

**44-2023-0783**



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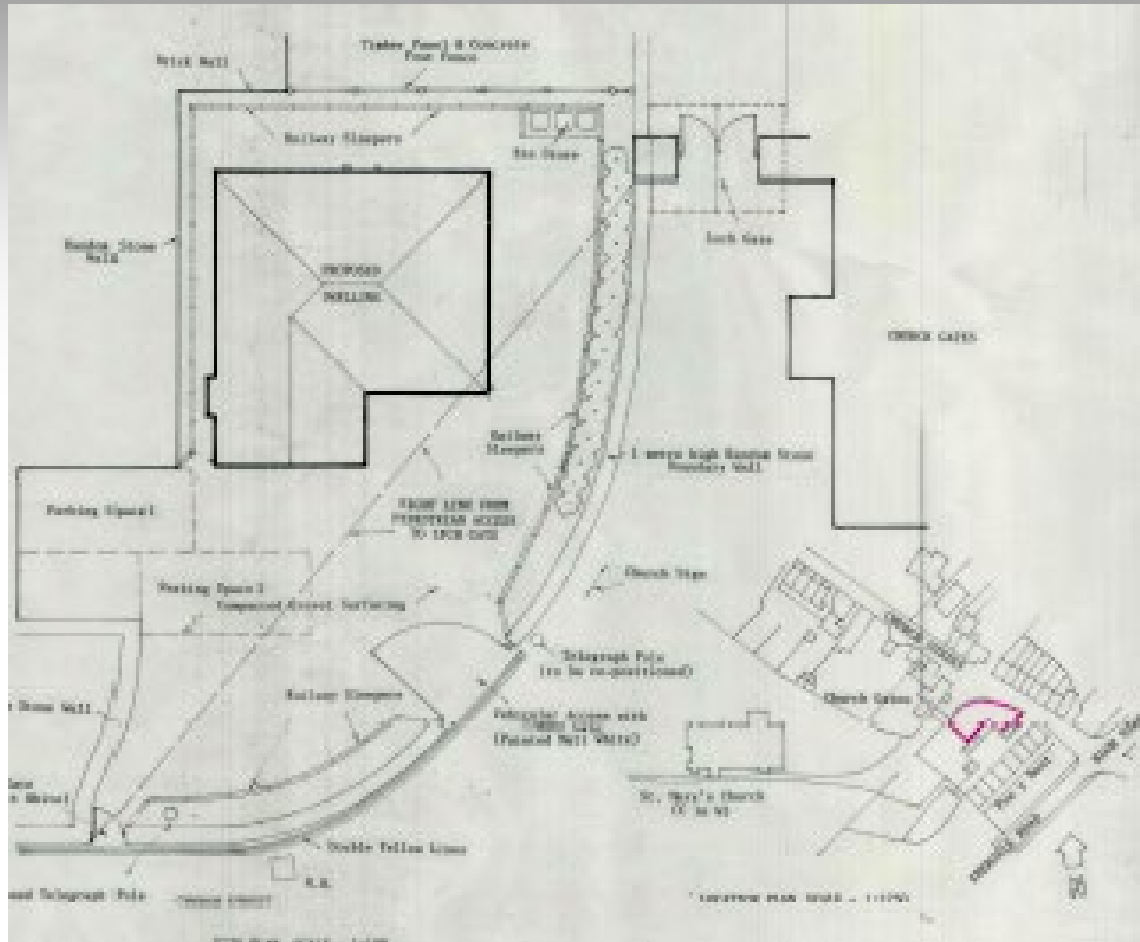
**44/2023/0783**

**Land Adjacent To Church Yard Entrance  
Fronting, Church Street, Rhuddlan**

**Codi 1 annedd ar wahan a gwaith  
cysylltiedig (ailgyflwyno)**

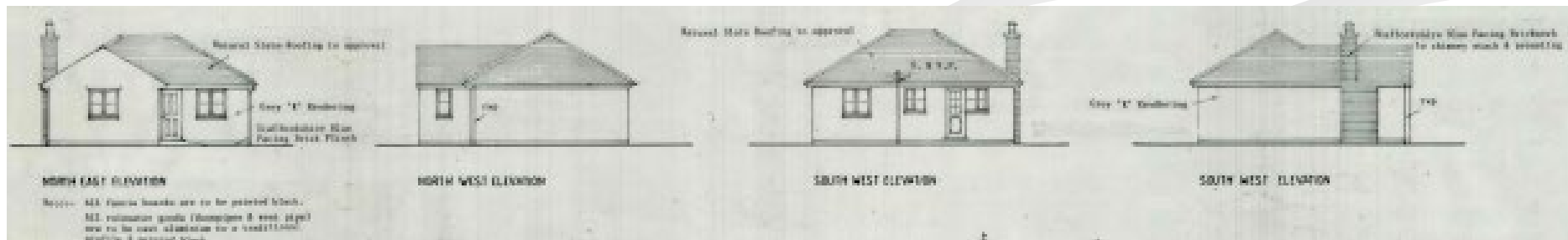
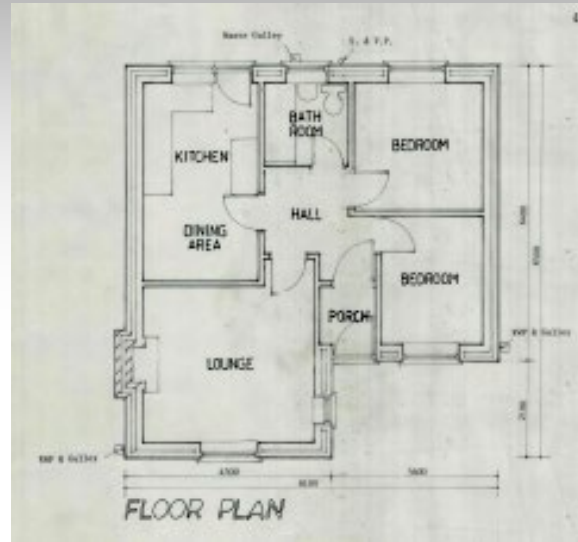
**Erection of 1 no. detached dwelling and  
associated works (resubmission)**





