

**46/2019/0806**

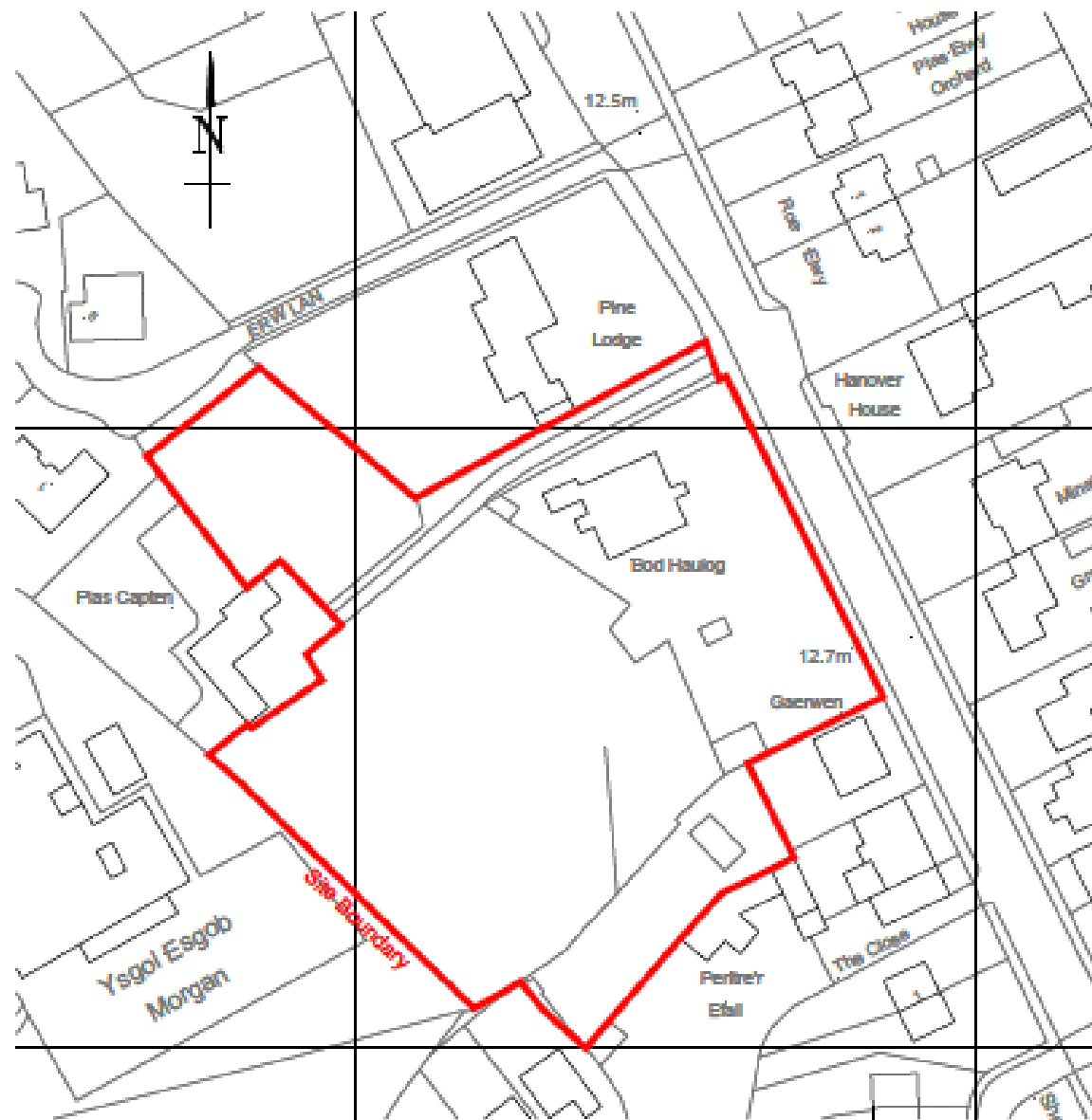
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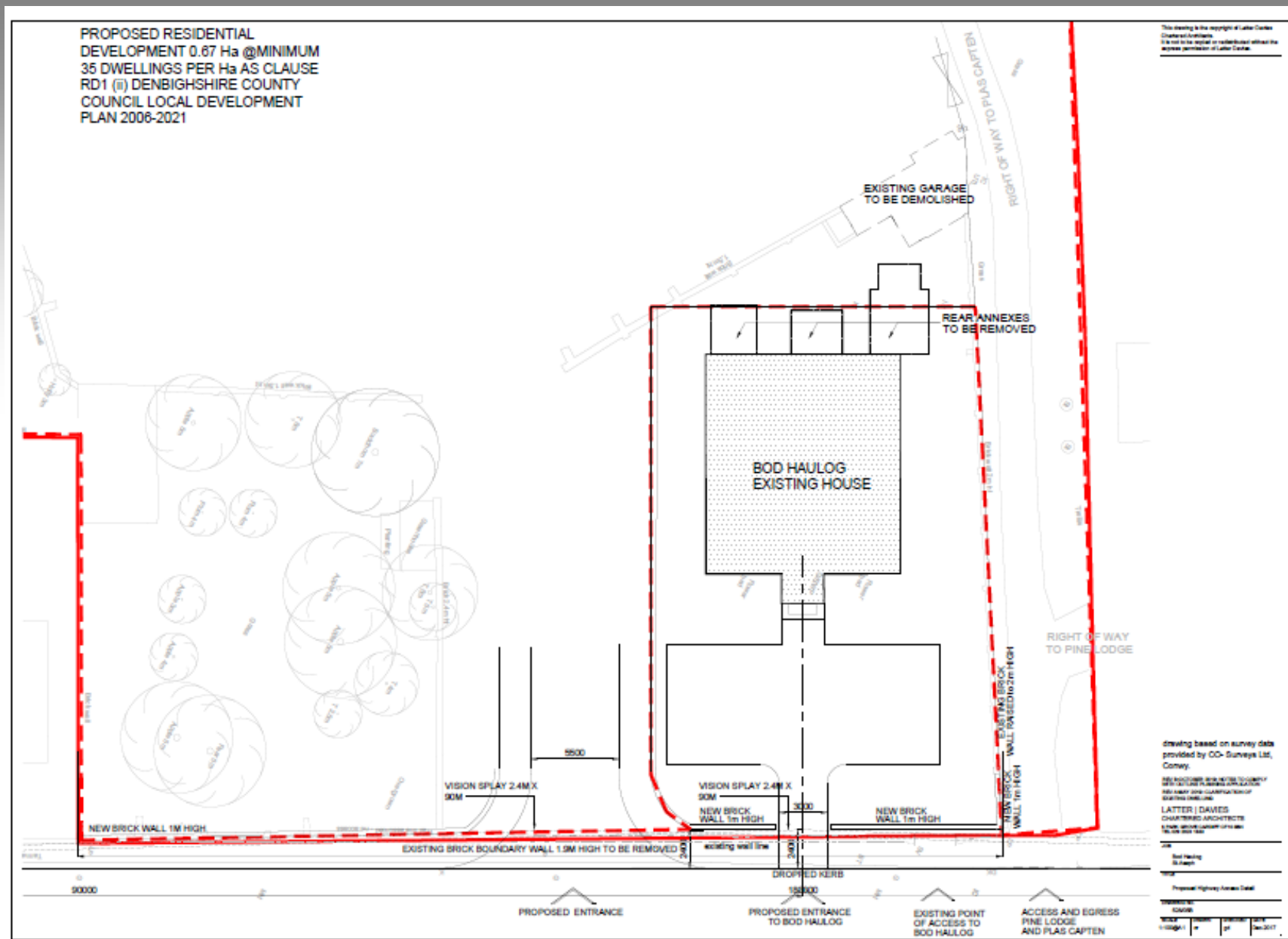


