

APPENDIX 2

	Appeal Case	Decision Date	Decision	Appeal Type	Officer Recommendation	Committee Decision	Town/Community Council Response
1.	43/2011/017/PF - 16 Russell Drive, Prestatyn	3/5/11	Allow	Written	Refuse - Delegated	N/A	No Objection
2.	44/2009/1500/PC – 6 Grove Terrace, Rhuddlan	6/5/11	Dismiss	Written	Refuse	Refuse	Recommend for permit
3.	47/2010/0726/PF – Bryn Siriol, Rhualt	21/6/11	Dismiss	Written	Refuse	Refuse	No objection
4.	47/2010/0650/PO – Bryn Mawr, Rhualt Rd, Cwm	14/7/11	Dismiss	Written	Refuse	Refuse	Objection
5.	28/2010/1241/PF – The Scout Hut, Denbigh St, Henllan	21/7/11	Dismiss	Written	Refuse - Delegated	N/A	No Objection
6.	41/2010/1530/PF – Pentre Uchaf Quarry, Mold Rd, Nr Bodfari	26/7/11	Allow	Hearing	Refuse - Delegated	N/A	Concern over size
7.	14/2010/0826/PF – Land adjacent to St.Mary’s Church, Cyffylliog	28/7/11	Allow	Written	Refuse	Refuse	Object
8.	41/2010/1141/PF – Paddock opposite Warren House, Bodfari	18/8/11	Allow	Hearing	Refuse - Delegated	N/A	No Objection – concerns over size

9.	03/2009/1535/PC – Eirianfa, Berwyn Rd, Llangollen	29/9/11	Dismiss	Written	Refuse	Refuse	No Objection
10.	16/2009/1155/PF – Former glasshouse boiler rooms, Llanbedr Hall, Llanbedr	13/10/11	Allow	Written	Grant	Refuse	Object
11.	45/2011/0492/AD – Co-Op, 97 High St, Rhyl	26/10/11	Dismiss	Written	Refuse – Delegated	N/A	No Objection
12.	45/2011/0045/PF – Former Esplanade Service Station, Coast Rd, Rhyl	13/12/11	Allow Costs	Public	Refuse	Refuse	Object
13.	45/2011/0405/PF – 50 Butterson Rd, Rhyl	5/1/12	Dismiss	Written	Refuse – Delegated	N/A	No objection
14.	23/2011/1192/PF – Ffrith Y Geubren, Cyffylliog	25/1/12	Dismiss	Written	Refuse – Delegated	N/A	No Objection
15.	03/2011/0440/PF – 43 Castle Street, Llangollen	24/2/12	Allow	Written	Refuse - Delegated	N/A	Object
16.	ENF/2010/00059 – Land adjacent to Nant Yr Hafod, Llandegla	5/5/11	Uphold	Written	Enforce	Enforce	N/A
17.	20/2011/1111/PF – Ty Pentre, Graigfechan	6/3/12	Dismiss	Written	Refuse – Delegated	N/A	No Objection
18.	44/2011/0508/OB– Land at Abbey Nurseries, Abbey Road, Rhuddlan	15/03/12	Dismiss Costs refused	Hearing	Grant	Refuse	N/A

- Total of **18** appeals so far in 2011/12
- 7 allowed, 11 dismissed (61% success)
- 14 out of the 18 appeals were done by written representation
- 10 of the 18 appeal decisions arose from Committee decisions
- 8 of the 18 appeal decisions arose from delegated Officer decisions
- 7 of the 10 Committee decisions were successful on appeal (70%)
- 4 of the 8 delegated Officers decisions were successful on appeal (50%)
- 4 out of 7 allowed appeals were delegated Officer decisions (1, 6, 8, 15)
- 3 of the above 4 allowed appeals followed the recommendation of the Town/Community Council
- Town/Community Councils had supported or raised no objections to 8 out of the 11 appeals dismissed
- Town/Community Councils had objected to 5 out of the 7 appeals allowed.

Conclusions – Committee decisions have appeared to be more successful in appeals than those made under delegated powers. Most appeal decisions have NOT followed the original recommendations of the Town and Community Councils.