Site Plan and Location

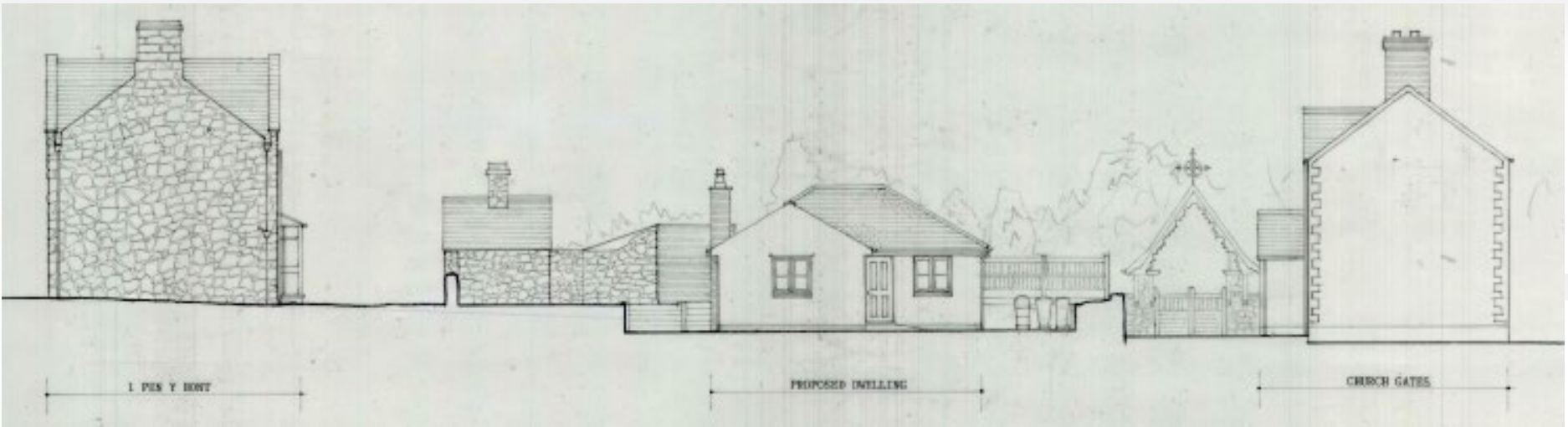




# Proposed Floor Plans and Elevations







Street Scene Drawing





Site Frontage Photos





Site Photos – Rear and Front





Site Photos – in Context of Church Street

<b>WARD:</b>	Rhuddlan
<b>WARD MEMBER(S):</b>	Cllr Anne Davies Cllr Arwel Roberts (c)
<b>APPLICATION NO:</b>	44/2023/0783/ PF
<b>PROPOSAL:</b>	Erection of 1 no. detached dwelling and associated works (resubmission)
<b>LOCATION:</b>	Land adjacent to Church Yard Entrance fronting Church Street Rhuddlan
<b>APPLICANT:</b>	Mr W Hyland
<b>CONSTRAINTS:</b>	Conservation Area
<b>PUBLICITY UNDERTAKEN:</b>	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.
- Recommendation to grant / approve – Town / Community Council objection.

**CONSULTATION RESPONSES:**

**RHUDDLAN TOWN COUNCIL**

“Members noted this was a resubmission which they originally objected to on the grounds of proximity to the church and Lynch gate structures, seen as an overdevelopment in the area, concerns on the impact on local residents, and access issues to the site. After some consideration Members agreed to object again on these grounds. Object.”

**CLWYD POWYS ARCHAEOLOGICAL TRUST**

“The plot of land was subject to an archaeological evaluation in 2010 which identified the application site as having high archaeological potential. During the evaluation, both linear and pit like features were identified containing artefactual evidence, such as pottery fragments from the late 15th century as well as industrial waste. Features were suggested as possible former plot boundaries and refuse pits relating to properties fronting Hight Street during the late medieval to early post-medieval periods. The remains were preserved below a thick soil overburden which was later reduced when the plot was converted into a car park in 2013. During the conversion to a carpark, the levels of the plot were reduced under archaeological supervision to a maximum depth of 1.1m, which revealed a number of Victorian features and post-medieval layers, as well as the outline of the earlier 2010 evaluation trench, thus confirming that the earlier deposits of archaeological significance remained below the finished level for the new carpark.

With this in mind, any ground works, including foundation and services trenching, and ground reduction within the application area will need to be archaeologically excavated in advance of the proposed development owing to the potential for medieval and earlier archaeology that is known to survive below the finished level of the carpark. The applicants should be forewarned that the costs of archaeological excavation, analysis and reporting will be significant and if they wish to develop the plot and they should factor these costs into the overall costs.



The proposed development is within the Conservation area of Rhuddlan, and adjacent to the Grade II listed Lych Gate (LB no. 14982, and the Built Heritage Conservation Officer should be consulted on the application.”

DWR CYMRU / WELSH WATER –

No objection subject to condition, and no surface water connecting to mains.

DENBIGHSHIRE COUNTY COUNCIL CONSULTEES –

Traffic, Parking and Road Safety

-Highways Officer

No objection, subject to conditional controls (3 conditions proposed).

