

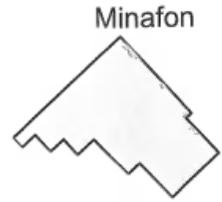
Land at Llwyn Afon, Llanrhaeadr



N Graddfa / Scale: 1:2500

Canol / Centre: 307655, 365079

Dyddiad / Date: 2022-12-21 11:21:04



- Drawing Key**
- Site Boundary (2421 m²)
 - Ownership Boundary
 - ▭ Existing Buildings
 - ▭ Highway/Driveway
 - - Existing Fence/Boundary
 - ▭ Existing Track Area
 - ⊕ +m Existing Site Level
 - ▭ Existing Hedgerow
 - ▭ Proposed Property
 - ⊕ +m Proposed Site Level
 - ▭ Proposed Garden
 - ▭ Proposed Patio
 - - Removal of Hedgerow
 - Indicative Soakaway
 - Proposed Plot Boundary
 - Indicative Proposed Drainage
 - ▭ Proposed Visibility Splay
 - Indicative Drainage and Position of Private Treatment Plant
 - 2.4m from Highway
 - 30mph Zone
 - 42m to West
 - 45m to East

- Drawing Label Key**
- 01/ Proposed 4 bedroom dormer style bungalow.
 - 02/ Improvements to existing shared access serving plot 1.
 - 03/ Improvements to existing access serving plot 2.
 - 04/ Proposed 4 bedroom dormer style bungalow.
 - 05/ Existing 2.4m closed board fencing to adjacent property.
 - 06/ Existing property (The Oaks)
*Illustrating 45° interface from habitable window.
Blank gable/adjoining single garage to boundary.
 - 07/ Existing property (Llwyn Afon)
*Illustrating 45° interface from habitable window to blank gable.
 - 08/ Existing hedgerow to site boundary.
 - 09/ Proposed 2 bedroom bungalow (affordable unit).
 - 10/ Proposed new access to serve plot 3.
 - 11/ Proposed driveway.
 - 12/ Proposed front garden.
 - 13/ Proposed rear garden.

The Building Plot

Wern House Business Centre,
Rodd yr Oren, Ten Fawer Business Park,
Rudry, North Wales, LL15 1JG

01824 562 017
mail@thebuildingplot.com
www.thebuildingplot.com

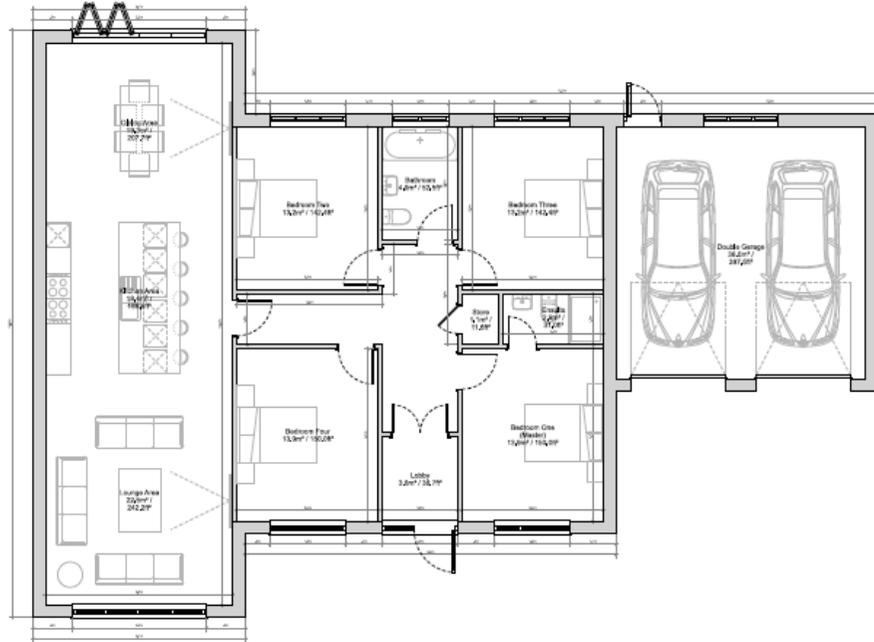
Project: Land adjacent to Llwyn Afon, Llanthoeadr

Drawing No. 22.004.A004	Revision: P03
Scale: 1:500	Date: 01.06.22

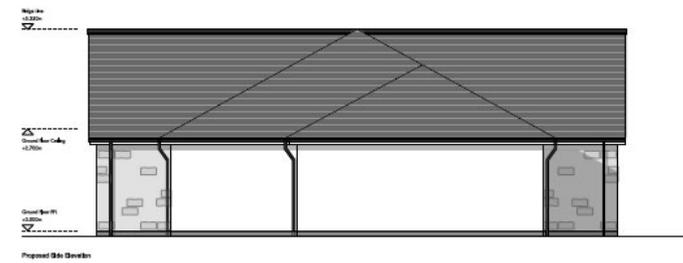
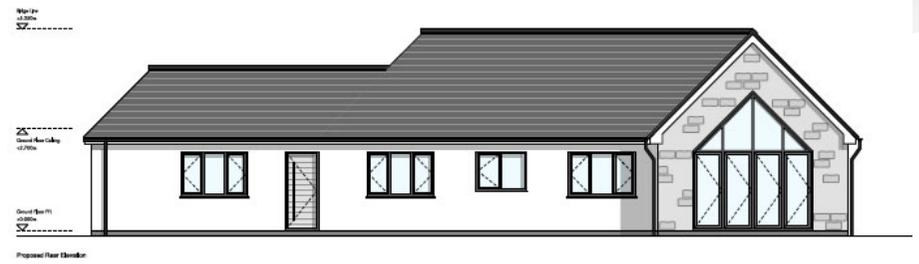
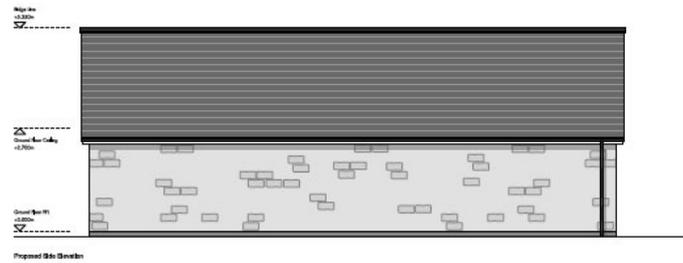
Proposed Site Plan

The contractor is requested to check the accuracy of the drawings and dimensions before work is put in hand and report any discrepancies to the architect for modification as soon as is practicable. For building elements between drawings.