APPENDIX 3

1. 43/2011/017/PF - 16 Russell Drive, Prestatyn – Erection of conservatory - **ALLOWED**

Relevant Issues – Officer had considered that the proposed front conservatory would harm the character and appearance of the dwelling in conflict with Policies **GEN 6, HSG 12 and SPG 1**. The Inspector commented that there were other similar front conservatories in the area and that the proposed design would not harm the rhythm of the street. The Town Council had raised no objection to the proposal.

Decision was made by Officers under Delegated Powers.

Lessons learnt – Case was heard through the householder appeals service which relies upon the information submitted with the application and the delegated Officer report. As such no additional appeal statements can be presented. **Subjective decision on street scene issue.**

2. 44/2009/1500/PC – 6 Grove Terrace, Rhuddlan – Construction of new vehicular access involving the removal of frontage wall (retrospective). - **DISMISSED**

Relevant Issues – Whilst the Town Council had raised no objection the Conservation Architect had concerns over the loss of the frontage wall in a Conservation Area. Inspector agreed with the Conservation Architect stating that the proposal did not comply with policy **CON 5**..

Decision was made by Committee in accordance with Officer recommendation.

Lessons learnt – Further training required for Town Council on Conservation Issues?

3. 47/2010/0726/PF – Bryn Siriol, Rhuallt – Construction of two storey pitched roof extension and balcony to side of dwelling – **DISMISSED**

Relevant Issues – Whilst the Community Council had raised no objection to the proposal the Inspector agreed with Officers and Committee that the size and scale of the extension would not be subordinate to the original dwelling. This was in conflict with policy **HSG 12 and SPG 1**.

Decision was made by Committee in accordance with Officer recommendation.

Lessons learnt – Further training required for Community Council on Household extensions?

4. **47/2010/0650/PO** – Bryn Mawr, Rhualt Rd, Cwm – Outline permission for the erection of a single detached dwelling on land forming the curtilage of Bryn Mawr. – **DISMISSED**

Relevant Issues – Inspector gave a clear steer that this garden area did not constitute an infill plot as there were not 6 existing dwellings forming a group. This was in conflict with policy **HSG 5 and SPG 10**. The Community Council supported this stance also.

Decision was made by Committee in accordance with Officer recommendation.

Lessons learnt – None.

5. **28/2010/1241/PF** – The Scout Hut, Denbigh St, Henllan – Change of use and conversion of the scout hut to a domestic dwelling. **DISMISSED**

Relevant Issues – Whilst the Community Council raised no objections to the scheme Officers had concerns over the lack of available amenity space for the proposed dwelling. The Inspector agreed with Officers citing policy **GEN 6 (v)**.

Decision was made by Officers under Delegated Powers.

Lessons learnt – Further training required for Community Council on amenity space issues?

6. **41/2010/1530/PF** – Pentre Uchaf Quarry, Mold Rd, Nr Bodfari – Erection of agricultural storage buildings (x2) – **ALLOWED**

Relevant Issues – The Community Council did raise some concerns over the size of the proposed buildings and these were echoed by Officers. The Inspector, however, concluded that there was a genuine need for the buildings and that their siting would not harm the AONB.

Decision was made by Officers under Delegated Powers.

Lessons learnt – The farming need for the buildings was not taken into account sufficiently by Officers. The impact on the AONB (policy **ENV 2**) was outweighed by the economic benefits linked to criteria in policy **EMP 13**.

7. **14/2010/0826/PF** – Land adjacent to St.Mary's Church, Cyffylliog – Erection of detached 3 bed bungalow and formation of new vehicular access – **ALLOWED**

Relevant Issues – This was an interesting case which revolved around whether the Local Planning Authority could require an affordable dwelling on a plot of land under 0.1ha. Officers felt that the applicant had circumvented the planning policy by sub-dividing a larger plot over a period of years. The Community Council also raised such concerns.

It was felt that the proposal did not adhere to Policy **HGS 10 or SPG 22**. The Inspector felt that the Authority should have attempted to control the provision of affordable housing on earlier proposals and that it could not request the provision at this stage. The proposal was on a site under 0.1ha and met our adopted Policy.