Conservation Officer

-No objection.

**RE-CONSULTATION RESPONSES:** To be reported on Late Reps

**RESPONSE TO PUBLICITY:**

In objection

Representations received from:

Alex Fisher, 5 Pen Y Bont, Rhuddlan, Denbighshire LL18 2UY

Pamela Smedley 2 Pen y Bont, Church Street, Rhuddlan,

Jeanette Lees, 1 Pen Y Bont, Rhuddlan, LL18 8UY

Ian Davidson, Church Gates, Church Street, Rhuddlan LL18 2YA

Summary of planning-based representations in objection:

Impact on privacy and amenity of residential neighbours

Overdevelopment of the plot

Construction disturbance

Church Street is a narrow street will limited access for cars and parking – cars already park on double yellow lines / dangerously along the road. Proposal would result in loss of carpark and increase on-road parking.

**EXPIRY DATE OF APPLICATION: 25/03/2024**

**EXTENSION OF TIME AGREED: 17/06/2024**

**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

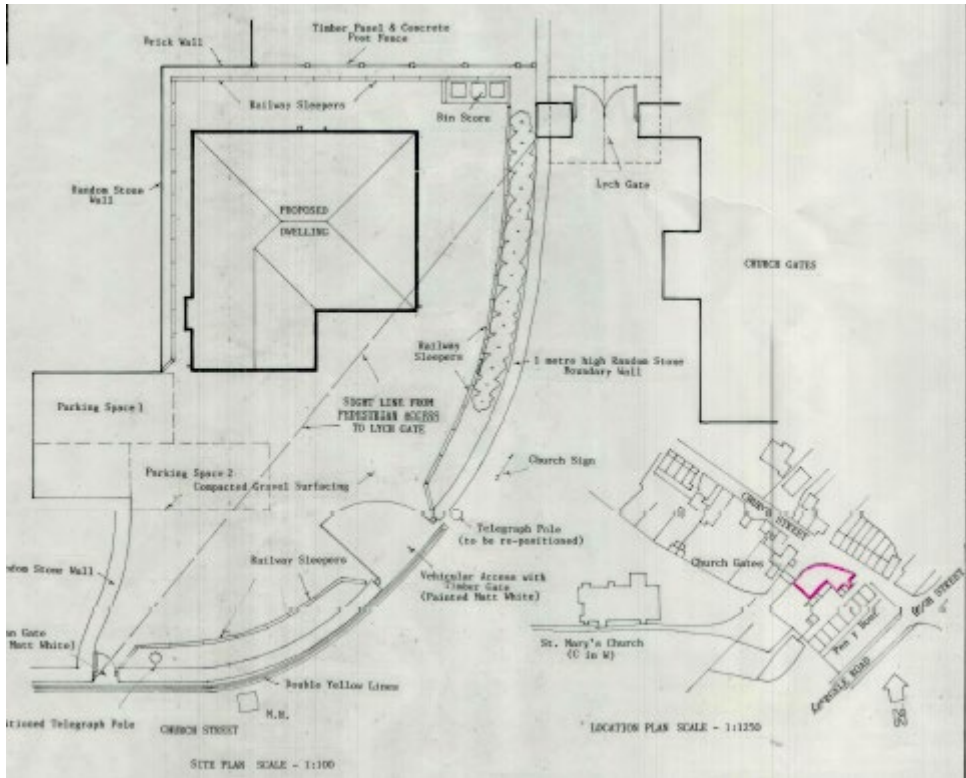
1.1.1 The application seeks full permission for the erection of 1 no. detached dwelling on land adjacent to the Church Yard at Church Street, Rhuddlan.

1.1.2 A simple “L” shaped bungalow is proposed to be sited on the existing carpark. It would have a footprint of just over 50metres<sup>2</sup> with an overall height of 4.6 metres. The bungalow would comprise of 2 bedrooms and living accommodation. It would be finished in K-render with brick detailing, and a slate roof.

1.1.3 Externally space is shown on site for parking and turning for two vehicles and an amenity area. Plans show basic landscaping, with 1 metre high stone walls around the boundaries, railway sleepers within the site to retain levels, gravel hardstanding and a bin store to serve the dwelling.

1.1.4 The existing vehicular access would be utilised to gain access to the site.

See snip of site layout plan and location \*not to scale.



1.2 Other relevant information/supporting documents in the application.

1.2.1 The application is supported by a Design and Access Statement and an Archaeological Assessment.

1.3 Description of site and surroundings

1.3.1 The site is currently used as a carpark with vehicular access off Church Street in Rhuddlan.

1.3.2 The site is a corner plot, with a return frontage to a lane which is the main approach to St Mary's Church to the west. It is also positioned behind the rear gardens of a terrace of houses to the south-east Pen y Bont Cottages, which face onto High Street. To the north-east, facing the plot across Church Street is another terrace of dwellings Nos 1-7 Church Street with front the street.

1.3.3 Church Street is relatively narrow, irregular in alignment and width without footways. It runs off Rhuddlan High Street, close to the village centre.

See photo snips of site frontage showing Lych Gate and the dwelling Church Gates



See photo snips of within site to rear of Pen Y Bont Cottages and to the terrace of dwellings across Church Street



1.4 Relevant planning constraints/considerations

1.4.1 The site is within the development boundary and within the Rhuddlan Conservation Area.

1.4.2 The site is also adjacent to the entrance to the grounds of St. Mary's Church, a Grade II\* Listed Building. The Lych Gate at the entrance to the church and abutting the site is also Grade II listed. There are further listed structures within the church grounds, including Grade II Listed Chest Tombs and the Churchyard Cross.

