

Heading:

43/2013/1236/PF  
St Mary's, Bishopswood Rd  
Prestatyn

2

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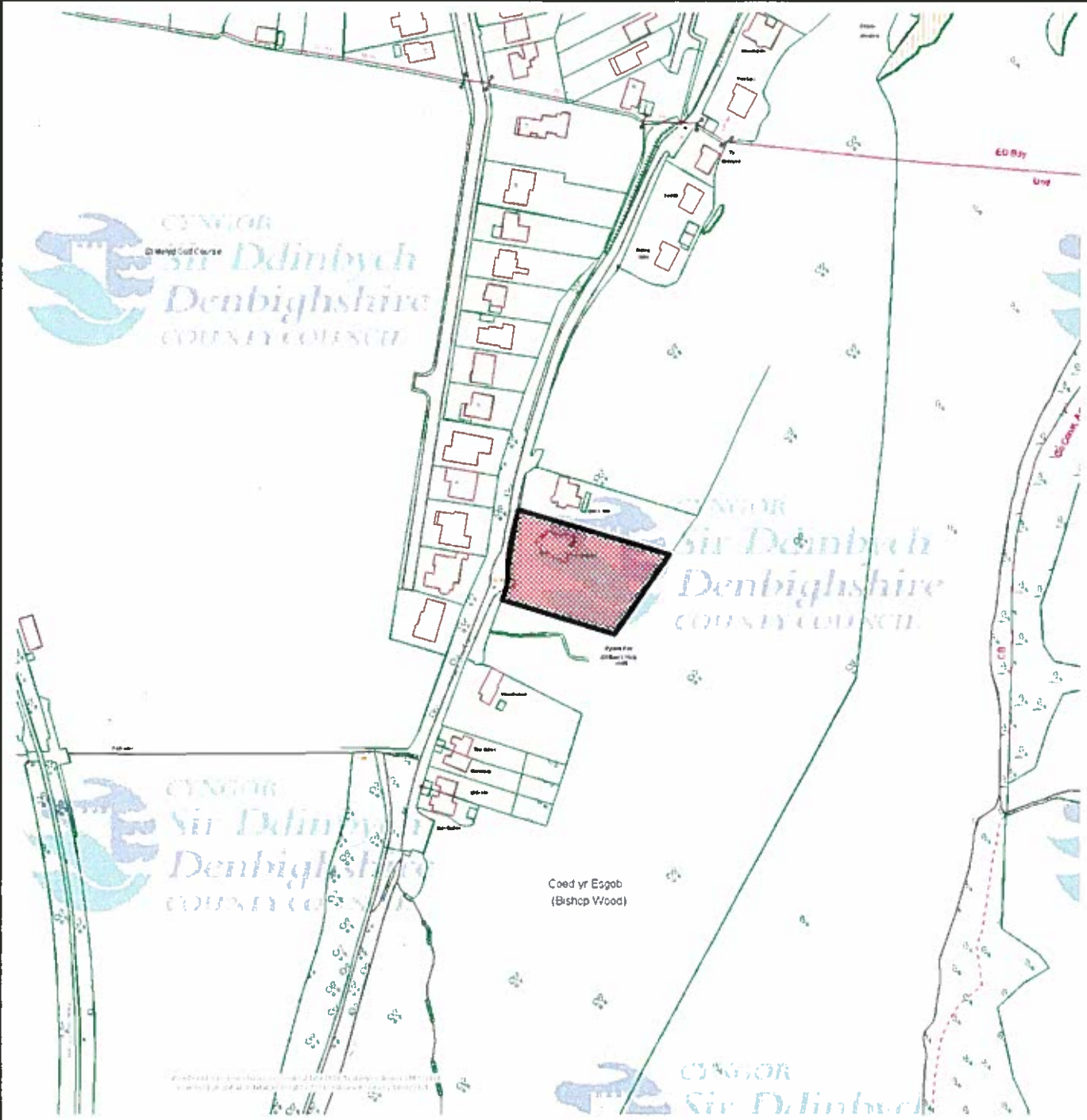
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 Application Site



Date 25/11/2013 Scale 1/2500  
Centre = 306836 E 381454 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.



Existing reinforced conc. garden retaining wall partially faced in natural stonework

Existing boundary wall.

Existing boundary between St Marys & SSSI site currently unmarked but is defined by straight line between stone gate pillar at western end and concrete/ fence pillar at eastern end. and accords with SSSI site map. - Erect post and rail timber fence on boundary line. as detail A.

