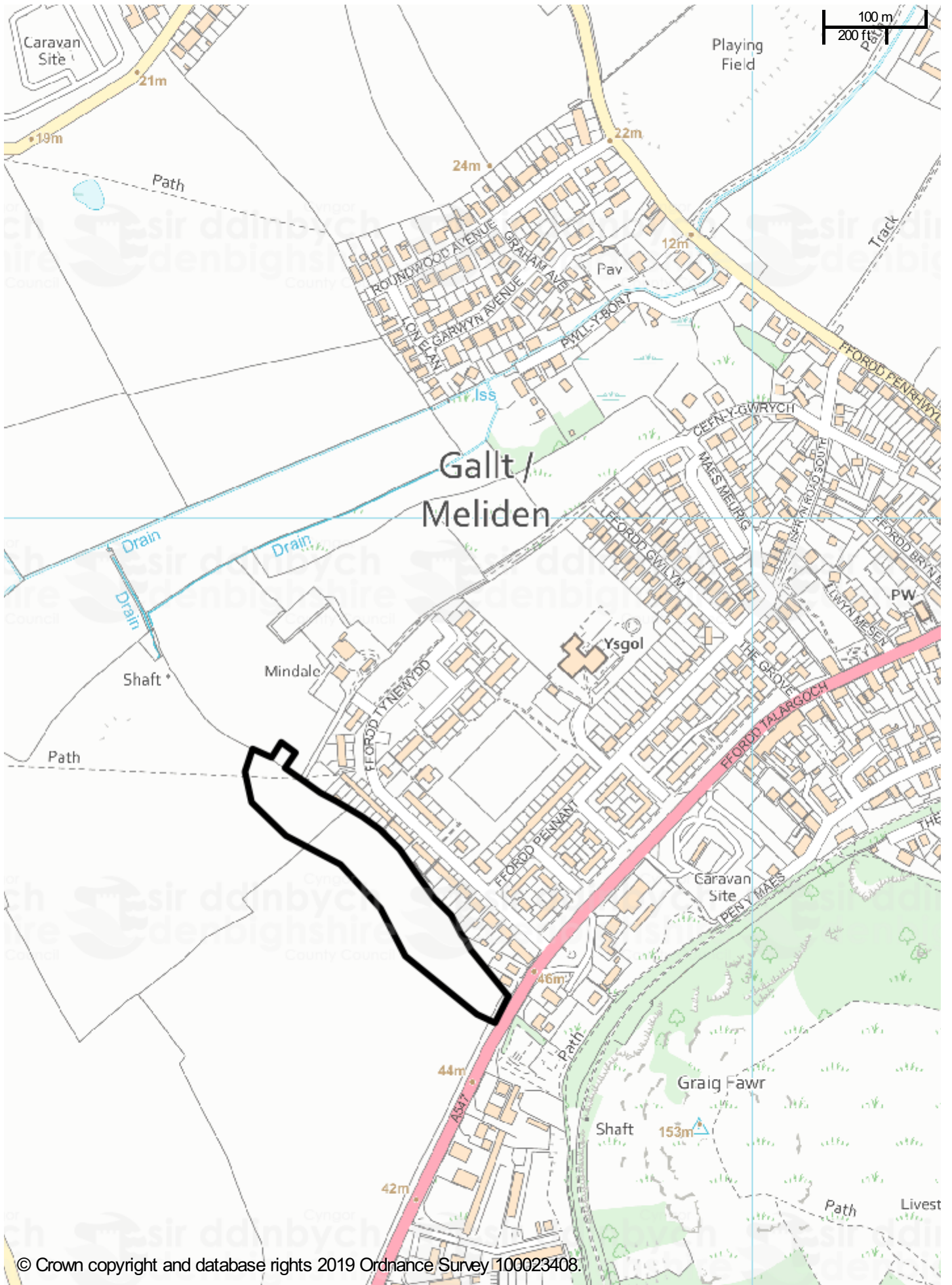


APPENDIX 1

Officer report on application 43/2018/0751, as presented to September 4th 2019 Planning Committee



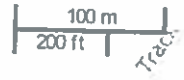
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43/2018/0751

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PLAN SHOWING LOCATION OF HOUSING SITE AND LINK ROAD

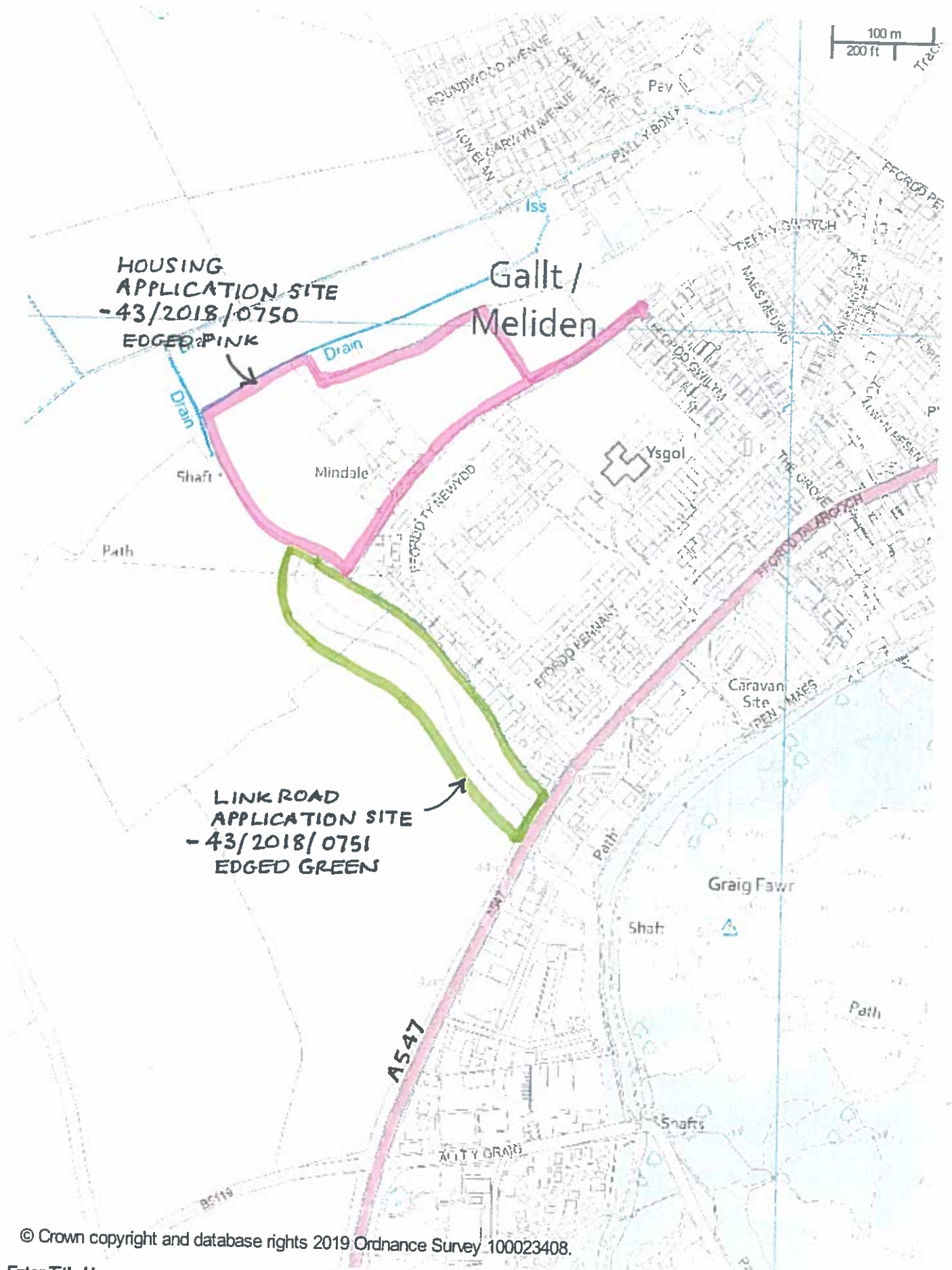


HOUSING
APPLICATION SITE
- 43/2018/0750
EDGED PINK

Gallt /
Meliden

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

A547



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Enter Title Here

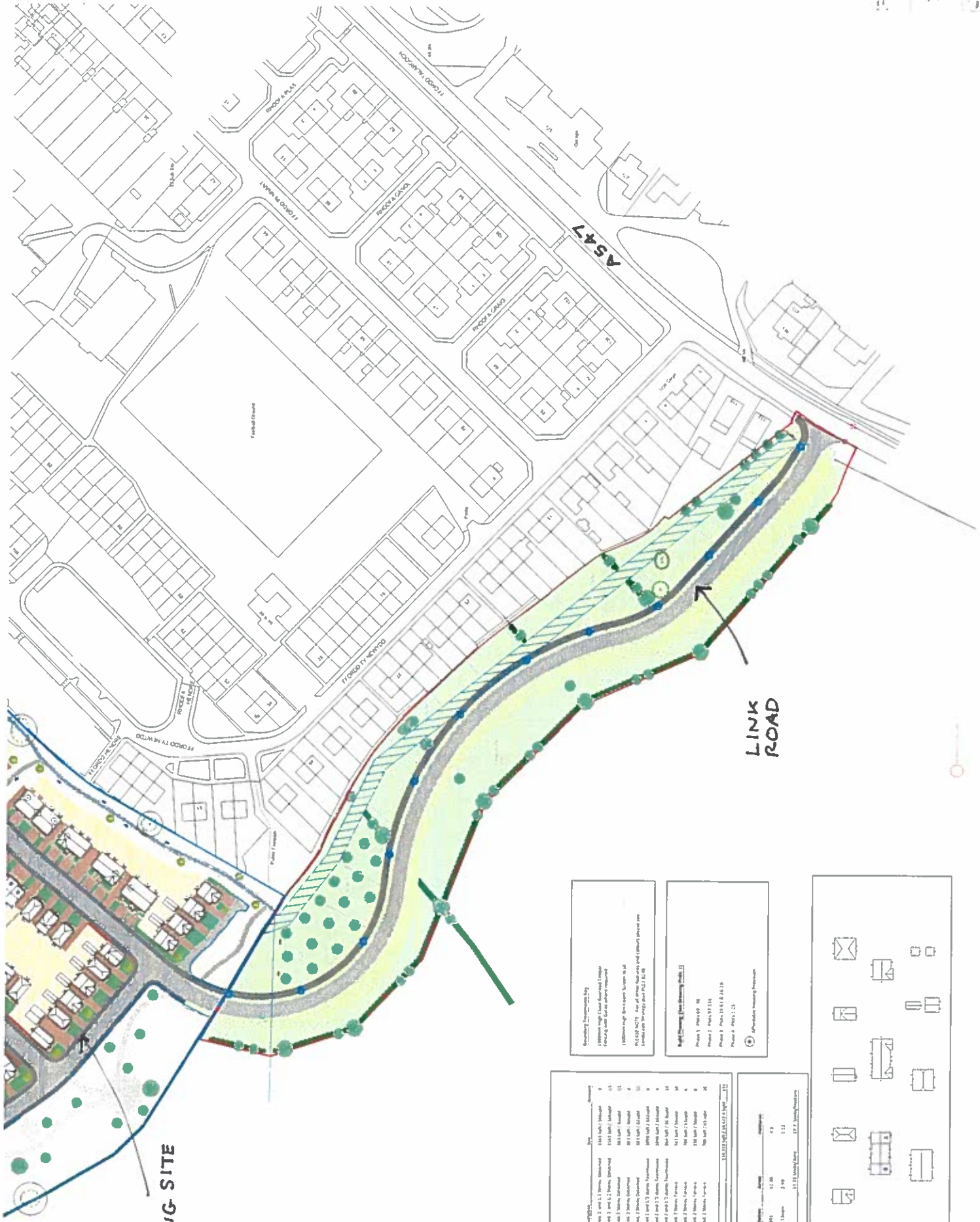
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LINK ROAD SITE PLAN

1. All dimensions are in feet unless otherwise noted.
 2. All areas are to be landscaped.
 3. All areas are to be paved.
 4. All areas are to be finished to grade.
 5. All areas are to be finished to subgrade.
 6. All areas are to be finished to base.
 7. All areas are to be finished to topsoil.
 8. All areas are to be finished to seed.
 9. All areas are to be finished to sod.
 10. All areas are to be finished to turf.

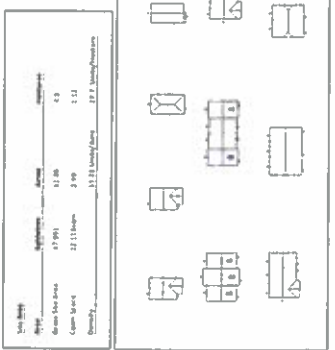


HOUSING SITE

LINK ROAD

1. All dimensions are in feet unless otherwise noted.
 2. All areas are to be landscaped.
 3. All areas are to be paved.
 4. All areas are to be finished to grade.
 5. All areas are to be finished to subgrade.
 6. All areas are to be finished to base.
 7. All areas are to be finished to topsoil.
 8. All areas are to be finished to seed.
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 10. All areas are to be finished to turf.

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PLANTING SCHEME

NOTES

KEY

- PROPOSED TREES TO BE ADOPTED
- PROPOSED LOCATIONS TO BE ADOPTED
- WET IN WATER IN LANDSCAPE
- PUBLIC RIGHT OF WAY
- PROPOSED EXISTING COLUMN
- PROPOSED WILDFLOWER GRASS MIX
- EXISTING NATIVE HEDGEROW/HEROWAY TREE L1
- PROPOSED NATIVE HEDGEROW
- PROPOSED NATIVE TREE PLANTING

Welsh Orchard Planting

Species	Height	Age
Avoncrisp Plum	4.5m	5
Evergreen Orchest Pear	4.5m	4
Malin Cox Apple	4.5m	4
Cardinal Cherry	4.5m	4

1:1 scale. All trees to be planted in the ground. All trees to be planted in the ground.

Standard Tree Planting

Species	Planted Height	Minimum Height	Clearance	Type	Age
Cherry	8 - 11m	175-200cm	2.0m	Standard	14
Apple	8 - 11m	175-200cm	2.0m	Standard	14
Plum	8 - 11m	175-200cm	2.0m	Standard	14
Other	8 - 11m	175-200cm	2.0m	Standard	14

1:1 scale. All trees to be planted in the ground. All trees to be planted in the ground.

Native Hedgerow Planting

Species	Height	Spread	Age	Notes
Blackthorn	1.5m	2.0m	3	1:1 scale
Crabapple	1.5m	2.0m	3	1:1 scale
Wild Rose	1.5m	2.0m	3	1:1 scale
Other	1.5m	2.0m	3	1:1 scale

1:1 scale. All trees to be planted in the ground. All trees to be planted in the ground.