Location plan extract









Proposed access plan







## Indicative layout plan





Site frontage along the Road where access is proposed







Existing dwelling





View from within site towards side / rear of existing dwelling







Outbuilding within site







Outbuilding within site







Outbuilding within site







View from within site







View from site towards neighbouring dwelling





From within site towards neighbouring dwelling







From within site towards neighbouring dwelling





From within site towards neighbouring dwelling





**WARD :** St Asaph West

**WARD MEMBER(S):** Cllr Peter Scott

**APPLICATION NO:** 46/2019/0806/ PO

**PROPOSAL:** Development of 0.75 ha of land for residential purposes (outline application including access)

**LOCATION:** Bod Haulog The Roe St Asaph LL17 0LY

**APPLICANT:** Drs Oliver & Robert Prys-Jones

**CONSTRAINTS:** C1 Flood Zone B Flood Zone

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

**REASON(S) APPLICATION REPORTED TO COMMITTEE:**

**Scheme of Delegation Part 2**

- Member request for referral to Committee

**CONSULTATION RESPONSES:**

ST ASAPH CITY COUNCIL – No objections.

**NATURAL RESOURCES WALES:**

NRW raised concerns with the proposal on grounds of unacceptable flood risk impacts in the original consultation response and have been consulted several times throughout the course of the application following the submission of amended and additional flood consequences assessment information.

The final NRW re-consultation response with respect to flood risk is as follows:

**Flood Risk**

The planning application proposes highly vulnerable development (residential) within Zone C1 as defined by the Development Advice Map (DAM) referred to under Technical Advice Note (TAN) 15: Development and Flood Risk (July 2004). NRW Flood Risk Map confirms the site to be located within the 1% (1 in 100) and 0.1% (1 in 1,000) annual exceedance probability (AEP) event flood outlines. The site is also shown to be within the historical flood outline for the 2012 flood event.

The site is currently occupied by a single dwelling and undeveloped land. The development proposal is for residential development, consisting of 22-31 dwellings and would therefore constitute an intensification of use at the site.

The modelling work undertaken by JBA, which is presented in the most recent iteration of the Flood Consequences Assessment (FCA) (ref: 2019s0037 - Bod Haulog - FCA V6.docx), demonstrates that the proposal would result in increases in flood risk elsewhere, both in the 1% Annual Exceedance Probability (AEP) event with an allowance for climate change and the 0.1% AEP event, in overtopping and breach scenarios. The increase in flood risk would impact residential properties, commercial buildings, the library, and general infrastructure. In the 0.1% AEP breach event, flood depths over a large area to the east of the site are shown to be increased by between 100 to 150mm, with some properties along The Roe shown to have increased flood depths of over 150 mm as a result of the proposed development.

The FCA therefore confirms that offsite flooding is in excess of the tolerable limit described in our guidance (Natural Resources Wales / Modelling for Flood Consequence Assessments),

which indicates that any detriment to third parties should be less than 5 mm, due to resolution used in the model.

Given the offsite impacts resulting from the development, the proposal fails to comply with the requirements of A1.12 of TAN15, which requires no flooding elsewhere. This will need to be an important factor for your Authority to consider in determining the application.

NRW would highlight that the proposed levels shown on the indicative site plan do not all match the recommendation in the FCA that site levels should be raised to between 13.20 to 13.80 m AOD. The gardens of the two easternmost properties are set to a level of 13.14 and 13.145 m AOD, which is below the design flood level. The plan should be updated to reflect the mitigation measures outlined within the FCA.

Other comments:

### **Protected Species**

#### **- Bats**

The Protected Species survey report states that there was no visible evidence of bats found in the three small buildings at the rear of the house, the small brick barn at the rear of the house, the small garden shed with slate roof nor at the larger shed with tin roof and chimney. NRW agree with the conclusions in respect of bats.

As well as the above-mentioned ecological reports it is noted that an updated report for the main house on the proposal site has been submitted. We note that a single bat has been found roosting in the attic. However, as the main house will not be a part of this application. NRW have not comment on the provisions of the Protected Species survey report with respect to the main house.

#### **- Great Crested Newts**

The Ecological Assessment states the proposed development site includes a garden pond. NRW agree with the conclusions in respect of great crested newt.

NRW have advised the implementation of the recommendations listed in the ecological report and advise the report must be included in the 'approved list of plans / documents' condition within the decision notice should consent for the project be granted.

#### **- Biosecurity**

NRW consider biosecurity to be a material consideration owing to the nature and location of the proposal. In this case, biosecurity issues concern invasive non-native species (INNS) and diseases, and recommend a condition is imposed to secure provision of a site wide Biosecurity Risk Assessment.

DWR CYMRU / WELSH WATER:

#### **ASSET PROTECTION:**

Dwr Cymru advise the site is crossed by a public sewer and that their assets will need to be protected. Dwr Cymru recommend the developer carry out a survey to ascertain the location of this sewer and establish its relationship to the proposed development.

