



CYNGOR
Sir Ddinbych
Denbighshire
COUNTY COUNCIL

Graham Boase
Head of Planning & Public Protection
Denbighshire County Council
Caledfryn
Smithfield Road
Denbigh
Denbighshire LL16 3RJ

Tel: 01824 706800 Fax: 01824 706709

Heading:

REFERENCE NO. 01/2011/0782/PO
6 Cysgod y Graig,
Denbigh



Application Site

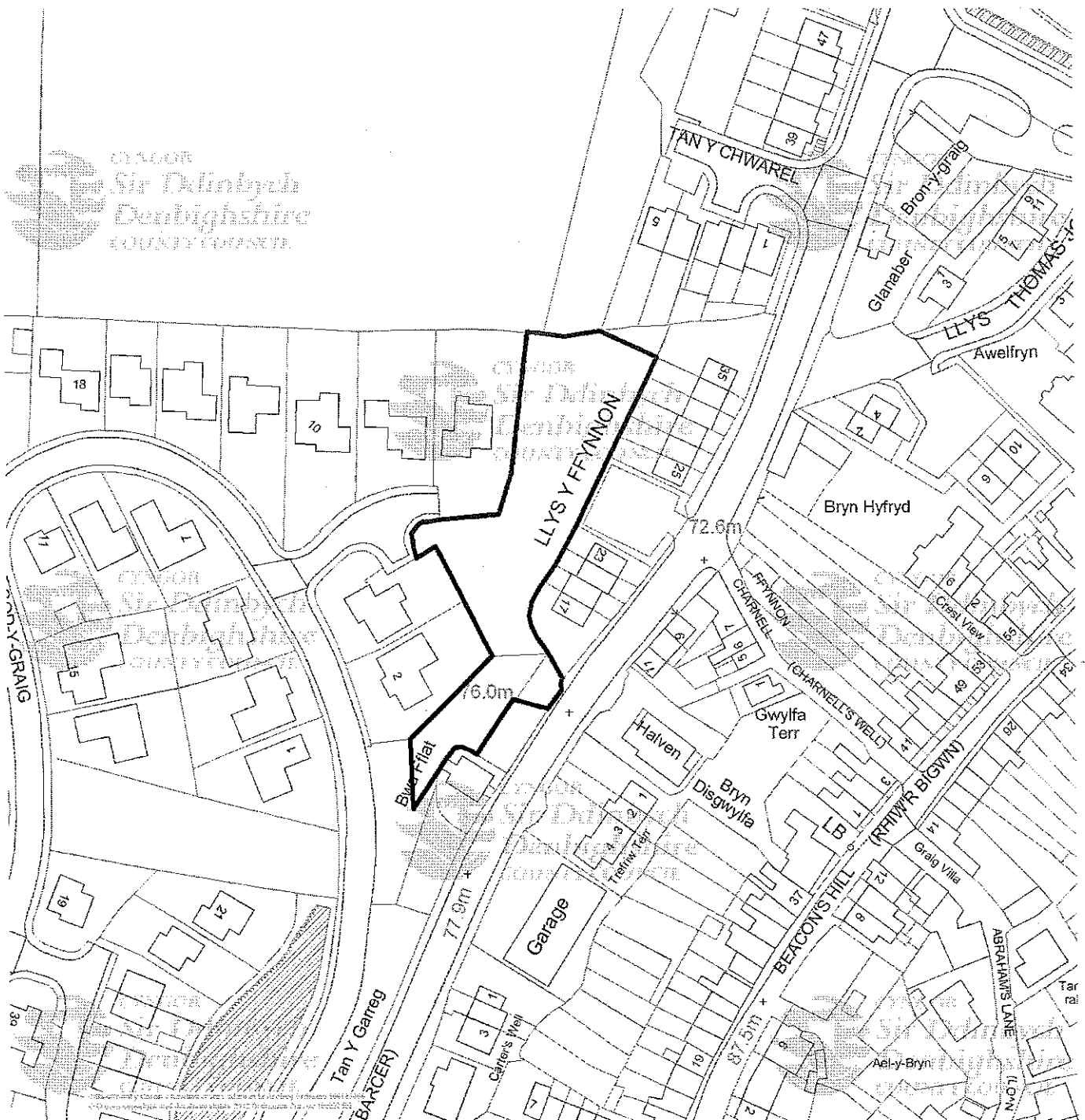


Date 24/8/2012

Scale 1/1250

Centre = 305199 E 366419 N

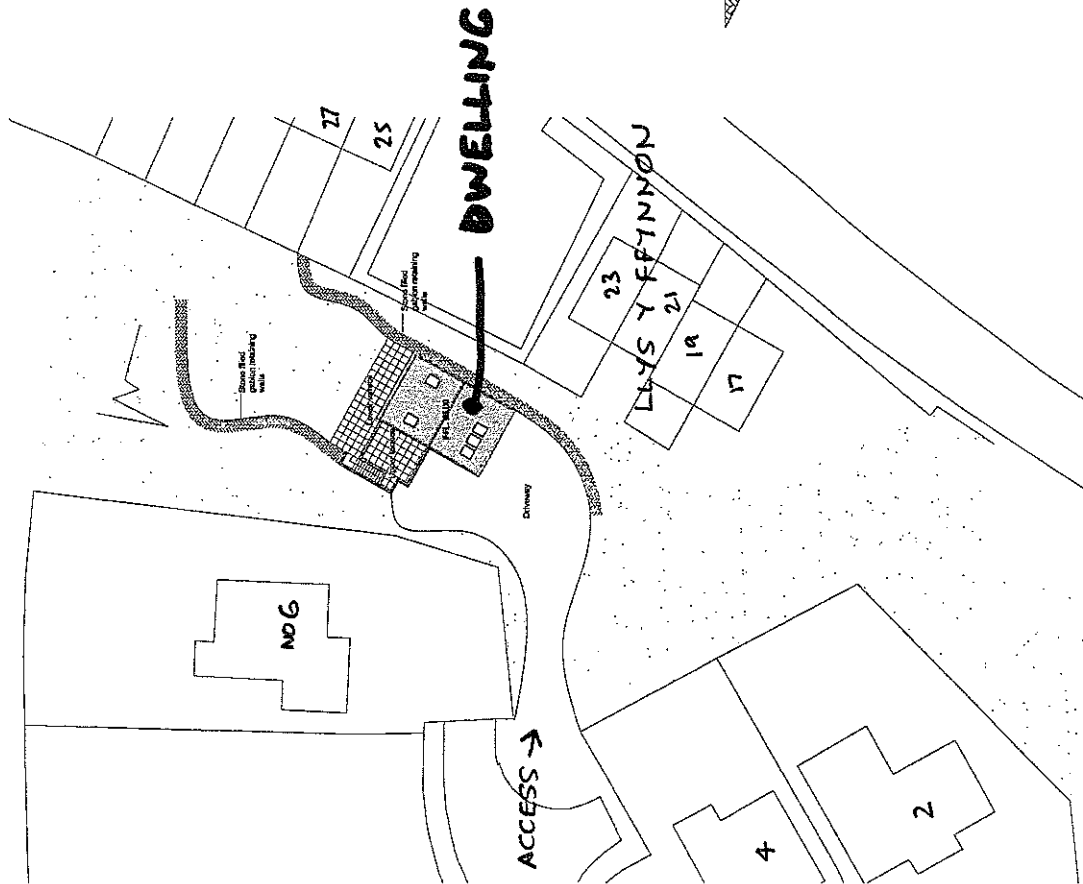
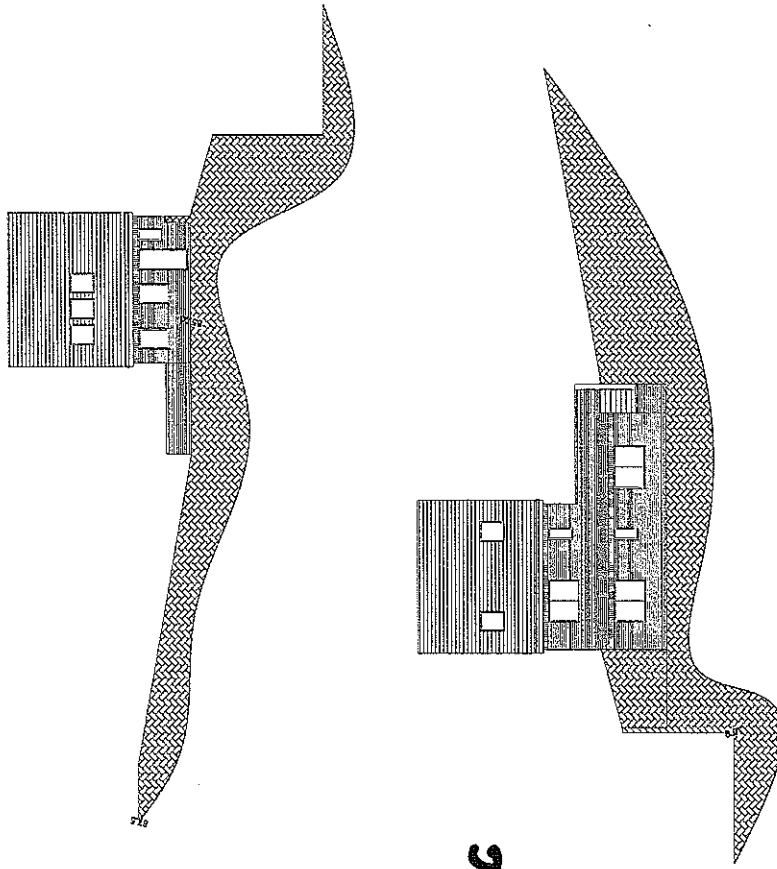
This plan is intended solely to give an indication of the LOCATION of the application site which forms the subject of the accompanying report. It does not form any part of the application documents, and should not be taken as representative of the proposals to be considered, which are available for inspection prior to the meeting.



