

**DENBIGHSHIRE COUNTY COUNCIL**  
**PLANNING COMMITTEE 21<sup>st</sup> March 2012**  
**Planning applications**

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**ITEM NO:** 1

**WARD NO:** Llanfair Dyffryn Clwyd / Gwyddelwern

**APPLICATION NO:** 06/2011/1509/ PFT

**PROPOSAL:** Erection of a single 36.4m to hub, 46m to tip Wind Turbine and associated works.

**LOCATION:** Land east of Maesgwyn Ucha, at Tyn Y Celyn Gwyddelwern Corwen

**APPLICANT:** Mr Haydn Roberts

**CONSTRAINTS:**

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

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

- Referral by Head of Planning / Development Control Manager

**CONSULTATION RESPONSES:**

GWYDDELWERN COMMUNITY COUNCIL

"No objections to the wind turbine at Maes Gwyn Ucha, Gwyddelwern."

COUNTRYSIDE COUNCIL FOR WALES (CCW)

No objection. The proposals will not affect, either directly or indirectly, any statutory protected sites of ecological, geological or geomorphologic interest. The application is 1.5km from the Clwydian Range and Dee Valley Area AONB, however in view of the scale of the proposal, when considered in combination with other similar wind energy developments on adjacent land, CCW believe it is unlikely to have a significant adverse impacts on the AONB.

However CCW have not considered possible impacts on all local and regional interests, therefore do not rule out the possibility of adverse impacts on such interests.

ENVIRONMENT AGENCY

No objection. Unable to make a full response to application, but standard advice applies.

AIRBUS

No reply received.

CIVIL AVIATION AUTHORITY

No objection. CAA has does not have the resource to respond to individual planning application consultations and make reference to generic guidance relating to the impact of wind turbines upon aviation.

MINISTRY OF DEFENCE

No reply received at time of writing report (response is expected).

Area of Outstanding Natural Beauty – Joint Advisory Committee  
No reply received.

## **DENBIGHSHIRE COUNTY COUNCIL CONSULTEES**

### **TECHNICAL OFFICER (POLLUTION)**

No objection, subject to noise conditions being applied.

### **BIODIVERSITY OFFICER**

No objection, following receipt of additional information.

### **LANDSCAPE CONSULTANT**

Response addresses:

- The quality of the supporting statement.
- The effect of the proposal upon the landscape character and views, particularly local impacts upon residents of Gwyddelwern and middle distant views from the road network.
- How the proposal would relate to existing wind development in the locality, the merging pattern and implications on cumulative visual impacts.

Response summary:

- The supporting statement is overly general. No landscape and visual analysis or assessment has been submitted and the supporting statement does not demonstrate how the proposal has been positioned so as to minimise impacts upon landscape and visual sensitive receptors to any acceptable degree.
- The existing 2 no. wind turbines at Tyn y Celyn have a negative influence upon existing local views. The proposal would have the appearance of extending the built form and industrial influence of wind development northwards along a rural skyline.
- The proposal and the existing 2 no turbines would 'read' as one development, however the separation distance between the two would give a sense of dispersed and un-cohesive pattern of wind development.
- Cumulative impact would have unacceptable adverse impact upon sensitive views from Garreg Lwyd and, to a slightly lesser degree, when viewed from the A494 on the northern approaches to Gwyddelwern.
- Incremental growth in wind turbine development within such close proximity to a settlement would take on the characteristics and scale of a community scale wind development, without any benefits to the local community.
- Offsetting the energy demand of a residential barn conversion does not justify the scale and impact of the proposed development.

Recommends that the proposal is refused on the basis of likely adverse impacts, lack of supporting landscape and visual assessment and weak argument for need, contrary to UDP policies GEN6 and MEW 10.

## **RESPONSE TO PUBLICITY:**

1 no. letter of representation (in support) received as a result of publicity from:  
Clwyd and Eleri Jones, Tan yr Efail, Gwyddelwern (letter)

Summary of planning based representations:

Visual impact:- the existing 2 no. turbines do not have a negative visual impact.

Rural economy:- the agricultural sector need to be supported to ensure cleaner energy which in turn can support the rural economy.

## **Objections**

No objections received.

**EXPIRY DATE OF APPLICATION: 15/02/2012**

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

- timing of receipt of representations
- delay in receipt of key consultation response(s)

## **PLANNING ASSESSMENT:**

### **1. THE PROPOSAL:**

#### **1.1 Summary of proposals**

- 1.1.1 The proposal is to erect a single Endurance E-3120 50kW wind turbine on agricultural land located at Tyn y Celyn, Gwyddelwern. The turbine would be mounted on a 36.4m free standing galvanised steel monopole structure on a concrete base. The proposed three blade rotor has a diameter of 19.2m and the tip blade height is 46m.
- 1.1.2 The turbine would be erected on a 7m x 7m foundation pad. The foundations would extend 16.5 metres in depth with HD bolt to take the weight of the turbine. An equipment cabin is also proposed to the south west of the base of the turbine. The cabin would have a footprint of 3 metres by 2.5 metres with a height of 2.5 metres.
- 1.1.3 No new access arrangements are proposed; the existing Tyn y Celyn access track will be used to transport the turbine and associated infrastructure to site.
- 1.1.4 The proposal is not a farm diversification scheme; the applicant wishes to erect the turbine to produce sustainable energy for his barn conversion at Maes Gwyn Ucha, which gained planning permission in 2009, but is yet to be converted. The barn is approximately 370m to the North West of the site.
- 1.1.5 The supporting information states the turbine will be connected to the barn conversion's three phase supply once the barn has been converted. The applicant has received a grid connection offer from the distribution network operator and the barn conversion and the proposed turbine will be undertaken at the same time.
- 1.1.6 The predicated annual energy output for the specified turbine in this location is estimated at approximately 150,000kWh per year.
- 1.1.7 The application documents include 6 no. letters from private individuals outlining support from the proposal from:
  - T G Jones, Tyddyn Angharad, Corwen
  - Huw Jones, Hendre Bryn Cyffo, Gwyddelwern
  - Shaun Logan, Bryn Myfyr, Gwyddelwern
  - Arwel Rees Davies, Trewyn Fawr Farm, Carrog Road, Corwen
  - Rhys Jones, Gryn Hyfryd, Godrer Gaer, Corwen
  - Elwyn Parry, 20 Garreg Lwyd, Gwyddelwen
- 1.1.8 The application submission includes the following documents:
  - Design and Access Statement (DAS)

- Endurance E-3120 wind turbine manufacture's specification
- Endurance E-3120 wind turbine generalised noise predications
- Proposed elevations for turbine, equipment cabin and foundations
- Noise contour plan
- Shadow flicker plan
- 4 no. zone of theoretical visibility (ZTV) plans
- 8 no. photomontages and 4 no. wireframe views
- Key visual receptors plan
- Access plan
- Site plan

## 1.2 Description of site and surroundings

- 1.2.1 The application site is improved agricultural land 2km to the north of the town of Corwen, and approximately 680 metres south east of the village of Gwyddelwern. The A494 trunk road runs through the village and the valley. There is a line of electricity pylons, approximately 30 metres high, running in an east –west direction with the nearest pylon being some 260 metres to the south east of the proposed turbine location.
- 1.2.2 There are 2 no. Endurance E3120 50kW turbines with a tip height of 46m currently installed at Tyn y Celyn approximately 470 metres to the south east of the application site which were granted planning permission in 2011.
- 1.2.3 Approximately 2.5km to the west is the Wern Ddu windfarm, which marks the eastern boundary of the Clocaenog Forest Strategic Search Area where Welsh Government policy seeks to direct strategic scale windfarm development. Wern Ddu consists of 4 no. 2.3MW turbines which are 90 metres in height which were allowed on Appeal in June 2007.
- 1.2.4 The nearest residential properties which do not have an interest in the development are 380 metres to the west of the application site (Ty Nant and Bryn Eithin).
- 1.2.5 The Denbighshire Landscape Strategy shows the application site lies within the Llanelidan and Gwyddelwern Hills LANDMAP Character Area which is defined as hill and scarp slopes with enclosed pasture. The Character Area comprises two groups of hills of similar character and quality visually separated by the main A494 (T), with distinctive rounded hills in places, and with two distinct ridges, with fields and hedgerows elsewhere. It mentions Cae'r Drewyn, a rounded hill on the southern edge of the area, which is a nationally important pre- historic hillfort.

## 1.3 Relevant planning constraints/considerations

- 1.3.1 In planning policy terms the site lies in the open countryside. It is some 1.5 km to the north west of the boundary of the recently extended Clwydian Range Area of Outstanding Natural Beauty (AONB).
- 1.3.2 The easternmost boundary of the Clocaenog Forest Strategic Search Area (SSA) lies approximately 2.5km to the west. In accordance with TAN8, large scale wind farm development in Wales should be directed to within SSA boundaries. The Clocaenog Forest SSA lies partly within Denbighshire County Council and partly within Conwy County Borough Council.
- 1.3.3 A number of open access and common land areas lie within a 10 km radius of the site.

#### 1.4 Relevant planning history

- 1.4.1 The applicant obtained planning permission for a barn conversion at Maes Gwyn Ucha in 2009 and the applicant's father obtained planning permission for 2 no. 50kW turbines at Tyn y Celyn in 2011.

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

- 1.5.1 None

#### 1.6 Other relevant background information

- 1.6.1 Officers are presenting this application to Planning Committee, as there are important issues of policy and principle to be considered.
- 1.6.2 Officers are aware of the general support for wind energy development of this scale set out in Planning Policy Wales and TAN 8. However there is an absence of any local policy based criteria to determine the acceptability of individual turbine applications of the scale proposed and there is no clear definition of what constitutes a 'smaller' turbine; whilst a 50kW turbine is referred to as a small in terms of its generating capacity, physically it is a large prominent structure with a tip height of 46 metres.
- 1.6.3 Whilst the Council has already granted planning permission for turbines of this scale within the County, this application differs from these applications as this proposal is to offset domestic energy consumption rather than being a farm diversification scheme. However the specified turbine is not within the domestic micro turbine scale.
- 1.6.4 The application site is in close proximity to 2 no. operational 50kW wind turbines at Tyn y Celyn which may in turn give rise to cumulative impacts; again this is a factor which has not arisen when other wind turbine applications of this scale have been determined.
- 1.6.5 A negative EIA screening opinion for 1 no. 55kW turbine at Tyn y Celyn was issued by the Council in November 2011.

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

- 2.1.1 06/2009/0712 conversion of 2 no. agricultural buildings to form 1 no. dwelling. at Maes Gwyn Ucha, Gwyddelwern. Granted 01/09/09.
- 2.1.2 06/2011/0249 erection of 2 no. 55kW wind turbines at Tyn y Celyn, Gwyddelwern. Granted 05/07/11 (applicant for this scheme was the applicant's father)

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

- 3.1 The main planning policies and guidance are considered to be:

DENBIGHSHIRE UNITARY DEVELOPMENT PLAN (adopted 3<sup>rd</sup> July 2002)  
Policy STRAT 1 General  
Policy STRAT 2 Energy  
Policy STRAT5 Design  
Policy STRAT 7 Environment  
Policy GEN 3 Development Outside Development Boundaries  
Policy GEN 6 Development Control Requirements  
Policy ENV 1 Protection of the Natural Environment  
Policy ENV 2 Development affecting the AONB/AOB  
Policy ENV 6 Species Protection

Policy MEW 8 Renewable Energy  
Policy MEW 10 Wind Power

#### GOVERNMENT GUIDANCE

Planning Policy Wales (PPW Edition 4, February 2011)  
TAN 8 Planning for Renewable Energy (2005)  
TAN 5 Nature Conservation and Planning (2009)  
TAN 11 Noise (1997)

#### WELSH GOVERNMENT PRACTICE GUIDANCE

Planning Implications Of Renewable And Low Carbon Energy (Practice Guidance 2011)

#### OTHER DENBIGHSHIRE COUNTY COUNCIL DOCUMENTS

Denbighshire Landscape Strategy (2003)

#### 4. MAIN PLANNING CONSIDERATIONS:

4.1 The main land use planning issues are considered to be:

- 4.1.1 Principle
- 4.1.2 Context for the development
- 4.1.3 Landscape and visual impact, including cumulative effects of / with other wind turbines
- 4.1.4 Biodiversity and nature conservation
- 4.1.5 Noise and amenity
- 4.1.6 Aviation

4.2 In relation to the main planning considerations:

##### 4.2.1 Principle

##### Welsh Government policy and guidance

The UK is subject to the EU Renewable Energy Directive, which includes a target of generating 15% of the UK's total energy demand from renewable energy sources by 2020. Planning Policy Wales (PPW) reaffirms UK and national energy strategies and the Welsh Government is committed to playing its part. PPW refers to the Welsh Government's Energy Policy Statement (2010) and recognises that wind energy generation remains the most commercially viable form of renewable energy in Wales. As illustrated in PPW, the total capacity for energy generation from onshore wind by 2020/2025 is estimated at 2GW.

For planning purposes, PPW defines the following renewable and low carbon energy scales, which is of relevance to the application before Committee:

<b>Scale of development</b>	<b>Threshold ( Electricity and heat)</b>
Strategic	Over 25 MW for onshore wind and over 50 MW for all other technologies
Local Authority - Wide	Between 5MW and 25 MW for onshore wind and between 5 MW and 50MW for all other technologies
<b>Sub local authority</b>	<b>Between 50kW and 5MW</b>
Micro	Below 50kW

This application therefore falls within the 'sub local authority' scale of development in PPW.

Sub local-authority scale renewable energy projects are applicable in all parts of Wales subject to the assessment of site specific impacts.

TAN 8 supplements PPW and provides technical advice and guidance on renewable energy projects. There have been some policy and legislative changes since the publication of TAN8 and it should therefore be read alongside PPW Edition 4 .

TAN 8 remains a key document in respect of wind turbine proposals. It introduced the principle of spatial planning for the delivery of energy policy. TAN 8 makes reference to smaller scale (less than 5MW) schemes in para. 2.11 - 2.14, however this puts the onus on local planning authorities to define what is meant by 'small scale' and 'community based' wind power schemes. It refers to the need for local planning authorities to consider the cumulative impact of smaller schemes in areas outside of the defined Strategic Search Areas and mentions the balance to be struck between the desirability of renewable energy and landscape protection. Whilst that balance should not result in severe restriction on the development of wind power capacity, TAN8 acknowledges there is a case for avoiding a situation where wind turbines spread across the whole of a county.