Wildflower Grass Mix

Species	% MIX
Blue Bell (Pre-emergent)	1%
Blue Bell (Post-emergent)	1%
Blue Bell (Pre-emergent)	1%
Blue Bell (Post-emergent)	1%
Blue Bell (Pre-emergent)	1%
Blue Bell (Post-emergent)	1%
Blue Bell (Pre-emergent)	1%
Blue Bell (Post-emergent)	1%
Blue Bell (Pre-emergent)	1%
Blue Bell (Post-emergent)	1%

1:1 scale. All trees to be planted in the ground. All trees to be planted in the ground.

Notes

- PROPOSED TREES TO BE ADOPTED
- PROPOSED LOCATIONS TO BE ADOPTED
- WET IN WATER IN LANDSCAPE
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- PROPOSED WILDFLOWER GRASS MIX
- EXISTING NATIVE HEDGEROW/HEROWAY TREE L1
- PROPOSED NATIVE HEDGEROW
- PROPOSED NATIVE TREE PLANTING

Native Hedgerow Planting

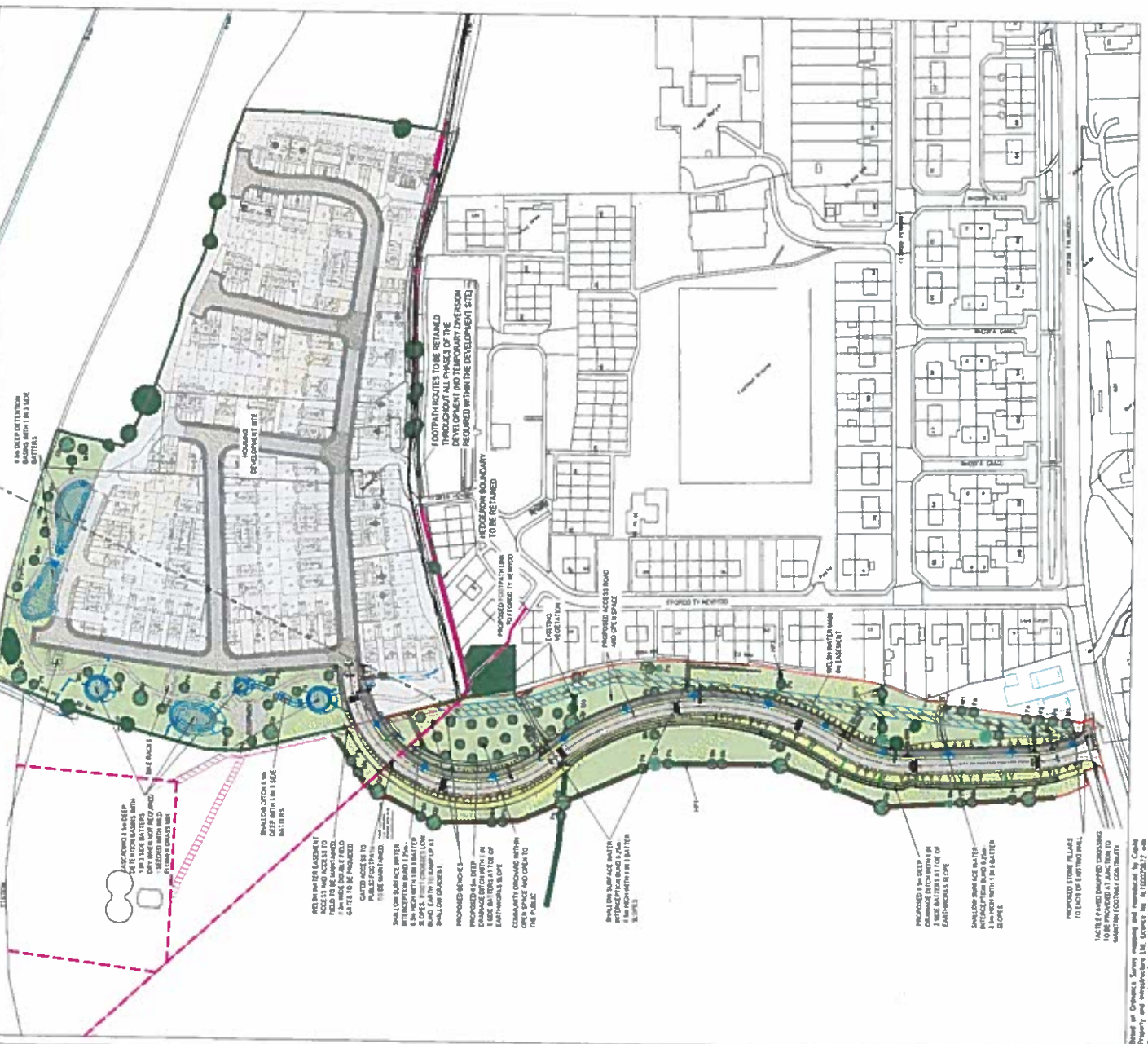
Species	Height	Spread	Age	Notes
Blackthorn	1.5m	2.0m	3	1:1 scale
Crabapple	1.5m	2.0m	3	1:1 scale
Wild Rose	1.5m	2.0m	3	1:1 scale
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Blue Bell (Post-emergent)	1%
Blue Bell (Pre-emergent)	1%
Blue Bell (Post-emergent)	1%
Blue Bell (Pre-emergent)	1%
Blue Bell (Post-emergent)	1%
Blue Bell (Pre-emergent)	1%
Blue Bell (Post-emergent)	1%

1:1 scale. All trees to be planted in the ground. All trees to be planted in the ground.



This Proposed Bench to be Brassy, Recycled Bench or equivalent approved. Inset for approval (1000mm x 200mm)

Project Information

Project: **PROPOSED ACCESS ROAD MELINDEN**

Client: **PENRHYN HOMES**

Scale: 1:1000

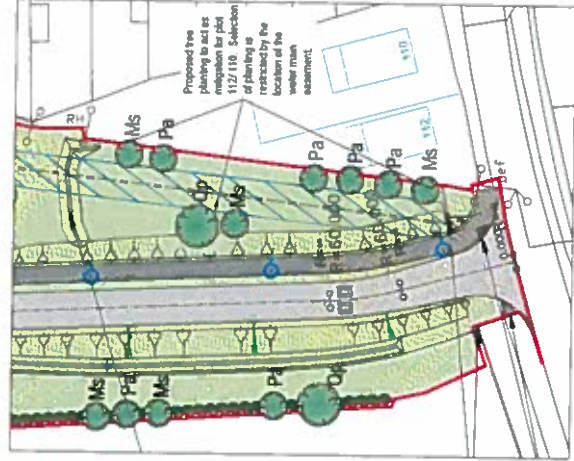
Date: 17-02-2018

Project No: C6078703

Drawing No: MCH-CAP-ELS-DRL-0001

CAPITA LANDSCAPE

First Floor: 0161 276 6000
www.capitalandscape.co.uk



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LINK ROAD DETAIL

NOTES

1. EXTENT OF PLANTING SHOWN TO BE ADJUSTED WITH
IN RESPECTS COUNTY COUNCIL.
2. VISIBILITY TRIANGLES AT JUNCTIONS ARE TO BE BUILT ON
MAINLINE FOR THE ROAD AND TO BE MAINTAINED IN ACCORDANCE
WITH THE ROAD TRAFFIC ACT 1930.
3. FORMING VISIBILITY TRIANGLES SUBJECT TO THE SITE OF THE

KEY

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-  PROPOSED FOOTWAYS TO BE ADAPTED
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-  PROPOSED FOOTWAYS TO BE ADAPTED
-  PROPOSED ADAPTABLE RIGHTS OF WAY
-  PROPOSED UNPAVED DRIVEWAYS
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S2 - FIT FOR INFORMATION
Commercial in Confidence

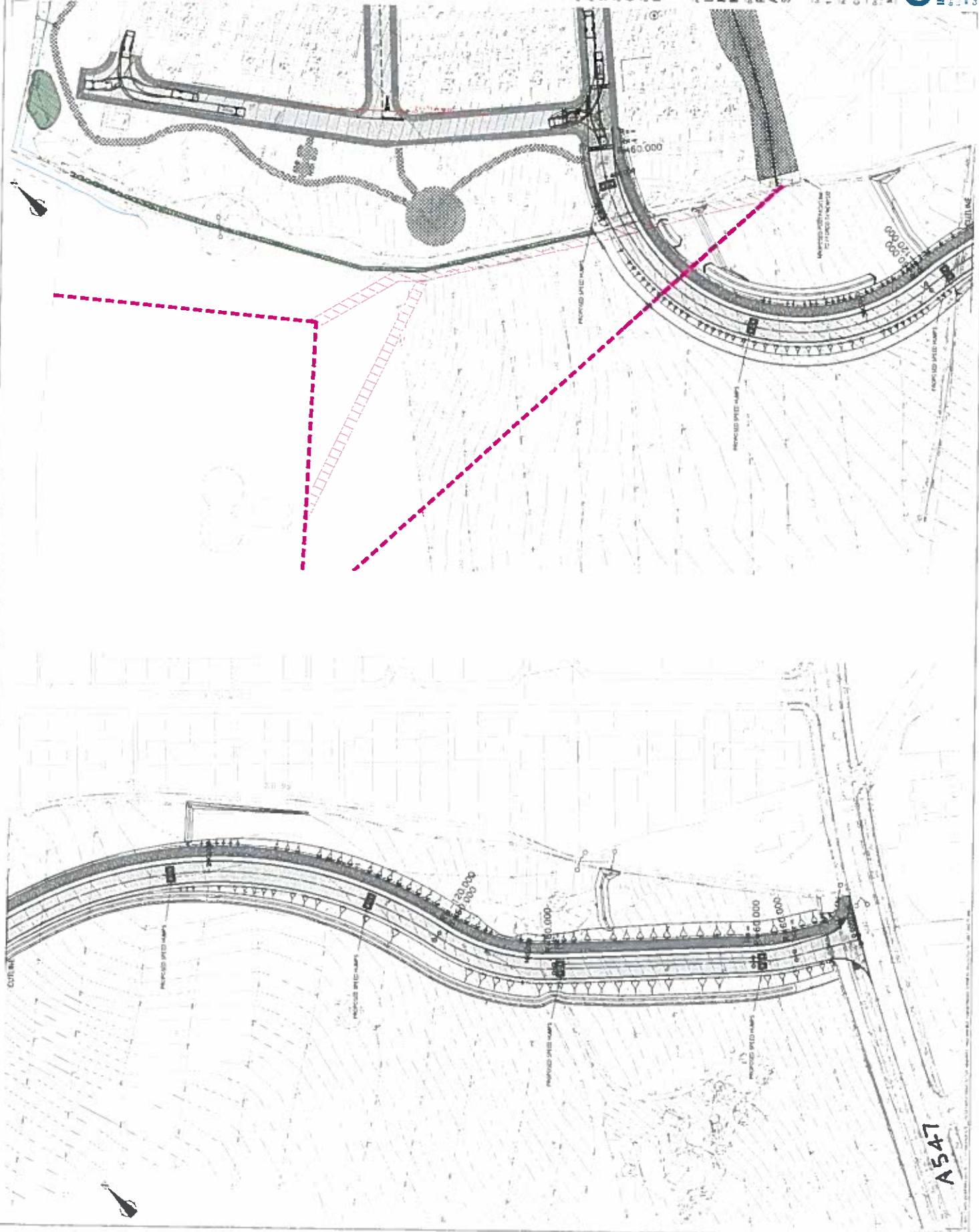
PENRHYN HOMES

LAND AT REAR OF
MAES HERDRE
MELIDEN

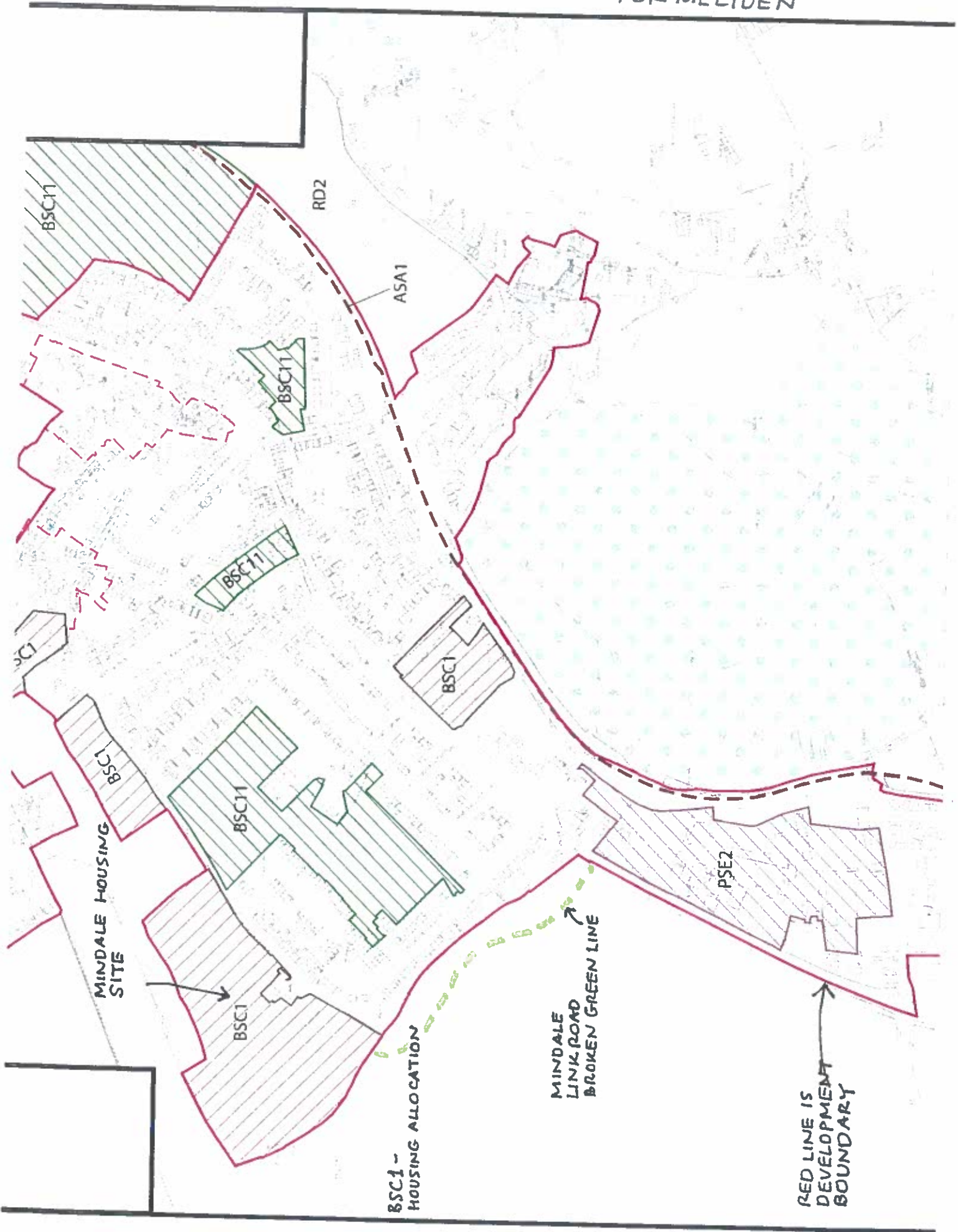
PROPOSED
ACCESS ROAD LAYOUT
SHEET 2 OF 2

Scale	1:500	Author	CR	SLW
Drawn	CR	Checked	CR	SLW
Project No	C-001993	Date	05-04-2018	

Client Name: Penrhyn Homes Ltd.
Project Name: MAES HERDRE MELIDEN
Project No: C-001993
Drawn: CR
Checked: CR
Author: SLW
Date: 05-04-2018



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



WARD : Prestatyn Meliden

WARD MEMBER: Councillor Peter Evans (c)

APPLICATION NO: 43/2018/0751/ PF

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

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

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

CONSTRAINTS: Public Right of Way

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:

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.”