This map is reproduced from Ordnance Survey material with the permission of Ordnance Survey on behalf of the Controller of Her Majesty's Stationery Office. © Crown copyright. Unauthorized reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. Denbighshire County Council. 100023408. 2011.

Atgynhrychir y map hwn o ddsunydd yr Ordnance Survey gyda chaniatâd yr Ordnance Survey ar ran Rheolwr Llyfrfa Ei Mawrhydi © Hawffraint y Goron. Mae atgynhrychu heb ganiatâd yn torri hawffraint y Goron a gall hyn arwain at erlyniad neu achos sifil. Cyngor Sir Ddinbych. 100023408. 2011.

SKETCH LAYOUT & ELEVATIONS



New Dwelling.
Site Plan, Front & Rear Elevations.
6 Cysgod-Y-Graig.

Scale 1:200 / 1:100
Date June 2011
Drawing Number LC07/01
Paper Size A1

SECTIONS

Dec 5.

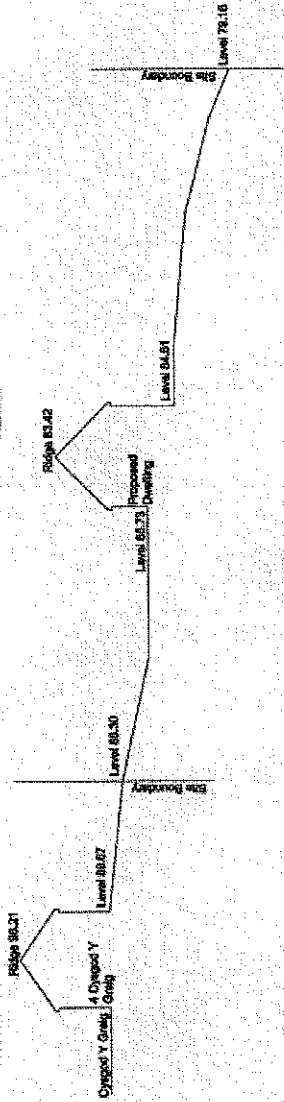
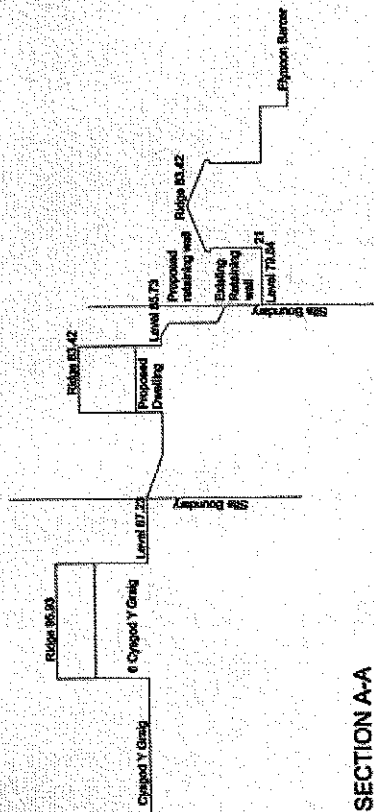
01 / 2011 / 0782 / P0

ADDITIONAL PLAN



New Dwelling.
Sections A-A & B-B
6 Cysgod-Y-Graig.

Scale 1:200
Date August 2011
Drawing Number LC0103
Paper Size A1



ITEM NO: 1

WARD NO: Denbigh Central

APPLICATION NO: 01/2011/0782/ PO

PROPOSAL: Development of 0.19 ha of land by the erection of 1 no. detached dwelling and construction of a new vehicular access (outline application including access)

LOCATION: Land adjacent to 6 Cysgod Y Graig Denbigh

APPLICANT: Mr Iolo Williams

CONSTRAINTS: C2 Flood Zone Section 106 Groundwater Vulnerability 1

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

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

- Recommendation to grant / approve – 4 or more objections received

CONSULTATION RESPONSES:

DENBIGH TOWN COUNCIL:

“The Council does not wish to raise any objection to the application. However, the council concerns were raised regarding access to the site and also to the safety of neighbouring properties and residents during any construction stage.”

DWR CYMRU:

No objections subject to conditions relating to the foul and surface water discharges, and an advisory note relating to the presence of a public sewer.

ENVIRONMENT AGENCY:

No objections

DENBIGHSHIRE COUNTY COUNCIL CONSULTEES:

HEAD OF HOUSING SERVICES

Given the topography of the site, it is not possible to meet the density required by Denbighshire County Council’s current policy of 30 units per hectare. The constraints on site would need to be confirmed by the planning department as to the viability of building only one unit on site and the loss of affordable housing. It is suggested that if there is no affordable housing on site, then a commuted sum in lieu of provision should be sought.

HEAD OF HIGHWAYS AND INFRASTRUCTURE:

No objections subject to conditions relating to the construction of the access and parking area.

ESTATES AND VALUATION MANAGER:

Only around 0.1ha of the site is developable. It is also suggested that the application be regarded as a single dwelling plot blighted by undevelopable land given the land’s shape and topography.

TREE CONSULTANT:

There are no significant issues relating to the trees in this area.

