site boundary.

- **Environmental Health Technical Officer**

Makes the following observations:

#### Noise

In relation to noise impacts, steps would be required to mitigate the potential for nuisance, including during the construction phase, via a construction management plan.

#### Vibration

Investigation of ground conditions will have to be addressed in the construction management plan to assess the need for piling construction.

#### Street Lighting

Having regard to the indicated light splay on the street lighting plan for the access road, suggests the amenity of the existing residential properties, particularly in relation to lamp posts 11 and 12, would benefit from the street lights being fitted with cowls. (This relates to the link road application)

#### Air Quality

Considers the findings of the air quality report to be satisfactory. Short term air quality mitigation should be included in the construction management plan.

#### - **Ecologist**

##### Original response

Following discussion with NRW, requested further information in relation to protected species to assist consideration of the two applications.

##### *Response to additional information*

*Considers there is enough information to determine the species likely to be affected by the works, and whilst it is not considered the measures identified to mitigate the impacts are sufficient to deal with the potential impacts, suitable conditions can be attached to ensure these can be controlled. The conditions relate to:*

- *a Construction Environmental Management Plan,*
- *proposals that facilitate long term ecological mitigation, enhancement, site security and site management, which reflect the provisions of the Ecological Addendum and Ecological Compliance Audit .*
- *proposals for an ecological compliance audit (ECA)*
- *measures to ensure the protection and enhancement of the Pwll y Bont wildlife site.*
- *An external lighting/internal light spillage scheme, designed to avoid negative impacts on bats,*

#### - **Strategic Planning and Housing Officer**

Affordable housing – confirms that the proposal to build 13 affordable units within the site would comply with Development Plan policy, with the payment of £25,354.65 to meet the calculated commuted sum for the remaining 0.3 of a unit to comply with the 10% affordable provision in the policy.

Housing mix – acknowledges there will be a higher proportion of 2 bedroom units and lower proportion of 4 bed units than the overall split for developments in the County as currently suggested in the draft Local Housing Market Assessment.

Education Contribution – confirms the calculated contribution towards provision of places at Ysgol Melyd is £238,720. There is no need for a contribution towards the nearest secondary education facility at Prestatyn High School.

Open space provision – confirms the area proposed in connection with the development exceeds the planning policy requirement. Provision needs to be made for an equipped children's play area. Arrangements for a resourced management company to maintain the open space would need to comply with guidance in the Planning Obligations SPG.

## **RESPONSE TO PUBLICITY:**

This planning application and the following one on the agenda which relates to the construction of a link road from the Mindale Farm land to the A547 has been the subject of two main publicity exercises – one in September 2018 and one on receipt of additional information, in April 2019.

The publicity has been by way of neighbour notification letters to more than 90 properties bordering the housing site and link road, the posting of 5 site notices (4 around the site boundaries, 1 at the junction of Ffordd Talargoch with The Grove; a press notice (in the Rhyl Journal); and on the Denbighshire County Council Website.

Additional comments received in relation to the revised submission which was subject to reconsultation in April 2019 are in *italic type*.

## **In objection**

Representations have been received from the following.

Mr & Mrs Magrath, 10 Maes Esgob, Dyserth (O)  
Stephen Walton, Graham Avenue, Meliden (O)  
Peter Harrison, 54 Salisbury Drive, Prestatyn (O)  
George Owens, Vicarage Gardens, Ffordd Penrhwylyfa, Meliden (O)  
Rachael Wheatley, Delfryn, Ffordd Penwrhylfa, Meliden (O)  
Jayne Harrison, 54 Salisbury Drive, Prestatyn (O)  
Tracy Pierce, 7 Ffordd Penrhwylyfa, Meliden (O)  
Mark Adcock, 71 Ffordd TyNewydd, Meliden, (O)  
Bob Paterson, 120 Ffordd Ty Newydd, Meliden (O)  
Roger Hamilton and Shirley McCardell (O)  
Diane Bradshaw, 19 Ffordd Ty Newydd, Meliden (O)  
Adelle Denton, 12 Ffordd Ty Newydd, Meliden (O)  
Gary Bradshaw, 19 Ffordd Ty Newydd, Meliden (O)  
Richard Englishby, 61 Ffordd Tynewydd, Meliden (O)  
Raymond Southwick, 59 Ffordd Ty Newydd, Meliden (O)  
Lesley Southwick, 59 Ffordd Ty Newydd, Meliden (O)  
Victoria Rogers, 8 The Paddock, Meliden (O)  
Allyson Evans, Y Bwthyn Gwyn, Meliden (O)  
Miss M Burrows, 11 Ffordd Ty Newydd, Meliden (O)  
Mr. H. Prydderch, 11 Ffordd Ty Newydd, Meliden (O)  
Nic Torpey, 48, Ffordd Ty Newydd, Meliden (O)  
Stephen Fenner, 21 Berwyn Crescent (O)  
Jacky Thorpe, Hafn, Pwll y Bont, Meliden (O)  
Andrea Tomlin, 58 Nant Hall Road, Prestatyn (O)  
Mr Wilding, 112, Ffordd Talargoch, Meliden (O)  
Mrs Rosalind Jones, 39, Ffordd Tynewydd, Meliden (O)  
Gareth Spencer, 69 Ffordd Ty Newydd, Meliden (O)  
Gemma Bradshaw, 69 Ffordd Ty Newydd, Meliden (O)  
Linda Muraca, 9 Mostyn Avenue, Prestatyn (O)  
Alex Wright, 57 Bridgegate Road, Rhyl (O)  
Rosalind Jones, 37 Ffordd Tynewydd, Meliden (O)  
Mr R Holmes, 97 Garnett Drive, Prestatyn (O)  
Stephanie & Mark Thompson, 13 Ffordd Ty Newydd, Meliden (O)  
Mark Thompson, 13 Ffordd-Ty-Newydd, Meliden (O)  
Helen Paterson, 120 Ffordd Ty Newydd, Meliden (O)  
Richard Baker, 45 Ffordd Ty Newydd, Meliden (O)  
Katrina Day, 45, Ffordd Ty Newydd, Meliden (O)

Rachael Currie, 25 Cefn Y Gwrych, Meliden (O)  
Nathan Bradshaw, 88 Gors Road, Towyn (O)  
Mr C Taylor, 41 Ffordd Ty Newydd, Meliden (O)  
Mrs J Roberts, 23 Ffordd Tynewydd, Meliden (O)  
Mrs M Kerfoot-Higginson, Hafan, 55, St. Asaph Road, Dyserth (O)  
Tracy & John Baker, 11 The Grove, Meliden (O)  
Brenda Taylor, . 22, Kerfoot Avenue, Rhuddlan (O)  
Mrs B Messenger, 45 Cefn y Gwrych, Meliden (O)  
Mrs J Roberts, 9, Ffordd Tynewydd, Melliden (O)  
Mr E. Roberts, 9, Ffordd Tynewydd, Meliden (O)  
Mr M Jones, 57 Ffordd Tynewydd, Meliden (O)  
Mr G Jones, 57 Ffordd Tynewydd, Meliden (O)  
Mr B Ross, 53, Ffordd Tynewydd, Meliden (O)  
Mrs. B Taylor, 25, Ffordd Tynewydd, Meliden (O)  
S. Davies, 51, Ffordd Tynewydd, Meliden (O)  
Christine Maresma Pares, Lon Mafon, Park View (O)  
David & Juliet Brearley, 33 Ffordd Gwilym, Meliden (O)

In addition to the comments received from the private individuals listed above, a document has been submitted headed ' Mindale development 2018 – Open meeting 19<sup>TH</sup> September 2018 in Meliden Community Centre', which consists of an attendance sheet with columns titled Name; House number name; Postcode ; In favour; Against; Don't know. The majority of those signing the sheets have ticked the 'Against' column. The document includes a number of letters to the applicant's agent / Penrhyn Homes expressing objections to the proposals at the Pre-application consultation stage.

### **Summary of planning based representations in objection:**

#### Principle

Concern over outward expansion of settlement and potential for merger with other residential areas / 25% increase in village population / unacceptable effect on character of village / scale of development inappropriate / existing infrastructure of the village not adequate to cope with the scale of development / development would impose an unacceptable burden on the population of Meliden / other land is allocated for housing in the area

#### Highways

Unacceptable impact on highway network in and around Meliden / traffic volumes along A547 have already increased with opening of Prestatyn Retail park and the new school / inadequate side roads, e.g. Ffordd Penrhwylyfa used as short cuts / poor accident records on highways in the vicinity / congestion and delay commonplace, including around the One Stop Shop / application should be deferred until detailed traffic surveys have been carried out / impacts on parking at front of existing property / traffic assessment significantly understates the amount of car use which would arise from the development; traffic surveys were taken at quiet times of the year; the assessment understates the use of the A547 and takes no account of other proposals for residential development in Dyserth and Rhuddlan /main road through village already busy, up to 16000 cars a day / detrimental effect on village of Dyserth

Detailing of footpath along site boundary close to boundary trees seems impractical

Proposals for the emergency vehicle access and escape road highlight concerns over reliance on a single highway access to serve a development of the size proposed as the new road is at risk from subsidence and accidents and breakdowns / the proposed emergency access would run along Ffordd Hendre and Ffordd Ty newydd and would not achieve



minimum widths to accommodate larger emergency vehicles / how would public use of this emergency access be restricted.

Site would have poor accessibility to village and facilities – footway gradients in excess of 8%, distances to main facilities exceed Chartered Institution of Highways and transportation guidelines on acceptable walking distances / development would be dependent on the motor car / most residents would not walk or cycle to the village / impractical for those using motorised scooters and disabled people / frequency of bus services referred to in the submission are inaccurate.

*There are questions over the updated Transport Assessment and over the accuracy of the document, which should be challenged:*

*Most recent Crashmap data shows significantly more incidents than the 2013-17 data in the Assessment. This makes the conclusion that there are not any inherent road safety issues questionable and hides further / more recent incidents and suggests a need for further investigation into the safety of the A547 and how it would cope with additional traffic /*

*Interpretation of guidelines on preferred maximum walking distances to common facilities is questionable given the local topography and the uphill gradients involved from the site, and contradicts guidelines for disabled access /Traffic flow data supplied in the Assessment provides the evidence that the A547 is already over capacity for a number of hours during the working week*

*An emergency vehicle access is required, but a suitable location is not available / Capita have argued that an emergency access is not required but are now persuaded one is needed / location of emergency access via Ffordd Hendre onto Ffordd Ty Newydd is not suitable due to width and turning circle, and problems faced by emergency vehicles trying to navigate down Ffordd Ty Newydd.*

### Flooding/drainage

Fears of increased flooding due to additional surface and underground water run off / there will be increased run off from the new roads / no adequate measures in place to prevent flooding downstream / Planning Inspector dealing with 2017 appeal was not satisfied that there was a satisfactory understanding of the drainage implications / area has been historically wet and prone to flooding / not clear where the Ffordd Ty Newydd surface water drain empties in the development area / details of elements of the drainage proposals seem vague, there is no indication of the existing surface water flows / concerns over DCC and DCWW ending up with responsibilities for sorting future problems and maintenance.

*Additional details submitted do not provide information that can be understood by anyone outside the industry, and seen to be geared at confusing rather than informing / still not clear how existing storm and street drains from Ffordd Ty newydd development are to be dealt with / concerns remain that surface water will impact on properties within the proposed development/ history of efforts to deal with waterlogging of Meliden FC football field demonstrates how much surface water is carried by the one drain that enters the development area by the front of 120 Ffordd ty Newydd and must cast doubt over the ability of drainage shown to handle this water.*

*There are concerns over the amount of surface water from existing development and the development itself / Whilst Waterco consider these matters can be covered by condition, this should be clarified prior to determination / the Council should be ensuring total accuracy and not rely on the applicant's information which could be biased.*

### Ecological impact

Concerns over presence of natterjack toad habitat in the development area, and that proposals would breach the Environment (Wales) Act 2016 / development would threaten hedgehogs which are present in this area / no reference to impact on Pwll y Bont wildlife site / inadequate assessment of impact on biodiversity

#### Housing need

No need for 133 additional properties in Meliden / website in September 2018 suggests 265 properties for sale within a 1 mile radius of Meliden / houses would not be affordable for most young people and is not required in Meliden  
Mix of house types would result in a disproportionate number of children and teenagers

#### Open space issues

No clear mechanism seems to be suggested to ensure long term management of the proposed open space area and the public footpath / concerns over any management company ceasing to trade

#### Archaeological interests

Proper assessment of potential for Iron Age remains is necessary / evidence of Roman road needs exploring/ questions over adequacy of research into mining history and potential impacts on development as there are historic reports referring to older shafts and run off drains which could impact on the new road construction.

#### Residential amenity impacts

Concerns over loss of privacy from new properties backing onto common boundary

#### Visual amenity impacts

Unacceptable impact on the character of the area, overdevelopment, layout and design / external appearance of buildings / unacceptable loss of hedgerows and trees altering character of the area, creating the potential for soil erosion

#### Other comments

##### Flawed site allocation process in local development plan

Site was imposed on the Council by the local plan inspector, not wanted by Town Council

#### Subsidence and contamination risks

Potential for subsidence and contamination should be properly investigated given presence of old lead mine workings / documents do not show full assessment of impacts of old workings.

#### No local employment

#### Loss of views to the sea

Development would spoil views to the coast

#### Impact on property values

Development would impact on value of properties in the area, through physical impact close to existing dwellings, additional strain on services making the village a less attractive place to live

#### Impact on local services

Additional strain on limited local GP surgery and dentist facilities, primary school and village infrastructure, which cannot cope with additional development / village has only a small shop and small post office / village unable to cope with 25% population increase /proposed contribution to school is not indefinite / Glan Clwyd hospital is already struggling to provide

emergency care for the existing population / impacts on emergency services, social services, bin and refuse services, mental health services / no development should be permitted until existing drainage and infrastructure problems are resolved.

*Impact on Ysgol Melyd needs to be fully investigated / can potential increase in pupil numbers be accommodated even with the commuted sum being offered / will the sum be sufficient / will extension or remodelling be completed in sync with completion of housing development*

Irrelevant plans submitted with application

Questions over ownership of land included within the application site

Issue of how separate applications can be considered for different elements of a single development

How can one application be considered without the other / should have been one application

No changes from proposals refused on appeal in 2017

Minimal difference from previously refused scheme / appeal decision should be respected and adhered to.

Construction stage concerns

Additional traffic, noise and vibration

### **In support**

Representations received from:

Keith White, 133 Winchester Drive Prestatyn (S)

Simon Hughes, 14 Overton Avenue Prestatyn (S)

Pauline Hansom, 16 Rhyl Coast Road, Rhyl (S)

Viorel Ravdan, 23, Lon Gwyndaf, Prestatyn (S)

### **Summary of planning based representations in support:**

#### **Principle**

Development would help meet need for more housing / affordable housing, housing for young people, benefitting the village by boosting the local economy.

Minimal negative effect on the environment

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

- timing of receipt of representations
- additional information required from applicant
- 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 The application seeks full planning permission for a residential development and associated works on land at Mindale Farm, to the north west of existing housing at Ffordd Ty Newydd / Ffordd Hendre in Meliden.
- 1.1.2 It needs to be considered in conjunction with the following application on the agenda, application no. 43/2018/0751, which proposes a new link road to access the site from the public highway, off the A547 (Ffordd Talargoch).
- 1.1.3 The application is submitted following the refusal of planning permission for a residential development on the land at planning Committee in April 2017, and an appeal against the refusal which was dismissed by the Planning Inspectorate in October 2017. The relevance of the planning history is dealt with later in this report.
- 1.1.4 The main elements of the scheme in application 43/2018/0750 are:
- The demolition of the existing dwelling and outbuildings at Mindale Farm.
  - The erection of 133 dwellings (including 12 different house types : 16 x 4 bed detached houses; 28 x 3 bed detached houses; 45 x 3 bed town houses; and 44 x 2 bed units – a mix of 2 storey detached, 2.5 storey town houses, and 2 storey terraces.
  - Associated internal estate roads, all leading to a single point of access out of the site on the south western boundary, where it would link up to a new section of highway proposed as part of application 43/2018/0751, in turn linking the site to the A547 (Ffordd Talargoch) at a new junction to the south west of No 112 Ffordd Talargoch.
  - Internal footways, a footpath link to Ffordd Hendre and the retention / enhancement of public footpath 22 which runs along the south eastern boundary to the bottom of Ffordd Gwilym and leads ultimately to Maes Meurig.
  - Associated sewers and sustainable drainage systems; including a piped surface water system dealing with water from the roads and roofs linking into a mix of detention basins and cellular storage attenuation tanks, controlling the rate of discharge into the Prestatyn Gutter - discharge rates being limited in accord with requirements of NRW and the local Flood Authority.
  - Provision of open space, strategic and hard / soft landscaping (indicated as 1.12 ha in total) along the south western, north western, and south eastern sides of the site.
  - Provision of an emergency access via Ffordd Hendre if required by the Highway Officer

The layout plan includes a **phasing plan** indicating the intention to develop the site in 4 phases, starting from the south west part of the site (Phase 1, Plots 69- 96), the north west part - Phase 2 (Plots 97-133), and working to the central part of the site - Phase 3 (Plots 26-68), and the final phase in the north east corner with Phase 4 (Plots 1-25).

The applicants have confirmed the proposed distribution of a total of 13

affordable dwellings within the development – 5 in Phase 1, 4 in Phase 3, and 4 in Phase 4.

The site plan and the phasing plan are attached at the front of the report, along with examples of the house types proposed

- 1.2 The supporting documents include a Design and Access Statement, Report on Pre-application Consultation Publicity, a Transport Assessment (revised in April 2019), a Stage 1 Traffic Audit, Ecological Assessments / Addendums (including bat report), an Arboricultural Method Statement, a Flood Consequence Assessment, an Archaeological Assessment, an Outline Drainage Strategy, Welsh Language Impact Assessment, a Geophysical Survey Report, and a Water Conservation Strategy. There are a range of plans showing house type details, highway and drainage proposals. The submission was supplemented in early 2019 with an Air Quality Assessment, a Noise Assessment report, a Surface Water Drainage Strategy Statement, related drainage documents and plans outlining and explaining proposals for the management of groundwater, mitigation against increased flood risk, a Sustainable Drainage Systems explanatory note; a Phase 1 Geo-Environmental Desk Study, Ecological information, and a number of associated revised layout plans. Following the publication of Planning Policy Wales Edition 10 in late 2018, the applicants have also provided an assessment/checklist of how the proposals deal with its 'placemaking and sustainability' principles, along with the Future Generations agenda.

The applicants have also put forward a 'draft for discussion' Section 106 agreement setting out basic heads of terms indicating willingness to make financial contributions relating to Primary School provision, affordable housing, footpath provision and maintenance, a Welsh Language contribution, and proposals to tie any permission for the housing site to a permission for the link road, and a Highway Bond to secure the provision of the highway works.

### **Main supporting documents**

Given the background history, Officers have attempted to provide a basic summary of the main points of relevance to the proposals in the supporting documents, to assist consideration of the proposals now in front of the Committee:–

#### **The Design and Access Statement**

- The statement refers to the documents submitted with the application and how these assist the consideration of the proposals.
- It states that.... 'The result of the complex studies and the consideration of all issues has been a scheme size of less than 150 dwellings which can still be delivered meeting all the site based and planning policy stipulations faced previously at the 2017 appeal. Furthermore, a new link road alignment has been devised avoiding the existing urban area and its parked residential streets'.
- With reference to the design considerations, the statement considers the applicants have discharged their responsibilities under a range of policies in the Local Development Plan and Supplementary Planning Guidance notes, and provided a new access road route to respond to the 2017 appeal.

- There is an appraisal of the site design concept in the context of the Site Development Brief SPG, and with regard to a wide range of issues. These are referred to in detail within the topic assessment sections of the report.
- There is reference to Infrastructure Payments, which states ... 'The developer has undertaken a revised financial appraisal and allocated resources primarily to education contributions, Welsh language mitigation measures, and the west link road implementation. Issues in relation to site drainage, open spaces, landscaping, ecology and affordable housing can now finally be attended to by the use of planning conditions. A revised S106 would deliver a new link road to the west as part of the development, including a road bond put in place and measures for implementation/maintenance agreed before substantial new housing is started.'
- *The concluding section states:*  
*'The applicant has generated a proposal which has made effective use of context to provide a legible and accessible new major housing development, that is not car dependent and aims to serve local housing needs primarily, and which is visually attractive at the edge of the settlement, providing new opportunities for access, recreation, sport and creation of wildlife corridors alongside the ecological resources neighbouring to the north edge.'*

*The proposal, in conjunction with the new link road application, is therefore commended following the 2017 appeal decision which found the site suitable for development in principle, subject to final issues of emergency access ( now largely overridden by the new link road application ); groundwater investigations ( complete in 2018 ); the attenuation pond designs/ the new road link design application run- off ( completed in 2018 ) and finally the checking of the internal road gradients and geometry for MFS2 compliance ( completed in 2018 ) including the road link audited to Stage 1 as a further assurance of design quality'.*

### **The Joint Report on Pre-Application Consultation Publicity**

This 4 page report refers to the statutory exercise carried out in August 2018 in relation to the proposals for the proposed housing site and for the proposed new access road. It explains the steps taken to comply with the regulations, summarises responses received and actions taken to respond to comments.

The concluding paragraph of the report states:

*'The applicant has completed a round of statutory consultation and responded appropriately and in so far as it is possible to all planning issues raised in response to the two applications, in order to allow the two applications to proceed to a local decision after August 2018, on their own planning merits'*

### **The Transport Assessment**

The revised Assessment, received in April 2019, is produced by Capita, and is supplemented by a 14 page Stage 1 Road Safety Audit produced by Urbanvision.