Decision to refuse was made at Full Council in accordance with Officer recommendation after Planning Committee had resolved to grant.

Lessons learnt – For Officers to take note of the decision and be more aware of the possible circumvention of the affordable housing policy at first application stage.

8. 41/2010/1141/PF – Paddock opposite Warren House, Bodfari – Erection of storage shed in connection with horticultural activity. – **ALLOWED**

Relevant Issues – Officers, in agreement with the AONB Committee, had raised concerns about the impact of this shed on the designated AONB. The Community Council had also raised concerns about the size of the shed. Officers felt that the proposal did not comply with Policy **ENV 2 or Policy EMP 13**. The Inspector disagreed, however, and felt that the shed was justified, even as a hobby use, within such a location. He felt it would be sufficiently screened and did not agree with the AONB Committee's views.

Decision to refuse was made by Officers under Delegated Powers.

Lessons learnt – The Inspector felt that a storage shed of 5m x 4m was justified, even for a hobby use, within the AONB. Officers will need to have regard to this decision when looking at other non-business related requirements in the open countryside. The AONB Committee should also take note of the comments on the visual impacts.

9. 03/2009/1535/PC – Eirianfa, Berwyn Rd, Llangollen - Retention of single storey bungalow (mobile home) as a domestic residence/site manager's accommodation. – **DISMISSED**

Relevant Issues – The case hinged on whether the site owner had provided sufficient evidence of a functional and financial need for such accommodation based on his limited control over a possible tourist site. The Inspector used the provisions of the new **TAN 6** to highlight that there was no justification for the retention of this accommodation. The Town Council had raised no objection, however.

Decision to refuse was made by Committee in accordance with Officer recommendation.

Lessons learnt – Possible training requirement for the Town Council over TAN 6 issues?

10. 16/2009/1155/PF – Former glasshouse boiler rooms, Llanbedr Hall, Llanbedr – Conversion of boiler rooms to 2 bed cottage. – **ALLOWED**

Relevant Issues – The Inspector felt that the Council’s concerns about the size of the residential accommodation proposed and any possible impacts on protected species were unfounded in this case. The Committee had raised these concerns alongside those of the Community Council and refused having regard to Policy **HSG 9 and SPG 16**.

Decision to refuse was made by Committee AGAINST Officer recommendation.

Lessons learnt – The Committee went against Officer recommendation as the local Member felt that the size of the living accommodation proposed was rather small. She also felt that there was a potential impact on protected species. Unfortunately, there was no policy or evidence base upon which to defend the decision.

11.45/2011/0492/AD – Co-Op, 97 High St, Rhyl – Externally illuminated fascia sign and internally illuminated projecting sign. – **DISMISSED**

Relevant Issues – Inspector felt that the signs were inappropriate in a Conservation Area and agreed with Officers. The Town Council raised no objections.

Decision to refuse was made by Officers under Delegated Powers

Lessons learnt – Possible training requirement for Town Council on outdoor advertisements.

12.45/2011/0045/PF – Former Esplanade Service Station, Coast Rd, Rhyl – Erection of convenience store. – **ALLOWED WITH COSTS**

Relevant Issues – Officers had listened to the concerns of the Town Council, neighbours, highway engineers and local Members in refusing the proposal on highway safety grounds. Two reasons for refusal were cited related to vehicular access and the movement of delivery vehicles within the site. Policies **TRA 6, TRA 9 and GEN 6** were used. The Inspector allowed the appeal and awarded costs against the Council on the basis that insufficient evidence was provided to show how the delivery vehicle movements could not be accommodated in the site.

Decision was made by Committee in accordance with Officer recommendation

Lessons learnt – Whilst localised highway concerns were apparent and a previous appeal had been dismissed it was evident that the Council could not provide sufficient hard, factual evidence to back up the refusal. The appellants used highway consultants to prove that the site could be used for the convenience store without detriment to highway safety. The proof will really be when the site is up and running.