1.5 Relevant planning history

1.5.1 There is a significant amount of planning history on the site, dating back to 1988.

1.5.2 Planning permission for a detached dwelling at the site was refused in 1988, 2010 and 2011. 1988 and 2011 refusals were subject of appeals, which were dismissed.

1.5.3 The latest application was in 2021 for a detached dwelling was also refused and dismissed on appeal. The dwelling was an L shaped dormer with a ridge height of 6.2 metres.

See plan snip of elevations of 2021 application \* Not to scale



See plan snip of elevations now proposed for comparison\* Not to scale



1.6 Developments/changes since the original submission

1.6.1 Since the original submission the Agent was asked to amend the scheme on the advice of the Conservation Officer. This has resulted in an updated set of plans being submitted.

1.6.2 A site section was also sought to provide an accurate reflection of the site levels and avoid uncertainty in respect of the levels in relation to the Lych Gate and adjacent properties. Although this is not an annotated survey (with specific levels cited) it is considered acceptable as it is scale.

1.6.3 Biodiversity enhancement and green infrastructure interventions were also requested to be shown on plan. However, this information is awaited at the time of writing.

## 1.7 Other relevant background information

1.7.1 None.

## **2. DETAILS OF PLANNING HISTORY:**

2.1 2/RHU/0414/88/P. Detached Dwelling. Refused 20/12/1988 on grounds of adverse impact on residential amenity of neighbours and character and appearance of Conservation Area setting. Subsequent Appeal Dismissed.

2.2 44/2010/1542. Development of 0.025ha of land by the erection of 1 No. dwelling (outline application – all matters reserved). Refused 02/02/2011.

2.3 44/2011/0395. Erection of 2 No. 2-bedroom dwelling on 0.025ha of land. Refused 03/06/2011. Subsequent Appeal Dismissed (APP/R6830/A/11/2166099).

Reasons for refusal were as follows:

1. It is the opinion of the Local Planning Authority that the erection of a dwelling on the plot would lead to a loss of openness, and its siting, scale, height and design which would not preserve or enhance the character and appearance of the Rhuddlan Conservation Area, and would be detrimental to the setting of the Grade II\* Listed Church and Grade II Listed Lych Gate by virtue of the proposals siting, scale, height and design. The proposal is therefore considered contrary to Policy GEN 6 criteria i) and ii), Policy CON 1 and Policy CON 5 of the Denbighshire Unitary Development Plan and guidance as contained within Planning Policy Wales 4 (Feb 2011), W/O circular 61/96 and Supplementary Planning Guidance Notes 13 and 14
2. It is the opinion of the Local Planning Authority that the proposed dwelling would constitute a cramped form of development which would have an overbearing impact on neighbouring properties. It is therefore considered that the proposed development would have an unacceptable impact on the residential amenity of neighbouring dwelling Church Gates and the dwellings at 1-5 Pen y Bont and therefore fails to comply with the requirement of Criteria i) and v) of Policy GEN 6 of the Denbighshire Unitary Development Plan and guidance as contained in Supplementary Planning Guidance Notes 1 and 24.

2.4 44/2013/1105. Formation of private car park and construction of a new vehicular access. Granted 15/10/2013.

2.5 44/2021/0597 Erection of 1 no. detached dwelling and associated works. Refused 11/08/2021. Subsequent Appeal Dismissed (CAS-01728-Y6Y8H8)

Reasons for refusal were as follows:

1. It is the opinion of the Local Planning Authority that the erection of a dwelling on the site would lead to a loss of openness, and its siting, layout, scale, form and design would not preserve or enhance the character and appearance of the Rhuddlan Conservation Area and would be detrimental to the setting of the Grade II\* Listed St Mary's Church and Grade II Listed Lych Gate. The proposal is therefore considered contrary to Policy VOE1 of the Denbighshire Local Development Plan and the advice and guidance contained in Section 6 of Planning Policy Wales (Edition 11, February 2021) and Technical Advice Note 24: The Historic Environment. (2017).
2. It is the opinion of the Local Planning Authority that due to the siting, layout, scale, form and design, the proposed dwelling would have an overbearing and unacceptable impact on the residential amenity of the neighbouring dwelling Church Gates. The proposal is therefore considered contrary to Policy RD1 (i) and (vi) of the Denbighshire Local Development Plan.

## **3. RELEVANT POLICIES AND GUIDANCE:**

The main planning policies and guidance are considered to be:

### Local Policy/Guidance

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

**Policy RD1** – Sustainable development and good standard design  
**Policy BSC1** – Growth Strategy for Denbighshire  
**Policy BSC3** – Securing infrastructure contributions from Development  
**Policy VOE1** - Key areas of importance  
**Policy VOE5** – Conservation of natural resources  
**Policy ASA3** – Parking standards

**Supplementary Planning Guidance**

Supplementary Planning Guidance Note: Conservation and Enhancement of Biodiversity  
Supplementary Planning Guidance Note: Conservation Areas  
Supplementary Planning Guidance Note: Listed Buildings  
Supplementary Planning Guidance Note: Parking Requirements In New Developments  
Supplementary Planning Guidance Note: Planning Obligations  
Supplementary Planning Guidance Note: Residential Development  
Supplementary Planning Guidance Note: Residential Development Design Guide  
Supplementary Planning Guidance Note: Residential Space Standards  
Supplementary Planning Guidance Note: Trees & Landscaping

**Government Policy / Guidance**

Planning Policy Wales (Edition 12, 2024)  
Development Control Manual November 2016  
Future Wales – The National Plan 2040

Technical Advice Notes  
TAN 5 Nature Conservation and Planning (2009)  
TAN 24 The Historic Environment (2017)

**4. MAIN PLANNING CONSIDERATIONS:**

In terms of general guidance on matters relevant to the consideration of a planning application, Section 9.1.2 of the Development Management Manual (DMM) confirms the requirement that planning applications 'must be determined in accordance with the approved or adopted development plan for the area, unless material considerations indicate otherwise'. It advises that material considerations must be relevant to the regulation of the development and use of land in the public interest, and fairly and reasonably relate to the development concerned. The DMM further states that material considerations can include the number, size, layout, design and appearance of buildings, the means of access, landscaping, service availability and the impact on the neighbourhood and on the environment (Section 9.4).