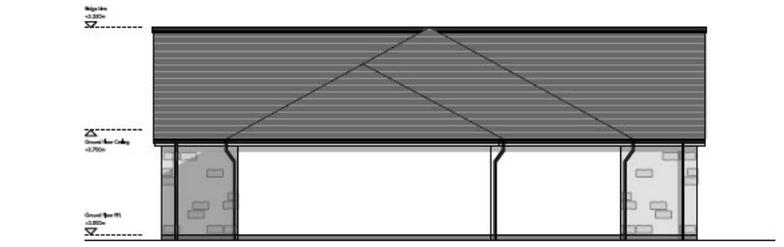
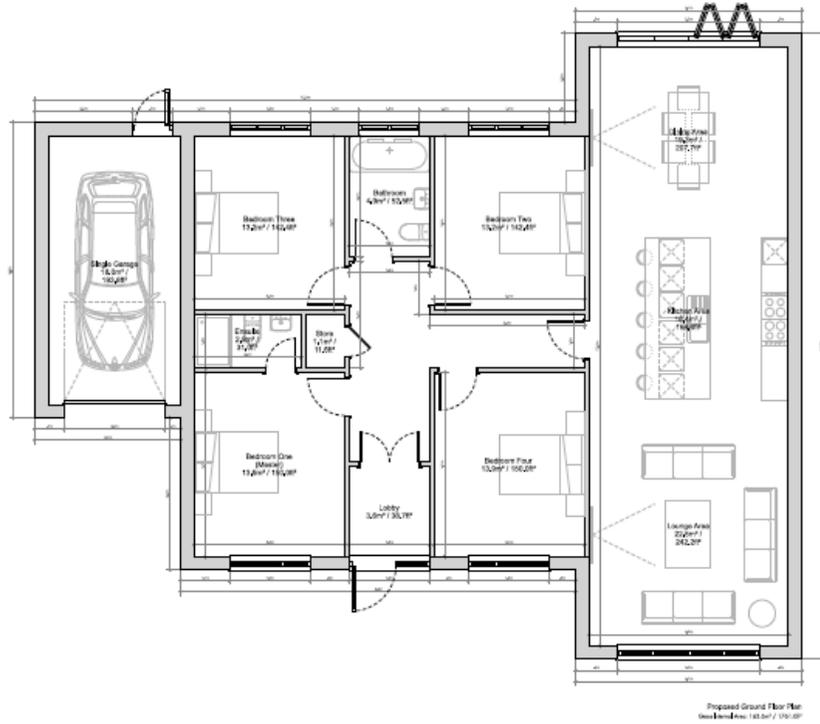
Most Western Plot



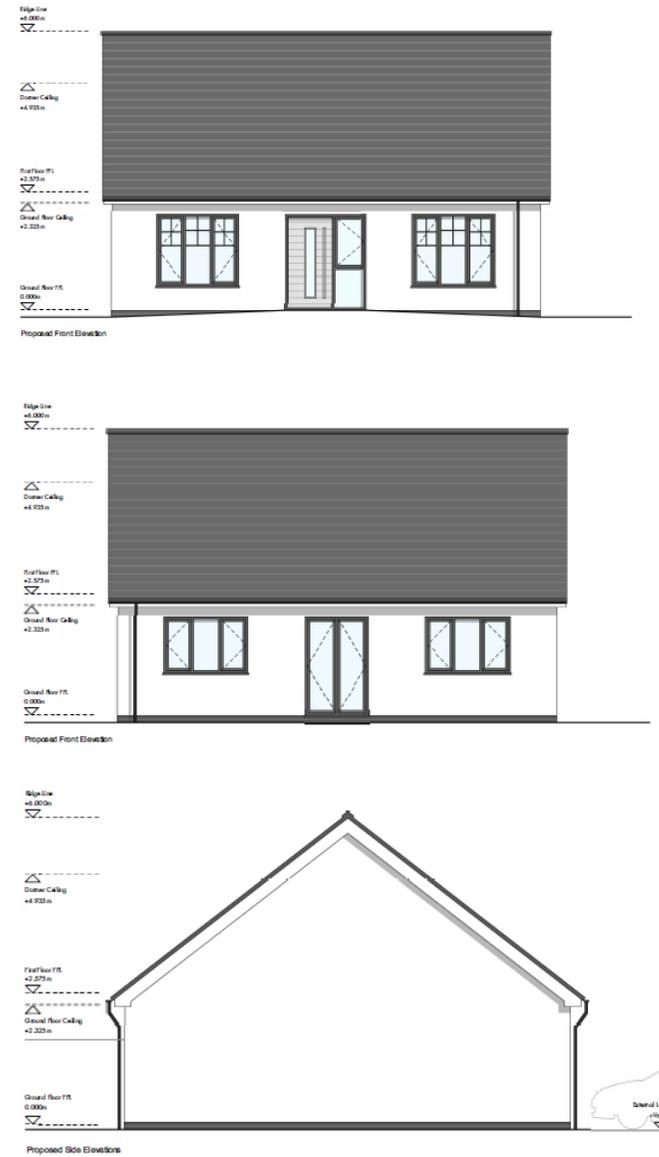
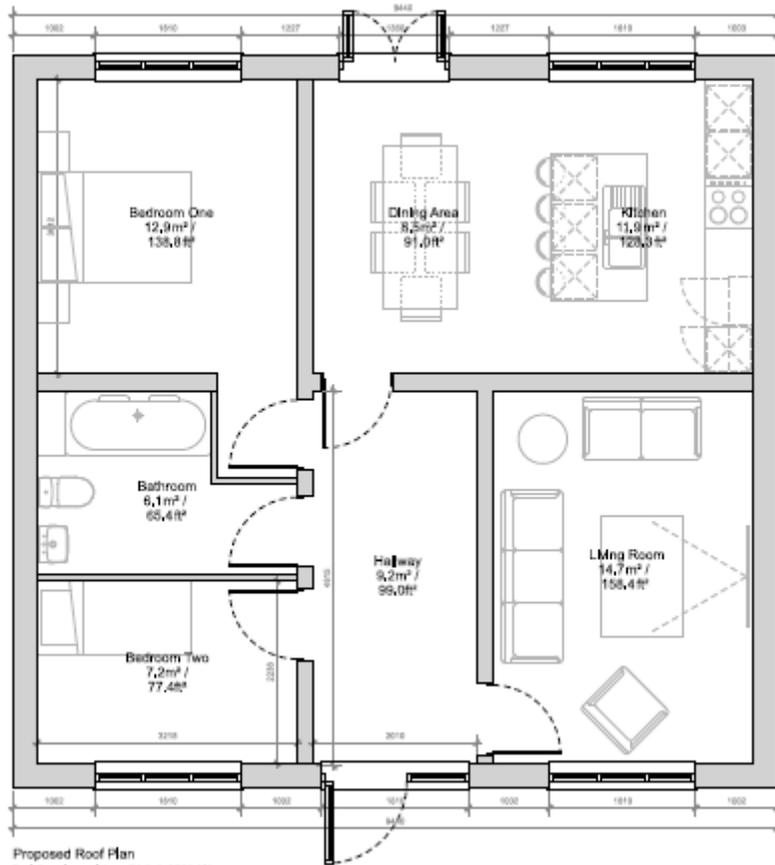
Proposed Ground Floor Plan
Gross Build Area: 10,100 sq ft / 1,944 sq m



Middle Plot



Most Eastern Plot









Georgia Crawley

WARD: Llanrhaeadr Yng Nghinmeirch

WARD MEMBER(S): Cllr Elfed Williams (c)

APPLICATION NO: 23/2022/0344/ PF

PROPOSAL: Erection of 3 dwellings including the installation of a package treatment plant, formation of vehicular accesses and associated works

LOCATION: Land at Llwyn Afon, Llanrhaeadr, Denbigh

APPLICANT: Mr John Irwin

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

- Member request for referral to Committee – Planning History

CONSULTATION RESPONSES:

COMMUNITY COUNCIL

'The Community Council has concerns about the application as it is currently presented. The application does not appear to be within the boundaries of the Council's local development plan. We would also appreciate more information about the scheme as a whole, including drainage schemes (SuDS).'

NATURAL RESOURCES WALES

We have concerns with the application as submitted because inadequate information has been provided in support of the proposal. To overcome these concerns, you should seek further information from the applicant regarding flood risk. If this information is not provided, we would object to this planning application. Further details are provided below.

Flood Risk: This application is for Highly Vulnerable Development in Zone A of the Development Advice Map (DAM) contained in Technical Advice Note (TAN) 15: Development and Flood Risk. The site is also within Zone 2 (Rivers) of the Flood Map for Planning (FMfP). The proposed development comprises 3 new houses with associated landscaping and parking. As confirmed in the letter from Welsh Government dated 15 December 2021, the FMfP represents better and more up-to-date information on areas at flood risk than the DAM.