PRESTATYN TOWN COUNCIL

Original response

“Archaeological and geophysical surveys seem to suggest high possibility of medieval remains on site. Tarmac road will increase flood risk. Old mine workings and sinkholes may cause land instability. Present highway infrastructure cannot cope with proposed increased volume of traffic. Adverse impact upon existing watercourses and proposed SUDS mitigation measures considered inadequate due to terrain, local environment and site topography.”

Response to additional information

“OBJECTION

Archaeological and geophysical surveys seem to suggest high possibility of medieval remains on site. Tarmac road will increase surface water flooding due to local environment and topography. Old mine workings and sinkholes may cause land stability.

The present highway infrastructure appears to be at capacity and there are conflicting traffic management data reports. A current independent traffic survey should be undertaken to take account of recent changes in traffic movements and developments in locality that have increased use of main A547.

Building of another road to join the A547 road will result in further noise and air pollution that will be detrimental to the environment. There is evidence to suggest that new road building results in greater vehicle movements rather than a reduction in traffic which should be priority.”

NATURAL RESOURCES WALES (NRW)

Original response

NRW set out requests for submission of a revised landscape masterplan and lighting plan and suggestions for conditions to be imposed if a permission is granted (Construction Environmental Management Plan, Biosecurity risk assessment, and an ecological compliance audit). Deferred comment on the surface water drainage issues to the Council's Lead Flood Officers. In relation to impact on the AONB landscape, consider the information provided as part of this application gives some confidence that the proposed access road could be accommodated below Graig Fawr, and within the AONB, with slight/moderate adverse effect on the setting and views from the AONB, which would be acceptable.

Response to additional information

NRW recommend permission should only be granted if the scheme can meet detailed requirements and conditions are attached. In relation to:

Ecology:

Require submission of an amended mitigation report to reflect the provisions of the additional Ecological submissions, with suggestions for details which would need to be included within any Section 106 agreement.

Request conditions to secure submission and implementation of a Construction Environmental Management Plan; a Landscape management Plan; an Ecological Compliance Audit scheme; and a Construction Environmental Management Plan.

Protected Landscapes:

The latest submission has addressed previous requirements. Request conditions to secure a Landscape Implementation Plan and a Landscape Management Plan

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.

NRW also attach a number of advisory notes to be drawn to the applicant's attention if a permission is granted.

CLWYD POWYS ARCHAEOLOGICAL TRUST

Original response

Advised that information retained within the Regional Historic Environment Record indicates that proposed new access will pass through an area of intensive former lead mining activity associated with the Talargoch Lead Mine. Suggested that fenced exclusion zones be conditioned around the identified features (Engine House Issa and the Walker's Shaft, Talargoch Mine). Requested inclusion of a condition obliging an appropriate level of archaeological monitoring during the initial ground preparation and foundation cutting works to identify and record any features of the cottage buildings that may be revealed.

Response to additional information

The amendments do not alter previous advice which recommended exclusion zones around the important surface lead mining remains here and a watching brief condition to cover the initial stripping of the road corridor. Refer to previous correspondence for appropriate conditions.

CLWYDIAN RANGE AND DEE VALLEY AREA OF OUTSTANDING NATURAL BEAUTY

JOINT ADVISORY COMMITTEE

“Although outside the AONB the site is considered to be within the setting of the protected landscape because of the impact on views from the higher ground of the AONB to the south and east, notably Graig Fawr.

The Joint Committee notes that the new road will extend the built envelope of the existing settlement into surrounding farmland and will change the open character of this area. However, the comprehensive LVIA submitted with the application acknowledges this and considers the significance of prominent views from the AONB and has influenced the scheme design and landscaping to help integrate the new road into its landscape setting. The LVIA’s conclusions that the overall effect on landscape character and visual impact will be ‘minor adverse’ is agreed and, subject to implementation of a comprehensive landscaping scheme comprising native local species, including arrangements for long term management of the area, 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.”

DENBIGHSHIRE COUNTY COUNCIL CONSULTEES – - **Highways Officer**

“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

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.

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 and existing A547 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 traffic calmed 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.

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.

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 access and 400m of new road leading to the site and associated highway works as indicated on the approved plans including the detailed design, layout, construction, street lighting, signing, moving of the existing speed restrictions 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 the construction of any dwellings is commenced.

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"

- Pollution Control 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.

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.

- 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 link road application is as follows -

“This assessment has found no substantive reasons to refuse this application on flood risk or drainage grounds. Whilst there are minor modifications required to finalise the surface water drainage proposals for this aspect of development, there is suitable evidence provided to confirm that a viable surface water drainage scheme for the access road 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 link road 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.

The matters Waterco refer to in their review 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.

Whilst the 2017 planning application and the appeal did not relate to the land on which the link road is proposed, Waterco have referred to issues of relevance to this application as the appeal Inspector identified specific concerns over the presence of groundwater, its impact on the development, the provision, location and capacity of the attenuation ponds, and the levels and location of the attenuation features relative to historic flooded areas. Waterco have advised in respect of the matters relevant to the link road application, these are addressed in the submissions and can be dealt with through revisions to the drainage layout and supporting calculations, matters which can reasonably be dealt with through planning conditions.

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 be no flooding of property within the development and no additional flooding of property beyond the site boundary

- Ecologist

Original response

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

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 (relates to the housing site application).*
- *An external lighting/internal light spillage scheme, designed to avoid negative impacts on bats,*

- Strategic Housing and Planning Officer

Notes the link road would be outside the development boundary of Meliden / Prestatyn, and that some of the land may be of Grade 3a quality on the Agricultural Land Classification map. Accepts due regard has to be given to the background history and the absence of any practical option for accessing an allocated housing site.

RESPONSE TO PUBLICITY:

This planning application and the preceding one on the agenda which relates to the housing development on the Mindale Farm site 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.

Bob Paterson, 120 Ffordd Ty Newydd, Meliden (O)
Peter Harrison, 54 Salisbury Drive, Prestatyn (O)
Jayne Harrison, 54 Salisbury Drive, Prestatyn (O)
Stephen Fenner, 21 Berwyn Crescent (O)
Leanne Harris, Meliden Road, Dyserth (O)
T. Ellis, 63 Ffordd Tynewydd, Meliden (O)
Linda Muraca, 9 Mostyn Avenue, Prestatyn (O)
Rachael Currie, 25 Cefn Y Gwrych, Meliden (O)
Allyson Evans, Y Bwthyn Gwyn, Meliden (O)
Mark Adcock, 71 Ffordd Ty Newydd, Meliden
Tracy Pierce, Ty Gwyn, 7 Ffordd Penrhwylyfa, Prestatyn (O)
Rachel Wheatley, Ffordd Penrhwylyfa, Meliden (O)

Petition received 1st October 2018 (O - 113) (S - 1)

In addition to the comments received from the private individuals listed above, a document has been submitted headed 'Mindale development 2018 – Open meeting 19TH 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:

Archaeological impacts

Further study required to investigate impacts on archaeological remains / area is of great interest (reference to historic documents referring to a brick lined adit constructed in 1699 by Chartered Welsh Copper Company which serves as a natural drain and emerges at the bottom of the field lying alongside Ffordd Ty newydd before flowing to Pwll y Bont and the Prestatyn Cut; access shafts were sunk to speed construction of their tunnel and the line of shafts coincides with the access road / one of three waterwheel pumps and shafts at Talargoch was located on a shaft within the surveyed area) / questions over adequacy of research into mining history and potential impacts on development

Highway concerns

Inadequacy and inaccuracy of Transport Assessment / highways are operating over capacity at times already, hence this development and other future development in the area can only worsen this / Crashmap data on accidents is wrong / Assessment states no emergency access is proposed, yet plans show one onto Ffordd Hendre (original submission) / access road and footway are at a steep gradient and limit accessibility of the site by those of restricted mobility / recommended distances to facilities do not meet basic guidelines for acceptable walking distances / questionable trip generation figures given poor accessibility and likely use of motor car / concerns over increased traffic generation and impact on A547 and the existing road network which is congested and substandard in parts (e.g. by One stop Shop, Ffordd Penrhwylyfa) / application should be deferred until a detailed traffic survey has been carried out and effects on the village and highway network are quantified / congestion also affects pedestrians / likely congestion at new road junction onto A547 and dangers from ice etc in winter on steeply sloping road / additional major junction side by side with Ffordd Ty Newydd junction would add to dangers on A547 / already difficult for vehicles associated with residential developments and businesses along A547 to enter that road / vehicles accelerate on leaving 30mph limit near proposed junction onto A547 / many other new developments will be adding to volume of traffic along A road / concerns over new access road being a race track

Most recent Crashmap data shows significantly more incidents than the 2013-17 data in the Transport Assessment, which makes the conclusion that there are not any inherent road safety issues questionable 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

Drainage / flooding implications

Increased chance of flooding due to increased surface and underground water run off / flooding has occurred downstream in recent years / inadequate measures to prevent downstream flooding – particularly in the area around Heather Crescent and Canterbury Drive / appeal inspector was not satisfied that proposals demonstrated surface water could be managed without increasing the risk of additional discharge to watercourses and increasing the potential for flooding downstream

Visual impacts

Impact when viewed from AONB (Graig Fawr), / impact from additional lighting

Pollution from noise / fumes / lighting

Potential impacts on local residents from development on western side of Ffordd Ty Newydd / residents understood there was to be no construction on this land

Wildlife impacts

Inevitable effect on species using trees, hedgerows, fields as habitat

Fear of crime

Road opens up rear of Ffordd Ty Newydd properties

Questions over night-time lighting of road

Absence of lighting raises safety issues

Subsidence concerns

Inadequate investigation into historic usage of field where the road is proposed / presence of mine workings and stability of the ground not properly considered / construction works could impact on existing properties / local properties suffer from subsidence/ concerns that the construction of the road would aggravate or make worse any ground movement / questions over adequacy of research into mining history and potential impacts on development.

Contaminated land

Concerns over excavation works exposing material from old lead mines

Residential amenity impacts

Road would lead to loss of privacy at rear of Ffordd Ty Newydd properties/ properties were bought on understanding that there would be no development on adjacent fields loss of view of open fields and hills / noise, visual disturbance and pollution from vehicles/ impacts of night time lighting/ development would mean roads on both sides of Ffordd Ty Newydd dwellings

Pre-application consultation report

Final proposals do not seem to address issues raised by residents or consultees such as NRW over management arrangements for maintaining open space buffer between road and houses, local impacts / submission does not indicate responsibility for maintenance of the footpaths

Proposed access and housing development should be considered as a whole / should not be discussed without the development it is meant to serve.

Precedent for further development

Road introduces prospect of pressure to release additional land for development

Loss of property value

Direct impacts on private property from proximity to new road, pollution, noise and light intrusion / indirect impacts from additional pressures on school and facilities reducing attractiveness of village / documentary proof that the road would reduce current value of properties by 25%

Incorrect statements in application documents

Not correct to say the site is underused agricultural land as it has been regularly grazed

Development should be subject to full Environmental Impact Assessment

In support

Representations received from:

K.White, 133 Winchester Drive, Prestatyn
Thomas Ward, 29 Ffordd Ty Newydd, Meliden,
W. Ward, Mindale, Ffordd Hendre, Meliden

Summary of planning based representations in support:

General support for construction of the road, which would facilitate the provision of much needed new affordable housing development

In relation to representations in respect of missing information over old shafts and an adit, point out that these are referred to in the report by Aeon Archeology / the adit is deep enough to be of no concern.

Archaeological investigation in connection with a water main at the rear of Ffordd Ty newydd dwellings in 1998-9 found no items of interest.

EXPIRY DATE OF APPLICATION: 23/10/2018

EXTENSION OF TIME AGREED? Yes – to 06/09/2019

REASONS FOR DELAY IN DECISION (where applicable):

- 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 to construct a new section of highway to link a proposed residential development on land at Mindale Farm, Meliden to the A547.
- 1.1.2 It needs to be considered in conjunction with the preceding application on the agenda, application no. 43/2018/0750, which contains the details of the 133 dwellings and associated developments on the Mindale Farm land.
- 1.1.3 The application contains plans and documents detailing the 400 metre long, 6 metre wide proposed link road, which would run from a new junction with the A547 immediately to the south west of 112 Ffordd Talargoch, down through the fields to the west of properties along Ffordd Ty Newydd, and into the Mindale Farm land, to join with the internal estate roads proposed to serve that site. Features illustrated on the plans are:
 - Relocation of the existing 'gateway' features on A547 west of the proposed access road junction...' to reduce vehicle speeds down to 30mph on approach to the access road.'

- Three 'Vegetated kerb build out traffic calming features' with warning signage, i.e. points at which the road is narrowed to single vehicle width with priority for traffic from one direction, to slow vehicle speeds
- A 3 metre wide 'shared use path route' alongside the link road for pedestrians and cyclists
- Provision of safety fencing and gated access in connection with the public footpath crossing the link road from Ffordd Ty Newydd.
- A 'buffer zone' between the road and the rear boundaries of the Ffordd Ty Newydd properties, which it is indicated is 'to be maintained by Penrhyn Homes Open Space Management Company'
- Field accesses to allow entry to land either side of the road
- New planting alongside the link road
- A proposed surface water drainage ditch running alongside of the link road to take run off from the road, feeding into a catchpit / filter chamber linked to the detention basin system within the open space areas of the main housing site.
- A Welsh Water Easement access to the land adjacent to an existing field drainage ditch.
- Sectional and topographic plans showing existing and proposed levels

1.1.4 The plans at the front of the report illustrate the main elements of the proposals.

The supporting documents include a Design and Access Statement, a Joint Report on Pre-application Consultation Publicity, a Transport Assessment (revised in April 2019) and 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, a Geophysical Survey Report, Soils and Agricultural Quality report, a Noise Survey Report, and a Landscape and Visual Appraisal. There are a range of plans showing topography, sectional details, highway layouts, 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 and associated drainage documents and plans, including a Sustainable Drainage Systems explanatory note; a Phase 1 Geo-Environmental Desk Study, Ecological information, a lighting plan, and a number of associated revised layout plans.