The DMM has to be considered in conjunction with Planning Policy Wales (Edition 12, 2024) 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 12) and local policy (LDP

2006 to 2021) and therefore they are assessed with regard to tackling climate and ecological change which is a material consideration.

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

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

- 4.1.1 Principle
- 4.1.2 Visual amenity and impact on Conservation Area
- 4.1.3 Residential amenity
- 4.1.4 Ecology
- 4.1.5 Drainage (including flooding)
- 4.1.6 Highways (including access and parking)
- 4.1.7 Archaeology
- 4.1.8 Open Space

4.2 In relation to the main planning considerations:

4.2.1 Principle

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

The site is located within the development boundary of Rhuddlan which is defined as a Lower Growth Town in the LDP. The principle of housing development is therefore considered acceptable, and Officers would suggest the acceptability of the particular proposals therefore has to rest on assessment of the local impacts, which are reviewed within the following sections of the report.

4.2.2 Visual amenity and impact on Conservation Area

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

Local Development Plan Policy VOE1 seeks to protect sites of built heritage from development which would adversely affect them and requires that development proposals should maintain and wherever possible enhance them for their characteristics, local distinctiveness and value to local communities.

Planning Policy Wales (Edition 12, 2024) in Chapter 6 'Distinctive and Natural Places' states there should be a general presumption in favour of the preservation or enhancement of the character or appearance of a conservation area or its setting.

With respect to listed buildings, PPW 11 Section 6 refers specifically to the need to ensure the character of historic buildings is safeguarded from alterations, extensions, or demolition that would compromise their special architectural and historic interest; and Section 6.1.10 indicates that where a development proposal affects a listed building or its setting, the primary material consideration is the statutory requirement to have special regard to the desirability of preserving the building or its setting, and any features of special architectural or historic interest which it possesses.

TAN24 at 1.25 states “The setting of an historic asset includes the surroundings in which it is understood, experienced, and appreciated embracing present and past relationships to the surrounding landscape. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral. Setting is not a historic asset in its own right but has value derived from how different elements may contribute to the significance of a historic asset.

TAN24 1.26 stresses it is for the applicant to provide the local planning authority with sufficient information to allow the assessment of their proposals in respect of historic assets and their setting and includes guidance on assessment of impact on the setting of a historic asset, including:

- The significance of the asset and the contribution the setting makes to that significance
- the prominence of the historic asset
- the expected lifespan of the proposed development
- the extent of tree cover and its likely longevity
- non-visual factors affecting the setting of the historic asset such as noise.

Concern has been raised by the Community Council and residents on grounds of impact to heritage assets and overdevelopment. The Conservation Officer has raised no objection in principle, suggesting detailed amendments to the design to introduce more traditional features and finishes which have been incorporated in the plans.

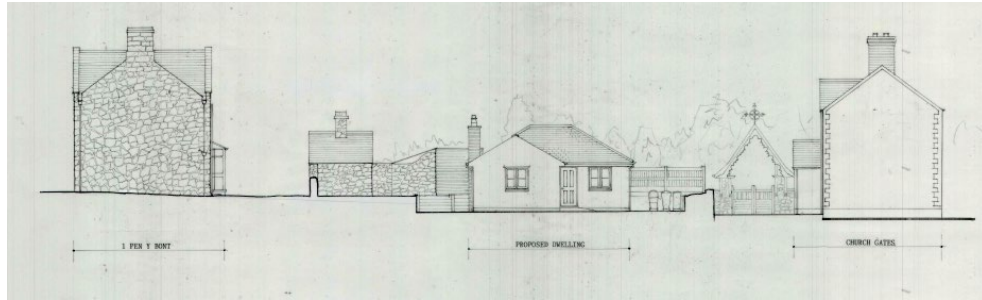
The site has been subject to several applications for residential development, all of which were refused in part due to impact on heritage assets. The most recent refusal and appeal was in 2021. The planning history is a relevant material consideration.

The grounds to St Mary's Church are entered via a Lych Gate abutting the north-west corner of the plot. A detached dwelling Church Gates lines the lane on its opposite side alongside the Lych Gate. Both the church and Lych Gate are included on the statutory list of buildings of special architectural or historic interest, Grade II\* and Grade II respectively. The site is also within the Rhuddlan Conservation Area

Whilst the site has since had consent for use as car park it has retained its open character for some time. The openness was referred to in previous appeal decisions and recognised as a longstanding feature of the local street scene, whereby the plot adds relief to the otherwise strong sense of enclosure created by the building blocks of Church Gates (together with the Lych Gate), Pen y Bont Cottages and Nos 1-7 Church Street opposite. The open nature of the land also allows views and glimpses across the site not only to the Lych Gate but to the church grounds and tower beyond.