#### **SEWERAGE:**

Dwr Cymru note the proposal to dispose of both foul flows and surface water runoff from the proposed development via the public sewerage system. Dwr Cymru advice that due to capacity constraints with the public combined sewerage network, under no circumstances would they allow surface water runoff from the proposed development to be discharged directly/indirectly into the combined public sewerage network.

In light of the above and given the omission of a detailed drainage layout plan, should permission be granted, Dwr Cymru request conditions and advisory notes should be attached to ensure no detriment to existing residents or the environment and to Dwr Cymru assets.

Two conditions are proposed:

- to secure details of a foul drainage scheme;
- to prevent surface water and/or land drainage from connecting directly or indirectly with the public sewerage network.

HEALTH BOARD:

No comments received

DENBIGHSHIRE COUNTY COUNCIL CONSULTEES –

Traffic, Parking and Road Safety

- Highways Officer

*Original consultation response:*

Highway Officers have reviewed the site plans and transport statement and have concluded the following:

Sufficient information has been submitted.

Capacity of Existing Network - Having regard to the scale of the proposed development, the existing highways network and the submitted highways details, it is considered that the proposals would not have an unacceptable impact on the local highways network in terms of capacity.

Accessibility - Having regard to the location of the existing site and existing arrangements it is considered that the proposals are acceptable in terms of accessibility and the policy requirements identified above.

Site Access - Having regard to the detailed assessments above, taking into consideration the capacity of the existing highway network, accessibility, and site access, Highways Officers would see no reason to object to the proposed development, subject to appropriate conditional controls.

Therefore no objection to the application subject to 2 no. conditions being imposed to secure details of the means of access and a Construction Method Statement

*Re-consultation response:*

Confirmed highway officer response remains unchanged.

Ecology Officer:

*Original comments:*

Initially requested additional information as ecological report submitted in support of this application provides very little detail on the orchards within the site boundary. "Traditional orchard" is a priority habitat, as outlined in Section 7 of the Environment (Wales) Act and further information was requested to determine the status of the on-site orchard habitats.

*Re-consultation comments:*

Ecology Officer subsequently visited the site with the applicant and confirmed the orchard habitat present does not meet the criteria of a priority habitat. Therefore Ecology Officer has no objections to the application, provided that conditions are attached to ensure that there are no negative impacts on protected species or the nature conservation value of the site, and all reasonable steps have been taken to maintain and enhance biodiversity.

Ecology Officer has recommend conditions to ensure landscaping scheme includes plant list to ensure no invasive alien species are included in the details of landscaping; to secure a biosecurity risk assessment and to ensure provision for roosting and nesting birds is incorporated into the development.

Flood Risk Engineer:

No written comments received however Officers sought advice from Lead Local Flood Authority on flood risk matters. Flood Risk Engineer verbally confirmed that on matters of fluvial flood risk, NRW are the statutory body and there does not appear to be any justification in this

instance for deviating from NRW requirements as set out in their consultation and re-consultation responses.

Strategic Planning and Housing Officer:

Site lies within the development boundary and therefore no comments provided on grounds of principle.

In terms of education contributions, based predicated number of dwellings, there is sufficient capacity within primary and secondary schools and therefore no financial contributions are required.

In terms of housing market assessment, the site lies within the Local Housing Market Assessment Area (LHMA) 03- Bodelwyddan & Border.

In accordance with the DCC Local Housing Market Assessment (July 2019), the recommended housing mix of market dwellings on new developments in Denbighshire is shown in the table below to address the issue of housing need:

Recommended Housing Mix – Market Housing			
1 + 2 bed	3 bed	4 bed+	Total
30%	35%	35%	100%

Where a developer proposes an alternative mix of housing sizes a robust evidence base must support the need for a deviation from this recommended mix. In addition, the supply of one and two bedroom properties must include an appropriate mix of housing types in terms of apartments, houses and bungalows and must not be simply catered for by apartments alone

10% of the onsite units will need to be affordable housing units and also contain an appropriate mix of unit sizes to be agreed with the Local Housing Authority, as per the Affordable Housing SPG. In line with PPW11 '*all affordable housing including that provided through planning obligations... must meet the Welsh Government's development quality standards*'. More information on this can be found at [Welsh Development Quality Requirements 2021](#) (WDQR 2021).

## RESPONSE TO PUBLICITY:

### In objection

Representations received from:

John Horden, Pentre Efail, The Roe, St. Asaph

John & Sheila Glaister, 2 Erw Lan, St Asaph

Esther Sime, 10 Llwyn Onn, St Asaph

David Lee, Willows Dental and Implant Practice, The Roe, St Asaph

Summary of planning based representations in objection:

### Residential amenity

- Loss of Privacy and Visual amenity of neighbouring properties.
- Neighbouring properties have windows overlooking the site.
- Indicative layout does not respect neighbours right of privacy and pays no attention to our right of visual amenity. Neighbours outlook is to become a car park and access road which will abut neighbouring building.
- Request conditions are imposed to require a wildlife strip between neighbouring properties and to prevent windows in new dwellings overlooking neighbouring properties and gardens.

### Ecology:

- The proposal would destroy the mature fruit tree orchard onsite – provide habitat for wildlife and filtering the air. Fruit trees onsite should be retained and protected.

### Landscaping / screening:

- The NW boundary abuts Erw Lan. Behind the boundary fence there are a number of trees and shrubs which screen views of the development area from Erw Lan.
- Request that should planning permission be granted, any existing significant trees are retained and additional landscape planting is secured to provide visual screen from existing neighbouring dwellings. Retention pond may have to be revised to allow sufficient room for adequate screening planting.

#### Traffic / transport:

- Challenges the robustness of the traffic study – peak times traffic of 15 vehicles is low for 26 plus houses.
- The Roe at peak times is congested and traffic can be at a standstill. Further development with access onto The Roe will put an additional unacceptable strain on severe traffic situation.
- Right turning traffic in and out of properties and side roads are a major cause of traffic delay on The Roe and current traffic at north (A55) end of the Roe is chaotic - petrol station, Bod Erw Hotel, Wynnstay Country Store and adjacent businesses, the Plas Elwy car sale site and the Cattle Market all combine to increase congestion and create enormous and dangerous conflicts of traffic over a relatively short length of highway.
- An 85 percentile traffic speed at peak time on the Roe of 29mph is suggested by the traffic report. Consider this must be incorrect because southbound traffic in particular is usually queuing along the full length of the Roe.
- There is no enforcement of illegal parking on yellow lines outside the petrol station and the car sale place.
- Accept that the proposed access to Bod Haulog is further south than the petrol station, but local perception is that The Roe is choked with traffic already. An extra 1% traffic cannot be dismissed as insignificant, on an already busy road, with right turn movements being a particular cause of delays.
- Erw Lan (NW boundary) is a private road – do not support the suggested pedestrian route connecting northwards from the new development to Erw Lan. This would reduce privacy and present security problems to existing residents.
- Concern about increased traffic and impact of new access on Dental Practice opposite.