The applicants have also confirmed that the proposals are to extend the 30mph speed limit on the A547 further to the west of the proposed access, which would ensure the relevant visibility splays at the point of access can be achieved.

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 provides commentary on the basic detailing of the road scheme, and refers to predicted traffic volumes of 'some 85 vehicles per peak hour flow both directions', and a design speed of 20mph.
- In relation to farm land losses, the Statement comments that... 'The loss of grazing land is not judged to be significant or cumulative for planning or farm purposes to facilitate this essential over-riding road link scheme. The land is already affected by past mining, water mains and rural fringe access affecting farm use. Continued agricultural use as grazing is not- overriding. The farm land quality is mixed and of the lower grades (3a and below) with conservation of small areas of soils not judged to be overriding or ecological interests compromised, with mitigation

provided. There are no other sequential land -use alternatives, with objections having been raised at appeal by residents in 2017 to access to the land allocation from the east and no practical access from the north involving flood prone higher quality farm land of ecological interest. The options are therefore limited to this design solution if the nearby land allocation is to be given effect as a very material planning consideration, post the 2017 appeal and the local opposition encountered to reasonable development.'

- There is reference to Infrastructure Payments, which states ... 'The proposed road construction timing and future maintenance details will be the subject of a S106 linked to the new housing development scheme application.'

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 and Stage 1 Traffic Audit

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 Penrhwyfya priority junction and the Ffordd Ffynnon / Ffordd Penrhwyfya / 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 Penrhwyfya / 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 Penrhwyfya / 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.'

The Ecological Information

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

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 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.

The flooding and 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 in relation to surface water drainage:

- '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.'

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 .

Of the four documents, the most relevant to the new link road application is the one dealing with The Management of Surface water from the existing soft landscaped area between the rear of Ffordd Ty Newydd and the new access road. The main points in this are :

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 192m³.

The detention of water in shallow basins in this area will not be a risk to properties.

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 states in relation to the area involved in the road scheme:

'The plot of land associated with the development of the proposed new access road runs up to the projected line of the St Asaph – Meliden Roman Road which may fall within the site boundary. As such the potential for buried remains of the Roman period associated with either the road, or ancillary features such as cemeteries or Roman Road stations, is considered to be *medium* within this part of the site. In addition this part of the Site retains earthworks associated with the Talargoch Mine and as such the potential for preserved buried remains of the post-medieval period is expected to be *high*. '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

These consist of:

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 documents information found on historical maps and notes:

‘With reference to the available historical maps, c.1871, the access road site was occupied farmland with an access road / track crossing the land to Talargoch Mine. In c.1898, the access road is no longer recorded. The subject site has not undergone development and is thought to have been used for agricultural land only.

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 Soils and Agricultural Quality report

This 12 page report produced by Land Research Associates details a soil and agricultural land quality survey of the land which is the subject of the access road application. Its summary paragraph states –

‘ The land has fine loamy soils with impeded subsoil drainage, with land quality mainly limited to subgrade 3a and 3b by wetness. A small area of stony disturbed land could not be cultivated and is therefore agricultural use is limited to grazing (grade 4). ‘

The Noise Survey Report

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 acoustic fencing.

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 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 Landscape and Visual Appraisal.

This 47 page report produced by Capita is dated July 2018. Its Summary of Landscape and Visual effects states as follows:

- 'The main landscape and visual receptors are the residential properties along Ffordd Ty Newydd adjacent to the site which have views overlooking the site from first floor windows and also the setting of the AONB from the Graig Fawr Viewpoint location. In order to mitigate the effects and integrate the road into the landscape, mitigation planting in the form of native hedgerows and tree planting has been proposed. The positioning and selection of trees has been carefully considered so as not to impede views from the properties of the surrounding countryside to the west and to avoid planting within the Welsh Water 6m easement.

- The proposed drainage will be via a ditch which will feed into attenuation ponds within the housing development site. The drainage ditch is a sustainable drainage solution and will be in keeping with the surrounding ditches within the existing fields. Wildflower grass seeding is proposed in the open spaces and along the embankments adjacent to the roads in order to enhance biodiversity and also to reduce the maintenance requirement. The planting is to be managed by Penrhyn Homes Open Space Management Company.

- Due to health and safety of road users lighting is required to be installed along the length of the access road. The lighting will be energy efficient LED lighting and will be directional so not to cause unnecessary light spillage. This appraisal has not assessed the night time effects of the proposed development, however it is considered that the lighting will not significantly impact on the setting of the AONB as the viewpoint would be most likely visited during daylight hours. It is also considered that the lighting will not have a major impact on the nearby residents given that there is lighting along the A547 and along Ffordd Ty Newydd.

- The meandering alignment of the new access road could be considered to be at a variance with local street patterns and as an encroachment of the existing settlement boundary of Meliden. However extensive hedgerow planting is proposed to re-define field boundaries using geometric lines and will effectively mitigate the visual effects of the road.

- The conclusion of this appraisal is that the effects in landscape and visual terms as a result of the proposed development are minor in the context of the industrial land uses along the A547 and proximity to the settlement boundary of Meliden. The overall landscape and visual effects of the proposal are therefore considered to have a slight adverse effect on the site and surrounding area. However, the mitigation planting will establish and mature to provide benefits for ecology and biodiversity. The public open space will be managed and provide amenity benefits for local residents. Therefore, although there may be slight adverse effects in landscape and visual grounds there will be positive effects as a result of the proposed development for biodiversity and amenity.'

The **application forms** confirm the 'Certificate B' process has been followed in relation to notification of the owners of the land within the application site. This is the process applicable to situations where all owners of a site are known. The forms confirm that notices have been given to Nicola Williamson, The Paddock, Dyserth Hall Farm; and to Denbighshire County Council.

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 co-ordinate with an agreement with one relating to the housing site proposal, given the overlap of issues and interdependence of the two developments.

1.2 Description of site and surroundings

- 1.2.1 The link road would run from a new junction on the A547 immediately to the south west of No.112 Ffordd Talargoch, roughly in a north westerly direction parallel to the rear of existing dwellings on Ffordd Ty Newydd, passing through open fields down to the proposed housing site at Mindale Farm.
- 1.2.2 The Rhyd Farm buildings are some 450 metres to the north west of the nearest part of the proposed road.
- 1.2.3 The existing 30mph speed limit signs at the entrance into Meliden village from the Rhuddlan direction are located in the approximate position of the proposed new junction of the link road onto the A547. These signs double up as the ones which denote the start of the 40mph speed limit signs for vehicles travelling out of Meliden towards Rhuddlan.
- 1.2.4 The entrance to the Talargoch Trading Estate is approximately 200 metres to the south of the proposed access junction, along the A547.
- 1.2.5 In terms of topography, the land slopes down from the A547 to the north. The field boundary immediately below the A547 is defined by a stone wall with a well established hedgerow between it and the road. Levels information on the submitted plans show a drop of some 21 metres from the A road to the point where the road would enter the Mindale Farm site.
- 1.2.6 The fields on the west side of Ffordd Ty Newydd are open grassland. There are sections of hedgerow and a mix of fencing along the boundaries of Ffordd Ty Newydd properties and these fields. There is evidence of spoil from old mining activity on and near to the application site.

1.3 Relevant planning constraints/considerations

- 1.3.1 The site lies outside of, but immediately bordering the development boundary for Meliden village, as annotated in the Denbighshire Local Development Plan. The boundary runs along the line of the rear gardens of the Ffordd Ty Newydd properties.
- 1.3.2 The nearest boundary of the Clwydian Range AONB is some 0.5km to the south at Graig Fawr.
- 1.3.3 There is a public footpath running across the site in a westerly direction from Ffordd Ty Newydd to Rhyd Farm.
- 1.3.4 The majority of the link road site which is the subject of application 43/2018/0751 is located within the administrative area of Dyserth Community Council. A minor section of the link road at the point where it enters into the housing site which is the subject of the preceding application, 43/2018/0750, is within the Prestatyn Town Council area.

Relevant planning history

- 1.3.5 The dwellings numbered 110 and 112 Ffordd Talargoch, which are located immediately to the north east of the point of entry of the proposed access road onto the A547 have been built on the plot formerly occupied by a single dwelling, High House. The permissions for these dwellings were granted in 2006/8 and in 2015.
- 1.3.6 There are no records of any applications for development on the fields where the road is proposed.
- 1.3.7 The refusal of permission for the original application for the development of the Mindale Farm land in April 2017 and the subsequent planning appeal against the refusal are relevant to this application for a new access road to serve the site, insofar as they dealt with the general principles of additional vehicular traffic entering the A547 and impacts on the local highway network. There is a detailed outline of the consideration of the 2016 application, the reasons for refusal and the Planning Inspectorate's decision on the appeal in Section 1.4 of the Officer report on the housing site application on application 43/2018/0750, which is the subject of the previous report on the agenda.
- 1.3.8 The main issues of interest in relation to the highway impacts of the 2016 application to develop the Mindale land were:
 - *Officers* advised in relation to the highway issues that on the basis of the 'technical' responses from consultees, there were limited land use planning grounds to refuse 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.
 - There was considerable member concern over the impact of the development on existing local infrastructure, which it was considered was not adequate to cope with the scale of the development, particularly in terms of highways and drainage/flooding
 - *The first of the two reasons for refusal of permission in April 2017* reflected the particular concerns of Planning Committee over impact on the local highway network:

“ 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

- *The Planning Inspector's conclusions on the highway issues in the 2017 decision letter were couched in terms of the effect on the character of the village and well-being of local residents with particular regard to the highway infrastructure:
 - o 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.
 - o Her conclusions were that the local highway infrastructure could accommodate the increased traffic generated by the development without harm to highway safety.
 - o However, with regard to the specific proposals for highway visibility at the bottom of Ffordd Gwilym, and the details of the emergency access, the Inspector considered the proposal would be unacceptable in the submitted format, so concluded on what was in front of the Hearing, these aspects of the development would have an unacceptable effect on the highway infrastructure, contrary to Planning Policy Wales, and TAN 18.*

1.4 Developments/changes since the original submission

1.4.1 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.

1.4.2 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.

1.5 Other relevant background information

1.5.1 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 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. Members will appreciate that regardless of the recommendation on the application and its ultimate determination by Committee, Officers have a duty to undertake such 'without prejudice' discussion with applicants in progressing major schemes of this type.

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

2. DETAILS OF PLANNING HISTORY:

Applications on land immediately adjacent to the point of access onto the A547:

2.1 43/2006/0462

Development of 0.07ha by the erection of single dwelling to include siting and access (outline application) – 110 Ffordd Talargoch
GRANTED 09/09/2006

2.2 43/2018/0616
Erection of one dwelling – amendment to previously approved scheme
GRANTED 15/10/2008 – 110 Ffordd Talargoch

2.3 43/2014/1312
Erection of 1 dwelling (amendment to previously approved scheme) – 112 Ffordd Talargoch
GRANTED 14/01/2015

Application relating to the Mindale Farm site

2.4 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 first reason for refusal, relating to the highway infrastructure is quoted in full in paragraph 1.4.4 above.

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

The key conclusions of the appeal Inspector's letter of decision in respect of the highway impacts of the development of the Mindale Farm land are summarised in Section 1.4.4 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 4th June 2013)
Policy RD1 – Sustainable development and good standard design
Policy BSC1 – Growth Strategy for Denbighshire
Policy VOE2 – Area of Outstanding Natural Beauty and Area of Outstanding Beauty
Policy ASA1 – New transport infrastructure
Policy ASA2 – Provision of sustainable transport facilities

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 on the preceding item 43/2018/0750.

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 10, 2018
Development Control Manual
Technical Advice Notes
TAN 15 Development and Flood Risk
TAN 18 Transport

Circulars

- 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 2017 planning appeal decision
- 4.1.3 Highways impacts
- 4.1.4 Visual amenity/ AONB / landscape
- 4.1.5 Residential amenity
- 4.1.6 Ecology
- 4.1.7 Drainage (including flooding)
- 4.1.8 Archaeology
- 4.1.9 Use of agricultural land
- 4.1.10 Fear of crime / community safety issues
- 4.1.11 Contaminated land and land stability
- 4.1.12 Planning conditions and Section 106 Obligations

Other matters

Submission of two applications

Environmental Impact Assessment Screening

Open Space questions

Loss of property value

Precedent for future development

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 constructing a new road is Policy ASA1. This policy offers support for development proposals for the provision of new transport infrastructure and improvements to existing infrastructure facilities subject to meeting specific criteria. The tests require that there is a need and justification for the proposal on economic and / or social grounds; that there are no unacceptable effects on the natural and built environment; and that provision is made for safe access by all users, including cyclists, pedestrians, and the mobility impaired.

The land where the new road would be constructed to serve the Mindale Farm housing development is outside the development boundary for Meliden on the Local Development Plan Proposals map. Consequently, the general land use planning impact considerations referred to in the Development Management Manual and Planning Policy Wales 10 have to be applied to assessment of the application.

Officer assessment

In Officers' opinion, the proposal poses no 'in principle' conflict with Policy ASA1 or the general planning considerations relevant to such a proposal, hence the determination of the application should rest primarily on the acceptability or otherwise of the detailing and the local impacts of the proposal, reviewed in the following sections of the report.

4.2.2 2017 planning appeal decision

Whilst the proposal for a link road to serve the Mindale Farm site direct from the A547 was not in front of the Council or the appeal inspector in 2017, the grounds of refusal of the previous Mindale Farm application and the subsequent appeal decision in October 2017 are clearly material considerations in the weighing up of the application now in front of the Committee.

Section 1.4.4 of the report sets out the Council's highway related reason for refusal of the original application, 43/2016/0600. This was reason No 1 of the refusal.

Section 1.4.4 of the report also provides a summary of the main conclusions of the appeal Inspector in dismissing the appeal. These 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, 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, the proposed emergency access, and information in relation to surface water drainage and flooding. Members will appreciate that the proposals now before the Council involve significantly different highway details which have to be considered on their own merits, and there is additional technical material seeking to address previous concerns over the adequacy of information on drainage, so it is important that these are reviewed thoroughly from fresh, albeit with due regard to the substance of the Appeal Inspector's findings.

4.2.3 Highways impacts

Planning policy and guidance

Local Development Plan Policy ASA1 is referred to above in 4.2.1. This policy supports proposals for new transport infrastructure subject to meeting the following criteria:

- i) there is a need and justification for the proposal on economic and/or social grounds; and
- ii) there are no unacceptable effects on the natural and built environment; and
- iii) provision is made for safe access by all users, including cyclists, pedestrians and the mobility impaired.

Policy ASA 2 encourages the incorporation, where justified by new development, improvements to public transport, walking, or cycling infrastructure, or contributions to the cost of their provision.

These policies reflect general principles set out in Planning Policy Wales 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. 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.

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.

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 may therefore be regarded as a potential material consideration.