Previous applications have sought permission for a two-storey dwelling and more recently a dormer dwelling. The significant difference here is that this application seeks permission for a bungalow with a relatively compact footprint. The bungalow would have an overall height of 4.6 metres, considerably less in scale than previous permission sought, and a low hipped roof is also now proposed to reduce its visual impact. The Street scene drawing submitted in support of the application shows the relationship to the Lych Gate, and the rest of the site frontage.

Snip of Street scene drawing below for Members reference\* not to scale.



Whilst Officers accept there would be some impact on the openness of the area and on the historic assets. However, these impacts are significantly less than the previous applications as a result of the reduction in scale and form of the dwelling now proposed. It is of note that the Conservation Officer does not raise any objections to the proposal.

The simplification of the design to a small cottage style dwelling and its siting to maintain the view across the front of the site from Church Street towards the Lych Gate and the dwelling Church Gates and also welcomed. And the incorporation of traditional materials and features also ameliorate the impacts on the Conservation Area.

In terms of overdevelopment, the Residential Development SPG advised that overdevelopment would occur where more than 75% of the site should be covered with built development, and insufficient amenity / circulation space is provided. This is not the case here.

For the reasons set out above the site layout and scale and form of the development is considered acceptable in relation to visual amenity, historic assets and the character and appearance of the area, which complies with Policies RD1 and PPW.

#### 4.2.3 Residential amenity

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

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.

Concerns have been raised by residents regarding the impact on the proposal on amenity.

The dwelling is orientated to have its main outlook to the front and rear. Hence it would face the terrace of 5 – 7 Church Street opposite. Owing to siting and separation distances here, the proposal is not adjudged to unacceptably impact upon amenity of those properties.

The Residential Development SPG recommends a distance of 15 metres between elevations of existing dwellings and side elevations of proposed dwellings. In this case a separation distance of just under 12 metres between the side elevation of the



dwelling and rear elevations of properties along Pen Y Bont to the south would be achieved. Whilst the separation distances between the dwelling and Pen y Bont cottages is less than recommended in the SPG, it is of relevance that the Inspector in the 2012 appeal decision did not consider that the dwelling (a two storey property) would have an unduly overbearing impact on the residents of the cottages. Furthermore, there would be no side windows in the south east elevation of the dwelling facing the Pen Y Bont cottages boundary. Officers therefore do not consider the level of impact on amenity of occupants of Pen y Bont properties would justify a refusal on residential amenity grounds.

The northwest elevation of the proposed dwelling would be some 8.5 metres from the front elevation of Church Gates which faces the site. There is also a small ground floor lounge window some 3.6 metres within the elevation of the dwelling. Plans show a 1-metre-high random stone wall along the boundary with what appears to be some soft landscaping (the DAS refers to a hedge, although not specified on plan) behind the wall, and the sleepers beyond which are retaining structures.

The suggested 15 metres separation would not be achieved with this arrangement; so it must be considered whether the impact of the proposal on the amenity of the occupiers of Church Gates would be significant enough to warrant refusal. This is a difficult judgment bearing in mind the previous appeal decision, where the Inspector cited the impact of the dwelling as being oppressive and overbearing. However, that appeal was for a two-storey dwelling with a gable facing Church Gates, and what is before the Council now is a bungalow with a low-profile hipped roof.

It is acknowledged that the proposed dwelling would certainly be a visible to the outlook in comparison to the more open view the occupiers of Church Gates currently enjoy across the site. However, in assessing the harm in respect of this loss of outlook and whether the bungalow would be overbearing to the occupiers of Church Gates, it is the opinion of Officers that given the reduction in scale of the dwelling (as shown in the Street scene drawing above), the impact has been significantly lessened. This weighs in favour of the proposal in a very fine balance in relation to acceptability of amenity impacts.

The proposed dwelling would meet space standards set out in the Residential Development SPG and whilst the dwelling would not benefit from a private garden area, there is some space to the side of the dwelling (in front of the bin store) that Officers suggest could be grassed and overall more than 40 square metres of amenity space provided would be provided within the site, therefore the proposal would provide a satisfactory standard of amenity in itself.

#### 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 (Edition 12, 2024). Section 6.4 'Biodiversity and Ecological Networks', current legislation and the Conservation and Enhancement of Biodiversity SPG 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 12) sets out that "planning authorities must seek to maintain and enhance biodiversity in the exercise of their functions. This means development should not cause any significant loss of habitats or populations of species (not including nonnative invasive species), locally or nationally and must work

alongside nature and it must provide a net benefit for biodiversity and improve, or enable the improvement, of the resilience of ecosystems” (Section 6.4.5).

Planning Policy Wales (PPW 12) 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).

PPW 12 includes policies relating to green infrastructure, net benefits for biodiversity and the Stepwise Approach, protection for Sites of Special Scientific Interest (SSSI) and Trees and Woodlands.

- *Green Infrastructure*

A strong emphasis on taking a proactive approach to green infrastructure covering cross boundary considerations, identifying key outputs of green infrastructure assessments and the submission of proportionate green infrastructure statements with planning applications.

- *Net Benefit for Biodiversity and the Stepwise Approach*

Clarity is provided on securing net benefit for biodiversity through the application of the stepwise approach, including the acknowledgement of off-site compensation measures as a last resort, and, the need to consider enhancement and long-term management at each step. A number of factors will affect the implementation of the stepwise approach,

pre-emptive site clearance works should not be undertaken however if this does occur its biodiversity value should be deemed to have been as it was before any site investigations or clearance took place and a net benefit for biodiversity must be achieved from that point.

- *Protection for Sites of Special Scientific Interest (SSSI)*

Protection is strengthened with increased clarity on the position for site management and exemptions for minor development necessary to maintain a ‘living landscape.