The Welsh Government Practice Guidance: Planning Implications of Renewable and Low Carbon Energy (2011) sets out how local planning authorities can identify the planning implications for renewable and low carbon development, and in relation to wind energy a total of 13 issues are listed, with relevant assessments to be undertaken when considering proposals.

Chapter 15 relates to cumulative effects, highlighting that these must also be taken into account. It defines cumulative effect as '*where more than one renewable energy scheme is proposed by one or more developers or where a single scheme is proposed in an area with existing schemes, the combined effect of all schemes taken together is known as the 'cumulative effect'*' (para. 15.1). The Guidance mentions that potential cumulative effects of renewable energy developments could impact on landscape and visual amenity; viability of bird populations; ecological features; and noise levels.

Whilst the proposal is separate from the existing 2 no. operational wind turbines at Tyn y Celyn, the application site is in close proximity to these, and together they may appear as a cluster of smaller turbines which may in turn give rise to cumulative visual and landscape impacts. This is addressed further in the landscape and visual impact section of this report (4.2.2).

#### Denbighshire Unitary Development Plan Policies

The strategic policies contained in the UDP promote a sustainable approach to development, with STRAT 2 supporting the principle of generating energy from renewable sources so far as they are compatible with the Plan's policies.

UDP Policy MEW 8 supports renewable energy development in principle, provided that development proposals do not give rise to unacceptable effects on the environmental quality of the locality. Policy MEW 10 is a criteria based policy which specifically deals with wind power developments. It states that wind turbine development will be permitted subject to compliance with the 10 no. criteria.

The most relevant criteria in this instance as MEW iii) the proposal will not unacceptably harm the character and appearance of the landscape; iv) the proposal does not lead to unacceptable noise levels; v) there is no unacceptable risk or nuisance to the public arising from wind turbines; vii) the proposal would not lead to an unacceptable cumulative visual impact; viii) the proposal does not cause



unacceptable harm to the enjoyment of the landscape; and x) there is no unacceptable effect on nature conservation interests.

Policy GEN 6 refers to general development control requirements and applies to most developments. The criteria of most relevance are the ii) relating to the effect of development on the form and character of surrounding landscape; iii) the effect on prominent views into, out of, or across any area of open countryside; iv) incorporating existing landscape features and taking account of site contours and changes in levels and avoids prominent skylines; and v) the impact on residential amenity.

Policy ENV 1 relates to the protection of the natural environment. It states "*Development must be designed to maintain or enhance the landscape character of the countryside and biodiversity of the natural environment*". Policy ENV 6 is the detailed policy relating to species protection, which seeks to ensure that development which would unacceptably harm species given special protection by law are not permitted.

Taken together, the policies contained in the UDP provide support in principle for renewable energy development subject to the detailed assessment of localised impacts.

However, it is relevant to note that as the UDP was adopted in 2002, its contents predate TAN 8 and more recent Welsh Government policy statements relating to energy development, and inevitably contains no guidance which is specific to 'smaller' wind energy developments, nor does it provide a consistent basis against which wind turbine development of this scale will be assessed, taking into account the cumulative impact and spread of wind turbine development of varying scales throughout the county.

Ultimately Officers take the simplistic view that in the absence of any up to date and specific local level guidance on the matter of wind energy applications of this scale, it is incumbent on the Council to deal with the proposal in accordance with the statutory requirements in the Planning/ Planning and Compensation Act which is to determine applications in accordance with the current policies of the adopted development plan, unless material considerations indicate otherwise. The following sections of the report therefore weigh the merits of the application against the policies of the Unitary Development Plan and then in respect of the other material considerations including current WAG policy and guidance in PPW and TAN 8.

#### 4.2.2 Context for the development

When determining planning applications for renewable energy development, PPW requires local planning authorities take into account a range of factors including the contribution a proposal will play in meeting identified national, UK and European targets and potential for renewable energy generation, including the contribution to cutting greenhouse gas emissions.

Therefore the benefits of the scheme in terms of reducing the carbon footprint of the proposed barn conversion and the contribution to renewable energy generation targets need to be carefully weighed against any adverse impacts associated with this development.

The applicant wishes to install the turbine to provide renewable electricity for the consented barn conversion, which will comprise of a single dwelling once converted. The current application therefore differs from previous planning applications for 50kW turbines determined by the Council as it does not relate to a farm enterprise or rural business; it cannot therefore be considered a farm diversification scheme.

In assessing the application, it seems relevant therefore to consider whether or not this is an appropriate scale of development for domestic purposes. The agent has provided additional information to confirm the predicted energy output from the proposed turbine, and has indicated a 50kW turbine in this location would generate approximately 150,000kWh of electricity per year.

Based on Ofgem data (Typical domestic energy consumption figures Factsheet 96 dated 18/01/11) the average electricity consumption of a residential property is 3,300kWh per annum.

Using this figure, the proposed turbine would generate approximately 45 times more electricity than an average residential property would consume in a year. This figure has been corroborated by the agent.

Furthermore, the Ofgem data states that the medium electricity bill based on a consumption of 3,300kWh a year is £424. Wind turbines under 5MW are eligible for the Feed in Tariff, which is a government backed initiative which provides regular payments for every kWh of electricity generated from renewable energy sources. The current Feed in Tariff payment for a wind turbine of this scale is set at 25.3p per kWh; based on the estimated generation figure above, this proposal would generate around £37,950 per annum from the Feed in Tariff (this only relates to the generation tariff payment; an additional export tariff of 3.1p will also be paid for every kWh of electricity exported to the grid). This is more than 89 times the average electricity bill for a residential property.

From this assessment, it is clear that the turbine has not been sized to offset the energy demand of a residential property as the majority of the energy generated will be exported to the grid. Respectfully, it is not considered the scheme can be referred to as a domestic scale turbine and the proposal is more akin to a commercial venture than a domestic carbon offsetting project.

#### 4.2.3 Impact on landscape and visual amenity, including cumulative implications.

##### Policy and Guidance

Detailed Unitary Development Plan policies relevant to the visual and landscape impact associated with wind energy development are policy GEN 6 and policy MEW 10.

GEN 6 requires consideration of ii) the effect of development on the form and character of surrounding landscape; iii) the effect on prominent views into, out of, or across any area of open countryside; iv) incorporating existing landscape features and taking account of site contours and changes in levels and avoids prominent skylines; and v) the impact on residential amenity.

MEW 10 (iii) requires that proposals do not unacceptably harm the character and appearance of the landscape, (viii) requires that proposals would not lead to an unacceptable cumulative visual impact in an area where zones of visibility (with other wind turbine development) overlap, and that particular attention will be paid to the potential proliferation of such developments in any one area; and vii) the proposal does not cause unacceptable harm to the enjoyment of the landscape.

The Denbighshire Landscape Strategy is based on the LANDMAP study, which provides useful background material on the essential characteristics and quality of the landscape of the County. The application site lies within the "Llanelidan and Gwyddelwern Hills" Character Area where the Visual and Sensory evaluation is identified as 'high'.

The supporting information accompanying the application contains a brief landscape impact assessment which is supported by 4 no. zone of theoretical visibility (ZTV) plans, 8 no. photomontages and 4 no. wireframe views and a plan showing the key visual receptors used to inform the assessment.

The Council's Landscape Consultant considers the supporting statement to be overly general in its discussion of the landscape and visual issues and there are a number of assertions made which are not substantiated by a clearly presented assessment. Whilst it is acknowledged that there may be capacity for further wind development within the area, no landscape and visual analysis and assessment has been submitted to demonstrate that the proposal is the best option for minimising impacts upon sensitive landscape and visual receptors to any acceptable degree.

An extract from the Denbighshire Landscape Strategy is included, but there is no suggestion of how the development would positively address the landscape character, conservation and enhancement requirements of the area. In the Landscape Consultant's opinion, the submission therefore fails to address the landscape context.

Significantly, in carrying out his own landscape and visual assessment of the proposal, the Council's Landscape Consultant concluded:

*"2 wind turbines (planning application 06/2011/0249) are operational and have a negative influence upon existing local views from Garreg Lwyd, Gwyddelwern, due to their very close proximity to settlement and skyline location, its scale and visual disturbance from rotor movement. The proposal would be a prominent built feature in its own right and have the appearance of extending the built form and industrial influence of wind development northwards along a rural skyline. The common characteristics between developments in regard to ridgeline siting and turbine choice would make the existing and proposed turbines 'read' as one development, however the separation distance between the two would give the sense of a dispersed and uncohesive emerging pattern of wind development. I consider the cumulative impact of wind development would have an unacceptable adverse impact upon sensitive views from the residential area at Garreg Lwyd for the lifetime of the development" and "If the proposal were to be implemented, incremental growth in wind development within such close proximity to settlement would take on the characteristics and scale of a community wind development, but without any benefits to the local community".*

PPW and TAN 8 provide the strategic policy framework for assessing wind energy development and contain some specific guidance on the detailed consideration of landscape and visual impact to assist local planning authorities determine planning applications. TAN 8 Annex D (para 8.1 – 8.6) provides supplemental information on cumulative landscape and visual impact. It states that cumulative effects are those which occur, or may occur, as a result of more than one wind farm project being constructed and emphasis that it is important to recognise that cumulative effects consist of both those upon visual amenity as well as effects on the landscape.

In relation to assessing cumulative landscape impacts, TAN8 clarifies the landscape objectives for different parts of Wales. Outside of designated Strategic Search Areas, the implicit objective is to maintain the landscape character i.e. no significant change in landscape character from wind turbine development.

In concluding on the issue of landscape and visual impact, and having regard to the comments of the Landscape Consultant, it is likely that the proposal will give rise to adverse cumulative visual impacts, and these have not been sufficiently addressed in

the supporting landscape and visual assessment. Officers therefore consider the proposal does not accord with UDP policies GEN6 i), iii), v) and MEW10 vii), viii).

#### 4.2.4 Biodiversity and nature conservation

The general requirement to consider the impact of development on biodiversity interests is set out in PPW Chapter 5, TAN 5, UDP policies STRAT 1, STRAT 7, GEN 6 and ENV 6 and SPG 18. Specific to wind turbine development is policy MEW 10 criterion x) which states that wind turbine development will be permitted provided that '*There is no unacceptable effect on nature conservation.*' It is therefore incumbent on local planning authorities to ensure wind turbine development does not give rise to any adverse negative impacts on biodiversity interests.

The application site is improved agricultural land and is outside of any statutory or local nature conservation designation. The initial site survey referred to in the Ecology and Nature chapter of the Design and Access Statement found that no features of wildlife interest were identified in the immediate vicinity of the site. Reference is made to guidance in respect of birds and bats in general terms.

The supporting information also indicates that there is no evidence of bat activity in the vicinity of the development, however to protect bat species, best practice guidance recommends wind turbines are set away from trees and hedgerows and a buffer zone of 50m is applied in all cases.

In terms of hedges, the only boundary within 50 metres is some 26 metres away from the proposed application site. However, this boundary is a fence with a small number of thorn bushes. The Council's Biodiversity Officer agrees that bushes along a fence does not constitute a hedgerow and therefore is less likely to be used as a flight line by bats.

Both CCW and the Council have expressed no biodiversity objection to the proposal, and it is reasonable to conclude that the proposal would not have any adverse impacts on biodiversity and nature conservation interests, and therefore does not conflict with policy ENV 6 and MEW 10 criterion x)

#### 4.2.5 Noise and amenity

Policy GEN 6 and MEW 10 seek to ensure development does not impact on residential amenity. The latter requires that particular consideration has to be given to noise and shadow flicker.

The nearest residential properties are 380 metres away from the application site.

TAN 11 relates to the assessment of noise in relation to development proposals. The general guidance is that local planning authorities should ensure noise-generating development does not cause an unacceptable degree of disturbance, but in some instances it may be acceptable to allow noise-generating activities near to noise sensitive receptors.

ETSU-R-97 is industry standard for the Assessment and Rating of Noise from Wind Farms. It is important to ensure that predicated operational noise levels fall within the established limits of ETSU-R-97. The guidance sets out indicative noise levels thought to offer a reasonable degree of protection to wind farm neighbours, without placing unreasonable restrictions on the development. The levels are set relative to background noise limits, rather than absolute limits, with separate limits for day-time and night-time. They are presented in a manner that makes them suitable for noise related planning conditions.

For single turbines ESTU-R-97 proposes that a simplified noise condition may be suitable and recommends that noise is limited to an  $L_{A90,10min}$  of 35dB (A) up to wind speed of 10m/s at 10m height and considers that this condition alone would offer sufficient protection of amenity, and background noise surveys would be unnecessary.

The Manufacturer's noise emission report for the Endurance E-3120 wind turbine has been supplied as additional supporting information with the application. This report demonstrates that the 35dB level can be achieved at a distance of 250m or more.

The Council's Technical Officer (Pollution) is satisfied that planning conditions can be imposed to control noise levels to ensure the noise generated by the wind turbine would not have an unacceptable impact on the amenity of neighbouring dwellings.

The incidence of shadow flicker depends on the position of the sun in the sky. It only occurs at certain times and tends to only affect nearby buildings within 130 degrees either side of north which are within 10 rotor diameters of a turbine. The likelihood of shadow flicker occurring and the duration of such an effect depends on a range of factors, including the time of the year, the size of the turbine, the direction and speed of the wind and the relative cloud cover.

The Design and Access Statement contains a chapter on shadow flicker and is accompanied by a shadow flicker plan. The proposed rotor diameter is approx. 20m which would give a shadow flicker separation distance of 200 metres. The Statement concludes that as there are no dwellings within 200 metres of the turbine, shadow flicker analysis was not required as the size and siting of the turbine in relation to the neighbouring dwellings is such that it is unlikely to result in shadow flicker. As a precautionary principle, this matter can however be covered by condition in the event of a permission being granted.

Subject to the inclusion of conditions, it is reasonable to conclude that the proposal would comply with policy GEN 6 criterion v) and MEW 10 criterion iv) and v).

#### 4.2.6 Communication and aviation

In certain locations wind turbines can affect communication and aviation infrastructure which may also need to be addressed. Airbus, who operate Hawarden Airport, the Civil Aviation Authority and the Ministry of Defence have been consulted on this application.

At the time of writing the report, no consultation response has been received from the aviation bodies, however the MOD intend to submit a formal response to the consultation. In the absence of a formal objection to the proposal, Officers are satisfied that the proposal will not have any adverse effects on communication and aviation infrastructure.