In terms of the planning history:

The 2016 application for the development at Mindale Farm did not propose an access road on land to the west of Ffordd Ty Newydd, hence the link road application raises slightly different considerations to those which were relevant to the Council's determination of the application, and to the Planning Inspector's deliberations on the subsequent appeal. Nonetheless, many of the more general highway impacts arising from a 133 dwelling development, including the effects on the local highway network remain applicable to the new link road proposal.

The Council's first reason for refusal in April 2017 related specifically 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 on the evidence 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 of the new access road, linked to the scale of development on the Mindale residential site. There are concerns over the adequacy of the

Transport Assessment and questions over trip generation figures, accident records referred to in the analysis, and confusion over reference to the emergency access. There are concerns over the capacity of the A547 to accommodate traffic volumes as it is already considered congested and will be taking additional volume from other development sites in the area. It is pointed out that the access road and footway are at a steep gradient and would limit the accessibility of the site by those with restricted mobility, and that distances to facilities do not meet basic guidelines for acceptable walking distances.

Dyserth Community Council have commented that providing that the application complies with planning policy, then no objections are raised, but express concerns 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 – as they believe this narrow road will be used as a short cut.

Prestatyn Town Council have highlighted concerns over the ability of the present highway infrastructure to cope with the proposed increased volume of traffic.

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, and the detailing of the site access. The main points of relevance to the link road 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.

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 link road and associated infrastructure, 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. Of relevance to the link road application, 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.'

There is a considerable volume of plans and supporting documents with the application providing technical information illustrating the detailed layout and specifications for the road and its associated drainage arrangements. In order to address concerns over the separate or incremental implementation of any permissions for the link road and the housing site, the applicants have confirmed they are agreeable to inclusion of suitable planning condition(s) on any permission / Heads of Terms in any Section 106 agreement 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 also suggesting inclusion of a Highway Bond on any agreement, to ensure completion of the highway works if the developer defaults.

Officer assessment

As with the application for the Mindale housing site, it is evident from the representations on the link road application that the highway implications of the 'combined' developments of the Mindale housing land and the new road are critical considerations. There are local concerns expressed over what are considered to be a range of unsatisfactory impacts which it is considered combine to weigh against the grant of permission for the link road.

The Highway Officer has provided a detailed response which concludes there are limited 'technical' grounds to oppose the grant of permission for the link road.

The Appeal Inspector's highway related grounds for dismissing the 2017 appeal are considered to be of more limited relevance to the link road application as this involves an entirely new road to access the housing site and raises no issues either in relation to Ffordd Gwilym or in respect of emergency access arrangements.

Officers suggest it is relevant to consider in relation to both proposals 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 road system, and the link road development would facilitate the means of that traffic accessing the road system. In addition, in relation to the link road proposals, it is also relevant to assess the acceptability of constructing a new road junction onto the A547 in terms of impacts on highway safety and the free flow of traffic at that point.

The report on the housing site application acknowledged that a development of 133 dwellings would increase pressure on the road network in the vicinity of the site, and that there are times during the day when traffic congestion will occur in certain locations in the area. The issue is whether the likely volume of traffic generated from the development in itself, would bring about levels of congestion, dangers to road users, 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 refer 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.

The Highway Officer is satisfied that a safe access linking the site to the A547 can be constructed. The details of the arrangements at the proposed junction with the A547 are considered acceptable, and would comply with TAN 18 standards. Planning conditions would need to be attached to any permission to oblige submission and approval of details of construction, drainage, relocation of speed restriction signs, etc. as well as a construction method statement.

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 link road, consideration has to be given to conditioning any permission to prevent commencement of development until there is a permission in place for the housing site, 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 link road until there is a valid permission in place for the housing site development.

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.

4.2.4 Visual amenity / AONB / landscape

Planning policy and guidance

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.

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 visual amenity and the landscape may therefore be regarded as a potential material consideration.

The Site Development Brief relating to the Mindale Farm site did not extend to the land on which the link road is proposed, but it does contain basic principles Officers consider relevant to the assessment of this application. For example, it requires account to be taken of the site's edge of settlement visual prominence and to respect views from the surrounding area, and inclusion of high quality landscaping to ensure a seamless transition from countryside to built form. 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.

In terms of the planning history:

The 2016 application for the development at Mindale Farm did not propose an access road on land to the west of Ffordd Ty Newydd, hence the visual amenity, AONB and landscape impacts of what is now proposed were not considerations relevant to the Council's determination of the application, or to the Planning Inspector's deliberations on the subsequent appeal.

Representations and consultation responses on the current application:

There are individual objections to the proposal based on potential impact when viewed from the AONB (Graig Fawr), and impact from additional lighting along the link road.

The AONB Committee raise no objections to the link road proposal. Whilst noting the new road will extend the built envelope of the existing settlement into surrounding farmland and will change the open character of this area, the Committee accept the conclusions of the landscape and visual assessment that the scheme design and landscaping would help integrate the new road into its landscape setting, and subject to implementation of the proposed planting, the development will not cause unacceptable harm to the setting of the AONB.

In relation to impact on the AONB landscape, Natural Resources Wales' original response considered the information provided as part of the application gives some confidence that the proposed access road could be accommodated below Graig Fawr, and within the AONB, with slight/moderate adverse effect on the setting and views from the AONB, which would be acceptable. Their response to the additional information indicates this has satisfactorily addressed previous requirements, showing proposals for use of the orchard area for informal recreation; and to ensure implementation and management of the proposed landscaping, suggestions are made for the inclusion of appropriate conditions. NRW also stated the type of lantern proposed for street lighting meets requirements for avoiding adverse night time effects on the AONB.

Relevant details in the application

The Landscape and Visual Appraisal concludes that the effects in landscape and visual terms as a result of the proposed development are minor in the context of the industrial land uses along the A547 and proximity to the settlement boundary of Meliden. The overall landscape and visual effects of the proposal are therefore considered to have a slight adverse effect on the site and surrounding area, but the mitigation planting will establish and mature to provide benefits for ecology and biodiversity. It confirms the public open space will be managed and provide amenity benefits for local residents, and although there may be slight adverse effects in landscape and visual grounds there will be positive effects as a result of the proposed development for biodiversity and amenity.

Officer assessment

Officers accept that there will inevitably be some visual amenity impact from the construction of a new link road across open fields to the west of Ffordd Ty Newydd, but having regard to consultation responses, it is not considered reasonable to oppose the application on this basis. In particular, the responses of the AONB Committee and Natural Resources Wales raise no fundamental concerns over the impact of the link road, subject to inclusion of suitable planning conditions.

In terms of the AONB, the road would be visible from higher ground within the AONB to the south, but such views are from distance and the road would be seen as a small extension to the existing built up area of Meliden and Prestatyn. Locally, the visual impact of the development would be limited to locations

immediately bordering the site. The proposed landscaping / planting, and sensitive street lighting design would assist in mitigating impacts from the AONB and from nearby public viewpoints.

There would clearly be some visual impact on a number of properties from the presence of the new road. The closest existing properties to the link road would be No.112 Ffordd Talargoch (side wall 20 metres from the road, close to the junction with the A547) and the Ffordd Ty Newydd properties, (rear walls between 30 and 50 metres from the road). Whilst many of the Ffordd Ty Newydd properties have substantial hedgerows along their western boundaries providing a visual screen between them and the proposed road, others have more open views to the west across the fields over a mix of boundary fences, which would provide more limited screening of the road. Nonetheless, in concluding on the significance of this impact, given the distances involved and the proposals for additional planting in association with the road, it is not considered that the visual impact of the scheme would be so unreasonable as to make the link road development unacceptable.

4.2.5 Residential amenity

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 the impact of a proposal on the residential amenity of an area is a standard material consideration.

In terms of the planning history:

The 2016 application for the development at Mindale Farm did not propose an access road on land to the west of Ffordd Ty Newydd, hence the residential amenity impacts of what is now proposed were not considerations relevant to the Council's determination of the application, or to the Planning Inspector's deliberations on the subsequent appeal.

Representations and consultation responses on the current application:

There are individual objections to the proposal based on potential for loss of privacy at the rear of Ffordd Ty Newydd properties, loss of view of open fields and hills, additional noise, visual disturbance and pollution from vehicles, including impacts of night time lighting, and general disturbance from roads on both sides of Ffordd Ty Newydd dwellings. Loss of property value is also raised as a concern.

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 on the link road.

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.

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 potential for impacts on residential amenity from the road proposal is primarily in the form of air pollution, noise and disturbance, and impact from road lighting, in particular in the area around the proposed new junction onto the A547, and in relation to the nearest dwellings.

There are no objections to the proposals from the Council's Environmental Health Technical Officer, who recommends basic planning conditions need to be imposed to oblige submission and approval of details 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. A requirement for hooding of individual street lights would need to be the subject of a separate condition.

On the basis of the above, Officers would conclude that the short and long term residential amenity impacts of constructing the link road would not be so significant as to make the proposal unacceptable.

4.2.6 Ecology

Planning policy and guidance

Policy VOE 5 of the Local Development Plan 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.

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), TAN5, 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 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 2016 application for the development at Mindale Farm did not propose an access road on land to the west of Ffordd Ty Newydd, hence the ecological impacts of what is now proposed were not considerations relevant to the Council's determination of the application, or to the Planning Inspector's deliberations on the subsequent appeal.

Representations and consultation responses on the current application:

There are individual concerns expressed over the potential effect of the road construction on species using trees, hedgerows, and fields as habitat.

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 in relation to the housing site and link road applications 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, 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, 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.

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 link road 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.

On the basis of the consultation response, it is considered the development would not have an unacceptable impact on protected species or the nature conservation value of the site, subject to the inclusion of conditions which would

ensure suitable protection and mitigation is in place, in line with the principles in the Site Development Brief.

4.2.7 Drainage

Planning policy and guidance

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.

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

In terms of the planning history:

The 2016 application for the development at Mindale Farm did not propose an access road on land to the west of Ffordd Ty Newydd, hence the drainage impacts of what is now proposed were not considerations relevant to the Council's determination of the application, or to the Planning Inspector's deliberations on the subsequent appeal. However, the drainage situation was a key consideration on the application and remains a relevant matter in relation to the new link road proposal.

Representations and consultation responses on the current application:

There are individual objections to the proposal based on potential for additional flooding due to increased surface and underground water run-off. These indicate flooding has occurred downstream in recent years and suggest there are inadequate measures to prevent downstream flooding – particularly in the area around Heather Crescent and Canterbury Drive. It is pointed out that the appeal inspector was not satisfied that proposals demonstrated surface water could be managed without increasing the risk of additional discharge to watercourses and increasing the potential for flooding downstream. It is questioned whether there has been adequate research into the mining history and potential impacts on development.

Dyserth Community Council have not commented on the drainage implications of the link road proposals.

Prestatyn Town Council have commented on the potential increase to flood risk from the new road, adverse impact on existing watercourses, and they question the adequacy of the proposed SUDS mitigation measures due to terrain, local environment and site topography.

Waterco, as Drainage Consultants for the Council, have assessed the link road submission and advised on its land drainage implications, as the proposals have the potential to generate and impact on surface water flows in the locality. Waterco assisted the presentation of the Council's case at the Hearing into the

2017 refusal of permission for the previous Mindale Farm application. They requested additional details in relation to the contents of the current application in order to assess the acceptability of the proposals, and have reviewed this in order to make their recommendations.

Waterco's conclusions are that the assessment has found no substantive reasons to refuse the link road application on flood risk or drainage grounds, and whilst they advise minor modifications are 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 access road, 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 have noted that whilst the 2017 planning application and the appeal did not relate to the land on which the link road is proposed, it did raise issues of relevance to this application as the appeal Inspector identified specific concerns over the presence of groundwater, its impact on the development, the provision, location and capacity of the attenuation ponds, and the levels and location of the attenuation features relative to historic flooded areas. Waterco have advised in respect of the matters relevant to the link road application, these are addressed in the submissions and can be addressed through revisions to the drainage layout and supporting calculations, 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 development 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 be 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. This 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 surface water drainage proposals. The contents are summarised earlier in the report. The plans show run-off from the link road would be directed into a drainage channel running alongside the road, and into a catchpit / filter chamber linked to the detention basin system within the open space areas of the main housing site.

Officer assessment

The drainage implications of the link road application are a significant material consideration as the run-off from the road will be collected and disposed of within a catchment pit and the detention basins / attenuation tanks within the Mindale Farm housing site.

There are specific local concerns over the impact of surface water from the road adding to the potential for flooding and drainage problems on the housing site

and downstream interests.

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 link road application on flood risk or drainage grounds. They note minor modifications are required to finalise the proposals, but state..." there is suitable evidence provided to confirm that a viable surface water scheme for the access road 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 development are designed to be lower than greenfield runoff rates, which 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 be no flooding of property within the development and no additional flooding of property beyond the site boundary.

In recognising the basis of local concerns, it is clear from the responses of the main consultees on the application that there is sufficient information to make a reasoned conclusion on the drainage implications of the proposals. It is significant in Officers' opinion that 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 is to be granted.

On the basis of these conclusions, Officers are of the view that the details submitted in relation to the drainage impacts of the link road application are adequate to address the reservations of the 2017 appeal Inspector over the adequacy of drainage information, sufficient to provide a thorough understanding of matters relevant to the proposals, including the groundwater regime and any associated risk, together with details of the surface water systems and the design of the attenuation system which would deal with run-off from the road. Again it is considered significant in the context of the objections expressed that Waterco conclude a scheme which does not increase flood risk elsewhere is achievable.

Officers' conclusion, having regard to the above, and with respect to local concerns, is therefore that there are no justifiable grounds for opposing the link road development based on drainage impacts, all subject to the imposition of relevant conditions.

4.2.8 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.

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 2016 application for the development at Mindale Farm did not propose an access road on land to the west of Ffordd Ty Newydd, hence the archaeological impacts of what is now proposed were not considerations relevant to the Council's determination of the application, or to the Planning Inspector's deliberations on the subsequent appeal.

Representations and consultation responses on the current application:

There are individual objections to the proposal based on potential archaeological impacts, with the suggestion that further study is required to investigate impacts on remains. One representation draws attention to historic documents referring to a brick lined adit constructed in 1699 by Chartered Welsh Copper Company which serves as a natural drain and emerges at the bottom of the field lying alongside Ffordd Ty newydd before flowing to Pwll y Bont and the Prestatyn Cut; and it mentions access shafts were sunk to speed construction of their tunnel and the line of shafts coincides with the access road / one of three waterwheel pumps and shafts at the Talargoch Mine was located on a shaft within the surveyed area). There are questions over the adequacy of research into 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. The Trust's original response noted the new access will pass through an area of intensive former lead mining activity associated with the Talargoch Lead Mine, and they suggested that conditions be attached to any permission requiring fenced exclusion zones around the identified features (Engine House Issa and the Walker's Shaft, Talargoch Mine), and an appropriate level of archaeological monitoring during the initial ground preparation and foundation cutting works to identify and record any features of the cottage buildings that may be revealed. The Trust have repeated this request in their response to the reconsultation on the application.