We have reviewed the flood consequences assessment (FCA) submitted in support of the application by KRS enviro (dated June 2022, ref: KRS:0532.007.R.001.A). In the absence of modelling data, the FCA uses the NRW National Flood Hazard Map and the FMfP to assess flood risk to the site, the main source of which is identified as fluvial, from the Aberham (a main river which flows into the Clwyd). Please note that the National Flood Hazard Maps have no official status for Planning or Insurance purposes, nor do they show the impacts of climate change, and they should be used with caution. It is also worth noting that the National Flood Hazard Maps and the FMfP show different flood outlines – the former does not account for climate change, while the latter does - so the estimations of flood depth provided on p.12 are not considered to be reliable. Being within Flood Zone 2, the site is considered to have between a 0.1% and a 1% chance of flooding annually (between 1 in 1000 and 1 in 100 chance). Because of this, we are satisfied that

the proposal complies with A1.14 of TAN15 – that the site is likely to be flood-free in the 1% Annual Exceedance Probability (AEP) fluvial event with allowance for 100 years of climate change. On page 12, the FCA recognises that, according to the FMfP, the site is at risk of flooding in the 0.1% AEP event with allowance for climate change. Therefore, we recommend that the design should demonstrate that the proposed development has no effect on flood risk elsewhere – i.e., the houses to the North-West and South-East. The FCA states (p.16 and p.17) that the proposed development will not use land raising so will have no impact on flood water conveyance or storage, and thus no effect on flood risk at the adjacent properties. It is our view that by introducing a volume such as the proposed houses (plus the material required to level the site) to the area shown by the FMfP to be at risk of flooding in the 0.1% AEP event, flood waters are likely to be displaced either directly or by disruption of flood routes. To be satisfied that the proposed development would not impact flood risk at the adjacent properties, we advise that further evidence, perhaps in the form of quantitative calculations of the volume of water likely to be displaced and therefore a revised FCA be prepared in support of this application.

Protected Species: We recommend you seek the advice of your in-house ecologist to determine if there is a reasonable likelihood of bats, a European Protected Species, being present within the application site. If so, in accordance with Technical Advice Note 5: Nature Conservation and Planning (paragraph 6.2.2) an updated bat survey may be required. A similar application in 2018 submitted an ecological survey which noted bat use at the site.

The survey should be carried out in accordance with 'Bat Surveys; Good Practice Guidelines 3rd Edition' published by the Bat Conservation Trust 2016.

Please consult us again if any survey undertaken finds that bats are present at the site and you require further advice from us.

Protected Sites: The site is within 450 metres to Llwyn Special Area of Conservation, and Llwyn Site of Special Scientific Interest (SSSI), noted for their woodland and associated swamp, mire and rush-pasture on a floodplain habitat.

From the information provided, we consider that the proposal is not likely to have a significant effect on the SAC and is not likely to damage the features for which Llwyn SSSI is of special interest'.

DWR CYMRU / WELSH WATER

'The proposed development may be subject to Schedule 3 of the Flood and Water Management Act 2010. The development therefore may require approval of Sustainable Drainage Systems (SuDS) features, in accordance with national standards, and is strongly recommended that the developer engage in pre-application consultation with the Local Authority, as the relevant SuDS Approval Body (SAB), in relation to their proposals for SuDS features. Please note, Dwr Cymru Welsh Water is a statutory consultee to the SAB application process and will provide comments to any SuDS proposals by response to SAB consultation'.

WALES AND WEST

'Our records show those pipes owned by Wales & West Utilities (WWU) in its role as a Licensed Gas Transporter (GT). On some occasions, blank maps may be sent to you. This is due to your proposed work being in a no gas area, but within our operational boundaries. Service pipes, valves, syphons, stub connections, etc. may not be shown, but their presence should be anticipated. No warranties are therefore given in respect of it.

They also provide indications of gas pipes owned by other GTs, or otherwise privately owned, which may be present in this area. This information is not information of WWU and WWU is unable to verify this information or to confirm whether it is accurate or complete'.

CAMPAIGN FOR THE PROTECTION OF RURAL WALES

'I am writing on behalf of the Campaign For The Protection Of Rural Wales to object to this development. The site is half way between approved and proposed building sites in Llanrhaeadr and Denbigh - about a quarter of a mile in each direction.

The site's last use was as a "caravan park" but it is now covered with wild grass, weeds and saplings. There are fields behind and in front of this site which are in use for grazing and pasture and this land could be restored to the same.

CPRW believe Llanrhaeadr is being overdeveloped and this would be a waste of potential agricultural land at a time when there is a danger of a national food shortage. We should not forget the lessons of the Second World War, when every patch of land was used for food, and the current shortages caused by the war in Ukraine. We believe there is no unmet need for more houses in Llanrhaeadr when there are so many new houses about to be constructed nearby’.

DENBIGHSHIRE COUNTY COUNCIL CONSULTEES –

Traffic, Parking and Road Safety:

- Highways Officer

‘I refer to the consultation in respect of the above and note that outline planning was approved at this location in 2018 under planning permission code no: 23/2018/0268 and this application addresses the highway details under Condition No 1 and 4.

The accesses, parking are acceptable and therefore I have no objection subject to separate consent required for the vehicular verge crossings.

Suggest the following matters be brought to the applicant’s attention as advisory notes:

- 1. Highway Supplementary Note No’s 1,3,4,5, & 10.*
- 2. New Roads and Street Works Act 1991 – Part N Notice*
- 3. Highways Act 1980 Section 184 Consent to Construct a Vehicular Crossing over footway/verges’.*

Public Protection Officer

‘This application will need a noise assessment – TAN 11 – due to the proximity to the main road. The noise assessment will be to establish the potential impact traffic noise has on the proposed properties amenity in the living and bed rooms. I would expect the assessment to be conducted over 5 days to include weekdays and weekends. The assessment must comply with the current TAN 11 requirements’.

County Ecologist

‘Additional information is required before this application can be considered further.

At present there have been no ecological surveys conducted at the proposed development site, so it is not possible to determine the potential impacts on protected species, or demonstrate that proposals will maintain and enhance biodiversity as required by Section 6.4 of Planning Policy Wales, Edition 11.

I recommend that this application is rejected until the necessary ecological surveys have been completed, and a report detailing their results has been submitted to the Local Planning Authority for review’.

Flood Risk Engineer

‘The above planning application will require SAB approval’.

Strategic Housing & Policy Officer

‘The site lies outside of any settlement development boundary or hamlet area of search in the adopted Denbighshire LDP, as such the principle of development on the site can only be considered under LDP Policy BSC 9 – Local Connections Affordable Housing within small groups or clusters. Policy BSC 9 allows for the development of one or two dwellings within a gap in an otherwise continuously development frontage for local connections affordable housing. The attached Housing Market Assessment details the types and size of affordable homes required in the area.

The current proposal is for 3 dwellings; 2 being open market housing and 1 affordable. Policy BSC 9 allows for a maximum of 2 local connections affordable dwellings, 3 dwellings is in excess of this maximum and the proposal fails to meet the requirements of the policy by introducing market housing and is not supported.

There is no policy provision for open market housing in this location and the proposal is therefore not supported.

As previously stated, Policy BSC 9 allows for the development of one or two local connections affordable houses subject to a number of criteria being satisfied.

Criterion iv) states: Satisfactory arrangements can be made to ensure that the dwelling(s) are retained in perpetuity as affordable dwellings for local need and this is contained in a Section 106 agreement.