## 5. SUMMARY AND CONCLUSIONS:

- 5.1 The report sets out a number of considerations officers suggest are relevant to the determination of this application. As with a number of wind energy developments, inevitably there will be factors that weigh against and in favour of the grant of planning permission.
- 5.2 The purpose of the proposal is to offset the energy demand of an individual dwelling (barn conversion granted consent in 2009 ref. 06/2009/0712). However in accordance with PPW and the Welsh Government's Practice Guidance, a 50kW turbine would be classed as 'sub-local authority' or 'medium' scale development. A turbine of the scale proposed in this location would generate approximately 45 times more electricity than

the average annual electricity demand of a typical residential property in the UK. It is therefore considered that the scale of the development is disproportionate to the energy demand of the building it seeks to offset and the turbine cannot be considered a 'domestic' turbine.

- 5.3 The application is for a 46 metre high 50kW turbine is some 500 metres away from the existing 2 no. 50kW wind turbines already installed at Tyn y Celyn. Whilst this is a separate application, the existing and proposed turbines would 'read' as one development, however there are some reservations over the landscape and visual impact and the separation distance between the two would give the sense of a dispersed and un-cohesive emerging pattern of wind development.
- 5.4 The development would give rise to cumulative impacts and have an unacceptable adverse impact upon sensitive views from the residential area at Garreg Lwyd for the lifetime of the development and would lead to further incremental growth in wind development in close proximity to a settlement, which would take on the characteristics of a community scale wind energy development.
- 5.5 The supporting statement is considered to be overly general in its discussion of the landscape and visual issues and there are a number of assertions made which are not substantiated by a clearly presented assessment. No landscape and visual analysis and assessment has been submitted to demonstrate that the proposal is the best option for minimising impacts upon sensitive landscape and visual receptors to any acceptable degree, and the submission does not address how the development would positively address the landscape character, conservation and enhancement requirements of the area. The submission therefore fails to address the landscape context.
- 5.6 Officers acknowledge the overarching national and local planning policy context which supports renewable energy development in principle and recognise the benefits of the scheme in terms of reducing the carbon footprint of the proposed barn conversion. However it is felt that the scale of the development is disproportionate to the energy demand of the building it seeks to offset and there is not sufficient justification in this instance to outweigh the adverse cumulative landscape and visual impacts associated with this development. Officers' also consider that a grant of planning consent for this proposal may establish a precedent for 'sub-local authority' scale renewable energy development in relation to domestic properties.

**RECOMMENDATION: - REFUSE** for the following reasons:-

1. It is the opinion of the Local Planning Authority that the erection of a 46 metre high 50kW turbine in a high quality rural landscape would have unacceptable landscape and visual impacts, and taking into account the existing wind turbine development would give rise to unacceptable cumulative effects leading to a significant change in the local landscape character as a result of wind energy development. It would also lead to a potential precedent for similar scale wind turbine development in relation to domestic properties. The potential benefits of increased renewable energy generation are not considered to outweigh the national and local policy objectives which seek to protect the local landscape and visual amenity. The proposal is therefore considered contrary to Denbighshire Unitary Development Plan policies STRAT 7, GEN 6, ENV1, MEW 8 and MEW 10, and the principles set out in TAN 8 (para. 2.10 - 2.13) and PPW Edition 4 (para.12.10).

**NOTES TO APPLICANT:**

None

**ITEM NO:** 2

**WARD NO:** Llandrillo

**APPLICATION NO:** 07/2011/1260/ PF

**PROPOSAL:** Conversion of outbuilding into dwelling, installation of non-mains drainage and construction of access drive to highway

**LOCATION:** Former Byre at Cadwst Mawr Farm Llandrillo Corwen

**APPLICANT:** Mr A Jones

**CONSTRAINTS:** C2 Flood Zone  
Main River

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

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

- Member request for referral to Committee.

**CONSULTATION RESPONSES:**

LLANDRILLO COMMUNITY COUNCIL-  
No reply received at time of drafting report.

AREA OF OUTSTANDING NATURAL BEAUTY JOINT ADVISORY COMMITTEE-  
"The site is some distance outside the proposed AONB extension area and in this context the JAC has no observations to make on the application".

COUNTRYSIDE COUNCIL FOR WALES (CCW)-  
Satisfied with principle of conversion. Response awaited to re-consultation on updated Biodiversity information at time of drafting report.

CLWYD POWYS ARCHAEOLOGICAL TRUST (CPAT)-  
Satisfied with principle of conversion. Response awaited to re-consultation on updated information at time of drafting report.

ENVIRONMENT AGENCY WALES-  
No objection.

**DENBIGHSHIRE COUNTY COUNCIL CONSULTEE RESPONSES-**  
BIODIVERSITY OFFICER-  
No objection, subject to notes to Applicant.

BUILDING CONTROL OFFICER-  
Building is capable of conversion (see assessment in Section 4 of report).

HEAD OF HIGHWAYS AND INFRASTRUCTURE-

No objection.

**RESPONSE TO PUBLICITY: None**

**EXPIRY DATE OF APPLICATION: 18/12/11**

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

- additional information required from applicant

**PLANNING ASSESSMENT:**

**1. THE PROPOSAL:**

1.1 Summary of proposals

- 1.1.1 The proposal is for the conversion and part reconstruction of an outbuilding at Cadwst Mawr Farm, to form a three bedroom dwelling. Alterations proposed to facilitate the creation of the dwelling would be the re-roofing of all of the building, reconstruction of some of the walls from foundation level, creation of some new openings in the retained section, and internal remodelling to create a split level dwelling. The plans at the front of the report illustrate the detailing of the scheme, which would result in a building measuring some 21.5m x 6.2m (133 square metres) footprint.
- 1.1.2 It is proposed that the area around the building would be enclosed by a native hedgerow to provide amenity space and parking and turning for the unit. Vehicular access is proposed via a former track, which runs from the minor road leading south from Llandrillo, for approximately 280 metres to the proposed dwelling.
- 1.1.3 The application is accompanied by a structural report and design and access statement (DAS), which comments on the adequacy and suitability of the outbuilding for the scheme of conversion. An ecological survey has also been submitted in support of the application.

1.2 Description of site and surroundings

- 1.2.1 The former byre is a section of stone building with a corrugated roof measuring some 9.5m x 6.2m, and a section to the east measuring some 12m x 6.2m where only parts of the original wall structure remain and the roof structure has long disappeared.
- 1.2.2 The byre is sited in an isolated location 200 metres south of the Cadwst Mawr agricultural complex, which is located to the south of Llandrillo.
- 1.2.3 Access to the site is off a minor road which runs from Llandrillo. The site is approximately 2.5 kilometres from Llandrillo village.
- 1.2.4 It is an elevated site on the south east side of Cwm Pennant. The land slopes up from the river Ceidiog to the site.

1.3 Relevant planning constraints/considerations

- 1.3.1 The site is located in the open countryside, outside of any defined development boundary. The area is designated as an area of outstanding beauty (AOB) in the Unitary Development Plan.

1.4 Relevant planning history



1.4.1 There is no planning history on this site.

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

1.5.1 Additional ecological information has been sought on the request of CCW following the initial submission.

1.5.2 A re-design of the access track has been sought on the request of CPAT following the initial submission.

1.5.3 A tree survey was sought on the request of the Tree Officer following the initial submission.

1.5.4 Additional structural information has been sought by the Case Officer following the site visit, to help clarify the extent of new build/reconstruction involved in the scheme.

**1.6 Other relevant background information**

1.6.1 The application is being considered by Planning Committee on the request of the councillor Cefyn Williams, to allow full assessment of the planning policy issues.

**2. DETAILS OF PLANNING HISTORY:**

2.1 None

**3. RELEVANT POLICIES AND GUIDANCE:**

The main planning policies and guidance are considered to be:

**3.1 DENBIGHSHIRE UNITARY DEVELOPMENT PLAN (adopted 3<sup>rd</sup> July 2002)**

Policy GEN 3 – Development outside development boundaries

Policy GEN 6 – Development Control Requirements

Policy HSG 9 – Residential conversion of rural buildings to dwellings

Policy ENV 6 – Species Protection

**3.2 Supplementary Planning Guidance**

Supplementary Planning Guidance Note No. 16 – Conversion of Rural Buildings

**3.3 GOVERNMENT GUIDANCE**

Planning Policy Wales Edition 4

**4. MAIN PLANNING CONSIDERATIONS:**

4.1 The main land use planning issues are considered to be:

4.1.1 Principle

4.1.2 Visual and landscape impact

4.1.3 Residential Amenity

4.1.4 Highways Safety

4.1.5 Ecological Impact

4.2 In relation to the main planning considerations:

**4.2.1 Principle**

Policy GEN 3 relates to development outside development boundaries and states that residential development will not be permitted apart from some exceptions, the most relevant being the conversion and reuse of vacant rural buildings.

Policy HSG 9 of the adopted Unitary Development Plan relates specifically to

the residential conversion of rural buildings to dwellings. This policy allows for the conversion of rural buildings subject to a number of tests including whether the building is structurally sound and capable of conversion without major or complete reconstruction.

SPG 16 provides further advice on these requirements and states that buildings should not be so derelict that they could only be brought into use by substantial rebuilding.

In terms of Policy HSG 9 a statement submitted with the application refers to the business use test, which is no longer required by the Local Planning Authority, but this mentions the unsuitability of the building for employment uses.

Test i) of HSG 9 requires that a building must be capable of conversion without major or complete reconstruction. The supporting text of the policy goes on to say that buildings that have become so derelict that they would be brought back into use only by major or complete reconstruction do not fall within the scope of the policy.

The Design and Access Statement (DAS) refers to the 'restoration' of the west wing of the building, (the remaining intact section), and states restoration of 75 square metres of the (remaining east wing) footprint is proposed as well as re-roofing of the whole building. The Agent has been approached to provide a plan to show how much re-build would actually be involved in the proposal, and this shows reconstruction of elements of the east wing walls on half of the southern elevation and all of the walls of the eastern elevation. However, in Officers' opinion there remains some doubt whether the wall forming the north elevation is capable of use in a new structure, considering the land levels and structural quality of the remaining wall. Although clarification of this element of the proposal has been sought from the Agents it has not been forthcoming.

As Members may appreciate, Officers can only base a recommendation on the submitted details. In this case there are questions to address over the extent of reconstruction. Based on the original information provided in the DAS, half of the building would require 'restoration'. The additional information suggests less would be rebuilt, although it is not clear how the remainder of the structure is capable of conversion. Officers' opinion is that it is likely that the entire eastern section of the proposed dwelling would have to be built up from new foundations, i.e. an area of 12m x 6.2m, which would represent 56% of the footprint of the entire dwelling. The whole roof structure will also be new, and this would double the length of the existing roof. Having regard to this element of the scheme, it is not considered that the proposal meets the tests in Policy HSG 9 (i). The remaining key tests of HSG 9 are reviewed in the planning considerations considered below:

#### 4.2.2 Impact on visual amenity

The main policy that refers to scale, landscape and visual impact is GEN 6. Policy HSG 9 also requires assessment of effect on the character of the building and the countryside in terms of visual appearance.

The application proposes to redevelop the building in a similar scale and form as the original, albeit a form that has been lost since the removal of the roof of the majority of the outbuilding in the 1960's-70's. The proposed building would be a relatively simple structure with slate roof.

The visual/landscape impact of the proposals is a concern of Officers. It is considered that a dwelling and associated residential activities in a remote rural location would impact on the character and appearance of the countryside. Although it could be argued that the building could be used more intensively for agriculture, it is considered the cumulative impact of the resulting conversion, including the access track, residential curtilage and level of activity would have significantly greater long term effect on the character of a tranquil valley in the Area of Outstanding Beauty.

It is considered that the proposal would have a potentially unacceptable impact on the character and appearance of the open countryside, and would be contrary to criterion iii) of policy HSG 9.

#### 4.2.3 Residential Amenity

Policy GEN 6 sets specific tests to be applied to amenity of impacts of development; Policy HSG 9 (iv) also requires assessment of amenity impacts and standards.

The proposed dwelling would be located in an isolated location with no immediate neighbours. A formal amenity area of some 150 sq.m. is proposed for the dwelling.

Having regard to the detailing, it is considered the proposal would not raise any conflicts with policy in terms of the amenity of existing or proposed occupiers hence would be compliant with the aforementioned policies.

#### 4.2.4 Highways

Policy GEN 6 criteria (vii) permits development where it does not have an unacceptable effect on the local highway network.

The application proposes access off a former track from the minor road. Parking will be provided on site for the dwelling.

This access road and track is deemed acceptable for the conversion scheme and Highway Officers have not objected to the proposal. It is considered the proposal would not lead to any conflicts with highway safety.

#### 4.2.5 Ecological impact

Policy ENV 6 seeks to ensure that wildlife and bio-diversity are not negatively affected as a result of development.

A Bat and Bird survey has been submitted with the application. The survey found no evidence of bats or birds in the building.

It is considered the proposal would not conflict with the policy criteria of ENP 2.

## 5. SUMMARY AND CONCLUSIONS:

5.1 In considering the merits of the application, Officers are aware of recent decisions at Planning Committee on conversion proposals. However, with respect to this background, it is not considered the circumstances can be directly compared to those pertaining to this proposal, since the recent cases have involved situations where works on outbuildings have been carried out prior to submission of applications, and buildings have been subject to previous part implemented permissions, where some works of reconstruction have been undertaken prior to submission of fresh applications.

5.2 In simple factual terms the level of rebuild involved here is likely to be well over half of the proposed structure, which officers respectfully suggest is in conflict with Policy HSG 9 (test i), being major reconstruction of a semi-derelict building. There are also landscape/visual impacts to address which lead weight to these concerns.

5.3 Whilst it is acknowledged that the scheme of conversion would prevent the former byre falling into total dereliction, and the Agent has advised that the building could be used by the Applicant's son who currently lives in the local area, it is suggested neither argument should be accorded significant weight in balancing considerations relevant to planning policy.

5.4 It is the opinion of Officers that, with respect to recent decisions on other 'conversion' proposals, that on balance, the proposal is in conflict with key elements of the relevant policies, and is therefore recommended for refusal.

**RECOMMENDATION: - REFUSE** for the following reason:-

1. It is the opinion of the Local Planning Authority that substantial renovation and reconstruction works will be required in order to achieve the proposed conversion, as sections of the building are not structurally sound or capable of conversion without major or complete reconstruction. The resulting building, curtilage and access track would also have a significantly greater landscape impact than the existing building. Accordingly, the proposal is considered contrary to Policies GEN 3 and key tests of HSG 9 of the Denbighshire Unitary Development Plan, the Council's adopted Supplementary Planning Guidance 16 'Conversion of Rural Buildings' and advice as contained in Planning Policy Wales Edition 4.