13.45/2011/0405/PF – 50 Butterton Rd, Rhyl – Change of use of ground floor from single apartment to two self contained apartments. – **DISMISSED**

Relevant Issues – Whilst the Town Council had raised no objection to the further sub-division of this apartment in West Rhyl Officers felt that the proposal failed to meet the space standards within the adopted **SPG** and harmed regeneration aims in this part of Rhyl. The Inspector acknowledged both these concerns and agreed that the creation of 2 smaller flats from 1 would perpetuate the problem with the preponderance of accommodation of this type in Rhyl.

Decision was made by Officers under Delegated Powers.

Lessons learnt – To maintain a firm stance in relation to possible poor quality living accommodation in this part of Rhyl using the relevant regeneration documents at the Council's disposal to refuse such applications.

14. 23/2011/1192/PF – Ffrith Y Geubren, Cyffylliog – Erection of a 3 storey extension to the front of dwelling (amendment to previously approved scheme). – **DISMISSED**

Relevant Issues – Whilst the Community Council raised no objections to the proposal Officers felt that the size and scale of the extension would not comply with the criteria in policy **HSG 12 and SPG 1**. The Inspector agreed with Officers. The 3 storey extension was an incongruous feature in this location and on this dwelling.

Decision was made by Officers under Delegated Powers

Lessons learnt – Possible training requirement for Community Council on householder extensions?

15. 03/2011/0440/PF – 43 Castle Street, Llangollen – Change of use of ground floor from Class A1 shop to Class A3 hot food take-away. – **ALLOWED**

Relevant Issues – Officers had concurred with the Town Council and Civic Society of Llangollen that the hot food take-away would be inappropriate in a retail location of the town. Officers used policy **RET 5 and RET 16** to defend its decision. The Inspector, however, felt that in looking at a wider retail area the introduction of a further non-retail use would not harm the retail function of the town.

Decision was made by Officers under Delegated Powers

Lessons learnt – The decision raises issues about town centres, retail areas and the introduction of non-A1 uses. It may be for the LDP to address the issue of how we deal with vacant premises, hot food take-aways and retail impacts.

16. ENF/2010/00059 – Land adjacent to Nant Yr Hafod, Llandegla – Requirement to remove an unauthorised static caravan and land rover from land. **UPHOLD THE ENFORCEMENT NOTICE**

Relevant Issues – This case revolved around whether the land upon which the caravan and the land rover had been sited retained a residential usage. Evidence showed that the former garden area had been sold off separately from the adjoining house and Officers felt that any permitted rights on the land had ceased at that time. The Inspector agreed and upheld the enforcement notice to have the unsightly structures removed from this countryside location.

Decision was made by Committee in accordance with Officer Recommendation.

Lessons learnt. – None

The unauthorised structures have been removed

17.20/2011/1111/PF – Ty Pentre, Graigfechan – Erection of replacement garage and first floor extension over (revised scheme). – **DISMISSED**

Relevant Issues – Whilst the Community Council had not objected to the proposal Officers felt that the household development failed to comply with policy **HSG 12 and SPG 1** in that the size and scale of the extensions were not subservient to the main dwelling. The Inspector agreed.

Decision was made by Officers under Delegated Powers.

Lessons learnt – Possible training requirement for Community Council on householder developments?

18.44/2011/0508/OB– Land at Abbey Nurseries, Abbey Road, Rhuddlan – Modification of s.106 legal agreement to pay a commuted sum in lieu of provision of affordable housing. – **DISMISSED**

Relevant Issues – The case revolved around detailed financial viability assessments which attempted to show why the developer could only provide a commuted sum in lieu of the original affordable housing provision sought in the s.106 legal agreement. Officers had agreed with the developers a set of figures which they produced at the time of the application. However, Members and the Town Council did not agree to the modification and refused to modify. At the appeal the Inspector explained that the affordable housing and the original s.106 continued to serve a useful purpose.

Decision was made at Committee contrary to Officer recommendation

Lessons learnt – There is a considerable amount of rather detailed financial viability information which has to be analysed in such s.106 modification proposals. This relies on the quality of information supplied but also the analysis of the data at a point in time. There will be a need for on-going training and development of Officers to enable a more robust analysis to be carried out.