- The Assessment includes sections providing a review of national and local policy context, existing conditions, the development proposals, accessibility by sustainable traffic modes, traffic flow analysis, trip generation, and a junction assessment. It includes information relevant to the housing site proposals and the new road link proposals which are the subject of the following application on the agenda.
- In respect of the impacts of the housing development, The Summary and Conclusion section states:

*'This report has been based on the 2017 Transport Assessment previously prepared by Capita, however updates have been made to account for the Inspector's comments within the Appeal Decision and to address the issues raised as part of the previous planning application.*

*This report has been prepared in line with the current national and local transport guidelines, which includes Planning Policy Wales, Technical Advice Notes, local development plan, supplementary planning guidance and design standards.*

*Personal Injury Collision data for the most recent five years period between 2013 and 2017 has been obtained from the CrashMap database for the surrounding area. The accident data does not indicate any inherent road safety issues associated with the existing roads and junctions.*

*The proposed access road would be 6m wide, with a 3m wide shared footway/cycleway provided along its eastern side. It has been demonstrated that the 2.4m x 120m visibility splays to the left and to the right could be achieved at the proposed site access junction. It has been also demonstrated that the proposed site access junction is accessible by servicing and emergency vehicles.*

*Direct pedestrian links would be provided onto Fforde Hendre and Fforde Ty Newdd through the site. An existing public footpath (ROW S31/15) within the south-eastern boundary of the site would be maintained.*

*The internal layout of the proposed development has been checked against the design principles set out in the MfS, and considering a 20mph speed limit within the site. It has been demonstrated that lateral visibility splays of 2.4 x 22m in both directions and 25m forward visibility can be easily achieved where appropriate. Swept path analysis has been carried out for a refuse vehicle and a fire tender manoeuvring within the proposed development.*

*The proposed development would therefore ensure car parking provision in line with the current local standard.*

*It has been demonstrated that the site is highly accessible on foot and cycle, with all the key services and facilities located within the village of Meliden, within a 2km walking catchment area. It has been also demonstrated that the site is accessible by public transport, with the nearest bus stops located within 600m and 650m walking distance from the centre of the site, and Prestatyn railway station located within a 14mins journey time by bus service 36.*

*A trip generation exercise has been undertaken for the proposed development. To provide a robust assessment, 133 private houses have been considered in the assessment. It has been demonstrated that the proposed development would generate a total of 87 two-way vehicle trips during a weekday morning peak hour and a total of 84 two-way vehicle trips during a weekday evening peak hour.*

*The trip rates used to calculate the proposed development trip generation are higher than those applied for the recently approved 44/2018/0855 Tirionfa, Rhuddlan (Macbryde Homes) residential development. The proposed development trip generation should therefore be considered as overly robust.*

*A comprehensive list of future development sites have been obtained from the SCP Cumulative Transport Impact Assessment for the residential developments on land*



*south of the A547 Dyserth and north of the A547 Meliden (document ref: CT/18039/CTIA/00, dated January 2019). The same approach to the committed developments has been applied as per the aforementioned document.*

*The cumulative impact of the LDP allocated sites, Cefn y Gwrych Meliden site, Anglia Yard Dyserth site and land to the rear of Prestatyn Car sales site have been taken into account through the application of the background traffic growth factors.*

*The potential traffic generated by the two Macbryde Homes developments has been taken from the SCP Cumulative Transport Impact Assessment.*

*Five junctions were assessed in order to consider the traffic impact of the proposed development on the local highway network, including:*

- The A547/Proposed Site Access priority junction*
- The A547/Ffordd Ty Newydd priority junction*
- The A547/The Grove priority junction*

*Two additional junctions, the A547/Ffordd Penrhwylyfa priority junction and the Ffordd Ffynnon / Ffordd Penrhwylyfa / Ffordd ISA priority junction, have been assessed for completeness to provide an overview of a wider highway network.*

*The junctions have been assessed in the 2016 Base, 2020 and 2025 Do-Minimum, and 2020 and 2025 Do-Something scenarios. The assessment results show that all junctions except for the Ffordd Ffynnon / Ffordd Penrhwylyfa / Ffordd ISA priority junction would operate with spare capacity in the corresponding AM and PM peak hours of the assessment scenarios.*

*The Ffordd Ffynnon / Ffordd Penrhwylyfa / Ffordd ISA priority junction would already operate close to its capacity in the 2025 Do-Minimum scenario. It should be noted however, that with addition of the proposed development traffic flows, the maximum RFC value observed raises only by 0.02, the queue length increases only by 2 PCUs and the delay increases only by 9s.*

#### **Conclusions**

*The proposed development is located in a sustainable location, which is highly accessible on foot, by cycle and is also accessible by public transport.*

*The local highway network would be able to accommodate the additional traffic associated with the proposed development.*

*In view of the above positive findings, it is considered that the proposed development is acceptable in highway, traffic and transportation terms.'*

#### **Statement on the 'Case for removing the need for secondary access to the Meliden development'**

The applicants submitted a 3 page document explaining why there are no proposals with the current submission for a secondary emergency escape route in connection with the development.

The document refers to the previous application which proposed an emergency link via Ffordd Hendre and Ffordd Ty Newydd, as the main access route into the site was to be along Ffordd Gwilym - a road with on street parking, and which would have required traffic calming measures to be introduced.

It explains that the current application is accompanied by a Stage 1 Road Safety Audit on the proposed new 6 metre access road from Ffordd Talargoch, which is designed to serve 133 dwellings, and that there is consequently no need for a secondary means of escape route in the event of an emergency because:

- Regulations requiring fire suppression systems within all new dwellings reduce the risk of household emergencies and attendance by the fire service
- The width of the new link road, with purpose designed clearway traffic calming would not preclude emergency vehicles needing to access the housing site
- There is a 4m wide right of way from Ffordd Hendre providing alternative secondary access for pedestrians and cyclists as necessary
- The circumstances which could give rise to reduced operational use of the new link road are not considered to be so significant as to warrant designing a new dedicated escape route to Ffordd Ty Newydd for use solely in an exceptional emergency.

The document concludes that the development has been designed to ensure the shortest practical accessibility to the main access point by most new dwellings and in combination with the aforementioned points, obviates the need for a secondary route in and out of the site. It also points to the development consented by the Council at the HM Stanley site in St Asaph for around 130 dwellings, where no secondary route has been required.

(Following discussion with the Highway Officer, the applicants have indicated willingness to provide an emergency access in the originally proposed location via Ffordd Hendre onto Ffordd Ty Newydd, if this is considered essential, with details to be agreed by condition).

### **The Ecological Information**

There are a number of documents in the submission relating to ecological matters, including:

**An Ecological Assessment** - a 12 page report produced by Clwydian Ecology, dated January 2016. This provides general commentary on the potential impacts of development on ecological interests.

The Impact Assessment, Mitigation and Enhancement Recommendations section of the report states:

*'Dependent upon the scale of the proposed development it would appear that any direct impact upon existing plants and habitats will be minor.*

*There are however adjacent habitats including wetland, scrub and reedbed which are of ecological interest (the reedbed is now spreading into the field at the north-east end). Care will be needed to ensure that perimeter habitats are retained and that any new development adopts Sustainable Urban Drainage (SUD's) techniques.*

*There are no known issues regarding protected species although if any of the large trees will require removal further survey work in respect of bats may be required on an individual basis. Further work may also be required to assess the adjacent ditch systems in respect of their use by water voles.*

*Any proposed removal of scrub may require additional survey work in respect of badgers.*

*The development of the site would not directly impact upon birds as long as the perimeter hedges, scrub, reedbed and trees are retained. Indirectly the loss of the land could impact upon foraging habitat but there are other adjacent areas which are suitable. As discussed all nesting birds are protected by the Wildlife and Countryside*

*Act (as amended) and no work should take place (particularly clearance of vegetation/trees) which may affect nesting birds between March and September inclusive.'*

### **A Bat Report**

a 13 page document produced by Clwydian Ecology , dated October 2016. This relates primarily to the impacts of the demolition of the Mindale Farm buildings.

The Conclusions, impacts, and mitigations for bats section of the report states as follows:

*'No evidence of bats or use by bats was found anywhere within the buildings. It therefore appears that there are no apparent issues to the proposed works in respect of*

*bats at the present time. As outlined above it is often difficult to inspect every crevice or hidden section in a building (due to access or health and safety issues). In addition bats tend to be nomadic, which reduces the chances of finding bats on one or even several visits. This situation arises frequently when carrying out this type of survey. However, the survey has been completed to a good standard and it is not anticipated that any problems will occur. Carrying out the survey also puts in place demonstrable safeguards regarding the avoidance of illegal activities*

*As a general note, most buildings offer potential for over-wintering and seasonal occupancy for individual bats. This use can be sporadic during the season and actual presence through emergence surveys cannot be fully confirmed. It is therefore recommended that the following precautionary recommendations should be undertaken as good working practice during the demolition phase.*

- All roof coverings/tiles should be carefully removed by hand to ensure that no roosting, torpid or hibernating bats are injured during the proposed works.*
- Door and window frames should be removed with care to ensure that no roosting, torpid or hibernating bats are injured during the proposed works.*
- Structural members, lintel bearings, purlins or wall plates should be removed with care to ensure that no roosting, torpid or hibernating bats are injured during the proposed works.*
- If the buildings are not demolished within 18 months from the date of this report another inspection should be undertaken.*
- In the event that bats were found during the demolition period then all work should cease and Natural Resource Wales (Buckley office) and/or a licensed bat worker should be contacted for further advice'*

### **An Ecological Addendum Report**

This is a Clwydian Ecology report providing information on Great Crested newts, impacts on the Pwll y Bont wildlife site, mine spill areas and bats issues in connection with demolition works.

Modelling data has been used to inform proposals for the monitoring and mitigation of newts. It is not considered there is evidence to suggest the presence of rare grassland on the mine spill areas. There is no evidence of bats around the house and outbuildings. Measures are suggested to deter trespass into the wildlife site.

### **A Great Crested Newt Mitigation scheme report**

This is a Clwydian ecology report setting out mitigation proposals to offset any potential loss of habitat as a result of the proposed development, and to demonstrate the development will not have a likely significant effect on any newt population. It refers to the creation of new ponds, planting and fencing of ungrazed areas adjacent to improve habitat.

## **A Biosecurity Risk Assessment**

This provides an assessment of activities on site that have the potential to import or spread non-native species, pests and diseases during construction phase; and sets out operational precautions to be taken by contractors to limit risk of spread.

## **A Compliance Audit**

## **A Cofnod Environmental Information search**

## **The Arboricultural Impact Assessment / Method Statement**

This is a 28 page document produced by Tree Solutions, dated April 2018.

In relation to the development proposal

- The report recognises the confirmation of two Tree Preservation Orders by the County Council on land on and adjoining the site, and advises the layout has been designed to ensure adequate separation distances from these trees. There are proposals to remove trees considered to be of poor quality, but the best quality trees and hedgerows outside the Orders are to be retained.
- It is noted that normal 'Best Practice' protective measures need to be taken to avoid damage to trees at construction stage.

## **Drainage information:**

### **The Flood Consequence Assessment**

- This 16 page document produced by Capita is referred to as a level 1 Screening Study, dated July 2018.

The Conclusions and Recommendations section of the Assessment states as follows:

- 'A small area of the site is identified on the Development Advice Maps as having a low risk of fluvial/tidal flooding originating from the Prestatyn Gutter. A Strategic Flood Consequence Assessment carried out for the site by JBA Consulting, commissioned by Denbighshire County Council confirmed that the site levels in the area are greater than those within the 0.1% AEP outline meaning there is no requirement to consider fluvial flood risk any further.
- The remaining developable area of the site is classed as Zone A on the TAN 15 Development and Flood Risk Development Advice Map which is considered to be at little or no risk of fluvial or coastal/tidal flooding.
- Based on available site mapping and information the risk of, overland flow flooding, artificial drainage flooding and flooding from infrastructure failure are all considered to be low.
- The risk of flooding from groundwater has also been considered. Historical borehole records were obtained for a former lead mining shaft located approximately 275m south west of the site. The records identified a potential gravel seam approximately 27.5m below the low point of the site which could convey sub surface water flow. The potential risk of water purging to the surface during extreme events was considered. We would anticipate that in such an event the water would follow the least path of resistance which would likely be the

base of the Prestatyn Gutter ditch and would flow away from the site. The risk of flooding to the development from groundwater is therefore considered low.

- A SuDS drainage philosophy will be adopted for surface water drainage treatment throughout the proposed development. Discharge from the site will be via carrier drain to the Prestatyn Gutter, with discharge rates limited in accordance with the requirements of Natural Resources Wales and the Lead Local Flood Authority”.

### **The Outline Drainage Strategy**

This is a 16 page document produced by Capita, dated July 2018, and provides an outline drainage strategy assessment for the residential site.

The Recommendation section of the report states as follows:

- *‘The proposed drainage design for the site will incorporate adequate surface water drainage source control by utilising SuDS techniques and flow control devices for the management of water attenuation on the site and pollution prevention off site preventing negative impacts resulting from the proposed developments.*
- *The foul drainage proposals for the conveyance of flow around the development site will be achieved using traditional gravity piped network however a small area of development will require a pumped solution. All final foul drainage proposals will be subject to approval and agreement by DCWW for adoption purposes in accordance with The Welsh Ministers standards for new gravity foul sewer and lateral drains – October 2012.’*

### **Surface Water Drainage Strategy Statements**

In support of the application, Caulmert have prepared separate short statements which are intended to provide clarification of issues relevant to the housing site and link road schemes, in relation to :

- Mitigation against increased risk of flooding in Prestatyn
- The surface water drainage strategy
- Management of Groundwater
- The Management of Surface water from the existing soft landscaped area between the rear of Ffordd Ty Newydd and the new access road .

In summary, the documents state in relation to:

- Mitigation against increased risk of flooding in Prestatyn  
The surface water drainage will contain runoff within the site with discharge controlled to the existing runoff rates for the development plot area. The risk of flooding to properties downstream of the site will be unchanged.
- The surface water drainage strategy  
Rainfall on the proposed development will be managed through an array of drainage features which will convey the flow of water through the site to discharge into the Meliden Mine Drain and Prestatyn Gutter. Flow is controlled through the drainage network, and accumulative storage will be provided to store rainfall within the system up to and including the peak 1 in 100-year return storm events plus an additional 30% allowance for climate change. Discharge into the Meliden Mine Drain and Prestatyn Gutter will be restricted to the existing development site area greenfield runoff rate.

- **Management of Groundwater**  
A series of initial trial pit investigations, 6 in number, were carried out across the site in November 2016 and there was no groundwater recorded in any of the excavations. The report does state that the majority of the site is underlain by superficial deposits which comprise boulder clay (Glacial Till) with some alluvium in the northwest corner of the site and that groundwater is unlikely to be present in the boulder clay but may be present in the more granular permeable alluvium. If, however, groundwater is encountered during construction this will be managed locally with flow directed towards the lower Meliden Mine Drain / Prestatyn Gutter. The provision of unlined porous pavement construction and proposed for the property drives and cellular storage structures will provide a pathway if water levels rise post construction and flow will be managed through the surface water drainage system. The topography of the site would suggest that should groundwater flooding occur flow will be directed towards the lower area of the site and would be collected by the drainage system along its path.
  
- **The Management of Surface water from the existing soft landscaped area between the rear of Ffordd Ty Newydd and the new access road .** The proposal for the management of surface runoff from this area will be to form shallow depressions within the landscaping to intercept the flow. Surface water will be contained within the depressions to enable the runoff to infiltrate the surface or evaporate. A storage assessment has been carried out assuming there is no discharge from this area. The storage requirement for a 1 in 100 year return storm event with an additional 30% allowance for climate change is 192m<sup>3</sup>. The detention of water in shallow basins in this area will not be a risk to properties.

### **The Sustainable Drainage Systems explanatory note**

This is a 2 page note outlining the basic principles of SuDS drainage systems, and refers to the proposals for the site, which include provision of surface water tanks connecting to a main network with oversized pipes discharging into the Prestatyn Gutter at a slow rate controlled by a hydro brake.

The document advises ...

*" This system can also be adapted into a tanked system whereby no water is allowed to soak into the ground but collects into a pipe below ground.*

*In extreme circumstances the rainfall will run into the retention ponds to cope with the surface water to avoid any increased capacity issues. The design of the sustainable drainage system is to retain all surface water within the development site via the underground storage areas, oversized pipes in the drainage network and retention ponds. The intention is to allow some water to soakaway into the ground and the remaining water will be discharged into the Prestatyn Gutter, which will not exceed the existing green field run off rates to minimise disruption downstream and recent flooding in Prestatyn."*

### **The Archaeological Assessment**

This is an 84 page report produced by Aeon Archaeology, dated April 2018.

It reviews the potential for archaeological remains in the locality and suggests in relation to the housing site that:

*'Due to the sloping topography and the results of the geophysical survey the potential for buried remains belonging to the Iron Age, Roman, Early medieval, medieval and postmedieval periods at the northern part of the site allocated for the housing development is expected to be low.'*

## **The Geophysical Survey Reports**

There are three separate Geophysical Survey Reports in the submission, in support of the Archaeological Assessment.

1. A 38 page report produced by Sumo, dated May 2018.

The Conclusion paragraph states as follows:

- 'Although no anomalies of archaeological origin were detected in the survey, post-Medieval mine shafts and buildings have resulted in prominent magnetic responses . A water mains pipe was located, several uncertain linear trends traversing both survey areas were also detected'.

2. A 22 page report produced by Stratascan in December 2015

The Conclusion paragraphs state as follows:

- The survey at Mindale Farm, Prestatyn, has identified few anomalies of possible archaeological origin. Those identified remain tentative at best and may have alternative origins such as agricultural or natural.

Anomalies relating to 19th century field boundaries, and recent ploughing suggest that the area has been used primarily for agricultural purposes, since the medieval period. The remaining anomalies are modern or natural in origin, relating to underground services, land drains, ferrous objects, and fencing.'

3. A 215 page Phase 1 Geo-Environmental Desk Study produced by Capita in December 2018. The summary section notes:

'The following potentially contaminative land uses have been identified on the site itself and the surrounding land and comprise:

- General Made Ground/in-filled ground (i.e. potentially poor quality/contaminated materials) from building / access road construction;
- Mining activities;
- Historic reservoirs sewer works (off site to the south) ; and
- Railway activities (off site to the south).

On the basis of the historical information alone, the contamination potential for the subject site could be considered Low to Moderate mainly based on the unknown local made ground deposits, and former industrial uses on the surrounding land however the historical review only provides an indication of the range of potential contamination sources / impacts that may have occurred throughout the site's development history and the risk rating does not necessarily mean that such sources exist.'

## **The Community Language Impact Assessment**

This is referred to as 'Community Language Impact Assessment - Update 2018.'

- It states as follows:  
*'Please cross reference to the 2016 WLIA report for this revised application. The 2016 application and linked 2017 appeal for the above housing site included a WLIA and set of mitigation proposals for 133 new homes at the application site. A unilateral S106 in 2017 at appeal also included for financial payments for social infrastructure to support language and educational provision in the community.'*



*The impacts of the development were not judged to be an issue at appeal in 2017 and were further offset by the proposed S106 mitigation proposals.*

*Therefore, this latest application still provides:-*

- a) Welsh Street naming for the development;*
- b) Additional educational provision at the junior school (S106 payment was offered );*
- c) Welsh Language teaching provision and youth services ( by way of S106 payment offer ).*

## **The Water Conservation Strategy**

This is referred to as ‘ New Housing – Water Conservation Strategy – Updated version – 2018.’

- It states as follows:

*‘This report needs to be cross referenced with the new 2018 FCA and groundwater reports.*

*In 2016/17 a WCS report was presented to the council with the original application and included a calculation in Appendix 1. The WCS was later subject of appeal assessment.*

*The content of the WCS was largely accepted and thus remains unaltered, notably the intention to :-*

- a) Use water meters for new dwellings;*
- b) Low level flush WCs for each house;*
- c) Roof and other run off capture tanks and water butts employed for each dwelling;*
- d) Water saving washing machines for domestic uses;*
- e) Water saving tap installations for domestic uses;*
- f) Shower installations not baths for each house;*
- g) Open space detention ponds to allow for SUDS surface drainage/ storage;*
- h) Oversized underground piping to allow for SUDS storage; ‘*

## **The Air Quality Assessment**

This is a 40 page document containing an assessment of the impact of the proposed Mindale Farm development on local air quality.

The assessment describes the methodology adopted to measure and predict concentrations of pollutants. It concludes the development is anticipated to have a negligible impact on traffic flows on the affected roads, and the operational phase of the development is not anticipated to have a significant impact on local air quality, and that a detailed assessment of the impact of the development on local air quality is, therefore, not required.

The document concludes the proposed development is considered to comply with national and local air quality policy.

## **The Noise Assessment**

This 20 page report, dated January 2019, is produced by Capita and contains information on current Regulations setting out considerations to be given to assessing the impacts of noise from traffic and requirements for attenuation. It provides data on measured noise levels along the boundaries of properties on Ffordd Ty Newydd which would face the proposed link road.

The applicants have suggested that what impacts are anticipated on a small number of properties can be addressed through a Construction Method Statement condition, and as necessary, a separate condition requiring provision of acoustic fencing.

## **The Lighting Plan**

The plan sets out the proposed street lighting layout alongside the new road, with annotated illuminance contours. The text with the plan provides detailed technical information and advises that the proposals comply with relevant British Standards and Denbighshire County Council specifications for street lighting and the Manual of Contract Documents for Highway Works.

The **application forms** confirm the 'Certificate C' process has been followed in relation to the ownership of the site. This is the process applicable to situations where some, but not necessarily all owners of a site are known. The applicant / agent has posted notices around the site and a notice in the local press prior to the submission of the application, offering those with an interest in the land opportunity to make themselves known. The form advises that other steps have been taken to find the names and addresses of owners of the land to which the application relates. This refers to :

1. Checks of the land registry entries and at appeal for the access strip.
2. Letter from DCC Legal Dept about the access strip- post appeal, for area adjoining Ysgol Melyd boundary.
3. Submissions from residents prior to and at appeal in 2017.
4. Checks of the Register of Common Land.
5. Other checks of local historic records.
6. Checks of the Public Footpath Records.

Notice has been served on Denbighshire County Council and Mr and Mrs Ward at Mindale Farm, as 'known' owners of land within the application site.

Following submission of the revised plans and documents in early 2019, the applicants have confirmed they are agreeable to completing a Section 106 agreement with the Council to accompany any permission, to secure relevant financial contributions in relation to education and affordable housing provision, off site footpath improvements, a highway bond and Welsh language enhancement. The applicants have acknowledged the need to co-ordinate any agreement with one relating to the link road proposal, given the overlap of issues and interdependence of the two developments, and are willing to negotiate the most appropriate approach with the Council on determination of the applications.

### **1.3 Description of site and surroundings**

- 1.3.1 The application site for 43/2018/0750 is comprised of field parcels attached to Mindale Farm, which incorporates the dwelling at the farm, associated outbuildings, stables and a menage area, and the strip of land containing public footpath 22 which runs east to the bottom of Ffordd Gwilym.

- 1.3.2 The sole vehicular access to the Mindale Farm site at present is from Ffordd Hendre, which branches off Ffordd Ty Newydd to the east of the dwelling at No. 71. This has provided access to the farm and adjacent land.
- 1.3.3 Most of the other site boundaries are formed by long established hedgerow trees / bushes and undergrowth.
- 1.3.4 Land levels fall generally down from south east to north west, the highest point in the field where the housing development is proposed being in the south west corner at 29.7m AOD and the lowest point being 12.5m in the north west corner.
- 1.3.5 There is a public footpath (No. 22) running the entire length of the south / south eastern boundary of the site, which links with Ffordd Gwilym and Maes Meurig.

#### 1.4 Relevant planning constraints/considerations

- 1.4.1 Members are referred to the extract from the Proposals Map for Meliden from the Denbighshire Local Development Plan at the front of the report, to aid understanding of the situation relating to the extent of land allocated for housing development in this part of the settlement, and the proposed location of the access into the site (the subject of the following application on the agenda – 43/2018/0751).
- 1.4.2 The land proposed for the construction of the 133 dwellings is annotated as an Allocated housing site on the Proposals Map in the Local Development Plan and is referred to as land at 'rear of Ffordd Hendre' in the table accompanying Policy BSC1 in the Plan. The table gives an indicative number of 154 dwellings for the site.
- 1.4.3 The Ffordd Hendre and Maes Meurig sites are the subject of separate Supplementary Planning Guidance in the form of a Site Development Brief, adopted at Planning Committee in March 2016. There is a brief summary of the contents of the Brief in section 3.1 of the report. The basic contents of the Brief are referred to in relation to the topics covered in the Main Considerations section of the report.
- 1.4.4 The application site is land at Mindale Farm. This is what is referred to as the 'Ffordd Hendre' site in the Site Development Brief. For clarification in the rest of this report, reference to Mindale Farm should be taken to refer to the Ffordd Hendre site in the Brief.
- 1.4.5 Meliden is linked to Prestatyn in the table in Policy BSC1 summarising the contribution from new allocations and existing commitments in lower growth towns.
- 1.4.6 An area of land immediately to the east of the main part of the application site is referred to as the Pwll y Bont wildlife site in the Site Development Brief.

This is described as 'a wet area with marshy grassland and species poor fen'. This is a non-statutory designation but obliges due consideration of impacts from development on features of ecological interest.

1.4.7 The residential land allocations in Meliden, i.e. Ffordd Hendre (Land at Mindale Farm) and Maes Meurig, were not included in the draft Denbighshire Local Development Plan 2006 – 2009 at the deposit Plan stage. In response to the Planning Inspectors' preliminary findings on matters of housing need and supply as part of the Examination process, the Council put forward an additional number of sites that could address the identified shortfall in housing numbers and, therefore, could be considered for inclusion into the Plan. These sites were subject to the same assessment process as the previously selected sites to be taken forward into the emerging Local Development Plan. Both sites were included in this exercise. However, when the Council produced a final list of 21 potential, additional residential sites for the Planning Inspector, the Ffordd Hendre site was not included in the list. Since the Ffordd Hendre site had already been assessed as part of this exercise, the Planning Inspector took the view that he could consider including the site in the Local Development Plan to achieve the required overall number of houses. Hence both sites, i.e. Ffordd Hendre and Maes Meurig, were included as residential land allocations in the Local Development Plan that was voted on and adopted by the Council in June 2013.

1.4.8 The boundary of the Clwydian Range and Dee Valley AONB is approximately 0.5km to the south east of the application site, at Graig Fawr.