Relevant details in the application

The submitted Archaeological Assessment notes the proposed new access road runs up to the projected line of the St Asaph – Meliden Roman Road, and concludes the potential for buried remains of the Roman period associated with either the road, or ancillary features such as cemeteries or Roman Road stations, is considered to be *medium* within this part of the site. In relation to earthworks associated with the Talargoch Mine, the potential for preserved buried remains of the post-medieval period is expected to be *high*. It concludes 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.'*

Officer assessment

In respecting comments from objectors, the key consultation response from Clwyd Powys Archaeological Trust raises no objections to the application, and subject to appropriate conditions being attached to allow for archaeological recording, it is therefore concluded there are no archaeological issues of concern over the road development.

4.2.9 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.

In terms of the planning history:

The 2016 application for the development at Mindale Farm did not propose an access road on land to the west of Ffordd Ty Newydd, hence the impacts of what is now proposed on high quality agricultural land were not considerations relevant to the Council's determination of the application, or to the Planning Inspector's deliberations on the subsequent appeal.

Representations and consultation responses on the current application:

There are individual objections to the proposal based on potential impacts on high quality agricultural land.

The Strategic Housing and Planning Officer notes the link road would be outside the development boundary of Meliden / Prestatyn, and that some of the land may be of Grade 3a quality on the Agricultural Land Classification map, but accepts due regard has to be given to the background history and the absence of any practical option for accessing an allocated housing site.

Relevant details in the application

With regard to the land quality, the applicants have submitted findings of a survey undertaken in April 2018 which confirmed that of the 1.4 hectares site proposed for the road, the area of subgrade 3a land affected totals 0.97 hectares. The remainder is grade 2b and Grade 4. The Report deals with the Planning Policy Wales sequential test and suggests :

- that the road is required to deliver a development on allocated land, and in the absence of any other available route, it can be argued there is an overriding need for the development
- The fact that greenfield (previously undeveloped land) at Mindale is allocated appears to demonstrate that previously developed land is not available to meet housing need requirements in the locality.
- Land at the allocated site and the road access site is a mixture of subgrades 3a and 3b quality. Since the Mindale site is allocated, the availability of lower quality land for road access can only logically be judged in the context of the

surrounds of the site.. The land proposed or road access appears of typical quality at this locality.

- It would be difficult to farm these patches of different quality land separately and therefore it is likely the land would only be managed according to the greater degree of limitation of the subgrade 3b land – which is particularly the case since the main limitation is wetness, which would preclude safe access with machinery.
- The field is in permanent use for grazing, a land use for which resources are not in short supply in Wales.
- There are also additional constraints in the form of earthwork remains.
- It is unlikely the land will be put to arable use, i.e. ploughed.

Officer assessment

Taking account of the above, Officers do not consider there is clear conflict with the contents of Planning Policy Wales advice on the protection of the Best and Most Versatile Agricultural Land. It is considered that some weight has to be attached to the fact that the route of the road appears to be the only feasible one capable of accessing the Mindale Farm land, and as this is an allocated site in the Local Development Plan, and there is pressure on the County to release sites to meet housing targets, there are grounds for considering there is overriding need for the development, outweighing the agricultural considerations in Planning Policy Wales.

4.2.10 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.

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 2016 application for the development at Mindale Farm did not propose an access road on land to the west of Ffordd Ty Newydd, hence the impacts of what is now proposed on community safety were not considerations relevant to the Council's determination of the application, or to the Planning Inspector's deliberations on the subsequent appeal.

Representations and consultation responses on the current application:

There are individual objections to the proposal based on potential impacts on community safety, based on the new road running to the rear of the Ffordd Ty Newydd properties.

Officer assessment

In respecting the concerns expressed, it is not considered the presence of the link road would bring about a situation where there would be an unacceptable potential of risk to community safety or fear of crime, sufficient to oppose the application. Whilst it is accepted the link road would be located to the rear of existing Ffordd Ty Newydd dwellings, for the most part it would be sited a minimum of 10 metres from the nearest garden boundaries, leaving no obviously constricted, unlit areas where people could congregate without been seen by users of the road.

4.2.11 Contaminated land and land stability

Planning policy and guidance

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. Contaminated land and land stability may therefore be regarded as a potential material consideration. 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 2016 application for the development at Mindale Farm did not propose an access road on land to the west of Ffordd Ty Newydd, hence there were no questions over contaminated land and land stability and these were not a consideration relevant to the Council's determination of the application, or to the Planning Inspector's deliberations on the subsequent appeal.

Representations and consultation responses on the current application:

There are individual objections to the proposal based on concerns over contaminated land and land stability. Residents refer to the presence of mine workings, local properties suffering from subsidence, and question the adequacy of investigation into historic usage of the field and the stability of the ground, and whether the construction of the road would aggravate or make worse any ground movement.

Prestatyn Town Council have referred to the old mine workings and sinkholes and have concerns that these may cause land instability.

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 respect of what are termed 'collapsible deposits', it is noted that there are none on the east side of the new access road adjacent to Ffordd Ty Newydd properties, confirming that any claimed change in water conditions or loadings of ground to allow for the construction of the new road would have no anticipated significant effects or any need for further detailed site investigations for those properties.

In response to local representations, the applicants have suggested matters relating to contamination and land stability are adequately covered in the submissions. They consider the ground reports are conclusive that the risk is very low and entirely manageable despite history of mining locally and that it should be noted that the mine shaft which has been capped alongside the planning application site is as confirmed in the groundwater report seen by Waterco is at substantial depths exceeding 50 metres plus.

The applicants also refer to investigation undertaken in 1997 in association with water main work by Welsh Water in this location close to the boundary of the rear gardens of Ffordd Ty Newydd, where there were no issues with ground conditions. They also point out that shafts and an adit referred to in representations are mentioned in the Aeon report forming part of the application.

It is with this knowledge the consultants initial thoughts are that piling is not necessary and the road alignment avoids any hidden mine shafts along the east site boundary with the existing residents properties, leaving that area undisturbed. The applicants ask that it be noted for reference purposes that the Desktop ground condition report appendices did not discover any major risks with ground instability within the road area or on the development site. The applicants also stress that it is fully accepted there is a need for an archaeological watching brief and that there will have to be full detailed ground sampling tests before any construction can take place; and point out that they will be required to undertake a CBR test as part of the road adoption which will test the road for compaction so if there are any stability issues this will need to be designed accordingly.

Officer assessment

Having regard to the information in front of the Council, the conclusions of the Geo-Environmental Desk study, and the absence of any technical objections from consultees, it is not considered there is significant risk likely to arise from contaminated material in relation to 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, information in front of the Authority suggests there is no clear evidence of subsidence arising from past mining activities which would suggest an immediate risk to the construction of a new road in this location, or that the construction of a road and its subsequent use by traffic would give rise to ground stability issues affecting existing nearby dwellings along Ffordd Ty Newydd. As noted, the detailed road design would need to take account of ground conditions in the areas close to past mine workings and demonstrate construction methods suitable to deal with any potential for subsidence.

4.2.12 Planning Conditions and Section 106 agreements

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 link road 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 developments which may justify contributions.

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'.

In relation to the Site Development Brief, there is reference to the possibility of contributions to sustainable transport facilities and open space.

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 inclusion of planning conditions and 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 ideas for the contents of 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 in relation to the link road proposal. 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, requiring provision of a highway bond to ensure the completion of the road in the event of the developer defaulting, and to ensure the development cannot proceed without a permission being in place for the Mindale housing development.

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 new link road, 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 the permission without a valid permission in place for the housing site at Mindale Farm, 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.

Open space area

There are representations questioning the management arrangements for maintaining the open space buffer between the new road and houses, 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.

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.

Precedent for future development

There are representations expressing concerns over the new road opening up the potential for the release of additional land outside the development boundary for development.

As a basic principle, Officers would advise that fear of precedent is not a sound ground for considering refusal of planning permission. Any future proposals to develop land outside the development boundary would have to be the subject of a planning application, and subject to full public scrutiny, and determination by the County Council. Development of land outside a development boundary in an approved Plan would clearly be in conflict with the Council's policies, and determination of any application would have to be made in accordance with that plan unless there are material considerations suggesting otherwise.

Any proposals in the future from a developer / landowner for the Council to allocate additional land in the vicinity would need to go through the Local Development Plan review process, and would also be subject to full Member scrutiny and public examination.

Well – being of Future Generations (Wales) Act 2015

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

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

5. SUMMARY AND CONCLUSIONS:

- 5.1 The application proposes the construction of a 'link' road from the A547 down to the Mindale Farm land which is the subject of the preceding report for the development of 133 dwellings, application 43/2018/0750.
- 5.2 The planning history at the Mindale site is of some relevance to the link road application, albeit the 2016 application for the development of the land at Mindale proposed access through Ffordd Gwilym / The Grove to the A547. The 2016 application 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. At appeal, the Planning Inspector provided clear conclusions in her decision letter on matters of relevance to the link road application. In dismissing the appeal, the Inspector concluded the local highway infrastructure could accommodate the increased traffic generated by the development without harm to highway safety, but took the view that on the basis of information before the hearing, the details of the access at the point where it would turn at 90 degrees towards the site at the bottom of Ffordd Gwilym were inadequate and the drainage information was insufficient to demonstrate that the scheme would not give rise to flooding,

- 5.3 The 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, so far as these are significant to the deliberations on this proposal for a completely separate access to serve the site.
- 5.4 There are strong representations over the local impacts of the link road development, in particular in respect of the implications on the local highway network, and nearby properties. These are summarised and referred to in the different topic paragraphs within the report, along with the responses of the 'technical' consultation bodies.
- 5.5 It is relevant to the consideration of the application that the Mindale Farm site which the link road would serve has been included as a housing allocation within the development boundary of Meliden as part of the adopted Denbighshire Local Development Plan. 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. The link road would provide an acceptable access to allow development of this allocated site. There is also an approved Site Development Brief which is a material consideration to aspects of the application.
- 5.6 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 remain largely unchanged on the amended proposals.
- 5.7 Ultimately, having regard to the range of issues arising on the application, with due respect to the detailed representations received, on the basis of responses from the key 'technical' consultees, taking account of the conclusions of the 2017 Appeal Inspector (so far as they are relevant to this application), it is the opinion of Officers that there are limited substantiated land use planning grounds to oppose the grant of permission, hence the recommendation is to grant permission.
- 5.8 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 ensure the construction of the road cannot proceed before there is a permission in place for the housing development, and that the road is then constructed to an agreed standard before any development 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. Provision of a bond to ensure completion of the road
2. Arrangements to prevent the implementation / commencement of any permission for the road without the permission for the housing development being in place, and the construction of the road to a standard acceptable to the Council prior to commencement of any development on the housing site.

The precise wording of the Obligation and how this may be co-ordinated with an Agreement relating to the housing site 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.

b. Compliance with 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 shall be permitted to take place in connection with the link road until there is a planning permission in place for the residential development of the Mindale Farm land.
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 development on the link road shall be permitted to commence until the written approval of the Local Planning Authority has been obtained to full details of all highway and related infrastructure works shown on the approved plans, including the access and 400m of new road leading to the Mindale Farm housing site, the detailed design, layout, construction, street lighting, signing, moving of the existing speed restrictions and drainage works; and the standard to which the road is to be constructed relative to the different stages of development of the housing site. The development shall proceed only in accordance with the details approved.
4. No development on the link road 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
5. None of the trees or hedgerows shown on the approved plans as being retained shall be felled, lopped or topped without the prior written consent of the Local Planning Authority.
6. 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 link road 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.
7. The link road shall not be permitted to be brought into use to serve any of the dwellings on the Mindale Farm site 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 nature, standards and frequency of works necessary to implement the approved planting scheme and its maintenance for a minimum of 5 years
- b. The timing of completion of the approved landscaping / planting
- c. 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
- d. Arrangements to cover the failure of any Open Space / Landscaping Management Company.

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

8. 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:
 - a) 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;
 - b) a prior survey for water voles;
 - c) specific provisions in respect of tree inspection for the potential presence of bats,
 - d) 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;
 - e) if voles 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.
9. 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.
10. 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 and 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.
 - b. The detailing of the proposals for managing the surface water run off from the existing area between the rear of Ffordd Ty Newydd and the link road, to include for the detailing of the proposed cut off drain / ditch, estimates of receiving flows and any attenuation required such that the discharge location can accommodate any additional flow.
 - c. 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.
 - d. The layout 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
 - e. The detailing of the orifice flow controls from plots 86, 87 and 88 to avoid flooding adjacent to these properties.

f. Arrangements for the adoption and future management and maintenance of all the elements of the drainage system, 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.

11. 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.
12. No works in connection with the construction of the road shall be permitted to be carried out in the vicinity of the Engine House Issa and the Walker's Shaft, Talargoch Mine, unless the written approval of the Local Planning Authority has been obtained to details of exclusion fencing to prevent damage to important surface lead mining remains.
13. 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.
14. 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.
15. No works on the construction of the link road 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.
16. The detailing of the street lights on columns numbered 11 and 12 shall not be as indicated on the submitted plans, but shall be in accordance with such alternative detailing as may be submitted to and approved in writing by the Local Planning Authority prior to the lights being erected. The development shall be carried out strictly in accordance with the details approved under this condition.
17. None of the street lights required in connection with the link road shall be installed until the written approval of the Local Planning Authority has been obtained to details of the hooding of the lights to prevent light spillage into existing dwellings bordering the site on Ffordd Talargoch and Ffordd Ty Newydd.

The reasons for the conditions are:-

1. To comply with the provisions of Section 91 of the Town and Country Planning Act 1990, and to ensure the development can not proceed irrespective of a consented scheme for the residential development of the Mindale Farm land.

2. For the avoidance of doubt and to ensure a satisfactory standard of development.
3. 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.
4. In the interest of the free and safe movement and traffic on the adjacent highway and to protect residential amenity.
5. In the interest of visual amenity.
6. In the interest of visual amenity.
7. 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.
8. To ensure there are satisfactory arrangements in place to protect and enhance ecological interests.
9. To ensure there are satisfactory arrangements in place to protect and enhance ecological interests.
10. To ensure the detailing of the drainage systems are satisfactory to minimise impacts on the surface water environment in the locality.
11. 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.
12. In order to ensure there is no damage to items of archaeological interest as a result of development works.
13. To ensure an appropriate record is made of any archaeological remains which may be revealed during ground excavations for the consented development.
14. To secure preservation by record of any archaeological remains which may be revealed during ground excavations for the consented development.
15. In order to mitigate anticipated noise impacts arising from the development in relation to occupiers of nearby residential properties.
16. In order to mitigate impacts of street lighting in relation to occupiers of nearby residential properties.
17. In the interests of the residential amenities of occupiers of nearby properties.

APPENDIX 2

Late Information sheets on application 43/2018/0751, as presented to 4th 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**

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

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

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

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.

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.