Policy BSC 9 only allows for local connections affordable housing to meet local need. The applicant has provided no evidence of local affordable housing need and it is not therefore possible to assess whether the proposal meets this policy requirement. In the absence of this evidence, the proposal cannot be supported.

In summary it is considered that the proposal does not meet the relevant policy requirements in the adopted LDP and is not supported.

As demonstrated by census data and the Affordable Housing waiting list information, the accommodation required in the area is predominantly for families. The house size in most demand is a 3-bedroom dwelling for both purchase and intermediate rental. There are no applicants on the affordable housing register for 2 bedroom houses; there is one applicant for a 4-bedroom house. There is a significant difference in the size of the two 4-bedroom properties when compared to the 2-bedroom dwelling, indeed they are both over double the size of the smaller dwelling and therefore it cannot be said that the 2-bedroom dwelling is integrated into the site. The recommended mix of market housing types on residential sites is set out in the Local Housing Market Assessment 2019. Developers are encouraged to include a mix of housing sizes to reflect need, as well as the aspiration for additional bedrooms. 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.

Whilst it is not practical for a small site to meet a range of local housing needs, 79.7% of the local population live in a 3 person or smaller household, therefore the proposal neither takes into account the affordable housing needs in the area or the local population demographic. Two and three bedroom houses would better meet housing needs based on the available data. 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)'.

RE-CONSULTATION RESPONSES (IF RELEVANT)

COMMUNITY COUNCIL

'Llanrhaeadr Community Council has no objections to the subject planning application and plans in principle, only to question on why a SUDS report has not been prepared and supplied as part of the planning application process'.

NATURAL RESOURCES WALES

'We have no objection to the application but have the following comments:

Flood Risk

We have reviewed the revised Flood Consequences Assessment (FCA) submitted by KRS enviro (dated August 2022, ref: KRS.0532.007.R.001.B) in response to our previous comments.

The revised FCA addresses the concerns raised previously, which were that the impact of the proposal on flood risk elsewhere was not sufficiently addressed. The FCA states that, according to their calculations, the proposed dwellings are unlikely to increase flood depths in the vicinity of the site (unspecified area) by more than 1 mm. The flood depths used in the calculations are estimated from local ground levels and the Flood Map for Planning (FMfP) outlines. We consider the flood levels derived from the FMfP to be estimates which should only be used as a guide. In this

instance, we do not expect the error associated with the flood level estimations to be of great enough magnitude to cause a significant change to the 1 mm increase to local flood levels calculated in the FCA. We are therefore able to withdraw our initial concerns with this proposal. Please note: we maintain that the FMfP and the National Flood Hazards Map show different flood outlines due to the inclusion of the effects of climate change in the modelling used to produce the FMfP outline and can therefore not be used interchangeably. Whilst it is possible to derive estimates of flood depth from the FMfP, this practice should not replace site-specific modelling where possible.

As it is for your Authority to determine whether the risks and consequences of flooding can be managed in accordance with TAN15, we recommend you consider consulting other professional advisors on matters such as emergency plans, procedures and measures to address structural damage that may result from flooding. Please note, we do not normally comment on or grant the adequacy of flood emergency response plans and procedures accompanying development proposals, as we do not carry out these roles during a flood. Our involvement during a flood emergency would be limited to delivering flood warnings to occupants/users.

Protected Species

We recommend you seek the advice of your in-house ecologist to determine if there is a reasonable likelihood of bats, a European Protected Species, being present within the application site. If so, in accordance with Technical Advice Note 5: Nature Conservation and Planning (paragraph 6.2.2) an updated bat survey may be required. A similar application in 2018 submitted an ecological survey which noted bat use at the site.

The survey should be carried out in accordance with 'Bat Surveys; Good Practice Guidelines 3rd Edition' published by the Bat Conservation Trust 2016.

Please consult us again if any survey undertaken finds that bats are present at the site and you require further advice from us.

Protected Sites

The site is within 450 metres to Llwyn Special Area of Conservation, and Llwyn Site of Special Scientific Interest (SSSI), noted for their woodland and associated swamp, mire and rush-pasture on a floodplain habitat.

From the information provided, we consider that the proposal is not likely to have a significant effect on the SAC and is not likely to damage the features for which Llwyn SSSI is of special interest'.

Final response:

'We note that the bat report submitted in support of the above application (Preliminary Ecological Appraisal for Yr Hen Lein, Llanrhaeadr, Denbigh by PJ Ecological Solutions dated March 2022) has identified that bats were unlikely to be using the application site. From the information submitted, we consider that the proposed development represents a lower risk for bats, as defined in our guidance document 'Natural Resources Wales Approach to Bats and Planning (2015)'. Bats and their breeding and resting places are protected under the Conservation of Habitats and Species Regulations 2017(as amended).

As this is a lower risk case for bats, we consider that the development is not likely to be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in its natural range.

The report identifies that the habitat around the site has some suitability for bats and Section 5 gives mitigation and recommendations for lighting and planting to avoid and minimise any potential impacts on bats. We recommend these measures are appropriately secured in any future consent to the satisfaction of your Authority'.

Public Protection Officer

'The applicant has submitted a Noise Impact Assessment for the proposal which has been produced by a qualified professional consultant and has referenced the required measurement and assessment standards.

The assessment shows all internal living and bedrooms on the north east elevation of the proposed dwellings would exceed recommended daytime and night time noise levels due to the developments proximity to the A525 highway without attenuation in the form of building and glazing design. Even with good design the north east elevations will still exceed recommended daytime and night time noise levels with a window partially open. The consultant has recommended standards for suitable passive ventilation so that the windows are not required to be open to provide the occupant(s) with adequate ventilation.

Recommendation: GRANT (with conditions)

Conditions:

- o The building envelope construction for the development shall proceed in accordance with the recommendations for noise attenuation as detailed within the submitted Noise Impact Assessment Report.*
- o Details of the construction of the building envelope, installation of the glazing and ventilation shall be documented and submitted to the Local Planning Authority for verification before the dwellings are inhabited.*
- o The applicant shall submit and agree in writing with the local planning authority a construction method statement for the development.*

Reasons

- o To protect the amenity of future occupants.*
- o To protect the amenity of neighbouring properties.*

Notes to Applicant

The granting of planning permission does not preclude the Public Protection department from carrying out a formal investigation should a statutory nuisance complaint be received in the future'.

County Ecologist

'Recommended conditions 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 as required by Section 6.4 of Planning Policy Wales, Edition 11.

- Each new building must contain provision for roosting bats and nesting birds, in line with recommendations made in section 5 of the Ecological Report.*
- An external lighting/internal light spillage scheme, designed to avoid negative impacts on bats, must be submitted and approved in writing by the LPA.*
- Works which could result in the damage or destruction of active bird nests must take place outside the of the bird breeding season (March - August, inclusive) or immediately following a nesting bird check conducted by a suitably qualified ecologist.*
- A detailed landscaping scheme designed to deliver a net benefit for biodiversity'.*

RESPONSE TO PUBLICITY:

No representations received.

EXPIRY DATE OF APPLICATION: 31/08/2022

EXTENSION OF TIME AGREED: 13/01/2023

REASONS FOR DELAY IN DECISION (where applicable):

- additional information required from applicant
- awaiting consideration by Committee

PLANNING ASSESSMENT:

1. THE PROPOSAL:

1.1 Summary of proposals

- 1.1.1 The proposal is for the erection of three detached bungalows. The units would be sited on land which was previously used as a caravan site. It is located between the dwellings Llwyn Afon and the Oaks. All surrounding properties in this group are also bungalows.

1.1.2 The application is submitted as being for two four-bed open market dwellings and one two-bed affordable dwelling. There is an extant outline planning permission 23/2021/0108 for the development of this site by way of three dwellings (also for two open market dwellings and one affordable dwelling).