1.4.9 The housing site which is the subject of application 43/2018/0750 is located within the administrative area of Prestatyn Town Council. The majority of the proposed link road site, the subject of the following application, 43/2018/0751, is within the Dyserth Community Council area.

## 1.5 Relevant planning history

1.5.1 As referred to previously, the area of land where the 133 dwellings is proposed was the subject of a 2016 application (43/2016/0660) for 133 dwellings. The application was refused permission at Planning Committee in April 2017, and was the subject of a subsequent appeal which was dismissed in October 2017.

1.5.2 The main difference between the 2016 application and the one now before the Committee is the proposal to construct a new main access road to serve the site off the A547, through fields to the west of Ffordd Ty Newydd, eliminating the use of Ffordd Gwilym as the vehicular route into the site.

### Consideration of the 2016 application

#### - Denbighshire's Planning Committee

1.5.3 Application 43/2016/0660 was presented to Planning Committee for consideration in April 2017. The Officers' report detailed the proposals, responses to consultation and publicity, the material considerations, and

matters which had arisen in the course of progressing the application. The report advised on the Council's adopted planning policies and the Site Development Brief relating to the development of the site and an adjoining allocated site. It concluded on the basis of the responses from the key 'technical' consultees, that there were limited land use planning grounds to oppose the grant of permission, and that there were reasonable controls which could be exercised through planning conditions and a legal agreement to mitigate impacts, sufficient to merit a positive recommendation. The matters it was suggested could be dealt with through a legal agreement included off site highway improvements, and contributions to affordable housing, education provision, and mitigation of impact on the Welsh language.

- 1.5.4 The application was discussed at length at Committee. There were public speakers in favour and against the application. The local member referred to the background history to the site, which had been included in the LDP following allocation by the Local Plan Planning Inspector, who he understood had indicated that if the infrastructure was not in place, then planning permission could be refused. It was argued that the existing local infrastructure was not adequate to cope with the scale of the development, particularly in terms of highways and drainage/flooding. Prestatyn Members concurred with the comments made by the Local Member, elaborating further on those issues and their concerns regarding the impact of the development on the village and its infrastructure. The committee generally shared those concerns, which had also been raised by members who had attended the Site Inspection Panel meeting.
- 1.5.5 Planning Committee ultimately voted to refuse to grant permission, on grounds of the scale of the proposed development and impact on the local community, over intensification of the site in the context of the village setting and on rural green space; and on acceptable negative impact of the development on the existing highway infrastructure, including road safety concerns.
- 1.5.6 The reasons for refusal on the Certificate of Decision, dated 14th April, 2017 were:
- Reason 1
- "It is the opinion of the Local Planning Authority that the scale of the development would have an unacceptable impact on the character of the village and its infrastructure, and in combination with the detailing of the proposed access road, the development would give rise to unacceptable levels of peak time congestion and dangers to all road users and in particular younger pedestrians accessing the local school and nearby play facilities. This would have a negative impact on the wellbeing and quality of life for existing and proposed residents using the highway infrastructure. The development is considered to be contrary to the adopted Site Development Brief 'Residential Development – 'Residential Development at Ffordd Hendre and Maes Meurig, Meliden', Local development Plan policy RD 1 'Sustainable development and good standard design' criteria vii),viii) and ix), Technical Advice Note 18 'Transport' and Planning Policy Wales 9*
- Reason 2
- It is the opinion of the Local Planning Authority that the proposals do not adequately demonstrate that surface water run-off from the site and higher land above it can be managed without increasing the risk of additional discharge to watercourses leading to the Prestatyn Gutter, and hence*

*increasing the potential for flooding downstream. Accordingly it is considered that the proposal fails to comply with the adopted Site Development Brief 'Residential Development at Ffordd Hendre and Maes Meurig, Meliden', LDP policy RD1 'Sustainable development and good standard design' criteria xi), Policy VOE 6 'Water Management', Technical Advice Note 15 'Development and Flood Risk' and Planning Policy Wales 9."*

- The subsequent planning appeal

1.5.7 The refusal was appealed and a Hearing was held in Meliden in October 2017. In her decision letter, the appeal Inspector considered the main issues were the effect of the development on the character of the village and the well-being of local residents with particular regard to the highway infrastructure; and whether surface water run-off from the development would give rise to flooding.

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

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

- The Inspector's conclusions were that:

The site was allocated for residential purposes in the Local Development Plan. There was no substantive evidence that local services and facilities could not accommodate future residents of the proposal, and the matter of primary school places is one which could be addressed by way of a financial contribution via a legal agreement. The development would not harm the character of the area.

The local highway infrastructure could accommodate the increased traffic generated by the development without harm to highway safety.

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

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

- The Inspector reviewed the information submitted with the planning application, including proposals for attenuation ponds, the Flood Consequences Assessment, the responses of Natural Resources Wales and other consultees and evidence submitted by the Council's consultants.

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



In relation to other matters:

- In respect of land ownership issues, the inspector was satisfied that although the appellant did not own the appeal site, this did not prohibit an application being made and she was satisfied that the correct procedures in respect of the notification of persons with an interest in the land subject of the proposal were followed at application stage.

- In respect of suggestions from interested parties that there was insufficient land within the appeal site to construct the road as proposed and whether potential changes to the scheme would necessitate encroachment onto adjoining land, there was no substantive evidence that the works could not be contained within the land identified as the appeal site. Whether the Appellant has the right to develop the land in terms of its ownership is a separate legal matter.

- The development would not have an unacceptable impact on the Pwll y Bont wildlife site and ecological interests could be suitably protected.

- Although dismissing the appeal would delay the bringing forward of the site for development, the considerable weight given by TAN 1 to the need to increase housing land supply is subject to the proviso that the development would otherwise comply with national planning policies. The scheme as submitted does not meet this provision.

- A draft Unilateral Undertaking was submitted to the Inspector subsequent to the Hearing, relating to financial contributions towards off-site highway works, affordable housing, education and the Welsh language. The Inspector agreed with the Council that the obligations contained in the UU were necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development, in accord with The Community Infrastructure Levy Regulations 2010, as amended, and Circular 13/97 Planning Obligations and as required by Policy BSC 3 of the LDP. However, as there was a fundamental flaw in that the UU was not signed by all those party to it, the need for the obligations to make the development acceptable had therefore not been secured by the UU as submitted.

Inspector's conclusions:

The concluding paragraphs are quoted below:

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

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

## 1.6 Developments/changes since the original submission

1.6.1 The current application was received by the Council in August 2018. Having regard to responses to consultations and publicity, additional information was sought by Officers from the applicants in order to progress the application.

1.6.2 The supplementary information referred to in section 1.1.4 was received in stages up to April 2019. At this point a reconsultation exercise was carried out with consultees and local residents, offering a final opportunity for representations to be made. Summaries of the responses are included at the front of the report.

## 1.7 Other relevant background information

1.7.1 There is reference later in the report to matters which may be relevant to securing a legal agreement under Section 106 of the Planning Act in conjunction with any planning permission, to cover the payment of commuted sums to meet requirements for education and affordable housing provision, footpath improvements and Welsh Language initiatives. Members will appreciate that regardless of the recommendation on the application and its ultimate determination by Committee, Officers have a duty to undertake 'without prejudice' discussion with applicants to explore how matters which cannot be dealt with through planning conditions may be addressed to make a development acceptable – so Members can take these into account when deliberating on the merits of the application.

1.7.2 In the course of processing the application, Highway Officers have met with the residents' group representatives to afford opportunity to outline the main issues of concern, prior to Officers completing the final comments on the proposals.

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

2.1 43/2016/0600  
Demolition of existing dwelling and outbuildings, erection of 133 dwellings, construction of approach road, internal estate roads, sewers, SUDS drainage and open spaces, strategic and hard / soft landscaping, and ancillary works

REFUSED at Planning Committee  
Decision dated 14/04/2017

The two reasons for refusal are quoted in full in paragraph 1.4.6 above.

The refusal was the subject of scrutiny at a Hearing, and the Planning Inspectorate's decision to DISMISS the appeal was issued on the 13<sup>th</sup> October 2017.

The key conclusions of the appeal Inspector's letter of decision are summarised in Section 1.4.7 of the report.

### 3. RELEVANT POLICIES AND GUIDANCE:

The main planning policies and guidance are considered to be:

- 3.1 Denbighshire Local Development Plan (adopted 4<sup>th</sup> June 2013)
- Policy RD1** – Sustainable development and good standard design
  - Policy RD5** – The Welsh language and the social and cultural fabric of communities
  - Policy BSC1** – Growth Strategy for Denbighshire
  - Policy BSC3** – Securing infrastructure contributions from Development
  - Policy BSC4** – Affordable Housing
  - Policy BSC11** – Recreation and open space
  - Policy VOE2** – Area of Outstanding natural Beauty and Area of Outstanding Beauty
  - Policy VOE5** – Conservation of natural resources
  - Policy VOE6** – Water management
  - Policy ASA2** – Provision of Sustainable transport facilities
  - Policy ASA3** – Parking standards

Supplementary Planning Guidance:

Supplementary Planning Guidance Note: Access For All

Supplementary Planning Guidance Note: Archaeology

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

Supplementary Planning Guidance Note: Conservation and Enhancement of Biodiversity

Supplementary Planning Guidance Note: Planning for Community Safety

Supplementary Planning Guidance Note: Planning Obligations

Supplementary Planning Guidance Note: Trees & Landscaping

Supplementary Planning Guidance - Site Development Brief – Residential development at Ffordd Hendre and Maes Meurig, Meliden . Adopted March 2016. Attached as an appendix to the report.

This Brief relates to the site forming the subject of the current application and the separate site referred to immediately to the north west of Maes Meurig.

It reviews the site context, sets out the planning policies relevant to the consideration of any applications, and provides a site appraisal and outline of requirements for a submission.

The planning policies considered relevant to the application are listed in Section 3 of the report and are reviewed in detail in Section 4.

The basic 'requirements' in the Brief include the need for a Transport Assessment and consideration of highway impacts on the locality, including roads and potentially affected junctions in the area (Ffordd Ty Newydd, The Grove, Ysgol Melyd, Maes Meurig, Cefn y Gwrych, Ffordd Penrhwylyfa ), planning permissions in the surrounding area; parking requirements; accessibility; access for all; archaeology; biodiversity; boundaries; built heritage and surrounding character; community safety; education; flood risk; landscape and open space; utilities; Welsh language.

Section 6 of the Brief sets out six Design Objectives / principles any proposals should meet. These include consideration of provision for walking, cycling and public transport; designing in the context of the surrounding area and edge of settlement location; enhancing biodiversity and human health; providing satisfactory infrastructure; and adopting a 'Welsh branded' scheme with

affordable housing to help the community and language to grow in the area.

In terms of the status of the Site Development Brief, this is set out in paragraph 2.2 of the document:

“The Council’s Supplementary Planning Guidance notes (SPGs) are not part of the adopted local development plan. The Welsh Government (WG) has confirmed that following public consultation and subsequent Local Planning Authority (LPA) approval, SPGs can be treated as a material planning consideration when LPAs, Planning Inspectors and the Welsh Government determine planning applications and appeals.”

### 3.2 Government Policy / Guidance

Planning Policy Wales Edition 10, 2018

Development Control Manual

Technical Advice Notes

TAN 1 Joint Housing Land Availability Studies

TAN 2 Planning and Affordable Housing

TAN 5 Nature Conservation and Planning

TAN 12 Design

TAN 15 Development and Flood Risk

TAN 18 Transport

TAN 20 The Welsh language – Unitary Development Plans and Planning Control

### 3.3 Other material considerations

## 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 10 (December 2018) and other relevant legislation.

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 Site Development Brief

4.1.3 2017 refusal and planning appeal decision

4.1.4 Density of development

4.1.5 Housing mix

- 4.1.6 Visual amenity / AONB / landscape
- 4.1.7 Residential amenity
- 4.1.8 Ecology
- 4.1.9 Drainage
- 4.1.10 Highways
- 4.1.11 Affordable Housing
- 4.1.12 Open Space
- 4.1.13 Impact on local infrastructure
- 4.1.14 Impact on Welsh Language and social and cultural fabric
- 4.1.15 Use of agricultural land
- 4.1.16 Archaeology
- 4.1.17 Fear of crime / community safety issues
- 4.1.18 Contaminated land and land stability
- 4.1.19 Planning conditions and Section 106 Obligations
- 4.1.20 Other matters

Submission of 2 applications  
 Environmental Impact Assessment Screening  
 Loss of property value  
 Open space areas  
 Impact on character of the village  
 Local employment strategy  
 Landownership issues  
 Well-being of Future Generations (Wales) Act 2015

#### 4.2 In relation to the main planning considerations

##### 4.2.1 Principle

###### *Planning policy and guidance*

The main Local Development Plan Policy relevant to the principle of the development is Policy BSC 1. This policy seeks to make provision for new housing in a range of locations, concentrating development within development boundaries of towns and villages, and it states developers will be expected to provide a range of house sizes, types and tenure.

Factually, the site is located within the development boundary of Meliden. It is allocated as a housing site on the proposals map accompanying the Plan.

The process through which the allocation of the land passed in the evolution of the Development Plan is referred to in section 1.3.7 of the report. In the Committee report on the 2016 application, Officers acknowledged members' reservations over the process and the role of the Development Plan Inspector in seeking the inclusion of additional housing sites to achieve population / housing need targets, but suggested it had to be recognised that the Development Plan had passed through a statutory process, including its adoption following a democratic vote at Full Council in 2013, and the status of the Plan and its allocations meant it was a significant material consideration in the assessment of planning applications in the County.

###### *In terms of the planning history:*

*The Council's reasons for refusal* in April 2017 did not contain any reference to the principle of the development of the Mindale Farm site

for residential purposes.

*The appeal Inspector's letter of decision* in October 2017 addressed the status of the Development Plan allocation, which had been raised in the Hearing. The Planning Inspector simply noted the site lies within the development boundary as defined in the adopted Denbighshire Local Development Plan and is allocated for residential development. She stated the principle of the proposed development is therefore established, and with respect to the arguments over the site being a late inclusion in the LDP and that local population growth had been lower than predicted, it was not within her remit to review the allocation.

*Representations and consultation responses on the current application:*

In relation to the principle of the development, there are private individual concerns over the general principle of the development, involving the outward expansion of Meliden and the potential for merger with other residential areas, at what is referred to as a 25% increase in the village population, an unacceptable effect on character of village from the scale of development, and over the ability of the existing infrastructure of the village to cope with the development. It is stated there is no need for 133 additional properties in Meliden and there is reference to information on a website in September 2018 suggesting there were 265 properties for sale within a 1 mile radius of Meliden. It is suggested houses would not be affordable for most young people and are not required in Meliden.

There are also comments on the site allocation process in the local development plan, which is considered flawed and it is suggested the site was imposed on the Council by the local plan inspector, and was not wanted by the Town Council.

The basis of these representations are considered in the various topic assessments which follow in the report.

*Officer assessment*

Officers would note in terms of the general principles of the development, the status of the Development Plan has not changed in the period since the 2017 appeal decision and it remains Officers' opinion that the fact that the Mindale site remains an allocated site has to be a significant material consideration in the determination of the application.

With reference to the Development Plan and housing need, it is to be noted that at the time of drafting this report, the latest Joint Housing Land Availability Study has concluded that Denbighshire has just 1.55 years supply of available housing land against a minimum National requirement of five years. This shortfall and the positive contribution which a site of over 100 dwellings would make to improving supply are also material considerations in respect of determining the application.

It should also be noted that the Denbighshire County Council Corporate Plan (2017-2022) commits the Council to supporting the

development of 1000 homes in the County. This proposal would make a positive contribution to meeting that target.

There is no requirement in planning policy for an applicant involved in a proposal to develop an allocated housing site to justify the need for that housing development.

In respecting the context in which the site was included as an allocation in the Development Plan, the fact that the site is allocated for housing in an adopted plan and there is a clear shortage of housing land in the County based on the current method of calculation inevitably lead officers to conclude that it would be inappropriate to oppose the application in principle. It is therefore suggested that the determination of the application should rest primarily on the acceptability or otherwise of the local impacts of the proposal, including those identified in the adopted Site Development Brief. These are reviewed in the following sections of the report.

#### 4.2.2 2017 refusal and planning appeal decision

The grounds of refusal of the previous Mindale Farm application in April 2017 and the subsequent appeal decision in October 2017 are material considerations in the weighing up of the housing site application now in front of the Committee, albeit the main access into the site is now proposed directly from the link road off the A547 and not along Ffordd Gwilym as previously proposed.

Section 1.4.6 of the report sets out the Council's two reasons for refusal of the original application, 43/2016/0600.

Section 1.4.7 of the report provides a summary of the main conclusions of the appeal Inspector in dismissing the appeal. In Officers' opinion, the final two paragraphs of the decision are critical to the consideration of the housing site and link road applications, as the conclusions were:

- the development would be unacceptable in terms of highway visibility, emergency access, and insufficient evidence has been submitted to demonstrate the scheme would not give rise to flooding
- these matters cannot be satisfactorily addressed by condition
- the legal agreement deemed necessary to make the development acceptable is incomplete and the obligations it would provide have not been secured in full
- It is accepted that the need to increase housing land supply carries considerable weight in determining proposals for residential development.
- However, in this instance the principle of the development is already established and it is the detail of the scheme which has been found to be inadequate.

The relevance of the above are set out in relation to the impact assessments in the following paragraphs of the report.

*Representations and consultation responses on the current application:*



There are individual representations suggesting the proposals are little different from the previously refused scheme and that the appeal decision should be respected and adhered to.

*Officer assessment*

In noting the objectors' comments, a number of the issues arising in relation to both the current applications were of significance to the determination of the 2016 application and the 2017 appeal relating to the Mindale Farm development, and are still relevant to their determination.

It is important in Officers' opinion to recognise that the appeal inspector concluded the principle of the Mindale Farm housing development was established and it was the detail of the scheme which was found to be inadequate – specifically the details of the highway visibility at the bottom of Llys Gwilym and the proposed emergency access, and information in relation to surface water drainage and flooding.

To assist consideration of the application for the housing site development, the conclusions of the Appeal Inspector are summarised in each of the following topic paragraphs in the report, where they are relevant to the current submission. However, as the proposals now before the Council involve significantly different highway proposals and there is additional technical material seeking to address previous concerns over the adequacy of information on drainage, it is important that the issues are reviewed thoroughly from fresh, with due regard to the reasons for refusal and the substance of the Appeal Inspector's findings.

4.2.1 Site Development Brief

*Planning policy and guidance*

The proposals have been scrutinised with regard to the contents of the Supplementary Planning Guidance - Site Development Brief – Residential development at Ffordd Hendre and Maes Meurig, Meliden, which was adopted in March 2016.

The planning policies referred to in the Site Development Brief are listed in Section 3 of the report and are reviewed in detail in the following sections which deal with the site specific impacts of the development proposals.

The Brief contains a section titled 'Site appraisal and requirements' which describes known constraints that any application needs to give consideration to. In respect of the access and parking, the Brief refers to the need for a Transport Assessment and consideration of highway impacts on the locality, including roads and potentially affected junctions (Ffordd Ty Newydd, The Grove, Ysgol Melyd, Maes Meurig, Cefn y Gwrych, Ffordd Penrhwylyfa ), planning permissions in the surrounding area; parking requirements; accessibility; and access for all. It also refers to archaeology; biodiversity; boundaries; built heritage and surrounding character; community safety; education; flood risk; landscape and open space; utilities; and the Welsh language.

### *Officer assessment*

Having regard to the considerations outlined in the Brief, Officers conclusion is that the documents included with the application contain sufficient information to make a reasoned judgement on the acceptability or otherwise of the proposals for the development of the Ffordd Hendre (Mindale Farm) site. The submission contains a detailed Transport Assessment, along with Ecological assessments, an Arboricultural Impact Assessment/ Method System, a Flood Consequence Assessment, an Archaeological Assessment, an outline drainage strategy Community Linguistic Statement Report and Impact Assessment, a Geophysical Survey Report, and a Water Conservation Strategy.

In terms of the six Design Objectives / principles which the Brief indicates any proposals should meet, the following sections of the report offer commentary on whether the proposals provide adequate provision for walking, cycling and public transport; whether the detailing shows the dwellings / layout have been designed in the context of the surrounding area and edge of settlement location; whether the proposals will enhance biodiversity and human health; whether they provide satisfactory infrastructure; and whether they reflect a suitable 'local' approach with affordable housing to help the community and Welsh language to grow in the area.

For clarity, the status of the Site Development Brief is set out in paragraph 2.2 of that document, and is quoted in full in section 3.1 of this report. It is Supplementary Planning Guidance, which is not part of the adopted Local Development Plan, but it can be treated as a material planning consideration in the determination of an application.

#### 4.2.2 Density of Development

##### *Planning policy and guidance*

Policy RD1 test ii) states that a minimum density of 35 dwellings per hectare (d/ha) should be achieved in order to ensure the most efficient use of land, and that these minimum standards should be achieved unless there are local circumstances that dictate a lower density.

For allocated housing sites, Policy BSC 1 provides indicative figures in a table for how many dwellings each site is expected to provide. The figures are referred to as broadly identifying the distribution of dwellings. The indicative total for the Ffordd Hendre site is 154 dwellings. The gross site area is 4.8 hectares. If the site were to be developed at the Policy RD1 density of 35d/ha, this would mean a total of 168 dwellings based on gross site area.

The Design Objectives section in the Site Development Brief states that access, housing density and site layout will be designed in context of the surrounding area, taking account of matters such as local character and built heritage.

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 density of development should therefore be regarded as a potential material consideration.

*In terms of the planning history:*

*The Council's reasons for refusal in April 2017* made no reference to the density of development.

*The appeal Inspector's letter of decision* in October 2017 made no reference to the density of development.

*Representations and consultation responses on the current application:*

There are no representations raising matters specific to the density of development now proposed.

*Officer assessment*

As the proposal is for the erection of 133 dwellings, this would represent a density of some 27.7 dwellings / hectare (d/ha) based on the gross site area. This is lower than the 35d/ha figure sought in Policy RD1, but having regard to the context of the surrounding area as noted in the Site Development Brief, the extensive area of open space proposed and the topography of the site, alongside the nature and density of housing development on the fringes of the settlement, it is considered that the density of development proposed would be in keeping with the character of existing housing in the area, and is acceptable having regard to local circumstances, and the principles set out in the Site Development Brief.

#### 4.2.3 Housing type and mix

The main Local Development Plan Policy which refers to housing type and mix in new development is Policy BSC 1. The policy seeks to make provision for new housing in a range of locations, concentrating development within development boundaries of towns and villages, and sets out an expectation on developers 'to provide a range of house sizes, types and tenure to reflect local need and demand and the results of the Local Housing Market Assessment'.

Factually, the proposal is for the erection of 12 different house types, including : 16 x 4 bed detached houses; 28 x 3 bed detached houses; 45 x 3 bed town houses; and 44 x 2 bed units, with a mix of 2 storey detached, 2.5 storey town houses, and 2 storey terraces. As a proportion of the 133 dwellings proposed, this mix works out at:

- 2 bed units – 33%
- 3 bed units – 55%
- 4 bed units – 12%

Members may be aware that Officers have recently undertaken a consultation with house builders and Registered Social Landlords on the draft Local Housing Market Assessment, which may ultimately set out the level of affordable housing need in each housing market area and also make a recommendation on the housing mix for market housing. The document suggests that there remains robust evidence in support of the affordable housing requirement on housing sites. In terms of the

suggested housing mix for market housing on larger developments, the document has put forward the following as a guide across the County:

2 bed units – 30%

3 bed units – 35%

4+ bed units – 35%

Having regard to the above, it is considered that the proposals would provide for a wide mix of dwelling types and sizes, with a preponderance of 2 and 3 bedroom units, which would be consistent with the intentions of Policy BSC 1 and the current suggestions in the draft Local Housing Market Assessment.

#### 4.2.4 Visual amenity / AONB / landscape

##### *Planning policy and guidance*

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.

Policy VOE2 requires assessment of impact on the AONB / Area of Outstanding Beauty and states that development that would cause unacceptable harm to the character and appearance of the landscape and the reasons for designation will not be permitted.