**NOTES TO APPLICANT:**

None

**ITEM NO:**

**WARD NO:** Llanfair Dyffryn Clwyd / Gwyddelwern

**APPLICATION NO:** 19/2011/1499/ PF

**PROPOSAL:** Change of use of land for a holiday 'camping pod' site, installation of a new septic tank & associated works

**LOCATION:** Land at Garreg Einws Llanelidan Ruthin

**APPLICANT:** Mr Raymond & Gareth Powell

**CONSTRAINTS:** PROW

**PUBLICITY** Site Notice - Yes

**UNDERTAKEN:** Press Notice - Yes

Neighbour letters - Yes

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

- Referral by Head of Planning / Development Control Manager

**CONSULTATION RESPONSES:**

LLANELIDAN COMMUNITY COUNCIL  
"No objection"

ENVIRONMENT AGENCY  
No objection. Application has low environmental risk.

**DENBIGHSHIRE COUNTY COUNCIL CONSULTEES  
HEAD OF HIGHWAYS AND INFRASTRUCTURE**

In relation to highways, no objection raised subject to a condition requiring the works for car parking and turning to be completed prior to occupation and retained thereafter.  
In relation to the Public Right of Way, (PROW) no objection raised.

**RESPONSE TO PUBLICITY:**

Representations received from:  
C. & R. Davey, Ffynnon-y-Milgi, Llanelidan (e-mail)

Summary of planning based representations:  
No objection, however concerns raised about the following;  
Impact on highway network - Local highway network not in a condition to serve the proposed development

Other issues raised

Impact on water supply

Concerned about sufficient water supply.

Precedent

First step to larger development.

**EXPIRY DATE OF APPLICATION: 14/02/2012**

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

- To allow the application to be reported to Planning Committee

**PLANNING ASSESSMENT:**

**1. THE PROPOSAL:**

1.1 Summary of proposals

- 1.1.1 The proposal is for the change of use of land to a holiday camping pod site, involving the siting of 4no. camping pods, a porta-cabin shower block, installation of a septic tank, creation of a new access track and an associated scheme of landscaping. The plans at the front of the report shows the layout and the design of the pods.

1.2 Description of site and surroundings

- 1.2.1 The site is within an existing agricultural field approximately 50m to the east of an existing farm complex at Garreg Einws, Llanelidan. The farm is an existing working farm with approximately 55 head of beef cattle and 275 breeding ewes.
- 1.2.2 To the southern boundary of the site is an elevated rocky outcrop, to the eastern boundary is an existing copse of trees, to the northern boundary is an existing farm track beyond which is land which is elevated above the site and the west of the site the land slopes up towards the existing farm complex.
- 1.2.3 The site is located approximately 1.5km to the north east of the village of Llanelidan. It would be accessed by a private track off a single track road. The access off the single track road to the farm is approximately 250m to the north of the B5429.
- 1.2.4 A Public Right of Way runs along the northern boundary of the application site along the existing farm track.

1.3 Relevant planning constraints/considerations

- 1.3.1 The site is located in the open countryside outside of any settlement boundaries as defined in the Denbighshire Unitary Development Plan.

1.4 Relevant planning history

- 1.4.1 Permission was granted for the conversion of an outbuilding to the southern edge of the farm complex to a residential dwelling in May 2011.

1.5 Developments/changes since the original submission

- 1.5.1 None

1.6 Other relevant background information

- 1.6.1 None

**2. DETAILS OF PLANNING HISTORY:**

- 2.1 Conversion and change of use of redundant outbuilding to form a dwelling, erection of extension, installation of new septic tank and associated works GRANTED under delegated powers 27/05/2011.

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

The main planning policies and guidance are considered to be:

#### **3.1 DENBIGHSHIRE UNITARY DEVELOPMENT PLAN (adopted 3<sup>rd</sup> July 2002)**

STRAT 9 - Tourism

Policy GEN 3 - Development outside development boundaries

Policy GEN 6 - Development control requirements

Policy ENV 11 - Safeguarding of high quality agricultural land

Policy ENP 3 - Water resources

Policy TSM 6 - Farm diversification

Policy TSM 9 - Static caravan and chalet development

Policy TRA 6 - Impact of New Development on Traffic Flows

Policy TRA 9 - Parking and Servicing Provision

#### **3.2 Supplementary Planning Guidance**

SPG Note 20 - Static Caravan and Chalet Development

#### **3.3 GOVERNMENT GUIDANCE**

Planning Policy Wales (February 2011)

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

4.1 The main land use planning issues are considered to be:

4.1.1 Principle

4.1.2 Scale of development

4.1.3 Sustainability

4.1.4 Visual and landscape impact

4.1.5 Residential amenity

4.1.6 Highway/access issues

4.1.7 Agricultural land quality

4.1.8 Ecology

4.2 In relation to the main planning considerations:

#### **4.2.1 Principle**

Policy STRAT 9 deals with tourism development. In the countryside or rural settlements, it highlights that development will be permitted in the form of small scale built or natural environment based tourism projects in the countryside and rural settlements where they provide appropriate infrastructure, accommodation and attractions, where they consolidate the tourism industry without unacceptably affecting social, highway, amenity, heritage or environmental interests.

Policy GEN 3 contains a general restraint on new development outside development boundaries with a number of exceptions which include tourism/leisure schemes subject to compliance with basic criteria and other policies in the plan.

Policy TSM 6 deals with proposals which diversify farm businesses through new tourism development. The policy requires that proposals must be secondary or supplementary to the main use of the farm enterprise in terms of land use/planning considerations. The policy also requires that proposals have an acceptable impact on the long term working of the farm, do not lead to an unacceptable loss of agricultural land, have an acceptable impact in relation to landscape and nature conservation interests and has an acceptable impact on the locality in relation to increased activity.

Policy TSM 9 is a detailed policy relating to new static caravan or chalet sites, and sets specific tests for proposals relating to the accessibility of the site and access to a choice of means of transport and the impact on the landscape and nature

conservation interests. It is considered that due to the nature of the development proposed, that the tests of Policy TSM 9 are applicable.

The policies listed above accept the general principle of new tourism related development outside established settlements. The proposals are therefore considered to be acceptable in basic principle, subject to detailed impact tests in other policies of the Unitary Plan.

#### 4.2.2 Scale of development

In relation to farm diversification, Policy TSM 6 requires tourism related development is secondary or supplementary to the main use of the farm enterprise and does not unacceptably harm the permanent long term workings of the farm unit.

The proposals are for the siting of 4no. camping pods on approximately 0.25ha of land. The overall holding is 42ha with a further 16ha being rented from adjacent land owners. There are currently approximately 55 head of beef cattle and 275 breeding ewes being farmed on the land.

It is considered that due to the scale and intensity of the proposals in relation to the current farm business, that the proposals can be accepted as secondary to the farm enterprise. It is also considered that the scale and intensity of the proposals ensure that there would be no unacceptable harm to the long term workings of the farm. For these reasons it is considered that the scale of the proposed development is acceptable and within the scope of the policy relating to farm diversification.

#### 4.2.3 Sustainability/Accessibility

Criterion i) of Policy TSM 9 requires that new static caravan and chalet sites must have good accessibility to an adequate local highway network and is accessible by a choice of means of transport. There is no locational test associated with Policy TSM 6 relating to farm diversification. Paragraph 7.3.3 of PPW states that local planning authorities should adopt a positive approach to development associated with farm diversification in rural areas, irrespective of whether farms are served by public transport.

The site is located approximately 1.5km from the village of Llanelidan which is served by a public house. There is a daily bus service running from Llanelidan to Ruthin. The 77 service departs Llanelidan at 10:43 and returns at 13:14.

It is considered that in relation to Policy TSM 9 that the limited access to public transport would pose a conflict with criteria i). Due to the times and limited provision of bus service it is considered that public transport would not provide an adequate choice of means of transport, and visitors would be likely to be reliant on travel by private car. However the 2011 PPW states that proposals for farm diversification should be supported irrespective of access to public transport. This conflict suggests that the accessibility of the site must be balanced against the need to support schemes for farm diversification. Officers' view is that due to the relatively limited scale and intensity of the proposals that are acceptable in relation to sustainability/accessibility considerations, having regard to the thrust of relevant local and national policies, acceptable in order to support farm diversification. It is considered that a condition ensuring that the site remains linked and secondary to the existing farm enterprise would be appropriate if a permission were to be considered.



#### 4.2.4 Visual and landscape impact

Policy TSM 6 and Policy TSM 9 have tests requiring that proposals have an acceptable landscape impact.

The proposed site is not subject to any specific landscape designations. The site has a copse of trees to the eastern boundary, raised rocky outcrops to the northern and southern boundaries and to the west the land slopes up towards the farm complex.

In Officers' opinion the impact on the wider landscape would be limited due to the scale and location of the site, the nature of the pod development, the existing boundary treatments and the topography of the land. Hence it is suggested the proposals are therefore acceptable in relation to landscape impact.

#### 4.2.5 Residential amenity

Policy GEN 6 sets the requirement to assess the impact of development on the amenities of occupiers of nearby properties.

The proposed access to the site is approximately 30m from the main farmhouse and approximately 50m away from an associated outbuilding which has an extant permission for conversion to a separate residential dwelling.

It is considered that due to the scale and intensity of the proposed development and the separation distances and boundary treatments proposed that the proposals would not have an unacceptable impact on the amenity of occupiers of properties in the vicinity.

#### 4.2.6 Highway/access issues

The main Unitary Plan policies relevant to assessment of highway impact are TRA 6 and TRA 9. TRA 6 permits new development provided there is no unacceptable impact on the safe and free flow of traffic and the capacity of and traffic conditions on the surrounding road network are satisfactory. TRA 9 requires adequate provision within a site for parking and servicing.

Concerns have been raised in relation to the suitability of the existing single track road from the B5429 to the private farm track that serves as an access to the existing farm. This length of road measures approximately 250m. The concerns relate to the condition of the road not being acceptable in relation to the increased traffic levels. The highways officer is satisfied that the existing condition is satisfactory in relation to the likely associated increase in vehicular traffic. Proposals include parking and turning facilities within the site, with 1no. parking space allocated to each camping pod. The highways officer considers that these arrangements are acceptable providing the facilities are retained at all times.

The concerns in relation to the suitability of the single track road serving as an access to the site from the B5429 are noted. However it is considered in relation to the likely increase in traffic that the impact on the surrounding road network will be limited. The parking and manoeuvring provision within the site is also appropriate for the development and the proposals are therefore considered acceptable in relation to highway/access issues.

#### 4.2.7 High quality agricultural land

Policy ENV 11 looks to resist unacceptable permanent loss of agricultural land of grades 1, 2, and 3a, except where overriding need exists, and land of

lower quality is not available, or lower grade land has other specific statutory protection.

The site is shown as being within grade 3 agricultural land on the ADAS Agricultural Land Classification map of England and Wales. The site area is approximately 0.25ha. Submitted supporting information states that the agricultural land that will be lost is not versatile due to rocky outcrops and is only suitable for grazing.

As noted, indicative maps suggest that the land is grade 3 agricultural land. There is no indication whether this falls within grade 3a agricultural land, which would be classified as high quality, or grade 3b. Considering the amount of agricultural land that would be lost, and the constraints to the versatility of the agricultural use of the land (topography, rocky outcrops etc.), it would not be considered reasonable to require a full assessment of land quality to be undertaken. Due to the nature of the development it is also considered that it would be reasonable to suggest the land could be returned to agricultural use should the proposed use cease, and a condition could be drafted to this effect. For the reasons above, it is respectfully suggested that there is therefore no requirement on the applicants to establish an 'overriding need' for the development or to demonstrate land of lower quality is available as set out in planning policy.

#### 4.2.8 Ecology

Unitary Plan policies, Welsh Government guidance and current legislation oblige due consideration of impact on ecological interests, and in particular protected species (ENV 1, ENV 6 and GEN 6). This approach is supported by SPG 18 – Nature Conservation and Species Protection.

There are no comments on the application from the Biodiversity Officer or CCW.

Due to the scale and location of the proposals it is considered that the proposals would have a negligible impact in relation to ecological interests.

#### Other issues raised

##### Water Supply

Policy ENP 3 requires that adequate water resources are available to serve the development and that the additional need generated can be made available without causing unacceptable harm to water quality or ecosystems.

Concerns have been raised over the impact of the development on water supply in the area. It is understood that the proposed development would require a site licence to operate, and this process would require that a wholesome and sufficient supply of water is available for use. The matter is therefore controlled through separate legislation.

Subject to this control and having regard to the scale of the development, the proposals are considered acceptable in relation to impact on water supply.

##### Precedent

Officers acknowledge concerns over setting a precedent for further development. The recommendation to grant permission is based on development being on a small scale and supporting farm diversification. Further development is unlikely to be supported in principle.

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

5.1 The proposed site is not in a location which is readily accessible by a range of modes of transport, however taking into the consideration the scale and intensity of the proposals and the requirement to support proposals for farm diversification, it is considered the proposals are on balance acceptable, in relation to policy and are recommended for grant, subject to the use being tied to the farm enterprise and a condition to require reinstatement of the land on cessation of the use.

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

1. The development hereby permitted shall be begun before the expiration of five years from the date of this permission.
2. No more than 4no. units of accommodation shall be stationed on the land at any time.
3. The units of accommodation shall be occupied for holiday purposes only and not as a person's sole or main place of residence. The site operator shall maintain an up-to-date register of the names of the occupier of each unit on the site, their main home addresses, the dates each unit has been occupied, and by whom. The information shall be made available for inspection at all reasonable times on written request from the Local Planning Authority.
4. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out no later than the first planting and seeding season following the occupation of the first unit. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written approval to any variation.
5. The development hereby approved shall be run as part of the Garreg Eiinws farm enterprise at all times, and shall not be operated at a separate business at any time, and shall remain secondary to the agricultural use of the enterprise at all times.
6. **PRE-COMMENCEMENT CONDITION**  
If the use hereby permitted ceases, the site and the land shall be reinstated to agricultural use, and to the condition shown on photographs contained within the submitted design and access statement, within a period of 6 months from the cessation of the use.

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

1. To comply with the provisions of Section 91 of the Town and Country Planning Act 1990.
2. For the avoidance of doubt and to ensure units of accommodation do not exceed the approved numbers at any time.
3. To ensure the units are occupied for tourism/holiday use, as a permanent residential use would be contrary to adopted development plan policy.
4. In the interests of visual and residential amenity.
5. To ensure compliance with policies relating to rural restraint.
6. In the interest of the protection of high quality agricultural land and visual and landscape amenity.