RESPONSE TO PUBLICITY:

In objection

Representations received from:

Ms. C. Marshall, 25, Llys y Ffynnon, Denbigh
Mrs. S. Homan, 2, Cysgod y Graig, Denbigh
Mr. & Mrs. Jones, 21, Llys y Ffynnon (e-mail)
Ms. D. Hughes, 19, Llys y Ffynnon, Barkers Well Lane (e-mail)
Mr. G. Williams, Clwydian View, Hen Ffordd Rhuthun Denbigh
R.D. & Mrs. D.J. Parry, 8, Cysgod-y-Graig, Denbigh (e-mail) x 2
Mr. A. Baston, 23, Llys y Ffynnon, Denbigh (e-mail)
Mr. & Mrs. R. Parkes, Bwa Fflat, Barkers Well Lane, Denbigh (e-mail)

Summary of planning based representations:

- Impact on residential amenity by way of overlooking and overshadowing
- Impact on highway safety by increased vehicle movements
- Impact upon the stability of land resulting in potential land slippage
- Detrimental impact upon the integrity of adjacent building foundations
- Surface water running off into adjacent properties

EXPIRY DATE OF APPLICATION: 06/09/2011

REASONS FOR DELAY IN DECISION (where applicable):

- timing of receipt of representations
- delay in receipt of key consultation response(s)
- additional information required from applicant
- protracted negotiations resulting in amended plans
- re-consultations / further publicity necessary on amended plans and / or additional information

1. PLANNING ASSESSMENT: THE PROPOSAL:

1.1 Summary of proposals

- 1.1.1 Outline planning permission including approval of the access is sought for the development of 0.19ha of land by way of 1 dwelling.
- 1.1.2 Plans submitted show the proposed access would be created off a turning area on Cysgod Y Graig.
- 1.1.3 Indicative plans show how the site might be laid out, suggesting a three storey dwelling with a footprint measuring approximately 6metres by 9metres, parking and turning for vehicles to the front and a large garden area. (See plan at front of report.)

1.2 Description of site and surroundings

- 1.2.1 The site is currently overgrown, unused land with no formal use. The site slopes up from Barkers Well Lane to the modern housing estate, Cysgod Y Graig.
- 1.2.2 The surrounding area is characterised by two storey modern dwellings on Cysgod Y Graig and adjacent to the site on Barkers Well Lane. There are also examples of older buildings nearby.

1.2.3 As a result of the topography of the locality, development on slopes is a common feature of the area.

1.3 Relevant planning constraints/considerations

1.3.1 The site is within the development boundary of Denbigh.

1.4 Relevant planning history

1.4.1 None.

1.5 Developments/changes since the original submission

1.5.1 Since the initial submission, additional information relating to land-stability, ecology and affordable housing/financial viability has been submitted.

1.6 Other relevant background information

1.6.1 None.

2. DETAILS OF PLANNING HISTORY:

2.1 None

3. RELEVANT POLICIES AND GUIDANCE:

The main planning policies and guidance are considered to be:

3.1 DENBIGHSHIRE UNITARY DEVELOPMENT PLAN (adopted 3rd July 2002)

Policy GEN 1 - Development within Development Boundaries

Policy GEN 6 - Development Control Requirements

Policy TRA 6 – Impact of new Development on Traffic Flows

Policy HSG 10 – Affordable Housing within Development Boundaries

Policy ENV 1 – Protection of the Natural Environment

Policy ENP 7 – Unstable land

3.2 SUPPLEMENTARY PLANNING GUIDANCE

SPG 22 – Affordable Housing in New Developments

3.3 GOVERNMENT POLICY GUIDANCE

Planning Policy Wales 2011

TAN 12 - Design

TAN 22 – Sustainable development

4. MAIN PLANNING CONSIDERATIONS:

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

4.1.1 Principle

4.1.2 Impact upon amenity

4.1.3 Access and impact upon highway safety

4.1.4 Impact on land stability

4.1.5 Affordable Housing

4.1.6 Ecology

4.1.7 Design and Access/Sustainability Code/Access for All

4.2 In relation to the main planning considerations:

4.2.1 Principle:

Policy GEN 1, Development Within Development Boundaries steers development towards sites within development boundaries. The site is located within the development boundary of Denbigh and as such the principle of development of the land for residential purposes is acceptable, subject to compliance with general development control criteria as set out in Policy GEN 6. These are set out in the following sections.