Existing stone boundary wall between St Marys & SSSI woodland.

Existing row of ornamental small conifers (not indigenous species) and old chainlink fencing define boundary line of St Marys with SSSI woodland. extent of existing SSSI site included with planning application shown dotted.

ST MARYS W.M.

Extent of encroachment of temporary site access works onto SSSI land shown dotted with soil and rock shale placed over original ground levels carefully remove all materials down to original ground levels see method statement for removal and reinstatement methodology.

Garden.

cut back wall by 1.8m and remove foundation to ensure all is min. 300mm within boundary of St. Marys as shown.

existing garage

existing drive.

Gorschill.

Bishopswood Road.



**ST MARYS PRESTAYN SITE PLAN**  
**DG2-1:500 - PROPOSED**

RECEIVED  
 30 SEP 2013  
 2013  
 RECEIVED

Trees shown  
 T1E T2 - SYCAMORE  
 T3 - ASH.  
 T4 - OAK.

Woodholme.

Reinstated earth embankment at entrance to match levels evident to both sides. and erect post and rail to top. See detail B.

1 2 3 6 1 P F

**ITEM NO:** 2

**WARD NO:** Prestatyn Central

**WARD MEMBER(S):** Councillors Peter Duffy & Hugh Irving

**APPLICATION NO:** 43/2013/1236/ PF

**PROPOSAL:** Construction of garden retaining wall and access steps to form raised garden/patio terrace at rear of dwelling (partly in retrospect)

**LOCATION:** St Marys Bishopswood Road Prestatyn

**APPLICANT:** Mr Nick Gibbs

**CONSTRAINTS:** Tree Preservation Order  
SSSI  
Ancient, Semi Natural Woodland  
AONB

**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 – Town Council objection

**CONSULTATION RESPONSES:**

**PRESTATYN TOWN COUNCIL**

**Objection**

"Trees removed and land encroached for access to retaining wall. There is a visual scar on landscape following removal of trees and native vegetation. Enforcement of Tree Preservation Order should be considered. Replacement trees to be provided."

**CLWYDIAN RANGE AND DEE VALLEY AREA OF OUTSTANDING NATURAL BEAUTY  
JOINT ADVISORY COMMITTEE**

"This is an elevated, prominent and sensitive site above Prestatyn, and the JAC deplores the fact that the development has commenced without planning permission or apparently the necessary consents to carry out operations affecting a SSSI. When taken together with the extensive engineering works which have taken place above the adjoining property to create a similar terrace, the JAC is concerned about the visual impact of these works which extends the developed area of the town up Prestatyn Hillside. If permission is granted, it is essential that the mature trees in the area used as a temporary access are retained and the structure is faced in traditionally finished natural local stone. The JAC would also recommend that a matching local stone wall should be erected to close the temporary access to Bishopswood Road. The planning authority should also ensure that robust arrangements are in place to restore the site and mitigate for any harmful impacts on the SSSI. It is also noted that badgers are active in the vicinity of the site and JAC would emphasise the need for all necessary safeguards to be imposed to ensure that the works do not harm protected species. (AONB Management Plan Policies PCP1, PCP2 and PB1)"

**NATURAL RESOURCES WALES**

No objection subject to restoration of the SSSI in accordance with recommendations. No objection in relation to the effects on the AONB due to the scale and magnitude of the proposals.

**DENBIGHSHIRE COUNTY COUNCIL CONSULTEES**

Biodiversity Officer

No objection. A separate license may be required for works within 30m of the nearby badger sett.

**RESPONSE TO PUBLICITY:** None

**EXPIRY DATE OF APPLICATION:** 24/11/2013

**REASONS FOR DELAY IN DECISION:**

- awaiting consideration by Committee

**PLANNING ASSESSMENT:**

**1. THE PROPOSAL:**

1.1 Summary of proposals

1.1.1 The proposals are for the construction of a retaining wall and creation of a raised garden terrace area to the rear of the existing dwelling. The application is partly in retrospect as the retaining wall is substantially complete. Part of the retaining wall as built is proposed to be removed to ensure the terrace area is wholly within the boundaries of the residential curtilage of the dwelling and does not encroach into the adjoining Site of Special Scientific Interest (SSSI).

1.1.2 A temporary track has been created to access the upper areas of the site. Restoration of this area form part of this application.