### **NOTES TO APPLICANT:**

You are advised that the Council's support for the proposals is based on the small scale of the development and its potential as a diversification of the farm enterprise, in line with planning policy. Additional similar development and development not directly connected with the farm enterprise are unlikely to receive support.

The Council's attention has been drawn to water supply issues, which you should ensure are not a limitation on the ability to implement the permission. The use of the land is subject to separate licensing requirements administered by the Council's Public Protection section, and you should contact the relevant officers to ascertain the information necessary. The Council can not act as an arbitrator in any civil dispute between parties over rights to water supply.

**ITEM NO:** 4

**WARD NO:** Llandymnog

**APPLICATION NO:** 24/2012/0086/ PF

**PROPOSAL:** Erection of 2 no. extensions to existing agricultural buildings (partly in retrospect)

**LOCATION:** Bod Ynys Rhewl Ruthin

**APPLICANT:** Mr D Roberts

**CONSTRAINTS:** C2 Flood Zone

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

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

- Referral by Head of Planning / Development Control Manager

**CONSULTATION RESPONSES:**

LLANYNYS COMMUNITY COUNCIL  
'No objection'

ENVIRONMENT AGENCY  
No objection

**RESPONSE TO PUBLICITY:**

Letters of objection received from:  
Mrs. C. Williams, Bryn Hyfryd, Rhewl, Ruthin  
Mr. C. I. Williams, Bryn Hyfryd, Rhewl, Ruthin  
Mr Stephen Williams, Bryn Hyfryd, Rhewl LL15 1UL  
J. Jones, Erw Eithin Bach, Rhewl, Ruthin  
E. Jones, Erw Eithin Bach, Rhewl, Ruthin

Summary of planning based representations:  
Need for development  
Visual impact - selection of materials  
Highway impact - current access track in poor condition  
Flood risk - inadequate assessment submitted  
Inadequate consultation

**EXPIRY DATE OF APPLICATION: 26/03/2012**

**PLANNING ASSESSMENT:**

**1. THE PROPOSAL:**

1.1 Summary of proposals

1.1.1 The proposal is one of two on the agenda relating to development at the farm at Bod Ynys, Rhewl. The first concerns the erection of two extensions to agricultural sheds at the property.

1.1.2 One extension is to the west of the farm complex and adjoins existing buildings to the south west and south east elevations, and would provide a 'loafing' area. The area is stated as being required to improve livestock welfare. It would measure 37m in length, 20.5m in width and 4.4m in height. The other extension would be to the south east of the complex and would be adjoining an existing agricultural building. The extension is indicated as being required to create an improved area for providing veterinary functions. The extension would measure 12m in length, 4.6m in depth and 5m in height. Materials to be used on the buildings are stated to match existing, i.e. slate grey box profile sheets, Yorkshire boarding and concrete block plinths.

1.1.3 The proposed development has been partially completed (see attached plan).

## 1.2 Description of site and surroundings

1.2.1 The site is an existing farm complex to the north of the village of Rhewl, Ruthin.

## 1.3 Relevant planning constraints/considerations

1.3.1 The site is within the Vale of Clwyd Historic Landscape, a designated C2 flood zone and designated Nitrate Vulnerable Zone (NVZ). The site is outside of any development boundaries as defined in the Unitary Development Plan.

## 1.4 Relevant planning history

1.4.1 The sections records reveal applications for a cattle shed in 2001 and a cubicle building in 2008.

## 1.5 Developments/changes since the original submission

1.5.1 The proposed development has commenced, hence the application is now partially in retrospect.

## 1.6 Other relevant background information

1.6.1 This application is presented to Planning Committee alongside an application for the retention of an existing slurry store at the same farm complex.

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

2.1 Erection of cattle shed and extensions to existing agricultural buildings GRANTED under delegated powers 17/08/2001

2.2 Erection of cubicle building extension for dairy cattle GRANTED under delegated powers 23/10/2008

2.3 Construction of a circular slurry store GRANTED under delegated powers 06/12/2010

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

The main planning policies and guidance are considered to be:

3.1 DENBIGHSHIRE UNITARY DEVELOPMENT PLAN (adopted 3<sup>rd</sup> July 2002)

Policy GEN 3 - Development Outside Development Boundaries

Policy GEN 6 - Development Control Requirements

Policy EMP 13 - Agricultural Development

Policy CON 12 - Historic Landscapes, parks and gardens  
Policy ENP 6 - Flooding  
Policy TRA 6 - Impact of New Development on Traffic Flows

### 3.2 GOVERNMENT GUIDANCE

Planning Policy Wales (February 2011)

## 4. MAIN PLANNING CONSIDERATIONS:

4.1 The main land use planning issues are considered to be:

- 4.1.1 Principle
- 4.1.2 Visual and landscape impact
- 4.1.3 Residential amenity
- 4.1.4 Highway safety
- 4.1.5 Flood risk

4.2 In relation to the main planning considerations:

#### 4.2.1 Principle

Policy GEN 3 allows for certain types of development outside development boundaries. Criterion vi) permits agricultural development providing there is no unacceptable impact on the social natural and built environment. EMP 13 relates specifically to agricultural development, and the aim of this policy is to ensure agricultural development has no unacceptable impact on the environment. Proposals must comply with four tests relating to; i) the need for the development, ii) the use of alternative existing buildings, iii) the impact of development on the character and appearance of the countryside and iv) the siting relating well to the existing complex.

The proposed extensions are required to improve animal welfare conditions by providing additional space and new treatment facilities. There are no redundant buildings existing on the farm complex that could fulfil this requirement. The proposals are therefore considered to be acceptable in relation to criteria i) and ii) of Policy EMP 13, and acceptable in principle.

#### 4.2.2 Visual and landscape impact

The site lies within the Vale of Clwyd Historic Landscape. Policy CON 12 requires that development does not unacceptably harm the character of a historic landscape. The general requirement to assess landscape and visual impact of agricultural development are set out in criteria iii) and iv) of Policy EMP 13.

The proposals are for extensions to existing farm buildings. Materials are proposed to match existing agricultural buildings on the farm complex.

With respect to the concerns over the visual impact, it is considered that by virtue of the scale, location, design and materials of the proposals, that the development would have a minimal impact on the wider landscape. The proposals are therefore considered to comply with the requirements of Policy CON12 and criteria iii) of Policy EMP13. The proposals are for extensions to existing buildings and by virtue of this are well related to the existing farm complex and therefore comply with the requirements of criteria iv) of Policy EMP 13.

#### 4.2.3 Residential amenity

Policy GEN 6 v) sets a requirement to ensure new development does not unacceptably affect the amenities of local residents, by virtue of noise, activity, fumes, etc.

The proposals are for extensions to existing buildings within an existing farm complex. The closest residential property to the proposed extensions is approximately 150m away.

Having regard to the proximity to residential properties and considering that the proposals are for extensions to an existing farm complex, it is considered that there will be no unacceptable impact on residential amenity.

#### 4.2.4 Highway safety

Policy TRA6 requires that the capacity and traffic conditions on the surrounding road network are satisfactory.

Concerns have been raised in relation to the condition of local roads. The proposed development does not include any alteration to access arrangements.

It is not considered that the proposals would generate a level of additional activity giving rise to traffic which could be deemed likely to have an unacceptable impact on the surrounding road network. The proposals are not considered contrary to TRA 6.

#### 4.2.5 Flood risk

Policy ENP 6 requires that development does not result in an unacceptable risk from flooding.

Concerns have been raised over the adequacy of the information submitted in relation to flood risk. The Environment Agency have raised no objection subject to the applicant being advised to install flood proofing measures.

The application relates to agricultural development. The applicant can be advised to install flood proofing measures. On this basis, in the absence of any Environment Agency objection, it is considered the proposals are acceptable in relation to flood risk.

#### Other matters raised

Whilst of indirect relevance to this application, neighbours have raised concerns that consultation on the previous slurry store planning application had not been undertaken correctly. For the record, files show that letters were sent to Bryn Hyfryd, Crossing Cottage and Erw Eithin Bach and that no objections were raised following this consultation. In relation to the two applications now on the agenda, all these properties have been consulted and offered the opportunity to comment.

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

5.1 The development is considered to comply with the relevant policy tests and is therefore recommended for grant.

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

1. No conditions imposed.

#### **NOTES TO APPLICANT:**

None

**ITEM NO:** 5

**WARD NO:** Llandymnog

**APPLICATION NO:** 24/2012/0127/ PC

**PROPOSAL:** Construction of a circular slurry store - amended details (retrospective application)

**LOCATION:** Bod Ynys Rhewl Ruthin

**APPLICANT:** Mr D W Roberts

**CONSTRAINTS:** C2 Flood Zone

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

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

- Referral by Head of Planning / Development Control Manager

**CONSULTATION RESPONSES:**

LLANYNYS COMMUNITY COUNCIL  
'No objection'

ENVIRONMENT AGENCY  
No objection

**RESPONSE TO PUBLICITY:**

Letters of representation received from:  
Chris Ruane MP (on behalf of Mrs. C. Williams, Bryn Hyfryd, Rhewl  
Ann Jones AM, Constituency Office, 25, Kimmel St., Rhyl  
C.T. Willilams, Bryn Hyfryd, Rhewl, Ruthin

Summary of planning based objections:  
Landscape on visual impact - scale and materials not appropriate, impact on the Vale of Clwyd Historic Landscape  
Impact on residential amenity - disturbance caused by odour omitted

**EXPIRY DATE OF APPLICATION: 29/03/2012**

**PLANNING ASSESSMENT:**

**1. THE PROPOSAL:**

1.1 Summary of proposals

- 1.1.1 The proposal is the second on the agenda relating to developments at Bod Ynys. This one involves the retention of an above ground circular slurry store on land to the north east of the main farm complex.



1.1.2 The store measures 26.75m in diameter and is 4.3m high (see details at front of report).

1.2 Description of site and surroundings

1.2.1 The site is an existing farm complex to the north of the village of Rhewl, Ruthin. The closest residential property to the development is Bryn Hyfryd, which is approximately 130m from the slurry store.

1.3 Relevant planning constraints/considerations

1.3.1 The site is within the Vale of Clwyd Historic Landscape, a designated C2 flood zone and designated Nitrate Vulnerable Zone (NVZ). The site is outside of any development boundaries as defined in the Unitary Development Plan.

1.4 Relevant planning history

1.4.1 An application for an above ground circular slurry store was granted under delegated powers in December 2010. Following an enforcement investigation in relation to an alleged breach in planning control it has become apparent that the slurry store erected in relation to this permission has not been completed in accordance with the approved details.

1.4.2 The slurry store as built is 26.75m in diameter and has been finished in untreated concrete. This represents an increase in diameter of 3.75m from the plans approved, which showed the use of dark green steel sheeting.

1.5 Developments/changes since the original submission

1.5.1 None

1.6 Other relevant background information

1.6.1 The farm is under the ownership of Denbighshire County Council.

1.6.2 This application is presented to Planning Committee alongside an application for extension to 2 agricultural buildings at the same farm complex.

**2. DETAILS OF PLANNING HISTORY:**

2.1 Erection of cattle shed and extensions to existing agricultural buildings GRANTED under delegated powers 17/08/2001

2.2 Erection of cubicle building extension for dairy cattle GRANTED under delegated powers 23/10/2008

2.3 Construction of a circular slurry store GRANTED under delegated powers 06/12/2010

**3. RELEVANT POLICIES AND GUIDANCE:**

The main planning policies and guidance are considered to be:

3.1 DENBIGHSHIRE UNITARY DEVELOPMENT PLAN (adopted 3<sup>rd</sup> July 2002)

Policy GEN 3 - Development Outside Development Boundaries

Policy GEN 6 - Development Control Requirements

Policy EMP 13 - Agricultural Development

Policy CON 12 - Historic Landscapes, parks and gardens

Policy ENP 6 - Flooding

3.2 GOVERNMENT GUIDANCE

Planning Policy Wales (February 2011)

**4. MAIN PLANNING CONSIDERATIONS:**

4.1 The main land use planning issues are considered to be:

- 4.1.1 Principle
- 4.1.2 Visual and landscape impact
- 4.1.3 Residential amenity
- 4.1.4 Flood risk

4.2 In relation to the main planning considerations:

4.2.1 Principle

Policy GEN 3 allows for certain types of development outside development boundaries. Criterion vi) permits agricultural development providing there is no unacceptable impact on the social natural and built environment. EMP 13 relates specifically to agricultural development, and the aim of this policy is to ensure agricultural development has no unacceptable impact on the environment. Proposals must comply with four tests relating to; i) the need for the development, ii) the use of alternative existing buildings, iii) the impact of development on the character and appearance of the countryside and iv) the siting relating well to the existing complex.

Questions have been raised in relation to the need for a slurry tank of the size that has been constructed. The site is within a designated Nitrate Vulnerable Zone and there is a requirement for the farm to have the capacity to store at least 5 months of slurry in order to comply with the relevant regulations. Based on submitted calculations the previously approved scheme would have provided 5.6 months of storage capacity. The increased capacity of the store as constructed is stated as providing 6.07 months of storage capacity. This equates to a capacity of approximately 20% above the legislative minimum. As statutory consultees, the Environment Agency have not disputed these calculations.

It is noted that the slurry store as built exceeds the capacity deemed sufficient in the previous submission. However, officers consider that a level of capacity approximately 20% above the statutory minimum would not seem excessive. It is also respectfully suggested that the additional capacity provided by the store as built may provide a level of flexibility in relation to fluctuations/increases in stock numbers, that may avoid the need for additional installations to be provided, and less regular emptying. It is therefore considered that proposals are reasonably required to meet the needs of the farm enterprise and comply with the requirements of criteria i) of Policy EMP 13.

In relation to the availability of alternative redundant buildings, no other suitable buildings exist on the site that could meet the need for additional slurry storage. Therefore it is considered that proposals comply with the requirement to preferentially re-use redundant buildings, and comply with the requirements of criteria ii) of Policy EMP 13.

4.2.2 Impact on visual amenity

The site lies within the Vale of Clwyd Historic Landscape. Policy CON 12 requires that development does not unacceptably harm the character of a historic landscape. The general requirement to assess landscape and visual impact of agricultural development are set out in criteria iii) and iv) of Policy EMP 13.

Local resident have expressed concerns over the landscape/visual impact of the proposed slurry store. The store is located the northern edge of the

existing complex, directly adjacent to existing open silage clamps and approximately 22m from the nearest existing agricultural building. Neighbours have suggested that alternative siting would reduce the impact of the slurry store. Submitted information states that the present siting has been chosen in response to topographical and operational constraints.