1.1.3 The proposed units gross area would be:

House type A - four bedroom unit = 181.6m²

House type B - four bedroom unit = 163.6m²

House type C - two bedroom (affordable) unit = 74m²

1.1.4 Each dwelling would be served by an independent access.

1.1.5 A Section 106 Legal Agreement would be required to be signed in order to release the outline permission which included provision for:

- One Affordable Housing Unit (either via a Registered Social Landlord as a Shared Equity Unit or Intermediate Rent Unit or let privately as an intermediate rent).
- An Open Space Contribution (off site)

1.2 Other relevant information/supporting documents in the application

1.2.1 The application is supported by a Flood Consequence Assessment, Preliminary Ecological Appraisal and Noise Impact Assessment Report.

1.3 Description of site and surroundings

1.3.1 The site lies in open countryside on the west side of a spur road off the A525 as it approaches the town of Denbigh from the south. It is located between this spur road and the land which was formerly part of the Denbigh – Ruthin railway line.

1.3.2 The site is some 1.5km from the outskirts of both Denbigh and Llanrhaeadr village.

1.3.3 It is a flat area of land sitting between the applicant's dwelling Llwyn Afon (to the north-west), and The Oaks, a private dwelling in separate ownership to the south east. There is a further dwelling, Minafon, immediately to the north west of Llwyn Afon, and a loose scattering of dwellings further to the south, the nearest of which is Llwyn Bach, some 130 metres from the nearest part of the site.

1.3.4 The location of the site relative to Denbigh town and Llanrhaeadr village, and the respective relationship between the site, highways, and the dwellings in this locality can be appreciated from the plans at the front of the report.

1.3.5 Measured off the submitted location plan, the site has a road frontage of some 60 metres.

1.3.6 The site itself consists of areas of mown grass with a number of ornamental trees, a service track loop off an access onto the highway, with a long established hedgerow along the majority of the highway boundary and the boundary with The Oaks. The site backs onto the old railway embankment.

1.4 Relevant planning constraints/considerations

1.4.1 The site is located in the open countryside. The site is within the Vale of Clwyd Landscape of Outstanding Historic Interest. The site is located in Flood Zone 2 for rivers and sea in the Flood Map for Planning.

1.5 Relevant planning history

- 1.5.1 The most recent application was 23/2021/0108/PS Variation of condition no's 2 and 3 of outline planning permission code no. 23/2018/0268 to allow a further 2 years for the submission of reserved matters which was approved at Planning Committee 15/04/2021 against Officer recommendation. This is therefore an extant permission until the 15/04/2023.
- 1.5.2 There is a considerable planning history relating to the application site prior to the above permission, dating back to the development of a garden centre in the early 1980's, detailed in section 2.1 of the report.
- 1.5.3 The dwellings at Llwyn Afon and The Oaks were consented during Glyndwr District Council days, and built in connection with the garden centre. Following closure of the garden centre, permission was granted in 2001 to use the land as a touring caravan site, and in 2004 for use as an 8 van static caravan site. Permission was granted on appeal in 2010 for the 12 month occupation of the static caravans for holiday purposes.
- 1.5.4 Applications to develop the site for residential purposes were submitted in 1998, 2006 and 2007. All were refused permission on the 'in principle' grounds that the site was in open countryside, outside defined development boundaries, in an unsustainable location, there were no 'essential need' or planning policy justification. The 2008 refusal was the subject of an appeal, but this was dismissed by the Planning Inspectorate. Issues raised in that appeal which have some relevance to the current application are referred to elsewhere in the report.

1.6 Developments/changes since the original submission

- 1.6.1 Additional information submitted including Flood Consequences Assessment (Dated August 2022), Preliminary Ecological Appraisal (P J Ecological Solutions, March 2022) and Noise Impact Assessment Report (NoiseAir, Report Ref: P5718-R1-V1, 20th October 2022).

1.7 Other relevant background information

- 1.7.1 By way of background to this application Members should note that the previous outline permission restricted the upper and lower limits of the buildings dimensions to a maximum height of 5.5m, width 10m and length 18m. The units now proposed would exceed these dimensions, so could not be submitted as a reserved matters application and has been submitted as a full planning application.

1. DETAILS OF PLANNING HISTORY:

- 1.1 Earlier applications in the sequence below relate to land previously developed in conjunction with a garden centre, a caravan site and subsequently the outline planning permission for the erection of three dwellings.

34/4129 Development of land by the erection of a bungalow and establishment of a garden centre and construction of vehicular access and septic tank (outline application). REFUSED 19th February 1980 (Sporadic form of residential development, no essential need / special circumstances).

34/4244. Erection of garden centre GRANTED 3rd June 1980.

34/4631 Development of land as garden centre GRANTED 14th July 1980.

34/4932 Development of land by the erection of a bungalow and garage, construction of vehicular accesses and septic tank (outline application) GRANTED 7th April 1981.

34/8237 Development of land by the erection of an agricultural worker's bungalow, construction of septic tank and alteration of existing vehicular access (outline application) REFUSED 17th October 1986.

34/9279 Development of land by the erection of a bungalow and alteration of existing vehicular access (outline application) REFUSED 11th March 1988 (Sporadic residential development outside any recognisable settlement, no proven essential need for a dwelling) Subsequent appeal DISMISSED.

34/9460 Development of land by the erection of a bungalow and alteration of existing vehicular access REFUSED 24th June 1988 (Sporadic form of residential development outside any recognisable settlement, no essential need for a dwelling).

23/894/98 Development of 0.2 hectares of land for residential purposes and installation of septic tanks (outline application). REFUSED 17th December 1998 (No special circumstances to constitute a special need in Green Barrier and open countryside; sporadic development impacting on open character of area; precedent).

23/2000/1016 Use of land as touring caravan site including erection of amenity block and alterations to existing vehicular access GRANTED 8th May 2001.

23/2003/1238 Change of use of land from 12 touring caravan site to 12 van static caravan site REFUSED 25th February 2004.

23/2004/0749 Change of use of land from 12 van touring caravan site to 8 van static caravan site GRANTED 1st September 2004.

23/2006/1480 Development of 0.27ha of land for residential purposes (outline application) REFUSED 11th April 2007 (Outside settlement limits, not within a group of dwellings as defined in planning policy, no essential need, unsustainable location, inadequate drainage detailing).

23/2007/1351 Development of 0.25 ha of land by the erection of 3no. dwellings and installation of private treatment plant (outline application) REFUSED 14th March 2008 (Outside settlement limits, sporadic development, no essential need, not infilling, no affordable need case justified, unsustainable location) Appeal DISMISSED.

23/2009/1368 Variation of condition 4 of permission 23/2004/0749 to allow 12 month occupation of static caravans for holiday purposes REFUSED 17th March 2010 Appeal ALLOWED.

23/2018/0268 Development of 0.244ha of land by the erection of three dwellings (outline application with all matters reserved). GRANTED 03/10/2018.

23/2021/0108/PS Variation of condition no's 2 and 3 of outline planning permission code no. 23/2018/0268 to allow a further 2 years for the submission of reserved matters GRANTED 15/04/2021.

2. RELEVANT POLICIES AND GUIDANCE:

The main planning policies and guidance are considered to be:

Local Policy/Guidance

Denbighshire Local Development Plan (adopted 4th June 2013)

Policy BSC1 – Growth Strategy for Denbighshire

Policy BSC2 – Brownfield development priority

Policy BSC3 – Securing infrastructure contributions from Development

Policy BSC4 – Affordable Housing

Policy BSC9 – Local connections affordable housing within small groups or clusters

Policy BSC11 – Recreation and open space

Policy ASA3 – Parking standards

Supplementary Planning Guidance

Supplementary Planning Guidance Note: Access For All

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: 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 6 Planning for Sustainable Rural Communities (2010)

TAN 11 Noise (1997)

TAN 12 Design (2016)

TAN 15 Development and Flood Risk (2004)

TAN 16 Sport, Recreation and Open Space (2009)

TAN 18 Transport (2007)

3. 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.