1.2 Description of site and surroundings

1.2.1 The property is a detached residential dwelling located to the southern edge of Prestatyn.

1.2.2 The site is steeply sloping upwards from front to the rear with the proposed raised garden area being located in an elevated position above the dwelling.

1.2.3 The access track has been created in an area designated as a SSSI containing a blanket Tree Protection Order (TPO).

1.3 Relevant planning constraints/considerations

1.3.1 The application site lies partly within the Prestatyn Hillside SSSI, the Clwydian Range and Dee Valley Area of Outstanding Natural Beauty and the Prestatyn Hillside blanket TPO area. The site is located outside the development boundary of Prestatyn as defined by the Local Development Plan.

1.4 Relevant planning history

1.4.1 None

1.5 Developments/changes since the original submission

1.5.1 None

1.6 Other relevant background information

1.6.1 The application has been submitted following an enforcement investigation identifying a breach in planning control.

1.6.2 The area of land where the temporary access has been created is in the ownership of Denbighshire County Council.

**2. DETAILS OF PLANNING HISTORY:** None

**3. RELEVANT POLICIES AND GUIDANCE:**

The main planning policies and guidance are considered to be:  
Denbighshire Local Development Plan (adopted 4<sup>th</sup> June 2013)  
Policy RD1 – Sustainable development and good standard design

**Policy VOE2 – Area of Outstanding Natural Beauty and Area of Outstanding Beauty**  
**Policy VOE5 – Conservation of natural resources**

**3.1 Supplementary Planning Guidance**

SPG 6 - Trees and Development

SPG 18 - Nature Conservation and Species Protection

**3.2 Government Policy / Guidance**

Planning Policy Wales Edition 5 November 2012

**4. MAIN PLANNING CONSIDERATIONS:**

In terms of general guidance on matters relevant to the consideration of a planning application, Planning Policy Wales Edition 5, 2012 (PPW) confirms the requirement that planning applications 'should be determined in accordance with the approved or adopted development plan for the area, unless material considerations indicate otherwise' (Section 3.1.2). PPW 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., and that these 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 (Sections 3.1.3 and 3.1.4).

The following paragraphs in Section 4 of the report therefore refer to the policies of the Denbighshire Local Development Plan, and to the material planning considerations which are considered to be of relevance to the proposal.

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

- 4.1.1 Principle
- 4.1.2 Visual amenity
- 4.1.3 Residential amenity
- 4.1.4 Ecology

4.2 In relation to the main planning considerations:

4.2.1 Principle

The principle of alterations to existing dwellings is generally acceptable in terms of current policies, subject to consideration of detailing and impacts. Subject to the removal of the area of terrace which projects into the adjacent SSSI, Officers are satisfied that the development is fully contained within the established residential curtilage.

4.2.2 Visual amenity

In referring to what may be regarded as material considerations, Planning Policy Wales 3.1.4 refers to 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. The impact of a development on visual amenity is therefore a relevant test on planning applications. Policy VOE 2 requires assessment of the impact of development within or affecting the AONB and AOB, and indicates that this should be resisted where it would cause unacceptable harm to the character and appearance of the landscape and the reasons for designation.

The AONB Joint Advisory Committee have advised that they are concerned about the visual impact of the raised garden terrace area and consider it essential that the associated retaining wall is finished in natural local stone. Natural Resources Wales (NRW) have advised they do not consider that the proposal would have adverse effects on the AONB due to the nature and magnitude of the proposal. It is proposed to finish the proposed retaining wall in natural stone cladding.

Having regard to the design, scale and location of the proposed raised garden terrace it is considered that the proposals would not have an unacceptable impact on visual

amenity or the wider landscape. The proposals are therefore considered acceptable in relation to the policies listed above.

#### 4.2.3 Residential amenity

Planning Policy Wales 3.1.4 refers to 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 as potentially material considerations. The impact of a development on residential amenity is therefore a relevant test on planning applications. This is emphasised in Paragraph 3.1.7, which states that proposals should be considered in terms of their effect on the amenity and existing use of land and buildings in the public interest. As the Courts have ruled that the individual interest is an aspect of the public interest, it is therefore valid to consider the effect of a proposal on the amenity of neighbouring properties.

The proposed terrace area would be located in a significantly elevated position approximately 30m from the neighbouring dwelling known as Gorsehill and more than 50m from the dwellings to the west on Cambrian Drive. Due to the topography of the site a degree of overlooking existed prior to the development commencing.

Having regard to the existing layout of the garden area, boundary treatments and the distance of the terrace area from the neighbouring dwelling, it is considered that the proposals would not have an unacceptable impact on residential amenity.