It is agreed that the current un-treated concrete finish on the slurry store is not in keeping with the existing farm complex, however it is considered that this issue can be addressed through an appropriately worded condition. Hence whilst acknowledging the concerns of local residents, it is respectfully suggested that the impact on the wider landscape would be minimal due to the scale and siting of the development in relation to the existing farm complex, subject to an appropriate colour finish being secured through condition. For these reasons the development is considered to have an acceptable impact in relation to landscape and visual amenity and complies with the requirements of Policy CON 12 and EMP 13. Additional landscaping is proposed to lessen the impact of the development by maintaining a 150m section of hedge between the store and the residential property at Bryn Hyfryd to be maintained, at a minimum height of 4m.

#### 4.2.3 Residential amenity

Policy GEN 6 v) sets a requirement to ensure new development does not unacceptably affect the amenities of local residents, by virtue of noise, activity, fumes, etc.

The occupier of the adjoining property has raised concerns on the potential impact of the proposed development, in relation to odour, given the proximity of the development to residential properties. The Environment Agency and the Public Protection department of Denbighshire County Council, raise no concerns over health impacts of slurry storage. It is understood the proposed development is necessary to comply with NVZ regulations which require 5 months slurry storage for farms within NVZ's. Public Protection Officers have confirmed that the ability to store greater amounts of slurry would actually improve the situation in relation to smells as issues of odour release from slurry are greatest when stored slurry is being distributed as fertiliser. Increased storage capacity would mean that distribution of the stored slurry would occur less often and therefore reduce exposure to the odour.

In acknowledging the concerns in relation to odour, officers respectfully suggest due consideration has to be given to the fact that the proposal relates to development adjacent to a long established working farm. The Public Protection officers also consider the slurry store may actually bring about a reduction in the frequency of release of odour, since it would reduce the number of times necessary to move material. In officers' view, the development would not seem likely to result in significant additional potential for smells, sufficient to merit refusal of permission.

#### 4.2.4 Flood risk

Policy ENP 6 requires that development does not result in an unacceptable risk from flooding.

The Environment Agency have raised no objection subject to the applicant being advised to install flood proofing measures.

Provided that the applicant is advised to install flood proofing measures it is considered the proposals are acceptable in relation to flood risk.

4.2.5 Other matters raised

Neighbours have raised concerns that consultation on the previous planning application for a slurry store had not been undertaken correctly. Records show that letters were sent to Bryn Hyfryd, Crossing Cottage and Erw Eithin Bach, and that no objections were raised following this consultation. All these properties have been consulted on the current slurry store application and offered the opportunity to comment.

**5. SUMMARY AND CONCLUSIONS:**

5.1 The development is considered to comply with the relevant policy tests and is therefore recommended for grant

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

1. The store hereby approved shall be painted dark green in accordance with the approved plans within 2 months of the date of this permission.
2. The 150m section of hedge marked on the approved plan shall be grown to and maintained at a height of 4m unless otherwise agreed in writing by the Local Planning Authority.

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

1. In the interest of visual amenity.
2. In the interest of visual amenity.

**NOTES TO APPLICANT:**

None

**ITEM NO:** 6

**WARD NO:** Prestatyn East

**APPLICATION NO:** 43/2012/0102/ PF

**PROPOSAL:** Change of use of shop (Class A1) at 45 High Street to café (Class A3) with formation of internal access into cinema complex and external seating area

**LOCATION:** Scala Cinema & Tourist Information Centre 45/47/49 High Street  
Prestatyn

**APPLICANT:** Scala Cinema Co. Limited

**CONSTRAINTS:** C1 Flood Zone  
Conservation Area  
Article 4 Direction

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

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

- Referral by Head of Planning/Development Control Manager

**CONSULTATION RESPONSES:**  
PRESTATYN TOWN COUNCIL  
"No objection"

**RESPONSE TO PUBLICITY:**  
Letters of representation received from:  
Mrs. B. Bulutoglu, 48, High Street, Prestatyn

Summary of planning based objection:  
Change of use - Loss of retail unit and over concentration of A3 units in the town centre

**EXPIRY DATE OF APPLICATION: 26/03/2012**

**PLANNING ASSESSMENT:**

**1. THE PROPOSAL:**

**1.1 Summary of proposals**

- 1.1.1 The proposal relates to the use of part of the ground floor of the Scala Cinema, Prestatyn.
- 1.1.2 The proposed change is from an existing A1 retail use to an A3 café, involving the formation of an internal access and provision of an external seating area to the front of the property. The total floor area of the proposed café would be 38m<sup>2</sup>. Opening times proposed are 10.00hrs to 22.00hrs Monday to Friday and Sundays and Bank Holidays and 10.00hrs to 23.00hrs on Saturdays.

## 1.2 Description of site and surroundings

1.2.1 The existing building is a cinema and theatre complex including meeting rooms, café/bar and a retail shop.

1.2.2 The site is located on the eastern side of the High Street in Prestatyn. There is a mix of A1, A2 and A3 uses in the locality.

## 1.3 Relevant planning constraints/considerations

1.3.1 The site is located within the Development Boundary, Conservation Area, Town Centre and Principal Shopping Frontage as defined in the Unitary Development Plan.

## 1.4 Relevant planning history

1.4.1 Permission was granted for demolition of the existing cinema and shops to be replaced by a cinema and theatre complex including meeting rooms, café/bar and a retail shop in 2004.

## 1.5 Developments/changes since the original submission

1.5.1 None

## 1.6 Other relevant background information

1.6.1 None

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

2.1 Demolition of existing cinema and shops, retention of part of existing façade and erection of new cinema and theatre complex, community meeting rooms, café/bar, shop and roof terrace GRANTED 16/12/2004.

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

The main planning policies and guidance are considered to be:

3.1 DENBIGHSHIRE UNITARY DEVELOPMENT PLAN (adopted 3<sup>rd</sup> July 2002)

Policy GEN1 - Development within Development Boundaries

Policy GEN6 - Development Control Requirements

Policy CON5 - Development within Conservation Area

Policy RET1 - Town and District Centres

Policy RET5 - Principle Shopping Frontages in Town Centres: Non A1 Uses

3.2 GOVERNMENT GUIDANCE

Planning Policy Wales (February 2011)

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

4.1 The main land use planning issues are considered to be:

4.1.1 Principle

4.2 In relation to the main planning considerations:

4.2.1 Principle

The general thrust of Policy RET 5 is to protect the retail offer in the Principal Shopping Frontages of town centres. Policy RET 5 states that changes of use from A1 uses should not result in an unacceptable clustering or concentration of non A1 uses and should not lead to a continuous frontage of three or more non A1 uses.

The Scala building is already in mixed use, and is one of 10 non A1 units out of a total 38 units in the designated RET 5 area. This equates to a ratio of 1/3.8. The building is at the southern end of a run of 4 non A1 uses in the RET 5 principal shopping frontage, so poses a potential conflict with test (i) of Policy RET 5.

As noted, the Scala complex forms a single mixed use unit and tests of concentration and continuous frontage are not considered applicable due to this. However the general thrust of the policy to protect retail offer within the principal shopping frontage is considered relevant, and taken factually, the proposed change of use would lead to the loss of approximately 38m<sup>2</sup> of street frontage retail floorspace. Having regard to the amount of retail floorspace to be lost at the site and considering the retail floorspace to be provided on the nearby Prestatyn Shopping Park, it is considered that the loss of floorspace would not be unacceptable, and would not threaten the vitality and viability of the centre as a whole. The proposed change of use is therefore acceptable in principle. However, to respect the relationship with the Prestatyn Shopping Park it is considered appropriate to recommend a temporary permission to allow an assessment of the impact of the proposals once the additional retail provision is established.

4.2.2 Other considerations

As this is for an alteration to an existing mixed use unit, in Officers' opinion no other material considerations are of direct relevance to the proposals.

**5. SUMMARY AND CONCLUSIONS:**

- 5.1 The proposed loss of retail floorspace on the principal shopping frontage is considered acceptable, given the scale of the loss and likely new provision nearby. The change of use is therefore recommended on a temporary basis pending further assessment following the new retail floorspace at the Prestatyn Shopping Park becoming established.

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

1. The development hereby permitted shall be begun before the expiration of five years from the date of this permission.
2. The change of use hereby granted is for a temporary period of 3 years and shall be returned to an Class A1 use as defined by the Town and Country Planning (Use Classes) Order 1987 3 years from the date of this permission.

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

1. To comply with the provisions of Section 91 of the Town and Country Planning Act 1990.
2. To allow assessment of the loss of retail floorspace.

**NOTES TO APPLICANT:**

None

<b>ITEM NO:</b>	7
<b>WARD NO:</b>	Rhuddlan
<b>APPLICATION NO:</b>	44/2011/1500/ PF
<b>PROPOSAL:</b>	Demolition of existing single-storey dwelling and erection of new 4-bed two-storey dwelling
<b>LOCATION:</b>	Nevis Marsh Road Rhuddlan Rhyl
<b>APPLICANT:</b>	Mr Simon Thomas
<b>CONSTRAINTS:</b>	C1 Flood Zone
<b>PUBLICITY UNDERTAKEN:</b>	Site Notice - No Press Notice - No Neighbour letters - Yes

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

- Applicant is related to a Member of the Council

**CONSULTATION RESPONSES:**

RHUDDLAN TOWN COUNCIL  
"Recommend for permission".

**ENVIRONMENT AGENCY WALES**

The Agency does not object to the development, subject to the inclusion of conditions on any permission controlling finished floor levels (ground and first floor). The Agency's response follows consideration of the Flood Consequences Assessment, and confirms there is no change in vulnerability type, as the two storey dwelling in place of a single storey dwelling will result in reduced consequences of flooding to occupants (bedrooms at first floor level are above the highest predicted flood level and can be used as a refuge). The response notes there is no breach assessment, so recommends the Council considers the structural soundness/robustness of the dwelling in a breach event, i.e. its ability to withstand the velocity and depth of flooding and impact from debris which it may be exposed to; and finally, that consideration be given to the acceptability of emergency plans, procedures and measures to address structural damage.

**DENBIGHSHIRE COUNTY COUNCIL CONSULTEES**

**HEAD OF HIGHWAYS AND INFRASTRUCTURE**

No objection subject to a condition to ensure the parking and turning facilities are provided in accordance with the plans prior to the dwelling being brought into use.

**RESPONSE TO PUBLICITY:**

Letters of representation received from:  
Mr. S. Pownall, Hillcrest, Marsh Road, Rhuddlan

Summary of planning based representations:



In objection -

Visual/residential amenity impact  
Scale not subordinate to existing dwelling/overdevelopment of site with other permissions including warden's accommodation.

Highways/access  
Number of cars and car spaces too dangerous for the access given use by other cars and children.

Other matters  
Issues over ownership and delineation of boundaries  
Overlap with consent for touring caravans at Clwyd View.

**EXPIRY DATE OF APPLICATION: 11/03/2012**

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

- additional information required from applicant

**PLANNING ASSESSMENT:**

**1. THE PROPOSAL:**

1.1 Summary of proposals

- 1.1.1 The application seeks full planning permission to erect a replacement dwelling on land adjacent to, and forming part of the Clwyd View Touring Caravan Park off Marsh Road, Rhuddlan.
- 1.1.2 The intention is to replace an existing single storey dwelling Nevis, with a two storey dwelling sited some 7 metres further to the west. The proposal involves a minor relocation of the vehicular access serving the existing site off a private road, construction of a new driveway to a turning area and garage, continued use of the existing garden area as a private garden, and the creation of a new 'rear' garden area on land which forms part of the Clwyd View Caravan Park. The detailing is shown on the plans at the front of the report.
- 1.1.3 The proposed dwelling is shown on the plans with cream painted roughcast render on the walls, and tiles on the roofs. The plans also illustrate proposals for additional tree planting within the plot.
- 1.1.4 The application is accompanied by a Planning Statement and a Design and Access Statement and a Flood Consequences Assessment. The main points of relevance in these documents are:-
- the existing dwelling is of mixed construction and finishes, and has undergone extensions in the past, resulting in a mis match of styles. It is outdated by modern standards and is of little aesthetic merit;
  - consideration has been given to extending the existing dwelling, but this is not deemed to be a realistic proposal because of the positioning of the dwelling (close to boundaries and other property); impracticalities given the location and size of garden; an extended single storey dwelling would look out of character with neighbouring properties (all 2 storey construction); and excessive costs for

upgrading to provide space/accommodation suitable for a young family;

- the design and siting takes account of the layout of the site and relationship to existing dwellings and boundaries;
- care has been taken to ensure no overlooking, overshadowing, loss of privacy or disturbance to neighbouring properties;
- tree planting would be enhanced;
- the use of external materials would match that on neighbouring properties;
- the proposal is consistent with planning policy;
- appropriate measures will be taken to meet relevant environmental sustainability standards;
- in the Flood Consequences Assessment : the site is in a C1 flood zone but the proposal is to replace an existing bungalow with a 2 storey dwelling, i.e. one "highly vulnerable" development with another. The flood risk is fluvial and tidal, with the latter being the greater concern. The existing bungalow would be flooded with the predicted tidal event, but has no dry refuge for current occupants to escape to, whereas the proposed development would have a first floor level which would be dry, and provide a safe refuge for persons who have failed to evacuate the site. The Assessment recommends there should be no basement level, no ground floor bedrooms and should be a minimum of 2 storey accommodation, with a minimum first floor level of 6.41 AOD, so that is above the predicted tidal flood event. The new building should incorporate standard flood proofing measures, and provide suitable hazard warning signs, a flood evacuation plan, and Environment Agency contact details.

## 1.2 Description of site and surroundings

- 1.2.1 The application site is located off Marsh Road, some 60 metres to the west of the A525 Rhuddlan By-pass flyover as it rises from the A547 roundabout towards Rhyl. It is immediately to the south west of the dwelling Clwyd View, with which it shares its north west boundary. Clwyd View is part of the adjacent touring caravan park.
- 1.2.2 The site is accessed from a narrow private road off Marsh Road, which also serves 4 private dwellings lying to the north west of the site (Bryn Foel, Loretto, Maberta, and Hillcrest).
- 1.2.3 As previously described, Nevis is a single storey dwelling lying close to Clwyd View. It has developed over a period of time via extensions and alterations, has a section with spar dash render walls, and timber clad walls, and has its own private garden area with a number of trees and screen fences bordering adjacent private gardens.
- 1.2.4 The dwellings at Bryn Foel, Loretto, Maberta, and Hillcrest are physically linked. These are partly 2 storey and single storey units with a mix of rendered walls and slate roofs.