#### Density

- Minimum density of 35 units per hectare is not acceptable. The local character of the area is for large semi and detached houses, to impose a terraced development onto the site is too dense.

#### Flood risk

- Concern about increased risk of flooding to neighbouring properties as a result of the development.
- Site has acted as a flood plain and held a lot of flood water in recent floods - if ground levels are raised within the site and site is development, this would result in more flood water being diverted along The Roe and towards existing property.
- Flood works have gone a long way to reassure people and contain river, but a breach is not impossible.

**EXPIRY DATE OF APPLICATION: 05/12/2019**

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

- additional information required from applicant
- re-consultations / further publicity necessary on amended plans and / or additional information
- awaiting consideration by Committee

#### **PLANNING ASSESSMENT:**

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

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

- 1.1.1 The proposal is an outline application for residential development on land within the curtilage of Bod Haulog, including details of access. Details of appearance, landscaping, layout and scale are reserved matters.
- 1.1.2 The existing Bod Haulog dwelling house is proposed to be retained, however annex extensions to the rear of the dwelling and a detached garage within the grounds are proposed to be demolished.
- 1.1.3 The vehicular access to the Bod Haulog dwelling, which is in the north-east corner of the plot, is proposed to be re-sited so that it is aligned centrally with the existing house façade to improve visibility.
- 1.1.4 A new separate vehicular access to serve the proposed residential development is proposed off The Roe (A525). The existing 1.9m high brick wall along the boundary with The Roe is proposed to be demolished to facilitate the new access.
- 1.1.5 Whilst layout and scale are reserved matters, based on the size of the site which can be developed (deducting the grounds of the existing dwelling), based on a density of 35 dwelling per hectare, the Design and Access Statement indicates an indicative figure of 23 dwellings on 0.67ha of developable land within the site boundary.
- 1.1.6 The upper and lower limits as indicated on the indicative site plan allow for a 2 and 3 storey buildings to be developed and are as follows:

	Height (roof ridge)	Width	Length
Upper limit	23.3m AOD	10.2m	12.05m
Lower limit	21.185m AOD	7m	9.5m

- 1.1.7 In terms of drainage, foul water would discharge to the mains sewer and the draft drainage strategy indicates that, due to ground conditions, surface water cannot be discharged to ground due to predicated infiltration rates and it is not practical to discharge surface water to a water body. The proposed surface water drainage strategy would therefore be to incorporate SUDs within the site to include swales and detention basins and then surface water would discharge to the public sewer at an attenuated rate.
- 1.1.8 The application is accompanied by a Flood Consequences Assessment (FCA).
- 1.1.9 A topographic survey is included as an appendix to the FCA which indicates the site is relatively flat with site levels ranging from 11.8m AOD in the north to 12.7m AOD in the south.
- 1.1.10 To ensure the development would be flood free in the 1% AEP plus climate change event (TAN15 A1.14..) the Flood Consequences Assessment proposes site levels to be raised "to a minimum level of 13.2m AOD in the north and 13.8m AOD in the south and set minimum finished floor levels to 150mm above the ground levels".
- 1.1.11 This means that ground levels within the site are proposed to be raised some 1.4m in the north and 1.1m in the south.
- 1.1.12 The upper and lower heights are stated in AOD rather than above ground level. To assist Member's understanding of the application, the height above ground level is expressed below (both height above existing ground level and proposed ground levels are provided):

	Height above existing ground levels (11.8-12.7m AOD)	Height about proposed raised site levels (13.2m - 13.8m AOD)
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Upper height (23.3m AOD)	10.6m - 11.5m	9.5m to 11.1m
Lower height (21.185m AOD)	8.485m – 9.385m	7.385m – 7.985m

## 1.2 Other relevant information/supporting documents in the application

- 1.2.1 In addition to location, site and access plans, the following supporting documents have been submitted:
- Outline Drainage Strategy.
  - Ecological Assessment (Preliminary Ecological Appraisal).
  - Protected Species Survey for outbuildings proposed to be demolished.
  - Protected Species Survey for main house proposed to be retained.
  - Flood Consequences Assessment (revised FCA and addendum letters submitted during the course of the application).
  - Transport Assessment.
  - Design and Access Statement
  - Design and Access Statement Addendum.
  - Illustrative Section Plans.

## 1.3 Description of site and surroundings

- 1.3.1 The site occupied by a large double fronted detached two storey dwelling with extensive grounds which is situated along The Roe, St. Asaph. The dwelling is set back from the highway and the site is enclosed by a 1.9m high brick wall along the boundary with the footway along The Roe.
- 1.3.2 There is a private driveway along the north-western edge of the site which provides a private right of way to Pine Lodge, a residential dwelling to the north east and Plas Capten, a residential dwelling to the west of the site.
- 1.3.3 There are further residential properties along The Roe to the south-east, with the residential curtilage of Gaerwen and Pentre'r Efail abutting the south-east boundary of the site. The curtilage of 7 Lon y Parc abuts the southern corner of the site.
- 1.3.4 Ysgol Esgob Morgan shares a boundary to the south-west of the site.
- 1.3.5 The buildings on the opposite side of The Roe are a mix of residential and commercial units, and the two commercial buildings directly opposite, Minafon and Glandwr (Hanover House) are both Grade II Listed Buildings.

## 1.4 Relevant planning constraints/considerations

- 1.4.1 The site is unannotated land within the St. Asaph development boundary.
- 1.4.2 The site is within C1 Flood Risk Zone as defined by TAN15.

## 1.5 Relevant planning history

- 1.5.1 None.

## 1.6 Developments/changes since the original submission

- 1.6.1 A revised FCA and addendum statements have been submitted during the course of the application in response to flood risk concerns raised by NRW.
- 1.6.2 NRW has been re-consulted as required throughout the course of the application.
- 1.6.3 The application stalled at the end of 2020 due to ongoing flood risk concerns and an extension of time was agreed.
- 1.6.4 In November 2021, the applicant confirmed they do not wish to submit any further flood risk information, and requested the application is submitted based on the flood risk information provided to date. An amended site plan was however submitted which

slightly amended the upper and lower limits for the proposal. Section Plans and a Design and Access Addendum were also provided at this time.