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

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No additional information

APPENDIX 3

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

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

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 Penrhwylya 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

APPENDIX 4

Late Information Sheet, October 2019

Committee with late response from applicant's
Planning Consultant

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 11-26)
5. APPLICATIONS FOR PERMISSION FOR DEVELOPMENT
(Item numbers 5 – 13)

ORDER OF APPLICATIONS**PART 1**

	Application no.	Location	Page
Public Speaker items			
6	11/2019/0472	Tyn y Celyn, Clocaenog	47
7	13/2018/1149	Bron Parc, Galltegefa, Ruthin APPLICATION WITHDRAWN	69
8	43/2018/0750	Land at Mindale Farm, Meliden, Prestatyn	111
9	43/2018/0751	Land South West of Ffordd Ty Newydd, Meliden, Prestatyn	247
10	43/2019/0359	Woodlea, Bishopswood Road, Prestatyn	337

Item No.8 - Page 111

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 – Mr. Bob Paterson

Public Speaker: For – Matt Gilbert

LATE REPRESENTATIONS

Prestatyn Town Council

The Town Council have forwarded further comments, having been informed that the application has been referred back to Committee:

- “1. That a letter be sent to Denbighshire County Council advising that Committee reaffirms its previous objections dated 8th May 2019 to 43/2019/0750, Land at Mindale Farm, Meliden and 43/2019/0751, Land South West of Ffordd Ty Newydd, Meliden for new road.
2. That Committee reaffirms objections dated 4th September 2019 in relation to CS-43-E 029 Mindale Farm additional site that is shown in Local Development Candidate Sites Register 2018-2033.
3. That open space agricultural land should be protected in face of current uncertain UK economic and global climate change environment.
4. That proposed developments on this size and scale will destroy the character of Meliden Village and its historical culture”.

Private individuals:

In objection, from:

Mr B. Taylor, 33 Ffordd Talargoch, Meliden, Prestatyn

P. Harrison, 54 Salisbury Drive, Prestatyn

B. Paterson, 120 Ffordd Ty Newydd, Meliden

A. Tomlin, 58 Nant Hall Road, Prestatyn

S. Fenner, 21 Berwyn Crescent, Prestatyn

J. Wilson, 27 Ffordd Gwilym, Meliden

Summary of representations:

Highway issues

Traffic on Ffordd Talargoch is relentless / noisy and dangerous / concerns over pollution

Drainage

In respect of flooding, Council must now trust the locals who live north of Mindale as they do know better than any expert on the very real, already existing flood risk to their properties, without a huge current expanse of natural soakaway land between them and the mountains that is Mindale, being concreted over / experience at Glasdir Ruthin shows experts can be wrong

Site outside development boundary

Application cannot exist without the housing site being granted, and that was a late entry to the LDP

Referral back to Committee

Concern over referral of proposals back to Committee / democratic decision in September was to reject them / no changes in application to warrant referral / challenge whether the criteria in the Scheme of Delegation relating to significant risk of costs is met, given previous refusal of permission and dismissed appeal / members should base decisions on material considerations / members not present at vote on applications in September should not be allowed to vote at this stage as they were not involved in the decision / risks have not changed, Officers had their opportunity to comment in September / whole application should be fully heard again / everyone should have an equal opportunity to address Committee /

In support, from:

Mr J. Machan, 33 Cefn-y-Gwrych, Meliden

Summary of representations:

To keep saying Meliden is a flood risk area is wrong, and devalues properties / the site has been in the Local Plan for housing for six years / there have been no floods / rainwater goes into the Prestatyn Gutter, a main river, on which Welsh Water spent £700,000 on improvements 5 years ago / Gutter is never more than half full / there has been a lot of scaremongering about the site.

From the applicants

The applicant's planning advisor has submitted information for Members' consideration, having regard to the supplementary reports. As this contains comment on matters of detail including potential appeals, it is attached to the Late Information sheets on YELLOW paper as Appendix 1.

OFFICER NOTES

With regard to the additional comments of Prestatyn Town Council:

- The previous objections to application 43/2018/0750 are included in the Officer report to the September Committee (Appendix 1)
- The objections in relation to the Local Development Plan relate to the consultation exercise on 'candidate sites' to be assessed as part of the review of the Plan. In respecting the Town Council's objection to the retention of the Mindale land within the development boundary, the determination on the current application has to be made against the plans and policies of the adopted development plan.

- The considerations to be given to use of agricultural land are covered in section 4.2.13 in the Officer report on application 43/2018/0750.
 - The Town Council's concerns over the impact of the development on the character and wellbeing of the community echo those they have voiced previously, as contained in the Officer report
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Item No.9 - Page 247

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 – Mr. Bob Paterson

Public Speaker: For – Matt Gilbert

LATE REPRESENTATIONS

Prestatyn Town Council

The Town Council have forwarded further comments, having been informed that the application has been referred back to Committee:

- "1. That a letter be sent to Denbighshire County Council advising that Committee reaffirms its previous objections dated 8th May 2019 to 43/2019/0750, Land at Mindale farm, Meliden and 43/2019/0751, Land South West of Ffordd Ty Newydd, Meliden for new road.
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From private individuals:

In objection, from:

B. Paterson, 120 Ffordd Ty Newydd, Meliden

A. Tomlin, 58 Nant Hall Road, Prestatyn

Summary of representations:

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Concern over referral of proposals back to Committee / democratic decision in September was to reject them / no changes in application to warrant referral / challenge whether the criteria in the Scheme of Delegation relating to significant risk of costs is met, given previous refusal of permission and dismissed appeal / members should base decisions on material considerations / members not present at vote on applications in September should not be allowed to vote at this stage as they were not involved in the decision / risks have not changed, Officers had their opportunity to comment in September / whole application should be fully heard again / everyone should have an equal opportunity to address Committee

From the applicants

The applicant's planning advisor has submitted information for Members' consideration, having regard to the supplementary reports. As this contains comment on matters of detail including potential appeals, it is attached to the Late Information sheets on YELLOW paper as Appendix 1.

OFFICER NOTES

With regard to the additional comments of Prestatyn Town Council:

- The previous objections to application 43/2018/0751 are included in the Officer report to the September Committee (Appendix 1)
- The objections in relation to the Local Development Plan relate to the consultation exercise on 'candidate sites' to be assessed as part of the review of the Plan. In respecting the Town Council's objection to the retention of the Mindale land within the development boundary, the determination on the current application has to be made against the plans and policies of the adopted development plan.
- The considerations to be given to use of agricultural land are covered in section 4.2.9 in the Officer report on application 43/2018/0751.
- The Town Council's concerns over the impact of the development on the character and wellbeing of the community echo those they have voiced previously, as contained in the Officer report

In relation to concerns over contaminated land within the site, it is suggested that the following standard conditions from Welsh Government's Use of Planning Conditions for Development Management Circular 016/2014 be attached in place of Condition 11, subject to appropriate editing:

- No development shall commence until an assessment of the nature and extent of contamination affecting the application site area has been submitted to and approved in writing by the local planning authority. This assessment must be carried out by or under the direction of a suitably qualified competent person in accordance with BS10175 (2011) Investigation of Potentially Contaminated Sites Code of Practice and shall assess any contamination on the site, whether or not it originates on the site. The report of the findings shall include:

- (i) a desk top study to identify all previous uses at the site and potential contaminants associated with those uses and the impacts from those contaminants on land and controlled waters. The desk study shall establish a 'conceptual site model' (CSM) which identifies and assesses all identified potential source, pathway, and receptor linkages;
- (ii) an intrusive investigation to assess the extent, scale and nature of contamination which may be present, if identified as required by the desk top study;
- (iii) an assessment of the potential risks to: human health, groundwater and surface waters adjoining land, property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes, ecological systems, archaeological sites and ancient monuments; and any other receptors identified at (i)
- (iv) an appraisal of remedial options, and justification for the preferred remedial option(s).

All work and submissions carried out for the purposes of this condition must be conducted in accordance with Welsh Local Government Association and the Environment Agency Wales' 'Development of Land Affected by Contamination: A guide for Developers' (2012).

- No development shall take place until a site investigation of the nature and extent of contamination has been carried out in accordance with a methodology which has previously been submitted to and approved in writing by the local planning authority. The results of the site investigation shall be made available to the local planning authority before any development begins. If any contamination is found during the site investigation, a report specifying the measures to be taken to remediate the site to render it suitable for the development hereby permitted shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures before development begins. If during the course of development any contamination is found that has not been identified in the site investigation, additional measures for the remediation of this source of contamination shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures before the development is occupied.
- A monitoring and maintenance scheme to include monitoring the long-term effectiveness of the proposed remediation over a period of [x] years, and the provision of reports on the same shall be submitted to and approved by the local planning authority, prior to the occupation of any dwelling on the Mindale housing site. Following completion of the measures identified in that scheme and when the remediation objectives have been achieved, reports that demonstrate the effectiveness of the monitoring and maintenance carried out shall be submitted to the local planning authority at the end of every subsequent [x] month period and approved in writing to demonstrate the effectiveness of the monitoring and maintenance carried out. In the event that the remediation objectives are not achieved within the monitoring period, a revised remediation scheme and verification plan shall be submitted to and approved in writing by the local planning authority within two months following the end of the monitoring period. Any further works necessary shall be undertaken within an agreed timescale until the remediation objectives are achieved and reports confirming the same have been submitted to and approved in writing by the local planning authority.

In relation to the use of agricultural land, there is an important correction needed to the paragraph at the bottom of page 308 (Section 4.2.9) in the September Officer report to Committee.

The section dealing with land quality refers to the applicant's Soils and Agricultural Quality of Land report, which notes an area of grade 3a land affected by the road development, and refers to the remainder as grade 2b and grade 4. This should read grade **3b** and grade 4.

7th October 2019

Head of Planning
Planning and Public Protection Services
Denbighshire County Council
Caledfryn
Smithfield Road
Denbigh
LL16 3RJ

Dear Sir

**Re: Penrhyn Homes – proposals for residential development and access proposals at Meliden.
43/2018/0750 & 0751.**

I have been instructed by Penrhyn Homes to act on their behalf in relation to the above proposals.

We have reviewed the supplementary reports to Committee in relation to both applications and believe they explain in detail why it would be unreasonable for the LPA to refuse planning permission for either proposal.

There are, however, a number of additional points and matters of clarification that I would like to provide which I hope will be of assistance.

As a general point, there were several instances at the September Committee where Members appeared to take an approach which considered that attaching conditions to a permission was an unacceptable route to take and that the Committee needed full detail before it could grant planning permission. This contradicts the approach of the Planning Authority to almost every decision it takes, where the imposition of conditions, such as those that would have covered the various issues in relation to my Clients proposals, are entirely commonplace. Indeed, paragraph 3.11 of the Section 12 Annex to the Development Management Manual makes clear that refusing permission on a ground that could clearly be covered by a condition would amount to unreasonable behaviour.

The residential proposal

The highway objection is thoroughly covered in the Committee report. A highway based reason for refusal would need to be based on detailed evidence that outweighed the presumption arising from the allocation of the site, the specific conclusion of the appeal Inspector that the volume of traffic resulting from the development can be satisfactorily accommodated on the network, the conclusions of the Applicant's highway consultants, and your own Highways Officer's recommendation that the proposals should be approved. We do not believe that there are any grounds for maintaining a highway objection in this case.

So far as the drainage considerations are concerned, we would point out that whilst the planning system needs to satisfy itself that the site can be drained – and in this regard the conclusions of the Applicant's consultants, Waterco on the Council's behalf and the Council's Lead Flood Officer all confirm this to be the case, the detailed design of the drainage system is a matter for subsequent design and approval under separate legislation. It has been demonstrated that an appropriate surface water system for the site can be provided and that this can be delivered so as to restrict surface water run-off to rates that do not exceed existing greenfield run-off rates. Once again, we do not see how Members might argue that the approach to drainage, supported by three expert bodies in this case, is not sufficient to enable planning permission to be granted.

The access proposal

We have noted and concur with the Committee report observation that, in the absence of a significant landscape objection to development on the land proposed, refusal of the proposal cannot be justified on a policy or, indeed, any other basis. However, there is another point that we would add to this, the latest Joint Housing Land Availability Statement confirms that the Authority has just a 1.55 year housing land supply. Notwithstanding the recent suspension of part of TAN1, authorities are still required to maintain a minimum of a five year land supply and if ever there was justification for development on unallocated land, then the opportunity to bring forward an allocated site for 133 market and affordable dwellings provides this justification.

Miscellaneous points

It was suggested at Committee that there might be an issue in relation to drainage if in the long term the management company ceased to function for some reason. Management companies are now very well established components of many residential developments and there is absolutely no reason why such an approach to the future maintenance of open space and drainage (in the event of it not being adopted) should not be successful, just as it has been on what must now be hundreds of developments across Wales in recent years.

Lead contamination was also raised as a concern. Both sites have been subject to ground investigation with it being concluded that there is a low risk of contamination. Furthermore, Building Regulations approval will require testing for contamination, as will the NHBC approval requirements. The proposed condition which will provide further assurance in this regard.

Finally, it was suggested that the network of mineshafts and adits in the locality might provide a conduit for storm water to flood the access or the development. The ground investigations have revealed no evidence of potential problems and, insofar as mineworkings were present, then they are likely to have long since collapsed or the consequences of them carrying flood water would have been revealed long before now.

We trust that the above is helpful and that Members will conclude, in the absence of justifiable reasons for refusal, that both applications should be approved on the 9th October. Please let me know if there are any last-minute queries that we have not covered.

Yours faithfully

M GILBERT

APPENDIX 5

Response from applicant's Planning
Consultant and Counsel Advice, October
2019.

21st October 2019

Head of Planning
Planning and Public Protection Services
Denbighshire County Council
Caledfryn
Smithfield Road
Denbigh
LL16 3RJ

Fao: Mr I Weaver

Dear Sir

**Re: Penrhyn Homes – proposals for residential development and access proposals at Meliden.
43/2018/0750 & 0751.**

I write on behalf of my Clients, Penrhyn Homes, in response to your e-mail dated 10th October in which you outlined a number of issues arising from the resolution of Committee at their October meeting to defer consideration of the above applications.

We were, of course, extremely disappointed that Members were not prepared to determine the applications, the advice from yourselves as officers of the Council was unambiguous in recommending that planning permission should be granted for both applications and, whilst we do not doubt the pressure that Members are, on occasion, put under by members of the public, their duty remains to determine applications having regard to the planning merits of the case(s).

Since the last Committee meeting we have been considering our options and have taken Counsel's advice on the situation. I have enclosed a copy of that advice because we believe it may assist in focussing the minds of the Committee on the key issues, we leave it to you to decide how you might wish to use this advice, but for our part we would have no objection to the advice being circulated in full to all Committee Members, because we feel that it may be helpful to them to fully understand the way in which this situation is viewed by the Applicants, they would hopefully recognise that there is

considerable planning merit, not only in the views expressed within the advice, but also in the recommendations that you have provided to them.