4.2.2 Impact upon amenity:

Policy GEN 6 sets specific tests to be applied to amenity of impacts of development. Proposals for development should comply with these tests.

Indicative plans show how a dwelling might be accommodated on the site with amenity space, parking and turning. The nearest dwellings to the sites boundaries are those along Barkers Well Lane. The character of the area is mixed in design terms and boundaries are typically defined by planting and fencing.

With regard to the specific concerns raised by neighbours regarding the impact upon residential amenity it is suggested that in the absence of detailed plans a full assessment cannot be made on the impact on the amenity of adjacent occupiers, however on the basis of the indicative layout and site plan, it is considered that a dwelling could be accommodated on the site without significant harm to residential amenity given the separation distances which may be possible. However, this will depend on the precise siting, orientation, window location and finished levels; details which can only be addressed at the reserved matters stage. Drainage details would also need to be resolved at detailed plan stage, to ensure no adverse impacts on nearby properties.

In respect of the above, it is considered that there are suitable controls to ensure the development of one dwelling would not have a detrimental impact upon the amenity of the area and the proposal would not be in conflict with general development control requirements as specified in Policy GEN 6.

4.2.3 Access and impact upon highway safety:

Policy TRA 6 and GEN 6 contain criteria which seek to resist development that would harm the safe and free flow of traffic on the highway.

The plans indicate it is proposed to provide parking and turning for two vehicles. The site is accessed via a cul-de-sac which serves 4 dwellings. The Highway Officer has not raised any objection to the proposal. On the basis of the information submitted, and the responses received, it is considered that the access proposals are satisfactory and that the additional vehicular movements resulting from one additional dwelling is not likely to result in a harmful impact to the safe and free flow of traffic on the highway.

With respect to the objections received, and having regard to the proposed access and the impact upon highway safety, it is considered that the proposal complies with Policy TRA 6 and GEN 6.

4.2.4 Land stability

Criteria x) of Policy GEN 6 states that development proposals should satisfy physical environmental considerations relating to land stability. Planning Policy Wales 4 states that in determining applications where land stability

may be an issue, Local Planning Authorities should take into account the potential hazards associated with unstable land.

Concern has been raised by neighbouring residents as to the impact of the engineering works required to implement the proposal upon the stability of the land and their properties. In response to the concerns raised, the applicant's agent has commissioned and submitted information as to the likelihood of the proposed development having a detrimental impact upon the stability of the adjacent land, which they conclude is limited. It is noted that the information submitted does not include details of the geo strata of the site.

Concerns over the potential impact of new development on the stability of the land and adjacent property are acknowledged. Whilst there is no clear evidence of a history of unstable land in this location, the Council has a responsibility to ensure building works do not give rise to problems of this nature, and has dual controls through planning and building control functions over the detailing of development, to deal with potential land stability issues. It is suggested that conditions can be attached to any permission requiring submission and approval of the details showing the extent of excavation, the means of supporting the ground, and the proposals for constructing the dwelling and the retaining walls. A properly constructed development would seem likely to assure the future stability of the land rather than place it at any increased risk of subsidence. In accordance with advice in Planning Policy Wales, applicants would need to be advised of their own legal responsibilities/liabilities for ensuring development is undertaken in a safe manner. In terms of the issue of land stability, subject to the inclusion of conditions, it is considered that the development is not in conflict with the Unitary Plan policies or Planning Policy Wales.

4.2.5 Affordable Housing

The requirement for provision of affordable housing in connection with housing developments within development boundaries is set out in Policy HSG 10 of the Unitary Plan, supplemented by guidance in SPG 22 – Affordable Housing in New Development. The thresholds for provision are sites of 0.1 hectare or more and/or where more than 3 units are proposed.