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

- 3.1.1 Principle
- 3.1.2 Visual amenity
- 3.1.3 Residential amenity
- 3.1.4 Ecology
- 3.1.5 Drainage (including flooding)
- 3.1.6 Highways (including access and parking)
- 3.1.7 Affordable Housing
- 3.1.8 Open Space
- 3.1.9 Noise

3.2 In relation to the main planning considerations:

3.2.1 Principle

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

In relation to residential development outside settlements with defined development boundaries, there are 'exceptions' policies setting out circumstances where affordable housing may be acceptable. These relate to Local Connections Affordable Housing in hamlets (BSC6); Rural Exception sites (BSC8); and Local Connections Affordable Housing within small groups or clusters (BSC9). BSC 6 and 8 are not relevant to the circumstances at Llwyn Afon, as the collection of dwellings is not recognised as a hamlet in the Development Plan, and the site is not immediately adjoining a development boundary. The applicants are not suggesting these are applicable.

The policy against which the applicant is suggesting the proposal should be assessed is BSC9.

Section 3 of Planning Policy Wales deals with Strategic and Spatial Choices and deals with development in rural areas. Paragraphs 3.39 - 3.40 and 3.60 are of particular relevance to proposals for new dwellings outside designated settlements:

'3.39 For most rural areas the opportunities for reducing car use and increasing the use of walking, cycling and public transport are more limited than in urban areas. In rural areas the majority of new development should be located in those settlements which have relatively good accessibility by non-car modes when compared to the rural area as a whole.'

3.40 Local service centres, or clusters of smaller settlements where a sustainable functional linkage can be demonstrated, should be designated by local authorities and be identified as the preferred locations for most new development including housing and employment provision. The approach should be supported by the service delivery plans of local service providers.

3.60 Development in the countryside should be located within and adjoining those settlements where it can best be accommodated in terms of infrastructure, access, habitat and landscape conservation. Infilling or minor extensions to existing settlements may be acceptable, in particular where they meet a local need for affordable housing or it can be demonstrated that the proposal will increase local economic activity. However, new building in the open countryside away from existing settlements or areas allocated for development in development plans must continue to be strictly controlled. All new development should be of a scale and design that respects the character of the surrounding area.'

Future Wales (2021) further supports sustainable development objectives and the stance of not developing where there is limited access to services.

Policy BSC 9 allows for a maximum of 2 local connections affordable dwellings; 3 dwellings is in excess of this maximum; there is no policy provision for open market housing in this location; the applicant has provided no evidence of local affordable housing need and it is not therefore possible to assess whether the proposal meets this policy requirement. It is concluded the proposal does not meet the relevant policy requirements in the adopted LDP and is not supported.

In relation to the Development Plan, the wording of BSC9, and the contents of Planning Policy Wales, Officers' comments in relation to the principle of the development are:

- The site is located in open countryside, being some 1.5km from the nearest part of the development boundaries of Denbigh and Llanrhaeadr village. It is not within any Hamlet area of search in the Local Development Plan.
- The premise of BSC9 emphasises the Development Plan and PPW approach to residential development in open countryside, which is that this should be strictly controlled and will only be acceptable as an 'exception' where it meets a local need for affordable housing. The submission does not argue a case for three affordable dwellings. As the proposal is for two open market dwellings and one affordable home, it is in fundamental conflict with the main requirement of the policy, as two of the dwellings are not intended as local connections affordable housing. There is no planning policy provision for open market dwellings in open countryside.
- BSC9 provides only for local connections affordable housing developments of one or two units within small groups or clusters. The proposal is in conflict with this element of the policy as it is for three dwellings, as noted, two of which would be open market units.

- There is no definition of 'small groups or clusters' or 'infilling of a small gap between buildings within a continuously developed frontage' (test i) of BSC9), either in the Development Plan, Supplementary Planning Guidance on Affordable Housing, or Planning Policy Wales. The Planning Inspector dealing with the 2008 appeal against refusal of planning permission for 3 dwellings on the site noted that the proposal had some of the characteristics of infill development, but having regard to the Unitary Plan and Supplementary Guidance which permitted infill opportunities only within cohesive groups of at least 6 dwellings, it was concluded the appeal site formed part of a 'dispersed, loose assembly of dwellings, which did not have the essential group cohesiveness required'. It remains a matter of opinion whether there is a continuously developed frontage here as there are only three dwellings spread over a road frontage of some 160m.
- In respect of test ii) of BSC9, it is not considered that the proposal would result in ribbon development or the perpetuation of ribbon development, as the site would not extend development out beyond the three existing dwellings along the spur road off the A525.
- In respect of test iii) of BSC9, the development would be of a comparable scale and size to the adjoining units, and would be sited so as to respect adjacent properties and the locality. The three existing dwellings along the old Ruthin Road are all bungalows set in relatively generous plots, and are well spaced out from one another. The approximate distances between the dwellings are 30 metres between Minafon and Llwyn Afon, and 70 metres between Llwyn Afon and The Oaks. The three units would be a much more cramped form of development, however, would be comparable to the distances to the adjoining dwellings once developed.
- In respect of test iv) of BSC9, the applicant has confirmed willingness to enter into a S106 agreement with the Council to secure what the submission refers to as the affordable home for local needs. The proposal is however in conflict with test iv) as the two open market dwellings would not be subject to the arrangements necessary to retain them in perpetuity as affordable dwellings.

What, if any, material changes to planning circumstances have occurred since the original grant of consent

Outline planning permission 23/2018/0268 was granted for the development of the land for three dwellings in October 2018. This was approved against Officer recommendation by members of the Planning Committee (Officers had recommended refusal based on the principle of development). Conditions were imposed on this consent which required the submission of reserved matters within the standard period of 3 years from the date of the permission, and the commencement no later than 2 years after that date.

A subsequent application 23/2021/0108 to renew the 2018 permission was approved at Committee, again against Officers recommendation. The 2021 consent renewed the permission until 15/04/2023.

The main issue to be addressed is whether there have been any material changes in policy or circumstances since the grant of the outline consent (and its subsequent renewal) to justify taking a different view on the acceptability of the residential development of the site, and hence whether it is reasonable to permit full planning application for the proposed 3 dwellings (one affordable and two open market dwellings).

The planning policies relating to residential development in the County remain the same as were in place when the outline consent was granted in 2018. The site remains in the open countryside in the Denbighshire Local Development Plan. In addition, the proposal is still for two market dwellings and one affordable dwelling so remains in direct conflict with Planning Policy BSC9 which states that;

'In open countryside, local connections affordable housing development of one or two units will be permitted within small groups or clusters, provided that the proposal meets all the following criteria:

- i) comprises infilling of a small gap between buildings within a continuously developed frontage; and*
- ii) does not result in ribbon development or the perpetuation of existing ribbon development; and*
- iii) is of comparable scale and size to, and is sited so as to respect adjacent properties and the locality; and*
- iv) satisfactory arrangements can be made to ensure that the dwelling(s) are retained in perpetuity as affordable dwelling for local need and this is contained in a Section 106 agreement.'*

Whilst the Local Development Plan is being reviewed, there are no definitive amendments to this policy in place or nearing adoption.

Although Officers note that there is an extant outline consent for a similar scheme decisions do still have to be made in accordance with the Local Development Plan. If they were not, then precedents for all types of development in the open countryside could be set.