Section 6 of the Site Development Brief contains basic design objectives any proposal should meet. It requires the design to take account of the site's edge of settlement visual prominence and existing built heritage, and suggests this should be achieved by a context aware use of design and external construction materials. It requires the site layout and building orientation to respect views from the surrounding area, and high quality landscaping to ensure a seamless transition from countryside to built form. The Brief also refers to the Meliden Ffordd Penrhwylyfa Conservation Area and the requirement in Policy VOE1 and Welsh Government Circular 61/91 to preserve or enhance the character and appearance of such areas. In relation to the AONB, the Site Brief refers to the need to ensure that the overall approach to development and particularly the landscaping of the site pays regard to the need to mitigate any adverse impacts on the AONB, notably on views from higher ground in that area.

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.

*In terms of the planning history:*

*The Council's reasons for refusal in April 2017* made no reference to the visual amenity, AONB or landscape impacts of the housing development.

*The appeal Inspector's letter of decision* in October 2017 similarly made no reference to the visual amenity, AONB or landscape impacts of the housing development.

*Representations and consultation responses on the current application:*

There are individual objections to the proposal based on potential visual impacts arising from the development on the edge of the village. These suggest it would have an unacceptable impact on the character of the area, that it would be an overdevelopment of the site, the layout and design / external appearance of buildings is unacceptable, and there would be unnecessary loss of hedgerows and trees altering the character of the area. There are objections based on loss of views towards the sea.

Natural Resources Wales raise no objections on AONB / landscape grounds. They recommend conditions be attached to any permission to secure submission and approval of Landscape Implementation and Landscape Management plans, and arrangements to ensure the open space areas in the housing site and the link road site are managed under one coherent management plan.

The AONB Joint Committee does not consider the development will cause unacceptable harm to the setting of the AONB, and suggests early implementation of a comprehensive landscaping scheme comprising native local species, and arrangements for long term management of the open space areas; along with due consideration of details of the proposed lighting scheme, to ensure that it is designed to conserve the AONB's dark skies.

*Officer assessment*

In noting representations, Officers accept that there will inevitably be some visual amenity impact from housing development in this location, but it is not considered reasonable to oppose the application on this basis. It is relevant that the site is allocated for housing in the Local Development Plan.

Whilst the site would be visible from higher ground within the AONB to the south, such views are from distance and the development would be seen as a small extension to the existing built up area of Meliden / Prestatyn. Locally, the visual impact of the development would be limited to locations immediately bordering the site. Use of appropriate roof and wall materials, and suitable landscaping / planting, as suggested by the AONB Joint Committee would assist in mitigating impacts from the AONB and from nearby public viewpoints.

It is considered impact on the Meliden Ffordd Penrhwylyfa Conservation Area from development of the Mindale Farm site would be minimal, given the respective location of the site and the Conservation Area (a distance of 300m from the nearest proposed dwelling), and intervening development / topography.

The site would be visible from some residential properties on rising ground to the north east (Lon Elan, Garwyn Avenue, Pwll y Bont) but as the nearest existing properties in this area would be in excess of 100m from the nearest dwellings on the site, the development would only be seen as part of a wider panorama. It is not considered that the development would have unacceptable effects on the visual amenities of occupiers of dwellings in this area.

The closest existing properties to the site are those on the north west / northern fringe of Ffordd Ty Newydd, where the nearest proposed dwellings would be some 30 metres from the houses at Nos. 65-71 and 116 – 120. Land within the application site is at a lower level than properties at Ffordd Ty Newydd and there are trees and hedgerows within many of the gardens of the existing dwellings which would help to limit the visual impact of any new development for occupiers of the existing properties.

In terms of design detailing, the proposals involve use of a number of dwelling types with traditional pitched tiled roofs, with a mix of render and brickwork on the external faces of the walls. This reflects the detailing of recent housing development in the locality, including along Ffordd Gwilym, Maes Meurig, Lon Elan, and Garwyn Avenue. In this context, it is considered that the visual impact of the proposals would be in keeping with the nature of modern development in the area, and in accord with the basic principles in the Site Development Brief.

#### 4.2.5 Residential amenity

##### *Planning policy and guidance*

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

The 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.

*In terms of the planning history:*

*The Council's reasons for refusal in April 2017* made no reference to residential amenity impacts of the housing development.

*The appeal Inspector's letter of decision* in October 2017 similarly made no reference to residential amenity impacts of the housing development.

*Representations and consultation responses on the current application:*

There are individual objections to the proposal based on potential impacts on residential amenity from the housing development, and in terms of loss of privacy from new properties backing onto the site boundary. There are concerns over additional noise and vibration from construction stage operations.

The Council's Environmental Health Technical Officer has commented on the information submitted in relation to noise, lighting and air quality and advises suitable controls would be necessary over elements of the development to limit impacts on nearby dwellings. Conditions are suggested as necessary to clarify proposals for addressing noise, vibration, and air quality impacts at construction stage, along with consideration of additional hooding on specified street lighting columns (the latter being mainly of relevance to the link road application).

*Relevant details in the application*

The applicants have submitted separate documents providing Noise Impact Assessment and Air Quality Assessment information to assist consideration of impacts on occupiers of residential properties close to the proposed access road and junction onto the A547. The lighting plan provides information on the detailing of the 6m columns and lights, the anticipated spread of light, and technical specifications.

The Noise Assessment report sets out considerations to be given to assessing the impacts of noise from traffic and requirements for attenuation, and provides data on measured noise levels along the boundaries of properties on Ffordd Ty Newydd which would face the proposed link road. It is suggested that what impacts are anticipated on a small number of properties can be addressed through a Construction Method Statement condition.

The Air Quality Assessment reviews the impact of the proposed development on local air quality. It concludes the development would have a negligible impact on traffic flows on the affected roads, and the operational phase of the development is not anticipated to have a significant impact on local air quality, and that consequently a detailed assessment of the impact of the development on local air quality is, therefore, not required. The document concludes the proposed development is considered to comply with national and local air quality policy.

*Officer assessment* The location and detailing of the development are such that there is limited potential for direct physical impacts such as overlooking / loss of privacy for residents of existing property from the new dwellings. Dwellings on the site would be well in excess of the 21



metres minimum 'back to back' distances suggested in Supplementary Planning Guidance from the nearest dwellings on Ffordd Ty Newydd.

The additional traffic associated with a development of 133 dwellings would inevitably create a potential for increased noise / disturbance and increased air pollution, mainly at construction stage, but it is not considered that these are reasonable grounds for refusal of planning permission given the location, scale and nature of the development and the allocation of the site in the Development Plan.

It is to be noted that there are no objections to the proposals from the Council's Environmental Health Technical Officer, who recommends basic planning conditions be imposed to clarify proposals for addressing noise, vibration, and air quality impacts at construction stage. These are matters which would routinely be covered in a condition obliging submission and approval of a Construction Management Plan.

On the basis of the above, Officers would conclude that the short and long term residential amenity impacts of the housing development would not be so significant as to make the proposals unacceptable.

#### 4.2.6 Ecology

##### *Planning policy and guidance*

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 6.4), TAN 5, 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.

Planning Policy Wales 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.

The Site Appraisal and Requirements section of the Site Development Brief refers to the Pwll y Bont wildlife site immediately adjacent to the application site. It requires that due consideration is given to the impacts of development on the wildlife site and to mitigation measures, including at construction stage. The Design Objectives section in the Brief seeks to ensure that the development enhances biodiversity, and suggests this may be achieved where possible by enhancing the wildlife site, providing green public spaces, new natural habitats, and maintaining the favourable wetland conditions of the wildlife site.

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.

*In terms of the planning history:*

*The Council's reasons for refusal in April 2017* made no reference to any ecological impacts of the housing development.

*The appeal Inspector's letter of decision* in October 2017 similarly made no reference to the ecological impacts of the housing development.

*Representations and consultation responses on the current application:*

There are individual objections to the proposal based on potential impacts on wildlife. Reference is made to the presence of / habitat for natterjack toads and hedgehogs in the development area, that there is no reference to the impact on the Pwll y Bont wildlife site, and that the proposals would breach the Environment (Wales) Act 2016.

In their original responses, NRW and the County Ecologist indicated further information was required in relation to protected species to assist consideration of the applications. In relation to the additional information submitted, NRW have confirmed they have no objection to the grant of permission subject to inclusion of conditions requiring submission and approval of a range of details including further mitigation proposals, a Construction Environmental Management Plan, related Landscape Implementation and Management Plans, and an Ecological Compliance Audit scheme. NRW have clarified that consideration should be given to provision of commuted sums or arrangements to resource the long term management, maintenance and wardening of the ecological mitigation and enhancement, which in this instance they are suggesting could be addressed by the imposition of appropriate conditions or a Section 106 Agreement.

The County Ecologist has concluded that there is enough information to determine the species likely to be affected by the works, and whilst he does not feel that the measures identified to mitigate the impacts are sufficient to deal with the potential impacts, he considers suitable conditions can be attached to ensure these can be controlled. The conditions relate to basic areas including a Construction Environmental Management Plan, proposals that facilitate long term ecological mitigation, enhancement, site security and site management, an ecological compliance audit, the protection and enhancement of the Pwll y Bont wildlife site and an external lighting/internal light spillage scheme, designed to avoid negative impacts on bats.

*Relevant details in the application*

The applicants have submitted a range of documents providing information on potential ecological impacts, including on bats, Great Crested newts, the Pwll y Bont wildlife site and mine spill areas. The documents do not suggest there would be significant issues arising from the proposals and they put forward ideas for improving and protecting habitat in conjunction with the development.

In response to the matters raised by Natural Resources Wales, the applicants consider these should be resolved by planning conditions as there is uncertainty over requests for financial contributions on prospective new owners / occupiers being compliant with CIL levy regulations, and in any event is a matter under consideration by Welsh Government. It is not considered contributions are proportionate and necessary when conditions can provide adequate safeguards on their own.

*Officer assessment*

In respecting the representations, it is considered significant in the context of ecological impacts that Natural Resources Wales and the County Ecologist raise no objections to the residential site application, subject to the inclusion of conditions requiring submission and approval of proposals for a range of mitigation and related measures, and in the case of Natural Resources Wales, arrangements for long term management and monitoring of the ecology.

Overall, on the basis of the consultation responses, it is considered the development would not have an unacceptable impact on protected species or the nature conservation value of the site or the adjacent Pwll y Bont wildlife site, subject to the inclusion of conditions requiring submission and approval of detailed ecological protection, mitigation and enhancement, and monitoring arrangements, in line with legislation and the principles in the Site Development Brief.

4.2.7 Drainage

*Planning policy and guidance*

Local Development Plan Policy RD 1 test (xi) requires that development satisfies physical or natural environmental considerations relating to drainage and liability to 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. Drainage and liability to flooding should therefore be regarded as potential material considerations.

Welsh Government Circular 008/2018 advises that where proposed, non mains sewerage systems may be a material consideration. It requires that Local Planning Authorities should satisfy themselves proposals are acceptable and that impacts which may justify refusal of permission are unlikely to arise.

In relation to surface water drainage, Members may be aware that the Flood and Water Management Act (FWMA) set up a separate system of approval for sustainable drainage systems by SAB approval bodies, applicable to planning applications submitted from early January 2019. As this legislation does not apply to the Mindale applications (they were lodged in August 2018), responsibility for the establishment of a

Management / maintenance company for the surface water system would rest with the developers, who would need to agree arrangements with the Highway Section for adoption of the highway drainage systems.

Planning Policy Wales Section 6.6.22 to 6.6.29 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. TAN 15 advises that in areas which are defined as being of high flood hazard, development proposals should only be considered where:

- new development can be justified in that location, even though it is likely to be at risk from flooding; and
- the development proposal would not result in the intensification of existing development which may itself be at risk; and
- new development would not increase the potential adverse impacts of a flood event

The Site Appraisal and requirements section of the Site Development Brief, paragraphs 5.39 – 5.42 set out considerations to be given to the assessment of flood risk in connection with the development. There is reference to the proximity to the Meliden Mine Drain and the need to assess drainage and flooding implications, whilst recognising the flood zone is to the north of the site. It outlines considerations to be given to ensuring no adverse impacts from the development, and matters to address in any water drainage strategy / flood assessment. The Design Objectives section in the Brief sets out basic principles requiring proposals to ensure satisfactory infrastructure is in place to handle water and sewerage, and it refers to the need to retain surface water run-off to prevent flooding risk from the ditch.

*In terms of the planning history:*

*The Council's second reason for refusal* in April 2017 related specifically to the drainage implications of the development of the Mindale Farm land. It stated the proposals did not adequately demonstrate that surface water run-off from the site and higher land above it can be managed without increasing the risk of additional discharge to watercourses leading to the Prestatyn Gutter, and hence increasing the potential for flooding downstream, hence failing to comply with the Council's policies and guidance, Technical Advice Note 15 and Planning Policy Wales.

*The appeal Inspector's letter of decision* in October 2017 dealt with the drainage issue in detail. In relation to whether surface water run-off from the development would give rise to flooding, the Inspector concluded a more thorough understanding of the groundwater regime and any associated risk, together with further consideration of the surface water drainage and the design of the attenuation ponds was required. She took the view that in these circumstances, and the precautionary approach outlined in TAN 15: Development and Flood Risk, that insufficient information had been submitted in order to demonstrate that the scheme would not give rise to flooding, contrary to relevant policies, TAN 15 and Planning Policy Wales.

*Representations and consultation responses on the current application:*

There are individual objections to the proposal based on potential flooding and drainage impacts. Many express fears of increased flooding due to additional surface and underground water run-off, including from the new roads. It is questioned whether there are adequate measures in place to prevent flooding downstream, and it is pointed out that the Planning Inspector dealing with the 2017 appeal was not satisfied that there was a satisfactory understanding of the drainage implications. A number of detailed concerns are expressed over elements of the scheme including over the Council and Dwr Cymru Welsh Water ending up with responsibility for sorting future problems and maintenance.

In regard to the revised submissions, concerns are voiced that these are highly technical and difficult to understand, and that it is still not clear how existing storm and street drains from the Ffordd Ty Newydd development are to be dealt with. Concerns remain that surface water will impact on properties within the proposed development. Attention is drawn to the history of efforts to deal with waterlogging of Meliden FC's football field, which it is suggested demonstrates how much surface water is carried by the one drain that enters the development area by the front of 120 Ffordd ty Newydd and casts doubt over the ability of the drainage shown to handle this water. It is questioned whether there has been adequate research into the mining history and potential impacts on development.

Prestatyn Town Council raise concerns over the sewerage and surface water drainage implications of the development. They refer to surface water and flash flooding of downstream property, indicating evidence that downstream surface water flow is already at capacity. They suggest the natural retention of surface water by agricultural land will be lost. Dwr Cymru Welsh Water raise no objections to the development in terms of impact on their assets, i.e. sewage treatment and water supply.

NRW have confirmed that they do not now provide advice on surface water flood risk or any localised flood risk issue, along with surface water drainage arrangements, as they defer comment on such matters to the Council's Lead Local Flood Officers.

As indicated previously, the Council has engaged Waterco as Drainage Consultants to assess the submission and to advise on the land drainage implications of developing the housing site, particularly with regard to the 2017 appeal, in which they assisted the presentation of the Council's case at the Hearing. They requested additional details from the applicants in relation to the contents of the current application in order to assess the acceptability of the proposals, and have reviewed this information provided in order to make their recommendations.

Waterco state that their assessment has found no substantive reasons to refuse the application on flood risk or drainage grounds, and whilst they advise further work is required to finalise the surface water drainage proposals for the development, there is suitable evidence provided to confirm that a viable surface water drainage scheme for the main site, which does not increase flood risk elsewhere, is achievable. They consider further works can therefore reasonably be conditioned, if

planning permission is granted. These include the use of up to date methodology for calculating run-off rates, further flow and drainage detailing to deal with run off from land to the south east, further permeability testing, resizing of detention basins, revised flow control rates to ensure greenfield run-off rates are not exceeded, revisions to flow controls from 3 plots to avoid issues close to dwellings.

Waterco also advise that in relation to the 5 concerns of the Planning Inspector as outlined in the decision letter on the 2017 appeal, 3 are addressed in the submissions, one can be addressed through revisions to layout and calculations, and the other requires additional detail at detailed design stage – matters which can reasonably be dealt with through planning conditions.

The Council's Lead Flood Officer is satisfied that the developer has carried out due diligence in appointing a suitably qualified and experienced consultant to carry out the surface water drainage design for the development. He notes that whilst it is not a mandatory requirement for this particular development, the design of the system follows sustainable drainage principles, which are applauded. As discharge rates from the site are designed to be lower than greenfield runoff rates, this should result in less water entering Prestatyn Gutter than at present. Information provided by the applicant suggests that in the scenario of a rainfall event of 1 in 100, there will no flooding of property within the development and no additional flooding of property beyond the site boundary.

*Relevant details in the application*

The application, as supplemented in early 2019, contains a considerable volume of information in relation to drainage matters. It includes a detailed Flood Consequence Assessment (FCA), Drainage Strategy details, summary statements on the surface water strategy, the management of groundwater and flood risk mitigation along with detailed plans showing the foul and surface water drainage proposals. The contents are referred to earlier in the report. The FCA indicates the site is at little or no risk of fluvial or coastal / tidal flooding; the risk of flooding from groundwater, overland flow, artificial drainage, and infrastructure are all considered to be low; and a SuDS drainage philosophy will be adopted for surface water drainage treatment. The plans show the piped surface water system dealing with water from the roads and roofs would link into a mix of proposed detention basins and cellular storage attenuation tanks, controlling the rate of discharge into the Prestatyn Gutter - discharge rates being limited in accord with requirements of NRW and the local Flood Authority.

The Drainage Strategy advises that the proposed drainage design for the site will incorporate adequate surface water drainage source control by utilising SuDS techniques and flow control devices for the management of water attenuation on the site and pollution prevention off site preventing negative impacts resulting from the proposed developments. The applicants have confirmed that the surface water drainage system would be offered for adoption.

In relation to foul drainage proposals, the conveyance of flow around the development site will be achieved using traditional gravity piped

network, with a small area of development requiring a pumped solution; and all final foul drainage proposals will be subject to approval and agreement by DCWW for adoption purposes in accordance with relevant national standards for new gravity foul sewer and lateral drains.

In response to representations on the application, the applicants refer to the technical information submitted with the application which their consultants conclude adequately demonstrates the surface water drainage will contain run-off within the site with discharge controlled to existing run-off rates for the land, and that the risk of flooding to properties downstream will be unchanged. They have confirmed that Welsh Water have agreed in principle to adopt the carrier drains (the piped network), that the local authority would adopt the gullies and connections, and that the detention basins / cellular storage would be maintained as part of the site landscaping under a management contract set up by Penrhyn Homes.

#### *Officer assessment*

The drainage implications of the housing site development remain a significant material consideration on this 'revised' application.

There are specific local concerns over the impact of surface water from the housing site (and land above it) adding to the potential for flooding and drainage problems in the locality, including on the site itself and on downstream interests, via the Prestatyn Gutter.

Officers are satisfied that the submitted details have been thoroughly assessed by Waterco, the drainage consultants who assisted in the presentation of the Council's case in the 2017 appeal Hearing following the refusal of the original Mindale Farm housing application. Waterco's final response is unequivocal in concluding there are now no substantive reasons to refuse the housing site application on flood risk or drainage grounds. They note further works are required to finalise the surface water drainage scheme for the development, but state..." there is suitable evidence provided to confirm that a viable surface water scheme for the main site, which does not increase flood risk elsewhere, is achievable". They have suggested that relevant information can therefore reasonably be conditioned, if planning permission is granted.

The Council's Lead Flood Officer offers no objections to the grant of permission, commenting that calculated discharge rates from the site are designed to be lower than greenfield runoff rates, which should result in less water entering Prestatyn Gutter than at present. . For a 'design' rainfall event of 1 in 100, the information provided by the applicant suggests that there will no flooding of property within the development and no additional flooding of property beyond the site boundary.

In acknowledging the basis of local concerns, the responses of the main consultees on the application are clear in concluding there is sufficient information submitted to make a reasoned conclusion on the drainage implications of the proposals. The Council's drainage consultants and Lead Flood Officer raise no objections to the proposals. Critically, as noted above, the conclusions of the drainage consultants are that there are no substantive reasons to refuse on flood risk and drainage

grounds, that a viable surface water drainage scheme which does not increase flood risk elsewhere is achievable, and the further details of the drainage proposals which are necessary can be the subject of planning conditions if permission was to be granted.

On the basis of these conclusions, Officers are of the view that the application addresses the reservations of the 2017 appeal Inspector as it provides sufficient information to provide a more thorough understanding of the groundwater regime and any associated risk, together with details of the surface water drainage and the design of the attenuation ponds. It is significant in the context of the objections expressed that Waterco conclude a scheme which does not increase flood risk elsewhere is achievable.

If planning permission were to be considered, it is recommended that suitable conditions are attached to deal with the matters outlined by the Council's Drainage Consultants.

Officers' conclusion, having regard to the above, and respecting the basis of local concerns, is therefore that there are now no justifiable grounds for opposing the housing site development based on drainage impacts, all subject to the imposition of relevant conditions.

#### 4.2.8 Highways

##### *Planning policy and guidance*

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

The Site Development Brief contains a 'Site Appraisal and requirements' section within which paragraphs 5.2 – 5.18 provide detailed guidance on Access and Parking considerations to be applied to the development of the allocated land. It indicates the development proposal requires a Transport Assessment outlining how it would mitigate transport impact through design and planning conditions or obligations; and that specific account should be taken of local concerns over impacts at Ffordd Ty Newydd and its junction with the A547, The Grove and its junction with the A547, approach roads and other roads in the vicinity, Ysgol Melyd, and nearby planning permissions. Proposals would also need to address Denbighshire's Parking Requirements and accessibility for pedestrians and cyclists.

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.

*In terms of the planning history:*

*The Council's first reason for refusal* in April 2017 referred to the highway implications of the development of the Mindale Farm land. It stated the scale of the development would have an unacceptable impact on the character of the village and its infrastructure, and in combination with the detailing of the proposed access road, the development would give rise to unacceptable levels of peak time congestion and dangers to all road users and in particular younger pedestrians accessing the local school and nearby play facilities – all combining to have a negative impact on the wellbeing and quality of life for existing and proposed residents using the highway infrastructure, also failing to comply with the Council's policies and guidance, Technical Advice Note 18, and Planning Policy Wales.

*The appeal Inspector's letter of decision* in October 2017 dealt with the highway issues in detail. The Appeal Inspector concluded that the local highway infrastructure could accommodate the increased traffic generated by the development without harm to highway safety. However, specifically with regard to the detailing of the proposals for highway visibility at the point where the new site access turned through 90 degrees at the bottom of Ffordd Gwilym, and for the proposed emergency access, the Inspector considered the proposal was unacceptable in its submitted format, and concluded that on what was before the Hearing, these aspects of the development would have an unacceptable effect on the highway infrastructure, contrary to Planning Policy Wales, and TAN 18.

*Representations and consultation responses on the current application:*

There are a number of individual objections to the proposal based on potential highway impacts from traffic likely to be generated. Most express concerns over the potential effect on the highway network in and around Meliden, and the impact of additional traffic volumes along the A547, which is considered to have increased with the opening of the Prestatyn Retail Park, the new school, and will be further impacted by other residential developments in Rhuddlan and Dyserth, which it is suggested are not factored into the transport assessment, or are downplayed. Factual information on recent accidents along the A547 is considered out of date, and information on traffic volumes, the capacity of this road are challenged. There is reference to congestion at peak times resulting in difficulties entering the A road, and it is suggested the traffic assessment significantly understates the amount of car use which would arise from the development. There are comments on the proposal for an emergency vehicle access, which objectors consider highlight concerns over reliance on a single highway access to serve a development of the size proposed, and involve use of Ffordd Hendre and Ffordd Ty newydd, which are narrow in parts and not considered adequate to accommodate larger emergency vehicles..