In this instance the site area is 0.19ha which exceeds the threshold for provision. However, the applicant has suggested that owing to the topography of the site, and its relationship to the neighbouring dwellings that the developable area of the site is much less, and in the region of 0.1ha. It is stated that it would be too difficult to construct two dwellings on the site due to the constraints mentioned. The possibility of a commuted sum (in the region of £48,350 based on relevant formula) has also been discussed. However, given the topography of the site, build costs for the development are likely to be high, and a development appraisal for developing the site by way of three dwellings, 2 dwellings, and 1 dwelling has been submitted. It demonstrates that to develop the site by way of either 3 or 2 dwellings would not generate enough residual funds to meet all the costs, even if a commuted sum were not required. To develop the site by way of one dwelling would result in a residual fund of approximately £56,800, before payment of a commuted sum. It is suggested by the applicant that to pay a commuted sum on this site would therefore make the development unviable. The County Council's Valuation and Estates Manager has examined the site and application, and concurs that only around 0.1ha is developable, and it would be reasonable to accept that the application be regarded as a single dwelling plot blighted by undevelopable land given the lands shape and topography.

With regard to the above comments, it is considered acceptable in this instance to not insist on affordable housing provision. This view is supported in Supplementary Planning Guidance Note 22 which states that where it can be demonstrated that a scheme is unviable as a direct result of affordable housing provision, then the Council will adopt a sensible approach and consider either reducing or waiving the affordable housing provision.

4.2.6 Ecology

Policies ENV 1 and ENV 6 require due consideration and protection of the natural environment, including landscape character and the biodiversity of an area, including ensuring there is no harm to protected species.

The submitted ecological report finds no evidence of the site being host to any known protected species, with specific reference to bats, birds and badgers. It states that the trees present are not suitable as bat roosts, that there is no evidence of badger setts, runs, latrines, hairs, digging or snuffle holes. The site is covered in dense vegetation, with some trees around the perimeter. The vegetation has been surveyed and the submitted report concludes that the plants recorded were widespread at both national and county scales. It is also noted that no trees are to be removed. The County Council Tree Consultant has not raised an objection to the proposal.

With regard to the submitted reports, it is considered that the overall impact of development on this site is low in respect of ecology. The proposal complies with Policy ENV 1 and Policy ENV 6 and would not result in a detrimental impact upon the ecology of the site or wider area.

4.2.7 Design and Access/Sustainability Code/Access for All

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

In the case of this submission, the Sustainability Code requirements of Planning Policy Wales, TAN 12 and 22 are considered to have been satisfactorily addressed. The Code for Sustainable Homes Pre Assessment Report indicates that it should be possible to achieve the required number of credits under 'Ene1 - Dwelling Emission Rate' and attain a Code Level 3 type for the development. In line with the advice contained in TAN 22, suitably worded conditions can be included to ensure the development is carried out in accordance with the requirements of Sustainability Code guidance.

5. SUMMARY AND CONCLUSIONS:

5.1 The proposal is considered acceptable under the relevant planning policies and it is therefore recommended that outline planning permission be granted.

RECOMMENDATION: GRANT - subject to the following conditions:-

1. Approval of the details of the appearance of the building(s), landscaping, scale, layout and appearance (hereinafter called "the reserved matters") shall be obtained from the Local Planning Authority in writing before the commencement of any development.
2. Application for approval of the reserved matters shall be made to the Local Planning

Authority before the expiration of three years from the date of this permission.

3. The development hereby permitted shall be begun either before the expiration of five years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.

4. All planting, seeding, turfing, fencing, walling or other treatment comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the dwelling and any trees or plants which, within a period of five years of the development, die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

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

6. **PRE-COMMENCEMENT CONDITION**

Prior to the commencement of the development, the written approval of the Local Planning Authority shall be obtained in respect of the walls and roof materials to be used for the development hereby permitted and no materials other than those approved shall be used.