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'*.

In noting that there has been no change to policies within the adopted Local Development Plan, and the requirement to determine planning applications in accordance with the development plan, it is still considered that the proposed development does not accord with the policy BSC 9 and on this basis, Officers consider that the proposed development should be refused based on the principle of development not being acceptable in accordance with the adopted Local Development Plan.

Housing Mix:

The Strategic Housing & Policy Officer comments advised that; *'There is a significant difference in the size of the two 4-bedroom properties when compared to the 2-bedroom dwelling, indeed they are both over double the size of the smaller dwelling and therefore it cannot be said that the 2-bedroom dwelling is integrated into the site. The recommended mix of market housing types on residential sites is set out in the Local Housing Market Assessment 2019. Developers are encouraged to include a mix of housing sizes to reflect need, as well as the aspiration for additional bedrooms. 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.'*

Whilst it is not practical for a small site to meet a range of local housing needs, 79.7% of the local population live in a 3 person or smaller household, therefore the proposal neither takes into account the affordable housing needs in the area or the local population demographic. Two and three bedroom houses would better meet housing needs based on the available data'.

The housing mix has not been altered as a result of these comments.

3.2.2 Visual amenity

The Development Management Manual advises at paragraph 9.4.3 that material considerations must be fairly and reasonably related to the development concerned, and can include the number, size, layout, design and appearance of buildings, the means of access, landscaping, service availability and the impact on the neighbourhood and on the environment; and the effects of a development on, for example, health, public safety and crime. The visual amenity and landscape impacts of development should therefore be regarded as a potential material consideration.

PPW 11 Section 6.3.3 states '*All the landscapes of Wales are valued for their intrinsic contribution to a sense of place, and local authorities should protect and enhance their special characteristics, whilst paying due regard to the social, economic, environmental and cultural benefits they provide, and to their role in creating valued places.*'

The proposed dwellings would all be bungalows which would be of similar scale to the surrounding properties which are all bungalows.

The approximate distances between the existing dwellings are 30 metres between Minafon and Llwyn Afon, and 70 metres between Llwyn Afon and The Oaks (where the application site is located). The three units would be a much more cramped form of development, however, would be comparable to the distances to the adjoining dwellings once developed.

The proposed units would consist of a mix of stone and render and would have tiled roofs. The surrounding units are all red brick with tiled roofs, and although the finishes would vary from these, the materials would be as per other properties in the local area.

If permission were to be granted, details of a landscaping scheme relating to the proposed hedge to the front, additional planting along the rear boundary and details of boundary treatments and hardstanding would need to be secured through the imposition of a suitably worded planning condition.

Based on the foregoing, it is considered that the visual amenity impacts of the proposed development would be acceptable.

3.2.3 Residential amenity

The Development Management Manual advises at paragraph 9.4.3 that material considerations must be fairly and reasonably related to the development concerned, and can include the number, size, layout, design and appearance of buildings, the means of access, landscaping, service availability and the impact on the neighbourhood and on the environment; and the effects of a development on, for example, health, public safety and crime. The residential amenity impacts of development should therefore be regarded as a potential material consideration.

The proposed dwellings have all been designed to have no windows on the side elevations, this will prevent any overlooking from the properties to the other adjoining properties. Llwyn Afon has some windows on the southern elevation, however, these are all enclosed by the existing timber fence and there would be 9m to the side elevation of the garage. It is not considered that the proposals would lead to an impact upon their residential amenity.

All rooms would exceed the residential space standard minimum standards.

Each proposed property would have a generous garden area with the smallest being 110m² which is far in excess of the minimum standard.

Based on the foregoing, it is considered that the proposed units would afford acceptable residential amenity standards for the properties themselves and the neighbouring units.

3.2.4 Ecology

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).

The Development Management Manual advises at paragraph 9.4.3 that material considerations must be fairly and reasonably related to the development concerned, and can include the number, size, layout, design and appearance of buildings, the means of access, landscaping, service availability and the impact on the neighbourhood and on the environment; and the effects of a development on, for example, health, public safety and crime. The ecological impacts of development should therefore be regarded as a potential material consideration.

Future Wales – The National Plan 2040 (2021) advises that 'In all cases, action towards securing the maintenance and enhancement of biodiversity (to provide a net benefit), the resilience of ecosystems and green infrastructure assets must be demonstrated as part of development proposals through innovative, nature-based approaches to site planning and the design of the built environment'. It is therefore recommended that these are included and form part of any planning application.

The proposal is supported by a Preliminary Ecological Appraisal (P J Ecological Solutions, March 2022). The County Ecologist raises no objection to the proposed development subject to conditions requiring:

- Each new building must contain provision for roosting bats and nesting birds, in line with recommendations made in section 5 of the Ecological Report.
- An external lighting/internal light spillage scheme, designed to avoid negative impacts on bats, must be submitted and approved in writing by the LPA.
- Works which could result in the damage or destruction of active bird nests must take place outside the of the bird breeding season (March - August, inclusive) or immediately following a nesting bird check conducted by a suitably qualified ecologist.
- A detailed landscaping scheme designed to deliver a net benefit for biodiversity.

Subject to the imposition of planning conditions, it is considered that the proposals are in line with the advice contained in PPW 11 and would provide enhancement measures to increase the biodiversity net gain at the site.

3.2.5 Drainage (including flooding)

The Development Management Manual advises at paragraph 9.4.3 that material considerations must be fairly and reasonably related to the development concerned, and can include the number, size, layout, design and appearance of buildings, the means of access, landscaping, service availability and the impact on the neighbourhood and on the environment; and the effects of a development on, for example, health, public safety and crime. The drainage and flood risk impacts of development should therefore be regarded as a potential material consideration.

Planning Policy Wales (PPW 11) Section 6.6.9 states 'The adequacy of water supply and the sewage infrastructure should be fully considered when proposing development, both as a water service and because of the consequential environmental and amenity impacts associated with a lack of capacity'.

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 advises that in areas which are defined as being of high flood hazard, development proposals should only be considered where:

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

The application site is located within the Flood Zone 2 of the Flood Maps for Planning. Natural Resources Wales initially raised concerns with the Flood Consequences Assessment that is had not demonstrated that there would be no effect on flood risk elsewhere – i.e., the houses to the North-West and South-East.

Natural Resources Wales reviewed the revised Flood Consequences Assessment submitted by KRS enviro (dated August 2022, ref: KRS.0532.007.R.001.B) in response to their previous comments and commented that; *'The revised Flood Consequence Assessment addresses the concerns raised previously, which were that the impact of the proposal on flood risk elsewhere was not sufficiently addressed. The Flood Consequence Assessment states that, according to their calculations, the proposed dwellings are unlikely to increase flood depths in the vicinity of the site (unspecified area) by more than 1 mm. The flood depths used in the calculations are estimated from local ground levels and the Flood Map for Planning (FMfP) outlines. We consider the flood levels derived from the FMfP to be estimates which should only be used as a guide. In this instance, we do not expect the error associated with the flood level estimations to be of great enough magnitude to cause a significant change to the 1 mm increase to local flood levels calculated in the FCA. We are therefore able to withdraw our initial concerns with this proposal.'*

Being within Flood Zone 2, the site is considered to have between a 0.1% and a 1% chance of flooding annually (between 1 in 1000 and 1 in 100 chance). Because of this, we are satisfied that the proposal complies with A1.14 of TAN15 – that the site is likely to be flood-free in the 1% Annual Exceedance Probability (AEP) fluvial event with allowance for 100 years of climate change'.

Subject to conditioning the recommendations of the Flood Consequence Assessment, it is considered that the proposed development would be acceptable in terms of managing flood risk.