Concerns are highlighted over the site having poor accessibility to the village and facilities – with footway gradients in excess of 8%, and distances to main facilities exceeding Chartered Institution of Highways and Transportation guidelines on acceptable walking distances. It is considered the development would be dependent on the motor car as most residents would not walk or cycle to the village, the highway network would be impractical for those using motorised scooters and disabled people, and it is pointed out that the frequency of bus services referred to in the submission are inaccurate.

There are strong objections raised by Prestatyn Town Council in relation to the highway implications of the development. The original response expressed concerns over inadequate highways access/egress, a poor link road and outdated traffic count figure, lack of public service infrastructure including roads, poor public transport network, and problems of disability access. Their response on the revised submissions suggests traffic measurement data needs to be updated to reflect recent developments in the area using the A547, and notes limited emergency vehicle access routes to the site. It also adds concerns over the accessibility of the site for people with impaired mobility due to the topography.

Dyserth Community Council have concerns over an increase of traffic using Dyserth High Street, Waterfall Road and the possibility of additional use of a short cut along the minor road entering the A547 which runs from Bryniau.

The Highway Officer's response on the application is set out in detail in the Consultation Responses section of the report. It refers to a range of issues relating to the application including the capacity of the existing network, accessibility, the detailing of the site access, aspects of the site layout, and parking matters; and it cross references to comments on the separate link road application (43/2018/0751). The main points of relevance to the housing site application are:

#### **Capacity of existing network**

The Highway Officer refers to the conclusions of the Appeal Inspector in accepting the A547/The Grove junction could accommodate the new development and all the existing housing using this junction. He states the proposed access off the A547 further south would now only serve the new housing development and would have considerably less traffic than the previous proposed access.

It is noted the Transport Assessment has also been updated to include the committed, allocated and recently approved development sites, as confirmed by Denbighshire County Council, and it is concluded this demonstrates the new access and the existing A547 will operate safely within capacity. Taking the previous appeal inspectors comments into account, which is a material planning consideration it is concluded there would be no reason that could be sustained at any future planning appeal to refuse the proposed access onto the A547.

#### **Accessibility**

The Highway Officer refers to the detailing of the site access and links to the local footpath and cycleway networks, and the proposal for the emergency access, which was a requirement of the previous appeal. He notes the existing public right of way running through the site will be

upgraded and this will link into Ffordd Gwilym, the detailing of which would be covered by a suitably worded planning condition. With regard to the distance of the site to local facilities and services, it is noted the planning inspector found them easily accessible, and therefore with the improvements proposed it is considered the site is accessible.

**Site access**

The Highway Officer refers to the detailing of the proposed access off the A547, which are considered acceptable in highway terms, subject to conditions requiring approval of design, layout, construction, etc.

**Site layout**

The Highway Officer considers the details of the on-site highways arrangements are acceptable.

**Parking**

The Highway Officer considers the parking arrangements are compliant with the standards in the Parking SPG and are acceptable.

**In conclusion**, the Highway Officer raises no objections to the proposals having regard to the detailed assessment and the previous appeal decision, subject to inclusion of conditions requiring approval of full details of the internal estate roads and associated infrastructure, the emergency access, pedestrian links to the local footpath network, and a construction method statement.

*Relevant details in the application*

The contents of the lengthy Transport Assessment submitted with the application are summarised in Section 1.1.4 of the report. It contains detailed assessment of the existing highway network and projected traffic volumes and impacts. It concludes that the proposed development is located in a sustainable location, which is highly accessible on foot, by cycle and is also accessible by public transport. It indicates the local highway network would be able to accommodate the additional traffic associated with the proposed development, and that the development is acceptable in highway, traffic and transportation terms.'

The proposals as revised in early 2019 eliminate what was originally shown as an 'emergency' vehicular access from the site via the existing road access to Mindale Farm (Ffordd Hendre) onto Ffordd Ty Newydd, instead illustrating this would be solely a footpath access. There is an additional plan within the submission indicating the three 'public escape routes' from the site along the proposed link road, and the footpath links to Ffordd Hendre and to Ffordd Gwilym / Maes Meurig, and a statement summarised earlier in the report setting out arguments in relation to the provision of an emergency vehicular access route into and out of the site.

There is a considerable volume of plans and supporting documents with the application providing technical information illustrating the detailed layout and specifications for the internal estate roads and associated drainage arrangements.

There has been dialogue with Officers over a range of highway issues to clarify elements of the proposals and the approach to matters which would need to be covered in conditions and a legal agreement in the event of permission being granted:

- In order to address concerns over the separate or incremental implementation of any permissions for the housing site and the link road, the applicants have confirmed they are agreeable to inclusion of suitable planning condition(s) on any permission / Heads of Terms in any Obligation , as necessary, to ensure no development can take place on the housing site before a permission is in place for the link road, and that the link road is constructed to an agreed standard to deal with construction stage operations and subsequent use by occupiers of dwellings. The applicants are suggesting a suitable bond is put in place as part of the Obligation and / or the relevant Highway Agreement to ensure completion of the highway works if the developer defaults.
- The applicants would provide a link from footpath 22 to Ffordd Gwilym, details to be agreed and covered by a planning condition. Footpath 22 would be improved to a 2m wide path through the whole site.
- The applicants would offer a sum of £5,000 for the improvement of the footpath link from the south west corner of the site into Ffordd Ty Newydd (in the open space between Nos 55 and 57); this being the relevant sum calculated by the Footpaths Officer.
- Notwithstanding the comments of the applicants' highway consultants, the applicants are happy to provide an 'emergency access' via Ffordd Hendre if considered necessary. This could be covered by condition and would consist of a 3m wide footpath link with appropriate detailing preventing motor vehicle use other than in emergencies.

In relation to representations on road accident data along Ffordd Talargoch, the applicant's consultants have provided updated data for the 2014-2018 period, with analysis. Their concluding comment is that.. 'When considering accidents on an annual basis, they are not frequent, with one accident in 2014, two in 2015, one in 2016, one in 2017, and one in 2018'. The consultants also emphasise the conclusions of the 2017 appeal inspector in stating the local highway infrastructure could accommodate the increased traffic generated by the development without harm to highway safety

On the matter of walking distances to local facilities, the applicant's consultants have drawn attention to the appeal inspector's conclusions, which were that local amenities were easily accessible, and with reference at the hearing to guidance that amenities should be within 800 metres, this figure referred to in the Manual for Streets document is not an upper limit. In respect of the gradients of pedestrian routes, the consultants confirm that the actual gradients of the link road do not exceed 10% (the highest being 8.3%), which is considered in line with current standards in Manual for Streets 2.

In addressing local representations in relation to traffic flow figures and the capacity of the highway network, the applicant's consultants have provided further information to demonstrate the impact of the development on the A547, extracted from March 2018 traffic counts. The consultants maintain that there would be negligible impact on the A547 junctions with Ffordd Ty Newydd, The Grove, Ffordd Penrhwyfya and Ffordd Talargoch, ...'all of which would continue to operate within

capacity in the 2025 future assessment year'. It is also emphasised that the Transport Assessment takes into account recent planning consents including the one at Voel Coaches site in Dyserth, and other committed and allocated sites in the area. The impacts of the development on Dyserth roads is concluded to be negligible, equating to one vehicle trip every 15 minutes.

#### *Officer assessment*

The background history and the summary of representations confirm the highway implications of this development are critical considerations. Local concerns are well articulated and strongly voiced, and remain that there are a range of unsatisfactory impacts which combine to weigh against the grant of permission.

In reviewing these issues, it is equally important to note the basis of the Appeal Inspector's grounds for dismissing the 2017 appeal (the actual detailing of the road construction at the bottom of Ffordd Gwilym and the emergency access arrangements), the differences between the previous and current applications, and the consultation response of the Highway Officer, which takes account of this background.

In acknowledging the unusual scenario where there are two 'related' applications in front of the Council, one dealing with the housing development and one with the link road, Officers' opinion is that it is relevant to consider in relation to both proposals the acceptability of the potential impact of the volume of traffic likely to be generated on the existing highway network. The housing site development would give rise to traffic putting additional pressure on the existing road system, and the link road development would facilitate the means of that traffic accessing that road system.

In the context of the above, Members' attention is drawn to the lengthy consultation response of the Highway Officer, which is summarised above. Significantly, having regard to the information submitted, issues relevant to the proposals as raised by objectors, and the previous Appeal decision, the Highway Officer does not object to the proposed development.

In pulling matters to a conclusion here, it is recognised that there will remain differences in interpretation of information and variance of opinion on the impacts and the case for refusal or grant of planning permission. Officers would however respectfully suggest there is now enough information in front of the Committee to make a reasoned decision on the acceptability or otherwise of the Mindale development on the local highway network. Ultimately, much comes down to the weight to be attached to the key considerations.

Officers do not challenge that a development of 133 dwellings would increase pressure on the road network in the vicinity of the site, and it is accepted that there are times during the day when traffic congestion will occur in certain locations in the area. The matter which has to be addressed initially is whether the likely volume of traffic generated from the development in itself, would bring about levels of congestion, etc. which would be unacceptable having regard to the capacity of the road network, judged against reasonable objective parameters. In this

context, whilst respecting the strength of local feeling, Officers have inevitably to draw attention to the planning history as a significant factor here, since the 2017 planning appeal Inspector clearly concluded the local highway infrastructure could accommodate the increased traffic generated by the development without harm to highway safety. The scale of development now proposed is the same as that which was before the appeal Inspector. The Highway Officer does not consider there are sustainable highway capacity arguments to support a refusal of permission.

In Officers' opinion this is a significant background which offers limited support for a refusal based on impact on the local highway network.

There are questions over the accessibility of the site having regard to the distance from local amenities and the topography, as gradients of the link road and the footpath network are challenging for those with limited mobility. However, these were not matters which the 2017 appeal Inspector found to be significant to the final determination of the proposals. The Highway Officer refers to the Appeal Inspector's comments that the site is easily accessible to local facilities, and he also concludes, with the improvements to the footpath network that the site is accessible.

In Officers' opinion, given the above, there are limited accessibility grounds on which to now oppose the application.

With regards to the emergency access issue, the Highway Officer considers it necessary to ensure provision of an access via Ffordd Hendre, with detailing to be agreed through condition. Given the purpose of an emergency access would only be to provide a short term link to the highway network in the case of an 'extreme' incident resulting in blockage of the link road, and the fact that it would be designed to be restricted to use as a footpath link at all other times, Officers would not consider this to be an unacceptable element of the scheme. The applicants have indicated they would be happy to accept this matter being covered by condition.

The Highway Officer is satisfied that a safe access linking the site to the A547 can be constructed. The link road proposal is the subject of the following application on the agenda.

In relation to unease over issues arising from the submission of separate applications relating to the housing site and its access to the A547, it is fully appreciated that if Committee were to consider granting permission for the housing development, consideration has to be given to conditioning any permission for the housing site to prevent commencement of development until there is a permission in place for the link road, and to ensure the co-ordination of the construction of the link road in connection with the carrying out of any works on the housing site (as there is no obvious acceptable alternative means of access for construction traffic or operational stage traffic into the Mindale Farm land). To this end, it is suggested that there are realistic options in the guise of a 'Grampian' form of planning condition prohibiting any development taking place on the housing site until there is a valid permission in place for the link road to the A547, and the link road is constructed to an agreed standard prior to any development taking place on the housing site.

In respecting the basis of local concerns over the proposals, taking the range of issues relating to the highway impacts of the proposal into account, and in particular the conclusions of the Appeal Inspector and the Highway Officer's response, it is Officers' opinion, for the reasons set out in the preceding paragraphs of the report that there are limited highway grounds to justify a refusal recommendation on the proposals now in front of the Council.

If Members are minded to grant planning permission, this would need to include a range of highway related conditions to give effect to the recommendations of the Highway Officer and to cover other matters relevant to the co-ordination of development of the housing site with the proposed link road; and it would need to be subject to an Obligation to secure a contribution towards the off-site improvement of the footpath links from the site to Ffordd Ty Newydd, and a bond to ensure highway works are completed should the developer default.

#### 4.2.9 Affordable housing

##### *Planning policy and guidance*

Local Development Plan Policy BSC 4 seeks to ensure, where relevant, 10% affordable housing either on site on developments of 10 or more residential units or by way of a financial contribution on development of less than 10 residential units. There is detailed guidance in the Affordable Housing Supplementary Planning guidance on the approach to provision. Policy BSC 1 sets an expectation that developers should provide a range of house sizes, types and tenures to reflect local need and demand.

There is limited reference in the Site Development Brief to Affordable Housing provision. Section 4.9 refers to the requirements of Policy BSC4 above, and 4.10 outlines the demand locally for 2 bedroom affordable housing and the need for compliance with relevant space standards.

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. Affordable housing provision should therefore be regarded as a potential material consideration.

Planning Policy Wales Section 4.2.25 identifies a community's need for affordable housing as a material consideration to be taken into account in determining relevant planning applications.

##### *In terms of the planning history:*

*The Council's reasons for refusal in April 2017* made no reference to affordable housing issues.

*The appeal Inspector's letter of decision* in October 2017 similarly made no reference to affordable housing.

*Representations and consultation responses on the current application:*

There are individual comments on the application raising questions over the need for additional housing, and whether there is adequate affordable provision.

Prestatyn Town Council have raised concerns that there is 'insufficient number and cost' of affordable housing.

The Strategic Housing and Planning Officers have confirmed that the proposal to build 13 affordable units would comply with Development Plan policy, with the payment of £25,354.65 to meet the calculated commuted sum for the remaining 0.3 of a unit to comply with the 10% affordable provision in the policy.

*Relevant details in the application*

The proposal is to provide 13 affordable units on site and to make a financial contribution in accordance with the requirements of the Supplementary Planning Guidance in relation to the outstanding 'fraction' of 0.3 of a unit (a sum of £25,354.65). The applicants have confirmed that they would be willing to enter into a legal agreement to ensure the payment of the commuted sum referred to, and to arrangements for the delivery of the Affordable housing units.

*Officer assessment*

In noting Prestatyn Town Council's comment on the adequacy of the affordable provision, the proposal is in compliance with the requirement in Local Development Plan policy BSC4, which is for 10% affordable provision on developments of 10 or more dwellings, as 13 affordable dwellings are proposed on site and a financial contribution of £25,354.65 is being offered in accord with the Supplementary Planning Guidance to meet the outstanding fraction of 0.3 of a unit (as the 10% requirement is 13.3 dwellings).

In Officers' opinion, the proposals clearly meet the requirements of Policy BSC4 and the Supplementary Planning Guidance in relation to affordable housing provision, and as referred to earlier in the report, there is a reasonable mix of dwelling types and sizes within the development as advocated in Policy BSC1. It is now accepted practice on full planning applications to secure arrangements for provision of affordable housing, including the relevant commuted sum payment, through a Section 106 Agreement linked to any planning permission.

#### 4.2.10 Open Space

*Planning policy and guidance*

Local Development Plan Policy BSC 3 seeks to ensure, where relevant, infrastructure contributions from development. Policy BSC 11 requires proposals for all new residential development to make a contribution to recreation and open space either on site, or by provision of a commuted sum. It is specified that open space should always be provided on site.



Commuted sums in lieu of open space will only be accepted where the full requirement for open space would mean that the proposed development was financially unviable or it is impractical to provide the full requirement for open space on site.

The Site appraisal and requirements section of the Site Development Brief 5.43 refers to the Development Plan Policy requirement that open space should be provided on site, accessible to all, and well linked to existing public right of ways; and maintenance arrangements should be in 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. Open space provision should therefore be regarded as a potential material consideration.

*In terms of the planning history:*

*The Council's reasons for refusal in April 2017* made no reference to open space issues.

*The appeal Inspector's letter of decision* in October 2017 similarly made no reference to open space issues.

*Representations and consultation responses on the current application:*

Individual representations raise questions as to whether there is any clear mechanism to ensure long term management of the proposed open space area and the public footpath, particularly in the event of any management company ceasing to trade.

The Strategic Housing and Planning Officer has confirmed the open space area proposed in connection with the development exceeds the planning policy requirement. Provision needs to be made for an equipped children's play area, and arrangements for a resourced management company to maintain the open space would need to comply with guidance in the Planning Obligations SPG.

*Relevant details in the application*

The revised submission indicates the area of open space is some 1.12 hectares. It notes this figure exceeds the requirement for a development of 133 dwellings worked out from the Open Space calculator used in connection with Supplementary Planning Guidance on Open space, which confirms a requirement of 4894sq.m for a Community Recreational Open Space and an Equipped Children's play space of 2447sq.m. (a total of 0.73ha). The open space is proposed along the northern, western, and southern sides of the site, links into the housing layout and existing footpaths from Ffordd Hendre, and retains footpath 22 along the southern boundary within an open corridor running to the footpath link into Maes Meurig.

The applicants have indicated that the open space would be provided, managed and maintained by a private Open Space company in accordance with the Fields in Trust and Welsh Assembly Guidance, and

have suggested the details of the arrangements can be covered by suitably worded planning condition(s).

*Officer assessment*

In Officers' opinion, the extent of open space proposed is consistent with the requirements in the Council's Supplementary Planning Guidance, and the accessibility aspirations in the Site Development Brief. The open space is designed to link with the footpath network within the site, and there is connection to the existing public footpath running along the south east boundary of the site, which in turn leads to a wider footpath network leading to the centre of the village.

In recognising local concerns over long term management, Officers believe it would be reasonable to secure arrangements for the provision, management and future maintenance of the open space areas through the imposition of planning conditions, requiring the Council's formal approval of clauses including default provisions in the event that a Management Company fails.

4.2.11 Impacts on local infrastructure

*Planning policy and guidance*

Objective 12 in Chapter 4 of the Local Development Plan indicates that the Plan will ensure that an adequate level of community infrastructure (including schools) will be provided alongside new developments.

Policy RD1 test (ix) requires regard to be had to the adequacy of existing public facilities and services.

Policy BSC 3 seeks to ensure, where relevant, infrastructure contributions arising from development to meet the additional social, economic, physical and or environmental infrastructure requirements arising from the development. The policy refers to the Council's priorities, which will vary depending on the nature and location of development, but are affordable housing, recreation and open space, sustainable transport facilities, regeneration, and 'Council priorities current at the time of application in line with other issues identified in the Local Development Plan or by the local community.'

The Planning Obligations SPG explains the principles behind the use of Planning Agreements as a means of mitigating the impact of developments on local facilities that are geographically and functionally related to it. It sets out the type of mitigation measures the Council may seek to secure from development, the basis on which these may be justified, and the strict tests to be applied to determine the necessity and reasonableness for contributions. The Guidance explains that '...in justifying the need for these planning requirements there should be an evidence based approach to demonstrate relevance and need for the planning requirements identified.

Section 4.8 of the Site Development Brief refers to Policy BSC3 and to the 5 Council priorities (affordable housing, recreation and open space, sustainable transport facilities, regeneration, and other issues identified in the Development Plan or local community), which will vary depending on the nature and location of a development. The Brief refers specifically to improving the quality of school buildings and performance

as a key corporate priority in the Council's Corporate Plan, and states that alongside affordable housing, sustainable transport facilities and open space, contributions to education provision will be sought. Education requirements are detailed in section 5.37 -38 of the Site Brief. 5.37 states a developer contribution would be required to increase the capacity of Ysgol Melyd, as the development would generate pupil numbers in excess of its capacity. Guidance on the method of calculation is given in an Appendix to the Site Brief. 5.38 explains that based on figures provided by the Education department, there is sufficient capacity in secondary schools in Rhyl and Prestatyn to accommodate the development of this site and the nearby Maes Meurig site; however it is noted that projections may change and developers should check the latest figures in connection with an application. There is no requirement in the Site Brief for consideration of contributions to other local services.

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 impact on services may therefore be regarded as a potential material consideration.

*In terms of the planning history:*

*The Council's first reason for refusal* in April 2017 referred generally to the unacceptable impact of the residential development at Mindale Farm on the village infrastructure, but its wording related this more specifically to impact on the highway infrastructure – all combining to have a negative impact on the wellbeing and quality of life for existing and proposed residents, in conflict with the Council's policies and guidance, and Planning Policy Wales.

*The appeal Inspector's letter of decision* in October 2017 dealt largely with the highway infrastructure impacts of the housing development, as referred to in section 4.2.9 of this report. In accepting the proposal would represent a significant addition to the size of the village, which would result in increased demand for local services such as schools, doctors and dentists, the Appeal Inspector noted the site is allocated for residential purposes in the LDP. She concluded that apart from the need for primary school places, there was no substantive evidence that local services and facilities could not accommodate future residents of the proposal; and that the matter of primary school places is one which would be addressed by way of a financial contribution via a legal agreement.

*Representations and consultation responses on the current application:*

There are individual objections to the proposal based on the impact on local services. These include concerns over additional strain on GP surgery and dentist facilities, the primary school, Glan Clwyd Hospital and its emergency service, social services, mental health services, bin and refuse services and the village infrastructure, which it is claimed cannot cope with additional development. In relation to the impact on Ysgol Melyd, it is questioned whether the potential increase in pupil

numbers be accommodated even with the commuted sum being offered, and whether the sum would be sufficient, and whether the extension or remodelling would be completed in sync with completion of housing development.

Prestatyn Town Council have raised concerns over the lack of public service infrastructure and refer to services considered to be under strain due to ongoing public sector finance and resource constraints - medical provision, schools, sewerage and surface water drainage, roads, and a poor public transport network.

The Strategic Housing and Planning Officer has confirmed the calculated contribution towards provision of places at Ysgol Melyd is £238,720, and there is no need for a contribution towards the nearest secondary education facility at Prestatyn High School.

#### *Relevant details in the application*

In response to comments on the adequacy of infrastructure, the applicants have drawn attention to the fact that they would be providing, at their own cost, a substantial new roadway into the site, improving the footpath network, improving the existing area drainage, assisting support for the Welsh Language, and financially supporting new primary education places in the community of Meliden, in accordance with the sums calculated by the Council. The applicants consider this infrastructure is proportionate to the scale of the development proposed, was the subject of discussion at appeal and would be subject to a S106 agreement.

#### *Officer assessment*

In recognising the basis of representations expressing concerns over the ability of local services to accommodate additional housing development, Officers would initially urge some caution in using this as a ground for refusal of planning permission on a site allocated for housing in the Local Development Plan, having regard also to the responses from the main service providers on the application.

There are a number of elements to address in relation to this issue, set out in the following paragraphs.

'Infrastructure' is a generic term which covers a wide range of physical structures and services needed to support a community. In respect of assessing new housing developments, this obliges consideration of:

- the ability of 'built' infrastructure such as foul and surface water drainage systems, the water supply network and the highway network to accommodate the particular development.
- the need for affordable housing, and open space provision in connection with the development, which are Council priorities referred to in the Local Development Plan.
- the potential impacts on other public services, including those provided, managed and funded directly by the County Council (e.g. local schools, social services, leisure centres, libraries, etc.), and those managed, provided and funded primarily by Welsh Government and the private sector (e.g. hospitals, doctors, dentists, nurseries and child care, police, etc)

The impacts of the development on the built infrastructure in the locality are reviewed in other sections of the report, and include detailed assessments of the drainage and highway network implications. On the basis of the submitted details and consultation responses, and subject to suitable conditions, Officers do not consider the impacts of the development on these elements of the physical infrastructure would be such as to justify refusal of permission. It is a developer's responsibility to fund all drainage and highway works involved with a development.

The need for affordable housing and open space provision in connection with the development is also dealt with in earlier sections of the report. Officers conclude that on the basis of the submitted plans and consultation responses that the provision for affordable housing and open space is consistent with the policies of the Development Plan and Supplementary Guidance.

In terms of the impacts on County Council services, the Education Section have confirmed on the basis of relevant pupil roll figures and estimated demands from a development of this scale, there would be a shortfall of capacity at Ysgol Melyd (primary school), which would require mitigation in accordance with Policy BSC3 of the Development Plan and the Planning Obligations Supplementary Planning Guidance. The applicants have confirmed willingness to enter a legal agreement to ensure payment of the required commuted sum of £238,720, towards new primary school provision or facilities at Ysgol Melyd. This sum has been costed by the Education section in accordance with the formula set out in current Supplementary Planning Guidance. The developers have confirmed agreement to payment of this contribution, which would form one of the Heads of Terms of a Section 106 Obligation. In respecting representations questioning the adequacy of the commuted sum payment, as noted, this is calculated in accordance with a formula set out in approved guidance and it would be a matter for the Education section to use the contribution to plan and implement the improvements to Ysgol Melyd in association with the development of the Mindale site.