7. Construction of the dwelling hereby permitted shall not begin until an 'Interim Certificate' has been submitted to the Local Planning Authority, certifying that a minimum Code for Sustainable Homes Level 3 and a minimum of 1 credit under 'Ene1 - Dwelling Emission Rate', has been achieved for that individual dwelling or house type in accordance with the requirements of the Code for Sustainable Homes: Technical Guide 22 November 2010.

8. The dwelling hereby permitted shall be constructed to achieve a minimum Code for Sustainable Homes Level 3 and achieve a minimum of 1 credit under category 'Ene1 - Dwelling Emission Rate' in accordance with the requirements of the Code for Sustainable Homes: Technical Guide 22 November 2010. The development shall be carried out entirely in accordance with the approved assessment and certification.

9. Prior to the occupation of the dwelling hereby permitted, a Code for Sustainable Homes 'Final Certificate' shall be submitted to the Local Planning Authority certifying that a minimum Code for Sustainable Homes Level 3 and a minimum of 1 credit under 'Ene1 - Dwelling Emission Rate', has been achieved for that dwelling in accordance with the requirements of the Code for Sustainable Homes: Technical Guide 22 November 2010.

10. Facilities shall be provided and retained within the site for the parking and turning of vehicles in accordance with the approved plan, and which shall be completed prior to the proposed development being brought into use.

11. The access to the site shall be laid out and constructed in accordance with the approved plan to the written approval of the Local Planning Authority before the development is brought into use.

12. The surface of the proposed access shall be paved with a bituminous material for a distance of 5.0m behind the highway boundary and the whole of the access frontage adjacent to the highway shall be reinforced with bull nose kerbs to the Highway Authority's approval.

13. Notwithstanding the provisions of Class(es) A, B, C, D, E, F, G, of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification) no development permitted by the said Classes shall be carried out without further grant of planning permission of the Local Planning Authority.

14. **PRE-COMMENCEMENT CONDITION**

No development shall be permitted to commence on site until there has been submitted to and approved in writing by the Local Planning Authority;

- a) A detailed site investigation to establish the ground conditions and existing levels;
- b) Detailed plans showing the full extent of excavation works, the means of supporting the land during construction work, the proposed construction of the retaining walls for the

dwelling, and final levels of the site.

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

1. To comply with the provisions of Section 91 of the Town and Country Planning Act 1990.
2. To comply with the provisions of Section 92 of the Town and Country Planning Act 1990.
3. To comply with the provisions of Section 92 of the Town and Country Planning Act 1990.
4. To ensure a satisfactory standard of development, in the interests of visual amenity.
5. In order to ensure that trees and hedges to be retained are not damaged by building or engineering works.
6. In the interests of visual amenity.
7. To comply with the provisions of TAN 22: Planning for Sustainable Buildings.
8. To comply with the provisions of TAN 22: Planning for Sustainable Buildings.
9. To comply with the provisions of TAN 22: Planning for Sustainable Buildings.
10. To provide for the parking of vehicles clear of the highway and to ensure that reversing by vehicles into or from the highway is rendered unnecessary in the interest of traffic safety.
11. In the interest of the free and safe movement and traffic on the adjacent highway and to ensure the formation of a safe and satisfactory access.
12. To ensure the formation of a safe and satisfactory access.
13. In the interests of ensuring that no additional development takes place at a later date which may have a detrimental impact upon the amenity of neighbouring dwellings.
14. In the interests of land stability and safety.

NOTES TO APPLICANT:

Your attention is drawn to the attached Highway Supplementary Notes Nos. 1, 3, 4, 5 & 10. Your attention is drawn to the attached Part N form (New Road and Street Works Act 1991). You are advised that the proposed development site is crossed by a public sewer with the approximate position being marked on the attached Statutory Public Sewer Record. Under the Water Industry Act 1991 Dwr Cymru has rights of access to its apparatus at all times. No part of the building will be permitted within 3 metres either side of the centreline of the public sewer.