The proposed development is seeking to be served by a package treatment plant which is considered acceptable in this location that is not served by mains sewers.

The site will need SUDs approval. A note to applicant will be included to remind the applicants of this requirement.

3.2.6 Highways (including access and parking)

The Development Management Manual advises at paragraph 9.4.3 that material considerations must be fairly and reasonably related to the development concerned, and can include the number, size, layout, design and appearance of buildings, the means of access, landscaping, service availability and the impact on the neighbourhood and on the environment; and the effects of a development on, for example, health, public safety and crime. The highway impacts of development should therefore be regarded as a potential material consideration.

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 (PPW 11) and TAN 18 – Transport, in support of sustainable development.

The Parking Standards in New Developments SPG sets out the maximum parking standards for new developments.

Highway Officers raise no objection to the proposals subject to conditions and notes to applicant. It is therefore considered that the proposals are acceptable in relation to highway grounds.

3.2.7 Affordable Housing

The Local Development Plan includes a number of policies which may be relevant to the provision of affordable housing within and outside identified settlement boundaries, in support of its strategies for meeting the needs of a growing population. The policies have been developed with regard to the objectives of Planning Policy Wales (PPW 11), and Technical Advice Note 2: Planning and Affordable Housing in relation to new housing provision.

Local Development Plan policy BSC9 relates to local connections affordable housing within small groups or clusters in open countryside, and allows for the development of one or two units provided all the following criteria are met:

“i) comprises infilling of a small gap between buildings within a continuously developed frontage; and

ii) does not result in ribbon development or the perpetuation of existing ribbon development; and

iii) is of comparable scale and size to, and is sited so as to respect adjacent properties and the locality; and

iv) satisfactory arrangements can be made to ensure that the dwelling(s) are retained in perpetuity as affordable dwelling for local need and this is contained in a Section 106 agreement.”

In relation to the tests of BSC9, BSC9 provides only for local connections affordable housing developments of one or two units within small groups or clusters. The proposal is in conflict with this element of the policy as it is for three dwellings, as noted, two of which would be open market units.

In respect of test iv) of BSC9, the applicant has confirmed willingness to enter into a S106 agreement with the Council to secure what the submission refers to as the affordable home for local needs. The proposal is however in conflict with test iv) as the two open market dwellings would not be subject to the arrangements necessary to retain them in perpetuity as affordable dwellings.

The Strategic Housing & Policy Officer comments advised that *'As demonstrated by census data and the Affordable Housing waiting list information, the accommodation required in the area is predominantly for families. The house size in most demand is a 3-bedroom dwelling for both purchase and intermediate rental. There are no applicants on the affordable housing register for 2 bedroom houses; there is one applicant for a 4-bedroom house'*.

The 2-bedroom dwelling as shown for affordable use would therefore not meet the current local need for affordable housing. In line with PPW11 'all affordable housing including that provided through planning obligations must meet the Welsh Government's development quality standards Welsh Development Quality Requirements 2021 (WDQR 2021). The dwelling would meet the relevant design standards for a 2-bedroom bungalow.

Given that it does not meet the specified local need for affordable housing, it is considered that this fails the tests of Policy BSC9.

3.2.8 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.

The Development Management Manual advises at paragraph 9.4.3 as to what can be considered a material consideration, and states that the effects of a development on the neighbourhood and environment can be a material consideration. It is therefore considered that the provision of open space in connection with a development proposal is a material consideration.

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.

Welsh Government Circular 16/2014 states that financial contributions should be secured through a planning obligation (legal agreement).

Previous permissions have required an open space contribution be agreed as part of the S106 Agreement. The proposal is considered acceptable in relation to open space policy

subject to the requisite contribution being secured through a legal agreement in relation to any permission granted.

3.2.9 Noise

The Development Management Manual advises at paragraph 9.4.3 that material considerations must be fairly and reasonably related to the development concerned, and can include the number, size, layout, design and appearance of buildings, the means of access, landscaping, service availability and the impact on the neighbourhood and on the environment; and the effects of a development on, for example, health, public safety and crime. The residential amenity impacts of development should therefore be regarded as a potential material consideration.

The applicant has submitted a Noise Impact Assessment for the proposal which has been produced by a qualified professional consultant and has referenced the required measurement and assessment standards.

The assessment shows all internal living and bedrooms on the north east elevation of the proposed dwellings would exceed recommended daytime and night time noise levels due to the developments proximity to the A525 highway without attenuation in the form of building and glazing design. Even with good design the north east elevations will still exceed recommended daytime and night time noise levels with a window partially open. The consultant has recommended standards for suitable passive ventilation so that the windows are not required to be open to provide the occupant(s) with adequate ventilation.

Accordingly the application has been assessed by Public Protection Officers, and they have recommended the following conditions:

- The building envelope construction for the development shall proceed in accordance with the recommendations for noise attenuation as detailed within the submitted Noise Impact Assessment Report.
- Details of the construction of the building envelope, installation of the glazing and ventilation shall be documented and submitted to the Local Planning Authority for verification before the dwellings are inhabited.
- The applicant shall submit and agree in writing with the local planning authority a construction method statement for the development.

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.

4. SUMMARY AND CONCLUSIONS:

- 4.1 The application proposes the erection of two open market dwellings and one affordable dwelling on land in the open countryside between Denbigh and Llanrhaeadr village.
- 4.2 Development Plan policies only make provision for new housing development outside settlements in exceptional circumstances, including for agricultural / forestry purposes, and where such development is for affordable dwellings for local need. This reflects the approach in Planning Policy Wales 11 and Future Wales that both restrict new development in open countryside and direct development to the most sustainable locations.
- 4.3 The main planning policy applicable to the proposal is BSC9 of the Development Plan. This allows local connections affordable housing development of one or two units within small groups or clusters, in the open countryside, subject to four tests.
- 4.4 Officers conclusions are that the proposals are in clear conflict with key elements of Policy BSC9 as they involve the development of three dwellings, two of the three dwellings are proposed as open market units. The sustainability credentials of a development in this location, the arguments on housing supply and that the site constitutes 'previously developed land' are not considered compelling and worthy of affording significant weight to set against the fundamental policy conflicts.
- 4.5 There have not been any material changes to planning policy or circumstances since the original grant of consent. The original consent was approved against Officer recommendation at Planning Committee (recommended for refusal due to its conflict with Local Development Plan Policy BSC9). The proposal is for a fresh permission in its own right, and officers consider that their recommendation should be based upon the tests of the adopted Local Development Plan.
- 4.6 Officers have given weight to the fact that the application was approved at Planning Committee however, 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'.
- 4.7 It is not considered that the previous committee decision to grant consent outweighs the Local Development Plan Policy BSC9 and therefore is recommended for refusal.

RECOMMENDATION: REFUSE - for the following reasons:-

1. The application site is in an open countryside location outside any settlement identified in the Denbighshire Local Development Plan, where new housing development is only considered appropriate if it can be justified for an essential worker in connection with a rural enterprise, or in particular circumstances as an exception to policy where it is for local connections affordable housing and meets specific policy criteria in the Denbighshire Local Development Plan. In the opinion of the Local Planning Authority, the proposal is in clear conflict with the premise and key tests of Policy BSC9 of the Development Plan, in that it involves the development of more than one or two dwellings, with two of the three dwellings proposed as open market units not as affordable dwellings for local need, and the dwellings are not designed to meet the housing needs set out in the Local Housing Market Assessment 2019 nor to take into account the specific affordable housing needs in the area; all conflicts which are not outweighed by other material considerations. In these circumstances, the erection of three dwellings would represent an unacceptable sporadic development in open countryside, contrary to basic planning policy and guidance.