- *Trees and Woodlands*

A closer alignment with the stepwise approach, along with promoting new planting as part of development based on securing the right trees in the right place.

Future Wales – The National Plan 2040 (2021) Policy 9 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 not supported by surveys given the existing use as a car park and limited landscaping on site. The DAS mentions GIS briefly and consideration of the stepwise approach. GIS and Biodiversity enhancements were requested by Officers but at the time of writing have not been forthcoming. However, considering the nature of the application and potential to control several aspects of the development by condition this is not considered insurmountable.

Therefore, subject to the imposition of an appropriately worded condition or conditions, it is considered that the proposals are in line with the advice contained in PPW 12 and would provide enhancement measures to increase the biodiversity opportunities at the site.

#### 4.2.5 Drainage (including flooding)

Local Development Plan Policy RD 1 test (xi) requires that development satisfies physical or natural environmental considerations relating to drainage and liability to flooding. Planning Policy Wales confirms that factors to be taken into account in making planning decisions (material considerations) must be planning matters; that is,

they must be relevant to the regulation of the development and use of land in the public interest, towards the goal of sustainability. The drainage / flooding impacts of a development proposal are a material consideration.

The application proposes the erection of dwelling on a site within the development boundary where connection to the public sewerage system is possible. Surface Water disposal would be subject to the approach of the SAB.

It is noted that Welsh Water or NRW have not objected. As such it is considered that the application would not impact adversely on drainage or flood risk in the area.

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

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

Policy ASA 3 requires adequate parking spaces for cars and bicycles in connection with development proposals, and outlines considerations to be given to factors relevant to the application of standards. The Parking Standards in New Developments SPG sets out the maximum parking standards for new developments.

These policies reflect general principles set out in Planning Policy Wales (PPW 12) and TAN 18 – Transport, in support of sustainable development.

Concern has been raised by local residents regarding impact on highway safety and parking.

Highways Officers have raised no objection, subject to conditions being imposed.

The application would result in the loss of a carpark; however, Officers note the car park is a private car park and not for public use. The previous appeal decisions have also considered the highways and parking issues and not considered these to be unacceptable. Two parking spaces are proposed, which meets the requirements of the Parking Requirements SPG.

Notwithstanding the concerns of local residents, subject to conditions being imposed, the proposal is not considered to give rise to adverse impacts on Highway interests.

#### 4.2.7 Archaeology

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

Local Development Plan Policy VOE1 seeks to protect sites of built heritage from development which would adversely affect them and requires that development proposals should maintain and wherever possible enhance them for their characteristics, local distinctiveness and value to local communities.

Planning Policy Wales (PPW 12), Section 6 'Distinctive and Natural Places' recognises the need to conserve archaeological remains. The consideration of archaeological remains and their setting is a material planning consideration in determining planning applications, whether those remains are a scheduled monument or not.

Section 4 of TAN 24 - The Historic Environment sets out similar considerations to be given by a Local Planning Authority to the determination of applications involving archaeological remains, and their settings. It outlines different scenarios obliging consideration of impacts and stresses the need for submissions to include relevant surveys, studies and assessments, and mitigation proposals.

A copy of a previous Archaeology Watching Brief dated 2014 has been submitted with the application.

CPAT have advised previous archaeological investigations reviews archaeological remains of significance are present at the site, and recommend a condition is imposed to secure an archaeological investigation/excavation should planning be consented.

Therefore, subject to appropriate conditions being imposed, the proposal would not have an adverse impact on archaeological interest.

#### 4.2.8 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.

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

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

In relation to the application, the assessment shows that there is a deficiency in open space provision in Rhuddlan.

On the basis of the evidence within the Open Space Assessment and Audit Report, it is considered that the proposal should make a financial contribution to mitigate the increased usage on the existing open space and equipment within the area.

The proposal is considered acceptable in relation to open space policy subject to the requisite contribution being secured through an appropriate agreement.

#### 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.

### Equality Act 2010

The Equality Act 2010 identifies a number of 'protected characteristics', namely age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; sexual orientation. A public authority must, in the exercise of its functions, have due regard to advancing equality.

Having due regard to advancing equality involves:

- removing or minimising disadvantages suffered by people due to their protected characteristics.
- taking steps to meet the needs of people from protected groups where these differ from the need of other people; and
- encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low.

The above duty has been given due consideration in the determination of this application. It is considered that the proposed development does not have any significant implications for, or effect on, persons who share a protected characteristic, over and above any other person.

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

5.1 The site is located within the development boundary and therefore the proposal is acceptable in principle. Whilst there is a significant amount of planning history on the site, and Officers acknowledge that some of the detailed impacts of the latest proposals are finely balanced. Officers consider there are no significant material planning considerations to reasonably resist the scheme.

5.2 As the proposal is for one dwelling, a financial contribution would be required towards open space provision in the community. Subject to the necessary financial contributions being secured, and necessary conditions being imposed, the proposal is considered to be acceptable and is recommended for grant.

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

It is recommended to grant permission subject to:

- Completion of an Unilateral Agreement or Agreement under Section 106 of the planning act to secure an open space contribution of £1237.22.
- In the event of failure to complete the Agreement within 12 months of the date of the resolution of the grant of permission, the application would be reported back to Committee for determination against the relevant policies and guidance at that time.

The Certificate of Decision would not be released until the completion of the Agreement.