#### 4.2.4 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 (Section 5.2), current legislation and SPG 18 – Nature Conservation and Species Protection, 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.

Unauthorised works have been undertaken on land that is subject to a protective SSSI designation. The unauthorised works within the SSSI include part of the retaining wall as constructed and the temporary access track. The area of retaining wall encroaching on the SSSI is proposed to be removed and the restoration measures are proposed for the affected SSSI. The Biodiversity Officer and NRW have both raised no objection to the proposals subject to restoration in relation to the SSSI being undertaken. NRW have specified the restoration measures that are necessary. The Biodiversity Officer has confirmed that a licence issued by the Welsh Government would be required for certain types of works in close proximity to a nearby Badger sett.

Officers consider it imperative to ensure that restoration of the site is secured in order to minimise/reverse any damage caused. Therefore it is considered that the proposal would be acceptable subject to appropriate and timely restoration being secured by a planning condition in line with the recommendations of NRW. In relation to the protection of badgers it is considered appropriate to notify the applicant of the potential need for a licence for works from the Welsh Government through a note to applicant.

#### 4.2.5 Impact on TPOs

PPW paragraph 5.2.9 states that trees, woodlands and hedgerows are of great importance both as wildlife habitats and in terms of their contribution to landscape character and beauty. Trees, woodlands and hedgerows also play a role in tackling climate change by trapping carbon and can provide a sustainable energy source. It is also advised that Local Planning Authorities should seek to protect trees, groups of trees and areas of woodland where they have natural heritage value or contribute to

the character or amenity of a particular locality. Paragraph 5.5.13 states that Local Authorities have a duty to ensure that adequate provision is made for the planting or preservation of trees by imposing conditions when granting planning permission.

The Town Council have objected to the proposals on the basis of the visual scar caused due to the removal of vegetation and trees subject to a blanket TPO. The Town Council have suggested that the TPO should be enforced and replacement trees provided. In the interest of the restoration of the SSSI, NRW have advised that the area of affected woodland should be allowed to re-vegetate naturally. 4no. mature trees remain in the area of affected woodland where vegetation has been removed.

The concerns of the Town Council in relation to the TPO protected woodland and the desire to secure replacements are duly noted. However, in this instance it is considered that greater weight must be given to the restoration of the SSSI. In line with this priority it is considered that replacement trees are not required and the affected area is allowed to naturally re-vegetate in accordance with the recommendations of NRW.

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

5.1 It is considered that the visual impact of the proposed raised terrace area would not be unacceptable and would not have an adverse impact on the AONB. Although works have been undertaken that have potentially been detrimental to a protected area of woodland (subject to SSSI and TPO designations) it is considered desirable to ensure appropriate restorative measures, specifically relating to the SSSI, are secured. On the basis of the above it is respectfully suggested that permission be granted subject to conditions relating to restoration.

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

1. The proposed works/restoration shall be completed in accordance with the following recommendations within 2 months of the granting of this permission unless otherwise agreed in writing by the Local Planning Authority;
  - The boundary fence as proposed shall be erected to identify the notified SSSI boundary abutting the curtilage of the dwelling known St Marys as defined within the submitted method statement
  - The southern 1800mm (1.8m) section of the retaining wall, and all its footings must be removed so that no section of wall remains within the SSSI
  - All earth, rock and shale placed on the SSSI will be carefully removed down to the original ground level, as identified by that of the adjacent land. Material will be removed by hand in the vicinity of the trees identified on the plan and any other, younger trees that are present in relevant parts of the SSSI
  - Once levelling is complete, the area shall not be disturbed and shall be allowed to re-vegetate naturally
  - Access into the SSSI land from Bishops Wood road is to be prevented by the erection of fencing in accordance with the approved plan
  - Details of a 5 year programme of surveillance for, and removal of, non-native invasive plant species on the designated SSSI shall be submitted and approved in writing by the Local Planning Authority. Any measure identified shall be implemented.

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

1. In the interest of restoration and protection of the SSSI.

### **NOTES TO APPLICANT:**

**No planting of any sort is to take place on the SSSI without separate consent from NRW.**

**The area is also known to be used by badgers. If any works are to take place within close proximity to a badger sett (30m for heavy machinery, 20m for light machinery and/or 10m for hand digging/scrub removal) then a licence from Welsh Government is required. An assessment for badgers should be undertaken to ensure no disturbance occurs.**