In terms of impacts on services provided / funded primarily by Welsh Government and the private sector (e.g. hospitals, doctors, dentists, police), whilst noting local concerns over the adequacy / levels of services in the locality, there is no clear evidence provided in representations to show that the Mindale development in itself would give rise to adverse impacts on delivery of these services, sufficient to merit refusal of permission.

In addressing this issue, Officers would also point to other considerations which may be of relevance to the planning authority's position in dealing with general concerns over service provision where this is largely outside the control / influence of the County Council:

- The impacts on local services from the scale and location of development on allocated housing sites was considered as part of the Local Development Plan process. This involved consultation with main service providers. In Officers' opinion there have been no significant material changes in local circumstances since the adoption of the Development Plan in 2013, or evidence provided as part of the consultation process on the Mindale application to suggest that the Council could justify a developer contribution or

resist the grant of planning permission for a single residential development of the scale involved, on the basis of potential impacts on services outside the control of the County Council.

- Main service providers were consulted on the draft version of the Site Development Brief for the development at Ffordd Hendre and Maes Meurig. No comments were received raising issues over adequacy of local services or the impacts of the development on services, and no case was made for the provision of financial contributions to address any deficiencies. The Brief was approved in March 2016.
- There is inevitably an onus on service providers outside the County Council's control to plan and fund their respective services, having regard to the likely location of new development. In adopting its Development Plan, the County Council has provided all agencies with a responsibility for delivering services a clear indication of where new development will take place over the period up to 2021.
- The co-ordination of service planning in relation to 'large scale' facilities such as regional hospitals and the delivery of GP and dental services is more of a strategic level issue, for consideration as part of the process of review of the Development Plan, where it may be more appropriate to pursue a multi-agency approach having regard to the likely location and scale of new development over a 10 -15 year period.
- Planning Committee has granted planning permission to other major housing schemes on allocated sites in the locality in recent months (e.g. over 150 dwellings on Macbryde Homes sites at Parc Tirionfa, Rhuddlan and Cysgod y Graig, Dyserth), and has not considered the impacts on general health services such as hospitals, doctors and dentists as significant in the determination of these applications. To justify a refusal of permission of the application now in front of the Committee, it would seem necessary to establish that the amount of development proposed on the Mindale site in itself would be so significant that it would prejudice the delivery of public services to an unacceptable degree, which would respectfully seem very difficult to establish.

It is Officers' opinion, therefore, with respect to concerns over the impacts of the Mindale development on local infrastructure, that on the basis of the submitted details and the consultation responses, there are limited grounds to support a refusal of planning permission on what is an allocated housing site.

It is to be noted that developer contributions are being offered to meet evidenced need arising directly from the scale of development proposed, in relation to education provision, affordable housing, off site highway works, and promotion of the Welsh language. Beyond this, there is little in the way of evidence to show that the Mindale development in itself would have such a profound impact on the delivery / standard of general public services that it would tip the balance to a point where the provision of a range of these public services would be so prejudiced that it would be unacceptable to consent to any further

development. This reflects the conclusions of the 2017 appeal Inspector which were that there is no substantive evidence that other local services and facilities could not accommodate future residents of the proposal.

#### 4.2.12 Impact on Welsh language and social and cultural fabric

##### *Planning policy and guidance*

The requirement to consider the needs and interests of the Welsh language is set out in Policy RD 5 in the Local Development Plan. The policy obliges consideration of the potential harm to the character and language balance of a community from the size, scale or location of a development. It indicates developers will be expected to provide bilingual signage as a minimum means of promoting the Welsh language, and that in appropriate circumstances, mitigation against any adverse effect may be secured through a financial contribution.

Section 5.50 of the Site Development Brief refers to the mining and quarrying history of Meliden and to the proportion of Welsh speakers in the 2011 census being 15.1% compared with the County average of 24.6%. It notes the need for a Community and Linguistic Impact Assessment with any application, and suggests as a minimum, development proposals should seek to use locally relevant Welsh names for streets and the development as a whole.

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 impact on the Welsh language should therefore be regarded as a potential material consideration.

Planning Policy Wales Section 3.28 states that considerations relating to the use of the Welsh language may be taken into account by decision makers so far as they are material to applications for planning permission.

TAN 20 has clarified the approach to be taken in relation to the assessment of individual planning applications in that it does not require applications to be subject to Welsh language impact assessment where this would duplicate the Strategic Assessment and Local Development Plan site selection processes. As the Mindale site is an allocated site in the Local Development Plan, this suggests no impact assessment is necessary as part of the application.

##### *In terms of the planning history:*

*The Council's reasons for refusal in April 2017* made no reference to the impact of the residential development on the Welsh language and the social and cultural fabric of the locality.

*The appeal Inspector's letter of decision* in October 2017 similarly made no reference to such impacts.

##### *Representations and consultation responses on the current application:*

There are no individual comments on the application raising questions over the impact of the development on the Welsh language and the social and cultural fabric of the locality.

*Relevant details in the application*

The Community and Linguistic Statement submitted with the application cross references to the document submitted with the 2016 application, which noted the site has been allocated in the Development Plan, and as the number of dwellings proposed is below the indicative number of 154 in the table attached to Policy BSC1, the scale of impacts on the Welsh language are likely to be less than anticipated when consideration was being given to inclusion at the adoption stage of the Plan. It also refers to mitigation for impacts, which is considered through a number of mechanisms, including provision of 10% affordable housing (support for local young families), provision of a mix of housing types including smaller affordable dwellings, phasing of the development, the offer of a commuted sum payment to promote the Welsh language, and use of Welsh street names. The update statement with the current application notes the Appeal Inspector in 2017 did not judge the impacts of the development to be an issue and suggests these were further offset by the proposed mitigation in the Section 106 Obligation; the current application still provides

- a) Welsh Street naming for the development;
- b) Additional educational provision at the junior school (S106 payment offer);
- c) Welsh Language teaching provision and welsh speaking courses, Welsh language Youth Worker (by way of S106 payment offer).

*Officer assessment*

In Officers' opinion a residential development of 133 dwellings on an allocated housing site on the edge of one of the County's main coastal towns would not by virtue of its size, scale, and location cause significant harm to the character and language balance of the community. Mitigation measures against impacts are in the form of affordable housing provision, the phasing of development, education contributions, the use of Welsh signage, and the offer of a Welsh language mitigation payment as part of a Section 106 Obligation. If a permission were to be granted, a planning condition can also be included which seeks the submission of a 'Welsh Language Strategy', which would need to contain measures to secure the promotion of the language and culture in association with the development.

4.2.13 Use of agricultural land

*Planning policy and guidance*

Planning Policy Wales (Section 3.54-55) obliges considerable weight to be given to protecting land of grades 1, 2, and 3a quality in the Agricultural Land Classification system. Such land is considered to be the best and most versatile and justifies conservation as a finite resource for the future. PPW indicates that land of this quality should only be developed if there is an overriding need for the development, and either previously developed land or land of a lower grade is unavailable, or available lower grade land has an environmental value



recognised by a landscape, wildlife, historic or archaeological designation which outweighs the agricultural considerations.

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 impact on agricultural land may therefore be regarded as a potential material consideration.

The Site Development Brief sets no requirement for assessment of agricultural land quality as a planning consideration in relation to an application for the development of the site.

*In terms of the planning history:*

*The Council's reasons for refusal in April 2017* made no reference to the impact of the residential development on high quality agricultural land.

*The appeal Inspector's letter of decision* in October 2017 similarly made no reference to such impacts.

*Representations and consultation responses on the current application:*

There are no individual comments on the application raising questions over the impact of the development on high quality agricultural land.

*Relevant details in the application*

There are no assessments in the application documents of the agricultural land quality on the housing site.

*Officer assessment*

It is acknowledged that there may be some land of 3a quality in this area, but it is of some significance in this context that the site is allocated within the adopted Local Development Plan for residential purposes, and as noted, there is no requirement in the Site Brief for consideration of agricultural land quality issues with a planning application. In adopting the Local Development Plan in 2013, the Council has accepted the Mindale Farm site as a housing allocation to assist with the achievement of the County's identified housing need requirements, which in terms of section 3.54 and 3.55 of Planning Policy Wales 10 is considered to be an 'overriding need' for development outweighing the agricultural considerations in Planning Policy Wales.

#### 4.2.14 Archaeology

*Planning policy and guidance*

Policy VOE 1 of the Local Development Plan seeks to protect areas of archaeological and historic importance from development which would adversely affect them, reflecting general advice in Planning Policy Wales (Section 6.1.23 - 29) which sets out a range of considerations to be given to the assessment of archaeological issues, including approaches to conservation of remains and their settings where relevant.

Sections 5.21-22 in the Site Development Brief explain that the Council's Archaeologist has no evidence of archaeology at the site, but it sets out the need for a suitable desk based assessment and if necessary, geophysical surveying, and that if permission is granted, the preparation and maintenance of an archaeological watching brief during construction phase.

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 impact on archaeology may therefore be regarded as a potential material consideration.

*In terms of the planning history:*

*The Council's reasons for refusal in April 2017* made no reference to the impact of the residential development on archaeological interests.

*The appeal Inspector's letter of decision* in October 2017 similarly made no reference to such impacts.

*Representations and consultation responses on the current application:*

There are individual comments on the application raising questions over the impact of the development on archaeological interests. These suggest proper assessment of the potential for Iron Age remains is necessary, and that evidence of a Roman road needs exploring. It is questioned whether there has been adequate research into the mining history and potential impacts on development.

Clwyd Powys Archaeological Trust raise no objections, and have not requested additional information or assessment in relation to the application. They request an archaeological watching brief condition and a guidance note for the applicant on how to commission archaeological works be attached to any permission, in view of the potential for previously unrecorded sub-surface archaeology of prehistoric and later date, in accordance with the mitigation stated in the archaeological assessment report.

*Officer assessment*

In noting the basis of individual responses, the Clwyd Powys Archaeological Trust comments raise no issues over the information submitted with the application and it is therefore concluded there are no archaeological concerns over the development of the housing site. Appropriate conditions and notes would need to be attached to any permission to cover the watching brief requirements of the Trust.

#### 4.2.15 Fear of crime / community safety issues

*Planning policy and guidance*

Policy RD1 test xii) requires new development to take account of personal and community safety and security in the design and layout of development and public / private spaces and have regard to implications for crime and disorder.

Section 5.35 of the Site Development Brief contains reference to the need for any proposal to create attractive and safe public spaces and movement routes, including pedestrian and cycle routes and maximising natural surveillance over public spaces.

The Development Management Manual advises at paragraph 9.4.3 as to what can be considered a material consideration, and states that the effects of a development on the neighbourhood and environment can be a material consideration. It is therefore considered that community safety issues are capable of being a material consideration. This reflects the contents of documents such as A Model Design Guide for Wales – Residential Development and the Council's own Residential Development SPG which encourage the use of design / layout to enhance public safety, in supporting the 'Designing out crime' ethos in new developments.

*In terms of the planning history:*

*The Council's reasons for refusal in April 2017* made no reference to fear of crime or community safety issues.

*The appeal Inspector's letter of decision in October 2017* similarly made no reference to such impacts.

*Representations and consultation responses on the current application:*

There are no individual comments on the application raising concerns over community safety issues.

The North Wales Police Designing Out Crime Officer has commented on the pathways proposed at the rear of the dwellings on plots 67 and 93, which are considered to increase the risk of burglaries to properties backing onto it, and has suggested these should be avoided, or if required should be securely gated.

*Officer assessment*

The main potential for community safety issues seems likely to arise where pathways are proposed at the rear of dwellings, where there may be limited opportunity for natural surveillance. The North Wales Police Designing Out Crime Officer has pointed to two locations within the development site where rear pathways are proposed and suggests it would be preferable to see these eliminated, or otherwise secure gates should be introduced. The applicants have confirmed they would propose appropriate gating to address the issue, a matter which can be dealt with by inclusion of a suitable planning condition. As the applicants have incorporated previously suggested design features to mitigate potential concerns and there was no reference to community safety issues in the refusal of the previous scheme or from the Appeal Inspector, it is not considered there are reasonable grounds to now oppose the detailing of the layout on these grounds.

#### 4.2.16 Contaminated land and land stability

*Planning policy and guidance*

The Development Management Manual advises at paragraph 9.4.3 as to what can be considered a material consideration, and states that the effects of a development on the neighbourhood and environment can be

a material consideration. It is therefore considered that contaminated land and land stability issues are potential material considerations.

This reflects general advice in Planning Policy Wales Section 6.9.16 – 21, which sets out a range of considerations to be given to the assessment of contaminated land issues, and 6.9.22 – 28 which relates to land instability.

*In terms of the planning history:*

*The Council's reasons for refusal in April 2017* made no reference to contaminated land matters or to the impact of the residential development on land stability.

*The appeal Inspector's letter of decision in October 2017* similarly made no reference to such impacts.

*Representations and consultation responses on the current application:*

There are individual comments on the application raising questions over the potential for subsidence and contamination, asking that this should be properly investigated, given the presence of old lead mine workings. It is questioned whether the documents show full assessment of impacts of old workings.

*Relevant details in the application*

The applicants have submitted a Geo-Environmental Desk Study which identifies potentially contaminative land uses on the site itself and the surrounding land, including made Ground and in-filled ground, mining activities, historic reservoirs sewer works (off site to the south), and railway activities (off site to the south). The study considers there is low risk in terms of contamination and subsidence.

In response to local representations, the applicants have suggested matters relating to contamination and land stability are adequately covered in the submissions, which point to low risk which can be adequately managed as a detailed design matter post planning. Whilst detailed ground sampling tests would be undertaken before any construction works, it is not considered that there would be a need for piling construction.

*Officer assessment*

Having regard to the conclusions of the Geo-Environmental Desk study, and the absence of any technical objections from consultees, this suggests there is limited potential for adverse impacts from contaminated material on existing or proposed development. In any event, it is suggested that if permission were to be considered, standard 'precautionary' contaminated land conditions could be attached to cover the situation where contaminated land is encountered in the course of development works, requiring full investigation to be undertaken, the submission and approval of mitigation measures by the Council, and the implementation of those measures in association with the development

In terms of the stability of the land proposed for the dwellings, there is limited evidence submitted to suggest there is a significant risk of subsidence in relation to new development arising from historic mining activity in the locality, or that the development of a housing site would give rise to subsidence affecting existing nearby existing dwellings.

Nonetheless, the detailed design of foundations for houses and roads would need to take account of ground conditions in the areas close to any past mine workings and demonstrate construction methods suitable to deal with any potential for subsidence.

#### 4.2.17 Planning conditions and Section 106 Obligations

##### *Planning policy and guidance*

Members will be aware that in deliberating on applications, the planning system obliges due consideration to be given to the possibility of imposing planning conditions in order to enable development to proceed, to address specific issues arising and to improve the quality of development. Alongside the use of conditions, there is scope to enter into planning agreements under Section 106 of the Planning Act to secure arrangements to overcome obstacles which may otherwise prevent permission from being granted, and this includes securing financial contributions and off-site works, where relevant.

The possibility of imposing conditions and use of legal agreements are therefore material to the consideration of the housing site application. In exercising the power to impose conditions and negotiate planning agreements, the Council is nonetheless required to do so with regard to basic tests set in legislation (e.g. Circulars 008/18 and 13/97), which is that these are:

- Necessary
- Relevant to planning
- Directly related to the proposed development
- Fairly related in scale and kind to the proposed development
- Reasonable in all other respects

The preceding topic review sections of the report refer where relevant to the framework in the Local Development Plan (Policy BSC3), the Planning Obligations Supplementary Planning Guidance, and the Site Development Brief. These set out the specific infrastructure requirements arising from schemes which may justify financial contributions proportional to the development proposed.

BSC3 refers to affordable housing, recreation and open space, sustainable transport, regeneration, and 'Council priorities current at the time of application in line with other issues identified in the Local Development Plan, or by the local community'.

The Site Development Brief refers specifically to improving the quality of school buildings and performance as a key corporate priority in the Council's Corporate Plan, and states that alongside affordable housing, sustainable transport facilities and open space, contributions to education provision will be sought.

##### *In terms of the planning history:*

*The Council's reasons for refusal in April 2017* made no reference to any Section 106 Obligation.

*The appeal Inspector's letter of decision in October 2017* agreed with the Council that the obligations contained in the Unilateral Undertaking submitted by the applicants, relating to financial contributions towards off-site highway works, affordable housing, education and the Welsh

language were necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development, in accord with policy and legislation. However, as there was a fundamental flaw in that the Undertaking was not signed by all those party to it, the need for the obligations to make the development acceptable had therefore not been secured by the Undertaking as submitted.

*Representations and consultation responses on the current application:*

There are limited direct comments on the issues relevant to the use of planning conditions or a legal agreement in individual representations. Requirements for a Section 106 agreement are mentioned in the responses from Natural Resources Wales, the County Ecologist, Highways Officer, and Strategic Housing and Planning Officer. These are referred to in the topic review sections of the report.

*Relevant details in the application*

The applicants submitted a draft legal agreement as a basis for discussion in the course of progressing the proposals, outlining willingness to make a range of financial contributions.

*Officer assessment*

The possibility of imposing conditions and securing financial contributions/ off-site works directly related to the development through a Section 106 legal agreement has to be considered as a legitimate mechanism for addressing issues arising in relation to the application, including from the consultation process. The use of conditions and legal agreements has to be reasonable, necessary, and directly related to the nature and scale of development proposed, to meet tests in national legislation.

Regardless of the recommendation and ultimate decision by Members, Officers have a duty to explore means of overcoming obstacles to development, and the preceding sections of the report outline the areas where conditions and / or terms of a legal agreement may be appropriate to allow this to happen. There are specific suggestions for Heads of Terms of a legal agreement under Section 106 of the Planning Act in conjunction with any planning permission, to cover the payment of commuted sums to meet requirements for education and affordable housing provision, footpath improvements, Welsh Language initiatives, and arrangements for ensuring retention of affordable dwellings in perpetuity.

Members are asked to take these matters into account in weighing up the merits of the proposals.

Other matters

Submission of two applications

Representations on the application raise questions over the submission of separate applications for the housing site and the access road, and whether it is appropriate for the Authority to deal with the proposals in this way.

In respecting the points raised, it is the applicant's choice to submit separate applications for the housing site and the 'new' access to it. If the applications are valid submissions, the Council is obliged to handle them as separate applications, and there are no procedural grounds to justify refusing to deal with them as submitted. The important point is how the applications are considered and determined, and how the issues that arise from this approach are dealt with. For example, in the event that consideration were to be given to granting planning permission for either application, it would be necessary for the Council to consider how and whether it may be possible to tie one development to the other (including to prevent one permission from being implemented separate from the other), and how to deal with the scenario where one application is granted and the other refused, to prevent implementation of the consented development without permission being in place for the other.

Members will appreciate that the applications are presented to Planning Committee on the same agenda, so the common issues they raise can be adequately considered.

In relation to the application for the Mindale Farm housing site, therefore, Officers believe concerns over the implications of it being approved as a standalone development can be addressed reasonably through imposition of a 'Grampian' form of planning condition preventing implementation of a permission for the housing development without a valid permission in place for the new link road, and a mechanism to ensure the co-ordinated implementation of the two permissions, i.e. to ensure the housing site can only be serviced at construction and operational stage through the new link road.

#### Environmental Impact Assessment Screening

There are representations questioning whether the proposals for the housing site and link road should be accompanied by an Environmental Impact Assessment, and over the implications for assessing the need for Environmental Impact Assessment from the applicant's choice to submit separate applications for the housing development and the new link road.

The applicants have responded separately on this matter, as referred to at the end of this section of the report.

Procedurally, the Council has to process applications within the confines of relevant legislation. Each application received by the Council has to be 'Screened' in accordance with the requirements of the Environmental Impact Assessment Regulations, to determine the need for submission of an Environmental Statement with that application. The Council has to consider whether a development is likely to have 'significant effects' on the environment taking into account factors such as nature, size or location, the selection criteria in Schedule 3 of the Regulations, and the contents of Circular 11/99, such that an Environmental Statement is necessary to accompany an application.

Schedule 3 of the Regulations identifies three broad criteria which should be considered:

- The characteristics of the development (size, design, use of natural resources, quantities of pollution, waste generated, risk of accidents and risk to human health);
- The environmental sensitivity of the location; and
- The types and characteristics of the potential impact (magnitude and duration).

The two Mindale applications have been 'screened' in accordance with the Regulations and considered with regard to Circular 11/99, and separate Screening Opinions have been issued confirming the proposals were not ones which necessitated Environmental Impact Assessment, as the proposed development is not considered likely to have significant effects on the environment in terms of the considerations to be applied to the need for Environmental Impact Assessment.

Outside this formal process, account was taken of the cumulative impacts of the developments, as it is clear they cannot proceed independently, and it was concluded that whilst the combined site area marginally exceeds the indicative thresholds, having regard to these, the same criteria for screening Schedule 2 development, and guidance in Circular 11/99, the proposals would still not give rise to significant effects such as to conclude an Environmental Impact Assessment is required. The Circular suggests Environmental Impact Assessment is more likely to be required where new developments of over 1000 dwellings are involved, and where new roads exceed 2km in length (the development is for 133 dwellings and the proposed road is 400 metres long).

Officers are satisfied the relevant procedures have been followed in relation to the Mindale applications, having due regard to the nature, scale and significance of impact of the proposed developments.

In recognising the points raised, it is important to appreciate that Screening Opinions are made solely in relation to the considerations outlined in the Regulations, etc. which are relevant to the significance of effects on the environment. Their purpose is not to determine the acceptability of the development, or to prejudice the consideration of the merits of the proposals. The conclusions that the proposals are not ones requiring submission of an Environmental Statement in no way predetermines the manner in which applications are considered, or whether the information submitted with the applications is adequate to allow assessment of the key impacts. The application process is itself subject to safeguards in the form of the consultation process which affords statutory and other consultees opportunity to comment on the impacts and adequacy of information submitted. No consultation bodies have responded to question the need for Environmental Impact Assessment in connection with the applications. Some have asked for additional information in order to make final comments on the acceptability of the proposals, which is standard practice. This information has been requested from the applicants and the additional information received in early 2019 has been subject to a full reconsultation and publicity exercise.



The applicants have submitted a 3 page response countering any accusations that the EIA Regulations have been circumvented by these jointly timed submissions for a revised original and linked access development.

#### Prospect of the land being de-allocated as part of the review of the Local Development Plan

There are comments that the Mindale land may be de-allocated as part of the review of the Development Plan.

In respecting the suggestion that the ongoing review of the Development Plan may result in changes to housing land allocations in the Plan, this is not a sound ground for refusing planning permission in this instance. Legislation clearly obliges the Council to determine applications in accordance with the approved Development Plan at the time of considering an application. The site is allocated for housing development in the current approved plan. The review of the Development Plan is in its early stages in any event and it would be wholly inappropriate in Officers' view to give any weight to the possibility that allocations may be changed in the course of revising the Plan.

#### Loss of property value

In appreciating concerns over impact on property value, Officers would advise against attaching weight to this as a consideration on a planning application. It has been established over time and through case law that perceived negative effects on the value of a property are not matters which are material planning considerations and should not influence the decision making process.

Respectfully, it is the land use planning impacts of a development – for example, on the enjoyment of a dwellinghouse by the occupiers which need to be taken into account, hence weight should properly be given to the acceptability of impacts on – for example - residential amenity and visual amenity, which are matters reviewed in detail in the report.

#### Open space area

There are representations questioning the management arrangements for maintaining the open space areas within the site, and responsibility for maintenance of the footpaths.

In noting these concerns, it is relevant that the applicants have indicated that the open space would be provided, managed and maintained by a private Open Space company, and have suggested the details of the arrangements can be covered by a suitably worded planning condition.

#### Impact on the character of the village

The localised impacts of the proposed housing development on the settlement of Meliden are covered in preceding sections of the report. Officers' conclusions are that in respecting the concerns expressed, it would be difficult to justify a refusal recommendation on the basis of adverse effects on factors which may contribute to the general 'character' of the village.