- 1.6.5 Due to the length of time since previous consultations had been undertaken, the application was subject to a full re-consultation prior to referral to Committee.

**1.7 Other relevant background information**

- 1.7.1 The supporting information refers to a possible conversion of the existing dwelling to apartments, however this does not form part of the current planning application and would require separate consent.

- 1.7.2 Separate formal approval for surface water drainage would be required from the SAB.

**2. DETAILS OF PLANNING HISTORY:**

- 2.1 None.

**3. RELEVANT POLICIES AND GUIDANCE:**

The main planning policies and guidance are considered to be:

**Local Policy/Guidance**

Denbighshire Local Development Plan (adopted 4<sup>th</sup> June 2013)

**Policy RD1** – Sustainable development and good standard design

**Policy RD5** – The Welsh language and the social and cultural fabric of communities

**Policy BSC1** – Growth Strategy for Denbighshire

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

**Policy BSC4** – Affordable Housing

**Policy BSC11** – Recreation and open space

**Policy BSC12** – Community facilities

**Policy VOE1** - Key areas of importance

**Policy VOE5** – Conservation of natural resources

**Policy VOE6** – Water management

**Policy ASA3** – Parking standards

**Supplementary Planning Guidance**

Supplementary Planning Guidance Note: Affordable Housing

Supplementary Planning Guidance Note: Conservation and Enhancement of Biodiversity

Supplementary Planning Guidance Note: Parking Requirements In New Developments

Supplementary Planning Guidance Note: Planning Obligations

Supplementary Planning Guidance Note: Planning and the Welsh language

Supplementary Planning Guidance Note: Recreational Public Open Space

Supplementary Planning Guidance Note: Residential Development

Supplementary Planning Guidance Note: Residential Development Design Guide

Supplementary Planning Guidance Note: Residential Space Standards

**Government Policy / Guidance**

Planning Policy Wales (Edition 11) February 2021

Development Control Manual November 2016

Future Wales – The National Plan 2040

Technical Advice Notes

TAN 2 Planning and Affordable Housing (2006)

TAN 5 Nature Conservation and Planning (2009)

TAN 15 Development and Flood Risk (2004)

TAN 18 Transport (2007)

**4. MAIN PLANNING CONSIDERATIONS:**

In terms of general guidance on matters relevant to the consideration of a planning application, Section 9.1.2 of the Development Management Manual (DMM) confirms the requirement that



planning applications 'must be determined in accordance with the approved or adopted development plan for the area, unless material considerations indicate otherwise'. It advises that material considerations must be relevant to the regulation of the development and use of land in the public interest, and fairly and reasonably relate to the development concerned. The DMM further states that material considerations can include the number, size, layout, design and appearance of buildings, the means of access, landscaping, service availability and the impact on the neighbourhood and on the environment (Section 9.4).

The DMM has to be considered in conjunction with Planning Policy Wales, Edition 11 (February 2021) and other relevant legislation.

Denbighshire County Council declared a climate change and ecological emergency in July 2019. In October 2020 the Council approved an amendment of its Constitution so that all decisions of the Council now have regard to tackling climate and ecological change as well as having regard to the sustainable development principles and the well-being of future generations.

The Council aims to become a Net Carbon Zero Council and an Ecologically Positive Council by 31 March 2030. Its goal and priorities are set out in its Climate and Ecological Change Strategy 2021/22 to 2029/30. The actions, projects and priorities in the Strategy directly relate to council owned and controlled assets and services. One priority of the Strategy is to promote the existing policies within the Local Development Plan (LDP) 2006 to 2021 and Supplementary Planning Guidance (SPG) which contribute to environmentally responsible development. In preparing these reports to determine planning applications we therefore highlight the LDP 2006 to 2021 and appropriate SPG. Applications that are determined in accordance with the LDP 2006 to 2021 are environmentally responsible developments.

Planning applications are assessed in accordance with statutory requirements including The Environment (Wales) Act 2016, national policy (Future Wales, PPW 11) and local policy (LDP 2006 to 2021) and therefore they are assessed with regard to tackling climate and ecological change which is a material consideration.

The following paragraphs in Section 4 of the report therefore refer to all statutory requirements, policies and material planning considerations which are considered to be of relevance to the proposal.

4.1 The main land use planning issues in relation to the application are considered to be:

- 4.1.1 Principle
- 4.1.2 Density of development and housing mix
- 4.1.3 Visual amenity
- 4.1.4 Residential amenity
- 4.1.5 Ecology
- 4.1.6 Flood Risk and Drainage
- 4.1.7 Highways (including access and parking)
- 4.1.8 Archaeology
- 4.1.9 Open Space

4.2 In relation to the main planning considerations:

- 4.2.1 Principle  
The main Local Development Plan Policy relevant to the principle of the development is Policy BSC 1. This policy seeks to make provision for new housing in a range of locations, concentrating development within development boundaries of towns and villages. It encourages provision of a range of house sizes, types and tenure to reflect local need and demand and the Local Housing market assessment.

The site is unannotated land located within the development boundary of St. Asaph which is defined as a Lower Growth Town in the LDP.

It should also be noted that the Denbighshire County Council Corporate Plan (2017-2022) commits the Council to supporting the development of 1000 homes in the county. This proposal would make a positive contribution to meeting that target.

The principle of housing development is therefore considered acceptable and Officers would suggest the acceptability of the particular proposals therefore has to rest on assessment of the local impacts, which are reviewed within the following sections of the report

#### 4.2.2 Density of development and housing mix

Local Development Plan Policy RD1 test ii) seeks to ensure the most efficient use of land by achieving densities of a minimum of 35 dwellings per hectare, unless there are local circumstances that dictate a lower density.

The Residential Space Standards SPG specifies that 40m<sup>2</sup> of private external amenity space should be provided as a minimum standard for residential dwellings.

##### *Density:*

Excluding the existing dwelling and section of the site proposed to be retained for its curtilage, the remaining site area is approximately 0.67ha. Applying a density of 35 dwellings per hectare would equate to 23 dwellings.

Whilst the application is outline with matters of layout and scale reserved, the indicative layout plan shows 20 dwellings which equates to a density of 30 dwellings per hectare.

The site is however constrained by the presence of neighbouring dwellings around the site which might restrict the potential to achieve higher densities due to the need to protect amenity, and Officers would note a density of 35 dwellings per hectare would not reflect the density in the immediate locale of the site.