In circumstances where planning permission is refused, then my Clients would have no option other than to appeal. The level of local opposition, notwithstanding our view of its justification, would of itself mean that a local inquiry would be necessary. We do not know yet what the reasons for refusal might be, but the suggested reasons for refusal indicate that witnesses dealing with planning, highways, drainage and landscape are likely to be required. Notwithstanding our view that refusal of either proposal would be unjustified, we would have no option other than to present detailed evidence and this would indicate the need for an inquiry lasting several days, hence the very substantial scale of costs suggested in Counsel's advice.

We hope that Members understand that the site is allocated for residential development in the development plan that the Council adopted, they will be aware that the previous appeal Inspector made clear that there was no highway objection in relation to the scale of traffic that would be generated by the development, and all the drainage professionals, including consultants specifically appointed on behalf of the Council, agree that the drainage design is acceptable and that outstanding detailed design matters can be addressed through conditions. This site has clearly been the subject of considerable opposition over the years, but these are the facts and we hope that Members will recognise that they should be approving such proposals.

Yours faithfully

M GILBERT

RE: LAND AT MINDALE FARM

A D V I C E

1. I am asked to advise my client, Penrhyn Homes, as to the best way to proceed given the impasse that has arisen in the above case.

Background

2. It is necessary to review the background - albeit briefly - because if my client is forced to appeal either a refusal or non-determination, the background will be a key element bearing upon both the merits of the case and costs recovery. I say at the outset that any appeal should succeed and the prospects of a costs recovery in such circumstances are very high. I would expect a recovery in the order of £150,000 (including VAT) (see below).
3. The site is allocated as a housing site in the adopted LDP (2013). The principle of development on the site is therefore established by reason of Denbighshire's own Statutory Development Plan. PPW (10th ed) is unambiguous in its advice, namely "planning applications must be determined in accordance with the adopted Plan, unless material considerations indicate otherwise" (Paragraph 1.21 *ibid*). The duty of an LPA is to work "collaboratively with the proposed development ... it must be undertaken in a spirit of partnership ..." (Paragraph 1.30). The requirement for the maintenance of a 5 year housing land supply remains a National policy imperative (see Paragraph 4.1.15 *ibid*) despite the recent suspension of part of TAN1.

4. On 13 October 2017 Inspector Sheffield dismissed an appeal against the refusal of consent for 133 dwellings on the site. An understanding of that appeal decision is a vital component in a proper understanding of the planning merits of the site as a housing site. Inspector Sheffield:

- saw no objection to the principle of housing development on the site given its status as a statutory allocation. That status raises a presumption in favour of development as I have noted above;
- saw no objection to the development of the site by reference to locational sustainability issues (see Paragraph 11 of the Decision Letter). She accepted that the topography of Ffordd Gwilym and the then proposed emergency access compromised MfS gradient standards, but these locations are not now relevant to the current applications and the required average maximum gradient of 5% has been achieved throughout the current schemes. In any event she was of the view that the standards should not be applied inflexibly. For my own part I note that this aspect of matters was clearly acceptable to the Local Plan Inspector who endorsed the site's allocation in the Local Plan;
- saw no objection to the development of the site by way of reference to multiple concerns in respect of the safety and congestion on relevant parts of the A547 (see Decision Letter, Paragraphs 15 – 21 *ibid*).

The sole basis of the refusal related to drainage. This was not surprising given that the Appellant's own drainage evidence was that more work was needed to address this issue.

5. My client currently has two applications before Denbighshire for decision:

- an application for 133 dwellings plus associated works on the Mindale Farm site; and

- an application for a new road (approximately 400 m in length) to access the site from Ffordd Talargoch (A547).

I pause at this point. LPA Members have consistently queried why two applications have been made instead of one comprehensive one. The duty of the Members is to determine the applications before them - it is no part of their remit to require applications which are legally valid to be reformulated in any way. If they have concerns about a road going “nowhere” (a fanciful notion at best as one cannot conceive of why any rational and sensate developer would expend significant energy and money for no return) then the situation is remedied by way of a condition that prevents any development of the road until a planning permission is in place for residential development of the Mindale Farm site which is dependent upon the road for access. The SI2 Annex to the national Development Management Manual is quite clear, namely that to refuse planning permission on a ground that could be properly resolved by way of a condition is to be regarded as unreasonable behaviour (see Paragraph 3.11 *ibid*).

6. The above applications were supported by a variety of reports. In particular:

- Flooding. A Flood Consequences Assessment was submitted that worked to a national standard of a 1 in 100 year event +30% for climate change. It concludes that a scheme can be designed which will restrict off-site drainage to greenfield run-off rates. On this basis it was concluded that there was no flood or drainage objection to the scheme. The use of technology such as hydrobrakes etc is well established and used across the UK. The Flood Consequences Assessment was supplemented by a Caulmert Mitigation Report which endorsed the Flood Consequences Assessment conclusions. These reports were then reviewed by the LPA’s own reputable independent consultants, Waterco, who advised that there could be no sustainable objection to the proposal on flooding/drainage grounds. The Council’s own internal Lead Flood Officer raised no objection to the proposal.
- Highways. A full Transport Assessment was provided. The Transport Assessment’s findings were accepted by the Council’s own Highways

Department who raised no objection. I note at this point that third party objection was taken to the Transport Assessment on the basis that it ignored two relevant crashes

- (a) An incident in October 2018. I have looked at the details of this. The incident involved a single car hitting a traffic light and was a clear case of driver error. The development of the application site would make no material difference at all to the risk of such incidents occurring in the future; and
- (b0) An incident in July 2019 at the Dyserth Junction some one half mile from the application site. I note that the accident occurred adjacent to a site granted consent very recently for 61 dwellings by the LPA. Again there is no evidence that the development of the application site would make incidents at the junction materially more likely.

There is no evidence that the junction has an above average accident history and it is not of specific concern to the Highway Authority. It is a generic truism that each additional vehicle on any road statistically increases the risk of accidents by a statistically insignificant amount. The logic of the third party concern appears to be that the LPA should not consent any more development that may place any additional traffic on the A547 in the vicinity of the site. Clearly such a position is unsustainable (not least given Inspector Sheffield's recent findings that the A547 in the vicinity of the site operates in an acceptable fashion).

- Archaeology/Mining Issues. Third party concern has noted the potential presence of adits in relation to the access road resulting in stability concerns. The potential for capped mineshafts in the vicinity of the road was noted at Page 37 of the Archaeological Report of April 2018. This was solely based upon historic mapping which is notoriously unreliable. A geophysical assessment was therefore recommended. Such an assessment was carried out by Sumo (May 2018). It identified three shafts, but No.1 is nowhere near the proposed access road and Nos 5 and 6 are proximate to the road but not along

its line. In reality, the issue is a non-issue. If residual concerns remain then the LPA could impose a condition either imposing a watching brief or requiring ground investigations to investigate whether any remedial measures are required in advance of the construction of the road and if they are requiring such measures to be carried out in accordance with a scheme to be approved by the LPA. Unless it were to be argued that such works (if necessary, and all the evidence strongly suggests they will not be needed) are beyond the capability of modern engineering then there can be no sustainable objection relating to the potential presence of adits.

7. In September 2019 the applications were placed before the Planning Committee. Both received Officer recommendations of support. There were no objections from technical consultees. There was significant local objection. I spoke in favour of the proposals. The Committee resolved to refuse both proposals:

- In respect of the housing application the suggested grounds were:
 - (a) Inadequate infrastructure - particularly the A547;
 - (b) Flooding;
 - (c) Impact on local amenities and character of the village (this last point was extremely odd as it appears to be an objection to the principle of housing on an allocated site).
- In respect of the road proposal it was suggested that it be refused on the basis of development beyond the settlement boundary and going “nowhere”. The patent absurdity of this last limb is something I have already commented on.

8. No refusal notices have in fact been issued. Following the Committee meeting it appears that the attention of the Monitoring Officer was engaged and the matters were due to be redetermined on 9 October 2019. However, Members voted to defer the decision. It appears that Members are seeking:

- (a) additional information on the risk of costs in relation to the highways and drainage grounds on which the Committee had resolved to refuse permission for the housing site application;
- (b) further drainage details which the Council's drainage consultants had recommended be the subject of planning conditions, so the acceptability of the proposals can be fully assessed;
- (c) investigation of the submission of a single planning application for the access and housing site.

Members plainly realise there is no proper basis for refusal but are seeking to avoid either granting consent or acting in a way that exposes them to a substantial costs award. To squander such a large sum unnecessarily when other Council services are struggling to meet needs would be little short of disgraceful.

9. The Case Officer had prepared reports for the meeting of 9 October 2019. Reference to them is instructive. In respect of the housing scheme and highways, the Case Officer was clear, namely that there was no sustainable reason for refusal and that Members' concerns about potential cumulative impacts did not arise - any future proposals would have to be assessed on their merits as and when they arose. In respect of drainage, the report said as follows:

"Officers believe the final response from Waterco is critical to deliberations on the current application. In respecting Member concerns over the drainage/flooding implications, Waterco have stated that their assessment has found no substantive reasons to refuse the application on flood risk or drainage grounds. Whilst they advise further work is required to finalise the surface water drainage proposals for the development, they consider 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 conditions, if planning permission is granted, amongst which is 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 advised, as requested, in relation to the five concerns of the Planning Inspector as outlined in the decision letter on the 2017 appeal, concluding three 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. The conclusion is that all of these are matters which can reasonably be dealt with through imposition of planning conditions.

Officers believe these are significant conclusions by a key technical consultee and that they provide very limited support for a refusal of permission on drainage grounds in this instance.

... the basis of the evidence before her 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 basic terms, the Planning Inspector's conclusions on the issue were that the information in front of her was insufficient to give an adequate understanding of the groundwater/drainage situation and potential risk of flooding. She did not conclude the site was undevelopable or that it was not possible to provide further details to allow for a proper understanding of the drainage situation and whether a scheme could be designed to address any risk of flooding. This left it open for the applicants to reconsider the level of technical information necessary to support any subsequent application to develop the site.

- The assessment and conclusions of the Council's Drainage Consultants

Members will be aware that Waterco were commissioned by the Council as Drainage Consultants to assess the current submission. Waterco were asked to advise on the land drainage implications of developing the housing site, particularly with regard to the 2017 appeal, in which they successfully assisted the presentation of the Council's case at the Hearing, and persuaded the Planning Inspector to take a precautionary approach in respect of the adequacy of details submitted to assess the drainage implications.

Waterco requested additional details from the applicants in order to assess the acceptability of the drainage proposals, and reviewed this information provided in order to make their recommendations on application 43/2018/0750."

The reasoning of the Officer advice is cogent and cannot be improved upon. In respect of the access road the Officer Report is equally compelling:

“4. In noting members’ reservations, the basis of Officers’ unease over the resolution to refuse permission on grounds outlined are:

- The link road is proposed to service a major housing site allocated in the Local Development Plan

Whilst the allocation of the Mindale Housing site land in the Development Plan cannot automatically guarantee the grant of planning permission for the development or associated works in the form of a link road to access it, this would be a significant matter at appeal should the link road application be refused. An Inspector is likely to attach weight to the need to develop an allocated site, and would need to be convinced that the particular detailing of a link road to serve it is unacceptable on clear land use planning grounds.

Also relevant to the point is the fact that there appears to be no realistic or feasible alternative route to connect the Mindale site to the public road network. The 2017 refusal confirmed the extent of local opposition to the use of the existing road network along Ffordd Gwylm/The Grove, and the Inspector’s reservations over the detailing of the link from the end of Ffordd Gwylm into the site and the emergency access proposals. This is a matter which may also carry weight at appeal.

- There is no clear harm identified from the construction of the link road

In respecting the point that the link road would be constructed on land immediately to the west of, but outside the Development Plan boundary for Meliden, Officers would caution against a refusal simply on the grounds that it involves development outside a development boundary, in open countryside. If this is considered unacceptable, then clear material planning reasons need to be identified to quality/quantify the harm which the particular development would give rise to, as there is no obvious Local Development Plan policy basis for such a refusal.

If the concern is over the link road extending the settlement further into open countryside, with unacceptable landscape/visual impact, Officers would draw attention to comments of NRW and the AONB Committee in the Committee report in Appendix 1. Whilst there is acceptance that there would inevitably be some visual amenity impacts, neither have raised objections to the application.

In relation to impact on the AONB landscape, NRW considered the information provided as part of the application gives some confidence that the proposed access road could be accommodated below Graig Fawr, and within the AONB, with slight/moderate adverse effect on the setting and views from the AONB, which would be acceptable”

The road to “nowhere” point is rightly dismissed as unarguable in planning law. There is no evidence to support either a highway or flood based reason for refusal. If the LPA refuse on these grounds they will be rejecting the advice of their own retained consultants and their own Officers. If my clients are forced to appeal, I doubt very much that the LPA will be able to find reputable external consultants to defend any flooding/highways reasons for refusal. Adverse visual impact of the road is similarly unarguable for the reasons ably set out by the Case Officer.

10. Welsh Government Guidance on the award of Costs in planning appeals states that the aim of the costs regime is, inter alia:

- To encourage local planning authorities to exercise properly their development management responsibilities, to rely only on reasons for refusal that stand up to scrutiny on the planning merits of the case and not to add to development costs through avoidable delay.”

In this case a costs award is likely to follow any refusal because:

- In respect of the housing application it will involve going behind the Council’s own Development Plan;
- In respect of highways (housing scheme) it will go behind both Inspector Sheffield’s Decision Letter and the advice of their own Officers. There is no evidence that the A547 is operating in an objectively unacceptable manner;
- In respect of drainage/flooding (housing scheme) it will go behind their own internal flood advice and the advice of their own independent consultants;

- In respect of the access road scheme there is no evidence of landscape harm - the most powerful evidence of that is the absence of any objection from NRW and the AONB Committee who have clearly considered this in depth.

In addition, the refusal will be seen as vexatious given the fact of a 1.55 year housing land supply. A 5 year housing land supply is still a national objective and the shortfall in this case is critical. I note in passing the consultation paper on Housing Delivery in Wales that contemplates abolishing the 5 year housing land requirement. That may or may not happen, but if it does it can only help my client. The paper proposes to meet housing needs by way of generous allocations in development plans and thus reduce speculative applications on non-allocated sites. My clients site is allocated and thus the very type of site the paper seeks to allow.

Conclusions

11. My client is in an impasse, they have provided enough evidence to support both applications - the LPA's current request for more information has no technical support at all and is a patent device to avoid making a difficult decision. My client must demand that the LPA discharge their statutory obligation to determine these applications. They must not fall into the trap of voluntarily appealing so that the LPA can seek to avoid costs by arguing that they - not the LPA - brought the appeal about. I am content, if my client deems it necessary, for this Advice to be sent to the LPA and the Members.

I so advise.

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DAVID MANLEY QC

Leeds and Birmingham

16 October 2019

RE:

LAND AT MINDALE FARM

ADVICE