This opinion reflects the conclusions of the 2017 Appeal Inspector who had regard to a range of potential impacts on the village, but found there was no substantive evidence that the development of the allocated housing site would harm the character of the area.

### Landownership issues

Members will note from the summary of representations section that comments have been received from private individuals questioning the ownership of land included within the application site.

Section of 1.1.5 of this report details the steps undertaken by the applicant / agent in relation to the submission of the planning application, including the checks taken pre-submission to ascertain ownership. The applicants have submitted Certificate C with the application, which is relevant if someone other than the applicant may be the owner of any part of the land to which the planning application relates and the applicant knows the names and addresses of some, but not necessarily all, the owners. The application forms confirm notice has been served on the owners of Mindale Farm and Denbighshire County Council, as owners of land within the application site.

Notwithstanding that there may remain concerns from objectors over ownership of parts of the site, the applicants have followed due process in seeking to make potentially interested parties aware of the planning application (including the Council as landowner), and the publicity given to the application has permitted representations to be made on it - which is the basic intention of the Certification process.

Ultimately, is not considered there are any reasonable procedural grounds for holding up or refusing to determine the planning application in respect of land ownership matters. Disputes over ownership are not material planning considerations or a basis for refusing to grant planning permission. The applicant and agent have been made aware previously of potential boundary issues by the Council and private individuals, and have maintained there is no basis to revise the ownership statement on the application forms or to inform any additional parties of the submission of the application.

In these circumstances, if planning permission were to be granted, and it is not possible to implement that permission because it can subsequently be established legally that development / works would be taking place on land outside the ownership or control of the developer, interested parties have legal recourse through service of injunctions to prevent those developments / works taking place. There is separate recourse through legal challenge to the grant of planning consent on the basis that false statements have been made in respect of ownership on the application forms.

It is important in the context of the above to note that a grant of planning permission does not convey any judgement from the Council on any landownership claims, nor would it convey to the applicant the right to carry out development or to gain access across land which may be outside his / her ownership. It is the applicant's responsibility to ensure that he / she can implement a planning permission without infringing

property rights. All this would be drawn to the attention of the applicants as a special note on any Certificate of Decision.

#### Local Employment Strategy

The Denbighshire Corporate Plan 2012-17 identifies developing the local economy as one of the priorities for the Council. The Planning Obligations Supplementary Planning Guidance promotes measures to encourage local training and employment. The SPG identifies that obligations may be sought in relation to major commercial and industrial development, and that more significant housing developments may be required to provide or support local apprenticeships, training and employment opportunities.

In this case, the applicant is a developer in North Wales, and it is likely that the proposed development would support local employment in line with the SPG. In support of the Corporate Plan and the SPG, it is suggested that a planning condition requiring the submission of a Local Employment Strategy be attached to any permission.

#### Well – being of Future Generations (Wales) Act 2015

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

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

## **5 SUMMARY AND CONCLUSIONS:**

- 5.1 The application relates to the development of 133 dwellings on an allocated housing site at Mindale Farm, and needs to be considered in conjunction with a separate application immediately following on the agenda, which proposes a new link road to the site from the A547 – application 43/2018/0751.
- 5.2 There is a relevant planning history here:
  - An application for the development of the land at Mindale Farm with access proposed through Ffordd Gwilym and The Grove up to the A547, was refused at Planning Committee in April 2017, on grounds of impact of the scale of development on the village including the highway infrastructure, and the surface water drainage implications.
  - The reasons were tested at appeal. The Planning Inspector provided clear conclusions in her decision letter on matters of relevance to the current revised proposals. In dismissing the appeal, the Inspector concluded:

- \* the principle of development of an allocated site was established,
- \* there was no substantive evidence that local services and facilities could not accommodate future residents
- \* the development would not harm the character of the area
- \* the local highway infrastructure could accommodate the increased traffic generated by the development without harm to highway safety

Nonetheless, the Inspector took the view that on the basis of information before the hearing, the details of elements of the scheme were inadequate, specifically those relating to:

- the access at the point where it would turn at 90 degrees towards the site at the bottom of Ffordd Gwilym,
- the drainage information, which was considered insufficient to demonstrate that the scheme would not give rise to flooding,
- the absence of a completed Unilateral Undertaking dealing with the necessary contributions towards off-site highway works, affordable housing, education and the Welsh language, which were considered necessary to make the development acceptable in planning terms.

- 5.3 The Officer report sets out the main planning issues which appear relevant to the consideration of the application, and reviews the previous reasons for refusal and the findings of the Appeal Inspector, as these are considered significant to deliberations on this 'revised' proposal.
- 5.4 Additional information has been submitted in connection with the application, and there has been a comprehensive re-consultation exercise. The report refers to the responses of consultees and to the basis of local objections, which are largely unchanged on the amended proposals.
- 5.5 There remain strong representations over the local impacts of the development, in particular in respect of the adequacy of local infrastructure, and effects on the highway network and drainage situation. These are summarised and referred to in the different topic paragraphs within the report, along with the responses of the 'technical' consultation bodies.
- 5.6 As factual background, the site has been included as a housing allocation within the development boundary of Meliden as part of the adopted Denbighshire Local Development Plan. In respecting concerns over the allocation process in the course of progressing the Local Development Plan in 2013, the Plan is Council approved and is a significant material consideration in relation to the principle of the development. There is pressure on the Council to allow reasonable development to meet housing targets, Denbighshire currently having just 1.55 years supply of available housing land against a minimum National requirement of five years. There is also an approved Site Development Brief which is a material consideration in the assessment of the application.
- 5.7 The developer has confirmed agreement to completing an Obligation to meet requirements for financial contributions, including towards education, affordable housing, footpath improvements, and Welsh language enhancement.
- 5.8 Ultimately, having regard to the range of issues arising on the application, with due respect to the detailed representations received, the basis of responses from the key 'technical' consultees, and the conclusions of the 2017 Appeal Inspector, it

is the opinion of Officers that there are now limited substantiated land use planning grounds to oppose the grant of permission, hence the recommendation is to grant permission.

- 5.9 Should members resolve to grant permission, it would be necessary to ensure relevant planning conditions are attached and that the permission be subject to a suitable legal agreement to include for a highway bond and arrangements to secure the relevant contributions and management arrangements, and that development of the housing site cannot proceed before there is a permission in place for the link road and the link road is constructed to an agreed standard before any works can commence on the housing site.

**RECOMMENDATION** - that Members resolve to **GRANT** permission subject to :

**a. Completion of a Section 106 agreement to include for:**

1. Payment of an education contribution of £238,720 for extending / adapting Ysgol Melyd
2. The provision of the 13 Affordable Housing units on the site, and arrangements to secure their retention as such in perpetuity; and the payment of the commuted sum of £25,354.65 as calculated to make up the balance in relation to the outstanding 0.3 unit.
3. Payment of a contribution of £5,000 to allow for the improvement of the public footpath link between the site and Ffordd Ty Newydd in the open space area between Nos 55 and 57
4. Payment of a Welsh Language contribution of £20,000
5. Provision of a Highway bond to ensure completion of the roads
6. Arrangements to prevent the implementation / commencement of any permission for the housing development without the permission for the link road being in place, and the construction of that road to a standard acceptable to the Council prior to commencement.

The precise wording of the Obligation and how this may be co-ordinated with an Agreement relating to the link road development would be a matter for the legal officer to finalise with the applicants. In the event of failure to complete the Obligation within 12 months of the date of the resolution of the planning committee, the application would be reported back to the Committee for determination against the relevant policies and guidance at that time.

The Certificate of Decision would not be released until the completion of the Obligation.

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

1. The development to which this permission relates shall be begun no later than INSERT DATE, with the proviso that no development or works of demolition shall be permitted to take place until there is a planning permission in place for the section of new highway linking the site to the A547, and that highway has been completed to such standard as has been agreed in writing by the Local Planning Authority as part of that permission.

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

LIST TO BE INSERTED

3. No works on the construction of any dwelling, garage, screen walls or fences shall be permitted to commence until the written approval of the Local Planning Authority has been obtained to the schedule of external wall and roof materials to be used. The development shall proceed strictly in accordance with the approved schedule unless otherwise agreed in writing by the Local Planning Authority.
4. The development shall be carried out strictly in accordance with the proposed phasing shown on Plan PL01.023E.
5. No development shall be permitted to commence until the written approval of the Local Planning Authority has been obtained to full details of the internal estate road, public rights of way improvements, emergency access, pedestrian link to Ffordd Gwylim and associated highway works as indicated on the approved plans including the detailed design, layout, construction, street lighting, signing and drainage, and the timing of completion of works on each element of the highway works. The development shall proceed only in accordance with the details approved.
6. No development shall be permitted to commence until the written approval of the Local Planning Authority has been obtained to a Construction Method Statement. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
  - 1) Site compound location
  - 2) Traffic management scheme
  - 3) The parking of vehicles of site operatives and visitors;
  - 4) Loading and unloading of plant and materials;
  - 5) Storage of plant and materials used in constructing the development;
  - 6) The management and operation of construction vehicles and the construction vehicle routes including access to the site
  - 7) wheel washing facilities;
  - 8) Measures to control the emission of dust and dirt during construction
7. No dwelling approved as part of this permission shall be permitted to be occupied until the access road serving it, including the link road from the site to the A547, has been completed in accordance with the relevant approved plans and particulars.
8. The facilities for the parking and turning of vehicles within each plot shall be completed in accordance with the approved plans before the dwelling to which they relate is first brought into use, and shall be retained as approved at all times thereafter.
9. Notwithstanding the submitted details, no works of construction on any dwellings shall take place until the written approval of the Local Planning Authority has been obtained to the following details:
  - a) the proposed materials to be used on the driveway(s), paths and other hard surfaced areas;
  - b) the items and surfacing proposed within the equipped Children's play area, minor artefacts and structures (e.g. street furniture, cycle racks, screens for bins etc.) associated with the public open space areas and the public footpath
  - c) the detailed schedules of all tree and shrub planting, including species, numbers, types and spacing within individual plotsThe development shall be carried out strictly in accordance with the approved details.
10. None of the dwellings shall be occupied until the written approval of the Local Planning Authority has been obtained to full details of the proposed treatment of the open space areas

and planting / landscaping, to include for a Landscape Implementation Plan and an open space / Landscape Management Plan containing details of all of the following:

- a) the detailed schedules of all tree and shrub planting, including species, numbers, types and spacing
- b) The nature, standards and frequency of works necessary to implement the approved planting scheme and its maintenance for a minimum of 5 years
- c) The timing of completion of the approved landscaping / planting
- d) How and by whom the planting and open space areas will be maintained for the lifetime of the development; the nature, standards and frequency of the works necessary; and the ecological and amenity objectives to be achieved for all open areas and SuDS infrastructure
- e) An equipped play area for children
- f) Arrangements to cover the failure of any Open Space / Landscaping Management Company

The development shall only proceed in accordance with the approved arrangements / plans.

11. All trees and hedges to be retained as part of the development hereby permitted shall be protected during site clearance and construction work by 1 metre high fencing erected 1 metre outside the outermost limits of the branch spread, or in accordance with an alternative scheme agreed in writing by the Local Planning Authority; no construction materials or articles of any description shall be burnt or placed on the ground that lies between a tree trunk or hedgerow and such fencing, nor within these areas shall the existing ground level be raised or lowered, or any trenches or pipe runs excavated, without prior written consent of the Local Planning Authority.
12. 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 retained 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, no later than the next planting season.
13. Any trees, hedgerow plants and amenity planting introduced as part of the approved scheme of landscaping which die or are severely damaged or become seriously diseased within five years of the completion of the final phase of the development shall be replaced with trees or plants of such size and species to be agreed in writing with the Local Planning Authority, in the next planting season.
14. None of the dwellings shall be occupied until the approved associated boundary / screen fences or walls relating to them have been completed.
15. **PRE-COMMENCEMENT CONDITION**  
Notwithstanding the submitted details, no development shall take place until the written approval of the Local Planning Authority has been obtained to all of the following relating to the proposed scheme of surface water drainage, and the SuDS drainage system:
  - a. The recalculation of the greenfield run-off rates, in accordance with the preferred methods as described in the Sustainable Urban Drainage Systems manual
  - c. The detailing of the proposals for intercepting the run off from higher land to the south east of the site, including calculations of the level of flow to be intercepted, the detailing of the intercept drain and attenuation required such that the discharge location can accommodate any additional flow, and assessment of the suitability of the discharge location.
  - d. A detailed assessment of the need for a geomembrane below the permeable paving, and proposals for such geomembrane should the assessment reveal this is required.
  - e. Further permeability testing in order to inform the extent of infiltration and groundwater intrusion for the SuDS design, and revised SuDS proposals should the results require amendments to the submitted scheme.

- f. Full details of the surface water drainage system including pipe and chamber sizes, gradients, cover and invert levels, including for the proposed Ffordd Gwilym highway drainage mitigation proposals, and assessment of the capacity of the receiving drains / watercourses; detailed design to be in accordance with the Design Manual for Roads and Bridges unless otherwise agreed with the Local Planning Authority.
- g. The proposed phasing of the SuDS and surface water drainage systems relative to the phasing of the four phases of housing development
- h. The location and detailing of all the ponds / detention basins and attenuation / storage tanks, and associated hydro brake and pipe detailing, to ensure greenfield run-off rates are not exceeded.
- i. Arrangements for the adoption and future management and maintenance of all the elements of the drainage systems, and in the event of a private Management Company being responsible for any element, arrangements to cover the failure of such Management Company.

The development shall only proceed in accordance with the details as approved in relation to this condition.

- 16. No surface water and/or land drainage shall be allowed to connect directly or indirectly with the public sewerage network.
- 17. No development on any of the dwellings shall commence until the scheme to re-direct surface water from the public combined sewer within Ffordd Gwilym to the watercourse, as detailed within the Drainage Strategy, dated July 2018 (CS76703-CAP-01-EWE-RP-D-0003 rev P1) and Ffordd Gwilym Highway Drainage Mitigation Measures drawing (MPH-CAP-01-0500-DR-C502 Rev P-01) has been completed in accordance with the approved details.
- 18. No site clearance or works of construction shall be permitted to commence until the written approval of the Local Planning Authority has been obtained to a Construction Environmental Management Plan (CEMP), to include for:
  - i) a biosecurity risk assessment including appropriate measures for controlling any non-native invasive species on site and measures to prevent them being introduced for the duration of the development and restoration;
  - ii) a prior survey for water voles and otters,
  - iii) specific provisions in respect of tree inspection for the potential presence of bats,
  - iv) the details of proposals for the timing of site works to avoid wildlife disturbance and compensatory measures for breeding birds and bat habitat, including the location and timing of introduction of such measures;
  - v) if voles and otters are present, details of Reasonable Avoidance Measures (RAMS) and compensatory and enhancement measures to increase the value of the site for wildlife.
 The development shall only proceed in accordance with the approved details.
- 19. No site clearance or works of construction shall be permitted to commence until the written approval of the Local Planning Authority has been obtained to :
  - a) detailed proposals that facilitate long term ecological mitigation and enhancement, with arrangements for the management, maintenance and monitoring / wardening (including resourcing and funding thereof)
  - b) detailed proposals for a scheme of ecological monitoring / ecological compliance audit (ECA), which reflect the provisions of the Ecological Addendum and Ecological Compliance Audit and evidence the implementation and effectiveness of proposals to mitigate and enhance ecological interests.
 The development shall only proceed in accordance with the approved details.
- 20. No site clearance or works of construction shall be permitted to commence until the written approval of the Local Planning Authority has been obtained to measures within the application site to ensure the protection and enhancement of the Pwll y Bont wildlife site.



The development shall only proceed in accordance with the approved details.

21. No site clearance or works of construction shall be permitted to commence until the written approval of the Local Planning Authority has been obtained to an external lighting/internal light spillage scheme, designed to avoid negative impacts on bats, in accordance with guidance set out in Guidance Note 08/18 Bats and artificial lighting in the UK (2018) Bat conservation Trust & The Institute for Lighting Professionals. The approved measures shall be implemented in full.  
The development shall only proceed in accordance with the approved details.
22. The developer shall ensure that a suitably qualified archaeological contractor is present during the undertaking of any ground works in the development area so that an archaeological watching brief can be conducted. The archaeological watching brief must meet the standards laid down by the Chartered Institute for Archaeologists Standard and Guidance for archaeological watching briefs.
23. A copy of the report documenting the archaeological watching brief, including proposed mitigation / actions in the event of significant finds, shall be submitted to the Local Planning Authority and the Development Control Archaeologist, Clwyd-Powys Archaeological Trust (41 Broad Street, Welshpool, Powys, SY21 7RR Email: mark.walters@cpat.org.uk Tel: 01938 553670) for inclusion in the regional Historic Environment Record, within 2 months of the fieldwork being completed, and all the mitigation / actions set out therein shall be carried out strictly in accordance with its recommendations.
24. If, during the course of development works, contamination not previously identified is found to be present at the site, then no further works (unless otherwise agreed in writing by the Local Planning Authority) shall be carried out until the written approval of the Local Planning Authority has been obtained to a remediation strategy detailing how this unsuspected contamination will be dealt with, including the timescale for completing the works. Any approved scheme for decontamination of the site shall be fully implemented and completed in accordance with the agreed timescale.
25. No demolition of the Mindale Farm buildings shall be permitted to commence until the written approval of the Local Planning Authority has been obtained to all of the following details:
  - a) an audit of all existing building materials;
  - b) the potential re-use and recycling of those materials as part of the proposed development;
  - c) where relevant, the recipient of remaining building materials.The approved audit shall form part of the building contract agreed for new building development for the site, a copy of which shall be submitted for record purposes for the Local Planning Authority.
26. No development shall be permitted to commence until the written approval of the Local Planning Authority has been obtained to a 'Welsh Language Strategy', to include ideas for securing the promotion of the language and culture in association with the development, use of signage, branding and marketing, support for Welsh courses or related initiatives active in the community.
27. No development shall be permitted to commence until the written approval of the Local Planning Authority has been obtained to a Local Employment Strategy, to include ideas for employment initiatives and training for local people.  
The Strategy shall be implemented as approved.
28. The proposed rear pedestrian accesses to the Plot 67 and Plot 93 dwellings shall either be eliminated or shall be redesigned in accordance with such detailing for secure gating and fencing as may be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development thereon. The development shall only proceed in accordance with the requirements of this condition.
29. No works of demolition or construction shall be permitted to commence until the written approval of the Local Planning Authority has been obtained to details of mitigation measures

to address potential noise impacts on properties identified in the Noise Assessment as being affected at construction and operational stage, and those measures which are approved have been implemented. The measures shall be retained in place at all times unless otherwise approved in writing by the Local Planning Authority.

The reasons for the conditions are:-

1. To comply with the provisions of Section 91 of the Town and Country Planning Act 1990, to ensure the site is served by a satisfactory road at construction and operational stage, and to ensure the housing development can not proceed irrespective of any consent for a service road.
2. For the avoidance of doubt and to ensure a satisfactory standard of development.
3. In the interests of visual amenity.
4. In the interests of assimilating the development into the settlement.
5. In the interest of the free and safe movement and traffic on the adjacent highway, and to protect residential amenity.
6. 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.
7. To ensure the residential development is served by a satisfactory vehicular access.
8. To ensure each dwelling is served by a satisfactory access and off road parking space, in the interests of the free flow of traffic.
9. In the interest of visual amenity.
10. To ensure the delivery of a satisfactory standard of open space and landscaping in connection with the development, and that there is an acceptable arrangement for the future management and maintenance of the open space.
11. In order to protect existing trees and hedgerows, in the interest of visual amenity..
12. In the interests of visual and residential amenity.
13. In the interest of visual amenity.
14. In the interests of visual and residential amenity.
15. To ensure the detailing of the drainage systems are satisfactory to minimise impacts on the surface water environment in the locality.
16. To prevent hydraulic overloading of the public sewerage system, to protect the health and safety of existing residents and ensure no pollution of or detriment to the environment.
17. To ensure satisfactory foul drainage of the development and ensure that the drainage of the site does not result in environmental consequences in the wider area.
18. To ensure there are satisfactory arrangements in place to protect and enhance ecological interests.
19. To ensure there are satisfactory arrangements in place to protect and enhance ecological interests.
20. To ensure there are satisfactory arrangements in place to protect and enhance ecological interests.
21. To ensure there are satisfactory arrangements in place to protect and enhance ecological interests.
22. To ensure an appropriate record is made of any archaeological remains which may be revealed during ground excavations for the consented development.
23. To secure preservation by record of any archaeological remains which may be revealed during ground excavations for the consented development.
24. In order to ensure there is adequate consideration of potential contamination on the site and measures to address it to eliminate any risks to users of the site and the natural environment.
25. In support of sustainability principles.
26. In order to support the Council's objectives in protecting the needs and interests of the Welsh Language.
27. In order to support the Council's objectives in promoting local employment initiatives.
28. To mitigate the potential for antisocial behaviour and risk of crime at the rear of residential properties.
29. In order to mitigate anticipated noise impacts arising from the development in relation to occupiers of nearby residential properties.

## APPENDIX 2

Late Information sheets on application 43/2018/0750, as presented to 4<sup>th</sup> September 2019 Planning Committee

**ADDENDUM REPORT BY HEAD OF PLANNING AND PUBLIC PROTECTION****AGENDA ORDER, LATE INFORMATION AND AMENDMENTS TO PLANNING COMMITTEE REPORTS**

The following sheets are an addendum to the main agenda for the Committee. They set out the order in which items will be taken, subject to the discretion of the Chair. They provide a summary of information received since the completion of the reports, and matters of relevance to individual items which should be taken into account prior to their consideration.

Where requests for public speaking on individual planning applications have been made, those applications will normally be dealt with at the start of that part of the meeting.

**AGENDA FOR THE MEETING**

1. APOLOGIES
2. DECLARATIONS OF INTEREST
3. URGENT MATTERS AS AGREED BY THE CHAIR
4. MINUTES (Pages 11 - 20)
5. APPLICATIONS FOR PERMISSION FOR DEVELOPMENT  
(Item numbers 5 – 16)

**ORDER OF APPLICATIONS****PART 1**

	<b>Application no.</b>	<b>Location</b>	<b>Page</b>
<b>Public Speaker items</b>			
<b>15</b>	43/2019/0555	<b>15 Pendre Avenue, Prestatyn</b>	503
<b>7</b>	02/2019/0159	<b>Land at Fron Haul, Llanfwrog, Ruthin</b>	69
<b>8</b>	02/2019/0500	<b>Land off A525 between Ruthin Auction and Brickfield Lane, Ruthin</b>	101
<b>11</b>	25/2018/1216	<b>Bwlch Du, Nantglyn, Denbigh</b>	175
<b>12</b>	25/2018/1217	<b>Bwlch Du, Nantglyn, Denbigh</b>	297

<b>13</b>	43/2018/0750	<b>Land at Mindale Farm, Meliden, Prestatyn</b>	329
<b>14</b>	43/2018/0751	<b>Land at Mindale Farm, Meliden, Prestatyn</b>	437
<b>Other items</b>			
<b>5</b>	02/2018/1108	<b>Land at Y Fron, Mwrog Street, Ruthin</b>	21
<b>6</b>	02/2019/0095	<b>Capel Bryn Seion, Galltegfa, Ruthin</b>	47
<b>9</b>	12/2019/0235	<b>Land adjoining Bryn Banc, Clawddnewydd, Ruthin</b>	135
<b>10</b>	20/2019/0318	<b>Land West of Wrexham Road, Llanfair Dyffryn Clwyd, Ruthin</b>	155
<b>16</b>	45/2019/0337	<b>22 Avondale Drive, Rhyl</b>	521

### **PUBLIC SPEAKER ITEMS**

**Item No.15**

**Page 503**

**Code No.** 43/2019/0555

**Location :** 15 Pendre Avenue, Prestatyn

**Proposal :** Erection of single storey rear extension (retrospective application)

LOCAL MEMBERS : Councillors Julian Thompson-Hill (c ) and Anton Sampson

OFFICER RECOMMENDATION IS TO GRANT

Public Speaker: Against – Emma / Chris Jones

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**No additional information**

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**Item No.13**

**Page 329**

**Code No.** 43/2018/0750

**Location :** Land at Mindale Farm, Meliden, Prestatyn

**Proposal :** Demolition of existing dwelling and outbuildings, erection of 133 dwellings, construction of internal estate roads, sewers, SUDS drainage and open spaces, strategic and hard/soft landscaping and ancillary works, in association with application 43/2018/0751 for new link road to Ffordd Talargoch (A547)

LOCAL MEMBER : Councillor Peter Evans (c )

OFFICER RECOMMENDATION IS TO GRANT

Public Speaker: Against – Bob Paterson

Public Speaker: For – David Manley

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**LATE REPRESENTATIONS**

Private individuals:

In objection, from:

Nic Torpey, 48 Ffordd Ty Newydd, Meliden.