For example, buildings fronting The Roe are mix of lower density detached and semi-detached properties

Other residential streets in the immediate locale of the site also have lower densities  
For example:

- Elwy Crescent has a density of approx. 28 dwelling per hectare density;
- Lon Parc has a density of approx. 27 dwellings per hectare;
- Housing estate to the west comprising Pant Glas / Fford Siarl / Tan y Bryn has a density of approx. 23 dwellings per hectare.

Officers therefore have concerns that a high density development in this location would be out of keeping with the character of the local area, and accordingly Officers consider it necessary to apply conditions to control density and a range of between 25 – 30 dwellings per hectare is considered to be an appropriate density range in this case which would allow for an efficient use of land whilst being respectful to the character of the local area.

##### *Housing mix:*

With regard to the mix of dwelling types, it is to be noted that the application is in outline form and that the design and style of dwellings is not for consideration, the Council's Strategy Planning and Housing Officer has advised housing mix should follow the recommendations of the Local Housing Market Assessment.

The upper and lower limits for the dwellings proposed as specified on the indicative site plan would allow for 2 and 3 storey dwellings to be development, and dwellings would have a footprint of between 66.5sq.m 122.9sq.m. Based on the lower limits for the dwelling proposed, the minimum internal floor space would be approximately

120sq.m, which would well exceed the Council's floor space standards for a 4 bed dwelling.

Officers therefore have concerns that the upper and lower limits proposed would preclude smaller units being developed within the site, and therefore the Council's preferred mix of market houses could not be achieved within the site.

The Upper and Lower limits proposed therefore are not sufficiently broad to facilitate an acceptable housing mix within the site, however Officers consider conditions can be imposed to make clear the upper and lower limits shall not be as stated on the indicative site plan, but as otherwise agreed in writing with the LPA to allow for a broader mix of housing.

As housing mix does not fall within the scope of reserved matters, Officers also consider it necessary to apply conditions requiring the details of house sizes and types to be submitted for approval and a note to applicant can be attached to any consent advising the applicants of the Council's policy to secure a reasonable mix of dwelling types.

#### 4.2.3 Visual amenity

Local Development Plan Policy RD 1 test (i) requires due regard to issues of siting, layout, form, character, design, materials, aspect, microclimate and intensity of use of land / buildings and spaces between buildings, which are matters relevant to the visual impact of development; test (vi) requires that development does not unacceptably affect prominent public views into, out of, or across any settlement or area of open countryside; test (vi) requires the incorporation of existing landscape or other features, takes account of site contours, and changes in levels and prominent skylines; and test (xiii) requires the incorporation of suitable landscaping measures to protect and enhance development in its local context.

Representations from private individuals have commented on the need for landscaping and screening.

The proposed upper and lower limits would allow for both two and three storey dwellings to be constructed, and it is of note that site levels also need to be raised by up to 1.4m to mitigate the risk of onsite flooding. Ridge lines would be approximately 8.5m to 11.5m above existing ground levels.

An indicative site layout plan has been provided, which shows a suggested layout of a mix of two and three storey dwellings on varying ground levels. Subject to siting, Officers consider three-storey dwellings sited on land that has been raised by some 1.4m could appear out of scale with surrounding properties.

Officers would note that, as matters of layout, scale, landscaping and appearance are reserved matters, the Council does not have to accept three-storey at reserved matters stage if there are concerns on visual amenity grounds at that stage.

Owing to concerns relating to the combination of raised site levels and the potential for three-storey properties to come forward, to avoid prejudice at reserved matters stage, Officers consider it necessary to impose a condition to make it explicit that the indicative layout proposed is not subject of the outline consent.

Therefore, matters of layout, landscaping, scale and appearance are reserved and conditions can be imposed to make it explicit that the indicative layout along with the upper and lower limits shown on the proposed site plan are not subject of the outline consent. These would be dealt with at reserved matters stage, when the full impact of development and visual impact of the proposal can be fully assessed.

At this stage, therefore, it is not considered there are any reasonable visual amenity grounds to resist the grant of outline consent.

#### 4.2.4 Residential amenity

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

Representations from private individuals have raised concerns on grounds of adverse impact on residential amenity currently enjoyed by neighbouring properties.

As stated in the visual amenity section above, the proposed upper and lower limits would allow for both two and three storey dwellings to be constructed, and site levels would also be raised.

Subject to siting, Officers consider three-storey dwellings sited on land that has been raised by some 1.4m may give rise to adverse impact on residential amenity of neighbouring property.

Again, on the grounds of residential amenity, a condition is proposed to make it explicit that, if approved, the outline consent does not convey any approve of the indicative layout proposed.

Therefore, conditions can be imposed to make it clear the proposed layout is not approved at this stage, and whilst the upper limit would allow three-storey property to be built, it does not follow that the Council must agree to three-storey property at reserved matters stage should there be concerns on residential amenity grounds,

Therefore, in the absence of full details of the layout, landscaping, scale and appearance, it is not possible or appropriate to consider specific residential amenity issues at this point. These would be dealt with at reserved matters stage, when the full impact of development and proximity to existing property can be fully assessed. However, it should be noted that the indicative layout suggests that adequate separation distances (as advised in SPG Residential Development) can be achieved. At this stage, therefore, it is not considered there are any reasonable residential amenity grounds to resist the grant of outline consent.

#### 4.2.5 Ecology

Local Development Plan Policy RD 1 test (iii) requires development to protect and where possible to enhance the local natural and historic environment.

Policy VOE 5 requires due assessment of potential impacts on protected species or designated sites of nature conservation, including mitigation proposals, and suggests that permission should not be granted where proposals are likely to cause significant harm to such interests.

This reflects policy and guidance in Planning Policy Wales (PPW 11) Section 6.4 'Biodiversity and Ecological Networks', current legislation and the Conservation and Enhancement of Biodiversity SPG, which stress the importance of the planning system in meeting biodiversity objectives through promoting approaches to development which create new opportunities to enhance biodiversity, prevent biodiversity losses, or compensate for losses where damage is unavoidable.

Planning Policy Wales (PPW 11) sets out that "*planning authorities must seek to*

*maintain and enhance biodiversity in the exercise of their functions. This means that development should not cause any significant loss of habitats or populations of species, locally or nationally and must provide a net benefit for biodiversity”* (Section 6.4.5). PPW also draws attention to the contents of Section 6 of the Environment (Wales) Act 2016, which sets a duty on Local Planning Authorities to demonstrate they have taken all reasonable steps to maintain and enhance biodiversity in the exercise of their functions. It is important that biodiversity and resilience considerations are taken into account at an early stage when considering development proposals (Section 6.4.4).