1. The development to which this permission relates shall be begun no later than 19th June 2029
2. The development hereby permitted shall be carried out in strict accordance with details shown on the following submitted plans and documents unless specified as otherwise within any other condition pursuant to this permission.
  - (i) Existing Site Plan (Drawing No. 3278/1A/MAY/2021) - Received 25 October 2023
  - (ii) Proposed Site, Floor and Elevation Plans (Drawing No. 3278/2/MAY/2021 Amended 08/05/2024) - Received 09 May 2024
  - (iii) Planning, Design and Access and Heritage Statement - Received 30 January 2023
  - (iv) Archaeological Watching Brief (Ref 1242, CPAT dated 7/8/14) - Received 30 January 2023
  - (v) Street scene Drawing No. 3278/3/MAY/2021 - Received 09 May 2024
  - (vii) Window and Door Details Drawing 3278/4/MAY/2021 - Received 09 May 2024

3. Prior to the application of any external materials to the dwellings hereby approved, full details of the wall and roof materials, including materials, colour and finish, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved detail.
4. Notwithstanding the approved plans the stone wall along the site frontage shall be retained as existing across the full site frontage (apart from the access point where it shall be in accordance with the approved plan). The gates shall be retained (or replaced as existing design) with a white painted timber finish.
5. No development shall take place until a scheme for biodiversity enhancement has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out strictly in accordance with the approved details and shall be implemented in full prior to the occupation of the dwelling hereby permitted.
6. No development shall take place until a detailed scheme of hard and soft landscaping for the site, designed to deliver a net benefit for biodiversity and a usable amenity area for the proposed occupiers, shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of:
  - (a) all existing trees, hedgerows and other vegetation on the land, details of any to be retained, and measures for their protection in the course of development.
  - (b) proposed new trees, hedgerows, shrubs or vegetation, including confirmation of species, numbers, and location and the proposed timing of the planting and only feature species of known benefit to wildlife.
  - (c) proposed materials to be used on the driveway, paths and other hard surfaced areas and timing of implementation.
  - (d) proposed earthworks, grading and mounding of land and changes in levels, final contours and the relationship of proposed mounding to existing vegetation and surrounding landform.
  - (e) proposed positions, design, materials and type of boundary treatment and timing of implementation.
7. All planting comprised in the approved details of landscaping shall be carried out no later than the first planting and seeding season following the commencement of development. Any trees or plants which within a period of 5 years from the completion 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, unless otherwise agreed in writing.
8. No development shall take place until a fully detailed scheme of foul drainage and surface water drainage has been submitted to, and approved by, the Local Planning Authority and the approved scheme shall be completed before the occupation of the dwelling. No surface water shall be allowed to drain directly or indirectly to the public sewerage system.
9. Notwithstanding the provisions of all Classes 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 approval in writing of the Local Planning Authority
10. No development shall be permitted to commence on the access without the written approval of the Local Planning Authority to proposals for preventing the run-off of surface water from the site onto the highway. The approved arrangements shall be completed prior to the bringing into use of the access.
11. 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.
12. No development shall take place within the application area until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological

excavation work in accordance with a written scheme of investigation, which has been submitted by the applicant and approved in writing by the Local Planning Authority. The archaeological programme of work will be undertaken and completed in accordance with the relevant Standards and Universal Guidance provided by the Chartered Institute for Archaeologists. A copy of the resulting report should be submitted to the Local Planning Authority and the Development Control Archaeologist, Clwyd-Powys Archaeological Trust (neil.bayliss@cpat.org.uk). On approval by the Local Planning Authority, project data must be submitted and approved for inclusion in the Clwyd-Powys Archaeological Trust's Historic Environment Record. For any questions regarding this submission process, please contact the HER Team at her@cpat.org.uk. The full digital archive must also be submitted and approved for inclusion within the National Monuments Record, RCAHMW or the Archaeology Data Service, ADS.

13. The bin storage area shown on the approved plans shall be made available before the occupation of the development and thereafter retained at all times.
14. No works in connection with the access shall be permitted to commence until the written approval of the Local Planning Authority has been obtained to a detailed Construction Method Statement. The Statement shall provide details of:
  - a) the arrangements for the parking of vehicles of site operatives and visitors.
  - b) the location of any construction compound and measures to reinstate the land following completion of the works
  - c) the hour of site works and deliveries
  - d) the proposed routing of delivery vehicles, and directional signing along public roads where necessary
  - e) the location of areas designated for the loading, unloading, and storage of plant and materials.
  - f) the proposals for security fencing or hoardings around the site
  - g) pollution prevention and control measures, including measures to control the emission of dust and dirt, and to prevent pollution of watercourses
  - h) wheel washing facilities.
  - i) a scheme for recycling/disposing of waste resulting from demolition and construction works.
  - j) any proposed external lighting
  - k) the piling methods, in the event that this form of foundation construction is proposedThe development shall be carried out strictly in accordance with the approved elements of the Construction Method Statement throughout the construction period.

**The reasons for the conditions are:-**

1. To comply with the provisions of Section 91 of the Town and Country Planning Act 1990.
2. For the avoidance of doubt and to ensure a satisfactory standard of development.
3. In the interest of visual amenity
4. In the interest of visual amenity
5. In order to maintain and enhance biodiversity.
6. To ensure in the interests of visual amenity a satisfactory standard of landscaping in conjunction with the development.
7. In the interests of visual amenity
8. To prevent hydraulic overloading of the public sewerage system and to ensure satisfactory drainage arrangements.
9. In the interests of residential and visual amenity and to preserve the setting of listed buildings and the character and appearance of Conservation Area.

10. In the interests of the free and safe movement of all users of the highway and to ensure the formation of a safe and satisfactory access.
11. 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
12. To secure preservation by record of all archaeological remains which will be impacted by the development.
13. In the interest of highway safety and residential amenity.
14. In the interests of the free and safe movement of all users of the highway and to ensure the formation of a safe and satisfactory access.