### 1.3 Relevant planning constraints/considerations

- 1.3.1 The site lies within the development boundary of Rhuddlan as defined in the Unitary Development Plan. It has no specific use annotation on the Proposals Map for Rhuddlan.
- 1.3.2 Under the development advice maps of TAN 15 Development and Flood Risk the site is within zone C1 (areas of floodplain with significant infrastructure, including flood defences).

### 1.4 Relevant planning history

- 1.4.1 There is limited planning history of direct relevance to the current application. Part of the site extends into land forming part of the Clwyd View Caravan Park, and the development would appear to involve the loss of two plots forming the subject of a 2001 permission for the siting of 6 touring caravans.

### 1.5 Developments/changes since the original submission

- 1.5.1 Additional information has been sought from the Applicant to address concerns raised by the Environment Agency in relation to flood risk.

### 1.6 Other relevant background information

- 1.6.1 The application is being considered by Planning Committee as the applicant's father is a County Councillor.
- 1.6.2 Following receipt of representations questioning issues of land ownership, the applicant has confirmed that he owns the Nevis plot, and that a section of the site proposed for the dwelling and rear garden is in the ownership of the property Clwyd View (the applicant's father), and that consequently the relevant notice has been served on the owner, and Certificate B has been completed as part of the application forms.
- 1.6.3 The Flood Consequences Assessment was submitted at the end of January 2012.
- 1.6.4 All consultees, the Town Council, and neighbours are aware of the ownership situation and the Flood Consequences Assessment, and have been offered opportunity to comment on these matters.

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

### 2.1 44/2001/255

Change of use of land to form existing touring park and siting of 6 no. caravans – GRANTED at Planning Committee – 16/05/2001

### Adjacent land

#### 44/2011/414/PF

Replacement of existing static caravan with a log cabin style unit for warden's accommodation and erection of a steel pitched roof canopy over existing toilet/shower block – Clwyd View Touring Caravan Park, Marsh Road, Rhuddlan, Rhyl – GRANTED at Planning Committee, July 2011.

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

The main planning policies and guidance are considered to be:

### 3.1 DENBIGHSHIRE UNITARY DEVELOPMENT PLAN (adopted 3<sup>rd</sup> July 2002)

Policy GEN 1 – Development within Development Boundaries

Policy GEN 6 – Development Control Requirements

Policy HSG 3 – Housing development in Main Villages  
Policy ENV 7 – Landscape/townscape features

3.2 Supplementary Planning Guidance  
SPG 25 – Residential Development Design Guide.

3.3 GOVERNMENT GUIDANCE  
Planning Policy Wales Edition 4 2011

Technical Advice Notes  
TAN 12 – Design  
TAN 15 – Development and Flood Risk  
TAN 21 – Parking requirements in New Development

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

4.1 The main land use planning issues are considered to be:

- 4.1.1 Principle of development
- 4.1.2 Visual impact
- 4.1.3 Residential amenity impact
- 4.1.4 Flood risk
- 4.1.5 Highways
- 4.1.6 Design and access/Sustainability/Access for all

4.2 In relation to the main planning considerations:

4.2.1 Principle of development

The main Unitary Development Plan Policies relevant to the principle of the development are GEN 1 and HSG 3. GEN 1 seeks to locate development within settlements defined by development boundaries as defined on the proposals maps. Rhuddlan is a Main Village in the Unitary Plan, and the site lies within the development boundary of the settlement. HSG 3 looks to locate most housing development in Main Villages such as Rhuddlan.

There are no policies in the Unitary Plan which deal specifically with proposals to erect replacement dwellings within Main Village development boundaries. However, the general principle of single plot dwelling developments would be considered acceptable within established settlements subject to due assessment of localised impacts.

4.2.2 Visual impact

Visual impact tests for new development are contained in policy GEN 6 of the Unitary Plan, which seeks to ensure that development respects the site and surroundings in terms of siting, design and layout. ENV 7 seeks to protect features of value to townscape character.

The proposed 2 storey dwelling would be located to the south west of the existing dwelling Nevis, meaning it would be further away from the existing dwellings which front the shared private road along the north east boundary of the site. The nearest part of the front of the proposed dwelling would be some 22 metres from the walls of the dwelling Loretta. The replacement dwelling would be constructed with rendered walls and the plans show a tiled roof. Representations received express concern over the scale of the proposed dwelling, suggesting it overwhelms the existing dwelling. Other comments request use of slate on the roofs to match materials used on nearby dwellings.

In officers' opinion, whilst respecting the concerns outlined, the type of dwelling would not be inappropriate in the context of existing dwellings in the immediate vicinity, which include 2 storey units. There is no policy requirement in the Unitary Plan that a replacement dwelling within a development boundary is similar in scale to the original. The dwelling would cover approximately 20% of the proposed plot, which would not represent an overdevelopment of the site. The use of render on the external walls would be complementary to that on surrounding dwellings. Officers would consider it reasonable to require use of slate on the roofs if permission were to be granted.

#### 4.2.3 Residential amenity impact

The main Unitary Plan policy requiring assessment of impact on residential amenity is GEN 6. This obliges due regard to be given to the effect of new development on the occupiers of nearby dwelling houses, including evaluation of acceptability of the size/scale and intensity of development, and impacts such as noise and disturbance.

The plans at the front of the report illustrate the respective relationships between the proposed replacement dwelling and existing dwellings. There are no objections raised on grounds of loss of privacy/overlooking, etc., from the proposals; although one objector considers the erection of another dwelling would be overdevelopment given the number of planning applications passed in the area, including a warden's lodge.

The siting of the dwelling and the position of main windows would limit the potential for overlooking, and any loss of privacy for occupiers of nearby dwellings. In Officers' opinion there would be no adverse residential amenity impacts from the replacement dwelling. In relation to the issue of 'overdevelopment', officers would not consider the erection of a replacement dwelling in the manner proposed would lead to a cramping of development in relation to either existing dwellings, or to development on the Clwyd View site. The proposed dwelling would be located some 30 metres from the approved warden's accommodation unit.

#### 4.2.4 Flooding/drainage

Flooding and drainage considerations are contained in Policies ENP 4, ENP 6 and GEN 6 of the Unitary Plan and in TAN 15 – Development and Flood Risk. The basic requirement is to ensure there are no unacceptable flooding, foul or surface water impacts from development.

The site is located in a C1 Flood Zone as identified on the maps produced in connection with TAN 15. C1 Zones are those served by significant infrastructure, including flood defences, where TAN 15 indicates development can take place subject to the Council applying relevant justification tests, and considering the relevant Flood Consequences Assessment, and Environment Agency recommendations. In this instance, the application involves effectively a 'like for like' replacement of an existing dwelling on a site immediately adjacent, offering first floor 'refuge' accommodation in the event of flooding. The Environment Agency Wales have reviewed the submitted Flood Consequences Assessment and have raised no objections subject to the inclusion of conditions setting minimum ground and first floor levels, and to due consideration of the robustness of construction of the dwelling, and measures such as emergency plans and measures to address potential structural damage.

Having regard to the Environment Agency response, Officers consider the

proposals to be acceptable in terms of the tests of principle in TAN 15. They involve the replacement of an existing dwelling within a defined development boundary and the Flood Consequences' Assessment demonstrates no change in the vulnerability of the development. Indeed, the proposals offer an improvement on the existing situation by providing first floor accommodation capable of use as a refuge in an extreme flood event. It is suggested that control over the robustness of the construction and details of emergency plans in the event of flood events can be imposed by conditions, requiring approval of relevant details before commencement of development, in liaison with Building Control and Emergency Planning colleagues.

#### 4.2.5 Highways/impact

The main Unitary Plan policies relevant to assessment of highway impact are TRA 6 and TRA 9. TRA 6 permits new development provided there are no unacceptable impacts on the safe and free flow of traffic, and the capacity of and traffic conditions on the surrounding road network are satisfactory. TRA 9 requires adequate provision within a site for parking and servicing. GEN 6 also contains basic tests including in vii a requirement that development provides safe and convenient access for a range of users, and adequate parking and servicing.

The proposals here involve relatively minor changes to the existing situation, as the intention is to relocate the existing access onto the private road some 3 metres to the north (see plan at the front of the report). There are objections to the proposals based on the number of cars/car spaces and dangers at the access onto the private road serving other properties. The application forms refer to 4 parking spaces and 5 cycle spaces within the current site and between 4 and 6 parking spaces and 5 cycle spaces within the proposed site. The Highways Officer raises no objections to the proposals subject to the provision of the parking and turning areas as shown on the plans.

In acknowledging concerns over the development, officers' opinion is that there would be no unacceptable highways impacts likely to arise from a replacement dwelling proposal here. The plans show the intention to run a standard driveway to a turning and parking area in front of the proposed house and garage. Although the application forms refer to the provision of 4-6 parking spaces, this would represent a maximum number of spaces if the whole of the driveway and parking/turning area was occupied by cars. It would be possible to park some 4 cars within the existing driveway to Nevis. The access is onto an existing shared private road used by 4 other properties, and is not considered to pose any significant increased risk to vehicles and pedestrians. In relation to concerns over blockage of the private road during construction works, it would seem reasonable to condition that construction vehicles do not use the private road as the means of access during demolition or new build works.

#### 4.2.6 Design and Access/Sustainability Code/Access for All

Guidance in TAN 12 Design and TAN 22 Sustainable Buildings has introduced an obligation on applicants to demonstrate the approach to a range of design considerations, including how inclusive design and standards of environmental sustainability are to be achieved. These reflect general requirements in the strategic policies of the Unitary Plan STRAT 1, 2 and 13 to ensure sustainable development principles are embodied in schemes.

The Design and Access Statement confirms the property will be constructed to meet the minimum Code Level 3 for Sustainable Homes. The unit contains a ground floor w.c., and allows for a ramped access and level pathways

around the site to allow ease of access for wheelchair users.

Suitably worded conditions can be included in any permission to ensure the development is carried out in accordance with the requirements of Sustainability Code guidance. The site is relatively flat and allows level access for persons with disability.

#### Other matters

##### Land ownership issues

In response to questions raised by third parties, the applicant has confirmed that he owns the Nevis plot, and that a section of the site is in separate ownership (Clwyd View Caravan Park). He has revised the application forms to confirm that the relevant notice has been served on the owner, which is in accordance with current legislation. Third parties have been notified of this.

The legal issue of incursion into part of the Caravan Site and the loss of two touring caravan plots is a matter between the applicant and the owner of that site. The Council's duty is to determine whether the proposals for a replacement dwelling are acceptable, and the relevant land use planning considerations are set out in the preceding sections of the report. The applicant has advised that the landowner is aware of the fact that the proposals would take in two touring caravan plots, and has no objection to this.

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

5.1 The proposal is to replace an existing single storey dwelling with a 4 bedroom house. The plot lies within the settlement boundary of Rhuddlan where the principle of such development is acceptable, subject to detailed impact tests.

5.2 The Environment Agency has no objections to the proposals in respect of Flooding issues, subject to the imposition of suitable conditions. Having regard to concerns over access/parking, visual and residential amenity concerns, officers consider the details are acceptable, and therefore recommend the grant of permission.

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

1. The development hereby permitted shall be begun before the expiration of five years from the date of this permission.
2. Notwithstanding the detailing on the proposed plans, the roof of the dwelling shall be clad in natural mineral slate.
3. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that order with or without modification) no windows additional to those shown on the approved plans shall be inserted at any time in the dwelling hereby permitted, unless otherwise agreed in writing by the Local Planning Authority.
4. No boundary fencing shall be erected until the written approval of the detailing has been obtained from the local planning authority, and the fencing shall be erected strictly in accordance with the approved details.
5. All planting, seeding, turfing, fencing, walling or other treatment comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the completion of the development and any trees or plants which, within a period of five years of the development, die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
6. No trees or hedges within the application site shall be felled, lopped or topped without the prior written consent of the Local Planning Authority. Those removed without consent or

which die or are severely damaged or become seriously diseased within five years of the completion of the development shall be replaced with trees or hedgerow plants of such size and species to be agreed in writing by the Local Planning Authority.

7. All trees and hedges to be retained as part of the development hereby permitted shall be protected during site clearance and construction work by 1 metre high fencing erected 1 metre outside the outermost limits of the branch spread, or in accordance with an alternative scheme agreed in writing by the Local Planning Authority; no construction materials or articles of any description shall be burnt or placed on the ground that lies between a tree trunk or hedgerow and such fencing, nor within these areas shall the existing ground level be raised or lowered, or any trenches or pipe runs excavated, without prior written consent of the Local Planning Authority.

8. The new dwelling hereby permitted shall be constructed to achieve a minimum Code for Sustainable Homes Level 3 and achieve a minimum of 1 credit under category - Ene 1 - Dwelling Emission Rate in accordance with the requirements of the Code for Sustainable Homes: Technical Guide November 2010. The development shall be carried out entirely in accordance with the approved assessment and certification.

9. Construction of the dwelling hereby permitted shall not begin until an 'Interim Certificate' has been submitted to the Local Planning Authority, certifying that a minimum Code for Sustainable Homes Level 3 and a minimum of 1 credit under Ene 1 - Dwelling Emission Rate, has been achieved for that individual dwelling or house type in accordance with the requirements of the Code for Sustainable Homes: Technical Guide November 2010.

10. Prior to the occupation of the dwelling hereby permitted, a Code for Sustainable Homes 'Final Certificate' shall be submitted to the Local Planning Authority certifying that a minimum Code for Sustainable Homes Level 3 and a minimum of 1 credit under Ene 1 - Dwelling Emission Rate, has been achieved for that dwelling in accordance with the requirements of the Code for Sustainable Homes: Technical Guide November 2010.

11. No vehicles involved in the demolition of the existing dwelling or the construction of the new dwelling shall be permitted to use the private road serving existing dwellings Bryn Foel, Loretto, Maberta, and Hillcreset off Marsh Road.

12. The finished ground floor level shall be set at a minimum of 4.70m AOD.

13. The finished first floor level shall be set at a minimum level of 6.41m AOD.

14. PRE-COMMENCEMENT CONDITION

No development shall be permitted to commence until there has been submitted to and approved in writing by the local planning authority:-

a) Full structural details of the dwelling, to demonstrate the robustness of construction and the ability of the dwelling to withstand the velocities and depth of flooding it may be exposed to, including damage from floating debris.

b) Full details of proposed emergency plans, procedures and measures to reduce the hazards associated with flooding, and to address structural damage in the event of flooding events.