Public representations have raised concerns on ecological grounds. NRW have raised no objection on ecological grounds, but advise the recommendations in the Protected Species Report should be followed, and conditions should be imposed to secure submission of a Biosecurity Risk Assessment.

The Ecology Officer has raised no objection, subject to conditions to maintain and enhance biodiversity and to ensure landscaping scheme includes plant list to ensure no invasive alien species are included in the details of landscaping; to secure a biosecurity risk assessment and to ensure provision for roosting and nesting birds is incorporated into the development.

Notwithstanding concerns raised by public representations, having regard to the conclusions of the Protected Species Survey and the advice of NRW and Ecology Officer, subject to the imposition of conditions, Officers would conclude the proposal would not adversely impact on ecological interests.

#### 4.2.6 Flood Risk

Local Development Plan Policy RD 1 test (xi) requires that development satisfies physical or natural environmental considerations relating to drainage and liability to flooding.

Planning Policy Wales (PPW 11) Section 6.6.22 to 6.6.29 identifies flood risk as a material consideration in planning and along with TAN 15 – Development and Flood Risk, which provides a detailed framework within which risks arising from different sources of flooding should be assessed.

TAN 15 paragraph 6.2 states:

“New development should be directed away from zone C and towards suitable land in zone A, otherwise to zone B, where river or coastal flooding will be less of an issue. In zone C the tests outlined in sections 6 and 7 will be applied, recognising, however, that highly vulnerable development and Emergency Services in zone C2 should not be permitted. All other new development should only be permitted within zones C1 and C2 if determined by the planning authority to be justified in that location. Development, including transport infrastructure, will only be justified if it can be demonstrated that:-

i. Its location in zone C is necessary to assist, or be part of, a local authority regeneration initiative or a local authority strategy required to sustain an existing settlement; **or**,

ii Its location in zone C is necessary to contribute to key employment objectives supported by the local authority, and other key partners, to sustain an existing settlement or region;

**and,**

iii It concurs with the aims of PPW and meets the definition of previously developed land (PPW fig 2.1); and,

iv The potential consequences of a flooding event for the particular type of development have been considered, and in terms of the criteria contained in sections 5 and 7 and appendix 1 found to be acceptable.

TAN15 section A1.11 and A1.12 provide further clarity on the criteria for deciding whether such flood consequences for a development is acceptable. The criteria includes the need to demonstrate that existing flood defences must be shown by the developer to be structurally adequate particularly under extreme overtopping conditions (i.e. that flood with a probability of occurrence of 0.1%) and there would be no flooding elsewhere as a result of the development.

Public representations have raised concerns regarding the risk of flooding.

NRW have raised significant concerns with the proposal on the grounds that the development would unacceptably increase flood risk to other residential properties, commercial buildings, the library, and general infrastructure.

The site lies within a C1 flood risk zone as defined by TAN15.

The application is supported by a Flood Consequences Assessment which has been amended during the course of the application, and additional information has been provided.

To mitigate the risk of flooding within the site, site levels are proposed to be raised by between 1.1m and 1.4m and finished floor levels are proposed to be set at 150mm.

NRW have been re-consulted on each iteration of the FCA, and whilst they are satisfied that measures proposed to mitigate the flood risk for the site itself are acceptable, they have maintained their view that the development would result in an unacceptable increase in the risk of flooding off site.

The applicant has confirmed that they do not wish to submit any further flood assessment information as it is the applicant's contention that NRW have misapplied TAN15 guidance.

This is on the basis that NRW consider that a breach of the St. Asaph Flood Defence should be considered as the 'design event' for the purposes of the flood consequences assessment.

The FCA however puts forward the contention that, given the St Asaph flood defences have recently been constructed, it is assumed they would have been built to a 100 year design life and will withstand overtopping in the 0.1% plus climate change event. It is assumed that the defences would be regularly inspected and maintained, that it would therefore be unreasonable for a breach of these defences to be the 'design event', and it should instead be considered as a residual risk in the FCA.

Officers would note that the approach taken as to how a breach of the flood defences is assessed is core to the assessment of potential flood risk.

NRW, in their consultation response dated 24/09/20 have defended their stance that the breach should be considered to be a design event, and in their final consultation response they have re-iterated that their views remain unchanged, and they maintain the view that the development would increase flood risk to surrounding property, which is unacceptable.

It should also be stressed that the purpose of the St Asaph flood defence scheme was to provide significant flood risk betterment to the community of St. Asaph and that it was designed to protect existing infrastructure; it has not however been constructed to promote new development in a high flood risk area.

Notwithstanding the stance taken in the FCA, Officers would stress that NRW are the statutory body for flood risk and consider in this instance significant weight should be apportioned to their advice.

In terms of the tests set out in TAN15 at 6.2, whilst the site lies within the St. Asaph development boundary and the development would contribute to local housing supply, the site has not been allocated for housing development in the LDP and therefore the proposal could not be considered to be necessary to assist a regeneration initiative or to sustain the settlement of St. Asaph, and nor would it deliver key employment objectives.

The site is residential garden area and therefore would fall within the PPW definition of previously developed land, however it should be noted the site is nevertheless largely undeveloped land (lawns and planting area), rather than being a 'brownfield' site.

Having regard to the consultation responses of NRW, who have consistently advised that the proposal would create an unacceptable risk of offsite flooding, the proposal has also not satisfactorily demonstrated the potential consequences of a flooding are acceptable.

The proposal therefore does not meet the tests set out in TAN15 6.2 which are required to be met in order to justify development in a C1 flood risk zone, and the proposal is therefore contrary to the advice and guidance contained in PPW and TAN15.

#### 4.2.7 Drainage

Local Development Plan Policy RD 1 test (xi) requires that development satisfies physical or natural environmental considerations relating to drainage and liability to flooding.

Planning Policy Wales confirms that factors to be taken into account in making planning decisions (material considerations) must be planning matters; that is, they must be relevant to the regulation of the development and use of land in the public interest, towards the goal of sustainability. The drainage / flooding impacts of a development proposal are a material consideration.

Dwr Cymru has advised the site is crossed by a public sewer and that their assets will need to be protected.