Lee Wilson, 27 Ffordd Gwilym, Meliden

Julie Wilson, 27 Ffordd Gwilym, Meliden

Andrea Tomlin, 58 Nant Hall Road, Prestatyn

Summary of representations:

Flooding impact

Waterlogged land

Ecological impact

Concern over impacts of development on existing wildlife

Highways / road network inadequate.

Additional traffic on congested roads / Poor accident record, risks to pedestrians / additional traffic from other new developments

Infrastructure impacts.

Inadequate provision for schools and related services / Ysgol Melyd will not be able to cope / if new classrooms are needed, these are required immediately

Contamination concerns

Old lead mining history / evidence of contamination

## Planning history

No change in circumstance since previous refusals of permission in the area /land should be removed from the development plan.

## OFFICER NOTES

The majority of the late comments received echo / repeat the representations summarised in the officer report, and do not raise new issues requiring further comment.

In response to representations over the adequacy of the proposed commuted sum payment towards the improvement / extension of Ysgol Melyd, the Modernising Education Officer has advised:

- Re. the investigation of impact on Ysgol Melyd – Calculations are based on a standardised formula which estimates the number of pupils generated per proposed dwelling and is always based on the most recently published PLASC data (either the September or the January PLASC)
- Re. concern over the adequacy of the commuted sum being sufficient – a standard allocation of funding per pupil is used during the calculation. These sums are based on average cost/m2 data sourced from the Building Cost Information Service.
- Re. questions over whether the extension or remodelling would be completed in sync with the completion of the housing development. – as the school is likely to be under pressure from an early stage the phasing of payments will be discussed with the developer.

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## Item No.14

**Page 437**

**Code No.** 43/2018/0751

**Location :** Land south west of Ffordd Ty Newydd, off Ffordd Talargoch (A547), Meliden, Prestatyn

**Proposal :** Construction of new road (approximately 400m in length) from Ffordd Talargoch (A547) to land at Mindale Farm, in association with application 43/2018/0750 for residential development on housing land allocation

LOCAL MEMBER : Councillor Peter Evans (c )

OFFICER RECOMMENDATION IS TO GRANT

Public Speaker: Against – Bob Paterson

Public Speaker: For – David Manley

## LATE REPRESENTATIONS

Private individuals:

In objection, from:

Gareth Sandilands, Little Mountain Outdoors Ltd, Unit 6, Talargoch Trading Estate, Meliden Road

Dyserth

Andrea Tomlin, 58 Nant Hall Road, Prestatyn

Julie Wilson, 27 Ffordd Gwilym, Meliden

Summary of representations:

Traffic

Meliden Road has heavy traffic and it is difficult to turn into the industrial estate, affecting freight delivery access involving heavy articulated lorries / road is heavily congested and at peak times almost impossible / regularly sees incidents and speeding from turn off from the B5119 & Alt y Craig to the A547 / traffic flow impact would cause chaos with traffic backing up in either direction/ concern for provision of emergency access

Flooding

There has been flash flooding on the A547 road flash flooding / the loss of green land would only increase this issue.

Ecological impact

Concern over impacts of development on existing wildlife

Contamination concerns

Old lead mining history / evidence of contamination

## OFFICER NOTES

The majority of the late comments received echo / repeat the representations summarised in the officer report, and do not raise new issues requiring further comment.

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## OTHER ITEMS

**Item No.5**

**Page 21**

**Code No.** 02/2018/1108

**Location :** Land at (Part garden of) Y Fron, Mwrog Street, Ruthin

**Proposal :** Erection of a detached dwelling and alterations to existing vehicular access

LOCAL MEMBERS: Councillors Emrys Wynne (c ), Bobby Feeley and Huw-Hilditch Roberts

OFFICER RECOMMENDATION IS TO GRANT

.....  
No additional information



## APPENDIX 3

Planning Inspector's appeal Decision Letter  
on previous application 43/2016/0600

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## Penderfyniad ar yr Apêl

Gwrandawriad a gynhaliwyd ar 04/10/17  
Ymweliad â safle a wnaed ar 04/10/17

gan Kay Sheffield BA(Hons) DipTP  
MRTPI

Arolygydd a benodir gan Weinidogion Cymru  
Dyddiad: 13.10.2017

## Appeal Decision

Hearing Held on 04/10/17  
Site visit made on 04/10/17

by Kay Sheffield BA(Hons) DipTP MRTPI

an Inspector appointed by the Welsh Ministers  
Date: 13.10.2017

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**Appeal Ref: APP/R6830/A/17/3174131**

**Site address: Mindale Farm, off Ffordd Hendre and Ffordd Gwilym, Meliden,  
Prestatyn, Denbighshire, LL19 8PG**

**The Welsh Ministers have transferred the authority to decide this appeal to me as the appointed Inspector.**

- 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 Penrhyn Homes against the decision of Denbighshire County Council.
  - The application Ref 43/2016/0600/PF, dated 21/06/2016, was refused by notice dated 14/04/2017.
  - The development proposed is the demolition of existing dwelling and outbuildings, erection of 133 dwellings, construction of approach road, internal access roads, sewers, SUDS drainage and open spaces, strategic and hard/soft landscaping and ancillary works.
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### Decision

1. The appeal is dismissed.

### Procedural Matter

2. The Appellant submitted as part of the appeal one additional drawing and later revisions of several of the drawings on which the Council had reached its decision. The Council confirmed at the Hearing that it had not had regard to these drawings in its consideration of the appeal. The Appellant was in agreement that in order not to prejudice the Council or interested parties the revised and additional drawings should not be taken into account in the determination of the appeal.

### Main Issues

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

### Reasons

4. The appeal site extends to approximately 4.8 hectares. At its north eastern end the site consists of a strip of land over which the access road would be constructed. It then opens out into a wider area on which the main part of the development would take place. Apart from an existing dwelling and outbuildings, the site currently consists of grassland. A public footpath runs within the south eastern boundary of the
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site, beyond which are residential properties and Ysgol Melyd. The remaining boundaries of the site are adjoined by grassland and the Pwll y Bont wildlife site.

5. The site lies within the development boundary as defined in the adopted Denbighshire Local Development Plan 2013 (LDP) and is allocated for residential development. The principle of the proposed development is therefore established. Although the Council opined that the site was a late inclusion in the LDP and local population growth had been lower than predicted, it is not within my remit to review the allocation.

*Effect on the character of the village and the well-being of local residents with particular regard to the highway infrastructure*

6. The site is the subject of a Site Development Brief which was adopted by the Council as Supplementary Planning Guidance in March 2016. In respect of access into the site the Development Brief indicates that it can be accessed from Ffordd Ty Newydd and Ffordd Gwilym. Ffordd Ty Newydd is accessed directly from the A547 Ffordd Talargoch, the main road through Meliden. However, due to the restricted width of the carriageway and lack of off-street parking, it is considered unsuitable for use as a main access into the development. Although Ffordd Gwilym is separated from the A547 by The Grove, together they provide a straight route from the A547. The main access into the site is therefore proposed as a continuation of Ffordd Gwilym.
7. From the end of the existing carriageway of Ffordd Gwilym the new road would enter a sharp bend towards the west and through the existing curtilage of 33 Ffordd Gwilym. From here the approach road would continue between the boundary of the school to the south and the wildlife site to the north. Although within the main part of the development the road would continue in a westerly direction, it would deviate away from the boundary and internal access roads would radiate from it.
8. The speed limit in the local area is 30mph. There was no dispute between the parties that the design of the road layout would not provide the visibility splays recognised as standard in a 30mph area. However, the Appellant indicated that in discussions with the Local Highway Authority a need for traffic calming had been identified along Ffordd Gwilym and also along Ffordd Pennant, past the school, with traffic cushions being the preferred method. Traffic calming would also take place within the site. I understand the concerns of residents regarding the environmental acceptability of traffic calming and on traffic cushions in particular. I am aware of the advice given in paragraph 5.10 of Technical Advice Note (TAN) 18: Transport that '*streets should be designed to control vehicle speeds naturally rather than having to rely on traffic calming measures that involve vertical deflection*'.
9. The Council accepted that the proposed visibility would be appropriate for the reduced traffic speed which would result from a traffic calming scheme. Whilst the details of the final scheme are not before me and I do not have the benefit of the Council's considered response to it, I am satisfied from the information before me that a suitable scheme could be implemented. I therefore conclude that in its submitted format the proposed development would fail to provide a satisfactory level of visibility both at the access into the site from Ffordd Gwilym and within the development itself. Whilst the evidence confirms that a scheme of traffic calming on the approach roads to and roads within the development would ensure that an acceptable level of visibility could be achieved, the details do not form part of the appeal scheme. It is therefore a matter which needs to be addressed and one which I am satisfied could be addressed by way of a condition.

10. The gradient of the footway along the section of access road between the main part of the site and Ffordd Gwilym would be 10% and the gradients of other footways within the site would be similar. Manual for Streets 2 states in paragraph 5.2.5 that "*the gradient of pedestrian routes should ideally be no more than 5%, although topography or other circumstances may make this difficult to achieve. However, as a general rule, 8% should generally be considered as a maximum*". This is supported by the advice in Inclusive Mobility, 2005 which states in paragraph 3.2 that although steeper gradients can be managed by some wheelchair users, this is only over short distances and the maximum gradient should be no more than 10%.
11. It is acknowledged that the existing highways do not meet the recognised standards as it was generally agreed that the gradient of the route between the site and Ffordd Talargoch via Ffordd Gwilym and The Grove is around 10%. Furthermore the Appellant stated that the gradients would be revisited in the detailed highway design with the intention that they would be reduced if possible. However there is no certainty that any reduction could be achieved without altering the layout of the site or that they would be sufficient to achieve the recognised standards. Although it might be possible to improve the gradients within the site, it is highly probable that the gradients which those with mobility impairments would have to negotiate outside the site would result in the use of the private car or similar form of transport. I find that this is one situation where the topography of the site and its surroundings dictate that it would be difficult to achieve the standard gradients and steeper gradients may have to be accepted in the final highway design.
12. It is understood that due to the size and nature of the development an alternative access is required into the site for use in emergencies and when access from Ffordd Gwilym may not be passable. In times of emergencies it is important that the emergency services are able to gain access to properties in an efficient manner and have sufficient room to manoeuvre and operate appliances and emergency vehicles within the proximity of the emergency. Whilst there was no dispute that an emergency access was required, the Appellant agreed that the gradient of the proposed emergency access from Ffordd Ty Newydd was unacceptable and on this basis I conclude that this aspect of the development would be unsatisfactory.
13. The Appellant suggested that an alternative emergency access could be created from Ffordd Hendre through a strip of land to the rear of the proposed dwellings before linking into the estate road. The Council raised concerns that the alignment of the route may not facilitate the passage of emergency vehicles and could result in the need to amend the site layout. I accept that the strip of land through which the access would run is approximately 10 metres wide and despite the route containing two bends relatively close together, its alignment and gradient may not render it unsuitable for use as an emergency access. Although these are matters which would be addressed in the final design and require approval under separation legislation, it is important to ensure that the emergency access would serve its required purpose in all respects. The Council has not been afforded the opportunity to consider the proposed alternative in any detail and without confirmation that the route would satisfactorily serve emergency vehicles it is not possible to be certain that a significant revision of the layout would not be required to make adequate provision.
14. In accordance with the Development Brief a Transport Assessment (TA) was submitted as part of the planning application. Although not raised during the application process, the Council questioned the adequacy of the TA in the appeal and expressed concerns regarding the ability of the local highway network to accommodate the traffic which would be generated by the development.

15. I acknowledge that the traffic survey, which was carried out in January, would not capture the levels of tourist traffic experienced in the local area during the summer months. However, I have not been provided with any definitive evidence which confirms that the traffic flows during the tourist season exceed those recorded in the TA. In respect of comparison sites, these were selected for their urban location, not the local topography or relationship with the highway network.
16. Furthermore closer inspection of the sites the Council claimed had been omitted from the TA revealed that only two sites in Meliden had been omitted which proposed a total of approximately 15 dwellings together with a third site at Rhuddlan for around 126 dwellings. I accept that the latter is a large scale development and traffic from it could travel through Meliden to and from Prestatyn along the A547. However, it is unlikely that Prestatyn would be the primary destination for all the traffic generated by the development or that the A547 would be the only route used. On balance I do not consider that the traffic which would be generated by the developments which were omitted from the TA would make a significant difference to the conclusions it reached.
17. It is recognised in the Design Brief that Ffordd Talargoch experiences high levels of traffic during peak times and its junctions with The Grove and Ffordd Ty Newydd together with that of the school are identified as areas of highway concern. Local residents described the difficulties they have using these junctions particularly during peak hours. However, the TA concluded that all three junctions would operate within capacity in all future year scenarios. The evidence before me does not lead me to a different conclusion.
18. Concerns were also raised regarding the capacity of the junction of Ffordd Penrhwylyfa with the A547 and the TA confirms that queues of right turning traffic were recorded for short time periods before returning to normal. Whilst I accept that during peak hours some drivers may have to wait a short time to turn right onto the A547 I do not consider that this is an indication the road network in the wider area of the site would be unable to accommodate the traffic generated by the development. I recognise that some drivers experiencing regular delays at this junction may choose to use Cefn-y-Gwrych and Maes Meurig instead and I note from the Design Brief that increasing traffic on Cefn-y-Gwrych is unacceptable on highway safety grounds. However, I am not persuaded by the evidence that the number of drivers arising from the proposal and using this route would make a significant difference to the current situation.
19. There was dispute between the parties regarding the distance of the site from local facilities and services and residents were of the opinion that the guidance required amenities to be within 800 metres of the site. However the Design Brief states that there are frequent bus services close to the site and local amenities within walkable distances of it. I also found them easily accessible in my walk around the local area. Furthermore, it is clear in paragraph 4.4.1 of Manual for Streets that 800 metres is not an upper limit.
20. Whilst the proposal would represent a significant addition to the size of the village which would result in increased demand for local services such as schools, doctors and dentists, the site is allocated for residential purposes in the LDP. Apart from the need for additional primary school places I have no substantive evidence that local services and facilities could not accommodate future residents of the proposal. The matter of the primary school places is one which would be addressed by way of a financial contribution via a legal agreement.
21. I am satisfied that the development would not harm the character of the area and that the local highway infrastructure could accommodate the increased traffic generated by

the development without harm to highway safety. However, in respect of highway visibility and the emergency access the proposal would be unacceptable in its submitted format. I therefore conclude that the development would have an unacceptable effect on the local highway infrastructure, contrary to Policy RD 1 of the LDP, TAN 18 and Planning Policy Wales.

22. I acknowledge that satisfactory highway visibility could be provided through the implementation of a traffic calming scheme and there is a possible alternative emergency access into the site. Whilst in some instances such matters can be addressed by condition, I am concerned that further detailed consideration needs to be given to the emergency access, which could result in significant changes to the scheme.

*Whether surface water run-off from the development would give rise to flooding*

23. In the light of local knowledge of drainage problems in the area, the Council considered that the assessment of flooding submitted in support of the application did not sufficiently demonstrate that surface water run-off from the site and higher land above it could be managed without increasing the risk of additional discharge to watercourses and hence increasing the potential for flooding downstream. These concerns centred on groundwater and the location and capacity of the proposed attenuation ponds.
24. The Flood Consequences Assessment which accompanied the planning application considered that, due to the topography of the site, the risk of flooding from groundwater was low. A subsequent ground investigation found that there was no groundwater in the boulder clay which underlies the site and very little or no water level drop was recorded in the percolation tests. The Appellant therefore considered that due to the cohesive nature of the soils beneath the site, there was little or no risk of groundwater flooding.
25. The evidence submitted by the Council took account of the geology of the local area and concluded that the site was adjacent to, and below, an area of rapid flow routes for deep subsurface water. Whilst the Council recognised that a cut-off ditch was being proposed, it considered that further investigation was required to ensure this method was sufficient. It was suggested that uncontrolled groundwater may have been a contributory factor in the demolition of dwellings on land adjacent to the southern boundary of the site. However, I understand that the properties were of a non-traditional construction and had structural issues and in the absence of any definitive evidence I have placed no reliance on the Council's assertion.
26. The submitted Drainage Strategy indicated that the surface water arrangements for the site would incorporate sustainable drainage systems (SuDS) which, in addition to porous paving and oversize pipes would include attenuation ponds for the storage of surface water run-off in order to control the rate of discharge into the watercourses. The report indicated that further assessment of the proposed methods would be required to ensure that adequate attenuation volumes would be provided.
27. The Development Advice Map submitted in evidence by both parties indicates that in the submitted layout the proposed attenuation ponds would be sited alongside and at a similar level to land that is identified as having flooded in the past. The Council raised the possibility that given their location, the attenuation ponds as proposed may not prove to be sufficient during an extreme rainfall event which would result in increased run-off from the site and the potential increase in flooding downstream.

28. Although the Appellant opined that the most recent flood maps had reviewed the area subject to flooding, it was accepted that a re-assessment of the site levels against the extreme flood levels was required. In addition the detailed design of the drainage system would need to ensure that the necessary surface water attenuation requirements would be provided. This would include any alterations to the attenuation ponds, including raising the berms if required, in order to ensure they would act effectively and not be overtopped by extreme flood waters. I share the Council's concerns that this could result in the need to provide more space for the attenuation ponds in order to properly manage existing and future flood and drainage risks.
29. Although Natural Resources Wales (NRW) raised no objection to the development, it indicated the need for the submission of a surface water drainage scheme based on SuDS principles and the assessment of the hydrogeological context of the development. I accept that NRW considered that such details could be required by way of condition. However, in view of the concerns raised and the acceptance that a re-assessment of the site levels and capacity of the attenuation ponds is required which may have consequences for the detailed layout of the development, I consider the imposition of conditions would not be appropriate in this instance.
30. On the evidence before me I consider that a more thorough understanding of the groundwater regime and any associated risk together with further consideration of the surface water drainage and the design of the attenuation ponds is required. In view of this and the precautionary approach outlined in TAN 15: Development and Flood Risk, I consider that insufficient information has been submitted in order to demonstrate that the scheme would not give rise to flooding, contrary to Policies RD 1 and VOE 6 of the LDP, TAN 15 and Planning Policy Wales.

*Other material considerations*

31. Claims were made by interested parties that the appeal site encroached onto land outside the ownership or control of the Appellant. Although the Appellant may not own the appeal site, this does not prohibit an application being made and I am satisfied that the correct procedures in respect of the notification of persons with an interest in the land subject of the proposal were followed.
32. Interested parties considered there was insufficient land within the appeal site to construct the road as proposed and questioned whether potential changes to the scheme would necessitate encroachment onto adjoining land. I have already acknowledged that the strip of land for the access is narrow, but I have no substantive evidence before me that the works could not be contained within the land identified as the appeal site. Whether the Appellant has the right to develop the land in terms of its ownership is a separate legal matter.
33. Reference was made to the recent removal of trees and hedges along the line of the approach road. I understand that these works have been investigated under separate legislation and replacement planting is required. The replacement planting would need to be taken into account in the detailed landscaping scheme for the proposal.
34. The effect of the development on the local wildlife was raised. However, it is clear from the submitted surveys, the views of statutory consultees and the conclusions reached by the Council that it was considered that the development would not have an unacceptable impact on the Pwll y Bont wildlife site and that ecological interests could be suitably protected. Based on the evidence before me I have no reason to reach a different conclusion.

35. I understand that the Council is currently unable to demonstrate a 5 year housing land supply. Paragraph 6.2 of TAN 1: Joint Housing Land Availability Studies indicates that in this situation the need to increase supply should be given considerable weight when dealing with planning applications. However the appeal site is allocated for residential use and it is therefore already included in the housing land supply figures. Although I accept that to dismiss the appeal would delay the bringing forward of the site for development, the considerable weight given by TAN 1 to the need to increase supply is subject to the proviso that the development would otherwise comply with national planning policies. In view of the concerns I have raised I do not consider that this proviso is met.

#### *Unilateral Undertaking*

36. The draft Unilateral Undertaking (UU) under Section 106 of the Town and Country Planning Act 1990 submitted by the Appellant prior to the Hearing was incomplete. A complete and signed copy of the UU was not available for submission to the Hearing and it became evident that the Council had not been provided with an advance copy of the draft version. In discussion at the Hearing certain omissions and concerns were raised in respect of the draft UU and an extension of time was agreed in order to give the Council the opportunity to consider the contents in more detail and facilitate the submission of a signed executed version. A further version of the UU was submitted in accordance with the timetable set down at the Hearing and has been commented upon by the Council.

37. The UU would provide financial contributions towards off-site highway works, affordable housing, education and the Welsh language. I am in agreement with the Council that the obligations contained in the UU are necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development, in accord with The Community Infrastructure Levy Regulations 2010, as amended, and Circular 13/97 Planning Obligations and as required by Policy BSC 3 of the LDP.

38. Whilst the Council has raised several concerns regarding the later version of UU which are disputed by the Appellant, there is a fundamental flaw in that the UU is not signed by all those party to it. Although the Appellant has indicated that the missing signatories are in agreement with the terms of the UU, there is no confirmation of this from the parties themselves. I am therefore concerned that the UU is not binding on these parties and if, as mortgagees, they took possession of the land, they and any successors in title would not be bound by the obligations. The need for the obligations to make the development acceptable has therefore not been secured by the UU as submitted.

#### **Conclusions**

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

40. It is accepted that the need to increase housing land supply carries considerable weight in determining proposals for residential development. However, in this instance the principle of the development is already established and it is the detail of



the scheme which has been found to be inadequate. On balance I consider these factors do not outweigh the concerns I have identified. For these reasons, and having had regard to all other matters raised, the appeal is dismissed.

41. 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 that this decision is in accordance with the Act's sustainable development principle, through its contribution towards the Welsh Ministers' well-being objective of supporting safe, cohesive and resilient communities.

*Kay Sheffield*

INSPECTOR

## **APPEARANCES**

### FOR THE APPELLANT:

K Evans	Town and Country Planning Services
A Faragher	Penrhyn Homes Limited
R. Roberts	Penrhyn Homes Limited
N Owen	Capita
S Williams	Capita
W Aspinall MSc MCIHT MRTPI	Capita

### FOR THE LOCAL PLANNING AUTHORITY:

P Garner DipPS MSc MRTPI	Planning Consultant
Councillor P Evans	Ward member
C Morgan	Jacobs UK Limited
P Jones BSc(Hons) CEng CWEM FICE MCIWEM	Waterco Consultants

### INTERESTED PERSONS:

Councillor L Muraca	Prestatyn Town Council
Councillor A Sampsin	Prestatyn Town Council
W Ward	Local resident
R Currie	Local resident
R Jones Abbas	Local resident
M Bailey	Local resident

A Evans	Local resident
M Jones	Local resident
V Stewart	Local resident
A Wilkinson	Local resident
M Wilkinson	Local resident
S Anderson	Local resident
G Gilliams	Local resident
R Gilliams	Local resident
C Pollitt	Local resident
J Wilson	Local resident
M Williams	Local resident
K Paddock	Local resident
R Southwick	Local resident
B Paterson	Local resident
D Cooper	Local resident

#### DOCUMENTS

##### Submitted at the Hearing

- 1 Council's letter dated 14/09/2017 regarding the arrangements for the Hearing.
- 2 Clarification of drainage issues submitted by the Council

##### Submitted after the Hearing

- 3 Section 106 Unilateral Undertaking