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

1. To comply with the provisions of Section 91 of the Town and Country Planning Act 1990.

2. In the interests of visual amenity.

3. To maintain a reasonable standard of privacy in adjoining dwellings and gardens in the interests of amenity

4. In the interests of visual amenity.

5. To ensure a satisfactory standard of development, in the interests of visual amenity.

6. To safeguard the existing trees and hedges on the site, in the interests of the visual amenities of the locality.

7. In order to ensure that trees and hedges to be retained are not damaged by building or engineering works.

8. To comply with the provisions of TAN 22: Planning for Sustainable Buildings.



9. To comply with the provisions of TAN 22: Planning for Sustainable Buildings.
10. To comply with the provisions of TAN 22: Planning for Sustainable Buildings.
11. To ensure there is no obstruction to users of the private access road to the plot or damage to that road in connection with the carrying out of the development.
12. To reduce the risk of flooding to the property.
13. To ensure that the first floor of the property is flood free during predicted flood events.
14. To ensure the dwelling is able to withstand a flood event, and that adequate measures are in place to prepare for such an event.

**NOTES TO APPLICANT:**

With regard to the extent of the application site, your attention is drawn to the fact that this intrudes into part of the Clwyd View Caravan Park and would take up an area within which there are two touring caravan plots approved in 2001. You should therefore ensure that the development is capable of implementation without legal challenge, as the grant of planning permission does not convey any rights to carry on development on third party land.

You are also advised that occupiers of properties served by the private track leading onto Marsh Road have rights of unobstructed access, and that appropriate steps should be taken at demolition/construction stage to ensure the access is not blocked by vehicles or material at any time.

In connection with Condition 16, prior to the submission of any details, you are advised to contact the Environment Agency to discuss the approach to the detailing of Construction and emergency plans in the event of a flood event.

<b>ITEM NO:</b>	8
<b>WARD NO:</b>	Rhyl South
<b>APPLICATION NO:</b>	45/2011/1512/ PF
<b>PROPOSAL:</b>	Use of land and buildings for provision of a storage centre and siting of container units
<b>LOCATION:</b>	Land rear of Sanlam Offices Derwen House Ffordd Derwen Rhyl
<b>APPLICANT:</b>	ME & HIM Storage
<b>CONSTRAINTS:</b>	Tree Preservation Order
<b>PUBLICITY UNDERTAKEN:</b>	C1 Flood Zone Site Notice - No Press Notice - No Neighbour letters - Yes

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

- Recommendation to grant / approve – 4 or more objections received
- Recommendation to grant / approve – Town / Community Council objection
- Member request for referral to Committee

**CONSULTATION RESPONSES:**

**RHYL TOWN COUNCIL**

"Objection. Notwithstanding the amended application the Council remains concerned that there is an oversupply of this type of facility within the local area and the development if permitted would have negative impact on the residential amenities of residents on Ffordd Derwen and users of the footpath/cycleway adjacent to the River Clwyd. The Council is also concerned that while this land is allocated for EMP 2 in the UDP the level of job creation (3 posts) from the proposal is minimal in relation to the size of the site. The Council is also concerned at the impact on traffic management on the Ffordd Derwen road with its junction with Rhuddlan Road particularly at peak traffic times".

**ENVIRONMENT AGENCY**

No objection subject to the use of watertight shipping containers and the developer being made aware of potential flood risks and mitigation.

**FARMING AND WILDLIFE ADVISORY GROUP CYMRU**

No objection from an arboricultural point of view subject to containers being stored at least 3m from the crown spread of trees.

**DENBIGHSHIRE COUNTY COUNCIL CONSULTEES**

**HEAD OF HIGHWAYS AND INFRASTRUCTURE**

In relation to highways no objection raised subject to condition requiring the works for car parking and turning to be completed prior to occupation, and retained thereafter.

**DEVELOPMENT PLAN OFFICER**

No objection. B8 use is appropriate for designated employment site in relation to Policy EMP 2 and would bring a disused site back into employment use.

**POLLUTION CONTROL OFFICER**

No objection

**RESPONSE TO PUBLICITY:**

Letters of objection received from:

Mr. S. Jones, Llanon, Ffordd Derwen, Rhyl (e-mail)

G. & J. Poole, 11, Ffordd Derwen, Rhyl (e-mail)

Haf Steel, 17 Ffordd Derwen, Rhyl

J Lloyd, 15, Ffordd Derwen, Rhyl

D. & J. Timothy, Blaen y Coed, Ffordd Derwen, Y Rhyl

Summary of planning based objections:

Impact on residential amenity - disturbance caused by increased activity levels

Impact on local highway network - increased traffic will have unacceptable impact on traffic flows

**EXPIRY DATE OF APPLICATION: 15/02/2012**

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

- additional information required from applicant

**PLANNING ASSESSMENT:**

**1. THE PROPOSAL:**

1.1 Summary of proposals

1.1.1 The proposal is for the change of use of land from B1 to B8 and the siting of container units to form a storage centre. The proposed operating hours are 07.00hrs to 19.00hrs Monday to Friday, 08.00hrs to 19.00hrs on Saturdays and 10.00hrs to 18.00hrs Sundays and Bank Holidays.

1.1.2 The proposal is for the siting of 85 units on approximately 0.7ha of land. 36 'larger' units would measure 12m in length, 3.6m in width and 3.4m in height. 49 'smaller' units would measure 6m in length, 2.4m in width and 2.5m in height.

1.2 Description of site and surroundings

1.2.1 The site is located to the rear of the existing Sanlam offices on Ffordd Derwen, Rhyl. The site is served by an existing access directly off Ffordd Derwen which runs alongside the existing offices. The access is adjacent to and opposite existing residential properties on Ffordd Derwen.

1.2.2 The site has mature trees to the north western and south western boundaries. There is an existing 1m bund to the south east boundary and the existing Sanlam offices are to the north west of the site.

1.3 Relevant planning constraints/considerations

1.3.1 The site is within the development boundary and designated employment land in the Denbighshire Unitary Development Plan. The site lies entirely within a C1 Flood Zone on the development advice maps produced by the

Environment Agency.

1.4 Relevant planning history

1.4.1 This section's records reveal a change of use from a creamery to a Cash and Carry store, granted permission in 1982 and a change of use from Cash and Carry site to Class B1 light industrial and formation of 7 light industrial units from alterations and extensions to existing buildings, granted permission in 1998.

1.5 Developments/changes since the original submission

1.5.1 Proposed operating hours have been amended in response to local concern.

1.6 Other relevant background information

1.6.1

**2. DETAILS OF PLANNING HISTORY:**

2.1 Change of use from creamery to wholesale Cash and Carry store GRANTED on 09/11/1982.

2.2 Change Of Use & Alterations/extension To Building To Form 7 Industrial Units GRANTED 12/03/1998.

**3. RELEVANT POLICIES AND GUIDANCE:**

The main planning policies and guidance are considered to be:

3.1 DENBIGHSHIRE UNITARY DEVELOPMENT PLAN (adopted 3<sup>rd</sup> July 2002)

Policy GEN 1 - Development within development boundaries

Policy GEN 6 - Development control requirements

Policy ENV 7 - Landscape and townscape features

Policy ENP 6 - Flooding

Policy EMP 2 - Main employment areas

Policy TRA 6 - Impact of New Development on Traffic Flows

Policy TRA 9 - Parking and Servicing Provision

3.2 Supplementary Planning Guidance

SPG Note 6 - Trees and development

3.3 GOVERNMENT GUIDANCE

Planning Policy Wales (February 2011)

**4. MAIN PLANNING CONSIDERATIONS:**

4.1 The main land use planning issues are considered to be:

4.1.1 Principle

4.1.2 Visual and landscape impact

4.1.3 Impact on residential amenity

4.1.4 Highways/access issues

4.1.5 Flood risk

4.2 In relation to the main planning considerations:

4.2.1 Principle

The proposal is for the change of use of land from Use Class B1 to B8. The site is within a designated EMP 2 main employment area as defined by the Unitary Development Plan. Policy EMP 2 states that B8 uses will be permitted within EMP 2 subject to compliance with detailed tests of impacts. The proposed development is therefore considered acceptable in principle. Compliance with the detailed tests is assessed below.

#### 4.2.2 Visual and landscape impact

Criterion ii) of Policy GEN 6 requires that proposals do not unacceptably affect the form and character of surrounding landscape and townscape. Policy ENV 7 states that development should be designed to retain landscape and townscape features, including trees.

The proposed development is largely screened from public view points by existing mature trees and buildings. The south eastern boundary is currently marked by a 1m bund and it the most exposed boundary. FWAG have recommended that containers are stored at least 3m from the crown spread in order to protect boundary trees. The maximum height of the proposed containers is 3.6m.

Having regard to the location of the site, existing boundary treatments and the scale of the proposed units, it is considered that the proposals will have a limited impact on the surrounding landscape and townscape. Subject to the retention of the existing mature trees and supplementary planting to the south eastern boundaries, the proposals are considered to have an acceptable visual and landscape impact.

#### 4.2.3 Impact on residential amenity

Criterion v) of Policy GEN 6 requires that proposals do not have an unacceptable affect on the amenity of local residents by virtue of increased activity, disturbance, noise, dust, fumes, litter etc.

The site has an extant permission for B1 light industrial use with existing buildings within the site providing approximately 850m<sup>2</sup> of floorspace. This permission restricts industrial processes and the use of machinery on the site to between 08.00hrs and 18.00hrs Monday to Saturday. The restrictions of use relate specifically to industrial processes and use of machinery, and is not a general restriction to the use of the site. The closest residential property is approximately 50m away from the proposed storage area. The access to the site is opposite a number of residential properties and the access track runs approximately parallel to the boundary of the nearest residential property, Blaen y Coed.

Neighbours have raised concerns over the impact the proposed development would have in relation to the amenity of residential properties in the locality. Concerns include the level of disturbance caused by traffic visiting the site, glare from security lighting and disturbance caused by use of the site outside of proposed hours of operation.

Concerns of local residents are duly noted. However it is suggested that the current proposals must be assessed in relation to the site being designated employment land with an extant permission for B1 use. Having regard to the use already permitted, officers consider that the proposed use would not have such an adverse impact on residential amenity that could substantiate a refusal. Therefore the proposals are considered acceptable in relation to residential amenity.

#### 4.2.4 Highways/access amenity

The main Unitary Plan policies relevant to assessment of highway impact are TRA 6 and TRA 9. TRA 6 permits new development provided there is no unacceptable impact on the safe and free flow of traffic and the capacity of and traffic conditions on the surrounding road network are satisfactory. TRA 9 requires adequate provision within a site for parking and servicing.

The proposed development would utilise an existing access off Ffordd Derwen. The access to the site is approximately 180m from the A525. The stretch of road between the site access and the A525 is subject to traffic calming measures. Local residents have raised concerns in relation to the impact traffic levels will have on the local highway network. The Highways Officer has raised no objection to the proposals subject to facilities being retained within the site for the loading, unloading, parking and turning of vehicles in accordance with the submitted details.

It is considered that the layout as proposed provides adequate provision within the site for parking and servicing. It is also considered having regard to the B1 use already permitted that the levels of traffic generated by the proposals would not have an unacceptable impact in relation to the capacity of the surrounding road network. The proposals are therefore considered to have an acceptable impact in relation to highways and access issues.

#### 4.2.5 Flood risk

Policy ENP 6 requires that development does not result in an unacceptable risk from flooding.

The site is located entirely within the C1 flood zone. The Environment Agency have raised no objection subject to the shipping containers being watertight and the developer being advised to install flood proofing measures. The Environment Agency have advised that should the units on the site not be watertight, then a holding objection would be placed pending the submission of a full FCA.

Subject to a condition requiring the containers installed on the site to be watertight, and provided that the applicant is advised to install flood proofing measures, it is considered the proposals are acceptable in relation to flood risk.

## 5. SUMMARY AND CONCLUSIONS:

5.1 Having consideration to the employment designation and the extant permissions relating to the site, it is considered that the proposals will not have an unacceptable impact in relation to residential amenity, highways safety and other relevant policy tests. It is therefore recommended that permission be granted.

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

1. The development hereby permitted shall be begun before the expiration of five years from the date of this permission.
2. Details of additional landscaping along the south eastern boundary of the site shall be submitted to and approved in writing by the Local Planning Authority prior to the development hereby approved being brought into use.
3. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out no later than the first planting and seeding season following the occupation of the first caravan. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written approval to any variation.
4. No container units shall be store within 3 meters of the crown spread of boundary trees marked on the plans hereby approved.
5. None of the trees or hedges shown on the approved plans as being retained shall be felled, lopped or topped without the prior written consent of the Local Planning Authority. Any trees or hedgerow plants which die or are seriously damaged or become seriously diseased within five years of the completion of the development shall be replaced with trees or

hedgerow plants of such a size and species to be agreed in writing with the Local Planning Authority.

6. No commercial or business use shall be permitted to take place at the site outside of the hours 07.00hrs to 19.00hrs Monday to Friday, 08.00hrs - 19.00hrs on Saturdays and 10.00hrs to 18.00hrs Sundays and Bank Holidays.

7. Full details of measures to prevent use of the site outside of the hours hereby approved shall be submitted to and approved in writing by the Local Planning Authority prior to the development being brought into use and the measures approved shall be undertaken and retained at all times in accordance with the approved details.

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

1. To comply with the provisions of Section 91 of the Town and Country Planning Act 1990.
2. In the interest of landscape and visual amenity.
3. In the interests of visual and residential amenity.
4. In the interest of landscape and visual amenity.
5. In the interest of landscape and visual amenity.
6. In the interest of residential amenity.
7. In the interest of residential amenity.

#### **NOTES TO APPLICANT:**

##### **FLOODING**

If the developer is unable to confirm that watertight containers will be used on site, he should be advised to submit a FCA. The criteria for the FCA, which should normally be undertaken by a suitably qualified person carrying an appropriate professional indemnity, are given under Section 7 and Appendix 1 of TAN15. Prior to undertaking a FCA, the applicant is advised to contact Jane Hodgson, Development and Flood Risk Engineer, on 01248 484063 for additional advice and information on preparing a FCA which is appropriate to the scale and nature of the development.

Surface water drainage from new development can, if not properly controlled, significantly increase the frequency and size of floods in drainage systems that receive the surface water drainage. To achieve any attenuation of surface waters on site, the Environment Agency advocates the use of Sustainable Drainage Systems (SuDS). Further information can be found in CIRIA publications C522 SuDS - Design manual for England and Wales & C523 SuDS - Best Practice Manual.

You should be aware that Section 8 of TAN15 (para.8.4) states that if SuDS cannot be implemented, a conventional drainage system will need to improve on the status quo.