With respect to drainage, Dwr Cymru note the proposal to dispose of both foul flows and surface water runoff from the proposed development via the public sewerage system. Dwr Cymru have however advised that due to capacity constraints with the public combined sewerage network, under no circumstances would they allow surface water runoff from the proposed development to be discharged directly/indirectly into the combined public sewerage network.

Officers consider conditions can be imposed to secure details of foul drainage and to prevent surface water or land drainage from discharging to the public sewer.

Officer also note that surface water drainage proposals would require separate SAB approval.

Subject to the imposition of necessary conditions and advisory notes, Officers consider the proposal would not result in any unacceptable impacts from drainage arrangements.

#### 4.2.8 Highways (including access and parking)

Local Development Plan Policy RD 1 tests (vii) and (viii) oblige provision of safe and convenient access for a range of users, together with adequate parking, services and manoeuvring space; and consideration of the impact of development on the local highway network.

Policy ASA 3 requires adequate parking spaces for cars and bicycles in connection with development proposals, and outlines considerations to be given to factors relevant to the application of standards.

These policies reflect general principles set out in Planning Policy Wales (Section 8) and TAN 18 – Transport, in support of sustainable development

Representations from private individuals have raised concerns on grounds of adverse impact on highway safety and unacceptable increase in traffic along The Roe.

Highways Officers have raised no objection to the proposal, subject to conditions being imposed. Highway Officers have taken into account the capacity of the existing highway, accessibility and the adequacy of the proposed site access.

The application includes details of access, and a new vehicular access is proposed along the site frontage off The Roe, and existing boundary wall would be removed to facilitate the formation of the access.

Notwithstanding the concerns raised by public representations, having regards to the Highway Officer assessment, subject to the imposition of conditions, Officers consider the proposal would not give rise to unacceptable impact on highway safety.

#### 4.2.9 Affordable Housing

Policy BSC3 of the local development plan sets the basic requirement for development to contribute where relevant to the provision of infrastructure including affordable housing, in line with Policy BSC4.

Local Development Plan Policy BSC 4 seeks to ensure, where relevant, 10% affordable housing either on site on developments of 10 or more residential units or by way of a financial contribution on development of less than 10 residential units.

There is detailed guidance in the Affordable Housing Supplementary Planning Guidance on the approach to provision and demand.

Planning Policy Wales (PPW 11) Section 4.2.25 states that a communities need for affordable housing is a material planning considerations which must be taken into account in formulating development plan policies and the determination of planning applications. It states that where development plan policies make clear that an element of affordable housing is required on specific sites, this will be a material consideration.

The Strategic Planning and Housing Officer has confirmed there is a demand for affordable home ownership in St Asaph.

The proposal is in outline form and therefore the number and type of housing has not been determined, however the site would nevertheless deliver in excess of 10 units and therefore a combination of onsite provision and a commuted sum would likely be required. Owing to the outline nature of the application a planning condition is considered appropriate to secure the necessary affordable housing provision.

Subject to the inclusion of a suitably worded condition, the proposal is considered acceptable in relation to Policy BSC3 and advice contained in SPG Affordable Housing.

#### 4.2.10 Open Space

Policy BSC 3 of the Local Development Plan sets the basic requirement for development to contribute, where relevant, to the provision of infrastructure, including recreation and open space, in accordance with Policy BSC 11.



Policy BSC 11 specifies that all new housing developments should make adequate provision for recreation and open space. All such schemes put increased demand on existing open spaces and facilities and therefore the policy applies to all developments including single dwellings.

Table 4 in the Open Space SPG (adopted March 2017) sets out thresholds for on-site provision and financial contributions. It specifies that for schemes of 1 – 30 dwellings, open space obligations should be met through financial contributions rather than onsite provision, however 5.4.9 of the SPG does state that the thresholds are indicative, and onsite provision for sites of less than 30 will be considered on their merits.

An Open Space Assessment and Audit Report has been completed by the Council and provides the evidence base for Policy BSC 11. The report assesses the quantity, quality and accessibility of existing open spaces in the County on a community area basis with some additional information on an electoral ward basis. The assessment shows a deficiency in the area of St Asaph.

For developments of fewer than 30 dwellings, LDP policy BSC 11 'Recreation and Open Space' and Supplementary Planning Guidance 'Recreational Public Open Space' allows the provision of a financial contribution towards public open space, using the Council's Open Space Calculator. Due to the outline nature of the application a planning condition is considered appropriate to secure the open space provision.

#### Other matters

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

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

The report on this application has taken into account the requirements of Section 3 'Well-being duties on public bodies' and Section 5 'The Sustainable Development Principles' of the Well-being of Future Generations (Wales) Act 2015. The recommendation is made in accordance with the Act's sustainable development principle through its contribution towards Welsh Governments well-being objective of supporting safe, cohesive and resilient communities. It is therefore considered that there would be no significant or unacceptable impact upon the achievement of well-being objectives as a result of the proposed recommendation.

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

5.1 The proposal is within the St. Asaph development boundary and the principle of the development is acceptable.

5.2 The site lies within a C1 flood risk zone, and having regard to the advice of NRW, the proposed development would result in an unacceptable increased risk of offsite flooding. The proposal would therefore increase the flood risk of residential properties, commercial buildings, the library, and general infrastructure in the vicinity of the site, and the proposal has failed to demonstrate the consequences of flooding are acceptable.

5.3 Whilst the development would contribute to housing supply in the County, the site has not been specifically allocated for housing development in the LDP and therefore the proposal could not be considered to be necessary to assist a regeneration initiative or to sustain the settlement of St. Asaph, and nor would it deliver key employment objectives.

5.4 The proposed residential development within a C1 flood risk zone is therefore not justified, and the proposal is considered to be contrary to Policy RD1 and the advice and guidance contained in PPW and TAN15, in particular Section 6.2 and A1.12.

5.5 Officers therefore recommend the application should be refused on grounds of unacceptable flood risk.

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

1. It is the opinion of the Local Planning Authority that the site is located within a C1 flood risk zone and the proposed development is not considered to be necessary to assist a regeneration initiative or to sustain the settlement of St. Asaph, or deliver key employment objectives and would result in an unacceptable increase in flood risk elsewhere. Therefore, the potential consequences of flooding are not considered to be acceptable and a residential development in this location within a C1 flood risk zone is not justified. The proposal is considered to be contrary to Denbighshire Local Development Plan Policy RD1 (xi) and the advice and guidance contained in Planning Policy Wales (Edition 11, February 2021) section 6.6.22 to 6.6.29 and Technical Advice Note (TAN) 15: Development and Flood Risk (2004).